

**LANAI PLANNING COMMISSION
REGULAR MEETING
DECEMBER 17, 2014**

APPROVED 01-21-2015

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 5:33 p.m., Wednesday, December 17, 2014, in the Lanai High & Elementary School Cafeteria, Lanai City, Hawaii.

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

Mr. John Ornellas: Alright, let's call this meeting to order on December 17th, 2014 in the Lanai High & Elementary School Cafeteria. It's 5:33 p.m. I just wanna let everyone know that at, at the, at the discretion of the chair public testimony maybe also taken when each agenda items is discussed except for the 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 of -- instead and will not be allowed to testify again when the agenda item comes before us. Alright, so is there anyone that wants to --. Well, I tell you what, let's, let's get through the minutes, and then we'll then open it up for public testimony.

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.

C. APPROVAL OF THE MINUTES OF SEPTEMBER 24, 2014, OCTOBER 4, 2014 AND OCTOBER 22, 2014 MEETINGS

Mr. Ornellas: Alright, so let's look at the minutes of September 24th, 2014.

Ms. Beverly Zigmond: Mr. Chair?

Mr. Ornellas: Yes, ma'am?

Ms. Zigmond: I have a question which I think will be a correction. It says it's, that's the regular meeting, but, yet, that's our CPAC meeting. So is it really a regular meeting or is it a CPAC meeting? Because October 4th minutes says Community Plan Update Meeting, and I believe that the September 24th one was a CPAC meeting because you open it as a community –

Mr. Ornellas: Yes...on the third paragraph it says this is the Lanai Community Plan Update by the Lanai Planning Commission dated September 24th, so you're right. Alright, any, any other corrections to the September 24th CPAC meeting, Lanai update? Any others? So can I have a motion to accept September 24th meeting with changes? Hello?

Mr. Stuart Marlowe: So move.

Mr. Ornellas: Alright. So who --? Kelli will second. Anymore discussion? All those in favor raise your hand. Okay, thank you.

It was moved by Commissioner Stuart Marlowe, seconded by Commissioner Kelli Gima, then unanimously

VOTED: to approve the September 24, 2014 Lanai Planning Commission meeting minutes with amendments as discussed.

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

Excused: J. Aoki, S. Barfield

Mr. Ornellas: Pass. Unanimous. Oh, and let's get to the -- I forgot the --. Shelly is, is not here, but everybody else is. And she'll be --. Oh, yeah Joelle, she's not going to be here tonight. But, Shelly's suppose to be back. Alright. Next up is the October 4th...October 4th Community Plan Update. Any, anyone see any changes? Seeing none, can I get a motion to accept?

Ms. Zigmond: I move to accept those minutes.

Mr. Ornellas: Kelli will second. Anymore discussion? All those in favor raise your hand. Okay, it's, it's everyone except Joelle and Shelly.

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

VOTED: to approve the October 4, 2014 Lanai Planning Commission meeting minutes as presented.

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

Excused: J. Aoki, S. Barfield

Mr. Ornellas: Then October 22nd. It's a regular meeting. And that was the introduction of our new commissioner, Stephen Ferguson. He had a lot to say that night, so --. Any changes to the October 22nd meeting? Can I get a motion to accept?

Ms. Zigmond: So move.

Ms. Gima: Second.

Mr. Ornellas: Okay, it's moved by Bev and second by Kelli. Any more discussion? All those in favor, raise your hand. Alright. That takes care of our backlog of minutes.

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

VOTED: to approve the October 22, 2014 Lanai Planning Commission meeting minutes as presented.

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

Excused: J. Aoki, S. Barfield

Mr. Ornellas: Alright so let's go on to Item D, the adoption of written Decision and Order. People call it D&O's, so. First of all, I wanna make sure everybody understands this is strictly about the desal plant. This is not, hasn't anything to do with the SMA for the construction of the pools and Manele Bay Hotel, so that, that meeting is going to happen in January. So, we won't accept -- I won't accept any testimony based on, on that, so we'll stick to what's on hand. Alright, so I'll open up the mic. There's a mic right here. It's one of the wireless mics to anyone who wants to come up and provide testimony. We're giving everybody a chance to speak their peace as well as it's going to be three minutes and Leilani has the clock. And she'll let us know when it's 2? 2 ½. Alright. And then after that it's my power, my power. Alright, so let's open the floor up. Do we have a written? First up is Winnie Basques. Do you wanna come up and grab the mic? If, if Robin was so kind he could probably take the mic to you and turn it on. Yeah, you can sit down right here in front of us. Thank you Robin.

Ms. Winifred Basques: Thank you Robin. Good evening. Mahalo ke a akua. Can you folks tell me about the desalination water, and what is it -- what's the purpose of it? Because I kinda lyre, kinda concerned about this desalination water, and what does it do for the community.

Mr. Ornellas: We're only taking testimony so maybe during the discussions we'll -- you'll get to hear that part of it. Okay? Alright Winnie, thank you. Bruce Harvey.

Mr. Bruce Harvey: Good evening everybody. I'm not sure if this the right time --

Mr. Ornellas: Can you, can you tell us who you are and who you're representing?

Mr. Harvey: I'm Bruce. I'm Bruce Harvey and I'm representing myself. I've nothing against the desalination plant other than some concerns about the reverse osmosis and distributing the high concentration saline water 160 to 300 feet below sea level, and anticipated to make its way down. That word kind of scares me -- anticipated. We are a mineral based island. Iron, sulfate, manganese, copper sulfates, which is...would be very corrosive like salt water. And I

would just like some assurance that isn't going to create some kind of sinkholes in the island. It might, you know, as far as the salt water getting down under the ground and before it makes its way out into the ocean. Because I keep seeing the word anticipated, and that's what that scares me, other than assured. If we can address that then I would be fine. Other than that that's kind of the only, the only things I have to say this evening.

Mr. Ornellas: Thank you Bruce. I appreciate you coming by. Next up is John Stubbart. Oh, you just wanted to sign your name and see what –

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

Mr. Ornellas: Okay. Alright. So that's it for, that's it for --. Anyone else would like to come up and testify? Sir, please come forward. Please tell us who you are and if you're representing anyone.

Mr. Kipp Praul: My name is Kipp Praul, and I'm just representing myself. With regard to desalination, I think it's important. And I'm no expert on desalination, but this is a technology which has been around for many moons. There is, there is very little new to be discovered about desalination. It's been done safely all over the world. In fact, I understand in Santa Monica right now -- I'm not certain of this -- but I understand Santa Monica they're planning a 30 million gallon a day desalination plant because of the drought. Now of course with all the rain that's coming in December they might rethink that. But of course, droughts come and go, and southern California has water problems somewhat like the problems that have been expressed over the years regarding Lanai. This is, in my opinion, a marvelous opportunity to provide opportunities on -- to provide opportunities for agricultural work, to deal with the issue of excess water use. It seems to me like it's a win-win for the island of Lanai. Is there some imaginable downside? Of course there is. Nothing is all good, or nothing is all bad. There's certainly some, some downside that somebody can imagine. But I do think that again given the fact that this technology has been around for a long time, has been tested throughout the world, and is continuing to expand in its application, we have to kind of think that gee maybe, maybe the problems that we are imagining in our mind aren't as serious as we might think. But rather the opportunities of water that are in our mind are there. That's one absolute that we do know, and I think we have to give that the majority of the emphasis with regard to how we consider this project. I appreciate the opportunity to speak. Thank you.

Mr. Ornellas: Thank you very much sir. Anyone else would like to come up? Butch?

Mr. Reynold "Butch" Gima: Good evening. I'm Butch Gima, resident. I would like to request the opportunity to reserve comment until after you guys discuss. Is that an option?

Mr. Ornellas: Negative. Everybody's getting three minutes and that's it.

Mr. Gima: Okay. I would have like to have seen the desal project implemented. We discussed this through, through the LWAC, through many meetings, and it's unfortunate that the planning commission had to come to a very important decision for this community through this process.

But the reality is this is the process you guys gotta work through. I think the discussions that both the LWAC had and LSG on this issue, I think you guys would have appreciated that discussion and dialogue and opportunity to get a lot of information. We've been very fortunate through the LWAC with John Stubbart being there providing a lot of information, very transparent and unfortunately you guys didn't have that opportunity. I know that Sally testified in terms of providing information that came from, you know, LWAC. And in every discussion we have had...the project has been supported. Now there are things that need to be addressed, you need to have the checks and balances so that people can feel comfortable with this process.

One of things LSG has done over the last probably two and half to three years has -- we have taken a different role and we were looking at what the overall economy and the economic viability of our community is. And in, in our discussions the desal offers that, that opportunity. Unlike the last 20 something years this economic model you all know has not worked. That's not to say that the desal will work in providing a more balance economy but at least it's an opportunity. And it's hard to say this knowing that you guys made your decision already. Now...historically and I've been guilty of this, a lot, a lot of times decisions have been made where we can slam the company because they make enough mistakes where we can, we can do that --

Mr. Ornellas: 30 seconds left.

Mr. Gima: Now if the decision -- if the intention, if the intention of the commission was to slam the company then in some sense you've succeeded. In terms of how that will impact the overall economic viability of the community, that's still up for debate. So as we discussed in LSG meeting one time you can win the battle, but lose the war. So I would like you to take that into consideration.

Mr. Ornellas: Thank you Butch.

Mr. Gima: Can you give me some more time after the last presenter?

Mr. Ornellas: No. Three minutes. Everybody's getting three minutes.

Mr. Gima: Okay, thank you.

Mr. Ornellas: Thank you. No give me stink eye. John, you still have nothing to say? Okay. Anyone else would like to weigh in on this? Yes sir, please come forward. Tell us who you are and if you're representing anyone.

Mr. John Bernier: Hi. My name is John Bernier and I'm representing myself. As I looked at these list of, I guess, this list of 25 of different things that the company has to do. I look at number 23 which is in -- it's says in the case of, you know, the plant has to shut down, the water can only be used for human consumption. Human consumption is not defined. Does that mean no showers, no toilets or you know, that is not well defined or is it only just for drinking water?

And, you know, if, if something were to happen, you know, let's say to the upper level aquifer, you know, some pumps were out, I'm sure that water that would be pumped up from the desal plant would not be just for human consumption. So I just think that, that is not well defined and needs a little more work at some point. Thank you.

Mr. Ornellas: Thank you very much. Anyone else? Yes sir, David, David Green?

Mr. David Green: Dave Green, resident. I, I guess I would like to pretty much agree with what Butch said. I think desalination is really important. I've only been on island eight years, but ever since I've been here LSG, LWAC has been wanting to have desalination. I think that it was very unfortunate that the commission did not give Pulama Lanai the 30 years that they asked for, and knowingly denied them 30 years that they asked for. And I think condition 23 it was made very clear to all of you that it was inappropriate and yet you went ahead and voted for it anyway. And I think you just kind of poked your eye -- poked your fingers in the eye of the guy that was going to take his own money and build a desal plant to try to make this island sustainable for the long term. If you have an opportunity to reconsider I urge you to do so for the good of everyone on the island.

Mr. Ornellas: Thank you David. Anyone else? You've already testified. Yes sir? No. No, the chair says no. So Gabe you have anything you want to say?

Mr. Gabe Johnson: My name is Gabe Johnson, Lanai resident, I represent myself. I, I kind of did a little research on my own on the desal plant, and from a guy who doesn't know much about desal it seems to me that it's a, it seems very nice and viable, and I'm for it. But I think the big picture is the one thing that has kind of protected Lanai from over development throughout the years, throughout the different land owners, through all of the trials and tribulations that Lanai has always had is the water has kept at bay in a way over development because, you know, water has been the key to all of the development. And by opening up the flood gates and having a desal plant, if that's what the community chooses, I think it's a real fine balance with over development and making it sustainable. So one of the things that I would want to say to the council is, or the community, is that as an American on Lanai is I'm kind of...democratically starved. I'm starved with democracy. I have no democracy. There's no way to be represented on Lanai because it's a one company town. And I think that the community and the council you guys are the only democratic voice that we have so you have big decisions and I appreciate that. It's kind of a -- there's a lot of responsibility on you, but when you make your choices, you know, try to, you know, do it democratically so that's all I wanted to say.

Mr. Ornellas: Thank you Gabe. Anybody else would like to come up and speak? No. No. Alright, so there's no one else that wants to talk except Butch but --. No, I'm not going to let you talk again. Three minutes is it. We're going to --. We're not going to talk all night so let's --. I'm going to close public testimony so we won't be hearing from...from you guys until after. Alright so let's move on to --. Let's go on to the adoption of the written Decision & Order. I first want to make a statement, opening statement.

D. ADOPTION OF WRITTEN DECISION AND ORDER

- 1. Proposed Findings of Fact, Conclusions of Law and Decision and Order approving the State Land Use Commission Special Use Permit and a Phase II Project District applications from PULAMA LANAI for the Reverse Osmosis Desalination Facility and Distribution System including the development of reverse osmosis desalination plant facility, administration building, water generation facility, and related improvements within the Manele Project District at TMK: 4-9-002: 001 (por.), 4-9-017: 009 (por.) and 010 (por.), Manele, Island of Lanai. (SUP2 2013/0028) (PH2 2013/0001) (B. Sticka) (Action on applications taken at the June 18, 2014 meeting.)**

The Commission may take action to adopt, adopt with modifications, or take some other action on the proposed Findings of Fact, Conclusions of Law, and Decision and Order.

Mr. Ornellas: This Special Use Permit application has been, has been discussed at least five previous meetings. We took...we took final action and approved this Special Use Permit back in June. What is before us tonight is a draft Decision & Order that should require limited discussion so we will allow three minutes -- which I just did -- to have anybody to say it. So I want us to also know that, if I'm not mistaken, we need to, I want to, or to stick to point as far as, as far as this, this Decision & Order. So everybody looked at their second, the second paragraph for, for D, it says the commission may take action to adopt, adopt with modifications or take some other action on the proposed Findings of Facts, Conclusions of Law and Decision & Order. Alright, so I want you guys to remember that. So let's...let's start the discussion. Does anyone have any comments, or if we wanna take any of these actions speak up.

If nobody has, I have a few. Okay. Alright, so I'm going to ask that we do some modifications to the D&O and the first one is --. And what we'll do is we'll vote on each, on each one as we, as we go through it, yeah. Any, any objections? Okay. Alright so this is #19 on --

Ms. Richelle Thomson: Excuse me chair?

Mr. Ornellas: Yes?

Ms. Thomson: Could I, could I just offer a little bit of context? So the Decision & Order is, is before you obviously. It's in draft form. This is your Decision & Order, this body's Decision & Order so it needs to accurately reflect the record that led to your decision. As far as on your agenda it notes that there is some other action that could be taken. Some other action could be to amend or rescind the decision previously made. So until this Decision & Order is finalized that remains an option for you to consider. Thank you.

Mr. Ornellas: And that's what I read in the second paragraph of that, right? Basically what is

written here on D1, second paragraph?

Ms. Thomson: That's correct. I just wanted to make clear that if the commission felt that it wanted to amend or rescind the entire decision –

Mr. Ornellas: Alright.

Ms. Thomson: -- you could do so.

Mr. Ornellas: Thank you. Alright so this Fact --. Where am I? Findings, Findings of Fact #19. Everybody see it? Okay. It states "Commissioner Stacie Lee Koanui Nefalar opposed the 30 year permit based on her concern that the project may potentially affect sea life, stating that she has no confidence in the project and would harm the ocean." I, I, I would like that, that sentence removed because I don't want Stacie to be -- don't want Stacie to be called out on this, on this permit.

Ms. Thomson: Chair, if I could offer a thought. I would recommend if you want to remove individual's names we could still reference a commissioner, you know, so that it's clear where that, either opinion or fact came from.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Yes Bev?

Ms. Zigmond: You know there were...there was a lot of discussion by all the commissioners and public, and I'm not sure that if the exhibits, if the minutes are part of the exhibits and they reflect the record of what happened that day, I don't see why we even have to say a commissioner let alone a particular commissioner when there was volumes of, of testimony both for and against.

Mr. Ornellas: Alright. Anyone else want to weigh in? Go ahead Kelli.

Ms. Kelli Gima: How was it determined whose specific concerns were going to be used? Like Bev said there was, I mean, endless amount of discussion from all of the commissioners and the community. So how was it determined that we're going to pinpoint this specific commissioner's concern?

Ms. Thomson: Thank you. That's a good question. If there are any other places in the transcript that referenced other facts that the commission feels should be in this Decision & Order we can put them in. As far as the statements made on the record, I picked -- I tried to find, within the record, all of the pertinent reasons that led to your decision. And that was one of the -- that combined with right above it, it says that these are different reasons why the commission felt that 30 years was too long. You know, one of them was the project operational status, island economy and then another was potential effects on ocean life. So, you know, it's up to you if you want to take out particular commissioner's name. That's fine.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: I would like us to have the opportunity to go through whichever Findings of Fact, Conclusions of Law that we want to change for whatever reason, that they are either inaccurate or otherwise, and let us say what it is that we want to say and vote on it.

Mr. Ornellas: That's what I just said didn't I? I, I started with mine first, and then we'll vote on each one, each one of the changes as we go through them. Okay? So instead of just putting them all in one big basket. Alright? Alright. So...I would entertain a motion to -- well, let's discuss it -- and entertain a motion to remove Stacie's name from this record, #19.

Ms. Zigmond: I move that we delete that third sentence in Findings of Fact #19, referencing Commissioner Nefalar.

Mr. Ornellas: Wait a minute. Wait a minute. Can you repeat that again? I mean, you want that whole thing removed. Is that what --? That's kind of what I wanted, but --

Ms. Zigmond: The third sentence, right, which says, right.

Mr. Ornellas: Okay. So removal of the complete third sentence. Can I have a second? Thank you Kelli.

Ms. Thomson: Chair, may I offer my thoughts?

Mr. Ornellas: Go ahead.

Ms. Thomson: The commission may want to consider having some reference to potential effects on sea life in the, in the Decision & Order because that was something that was discussed quite extensively.

Mr. Ornellas: Yeah, and you're correct but we have testing and all that other stuff that's in here, so that's all part of the, that's all part of the permit that the company has to do, so there's no need to duplicate it.

Ms. Thomson: It's your choice if you don't want that in the record.

Mr. Ornellas; Okay. So we'll second by Kelli, so discussion. Go ahead Stacie.

Ms. Stacie Lee Koanui Nefalar: Question for Corporation Counsel. What is, is there any downside with leaving my name in there?

Ms. Thomson: Often Decision & Order do have -- they name the person who provided that information. And it's for the ease of anyone reviewing this Decision & Order in the future so that

they know where that opinion or statement or fact came from in the record. And so that's the reason to include it. There's no downside and no upside necessarily other than ease of, of reference at some future date. For clarity of the record.

Ms. Koanui Nefalar: So not that, not that Pulama would sue me or anything -- I don't think so -- but is, is that a possibility?

Ms. Thomson: That's something we should discuss in executive session.

Mr. Ornellas: Now before, before we started this meeting today you used the word "judge"... when it pertains to having, to having this brought for, for review. You used the term "judge" am I right?

Ms. Thomson: If this, if this Decision & Order is -- if this decision is appealed, it would be appealed to the Circuit Court, and so it would be appealed to the Circuit Court on Maui, and then a judge would be involved in determining whether or not the decision was made accurately or whether it was arbitrary and capricious if it meets the legal standard for the decision based on the law that you are applying. So if it's appealed it would be appealed to the Circuit Court on Maui.

As far as the process, and procedure, and whether or not individual commissioners might be looking at liability in some form, we can talk about that in executive session, but not in open session.

Mr. Ornellas: Alright, thank you. We have a motion on the floor and it's been seconded. Anymore discussion? Seeing none. All those in favor of the motion please raise your hand. That's five. Passes. Okay, my second one.

Ms. Thomson: Chairman?

Mr. Ornellas: Yes?

Ms. Thomson: Commissioner Ferguson, right?

Mr. Ornellas: Oh, I'm sorry.

Ms. Thomson: Was not present during the Decision & Order so he may want to recuse himself from action on, on this.

Mr. Ornellas: Okay, let's take the vote -- let's take the vote again. All those in favor of the motion please raise your hand. That's five. What would you call him? Just...besides a good friend, what would you call him? He's not abstaining right? Is he recusing? He's recusing himself. Okay. And then Stu is a no. Okay. Leilani, you got that? Okay, great. Thank you.

It was moved by Commissioner Beverly Zigmond, seconded by

Commissioner Kelli Gima, then

VOTED: to delete the third sentence in Findings of Fact condition #19, referencing Commissioner Nefalar.

Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, B. Oshiro, B. Zigmond

Dissenting: S. Marlowe

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Yes ma'am.

Ms. Zigmond: Just because it is very, very similar...I am going to ask that, for the same reasons, that the entire Findings of Fact 21 be deleted. Again, it singles out Ms. Sally Kaye when there was numerous public testifiers and it singles out me when there were other commissioners who spoke in support of that. So I'm asking that Findings of Fact 21 be deleted in its entirety.

Mr. Ornellas: Alright...the motion --. Is, is that a motion?

Ms. Zigmond: I can --. I can certainly make it one, yes. I will move that that condition be removed. That Findings of Fact 21 be...deleted.

Mr. Ornellas: 21 removed.

Ms. Zigmond: Yes, please.

Mr. Ornellas: Do I hear a second?

Ms. Gima: I second.

Mr. Ornellas: Kelli seconds. So, do we have any discussion? I think you just said it right? Any more discussion?

Ms. Thomson: Chair, just for...just for clarity sake. It is good to have in the Decision & Order, you know, where you got the decision that you came up with. So, we, we can take it out. The -- obviously the, the transcript, all of the things that were filed, those are all part of the record, so it's not that this, this information can't be found. It's just more difficult to find if you don't have the basis for this condition in, in your Decision & Order.

Ms. Zigmond: But we don't need the faces.

Mr. Ornellas: Thank you. Alright, so any more discussion on 21? Removing paragraph 21? Seeing none. So all those in favor of removing paragraph 21 please raise your hand. That's five. Recuse, Stephen. And is that no? And that's a no for...for Stu. Got that one Leilani? Okay, so, let me --.

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

VOTED: to delete Findings of Fact condition #21 in its entirety.

Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, B. Oshiro, B. Zigmond

Dissenting: S. Marlowe

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Mr. Ornellas: You know, 21 did, did rub me wrong also. But when you read it, it doesn't -- it doesn't come up with the conditions, yeah. So on 22 I would like the first...first sentence to say, "On July 8, 2014, the applicant submitted a request that the commission rescind or amend its June 18, 2014 decision stating that" -- now this is the addition -- "one of the conditions, condition 23," and then you continue on with that, with that paragraph. So the only thing I want to add is "stating that," and then adding "one of the conditions." Because that brings it -- because it reference, it references that in 21, condition 23. So this then, 22, become the first time you see it in, in, in this D&O. Any objections? Can I hear a motion to, to accept that? Go ahead.

Ms. Gima: Can I just make an addition. To that same, to #22?

Mr. Ornellas: Okay.

Ms. Gima: Down at the bottom where it says "Applicant provided written oral and written testimony," I think you just gotta take out "written." It should just say "oral and written testimony."

Mr. Ornellas: Oh, okay. I see it's a typo, yeah. Applicant provide written. So it's just oral. So scratch that one. Is that -- does that -- written oral, is that something? Is there such a thing?

Ms. Thomson: It's a typo. Thank you for catching that.

Mr. Ornellas: That is a typo. Okay. Good. So the motion...somebody will make the motion to add that one...that one part at the beginning of the 22, and then remove "written oral." I'm sorry, remove "written," as part of the sentence for oral.

Ms. Gima: I'll make the motion for #22 to add in "one of the conditions," after "stating that," and to remove the typo "written."

Mr. Ornellas: Okay. Do I have a second? Oh, okay. You'll second it? Okay, great. Brad seconds it. Any more discussion? Seeing none. All those in favor of the motion please raise your hand. Everybody except recuse and Joelle. Alright, so, so Stu is a yes, and everybody else was a yes except for him, for Stephen.

It was moved by Commissioner Kelli Gima seconded by Commissioner Bradford Oshiro, then

VOTED: for Findings of Fact #22, in the first sentence, add "one of the conditions" after "stating that"; and to remove the typo "written."

Assenting: K. Gima, S. Koanui Nefalar, S. Marlowe, J. Ornellas, B. Oshiro, B. Zigmond

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Ms. Gima: I have a modification.

Mr. Ornellas: Go ahead Kelli.

Ms. Gima: Under Procedural History and this would be #4, at the end of the sentence it said "the commission declined to take action related to applicant's request." I proposed that we modify that by saying, "It was moved, seconded, and approved to file the communication as is with no action."

Mr. Ornellas: Can you repeat that again?

Ms. Gima: I make the motion for Procedural History #4, to replace the sentence that says "The commission declined to take action related to the Applicant's request," to replace that with "It was moved, seconded, and approved to file communication as is with no action."

Mr. Ornellas: Alright, is there a second for that?

Ms. Zigmond: I'll second that because I think it more accurately reflects really what happened.

Mr. Ornellas: Alright, when we get to the discussion you can --. Alright so it's second by Bev. Any discussion? Go ahead Bev. Oh, you've already said it? Alright, so anyone else want to --? Stu, you're okay? Alright. Go ahead.

Ms. Thomson: Do you mind just reading -- can I read this back and make sure it's correct? It was moved, seconded and voted to file the applicant's request without action. Is that accurate? I just wanted to make sure I got it right.

Ms. Gima: It was moved, seconded, and approved to file the communication as is with no action.

Mr. Ornellas: Okay? Go that one? Alright, so it's been moved and seconded, and all those in favor of the motion please raise your hand. Recused, Stephen, and Joelle absent. Everyone else is a yes. Oh and Shelly is -- Shelly's gone.

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

VOTED: for Procedural History #4, to replace "The commission declined to take action related to the Applicant's request" with "It was moved, seconded, and approved to file communication as is with no action."

Assenting: K. Gima, S. Koanui Nefalar, S. Marlowe, J. Ornellas, B. Oshiro, B. Zigmond

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Ms. Gima: And I just want to make that same modification also for the Facts of Finding #23 at the end where it, you know, it says that we took no action and I would just like it to state, you know, that it was moved, seconded and approved to file the communication as is with no action.

Mr. Ornellas: What is that again? Which number?

Ms. Gima: #23. So it would then -- what it reads right now is "The Commission filed the Applicant's communication and took no action." And what I think it should say is "The commission filed the applicant's communication, and it was moved, seconded, and approved to file the communication as is with no action."

Mr. Ornellas: And this was on Findings of Fact, right, 23? Okay. Alright, we hear a motion from Kelli and do we have a second? Bev second. Discussion. Seeing none, all those in favor of the motion raise your hand. That's five yays, one no, and one recuse, two absent.

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

VOTED: for Findings of Fact #23, to replace "The Commission filed the Applicant's communication and took no action" with "The commission filed the Applicant's communication, and it was moved, seconded, and approved to file the communication as is with no action."

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

Mr. Ornellas: Next, anyone?

Ms. Zigmond: I have one.

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: Finding of Fact #18. So we are looking at the first sentence, and my suggestion is to read as follows "The Planning Department recommended a 30 year Special Use Permit time limit based on the anticipated useful life of the desalination plant -- which is what we have right now, but here comes the change -- and stated that this was consistent with other long-term projects granted extended period, but extended permit time limits, although no other 30 year permit was identified" because --

Mr. Ornellas: So the addition will come with other long-term projects granted extended permits.

Ms. Zigmond: So what I'm doing is I'm putting something in the middle. Okay, so it's going to read "The Planning Department recommended a 30 year Special Use Permit time limit based on the anticipated useful life of the desalination plant, and stated that this was consistent with other long-term projects granted extended permit time limits although no other 30 year permit was identified."

Mr. Ornellas: Okay. Leilani, did you get that? Okay. So is there a second? Is there a second? Brad? Brad seconds. Any more discussion for this...this statement?

Ms. Zigmond: Just, just to put it on the record, again, we were -- there was no 30 year permits ever identified. And the most that we got was Planning Department had mentioned two, 20-year permits. One was an asphalt plant, and another was a cement plant. But that was 20 and not 30 so.

Mr. Ornellas: Alright. Anymore discussion? All those in favor of the motion please raise your hand. We have five yays, one no? And one recuse, and two absent.

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

**VOTED: for Findings of Fact condition #18, to amend the first
sentence to "The Planning Department recommended a 30**

year Special Use Permit time limit based on the anticipated useful life of the desalination plant, and stated that this was consistent with other long-term projects granted extended permit time limits although no other 30 year permit was identified.”

**Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, B. Oshiro,
B. Zigmond**

Dissenting: S. Marlowe

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Mr. Ornellas: Alright, moving right along. What's next? Who's -- anybody got, got something?

Ms. Zigmond: Okay, I have another one...if I may.

Mr. Ornellas: Sure.

Ms. Zigmond: Okay, Finding of Fact 11, and when I read this, I...shortly thereafter got my letter from HECO telling me about they're being bought out and they put this, this letter in there that talked about forward looking statements, talking about cautioning that any forward looking statement is not a guarantee of future performance, blah, blah, blah. And yes that was HECO, but I think it's very relevant here, so on Finding of Fact #11 I'd like to include forward looking statements to read as follows, "The proposed project could prove to be a dependable alternative water supply that reduces the island's reliance on the High Level Aquifer and could positively contribute to the availability of potable and brackish water on the island and meeting the anticipated long-term water demand. The project could have a beneficial impact..." and then continue on. So it's taking out those definite with...more likely.

Mr. Ornellas: Leilani, did you get that? Okay. You know I --. You want to --. Can you say it one more time just so it's clear in my mind?

Ms. Zigmond: This is because a Finding of Fact -- we can't make it a Finding of Fact. I mean, it's likely that it's going to happen, but it hasn't happened yet, so that was my reasoning. So it says, "The proposed project could prove to be a dependable alternative water supply that reduces the island's reliance on the High Level Aquifer and could positively contribute to the availability of potable and brackish water on the island, and meeting the anticipated long-term water demand. The project could have a beneficial impact on ag." And just continue as it is there.

Mr. Ornellas: So everybody clear? Can I have a second on that motion? Kelli seconds. Anymore discussion on this? Hearing none, all those in favor of the motion raise your hand. Five. All those against? Stu. And then we have recuse and the two absentees.

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

VOTED: for Findings of Fact condition #11, to amend the sentence to “The proposed project could prove to be a dependable alternative water supply that reduced the island’s reliance on the High Level Aquifer and could positively contribute to the availability of potable and brackish water on the island, and meeting the anticipated long-term water demand. The project could have a beneficial impact on ag...” and continue as is.

Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, B. Oshiro, B. Zigmond

Dissenting: S. Marlowe

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Mr. Ornellas: Alright anyone else? Go ahead Kelli.

Ms. Gima: #12...and I’m going to read this out loud, “Members of the public testified in support of the Special Use Permit application stating that they believe the project would provide public benefits mainly affordable housing, economic development and jobs, and an additional source of potable water for human consumption and water suitable for agriculture.” I want to make a motion to, to delete this entirely. I, I don’t feel that this reflects the numerous amount of testimonies that test -- offered by the public that testified on both sides. I think there was definitely some support but there were also concerns and oppositions, and that wasn’t reflected in here, and I don’t think when I was looking through these exhibits cited down here, I don’t feel that that accurately supports this statement. So, yeah, I move to delete this entirely.

Mr. Ornellas: Alright. Are you going to make that a motion?

Ms. Gima: Yes.

Mr. Ornellas: Alright, can I get a second on the motion? Stacie? Stacie seconds, seconds it. Any more discussion on this?

Ms. Zigmond: Mr. Chair, I just wanted to add something to that. The only thing that I found any where that talked about affordable housing was Mr. Pat Reilly’s testimony in June which asked for five years, and required, asked for an expanded affordable housing related to the desal facility. So it wasn’t -- you know, I don’t think that was accurately reflected and that’s why I’m seconding that motion.

Mr. Ornellas: Okay, so I guess we skipped right over the discussion part. Unless there’s more discussion. Anyone else? Okay, seeing, hearing none, all those is favor of removing 12,

paragraph 12 on the -- what is this, what is this -- Findings of Fact, #12. Alright, so all those in favor raise your hand. There's five. All those against? Stu? One recuse and two absent.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stacie Koanui Nefalar, then

VOTED: to delete Findings of Fact #12, "Members of the public testified in support of the Special Use Permit application stating that they believe the project would provide public benefits mainly affordable housing, economic development and jobs, and an additional source of potable water for human consumption and water suitable for agriculture," in its entirety.

Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, B. Oshiro, B. Zigmond

Dissenting: S. Marlowe

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Mr. Ornellas: Alright, anyone else? Stu, you have anything that you want to add or --? No? Okay. You're done? Go ahead. Bev, you have one more?

Ms. Zigmond: I have one more and that is Findings of Fact 17...I'm thinking that that should be deleted because it's a non-existent exhibit. It was no where to be -- I couldn't find it any where.

Ms. Thomson: Exhibit 9 should be the revised staff report and recommendation dated June 18th.

Ms. Zigmond: Right, but I think the conditions on there are different than they're listed on this Findings of Fact, and we want this to be accurate.

Ms. Thomson: If you feel it's inaccurate it's your choice.

Mr. Ornellas: You make a motion to remove it? Who's going to second it? Go ahead Brad. Brad seconds it. Anymore discussion on removing #17, Chapter -- paragraph 17?

Ms. Gima: I think it was when looking at this exhibit, the conditions ended at 20, so I don't think it talked about 22, 24 and 25.

Mr. Ornellas: Okay. Is that it for discussion? All those in favor of removing #17 raise your hand. All -- okay so that's five. All those against? One. Recuse and two absent.

It was moved by Commissioner Beverly Zigmond, seconded by

Commissioner Bradford Oshiro, then

VOTED: to delete Findings of Fact #17 in its entirety.

Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, B. Oshiro,
B. Zigmund

Dissenting: S. Marlowe

Excused: J. Aoki, S. Barfield

Recused: S. Ferguson

Mr. Ornellas: Alright, any more from anyone? Members? Let me ask Corp Counsel, so based on these changes, can I ask to adopt with the changes?

Ms. Thomson: I don't think it's necessary at this point since you've already, you voted on each one of them along. They are quite extensive so what I'd prefer to do is bring this back to you with all the changes made so that you know that I've gotten them correct. So it would be to, you need to make a motion to defer this to the next meeting.

Mr. Ornellas: Alright any objections to that to defer so that the County can get the changes into the, into the document? And then I guess they're going to bring it back to us before -- for signature. Okay. So that would be the SMA the 20th of January. Are you guys going to be able to get it done by January? Okay, so we have SMA Manele, January, and we'll also have this in January. Just nod your head yes.

Ms. Thomson: It's really up to you guys. Yeah, I can have it ready by then. No problem.

Mr. Ornellas: Alright. Alright, so January we look forward to finish -- finish off the Special Use Permit and then also the SMA. Alright? Alright, so members, any more comments about this?

Without any opposition from the Commission, the matter was deferred to the January meeting, to allow the Department to incorporate the amendments, as discussed, into the Decision & Order.

Mr. Stuart Marlowe: One comment. Can we --

mr. Ornellas: Go ahead.

Mr. Marlowe: Can we have a discussion as to whether or not it would be appropriate to revisit the 30 year time line permit versus what was voted on?

Mr. Ornellas: It's already been voted on and Pulama has the permit for 15 years to continue, so I'm going to say no.

Ms. Thomson: Chair if I may? It is up to the Commission, the commissioners if anyone wants

to offer a motion to amend the decision previously made. That is an option of this board. So, you know, whether or not the motion would prevail or not -- I can't say -- but it is an option if the commissioners wishes to offer such a motion.

Mr. Ornellas: Okay. Stu, you want to make a motion please?

Mr. Marlowe: I'd like to make a motion that we reconsider the time line on the permit and authorize the 30 years that was originally requested.

Mr. Ornellas: Only the 30 year.

Mr. Marlowe: Correct.

Mr. Ornellas: Okay. Can I have a second on that motion? Seeing none...sorry.

It was moved by Commissioner Stuart Marlowe to reconsider the time line on the permit and authorize 30 years that was originally requested. Due to the lack of a second, the motion died on the floor.

E. DIRECTOR'S REPORT

- 1. Planning Director William Spence's October 16, 2014 memo to the Lanai Planning Commissioners transmitting the Meeting Schedule survey in order for the Planning Department to determine the feasibility of holding regular Lanai Planning Commission meetings during the daytime rather than in the evening.**

Mr. Ornellas: Alright, so let's continue with our agenda. Director's Report. Director Spence? I don't know if everybody knows Director Spence. He's the director for the Maui County Planning Department. A really nice guy.

Mr. William Spence: Good evening commissioners and thank you Mr. Chairman for the compliment. First off -- okay, so we're on the...next agenda item, E1, Director's Report. I understand that --. Okay, the Planning Department sent over a memo to the commissioners for the consideration of going to day time meetings. I understand there was quite a reaction to that and, you know, I want to apologize if that came across in any way other than the way it was intended but to get the commissioners feedback towards...towards going to day time meetings. And I'll explain why this becomes an issue for the Planning Department. There's really two reasons. One of them is staffing, the other one is budgetary.

The...the budgetary item, what I, what I handed out -- I didn't do this spreadsheet, but this was, this was done in order to compare the, the cost of staffing the different planning commissions. In summary, the -- it cost approximately twice as much to staff the Lanai Planning Commission than it does for Molokai. And the reason for that primarily because we're staying over night.

It takes -- you know, there's a lodging expense, there's the overtime pay, etcetera.

The reason we stay overnight is -- everybody remembers -- is it use to be that we would come over, we would fly over on a charter flight, come staff the meetings, you know, meeting is pau. Actually, I remember that it was...the end of the meetings were sometimes dictated upon FAA regulations where the pilot says, hey I gotta get out of here because the regulations say I can't fly, you know, the following day, etcetera. You know, the pilot needed some rest. So it was, it was a pretty easy thing to come over here. You know, we would leave the office a half hour in advance of the flight, take off, come over, staff the meetings, take off, everybody was home by about 11 o'clock at night, sometimes a little later. We know February last year rolled around and that changed a lot of things for...for both this commission as well as the Planning Department, not just the people who staffed you, but, you know, everybody, you know, when we lost staff members and the pilot that everybody knew.

As an interesting sideline both Doug Miller -- I think this commission knows Doug Miller -- and Mark King, they're back at work so I'm really happy to announce that. And they're both very enthusiastically back at work. It's been a really a good thing for the both of them. So, I'm happy to announce that.

But since then, since we're, since we're not flying, we're not doing the charter and there's no other alternative, we're staying over. It runs in to, besides the additional expense, it runs into staffing issues where --. And I'm not, I'm not bemoaning this. I'm just stating this is what it take. It takes approximately 24 hours for us to staff a planning commission meeting because the additional time needed to drive to Lahaina, take the ferry, check into the hotel, come and staff the meetings, and then catch the ferry back. By the time we're back in the office, it's approximately 24 hours. And, you know, I mean certainly it is our responsibility to staff this...to staff this commission and, you know, I'll say we enjoy doing so, but the past year has, has brought a lot of changes and, you know, we need to be responsible in how we spend tax payers money. We need to be responsible in how staff time is allocated. So --. Certainly.

Ms. Zigmond: So, if, when you go to Molokai, you also stay overnight, and I understand that they have cheaper places to stay. Oh, no, you're not staying overnight.

Mr. Spence: That's correct.

Ms. Zigmond: Ah so . . . (inaudible) . . . That makes a difference. Okay. The ferry you get to Molokai and back on the same day.

Mr. Spence: Yes.

Ms. Zigmond: What time is their meeting?

Mr. Spence: Clayton? It's 11 or noon. And we do expect the cost of lodging to go up in this coming year. So...so this...and really instead of presenting that memo just via mail or however it came to you, we really should have just come and discussed it with the chair and put it on the

agenda and said, you know, commissioners, we -- this is something that we really need to deal with and discuss it with you. So is it, is it clear that this is --. I mean, this is something entirely new for us where...these changes have taken places, the circumstances have changed since the normal functioning of this commission. The...I expect with the coming budget hearings by the County Council some of the Council Members are going to be having, you know, they're going to have questions about how staffing billing for the different commissions and, you know, so I want to be prepared to also answer some of those questions.

Mr. Oshiro: I have a couple of questions.

Mr. Spence: Sure.

Mr. Oshiro: First of all, the people that on Molokai Council -- the people that is on Molokai, do they, are they employed? Because right now -- no -- right now there's only two of us that would be able to make the meetings, okay, because we both retired, okay. The rest of the people work 8:00 to 5:00 or whatever they work. They work during the day, okay. I just wondering because, you know, everybody up here, you know, we volunteering our time, okay. And, so if you asking these people to take four hours of vacation time to come to a meeting, I don't think that's right.

Mr. Spence: Okay. And this is the kind of feedback that I wanted to hear. You know --

Mr. Oshiro: No, I got one more. One more question.

Mr. Ornellas: Go ahead.

Mr. Oshiro: Why, why can't you do this -- we all hooked to the internet -- why can't you do this internet connection? Public testimony you still can do it live on, on live TV, you know. I mean, it's, it's -- it would be the same thing. You know, you have it live on TV or whatever connection we got. Why can't you do it that way?

Mr. Spence: Okay, I know that there are, there are practical issues with that as well as there have been legal issues that have come up. For instance, Department of Health one time held a public hearing on Oahu into the different counties, and they loss access. So that cut off all the public testimony and, you know, there's, so there's problems with that. You know, the public wasn't heard, transcripts, you know, aren't properly done. Those kinds of things happen.

Mr. Oshiro: But if the public need to here, they going be in front of the council member right? I mean, if you lose connection, you going lose everything. You not going have a meeting at all.

Mr. Spence: I don't think I understand.

Mr. Oshiro: What I'm saying --.

Mr. Spence: We need to be . . . (inaudible) . . .

Mr. Oshiro: Yeah. Okay, you -- everybody can be on, on, on the internet connection or whatever you want to call that. And we still can see each other. We can have public hearing. And if we lose connection, you lose the meeting totally.

Mr. Spence: That's correct. We lose the meeting entirely.

Mr. Oshiro: Yeah, you lose the meeting completely. But, we still got your public hearing because the commission is, the person going be right in front of us. And if we lose -- you going have to hook your feed back up. It's not going down for two hours or three hours. This is 15 minute, 10 minute break.

Ms. Gima: Are you saying, like, if the County staff is on Maui and they come in, like, via poly-com, but we're here and all . . . (inaudible) . . .

Mr. Spence: Okay. I -- this is something that has come up in other forums as well. There have ...there have been -- there's been some legal issues with it, but there's also been, I mean, just as a practical matter, if we're not here to staff you the --. I mean, there's a, there's a disconnect with just letting the, the commission meeting go without staff being here to, to answer things. Sometimes meetings would have to be held over if -- I mean, entirely held again -- if there's a break in the internet connection.

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: I'd like to piggy back on what...on what Brad said about it really deterring commissioners, people to apply for the commission unless they are retired. But in addition to the commissioners, most of the public still works, and I think when we had our CPAC on Saturdays there were a fair amount of people, there's a fair amount of people at night. If you have it during the middle of the day and you're not going to have that same community turn out, and we need the community to be here, as well as, we need commissioners to be here. And I think it's really a, an injustice to ask those who are working to have to take our personal time off if we even get that. I, I wished I worked for the state. I know you have a very liberal days off. I don't.

I don't know what the solution is. I know John has said, suggested before having, making an exception where you all could stay at an un-licensed bed and breakfast. I, I don't know what the solution is, but the day time thing isn't going to work.

Mr. Ornellas: They...they don't think outside of the box so. Anyway but we do have people on Lanai that are pursuing getting their bed and breakfast and their, their short-term rentals and stuff like that legalized, so you'll be seeing permits for that coming to you in the very near future. In fact, there's one, I noticed already on here. Which one is it? It's the first one. It's Kupa's one. So, I mean, I don't think he has four bedrooms so, but he's, he's trying to be legal. So we have others that are going to be trying to be legal, and so that, that money that...the \$750, the \$750 rooms will not be that in the future, and we would hope that the Planning Department would --

Mr. Spence: Okay and --. Pardon me Mr. Chairman, but we do think outside the box. That's why we're bringing this up because otherwise we wouldn't -- there would be no agenda item. So the --

Mr. Ornellas: Alright. Anyway what about Saturdays? We did, we did Saturdays for, Jesus, at . . . (inaudible) . . ., but maybe one Saturday. Do it on a Saturday. You guys come in on the 10 o'clock boat and go back on the 4:30 boat.

Mr. Spence: We can discuss the Saturdays. That would certainly save a lot on the time. There may be some technical issues with that, but we can, we can certainly discuss that internally.

Mr. Ornellas: Okay because I have the key to the Senior Center so getting in and out of that place is not a problem. Maybe next meeting you can add Saturdays as a, as a --

Mr. Spence: We can discuss that for Saturday.

Mr. Ornellas: Yeah. So that way we can see what Lanai, Molokai, and then put it down as a Saturday. Lanai Saturday versus our regular weekday, the cost.

Mr. Spence: Okay. This was just a comparison. I mean, I'm not sure any prices are any different on a Saturday versus --

Mr. Ornellas: Yeah, but if we have something to look at, then we have something. It doesn't have to be dead on, but you know it's going to cost so much for this, for that, and then for boat trip. Then you need a car, or Rabaca, or -- and lunch, lunch for us.

Mr. Spence: I'm not sure anything is different on Saturday.

Mr. Ornellas: There would be no lodging so it would be a lot cheaper.

Mr. Spence: That's what we're discussing. I mean, you can just look at this and delete, you know, certain expenses.

Mr. Ornellas: Alright. So -- well, I don't --

Mr. Spence: No this, this spreadsheet just reflects the current state. That, that's all this is meant. It was just informative for the commission. I'm not projecting.

Mr. Ornellas: Okay. And you're not, and that you're also not making this thing...you're not going to enforce it right now.

Mr. Spence: No. We brought this to the commission for discussion.

Mr. Ornellas: Okay. Alright.

Ms. Gima: I have a question. So, would the...would the commission have to vote on this or would this just be something that you guys decide to change after having a discussion with us? I mean, how does it work to get what -- who has the final say on what the new schedule would be like?

Mr. Spence: No, I think we would come back and, after we discuss some things internally, we would come back and talk to the commission about it again.

Ms. Gima: Okay.

Mr. Spence: So --

Ms. Gima: It's not like anything is being changed, like, in the next couple of months or --

Mr. Spence: No, I don't think all of sudden we're going to announce that we're going to do this on Saturday, coming on, you know, day time.

Ms. Gima: Okay. Thank you.

Mr. Ornellas: Questions commissioners? Go ahead.

Mr. Marlowe: Yeah, I have a question. Those that are salaried or hourly employees, has anybody on the commission talked to their employer, asked whether or not if a change were made, let's say it was a 2:00 to 5:00 time line on a Wednesday, once a month, whether those three hours could be made up in the rest of the month? Whether or not if it's a loss of pay and the...the Maui County might be able to in lieu of all of the other expenses that they would avoid, maybe they can make up that salary loss. It's three hours a month. Has anybody talked to their employers and said, if this occurred how would it impact, what can we do to get around it, and I suggest before we become the party of no, we do a little research. I think that the people that come over are making great sacrifices. They've got families, they gotta get kids feed, they gotta pick them up from school. They're not there. And if we can comply, I think it's a reasonable request. I think that there should be --. You know, I employ a lot of people. And if someone came to me doing similar work, something for the good of the community and they said I need three hours on a Wednesday once a month, I'm sure that any reasonable person could work it out. So before we all say, no -- public testimony is another issue -- I think we need to have those employers asked and see what kind of answers we get. I think that's fair.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: I'd like to apply for job with Stu. It would probably be a lot less stressful than my social service job. And I know that at least Kelli and myself...providing social services, we don't have quite that flexibility. I truly appreciate the Planning Department's efforts. All of us commissioners have the same kind of efforts, feeding families, and, and spending lots of time

preparing for these things. So it's not a question of being inflexible.

Ms. Gima: And I, and I -- and you're right Stu, I think we could all talk with our employers. I know, for myself, I can go and request vacation for three hours once a month. But I think it also goes back to the public testimony issue. I mean, how many people are we going to have coming to these meetings and giving their valuable, you know, testimony.

Mr. Ornellas: Okay, so let's --. You're going to come back for more information for us in the future?

Mr. Spence: Sure. You should take public testimony Mr. Chairman.

Mr. Ornellas: Alright. Yes, Bruce, come forward. And then followed by Butch if he's, if he's got something to say, and then Winnie.

Mr. Harvey: Hi. I'm Bruce again. It seemed like you're really concerned with public testimony and your . . . (inaudible) . . . And you won't have half of the people showing up for these meetings if they're held during, say 11 o'clock during the day. I mean, Molokai nobody's working, so of course you've got people coming. Here's everybody's working. If not one job, two. So, and for us, for everybody to go to their employer and go, oh, yeah, I forgot I gotta take two hours off because I have to go, I wanna go to this meeting. Well, that's not going to fly. I, I don't want to be that pessimistic about it, but I just can't see it working. And it would seem like with the added taxes that Ellison is gonna be paying, putting money into the Maui County . . . (inaudible) . . . there should be money for the budget for them coming over here and staying overnight. Thank you.

Mr. Ornellas: Thank you Bruce. Butch?

Mr. Gima: Butch Gima. In the time when voter turn out is so low, I think County and State government should do everything possible to be inclusive, not exclusive. And I think if you do not have the Planning Commission meetings or any other type of public meetings in the evening here on Lanai, you're not going to get participation. Now several, several months ago when the Mayor's cabinet came over we met, LSG met, with Sandi Baz and several of the other cabinet members. And so we voiced our opposition to changing the time, but, we also offered a solution or a recommendation and that was two fold. One, instead of flying, why don't you call Expeditions and see if you can take a charter back. You will cut down a lot of costs that way. Keep in mind that Lanaians when we go over for meetings, take Expeditions, we almost spend a whole day over there and so I think it's only equitable that Maui Island staff do the same.

The second thing that we suggested to the administration was historically representation by County and State representatives were handcuffed because the travel budget was not equitable. Our State representative, our State Senator have the same type of travel budget as their, their counterparts. And so there needs to be some leadership in terms of changing the mind set that for a tri-isle county you have to adjust the budget to reflect that you're gonna to have to increase the budget to properly serve the constituents in the tri-isles. Absent doing that

then I think both the County and State leaders are not doing their job. Now as someone who testifies, I don't want to take a couple of hours of vacation to come and testify. So again, if you don't, if you want...if you want people to participate, I think you need to keep it at 5:30, 6:00. Thank you.

Mr. Ornellas: Thank you Butch.

Ms. Gima: Can I just make a comment?

Mr. Ornellas: Go ahead.

Ms. Gima: I think at that, that meeting with the Mayor and his cabinet came over, and that was the first time that they changed it to the day time, you had -- the participation was so low. I mean, you would have the Senior Center packed with people testifying and, and really passionate about what they're testifying about. And that last month's one, it was bad. There was -- the union hall was pretty empty. And then it's, then it's a waste for all the County people who came over and just spent all that money to come over and no one showing up and you guys aren't getting valuable testimony. And that's why we, we brought that up that day we were there to let them know obviously this, this isn't going to work.

Mr. Ornellas: Another thing that, that I've been thinking about is, you know, we are the only County driven board or commission that have meetings on this island. Nobody else has meetings on --. You know, Police Commission is there. Liquor Commission is there. You know, everybody's there. So, we, as community members, if you want to be, if you want to be on a board or commission like Bradley Bunn, tomorrow, he's gotta go Cost of Government...tomorrow. So, you know, there's a lot of people here sitting in the, that have to go to Maui. But we are the only ones that has this, this opportunity to speak to, to -- and then also listen to our constituents here so. But anyways, let's -- we can discuss this some more.

Mr. Spence: Absolutely.

Mr. Ornellas: Alright? Alright. So...Winnie?

Ms. Basques: Winifred Basques. I live on the island of Lanai, 52 years, okay. I see all these changes, everything going on, whatever, whatever. Coming down to the nitty gritty, I refuse to see this thing come up on a week day. I refuse, why? Like Brad and Stuart...only two people. Is this go underneath the sunshine law? Are you folks abiding by the sunshine law? Because why, there is not going to be nobody here to listen to what get on the paper, and where is the testimony going come from? The air. 'A'ole pili kia. That is a no-no. When you do something, you folks is obligated to come here and do your thing. Greet the community, greet the people, and what they have to say and what is all about. It's not like expense --. Like what Butch is saying, you folks can make arrangements with Expeditions to come at night to pick you folks up. When we have festivals, they go home at 10:30 at night with the Expedition. Then you don't have to stay overnight. You can come in the evening, make arrangements, and go back on the boat. Even the shuttle will take you down to the harbor. So there are reasons why. I

don't know what you folks doing. I can tell them, I refuse to hear what you folks have to say about coming that time. For what? For your folks obligation. What about the people here? We live on this island. You folks don't live on this island. We live here day to day, and we see issues that comes up. But who are we gonna talk to? When you folks only come once a month, Wednesday, and then that's it. Then you folks --. There is no feed back to anybody who comes here and say they manao. Saying what it's all about. I hate to say this, but he telling me for tell you folks, no, 'a'ole pili kia. That means stop it right now, and go forward what we have been doing all this time. Thank you John.

Mr. Ornellas: Thank you Winnie. Appreciate it. Dirty lickings if you don't listen to her. Okay, anyone else wants to talk about this? Go ahead. Come Bart. Tell us who you are. Oh, Gerry wants to talk too? 10-4.

Mr. Bart Baldwin: Bart. My name is Bart Baldwin. I'm just representing myself. And, what I understood earlier in this meeting, people can submit written testimonies as well as presenting orally. So even if you had it at a different time people were absolutely interested in it they can still provide their testimony in written form, correct? Okay. Thank you.

Mr. Ornellas: Thank you Bart. Gerry?

Mr. Gerald "Gerry" Rabaino: Aloha.

Mr. Ornellas: No, wait a minute, Leilani's changing the tape. You not going use the whole tape now. Alright Leilani. Go ahead Gerry.

Mr. Rabaino: Okay, Gerry Rabaino on Lanai. I oppose the day time meeting because much of Lanai people that have issues want to hear face to face conversations, and they like to know their replies to their issues. So as John said earlier come during 4:30 and go back, go whenever you need to go back, or you come early in the morning, on the first boat, go back on the four o'clock boat. That's more feasible. Because we -- well, when I go for union, we go first boat and we come back on the 3:15 leaving Maui. So if we can do that, you guys can do that. But for those that are less fortunate that don't have the budget to do that, it's only fair that you come and present yourself on the island of Lanai where Lanai people can come out and talk to you folks. That's the only way they going get interested especially the younger generation because there's a lot of -- the old folks are disappearing. So we have to get all this government stuff on this island, you know, to get the feedback that we need from you folks and hear our issues. This community is growing and if you're not aware we already have a big housing issue, okay? So you need to be here. I'm just gonna leave on thought for you folks. Three families and one toilet in one house. That's our housing issue. Thank you very much.

Mr. Ornellas: Thank you Gerry. Anyone else want to weigh in on this? Okay, so let's move on.

Mr. Spence: One more comment Mr. Chairman?

Mr. Ornellas: Go ahead.

Mr. Spence: I think it is --. I mean, well, I appreciate the one comment about, you know, internet meetings. I, I agree with Gerry. I would much rather be here in person. I think there's something lost through Skype and all that stuff. You know, the personal one on one is very necessary to make the commission run.

Mr. Ornellas: Thank you. Alright, so let's move on with our agenda. What is --? Open, open applications. Are you going to say something, Clayton, or you just came along for the ride?

2. Open Lana'i Applications Report as distributed by the Planning Department with the December 17, 2014 agenda

Mr. Clayton Yoshida: Yes, we submitted our list of open Lanai applications if there are any questions about the list.

Mr. Ornellas: Yeah, further down, about half way down, there's a, there's two Four Seasons applications and I think one of them is the SMA. That's SM1. Is that -- am I correct?

Mr. Yoshida: Yeah, that's the one you're going to deal with next month.

Mr. Ornellas: Next January. Okay, so what about PH2?

Mr. Yoshida: Yeah, that's Phase Two Project District approval because it's in the Manele Project. Portion of it is in the Manele Project District.

Mr. Ornellas: Okay, so are we going to deal separately with each one, separately, or are we going to deal with all of them one time?

Mr. Yoshida: We're going to do concurrent processing, so we're going to deal with the Special Management Area Use Permit and the Phase Two Project District approval for improvements to the Manele Bay Hotel, together.

Mr. Ornellas: So all at the same time?

Mr. Yoshida: Yes.

Mr. Ornellas: And then also it says temporary tent, SM2.

Mr. Yoshida: Yeah, that's, that's done. Well, actually, I guess, it was an SM7. It was an SMA Minor Permit. That's when all of the hotel rooms were bought, bought out, and they had a temporary tent erected at Manele, and we did issue an SMA Minor Permit for that.

Mr. Ornellas: Alright, didn't we, didn't we ask that all permits come --. We discussed that, but I guess we didn't vote on it, on --. No, this was, this was us looking at every permit, SM Permits because there's a minor, right? There's a dollar figure that, that determines between minor

versus major. And we wanted to see all of them because, I mean, we don't have that much stuff to start with. So if we looked at all of them and make that decision, that way we'll take some of the pressure off of Director Spence here so he doesn't have to sign that off in his office.

Mr. Yoshida: I think that was in the context of amending the Lanai Planning Commission SMA Rules. But as it currently stands, the Director approves SMA Minor Permits.

Mr. Ornellas: Okay, so that's one of the things that we need to --. January is going to be screwed. Yeah, we did. I did ask for it many times and never got it because whatever. February, we can put this, the SMA Rules, on the February one?

Mr. Yoshida: Well, we'll see how it goes in January. But we do have a couple of public hearing items -- well, when we talk about future agendas coming up in February, I think two public hearing items in February. So, depending on how the meeting goes in January, you know, I don't know what kind of time we'll have available.

(Commissioner Shelly Barfield attends the meeting at 7:12 p.m.)

Mr. Ornellas: Okay, we'll know in January if February can be --. But you guys are not gonna cancel the meeting just because we want to talk about SMA Rule changes, right? Okay, we'll get to it the next month. And then -- so, you know, members, I think these were included in your packets. Okay, the one...the one dated with the...the one with Alan Arakawa's initials, his name, this is gonna probably come to us in February, okay, so don't get rid of it. Okay. And then the other one that came from Gina Flammer, this is just FYI. Okay? So we're gonna go --. Is that it for you? I mean, is that --

Mr. Yoshida: Yeah.

- 3. Agenda Items for the January 21, 2015 Lana'i Planning Commission meeting.**
 - a. Public hearing on Pulama Lanai's applications for a Phase II Project District Approval and Special Management Area Use Permit for the proposed Four Seasons Resort Lanai at Manele Bay Improvements project. (B. Sticka)**

Mr. Ornellas: Anybody got anything for Clayton? Thank you. Alright, so, our next regularly scheduled meeting is January 21st, and we will do the SMA for Manele Bay Hotel, and, so please be here. And especially -- did everybody get their, their disc for that permit? Okay.

Mr. Ferguson:(inaudible) . . .

Mr. Ornellas: You can't open? Can we --? Can he get a --. He said he can't open up. Can he...get a binder? So can you, can we get him a binder then if he can't open it up on his

computer? Can we do that Clayton? Director? Can we get him a copy, a binder please? Yeah, the SMA application. Yeah, the 21st, the SMA, right.

Mr. Ferguson: . . . (inaudible) . . .

F. NEXT REGULAR MEETING DATE: JANUARY 21, 2015

G. ADJOURNMENT

Mr. Ornellas: You're gonna need a damn forklift to lift that binder. Alright, anybody else? Any comments or --? Hey, you snuck in. Alright so hearing none, can I get a motion to adjourn? Thank you all for coming tonight.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 7:15 p.m.

Respectively submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Shelly Barfield (from 7:12 p.m.)
Stephen Ferguson
Kelli Gima
Stacie Koanui Nefalar, Vice-Chair
Stuart Marlowe
John Ornellas, Chair
Bradford Oshiro
Beverly Zigmond

EXCUSED:

Joelle Aoki

OTHERS:

William Spence, Planning Director
Clayton Yoshida, Planning Program Administrator, Current Planning Division
Ben Sticka, Staff Planner
Richelle Thomson, Deputy Corporation Counsel