

**PAIA-HAIKU ADVISORY COMMITTEE
TO THE MAUI PLANNING COMMISSION
REGULAR MINUTES
JULY 19, 2022**

A. CALL TO ORDER

The meeting of the Paia-Haiku Advisory Committee to the Maui Planning Commission was called to order by Ms. Jacky Takakura, Deputy Director, Department of Planning, at 4:00 p.m., Tuesday, July 19, 2022, in the Planning Department Conference Room, 250 South High Street, Wailuku, Maui, Hawaii 96793 and online via BlueJeans Meeting ID: 702260592.

A quorum of the Committee was present (see Record of Attendance).

Ms. Takakura: Just a caveat sorry, this is my first meeting that I'm running but I know I'm looking at you and there's a lot of experts in here so I'll be learning with you. So this is the first meeting of the Paia-Haiku Advisory Commission at 4 p.m. and you can see this is one of those hybrid meetings where all of us here or in person at the Kalana Kapui Conference Room. But we don't have a location yet in the Haiku area but we'll try to find someplace that works out there ...

I'm just going to be following the agenda here that I think most of you have received, and Corporation Counsel Mimi will correct me if I miss anything. What I'm also going to be doing is at some point, we're going to have a Chair and a Vice Chair. They will run the meeting. If I do see that someone is raising their hands like another committee member raise their hand and Chair doesn't recognize them, I might chime in and say, oh hey someone is raising their hand. Sometimes I notice that some Chairs they can't see when other people are raising their hands. If I do see someone is raising their hand, I might chime in if some Chairs can't see when other people are raising their hands so I might try to help out if I see or if it's not needed, otherwise these things are going to be kind of run by the Committee Chair. Okay, so we are going to do the Call to Order and Roll Call, so I'm going to call out your name and if you can please say "here" and raise your hand, and if you want to give a one sentence introduction about yourself since this is our first meeting, and I don't know if everybody knows everybody but go ahead and give a sentence about yourself. So first on the list is Francine Aarona.

B. INTRODUCTION OF MEMBERS

Ms. Aarona: Hi everybody, everybody knows me as Aunty Mopsy. I live in Paia. Mahalo.

Ms. Takakura: Thank you Aunty Mopsy. Okay next is Rod Antone. And sorry one more thing if you are an Advisory Committee Member, can you turn your cameras on? Thanks. Okay, go ahead Rod.

Mr. Antone: Aloha, Rod Antone, Paia resident, born and raised. Thanks for having me.

Ms. Takakura: Okay, thanks Rod, okay Lucienne de Naie. Hi Lucienne.

Ms. De Naie: Unmute. Aloha I'm Lucienne de Naie. I'm a resident of the Huelo area in the Paia-Haiku planning area. And happy to be here and lived here 40 years in Huelo and I serve as the President of the Community Association in Haiku.

Ms. Takakura: You know I just realized I forgot, um I think we need to say where we are and if there's other people in the room with us, is that correct Mimi, should we do that real quick.

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Ms. Desjardins: Yes, let's go back real quick and for those folks that just introduced yourselves. Just let us know who's present with you. Aunty Mopsy if you could start.

Ms. Aaron: I'm here in Paia, in Ae Lane and I've been here for 20 something years. I was born here, raised here, went to school on Oahu but we have a neighborhood board, Pomalama Paia and I'm one of the facilitators. So mahalo.

Ms. Takakura: Is there anyone in the room with you, Aunty Mopsy?

Ms. Aaron: I'm sorry, I didn't hear that.

Ms. Takakura: Sorry, is there anyone in the room with you?

Ms. Aaron: Ah no, no one in the room with me.

Ms. Takakura: Rod Antone, you want to say where you are and if anyone's in the room with you or are with you.

Mr. Antone: So long as you guys don't turn me in to MPD. Yeah, I'm in my truck and no one else is in my truck with me.

Ms. Takakura: Thank you. Okay Lucienne?

Ms. de Naie: I'm at home in Huelo and I'm all alone.

Ms. Takakura: Thank you very much. Andrea Kealoha?

Ms. Kealoha: Hi, I'm Andrea Kealoha. I'm from Paia also born and raised. And are we not allowed to have someone in the room with us? My baby's in the room. My baby and my partner. He's watching her, is that okay? Okay, great.

Ms. Takakura: Thank you, Andrea. Ah Reba? I see on here it says Reba O'Day?

Ms. Lopez: So yeah my name changed to Reba Lopez. I got married last year right after this happened actually. So I am a farmer in Haiku. We are on a family farm, I'm in the house right now, and there's nobody here. So glad to be here.

Ms. Takakura: Okay thank you Reba, congratulations...Timothy Wolfe?

Mr. Wolfe: Hello, I'm Tim Wolfe, a 35-year resident at the same address in Haiku. Involved in community affairs. Been the Treasurer of the Community Haiku Association with Lucienne for many years, and I'm very happy to be here with you all today. And maybe someday I'll learn how to put a proper BlueJeans background in this shot. Aloha.

Ms. Takakura: Thank you Tim. Okay, and then we have 2 alternates, Matthew McDonald?

Mr. McDonald: Hi everyone Matt McDonald, a Haiku resident. I'm a writer and photographer, and I am at home by myself today. But my dog's down here with me, but he's asleep.

Ms. Takakura: Thank you Matt. Okay and our other alternate Nick Nikhilananda. Sorry if I mispronounced that. It's a lot of syllables.

Mr. Nikhilaranda: There we go. Hello Jacky, you did great. Nikhilaranda here, 35 resident of Huelo. I'm here also with my dog. I'm a past board member and past president of the Haiku Community Association and currently a candidate for the House of Representatives to this district, and I am an alternate.

Ms. Takakura: Okay, thank you everyone. And thank you for participating. Go ahead Lucienne.

Ms. de Naie: I was going to ask, how is it best, should we raise our hand physically or should we do that little hand raise thing if we want to be called on. What's best?

Ms. Takakura: I've seen most commission meetings where the commissioners raises their hand physically.

Ms. de Naie: Okay.

Ms. Takakura: And then some of the people may get distracted with the chat there with the little hand. And some people may get confused with the chat and the little hand there.

Ms. de Naie: So I raised my hand because there's a point of information. Um it seems that perhaps one of our members is missing and um Adrian Boone. And I had heard that he was going to move and if so, do we then have an order of business to amend our agenda to appoint an alternate to take that place or how do we handle that?

Ms. Takakura: Mimi?

Ms. Desjardins: I can take that one Jacky if you want. So what the Maui County Code says that once a member leaves, then that seat automatically becomes open. So that seats going to need to be filled. We don't have to take any action today on that and because you have a quorum, the alternates do not have to jump in. At this point, if there was not a quorum, we would ask one of the alternates to join on the deliberations and vote if necessary but for today, we have a quorum so we would ask that the alternates just observe and not partake in deliberation.

Ms. de Naie: Thank you so much for clarifying, Mimi.

Ms. Takakura: Thank you. So item A is Call to Order and Roll Call. Well we did the roll and everyone's here. Now we can do testimony. Mimi do you want to go over the new state law about testimony that we can accept testimony in the beginning, that we can accept testimony in the beginning or is that part of your presentation?

Ms. Desjardins: You know actually what I'm going to recommend in my presentation that you folks research anytime in this excellent agenda that the Maui Planning Department put together because it has a lot of information in it about testimony and how that works but as far as this commission goes, it looks like the way it's set up in the agenda and what the public's been given notice of is that testimony will take place at the beginning of each item. So I do know that there's one testifier here to testify and as long as Ms. Aiwohi can hang out until that item is called, would it be okay Ms. Aiwohi if you went ahead and waited to testify until that item is called?

Ms. Aiwohi: Yep, that's fine. That's not a problem.

Ms. Desjardins: Okay, then we'll go ahead and do that. Jacky, we'll just wait until each item is called to take testimony.

Ms. Takakura: Okay. And then, Commissioner just so you know sometimes written testimony comes in and if it comes in time, the Secretary will send that to you. Sometimes they don't come in timely enough before the meeting, but if it's in on time. I think the deadline is you know one day prior the day before, the Secretary will send those written testimonies to you. Things that are received late, they're attached to the agenda under the category Documents Received After Posting. Okay, so didn't we not have that one testifier and that person is going to wait till their agenda item and let me just check the chat that no one else is signed up.

Ms. Takakura: Item B is Introduction of Members we kind of went over that already. Does anybody feel that we need to do any further new introduction of members? Good with that.

C. ELECTION OF OFFICERS

Ms. Takakura: Item C would then be the Election of Officers. So what we need is a Committee Chair and Vice Chair and open it up to any nominations, if any of the Committee Members would like to nominate another Committee Member for either position, Chair or Vice Chair. Commissioner Wolf?

Mr. Wolfe: Aloha, Lucienne, are you at all interested in Chairing this Advisory Committee or are you overloaded in your world because I know how busy you are. Mute/unmute.

Ms. de Naie: Sorry, I'm unmuted. Thank you, Tim, I would consider being a Chair or Vice Chair of this Committee. I do have experience serving on Committees like this. I am busy, however, there's good staff support here which really does help. Um, so yeah I would take it under consideration—see if anyone else is interested.

Mr. Wolfe: Well, in that case I would like to nominate Lucienne de Naie to become Chair of this Committee. Do we have a second?

Ms. Takakura: Anyone else?

Ms. Desjardins: If nobody else doesn't want to nominate a Chair then maybe as Commissioner Wolfe just mentioned, can we get a second on that motion to nominate Lucienne to go forward with the vote unless there's someone else.

Ms. Aarona: Two. This is Aunty Mopsy, do we have to vote for the motion or can we nominate someone else as well.

Ms. Desjardins: I'm thinking the way we could do it is that if there's more than one nomination for Chair then we can have both nominees together and then we would go around and take a voice vote, who wants each one and then whoever gets the most votes gets to be Chair if there's more than one nominee. If there is just one nominee then we just do the vote for the one nominee.

Ms. Aaron: I would like to entertain the thought of asking Rod Antone to be the Chair of this Committee. He does have experience working in the Mayor's Office. But that's entirely up to you.

Mr. Antone: I nominate you too, Aunty Mopsy.

Ms. Aaron: Let's not do it that way, but anyway...if the nominations are open, I nominate Rod.

Ms. Desjardins: Ok, so Rod, I didn't get a clear answer if you are willing to accept being nominated or if it would be a involuntary service to you.

Mr. Antone: Sure, I will accept the nomination. And this is the Committee to select officers correct?

Ms. Desjardins: No this would be the Chair of this Committee is what Aunty Mopsy just nominated.

Mr. Antone: Oh. Okay sorry yes, I already said yes. Yes I will accept--I will accept the nomination.

Ms. Desjardins: Okay, so we have two nominees.

Ms. Aaron: Mahalo.

Ms. Desjardins: Is there a second then to I guess vote on the two nominees or do the nominees want to say anything about why they want to do this, guess we already kind of heard from them. You folks are ready to take a vote?

Mr. Wolfe: Well, maybe before we vote, we can hear from each of the nominees what they think they might be able to bring to this Committee. I would appreciate that.

Mr. Antone: I defer to Lucienne if she wants to go first.

Ms. de Naie: Alphabetical, Rod you should go first.

Mr. Antone: There's a lot of wind, can you hear me.

Ms. Aaron: Yes we can.

Mr. Antone: Okay, okay, I mean we're all here to serve the Paia-Haiku area and you know the first step as far as I'm concerned is to accept this nomination. Born and raised here I got great grandparents buried in Kuau cemetery, I'm not sure if that is a qualifying factor but just trying to give you guys the roots here, and I spent eight years on the 9th floor with the Arakawa administration. I'm sure some of you may see that as a detriment instead of a plus but you know it does help to have, to know how the County works. I can tell you that. So there you go, that's my spiel. Your turn Lucienne.

Ms. de Naie: Mahalo, Rod. Well, let's see I too have worked for the County, not as long as Rod. I worked for the County for about a year as an Assistant to one of the Council Members, which does give you quite a bit of background on how laws get made because you have to assist on that process. I served three years on the General Plan Advisory Committee representing the

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Haiku-Paia area and was very very active in the review of the current Maui Island Plan and the County-Wide Policy Plan and I had almost a perfect attendance record for those three years. I think I missed two meetings in three years, which is a consideration and in general I'm fairly familiar with our planning laws. I regularly read different proposed ordinances that are you know being discussed by the Maui Planning Commission or the Council and I'm familiar with our Community Plan and the designations in maps and so I have a background in this kind of world although I am a private citizen. It's not a professional background, it's I guess an amateur background, and I have chaired many organizations. I'm currently President of two or three organizations so I do know about Robert's Rule of Order and how to run a meeting like that.

Mr. Antone: I too am a private amateur just like Lucienne. Alright, now we smile and everybody votes.

Ms. de Naie: I'm not sure how you conduct a--I think you have to call one candidate and ask everyone who would vote for that candidate and then you have to call the second candidate and ask how you would vote for that candidate and see if there's a majority or something like that. Yeah.

Mr. Antone: I think Jacky is looking at the rules right now.

Ms. Aarona: Mimi, do we have to close the nominations?

Ms. Desjardins: Well, first of all there has to be a motion, do we have a second on each of those nominations? Can somebody do a second for each one please?

Ms. Aarona: I can do a second if I'm able to because I nominated.

Ms. Desjardins: Okay so you nominated Rod, so let's see can somebody else second.

Ms. Kealoha: I can second both of them.

Ms. Desjardins: Thank you. Okay so we could either go one at a time or I've seen it done both at the same time and as we go around and people vote to see who gets the most votes. What do you folks think. There's no set rule on that so any which way you want to do it.

Ms. Aarona: I will just say whoever's all in favor of Lucienne to raise your right hand. Is that the way it goes?

Ms. Desjardins: We can do that.

Mr. Wolfe: Aunty, your volume is very distorted. Could you turn down your microphone a little bit...(inaudible)...

Ms. Desjardins: Okay, so let's go ahead and take Lucienne first if that's ok with everybody. All those in favor of Lucienne as Chair, please raise your right hand. And I'll tell you what I can see, the ayes are Timothy Wolfe, Rebecca Lopez...I know it's not, yes Rebecca Lopez, Andrea Kealoha, Lucienne. Did I miss anybody?

Mr. Nikhilananda: May I ask for a point of clarification?

Ms. Desjardins: No, can you hold one sec, we're in the middle of the vote. So there's ...

Mr. Nikhilananda: You've asked for people to raise their right hand, Tim raised his left hand.

Ms. Desjardins: Yes, that's fine, you can raise whatever hand is fine. Um, so that's 4 votes in favor of Lucienne. All those opposed to Lucienne as Chair, please raise your right hand. Ms. Aarona. Anybody else say aye or nay if you're opposed.

Mr. Antone: Is it just those two votes, can you say or can you remain neutral because I'm the other nominee, so.

Ms. de Naie: You can vote for yourself.

Ms. Desjardins: You can.

Ms. de Naie: It would give your supporters confidence, I think, if you did.

Ms. Desjardins: So, Rod, how are you voting?

Mr. Antone: I'm voting for me I guess.

Ms. Desjardins: So 2 oppositions, Ms. Aarona and Mr. Antone. Did I miss anybody of the voting members? So that would be um – I guess we don't have to take a vote then for Rod.

Motion was made by Committee Member Timothy Wolfe, seconded by Committee Member Andrea Kealoha, then

VOTED: To approve Lucienne (Antoinette) de Naie as Chair

(Assenting: L. de Naie; A. Kealoha; R. Lopez; T. Wolfe)
(Dissenting: R. Antone; F. Aarona)

Chair de Naie: Could I make a motion and nominate Rod for Vice Chair?

Ms. Desjardins: Yeah, so are you guys okay with just going forward because it looks like Lucienne would get the majority for Chair, and now we're moving on to a nomination for Vice Chair.

Mr. Wolfe: Sounds good to me; she just got elected.

Ms. Desjardins: Okay, so we have a nomination for Rod as Vice-Chair. Do we have a second for that?

Mr. Wolfe: I second on that.

Ms. Desjardins: Okay, so nominated by Mr. Antone and second by Mr. Wolfe. Any further discussion on this nomination? All those in favor of Mr. Antone as Vice-Chair, please raise your right hand or any hand, sorry. You can only vote once Tim. Looks like it's unanimous for Rod for Vice-Chair. So congratulations folks.

Motion was made by Chair Lucienne de Naie, seconded by Committee Member Timothy Wolfe, and unanimously

VOTED: To approve Rod Antone as Vice-Chair

(Assenting: R. Antone; F. Aarona; L. de Naie; A. Kealoha; R. Lopez; T. Wolfe)

Mr. Wolfe: To all the candidates, thank you.

Chair de Naie: Thank you all.

Ms. Desjardins: So do you want to take over the meeting now Lucienne?

D. ORIENTATION

Chair de Naie: I guess I could. Although the next item we have off the agenda is Item D. Orientation, and I believe that would send the ball back to your court, Mimi, is that the case?

Ms. Desjardins: Oh I forgot to tell you, the Chair has to do the orientation. Nah just joking. I do have an orientation for you folks and um, thank you so much. I'm happy to be of service to your Commission. I'm excited. I am Mimi Desjardins, I'm the Deputy Corporation Counsel, one of my duties is to help Commissions--Boards and Commissions out with questions during meetings. Substantive things would fall obviously to the Planning Department; you've got a wonderful resource in Jacky who knows the ins and outs of your items, but I'm here really to sort of keep you on track with the Sunshine Law, the Rules of Ethics and the Robert's Rules of Order. So the first thing I'm going to do is I'm going to kind of go through the duties and functions of this Commission, which is under Maui County Code 2.28.050 and I'm also going to then go through the Sunshine Law, the Rules of Ethics, and a little about Robert's Rules of Order. For the second item, the Sunshine Law, I do have a power point presentation that I can have Jacky share. It's really up to you, I can send the power point to you later, and we can just have a more informal discussion if it's better for you or I can share a screen and have a power point. Either way, it's up to you folks what your pleasure is on that.

Mr. Wolfe: How long a presentation is it?

Ms. Desjardins: Oh, it's not long about 15 minutes at most and if you have any questions.

Chair de Naie: How do the board feel? It's always nice to brush up from my point of view on what's in and what's out of the Sunshine Law, what you can and can't do. So I would opt for a short presentation if we can. But is anyone opposed to it and rather have just a powerpoint to watch at home?

Mr. Antone: You know I'm not opposed to it but we do have people waiting to testify, don't we?

Ms. Desjardins: Well, we have one testifier, but that's okay. I'm sorry, I wasn't making myself clear, I was going to give the presentation regardless of whether you wanted the power point or not. What I really wanted to know was whether you want me to go away and you can just look at the power point slides as I'm talking, or would you rather talk to me and then I can send you the power point later. That's what I meant, sorry.

Ms. Aarona: I would go for the presentation.

Ms. Desjardins: Without the powerpoint?

Ms. Aarona: Yes.

Ms. Desjardins: Why don't we do this. Let's start by talking about the Advisory Committee anyways and what really the whole focus of an Advisory Committee is. I'm going to run through this real brief. But basically you folks are an arm of the Planning Department okay, and under that Planning Department arm is the Maui Planning Commission. So you folks make recommendations when the Maui Planning Commission requests recommendations from the Advisory Committees and that would be if there's something maybe in your Community Plan that needs to be reviewed and to get input from you folks as a local board. It could be if the Maui Planning Commission request that you hold a public hearing. Also in your island Community Plan, they would delegate that to you as well to hold a public hearing. There might be an instance for example, today's item is one of those that is required to go to Advisory Boards and the Planning Commission in order for the Council to get input and recommendation. And those are the types of things that fall under for example Title 19, Zoning, Changes in Zoning and things like that. So that's generally what Advisory Committees do--is you're giving recommendations--findings and recommendations and it's important input because you folks have the background, and you live in the communities that these folks are making decisions. So that's the really important part. If you have questions about duties and functions, you can also look up under the Maui County Code 2.28.050 and that lays out very specifically of your duties and functions. But generally, that's what you're here to do. So your meetings will be sort of sporadically rather than they're just being regular meetings. Advisory Committees meet when there's an item or something that is required for you to meet. So you may wonder why for a couple of months you're not having a meeting and the reason is that there isn't any business to bring before you. And so the Planning Department will keep in touch with you, though every month. Oh okay we're going to cancel the meeting or we have several items for this upcoming meeting. Just make sure, they will poll everybody to make sure everybody is available.

Chair de Naie: Mimi, your sound is going in and out.

Ms. Desjardins: I'm sorry. I'm going to have to run back, one sec.

Chair de Naie: It's my understanding that this Orientation is to help us understand the testimony that we receive and what our responsibility, our kuleana is upon receiving testimony you know how we're supposed to conduct ourselves, so it is good to do it first even though it's sort of rude to keep people waiting.

Ms. Desjardins: Okay, can you folks hear me?

Chair de Naie: Yes.

Ms. Desjardins: Okay, that's better.

Chair de Naie: We'll see.

Ms. Desjardins: Alright, sorry about that. My apologies. Yeah, okay so it's nice to get that orientation like you said Lucienne, so people sort of understand how the rest of the meeting is supposed to kind of function. Okay so after looking at the Maui County Code and you kind of understand what your functions and duties are, the other thing that I do want to comment now is a very quick synopsis so that everybody is on the same page now. I know that a lot of you have served on Boards and Commissions before because I've seen your faces, I know who you are, but I'm gonna just assume you don't know that much what I'm going to talk about and that's how the laws are arranged from the beginning down to where you folks are. We know that the United States Constitution governs is the highest level of law that we have to follow okay. Right below that is the Hawaii State Constitution and that provides generally a lot of protection and a lot of categories than the United States Constitution does. And if you're familiar with the Hawaii State Constitution, you'll know for example, we have a right of privacy that's built into our Constitution. The U.S. Constitution does not have that. So there are some very distinct things that the Hawaii State can do to make their own constitution. Once the Constitution is established, the next rule of law is the Hawaii Revised Statutes and that's State law and those are the state legislatures that enact those laws. Right underneath that though is our own personal Maui County Code and that is local law that has jurisdiction over things like zoning, which is why Commissions like yours are so important because those are laws that we have distinct jurisdiction as the County to put in the code. I'm sorry, right between the Hawaii Revised Statutes and the Maui County Code is the County Charter. So the County Code has to follow the County Charter and will always refer back to the Charter if it's relevant if it has something to do with what we're examining. And under the Maui County Code is that each Commission including this one can enact its own administrative rules. So as this Commission develop and goes about its business if you folks determine that you need administrative rules to run your meetings, then we can establish administrative rules. And I'll help you do that. Now, I don't believe all of the Advisory Committees have any administrative rules and if you find that its becoming obvious that we need to establish administrative rules, then we can do that. That's generally the breakdown of how to follow the law. But the most important thing for us to understand about the Commission that the law favors absolutely open meetings to the public. And the law takes very seriously that we want these done as much as possible in the open where the whole public can see what's happening with the government. We don't want things done behind closed doors unless there's an absolute reason to do it. And that's why we call open meetings the Sunshine Law. And so unless for example you have the ability to go to an Executive Session for a very narrow reason, you're going to have open meetings and the public is going to have the right to participate and the public is going to have the right to listen to the comments being made, deliberations, and certainly how each and every one of you votes so they have confidence on that government is running the way that they understand it, if they have questions. People can introduce testimony either orally or in writing. Sometimes Commissioners might listen to some testimony or a testimony that sounds really interesting and say, would you kindly put that in writing so that we can actually read it later. And that's one way for you to receive information and digest it over time, so that's sometimes an important thing. But another fundamental thing that we need to understand is exactly what is the meeting. If meetings are supposed to be open, how do we know what a meeting is? Well this, what we're doing right now is considered a meeting. And so meetings have certain rules that they have to follow as well. For example, you have to have a quorum, right, in order to conduct a meeting. A meeting also has to be conducted about what is called board business. So you have jurisdiction over certain things

but you certainly wouldn't have a meeting on something that wasn't within the realm of your jurisdiction. So what is board business. That's something that is allowed to be heard by this particular commission. And as you know already, one of the things that you're going to be looking at are things that are referred to you by Council or by the Maui Planning Commission for comment and recommendation. So that those two bodies can get your important input before they make final decisions on legislation. All actions of this Committee will be done by majority. There's one exception and that is if you decide, do you want to go into Executive Session. And if you do decide to go into Executive Session, which usually means you want to get some kind of legal advice which is generally not going to happen in this Commission but you never know. You would have to have 2/3 of the majority to agree to go into Executive Session. And remember the reason why that is because we want to stay an open meeting. You don't want to go into Executive Session unless we have to. And then once you go into Executive Session, you can only talk about the absolute business at that Executive Session which is required for, okay. So one of the things I would do in an Executive Session for you folks is to keep you on track and say, okay we're going a little bit astray here folks because what you're talking about right now, you can do an open session. And I'll try to keep you on the narrow, okay, for the Executive Session. Hope I'm not going too fast. Bottom line is anything that I'm talking about to you today and you have a question in the middle of the meeting, raise your hand and say, ah Corp Counsel, can you hold and explain this, or I might interject and say, Chair, might be a good idea if we do a,b,c right now. Some of the things that you want to be careful of as a Commissioner or Committee Member is the kind of communications that are allowed between Commissioners when you are not in an open meeting like we're having right now. So you want to avoid talking about Committee business outside of a regular meeting. That doesn't mean that if a member of the public walks up to you and asks you about board business that you have to walk away and say "up bop" can't talk about that. Of course you can talk about board business to the member of the public, but you can't give them any kind of a commitment about how you're going to be voting on for board business. Some Commissioners choose to just say you know that board business, I prefer if you came to the meeting and testified about that board business when it's on the agenda rather than approach me on the street and start asking me questions about it. It really depends on your comfort level on discussing certain topics with people of the members of the public. No more than two members of the board can discuss board business outside of a meeting. So let's just say and I hope you guys don't mind me calling you by your first name; you can call me Mimi and I keep looking at you, Tim, because you're right in the middle of my screen. So if Tim sees Andrea on the street in Paia and says wow you know I notice that thing is coming up on the agenda, have you had a chance to look at it? Folks can talk about it, but you cannot make a commitment about recommendations you might make or decisions on how you might vote on that topic. You want to stay away from that area but you are free to talk about board business. One thing you can't do though is then Andrea can't say "oh hey, Lucienne I just ran into Tim and we were talking on the street about that board business and now I'm going to tell you what Tim and I just talked about" because that's called a serial communication and you're kind of circumventing the spirit and intent of the Sunshine Law, if you said having these serial communications and eventually include all your board members out on the street. That's a violation of the Sunshine Law. You can't discuss board business by calling, fax, email, social media, facebook. You kind of want to stay away from all that stuff. You might get an email from the Planning Department saying the meetings been cancelled or I'm polling for a special meeting or I just wanted to let you guys know that this is

communication. If it's coming from staff, it's fine, but you don't want to do is don't start an email tree, don't fax each other, cause it's the same problem. Right, you're committing serial communication so you don't want to do that. If you have social gatherings and the majority of you are there, just don't talk about board business because the next one is if you go to a Haiku Community Association meeting and there's less than the majority of you present at that meeting, that's great. You guys can observe and absorb things at the meeting and if they're talking about things that may possibly be board business, that's fine. Where it gets sticky when more than the majority of members of the committee show up at a meeting where there is definitely going to be board business being discussed. You want to avoid that. So if there is a meeting coming up, say for example it's in your community and it's about a topic you know that's going to end up on your agenda, a majority of you cannot attend that meeting but the less than the majority of you can. And if you ever have a question about it, please call me or call the Planning Department and we'll help you through that. Yeah, go ahead Lucienne.

Chair de Naie: So help us define the majority is 4. Is that the case?

Ms. Desjardins: Ah, let's see, I think it's 5. Let's see how many members you have. Let's just assume that you don't count the alternates. Yeah you have 7 members, so you're right, it's 4 is the majority. So 3 of you can go to a meeting where business is discussed. So here's the thing though, if you do that and you go to a meeting where board business is discussed, then the next thing you're going to do is the next available meeting, one of you that's there is going to do a little brief presentation to the rest of you. Saying "oh I went to the Haiku Association Meeting and this item was discussed and this is kind of what went down." Just put a little report together to advise the others of what took place. Um the other thing I want to mention is if there is however you don't have a quorum, what's going to happen is one of your alternates will jump in to help you make a quorum, okay. Or if you need both of your alternates, then those two alternates can jump in to make a quorum. But even if you're short of that and you don't have a quorum...I'm hearing some feedback. Dave Jorgensen, can you mute your mike and your audio please? I'm getting a little feedback on your mike. Can you mute your mike and your audio please? Thank you. You can still for example receive a presentation if you don't have a quorum. So what you can't do is deliberate or vote. You can ask questions of the presenter. I don't advise it unless it's an emergency, and you need to get something done quickly. But you can do that if you have to and again I'll help you through that if that happens. But then at the next meeting, you'll have to make a video recording, or an audio, BlueJeans recording available for the members who missed it to be present and to be able to also look at it and then somebody would have to give a little presentation advising everybody of what happened at that meeting when you took a presentation without a quorum. Um okay, so lots of information, I'm really just going through this so you folks can have a nice orientation advising things more specifically as time goes by. One thing your Commission might decide to do down the road is compile what's called a temporary investigative group and that's when a less of the majority of members of the Committee form a subcommittee to go out and investigate a particular thing. I don't know whether or not an Advisory Committee that will happen but it is a permitted action where more than two members are able to come together to discuss more business. Um does anybody have any questions up to this point in the presentation because that's kind of what I wanted to go through just in terms of committed

interactions before I move on to um the Robert's Rules of Order, sort of a little mini thing on parliamentary proceedings. Are you guys ready to move on?

Chair de Naie: I have one brief question. And that is...

Ms. Desjardines: Okay.

Chair de Naie: I've attended many meetings and when folks testify, they're often very well informed, you know they have background on the subject, they get their 3 min and then a presentation is done by the applicant and they may contradict what has been said by the public presenter or public testifier. Is there any way we can go back and call back that testifier to clarify anything? Is that allowed at all under any rules? Because it could be valuable.

Ms. Desjardines: No it's not. Yeah, no it's not but I can tell you this. If we--you folks, not we because I'm not a member of your Committee, but if you folks decide to put administrative rules together, I will look into whether or not that might be a admin rule that you could use for your Committee but I know absolute rule or valid rule, it wouldn't be allowed and the reason why is because you'll be giving one public testifier more public time than another. If you did that. And you don't, but the resource posting rule, that applies really the Council meetings and Committee meetings so there's not generally a rule like that for Commissioners, but I hear you.

Chair de Naie: You've answered my question. Okay so we don't enforce people.

Ms. Desjardines: No we don't, but one way is get around, I mean not get around, but help you to be not fall into that is if you do your presentation first and then allow the public to testify on an item if there's a presentation. Then the testifier had a chance to see that item. Okay, and then you would be allowed to ask the testifier clarifying questions. So the testifier would have had the benefit of seeing the presentation first, testifying and then you can ask clarifying questions. So that's one way to assist yourself in that regard.

Chair de Naie: Alright, thank you.

Ms. Desjardines: So generally, let me just say that the flow of meetings is that the Chair um controls the flow in order of the meeting. The Chair generally knows the rules and the laws but if not Corp Counsel can jump in or the Chair can ask Corp Counsel or the Planning Department if there are any questions. Before the Chair--before members ask questions or presenters generally, it's good form to look to the Chair to ask if it's okay to the Chair you know would it be okay with you if I ask clarifying questions. Um and that's mostly just to keep the meeting in order but really your Chair can decide if that definitely needs to happen. But we'll just see how it goes, it's up to you guys. Um, but generally a motion is made. So you may have listened to a lot of stuff and then the chair might say, okay I'm ready to entertain a motion. Um, do I have a motion to adopt a recommendation to the Planning Department. Um yes, Tim says I move to adopt the recommendations and then let's see, Andrea will say I second that motion and someone else, maybe Reba jumps in and says well I would like to move to amend—to adopt those recommendations but I want to make some modifications. Here's the modifications. So motions go in hierarchy and we will move to those as they come up and Lucienne is very well versed in

that. She knows how to do it, I'm here to help. But we'll try to keep them as orderly as possible. So for an item like you have for today A. you have a recommendation by the Planning Department, you have in the report laid out the different options of actions that you may want to take today. You can take those actions, you can modify those actions, that's up to you, but we'll just make sure that we take them in an orderly fashion. Okay and so I'll be listening carefully to make sure I can help you with that. Um, if you do not vote, if you say I'm abstaining then your vote is considered an affirmative vote for whatever the motion is. So it's not going to--unless you're okay by voting in the affirmative um being silent or saying I'm not going to vote, it's just going to be considered an affirmative. But one exception to that is if you are recused because you had a conflict and then you're not voting will not be considered one way or the other because you have been recused from voting. Um friendly amendments like the example I just gave I move to adopt the recommendations or I move to disapprove the recommendations, there's a second, somebody else comes in for an amendment, I'd like to join in the move to disapprove but I'd like to make some modifications to that or some comments to that disapproval and we'll work on that friendly amendment, next, first, and then you move up to the main motion after you see that the friendly amendment has passed. The most important thing you can do for yourself is for any meeting is read all the materials before you get to the meeting because you're a small board, you're participation is crucial with super important items and so reading it all before you get there will be able to jump right in and understand what's going on. Try your best to understand the rules and the law that apply to each of the things you're looking at as much as you can and please ask questions because if I don't know the answer, the Planning Department certainly will. And don't hesitate to ask questions. It's really important. There are no dumb questions in meetings at all. Um you need to be respectful of each other, try our best not to talk over each other. Being remote makes that a little more challenging but not impossible. I think people are being very friendly and I figured out how to do that. Any questions about the Rules of Order before we move into the last part of the presentation which is about the Rules of Ethics? Any questions? Okay, um let's see, 1, 2, 3, 4...we have, let's see, I see 1, 2, 3, 4 of you have your videos on. You need to make sure you have the majority of you folks have your video on during the meeting. I see one of you bump off, I see that, there you go, Rebecca you're back on, um Rod's not on, but if it goes below the majority then we have to make sure the people's video go back on. Okay, so ...

Chair de Naie: Mimi, may I ask one other question? I noticed at the Planning Commission that if a member needs to leave for some reason during part of the meeting or their camera doesn't work or their video doesn't work or they get bumped off, that if you're going to take a vote that day, ah they've been pretty strict. They said that person cannot vote because they haven't heard the whole procedure. Are we that strict in what we're doing or are we a little bit more informal.

Ms. Desjardins: Well, I don't know a rule that said that. So that may be a policy that they have or maybe in their rules but I can tell you that the best step practice is to keep your video on so that everybody knows that everybody's present. Now there are going to be some people with not enough band width, right, I know that you know this because I've seen you...

Chair de Naie: I could be one of them, yes.

Ms. Desjardins: Yes, exactly, so sometimes you might not have enough band width to be seen and heard simultaneously but if you're not speaking, let us see your face so we know that you're present and it makes it so much easier for the staff. And if you are having technical difficulties, you can put that in the chat. You might say, oh I'm sorry I'm having technical difficulties, I had to bump off, we can see when folks have left the call, to try our best to keep it on the straight and narrow on that as we move forward. But that's a good question. Um, as far as the Rules of Ethics go, my absolute advice to you is that get a hold of the county charter and Article 10 is the absolute details of the Code of Ethics. And that applies to Commissioners, um yep there we go, I see you in chat. It's exactly as you put in chat and let us know that you having difficulty. Thank you. So Code of Ethics, it applies to all of you, you have to fill out Financial Disclosure forms every year, your Financial Disclosure forms are confidential. They are not public. But if you don't fill them out the Board of Ethics is going to find out why you didn't get signed or penalty. So please get then signed by the deadline and if you're having difficulty filling them out, let the Planning Department staff know you're having an issue and they can help you. Okay, can't accept any gifts or money, that's kind of a no brainer but you'll be surprised the kinds of things what people will offer you and they don't mean anything other than they're just trying to be friendly. And I know that we have a culture of what we call gifts of aloha, food, small items, my recommendation is don't accept things when you're a Commissioner because the bottom line is that it could be perceived by the public that a gift was intended to influence you in any way, then that would not be a good thing even if in the heart of the person giving it to you they're just simply trying to be nice to you. A lot of ethics is being about perception and how the public views each of you in terms of you filling your duties. Okay, so um, you can't engage in business transactions or activities that have any financial interest in presenters for example that are coming before you, you can't--if it's incompatible with the discharge of your duties and you think it is, then my strong recommendation is to put it out there in a meeting. Ah, you just raise your hand and say hey I just want to let you know that in this particular thing this woman is my aunty, I've known her my whole life, um I don't feel that that's going to influence the way that I'm going to make my decision, but I want to put it out there. Now if somebody on the Commission says oh wait a minute, I think that might be a conflict even though you're saying it's not, then the Commission can vote whether or not you should be recused from hearing a particular item. But if you say I just wanted to ... (inaudible) ... my friendship and nobody on the Board has a problem with it, and you think you can still be fair and impartial, you're fine. Just disclose it... (inaudible) on the side is disclosure. If you have a direct financial interest though, that's different. Um but I'm going to give you an example, if somebody comes forward and testifies for or against something and there is some very remote um connection, you just have to ask yourself whether you can still be fair and impartial because if there is no financial interest, you don't have a conflict. But if in your heart a part you feel like you would be torn in conflict, then that's a conflict. That's an ethical conflict. Then you're just going to say I'm going to recuse myself from consideration of this item but be aware that that also concludes that you're deliberating on the item, giving any of your mana'o because you may influence other members and you also can't vote. So be very careful in selecting what you really really can't participate unless it's directly in the code or in the charter that you have as the goal. One thing that people do if you think that a role in the community is going to come up again and again and it's going to cause a conflict, you can ask the Board of Ethics for advice or an opinion. And if you have a conflict like that, the Board of Ethics will actually hear your request, you can write up a letter and we can show you how to do that and it's on the website and then you would

go before the Board of Ethics and they will issue an advisory opinion. And they'll say Tim we don't think you have a conflict. But if in the event that any of this will happen, there may be a problem. If you follow that Board of Ethics advice, you can't be dinged for anything because you have asked and you got an opinion. Um it happens not frequently, but the Board of Ethics get a lot of questions from people about whether they think there they may have a conflict or not. Any questions about that so far? You're all good, alright. Um if you do fail to disclose if you may have a conflict or financial interest and it turns out that you do and somebody finds out later and object, it could um it could definitely turn the way the vote comes out or you could be removed from the Board or you could be fined. So you just want to, I'm not trying to scare you, I just want you to be careful that if you feel that something may come out at all then just say it out loud and we can talk about it in the meeting. Alright? Okay, I think that's all the things that I have and if there's any doubt, just ask questions, um and that's it. Anybody have any questions before I hand it over to the next communication that you're here to discuss today. Nope, okay.

Chair de Naie: Thank you very much Mimi and I just want to say that in general my style of being a Chair is that we're all in friendly terms, respectful for our fellow Commissioners, respectful of the public who's taking their time to come out to offer us their mana'o and certainly encourage everyone to ask the hard questions but put it in a respectful manner. So just a good practice to have; just imagine if you were on the other side and you were standing there trying to be heard, how you would like to be treated and you have it. So ah I look forward us to having some really good discussions and I think the first order is to have a presentation on the proposed Ordinance 22-70, CD1, FD1 by our Deputy Planning Director, Ms. Jacky Takakura, in order to understand what is being proposed and then we will take public testimony after or would you recommend that we take public testimony first. We already have written testimony so it's obvious that some folks understand what is in the bill already. Any recommendation Mimi whether we take the testimony before we have the presentation or after.

Ms. Desjardins: Um, I think it's better to take it after. That way the testifier has the benefit of having seen the presentation which may spark some questions or comments or other people may want to testify after seeing it. So that's my recommendation.

E. COMMUNICATIONS

1. RESOLUTION NO. 22-70 -- BILLS FOR ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO TRANSIENT ACCOMMODATION CAPS.

(Ms. Takakura provided the Department's Report and Recommendation to Agenda item E.1.)

Chair de Naie: Alright then Jacky if you will proceed basically what is being proposed and the Department's recommendation. We have all received this of course in advance but this just puts it out for anyone who might need reviewing.

Ms. Takakura: Thank you Chair. So um before I start I think most of you know this but what we do at the Planning Department is we administer Title 19 of the Maui County Code. Title 19 is the Zoning and so there's lots of different chapters within Title 19 and those are going to be the different zoning districts, which is Residential or Ag or Rural or Business or Industrial and within each of those chapters are the list of what kind of permitted uses are allowed for that type of

zoning district. So that's mainly what you're going to be seeing at least from me and what we have updates to Title 19. It's generally to update the land uses of a particular zoning district. Now this one happens to be somewhat encompassing because there's transient accommodation uses sprinkled all throughout the zoning code. Some can, some can't, some can do a little, some can do some more, some can do in different ways. And so your first one instead of just having one chapter to look at, you've kind of got a lot so we can go over the details after I share this and it's really a short presentation. Okay I'm going to share my screen and I then I can still see you. Can you give me a thumbs up if you can see the blue screen. So what we have before you today is a proposed bill from the County Council to reduce the existing numbers of transient accommodations or in some places to remove the use as an allowed use. So when we say transient accommodations, we mean 180 days or less. That's in the code for the definition of transient. So if you have someone who was renting for, 180 is kind of like 6 months, so more than 6 months generally speaking are long-term residential residences. But 180 days or less is what we count as transient accommodations or sometimes you hear vacation rentals, or sometimes you hear TVRs, or sometimes you hear transient vacation rentals. Those generally are kind of in the same bucket of vacation rentals and so as I mentioned this is a bill to reduce the caps in a multitude of zoning districts. Okay so I'm not going to read this entire slide, I know there's way too many words but it's just kind of to show you that since 2019 there's been a lot of different changes to the Zoning code to Title 19, regarding vacation rentals. The caps or the short term rental homes was reduced in Paia-Haiku, the fines went way up, the caps for short term rental homes in Molokai was set to zero, there was a moratorium for Lanai and the numbers got set for them. And some of the zoning districts like apartment, or urban reserve, or airport, the uses were changed to no new ones and then most recently, in January, we had an ordinance that passed a two-year moratorium for transient accommodations for the island of Maui. And that does not affect existing. That moratorium is basically is no new ones. So existing is not affected so that's really an important distinction to make. There's ones that are operating and they're just fine then there's ones that want to operate and right now there's a moratorium. So no new ones for now. Okay the other thing that happened most recently that we can't ignore is the pandemic and how it changed everything on Maui. It really brought to light our dependence on tourism and it also gave us residents a feel of what Maui is like without visitors, empty beaches. It was really an important time and it really did change. So like I mentioned, there's existing vacation rentals or transient accommodations and this is just some information from Real Property Tax Assessment Division over in Department of Finance on how many vacation rentals there are and so there are some different units like this top row, hotel operations that's # of rooms, 8,336 rooms and the others are parcels. So like a condominium these might be like a CPR'd lot, you know like 1 unit in a condo versus these things that are going to be in houses, bed and breakfasts and then these other short term rental homes. But in total, even though there are all different types in total there's a little over 24,000 and that's all of Maui County. I don't really have a breakdown in the various zoning districts, but it's just a snapshot of where we are at least as of last year for the inventory for the County of Maui. So what this bill is proposing and what you have in the packet is first is kind of a memorandum report that we write which kind of summarizes the proposal and it has you know some background information and maybe some concerns that the Planning Department might have and recommendations and then you're going to see the proposal from this one came from the County Council. You'll see that next and the last thing on this one is agency comment. And the only agency comment we got was from Real Property Assessment

Division. When we do get agency comment if they're on time, we do attach them so you can see. Depending on what the use is the agency comments may be from say Department of Transportation or Public Works or it really varies depending on the topic. This one happens to be from Real Property and that's in the packet that you have before you. But anyways in a nutshell this slide is a summary of the proposal and like I mentioned there's a lot of different chapters of Title 19 that are affected. For Apartment District and Hotel District, that's where a lot of the condos are and the hotel units are. The proposal is to cap the number of units to existing level so existing are fine but no new ones. For many of these other zoning districts SBR, which is Service Business Residential, B-CT, B-3 Business Central, Resort, Planned Development and Historic District. It would remove transient accommodations as a permitted use. So what that means for existing is that they would become what we call non-conforming. Because they were allowed by law at the time and they can actually continue as long as they follow the rules about non-conforming. So even if the use is removed as permitted--eventually the intent for non-conforming is to go away as the use stop or they change on the building and there's different things, but they will be allowed to continue as non-conforming. For the B-2 Community Business District it would prohibit these bigger transient accommodations of more than 20 bedrooms. The ones with 20 bedrooms or less would be allowed to continue. There's 2 other parts of the code that are proposed to be changed and one is the Parking Chapter which is 19.36B and that's to prohibit temporary parking of camper vans RVs that are used for vacation rentals unless they have like a camping permit at the park or something. And then 19.32 is the chapter about timeshare plans and that's to limit them to hotel and B-2 districts like ...

Chair de Naie: Could I ask Jacky that you could define in these districts, give us the cliff notes versions because not everybody you know studies these--the zoning code in great detail. So if you could give us that that simple picture, it would be greatly appreciated.

Ms. Takakura: Yes. Okay so the ones the zoning districts they are proposing to cap the number to existing is Apartment and Hotel. So Apartment districts, there's a lot of them in Kihei and Lahaina, Kuau Plaza is another example in Paia-Haiku area. Hotel districts that's mainly going to be Kaanapali, some parts of Lahaina, Wailea, you know where you traditionally think hotel. This next bullet item, some of the smaller ones like FBR, actually I don't know where these are, I don't see that very often. County town business, you do see that...

Chair de Naie: We have that in our Community Plan.

Ms. Takakura: Yeah.

Chair de Naie: Makawao

Ms. Takakura: Yeah. Some of the more historic district types but not actually a Historic District, where there's a little bit more of a history and it's more like a small town like I mentioned, parts of Paia like Kuau that's B-CT. And there's a special permitting process for B-CT. Okay, the next one we have here B-3 is actually, we only have it at the State building, the County building and the judiciary here in Wailuku. So there's only about 3 or 4 parcels that are B-3 Central Business. None in Paia-Haiku. B-R, that's Business Resort, I actually don't know where that is either myself, I haven't seen it.

Chair de Naie: Makena. Makena has several of those. And Wailea as well and possibly Kaanapali, but definitely South side has a number of B-Rs.

Ms. Takakura: Nothing in Paia-Haiku. Planned Development, those are going to be areas where you see them in Kaanapali, there's some others--I usually get them mixed up with Project Districts but they're usually like a subdivision where there's going to be some housing and some shops and some commercial use developed all at once like in Wailea. You see that. I don't think there's anything in Paia-Haiku. And then Lahaina Historic District, that's mainly along Front Street. There's Lahaina Historic Districts 1 and 2. That's the historic area you know that's kind of around Front Street. Ok now B-2. I'm going to show you a map of--and we're going to get a little bit more into detail of that one. Are there any questions about the zoning districts that you see here? Yes, go ahead Reba.

Ms. Desjardins: I'm sorry, this is Mimi and I apologize. One thing you can't do is ask questions to the presenter until after you've received public testimony. So if you can just hold your questions and then when we get to our testifiers, then you can jump in and ask Jacky your questions. Thanks.

Chair de Naie: So Mimi, clarification is it okay for me as Chair to just direct a little more information to be shared?

Ms. Desjardins: As long as you're not asking questions. It's okay to ask her to provide further information, but yeah try not to question her until after we have our testimonies.

Chair de Naie: Alright.

Ms. Desjardins: Okay, thanks.

Ms. Takakura: Okay, thank you. So let's look at B-2 a little bit. So B-2, that's the Community Business District and it's intended to provide all types of goods and services for the community. And the proposal in this bill is to allow transient vacation rentals not exceeding 20 bedrooms. So right now that is an outright permitted use. You can do that, but not with a moratorium but this is part of the existing zoning code to allow transient accommodations not exceeding 20 bedrooms. So that would stay. There is a special use in B-2 if you're going to try to build a transient vacation rental of 21 to 50 bedrooms and then you would have to get a special permit from the Planning Commission. Proposal of this bill is to make that go away so you can't get a special permit to build bigger than 20 bedrooms. The proposal is to say that against once the moratorium is over, then you can extend transient vacation rentals in B-2 not exceeding 20 bedrooms. So this is actually the exception to this bill of kind of setting caps or stopping the use everywhere else. That B-2 can do the use of new TVRs but not exceeding 20 bedrooms. And on this map, there's little spots of red are where B-2 are at. And so you can see--there's like 3 parcels in Hana, there's some in Kihei like Island Surf and a little bit further down here, a couple of parcels upcountry. I do have the zoning map open, I can show you the Paia one later. You can see it throughout central Maui and Wailuku. Yeah and so there's a couple of parcels on Molokai too. Yeah B-2 is kind of sprinkled all over the island. Okay so the other part that's not really a land use but it's a proposed change to our Parking Chapter and that's a proposal to prohibit temporary parking for camper vans and RVs and so if they're going to be rented for vacation rentals for commercial

purposes. Unless it's allowed by zoning and the proper permit is maintained. So I guess this is proliferating a lot in Launiupoko in West Maui and you know sometimes you see them parked on the side of the road. That would become prohibited by this bill. The other last thing that's being proposed by this bill is regarding timeshare units and that is proposed to be limited to B-2 Districts, Business and Hotel Districts only. Right now they're allowed in those districts and in a couple of other places like B-3 and special uses and it would just be limited to hotel and B-2. And there's some minor updates including vacation rentals that have special conditional permits--you know some minor things like grammatical stuff. So this bill would apply to vacation rentals that have not received final discretionary approval by January 7, 2022. So this is kind of long too, I don't want to read the whole thing but what we do is we look at what are the long term plans say. You know as far as the direction for Maui County and there's two that we refer to. One is the County-Wide Policy Plan and the one is the Maui Island Plan or the Molokai or Lanai Island Plans. And you know they do kind of back this proposal: support the renovation and enhancement of existing visitor facilities, maintain a sustainable balance, discouraging new resorts along the shoreline, managing, discouraging, supplying housing, establishing standards. This is from the Maui Island Plan, managing here again, you know caps. And then you've probably heard this one, promoting a desirable island population by striving to not to exceed an island-wide visitor population of roughly 33 percent of the resident population. And so what that means is say there's 150,000 people on Maui as residents; I'm just throwing that number out, 150,000. So 1/3rd of that would be 50,000, so the goal would be to not have the visitor population exceed that 50,000 and pre-pandemic we were at about 46%, so pre-pandemic for Maui we were kind of over this 33%, I think we were at like 64,000. I have that from a different presentation but that's part of the Maui Island Plan. So that's it in a nutshell. What normally happens is the Maui Planning Commission would make a recommendation to the County Council and so what I'm going to do is I'm going to take the comments and recommendations from the Hana, South Maui and the Paia-Haiku Community Advisory Committees and share all that information with the Maui Planning Commission so that they can make their recommendation to the Maui County Council with your comments in mind. So I'm going to stop sharing and we'll go to the next part. If you need me to pull up a slide or anything I can do that. I can also go to the Zoning Digital map later when we get into discussions about details. That's all I have for you right now. Thank you.

Chair de Naie: Thank you so much. So we are now going to open to public testimony and um each person who signed up to testify will have three minutes. I would be inclined to give that person a little extra time to conclude especially since we don't seem to have long lines of people to testify. Is that acceptable to the other members of the Advisory Board? Alright and at the beginning of testimony, the person needs to state their name. They don't have to ah this isn't a contested case so they don't need to swear to tell the truth sort of thing or do they Mimi?

Ms. Desjardins: No

Chair de Naie: Okay, great. And then after the person has concluded their testimony, I will go around and ask if any of you have questions of the testifier. And, you know please feel free to ask. I'm sure folks who want to testify would be happy to further explain anything that they have to offer. So let's give them that chance because you know we appreciate that they're coming to share their mana'o. So Jacky could you call our first testifier?

Ms. Takakura: Yes, so as far as I can tell from the chat, the first testifier is Lahela Aiwohi followed by um Dave Jorgensen.

Chair de Naie: Thank you, Lahela, you're on.

Ms. Aiwohi: Mahalo and Aloha Committee Members and Chair Lucienne de Naie, um I appreciate the time that I have to kind of share my mana`o on this resolution 22-70. So I have been involved as a testifier. My name is Lahela Aiwohi and I believe I do have to say that I am a lobbyist. And so I'm testifying on behalf of the Hawaii Hotel Alliance. And I've been testifying since day 1 of the moratorium. As Jacky stated the moratorium did pass on January 7. I'm sure all of you are aware of that. And in March this came out in another Committee and this is the Resolution 22-70. So our thing is of course we fought the moratorium and I will go over some of the reasons why. And once the moratorium passed we said alright let's move on, let's work together with the County and the County Council to try to find ways to address the issue. Which one of the issue is trying to manage tourism. Now we all know we cannot stop tourist from coming. We cannot—we still have flights that come here every day, that's FAA under federal regulations. What we can do is we can actually try to organize together, bring all the stakeholders to the table and try to figure out a way we can manage it smartly. Tourism as we all know make up about \$300 million plus in our County budget. We have heard that talks of diversifying the economy. I agree with that and I think that hotels can be the basis of diversifying the economy. I think we all have relatives, friends, neighbors that work in the hotels whether it is from our local entertainment all the way up to those who greet us that check us into the front desk to our valet workers. We know a fishermen who sell their fish to our hotels. I was just on Sunday, sitting next to a fisherman and said that's how he makes his money is he fishes and he sells his fish to the hotels and that's his main source of income. We look at the amount of tourist. So everyday we've been seeing on social media we see the amount of people flying out of Kahului Airport. One of course we have a staff shortage and that's on a worldwide basis. So that does have some kind of impact. But we see the amount of tourist and we keep on seeing them using this term overflow. But if there is an overflow and we look at the amount of units that our hotels have which is 8,336 and you look at the total of the 24,000, that 8,336 is the least amount of transient accommodation units that we actually have out there in our community. And during Covid, what I believe happened and I think this is pretty common sense that during the pandemic, we saw an increase of our short term rentals more than likely illegal, not permitted because we saw them popping up right in our backyards and that was due to the shut downs of the hotels. When the hotels did open back up, they opened up at 50% and then you know they couldn't—give the...

Ms. Kim: Three minutes.

Chair de Naie: Please continue, yes.

Ms. Aiwohi: On conclusion, they didn't have—they couldn't accommodate the tourists that were coming and locals you can't blame them you know, some of the locals did take advantage of what they could in making money during the pandemic and during the shutdown. But what did also happen is we also had corporates. We had corporations purchasing homes sight unseen buying up all these homes maybe on the street, they'll buy three or four increasing the market value which made homes then become way more expensive and increased—shot up our median prices.

So these short term rental units of course these corporations didn't go through the process of getting their permit. So now we have back in our backyards and again I live in Waihuli, I saw tourists driving up and down my own street in Hawaiian homes. I would never thought that would happen. You know so then we had this increase of unpermitted short term rental use and so my thing is, let's really take a look and dive into what is really happening. What is really causing our housing market to increase, what is causing this overflow of tourist. You know so if you look at the amount of short term rentals that we actually have out there; we know we don't have the manpower to actually go out there and to take a look and hit up all those illegal short term rentals. So my suggestion is let those short term rental permits sunset, don't give them a—don't repermit or don't reissue a new permit for these short term rentals, look at the hotel district zoning and keep these short term rentals at a cap in the hotel district zoning. Don't put them in our neighborhoods. You know I think that's one of the ways to kind of get the eyesore of tourist out from being in front of us. Keep them in those areas—the designated areas, the South Maui, West Maui, keep them out there, get them into the resorts, let them spend their money in the resorts, maybe partner with the rental car agencies to work with the hotels so that when tourists are in the hotels, they don't need a car the entire time they're here. You know they have all the accommodations at the hotels but maybe rent a car 1, 2 days that's it, you know let's keep—minimize the amount of rental cars that we have on the road, minimize the amount of tourists that we have out popping right in front of us and work where we can continue to have these taxes continuing to be put into our budget which helps Maui continue that flow. And to have our locals employed...

Chair de Naie: Thank you. So do we have any questions among our Board members for Lahela. Any hands? Oh I see that Aunty Mopsy has had some difficulties. I'll give her a minute to see—Mopsy, can you hear us? Do you have any questions?

Ms. Aiwohi: It looks like she just hung up.

Chair de Naie: Oh shoots. Ah Rod, do you have any questions, cause sorry I can't see you. I'm not picking on you but...

Mr. Antone: No, I do not.

Chair de Naie: Okay.

Ms. Aiwohi: Chair, I see Timothy Wolfe's hand.

Chair de Naie: Tim, do you have your hand up?

Mr. Wolfe: I'm curious what mechanism you might think of employing to coordinate anything with the rental car companies that represents a permit for a tourist to go someplace with that rental car.

Ms. Aiwohi: Yeah, I honestly don't. That's something that I would have to—again to me you would have to have all the stakeholders at the table to figure something like that out.

Chair de Naie: Alright, I do have one question for you and that is you did mention about bringing all the stakeholders together and so I think this has been discussed a few times in the past. Have there been any efforts to bring people together that you're aware of that you might summarize you know where they're at.

Ms. Aiwohi: Yes, so I have reached out to the majority of our Council members. I think there is only two council members that didn't return my email or call. I did talk to um like I said majority of them and they were willing to kind of like—most of them were willing to sit down and bring the stakeholders and kind of create this tourism management committee to kind of see what can be done so that there isn't a permanent moratorium put on this. Even with the renovations, you know having the renovations capped at \$500,000. I mean we'll see dilapidated hotels eventually and then if we really don't want to see any tourist and see a big hole in our budget, then eventually we will see that I think probably in ten years if the case comes down to maintaining a permanent moratorium.

Chair de Naie: Alright, well thank you. Any last call for questions of our testifier? Well thank you very much and can we call our next testifier.

Ms. Aiwohi: Mahalo Chair, mahalo Committee members.

Ms. Takakura: That would be Dave Jorgensen.

Mr. Jorgensen: Good afternoon, Chair de Naie and members of the Committee and staff. My name is Dave Jorgensen. I'm an attorney in Wailuku testifying on behalf of American Resort Development Association of Hawaii, the heart of Hawaii which is the industry group that represents a lot of the timeshare properties. I am a registered lobbyist and I appreciate you all, your service on this Committee and your willingness to hear these comments. I'll be pretty brief, I don't want to restate what Ms. Aiwohi said. We do oppose this proposal to cap the transient accommodations as you've heard from Ms. Takakura and from Ms. Aiwohi. The moratorium that had been proposed by the County Council was adopted and took effect January 7th of this year. On behalf of my client, we opposed the implementation of that moratorium because of the negative effects we believe will occur to Maui's economy and um to the thousands of Maui residents and citizens who work in the industry. But it was adopted and as Ms. Aiwohi said the understanding was that there'd be work done, there'd be groups with discussions about how to better manage tourism which I think is almost universal that there's agreement tourism can be better managed. Our concern is the idea of it being cut off or capped. The moratorium was just implemented, it's a two-year moratorium, our strong suggestion is that we as a community should allow that moratorium to move forward and see what the effect is rather than immediately coming back in and implementing caps which essentially result in permanent, a permanent moratorium. Some of the caps that had been proposed are less than the actual number of units that are already out there and that concerns us greatly. The idea is that efficient and practical tourism management can hopefully be accomplished as Ms. Aiwohi said of Mr. Wolfe's question. I mean there's lots of side issues that have to be addressed and resolved but we do not believe um it's appropriate at this time to implement caps after the moratorium was just implemented. So we believe heart of Hawaii acknowledges that growth in the tourism industry just like any industry cannot be unbridled—cannot be just willy nilly and go on forever, but smart and wise and reasoned

management is the direction we believe it should go. So I appreciate your time today and I am available for any questions you may have.

Ms. de Naie: Thank you Mr. Jorgensen. Anyone have a question for our testifier? Andrea?

Ms. Kealoha: Hi Dave, I think I heard you mention that the caps are smaller than the number of something that's already out there. And I think—can you clarify what you meant or expand on that?

Mr. Jorgensen: Yeah and I should have apologized up front. I understood this meeting was Thursday so I was at another meeting and got a call saying hey I don't see you on the screen so I don't have the actual numbers. But if I can, I'm just going to kind of make up numbers. Let's say on the west side if the implementation of the cap would say you can't have any more than 2500 units and there's already 3000 transient accommodation units on the west side, they're already over the cap. Now as Ms. Takakura said the proposal is not to say okay well we're going to just lock up 500 units, they gotta go away, no they're essentially grandfathered in, but there will never be able to be more because the cap is already below that number. So I can get—I don't know I think your decision making will be today and I apologize for not having the actual numbers. But that was what I was getting at.

Ms. Kealoha: Thanks, yeah that was helpful. I guess my question would be then what would happen to the other 500 but I guess ...

Mr. Jorgensen: Yeah they would continue on as was mentioned by somebody, buildings may end up falling down if they can't be renovated and then those units would eventually go away presumably but in reality, the numbers really aren't gonna go down unless the project closes. Thank you for your question.

Chair de Naie: Any other questions for our testifier from other Commissioners. Um I have one—oh I did get a message in the chat. And Mimi perhaps we should clarify this. So are alternates not allowed to ask any questions or participate in any of the discussions? Is that so?

Ms. Desjardins: Yeah, that's correct. Alternates are here in the event that we don't have a quorum and also in the event that there is a vacancy, there is an issue about alternates being selected to fill that vacancy. But other than that, there's no provision in the law that allows their alternates to participate or vote when there is a quorum.

Chair de Naie: Okay, alright well that's the clarification. My apologies to alternates but your presence is deeply appreciated because if you're here and we lose a quorum, you're going to be very essential. And this is a problem with some Boards and Commissions losing quorums and/or not attaining quorums. And this is why we have alternates built in. Um Dave, I would like to ask you a little bit deeper question followup with Andrea did. Is it your understanding that the areas where the number of in use transient units would be sort of cut off by the cap; are these all in the Hotel District or some in the Apartment District?

Mr. Jorgensen: My understanding is they are in both, the Apartment and the Hotel District. Um I believe there are some timeshare projects that may be in other districts as well but they're small scale and they're not—because they're small scale, they're not really within my client's purview. So but they are in the and it's primarily Kihei, Wailea, Kaanapali, Kahana, those areas but I believe they are in both Apartment and Hotel Districts.

Chair de Naie: And a little follow through on that. Any ballpark on a number so are we talking about 25 units not being you know being grandfathered in, or 100 units...

Mr. Jorgensen: My understanding is it's in the 100's, kind of the low 100's but as far as the actual number part of the problem is that—not the problem, but our reality is we don't work with all of the timeshare projects. I mean they are not in our group, so we're not intimately familiar with all of the numbers on those. The County, the Planning Department, I believe has better numbers or I believe Ms. Takakura's shared screen was from the tax office. But again my notes got lost in my rush to get back to my office so I don't have those actual numbers.

Chair de Naie: And then there was a section of the bill that referred to timeshares and—I didn't completely understand it personally but it seemed like it might be geared at this new practice of purchasing a house and then offering fractional ownership in it? Did you read it that way or did you read that section or is that having to do with just conventional timeshares that we have...

Mr. Jorgensen: Thank you for that question and it's a very interesting topic but I think my understanding is by definition, those types of properties, the luxury homes that are bought and then a fractional interest are sold are not timeshares. The way those projects—those companies are doing it is in a way that they believe negates the need for them to register as a timeshare so their hope is—by definition they're not timeshares. Those types of properties. The one screen that Ms. Takakura shared there was a little confusing then mentioned timeshares and it said timeshare units that had a number of 2475, which as far as units, I did believe there's more than that just on the west side. But then it said parcels after it and I know there's not--can't be 2475 parcels that have timeshare projects on them. So that was a little confusing but as far as those luxury homes they're not—I do not include them within the category of timeshares.

Chair de Naie: Okay so they're a separate discussion item.

Mr. Jorgensen: Yes.

Chair de Naie: Thank you. Any other questions from Advisory Board Members here. Well, oh Tim yes.

Mr. Wolfe: Thank you Lucienne. I have a point of clarification that maybe Jacky could manage. I'm familiar with the procedures for the permitting through the Planning Department of STRH units, the bed and breakfast units but I'm not particularly familiar with the permitting how it's handled for things like timeshares and so on. Could you clarify what engagement the Planning Department has in these larger groups of accommodations as far as permitting is concerned?

Ms. Desjardins: Chair, Chair?

Chair de Naie: Yes, Mimi.

Ms. Desjardins: Sorry

Chair de Naie: I think we have to turn off public testimony before we can ask our questions. I should have interrupted you...

Ms. Desjardins: Yeah, thank you.

Chair de Naie: Yes

Mr. Wolfe: Okay, table that for answering later then. Please. Thank you.

Chair de Naie: Yeah, thank you very much Dave for a lot of insight you provided and does that conclude our public testimony or do we have any more testifiers?

Mr. Jorgensen: Thank you very much.

Chair de Naie: Anyone else signed up to testify, Jacky?

Ms. Takakura: Chair, I don't see anyone else signed up. Let me just do an open call. Is there anyone else here that would like to testify? You can speak up. Not seeing any reaction, I don't think there are any other people who want to provide testimony, Chair.

Chair de Naie: Okay, then we're going to declare public testimony closed. And we're going to open up now for questions of the Planning Department. Jacky can ask any of the questions you have, I know Tim has one, Reba what is your question?

Mr. Kealoha: Okay, so if you look at page 14, Section 16, Chapter 19.64.30. I believe this talks about the SBR District and it's talking about changing the caps to transient accommodations lowering them, so in Paia-Haiku, we have 88 and it's talking about lowering them to 48. Um and so I'm interested in this just because I help my father in law with his transient accommodation as many uncles have them to survive because we know residents are land rich and cash poor. Um so if a person say in Hana has a 3-bedroom transient accommodation and they are permitted and then this lowers the number, they would go into a nonconforming. So the nonconforming rules would say that the transient accommodations would still be okay, but they can't be renewed or can you talk about the nonconforming rules in the SBR District better?

Ms. Takakura: Chair, if I may to try and answer that?

Chair de Naie: Yes, please do.

Ms. Takakura: And so, nonconforming it has it's own section in the code. And so what it means is say there's a use and it's allowed like say you have a vacation rental in a, you mentioned in SBR, been minding it and following the laws all this time and it becomes this use is removed from the zoning code. The use can continue because it was lawful at the time, but there's four rules: you can't expand; you have to show continuous nonconforming use; you can't have any breaks within a 12-month period, so that would mean at least once every year—once after every 12 months you have to have the use going on (can't expand, you have to show continuous nonconforming use, you can't change to another nonconforming use, and the there's some provisions like if—it can be rebuilt, but it cannot be expanded. So like the comment, the house is

going to fall down, well you can rebuild it to exactly the way it was but you can't expand the nonconforming use. So nonconforming use can continue but you gotta follow these rules about it. Say you know a property owner decides to stop—once they stop and discontinue the use for more than 12 months, then you know it's over. But it can continue provided they follow that criteria. And that's for any nonconforming use in any of our chapters. Does that answer your question?

Ms. Kealoha: Yeah, thank you. I think I just read something about nonrenewal in let's see—it's on page, yeah it's on the second page and then it says Chapter 19.11, proposed nonallowed and existing would be considered nonconforming subject to the rules you stated and could not be renewed. So I know we renew our transient accommodation every year or two so what that means is that we can't renew it and if that's a mandatory renewal, does that basically mean that it would cut off the transient accommodation then?

Ms. Takakura: Chair if I can take a stab at that one?

Ms. de Naie: Yeah, please.

Ms. Takakura: So okay, what's going on here like say you have a use, like say you have a vacation transient rental in the B-2 District that is like it's 40 bedrooms then you need to go to the Maui Planning Commission to get a special use permit and the Maui Planning Commission gave you your special use permit but it has an expiration date, say it's 2025—I'm just making this up. If this bill passes, once that special use permit expires, you would not be able to go back to the Maui Planning Commission to get a renewal. Currently, you can go and get a renewal for these permits—these special permits, but this bill once the permit expires, you would not be able to renew. Now I want to clarify that this is different from like your TAT registration numbers that you do with the Department of Finance for your TV tax ...(inaudible)...so this is only the land use permitting part, not your TAT or your GET registrations.

Ms. Kealoha: Okay, that's good clarification. That answers my question. Thank you.

Ms. Takakura: And may I just add, some of you I know are very very familiar and probably you know, know more about me in the zoning code and some of you are new, so please ask us and I'll try to explain it the best as I can on any of these things that come up a lot so no worries about asking questions.

Ms. de Naie: Thank you, Jacky. I know Tim had a question too.

Mr. Wolfe: Well my question had to do with how the permitting process through Planning works for the larger organizations like timeshares and that sort of thing as opposed to the individual TVRs or B&B accommodations. Is there a special procedure where a commercial operator would go through to obtain permits to add to you know the number of units in a particular operation or how does that work in the Planning Department? What authority would we have over something like that?

Ms. Takakura: Thank you. That's a big question and I'll try to answer as best as I can.

Mr. Wolfe: I know.

Ms. Takakura: I'll try to do the best I can. If the use is allowed, so let's take for example hotel district. Okay if the use is outright allowed, and say it's not in the special management area or flood zone or any of those other things, the use is outright allowed. They don't need to come and get a special permit from us, from the Planning Department. They might need building permits and like I mentioned if they're in the special management area that's like along the shore or if it's in the flood zone they might need a flood permit or SMA, but they wouldn't need a zoning approval if the use is outright allowed. There's other properties like Hotel District, I mean Apartment District where um the use was allowed at one time and now they have to meet certain criteria and the use can continue or the use is allowed. With timeshares, a lot of that and the numbers are from Real Property and so that's going to be based on how they're taxed. Personally I'm not as familiar with timeshare because I think that was a lot more common in the past. They're just continuing as timeshares and they have certain rules according to the state, it's HRS 514 or something like that, but there's not that many of them. Yeah, I see that you have your hand up again.

Mr. Wolfe: Then I guess my question really relates to if we are discussing imposing caps on various aspects of the you know housing rental business and the businesses themselves, a hotel for example wants to increase the number of available rooms from 500 to 600 which would then affect the overall cap allowance in that hotel district, what procedure do they have to go through in order to get the right to add more units that affect that overall cap from the County's point of view. You follow what I'm getting at?

Ms. Takakura: I think so, with this bill they wouldn't be able to unless—because it's going to be capped at existing, so someplace else would have to have less use or less units because it's capped at existing so um...

Mr. Wolfe: During the moratorium, they wouldn't have the authority to increase.

Ms. Takakura: There's some exceptions if like they provide affordable housing or they already got their permit approvals so there are some exceptions that are current in the moratorium that are going on right now.

Mr. Wolfe: One last question. Then how does the moratorium apply to the ah small permit seeker like the STRH seeker. I understand that those permits are no longer available if I'm not mistaken. But a B&B might still be available in a Planned District that has not yet reached it's caps. Is the STRH simply out the window now because of the moratorium and maybe the ...(inaudible)...

Ms. de Naie: Tim, could I ask that you define STRH for those...

Mr. Wolfe: Short term rental house.

Ms. de Naie: Thank you.

Mr. Wolfe: Yeah um I'm curious whether the moratorium as it stands now as it simply says, even if someone has a short term rental in progress with the Planning Department, they've made application, no permit has yet been issued but the permit is in process; are they still going to be allowed to follow through with that permitting or is that simply going to be cutoff due to the moratorium—suspended.

Ms. Takakura: So with permit applications that came in after January 22nd, those were returned to the applicants. Now the short term rental home permits that we're talking about, just so you know background information, short term rental home permit is for a single-family dwelling that the owner does not live in. So short term rental homes were capped in August 2021 prior to the moratorium, so they were already addressed and there are a few community plan areas I think like Hana and West Maui where the cap is actually lower than the number that are existing and so the thought process there is attrition. So as you know property owners don't renew or stop doing the use or the permit gets revoked, new ones will not be issued. South Maui might have one or two openings so that after the moratorium, people could apply. But yeah short term rental home permits were capped back in August 2021. And bed and breakfast permits are still open. You can still apply; you can still get a bed and breakfast permit and those are for single-family dwelling where the owner lives there on site. That's the difference between short term rental home and B&B.

Ms. de Naie: Thank you.

Mr. Wolfe: I understand. One last question.

Ms. de Naie: Go ahead, Tim.

Mr. Wolfe: Can you explain how the Planning Department is policing the discovery and disciplining of unpermitted operations?

Ms. Jacky: So Chair, if I may?

Ms. de Naie: Yes, please answer that.

Ms. Takakura: So one thing we've been doing is we've increased the number of zoning inspectors; the other thing is we have a contract with a—it's a company who does the on-line searches for us and they are out patrolling the TMKs and the addresses and matching it up to the information on what's allowed and what's not allowed and they give us a list of these properties that they're finding on on all those search engines that we have to further research and the third thing is those memorandums of understanding with AirBnB and Expedia. They send us lists every month and if the TMKs don't match with the address or the TMKs are off well we research those and they will remove the ones that we've decided the TMK doesn't match the address or if there's a problem with those. I think with those three things: the increased staff, using those vendors that does the searches, and MOUs, we have really been able to really manage the number of illegal uses. I mean I don't really know if they eliminate them, but that's something we can followup on. Of course people are always thinking of new things and new ways of doing their businesses and trying to follow up on that, but think we've made a lot of improvements over the years.

Ms. de Naie: Thank you. Um anyone else who hasn't weighed in with questions? Does everyone understand what is proposed because if they don't, I would like to go over that section that you have any questions about and make sure that we are clear on what is being proposed before we have any motion to move forward or not.

Ms. Aaron: Hi Lucienne, I'm so sorry. I was out for a minute. My internet crashed ... (inaudible) ... yeah I'm so sorry. My husband had to come in and redo everything so that I could get back on. I'm so sorry. I left when Lahela was providing testimony and ... (inaudible) ... I'd like to say because in my area in Paia, we're very much bombarded with the short term rentals things that are happening against the community plan as far as TVRs and all of that. But my understanding of this bill is to um stop and put a cap on the short term rentals mostly and also to prevent any more construction on the hotels additional rooms and stuff because of what the hotel shorelines are experiencing. So I think this bill later on after the moratorium or if we make it permanent, I'm sure we can come back to the table if it allows us to address the hotels. Because we want to get the tourists back in the hotels like Lahela said. We want to discourage the short term rentals, um the illegals, everything. So that's my understanding of this bill resolution that is put forth in front of us and um you know if I'm missing something, please let me know.

Ms. de Naie: Mopsy, I'm going to ask Jacky to consider that a question rather than a comment for you.

Ms. Aaron: Oh okay.

Ms. de Naie: That's okay. I know you were off the call so we're in the question part but um.

Ms. Aaron: Okay. Sorry sorry.

Ms. de Naie: No that's good. It was a good question. Basically is it the understanding of the Department that what is being proposed is going to more help confine visitors to the resort zoned areas and place adequate constraints growth on any visitor use in the neighborhoods, our rurals and small towns.

Ms. Takakura: Thank you Chair. So basically, yes because it's allowing the existing hotel and apartment to continue but I do want to point out that this does not affect residential or ag or rural or any of those places that might have short term rental home permits and additional permits. So some of these other zoning districts like historic or B-CT, B-2 for the bigger properties. So it's kind of—it's to keep tourists where they are at least in hotel and apartment and then to not have any more in these smaller zoning districts. It doesn't really affect neighborhoods because those short term rental home permits were already capped back in August.

Ms. de Naie: Any further questions? Mopsy, you know this issue pretty well.

Ms. Aaron: I did have a question on the timeshare. The timeshare will just be controlled within the resort area and not anywhere else?

Ms. de Naie: Ah Jacky, did you have any comment on that?

Ms. Takakura: That's correct because they would become prohibited in B-3, B-R and SBR and they wouldn't be allowed to expand. The special language propose that um if there's any reconstruction or renovation the short term rental use would be limited to the original building and mode. So it would be limited to hotel and I think it was apartment district, but I forgot what it was.

Ms. de Naie: Thank you. Tim, did you have your hand up again? Nope, you're okay? Andrea, any questions, you've been listening? Um Reba, any questions. Alright, I have a couple. Jacky, did you want to clarify something?

Ms. Takakura: Yes, Chair, I was wondering if I could answer that question about those corporations buying up homes.

Ms. de Naie: Andrea, any questions—you've been listening. Reba, any questions? Alright, I have a couple. Jacky, do you want to clarify something?

Ms. Takakura: Yes Chair, I was wondering if I can answer some questions about those corporations buying up homes.

Ms. de Naie: Oh yes, I had a whole list of questions for you, which probably from our testifiers and my general question was going to be we've heard some very well you know, well thought out points from our testifiers; do you have any response to any of these points, such as you know corporations buying up homes, ah hundreds of timeshares that will not be able to continue. You know, there were two or three strong points made so if you have anything to address those it would be appreciated.

Ms. Takakura: Thank you Chair, so regarding those—what it is there are corporations out there and they're buying up homes like in Napa Valley or Kapalua or you know these luxury areas throughout the country not just here on Maui but and then what they do is they sell I guess parts of this—or you can become a member of this LLC and have like 1/8th or 1/4th ownership of this home so you can use it you know 1/8th of the year or 1/4th of the year and so it's a way to get around the rules so what we are doing and it's already gone to the Maui Planning Commission is a bill to make sure those kinds of corporations and entities are subject to the same transient rules as any other—anybody else where they would have to be 180 days or more. So we're trying to address that and actually I just got the final edits and I'm going to be sending it over to Corporation Counsel to try to address that problem because it really destroys the soul of a community to have it owned by these people who really don't know each other and so forth. Yeah so we're trying to address that one.

Ms. de Naie: So as to the potentially large number of timeshares that would be kind of phased out? Is that the way that you see the bill working?

Ms. Takakura: Chair, I'm not really sure on that and how many there are? I would imagine that they would be continuous nonconforming. I just don't have a lot of experience with timeshares because we don't have that many. And most of them as far as I know there are in either Hotel or Apartment Districts. So that one I have to look into a little bit more Chair, sorry.

Ms. de Naie: So if we were to recommend that the Planning Department kind of try to sit down with the timeshare people and find out if there's any validity to their concerns, would that be a bad thing or would that be acceptable?

Ms. Takakura: (Thumbs up)

Chair de Naie: So I had a couple of other questions as well. The figures that you presented to us of the legally permitted bed and breakfasts and short term rentals, TVRs, all the alphabet soup there, does that include units that are used through Air BnB—is that like an inclusive number?

Ms. Takakura: Yes, Chair anything on AirBnB should either have a short term rental home permit or a bed and breakfast permit or some sort of conditional use permit would be outright allowed by the zoning. Those should all be permitted, yes.

Ms. de Naie: Okay and a followup to that, so one of the testifiers mentioned that it was like pretty difficult to police the proliferation of illegal short term rental uses in our neighborhoods and that that was kind of a byproduct of limiting the number of hotels would be to drive this demand to our neighborhoods. Does the Department have any information on this at all?

Ms. Takakura: Chair, I don't know if we would have any information on the direct link between the two but I would say that with host compliance which is that vendor that does the on-line searches for us and with the MOUs and the complaints that come in because anyone can file a complaint on the COM connect. You know we do research those and we do take those very seriously. So I'm not sure of that. Do you know if the reference was during the pandemic, Chair?

Ms. de Naie: Well I believe that part of it was you know an anecdotal type of presentation. It wasn't like we have this many figures and facts but it mentioned that during the pandemic, the hotels were shut down and that there were a number of individuals in their neighborhoods that offered visitors accommodations simply because the market was there. People were renting their cars to visitors because the car rental companies were shut down so forth and so on, but I think the testifier did imply that we would see this continue basically if we limited the number of hotel rooms as we see now that trend, the demand would still increase and that trend would then just pop up again.

Ms. Takakura: Chair, during the pandemic, it wasn't just the Zoning Department—Zoning Division that was enforcing, it was also the Maui Police Department and you know we had those quarantine hotels and short term rentals could not be used as vacation rentals. I think most people took it pretty seriously and you know I worked at the airport one day checking arrivals and calling where they were going to stay, so—and people were turned away, had to leave Maui, couldn't leave the airport because they did not have a place to stay because those short term rental homes could not be used for quarantine purposes so I'm not sure where that came from because it wasn't just us out there. It was the Police Department following up also so I think the County took it very seriously during the pandemic about not allowing those kind of things.

Mr. Antone: State Department of Health as well.

Ms. de Naie: Thank you.

Mr. Antone: Can I ask a question real quick?

Ms. de Naie: Please do, Rod. I'd be very grateful if others have questions. I just made a list.

Mr. Antone: Okay, no problem. Okay #1, the moratorium bill the one before the cap bill and I'm sorry if I'm using simpler terms, but was there anything in the moratorium bill that said there was going to be a study of the data that was gathered during the moratorium time period that we could take a look at, the Council could take a look at as Advisory Boards could take a look at and determine what effect the moratorium had good or bad, maybe both, you know what I mean? Okay, so there was something in there. Okay so...

Ms. de Naie: Jacky, do you want to her to speak to in detail and then Rod you can continue on.

Mr. Antone: I just want to know—well yeah—I want to know if it was there and basically you don't have to go in every word, Jacky, but what did it say.

Ms. Takakura: Well I can tell you that the County Council had a TIG, one of those temporary investigative groups under Vice-Chair Councilmember Keani Rawlins-Fernandez. I don't know the word-for-word but some of the meetings included some of the rental car companies and some of the hotels and all this, but um yes so there was a committee, yes.

Mr. Antone: Okay, no no, I mean, yeah I remember the TIG, yes. I'm talking about—just for background, I used to be the head of the Maui Hotel Lodging Association, just a year ago. In fact I was going to ask everybody if you guys want me to recuse myself from this matter because just a year ago, I was heavily involved in you know one of the sides of this issue. But one of the questions I wanted to ask before you guys decide whether I should recuse myself or not; if there was supposed to be—you know I did research there only two other areas that did a hotel moratorium and that was in North Carolina and also Barcelona. And each of them had a study that was done after the moratorium you know, producing data about the effects and how it affected communities and economy and you know, good and bad effects of course. And I was wondering doesn't Maui—don't we need--is there something in the bill that says we're going to be studying the data before we decide to make a permanent cap or not? Cause these other two locations did it.

Chair de Naie: Can Jacky respond to that?

Mr. Antone: You know, Jacky?

Ms. Takakura: So like I mentioned, this came from County Council. I don't have that here. I know that they had a report. It was like 400 pages. Um yeah, this was all kind of ...

Mr. Antone: No, the report you're talking about—wait, is this TIG after a year of moratorium or was this before? I'm talking about data from after the moratorium happened, you gathered data, say okay; during this period from 2021 through 2022, the moratorium was active and this is what happened like that's what I'm asking.

Ms. Takakura: I don't know the answer to that.

Ms. Aarona: Can I answer some of that, this is Mopsy.

Mr. Antone: Do you get what I'm talking about?

Chair de Naie: Yes, I get that nice and clearly. Mopsy, do you want to comment on this topic?

Ms. Aarona: Ah yeah, I've listened to a lot of the discussions regarding the process and I do believe that there were several meetings of data that were done that followed up to this bill, this resolution of natural things that they wanted to put through. In fact, the last meeting I think in April there was heavy discussion regarding the study. It may not be the type of study that you're looking at and it would be interesting to find out what that 400 pages accounted for. I'm just going by listening to the deliberations of the meetings that was on this topic.

Chair de Naie: Thank you. Rod, you know we have a chance to submit comments along with any decisions that we make today, and I would very much suggest that what you are bringing up is a comment and the comment is—is there available a report that has been done on—a one-year report on the effects of passing a moratorium. If that's clearly what you're asking for? Is that a way of putting it?

Mr. Antone: Yeah, okay that's fine.

Chair de Naie: Because you know that is a good question and if our resource person doesn't have the answer, there's nothing we can do right now other than you know take it up when we do get the answer. So any other questions on the bill. I did have one other one and that was about the part about the camping vans. I noticed that there was a comment I think it was by the Department of Finance—saying oh man, we're not sure if this could be enforced, um maybe there's another way that we can do the same thing. So Jacky, would you comment on how the Department feels about setting these—in other words amending these parking ordinances in order to regulate this transient vacation rental on wheels?

Ms. Takakura: Thank you Chair, so yes—this—it is a very difficult one to enforce because you know someone can call and say there's this camper van. But by the moment—time we get there, they're going to be gone and so it will be very very difficult to enforce and that's why we do have the recommendation that we should you know kind of work with Corp Counsel to find a better approach to regulate this because yeah it's going to be so hard for us to manage it. Of course we do support it, we want to kind of have something that's going to be enforceable.

Chair de Naie: Yeah, it's the how not the what.

Ms. Takakura: Yes, exactly.

Chair de Naie: Tim, did you have further questions? Oh you're muted, Tim, your microphone is off.

Mr. Wolfe: Duh duh, sorry I was muted. My question really has to do with the line of enforcement responsibility in this case. These things are ballooning in Maui County. I see more and more of these you know vans arriving all the time. And I don't really understand how for instance, AirBnB might have a listing for one of these vans. But is the owner of the van obligated to communicate with the renter or the guest of the van, the zoning requirements, and the permit requirements that must be met. If a person wants to complain that there are these things parking in their neighborhood, what's the best avenue for policing these? Get a license plate number and report it to the police, have that you know, cascade back to the registered owner of the vehicle for discipline or punishment or fines or whatever. I'm not clear on how the owner of the actual machine would be responsible to the County or other entities for how they are used by a guest.

Because if you're renting one of these things, you're gonna want to go wherever you can go on the island, park there and enjoy the ocean in the morning and that kind of thing. And if we're going to depend on the police departments to actually control transient accommodation vans, I can imagine they won't be too happy about that. I mean does the Planning Department have a set of recommendations for the police or the public on how to handle these things?

Ms. Takakura: Thank you Mr. Wolfe. You are exactly correct that those are all of our challenges that you know, an owner of an RV can tell the guest, oh you can only go these certain places but the driver of the vehicle is going to go wherever they want to go. And sometimes you know we mentioned this here, that sometimes they're going to park on a property where the property owner doesn't even know they're there and then we're going to cite the property owner. So that's why yeah, it's just a host of problems that we need to figure this out that we can make this something we do enforce. It's going to be really difficult but we need to do something. But yeah, our recommendation is to work with Corp Counsel some more on the wording of this.

Chair de Naie: Thank you. So are we about the point where we can consider a motion for the recommendations in the staff report? Do folks feel comfortable with that because it is 6:18, I personally when I chair a meeting, I do not really like long long meetings. We have one thing on the agenda so I felt we could really give it our all. And it is a very very complex, even though our opinion is advisory, it's a very complex topic and not just a check the box type of thing. We've heard some testimony and now we can vote. But if folks are comfortable, we can consider what is being asked of us. We are being asked to support the proposed staff recommendation, and Jacky would you kindly just walk us through the main things that the Department is recommending.

Ms. Takakura: Thank you Chair, so as I mentioned, the Department is supportive of the bill because it is in line with the County-Wide Policy Plan and the Maui Island Plan. Uh we do have proposed revisions, if you look at the Memo Report on page 6, there's some wording about this short term occupancy list. We'd like to revise that to add that the list would be modified or it's to the best of the Department's knowledge at the time the list is posted. And then the other thing that we just talked about is tightening up the language for 19.36B. relating to camper vans and RVs used for short term rental use. We would like to work with the Department of Corporation Counsel and the County Council to find a way to word this so that it's more easily enforceable. Chair, do you want me to go over—I have I think it's two comments that seem to be coming up—you would probably want to have included in my report?

Chair de Naie: Yes please, I'd appreciate that.

Ms. Takakura: Okay and you can correct anything if I missed anything. So the first one is regarding timeshares that we need more research regarding the zoning districts, timeshares in the zoning districts where it's proposed to be eliminated and how many are impacted. And then the other comment is whether there was a study after January 22 of the effects of the moratorium. Those are the two comments I have written down. I'll write down whatever else I may have missed.

Chair de Naie: Thank you. Any other comments that members of this Committee would like to see attached to any recommendations that we have? Any thoughts? Well, so we have a couple of choices of what we can do. They have been thoughtfully listed for us: we can make a motion to approve exactly what the Planning Department has recommended. In other words a couple of tweaks—one of the tweaks about changing the language about the enforcement is I think in response to the enforcing agency. Saying hey we'll do our best but we may not be able to do everything. So we can recommend the approval of the proposed bill to Maui County, just as is; we can recommend the approval of the proposed bills with a couple of the tweaks that have been suggested by the Planning Department; we can recommend denial of the proposed bill to Maui County Council or we can vote to defer action in order to gather additional information. And I take it that--Jacky I don't know if it would be you or Mimi to clarify our recommendations then goes directly to the Council or does it go to the Maui Planning Commission and be included in their recommendations?

Ms. Takakura: Thank you, Chair. So the Maui Planning Commission is going to take up this item on August 9th and at that time I will be sharing with them the comments from the Hana Advisory Committee, South Maui Advisory Committee and your Committee on August 9th. And then I still also have to go to Lanai—the Lanai Planning Commission and the Molokai Planning Commission also and then we take everything and transmit something to the County Council.

Chair de Naie: Okay thank you, so that's clear to everybody that we are basically sending advice to the Maui Planning Commission; however, I assume that what is transmitted to County Council will separately also delineate what our action was. Alright—Tim question?

Mr. Wolfe: I just have a quick comment. I really appreciated Rod Antone's mention of a study of the effects of the moratorium etc. on these issues, and I'm curious whether deferral of a recommendation at this point in time might be the best course of action. Because if we are asking the Council to vote to cap the number of transient accommodation units, how is that cap going to be decided, who has the power to decide that, where's that decision going to be made, what mechanisms might there be for people who are negatively affected by such a cap to you know appeal or whatever. And since—what I have in front me, if we vote to approve it, it says cap the number of transient accommodation units to the existing levels for properties in the apartment and hotel districts. So is that a settled number or is there any room for discussion based on information that might come out of a study done during the moratorium that might modify those recommendations.

Chair de Naie: Jacky, do you want to give us any thoughts on that?

Ms. Takakura: The way we would see it being enforced would be that we wouldn't be able to approve any discretionary permits for new units and also if it was a building permit for new units, we wouldn't be able to process that either. So that's how it would be managed. No new ones basically.

Mr. Wolfe: And you have shown us the figures in your presentation on what those caps would be.

Ms. Takakura: Yeah, and Chair if I may—and so for Apartment District there's about 7,140 units and I can mention there's like Kuau Plaza is the one that comes to mind in your area, so mainly Kihei and then West Maui. Hotel district...

Mr. Antone: That's the one by Mama's Fishhouse?

Ms. Takakura: Yeah that apartment building over there. And then Hotel District, I don't have a count of that because it's outright permitted so we don't have a count for those. But in the RPA, Real Property presentation, there's about something like 8,000 something units in Hotels.

Chair de Naie: So Tim your concern is that we do not have adequate information about the impacts of the existing moratorium? I mean can't we kind of see that we have as many tourists as ever if not more?

Mr. Wolfe: That's true. Thank you, Lucienne. Just curious how many different um shareholders have an opportunity to contribute to the setting of these numbers. Was it just the Planning Department or were there the hotel associations, or timeshares or whatever, the group meeting that Ms. Aiwohi I believe suggested might be useful in order to discuss where these limits gets set, you know how the industry shareholders are going to be affected. Is it just the Planning Department that is making that decision?

Chair de Naie: Thank you. Rod, do you have some information you wanted to contribute to that?

Mr. Antone: I just wanted to mention—I don't want this meeting to go longer than it already is, but am I allowed to send links to the Barcelona study and the North Carolina study on their moratoriums to the other Board Members or do I have...

Chair de Naie: Sure, yeah that's a good question. I think everything has to go through our staff and...

Mr. Antone: Okay so could I send it to Jacky?

Chair de Naie: Are we allowed as members to send additional information that doesn't come from you guys to you to distribute to other members or how does that work? Mimi or Jacky?

Ms. Desjardins: Yeah, I have a couple comments to make: one is yes, you can definitely send the link to the Planning Department and then they would upload them to the section of the Advisory Committee website where this meeting like the agenda and the items are so that the public could also see the same thing that you're sharing, that's fine. But I also want to point out that if you defer this item, you have 90 days to make comments before your comment time expires. So you only have an additional 90 days from this meeting to provide comment. I am almost 100 percent sure that that moratorium bill did not include a study. It didn't say in the study shall be performed within the next 12 months, but I don't—I apologize I don't have it in front of me. So I think Lucienne's point of maybe your comment being a study would be good to know what the impact is prior to making it permanent, would be a comment but I don't believe there was a study to be ordered by law. You know what I'm saying? So just take that into consideration if one of your selections is deferment that in other words, in 90 days I don't know if they're going to get the answer if there was no study ordered anyways.

Chair de Naie: Good point, thank you very much and good point about communication. I am also going to bring up Rod's earlier comment that since his former employer was the Hotel Association. Mimi, is that a close enough association that it would present a conflict in interest?

Ms. Desjardins: Well, you know I guess my question would be are you currently receiving any financial gain or have any kind of employee employer relationship with that association?

Mr. Antone: No, I do not.

Ms. Desjardins: And how long has it been?

Mr. Antone: October 2021.

Ms. Desjardins: Okay.

Mr. Antone: Not quite a year.

Ms. Desjardins: I mean do you feel that you are able to make a fair and impartial assessment of this or would you be overly influenced by your prior employment?

Mr. Antone: It's not that, you know it's just that I was in the middle of this moratorium issue when I left and I have a lot of material that I never got to present and also you know, I'm very study oriented. And just like somebody said, if we're going to make something permanent, shouldn't we see what the temporary effects were on this on the year? So yeah, that's just me personally and what I don't want is this body to be seen as biased because me as a former guy is making--voting a certain way and they're assuming that it's because I have some sort of tie still. So I don't want to smirch this body so I wanted you guys to decide whether I should recuse myself.

Ms. Desjardins: So sounds like you're asking for a motion in consideration by the body to whether or not you should recuse yourself. I wanted to say one thing if anybody ever feels that they have a general conflict so generally you want to be excluded from deliberation as well as voting ...

Mr. Antone: But I did an email as soon as I saw...

Ms. Desjardins: Right, but I think it needs to be brought to the attention of the Board, not in an email. It has to be brought to the Board and you need to say it to the Board. But it's not a problem, Rod, I'm just saying it as part of my training. Practical moment where if you folks feel like you have a conflict, you say it up front and then you guys can deal with it. I don't think it's a conflict because you don't have a current financial interest. If you feel you can't be fair and impartial then you need to recuse yourself. If the board would like to vote on it, the board can vote on it. Those are your options. No harm, no foul, don't worry about it.

Mr. Antone: Okay. So you guys want to take a vote before the vote?

Chair de Naie: So I just want to restate so Mimi, what you're saying is that maybe before we start our discussion of an item, I as Chair, should call and ask if there's anyone who feels that they need to disclose anything about this particular issue or item and their relationship to it. That might just be a good best practice because you know, you get into it and then you realize like oh I should have said something, it is hard.

Ms. Desjardins: Sure, that's a fair question. And sometimes it doesn't happen until it evolves and then suddenly somebody realizes based on the conversation, oh lightbulb goes off and goes, oh you know what, this is kind of close to home for me. I think I'm going to back off. It's really down to vote through. And you really did the right thing because you haven't voted yet, so you haven't you know done anything that could be considered unethical but yeah, best practice is to say it up front if you can. But you're fine.

Chair de Naie: So I have a technical question. If a—do we need a motion to consider whether Rod should recuse himself or not or is it just a consensus of the Board.

Ms. Desjardins: If you have a consensus of everybody, then you don't need a motion but if there's some discussion or conflict in that then I would call for a vote. But I just want to be clear that Rod is asking the Board for their help here in voting on this because he's not 100 percent clear that he can just say I'm fine, I don't have a problem with it. He's worried about it like smirching the board's doing its business not so much...

Mr. Antone: You guys know how facebook works.

Chair de Naie: I don't. I don't go on facebook. Does anyone on the Board feel that we should vote on the matter whether Rod has a conflict of interest. Tim?

Mr. Wolfe: I'm perfectly happy with the explanation that Rod has given us about you know this circumstance, this is our first meeting. I think that if we don't communicate legally email with board information and so on, so I'm happy that he brought this to our attention and I don't really feel like there's any formal structure that needs to be imposed on him at this point.

Chair de Naie: Anyone else? Andrea? Reba? Mopsy? Reba, yes?

Ms. Lopez: I do feel that it would be best if you did recuse yourself. If you were a lobbyist or working for the hotels in that capacity, um then if you vote...

Mr. Antone: That was exactly my capacity.

Ms. Lopez: If you vote that you oppose this bill, I would automatically assume that it's because of your prior work.

Mr. Antone: Yeah

Ms. Desjardins: Well maybe you should ask for a motion then Chair to recuse Rod...

Chair de Naie: I shall. So Reba, would you like to offer a motion to recuse Mr. Antone?

Ms. Lopez: Man, what a bad first impression, Rod. I'm so sorry.

Chair de Naie: We all love each other.

Mr. Antone: No, I brought it up, I brought it up.

Ms. Lopez: Okay, then yes I'll motion.

Chair de Naie: Alright. Is there a second for the motion? So there's a motion to ask Mr. Antone to recuse himself from the vote on this matter and is there a second to this motion. Am I allowed to second the motion?

Ms. Desjardins: Yes. For discussion, you can second the motion.

Chair de Naie: For purpose of discussion, I'm going to second the motion. Cause I think it's good to clear things one way or the other. So it's moved and seconded that we ask Mr. Antone to recuse himself from the voting and I guess further discussion on this matter...

Mr. Antone: So I understand I'm not going to vote but am I still allowed to send stuff to the Department from the studies and you guys can...

Chair de Naie: First of all, we haven't decided on the motion yet.

Ms. Desjardins: We need to figure out the vote first.

Chair de Naie: Hold your horses, please.

Mr. Antone: Sorry, sorry.

Ms. Lopez: For discussion, can you describe if you were a lobbyist.

Mr. Antone: Yeah I was. I was a registered lobbyist for the state and county on behalf of the Maui Hotel Lodging Association.

Ms. Lopez: And so you would probably oppose this bill with your prior knowledge.

Mr. Antone: I want to defer so that I can get this group the two studies...

Mimi: Okay, okay – let's stop there. Let's stop, because if you're going to recuse him then you don't want him to influence you folks decision going forward...

Chair de Naie: We can't ask questions to his particular—well just a second, I'm going to let Reba speak to her motion that's customary. Reba, would you like to give us a rationale of—for making the motion.

Ms. Lopez: Um, sure. So in representing the Haiku residents, I feel that you know initially anything a lobbyist says, I would want to do the opposite. Because the lobbyist are paid to work for the corporations. And if we are trying to get to that 33% or lower of tourism, I feel like seeing the two opposition testifiers being hotel lobbyists and then having this person who used to be a hotel lobbyist, I feel like there's bias there.

Chair de Naie: Thank you. So if there's no further discussions or comments on the motion, I'm going to call for the question. So should we take a voice vote or just by hands. Andrea, are you okay? Can you reappear? Thank you. I'm going to ask for a show of hands, those who support the motion—and can Rod vote on the motion?

Ms. Desjardins: No, he should stay out of it.

Chair de Naie: He cannot.

Ms. Desjardins: Yeah. That would be my suggestion.

Chair de Naie: Okay, sorry Rod. You do have to stand by the sidelines there. Okay, so those who support the motion, with a show of hands. Okay, I see two hands (Chair & Ms. Lopez). Those who oppose the motion, with a show of hands. 1, 2, 3 (Ms. Aarona, Mr. Wolfe, Ms. Kealoha) Alright, the motion fails.

A motion was made by Committee Member Rebecca Lopez and seconded by Chair Lucienne de Naie for Vice-Chair Rod Antone to recuse himself from further voting and commenting on this issue due to being a previous hotel lobbyist and

VOTED: Committee Chair Lucienne de Naie asked for a show of hands to vote: 3 hands for/2 hands opposed. Motion Fails.

(Assenting: L. de Naie; R. Lopez)

(Dissenting: F. Aarona; A. Kealoha; T. Wolfe)

Chair de Naie: And we move on. So Rod, you can vote on this matter and of course you can send things to the Commission staff to distribute. Yes, Tim did you have your hand up or Andrea?

Mr. Wolfe: Chair, I'm looking at the time and this is our first meeting, it's somewhat new to me how this process would work. My sense right now is to vote for deferral mostly because of item 4 in the bill for amending the ordinance in Title 19 which is the item which speaks to this business about temporary parking of camping vans, etc. If you look at how many vacation rentals are there, lists what was transmitted to us in this meeting, there is no mention at all of mobile transient vacation rentals—how do you regulate those, what's the cap on those, is there going to be something that says they have to be permitted in a certain way, there can only be certain permits on Maui for these mobile vacation rentals because if we don't cap them, they're going to proliferate and suddenly we'll have 100 Mercedes-Benz Sprinters running around you know parking all over the place. I think we need to address that item in more detail.

Chair de Naie: And so the explanation that was given by Jacky that is going to be referred to the Corp Counsel and what our legal options are, that is not satisfactory to you?

Mr. Wolfe: Well, I appreciate that and if we have a legal option to cap the number of actual hotel rooms that are available, why can't we apply that same capability to the number of transient vehicles that would be available as mobile rentals.

Chair de Naie: Well, I'm going to let Jacky answer that but I think I know the answer too. Alright, Jacky go for it.

Ms. Takakura: Vehicles are managed by the Department of Motor Vehicles DMV and so it's not land use, so we have no control over what comes in on those barges. Sorry, thank you.

Chair de Naie: Yep, this simple version is different laws that apply to different things. You do have laws that regulate land use. We do not have the laws to regulate these vehicles yet because they're new. You know we've had land use laws for a long time. So we have one person who is

suggesting that we should defer. Is there even a motion to approve or approve with the suggested amendments that the Department has offered or to defer...

Ms. Kealoha: Sorry.

Chair de Naie: Yes.

Ms. Kealoha: Before we do that I just want to say this because I'm jumping on to Rod's thing and I just wanted to throw out there too, which it doesn't affect—I don't believe it affects my vote or my validity to be impartial. But one of the testifiers against the bill is involved with foundation that donates money to my lab at UH Maui College.

Mr. Antone: Can we defer because I gotta go pick up somebody from the airport. So—it looks like we got a lot of stuff going on here.

Ms. Lopez: The hotel lobbyists likes to do this. That's exactly why they do this, you guys.

Mr. Wolfe: Touche Reba touche.

Chair de Naie: Alright, alright. Mimi, any comment on whether that would be considered a conflict of interest if someone receives in their place of employment foundation support from someone from the entity that testified.

Ms. Desjardins: Can I ask you Andrea, does your place of employment involve hotel industry or tourism industry or anything of that nature?

Ms. Kealoha: No, I'm at the college.

Ms. Desjardins: Oh okay, so it's not a direct relation like you are in the hotel industry and did this person—this foundation, is it a foundation that's affiliated with the person who wrote in the testimony, that's my understanding kind of what happened? They didn't write in as a foundation, they wrote in a totally different hat than the foundation.

Ms. Kealoha: Yeah.

Ms. Desjardins: Then I would say that's probably not a conflict and you feel somehow oogy about it and you can't be fair and impartial, but otherwise it sounds to me that you're okay with it. Right?

Ms. Kealoha: Yeah. I'm okay. I just wanted to be like Rod and just put it out there.

Ms. Desjardins: Absolutely, that's exactly what you do.

Chair de Naie: Thank you very much. So we're back to our decision making and Rod, we're going to try to have a motion quickly, whatever it is, and but if you do need to drop off we will still have quorum. So we appreciate you and we appreciate you have other needs as well. So we have four choices.

Mr. Antone: I'm still here. I've got to get into my truck, so I'll keep you guys on audio.

Ms. Desjardins: And I think Aunty Mopsy has a question.

Chair de Naie: You have your hand up?

Ms. Aarona: Yeah, I was just going to move to recommend.

Chair de Naie: Okay. So there's a motion to recommend the Department's recommendation.

Ms. Aarona: Yes.

Chair de Naie: Is there a second?

Ms. Kealoha: I second.

Chair de Naie: Alright. It's been moved and seconded that we support the Department's recommendation. Is there any further discussion—Tim?

Mr. Wolfe: This is the Department's recommendation with the two modifications that Jacky talked about, correct?

Chair de Naie: Yes, that is a little bit different than the original bill. The original bill that's the original bill, this has those modifications one about the vehicles and one about how ...

Mr. Wolfe: Timeshares.

Chair de Naie: it can be enforced—yes.

Mr. Wolfe: Thank you.

Chair de Naie: Alright, so if there's no further discussion, all in favor of the motion to approve the Department's recommendation, please raise your hand. (Assenting: Chair, 1, 2, 3, 4, 5. Rod, I can't see you—are you going to approve or oppose the motion.

Mr. Antone: I guess if that's the only two options, yeah I'd like to defer it, but a...

Chair de Naie: Well, that's not the motion here.

Mr. Antone: Then I guess I oppose.

Chair de Naie: Okay, because we need to show for the record. So for the record, we have five approved, believe 1,2,3,4,5 – 5 approved and 1 opposed. So the motion passes.

Ms. Desjardins: Okay, upon verification, that includes the comments that you folks have been making in the meeting, right? To include..

Chair de Naie: Exactly. Right.

Ms. Desjardins: Okay, thank you.

Chair de Naie: To include our comments and that's why Jacky brought that up earlier and before we started this little zoom, if anybody has any additional comments they think they should be amended, please speak them now, otherwise we're going to thank everyone and close the meeting.

It was moved by Committee Member Francine Aarona, seconded by Committee Member Andrea Kealoha, then

VOTED: To recommend the Department's recommendations to include two modifications – vehicle/timeshares enforcement

(Assenting: F. Aarona; L. de Naie; A. Kealoha; R. Lopez; T. Wolfe)
(Dissenting: R. Antone)

F. ANNOUNCEMENTS

G. ADJOURNMENT

Mr. Wolfe: Move to adjourn.

Chair de Naie: I don't think we need a motion to adjourn but—do we, do we need an official motion to adjourn Mimi?

Ms. Aarona: Yes we do.

Chair de Naie: I've never heard a Board or Commission doing a motion to adjourn.

Ms. Desjardins: Without further objection, you can adjourn this meeting.

Chair de Naie: Okay. Alright. Without further objection, this meeting will be adjourned. Thank you. Good job.

(There being no further discussion brought forward to the Committee, the Chair adjourned the meeting at 6:48 p.m.)

Respectfully Submitted by:

LINDA KIM
Secretary to Boards and Commissions I

Paia-Haiku Advisory Committee
To the Maui Planning Commission
July 19, 2022
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RECORD OF ATTENDANCE:

Present:

Lucienne (Antoinette) de Naie, Chair – via BlueJeans
Rod Antone (Vice-Chair) – via BlueJeans/Phone
Francine Aarona – via BlueJeans
Andrea Kealoha – via BlueJeans
Rebecca Lopez – via BlueJeans
Timothy Wolfe – via BlueJeans
Matthew McDonald (Alternate) – via BlueJeans
Nikhilananda (Alternate) – via BlueJeans

Others:

Jacky Takakura, Deputy Director, Department of Planning – via BlueJeans
Mimi Desjardins, Deputy Corporation Counsel, Department of Corporation Counsel – via BlueJeans
Clayton Yoshida, Planner VI, Current Division, Department of Planning – in person
Linda Kim, Secretary to Boards & Commissions I, Current Division, Department of Planning – in person