

**LANAI PLANNING COMMISSION
REGULAR MEETING
OCTOBER 22, 2014**

APPROVED 12-17-2014

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 5:30 p.m., Wednesday, October 22, 2014, in the Lanai Senior Center, Lanai City, Hawaii.

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

Mr. John Ornellas: Alright, let's bring this, this meeting to order. This is the October 22nd Lanai Planning Commission. It's about 5:31 p.m., 32 p.m. We're at the Lanai Senior Center. So the next is Item B, introduction of our new member to the Lanai Planning Commission, Mr. Stephen Ferguson. I'm sure everybody knows who he is. He's --. Do you wanna, you wanna give a little history about yourself? I mean, of all the -- just leave the bad stuff out and just, just do the good stuff. Every time we talk, we talk in the mic.

B. INTRODUCTION OF NEW MEMBER - Stephen Ferguson

Mr. Stephen Ferguson: Hello? Hi. My name is Stephen Ferguson. Everybody on Lanai knows me as Fergie. I am the owner of Canoe's Lanai Restaurant. I've been here, on Lanai, for about 20 years. Came here in 94 as a finish carpenter and did a bunch of construction for Lanai Builders and ended up getting used to the slow pace and moved over. So since then I've been part of the canoe club, coached with the canoe club for 18 years. Been the high school head coach for paddling for 13 years and this year I'm the head coach for Lanai High School Football team. So, yeah, I'm kind of involved with the youth a lot in between running my restaurant so that's pretty much it for me.

C. 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. Ornellas: Great. Thank you very much. Busy man. Alright, let's go to item --. Any questions for Fergie, for members? None? Alright. Item C on our agenda, public testimony. Again, like in usual meetings, I'll give, allow people during, you just gotta raise your hand and I'll allow it during the course of the meeting. So, if you have something to say now, will you please come up and grab the mic and tell us who you are. We've got wireless mics now, so --. You know I think there's one over there on Joe's desk as well as one over here on Bev's desk. Okay, seeing none, let's move on. Let's go to D, approval of the minutes of August 20th, 2014 meeting. Go ahead.

D. APPROVAL OF THE MINUTES OF AUGUST 20, 2014 MEETING.

Ms. Beverly Zigmond: Hello. Leilani has always did a stupendous job in deciphering what was said. I'd like to point out on page 11 just because it might make it a little more clear if someone was to actually go back and read this. It would be the Ms. Flammer about mid way through the page and I think it's suppose to read, "if the operation is too large," like, T, O, O, large, instead of "if the operation of two large" because I don't think that makes any sense there. But other than that, thank you.

Mr. Ornellas: Okay, thank you Bev. Any objections to adding that to the, changes to the minutes? Can I have a motion to accept the minutes as corrected?

Ms. Zigmond: I move.

Mr. Ornellas: Second? Who's gong to second that?

Mr. Bradford Oshiro: Here.

Mr. Ornellas: Brad will second that. Any more discussion on our minutes? Hearing none, all those in favor raise your hand. Alright, so, so move, pass.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Bradford Oshiro, then unanimously

VOTED: to approve the August 20, 2014 Lanai Planning Commission meeting minutes with the amendments as discussed.

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

E. PUBLIC HEARINGS (Action to be taken after each public hearing).

- 1. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 14-40 referring to the Lanai, Maui, and Molokai Planning Commissions a proposed bill to amend Section 19.04.040 and Chapter 19.30A, Maui County Code pertaining to Commercial Agricultural Structures in the Agricultural District. (J. Alueta)**

Mr. Ornellas: Alright, so we move on to Item E, Public Hearings. Okay, so the first one is . . . *(Chair John Ornellas read the above project description into the record.)* . . . Anybody that, anybody would like to weigh in on this? Okay, so, Joe, go ahead give your report and then afterwards we'll –

Mr. Joseph Alueta: Thank you Mr. Chair. Good evening everyone. My name is Joe Alueta, I'm your administrative planning officer. I handle all of the, basically, Title 19 amendments to the Zoning Code. I also handle a lot of your administrative rules. If you adopt administrative rules I'll draft them. And I also review State Legislature, and try to keep, keep up on that. So there's two ways in which you can amend Title 19. One is by the Director initiated, or department initiated, which is the Bill that I will bring before you and they are pretty much are just amendments to Title 19, or an adoption of a new section of Title 19 of the zoning code. The other method in which to amend Title 19 is via Council Resolution. They can adopt the resolution and they, and by Charter as well as by the Code, they are obligated to send it to the three commissions for comments if they impact those commissions or those islands before they take action on it.

And so, today, what we have is we actually have two resolutions amending sections of Title 19.30A which is your agricultural district. Okay, so, on Lanai, a lot of your land is either ag or conservation except for the areas within Lanai City and then the project districts that you have up -- down in Koele, up at Manele -- yeah opposite. So, Manele and Koele. And then you also have some rural areas of land on the island. But primarily a lot of the vacant pasture lands or what use to be pineapple field is considered as ag land, or is County and State agriculture. And that's what these bills would deal with.

A lot of time with these bills, and I'll quickly pass out this because whenever a Reso is done, especially when Resos are done, they will just show you the sections that are being amended, and you'll see that in your packet of 19.30A. And sometimes that's a little frustrating because you don't know where it fits into the overall context of the bill. Although the entire bill is not being amended, only a portion of it, it's nice to be able to at least go back and look at what, what's actually in the ag district ahead of time or know what, what section in context of it. So I'm going to quickly pass out actually the entire section of Title 19.30A just so you have it handy so you can quickly reference back and forth to it.

Ms. Zigmond: Joe, can I ask you a question while you're doing that please? So just for clarity for everyone, a Reso is not a, a law.

Mr. Alueta: No.

Ms. Zigmond: Okay.

Mr. Alueta: Basically they passed a resolution to transmit to you which encompasses a, a draft bill, not a law yet, it has to get adopted first. And so whenever -- the process is just slightly different. Either they draft it, the Council decides to amend, amend Title 19 and they send it down through us and I will take a look at it. We will comment on it and then we'll send it to the commissions for comment and then we'll send everybody's comment back. It's not for us to redo their work basically a lot of time. I have spent many, many days redoing their work only to have them upset that I redid their work, so it's just best to give them their comments, point out things that you, you want them to be aware of for their future discussion. Earlier today, John, the chair asked, so this is a done deal, they've already adopted this. No, all the Council

did, or the Planning Committee did primarily was agreed to send it to the Planning Commissions to comment. It doesn't indicate that they, that all of the Council members agree with the bill. All they did was transmit it to you guys for comments, and that's true for all bills that come to you. So you don't know what the thinking is until they actually get your comments back and then start the discussion on where they're at.

Ms. Zigmond: Okay, so another question on, on what you just said. So the, on the back page is they have the voting of all of the Council members. So is that that they all voted just to, to transmit this to us? Okay.

Mr. Alueta: Yes. Okay. So this bill actually which is very interesting, normally they come out of the Planning Committee. This one actually came out of the Agricultural Committee of the Council. And what they were trying to do under Don Guzman's committee was try to figure out how they can help what they thought were, help small farmers as well as to, you know, increase their business, and allow, make it easier for them to, to have commercial ventures within the agricultural district. And so that's pretty much what it is. I tried to clarify this.

One of the things that they did get changed or removed on the definition wise was right now we allow for like road side stands. Unless any of you have been to Hana, driving or anywhere else, some of the farmers are allowed to go have, like, road side stands. And those are all, under the current code, and you'll see that in the code, it allows for a road side stand up to 300 square feet and open. And what they're doing is they're kind of expanding that. They've changed the definition to basically be called a commercial structure. And they're allowing for, basically, up to two commercial structures on a agricultural lot to be able to sell not just agriculture that's grown on the property. And the current restriction in the Code, the County Code, right now is that you have to grow or you can sell stuff on your property, but it has to be grown within the County, okay. State law was recently amended to allow people to sell agricultural products that are grown within the State of Hawaii. This bill basically is changing it's, changing what our limitation to be consistent with the State law, right, if that's -- because, I guess, that's what they want to be as more consistent with the State law -- and to allow for other, as you see, finished products, refined products, and, and what not.

And so the department did have some comments and concerns over some of the things like --. And, and you'll see that on, I guess -- what the exhibit 1 is actually -- exhibit 1 of the resolution that you have -- the transmittal that you got from me was basically this one that has the Mayor's transmittal to us, and then on exhibit 1 is actually the draft bill. The red markings are basically the department and the department's comments on it for food for thought, for you to look over. Some, some of the statements are not positions of the department, meaning for or against. We're just saying, you should think about, this is something that should, should be at least discussed and do you agree with it, or, and, and so you can give feedback. And if you want, my preference tonight would be to go just over those red, red marks just to give you guys a briefing on it before you head into some type of discussion on it.

So on Exhibit 1 on page 1 you see where I just said where agricultural product stand, it has the definition and it has to be at least 25% open, and then we just wanted to add while in operation,

and owned and operated by a single producer. What that means is -- I guess it came up in question -- right now we require the structures basically to be an open structure. You know, not a totally walled in building. Some of the people took that to mean that it had to be open 24/7, meaning they couldn't lock it up, and, and that wasn't the intent. We meant that as long as it was an open structure and then, you know, during the evenings or when it's not in operation you would just, you know, close the flaps down on the sides and then lock it up so you could secure it because a lot of these are on the side of the road for the most part. And so that came up by one of our existing agricultural vendors and so we agreed, we think that's a good idea to at least clarify that.

Under the Section 3, and this is the meat of the bill, I guess, is where they're amending a lot of was considered to be accessory uses. Because they're, they're basically saying you can have all of these commercial venues on the agricultural district and they're going to be accessory to some type of farm operation. So because we -- and that's how it should be but it, it makes it a little, I guess, difficult for us to enforce because somebody may, as they say, I don't want to pick on the Lavender Farm in Kula, but say they're growing lavender. So, under this bill can I have a 2,000 square foot restaurant and cook Mahimahi because I'm sprinkling lavender and that's an agricultural, finished agricultural product? Those are the kind of questions because that's the reality of what's happening, you know, that people may. So, is, is a restaurant that, a major restaurant on a two acre lot that has 50%, you know, lavender growing, is that restaurant really accessory to a farm? So, and under this bill it leaves it where, yeah, you could do it. Okay, so, and the way we would look at is that customary and subordinate to the principle use of lands, buildings are located on the same lot, or the principle use as follows. So, again, we're just trying to give you some ideas to think about. This is what Council's putting out and then sometimes it may not be easy for you to just say, Joe, let's edit this line, let's edit this line. At the end of the evening, right, you may just come back to me and say, Joe, we like this. We have some of the concerns. Some of these are these concern. This is what we would accept. We don't think this would be okay. And so at the end of evening keep kind of your notes down as to what you think you'd want to see in agricultural district.

Again, in this proposed bill they're allowing for a maximum of two commercial agricultural structures per lot, okay.

Mr. Ornellas: Joe?

Mr. Alueta: Yes?

Mr. Ornellas: What is the definition of lot?

Mr. Alueta: Well, that's another comment that we have later on in the -- you'll see that they use the term lot here whereas a lot of bills use parcels. So, we want to be clear as to which way they want to go. Okay.

Ms. Zigmond: So what's the difference, and is there a size associated with each of those entities?

Mr. Alueta: Okay. I'm going on memory and I'm getting old, so I'll try to recall as best as I can. You can, a lot is a TMK by, is a tax map lot, okay. You may have more than one parcel, right, within a TMK lot, okay. So, so, you could have -- and it comes down to like they have a thing during subdivision called separate lot determination. So for -- because somebody may have had all of these parcels, right, they're legal divisions of land, but they don't, but they're consolidated and they have only one TMK lot for tax purposes, okay. And you'll see that -- a good example on Lanai is going down to the harbor. Going down that harbor road there's actually a lot but it has several parcels in it. And so it, it can be very, it can be tricky. And so especially in the agricultural district people have come in and gotten what they call separate lot determination. They have separate parcels in a one lot so they can then subdivide the property. Because of subdivision of agricultural lands are based upon parcels, the number of parcels. So, one is, parcel is really the division of, is really the, your legal define, or legal entitlement of a lot, of a parcel, and a lot is just a TMK. So they would allow for a lot. Okay, one per lot.

Our comments from some of our staff, you know, again, we were trying to -- we feel that you should, whatever these commercial entities are, commercial buildings and structures, should be tied to or be predominately selling or commercializing agricultural products that are grown on the property or on the, the -- within the agricultural district in the County of Maui or in the State. And again there was some limitation on floor areas that was talked about that was made by our staff.

On let's see. Another one is where we had comments was on open land recreation. I'm not sure about Lanai or how. I mean, I'm sure you guys have some open land, ATVs, hunting and all that. Open land recreation. We have it on Maui. It's also on Molokai. You have paint ball fields. You have a lot of different things. So we, we would want to add, I guess, one of the things that's happening now is ziplines. There's lot of ziplines and zorbing. If you've never heard of that, that's basically getting into a hamster ball and rolling down the hill, okay. So, anyway that's -- but again just for food for thought this is what we would want to see in your agricultural district.

On L, solar energy facilities greater than 35, greater than 15 acres. And then we would, the department would like to add -- I mean this is one we would -- and or greater than 35% of the lot. And I want to point out that these uses that are on page 4, those are all special uses so they would come before you. Okay, we're just clarifying it. These would special uses. So they wouldn't be allowed as an outright permitted use or as an accessory use. Green waste recycling facilities, you know.

Let's see, then we go to page 5. Yes, it does look like a mess. This is where you got into the meat of the bill of where they were creating several new definitions for the -- one of which, you know, like say, agricultural retail food establishment. And then they had agricultural retail structure, okay. If you read the two definitions we don't know what the difference is. I mean, meaning like, is there a difference. If you read them, you can do everything. All the uses are basically the same. It's just in different order. I mean, you could still do a "other food items" which is the key difference. You could still do an other food item on both of them so there wasn't any difference. I think one added all agricultural retail structures prepare or serve food

require permit under, you know, DOH guidelines. So I don't know what the difference was. They, they're going to have to do that regardless.

We'd like to see for commercial agricultural structures something in 19.36A which is the parking ordinance that you come up with some kind, that they come up with standards and address it in -- say you're gonna have to have so many stalls, this is x, y, z size of a structure, and to allow for gravel parking. Because if it's in the agricultural district and if it's truly accessory to a real farm, you really wouldn't want to have --. You know, if they do, because if they do a retail or, like, a commercial building in the agricultural district and they do not set up a separate parking standard for it we will assess it as if it was a commercial structure, or we will assess it as if it was a restaurant. Okay. But if that's not the intent, okay, if the intention is not to have a 25 paved parking lot with five trees, two foot, you know, hedges and the whole bit in the agricultural district, then you need to establish something different if you're going to -- for, particular for this use.

On farmers market, we recently adopted a, in Title, in the business district and some of you may remember it. I'll pass out just the definition -- I got it highlighted -- just, again, food for thought. So again, we just -- the County has already adopted one. I don't like to have multiple definitions for different sections floating around. I'd rather have you either incorporate the existing one, expand on it, or do something with it, but don't, don't just ignore that you've already adopted a farmers market, and then say for this section or for this zoning you're going to have a new definition of a farmers market. That, that drives a lot of people crazy.

Let's see. You see local items are added. Let's see. You see some of our notes. Oh, one issue we had with commercial agricultural structure because it says, you know, you can have two per, per lot. But then a stall within a farmers market is also defined as a commercial agricultural structure. So if you have a structure and you have two different farmers, is that your two structures? So we don't, we don't think that, that should be the case. I mean, I think they're talking about two distinct individual structures and that you can have a farmers market with, if you got 10 farmers together and that, that should still be fine. We already -- the existing code if you look at Title 19.30A which I passed out, farmers markets are allowed. And there's already a provision or definition for that.

On the bottom, let's see, if you look at the notes on the bottom there was a, if within a farmers market, a vendor has to be, a vendor has to be a producer or all producers must be owners/leasee of a lot containing the farmers market. Is the desire to restrict growers of agriculture products from selling their products on lots containing a farmers market as they do not own/lease. So --.

Mr. Ornellas: Joe, on your definition of a farmers market doesn't say cooked food. Because we here, you know, we have our farmers market and I guess the definition of a farmers market is different on what we know as the farmers market in Dole Park sells prepared food along with other stuff.

Mr. Alueta: Where it say value added products that were produced using agricultural products

grown in Hawaii, local items related to the producers, other food items. Other food items is your Pizza Hut. I mean, I'm sorry. I don't know what your other items could be. But you, but you, you see where, value added, you know, I sprinkle some of my home grown tomatoes on to my pizza now I have a pizza place. Is that allowed? Is that what you want? I mean, we don't know what the intention is, but that's the kind of stuff that we have a concern with that, that could happen. But, at the same time, the question is, is that what they want? Do they care? So if somebody does make a go of it and opens up a home grown pizza place because they're using their own tomatoes and other products are growing on their property, is that acceptable?

Ms. Zigmond: Mr. Chair? The comment that you made about Dole Park and our farmers market, that's not in ag land, so that definition wouldn't apply to our farmers market there.

Mr. Alueta: Let's see, moving on to page 6. You can see the, I mean, okay, just -- I'm sure most of you know already the underlined sections are all the stuffs that's being added as new okay, so within a commercial agricultural structure other food items or local items occupy no more than 49% of the total floor area, okay. So that means that if you have a 2,000 square foot commercial agricultural structure you can do, you know, 990 square feet of other food items. So, your restaurant or your finished logo wear and stuff like that. Is that, is that restriction too loose or do you want it to be higher or lower? We're just saying it seems high for that's suppose to be supporting ag.

Again, I want to point out that, you know we feel that there should be another section added to amend for 19.36A. Farmers market, if you look at the definition, it limits it to five acres and day light hours. Yet this limitation does not apply to commercial ag. So you're saying a farmers market that's suppose to be selling more agricultural based products and is on a large acreage there's a limitation. But if I do a commercial structure on a two acre ag lot I can operate, that there is no limitation. I mean, do you want to -- I mean, that, that, there seems to be, there seem like from an impact side you'd think that there would be less impact on a five acre lot and given what a limitation on a, a farmers market. And again we brought up as you pointed out the parcel and lot.

Also should producer be defined and can it be a corporation or if need, need be, a natural person? Does it need to be a natural person? So for the definition -- because we looked through what a producer is, where it's applied to within, within their amendments. That's who can operate so.

Ms. Zigmond: Did you say a natural person?

Mr. Alueta: Yes.

Ms. Zigmond: So what would the opposite of a natural person be?

Mr. Alueta: A corporation. That's what we're saying. Can I put it, or can I put it in my trust? Can the producer be a trust? Can the producer be, you know, a company? And, you know what I mean? We're seeing that now with a lot of other things where people are coming in for

permits and they're putting it in either a, some type of corporation or trust and then the name stays the same so when they -- and even though there's a restriction on selling. You can't sell the bus -- the permit can't be sold. They get around it by selling the name. They sell all the assets. All the people behind the name change out so that's their loop hole. So, you know, I mean, I just -- but we're just saying is that, is that something that the Council wants? Is that something that you would want? Do you want to define it? I'm just giving you a lot of stuff to look over and digest.

Again that's, that's the nuts and bolts of the department's comments. On the agricultural bill I also attached agency comments there on the back. I did not, in my recollection, there wasn't any significant comments from any agencies. It's just, again, it's just, the intent, I guess, from the Agricultural Committee was to try to help small farmers survive and have another commercial outlet, and you know, make it simpler. There was a recent, what we call act, I believe it's Act 203 that was passed, State law which allows for an exemption from ag, from real agricultural structures exemption from building permit. So right now we're getting a lot of people come in an they're building barns, building whatever, with no building permits. And all they do is tell the County this is what I'm doing, this is what I did. And as long as they don't pull an electrical or plumbing permit they can build it so it's a -- it's on the State side too. They are trying to make it easier for, for agricultural entities to survive. It's tough to be a farmer. Does this bill help them or does the bill go too far? I mean, what's the balance? So, I'm here to take your comments on the bill. And we can either, preferably go down section by section and that way I keep track of your comments. Thank you.

Mr. Ornellas: Okay. Thank you Joe. Members, any, any comments, I mean, based on what you just heard. I mean there's -- you know we're going to go through the process but any comments pertaining to what Joe kind of said? It's a lot. I mean, Joelle, you have a ranch, so I guess that's kind of the same thing right? Joe, kind of nod yeah.

Mr. Alueta: It's ag.

Mr. Ornellas: Yeah, it's ag so -- that's a lot. That's right. And then also we have Alberta, she has a farm, so have you read this Alberta? Nod yes or no. Okay. Would you like to comment on it Alberta before we start going through the nuts and bolts? Use the mic please. We have wireless now.

Ms. Alberta de Jetley: The only thing -- the only thing I see, Joe, is that, and on some of my farming operations if I were building a new building I would want some plumbing and some electricity in it. So your thing was no plumbing, no electricity doesn't really work because we need dryers and we need electric. If I were running a dehydrator I'd like to have some power for it. And if someone was milking cows or taking care of pigs they would need electricity, so that shouldn't be excluded.

Ms. Joelle Aoki: I agree with aunty Alberta in this type of setting on the island. But we have agricultural operation in Australia in the boonies, and it's a big operation. There's no electricity and no plumbing. Primarily solar or alternative energy. And so those items are not prohibited

in from what I hear you're saying, but you are limited to the percentage of how much solar panels can consume of the property or a limit to 15 acres. Is that correct?

Mr. Alueta: The, the -- currently the State and County law allows for photo voltaic panels to be done as a permitted principle use within the agricultural district. There is an acreage and a percentage limitation right now on that, for commercial. Commercial meaning you are feeding into the grid and you're selling it as a commercial producer. There is no limit as far as I --. The limit for agricultural operations is to put PV panels. You can basically put as much power on there or put as much panels up that you use, right, provided that you can still sell it to the, back into the grid, right, but you cannot sell more than 49% above what you use. So, so if you generated 10 megawatts, right, and -- which is a lot, which is what basically this system down here is -- you can theoretically if you're using 5 ½ mega watts for your own production, for your own use, you could still sell 4, over 4 ½, back to the grid. No one -- I mean, not many agricultural producers who are putting PV up, they're using almost all of it. I mean, hardly anybody's selling or getting close to that. But what we are seeing now is it's a different schedule. It's not a, it's not a net metering or the grid tie. It's where they're actually becoming a private power producer and selling it back into. And the only purpose of putting up the PV panel it is for to sell back to MECo, okay, so we are, which is what you have down there, on your, here on Lanai.

So the County and State allow for it up to a certain acreage, and up to a certain percentage coverage of a lot. Because you don't want to have in Maui, we have a lot of -- and Molokai -- you have smaller ag lots, like two acres and five acres. You wouldn't want to see a five acre of the entire lot. I mean that was the, the thing was like you would want to have a percentage. And so the cap, I believe, right now is -- let's see -- I believe it's 35% of the lot, okay. So, and that's still pretty big. And so the proposed add on, I guess, it says solar energy facilities that are greater than 15 acres. And then there's also the 35% cap. So what we're saying is if you do a solar facility that is greater than 15 acres and/or exceeds the 35% you could get a Special Use Permit. Because right now it would be considered permitted use. And the department is proposing that you add into this bill the "and/or 35% of the lot." So, greater than 35% of the lot.

Ms. Aoki: So if they were to, on agricultural lot, want to install power and electricity, ideally they would still have to apply for a building permit current in the law.

Mr. Alueta: Electrical, electrical permit.

Ms. Aoki: Electrical. But because it's on private land they would have to incur that expense to bring in the, the infrastructure to their property right? Because the electric company, and I think this is where, this a good point because if you have a barn that's five acres in on a 15 acre lot you are responsible to pull that power in from the current infrastructure so it's not feasible in most cases of agriculture to bring the power in that distance of such a small lot. So I think aunty Alberta has a good point to include plumbing and, and electrical. But in my opinion it might not be feasible for most agricultural businesses.

Mr. Alueta: Oh, yeah.

Ms. Aoki: You know what I'm saying?

Mr. Alueta: Yeah.

Ms. Aoki: Yeah.

Mr. Alueta: The exemption I talked about not requiring is the State law that exempts building -- exempts agricultural buildings from the County building permit, okay. It does not, the State law does not exempt them from electrical or plumbing right now, and we are not amending anything with the State law. So this bill is only dealing with the County agricultural district. And the, the discussion on electric is primarily is just on PV part. And so we're not going to affect any of the building or plumbing code with this, this change. This is all about land use ordinance only, not building code so. But, but your point is taken, like, you know, and who knows maybe the State will look at that, expanding that exemption. We don't know. But health and safety is a little tricky. I mean, I think building is health and safety too, but they want to do, they felt that it was a way to do an exemption. But again going back to this particular bill, Chair.

Mr. Ornellas: Okay. Pulama, do you have anything to say? You guys are the largest owner of ag land here on the island. You're okay? Okay. Alright, Joe, so what, we wanna start from the beginning and work our way through it?

Mr. Alueta: Sure. And again, just to remind everyone --. Oh, public testimony.

Mr. Ornellas: Does anybody else want to testify before we go into this? Gerry, you want to say something or you're just waving at me?

Mr. Gerald Rabaino: Okay, the one going with Joelle and Alberta one, yeah, you said over here that the State exempted. But what is the County clarification and definition that being that Lanai which is now Pulama responsibility on the County level, Joe? My question would be the person who's leasing the land, right, do they pick up the cost to have solar on their lease property being that the land owner let them farm on their land?

Mr. Alueta: I'm, I'm not sure I'm following you as far as like, if you, if you lease land it's whatever agreements you have with the landowner to provide the infrastructure. This does not change any of that responsibility. Again, the State law is referring to is that the State had passed the law with regard to agricultural, exempting agricultural structures from certain provisions of the County and that was the building permit. So all they're saying is that you don't need to get a building permit if you're, if the structure is for, is for ag. And you can file for that with the County. And the County doesn't review. There's no building permit to review, there's no nothing. It's just a piece of form, you just show where it is. But that has nothing to do with this in that, in that aspect.

Mr. Ornellas: has Molokai seen this already?

Mr. Alueta: No. No.

Mr. Ornellas: Alright. Is, is there a clock somewhere ticking on this?

Mr. Alueta: Yeah, I screwed up and we missed the clock. So I sent it out for agency comments, then I forgot about it so it expired last month and –

Mr. Ornellas: Okay, so do we get an extension? No. So when -- you needed it yesterday.

Mr. Alueta: Something like that. I do -- I, I hope that tonight we can get some comments back to the Council from you.

Mr. Ornellas: Okay. So, you know what, I, I'd say that you're steering the bus, so let's start from the beginning and, and work through. Because you've been here before and you know what we, what we talk about and what we like and what we dislike, so, you know, kind of highlight the areas that you think we may have a problem with and then we'll just move forward okay?

Mr. Alueta: Okay. So, again, all of the -- everything that is underlined is what the Council has added, okay? Everything that is bracketed is being removed by the Council, is being proposed to be removed by the bill, okay? So you can see in the first page, agricultural product stand, and then they defined it means a building and then a place with walls and they define all that. And again, all we're saying is we would, the red area is where we have a comment and where we'd like you to have it, have additional language inserted. So, and then the one thing that they -- the biggest change, I guess, for the definition was is that they're saying grown in Hawaii and value added products that were produced using agricultural products grown in Hawaii, okay. So that's the big change. That's the big change that basically Council is adding. They're expanding what you can sell at an agricultural product stand to include anything grown in Hawaii. And value added products, okay.

Mr. Ornellas: So you guys are going to be inspecting? So when somebody sets up something on their lot and you guys are gonna go look, make sure that all the mangoes are from Hawaii versus Chile?

Mr. Alueta: That is up, that's, that's up to the administration and how the public reacts if we get complaints or if there's desire to go out and enforce on that. We have limited enforcement ability as it is now so.

Mr. Ornellas: Okay, Joe, so, so you wanna, you wanna guide us through this, so the first, on the first page?

(Commissioner Stacie Koanui Nefalar is excused from the meeting at approximately 6:20 p.m.)

Mr. Alueta; Yeah, I guess on the first page we would ask for your concurrence to have the words "while in operation" added to that definition of product stand. That thing that we have in there. And then as well as under accessory uses, we would think that would be a good thing to add in there. It's already in their uses that are incidental subordinate to or customary used

in conjunction with a principle permitted use.

Mr. Ornellas: Okay. I'm gonna have to see what you guys think. I mean, any objections to adding that or removing? Okay, so go ahead and add that, and, and do those changes. I'm kind of a little bit leery because I think this is a lot more to it than, than this. But any way we'll go and then I'm sure Riki will have the opportunity to weigh in when it gets to the Council. Alright, so page 2.

Mr. Alueta: On page 2, number 3 adds -- and again this is all under what is considered to be accessory uses within the agricultural district. I'm sorry, yeah, accessory uses. So they're having a maximum of two commercial agricultural structures per lot, okay, and so they're removing the remainder of that whole section. And then we feel that as part of that limitation, right, we feel there should be, you know, that contains an agricultural products for sale that were grown on the same zoning lot, and which occupy a minimum of blank percentage of the total floor area containing products for sale. So we're not sure if you wanna limit the size. I mean, that's the bottom line is do you feel that there should be a limit on the commercial, maximum commercial agricultural structures that are allowed. If you don't have any comments on it, you can just say, we don't have any comments on it or Council should impose some type of limit to the structures. You may not have a number in your mind, but right now there is no number so it's up to you guys.

Ms. Shelly Barfield: We could make island specific and just say Lanai no limit.

Mr. Alueta: Well, currently that's how it's written. So if you're fine with it for Lanai, then I would say –

Ms. Barfield: Then just leave it as is.

Mr. Ornellas: Any objections to that, just leave it as is which is unlimited? Go ahead Bev.

Ms. Zigmond: So are we just speaking right now of that percentage or are we speaking of the second paragraph also in the red box?

Mr. Alueta: I, I guess what I'm -- for me, commissioner, you're really looking at paragraph three which is just that's what the commission, that's what the Council has proposed and that is a maximum of two commercial agricultural structures per lot. They, they -- that ties into . . . again if you go to page . . . page 5 where they actually define that structure and what can be used in it. And so the question, I guess, from our aspect was should there be a limitation on the size, as far as maximum. You know, either a lot coverage or just an overall square footage size. Should, should there, should there be some type of limitation on the, the percentage of the floor area? Because you have -- what you have is, I guess, when you go to page 6, it says within a commercial agricultural structures other food items and local items shall occupy no more than 49% of the total floor area. But they put that at the back. Should that be, I guess, at the front? I mean, I don't know. I just -- from us, like, I was looking at it more as should there be a maximum square footage. If not, if you're fine with it, again, you can just leave it alone. Our

comments on the side are meant for you to think about.

Mr. Ornellas: Okay, so, do we -- okay, you say no. You don't want to leave it the same. Oh, you said you're okay with leaving it the same. Okay. Bev? I mean, the explanation, I'm starting to get . . . it's not hard to get me confused, but I'm starting to get a little bit. You know, when you start flipping back to page 6, page 4, and back to, I under, I understand --. You're, you're the most knowledgeable person about this than anybody in this room. It's just that you gotta get it through our hard heads to, to make this, to make this approval so that we can understand.

Mr. Alueta: I, I appreciate that Chair Ornellas, but see, I didn't write this. That's why it, that's why I'm having a hard time. That's why I'm flipping it back and forth is because the way this bill is structured they've, they've put that limitation at the back. And I don't have a problem with the way they got it as far as putting that, defining in the back. I'm just saying is we, we are asking and it was raised by our staff, should there be a limitation on the thing. Now if you don't think there should be a maximum limitation then what Council has written works. That's all I'm saying.

Mr. Ornellas: Okay. Shelly, you have something to say?

Ms. Barfield: . . . (Inaudible) . . .

Mr. Ornellas: I understand that. I just --. So let me . . . so will, this, these, the red is your recommendations so that will go to the County Council.

Mr. Alueta: Yes.

Mr. Ornellas: As recommendations from the Planning Department for Lanai and Molokai.

Mr. Alueta: They will go as comments from the Planning Department. Not recommendations, just comments that do they want to discuss that, we had this concern. We're not going to give them --. For that, this one is more of a policy question than it is a, you know, a structure of how we're going to administer it.

Mr. Bradford Oshiro: I know the answer but who's going to police this? I mean, why, why even do this if somebody not going police it?

Mr. Alueta: I mean, it will, it will be police. It is in Title 19, and so if it's in Title 19 it falls within my division, the zoning, under Zoning Administration Division. So it will, our inspectors are the one that will be going out if there is a complaint or if we know of blatant violation, you know, such as papayas from New Zealand or something like that, you know.

Mr. Ornellas: You know, I think, I think we've gone all this time the way it was written and now you guys, you guys -- I mean, evidently the Council thinks that it needs to be changed because they're the ones that sent this to us.

Mr. Alueta: Correct. The Agricultural Committee sent it to you.

Mr. Ornellas: Okay.

Mr. Alueta: And basically existing in the, in the County agricultural district, right, you can do a farmers stand, right, a 300 square foot stand. You can build any agricultural structure as long as it's real agricultural. The limitation is it's your ag or ag that are from within the County. They basically are removing farmer, the road side stand provision, as well as, it looks like the farmers market and then creating their own generic structure which is called commercial agricultural structure. And then later on in the code you'll see their definitions. And within that definitions where, you know, a lot of red on it -- kind of looks like my school work from St. Anthony -- but it is what they're saying is a commercial retail structure, or commercial agricultural structure, and then they're creating this whole definition or standards within it, okay. So basically they're rid of the roadside stand and what was considered to be a farmers market and said now you can have two structures and here's what you can -- and then they're expanding the types of uses. So not only can you sell what use to be just limited to what you grow on your property and a few other add ons, now it's, we're defining it by saying it's as big as you want and you can have logo wear, you can have, sell any agricultural products that is grown in the State of Hawaii, and you can sell other products that are made from products grown in the State of Hawaii, right, but they don't -- value added products -- but they don't define it. They say other food items, but they don't, there's no limitation on it. And that's where we, from the enforcement standpoint, we get a little nervous. How far did you want this to go? And that, that's the questions that we're posing to you. How far do you want it to go? Is it --? You know, I mean, because we see the abuses. But at the same time this could really help some farmers. They could be able to -- I mean --

Mr. Ornellas: So when you say you see the abuses, have you had any abuses on the island of Lanai? We don't have any roadside vendors selling. So, I think, I'm thinking that since we really don't have a problem or at least I don't know of one and I haven't heard of one, that -- go ahead pick up. Give Fergie the mic.

Mr. Ferguson: Joe, the size structure -- the structure we talking about is the roadside food stands and stuff or does that incorporate the, say, like the barn you was talking, you know, a farmer had like a processing building or something?

Mr. Alueta: No, that wouldn't be included in this limitation. This is more for --

Mr. Ferguson: Just for the road.

Mr. Alueta: -- for the commercial side. And they've gotten rid of the, the term roadside stand.

Mr. Ferguson: Okay. Okay.

Mr. Alueta: It use to be just a roadside, you know, market, roadside stand. Now it's called a commercial agricultural structure. And what they're saying is that that commercial, you can

have up to two commercial agricultural structures per lot and then they, and, but there's no size limitation and there's no minimum lot size that is required, and there's, you know, except for, unless you're doing a farmers market, then it has to be five acres.

Mr. Ferguson: So the two structures you talking about wouldn't pertain to like somebody like Alberta having something, she made something bigger in the back.

Mr. Alueta: A processing facility or a barn --

Mr. Ferguson: Yeah, so --

Mr. Alueta: -- so yours would not be covered under this. That would, that would just be allowed use.

Mr. Ferguson: Okay.

Mr. Alueta: These structures are to be considered accessory to the, to the barn. So your example, the example I would use is maybe a goat, the goat cheese guy, right. He's got barns, he's got a dairy, he's got a, he's got a cheese processing plant. No problem. But then if he wants to put up a 1,000 square foot retail where he's selling, you know, he's got 500, you know, 1,000 square feet of refrigerated space where he's selling the goat cheese, and then he's selling, you know, jellies that are grown from the, you know, made from guava from somebody, or, you know, or ocean vodka made from, you know, you know what I mean, like, they can retail whatever as long as it's -- and buy product -- and then sell their logo wear, you know, and that would be --. That's what -- that would be one where, hey, that's totally fine, you know what I mean. But then the question is, so the guy is -- is it also fine for the guy to have stone pizza oven and start making pizzas? I mean, we don't know, I, I don't know what the definition of when they're gonna draw the line. And so that's where we're saying Council, we're saying, the Planning Commission, give us some guidelines. Is --

Mr. Ferguson: Wouldn't Board of Health step in on the food side?

Mr. Alueta: Oh, no, and that's, and that's in there. Board of Health will, and they all have to meet the State health standard. And the Council has written that in hoping that the State will, that side, will catch it.

Mr. Ornellas: Alright so, you know, since we've, since we've established that we don't have a problem. Alberta is one of our, one of our farms, Joelle is another farmer here on the island, and Pulama doesn't have any, any comments on this, so why don't we just leave it as is? I mean, why -- I can't see a down side for just leaving it as is, so, I mean, that --

Mr. Alueta: Leaving the ordinance as proposed or leaving the existing code as existing?

Mr. Ornellas: As, as it's written. All your comments, all your additions and stuff like that no.

Mr. Alueta: Okay.

Mr. Ornellas: Just leave it as, as written.

Mr. Alueta: No, but as Council has proposed right now.

Mr. Ornellas: Okay, I guess we can go with that. Yeah. Yeah.

Mr. Alueta: Okay.

Mr. Ornellas: Yeah. Any objections to doing that? Because about 20 minutes ago I got lost, so --. Okay, can I get a motion to -- how would you say that Joe?

Mr. Alueta: If you have no problems with ordinance as written by the County Council then say move to recommend approval on the bill as presented, as proposed by the County Council.

Mr. Ornellas: Okay. Can I get a motion for somebody to say that?

Ms. Zigmond: I motion what Joe just said.

Mr. Ornellas: Okay. Can I get a second on what Joe just said?

Ms. Kelli Gima: Second.

Mr. Ornellas: Alright Kelli. Anymore discussion? Jesus, Joelle, okay, go ahead.

Ms. Aoki: I do have a question, though.

Mr. Ornellas: No, no. This is time for discussion so give me your question.

Ms. Aoki: I believe I need to recuse myself from this vote, so do I abstain?

Mr. Ornellas: Recuse.

Ms. Aoki: Recuse, alright.

Mr. Ornellas: Okay. I have no objections with that. Do you guys? The County have any objections? Okay, no. Alright, so Joelle will recuse herself from the, from the vote. So all those in favor of the motion raise their hand. All those against, zero. Alright, so the motion passes. Thank you Joe.

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

VOTED: to recommend approval on the bill as proposed by the

County Council
Assenting: S. Barfield, K. Gima, S. Ferguson, S. Marlowe, B. Oshiro,
B. Zigmund
Excused: S. Koanui Nefalar
Recused: J. Aoki

Mr. Alueta: Thank you.

2. _____ MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 14-81 containing a proposed bill entitled “A Bill for an Ordinance to Allow Family Child Care Homes within the Agricultural District.” (J. Alueta)

Mr. Ornellas: Now, do you have something else for us? Let me go and look at the agenda here. Okay, we have family child. This 14-81, a bill for an ordinance, family child care, care homes in the agricultural district. Go ahead.

Mr. Alueta: Okay, planning commissioners, I'm Joe Alueta, your administrative planning officer. Thank you very much for taking this up. Hopefully this will be short and sweet. The Council has sent down a Resolution 14-81 basically to mimic what the State has already done with regards to allowing family child care homes registered pursuant to Chapter 346 to provide a family care home in a located in a farm dwelling, okay. So as you know if you're in an agricultural district you don't build single-family houses, you build well -- well you build a single-family, but it's called a farm dwelling. It has to be accessory to a farm operation. The -- under, under our rules, right, if you tried to do a family care home, right, and took in kids, collected money to watch some kids, you would need to get a State Special Use Permit and County Special Use Permit because raising kids, unless they're going to be future farmers is not considered to be in a permitted use in the agricultural district. So the State has been allowing or licensing these homes and they only realized that recently they've been licensing homes that are out in agricultural districts. So under -- as I go into my staff report, you know the County has zoning authority under Chapter, HRS 46. That's what basically created the County's and the powers and duties of the County is to establish zoning, is all under HRS 46. The State has, has the ability to preempt the County because we get our power from the State. So they have chosen to preempt us on this one. They've done it before in the residential district for things, and now they're adding agricultural farm dwellings, and that --. And they did it. And I've attached the Act 210 from the back of the, the memo report I gave you in which they basically outlined the same thing. And you can see where they first did it in the first, number one, was where they did it for in the single-family residence. Now they're doing it for the agricultural district also in farm dwelling.

So the -- realistically Act 210 made our restriction on child care or requiring them to get a permit moot essentially. Meaning that you don't need it. The State law, once they stopped at that it's a done deal. We, we would no longer. But for clarity and we feel that it's okay, and so we are supportive of this reso. It does at least clarify so if somebody ever looks it up in the County

Code and they asked if they can do a child care home in the agricultural district, at least it will clearly say in the County Code yes you can without having to come to the department, the Planning Department and ask can I do this. And then somebody five years from now has to remember that there was an Act passed by the State that exempted it. So we're, again, we're asking for -- we're representing that we support this resolution.

Mr. Ornellas: Thank you Joe. Members, any discussion? Community, do you have any suggestions or . . . public testimony? Okay, we're gonna -- yes sir, Mr. dela Cruz? You need, you need to use that mic right there.

Mr. Andrew dela Cruz: Will these child care facilities be only on organic farms?

Mr. Alueta: No. On any -- it would be allowed in any agricultural dwelling. So within the agricultural district, State and County agricultural district, basically a single-family residence, they would be allowed to do these if they got, if they fall under the guidelines of the licensing. So it doesn't have to be organic, it can be any.

Mr. Ornellas: Okay. I mean, we have none on this. I mean, if Joelle wants to do a day care center down at her farm. Well, no, this is, this is --

Mr. dela Cruz: If we approve it for Maui County, Maui County is part of the State. Whatever happens in Maui County would happen in the State, and -- don't shake your head -- but anyway what I'm trying to get at is the health thing. You know, you're gonna have child care type of things in an agricultural district like on Lanai, we have big problem, yeah. Well, we think we have a big problem. Yeah, a lot of people have gotten sick and things like that through years and years and years. Well, that's the size and things. It's just a thing that I brought up yeah, because just listening here. I mean, I just came here to see Fergie being brought in. That's my big point of coming. And just listening to this discussion it brings up a lot of things.

And if I might step back, for one thing, also I'm, like, on the farm structures, my concern -- I mean I raise my hand but nobody recognize me -- will people be able to live in the structures?

Mr. Alueta: So the -- right now, to answer the first part of the question, the bill has already, is a Statewide. So when they amended 46, they basically allowed for all across the State, okay. So any agricultural farm dwelling across the State is allowed to do a child care if it meets the State requirements, okay. This bill is just making it consistent with a Maui County Code which affects the three islands. The three islands of Maui County. The other one is the, the structures, no, because they have to, have to -- that's a dwelling structure and you're allowed only one main dwelling structure in the agricultural district, plus one, a second dwelling, a farm dwelling structure of up to 1,000 square feet. So the, these child care facilities would be limited to those structures.

Mr. Ornellas: Okay. So, so the, people can't start renting these rooms out in this dwelling. I mean people can't live in these things. This is just a barn. That's what basically --

Mr. Alueta: Right, right. The commercial structures, no. You could not live in it. Yes, yes. Unless you got another permit later on.

Mr. Ornellas: That was a good question.

Mr. Alueta: Yes. It was good question.

Mr. dela Cruz: My concern on that was about a year ago when I heard that Pulama was gonna be doing agriculture, yeah, one of the comments I got from somebody was that there's this lady on Maui who was gonna be renting up a lot of this land to do agriculture because she does a lot of produce on Maui. And the big question that we were joking about was where they gonna get their workers. And so if we're gonna have structures they can house people they don't need Lanai people. They can bring in their day workers or weekly workers, and that was what I was concerned about, yeah. Not only is that they don't need the Lanai workers because there's a lot of unemployed people in other places also, yeah. But also just being able to house people to create a whole dynamic. I mean, it would change a lot of stuffs. So I'm like that was my question just listening to this. And Fergie, you're the only reason I came.

Mr. Ornellas: Alright, Fergie brings his fan club with him. Alright. Good. Next time you do is gotta bring food. You know, you're right. But, but all during our discussions during the community plan and, and through the processes as far as when it comes to Pulama bringing over workers.

Mr. dela Cruz: It was not, it wasn't Pulama bringing in workers. It was once -- once you. . . . open up lots, lots to rent, anybody can rent it right? You don't have to be Lanai person to rent it. So what I'm saying is that if somebody wants to do commercial, they don't have to be from Lanai. They might rent out maybe 100 acres and they're gonna need workers, and that's the only thing I'm saying. God gave us water, baby.

(Commissioner Shelly Barfield is excused from the Lanai Planning Commission meeting at approximately 6:45 p.m.)

Mr. Ornellas: Okay, I, I, I understand. I understand what you just said any more, any comments, members, based on Mr. dela Cruz, what he said?

Ms. Gima: But this one that we're looking at right now in terms of the child care facility on ag land is not pertaining to what Uncle Andrew was mentioning about people living in these structures. This is just for child care purposes only. They would have to get licensed through the State, whatever licensing avenue that would be. They would have appropriate facilities. I mean, it couldn't be, like, a pigsty without running water and plumbing.

Mr. Alueta: I grew up that way. No, but it would in -- a child care facility would only be allowed in a licensed home, and it would have to be farm dwelling. And it would be one of the two farm dwellings. You could not build a separate structure for strictly for the child care facility without having to go through some special use permit.

Mr. Ornellas: Okay. Then can I get a motion to accept the, the County's –

Mr. Alueta: Resolution 14-81.

Mr. Ornellas: Yeah, 14-8, 81. So can I get a motion to accept?

Mr. Marlowe: So move.

Mr. Ornellas: Alright. Do I have a second? Fergie? Can, can we get a second?

Mr. Ferguson: I second.

Mr. Ornellas: Thank you Ferguson. That was just for you. Alright, so we got a first and second, and so who is -- all those -- do we have any more discussion on this item? Okay.

Ms. Aoki: I think I should recuse myself from this vote as well.

Mr. Ornellas: Okay.

Ms. Aoki: You have enough.

Mr. Ornellas: Okay. You can recuse yourself. Why did you show up tonight? Okay, so, Joelle will recuse herself from this vote. But all those in favor raise your hand. Okay, that's everybody. And, and negative? There's nobody negative so it passes. Thank you Joe. Is that if from you today? We could take a short break. Be back in seven o'clock. Thank you.

It was moved by Commissioner Stuart Marlowe, seconded by Commissioner Stephen Ferguson, then unanimously

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

Assenting: K. Gima, S. Ferguson, S. Marlowe, B. Oshiro, B. Zigmond

Excused: S. Barfield, S. Koanui Nefalar

Recused: J. Aoki

(The Lanai Planning Commission recessed at approximately 6:50 p.m., and reconvened at approximately 7:00 p.m.)

F. COMMUNICATIONS

- 1. August 11, 2014 First Quarter and Second Quarter Report (January to June 2014) submitted by LYNN McCrory, Senior Vice-President of Governmental Affairs, PULAMA LANA'I regarding the project irrigation demand associated with the Residential and Multi-Family Development at**

Manele, TMK: 4-9-017:001, 002, 003, 004, 005, and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001) (B. Sticka)

The Commission may provide its comments on the report.

Mr. Ornellas: Okay, so let's resume the meeting. It's now seven o'clock. So we'll go on to F, communications. This is the first quarter, second quarter, January to June 2014, submitted by Lynn McCrory, Senior Vice-President, Governmental Affairs, Pulama, regarding the project irrigation demands associated with the residential and multi-use development down at Manele. So, and that's this report, okay. So, members, is there any discussions on the report? Go ahead.

Ms. Zigmond: Sorry, I have two questions, Lynn, on the, the letterhead, the letter to Spence, where it says "develop other non-potable brackish sources," and skipping down to the end, it was approved on May 16, 2012, is that well operational?

Ms. Lynn McCrory: Lynn McCrory, Pulama Lanai. Yes, it would, it would operational.

Ms. Zigmond: It is currently now. Okay.

Ms. McCrory: My understanding that it is.

Ms. Zigmond: Okay, thank you. And then on the next paragraph where it talks about the desal plant, can you give us an update on that please?

Ms. McCrory: This was written as of August 11th, and it was, at that point, believed that we would proceed further. We are still on hold. We are not proceeding at this point.

Ms. Zigmond: And I have a question for John Stubbart. Oh, okay. It's sort of rhetorical question but I'm just wondering if the periodic water report, is, are they intentionally made so small so no one can read them?

Ms. McCrory: Yeah. I think that's one of the reasons we went to the graphics was, you know, looking at the reports and the numbers are not easy. So basically what you have on here is what you have on the graphs except these are monthly reports and we combine them to give you quarterly reports so that you don't have to do this.

Mr. Ornellas: Alright, public testimony? Ron? Joe, can you hand that to Ron please?

Mr. Ron McOmer: Mostly just comment. I heard a rumor in the last couple days that Spence wants to change the hours of this meeting to daylight meetings, and cannot do this. It is -- it would be detrimental to this. We can't even get, barely get a quorum at night. What the hell we're gonna do when everybody's working? That doesn't make any sense at all. Maui County has gonna have to bite the bullet and support this community and this is one way they're gonna have to do it. I know it's not out yet, but it's gonna come out, and when it does I hope that

everybody in the community stands up in one voice say don't do that. That's my comment. Thank you.

Mr. Ornellas: Thank you Ron. Anyone else? If not, then -- oh, go ahead.

Mr. Bradford Oshiro: Lynn, I was wondering on the Manele, the golf course irrigation. In July 4th to July 31st the irrigation was broken, so where did you get the water to water the course?

Ms. McCrory: I'm sorry, once more.

Mr. Oshiro: . . . (Inaudible. Mechanical problems with the cordless microphone.) . . .

Ms. McCrory: On the periodic, the monthly for period seven or period eight are you in?

Mr. Oshiro: I was just wondering where the water came from to water the course?

Ms. McCrory: The Manele golf course, the brackish water? It's not broken.

Mr. Oshiro: It says broken. Zero.

Ms. McCrory: Where are you at? At the very bottom?

Mr. Oshiro: July 4th to the July 31st period. Period 8.

Ms. McCrory: "Brocken," that's an interesting word. That's the effluent use at Manele.

Mr. Oshiro: So there's no water used down there?

Ms. McCrory: No, the brackish water was used. There was no effluent used for the zero.

Mr. Oshiro: Okay, and the other question I got, the sod farm, where they getting that water from?

Ms. McCrory: The sod farm right now is using potable water.

Mr. Oshiro: Potable water?

Ms. McCrory: Potable water.

Mr. Oshiro: I thought they was going use R1 water.

Ms. McCrory: They're in that process. They're waiting for -- I'm trying to remember -- I know, believe me, I felt like I've told you this umpteen times. Don't record that please. They are waiting for a person to come back out. They had pressure issue, or air issues, is what I

understood, in the line. They had to get another number of parts to fix it, and he should be back next week. It's the last piece of information I have. And then when he is back, then we would be able to pump R1 water and brackish water to the site. And that's suppose to be next week.

Mr. Ornellas: Go ahead Ron. Be civil, please.

Mr. McOmbler: John already left so I don't have to worry about him running out. To answer your question, they cannot use potable water on that sod farm. The way that it is first it's R1 water, then brackish water from well 9, and then fresh water. They have used it in the past. They've used fresh water because they were running their pipeline, and we kind of looked the other direction. This was in the time where we thought we were gonna have a desal plant. So we kind of just kind of relaxed watching that, that criticism on that. But now that there's no desal plant, and it doesn't look like any in the future, near future anyway, we're gonna clamp down. The LWAC had a meeting today and I had a real wonderful meeting with John and he got up and walked out the meeting because I was too hard on him. But we will assure you folks that there will be no fresh water used. They need to get off their . . . (inaudible) . . . and get that brackish water or that R1 water first in line. And I've been assured by both Lynn and also by John that that will be done soon. Let's hope it happens. Right now they don't need any water. Thank God for the rain. God has helped that.

Ms. McCrory: Lynn McCrory, Pulama Lanai. We went when we first were putting the sod farm in, we went through the Commission on Water Resource Management at the State which was the entity that would tell us whether we could use potable water or not. We filed the documents with them. They have the information. They gave us an approval. We then went to the Department of Water Supply on Maui just to be sure because they are responsible for the Water Use and Development Plan. Any issues with them, there were no issues from them. There is agricultural water in the Water Use and Development Plan. We aren't utilizing all the water. It's listed for agriculture in the Water Use and Development Plan. We've gone back and LWAC has copies of all my submittals and pieces that were sent. We've gone back to CWRM, Commission on Water Resource Management, to inform them of what the quantity of water we would be using and these are by quarters is the way it's listed for the R1 water. We have not gone back to them yet on the brackish water. As soon as we're clear on the quantity on that, the reports will go in and the reports will go to LWAC. So using potable water on that site is legal.

Mr. Ornellas: Yes. So, today, at today's LWAC meeting, they, John assured us that next week the, the R1 water will be, will be turned on and used at the, there. And then of course, then it would be brackish. And basically what Ron said, R1, brackish, and then fresh water. But that's what he told us that's going to happen next and I asked him to, to, when they do that, put that R1 online for the sod farm that he's to shoot us a, a e-mail saying that it's online, everything looks good, so that way we know it's happened, okay. Ron, go ahead. This is the last time.

Mr. McOmbler: This is the last.

Mr. Ornellas: This is your last.

Mr. McOmber: When we saw nothing being done on their pipeline, on their R1 or on well 9, I went to Charley Ice which the person, our contact person at the State Water Resource, and we talked over the agreement on the MOA. And on the agreement on that Water Use and Development Plan that there will be no potable water use on golf courses. That grass is going to a golf course. That 500,000 gallons of water that is set aside for agriculture does not include grass. You're not eating grass folks. You're not making food source from that. So, I don't care what they say. They still can't use it. It's not acceptable and Charley Ice -- I just go e-mails from Charley Ice and he agrees with that. So whatever they had worked out before that was fine. But now we need to make sure they don't use it. Thank you.

Mr. Ornellas: This is your last time too.

Ms. McCrory: Yeah. The letters went to William Tam who's the Deputy Director of CWRM, and it's his approval. And he's kind of above Charley.

Mr. Ornellas: Alright, and . . . so, so, do the, the members, do we make a motion to accept the report? Anybody else have any comments about this and we can get a motion to add this to the record? What's that? No, if everybody agrees, then, then we'll just put it into the record. Accept it as what it is and they'll put it into the record. Any --? Okay, any, any problems with that? I just wanted to make sure that everybody had a say. Alright, so we'll just put it into the record. Alright, moving on. The Director's Report.

G. DIRECTOR'S REPORT

1. Reports from Commissioners who attended the 2014 Hawaii Congress of Planning Officials (HCPO) Conference - September 10-12, 2014, Sheraton Maui, Kaanapali, Island of Maui.

Mr. Ornellas: Hang on. Stacie had to leave so let me tell you what she, what she said here. We went to -- it's the Hawaii Congress for Planning Officials, HCPO, that was held in September. We all had fun. And it was held at the Sheraton. The theme was SHIFT, stands for Shaping Hawaii For Tomorrow, which encouraged the participants to shift mind sets to meet significant changes in the economy, media and technology, energy systems and climates. To Stacie, my favorite part was a tour of some, of Lahaina's town, Lahaina's town of historic sites. They talked about the future plans and how to manage the historic town.

And then my comments are -- I think you all know that 45 members of the conference came to Lanai, and we showed them around. Thank you Pulama for helping out with lunch and transportation. If it wasn't for them, they probably wouldn't be able to do what they did but --. And then we split the group up into two. One half went that way, and the other half went the other way, and we showed what's going on within the town square. And so they were very impressed. They enjoyed what they, they enjoyed Lanai. Most of them haven't been here

before, so it was a good opportunity to get, to get the message out that Lanai is --. You read it in the papers, but now they were able to see that things, things are happening here on the island so I thought it was a very good, a very good opportunity to --. And then hopefully with the next -- I think it's five years it comes back to Maui? So maybe in five years they can come back, a different group will be able to come back to this island. That's it that I got.

2. Open Lana'i Applications Report as distributed by the Planning Department with the October 22, 2014 agenda

Mr. Ornellas: So open -- no. 2, Lanai applications report. Open projects.

Mr. Clayton Yoshida: We submitted our, the department has submitted its report. Are there any questions from the members?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Clayton, can you please tell us if the Decision and Order in the desal plan has yet been issued.

Mr. Yoshida: It's still, a draft is still being worked on. After that it will be reviewed by the Department of the Corporation Counsel, and then we'll bring it to the Planning Commission for their acceptance and sign off.

Ms. Zigmond: Isn't it kind of overdue?

Mr. Yoshida: There's no real rule or regulation as to when the, you know, deadline for the Decision and Order, written Decision and Order to be produced. You know staff and Corp Counsel's member, staff from Corp Counsel's Office are working on the draft.

Ms. Zigmond: I was under the impression there was a deadline. But I think this is a very time to put something on the record and, you know, maybe our dear good friend at the union because there is no decision and order. Maybe they didn't really do the bold face lie that they did in that brochure that they handed out to all of their members a couple of weeks ago. So let's give them the benefit of a doubt because there's no order that that's why they were to say, oh, get everybody to come to the Planning Commission meeting when the company has their new SMA permit application, and they're insinuating that we're already against it and we don't even know what it is and it hasn't come before us. But then they say and I quote, "like they did -- they're, they're less likely to turn down the SMA Permit like they did the company's plan for a desal plant." Now it's a bold face lie and they're targeting us which is a new tactic for them and I'm really upset and I want that on the record and I would like to submit this to the record, for the record please.

Mr. Ornellas: Thank you. Alright. So, so is there's anything else on the open project's list, the open projects?

Ms. Zigmond: I have one more.

Mr. Ornellas: Go ahead.

Ms. Zigmond: The Hulopoe Beach access gate, I think we might have heard about that before. I'm just curious where it is. I haven't had the opportunity to go to the beach for a while.

Ms. McCrory: Lynn McCrory, Pulama Lanai. It is blocking -- the intent is to block vehicles from driving on the beach by going towards the hotel. So at that far end we've put up a gate so that -- it, it's -- that's all it's for. I mean, you can walk around, you can do everything. But we've had numerous vehicles driving on the beach.

Mr. Ornellas: Alright, anybody else got something? Yes, go ahead Joelle.

Ms. Aoki: I have a question and I apologize it's not connected to the permit list, but Lynn, do you know if they -- if there's any consideration to putting up a gate at the entrance of the park. And my reasons for asking that is I know that was once a discussion, but this last hurricane, Anna, the barriers were put up and people were driving around it. And I understand that there's concerns for public safety so the park was closed. However, surfers were still allowed to enter through that way. Will there be one, a gate put up. Is -- are -- is that still in the plans or the talk right now, discussions now? And then two, if so, are there discussions about giving an alternate beach access for those surfers wanting to go into the water to have beach access?

Ms. McCrory: Lynn McCrory, Pulama Lanai. There are no plans to put a gate up at the beginning of the road. We are in the process right now of reviewing the procedures for closure of the park. I don't know that we would block access again. We would put the signage up because it's for safety and liability issues. The Beach Park Council was notified that this was the plan. They all comment there were no rangers down there, and you always have pedestrian access to the beach. There was never or is no intent by which we would ever block pedestrian access. So for surfers that -- and I think someone said to me, yeah, but that's the best surfing is when that, you know, break is coming in and the hurricane. And I'm just like, hey, you guys are riskier than I am. So if they really want to do it, they just have to park their truck outside. I mean, we probably won't block it again. But what they could have done was park their truck outside and come through. There were a number of people camping down there also. So, we are in that process of determining a final process that is legally is correct, provides liability coverage that doesn't put us at risk or the Beach Park Council at risk, and leaves that people choose to risk in what they do, then they choose to risk in what they do. All of Maui -- as an example -- all of Maui County parks were closed until Monday morning. All of State parks were closed until Tuesday morning.

Ms. Aoki: Thank you. And my concern is that because of our limited resources with our first responders, at one point I understand there was three first responders down there addressing

the fact that there were people going in to that area whether it was with their cars driving around the barrier into the park, when it should be a closed beach park during disaster for public safety, in disaster or planning, warning, weather warning. And I was concerned at how many of our first responders were there when we had other issues happening elsewhere up here in the city. Thank you.

Ms. McCrory: Yeah. Thank you. Lynn McCrory, Pulama Lanai. They were trying to be sure that people were safe, and being sure they knew. So part of the process will be what should the signage look like when it says the park is closed. And I think that hadn't really been worked out, and we will get to that point where we have those details down. And then we'll make sure that the Park Council, Advisory Council, understands this is what we're looking at, and then go from there.

Ms. Aoki: Thank you.

Ms. McCrory: You're welcome.

3. Agenda Items for the November 19, 2014 Lanai Planning Commission meeting.

Mr. Ornellas: Anyone else? Alright, let's move on. Okay, so we're at Item 3, agenda items for the November 19th. Now there is a possibility that we may not have that meeting. They're still trying to get the . . . (inaudible) . . . There may not be even some issues that may be going on there. I mean we have a list and the Director does have that list from me about the items that I want us to, want him, the Planning Department to get back with us on, like, SMA boundaries and that kind of stuff and the SMA Rules. And then also with the -- I think most of you gotten the, gotten the letter today from the Director. I think Ron mentioned it. About the changing the dates. I've sent an e-mail to the Director, and I'm asking for him to create a public hearing and bring it back, an agenda item to this, to this Commission, so that way the people of Lanai can weigh in as far as changing the times of this meeting. So we'll see what happens with that. Hopefully he'll come over tomorrow with the Mayor's budget thing, tomorrow evening, so I'll get a chance to talk to him about that then. So, if you guys think of --. Go ahead, you want to say something?

Ms. Zigmond: Just on that item, in addition to the community meeting to be able to attend, Commissioners are not going to be able to attend if it's --. I mean, two out of this group don't work. The rest of us do.

Mr. Ornellas: That's, that's one of the points. Thank you. So, alrighty. So if we have anything else that you want to add to the agenda give it to, give it to these guys, to Clayton, as soon as possible and then copy me so that I have an idea. And then hopefully we'll have that November 19th meeting. And also another thing that I'm asking Clayton to do and I will e-mail the Planning Department that the reason why they, they can't have places here is because the hotels are basically legal to house people. What I'm asking Corp Counsel, Planning Department through

Corp Counsel, is to waiver that or exempt that, having the Planning Department go to the hotels first and to make their plans for housing. And if by chance there is no room available at the end, then the next step would be to go to, would be going to the community, like, Ron's always offered to, to house the Planning Department while they're here. So, I'm going to ask -- I'm asking them to create a waiver. Because even though they can't find business, they can't live, they can't stay here because there's no room the way it is now, we still have business to take care of. And we just can't, we just can't stack it, and stack it, and stack it until one day there's a, there's a room available, or four rooms available. So that's another thing that I wanted to put on the agenda for next time too. Something from Corp Counsel saying how to do that. So anything else?

Ms. Zigmond: Mr. Chair, I have a question. So, I don't want to answer this letter because I want there to be a public hearing, so can we just all put that on the side?

Mr. Ornellas: Yeah. You guys do what you want, or you can fill it out and tell them no.

Ms. Zigmond: Throw it away?

Mr. Ornellas: I mean, you guys can fill it out, but I will let you guys know how this thing kind of turns out so that if there's an agenda item on the next, on the next meeting and we have a public hearing, that's basically all I ask for and I don't think we can ask for anything more than that. Agree? Joelle, you awake? Okay, she's nodding yes. Thank you. So if there's nothing else, then this meeting is --. Any objections to adjourning the meeting now? Go ahead.

Mr. Marlowe: I've got one item that I would like to address and it entails -- first a couple of questions, and then I would like to address this flyer that was put out by Lanai Tomorrow. Who, who, if any are on the board, and what is Lanai Tomorrow?

Mr. Ornellas: Lanai Tomorrow is just a group of people who wanna, who wanted to, who sends out information to the community. There's no per se board or anything like that. It's just, it's just a name that they use.

Mr. Marlowe: Out of common courtesy most boards that would send out this type of information to the community, would it not been proper to first do this in draft form and send it to the board members for comments because you're saying in the beginning of this you're using terms like we, we'd, just set the record straight. Yet, you're signing it as a Lanai resident. It's improper. The board should have had either input or an opportunity. This commission.

Mr. Ornellas: The Lanai Planning Commission did not create that. I created it. I sent it out to Lanai Tomorrow. They paid for the postage because everybody got one, okay. That's why it's signed John Ornellas, resident. Okay.

Mr. Marlowe: But the fact that there's some inflammatory items in here, I believe, that's my opinion. There may be some misstatements in here that, I believe, are false. And when the Planning Commission is referred to in numerous paragraphs I really believe that the Planning

Commission, Commissioners, should have been cc'd on a draft and that's all I have to say.

Ms. Zigmond: Stu, those items on there are in the minutes from all of our meetings. If you would go back and read your minutes you would see where that came from.

Mr. Ornellas: Alright, Alberta, go ahead.

Ms. de Jetley: . . . (Inaudible) . . .

Mr. Ornellas: Understood. It's, it's basically something that we're gonna put on that –

Ms. de Jetley: . . . (Inaudible) . . .

Mr. Ornellas: Okay. Understood. So we can, we can add this discussion to -- this, this discussion then goes off record. This is off record. It's off the record. It's off the record I said. The meeting is adjourned.

H. NEXT REGULAR MEETING DATE: NOVEMBER 19, 2014

I. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 7:35 p.m.

Respectively submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Joelle Aoki

Shelly Barfield (from 5:30 p.m. to ~6:45 p.m.)

Stephen Ferguson

Kelli Gima

Stacie Koanui Nefalar, Vice-Chair (from 5:30 p.m. to ~6:20 p.m.)

Stuart Marlowe

John Ornellas, Chair

Bradford Oshiro

Beverly Zigmond

OTHERS:

Clayton Yoshida, Planning Program Administrator, Current Planning Division

Joseph Alueta, Administrative Planning Officer, Zoning Administration and Enforcement Division