

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
JANUARY 10, 2018

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lawrence Lasua at approximately 11:02 a.m., Wednesday, January 10, 2018, at the Mitchell Pauole Center, 90 Ainoa St., Kaunakakai, Molokai.

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

Chair Lasua: Members of the Planning Commission, I'd like to go ahead and get the meeting started. We're kinda couple of minutes late right now, so I'll go ahead and call the meeting order. First item, besides calling to order, is the introduction of new members Carl Adolpho, III and John Sprinzel. Does anybody wanna do the introduction for that? Clay, do you want to do anything for that?

B. INTRODUCTION OF NEW MEMBERS – CARL ADOLPHO III and JOHN SPRINZEL

Mr. Yoshida: Good morning. Good morning, Mr. Chair and Members of the Planning Commission. We have two -- two new members recently confirmed by the Council, John Sprinzel, whose term ends on March 31, 2018, and Carl Adolpho. Unfortunately, Mr. Adolpho has kinda changed jobs and is undergoing some training today for his job so he's not able to attend today's meeting.

Chair Lasua: Thank you, Clay. Next item of business is the election of chair for the remainder of the 2017-2018 board year. We have five -- five of us here and, yeah, any nominations for the chair for the next year, and this is just through March 31st of this year.

...Due to technical difficulties, this portion of the meeting is deemed inaudible...

There being no objections from the Commission, item C was deferred to later in the agenda.

Chair Lasua: ...(inaudible)... so we'll go ahead and take public testimony right now, and right now there's someone who -- Mrs. Davis, so we'll go ahead and start the public testimony, limited to three minutes with 30 seconds to conclude.

D. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. **Testimony will be limited to a maximum of three (3) minutes, with 30 seconds to conclude.**

Ms. Davis: ...(inaudible - due to technical difficulties)... so, generally, I want to speak in favor of the proposed boundary amendment and comment in the area of cultural impacts and the proposal speak to cultural impacts, in part, saying that the applicant, Pu`u O Hoku Ranch, is not aware of any cultural, historic, or natural resources in which traditional and customary Native Hawaiian rights are exercised on ...(inaudible)... the Ranch currently allows permitted access over its lands in Halawa Valley to Native Hawaiians and certain members of the community for ...(inaudible)... I have a little bit of a issue with that because, first of all, there are many cultural, historic, and natural resources in the area in question, almost all of is ...(inaudible)... taro lo`i, which are cultural artifacts and also help with the flow of water through the valley to keep sediments from getting into the river and then into the bay, so they are ecological, they are a environmental importance as well as cultural importance. It's a little disingenuous, I think, for the Ranch to say they're not aware of any cultural, historic, or natural resources in the area, which if you look at the boundaries, I just saw the boundaries, they go all the way up to pass Lamaloa on the other side of the river, so it's not a small area, we're talking about an area of five thousand something, eight thousand, about eight thousand plus acres, which would mean it goes actually down into Wailau Valley on the other side. So -- and access is not -- it says here they allow permitted access, which is true, to some of their land right there by the Halawa Bay for camping and fishing and people to go holoholo, but access is actually enjoyed by the Native Hawaiian residents, kuleana owners of the valley, per the Mahele of 1848, which states that all property rights, private property rights are subject to the rights of the people within, the people that live within that ahupua`a, so anybody with kuleana rights has access rights, they are not granted by the Pu`u O Hoku Ranch, but granted by the Constitution and prior laws and rights that the Native Hawaiian people enjoy. The statement is actually po`e nae na kuleana ona po`e no loko, the people within their kuleana is -- is pa`a because it comes before, prior to, and superseding private property rights, so the language that's used in this application is a little erroneous. There's also access that is enjoyed by residents right now to get to their private properties, which are kuleana parcels still held by individuals. Access to kuleana and to lo`i for production of taro are enjoyed by people, and I would argue not do only to the Pu`u O Hoku Ranch allowing that or permitting that access, but those are rights that are held by the people within, the kuleana owners, and maybe this application should be corrected to reflect as such. Thank you very much.

Chair Lasua: Thank you. Any other individual would like to do public testimony?

Mr. Pale: My name is Shane Pale. I'm actually on the agenda for a contested case, appointing of a hearings officer, I was, this is not part of the agenda that came up, but these are written testimony I just got at 10:35 a.m., from Sybil, who just emailed it to me, thank you, Sybil, and, basically, I just wanted to address some of the concerns or whatever Mike Heimbuch has written in his letter about this whole ownership and everything, so I just read it, you know, I'm kinda looking at it, and I just wanna say, first of all, is that Mike Heimbuch does not have any understanding of what the kuleana land

laws are from what you read. He is basing everything on assumption. If you read what he's saying, it's hearsay, and he's actually told us ...(inaudible)... we actually went down in November, he confronted us, he even called the police on us to come, the police couldn't do anything, there was no -- there was no reason for any threat to him in any way. The police came there. But I just wanted to say at the onset is that he's challenging our ownership to this land, and I just wanna say this is -- this is the main reason why this contested case is important, and I tell you why it's important because native -- Native Hawaiian kuleana landowners are faced with this issue time and time again. Now, I've done my due diligence myself, me and my family. I've gone into the records. The County, the Maui County does not say who owns land in Hawaii; that is determined by research that you do yourself at the Bureau of Conveyance. I've been there for three years doing research, the Bureau of Conveyance. He has no -- he does not know anything of what he's talking about. Another thing I wanna add, and this is part of this meeting come part of the issue is when we -- the last time we met, when I was here, when you guys gave me standing for to move on to proceed with the contested case, you gave me standing, one of your Commissioners here actually said that you need to provide or look for, and you, meaning you, Mr. Spence, your office, your office of Planning, you folks need to look for someone who is knowledgeable in the community of Hawaiian culture and kuleana lands. This is a major issue. I mean we've got legislation going down -- going down in Honolulu this year. It's a very major issue. I mean you can even ask people like Mark Zuckerberg, the same issues that he's dealing with the kuleana landowners. Now, this is -- this is just what I'm -- what I'm sharing is that when you see that, when you see what's happening, you see now this haole guy, I don't know where he's from, telling me that I don't have ownership of this land, this is insulting that you guys are even considering that to me. What is insulting me that we sit here and we get a letter, and then, Mr. Spence, you come up here and you're telling me, you're talking to me, but you haven't even read it you told me, and then you're -- it's like a very condescending way telling me that you need to address it, so I'm addressing it. I just wanted to point that out ...(inaudible)... The first thing you do when you come to Hawaii, if you're an outsider and you come to Hawaii and you want to purchase land, what is the first thing they tell you, any attorney will tell you? What is the first thing? You need to get title insurance or a title report at least. Mr. Heimbuch did none of that. None -- he doesn't even have title insurance. He has no idea. He mentions people. He mentions the police that -- he mentions the DA, I don't know, I've never met her, Tiare or whatever her name is, said that she said, she said this, she said that; it doesn't matter what she said. What I wanna say is Tiare, or the DA, whoever she is, put something in writing, and I challenge Mr. Heimbuch put it in writing. I wanna see if she really said that. And did the police really say that that she -- he has a right to protection of order, TRO? Everybody has a protection, has that right no matter what. The reason why he couldn't do anything to us when we went to the aina, to our kuleana lands, is because we were non-threatening. You know, we went there as Native Hawaiians, Sister Kathy mentioned it, you know, we have a right to access that land. I did the research for three years with my own money, and now I'm -- I'm standing here faced with this letter, and you brought it up, right, Mr. Spence? I wasn't going to

bring it up unless you guys brought it up. You brought it up. You came to me before the meeting and brought it up. So, at this time, I just want to take the opportunity to say that he has no insurance. He mentions that there's other family members who -- who are puzzled. I dare him to tell me who that family member is because the answer is in the research and what you do. There is a break in title from the original landowner, who was my great-grandfather. There is a break in title, and 1910 was the first time they ever -- it was ever conveyed, it was done by my ancestors. What they did in 1910 and we did in 2017 is the same thing. I'm a -- we are, let me state for the record, we are heirs to that land, kuleana lands. There's a break in title. Mr. Heimbuch, yes he did -- he bought, and he's questioning us. I agree. There was some shady things that went down with his whole transaction between me and Barbara Balao, who's an in-law to the family, who got her crutches in someone in the family, the only other living heir besides me, myself, my brother, my sister, and my mom, who's the only other living families alive. I don't even know if he's alive. There's a whole story behind that. We need to find out from him who is he talking about because I can almost guarantee there is no one else. I did the research. The County, you guys, this whole contested case that we're about to enter, these are the questions that need to be answered. They need to be answered in a very real way. The last time when I brought this up to you folks, and you guys knew, Sybil, you guys all knew, I showed you the transaction on your tax office's tax notice. It was there. It was ...(inaudible)... you can look at it, and we can look it, you know something happened there. Your response to me, at the time, Mr. Spence, was, oh, it could be hundreds of people, you know, so who determines that? Who determines what our rights are in -- this situations because there's laws in the State of Hawaii, the Constitution, that tells us we have rights to this land, and the bottom line is there's a break in title, Mike Heimbuch doesn't know about it, he used to be some official back in Alaska, Alaska land laws are very different from land laws on Molokai and Hawaii, very different ...(inaudible)... every property in Hawaii, there was advice to me to go and get title insurance that's, Luigi, I'm addressing you as well, so that is where we're at right now. He needs to go provide title insurance. The question of how we move forward, that's the question that I have.

The second thing I wanted to say is that, address again, Kosaka, who is on that list, shouldn't be on that list. He was the one who wrote the deed from an in-law of the family, that deed that, the quit claim deed, that Heimbuch got interest to the land was done by Glen Kosaka, so I state that for the record. He shouldn't even be on the list, and I don't know how only those three got on the list. Thank you.

Chair Lasua: Thank you, Shane.

Mr. Spence: Mr. Chairman?

Chair Lasua: Yes?

Mr. Spence: First, I'd like to apologize to Mr. Pale. I -- my intent in bringing up that letter that we received this morning was to make sure you were aware that it came in, it was not in any kinda condescending way. I had not seen Sybil Lopez. I wanted to make sure that you were aware that it came in. That was the some total reason I brought it up. I didn't want you to be surprised if it came up at this, so that was just for your awareness, and that was -- that was a friendly gesture, and that's the extent of it.

Mr. Pale: You guys, that's the question that I had. When did you receive that testimony from him, what, was it this morning? Okay, so I, you know, I got it at 10:35 a.m., and so I did the best that I could to address it. I think, at this point, it's really, you know, where do we go from here.

Chair Lasua: Thank you. Anymore testimony? Public testimony at this time.

Ms. Buchanan: Mr. Chair, I have a question for the testifier.

Chair Lasua: Go ahead.

Ms. Buchanan: Sorry I made you walk all the way back and sit down. Sorry, Shane. You made a inference to someone not being on the list for a specific reason, can you reiterate that?

Mr. Pale: Well, okay, so this is thing, and I sent an email letter to Clayton Yoshida, Sybil, and then you, legal counsel, and I asked the question 'cause I read through all of -- and this is like fifth and sixth time I've read through --

Ms. Buchanan: What are you referring to?

Mr. Pale: I'm sorry, Charter -- I'm referring to -- I'm trying to answer the question about why --

Ms. Buchanan: So we had the -- we had correspondence with the list of hearing officers, one of them was named Kosaka --

Mr. Pale: Yes.

Ms. Buchanan: And I just heard you say his name so that's what I'm referring to specifically.

Mr. Pale: Yes. Yeah, Kosaka. But I just wanted to say why that kinda came up is because I read through Chapter 305, or whatever -- whatever governs the board, I read through it a couple times, so I looked through it, there's a lot of information about how a contested case should proceed as far as the procedures and the rules, what it fell short of was how

to select a hearings officer 'cause, you know, from my understanding, what I kind of assumed, and I could have assumed wrong, which I think I might have assumed wrong, is that it depends on both parties, myself and the Sherrells, and whoever represents them, you know, how do we determine who this person is? The only language that I found in there, in which you pointed out, which I knew, I had already read it, was duly appointed by the Commissioners, and my question is really like what does that mean exactly? What is the meaning of "duly appointed by the Commissioners?" You know, what is the procedures? You know, I get this list from Sybil, from you folks, can I go and call them? Can I call Ms. Naone? Can I call any one of them? Is -- there's no rule telling me you can. There's no rule telling me that I can't. So I'm sitting there wondering like what can I do, and I look through where I should look, which is the rules that governs your board, and look at any rules pertaining to contested case, and there's nothing, you know, besides just duly appointed by the Commissioners, so that is the question I have is what is the process or procedures because if I -- if I -- I didn't want to break anything, I was I could contact them, you know, and I'm that kinda guy who's I'm going to contact them I could, I would.

Ms. Buchanan: Mr. Pale, you're stating there's a conflict of interest for a reason from Kosaka being listed --

Mr. Pale: Yes. Okay.

Ms. Buchanan: As a hearings officer?

Mr. Pale: Sorry, Lori. Okay, so the reason why I'm contesting him is because, and I don't know the guy at all except what I read in the Honolulu Magazine about that whole scam that was going on in Maui which he's mentioned in it, but I just wanted to say that --

Ms. Oana: Excuse me, you're up next and then --

Mr. Pale: You want me to wait?

Ms. Oana: That would be the time for you to object --

Mr. Pale: Okay. I want to do the letter to --

Ms. Oana: Make an objection to one of the listed hearings officer. Do you want to wait?

Mr. Pale: Sure.

Ms. Oana: It's up to you. It was part of your testimony too --

Mr. Pale: Yeah.

Ms. Oana: But you are up next and that's where we'll be asking for a statement so --

Mr. Pale: Yeah, yeah, and I like to kinda get the meeting over quicker than --

Ms. Oana: Okay.

Ms. Buchanan: Thank you, Shane.

Chair Lasua: Okay, anybody else wants to come up and give public testimony at this time? Seeing none, we'll go ahead and move into Communications, Item E:

Chair Lasua read the following agenda item description into the record:

E. COMMUNICATIONS

1. Selection of Hearings Officer/ Hearings Body to conduct the contested case hearing on the following: (S. Lopez)

- a. **MR. JIM SHERRELL requesting a Short-Term Rental Home Permit in order to operate the Pukoo Polynesian STRH, a three-bedroom short-term rental home, located at 8778 Kamehameha V Highway, TMK: (2) 5-7-007:008, Pukoo, Island of Molokai. (STMO T2016/0007) (S. Lopez) (The public hearing began on June 14, 2017 and was closed on June 28, 2017. On June 28, 2017, the matter was deferred to the August 9, 2017 meeting. On August 9, 2017, the matter was deferred to the September 27, 2017 meeting. On September 27, 2017, the Commission deferred action on the request until after the contested case hearing process has been completed.) (Commissioners: Please bring your documents.)**

This application was brought for review to the Molokai Planning Commission because there are at least two (2) permitted short-term rental home operations located within 500 ft. of the subject property.

- b. **Intervention request by SHANE PALE for NATIVE TENANT KULEANA LANDOWNERS of Pukoo, Molokai Island, Hawaii TMK (2)570070560000, TMK (2) 570070470000, TMK (2) 57007014000 on the Pukoo Polynesian Short Term Rental Home Permit application received by the Planning Department on August 29, 2017.**

At its September 27, 2017 meeting, the Molokai Planning Commission granted the intervention request from SHANE PALE for the NATIVE HAWAIIAN KULEANA LANDOWNERS.

The Commission may act to select a Hearings Officer or Hearings Body to conduct the contested case hearing.

Chair Lasua: Have both parties received that report from the hearings officer or did you receive it? And are you -- would you like to come up and give any statement to that?

Ms. Buchanan: Hang on, Mr. Chair. Before you proceed, I'd like to request executive session so that I might confer with my Corporation Counsel on my duties as a Commission Member.

Ms. Oana: Okay, and that would pursuant to HRS 92-5(a)(4)?

Ms. Buchanan: Yes. I'd like to move that we adjourn to executive session.

Chair Lasua: Second? Move and seconded to move into executive session. All in favor, say aye? All opposed, nay? Motion carried.

It was moved by Commissioner Lori Buchanan, seconded by Commissioner John Sprinzel, then

VOTED: that the Commission enter into Executive Session.

(Assenting - L. Buchanan; W. Buchanan; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)

**** The Commission entered into Executive Session at approximately 11:25 a.m.
The regular meeting reconvened at approximately 11:44 a.m. ****

C. ELECTION OF CHAIR FOR THE REMAINDER OF THE 2017-2018 BOARD YEAR

Election for Vice-Chair may also be conducted if the current Vice-Chair is elected as Chair

Chair Lasua: I'll call the meeting back to order. We're going to go ahead and go back to the election of the chair for the remainder of the 2017-2018 board year before we get into the Communications again. So there was a motion on the floor by Mr. Buchanan, and second by Mr. Sprinzel to nominate Lori Buchanan for chair.

Ms. Buchanan: ...(inaudible - not speaking into the microphone)...

Chair Lasua: I know now -- now you are. Any discussion? Oh, does the candidate, will you accept the nomination?

Ms. Buchanan: ...(inaudible)... yes.

Chair Lasua: Thank you. She'll accept the nomination. Any discussion? All in favor say aye? All opposed nay? Motion carried.

It was nominated by Commissioner William Buchanan, seconded by Commissioner John Sprinzel, then

VOTED: that Commissioner Lori Buchanan serve as Chairperson for the remainder of the 2017-2018 board year.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Mr. Lasua: Lori, you're the Chair, like right now.

Chair Buchanan: Oh yeah? Oh wow, I feel so special ...(inaudible - not speaking into the microphone)...

Mr. Lasua: Yeah, so we'll go ahead and turn it over to Lori for the vice-chair position.

Chair Buchanan: Aloha and thank you for your vote of confidence. You going be sorry. Nah, nah, nah. Okay, so the floor is open for nominations for vice-chair. Do I have any nominations from the floor, Commissioners?

Mr. Lasua: I nominate John Sprinzel.

Mr. Pele: Second. Aye.

Chair Buchanan: We have a nomination and a second from the floor for John Sprinzel. Is there any other nominations from the floor? Stop looking out the window. Nah, nah, nah. No, I just checking. There's no other nominations? Okay, so would Commissioner Sprinzel accept that nomination? Oh, this is des ja vu, yeah? Okay, thank you. Then we'll take a vote. All those in favor, say aye? Any descending votes? Seeing none, congratulations, Commissioner Sprinzel.

It was moved by Commissioner Lawrence Lasua, seconded by Commissioner John Pele, then

VOTED: that Commissioner John Sprinzel serve as Vice-Chairperson for the remainder of the 2017-2018 board year.

**(Assenting - L. Buchanan; W. Buchanan; L. Lasua; J. Pele; L. Poepoe)
(Excused - C. Adolpho; X. Bicoy)**

Mr. Sprinzel: Thank you fellow Commissioners and, as Mr. Chair, the only thing I was before famous for was keeping all the meetings under an hour. Thank you very much.

Chair Buchanan: I know. That's what make me scared, John. You guys going be sorry again. Nah, I just joking. Okay, thank you. Okay, I wasn't ready for this but hello.

**** CONTINUATION OF ITEMS E.1.a. and E.1.b. ****

Chair Buchanan: So where are we? We're going to go back to where we was before we adjourned for executive session, and during that executive session, Commissioners asked about their duties in reference to this contested case hearing, and we decided that we just going move forward as is in the selection of hearing officers, and so we are on now item E, right? No? E. Item b -- a and b, Intervention request by Shane Pale, for Native Tenant Kuleana Landowners. The Commission may act to select a hearings officer or hearings body to conduct the contested case hearing. I believe Commissioners, in their packet, had the January 10, from the Department of Planning, a list of hearing officers, and I think, at this time, we would welcome Luigi Manera or the representatives from the Sherrells to give testimony on the selection of the hearing officer to state their position. Thank you.

Mr. Manera: Hi. Good morning. Luigi Manera for Jim Sherrell. Well, after reviewing the three officer, I mean we don't have any problem with any one of the three, to be honest. Just to be consistent, we prefer to go with the first one, Glenn Kosaka, but we're open to -- it doesn't really matter. I got no problem.

Chair Buchanan: Okay, thank you, Mr. Manera. Commissioners, any question for Mr. Manera on the selection of hearing officers? No question. Thank you, Mr. Manera. We would also like to welcome Mr. Pale for the same, for his considerations, if he has a preference.

Mr. Pale: You know, I do not. Well, actually, I do have a preference, just based on what I could pull up on this person on Google, you know, on the internet because I thought that was the safest way to do anything without breaking the rule that I might be somehow subjected to that I might not have known about, so I went on, and I think the person that I want is, sorry, Judith Naone, so that's -- that's who I want. I just wanted to state for the

record that, in light of this very recent, recent developments in this letter that we got from Mike Heimbuch and challenging the ownership of the land, I really do not -- I feel like there's a conflict with Glenn Kosaka. He was the -- he was the attorney who drafted up the quit claim deed for Mike Heimbuch between Barbara Balao, and so he got interest in the land. His name is here on their actual deed. I have it if you want to see it. He was, in addition to being the attorney who drafted it up, I don't know who he was really representing here, either Barbara or Mike, he also -- he also served as the notary, let's see, he also served as the notary public in the same document, so I just feel that in light of the sensitivities with some of the things that may occur as a result of this contested case, that he should be stricken from being one that could be possibly selected. Thank you.

Chair Buchanan: Commissioners, is there any questions for Mr. Pale on his testimony? Okay, seeing none. I think I do have a question then since the Commissioners don't have. Sorry, I making you exercise up and down, up and down, Shane, I'm sorry. Mr. Pale --

Mr. Pale: Yes.

Chair Buchanan: In your opening testimony, you stated, on the record, that you was hoping that the person that would be the hearings officer would be knowledgeable in Native Hawaiian law and especially Native Hawaiian law pertaining to land. I see that Ms. Naone has, in 2001, been working for the Native Hawaiian cultural consulting firm, which I'm not familiar with, as well as Hana and Kipahulu, do you have any reservations on that subject about -- you feel that she can be fair and would be knowledgeable to handle what your claims are?

Mr. Pale: Well, you know, I think that, just based on what I was looking at, I felt like she had had a lot more experience in terms of actually working experience, I think working with people in Hawaii, in general. The other guy, there was not much about him that I could find, you know, as far as -- as what his -- his background was instead of what was -- was sent here to us, but, you know, I did my due diligence, I checked it out. I feel that, yeah, she -- she does have some, you know, some background in Hawaiian culture. I feel like it -- I mean, and it's a personal feeling, that, to some extent, the other two may be -- they seem to be a little bit more pro-development, and I'm saying -- and I'm not saying I'm anti-development, but I'm just pro-development a lot more. I think, in this instance, that would be very one-sided when looking at the issue because, again, the contested case is about, you know, notice was what it really came down to, and -- and the main crux of it is kuleana lands, right, kuleana landowners, what are the rights of kuleana landowners. I think she may be able to lend a lot more expertise, you know, not in terms directly in that, in that subject, but she might be more open to some of what might be brought to the table as opposed to, you know, the constant of what we hear today is just economic interest ...(inaudible)...

Chair Buchanan: Mr. Pale, in your review of Mr. Joesting, oh miss, okay. Sorry. Ms. Joesting, I notice that she did a lot of local agency work and also advised the Board of Land and Natural Resources and Water Commission on public lands, administrative hearings, water law, real property, and she also did the Department of Transportation, and the AG's office, which I thought was quite impressive, so I just wanted to hear that you was okay after vetting Ms. Naone too so --

Mr. Pale: Yeah.

Chair Buchanan: 'Cause I was kinda leaning the other way. Okay, thank you very much.

Mr. Pale: Thank you. Thanks.

Chair Buchanan: Okay, Commissioners -- Commissioner, you have a question for the testifier?

Mr. Pele: Oh, not for the testifier for --

Chair Buchanan: Okay.

Mr. Pele: For whoever can answer it. So my understanding is these three hearing officers come from a list of previously vetted hearing officers that the County holds, and these are the three that have offered their services to this particular case?

Mr. Spence: Yes, the -- we both -- we maintain a list of hearing officers who offer their services for contested cases or other matters for the commissions, sometimes we will reach out to other members of the community, of the legal community if we can't get anybody from that list, and in this case, we had three attorneys who would volunteer their services -- well, they're not volunteering, they would offer their legal services to conduct a contested case, and we presented these three names to you. We ask them do you have a conflict, and all three of them said no. We don't look into it further than that. It's certainly part of the decision of the parties in this, and so we've had an objection to one, which, you know, that's unbeknownst to us, so we would leave -- and, ultimately, it's the decision of this Commission who they're going to choose for the hearing officer.

Mr. Pele: Okay. Thank you.

Chair Buchanan: Anymore questions from Commissioners?

Mr. Lasua: Yes, one more question for Mr. Luigi, representing Sherrells. Luigi, will that be okay with you if we go with Naone?

Mr. Manera: Hi. Luigi Manera. Well, I choose Kosaka, he choose Naone, what about do something we both never choose. Let's go to Linden Joesting. I think it's fair.

Mr. Lasua: So you'd be okay with using Naone if we decide to go to --

Mr. Manera: No. I just said no.

Mr. Lasua: Okay.

Mr. Manera: He choose that, I choose Kosaka --

Mr. Lasua: Okay.

Mr. Manera: Let's choose the third one.

Mr. Lasua: Anything on there that --

Mr. Manera: I think it's fair enough.

Mr. Lasua: Okay. Thank you, Luigi.

Mr. Manera: Thank you.

Chair Buchanan: Look at your Chair if we going -- so, Commissioners, I think that we would -- I'm going to open to deliberation amongst ourselves if you guys have questions.

Mr. Pele: I don't have questions. I have the same the feeling. One, I have asterisks by Kosaka and Naone, and, for me, if there's three, and my -- just my personal feeling, we should choose the one that neither of them have -- have selected, you know, it's just that Luigi said it before I did. That's just my opinion. One wants one, one wants the other, let's go with one that neither of them has a problem with.

Chair Buchanan: Any Commissioners have any other feedback, or discussion, or questions for staff, or questions for the testifiers? Seeing none, I will like to remind the Commission that the decision is for Commission Members to make. The testimony by the applicant, Sherrell, and for intervenor, Pale, is for consideration only, so it's really up to this Commission to make the best choice based on the paraphernalia you have in front of you on who you think would be able to best work through the dispute and the decision is yours. So if there's no more questions for anybody, then I would entertain a motion from the floor on a hearings officer.

Mr. Poepoe: I going make one motion. I move to select Judith Naone as hearing officer.

Chair Buchanan: Do I have a second? Seeing no second, the motion fails. Do we have another motion on the floor?

Mr. Pele: I move to select Linden Joesting based on -- for the hearings officer based on the fact that either of the parties involved disagreed with that selection.

Chair Buchanan: Do I have a second?

Mr. Lasua: I second.

Chair Buchanan: It's been second. So motion on the floor is to select Ms. Linden Joesting as the hearings officer in the Shane Pale contested case intervention. All those in favor, please raise your right hand? Motion carried. Okay, that's our hearing officers. Thank you very much.

It was moved by Commissioner John Pele, seconded by Commissioner Lawrence Lasua, then

VOTED: that Linden H. Joesting serve as the hearings officer.

**(Assenting - L. Buchanan; W. Buchanan; L. Lasua; J. Pele; J. Sprinzel)
(Dissenting - L. Poepoe)
(Excused - C. Adolpho; X. Bicoy)**

Chair Buchanan: We will move on to the next, unless -- I don't think anybody needs a break. I apologize for not being here in the first five minutes of this meeting. Did we make any adjustments or amendments to the agenda that I don't know of? Okay, thank you. Then we'll move right into item F, is that correct? Oh, B.2. Oh yeah, okay, E.1. E.2:

Chair Buchanan read the following agenda item into the record:

E. COMMUNICATIONS

- 2. MR. LUIGI MANERA, agent for applicant PAMELA HAMAMOTO submitting a Motion for Reconsideration by letter dated December 4, 2017 on the Molokai Planning Commission's denial of the following application at its November 8, 2017 meeting:**

PAMELA HAMAMOTO requesting a State Land Use Commission Special Permit to operate the Hamamoto Hale Short-Term Rental Home, a three-bedroom short-term rental home, located in the State Agricultural District at 4800 Pohakuloa Road, TMK: (2) 5-1-008:035, Kaluakoi, Island of Molokai. (SUP2 2017/0004) (S. Lopez)

The public hearing began at the June 28, 2017 meeting and the public hearing was closed at the August 9, 2017 meeting. The matter was deferred to the August 23, 2017 meeting. The Commission lost quorum at the August 23, 2017 meeting soon after the meeting was called to order and the meeting had to be canceled. The Commission lost quorum at its September 13, 2017 meeting soon after the meeting was called to order and meeting had to be canceled. The Commission voted to deny the State Land Use Commission Special Permit at the November 8, 2017 meeting.

The Commission may take action on the Motion for Reconsideration.

Ms. Oana: Excuse me, Chair?

Chair Buchanan: Yes?

Ms. Oana: At this time, I'd like to request that the Commission go into executive session pursuant to HRS 92-5(a)(4). I need to consult with the Commission with regard to its duties and liabilities with regard to this matter.

Chair Buchanan: Are there any objections to recessing for executive session. Seeing none. We are recessing to executive session. What? Oh, we have to vote? Okay. Sit down. We going vote. All those in favor, raise your right hand? Okay, unanimous. Thank you. We are adjourned -- recessed.

It was requested by Deputy Corporation Counsel, Jennifer Oana, that the Commission enter into Executive Session.

There being no objection from the Commission:

***** The Commission entered into Executive Session at approximately 12:05 p.m.
The regular meeting reconvened at approximately 1:12 p.m. *****

Chair Buchanan: Okay, aloha, everybody. Thank you for your patience. We will reconvene. As I stated, when we wasn't on the record, I wanted to thank Counsel for bringing us up to speed on the next agenda item, which is the Request for Reconsideration. Hang on a second. Okay, sorry, gang. We get way too much papers up here. Sorry, we lost papers along the trail. Okay, we are on item E.2., under Communications, Mr. Luigi Manera, agent for applicant Pamela Hamamoto, submitting a Motion for Reconsideration by letter dated December 4, 2017 on the Molokai Planning

Commission denial of the following application at its November 8, 2017 meeting. Did I read this already? Sound so familiar.

Ms. Oana: ...(inaudible - not speaking into the microphone)...

Chair Buchanan: Okay, thank you. And we may take action on the Motion for Reconsideration. So we welcome Mr. Manera to hear your reasons for asking this Commission to reconsider our prior action. Thank you.

Mr. Luigi Manera: Hi, Commissioner. Luigi Manera. The reason why I ask for a reconsideration and the motion was, at the time, I believe there was only five members on the Commission, and I was hoping to have a full Commission today, and, unfortunately, well, for whatever reason, we have only six, I believe. One, two, three -- five, six. And I -- I wanna ask for a deferral, not deferral, but postpone this item until we have more members on the Commission, if it's possible, and this is also for the next item, Pillar. I don't think it's -- when I make this, you know, for a -- if I have another reconsideration, I was under the impression they tried to get all the members onboard, but we still don't have it, and it's not fair, at this point, to have only six, so I request more time, until we got more members. I thought Mr. Adolpho was over here, but he never show up at the first meeting, so that was pretty weird.

Chair Buchanan: Okay, so thank you for that statement. Any Commissioners have questions for the testifier on his Motion for Reconsideration? Okay.

Ms. Oana: Mr. Manera, I thought your -- your writing also included that you wanted time or the opportunity to rebut or supply information based on Commissioner Buchanan's --

Mr. Manera: Yes.

Ms. Oana: Handout --

Mr. Manera: Yes.

Ms. Oana: That she handed out at the last meeting where your applicant's permit was denied?

Mr. Manera: I do. I do.

Ms. Oana: So is that another reason for your request for reconsideration?

Chair Buchanan: Corporation Counsel? Corporation Counsel? I'm sorry, Mr. Manera. Corporation Counsel, I asked the Commission if they had any questions for the testifier, and so I didn't have time to input too. I was also going to ask him, but since you already

asked him on the record, I will allow him to answer that question, but then I'd like to hold off. Thank you. You can answer the question.

Mr. Manera: Yes I do, and I have it even ready for you guys, but when I see what happened as far as number of Commissioners, I just changed my mind. That's it. Nothing more to it. It's just I wanna have a little bit more chance if it's possible. But if you want to see my reply, I will give it to you. I got no problem with that.

Chair Buchanan: Okay, Mr. Manera, on the agenda item today, it says that you have a Motion for Reconsideration.

Mr. Manera: Yes.

Chair Buchanan: This is your opportunity to provide that -- your reasons for reconsideration. You asking for something else other than, right now, supplying -- you ready to present your Motion for Reconsideration?

Mr. Manera: Yes. I was.

Chair Buchanan: Okay.

Mr. Manera: But I don't think it's fair to -- I thought we have all the members and we don't.

Chair Buchanan: Mr. Manera, at the previous meetings, the appropriate number to meet the denial of the permit you asking for reconsideration was met, legally.

Mr. Manera: Five. Okay, five. Five.

Chair Buchanan: Okay, so at this point, on the agenda today is your Motion for Reconsideration. What you asking and you stating on the record that you feel we need more Commission members, I don't feel is relevant to your Motion for Reconsideration. So if you have some other issue besides that, then I would ask you to present that too, but right now on the agenda is the motion to reconsider.

Mr. Manera: I understand.

Chair Buchanan: Okay.

Mr. Manera: But -- I understand what you're saying, but my thinking, in fairness to the applicant and you guys, I mean why don't postpone this? I don't think it make any difference to -- to you really, I mean you give me a little bit more opportunity over here.

Chair Buchanan: Yeah, so, Mr. Manera, I sympathize with what -- what you going -- what you asking, and I understand, but this body already went through a very long and drawn out process for what you asking for reconsideration, so to further delay that process, I think is moot because we have appropriate number to make a decision or to either hear your reasons for reconsideration, and then defer whatever this body decides to do, and that would still give time in order to hear all the evidence for your reconsideration. So I think -- I think it's -- it's only appropriate, at this time, that you either present your reasons for reconsideration, and I can -- the best I can do is ask my Commissioners for input as to if they want to, but I don't think it's -- we can do that. I don't think we can do that. I cannot ask for a deferral on this based -- because you ready to present.

Mr. Manera: Well, that's -- that's how that work.

Chair Buchanan: Commissioner Sprinzel? Vice-Chair?

Mr. Sprinzel: Mr. Manera, the record show that the average attendance of Commissioners through this last year was far lower than it is even today. I mean a lot of meetings were canceled because there wasn't a quorum. How you can expect there to be more than six is a little bit beyond me.

Mr. Manera: Well, the reason is because I saw they appoint two new members, one was you, and the other was Mr. Adolpho, that's -- that's all. Nothing more. I was hoping we have a full, but, well, if cannot, I understand that, and I can pass my reason why I ask for --

Chair Buchanan: Okay. Yeah, Mr. Manera, I would ask you to, yeah, distribute or make your case for reconsideration or withdraw. Thank you. Thank you, Mr. Manera. I think since it's 3 pages, do you want to go point by point or --

Mr. Manera: Well, up to you. You wanna read it first ...(inaudible)...

Chair Buchanan: Commissioners, would you need time to recess in order to read this or you think we can move forward with Mr. Manera's reasons for requesting reconsideration? Vice-Chair?

Mr. Sprinzel: Chair, I think we should really defer this because there's so much to look at. We can't possibly take all this in in five minutes.

Chair Buchanan: Okay. Any other feedback by Commissioners? And I do understand, Vice-Chair, that you was not present at the prior meetings for this case, so I understand that you need to get up to speed on this and that would be one reason why we would take your testimony now and then come back and review it again and make a decision. So

any Commissioners, what have you? You guys wanna defer right off the bat or you want to hear what Mr. Manera's response is?

Mr. Lasua: Chair, I think it'll be worthwhile to defer this until the next --

Chair Buchanan: Okay. Commissioner Pele?

Mr. Pele: I was just going to ask on the protocol. I definitely would like to defer to actually go look back and review the minutes from the original application, everything, all the testimony. What was given to us today, I just want to make sure that I'm making a well-informed decision as a Commissioner, but I just don't know what the protocol is. Do we have to listen to testimony? And I would also -- I wanna ask is there any time as far as the -- are we on a time frame here with this decision?

Ms. Oana: Well, we -- you already made a decision within the time period on November 8th, and so that decision stands unless and until you -- you change your mind through a motion to reconsideration. I do want to point something out that I've noticed. With regard to a written decision and order, it should -- it should be filed 60 days after a decision made, and so I'd ask the applicant if he would waive any time for a written order because you filed this motion for a reconsideration prior to the deadline of the written order, do you waive any time period for a written order --

Mr. Manera: Sure.

Ms. Oana: Until after they make a decision on this motion for reconsideration?

Mr. Manera: That's fine.

Chair Buchanan: Commissioner Pele, did you get what Counsel just said? Because my understanding he was asking you about a time frame as there is on the 120 days in the SMA permit and all of that, so the response is there's no time frame on the -- on the reconsideration within the rules, but there is a time frame on a decision and order once that is made, right?

Mr. Pele: Yes. I understood what she said.

Ms. Oana: And with regard to a time limitation on a reconsideration, it just says written decision and order shall be rendered by the authority within 15 days of close of hearing on the motion for reconsideration unless extended by the Commission.

Chair Buchanan: Okay, anymore questions for the testifier 'cause I have one? No? Mr. Manera, this paper that you handed out that is highlighted in yellow, it looks like you went

point by point to what was submitted for findings of facts and conclusions of law during the testimony period for the Hamamoto application, is that correct?

Mr. Manera: Yes.

Chair Buchanan: Okay, so is it -- is it your contention that you're taking issue with all those issues that are highlighted?

Mr. Manera: Yes. What -- this came -- you remember at the last meeting --

Chair Buchanan: Yes.

Mr. Manera: When you gave me the --

Chair Buchanan: Yes.

Mr. Manera: That's what that is.

Chair Buchanan: Okay. So -- so I'm wondering, the yellow highlighted areas, what is your position on highlighting the yellow areas?

Mr. Manera: It's the reply to all what you say.

Chair Buchanan: Okay.

Mr. Manera: And I stated it's not the way say it.

Chair Buchanan: Okay.

Mr. Manera: They not --

Chair Buchanan: So you don't --

Mr. Manera: That's my interpretation anyhow.

Chair Buchanan: Okay. So you don't agree but you don't have any written formal response? You just have a verbal -- oh, this is your response?

Mr. Manera: That's my response.

Chair Buchanan: So your response is in yellow?

Mr. Manera: Yes. And yours one is in black.

Chair Buchanan: Ah, okay, okay. Okay, okay. Okay. So I just wanted to understand that.

Mr. Manera: I thought it was easy to make it yellow. That's all.

Chair Buchanan: Okay, okay.

Mr. Manera: Maybe for me because I'm getting blind, you know.

Chair Buchanan: No, no. I just wanted to know what I was looking at, so that's your response. Okay. I guess we could defer it then. Okay. So with that, then I would be -- thank you, Mr. Manera. Not seeing anymore questions for the testifier, do I have a motion on the floor?

Mr. Poepoe: I move to defer this item.

Mr. Lasua: I second.

Chair Buchanan: Mover and seconder, would that -- with the understanding that the testifier waives his time frame for the written decision and order following that decision when we make 'em, or we don't need it 'cause we never decide?

Ms. Oana: ...(inaudible - not speaking into the microphone)...

Chair Buchanan: Yeah. Okay. Alright. Yeah. Vote. So we voting to defer this item to the next meeting, and I hope we can have that next meeting. We never even ask. All those in favor, aye, right hand? Okay, and I abstain.

It was moved by Commissioner Laakea Poepoe, seconded by Commissioner Lawrence Lasua, then

VOTED: to defer item E.2. to the next meeting.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Mr. Manera: Thank you.

Chair Buchanan: Thank you. So -- oh, you wanted -- hang on. Okay, sorry, I never know what you was there for. Okay, we going move on to the next agenda item, if I can find my paper. I lost it. Where is it? It's in the room. Item no. 3, again, Mr. Luigi Manera, agent for applicant Stephen Pillar, submitting a Motion for Reconsideration.

3. **MR. LUIGI MANERA, agent for applicant STEPHEN PILLAR submitting a Motion for Reconsideration by letter dated December 4, 2017 on the Molokai Planning Commission's denial of the following application at its November 8, 2017 meeting:**

STEPHEN PILLAR requesting a State Land Use Commission Special Permit in order to operate the Pa Loa Hale, a three bedroom short-term rental home, located in the State Agricultural District at 891 Pa Loa Loop, TMK: (2) 5-1-006:033, Kaluakoi, Island of Molokai. (SUP2 2017/0001) (S. Lopez)

The public hearing began at the June 28, 2017 meeting and the public hearing was closed at the August 9, 2017 meeting. The matter was deferred to the August 23, 2017 meeting. The Commission lost quorum at the August 23, 2017 meeting soon after the meeting was called to order and the meeting had to be canceled. The Commission lost quorum at its September 13, 2017 meeting soon after the meeting was called to order and meeting had to be canceled. The Commission voted to deny the State Land Use Commission Special Permit at the November 8, 2017 meeting.

The Commission may take action on the Motion for Reconsideration.

Mr. Manera: Hi. Well, I basically ask the same for Mr. Pillar, and I also have my reply. It's almost the same except for couple different point. Now, in the case of Mr. Pillar, some points is the same, some is not because it's not located in the same location, and Mr. Pillar is also over here if you have any question for him, but I'm going to ask if you can defer this item for the same reason.

Chair Buchanan: I will ask the Commissioners what is their purview but I just wanted to provide some really quick feedback to you so you not -- so the next time, so under the first bullet, I already see that -- that you saying that the -- the proposed use for both is residential and that's the -- the other is an accessory use, so when it comes -- when it comes time for us to review all of this, I would -- I would need evidence of that.

Mr. Manera: Okay.

Chair Buchanan: Okay. Commissioners, you guys got any feedback for Mr. Manera at this time? If not, I have a motion -- Corp. Counsel, yes?

Ms. Oana: Chair, I would just ask the applicant to -- if he -- if they would waive the time period for written decision as well, similar to the Hamamoto item?

Mr. Manera: Yes. No problem. Thank you.

Chair Buchanan: Thank you. So a representation has been made on the record. So the floor is open for a motion for deferral.

Mr. Lasua: I'd like to make a motion to defer.

Chair Buchanan: Second by William Buchanan. Okay, thank you. So this item has been deferred. Thank you. Oh, vote? Oh, sorry. See new. Okay, show of hands, right hand, all in favor? Unanimous.

It was moved by Commissioner Lawrence Lasua, seconded by Commissioner William Buchanan, then

VOTED: to defer item E.3. to the next meeting.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Chair Buchanan: Thank you, Mr. Manera.

Mr. Manera: Thank you.

Chair Buchanan: We see you at the next meeting. Okay, moving on to Item F, unless somebody needs a break? We just had one.

Chair Buchanan read the following agenda item into the record:

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

- 1. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 17-140 to the Lanai, Maui, and Molokai Planning Commissions containing a proposed bill to amend the definition of “resource extraction” in the Comprehensive Zoning Ordinance. (D. Raatz)**

Chair Buchanan: And I think we have staff here to expound on that. Thank you.

Mr. David Raatz: Thank you, Chair and Commissioners. For the record, this is David Raatz, Administrative Planning Officer, with the Maui County Planning Department. This agenda item is before you today because on October 6, 2017 the Council adopted

Resolution 17-140, proposing amendments to the comprehensive zoning ordinance, so under the County Charter, before the Council can actually enact land use ordinances, such as the one that's proposed here, the Council needs to get the commentary from the Planning Commissions throughout Maui County, so, again, that's why we're here today.

We did send you a lengthy packet of about 153 pages, but I think I can break it down for you in a more efficient manner than you might expect from that lengthy document. So currently, under Title 19, there is a defined term for "resource extraction," and resource extraction is a special use in the agricultural zoning district, Chapter 19.30A, of the County Code, and it's also a special use in the open space zoning district, Chapter 19.07, for the island of Lanai only. This bill does a couple of things. It changes the definition of "resource extraction" to "resource extraction or processing," and list three different types of resource extraction or processing and the definition, and it would expand the zoning districts where this particular use would be referenced to include the M-2 and M-3 industrial districts in addition to the open space and agricultural district.

So, if you'd like, I can walk you through the bill itself in a little bit more detail, which is starting on the 7th page of the materials we sent you.

Chair Buchanan: Thank you. You can proceed.

Mr. Raatz: Okay.

Chair Buchanan: I would like to unless Commissioners don't want to hear. Okay, seeing no objection, I would like a synopsis. Thank you.

Mr. Raatz: Okay, so on the first page of the Bill, in Section 2, you see this proposed revised definition, and again, this is a proposed amendment to the County Code, so it's in Ramseyer format, which, as you may recall, provides that new material is underlined, and material that is to be deleted is bracketed, so if you don't look at the bracketing and underlining, you can see what the current definition of "resource extraction" is, and I'll read it for the record: "Resource extraction" means activities engaged in exploration, mining, and processing of natural deposits of rock, gravel, sand, and topsoil." So factoring in the new material, the proposed definition would now read, "Resource extraction or processing means: 1. Activities related to the mining or extraction of minerals or soils or other solid matter, including rock, gravel, sand, and topsoil from their natural subsurface location primarily for purposes other than those directly related to the preparation of the land for on-site construction" So that's one type of resource extraction or processing. The second type would be: "Processing, preparation, cleaning or other treatment of minerals, ores, or other solid matter, including rock, gravel, sand, and topsoil, in excess of 100,000 cubic yards for a duration of more than 18 months so as to make such material suitable for commercial, industrial, or construction use; or 3. Uses of land subject to the Federal Mine Safety and Health Act," would be considered resource extraction or processing.

And briefly, as we work our way down through the bill, in Section 3, there's a reference to Section 19.07.030, of the Maui Code, which again is open space zoning, and in the table of special uses, as you go down to page 4, you'll see under item 5, it just adds in this new wording, the use would be called "Resource extraction or processing."

Then as you continue down, there's a Section 4 reference, at the bottom of page 4, and that's for Maui County Code Section 19.25.020, which is the M-3 restricted industrial use, and in the chart of uses, you'll see down on page 6, that the proposal is to insert this new term "Resource extraction or processing," which would replace an existing use, which is called "Rock, sand, gravel, or earth excavation, crushing or distribution." And continuing down to Section 5, under Maui County Code Section 19.26.040, the M-2 heavy industrial district, again, there's a table of uses, and, again, there's the insertion of the proposed new term "Resource extraction or processing," and the deletion of the existing use, which is called "Rock, sand, gravel, or earth excavation, crushing or distribution." And finally, in Section 6, of the bill, which starts on page 7, Section 19.30A.060, which is the agricultural zoning district, down on item no. 10, on page 8, the new term "Resource extraction or processing" is proposed to be inserted.

So that's the technical nature of what the bill does. In terms of analyzing the proposed bill, we do have comments from various agencies, and, Chair, I'd be happy to run through those comments for you now, or if you want to ask for testimony at this point, I'd be happy to wait for that.

Chair Buchanan: I wanted to know if staff -- I mean if the Commissioners had any questions at this point in time 'cause if not, I have a general question, and then -- yeah. Okay. I don't know if the public knows enough in order to give public testimony at this time but --

Unidentified Speaker: Sorry. What was that? The public what?

Chair Buchanan: We going have public have public testimony. Hang on. I going open 'em.

Unidentified Speaker: Okay ...(inaudible - not speaking into the microphone)...

Chair Buchanan: Yeah. Yeah. Yeah. Okay. So this is a public hearing, and then you guys going have opportunity to -- but let me ask staff questions first, okay. Overall, is this more restrictive? How does this difference of changing the wording in the special uses, does it make more restrictive or it makes it more specific?

Mr. Raatz: Thank you, Chair. That is unclear to us, in all candor. This bill is not necessarily precisely worded or at least easily understood, and we've had varying

comments from agencies on that very question would this be more restrictive, or would it provide greater freedom for businesses and individuals engaged in these activities, and part of the reason is that there's two common themes that have come up, and we vetted this with the Maui Planning Commission yesterday as well: One common theme is that resource extraction and resource processing are actually two different things and they're now merged into one definition, and that creates some confusion, and also this reference to the 100,000 cubic yards. We had some commentary from the Maui Planning Commission that that's really a huge amount of material, and it's unclear, frankly, if -- if that threshold is not met, does that -- what does that mean? You know, you don't satisfy the definition of under at least that second prong of the three-prong definition, does that mean you're allowed to do that activity, or you're not allowed to do that activity, and it can be read either way, and we saw that from the agency comments.

Mr. Spence: Madam Chair and Commissioners, just a comment on that just -- that's certainly the way that I look at it is we're listing now this resource extraction and processing as a special use within the agricultural district, for instance, and -- but that definition is over 100,000 cubic yards, so less than that, 95,000 cubic yards, the way that we could read that would be no permit is needed, and I think that's -- that seems -- maybe that's an unintended consequence, but that's the way we would read it and we have a real caution over that.

Chair Buchanan: So I -- my question would be: Can you quantify what 100,000 cubic yards looks like to me?

Mr. Raatz: We don't have first-hand knowledge of that. We heard from some members of the Maui Planning Commission yesterday, who have experience in the field, who said that would be several hundred, if not, several thousand truck loads, so they regarded that as a very large amount.

Chair Buchanan: Well, when we do public testimony, I see some truckers in here, I going as them how much, 'cause they know, and I going ask -- I going tell you why. We needed to quantify when a trucking company was going to do cinder removal from West Molokai, and I had to figure out what would the impact to the road be if so many tons was going up and down that road in order to meet the cubic yards that they needed for the project because the adverse impacts to that road would need to be mitigated by the truckers or the company that is doing the extraction. So that's why, to me, the quantity is important, and you putting one quantity to this is already one red flag for me, so that's how come I asking you for -- as a layperson to quantify that, what that looks like, and you not able to do that, so I'm -- I wanna know what else besides that, what you flagged already, that was of concern for the other Planning Commissions. Anything else?

Mr. Raatz: Well, we're going to Lanai next week, Maui yesterday, endorsed the concerns and recommendations that are in your packet from the Director of Public Works, the

Administrator of the Zoning Administration and Enforcement Division, the Department of Corporation Counsel, and I believe there was one other entity, one moment please, and they didn't get a chance, unfortunately, to see the guidance from the Office of Hawaiian Affairs that came in late, so that will be something you can consider if you so choose.

Chair Buchanan: Can you expound on page 2, under Uses, item 2, Native Hawaiian traditional and customary uses, and then it has a checkmark -- an "X" by OS-1 and OS-2, and then the special conditions?

Mr. Raatz: Okay, certainly. And just to complete the thought, the Cultural Resources Commission was the other agency that provided commentary and the Maui Planning Commission endorsed the concerns of the CRC, and the CRC did hold a public meeting on December 7, 2017 on this item. And I'll go down in the bill to your question.

Chair Buchanan: The page 2, item 2, Native Hawaiian traditional and customary uses, and the "X" by OS-1 and OS-2.

Mr. Raatz: Okay. Thank you, Chair. So this is text that is currently in the Maui County Code; it is not being proposed for change. It's being recited here because, within this table, this new definition is being placed, but to answer the question, the X's mean that in the two different open space zoning categories, OS-1 and OS-2, these would be considered principle permitted uses, Native Hawaiian traditional and customary uses, and as you see in the column on the right, there's a note that references customary and traditional exercise, subsistence, cultural, and religious uses in accordance with the State Constitution. So again, those are all permitted principle uses --

Chair Buchanan: So these are all permitted uses not required to come in for the special use?

Mr. Raatz: That's correct.

Chair Buchanan: And then you changing, of course, on item 4 -- I mean page 4, item 5, under Resource extraction, you're adding "or processing?"

Mr. Raatz: That's correct. And again, this is a Maui County Council proposal, and we don't have the benefit of a committee report. This was adopted on the floor of the Council meeting on October 6, so that's part of the reason we don't have all the answers that we would normally like to have. We don't have commentary and analysis from the Council. We did include the meeting minutes, that's the bulk of the materials we sent to you, and, you know, some of that might be helpful to you, and you can see in there that this did stem from the issue on Maui that's been something that Council has dealt with for the last year or so regarding sand extraction at Maui Lani and in Central Maui, and there's been various legislative proposals that have stemmed from that, and this is one that just sprung

up in a different way than some of the legislation that's been vetted in committee, so that's why we don't have a committee report. It just came up at that October 6 Council meeting on its own.

Chair Buchanan: Okay, thank you very much. Any Commissioners have questions for staff, and we can always hold him -- ask him to come back? Uncle Billy, you just holding your hand like that because sore? Yeah, okay. If there's no questions, then thank you.

Mr. Raatz: Thank you.

Chair Buchanan: I going call you back after.

Mr. Raatz: Okay.

Chair Buchanan: I appreciate that. Then I will open public testimony. The public hearing. Sorry. For this public hearing, I'm opening testimony for the public. Anyone wishing to testify on this agenda item, please step up, state your name for the record, and we usually allow three minutes but it's at the discretion of da kine.

Mr. Dennis Figueroa: Eh, howzit. My name is Dennis Figueroa. My family lives on Lanai, so when I heard this was about Lanai, I just happen to be here. So the extraction of this product, this earth product is coming from State properties or is it coming from Pulama Lanai's properties? And if it is, what will Pulama Lanai do to contain all the DDT that's buried deep inside of the earth from this 100,000 cubic yards of material that possibly could be extracted from the pineapple fields?

Chair Buchanan: Dennis, please address the Commissioners. Thank you, bruddah.

Mr. Figueroa: Okay, sorry. So if -- well, did you guys hear me?

Chair Buchanan: Yeah.

Mr. Figueroa: Okay. So that's all I gotta say is what's going to happen to the earth and all the dust and the chemical that's buried in this earth that could possibly be extracted and how it's going to affect the public, the people of Lanai, so -- and that's all I have to say. It's a question I have. Alright, thank you.

Chair Buchanan: Thank you very much.

Unidentified Speaker: Where you from?

Mr. Figueroa: I live in Honolulu but my family's from Lanai.

Mr. Leimana Naki: What you trying to extract?

Mr. Figueroa: No, I'm not trying to extract nothing. No, no, no. I'm not trying extract nothing.

Chair Buchanan: Okay, your testimony is to the Commissioners.

Mr. Figueroa: Okay.

Chair Buchanan: Mahalo, Leimana. You can -- you can ask him question after but you can come up.

Mr. Figueroa: Okay, thank you.

Chair Buchanan: But thank you very much. Come. Next testifier for the record.

Mr. Naki: Happy New Year.

Chair Buchanan: Happy New Year.

Mr. Naki: When I look at this paper, it tells me that there's a Chair.

Chair Buchanan: Leimana, who you --

Mr. Naki: Hang on. Hang on. It don't look -- this -- this, first of all, you, corporate counsel, are you still corporate counsel? This meeting, okay, was not put on the bulletin board letting the community about this meeting. I had to come from Manae just to be here at this meeting because this meeting is important, so I wanna address you, but I talking to her. Over here says the Chair is him. Yeah? And then now who is the Chair? So what happened? You would like to share that? We the community. Hello.

Chair Buchanan: We had one vote about hour-and-a-half ago.

Mr. Naki: Hour-and-a-half-ago?

Chair Buchanan: Yeah. To vote for the new Chair on the agenda. On top the agenda, item 1.

Mr. Naki: Question. Any reason why the Chair went to the Vice-Chair, and the Vice-Chair got the Chair? Can you answer that question?

Chair Buchanan: What was the question, Leimana? We went vote for one Chair and one Vice-Chair.

Mr. Naki: The reason why because who is responsible for making this meeting and to let the public know about this meeting? That's to you, corporate counsel.

Ms. Oana: No, it's not. Does the Department want to address how meetings are posted?

Chair Buchanan: Let me. Wait a minute. Excuse me. This is our Commission. I will answer the question, okay? Testifier Leimana, staff is responsible for the proper notice of any public hearing by the County Council. So if you saying that there was not proper notice, then I going take that issue up with staff that they never have proper notice because any decision making during a meeting that is not properly noticed, can be -- can be moot as far as I'm concerned. So your concern that this was not properly noticed is taken. So I going go see staff, I going ask staff over there, Planning staff person, and I going ask Suzie if they was properly noticed, and then so if we can address your testimony on the rules for the sand extraction, the changes of the sand extraction, or any other testimony you get. I sorry if you wasn't noticed 'cause I would get mad too.

Mr. Naki: I think you gotta let all the community people come in the front here and give their comment on this, how this meeting came about, and they have to rush from their work, whatever, just to be here, yeah, some from Halawa, okay, some of you get, you know, flush toilet, hot water, you know, sink and all that stuff, yeah, but we, on Molokai, we still live off the land, yeah. We still look at the stars, yeah. Hello. I looking at her but I talking to you, mister what your name? No. That guy.

Chair Buchanan: Leimana.

Mr. Naki: Hello? Yeah, say something. What?

Chair Buchanan: That's our Director.

Mr. Naki: Is this -- is this -- no hang on. Hang on. This is the public testimony time. This is where the public come and they tell you what you guys doing that is wrong and what you doing is that right. We have to come here just to listen to this, listen to this guy, extraction guy, extract him. Hello. This is Molokai. This is our community. Corporate counsel don't live on this island. Hello.

Chair Buchanan: Leimana, so there's a new Chair in town, it's me, so I not giving them permission for speak. This is our Commission. This Molokai's Commission, not that I gotta give them, but they staff.

Mr. Naki: The point I'm trying to make here, I didn't receive anything on the noticing board. The only thing we seen on the bulletin board is the meeting at this afternoon, 5 to 9, that's from Stacy Crivello. This meeting, no.

Chair Buchanan: So I apologize for that.

Mr. Naki: ...(inaudible)...

Chair Buchanan: I going give them licking for that.

Mr. Naki: ...(inaudible)... Chairperson. You are totally wrong. And if you, all of you that sits there allow it to do that, you are in wrong too, so you make a decision. I'm going to go to the Police Department and file a complaint. I will. Why? Because if we make and break the law, any particular law, how minor, how elite, or how big, we go to the consequences and you.

Chair Buchanan: Okay, thank you, Leimana. Next testifier on the agenda item.

Ms. Malia: Aloha, Board. My name is Malia. I would like to ask a few questions about this proposal that's coming out from the Maui --

Chair Buchanan: Malia, you can testify to us and provide testimony, but we cannot answer questions.

Ms. Malia: Ask. Okay, I understand.

Chair Buchanan: But thank you. I appreciate that. I going write 'em down.

Ms. Malia: Yeah, thanks. I'm just going to ask questions. I don't expect an answer. My questions are: There is a request to change the wording here on processing and resource extraction, these resources are protected under native rights meaning that Burial Councils need to be properly notified and asked in regards to how this will affect our kupuna iwi, which are the bones that are in the ground, that's what connects us to this land, and that's what makes us Hawaiian. I don't see how this was done properly if this is not being brought to us with a correct environmental impact statement. How is this going to affect our water? How is this going to affect the ground water? How is it going to affect the reef? How is it going to affect the fish? These are all very, very legitimate concerns. Environmental impact statements do need to come through before anything like this is approved even though it's just wording. Wording is where it starts. Thank you, Commissioners.

Chair Buchanan: Thank you. Thank you, Malia. Any questions for the testifier?

Ms. Malia: I hope not.

Chair Buchanan: I have the same concerns, Malia. Thank you.

Ms. Malia: Okay, thank you.

Chair Buchanan: Okay, anyone else in the public wishing to testify on this agenda item? Anyone else wishing -- I was kinda wishing that one trucker would come up and tell me how much 100 cubic tons was, but that's okay. I don't have any -- any takers for trying to quantify 100 cubic tons? Thank you, testifier. Just state your name for the record.

Mr. Palmer Naki: Aloha. My name is Palmer Naki. I guess it's about the extraction thing, right, that's happening. I kinda need more clarity I guess in a sense but for me, personally, to extract, like how they're taking sand from Maui and probably taking it to Honolulu or whatever, you know, old style, my grandpa taught us to only extract what you need, right, to take the food to feed your family, you know, not to take and to go put something in somewhere so the tourist can enjoy 'em or whatever, whoever wants to enjoy. You know what I mean? So I'm kinda -- like I said, I need clarity on that. I mean I really not -- I don't want anything to be extracted from Molokai unless we do 'em. You know what I mean? Unless us, Hawaiians, us, kanakas, do 'em. You know. So I guess -- I don't know if it's right to, you know, in opposition or whatever to that thing he's talking about, or to make it more strict so they can't extract things. You know what I mean? I feel that they extracted too much from Molokai already. They took all the sand from the West End. They took so many tons of them already. So how much more they like extract from us? You know what I mean? You know, how about what can we extract from you, County? Huh? I like extract some stuff from you guys. You know what I mean? I mean I tired already. You know, we gotta come to this place for come fight and argue and say no and say yes or say maybe, I don't know, but I'm kinda already, you know, like you see how my dad show frustration and anger already. You know why? We come from far, you know, and to come from far to stand here and say no, that's how much we love this aina, okay. So that's all I get to say for now, but if whatever his name is, if he can kinda clarify more, you know, and that's about it. Thank you.

Chair Buchanan: Thank you, Palmer. Any Commissioners get questions for the testifier? Thank you. Anyone else in the public wishing to testify on this matter? Come. Thank you.

Ms. Mahina Poepoe: My name is Mahina Poepoe. I just quickly wanted to agree with Malia's concerns as I share the same concerns, and I would also like to quantify the 100,000 cubic yards or cubic meters, I don't know how much that is, but it's too much, so thank you.

Chair Buchanan: Thank you, Mahina. Any questions for the testifier? Seeing none, is there anyone else in the public wishing to testify on this matter? Okay, seeing none, I will close public testimony -- public hearing. Thank you. I'll get in the groove pretty soon. I would like to call staff back up for questions. Commissioners, you guys get any more

questions on this because if not, I have some questions? Okay, so, staff, for this special use permit, what is required or what supersedes this actual granting of the special use permit for extraction in excess of 100 cubic meters? What is required? I mean can anybody just drive down the road and with one permit and dig up 600 -- if it's not in the SMA?

Mr. Raatz: Well, if it were in one of these four listed zoning districts, and the appropriate body granted the special use permit, then that activity would appear to be allowed. That would be the basic requirement: fall within one of those districts and get the permit from the applicable body.

Chair Buchanan: What is currently transpiring?

Mr. Raatz: Regarding resource extraction? I'm not aware of everything in the County that's happening with resource extraction. For the Maui Lani issue in particular, the Zoning Administration and Enforcement Division issued a notice of warning several months ago or close to a year ago now, and there's also been a related court case, but to answer more generally, I don't have, for instance, statistics or anything like that in terms of what's happening on resource extraction in the county right now.

Chair Buchanan: I sorry, I missed what you do in the County?

Mr. Raatz: Administrative Planning Officer in the Department of Planning.

Chair Buchanan: Okay, thank you. I'm trying to figure out how someone can get a special use permit, which is only subjected to a public hearing. I would assume it would be for this Planning Commission if 15 acres or less. Without -- I'm assuming the Maui Lani came up because there was concerns about iwi kupuna. Is that correct? The unearthing of iwi.

Mr. Raatz: There's been a lot of testimony to that effect. Yes.

Chair Buchanan: Was there a vote by Council Members to already move this along, the wording of it?

Mr. Raatz: Yes. There was a unanimous vote on October 6 to adopt the Resolution that sent this to the Planning Commissions, which was the first step that was necessary to consider enacting this as an ordinance.

Chair Buchanan: Was there any discussion of putting any other processes or protocol attached to the special use permit for extraction? Was there any considerations?

Mr. Raatz: I don't think so. I didn't see that in the minutes.

Chair Buchanan: So, currently as it stands, we have a quarry here on the island of Molokai. We have two quarries, maybe we have three, maybe four. If they are not delineated under the Federal Mine Safety whatever was listed here, are they allowed to just extract? Are they under scrutiny for reporting the amount of extraction that occurs? Do you know?

Mr. Raatz: I don't know. I'm not aware of any reporting that's required. The reporting doesn't come to our Department if it does occur.

Chair Buchanan: You know where it said that it's not covered by the Federal Mine -- do you know what is required of someone wanting to extract that they would have to be listed with the Federal Government for extraction?

Mr. Raatz: No, I don't. It just -- again, the reference, which is in the third prong of this proposed new definition to the Federal Mine Safety Health Act is coming up because this new definition would say that's one category of resource extraction or processing. If you're using the land and you're subject to the Federal Mine Safety and Health Act, irrespective of everything else, under this proposal that would be considered resource extraction or processing.

Chair Buchanan: Wow. Okay. I'm glad this came up actually. I know there's been issues on Maui, especially Maui Lani, so, Commissioners, you guys have any other questions for staff? Director Spence, would you like to expound on this?

Mr. Spence: Yeah, I have a couple comments.

Chair Buchanan: Thank you, Mr. Raatz. You can -- don't have to stand there the whole time. Thank you.

Mr. Spence: Okay, as far as I know, I'm aware of two quarries that this island has, but you're saying maybe there's a third or whatever.

Chair Buchanan: It depends, I guess, if somebody knows that it's a legal quarry and what defines a legal quarry. I know we have four.

Mr. Spence: Okay. And -- that's interesting. If somebody like file an RFS, we can deal with that.

Chair Buchanan: Let's just say we have five areas where people have been historically taking cinders and other soils and whatever.

Mr. Spence: Okay. The -- your current rules, the way that the law currently reads, to operate a quarry, you need a -- in the State ag district, you need a special use permit,

and that is approved, approved with conditions, or denied by the Molokai Planning Commission. Okay, there's no quantity listed on there. If it's a quarry in some other district, the rural district, or I can't imagine one in the urban district, but that would, in some cases, it would require a County special use permit. And then in some places, it even requires, which would also be by this Commission, and in other cases it would be conditional permit, which would come to this Commission, and then it requires an ordinance by Council. That's the Maui Lani case where extraction in that urban district in that particular area would require a conditional permit. But your quarries here, at least what I know of, are in the ag district, they require special use permits, and this Commission has rules regarding special uses, and there are certain requirements for the contents of an application, it's not exactly like an EIS, like the testifier was talking about, but it would address the same issues. There's a written description, an application that require a written description of the action including, but not limited to, the use, the height, the depth, width, materials, a map of what they want to do, and a written description of the use. That written description would have to address cultural resources, would have to address runoff, would have to address -- I mean and this is for something like a quarry where you're doing major extraction. So that's what would be required today, and all of that would have to come before this Commission.

To the way that this proposed law says, and this does not come from the Planning Department, we have concerns about this, and it sounds like we share a lot of the same concerns with the Commission, the way that this proposed law says, it appears to us that you could do up to or just less than 100,000 cubic yards with no permit, and that would not address -- that's a huge amount, and that would not address the runoff, that would not address, you know, contamination or whatever, so that's at least the way that I look at this, so I think that's a problem.

The -- if you look at the very last page of the report, at least my report, David might have added on, the Cultural Resources Commission commented on it, and I would say also, when you start getting into a quarry, you have to do a cultural assessment, you have to start looking at making sure that -- are there cultural sites on the property? If there are, what is the proper treatment? So it's, you know -- if all that's required now is anything over 100,000 cubic yards, that's a problem. I quickly Googled, this is not scientific, folks, but I quickly Googled what a regular dump truck says. It says some say 14, some say 18 cubic yards. That's about 7,000 trucks. That's about 7,000 trucks that could be done to give an idea of what 100,000 cubic yards is, and that's a little bit what we discussed on Maui yesterday. So anyway, the CRC, and I have not looked at the OHA comments yet, but the CRC comments, they had concerns over the 100,000 cubic yards, and they - and this is Exhibit 5 of your report, Commissioners - they chose to delete the excess of 100,000 cubic yards for a duration of more than 18 months, so they took out the amount, and they're recommending removal of the amount and the time element, and they also felt very strongly that the extraction is different than processing, so you could have -- you could have extraction, you could have a quarry where you're taking out blue rock and

everything, but crushing could be on a completely different site, or washing sand, or, you know, sifting cinders or whatever into different sizes, so they felt that those were two different things, and the department, I'll just tell you that my feeling is they are two different things, and so they should not be lumped together into this definition.

They also -- their very last recommendation was any quantity of grubbing or grading, so long it requires a permit from the County, requires historic preservation review by the State Historic Preservation Division, pursuant to HRS 6E, so that's a current practice with just grading and grubbing, that would certainly carry over into resource extraction and any kind of quarrying activity.

So those are my comments, Madam Chair. We share concerns about the way this came down. I think the definition of "extraction," "resource extraction" could be improved, but I think this goes kinda too far. Yeah, and just to repeat, this was not generated by the Planning Department.

Chair Buchanan: Vice-Chair, you have a comment?

Mr. Sprinzel: We have, in the past, passed special extensions for the two legal quarries, so I would strongly object to this 100,000 stuff. I mean that just doesn't apply to Molokai.

Chair Buchanan: Commissioners, you guys get any questions for or feedback or thoughts of concerns you wanna discuss at this time? Commissioner Poepoe.

Mr. Poepoe: So this is three separate -- well, I'm seeing three separate definitions here. I guess I going address Mr. Spence. So these three is separate from each other? So no. 1 you would be -- I mean, under no. 1, you would be able to extract and fill trucks however much? You could fill up one baseyard somewhere and then the processing would include this amount? That's what its saying?

Mr. Spence: Well, this -- the way that this is written, they're lumped together, the extraction and the processing. We're saying they should probably be different.

Mr. Poepoe: Okay, so the proposed amendment is to separate?

Mr. Spence: If that's the Commission's recommendation.

Mr. Poepoe: 'Cause I would rather go with that. I don't see the point of extracting 100,000 cubic yards in whatever time frame as very appropriate or -- yeah, that's kinda like one misuse of resources right there for take that much at one time. But I wouldn't -- if you could possibly collect 100,000 cubic yards of one certain material or one mixture of all these materials, collect them at one certain spot, like one baseyard, and then process 'em bumbye. Wait, I still cannot -- I still hang up on the 100,000 cubic yards over here.

Mr. Spence: It's a lot.

Mr. Poepoe: Yeah, my -- I no can actually -- so how big of the Molokai Landfill -- the whole thing maybe? So, yeah, I would like one -- some kind of artist rendering or something I can actually look at, and then I would be able for convey little bit better comments.

Chair Buchanan: Commissioner Buchanan.

Mr. Buchanan: Yeah, probably I can give you a little bit of an idea of how much 100,000 is from the time B&C Trucking and HC&D was minding sand out of, yeah, Papohaku, yeah, and that is way over 100,000 that they took from the beaches there, and to give you an idea of what it covered Magic Island, in Ala Moana, is all Molokai sand. Okay? That's -- I hope that can give you a little bit of an idea of what 100,000 would probably be like how the size of Magic Island in Ala Moana Park way out by the end.

Chair Buchanan: Okay, Commissioner -- any other Commissioners get questions for staff or feedback because I'm assuming they going be asking us to comment -- give comments on this? Okay, Commissioner Lasua.

Mr. Lasua: Yeah, question. Based on the definition of this first page, they have Planning Commission's findings and recommendations due to the Council by February 10, 2018, amendments to this, I guess, can be made? Okay.

Mr. Spence: Yes, the Council is looking for your input including recommending amendments. And just -- okay, I'm going to be, again, unscientific here, so you Google how much 50,000 cubic yards is, that's 31 acres. If you spread a foot of dirt -- if you spread dirt one foot deep, 50,000 cubic yards would cover 31 acres, so 100,000 cubic yards would cover 62 acres, a foot deep, that's a lot of dirt.

Mr. Lasua: Basically, two homestead areas, 40 acres.

Chair Buchanan: I think we discerned that it's a lot. Anymore feedback?

Mr. Spence: No, if the Commission wants to make recommendations, that's what -- that's what we're here for and that's what we're going to transmit to the County Council.

Chair Buchanan: Okay, so I do have questions again, maybe for staff, or you might know it. So this is applicable in ag zoning?

Mr. Spence: It's applicable in any zoning district where mining or resource extraction is currently listed in in every zoning district including agriculture, but there are some districts, like the Maui Lani, that would require even more than a special use permit.

Mr. Pele: I have a question.

Chair Buchanan: Okay, Commissioner Pele.

Mr. Pele: So this is -- this Resolution is going to be a blanket Resolution for Maui County? Is that what you're asking? Are we going to be able to specify conditions uniquely to our island? I mean how is this going to -- how is this Resolution going to work as far as -- it looks like it's going to be a broad brush including all of Maui County, which we all know Molokai is not like Maui, Maui is not like Lanai, Lanai is not Molokai, so I'm just wondering if that's -- that's how it's interpreted.

Mr. Spence: This proposal is to amend our zoning code for all of Maui County. You could say -- you could say it's, you know, we have recommendations for all of Maui County, if that's what you wanted to do. You could also say just Molokai, we no like this and, you know, go from there as well.

Chair Buchanan: So I wanted to expound on that from the Director. So anytime you see "comprehensive," it means the whole kit and caboodle.

Mr. Spence: Yup.

Chair Buchanan: So comprehensive rezoning is what happened on the short-term rentals for Molokai. They did comprehensive rezoning, which made it a permissible use in interim zoned land, and, hence, now we have issues. So again they doing comprehensive zoning for all of Maui County. What we've done in the past and, to me, was always the easy way out, I just said we made recommendations as a Commission but we also said, eh, we wanna opt out of this, so except on Molokai, these rules going apply. Except on Molokai. It doesn't apply. So you already see that Lanai is already opting out of some stuff inside this. They've given their feedback and said only on Lanai these rules going -- so I think it brings up a bigger issue. For me, I've always had this big issue with the resources, mining of resources whether it's marine resources or terrestrial resources that there's no monies being put somewhere to restore the resources that you mining. That's always been a big issue. So you can go ahead and take all this sand, but in the end, what comes back in order to fill up that big puka? So yesterday I flew over from Oahu, and I took one picture, and I sorry everybody cannot see this picture, but get one big muddy swimming pool on the West End, one huge muddy swimming pool on the West End. This is where sand was extracted to go to Honolulu. This is the result of no enforcement and no regulation back in the day. This is 2017 and this is what we living with today. And every time I fly over, I take the same picture after one big rain because it really bothers me. Absolutely

to the core. So I'm very disturbed with this. You know, I'm glad that they finally addressing it on Maui because we know we running out of sand. You know, they built -- permits were given to build residential homes and businesses in sand dunes where you not supposed to be doing construction or doing anything, so that's -- I mean once you messed up your sand dune, it's all done and that's how come Kaluakoi and Papohaku is so important. So I don't like anything off this bill, to be honest. I would rather say, eh, you guys need to address this. You know, our recommendations is we on the same page with the Planning Department, as far as I can tell, but, for me, the cultural perspective is even more demanding because, as Native Hawaiians, we have purview and kuleana over the eight realms, and that's as high as the sky you can see and as low as the ground going go and out to the ocean and back, and so there's no process where Native Hawaiians are allowed to participate in this special use permit unless through the hearing process, and so that basically leaves us out and it's been leaving us out and has resulted in big muddy swimming pools in areas where supposed to be pristine sand dunes. So I would like to provide that feedback for staff is that we in agreement that -- that putting a number, and it's totally unenforceable. I mean who going be out there watching everybody extracting, measuring 100 cubic yards? It's impossible. It's a joke. See, even Sybil laughing. It's a joke. And I know it's there for a reason, so people can get away with stuff. Request for service from this island for people doing sand removal on West End has already been put in several times. And this Commission actually approved Tri-Isle Quarry, the 14.9 acres of quarry use that was only good for X-amount of years, and then that was it, then they have to come back in and ask, but at no point in time is anybody seeing how big the hole you making and are we going to fill that hole back up. I like you fill the hole back up because all the land is important. So my feedback, my personal feedback is, hey, except for Molokai. This does not pertain to us. I'd like to be exempted from the Resolution. And saying that, I would like for this Commission to start working on Molokai Planning Commission rules to address what is not addressed in grading and grubbing, all the rest of the stuff, because we get good rules on grading and grubbing. State Historic Preservation -- it's all to protect iwi. This is the same thing even though maybe even ten times worse. So that's my feedback.

Mr. Spence: Madam Chair?

Chair Buchanan: Go ahead.

Mr. Spence: If I could just -- I can understand the sentiment, you know, except on Molokai. If the Commission, I'm trying not to lead the Commission one way or another, but I -- if the Commission believes this is important for all of Maui County, for Maui Island, for Lanai, this Commission is free to make a recommendation for those islands as well. If you believe, you know, this would have, the way this is written, might have a negative impact on the other two islands, you know, you don't have to just say for Molokai. You're free to say for the whole County.

Chair Buchanan: Thank you. Any of the Commissioners want to expound on that?

Mr. Poepoe: I going agree with that one. We'll exclude -- to exclude Molokai from the extraction, this proposal, and include the other two islands along with that. I wanted for ask about how -- how much of the raw material would be -- how they deal with asphalt and storage and stuff like that ...(inaudible)... I guess I cannot really address the ...(inaudible)... do you have any insight to the amount or that has anything to deal with storing asphalt or processing? Or does the -- can I ask the staff?

Chair Buchanan: Commissioner, what would be your -- the point?

Mr. Poepoe: If the thing affect the ability for import asphalt to this island or if there's any issues that would arise from that situation?

Mr. Spence: It would not affect import of asphalt to this island and any -- because I have limited knowledge of asphalt, you know, you got the gravel in it, the gravel probably either comes from Maui or I suppose it could be mined here, but that mining of it would require a special permit provided that the quarry is in the ag district. So you would get that public review as a part of that extraction. And then the processing, the actually making it into asphalt, that would be the processing because you're mixing that with other materials and the asphalt, the petroleum product itself.

Chair Buchanan: Yeah, Director, that is my understanding that the asphalt is manufactured here, that the raw materials bought by outside sources to Molokai, it's just the raw materials in order to make the asphalt, and I think that's why ...(inaudible)... put up their own asphalt manufacturing plant and as well as Goodfellow, and I think the ...(inaudible)... so I think that wouldn't have any -- I mean somebody gotta buy and extract and do stuff, so I just saying that the loose part over here is you don't know who watching and who's enforcing and who's allowing and who's permitting, and I think it's so vague and so broad that it's going to be very hard to enforce. So any Commissioner's prior feedback I would maybe try to summarize that this Commission support not combining the two processes together because they are clearly separate; that we have -- that it's problematic, we agree that it's problematic assigning the amount of cubic feet because that's way too much in our opinion but it also -- the default would be the opportunity and lack of enforcement or ability to enforce. So I agree with the CRC concerns, the letter, I think this Commission does, Director Spence went over it on the last page, because grading and grubbing requires a permit from Historic Preservation, and that's particularly for iwi, and it should also be subjected to the same, at least the extraction and processing. And then I would go further to say -- maybe I'll have to take a motion on whether this Commission would like to vote to say that we want to be exempt from this Resolution. What would be your purview, Counsel?

Ms. Oana: Yes, if the Commission wants to make Molokai an exception to this proposed bill, then it should do so by vote so it can be transmitted as a body recommendation and comments.

Chair Buchanan: I would hope that the rest of the islands would like to jump aboard.

Ms. Oana: And then that all of -- and in fact all of these comments, if you wanted to vote on all the comments collectively at the end, then the comments can be transmitted from the body.

Mr. Spence: And, Madam Chair?

Chair Buchanan: Commissioner Pele. Yes?

Mr. Spence: Just one more comment and just because I would like to think that Molokai has a view -- I mean part of this comes up because of the -- it originates with the sand mining on Maui and Maui Lani and the concern over iwi, and my, you know, as a non-Hawaiian, I'm not going to pretend that I understand to the depths that a Native Hawaiian would the importance of iwi, I know particularly for families, the direct descendants, it's critical, but I would think for Hawaiians everywhere in the State, the protection of iwi would be of particular importance whether you live on that island or not, so that's part of the reason why I'm asking about, not just for Molokai, but is this -- is this a good ordinance for this County so -- and if you just want to say Molokai, that's fine, I'm not trying to tell the Commission what to do, but the concern is -- is over the cultural resources, it's also a big concern over our finite natural resources as well.

Chair Buchanan: Thank you, Director. So on that cultural aspect, you know what us thought? We thought no niele and go make decision for somebody else who no live inside your area, but on that same note, I would also hope that Lanai and Maui would also adopt the same views of this Planning Commission, I would go as far as saying that, not speaking for them, we never speak for the other islands, but I think it would be best, it would be my hope that they would also adopt the same -- the same feeling towards this Resolution that -- that we no agree with what is currently being offered in the Resolution. Commissioners? John Pele.

Mr. Pele: I was going to move on something.

Chair Buchanan: Awesome. Go.

Mr. Pele: I move -- I move that the Molokai Planning Commission recommend that and advise the Council not to pass this bill.

Mr. Lasua: I second that.

Chair Buchanan: Commissioner Pele, would it -- do you agree on all what was testified up to here about the reasons why?

Mr. Pele: Yes I do.

Chair Buchanan: Okay. Let the record reflect that. Does your second support that?

Mr. Lasua: Yes.

Chair Buchanan: Okay, thank you. So a motion has been made and seconded on the disagreement. Anymore discussion? Well, we have a motion. We have a second. Motion is to -- that we don't agree with the Resolution. We stated on the record our reasons why we don't agree; also, that we hope that Lanai and Maui also agrees with our thoughts and our findings. Is there any more discussion on the motion? Vice-Chair.

Mr. Sprinzel: I think we should add that no tonnage limit should be effected at all because by making it totally free up to a huge amount, I mean we're talking about 700 trucks full, and which is a joke, and to make it so you have to have a special permit for whatever amount.

Chair Buchanan: Okay, I agree but is that your understanding?

Mr. Pele: Well, my motion is just to deny this bill.

Chair Buchanan: To deny the Resolution?

Mr. Pele: Yeah, take --

Chair Buchanan: Okay.

Mr. Pele: So that way -- that would take everything in and off the table, if I'm correct.

Chair Buchanan: Correct.

Mr. Sprinzel: Okay. I'll go for that.

Chair Buchanan: Okay. So I have discussion. I mean I would have clarification.

Ms. Oana: So your motion is to recommend to the Council not to pass this bill for the reasons previously stated --

Mr. Pele: That is correct.

Ms. Oana: By all the different Commission Members?

Mr. Pele: Yes. I believe that's what it says behind here, right? Each Commission has the following options: Advise the Council to pass as drafted, and I'm -- my motion would be number three: Advise the Council not to pass this bill.

Chair Buchanan: Okay. Thank you for the motion. Vice-Chair Sprinzel.

Mr. Sprinzel: There's a slight danger there because if we don't say anything else, they'll overrule us just the fact that we said no to everything. It would probably be better if we said, well, this is what we would like or what we will have for Molokai somewhere in there 'cause it'll be the same as the vacation rental thing where we said no unanimously and they passed it anyway.

Mr. Poepoe: So we can --

Chair Buchanan: We're still in discussion, Commissioner Poepoe.

Mr. Poepoe: So I would think that we would like to add some kind of language where in some part of wherever the decisions are made, we include the "except on Molokai" part.

Mr. Pele: But -- and no matter what we come up with, they can still say no. I'm just saying, as a Commission, I don't agree with any of it. That's what my -- so if we want to vote on that, I mean we could put in all the amendments we want, that's not a guarantee that the Council's not going to override it anyways. I'm just saying, as a Commissioner, I vote -- my motion -- I am moving to advise the Council not to pass this bill. We can second it, we can vote on it, and if you want to come up with something else that -- but I don't think putting any caveats in is a guaranteed -- a guarantee that the County will say, oh, they put caveats in so, you know, we're going to listen to what they had to say. I mean it's -- you can carry that logic all the way out about the STRHs that it doesn't matter, if they're going to vote on it, they're going to vote on it, but that's -- that's my motion.

Mr. Spence: Would the Commission say if the Council's going to pass this anyway, then exclude Molokai from it?

Chair Buchanan: So, Director and Commissioner, that's where I was going to go with suggestion -- with suggesting that we move forward with the motion that was made, and then we also entertain a second motion that states, for the record, if the County moves forward with this Resolution for comprehensive rezoning, that Molokai be exempted from that Resolution.

Mr. Pele: Would you like me to restate my motion?

Chair Buchanan: No. We can --

Mr. Pele: Two separate?

Chair Buchanan: We can do one motion at a time. So let's move forward right now. On the floor we have a motion to let them know that we don't accept this Resolution with the findings that we had on the record, we have a second, and anymore discussion on that motion? Seeing none.

It was moved by Commissioner John Pele, seconded by Commissioner Lawrence Lasua, then

VOTED: to recommend to the Maui County Council to not pass Resolution No. 17-140 based on reasons discussed.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Chair Buchanan: Okay, motion passes to deny the Resolution. I would entertain a second motion to add perhaps that this Commission feels if the County Council moves forward with this Resolution for comprehensive rezoning, that the island of Molokai be exempted from that Resolution. So moved?

Mr. Pele: So moved.

Chair Buchanan: Second? Commissioner Sprinzel. Okay, it's been moved and seconded. Any discussion on the motion to exempt Molokai from the Resolution? Seeing none.

It was moved by Commissioner John Pele, seconded by Commissioner John Sprinzel, then

VOTED: that if the County Council moves forward with this Resolution for comprehensive rezoning, that the island of Molokai be exempted from this Resolution.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Chair Buchanan: Motion is moved. Thank you, Mr. Raatz. You need any more information? Okay, thank you for coming. We really appreciate your feedback. Okay, does anyone -- where are we? Okay, let's see, where are we? G -- does anybody feel that they need a break at this time or let's just makaukau, let's move on? Okay, we moving

on, item G, Communications:

Chair Buchanan read the following agenda item description into the record:

G. COMMUNICATIONS

- 1. MR. WILLIS CHOY, SUCCESSOR TRUSTEE OF GARY GALIHER TRUST, requesting a two-year time extension of their Special Management Area (SMA) Minor Permit to complete project construction to remove and replace the existing roof with a new metal roof on office Building 1 and installing a new facade on the Clinic building and Bank of Hawaii building located at 40 Ala Malama Avenue, TMK (2) 5-3-002:001 Kaunakakai, Island of Molokai (SM6 2015/0008) (S.Lopez)**

The Commission may take action on the request.

Chair Buchanan: Planner Sybil?

Ms. Lopez: Thank you, Chair. Thank you, Commissioners, for being here, and the project is a request for a two-year time extension of a SMA approval for the -- so the Galiher building located on Ala Malama, SMX 2014/0112, and this is for SM6 2015/0008. So this was actually in front of your back in 2015, which it was approved for, so the request is that they need extra time, and so the initiation was -- they initiated on November 1st of 2016, and so it was to expire on November 1, 2017, so I do have Mr. Lionel Adachi available speaking on behalf of the applicant and the consultant, and so the consultant was SSFM International, which submitted the time request extension, and what -- what they were requesting was that they just wanna finish the project, and they are doing exactly what was submitted during that time so there's no substantive changes, it's just that they need a longer time to finish, so the request is to complete it by November 1, 2019. So if you have any questions for Mr. Adachi, he is here present, unless he has anything else that he wants to add to the project.

Chair Buchanan: Mr. Adachi, you have anything to add to the project?

Mr. Adachi: My name is Lionel Adachi and I'm speaking in regards for Mr. Willis Choy, who is the successor and the -- the one that takes care of all of this in the mishap of Mr. Gary Galiher, I kinda guess a few of you guys already know, so the reason why we had a little problem trying to finish the project is because of his death and all his things have been put on hold, so now we're in the process of already going through the process of completing this project and we had the -- all we need is the approval ...(inaudible)...

Chair Buchanan: Okay, thank you, Mr. Adachi. Any questions for Mr. Adachi? I just have one, Lionel, do you think the November 2019 is sufficient time enough for you to complete the project?

Mr. Adachi: Yes. Yes it is.

Chair Buchanan: Okay, thank you. Okay, anymore question for the testifier? No? Thank you.

Mr. Adachi: Thank you.

Chair Buchanan: Corporation Counsel, do I have to take public testimony on this item?

Ms. Oana: You may. It's --

Chair Buchanan: The extension.

Ms. Oana: Not a public hearing but --

Chair Buchanan: Not public hearing. Okay.

Ms. Oana: You may take public testimony.

Chair Buchanan: Okay, unless there's somebody just really needs to get back on the improvements, I'm going to waive public testimony, and we don't need to have it, but, Commissioners, any questions or do we have a motion on the floor for this time extension request? And, Mr. Adachi, we're very empathetic to the Galihier family and our regards with that.

Mr. Lasua: Madam Chair, I'd like to go ahead and make a motion to approve the request.

Mr. Buchanan: I second.

Chair Buchanan: Okay, it has been --

Ms. Oana: Excuse me, Chair? Can I ask the maker of the motion, and the seconder, if they would like to amend the motion to adopt the Department's memorandum report prepared for this meeting as its findings of facts, conclusions of law, decision and order, and with regard to part of the motion to grant this time extension that it be also subject to the conditions listed on page 5 and 6 of your report.

Mr. Lasua: You want me to go through -- yes.

Chair Buchanan: Okay, so moved by the -- by the initiator of the motion. Do I have a second?

Mr. Buchanan: Yeah, second.

Chair Buchanan: Okay, thank you. Okay, it's been stated and second to extend the time extension for the special management area permit for Willis Choy, for Gary Galiher trust. Any questions? If not, I'll take a poll. All those in favor, raise your right hand? Okay, that's unanimous. Thank you very much.

It was moved by Commissioner Lawrence Lasua, seconded by Commissioner William Buchanan, then

VOTED: to adopt the Department's memorandum report prepared for this meeting as its findings of fact, conclusions of law, and decision and order to grant the requested time extension subject to the conditions listed on pages 5 and 6.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Ms. Lopez: Thank you, Commission.

Chair Buchanan: See how fast things can get done if you really like. Okay, item 2 on the agenda, under G., Communications, item 2:

Chair Buchanan read the following agenda item description into the record:

- 2. MR. SAMUEL J. LEMMO, ADMINISTRATOR, OFFICE OF CONSERVATION AND COASTAL LANDS, requesting comments from the Molokai Planning Commission regarding the Conservation District Use Application (CDUA) MO-3803 for the Applicant, Pu'u O Hoku Ranch, to consolidate the two (2) parcels and subdivide it into two (2) reconfigured parcels located in Halawa Valley, TMK (2) 5-9-001:001 and (2) 5-9-001:022, Island of Molokai. (S.Lopez)**

The Commission may provide its comments.

Chair Buchanan: Staff Planner Sybil?

Ms. Lopez: Thank you, Chair. Sybil Lopez, on this project, I'm the Planner on the project, and this actually came -- the SMA was for the SMA exemption to consolidate and resubdivide the two parcels into two equal lots around the Jerusalem Hou Church located

in Halawa Valley. This was in front of you on May 10, 2017, which this Commission waived their exemption, and so, since then, the project had been moved forward to go -- because it was on conservation, State conservation, the -- the owner and the consultant moved forward with their conservation district use application with DLNR-OCCL, so this is what is in front of you today. As they move forward with their application, the State of Hawaii, Department of Land and Natural Resources, Office of Conservation and Coastal Lands is requesting from the Molokai Planning Commission any comments as far as you can see on the first page, so what we've attached was what was submitted to us by OCCL and, as you can notice on the first page, it says the Acceptance Date is August 7, 2017, and you have a 180-day expiration date to February 3, 2018. So if you have any questions regarding the SMA is in here, is in -- is one of the exhibits, and -- and the application in here is provided, so the applicant is Pu`u O Hoku Ranch.

Chair Buchanan: Has there been any revisions, Sybil, to the original application brought before us?

Ms. Lopez: None.

Chair Buchanan: I sorry, Commissioners, but came in late during the first testifier, who I assume was having testimony on this item, and if that's correct, if somebody can please fill me in what I might have missed.

Mr. Pele: Just in general conversation? Yeah, so that was Mahea Davis, and I believe she was in favor of the project. I think one issue that she did -- she did want us -- that she did wanna address is the fact that public access is granted through permitting process, and she wanted to make sure that we recognize the kuleana land rights owners over just property rights, and there might be a concern with access, and to be culturally sensitive to what's - I wrote down her testimony, I don't know what page, I'm like you, I don't know the page - but I think it was along that lines if -- that -- oh yeah, here we go. Issues with access to the cultural impacts; she mentioned that it's over 8,000 acres; kuleana rights granted already to those landowners and it supersedes property rights of the ranch; and she just want to see some correct language in the application concerning public access, and I believe, I wish she was here, but I believe that's the gist of her testimony.

Chair Buchanan: Okay, I think I generally wanted to know if she was in support or not. Okay, thank you. Okay, Commissioners, you guys have questions for staff at this time? Commissioner Poepoe? No? Okay, thank you. So, Commissioners, anybody have any questions or comments or -- that we want to give Mr. Lemmo and the Department of Land and Natural Resources on this consolidation and subdivision? Commissioner Poepoe.

Mr. Poepoe: Thank you. I wanted for ask if we would be able to open this for public hearing?

Chair Buchanan: Sure.

Ms. Oana: Public testimony is okay. Public hearing is -- it's kind of a separate process when it's required by law to publish in the paper --

Chair Buchanan: Public notice.

Ms. Oana: And then it's a public hearing, but public testimony, at the discretion of the Chair, can be reopened.

Mr. Poepoe: Okay.

Chair Buchanan: So at the discretion of the Chair, I will open public testimony at this time on this matter.

Mr. Poepoe: Oka, and I going learn which terminology for use.

Chair Buchanan: Me too. I was like -- she was like -- okay. So at this time, I am opening up this agenda item for public testimony if anybody wants to provide comments on the record. Awesome. Come, Malia. Thank you.

Ms. Waits: Aloha mai kakou. My name is Malia Waits. Thank you for coming today, Commissioners. I am a legal native occupant of Halawa. I have been for the past 20 years, 21 years. I have kuleana down there that supersedes this, and I will be affected by this. I have not been properly contacted. This meeting today was told to me about -- maybe about 24 hours ago, which I don't believe is legal in this processing. I'm requesting that the Planning Commission put an immediate halt to this application, CDUA MO-3808, process and deny this application's request to consolidate. These aforementioned TMKs will allow for further subdivision and a fee simple title on this property, which will lead to developments. Under the Hawaii Revised Statutes 205A-22, it defines "development" as means of any of the uses, activities, or operations on the land or in or under water within a special management area that are included below, point four, change in the density or intensity of land, of use of land including, but not limited to, the division or subdivision of land. This will include the parcel Ierusalem Hou is currently on. I am a member of the church. I currently -- I currently run the children's ministry. My husband and I also help pastor the church when the pastor is not available to do so. Construction, reconstruction, demolition, or alteration of the size of any structure, which is currently already in effect in this church. All of these are developments. If you can please go back to these statutes which were brought to my attention by Lavinia's lawyer. Again, finding and purposes. The legislature finds that special controls on development within an area along the shoreline are necessary to avoid permanent losses or valuable resources and foreclosure of management options and to ensure that adequate access by dedication or other means

to public owned or used beaches, recreation areas, and natural resources, or natural reserves is provided. It's not provided in any of these documentations that have been provided here to this council. The legislature finds and declares that it is a State policy to preserve, protect, and, where possible, to restore the natural resources to coastal zone of Hawaii. Currently, Pu`u O Hoku Ranch is stating that they own this access. It is clearly stated in this application that adequate access is not going to be provided to the legal tenants of Hawaii residing on the north side of the valley, which includes me and my entire family. I've raised three children there off the land and I've done it in a way that is respectful to my kupuna. Currently, we hold access rights to the north side of the valley via the old County road that connects to my only legal access to my lands. I have Royal Patents on these lands. I am in jeopardy of losing rights here. If you guys don't hear me, I don't know what else to tell you. Under the Hawaii Revised Statutes 205A-23, injunctions. Any person or agency violating any provisions of this chapter may be enjoined by the circuit court of the State by mandatory or restraining order necessary or proper to effectuate the purposes of this chapter in a suit brought by the authority or the lead agency. Due process has not been adhered to. These requests -- this request to the land divisions do not have clear titles on them and access to our natural resources and legal access to our own TMKs will be at risk if this application is accepted and proposed, therefore, this request needs to be properly reviewed and denied. This is an attempt to extinguish title holder's rights. There is a certified -- where is the certified shoreline management plan and the environmental assessment that is required for this? This board has been notified of how this process will be violating my personal native land rights and titles. Violating these rights via this process will be documented and proper legal action will be taken.

Chair Buchanan: Thank you, Malia. Any --

Ms. Waits: I tried to keep it in the three minutes. Sorry.

Chair Buchanan: Yeah. No, no, no. Very good. Hang on 'cause I get plenty questions.

Ms. Waits: Yeah.

Chair Buchanan: But I going ask the Commissioners. Go ahead, you have question? Not for the testifier? Okay, hang on, I get, and since she's up there, anybody get questions for the testifier? Commissioner Lasua.

Mr. Lasua: Malia, where is your -- your kuleana land located in regards to this subdivision and division?

Ms. Waits: On the north side of the valley.

Mr. Lasua: So is it within the boundaries of these two --

Ms. Waits: Yes.

Mr. Lasua: Properties?

Ms. Waits: Yes.

Mr. Lasua: So --

Ms. Waits: My access rights are. Yes. And they will be affected by this, and I have not been given proper notice.

Mr. Lasua: Your access right to your kuleana land is -- is the property that have access to all the kuleana lands?

Ms. Waits: I'm sorry, sir. I don't see how this is got anything to do with me.

Mr. Lasua: I'm asking you a question to satisfy myself. So your kuleana land in regards to the two properties that will be subdivided and divided, okay, oh, and consolidated -- are you listening to me?

Ms. Waits: Yes, I'm listening.

Mr. Lasua: Okay, is that --

Ms. Waits: Jeopardized.

Mr. Lasua: Area where you walk to get to your property?

Ms. Waits: Yes.

Mr. Lasua: Okay, is that part of your property or is that just an easement for all the properties?

Ms. Waits: No. It goes through my property.

Mr. Lasua: The -- the --

Ms. Waits: Yes.

Mr. Lasua: The easement.

Ms. Waits: These proposal -- this proposal will go and affect my property.

Mr. Lasua: Okay, what I'm trying to get to is how is your property affected?

Ms. Waits: Access rights.

Mr. Lasua: Okay, just access rights. They're not subdividing your land and dividing that up to the other place?

Ms. Waits: I actually can show blood ties to some of these properties --

Mr. Lasua: I'm not -- I'm not looking --

Ms. Waits: That are. Yes. Yes. So --

Mr. Lasua: Excuse me. Excuse me. Answer my question please. Is your property being subdivided based on this subdivision?

Ms. Waits: My family's is.

Mr. Lasua: Is your kuleana land being subdivided?

Ms. Waits: Yes, sir.

Mr. Lasua: Okay. Thank you.

Chair Buchanan: Commissioners, anybody else get questions for the testifier? Okay, thank you, Malia. I have a question.

Ms. Waits: Sure.

Chair Buchanan: I kinda confused, and I going tell you why I confused because, several years ago, Reverend Ayau came to this Commission and his -- his issue was that he couldn't get permits to make improvements for safety when the bell tower fell down and the County was requiring him to show ownership of the land. That he could not do. So from that point until now, and it must have -- it has to be like a good seven years, Reverend Ayau's purpose or request to Pu`u O Hoku is to give him that land and show ownership, so after a long and arduous process by Reverend Ayau, he got DLNR, Sam Lemmo, Conservation -- he got Todd Klibansky, and he got Lavinia, from Pu`u O Hoku Ranch, to come around to his point of view and what needed to be done in order for the church to legally own that property was to subdivide because, prior to that, there was a big comprehensive subdivision, which -- which took all of the little parcels from way back, from Murphy, and consolidated them into one big TMK, that TMK overlap the special management area line or fake line, invisible line, so there was multiple issues with trying

to renovate the church, which was really at the root of the problem. So as a member of the church, knowing that it was the church that initiated this process, I'm confused. So if you can expound on how now the church -- is it just the church, or it's just you, or is the church still wanting this subdivision to occur?

Ms. Waits: I'm not speaking on behalf of the church.

Chair Buchanan: Okay.

Ms. Waits: I'm just purely stating how I ...(inaudible)...

Chair Buchanan: Okay. So I'm in a quandary because what was represented to us on the record by all the entities and with Reverend Ayau sitting right there was that this was awesome, this is exactly what the church wanted, this is what we wanted to do, I believe that there was no big real fee in exchange, so it was seen as a very ultraistic move on the part of the Ranch, to support, not only the church, but all of its members, and there was no testimony in opposition either by Uncle Pilipo or anybody else at that time, so when you said you going be affected, have you ever been restricted access by the Ranch to your property now?

Ms. Waits: Yes. Yes.

Chair Buchanan: How have you been restricted?

Ms. Waits: Gates.

Chair Buchanan: Okay, gates that have been put up where?

Ms. Waits: On all along the beach. All the accesses down to the high tide water have been blocked --

Chair Buchanan: Okay.

Ms. Waits: As well as accesses that continue to go into the valley. And I do understand --

Chair Buchanan: Yeah.

Ms. Waits: The legal issues on that. I'm not asking for any, you know --

Chair Buchanan: Okay.

Ms. Waits: Justification in that.

Chair Buchanan: Okay. So you understand that this issue, this request was done by the Reverend on behalf of the church 'cause the church is the applicant? The church applied to OCCL. It is a State permit at this point. They asking us for comments. So without any maps or lines in front of us to delineate how you think you going be affected, it's hard for me to -- to understand besides restriction, like anybody can put -- I know that there's one bridge that you can drive over. We drive over 'em all the time. I don't know who owns the bridge. Maybe nobody owns the bridge. But I don't know what to do because, up until this point, I thought I understood what all the issues were, and now you saying that -- that there's this other issue that you going be affected by this subdivision, so I don't clearly see that issue that you -- you coming with us today.

Ms. Waits: Proper notification was not being given.

Chair Buchanan: Okay. In general, how is your relationship with the Ranch?

Ms. Waits: I don't see -- I know the family very well.

Chair Buchanan: Okay.

Ms. Waits: I know Lavinia. I know all her children.

Chair Buchanan: Yeah. Have you taken up this issue with the Ranch? When did you have knowledge of -- of this?

Ms. Waits: Yesterday.

Chair Buchanan: Yesterday. Okay.

Ms. Waits: I was aware --

Chair Buchanan: Yeah.

Ms. Waits: The church was in negotiations with the Ranch.

Chair Buchanan: Okay.

Ms. Waits: What I was not aware of is the depth that is being requested.

Chair Buchanan: Okay. Commissioner Pele, you have question?

Mr. Pele: Not for the testifier. I just wanted some clarity on the issue --

Chair Buchanan: Okay.

Mr. Pele: Before the next testifier.

Chair Buchanan: Okay, I going take his questions for staff so might have da kine so stay close.

Ms. Waits: Am I done? Thank you.

Chair Buchanan: Thank you, Malia.

Mr. Pele: No, my question was, as I'm listening to testifiers, we're not -- we're not the -- or we not approving or denying anything in this. We're just listening and making comments, correct? 'Cause I hear -- I hear we need to deny, and I'm just trying to absorb the comments from the public, but we're not taking any action on this, we're just providing comments? Alright.

Chair Buchanan: Okay, I'll take the next testifier. Thank you.

Mr. Naki: Palmer Naki again, and I guess you taking comments and everything. I'm kinda against this thing, you know, for many reasons, like what Malia just said, as far as it's going to infringe on many things, but I mean I'm kinda, you know, looking at it like is this -- is this a legal way of stealing the land, you know what I mean? Because Uncle Ayau said he no own the land. The Ranch claim they own land, but they no can show clear title. So who own the land? Must be our Hawaiian people that no longer here today. You know what I mean? But there are some of the family members that still is alive; for some reason, they not here, whatever it is, but to go ahead and take one property and subdivide 'em and put into whatever, four properties and put 'em into one whether the thing not close to each other, to me, that's illegal. That's wrong, you know. That's not pono, okay. 'Cause this map I stay seeing they show one blue mark here, and then they show one and two over here, so how can you connect the dots when the thing stay totally far apart from each other? Are we doing ahupua`a system here or what's going on? You know, are they trying to claim lands, you know? I don't agree with this and I'm against it for many reasons, and if this is how things work and this is how you guys stealing the lands by trying to go through the process like this, man, I don't know how you guys sleep at night, you know. Yeah, yeah, I just providing testimony ...(inaudible)... I mean kinda like, you know what I mean, 'cause I know you guys the one doing the wrong, but, you know, it comes through you folks to approve or disapprove or deny, you know what I mean? No, no, no, I'm just saying, you know what I mean? But I look at this and I feel it's wrong and I'm against it, so I'm in opposition of it, okay. Thank you.

Chair Buchanan: Thank you. Anymore comments to testifier except I believe Commissioner Pele wants to reiterate that we not here to or here to approve or deny the

conservation district use application for subdivision. We just providing comments, and the comments we going provide is that testimony by the public is in opposition to this, that we received that, but is there anymore public testimony? Thank you.

Mr. Cullen: Aloha, Commissioners. My name is Paul Cullen. I'm a landowner for Halawa Valley. Lavinia is not a landowner. She's an outsider, just like Kip Dunbar, coming over to Molokai and claiming that they own this and they own that. They own nothing. They had nothing. They were born with nothing, and they going leave this island with nothing. I got them right now sitting in the courthouse right now, in the Second Circuit Court, waiting for a decision of ownership, and it's massive. It's massive people. I got your guys' boss in the corner right now and his name is Alan Arakawa. I contacted Elle Cochran to let her know are you the one going take over this mess when this donkey get out of here? She said, well, most likely it happens that way. I say it's been over one year I've been sitting on that property. I've been living there 13 years, on this property that I'm on now in Puniuohua, East End, that was taken from us. I'm still sitting on that property today. They cannot remove me from my land, but everybody around me, I hope that you praying 'cause I'm going to get you. Thank you very much.

Chair Buchanan: Thank you, Paul. Any questions for the testifier? Seeing none, next testifier. Aloha.

Mr. Naki: This go to the whole Planning Commission, okay, the Molokai Planning Commission I hope. In 1981, there is the East End Policy, yes, the original. There is three policies. There is one policy, but there is three things that they did, yeah, so get the original, then they get one other one, and another one, and another. I know. I going get to the point. Thank you. In the East End Policy, Mr. George Murphy, who have in the east rights, this is the reason why they need to go back to that '81 policy, yeah, that they try and they all doing to dissect that. The '81 policy for East End came out of the community of the East End and Halawa comes out of that policy, and Mr. George Murphy writes there that he states, yeah, so I hope you can find 'em, mister whatever your name there, thank you, yeah, that he states that there is nothing to be done in Halawa without the consent of the native people. So, Molokai Planning Commission, you got nothing to say about that place. You don't. You're going to put your nose there and it's going to be like you know the leprosy people down there with no more nose, yeah, at the wrong place. Halawa is the first village. Our ancestors came there. It is the first taro patch, Halawa, yes, and there is still burials there, ancestor burials, and they wanna put a leach toilet there. No, no, no. That shit is going to -- whoever is going to do that, that shit is going to be on that person or persons. So Halawa is very, very, very, very sensitive there. Very sensitive. So Mr. George Murphy, you look it up, even he states, I think he died already ... (inaudible)... he wants to be called a landowner also, but he, as a white man, put with his words and his mouth there must consensus from the native people. That's what I wanted to say. And we didn't say it, he saying it. What we do there is continue to work on that land. What Mr. Pilipo Solatorio is doing, doing this tourism things, he still had to

come before the families of Halawa, and whoever is responsible for bringing this shit in here, they too because they are passing 38 ahupua`a before they get to Halawa, yes, so that means they need to see 38 people or people or families before they can get to Halawa. So in the days old, you would have never reach Halawa the things you doing now. See how wonderful it is. Thank you.

Chair Buchanan: Mahalo, Leimana. Any questions for the testifier? Yeah ...(inaudible)... anymore testimony from the public? Mahalo.

Ms. Poepoe: Hi. My name is Mahina Poepoe. I'm just a little confused that it's the whole point of all of this is to give -- give the church their little piece, that's the subdivision, that's one thing, but I don't, from what I was reading in the packet, I don't really see how the consolidation of that totally separate lot is necessary to give the church their property 'cause the -- the two lots are -- or the church and the lot being consolidated are not even connected by any lines so I don't know if the church is really located on two separate parcels and that's why the consolidation is necessary. So I guess my question would be is giving the land to the church dependent on consolidation. The Ranch does have a long history of blocking access and history of acquisitions through quiet titles, so all of these concerns are very valid because the history is there, so I -- I am always really weary of things like this and I just wonder if this is a land grab hidden behind ...(inaudible)... because according to the maps, I don't see the necessity of consolidating in order to subdivide from what I read, and that's all. Thank you.

Chair Buchanan: Thank you, Mahina. Any questions for the testifier? No. Thank you, Mahina. I had that question earlier too. You have a question for staff? Yeah, no, I'm just -- if we get anymore questions for staff or any of the testifiers? No? I do have -- I wanted to recall one testifier. Malia Waits, I have a question for you. Malia Waits. Malia. Okay. Aloha, Malia, and thank you. We only going give comments, and the comments going include that they incorporate all of the testimony that they heard today, but I am kinda concerned because I feel -- I think because I might have been more involved than everybody else in listening to Reverend Ayau for year after year after year asking, actually begging Pu`u O Hoku Ranch to subdivide, and was my understanding that there was an issue with the subdivision because of the SMA lines and that they would be subjected to additional scrutiny by doing stuff and like -- and for whatever reason the bottom line was -- was this as the best way to proceed, and I cannot justify that one way or another, and I don't know if Sybil can, so besides us incorporating your objections, is there anything else that we should know or that you would want to -- we incorporate in your comments? Because up until this point, I've been all good with -- with supporting that subdivision and the initial feedback was -- was supported because they were all here, yeah, that day, all the family and other members were here asking us to support in comments back to OCCL.

Ms. Waits: No.

Chair Buchanan: Okay. Alright. Thank you. Thank you, Malia. Okay, John Pele, you had comments for the staff on this subdivision?

Mr. Pele: No, no, not -- I mean I agree with your comments that maybe they need to get together with the people, have a hearing, whatever they need to do, like you said, there's some confusion and, obviously, some of the people that testified weren't -- maybe if they were all in a room together, and they have to talk about it together, they could -- they could work it out, but that would be my suggestion as I listen to the comments. Again, I have one, two, three, four against, and Mahea Davis was the only testifier that was in favor of the amendments so maybe we should give those recommendations or their testimony to the State and the Natural Resources.

Chair Buchanan: Thank you, Sybil. You getting all this down?

Ms. Lopez: Yeah, can I just wanna clarify 'cause I got my notes so I just want to make sure that my notes is okay with what I heard so because it'll be the comments of the Commission. So as far as Mahealani Davis, she was in favor, but she also had comments relating to the cultural impacts on page 7 of the application where that the applicant is not aware of any cultural, historical, and natural resources in which traditional and customary Native Hawaiian rights are exercised on the lands in question, so with addition to what Commissioner Pele stated in regards to Mahea Davis's comments, just wanting to add the additional comments that she made regarding that -- that they should look more into the cultural aspect with -- with the --

Chair Buchanan: Okay. Yeah can you also incorporate a synopsis of the testimony provided by the -- those in opposition? Could you please highlight concerns of Malia Waits for access, also that she feels she going impacted, and also to go further as to ask the OCCL to contact her? Yeah, I would suggest that they contact her.

Ms. Lopez: Contact her for?

Chair Buchanan: To give her further information because she feels she wasn't contacted, and I don't know how that works. Don't they have like we have 500 feet you gotta all people have notice when action going occur?

Mr. Spence: Madam Chair, all I know about conservation district permits is there are different types, some of them require public notice, some of them are administrative action, some of them require board action, I'm not sure which one this is.

Chair Buchanan: Okay, thank you. So you need anymore guidance?

Ms. Lopez: Yeah, one more. Sorry.

Chair Buchanan: Okay.

Ms. Lopez: So Mahealani Davis, Mahina Poepoe, Malia Waits, Palmer Naki, and Leimana Naki, and so he referred to the Molokai Community Plan, the East End Policy Statement, so I'll just keep that in reference to what Palapa was saying 'cause that's what I got from that testimony.

Chair Buchanan: Okay.

Ms. Lopez: Page 9.

Mr. Lasua: Madam Chair?

Chair Buchanan: Yes?

Mr. Lasua: Can I add another thing? Based on Malia's testimony that her property is being impacted as well as her access to her property were being denied.

Chair Buchanan: And, hence, the strong encouragement for the department to get in touch with Malia. Okay.

Ms. Lopez: And then I'll get her contact information. I forgot the name of the last --

Chair Buchanan: Paul Cullen.

Ms. Lopez: Thank you.

Chair Buchanan: Thank you very much. Do I need any further action? Take a vote? Okay, Commissioners, we need a motion to agree that that would be our comments back to the OCCL, Mr. Lemmo.

Mr. Lasua: I move to approve the comments to the Office of Conservation -- Conservation Land.

Mr. Pele: Second.

Chair Buchanan: Okay, it's been moved and seconded. Anymore comments? If not, all those in favor, please raise your right hand? All those not in favor? Did we have a unanimous? Commissioner Sprinzel, did I miss you? Oh, okay. Thank you. It was unanimous. He was blocking you. Okay, thank you.

It was moved by Commissioner Lawrence Lasua, seconded by Commissioner John Pele, then

VOTED: to approve the comments of the Commission, as discussed, to the Office of Conservation and Coastal Lands.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Ms. Lopez: Thank you, Commissioners. Thank you, Chair. Can I just, because of the deadline, which is February 3rd, can I just get you to sign with comments and then I will email the appropriate body and yourself to review the comments, but I would need your signature?

Chair Buchanan: Okay, thank you. Let's -- okay. Okay, moving on, we have, Mr. Spence, yeah, item H, and it's 3:35, item H, Director's Report:

Chair Buchanan read the following agenda item description into the record:

H. DIRECTOR'S REPORT

1. **MR. WILLIAM SPENCE, Planning Director, notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed action located within the Special Management Area is not a "development" and therefore exempt from the requirements of the Molokai Planning Commission's Special Management Area Rules:**
 - a. **MRS. ARSENIA MASIGLAT submitting a Special Management Area Assessment (SMX) application for the addition of two-bedrooms and carport for the existing single family residence, including interior renovations and exterior renovations, on property located at 425 Kikipua Street, Ranch Camp, TMK: (2) 5-3-011:075, Kaunakakai, Island of Molokai. (SMX 2017/0370) (Valuation: \$25,000) (S. Lopez)**

The Commission may act to waive or not waive its review.

Chair Buchanan: Sybil, you had something to add?

Ms. Lopez: Yes. Thank you, Chair. Sybil Lopez, with the SMA project, which the project is located in Ranch Camp, and I do have the consultant here, Mr. Luigi Manera, if there are any further questions regarding this request for an exemption on this application.

Chair Buchanan: Thank you, Sybil. Commissioners, any questions? I have a question. Of course, I have a question. Mr. Manera, thank you. What is the -- the total additional square footage of the new additions, and you are not in the same footprint, so the addition of the bedrooms, the carport, and whatever else you doing?

Mr. Manera: The carport is very small, it's like -- they already have there, we'll extend the right, I think it's 12 feet by 20 feet, just the roof over, and the two room addition, part of it is already there, they make it a little bit bigger out, it's 12 feet by 12, 12 feet by 12, 240 square feet.

Chair Buchanan: Okay, the reason why I'm asking, Mr. Manera, is I'm not inclined to -- my personal priority would be not to waive the review, and I going tell you why.

Mr. Manera: You have to -- excuse me what?

Chair Buchanan: I'm not inclined to ask this Commission to waive the review.

Mr. Manera: Okay.

Chair Buchanan: And not exempt the project and it's because I feel the addition of two bedrooms and a carport and it says other things that I have no idea what we talking about is pretty significant, and it's in Ranch Camp where density is an issue, where street parking is an issue, and I don't even know what is the existing square footage of this home, whether it's a one-story or two-story.

Mr. Manera: It's one-story, two-bedroom.

Chair Buchanan: So it's a two-bedroom; we're turning it into a four-bedroom.

Mr. Manera: Actually, we adding two but one of them will be a living area so it will be three-bedroom.

Chair Buchanan: It will be a three-bedroom.

Mr. Manera: Three-bedroom.

Chair Buchanan: How many bathrooms?

Mr. Manera: Two.

Chair Buchanan: Two?

Mr. Manera: Two.

Chair Buchanan: So we have how many bathrooms now? One?

Mr. Manera: No, no. Get two.

Chair Buchanan: You already have two.

Mr. Manera: Two.

Chair Buchanan: Okay, so we have two bathrooms now.

Mr. Manera: The bathroom was approved before.

Chair Buchanan: Okay. I think because I wanted to see the plot plan, I wanted to see that -- that -- that all of the parking was -- was going to be included on the lot, and how big is the lot. I don't have any of that information.

Mr. Manera: I submit the whole -- everything.

Chair Buchanan: To them? I know. That's why I'm saying I'm not -- I'm not inclined to waive the review because I don't have anything but -- but my Director asking me to waive the review or not waive the review.

Mr. Manera: If I know we have to -- I have to bring --

Chair Buchanan: Yeah.

Mr. Manera: All the information, I got no problem. I do it all the time.

Chair Buchanan: Okay. So I apologize, as the applicant, but I'm going to hope that our staff would have known from the last application in Ranch Camp that we would need a little bit more information than just asking to review the -- waive the project.

Mr. Manera: Well, I mean --

Chair Buchanan: These -- these additions would never have been waived just a few years ago, never, never, never, never would be waived. We would have at least seen something and especially when the footprint changes of the home. If you're doing interior renovations without changing the footprint, it's not an issue.

Mr. Manera: I never choose that.

Chair Buchanan: Yeah, I know. I'm sorry. Okay, I'm just asking questions.

Mr. Manera: I applied for an SMA.

Ms. Oana: Excuse me, Chair.

Chair Buchanan: Okay.

Ms. Oana: I understand your concern in not seeing anything, but I just wanted to point the Commission to the definitions in HRS 205A-22, I'll just read you this, it says: Development does not include the following, and it's number one, construction or reconstruction of a single-family residents that's less than 7,500 square feet of floor area and is not part of a larger development, so I think that's where Ms. Buchanan is coming from. Could you tell them at least the square footage of the residence and the improvements?

Mr. Manera: The whole house is a small house. It is a two-bedroom home. It's like, even with the addition, it's less than thousand square feet.

Ms. Oana: So, basically, if you were to have a plot plan that confirmed that it's less than 7,500 square-foot, then, under the definition of 205A-22, then it would not be a development, that's subject to be exempt from the provisions of the SMA.

Mr. Manera: As much I understand where Lori Buchanan, where the Chairman come from, I totally understand but if I know this ahead, I bring my information. I mean I got no problem to show it to you. It's just a little home. That's all.

Chair Buchanan: You going have to do footing for the -- the new two bedrooms?

Mr. Manera: Six footings.

Chair Buchanan: Six footings. How -- how deep you gotta dig on the six footings?

Mr. Manera: Twelve inch.

Chair Buchanan: How much? One foot?

Mr. Manera: Twelve -- twelve -- one foot.

Chair Buchanan: One foot. Okay. Okay, 'cause -- 'cause usually in the SMA when we going be doing footing and excavation or digging or putting -- if it's more than two feet, I just saying that I not putting anything on you, Luigi, I just saying that, for me, I would have liked to see ...(inaudible)... that's my feedback.

Mr. Manera: I -- I agree with you in many ways. On the other hand, we applied for this but because of those SMA and ...(inaudible)...

Chair Buchanan: And I don't know why we never have nothing for last meeting and they said we never have no items.

Mr. Manera: No, no, but I mean some thing they take so long since, well, on the other hand, if you tell me -- if you guys say we no need -- we cannot approve anymore exemption, I -- if they don't bring the plan, I bring 'em. I have no problem with that. That doesn't matter ...(inaudible)...

Chair Buchanan: Okay, thank you. Any more questions for the testifier? No? Okay. So --

Mr. Manera: Thank you.

Chair Buchanan: Thank you, Luigi. So motion on the floor to waive or not.

Mr. Pele: I have a question - I have -- I have a question for staff. The reason why, if I'm not mistaken 'cause we went through this, the reason why we do not see, Commissioner said, years ago, it would have never come to us without a review, that's because the Commission, correct me if I'm wrong, adopted the policy where it doesn't need to come to us for review, we can either waive it or not waive it. No, that's not right?

Ms. Oana: I am not sure, as you know I'm -- but, from what I hear, the rules changed to make it simpler --

Mr. Pele: Right. But that was the Planning Commission I think that --

Ms. Oana: And the Planning Commission has to, basically, vote on any change of their rules, so it was the Planning Commission who changed it, if that's true, but I ...(inaudible)...

Mr. Pele: So was it or wasn't it? I just want a yes or no so I can --

Mr. Spence: Maybe Clayton knows better, but, as I understand, the Commission used to review all assessments and it was, supposedly, it was simplified so the Commission could go, okay, we want to review this one or we don't want to review this one, so it's a pretty simple concept of yes or no. We want to review it or we don't.

Mr. Pele: Who simplified it?

Mr. Spence: It was the -- the Commission changing the rules.

Mr. Pele: Molokai Planning Commission?

Mr. Spence: The Molokai Planning Commission. We cannot change your rules. You change the rules. So --

Mr. Pele: Alright.

Mr. Spence: Clayton might have more history on it than I do.

Mr. Pele: So we're mad at our own rules is what I'm getting at? We changed the rules and then we don't want to play by them. Am I understanding that correctly? Oh, okay. Alright.

Mr. Yoshida: The last time John Sprinzel was on the Planning Commission back in 2014, the Department -- or there was a committee that, rules committee, that was formed by -- consisting of John Sprinzel and Steve Chaikin, and they went through the rules and tried to update where they could, and the Department also took a look at the rules, especially your special management area use permit rules, before they -- somebody wanted to do interior renovation at one of the units at the Wavecrest, staff would have to write a report, and -- even if it was clearly exempt interior renovations, staff would have to write a report, and then there were complaints from the public, like why does it take so long if it's -- going to be exempt because ...(inaudible)... so they created this system where we could come to the Commission for things that we thought were exempt, clearly exempt, and you could waive your review. If you didn't feel comfortable in waiving, then we would bring it before the Commission, and staff would have to write ...(inaudible)...

Mr. Pele: Can I ask a question? Is this project, in your opinion, clearly exempt?

Mr. Spence: Just to be honest, I have not looked at this.

Mr. Pele: Sybil, can I ask you this question?

Mr. Spence: I don't review ...(inaudible)...

Mr. Pele: Can I ask Sybil the question?

Mr. Spence: Sybil has looked at it. It's certainly an exemptable project, so I would -- I would lean on staff for that.

Ms. Lopez: Yes, that's why we're requesting for an exemption. It constitutes as a -- as it's not a development.

Mr. Pele: Okay. So where are we at now? Can I move?

Chair Buchanan: So I like one opportunity to say something real fast ...(inaudible)... the reason why we have SMA rules is because it's the special management area, and I know the frustration within Ranch Camp for the scrutiny, but anytime you have density in one area, every little thing you do in that dense area has a ramification. In this case, without review, how do I know that the improvements that going be made does not affect the neighbor? So we saw that in Ranch Camp many, many times where people did driveways and stuff and the runoff went right into other people's homes, and that was the reason why you needed review, and you cannot do that review if you no see nothing and somebody just says trust me, not going have one impact, everything has an impact and especially when you do more than the original footprint of a home or residence, a building, anything, there's going to be a reaction or an impact. You cannot quantify that if you not -- if you waiving your review to -- you, basically, saying, okay, I trust you. There's an impact. So you do the development, the neighbor come back and tell you, eh, the County gave me this permit, just like the shoreline on Oahu falling into the ocean --

Mr. Pele: No but -- no but didn't the Commission, didn't the Molokai Planning Commission --

Chair Buchanan: The Commission --

Mr. Pele: Enact its rule to being able to waive or not waive? That's my -- I mean it seems kinda -- did the Commission --

Chair Buchanan: They was trying to do that for years.

Mr. Pele: But they did it, right?

Chair Buchanan: 'Cause they no like write report.

Mr. Pele: But they did it or they didn't do it? That's my -- that's my question. Did the Commission, Molokai Planning Commission, enacted the rules in which we can now waive our review, and they passed it? I'm a -- that's my assumption.

Chair Buchanan: It's always been you could waive or review. It's always been you could exempt one project or not exempt one project.

Mr. Pele: I thought you said -- I thought you said years ago nothing came without being reviewed?

Chair Buchanan: Well, we wouldn't let them automatically -- it was --

Mr. Pele: Oh. Oh, alright. Alright ...(inaudible)...

Chair Buchanan: We changed the rules so we would not give the Planning Director the authority to exempt projects in the SMA, so that is what the rule change. Then, in 2014, they kinda made a wishy-washy --

Mr. Pele: Who's they?

Chair Buchanan: You can -- you can choose to waive it or not waive it.

Mr. Pele: Who's they?

Chair Buchanan: I guess the Planning Commission.

Mr. Pele: Oh, okay. Alright.

Chair Buchanan: That does not make an action on an addition in a dense area okay. It's the purview of the minds of the people who sit on here that have expertise that need to say you right. Not going have one impact. But I cannot even say yeah, you're right, not going have one impact if I don't know what you talking about. I don't know what she talking about. I get four lines over here telling me you going add two bedrooms, you going make one carport, you going do interior and exterior renovations, what does that mean? Does that mean you building one fence? Does it mean the overhang is -- I don't know.

Mr. Pele: So -- so -- so where we're at?

Mr. Spence: So where we're at is a really simple decision.

Mr. Pele: I move that we waive our review.

Mr. Lasua: I'll second.

Chair Buchanan: It's been moved and seconded to waive the review. All those in favor, raise your right hand? Okay, for all the -- for the record, all those not in favor?

Mr. Spence: Abstention is --

Chair Buchanan: Motion not carried.

Mr. Spence: Is --

Chair Buchanan: Abstention is a yes vote.

Mr. Spence: Is a yes vote. So that would be five.

Chair Buchanan: Okay, one, two, three, four, five. Motion carried. An abstention, in our rules, is the same as a yes vote. Okay, so it's a yes vote. So motion carries. We waiving the review Ms. Arsenia Masiglat, oh she lucky.

It has been moved by Commissioner John Pele, seconded by Commissioner Lawrence Lasua, then

VOTED: to waive the review of item H.1.a.

**(Assenting - W. Buchanan; L. Lasua; J. Pele; L. Poepoe; J. Sprinzel)
(Excused - C. Adolpho; X. Bicoy)**

Mr. Sprinzel: Chair?

Chair Buchanan: Commissioner -- Vice-Chair?

Mr. Sprinzel: An explanation. When Steve and I did the review, it took months. We went through every line with the legal department, and weeks and weeks of coming to the Planning Commission. We went through every line. So we didn't just sit down and say, hey, let's just waive everything and make it easy. We really, really were careful about it. Just so you know.

Mr. Pele: That's my exact reasoning, then we should accept this process that we have in front of us as legitimate because you took your time to do it, we shouldn't -- it's legitimate. That's -- that's what I'm trying to say. We already have a process that was voted on by the Commission, and you're saying that you did every line, you took time and time and months --

Chair Buchanan: Okay.

Mr. Pele: So it's all good. The vote is done already though, right?

Mr. Sprinzel: And it was unanimous and --

Mr. Pele: Yes.

Mr. Sprinzel: And you how fussy Steve Chaikin is.

Chair Buchanan: Oh, wait. I have to give you the back story the reason why. The reason why was to address the interior renovations for places like Wavecrest and Molokai Shores, the really obvious, obvious never need to go through all that headache, and if

you not extending your footprint, eh, why waive it. We -- we went and did that in five minutes. This is totally different from that, and I think we should have one -- one class on this, and allow Mr. Manera to comment.

Mr. Manera: No, I wonder if -- yeah, no, it's just a comment I want to make to what you said prior to this. I know you say, oh, we don't know really how far you go with the house, how you affect the neighbor but, remember, even if I show you a plan and I show you what I do on the plan, the bottom line when you gotta go through the building department, there is a setback to be met, there's some rule, the height and all these things, it's not like, oh, we have it and build it. It's not the way it is. I just want to make sure that because there is place in Ranch Camp they all --

Chair Buchanan: Okay.

Mr. Manera: They all over the boundary but, you know, those place they never applied for any permit whatsoever. This lady, she actually -- this is the second SMA she apply because want to obey by the rules and most of the people up there, the ones -- most of them they do apply but the one illegal, the one they never apply for any permits, that's the sad part and happen everywhere.

Chair Buchanan: And, for me, the monkey is on my back 'cause you know why? When the neighbor complain, they going say, well, who went approve this? The Molokai Planning Commission went approve this by waiving our responsibility, so we cannot even blame the County staff. We cannot blame the Department of Planning. We gotta blame ourselves and so I just like this Commission own it, just own it. You going vote for like that, then own that. When somebody come and complain I went exempt one item, just know that that's -- you own that. It's your responsibility.

Mr. Manera: I no think -- I understand but 200 square-foot of this in Ranch Camp, I no think is going come back to you. I no think so.

Chair Buchanan: All I know is parking is an issue in Ranch Camp and going get worse and worse because everybody going total build out their property line and everybody going be fighting for parking on the street and it's already happening, and that's my concern, so that's it.

Mr. Manera: Yeah, well, some I'm very sure they -- they do get ten cars. I ...(inaudible)...

Chair Buchanan: And then we going have illegal rentals and rooms, but that's one whole other subject. Okay, thank you. Are we almost there? It's almost 4. That's it, yeah? Wait. Wait. Pending Molokai application report. Thank you, Clayton.

2. **Pending Molokai Applications Report generated by the Planning Department with the January 10, 2018 Agenda Packet (Appendix - A)**
3. **Closed Molokai Applications Report generated by the Planning Department with the January 10, 2018 Agenda Packet (Appendix - B)**
4. **Agenda Items for the January 24, 2018 meeting**

Mr. Yoshida: Yeah, thank you, Madam Chair. The Department has circulated its list of pending and closed Molokai applications if there are any questions.

Chair Buchanan: Only on the ones we brought up from before and we never get to 'em. I going send one memo by email.

Mr. Yoshida: Next meeting is scheduled for January 24th, we could do further deliberations on those motions for reconsiderations if you want to do that, and we have a couple of SMA assessments for the waive or not to waive.

Ms. Oana: Chair?

Chair Buchanan: Okay, yes?

Ms. Oana: If I can just remind and need to notify all the Commissioners, if we're going to be hearing the Hamamoto and the other matter at the next hearing, if you've missed any of the meetings, and I know, Commissioner Sprinzel, you have, to please contact Suzie for the meeting materials and all the minutes so you can fully read the entire record to be able to vote on the matter.

Chair Buchanan: Thank you, Counsel. Anything more, Clayton, no? Besides -- I don't - - anybody never have one -- I going write mine to you so I get 'em in writing.

Mr. Yoshida: Yeah, I think if you can make that available.

Chair Buchanan: Okay, so just the reconsiderations on the next one, yeah?

Mr. Yoshida: Yes.

I. NEXT SCHEDULED REGULAR MEETING DATE: JANUARY 24, 2018

J. ADJOURNMENT

Chair Buchanan: Okay, awesome. Alright. Thank you. If that's -- we're adjourned. Thank you, 4:00, yay.

The meeting was adjourned at approximately 3:57 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present

Lori Buchanan - Chairperson
John Sprinzel - Vice-Chairperson
William Buchanan
Lawrence Lasua
John Pele
Laakea Poepoe

Absent(A)/Excused(E):

Carl Adolpho III (E)
Xavier-Kaniala Bicoy (E)

Others:

William Spence, Planning Director
Clayton Yoshida, Planning Program Administrator, Current Division
David Raatz, Administrative Planning Officer
Sybil Lopez, Staff Planner, Molokai
Jennifer Oana, Deputy Corporation Counsel
Suzette L. Esmeralda, Secretary to Boards & Commissions II