

PLANNING COMMITTEE
Council of the County of Maui

M I N U T E S

Council Chamber

February 16, 2017

CONVENE: 9:07 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Kelly T. King, Chair
Councilmember Yuki Lei K. Sugimura, Vice-Chair
Councilmember Cochran (out 11:33 a.m.)
Councilmember Stacy Crivello
Councilmember Don S. Guzman
Councilmember Riki Hokama (out 10:58 a.m.)
Councilmember Mike White

STAFF: Greg Garneau, Supervising Legislative Attorney
Rayna Yap, Committee Secretary

Dawn Lono, Council Aide, Hana Council Office (via voice conference)
Denise Fernandez, Council Aide, Lanai Council Office (via voice conference)
Ella Alcon, Council Aide, Molokai Council Office (via voice conference)

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
William Spence, Planning Director, Department of Planning (*in the audience*)
Jennifer Maydan, Planner V, Department of Planning
Annie Alvarado, Planner VI, Department of Planning

OTHERS: Maui
Tom Croly, Go Maui (PC-06)
Lawrence Carnicelli, REALTORS® Association of Maui (PC-06)
Rick Medina (PC-06)

Molokai
Bridget Mowat (PC-06, PC-02)
Liko Wallace (PC-06, PC-02)
Fay Pacheco (PC-06, PC-02)
Greg Jenkins (PC-06, PC-02)
Keani Rawlins-Fernandez (PC-06 PC-02)

PRESS: Akaku Maui Community Television, Inc.

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CHAIR KING: . . .(*gavel*). . . It is now 9:07 to mean that that clock is right. Welcome, Members, and I call the meeting of the Planning Committee to order at 9:07. Can I get everybody to please silence your cell phones. My name is Kelly King, I'm the Chair of the Planning Committee, and I'd like to introduce our other voting Members. Vice-Chair Yuki Lei Sugimura.

VICE-CHAIR SUGIMURA: Aloha.

CHAIR KING: Elle Cochran.

COUNCILMEMBER COCHRAN: Good morning, Chair. Aloha.

CHAIR KING: Aloha. Member Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha. Good morning, Chair.

CHAIR KING: Aloha. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR KING: Good morning. Riki Hokama.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR KING: Good morning. And Chair Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR KING: Aloha. So we have full house. No non-voting Members. Thank you, Members, for attending. I'd like to introduce our Administration staffing this meeting, Planning Director, Will Spence.

MR. SPENCE: Good morning, Chair.

CHAIR KING: Good morning. Deputy Corporation Counsel, Michael Hopper.

MR. HOPPER: Good morning, Chair.

CHAIR KING: Good morning. And our Committee Staff from Office of Council Services, Greg Garneau --

MR. GARNEAU: Good morning, Chair.

CHAIR KING: --and Rayna Yap.

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MS. YAP: Good morning, Chair.

CHAIR KING: Good morning. We have in our District Offices, I want to thank these ladies because we're...we are doing something different for this Committee on testimony and so they have agreed to staff testimony throughout the meeting. So I really want to thank Dawn Lono from the Hana Office, Denise Fernandez from the Lanai Office, and Ella Alcon from the Molokai Office. Members, we have three items on today's agenda. The first one is the Planning Commission and Hana Advisory Committee membership requirements, PC-06. The second one is the Molokai Community Plan update, PC-02, and the third one is the Community Plan Advisory Committee, PC-05. I'll be taking public testimony in the following manner. I will begin with testimony on each item after the Department summary, if there is a summary, and then testimony will be limited to the items on the agenda. To testify if there's anybody here who hasn't already, please sign up at the desk in the lobby or at the District Offices. The testimony will be limited to three minutes and upon request up to one minute to conclude. So at three minutes the light will turn yellow, at four minutes the light will turn red, and if you're still testifying we'll just ask you to please finish up your testimony. So when you're testifying, please state your name and who you are representing, if anybody, and where you're from. And we, I think we have a connection to the District Offices so we'll rotate through these offices at each of these sites.

PC-06 PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS (CC 17-76)

CHAIR KING: Item No. 1, the Committee is in receipt of the following County Communication 17-76, from Councilmember Kelly King, myself, relating to the Planning Commission and Hana Advisory Committee membership requirements. There's correspondence dating, dated February 8, 2017 from the Department of the Corporate Counsel...Corporation Counsel transmitting a proposed bill entitled, A Bill for an Ordinance Amending Chapter 2.28, Maui County Code, Relating to Planning Commission and Hana Advisory Committee Membership Requirements. The purpose of the proposed bill is to require at least one member sitting on each Planning Commission and the Hana Advisory Committee to have certain qualifications in conservation and natural resources and Native Hawaiian traditional and customary practices. I just wanted to add from myself that we are...this bill addresses certain requirements not for these particular positions but certain policy requirements in the Countywide Policy Plan. And if you have a copy of it you'll notice under the purpose of the Countywide Policy Plan the first two bullet items are, one, protect the natural environment, and two, preserve local cultures and traditions. So, at this point, I will take testimony. Is there anybody waiting to testify, Mr. Garneau?

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. . . BEGIN PUBLIC TESTIMONY FOR PC-06 . . .

MR. GARNEAU: Yes, thank you, Chair. I'd like to begin with the District Offices please. Hana Office, Dawn Lono, is there anyone there wishing to testify?

MS. LONO: Good morning, this is Dawn Lono at the Hana office and there is no one waiting to testify.

MR. GARNEAU: Okay, thank you very much. Lanai Office, Denise Fernandez, is there anyone there wishing to testify?

MS. FERNANDEZ: Good morning, Chair, this is Denise Fernandez on Lanai, and there is no one waiting to testify.

MR. GARNEAU: Okay, thank you, Denise. And to the Molokai Office, Ella Alcon, is there anyone there wishing to testify?

MS. ALCON: Good morning, this is Ella Alcon on Molokai and there is no one here waiting to testify on this item.

MR. GARNEAU: Okay, thank you very much.

MS. ALCON: Oh, wait.

MR. GARNEAU: Okay, thank you, Ella. Then, Madam Chair, I'd like to proceed with testimony in the Chamber.

CHAIR KING: Thank you.

MR. GARNEAU: We have two testifiers currently signed up. Our first testifier is Mr. Tom Croly, to be followed by Lawrence Carnicelli.

MR. CROLY: Aloha, Chair. Aloha, Committee Members, and welcome since this is the first time that I'm testifying here to the new Members of the Council. I'm Tom Croly, and I'm testifying on PC-06 and today I'm testifying on behalf of Go Maui, my organization. Go Maui stands in opposition to the proposal to create these new requirements for membership to the Planning Commissions. Our Planning Commissions have two separate fundamental functions that they serve. The first is as an advisory board to this Council. They review items of legislation and when they do they're acting as a surrogate for the public. They conduct a public meeting at that time, and the public is there to express their opinion on what they're considering and then they make a recommendation to this Council. And those...in making those recommendations, their own personal opinions are okay to inject in that. However, the second function that the Planning Commissions serve is one of a quasi-judicial capacity where they're functioning more like a jury. And like a jury, the Planning Commission when they function in this capacity, when they have the ability to say yes or no to a permit or

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that they accept an Environmental Assessment or whatever, their job is to be as unbiased as possible just as jury members would. And just as if you were selecting a jury, you wouldn't say on that jury we want to make sure we have a DNA expert who understands all the DNA. And we want to make sure that we have a crime expert on that jury because that would bias the jury to some extent because they would turn to that expert and say, is that right? Is what they're telling us right? And that's not their function. Now for these issues, that are important issues, Hawaiian cultural, you know, are we in conformance with Hawaiian culture, are we being sensitive to that environmental issues. These are the job of the reviewing agencies when things come before the Planning Commissions, and the reviewing agencies become part of the report that's presented. The commissioners should be considering only what's in the application and the reports from the reviewing agencies and if they need more information then they should call in those specialists as necessary. We should not be loading the Commission with people who have an expertise or a bias in one way or the other. So we stand against this particular proposal. And I also want to stress that when commissioners are making their decisions, they should only approve applications that come before them that have properly complied --

MR. GARNEAU: One minute.

MR. CROLY: --with all the laws and the codes that exist in State and Federal and County law. They should only consider what's before them. They do have the ability to formulate conditions to address concerns that may have been raised by the public in that meeting so that it mitigates any problems. But they should never, never, never be acting as another reviewing agency and that's what I think this measure would do. It would turn them into a reviewing agency rather than the role that the Commission has. So that's my testimony on behalf of Go Maui. Thank you.

CHAIR KING: Thank you, Mr. Croly. Members, any questions? Mr. Croly, I have a question for you. So do you feel the same way about folks that are on the Commission who might be in the real estate...a real estate agent or a developer or a union that these folks have the opportunity to inject their own personal views and their own personal desires and so shouldn't be on the Commission?

MR. CROLY: That's a good question. If someone's job is such that it gives them a particular understanding of an industry, you know, be it real estate or whatever, that's fine, unless what's before them directly impacts them. If what's before them directly impacts them, I'm going to make money as a result of the decision made, well, then they should recuse themselves. But if we were to say that you can't serve on the Commission because you have this job, I think that would be equally wrong just as it would be equally wrong to say you can't serve on the Commission if you're an environmental person. But we shouldn't setup...we shouldn't say one seat should be for a realtor, and one seat should be for a developer, and one seat should be for a, you know, a Hawaiian cultural practitioner. That distorts the board at that point.

CHAIR KING: Thank you. Mr. Croly? Member Cochran?

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COUNCILMEMBER COCHRAN: Thank you, Chair King. And good morning, Mr. Croly.

MR. CROLY: Good morning.

COUNCILMEMBER COCHRAN: So, in your analogy and reference or answer to Chair King you're saying that someone that's steeped in Hawaiian traditional, cultural knowledge shouldn't...ought not to be there in a sense or represented because they do have some kind of monetary gain or they do have some kind of self-interest, self-conflict in having a particular position that focuses on their, you know, their knowledge?

MR. CROLY: No. I'm saying that it's enriching to have people who have this broad knowledge, okay, but they shouldn't be there specifically because of that. Okay, we shouldn't be creating a role specific to that person. Now, on the other hand, if the decision they're going to make is going to enrich that person in some way directly then it's up to that person to recuse themselves from consideration on that matter.

COUNCILMEMBER COCHRAN: Right. Okay, thanks.

CHAIR KING: Thank you. Mr. Garneau?

MR. GARNEAU: Yes, thank you, Madam Chair. Our last person to testify who signed up in the Chamber is Mr. Lawrence Carnicelli.

MR. CARNICELLI: Good morning, Chair.

CHAIR KING: Good morning.

MR. CARNICELLI: Good morning, Members. My name is Lawrence Carnicelli speaking on behalf of the REALTORS® Association of Maui in opposition to Item PC-06. The Planning Commissions are where the rights of private property owners intersect with the public's responsibility to protect public resources. Property owners appearing before these Commissions deserve a fair and impartial hearing. Should there be a permanent commissioner position given solely for his or her bias then every action taken would greatly reduce the chances of that fair unbiased hearing from happening. What is the purpose of this proposal if not to overtly prejudice the Commissions? There has been no justification offered for this proposed action. Actually, it looks like this proposal was simply cut and pasted from the Board of Land and Natural Resources without basis or means testing showing any need for it. The BLNR deals primarily with conservation lands and often deals with culturally sensitive issues. Our Planning Commissions deal mainly with SMA approvals on urban lands already zoned, vacation rentals already built, and give advisory opinions to the Council. There's nothing overtly cultural about these functions and it should be pointed out that Maui County already has a full commission dedicated to cultural resources and other bodies like burial councils each of which supplies cultural guidance when needed. RAM does agree that it's proper to have persons with special knowledge of Hawaii's cultural

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heritage on these commissions; however, it would also be good to have persons with other special knowledge like historians or architects, engineers, economists. Do we start to look at gender, race, age? Where does the list end and which special interest groups wins this permanent seat? I have been told that a seat on the Planning Commission is the most coveted of all County appointments. Why should one group be given a lock on such appointments? Nothing has happened to justify the need for this permanent position. Maui County has an open boards and commissions appointment process that allows anyone to apply for appointment to a board or commission. Even though the Mayor appoints, the County...the Council confirms each and every appointment. This body already is in control of who gets appointed. Should this Chamber wish to accept or deny or even stack the deck it's up to you. Last year, when this very exact same bill was proposed, RAM supported the very nice compromise that was reached and agreed to. This Council agreed that it would be more appropriate for all commissioners to have that knowledge and amended the bill to say that each member participate in the Native Hawaiian Law training course, therefore, the Commission already has nine sitting members with such education. Lastly, RAM opposes this proposal because we already have a housing shortage and the process is strangled by obstructions and appeals processes. This would codify another unnecessary roadblock and would negatively affect property owners' rights to a fair and unbiased hearing. Thank you, Madam Chair.

CHAIR KING: Thank you, Mr. Carnicelli. Any questions, Members? Oh. Thank you. Do we have anybody else in the Chambers who wishes to testify who isn't signed up? No. Okay, thank you. Mr. Garneau? I'd like to...

MR. GARNEAU: Chair, yes. So there's no one left to testify in the Chamber so it's appropriate at this time to close testimony on this item.

CHAIR KING: Okay. We'll close testimony on this item and...

MR. ALCON: Excuse me.

CHAIR KING: Oh.

MR. GARNEAU: Yes, hello.

MR. ALCON: I have testifiers on Molokai.

MR. GARNEAU: For this item?

MS. ALCON: Yes.

CHAIR KING: Okay.

MR. GARNEAU: Oh, very well. Thank you very much. Go ahead, please.

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MS. ALCON: Our first testifier is Bridget Mowat testifying on agenda item PC-06.

MS. MOWAT: Good morning. My name is Bridget Mowat and I want to testify on--what the number?--PC-06. You know I'm really happy and I want to support this because I really believe that less opposition and working together would result if you have people culturally sensitive and knowledgeable on these advisory committees. And there's many people qualified, many people qualify because we live it. And for the Hawaiian people, the land and the individual, the ohana is connected and it's very important to us. And if that sensitivity is not honored there's going to be lot of problems, going get plenty huki huki and there's less opposition. We have many, many Hawaiians that are...locals, even the people from the mainland have taken on this...our culture. And just because we were overthrown illegally by the American people or the American government it doesn't make us Americans. We still Hawaiians and this is our aina. This is our lands where our ancestors are buried. What goes on on our home we should be very part of. And if you're, you don't have that connection or if you haven't learned anything and put up a wall between the two cultures--well, I don't know if America has a culture but--always going have huki huki. So I agree that the Planning Commission and Hana Advisory Commission should be...there should be an individual well educated and culturally knowledgeable. And the Hawaiians, the local or Hawaiians and those with the culture, we're not a special interest group so don't categorize us as a special interest group. We are a people and this land is like our family. What happens to it...if it's destroyed or there's, you know, huki huki, we feel it. I don't know if the previous speakers would feel that --

MR. GARNEAU: One minute.

MS. MOWAT: --because no more the mana. So I'm really, really in support of this and please don't ever say that there isn't enough qualified people in Maui County to sit in these positions because you know what, it's very much alive. It's alive. We live it. So mahalo. Thank you very much for allowing us to testify. You folks have a good day.

CHAIR KING: Mahalo.

MR. GARNEAU: Okay, thank you. Ms. Alcon, do you have anyone else to testify on PC-06?

MS. ALCON: Yes. The next testifier is Liko Wallace.

MR. GARNEAU: Okay, thank you.

MS. WALLACE: Good morning, Chair King and Councilmembers.

CHAIR KING: Good morning.

MS. WALLACE: I would like to give my testimony on PC-06. I am happy that this amendment allowing these requirements to be accepted on the Planning Commission. I think it is necessary to have people that is knowledgeable and personal in the areas

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of conservation and natural Hawaiian, Native, excuse me, Hawaiian practitioner. I don't think it would be bias. I think it's just allowing us to have more of the people who is well versed in that areas to add to the discussion whenever something comes up on behalf of the Planning Commission. As far as Molokai is concerned, we have a lot of qualified people here on the island that would be able to fill these two seats with the knowledge and the expertise. And I feel they would add something that is necessary in this Planning Commission to be able to be seen more fairly and not just in favor of anything monetarily as the speaker had talked prior to me. We have the love for the land. So, basically whenever we speak on behalf of a particular item it is coming from the heart and not from the pocketbook. So, basically we on the island of Molokai would like to have that seat filled by someone who is knowledgeable and can add that flair and that knowledge. So that the decisions that would be made would be made with more information and aloha and care for our upcoming future and have that as their concern instead of just making money. Thank you for hearing my testimony. I wish you all a beautiful day. Mahalo.

CHAIR KING: Thank you. Thank you, Ms. Wallace.

MR. GARNEAU: Ms. Alcon, is there anyone else to testify on PC-06?

MS. ALCON: Yes, our next testifier is Fay Pacheco.

MR. GARNEAU: Okay, thank you.

MS. PACHECO: Good morning, Chair King and the Committee Members. My name is Fay Pacheco and I'm a Molokai resident. I would just like to say that I am in favor of this PC-06 and we have qualified people on Molokai who would like to get on the Commission. I would also wish to ditto Bridget's earlier testimony because I think she said it very well, too. Thank you and have a nice day.

CHAIR KING: Mahalo. Is there anyone...any questions for...speak up, Members, if there are questions for our testifiers. Thank you.

MR. GARNEAU: Ms. Alcon, is there anyone else wishing to testify on PC-06?

MS. ALCON: Yes, our next testifier is Greg Jenkins.

MR. JENKINS: Aloha, Chair King and Committee Members. My name is Greg Jenkins. I'm testifying today both as a citizen...a resident of Molokai as well as a CPAC member. I am in favor of PC-06. I do believe we have many qualified Hawaiian practitioners, Native Hawaiians who practice their culture every single day. And I feel it is imperative that we have people that have knowledge regarding Native Hawaiian rights and practices on boards and commissions that make decisions that will affect their lives, and their culture in our communities. And specifically, I'd like to reaffirm that this...in the Hawaii State Constitution Article 12 Section 7 it recognizes Native Hawaiian traditional customary rights. The State has an obligation to regulate those

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rights to Native Hawaiians. And so if we disregard that culturally, if we disregard that in our processes then we're not following the law. And we can overshadow and potentially regulate and create policies or take actions that in essence erode the Hawaiian culture, which is wrong, and it's also illegal. So I think it strengthens us. It does not weaken us when we have cultural practitioners making sure that we're following State law that applies to County processes and laws and that we consider that a strength in our government processes and not a weakness. Thank you.

CHAIR KING: Mr. Jenkins, we have one...Member Crivello would like to ask a question.

COUNCILMEMBER CRIVELLO: Aloha, Greg, thank you for being here this morning. How would you as being a member of CPAC qualify a Hawaiian practitioner? Is it one who does gathering? Is it one who is an activist? Is it one who has the education? I mean how do we list the qualifications? And I ask you because you serve on the Community Planning Advisory Council.

MR. JENKINS: Thank you, Aunty Stacy, for that question. As a non-Hawaiian, it would be, you know, I would first like to disclose that as a non-Hawaiian that I'm not an expert to completely answer that question. But from what I've seen in my...as a resident of Molokai and a supporter of Hawaiian culture and what I've been taught is that this rests with our kupuna. And we have a lot of very knowledgeable kupuna on Molokai. And regardless of their affiliation being, you know, ku`e or their...they have a stand on particular issues, they gather together and usually it's a pretty resounding common theme for Molokai. I can speak for Molokai. So I believe it rests in the kupuna and of course many kupuna have a formal Western education in addition to their knowledge of their culture, and so I think that can strengthen them but they've never departed from what ancestrally has been passed down which is what I've seen as a witness of that as a practitioner.

COUNCILMEMBER CRIVELLO: May I follow up and ask another question?

CHAIR KING: Sure, Ms. Crivello.

COUNCILMEMBER CRIVELLO: I understand what you're saying that about na kupuna. So that the kupuna would qualify an appointee if they're knowledgeable with the overall Hawaiian culture or what is it that they practice that makes them qualified? I'm just trying to see...I'm not...I'm in agreement but I'm trying to understand how do you qualify. I know of...I know personally of people back home that, you know, ku`e ku`e but cannot even go beyond the reef to catch the he`e. So, you know, I mean what does that make them a practitioner? What is it? Is it because they can go holoholo? Is it because they olelo or what is it that we note to qualify the Hawaiian practitioner or the person with the Hawaiian knowledge that will make decisions on the CPAC or the Planning Commission? Again, I ask you this is because of your experience in actually participating in this process.

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MR. JENKINS: What I could add to that would be I could use examples like Uncle Mac Poepoe or I could use Ua Ritte, and Hano Naehu. Uncle Mac is a cultural practitioner, you know, momomi and who more knowledgeable do we know on Molokai that knows about our aquatic resources and how this...hey I can talk, we can talk for hours upon that but he's an expert in that one area for example. Whereas we have other people that are knowledgeable of fishponds so...and aquaculture, and so we knowing that if we place such value in Hawaiian culture right on...and the kuleana responsibility is mauka to makai. We see those Hawaiians that have that, that particular knowledge come out and share their manao on those specific issues, which is what makes us strong. So I don't think there's like one person that knows everything about everything and that isn't even from what I understand not part of our cultural traditions. As we know people, Hawaiian people are kina `ole or pursued the pursuit of flawlessness and perfection in everything they did. So if you were a taro farmer well then that was what you did. If you were a fisherman then that's what you did. So I think that's part of it. It's not going to be maybe one seat that happens on these bodies but it's going to be the community and our cultural practitioners that are experts in each area coming and sharing their manao as how this affects a particular issue or item.

COUNCILMEMBER CRIVELLO: Thank you. Thank you, Chair.

CHAIR KING: Thank you, Ms. Crivello. Members? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Good morning, Mr. Jenkins, thank you for being there. So in this bill and perhaps you haven't looked at the details but it does state how we will be having membership requirements from, and it's based off of BLNR requirements. And so I just asking you to qualify people it will be based on having a formal education, a type of work history; cultural practitioner, community volunteer work or practical daily demonstration of the culture. Do you feel those points would be adequate in being a requirement for membership?

MR. JENKINS: Thank you for the question, Member Cochran. I wouldn't...everything that you just mentioned I think are important characteristics of demonstrating a person who's knowledgeable but I would imagine that you're also entertaining ideas for expanding that possibly or maybe defining it further. It would be hard for me to get...to really come up with a specific list but I'm sure when you ask the communities that are involved and if you really wanted to drill that down to make sure that that the...I think it's the intent right. If the intent is to hear from our Hawaiian community on things that impact Hawaiians culturally and kuleana wise then I'm sure that you're going to get a lot of input on exactly what that means. And we should all know that just because there's a representative that fills a term on these...on a particular board or commission that there are still going to be many other kupuna around and people in the community that are going to make sure that they're representing the interest of Hawaiians properly. But I think it's more ensuring that we have that as a primary focus versus a secondary focus. 'Cause a lot of times on these boards and conditions [sic] looking after Hawaiian culture and those customary practices is an

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afterthought and it causes more problems for the County. It wastes a lot of money and time, and it's very disrespectful and it breaks trust in these processes that could be very much improved if we start that out in as the first thing we're focusing on. And Hawaiians, you know, they are our host culture in speaking as a non-Hawaiian and I'm proud of that. I'm proud to respect and honor and try to be part of and work towards being a good part of my Hawaiian host culture. And so I think that all of us in Hawaii, especially Maui County should be doing the same and to do otherwise again is actually to erode it and that's wrong.

COUNCILMEMBER COCHRAN: Mahalo. Mahalo for your comments. I know you don't have the koko but you definitely have Hawaiian in your heart. So thank you so much.

CHAIR KING: Members, any other questions for Mr. Jenkins? No. Thank you, Mr. Jenkins, appreciate your time. Mr. Garneau?

MR. GARNEAU: Yes, Ms. Alcon, is there anyone left to testify on PC-06?

MS. ALCON: Our last testifier for this item is Keani Rawlins-Fernandez.

MR. GARNEAU: Okay, thank you.

MS. RAWLINS-FERNANDEZ: Aloha, and good morning, Chair King and Councilmembers.

CHAIR KING: Good morning.

MS. RAWLINS-FERNANDEZ: Mahalo for this opportunity to testify on PC-06. My name is Keani Rawlins-Fernandez and I would first like to start off by sending a big mahalo to Councilmember Cochran for recognizing the importance of Native Hawaiian practitioners and environmental conservationists and initiating this discussion. My stance in Native Hawaiian law is that in this Western governmental system the role of cultural practitioners are not always valued in the same way as people who have degrees, and because of this, their knowledge and expertise are not given the weight that they deserve. On Molokai, we have many cultural practitioners and conservationists who are qualified and would be interested in sitting on the Planning Commission. One practitioner I know has applied to sit on the Commission several times in the past years and was never accepted and never given any reason why. I believe that this would help people like her who are qualified and interested to get onto this Commission. Mahalo for this opportunity to testify.

CHAIR KING: Mahalo, Ms. Rawlins-Fernandez. Any questions, Members? I have a question, Keani, if you can just bear with me. This is Kelly King.

MS. RAWLINS-FERNANDEZ: Aloha.

CHAIR KING: Did you get a chance to read the bill with the qualifications?

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MS. RAWLINS-FERNANDEZ: The bill...not in its entirety.

CHAIR KING: Okay, 'cause we were I guess a lot of us are assuming that people have read this. So let me just read to you the part of the requirement for the cultural practitioner and ask if you agree with this definition. At least one member of each Planning commission other than the member appointed pursuant to Subsection A of this Section shall have demonstrated expertise in Native Hawaiian traditional and customary practices as evidenced by one or more of the following credentials. One, a college degree in a relevant field such as Hawaiian studies, Native Hawaiian law, Native Hawaiian traditional and customary practices or related subject area. Two, work history...

COUNCILMEMBER HOKAMA: Point of order, please, Chair.

CHAIR KING: Pardon?

COUNCILMEMBER HOKAMA: Point of order, please. I understand the need to allow Members to ask for clarification questions. What you're asking her is not part of her testimony. Now you're entering into discussion. So my thing, Chairman, is if you want her to be a resource person, I'm open to that.

CHAIR KING: I'm just asking her opinion on this, on the bill.

COUNCILMEMBER HOKAMA: But that's not part of her testimony. This point is only for clarification of testimony given, not to ask her about her opinions on things she didn't bring up in her testimony.

CHAIR KING: Well, there's been a lot of testimony, Mr. Hokama, on the qualifications and --

COUNCILMEMBER HOKAMA: You better know how to run the meeting, Chair.

CHAIR KING: --and this is part of the pre-discussion. This is not part of deliberation. This is just part of explaining the bill.

COUNCILMEMBER HOKAMA: This is part of testimony.

CHAIR KING: Right.

COUNCILMEMBER HOKAMA: It's that portion of the meeting, that's the point of order. We're under testimony. We're not under deliberation or discussion.

CHAIR KING: Let me ask Corporate [sic] Counsel for an opinion on this if we're out of order.

MR. HOPPER: Madam Chair, generally, the Council Rules, decisions on that are up to the Chair. If you want to take a recess and research the issue offhand right now, I can

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look under Roberts Rules and see what we're looking at and look at the Council Rules. But offhand, generally decisions like that are up to the Chair running the meeting.

CHAIR KING: Thank you.

MR. HOPPER: But that's just offhand without, I would want to check the rules and if you want to take a recess and do that we certainly can.

CHAIR KING: Well, let me just explain to the Committee that normally, and I announced this in the beginning that we were...the format is to do a presentation on the item and then take testimony. Because the Department did not bring this item forward, we did not ask them to do the presentation. So the presentation is...would be the actual bill which is what we didn't do in the beginning before testimony. And the reason why we have testimony in this manner is to give the folks who are testifying more information about the item before they make their opinions in the testimony. And so this part which probably I should have read in the beginning before testimony has not been read and it's become clear to me from listening to the testimony that maybe the testifiers haven't actually seen the actual written proposal. So that's the purpose of explaining this because a lot of this testimony from Molokai is about the requirement for the cultural practitioner. So I'm just reading off what is being proposed so folks can, and the questioning about whether people agree with what we are requiring is a difficult question to answer if they don't know what it is we're requiring in the bill. So I'm going to finish this off and just let Ms. Rawlins-Fernandez answer. So the second and third bullet points were work history that demonstrates an appropriate level of knowledge in Native Hawaiian traditional and customary practices, and three, substantial experience as a Native Hawaiian traditional and customary practitioner. Those are the three and/or caveats for this particular requirement. And my question to the testifier because she did mention that there's...she believes that this could be fulfilled so knowing this information if you still feel strongly that there are people on Molokai who could fulfill this position. Ms. Fernandez?

MS. RAWLINS-FERNANDEZ: Yes, I'm here.

CHAIR KING: Okay. So the question is after hearing the explanation do you still feel that there are Molokai who could fulfill this position?

MS. RAWLINS-FERNANDEZ: Yes.

CHAIR KING: Thank you.

MS. RAWLINS-FERNANDEZ: I also applied to be on the Planning Commission.

CHAIR KING: Okay.

COUNCILMEMBER WHITE: Chair?

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CHAIR KING: Yes, Mr. White?

COUNCILMEMBER WHITE: You know I think part of Mr. Hokama's concern is well founded. The bill is only two-and-half-pages long and the testifier mentioned that she hadn't read it and I think that's, you know, that's a continuing issue when people are coming to testify on something without having first read the bill, especially when the bill is only a couple of pages long. So I understand Mr. Hokama's concerns and I have to say that I too have a little bit of a challenge reading somebody the bill that they should have read prior to their testimony. Thank you.

CHAIR KING: Thank you, Mr. White. And just to clarify my earlier statement that one of the reasons I'm trying to reconfigure the testimony is so that the presentations happen and then folks have a chance to testify on that so they're a little more knowledgeable when they testify.

COUNCILMEMBER WHITE: No, I understand that.

CHAIR KING: So the presentation happens first. We neglected to do that in this case because we...the Department didn't bring this to us. So, really what I should have done was read this portion of the bill first as my presentation of the bill and then started testimony.

COUNCILMEMBER WHITE: Okay.

CHAIR KING: So that was my fault for not doing that first.

COUNCILMEMBER WHITE: No, and I understand your direction and I don't really disagree with it except that these, all of these measures are posted online. They're all available to people to take a look at them. So it's probably unnecessary for you to read it when it's been available I believe since posting a week ago and yet the testifier hasn't had a...hasn't taken the time to look at it. So that's just, that's my concern. Thank you.

CHAIR KING: Right. Well, and I think we also have to give some leeway for folks who don't go online and don't have access to a computer. You know there's not a place to go and get the hard copy of the paper for everybody on Molokai so, you know, we're trying to accommodate as many in the public as possible but I appreciate your concern. I understand. Thank you. Any more testimony?

MR. GARNEAU: Thank you, Chair. Ms. Alcon, is there anyone in...left on Molokai to testify on this item? Ms. Alcon? Ms. Alcon, are you there?

CHAIR KING: Did we lose connection?

MR. GARNEAU: Let me check with the other. Ms. Fernandez, are you there on Lanai?

MS. FERNANDEZ: The Lanai Office is here. There's no one waiting to testify.

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MR. GARNEAU: Okay, thank you. And, Ms. Lono in the Hana Office, is there anyone there wishing to testify?

MS. LONO: The Hana Office has no one waiting to testify.

MR. GARNEAU: Okay. And, Ms. Alcon, are you there?

MS. ALCON: Yes, I am.

MR. GARNEAU: Okay, thank you. Is there anyone wishing to testify on PC-06?

MS. ALCON: I have testifiers for the next item.

MR. GARNEAU: Okay. So for this item you have no further testifiers?

MS. ALCON: Can you repeat, can you please --

MR. GARNEAU: Oh, I'm sorry, yes.

MS. ALCON: --repeat that? I can't hear.

MR. GARNEAU: For this...okay, I'm sorry, for this item no additional testifiers, correct?

MS. ALCON: No additional testifiers for PC-06.

MR. GARNEAU: Okay, thank you very much. Chair, we have one additional person in the Chamber that signed up to testify for this. Mr. Rick Medin I believe M-E-D-I-N. Oh, Medina, I'm sorry.

CHAIR KING: Aloha, Mr. Medina.

MR. MEDINA: I wasn't here to testify today. My name is Rick Medina from Wailuku. But what was being said on the floor kind of upset me a little bit. Madam Chair, I think this whole bill is discriminatory, first thing. I don't think we should discriminate against who can serve on these various agencies. I think the bill is ill conceived and should be filed. There are obvious reasons why I say this but I don't have time to repeat them all except that my position is the bill is awfully discriminatory and you should file this bill. Ms. King, I think you introduced this bill, I'm sorry if I disagree with you but this is what this Council Chamber is all about, we don't have to agree with each other all the time but we can disagree politely and I politely disagree with this bill. Thank you.

CHAIR KING: Okay. Members, any questions? So, Mr. Medina, can I ask you how you think it, because it doesn't describe any racial or ethnic requirements, so how...in what way is it discriminatory in your opinion?

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MR. MEDINA: It discriminates us people who don't qualify as identified on this bill. Why should you simply provide some extra special attention to certain people when you forget many others? So the danger of forgetting many others in the community to have the ability to testify is gone. So why do you want to discriminate against the people that you support or supported you? You got to be ready to accept all kinds of opinions, that's your job, not to muffle us from saying what we want to say because we don't qualify to the identification or identified positions that you want here. So to me that's...the only conclusion I could come to just listening, I hadn't read the bill, I just listened to what was going on, I would say that this bill is terribly discriminatory and should be filed.

CHAIR KING: Okay. Any other questions? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, Mr. Medina, nice to have you here.

MR. MEDINA: Good morning.

COUNCILMEMBER COCHRAN: So just a little bit of clarification, maybe take the heat off Ms. King here but I was actually the original introducer of this.

MR. MEDINA: Oh, I'm sorry.

COUNCILMEMBER COCHRAN: So, it's...and, you know, truly understand, we can agree to disagree and so thank you for, you know, sharing your thoughts and points of view. And so, what you're feeling in regards to discrimination I felt was relieving this Commission of just what you're saying it is in regards to discrimination. 'Cause currently the people that I know I represent, the voices that you hear in testimony this morning feel underrepresented or not at all on this Commission. So this is hoping to bring the balance and that representation to the table which people really currently feel isn't and therefore many interventions...

MR. MEDINA: Do you have a question?

COUNCILMEMBER COCHRAN: And so my question is the discrimination as Ms. King mentioned, it doesn't talk about race, creed, color, sex, religion here. It speaks about qualifications of a certain --

MR. MEDINA: Duties, responsibilities --

COUNCILMEMBER COCHRAN: --parameter.

MR. MEDINA: --and positions, and occupations, and stuff like that. But just by reading and listening to what's happening here my decision or conclusion about this bill is it's awfully discriminatory. Why do you have to be discriminatory in Hawaii? Hawaii is

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not a discriminatory place and you certainly don't carry forth that platform or that idea by your bill.

COUNCILMEMBER COCHRAN: And thank you very much for sharing your thoughts today, Mr. Medina.

MR. MEDINA: Thank you.

COUNCILMEMBER COCHRAN: Thank you, Chair King.

CHAIR KING: Thank you. Any others in the Chamber wishing to testify on this matter? If not, we'll close testimony on this item.

. . . END PUBLIC TESTIMONY FOR PC-06 . . .

CHAIR KING: Keeping testimony open, Members, you have written testimony from nine community members on three islands in favor. There's written testimony from one organization opposing and then I think on your Granicus you have one in opposition as well. So that's the extent of the testimony that's been turned in so far on this item. And I would like to ask Ms. Cochran since she was the original introducer of this bill to give us some background on the bill and where it came from, what was, you know, maybe discuss, address the compromise that was made in the previous session where this bill was discussed.

COUNCILMEMBER COCHRAN: Thank you very much, Chair. And the Commission--did we close public testimony?

CHAIR KING: Yes.

COUNCILMEMBER COCHRAN: Okay. So the thought behind introducing this, I was briefly mentioning to Mr. Medina, is that people are feeling the planning commissions are being heavily stacked. I think we did look back in history as to the different representation makeup of the board itself and saw lots of real estate. We had Mr. Carnicelli here today. A lot of development interests and no one is saying people should, of that nature, should not have a seat at the table but it seemed to be heavily stacked in favor of that. And so there was a disconnect. There were people that were feeling underrepresented, not heard in their realm of interest such as cultural practitioners, such as traditional, you know, traditional knowledge of our natural resources and what have you. So it was...this is just simply trying to balance that out and making it somewhat, yeah, a mandatory thing. Because currently as it sits in the way Mayor can choose, you know, the nominees it just isn't...those types of people with those backgrounds and knowledge are not being brought forth to us, to this body, to have a chance to appoint. So this is hoping to broaden the scope. And as we went through this process it was a...first, it was supposed to be a Charter amendment. So it just really wasn't going there and our Corporation Counsel suggested that we do it

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as an amendment to the Code and we worked on that. And that way it could be adjusted if they were unintended consequences that arose in the verbiage of the bill itself. So we wanted to do it via ordinance instead of a Charter and put it in our Charter handbook per se so it makes it a lot easier to adjust and tweak as we move along. And so one of the concerns were...was the strict requirements, difficulty in finding qualified people to fill the positions, and I think that came from the Planning Department but they can highlight their thoughts on this 'cause I know they don't quite support it. And as you heard from testimony this morning, many, many people feel they have that...the qualifications. They were never brought to the, you know, list of being nominated and that's where you get this feeling of...that's where you get interventions. I think this is going to really alleviate that. When you look, go to a lot of planning commissions and you go to different land use hearings it has a lot to do with that underrepresented voice of the culture and that for me is how I make all my decisions is for the people of this land. And it's about the culture, and I think when it's focused on, economy falls into place, right, being pono falls into place, all the others things. So and we based the requirements, the qualifications, what is existing language, yes, yeah, we pretty much did cut and paste it out of BLNR's requirements and we followed that because it works for them. You know and so we took their bullet points to utilize what qualifications meant and requirements. So we vet it through and I believe to this point I felt that we...I addressed all the concerns of this Committee and hoping that, you know, if there's more tweaking need to be done, great. But I think we really honed in and addressed all the concerns although I know Department still doesn't agree with it. And we reached out. It wasn't like we just sat in our little cubicle office and decided this. I mean we talked to people all over this County to get their manao and asked what they think. You know and as you heard from Molokai just this morning there's people very, very interested with this type of background have never given opportunities. So this is about equal opportunity. This is about equal rights. This is not about discrimination by trying to shut out others and not having them able to be at that table. This is more inclusive as far as I'm concerned because so far the people and the community are feeling not part of and not being included. So this bill I'm hoping to bring more balance in our decision-making process. And with the Commissions they have a lot to do with, yes, land. They have a lot to do with natural cultural resources whether realtors or developments want to think about it, think that we are not and they want to look at bottom line and numbers, the people that live here and the people that this bill is trying to get to the table feel is of utmost importance in decision-making. So I'm...that's kind of where we're at and how we got here and what's sitting in front of us today. So it's been vetted, Chair, and I'd like to hear from my fellow Members if we really, you know, worked out the kinks and disagreements that we all might have had with it but if not then I'm sure open to working further.

CHAIR KING: Thank you, Ms. Cochran. Member Crivello?

COUNCILMEMBER CRIVELLO: Are we on the agenda? Is testimony closed?

CHAIR KING: Testimony is closed.

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COUNCILMEMBER CRIVELLO: Yes. It is closed.

CHAIR KING: I did close testimony for this item.

COUNCILMEMBER CRIVELLO: Oh, okay, I thought I heard Molokai say they had testimony for the next...

CHAIR KING: For the next item, right.

COUNCILMEMBER CRIVELLO: Don't we have testimony, testifiers before we go...

CHAIR KING: No, I...

COUNCILMEMBER CRIVELLO: You're doing it differently?

CHAIR KING: Yes, I explained that in the beginning of the meeting.

COUNCILMEMBER CRIVELLO: So you're doing presentation, so right now, we're addressing this particular agenda item?

CHAIR KING: Right.

COUNCILMEMBER CRIVELLO: Okay, sorry.

CHAIR KING: That's okay, but do you have a comment or question?

COUNCILMEMBER CRIVELLO: No, you know, I don't disagree with my colleague as far as how she identifies the needs. What I do question is processing and I guess this is for Corporation Counsel. We have description for the Planning Commission in our Charter but according to...hearing Ms. Cochran say that we can override the Charter amendment and submit this as a bill. So what holds us to the Charter, so we put that aside, and we're saying...because it says here the members of each planning commission shall be residents of the island of the planning commission on which the member serves and that's fine. So do we add this to the Charter or is this just a bill in itself? I'm just wondering if we'll be challenged because we're not adding this under the Planning Commission Section 8-8.4?

CHAIR KING: Mr. Hopper?

MR. HOPPER: Thank you, Madam Chair. I think we do have this existing section in the Code 2.28, it's part of the Maui County Code, and we also have the Charter section that you referenced. If the decision is to amend the Charter, that is an option. You can I believe however adopt this as part of the existing Code section provided it's not inconsistent with the Charter as it stands. So, for example, I don't think you could say in this Code section the members do not have to be residents of the island of the

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planning commission on which they serve. I don't think that's something you could do in the Code section. But I do believe that this is something through ordinance that you could do provided that it is not inconsistent with the Charter requirements and right now the Charter doesn't expressly list other than there's the requirement of residency and it has a list of ex-officio members, and several other duties that the commissions would have. And I don't think that this would necessarily be inconsistent with that. Whether or not as a policy matter you'd like to actually adopt it is up to the...up to Council.

COUNCILMEMBER CRIVELLO: No, I realize that. Chair?

CHAIR KING: Yes.

COUNCILMEMBER CRIVELLO: I just want to be sure that we're not challenged coming from the...where the appointment process will be. What supersedes what? The Charter or the Code or does it just go hand-in-hand?

MR. HOPPER: Oh, well...

COUNCILMEMBER CRIVELLO: I just need clarification, Mr. Hopper.

MR. HOPPER: Yeah, I mean the Council could not adopt an ordinance that's inconsistent or in violation of the Charter --

COUNCILMEMBER CRIVELLO: Okay.

MR. HOPPER: --in that case. And so we would need to be careful that this ordinance is not something that's inconsistent with something that's required in the Charter.

COUNCILMEMBER CRIVELLO: Okay, thank you.

CHAIR KING: Mr. Hopper, I assume that that was...it's already been vetted so that was already discussed in the previous meetings.

MR. HOPPER: I'm actually not certain. Now the previous meetings were in a different committee that I didn't staff. I think they were at the Policy Committee. So but the ordinance was approved by our office back then and the new ordinance adds the Hana Advisory Committee as the I think the only significant change to the ordinance itself. Now, this...I mean the method of appointment is, you know, approval, you know, by the...selection by the Mayor with approval by the Council. So that process would have to be consistent as well.

CHAIR KING: Okay, thank you. Member Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chairman. I'll state that conceptually I appreciate what Ms. Cochran has done on behalf of the Members of this Committee.

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But I will say that in its current version I won't support it. When I look at the people who want to serve on planning commissions, especially for Lanai, I expect every single member to have some knowledge and some empathy regarding culture, our natural resources, and our customary requirements that is ma`a for Lanai. You know if we're a County that talks about home rule and whatnot, one thing I want to make sure is I can support it but I think for us on Lanai I would...I'm going to propose that Lanai be deleted out of this and we allow the Commission through its own rules authority decide how they want to approach this component. One thing I will say, we can put this in but at the end of the day as I think Mr. Hopper mentioned, the nominee who comes down to Council is still by choice of the Mayor. So they should be very clear that...or...that there is no misconception because we put this in certain people will be sitting on commissions, that won't be true. Dependent upon the nominee of the Mayor, that's his prerogative, that's his authority under the Charter and we just wait and react to the nomination. And so for me on Lanai as I talked to our people there I think they can make the better decision on what fits for our island. I understand there's different pressures and different needs on this island but on Lanai, we're in a community in transition. I don't need book smart people; I need people who know the island, understand the island, and live the island. I don't need a paper person. I need a real person. Not somebody who's got to read to know what we are on Lanai. Either you live it or you don't and I don't need those that don't. So I don't have a problem proposing at the right time an amendment to delete Lanai from this portion and allow that commission to present to our community how they want to address these concerns if it's still a concern for our community. Just like I said, I expect all nine of our community members to take care of these areas of concern. Thank you.

CHAIR KING: Thank you, Mr. Hokama. Ms. Sugimura, did you have a comment or question? Okay, not now. Alright. Any other comments or questions? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Like Mr. Hokama, I believe that all nine members have to have sensitivities in all the areas that are outlined in this bill in addition to all the other areas. However, different from Mr. Hokama, I'm supportive of the...of Item B having a member with cultural resource experience but I'm not supportive of Section A. So without an amendment reducing this bill to just a cultural person, I can't support the overall bill. Thank you.

CHAIR KING: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I guess to follow up, I had a different question but I just heard Mr. White talk about Section A there. What was the intent behind the including a person with knowledge of natural resources and conservation? I mean I get it logically but I would like to hear it from the maker of the bill what the intent is behind that and what is the analysis off adding --

CHAIR KING: Okay.

COUNCILMEMBER GUZMAN: --in that...

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CHAIR KING: Shall we ask Ms. Cochran? I mean I can tell you what my thoughts are --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR KING: --but let's give Ms. Cochran a chance to respond.

COUNCILMEMBER GUZMAN: And then the only reason that up is that when the original bill came forward on a Charter amendment, it indicated just the cultural portion of it and included as well as education for all members as a requirement of having Hawaiian I guess classes or something like that, yeah. I recall that it was a Charter amendment to require all the members to attend some type of Hawaiian cultural sensitivity or class, something like that to that effect, which is I think is great. It actually enlarges the whole knowledge of every single person who's a member on the commission. But now this bill singles out an expert or someone of higher learning or expertise in a certain area. So I was just wondering why the expansion, number one, on the conservation and natural resources, and number two, why the narrowness, why narrowing it to an expert in Hawaiian culture as opposed to when the Charter amendment came forward it was all encompassing, you know, basically having a class for everyone on the commission. So those are my two questions.

CHAIR KING: Okay, thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, Member Guzman. So in the next section, that is where the training requirements are about the Ka Huli Ao Center Native Hawaiian Law training. So that is still in there and still being asked to have provided to the commissioners. But going back up to 2.28.070 in regards to membership requirements, they only need to be qualified for one. I mean we're not trying to get a know-everything person in one body. And background in conservation and natural resources is for me key in especially planning commission decision-making which does look at Environmental Impact Statements, many concerns, you know, development projects are going to be environmentally impacting us. So that's where and it breaks it down college degree, you know, works in this relative field, has a work history of doing this type of work, has been part of an organization that dealt with this type of topic and work. So that's where it's asking for someone that has that type of, yeah, knowledge and expertise in that but it's not like you have to be this bookworm that that's, you know, you got some high, highest degree to be qualified. It's hands-on experience of this type of work, too. So hopefully that helps. And again just to highlight, yes, it was trying to...I was trying to do a Charter amendment then it was recommended by Corporation Counsel during the PIA Committee to do it this way in this ordinance Code changes, what have you, so that's where we're at adjusting our Code. It has...it's not affecting negatively the actual Charter that states the parameters of the commissioner members itself but this is honing in a little more detail, yes, but again it's about bringing balance and equality to the commission.

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COUNCILMEMBER GUZMAN: Okay. Yeah, so...Chair --

CHAIR KING: Yes?

COUNCILMEMBER GUZMAN: --if I may? So to clarify, and I guess Section 2.28.080 which is an under...which is not underscored, that is also being incorporated.

CHAIR KING: I believe that's already in the Code.

COUNCILMEMBER GUZMAN: It's already in the Code.

CHAIR KING: It got passed last year.

COUNCILMEMBER GUZMAN: I think we...did we pass that this...

COUNCILMEMBER COCHRAN: Yes.

COUNCILMEMBER GUZMAN: We passed it. Okay.

MR. HOPPER: Yes, we did.

COUNCILMEMBER GUZMAN: So very good.

MR. HOPPER: That's existing Code language, Member Guzman.

COUNCILMEMBER GUZMAN: That's...thank you.

MR. HOPPER: There's...the reason it's not underscored is 'cause it's already in the Code.

COUNCILMEMBER GUZMAN: Yeah, but the title is underscored, right?

CHAIR KING: Oh, the number?

COUNCILMEMBER GUZMAN: Yeah, 2.28.080.

CHAIR KING: That might've been a mistake.

COUNCILMEMBER GUZMAN: So, it appears like it's being added but never mind regardless of that.

CHAIR KING: I think they meant to underscore the number above because they didn't underscore...

COUNCILMEMBER COCHRAN: Oh, yeah.

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COUNCILMEMBER GUZMAN: Yeah, so it's a little bit confusing but anyways regardless of that I get where we're going now. So...

MR. HOPPER: It's actually--I'm sorry, Mr. Guzman--the section, it's underscored 'cause the section is simply being moved.

COUNCILMEMBER GUZMAN: Moved down.

MR. HOPPER: It looks like the previous Section 070 is being moved to 080 --

COUNCILMEMBER GUZMAN: Okay.

MR. HOPPER: --and so that actually is a new header but the language isn't new.

COUNCILMEMBER GUZMAN: Okay.

MR. HOPPER: I'm sorry, just for that clarification.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR KING: Thank you, Mr. Hopper.

COUNCILMEMBER GUZMAN: Thank you for that clarification. Moving forward. To clarify even further with Ms. Cochran is that, okay, so my understanding and you can correct if I'm wrong is that currently we have a requirement for all the members to go through this training session to learn more about Hawaiian culture. And now you're amending it further to specify narrowly to include an additional person with an expertise in Hawaiian culture.

CHAIR KING: Correct.

COUNCILMEMBER GUZMAN: So what...is it not, I mean I'm not trying to be offensive to anybody but I'm just saying is, isn't the inclusiveness of having everyone require the classes fairly adequate or satisfactory in having people with that knowledge? Why the additional expert in addition to everyone being required on the commission to take a course?

CHAIR KING: Okay, I'd like to give you my thoughts and then I'll ask Ms. Cochran because I advocated for this as a citizen of Maui when it came up earlier last year in the previous Council. And I'm not sure what is involved in the training course but I don't think it's equal to what we're asking of a cultural practitioner or somebody with work history.

COUNCILMEMBER GUZMAN: Well, this training course is actually...it's a legal educational course.

CHAIR KING: Right. It's --

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COUNCILMEMBER GUZMAN: And in fact...

CHAIR KING: --required by all boards and commissions.

COUNCILMEMBER GUZMAN: In fact, you get continuing education legal credits for this class, which is very, it's a very good class. But anyways I'm not questioning --

CHAIR KING: Okay.

COUNCILMEMBER GUZMAN: --the course. What I'm questioning, Chair, is and maybe Ms. Cochran can elaborate is that why is there a double, you know, double standard, not really double standard, but an additional expert --

CHAIR KING: Right.

COUNCILMEMBER GUZMAN: --that is being required aside from requiring all of the commissioners to attend this course, which is an excellent course.

CHAIR KING: Right. Well, I could, I guess I could speak for my own. I'll let you speak for yourself, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yeah, you had more comments, Chair?

CHAIR KING: I'll reserve them till later.

COUNCILMEMBER COCHRAN: Okay, thank you. And thank you, Mr. Guzman. So, yeah, I see your point and I think not to be smug but I see, I say why not. There's...so, yeah, and you did the course. I've done the course and it...even born and raised and feeling very steeped in culture myself learned a ton. So my eyes were opened up to so many things I just really didn't realize were happening or that was a law, you know, this is what the law means, truly means and what have you; water rights issues and things. So it is a very...I think is more fundamental. It's kind of, you know, laying a foundation for people who are not, you know, steeped in culture or of the area, land, what have you, to give them a broad picture sort of overall bird's eye view of things. But when that person comes from it then that's where that deep seated, you know, knowledge comes from and having that person in a seat on the commission will be that much more powerful and that much more representative of what, yes, this course teaches. But, you know, so I'm looking at the current makeup of the Planning Commission and we got three realtors, we have a union, we have a couple, a building permitter, a construction person, a water service person, and so, to name a few. And so I think where is this voice? Where is this representation? I would love to see the body currently existing to go through this course and having a little of that infused into their thought process when they're going through their decision-making. And so I don't see it like as redundant. I don't see it as, you know, why...if everyone, we're going to train everybody in this Hawaiian law training stuff anyways, why should we

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have a particular person or a couple, you know, representing that voice. For me I think it's more par for the course and more representation and again balance, equality, and broader perspective being brought to that table. So that's kind of my thoughts and it's not so much a redundancy in my eyes.

CHAIR KING: Thank you, Ms. Cochran. And let me just say that I agree with that and I think, you know, I've always...I've had this philosophy that regulation is a sign of failure and we failed to put somebody with this expertise on the Planning Commission over and over again. And that's why this is coming not just from Councilmembers but from the community this concern for why don't we ever...I mean I've had this discussion with Mr. Molina about the boards and commissions and just asked him why don't you start appointing people like this and we don't need this regulation. And time and again, we don't even know if they've...who's applying for this. We heard in testimony that one person applied over and over, and over again and never got on. And because we aren't privy to the other applications for certain planning...any board or commission we don't know who has actually applied. We just get put in front of us who is being picked and we don't have a broad scope to even know have there been even more multiple numbers of environmentalists or people with cultural knowledge that haven't been picked, that have been just, you know, brushed over. So, and so that's personally that's why I'm in favor of it. Because I think that that's where regulation comes from when you fail to do that, that broad scoping and you fail to balance out the demographics and, you know, things like gender balancing, things like knowledge balancing. We don't seem to have a problem that we have three real estate agents and that there might be, you know, a proclivity to those interests. And so, you know, if we're going to constantly have these kinds of, in my opinion, unbalance then that's what regulation is for, you try to balance it out. That's what equal opportunity was about.

COUNCILMEMBER GUZMAN: No, no, no, I mean, Chair, I grew up in the '80s. I know Affirmative Action very well --

CHAIR KING: Right.

COUNCILMEMBER GUZMAN: --and in colleges, and how we were given the opportunity to get ahead, and some of the minorities it's a Federal policy. And so, yeah, I get it that this is kind of resembling an Affirmative Action where you're trying to include those who have been missed...who have been underrepresented. But my question is narrowly tailored to if we are equalizing the playing field by allowing this class. And we've already passed this portion of the ordinance that says okay we're going to educate and make sure that we have the Hawaiian culture preserved, at least taught or people who have knowledge about it on the commission as indicated in the Section 2.28.080, the class requirement. Then are we going above and beyond? Are we now talking about what Mr. Medina is talking about? Are we now pushing the envelope further to say now we...aside from that we're going to get an expert on the commission? Wow, I mean that...I mean it's either, for me, it's either one or other, you know, to make it an equal balancing field. I mean either you have an expert or you

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don't require the educational to all the commission members. So if we've already got the requirement of the education, in my mind, you know, I don't want to say it negatively but it's almost, it is almost stacking the deck in one way or the other. So I would agree with having, you know, what we passed before which is the requirement of the classes but I'm having a hard time with the expert on the Hawaiian culture. And I would be also agreeable to the natural resource conservation because I haven't heard the justification but that's one component or one element that probably would need Affirmative Action. So, yeah, I mean I agree with the natural resources conservation membership, at least one person having that knowledge. Let me reiterate, I'm not trying to be offensive to experts in Hawaiian culture. I just believe that what we've passed prior to this is sufficient or unless we repeal the requirement of all the education and include an expert. So in my mind it's one or the other.

CHAIR KING: Okay, thank you

COUNCILMEMBER GUZMAN: Okay, thank you.

CHAIR KING: Thank you.

COUNCILMEMBER CRIVELLO: Chair?

MR. SPENCE: Madam Chairman?

CHAIR KING: Member White and then I'm going to ask the Planning Director to give his thoughts.

COUNCILMEMBER WHITE: Yeah, actually, thank you, Chair. I was actually going to ask the Director for his comments --

CHAIR KING: Oh, okay. Great.

COUNCILMEMBER WHITE: --since we haven't really heard much from him.

CHAIR KING: So, I know he's been wanting to say a few words.

COUNCILMEMBER WHITE: Thank you.

MR. SPENCE: Okay, thank you. Thank you, Committee Members. First off, I'm not quite sure where the information comes that the Planning Commission is stacked with realtors or developers. I've heard that from another...places. First off, our chairman, Max Tsai, owns a telephone service center. Whether these people have realtor's licenses or not, I personally have an inactive one, I'm not practicing real estate, and actually, none of our commissioners are practicing real estate, Maui Planning commissioners. Sandra Duvauchelle is the vice-chair, she's a grading contractor married to a Native Hawaiian. Wayne Hedani is the General Manager for the Kaanapali Landowners Association. He's a fisherman. He regularly takes property

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owners to task with regards to shoreline access and Native Hawaiian fishing rights. Doreen Canto is...she's a permit expediter for people who need permits to go through the County. She's not a developer. She's not a realtor. She is a Native...she's a Hawaiian Homes commissioner. She is also sits on the Native Hawaiian Chamber of Commerce. She's also an officer in the Kula Community Association. Mr. Richard Higashi is a retired school principal. Larry Hudson is a retired police chief. Keaka Robinson, Native Hawaiian, is a small business owner. He's owns a laundry service for hotels and other commercial operations. Lawrence Carnicelli, he's a government affairs director for the REALTORS® Association. He's no longer a realtor. But that said, you know, he comes from that background. Admittedly, I've never seen anybody less afraid to vote no on any permit before the Commission as Larry is. He regularly just questions people and if they don't provide the sufficient answers, he will vote no. Stephen Castro is an ILWU rep. There are traditionally, labor is represented on the Commission. So we have one former realtor on...currently on the Commission. I would also note former Planning Chairman Kent Hiranaga who is a broker. He was the hardest person I've ever seen on shoreline drainage because he's a surfer. So he would regularly go to bat for shoreline and water quality issues. Simply because somebody is a realtor or a broker in this case does not mean that they are uncaring of the environment. Keoni Ball who's also broker. He was a former chair. He is also very concerned about water quality and environmental issues. And so to say that that this is an unbalanced or even the previous planning commissions is not balanced is just not a correct statement. We have Native Hawaiian representation already on the Commission. And as far as I'm still not satisfied that I see a need. I mean everybody has expressed a desire for these qualifications for commissioners. I actually went back and I did the research for the need. I went back over 5 years of planning commission agendas and considering I was at 98 percent of those meetings, I'm pretty familiar with them. That was 118 meetings over 5 years and I looked at all the agenda items and it really turns out that 5 percent I can definitely say involved either natural resources or Native Hawaiian cultural issues, that's 5 percent out of the 659 issues where the Planning Commission is making a decision one way or another. There was another 2 percent, 2.8 percent where possibly that kind of expertise sitting on the Commission I think could have a made a difference with it. A huge amount of time of the Commission is spent dealing with short-term rentals, with Special Use Permits, bed and breakfast County Special Use Permits, those kinds of things. They rarely have anything to do with either natural resources or cultural practices. The...most of the SMA Major Permits do not involve those issues, are in already developed areas. I counted 7 times in possibly out of, out of the 48 SMA Major Permits granted probably about 13 times would these issues come up. And, and I think it is important to address those things but they are addressed at a Commission level already. I'll spare the...going down the big long laundry list of things that they do but with regards to Lanai, I share Mr. Hokama's concern or thoughts that I don't see a need. The Lanai people know their island. They know what the issues are. They know the history. They know the culture. I don't know why it's necessary to codify that somebody must have these issues...or must have these expertise. The Molokai as well, they...that Commission again they know their island. They know what is sensitive. They know what's not sensitive. That Commission spends most of their

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time dealing with SMA assessments for somebody building a cottage or someone adding a lanai onto their house; Kaunakakai Elementary School upgrades, Change in Zoning for the existing ball field up at Hoolehua. Those are the things they deal with. It's not...when the cultural issues come up, when the natural resources issues come up those people are keenly aware already. I don't see the need to codify.

CHAIR KING: Let me just ask you a quick question because you did mention that you always have somebody from labor. So is there a need for someone from labor to always be on because those don't sound like issues that involve labor either --

MR. SPENCE: No.

CHAIR KING: --and yet we always...you just made the comment earlier that there's always somebody from labor on the Commission.

MR. SPENCE: There usually is.

CHAIR KING: So what's...

MR. SPENCE: And that's a choice of this Council whether to approve that person or not.

CHAIR KING: Right. But my point...my earlier point was we don't really have a choice. We don't sit here and look at all of the people who have applied for a board or commission and make a choice. We just get the yes or no. We don't know who else has applied.

MR. SPENCE: I believe those are public record of all, everybody...

CHAIR KING: We just went through this whole thing the other day in the PEA Committee about whether they were confidential or not and we kept being told that that page that says who applied for what is confidential. And that we will...and I've requested that. I've been told that we're not allowed to see the other applications that were submitted but were not chosen.

MR. SPENCE: Okay, I'm not familiar with that.

CHAIR KING: So anyway that, that's just a little bit of background on how that gets chosen. We really don't have a choice of all the applicants as a Council.

MR. SPENCE: Okay, I'm not familiar with that. My understanding is those records are, to a certain degree there's some confidentiality 'cause it contains personal information necessary to do background checks and those kinds of things. But who the candidates are, I'm not familiar that that would be confidential at all.

CHAIR KING: It is.

MR. SPENCE: So...

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CHAIR KING: It is if they're not one of the ones picked. And this is from a direct conversation with Mr. Molina.

COUNCILMEMBER CRIVELLO: Chair?

CHAIR KING: Yes.

COUNCILMEMBER CRIVELLO: I have some questions, if I may?

CHAIR KING: Yes, please, Ms. Crivello.

COUNCILMEMBER CRIVELLO: And not necessarily addressing Mr. Spence. Number one, I'd like to address this amendment where it has Section A, at least one member of each planning commission, and that's in regards to background in conservation and natural resources. I think we contradict because if I look at what is special about the Hawaiian culture and what is it that you want to bring forth to the Commission as far as the cultural expert, it already involves the natural resources. And the...that of the culture is to protect the natural resources and the water and everything else. So I don't see why we need to add that part contrary to my other colleagues who might...may say that we need that portion. And then, you know, my island wholeheartedly supports the...where at least one member of each planning commission have the expertise in the Native Hawaiian tradition and customary practices. So if that requirement is part of this, that requirement includes knowledge and conservation and all of that that comes with the natural resources but that's the customary practice that we do probably say that's part of our culture. I support Section B; however, I would like to know who qualifies, who qualifies. And there's nothing on the application that addresses qualifications as far as what we're requiring here. And so I think that needs to be done. And of course the Mayor has the right to appoint and if the Mayor doesn't appoint such a cultural expert or that of the Native Hawaiian tradition, traditional knowledge then why are we putting this in. So I guess it will be up to us and the Administration to clarify the qualifications I guess or...because there are many that reads the book and come and declare that they are the cultural expert or the archaeology expert. And that's not good enough for somebody like me. And I think it's important for the Molokai Planning Commission, I'd like, number one, for the members there to know Molokai, know their island, right. And with that comes all of the qualification as to how our community exists in trying to live our culture. So I think we're saying okay you want a cultural expert but not enough for you to have all that Hawaiian customary traditions; we also need to have a natural...somebody who knows the natural resources. But for me if I'm talking about the Hawaiian traditions and customary practices, it all fits in to how you define Section A so to me we're being redundant. I do support Section B however.

CHAIR KING: Thank you, Ms. Crivello. Ms. Cochran, did you have a comment?

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COUNCILMEMBER COCHRAN: Well, first off, I had a question for Mr. Spence. How many intervening situations occurred? And any general idea of the reasons behind people intervening usually, I mean is there a...?

MR. SPENCE: There were 15, over the last 5 years, there were 15 interventions, and in those interventions, there were like Maui Tomorrow intervening on Rock & Brews. Where a restaurant was at one time and they were building a new one.

COUNCILMEMBER COCHRAN: So, I guess --

MR. SPENCE: Paia Inn there was a petition in the...

COUNCILMEMBER COCHRAN: --my question was it in relation to this? You know like did --

MR. SPENCE: Yeah.

COUNCILMEMBER COCHRAN: --was it like not represented reason?

MR. SPENCE: What I'm saying is that cultural practices or natural resources were not an issue in these interventions.

COUNCILMEMBER COCHRAN: In all the 15?

MR. SPENCE: Now, we do have, and I'll be the first one to say there will be applications coming up where I don't know if anybody is going to intervene or not and I'm not suggesting they do, but we do have applications where cultural resources are very much at interest. But those are in the great minority of cases and so that's why I bring up is there a need since they are the minority of cases.

COUNCILMEMBER COCHRAN: Alright, that's your point of view. Thank you very much. Go ahead.

CHAIR KING: Oh, Member Sugimura, I think you were next.

VICE-CHAIR SUGIMURA: Thank you. So, Chair, I just wanted to make a comment about the PEA Committee, the process for nominations, boards and...that we just did in my Committee. And I just want to say that, yes, we do get the nominations from the Mayor's Office, which came to us, and there was a sense of confidentiality, which was that Page 2 discussion that we had, that we all got that day. So it wasn't like a secret that was withheld from the Committee. I just want to make that clear. And everyone who sits in the chairs, all of our nine seats, have a opportunity to reject the nominations that come forward. So it's not like we don't have a choice. I just want to say that so that people don't think that it's, you know, totally unfair. Next thing I want to just say is by listening to the discussion I wanted to hold my comments until I heard from Director as well as our other Members because I really think that what we are talking is the word aloha. And I remember the last Council meeting where our

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Member from Molokai talked to us about aloha. And I really believe that all of us who sit here, and all of us who come forward or all the people from the community who come forward want to serve and give on a board or commission, which is their time away from their family and away from their responsibilities, they're doing it with a sense of responsibility and the word aloha. And I don't think that we need to say that the members or one member has to have a Hawaiian background or a, you know, background in conservation. I really believe that the people who come forward have that spirit. We all have an interest in our Native Hawaiian culture in different ways and different experiences. Lanai is, you know, Lanai and Molokai have both said that they want all their commission members to have a spirit for the community and have a love and knowledge for their community and I sit with that. You know I think that's important. I think that we all do. But I don't think that we sit here and we have to say okay one person has to be of Native Hawaiian culture to sit...to be a, you know, a councilmember or one person has to be this but I think we're all that. You know I think we're all Hawaii. And I believe in what Member Guzman said is that this class I think satisfies maybe just a general education that the commissioners will have or will gain. And that will be valuable but I don't think we need to say that a member has to be this or a member has to be that. So I'm not in favor of this in terms of the Commission and the Hana Advisory to have to have one thing or another. I think that we represent everybody and have, you know, experiences that we bring to our table based upon what we do in the community and who we are and that then blends really what we are which is the aloha spirit of Hawaii. So I just wanted to share that.

CHAIR KING: Thank you. Just one question, Vice-Chair Sugimura. Is it possible do you think through your Committee to get copies of all applications that come in to the Mayor's Office to each board or commission?

VICE-CHAIR SUGIMURA: You know I think that's a question for my Committee and maybe for another time because we're not talking about that right now with this bill.

CHAIR KING: Well, it's just because you mentioned that we do have a choice and that was my point was that the choice would involve looking at everybody who's applied and then saying. Because it's hard to reject somebody if you don't know who else is waiting in the wings, right?

VICE-CHAIR SUGIMURA: So that is a question that we can maybe take up, you know, ask Office of Council Services or something.

CHAIR KING: Okay, thank you.

VICE-CHAIR SUGIMURA: But I really would like to stick to this bill.

CHAIR KING: Right. I'm just addressing some earlier comments. Thank you. Any other comments, Members?

MR. SPENCE: Madam Chair?

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CHAIR KING: Yes.

MR. SPENCE: If I could just, let me air two more concerns about this. It was previously brought up that we're concerned about getting qualified candidates. You know certainly it's whatever candidates come forward it would be up to the Council to make that determination but at this time we barely have anybody who wants to serve on the Cultural Resources Commission. We reach out to different groups within the community. It's hard to get an applicant to come forward and say, hey, I want to serve on the CRC. Usually they're small business people and so that means time away from their businesses. There's inherent conflicts of course because we're such a small community. But also requiring of the Hana Advisory Committee, we have a hard time even getting applications at all for the Hana Advisory Committee. And if we make it that much harder to serve on that Committee, we're not going to get applicants and so we're going to have vacancies. And, you know, personally I would like to see more variety. We have the same people over and over again. Once their five-year term is up, they sit out and they, you know, seeing no new names we return to the same people. So it's...adding these additional requirements will make it harder for, certainly for some of the commissions to function. Thank you.

CHAIR KING: Thank you, Mr. Spence. And just let me say from my personal experience, I think the Planning Commission is probably one of the most popular commissions. And I have heard from a lot of people who would be new people on it who just get passed over time and again. So that's one of the concerns I think about the need for something like this is that, and you might even have more people stepping forward from that background if you had that requirement and they knew that somebody did have to be picked from who has a background in Native Hawaiian culture. So at this point, I'm not sure, I think we need to defer this and maybe work on this bill a little bit more. You know maybe focus on the, the Section B a little bit more.

COUNCILMEMBER CRIVELLO: No objections.

CHAIR KING: Member Cochran?

COUNCILMEMBER COCHRAN: Yeah, thank you, Chair. And so I guess just to see where we're kind of all at right now with the discussion and what we...what I heard, it looks like Lanai would want to be exempt along with Molokai.

CHAIR KING: No.

COUNCILMEMBER COCHRAN: No. But I think a few people here would prefer A not be inserted but tend to like Item B to continue to stay in this. So just trying to...

COUNCILMEMBER CRIVELLO: I'd like to clarify, Councilmember Cochran. I do support Section B but I feel Section A is redundant if we're talking about the cultural, the Native Hawaiian traditional and customary practices and the expertise it ties in with

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the conservation and natural resources. That is part of our culture. So I see Section A not necessary. I would delete Section A --

COUNCILMEMBER COCHRAN: Right.

COUNCILMEMBER CRIVELLO: --that's my opinion. But I support Section B as far as Native Hawaiian traditions and customary practices but I'd like to know who qualifies to qualifies the individual.

CHAIR KING: Who...you're asking for who like names of people?

COUNCILMEMBER CRIVELLO: I mean no, I mean what --

CHAIR KING: Okay.

COUNCILMEMBER CRIVELLO: --you know...

CHAIR KING: Yeah, it's spelled out there the three options, so.

COUNCILMEMBER CRIVELLO: Yeah, I'd like to know who...the only thing I have concerns about is who qualifies that person. I mean we have many self-appointed self-anointed --

CHAIR KING: Oh, you mean who picks them.

COUNCILMEMBER CRIVELLO: --uh-huh--so-called experts.

CHAIR KING: Okay.

COUNCILMEMBER CRIVELLO: And so that's only my concern. Thank you.

CHAIR KING: Alright. I don't think we're asking to change the process of who picks them because the Mayor's Office still would go through them but would be required to pick somebody from this category. So, Member Cochran and then Member Hokama.

COUNCILMEMBER COCHRAN: Oh, no, go ahead for Mr. Hokama.

CHAIR KING: Okay, thank you.

COUNCILMEMBER HOKAMA: Thank you, Ms. Cochran. Chair, I would just ask if maybe you and your staff can assist the Committee by reviewing the other components of the Code. If this moves forward, do we need to make revisions to Cultural Resource Commission? Should we revise their scope and areas of responsibility? 'Cause now it appears we're going to transfer it to commissioners on the planning component. So do we need to adjust what is the CRC? I don't know, it's a question I'm asking 'cause I'm not sure.

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MR. SPENCE: I wouldn't...Madam Chair?

CHAIR KING: Please.

MR. SPENCE: I wouldn't...the CRC already covers so many of the...we get EAs, EIS' in, some SMA Permits were cultural issues. We send them to them for review. I'm not sure how else they would need to be revised. As far as their...

COUNCILMEMBER HOKAMA: No, my thing is, you know, do we need all that bureaucratic addition then?

MR. SPENCE: Well...

COUNCILMEMBER HOKAMA: My thing is, you know, I think we should be reviewing whether or not it is, still serves a purpose that needs to be retained.

MR. SPENCE: Oh, to remove the CRC.

COUNCILMEMBER HOKAMA: If not, we all know the difficulties in filling the so-called non-so-called popular commissions. We always have issues with quorums and other things for other --

MR. SPENCE: Right.

COUNCILMEMBER HOKAMA: --commissions and boards. So, you know, I don't have a problem sunsetting things or adjusting things if we're going to give other components those type of oversights and reviews for recommendations.

MR. SPENCE: If the planning commissions were to take over cultural review, we'd certainly have to change our Historic Districts because they are --

COUNCILMEMBER HOKAMA: No, no, I understand the --

MR. SPENCE: --the overseeing body, et cetera.

COUNCILMEMBER HOKAMA: --last ordinance we just moved out regarding the West Maui Historic Districts and allowing the Commission to have some authority, greater authority than previously. I don't have a problem with that. I just want to know whether we're creating potentially conflicting jurisdictions. Because for me I don't need a Cost of Government Commission since we've got a County Auditor, okay.

MR. SPENCE: I understand.

COUNCILMEMBER HOKAMA: I can read the Charter that says eliminate duplicative services.

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MR. SPENCE: So what...maybe what the question is so what if the CRC says one thing and the cultural expert on the Planning Commission or one of the Planning Commission says something different.

COUNCILMEMBER HOKAMA: I'm sure those things may occur and could occur and will occur, Mr. Director, so again --

MR. SPENCE: And...

COUNCILMEMBER HOKAMA: --you know, at the end of the day, though, they need to remember their role, they're advisories except what we have empowered them to make final determination. At the end of the day, the Council will make the decision. Everybody else is an advisor or a consultant, period.

MR. SPENCE: That's correct.

COUNCILMEMBER HOKAMA: So, I get it. So thank you, Director. Thank you, Chairman.

CHAIR KING: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yeah, I don't object to deferral on this at this time. I see a lot of more room for adjustments to be made here. So hoping that, you know, there's something that gets finalized and passed. I mean not to hinder or burden or anybody or anything but I think as...that's a good question of Mr. Hokama in regards to CRC and I hear the difficulty in trying to fill existing. I mean should we entertain that idea of maybe no longer having but really hone it in, have people in that field on this particular commission to be able to vet it out and have that representation once again and that knowledge to address. I don't know. I mean these are, you know, topics for discussion. But I think having CRC there and doing Historical Districts or whatever is important, too. And it, for them I think I speak to a lot of people and because it's not, it's just real advisory and recommended, they just make recommendations. They feel like they don't have much pull or power but, you know, they do have a say and help, you know, vet through things. But the planning commissions on the other hand, you know, they have some...a little stronger pull and say on decision-making and then of course it does get vet through this body. And, yes, we have differing opinions and thoughts on our decisions but we manage to make it through. And so, I don't see again a redundancy of sorts. I know there is a budgetary, you know, aspect of it that we need to look into but again, Chair, I think I hear the concerns again and hoping that we can work through and get it to a nice happy, happy, happy agreement of sorts here. 'Cause again it's...there's people out there whether you feel, the Mayor or Department feels, that are not that really aren't feeling they're represented. And, you know, that's just the plain fact of the matter.

MR. SPENCE: And, Madam Chair, I, respectfully, people may not feel represented but you look at the makeup of the Commission with the number of Native Hawaiians. You

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look at the, at what the Commission actually reviews with the very small percentage of issues, and those small things, those are, you know, those are the things that make the headlines. Bed and breakfast don't, short-term rental doesn't. That's what they spend the majority of their time on. Time extensions for SMA Permits. It's the Makena's, it's the, you know, Honua`ula's, those are the things that make headlines and that's where people feel underrepresented but those are the far minority of the things that the Commission actually does. It's a very small percentage as compared to everything else, so.

COUNCILMEMBER COCHRAN: Okay.

CHAIR KING: So, I think rather than belaboring the...I mean 'cause we could back and forth all day but I'd like to take a five-minute break and I really want to get through this next discussion on the Molokai Community Plan before we end this meeting. So if there's no other discussion, no objections, let's take a five-minute break. And then...well, we'll come back at 11:05, Members.

MR. GARNEAU: Chair, are we deferring this item?

CHAIR KING: We are deferring this item for now.

MR. GARNEAU: Thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS

ACTION: DEFER

CHAIR KING: Alright. . . .(gavel). . .

RECESS: 10:58 a.m.

RECONVENE: 11:10 a.m.

CHAIR KING: . . .(gavel). . . Thank you, Members. We're going to continue on with the Planning Committee meeting. And I've been told I'm not hitting this hard enough so I hope that doesn't hurt your ears when I bang down on it.

PC-02 MOLOKAI COMMUNITY PLAN UPDATE (CC 16-98)

CHAIR KING: But so we're now going to focus on the Molokai Community Plan update, which is PC-2. And I'm going to ask Mr. Garneau from Office of Council Services to do an overview because what we're discussing today is the scheduling and the fact that this was, this was transmitted to the Council back in May of last year. The Council has a year to pass it out and we didn't get started until this month so we, you know, we want to get some sense of...and give Members a sense of what the schedule would

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look like and why we would need to do an extension on this. So, I'm going to turn it over to Mr. Garneau.

MR. GARNEAU: Yes, thank you very much, Chair. Members, Chair King has provided you with a memo that sets forth a timeline for completing the Council's review of the Molokai Community Plan this year. In order to prepare that timeline, we met with the Clerk and we also met with the Deputy Clerk and spoke with Chair White as well. What we did was we looked carefully at the Council and the Committee schedules for the year giving consideration to the Budget process that's coming up, NACo, HSAC meetings, and other available dates. And I wanted to also say that Chair King has made a commitment to work on the plan on an expedited basis and to give it the attention and resources that are needed this year to finish the plan, that's her goal. But although the Charter gives the Council a year to review and adopt the plan that may be extended by resolution. With prior plans such as the Countywide, the Maui Island Plan, and the Lanai plans they all required additional times. We did use extensions. In the memo that we passed out, I did make a number of assumptions but came up with a couple of scenarios by working backwards from the end of the year Council meetings and then kind of plugging in when things would work. The first scenario, scenario one, assumes passage at the last meeting of the year, which is a little bit nerve wracking leaving it to the end. Scenario two backs it up and give one extra Council meeting date in case that might be needed. And on the front-end, the two scenarios are virtually identical because just the way the committees and calendars flow. The scenario also anticipates that Councilmembers Crivello and King will be holding some informal meetings on Molokai before the Budget. Those would be informal meetings, not actual Committee meetings. And the purpose of those meetings would just be to hear from the community, to gather their input so that then Councilmembers Crivello and King can work with Staff in doing a new draft bill and plan because that's what we're tasked with. So following that, and also just as a side note, Councilmember Hokama when we were working on the Lanai plan he did informal meetings for the same purpose and that seemed to work well. The next thing that we would do after those meetings would be Chair King would work with the OCS Staff to develop a revised bill and a plan that incorporates the community concerns and as well as the Chair's recommendations and addresses Councilmember Crivello's concerns. We're hoping that that work can be done during the Budget time and so that the Committee meetings on the plan would begin in May with a new proposal, you know, a Council...Committee's proposal. And then along the way of course Chair King and Staff will work with the Planning Department and also Corporation Counsel to address their concerns as well. And there would be several meetings on Maui. I only included one meeting on Molokai because that's the only way it fit in. I used one of the extra days that we have set for that although this scenarios assume no special meeting so with the Chair's approval we could also schedule special meetings, either special Committee meetings or special Council meetings. The other thing you'll notice for posting when we are considering things on Molokai, especially for the Committee meetings and the public hearing, I recommend posting early because what we found when we were doing the Lanai plan is there were a lot of citizens. They really were concerned. Some are seniors. What I learned which I realize I have such a Maui

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mindset because you take this for granted, there was no color copier on Lanai that could do even the map. So what I would do was actually print out copies of the plan with the colored maps 'cause the, as you know the land use maps and color are probably one of the most important parts of the plan. So I would print out five copies, hard copies, mail 'em over to the District Office so people could look at them. So I am assuming it's going to be similar with Molokai that there will be interest and they'll want to see the plan. So I've added in extra time to be able to accommodate for that. There's also extra time for the Committee reports, you know, because as you know normally our Committee reports we try to post them on the next available Council agenda as opposed to doing a delayed Committee report. But, you know, Committee reports for things like the community plans are so extensive that they really do take additional time. And also in between meetings of course if the bill or the Exhibit 1 to the bill which is the plan is revised in anyway then we have to get new ones and have that signed by...reviewed and signed by Corp. Counsel as well. So, based upon all of this and as you can see from the tentative schedule that I came up with, I think probably the most prudent way to proceed would be to seek an extension from Council. If the body, if that's your wishes and the Chair's as well, I'd be happy to prepare a resolution, you know, extending the time and sending that to Council at least through the end of the year. So, I think that's all I wanted to say. I just wanted to share with you kind of put down on paper what the dates might look like if we're going to get the plan done this year which we really want to do and some of the considerations that went into that. This is assuming that if we poll for meetings, extra people are available, that and there's no other kinds of scheduling things that come up or emergencies so, you know, that may make it slip. And there's relatively few meetings at which to consider the substance so depending on testimony from the public, depending on the issues that the Planning Department may raise or the Corporation Counsel may raise, those all may take additional time as well. So I'm happy answer any questions but, you know, I thought by setting this out in a way that showed you kind of step by step what would have to be done and it would show that it's a big task this year. So, anyway, thank you.

CHAIR KING: Thank you, Mr. Garneau. And then and, Members, just to let you know that we're looking at...Ms. Crivello and I are looking at potentially going over February 28th and the 1st and trying to cover three communities. And I believe, and I'll ask Corp. Counsel or maybe our Chair White to comment on this that we can have four people there, four Councilmembers there if we take notes and not be in violation of the Sunshine Law. Is that correct, Mr. Hopper?

MR. HOPPER: Well, there's...I can pull up the section of the Sunshine Law. There's certain types of meetings that if you do attend if it's less than a quorum and there's no action taken at the meeting, Members can participate in discussions but they have to report back to the full board. There's only certain types of meetings that that can be done at I believe and so I can look that up if you have a moment. But...

CHAIR KING: Well, my, my intention was to, you know, if there a couple of other Members who want to come. I mean I think the more people who come to Molokai and hear

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what the public is saying, the more helpful it is when we come back to Committee, so. But I don't want to violate the Sunshine Law obviously and we are going to have Staff there so we will have notes from the meeting, so, you know, specifically...our Vice-Chair, Ms. Sugimura. So, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. The Sunshine Law allows us to go to meetings organized by a public, or by, you know, things like the KCA, but if the Council is the body organizing the meeting then there are limitations on how many can attend. And I'm not sure, I believe it's just two but...

CHAIR KING: Okay, well, yeah, I thought it was four --

COUNCILMEMBER WHITE: The attorneys can...

CHAIR KING: --if we took notes but, you know, we'll defer to...

COUNCILMEMBER WHITE: No, that that only applies --

CHAIR KING: Okay.

COUNCILMEMBER WHITE: --when it's a meeting that's organized by a public organization where we're being invited to go and be educated or updated on various things. And then if there are I believe more than four of us there we need to take notes and videotape it, so.

CHAIR KING: Okay. So, can we, should we ask for...are you good with us asking for a formal opinion from Corp. Counsel on it?

COUNCILMEMBER WHITE: Yeah, I'm sure that they'll be happy to get back to us.

CHAIR KING: Okay, and then if it is, if it does allow for more than two we'll put the notice out to the Members and offer that inclusion. So can we just make a note of that too, to wait for the opinion from Corp. Counsel. But we are looking at the dates of February 28th and March, overnight, March 1st and hoping to get three community meetings in those two days.

COUNCILMEMBER WHITE: Yeah, I don't believe you'll be able to do more than two people --

CHAIR KING: Okay.

COUNCILMEMBER WHITE: --based on the fact that it's the Council that's organizing it.

CHAIR KING: Okay.

COUNCILMEMBER COCHRAN: Chair?

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CHAIR KING: And then so, and then just to let the public know that I'm going to open it up for public testimony that the discussion right now is on potentially extending the Council, giving the...ourselves an extension till the end of the year. This came to the Council last May but nothing has happened on it until now so the Council is supposed to have 12 months to review and pass out the community plan. And since we're just starting now, that would actually give us till next February but I'd like to try to not give us too much time because I'm sure we'll take however much time we give ourselves and then we can always ask for an extension so that's the intent of it. And then so before we go into discussion I'd like to open it up to testimony. I think we had some people on Molokai, Mr. Garneau.

. . . BEGIN PUBLIC TESTIMONY FOR PC-02 . . .

MR. GARNEAU: Yes, thank you, Chair. There's no one in the Chamber signed up to testify for this item but I'd like to check with the remote offices, please. I'm going to start with Hana, Dawn, do you have anyone there to testify?

MS. LONO: There's no one waiting to testify in the Hana Office.

MR. GARNEAU: Okay, thank you very much, Ms. Lono. And the Lanai Office, Denise Fernandez, do you anyone there waiting to testify?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

MR. GARNEAU: Okay, thank you very much. And going to the Molokai Office, Ms. Alcon, do you have anyone there that's...to testify on this item?

MS. ALCON: Yes, the first testifier is Greg Jenkins.

MR. GARNEAU: Okay, thank you. Please proceed.

MR. JENKINS: Aloha, Chair King and Members of the Committee. My name is Greg Jenkins. I'm testifying today as a Molokai resident as well as a CPAC member. You know based on your guys' discussion I kind of wanted to anchor it with something, I appreciate Greg Garneau's comments and he made a statement what I thought was very profound. He says there's going to be very few meetings to consider the substance of our plan with the voting Members of this Committee and so I find that to be a very important point and it kind of guides my testimony. You know, first, I had the concerns concerning the scheduling of meetings on Molokai. You know on the transmittal to you guys on the agenda in Item No. 3 for this item it talks about the key differences between CPAC and MoPC recommendations. What's also there is there are differences in Item No. 4 with agency recommendations. And in our CPAC process there was not consensus on these matters and it wasn't until that we had more time to really get the draft plan of the CPAC out to the public that the Molokai Planning Commission review really started to voice the concerns of our community which was

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critical. So that is why I would...I think it is a good idea to have a time extension as which was recommended to the most time possible to get the community's input so that there's due process. The community is given that due process. I do...I humbly disagree with the lack of scheduling of only, with only one hearing that's proposed. I believe there should be at least three hearings on Molokai with the voting Members so that they can hear from each of the areas of our community on these substantive issues. You know we trust the County Council to vote...to make legal decisions legislatively for our island every day and these are big decisions that come with this community plan and with the Molokai Planning Commission processes that are guided by this community plan. It's our bible. So I feel it's only respectful if the voting Members of this Committee attend at least three hearings on Molokai. I'm not in opposition to what Chair King recommended to have some informal meetings but those should be in addition to formal hearings. And I thank you for hearing my input.

CHAIR KING: Thank you, Mr. Jenkins. Any questions from Members? No, okay, thank you. Mr. Garneau?

MR. GARNEAU: Yes, Ms. Alcon, would you call your next testifier, please.

MS. ALCON: Our next testifier is Bridget Mowat.

MS. MOWAT: Aloha, I am just in support of Kelly King's suggestions or extending. We have, you know, our community is kind of broken up into three sections. We have Manae, we have Kaunakakai, and we have Maunaloa, and, you know, I would really like to see our Council, our representatives who we voted in go to each of those areas also. Because, you know, there's a lot of people don't travel or don't drive but by making it available 'cause the whole purpose is to get input from the community. So I really think that it's your folks' duty to, to go to these communities to get the input and hey if you have to push something out of the calendar to make sure that you're speaking or reaching out to everyone then you should be doing that. Let's see, three...so that would entail spending more time on Molokai. Also, to make it, the meetings available to all people 'cause workers...you come in the daytime so be prepared to stay overnight. What better way to know the island and its people by spending time with them. So it might give the testimonies more information instead of limiting to two or three minutes. So that's just my manao. If you're going to come out and get our testimonies then you got to give us time. You got to give us opportunity to attend these meetings and make it available to all of us, not just the ones that are retired or not working. So that's my spiel and I want to say mahalo, and to all of you who are the minority of the Council, keep on swimming, swimming, swimming. Mahalo.

CHAIR KING: Mahalo. I think we have one question. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Chair, I have a question for the testifier. Hello, Bridget, this is Councilmember Stacy Crivello. I'm trying to clarify your understanding of not participating in the opportunities that may come before us for us to go to the different districts. I think that's something that we're working on. So I heard you saying that

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the district representative should be attending. Can you clarify what you're leading up to?

MS. MOWAT: What I'm leading up to.

COUNCILMEMBER CRIVELLO: It is my intent, I just want to know, let you know that it is my intent to participate fully.

MS. MOWAT: Oh, absolutely. I'm just talking about the meetings in itself. I know you need to attend absolutely but I'm talking about the availability and the times of these meetings. One a year is not enough.

COUNCILMEMBER CRIVELLO: Exactly, exactly.

MS. MOWAT: Yeah . . .*(inaudible)*. . .

CHAIR KING: Yeah, I did, thank you, Bridget. I think I understood that she was saying that we should all be there because they vote on all of us.

COUNCILMEMBER CRIVELLO: No, she did mentioned district representative and that's why I wanted to clarify that. Thank you.

MS. MOWAT: No, I didn't --

COUNCILMEMBER CRIVELLO: Thank you.

MS. MOWAT: --mention district --

COUNCILMEMBER CRIVELLO: Thank you, testifier.

MS. MOWAT: --representative either.

COUNCILMEMBER CRIVELLO: Thank you, Bridget.

CHAIR KING: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Sorry, Chair, on recess I mentioned I'm going to be departing --

CHAIR KING: Okay.

COUNCILMEMBER COCHRAN: --from the meeting so I just wanted to let you know that and if I...sorry I don't mean to cutoff the testifiers at this point but I wanted to just share my thoughts. Mr. Garneau's point about maps. If there's any way to maybe work with Planning for the really big, big, big ones and not just the little take away, take home version size maps I think so people can really get that bigger picture view when

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we travel to Molokai and any outlying districts. And then my other question is in reference to all of us and I think Ms. Mowat thought is that we all somehow attend but the Sunshine Law may infringe upon us doing that. How is it that we do our Budget Committee hearings throughout the districts? Could it not be similar to that?

CHAIR KING: I think those are formal Council meetings --

COUNCILMEMBER COCHRAN: Right.

CHAIR KING: --so this is not a formal meeting where it's going to be noticed and attended by all the Staff.

COUNCILMEMBER COCHRAN: Okay, I guess...

CHAIR KING: So, I think that's the difference. Maybe Chair White can clarify.

COUNCILMEMBER WHITE: Yeah that's correct, that is the difference. The other option is to form a TIG, which would allow, this being a seven-member Committee, would allow three Members to attend.

CHAIR KING: Okay, thank you.

COUNCILMEMBER COCHRAN: Okay, I just wanted to know how we could incorporate 'cause I know I'd like to attend. But alright, well, thank you, Chair.

CHAIR KING: Alright. Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, I would like to attend as well. If you would like to form a TIG you could do it.

CHAIR KING: If we form a TIG we can't more than three Councilmembers on it. Is that correct? So let me get...

COUNCILMEMBER GUZMAN: Rock, paper, scissors?

CHAIR KING: What's that?

COUNCILMEMBER GUZMAN: Rock, paper, scissors?

MR. GARNEAU: Chair, if I might too, the one disadvantage if you'll recall from our TIG, Councilmember Guzman, is once you form a TIG the Committee loses jurisdiction over the item. You can't take it up again. So and you have to have a two-step process to bring it back. Remember you have a report where you can't have any discussion then you actually have the meeting. So forming a TIG might even delay things more I'm afraid so but we'll look at what the options are short of scheduling an actual meeting.

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CHAIR KING: Is it possible, you know, maybe on these informational meetings to have the community host it and then if it's hosted by the community then we could all go?

MR. GARNEAU: Well, I think what Chair White had mentioned about the limited meetings, there is a process under the Sunshine Law to allow us to attend limited meetings. But if they're...it's a meeting of another group but then there also is a process there where you have to...one of the people, one of the Councilmember has to be designated. The reporter has to take notes and then report back to the full Council at the next meeting on what occurred. So there...that's the limited meetings. What we were talking about was informal meetings. I'll look again more closely but I know that when we were doing Lanai, when we had informal meetings, we always limited it to two. So I'm thinking there must be a rule somewhere otherwise we might not have done that because it was only the member from the district and one other member when people met informally. So I'm happy to look at what our constraints are but those are the only type of meetings, either an informal meeting where you have two I believe then or an actual posted Committee or Council meeting or a limited meeting with an outside group that has those reporting requirements. I'm not aware of any other meetings. Thank you.

CHAIR KING: Okay, well, I'm thrilled that everybody is so interested in going to Molokai so if there's a way we could maybe get the community to host it and it could be their meeting and we come and discuss the plan maybe we could look into that.

MR. HOPPER: Madam Chair, I can give an opinion on this later on but I want to make sure we complete public testimony if...

CHAIR KING: Okay, yes let's...

MR. HOPPER: --before the meeting ends anyway.

CHAIR KING: Okay, I'm sorry, let's do that.

MR. GARNEAU: Shall I continue then?

CHAIR KING: Yes, please.

MR. GARNEAU: Okay, thank you. Ms. Alcon, do you have any other testifiers on this item? Ms. Alcon, are you there?

MS. ALCON: The next testifier is Keani Rawlins-Fernandez.

MS. RAWLINS-FERNANDEZ: Aloha, Chair King and Councilmembers. Mahalo nui again for this opportunity to testify this time on PC-02. A big mahalo to you, Chair King, for making the completion of the Molokai Community Plan process a priority for...and for offering to hold informal meetings here to gather input from the community. I support your proposal of extending but like Mr. Jenkins would encourage you to consider

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having official meetings here as well. And as for the informal meetings, I know our community here would love to host you so that we can have at least four for the informal meetings or a community invitation meeting. So like Greg I support his recommendation on holding these meetings in Maunaloa and Manae in addition to where meetings are usually held in Kaunakakai. Because this plan affects the entire island and particularly because both Maunaloa and Manae have policies they added specific to their respective areas, it is important that these meetings are held there. So that more community members are available to participate and to provide input. From discussions with community members about our community plan process, many were concerned with the times the meetings were scheduled for. If you truly want community participation, please consider holding meetings either over the weekend or on weekdays afterhours. And if you do come on the weekday, please consider staying overnight to ensure community members are able to fully provide their testimony and are not rushed, you know, because you all would have to catch a flight. So, yeah, this is how I'd recommend it be done if you truly want to engage and get input from our community here on Molokai. Mahalo.

CHAIR KING: Thank you for your testimony. Members, any questions? Okay. Mr. Garneau?

MS. GARNEAU: Yes, Ms. Alcon, do you have any other testifiers?

MS. ALCON: Yes, the next testifier is Liko Wallace.

MS. WALLACE: Aloha, Chair King and Councilmembers. Thank you for hearing my testimony today on PC-02. I ditto everything that was said prior to me because it is important to have the meetings in the different districts that it involves. And also to have it after work hours so those who are working during the time the meetings have been can come. I also would like to see someone at the meeting meet and greet those of us who come in at different times and inform us as to where in particular the meeting is at. Offer us the ability to pick up the agenda on the table or the maps that they are relating to or any information that is pertaining to the issue that is at hand. In the past, we've walked in with no prior knowledge as to where we're at in the meeting then we have to discuss it with someone in the audience to find out where we're at. So if we could have someone there to let us know to offer up the option to ask questions if we have any questions as to where they're at and again where the documents are so we know how to follow it and to feel like we are allowed to be a part of this meeting. In the past, I've attended these meetings and I felt like I was just an audience. I was in the audience and I didn't have the right to give my input because for one thing I didn't know where we were at and I just don't exactly know when it was time to testify or if we can ask questions during the time that, you know, the Committee is talking. 'Cause it seems like we're, again, we're in the audience, we're listening to what is being said and it's like we're just being talked to instead of being allowed to give our input as to what is being said. So again not just having...I mean having weekday meetings that would be afterhours and stay overnight so we don't feel like we're rushed to give our testimony or on the weekends. Oh, and another thing...I

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know I no like weekend either, but and another thing would be to, when you put out the flyers, the notices to let us know it would be nice if we could have something that was more in layman's terms.

MR. GARNEAU: One minute.

MS. WALLACE: If you wanted the community to come out to have it so that we understand what this meeting is about. A lot of times we come, we look at the board, we see this agenda thing printed out and I mean most of us here are not versed in following that kind of formal invitation so I would really appreciate an invitation to be more at the local level. And I not saying we dumb, we just no do the same thing you guys do. So we talk and understand a little bit different but that doesn't mean we're lower than you are. So I just wanted to say that. Thank you again for the opportunity to testify.

CHAIR KING: Thank you, Ms. Wallace, and all your suggestions are duly noted. We'll make sure there's clarity and information available. Mr. Garneau?

MS. ALCON: Okay, our next testifier and last is Fay Pacheco.

MR. GARNEAU: Okay, thank you.

MS. PACHECO: Hi, Chair King and Members. My name is Fay Pacheco. I do have just a little bit to add to everybody's testimony today is that the dates that were given, March 28th, I mean February 28th and March 1st is kind of right around the corner, at least maybe two weeks' notice. Anyway I'd love to be there because I have my plans already and I'd love to be at the meeting but if you're going to stay with that date I won't be able to attend. But anyway, another thing I wanted to share is that I had attended one of the meetings last year and I was really put out because I wasn't informed as to what are they talking about, you know. It was so chaos that I think they decided to have a closed-door meeting and that made everybody leave. And I mean I understand the meeting went on forever almost but anyway, I would like to see it also in the evening where we have time to be a little bit more cordial with our Councilmembers and share most of our manao as to our meeting. Also, I would like to say that when you have your original meeting...your actual formal hearing is that the people that are going to be voting on are at those meetings, and at least have two weeks' notice for that too, okay. Thank you so much. Aloha.

CHAIR KING: Aloha. Thank you for your testimony, Miss...and, Members, any questions? Okay, I think that's all the testimony and there's nobody in the Chamber waiting to testify. So I'll close testimony.

. . . END PUBLIC TESTIMONY FOR PC-02 . . .

CHAIR KING: And I'd like to ask Mr. Spence if he has anything to add on, just to give you a chance to comment on the process and the timing if you so desire.

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MR. SPENCE: Thank you, Madam Chair. No, the --

CHAIR KING: Did we get it right?

MR. SPENCE: --the schedule is up to the Committee.

CHAIR KING: Did you get a chance to look at it and just...I mean in your experience if you have any thoughts on.

MR. SPENCE: Oh, I would like to think we could get it done before the end of the year --

CHAIR KING: Okay.

MR. SPENCE: --but, no, that's, you know, it takes as long as it takes, so.

CHAIR KING: Right. It's ambitious but I think that, you know, just in talking to the various resources it was thought, it was agreed that if we give ourselves too much time we'll probably take however much time we give ourselves. So we would like to push ourselves a little bit to get done by the end of the year.

MR. SPENCE: And, Madam Chair, I will say that my hope is it doesn't take too long because we have all the...we have six Maui Island community plans that are going to be following up and as well as Kahoolawe. That's part of the frustration in meeting the Charter requirements is that it, you know, we're supposed to be doing this within a specified amount of time, and it's very difficult to do. Thank you.

CHAIR KING: Okay, thank you. And I'm also hoping that...Vice-Chair Sugimura?

VICE-CHAIR SUGIMURA: So I'm just curious so you're having two community meetings and then how many formal meetings with us are you going to have?

CHAIR KING: We're trying to have three community meetings because in the three different areas that have been requested, and hoping and I'm working with Ms. Crivello on that that we could get that done in two days if we stay overnight. But it might have to be over a weekend because it sounds like the request is that--would you like to comment on that?

COUNCILMEMBER CRIVELLO: Chair, don't hold hearings on weekends. Our community we like to go holoholo or do things at home. You don't get a good turnout for weekend meetings. I would suggest three community meetings formal. I would suggest that we touch every district which would be the Central, West Side, and East Side especially because of our Chapter 11 subarea or, you know, addition to it more so we should do that. And if it has to be evenings it has to be evenings. That may require for us to have three different formal meetings to accommodate the three areas that we'd like to hear from.

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CHAIR KING: So that's what we've been working on. Mr. Hopper, you have a comment?

MR. HOPPER: I can address the issue, those questions that you had about the number of Members that can attend meetings that aren't agendaized if you'd like. I have the section of the Sunshine Law here.

CHAIR KING: Okay.

MR. HOPPER: The section says that two or more members of a board but less than the number of members which would constitute a quorum for the board, so three in this case, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar or community meeting. Provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. And then there's other requirements, the board members in attendance may participate in discussions including discussions among themselves provided that the discussions occur during and as part of the informational meeting or presentation. And provided further that no commitment relating to a vote on the matter is made or sought. Now, there's a separate section that allows as a permitted interaction to members to, to talk about board business provided they don't make a commitment to vote. So I think that's where you get two members could attend informal meetings but the issue where it states in that, the section that I just read, that the meeting can't be directed towards, the meeting can't be directed towards members of the board. Would make me a little nervous about having a meeting organized either by the Council or really only for the Council to come over in that situation. In addition, you only get one extra member that can attend. You can't have four because the quorum that you have here is with a seven-member board. So...

CHAIR KING: So it sounds like also that even if it was hosted by the...someone in the community it still directed at our business and so that would still preclude us from...

MR. HOPPER: That would be the concern is that is it directed toward the Councilmembers. You know, and based on the discussions we've had today I think there's maybe an argument for that. The better way may be to only have two Members, do a TIG as you discussed or just simply agendaized a meeting and then you can have, you would still need to have quorum and you'd post an agenda but, you know, you could have that as a meeting and I mean it would have to be conducted. I understand the idea of having something a little less formal. So I mean you could allow testimony during the meeting if you want or things like that but the two member, two Members can do, essentially can discuss board business as long as they don't make a commitment to vote a certain way on an item. So I think the discussion you had of two Members going over wouldn't necessarily be a problem there.

CHAIR KING: Okay. And if we did make it a Committee meeting and have an agenda and could get four, it sounded like there were four, at least four Members who want to go,

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then we need two weeks' notice to post for off island. Is that correct for neighbor islands? I thought I read that in something.

MR. GARNEAU: Sorry, I can answer that. This is Greg Garneau. No, our posting deadlines would be the same it's just in terms of our practices with the neighbor islands have always been to give ourselves two weeks because of making travel arrangements and making sure everybody is available and also for the public on those islands to give them the extra time. Because as I said with the neighbor islands we often will send over materials, hard copies of materials so they would have those as well at the district offices, not just what's online. So the two weeks I think you're referring to is...has been our policy within the office for neighbor island travel and just to give ourselves the extra time. But it's not a posting requirement --

CHAIR KING: Okay.

MR. GARNEAU: --in terms of posting the agenda.

CHAIR KING: Okay. But we probably would want to give an extended period of time to the people on Molokai to be able to plan around it. But I imagine...Ms. Crivello?

COUNCILMEMBER CRIVELLO: Chair? Mr. Garneau, I think you have to take into consideration housing and ground accommodations. You're going to Molokai so you need time and the posting. You know we do things on the bulletin board. We do it with our local newspaper and whatever means that we need to make the announcement. So I do believe we need time and the dates are important if we're going to accommodate all three districts which is a process that we should. And if I recall, Lanai they went through three to four meetings and then the Council meeting was actually held on Lanai. Right?

MR. GARNEAU: Yeah, that is true, yes.

COUNCILMEMBER CRIVELLO: Yeah, right...

MR. GARNEAU: Yes, and there was also informal meetings as well --

COUNCILMEMBER CRIVELLO: Right, there were informal...

MR. GARNEAU: --on top of it.

COUNCILMEMBER CRIVELLO: Yes and on top of the formal meeting.

MR. GARNEAU: That's correct.

COUNCILMEMBER CRIVELLO: So, we had quite a number of meetings on Lanai --

MR. GARNEAU: That's correct.

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COUNCILMEMBER CRIVELLO: --through that process. Thank you.

CHAIR KING: Okay, any other comments or concerns? I think this is a really good discussion for us to all hear and again I'm thrilled that so many people want to go to Molokai 'cause I think it makes everything go more efficient in the future. I'm going to, since the Committee seems supportive I'm going to go ahead and propose a resolution to extend the Council's deadline for the Molokai Community Plan to the end of year to December 31st and that will go directly to the full Council, if there are no objections.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (excused: EC, RH)

ACTION: DEFER

PC-05 COMMUNITY PLAN ADVISORY COMMITTEES (CC 17-75)

CHAIR KING: At this point, we're ten minutes till noon and the third item is really informational on the Community Plan Advisory Committee. So I was trying to get a jumpstart on information that we would want to consider in appointing the CPAC for the next community plan which is West Maui. But I think I'll go ahead and defer that for now if there's no objections. And then we have a memo that went to everybody that gives some suggestions for what type of balance we might be looking for on the CPAC and ideas. And then I've gotten quite an extensive memo from the Department or I guess it was OCS on the process of putting the CPAC together and how it was done in the past. And it has about 12 different links on it so I haven't admittedly gone to all those sources yet but I'll put together a more comprehensive proposal for when it gets closer to the time to appoint the West Maui. But I was trying to use a little bit of time I thought we might have today to get a little bit of a head start on it. I think I'd like to let the Committee go because we've had extensive...

MR. GARNEAU: Chair, may I just...

CHAIR KING: Sure.

MR. GARNEAU: I wanted to point one thing out. To make it clear then that the second item on the Molokai Community Plan you also, you've deferred that item as well. Correct? But also on...I'd like to confirm that, but also on the third item which you're planning to defer, we did, because of the way we're doing testimony on each item we have had a gentleman I don't know that he's still here but he --

CHAIR KING: Oh, I'm sorry. We did, okay.

MR. GARNEAU: --signed up to testify. He may or may not still be waiting. I don't know whether you want to consider giving him that opportunity.

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CHAIR KING: Is he in the Chambers?

MR. GARNEAU: The name of the testifier is Mr. Rob Weltman, are you present? Okay.

CHAIR KING: Okay. He was signed up to testify on this issue?

MR. GARNEAU: He was signed up on the...I don't see him here now, so.

CHAIR KING: Okay, I did see him leave and so I just assumed there wasn't. We do have one piece of written testimony for this item from Mr. Jim Smith but he's not in the Chambers. Do we want to check with the local offices?

MR. GARNEAU: I don't see him here. We also might want to just double check with the --

CHAIR KING: Double check with the local offices.

MR. GARNEAU: --neighbor islands as well. Dawn Lono in the Hana Office, do you have anyone there that's wishing to testify on the last item PC-05?

MS. LONO: The Hana Office has no one waiting to testify.

MR. GARNEAU: Okay, thank you. And, Denise Fernandez in the Lanai Office, do you have anyone there waiting to testify?

MS. FERNANDEZ: There's no one waiting to testify on Lanai.

MR. GARNEAU: Okay, thank you.

CHAIR KING: Sounds like they're having a party.

MR. GARNEAU: And, Ella Alcon in the Molokai Office, do you have anyone there waiting to testify on the last item?

MS. ALCON: There's no one here on Molokai waiting to testify.

MR. GARNEAU: Okay, thank you very much.

COUNCILMEMBERS VOICED NO OBJECTIONS (excused: EC, RH)

ACTION: DEFER

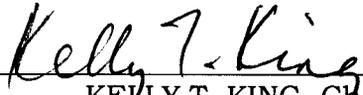
CHAIR KING: Okay, so with...if there are no objections, I'd like to...do I need a motion to adjourn or can we just adjourn, to adjourn the meeting? Thank you, Members, for health too, very healthy discussions. Aloha. . . *(gavel)*. . .

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ADJOURN: 11:56 a.m.

APPROVED BY:



KELLY T. KING, Chair
Planning Committee

pc:min:170216:cs

Transcribed by: Cathy Simmons

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CERTIFICATE

I, Cathy Simmons, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 10th day of March 2017, in Wailuku, Hawaii.



Cathy Simmons