

**HANA ADVISORY COMMITTEE TO THE  
MAUI PLANNING COMMISSION  
MEETING OF MAY 8, 2014**

*\* All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, Hawai'i. \*\**

**A. CALL TO ORDER**

The meeting of the Hana Advisory Committee (Committee) was called to order by Vice-Chairperson, Clayton Carvalho, at approximately 4:07 p.m., Thursday, May 8, 2014, at the Helene Hall, Hana Bay, Hana, Island of Maui.

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

Mr. Clayton Carvalho: Hi. Good afternoon. Aloha, everyone. I'd like to call the hearing of the Hana Advisory Committee to the Maui Planning Commission for May 8, 2014 at Helene Hall. We have four items on our agenda, but before we do that, I'd like to introduce those on our council. First, to my left, Staff Planner, Gina Flammer; to my right, Deputy Corporation Counsel, Richelle Thomson; to her right, Board Member, Ward Mardfin; to his right, John Blumer-Buell; next is Ian Ballantyne; and far right, Suzette Esmeralda; and sitting in front of us, Planning Program Administrator, Clayton Yoshida. Thank you all for coming. Before I'd like to begin, I'd like to turn the mike over to Ward.

Mr. Ward Mardfin: I asked for a moment of personal privilege. This is our first meeting since the tragedy we had on Lana`i where three people passed away: The pilot, Kathleen Kern, Tremaine Balderdi, of the Planning Department, and seriously injured were Mark King and Doug Miller, with the Planning Department, and the Deputy Corp. Counsel, James Giroux, heroically was able to save those two. And I think we ought to have a moment of silence for them.

***(...Moment of Silence...)***

Mr. Mardfin: Thank you very much. You know, we think of our hard workers in our county and state and national governments doing work to help make our lives better, and the Planning Department paid a heavy cost in that to help the people of Lana`i be able to make the proper plans and things. Thank you.

**B. PUBLIC TESTIMONY** - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Mr. Carvalho: Thank you, Ward. I'd like to begin with agenda item B. Any public testimony that wants to be presented right now? I believe we have testimony as we proceed in agenda item E, but if you want to just present that later, we can do that. Okay, with that being said, let's move on to agenda item C, and that's the election of officers for the 2014-2015 board year. We can begin with chair. John?

## **C. ELECTION OF OFFICERS FOR THE 2014-2015 BOARD YEAR**

### **1. Chair**

Mr. John Blumer-Buell: I'd like to nominate Vice-Chair, Clayton Carvalho, to be chair if he's willing to serve in that capacity. If you don't want to, that's fine.

Mr. Carvalho: Do we have a second?

Mr. Mardfin: I'll second the motion.

Mr. Carvalho: Do we have any other nominations before we proceed? None? Okay. I would be willing to accept that nomination. Do we have a quorum to decide that, to decide by vote?

Mr. Blumer-Buell: Yes. We have four.

Mr. Carvalho: So with the four, we can decide chair and vice-chair, Clayton?

Mr. Clayton Yoshida: Yeah, the board has -- compose of seven members, four is a quorum. At least four affirmative votes is required to pass any motion. So you have four members.

Mr. Carvalho: With the nomination by John, and the second by Ward, do we want to start with a vote. We'd like to put that motion to vote.

***It has been nominated by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then unanimously***

***VOTED: Committee Member Clayton Carvalho, Jr. serve as Chairperson for the 2014-2015 board year.***

Chair Carvalho: Okay, that's four votes to zero on -- thank you for the nomination, actually. I'm very humbled by that. If we can move on to the second option, vice-chair, if anyone wants to make a motion -- nomination, excuse me? John?

## 2. Vice-Chair

Mr. Blumer-Buell: Yeah, I'd like to nominate Ward Mardfin, if he's willing to serve in that capacity.

Chair Carvalho: John will make the motion and I will second. Do we have any other nominations? John?

Mr. Blumer-Buell: This is just a little discussion since we have a second. I like the way it's going with the Committee where we have the vice-chair move up to chair. I mean we've gone -- we've had a number of different -- Scott was vice-chair, he became chair, and so forth, so I think it's good for all the Committee Members to have a chance to chair a meeting either through being the vice-chair or chair, so I'm very happy that that's the way it's going.

Chair Carvalho: Thank you, John. And I would like to thank Scott for his service as chair. He's done a great job. I wish he was here for me to tell him personally but -- alright, with the second by myself, we can put that motion for vice-chair to -- oh, I'm sorry. We have to ask Ward if he'd be willing to accept. Ward, accepts?

Mr. Mardfin: I'm willing to accept if elected.

Chair Carvalho: Alright, let's put that nomination --

***It has been nominated by Committee Member Blumer-Buell, seconded by Committee Member Carvalho, then unanimously***

***VOTED: that Committee Member Ward Mardfin serve as Vice-Chairperson for the 2014-2015 board year.***

Chair Carvalho: That's -- the motion's approved. Congratulations, Ward. Alright, let's move on to agenda item C, and that's the approval of minutes of the February 20, 2014 meeting. Do I hear a motion? Ward.

## D. APPROVAL OF MINUTES OF THE FEBRUARY 20, 2014 MEETING

Mr. Mardfin: I move approval of the minutes of the February 20, 2014 meeting as distributed.

Chair Carvalho: Second?

Mr. Blumer-Buell: I'll second that for discussion.

Chair Carvalho: Second. John will second for discussion. Any discussion? John?

***(Committee Member Anjoleen Hoopai-Waikoloa arrived at 4:16 p.m.)***

Mr. Blumer-Buell: Yeah, I've read the minutes and, you know, Suzie's done a good job. I wanted to just, this is not a correction but it's something that was in the minutes, I raised the question of why we weren't getting our minutes before the planning commission was hearing some of our -- some of our issues that we've heard out here, so I was a bit frustrated with that, and I think I was a bit frustrated and maybe accuserary, but Clayton clarified that that they have the minutes done within 60 days, even if we're not meeting, so Suzie's been doing the work and I just wanted to say I was satisfied with Clayton's answer and I was -- I just want to apologize if it was taken out of context.

Mr. Yoshida: Yes, according to Chapter 92, Hawaii Revised Statutes, the minute need to be provided within 30 days after the meeting, whether they're draft minutes or approved minutes, and before transmitting any item from the Committee to the Maui Planning Commission, we make sure that we transmit the minutes because sometimes there's a difference of opinion and there's an explanation of the individual member as to why they voted a particular way. And so the Commission can get the full depth of the discussion that transpired here at the meeting, we need to have those minutes made available to the -- I mean Ward can speak from firsthand experience, having served on the planning commission, that the discussions here are very important to the planning commission when they deal with those items so we make sure that at least a copy of the draft minutes is submitted to them so they get the full flavor of the discussion.

Chair Carvalho: John? Thank you, Clayton.

Mr. Blumer-Buell: Yeah, thanks again for the clarification. I was off by 30 days. So it is within 30 days so thanks to Suzie and everybody. That's clear now. And this is I guess a matter of personal privilege, as Ward put it, I was going to add to the -- I was privileged to work on the general plan advisory committee, I'm still on it, it's been -- it's been so long, I can remember how long it's been going on, maybe six, seven years, but I just wanted to say that, you know, give my personal thoughts to the Planning Department with the crash on Lanai, and people over here really were thinking about it. I worked closely with Mark King and James Giroux for the entire GPAC process, so, literally, dozens and dozens of meetings with James Giroux, and a number of meetings with Mark King regarding GIS. And so we think very kindly of them. We're thankful they survived. And, you know, God bless those that didn't.

Chair Carvalho: Ward?

Mr. Mardfin: Thank you, John, for doing that, saying that. I just wanted to respond to Clayton's statement. He said I could affirm to it, I can. And when I was on the planning commission, I would come to all the Hana Advisory Committees and I quietly, believe it or not, quietly sit and not say anything 'cause if I said anything here, I'd be precluded from contributing on the other side, but I wanted to know who was saying what and how, and get the flavor of it, and the other commissioners knew nothing, you know, know virtually nothing about Hana. I mean they've come in, they go out, but they don't really know what's going on, and having those minutes is terribly important to help the other commissioners figure out what's going on around here, and so I'm really -- I was always glad that Suzie got minutes out and I could refer to things when I was talking to my fellow commissioners, so thank you very much.

Chair Carvalho: Thank you, Ward. Before I'd like to proceed, I'd like to make a note that Anjoleen Hoopai-Waikoloa is now in attendance. Thank you, Anjo. There being no other discussion, let's that motion of the approval of the minutes to a vote.

***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously***

***VOTED: to approve the minutes of the February 20, 2014 meeting as distributed.***

Chair Carvalho: Alright, that motion is unanimously approved. Minutes are approved. Let's move on to agenda item E, and I would like to turn the floor over to Gina. Excuse me, John. Sorry.

Mr. Blumer-Buell: Yeah, they do this at the planning commission, and since we have three of ladies that have written letters about the management issue with the short-term rental homes, I'd like to give them a second chance to testify on that, if they'd like to, before we go into the discussion on STRH.

Chair Carvalho: Thank you, John. My apologies. Yeah, we --

Mr. Blumer-Buell: No. No problem.

Chair Carvalho: We have a few more in attendance. Before we move on to agenda item E, we'd like to open the floor again to public testimony if you have anything to present before Gina?

Unidentified Speaker: We submitted letters to Gina Flammer.

Chair Carvalho: Yes.

Mr. Blumer-Buell: We got your letters.

Chair Carvalho: Okay. Yeah, we received all three letters. Thank you. Okay, so, yeah. Thank you, John.

## **E. COMMUNICATIONS**

- 1. Mr. William Spence, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council on Ordinance No. 3941 relating to Short-Term Rental Homes pursuant to Section 16 of Ordinance No. 3941. (G. Flammer)**

**At its April 22, 2014 meeting the Maui Planning Commission requested that the matter be referred to the Hana Advisory Committee for comments and recommendations.**

***The Hana Advisory Committee may act to provide its comments and recommendations on the Report.***

Ms. Gina Flammer: Okay. Good afternoon. I'm Gina Flammer. I'm the staff planner with the department. Since you were speaking about the minutes, I think I told you this at the last meeting, but one of the planning commissioners took me aside last time and said I just want you to relay to the Committee that we do read the minutes as well as the letter that we put together for you, and they really do appreciate the work that you do. They've also taken your recommendations I think in every single case in the past two years that we've been coming out here, and I have an exhibit in here too, we'll talk about that. So the work you do is really important.

I also want to note that public testimony is still open so that when we get to the end of all our discussion, if there are any comments, we do have the ability to take those from the public.

So what I wanna do first is we have two reports together, they're linked together, but they definitely are two different parts of the code. The first one is the short-term rental home ordinance, and then the second one is the bed and breakfast. We'll take the short-term rental home report first.

This report, it's the first time we've seen this where the council put on a provision that within two years of the ordinance, they would like the Department of Planning to review the ordinance that they had written, and then go out to the planning commissions again and get comments, and then make some proposed changes to that, so that's what we're doing today.

So what I did with the report, I'm just going to summarize the report in the beginning, and then I'd like to start taking your comments. I'm going to talk first about some of the issues we have that the department has not proposed amendments; one being that we wanted to come here first with the first run, and then after that, I'd like to go through item by item and describe the proposed amendment, and then get your comments on that one, and then you guys -- we can just go through one by one. I think there's a total of 22 that we can go through, some are more meaty than others.

So the report begins with a background. It tells you a little about in the code where do vacation rentals fit in. Short-term rentals, in 2012, became legal, and that's when the owner doesn't live on the property. That's the ordinance that we're reviewing today. The ordinance that was passed in 2012 was based upon the bed and breakfast ordinance that had been redone in 2008. The council did a lot of work on it though. It's nice when you can model your legislation on an existing bill and work from that experience. Part of the reason we're here today is the B&B report, and that is an attempt to make that -- to update that again and make it consistent with some of the -- with the short-term rental home bill and the amendments that we're going to talk about, the proposed amendment.

So the first thing the council did is they added strongest protest provisions for neighbors to the bill. The bed and breakfast had had 30% of all neighbors within 500 feet and that at the time we were discussing this, it had only been triggered once, and in that case it was actually deferred. So the council wanted to see neighbors have a larger input so they put 15% of owners within 500 feet; if you meet that, then you go to the planning commission; that's if there's less than 40 lots. If you're in a neighborhood with a lot of lots, then you're looking at 30. More importantly, they went ahead and put in if there's two adjacent neighbors or across the street, the protest bumps it the planning commission, and we'll talk in a minute about how effective that has been. We've had five that have met that provision, whereas the B&B, it only had one.

The Committee had also wanted to insure that the house was safe for guests, and at the same time, they wanted to make sure that applicants understood the requirements before they came in, so they put in that you had to pass a safety inspection. You could either do it through the Department of Public Works through a miscellaneous inspection, or they charged the Department of Planning with coming up with a home inspection report. That was a big deal for us. We spent a lot of time doing that, and I've included the report in here. We worked with a private home inspector, and we worked with the Department of Public Works, and what we did is we pulled out kind of super-safety items from the current code. We recognize the fact that not all homes were recently built, and actually, with this law, they can't be built within five years, but some of these houses are going to have to come up to code, and everybody has been okay with that. I have yet to hear of one property that went through and didn't have to do anything. People have put in lighting; they've put in handrails; they've done some safety items. Most people are coming in

through the department's home inspection process. It's been very successful. The reaction has been very positive. It's also been good for the Department of Public Works in terms of their workload. We've had 160 applications. You can imagine them trying to go out and 160 extra inspections, especially now with the economy picking up. It's been nice for them to have this alternative process. It also let's the applicant know ahead of time what's going on and what's expected. Before we were having people turn in applications, we would route them to Public Works, and then they would find out they had improper building permits, no building permits, and it just became a very long involved process for people.

The council, when they were looking at the bill, they also were very concerned about noise once it was operational, and parties, so they added another provision about notice to guests before they make their reservation, requiring a link to the house policies. That also has gone just fine.

I just mentioned that they added something where the house had to be built five years prior to submitting the application. We've gotten a fair number of calls from property owners that have wanted to buy property just to build. I handle a lot of the calls. In the cases where I've told people that the ordinance doesn't allow that, and I explained why, that it protects the residential housing market. The council wanted new construction to be reserved for residential housing. And everybody has had a really positive response to that. They understand that means they cannot come in so they either don't buy the property or if they already own it, they have to rent it long term.

The County Council was very concerned about the enforcement of un-permitted operations, just like you guys have been. It came up repeatedly at meetings; so much the chair moved it up. It was one of the lower -- later, I should say, amendments that we're going to talk about. He moved it up. We had a meeting where that's all we talked about. So the committee decided to write enforcement provisions right into the bill. That has been -- helped the department considerably. It's been a great tool to be able to see if someone is advertising; that means that they are operating, the onus is then upon that person to prove that they are legal.

The enforcement division did want me to let you know that violators have gotten very savvy. They've been good at finding measures to hide their identities. We have some amendments from them, which we'll kind of come back to this in a little bit, where they're trying to deal with that. It's hard when you're just looking at an ad to figure out where that property is, unless it's permitted, and then you have the B&B or the short-term rental home permit number right on it.

The enforcement division also wanted to let you know that they looked at all the request for service pertaining to vacation rentals, and there was 52 in 2013, and none were found



to be for permitted short-term rentals. I had done a review of all the, we call them "RFSs," request for service, how the public files a complaint, and at the same time too, it was really for the un-permitted properties that we were seeing problems. I think going through the process, you get a permit; it's valuable; people don't want to lose it. We find that it really does result in better behavior.

The committee, the Planning Committee, also encouraged the department to hire two additional enforcement officers. We've had quite a time with that, but I'm happy to report we have finally been able to hire two people. One is accepted, and third offer was just recently accepted, so they haven't started yet, but when I come back to the next meeting, I'll be able to talk to you a little bit more about those efforts.

I also want to let you know that two permits were revoked this past year, that's not something we do a lot, but in this case, the bill gave us the tools to do it, so we did revoke two permits with noncompliance with their conditions. And then we also let another one just expire due to noncompliance. So the one-year permit, it was another tool that we were able to use. The industry had been behind the one-year permit. They wanted to make sure any bad apples were quickly weeded out, and it's been nice to have that tool for us.

The bill, when it first came to council, it had a caretaker provision in there. The council deleted that provision and they put in a manager that's a licensed realtor. We're going to talk about that a lot today in just a little bit. It's worked for everywhere but Hana.

The original bill also had the -- and the way the final ordinance came out, most permits are administered by the department. The intent was to make the process a little bit quicker for everybody and to try to keep the demand on the planning commission and also this Committee at a reasonable level. We're going to see that it's been a lot higher than we thought; though out of the 104 permits that have been reviewed, only 4 were -- have been denied by the planning commission, so it's a small percentage. It's worked out the way the bill had it. The department is reviewing most of them, and then the few that meets the triggers are going to the planning commission. This Committee seen a lot of those this year.

Part of implementing the ordinance, the department had to implement a new permitting process. We had to design a -- we didn't, we had to hire somebody to design a program for our Kiva computer system; that took quite some time. There's a lot of data collection. We also designed a new way of doing the permits, and that has been very successful. We call it the model way. It has take a lot of time to day, and I'll talk just real briefly in a minute about how much this ordinance has translated into work for the department, the planning commissions, and this Committee.

The department also did some outreach efforts right after the bill was passed. One of those was to come out to Hana, and we did a meeting that was very well attended. We also did a meeting in Paia that was filed on AKAKU. And then we had a workshop with the realtors. We've received well over a thousand phone calls since the bill was passed with people asking questions. We also, as part of our new permitting process, we allow people to come in and we'll -- I'll usually hold one meeting with some in the very beginning, answer all their questions, explain it to the, and then we also ask that they call us before they turn the application in, and then they can sit down with us and we go through it right there. We will not accept an application that is incomplete. So what we do is the planner sit down, we go through item by item, and we make sure everything is there. That helps the applicant and it helps the department, and that has been very successful as well. We'll sign the neighbor notice form right there, usually, and get people going.

So since the bill passed, we've received almost 160 permit applications. There was a provision in the bill where you were exempt from going to planning commission if there was another one within 500 feet during the first year. We learned, well, I guess we already knew people love a deadline, December 31<sup>st</sup> we had 31 -- 30 applications all on that day. It was hard. It was Christmas vacation, so it was an interesting time for the Planning Department. Our first permit was issued in September of 2012, and then beginning in 2013, once that home inspection form was completed, we just started going through our permits and issuing them then.

In the report, on page 6, I list where the permits have been issued. In Hana, we've had 7 short-term rental home permits. You guys have also reviewed B&Bs. I do want to let you know, we have another 6 permits pending out here in Hana. They're pending because we don't have a manager that meets the realtor requirement. At this point, we do not have a broker out here that is willing to sponsor a realtor for that. I gave you a list of what those applications are and what their status is. Two of them have had their state land use permits because they're on ag land already approved by the planning commission, and then you've seen another two. So we've tried to get them through the process as far as we can and we'd really like to find a solution to get them approved.

In terms of all the applications that we've seen, we've issued 100 permits; 4 were denied by the planning commission; 2 were revoked; 1 was allowed to lapse due to noncompliance. We had 4 applications withdrawn per the applicant for a variety of reasons. Sometimes when an applicant finds out that they've met the neighbor protest provision or there's a lot of neighbor protest, they will withdraw just because they don't want to go ahead and operate in a contentious environment. Two applications have been closed by the department for lack of information. We're currently processing about 50 applications, which is quite a lot.

So out of those 100 that we've -- well, 104, well, I'll show you in a minute how many have gone to the planning commissions, five of those were reviewed by the Maui Planning Commission for neighbor protest provisions, and of those five, four have been denied by the planning commission. The first one was approved and after that, the four were denied. Three other applications were reviewed due to being having a property located within 500; of those, two were approved and one has been deferred.

So a secondary impact to the short-term rental home ordinance was a renewed interest in the bed and breakfast permits. We've received 31 applications since the ordinance has passed, so people want to be legal and now that they have an avenue, they are coming in. We have 75 B&B permits right now on the island. There are no B&Bs on Lanai or Molokai.

Another impact to the ordinance was a huge increase in the state land use applications, which are required for properties on ag land. That has really put a lot of pressure on the planning commission and on this Committee, and I'll show you in my exhibits just exactly what those numbers are.

So we've had 17 STR applications in Hana; 8 B&B applications with that; 13 of those triggered your review mostly due to the SUP application. You guys met 3 times in 2012, and this is your second meeting in 2014. You've made recommendations of approval to the planning commission for 12 of those SUPS; the 1 STR application and for the B&B, and the planning commission, of the ones they've hear, they have gone ahead and approved those. On Molokai, 9 applications were submitted and all have been approved; 2 of those 9 went before the Molokai Planning Commission.

So as I've said, the combined effects of the state land use permits, the short-term rental, and the B&Bs have had a huge impact on the department and of the planning commissions. We have -- in 2013, and the second half of 2012, those 3 permits consumed almost 5 full-time planner positions; about 1-1/2, and probably more, full-time clerical positions; and half of an information specialist position. This is during a time when we had no other positions given to us by council, we had people that left, and we had the economy start to pickup. People were working hard. The short-term rental home team won team of the year because of the volume of the work and the performance of the group. And the attitude, it stayed pretty good. We also, like I mentioned, had the model application process that we were using, which took time, it took a lot of time to get the computer going and people remained positive and they put -- spent the extra time.

Between January 2013, when the first one was approved, and April of now, or last month, 2014, the planning commission had 59 either a short-term rental home permit, a B&B, or an SUP agenda items, that's a lot. It turned out to be about 67% of their time was spent on this type of -- these types of permits. We're a little concerned that with the expiration

of the exemption for the 500-foot trigger, that it's going to take even more of their time. The SUP permits can be fairly quick; the short-term rental home ones tend to be lengthy, a lot of discussion, a lot of public testimony, so I think we had an intervention request in one of them, at least two of them were deferred, I think was the B&B, and then we have one or two deferred, one short-term rental deferred, and then they hear it again at the second meeting too, so we're concerned about the future with that, and we want to talk to you a little bit about some ideas for how to -- what to do about that.

For Hana, you have had only one other application since the passage of this bill. I think that was the property -- the change in zoning right up the street. Every other one you have reviewed has been for either state land use permit that was required because of a B&B or a short-term rental.

So what I did is I sent out the current bill and I asked for comments from various agencies. The Land Use Commission didn't provide any comment. The State Office of Planning did provide comments. They're in your exhibits. They support the farm plan requirement. When the bill was first passed, or the bill in its current form, a short-term rental home use is defined as a special use, it's not an accessory use, so it didn't require a farm plan in the beginning. The State Office of Planning had a real problem with that. We worked with them. We decided, at their direction, to add the farm plan requirement for applicants. Everybody's been really comfortable with it. The commission, the applicants themselves. We've had applicants that have spent 10, \$20,000 installing ag, and they've been okay with it. Everybody sees the end as a positive thing. We'd like to codify that, and State Office of Planning recommended that. They also recommended lowering the farm plan income requirement. We can talk a little bit about that. Currently, it's \$35,000 if you don't have an implemented farm plan. It's that requirement if you want to build a second dwelling, and it's also that requirement for either a short-term rental home and the B&B it's actually in the law. And then the State Office of Planning also suggested the county adopt an ag tourism law. What that would do is certain ag properties that meet whatever qualifications in that law would not have to go to planning commission. We don't have any control over that, but they did recommend that the council do that. I think the council's in the early stages. They've formed an ag committee to look at that. The Police Department told us that we can use the public system to lookup complaints. We don't have to send them every application, which we're learning how to do that now, it's a very easy system. It's the RAIDS ONLINE. If you're ever curious about your neighbors or your own neighborhood. It's on the county website under the Police Department. It doesn't give you the name, but it tells you what type of activity is going on where the police are filing reports for. I have yet to see a police report for someone that was previously operating while they came in for a short-term rental use. You've only seen one comment and that was for the Hana Gardenland when there had been some teenagers that had thrown a party. The only other one I saw was for domestic violence, and the owner had told me she was trying -- that was her long-term tenants and that was the reason she wanted to go short-term. So we're

finding that we're not finding police reports, basically. So usually what we do is we'll find a request for service with the county. We look at that as well. The Real Property Tax Division doesn't comment on it, but we send it to them. They said they'd like us to continue sending it to them, so we will do that.

So at the very end here, I just want to let you know, we had a couple unresolved issues. The one you know the most in the Hana, this is on page 9 of the report, in the Hana plan region, we do not have a licensed broker willing to sponsor realtors out here. We'll talk more. The second unresolved issue that the department is not proposing amendments, or not yet, is what to do with non-residential adjacent lots. Interesting to see what's out there. You have buffer lots. You have homeowner association greenways. You have roadway lots. So we've had to kind of decide on a case-by-case basis, so we'd like your guidance on what you think of that.

Mr. Blumer-Buell: Could you say that again? I didn't catch that. Non-residential what?

Ms. Flammer: Sure. Yeah, so the short-term rental home bill says that if you receive a protest from two or more adjacent owners of lots, we didn't write "residential lot" in there, we just -- something we didn't think about, so what happened is we're processing 160 applications, we've come to discover that you have other types of lots: you have a greenway; you have a common area with a homeowner association; you can have a roadway lot, which may be developed or may not be developed. I think that covers -- and so we've had to make a case-by-case decision on that, but we'd like guidance as to what you'd like us to do.

And then the third one is the tax classification. The Council Budget Committee was supposed to take up the issue and set a tax classification for short-term rentals. They did not do that. So what happens when council doesn't give direction to the county tax office is they default to the highest and best use; that highest and best use if hotel. So short-term rentals would currently be taxed at hotel. So we'd like them to either make a decision on where they would like to see them, and if they wanted it hotel, to let us know that. Or if they'd like to create a new category, to let us know what that would be.

So what I'd like to do is, starting on page 10, I have each of the proposed amendments, but I'd like to go through them one-by-one, but I'd like to start with the unresolved issues and just get your comments on a one-by-one. There was a fourth item, amendment, that's not in here, it came up after, the next day after we sent this out. Our head of enforcement had been sick the day this went out. And we'll talk -- I'm going to throw that into the unresolved issues, but we'll get to that in a minute.

So what I'd like to talk about first, and get your comments on, or what to do in your region about the manager. So you can see a summary of the discussion on page 9. I've kind of

hit the main problem that we have - you don't have a broker out here. We have six pending, and then you have a number of letters from the public about it. So what you could do is just ask questions about this or just give your individual comments, and then we can get a group consensus at the end. So what I'm going to be doing is providing the planning commission, the Maui Planning Commission, and then the council, your comments. I'd like to give it to them, I'm going to do a summary of our discussion, but I want to use the table and just put another column in it, so for each item, I have what your comments are.

Chair Carvalho: Ward?

Mr. Mardfin: If you're starting out -- you're starting out on page 10, is that correct? No. 1?

Ms. Flammer: I'm going to backup and start on page 9. We're going to go through the unresolved issues to see if you have, I know you have opinions on no. 1, to see if you have opinions on them, and then if you want to give me a consensus, I can capture that.

Chair Carvalho: Clayton?

Mr. Yoshida: I think it might be better if we kind of go through the various proposed amendments, and the public can testify on them if they want to, and then we can go through the amendments one-by-one and get the consensus, if we can reach a consensus, from the Committee Members.

Chair Carvalho: Thank you, Clayton. Ward?

Mr. Mardfin: If that's the process we're going to follow, then I will make a motion, so we have something on the table, and I -- my motion is to recommend approval of the proposed bill with amendments that we will be deciding on as we go along. That's option 2, under recommendations and options. The motion is, basically, from page 16. It's to recommend approval of the proposed bill with such amendments as we discuss today.

Ms. Flammer: So you would leave that motion open until the very end when we're done?

Chair Carvalho: John?

Mr. Blumer-Buell: I'll second that.

Chair Carvalho: Any discussion from the Committee? Alright, I'll put that motion to a vote.

Mr. Mardfin: Mr. Chair?

Chair Carvalho: Yes?

Mr. Mardfin: I believe what we -- my suggestion would be that we follow Gina's lead that we go through the discussion of this stuff, amendments will develop as we discuss it, and at the very end, we can take a vote on it.

Chair Carvalho: Correct. Should we -- I believe Richelle had the same suggestion. Should we go through the testimony first before we proceed?

Ms. Flammer: We might want to get testimony at the very end so they can react to what we've discussed. I see a couple of the property managers in the audience. I was wondering if we wanted to take up the manager issue while they're here instead of throwing it to the very end while we've all got energy. Maybe we can tackle that one first, and then kinda go through the other ones one-by-one.

Chair Carvalho: Thank you, Gina. Yes, let's proceed with that. Oh, Ian? Ian.

Mr. Ian Ballantyne: Okay, thank you. ...(inaudible)... is off the way with myself, I would like to go the very easy route. It's not practical out in Hana for this condition as we know, which is why we're discussing it, so the easy answer is just to relax this condition in its entirety for Hana, and then why does something have to be put in its place? Why does everything have to be so complicated? Just let the license owner decide how to run their business in Hana.

Chair Carvalho: Thank you, Ian. John?

Mr. Blumer-Buell: Yeah, I'd like to suggest something else and that is that I think that the County of Maui has to have something in place just to protect themselves. They can't go laissez-faire, anything goes. The county has to have somebody responsible for the legislation that they're acting on, I think. So I've previously said that I supported the idea that perhaps making the designated person that they have to be bonded, something like that, protecting the County of Maui, and, you know, bonding is a way to, you know, ensure that all the affected parties are potentially protected. Then one other thing that I see is do we want to have -- do we want to allow an individual to be a manager for more than one short-term rental house or not, or should each short-term rental home have its own manager? And with the applications that we've seen, we've had individuals come forward that have been -- they're already managing the properties, it's just a question of finding a legal mechanism to make that happen so the county's protected, the renters are protected, and so forth, and I would -- I'd be happy to defer this, you know, the discussion to Corporation Counsel if there's any idea that you have that would make it clean and simple.

Chair Carvalho: Thank you, John. Richelle?

Ms. Thomson: Okay, thank you. I can't promise clean and simple, but I just wanted to add to the discussion that, you know, while the ordinance has qualification about who can be a manager and what the manager entails, the state licensing laws, they kinda boil down to if you -- you can manage your own property. If you are a caretaker, you can manage one property. If you manage more than one property, you need to be licensed. So that's what the state law boils down to, and the state licensing law includes, you know, a great deal of requirements for compliance with those licenses, so adding additional bonding, you know, requirements and things like that, we could do it, but that would be on top of what's required already by the state. This, it's a little convoluted, but the *Real Estate Commission Bulletin* from November 2013 offers a pretty decent, you know, one-page summary of what the license laws are.

Chair Carvalho: Thank you, Richelle. Ward?

Mr. Mardfin: I agree with what Richelle says about what the real estate commission board is and I don't think we can change state law here, but it is going to be a problem because on this list that Gina gave, Stacy Lynch is managing two, Robin Gaffney is managing two, Rebecca and Susan only seem to be managing one, so that shouldn't be a problem for them unless there's another one waiting in the wings for them. So either, unless the law gets changed, either they have to go -- Stacy and Robin will have to go through some sort of licensing, or I guess the owners of at least one property for each would have to find some alternative person.

Chair Carvalho: Ian.

Mr. Ballantyne: Yeah, this is a question of the state law, it's the first time this has been brought to my attention, I'd like some further clarification because I'm still not quite sure what is involved here. I think, as I'm understanding it, the state mandates the different properties managed that person has to be somehow qualified if it's more than one property.

Chair Carvalho: Ian, thank you, Ian. Richelle again.

Ms. Thomson: Yes, that's the way I read the state law as well is that obviously you can manage your own property, you can rent out your own property without being licensed; you can have a caretaker of one property, but if the caretaker is a caretaker of more than one, then that person would need to be licensed. So it's more about the -- it's less about the property itself and more about the person's activities, so if the person is engaging in real estate sales or rentals activities, that falls under the state licensing requirements.

Chair Carvalho: Thank you, Richelle. Any other discussion because we'd like to move back to Gina? John?



Mr. Blumer-Buell: Yeah, I think what I'm hearing so far is that, you know, I think we'd all like to make it possible for Hana residents to manage these STRH operations, and we have to be in compliance with the -- they have to be in compliance with the state law, which means they have to no more than -- manage no more than one, so from -- it's my understanding, and from what we've seen with the applicants that have come in, you know, many or most of the applicants seem to have their own caretakers in mind, so I don't necessarily see that as a problem so --

Chair Carvalho: Richelle?

Ms. Thomson: You know, from what I've heard, it's primarily that you want someone who's here in the community and who is accessible so that if there are any problems, they can respond, so you don't want somebody that's residing in Kahului who is a manager or a caretaker, you want someone in the vicinity. So to me, yeah, I think that you could probably streamline this section, you know, compliance with state law is a given, it has to be that way regardless of what we write here, but you could further restrict it so that, you know, whoever is the manager, whether it's the owner themselves or a caretaker person or a licensed real estate person, that that individual has to reside or be accessible, you know, within a proximity, which I think it's already in there, you just -- if they could tweak it just a little bit to make that a bit more clear.

Chair Carvalho: Thank you, Richelle. And, Ward?

Mr. Mardfin: I believe it already has that you have to be within 30 minutes of the property; that precludes anybody from Kahului doing it unless they have their own helicopter.

Chair Carvalho: I think we'd like to proceed. Gina, go ahead.

Ms. Flammer: Did you want to make a recommendation about allowing a caretaker for Hana even with the state requirements we just talked about? And if so, did you want it to become a trigger for your review? And I know in the past we also talked a little bit about a travel agent license. It's an idea that's come up. I just wanted to get it on the record so that if it does come up later, at least you've been aware of it if we wanted to have some discussion about that. That's been proposed as another idea. But if you wanted to go back to the caretaker and at least define what parameters that you wanted to recommend that.

Chair Carvalho: Ward.

Mr. Mardfin: So now might be a good time to get public testimony 'cause we're talking about things that affect people's livelihood and I'd like to see them have an opportunity now to say how they feel about it.

Chair Carvalho: Thank you for the suggestion. Before we go on, Anjo?

Ms. Anjoleen Hoopai-Waikoloa: I just wanted to add real quick before I actually have to leave is that considering our remote situation of trying to make whatever exceptions for having Hana members, Hana residents to be property managers, caretakers, because it's -- it allows jobs for a person here but the accessibility of having someone within the 30 minutes is important.

Chair Carvalho: Thank you, Anjo.

*(Committee Member Hoopai-Waikoloa was excused at 5:00 p.m.)*

Chair Carvalho: We'd like to open the floor to any testimony regarding the discussion we had so far. If you'd like to come up, please state your name at the microphone. Thank you.

Ms. Rebecca Buckley-Battaglia: My name is Rebecca Buckley-Battaglia, and I actually have a question about the part of the bill -- the part of the bill that states that the realtor will collect all -- collect all funds. I mean that is really a sticking point because, as you know from the letter that I wrote, I do have a real estate license, but the problem with making my license active and going with a broker is that then all of the money actually has to go be collected by the broker because a realtor, a real estate person, isn't acting on their own. That's the way the real estate law is written. And the reason that I got my real estate license was because I was managing multiple properties, and that is the state law that if you're managing multiple properties, you have to be licensed. But with this particular bill, they have put in there not just that you have a real estate license, but that you have to collect all the funds, so if you're managing multiple properties, then your broker, essentially, has to have all of the funds in their trust account, all the funds have to be broken out, all the -- brokers don't want to deal with that. I've talked to several of them on the other side of the island, I said couldn't I just hang my license with you and they're going it's not that easy. So I would like to have clarification on that part of the bill.

Chair Carvalho: Thank you. Gina?

Ms. Flammer: Okay. I get this question a lot from people, I did in the beginning I should say, from realtors that were interested in this. We -- I usually send them the code; that particular section and show them. The next question is: Well, how does the county enforce? How do we oversee all of this? And the answer is it's the realtor's -- the reason we went with the realtors is because they have a professional license. They have something to lose if they don't obey the law. We do not annually micro-manage. We don't go in. We don't require -- we don't oversee all of that. We put it upon the realtor and their license. If there is a problem, we have a way to contact the realtors board. For Hana, I do

know, and I'm sorry, we're missing a letter, from what I understand, from one of the owners, and I'm going to find that letter so that when we go to planning commission, that owner, I believe, collects his own money, and he does that because he is retired, he wants to screen all of his people that come, it's his house, and he's very particular. They money's escrowed in a Hawaii bank account. He's a part-time resident here. One of the things you could consider is not having that collect the money provision for Hana if you're going to have a manager. It might make it easier for people. They could become a caretaker where they're not actually doing the rentals themselves; what they're doing is the other activities. They close by. They can take care of the guests. They can check them in. They could respond to problems. And then it's the owner themselves that would handle those other functions. It might be a reason why you want to see these applications so you can look at each individual one and see if looks okay to you. You're also going to know everybody in your own community. So that's just to throw something out to you.

Chair Carvalho: Thank you, Gina. Any other comments regarding the testimony? Anyone else wants to testify? Please state your name.

Ms. Robin Gaffney: Robin Gaffney.

Chair Carvalho: Thank you.

Ms. Gaffney: And I do manage two vacation rentals, and have for a while. I have very close relationships with both owners and clearly would like to continue to do that, which is why we're here asking for your support. One thing, and I have this -- Gina did bring it up, actually was when this all started coming up, my friend Duke and his mother Ceena ran Hana Maui Travel, was Hana Ali`i Holidays for a long time, then Hana Maui Travel, and the state did talk to Duke many years ago about him managing multiple properties in Hana, which he and his mother did for eons. Duke researched and became a travel agent, and the state accepted that as a way for him to continue to manage the homes that he managed in Hana. That would take care of, I believe, your bonding issue. It takes care of the money going into a trust account here in Hawaii. It takes care of a lot of things. So would suggest that of the multiple management issue. For myself, I don't care to manage any other properties. I feel like I can take really, really thorough care of two, and the guests that are in those properties, and the owners. I'm not looking to do anymore houses than I'm doing already. But I would be more than happy to become licensed with the state, if that would satisfy the state licensing requirement if we could use the travel agency as a possibility.

Chair Carvalho: Thank you, Robin. Any questions or comments from the Committee? Ian.

Mr. Ballantyne: I mean your view on the collection of money, I mean what I heard from people that --

Ms. Gaffney: Yeah, the collection of money, I immediately think, I have a out of the country owner, there's no way he's going to be collecting funds where he is, you know, we do it with Visa, Mastercard terminal, it's deposited immediately into a Bank of Hawaii account so it's here in Hawaii. I know exactly who's paid and who's not paid. If it was going to somebody else, there would be a lot more conversation of, okay, has this person paid? Can I send them their directions yet? It's a lot easier, in my estimation, that we can continue to handle the money but, obviously, you know, that's up for a decision.

Chair Carvalho: Ward.

Mr. Mardfin: Robin, is this all a cash operation or is everything done by credit card?

Ms. Gaffney: Almost everything now credit card.

Mr. Mardfin: Almost, but not completely?

Ms. Gaffney: Some people prefer to send a personal check.

Mr. Mardfin: But not cash? Other than -- I mean --

Ms. Gaffney: The only time I have ever taken cash is if somebody calls me up and they want to come out tomorrow, and sometimes they will bring cash. That cash is deposited. It's like everything else.

Mr. Mardfin: So --

Ms. Gaffney: But it is rare anymore ...(inaudible)...

Mr. Mardfin: If there were a condition that there couldn't be cash, you could live with that?

Ms. Gaffney: Fine. Absolutely.

Mr. Mardfin: Thank you.

Ms. Gaffney: If I can do personal checks and credit cards, totally fine.

Mr. Mardfin: Thank you.

Ms. Gaffney: And the credit cards never come directly through me. They go directly into a bank account.

Mr. Mardfin: Thank you.

Chair Carvalho: Thank you, Robin. Any other questions or comments?

Mr. Ballantyne: Yeah, I would like to comment again on this, on the credit card. Everybody I have spoken to, it all comes through on credit card or personal check, and it's all in advance of the rental, so there's no chance of the money not getting to the owners because it's already there before the rental takes place, so it seems to be a red herring, this business, of trying to protect the money.

Chair Carvalho: Thank you, Ian. Alright, any other testimony from -- okay.

Ms. Susanne Pu: I have a few questions about -- with the --

Chair Carvalho: Please, oh sorry, please state your name. Sorry.

Ms. Pu: Oh, I'm sorry. Susanne Pu. Susanne Pu. The realtor requirement, and the state, I mean what are our options with that? I mean if there's a caretaker option, that's one thing, but, you know, what can and can't we do where it comes to the state, you know, the state licensing? Because if the caretaker was one option, but then there was a property manager option, that was in the paperwork, how would we do that through the state if it doesn't fit in with their law?

Chair Carvalho: Gina?

Ms. Flammer: Whatever we put into our ordinance would need to comport with the state law, but we don't implement the state law, so what we would want -- that's why we want it in the law to match. We can't put in something that's less.

Ms. Pu: Right. So it seems like we're talking about a property manager but it doesn't seem that there's anything in the law that would allow that.

Ms. Flammer: That's why we're trying to do an amendment.

Ms. Pu: Okay.

Ms. Flammer: Yeah, the problem is you cannot meet the requirement in Hana, as you know, so that's why we're trying to amend the law but it has to match what the state law is so that's where the restrictions come in.

Ms. Pu: Right. So you can only amend this county law as far as what the state says, as far as what the state law --

Ms. Flammer: Yes.

Ms. Pu: Is already stating?

Ms. Flammer: Yeah, unless there was something to be passed at the state level next year to change that.

Ms. Pu: And is there -- is there any chance of grand-fathering any of the property managers, you know, because we have all been doing this prior to the, you know, the legislation even coming about, at least as a way of dealing with the current situation, not so much the future but --

Ms. Flammer: I'm not aware of a nonconforming type of clause in the state law. I don't know when it came into effect so that you didn't have these requirements before, and I don't think the county has a -- we have a nonconforming section of our code for activities relating to a particular parcel. I don't think we could use that for an activity of an individual. It's a good question and I know you've got long histories with it; that's one of the reasons I'd like the Advisory Committee to be able to review cases on an individual basis so they could really look at the specifics of it and evaluate it, and then they can take your history into account.

Ms. Pu: And also, I just want to state one more time about the real estate licensing, I got the books, I began the process of doing the real estate license until we all, you know, came to the point of realizing that that is not enough to have the real estate license. There's almost nothing in the real estate licensing that has anything to do property management, with what we all do as property managers, you know, the sales and marketing of vacation rentals, and then all of the property, you know, all of what we do for the owners and the property themselves, almost nothing of what we do or are required to do is even discussed in the real estate licensing. So, you know, it doesn't make any sense, but just to state that. Thank you very much.

Chair Carvalho: Thank you, Susie. Any comments or questions from the Committee? Ward.

Mr. Mardfin: I'm thinking out loud here, and this is probably for Richelle, the on-island agent may be one of the following: Hawaii licensed real estate broker sales person, we recognize that that's not feasible for us, or custodian or caretaker. And it seems to say this -- a custodian or caretaker means any individual who, for compensation or valuable consideration, I presume you guys get paid, is employed as an employee by a single owner and has the responsibility to manage or care for that real property left in the individual's trust provided that the term custodian or caretaker shall not include any individual who leases or offers to lease, rents or offers to rent any real estate from more than a single owner. I'm thinking out loud here. If Robin has two people that are hiring her to caretake for the property, but the individual owners take care of the lease or offers to lease, rents

or offers to rent the real estate, and they -- so you wouldn't be doing the renting or the leasing, it would be the owner that does the renting or leasing, puts the money through the credit card into their account, and then you're not, maybe, we're going to need legal advice on this, not doing the leasing, and there's nothing about taking care of buildings, it's you can't lease or offer to lease, rent or offer to rent any real estate for more than a single owner.

Chair Carvalho: Richelle?

Mr. Mardfin: I think I'd like to hear Richelle if she thinks there's a chance of making this one fly.

Ms. Thomson: You know, I understand what you're getting at. So if the person who's caretaking more in a traditional sense, so not caretaking as in being a rental agent but caretaking as in being the physical, you know, cleaning and that kinda thing, but not having anything to do with the money. I would really need to look into it a little bit more and, you know, for me, I would like any person involved in that to make sure that they know what their legal requirements are directly and that would involve their communicating with the Department of Commerce and Consumer Affairs to make sure that they're not splitting hairs in an un-legal, you know, in an illegal manner. I'm happy to look into that a little bit more, and that could be one of the recommendations, you know, that this body makes is that, you know, be very candid, it's very difficult to find licensed real estate sales people out here and brokers willing to do this kind of business so that's the problem that you're running up against and that while you want to comply with all of the state laws, you need to have, you know, the realities of the Hana community addressed in the new bill, make a little bit less restrictive than it is right now.

Mr. Mardfin: So you'll look into that for us? And it seems to me if I were one of them, I would want to firm contract with the owner specifically stating that I am to keep the place clean, I'm to pass out keys as directed by the owner, but I'm not leasing it, I'm not renting it, I'm not collecting money on it, you know, you're having them do the financial stuff, so the owner is the one renting it and all they are is the onsite person or near-site person to handle problems arising but not to be collecting monies, and maybe that'll work. The second option, of course, is see if the travel agent idea will work because it sounds like there's some people willing to do travel agent.

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

Mr. Mardfin: Things are changing.

Ms. Thomson: So just something kinda quickly to add about the travel agent as a rental manager, you know, collecting money and the arranging for rooms. So I looked up the

travel agent licensing statute, the state statute, and it does say, you know, a travel agent can do all of these list of things, including sell travel services; travel services includes hotel accommodations; so I looked up "hotel," and "hotel" says, you know, all of the traditional uses of hotels, and includes county ordinances that define hotels. Our county ordinance defines a hotel as excluding short-term rental homes and B&Bs, so that may be another change that you could suggest to make if a travel agent is allowed to rent out B&Bs or short-term rental homes.

Mr. Mardfin: So we might have to add a clause to the bill that, at least in Hana, if not anywhere else, a B&B and short-term rental would be classified as hotel for purposes of allowing a travel -- a licensed travel agent to do the renting?

Ms. Thomson: Right. And I offered to look into that further too 'cause it's, you know, it'll get a little convoluted, but that can be a recommendation that you make as well as that, you know, to explore the idea of whether or not licensed travel agents can act as rental managers under state law.

Mr. Mardfin: Thank you.

Chair Carvalho: Thank you, Richelle. And, Ian?

Mr. Ballantyne: Yeah, again I'm looking at the bulletin from the State of Hawaii Real Estate Commission, and I had kind of picked that out for commenting on. I'll just again, I'll just reinforce this, custodian or caretaker is one of the exceptions to requiring a real estate license, and then it goes on to explain that. But further down, again it says, two paragraphs from the bottom-right, if it's an entity, the entity employing the custodian or caretaker must be licensed, so that's falling in with what you've just been saying that if it's the owner who is handling the lettings, they're the people who have to be the real estate broker, not the custodian or the caretaker, so it seems to be kind of resolving itself in a way. And again, according this, if this is correct, there's no way that - where am I here - yeah, that the travel agent thing, it definitely states it has to be a registered -- the person has to be a registered realtor. There no alternative to that.

Chair Carvalho: Thank you, Ian.

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

Mr. Ballantyne: Which part you want exactly?

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



Mr. Ballantyne: No, no, no. No, no, no. What I'm saying is there's no -- there's no alternative in this if this -- local contractor, HRS Chapter 237D, which is the law, they don't give any options other than a registered realtor.

Chair Carvalho: We passed out the bulletin to those testifying, and it's on the -- it starts with the fourth paragraph and goes to the fifth paragraph where Ian was referring to. John?

Mr. Blumer-Buell: I'd like to ask Gina and Clayton Yoshida what the time frame is on this revised bill. I mean, at this point, I think we need Corporation Counsel's legal advice to adopt the most workable and practical thing. Are we going to get a change to see this again before it goes to the planning commission or County Council, or is this our one and only shot at it?

Chair Carvalho: Gina.

Ms. Flammer: Yeah, that's a good question. We talked about it on the car over -- the car ride, what's the time table. The Planning Chair of the County Council Planning Committee would like to wrap this up by the end of the year. It's an election year; he's got till the end of the year. Whether he's able to do that with his busy schedule, I know there's a lot of things, but we are targeting getting this to council by the fall. The department has held off writing an amendment because we wanted it to come from you, we want -- you're the experts out here. At any point, we can introduce an amendment to council, well, except once the bill's passed, but we do have some time to do that.

Mr. Blumer-Buell: Does that mean that we can hear this again after Richelle comes up with an opinion? Do we have -- are scheduling another meeting within the next few months? Because I mean, just to add to this, if we -- I have a number of amendments I want to make to the whole thing, so it's going to take time to talk about them, I'm sure other people too as well, and I don't want to spend all day talking about this one thing. I think we have a consensus, we'd like to find a way, a legal way, to allow Hana residents to manage these properties and be responsible for I think, you know, one of the primary concerns we've heard, going back to the beginning, is potential trouble. I mean we're not going to -- this isn't going to -- there's going to be the rare occasion where there's real trouble at one of these short-term rental things, and that's when you really need somebody on the -- you really need somebody to be there and on call. That's going to rarely happen. If people are properly screened, maybe it will never happen, but that's always been the main reason I've heard to have, you know, licensed broker or somebody be responsible, that's what we need is somebody, when there's a problem, we need to have somebody responsible to take care of whatever it is before it spills into a neighborhood or something like that, you know. So I'm happy with what Corporation Counsel can come up with, you know. It's going to get a lot of discussion between the planning commission and by the time it ends

up at the -- in the council, you know, so I mean if we can make that recommendation today that she research it and find the most feasible way. The one thing that I'm -- I'll mention this because the managers -- sometimes when people are managers and handle the money, they get a percentage of the income that's generated, so I don't know, and it doesn't matter about your cases, but if, all of a sudden, with the wrong -- with the wrong advice, we may be cutting some of our citizens out of a fair share of actually taking care of the running of the things, you know. If you have absentee owners, they don't necessarily want to deal with that at all and it's worth a percentage to them to have their caretaker handle that, so I don't want to see you cut out of a reasonable percentage of a booking fee, so at this point, at least for me, what seems most feasible is a -- is to have Richelle look into it and to pursue perhaps the travel agency angle, and I think Richelle and the Planning Department could really talk with the state further about how they see things developing. I mean a lot of people are already thinking about next year's legislative session, the bills are already being put together. So, anyway, that's -- thank you.

Ms. Thomson: You know, maybe one way to craft this as a recommendation would be that you would like this new bill to be as broadly written as possible so that the rental activity can go on in compliance with state law, but there are several things in the current ordinance that restrict it further and you might want to get rid of those, but the one that you want to keep would be -- it's E.1., right, be accessible to guests, etcetera, that's the physical location of this person, you know, that, to me, seems to be the most important; the rest, if it complies with state law, you're not trying to restrict it even further because that's harming the economy here in certain aspects. So that could be a way to do it.

Chair Carvalho: John?

Mr. Blumer-Buell: Just a point of clarification, and if I'm incorrect, I'd appreciate Richelle's correcting me. With the Hana Community Plan and the ordinances, we can be more restrictive than any other community plan area or the general plan. This is taking care of the statutes. So Hana can be more conservative, but we can't be less conservative than the basic statutes. We can be more restrictive, but not less, and I think that's what we're stuck with.

Ms. Flammer: I think what Richelle -- excuse me, for interrupting. I think what Richelle is saying is you can actually write the law so that you can exempt yourself from some of these. We see that regularly with Molokai and Lanai in their -- there's a restriction or an entitlement and it'll say, comma, "except for on Molokai." I think that would legal what Richelle's recommending. So if we were to look on -- at the current code, on page -- well, if you were to look at, just to help you guys get something in writing out so at least there's something there, the first exhibit that you have in your report is the current law, so if you guys want to turn to page 18, the provision that we're talking about is at the very bottom, it's actually D, where it says -- so using the approach that Richelle took, you would take

D.2.b, in which you could write an exemption right there, and then you could go into E, if you wanted to allow the option for -- I think one of the managers on your list does what you're talking about, Ward, where the owner does all the rental activities and the manager is the true caretaker, in the *Webster's Dictionary* sense, doesn't engage in rental activities, if you wanted to amend that. But if you wanted to start with D, that would be one way to go.

Ms. Buckley-Battaglia: ...(inaudible)...

Ms. Flammer: Yeah, that's the second section I was just talking about.

Ms. Buckley-Battaglia: That's much more restrictive than the state law ...(inaudible)...

Chair Carvalho: Sorry. Go ahead, Rebecca.

Ms. Buckley-Battaglia: I'm sorry. Again, Ian, that section E, part 4, "Collect all rental fees." That is the county law for the STRH bill, which is much more restrictive than the state law, which simply states that if you're going to be managing multiple properties, you need to have a real estate license. When I first got my real estate license in '05, I hung my license with Rae and Carl Lindquist, and they never opened up any kind of a trust account or demanded that they collect all the money. You know, it's simply a matter of, you know, if the state law says that you need to be licensed, that's one thing, but the county law goes on to further restrict it, and I think that's an area that maybe there's some wiggle room.

Chair Carvalho: Ian.

Mr. Ballantyne: Actually, I would like to concur with John at this point and move on because it's all -- there's too much to take in at the moment for me, and I'd like, if it's all new, I'd like to take a lot of time to dig into it and at that next meeting, we can say, well, maybe this clause 3.b. or whatever, but I would just like to move on.

Chair Carvalho: John.

Mr. Blumer-Buell: Last comment was that, you know, Ian's idea was kind of just to let it happen, so I think there is a -- you know, there can be a balance there. I think the big concern, I mean I think the state and county are concerned about the money being accounted for 'cause they're trying to -- they want to tax everything, but the other thing is that I think is maybe more important is the safety issue and that's why we wanted to have -- I've heard -- talked with the people from the Maui Vacation Rental Association, they understood that somebody needed to be responsible for the safety of their guests and interceded if something goes wrong, call the police if that's what's needed, call the Fire Department, or whatever, but that's when it's really going to mean the most is if there's

ever, hopefully there won't be, but if there's ever a problem, that's the most important issue to me. Thank you.

Chair Carvalho: Thank you, John.

Ms. Dawn Lono: ...(inaudible)...

Chair Carvalho: Please come to mike and state your name.

Ms. Lono: ...(inaudible)...

Chair Carvalho: Yes. I believe we wanted to close public testimony after this so go ahead.

Ms. Lono: Good evening. My name is Dawn Lono, and I really hear what John was saying about are we going to be able to hear this again at this level in Hana because this is huge. There's a lot in these recommendations, and there's a lot of information that was just received, and, you know, you guys work on this kinda stuff all the time, and we're lay people and trying to absorb all of this and think about it in the context of our community and come up with recommendations and have logical testimony to respond to this, and my concern is that we have another opportunity. I mean this didn't even get posted in Hana until I posted it a couple days ago. It didn't get posted in a timely manner for the community to see. I sent it out by email and I think that's where a lot of people got the information that there was a meeting, and through Scott, and, you know, so forth. So I think we need to do a little bit better job of informing our community about these meetings and getting the information out. I mean I got that stuff from Gina yesterday, and I started going through it and just going, okay, you know, wait a minute. There's a lot here, and there's a lot here that seriously impacts our community, and there are places in there where, you know, we have an exemption for Hana and you're saying that that's okay for us to do that, but there's a place or something in there that says, well, they're exempting Hana and we want to make it more consistent throughout the county so let's take that out. You know, that doesn't make -- that doesn't gel with everything. And, like I said, there's a lot in there. You know, I had to work today, I didn't have time to put together my testimony before this Committee, but I think there's a lot of things that need to be addressed. I agree we need to find a way to have people be able to manage multiple properties, but the reality is that the state law requires what is being required, so what we need to do is go to the state level and try to change the law at the state level. That's the only way to do it, you know. I mean a broker has to collect the money, not the real estate agent, so if you're working, you know, and Carl and Rae maybe didn't do that, but, you know, that wasn't legal and they could get in a lot of trouble for that. So, you know, the reality is is that state law is what's governing this particular situation, so we need to get together with Kalani and Mele and whoever at the state level and maybe try to address something there because this other stuff that we're trying to weave through is just not going to cover it. Those laws

are really clear on the state level. But anyway, there's a lot of stuff I'd like to respond to on this and I, like I said, I didn't get time to put it together, and I'm hoping that we're going to be able to defer this and come back to the Hana Advisory Committee again to address this when we've all had time to absorb what's being proposed here and respond to it. Mahalo.

Chair Carvalho: Thank you, Dawn. John.

Mr. Blumer-Buell: I have a question for Dawn, and I've heard you testify on this, I can't remember in what context before, but there's a section in here that deals with accessory uses, and under no. 2, and this is one of the test I believe we've been using for the state special use permits, for anybody following this, this is Exhibit 33, first page of Exhibit 33, at the end of the -- this is the proposed bill, it says, "One farm dwelling per five acres of lot. On the island of Maui, the owner or lessee of the lot shall meet two of all of the following criteria." Now, I'm not making a motion here, but I think it should be all three and we should change the amount of income. What we've been going with is the first one is: Provide proof of at least \$35,000 of gross sales of agricultural products per year to the preceding two consecutive years for each farm labor dwelling on the lot as shown by state general excise tax forms and federal tax form 1040 Schedule F filings. And then it goes on to say, just two more short ones: Provide certification by the Department of Water Supply that the agricultural water rates are being paid if the subject lot is served by the county water system. And c: Provide a farm plan that demonstrates the feasibility of commercial agricultural production. Now, this Committee has been primarily and the Planning Department has primarily been depending on number c, which is provide a farm plan that demonstrates the feasibility of commercial -- that's just the feasibility, so in the certification that you're not using -- that you're not using ag water rates, to me, that's not doing agriculture, and so just using those two, to me, doesn't prove any agriculture at all, so my question for you, as somebody that does agriculture, is what is a reasonable level of gross sales of agricultural products per year? Now, in my notes, I just went \$10,000, instead of 35; 5,000 instead of 35; but I think there should be a financial requirement to be agriculture. Our Committee has heard -- has heard several short-term rental proposals where they have presented their farm plans and they're implemented, which just means they're feasible, I would like to see a requirement for some sort of income. I mean it's nice if people are doing the proposing a farm plan, but what is a reasonable level of income to show, even if minimum, you know? Thank you.

Ms. Lono: Well, I think that lot size has a lot to do with it, and we have, you know, like our farm is just a little less than three acres, so what you could potentially get on a little less than three acres versus on some of these five-acre, ten-acre and larger lots would be different, so it kinda has to -- it kinda has to balance out. I mean I think somebody with a three-acre lot, maybe \$35,000 might be a little bit much, but somebody with a ten-acre lot, that would be a little more feasible and a little more reasonable on a requirement that would -- that would, you know, promote agriculture in the agricultural area as well as this

alternative option. So I think it has to be a step sort of thing, you know, if it's under five acres this; if it's five to ten acres that; if it's, you know, ten to twenty acres that, and then above, you know, 'cause you got parcels that are hundreds of acres. So I think there has to be some variation.

Mr. Blumer-Buell: A sliding scale and I think that's a --

Ms. Lono: Yeah.

Mr. Blumer-Buell: That's a really good perspective. And my concern is to be clear with everybody is that when people are presenting us with their implemented farm plans, they're -- to me, that doesn't mean anything, I mean I've gone a long with it so far, but it doesn't show -- it doesn't show me that they're going to be doing real agriculture for -- to earn some money agriculturally. I'd like to see that. And, you know, the best -- the best application we've seen, in my opinion, regarding agricultural use is Anya Rutiz, I don't know her maiden name, but, you know, that was a -- that was the best ag plan we've seen. Those people are growing a lot of foot. And so, I'm just saying, I'd like to see some sort of sliding scale standard for that so that people can plant an ornamental garden and say, well, this is my feasible plan, and sorry to take so long, but thank you.

Ms. Lono: Well, if there is an ag plan, you know, is acceptable initially, you know, if the permit is good for one year, two years, five years, three years, something, it gets revisited at some point and that ag plan needs to be implemented by then or else, you know, you don't get your extension on your permit or it doesn't continue. That's really important to followup on that 'cause anybody can come up with a pipe dream ag plan and submit it so that they can do a rental, but then following up on it is the important thing.

Chair Carvalho: Ward.

Mr. Mardfin: Mr. Chairman, I think we're off track seriously. The agreed procedure was we introduce a motion saying that we would be adding amendments. We agreed that the first thing we would discuss is this Hana loophole; we're now into a different topic. I think we need to go back to the Hana loophole for the none -- for the resident person that would be the caretaker. I'm prepared to make a motion on that to amend, which is the process we'd agreed to, but I wanted to make sure all the other people in the audience have finished their say on this topic, not a separate topic.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I apologize for -- if I'm not following the agreed upon protocol. When Dawn was up testifying and I wanted to get her mana`o on what I think is an

important part of the bill, I didn't mean to throw us off track. There's a testifier, I wanted to hear their opinion on a certain subject, so sorry.

Chair Carvalho: Do we have any other testimony on this particular subject? Robin. Robin again.

Ms. Gaffney: ...(inaudible)... my name again?

Chair Carvalho: Yeah.

Ms. Gaffney: Robin Gaffney. Just the part about that the owner would have to be the one who is leasing the property versus maybe the one to lease the property. I believe that the owner already owns the website; the owner owns the property; the owner is offering that property for sale, not me. I'm the background person who's taking care of the guests, all of that, but my feeling is that as owners of the website and the home and the property, it is them that are offering it for lease.

Chair Carvalho: Thank you, Robin. Ward. You would like to --

Ms. Flammer: You may want opinions at the end, after everybody reacts to everything. It's up to you. I know it can make the meeting a little longer, but it's at your discretion.

Chair Carvalho: Ward.

Mr. Mardfin: I'm ready to make a motion to amend. There'll be more motions to amend as we go down.

Chair Carvalho: Okay. Yeah.

Mr. Mardfin: I move we amend the main motion by requesting legal counsel to investigate the ideas we've talked about, such as the use of a travel agent, such as, I'm going to go into too much detail, but such as ways to appropriately word the law so that it takes care of the situation we have in Hana with regards to short-term housing caretakers. And I'm hoping somebody will second my amendment.

Chair Carvalho: Ian?

Mr. Ballantyne: Second.

Chair Carvalho: Ian will second. Ward.

Mr. Mardfin: Normally I would speak to my amendment but I think everybody's pretty clear on it. What we're doing is requesting our counsel explore the issues we've talked about and that there will be a report back to the Hana Advisory Committee at some time in the nearish future.

Chair Carvalho: Thank you, Ward. Alright, we'd like to go back to Gina. No. ... (inaudible)... any other discussion? No other discussion on the motion? Okay, let's put that, the amendment to a vote, that motion for amendment.

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

***It has been moved by Committee Member Mardfin, seconded by Committee Member Ballantyne, then unanimously***

***VOTED: to amend the main motion by requesting legal counsel to investigate the ideas the Committee talked about, such as the use of a travel agent, such as ways to appropriately word the law so that it takes care of the situation we have in Hana with regards to short-term housing caretakers.***

Chair Carvalho: Alright, we will pass that motion for the amendment, and if we have any other discussion for the Committee, let's turn it over to Gina.

Ms. Flammer: Okay, let's go through the amendments, unless anybody has any strong feelings about non-residential adjacent lots or the tax classification. Okay, seeing no reaction, we'll go to page -- and just so the audience know -- oh, you found the hard copies. Good. We're also going to be posting it on the web so that people can see it. We have it tentatively scheduled for July 8 before the Maui Planning Commission, and then we're hoping to get out to Molokai and Lanai also sometime in July, and then it takes a couple months for it to finally reach the council where they will then schedule it upon their own agenda.

Okay, so starting on page 10 of the report, if we start looking at the different boxes, the table, the first one is - we'll start off with something easy - the apartment district. Currently, we have what's called "pyramid zoning," where anything -- it says right in the Apartment 1 and 2 districts, anything that's allowed in a residential district is allowed in the apartment. We, currently, interpret that to mean if you have a home that meets all the qualifications for a short-term rental and your property's located in a zone that's apartment, you can go ahead and file an application. We just wanted to codify that in the law. Again, it would have to be a house, not an apartment.



Chair Carvalho: Ward.

Mr. Mardfin: Gina, do we have any A-1 or A-2 districts in Hana?

Ms. Flammer: Thank you, Dawn. No. I'm hearing from the audience, no.

Mr. Mardfin: If not, I --

Ms. Flammer: No comment?

Mr. Mardfin: Have no -- I have no issue with this and I'd like to move on to the second item.

Chair Carvalho: I will second. Clayton. I will second. Okay, we'll just ...(inaudible)...

Ms. Flammer: I see a lot of nodding heads that they agree. Is that correct?

Chair Carvalho: Yeah.

Mr. Blumer-Buell: I think it's good that we have a motion and second, but because we don't have five members, the Chair should be voting, so I think it's best if one of the non-chair people makes a motion and second, and then you should be voting.

Chair Carvalho: Okay.

Mr. Blumer-Buell: Yeah.

Mr. Mardfin: I'll do it the right way then. I move to amend that we accept item 1 without comment.

Ms. Thomson: Just -- so we do have a motion though that's on the floor that remains open, and that was the original motion that you made at the outset, which is to go through all of these -- all of these changes and then kinda work them out as you go, and then vote on that main motion, so if you make a motion now, it could be a different motion or it could be a motion to amend that main motion; that's why consensus may be easier to work through unless you significantly disagree.

Mr. Mardfin: I was hoping to work with consensus except for the ones that I had problems with.

Ms. Thomson: Right. And then save those and just vote on the ones that you all have consensus on.

Mr. Mardfin: So I think item 1 is not an issue for us.

Chair Carvalho: Correct.

Ms. Flammer: Okay. We can do this. We do this regularly. We can do that. It's my job to keep track of stuff. Okay, so we already moved on to number -- I'm seeing consensus for no. 1 as a no comment. No. 2, we already had a little bit of discussion starting with the \$35,000 farm income. Like I explained earlier, we moved it from a special use to an accessory use so that we can require the implemented farm plan. It does give you the option. If you go to the proposed bill, you're actually going to see \$10,000 but that's because we went back and forth, and back and forth on 35, 10. The table says 35, the proposed bill says 10, but I think the last final decision was to keep at 35, but we can change it again after meeting with all the commissions. So John was actually reading earlier from a different section, but it's the same. If you go to page 3 of the bill, and you go down to no. 13, the requirements if you have a short-term rental home, that we're proposing, is that it either be operated with \$35,000 or \$10,000 of gross sales, or have an approved farm plan, or it be located in the state historic -- on the State Historic Register or the National Register. Those are the three that we're recommending. You, of course, can add whatever criteria as an amendment that you'd see fit.

Mr. Blumer-Buell: Chair?

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I have a -- I need something clarified for me, and I don't understand it. The section I read to Dawn, which is the first page of the proposed bill, which was 2.a., which referred to the 35,000, and then I'm going to page 3 of the bill, which you just referred to about the \$10,000 of gross sales of agricultural products, I'm not sure which one -- which one is --

Ms. Flammer: Yeah, I'll help you with this.

Mr. Blumer-Buell: Would you clarify that, please? Thank you.

Ms. Flammer: Okay. Yeah, I sure will. It's hard to read legislation and a bill; that's why I did the table. The proposed bill takes sections that we're suggesting amendments and it gives you the current law, everything in that particular section, the amendments are what's underlined. I want to remind you that the bill's purpose is to update the requirements and procedures for permitting a short-term rental home; that means you would be unable to go in and change the farm labor dwelling requirement in this bill. It would need to be a bill about farm labor dwellings. However, we, when we first did, this is actually modeled after the bed and breakfast, when we first did that, we took these same requirements for a

second farm dwelling and we made them applicable, the same ones for if you're going to do a bed and breakfast and now we're recommending we do it for short-term rental homes. That's where the confusion is. You picked up the same requirement. Actually, we didn't -- the council chose not to put in the water supply, having ag rates in the B&B. So what we're looking at is we'd like to move the on ag land from a special use where there are no farming requirements, we'd like to make that farm plan requirement or income requirement a part of the law. It's currently not in there. It just says you need an SUP. And the ones that we're proposing are the same as the bed and breakfast. We'd like some discussion on what kind of income you want to see in lieu of a farm plan, or if, John, if you want to come up with you need, whatever criteria you think for when a property comes in on the state ag district. You guys have seen a lot of these SUPs. You know what you're looking for. This is your chance to put it the law.

Chair Carvalho: Ward.

Mr. Mardfin: I've got a number of things to say about this. But if you will turn to Exhibit 30 at the back of this, page 3, there is a graph. There's a serious error on this page. It wasn't -- it didn't come out of the Planning Department, it came out of the Department of Ag, I believe, Office of Planning and the State of Hawaii. But if you're on the third page of Exhibit 30, at the bottom in a footnote, footnote 3 says the prices are in cents per pound. It should be dollars per pound. Or, under Farm price, the third column, they should -- it's not for Romaine lettuce, it's not .61 cents, it's 61 cents, so it's dollars per pound since they have the decimal points in there.

When I looked at this, I have a hesitance to see fixed numbers put into legislation that's going to supposedly last over time, and I was thinking about suggesting an agricultural price index adjustment be put in. And I went online and I found a graph for Hawaii fruit -- oh no, this is nationwide, fruit and tree, nut and commercial vegetables from 2005 to 2014, and there doesn't seem to be a huge trend, so I'm willing to back off of having a price adjustment. But in line with what the 10,000 number was -- came up -- we came up with that from this handout based on a 5-acre lot, and I would change the wording in it to keep the 10,000 annual income based on a 5-acre lot to be \$2,000 per acre of agricultural production. You own 2 acres, it's 4,000. You own 20 acres, it's 40,000. So my wording would be -- my motion to amend is to have the wording be \$2,000 of produce per acre of land under agricultural production.

Chair Carvalho: Ian.

Mr. Ballantyne: Yeah, I would like to comment on the agricultural water rates. I mean there is a department, at the moment, who's spending money, our taxpayer's money, on finding out whether we qualify for agricultural water. Now, I do. Every year an inspector comes out, inspects that we're doing agriculture, and if he's convinced that we are, we get

the agricultural water rates. So why are we duplicating? I mean why are we just adding in all these extra layers? It's simple.

Ms. Flammer: It's not -- we're in the wrong section. That's not a requirement for the short-term rental. That's in a section where if you're doing a farm labor, but we're not -- that's just another part of the code that we're not recommending an amendment on. The part of the code that pertains to short-term rentals does not have that ag water rate provision in it.

Mr. Ballantyne: Yeah, well, I'm saying is it should to get rid of this form, which is just a nightmare. Somebody else is now multiplying acres by, you know, by looking at people's tax reports and everything, whereas, at the moment, there's a council inspector comes out every year and looks. Why not take his word? I mean that's what we're paying these people for.

Ms. Flammer: The planning commission had serious trouble with vacation rentals having ag water rates. They prefer to see them not take the ag water rates.

Mr. Ballantyne: So if you've got ag water rates and you then have a rental, you're no longer entitled to ag water rates. I don't see that written in the bill anywhere.

Ms. Flammer: No. They had a problem with us requiring, before you come in, that you must obtain ag water rates. That's why it's not in there. They would prefer to see vacation rentals not using ag water rates. That was their preference. They were concerned that some of those -- even though there's a \$30,000 exemption or the first 30,000 gallons are done at residential; it's over that that gives the discounting rating. They were thinking that you get discounted rating for the people taking showers. So that was never included in that part.

Mr. Ballantyne: Okay.

Chair Carvalho: Thank you, Ian. Gina? John?

Mr. Blumer-Buell: Yeah, and this is just maybe I'm just not understanding this, but I'd like to see this cleaned up so that we don't have this overlap. I'm getting a little confused by what's with the short-term rental and what's with the ...(inaudible)...

Ms. Flammer: The areas that are -- as it is with all bills that come out, the areas that are underlined are the areas that are the amendments, and the areas that are stricken through, I think it says at the very end, I usually say that at the beginning, I'm sorry, I've been sick for the past couple days, the areas that are stricken through are the areas that we're

suggesting that you take out. It makes it very confusing to read a proposed bill. I didn't know you guys were going to dive right into that ...(inaudible)... the table.

Mr. Blumer-Buell: ...(inaudible)... I mean, you know, for example, I was misreading it, but if under the accessory uses, if the 35 had been crossed out, then I would have assumed that the 10 was the substantive - I would have got that.

Ms. Flammer: That's my mistake. We went back and forth so many times on that number. It needs to be cleaned -- that part does need to be cleaned up.

Mr. Blumer-Buell: Okay. The other thing, and this is for everybody's knowledge, is that part of the problem that we have with the ag water rates and all these definitions and everything is the County Council still has not adopted a meaning for "agriculture." They cannot tell you what agriculture is and so you have -- you have the water board, nobody has a definition for ag and everybody's kind of working from different assumptions, so that can -- am I correct on that?

Ms. Flammer: We actually have different definitions.

Mr. Blumer-Buell: Okay, well, that's part of the problem; that's complicating.

Ms. Flammer: Especially for the homeowner that's trying to keep straight their tax rate versus their ag water versus their short-term rental.

Ms. Lono: ...(inaudible)...

Chair Carvalho: The microphone. I'm sorry. Ward?

Mr. Mardfin: My motion to amend, I will be a little bit more specific, on page 3 of the proposed bill, for section 19.12.020, Permitted uses, no. 13, Short-term rental homes permitted, section a., Operated in conjunction with a bona fide agricultural operation that produced \$10,000 of gross sales of agricultural products for each of the preceding two years. And for that portion of the sentence, where it says "\$10,000," I want it to read -- I'm proposing to amend to read, "\$2,000 per farmed agricultural land," "per acre farmed agricultural land per year."

Ms. Flammer: I have written -- tell me if this is the correct language: "\$2,000," substituting the 10,000, "\$2,000 of agricultural income per acre of" -- I guess "just per acre?"

Mr. Mardfin: Per acre under -- under cultivation.

Ms. Flammer: No. Per acre for the total -- oh, per acre --

Mr. Mardfin: No. Fallow land you don't expect to produce ag income, so some of the land is under -- is fallow under -- I know several people's property.

Ms. Flammer: So you want that to relate to area of -- under cultivation?

Mr. Mardfin: Under cultivation. That's the only way you're going to get income out of it.

Ms. Flammer: Not the total area of the TMK? So if it's a five-acre lot, you don't want it to be 10,000 if they're only farming --

Mr. Mardfin: Well, that might be a shortcut way to do it would be to use the TMK, but, you know, we've already decided that where the house it you're not going to grow anything; that's why we're approving these SUPs. So we've gotta be looking at the land under cultivation. And these figures in -- that were passed out to us, by whoever did this, seems was taking five-acre lot as their standard. I don't want to use \$10,000 as a flat amount. John made the perfect point, if you have a lot more land, it's easy; if you have a lot less land, it's hard, so I want to put it on a per acreage basis, and I'm hoping somebody will second my motion to amend.

Mr. Ballantyne: I would like to comment. Okay, yeah, with --

Chair Carvalho: Ian, and, John.

Mr. Blumer-Buell: I will second Ward's motion for discussion purposes.

Chair Cavalho: Ian?

Mr. Ballantyne: Yeah, as with all these things, that sets up loopholes again because, you know, I'm just going to say, okay, I'll cultivate an eighth of an acre, I only need \$250 a year, here's my \$250, and there you go.

Chair Carvalho: Ward.

Mr. Mardfin: And if you choose to do that, you'll be in violation of your implemented agricultural plan.

Chair Carvalho: Okay, John?

Mr. Blumer-Buell: Yeah, Dawn Lono made a, I thought, a suggestion that if we could consider that sliding scale, which is part of what Ward's motion is, but could we set a minimum plus in a sliding scale as it goes up, whereas, I had my little figure for anything was 5,000, which would equal, you know, a small lot that would be, you know, just two

acres under -- two-and-a-half acres under your formula. And I agree with Ian, boy I see loopholes in that all over the place, you know, somebody may decide they're not going to cultivate, you know. So, anyway, we're still discussing.

Chair Carvalho: Thank you, John. And, Ward?

Mr. Mardfin: Gina, don't they have to have an implemented farm plan?

Ms. Flammer: This is actually an "or."

Mr. Mardfin: Oh.

Ms. Flammer: You could make it an "and," but it currently reads as an "or."

Mr. Mardfin: I think it should be an implemented farm plan with these income limits set; that way, if you start to play games with the implemented farm plan and say, well, I'm only going to do an eighth of an acre on a ten-acre parcel, you would be in violation of the implemented farm plan.

Ms. Flammer: Yeah, I just want to state something that I heard earlier that you're touching on now. The implemented farm plan means it's implemented, it's in the ground. I know it uses the word "plan," which means for the future, but it actually has to be in, and then it's revisited every year. So if you add an "and" instead of an "or," they would have to have 50% in cultivation. You're adding an income requirement on top of that, is that what I'm hearing, correct?

Mr. Mardfin: Yes.

Ms. Flammer: Okay. So we would changing that "or" to an "and" after a.

Mr. Mardfin: Yes. And that will -- and it takes account of the fact that lots are of different size, but it also addresses John's concern much earlier that these not be bogus things where you're growing daisies and nothing comes out of it.

Ms. Flammer: So just so I understand this correctly, if you have an implemented farm plan for a six-acre lot, three acres are implemented, we'd have a \$6,000 -- three acres are being farmed as part of the agricultural cultivation requirement for the farm plan, we'd have a \$6,000 income requirement. Okay. Thank you.

Chair Carvalho: John.

Mr. Blumer-Buell: I would support Ward's idea at this point. We can always revisit it if we want to, go back over, thanks. But my impression of, you know, of some of the or at least one of the short-term rental operations we approved was that it was really more of a landscaping plan, and, you know, we're trying to encourage people to do agriculture, that's why I've been helping this to get going because -- but, to me, we want people to be doing some sort of real agriculture, and if they can't do it themselves, it's certainly going to supply some to work -- some work to someone, you know.

Ms. Flammer: Am I hearing that you're looking for a commercial agricultural operation?

Mr. Blumer-Buell: Well, I think that -- I mean isn't that what an income is is commercial income?

Ms. Flammer: Yes, that's ...(inaudible)... you're okay with me using that word?

Chair Carvalho: So that motion was presented by Ward, and seconded by John, that's amendment to the section 19.30A.050, and should we put that to a vote? We have a second. Okay.

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

***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then***

***VOTED: that, on page 3 of the proposed bill, for section 19.12.020, Permitted uses, no. 13, Short-term rental homes permitted, section a., "Operated in conjunction with a bona fide agricultural operation that produced \$10,000 of gross sales of agricultural products for each of the preceding two years," and for that portion of the sentence, where it says "\$10,000," it be amended to read, "\$2,000 of agricultural income per acre under cultivation."***

***(Assenting: J. Blumer-Buell; C. Carvalho; W. Mardfin)***

***(Dissenting: I. Ballantyne)***

***(Excused: E. Cashman; S. Crawford; A. Hoopai-Waikoloa)***

***MOTION FAILS.***

Chair Carvalho: I would -- in place of voting, I would abstain. Yeah, I can't actually abstain. Yeah. John?



Mr. Blumer-Buell: Yeah, I would like to throw this out to everybody, and this is again why I would like to, you know, have a date certain, if this is going to July 8 to the planning commission, if we could meet sometime in mid-June, you know, where we can be sure we have seven people here because what we have right now, and we saw this before, is that one person voting no can, basically, veto the thing. Now, I don't want it just to be we didn't vote for it; to me, when we have four people, I think we need to put forward some sort of a recommendation for the planning commission to at least look at the idea. I'm not sure what the best legal form to put that in is, but I fully support Ian's right to disagree; unfortunately, we have, you know, we only have four people, so it takes, at this point, it takes four votes to move anything, including the Chair's, on anything, so we have to have -- you know, what is -- anybody have a suggestion for the protocol? I have. I mean I'll give in further. I have a couple motions I'd like to introduce later, and people may not like them, but I'd still like to see them end up being considered by the planning commission. Thank you.

Chair Carvalho: Ward.

Mr. Mardfin: That's the reason they get our minutes within 30 days so that they can see what we've discussed. I agree, now that we're down to a bare quorum, it has to be unanimous or it doesn't pass. This one didn't pass. But they'll still see our discussion. Secondly, I like John's idea about meeting in June but I will not be there, so you won't get seven. I'm going to be on Oahu from two weeks from now I leave, and I'm going to be gone until late August, maybe the last week of August I'll get back. Scheduling for September would be better. So I think we have to go through these. I think we have to discuss as much as we can. I think we have to get our ideas on the record. Let the planning commission go from that. We pass what we can pass; we don't pass what we can't pass.

Ms. Flammer: I know we need to take a five-minute break in a minute, however, I just want to say when I write up my summary of the discussion, I include motions that did not pass so the commission can see, not only in the minutes, but they can see in the written summary what was discussed. They understand quorum issues. They've asked me about it before here.

Chair Carvalho: Thank you. And, Ward, I'm not sure how much -- oh, just a comment from me. I'm not sure how much headway we can make with just the bare quorum. I'm not sure if I really want to defer a lot of these issues and amendments until the next meeting, but like you said, if we don't get a full consensus -- John, go ahead.

Mr. Blumer-Buell: Well, I was going to throw this to Clayton and Gina; is it possible to schedule a meeting before Ward leaves, that's two weeks? And I'd rather do it before he leaves than after because you're on a deadline to get the whole thing to the planning

commission, and then Molokai and Lanai, and then the County Council, so if we could Ward, who I think's a very valuable resource for our Committee, and other members, like Scott and Ed and Anjo, everybody to be here and be ready to move on it, that would be my preference. Thank you.

Ms. Thomson: I have a recommendation regarding this section if you wanted to go ahead and address it. It sounds like the consensus is you all agree that 35,000 is too steep, and that you'd like to look at a lower gross income limit, and potentially a sliding scale, and maybe you don't put a dollar figure on it and just have that be a general comment that you can refine later on as it goes forward, you know, either individually, you know, you can submit individual testimony for council or planning commission, or if you do get the chance to revisit it, then you might be able to narrow that comment later on.

Chair Carvalho: Thank you, Richelle. And, Ward?

Mr. Mardfin: I don't see a feasible way to get it done in the next two weeks. I'm busy a lot of those nights anyway. Tonight I had to cancel a GED class. I really don't want to do another one. I have kids I'm trying to get through. There are issues of notice out, which I don't think we can make any kind of a -- get notice out about a meeting. So I think you either hold it during the summer when I'm not here, or you wait till the very last week of August or early September. Gina said they're trying to get it through by December. I think we need to plug away, make all our motions now, they pass or they fail, Gina said she'll record them, we'll have our discussion, the planning commission will see them, and we've got everything done. I think it'll take Richelle longer than two weeks to figure out what we can get away with in terms of the big loopholes, so I don't see a reason to do it in the next two weeks. I urge us to go through -- I think we can go through a lot of these rather quickly, but I think we need to do it before we leave tonight, and if we don't -- they don't pass 'cause we get three-one votes, so be it.

Chair Carvalho: Thank you, Ward. Yeah, let's move on to the next amendment. Gina?

Ms. Flammer: Okay, let me go back to the table here. There's a couple needy ones but, fortunately, there's a bunch that are not, so we'll see what we can get through. If we just happen to hit the farm income right away -- hold on. Okay, so looking at no. 3.

Chair Carvalho: Before we continue, can we adjourn for a short break, bathroom break? Yes. Please. It's 6:13 right now. Five minutes, yes.

*(A recess was called at 6:13 p.m., and the meeting reconvened at 6:21 p.m.)*

Chair Carvalho: So we left off with Gina.

Ms. Flammer: Okay, we're on no. 3, which deals with -- hold on. It deals with condominium property regimes. Sometimes you pass a bill and you don't really understand all the intricacies or -- so what we found is we got a lot of -- got a fair number of CPR properties, and that's a property that's been -- it hasn't been subdivided by the county but there's a state process that allows you to divide up a property and have separate ownership of different units of it; you also can have a master lot. Under the law, that when we looked at, the CPR units, from the county's perspective, remain as one lot, so we -- right now, our policy is that you can have two dwellings and a maximum of six bedrooms for that entire lot. We wanted to clarify that in the law so that applicants understand that when they apply.

Chair Carvalho: Ward.

Mr. Mardfin: I know of one case of this out in Kipahulu, there may be others around, so it isn't zero affect here, but I think it's a good idea so I'm happy to go along with that without amendment.

Chair Carvalho: John.

Mr. Blumer-Buell: I'll second for discussion. I'm -- I would like a little more clarification. I mean the property tax division looks at these condominiumized property and charges them at a -- they're supposed to be charged at a condominiumized rate and so how does that -- you're looking at it as one lot when, in fact, there may be five and they've got building permits for, you know, residence on each condominiumized lot, so how does this --

Ms. Flammer: You've hit on a very interesting policy within the county. Different departments look at condominium property regime lots differently. The Planning Department and the Department of Public Works does not recognize them as separate entities, however, the real estate, the Department of Finance, Real Property Tax Division, because of the separate ownership, assigns them a different tax status, each of the individual units. Again, the Planning Department looks at them as one lot. If there's a violation on one of them, all of the owners get the violation, and that's not just for these rentals, that's just our policy in general.

Chair Carvalho: Any other comments from the Committee? No? We can move on.

Ms. Flammer: I think we can kinda get through some of these next ones. We didn't realize, when we were going through the bill, the bed and breakfast does not, bill, that it was based on originally, does not recognize other ownership entities. The council's intent with the short-term rental was to recognize that family trusts sometimes own properties, limited liability corporations, and LLCs, and just corporations in general can own them. They said that was fine provided that they're all natural persons within those, so one entity

cannot own another one, and everybody is related. They did that for two reasons. The first reason is they want pure transparency. They do not want -- they used the Ma`alaea boat slips as an example; when you sell your boat, typically you sell your slip at the same time. They did not want transferability of these permits. They didn't want an LLC owner to sell their share of the LLC, the county doesn't get notification, you don't know this, and, therefore, the permit has been transferred, so that's why everybody has to be related and you have to be natural persons. The second reason they did it -- actually, that's why you have to be a natural person. The second reason is they didn't want investment trusts, such as REITs or such as Kamehameha trust, to come in and purchase these and use them as an investment, however, they recognize that it was appropriate for families to own these and it was a way, often, that ownership is how one's property is inherited or for other reasons. But we didn't realize at the time, until we started receiving a lot of applications, that limited liability partnerships are a common form of ownership, and we feel that as long as they meet those other requirements - they're natural people, they are related - there's also a requirement that says you have to a 25% owner if the permit -- if you're the person applying, you have to have more than -- you have to have 25% ownership. So we just wanted to add the LLP. I had to have people completely restructure all of their estate planning because it was in an LLP. It was hard to explain the reasons why when it didn't really apply to them. That's why this is an amendment.

Mr. Mardfin: I'm happy to go along with this. I own some property that I have actually under a living trust, a revocable living trust, so this is fine. I don't have a problem with this. The one thing I do want to do is make sure thought that a person's name is here. You gave a list of the buildings in Hana, and I went through and I don't know what Papalani is, but it's out past Waihonu, and there was no way of finding out who the person was 'cause they had Papalani, LLC, or whatever, and it had a street address but it didn't have a name, so I wanted to have a human being's name on it.

Ms. Flammer: Yes, that's part of the law already. It says that the permit holder must be a natural person, however, the lot -- we used to say that it had to be -- that owner had to hold title to the lot, which meant we used to make people take it out of their trust and put it in their own personal name, so how it is now is you -- a person has to be the person applying, it can't be an entity, even though SMA and other types of permits we allow the entity apply, we do not in this case, but if you happen to own your lot through a trust, and you meet these requirements, we will accept your application.

Mr. Mardfin: That's okay, but I went on the TMK website and it has -- there was no human being's name for one of the properties. I'll tell you which one later.

Ms. Flammer: I know. It's Sybil Chappelet. Did you --

Mr. Mardfin: Oh, is that who it is?

Ms. Flammer: Yeah. Did you -- now, if you go to our permit list, which is exhibit --

Mr. Mardfin: No. I went to the TMK website.

Ms. Flammer: Oh, we don't manage that. That's real property finance division and it's hard to find the names sometimes, but if you were to go to our website and look up the permits, which is Exhibit 5, oh, we don't have a name. We could add it.

Mr. Mardfin: I think a human being's name should be there. The applicant's name should be there.

Ms. Flammer: That would be a reporting requirement. We would need to change it. That's interesting.

Mr. Mardfin: And that also keeps the ability to transfer it more limited if you know who the person is.

Ms. Flammer: Well, we know. It's just that we publicly --

Mr. Mardfin: Okay, but you said part of the reason for this is to prevent these behind the --

Ms. Flammer: No. We know when we look up a permit who the holder is. It's just not listed here on the county sheet. Okay. I'll pass that along.

Mr. Mardfin: Thank you.

Chair Carvalho: Thank you, Ward. John.

Mr. Blumer-Buell: Couple things. How are we going to move this now? It seems like we kind of offered -- are we just offering comments now on the different things rather than trying to create a vote or consensus?

Chair Carvalho: Alright, let me pass that to Ward.

Mr. Mardfin: What I'm doing is making comment on them. If I don't have any serious problem with it, I'm not making a motion. If we hit one where I have a serious problem, and there are several, I will make a motion to amend.

Chair Carvalho: John.

Ms. Flammer: That's a good question, John. So for no. 3, the CPR one, maybe we should, at the very end, is there a consensus with what the department's recommending? Maybe we should do that.

Mr. Blumer-Buell: Yeah, last comments. I'm still hoping that we can get this back in front of us in a timely manner. I mean this is not a good way to be doing this. And secondly, I mean it's too rushed and I have a lot of information. And if we're not going to have a meeting of this, then I want to know, procedurally, what's the correct way for me to introduce two motions with fully supported by arguments into the record? I don't expect people to have an opinion, but I want to get them into the record so the planning commission can look at them.

Ms. Flammer: What I would recommend, and this is up to your Chair and you guys, is when you defer this at the end, I mean we could stay till midnight and probably get through both, but when you defer it at the end, defer it to a date certain. You got four of you here, you can look at your schedules now. We know Ward's gone. It may be a little difficult. There's two ways to defer. You can defer without giving a date; the second way is to defer and have a date. Sounds like you might want to set a date as you defer it. The second thing is you might want to throw your amendments in right before you end your meeting then at least that you've got them. We can come back and revisit them.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, that's fine as long as the Chair will allow me to do that before we adjourn and, you know, that would be my recommendation, at this point, is for thinking I'd like to defer this matter to a date certain and, hopefully, Ward will feel compelled to come back to Hana for a day.

Ms. Flammer: Or we could go to Oahu, I suppose.

Mr. Blumer-Buell: Okay. Thanks.

Chair Carvalho: We should definitely -- so we can pick and choose which we do want to defer. I believe we should do that. If anyone has any other comments on that? Ward.

Mr. Mardfin: On this particular item?

Chair Carvalho: No, just on deferring. Just on the option of deferring.

Mr. Mardfin: I think we ought to just proceed as we can. I think we can finish all 22 of them before we leave tonight.

Chair Carvalho: Okay. And as for Gina's comments, I think maybe as a no comment can be treated as a consensus, and if we do have an issue, then we bring up a motion to make an amendment? Okay. So --

Ms. Flammer: So there's a difference between no comment and between supporting the department's proposed amendment, so just when you're moving along, just let me know which one.

Chair Carvalho: Okay.

Ms. Flammer: So if we go back to no. 3, with the CPRs, was that a no comment or was that a you're fine with what we're doing, with what we're recommending? Let me ask: Are you fine with what we're recommending - yes or no? Am I seeing consensus on the --

Mr. Mardfin: Yes. And my original motion that's on the floor is to approve the report with amendments.

Ms. Flammer: Thank you.

Mr. Mardfin: So saying nothing is ...(inaudible)... approval.

Chair Carvalho: So, yeah, I'll just act as the spokesperson for the consensus then if you just -- yeah.

Ms. Flammer: Thank you.

Chair Carvalho: Go ahead.

Ms. Flammer: What Ward's saying is if you say nothing at the end and you vote yes, you are saying you agree with what we've said. Okay. So moving along, no. 5, Lanai and Molokai -- should be Molokai. My apologies. On Molokai, they allow three bedrooms for a short-term rental operation. To keep everything straight with the department, we're recommending that they go to six. The Molokai Planning Commission is really the one that'll state their opinion on this unless you have one.

Chair Carvalho: John.

Mr. Blumer-Buell: My comment is to let Lanai and Molokai make that decision.

Chair Carvalho: Ward.

Mr. Mardfin: I concur. And I think Hana is in there too. I think Hana is three unless you do a --

Ms. Flammer: It's a trigger.

Mr. Mardfin: Unless you do a special permit; that's why we had to approve that one exception. So Hana's in this also --

Ms. Flammer: Hana's actually number --

Mr. Mardfin: And I think Lanai, Molokai, and Hana should have their rules, and I'm sorry if it's a little costly to administer and I'm sorry if it's a variation, but --

Ms. Flammer: Hana's number -- is change no. 11.

Chair Carvalho: That's amendment 11.

Ms. Flammer: Okay, so moving along. So for no. 5, instead of agreeing, you're saying leave it up to Molokai or you were saying something separately?

Mr. Mardfin: We have three, right?

Ms. Flammer: No. You're in a different section. If there is more than three, it comes to you guys.

Mr. Mardfin: Okay. My -- okay, then I will make a motion, and I'm going to make this a general motion to amend, that every place where it says something for Molokai or something for Lanai that we defer to their planning commissions. I don't want them telling us how to work. I don't think we should be telling them how to work. And I don't think the Maui Planning Commission should be telling them how to work either. So I would -- every place, and I have a list of them later on for the next bill, where it says -- refers to a special change for Lanai, Molokai, that we allow them to make the decision.

Chair Carvalho: Do I hear a second to that motion? John will second. And shall we put that to a vote?

***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously***

***VOTED: that every place where it refers to a special change for Lanai, Molokai that it be deferred to their planning commissions.***



Chair Carvalho: And that motion is unanimously passed.

Ms. Flammer: Thank you. Okay, the next one. Oh, this is procedural. We -- the council, sometimes when you're amending a bill, it's a little messy. It doesn't always end up as clean as it should be. The council added some more criteria for evaluating permits but they put it in the permit processing section. It's hard for the commissioners, when they're reading the applicable rules and regulations, to have it in two separate areas. We're just recommending that these additional criteria, which are already in the law, just get moved from the permit processing section to the restrictions and criteria, where the other criteria is.

Chair Carvalho: Ward.

Mr. Mardfin: I have no problem. Go ahead. It doesn't change substance.

Chair Carvalho: Any other comments from the Committee? John.

Mr. Blumer-Buell: If I'm understanding no. 6, this has to do with the 500 feet and the percentages and all that?

Ms. Flammer: No. What these are, these are criteria that the commissions and you folks use to evaluate a permit and whether or not it meets what you think is a reason to approve. So the criteria that we have in here, we have criteria already in the restrictions, in the very beginning of this section that speak to the correspondence from the homeowners association that speak to existing community plan policies, community input, and then there's a fourth one. These would be added, just moved and added that, so they include the number and distance from the subject parcel to other short-term homes, so if they wanted to deny a permit, they could do it on the basis of there's too many, they're too close together, the number and substance of protest, so, again, if they wanted to deny, this would be one criteria where they could say we had a lot of protest, they were really substantial; we see cumulative effects happening. Another one that we're moving existing or past complaints about the operations, existing or past noncompliance with the government regulations. There are things that are in there we're just moving them to another section.

Chair Carvalho: John.

Mr. Blumer-Buell: This sounds alright to me, but I have a quick question. One of the flaws in the B&B and the whole ST -- short-term rental thing, I think, is that we're dealing with them separately, and they're just -- they shouldn't be. All these, I think, every one of these applications should come before the Hana Advisory Committee for the first permit, and we should have the option to make a field trip, but we have the situation already on Hana Bay

where we have a vacation rental -- I mean a short-term rental and then a B&B, and there's no -- there's a disconnect, you know, that because, you know, if there's a B&B next to a STR, there's no consideration of the sum total of what the impact is. So, you know, I'll look to you to where do we address that. I think we need to have these things combined in some way so that when it comes to us, we get to see, well, every other house is an STR, every other house is a B&B, but it's all just disconnected in the legislation. It's not disconnected as far as impacts on the community and rental housing and everything else at all. It's very connected so --

Ms. Flammer: The appropriate place to do that would be where the 500-foot trigger is for a hearing.

Mr. Blumer-Buell: Okay. And do you have -- is that one of the numbers?

Ms. Flammer: Yeah, that's coming up ...(inaudible)...

Mr. Blumer-Buell: Okay. Good. Thank you.

Ms. Flammer: Okay, the next one, advertising. This came out from our enforcement division. What they would like to see is, for permitted operations, in their advertising, they'd also like to see a physical address or some way --

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

Ms. Flammer: This is no. 7.

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

Ms. Flammer: Oh, this came in late. This came in after it came to you, so this is one of the -- this is a new issue. I talked about this in the very beginning. We're going to be off on our numbers. The enforcement division is trying to go in and -- they're required every year to go through the web, find the advertising, and figure out who's legal and who's not. In order to help them, they want to know, when they see a permit number, that that permit number applies to that house. So what they want to see is a physical address so then they can then look up -- you're not going to see it in there because this came in after it was done. It's the only one that came late. Like I said, our enforcement division chief was sick the day --

Mr. Mardfin: This is somewhat related, however, to item 21 on enforcement.

Ms. Flammer: Yes. But this is for people that are already permitted. And this will generate a lot of discussion as it goes through the commissions. There's concern from the rental

industry that people can then look at calendars and see what's open and what's not. Yeah, this will get hashed out as we go through. Okay --

Mr. Blumer-Buell: So what is the actual number we're on or are we off on our numbers now?

Ms. Flammer: No. We're going to go to no. 7 now. We'll call that -- we'll leave it as it is. Okay, so no. 7 would be -- what we're doing with no. 7 is we're asking that the -- something that we currently do that's part of the application be actually written into the law, so the department requires -- we require anyway that when you come in for a permit, that all the buildings -- that your house was built to code. As you all know, not every -- all the permit information was kept by the county. We had a building where there was I think a flood, the computer system, we didn't used to update it, so there's different ways that when that happens that we can deal with it, and this is done at the department's discretion. So we can either accept, as proof that your house was built to code, a Department of Public Works miscellaneous inspection report, or we can have the record of completed building permits. I think I've had two or three people be able to put all that together when it's not in the computer. It's kind of interesting. Or the third one, we will allow, with our approval, a architect to go out and certify that it was built to code, and now they have to certify building, plumbing, and electrical code, and any additions at the time the dwelling was built. We, typically, will accept these when there's an incomplete permit record. That's our preferred method is to see a complete permit record, but when that is not possible, we will take an architect letter.

Chair Carvalho: Ward.

Mr. Mardfin: This is what John was referring to earlier as being important for safety and providing good accommodations for people, so I have no problem with this as recommended.

Ms. Flammer: Okay. Thank you. This is also just part one of being safe; part two is the home inspection. We require both. It has to be built safely, and it has to continue to stay safe. Okay, so no. 8. We've had a problem with people starting the application and the first thing they do is put up the sign, then they realize how long it takes, and the sign stays up; sometimes just endlessly and we never see an application and we get calls, neighbors get concerned, so what we're recommending is that the notification sign that goes up in front of the house be tied to the noticing period when you're sending out to your neighbors. Again, it's up for you to decide on. Okay, I see a lot of shrugs. Alright.

No. 9. Applicants are required to, when it goes to public hearing, they must place a notice in the newspaper once a week for three weeks, it has to be *The Maui News*; it runs about a thousand dollars; this is at the end of the process; it's expensive to go through the

process. I've had people that have had trouble coming up with the money. We are also required, as the department, to put a notice in the paper, and the applicant is also required to mail notice to everybody within 500 feet. I don't think the council realized, what they did is they tied it to a different provision in the law. I don't think they realized that was in there. We're just recommending that the requirement that the applicant place the newspaper add once a week be removed. They're still going to have to send notice to everybody within 500 feet, and the department is still required to put notice in the newspaper. Okay, I'm seeing a lot of shrugs.

Okay, next one. No. 10. We are concerned about the schedule with how many items are coming before you. This is merely an attempt to address this. You may have other feelings about this. So we are recommending that the trigger to come to the planning commissions, which would include you, when there's another within 500 feet be changed from a mandatory trigger to a discretionary trigger at the department's discretion.

Chair Carvalho: John.

Mr. Blumer-Buell: I would like to make a recommendation against that. I think more scrutiny is better.

Chair Carvalho: Ward.

Mr. Mardfin: I don't have any particular wording, but I agree with John. I would rather we examine every single one of them that occur in the Hana District regardless. You know, it's a little bit more work for us, but that's the way we protect our community.

Ms. Flammer: So you have two options here. You can either say you don't support the amendment, or you can substitute a different amendment for this.

Chair Carvalho: Ward.

Mr. Mardfin: I don't support it for Hana. I don't care if you do it for the rest of the island. But I think Hana, I'd like it actually to be tightened up where every single application comes to the Advisory Committee, and it could skip the planning commission. If we don't have a -- if we have a support, I have no reason for it to have to go to the planning commission after us. I know that's a little awkward because we're an advisory committee, we're not a decision-making committee, but maybe our lawyer can figure out a way to write it so a no or a positive advice need not be considered, and only a negative recommendation would need to be considered by the planning commission.

Ms. Flammer: Is there an amendment in there?

Chair Carvalho: Richelle.

Ms. Thomson: Clayton, can the Hana Advisory Committee provide their advice strictly back to the Planning Director if he is approving these permits administratively, or would they need to go and change the code to be able to do that?

Mr. Yoshida: I think they receive their authority from the planning commission. So if the planning commission delegates to the Planning Director, the Planning Director delegates to the Hana Advisory Committee for whatever recommendation or whatever for Hana applications, I guess they could try to work it that way.

Chair Carvalho: Ward.

Mr. Mardfin: I move to amend that Richelle or somebody with legal knowledge figure out if we can legally get all applications for these heard before the Hana Advisory Committee and, hopefully, if we -- if it's a positive recommendation, it need not waste the time of the Maui Planning Commission; if it's a negative one, they should hear it.

Chair Carvalho: We still have John's motion so we just have that amendment just supercede it?

Mr. Mardfin: What was his motion?

Chair Carvalho: His motion was to -- he did not support it.

Mr. Blumer-Buell: I think what I said, and we can withdraw everything and make it again, is that, and I'd like this to apply both to the short-term rentals and B&Bs, and that is that every short-term rental and every B&B come before the Hana Advisory Committee. That's my -- that was my motion.

Mr. Mardfin: I'll second that with the proviso that we make sure it's legal to do it.

Mr. Blumer-Buell: You know, I think it's clear from the county codes that Hana can be more restrictive than the other parts of the island so --

Chair Carvalho: So can we make that motion, Gina?

Ms. Flammer: Yeah. What I have is every initial applications would be referred by the Hana Advisory Committee. It sounds like we need to get back to you whether they would have to go then through the planning commission or if they would go back to the department.

Chair Carvalho: Okay. Well, we can put that motion for the amendment to a vote.

***It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then unanimously***

***VOTED: that, if legal, every short-term rental and every B&B come before the Hana Advisory Committee.***

Chair Carvalho: And that's unanimously approved.

Mr. Mardfin: I think that it's actually John's motion.

Chair Carvalho: Oh, I'm sorry. Yes. Yes. Yes. John's motion that Ward seconded. Thank you. Gina, go ahead.

Ms. Flammer: We got another good one for you guys. Okay, no. 11, again with concern about your schedule. It would remove the trigger for the planning commission, which would be for you, to review short-term rentals when there is four, five, or six bedrooms. And the reason that this is in here is that we only have on that has more than three. For some reason, they don't apply because of this. I don't know if it's the time that it takes to get through it. I haven't really gotten answer out of anybody, but I've had questions and then I never hear from the people.

Chair Carvalho: Ward.

Mr. Mardfin: If John's motion is incorporated that all projects come before us, this is unnecessary.

Ms. Flammer: Right.

Chair Carvalho: Any other comments? Or we can move forward.

Ms. Flammer: Okay, this is -- it would be a new planning commission ...(inaudible)...

Mr. Mardfin: Excuse me. Excuse me. If it isn't done the way we suggest that it is, then I would be against removing the trigger. This is you're going to remove the trigger within the Hana community and I would be opposed to that if you don't make it the other -- the better way.

Ms. Flammer: Okay, are you making a motion for that?

Mr. Mardfin: Yes, just in case the earlier motion doesn't survive the light of day, I move that we oppose item 11, removal of the trigger.

Mr. Blumer-Buell: Is that motion? I'll second that motion, which basically supports what we just passed, no. 10, yeah.

Ms. Flammer: Okay. You guys want to vote on that?

Chair Carvalho: Yeah.

***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously***

***VOTED: that if the Committee's amendment to item no. 10 is not accepted, then the Committee opposes the department's amendment to no. 11 to remove the trigger.***

Ms. Flammer: Okay, so no. 12 is a new trigger that would come. So the current law says that a permit holder can only hold -- I mean that a person can only hold one permit. We come to see that people are very savvy so they will own an ownership interest in another property that has a permit but they are not the permit holder. This would flag those and bring them before you to review. I will tell you, there was also some discussion about having it be an outright prohibition.

Chair Carvalho: Ward.

Ms. Flammer: Having it be an outright prohibition if somebody owns part of an ownership interest.

Mr. Mardfin: That's what I was going to suggest, an outright prohibition. When I was on the commission, I saw somebody trying to get a second one so he gave 1% ownership to a caretaker and had that 1% owner apply for it and I was ready to tear my hair out with that one. I think it ought to be prohibited. You have one and only one. It's a way of spreading the wealth among other things. So I move to amend it by banning a second ownership.

Mr. Blumer-Buell: I second that.

Chair Carvalho: John will second and let's put that -- oh, if you have any other comment. Ian.

Mr. Ballantyne: Yeah, once again, you know, one person bends a rule and you make a new rule to -- that grabs the 99% of people who are perfectly law abiding citizens. I don't agree with it. Any other comments, John or Ward?

Mr. Mardfin: I'm going to go for it. I don't know whether it's 1% or what percent it is, but the idea of this is to -- the basic reason to have this whole thing, short-term rental, B&B, is to promote economic opportunities for local people; to support alternative tourism options; to legalize de facto operations; to give incentives for agriculture; to provide grounds for enforcement; to collect tax revenues - real property, TAT, and GET; to ensure against neighborhoods being ruined by unreasonable neighbors. The negatives are it reduces long-term rentals. Every time we do this, we're making it harder to get long-term rentals out there. It's to control development and sprawl. I think there's a lot of reasons for having these things, but I don't see any reason for a single person to have more than one. And if they want to lump it all in where they form these all interlocking direct -- trustee directorships, then they all suffer. There's one for one person, and everybody in the group, that's their one.

Ms. Flammer: I did forget to mention this applies to married couples as well. They would only be allowed one, yes, if they own property together.

Chair Carvalho: Any other discussion? Comments?

Mr. Blumer-Buell: Well, let's vote and I think we'll see how we do on this.

Chair Carvalho: Okay, as it pertains to the motion presented, let's put that to a vote.

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

***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then***

***VOTED: to amend no. 12 by banning a second ownership.***

***(Assenting: J. Blumer-Buell; C. Carvalho; W. Mardfin)***

***(Diseenting: I. Ballantyne)***

***(Excused: E. Cashman; S. Crawford; A. Hoopai-Waikoloa)***

Ms. Flammer: Okay, I recorded that.

Chair Carvalho: Motion fails.



Ms. Flammer: Yeah, we have three for it; one against. It doesn't pass. I do -- I will put it in the summary, however, along with a little bit of the discussion.

Chair Carvalho: Before we move forward, yeah, three to one, so it fails. Before we move forward, we were -- we opened public testimony to specific amendments but we did not allow or we were short of time and did not allow testimony during these amendments we were proceeding with, and we actually had one other person who wanted to testify as opposed to an amendment we discussed or passed on.

Mr. Mardfin: Mr. Chairman, I have no problem with you giving one person a right to speak, but we had public testimony at the beginning of the meeting, and we allowed public testimony when we started the main motion, with every amendment, you don't necessarily allow, particularly when it's an ongoing operation, you don't necessarily allow public testimony. I have no problem with making an exception, but I would treat it as an exception, not the rule.

Chair Carvalho: I understand, and it's being treated as an exception. John.

Mr. Blumer-Buell: Yeah, I support the exception in this case, and as I recall, we didn't close public testimony. In the future, we should probably --

Chair Carvalho: Correct.

Mr. Blumer-Buell: Close it at a certain point, but I support the exception for today.

Chair Carvalho: We should always close public testimony but we left it open-ended, especially how we were discussing amendment by amendment and in lieu of time, but if we have one person who wanted to testify, after that, we can officially close public testimony. You can go ahead. Please come to microphone and state your name.

Mr. Sky Pierce: My name is Sky Pierce. First, I'm sorry. I was late. I wasn't able to get here when you guys started, and I don't mean to mess up the proceedings, but I just had a thought going back to the income requirement on ag land. I think it's -- I would just urge you to consider that you can have viable legitimate ag land without having the yearly income. For example, if I had a 10-acre property and I planted 9 acres of koa, with the intension of selling it when it matures, it does mature for 15 or 20 years, there's no way that I can demonstrate annual income of any kind for the first 20 years, or however long it takes koa to mature, using that example. So I would just ask you guys to think about that when you're considering adding a financial income requirement on top of a legitimate agricultural plan. You could easily just say send the inspector out after the first year and say where is your seedlings? If they're there, okay. Second year, are they still there, or did you cut

them all down and make a golf course? So there's ways to have legitimate ag without having annual income.

Chair Carvalho: Any comments? Ward.

Mr. Mardfin: Yeah, I think Sky has a good point. I couldn't wordsmith at this point, but there might be a way to figure out the increase in the value of the strand of trees. I'm sure a good economist can do that for a minor fee. But -- yeah, I think that we ought to be able to allow for that in some fashion.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, thanks for testifying. I agree with your point. In fact, I've made it at numerous County Council meetings when considering sustainability and the use of ag lands, and every bit of land, every inch of the 'aina is good for something. Every bit of it. And so the income requirement is not in touch with that so much because we do have, you know, even the income requirement we have, it's going to be difficult for people raising cattle, for example, but I agree, and you might think it through, and make a -- write a letter when this goes to the planning commission or maybe we'll have time before we leave. It's a good point. There is no question that in previous council meetings regarding sustainability and agriculture, forestation is right up there, you know. People understand. You're not speaking to an issue that nobody's thought about. A lot of people have. So it's a valid issue. I, personally, would like to get your suggestions. Maybe we can all come up with something that works. But, you know, all the 'aina is -- has its own special place in the universe, you know. It's all useful on some level - every bit of it. So anyway, thank you.

Chair Carvalho: And thank you for the testimony, and with that, we can close public testimony officially, and we can go back to Gina with amendment 13.

Ms. Flammer: Okay, we're getting close to the end here. We do have the B&B report also. Okay, so we at no. 13. We would like to add the word "renewals" into the title. It deals with renewals but it doesn't say it. Okay. Alright.

The next one, no. 14. Again, to make things consistent, we are looking to allow renewals for Molokai to up to five years. Currently, it says, "annual renewals."

Mr. Mardfin: We already --

Ms. Flammer: Oh, that's right.

Mr. Mardfin: Dealt with that.

Ms. Flammer: Okay. Just to read it to you.

Mr. Mardfin: Anything for Molokai and Lanai alone goes --

Ms. Flammer: Okay, thank you. Next, okay, the next one, which is no. 15, this is just clarification and this is when we're talking about compliance. This is when it comes to renewal. We are suggesting that we add a provision clarifying that if -- if there are complaints or noncompliance with the permit, or noncompliance with other government requirements, then the permit may not be granted. Like I said, we have not renewed one permit already. We'd just like to make it really clear.

Okay, moving along. No. 16. We currently -- it says in the law that the Planning Department is supposed to be taking a look at the state and county tax filings each year. We only do this at renewal time. I think to try to do it annually is -- we're just not capable of doing that.

Okay, no. 17. Again, this comes under enforcement and us needing some better tools. When we request to do compliance inspections, if an inspector cannot physically get onto the property, they cannot the inspection. So what our enforcement division is suggesting is that we put a provision, it could be a condition or it could go right in the law, that permit holders are required to allow access within one hour of the request. If they deny this, then we can start looking at, you know, their permit.

Chair Carvalho: Ian.

Mr. Ballantyne: Yeah, it seems to be totally unrealistic, especially in Hana. I mean we go out to Kahului to shop for the day and an inspector comes along and the property's all closed up, and you're out in Kahului, so for Hana no. Anybody coming out to Hana probably knows the day before, at least, that they're going come, so we should have a longer period, 48 hours maybe.

Chair Carvalho: Thank you, Ian. Ward.

Mr. Mardfin: I come from -- I see Ian's point of view, and if he wants to make a motion to make an adaptation for Hana, I could live with that. I think it's -- when I read this the first time, I thought this was an excellent point. I remember some issues in Paia where you would have people that would duck and weave and bob and never show up, and the zoning guys could never get in there, and it was horrible 'cause they couldn't prove that they were doing wrong things and they knew darn well they were doing wrong things. If Ian wanted to propose an amendment that would apply to Hana because of our strange situation, I would probably support it.

Chair Carvalho: Ian.

Mr. Ballantyne: Okay, here's an amend. I would amend that for the Hana area, East Maui, that we have a 48-hour notification.

Chair Carvalho: Do I hear a second? 48 hours. Do I hear a second?

Mr. Mardin: I'll support it if he reduces it to 24 hours.

Chair Carvalho: Ian.

Mr. Ballantyne: Amendment to that for the Hana region it becomes 24 hours rather than 1 hour.

Chair Carvalho: Do I hear a second?

Mr. Mardfin: I second.

Chair Carvalho: Okay. Ward will second. Any other comments or discussion? John.

Mr. Blumer-Buell: I support it.

Chair Carvalho: Ward.

Mr. Mardfin: I'm glad he changed the second version to Hana. He had said "East Maui," that would have included Paia, and Paia, they can deal with it in one hour. I like -- but he said, "Hana," Hana District, so I think that's good.

Chair Carvalho: So for the record, the amendment pertains to Hana as well as 24 instead of 48 hours -- 24 instead of 1 hour, excuse me. Let's put that a vote.

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

***It has been moved by Committee Member Ballantyne, seconded by Committee Member Mardfin, then unanimously***

***VOTED: to amend no. 17 to include a 24-hour notification for the Hana Region.***

Chair Carvalho: That amendment will pass unanimously.

Ms. Flammer: Okay, no. 18 here. This came in discussions with the vacation rental industry and also the department getting complaints from applicants. Currently the applicant is required to send the entire approval letter to their neighbors. I don't know. You probably haven't seen one of our approval letters; they're about 15 pages long. Yeah. I bring it with me when I do my site inspections so they don't freak out when they open it up. It has a lot in there. It was confusing the heck out of neighbors when they were getting this. So instead, what they would like to do is either, and it's not in here but we could propose a one sheet fact sheet. They already have to send who the manager is, and the contact information, and perhaps they could put the one first page that shows the expiration dates.

Chair Carvalho: Ward.

Mr. Mardfin: I think I agree with your suggestion in general, having read some of these a few times. I also think your suggestion about making it a one-page informational sheet about contact information, who's in charge, what their hours are, to let the neighbors know what's going on is an excellent idea. And they should do a followup letter if they change managers.

Ms. Flammer: That's already in the law. Thanks.

Chair Carvalho: Any other comments? No?

Ms. Flammer: Okay. Good. Moving along. No. 19. This -- the council, at the last minute, they put in an amendment that said that you have to notify not only your neighbors that are adjacent, but those adjacent to those neighbors. It seemed like a good idea at the time until we started processing applications, and in the ag district, you're now noticing people that are outside your 500 square-foot, it's the first time they see any of this, and they're quite far away, often on other roads. And also, it's confusing to people because they don't see the second adjacent, even though we underline it, and then we have to make them go back out and do another one, and it just seem like the intent of it wasn't quite being met by this. Okay? Alright, the next one --

Chair Carvalho: Ward.

Mr. Mardfin: What's wrong with the 500-foot circle then?

Ms. Flammer: Right. That's what it would revert -- oh, the entire 500-foot they felt like -- sometimes that's 70 to 100 up to 3,000 people, so when they figured the noise level when you need a manager was probably either somebody across the street or right next to you. You have a sign in front of your house already with the manager's name on it.

Mr. Mardfin: I can live with it but I wish it was either 200 feet. I don't have a problem with -- I know out here adjacent-to-adjacent could be a mile away practically, but I get the idea and I won't object to it, but I believe in more notification rather than less.

Ms. Flammer: So we're up to no. 20, and again, this just adds the noncompliance with permit conditions and other government regulations as a consideration when you're revoking a permit. Okay, everybody likes that.

And no. 21, this came from our enforcement division again. When they're searching the internet, it's very hard for them to figure out where the properties are. People have gotten very good about only showing inside photos. So this is a requirement that would say any advertising on the web, not just permitted people, but any advertising for a Maui property would have to have a physical address or a TMK number.

Mr. Mardfin: Gina, there's a problem in Hana that the street address, in Hana District, the street addresses have no logical -- I was told the other day that if you're out on the road somewhere between mile marker say 14 and 15, they give you a number like 14XX and it's sort of first come first serve, so there's no logical way of street address, whereas TMKs are kind of okay. By the way, I didn't see where -- I tried to look up your reference and I couldn't find it in the law unless it is 19.65.80C, but the one you gave, I didn't see it there.

Ms. Flammer: Again, this one came later. Yeah, we needed to correct where that goes.

Mr. Mardfin: Oh, okay.

Ms. Flammer: Yeah.

Mr. Mardfin: I think I found something like it at 19.65.80C.

Ms. Flammer: Oh, it is. It's C.1.2.

Mr. Mardfin: Okay.

Ms. Flammer: Yeah. It was misplaced in the beginning.

Mr. Mardfin: But I don't have a problem with it. It's just that there are difficulties in Hana for street addresses.

Ms. Flammer: I know all too well. I did a site visit once. We require a map because of it, but I did a site visit once without the map and I think I -- luckily, there were people out. I think it -- yeah, it was Anya's house so -- okay, the last one is one that's already taking a separate route. The department is going to the planning commission with this on the 13<sup>th</sup>.

It's coming straight out of our enforcement division. We had -- the council put an amendment to the short-term rental bill that if you are found operating, you are banned for five years. The enforcement division is requesting that that "found operating" means it's an NOV. That's about all I can say to that. This is going to come to you separately, or not. I'm not sure if the planning commission has sent it to Hana. No, I don't think it has. But this is going to go to all the planning commissions separately.

Chair Carvalho: Ward.

Mr. Mardfin: Mr. Chairman, I think that -- Gina, does that conclude what you're doing with this bill?

Ms. Flammer: Yes.

Mr. Mardfin: And I'm -- I think we've made amendments that have either passed or failed and we're ready to do on the main motion unless Mr. Blumer-Buell wants to make a couple amendments that weren't addressed here, and if he doesn't -- she said we could vote on the main motion now for this, and then do yours with a separate motion. But if this is germane to what this whole thing, I would think it ought to be done first.

Chair Carvalho: John.

Mr. Blumer-Buell: Maybe I'm just -- I want to get it in the record, number one. It's my -- the information is fairly lengthy, and there's other things I'd like to talk about too, so I'd be happy to just read you the motion and then the title of it, hand it out, and, you know, I would just like it to be forwarded to the Maui Planning Commission as part of the record unless people want to go through it.

Ms. Flammer: Do you have a handout?

Mr. Blumer-Buell: What?

Mr. Flammer: Do you have a handout?

Mr. Blumer-Buell: Yes.

Mr. Mardfin: Did I hear you say you're okay if we vote on the main motion?

Mr. Blumer-Buell: Just whatever the consensus is ...(inaudible)... what I'll do is put these into the record --

Mr. Mardfin: John? John? Just looking through this, this doesn't deal specifically with short-term rentals, does it?

Mr. Blumer-Buell: Absolutely it does. Absolutely.

Chair Carvalho: I think as --

Mr. Blumer-Buell: Can I read the first one?

Chair Carvalho: I think we should vote on the bill first. The overall motion.

Mr. Blumer-Buell: Okay. That's fine.

Chair Carvalho: Yeah, let's put that --

Mr. Blumer-Buell: Because I have some other ones too that are very --

Chair Carvalho: To a vote.

Mr. Blumer-Buell: That aren't in here.

Chair Carvalho: So --

Mr. Mardfin: Mr. Chairman, the main motion is to approve of the report with amendments that had passed.

Chair Carvalho: Okay, we're just -- as amendments we proposed, basically. Yeah. Okay. So regarding the amendments we've all gone through -- oh, actually we didn't hear a second as well on that ...(inaudible)...

Mr. Mardfin: There was an initial second by John Blumer-Buell saying for

Chair Carvalho: He second?

Mr. Mardfin: For discussion.

Chair Carvalho: Okay. So any other discussion before we put that to vote? Ian? No? Okay. Again, let's put that to a vote.

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



***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously***

***VOTED: to approve the report with amendments as proposed by the Committee.***

Chair Carvalho: Unanimously approved. Ian.

Mr. Ballantyne: Yeah, John's amendments here, I mean I think we should stick to the agenda and there's probably any other business at the end when these should be mentioned, isn't that correct?

Chair Carvalho: John.

Mr. Blumer-Buell: I think we are at the end so is it not appropriate to read them at this point or what? Oh, well this has to do with the overall thing. I'd like to get them into the record before we throw in the towel, so to speak. This is really for both B&Bs and short-term rentals. And I'd just like to read the motion and, you know, if someone would second it for discussion, it's -- there's quite a bit of information. I would just like them, you know, to just want to pass it on to the planning commission, that's all I'd like to do is put it into the record.

Mr. Mardfin: Mr. Chairman, the motion is only a paragraph, a short paragraph at the top. It's not the findings of fact that he includes later on, as I understand it.

Mr. Blumer-Buell: That's correct.

Ms. Flammer: This will be submitted as public testimony to the planning commission.

Mr. Mardfin: He's asking us to --

Ms. Flammer: Oh I know that. Yeah but --

Mr. Mardfin: He's asking us to adopt this motion.

Chair Carvalho: Yeah ...(inaudible)...

Ms. Flammer: Right, but even if the motion doesn't pass, it still will get included as public testimony onto the planning commission.

Chair Carvalho: We will be submitting it on behalf of --

Ms. Flammer: No. They will come as -- thank you for that clarification. It will come as individual public testimony from him as an individual member unless you adopt this.

Mr. Blumer-Buell: Right.

Ms. Flammer: But either way, it will go to the planning commission in the form it will go to -- unless you adopt it.

Mr. Blumer-Buell: Okay, well just let me read the motion and we'll vote it up or down. Is that okay?

Chair Carvalho: Yeah, I'm not sure we need to have it -- it's going to be presented so --

Mr. Blumer-Buell: Yeah, it's not a long --

Mr. Mardfin: He wants to make the motion. I would be happy to have him ready his motion --

Ms. Flammer: If there's no second, then there's no discussion. It goes in as individual testimony.

Mr. Blumer-Buell: Right.

Chair Carvalho: I agree. I'm with that.

Mr. Blumer-Buell: So I can read the motion? Okay, the first one is a motion to allow special consideration to native Hawaiian, that is kanaka maoli, residence of the Hana Community Plan District regarding bed and breakfast homes and short-term rental homes. This special consideration shall be incorporated within the Maui County Code regarding B&B and STRH. And I could -- that's the motion, I could, if allowed, I'd like everybody to read it. There's good justification for it.

Chair Carvalho: Any comments? Ian.

Mr. Ballantyne: I mean this is going to take hours again. I mean it seems to me, I mean I can't vote on this. It's just suddenly come in front of me and I've had no chance to look at it or consider it. I think that it is public testimony and it doesn't have a place on this Committee.

Ms. Flammer: You only discuss it if there's a second.

Mr. Mardfin: You're going to hate me but I'm going to second it for purposes of discussion 'cause I hate to cut people off. I don't like it when it's done to me, and I don't like to do it to others.

Mr. Blumer-Buell: Thank you.

Mr. Mardfin: May I, Mr. Chair?

Chair Carvalho: Ward.

Mr. Mardfin: There's a lot here. I don't think we have the time to go through it all.

Mr. Blumer-Buell: I agree.

Mr Mardfin: I don't know what you mean by "special consideration."

Mr. Blumer-Buell: It's all -- it's all listed in the proposed draft language and then the considerations.

Chair Carvalho: I'm just not sure. I mean we are -- I agree with Ian that we won't have the time to go through this to, basically, authenticate it. I mean it's going to be presented as public testimony and I don't -- I'm not sure if we can provide a -- if you can provide a clear --

Mr. Blumer-Buell: Well, this really is coming from a member of the Hana Advisory Committee as a suggested addition and amendment to what the County Planning Department has put together, so I don't think it has to be, you know, if it's called "public testimony," then it's inappropriate and I don't think it's all inappropriate for anybody on this Committee to make amendments that have to do with the short-term rentals and the B&Bs, so that's what it is. So I don't think we have to create that division. I understand what Ian says. This is a complex issue but an important one, so I'm happy if -- we have a second for discussion, and if people want to vote against it, that's fine. It'll be in the record. That's all I'm asking for.

Chair Carvalho: Ward.

Mr. Mardfin: John, I'm reading this real fast, so I might miss something. Under proposed draft language you have something about native Hawaiians, that's fine; object to the granting of permits in culturally environmentally sensitive areas, I think we can deal with that since if what we ask for goes through, all of the things will be dealt with by this body and I think we can deal with that. You, in no. 2, you do something I don't think you're legally allowed to do, which is give some of the powers of this Committee over to some

other organizations, and Richelle would have to, and the legal, I think would have to look at that.

Mr. Blumer-Buell: Okay --

Mr. Mardfin: I think they can always -- I tell what they could be. They could be notified as one of the groups -- the Planning Department always notifies groups of people, and I would have no objection to them notifying the OHA, Maui Cultural Resources Commission, the Aha Kiole Advisory Committee, the Aha Moku Advisory -- if they're notified of things, I have no problem with that.

Mr. Blumer-Buell: That's all we're asking for, just as we notify other departments and state agencies, and the notices before being heard before the Hana Advisory Committee so it would be a way to come to us and then the planning commission.

Mr. Mardfin: Since these get sent out to county and state agencies anyway, I see no reason why these other organizations couldn't be put on the list. And your third thing is that ten B&B and ten STRH permits should be reserved exclusively for native Hawaiian, and I have no problem with that myself. In fact, my -- I've been trying to talk up these things for among Hawaiians and I wish more Hawaiians would do it because I think it's a good source of income. I'm a little distressed that it's all haoles that seem to be doing this stuff. So I don't -- the essence of what you're saying, I have no trouble with, personally, and if -- since this is a motion, I'm going to vote in favor of it, but it may not pass since we need a unanimous vote to pass it.

Ms. Flammer: I just want to make one clarification and that is all B&B permits you must -- oh, resident of the Hana -- you have to live on the property, so if it's in the Hana Community Plan District, you would have to be a resident.

Mr. Blumer-Buell: Yeah, as the B&B people have to live on their property, the short-term rentals are different, so it's -- that's understood or, hopefully, it is. So I'm happy to have it voted up or down.

Chair Carvalho: Richelle.

Ms. Thomson: You know, there are a couple of, you know, quite prominent areas that would run afoul of the law. One of them being I don't believe there's anywhere in our Maui County Code that identifies what a "native Hawaiian" is, so do we, you know, you need to -- you would have to identify that, you know, what defines a "native Hawaiian." So that's one of the things, you know, but as Ward said, this is a motion that's a recommendation so you're not ...(inaudible)...

Mr. Blumer-Buell: No. I agree with -- I agree that needs to be done and this, the intent of this is to empower the native Hawaiian community and to actually build a stake in this whole thing for the Hawaiian community. This is a draft proposal, I know there's -- I appreciate Ward's comments; I appreciate your comment. There's lots that need to be done, particularly from the native Hawaiian community. So this is a draft and I'm ready for the vote.

Chair Carvalho: So please clarify the motion again. I mean we are -- the motion, you presented at the top, that's also regarding how we're going to present it to the planning commission, right? Because we're not going to present it as public testimony, but we're going to present it --

Mr. Blumer-Buell: Right. It's from a Member of the Hana Advisory Committee, and Ward seconded it, there's been discussion. I didn't expect this to pass verbatim. I want this to become an issue that people will talk about and, hopefully, people that support this will come up with their own language and support it at the planning commission and council. I think there's room for this.

Mr. Mardfin: Mr. Chairman, I think the motion is more than what is up at the top in bold quotes. I think it also includes the proposed draft language is really part of his -- not from considerations down as an argument, that's not part of -- I don't think that's part of the motion. From here down is not part of the motion. The part of the motion is -- but does include the draft language. And while I could quibble about it, I don't intend to at this time. I intend to vote for it.

Chair Carvalho: Okay, let's put this motion to a vote. All in favor? And all opposed? And abstain? Okay, so that means the motion fails. Richelle.

Mr. Blumer-Buell: Okay. Thank you.

Ms. Thomson: I just want to clarify an abstinence is going to be counted as an affirmative vote. Is that your intention? If you're going to abstain, you need to have a --

Mr. Blumer-Buell: Thank you.

Ms. Thomson: You need to have a conflict of interest and then disclose it to the board.

Mr. Mardfin: Mr. Chairman, with that advice to Committee Man Ballantyne, I think you ought to have a re-vote 'cause I don't think he understood the implications of an abstention.

Chair Carvalho: Okay, so yes, let's rescind that vote and vote again as abstaining, it counts as an affirmative, so let's re-vote on the motion.

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

***It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then***

***VOTED: to allow special consideration to native Hawaiian, that is kanaka maoli, residence of the Hana Community Plan District regarding bed and breakfast homes and short-term rental homes. This special consideration shall be incorporated within the Maui County Code regarding B&B and STRH.***

***(Assenting: J. Blumer-Buell; C. Carvalho; W. Mardfin)***

***(Dissenting: I. Ballantyne)***

***(Excused: E. Cashman; S. Crawford; A. Hoopai-Waikoloa)***

Chair Carvalho: Okay, so the motion fails.

Mr. Blumer-Buell: Okay, thanks for the vote. Now I have one second motion we can go through it quickly, and I'd really like everybody to take these home and read them. This is "A motion to temporarily restrict the number of bed and breakfast homes and short-term rental home operations in the Hana Community Plan District until the County of Maui meets its legal obligations to: 1) Enforce existing land use law, and 2) Implement the 1994 Hana Community Plan as it regards to vacation rentals and their impacts. The number of B&B homes shall be restricted to 10, plus the number of applications being process as of May 8. The number of STRH shall be restricted to 7, plus the number of applicants being process as of May 8, 2014." And if I could, my main point is this: The 1994 Hana Community Plan states, "Conduct an inventory and study of existing nonconforming uses including vacation rentals to determine: 1) their numbers; 2) geographic distribution; 3) affects on the local housing and real estate market and the economy, and identify recommendations resolving nonconforming use issues." The county simply hasn't done that. We're just -- this is -- we're just moving this whole thing forward. I'm sorry. I need a second.

Chair Carvalho: Ward.

Mr. Mardfin: I'm going to second it for purposes of discussion, but I will vote against this one.

Mr. Blumer-Buell: Okay.

Chair Carvalho: John.

Mr. Blumer-Buell: Okay. So I'm sorry I did that out of order and -- but I'd appreciate it if people did read this entire thing. We are the -- the county is moving forward to kind of make this whole thing very permanent without ever doing the homework in the first place, and the numbers that the county has for short-term rentals, which is 48, and bed and breakfast, which is 48, have never been discussed, aren't valid numbers. I was at the meeting where those two numbers were literally pulled from a hat. The community never agreed on that number. This -- Members of this Committee previously have stated the number's way too high for Hana, I think it is, and I want to see those restricted. Now, I just want to add this to the record. There was just a talk story group with myself and Bob Getzen and Dawn Lono, John Romain, and we met and talked about this, the B&B, you know, five, six years ago, at the point where this came before the County Council, I was there, and Bill Medeiros said, well -- I said, "This isn't anything anybody agreed upon." He said, "Well, you were part of that little working group. Isn't this what you agreed on?" I said, "No. We never agreed on anything that had to do with the numbers." We had some nice talks, but there has never been an agreement. If we're talking about potentially almost a hundred of these things, we're talking about taking away so much, potentially, affordable housing, we're talking about major impacts upon the landfill, water, and just the whole community, and that really has never been looked at as called for in the 1994 community plan. So thank you for letting me speak.

Chair Carvalho: Thank you, John. And, Ward?

Mr. Mardfin: The reason I'm going to vote against this is a couple of things. One, it's in conflict with the motion that I just voted for, which failed. But it says, "The number of STRH shall be restricted to seven plus the number of applicants." And the motion that I voted affirmatively on said there'll be ten reserved for native Hawaiians. So that's one I can't deal with. Secondly, this seems to be looking backwards to 1994, and I think we need to look forward to when Hana develops its new Hana Community Plan, which I don't know quite when that's going to be, but it's down the road a little bit. I think things have changed a lot since 1994 and we need to look at things. There have been -- and the fact that B&Bs and short-term rentals have had numerous hearings out here in Hana; I was involved with some of them. The Maui community plan had hearings out here in Hana; I was involved with it. I don't want to keep going back to 1994. I want to be looking ahead for -- this is 2014, this is 20 years later; I think we need to be looking forward, looking at what we've done, looking at what we want to do. If the number turns out that we want -- in the new community plan is substantially less than 48, I have no problem with that. But I'm not willing to vote on something that arbitrarily puts a number in; that you have restricted to 10 plus the number being processed, and 7 for STRH, and I know that's until other things happen, but I'm going to be voting against this.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, thanks for your comments, Ward. I understood perfectly the -- what you pointed out with the reserving the ten B&B and ten short-term rental permits for the native Hawaiian community, and the second motion. I expected -- I expect all of this to be adjusted in terms of what people want. So this was a point to start a discussion, and, you know, right now if I was to say what are the numbers, I would say, you know, 25 or, you know, 20 of each or something, but I certainly expected this to cause a discussion and for the numbers to be adjusted according to what the community wants. Now, just last thing, and this isn't to be argumentative, by law, the 1994 Hana Community Plan is still the law, and if there's any conflict between the Maui Island Plan or the past General Plan, the Hana Community Plan carries the day. It has the legal weight. Anything that's more restrictive in the Hana Community Plan than in the Maui Island Plan, the Hana Community Plan has the weight of law on it and that's -- I cite the section of the code in here. So that's, you know, that's -- I'm just raising some issues and wanting people to be aware of these things 'cause this is, as we all know, this is far from being discussion, I appreciate everybody's discussing it, and that's what we're trying to do to move forward. So anyway, mahalo.

Chair Carvalho: I think the consensus from the last few meetings is that this Hana Community Plan needs to be drafted soon, it's over 20 years old, and it's -- the issue you brought up about the cap is an issue I brought up last -- the last meeting that it needs to be addressed and it needs to be, you know, something more than -- it needs to be something more than an arbitrary number, the cap.

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

Chair Carvalho: Oh, yeah. I brought that up and, I'm sorry, and I hope that it would be discussed at the next planning commission meeting, the cap, because as you say -- oh, tonight, 'cause we're already up to 13 applicants already, and we're ahead of every other region, or every other area right now. Well, we're behind on a few, or one, but we're behind --

Ms. Flammer: Paia and Haiku ...(inaudible)...

Mr. Mardfin: We're behind on -- we're 15% of on the short-term rental. We're at 22% -- 20% roughly of the -- we're on about the same par, about 20% on the B&Bs, and the county is at 22% of the B&Bs.

Chair Carvalho: Okay.

Mr. Mardfin: We're about even there, but we're actually behind on short-term rentals.



Chair Carvalho: We're ahead of Makawao-Pukalani-Kula, ahead of Wailuku-Kahului, not in terms of percentage, but in terms of numbers.

Mr. Mardfin: Oh, sorry. I was looking at numbers.

Chair Carvalho: Yeah.

Mr. Mardfin: I was looking at percent.

Chair Carvalho: And behind just Kihei-Makena and Paia-Haiku, so I appreciate the motion. I'm going to -- I'm against the motion itself, but I appreciate the language, and as I said, maybe this just calls for immediate rewrite of the Hana Community Plan, and I don't know who's in charge of that or who can be in charge of that. John.

Mr. Blumer-Buell: I have talked to some of the long-term planners and Hana was going to be the first community plan reviewed and it is now going to be the last community plan reviewed, from what I have been told, and I hope that's not true, but that's why, you know, we're dealing with a 20-year old community plan, and that's why we need to review it. It still has the force of law.

Chair Carvalho: Clayton.

Mr. Yoshida: The order of the community plan is established by the council. They are the ones that have said we're going to do Lanai first, and Molokai, and then whatever, South Maui, and West Maui because there's a lot of changes that have occurred in those areas since the 1990s version have occurred. I mean Pioneer Mill is gone. You know, development in South Maui, a lot of development has occurred in South Maui, etcetera. But it's determined by the council.

Chair Carvalho: By your knowledge, do you know of any other community plans that are as outdated, I guess? Well, not outdated, but just 20 years old. Do you know of any other community plans? Are the others more recent? By your knowledge.

Mr. Yoshida: By my knowledge, I think Hana was probably one of the first in the 1990s iteration. Wailuku-Kahului was the last. And then there were like Kaho`olawe, Paia-Haiku that occurred later.

Chair Carvalho: Thank you. John.

Mr. Blumer-Buell: Just for everybody's information, I'd like to just say something that shows that the current community plan still have a great force of law and impact, and the specific issue is water. The Hana community calls for discourage -- discourages out of

district water diversions, which is clearly now is happening. So Haiku has restrictive language and so does the upcountry plan. When Wailea 670 wanted to bring water from East Maui to Wailea 670 for that resort development, those three community plans, the force of those three existing community plans influenced that decision and stopped East Maui Water from going to that resort development. So it's just illustrating that the community plans, the power of those plans are still in effect. Thank you.

Chair Carvalho: Any other discussion? Alright, with Ward's second, we can put the motion to a vote.

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

***It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then***

***VOTED: to temporarily restrict the number of bed and breakfast homes and short-term rental home operations in the Hana Community Plan District until the County of Maui meets its legal obligations to: 1) Enforce existing land use law, and 2) Implement the 1994 Hana Community Plan as it regards to vacation rentals and their impacts. The number of B&B homes shall be restricted to 10, plus the number of applications being process as of May 8. The number of STRH shall be restricted to 7, plus the number of applicants being process as of May 8, 2014.***

***(Assenting: J. Blumer-Buell)***

***(Dissenting: I. Ballantyne; C. Carvalho; W. Mardfin)***

***(Excused: E. Cashman; S. Crawford; A. Hoopai-Waikoloa)***

Chair Carvalho: Alright, the motion fails, one vote to three.

Ms. Flammer: Are there any other amendments? We only went over what the department proposed. I know there's been discussion as we've gone through all of our applications over the past two years. I didn't know if anybody had any other ones maybe relating to the cap?

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, this applies to both the B&B and STRH, and that is I think that they should be connected. I've made this point a number of times. They should be connected in that we can't -- we shouldn't have this checkerboard of short-term rentals and B&Bs next to each other and, you know, they need to be considered as a whole, and so

I'd like to see them connected in a way that every time something comes forward, we will examine the big picture. I mean right now, Hana Bay and, you know, around Hana Bay is getting full mostly of vacation rentals. I can certainly remember when Rebecca Eister, and Hatchetts, and a number of local families lived in those houses, so, you know, I think it should -- it needs to be looked at comprehensively. That's all. And Gina's done a good job of letting us know where, you know, where the different things are taking place, but they need to be brought forward and looked at comprehensively.

Ms. Flammer: Are you recommending that when you -- the trigger for when there's one within 500 feet, that it include B&Bs along with STRHs or are --

Mr. Blumer-Buell: I'm sorry. I couldn't hear that.

Ms. Flammer: Are you recommending that the trigger that says when there's another one within 500 feet be for a bed and breakfast or a short-term rental? Or are you thinking something different?

Mr. Blumer-Buell: Yes. Thank you. You know, I think that would trigger looking at the big picture an really seeing the -- that's all.

Ms. Flammer: Was that a comment or was that a --

Mr. Blumer-Buell: I think that's a motion.

Chair Carvalho: Do I hear a second? The motion was -- you can state it.

Ms. Flammer: Yeah, I'd be happy to. We talked about this a little bit earlier. The motion is that the trigger for reviewing a short-term rental home when there's another one within 500 feet shall include a short-term rental home or a bed and breakfast located within 500 feet.

Mr. Mardfin: I'll second that, but that's -- but it's easy because you do that anyway for us.

Ms. Flammer: We only do it when it's a short-term rental application and there's another short-term rental. As a courtesy, we provide to you the bed and breakfast information.

Mr. Mardfin: Yeah.

Ms. Flammer: But if there's a B&B located within 500 feet of a proposed short-term rental, it doesn't meet the trigger, or the opposite.

Mr. Mardfin: Well, then I'll second it with enthusiasm because it's consistent with the idea that all of these should come before us.

Chair Carvalho: John.

Mr. Blumer-Buell: ...(inaudible)...

Chair Carvalho: Oh, okay. Any other discussion? So --

Mr. Blumer-Buell: Yeah, I will just say that this is really in line with the fact that we want to see everything that comes, all of the applications. Right now, I'm still baffled that looking at our list that we haven't seen a number of them before us and we haven't really been given the big picture except for the good graphics you've done. We're getting the information from you, but I think we should be looking at it comprehensively from the community's point of view period.

Ms. Flammer: I do want to remind you that there was an exemption from that 500-foot trigger for applications received by December 31, 2012. That's why you see them on Uakea Road next to each other when you didn't review them here. Going forward, you're going to be seeing all of them that are within 500 feet, so you're going to be -- and we're a little concerned about the agenda, but it sounds like you guys have plenty of time and are willing to review those.

Chair Carvalho: Alright. If not other discussion, we can vote on the motion. Ward? Oh, I'm sorry. I'm sorry. No, no, no. I thought he was -- never mind. Let's put that to a vote.

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

***It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then unanimously***

***VOTED: that the trigger for reviewing a short-term rental home when there's another one within 500 feet shall include a short-term rental home or a bed and breakfast located within 500 feet.***

Chair Carvalho: Unanimously approved. Gina?

Ms. Flammer: The only other thing -- are you done with your amendments? The Planning Department is not recommending looking at the caps. We're just going to keep it the way it is. I've heard so many comments from this Committee, I didn't know if --

Chair Carvalho: John.

Mr. Blumer-Buell: One short motion; it shouldn't take much discussion. I'd really like the Hana Advisory Committee to the planning commission to have the opportunity to request site visits, so this means in advance, you know, well in advance Gina would contact us to see if anybody wants to go up to a certain farm or certain location. That's all I'd like to see. Some of the -- I would have gone to site visits for some of the short-term rentals on ag lands. I would have liked to have gone and see what's really going on. So it's not a -- I'm just saying that we should be given that option, and if there's people who write back and say don't want to, then that's fine.

Chair Carvalho: Ward.

Mr. Mardfin: When I was on the Maui Planning Commission, we did some site visits. In fact, we had the commission out here to Hana to see some things, but that's 'cause they didn't know the area, we know the area, and Richelle may say that we're not allowed to do this 'cause we're not supposed to be doing our own investigations, but this is Hana. If you went up to -- you get the minutes, you know what the places are, if you went up there and took a look around, I don't -- and particularly if you didn't go in a group so that you wouldn't be ...(inaudible)... but you individually went up and took a look, I have a hunch nobody would particularly mind. They'd have a chance to kinda lobby you if nothing else. We can't go in groups without it -- to do site visits, you have to have -- be taking minutes and all kinds of other stuff. It's expensive as all get out. It's a pain in the neck. Gina makes a site visit, but, you know, I'd say knock yourself out and do your own, but to have the Committee do it I think it's a waste of time and money.

Ms. Thomson: I just wanted to add that, you know, when you're reviewing an application, you could defer your analysis of that application pending a site visit if it was something that, you know, really warranted it, you know, rather than trying to write it into the code.

Chair Carvalho: I'm not sure where we stand right now.

- 2. Mr. William Spence, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council relating to Chapter 19.64 of the Maui County Code relating to Bed and Breakfast Homes. (G. Flammer)**

**At its April 22, 2014 meeting the Maui Planning Commission requested that the matter be referred to the Hana Advisory Committee for comments and recommendations.**

*The Hana Advisory Committee may act to provide its comments and recommendations on the Report.*

Mr. Mardfin: Mr. Chairman, I don't think there's a motion on the floor, and I think we're ready for our last item or next, whatever item of business it is, it's E.2. I believe.

Chair Carvalho: I spoke with Gina and I'm going to propose a -- I'm going to propose a motion to defer this until the next meeting because of the sheer volume of amendments. Actually, the bed and breakfast amendments dwarf the short-term rental amendments.

Mr. Mardfin: Mr. Chairman, during the break, Clayton, the other Clayton, that's like Darryl, my other brother Darryl, Clayton Yoshida asked me if I'd be able to be available on May 19, and I called my wife and check my calendar. May 19 I'm going to the other side for a GIS meeting, but if you were going to have a meeting that night, I would, at 4:00, I would make sure I was on the road getting back at -- I'd leave at 2:00 so I could make the meeting. If it's any other -- you know. Let me know so that -- 'cause I'd rather stay on the other side till evening. I think it's safer to drive back at night. But, you know, if you do it on May 19, I could make it. If not, I won't be able to make it until the last week of August.

Chair Carvalho: That's a Monday? May 19, a Monday. Well, do we have a second for discussion and possibly check our calendars? Ian.

Mr. Ballantyne: Second.

Chair Carvalho: Okay, Ian will second. Any other discussion? Defer. This is the motion to defer agenda item E.2.

Mr. Mardfin: Until May 19<sup>th</sup>?

Chair Carvalho: Until May 19<sup>th</sup> and that's a -- if that's a --

Mr. Mardfin: I think that meets some legal requirements too of being time certain within -- I don't know if it meets the time length before -- you don't have to give more notice?

Chair Carvalho: Six days. Okay. So we're within that window. Ian.

Mr. Ballantyne: Yeah, I was going to suggest it anyway because the public don't have a chance to testify on this one because it's so late and nobody's here, so I think it's a good idea to defer.

Chair Carvalho: Yeah, we can post signage and do a better advertisement of the next meeting, especially when it comes to that issue. John.

Mr. Blumer-Buell: Thanks for offering that, Ward.

Chair Carvalho: Okay, if any other discussion, we're going to vote on the motion to defer agenda item E.2. until May 19<sup>th</sup>.

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

***It has been moved by Committee Member Mardfin, seconded by Committee Member Ballantyne, then unanimously***

***VOTED: to defer agenda item E.2. to May 19.***

Chair Carvalho: And that's unanimously approved. We can discuss -- I'm sure it's going to be 4:00. We can move over to agenda item F., Director's Report. Clayton?

## **F. DIRECTOR'S REPORT**

### **1. Meeting day of the week, time, and place for future Hana Advisory Committee meetings for the current board year.**

**The Committee may take action on this matter.**

Mr. Yoshida: Yes, Mr. Chairman, I guess on F.1., discussing the meeting day of the week, time, and place for future Hana Advisory Committee meetings, maybe we can defer that to the next meeting when we'll have more member, hopefully, we'll have more members here since we have a bare quorum right now.

Chair Carvalho: Do you want to -- would we like to possibly confirm with the other members first of attendance? Oh, you mean just to reschedule the date, you mean needing a bigger quorum to --

Mr. Yoshida: Well, I was wondering if possibly we could start the meeting, the future meetings earlier, so maybe we could get back to the other side earlier, but then, you know, the day of the week and so forth, I guess we probably need to have more members here than a bare quorum.

Chair Carvalho: Any comments? Ian.

Mr. Ballantyne: Yeah, I agree that we should defer it to the next meeting.

Chair Carvalho: Sorry, I didn't hear.

Mr. Ballantyne: My grumpy old voice this time of night. Yeah, I was just saying I agree we should defer talking about it till the next meeting.

Chair Carvalho: Any other discussion?

## **2. Scheduling of other Hana Region Applications**

Mr. Yoshida: Yes, on item 2, right now, we're currently processing again the special use permit for the Kawaipapa quarry operation that we've doing for several months now, and also for an antennae, county special use permit at the Hana Airport. Those are the two applications that I'm aware of, other than any B&B or short-term rental home permit applications that may be pending at this time.

Mr. Mardfin: Clayton, I'm sorry. What was that about at the Hana Airport?

Mr. Yoshida: Oh, there's a county special use permit application that's been submitted by one of the cell phone operators to locate an antennae.

Mr. Mardfin: Oh, okay. It didn't have anything to do with broadband or internet or time --

Mr. Yoshida: No.

Mr. Mardfin: Okay. Thank you.

Chair Carvalho: And the six that were pending, those six short-term rentals, those are already ones we reviewed?

Ms. Flammer: You already reviewed those. There are two SUPs, one is waiting on a farm plan and the other one is having building permit problems that may not come forward, and I think we have administrative one that's waiting. Other than that, no one's come in for a permit for quite some time.

Chair Carvalho: Okay.

## **3. Discussion of Future Hana Advisory Committee Agendas**

Mr. Yoshida: Under item 3, we can probably defer that to the next meeting, future Hana Advisory Committee agendas. And that's all we have to report.

Chair Carvalho: Okay, Richelle.



Ms. Thomson: I wanted to see if you wanted to add this to the May 19 agenda, the report back from corp. counsel regarding it's Section 19.65.030D and E, relating to licensing requirements and some potential options regarding STRH management, so I can report back to you, but you may want to list it on your agenda so that some people can come back out.

Mr. Mardfin: That would be fantastic.

Chair Carvalho: I would -- any other discussion? Ward.

Mr. Mardfin: ...(inaudible)... earlier for the planning people to take back to the other side. I know the planning people do great jobs, and I know corporation counsel does great jobs. I want to put a shout out to the Public Works. We had a landslide that cut us off a couple, week-and-a-half ago, and by midnight that night, they had one lane through, and by 4:30 the next day, the had both lanes through, and then I was at -- it was at the Taro Festival that same day that they opened it up and I was at the Hasegawa parking lot and a big tree fell across about five feet in circumference, completely blocking the exist, and within an hour, the county crew had sawed that into little bits and pieces, and freed us all up. And I think the Public Works people that we have in the Hana District just do an outstanding job and I hope you'll take that back to Will Spence, and to the mayor, and to the councilmen that we have a great crew out here.

Chair Carvalho: Absolutely. Clayton?

Mr. Yoshida: Yeah, we can relay that to the Public Works Director, Dave Goode.

## **G. ADJOURNMENT**

Mr. Mardfin: Are you ready for a motion to adjourn?

Chair Carvalho: Yeah. I'll hear a motion to adjourn the hearing.

Mr. Mardfin: I move we adjourn until May 19.

Chair Carvalho: Until May 19, and we can propose a time.

Mr. Mardfin: We're continuing the meeting on May 19.

Chair Carvalho: Continuing the meeting and we'll -- if we have any other discussion from Suzette, may can possibly move the time up.

Mr. Mardfin: Whatever.

Chair Carvalho: And -- okay. Do I hear a second? John will second. There being no further business brought before the Committee, the motion was put to a vote.

***It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously***

***VOTED: to adjourn the meeting at 7:35 p.m.***

Chair Carvalho: And it's unanimously approved. The meeting is adjourned. Thank you.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions

### **RECORD OF ATTENDANCE**

#### **Present**

Clayton Carvalho, Jr., Chairperson  
Ward Mardfin, Vice-Chairperson  
Ian Ballantyne  
John Blumer-Buell  
Anjoleen Hoopai-Waikoloa (4:16-5:00 pm)

#### **Excused**

Ed Cashman  
Scott Crawford

#### **Others**

Clayton Yoshida, Planning Program Administrator  
Gina Flammer, Staff Planner  
Richelle Thomson, Deputy Corporation Counsel