

(APPROVED: 08/08/07)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
JUNE 27, 2007**

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairperson, DeGray Vanderbilt, at 12:43 p.m., Wednesday, June 27, 2007, Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

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

Mr. DeGray Vanderbilt: Okay, Commissioners. Okay, everybody, I'd like to call the regular meeting of the Moloka'i Planning Commission, June 27th, 2007, to order. Today with us on the Commission we have Commissioner Kip Dunbar. Next to him: Commissioner Bill Feeter, Commissioner Lynn DeCoite, Commissioner Steve Chaikin, and my name is DeGray Vanderbilt. And we have here the County attorney and the attorney for the Planning Commission, Michael Hopper. And then the Commission's secretary is Suzie Esmeralda from Maui. Our staff planner, busily looking in her purse for something, is Staff Planner Nancy McPherson. And then with the Maui Planning Department, Clayton Yoshida over at that table. And right here with, I don't know quite -- it's Public Works Administrative Services, they deal a lot with subdivisions and everything, Ralph Nagamine right here in front of me in the blue shirt. So with that, we'll get started with the agenda.

B. PUBLIC TESTIMONY ON ANY AGENDA ITEM FOR THOSE WHO HAVE TO GET BACK TO WORK OR HAVE OTHER SCHEDULING CONFLICTS

Mr. Vanderbilt: As always, if there's anybody here who wants to testify on any agenda item or any issue that they feel is a planning issue on Moloka'i, and you have to get back to work at this time, feel free to come up and share your mana`o with us at the mike. If it's something that's not on the agenda, you'll just have three minutes, and the Commission really isn't in the position to discuss that. We can put it on another agenda if it's something we look at, or we can give you some advice where to go to maybe get your answer if it's not something that the Commission can deal with. So with that, is there anybody out there that would like to provide any testimony at this time? If not, we'll get right into the agenda. Okay.

C. COMMUNICATIONS

- 1. Establishment of Review Schedule by the Moloka'i Planning Commission on the Countywide Policy Plan portion of the Maui County General Plan Update. The three planning commissions finished making their recommendations on the Countywide Policy Plan by the June 18,**

2007-deadline. The Moloka`i Planning Commission will have 120 days after the first public hearing date to transmit their recommendations on the policy plan to the Maui County Council.

The policy plan review is scheduled to begin in late July 2007 and the first public hearing on the Countywide Policy Plan is tentatively scheduled for August 22, 2007 for the Moloka`i Planning Commission.

The Moloka`i Planning Commission may provide input on the schedule and whether certain meetings should start at times other than the regular 12:30 p.m. starting time.

Mr. Vanderbilt: The next item on the agenda is Communications. And the first item is -- No. 1 is to establish a review schedule by the Moloka`i Planning Commission of the Countywide Policy Plan portion of the Maui County General Plan Update. The three -- I don't understand this next part so I'm not even going to go there. It says the three planning commissions finished their recommendations to the Countywide Policy Plan by the June 18th. The Planning Commissions didn't do that. The General Plan Advisory Committees did that.

So anyway, but basically what happened -- there's a review of the General Plan and the community plans, and it all starts off with a Countywide Policy Plan. And you had three groups: one on Maui with 25 people, one on Moloka`i with 13, and one on Lana`i with 13 reviewing and making their recommendations on the policy statements. Those were completed. They all finished their work on -- by the June 18th deadline. And now those recommendations of all three GPAC's will come to the Moloka`i Planning Commission, and the Lana`i Planning Commission, and the Maui Planning Commission. And I guess that's what Clayton would like to discuss. Is that right, Clayton?

Mr. Clayton Yoshida: Yes, that's correct, Mr. Chairman.

Mr. Vanderbilt: Okay. Go ahead, Clayton.

Mr. Yoshida: Good afternoon, Mr. Chair, and members of the Moloka`i Planning Commission. I've distributed copies of Chapter 2.80B regarding the general plan and community plans. And as the Chair had explained, the Island General Plan Advisory Committees had worked on the Countywide Policy Plan that's defined in 2.80B.030F, which provides broad policies and objectives which portray the desired direction of the County's future. This includes a vision for the County, a statement of core themes or principles for the County, and a list of Countywide objectives and policies for population, land use, the environment, the economy, and housing.

Under Section 2.80B-.050C, there is time limits for the Planning Commission review of the Countywide Policy Plan, which is not later than 120 days after the Planning Commissions hold the first public hearing to discuss the Countywide Policy Plan.

Our Long Range Planning Division is handling this. However -- and they've projected having public hearings -- workshops starting in late July, and the first public hearing, the second meeting in August. So for Moloka'i, tentatively, it would be August 22nd. And that would start the time clock to get your recommendations to the Council on the Countywide Policy Plan, which the various Maui, Lana'i, and Moloka'i General Plan Advisory Committees have been working on. So I believe they plan to have two workshops before we have the first public hearing.

The question was if the Commission wants to have that first public hearing at the regular time of 12:30, or do they want to have it starting at a later time? I think at the last meeting, we had discussed -- or the Commission had brought up the fact that sometimes for certain items, they would like to have meetings later in the day to allow the public -- more of the public to attend. And so that's the question before the Commission.

Mr. Vanderbilt: Are there any questions from the Commissioners for Clayton? Clayton, the workshops, you said there'll be two workshops. Who would -- what would the workshops be on, and who would be invited to those workshops? Are they open to the public?

Mr. Yoshida: I believe the workshops will be conducted by our Long Range Planning Division sort of to provide a framework of how we got to the point where we got to, maybe what the General Plan Advisory Committees went through, and I guess perhaps, a formal presentation of the recommendations from the three Island General Plan Advisory Committees, and also from the Planning Department.

Mr. Vanderbilt: So the Planning Department is going -- before these workshops, the Planning Department is going to review what the General Plan Advisory Committees recommended and either agree with them or make some amendments to that as they see fit before the workshops?

Mr. Yoshida: Yes, Mr. Chair, I believe that is spelled out in the process of -- under 19 -- I mean, sorry, 2.80B.050B(1):

Within 30 days after the Maui, Moloka'i, and Lana'i General Plan Advisory Committees forward their respective recommendations and proposed revisions to the Countywide Policy Plan to the Planning Director, the Planning Director shall place on a meeting agenda for the Planning Commission of the same island as the General Planning Advisory Committee, proposed revisions prepared and recommended by the Planning Director, and the

General Plan Advisory Committee's recommendations and proposed revisions.

Mr. Vanderbilt: Then, you said there'll be two workshops?

Mr. Yoshida: I believe that's what tentatively, the Long Range Division had planned before we get to the actual first public hearing.

Mr. Vanderbilt: How long would each of these workshops be? And were they planning to have them at our regular meeting or on a separate date?

Mr. Yoshida: I believe, for purposes of efficiency, they were looking at having it on the regular meeting date.

Mr. Vanderbilt: And how long would they want for each date?

Mr. Yoshida: I believe it would take a couple of hours.

Mr. Vanderbilt: Each time?

Mr. Yoshida: Per workshop, yes.

Mr. Vanderbilt: What is the intention? Is the -- as far as the review by the Lana`i, Moloka`i, and Maui Planning Commission, is it going to go to the Maui Planning Commission before and the Lana`i Planning Commission before Moloka`i? Or what's the tentative schedule right now?

Mr. Yoshida: They plan to go to the Planning Commissions starting the second half of July with the workshops. The way it works out for the workshops, it's Lana`i first; Maui second; Moloka`i third. The way it works out for the public hearings is Lana`i first, Moloka`i second, and Maui third, but that's only for the first public hearing because of their regular meeting dates schedule. For Maui, a meeting on the second and fourth Tuesdays, and for August, that'll be the 14th and 28th.

Mr. Vanderbilt: Based on what you and Nancy and everybody has coming down the pike for the Commission, do you see any major things we've gotta be reviewing that might take some time also that we should consider before agreeing to these lengthy workshops?

Mr. Yoshida: Well, for the July 25th meeting, we have scheduled a special use permit application from Verizon Wireless for their Maunaloa operation. That's the only item that we've scheduled. Periodically, from time to time, we do get SMA exemptions and we have to take the exemptions to the Commission. So to try to deal with those in a timely manner,

we may bring in some exemptions to the Commission.

Mr. Vanderbilt: So the workshops are open to the public? And they can --?

Mr. Yoshida: Yes, all of the meetings are open to the public.

Mr. Vanderbilt: And they can testify, or give comments, or whatever?

Mr. Yoshida: Yes, they're subject to the Sunshine Law, and the public will be allowed to testify.

Mr. Vanderbilt: Thank you. Steve?

Mr. Steven Chaikin: Clayton, can you just clarify? The workshops were -- do you anticipate having those in the same time slot in lieu one of our regular meetings?

Mr. Yoshida: Yes, I believe that's what we are planning to do.

Mr. Chaikin: Okay. So, I guess your question to us is, what do we want to do after those workshops in terms of the weeks to follow whether or not we want to have a meeting in the evening or we want to have a meeting in the day? Is that what the question before us right now is?

Mr. Yoshida: I think the question is relative to the first public hearing on the Countywide General Plan -- the Countywide Policy Plan. Does the Commission want to have it start at 12:30? Or does the Commission want to have the public hearing start later in the day? Because, on certain issues, we've had evening meetings such as the proposed transient vacation rental bill, or the proposed affordable housing -- workforce affordable housing policy bill so that the public -- I guess the Commission felt that so that more of the public would have an opportunity to attend the late afternoon or evening meeting versus a meeting that starts at 12:30.

Mr. Chaikin: Right. Okay, I understand. Yeah, I don't know enough about the General Plan to know, you know, how many community members would be wanting to, you know, provide input, and whether or not -- maybe, DeGray, you could give some input into that? Because I know for the community plan, we would definitely want to have that in the evening. The general one, I don't know, what do you think?

Mr. Vanderbilt: Well, I would -- my question to Clayton would be what kind of notice or advertisement in the papers is there going to be on the plan that's coming before the public for the public hearing, are they going to reprint the plan in the papers? I think they did that in 1990 with the General Plan that went out for public hearing. Are they planning to do

anything like that at this time?

Mr. Yoshida: Not that I'm aware of, but, you know, the notice of public hearing will be published at least 30 days prior to the first public hearing date.

Mr. Vanderbilt: That first public hearing was going to be when?

Mr. Yoshida: We are projecting for August 22nd, which would be your second meeting in August.

Mr. Vanderbilt: And then the first workshop you're projecting to be when?

Mr. Yoshida: They would start the first workshop on July 25th. And if they have a second workshop, it'll be on August 8th, and then the first public hearing on August 22nd.

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Kip Dunbar: Clayton, on these workshops, you mentioned, one, Long Range, and what was the other one? The two workshops: one was Long Range and one was --?

Mr. Yoshida: The workshops will be conducted by Long -- the two workshops will be conducted by Long Range.

Mr. Dunbar: By the Long Range Planning?

Mr. Yoshida: Yes, Long Range Planning Division.

Mr. Dunbar: And they will be discussing what GPAC just finished?

Mr. Yoshida: Yeah, they will be --

Mr. Dunbar: How they're going to tie this into what we presently have as a long range plan?

Mr. Yoshida: They'll be discussing the process and as well as what the various General Plan Advisory Committees have come up with.

Mr. Dunbar: Thank you.

Mr. Vanderbilt: Well, I think it's hard for a lot of people to get here at 12:30 in the afternoon. Now, I don't know how many people are going to be as interested in the overall policy plans as they are going to be in the more detailed plans that come out of that, but, you know, I

would like to give the public at least the opportunity to come out, and make it a favorable time for people that are working, so I would prefer having it start at 5:30 or so, whatever. I don't know what the other Commissioners feel.

Mr. Dunbar: Well, I mean, I would prefer to start at 12:30 and run it to 8:00 if you've got to. But, you know, instead of starting at 12:30 and wrapping up at 3:30. Start at 12:30, we can get the business out of the way, and run it longer if you have to. I mean then we'll know if someone's here.

Mr. Vanderbilt: Or do you think we could have our regular meeting at 12:30, and then recess to a 5:30 meeting for just the public hearing on the policy plan? Therefore, we could get our business out of the way and -- Would the Commissioners be agreeable to say let's start our meeting at 12:30 on the regular business, and then recess that meeting? I guess we'd have to recess it until 5:30. Corp. Counsel, what would be the best way to do that if we wanted to do our business at 12:30 on the regular meeting, and then have the public hearing portion start at six o'clock, say, on that same day?

Mr. Michael Hopper: I think you could do what you said, to recess the meeting. One problem could be that if you don't have any business for that day, I'm not sure how that would work. So I think Clayton was suggesting you might not have any business for that day. But if you want to do it that way, you could start at 12:30, and recess and give everyone -- Well, the problem is that your public hearing notice is going to have to delineate when that meeting's going to start. If you start a meeting earlier, we just have to look at recessing to the 5:30 when you've given a public hearing notice it'll start at 5:30. I don't think that'll be a problem, but the public hearing would have to go into the paper, there's a bunch of other requirements, and that would have to specifically delineate when the public hearing would be on the policy plan update. But I think that you could have an earlier meeting if you wanted to, and then recess 'til later.

Mr. Vanderbilt: I wonder if, for whatever reason, there wasn't a quorum at the earlier meeting. Do we run into a problem there with the public?

Mr. Hopper: Well, you could always -- if you've got no quorum, you can basically, adjourn or recess the meeting until a later date. That's one of the few things you can do without a quorum is to say when the meeting's going to be later.

Mr. Vanderbilt: At six o'clock or whenever the --

Mr. Hopper: You could do that. Even if you didn't have a quorum, you could say we'll recess the meeting at six o'clock. And then if notice was given that there would be this public hearing at six o'clock, that could be okay, I think.

Mr. Vanderbilt: Okay. Does the Commission have any problem of us having our regular meeting at 12:30, and then recessing that meeting when we finish until six o'clock to have the public hearing on the Countywide Policy Plan recommendations from the GPACs?

Mr. Chaikin: Are we talking about the August 22 meeting? The first public hearing, is that what we're referring to?

Mr. Vanderbilt: Yeah.

Mr. Yoshida: Yes.

Mr. Chaikin: Because I'm just wondering. What we're doing is talking about having an earlier meeting, and then recessing, and then coming back later on. Right now, we don't know if we're going to have, you know, enough business to have a meeting that day. And I'm just wondering if we need to commit this early, or we can wait to a later meeting to see if we're lining up that we would have business on that day.

Mr. Vanderbilt: Could we just schedule the public hearing at six o'clock, Corp. Counsel? And then our regular meeting would be our regular meeting. This would be a totally separate meeting.

Mr. Hopper: I'm not sure if staff's okay with having the meeting at 6:00 and at 12:30. I mean, I imagine that would be a question --

Mr. Vanderbilt: No, no, we're saying we don't know whether we're going to have the 12:30 meeting. If there's no business, we wouldn't have it. But I can't believe with all these pending projects we have -- I mean, Nancy McPherson has 57 projects listed here and we have no business? I mean, something's out of --

Mr. Hopper: I'm not assuming that. I'm just --

Mr. Vanderbilt: No, but for the sake of argument, just say we -- at this point, we don't have any business, so we don't want to commit to 12:30 and then 6:00. Can we just go ahead and schedule a public hearing on this at six o'clock forgetting the regular meeting? And then if we have our regular meeting, we have our regular meeting. That doesn't have to be noticed 30 days in advance.

Mr. Hopper: Yeah, that's one way you could do it.

Mr. Vanderbilt: Any problem with just having it just start at six o'clock -- just the public hearing on the GPAC? Okay.

Mr. Yoshida: So the meeting would start at -- the public hearing would start at 6:00 on the Countywide Policy Plan?

Mr. Vanderbilt: Right.

Mr. Yoshida: Okay. Thank you.

- 2. Rescheduling of the September 26, 2007 Moloka`i Planning Commission meeting due to the 2007 Hawai`i Congress of Planning Officials Conference (September 26-28, 2007) on the Big Island. The Commission voted at its June 13 meeting to reschedule its September 26 meeting. The Planning Department is recommending that the meeting be rescheduled to Monday, September 24.**

The Moloka`i Planning Commission may take action to reschedule its September 26, 2007 meeting to September 24, 2007 or some other date.

Mr. Yoshida: The next item, Mr. Chair, is the rescheduling of the September 26th meeting because of the Hawai`i Congress of Planning Officials Conference from September 26th through the 28th on the Big Island. I believe the Commission had voted at your last meeting to reschedule the September 26th meeting to provide an opportunity for the members to attend the conference. We are recommending that the meeting be rescheduled to the Monday, September 24th.

Mr. Vanderbilt: Is anybody going to that conference? Okay. Okay. Well, if there's no objections, Monday, the 24th then for the regularly scheduled meeting.

- 3. Discussion on the Papohaku Dunes Cultural and Natural Resource Preservation Plan implementation. The Plan was presented at a previous meeting by the Office of Hawaiian Affairs and the Department of Land and Natural Resources. (N. McPherson)**

The Commission may discuss and make recommendations on the implementation of the Plan.

Mr. Yoshida: Item No. 3, Mr. Chair, is the discussion on the Papohaku Dunes Cultural and Natural Resource Preservation Plan implementation. The Commission had a presentation at a previous meeting from the Office of Hawaiian Affairs and the Department of Land and Natural Resources on the Papohaku Dunes Plan. And I'll turn it over to the Moloka`i Planner, Nancy McPherson.

Mr. Vanderbilt: Nancy, for those members of the public present, could you just give a real short kind of background of how this thing developed and --?

Ms. Nancy McPherson: Yes. Good afternoon. Good afternoon, Chair Vanderbilt, and members of the Moloka'i Planning Commission. Nancy McPherson, Staff Planner for Moloka'i.

This has come to you before several times. The Papohaku Dunes Cultural and Natural Resources Preservation Plan was developed during 2005 with a group of 11 graduate students from the University of Hawai'i, Department of Urban and Regional Planning. The professor was Luciano Minerbi. And this was a call from the people of Moloka'i to OHA and DLNR to deal with some of the issues and challenges that were occurring out on the Papohaku Dune lots and within the conservation district parcel that fronts those lots, and includes the primary, and in some cases, secondary dunes of the Papohaku Dunes system.

This plan was distributed to the Commission. A Practicum also came and presented. Most recently this plan was formally presented to the Commission on March 28th of this year. I have -- we have responded to requests from the Commission and from the public to bring this once again to the Commission regarding implementation. There are quite a few recommendations in the plan. I hope you've all had time to go through those. I forgot to remind everyone to bring their plan with them. I know it's quite heavy. So I went ahead and reproduced these pages for you in case you weren't able to bring your plan with you. In the plan, in my review of --

Mr. Vanderbilt: Excuse me, Nancy. Is there a copy of this plan if people from the public want to see it? Is there a copy in the library?

Ms. McPherson: Yes, there's a copy in the library. I have a loaner copy in the office. And I also have a couple of my own working copies that have a bunch of stuff flagged in them, but --

The Moloka'i Planning Commission has been identified in the plan as having an important and pivotal role to play in the plan's implementation. If you look on -- in Table 8.1, which is pages 186 to 192, that is an implementation schedule that refers to the different agencies involved. This is really a multi jurisdictional and community-based effort, or it needs to be. So there's a lot of coordination that needs to happen in order to implement all the recommendations in the plan.

The students abbreviated the Moloka'i Planning Commission as MPC, which I find confusing because we also have the Maui Planning Commission. So just to let you know, it really actually should be MoPC. That's what our department uses for the abbreviation.

As the only official planning decision-making body currently on Moloka`i, the Moloka`i Planning Commission is in a unique position to provide leadership and coordination between the County Planning Department, and other County departments and agencies, and the Moloka`i community. Having had experience dealing with planning issues that have occurred in the past regarding the Papohaku Dune Lots, the Moloka`i Planning Commission has obtained some background knowledge of those issues, and has had the research project brought before them several times previously starting in 2005.

Again, the finalized plan was formally presented to the Commission by the Office of Hawaiian Affairs, and the State Department of Land and Natural Resources on March 28, 2007. The public, as well as the Planning Department staff, have expressed interest in obtaining further direction involving the Moloka`i Planning Commission regarding implementation of the plan.

So this presentation is a summary of recommendations that have been identified with the Moloka`i Planning Commission and/or the County of Maui, in particular, the Planning Department, as the most likely bodies to provide active leadership roles in the various aspects of plan implementation. The Commission may choose to adopt these recommendations in whole or in part. The Commission may also recommend that regular status reports on implementation efforts be made to the Commission on a regular basis.

So I'm -- at this point, I'm recommending that you -- I didn't reproduce it, but the Executive Summary, which is pages one through ten is really helpful. Then, the first part of your handout that I just passed out, and I do have extra copies up here if any of the public would like -- anybody else would like a copy. I've got a couple extra copies.

The -- I've reproduced the table of contents because in that table of contents, there are sections that summarize the recommendations for each chapter or area of analysis. This is an extremely thorough document. There is a lot of background, scientific research that's been done. So I've kind of asterisked those recommendation areas in the table of contents to help you find them more quickly. If you need to borrow a copy, I have a couple extra copies of that plan up here.

I have gotten advice from Corp. Counsel that I can ask him to talk about it, but in *Robert's Rules*, when looking at a report, it is usually not recommended that a body adopt the report in its entirety because that would mean that each one of you would have had to read every single word in that document, and would have to agree with every single word in that document. There's a lot of different information and then there's oral histories; there's cultural assessment information. And in lieu of taking on that responsibility, it is advised that the Commission actually consider adopting the recommendations specifically, in the document.

I have included the -- after the table of contents, I have included some summaries of implementation recommendation. Zoe Norcross-Nu`u did a lot of excellent work. She's the Sea Grant Extension Agent for Maui, and she worked very hard on this. And her recommendations are excellent. That's Table 7.3, 7.4, and it's referring to Hwang 2005. I brought this book along. And if you're interested, we could get copies of these for the Commission. This is the *Hawai'i Coastal Hazard Mitigation Guidebook*. If you haven't seen it already, I'd suggest that you look through it very highly. Very well researched. It has a lot of excellent recommendations. It has done a lot of research for Hawai'i, in particular, on what are different options to deal with coastal hazards, all the way like the very beginning, long range planning stage to the point when people are actually applying for building permits and constructing their homes now.

One of his recommendations is the fact that early planning suggests that we look at these coastal hazard mitigation techniques as early on in the process as we possibly can, which would include subdivision design itself. In this case, in my professional opinion, quite a few of those concepts were utilized in the design and the approval of the subdivision itself. There's -- Okay, we've got Table -- Let's see. Best Management Practices. Table 7.5 on Page 178 is kind of interesting because it analyzes kind of statistically, what percentage of each lot is in the SMA, what percentage of the lot is in the erosion hazard area and the flood zone area. So that kind of gives you a look at what are the different hazard levels involved with the various dune lots that border the dune system.

Again, Table 7.6 is immediate, specific recommendations. So I've starred some of the things that I think that the Commission should look at as far as increasing our jurisdiction, and increasing our ability to exercise good planning practices, coastal hazard mitigation practices in this area. She also has 7.7 as recommendations for future management planning.

I've made a couple of notes down at the bottom of Page 182 that there is an issue of subdivision of the dune lots. And one of the concepts that is being proposed Statewide at this time is managed or strategic retreat. The idea being that the house itself would be something that could be moved over the life span of the house if it is evident that there is going to be increased erosion in the area that the home could actually be moved back farther away from the coastline. The problem is if lots are subdivided parallel with the shoreline. So -- oh, if you keep looking towards the back, I have a couple of diagrams. And these are from Hwang's book. It talks about different -- the very last page is coastal lot configurations and subdivision design configurations. So we've got different sized lots, different lot orientation, different erosion rates, and different proposed uses. It shows there are a lot of different variables, but there actually is a lot of knowledge in this area. If you look on the back of that page, there's a discussion of lot configurations pre-1987, and post-1987. And then I put down the diagram of the Papohaku Ranch Subdivision below that. The lots should be long, much longer than they are wide. The idea being that you, again,

can do this managed retreat. Now, if lots are split front to back, so if we're not splitting them the long way, we're splitting the short way, then we're compromising our ability to do that. So that's an important concept to keep in mind. We're also looking at the SMA, the actual boundary in that area. And Thorne's doing a study right now. And so some of these recommendations are actually already being implemented.

Let's see. I kind of put in here Table 7.8, Stages in Coastal Development, because it talks about the different agencies that are involved at different stages of development. Again, the closer you are to finalizing the development and issuing building permits, the harder it is for government to really make major changes in response to coastal hazards. That needs to be done as early on in the process as possible. So we're kind of dealing with an after-the-fact situation here at Papohaku.

So I would recommend going through Table 8.1. It's kind of a general summary. So I would actually like the Commission very much to try to go through the individual recommendations in each section as well. So if you haven't done that already, and you don't have your plans with you, we might have to take some time to do that, and bring this back to the Commission at another date. It's what you will do; what you choose to do.

Mr. Vanderbilt: Is that it, Nancy?

Ms. McPherson: Yep.

Mr. Vanderbilt: Are there any questions? Commissioner Dunbar?

Mr. Dunbar: Nancy, how many homes constructed in the dunes area violated either their construction plans or SMA rules as they regard the shoreline at this point? I mean, have we, or have you, or have the Maui Planning Department issued any violations to people that have --?

Ms. McPherson: I think it's actually most of the violations that have been cited have to do with the conservation district area. So people just kind of assumes this is my lot, it continues all the way out towards the ocean, and that means that I can grade in the dune and plant whatever I want to plant out there. That's happened several times. So part of the -- this study was done in response to some of those challenges.

Now on the other hand, we also have a situation where we have rules and regulations on the books. We have a grading ordinance and that has actually been updated to reflect some of these issues of not removing sand, you know, not putting in fill over sand, and that sort of thing. But in some areas, in my opinion, the County's processes could be strengthened so that the element of review -- And another one of these recommendations is that erosion rate-based setbacks be implemented in the Papohaku area so -- as they

have done on Maui. In the plan, Chip Fletcher, Professor Fletcher of U.H. did a coastal erosion study for the Papohaku area. Now, on Maui, they did the whole island and that's how they were able to develop the coastal atlas and implement erosion rate-based setbacks. We haven't done that yet on Moloka'i, but we do have that data for the Papohaku area. So one of the recommendations is to pursue implementation of erosion rate-based setbacks in the area, expand the SMA boundary, increase the scrutiny of activities that are going on out there on the dune lots because in some cases, sand has been removed in the past. Well, we all know sand was mined in significant amounts over the years in Papohaku. So some of these lots are worse off than others. And Zoe's recommendations do talk about how -- I think the northeastern lots are -- I mean, the lots closer to the golf course are worse off than the ones further down. And so there will be different criteria for different portions of the dune system. The idea is to increase our ability to regulate and prevent impacts to the entire dune system, which extends inland quite a ways in some cases. That level of analysis wasn't done when the original SMA boundary was drawn as far as I can tell.

Mr. Dunbar: So what part of the dunes are in the SMA boundary and what part of the dunes aren't?

Ms. McPherson: Well, when you look at the plan, there are a number of GIS maps in that plan, and they have SMA boundaries. They show where the conservation district is, and they also delineate the primary dune. Now, Zoe's also concerned about the secondary dune. In some cases, that dune has been removed entirely. And what that does is that destabilizes the primary dune. So the primary dune is at risk in certain areas because people didn't understand that the secondary dune is almost as important as the primary dune because it feeds it.

Mr. Dunbar: When was that done?

Ms. McPherson: When was the excavating done?

Mr. Dunbar: Yeah.

Ms. McPherson: I believe as recently as -- well, fairly recently: 2004, 2003, possibly, on --

Mr. Dunbar: They were excavating sand off of the dunes in 2004?

Ms. McPherson: Yeah.

Mr. Dunbar: And who was doing that?

Ms. McPherson: Well, I'm not going to name names, but --

Mr. Dunbar: Well, so have we fined them, or have we gone after them, or this is only --?

Ms. McPherson: Yeah, yeah. There has been some enforcement done, but there needs to be more. And, frankly, we have situations where people are given building permits without having to have any kind of coastal zone management review whatsoever. That's happened in the past.

Mr. Vanderbilt: Well, and to add to that, I think Commissioner Dunbar probably remembers, too, we've had contractors stand up here and say, well, there are people that are just going ahead and constructing without any permits. That's just the way they do things down there. That came from a contractor talking to our Planning Commission. So-- and, unfortunately, that's starting to happen all over the island and we've got to get a handle on it some way.

Ms. McPherson: Well, because we have so much data for this particular area, that's why we're recommending that -- and because of the importance of the natural and cultural resources in that area. There are iwi in those dunes. There are a lot of endemic species of beach dune -- you know, dune plant species that are growing out there. And it -- but it needs to be a partnership with the homeowners, the community, the State, and the County. So the idea is to promote co-management.

Mr. Vanderbilt: Nancy, when they reviewed the dune policy plan, did they look at -- or somebody looked at our community plan, and are there any conflicts in the recommendations of the plan versus our community plan?

Ms. McPherson: From my reading of the community plan, no, there are not. I did that section of the report myself.

Mr. Vanderbilt: Okay. Thank you. Mr. Chaikin?

Mr. Chaikin: Yeah, we've got a whole lot of recommendations. Are you asking this Commission whether or not we want to adopt these recommendations?

Ms. McPherson: Well, I think that if the Commission did choose to adopt the recommendations that that would give them some impetus for the County to then begin seriously looking at the mechanisms by which those would take place. Also, the community plan update is coming up and I'm really hoping that this plan and the implementation strategy that staff could be developing at this time would be put into that process as well and looked at by the community plan advisory committee.

Mr. Vanderbilt: Yes?

Mr. Hopper: Thank you, Mr. Chair. I just wanted to make the comment that before you would adopt it, make sure that you've read it, and you understand what all the recommendations say. I don't know if you all have, but it's a good idea to go take another look at that, and make sure before you vote to adopt any portion of that report, you're pretty sure, or you're positive as to what it says.

And, in addition, the agenda for today says there's going to be a discussion on the plan, and a -- you may discuss and may make recommendations on the implementation of the plan. You would probably want to have a bit more specific agenda item saying that the Commission may adopt the portions or all in part, the report, just for the future. You could certainly do it, but it's just make sure that you've read it, and understand everything there obviously that you would decide to adopt.

Ms. McPherson: Well, since this information wasn't included in your packets, although you all have been given copies of the plan, you know, I would suggest or I would like it if the Commissioners would take the time they need to review this information, and to, you know, possibly, bring this up at the next meeting.

Mr. Vanderbilt: Commissioner Chaikin?

Mr. Chaikin: So what is your vision for these recommendations? If we did go and adopt some of them or all of them, how would you like to see the whole process go? I mean, would this become -- is the vision for it to become some kind of a policy, or for them to move into some kind of a code, or what are your thoughts on that?

Ms. McPherson: Well, in implementation of a plan what normally happens -- and this is going to be happening with our community plan as well -- you need to develop an implementation strategy. So the idea is -- and in the last community plan, we saw that the implementation actions were identified, actually responsible bodies were identified, but it wasn't taken the next step where it was actually scheduled, that there were timelines, that there were outcomes, and measures of success, and that sort of thing. So the idea is to develop an implementation strategy that will put all of those kinds of things into place.

Now, I'm not quite yet familiar enough with how the County does things to know if that would need to be adopted as a policy. Maybe Clayton could answer that. It involves more than just the Planning Department. So we would not be able to just totally act on this alone, but the Commission -- I'm not sure what the Commission's sort of breadth of authority is in this, but to at least encourage the County to seriously proceed with implementation. I can do as much as I can as staff to try to develop that, or at least develop a draft, and then bring that back to the Commission. So, Clayton, did you want to add anything about that implementation? It's also possible that we could kind of dovetail this into this community plan update process as well.

Mr. Yoshida: Good afternoon, Mr. Chairman, and members of the Commission. If the Commission takes an action, or if you support the recommendations, then, I mean, that would be an indication from the Commission as to their support for the implementation or the recommendations.

Mr. Vanderbilt: Clayton, so if there was implementation, and it required changing the subdivision code, or zoning codes, or something that would also come back to the Commission before anything was finalized, is that correct?

Mr. Yoshida: Some of these actions may come before the Commission, such as if the SMA boundaries are amended, that would come back before the Commission, but some of these others may require amendments to other sections of the code and the like, and those may not necessarily come back before the Commission. You know, if it's an amendment to the code, then that would have to go before the Council.

Mr. Vanderbilt: Well, it would seem like at least we'd want to be copied on any proposed language to any of these amendments because it's really not any -- I'm looking at that Table 8.1 on -- it says goals, objectives, and implementing actions, but the implementing actions are pretty vague. And --

Ms. McPherson: Well, if I was directed to do so by my department, I could basically, refine this table, and add a whole bunch more columns going off to the right-hand side, and make it more detailed, and that could be something that I could do.

Mr. Vanderbilt: Well, I don't think we can do anything today on this, but maybe I'm wrong. Maybe the Commission -- Commissioner Feeter?

Mr. Bill Feeter: Yeah, thank you, Chair. Nancy, a question for you: could you give us an example of how this Commission can utilize this information?

Ms. McPherson: Well, I've heard in the meetings that I've staffed from time to time, a desire to be a body kind of uniquely on Moloka'i who can hear planning concerns, who can discuss issues that are important to the community, and that needs to be knowledgeable about what are the different issues, and what are the different areas of the island that is being impacted.

Now, I kind of see this as, possibly, a forum for discussion of some of those issues because, from time to time, we get permits for activities and projects out there on the dune lots. If, at any rate, you all just became much, much more knowledgeable about the specifics of that area, that would be helpful to me because you would understand more about what are the things you need to look at when looking at permits for that area.

On the other hand, for some reason, the Commission was identified as an important body for this implementation process. So, again, I have to look at it a little bit more, but I know that there's an important role to play for the Moloka'i Planning Commission, and for Planning Department staff, and for other County staff to be serious about implementing the areas under our jurisdiction, the recommendations of this plan for the areas under our jurisdiction.

Mr. Feeter: If I may?

Mr. Vanderbilt: Yeah, Commissioner Feeter.

Mr. Feeter: Yeah, thank you, Nancy. Actually, when Sam Lemmo was here in March, he gave us a pretty good overview of his thoughts in terms of enforcement. So we have a multiple agency of checks and balances it appears and so I see that as we get information from Maui Planning Department, then we can act upon it. We can't act on it independently other than information that you've given us and that we've had before.

I was very pleased to be a part of that first survey. There were seven of us, and we walked the full length of that. We did three parameters with GIS instruments, and so I'm reasonably familiar with that area. And now we're learning more about it all the time. And it is a unique area. And it does need to be -- have stewardship. And I think we can use your work as well as the other information from OHA as guidelines. That'll be our bible, if you will, or encyclopedia. And so is that a fair assessment?

Ms. McPherson: Yes, I think it is. I think the Commission could request that the department, you know, provide them with additional information, and possibly, you know, start giving the Commission updates on our progress. That might be helpful to the Commission.

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Dunbar: I note that most of the lots that you pointed out in here have some form of SMA or conservation in it. So prior to us taking on the SMA role for residences -- it was done on Maui -- it'll still be done on Maui and sent to us for approval. So --

Ms. McPherson: What will be done on Maui?

Mr. Dunbar: Well, I mean, they'll go through their SMA process on Maui for a residence.

Ms. McPherson: No, actually, those are --

Mr. Dunbar: They will devise something and send it to us for approval.

Ms. McPherson: Those are coming to me now here on Moloka'i.

Mr. Dunbar: Okay, well, they'll go to you, and then they'll come to us for approval.

Ms. McPherson: For final approval, yeah. Single-family homes are still deemed exempt under the existing rules, but there are some extenuating circumstances where they can be deemed to be creating significant impacts, let's say. In this case, what helps us be able to recommend exemption is enough data to be able to support that recommendation and this plan actually provides quite a bit of data to help us do that; to be able to deem a proposed action as not creating significant impacts to the dune system in the Papohaku area.

Mr. Dunbar: Well, the only thing I can say to that is if there was intimate knowledge known by the planners, and they didn't convey it to us, then we don't have that knowledge. So now if you're on board, and you convey your knowledge to us, then we can make decisions here on whether or not there should be some exemption or not. So we presently have that power.

Ms. McPherson: Right.

Mr. Dunbar: And I'm -- I mean, I, for one, I agree with DeGray. I think something handed out in the first part of a meeting, and then you're supposed to digest it, and vote on it before -- I don't intend to do it. So I think the point being is that I'd like to know how this differentiates or will make better what laws we already have. I mean, if, for example, we looked at someone who wanted a 30,000-gallon swimming pool, and we didn't feel there was enough water for it, or it could be filled up with salt water, if fire retardant was necessary, then so be it. And I know when they tried to develop something on Maui, and they said okay, you have to develop a standpipe. And the guy says, God, that's going to cost me \$50,000. I can't afford that. That's right. Then you don't build it. So, you know, I'm trying to understand what -- and how this is different from -- The assumption is that we don't know anything about those sand dunes, and that's not a fair assumption.

Ms. McPherson: No, I'm not assuming that at all. There are just a lot of techniques and specialized knowledge in the area of coastal zone management that is very critical to making good decisions out in this area. And what I'm asking the Commission to do, and what I think other Commissioners have expressed interest in, and what the public has also expressed interest in is can we identify the places in our existing laws, codes, ordinances, and processes where these kinds of recommendations aren't being implemented, or things are happening out there that are falling through the cracks, and that people are upset about?

Mr. Vanderbilt: Okay. Excuse me, Nancy. Along -- and that sort of falls in line with what Kip was asking: how does this fit in or improve the existing laws? So I would recommend

if there's no objections from the Commissioners that we defer this to the next meeting, and that possibly, you could get together and sort of come up with some -- a couple of page summary of that with the idea that this Commission may want to support the recommendations or the implementations if they will improve, you know, the protection of the dunes and everything else. But give us a little overview of how these recommendations will improve what we have now on the books, as Commissioner Dunbar brought up. Is there any -- oh, Commissioner Dunbar?

Mr. Dunbar: And quickly, if you'd be so kind, you know, you mentioned Dr. Chip Fletcher doing this erosion control for Papohaku Beach, you know, I'd like to see that. I'd like to see whether or not that encompasses the whole dune area, the beach area. Normally, these dunes -- and I'm somewhat familiar with his work -- you know, provide the basis for the sand that is eroded. So in times of heavy surf, it impacts the dunes. The dunes keep feeding, and feeding, and feeding the sand down into this area, and then lighter surf, higher wind, they keep blowing it back up and blowing it back up. So, I mean, it is an evolving, natural happenstance.

Now, if someone's mining the dunes, well, then maybe we ought to shoot him. If someone is doing something that's wrong, then hold them at task. But if it's, you know, if it comes to you and it is a residential request, and they are either outside of the SMA area, which is established, or we need to increase the SMA area on some of these things, then so be it, but I'd like to see that data.

Ms. McPherson: It's in the appendix of the plan, Kip. And the entire -- the Papohaku, yes, that plan has a number of appendices in the back. All the scientific data is in the back of the plan.

Mr. Vanderbilt: So, Nancy, you could -- if we defer this, you could give us a little --?

Ms. McPherson: Yes, certainly. And I might just mention that Zoe Norcross-Nu`u quotes a four-foot per year erosion rate along that coastline and we need to plan ahead for these things.

Mr. Vanderbilt: Terrific. Okay. And thank you for -- Yes, Commissioner Chaikin?

Mr. Chaikin: Nancy, I just wanted to say that, you know, so often we do these studies. Here, we have a study. It's two inches thick. People spent a whole lot of time, and energy, and effort. And then oftentimes, it's just dropped, and nothing happens after the study. And I just want to say I appreciate you taking this to the next level and try to implement some of the findings in that study.

Mr. Hopper: Nancy, everyone has a copy of the study, right?

Ms. McPherson: Yes, they do.

Mr. Hopper: So they could read them.

Ms. McPherson: Including, the new Commissioners.

Mr. Hopper: And so they could bring it. They could read it before now, and the next meeting, and look at the things you've highlighted here?

Ms. McPherson: Yes. And I can – again, I will have a summary ready to go out with your packets before the next meeting.

Mr. Vanderbilt: That's terrific. Thank you, Nancy. So, with that, we'll just defer that to the next item. Oh, excuse me.

Mr. Yoshida: Mr. Chair, I guess since this is an agenda item, I don't know if there's anybody from the public that wants to—

Mr. Vanderbilt: Is there anybody from the public that wants to talk about this at this time?

Ms. Judy Caparida: I think that's a good idea . . . (inaudible) . . .

Mr. Vanderbilt: Thank you, Auntie Judy. Yes? Could you identify yourself? Lloyd, I see you out there.

Mr. Jim Doran: So my name is Jim Doran. I'm a property owner, it turns out, in this area of Papohaku Dunes. And I can say, first of all, this is -- I was aware of this study. This is the first time I've seen a summary of it. And I have to say that it's a really excellent study.

I can say we're attempting a permit to build a home there and I can tell you we can see the effects from the sand mining that must've taken place I understand is probably on the order of 50 years ago. And I can tell you the area in front of our house still hasn't returned to normal 50 years later. So nobody understands the damage you can do better than us cause we can see it a generation later, and it's still not in its normal condition, in its original condition.

The other thing is I scanned through the recommendations, and we're personally trying to comply with every single recommendation in there -- which I think actually, Nancy will probably tell you, we have done with our SMA approval.

You mentioned something also about stewardship, and I think that's really important. And ultimately, you know, people can screw up any kind of a good plan. Ultimately, you need

somebody who has a sense of stewardship, which we're trying to do here. And I think if people do take care, and don't damage the dunes, and protect it, you know, over time, it will go more and more towards its natural state than what it is now. And that's what we're attempting to do here. And so I just want to go on record saying I think it's really a good study, really good plan, and I'm going to do my part to try to support it.

Mr. Vanderbilt: Excuse me, Mr. Doran. Do you have one of the oceanfront lots?

Mr. Doran: Yes, sir, I do.

Mr. Vanderbilt: Okay. And you're going through the SMA assessment phase right now?

Mr. Doran: Yes, sir. We have recently received SMA approval, and we did many of the things listed in the recommendation: you know, back off the conservation district, don't touch any of the sand, put the house of a pier and post system so that water

Mr. Hopper: Excuse me. Nancy? Is this application coming before the Commission? Is this an exemption application? Okay. I'd recommend not discussing this particular application because this actually, I think, next week, you said potentially, right, this is going to come before the Commission for this particular application?

Mr. Vanderbilt: Okay, but thank you. Thank you.

Mr. Doran: I just wanted to comment on – I didn't want to argue for or against anything. I just wanted to comment since you asked for comments on the study itself.

Mr. Vanderbilt: Thank you very much. At this time, if the Commissioners don't mind, we have a member of the public that was trying to get off work so he could come here and testify, if you don't – if there's no objection, can we have --? Lloyd? Okay, Lloyd, can you identify yourself for the record?

Mr. Lloyd Inouye: Hi. I'm Lloyd Inouye. I have a small construction company here on the island, and, you know, the only reason I came here is because, you know, I've been in this construction trade for about 15, 20 years now, and it seems like it's getting harder, and harder, and harder to get anything done here. You know, it's like when you work with Maui County, they're on Maui, and they ask us for things. We turn them in. Nobody comes here to look at it, like topography. One of my plans that I sent to Maui got rejected. They told me, Lloyd, there's no topography on this front page. All right. So we go out there, shoot elevations. Cost about eight hundred bucks for a surveyor going there. We get all this done. Send it to Maui. Okay, you can get your permits. Everything's fine. Not one person from Maui or here went out and looked at the lot we were doing. You know, it's an unnecessary step is, I guess, is what I'm trying to say.

The other thing is frustrating is that it really seems like the left hand doesn't know what the right hand is doing. I go to Maui. We turn in all our stuff like we're supposed to. We gotta follow the rules. Trying our best to do that. Okay, everything over there is a go. It comes here. It goes to her office, and then there's another hurdle we gotta jump over. We go through that. Because of what we had to do, it gets sent back to Maui, and then they find something else on Maui. And it's frustrating and I think is very unnecessary. And it's a waste of time and money. Yeah? I think by, you know, by giving this a little thought and effort, I think we could streamline this whole process of getting permits and that.

We have a building inspector that's supposed to be here on-island. He's never around. Where is he? He's on Maui. We got a plumbing inspector that's supposed to be here on-island? Where is he? He's on Maui. You know, I think our permits for Moloka'i should just go to the office here, have those guys look at it here because that's what they're doing on Maui. Have them look at it here. They can even come out to the site and give a realistic, you know, take on what's really happening. And if we are complying, and doing what we say we're doing -- yeah, because here I am trying to follow all the rules, and I'm getting shelled. I'm getting beat on in every direction. Yeah?

So I think we gotta -- I don't know where to really start. This sounds like a good place, but I just wanted to voice my opinion and say that we gotta do something about this because it's not fair. It's not fair. I feel like we're being treated like a third world country, yeah? Like -- you know, we're not part of Maui County. We pay all the taxes and that. We gotta follow all the codes, but nobody's there for us when we need them here on Moloka'i, yeah? I think basically, in a nutshell, that's pretty much what I'm trying to say is that we have the men or the people to do it. We just gotta get them here. And I think it'll save a lot of pain and heartache, yeah, and frustration, and time.

One, little, small note: you know, for local people trying to build a house, if they've got a construction loan and they're paying money because the job is supposed to start, I cannot proceed with my job for two weeks because I gotta wait for an inspector to come and visit, and look at my job site. This local person can pay, depending on the size of the project, could pay up to like, \$1,400 to \$2,200 a month for his loan when we could be progressing and moving right along. But he's going to have to pay that money because I can't get an inspector over here. You know, I think that's not fair, yeah? So anyway, it's just -- like I said, gotta start somewhere, so I just wanted to come here and voice my opinion on that. Thank you very much.

Mr. Vanderbilt: Hold on a minute, Lloyd. Thanks for sharing. Is there any questions from the Commission? Commissioner Dunbar?

Mr. Dunbar: Yeah, I'm surprised it's only \$1,400 or \$2,200.

Mr. Hopper: Excuse me.

Mr. Vanderbilt: Excuse me. Excuse me.

Mr. Hopper: Which agenda item is this related to?

Mr. Inouye: It's -- it's -- I don't know. I don't even -- I just -- I just was --

Mr. Hopper: I just wanted to make sure if there's going to be questions, if there could be an agenda item.

Mr. Vanderbilt: Is this listed on --? Oh, it's not.

Mr. Hopper: It could be number -- well, No. 4.

Mr. Dunbar: I think it's No. 1 where a person testifying comes to a meeting and allowed to testify. It's just that we're not able to make more comment and --

Mr. Hopper: Well, I mean, unless it's related to an agenda item. Item four says, "Discussion on how the process can be streamlined, the Special Management Area Assessment process for the interior remodeling of single-family and multi-family units." It's a bit more specific, but --

Mr. Vanderbilt: Yeah, and I think that's --

Mr. Hopper: Well, not -- I mean, that's the only one thing I could think of, but I'd recommend to probably place it on a future agenda for follow-up questions.

Mr. Vanderbilt: Okay. Where is that agenda item that you just talked about? All right. Well, that doesn't apply, but maybe we ought to have something on our agenda for just streamlining the permit process, but I --

Ms. Lynn DeCoite: DeGray, it's on C4.

Mr. Hopper: For interior remodeling of single-family and multi-family units, and for the special management area assessment process, that limited portion of it. I think we're talking about a bit broader of an item here.

Mr. Vanderbilt: No, no, but this -- it says "And the special management area assessment process," and that's what he's involved in. So, anyway, we'll discuss this a little further. But your construction company, how many employees do you --?

Mr. Inouye: Let's see. Seven. There's me and seven guys. And then we have subs. And the subs are all local guys, licensed local guys. I got masons, plumbers, electricians.

Mr. Vanderbilt: So are these delays causing you a little havoc as far as scheduling your employees on a steady workforce?

Mr. Inouye: Oh, definitely. Definitely. And it's -- I try and have enough work lined up so if there is a problem, I can just send everybody to another job and continue. I don't -- everybody has a right to make a living. And I always believe that everybody should contribute to society somehow. Working is a wonderful way. I have a real hard time sending my boys home. You know, oh, I have no work today. You guys go home. I got no work for you guys because the electrician -- or the electrical inspector isn't planning on being here 'til next week, or we cannot pour this because I don't have a building inspector here. So it doesn't only affect me. You know, it affects everybody. And it affects the homeowners too. So it's just something that, you know, people should or, you know, I think we gotta work on.

She's -- this is the first time I ever worked with her. Right? And I think this is a step in the right direction because she's here on the island. I needed to talk to her about something, and she could actually drive over there, and look at what I was talking about. It wasn't like talking to somebody on Maui, and he's guessing, or whoever is guessing about what I'm talking about. So, you know --

Mr. Vanderbilt: Commissioner DeCoite, do you have a question?

Ms. DeCoite: Just a comment. You know, I hear your frustration, Lloyd. And I think Lloyd and I spoke one time, and I've also told Lloyd to come in and address this issue because I hear it from a lot of the construction companies. They're doing the work, and they're going through the process, and then, yeah, our inspectors are on Maui. I mean, you got Carl Puhi on Maui all the time and David Nanod. And somehow we gotta get this process rolling for these guys. I mean, you looking at economic stability on Moloka'i, and these companies are employing people here. I don't know what we can do. I mean, a recommendation to -- now that we got our plan on Moloka'i, we want our inspectors back.

Mr. Vanderbilt: Thank you, Commissioner DeCoite. And I think that's -- it seems like with some of the bigger multi million-dollar residences, and some of the construction on the West End, and everything, contractors, some of the larger contractors are just going ahead and building, I mean they're -- and then coming to us for after-the-fact type stuff. So I appreciate you, as a local contractor, going through the steps to do things right no matter how painful it is. And, hopefully, we can put this on the agenda for our next meeting. And maybe Ralph could be prepared to talk to us about why our building inspector and plumbing inspector are on Maui, and how things that Lloyd is mentioning can be smoothed out in the

future so these delays won't cost people a lot of money. So we'll do that. We'll put it on the next agenda, Lloyd.

Mr. Inouye: Okay. Thank you.

Mr. Vanderbilt: And thank you for coming in. It really helps out.

Mr. Inouye: Thank you.

Mr. Vanderbilt: Okay, with that, Clayton, were you -- are we finished with the Communications? We still have No. 4. Just four and five. So, Nancy, you're going to take four and five?

4. Discussion on how the process can be streamline the Special Management Area Assessment process for the interior remodeling of single-family and multi-family units. (N. McPherson)

The Commission may act to authorize a change in the processing of these types of applications for interior remodels.

Mr. Vanderbilt: All right. Just for the public's notice, No. 4 under Communications is, "Discussion on how the process can be streamline the Special Management Area Assessment process for the interior remodeling of single-family and multi-family units. The Commission may act to authorize a change in the processing of these types of applications for interior remodels."

Ms. McPherson: Good afternoon, Commissioners. Thank you, Chair DeGray. This item -- we're kind of going back to a memo that you received dated October 4, 2006. The last time the rule changes were made for the special management area rules, and the -- what the Commission requested, at that time, was that the Commission only review certain items, and those are listed in the memo. And at the time, the department's analysis was that it was not practical to try to establish separate criteria for only a portion of the listed exemptions.

On the second page or second handout that I just gave you, we have objectives and polices for the coastal zone management program. These are also outlined in the nice, glossy, colored brochure from the State Office of Planning, Coastal Zone Management Program that you received. Those are followed by the coastal zone management program definitions.

Now, in the definitions, we have a category of development that -- or the definition of

development is set out what development does not include. And there are a list of 16 items there.

Now, the next page is the exemption form, which we call the short form or the SM5, form that Maui is currently using for the Maui County -- Maui Planning Commission. And because the Maui Planning Commission doesn't see these exemptions, it's actually just done administratively, so the rules for Maui allow for this. They have been amended to allow for this. And all of these are listed.

Now, the problem is this was what was being done before and the item that kept coming back up was construction of a single-family residence that is not part of a larger development and some of the other items that the Commission was concerned about that they wanted to be able to review. And those are listed in the memo.

The thing is, I guess, it was difficult for, I think it was Joe Alueta who was working on this at the time to take this apart and say, well, you only have to look at the exemptions for certain things. What we've been discussing, and I've been discussing with Corp. Counsel, is that it is conceivable that we could develop a short form like this for the Moloka'i Planning Commission. It is -- I might want to let Mike talk about this a little bit more, but that it could be possible to only have this applied to certain types of not development, and not all of them, and that you would still be looking at it, but you would be pretty much just looking at this form.

And proposed construction -- my understanding is we also do assessments for all of these. Is that correct, Clayton? We actually do the full assessment form so we could include that as background information, but that that might kind of speed things up for the Commission whereas if it was a more significant development like say, a large, single-family home at Papohaku that we would provide the entire -- you know, we'd provide a short staff report, and all that other stuff, and you would be able to take more time to look at that. But the idea is that again, what we've just heard from public testimony is that it would be nice if we could streamline the process a little bit for, let's say, interior renovations with absolutely nothing occurring outside of the structure for -- Well, we've got sidewalk improvements at Kolapa Street, we've got a number of different things that are coming up, and I'm trying to kind of deal with my backlog and catch up on those. So -- but we're still -- according to the rules, your rules, as they are amended, those all still need to come before you for final -- what's the term? Approval, I guess.

Mr. Vanderbilt: Approval of your approval.

Ms. McPherson: Approval or concurrence with the exemption determination, recommendation, yeah. Oh, here comes Clayton.

Mr. Vanderbilt: Clayton, are you going to say something? Would you like to say something on this?

Ms. McPherson: No? Okay. Never mind. False alarm.

Mr. Vanderbilt: So that's it?

Ms. McPherson: That's pretty much it. The idea is that again, it's a discussion item. It says you may act to authorize the change in the processing of these types of --

Mr. Vanderbilt: Nancy, let's see if -- oh. Okay, let's see if any of the Commissioners have any questions on this. Are there any questions at this time? Go ahead, Commissioner Chaikin.

Mr. Chaikin: I guess, Nancy, you had mentioned several different types of, you know, construction projects that might fall into that. Would that just be more or less a judgement call on your part?

Ms. McPherson: Well, it may be, but I think the Commission has to make a determination that what you are willing to allow to kind of be more under the radar and what you're not.

Mr. Hopper: If I could comment on that?

Ms. McPherson: Yes, please.

Mr. Hopper: Well, by your rules, you see everything that's exempted, and that's everything. The rules don't have any limitations. It doesn't say that there's anything you don't see. So you need to go back and look at amending the rules to come up with a list that you make as a portion of the rules showing if there was any type of exemption, you would not want to see, and under which circumstances you would not see them. At this point, you're seeing everything built. If it's something that the Planning Department looks at and determines to be exempt, then you're going to see it. Whether you see it quickly, and just approve it, and say, fine, after a brief report, or you go through a lengthy discussion, and then make your decision that way. But, right now, you're seeing it all, and you would need to, I guess, authorize the Planning Department to go ahead and look at amending the rules, and tell them what you would like to not review, if anything.

Mr. Vanderbilt: I'd like to -- that's the exercise we went through a year or two ago. So what happened to that now? We went through that exact exercise that Mike was talking about.

Ms. McPherson: Well, we still need to -- you know, I still want to take a little time to discuss this with Joe because he came up with this original memo. But --

Mr. Vanderbilt: And where is his memo on this thing?

Ms. McPherson: That's the top document.

Mr. Vanderbilt: So this is signed by Michael Foley, but it was actually drafted by --?

Ms. McPherson: It was drafted by Joe.

Mr. Vanderbilt: Joe, okay.

Ms. McPherson: And so the idea was, you know, we had a different Corp. Counsel at that time also. And just from a brief discussion with Mike, you know, we're looking at it a little bit differently at this point. There may be a possibility for some rule changes here.

Mr. Hopper: I just discussed it with Nancy for the first time about a couple hours ago. So I would need to take -- if you would make recommendations, I need to take them back and see what we could do. But as far as the rules are right now, you could -- I don't see any problem with coming up with a list. You just have to be pretty specific because at this point, you're seeing everything. You'd have to -- for example, if you said you didn't want to see interior renovations, that would mean you didn't need to see any interior renovations.

Mr. Vanderbilt: Let me ask you something, Mike. On this memo that we got dated October 24th, it says the Commission did not want to review all the projects that could be exempted under HRS 205-22, but requested only the following items: 1, 5, 8, 10, 11, 12, 14, and 15. So --

Ms. McPherson: It looks like you already have a list.

Mr. Vanderbilt: So what happened? We agreed to that. Where did it go from there?

Ms. McPherson: Well, there are some reasons listed here. And again, Mike would have to look at this back on Maui, but a project may qualify for a number of exemptions including ones not listed by the Commission, so that would mean piece-mealing a proposed action which could get very complicated. Again, the Commission did not or has not, at that time, established why the above actions should now be given additional review. So I guess you would have to actually have some kind of findings of fact or some kind of basis for your decision to only look at some and not all.

Mr. Vanderbilt: Well, then I think that's what -- because on page two it says, "After reviewing the request by the Department, it is not practical to try to establish separate criteria for only a portion of the listed exemptions," which are the 15 or 16.

Ms. McPherson: Right.

Mr. Vanderbilt: So if that's the department's -- they're saying thank you very much for choosing which ones you want to review, but you can't do it. Now, so the ball's in your court. You're saying we can't do it, yet you want us to go back and do this again without Mike or somebody in Corp. Counsel saying we can do that legally. And it's just going to waste a lot of time, I think.

Ms. McPherson: Well, I think we've had some additional policy development in that area since the time this memo was drafted. There is additional SMA streamlining efforts that are going on in the department right now.

Mr. Vanderbilt: All right. Can I ask you -- because we're not in any position to do anything on this today is to take this memo, and give us a little summary of what's changed, and what would allow us to choose which things that we want to review?

Ms. McPherson: Okay.

Mr. Vanderbilt: And then we're in a position of knowing what we can do because we're just lay people. And so I think the Planning Department and Corp. Counsel have to get together to see if, number one, we can choose. And if can choose, then we will choose. And then if we do choose, then it can be implemented. And I think that'll save everybody a lot of time because I'm confused. I don't know how the Commissioners are, but --

Ms. McPherson: Would the Commission --? I mean, I'm just curious as to whether or not the Commission still wants to not see all exemptions or --

Mr. Vanderbilt: Well, we went through the exercise. And I think we want to see certain exemptions. But it seems to me if you send an exemption up to us for concurrence, you talked about having to do some kind of staff report for us. Why do you have to do a staff report? Why can't you just: here's the exemption, and then we can just say we agree or we don't agree?

Mr. Hopper: Well, a problem with that, if I may, is that the rule requires findings of fact and conclusions of law by you if you don't concur with the Planning Department's findings. So there needs to be some sort of finding by the Planning Department to justify to you why they're making that finding. And it's also to provide you with factual information should you choose to not go along with that exemption, and have to issue your findings and conclusions. I'm not sure where you could get your basis from if you didn't have any sort of staff report. I mean, public testimony would seem to be the only other area you would get that information from.

Mr. Vanderbilt: Well, I'm having a hard time understanding how the Planning Department might exempt something, and then they're going to give us arguments why we should not agree with their exemption.

Mr. Hopper: Not arguments why, just facts about the area. That's what the staff report would potentially include would be -- what the area would have. I mean, you'd have to come up with --

Mr. Vanderbilt: Well, I would think that once you had a broiler plate thing, there wouldn't be that many changes, and I think this Commission would be more than willing to streamline the thing so that interior renovations, or an extra window, or a carport may not be included. I think we're looking at, really, the major impact things. And so if you could get us some memo that gives some direction of why this wasn't done, and why it can be done now, I think that would be helpful, and then we could go from there.

Ms. McPherson: Well, that's why I included the objectives and policies of the Coastal Zone Management Act because what you don't want to do is you don't want to compromise your ability to, you know, be following those guidelines. You have to balance anything that you decide to exempt against -- or anything you're willing to not review as far as recommended exemptions with the policies and goals of 205A, Chapter 205A.

Mr. Vanderbilt: Commissioner Chaikin?

Mr. Chaikin: Nancy, I just want to thank you for taking the time to try to streamline the whole process because we just heard testimony from the last guy that was here, and he basically said that it's a very cumbersome process, and it takes a lot of extra time. And I think, you know, we need to take a look at how we can make it as simple as possible, and as effective as we possibly can. And let me just say that, you know, most of the time we're going to be agreeing with all the exemptions that you come up with. In the rare instance that we would not agree, I mean, even if there wasn't a staff report, in the rare situation where we don't agree, at that point, we could ask for a staff report. Instead of denying the exemption or not concurring with you, we could get a staff report, and get more information before we denied any exemptions.

Ms. McPherson: I think there's a -- Mike, maybe you can help me out here. Corp. Counsel, there's a time limit as to getting an exemption reviewed after it's been recommended. It needs to be brought to the next Planning Commission meeting, but can it be continued?

Mr. Hopper: I think, like in the last exemption we had, I think there's about a 30-day window between the time that you deem it exempt and the time the Commission has to take action on it. If there's no action taken on it, then the Planning Department can just

proceed, and the exemption can be -- could potentially be ratified, essentially. That's what the rule, as adopted, says currently.

Ms. McPherson: Thank you.

Mr. Vanderbilt: Okay. And then, Nancy, could you check with the CZM because as far as houses being exempt, I was under the impression that the CZM law was amended by the State to give the County the power of changing the rules or not exempting certain single-family homes of a certain size, or whatever rule they want to apply?

Ms. McPherson: Okay. Yeah, I would've liked Thorne Abbott, our coastal shoreline planner, to have been here.

Mr. Vanderbilt: Maybe you could check with the guys at coastal zone --

Ms. McPherson: Okay.

Mr. Vanderbilt: Because that came up in that workshop.

Mr. Dunbar: Nancy? Kip Dunbar. I recall the manager of the coastal zone management being at our meeting and actually testifying against the increase of the SMA area, and the changing of the SMA laws because specifically, of the coastal management area. So you might want to check with him and see whether or not he's changed his attitude.

Ms. McPherson: Well, I think you have to look at the program overall: the State program and how the County implements it. And I think you also have to look at individual areas of the island as closely as you can. And, actually, Mr. Abbott is doing a study. He has an intern. And she's coming over here. She's going to be attending the July 11th Planning Commission meeting along with Thorne. So, you know, that will definitely be a time to ask questions.

Mr. Dunbar: Okay. That's the County side. What about the State side?

Ms. McPherson: Well, I will do as asked and follow up with the State Office of Planning Coastal Zone Management Program.

Mr. Vanderbilt: Yeah. And, Kip, I think the one thing that the State will agree on is that the lines -- they got to the end of the process and so there was no real criteria or nexus for coastal protection and where the SMA line was drawn. They went along the roads in some areas. They went way inland in other areas. But there wasn't really any -- they just got down to the end, and they had to do something. So there may be some places where the SMA lines should be expanded. Maybe there's some places they should be contracted.

I know they're trying to contract in Kihei now because everything's done there.

Mr. Dunbar: They've already burnt the place. Might as well. But, yeah, you're right. And I think there are areas where the perennial streams are, we need to expand. You know, and there are areas that, you know, could be contracted just because there's nothing in front of them. But the rule of thumb is it goes along the road. Well, we all know that that's not necessarily true. You know, it does go inland in certain areas. And so I know we talked about doing the whole island. I can't tell you how many times I've heard that. And I've heard . . . (inaudible) . . . people against it. On the other side of the coin, you know, I think there are areas that we should expand, and should have the SMA laws expanded in there provided we can follow it up with enforcement. We keep thinking the laws that we have already are not good. The problem with the laws we have already is we're not enforcing the laws. So, I mean, that's more of the point than to me to come up and make some more laws that we're not going to enforce either.

Mr. Vanderbilt: Okay.

Mr. Yoshida: Yeah, I believe that the Program Manager, State Program Manager for Coastal Zone Management, Doug Tom, was here a couple of years ago to talk about amending in the -- discussions on amending the SMA boundaries. And I guess the CZM Program -- the State CZM Program does want to go out to the islands in October and do workshops with the Planning Commissions.

Again, the purpose and intent of this agenda item was to try to have some discussion in hopes of, perhaps, we could have a shorter form for these interior remodels only, and they're not expanding the footprint or anything like that so we could try to process them faster.

Mr. Vanderbilt: Well, if it was only for that item, we could probably agree to that if it was -- but I didn't get the impression that it was just that item. It was just that item?

Mr. Yoshida: Yeah, I believe instead of doing the full-on assessment, if it's a pure remodel, interior remodel only, if we could have -- develop a shorter form that we could present to you for those so, you know, Nancy could do them faster.

Mr. Vanderbilt: For the remodels?

Mr. Yoshida: Just for interior remodels only.

Mr. Hopper: And the rule doesn't state anything about specifically how it has to be transmitted to you. So I believe you could just change the type of form you use to transmit it to the Commission.

Mr. Vanderbilt: Go ahead, Commissioner DeCoite.

Ms. DeCoite: So we're saying that this exemption form would be just the -- that's it? This is the form they would file in to do an interior remodeling? Is that the bottom line?

Ms. McPherson: Well, we would probably develop -- we would edit that form and produce something that was more specific because that lists all of the categories of exemptions under Chapter 205A. You want something, basically, interior remodels only, no change in footprint, that sort of thing.

Mr. Vanderbilt: Okay. I would entertain a motion from the Commission that we approve coming up with a new form to exempt internal renovations and remodeling with no expansion of the footprint of the building.

Ms. DeCoite: Okay. I'd like to make that motion that we accept this with an updated form of interior remodeling with footprint. Is that correct?

Mr. Vanderbilt: Yeah, with no increase in the footprint.

Ms. DeCoite: And no increase in the footprint.

Mr. Vanderbilt: Is there a second?

Mr. Chaikin: Chair, I need a little bit clarification on that. Is this just a form? We're just making a motion for a new form that she's going to develop to convey those interior changes to us? Or is this going to be a rule change where we exempt them and take them out of our purview?

Mr. Vanderbilt: That was a motion for them to come up with a form and get it back to us for final approval. Thanks for that clarification.

Mr. Chaikin: Okay. I'll second that motion.

Mr. Vanderbilt: Any discussion? Commissioner Dunbar.

Mr. Dunbar: Yes. Kip Dunbar. I have a hard time blanket voting on something that I received this afternoon. And, you know, I'd certainly like to see the form. And if the form came into us, and it said, here's the form. We get it in our packet. We review the form. We go to SMA 205A. We come back to the board, and we vote on the form. I'm certainly not for holding up any interior renovations. I mean, when I was the manager of Bank of Hawai'i, we wanted to put in a six-inch shelf for an ATM and it probably took us about 180 days before we were able to get the SMA permit to put that in. So did I change the

footprint? I doubt it because the balcony still went out 15 feet in the front of that. So I think if we're going to make a change, we make a good change. And I'd like to see the form. I'd like to massage it with people that I know, and talk about it, and make sure that it's something that's living. I really don't have a problem at all with remodeling interiors. I mean, they can, you know, paint the interior blue for all I care, but, you know, I have a hard time receiving a document today, looking at it even though we've had had this in the past, you know, I mean and it had lots of discussion. This was not an easy, sit down, slam dunk, and these are the five things we're going to talk about because there's some of those in there that I still didn't want to talk about. So I think we need to see a form, see what it looks like, and then act on it. And I'd be happy to vote for it, but at this point, I'm not going to vote for it.

Mr. Vanderbilt: Well, I think that's what the motion is, Commissioner Dunbar. It's just to approve Nancy going out and preparing a form to bring back to us to approve.

Mr. Dunbar: Okay, that's fine. I think she can do that without a motion. We can say, Nancy, go out and make a form, and bring it back to the body. Let us take a look at it. We'll go out and talk to the constituents, see what they want, and we can vote on it.

Mr. Vanderbilt: Okay.

Mr. Chaikin: Yeah, I think what we're trying to attempt to do here is Nancy is getting just buried in all kinds of stuff that is on her desk and her responsibility and we're trying to just streamline some of this stuff. So instead of her having to make a whole staff report to present to us cause somebody wants to change their living room around a little bit that she can have a real quick form that she could check off a couple things, submit to us, and get that off of her desk.

Mr. Vanderbilt: Okay, if there's no objection from the Commission, Nancy, at our next meeting, could you have a form drafted up? Or just go ahead and draft up a form? If you get it to us at our next meeting, fine. If it takes you to the following meeting, fine. But could you do that?

Ms. McPherson: Yes.

Mr. Vanderbilt: Work with Corp. Counsel or Planning?

Ms. McPherson: Yeah, I think we were just asking the Commission to act to authorize the change in the processing, but we can go ahead and draft something for you to look at.

Mr. Vanderbilt: Well, once we have the form, and we approve the form, that will also include going ahead and acknowledging a change in the process.

Mr. Hopper: And as a comment, I mean, my opinion, I thought we were discussing originally was not having the Commission review certain types of things at all. If they're still going to review them, but just using a different form, I don't think there necessarily has to be a rule amendment for that as long as it will still be reviewed and concurred, or not concurred by the Commission. It's just that you could potentially run into problems with any findings and conclusions necessary to overturn the decision. But it could be done without a rule amendment, if that's all.

Mr. Vanderbilt: We're just talking about the interiors now so --

Ms. McPherson: Well, we've been talking about a couple of different things with this item. And, you know, there's a couple of different aspects to permit streamlining that the Commission could look at but the simplest thing to do, at this point, is to develop a form that just addresses interior only remodels. The thing that triggered that were two units out at Wavecrest where the people were actually in violation, they were having code enforcement done against them for interior condo remodels, and it was because they didn't have their SMA assessment done. And that's just nuts, so --

Mr. Vanderbilt: Well, let's work on that form, and get back to us, and then we can go from there. Thank you very much.

5. Scheduling of the information workshop conducted by the Department of Public Works on the subdivision application process. The Commission made a request for such a workshop at its June 13 meeting.

Mr. Yoshida: Thank you, Mr. Chair. The next item is the scheduling of an information workshop conducted by the Department of Public Works on the subdivision application process. I believe, at your last meeting, we were talking about ag. subdivisions, but I think the Commission wanted a broader perspective on how subdivision applications are processed. So we did contact the -- Ralph Nagamine's Division, Development Services Administration, Department of Public Works, because they're about to fission from Department of Public Works and Environmental Management into Department of Public Works and Department of Environmental Management. And I guess they've selected one of their engineers, Lesli Otani, to conduct a workshop. We were kind of looking at your next meeting on July 11 because, as we had explained earlier, from July 25th will be -- the Commission will be starting to deal with the Countywide Policy Plan. But, you know, it's up to the Commission as to when --

Mr. Vanderbilt: I believe that the workshop was talking about -- initially, it was in response to a letter on these agricultural subdivisions that came to us, and maybe amending the ag ordinance, the ag zoning ordinance, so it was a two-prong thing. And then, from that, I

think Commissioner Chaikin, if I recall, said maybe we ought to not only discuss the process for ag subdivisions, but subdivisions in general, if there happens to be any difference in that. Because at this point, no matter what our community plan says or anything, anybody can buy a parcel and subdivide them, and it really doesn't come back to this Commission or the public in any other way to even comment on it whether it's a small subdivision or a major subdivision. So I think the Commission just wanted to understand the process a little bit better.

Mr. Yoshida: Yes, we just wanted to clarify on the scope so that Lesli is well prepared to address the concerns or, you know, basic purpose of the workshop.

Mr. Vanderbilt: And will the Planning Department be prepared to explain its role in the subdivision of ag lands.

Mr. Yoshida: I believe, well, Ralph can correct me if I'm wrong, but I believe as part of the process, you know, Lesli can go into -- well, the different agencies, perhaps, that review subdivision applications, including the Planning Department.

Mr. Vanderbilt: Well, I think the key is the Planning Department because they've changed, in the last year, they've changed -- Ralph's group has changed how they review ag subdivisions. Now, we didn't -- we weren't made aware of that. And it's a whole different process than it was a year ago. Is that correct, Ralph?

Mr. Ralph Nagamine: The process is, basically, the same because the ordinance does not change, but the way each department reviews these subdivision applications will change from time to time. And so you're right that every department that reviews subdivisions may add more input as to how they review subdivisions because we only -- we're like the clearinghouse. People apply with our office, then we distribute to other agencies for their review. And we really don't have a real good, in-depth knowledge of how they review their applications.

Mr. Vanderbilt: Then how can Lesli explain to us how the Planning Department reviews their applications?

Mr. Nagamine: She may have some insight, but I don't think that she could probably answer all of your questions.

Mr. Vanderbilt: And the only reason I ask that, there was that controversial Notman re-subdivision of a lot in Papohaku. Now, it was sent to Planning in the normal course of review, and they commented during the review process, but now the process has changed where before Lesli even looks at the subdivision, if it's an ag subdivision down at the west end or anywhere, Planning has to review it, and sign off on some type of ag assessment

before the process even starts. So that's a pretty big change.

Mr. Nagamine: Yeah, again, I think that what she was prepared to do was just talk about processing subdivisions in general. And if you wanted to focus on ag subdivisions, she was prepared to do that as well. So her presentation was, basically, going to be the very basic process and then she was going to entertain questions that the Commission had regarding any type of subdivisions.

Mr. Vanderbilt: And she would be familiar with the State subdivision where you can come in, and with no regard to zoning, or community plans, or anything just do an affordable housing subdivision on ag. lands? The 201G, she'll be familiar with that?

Mr. Nagamine: She could probably talk about past projects where there have utilized that exemption because that's a process where you have to apply for an exemption and so not all projects will apply for the same exemptions.

Mr. Vanderbilt: Okay. Well, I think we're trying to get it like the one that comes to mind on Maui was a person bought 238 acres of ag land. It was good ag land. They came in with a State 201G affordable. Now, under the ag ordinance, they were allowed only 19 lots, but they ended up with 466 lots because of this going through the State process. It allows them if they just do 50% affordable and the rest market, they can go from 19 to 466. And so they could do the same thing back here in Kaunakakai or anywhere, and I think we just want to understand all these options because we think we got a hold of things under our community plan or wherever, and then all these things come out.

Mr. Nagamine: Well, let me say this, that she is not prepared to talk about how you process 201G applications. Okay, what she's prepared to do is talk about how you process subdivisions under Title 18 of the Maui County Code.

Mr. Vanderbilt: Well, I don't think that was the original intent though. This was in response to a letter that we received, I believe, by --

Mr. Nagamine: Well, what you're asking me is akin to somebody that wants to do a subdivision, and for whatever reason they applied for a variance that applies to that subdivision, and you're asking her to explain how you get a variance. That's just a different process. The 201G is a separate process from Title 18.

Mr. Vanderbilt: But it's a subdivision process.

Mr. Nagamine: But after you get your 201G approval, you may or may not be required to come in for a Title 18 subdivision processing because, again, you could be exempted from even processing a subdivision under 201G.

Mr. Vanderbilt: But it would still be a subdivision of the property to a much greater extent than is allowed under the current zoning laws.

Mr. Nagamine: You could get lots that are smaller than what's allowed.

Mr. Vanderbilt: So I think those are the three things we want to know: what the process -- how the Planning Department is looking at these ag subdivisions; how you guys are looking at just general subdivision process which is important, and Lesli is really good at explaining stuff; and then the other one is we need to have somebody here, Clayton, that can explain just some of the options you can do under the 201G because people don't believe that --

Mr. Nagamine: I think probably what you're asking for is somebody from my office to come and explain like the very basics of how you apply for a subdivision in the process. And if you're interested in what Planning does when they get that application, how they review it, then you would need somebody from the Planning Department to explain that.

Mr. Vanderbilt: And then, hopefully, maybe Lesli could take say that Sterling Kim project. She might be familiar with that. That's a recent one. That's that 466-lot one. They can just show you what the --

Mr. Nagamine: You know I had mentioned to Lesli that it might be helpful to pick out an example of a Moloka'i subdivision that's currently in progress, and I think she chose one that was in Hawaiian Homes, but, you know, if you have -- she was thinking about maybe the Notman Subdivision, but I think ultimately, she decided that she wanted to do the Hawaiian Homes project.

Mr. Vanderbilt: Well, the Notman one is the one that's the concern of everybody. We're not too concerned about Hawaiian Homes. This whole re-subdivision of existing lots at the West End --

Mr. Nagamine: Well, if you want her to do the Notman Subdivision, it's not too late. I can ask her to do that one.

Mr. Vanderbilt: Yeah. And maybe -- and just relate how the process that was used on that one has changed a little bit. And that maybe Planning -- I think it's Francis Cerizo in Planning that's involved with that now.

Mr. Nagamine: Okay, that's very doable. We'll do the Notman Subdivision.

Mr. Vanderbilt: Thanks.

Mr. Yoshida: I don't believe that the 201G process exempts you from having to urbanize

the lands if you want urban densities. I believe that the Spencer Homes had to urbanize the lands. Hale Mua had to urbanize the lands. With the Land Use Commission, it does have a fast track approval system where the Land Use Commission has to make a decision within 45 days after the application is deemed complete.

Mr. Vanderbilt: The State -- but they're exempt from any change in the community plan or the County zoning?

Mr. Yoshida: If that's what the Council grants them as the approving authority for the 201G.

Mr. Vanderbilt: And I think that's the kind of things we need to know that there's a backstop or there's something because people ask us, and so we talk to Les, and that seems to be the answer. So the more complete understanding we can have about the general options under subdivision I think that's all we're asking. We're not -- Thank you. So now, what date was that again, Clayton, that you wanted to schedule that workshop?

Mr. Yoshida: We're looking at your next meeting: July 11th.

Mr. Vanderbilt: Are there any other items on the agenda or coming up that you can think of?

Mr. Yoshida: I believe that Nancy may want to put some of the SMA exemptions for concurrence by the Commission.

Mr. Vanderbilt: Does any of the Commissioners have any problem with the next meeting? Okay, next meeting. Okay, if that's it on the Communication, while you're up there, do you want to go right into your Director's Report, Clayton, Item E?

Mr. Yoshida: Well, I guess, you know, if you want to go with the Chairperson's Report first, that's fine. If you want us to go with the Director's Report first, that's fine.

Mr. Vanderbilt: Is that all right with the Commission, while he's up there? Okay.

E. DIRECTOR'S REPORT

1. Report on the Special Management Area Assessment application for the Walsh Pool, TMK: 5-4-017:001 (SMX 2006/0503) (SM5 2006/0438)

Mr. Yoshida: With respect to the Walsh Pool, there was an SMA assessment application received in -- on October 24th. They did commit to not discharging pool water onto the lawn, which is one of the comments from the Department of Health. The department did

deem the assessment application to be complete, and did issue an exemption, which was noted in the closed Moloka'i application report. It did do its assessment and did issue an exemption.

Mr. Vanderbilt: Clayton, are there any -- is that pretty much the report on that?

Mr. Yoshida: Yes, the exemption was issued, I believe, in early November of 2006.

Mr. Vanderbilt: Are there any questions? Commissioner DeCoite?

Ms. DeCoite: So, Clayton, where is the discharge taking place, then, if it's not on the lawn of the pool water?

Mr. Yoshida: That, I would probably have to look at further. I was trying to get a copy of the -- this SMA assessment application document from our back storage.

Ms. DeCoite: Okay, the only reason why I asked was because I know we voted to deny that SMA permit, and it had environmental issues on the discharge, so if they're disposing of it on the lawn, would it be in the ocean? So, you know, I kind of wanted to take a look at what the -- how the exemption went. Thank you.

Mr. Yoshida: I would have to pull that SMA assessment document from our back storage, which we've ordered but hasn't come in yet.

Mr. Vanderbilt: I have a question, Clayton. Commissioner DeCoite's right. We denied the SMA permit, and then it left here, and then they decided, well, we'll go back to Planning and see if we can just reapply and get an exemption, and that's what they did, and it never came back to us. And it was done by a planner over in Maui. It wasn't done through Nancy. So how do you do things like that? How do we make a decision, and then it goes back, and they try another venue, and it never comes back to us for comment, or what do you think about this, or whatever? I mean, I don't understand. And I think that's what everybody is having a question on: how can we make a decision and then it gets overridden by some planner on Maui?

Mr. Yoshida: Well, it was a different application, per se, in that -- a new application and the applicant was willing to comply with the Department of Health's comment on the discharge. It was done prior to the SMA rule amendment. From that time, all the assessments come to the Commission.

Mr. Vanderbilt: So was this something that the applicant figured out themselves? Or did the Planning Department on Maui suggest a way they could get around the denial from the Planning Commission? I mean --

Mr. Yoshida: That, I don't know. All I know is that a new assessment application was filed in October.

Mr. Vanderbilt: Are there any other comments? Commissioner DeCoite?

Ms. DeCoite: You know, Clayton, I truly understand that you, basically, going hear the flack from us, but I'm sorry. You know, here you get one Planning Commission to make a decision on this, and it's basically, a slap in the face to us. You know, we come here, and we try to input that thing as best we can based on EIS and whatever has been put forward to us, and yet, it's as if our time is of no value to this community. I mean, the reason why I sat here on this Planning Commission is so that the people here would have a voice, and we would listen to what they have to say based on the rules that's applying to us by the Planning Commission, which we are following. But I don't believe it, and I know for one fact that they used somebody right in there to, basically, weasel around our denial on that permit. And that denial on that permit was justified in my eyes, as well as the rest of the Commission, which is why we denied it. To come back and tell us that it was -- the exemption because of the discharge on the lawn, they're no longer going to do it, I mean, come on. If we didn't bring this up and asked to agenda this thing, it would've just went right through again. I mean, I'm just kind of clueless, or I shouldn't say clueless. I'm just frustrated to the point that -- and they send you back with a cockamamie answer like that where now you gotta research, and we're taking up time on our agenda for other stuffs that should be prioritized. But I'm just frustrated with that fact that things like this just get basically, swept under the table, and I just cannot tolerate stuff like that.

Mr. Vanderbilt: Clayton, can you explain to us why did the Dunn -- well, not Dunn, it was the Walsh Pool come to us in the first place?

Mr. Yoshida: I believe that --

Mr. Vanderbilt: They came from an after-the-fact permit of some kind, right?

Mr. Yoshida: I'm not sure if it was after-the-fact. I believe, at that time, the applicant did not necessarily want to adhere to the Department of Health's comment on the discharge of the pool water. So this was like an appeals body if it were.

Mr. Vanderbilt: What type of permit did we deny?

Mr. Yoshida: It was an SMA assessment. That was -- well, that was brought to you as a minor permit.

Mr. Vanderbilt: So we denied a minor permit. Or did we deny the Planning Department's exemption of the project?

Mr. Yoshida: I believe it was the recommendation for a minor permit with conditions.

Mr. Vanderbilt: So we denied -- who decided they needed a minor permit?

Mr. Yoshida: Given the fact that the applicant would not necessarily adhere on the discharge issue, it was the Planning Department.

Mr. Vanderbilt: So they needed a minor permit. We denied it. And then they used some other form to get an approval, basically. They didn't have to get a minor permit anymore?

Mr. Yoshida: Well, it was a different application that they were willing to comply with the Department of Health's comment.

Mr. Vanderbilt: Well, and I agree with Commissioner DeCoite. I think at least as a courtesy, we ought to be given -- because we didn't get any of the documentation saying, oh, by the way, just for your information, the Walsh's came in for another application, and did a different tactic, and got their approval. I think at least let the Commission know because we hear it from people in the community, and we gotta stand the jerk on these kind of thing so --

Mr. Yoshida: Well, it does show up on the open and closed Moloka'i applications report.

Mr. Vanderbilt: Well, I wouldn't go there because I think that list is pretty hard to follow especially, if you have the same name. You see "Walsh Pool," you just assume "Walsh Pool." We've already done something. There's nothing to alert us in capital letters: check this out a little carefully the fine print because they're trying something else. But anyway -- And I think it gets to the same processes like the Walsh. And that's why I mentioned Walsh. Walsh -- not Walsh, Dunn. Dunn was a building in Wailau Valley. And the applicant sat here, and said that she was going to come before us for an SMA minor permit, I believe it was. And she was very helpful. And that was good for us because, you know, it could establish a precedent for developing in Wailau Valley that there needs to be an SMA process there. And then it left here and --

Mr. Hopper: Excuse me, DeGray, if you want to talk more about the Dunn application, it should really be on the agenda. It's just not here at all.

Mr. Vanderbilt: Now, wait a minute, Counselor. Is it not on any of the projects -- I mean on the project closed list or the project open list?

Mr. Hopper: Is it on one of the lists? I may be mistaken. Is it on any of the lists?

Mr. Vanderbilt: I think it is.

Mr. Yoshida: Not that I know of.

Mr. Dunbar: DeGray, I think she basically came to us not for an approval but basically, to apprise. She didn't need our approval to do it. She was hoping that she would get it. She never carried the process through, but she didn't need us to approve or deny.

And the deal with Walsh's pool is there were other mitigating circumstances of that pool other than just the Department of Health's denial of how she was going to clean her wastewater. There was a fact that part of the wall had been too high, and, you know, we still weren't -- I still wasn't fully convinced of their, you know, setback rules. The pool had been redesigned, you know, from the original plans we had. The pool was in redesign and made bigger. I know Lori had a real concern about the use of water out of the Kawela Wells, and the spike levels that were going on there. I mean, it was more than just the Department of Health, but there were other issues that were involved in that.

Mr. Vanderbilt: Yeah, and I think that we just needed to be brought up to speed with what was happening. And the Dunn Residence is on this list of projects. So what was your understanding of the Dunn situation and her representation she'd come before for an SMA minor permit, and why she ended up not coming before us?

Mr. Yoshida: I don't know if she committed to do a minor permit. I believe that she was issued an SMA exemption. She would not relinquish the SMA exemption.

Mr. Vanderbilt: She was not willing to what?

Mr. Yoshida: Relinquish the SMA exemption for the house.

Mr. Vanderbilt: Did she have that SMA exemption before she came before us?

Mr. Hopper: Yes.

Mr. Yoshida: Well, it depends on what stage that you're looking at.

Mr. Vanderbilt: Wait, wait. Corp. Counsel is saying, yes, she had the exemption before.

Mr. Hopper: Yeah, Nancy had granted the exemption before that -- they came to us. It was a report on the exemption, correct? And it was not under the old rules. You said the applicant voluntarily came before the Commission was my understanding of that application.

Mr. Vanderbilt: Okay. She had the exemption but she said, I got the exemption but I'm still going to come before the Planning Commission for an SMA minor or whatever. And then --

Mr. Yoshida: I don't believe she ever said she would come in for an SMA minor.

Mr. Vanderbilt: She'd be what, Commissioner Chaikin?

Mr. Chaikin: I believe she was willing to. She didn't say that she would do it.

Mr. Vanderbilt: My mistake.

Mr. Chaikin: But if I can just say something? I think this just points to the bigger picture that, in the past, the County has been doing a number of things behind our back. And, you know, when they work directly with the client, there's always deals that they're going to cut. And so the Walsh pool is an example of that. I think the Dunn is another example of that. But what we did is we changed our rules. So now all the exemptions have to come through this Commission. So it's going to be a lot more difficult for them to do that in the future. And I'd like to just say that, you know, this stuff's water under the bridge and, you know, let's just look forward, and not look back, and try to get it right moving ahead.

Mr. Vanderbilt: Thank you, Commissioner Chaikin. Thank you, Clayton.

- 2. Pending Moloka`i Applications**
- 3. Closed Moloka`i Applications**

Mr. Vanderbilt: So does any of the Commissioners have any questions on the pending applications or the closed applications? Clayton, we got a list of closed applications. Is this the right list? There's no projects for Moloka`i. It's all Maui projects.

Mr. Yoshida: Yes, as has been done before, we print all of the completed projects by TMK. If it's any Moloka`i project, the second number, it'll be 2-5-whatever.

Mr. Vanderbilt: Okay. Well, I just didn't see any Moloka`i projects being completed, so --

Mr. Yoshida: Right. There were no Moloka`i projects for that reporting period.

Mr. Vanderbilt: All right. Did anybody have any questions on the --?

Mr. Dunbar: Yeah, I got a question.

Mr. Vanderbilt: On the open one?

Mr. Dunbar: On the open and closed.

Mr. Vanderbilt: Okay.

Mr. Dunbar: I noticed that I'm still not on the closed list, but I don't know why I'm open.

Mr. Vanderbilt: Where are you, Kip?

Mr. Dunbar: I'm under "Dunbar Makai Partners." That's Page 34 of 40. And so far as I know, this has been closed for the last two years, but I don't seem to make it to the closed list unless the first part is open, and the back part is closed? Or do you put all the closed on one? All these are open, right?

Mr. Yoshida: Yes. I believe in your case, it's some letter.

Mr. Dunbar: Some what?

Mr. Yoshida: A letter.

Mr. Dunbar: A letter?

Mr. Yoshida: Yes.

Mr. Dunbar: From who? God?

Mr. Vanderbilt: Can we look into that?

Mr. Dunbar: What letter am I supposed to not have? What letter is there?

Mr. Yoshida: That says it's from the Mayor, so I believe it's just a notification that your --

Mr. Dunbar: You mean, the non-Mayor.

Mr. Yoshida: Yeah, the former Mayor.

Mr. Dunbar: You gotta get a letter from the former Mayor?

Mr. Vanderbilt: Okay. Can we look into getting this cleaned up because it's really difficult to look at this thing? I mean, for instance, somebody -- I mean, we haven't even taken up the La`au Point thing, and there's 24 applications in -- 24 different applications on this open list for La`au Point projects -- 24. I mean, it dominates the whole list. Now, if somebody from the public gets a hold of this, they're going to say, what are you guys on the Planning Commission doing? Twenty-four open projects on La`au Point.

Mr. Yoshida: Well, I believe it's, you know, for each TMK. There's several TMK's involved with La`au. One is for the EIS review, and one is for the State land use district boundary amendment review.

Mr. Vanderbilt: Alright. I had a question on the -- on -- there was a vacation rental and a variance together. And it was -- See, there's no page numbers, are there? Oh, Page 34 of 40. There's a Herling Variance near the bottom, about four up from the bottom, and then on the same TMK, there's a Hale O Pu`hala which is a vacation rental, so I'm assuming it's the same person, Herling, because they're the same TMK. Can you let us know what that's all about and where that is?

Mr. Yoshida: The Hale O Pu`hala vacation rental?

Mr. Vanderbilt: Yeah.

Mr. Yoshida: Is that the one in Waialua?

Mr. Dunbar: Yeah, DeGray, I can tell you where it is. It's in Waialua. The Herlings needed a variance because the lot was not wide enough to accommodate the present building code on the front, back, and side setbacks. So they had to get a variance in order to have a building pattern on the lot big enough to build a home. And, as I recall, it was suggested to them that they build a home back 40 feet from the shoreline though 25 feet was legit. They could do it just because of the depth of the lot. It was less than a hundred feet. They decided not to take our undocumented recommendation of moving it 40 feet, and they built it 25 feet. It is now a vacation rental.

Mr. Vanderbilt: Okay. So that's the one that's two lots east of the pavilion?

Mr. Dunbar: Correct.

Mr. Vanderbilt: Okay. So why --? They did go for a variance. They got the variance. So why is the variance still open?

Mr. Yoshida: We'd have to check on that with our Zoning Division.

Mr. Vanderbilt: Okay. Is this person still around that's handling this: Zakabi?

Mr. Yoshida: She left the department about four years ago.

Mr. Vanderbilt: Well then, she should be noted as closed.

Mr. Yoshida: Yes, unless it was transferred to another planner, but she left the department

about four years ago, and I think she's --

Mr. Vanderbilt: And I just had one other question on the same page. Papohaku, I always relate to the West End, but there's four items here called "Papohaku/One Ali'i." Are those just -- there are several park locations, and that just sort of --? Okay. All right. Thank you.

Mr. Dunbar: That was a sewer system and I believe that sewer system is --

Mr. Yoshida: Yeah, I believe the Commission had dealt with those in December. They had to upgrade their wastewater systems to comply with current Department of Health regulations.

Mr. Vanderbilt: Are there any other questions on that? Okay. Thank you very much.

Mr. Dunbar: Yeah, Clayton, a fast one on --

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Dunbar: Yeah, on that same Ordinance 3300 and 3301, could you find out, you know, what is there? In the first place, I don't think they're both Dunbar Makai Partners. I think one is Dunbar Makai and one was Dunbar Ranch, but other than that -- We need to -- I need to figure out what it is that either they owe me -- and it's probably they owe me. I doubt it's what I owed them.

Mr. Vanderbilt: I have one other question on that 3540. It's another Lademan Pool. And they're going for an SM5, and they're going for an SMX. And somebody in Maui, Aquinde, is handling it. Can you explain what an SMX and an SM5 is?

Mr. Yoshida: An SMX is an -- our abbreviation for an SMA assessment. You know, by the rules, the assessment can become an exemption, a minor permit, or the department could require them to get a major permit.

Mr. Vanderbilt: All right. What is an SMA -- SM5?

Mr. Yoshida: SM5 is an exemption, SMA exemption.

Mr. Vanderbilt: So all these things were happening back in 2000 -- Wait. Wait. The SMA exemption -- oh, so you granted an SMA exemption on July 28, 2006, but it's still open. No, that was the entry date. So those are still both open?

Mr. Yoshida: Well, I guess we'd have to -- we need to close -- once they issue the SM5,

then the SMX should be closed. Both of them should be closed because the disposition was the SMX became an SMA exemption.

Mr. Dunbar: Mr. Chair, I need to ask a question before I forget it. I'm getting old.

Mr. Vanderbilt: Okay. Commissioner Dunbar?

Mr. Dunbar: So if you grant – the only way this comes off the list, I think, is by inspection. Someone has to go out and inspect that this has been done, and then they report back, and it comes off the list? Or how do you --? I'm confused as how you move an open to a closed. How are these all closed on Maui, and none of these are closed on Moloka'i?

Mr. Yoshida: Well, I guess -- it's just that during the reporting period, there were no Moloka'i applications that were closed, but they become closed if there's an action taken like we issue -- well, an SMA exemption is issued.

Mr. Dunbar: Okay. I don't mean to put you on the spot, but I've looked at most of these open ones for the last three years and I know that most of these open ones are probably closed ones. So I'm just trying to say how do you get from this list to the closed list? You know, does it need to have someone from Maui inspect or --? I mean, what's the process of closing one of these things that are on the open list?

Mr. Yoshida: I think we just have to go in there and close out these applications that are --

Mr. Dunbar: I'd appreciate it.

Mr. Yoshida: That have been completed, so the list will be shorter, and reflect the true number of open applications.

Mr. Dunbar: Thank you, Clayton.

Mr. Vanderbilt: Okay. Commissioner DeCoite?

Ms. DeCoite: Clayton, so, I mean, I'm trying to understand this myself too. So you're saying this guy, Lademan Pool, went in on '05 for an SMX, which is a SMA assessment, came in back for the SM5, which was the exemption?

Mr. Yoshida: Yes.

Ms. DeCoite: What would give him an exemption? Is it maybe I like this guy today and I no like the other guy? Or -- I mean, what gives the exemption?

Mr. Yoshida: Well, in accordance with your rules, if it's determined not to have -- well, it could be on the list of, you know, those 14 items that could be exempted, like a single-family house not part of a larger development, interior renovations, and it doesn't have a significant adverse environmental or ecological effect based on the analysis done by the department. Like I believe a couple of weeks ago, the Commission had reviewed the SMA assessment for that single-family home. And, through the analysis, the department had recommended that the construction be exempted from an SMA. And we came to the Commission for a concurrence on that. That's the analysis that has to -- that we would go through to say that it's -- wouldn't have a significant adverse environmental ecological effect.

Mr. Vanderbilt: And Commission DeCoite, that was done before we had a review of consensus on the exemptions, so it'll come before us in the future.

Ms. DeCoite: So I kind of would appreciate it that if, you know, these things coming down that we would actually -- I mean, even like -- I mean, I hate to say, I'm going back to the Walsh one, and it ain't water under the bridge, in my eyes, Steve. It's just a matter and a point making that it's a courtesy thing. And that no bring nothing in front me, and we going deny'em, and then you guys going sly one exemption on the other side. I mean, that's not right. And at least come back with an explanation to me or to the Commission by saying, oh, you know, this is the reasons why. But to come again with an adverse assessment, I mean, Jesus Christ. I expect that out of lawyers to tell me stuff like that, and find a way, and weasel themselves out of it, but come on.

Mr. Vanderbilt: Okay. If there's no other questions, we'll move on to the Chairperson's Report. Thank you, Clayton.

D. CHAIRPERSON'S REPORT

2. Draft letter from the Moloka`i Planning Commission to the Planning Department regarding enforcement on the Feeter Vacation Rental applications at Pukoo, Moloka`i.

Mr. Vanderbilt: I'd like to start with No. 2. Did we ever get that draft letter done?

Mr. Hopper: ...(inaudible)...

Mr. Vanderbilt: Alright. Based on what Corp. Counsel just advised, this has to do with Bill's application.

Mr. Hopper: Do you want to take public testimony on something? No questions or business on it.

Mr. Vanderbilt: Well, we can't approve this or not approve this because Bill would have to recuse himself. And so, anyway, we'll just defer this 'til the next meeting, but it's a letter that we would be sending to the Director, and copies to the Mayor, the Councilmen, and -- regarding our decision on the Feeter issue, and also our recommendation on enforcement. So maybe we could look at this for the next --? Yeah, Commissioner, Chaikin?

Mr. Chaikin: Yeah, is it possible that we could discuss this, and not vote on it, so when the next meeting came up, it might be refined to the point that when we did vote on it, it would be ready to move forward?

Mr. Vanderbilt: Corp. Counsel?

Mr. Hopper: No. Once you would start to discuss it, Bill would have to recuse himself, and then you would lose quorum. He can't be a part of the discussion or sit during that discussion.

Mr. Chaikin: But we don't need to vote on this. We'd just be discussing it. We've already voted that we're going to do this letter. And the letter had already been approved. I mean, it's just a matter -- I mean, we can't discuss it?

Mr. Hopper: Yeah, I would strongly caution against doing that. That's my advice.

Mr. Vanderbilt: Okay. And, just a point on that, where in *Robert's Rules* or our rules does it say somebody that needs to recuse himself from a vote cannot be part of a discussion? Is there --?

Mr. Hopper: It's part of the County Code of Ethics. And I could look at that, and maybe get back to you, and find it.

Mr. Vanderbilt: Okay. So then we better not do anything and -- Okay, so we'll defer this til the next item.

The other thing, while you're up there, Clayton, going to No. 4, what is the procedure now to ensure that duplicate files are available in the Moloka'i Planning Commission Office? What is the procedure?

4. Procedure to insure duplicate files are available in the Moloka'i Planning Commission Office.

Mr. Yoshida: I believe most of the originals are here on Moloka`i because the Moloka`i planner is here. I think it's more ensuring that duplicate files are on Maui. That duplicate copies of the files should be made for the office on Maui. Copies of whatever is disseminated at the meetings are sent to the Moloka`i office.

Mr. Vanderbilt: So whatever we get at a meeting like today are taken back by Suzie to Maui?

Mr. Yoshida: Or if there are extra copies, she may give it directly to the Moloka`i staff.

Mr. Vanderbilt: Well, I think we gotta get a procedure that if there's extra copies, you guys are running for a plane, and sometimes things just get misplaced. And so, hopefully, before the meeting, everything that's disseminated, Nancy has a copy here. And then if something comes up at a meeting from somebody testifying, hopefully, we could get a quick copy of that before it leaves and goes back to Maui.

6. OHA Resolution in Support of Moloka`i Ranch Master Plan Land Use Plan process

Mr. Vanderbilt: The other thing is, apparently, there was an OHA resolution in support of the Moloka`i -- this is No. 6, Moloka`i master plan land use plan process. And apparently, from what I understand, our Commission was mentioned in the text of that document, and I think a copy, as I understand, was sent to the Maui County Planning Department or the Maui County Planning Commission. And my only question is, why wasn't this brought to us as a communication item?

Mr. Yoshida: I've asked various staff who deal with the mail if they have knowledge about receiving such a resolution. I talked to our receptionist. I talked to the Long Range Division. We don't have a record of receipt of the resolution, if it was transmitted in 2005.

Mr. Vanderbilt: Well, maybe, Nancy, could you check with OHA, and see if you get a copy of that resolution to see if, indeed, it does mention us? And if it does show copies going to the Planning Department because maybe they didn't send it out? But --

Mr. Yoshida: Yes, we can check with OHA, but amongst the -- in looking at our mail log, and checking with the people responsible for that, there's no record of receipt of the resolution.

Mr. Vanderbilt: Well, you don't have a copy, and we don't have a copy, so -- and people are saying that we're mentioned in it, and shows copies going to us, or the Maui Planning Commission, or somewhere. So could you try to get a copy of that resolution so at least

we could see it?

Mr. Yoshida: Yes, we can ask OHA.

Mr. Vanderbilt: That's terrific. Thank you.

3. Format for future agendas.

Mr. Vanderbilt: Item three, the format of the future agendas, I'm going to defer that because I didn't have -- I thought that you guys would at least send out what I sent to you guys, and I didn't have time to go out and make copies, and everything else. So maybe you could make available to the Commission at the next meeting just the suggested format that I put together to try to make it a little more user-friendly for people to come to our meetings and everything.

Mr. Dunbar: I hope shorter too.

Mr. Vanderbilt: Commission Chaikin?

Mr. Chaikin: Thank you. Just when I look at this agenda, I mean, one thing that comes to my mind is that, you know, there's something to be said for simplicity. And I think that when we back up and take a look at our target audience of who this agenda is going out to, what they really probably are most interested is to see what's on the agenda, and then after that, how they could possibly provide testimony on any item that they might be interested in.

You know, this is administrative in nature, but I think that this agenda could be improved considerably. I think that it really should be gone through -- there's like when you just -- at the very top, I don't know if you have to say "Pursuant to Chapter" blah, blah, blah. I don't know who cares what statute this is required to say, but we could just say -- make it as simple as we possibly can, and just say "Notice is hereby given a regular meeting of the Moloka'i Planning Commission."

And then we go down this agenda, you know, we have a big giant paragraph right there in the middle. And when you read it, it really doesn't say a lot. Basically, what it says is the same thing you see in Item B that if you gotta go to work, you can testify first. It also gets into a little bit about what rights they might have as a testifier. And I think it's really confusing. It's a big, long paragraph for people to wade through to get to the actual agenda. And I think that agenda -- I mean, that paragraph could just be eliminated in its entirety.

After that, you get into -- it says "testifiers" and it gets into a big thing, but basically, it only

applies to maybe one percent of the people. We're giving this paragraph, front page, center, and it really is something that no one is really interested in. And if it's something that should be on the agenda, we should bury it—excuse me—on the bottom.

And then it goes on. You've got A through whatever we've got here, and I don't really have any comment on, you know, the structure of the layout the meetings. But then after that, I think what's most important to our audience is how you present testimony, or what is the easiest and fastest way to present testimony. And I think that brings up a question that I'd like to address to Nancy, I guess, and that is, are we able to use modern technology, or are we stuck back on technology that was really popular in the '70s and '80s? I mean, I noticed that we didn't have an e-mail address.

Ms. McPherson: I've taken some comments from the Commission before on this. And I think we're working -- I'm working with the department to improve some of our processes and make them more electronically-based. But I'd have to probably defer to Clayton or Mike as far as what formats can we accept public testimony in.

Now previously, we have taken e-mails. I have had to like handwrite in who that was from, and what date it was received, and that sort of thing. I think the main thing with testimony is we need to know your name, an address would be nice, the date, that sort of thing, but I'm not clear on what the County's policy is as far as receiving testimony via e-mail. Does anybody have any --?

Mr. Yoshida: We've accepted e-mail as correspondence. And we've circulated e-mails to our boards and commissions.

Mr. Chaikin: Okay. If that's the case, it sounds like we can accept e-mail, but we don't have an e-mail address on our agenda. So, you know, I would make a recommendation that we really go through this. And I don't know if we need to sit down here, if we need to make a subcommittee or something that we could take a look at. But when you go through the rest of this agenda, there's a whole bunch of stuff on there. In three different places, it provides our address. There's a bunch of different words on there that could be more, you know, concise, and make the whole thing shorter and clearer. And even in some places, it conflicts what our address is.

But anyway, I think that overall, this agenda can be approved, and I don't know if we need to, you know, bore everybody here with all the details on that, but, you know, I mean, Chair, I don't know if you want to take this on, or if you want to get a committee to try to figure out if we could make this a little bit more user-friendly, and something that somebody can look at very quickly, and see what their options are very clearly to provide testimony. And then maybe if Nancy can check on the e-mail thing because it would be nice if this Commission actually had an e-mail address, if it was going to receive e-mail testimony.

Mr. Dunbar: Mr. Chair?

Mr. Vanderbilt: Thank you for the input.

Mr. Dunbar: I'm a dinosaur.

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Dunbar: I read better than my e-mail, so -- I have an e-mail address. I love it, but I'm a dinosaur, so keep sending me the paper.

The other thing is, as a Commissioner, I don't know it's fair to the public to vote on anything that you get the day of the meeting. If they're going to want me to respond to something, then they can get it in the packet. If it's not in the packet, then put it in the next packet. Okay? But I don't think it's fair to discuss, nor to decide, nor to even have to defer something that you received only today, and we're supposed to be paying attention, and reading, and trying to decipher more than one thing at a time. So maybe it's just that I'm getting old, but that's what I'd like to do.

Mr. Vanderbilt: Okay, good point, Commissioner Dunbar.

Mr. Chaikin: Yeah, just for clarification, I wasn't -- basically, with the e-mail thing, I wasn't basically, proposing that we, as each Commissioner, would receive testimony by e-mail, but that the e-mails could all go to one central place, and then they could make copies, and then those copies would be distributed. It's just that some people prefer using e-mail as a form of communication, and it might be an easier way for the public to provide testimony.

Mr. Yoshida: I believe we have provided e-mail testimony, previously.

Ms. McPherson: We could probably put my e-mail on there as the staff planner, and I would get to deal with all the e-mails, but I would also like to put something on here that would say, please provide your name, and your address, or whatever info you feel comfortable providing so that we know who the testimony is coming from, also preferably, a date on there too.

Mr. Vanderbilt: And just one thought on that e-mail, rather than put your name -- again, we've gotta get people used to the whole process. I'd try to get a new e-mail: [Planning Commission Testimony at Yahoo.com](#) or something like that. Testimony at --

Ms. McPherson: Well, on that -- but we -- I mean, the idea is to have staff -- Are you saying that you'd still like to get those directly?

Mr. Vanderbilt: No. Not -- No, they'd go to you, but you -- it would be your e-mail, but it would be --

Ms. McPherson: Be a separate e-mail.

Mr. Vanderbilt: And if another staff person comes, it would still be the same e-mail, but it wouldn't -- you wouldn't have to change it.

Ms. McPherson: Right. Okay. I think we can consider that.

Mr. Vanderbilt: Yeah. Commissioner Chaikin?

Mr. Chaikin: Yeah, I just, you know, just to follow up. You know, I mentioned maybe either you could take on that project, or we could form a committee to try to clean this thing up, cause really when you look at it, you read through it, it's basically, got stuff in here: "Contact Lana`i." You know, we have Lana`i contact information in here. I mean, it's just -- it really could be cleaned up.

Mr. Vanderbilt: Corp. Counsel, can we -- can a couple of Commissioners get together and just work on a format? Or do we have to go through some formal situation?

Mr. Hopper: If you're going to have an investigative subcommittee of more than -- generally, yeah, of two people or more, you would have to take a vote to create that subcommittee. Otherwise, you could just do it on your regular meeting schedule. I mean, you could do it as an open meeting.

Mr. Vanderbilt: Okay. Well, is there -- but a couple of Commissioners can get together and just draft up a format, huh?

Mr. Hopper: Two. There could not be more than two. If you want to have more than two -- and then I don't -- I mean, if there's two, then the Sunshine Law restricts any discussion if there's a commitment to vote is made or sought on anything. You have to be careful here because of how strict the --

Mr. Vanderbilt: All right. If we get two people to just review the agenda, and come up with some -- a rough draft for the Commission to look at, can't we just do that?

Mr. Hopper: If only two discuss it. It's really the exact same thing an investigative committee is supposed to do under the Sunshine Law. I would advise against it. Otherwise, you could just do it at an open meeting.

Mr. Vanderbilt: But we've gotta have something to discuss. We gotta have a draft to

discuss. What are we going to do? Just say, okay, and spend all day --?

Mr. Hopper: You could create the investigative subcommittee, or if you wanted to have -- you could talk about it in open session.

Mr. Vanderbilt: Can we have our staff planner come up with a format?

Mr. Hopper: Yes, you could do that as well.

Mr. Vanderbilt: Could she have input from one or two Commissioners if they wanted? This is just some suggestions you might want to look at?

Mr. Hopper: She can talk individually to the Commissioners, yes.

Mr. Vanderbilt: Oh, okay.

Mr. Hopper: They could talk individually. There just can't be a meeting.

Mr. Vanderbilt: Let's let Nancy try to come up with a format for the agenda and -- with the idea that, Commissioners, if they have some ideas on how the agenda can be approved, send those into Nancy.

Ms. McPherson: Chair Vanderbilt, I would just like to say that Clayton and Suzie Esmeralda work very hard together to prepare the agendas so I would also be working with them and deferring to their judgement as well.

Mr. Vanderbilt: Thank you. Okay. And, hopefully, Clayton, the minutes of the next meeting, or the minutes of our June 13 meeting will be done in a format that we suggested, a master format, which the Commission at least will be able to look at. Can you do that?

Mr. Yoshida: Well, I guess we'll take the suggestions under advisement.

Mr. Vanderbilt: Well, I asked -- I sent you a long memo on that, and you never responded back. You didn't say, boo. You didn't say, thank you, we'll take it under advisement. We may or may not. We don't like what you suggested. In our rules, it says that the department and the chair will consult on things. I have never gotten a call from you guys. I'm always sending stuff in, and it just gets buried. I can go back and show you five or six e-mails. And then we put them on the agenda to try to get them out, and they shouldn't be on the agenda. This is something that should be done administratively, and then we let the Commission know what it is. But anyway, that's just the format.

I mean, the files are in total disarray as far as finding anything in ease. And I think whether

it's Nancy, or a new staff planner we have in the process, we go to the trouble to do verbatim minutes, and we have all this public input, and we have people giving documents, and somewhere there ought to be a master document that the public, or government officials, or planners can look at, and know exactly what happened at that meeting, and all the documents be right there in a concise manner. And it'll save a lot of time. I mean, it certainly would've done Nancy a big favor if she had an index of, say, on this vacation rental situation. We couldn't even find the Dunbar files. And there was a lot of great information in those files. We found one and another one was in storage. And then there was a vacation rental workshop. But if there had been some reference to all those, then that would've made it easier for Nancy and others to look at so --

Mr. Dunbar: She should've called me. I've got them all.

Mr. Vanderbilt: Okay, so hopefully, I'm just saying, hopefully, you guys will seriously consider that. And if you're not going to do it, just tell us why. Okay? Don't just leave it open. Thank you.

F. ANNOUNCEMENTS

Mr. Vanderbilt: So are there any announcements from anybody?

G. OTHER BUSINESS

Mr. Vanderbilt: Okay, anybody have any other business? Okay.

H. NEXT REGULAR MEETING DATE: July 11, 2007

Mr. Vanderbilt: Our next regular meeting date is July 11th. And, basically, real quick, Clayton, what are we going to have on that?

Mr. Yoshida: We have the workshop on subdivision processing, I believe we're going to have some SMA exemptions, and we may have that short form.

Mr. Vanderbilt: Okay.

I. ADJOURNMENT

Mr. Vanderbilt: Okay. If there's no objections to adjourning the meeting, this meeting is adjourned. Thank you.

There being no further business brought before the Commission, the meeting was

adjourned at 3:35 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

DeGray Vanderbilt, Chairperson
Steve Chaikin, Vice-Chairperson
Kip Dunbar
Bill Feeter
Lynn DeCoite

Excused

Sherman Napoleon, Jr.
Joseph Kalipi
Linda Kauhane
Mikiala Pescaia

Others

Clayton Yoshida, Planning Program Administrator
Nancy McPherson, Planner, Molokai
Michael Hopper, Deputy Corporation Counsel
Ralph Nagamine, Development Services Administration, DPW