

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 12, 2015**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keone Ball at approximately 9:05 a.m., Tuesday, May 12, 2015, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Ball: ...welcome to the meeting of May 12th, the Maui Planning Commission. Let's see here, we were looking at our agenda, and we are thinking of moving Item D-1 to let's see right after B. Since we do have some testifiers here, we do not have anybody from the State here today, so we just have...take in testimony for this item. If there's no objections, we will make that change.

Members voiced no objections.

Chair Ball: Hearing none, let's see at this point we take public testimony. If you'd like to present testimony on any agenda item you may do so now, however, you will not be able to testify again later on.

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.

Chair Ball: So with that being said, we will go to Item D, Unfinished Business, Discussion of South Maui Citizen's for Responsible Growth letter regarding compliance with Condition 23 on the Special Management Area Use Permit for the State Department of Transportation, Director?

D. UNFINISHED BUSINESS

- 1. Discussion on the South Maui Citizens for Responsible Growth's letters regarding compliance with Condition No. 23 of the Special Management Area Use Permit for the State Department of Transportation Piilani Highway Traffic Improvements at Ohukai Road project regarding consideration of the installation of sidewalks at TMK: 3-9-1: 146, Kihei, Island of Maui. (SM1 2011/0007) (Commissioner Penny Wakida's request) (Deferred from the March 10, 2015, April 14, 2015, and April 28, 2015 meetings.)**

Mr. Spence: Thank you, Mr. Chairman. I understand at the last meeting or meeting before, Commissioner Tsai wanted somebody a little bit higher up in the food chain of the Department of Transportation to be here and they said, they responded back that they need to schedule it, and so they could not be here today. So all I can say is I really apologize to the Commission and to the testifiers that that could not happen today. We will get with DOT and schedule it at the earliest possible time. My understanding is wanted a decision maker above Freddy Cajigal?

Vice-Chair Tsai: Yes.

Mr. Spence: Okay. So, we will, we will schedule when we can and we will let the South Maui folks know as soon as we know something.

Chair Ball: Commissioner Tsai?

Vice-Chair Tsai: Director, Director, I think it was also requested to have additional documents provided justifying why they didn't the two things. I think it's in the minutes.

Chair Ball: I believe one was the cost breakdown?

Vice-Chair Tsai: Right. Why was not the...sorry, the sidewalk wasn't part of the original design. They mentioned...DOT mentioned that cost was an issue. So we'd like to see that.

Unidentified Speaker: Right, it's in the minutes.

Vice-Chair Tsai: Yeah, it's in the minutes. And also, the other is the left-turn lane. Have both lanes turning left onto Piilani Highway going south.

Mr. Spence: Okay.

Chair Ball: Okay. At this time, I'll open it up for public testimony. We do have a couple of people signed up. Mike Moran, would you like to testify at this time?

Mr. Mike Moran: I have to different handouts.

Chair Ball: Please give it to Commissioner Higashi to pass that around.

Mr. Mike Moran: Aloha, Chair Ball and Commissioners.

Chair Ball: Aloha.

Mr. Moran: Mike Moran, President of the Kihei Community Association testifying for KCA on D-1. First, we'd like to thank Director Spence for moving the item up. It's...you know, we're all volunteers as you guys are and it's most helpful to us that we cannot spend all day with you. We would wish we could sometimes, but other items are pressing. And we thank, again thank Commissioner Tsai, for we'd certainly agree with that concept of bringing somebody over higher from Oahu can probably produce more stronger results. So we thank both entities for that.

We have distributed a copy of a Letter to the Editor of *The Maui News* from KCA over a year ago, April 27 of '14, as well as an article in *The Maui News*, this year, May 2nd, '15 on the same topic on the reverse of the page. Upon reading either or both you will see the topic concerns the extraordinary manner in which Hawaii Department of Transportation makes use of available Federal funding or more accurately does not make use of them. We discovered in April of '14 that HDOT was in danger of forfeiting \$771 million, I would rather state it 800 million because of the

department's inaction which the department acknowledged. In communication with Maui State Senators at the time we were advised it had been \$920 million previously. So supposedly this was progress. Now this month's article in *The Maui News* advises the high of the unused Federal Highway Aid was at one time \$940 million in 2011, and it presently stands at \$820 million where they said it has since 2013.

So as we continue advocating for the simple building of a much needed sidewalks at this intersection while it's being upgraded and here, HDOT talk about challenges of cost, we have to ask how much of this challenge is brought about by poor management by the department?

In addition, we are most fortunate this morning to have professional service of our KCA Director, Harry Hecht, an extremely experienced engineer with extraordinary credentials to offer his opinion on the viability of constructed sidewalks at this intersection. While he has not seen the complete project plan, KCA has formally requested a copy of that from the County Planning Department records for future use. He can offer his professional opinion based on a site visit as well as viewing some portion of said plans.

We appreciate that the Commission continues to revisit this matter again and again in an effort to offer protection for South Maui pedestrians. Also note, the photograph taken by another KCA Director of the keiki at the intersection last Friday. Is this what we want for our children to have now? And more importantly once this construction is completed? Our community really needs your Commission to take appropriate action at this site. Please do not abandon our children. Mahalo.

Chair Ball: Thank you, Mike. Any questions for the testifier? Seeing none, thank you. Next is Harry Hecht.

Mr. Harry Hecht: Thank you very much. That's Hecht. My name is Harry Hecht. I'm a resident of Maui. I live at 1032 South Kihei Road. I'm here to testify as the Vice-President of the Kihei Community Association on regarding the possible installation of a sidewalk at Ohukai and Piilani Highway. The Kihei Community Association favors the inclusion of sidewalks at this location.

Briefly my background is I'm a licensed civil engineer in Hawaii and in the State of California. I have a PhD from the University of California in Civil Engineering and Civil and Environmental Engineering. I have over 50 years of experience in the planning, design, and construction of state highways, city...city streets, and county roads and a lot of those included pedestrian facilities including sidewalks. I taught highway design to senior civil engineers at San Diego State University, and I'm also serving as an alternate member on the Maui Public Works Commission.

My testimony is based on three things. I did a field review of the project. I looked at a partial set of the construction plans. And I drive by that intersection two, three times a week and I notice a lot of pedestrians trying to cross Piilani Highway. I'd like to make seven points today.

In the field review of the project I saw nothing that would preclude a sidewalk from being built at this location. There's ample right-of-way on the south side for both a sidewalk on the southeast corner and on the southwest corner. The southwest corner....southeast corner, excuse me, calls

for a 48-inch CMP extension. You could easily extend this an additional six feet, put in a five-foot sidewalk. The plans also call for a 168 feet of guardrail. And guardrail in this location will further impede the movement of pedestrians across the intersection. You're either caught on one side of the guardrail or the other and I guess if you're able, you can jump over the guardrail. My experience, this is not a good location for a guardrail. The flattening of slopes will provide safer method for leaving the highway rather than guardrails. Guardrails are not soft. As a matter of fact in the paper this morning, I think there was a fatality where a motorcyclist hit a guardrail. Four, there's adequate right-of-location to place a five-foot sidewalk on the southeast corner and a four-foot sidewalk on the southwest corner. The additional four to five hundred foot of sidewalk—

Ms. Takayama-Corden: Three minutes.

Mr. Hecht: —would increase the project cost but would be partially mitigated by the elimination of the 168 feet of guardrail. Using cost estimates from recent California projects that I've been involved in it appears the cost to be less than \$10,000.

Chair Ball: How many points...what point are you on right now?

Mr. Hecht: Point five.

Chair Ball: Okay, you need to conclude your testimony so if could pick up the pace a little bit? Thank you.

Mr. Hecht: I've got two more points. The State of Hawaii has adopted a policy of complete streets which this policy would mandate a sidewalk at this location. And finally, if there's no placement of a sidewalk, pedestrians will still cross in a very dangerous place. Thank you very much. Any questions?

Chair Ball: Thank you. Any questions for the testifier? Max?

Vice-Chair Tsai: I'm sorry, sir I didn't get your name?

Mr. Hecht: Harry Hecht.

Vice-Chair Tsai: Harry, you mentioned something about the cost, I'm sorry I didn't...can you repeat that again, you said?

Mr. Hecht: Yes, yes. Basically if you put in say 500 feet on the, of sidewalk on both southeast and southwest corners it would increase the cost, but if you eliminate a 168-foot of guardrail it would partially mitigate it. So using recent costs from California projects I came up with an estimate of about a little less than \$10,000 to add sidewalks and eliminate the guardrail.

Vice-Chair Tsai: Are you saying elimination of guardrails is per Code I guess?

Mr. Hecht: In California we would never put a guardrail in that location. You know, basically guardrail is not a softer way off the highway. If your car's out of control and hit something,

guardrails are not soft. A flat slope would be better in this location in my opinion.

Vice-Chair Tsai: Okay. Thank you.

Mr. Hecht: Any other questions?

Chair Ball: Commissioner Robinson?

Mr. Robinson: Mr. Hecht, 50 years in the business, that's a lot of, that's a lot of years.

Mr. Hecht: Yes it is.

Mr. Robinson: So have you ever been through this process before with any other type of County or planning to where this has happened?

Mr. Hecht: I was a Deputy...Assistant Director of Public Works for Alameda County for seven years. And I also the District Design Engineer for the State of California in San Diego for 17...well, total of 17 years.

Mr. Robinson: So yes, you have been part of the process?

Mr. Hecht: Yes.

Mr. Robinson: Is, is...the last meeting we discovered that the RFP to the DOT didn't ask for sidewalks and so therefore, they bid process without sidewalks and I guess I was beating up the DOT of how come they didn't put in sidewalks, and the gist I kinda got, and Director you can clarify. They said, since the County didn't ask for it because we weren't up to speed is what I heard the last meeting, therefore, the sidewalks weren't there. So I don't know what the next step is? I mean, we ask the DOT for sidewalks? Do you know...and how did you guys handle something like this? Did it go through...did it go back to a State agency, did it go to a local level?

Mr. Hecht: Well, the District Design Engineer when I was with the State, and we'd evaluate it, and if we thought it merited we would try to change order.

Mr. Robinson: Who's we? Who's we, the Department of Transportation?

Mr. Hecht: The State.

Mr. Robinson: So the State.

Mr. Hecht: Yeah, Department of Transportation, yeah.

Mr. Robinson: Okay.

Mr. Hecht: The request would be made to them and they would evaluate it, and they'd run a cost analysis out, and then they would propose a change to the contract to which I think is Goodfellows

in this case, and they would sit down and negotiate a change in contract.

Mr. Robinson: Were you forced to change or was it more of agreed that it's the right thing to do?

Mr. Hecht: No, it's up to the State to make that decision.

Mr. Robinson: Thank you so much for testimony.

Mr. Hecht: At least in California.

Mr. Robinson: Thank you.

Chair Ball: Commissioner Tsai?

Vice-Chair Tsai: It seems that you are pretty proficient, an expert in this area, one of the things I came back, that what I got from the State was the cost was an issue. And based on my estimation we're looking at probably about 400 feet of you know, walkway, sidewalk. How much do you think...well, in Maui dollars I guess would you say that cost will be?

Mr. Hecht: In California using comparable unit cost it would be less than \$10,000. In Maui, the cost is higher. I would think it would still be less than \$20,000 to put the sidewalk in if you extended the 42-inch pipe and you eliminated the guardrail. That would be negotiated with the contractor.

Vice-Chair Tsai: Thank you.

Chair Ball: Any others? Seeing none, thank you for your testimony today.

Mr. Hecht: Thank you.

Chair Ball: Anyone else who would like to testify at this time? Please identify yourself and you have three minutes.

Mr. Mark Hyde: Thank you. My name is Mark Hyde. I'm the President of the South Maui Citizens for Responsible Growth. I wanted to make sure that the two letters that I sent dated May 15th have reached your attention? Thank you.

In comment on two of the things, the dialogue that just occurred. In terms of, you know, what power do you have? How do you affect change? Of course, under the Charter you have the responsibility and the authority, and the power to enforce SMA Permits, the SMA. And under Chapter, under the Administrative Rules of Maui County that is Chapter 202, you have authority to fine a violation, you have authority to fine. And if you can't get compliance voluntarily I would say, consider exercising the powers that you have. You were given those powers exactly I believe to address situations like this. You have a ...(inaudible)... DOT. It doesn't want to spend the money. It doesn't want to change course. Let me talk about the money for a moment. It's not just about the \$30 to \$40,000 for the sidewalks. It's much bigger than that. You have data from the Department of Transportation that assigns dollar costs to various events that are likely in

my view to occur at this location. Just take a look at that picture.

The Centers for Disease Control have reported as I've indicated that one in five deaths of children involving vehicular accidents is due to a pedestrian incident. And I looked at the data nationwide that's gathered about pedestrian deaths, and Hawaii is among the worst in the nation comparing state to state in terms of pedestrian deaths per 100,000 people or maybe it's a million residents. So we have a very dangerous situation here. And as I see it, if I were in your shoes, and the reason I'm so passionate about this is that the...I don't want the death of a kid on my hands. And it's that kind of a situation here. And it needs to be addressed and you have the power to do it, and I urge you to take those steps necessary to get that done. Thank you.

Chair Ball: Any questions for the testifier? Commissioner Tsai?

Vice-Chair Tsai: Maybe if I may ask our Corp. Counsel address I guess what he brought up about fines?

Mr. Hyde: Yes, if you take a look at Section 12-202-25 of Chapter 202, you have the power to fine. I think it's up to \$10,000 a day from a violation. I think violation clearly goes back a long, long way here. And a fine, let me tell you just a couple of days like that, you can pay for the sidewalk. To get to that point, you have to find a violation. And I think the violation is evident in the fact that the ground work just wasn't done. I think they would even admit it. Maybe they have admitted it. You have a violation. Exercise your power.

Chair Ball: Commissioner Hedani?

Mr. Hedani: Mark, I have a couple of problems, you know, with the perspective that I'm hearing. The SMA Permit relates to the ocean and impacts to the ocean, yeah. Sidewalks have virtually nothing to do with pollution or anything that affects the ocean. So from the standpoint of enforcing SMA Rules, it's almost outside of the purview of a requirement that we would impose on DOT that's trying to do a drainage project in this particular case.

The other problem that I have is by encouraging and pushing for a more walkable community in this particular location is just my opinion, it's encouraging people to walk to an intersection that's inherently dangerous. You have four lanes comes from one side, four lanes coming from another. You have turn lanes that are included. You end up with a situation where it's 80 feet across the highway just to get from one side to the other. By encouraging people to use walkways in that situation to me is making the situation worse rather than better. That's just my personal opinion. You have a reaction to that?

Mr. Hyde: Oh sure. First point, if you took the view that your permit only has vitality if somehow it affects water then I think you probably need to narrow the conditions if you push...put on SMA Permits. But you have broad authority, and that authority was exercised in good faith by Commissioners that were here in 2012 with great concerns. And so I think that that is an SMA Permit condition and failure to follow it amounts to a violation regardless of whether or not it explicitly affects the quality of ocean water. That's why you have this authority. You're a planning commission broadly to take into account all of these public policies that we have. So that's my

answer to that.

As to a dangerous condition that is the nature of the beast that we have here, and kids being kids they're gonna cross that intersection. If you think about these neighborhoods, quite frankly it's bad planning, but that's where we are, you know. We have neighborhoods without any services on both sides of this high speed highway. We've just let that happen. There's a gas and go at the corner, and kids love to go get gum and candy bars and that sort of thing and they're gonna do it. And Mike tells me who lives near the area that he sees kids running across Piilani Highway even without an intersection to get the Kihei Charter School. I mean, that's third world behavior, but we're a first world country and there are ways to build safe intersections. You can have flashing lights, got a lot of kids here. There are gonna be more kids here. So I would say, don't give up, but strengthen the tools that you have. You know the things that they've installed in South Kihei Road now and elsewhere with the flashing lights are really effective. And I would say deploy the best resources that you have because it is a reality you're going to have pedestrians there.

Chair Ball: Anyone else? Commissioner Lay?

Mr. Lay: Okay, Mr. Hyde you're in that area a lot, and you see the pedestrians, I see it also at that intersection, and yes it is a dangerous intersection, and I agree with what you're saying. And we're, even if it's a bad spot we still gotta make it safe for the people 'cause there are kids and everybody going by and it is a popular place. So, for me, the question is, I mean, is it the County or is it the State on that too? Who's responsible for that? This is a State highway, right?

Mr. Hyde: That's a very interesting question. It is a State highway but you have authority under the permit that you issued. And you have the responsibility and this is, again, a planning commission to implement plans, and the plans are all, you know, for walkability, sustainability and those sorts of things. I would say, given the record that's already been built here, and even the Director of Planning sitting here testified at the March 12th meeting that in his opinion this is a good place for sidewalks. Now he said, I don't find a violation, but I think sidewalks should be here. Given this record, and lets assume a child was killed because there at that intersection because it's unsafe, I think, and your counsel can better answer this, there could be liability on the County's behalf for negligent design because you have control, and potentially for punitive damages for reckless disregard for the health and safety of our children. And the cost of that far exceeds \$30 to \$40,000 not to mention the attorney's fees, the grief. I listed all those things that you should put on the ledger. When you do a cost analysis, you say okay, what's it over here, what's it over here, 30 to 40 over here, 4 million over here for death? I mean, come on.

Chair Ball: Thank you for testifying today...yes, Commissioner Robinson?

Mr. Robinson: I have a question. We ask for Corp. Counsel's input but is that another part of this meeting or can we ask it now. I know it's testimony. I'm not sure how that works.

Chair Ball: If it's directly with the testimony that was given we can ask it now. But if it's something different then we can wait.

Mr. Hopper: ...(inaudible)...

Mr. Robinson: But I wanna ask...

Chair Ball: Okay, are you done with the testifier?

Mr. Robinson: Yes.

Chair Ball: Okay, thank you, Mark, very much. Anyone else who would like to testify at this time may do so? Seeing none, public testimony is now closed. Commissioner Robinson?

Mr. Robinson: Counsel, we've heard a lot of testimony and I understand that we have some power. There's been talk about the SMA Permit, there's talk about putting a fine for something that having to do with the sidewalks or does it do with the sidewalk, and I'm, I'm just not clear on exactly what our, our power is or what our, our ability is to help solve this situation? Could you chime in on that, please?

Mr. Hopper: You would have to find a violation of the condition which says, "consider sidewalks", and that's why you've been asking the Director of Transportation or the Department of Transportation the questions you've been asking. And apparently there's been documents requested, and that's where you would need to find a violation as a Commission of the condition. It's not whether you think sidewalks are a good idea or a bad idea. It's whether they have violated the condition that was placed on the SMA Permit based on the wording of the condition. And obviously you've got arguments that have violated it, and you have information in front of you. And once you've got the information that you need, the Commission can determine whether or not there's been a violation of the condition.

Again, it's not a new permit where you get to decide here's the conditions we'd like to place on this permit. It's looking at what was already granted and seeing whether or not they are in violation. And the authority to fine is actually the Director's authority to fine, to issue fines. But the Commission if it finds a violation could revoke the permit or further condition the permit and do other things in addition to that. But generally the authority to fine, and if you find a violation, you can, you know, basically say if it continues without getting the permit resolved then the Director would be under the rules, would be issuing a fine at that point. But the rules talk about the Director's authority to fine. And the Commission's authority would be to review the terms of the permit, and if you find a violation of the permit to revoke the permit or further condition the permit. But that's, that's the key that you have is whether or not the current condition has been violated or not, and you're hearing testimony today that it has been, and there's, you know, that's why you've been discussing the issue with the Department of Transportation. And you can consider what you have and decide if there's been a violation or not.

Mr. Robinson: You just said we could further condition the permit isn't that adding something on? That's not what you said?

Mr. Hopper: Well, I meant maybe if you find a violation then if you wanted to look at, I don't know...again, if it's...if you find a violation then you can revoke the permit is generally what the remedy would be. If there's some way that the Department would discuss other issues then there are authorities, you'd have authority to do other things potentially if there was violation found. But

it's not a situation where you know, we don't like the decision that was made the first time, so we're gonna redo the decision. That's not something the Commission has the authority to do. You need to find a violation of the condition because the department would have needed to have notice of what they were required to do under the permit, and then you need to have evidence that they violated that, that what they were required to do.

Mr. Robinson: Thank you.

Chair Ball: Commissioner Higashi?

Mr. Higashi: As a ex-administrator in education this particular intersection to me, I agree with the community that for children it's a very dangerous freeway area. And I was wondering although I think the State Department of Transportation met the minimum requirements for the construction of this particular intersection, I don't think it met the safety aspect from putting like an overpass where the pedestrians can actually walk safely across this particular intersection because it's a thoroughfare it reminds me of H-2 in Honolulu next to Aiea High School where they have an overpass where the pedestrians can actually safely walk to that area. And I was wondering, I don't know to what extent this particular project can be delayed in any way because according to the record it started 2012, I think. So at what juncture does this Commission have an authority to amend that particular permit so that it becomes a safer place for pedestrians to be able to cross over?

Mr. Hopper: Again, I may have misspoke.

Chair Ball: Corporation Counsel?

Mr. Hopper: There is no authority to amend the permit. You find a violation, there are other options, but there's no authority to amend the SMA Permit after it has been granted particularly if the project's been bid. Now, you can find a violation if they didn't follow the conditions, but that's a different thing than deciding to take a second look at the same project and say, I don't like these conditions, I want to put new ones on them. Those are different things that you would be doing. The issue is whether or not they have followed the conditions that are already placed on the permit.

Chair Ball: Commissioner Hedani?

Mr. Hedani: For the sake of discussion. I was here in 2012. What the Commission asked the DOT to do was to consider putting in sidewalks. We didn't require it. We didn't mandate it. It wasn't a requirement of the project itself. It's a drainage project that they're working on. The way the State works if they have a 1,000 or 2,000 projects out there, the more problems a project has, the funding for the project goes to other projects in order to stay within their budget or spend the money within their budget time frames, yeah.

If we impede a drainage project because we're insistent that sidewalks need to be put on, 400 feet of sidewalks or whatever, it's a good case of shooting ourselves in the foot. They're gonna send the money to Hawaii or Kauai or wherever else, you know, they find more receptive people willing to approve the improvements that they wanna put in place, yeah. A drainage project is necessary

to prevent flooding, it should be allowed to proceed. If we feel that sidewalks are very important to direct pedestrians to this dangerous intersection then it's it contributing County streets that are coming to that intersection, the County should fund it, and we should pursue it, you know, from the perspective.

But I feel that we're basically beating on a dead horse. We've asked them to consider it. They've run numbers on it. They've measured it. They've actually told us how much it would cost. They considered it. They found that it was not within the parameters of their budgetary constraints and so they deleted it while accommodating a widening of the side paved area in order to accommodate pedestrians as well as other users. So I think we're at a dead end at this point.

Chair Ball: Commissioner Hudson?

Mr. Hudson: Trying to keep up with you guys over here. I just got a couple of real quick questions. it would appear to me that the only leading question in front of this Commission is whether or not the SMA was violated, the conditions of the SMA. That's the only question that we're addressing. If that's the case, then there has to...somebody has to show where the violations were. If you have the permit, and this is what I'm following, you have a list of conditions, and they're saying that the permit was violated. Where? Who determines that and how's that done because I clearly don't know?

Chair Ball: Director?

Mr. Spence: Thank you, Mr. Chairman. And I'm gonna echo Corp. Counsel, Deputy Corp. Counsel Hopper. We'll get DOT here, and they'll explain how they...the condition on the permit is, as Commissioner Hedani said, is "to consider putting in a sidewalk". What you'll hear from DOT is how they considered it. If you believe that...if you don't believe they considered it after you've discussed it and after hearing testifiers and everything, if they haven't considered it, then they would have a violation of their permit. But if they did consider it, there is no violation and that would be the end of the story. But there'll be additional discussion for the Commission, and I understand they're supposed to bring documents with them to say, to show how they considered it.

Mr. Hudson: And so the determination is to whether or not there was a violation rests with this Commission is that correct?

Mr. Spence: Yes.

Mr. Hudson: Okay, and we determine that through public testimony and all the rest of this and the DOT statements?

Mr. Spence: Yes, it will come back to you...I mean, not all SMA violations or questions on conditions go to...come back to the Commission. Oftentimes, they really just come to the Planning Department and I deal with them. But in this particular case, it's going to be up to the Commission whether they...you believe there was a violation or not.

Mr. Hudson: Okay, just a few more questions for my clarity 'cause it's kinda hard for me. This permit was approved in 2012 with a certain list of conditions. so if there we determine that there's no conditions that were violated, we're not even questioning whether or not we honestly believe it's safe. The State said that it's safe--

Mr. Spence: Right.

Mr. Hudson: --from the last time we asked them, they said it's safe. But I'm wondering what the indemnification is for this panel, for this board, for this County, will we let something go that we don't think is safe just because the State tells us it's safe. I realize that the citizens that are using that crosswalk are state residents as well as county residents, but how does this play out in the long run should there be a unfortunate event at that intersection?

Mr. Spence: Well, the...and perhaps Corporation Counsel wants to comment more, the question before this Commission, and at the time of that permit was not...the question wasn't is this safe or not? The question was are you gonna put in sidewalks or not? And the applicant, DOT said they'll consider it, and it was clarified with one of the Commissioners, was this proposed condition to requiring sidewalks or was it to consider? And the Commission replied that it was to consider. So there was no requirement as such...I mean, as for liability, I'm not an attorney. Thank God.

Mr. Hudson: Thank you, Mr. Spence.

Chair Ball: Wish to comment, Corporation Counsel?

Mr. Hopper: The County is not responsible or at least the Planning Commission reviewing project does not determine the design of the projects. It can consider conditions to mitigate the impacts of the project per the Special Management Area Rules, Objectives and Policies. There is case law in that. That is the responsibility of the Commission. Responsibility for the design of the project is for the applicant that is coming forward. They have the authority to design the project to how they determine, and the Planning Commission's responsibility under State Law deals with the Goals, Objectives, and Policies of the Special Management Area Law. So it is the project designers, it's the engineers, architects, et cetera, responsibility for the design of the project and the safety aspects of the project.

Chair Ball: Commissioner Lay?

Mr. Lay: Okay, once you put a crosswalk on the road. Once that's there, you're saying people can cross this...across this crosswalk. In doing that, isn't supposed to be safe that they're there? I mean, we're talking about a safety violation here because you've created a venue for people to use and you can't just throw it out there and forget about everything else that connects to it. You gotta make sure that that venue is safe. We've got handicap issues which is a big one on this too. If you put a crosswalk there, can that handicapped person get across that crosswalk? There's a lot of issues here on this, and making it safe and just saying we're not responsible I think is wrong. We are. Maybe we made a mistake by not putting it as a condition, but it has to be fixed if it was done wrong in my opinion.

Chair Ball: Commissioner Tsai?

Vice-Chair Tsai: I was here 2012, along with three other Commissioners here, but those of you guys who weren't here, my recollection is at that time we couldn't have, we didn't have the power per our Corp. Counsel at that time to actually put a condition on it to make 'em put a sidewalk in. It was just like the two left-turn lanes as well. We were only able to put in as a, you know, a consideration for them, and that was, that was at the time. and I would have loved to have put that as a condition, but I don't think we able to because they we coming in for an SMA Permit and that was not related to the SMA ...(inaudible)...discussion. So...

Chair Ball: Commissioner Robinson?

Mr. Robinson: Commissioner Hudson, I believe the first meeting we at, testifier Mr. Hyde, he brought I think it was four or five conditions that were not followed in the permit. And I think what they're saying is that we could possibly use those conditions that they're breaching to, I don't know maybe have a discussion, I'm not sure. I'm not sure what our power is, but right now they are, they are from what our testifier is saying that they have, they have not followed some of the conditions from the 2012 meeting. But I'm also, it's...it's there's a lot of information being thrown around and last, the last meeting, and I wanna say this is, DOT confirmed that their RFP from the County didn't follow the new law regarding safe sidewalks and safe highways because they were not up to speed at that time. And we can, I guess we can go check in the minutes, but that's what I got from it that they're doing what they got, and so therefore their budget was set, and that's why it's, you know, the sidewalks...they kinda got in just before, you know, everybody really took that law that was that I believe that 2010 law where the sidewalks-

Unidentified Speaker: 2012.

Mr. Robinson: 2012 law, yeah, I think they got that just in because the RFP was in before that was awarded. And so, that's where I think that's from. So I think as far as us finding something that they are not...that they are in violation for, I think our Commission might be able to investigate that and find that there and with that maybe the DOT might try a little bit harder in showing up for our next meeting instead of seeing that email that we got that says, maybe, maybe not. Thank you.

Chair Ball: Corporation Counsel, do you care to comment on that?

Mr. Hopper: No, nothing in addition.

Chair Ball: Commissioner Lay?

Mr. Lay: Just one more comment on that. I mean, when projects come a long, we should start...we should finish what we started. You know, it should be done properly and it should be done correctly. I mean, right now we're saying that funding is an issue. If funding was an issue, you know, on if I can do the sidewalk or what, then it shouldn't have been considered because that's part of the project to me. Not telling us that we don't have enough adequate funding for it, you know, it's gonna cost "x" amount of money. You started something, finish it.

Chair Ball: Did Commissioner Robinson and Commissioner Hudson receive information on this?

Mr. Hudson: I'm looking for my stuff now.

Mr. Hopper: Yeah, there may have been something sent earlier before they were on, I'm not sure.

Chair Ball: On this, on this project?

Mr. Hopper: There's a lot of things sent.

Mr. Robinson: I did receive written testimony from Mr. Hyde regarding the violations. I didn't know if that was conclusive evidence or that was...or it was an opinion from Mr. Hyde.

Chair Ball: I'm just wondering if you got the packet that comes, you know to make the decision on this, was the information on the project, and that sort of thing?

Mr. Robinson: Yeah, no, I just got...I started with the testimony of Mr. Hyde.

Mr. Hopper: Yeah, that might not be everything. So may wanna...I don't know if the Director wants to check to make sure all the Commission Members have all the correspondence related to this from all the parties. I think that would be important, 'cause there's been several series of correspondence on it, and each Member should be reviewing the same set of documents.

Chair Ball: If the Director could look into that and then maybe send it out to all the Members because I think some other Members have not been here since 2012 also. So if we can just get an update before the next meeting of the original packet along with everything since then. We can all be up to speed on this.

Mr. Spence: I would just...before you even ask, I was gonna say whenever we get a commitment from DOT to be here, we'll gather all the correspondence and the approval letter, et cetera and get it to the Commissioners so everybody's looking at the same thing at one time.

Chair Ball: Okay, with specific attention to Item No. 23 is actually what we're really talking about.

Mr. Spence: Yes.

Chair Ball: Kind of gone down the other path.

Mr. Robinson: Last question?

Chair Ball: Commissioner Robinson?

Mr. Robinson: Where does this project stand right now? Is it on hold? Is it...

Mr. Spence: It's under construction.

Mr. Robinson: It's continuing?

Unidentified Speaker: Yeah.

Mr. Spence: And--

Chair Ball: Director?

Mr. Spence: I understand it's under construction. Perhaps it's finished. I don't know. I haven't driven...okay, I see shaking heads, no it's not completed yet. Okay.

Chair Ball: Okay, anyone else? Seeing none...Commissioner Tsai?

Vice-Chair Tsai: Not to beat this dead horse anymore, but...

Chair Ball: Too late.

Vice-Chair Tsai: Corp. Counsel, you talk about revoking the SMA Permit, if we go to that, then I guess obviously the State has to decide whether they wanna come back with a brand-new permit or do they...how does that process go? And reapply for SMA?

Chair Ball: Corporation Counsel?

Mr. Hopper: Well, if it's revoked there would be a order revoking the permit and the State would have the ability to appeal or challenge that decision. In order to actually get enforcement of that, the County would after the appeal rights have exhausted, take the party to court and obtain an injunction to cease the work on the project. That's how it would normally go, and that's...we have had cases, I don't know of a Commission case, but at least a Director case where enforcement proceedings have gone that way where you've got the appeals process. Of course the appeal would go to...if it's a Commission decision then the appeal would go to Circuit Court if it's an actual Commission decision. But again, that would need to be based on the evidence in the record and a decision given to the State explaining the justification for the revocation of the permit. And it would need to be based on a violation of the condition.

Chair Ball: Commissioner Robinson?

Mr. Robinson: I think what we could do though is we could as a Commission write a letter to maybe the Director to ask for fine instead of trying to, you know, revoke the whole permit and have them start over and we could maybe you know, use our influence that way to say can do these things that we're gonna discover in the next meeting, you know, Director could you please look at, you know, maybe...you know how it is, it's just...sometimes it's just leverage for the DOT to do it. But yeah...to be revoking that would like yeah, like Wayne said, that would be shooting our own foot because then the project would be...(inaudible)...Thank you.

Mr. Hopper: The Commission could do neither until it's found a violation of the permit though, so I would want to... You can certainly ask the Director to review this which, you know, frankly under

the SMA law, the Director's required to do that anyway and determine whether or not it's in compliance. And obviously there was a compliance report and there's been debate over whether or not the report was adequately answered or even done in time. But that's normally how projects like this would go. They would have a compliance report explaining how the permit is in compliance and going forward with construction. And frankly that's something that what I think this is Commission is a clearer statement by the State in writing as to why they believe they have complied with the permit, and based on that information the Commission could decide one way or the other on the enforcement of the permit. But other than the actual compliance report, you don't have much from the State other than the, the discussion at the last meeting. So I think that would help the Commission. There are also document requests outstanding from the State the Commission asked for that I think would assist in making the decision.

But the Director at any time has the authority to fine if the Director finds a violation. You're talking about separate Commission action that is separate from the Director at this point, and certainly you could talk to the Director about that, but in order to actually issue a violation there would need to be a finding that there's a...there's noncompliance with the condition which would be the same justification for the revoking the permit. So I just wanna be clear the standard would be the same as far you'd need to find the violation of the condition first.

Chair Ball: Thank you. Okay. Mr. Fasi, do you have something to add here?

Mr. Fasi: Thank you. Yeah, from a planner's perspective, it's a condition that's unenforceable. I mean, like Commissioner Tsai said, it's a matter of consideration and so what do you determine a consideration to be, a U.S. Senate hearing or two guys in a lunch room talking it over, considering it? Yeah, we considered it and we decided no. So at the time as Mr. Tsai said, you couldn't force them to put the sidewalks in, you can only give them the condition that they could consider it. So as a planner, it's an unenforceable condition and I think the lesson here is you either have them do it or you don't.

Mr. Spence: Paul, thank you.

Mr. Fasi: Thank you.

Chair Ball: Thank you, Mr. Fasi. Anyone else? Seeing none, okay. We'll move onto...you know what, we'll take a five-minute break while the Communications under No. 1 sets up, and we'll go from there. ...(gavel)...

A recess was called at 9:56 a.m., and the meeting was reconvened at 10:07 a.m.

Chair Ball: Okay, let's call this meeting back to order. We are under Item C, Communications. Director?

Mr. Spence: Good morning, Commissioners.

Chair Ball: Good morning.

Mr. Spence: No. 1 is...I don't see Tessa here, but I see Charlene representing–

Ms. Charlene Shibuya: Sorry Tessa, her flight, something happening with her flight. I'm here in her place.

Mr. Spence: Okay, so anyway this is a...this is regarding a Draft Environmental Assessment for the lao Water Treatment Plant Upgrades. The Commission is reviewing...can review and comment on the document, and our Staff Planner for this project is Mr. Paul Fasi.

C. COMMUNICATIONS

- 1. MS. TESSA MUNEKIYO NG, Vice-President of MUNEKIYO HIRAGA on behalf of the DEPARTMENT OF WATER SUPPLY requesting by letter dated April 28, 2015 review and comments on the Draft Environmental Assessment (DEA) prepared in support of the proposed lao Water Treatment Plant Upgrades at TMK: 3-5-001: 067 (por.) and 091 (por.), Wailuku, Island of Maui. (P. Fasi)**

The Department of Water Supply proposes to replace/relocate the existing lao Water Treatment Plant located on West Alu Road near its intersection with lao Valley Road and West Main Street on a portion of TMK: 3-5-001: 067. Access to the site will be off West Alu Road through the adjacent parcel, TMK: 3-5-001: 091.

The existing water treatment plant produces approximately 1.7 million gallons per day (mgd) of treated water. The new water treatment plant will produce approximately 3.2 million gallons per day of treated water.

The accepting authority of the Final Environmental Assessment is the Department of Water Supply.

The applicant has submitted a Phase II Project District application for decisionmaking by the Maui Planning Commission. The public hearing on the Phase II Project District application will be scheduled after the applicant has completed the Chapter 343, HRS process.

Mr. Paul Fasi: Good morning. As the Director said, you're here to provide comment to the Draft EA. This is a project that is in a Project District 3, Wailuku-Kahului, and it's a very similar project to something that's already existing in place. It is a permitted use in the Project District. And it will be coming back for a Phase 2 Approval before this Commission, and the applicant has already applied for the Project District Phase 2 Approval. So today, you're just providing comment on the Draft EA. It will come back to you again in the Project District, Phase 2 Approval. That's all I have to say on this project. I'm gonna turn it over to the applicant. They have a presentation on the project and they'll fill you in on the details. Thank you.

Ms. Charlene Shibuya: Good morning, Chair and Commissioners. My name is Charlene Shibuya

and I'm here in place of Tessa Munekiyo Ng. She had her flight from Oahu had to turn around for whatever reason so she wasn't gonna make it. But today, I guess as Paul said, I'm here to make the presentation on behalf of the Water Supply to review and comment on the Draft Environmental Assessment for the proposed Iao Water Treatment Plant Upgrades. And part of the team of course is the applicant. From the Department of Water Supply we have here this morning, Jeff Pearson, who's the head of the CIP projects in that department as well as Tom Ochwat, who's a Civil Engineer IV that works under Jeff and handling the project. And the planning consultant is Munekiyo & Hiraga which I belong to and Tessa Munekiyo Ng is the Vice-President who was supposed to be here but could not make it. And the civil engineering firm is Austin Tsutsumi & Associates. The landscape architect is Russell Gushi and the archaeologists are from Scientific Consultant Services, Inc., and the biological resources studies were done by Robert Hobby, and our environmental consultant.

Again, and the purpose today is for you, the Commissioners to have a chance to review and comment on this Draft Environmental Assessment for this water treatment plant, and I'm gonna present an overview of the EA to kinda just walk you through, you know, what's in that document.

Okay, the project overview, the location is West Alu Road on a vacant parcel mauka of the existing Iao water treatment plant tank site, and adjacent to a MECO substation. If you are familiar with Iao Valley I'll show you an aerial view of a map that will give you a better bearing. And the scope is to replace and relocate the existing water treatment plant with upgraded facility to produce up to 3.2 million gallons per day of treated water whereas the current water treatment plant capacity is only up to 1.7 million gallons per day. So to provide an increase of up to 1.5 million gallons per day.

The project need is this water treatment plant is part of the Central Maui System and the existing water treatment plant filtration units were intended to be temporary at the existing site. And the filtration units were initially sheltered by a large tent which has since been removed leaving the units all exposed to the elements. And another important project need is to reduce the demand on groundwater aquifers and additional capacity is needed to meet future project population demands. And here's the aerial map I was talking to give you a bearing. This is, we're here Wailuku Town, and then if you go up West Main Street, heading into Iao Valley, there's that "Y" in the road or the fork in the road, and then there's this existing 3. million gallon water treatment plant and there's the treatment facility in this area and then right next to it, mauka of it is the MECO substation and then this new facility is proposed mauka of this area. This is West Alu Road heading into the Wailuku Heights, Old Wailuku Heights area and this is the Kehalani development site.

This is what the existing treatment plant looks like. This is the filtration units that are all exposed to the weather right now. This is the existing 3. million gallon water tank and this was the tent structure that housed, I shouldn't say housed, it actually just covered the facility and it's in disrepair right now so all these units are exposed and this is what needs to be replaced and decommissioned. This is a view if you're coming down from the Old Wailuku Heights South Alu Road and then you travel onto West Alu Road. This is the vacant site that this water treatment plant is proposed to be built on and this is the existing 3. million gallon water tank, and then the MECO substation again.

Future site plan of what it will look like. This is West Alu Road again heading up to Old Wailuku Heights, the existing 3.0 million gallon water tank, the substation. And essentially to build a whole new water treatment plant with a chlorinator, chlorine contact tank, a building, a slug lagoon, and some lines that connect it back to the existing tank. There is the existing ditch intake that water comes from for this old facility and it will be pulling water from the same ditch intake which is the lao-Waikapu Ditch.

Here's a closeup of the treatment site plan. So it will have, you know, all the filtration units will be housed, and then of course it will have some space, you know, for the employees to have a break room, storage, you know, office. And these chlorine contact tank is on the outside and then there's a parking lot and the driveway goes into this adjacent parcel. And the slug lagoons back here are to capture decanted liquid, you know, if the water is very dirty it will go in here and excess backwash water will get into...go back into the ditch.

Project components as I kinda mentioned there's that treatment plant building which has a filtration area with four membrane filtration units, office, break room, storage and electrical and generator rooms. There's a 2,000 gallon diesel fuel tank generator system within the building. And there's a dual compartment, slug lagoon that I pointed out which is external as well as the chlorine contact tank which was also in a separate building. And there's that finished waterline from the chlorine contact tank to lao...the existing lao tank and then the access driveway. And there is related landscaping, drainage, and wastewater improvements.

And just to give you an idea these are the treatment plant building elevations what you would see if you were driving along West Alu Road going up towards the Old Wailuku Heights that you would see the building, and then you would see, this is just the access road beyond and then you'll see the chlorine contact tank. If you're coming from down Old Wailuku Heights and you were looking at the back of treatment plant then you would see, of course, a chlorine contact tank on the left and the back of the building.

This is what you would see, this is like a colored rendering if you were driving on again, West Alu Road and you're looking at the front of the building, this is what it would look like. You would have of course, chainlink with barbed wire fence for security, and then the building and the chlorine contact tank. You would see some landscaping on the front, and some trees along the back of the property. This is what the back view would look like. It's pretty nice actually. Then you'll see the fence again, the back fence, the trees, and the building, and then of course, the beautiful backdrop of the West Maui Mountains.

The water source is surface water from the lao-Waikapu Ditch, and again, it's supposed to increase capacity from up to 1.7 million gallons per day at the existing water treatment plant up to 3.2 million gallons at this proposed water treatment plant. And the amount of water allowed for use at lao water treatment plant determined in a recent agreement, accepted by all parties regarding the interim in-stream flow standards from Na Wai Eha including lao Stream so this amount of water has been approved by the Commission on Water Resource Management and various parties involved. And the impacts to streams were taken into account in formulating this agreement.

And as far as the environmental assessment, this is where it's at the Draft EA was published in

March 23rd, in the Office of Environmental Quality Control Bulletin, the notice, and the...although the comment period has been closed as of April 22nd, we're still asking for comments of the Commission. And in this environmental assessment there were no biological resources found or endangered species in site. The archeological assessment did not identify any cultural features. And then the new storm drainage system will be developed to fully retain the increase in runoff. And as such, an anticipated Finding of No Significant Impact is expected.

So what happens is after this environmental assessment gets finalized then as Paul said we'll come back to the Commission to review the Project District application as well as the Final EA. So you'll have another chance to review this project again.

And implementation considerations, as Paul mentioned the project is located within in the Project District 3, Kehalani and there is a Project District Phase 2 application currently being processed, processed by the Department. And then again, we'll be reviewing...it will be reviewed by the Maui Planning Commission after we complete the Final EA. And the cost and schedule of this project is it's estimated at about \$12 to \$15 million and the construction is anticipated in Summer 2016, and will take approximately two years. And with that, that's an overview, and again, we ask for review and comment and so please feel free to comment and ask questions because we do have Department of Water Supply staff to field technical questions if you have some.

Chair Ball: Okay, thank you. At this time, we'll open up for public testimony. Seeing none, we will close....yes, sir, please come forward. Identify yourself and you have three minutes.

a) Public Hearing

Mr. John D. Duey: Good morning, Commissioners. My name's John D. Duey. I've been involved with the water issue in Na Wai Eha for 15 years now. As Charlene stated, the settlement agreement, we agreed to in April 17, 2014 was to allow the Department of Water Supply to buy our public water and sell it back to us, the 3.2 million gallons. That was in the Settlement Agreement so I have no problem with this project. It's on the...it's been approved by the County, the OHA, the Hui Na Wai Eha, Earth Justice. It was a long project. But anyway the Wailuku River which is gonna be changed pretty soon back to Wailuku River is allowed to have returning, Wailuku water returning 15 million gallons. If it gets below the 10 million gallon flow, DWS is still allowed to take 3.2 million gallon. The water is restricted to Wailuku Water Company. So I have...personally, I'm not speaking for anybody else, but I personally I have no problem with this project because it was stated in the presentation that the agreements were signed in September, April 17, 2014 for the 3.2 million gallons. Thank you.

Chair Ball: Thank you. Any questions for the testifier? Seeing none, thank you Anyone else that would like to testify at this time? Seeing none, the public testimony is closed. Commissioners, comments, concerns on the project? Commissioner Hedani?

Mr. Hedani: Charlene, the existing facility that exists today, the concern that I had over the existing facility is that it has no landscaping. The only landscaping component they use I think is Roundup.

Ms. Shibuya: Oh, yeah. I guess the picture showed it.

Mr. Hedani: My concern there is that the entire facility is devoid of grass. All of the sediment is exposed. When it rains it runs across the road. Eventually it will get into the Wailuku River and eventually it get into the sea. This is gonna be ten times larger than the existing facility...well, five times larger from the existing facility based on what I'm seeing, and what I'd like to see is that the entire site including the existing facility be landscaped and properly grassed in because they will have enough water to water the grass in this case, right?

Ms. Shibuya: Yeah, I suppose since they do sell water. You know, I'm pretty sure the Water Supply has no objections to that 'cause they will have to decommission the existing membrane filters so, and typically part of the grading, you know, the Grading Code, they actually require permanent BMPs if you wanna call it. So yeah, it supposed to be grassed over. But I'm pretty sure they're probably in the midst of doing work and that's why it looks like open, but-

Mr. Hedani: I don't think so.

Ms. Shibuya: Okay, so you pass by there often. I know that photo kinda showed some of it.

Mr. Hedani: Well, I live up there so I drive by everyday. It's been like that for ten years, yeah.

Ms. Shibuya: Yeah, okay. Yeah, so I can get a confirmation with Department of Water Supply that's not a problem, right? So basically to get it stabilized, yeah?

Mr. Hedani: Right. So my concern is to reduce sedimentation coming off the site with proper landscaping and maintenance.

Chair Ball: Commissioner Higashi?

Mr. Higashi: Two questions. One is you know that particular plant is located pretty close to the curve going on Alu will the visibility still be open enough that they be able to see oncoming, and the construction of the-

Ms. Shibuya: Oh, yeah if you can kinda see if...actually I know in this drawing it's sorta hard to see that there's a grade difference so what happens is this site is actually sits down into this area 'cause you know, if you kinda drive, it's high yeah on this side, you drive down in here. So it will actually sit low so it shouldn't block any view other than the trees you know from that view. Oh, so actually let me just show you the...maybe the elevation. Yeah, so you see this is the front view, yeah. So you can see this road goes up. So this whole site actually is a little bit depressed. It's depressed into the landscape because they needed to kinda cut down 'cause it was this way. So they cut down to kinda get it flat, yeah.

Mr. Higashi: The second question is this particular location is used for public parking for those people who hike up to the cross. Is there gonna be ample space for the people who wanna go up to the trail to park or you know, I'm just looking at where would be ample parking for these hikers that go up?

Ms. Shibuya: Yeah, they're not gonna be able to park definitely in the site 'cause it's actually safeguarded, yeah, with a fence. But there is gonna some shoulder space. I don't know how many people park there on a daily basis, but like ten?

Mr. Higashi: Maybe like three or four.

Ms. Shibuya: Oh, okay. If it's three or four they'll still have space to park in the shoulders outside of the fence of course.

Chair Ball: Commissioner Hedani?

Mr. Hedani: You know, following up on Commissioner Higashi's comment, the sight radius on that turn right at that corner is very limited and it's compounded by grass that grows, in this case it grows five-six feet high so you really can't see the cars coming around the turn when you make that hairpin turn. There's volunteers that are weed whacking the horse grass on the side of the road every weekend.

Ms. Shibuya: Oh, the Highway Department, the County's Highway Department hasn't been assisting?

Mr. Hedani: Maybe once every three months or so.

Ms. Shibuya: Oh, yeah 'cause they usually have mowers that can do it.

Mr. Hedani: But there's volunteers. Tommy Takeuchi goes over there every weekend and he weed whacks the horse grass.

Ms. Shibuya: Yeah, 'cause it does, it does get overgrown as you saw in that earlier photo, yeah.

Mr. Hedani: And I think the problem is once you put that fence up, he's not gonna be able to get to the horse grass. So if the planners that are working on this thing can look at improving sight distance at that corner in their grading plan that would be helpful I think.

Ms. Shibuya: Probably, well we probably could...Water Supply could probably work with Public Works, you know, that maintains the road, but it's just that I think the way the natural grading looks like it's actually gonna grade down, you know, the property. So I would imagine it would help, help at least some of the vegetation. Not the ones immediately next to the highway though yeah, but if they kinda grade down then supposedly the vegetation would be a little bit lower but you know, but yeah, Water Supply you could, you could sorta work with Public Works, right on...yeah, 'cause you know, essentially the road is not...the road itself is not their function, it's actually Public Works, but I'm pretty sure they can work out something during the construction.

Mr. Hedani: So the current, the current plan doesn't call for reducing the grade of that hill that's right at that corner?

Ms. Shibuya: Well, closer to like, I know this thing is kinda dark but let me show you the other view.

Let me look at that elevation. Well, you know, it only goes to such, yeah, the road is some place around here, so they'll grade down a certain amount, but it won't, you know, grade all the way out to the edge of the road, but it does take down some area to reduce, you know, some of the vegetation. So supposedly the site itself will be maintained, so hopefully it controls at least that much vegetation that gets kinda bushy to see across the curve, yeah.

Mr. Hedani: Is that the Roundup solution?

Ms. Shibuya: Roundup? Well, I would imagine they...they probably wouldn't use too much Roundup on the outside yeah, but probably along the fence line which is a little bit harder, yeah, to mow and stuff? Any other questions or actually comments, yeah?

Chair Ball: Commissioner Robinson?

Mr. Robinson: Where's the old chlorine tank on the, on the water treatment right now?

Ms. Shibuya: Yeah, I'm not exactly sure where the existing chlorine tank. Tom, you think you can point it out?

Mr. Robinson: I was looking at the picture and I couldn't, I couldn't see.

Ms. Shibuya: Let me just pull up that site plan, then maybe you can kind of....

Mr. Tom Ochwat: I'm Tom Ochwat with the Department of Water Supply, CIP Section. The existing chlorine contact tank utilized with the existing water treatment plant is the 3-million gallon water tank. And that's one of the primarily reasons why we're looking at relocating the existing treatment facility is to separate the chlorine contact tank with the existing lao tank.

Mr. Robinson: Is...are you saying that you're mixing inside the storage tank and that...will you be using that storage tank now that you have a chlorine tank?

Mr. Ochwat: That's correct.

Mr. Robinson: So, and then that one would just be a backup storage if needed for the, for the pressure of the gravity?

Mr. Ochwat: Well, it's right now we utilize that--

Mr. Robinson: Both?

Mr. Ochwat: --for both, yes.

Mr. Robinson: Is, did you guys ever think about using something that's no so tall? I mean, I think when you're looking up at the mountain, you're gonna...now we're seeing every building. We're gonna see the water tank, we're gonna see the filtration tank, and then now we're gonna see the chlorine tank. Lower sight lines I mean, has that ever been a concern or recommendation? Or do

you guys just say we gotta put these things in this area, and this works with the...I mean, look at the topography. The tallest building is on the highest part of the mountain?

Ms. Shibuya: ...(inaudible-speaking from the audience)...

Mr. Robinson: It's gonna be lower than it is? Because the building is 20 feet high, correct?

Ms. Shibuya: Yeah...

Mr. Ochwat: The building is approximately 28 feet high.

Mr. Robinson: Twenty-eight feet high.

Mr. Ochwat: Yes, but it's set unfortunately you may see in the Draft EA a grading plan that the building is actually set down below, kind of in a shelf such that we've reduced the visual height of the building to be approximately maybe eight to ten feet from the roadway, the height of the building, but the building is actually set below the height of the road.

Ms. Shibuya: ...(inaudible-not speaking into a microphone)...

Mr. Robinson: The road topography goes up so I could see where it would be eight feet from the road, but if you're looking from Wailuku, you know, it's, it's, it's...the road goes up and so does the mountain. So as I understand you're trying...so if I was to look at your filtration treatment plant and then your chlorine, you know-

Mr. Ochwat: Contact tank.

Mr. Robinson: -contact tank, what's the height difference at the end?

Mr. Ochwat: Okay, the reason, the primary reason for the height...design considerations for the height of the chlorine contact tank is such that we need to gravity fill the lao tank.

Mr. Robinson: Gravity fill?

Mr. Ochwat: Yes, we have to have that tank higher than the lao tank such that water produced in the chlorine contact can flow downhill and fill the lao tank.

Mr. Robinson: So you pump to the chlorine contact tank and then that goes then down through the membranes in the filtration tank?

Mr. Ochwat: Actually everything's based on a gravity system such that we have no pumping energy costs.

Mr. Robinson: So how would the water, how is the water getting 20 feet high?

Mr. Ochwat: Well, we...our intake is up above.

Mr. Robinson: It's higher, and so therefore ...(inaudible)...that way.

Mr. Ochwat: Yes.

Mr. Robinson: That you have enough pressure with the water to continue it.

Mr. Ochwat: Yes.

Mr. Robinson: Okay, that makes sense. While you're here I have another...I have questions. I see where there's sulphuric acid, you have hydroxide, you have bisulfite, and these are for cleaning the membranes is that correct, and re-neutralizing the membranes?

Mr. Ochwat: That's very correct, yes.

Mr. Robinson: So how much do you use to clean these membrane? How often do you clean the membranes?

Mr. Ochwat: I would have to ask our operators. I'm not quite familiar with that proposed scenario.

Mr. Robinson: Is it...do you know how many drums you guys purchase per month?

Mr. Ochwat: I would have to again, ask the water treatment plant facilities.

Mr. Robinson: Yeah, okay, and my question is how much you actually, how much you actually use and how do you dispose of that citric acid, you know, it's...as well as the sulfuric acid which is very, very volatile. I guess when we come back if you have those question on how often you use it and then how, where you guys dispose of that?

Mr. Ochwat: Correct. I believe there's also in the construction plans, in the EA or Draft EA there's a listing of the annual uses of our treatment products I guess you would say.

Mr. Robinson: It said average on it which brings me to my last question. Is on the, on the water usage you guys have, you guys have an estimated usage and you guys have a peak day usage which is, which is twice the daily usage on top of this. Is that just a...the engineering thing that you have to put at the pump to actually able to pump or would you guys actually use 6.4 million treated water in one day?

Mr. Ochwat: Well, each filtration unit has the ability to filter 1.6 million gallons per day that's for a period of 24 hours.

Mr. Robinson: They're all on and all running at the same time?

Mr. Ochwat: Correct. Typically as engineers, we design for conservative things as well as peak flows, peak demands. Per our agreement, we're only allowed to treat 3.2 million gallons, but that can be over a period of 24 hours. So based on our peak demands, we might have to run the plant at 6.4 million gallons per day for a period of four hours and then ramp back down to produce maybe

2 million gallons per day for the remaining 20 hours. Typically the plant will increase their filtration during working hours and during the peak time periods which would be 6:00 a.m. to 2:00 p.m. in the afternoon. When our operators leave, they put the plant on automatic filtration mode, and that might be reduced down to 1 million gallons per day of running maybe skip of one filtration unit. So on average over a 24-hour period you would get 3.2 or less based on that. But that's, that's a typical design where we have to account for peak demand during our peak day periods to accommodate our water demands during that 24-hour period.

Mr. Robinson: So is...with your, your agreement with the two water entities? Is it a yearly consumption and then it averages out to a day to where you guys won't have to monitor every day you have to stop at 3.2 every day. Do you guys do a just a monthly report?

Mr. Ochwat: Oh, it's a daily.

Mr. Robinson: It's a daily report?

Mr. Ochwat: Yes.

Mr. Robinson: Okay. And then if were to go over one day, would you have to then make that up the next day or you guys even...

Mr. Ochwat: We're not supposed to go, exceed that amount in 24-hour period, but like there...we have several water meters that are checked on a daily for a monthly period to get that average.

Mr. Robinson: Is...do you know what type of water meter you have? I mean, I know there's a few different. There's the volume with the light...there's the actual with the, you know, the rotator?

Mr. Ochwat: I believe it's the rotator compound meter, yes.

Mr. Robinson: Rotator meter.

Mr. Ochwat: Yes, but all these things will be upgraded when we do these improvements. We actually have three meters that the water company reads.

Mr. Robinson: And, and exactly what percentage of water do you guys need to be bypassing? Was it, did I read it was 10 percent that will be going back to the slug lagoon?

Mr. Ochwat: That...(inaudible)...a good approximation that we use about approximately 10 percent for backwash.

Mr. Robinson: So would it be 3.5 and then 10 percent goes, and that makes your 3.2 or is that 3.2 considered, is 10 percent then taken off of that?

Mr. Ochwat: The 3.2 is the finished treated water, any backwash we treat it and put it into the lagoons and then it goes back into another ditch so it's really—

Mr. Robinson: Recycled, yeah.

Mr. Ochwat: Recycled water that goes back to the water company.

Mr. Robinson: Thank you so much for answering my questions.

Mr. Ochwat: You're welcome.

Chair Ball: Reminding the Commissioners to use the mic when you are speaking and also to limit your questions to two and then we'll go around and if no one else, then we'll come back to you. Thank you for that. Anyone else have questions? Commissioner Hedani?

Mr. Hedani: Charlene, why is the site so large?

Ms. Shibuya: I would imagine...wait, when you say the site you mean, excluding the driveway?

Mr. Hedani: Well, I look at the 1.7 million gallon filtration system and it looks like it occupies a space of 20 feet x 30 feet and the new facility which doubles the capacity looks like it occupies two acres of land. What is the plan for the entire site? Is there gonna be a second tank built so you have 6 million gallons of capacity or is the existing facility gonna be abandoned or what is the plan?

Ms. Shibuya: Actually Water Supply can correct me if I'm wrong, but basically this site won't have a tank. They still will use the existing tank, but the filtration systems will be decommissioned and this after treatment plant building houses a lot more than just the filtration units. I think the old site has just detached, little detached buildings and I think this, the treatment plant building kinda, is kinda comprehensive, it covers the office, you know, the break room as well as the generator and filtration units, of course, storage, but I can ask Water Supply to add...to compliment what I had to say 'cause they would probably be better to answer you know, like how big a site they needed.

Mr. Ochwat: Well, I would say first off, if you consider the area that the three filtration units are in this facility over here, it only incorporates a small portion of the building. And we've also incorporated existing, the existing site has a porta potty facility for the operators. We now have a restroom over here. Then we also have outdoor chemical storage, well we're gonna have indoor chemical storage. So if you take the overall site of this into pieces, we've incorporated it into a, you could say a enclosed structure. In addition, this site does not have an emergency generator for our filtration, we'll be incorporating that, an emergency generator to allow the plant to function when we have no power. Did that satisfy your question?

Mr. Hedani: When you look at the project, you're doubling the capacity and when you look at...when I look at it from the standpoint of the value of the land that's being taken down for the project it just looks like overkill to some degree. And the existing facilities are gonna be abandoned so you're gonna have a lot of wasted space on the site unless there's plans to double the storage capacity and put a second 3-million gallon tank in there or something that would make better utilization of the site. At a cost of \$12 to \$15 million I'm thinking...well, it's you guy's call, but I'm thinking you could come up with a much more efficient system if it was scaled down to an appropriate size. You're building a break room for the employees, does it have a commercial

kitchen in it also?

...(laughter)...

Unidentified Speaker: Say no, Tom.

Ms. Ochwat: No.

Chair Ball: Paul did you have a...

Mr. Fasi: Yeah, I just want to comment that in response to Chairman...Commission Hedani's concern it may have something to do with the purchase of the property from the owners. Maybe they wanna sell the entire parcel as one.

Chair Ball: Further questions? I have a few. I'll start with where we were with Commissioner Hedani. I see some lines, some lines on here, there's a "Y" kinda in the middle. They're kinda on the lines of Commissioner Hedani, there's no...can we bring the facility down closer to the tank, like he said it seems very spread out with that open space, if that is open space. I'm not sure what those lines are whether those are trenches or ditches or...

Mr. Ochwat: This...unfortunately this plan does not show, there's an agreement with the Water Department and the developers to put a 2-million gallon storage tank in here and I think the partnership is with Maui Lani Partners and Kehalani. So that's why originally this was to be...I looked at placing this treatment plant on this parcel and I was corrected and said that this parcel's already been dedicated for a 2-million gallon treatment plant. That's why we're allowing this shared access here such that it'll access this water treatment tank here.

Chair Ball: So you'll have another tank there or that existing tank will come down when that tank is built?

Mr. Ochwat: This tank, no. This tank is for additional storage for you know, for the proposed developments.

Chair Ball: For the area?

Mr. Ochwat: That's correct.

Chair Ball: Going back to the chlorine building if you will, there's another...there's a view slide that we were on?

Ms. Shibuya: Was that ...(inaudible)...view?

Chair Ball: What side was that? Yeah, the previous one, that would be okay. So the facility is that one-story or is that a two-story? What are the heights of these buildings right here on the top-

Mr. Ochwat: The height of this building—

Chair Ball: —or bottom here?

Mr. Ochwat: —I believe is 28 feet.

Chair Ball: Okay, and then the chlorine tank is also 28 feet?

Mr. Ochwat The chlorine tank, I don't know offhand. It's about...I want to say about 20 feet.

Chair Ball: Okay, 'cause I'm gonna echo Commissioner Robinson's concern on high that building is. And it...you can't dig in further into the land to bring that down was that because of the gravity or you can because the gravity is going the other way?

Mr. Ochwat: Well, our intake is up here at this elevation. It goes through the filtering process and then fills this tank up to a certain elevation and then it's gravity fed down to the lao tank, the existing 3-million gallon tank. This building is pretty much set at an elevation that I guess allows a 2 to 1 slope from the road or from our property boundary down to the drive access. We could lower the building to be lower in grade, but then we would have additional costs in trying to match the existing ground up at the Alu Road. Right now, we're pretty much at a maximum slope of 2 to 1.

Chair Ball: Well, my concern is more for that chlorine building than the...you know, it's twice as high or maybe third as high as the other one.

Mr. Ochwat: Again, the chlorine contact tank was set based on the bottom elevation had to be somewhat higher or at the same elevation as the existing water, lao tank so we could drain this tank and fill the lao tank. So this is set, this elevation's set on the existing lao treatment, 3-million gallon tank.

Chair Ball: So was there any look into pumps or anything like that to bring that elevation down and then pump the water up to the existing tank?

Mr. Ochwat: I would, I would say that there was consideration in the design process and with pumps there's maintenance, there's failure, there's a lot of mechanical issues that we would prefer to just say, hey you got gravity, we don't need this additional pumping we could set our tanks at the appropriate elevation and be able to just drain them without that.

Chair Ball: And I understand that that's it's easier but it may not be more environmentally pleasing to go the easier route. I don't know what the cost difference is, I don't know any of that, but it's something that you might wanna look into further. Try to bring that building down. If it's not feasible, it's not feasible, but I think people will be concerned with it having a tall building like that especially when you're coming down Alu Road, I think it's gonna be right in your face when they're getting great views coming down that hill now. So...

Mr. Ochwat: We'll take that in consideration with the design consultant.

Chair Ball: Commissioner Hedani?

Mr. Hedani: Following up on Commissioner Ball's comment, Chairman Ball's comment if you could evaluate the tank's impact to sight lines coming off Alu Road as you're approaching that hairpin corner because what happens is the guys that are going up the road cross center of...the center line when they're taking that left-hand curve, and the guys coming down the road need to see them coming, and that tank is gonna be right in the way.

Mr. Ochwat: I'll have the consultant to look into that, the sight lines and the sight distances for that.

Chair Ball: Commissioner Robinson?

Mr. Robinson: I see on the plan where you stack the gravity flow chlorine tanks vertically. Would you be able to offset it and do it with a little bit offset side by side to still keep your gravity flow without having to stack it on top and then alleviate some of that height?

Mr. Ochwat: Pretty much our bottom elevation's set. based on the tank.

Mr. Robinson: Yes, but in the drawing I saw is you have your filtration system coming up top and going down this way, couldn't you offset to it would flow with the gravity flow that way instead of completely vertically to help reduce some of that height?

Mr. Ochwat: I'm sure it could be looked at.

Chair Ball: Commissioner Lay?

Mr. Lay: Your sludge holding area, what is the sludge from?

Mr. Ochwat: That's usually the backwash material, filtered material that we filter out from the raw water. So we use flocculants and coagulants to, you can say, settle out the suspended solids and then it's backwashed back from the filters into a sludge lagoon where it's settled out.

Chair Ball: Commissioner Lay?

Mr. Lay: You say backwash from the filters? What does that mean, it went through the filters and it's coming out or is this prior to that?

Mr. Ochwat: Well, the process is we take the raw water and it has what we would call, suspended sediments and those suspended sediments get caught in the filters and periodically on a most likely daily basis we backwash the filters and clean the filters and all that suspended solids are then pushed into or flowed back into the sediment or sludge lagoons where they're coagulated and settled out to the bottom.

Mr. Lay: Thank you.

Chair Ball: Any other questions? I have another question about the...there was a slide up from the

undeveloped property Kehalani looking at the facility. It was a artist rendering not a photo rendering. That side yeah. The tank I guess is not that...that chlorine tank is not in this view.

Mr. Ochwat: It's over here. The lighting here doesn't ...(inaudible - audio difficulty)...

Chair Ball: ...accurate height?

Mr. Ochwat: Yes it is.

Chair Ball: A picture of that?

Mr. Ochwat: I think you can see the tanks over here.

Chair Ball: Why does that show that height on that side, but on those other renderings it shows it's much taller than that structure?

Mr. Ochwat: I think it's just based on we had to put this on a photograph and then we used our engineering, the engineering drawings of the autoCAD drawings to kinda place it in this photograph as best we could.

Chair Ball: But that's the main structure there, correct?

Mr. Ochwat: That's correct.

Chair Ball: And then the chlorine tower, if you will...

Mr. Ochwat: Actually I think the chlorine may be off this photograph.

Chair Ball: I would think because—

Mr. Ochwat: Yeah,

Chair Ball: Because it doesn't show any height deviation...height of that structure.

Mr. Ochwat: The previous, the previous slide looking from Alu Road had it higher up here, and you're correct, it's probably off the photograph up in here.

Chair Ball: I think we would need a more accurate rendering of the facility out from this view with that tank in the picture.

Mr. Ochwat: Okay, we can see if we can...

Chair Ball: So we know what the impact of that is gonna be from this side with an artist rendering of course.

Mr. Ochwat: Yeah.

Chair Ball: And was there any discussion with the developer of Kehalani as to what they're gonna put up against that fence? Because this is all housing development on this green area here, right?

Mr. Ochwat: Yeah, we've been working with the developer's representative, Brian Ige, on what kind of landscaping they want. They're actually potentially looking at an open space between our...the boundary here and their residential boundary to give some distance to the homeowners.

Chair Ball: And if we could get some information on that one when you come back too? Okay, any other questions, comments? Commissioner Lay?

Mr. Lay: This is back to that trail that goes up to the cross. I've lived in that area and I've been on that trail many times, and again, if you can assure us that there will be parking for the people that do do that hike. It's a nice hike.

Mr. Ochwat: I know where the parking is over there, and I actually do the cross as well. The parking that currently I think is being utilized is just mauka of the MECO station. There's an open area there that you can pull in several cars and our site here is not impacting that area, that open area for the parking. This is actually farther mauka than the MECO station. I think the parking area that I've been saying is right around over there that seems to be open to where I've parked and hiked up to the cross. And you can see the access will be here. I would think that based on the right-of-way of Alu Road, you probably have shoulder parking there as well.

Mr. Lay: Okay, thank you.

Chair Ball: Something that might be considered is the future of that site with the idea of having parking for that access of that trail due to the nature of what that trail represents and where it leads to. You might be cutting off access certain groups that like to go up there. So I would say that we...we're not going to provide parking, but we don't wanna cut any off either.

Mr. Ochwat: Well, I guess to answer that, I think the best place to provide that additional parking or access of that facility is maybe when we look into developing this water treatment facility here or the water treatment tank, the water tank here, maybe we cordon off an area, and implement that into the design of the water tank to allow maybe three or four stalls in this little corner. So I'll make sure that's relayed to the designing consultant for this water tank to-

Chair Ball: Or maybe even at this process too because we don't wanna tear the driveway up to move it over to, you know, in the future, we wanna do it now while it's just vacant land.

Mr. Ochwat: Well...

Chair Ball: We're planning, we're planning for the future so we wanna make sure we do that now not right next to the tanks so.

Mr. Ochwat: Well, right now the extent of my area is just the water treatment plant here. It's not in this facility.

Chair Ball: I understand that, but you are gonna build that driveway right there, right?

Mr. Ochwat: Correct.

Chair Ball: That is also part of the plan so, I'm just saying if you look at that now, you know, for future parking there, whenever, then won't have to redesign the driveway or you know, whatever.

Mr. Ochwat: Right. I'll have that looked at with the consulting engineer to say, hey with this driveway can we put three or four parking stalls in the future over here without impacting the driveway, okay.

Chair Ball: Thank you. Commissioner Hedani?

Mr. Hedani: I'd like to, I'd like to reiterate that I think landscaping the entire facility is important. As I see your project site only includes one-third of the entire area that you folks are gonna be responsible for in the future and the balance of the site needs to be landscaped out as well.

Mr. Ochwat: I definitely agree with you. I've done work and improvements for this existing lao tank site, and I agree that we need to provide better landscaping. Currently I'm working with the landscape architect that we're gonna use a lot of native grasses and native vegetation such that we don't have to provide irrigation to grow the plants and keep the area landscaped with regards to erosion control and that nature. We've also...I would propose that when we do decommission the existing facility that we also provide some sort of groundcover. I don't know if you've noticed, we've...we had some well work over here and we've changed our mind set I guess to say that rather than landscaping, we're using weed barrier and rock such that it's maintenance free. It's also reducing any kind of watering demands, and it also works for filtration as well, and if you look at...we have a well site south of this area, we've implemented that type of landscaping you could say requirement where the site is mostly rocked with a weed barrier and it's a pretty clean site and it's also which again, we don't have to maintain it, we don't have to water it, we don't have to...but it's still clean and it still provides filtration of rainwater.

Chair Ball: Anyone else, comments? Okay, at this time, seeing no other comments, we'll take a quick five-minute break. We'll come back with the comments that we added to the record and then we'll move on to this. We are in recess.

A recess was called at 11:00 a.m., and the meeting was reconvened at 11:10 a.m.

Chair Ball: Call this meeting back to order. We are under Communication, C-1. And we will get the recommendations from the Planning Commission. Charlene can read those back to us and if anybody would like to add or modify what's been said, then we will...

Ms. Shibuya: Yeah, one of the first things that was brought up was, you know, Hedani talked about the lack of landscaping at the existing site. And you know, comment I had brought up, you know, perhaps with decommissioning of the existing filtration tanks, I mean filtration system would have some incorporated, the groundcover I think he mentioned a little bit more creative ground covering. So that was one item.

And I think it talked about both the existing site and the new site. The new site obviously has a lot more landscaping versus the existing. So I guess your comment or request would be to consider beefing up the landscape...I should use proper language, you know, including more landscaping considerations at the existing site. How about the existing site, the existing site could, you think what's proposed so far is inadequate?

Chair Ball: Commissioner Hedani?

Mr. Hedani: The existing site looks like an armpit right now.

Ms. Shibuya: An armpit? Oh, yeah the existing site, but you said it was kinda bare though, yeah, a shaved armpit?

Mr. Hedani: Yeah.

Ms. Shibuya: So definitely the existing, right? Take care of the existing site.

Mr. Hedani: Right.

Ms. Shibuya: But as far as the new proposed site, as long as they maintain the landscaping, right? But then we have to kinda point out that the shoulder might still be under Public Works you know within the highway right-of-way.

Mr. Hedani: Yeah, I think the comment was that if you could evaluate any impacts to the sight lines for safety along the roadway on that...

Ms. Shibuya: Yeah, which is, which is created by the overgrowth on the side of the road. Yeah, so we...I would say Department of Water Supply would have to work with Public Works 'cause it's starting to get outside of their jurisdiction.

Mr. Hedani: Yeah, my point was that the landscaping that you put in place to screen the fence as well as the building will also impact those sight lines.

Ms. Shibuya: Okay, guess I make sure—

Mr. Hedani: So have Russell or Austin take a look at, take a look at its impact to that area and ensure that the fence is appropriately set back from the sight lines of that curve.

Ms. Shibuya: Yeah so just to clarify, so for the existing site to consider a groundcover or another appropriate form of landscaping when decommission all those filtration membranes for the new site anything that's screening the fence...well, the fence itself as well as the screening along the shoulder areas that make sure it does not impact the lines of sight. Yeah, sorry I kinda write slow.

Okay, then the next item was, of course, you know there was the about the chlorine contact tank building that it looks too high so to look at alternatives to possibly lower it. And of course, if we lower it, some of the...(inaudible)...ramifications will be having to add additional costs for a pump

system. So you wanted like some sort of alternative analysis or to some sort?

Chair Ball: Commissioner Hedani?

Mr. Ochwat: I'm gonna interject on this comment.

Chair Ball: Hold on, Commissioner Hedani?

Mr. Hedani: One of the questions that I had was that instead of a vertical tank can you use a horizontal tank with the same elevations?

Mr. Ochwat: Yeah, and that was something...I'm going over my notes as well—

Chair Ball: Please identify yourself, Tom. Identify yourself for the record.

Mr. Ochwat: This is Tom Ochwat with the Department of Water Supply. I was reviewing my notes as well as notes taken for me, I agree that we could probably spread the footprint of the water tank as long as the base elevation would be higher than the lao tank, but to lower the overall height of the tank by spreading it out and having a larger footprint we get the same volume but more or less a lower elevation. So we'll look into that with the consultant.

Chair Ball: Thank you.

Ms. Shibuya: Okay, so that's, that's satisfactory for them to explore that spreading out the footprint. Okay, so the next one, well, I guess with that, you know, one of the comments was that we need more accurate rendering I guess when we explore that then we can put up associated renderings to kinda help the Commissioners visualize that. And of course, you mentioned the sight distance...kinda do like a sight distance analysis to make sure that nothing impacts the curve. And I guess to kinda, I guess confirm what's gonna occur with the Kehalani development against the fence, yeah. So perhaps propose...well, actually show what's proposed along that back fence. And then regarding the parking for that hike to actually consider in that site in between to look at like a area for like three to four stalls but without having to modify...make sure the driveway design kinda accomplishes both, yeah, and you don't have to modify it. So does that sound like it covers all the comments?

Chair Ball: Commissioner Lay?

Mr. Lay: With everything that's going on I have a hard time with considers. I would like that we have that parking made available for them.

Chair Ball: Commissioner Hedani?

Ms. Shibuya: So now make, in other words, make the provision for the parking?

Mr. Hedani: You know recently our subdivision, the Wailuku Heights Subdivision received a letter from the Department of Water Supply that said that because they have wells within that area that

draw water, ground water from the subdivision that we had to control the chemicals that we use on our lots in order to not have that impact the drinking water that comes out from there. So my concern is that the chemicals that are being used on your existing site should probably fall within the same parameters of those guidelines, yeah, although you're using surface water instead of well water at some point you may be also be looking at well water.

Ms. Shibuya: So in other words, the existing site make sure that they follow, you know, best practices—

Mr. Hedani: Right.

Ms. Shibuya: —to make sure that none of the chemicals infiltrates into the ground.

Chair Ball: Commissioner Robinson?

Mr. Robinson: I asked earlier that if we could get a more accurate report of the volume of chemicals that will be used and where the disposal will be and if it is gonna be in the ditch, who's responsible for monitoring that?

Ms. Shibuya: Okay, so volume of chemicals used and how it would be disposed of. Yeah, and I would imagine it shouldn't be going back in the stream, but anyway, yeah, okay, that at least confirm that, yeah. That's like a direct violation of Department of Health rules.

Chair Ball: I don't know how far we get into the storage of those chemicals too?

Unidentified Speaker: Yeah, that's what I was hearing with all of this.

Chair Ball: Right filtration of the building for the storage of those and that sort of thing, I guess.

Ms. Shibuya: Yeah, and I think ususally a lot of the building designs have to have like, how do you say, checks and balances in case a spill occurs or something, yeah. Okay, so we'll—

Chair Ball: Commissioner Robinson?

Mr. Robinson: Well, I think the Board of Water knows which chemicals to put next to each other 'cause of the...on that list, if some of those combined it becomes toxic gas.

Ms. Shibuya: Yeah, I would imagine—

Mr. Robinson: But it should be on the plan of a containment area that's...that you have to have for OSHA anyway.

Ms. Shibuya: Yeah so probably because the Water Supply does this all the time, they must have like manuals and protocols that they have to follow. So if we can, yeah, show something like that, yeah.

Chair Ball: Well, and the concern for me would be that the facility's built upwind of a future neighborhood and actually existing neighborhoods too depending on how many chemicals are stored in there and how toxic the gas could be, that would come out there. I mean, that could be something to be concerned about I guess or not depending...but we need to get that information I suppose?

Mr. Ochwat: This is Tom Ochwat again. To comment on the chemicals, this treatment plant is going to go from...or we're utilizing a type of chloride, liquid chlorine versus a gas chlorine. The gas chlorine is a lot more, you could say, volatile and dangerous and that's why we've chosen to go with the other form of disinfection. So with the actual gas chlorine we would have to have a separate building, a separate scrubber, alarms, things of that nature, and we've chosen to say, hey you know, let's go with the safer route especially with the neighborhood adjacent to us. The safer route would be to go with what we have the liquid chlorine system.

Chair Ball: Was that all the comments, Charlene?

Ms. Shibuya: As far as I have on my notes, but I, you know, if I missed anything? 'Cause sometimes I'm thinking it was more like a question you know, versus a actual comment or consideration. So yeah, if nothing more than what I'll do is I'll work with the staff planner to kinda summarize the comments and have it in a form that's presentable for record.

Chair Ball: Commissioner Hedani?

Mr. Hedani: One last comment. I'm glad that the Water Department is taking steps to improve the facility.

Ms. Shibuya: Thank you on behalf of the Department of Water Supply. If nothing else, then we'll depart.

Chair Ball: Okay, thank you. See you next time. Okay, moving on. Let's see, Acceptance of the Action Minutes of April 28, 2015 Meeting and the Regular Minutes of the April 14, 2015 Meeting.

E. ACCEPTANCE OF THE ACTION MINUTES OF THE APRIL 28, 2015 MEETING AND REGULAR MINUTES OF THE APRIL 14, 2015 MEETING

Chair Ball: Do we have a motion?

Mr. Lay: So move.

Chair Ball: Is there a second?

Mr. Hedani: Second.

Chair Ball: Second by Hedani. Discussion?

Mr. Robinson: I didn't get the action minutes of the April 28th.

Chair Ball: Should have been in your-

Mr. Robinson: ...(inaudible)...

Chair Ball: Don't forget to use your mic. Any further discussion? All in favor of the motion say, "aye"?

Commission Members: Aye.

Chair Ball: Any opposed? Motion carries.

It was moved by Mr. Lay, seconded by Mr. Hedani, then

**VOTED: To Accept the Action Minutes of the April 28, 2015 Meeting and the Regular Minutes of the April 14, 2015 Meeting.
(Assenting - I. Lay, W. Hedani, L. Hudson, M. Tsai, S. Duvauchelle,
K. Robinson, R. Higashi)
(Excused - J. Medeiros)**

Chair Ball: We'll go to Item F, Director's Report. Director?

F. DIRECTOR'S REPORT

1. Notification of the Issuance of the following Special Management Area (SMA) Emergency Permit:

April 15, 2015-approval letter to MR. JAMES ALEX DOW of ALLANA BUICK & BERS on behalf of the PAPAKEA RESORT AOA for repair of a sinkhole at the Papakea Resort at 3643 Lower Honoapiilani Road, TMK: 4-4-001: 055, Honokowai, Island of Maui. (SM3 2015/0008) (SSA 2015/0022) (K. Scott)

Mr. Spence: Thanks. Commissioners, No. 1 is the Notification of the Issuance of an SMA Emergency Permit. This is just an informational thing with...and we have our Staff Planner, Mr. James Buika here if you have any questions regarding the issuance of that permit. It was to repair a sinkhole at the Papakea Resort.

Chair Ball: Is Jim here?

Mr. Spence: Yeah, he's hiding behind the pillar.

Chair Ball: Does anybody have any questions for Planner Buika on this item?

Mr. Hudson: Mr. Chair, I'm sorry to go back on thing, but I got August 14th and April 28th and on

the acceptance of the Action Minutes it says April 28th and April 14th? Is there a typo on the...or did I not get the April 14th one?

Mr. Spence: I know the August 14th one was for Item D-1.

Mr. Hudson: Oh, okay.

Mr. Spence: That was the discussion on the sidewalk.

Mr. Hudson: So I didn't get the April 14th.

Chair Ball: It was emailed. Did you receive the email?

Mr. Hudson: I didn't get the email. I probably did, I just didn't check it. All right, thank you.

Chair Ball: Okay, ...(inaudible)...that. Okay, back to Item F-1. Questions for...yeah, give us a quick 30-second overview on what's going on down there?

Mr. Jim Buika: Sure. Good morning, Commissioners. My name is Jim Buika, Planning Department. This is just a report out as we, I explained in the training last time that for Minors or for Emergency Permits the Director has authorized from this written permit to fill a sinkhole that occurred behind an existing seawall. What happened is the seawall was undermined through years of waves and so the sand behind the sinkhole or sand behind the seawall was sucked out into the ocean creating this sinkhole. It's the third sinkhole along a very long, about 1,200-foot long property front. They have I think 11 or 12 large buildings out there. So it's become a chronic problem at this location. So they are going to dig it out, they're going to cement in underneath the seawall just to prevent the water from coming in behind the seawall to preserve the seawall and temporarily fill it in and we will have construction drawings coming in by May 22nd to remedy the situation with best management practices.

Chair Ball: For the complete—

Mr. Buika: To fill this cavity here, yes.

Chair Ball: Okay, Commissioner Hedani?

Mr. Hedani: Jim, you know for this 1,200 feet of...it's basically 1,200 feet of vertical seawall?

Mr. Buika: Yes.

Mr. Hedani: At the time that they come in to us for Emergency Permits do we provide them a better solution that they should be thinking about down the line?

Mr. Buika: Yes, they're required to come in with a permanent solution. This is the third one. We're working with them to come in with a permanent solution. It's going to be costly and they need to address the entire problem. We've had just elaborate a little more, we've had seven or eight of

these on the west side, different engineers come in with different variations of what to do, and certainly so there's the engineering solution and there's the best management practices in combination that we're trying to get a handle on on how to best do this. So we'll work with them. But certainly they need to work with the management there to come in with construction drawings for what's going on. So...

Chair Ball: Okay, any other questions? No? Thank you, Jim.

Mr. Buika: Thank you.

Chair Ball: Moving onto Item 2, Director?

2. Draft letter from the Maui Planning Commission to the Maui County Council supporting the funding for the Maui Sea Grant agent in the County of Maui FY 16 budget.

Mr. Spence: Okay, Commissioners I see a draft letter from the Maui Planning Commission to the Maui County Council supporting the funding for the Maui Sea Grant Agent. I did not find that in my packet, that's definitely not here.

Mr. Yoshida: I guess Mr. Chair, I guess the timing between the Budget Committee deliberations and the mailing out of your agenda...April 27th the Budget Committee Chair presented his recommendation to the Committee which was due...included not funding this position. So that anxiety was brought to the April 28th meeting and you folks instructed the drafting of a letter of support. Throughout the week, the Committee, the Council Budget Committee deliberated and on May 1st they did restore full funding for the position. On May 1st, I have to get the agenda to Carolyn by Thursday after the meeting, so April 30th. So that's why, you know, we have this on the agenda. But the Budget Committee decided and they passed out their recommendations on May 4th after working...putting in long hours over the weekend to restore full funding for this Sea Grant position. So that's why the draft letter is not written.

Chair Ball: Thank you for that. And while you're up there, Clayton why don't you...you wanna go over the future meeting agenda?

5. Discussion of Future Maui Planning Commission Agendas

a. May 26, 2015 meeting agenda items

Mr. Yoshida: Okay, I think I had circulated a memo. We have on May 26th, we have two public hearing items. And three SMA Time Extension requests for two-year time extensions to initiate or complete construction. You know, we're still kinda working with Corporation Counsel's Office regarding some reporting on the status of litigation involving the Planning Commission which we hope to resolve with Corp. Counsel within the next day or so...because we have to...have to get the agenda to Carolyn again by Thursday morning so she can send it out to you by Friday.

Chair Ball: Okay, thank you. Commissioner Hedani, question?

Mr. Hedani: Clayton, is there a way we can make this heavier, our future agenda so that we have more projects coming before the Commission for a full days work?

Mr. Yoshida: Well, I guess we can take a look at that.

Chair Ball: I guess the question is are there things that we're holding out that we could throw in here because we're doing it...because we look at this and say, okay it's full like we will, we'll go till 5:00 with this or...

Mr. Yoshida: Yeah, I think right now...I've kinda stress to the planners that this is kinda of a, kind of a lean time. But once I guess the Council finishes dealing with some of the items that you dealt with previously like the West Maui Hospital which they are doing, then it will come back to you. Downtown Kihei Project which they are doing, it'll come back to you. So I mean, there will be a time very shortly when these bigger projects that the Commission reviewed say, last fall, will come back to you for an SMA Use Permit or a Phase 2 Project District Approval. It's just that the Council had to decide on the legislative permits, legislative approval...entitlements before it could back to you. So you deferred action until it comes back to you.

Chair Ball: Okay, be careful for what we wish for, I guess. All right. Let's see, okay, we'll be going to F-3, SMA Minor, Director?

3. SMA Minor Permit Report (Appendix A)

4. SMA Exemption Report (Appendix B)

Mr. Spence: Commissioners, you've been...in your packet there's also Items 3 and 4, the SMA Minor Permit Report and the SMA Exemption Report. Those are for your information. If you have any questions on those, we're happy to provide any information you need.

Chair Ball: Any questions on those? Seeing none, let's see...next meeting will be on May 26, 2015. And thank you all for coming. Meeting adjourned.

G. NEXT REGULAR MEETING DATE: May 26, 2015

H. ADJOURNMENT

The meeting was adjourned at approximately 11:32 a.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Keone Ball, Chair
Sandy Duvauchelle
Wayne Hedani
Richard Higashi
Larry Hudson
Ivan Lay
Keaka Robinson
Max Tsai, Vice-Chair

Excused

Jason Medeiros

Others

Will Spence, Director, Planning Department
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (on-call)