

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
DECEMBER 9, 2020

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lori Buchanan at approximately 11:08 a.m., Wednesday, December 9, 2020, via BlueJeans Meeting No. 342402193.

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

Chair Buchanan: You guys -- open my agenda in one separate screen. Aloha, everyone and welcome to the December 9, 2020 meeting of the Molokai Planning Commission. If you need assistance, for the public, this meeting is online via BlueJeans and you can get the information off of the agenda that is posted on the county website. There is a number of ways to join this meeting that is listed on the agenda in the beginning. A reminder to commissioners that we will not be contacting each other by the chat function, but we can contact Suzie. So, we are moving to item B since I opened the meeting by calling the meeting to order, but before I do that, is there any commissioners that have any issues with the agenda today -- meeting for move up or any other reason? And seeing none, oh, sorry, guys, I'm clicking between screens, we're going to move straight into item B, Public Hearing, which action is to be taken after the public hearing, and item number one:

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

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

1. **MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Molokai Planning Commission a Proposed Bill to Amend Title 19.28, Maui County Code, Relating to Airport District. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

Permitted Uses, is proposed to be amended with some minor updates and to include buildings or premises used by federal, state, or county governments for public purposes.

Chair Buchanan: There's a memo report attached as well on the agenda and I believe Jackie's going to do all PowerPoint, so thank you, as we handed over to staff.

Ms. Takakura: Thank you, Chairman Buchanan. Good morning, everyone, Molokai Planning Commission -- December this year. So, I just have a really short PowerPoint presentation that I'm going to share with you, so I'm going to share my screen and you're going to see a blue image, and I think you already -- you do have the PDF of it in your packet, but I'll -- I'm gonna share screen now. Can I just see a thumbs up if you can see that blue screen? Is that okay? Okay, thank you. Like I said, this one is short so, well, and so what we're talking about today is revising the Maui County Code relating to the airport district and that's Chapter 19.28, and we've taken this bill to the Lanai Planning Commission and the Maui Planning Commission so far.

So, this chapter of the zoning code, it has not changed since at least 1960. I tried to find some research on when the last time it was updated and it matches exactly the word-for-word of the 1960 comprehensive zoning code, so it could be from before that, but I'm not sure, but it's very old, and that's why I have some old photos in here to give you an idea of the times of when this zoning code was passed, you know, from 60 years ago, as you can see, times have changed, and the airport has changed too.

The main purpose of the bill is to add this language about buildings or premises used by the federal, state or county governments for public purposes as a permitted use. And this language, it probably sounds familiar because it's allowed in other zoning districts, like in residential, or B-2, or B-3, park and public/quasi-public zoning districts, so it's already common language in the zoning code; we'd like to add it to the airport district too. We already have existing government buildings used for public purposes in Kahului. If you can see this map, on the left side is the Department of Water Supply baseyard, the Naska baseyard that's been there since the 1950s, and that's called the "Naska baseyard" because that used to be referred to Naval Air Station Kahului, Naska. Back in the day, there used to be Naska and Naspu, which is Naval Air Station Puunene, but that's just some trivial information. In the middle is the state baseyards, that's agriculture, transportation, DLNR has some offices there. And then on the right side, you can see the National Guard office there. If you were to go further right, you would be actually at the airport. The reason for this change is because this part in the middle with the state, they're proposing to do some work on their DLNR -- so, actually, only three of the county's five airports are affected, and that is Kahului, Lanai, and Kapalua Airports because those are in the airport zoning district. Kaunakakai and Hana Airports are in interim zoning districts so they're actually not affected by this bill. And actually, in interim, we already have similar language. We have publicly owned buildings, public utility uses, and we have public/quasi-public facilities owned or operated by private or governmental agency, so the interim zoning is already good with this language, which is what the Kaunakakai and Hana Airports are, but this language is not in the airport zoning district.

So, the black and white photos, for your info, are the Lanai terminal from the 1960s and 70s, and then the other color photo is the Kapalua Airport out in West Maui.

Mr. Poepoe: I got a question. Are we referring to Hoolehua Airport?

Mr. Takakura: Yes. I'm sorry. Yes. Yes. Hoolehua. Is it okay to continue? Okay, so Kahului Airport, this area has 106 six parcels that are zoned airport district, 1,320 acres. Lanai airport district is four parcels, 509 acres. And there's three parcels in Kapalua zoned airport district, and that's 50 acres.

So, while we're at it, we wanted to make some other changes to modernize the code because there's just some things in there that are really, really old, there's some outdated terms, like soda fountains, and bootblack stands, photo shops, newsstands, haberdasheries, I had to look that one up, that's a men's clothing and accessories, or the British definition is sewing or buttons or zippers and thread. Bootblack stand is a shoeshine stand. We'd like to take those outdated terms and replace them with standard terms, like general merchandising, general office, personal and business services, eating and drinking establishments, retail, food and beverage, transient accommodations, and, right now, the current code only refers to foreign ports so we want to add domestic, so it's foreign and domestic ports. Over the years, some other agencies have changed, it's no longer United States Weather Bureau, it's National Weather Service now, and the FAA, I guess it used to stand for Federal Aviation Agency, but now it's Federal Aviation Administration, so we'd like to bring those terms to what the names are now. There's also other obsolete use, steam baths and massage that we'd like to take out. And then there's a part in there that refers to state agencies that are no longer in existence, it makes reference to State Airport Zoning Board and that was in existence from 1952 to 1959, and then the Hawaii Aeronautics Commission was from 1947 and abolished in 1961, so we'd like to take those out and just put in Hawaii Department of Transportation Airports Division because they're the agency that controls and manages the 15 airports within the state, and airport zoning is governed by HRS 262, Airport Zoning Act, and Hawaii Administrative Rules 19-12, Airport Zoning, and we did consult with them about use restrictions and so we have proposed new language from them that makes reference to imaginary airspace surface and that's described in the Hawaii Administrative Rules, and I had to look that one up, too. It refers to the surfaces in relation to the airport and the runways, and it's based on the category of the runway and the type of approach available or planned for that runway, so it's going to vary depending on the airport and really that's DOT's jurisdiction so we're going to refer that to them.

So, the Planning Commission has some options recommending approval of the proposed bill to the Maui County Council, which is what we're hoping that you will do, you can make amendments, you can recommend denial, or you can vote to defer action and gather more input.

So, in a nutshell, that's the presentation and that's the changes we're proposing to make. I think we can go to the next steps, and I can answer any questions or go back to any screens if you have questions about any of them, but I'm going to stop sharing my screen now. Thank you.

Chair Buchanan: Thank you, Jacky. Commissioners, do you want us to take public testimony now or do you want to ask Jacky questions? What is your -- what's -- what -- what do you prefer?

Mr. Sprinzel: Now would be good.

Chair Buchanan: Take -- take public testimony now?

Mr. Sprinzel: Yup.

Chair Buchanan: Okay. Vice-Chair suggests that. I'm amenable to that. So, we will come back and ask staff questions after. But at this point in time, if there's anyone in the public wishing to testify on this agenda item, please state your name for the record.

Ms. Esmeralda: This is Suzie. I have no one signed up.

Chair Buchanan: Okay, good.

Ms. Lopez: This is Sybil Lopez.

Chair Buchanan: Sybil, you too, yeah. You don't have anyone in your office?

Ms. Lopez: I don't have anybody.

Chair Buchanan: Okay. Very good. Then we can close public testimony on this agenda item, and then, Commissioners, you guys have questions for Jacky on the proposed ordinance changes?

Mr. Moore: Yes. This is Commissioner Moore. I have a question.

Chair Buchanan: Go ahead, Bill.

Mr. Moore: Is any of this land homestead land?

Ms. Takakura: If I may, Chair?

Chair Buchanan: Yeah, go ahead, Jacky. Thank you.

Ms. Takakura: None that I know of. And I would like to apologize for my error about referring to Kaunakakai 'cause I -- I -- yeah, your airport's not in Kaunakakai, but we don't have any airport zoning district on the island of Molokai or at least in Maui County.

Chair Buchanan: Okay. Commissioners, any --

Mr. Moore: The reason I ask --

Chair Buchanan: Go ahead, Bill.

Mr. Moore: The reason I ask the question is because from Puunene up to Paukukalo, that is homestead land and it appears to me that the airport is on that land. I know some years ago, they had protested that airport and the Native Hawaiians claimed that that was homestead land but I don't know if it's still that situation.

Chair Buchanan: Thank you, Bill. Jacky, you can respond?

Ms. Takakura: Yes, thank you, Chair. I can show the screen again and we can take a closer look if that'll be all right?

Chair Buchanan: Sure.

Ms. Takakura: So, I'm looking at the Kahului Airport map, and the gray is the airport district, so it seems like it only is in Kahului, it goes to kind of where Haleakala Highway and Hana Highway meet and then towards the harbor. It doesn't really get into the residential areas. I think Paukukalo is further down; it would be further left that side. Hopefully, there's none of those issues in this area. I'm going to stop sharing screen now if that's okay? Oh, okay.

Chair Buchanan: Hang on. Hang on. You can leave the screen, Jacky. Thank you. Commissioner Mowat.

Ms. Mowat: I used to live in Paukukalo, and Paukukalo is on the other side of the harbor, it's on completely in a whole different area and -- and I don't believe Puunene is part of the district either. This is all in Naska. The area is in Naska. So, it's -- it doesn't comprise anywhere near Paukukalo or Puunene.

Chair Buchanan: Okay, thank you, Commissioner Bridget.

Mr. Moore: Thank you.

Chair Buchanan: Okay, Jackie, this is Chair Buchanan. Since you have the map up and everything is colored gray, are we to assume that all of the gray area, including the

shoreline that is colored gray on this map, would be under, with these changes, the Department of Transportation management?

Ms. Takakura: Thank you, Chair. So, the Department of Transportation, Airports Division, they would be over -- in terms of the use restrictions, they would be the ones making that decision because it's going to vary by airport because they talk about that imaginary airspace surface. So, say some -- if -- if something comes in, like a building permit or something that comes in, it would probably need to go to DOT for review that it's not going beyond what they are regulating, if that answers your question.

Chair Buchanan: Partly because I -- I wanted to go back and discuss that imaginary airspace again, but I would think -- I'm trying to figure out -- so any triggers within the shoreline would still be triggered for Chapter 205A, so that would be another layer that the Department of Transportation would have to deal with if they decide that they, one of the state agencies or anybody else in the new ordinance listed, would want to develop something in the shoreline. Is that correct?

Ms. Takakura: Thank you, Chair. If it's, excuse me, in the SMA, special management area, then, yes, it would still have to go through the regular SMA process. Yes.

Chair Buchanan: Okay. So, now that we -- can we go back to imaginary airspace? I missed that discussion. I wanted to understand more about it.

Ms. Takakura: Yes. And that is established by the Hawaii State Department of Transportation, and it's -- it depends on the length of the runway, the type of approach available or planned for that runway, and it includes horizontal, conical, primary approach, and transitional surfaces, and this is all in the Hawaii Administrative Rules, 19-12, from the State. They make -- they're the ones who make that decision.

Chair Buchanan: Okay, thank you. Only because I'm kind of cross-referencing airspace along with the cultural protocol of reviewing the eight realms specific to a culture review and it does include what I would see being defined here as imaginary airspace because one of the realms is the air as -- and under the ground. So, I think I can quantify that as also the state recognizing that there is validity in airspace as well as underneath the ground with their minerals and rules, so I just wanted to get that on the record. So -- so, Jacky, I have -- I have a concern. My concern is it's easy to say that Molokai is zoned interim. For years, there's been a question about ceded lands that the Hoolehua Airport sits on and that it will be an ongoing issue, so just because we don't have a airport designation now, doesn't mean we would have one in the future, and if we do cross over from interim zoning in some type of comprehensive move, which looks like that's the long-range plan for Molokai is to get past interim zoning and to have actual zoning, my concern is all of the changes we're making today to this ordinance would then apply to the Hoolehua Airport. Would you say that that is -- that scenario can occur?

Ms. Takakura: Yes, Chair. Yes.

Chair Buchanan: Okay. With that -- with that, I do have some concerns about the proposed changes, and I'm going to treat it as it's going to be applied to the Hoolehua Airport at some point in the future. So, my concerns are -- is it possible for you, Jacky, to share a screen that has the actual ordinance that was hyperlinked in the agenda, in today's agenda?

Ms. Takakura: Yes.

Chair Buchanan: Let's -- let's take a look. Thank you, Jacky. So, the underline is added language, yeah?

Ms. Takakura: Yes, Chair, that is correct. And then the brackets are to remove.

Chair Buchanan: Okay. So, I don't have a real big concern with 19.28.010, permitted uses changes, or proposed changes. For item C, foreign and domestic, so you adding "and domestic," and then you changing the ports and -- and I wondered why you did not list the United States Department of Ag since they do the quarantine, but I'm assuming they would fall under the first sentence where it says, "Facilities for the processing of passengers arriving from foreign and domestic ports by federal agencies," so that's a blanket coverage, right? I see you shaking your --

Ms. Takakura: Yes, Chair. That is correct.

Chair Buchanan: Okay.

Ms. Takakura: Yes.

Chair Buchanan: Because we all know that we have USDA at the airport doing foreign ag inspection for departures, but we go on to actually single out meteorological facilities for the United States Weather Bureau, and then communication and landing aid facilities, the FAA. Why is that?

Ms. Takakura: I think it's because the weather is not directly related to passengers and then maybe the communication is something kind of on the side, but these were things that were included from the original zoning code from, you know, 60 or something years ago.

Chair Buchanan: Okay. Thank you. So, then we move on to item D, and there's no changes to item D, is that correct?

Ms. Takakura: Thank you, Chair. I -- we're proposing to remove steam bath and massage.

Chair Buchanan: Oh, I no see that stricken on this -- on -- on the ordinance. Oh, right there, the bracketed. I see it. Other than animal husbandry, poultry and fowl hatcheries, and then steam bath, massage. Okay. And the reason you striking animal husbandry, poultry and fowl hatcheries is why, besides no make sense?

Ms. Takakura: Thank you, Chair. We're not proposing to remove those. We're only proposing to remove the steam bath and massage.

Chair Buchanan: Oh, okay. The reason I'm asking that is I'm trying to see how the Kauai airport ended up with such a mess having to deal with threatened and endangered protected species of nene goose that resulted in the taxpayers having to expend millions of dollars on trying to remove the birds that were posing a threat to the airport only for them to fly back to the airport, and then it seems that there is an ongoing millions of dollars mitigation now, so when I saw that, I -- it triggered -- because the Department of Land and Natural Resources kinda triggered this oversight and changing in this ordinance by proposing to expand their facilities at the airport, and since they were the same organization and state agency that created this huge issue for the Kauai airport, I'm wondering how we going avoid that in Maui. Oh, you on mute, Jacky.

Ms. Takakura: Thank you, Chair. I don't have an answer for you on that one. I think that's a little bit outside my area of what I know and what I do.

Chair Buchanan: Okay.

Ms. Takakura: Sorry.

Chair Buchanan: Only I would ask that kind question, Jacky. But, yeah, I mean, when we talking millions and millions and millions of dollars, we not just talking a million, we talking ten million dollars of taxpayers' monies being used to mitigate agency issues by our airports. I mean, that's why we employ APHIS to shoot guns at the airport to scare birds away so they don't fly into aircraft and cause a safety issue, so -- so that's why I'm questioning this, but I was also wondering, in this document, what happened to item F or -- or do we just need to re-alphabet because you go from item D to E to G?

Ms. Takakura: You are correct, Chair. I'm sorry about that. I think I made a mistake with my lettering.

Chair Buchanan: Okay, no problem. I was thinking if you was hiding something. Nah, I just -- I'm not. I'm playing. Okay, so in item E, there's a specific condition, it says, "Recreational facilities provided that permission for such recreational facilities shall be

first obtained from the planning commission.” So, there's not any proposed amendments to that, but I like it. And so, what I wanted to do was to see if we could, for Molokai, expand on that item or to propose a new item which would become item G, you can either expand on E or create a new G, and that would be specific to Molokai. So, it would be item E would actually list everything in the ordinance and they would be an allowed use provided that permission for such items would first be obtained from the Molokai Planning Commission; that's my suggestion, if this is passed, because I'm assuming we will become an airport district at some point in time after we comprehensively rezone all our interim stuff, and I'd like to take care of it now. I don't want to come back and fight bad legislature, bad rulemaking, not bad, but because item G you adding buildings or premises used by the federal, state or county governments for public purpose, that's really generic, almost like the other generic, like all federal agencies, and if we look at the Kahului map that you showed us earlier, you can see that the National Guard has a lot of acreage in your airport district, you know, the Department of Water Supply has huge acreage in your airport district, and so, for Molokai, I'm trying to provide another layer of oversight, especially since we have all of that ceded land issues and DHHL land issues out there in space. I don't think -- I don't want the chair or the head of the Department of Transportation being able to exempt or okay projects that only get reviewed by the DOT, and I going tell my commissioners why. We have a problem right now in Kalaupapa, on the island of Molokai where the Department of Transportation has proposed several changes to the airport in Kalaupapa, but there is no oversight for the shoreline, which is adjacent to the airport, and so when questioned, the DOT is questioned about how they're going to enact Chapter 205A, their only response is to get feedback from the office -- State Office of Planning, so they're bypassing Maui County, they're bypassing the Molokai Planning Commission, and they're saying if we get one issue with the shoreline, we're going to get feedback from the State Office of Planning, and when you call the State Office of Planning, they don't know what you're talking about. So, if all of the proposed changes can go back to oversight of the Molokai Planning Commission, that is what I'm proposing if Maui wants to go ahead and just give away authority to everything to the state for a thousand acres, which is right next to threatened and endangered species in the wetland. Commissioners, I sorry. You guys get any comments on that? And I cannot see everybody on my thing, so if anybody get, unmute yourself and then -- oh, go ahead, Jacky.

Ms. Takakura: Thank you, Chair. I -- may I stop sharing or should I -- can see everyone?

Chair Buchanan: No, let's just go right straight to the next section, Section 3, just so everybody see that no structure may be constructed, erected, altered, or maintained, this is on item B, and then you guys are all taking out the “shall be” on item A, and then no structure may be constructed, erected, altered, maintained, and no tree may be maintained to a height which would penetrate the imaginary airspace surface established by DOT. So, it would be great to actually see what that imaginary airspace

looks like for Molokai because the Federal Aviation Administration, we going see in our upcoming next projects, also talks about airspace and the effects in airspace. Okay, that's -- you can scroll down. I'm okay with that. And that's it. Thank you, Jacky. You can stop sharing, I guess, and then we can go back. Yay, I can see everybody. Okay. Sorry, Commissioners. I -- I am done with my questions for staff. Anybody, Commissioners, get any questions for staff? Okay, seeing ...(inaudible)... Commissioner Bridget.

Ms. Mowat: I just wanted to say mahalo for all the information, Lori, because a lot of things I overlooked, I don't know a lot of stuff, but I appreciate that, and I appreciate the report, and I especially liked all the old pictures, and that was it.

Chair Buchanan: Yeah, Jacky ...(inaudible)... pictures. Okay, Commissioners, if we're not seeing no questions for staff, then staff can probably go briefly over what -- what staff is asking us to do again. Those last four bullets.

Ms. Takakura: Thank you, Chair. So, you have the option of either recommending approval of a proposed bill, or if you'd like, you can make amendments to the bill, or you could deny, or you could defer action. Chair, if I may?

Chair Buchanan: Okay.

Ms. Takakura: We took this bill to Lanai Planning Commission, and I'm just gonna put this out there, but they recommended approval of the airport district bill but want the new proposed use of government facilities to be subject to their review, just a review of any non-airport government uses. I mean, maybe that's something you folks might be interested in too. For Lanai and Molokai, non-airport government uses be subject to commission review. Just wanted to make that -- put that out there because that was something discussed by the Lanai Planning Commission. Thank you, Chair.

Chair Buchanan: Thank you, Jacky. Yeah, that's awesome, but I no think they had one flock of threatened and endangered species blocking their airport, although they've had some very tragic air incidences that reported in -- resulted in many fatalities and so, you know, that's really sad, and I'm not saying that was blamed on anything, but it does -- it does, you know, it's our responsibility even through ordinance and stuff to make sure that sometimes we add to the safety, so while that is minimal, I guess I was proposing more oversight and practically adding, specifically for Molokai, all oversight over every A, B, C, D, E, and then adding, you know, like I said, either in item E where it says recreational facilities, you can add it in there, Jacky, and for the island of Molokai, you know, A, B, C, D, E will be subject also to oversight by the Planning Commission, which is what Chair is proposing assuming that we going be one district, airport district one day.

Ms. Takakura: Yeah.

Chair Buchanan: Hi, Bridget?

Ms. Mowat: Hi. I -- I agree with that, Lori, and I'd like to see that in there. And I just have a question for Jacky. Jacky, what is that, you know, on the map, the existing government buildings, what is the state buildings there? What -- what is it being used for? Is it mostly all like -- I don't know what it is, it just says, "State," in the middle of the Department of Water Supply and the -- the National Guard? Do you know what that's used for?

Ms. Takakura: If I may, Chair. Thank you.

Chair Buchanan: Sure. So, I -- I pulled up the screen again, and so when you are -- well, this is the old road going to the airport, you know, go past Costco in the old way, the Department of Water Supply is on the right, and then if you were to make a right turn, the left is the state and right in the front, which I think you can see the PV panels, that's like the main DOT offices, but then I know in there they also have Department of Ag, and I'm not exactly sure which one is DLNR, but they're in there also, but I know it's those three at least of their agencies there, they have their ...(inaudible)...

Ms. Mowat: Three. The three buildings is -- the three buildings is -- is state because, according to the arrows, only two of the buildings is state, but what is that?

Ms. Takakura: It's all of these -- these, I'm trying to move my mouse, I don't know if you can see it.

Ms. Mowat: I see them. I see the mouse.

Ms. Takakura: ...(inaudible)... these big ones here and then this reddish colored one under the word "State," it might be DOT, and then this one with the PV is like their DOT office and they have a conference room and, I've never been inside there, but I know that they have a lot of different offices

Ms. Mowat: Right. Okay, 'cause this map, there's, you know, if you're just looking at where the arrows are, you just assume it's the two buildings but it's that whole gray buildings, the rooftops.

Ms. Takakura: And this blue outline is the parcel, so you can see it's being shared by the different, as I mentioned, they've been they've all been there really, really long.

Ms. Mowat: I never went in that road, I guess. Okay, thank you very much.

Ms. Takakura: Thank you.

Mr. Poepoe: Unmute.

Chair Buchanan: Jacky, the wetlands and the protected wetlands are also part of the airport district?

Ms. Takakura: Thank you, Chair. Yes, Kealia would be part of there. Yes.

Chair Buchanan: Right. Okay. Funny, yeah, that the airport district would -- would have oversight of a protected wetland where threatened and endangered species and wetlands are maintained for -- for environmental purposes, that a department that does not have specialty in environmental concerns would be -- have oversight. Okay. Thank you. Any questions? Commissioner Poepoe, you have a question? Sorry.

Mr. Poepoe: I was going agree with including oversight for the airport, which would -- I think it would be similar to how the harbor has -- or the harbor is state land and I know there's several buildings that just got put up that we didn't see. I mean, while we were on the -- the Commission, but just having oversight is better than the -- I don't know who making decisions and -- and building more three-story, four-story buildings on their property. I mean, on their land.

Chair Buchanan: I agree, Commissioner Poepoe. Yeah. We never have any say in why we using port-a-potties when the state get really nice bathrooms or who killed the only most beautiful tree on the entire wharf. Yeah, we never have say. Okay. Thank you. Okay, Commissioners, maybe -- maybe Jacky can or maybe Sybil and, or Jordan is here too, if you guys heard the discussion, if you guys can help us formulate some language that could be proposed or made a motion on, and if the motion fails, then -- then we can have the people who vote against the motion make a motion, so we would like to include, maybe Jacky, for consideration under item E or a new category where it says, for Molokai, all aspects of the ordinance A through D, or whatever the alphabet turns out to be, would come under the same language as item E, right under the purview of the Molokai Planning Commission. Okay, go ahead, Jacky.

Ms. Takakura: Okay, so if I may?

Chair Buchanan: Yeah.

Ms. Takakura: My understanding is you're proposing that for the -- for Molokai, all permitted uses, and I'm gonna refer to permitted uses because that's the description of 19.28.010, all permitted uses, that permission for all permitted uses shall first be obtained from the Molokai Planning Commission. Is that correct?

Chair Buchanan: Yeah. Sounds really simple and to the point. And then if Planning or anybody else, council has an issue with that, they can take it up with us, but with that, I no see why all of these amendments would not go through. Okay, Commissioners, if you guys don't have any more questions, Vice-Chair John, you have any question before we call for one motion?

Mr. Poepoe: I got demoted?

Chair Buchanan: Oh no, I sorry. Who's the vice-chair, Laa? Okay, I sorry. Sorry, sorry. Well, yeah, well, okay, not vice-chair, but anybody else, John, the two Johns, Bill, we can discuss after we make a motion. Sorry, Laa, you never get demoted. Aunty's brain got demoted. Okay.

Ms. Espaniola: I got a question.

Chair Buchanan: Okay, go ahead, Commissioner Espaniola.

Ms. Espaniola: Chair. So, I was wondering does the DHHL have any say on any rules that we make? I'm just wondering because it's on ceded lands and how -- how it apply if they will make any resistance to any changes. I mean, how does that apply? Jacky maybe.

Ms. Takakura: If I may, Chair Buchanan?

Chair Buchanan: Go ahead, Jacky. So, generally speaking, when we propose changes, we do talk with the agency so, like in this case, we reached out to Department of Water Supply and State DOT. When the time comes, say we propose a change to Hoolehua, we would certainly reach out to all of the affected different organizations and agencies to seek their comments so that we can work together on whatever the goal is. So, for this, we're not reaching out to Hawaiian Home Lands because none of these changes now affect anything, but if the time comes when we want to change the zoning for the Hoolehua Airport, we'd certainly do that at that time. That answers your question?

Ms. Espaniola: Yes. So, would you require public input when you do that?

Ms. Takakura: Thank you for the question. That's a big change so we would definitely go through a lengthy process to get public input. Yes.

Ms. Espaniola: Okay. Thank you.

Ms. Mowat: Lori, you muted.

Chair Buchanan: I sorry. I try to -- I don't want to have back noise, not that I have any, but, Commissioners, if you guys don't have any more questions, then I'll open the floor for a motion on the proposed changes to the ordinance.

Ms. Mowat: I would like to make a motion to approve with changes that was suggested by the Commission or agreed upon by the Commission, which would include all on Item E just for future, you know, for Molokai. So, I don't know, Lori, you -- you did make suggestions for Sybil or -- to add in what we -- what we would like to see.

Chair Buchanan: And, Commissioner -- Commissioner Bridget, does the -- stated by Planner Jacky, for Molokai, under the permitted uses, would shall first be obtained from the Molokai Planning Commission?

Ms. Mowat: Yes. Yes.

Chair Buchanan: Okay. So, that is your motion.

Mr. Sprinzel: Second.

Chair Buchanan: Okay, is there any second to that motion for a discussion?

Mr. Sprinzel: Second

Chair Buchanan: Thank you, John. Second. So, we now in discussion, discussion on the motion to approve the recommendations by staff with the conditions added for specific to Molokai, for permitted uses, that it shall first be obtained from the Molokai Planning Commission. Okay, I see no discussion. I'll take a roll call vote.

Chair Buchanan: Commissioner Bridget? You're on mute. Everybody, check if you muted. Okay, she shaka. Shaka would be an affirmative vote. Commissioner Poepoe?

Mr. Poepoe: Aye.

Chair Buchanan: Okay, another shaka affirmative. Commissioner John Sprinzel?

Mr. Sprinzel: Aye.

Chair Buchanan: Oh boy, I like my commissioners. They all shakaing. Commissioner William Moore.

Mr. Moore: Aye.

Chair Buchanan: Commissioner John Pele?

Mr. Pele: Aye.

Chair Buchanan: Commissioner Espaniola? Oh, shaka. And Chair votes shaka in the affirmative. So, motion carried unanimous.

It has been moved by Commissioner Bridget Mowat, seconded by Commissioner John Sprinzel, then unanimously

VOTED: to approve the recommendations by staff with the condition added specific to Molokai, for permitted uses, that approval shall first be obtained from the Molokai Planning Commission.

(Assenting - L. Buchanan; L. Espaniola; W. Moore; B. Mowat; J. Pele; L. Poepoe; J. Sprinzel)

(Absent - J. Bicoy; J. Perez, III)

Chair Buchanan: Thank you very much and --

Ms. Takakura: Thank you.

Chair Buchanan: Thank you. Oh, I seen something in -- oh, hang on.

Ms. Chen: Chair, that was from me. No worries. It -- yeah.

Chair Buchanan: Okay. I sorry. I just saw your chat now.

Ms. Chen: No worry. Your suggestion was better so --

Chair Buchanan: Okay. Thank you. Alright, let me move on, if nobody needs a break, we're going to move from item B.1. to item C, Contested Cases:

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

C. CONTESTED CASES

Pursuant to Chapter 91-10, Hawaii Revised Statutes, and Subchapter 4 of the Molokai Planning Commission Rules of Practice and Procedure, any individual wishing to testify on these items is required to do so under oath, and may be asked questions by the applicant and members of the Commission. The applicant may provide comments in response to each testifier and should notify the Commission if it wishes to do so.

1. SPECIAL MANAGEMENT AREA (SMA) EXEMPTION

- a. **WEST MOLOKAI RESORT CONDO AOA requesting a Special Management Area (SMA) Exemption to install a roof mounted photovoltaic system on three existing buildings and no ground disturbance activity located at 255 Kepuhi Place, Kaluako'i Ahapua'a Maunaloa, Molokai, TMK (2) 5-1-003:006 (SMX 2020/0309) (Valuation: \$286,530) (S. Lopez) (The Commission voted not to waive its review at its October 28, 2020 meeting)**

The Commission may vote to issue an exemption, not issue the exemption, defer, or take some other action.

Chair Buchanan: And, Staff, you can chime in.

Ms. Lopez: Thank you, Chair. This is Sybil Lopez, Staff Planner on the project that is before today. Yes, just to confirm that the Planning Commission did -- did review this at their October 28th meeting and it was waived -- not waived by the Commission themselves, and I know in the last meeting, Deputy Director requested to the Chair and the Commission if this item could be back on the December 9th calendar, and so here we are today. I do have the -- the team on this call. Let me verify that I do have Mr. Zephyr Warren, from Rising Sun Solar, and I also have Ms. Carrie Thomas representing the West Molokai AOA. He did compile a PowerPoint presentation that we included in the report, and you can see the Department's report attached to the agenda as a memo report, and I would like to turn the time over to Mr. Warren, and he can go over his PowerPoint presentation with the Commission. Thank you

Chair Buchanan: Okay, thank you. Go ahead, Warren.

Mr. Warren: Hi, everybody. Thanks for having me again. I will share my screen right now. Can you -- can you confirm that you see my screen, it says, "Rising Sun Solar Response?" Yes? Thank you. Okay, I'll run through this. Hopefully, you've had a chance to maybe check it out and open some of the links that are in there but, essentially, what I did was I took the questions that we got from the last meeting, put them into slides with my responses to them in the slides. So, here we go.

Rising Sun Solar Response to Molokai Planning Commission's RFI on West Molokai Resort PV System. So, the first concern was asses and, if necessary, provide mitigation measures for glint glare impacts to neighboring property owners, aircraft, threatened or endangered species; this assessment will need to account for the movement in seasonal position. Okay, so what I did here was, first of all, I did a glint glare report on the existing plan and -- and it came back with -- there is, basically, different levels of -- of glare and all the -- all the reports came back with -- with green glare, which is the -- the definition

is indicates low potential for low intensity glare. But even though it did come back with the least potential for glare - I'm just going to slide up here for a second - this is a map, and, hopefully, you all can see this, and if you look at the map, I drew a couple of arrows, which are the two neighboring condo sections that would be looking the most towards the area of installation of the solar panels, and this is what I -- the green circle, it's, basically, the stars on each building that would have solar panels on them. The green circle is -- is the only building that was in the line of sight of any of these buildings, and so even though the report came back with the least amount of glare potential, I had the option of moving those panels to the red circled building without any -- any impact to the production of the system, the association was okay with it, and it, basically, puts every building that has solar panels on them completely out of view of these particular buildings. You can see the only other building that looks down on this area. The arrow points very much in a different direction. I've got these two pictures that follow this slide, this view is of that initial green circled building, which was the one that I moved to a different building because it was the only one that was really in the line of sight and even -- even in that line of sight, you see that there's trees that -- that block the view. The other view that I showed you is this one from the other building and you can see there's a lot of tree blockage between the condominium and -- neighboring condominium and the subject buildings with the PV. So, I made that change in the location of the arrays, and did a new study, and that report was included in what was submitted to you. Happy to go over that. It is -- you know, we can possibly go over that after this presentation, if you'd like, but essentially the result was no -- no impact to aircraft and only low potential for low intensity glare in any situation.

So, the next issue was with endangered species and I -- I looked around and tried to find studies specific to birds and endangered species, and the only thing -- official studies that I could find were primarily pertaining to large utility scale, ground mounted solar systems, which were basically taking the habitat for endangered species away from them by building these structures in their habitat, and that was the only real impact that I could find. These -- these systems are, you know, roof-mounted solar panels on existing buildings already in place, so no habitat impact that I see there, and then I found a couple of website reports that, basically, back up the fact that they have not seen any kind of negative impact to birds, specifically from solar panels that are mounted on rooftops.

So, I -- I also included in the submission SunPower Corporation has -- is the PV panel manufacturer, and they have quite extensive documentation on how their panels comply with FAA regulations for reflectiveness. Lastly, on this -- this one topic, technically, the FAA requires us to get their approval for any -- any PV panels installed within a five-mile radius of an airport, and this is not within five miles, but you can also see in the glint glare report, it is considered approved for airplanes. So, again, I'm happy to dive deeper into any of those upon request, but I'll just move on to the next slides unless you'd like to stop me.

Again, we kind of went over this slide. This is the locations of how I'm going to move the one array. These are the pictures. So, the next question was provide decommissioning plan for panels and end of their useful life. I know somebody had mentioned on the last meeting the -- the concept of cradle-to-cradle and it is called out in the spec sheets for the SunPower panels that this product is cradle-to-cradle certified and PV cycle compliant. As far as the decommissioning plan, I could tell you what the plan would be now, but, obviously, this is, you know, 20 years from now or 25 years, the -- the warranty on this system is 25 years, rising -- SunPower, the manufacturer, has white paper that - - that verifies that the actual useful life of their panels is up to 40 years. So, that being said, today's plan would be to ship the system back to Maui and the racking would go to Hammerhead Metal Recycling, the inverters would go to the e-cycling 'cause you can, you know, it's electronics, basically, there's copper that can be taken out of there and whatnot, and then the PV panels, those would be shipped back to a qualified PV panel recycler, and, right now, primarily, those are on the Mainland. So that would be the plan now. Twenty, twenty-five years from now, maybe Hawaii has, you know, gotten a little bit better at having on-island recycling programs, particularly for the PV panels, but there isn't one that I'm aware of in place right now.

Whether or not the installing contractor will be licensed and bonded. So, Rising Sun Solar LLC is fully licensed and insured, a fully licensed and insured electrical contractor. We've been in business since 2003. One of the first photovoltaic solar companies in Hawaii doing business, particularly in Maui County. As far as the bonded part goes, bonding for a project is case-by-case, and it's usually driven by the customer or whoever we are going into contract with. So, if -- if a customer requires that we are bonded for a project, then we would get bonded for that particular project. It's not a across the board cover all project concept. So, in this particular project, there was no bonding requirement so it's -- it's all under our insurance, which is substantial.

Assurance from the association that there is the financial ability to make adjustments to the system if necessary due to issues created by the project. So, this is an interesting one that -- that I just -- I guess I need to explain the way this contract works. So, as you guys probably know, solar systems, one of the big benefits is you can get tax credits for installing solar systems. Condominiums are, basically, tax exempt, AOAOs, they cannot take advantage of tax credits, so in order to make installing solar systems a financially viable option for AOAOs, condominiums, is you do a power purchase agreement and, essentially, what that means is a third party, who can take advantage of the tax credits, buys the system and installs it on a building, to subject buildings. So, in that, in a situation of a power purchase agreement, it's actually, you know, it's no money out of pocket to the AOAO for the installation and the company who owns the system and has the power purchase agreement contract with the AOAO is the one responsible for any cost associated with the system including maintenance and upkeep to provide, in that power purchase agreement, there's a production guarantee and if that, you know, that's

kind of like the -- the safety mechanism for the AOA is if the system doesn't meet its production guarantee, because there's something wrong with it, we're contractually obligated to fix the system to whatever extent is needed in order to meet the production guarantee. So, in this case, Rising Sun Solar LLC does, on occasion, finance power purchase agreements through their -- an arm of their company called Rising Sun Solar Finance, and that's what happening with this contract. Rising Sun Solar Finance is -- has signed a power purchase agreement with the AOA and so we, Rising Sun Solar, LLC, installs the system; Rising Sun Solar Finance is responsible for it contractually for the life of the contract. Hopefully that was clear. If not, feel free to ask questions. I actually can only see my Power Point at the moment. Oh no, I can -- I can see in the upper corner if anybody has questions.

Alright, the next one, whether or not carcinogens are included in the panel materials. I found no evidence of that in the research I did, and there's a couple of website links to documentation to back that up; separate from that, the data sheet for the solar panels themselves indicate their compliances, which is pretty extensive, so that list of compliances is on this page and then below that are links to websites that explain what they are; all of which basically speak to the fact that they are safe from a chemical standpoint.

This one is kind of restating that question. If there are any hazardous chemicals contained in the panels or associated equipment and whether or not the maintenance plan is needed, and if yes, an outline of the maintenance plan. So, again, this is a little bit more information on the nontoxic nature -- nature of the panels, and then I just sort of restated what I said earlier, which is Rising Sun Solar Finance is contractually obligated to provide a certain level of performance of this solar system and -- and, therefore, that's where our maintenance plan comes in. As long as it's producing what it's supposed produce contractually, no -- nothing is needed, but if it does show that it's not working properly, we are contractually obligated to make whatever repairs are necessary to bring its performance up to where it should be.

Let's see. This is the last question. Information on the largest PV project on Molokai and this project's relationship to it. So, prior to this proposed project, Molokai Shores was the largest, and that was 118 kw, and our -- our proposed system is 148 kw, so larger, but not a great deal larger. I'm just going to switch over to another image. This is a screenshot of Molokai Shores, the system that was allowed to be installed there. You can see the oceans right there. You guys are probably all very aware of Molokai Shores and where it's located.

So, let's see, I did want to just share this real quickly with you. This is the plan set that, basically -- plan I just wanted to show you. This -- these are the buildings that would have PV on them and what the layouts look like on those buildings, and I've got other supporting information if needed, but, for now, that is my presentation.

Chair Buchanan: Thank you, Zephyr, with the coolest name ever.

Mr. Warren: And I promise I didn't change chairs to have a Christmas tree behind me just 'cause ...(inaudible)...

Chair Buchanan: You get points for that too. Thank you very much. Okay. I -- Commissioners, shall we take public testimony or, okay, questions --

Mr. Sprinzel: Public.

Chair Buchanan: Commissioner Sprinzel.

Mr. Sprinzel: Public.

Chair Buchanan: Okay.

Mr. Sprinzel: Happy with public. By the way, I'm happy with all the answers and I am now for the project. Thank you.

Chair Buchanan: I -- can -- where is our Corp Counsel? Stephanie, we can open up public testimony again? I -- I -- can we open public testimony?

Ms. Chen: Thank you, Chair. I think that is your decision. You already took public testimony on this item at the last meeting so, generally speaking, I think it would be closed at this point but I think it's at your discretion --

Chair Buchanan: Okay.

Ms. Chen: If you'd want to open and close it again.

Chair Buchanan: Okay. Thank you. Thank you, Stephanie. I'm going to open public testimony because of new information that was provided by the applicant. So, if there's anyone in the public wishing to testify on this item, please, unmute yourself, state your name for the record, and then if Suzie and Sybil have anyone testifying on this at this point.

Ms. Lopez: Chair, this is Sybil Lopez. I have no testimony, no one here to testify. Thank you.

Chair Buchanan: Thank you.

Ms. Esmeralda: Hi, this is Suzie. I don't have anyone signed up.

Chair Buchanan: Okay. Awesome. Okay, so, obviously, I cannot see everybody on the -- the Zoom, so if you're a member of the public, you going have to unmute yourself or, by phone, and then express your willingness to testify, and if not, I'm going to close public testimony and then move on to questions from commissioners to staff, Zephyr, or the AOA representative, Carrie. You guys have any questions? Okay, so the Chair has a question. Zephyr, in your presentation. You said that you moved the, what you presented the last time, the panels. Did you make that decision? You made that decision after our meeting in October, is that correct?

Mr. Warren: Yes, that's correct and -- and it wasn't based on having to, I just looked at the location of it and -- and determined that that was really the only one that could possibly have any view from any condominium so I decided after that meeting. That is correct.

Chair Buchanan: Okay. And then the other panels, you assume, would not have an impact to the -- the neighboring resort because of the trees. Is that correct?

Mr. Warren: That's correct. Trees and there's some buildings that are in front of them that also block the view of them.

Chair Buchanan: Okay. So, of course, anyone can cut one tree down, and I think that's what led me to ask about responsibility, and thank you for explaining about a power purchase agreement, explaining -- because I'm looking at liability because there's layers of, I guess, responsibility asking us to exempt the project that may or may not have impacts down the road. I -- I'm glad that you decided to amend your project based on concerns that was brought up in the October meeting, so I appreciate that, Zephyr, and I did read the glare report, and I know in the report, and I'm sorry I had to review that on -- online because I didn't have a paper report, but it was lengthy, but you included two letters for, I believe, an example that was written from the FAA to projects that you had done, one in Kailua, and then one I think was in Oakland or California, where you actually had letters from the FAA that said that they determined no impact for the solar installation. Is that correct?

Mr. Warren: Can I just clarify a couple of things in what you said? First off, just in speaking to the trees, so the -- the picture in particular that shows a lot of the trees blocking views of the buildings, that section has condos that actually look to the left of the condominium complex so even if the trees weren't there, those condos aren't looking directly at the buildings that have panels on them, and so -- so that was kind of why I decided to move the one building because that would, basically, put every building out of direct site even -- even with the trees there, it's not in direct site, it might be off to the right, you know. But, anyway, that -- the studies you are referring to for the FAA approval, that's in the -- the SunPower Corporation documentation. So, I went back to

the panel manufacturer and asked do you have any documentation that -- to verify? So those aren't Rising Sun Solar Projects that they're referencing, they're projects that the SunPower Corporation were involved in. But I, myself, having been involved in two in particular, Parker Ranch on Big Island, I had to get FAA approval for that and they approved it, this is the same kind of PV module, and then on Kauai, Jack Harter Helicopters, right at the airport, also got approved by FAA for the same kind of PV panels, and the reason why we use these PV panels is not just because they're the best product and the longest lasting product, but they are -- they do have AR glass, which is anti-reflective glass and that's what makes them suitable for these environments.

Mr. Hart: Chair, this is Jordan Hart.

Chair Buchanan: Okay. Go ahead.

Mr. Hart: I wanted to add -- is it all right to add a few things to the conversation at this time?

Chair Buchanan: Sure.

Mr. Hart: Okay. Thank you. So, you know, on the subject of views, I think that, you know, it's really fortunate that the applicant has been so responsive and cooperative, and it's really appreciated. I do want to point out just a few things for the Commission's, you know, thoughts about future discussions on the subject. You know, the Molokai Planning Commission rules talk about protecting views, but they are public views, and so just keep in mind that -- that, you know, these issues are visible from the roadway so that's -- that is relevant, but whether or not they're specifically what -- what a person sees out their specific window is not necessarily what the Planning Commission should be looking out for. Obviously, it was a contentious issue and if affect on the community is a consideration, but I just wanna, you know, put it out there that -- that public views are the issue of concern for the Planning Commission rather than private views. Another thing I did want to call attention to that was included in the staff report is the memo that's put out by the State Department of Transportation regarding projects that need to consult with the DOT regarding their potential effect on avigation and that this project was outside of that area, just for note, because it wasn't specifically brought up previously but we did look into that and include that for your reference. Thank you.

Chair Buchanan: Mahalo, Jordan. I did notice that, and I did notice the DOT's concentric circles of concern within their jurisdiction, and it -- it reminds me of how we draw concentric circles around our 500-foot buffer for notification of projects and sometimes that buffer goes outside in the ocean or not, and I think, over the years, we determined that -- that concentric circles given for at least us, Planning Commission, and -- and SMA stuff, was pretty arbitrary, really didn't have a scope of -- of importance of why that circle was drawn as opposed to the DOT, which has that concentric circle buffer, which

sometimes I think pilots call the "Birdcage," which becomes a safety issue, and so I appreciate that. And then for the record, I just wanted to I -- I'm unaware if the -- the state has withdrawn the permitted private airstrip in Kaluakoi after the air accident that occurred there. I'm -- I'm unaware if that airstrip is still in use, that was not on the map, but I just wanted to put it on the record that, in the past, I was aware that there was a private airstrip in the proximity fairly close to where this project is being developed and - - and, on the record, I don't know the status, the current status of that private airstrip. The other portions is the application today is for an exemption. Myself, as a commissioner, I am -- I am not -- I would not support an exemption on this project for the simple reason that we could not put any considerations or conditions on the project if we exempted the project, and so they would be all gentlemen agreements either derived out of a power purchase agreement or whatever, and I appreciate Jordan talking about protecting public views, and public views versus private views. I'm aware that the land in the area is private, however, it is a resort zoned area, which resort zoning is specific to transient accommodations, and so with a transient accommodations and resort zoning comes a lot of public use and a lot of public trans -- trans, yes, transporting across the development or in and anywhere around development, and I think that's where we have public oversight, even though it's private property, it's a resort zone property that has public accommodations. So --

Mr. Hart: Chair, I wanted to just try and see if I could clarify what --

Chair Buchanan: Okay.

Mr. Hart: What my intent of -- I believe that the roadways may be public, I'm checking that on real property tax right now, but, basically, what I was trying to say, well, it is Kaluakoi Roads, LLC, it looks like. You know, the roadways, I think, is more of a public space than specific -- what I was trying to say is that the roadways are more of a public space than specifically the, let's say, the front patios of the units, and I was, basically, just saying that for -- for conversations on preservation of views, I think that the -- the --

Chair Buchanan: Okay.

Mr. Hart: Public views is -- is, you know, appropriate but, you know, specifically getting into what a private person sees may be -- may be getting a little bit farther. However, you know, I did -- I did want to reiterate that this applicant has been very cooperative and it seems like they're putting forward, you know, issues that are addressing the concerns of the -- of the Commission voluntarily. You know, something else that I think that the Chair and the Commission could consider, in the context of the time concerns that this applicant has expressed with regard to their existing contract with MECO, is whether or not they would represent to the Commission into the minutes of this meeting to address the issues of -- of your concern and whether or not that constitutes the representation of what their project is so that if they end up developing it inconsistent

with that, that they're, you know, in violation of the exemption that's been granted as opposed to rescheduling and then, you know, addressing whatever repercussions may come with that, you know, whether or not there's even a project or -- or anything like that and that'll be for the applicant to -- to be interested in or provide you information on, but I would -- just wanted to put it forward as an option for today.

Chair Buchanan: Okay. Whoa, Jordan, that was a whole lot of back information that was not provided to this Commission within this application. I look -- you look confused, and I'm talking about the violation of exemption and the time constraints with a third party with MECO and are there any like -- like that's private application stuff that is like contingent upon them getting the exemption? Why is it today? Could we -- because the \$286,000.00 cost for this project would qualify it for a major SMA if they came for an SMA application?

Mr. Hart: No, Chair, and no, it wouldn't. I believe \$500,000.00 is the delineation between minor and major. Do you mind if I respond to some other questions?

Chair Buchanan: Sure.

Mr. Hart: Okay. So --

Chair Buchanan: Sure. Maybe I misunderstood. Thank you.

Mr. Hart: Thank you. So, with regard to representations to the Commission, I think that that's always the situation that, basically, an exemption is being granted on what the Commission knows is the project and so if someone tells you what their project is and you grant an exemption on that, and then they go and do different things, you know, that wasn't -- that wasn't what the agreement or understanding of what the action was. Now, there is a little bit of gray area there where if the -- if the action that's taken is in substantial compliance with the representations that are made, then, you know, there is a little bit of flexibility between what you're planning before you have permits, for example, and what actually gets executed, sometimes things are not exactly the same or possible to do exactly the way they're -- they're shown, but if they're are substantively the same thing, the department basically supervises the implementation of projects in that way. With regard to existing timelines, I believe that the applicant did inform the Commission of that during the last meeting and that was part of the reason that I wanted to make sure that they had the opportunity to get back here before you and that -- that I made sure that they put together the information that was asked for by the Commission so that it could be presented so there could be an informed decision, but, obviously, the Commission does whatever it decides is the appropriate thing to do, but I do -- I am aware that they have a timing issue that is becoming tight and I did want to make sure that you were aware that there could be options to address things that you might be concerned about without a reschedule.

Chair Buchanan: And what would the options be, Jordan?

Mr. Hart: Well, for instance, if you expressed what you were concerned about and the applicant stated to you that they were going to be, you know, developing the project in a way that would address those concerns and then the -- the Commission is granting exemption based on that representation of what the project is, and then they don't do that, then they're in -- in violation of -- of what they said the scope was in order to obtain the exemption.

Chair Buchanan: Okay. Thank you. So, I wanted to address the exhibits within the report that was provided by Zephyr and the applicant. Exhibits 5, 6, 7, of that 118-page report, the Exhibit 5 was an 18-page document, which was the technical sales summary of the TSS007, I'm assuming the anti-reflective glass that was going to be used for this project. Is that correct, Zephyr? Oh, you -- you muted. Sorry, Zephyr, you muted. If -- okay. There you go.

Mr. Warren: Yeah, okay. Can you ask the question again? I'm sorry.

Chair Buchanan: I'm sorry. Was Exhibit 5, of the report that you supplied to the Planning Commission, it was the SunPower technical sales summary, I think was specific to the model TSS007 that explained why the PV systems are less reflective than the, you know, a typical building or reflective surfaces such as bodies of water but --

Mr. Warren: That's correct.

Chair Buchanan: You are using the less reflective type of solar panel. Is that correct?

Mr. Warren: That is correct. And I can share with you the data sheet now if you'd like that's -- calls out --

Chair Buchanan: No, I --

Mr. Warren: That it's -- it's anti-reflective.

Chair Buchanan: I just want to know, and Carrie is on this call, because it would be more cost, I believe it costs more, so is that in the agreement with the AOAO that -- that you guys are using the anti-reflective glass?

Ms. Thomas: Yes, that's -- Carrie Thomas, representative for the --

Chair Buchanan: Hang on. Hand -- hang on, Carrie. I'm sorry. Let me swear you in for the record. Hi, Carrie. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Ms. Thomas: Yes, I do.

Chair Buchanan: Okay. Awesome. Thank you. I not did that for Zephyr since he was presenting. But, thank you, Carrie. Go ahead. Is that your understanding?

Ms. Thomas: Understanding is we're putting in the best possible and best environmental panels. The panels that we're putting in are, and Zephyr can probably speak to this, my understanding is the panels have gotten better over the years, and so what we're putting in is probably superior to anything else that's on the island. They cost more. What we're getting is costing more, I believe, than -- than the previous types of panels, and we are on a -- our deadline for our MECO, our deadline for completed project was February 4th, and we're the last project that has net metering. If we don't get our project approved, we don't qualify for net metering should we get panels in the future, so I'm -- I'm really in great hopes that you will consider all of the information that Zephyr's provided. We, in - - in -- in earnest, have done everything that the Commission has asked and our homeowners are -- this is a project that's been going on for, I believe, since 2000, I don't know, somewhere around 2014 or 2012, it's when MECO stopped, the cutoff for their projects, for solar projects, and so we've been in the -- in the queue for all this time and I'm just hoping that you will approve this project for us. Thank you.

Chair Buchanan: Thank you, Carrie. If the commissioners have any -- so, Zephyr, the 18-page document on your technical sales summary included that -- that specific panels that were anti-reflective, for the record, is that the type of solar panels that are going to be used for this project?

Mr. Warren: Yes. I --

Chair Buchanan: Okay.

Mr. Warren: I -- so, yes, it's we're doing SunPower panels and SunPower panels all have the anti-reflective glass. I would, to be honest, I'd have to read through the report and make sure that the specific model number was on there, but I can, again, I can show you the data sheet of the panel that shows that it's anti-reflective just like in this report.

Chair Buchanan: Okay, I see Stephanie came on so must be I have to swear Zephyr in. I should have sworn you in, Zephyr, because you making remarks on the record and it would be part of a findings of fact record. So, Zephyr, do you promise to tell the whole truth, nothing but the truth for this Commission?

Mr. Warren: I do.

Chair Buchanan: Okay. Thank you very much. And you just made a statement on the record that you are using the anti-reflective glass, which the specs was provided for us in a 18-page document called "SunPower Technical Sales Summary." Is that true?

Mr. Warren: That's correct.

Chair Buchanan: Okay, thank you. Oh, my Corp Counsel went away. She must not be concerned about something else. Okay, thank you very much. I'm happy to hear that. If -- I wanted to go into Exhibit 6 with you, Zephyr, really -- over this really fast, and Exhibit 6, ForgeSolar Glare Analysis, you used the ForgeSolar Glare Analysis policy adherence. At first, I saw that there was no date on it, but then later the analysis was provided by yourself, the applicant, on November 16 at 2007 was the timestamp for the project on West Molokai, and that was the one where you got the routes and the point receptors and that was a bunch of technical information, and then at the end of that was a page, a half-page, titled, "Assumptions," and I guess it was a technical assistance memorandum, and I noticed that that assumptions was dated in 2016, when I tried to save it, so do you stand by the assumptions that were made as Exhibit 6?

Mr. Warren: I stand by the report. If that's what you're asking.

Chair Buchanan: Okay. Thank you. I'd like to move on to Exhibit 7. Exhibit 7 was the State Office of Planning document that was the technical assistant memorandum to solar industry or solar providers, it's dated in FAA Order 5190.6B. Are you claiming an exemption to that order?

Mr. Hart: Chair?

Chair Buchanan: Yeah. Jordan?

Mr. Hart: I don't -- I don't believe -- the department put that memo in and it wasn't --

Chair Buchanan: Oh, it was ...(inaudible)...

Mr. Hart: It wasn't intended for the applicant to -- to claim an exemption. It was, basically, provided as supplemental information just so the Commission could understand how we went through our review process and why, you know, we didn't go to State DOT and things like that. It's just because that's the standing agreement with how these applications are processed that it -- that it wouldn't trigger us to engage them because of its distance from the airport, and that had been expressed as a concern previously, and so I just wanted to have it in there for supplemental information but that's

provided on behalf of the -- the department and not a representation by the applicant. Thank you.

Chair Buchanan: Thank you. Jordan. And I don't know how -- so the department, after reviewing the technical assistance memorandum from the State Office of Planning, could conclude that this project would be exempted because I read that document and it had a lot of really good stuff in it, stuff that actually was well written, and I would use that as a basis to -- to say that there should not be an exemption. So, I'm just -- I think the bottom line is the slope of the project that -- that is being proposed is so great that the angle is much sharper than an ordinary commercial solar installation provides that I know of or I've seen on the ...(inaudible)...

Ms. Thomas: She's -- she just doesn't want this project. She's --

Chair Buchanan: You guys should mute. You guys should mute. Carrie, can you mute your -- okay. So, let me -- hearing -- it's not that I don't want this project, okay. I going tell my commissioners that, but what I don't want to do is set precedence on the island of Molokai in the scope of the head of the State of Hawaii putting forth renewable energy at lightning speed, meeting renewable energy issues throughout the State of Hawaii, fast-tracking projects that may or may not have impacts. The Chair is extremely supportive of renewable energy, extremely supportive of renewable energy, but there's nobody speaking on behalf of the environment and looking out for impacts until they happen, and so that's how come sometimes -- if -- if a project does not come in for an exemption and then we have to work hard in order to find out, yeah, you met all the exemptions. This is not a small project. It's not a small project. By their own admission, it would be the largest solar project to date on rooftop that is -- that I just wanted to have some oversight over because if the next big project comes in, then, by all means, we're going have to go through the same thing 'cause they should all be exempted or they all might be asking for exemptions. And whether the Department of Transportation and FAA draws a concentric circle around the airport with no regard to the shoreline, I have no control over that, or a private airstrip that is adjacent to the shoreline, or anything else. So, I going -- I going stop there because I only one vote on this whole Commission. What had -- what would be my hope, in the future, is that large projects whether they solar or whatever, when they have a valuation that has a high valuation on it, unless they clearly exempted and there's really no environmental issues or glare or whatever 'cause there's no report on the routes, I mean, that they shouldn't be coming in for one exemption. They should just come in for a minor permit, get one review, get conditions to the -- the permit, and then pau. For the record, this Chair totally thousand percent supports renewable energy for sure. Thousand percent. But, for me, that's not the issue.

Ms. Thomas: May I --

Chair Buchanan: We -- we reviewing -- we reviewing a project, period, like we review every project.

Ms. Thomas: May I make a comment? This is Carrie Thomas.

Chair Buchanan: Hang on, Carrie, because, Commissioner Pele, you had your hand up.

Mr. Pele: Yeah, I just wanna know if -- if we can all share our feelings since we don't get to share our feelings too often, but, with all due respect, Chair, you did say like three or four times that you're against this project. Me, myself. I'm not against this project. I've read what you guys did. I didn't attend the meeting. When you guys asked for it, I reviewed the material where I can -- if you ask me, the company is a very well-known company. I think one of our Molokai people used to work for that company. He came here and actually gave me bids for my association. And if anybody is aware of what fossil fuel does to the environment, I think we kind of put that out of our mind because it doesn't happen in our backyard, but if people were fracking on Molokai, if they were drilling oil wells on Molokai, you guys would lose it. Right? The birds and fish started floating up in Moomomi Bay because there was oil on -- I think this island would -- would -- would rush and force everybody to do solar. I, personally, as a commissioner, I'm proud if we fast-track solar with the benefits that it provides. And I -- and I -- I think this project is a solid one. I read through the material. I read -- I read through all those -- that big thick pages especially since I missed that meeting when you guys discussed it. And I just wanted to share that, that I'm in favor of this project, I think it's a great thing, and that, you know, solar is not going to be perfect, but our hand is too far in the cookie jar already with energy, you're not going to have a perfect solution for everything and we can find what ifs everywhere, what if this, what if that, what if this, what if that. Well, I'm just looking at what's in front of us. I mean, just coming from me, as a commissioner, I just wanted to have a say on it and, be that as it may, that's my concerns.

Chair Buchanan: Thank you, John. Commissioner, Sprinzel. You on mute, John.

Mr. Sprinzel: I'm a hundred percent with John Pele on this.

Chair Buchanan: Okay.

Mr. Sprinzel: Really, I think it's important that -- that we have as much solar as possible and I, although you say it's a huge project, it's only solar panels. I mean, they're not building oil rigs or anything serious to harm the environment, so I thoroughly support it. Thank you.

Chair Buchanan: Thank you.

Ms. Chen: Chair?

Chair Buchanan: Yes, Stephanie?

Ms. Chen: Chair, sorry. Deputy Corp Counsel Stephanie. I'm just requesting a brief recess.

Chair Buchanan: Okay. Okay. Alright. Thank you. We -- okay. Commission, she never ask for one executive session so we're going to go into recess, a brief recess. So, Suzie, if you can, we're going to take a five-minute or so recess and come back.

(A recess was called at approximately 12:55 p.m. The meeting reconvened at approximately 1:03 p.m.)

Chair Buchanan: Thank you. I going wait till commissioners are back online. Yeah, I see Commissioner Poepoe. Stay there, Commissioner Poepoe. I'm going to need you. And then we just waiting. Is Commissioner John Pele back? Okay. Do we have everyone back? Okay. Hang on one second. Okay. Thank you, Commissioners, for the recess. So, Commissioner Poepoe, are you there? I cannot see you? Yeah. He creeping in on the side. Okay. Thank you.

Mr. Poepoe: This room is hot. I kinda going out towards where the --

Chair Buchanan: The air stay?

Mr. Poepoe: Yeah. Right in the -- the doorway.

Chair Buchanan: Oh, I sorry. I sorry you hot. I got one fan blowing on me. Thank you, everyone. So -- so, we going move forward. I wanted to thank Zephyr for his information that he provided. Concerning representations that was made on this meeting by other commissioners and -- and the applicant, I feel it's in the best interest of the integrity of this Commission because I personally do not recall, and I'm sure in the -- if there's a review of the record, that this commissioner has never said that I was against this project, but with -- and I'd like to say that I have no preconceived notions concerning this application, that I felt my review of it was in line in what my duties are as a commissioner, but in order to keep the integrity of this Commission, I'm going to ask Vice-Chair Laa Poepoe to take over this meeting, and I'm going to remove myself voluntarily from the rest of this meeting so there is no question that I have any preconceived notions on this application. So, with that, I'm sorry, Commissioner Poepoe, Vice-Chair, if you can pick up where we left off in the discussion, and I'm going to recuse myself for the rest of this application and revisit you on the next one. Thank you very much.

Mr. Poepoe: Chair, so you going -- you're gonna remove yourself from just this item and continue on the next one?

Chair Buchanan: Yes.

Mr. Poepoe: Okay.

Chair Buchanan: That's -- to make sure that -- to ensure that my commissioners' concerns on my ability to be neutral in review is -- was put in question so I'm going to fix that right now by removing myself from the rest of the application. Thank you very much. Thank you, Vice-Chair.

Mr. Poepoe: Thank you, Chair. Where is our Corp Counsel? Hi, Stephanie. Do you --

Ms. Chen: Hi, Laa.

Mr. Poepoe: So, what I do is -- continue off from?

Ms. Chen: So, I believe you were in the middle of sort of discussion, so I think, you know, was a motion on the floor? I don't believe there was.

Mr. Sprinzel: No.

Ms. Chen: Okay. So, at this point, Vice-Chair, you could entertain a motion, and then you need a second, and then you could continue discussion. You could keep seeking comments from the commissioners prior to entertaining a motion. But probably the most appropriate thing to do, if you feel you have enough information from the department and the applicant at this time would be to entertain a motion to continue discussing the issue.

Mr. Poepoe: Thank you, Stephanie. We'll go ahead and entertain a motion. Would anybody like to make a motion?

Mr. Sprinzel: I would propose a motion for exemption.

Mr. Pele: Second.

Mr. Poepoe: Okay, motion made by Commissioner Sprinzel, seconded by Commissioner Pele to approve an exemption for the project. So, yes, we'll open for discussion if anybody would like to discuss on the matter. Commissioner Bridget.

Ms. Mowat: I just wanted to say that, you know, I'm -- I'm going towards the exemption, but I just wanted to point out that, you know, being very protective of Molokai is -- is -- is

our job and what -- what was brought up by -- by Commissioner Buchanan was -- was a lot of concern and, you know, it -- she always does so much work and -- and she brings out a lot of stuff, so I just wanted to acknowledge that, and just because she does have a lot of questions, when people think that she just doesn't want to -- to approve it, you know, it -- it -- it's kinda hard to swallow because she does work really hard and -- and, you know, a lot of times I don't go into the in-depth research that Lori does and -- but -- but because we are trying to go away from fossil fuel and into a more -- more safer for our environment, this is the reason why I would -- I would support the exemption, but it's not saying that we're not going to still be very, very careful, and, Zephyr, you provided -- you provided a good report and -- and, to me, there's a lot of -- to me, I feel that you're guaranteeing that when you put it up, you're not going to just leave the project. I mean, you're -- you're always going to be there to help monitor too, and if there is any problems with it, you will be there to correct the problem. So, it was an unfortunate comment and I -- I think that a lot of people feel that way about -- about our Commission but we're just trying to do what is safe for Molokai, and these things are new to us too, and so there's always so many huge -- lot of reports and lot of things that we don't understand but -- but it's not just because we are -- we're picking on anyone, we're just wanting to make sure that we're not only protecting ourselves now, but for the future. So, I just wanted to say that, thank you, and thank you, Zephyr, for your -- your report.

Mr. Poepoe: Go ahead, Commissioner Pele.

Mr. Pele: Yeah, I just want to reiterate my support for the project was the research that I did with the presentation that was given. As a commissioner, I'm only trying to live within the bounds of what's in front of me, what I read. I understand that the exemption is for what they're asking for, nothing more, and I try to put my mindset as a commissioner in that space that, of course, if they, like Jordan stated, if they're -- they're going to do what we didn't tell them they could do, then there's going to be consequences. It has nothing to do with me, you know, not thinking that we're not looking out for the island, but I just want the commissioners to know that I read that packet, and I read it again, and I read it again, and I was satisfied with the work that Rising Sun did, and I am a hundred percent in support of energy, solar energy. I really am. I think it's, like I said, it's not a perfect example. There's always going to be a -- you know batteries and, you know, glare and, you know, how are you going to dispose of it? But, you know, it's what we look for. So that's -- that's my two cents.

Mr. Poepoe: Go ahead, Commissioner Espaniola.

Ms. Espaniola: So, can you hear me? Can -- can you hear me? So, I'd like to say our job is to apply policy, the application, the policy, and so if I'm looking at what was discussed today, the -- the principle of process, in some sense, was not applied as a result of there was changes. Secondly, it's noted that this is the largest project, you know, and in 2016, there was a limitation on County, which is the rooftop solar program,

there was a limit, so Molokai and most of the residents couldn't install any panels because of the limit that was posed by Maui Electric, so that's another concern that I have. These are two concerns that I'm looking at. The principle of the process for us to provide the application to policy that we have to abide by. And secondly, the project is the largest and it limits, again, solar roof -- rooftops back in 2016, I don't know if they opened it up again, but that -- that poses a concern for myself in looking at what's happening here. So, I'd just like to say that.

Mr. Poepoe: Thank you. Any other commissioners have any -- any comments or points of discussion?

Mr. Moore: This is Commissioner Moore.

Mr. Poepoe: Go ahead.

Mr. Moore: I'd just like -- I'd just like to say that I prefer solar over windmills.

Mr. Poepoe: Commissioner Sprinzel, go ahead.

Mr. Sprinzel: Just -- just wanted to say that far from being ignorant about this, I have solar panels from 1970, so I do have a bit of experience, and they are certainly not a threat to us or our environment 'cause anybody who knows me knows that I've been for the -- the good things about Molokai for all the years I've been on these commissions and solar panels is definitely a good thing. Thank you.

Mr. Poepoe: Thanks. It's definitely a -- an option. It's not a hundred percent safe for the environment. If nobody else has any more comments to make, we can go ahead and vote. We'll start with Commissioner Espaniola.

Ms. Espaniola: Naye.

Mr. Poepoe: Commissioner Mowat.

Ms. Mowat: Aye.

Mr. Poepoe: Commissioner -- Commissioner Moore.

Mr. Moore: I vote aye.

Mr. Poepoe: Commissioner Pele.

Mr. Pele: Aye.

Mr. Poepoe: Commissioner Sprinzel.

Mr. Sprinzel: Aye.

Mr. Poepoe: So, I'll vote aye, in the affirmative. Exemption passes.

It has been moved by Commissioner John Sprinzel, seconded by Commissioner John Pele, then

VOTED: to approve the exemption for the project.

(Assenting - W. Moore; B. Mowat; J. Pele; L. Poepoe; J. Sprinzel)
(Dissenting - L Espaniola)
(Recused - L. Buchanan)
(Absent - J. Bicoy; J. Perez, III)

Mr. Poepoe: And I'll give the meeting back to Chair Buchanan.

Ms. Lopez: Thank you, Commission.

Mr. Warren: Thank you.

Chair Buchanan: Thank you, Vice-Chair Poepoe. Thank you, Commission Members. So, I was going tell you, Vice-Chair, you doing such a good job, if you wanted to move on, but I was thinking maybe with the second one, might be better if maybe I take over. So, does anyone need a break? You guys want a break? We can break now. I hear you talking, John, but I cannot -- I see your lips moving but --

Mr. Sprinzel: We had a break --

Chair Buchanan: Okay. Okay.

Mr. Sprinzel: Quarter of an hour ago.

Chair Buchanan: Okay, we good then.

Mr. Warren: Am I --

Chair Buchanan: Yeah, you excused, Zephyr.

Mr. Warren: Okay. Thank you.

Chair Buchanan: Congratulations.

Mr. Warren: Thank you very much. Have a good day.

Ms. Thomas: Thank you very much. Very appreciated.

Chair Buchanan: Mahalo. Thank you, Carrie. Okay, let's move on. Let me bring up my next item. We still on item C. We now in item number two, the waive or not waive of special management area assessment review, okay, so, again:

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

2. WAIVE OR NOT WAIVE OF SPECIAL MANAGEMENT AREA (SMA) ASSESSMENT REVIEW

MS. MICHELE MCLEAN, 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. **MS. ZELIE DUVAUCHELLE, proposing to dismantle a partially completed 416 sq.ft. wood frame storage building and remove improvements made to the existing carport structure situated on the east side of the main residence located at 8714 Kamehameha V Highway, Pukoo, Molokai, TMK (2) 5-7-007:055 (SMX 2019/0260) (Valuation: \$15,000) (S. Lopez)**

The Commission may act to waive or not waive its review or defer. If the Commission votes to not waive its review, it may review the subject SMA assessment and act to approve or disapprove a SMA exemption, or defer.

Chair Buchanan: I'm looking at that again. Commission votes to not waive its review, it may review the subject SMA assessment and act to approve or disapprove an exemption or defer. Okay. Staff?

Ms. Lopez: Thank you, Chair. This is Sybil Lopez, the Staff Planner on this project, so I wanted to give you a little bit history of this project. So, the applicant, Ms. Zelig Duvauchelle, is here in the meeting as well as the consultant, Arthur -- Arthur Parr. So, the applicant submitted her application back in July of 2019, and it was from -- this is actually an after-the-fact permit, and the reason why it was so lengthy is because they

worked -- so the applicant worked very well with the department mitigating on what needed to be done on her property and so they've updated it in April, requesting to dismantle the partially completed wood frame storage building, the 416 square feet, so they want to completely deconstruct that, that existing building, and they want to remove all improvements made to the existing carport structure situated on the east side of the main residence, and so that -- that was a form of mitigation that -- that the applicant agreed and -- and the department was satisfied with and, therefore, the scope of work has been updated to do deconstruction of all of those that was not permitted, and so that is what you're actually looking at with this SMA that is in front of you today. Like I said, I do have Mr. Parr and Ms. Duvauchelle present if there is any additional questions that the Commission may have for this. This property is situated in -- in -- in Pukoo, and this was a permitted short-term rental, this is no longer a permitted short-term rental. I just kinda wanna get that out of the way and so you're looking just at the property itself and the -- the -- the scope of what the SMA assessment is before you. Thank you. I would like to turn the time over back to the Chair. Mahalo.

Chair Buchanan: Okay. Thank you. Aloha. I see Zelig on the call. So, I -- I -- I -- I'm sorry, but I'm a little bit confused. I don't think I ever oversaw a request for deconstruction, so I'm kinda lost on -- I was going to ask staff what -- what they were asking of the Commission, but, Sybil, you stated that what is being asked of this Commission today is to exactly what? Exempt deconstruction? What are you -- or waive, waive your review?

Ms. Lopez: Waive the review and request of the updated scope. Basically, deconstruction or the demolition of the after-the-fact structures or the -- the structures that are not permitted on this property, which indicates the cottage as well as the existing carport area.

Chair Buchanan: Okay, I have one -- hi, John, I see John has a question, but I do -- I have one more question. So, the review is -- the request for review is -- is only for the deconstruction, and then is it my -- is it for us to understand that there is a permit to build an original residence with carport, which you guys numbered B1595 dwelling that was previously approved? Why is that in the application?

Ms. Lopez: Thank you for that question. I am looking at the actual assessment that was provided to you and noticed that you don't have the updated application.

Chair Buchanan: Oh, okay. Alright.

Ms. Lopez: So, my -- my apologies, but the -- the updated application does come in, but you do have the April 30, 2020 memorandum from the consultant to the department on the -- the proposed action in -- in your -- in -- as part of the assessment, and so we're

not looking at the application scope but we're looking at the proposed action on the April 30, 2020 memorandum that was included in the assessment that was provided to you.

Chair Buchanan: Okay, Sybil, before I call on Commissioner Pele, so citing the letter dated April 30, 2020, describe the proposed action from page 5, of the SMA assessment application, today you asking us to waive reviewal of number one, dismantle a partially completed 416 square-foot wood frame and so on and so forth, and number two, remove improvements and so on, so forth, and so I'm assuming there's an updated memo after April 30th that I'm not aware of that probably does not have the original residence with carport building permit number dwelling and that has nothing to do with the request to waive review. Is that correct?

Ms. Lopez: Yeah, I'm actually looking at the updates and I can share the screen or I can email it.

Chair Buchanan: Yeah, please share the screen. I would like you to share the screen and then, Commissioner Pele, in the meantime she sharing screen, you have a question?

Mr. Pele: Yeah. I think you might be asking the same question. I heard after-the-fact from Planner Lopez, but I'm trying to -- I didn't see that on any -- I'm kinda confused what after-the-fact we're looking at. She already took down -- she already took down the dwelling and -- or --

Mr. Hart: Chair?

Ms. Lopez: Okay, let --

Mr. Pele: Oh, I'm sorry.

Ms. Lopez: Let me clarify.

Mr. Hart: Give me a moment, please.

Chair Buchanan: Hang on. The -- Jordan Hart has the floor.

Mr. Hart: Chair, thank you very much. I just want to ask a procedural question of -- of counsel. I'm just -- I see that the agenda appears to be describing the correct activity but, obviously, the application document that I'm reviewing and the Commission is also reviewing is not the latest and I just want to make sure that we're not starting something that's not going to be properly finished if we are talking about the wrong document right now.

Chair Buchanan: Good point.

Ms. Chen: Thank you. Chair, if I may respond?

Chair Buchanan: Yeah, go ahead, Steph. Thank you.

Ms. Chen: Thank you. Yes, Jordan, that's a very good point. If, you know, since this is technically part of a contested case hearing, the applicant would need to have had access to all of that information prior to today's meeting and prior to the Commission's discussion and deliberation on the matter. So, if -- if the information is not accurate, the information that was provided to the Commission Members and to the applicant, I would recommend deferring this item.

Ms. Lopez: Commission, with all due respect, this would be a similar clerical error 'cause this was not my report that I submitted ...(inaudible)...

Mr. Hart: Yeah, Sybil, I'm going to have to interrupt you again. I apologize. You know, Chair, whether or not that may have been an internal issue, that's the responsibility of the department. The issue is -- is what was, basically, published on the agenda and distributed to the Commission, and then, you know, you also have to think about whether or not other community members weren't able to attend but they downloaded and read the material and that's what they think you're doing, so, you know, I don't see any other way of doing it aside from - I apologize for that - a do over in the context of publication just to avoid any sort of problem in the future.

Chair Buchanan: Commissioner Sprinzel.

Mr. Sprinzel: I'm incredibly confused.

Chair Buchanan: Okay.

Mr. Sprinzel: I'm not sure what we're supposed to be okaying. There are no drawings, there's no details, so I suggest we defer till somebody sends us the right stuff.

Ms. Lopez: Okay. I apologize, Commission.

Chair Buchanan: Thank -- thank you, Planner. So, I'm not going to take any more discussion on this matter except to take a vote because our Corp Counsel and our Deputy has pointed out that this is a contested case hearing, and in contested case hearings, we really have to adhere to procedural matters, and seeing that we're not hundred percent complying with procedure matters, I'm going to ask that the commissioners from the floor, and I think to make it clean, please, could I have a motion to defer? Commissioner Pele.

Mr. Pele: Chairman, I move that we defer this matter due to the fact that there's discrepancies in the information provided to the Commission at time of the agenda hearing.

Chair Buchanan: Thank you. Commissioner Sprinzel.

Mr. Sprinzel: Second.

Chair Buchanan: Okay. Second. Any discussion? With apologies to the applicant, this matter is deferred. Thank you. And apologies again. So, we're going to move on to the next agenda item, which is the --

Mr. Hart: Chair, I do want to take a --

Chair Buchanan: Oh, go ahead.

Mr. Hart: I just want to apologize to the -- apologize to the applicant, on behalf of the department, for the time that you've, you know, wasted here with us today. I sincerely apologize for that. We're going to reissue, and get it corrected, and go through this process again at the next meeting. Thank you.

Chair Buchanan: Thank you.

Ms. Esmeralda: And also Chair, this is Suzie, can you please take a vote?

Ms. Esmeralda: Oh, yeah. I sorry. Thank you for being our brain. So, I going take a roll call on the motion to defer that was done by John Pele and seconded by Commissioner Sprinzel. Commissioner Poepoe.

Mr. Poepoe: Aye.

Chair Buchanan: Commissioner Moore.

Mr. Moore: Aye.

Chair Buchanan: Commissioner Espaniola.

Ms. Espaniola: Aye.

Chair Buchanan: Commissioner Mowat.

Ms. Mowat: Aye.

Chair Buchanan: Commissioner Pele.

Mr. Pele: Aye.

Chair Buchanan: Commissioner Sprinzel.

Mr. Sprinzel: Aye.

Chair Buchanan: And the vote, Chair's, aye, motion carried unanimous. Thank you very much for the reminder, Suzie, appreciate it.

It has been moved by Commissioner John Pele, seconded by Commissioner John Sprinzel, then unanimously

VOTED: to defer this matter due to the fact that there's discrepancies in the information provided to the Commission at time of the agenda hearing.

(Assenting - L. Buchanan; L. Espaniola; W. Moore; B. Mowat; J. Pele; L. Poepoe;
J. Sprinzel)
(Absent - J. Bicoy; J. Perez, III)

Chair Buchanan: And, yeah, again, apologies to the applicant, but it was nice to see you. Nice to see you anyway. Mahalo. See you soon again. So, we moving on to item, let me go to my agenda, we're moving on to item D, and under item D is numbers one, two and three, which will all be covered under Director's Report. Thank you. Who's giving Director's Report?

D. DIRECTOR'S REPORT

- 1. Agenda items for future public meetings
*NO public testimony will be received on this item.***
- 2. Open Molokai Applications Report generated by the Planning Department with the December 9, 2020 Agenda Packet (Appendix-A)
*NO public testimony will be received on this item.***
- 3. Completed Molokai Applications Report generated by the Planning Department with the December 9 Agenda Packet (Appendix-B)
*NO public testimony will be received on this item.***

Mr. Hart: I'll do that, Chair, thank you.

Chair Buchanan: Okay.

Mr. Hart: This is Jordan Hart, Deputy Director. So, regarding agenda items for future public meetings, I know that we have this item that we just deferred. Suzie, do you have any other items that are -- that are pending?

Ms. Esmeralda: This is Suzie. I don't have any knowledge of any projects.

Mr. Hart: Okay. Thank you. So, as you, unfortunately, I'm not going to be able to report to the remainder of the commissioners, but we'll work with the Chair on that. I believe there's no -- no further meetings in December so that would be in January, I believe, would be the next meeting that we're having, so there's some time to have some projects come forward and -- and report that to you. So, the next item would be number two; that's the open Molokai applications report generated by department. It's Appendix A of your packet. Do you have any questions on those items?

Chair Buchanan: Jordan, this is Chair. I think I always have the same question about how long can an application stay open in the -- on the -- on the report sheet? It's just indefinitely open 'cause there's some really longstanding projects that remain on the sheet for whatever reason?

Mr. Hart: Chair, yeah, I've been -- I've been trying to work on this list.

Chair Buchanan: Okay.

Mr. Hart: That's a -- that's -- that's not a clear-cut response. Basically, with land use applications, sometimes they do take a long time and it really depends on whether or not we have a live app, I don't want to say, "live," but I mean, an applicant who is being active and trying to resolve the issues at hand or an applicant that's being non-responsive and is not moving forward, and, basically, quarterly, we go through a process of trying to determine which applications are actually moving and which applications are not, and so, again, I've, personally, been trying to work on this, the Molokai list, and I'll continue to do that and I -- I would expect in the next quarterly update that a few will -- will be removed for inactivity, but there isn't -- there isn't a -- a hard number or a time period that the department cites, and that's just because sometimes the analysis can be difficult or expensive or complicated and so if the applicant's pursuing it, then we give them time to resolve that. That's the short, long answer.

Chair Buchanan: Thank you, Jordan. I understand. Thank you very much. And then you can move on to item three unless anyone has questions on the open applications. Commissioners? Seeing none. Did you cover item three too?

Mr. Hart: I will. That's Appendix B, and it's the same format that you receive every meeting. So, those are the completed projects. If you have any questions about those, please let me know.

E. NEXT SCHEDULED REGULAR MEETING DATE: JANUARY 13, 2021

Chair Buchanan: Okay, thank you, Jordan, and as you alluded to on item E, the next scheduled regular meeting date is January 13, 2021. Happy New Year to everybody and merry Christmas. And if commissioners have nothing else that they want to cover in this meeting today, I'm trying to get back to my screen, Commissioner Sprinzel. I cannot hear you.

Mr. Sprinzel: Merry Christmas, everyone, and a very healthy New Year.

Ms. Espaniola: Merry Christmas, everybody.

Mr. Pele: Merry Christmas and Happy New Year.

Ms. Espaniola: Happy New Year.

Ms. Mowat: We'll see you guys in 2021.

Chair Buchanan: Same to all of you. A big mahalo to a Sybil, Jordan, Stephanie, Jacky, Suzie, and all of you that make all of our lives much easier when it comes to this kind of difficult stuff, so thank you all very much, I truly appreciate it, especially my commissioners, and mahalo all you folks plenty. Thank you. Love you guys all. Merry Christmas. Happy New Year.

Ms. Mowat: Aloha.

Ms. Chen: Merry Christmas and thank you, Commissioners.

Mr. Moore: Merry Christmas.

Chair Buchanan: Bye-bye.

E. ADJOURNMENT

The meeting was adjourned at approximately 1:38 p.m

Submitted by,
SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present:

Lori Buchanan, Chairperson
Laakea Poepoe, Vice-Chairperson
Leonora Espaniola
William Moore
Bridget Mowat
John Pele
John Sprinzel

Absent:

Julie-Ann Bicoy
John Perez, III

Others:

Jordan Hart, Deputy Planning Director, Department of Planning
Jacky Takakura, Administrative Planning Officer, Department of Planning
Sybil Lopez, Planner, Current Division, Department of Planning
Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions II, Current Division, Department of Planning