

**URBAN DESIGN REVIEW BOARD
REGULAR MEETING
APRIL 7, 2015**

APPROVED 05-05-2015

A. CALL TO ORDER

The regular meeting of the Urban Design Review Board (Board) was called to order by Mr. Clayton Yoshida, Planning Program Administrator, Department of Planning, Current Division, at approximately 10:09 a.m., Tuesday, April 7, 2015, in the Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

Mr. Clayton Yoshida: Okay, good morning. I'd like to call this meeting to order. My name is Clayton Yoshida. I'm the Planning Program Administrator of the Current Division in the Department of Planning. And note for the record that we have a quorum of the Urban Design Review members present. And...I guess the main purpose of today's meeting is introduction of new members, election of officers, and an orientation workshop. So with that, I guess, the Vice-Chair Bob Bowlus is not able to attend today's meeting, but, I guess, at this time if there's any public testimony or members of the public present. Okay, seeing none.

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 items are 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. INTRODUCTION OF NEW MEMBERS - DEMETREOS CALLINICOS, RAYMOND PHILLIPS, DAVID SEREDA, GRAY RINGSBY (alternate), and PETER JACOBSEN (alternate)

Mr. Yoshida: We want to introduce and welcome some of the new Board members who are here. We have, well, Demetreos is not here, but we have Demetreos Callinicos. He was on the Board previously back in, from 2003 to 2008. And we have Raymond Phillips. He was on the Board previously also. And I guess we have David Sereda. He's a landscape architect with Chris Hart and Partners. Present, we have Gray Ringsby and also Peter Jacobsen for the, the new two alternate members. So, despite what the clock says, it's after 10 o'clock, but we'll get a new battery at some point.

D. ELECTION OF CHAIR AND VICE-CHAIR FOR THE 2015-2016 BOARD YEAR

Mr. Yoshida: Okay, the first item of business is to elect a Chair and Vice-Chair for the 2015-2016 Board year, and bear in mind that you need at least, since this Board has like nine members, allowed nine members, that you need at least five affirmative votes to carry an action. So, if you don't feel comfortable electing a Chair or Vice-Chair, today, then if you can elect somebody to Chair today's meeting so that business can be conducted in an orderly manner.

Ms. Frances Feeter: Can we nominate people who are not here?

Mr. Yoshida: You could. That's what we use to do in school.

Ms. Feeter: I mean, it's their fault for not being here.

Mr. Yoshida: Yes.

Ms. Jennifer Oana: I probably suggest --. I would suggest that we, that we, if nobody wants to be the president or the Chair or Vice-Chair, then maybe we postpone this to the next meeting. But, it's up to you folks.

Ms. Feeter: Could we draft our ex-Chair to take over?

Mr. Yoshida: Well, as much, as much as we'd like to, I guess, we have to select amongst the current members. But he would be very experienced in how to conduct this meeting. So are there any nominations for Chair for 2015-2016 Board Year?

Ms. Feeter: Can we nominate if they're not here?

Ms. Fiona van Ammers: It would be rude.

Ms. Feeter: We can't nominate Robert Bowlus?

Ms. van Ammers: I make a motion to postpone the nominations to the next meeting.

Mr. Yoshida: Yeah, I mean, Bob had expressed -- well, he had notified us that we would not be able to attend today's meeting, and he would have to decline being the Chair if he were nominated. Now, maybe if he's here, you could persuade him, but he's not here today so.

Ms. Feeter: How about Hunton Conrad?

Mr. Yoshida: Yeah --

Ms. Feeter: He's not here either.

Mr. Yoshida: He said, you know, he wouldn't, he have to politely decline. I'm just passing the message.

Ms. Feeter: That doesn't leave very many choices. David. . . (inaudible) . . .

Mr. David Green: I agree with Fiona. I think we should postpone it.

Mr. Yoshida: So any other nominations? So can we --? Well, if you don't want to select a Chair, if you can have somebody to Chair today's meeting.

Ms. van Ammers: I'll try to Chair today's meeting.

Mr. Green: Alright.

Mr. Yoshida: Okay.

Ms. van Ammers: So, I motion to on the floor to postpone the nominations for Chair and Vice-Chair to the next meeting. All in favor? No objections? Any objections? Motion passes.

The Board unanimously deferred the election of Chair and Vice-Chair for Board Year 2015-2016 to the next meeting.

Mr. Green: She has promise.

E. RESOLUTIONS THANKING OUTGOING MEMBERS MICHAEL SILVA, JANE MARSHALL, BRYAN MAXWELL, WENDY FUJINAKA (alternate), and MARIE KIMMEY (alternate)

Mr. Yoshida: Okay, moving --

Ms. van Ammers: No, thank you. I respectfully decline.

Mr. Yoshida: Yeah, I guess we're moving to --. So we'll defer the election of the Chair and the Vice-Chair until the next month meeting. But we have, we have resolutions, Item E, Resolutions thanking outgoing members Mike Silva, Jane Marshall, Bryan Maxwell, Wendy Fujinaka and Marie Kimmey. Yeah, we didn't have a meeting last month because we didn't have business to deal with, so we missed that opportunity to do the resolutions and then there's a letter from the Mayor thanking these folks, as well as, a certificate of appreciation. And so, I guess, the one that is here today is the former Chair, Mike Silva, as the others can not be able to attend. But, on behalf of the...behalf of the Board, and we will have, we will send you the letter from the Mayor and the certificate from the Mayor, and the resolution from the Board, thanking you for your five years of service and two years, and especially two years as Chair of this, of the Board. So, Mike, you want to say anything, outgoing Chair?

Former Chair Michael Silva thanked the Board for his five years of service on the Board.

F. ADMINISTRATIVE APPROVAL OF THE FEBRUARY 3, 2015 MEETING MINUTES.

Ms. Feeter: Thank you Michael. I have express this. I've been thinking it a lot. I have really enjoyed being a member of this group because it's so well run and so civil, and very intelligent people here. If any of you have been to a meeting on Molokai, they are not always like that.

Mr. Green: Or on Lanai.

Mr. Yoshida: Okay, thank you.

Ms. Feeter: You can visit any time.

Mr. Yoshida: Thanks Michael. So we're moving to Item F, which is administrative approval of the February 3rd, 2015, meeting minutes. I guess the minutes have been circulated. The draft minutes have been circulated. Any corrections?

Ms. van Ammers: Motion to administratively approve the minutes?

Mr. Yoshida: Yeah, I guess, the motion to --. Yeah the minutes are approved...with the corrections, if there are any corrections.

The February 3, 2015 UDRB Meeting Minutes were administratively approved as presented.

G. ORIENTATION WORKSHOP

- 1. Rules and Responsibilities - Chapter 2.26 Maui County Code (Clayton Yoshida)**
- 2. Meeting Schedule (Clayton Yoshida)**
- 3. Sunshine Law (Corp. Counsel)**
- 4. Ethics (Corp. Counsel)**
- 5. Flood Hazard Districts (ZAED)**
- 6. Country Town Design Guidelines (Erin Wade)**

Mr. Yoshida: Okay, so moving on to the orientation workshop. Since we had so many new members coming onboard, we can have annually, I guess, we have an orientation workshop. And to assist me --. Well, the regulars for this Board are, I guess, myself, Leilani Ramoran-Quemado, the commission secretary, and Jennifer Oana, the attorney from the Department of Deputy Corporation Counsel. And then to help me, to help us today, we have Linden Joesting, from the attorney with the Department of Corporation Counsel who specializes in the Sunshine Law, Ethics, advises the Board of Ethics, so forth; and Erin Wade, she's our Small Town Planner.

So, well, I guess, basically, the Board -- I guess, the role of the Board is codified in Chapter 2.26 of the Maui County Code. And basically states that, your purpose is to ensure that architecture qualities prevalent in a community are preserved, is deemed essential that new construction, reconstruction and renovation within a community enhance and compliment the existing built environment. So this Board consists of nine members and four alternates. So it's fairly unique in that respect and that you have alternates. The only Board that is comparable is the Public Works Commission because it was patterned after this Board. So the Public Works Commission because Mike Hopper who's the attorney for the Department of Public Works, when they consolidated the three Board -- the Street Naming Commission, the Board of Code Appeals, and the Engineering Standards Board -- they created this Public Works Commission, so they have geographical and disciplinary requirements like you folks have. So they are patterned after this Board with alternates.

So at least two of the members, two of the member of this Board need to be registered architects. So we have Bob Bowlus and Demetreos Callinicos. We have one registered landscape architect. That's David Sereda. We have two registered civil engineers. That's Fiona and, and I think Ray. Ray would qualify. And then we have one member who's a resident of Molokai. That's Frances Feeter. And one member who's a resident of the island of Lanai. That is David Green. And we have four alternate members. Two registered architects. These are Gray Ringsby and Peter Jacobsen. And we have some engineers,

Robert Spilker and Gerard Steiner. And, you folks serve -- appointed by the Mayor, approved by the Council, and generally serve a term of five years unless you're filling in for someone to complete someone else's term.

And the powers and duties found under 2.26.040, you advise the Planning Commission on matters within the jurisdiction of the Planning Commission such as on design guidelines. You may advise the Department on design related matters involving projects within the County. Sometimes we call on you to advise the Director on compliance with Country Town Design Guidelines because the Department has its purview as to whether the proposed design meets the guidelines and the applicant may have a different idea. And so, you know, we come to the professional Board to get your input to the Director as to whether or not the proposed design meets the guidelines. And then you also advise the appropriate Planning Commission on Special Management Area Use Permits. Basically if there's vertical construction, someone builds a new commercial facility, I guess new apartment building, additions to a hotel and so forth, and you're also the decision making body on sign variances. So for the most part you're advisory, except when it come to sign variances, then you're the final decision making authority.

So we meet once a month, at 10 o'clock, on the first Tuesday of the month, unless the first Tuesday is a holiday like New Years Day, 4th of July, General Election day. If not, we might meet up on the Monday or Wednesday. If the regular members are unable to attend a meeting, if you could advise Leilani and she would call one of the alternate members, so we would have enough members here, hopefully, that we can make a decision. Because we need five affirmative votes to make a decision. No matter if there's five members here or if there's nine members here, we need at least five affirmative votes to make a decision.

So, any questions on that? I guess, you know, may be able to claim for mileage. People who come from off island can claim for per diem. Okay, if not, then we'll call on the Sunshine Law and ethics sections, so we'll turn it over to Deputy Corporation Counsel Linden Joesting to provide that training.

Ms. Linden Joesting: Good morning. I have handouts that come in two categories. One is in paper, and the other comes by chocolate. And it's not just from having an excess of Easter candy. There's nothing wrong with that, right . . . (inaudible) . . . I want to encourage you to participate because when you have questions that you want to ask during the training you get a chocolate. And they should be questions like now . . . (inaudible) . . . But I really do want to encourage you to ask questions. Because some of what we're going to learn is intuitive, it will be natural, and some of it is going to be . . . (inaudible) . . . So the first part is what I call the counter intuitive and that's the Sunshine Law part of the training. I will say, going back to my, to my revolutionary war that this is one of those rare times when I can actually say, this is a concept that originated and was one of the causes for the American Revolution. In other words, that the American colonists were so aggravated and irritated that they had to take up arms because they had a far distance government that was ruling over them and making decisions without their knowledge and understanding of what kind of decisions were being made. So the quote that I get to start with is from Patrick Henry.

"The liberties of a people never were nor ever will be secure when the transactions of their rulers may be concealed from them."

The purpose of the Sunshine Law is therefore to make your decisions and your deliberations open to the public so they can see the whole basis for your decisions and be able to participate in government. There actually has been substantial research done by the few trust that public trust in government is related to, one of the factors is related to how much they know about what's going on in government. And the more that people feel that government conceals information from them, conceals decisions from them, then their trust and faith in government diminishes. That's not the only factor, but that's one, one important factor.

So what is the Sunshine Law? It's basically Hawaii's open meetings law. It imposes requirements and restrictions on how state and county boards conduct their business. I put down the next thing is it a conflict or open meetings versus efficiency? Because having open meetings is the only place where you can conduct business. It means it takes a long time to get decisions done, and a long time to make anything happen. So it's a bit of, yes, it does take more time. But there have been some recent changes in the past few years to the Sunshine Law that allows for a more efficient deliberation. And we'll highlight some of those as we go along.

The spirit of the Law, as I mentioned earlier, is to open up government processes to the public. Your business is only to be conducted in the public at open meetings. So therefore the preference is always for an open meeting. And unless there's a specific statutory exception, you are not to discuss board business in private.

Why does it matter? I've split this up into sort of two areas. Why it matters to the way you do business is because of a recent court case called Kanahale versus Maui County Council. And also because that's the way that board decisions can be voided. In other words, members of the public can bring an action in court to overturn your decisions that you make if you don't follow the Sunshine Law properly.

The kind of meetings falls into two general categories. One which I call open meeting problems. So if someone wants to come and testify, they shall have an opportunity to submit data, arguments, information on any agenda item. Board member, Board meetings have to be open. Any member of the public can attend. And any interested person shall have the opportunity to present oral testimony on any agenda item. So, for example, on today's agenda, if someone wanted to testify on the minutes and say, you know, I don't think you phrased the minutes quite properly. I think it should say such and such. Then by all means, they can come and testify on that. You can make reasonable time limits for oral testimony, just to keep the order of business moving along. One common misconception I'll say is that people have to sign in with their name and identify themselves and what they want to testify on. That's nice for the orderly conduct of meetings, but it's not a Sunshine Law requirement. So if someone refuses to give their name, and say I would just rather give my testimony anonymously, by all means, you can allow them to testify. In fact, you're required to let them testify. So, just what I just mentioned, you have to let people testify. Another potential problem is if you close a meeting improperly, or if you talk about board business outside of a sunshine noticed meeting.

So what is a meeting? It's when a board convenes for which you have a quorum. So in your case, it's five of the nine members, to deliberate towards a decision upon a matter over which you have supervision. So if you have supervision over a topic, then that makes it board business. If you don't have supervision over a topic, say a topic that is held by, or by another board, like there's another committee on the Status of Women. If you want to talk about that

topic there's no restriction on you talking about that outside of a board meeting. But if you want to talk about the kinds of matters which you will deliberate on here, then there are restrictions on talking about that outside of a board meeting. I just did that. It's matters that are before you presently, or that are reasonably expected to come before the board.

When not to discuss board business. Although the Sunshine Law has an exception that allows two members to discuss board business outside of board meetings, you can not gather with more than two unless there's -- I put a little asterisk -- there's another exception to that. And you can not also do what's called serial communication. So if A talks to B, B talks to C, C talks to D. You can't go around the whole committee in that fashion in order to convey information or discuss a board topic. There's actually a specific Hawaii Supreme Court case where that did happen, where the City and County of Honolulu did this sort of serial thing and they said, we didn't violate the Sunshine Law because there was just only two people talking at a time. And the court said, no, no, no. That's a violation of the spirit of the law, even if it's not a strict violation of the Sunshine Law.

Other settings besides face to face meetings. Facebook, e-mail, fax. Those are all prohibitive ways of communicating because the court views them on the same level as if you're talking to someone in person. Social gatherings, by all means, you can discuss and talk with each other at social gatherings about paddling, or hula practice, or what's going on at Kaunoa Senior Center. That's absolutely no problem about that. Or you can talk about the next soccer tournament that your kids are playing in. No prohibition about that. The only prohibition is about discussing board business outside of a board meeting.

Can you talk about board business with non-board members? Absolutely. In fact you'll notice that your geographic representation and your specific expertise was meant to bring in information from your professions and from you geographic areas that bring information that will enliven and enrich the deliberation of the board.

Meetings can be held by telephone or video conference. We actually had one of the County Council members attend by telephone when he was out of state. So he called in for a meeting. However, there's, there's pros and cons to that. This is one of those efficiency things that have been passed. If you can attend when you're not in the physical location. But if the communications go down for some reason, then the rest of the board meeting has to be canceled. So even if you have a quorum without the individual who's on the telephone, the meeting will still have to be canceled. So again, there's pros and cons to the efficiency aspect.

Permitted Interaction Group (PIG) -- that's the little asterisk I just mentioned a moment ago -- where two or more, but less than a quorum can investigate a certain topic. This is another one the giving with one hand, but taking back with the other. It provides you more flexibility in going out and gathering information. But at the same time, then it takes more time to deliberate and come to a decision on the matter. It takes more time because the process requires three meetings. At the first meeting you identify the scope of the investigation and the authority of the people assigned to it. I always recommend that you identify the people assigned at the same time. At a second subsequent, at a second subsequent meeting there are people then to present the findings and recommendations to the whole board. You can not deliberate and discuss it yet because only at the third meeting can you deliberate and discuss and make decisions based on the findings of the PIG. So again, that means you have three meetings over which you have the results that can come from a PIG. A PIG can also present, discuss or

negotiate a position that the board has adopted outside of a board meeting. And if you have the need for something like this, then your Corporation Counsel can help you set it up. And we have checklist and that's the kind of thing to follow.

Other permitted interactions. If two or more members, but again, less than quorum want to discuss the selection of the boards' officers. They can do that outside of a board meeting. Any kind of interactions are meant to be short-term. In other words, not a standing committee that is on a long-term basis that's outside of an open meeting. If you have standing committee that you want to have on finance or a certain topic area, then that standing committee needs to follow all of the provisions of the Sunshine Law.

Other permitted interactions. This is another one of what I called the efficiency changes. If a meeting is canceled for example because of a lack of quorum, but people have come to testify or give presentations, you can still receive that testimony and receive the presentations. So that the people who came are not inconvenienced by having to come back another time. So you receive all that information. But at the next meeting, then you deliberate. You don't deliberate with less than a quorum. You create a record of who came, what they said. You give the information to the absent board members who were out at the subsequent meeting. And then the members who were present report on what happened.

Other permitted interactions is you can attend a conference. More than, more than two and less than a quorum can be present at presentations, meetings, conferences. I've seen people go to a, like, a water conference. A number of Council Members would go. Or there was a NACO conference that happened just here within the last year, and a number of Council Members went to that. So whenever they attended the meeting, they would have to make sure that less than a quorum were present so they could participate in the discussions. And then at a subsequent meeting they would come back and report what they attended and what they learned.

Executive Session are also a permitted interaction in a close meeting. This is normally used so that you can consult with your Deputy Corporation Counsel. So there was only specific reasons at which time you can consult with counsel. It's not like can we talk about what's going to be on the lunch menu, or can we talk about...I mean, I don't mean to be . . . (inaudible) . . . but can we talk about things that are unrelated to law. So if you want to take a closed meeting with your lawyer, it needs to be on a legal point. There's actually an opinion that came out from the Office of Information Practices of a board that closed its meeting and went into Executive Session but had no lawyer present. So they said we just wanted to talk about legal issues, and the Office of Information Practices said that's not a consultation with your lawyer if your lawyer is not present.

Mr. Green: Can I ask a question --

Ms. Joesting: Absolutely.

Mr. Green: -- or would you rather I hold it?

Ms. Joesting: No, go ahead. Please do.

Mr. Green: Can you put last slide back up again? So why does it require a two-thirds affirmative

vote? Two-thirds as opposed to -- well, that would be six out of nine, as opposed to five out of nine, right?

Ms. Joesting: That's true.

Mr. Green: But why the difference?

Ms. Joesting: It's actually meant to provide an incentive to plan ahead your meetings. So if you have an unanticipated Executive Session -- in other word, it was not on the agenda. If it's not on the agenda, then you have to have a greater incentive . . . (inaudible) . . .

Mr. Green: It just, to me, seems a little counter intuitive. I mean, we had a situation on Lanai -- we've had lots of situations on Lanai lately -- at the Planning Commission, and...there...there really needed to be an executive session, but people didn't vote for it and...one of the, one of the persons who really needed to benefit had missed the prior meeting where there was an Executive Session, and there were consultations with the attorney. But when the person came to the next meeting, a month later, wanted to find out what happened, the Corporation Counsel recommended that the Planning Commission go into Executive Session, and they refused. So that was...it just didn't make any sense. But anyway, it just doesn't seem to me -- it would seem to me in that kind of a situation, an individual member should be able, who is a...has a valid reason for wanting to speak to the Corporate Counsel should be able to do so.

Ms. Joesting: Yes, yes.

Mr. Green: Because I think that individual was disadvantaged by not being able to hear the admission and advice of the Corporate Counsel at the prior meeting.

Ms. Joesting: Yes. In which case, then I'll just mention for Clayton that if there's a topic that is continuing on an agenda that to make sure that the possibility of an Executive Session continues to get noticed on the agenda. So that if you need to have further consultation that is always an option. That doesn't require a two-thirds vote to add it on there.

Mr. Green: So if it's on the agenda you don't need a vote?

Ms. Joesting: If it's on the agenda you don't need a two-thirds vote.

Mr. Green: So one member could have compelled an Executive Session?

Ms. Joesting: Well, actually you'll have to have a least a majority of the members agree because it's by motion to go into Executive Session. But at least then you don't need six of the nine. You could just have five of the nine. Good question. But that's a, that's a note for agendas. If there's a controversial thing where you might need continuous consultation make sure that an Executive Session is added or to . . . (inaudible) . . .

Mr. Green: They wouldn't have voted for it anyway, probably, but they should have.

Ms. Joesting: Okay. What else is a Sunshine Law? The Sunshine Law requires that there be minutes of every meeting. We know Robert's Rules requires minutes. But the Sunshine Law has, actually some minimal requirements. The date, time and place of the meeting. Which

board members were present or absent. The substance of all matters proposed, discussed and decided. It's not -- you don't have to have a verbatim transcript, you don't have a blow by blow decision making, but just a substance of all matters proposed, discussed or decided. A record of votes is also required and it includes it by individual members if it's not a unanimous decision. The public record has to be made available within 30-days of the meeting, whether or not it's been approved by the board. So that's -- even if it's in a draft form and someone from the public asks for it, we're still required to provide it. Now I put a little asterisk on the second to the bottom one which say, any other information requested to be noted by board members. So if you do have a research study or an architectural study or something let's say by the Urban Land Institute that you want to put into the record and say, you know, this study really supports our taking this kind of decision in this area so that we have the proper planning, then by all means you can say that you want to have included in the minutes so it becomes part of the, part of the record. The recommendation by OIP is that be done simultaneous with the meeting. So if you say, I know that there's a really recent study by the Urban Land Institute on this topic, and I would like to have it included in the minutes, and I'll bring it at the next meeting or I'll submit it by e-mail to the staff, then that would be fine. You don't necessarily have to have a physical copy, but it should be done contemporaneous with the meeting. And that's so that you have an accurate record of the minutes. It's not like the congressional record when Congressman can come and say, insert this into the congressional record. And what that does is it changes the appearance of what actually happened at the actual meeting. So you want the minutes to reflect what happened at the meeting, not a later insertion which amends the way that business was conducted.

Second problem area that can possibly trip up a board is if notice is faulty then the meeting must be cancelled. If for example, the notice of a meeting said for today that it's going to be on Wednesday, you know, April, April 6th, then the notice would be faulty because it's actually Tuesday not Wednesday. And there might be someone showing up tomorrow at 10 o'clock looking for the meeting. So, something as small as that actually can cause a notice for, for a board meeting to be considered faulty. So most, most people now with their agendas is they take out the day of the week so we don't have that problem. We just have a date of the, of the meeting. Once the, the agenda has been filed, no additions can be added unless there's a two-thirds vote of all members to which the Board is entitled. So that's not just two-thirds of who's present, but it's going to have to be of the members of the board who are -- or the number of members to which the board is entitled.

There's a second requirement, if you want to add an addition is that it can not be of reasonably major importance, and affect a significant number of people. That's, that's a very broad standard. The example that I can give you is that there was a board that wanted to add a discussion on the Hokulia development on the Big Island. That discussion was about the by-pass that was going to be part of the development. And the decision on that was, no, you can't add that because a major road by-pass is going to affect a significant number of people on that side of the island. So that's not of a reasonably -- it was considered to be of reasonably major importance.

The descriptions of items on the agenda have to be sufficiently detailed. You just can't say amendments to planning rules. You have to say amendments to planning rules in the areas of X, Y, Z. And related to the changes in the rules, there was 2014 change in the law that allows the description of the rules to be more general. It reduces the level of specificity that used to be required.

What is sufficiency? It's the minimums and the statutes for an agenda -- date, time and place, listing all the items on the agenda to be considered. If there's an executive session anticipated, you state the purpose of the executive session and it has to be filed with the County Clerks at least six days before the meeting. There was no prior case law on this until the Kanahale Case, and there's some OIP guidance and opinions.

The Kanahale Case, I'll just mention briefly. It's a Hawaii Supreme Court Case about an issue that came up with the Maui County Council. And what happened is that they had a meeting in which they continued to recess and reconvene over 12 different meetings. And the Court found that that was not a strict violation of the Sunshine Law because there's no prohibition on the number of times you can recess. But you can tell from the opinion they felt that was definitely a violation of the spirit of the Sunshine Law because no subsequent agendas were filed. So the public would have no idea unless they were at the prior meeting, and at the end of the meeting, when the next meeting would take place and when. So there was no public notice of the subsequent meetings.

The second part of the Kanahale Case was that in between meetings there would be memos circulated by Council Members presenting information and positions on different items on the agenda. And at the bottom of the memo it would say, your favorable consideration of this is much appreciated. The Court didn't regard that as pleasantly as a closing salutation. Instead it was regarded as a solicitation for a vote. So the Court found that to be a violation of the Sunshine Law. Now I personally think that the discontent with the first part of the case where they recessed so many times, and met outside of public notice led to the decision in the later part which means that the restrictions on circulating information before meetings has been significantly curtailed. So what you have and what you can consider at a board meeting comes only from the staff, or should only come from the staff.

In the impact of a Sunshine Law violation, a final action can be voided. And injunction against implementing that decision can be, can be gotten and sought from a Court. An individual can be found guilty of a misdemeanor and you can also be removed from the Board.

2014 Legislative changes. We talked about the descriptions of administrative rules. And there was an ability for the County Council to meet at different community association, community association meetings or just different community meetings. There's limitations on that that are significant however, and frankly I don't know if the Council has ever exercised it because the limitations are so significant. We got through. Yes, yes?

Mr. Green: Okay. Going back to the Lanai Planning Commission.

Ms. Joesting: Okay.

Mr. Green: What...what does...let's say that I, as an observer, but not a member of the Commission felt that the Sunshine Law had been violated. One, how can a member of the public...call, call an investigation? And two, how difficult is it to prove that the Sunshine Law has been violated? Is it -- I'm a little jaundiced about some of...some things going on in Maui County so.

Ms. Joesting: It's very easy to file a complaint on a Sunshine Law violation or question.

Mr. Green: Anyone?

Ms. Joesting: Yes, anyone can make the complaint, and it goes right to the Office of Information Practices . . . (inaudible) . . . Sorry. Anyone can write to the Office of Information Practices giving the facts and information. They'll look into it. However, I used to work at that office, and the decisions that they take can take several years. So you're not going to hear back quickly from them. It can be two to three years. You can also bring it up the Corporation Counsel at the meetings. Like I would encourage that because that's what our offices are suppose to do, listen to people's concerns there and then on the spot, and help you out, and help make decisions on that. And they always know that they can call me if there's any questions. Yes ma'am?

Ms. Feeter: I'm from Molokai, and I kind of have the same question. I'm positive such a thing happened on Molokai. There was a discussion and members were almost completely in agreement, the chairman took a recess, they came back and completely reversed the status. And but how can you prove that? I mean, they took a -- they went outside and smoked a cigarette or whatever, but it was just very obvious they gotten together and made the decision.

Ms. Joesting: It's hard . . .(inaudible) . . . You can tell I don't like microphones. That would be difficult to show unless you had some kind testimony from someone who was there indicating they talked about the subject and that they were persuading one another to change their votes.

Ms. Feeter: . . .(inaudible) . . .

Ms. Joesting: Yeah, that's going to be very difficult. Yeah.

Ms. Feeter: . . . (inaudible) . . .

Mr. Green: No. It was a very good presentation and very interesting. But, I, I, I think, you know, like some many things enforcement becomes an action. If it's not really enforceable then the people that are violating it can do so with impunity. It's difficult from the board if it's difficult to enforce.

Ms. Joesting: I have Ethics next. That's actually a good segue to the next subject, which is Ethics, the Code of Ethics, because Ethics is the internal code of behavior and the principles on which you conduct yourself. And the County has principles in its Charter that are required of all County employees, and it's observatory. It's what you want people to behave and how they...and how they conduct themselves in County business.

So in this case Ethics is not some relative concept. It's a concept that is put out in the County Code with certain expectations of behavior. If there deviations from that behavior then people can come to the Board of Ethics, which is a Board that I advise and bring complaints. Or the employee involved themself can come and seek what's called an advisory.

So it's both old school and new school. Old school is these cartoons by Corky on ethics guidelines and taking the high road. But the new school is doing what's right, Live Pono. And then I found all kind of funny variations on the web...once you, once you Google the topic of Living Pono. But I don't think the Queen had that in mind.

The Code of Ethics applies to all County employees, elected appointed officials and includes the boards and commission members. The policy is that by your example you demonstrate the highest standards of ethical conduct so that the public can justifiably have trust and confidence in the integrity of government. Now you can see that this ties into the Patrick Henry's idea before and what I talked about that you research on public confidence. Confidence in government is that there's a number of different laws that are meant to support the integrity of government and by choice the, the trust and confidence that we have.

The Board of Ethics is charged with the duties of hearing allegations of violations and can also issue advisory opinions relating to whether or not certain conduct is permitted. As I just mentioned, any person can file a complaint. A County officer or employee can also request an advisory opinion. And there are forms on the Board of Ethics web page, which is on the County's website, under our Department of the Corporation Counsel.

Now it gets a little bit more dense. There's eight major prohibitions on behavior. Gifts, disclosure of confidential information, outside business activities, representing others, the use of County property and personnel, financial interest disclosure requirements, County contracts and post employment restrictions. And the same question and chocolate Easter eggs provisions apply to this topic.

So gifts for public official. This is what the fine print says. No officer or employee shall solicit, accept or receive a gift, directly or indirectly, whether it's money, loan, travel, entertainment, hospitality, something or a promise of something, under circumstances in which it can be reasonably inferred that the gift is meant to influence you in the performance of your duties, or is meant to be a reward for past performance of duties. And it's, the prohibition is based on the circumstances surrounding the gift and whether or not it was meant to influence someone or reward someone. Now there's a fairly recent City and County of Honolulu ethics decision where a number of their employees went to a golf tournament, and a golf tournament was sponsored by someone who is a contractor with the City and County of Honolulu. And they said, we went, but we paid our green fees. And, okay, that's good. But one employee took sick leave to attend, which obviously he wasn't sick, so that was a deception. And then at the luncheon after the golfing, there were lavish gifts that were given out by...lottery, I guess, is the way you call it. You pull a ticket and, oh, you get a TV, or you pull a ticket and you get, you know, 18 rounds of golf or a pass for something else. So the commission there said that the gifts were of such a value that they were not nominal. That they were obviously meant to influence these County employees who were attending the conference. And so they were gifts that did meet this kind of standard. The employee who took sick leave was told that they need to pay back the County for the value of the sick leave that he...he used.

There is an exception for gifts. It's called gifts of aloha where there's a small token gift given to people with whom you deal with on a public or private basis. However, the gifts has to be nominal and given in the traditional spirit of aloha. Once it becomes a matter of substance, or, if I'd say if it's repeated, then there starts to be circumstances or a cloud that makes that look like it's attempt to influence or reward a person. Here's the criteria in sort of a simpler form. An old school picture. No to the tennis racket, TV, car. But, yes, you can accept small box of chocolates, or in this case, chocolate eggs from See's.

Mr. Green: Is there any quantifiable guidelines given on what's nominal, like \$50?

Ms. Joesting: That's a very good question. The Board of Ethics hasn't come up with a specific figure. The federal government has a \$25 number. But I think, generally, a lot of the County looks at \$50 as being a value. Yes, ma'am.

Ms. van Ammers: For a one time gift?

Ms. Joesting: Correct. But again a repeated gift suggests that there's something else going on. There's also an exception for a hospitality that you can accept moderate hospitality if it's offered generally to an entire group. So if you attend a conference like a...let's say there's a conference on urban renewal redesign put on by, of all things, the Urban Land Institute which has some really good training. And they have a table for someone who's a contractor where the County has a table of coffee and pastries. You can take that because it's offered to everyone at the conference. It's not meant just for you specifically. And it's not a lavish kind of gift. It's a coffee and pastries rather than a large luncheon or a more elaborate, some more expensive gift. There actually was an interesting example that came also to, to our office. Microsoft did a training and one of the employees in the IT department went to the training. And as part of the full day on training they were paying for lunch for all the attendees. Now it wasn't just the County employees that were going. There were a number of people from the private sector also. But they sent a letter that they wanted signed off by the County's Ethics' officer that the acceptance of a \$25 gift of lunch was permissible. So if there's any question, you can always seek advice ahead of time whether or not a gift is something that's permitted. And of course, if it's over a certain value, then you have to report it on your financial disclosure statements that you file every year.

Number two of the eight prohibitions is you're not to use confidential information that you acquire in the course of your official duties for your personal gain or for the benefit of others. Confidential information is something that you might learn during an Executive Session, or which, as a matter of practice is not available to the public.

Number three of eight, there's restrictions on your outside business activity and your financial interest and that you have disclose them. There was an example that Clayton reminded me of that there was a member of the Urban -- this Board -- who had an outside business and that business came was part of a discussion that came before the Board. That member had to recuse himself from discussion and deliberation, and recuse himself also from voting on the matter because their firm had a financial interest in the outcome of the decision.

The specific prohibition in the Charter says you're not to engage in any business transaction or activity directly or indirectly which is incompatible with the proper discharge of your official duties which may tend to impair your independence of judgement in the performance of your official duties. Financial Disclosure Reports, in other words, you have to be self reporting, just say I have an interest in this matter. That's part of what the Financial Disclosure Statements are about. So that any respective conflicts can be identified ahead of time.

Representing others back to the County. There's restrictions on representing private interest both during the term of your service and afterwards. There's specific language -- it's the second paragraph here that says that you're not to appear on behalf of private interest and any action or proceeding when it's contrary to the interest of the County. Or appear before an agency providing that no one's denied their right to redress or any action affecting the person's personal life.

There was another Board of Ethics opinion involving a Council Member who was on a board of a non-profit, a Boys and Girls Club of Maui, and there was going to be a number of issues coming up to the County Council. There were budget questions, appropriation to this non-profit, lease of land to the non-profit. And so he asked ahead of time can he participate and vote on these matters, and the Board of Ethics quite predictably said no, that would be improper because you have an indirect interest in the results of your vote. Or maybe even a direct interest you might say. So the purpose is to avoid the use of your position to obtain an advantage for others or for yourself for personal gain.

Another prohibition is the use County property or people. In other words, don't use County computers for personal businesses. In some cases, unfortunately, people have downloaded pornography. That's a personal purpose. That's not permitted under the County policy. Don't transact personal business on County time or property. I sure there's de minimus aspect to that, so if you need to call the doctor that's not a problem. But conducting personal business and making money on County property is a no-no. And if you're a supervisor don't let your staff do the same.

Financial Disclosure Statements, I've referred to a couple of times. Everyone has to file these if they're an elected County officer, a candidate for elected County office, or an appointed officer. That's like Department heads and Deputy Directors. They have to file their Financial Disclosure Statements with the Board of Ethics, and the County Clerk. There's also members of boards and commissions which exercise significant discretionary or fiscal power. They're also required to file Financial Disclosure Statements. Some of those statements are open to public inspections -- those of the elected officials, and those who are appointed. And some are confidential -- those who are appointed to board and commissions.

The seventh area is contracts with the County. We also had a member come fortunately for an advisory opinion. He's a member of the Board of Water Supply, and the Board had, the Department of Water Supply had approached him about doing computer software work for them. The value of the contract would have been \$5,000 and under this that would be conflict because the contract was not going to awarded at, as a result of competitive bidding. It was just given to him directly. And so he came, fortunately, asking ahead of time if he could do that. And the Board of Ethics said, no. The contract is in excess of \$500. It was not awarded after competitive bidding, so that would be a conflict of interest under the County Charter.

Representing others, number eight of eight. After you end service on a board or commission, no employee is to represent or receive compensation for representation of private interest back to the County for a period of one year after the end of service. There's some smaller restrictions on that, that's in the fine print of that paragraph, but it's pretty dense so I won't go through it minutely unless there's specific questions on that. Any questions? I usually say the Ethics is the more intuitive of the two areas. It's not necessarily the easier of the two areas because it's so detailed, but it's a little more intuitive. Thank you for your time.

Mr. Yoshida: Yeah, I guess the next, so the next item is flood hazard district as situations of flood zones do affect project design, and we have Avelina Cabais with our Zoning Division here. And again, we want to thank Linden Joesting with our Deputy Corporation Counsel on her presentation on Sunshine Law and Ethics. And we also have here from the Department, my counterpart, with the Long Range Division, Pam Pogue who's busy with the Molokai Community Plan update and the Lanai Community Plan update. So I'll turn it over to Avelina.

Ms. Avelina Cabais: Okay, good morning. My name again is Avelina Cabais, and I think Fiona knows me. And I'm glad to be here to talk to you about the flood hazard ordinance. Before we go to the main topic, I'd just like to bring this saying to you about "*Where there is water, there is life, and where there's life there has to be water.*" And that's really a cool thing because nobody can live without water. But there's also the saying "*Where there is water there is also devastation and death,*" which is a terrible thing. That's why it's very important that we understand water because too much water can cause flood.

So I'll be covering a brief flood plain history; and then Chapter 19.62, Flood Hazard Areas of the Maui County Code; and then the Flood Insurance Rate Maps; Flood Standards; and then the Pre-FIRM and Post-FIRM structures.

Now regarding the history, prior to 1700's man leaves the water ways alone. They built their houses or buildings away from their natural drainage area. They decide to build higher and, and let that water flow freely. I have this, just a simple picture from the past where they leave alone the water ways. And then in 1719, French colonist they build this manmade levee from a pile of dirt. But we can see how that is not strong enough to fight flood. They just cause that breakage in that area of the levee. Well, this picture, it just shows that in 1874 there was 70,000 people that suffered in Louisiana alone. So that's why it's very important that we understand water so that we can protect lives. And this is another picture from between 1903 to 1917, flooding in different states from, down here is Cincinnati, Ohio, and there's Indiana. And I'm not so sure where the other ones, but this is just to show you how flooding hurts people and destroys buildings.

Now going back to this evolution of flood plain, in 1917, the government passed the first flood control because of what was going on. It's just the government needs to take control and help the public. And then in 1946, Mr. George -- sorry, let me get to my notes -- a prominent geologist named Gilbert White, he published the *Human Adjustment to Flood*. Because this book helps the government and the people understand flood. And by mid-1950's, there was another flood that hit our nation. So, a lot of insurance company back then they give up. There's so much expensive. They can't make business anymore. So the government needs to take over and establish the 1968, the National Flood Insurance Act. And then in 1973, they also created a new law that's called Flood Disaster Protection Act. And then by 1979, President Carter, he established FEMA to centralize the agency that will help people that is in disaster. And by 1990, they created this Community Rating System to help those community, the counties, who is willing to make their...their county more susceptible from flooding. And not just following the ordinance from FEMA, but they will do more than what's required. And then in 19 -- in 2003, FEMA became part of DHS. That's the Department of Homeland Security. But before it was a split, different agencies. And by 2004, the Flood Insurance Reform Act was established, and also, 2006, we had that Katrina hurricane where millions of people were devastated, a lot of them died, and buildings was destroyed.

So flooding is not a joke. It's very important that we understand water because that, that mere thing that sustains life can destroy life. And also last year, the Homeowners Flood Insurance Affordability Act was signed by, by President Obama to help the insurance, the people like you if you're living in the flood zone area, to reduce their flood insurance. Because in 2013, it was just suddenly raised so high that people can not afford it any more. It's like they need to pay 100,000 every year. So that's the history of flooding -- I'm sorry -- that's the history of flood plains. And now going to the next slide.

National Flood Insurance Program (NFIP), it was established in 1968. And the purpose of this program is to protect human life. Number two, to protect property. Number three, to reduce public cost for flood control and rescue and relief efforts. And under the NFIP, there's three parts. So that is number one, mapping; number two, insurance; and the regulatory.

So the NFIP, they provide federally back flood insurance. And also in order to qualify through the NFIP, the community must adopt and enforce the flood plain management. For mapping, in the past, this is the type of map that we use, from 1981 to 2009. And now we have a new map. It's digital. It's in GIS, Hawaii, NFIP dot org, that is maintained by DNLR. It's more easy to locate your property. When you change the county over here, and type your TMK, then search the TMK, you can find your property that quickly. And you can print the report that you can give it to architect or engineer so that they can design your building according to the flood standard. Now going to the County Code we must adopt the CFR before we can enforce and regulate the flood hazard ordinance. So in 1981 that's when the County adopted the Federal Regulation 44, CFR 59 and 60. So our flood hazard ordinance is in Chapter 19.62, and it was amended in September 25, 2009, under the ordinance no. 3697.

So the flood hazard ordinance, this is where you can find what are the rules and the standards on how you can design your building. And of course, you're going to ask what kind of project that requires flood permit. Over here we have the definition of development, and it's defined as:

“As any manmade change to improve or unimproved real estate, including but not limited to walls, buildings or other structures, filling, grading, excavation, mining, drilling operation, dredging, paving, storage of equipments or materials.”

It seems like all kinds of work is a development. There are want -- there are things that is exempted such as carnivals, luaus, fairs, camping tents, unfenced below grade outdoor pools, signs that are not in floodway, demolition, and temporary structures that is incidental to building and not in the floodway.

So this is the map. We have different flood zones from AO, A, AH, and AE, and the VE, which is the high velocity that's along the coastal. The AO is the -- this AO is the pink shaded area and the purple one is AH, the blue is AE, then the light green is zone X. This dark green is zone XS which means parcels that are subject to 500 year flood, or parcels protected by a levee.

There are three kinds of review, and the first one is the new construction. Then second is if your building is existing before the Code and we need to do the substantial improvement review. The third kind of review is the subdivision and other development. For the other development is the bridges, water alternation, retaining walls, decks, pools, pavilions, PV systems, and roadway works. And I have here a flow chart that you can go back some day if you need to. We have, on the left side, it's the new construction and substantial improvements. And then the next one is the new construction. It shows...what you need to show in your plans and what you need to submit. And over here is subdivision in the middle and the other review. On the farthest right side is the pre-FIRM, which it means building that is built before the Code. That is 1981. And if your work is less than 50% then it's just a simple review that you don't need to do all this things over here on the left side.

Okay, so now I'm going to talk about the flood standards. So starting with A, flood zone A, we

have the flood zone AO which means the depth of flood is between one to three feet. And usually sheet flow on a sloping terrain. And the standard requirements is that you need to elevate one foot above the depth. And then a minimum of two flood vents shall be provided for the enclosed areas below the flood depth. And then you need to protect your utilities. And then choose the materials that is flood resistant.

And then the other flood standard for A is for the A and AH, AE. And this flood zone -- A is different from the AO because this is, you need to elevate it one foot above the base flood elevation (BFE), and then that is top, that the top of your finish floor needs to be at one foot above that BFE. Okay, and then design the structure to withstand flood forces, protect your utilities, and that there should be no rise in your base flood elevation except in the designated floodway. And also if you have an enclosed area below the base flood elevation, you need to provide a minimum of two flood vents, which is one square inch for every square feet.

Okay, so now V zone flood standard. This is flood zone that is in the coastal flooding with high velocity and wave action. So now the standard is more higher. You need to elevate your structure to one foot above the base flood elevation at the bottom of your lowest horizontal member. That's where you measure the one foot. And then you need to design the structure to withstand flood forces from storm and wave surges, and then protect your utilities from flood damage. So this is the building section between the two. We have A zone and B zone, and over here is the flood vent. You have a minimum two requirement. And for your coastal building you need to make sure it's open so you can allow the water to pass through. And that's the example when the water comes in. Okay, so there's a lot of information online that you can just put in your Google search that will help you design, or look at some of the design manuals.

So now we're almost done. We're in the last topic, Pre-FIRM and Post-FIRM, understanding the difference between the two. Pre-FIRM refers to the structure built before June 1, 1981. This is when the Flood Insurance Rate Map for Maui County became effective. So prior to that there were no flood construction standards required for the building. And then Post-FIRM refers to structures built after June 1, 1981.

So if you renovate and do addition to your Pre-FIRM structure, then you need to...you will not be required to comply to 19.62 because it was built without the standards, as long as it's not substantial. So we need to do the review and check whether your proposed is not going to exceed the building . . . (inaudible) . . . of the structure. So again, for Post-FIRM structures, new construction and renovations are required to comply with Chapter 19.62. So now we are here in the compliant and non-compliant structures. What do I mean about this? So the background on this -- on September 25, 2009, Maui County adopted the first comprehensive change to our flood ordinance and flood maps. In 28 years that's so long. So there are critical amendments and these are that we adopted the DFIRMS map. So instead of looking at the paper map we now use a digital FIRM maps. And then second is the one foot freeboard requirement. Before we don't have that one foot requirement. And then third is the substantial improvements where we need to keep track of your work for 10 years.

So now why is it important? The structures that were once compliant are now non-compliant. And structures that were once in non high risk zone, like if they were used to be in X and XS zone are now in high risk. So this is just for the other. It's not for all the people that was in the flood zone before, but certain properties has been placed in the flood zone area. So now there

are facing, there's requirements that they were not required before. So how do we review this? Two things. So over here, if your structure is considered as a non -- is a substantial improvement review according the 19.62.30 definition, it will describe there if you fit in that section. And then if not, if you're considered to be non-compliant because your structure was built at that base flood elevation design in 1981, after 1981, lets say 1989 your building was built, and your BFE is at 12, 12 feet. So you design your structure at 12 feet because you're allowed that in A zone to be your finish floor at 12 feet. But now in 2009, we require an additional one foot to that finish floor, so now non-compliant. So if you're planning to do an addition to your non-compliant building, the new addition needs to comply to the current Code. So you can not just build, making it the same level, 12 feet. But now the new addition needs to be at 13 feet. Okay, so any questions?

Ms. Feeter: Okay, one question. If you had a house built in the 1974 that's in the flood zone, there's, there's no restriction about that? I mean as long as you have . . . (inaudible) . . . permits.

Ms. Cabais: If you're not going to do anything then there's no requirement. But if you're planning to do an addition --

Ms. Feeter: Okay.

Ms. Cabais: -- then we need to review and you are considered to be under that substantial improvement review.

Ms. van Ammers: So how does this apply to this Board. I mean, are we going to be reviewing projects that . . . (inaudible) . . .? I guess I want to know how I'm suppose to looking at when we review projects.

Ms. Cabais: Do you know Clayton?

Ms. Erin Wade: So this is Erin Wade. So I'm going to present to you the Country Town Business requirements to you shortly. But we do have a couple of towns that are in the flood zone, both Kaunakakai and Paia are in -- there are portions of those communities that are in the flood zone. So there will be a push and pull between what the design guidelines are and what the flood permit allowance is. So if there would be, for example, substantial improvements to a building that pre-dates 1981, those, the new improvements would have to meet the flood district. However, you know, we recommend, the entrances are right off of the sidewalk, that there's, you know, building fenestration, roofing material. That's true. You're from Kaunakakai. So that's kind of where it's going to relate to you is where the design guidelines and the flood requirements there might be a push and pull. And ultimately kind of what this has done is in effect preserved what's there and not a whole lot of expansion. But as property values increase like in Paia, there's a lot of tension between the flood, what's allowed under the flood permits and what's required -- or required by the flood permit and what's allowed by the design guidelines. So that's where you're likely to be the advisory committee for us, you know, how do we help to resolve that.

Ms. Cabais: Thank you. Thank you Erin.

Mr. Yoshida: Thank you Avie. We also have Erin Wade here. She's our small town planner

and she...well, she's the primary person for the Maui Redevelopment Agency in Wailuku Town so we don't see her that much, but...here or before the Maui Planning Commission. But, you know, she does deal a lot with our smaller towns, our rural towns here in Maui County, so she'll give a presentation on Country Town Design Guidelines.

Ms. Wade: Thank you Clayton. My presentation is very brief. I know you've been sitting a while so I'll just go through it and then if you have questions feel free to ask. So and for those who have been through this a couple of times, I switched out the photos to keep it fresh.

So this is Makawao Town, and it doesn't look like what you see under standard new construction which is the reason we have the Chapter 19.15. It's a different commercial zoning district that does require design review. In the areas that are zoned country town business district, there are design guidelines in most. They come as a document like this, and some of them also have a technical report that accompanies it or an assessment at the beginning of the design guidelines. That's why you have an enormous binder for your reference. So anyway, let's see what country town businesses are all about.

The purpose is to establish development standards, to preserve and maintain the unique urban design and country town atmosphere. There are smatterings of CTB zoning throughout the County. Generally the towns that's mostly heavily recognized as prominent areas of country town business -- Makawao, Paia, Hana, Lanai City and Kaunakakai. There's also I would say a handful of properties in areas like Waiokoa, in Keokea, Pauwela, Haiku. There's not significant districts in those places, but there is zoning. It's country town business zoning. You will not likely see anything from the Historic Districts. Lahaina is zoned Historic Districts. There are three. Primarily because these are missionary era. They're pre-contact facilities and that's overseen by the Cultural Resource Commission. For Wailuku Redevelopment Area, right here in Wailuku Town -- well, we have the Historic District I, which again, is kind of a missionary era -- and then Wailuku Town, which is plantation, is overseen by Maui Redevelopment Agency. They may sometimes seek out your assistance for review of the projects.

Design guidelines, this is sort of what triggers the review. With design guidelines, all work to structures shall be in a similar and compatible architectural design character with that of the surrounding commercial buildings. Typical elements for CTB, so there's two forms. There's the architectural elements, and then there's the site design. So, architecture, primarily is, is like a whole series of elements that are reviewed in terms of the architecture of a building or a space. And I'm happy to discuss any of those with you, but we probably don't need to go through them one by one. Same thing with site design. This might be a little bit more relevant. The setbacks, the off-street parking, the exterior site lighting. These exterior elements are what gives the towns their look and feel, even more so than the architectural elements. The architectural elements, we sometimes will provide some flexibility on, but almost never on the site design features. And then a few of the towns have some street and utility design guidelines as well. Lanai City is one of those. Makawao has some streets and utility recommendations in design guidelines, but not all the districts have that.

So the process for Country Town Business (CTB) review. The Planning Department accepts the application, reviews it for completeness. It's then forwarded to agencies wherever there is a question of an individual department ability to approve the project as designed. One particular department that often gets our CTB applications is the Building Division because often those construction meets new construction in these applications, and it sometimes can cause conflict,

and certainly can derail some of the aesthetic or the site design requirements of the design guidelines.

Depending the age of the structure, its often forwarded to the State Historic Preservation Division (SHPD). We do have a staff planner who assists me regularly. Annalise Kehler is the Cultural Resource Planner. She can do an initial review of...the significance of whatever the improvements are, and SHPD will often concur with that. Determination is then made whether the application is consistent with the design guidelines or not. If it is determined to be consistent, we would approve it administratively. If we have questions about whether or not it is consistent, that is when you guys will come in and we'll seek your advice on either how to make it more consistent, or you may feel that there's no problem and it's fine the way it is.

We're in the process in the Department of updating the Country Town Business maps. This is the one for Makawao right now. It's a difficult to read. But the pink areas are the ones are all zoned Country Town Business. But thank you to Long Range Division by the way for new updated map. This Pukalani. You see there's like it's really strange how it got zoned, I don't know. But there's a few parcels up on Makawao Avenue, and then there's a handful down Old Haleakala Highway. The Pukalani Terrace Shopping Center is not in the Country Town Business District which is why it has the multiple colored roof which we would have never permitted. But we don't have any authority over it because it's not Country Town Business.

This is, I always call it Kula Ace, but, you know, it's on Kula Highway. Keokea. I'm sorry, this one is Waiokoa, where Morihara Store is. This is the Keokea map. So these are the maps that are associated with the Makawao-Pukalani-Kula Country Town Business District Guidelines. And then all of the, all of the design guidelines are getting updated maps right now from the Long Range Planning Division. And that is it. I'm happy to answer any questions if there are any.

Mr. Raymond Phillips: Hi Erin.

Ms. Wade: Hi Ray.

Mr. Phillips: Yeah, you brought up the subject of flood -- probably not flood. Anyhow, the slide in the small town areas. It's a big deal. . . (inaudible) . . . What usually rules? Flood?

Ms. Wade: Flood is always going to take precedence for significant improvements. There isn't a whole lot of ability to vary from that because it's a life safety issue. It's kind of like providing a fire wall. You're not going to get out of it. So, if -- what we can do is work to mitigate and that's kind of where I'll be seeking for your assistance. There will be times -- there haven't yet -- we have been able to talk in almost every situation, to talk with the applicant about what their intentions for development were, to get them to a point where we could say, maybe this isn't the right place to do the project that you're envisioning. But there has been -- it does become an uncomfortable push and pull, like, because Paia, at this moment in time, is such a popular place to purchase property. There is space for development on a lot of those parcels. But most of those parcels with the space are also the ones with, in the flood development area so.

Mr. Phillips: It's certainly a tight restriction.

Ms. Wade: Yes.

Mr. Phillips: . . . (inaudible) . . .

Ms. Wade: And views and because it's so close. Yeah. You're welcome. Any other questions? Great. Thank you for having me.

Mr. Yoshida: Thank you Erin. So again if you're not able to attend a meeting please let Leilani know and so she can call an alternate so we could have enough people here so hopefully we can make a decision. But most importantly, I forgot in my haste, to have you introduce yourself to each other because you folks have to work together as a group. So maybe we can start, you know, 30 second word about yourself, maybe starting with Fiona.

Ms. van Ammers: Sure. My name is Fiona van Ammers. I'm a licensed civil engineer. I work for SSFM as a consultant. I lived on Maui 14 years. Came from California. Went to UC Berkeley. That's about it.

Ms. Feeter: I'm Frances Feeter from Molokai. I don't have a professional background, but a great interest in, of communities and how they look and react. I did live on, in Pukalani for three years and then we moved to Molokai 23 years ago, so we've been around quite a while.

Mr. Phillips: Hi, my name is Ray Phillips, and was a professional licensed engineer in California. Been here for about 20, almost 30 years. I've sat on lots of boards. Done developing extensively here on the island. I've have a lot of contact with running into different situations, and it's always fun to go through and ask questions of people to do the correct thing about their construction. Bachelors degree in engineering. Graduate degree in Master Science degree, and an MBA from SC.

Ms. Oana: I'm Jennifer Oana. I'm your Deputy Corporation Counsel. I'm also new to this Board so I'm practically new. A little background about me, I do have my Bachelors in civil engineering from UH. I worked for Hawaiian Dredging for a little bit. . . (inaudible) . . . Born and raised on Maui, and I'm very excited to be a part of your Board.

Mr. Peter Jacobsen: Hi, I'm Pete Jacobsen. I'm an architect. I live over on the west side. I was on Oahu for 25 years, and come over to a nicer pace of life. I look forward to serving with you guys and hopefully learning a few things along the way.

Mr. Green: Dave Green. I'm a resident of Lanai. I...after graduating from, with an MBA program I worked for Eli Lilly and Company for 32 years. I retired very intelligently to Lanai, and I've been a Lanai resident for about 8 ½ years now. I have been a past member of the Lanai Planning Commission, and this is the beginning of my second year, I believe, on the Urban Design Review Board.

Mr. Gray Ringsby: My name is Gray Ringsby. I've been a Maui resident for about 20 years now. I have a degree in Architecture from the University of Colorado. I do want to disclose that I'm not actually a registered architect, but I have been a licensed general contractor on the island which I'm inactive now. And I have, I am a licensed real estate sales person, and I'm with Caldwell Banker in Paia. So I'm not sure if not being registered allows me to be on this Board or not, but I would like to be on the Board if that's possible, so -- thank you.

Mr. Yoshida: Okay, thank you. I guess if you're nominated by the Mayor's Office, and approved

by the Council, then you're on the Board.

Mr. Ringsby: Sounds good.

H. DIRECTOR'S REPORT

1. Status of the board vacancy

Mr. Yoshida: Okay, we do have one vacancy, regular member vacancy on the Board, so --

Mr. Green: I nominate Mike Silva.

Mr. Yoshida: Okay, well, I guess, for the same Board you have to sit out for two years and then you can be appointed to a five-year term. But if you know of someone who, you know, would be interested in serving on the Board, I mean, they could submit their information to the Mayor's Office so we could try to have a fully staffed Board which is helpful. Although we have alternates, but it's helpful to have a fully staffed Board.

2. Agenda items for the May 5, 2015 meeting.

Mr. Yoshida: Okay, our next meeting is scheduled for May 5th, Boy's Day in Japan. Cinco de Mayo. So we may have some sign variances so we'll let you know about that. So, again, hopefully at the next meeting we can elect a Chairperson for the Board year. We'll have more members present where we can elect a Chairperson for 2015-2016 board year. But, again, we'd like to thank you for your attendance and for your service on the Board. It's very valuable to the Department in the work that we do that we get your input on these various projects. So with that, we thank you, and -- getting back to the Chair pro tem.

I. NEXT MEETING DATE: May 5, 2015

J. ADJOURNMENT

Ms. van Ammers: Meeting adjourned. Thank you.

There being no further business brought forward to the Board, the UDRB meeting was adjourned at approximately 11:47 a.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE:

PRESENT:

Frances Feeter
David Green
Peter Jacobsen (Alternate)
Raymond Phillips
Gray Ringsby (Alternate)
Fiona van Ammers, Chair Pro Tem

EXCUSED:

Robert Bowlus, Vice-Chair
Demetrios Callinicos
Hunton Conrad
David Sereda

OTHERS:

Clayton Yoshida, Planning Program Administrator, Current Planning Division
Erin Wade, Small Town Planner
Avelina Cabais, Land Use and Building Plans Examiner
Jennifer Oana, Deputy Corporation Counsel
Linden Joesting, Deputy Corporation Counsel