

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
FEBRUARY 11, 2015**

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

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission was called to order by Chairperson, Michael Jennings, at 12:00 p.m., Wednesday, February 11, 2015, at the Mitchell Pauole Center, Meeting Hall, Kaunakakai, Molokai.

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

Chair Mike Jennings: Good afternoon. Welcome to my board members, and welcome to everybody. If I can make one statement before we start, I would like to say that if you have public testimony, we're going to limit that to three minutes; that's something that I hadn't done in the past, and I should have, so all public testimony will be limited to three minutes. So with that being said, we'll start the hearing right now.

**B. PUBLIC TESTIMONY**

Chair Jennings: Is there any public testimony at this time? Okay, seeing none.

Mr. Clayton Yoshida: Good afternoon, Mr. Chair and Members of the Molokai Planning Commission. Clayton Yoshida, Administrator of the Current Planning Division. And with me, from Maui County, are you Secretary to Boards and Commissions, Suzie Esmeralda, the Administrator of our Plan Implementation Division, John Summers, and our Staff Planner, Sybil Lopez. Also available by telephone, on-call, is Deputy Corporation Counsel, Richelle Thomson, so if you have legal questions, then we can call -- contact Richelle and she could field your questions. We have one public hearing item today which is:

*Mr. Yoshida read the following agenda item into the record:*

**C. PUBLIC HEARING (Action to be taken after public hearing.)**

- 1. Resolution No. 14-114 referred by Councilmember Don Guzman of the Maui County Council to the Maui, Molokai and Lana'i Planning Commissions for an AMENDMENT TO CHAPTER 19.30A - Agricultural District, of the Maui County Code, to Allow for the Creation of Agricultural Conservation Lots. (J. Summers)**

**The proposed amendment is intended to provide flexibility in site planning and design to:**

- 1) Promote land conservation;**
- 2) Preserve agricultural land resources; and**
- 3) Maintain district character consistent with the General Plan.**

**The amendment proposes provisions for the creation of agricultural conservation lots that will be dedicated for agricultural use, in perpetuity, through a conservation easement or a unilateral agreement.**

**The proposed amendment to Maui County Code (MCC) Section 19.30A.030, District Standards, provides for the ability to subdivide agriculturally zoned land into lots with a minimum lot area of one (1) acre provided that:**

- 1. For parcels with a lot area of at least 92 acres, at least 70% of the lot area must be placed in an agricultural conservation lot. For parcels with a lot area of less than 92 acres, at least 60% of the lot area shall be placed in an agricultural conservation lot.**
- 2. The design of the subdivision incorporates best management practices that support the purpose and intent of the Agricultural District.**
- 3. Non-substantive grammatical improvements are also proposed.**

Mr. Yoshida: And presenting the department's report is our Administrator of the Plan Implementation Division, in the department, John Summers.

Mr. John Summers: Aloha, as Clayton mentioned, I'm John Summers, Administrator, with the Planning Department. I did have some handouts for the members today. It's important that we all have those handy. The first handout is a little booklet with a photograph of Molokai on the front. I also provided the members with copies of the resolution, 14-114, this was also in your staff report, and that's the subject of today's public hearing. In our staff report, we had an Exhibit 6, which we'll be talking about today so I wanted to make sure that all the members had that handy. And then I made a copy of our agricultural zoning ordinance, Chapter 19.30A, so you have that before you.

So for today's public hearing, I wanted to walk through this pamphlet, this little booklet, for the members, so it's going to be important that we -- we're, literally, all on the same page with this, so I'm going to actually tell you when to change pages. Typically, we would do this with a projector but the lighting here makes that difficult.

Okay, so as mentioned by Clayton, today have we Resolution 14-114, this was actually a resolution that originated with the County Council, with the work of Council Member Don Guzman, that was transmitted to the department for distribution to the planning commissions. And when this happens, we typically follow the process in the charter, there's a section in the charter, charter 8-8.4, that's the relevant section, which requires that we send these types of legislation - we're on the first slide here - to the planning commissions for their review and comment.

Now when we do this, send it out to the commissions, we met with Maui yesterday, and we'll be meeting with Lanai next week, the commission really has three options, in terms of their recommendations, so one option is to recommend approval as proposed; the second option is to recommend denial, the commission doesn't support it; and a third option would be to say we support it, but we'd like to recommend some changes. The critical thing here is if there's a denial, then the council needs a two-thirds vote in order to pass the legislation, so that's why it's important that they hear from your folks in terms of what your concerns are.

When we met yesterday with the Maui Planning Commission, they decided to list a set of issues that they thought should be addressed by the council, so Maui didn't recommend specific changes to the bill, they preferred to list that specific set of issues that then the department would transmit to the council for their consideration.

So we're going to go to slide 2.

Ms. Zhantell Dudoit: Can you say that again? What did they do?

Mr. Summers: Essentially, what the Maui Planning Commission decided to do, rather than getting into the specific bill and making specific language changes, they decided to make a list of the issues or concerns that they had, and then we'll transmit that list to the council for their consideration.

Okay, is everybody on slide 2? Okay, slide 2 is important because it really gets to the purpose and intent of the resolution, and at the bottom of that slide, the bottom third, you'll see some graphics, and I think the graphics help us understand what we're trying to accomplish. So really, when you get down to it, the way that the bill came down from the council, this amendment to our zoning ordinance, Chapter 19.30A, would allow for the creation of what's being called "an agricultural conservation lot," okay. And along with that,

it would allow us to have lot sizes smaller than two acres, so we could cluster lots as small as one acre, okay. So the whole idea here is to encourage the clustering of these ag lots so that we can preserve a larger portion of the parcel in perpetuity for agriculture, and that's kind of illustrated here at the bottom of the slide. On the lefthand side, we have an open track of property, unsubdivided property. In the middle image, we have a conventional subdivision, all the lots are roughly the same size, no real creativity in the layout of the subdivision, and on the right-hand side, you have a clustered subdivision, so you'll see the small lots with the big ag conservation lot on the left.

There are two points that are very important for this Commission to remember when considering this legislation. The first is that this program is voluntary. Sometimes communities will adopt this type of legislation that it'll be a requirement. In this case, if an applicant wants to pursue this type of project, utilizing the ag clustering concept, they can choose to do so but we're not going to require it as proposed. The second key point is the ordinance, as its constructed, does not allow any additional subdivision over and above what's currently allowed by the ag zoning ordinance. So it's density neutral.

Okay, let's go to the third slide. Okay, in the third slide, to really provide -- to understand how this is going to work, it's really a good idea to look at the current framework for how we manage our agricultural lands. So most of the members are aware that, in this state, we have the state land use law, Chapter 205, HRS, and the land use law essentially breaks out or categorizes our lands into four districts. So if everybody's looking at the third slide, the third page, you'll see a table that indicates the different lands in the ag district of the state. And you'll notice that Molokai has about 112,000 acres in the state ag district, so that's a lot of land. And countywide, we have about 401,000 acres in the state ag district. For Molokai, that's about 67% of the total area that's in the urban rural ag and conservation districts. If you take the sum total of that, on Molokai about 67% is in the ag district.

Now the important thing about the state land use law, as it relates to this legislation, is that the state law has a minimum lot size of one acre in the ag district, so the county cannot propose a lot size smaller than one acre, okay, as part of a clustering ordinance. And then we all know that the state law includes a list of permitted uses and regulates ag lands through that, through permit processes.

Now let's turn the page to the fourth page, slide 4. The most significant tool that we have to manage our ag lands is 19.30A; that's the ag zoning ordinance, and that's the subject of this amendment, proposed amendment. 19.30A was adopted in 1998, December 31 it went into effect, really in response to the proliferation of agricultural subdivisions throughout Maui County. So before 1999, before the adoption of this bill, people could take large tracts of agricultural lands, say a 1000 acres, and you could do 500 two-acre lots, okay, and that created significant concern out in the community, which then created a lot of concern at the executive level, and at the legislative level in Maui County. So they adopted

the ag bill to deal with this because of the degradation of agricultural land as well as the infrastructure and planning challenges are resulting from that. But that law included what we call a "sliding scale," so if you go to 19.30A of the zoning ordinance, if you go Section G, there's a sliding scale, which basically is used to determine how much subdivision potential you can get from a piece of ag land, so that sliding scale tells you how many lots can be created, and then minimum lot size.

So if we go to the next slide, the next page, this table is actually really a picture of what's in the ag zoning ordinance. On the lefthand side of this, what we call the "sliding scale," there's a set of numbers, and so a property owner will determine how large their parcel is, they'll look at the right-hand side of the table, and that table is used to determine how many two-acre lots, 15, 25, and 40-acre lots are permitted, in terms of subdivision. It's important to note that the total number of two-acre lots that are permitted today is 14, okay, so it's capped at 14 two-acre lots. Once you reach that cap, any further subdivision has to be 15, 25, or 40 acres. It's also important to note that once you've reached your subdivision potential, you're deed restricted, and there's no further subdivision potential allowed, okay; otherwise, the whole process would be worthless.

Let's go to the next slide, slide no. 6. Slide no. 6, page 6, includes a table that represents how that sliding scale works. So you'll see in the lefthand column, different parcels by size, and then to the right you'll see how many lots you get. So, for instance, if you go to the middle, one of the middle rows, you'll see 100 acres; a 100-acre parcel, under the sliding scale, can have up to 15 lots, okay. And those would be of sizes between 12 2-acre lots, 2 15-acre lots, and 1 25-acre lot; total of 15 lots. Now the number of lots diminishes relative to the parcel size over -- as the parcels get larger, so let's look at how that works. So I said 100 acres, you get 15 lots; that's basically 6.6 acres per lot. If you have 200 acres, if you go to the far right column, you'll see 200 acres, you get a total of 19 lots; that's 10.7 -- or 10.5 acres per lot. For a 500-acre parcel, a total of 29 lots are permitted; that's 17 acres per lot. For a 1000-acre parcel, 46 lots are permitted, so that's 22 acres per lot. Most of the county's ag land, on all three islands, is still in very large parcels, so the sliding scale protects those large parcels to a large degree. And if you look at the second column, you'll see that the 2-acre lots are capped at 14, so a 200-acre lot gets 14 small lots, but a 1000-acre lot is also capped at 14. So that was a pretty significant change.

If you go to the next slide, slide 7, you'll see a graph, that graph that illustrates the difference between pre-ag bill, i.e. before 1999, and after the legislation was adopted. The X-axis at the bottom of the table indicates the size of the parcel; the Y-axis, on the lefthand side is potential subdivision potential, and you'll see the bluish line, which is -- illustrates subdivision potential prior to the ag bill, so for a 1000-acre parcel, 500 lots permitted; the red line is post-adoption, 1999 and on, 46 lots permitted. So that was a 90% reduction in the subdivision potential of ag land across the county. And this is important because clustering -- sure.

Ms. Diane Swenson: I have a -- you know, I have a question about the preceding slide, and this pertains to a development that was not done here but where Molokai Ranch wanted to do Laau Point, I believe it's about 6300 acres, and so according to this chart, they could have gotten 84 2-acre parcels, and there wouldn't have been any public process. Is that correct, if this was approved?

Mr. Summers: I'd have to look at that parcel. You said the parcel size was?

Ms. Swenson: It's 6300-plus acres.

Mr. Summers: Yeah. If it was 6300-plus acres, and if it was one parcel, 'cause it depends, they may have had several parcels --

Ms. Swenson: No. That's one parcel.

Mr. Summers: Yeah, 'cause if it was one parcel, they would be capped at 14 lots that could be as small as 2 acres, but these things are really complicated so I -- to give you the exact number in that situation, I would need to see all the different parcel sizes. And I'm not very familiar with the specifics of that project so --

Ms. Swenson: No, I just -- well, my question is there's a project like this -- if this were approved, and there were a project like that, it could go ahead and be developed without any public input or -- correct?

Mr. Summers: If, today, understand existing law, okay, if the project is outside of the SMA, right, and it -- and they're subdividing in accordance with the law, the sliding scale, they could do that, but they could not get more than 14 lots 'cause that's allotted -- 14 2-acre lots; everything else would have to be above 15, 25, and 40. And maybe I can answer some of the additional questions at the end 'cause I think some of the slides may address some of these issues.

So slide 8, page 8, will get to how this proposed legislation is going to work with the existing law, okay. How is this new clustering approach that's being proposed, how would it relate to our law that we have today. Okay, the first important thing is that determining the number of lots isn't going to change, alright. You still determine the maximum number of lots, based on your parcel size, and the total number of lots will not increase or decrease; it stays the same, okay. The second important point related to the legislation that came down from the council is that if you're going to do one of these cluster subdivisions, you have to dedicate 60 to 70% of the parcel area for agriculture or open space, and that's going to be deed restricted in perpetuity, okay. For parcels that are 92 acres or higher, 70% of that parcel will have to be dedicated. For parcels less than 92 acres, it's 60%. So that's sort of the public benefit part of this, one of the major public benefits. Now this ag

conservation lot, this big area that would be preserved, would be restricted from any future zoning or subdivision, alright, once it's created. You're restricted from future zoning or subdivision or consolidation. It would be also be restricted to the permitted uses in our zoning ordinance, so that would be the principle uses and the accessories. We have a lot of special uses in our zoning ordinance, and those special uses could happen on the ag conservation lots. Now if a property applicant decides to pursue that and they're willing to do the ag conservation lot, they could then cluster their lots into sizes as small as one acre. So remember, the existing law says you get so many 2-acre lots, and then you get 15, 25, and 40-acre lots, they could take all those lots and cluster them as small as 1 acre but they gotta do the ag conservation lot.

So if you go to the next slide, slide 9, you'll what's happening -- what we're seeing happening and what some of the concerns are with the application of the current law, this is a 1000-acre parcel, an example of a 1000-acre parcel developed on - if you look at page 9 - developed under the existing law, so 1000 acres, according to the sliding scale, 46 lots are permitted; 14 lots can be as small as 2 acres; 17 as small as 15 acres; 25 -- excuse me, 10 lots as small as 25; and 5 as 40. You'll see in that picture that there's a 267 portion of that parcel that remains undevelopable. But the issue with a subdivision like this is that you're consuming or fragmenting, you're chopping up a lot of ag land, okay, so that's the concern, and we're seeing some of this, so we're trying to find a way to prevent this from happening.

So if you go to the next page, page 10, you'll see the same 1000-acre parcel developed with 46 lots, just like the previous slide, but we've used the clustering approach, so we've allowed the lots, in this case, to be as small as 2 acres, and then we have over 900 acres that would be protected in perpetuity through this deed restriction. So this is the -- this really illustrates the application of this new proposed process, this voluntary process.

If you go to page 11, you'll see a conventional subdivision, we see these all the time, without any design criteria, no site plan criteria, so in this slide, you'll see, on page 11, you'll see a stream going through the property, some, if you look to the right of the slide, a flood plain, you'll see some wooded areas, and this parcel was subdivided into 21 lots. They're all about the same size. So the current law, there's not a lot of flexibility in terms of parcel sizes, and a lot of times when that happens, folks will come in and they'll subdivide without consideration to the topography or some of the natural features on the land.

So if we turn the page, page 12, if you go to page 12, we'll see the same parcel, same number of lots, 21 lots, upper right-hand corner of that slide, that are clustered, and you'll see the ag conservation lot is protected. The wooded areas, the streams, the flood plains, all of those are less affected by the project, okay, with the clustering. So there are some real benefits to allowing for a clustered concept. We preserve, if you look at that slide, let's say this is a 100 acres, 70% of it, that big parcel where we have the agriculture going on,

70% of it is protected in perpetuity as ag land. And once we do that, the value of that land dissolves to reflect its use for agriculture. So one of the greatest impediments we're having to agriculture is the price of ag land, and the ability to get long-term leases. So one of the things that we could see happen with this proposal, once we get these areas that are deed restricted, the areas become more feasible for farming.

The other advantage is with the flexibility in lot size, you can do more creative site planning. So we've been able to avoid the streams, avoid the flood plain, and that should be a requirement in the law. So in this proposal, we have language that says you will have these site criteria.

In addition, you're going to reduce your impervious surfaces. When you're building a large project over a large area, you're building lots of roads, lots of driveways, all the water that comes down is going to hit that pavement, roll off, and you're going to end up with non-point source pollution. So we have some opportunities for that as well.

Now, there are also some benefits for the developer. With the smaller lots, you reduce your infrastructure cost - less roads to build, less sewers, and waterlines, and that kind of thing. There's cost savings on landscaping, irrigation, and all that stuff. One of the most important benefits for a developer with a clustered approach is that a lot of times, under the current system, you're doing lots in areas that are more difficult to work with, so the slopes may be steep, maybe distant from infrastructure, right, so the cost is much higher, so if those lots could be developed in an area where it's easier to deal with, then the cost fall; it's less risk.

And the market, the market for these large ag lots. Remember I said the sliding scale requires lots that has to be at least 25 acres or 40 acres? Well, those lots have historically been more difficult to sell. So with the clustered approach, there may be more of a market for those lots.

If you turn the page to page 13, we have our planning document. Whenever we do implementation, such as a change to a zoning ordinance, we want to make sure we have a basis for doing that in our policy, and our policy is in our general plan. So we have a Countywide Policy Plan that was adopted in March of 2010, and in the Land Use Chapter, we have Objective 4, and if you look at the bottom right-hand side of that slide, you'll see Policy D, let me read that for you. That policy states: "Promote creative subdivision designs that implement best practice in land development, sustainable management of natural and physical resources, increased pedestrian and bicycle functionality and safety in the principles of livable communities." The Countywide Policy Plan provides broad policies for all of our three peopled islands. The Molokai Community Plan, 2001, also has a policy, and it states: "Establish zoning standards with varying minimum lot sizes to prevent the improper use and reflect different kinds of agricultural activities within the ag



district." So we feel we have a policy basis for this tool that's considered best practice in many jurisdictions as well.

If you go to the next slide, slide 14, the department supports the concept of cluster subdivision design, but we do have some concerns with the resolution, and the bill that's attached to that resolution, okay, that came down from the council, and we worked closely with Council Member Guzman to address some of our concerns. We feel that bill is a little too complicated. We feel that, to make this really work, there needs to be design criteria. We want them to make it clear on the ordinance that the department will create these design criteria. The bill that came down from council included a second sliding scale. To be honest, one sliding scale is complicated enough; two is unnecessary. Conservation easements are difficult to enforce, so we felt, in the bill that came down from council, you would protect that ag conservation lot. The ag conservation lot has to be protected. So what's the vehicle going to be to protect it - a conservation easement or a unilateral agreement. Both were provided as options in the bill that came down from council. We feel that a unilateral agreement is much stronger, at least for the county to enforce these requirements, so we've revised it accordingly.

If you go to the next slide, 15, page 15, the Exhibit 6, which is what you have in your staff report, is the department's proposal, which we did work with Council Member Guzman on, and his staff. We've simplified the ordinance. We've done some reorganization. We've clarified some of the provisions, but we've kept in support of the purpose and intent. There's a few key provisions in that ordinance I just want to make sure this Commission is aware of. Again, no increase in subdivision potential with this proposal that council has sent down to us. The minimum lot size, remember, we have two-acre lots in the current ag bill, 14 of them capped at 14, that would go down to one-acre so you can do the smaller clustered lots. If you're going to have a one-acre lot, then the lot size has to be adjusted to reflect that, so, currently, for two-acre lots, we have a 200-foot lot width, that's proposed to come down to 150, okay. We included a provision to require the site plan criteria, and we've kept the 70% and 60% requirements in terms of the agricultural conservation lot.

The ag conservation lot in the department's proposal, like the proposal that came down from council, is restricted to the permitted uses in the ag bill. No special uses. The ag conservation lot is restricted to a maximum developable area. The farm dwellings. Two farm dwellings are permitted in the ag district on each lot. Currently, one of those dwellings can only be a 1000 square feet, okay. For the ag conservation lot, the department feels that there needs to be a cap on the size of those dwellings, so together, between the two dwellings we feel 4,000 square feet should be the cap. We're trying to keep the value of that ag conservation lot affordable for farming. And like the bill that came down from council, we would prohibit changes in zoning or consolidation or further subdivision unless it's requested by a governmental agency.

Now, there are two policy issues that the department is still wrestling with, and so we're seeking guidance from the commissions and the public on these issues. One of them is whether or not we should have a maximum lot size in addition to the minimum lot size. What we've seen with the two-acre lots, under the current law, is that a lot of applicants aren't subdividing two-acre lots; they're doing like five-acre lots because the market is I guess more sustainable for that type of development, but that would defeat, to some extent, the purpose of the bill, which is to make sure that we've clustered the development potential, so many jurisdictions have a maximum lot size in addition to the minimum lot size, it could be two acres, it could be three acres, and that's something we're still looking at.

And the second issue is whether we should have a cap on the number of lots that could be clustered. Some of the parcels in the county are very large, so even with the reduction of subdivision potential that occurred when the ag bill was passed, you could still want a large parcel, say an 8,000-acre parcel is permitted 276 lots, so if we take the 276 lots, we can cluster them, you know, you have to ask yourself: Is that too much? Do we need a cap on the size of the clustered subdivision? So that's the second policy issue that if this body has any suggestions, we'd very much appreciate it.

So if we go to the next slide, page 17, the department does support, and this is in your staff report or recommendation in the staff report, the Planning Department supports the proposed bill as amended in Exhibit 6, and the department recommends that the draft revised language be adopted in lieu of the proposed bill. And I'd be happy to answer any questions.

Ms. Dudoit: Okay, sorry. So I was wondering too, when Diane asked that question, so can we go back from the beginning?

Mr. Summer: Oh, yeah. Absolutely.

Chair Jennings: Excuse me, Zhantell. We have to have public hearing first. Is there anyone here that would like to -- okay. Thank you. Board members?

Ms. Dudoit: Okay, so I guess before I start asking my questions, so that they're smart questions, and not naive questions, tell me, in your own words, what was the purpose of creating ag designated zoning residential usage on them, and why would -- what would a clustering like this -- how would it -- okay, so my -- I guess my question is: We put ag lots together or ag zoning together for a very specific reason, right, to promote agriculture in residential areas or permitted use on that land, so by doing this, it's almost as if we're creating another way to have residential subdivisions that are not required then to use the land for which that zoning was originally intended, so they get to be clustered into a residential type community but don't have enough land to go grow their crops and, you

know, do whatever they have to and that's separated from them, so what makes this new clustering technique different from just a plain residential type subdivision?

Mr. Summers: Right. Okay. Let me -- let me turn -- I think there's a good slide, if we go to page 9, if you go to page 9 of the handout, first thing I want to point out that's really, really important is the purpose of the ag district, okay, if you go back to that ordinance, the two primary purposes are: One, protect ag land, okay, and, two, promote agriculture. I mean that's -- that's really the foundation and that's why we have the ag district; protect ag land, promote agriculture, okay. And so anything that we do needs to really further that purpose and intent. If we go to page 9, we'll look at -- we see a subdivision that's happening today, under the existing law, and we have a picture of a 1000-acre parcel that's been fragmented, okay, and we view this, this is what is happening on the ground today, so we view this as being inconsistent, to some extent, with that second -- that first principle of protecting our ag land, okay. So the idea is, if we turn to the next page, and we have this new provision that when you look at the total public purpose, as applied in this ordinance with this new section, you're able to save 900-plus acres of agricultural land, same 46 lots, you deed restrict it in perpetuity for future generations, 46 lot -- or 900-plus acres. The question about the residential use, okay, any lot in the ag district, okay, even these clustered lots, have to comply with our zoning ordinance and state law, and state law does require agriculture, so we do have some provisions for that, we have to be cognizant of that, okay. And the issue with urban growth, urban growth is extremely important, okay, we've worked very hard to develop directed growth strategies, we'll be doing the Molokai Community Plan, you'll be looking at that, we finished the Maui Island Plan, we have urban growth boundaries, and what we don't want to do is after going through this huge ordeal to establish these growth boundaries and setup this growth management framework, we don't want to undermine that, okay, by allowing urban development outside of those boundaries, so that's why we keep the minimum lot size at one-acre, but the average density of that property doesn't change. We're not allowing any additional lots. But it's also the reason why we raised that second question: Should there be a cap on the number of lots for these clustered subdivisions? So it's something we're cognizant of and we're trying to get this kind of feedback on.

Ms. Dudoit: So then that brings me to my next question. So if on the sliding scale you show that the permitted way of measuring the total number of lots available in an area of 25 acres, say, is 7, if this resolution then say the minimum acreage can be 1 acre, does that increase the number of total lots to 14?

Mr. Summers: No. No. The number of lots that would be permitted through this program will not change at all.

Ms. Dudoit: As written or as ...(inaudible)...

Mr. Summers: As -- no. As it's written by both Council Member Guzman and as it's sent down to us from the Full Council, via the resolution, and as proposed by the department. We would not support an increase in lot count.

Ms. Dudoit: So if -- so then that would give the landowner the flexibility of being able to say that you have 7 one-acre lots and then throw everything else into an open space ag --

Mr. Summers: That -- it would provide that option.

Ms. Dudoit: Okay.

Mr. Summers: The landowner could choose to do 7 one-acre lots if they're willing to set aside the ag conservation lot and deed restrict it to those provisions that I had mentioned earlier in the presentation.

Ms. Swenson: I tell you, I found this thing so troubling, I sat down and read it three times; the third time this morning. Number one, we have two ag subdivisions: Papohaku Ranch -- actually three, Moana Makani, Papohaku Ranch Lands, and Kawela, and in almost 40 years time, Kawela is 50% built out. The other 50% of the people, half of them wish they'd never bought and can't sell for what they have in them, and I would say Papohaku is like maybe 25 or 30% built out, and Moana Makani, there's only -- I mean it's not even 10% built out. So we don't have any demand for these kind of lots on this island, number one. Number two, we -- the one thing we may and probably need is affordable housing, and Maunaloa, Kualapuu, Kaunakakai, Manila Camp are all surrounded by ag lands, and I can tell you, a developer cannot put a one-acre parcel on the market affordable. I mean he just -- it cost more than -- so where are the local people going to live? Where are the people who work going to live? Where are we going to put affordable housing? You've eliminated it on the whole island. I mean I don't understand this. And a lot of the ag lands on this island aren't usable farm land. So, I'm sorry, but I'm not getting it.

Mr. Summers: Yeah. No, these are absolutely critical planning issues, and they go -- these are the issues that you folks will be wrestling with as part of your comprehensive plan update. The affordable housing is an absolute crisis throughout the state.

Ms. Swenson: With this, you've eliminated it.

Mr. Summers: Well, this bill -- this bill will not affect housing affordability. In fact --

Ms. Swenson: It does because all of our residential areas where affordable housing can go on the island is all ag, it's all ag, and so it cannot be subdivided and affordable housing cannot be delivered, so you have eliminated it. I don't -- I mean if you can explain it to me

how you're avoiding this -- and additionally, it says that it can never be changed, this -- so we're not only doing this today, but we're doing it to future generations.

Mr. Summers: Right.

Ms. Swenson: I mean to --

Mr. Summers: Couple points. Very good question. We added a provision to the bill, so the department bill differs from the bill that came down from council, so that the deed restriction on future rezoning, consolidation, re-subdivision would apply unless it's for a public purpose, unless it's proposed by a governmental agency for a public purpose. So in the instance of affordable housing, that would probably meet that provision. As a planner, when looking at affordable housing, we're looking at how much land we have that's urban, look at how much the population is today and how much it's expected to grow, look at existing housing and affordability, and the key component is to make sure that there's an adequate inventory of developable land in areas, it has to be in the right location, that would support or be conducive for the development of workforce housing. So it's a real -- and that's just one part of it, but that's an important part that the Planning Department's going to play an important role in.

Ms. Swenson: On page 2, no. 5, it says, "An agriculture conservation lot shall be prohibited from changes in zoning, consolidation, or further subdivision unless requested by a government agency for a public purpose." So -- and then on page 3 it says, "The unilateral agreement shall be irrevocable and enforceable by the county, by appropriate action at law or suit on equity, against the parties and their heirs, personal representatives, successors, and assignees." So it doesn't sound to me like it would be very easy to get a subdivision for affordable housing.

Mr. Summers: Well, if that deed restriction would include that language, "unless restricted by a government agency for public purpose," so because there are other things in addition to affordable housing, we may need a subdivision for water infrastructure or other things, so, you know, that provision is important and it would be a part of the unilateral agreement to make sure that those types of public purposes are met.

Ms. Dudoit: So my next question would be, by clustering everybody together, say your affordable home designation did fly and you were able to get affordable lots, one-acre lots, two-acre lots, whatever, and then you have these big sections of open space where in the development or the landowner could then lease out that whole huge space as an agricultural type business, would we then be creating new problems for residents? I mean 'cause now you're not talking about individual lots that have small farms or which is kinda what we do here, but we're talking about the availability of large portions of land that can be given out to large companies to do permissible uses that may not be kosher or may not

be agreeable with the type of industry or the type of things that our community would want, but because it's now gapped into a project, and it's legal, would we have any outs to say this is not, you know, this may be a permissible use because of what it's covered under, but it may not be something that is good for our community?

Mr. Summers: Yeah, this -- and let me just answer in terms of how the law would work, okay? This ag conservation lot would be created, it would be a separate lot, separate from the clustered lots, that lot could be retained by the owners of the clustered lots or it could be sold in fee simple to some other owner, in terms of the long-term tenure of that land, it could be leased out, or leased out, long-term lease for private agricultural park type of uses, it could be sub-letted in the form of long-term leases to small crop farmers, diversified agriculture, or it could be kept in the larger size for modern culture. The department, our department, doesn't have any control over the type of agriculture that occurs on a parcel, but what we are trying to encourage by taking the development potential off of this ag conservation lot is to make sure that it's more likely the land will be made available, either in fee simple or leasehold, for agriculture, because right now, a lot of folks will hold their property, they won't lease it out, because they're looking at, oh, I can develop this, so they're not offering long-term leases.

Ms. Swenson: Excuse me? Maybe I'm the only one unhappy with this, but the other issue for me is we've got some large holdings, some large ag lands that are owned by families, you know, like the Dunbar family, like the Meyer family, and this would prohibit those families from dividing that land amongst their heirs or, you know, if they have six children, giving each one of their children a sixth of it, I mean it's just -- I mean you're -- I don't see how that's fair to families that have struggled with land for so many years. That's one thing. The other thing is anything now under conservation has gotta be -- a development plan has to be approved by DLNR, and I can tell you that if this goes into ag, into conservation, a farmer's going to wait a year to get his plan approved by DLNR because that's how long they're taking, so that --

Mr. Summers: Thank you for the questions. I think the more and the harder questions, the better, right, 'cause we want to hear this from the community now so we can make sure we get all these ideas and issues vetted, but the proposal is not to move any land out of the state ag district or the county ag district to conservation, okay, but -- conservation district, this creates what's called an "ag conservation lot," but it stays in the ag district, it's not subject to DLNR permit review. Regarding -- the other important point to note is that this is a voluntary program, right. So if we have a landowner, a large landowner with a big large family, this may actually make it easier for them to pass land down to their heirs because, right now, you're capped at the number of small lots, so let's say you're a large landowner and you're actually really doing ag, and that's really important to you, but you want to pass down land, well, once you cap out at 14 lots, you're going to have to start breaking up, you're going to have to start giving out 15, 25, or 40-acre parcels, right, which starts to

diminish the productivity of the land for agriculture, so under this proposal, if you want to pass down land to your heirs, instead of having to do a larger lot, you could do a small lot and protect the larger lot for agriculture. Again, it's just a voluntary option.

Ms. Dudoit: So the only one other thing I had was, when we're reading the Department of Public Works made a comment that they thought it would be -- could be problematic should the government have a need for the property, does Public Works recommend the exclusion for government use to be added? What does the Planning Department view -- or what is your recommendation?

Mr. Summers: Right, that was a really good point from Public Works, and that's why the department added that language to say it can be further subdivided, or the zoning could be changed, and it also includes the restriction on permitted uses, as long as it's requested by a governmental agency for a public purpose.

Ms. Dudoit: So we're being asked today to give our comments and reviews. Do -- according to our required timeline, do we have an opportunity to defer this so that we can make comments as a Commission together and submit at the next meeting or is it something that we gotta do right today? 'Cause I feeling, like Diane has a lot to say, I probably have some stuff to say, it's kinda hard to figure out the exact words here, and the Maui Planning Department had a really good idea of not putting exact wording but just kinda voicing our concerns and that might be the route, but what's our timeline like?

Mr. Yoshida: Well, I guess the proposed -- the resolution, the bill was introduced as a resolution, so there is a 120-day turnaround time as such for the commissions to get their comments back to the council, but if the Commission, you know, doesn't feel comfortable in making its comments, you know, they could state whatever concerns they have about the proposed bill or the department's proposed bill.

Mr. Summers: That was what the Maui Planning Commission did yesterday is they decided not to necessarily get into the weeds of the exact language, but they felt it was very important and it was very helpful to us, as staff, for them to get on the record and to make their recommendation and make sure that their comments were conveyed to the commission to us, so they addressed those issues, Commissioner Swenson, and the issues similar to what you had about, well, how is this going to affect urbanization in some of these ag areas, so that is one approach that is fairly efficient when you're dealing with legislative items.

Mr. Lawrence Lasua: I have a question. In regards to the State Office of Planning, I see they have their concerns regarding this now, is -- because there's a lot of Hawaiian homestead areas over here, okay, does this affect the homesteaders as far as subdividing the agricultural lands, will this then impact them?

Mr. Summers: It should affect.

Mr. Lasua: So, okay, so they'll be exempt from that then? Another question is, I'm not really sure how, you know, like Diane's talking about, 'cause you have the urban lands and all this, but it's going to affect, like she's stating, like the owners of these lands that has lands now, and they would have to preserve some of it for agricultural lands, right?

Mr. Summers: Let's me clarify that. It does not affect --

Mr. Lasua: ...(inaudible)... I mean voluntarily.

Mr. Summers: Right. Because this is a voluntary program, the only folks who are going to use it are folks who feel like, hey, this is going to work for me, either in the case of passing land down to heirs or in terms of preserving larger tracks of land, so it will not affect anybody who owns ag land today unless they choose to use this process for their own benefit.

Mr. Lasua: Okay. Thank you.

Chair Jennings: Zhantell, did you have -- no?

Ms. Dudoit: Well, I was just trying to -- so I guess maybe I should make a motion then, and then we can discuss it, and you can vote it down if you want. So I'd like to make a motion to defer our comments to the next meeting, at which time the Commissioners would come back with concerns, written concerns that we could transmit to through the department for council review.

Chair Jennings: Okay, there's -- okay, there's a motion, Diane has second it. Any further discussion?

Ms. Dudoit: So I was just thinking that maybe what we could do is we could all go back and digest kind of what we're reading here, look at everybody else's comments, Diane has some, I have some, and maybe we could kinda just jot them down, and write them down in real clear English so that when we come back, we could either hand it to the Planning Department, or we could, you know, say it on the record, and then that way, we're kind of organized and we don't take up a whole lot of time talking about, we know exactly what we want to say, and then transmit it at that point as a Commission, as a group, combined group.

Chair Jennings: Okay, so there's a motion by Zhantell, and a second by Diane.

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



***It has been moved by Commissioner Dudoit, seconded by Commissioner Swenson, then unanimously***

***VOTED: to defer the item to the next meeting.***

Chair Jennings: Okay, motion carried.

Mr. Lasua: Mr. Chair, I got comment.

Chair Jennings: Excuse me. Larry, go ahead, please.

Mr. Lasua: Can we get that information off the recording? Your statement? Zhantell's statement? Is that possible? So we don't have to write it down, is what I'm saying, getting the information that Diane had stated, and what Zhantell had stated to us.

Ms. Dudoit: ...(inaudible)...

Mr. Lasua: Instead of us writing it down.

Ms. Dudoit: Will the minutes be ready for ...(inaudible)... 'cause it'll be in the minutes.

Chair Jennings: Thank you. I appreciate your time, sir, very, very much.

Mr. Summers: Yeah. Thank you. Great questions. Thanks again.

Chair Jennings: Okay. Thank you. Okay, next on --

Mr. Yoshida: Yes, Mr. Chairman, moving forward to the Director's Report, we have special management area assessments that, proposed actions that we consider not to be developments and, therefore, exempt from your SMA rules, and we're asking for the Commission to waive your review.

*Mr. Yoshida read the following agenda item into the record:*

#### **D. DIRECTOR'S REPORT**

- 1. MR. WILLIAM SPENCE, Planning Director notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed actions located within the special management area**

**are not “developments” and therefore exempt from the requirements of the Molokai Planning Commission’s Special Management Area Rules:**

- a. **MR. and MRS. SIDNEY SPARKMAN submitting a Special Management Area Assessment (SMX) application for interior remodeling to replace doors, plumbing, and light fixtures, tub, shower, and flooring located at Ke Nani Kai, 50 Kepuhi Place Unit #239, TMK: 5-1-003: 013-0086, Kaluakoi, Island of Molokai. (SMX 2014/0522) (Valuation: \$60,000) (S. Lopez)**

*The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.*

Ms. Sybil Lopez: Good afternoon, Molokai Planning Commissioners. I am Sybil Lopez, with -- the staff planner working on this SMX 2014/0522, so I'm here to answer any of your questions, and I also have the consultant working on that application, which is Luigi Manera.

Ms. Dudoit: Clayton, I actually had one question for you. Why would -- oh, so even though here it says that this is exempt from our special management rules, so we're hearing it, and we have the opportunity to comment on it even though the wording over here says, "The Commission shall acknowledge receipt or vote to waive the review?"

Mr. Yoshida: I guess when the Commission did their SMA -- well, all of their rule revisions back in March, of last year, one of them was for the SMA, I have the section here, 12-302-13.1, I guess we're following 12-302-13.1.A, regarding commission review of special management area exemptions, "The director may determine that a proposed action within the special management area is not a development and, therefore, exempt from the requirements of this chapter. Prior to the director's determination becoming final, the director shall notify the commission of the assessment application at the commission's next regularly scheduled meeting, receipt of which shall be acknowledged by the commission. Such notification shall include, but not be limited to, the name of the applicant, the location of the subject property, and a brief description of the proposed action. The commission shall vote to either review the assessment application at its next available meeting after receive notice or waive review of the application. If the commission votes to waive review of the application, the director may issue a final determination that the project is not a development and, therefore, exempt. If the commission votes to review the application, or does not vote to waive review of the application at that meeting, which includes taking no action or voting to defer action, then the department shall schedule a time on a future meeting agenda for the commission to review the application in its entirety and make a

exemption determination, pursuant to subsection B." So this was thought of as one of a streamlining -- a streamlining measure for the simpler types of matters that were, you know, clearly exempt that we could present it to the Commission, you know, you could decide to waive or not waive your review. If you decide to waive your review, then the director could issue the exemption. If you decide not to waive your review, then it will come back to you at a future meeting, and the staff would write a report, and, you know, make the full-on presentation. So I guess we've been doing that for the past two Planning Commission meetings, since the November meeting, but for this particular instance, we feel that it is exempt and it's not a development.

Ms. Dudoit: Sybil, so this first project, the remodeling and replacement of, it says, "plumbing," that has nothing to do with the interior of the walls or underground? That's just fixtures and exterior plumbing?

Ms. Lopez: Can I let Luigi answer your question? Okay, hold on.

Chair Jennings: Yeah, it's -- Luigi, go ahead.

Ms. Luigi Manera: Hi. Luigi Manera. Yes, only interior renovation. All they're replacing flooring, door, painting. You know, it's funny, since you guys bring up this thing, at the last meeting, you guys realize there was four items like that and one of them was to build two brand new homes and you guys approved it? Just to make a little note.

Mr. Ron Davis: Chair?

Chair Jennings: Go ahead. Yes, sir.

Mr. Davis: I'd like to make a motion that we waive the review of this application.

Ms. Dudoit: Yeah, I second.

Mr. Davis: Can I make it both applications, for a. and b.

Ms. Dudoit: Okay, then I withdraw my second.

Chair Jennings: Zhantell? Oh, you second the motion?

Ms. Dudoit: ...(inaudible)...

Chair Jennings: Okay. Okay. Do both a. and b.? Yes. Okay, there's a motion by -- to waive both a. and b. Is there a second to that? Bill. Okay. All those in favor say aye. Opposed? Zhantell, you oppose?

Ms. Dudoit: Yes.

Chair Jennings: Okay.

Ms. Dudoit: ...(inaudible)...

Chair Jennings: I should abstain also because --

Ms. Dudoit: Okay, so maybe we should start all over again since you guys abstaining.

Chair Jennings: Yes, Lawrence?

Mr. Lasua: You took the motion and the second, was there any discussion?

Chair Jennings: Yeah.

Mr. Lasua: There was?

Chair Jennings: No, there --

Mr. Lasua: Okay.

Chair Jennings: Discussion, please?

Ms. Dudoit: Okay, yeah, can we go reverse and go back to discussion then?

Chair Jennings: Yes.

Ms. Dudoit: Or do you guys want to -- do you guys want to, on the record, disqualify yourself from the vote now?

Ms. Swenson: I'm abstaining because our office handled the sale when it sold.

Chair Jennings: And I'm going to abstain because the second one b. -- a., I'm the manager out there and I know, you know, I just can't, I just want to abstain from it.

Ms. Dudoit: Okay.

Mr. Doug Rogers: No, actually, I would motion to go ahead and waive on a., and get that one out of the way.

Mr. Davis: Okay, is it proper for me to withdraw my motion then?

Ms. Dudoit: No. You can do it again.

Mr. Davis: And just move to waive item a. for now.

Chair Jennings: Okay, there's a motion out there, second.

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

***It has been moved by Commission Davis, seconded by Commissioner Dudoit, then unanimously***

***VOTED: to waive review of the application.***

Chair Jennings: Anymore discussion? Motion carried. Okay.

*Mr. Yoshida read the following agenda item into the record:*

- b. MR. ARVO ANNUS submitting a Special Management Area Assessment (SMX) application for alteration on a single family dwelling located at 226 Kakalahale Street. Ranch Camp, TMK: 5-3-011: 118, Kaunakakai, Island of Molokai (SMX 2014\541) (Valuation: \$55,000) (S. Lopez)**

Alteration includes partially enclose existing carport, add a bathroom, interior remodel, add exterior trellis, and add two storage buildings in the back yard.

***The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.***

Chair Jennings: Ms. Lopez.

Ms. Lopez: Hi. Good afternoon, Molokai Planning Commissioners. I am Sybil Lopez, the staff planner. I'm available for any questions. I do have the consultant in the room, Luigi Manera, if you have any questions for him as well.

Chair Jennings: Commissioners, is there any questions for either Ms. Lopez or for Luigi.

Ms. Lopez: I just want to let the Commissioners know that it is an after-the-fact SMA permit 'cause it's not stated as such.

Mr. Lasua: Thank you. I was just going to ask you that.

Ms. Lopez: Yeah.

Chair Jennings: I'm sorry, Lawrence.

Ms. Dudoit: So in that case, to be consistent with what the Commission usually did, are there any drawings available?

Ms. Lopez: Yes. And I will let Luigi Manera --

Mr. Manera: You don't have any drawings? Oh.

Chair Jennings: Luigi, do you want to --

Mr. Manera: You want to see the drawing or ...(inaudible)...

Chair Jennings: You want to --

Ms. Dudoit: Well, yeah, we were --I was looking 'cause part of this includes two additional storage buildings in the back yard.

Mr. Manera: Yeah, and they both ...(inaudible)...

Mr. Rogers: Luigi, they up to code? They up to code, the storage buildings?

Mr. Manera: The storage is --one is 100 square-foot, and one is --

Mr. Rogers: Yeah, I mean the construction though, they're up to code?

Mr. Manera: Yeah, yeah. They're up to code. By the way, they're actually exempt by building permit because it's less than 100 square feet. It's only because it's an SMA. I had to show what the --

Mr. Rogers: Yeah.

Chair Jennings: Is there a motion?

Ms. Dudoit: Yeah, I'd like to motion to review the application for this project.

Chair Jennings: Is there a second to Zhantell's motion?

Mr. Lasua: I'll second that.

Chair Jennings: Excuse me, Lawrence?

Mr. Lasua: I'll second.

Chair Jennings: There's a motion and a second. All those in favor of the motion?

Ms. Dudoit: Well, actually, maybe we should have discussion ...(inaudible)...

Chair Jennings: Oh, excuse me.

Ms. Dudoit: So that there's no -- so I think my reason for wanting to see it is simple because it's not as if it's a new thing where they're coming in for a permit and wanting to do it, and in the past, we've had a lot of trouble with people who do after-the-fact things, and just seeing this on paper as it is written right now, doesn't really give us a clear view of what it is, what the intent is, how it was built, why they're coming in for an after-the-fact, I mean we've had people like Commissioner Swenson come in with an after-the-fact but clearly stated why, there was emergency, you know, need for it, and those kinds of things, so I think that would be my reason for asking for the review.

Chair Jennings: Okay. Ms. Lopez? Okay. Okay, Commissioners, there's been a motion, a second.

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

***It has been moved by Commissioner Dudoit, seconded by Commissioner Lasua, then***

***VOTED: to review the application for this project.***

***(Assenting: B. Buchanan; R. Davis; Z. Dudoit; L. Lasua; D. Rogers)***

***(Abstain: D. Swenson)***

***(Excused: M. Racine; S. Tancayo)***

Chair Jennings: It passed. The motion passed.

Ms. Lopez: So I have a question for the Commissioners. Moving forward, would you want to see all the after-the-fact SMAs that come through?

Ms. Dudoit: ...(inaudible)...

Ms. Lopez: Okay. Okay, thank you.

Mr. Lasua: I think what we could get is like, you know, sometimes when they do things like that, and then they go to their insurance companies, maybe we can get something to state why they want to do the after-the-fact thing. Sometimes the insurance company won't carry it because it's not -- it's not something the county approved. So maybe we can, you know, maybe you can ask the homeowners that too - is it because it's not showing on the insurance?

Mr. Rogers: Or did somebody do an RFS on them?

Ms. Lopez: Right.

Mr. Rogers: That was my question. Did somebody complain?

Chair Jennings: Luigi?

Mr. Manera: Yes? In this particular case, the wife is sick, and they have to move back to either Honolulu or the Mainland. She have cancer. That's all.

Chair Jennings: Thank you. Diane?

Ms. Swenson: Yeah, I think, you know, if we could have a little more information, like if you had given us that information up front, or somebody had, maybe the vote would have been different, but I mean if we know why and have a good idea of what it is, then I think we're comfortable voting.

Ms. Dudoit: Well, and even more so than the emotional aspect of it, I think it's if we had in our packet some kind of substantial, you know, building -- I mean when we get a new building, when we're trying to review a new project, we get the department's -- we know that it's been permitted, we know that, you know, it's built within code, we know these kinds -- or at least it's being applied to be built within code, so if we just had that for all of the after-the-fact, we may not need to review, you know, see the application and have them -- we may be able to read it and know it before we come here, and then it would be as easy as us ...(unaudible)...

Chair Jennings: Luigi?

Mr. Manera: Well, let's get this straight. We applied for an SMA. We're not the one asking for this. I applied for an SMA. Whatever was given to you, I don't know, but we applied for a full-on SMA, and we applied for a building permit.



Ms. Dudoit: Yeah, so I don't think we're telling Luigi. I think we're talking -- Sybil was asking us if we had suggestions -- yeah. Yeah, Sybil was asking us for suggestions if we wanted to see it and I was just --

Chair Jennings: Okay.

Ms. Dudoit: And I was just commenting that we would probably -- that would have probably been good.

Chair Jennings: Good. Okay. Sybil?

Ms. Lopez: Yes. Thank you. So more information that you just let me know then I can --

Chair Jennings: That's basically I think what everybody is saying.

Ms. Lopez: I can --

Ms. Dudoit: Because I think it's as easy as putting some of the application information into our packet, yeah?

Ms. Lopez: Yes.

Ms. Dudoit: Yeah.

Ms. Lopez: Instead of seeing the whole application.

Ms. Dudoit: Right.

Ms. Lopez: At the least the pertinent information that you need to know in order to make your vote. Okay.

Mr. Rogers: Yeah, 'cause if it's up to code, and nobody complained about it, then I would move to waive it. Absolutely.

Chair Jennings: Yeah. I would change my vote.

Ms. Lopez: So, for the record, yes, there was no RFS, there was no complaints in that area with the Police Department, and we did State Historic Preservation and there were no historical sites affected in that area. So those type of information, if they have agency comments like that, I can provide that with the -- with your, you know, that packet instead of going through the whole application.

Chair Jennings: Yes.

Ms. Lopez: So moving forward on this particular project, so the next meeting we will see -- we will give you the whole packet and it's going to go in front of you as a regular SMA. Yeah?

Chair Jennings: Okay, so thank you. I think that --

Ms. Lopez: I just wanted to confirm that 'cause you guys voted on that, yeah?

Chair Jennings: That would be what all the Commissioners want to see.

Ms. Lopez: Okay.

Chair Jennings: Okay. Thank you.

Ms. Lopez: You're welcome.

Chair Jennings: Okay, next -- next item?

## **2. Agenda items for future meetings**

### **a. February 25, 2015 meeting**

Mr. Yoshida: Moving to agenda items for future meetings, we have a scheduled February 25<sup>th</sup> meeting. Prior to today, I guess we didn't have any items. Then in March, we'll be holding our meetings at the Kualapuu Community Center as they will be re-roofing this building, Parks Department. On March 25<sup>th</sup>, we do have several public hearing items: One is I guess this John Sid Perell state land use commission special use permit to operate a short-term rental home in the ag district in Kaluakoi, and the other one, other public hearing is for AT&T Mobility to have some -- for a county special use permit for some antennas up in Maunaloa Town, and we also have I believe the Nature Conservancy fencing project.

Ms. Lopez: I'm sorry. Yes, I'm Sybil Lopez, with -- I'm the planner working on that project, so if --

Mr. Yoshida: Well, I guess we have a kind of a solid meeting for March 25<sup>th</sup> with the two public hearing items and --

Chair Jennings: So there will be a --

Mr. Yoshida: Several other SMA assessments.

Chair Jennings: On March the 25<sup>th</sup>?

Mr. Yoshida: On March the 25<sup>th</sup>.

Chair Jennings: Okay.

Mr. Yoshida: But I guess we have to deal with the Council Resolution 14-114 also 'cause the Commission defer the matter at today's meeting.

Chair Jennings: Until March? Or February? Yes, Zhantell?

Ms. Dudoit: Well, so then I have a question, 'cause if I had known we hadn't had anything on the February 25<sup>th</sup>, I wouldn't have, you know, said, in my motion, that we would come back to the next meeting, but is it as simple as us just transmitting our concerns to the department so that if you don't have anything on the agenda, we don't have to meet? 'Cause we could do it by email, you know, by a certain date, by February 25<sup>th</sup> or whatever.

Mr. Yoshida: Yeah, I think as much as possible, we wanted to try to consolidate items so we would try to have one meeting a month. You know, I guess the council will be going into budget, their review of the mayor's budget from March 25<sup>th</sup>, so we will be transmitting the record from the three planning commissions to the council, but -- well, they may or may not take it up before the they go into budget because that's --

Ms. Dudoit: No. So my question for us is if we don't have anything on our agenda right now for February 25<sup>th</sup>, and all you're coming for is for us to transmit our concerns to you for that agenda item that we talked about concerning the resolution, is it as simple as us, as a Commission, saying we're going to transmit to the department our comments via email, by a certain date, and then you don't have to have a Commission meeting with just that to come to Molokai for?

Mr. Yoshida: Well, I guess those will be the comments from the individual members, their individual comments on the bill versus having a group -- comment from the body, from the Molokai Planning Commission, this will be comments from the Members of the Molokai Planning Commission, which may be different -- it may or may not be different from each other, we don't know, but we could transmit those comments, you know, your individual comments to the council, you know, with your individual concerns regarding the proposed bill.

Ms. Dudoit: I'll let Diane say what she gotta say and then --

Ms. Swenson: This is different, but I have a concern because we've postponed and said we have to hear that after-the-fact permit, and that woman is terminally ill and has to move,

and so I don't -- I think we need to address that too. I mean we can't make her go another 45 days.

Chair Jennings: And I don't know if this is correct or not, but I'm going to ask ...(inaudible)... do we -- can we take another vote on this about b., the Annus's, can we take another vote on that today?

Ms. Dudoit: Okay, Chair, I have something to say. So we cannot base our decisions on a personal emotional state. Yeah, we -- I made the motion based on factual evidence that is permitted to this Commission, pertinent to this Commission's decision. I have -- I am sympathetic that she's terminally ill, but this place is already built, it's an after-the-fact permit, whether or not she gets this permit done now or when she's on Oahu, it's already built, so the buildings are already there, the renovation has already taken place. I don't think that this is a we have so many days before the woman leaves that her building has to be built up. They're using it. It's built. It's done. And I don't think, at any time, this Commission should ever base our decision on personal circumstances of an applicant and find sympathy to move forward because somebody is in a dire need. I think we have to take into consideration what is going to be our protocol. Are we voting that the evidence here does not support what we need to know about it, or are we voting because we feel bad that somebody's in an emergent situation?

Chair Jennings: Can -- Diane?

Ms. Swenson: For the record, I'm not changing my vote. I did not vote in support of the motion, so for the record, I'm not changing anything emotionally. I'm asking you if you wanted to. I, personally, was not.

Chair Jennings: If -- Ms. Lopez?

Ms. Lopez: Sorry. We do have corp. counsel if you want me to call corp. counsel in. I'm just letting you know. I forgot she's --

Chair Jennings: Well, I think --

Ms. Dudoit: Well, just let me ask a simple question then. If we didn't have a meeting in February, and this after-the-fact wasn't reviewed in February, would that adversely affect the woman's condition, or their quality of life in their home, or would it adversely affect anything going on in their circumstance pertaining to the application on the table?

Ms. Swenson: ...(inaudible - not speaking in the microphone)...

Ms. Dudoit: No, no. I was asking Chair or the department.

Chair Jennings: Luigi, did you have something?

Mr. Manera: Yeah. Hi. Luigi Manera. This has nothing to do whether you guys legal -- make another -- this is something to clear because when you mention it's already built, the house has been permitted. There's nothing wrong with the house. This man, he built two storage. They don't require building permit. What the hell are we doing over here? That's all. Simple. The house is there; was there for two years. He enclosed the garage, and he built two storage. That's the end of it. We don't even require building permit. I don't know what the problem of that. That is after-the-fact, however you want to call it.

Chair Jennings: So, okay --

Mr. Manera: ...(inaudible)... it doesn't matter whether you go back to March or whatever.

Chair Jennings: So can we defer this until February, I guess that's what I'm asking? Can we -- or March. We have to -- we have to do it in March. We can't do it in February?

Mr. Lasua: Are we talking about two different -- from what I'm hearing from -- from Zhantell is that we want to, based on the decision that we made for the conservation agricultural land, our comments that were made --

Chair Jennings: Yes.

Mr. Lasua: That we get it together and we send it off by email to whoever. That's all we're asking. I'm not sure how the other part came up.

Chair Jennings: Well, I think the -- the answer to that question is yes until --

Ms. Dudoit: And just to add on. I was just asking because I heard Clayton say there was no agenda items for the 25<sup>th</sup> of February, so if there was no agenda items, I was thinking that it was not in the best interest of the department to fly all the way over here to get our comments when it could be --

Chair Jennings: Be emailed.

Ms. Dudoit: Emailed. But now, I did forget that we wanted to review the after-the-fact so if that's something that is guaranteed going be put on the next agenda, then I guess we're going to have a meeting. But I was just stating that earlier because it didn't seem necessary for the department to fly all the way over here just to get our comments.

Chair Jennings: Okay. I understand that one. Now, as far as no. b., Arvo, that was when we voted on as a motion to get more information in the packet to make that decision. Is

that what everybody said yes to? Okay. And that would be a future -- and that would be on the 25<sup>th</sup>. Is that correct?

Mr. Yoshida: Well, again, we're trying to consolidate meetings, so 25<sup>th</sup> of -- we know for sure we're going to have a meeting on March 25<sup>th</sup>.

Ms. Dudoit: No. February 25<sup>th</sup>, do we have any agenda items that going make the February 25<sup>th</sup> meeting?

Mr. Yoshida: Again, we're trying, as much as possible, to consolidate meetings, so I guess, you know, what, I don't know, what other items you would have on that agenda?

Chair Jennings: On the 25<sup>th</sup>, other than b. of the one that we just asked --

Ms. Dudoit: I don't think he's -- the department is comfortable in saying that that application going be ready for review. Okay, so to make this easier, because I want our comments to be heard in the, and I don't know if this is appropriate, but because I want our comments to be heard prior to the council getting together to review the resolution, is it possible for us to go back and say that we would like to transmit our comments individually or as a Commission via email because we're not sure we having the February 25<sup>th</sup> meeting, by March 25<sup>th</sup>, the council could have already met on the resolution, that's what I'm understanding, right?

Mr. Yoshida: Again, the full record has to be transmitted to the council, that includes the minutes of the meeting, so if it's taken up again on March 25<sup>th</sup>, then we would have to transmit the March 25<sup>th</sup> minutes to the council, today's minutes and the March 25<sup>th</sup> minutes.

Chair Jennings: So I guess my question is, also, with section b., here that we needed more information in the packet and everything for it, that has to be that we will have to do that on March 25<sup>th</sup>?

Ms. Dudoit: ...(inaudible - not speaking in the microphone)...

Chair Jennings: The first one -- I don't know. I mean that's -- but definitely sounds like we can't -- there isn't going to be anything that we could do on February 25<sup>th</sup>. Is that correct?

Ms. Swenson: ...(inaudible - not speaking in the microphone)...

Chair Jennings: Yeah. Diane, I don't, you know, I just -- we can, I guess.

Ms. Dudoit: Okay, how about we just leave everything the way it is. When we meet, we meet. And when we decide it, we decide it. I was -- sorry.

Ms. Swenson: You know what, Zhanell? I'm concerned that the council have our comments and if we don't meeting until the 25<sup>th</sup>, they're not going to have them.

Ms. Dudoit: And that's what I was trying to say.

Ms. Swenson: And our normal day is March 11<sup>th</sup>, so that's what I'm asking staff is why can't we have it on March 11<sup>th</sup> and get our comments in.

Ms. Dudoit: So that's what I was trying to say, but maybe what might help, because I think Clayton is reluctant to confirm any kind of a meeting date and agenda items, so what I'm thinking is maybe -- can we individually, as Commissioner Members, send through our concerns and then reiterate them at the next meeting so that Diane and I are sure, or the Commissioners are sure that it gets through to the Planning Department and is --

Chair Jennings: Which would be March the 11<sup>th</sup>.

Ms. Dudoit: No, I'm saying, like if I went back to day and I drafted out all my concerns and emailed it the Planning Department --

Chair Jennings: To the Planning Department.

Ms. Dudoit: And then it could be transmitted as part of today's meeting?

Mr. Yoshida: Yeah, I think Mr. Summers might want to weigh in on sort of the transmittal to the council.

Chair Jennings: John, go ahead. Yes, sir.

Mr. Summers: Thank you. We are in the process of meeting with the commissions and preparing our own staff report back to the council. The committee deferred the item today with the intent to meet at, I guess, the next meeting to --

Ms. Dudoit: ...(inaudible - not speaking in the microphone)...

Mr. Summers: Yeah, that would be a long delay, you know, quite honestly. You know, one of the implications of not transmitting at a 120 days is the council can choose to move forward with the comments of the commission, a two-third's vote required for not transmitting the comments, so there are some implications related to that.

Ms. Dudoit: So our question is, if we went back and you gave us a date when it has to be submitted, say Monday, at 12 noon, that all of us could submit our comments to you, can that be part of today's minutes, can that we part of the information you put together, or do

we have to wait till the next March 25<sup>th</sup> meeting in which time we may miss the window of opportunity?

Mr. Summers: Clayton has a lot of experience we don't have. We can contact the attorney if we need to, but I know that the committee itself can't convene and deliberate outside of its normal meeting. Whether an individual member could submit comments --

Ms. Dudoit: I have an idea. I want to amend the motion that I made. Can we go back -- can I first make a motion to go back to agenda item 1? 'Cause I think it's the way we made the motion. So --

Chair Jennings: Zhanell, go ahead. You want to make the motion for --

Ms. Dudoit: Okay, I want to amend the previous motion to say that the Commission wishes to include their comments regarding the resolution via email to the Planning Department by Monday, at 12 noon, Monday the -- or let's say Tuesday, at 12 noon, since Monday is a holiday, Tuesday, at 12 noon --

Chair Jennings: The 17<sup>th</sup>.

Ms. Dudoit: The 17<sup>th</sup> of February, to be included into the minutes of today's meeting as the Commission's concerns and recommendations to the Planning Department concerning the Molokai Planning Commission and the resolution as proposed.

Chair Jennings: That would be for Resolution number --

Ms. Dudoit: One.

Chair Jennings: One. Okay. Can we -- go ahead, sir, John.

Mr. Summers: Thank you. Would we be able to take a very short recess so we can communicate as staff and see if we need to contact our attorney just to make sure we're following the proper procedures?

Chair Jennings: Sure. Diane, do you want to --

Ms. Swenson: You know, if it's my understanding is correct, the Chair can appoint a committee to do this, and then it can be submitted, rather than individual one-on-ones and be okay. Is that correct?

Mr. Summers: No. That's not correct.



Chair Jennings: I suggest that we take a short ten-minute break and, John, you could consult and --

Mr. Summers: Yeah, that would be ...(inaudible)... help.

Chair Jennings: Let's -- let's take a short ten-minute break.

*(A recess was called at 1:43 p.m., and the meeting reconvened at 1:53 p.m.)*

Chair Jennings: The Molokai Planning Commission is now back in session, and -- do you want to let us -- let us know our options here as what we can do?

Mr. Summers: Sure. Looks like we have two options. First option would be if an individual has comments they want to add as a member of the community, not as a member of the Commission, any member can submit testimony as an individual public citizen of Maui County, and that could be transmitted up as testimony. The second item would be to reopen the item, so there could be a motion by the body, just a regular majority vote, to rescind the deferral of the item, so then you can go back as a group and continue to deliberate the item if there are comments that the group would be like to send forward more formally.

Ms. Dudoit: But the deliberation and the comments have to be right here at this meeting, they cannot be -- they cannot be in writing and transmitted at a --

Mr. Yoshida: Could you use microphone for purposes of transcription?

Ms. Dudoit: Sorry. So if we reopen and we discuss, the comments we made would still have to be right now at this meeting and could not be -- we could not like transmit it via email at a later time?

Mr. Summers: If you make comments at this point, what we would want -- what we would suggest is that the committee get the concept, put the concept down so that staff can the incorporate that in its staff report, so it would be getting on the record those items or issues the Commission members feel are important, and that should be set forth in our report. So like for the meeting yesterday, individual members would just say I have a concern about, let me give you an example, how is this going to affect -- will have a implication or a negative effect in terms of how property owners will be able to transfer their land to their heirs, and we think this is really important and the council needs to consider this carefully. If there were no objections to that from the members, then that would be one of the items that would be flagged in the staff report and sent up to the council. So it was handled in that manner.

Chair Jennings: So, we should make a motion to rescind what we discussed, and then have another motion to discuss it?

Mr. Summers: No, as I understand it, there would need to be a motion to rescind the deferral, the previous deferral, and then the item is open and can be discussed.

Ms. Dudoit: I don't know. I sorry. I not comfortable 'cause I don't think we should spend a whole lot of time having one discussion over that stuff when we haven't had the chance to -- we just going be here for another hour and talk about --

Chair Jennings: Yeah, yeah, yeah.

Ms. Dudoit: So I'll just leave it as it is and I guess we'll visit it at our next --

Chair Jennings: At our next meeting?

Ms. Dudoit: Yeah.

Chair Jennings: Lawrence?

Mr. Lasua: The other option is to go up and talk as the public.

Mr. Summers: Right, another option, it couldn't be from the committee, but --

Mr. Lasua: Right, but you can --

Mr. Summers: Individual members could write out the language, their concerns, specifically, and send those to the department, and we would move those forward as testimony.

Ms. Dudoit: So ensure that our comments got through, because I really do want to speak as a body, yeah, but to make sure our comments go through, I could, as an individual member, write down my comments, email it to you, and then we could still talk about it at our next meeting and reiterate those things, and then be presented as a body, right?

Mr. Summers: I mean --

Chair Jennings: Diane, you have --

Ms. Swenson: Yeah, it's my understanding that the council is going to hear this on March 25<sup>th</sup>. Clayton says we cannot have a meeting until March 25<sup>th</sup>. So there's no way the

council will get our comments unless we give them today or the county will agree to let us have a meeting on March 11.

Ms. Dudoit: Well, so that's why I'm saying that, as an individual community member, we can transmit our comments individually, right, and even if we had a meeting on March 11, it doesn't necessarily mean the department would have our comments and minutes ready to be submitted to the council for their review on the 25<sup>th</sup> anyway, right?

Mr. Summers: If I may, Mr. Chairman.

Chair Jennings: Yes, go ahead.

Mr. Summers: I'm not aware of the council taking up this item on the 25<sup>th</sup> of March. I haven't heard anything related to that. We still need to transmit our report and everything. So there's a 120-day deadline for the department to transmit its report, this is pursuant to the charter, we have 120-days to transmit our report, okay.

Ms. Dudoit: And a 120 days from today? From when?

Mr. Summers: From receipt, okay. But that being said, I haven't heard that the commission is going to meet on that date, that's highly unlikely because they'll be in the middle of budget.

Ms. Dudoit: So you had this 120 days from January 23<sup>rd</sup>?

Mr. Summers: No, that's the --

Ms. Dudoit: Oh.

Mr. Summers: That's the date I drafted that request.

Ms. Dudoit: When would have been the date, just so we can --

Mr. Summers: I'd have to go back and look but --

Ms. Dudoit: March would be kinda close to the --

Mr. Summers: I think we're right up against the deadline.

Ms. Dudoit: Okay.

Mr. Summers: I mean we're going to miss the deadline if there's a deferral here, but what I'm saying is it's unlikely that the council is going to take this up in March because they're going to be in budget.

Chair Jennings: So if we made a motion to defer, and then the -- we could do the individual request.

Mr. Summers: Sure. Members of the public can submit their comments on these types of issues, this is a legislative issue so individuals can feel free to submit their own written testimony to the department, to their council members.

Ms. Dudoit: Hey, is there is any law prohibiting all of us community members from putting our name on one paper?

Mr. Summers: That would be a problem with the Sunshine Law, yeah.

Ms. Dudoit: So how does that differ from us individually submitting our testimony?

Mr. Summers: As long as it's --

Ms. Dudoit: One at a time?

Mr. Summers: Right. As long as it's represented that you're providing your testimony as a member of the community as opposed to the Commission.

Ms. Dudoit: And the only reason why this is really important to me to speak as a body is does it have as much relevance, I mean 'cause the Planning Department is asking the Commission to give comments, does it really have that much -- as much clout or as much weight as it's coming from individual community members as it would from the Commission? Honestly?

Mr. Summers: It has more weight if it comes from the Commission.

Ms. Dudoit: Yeah.

Chair Jennings: So our option again, or options again are?

Mr. Summers: Okay, option number one is individual members of the community just submit separate written comments or testimony.

Chair Jennings: Okay. Okay.

Mr. Summers: Option two is to vote to -- make a motion to rescind the deferral and then continue your discussion and get the concepts on the record that the body can then vote to forward to council. Option three is to defer it and take the item up at the next meeting of this body.

Chair Jennings: Which would be on March the 11<sup>th</sup>?

Ms. Swenson: ...(inaudible - not speaking in the microphone)...

Ms. Dudoit: That's why ...(inaudible - not speaking in the microphone)... Okay, so what would happen if we rescinded and we denied? If it was not completely in support of this and we completely denied, what would -- would that have any weight?

Mr. Summers: Okay, if you reopen the item and then the committee votes to deny the concept, to vote against it, the implication there is the Commission is sending a statement to the council that you don't support the concept, you've recommended denial, and the council's going to need two-thirds vote to pass the legislation. Now, the timing is a real issue in the sense that, you know, the 120-day clock because, you know, it affects our transmittal of the information back to council. I just wanted you folks to know 'cause it seemed like you were under the impression that the council is going to meet on this on March 25<sup>th</sup> and I haven't heard of that.

Ms. Dudoit: No, I was more concerned about our 120-day missing the opportunity. Diane, are you -- sorry, Chair. Are you ready to make any kind of a -- enough today to make a comment?

Mr. Yoshida: I guess we could have a March 11<sup>th</sup> meeting to talk about this item and I guess the other item that you deferred.

Ms. Dudoit: Well, shucks, why don't we just take it up on February 25th?

Mr. Rogers: ...(inaudible)... it's kind of a moot point. They got two-thirds. It was unanimous.

Ms. Dudoit: Yeah.

Mr. Rogers: They passed it unanimously, so no matter what we say, it don't really matter, yeah. It's a moot point. The only one that didn't vote on it is Riki Hokama, and he wasn't there or he got excused. Everybody else went for it.

Chair Jennings: Diane.

Ms. Swenson: You know what? I read this whole thing because I -- I mean I read it more than once 'cause I was all stressed out about it, but what they voted for was the number of lots, and now what the Planning Department's trying to do is change it so they're clustered, but I have other concerns about this that I want the council to know, so if you guys -- I mean they -- I think they did it without understanding where the ag lands are in Molokai, and what happens to affordable housing, and I want them to know that and I'd like it to come from this body.

Ms. Dudoit: No, yeah, and you know what? I think, legally, we haven't opened this topic anyway so we shouldn't be discussing.

Chair Jennings: Yeah.

Mr. Summers: Mr. Chairman?

Chair Jennings: First of all, we have to -- Ron, go ahead.

Mr. Summers: John. John. That's fine.

Chair Jennings: Don. Excuse me.

Mr. Summers: John. If we're going to get into the mechanics of the resolution, we need to reopen the item 'cause we're no longer on that agenda item.

Ms. Dudoit: We can reopen the item without having to rescind the vote, right? We can reopen the item and talk about it before we rescind, right?

Mr. Summers: The Commission, if they want to discuss this resolution and their concerns with it, should rescind the vote to defer so they then begin discussing it again.

Chair Jennings: Okay --

Ms. Swenson: I'll make a motion to rescind, and I can state my concerns for the record, and then -- no?

Ms. Dudoit: No, you cannot rescind because the maker of the motion has to rescind, right?

Mr. Summers: No, because we're not adding any -- I asked that question, but no because, as I understand it, that's not the case that we don't need to make -- Clayton, do you know? You're probably better with Robert's Rules but --

Mr. Yoshida: Well, I think the required public hearing was held today, other members -- because it will be an agenda item, interested members from the public can testify at a future meeting, should they wish to. You know, I guess we want to get your comments to the council, but if you need more time, then, you know, we'll transmit the comments when you are -- when I guess you have them formulated.

Chair Jennings: So we can rescind what we did today?

Mr. Summers: What you can do is, what the committee -- Commission may do is rescind the deferral and begin to debate again, and decide how to proceed, and if there's more discussion related to the item, that can occur.

Chair Jennings: Okay, so is there a motion to defer?

Mr. Summers: Or rescind the deferral.

Chair Jennings: Rescind, excuse me. Rescind?

Ms. Swenson: ...(inaudible - not speaking in the microphone)...

Ms. Dudoit: No, I mean, no, not from me because I not sure that I'm even ready to discuss the item anyway and put down valid comments, so we going be right back to the place of deferring to one later date till we have our comments.

Chair Jennings: Doug?

Mr. Rogers: The easiest thing at this point would be to just email them as a community member. Public comment.

Ms. Dudoit: And that's what -- back to what I was saying earlier, let's just leave it the way it is, we can individually submit prior to the 120-day limit as community members so that the department can get our community member comments in and then, at whichever time, March 11<sup>th</sup>, hopefully before, you know, our 120 days is expired, we can meet as a Commission and we can reiterate those things and come back with a stronger voice.

Chair Jennings: Okay. Okay, that's what we will do. Go ahead, Diane.

Ms. Swenson: ...(inaudible - not speaking in the microphone)...

Chair Jennings: Ms. Lopez, do you -- Clayton, can we have it on the 11<sup>th</sup>? I guess that's --

Mr. Yoshida: We can have it on the 11<sup>th</sup>, we know for sure that we have a meeting on the 25<sup>th</sup> because we've noticed the two public hearing items, so if the Commission doesn't mind having two meetings in March, then we can have one on the 11<sup>th</sup>.

Ms. Dudoit: Can we have two meetings in February instead? Because it seems to me if we're getting close to the deadline, and I like be good to the department too to have time to put all this into -- if you having one meeting just so we can discuss this, then let's have it as early as possible so that it gives the department time to include our comments in their report.

Chair Jennings: Would --

Ms. Lopez: I have a comment, Chair.

Chair Jennings: Yes, Ms. Lopez?

Ms. Lopez: If you decide to do March 11<sup>th</sup>, I can add more agenda items under the Director's Report, so it'll give me enough time to generate a little bit more items. For February 25<sup>th</sup>, I don't think I'll have -- I don't have that much time to put anything on that agenda.

Chair Jennings: Okay.

Ms. Lopez: But for March 11<sup>th</sup>, I can probably add some more on that agenda.

Ms. Dudoit: So this --

Chair Jennings: Zhantell.

Ms. Dudoit: Sorry, Sybil. So at this point, my greatest concern is not so much -- 'cause we've already decided we either going have one meeting on the 25<sup>th</sup> or the 11<sup>th</sup>, so at this point, my urgency is we get our comments in prior to the 120-day limit, so right now, the department hasn't been able to tell us exactly when that 120 days is over. If we meeting on March 11<sup>th</sup>, and it's already close to the time when 120 days expired, well, why we meeting anyway?

Chair Jennings: Yeah. Don?

Mr. Summers: Oh, yes. Yeah, if the committee -- if the Commission doesn't provide its comments, we're over the 120-day limit, that's what we're dealing with.

Ms. Dudoit: Right now we're over it?



Mr. Summers: We've got Lanai next week, and then we need to get our comments out to the commission so -- so, you know, it's -- and you've got agenda posting, and a number of other issues, but if the committee is not ready to vote, and schedules a meeting on the 11<sup>th</sup>, then we'll package those up and, you know, send them up, and it may come later, but, you know, it gives the committee the time to provide their comments.

Mr. Yoshida: Yeah, I think if the Commission wants to have a meeting on February 25<sup>th</sup> instead of March 11<sup>th</sup>, you know, we can have a meeting on February 25<sup>th</sup> and deal with whatever other items are ready, but they may not be as numerous as they would for March 11<sup>th</sup>, and just forgo the March 11<sup>th</sup> and have the March 25<sup>th</sup> meeting after that.

Chair Jennings: Well, I'll make a motion that we have our next meeting on March the 11<sup>th</sup> to discuss whatever.

Ms. Dudoit: Okay, so you not agreeing with what he just said?

Chair Jennings: No.

Ms. Dudoit: Is there a reason you --

Chair Jennings: Well, why would we have it on the 25<sup>th</sup> if we're not -- if it's -- we're not ready, we don't have time to do -- Ms. Lopez, it would give her more time to give us some conditions that we could take action on, excuse me, action on, we've already gone by the 120 days, and correct me if I'm wrong, I don't mean to be --

Ms. Dudoit: No, because I think the original intent with Clayton was anything that didn't make the February 25<sup>th</sup> was going be moved to March 25<sup>th</sup> anyways. The only reason Sybil suggested that was to make it more efficient for the department to meet. Can I just ask why it took so long for the department to translate this information to us and then have us crunch without the time to make the comments?

Mr. Summers: Well, the, first of all, the 120-day requirement in the charter is very, very aggressive, but it's in the charter, okay, so that does create natural constraints because you have public hearing notice requirements, that's a 30-day notice, the reports have to be prepared, so it's fairly aggressive to start, so that's really the gist of it, there's a lot of work that goes into this with a very short timeline to make it happen. We're also dealing with the holidays, so you're working around a lot of different variables.

Ms. Dudoit: So you're meeting with the Lanai Planning Commission next week.

Mr. Summers: Yeah.

Ms. Dudoit: How long does it take you to draft all your notes for all the commission to be able to --

Mr. Summers: Well, it's actually pretty quick. The heavy lifting occurs with the drafting of the planning commission report, so we've got a lot of the basis, we have the report to the three commissions, we'll take that report, we'll augment it, we'll add a new section to that report that, basically, highlights the recommendations of the three commissions.

Ms. Dudoit: So, technically, all of the commissions, this whole report is filled with comments that have exceeded the 120-day time limit anyways?

Mr. Summers: If we defer the item, we're going to -- that's what we do. We rather be -- we want to be complete and provide the recommendations to the committee. The other issue was working with Council Member Guzman. Remember, we had some concerns with the ordinance that was originally sent to us so we had to arrangement meetings with Council Member Guzman to work through some of those issues.

Ms. Dudoit: 'Cause, technically, the meeting you're having with the Lanai Planning Commission, and their comments, even if they made it next week at their meeting, would still exceed -- have exceeded the 120-day comment period?

Mr. Summers: I'd have to go back and look at the calendar, but it's tight. It's tight. I mean, like I said, we've done most of the heavy lifting with the report so it's --

Ms. Dudoit: Okay, so I don't know what we're doing, Chair, if we're making a motion or whatever we're doing, or if Clayton is just taking our comments as to our suggestion for the next meeting, but I would think that, as a Commission, even though -- so I haven't been, and maybe that's just me, but I haven't been able to grasp whether or not we missed the 120-day window. It kinda seems tight, and then I don't know exactly what that date is, so with that being said, because the Lanai Planning Commission is meeting next week, and the 25<sup>th</sup> is the week after, I would suggest that we try to get our comments and have a meeting on February 25<sup>th</sup> so that we can at least try to make it as close to inclusion in the staff's report as opposed to completely being out of it by the time they submit, and then forego the March 11<sup>th</sup> meeting.

Mr. Rogers: This certificate of adoption of says 17<sup>th</sup> day of October.

Mr. Summers: Yeah.

Chair Jennings: Yeah, so it's -- the 120 days is off. Today's the 11<sup>th</sup>.

Ms. Dudoit: So if we -- okay, so with that being said, then if we deferred, you would just be waiting for our comments to submit? Or would you do it without us? Would you submit without us.

Mr. Summers: I would need to talk to the director, but next week Wednesday, we meet with the Lanai Planning Commission, okay, we'd have to count every single day but I think, technically, we're within the 120 days. We're going to have to write the report and get it transmitted, so I think we would certainly transmit the recommendations of this Commission with the report --

Ms. Dudoit: If we got it to you as soon as possible?

Mr. Summers: We need to -- yeah, we'd want to -- right, we need to get the comments, and we need to transmit the comments with the report separately; as long as the council gets the comments, and that's what we're looking to do.

Chair Jennings: The comments by the 25<sup>th</sup>, is that correct?

Mr. Summers: It doesn't necessarily have to be by the 25<sup>th</sup>. I mean the sooner the better, but it doesn't have to be by the 25<sup>th</sup>.

Chair Jennings: Clayton?

Mr. Yoshida: I guess the 120 days runs from when the department received the reso, so because the reso has to go from the clerk's office to the mayor's office, from the mayor's office to the department, so there may be -- I think we received it on October 21<sup>st</sup>.

Ms. Dudoit: Okay, so I would, just so that we can end this whole thing, I would just make a recommendation that we -- for the Commission to consider that we, as private citizens, submit our letters to the Planning Department hoping that it can be included, and then meet on the 25<sup>th</sup>, if Clayton can guarantee us that we having one meeting on February 25<sup>th</sup> --

Chair Jennings: 25<sup>th</sup> --

Ms. Dudoit: And discuss this item, whatever else the department is or can have in place, and then get our comments in as a Commission.

Chair Jennings: Zhanell has made that motion, is there any second? It is a motion.

Ms. Dudoit: I cannot really be a motion because -- 'cause it's not an agenda item.

Chair Jennings: A suggestion?

Ms. Dudoit: Yeah. It was just -- we were just -- to end our -- to end this fabulous meeting, I was trying to come up with --

Chair Jennings: I agree. Diane?

Ms. Swenson: You know what? It would be really helpful if we could all read our material and make our notes before we come to the meeting instead of having to decide in the meeting, oops, didn't get a chance to study it and let's defer. I mean I would encourage all of us to try to be --

Ms. Dudoit: Well, that's why the comment came, and I asked, are you ready to make your comments 'cause we would. I mean we're all -- if you are --

Ms. Swenson: Yeah, I'm as ready as I'm going to be anytime. I already made my comment.

Chair Jennings: So, okay. Diane, you've made your comments? Okay. Lawrence made his.

Ms. Dudoit: Are you going to take these minutes ...(inaudible)...

Mr. Summers: Yeah, if the Commission wants us to approach it like that, then what we would do in our staff report is take those -- take those items that were conveyed in the conversation deliberation, we would have to phrase it as these were the types of issues that were brought up by the Commission, but not as a vote of the Commission, but issues that were brought up during the Commission's deliberation. The Commission has not made a recommendation, per se, at this point, there's been no recommendation of support or denial, or support with amendments, so at this point, we can't say that the Molokai Commission supported the proposal. We can say that the Molokai Commission discussed it, and deliberated it, and these were the issues they discussed.

Chair Jennings: These are the issues that we have. Yeah.

Mr. Summers: Right.

## **F. ADJOURNMENT**

Chair Jennings: Okay. Do I have a motion to adjourn? Oh, yes, ma'am?

Ms. Dudoit: ...(inaudible)... me, I'm motioning to adjourn.

Chair Jennings: Okay, there's motion. Is there a second? Second

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

***It has been moved by Commissioner Dudoit, seconded by Commissioner Davis, then unanimously***

**VOTED:      to adjourn the meeting at 2:22 p.m.**

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions

**RECORD OF ATTENDANCE**

**Present**

Michael Jennings, Chairperson  
Douglas Rogers, Vice-Chairperson  
Billy Buchanan  
Ron Davis  
Zhantell Dudoit  
Lawrence Lasua  
Diane Swenson

**Excused**

Marshall Racine  
Sherry Tancayo

**Others**

Clayton Yoshida, Planning Program Administrator  
John Summers, Planning Program Administrator  
Sybil Lopez, Staff Planner, Molokai