

**LANA`I PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 20, 2008**

APPROVED 03-19-08

A. CALL TO ORDER

The regular meeting of the Lana`i Planning Commission was called to order by Chair Reynold "Butch" Gima at approximately 6:10 p.m., Wednesday, February 20, 2008, in the Lana`i High & Elementary School, Lana`i City, Hawaii.

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

Mr. Reynold "Butch" Gima: I'd like to call to order the February 20, 2008 meeting of the Lana`i Planning Commission. Let the record show we have quorum with Commissioners Kaye, Ruidas, Mano, Elliott, de Jetley and Zigmond present. I want to apologize for being late. I got back on the 5:40 p.m. flight. Are we expecting Dwight? Okay. At this time I'll entertain a motion to approve the minutes of January 16, 2008.

B. APPROVAL OF THE MINUTES OF JANUARY 16, 2008

Ms. Sally Kaye: I have two corrections.

Mr. Gima: Okay, go ahead.

Ms. Kaye: On page #6, Leilani, it's Maryland as in the State, not M, A, R, I, L, Y, N. And on page #29, it's resident as in single, not residents. With those corrections, I move.

Ms. Beverly Zigmond: I have a few corrections. There seems to be a discrepancy and just so it is all kosher, Matt Mano is listed as voting, but yet he's listed on the back as excused. So maybe we should –. That one, and all the references to Kerry Honda. You could do a search and replace, instead of C, A, R, Y, it's K, E, R, R, Y. And on page #30, it's sun power, not sun flower. And that was you Mr. Gima, so maybe you were mumbling this time. I move that the minutes be approved as amended.

Ms. Alberta de Jetley: I second.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond, and seconded by Commissioner de Jetley that we approve the January 16, 2008 minutes as amended. Any further discussion? Okay, hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve the January 16, 2008 minutes with amendments as noted.

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

- 1. CASTLE & COOKE RESORTS, LLC requesting a Phase II Project District Approval for the proposed Island Club Fitness Center at The Challenge at Manele Golf Course, a 936 square foot single-story building consisting of a fitness room, men's and women's washroom, and storage closet at 150 Challenge Drive, TMK: 4-9-017: portion of 008, Manele, Island of Lana`i. (PH2 2007/0001) (D. Dias)**

- a. *Public Hearing***
- b. *Action***

Mr. Gima: Okay, we're now going to public hearing for item #1, Castle & Cooke Resorts LLC requesting a Phase II Project District Approval for the proposed Island Club Fitness Center at The Challenge at Manele Golf Course, a 936 square foot single story building consisting of a fitness room, men's and women's washroom and a storage closet at 150 Challenge Drive.

Mr. Danny Dias: Good evening Chairman Gima, members of the Lana`i Planning Commission. My name is Danny Dias and I'll give you folks a brief overview of this project. I believe the applicant has a pretty thorough presentation that they want to give, so I'll just go over stuff like regulations and comments that we received from agencies. This application was filed on March 7, 2007 by Mich Hirano, on behalf of Castle & Cooke. It was reviewed pursuant to the Maui County Code Chapters 19.70; 19.70.10, Purpose and Intent; 19.70.85, Golf Course, PD/L-1; and Chapter 19.70.100, General Standards of Development within Manele. Pursuant to Chapter 19.45.050 of the County Code, applications for Phase II Project District Approval on Lana`i shall be processed as follows: first, the applicant shall submit to the Planning Director a preliminary site plan and proposal with supporting information for the project district development; secondly, the Planning Director shall submit the preliminary site plan to the Planning Commission; and third, the Planning Commission shall hold a public hearing in the affected community plan region which is what we're doing now.

As far as Land Use designations, the project area is located in the State Urban District.

Its Lana`i Community Plan is Project District I, Manele. It's zoned by the County as the same, Lana`i Project District I, Manele, and it's in the golf course subdistrict. And the property is not in the SMA. Just a quick over view of what the building is – it's a 936 square foot building that will serve as a fitness center. It will consist of a fitness room, separate men's and women's bathrooms – ADA compliant bathrooms with showers – and it will have a janitor's closet and an AC room. The building itself will measure 39 feet by 24 feet with a finish height of 15 feet. The exterior will be made out of stucco, with a tile roof to match the existing buildings in the area.

We sent this out to all agencies that were applicable in this situation, and basically everybody responded with the exception of the State Historic Preservation Division. We sent them, I believe, two reminders and they never responded, so at that point we figured they had no comments. All the agencies basically had the standard comments that they give for ever project. There's nothing out of the ordinary or anything unusual or significant. And also, we also brought this before the Maui Urban Design Review Board on the 15th of last month. And they reviewed the project also and they didn't really have any significant comments. All they wanted to make sure was that there was adequate lighting in the vicinity of the area for pedestrian safety. As far as public comments, we haven't received anything, any letters in support or in opposition to this project. And that concludes what I have to say. I do –

Mr. Gima: Excuse me Danny.

Mr. Dias: Yes?

Mr. Gima: What an unusual attachment that come with – what we usually don't get is the – a lot of comments from the Police Department. Could you comment on their comments because they usually don't attach this much on an application?

Mr. Dias: Okay. I wasn't aware of that. Just for Maui projects, they tend to give this much comments. I'm not really sure how we could address this. Just looking at – okay, Mich is saying he'll address it – but from what I read, it's sort of just an overview of how they saw the situation as far as traffic is concerned and also, you know, the workers that are coming in and how they tend to get more calls, I guess, when there's more construction workers on the island.

The second page that they have, it seems like, the way I read it, was just re-emphasizing the situation as far as how much patrol officers there are, how they provide service, 24/7, and how the Wailuku Station is sort of the hub for communications. I didn't read too much into those comments. I didn't think they were out of the ordinary myself, but like I said, I

think Mich can respond at that at a later time.

Mr. Gima: The reason I ask because most of the comments that came in, came with a response from the applicant. Whereas, Police's response there is no response from the applicant.

Mr. Dias: Okay. That's fair. Should he address that later? Okay, going back to where I was, if you folks could turn to page #6 where there is the information on water on the water table, under water, the second paragraph, it says "domestic water and landscape irrigation needs for the project will be provided from the Lana`i Water Company's high level potable wells." If you folks could strike out the words "and landscape irrigation." That's incorrect information. Only domestic water will be provided from the high level potable wells.

Ms. Zigmond: Mr. Chair, I have a question on this. Should I wait – on the water – since we're here or shall I wait?

Mr. Gima: Is it a question for the County or the applicant?

Ms. Zigmond: For whoever did this table.

Mr. Gima: You can ask the County.

Ms. Zigmond: Okay. I'm looking at the total, the 1.120 million gallons per day, I suppose, and I'm assuming that total is derived from the next three columns totals that are all in bold.

Mr. Dias: That is correct. Yes.

Ms. Zigmond: And if that is correct, those three columns do not add up to 1.120. They add up to 0.918, and I was wondering where the other 0.202 comes in.

Mr. Gima: Danny did the applicant provide you the data or did you get the data –?

Mr. Dias: The applicant provided me with the data. I'm trying to look at it.

Ms. Zigmond: The 0.248, 0.590, 0.080 do not add up to 1.120.

Mr. Dias: I guess it's just added up vertically.

Mr. Gima: No she's correct.

Ms. Zigmond: That doesn't add up either.

Mr. Dias: That doesn't add up either?

Mr. Gima: She's correct.

Ms. Zigmond: I even used the calculator to make sure. We're short like 0.202.

Mr. Gima: Reclaimed is 0.08, not 0.8.

Mr. Mich Hirano: I'm sorry I'm just trying to follow your – could you please go over that please Commissioner Zigmond?

Ms. Zigmond: Sure. Table 1, the total of Existing Water Use, it says total is 1.120.

Mr. Hirano: Yes.

Ms. Zigmond: And my first question was did that total, was that figure derived from 0.248, 0.590 and 0.080? Which it logically seems to be since they're all totals and you're adding them for the grand total.

Mr. Hirano: If you look down that column, Existing Water Uses, it's 0.23, 0.52, 0.19, and 0.18.

Ms. Zigmond: Well that doesn't come out to 1.120 either.

Mr. Hirano: I have it at 1.120. I'm sorry, which way were you adding that total?

Ms. Zigmond: Okay, I was taking 0.248, 0.590 and 0.080. Yes to the right.

Mr. Hirano: No, you go down the column, not across the row.

Ms. Zigmond: Well, I don't think it works that way either.

Mr. Hirano: Well, total reclaimed water, if you look at the Manele Bay Hotel Property, it's potable at 0.23, the brackish is 0, and the reclaimed waste water is 0 – you go across the row. If you look at the Challenge at Manele, the existing water use is 0.52. If you look at the next column, under the high level aquifer potable, it's 0.01, and then moving to your right, the brackish is 0.43, and the reclaimed water from the waste water treatment facility is 0.08.

Mr. Gima: Mich, when you have matrixes like this, they're always suppose to add up both vertically and horizontally and they don't. That's what Bev is saying.

Mr. Hirano: Well, they're not adding up horizontally because we don't have a total column on there. We could. But does that explain it?

Ms. Zigmond: No, I'm still trying to find out why it doesn't add up.

Mr. James Elliott: May I just ask if it's not possible that you left some other categories out? For example, harbor or some other thing and that's the reason why they don't total down the column? I wonder if there's any other category that were left out. That's my question. Can you look at those columns again? Because they don't add up.

Mr. Dias: I guess the Manele Residential and the Manele Bay Hotel irrigation figures aren't adding up as far as the total. The Manele Residential and Manele Hotel irrigation, those figures aren't adding up, right, to the existing water use column? It should be 0.164 under residential and 0.004 under hotel irrigation. So I guess we'll let them figure those numbers out.

Ms. Zigmond: Water is such an important issue to us. I mean I'd like to know where this water is coming from.

Mr. Dias: Yeah, I apologize. I verified the vertical, but not the horizontal figures. I apologize for that.

Mr. Gima: The applicant should be apologizing.

Mr. Hirano: I'm not sure where the mistake was and where it was transcribed, so we'll look at the original that was transmitted. And if it was our mistake, I do apologize, but I'm not certain it is, but if it is. And I think it's straightened out now.

Mr. Gima: Go ahead Danny.

Mr. Dias: That pretty much concludes what I have to say. I don't know if you folks want to work on getting those figures.

Mr. Hirano: Thank you Danny, and good evening Chair Gima and Commissioners. My name is Mich Hirano with Munekiyo & Hiraga. And our firm is assisting the applicant, Castle & Cooke, LLC, with the Project District Phase II application before you today. I'd just like to briefly outline the analysis with respect to Project District Phase II, and as well,

just orientate you to the project. And in your handout – we do have boards – Arnold Savrann, the Senior Vice-President of Castle & Cooke will be presenting details on the project, the design elements of the Island Club Fitness Center. But if you look at your handout, the Project District Manele, Exhibit #1, as you can see, the project site is within the Project District Phase I, in the Project District Manele. It's at the Challenge at Manele Golf Course, and the project site is located adjacent to the Challenge Clubhouse.

The site plan, when we look at the Phase II criteria, the site plan conforms with the Project District ordinance for the Lana`i Project District Phase I in Manele. The project site is zoned golf course, PD1 in the Lana`i Project District, and in addition to golf courses, accessory uses include structures, and weight, massage and locker rooms as principle uses. Access to the site is provided from Challenge Drive via Hulopo`e Drive. Water will be provided by the existing Challenge at Manele water system. The potable water is estimated to be minimal, approximately 140,000 gallons per day, and that's based on the fixture counts in the building. And the irrigation system will be tied into the non-potable irrigation system at the Challenge at Manele Golf Course.

Waste water will tie into the existing Manele Wastewater treatment system, and will be processed at the Manele Wastewater Treatment Facility. Average wastewater flows are estimated to be approximately 100 gallons per day.

Mr. Gima: Excuse me Mich.

Mr. Hirano: Yes?

Mr. Gima: You don't say how much you project using for landscape irrigation and from what source.

Mr. Hirano: The landscape irrigation is from the non-potable source, and the estimated landscape, we don't have an exact figure for this estimated landscape for that area of landscaping.

Mr. Gima: I'll take the ball park figure.

Mr. Hirano: It would be very minimal. I would think –

Mr. Gima: Could you get on the microphone please?

Mr. Arnold Savrann: I'm Arnold Savrann. Good evening everyone. The building has a footprint of about 936 – under 1,000 square feet – so that's coming out of the existing

landscape. And what we've doing is replacing approximately an equal amount of the new landscape around the sides and back of the building. So it's almost a trade-off because the building sits on a concrete pad, so that's taking out landscape and we're putting in, you know, new things around the outer edges. So it's a balance, give or take a few feet, not by much.

Mr. Hirano: In terms of site, infrastructure and drainage, the increase in drainage is estimated to be approximately 0.6 cubic feet per second. And this is a nominal additional run-off, and is anticipated to have very negligible impacts to adjacent and downstream properties. Drainage will be conveyed to the golf course drainage system, and it flows to a natural drainage way approximately 600 feet to the east of the project site. I'd like to now just turn the presentation over to Arnold Savrann and he can go over the project details.

Ms. Kaye: May I ask you a question on what you just said?

Mr. Hirano: Yes.

Ms. Kaye: You indicated 140 gallons per day, and the Department of Water Supply wrote back to you and said that was inaccurate and you responded to that with the corrections, so is it 357 or 140?

Mr. Hirano: Well it ranges from 140 to 357 depending on how you estimate it. The Water Supply used the area for estimation. The estimate that was used in the report is on the fixture counts, and I think using fixture counts is a more accurate estimation for water demand.

Ms. Kaye: What is fixture? What do you mean by fixture? The faucets?

Mr. Hirano: The toilets. The number of faucets in the showers. And so they take an average of use from each fixture and add that up for the total. I'd also like to just comment on the Police report. The reason that we did not respond to the Police report is because it was only today – and when we got the staff report – that realized that there was a comment from the Police Department. We either over looked that letter or that it was not provided to us. It was sent to the Planning Department, and they usually provide us with all the comment letters. But we discussed this with the applicant, with Castle & Cooke – Calvin Mann is the Senior Project Manager with Castle & Cooke Homes, and Mike Schocket is the Vice-President of Castle & Cooke Resorts.

With respect to the comments that the Police Department made with respect to additional problems due to crews that come in and construction crews on site, Castle & Cooke has

indicated that they will be using existing labor on the island, either local labor or their contracted labor that is on existing projects. So no additional laborers or employees will be brought onto the site for this particular project.

The golf course parking lot, in terms of the comment with respect to Bev, the golf course parking lot is patrolled by the hotel security patrol, and they periodically patrol the parking areas and the golf course areas within the Project District.

And as well, the applicant is aware of some of the comments that are made with respect to security at night. And I think as well, the Urban Design Review Board made a comment about light fixtures, and we went out there today to look at the light fixtures in the parking lot. And there are lamp overhead lights, as well as path light ways, path lights, and the landscape lighting on the walkways, so the area will be, as well, well lite and that is a crime deterrent. So I hope with those aspects that the Police Department's comments will be addressed.

Ms. Kaye: I have a quick question about the Urban Design Review Board.

Mr. Hirano: Yes?

Ms. Kaye: You responded to them that there would be adequate lighting. Their specific comment was there would more lighting, indicating that they thought what was there was not adequate as it was. So are you putting in more?

Mr. Hirano: No what I think what – we counted –.

Mr. Savrann: It seemed dark and we suspect that a few bulbs were out, and we had them all changed. There's four on one path and five on another, and they roughly occur, these walkway paths, they're the lantern kind that shine down and not up, and they average about five to six feet apart on each path. They're not long paths. You probably have a total in reality of about 45-feet and two paths, and we have nine lights. And we've changed the bulbs and they're working. She thought – she'd been there and it seemed a little dark to her one night. So we looked into that right away. I think it should be okay.

Mr. Hirano: So with that, I'll just ask Arnold to go over the project plans. I'm sorry.

Ms. Zigmond: A quick question please. Approximately how many construction workers do you think?

Mr. Savrann: The building, you know, is not large. There could be as many as 20 and take

maybe five-months to build this building.

I have these easels or shall I hold the boards up here? What would you prefer? This is done digitally, state of the art I guess. It shows the pools, and this would be building at the end of the pools. And there's really no surprises on the building. I'll skip around a little bit. As you know, all the things at Manele are pretty much this way. We have the stucco with the same color on the exterior. The roof material – that's the palette that you see on the tiles. It's high energy glass with that slight tint in it. And the window – excuse me, I have a voice problem – the windows, if I understand, will have vinyl trim which ensures a pretty high level of not having to maintain them a whole lot. And so it's a very simple palette. Nothing really different than what we've been doing for, you know, the 18 or 20 years.

And then, you can see on this board, the footprint of the building at 936. And the heavy black line indicates the area that will be, you know, enhancing with the landscape. So you see there's pretty much a balance between what we're putting on the site and what will be re-landscaped with similar materials that exists, nothing shockingly new or different there. 24 by 39 feet. It has a fitness room with windows and sliders on it on the pool sides that occupies just about 60% of the floor area, and two handicap toilets that are ADA, one for women, and one for men. It includes a toilet, a shower, and a sink that are all wheel chair accessible. And then we have, you know, a janitor's area, maintenance, and we have air conditioning and water heater and power supply in there. So that basically is the floor plan, and this shows the relationship to the main club house, and I'm sure you all, you know, pretty familiar with that. Sitting at the end of the pool – it's something that should have been done a long time ago, but it's an amenity that's needed. We need toilets and we need a little fitness thing which is more of what you have to do these days than 15 or 20 years ago, so it's there.

And then these shows the other elevations of the building, and we'll do a little art works, sort of, in plaster mold on the face of building, facing the pool. I think that shows up in the rendering. It's just sort of a sculpted little facade to give interest to the one part that's a little bit blank, that faces the pool. And so it's a simple building. Not much else to say. Is there anything else I can tell you?

Ms. Kaye: Are you going to be putting solar panels on?

Mr. Savrann: We talked about that at length in the last few days including today, and there's a lot of solar talk and photo electric things that we're trying to do, not just here, but on everything that will be forthcoming on this island. So the answer to that would be yes.

Ms. Kaye: Yes, you will put solar panels?

Mr. Savrann: Yes. We're very serious about doing that sort of thing now.

Ms. Zigmond: I just have a couple of general questions under solid waste. Is it okay to ask that now?

Mr. Savrann: I may not be the expert in solid waste, but I have help.

Ms. Zigmond: I'm just curious – curious basically – I, of course, am all for recycling and I was delighted to see that there was going to be recycling of glass, tires, cardboard, green waste, scrap metal, used oil, newspapers, and aluminum. I'm just wondering if these things are really available because if they are I'd like to know where so I can take mines. To my knowledge right now, we do beer bottles, we do water bottles of a certain size and we do beer cans and soda cans and that's it.

Mr. Savrann: We talked about that once in asphalt driveways – the glass – do you recall that a while ago on something we had a discussion on that. What the Company, and I can say this with all sincerity, we're involved in projects, obviously in the mainland, and we're doing LEEDS. We have consultants and we have now in house, someone that's just become – he's a brilliant fellow, Steve Toyama, in Los Angeles and he's an expert in the high energy, the LEEDS, and green building projects. And interestingly, at Oakland Airport in California, we just won a major competition. It's not the world's biggest thing, but it's a couple of hangers and we're storing a historic office building that's attached to a hanger where Amelia Earhart had flown out of and General MacArthur made a speech. And we put a presentation together and it had photo electric panels that had solar. We brought this thing. It's from the early 1940's and we had some severe competition, and we were selected to negotiate with Oakland, California to do this. We're very much into this. Whether it's a shopping center, an aviation project or something even like this. Mr. Murdock personally has said I want to go green where ever I can do it.

Ms. Zigmond: But are there really places to recycle all these things? That was my question.

Mr. Savrann: Can you help me with that? I'm not the expert on that.

Ms. Zigmond: It sounds great, but, you know, I don't think that's really happening and so –

Mr. Calvin Mann: Right now we don't have anything in place.

Mr. Gima: Excuse me, can you introduce yourself please?

Mr. Mann: Yes. I'm sorry. I'm Calvin Mann, the Senior Project Manager for this project. We currently don't have anything in place right now, but we do have a Company wide sustainability task force that's looking at programs to be implemented project wide, so we hope that we will be able to implement some thing by the time we go to construction on this project.

Ms. Zigmond: Will that be available for the community?

Mr. Mann: I'm not sure. We're looking – we can explore it though.

Ms. Kaye: I have a question about – under wastewater – you make a reference – and I don't know to whom this question should go – in the future, a facility to mix the effluent and brackish water prior to entering the golf course irrigation system might be added. Anybody want to comment on that?

Mr. Hirano: Can you repeat that please Commissioner Kaye?

Ms. Kaye: It's on page #7 of what you submitted to the Planning Department. Mike's pointing it out to you.

Mr. Hirano: We said that in the future, a facility to mix the effluent and brackish water prior to entering the golf course irrigation system may be added. Yes. That's my understanding of what the future plans would be for the waste water treatment plant at the Manele Project District.

Ms. Kaye: Why is this being done? I mean, what's the benefit of it? What's the point?

Mr. Hirano: I think it would be to blend the two, the brackish water – the R1 waste water is pretty high grade waste water, and the brackish is, of course, has a salt content, and by blending those that you would reduce the salt content. But you need to have a higher quantity of R-1 effluent water, and right now the waste water does not. The waste water treatment facility does not generate enough waste water. So I think the plan would be once it's up to a larger capacity, the brackish and the effluent water would be blended to reduce the saline content of the salt content in the waste water.

Ms. Kaye: I'm just wondering why it appeared now as if it was tied into this project.

Mr. Hirano: No, I think it's a comment that, again, in the long term, the Company is looking

at energy efficiency recycling in a serious manner and this is just another aspect of that.

Mr. Gima: Okay, any other questions for the applicant before I turn back to Danny? Okay Danny – County’s recommendation – the Planning Department’s recommendation.

Mr. Dias: I guess there’s public testimony, but before we get to that, I got new figures from the applicant, for the water. So if you could turn to page #6. Just for the record and for clarification purposes, under Manele Residential potable water, instead of 0.004, that should be 0.03. For Manele Bay Hotel irrigation, instead of 0.18 under existing water use, that should be 0.17. And potable for Hotel irrigation should be 0.17 instead of 0.004. Under Manele Bay Hotel irrigation, both existing water use and potable water should be 0.17. And for the totals, under existing water use, 1.12 should be 1.11. And under potable total 0.248, should be 0.44, and with those figures I think everything adds up.

Mr. Gima: How did they come up with the corrections? I mean –

Mr. Mann: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Gima: Wait, can you get on the mic please?

Mr. Mann: I got the data straight from – with me from the Water Company and I believe somewhere between transmitting the information from us to the County, it may have gotten transposed. They’ve been maybe taken incorrectly from what we had submitted to the County because those numbers actually tie back. And when I did the table for the submittal to the County, I did mines in Excel, and everything check out. I’m pretty sure of it.

Mr. Gima: So did you submit the matrix or did you submit raw data?

Mr. Mann: We submitted the matrix in this format. The raw is in a different format.

Mr. Gima: Then you’re claiming they changed the numbers in the matrix then.

Mr. Mann: Between –

Mr. Gima: If you submitted the matrix with the numbers in them, the only way they can be changed is if the County changed them after they received it, which is highly unlikely.

Mr. Mann: We can go and check. But these numbers are correct. They’re accurate.

Mr. Gima: I know we're splitting hairs right now, but I don't know how many of these Planning Commission meetings you've been at and the reason why we're splitting hairs is because there have been a number of meetings where either the applicant has come unprepared or they don't have the accurate information, and that's why we're asking you so many questions. And like I said, we're splitting hairs because in the long run this probably won't affect this specific project, but from the pattern of how the applicant provides information to the Lana`i Planning Commission, I for one am very disappointed. And then to say that you submitted the matrix, and the County must have messed up the numbers. I don't buy that, and I think you're abdicating your responsibility for the mistake you made.

Mr. Hirano: You know, I don't know where these mistakes were made, but you know, I do take responsibility for them as well. So I accept those comments that you made. I have the highest regards for the accuracy of the Planning Department, and the information that is provided. So I don't want to lay blame on the Planning Department on this one either. But there was a mistake made. I apologize for the confusion, however, fortunately the raw data was available and it's been corrected. So I thank you for your indulgence, and as well, I thank you for your scrutiny on this matter.

Mr. Gima: Okay, at this time we'll go to public hearing. We've got Pat Reilly and Ron McOmber on deck.

Mr. Fairfax "Pat" Reilly: Good evening. My name is Pat Reilly. I'm a resident of Lana`i. First, I'd like to express my deep appreciation for the careful questions that this Commission is asking about water. I know the sentiment on that side of the table. I know the expertise on that side of the table. And I think Chair Gima just expressed the sentiment of certain members of this community, including me, about presenting accurate data on water. If the Director's and Supervisor's of this project and any project on Lana`i are not aware water is an issue. It will come up in every project.

I'm looking at the conditions. I guess standard condition #1 –. Again I have no objection to this particular project, however, again, I'm not sure it's splitting hairs, but the careful review of everything related to every project at Manele, we have to scrutinize carefully because it fits into a larger plan for this community. I'm wondering, condition #1, we're talking about three-years from initiation of the project. I guess that – like I said, my experience – is kind of a standard, but why are we waiting three-years to start this project, and will we come back for an extension at that point? I would have that questioned. I'd leave the date there.

#5, full compliance with applicable governmental requirements shall be rendered. Wow, and I'm wondering if that has to do with a water bill and every other bill that's before the

Council at this point. For the next three years, and I know water is an issue in this county, so I would hope that applies in that case.

Project specific, #9, the project shall be incorporated into the Lana`i Water Use and Development Plan. Well my question is which one? And as parenthetic expression, to me, this discussion on this particular matrix of water use re-emphasizes the need for a water workshop to be able to place water use on this island in a broader context of the currently working on water use and development plan. I think it's essential for this Commission to move forward on that. I would like to add something to that #9 is that there should be report back to the Lana`i Planning Commission at some point on the actual water use, whether two years after the project is up and running or something like that, that there will be a report back.

Related to water, I find it hard to believe that this project uses less water than a standard household. I mean, if you're telling me it's 350 gallons or 400 gallons a day – I believe the standard is 600 gallons a day for a house. I really find that hard to believe that this is using less than a standard house when you have a spa, a pool and other things. So how people came up with those standards, and I'm sure there are standards and engineering books, but I saw that and I just said "what?" So I hope someone will ask about that one.

#14, I don't quite understand that – the non contact cooling water, condensate, et cetera shall not drain into the waste water system. My question is where is going? Just on to the golf course? I mean, somebody should ask them to clarify that.

#16, my understanding is we do have a Manele Drainage Plan and that plan has been executed and I'm not sure if this statement has any relationship to the Manele Drainage Plan that's in place presently and I'd like to see that integrated some how.

And I appreciate, Mr. Savrann, #18, the discussion on lighting and as you know when I was there, I pounded on lighting. And I understand there's an issue of safety, but my personal value is that Manele area is a special area that allows us to see the night sky. And the more lights you have down there, pointing at palm trees and shrubbery, and yes safety is an issue, but there has to be some technical compromise to preserving the night sky for people who decide to go to beach and just wish to get away from the city. And I don't know where it go and Mr. Savrann brought up the LEED. I don't know if it's appropriate to put a condition about the construction will conform to LEED standards. Thank you very much.

Mr. Gima: . . .(Changing of tapes). . . Mich you want to address what – Pat's questions on some of the conditions?

Mr. Hirano: In terms of condition #1 with respect to commencement of construction, it seems to be a standard condition, three year time period for construction. The plans are to do it within that time frame. The only other comment I have with respect to the night sky – when we were at the site this afternoon, it is shielding from the top, the light standards. And there are two light standards at the entrance to the pathway off the – entrance to the pathway at the parking lot. And we felt that was ample lighting in spite of what was commented by Kay at the Urban Design Review Board. And as Arnold mentioned those lights have been repaired, and I think the lighting is adequate, and they're down cast so it does shield the light glare from the night sky. And my only other comment with respect to LEEDS is my understanding of LEEDS is that there are certain levels of certification. And to have a condition, a blanket condition that it be in compliance with LEED maybe difficult to achieve because of these different stratification of your LEED certification. So would that be something that could be incorporated as a condition that would be achievable? Arnold could you just maybe see what kind of a condition that might be in terms of a LEED reference?

Mr. Savrann: The HSW and light safety regulations tell us how many foot candles you must have whether it's a parking lot or a bridge or any facility of that nature. And we generally – well not just generally – we always make sure it's a requirement that we meet those foot candles at least in a minimum way. We face these issues in other cities as well, and we're very cognizant of doing what safety requires and not doing a whole lot of extra. We don't want to spoil it for anybody. That requires a certain amount of recyclable materials and there's more and more that are coming on the market everyday. And we're responding to that and other places, and we'll do it every where we can, whether it's carpeting or whether it's other building materials. There's a certain amount – you know, you can't instantly change everything that's been going on for a 100 years, but bit, by bit, by bit, every architect is administering to the regulations that require a certain amount. Not every thing can be done that way, but a certain amount. And it will get more severe as time goes on and we can get these kinds of products that will be recyclable.

Mr. Gima: Okay. Thank you.

Ms. Kaye: #14, Pat asked the question about the condensation and the cooling water.

Mr. Hirano: The cooling water. I'm not clear on the specifics, but normally the non-contact cooling water has its own system, and it's either put into a dry well, or an injection well, for deposit, but it doesn't go into the County waste water system nor does it go into the County drainage system. And we don't have engineering, that level of engineering detail, however, the County's standard is that it does not go into the waste water system. So this project will be built to County standards and so it will be dealt with.

Mr. Dias: Just for clarifications, conditions #11 through #17, those are County Code requirements and so they're going to have to do all of this anyway. And I guess technically I didn't have to put these conditions in the approval since obviously Public Works is going to hold them to these conditions, but I sort of did just to re-emphasize these conditions. But it's Code – #11 through #17 – so they're required to do it regardless.

Mr. Gima: Okay. Thank you.

Mr. Reilly: Thank you Mr. Chair. Two other issues and I appreciate the comments. One, I would hope that some condition to the degree practicable – we've heard about layoff in this community that in the construction area of this project that local, and I don't know what works to use, resident, workers, be employed to the degree practicable on building this project. I think that's very critical so that you very much.

Mr. Gima: Okay Jim and then Ron.

Mr. Elliott: Obviously I'm not speaking for the applicant, but Pat, you did raise the issue about questioning about the amount of water as it would relate to a project – you mentioned spa and pool, and I just wanted to make sure there was a clarification on the part of the Commissioners and yourself that this project – the spa, the pool are in existence. They're in place. So this project will basically involve two toilets and a couple of faucets and a shower and that's the reason why the water projected is at a much lower level.

Mr. Ron McOmbler: Good evening. My name is Ron McOmbler and a resident of Lana`i. I also sit on the Water Working Group. I also sit on the Community Plan. I'm the President for Lana`ian's for Sensible Growth. This condition #16 with the storm drain, I don't see R. M. Towill's name referenced from the County. And I understand that R. M. Towill has submitted a Master Plan, drainage plan for both the city and that area. I hope that they're not being ignored from this because they've put a lot of time in it. I know R. M. Towill was active on this island that they would give us monthly or every three months updates on how the Master Plan was going on the drainage plan, but we haven't heard that. So we can not ignore – I'd like to see some acknowledgment from the County – is R. M. Towill's plan still something that they're looking at?

Mr. Gima: That's on #2 under communications on the agenda.

Mr. McOmbler: We've got another thing? Okay. I didn't read further than the first. It still got to be discussed. It's still part of this. It's still part of the original, it's what we're talking about right here. Secondly, I don't really care about the projects that they're doing. What

I do care about is the misleading numbers on water use down there, in the Project District. This chart, for everybody's information, this is why you need to have a water working group on this, in this group, in this Commission, to understand what the numbers are. If the Company or whoever put this chart together read the periodic water report they'd know that those numbers don't even come close to what they're using down there. And it really is shaky. I hate to see this because it's misleading.

Something related to this – there's been a call for the Water Department appearing in front of the Council tomorrow addressing our water use and development plan on Lana`i. I'm going to go and testify as a member of the Water Working Group, and I'm going to bring this up and show them exactly what the situation we have. This is misleading folks. These aren't anywhere close to the numbers that's being used at Manele, or the type of water is being used. When they say 0.52 for the Challenge at Manele. What is that? Is that brackish water? Fresh water? It doesn't say what it is. And then you go over to the potable, and it say 0.1 and then you've got 0.43 brackish. That's misleading because what they're using at Manele is 0.650. They're using 650,000 gallons a day. They're authorized that on the golf course, and believe me they use every drop of it, plus effluent. If you look at the numbers totally for Manele Project District, they're using over 65% of the water being pumped on this island is going down to the Manele Project District folks. That doesn't show here. This is why we need to have a workshop so you understand what's going on with the water stuff. I'm going tomorrow and believing this is God sent, some one handed this to me, and I'm going to discuss this in front of the Council tomorrow. This is misleading folks. This is not telling the truth. Again, I don't care what the Company builds as long as they're following the guidelines and what we have for water use down there – water allotment. The drainage is a problem and they will have to address it. But I am concern when they give this kind of information. Thank you very much.

Ms. Kaye: Ron, I have a question. This chart says that it's from – I'm going to assume this is the periodic water report for 2007. No? Where is it from?

Mr. McOmber: It can't be. The numbers aren't the same.

Mr. Gima: On a previous agenda item, I think the Company either indicated that they would provide quarterly usage reports or the Commission requested that, so I think that's where it's coming from. But it's not from the periodic water report. Periodic water report reports on 28-day cycles not quarterly.

Ms. Kaye: But a month or so down the line, the numbers should add up to be the same, correct?

Mr. Gima: I don't understand that question.

Mr. McOmber: Say that again Sally.

Ms. Kaye: Maybe I'm not thinking about this correctly. If you take these four groups, the numbers that they have on this chart should coincide with the numbers for whatever quarter they're talking about in this periodic water report.

Mr. McOmber: Yeah, but they don't tell you what that is – what quarter that is or anything. And besides that Sally, those numbers do not add up to what we see on the periodic water report any time. I mean, that's unrealistic. The golf course is using more than 0.43 brackish water, I could tell you that right now. It's using close to 650,000 everyday.

Mr. Gima: Sally, this is just a snap shot in time.

Ms. Kaye: I just wanted to – where was I was going was you had corrections to it.

Mr. Gima: The sum of the quarterly data would be higher because this is in – yes?

Mr. McOmber: The unfortunate thing is we see the water report and we analyze it and we look at it. And that's what makes it stand out so bad. This is a bogus number as far as I'm concerned.

Mr. Elliott: Again, I just want to make a statement for edification, I guess, of the process because one of the confusion – and Ron and Butch know this more than anybody – the fact is the reports that come on the periodic water reports that come to the Lana`i Water Advisory Committee and so forth – but one of the problems that exists is the fact that it's based on a 13 period cycle. Which is based on the fact that in years ago, on Lana`i, the pay periods for the Lana`i pineapple plantation was based on a 13 cycle. And so all of a sudden we have reports that come, not 12 months out of the year or quarterly or anything like that, they come 13 different reports. And so trying to put these things all together all the time, in part, is what produces a huge amount of the confusion in the whole process. Would you agree with that Ron? Is that part of the problem?

Mr. McOmber: Yeah, and it was tried to rectified by Joe, the new Water Director. He actually asked the County – he was going to change it to a 12-month report. And what was that outcome of that? The County said you can't do it. I don't understand why the County tells them that they can't do that. The County told them. No, leave it like it is, and we were kind of surprised because Joe tried to do that because it would be easier for this book keeping and everything else. But they said "no." Am I right or wrong? Anything else?

Mr. Gima: Thank you Ron. Okay, last call on public testimony. At this time, we'll close the public hearing and turn it back over to you Danny.

Mr. Dias: As far as the recommendations, pursuant to the foregoing, the County of Maui Department of Planning recommends approval of the Project District development, as well as, related site improvements subject to eight standard conditions and 10 project specific conditions.

The Department of Planning recommends that the Lana`i Planning Commission adopts the Department Planning's report and recommendation prepared for the February 20, 2008 meeting as its Findings of Fact, Conclusions of Law, Decision and Order and authorize the Director of Planning to transmit said Decision and Order on behalf of the Lana`i Planning Commission.

Mr. Gima: Okay, any questions, comments from the Commissioners on the recommendation and conditions?

Ms. Kaye: I would like to add several conditions and most of them I'm very glad to hear it came from you folks. But because you will say something in a meeting and then this body changes or the Castle & Cooke personnel changes it gets lost. So I think it would probably be a really good idea to add them as conditions that you've already indicated you think are ideas. #1, that you use only brackish water for irrigation. Because there was mix-up in the way you presented it to us, it's safer to put that down and you intend to do that anyways. And next, that the applicant – I'm not sure what word I'd want to use – ensure that solar power is applied to the building. And the last, that the applicant give all preference to local construction workers.

Ms. Zigmond: And I'd just like to see if we could get some sort of report back to the Commission on the water.

Mr. Gima: Bev I think you have to be real specific because a request like that was made prior and I think the applicant said we need to know specifically what we need to report on.

Ms. Zigmond: Is quarterly feasible?

Mr. Gima: Quarterly use of water specific to this project?

Mr. Elliott: Beverly, we're talking about two toilets and two faucets, but I mean is that an important – I mean that kind of report in the scheme of the whole thing, is that important enough for a condition? I just want to clarify that that's what you're really asking for is how

much water would two toilets use.

Ms. Zigmond: We have toilets and we have showers, and there's going to be a lot of people.

Mr. Elliott: Okay. If that's what you're asking for.

Ms. Zigmond: I mean, if there's like three people a day, but there's probably going to be more. I mean just by judging the number of people that are showing up for this hearing.

Mr. Gima: Comments Mich?

Mr. Hirano: The applicant wasn't going to meter the building separately so it will be kind of difficult to isolate that quantity out. And I was wondering how we might be able to address Commission Zigmond's concern with water use in the Project District, specifically metered that building. I think the commitment of the Company is that it is going to be working in using the resources within the allocation of that level of allocation to the Project District from the Water Use Development Plan. And I think maybe it should be in that context if it can be reported.

Mr. Gima: You feel comfortable with that Bev? I mean that's pretty much how the Lana`i Water Advisory Committee deals with that. On that note, on specific condition #9, would it be more appropriate to say that the project shall be consistent with the Water Use and Development Plan. We have a current 1992 Water Use and Development Plan. We also have a 1997 Draft Water Use and Development Plan that the Board of Water Supply has approved to be the working Water Use and Development Plan. Were you aware of that? I mean, the main thing is we want, not only this project, but all projects to be consistent with the Water Use and Development Plan, both in allocation and all of the other conditions that go into the Water Use and Development Plan.

Mr. Hirano: Yes, and I'm not personally familiar with that, more recent one, Chair Gima, but I think if you clarify that in condition #9, I think that's a good idea to put in condition #9 and make reference to the date of the Plan, so that would be the one that would be the standard to use.

Mr. Gima: Because I believe the 1992 Water Use and Development Plan allocation for the Manele Project District has been exceeded already. And the 1997 water allocation, in the Draft Water Use and Development Plan, I believe you guys are under the total.

Mr. Hirano: What about the new one that's coming out, is there any ball park guideline on

that?

Mr. Gima: The one that we're working on right now I think you guys are still under. But I'm almost certain, the 1992 Water Use and Development Plan, the Manele Project District has exceeded the allocation.

Mr. Hirano: Which is the official one?

Mr. Gima: Well for many years the applicant considered the 1992 one as the official one because it was approved by the County Council. However, the Lana`i Water Advisory Committee views the 1997 Draft one as the official one because it's more current.

Mr. Hirano: I see. I am familiar with the draft, 1997, yes.

Mr. Gima: Okay, any other –? Alberta?

Ms. de Jetley: I have a question for Commissioner Kaye. Sally, would you consider on your condition #2, solar power for the building. This building is going to be incorporated into an existing area and I believe the Island Club swimming pool isn't heavily used at night, so to do solar power for this one facility may prove to be extremely costly. So could we somehow re-word that so that solar power could be considered as an overall part of the plan rather than – you know what I mean? There's other things there now.

Ms. Kaye: I know what you mean, but I'm not really – I'm sort of surprised to hear you propose this because they agreed to it. So no, I'm not going to change that. I think solar energy – I think the use of solar energy –

Ms. de Jetley: So they're going to have to do solar energy for this one building in that complex, at the Island pool complex?

Ms. Kaye: Let's hope this is the beginning of a lot of solar energy down at Manele.

Ms. de Jetley: All right.

Mr. Gima: Okay, if there are no other questions or comments by the Commissioners, we have on page #11 our options on taking action.

Ms. Colleen Suyama: Can the Department ask for some clarifications for the added conditions? What we got in terms of adding conditions #19, 20, 21 and a condition #22, I believe, we do have some wording for conditions #19, 20, and 21. And what the

Department would recommend is that in terms of condition #19 that it would be stated as such, "that in accordance with the Project District Ordinance and as represented by the applicant, brackish non-potable water shall be used for irrigation purposes." Okay, that would be condition #19. Condition #20 would be "as represented, solar power shall be incorporated into the project plan." And condition #21 would be "as represented, the applicant shall give preference to construction workers from the island of Lana`i." And that was to meet the concerns by the Police Department. We don't have the language for condition #22 so I think the Department needs clarity as to how the language for your proposed condition #22, and that was dealing with the quarterly reports.

Ms. Kaye: . . .(Inaudible) . . .

Ms. Suyama: You scratched that? Okay. Thank you. That clarifies it for the Department then.

Mr. Gima: Is the Department clear on #9?

Mr. Dias: Okay, I'm not sure if I got it, but would it read that "the project shall be consistent with the 1997 Lana`i Water Use and Development Plan?"

Mr. Gima: Yeah, the draft – the 1997 Draft Water Use and Development that was approved by the Board of Water Supply. Okay, any questions about our options – those four options? Everybody clear? Since there's no discussion on that, I'll entertain a motion.

Ms. Zigmond: I move that we approve this application with conditions #19, 20 and 21, and the change to condition #9. Will that work?

Ms. Kaye: I think we're approving the Planning Department's recommendations with additional project specific conditions.

Ms. de Jetley: I second the motion.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond, and seconded by Commissioner de Jetley that we approve the Planning Department's recommendations and added project specific conditions. Any further discussion? Hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried and let's take a 10 minute recess.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve the Planning Department's recommendation and the added project specific conditions, #19, #20 and #21, as noted by the Commission.

(The Lana`i Planning Commission recessed at approximately 7:24 p.m., and reconvened at approximately 7:35 p.m.)

D. COMMUNICATIONS

- 1. Lana`i Planning Commission requesting information on how the "Show Me the Water Bill" applies to the Commission's decisions (applicability and impacts.) (Corp. Counsel rep.)**

This item is informational and no decision will be made.

Mr. Gima: Okay, we're on to communications #1, Lana`i Planning Commission requesting information on how the "Show Me the Water Bill" applies to the Commission's decision, applicability and impacts. It's all yours.

Mr. Hopper: Mike Hopper. I'm your Corporation Counsel. I was asked to make comments on this Bill and explain it to the best of my ability. I'm probably not the best person to explain this. I didn't help draft it and I won't be responsible for administering it. So in addition to the information I give you – I am your attorney and I will do my best to explain to you what the Bill states. And the Bill can be viewed by all of you. It's on the Commission's website and we should get you a copy of it as well. The appropriate entity to really give you a good detailed explanation would be the Department of Water Supply, who will be responsible for administering this Bill.

But, I have gone over the Bill, I've read it, and inquired with Corporation Counsel that was responsible for drafting the Bill. And I have the information for you, certainly to at least give a basic response to the question that you had which was, according to the agenda item, was how it would apply to your Commission decisions. The Bill applies by its terms to subdivisions, and subdivision only. Meaning that the subdivision is defined in the Bill as "improved or unimproved land or lands divided into two or more lots, parcels, sites or other divisions of land for the purpose whether immediate or future of sale, lease, rental, transfer of title to, or interest in any of all such parcels, except as otherwise permitted by law for purposes of this article, a development consisting of four or more dwelling units on

a lot, parcel, or site, included planned unit developments and condominiums reviewed, approved and established pursuant to Hawaii Revised Statutes shall be deemed a subdivision.”

So this would only apply to subdivision – some one that needs to subdivide their property. And in fact, does not apply to all subdivisions because it only applies to certain subdivisions that are not at a certain point in the subdivision process as the effective date of the ordinance. In section eight of the ordinance, it is stated that this ordinance shall take effect upon its approval. This ordinance does not apply to applicants who submitted subdivision construction plans pursuant to Section 18.20.150 through 18.20.170, Maui County Code, prior to the ordinance's effective date. So if any applicant has already done that prior to the ordinance's effective date which was on I believe December 14, 2007 – yes – they would not be subject to this. Meaning that if an applicant does not need to subdivide their property at all, they will not be subject to this Bill at all. This also means that as far as your Commission's decisions, since the Commission does not review and approve subdivisions, that you will not be required to ensure compliance with this Bill during your Commission decisions whether it's on an SMA Permit, a Project District Approval. The responsibility for determining compliance would be with the Public Works Director, as the Public Works Director would give out subdivision, would approve subdivision. And through that also, the Department of Water Supply who is responsible for making sure that the applicant complies with this Bill specifically. So whether it would apply to a decision, a project, that comes before you would depend on if that project would then need to go on and subdivide their property afterwards, or if they did not need to subdivide their property afterwards if they have either already subdivided it or did not need to subdivide at all to do their development.

Now if it does apply to an applicant, what is required? Well an applicant is required – it is stated that “no subdivision shall be approved –.” First of all, I should say applicability in the scope, it states that “this Chapter shall apply to all subdivisions.” So it's clear that subdivision is what it applies to. And exemptions includes building permits. So this does not apply to all building permit issues. So just because someone needs a building permit, it does not mean that they have to comply with the “Show Me the Water Bill.” They would need to have to subdivide their property, not just get a building permit. That's an important distinction.

But if the applicant does need to comply with the “Show Me the Water Bill,” the Bill states “that no subdivision shall be approved unless prior to submittal of subdivision construction plans, the Director shall provide written verification of a long-term reliable supply of water.” And what does that mean? Well I'm glad that you asked because it states that long term reliable supply of water, which is in the definition section of the Bill, can be defined in two

ways. One is a County water meter. Since I don't believe that any of the projects you'd be looking at would have County meters, that they would be looking for private – they'd be looking at obtaining water from private sources. A County water meter reservation would probably not be how they could show that they have a long term reliable supply of water. That is one way they could show that. The other way is that a long-term reliable supply of water is defined also as the total water supply's from a private non-County source that will meet the projected demand associated with a proposed development in addition to existing and planned future demand as established by an approved engineering report. An approved engineering report means a report prepared by a licensed professional engineer experienced in such fields as water resources, hydrology, water supply or environmental engineering, and approved by the Director of the State Department of Health, pursuant to Department of Health rules for a non-County water service.

So what this essentially means is that when someone applies for a subdivision and they are planning to supplying their subdivision via a private water source, they are required to send an engineering report to the State Department of Health. Have the Department of Health approval that report, and at the same time in the Bill, it allows the Director of Water Supply to make comments on that report to the Department of Health. And then the State Department of Health must approve that study, and it appears also that the Director of Water Supply must also approve that study showing that the development can be supplied with the private water source and that all the needs of that development can be met by that source, and that they have to get a license professional engineer and have that sent to the State Department of Health. The State must approve that report and the Director must then communicate to the – Director of Water Supply – must communicate to the Director of Public Works that this requirement has been met before the Director of Public Works can approve the subdivision. And so that's basically how it would work. Obviously as you can tell from the Bill a lot needs to be worked out between the Department of Water Supply and the Department of Public Works as how they will administer this. How will they take these documents from the applicant? And the State Department of Health, I'm not sure how much on board they are with this as they are required to approve the water systems. That's something that the Department of Water Supply is going to have to deal with as they will be monitoring and commenting on the report that the applicant sends to the State Department of Health. And the applicant can't get their subdivision until they get that report back and approved by the State Department of Health.

That is, as I can tell, from reading the Bill, the requirements. As far as how the Department will specifically administer the Bill, whether it will adopt administrative rules – it's a very recent Bill so no rules have yet been adopted – or how the Department plans on administering the Bill will be up to the Department. That's why I think it would be a good

idea for you to follow up with a request to the Department of Water Supply and to have them tell you what sort of progress, if any, they have made on implementing this Bill. I'm sure that this will be a difficult Bill for them to implement. But, one, obviously the Legislature felt that it would be able to and would be a benefit to the County by requiring that developers verify their source of water at the subdivision stage which is not the earliest possible stage, but it's also not the latest possible stage in the development process. There's building permits afterwards, but there's other approvals before subdivisions such as changing in zoning, SMA permits, et cetera.

Also, family subdivisions are exempted from the Code, as are road widening lots, utility lots, and easement for access or utility purposes. But all the other subdivisions the Director of Public Works shall not approve them unless the sub-divider provides written verification of a long term reliable supply of water issued by the Director of the Department of Water Supply as set forth in the previous section in which I read. So I'll do my best to answer any questions for you. I would say that the Bill itself is available on the County's website. It is ordinance #3502. It's Bill #68, in 2007, and we should have the Department send you out all copies as this is public record and anybody can view this Bill. It's currently law. It will apply again if the developer has not completed their subdivision and is not at the point in the subdivision process as stated in the ordinance. So that's essentially what it is. The key is it applies to subdivisions only, not to all developments.

Mr. Gima: Thank you Mike. Any questions by the Commissioners?

Ms. Kaye: First of all that was very, very helpful, and very useful information. Thank you so much Michael. Now I didn't think the request was so much how it would impact our deliberations, it's how it would impact Lana`i because we don't have a public water system. And we're not very clear on where all the various projects, the Palms and the Pines and whatever – all the other projects – we're not sure where they are in the subdivision process. So what I struggled with when I read this piece of Legislation was who has to actually answer the question of where the water comes from. If the Company is only selling the lot – if it's already subdivided for purposes of this Bill – then if I buy the lot, I have to get the building permits. And then I'm assuming from what you said, I'll just get a meter from the Company because the Company will say there's enough water for me to have my house. Now if down the line they had to engage in more subdividing, then what this Bill says is they're going to have to go through this process. They can't just continue to ask themselves for permission to use the water and then give it. They'll have to get independent verification or can they hire their own engineer and have it reviewed that way?

Mr. Hopper: Well their own engineer would be submitting the report. It just says the report

has to be prepared by a licensed professional engineer. I think the key that the Council was concerned with was that it must be approved by the Director of the State Department of Health, pursuant to the department of health rules for non-County water services. So that's what is going to target the private water system.

Ms. Kaye: Right, and I don't think the quality of the system here is the concern. At what stage this will be triggered for further development? That was the question.

Mr. Hopper: Yeah, it's certainly going to be at subdivision, as the definition is here. The subdivision definition here I would note is a bit broader than it is in other sections of the Code, in that it does appear to target planned unit developments and condominium, so if you would "condominiumize" that would be considered a subdivision. But if there's no subdivision required, you're exactly right. If someone is already subdivided prior to the effective date of this Bill, they don't have to go through this. They don't have to submit to the State. If they have a big a lot and they wanted to build several house and needed to subdivided or if they attempted to "condominiumize" this Bill would then be triggered. If there were more than two I believe aside from family subdivision which have a specific definition in the Code, and if they don't need to subdivide, if all they need is a building permit, or for example a project may need a change in zoning and even a community plan amendment and an SMA permit for example, if they don't need to subdivide, they could get all those permits without complying with this Bill.

Ms. Kaye: Okay, so let me ask you this because one of the open projects we have and have had for the last couple of months is a parcel that was sold on the other side of the island where there is no water at all. And one of the request for comments I think you sent, you guys sent, to the owner is where's your water going to come from. And I'm guessing now it's not as a result of this, it's a result of the fact that he is in conservation land.

Mr. Hopper: You "guys" meaning?

Ms. Kaye: The Department. The Planning Department.

Mr. Hopper: Well, I'm the Planning Department's attorney. I'm with the Department of Corporation Counsel. So I'm your attorney today, but yeah, I don't believe – I'm unaware of that particular project. Certainly I would want to follow up on – if you have a specific question on a project, you should follow up on that and figure out on the specifics of that type of project I never had to review. Again, this Bill would have nothing to do with that if there's no subdivision required. As far as generally providing water to places where there appears to be none, that would be an issue of that individual and them being able to get their water. And far as the Planning Department and how that works with private water

supply I'm not the most up to speed with that. That would be the Department of Water Supply that would be the best people to deal with that issue.

Ms. Kaye: Okay, thank you.

Mr. Gima: So for the purposes of your question about how it applies to Lana`i, you'll be happy to know that in the Lana`i Water Advisory Committee meeting, both the Department of Water Supply and the State's Commission on Water Resource Management have been pounding away at the Company saying that we need to know where the source of this future water is coming from. You say you're going to be building all these things in the next 20-years, they've been pounding the Company, saying we want to know where this water is coming from. They want to know the source. So in a sense what Department of Water Supply and Commission of Water Resource Management are doing in our committee is somewhat similar to, I think, the intent of this "Show Me the Water Bill."

Ms. Kaye: Are they giving any answers?

Mr. Gima: Yes and no.

Mr. Hopper: And certainly if there's specific projects you want to look at or other aspects of the Code in addition to the Water Bill, that should definitely be, you know, something you can consider putting on your agenda and discussing the status of a project, or request either Planning Department or Department of Water Supply as to a status update on those projects. Particularly if it's something that the Commission has approved and you want to check compliance with conditions or something like that.

Mr. Gima: So when we do have this water workshop that would be, I think, an appropriate time to question the Department of Water Supply as Mike has suggested.

Ms. Zigmond: Mr. Chair, on that note, can I ask Colleen, is it still scheduled for May?

Ms. Suyama: Remember at the January meeting, I had asked the Commission members to email the Department what was the specific resources that you folks wanted to see and what was the specific subject matters or questions that you folks had that you wanted to clarify. To date I have not received anything, so we haven't really scheduled anything for you yet. The only thing we scheduled was having Mike Hopper come here today and explain the "Show Me the Water Bill." Because until we get some direction from the Commission as to what they want as part of the resources as well as the subject matter. And it's hard to plan for a workshop.

Ms. Zigmond: I had a little bit of a different understanding because I remember Sally talking about including USGS and we talked about all the different entities. I don't know that we actually said specific topics, but we did identify the players.

Ms. Kaye: I have to agree with Colleen. She said February 1st, please get her what she needed so that she could send out letters. It was a most generous offer and we fell off the wagon on this one.

Ms. Zigmond: So let's rectify it.

Ms. Kaye: Give us a new deadline Colleen.

Ms. Suyama: Well let's make it March 1st then because it's already almost the end of February. So if I can get your email by March 1st then I at least have something and I can at least start initiating the letters of request to the agencies so that they know in advance.

2. Chair Butch Gima's January 16, 2008 e-mail regarding the status of the Lana`i Drainage Plan.

This item is informational and no decision will be made.

Mr. Gima: . . . (Inaudible. Changed cassette tapes.) . . . The next item is – I sent these emails to Leilani to have them distributed to the Commission just as an F. Y. I. I'll read it on record because I don't think the community has a copy of this. So back in December 6th, I wrote an email to Milton Arakawa, Public Works Director, "What is the status of the drainage plans for Lana`i that was developed by R. M. Towill and submitted by Castle & Cooke? I believe there were two or three plans: Manele, Koele and Lana`i City. The last two may have been combined."

He responded, "There are three drainage master plans. The drainage master plans for Koele and Lana`i City are separate plans but were done at around the same time. All the plans have been completed. We are going through the County's FY, fiscal year, '09 budget process now to try to obtain design funding for the first phases of the Lana`i City plan. Most likely, this will be for areas around the school."

I wrote back to him, "So all have been approved conceptually? Obviously, the Manele and Koele Plans are the responsibility of the Company to implement or is this not accurate? Based on your reference to the '09 budget, is the Lana`i City plan totally the responsibility of the County to implement?"

And Milton responded, "All the plans are done. We have reviewed all three plans and agree with the conclusions: there is no formal approval per se. However, Castle & Cooke has coordinated with our Department on all three plans prior to finalization. The Manele and Koele Plans are the responsibility of Castle & Cooke to implement. The Lana`i City plan is intended to be implemented by the County."

So again, this is just F. Y. I. for the Commission.

Ms. Kaye: Do we have any idea – I remember when those plans were finalized and there was a community meeting where they were talked about. And I was actually wondering, that's what they're waiting for then is '09 to get the money to start implementing it? The County is going to work with the one R. M. Towill did?

Mr. Gima: The County is indicating that they're going to be responsible to the Lana`i City drainage. The Koele and the Manele is the Company's responsibility. And going back to what Ron had brought up, R. M. Towill's presence on Lana`i is not as significant as it was when they were doing the master drainage plans. Okay, any other questions on the drainage plans?

Mr. Hopper: Mr. Chair, just as a reminder, the last item and this one as well, there was never any public testimony offered. I don't know if any one even wants to but just for the record, it's required by the sunshine law to ask if there's any.

Mr. Gima: Anybody wanting to comment on it? Okay, on to the Director's Report.

E. DIRECTOR'S REPORT

1. Commission Chair's request to discuss the following:

The feasibility of changing the zoning of the remaining 65 acres of land donated to the County of Maui by Castle & Cooke for affordable housing. The change would go from its current zoning to the appropriate type of zoning that would make the land ready to be improved.

Ms. Suyama: The first matter is dealing with the continuing item and that's the 65 acres that was donated by Castle & Cooke. And Butch you did email me about what was the Budget and Finance Committee going to be reviewing on Thursday's meeting, and I did follow up with the Council. And what it is, is that they have estimated that the Lana`i Housing Project is going to cost more than what was originally allocated in the FY '08

budget. So they were asking for a budget amendment for an additional \$350,000 which should be enough for them to complete the entitlement process. And my understanding is that JoAnn Ridao who's the Mayor's Housing Coordinator, she's been tasked to over see the Lana`i Housing Project for the County. And with the monies that are being requested from the Budget and Finance Committee, that is suppose to take care of the Master Plan for the site, for the 65 acres, it's suppose to also do the Environmental Assessment in accordance to Chapter 343 requirement, as well as to do what they call a 201H housing application to be presented to the Council. And also part of the money is to do the site survey work that's required. Based upon all of this, they're estimating that the \$850,000 that's going to be allocated would be enough to cover all of this cost. And this is just the first step in the land use entitlements. Because the other thing they also need to do as part of, I believe, this money would be redistricting from the State Agriculture District to the State Urban District because that is one of the Land Use Amendments or changes that can not be done to a 201H process. And that would have to be done formally with the Land Use Commission. That's so far the information that I've gotten from the Council. So it's a matter of funding for the project.

Mr. Gima: Thank you very much. That was quite informative. Any comments, questions from the Commissioners? On the other side, the remaining 50 acres, I think we're planning, the school is planning, to have a master plan meeting in March so this very timely that we can share the information with the DOE. And hopefully the DOE will have some information on the entitlement process also. Thank you.

2. Open Lana`i Applications Report.

Ms. Suyama: Going on with the Director's Report, we did submit to you the open projects for the Lana`i. And as you can see there are some projects that have already been dealt with that should've been taken off of the listing. And I have talked to my division head to make sure that these things are closed out. And those that are under Mr. Fasi, those have all been completed and they should have been excluded from the list that was submitted to you. There's also some other things that I had talked to Mr. Yoshida from the Current Division that for some reason in the KIVA reports that are coming to the Commission, there are Building Permits that are being placed on this as well as what they call Plumbing Permits that are not under the Planning Department, and I'm not sure why they're coming in. So he's going to have someone from his division check with our MIS Division as to why the reports are coming the way they are. Because there are a number of applications that are not even under our Department that's being listed here. And they basically deal with just building permits that's being issued through the Public Works Department. So we are going to clean up this report as much as we can.

Ms. Kaye: I have to ask you Colleen – I'm sorry – to clarify – you said everything under Paul's name?

Ms. Suyama: Under Fasi – yeah, Paul Fasi.

Ms. Kaye: So the Brown residence and improvements, second one down is the first one I came to, I think, if I understood what you told us once before, this part of that, the EAC, is completed.

Ms. Suyama: Right.

Ms. Kaye: That's all –

Ms. Suyama: Because that's all we have control over. It's because this is in the State conservation district, so we're only a commenting agency.

3. February 1, 2008 transmittal of the Bed & Breakfast / TVR Bills to the County Council.

Ms. Suyama: The other thing is, for your information, the transmittal was sent to the Council on all of the Bed & Breakfast and TVR Bills. And that's for your information. So that you know that the Bills are officially with the County Council now. And my understanding is our transmittal is for the Friday's full Council meeting to be referred to the Planning Committee of the County Council.

Ms. Kaye: So they are going to have to weed through our minutes to see what our suggestions were?

Ms. Suyama: Right. They got all of the recommendations from all three Planning Commissions as well as our responses to some of the recommendations. And the Planning Committee will then, under their committee members will review all of the recommendations on the proposed ordinances. And probably under their review there's going to be further changes to the ordinances.

Ms. Kaye: Will it come back?

Ms. Suyama: No. Usually, once it goes to the Planning Committee, once the Committee makes their final recommendation and the final draft of the ordinance is done, then it's transmitted back to the full Council for action.

Mr. Hopper: Just to comment, they're not going to just have the minutes to read through. There are certain instances in which – I'm working on approving the draft Bill as to form and legality – it's got to go through us and before it's finally passed, we have to sign off on it. There are some places where the Planning Department has made reference to specific recommendations than that Commission made. I think one of them, for example, to keep the Conditional Use Permit process in place until one year after the effective date of your Community Plan Update. That was one of the recommendations that he's leaving in there. I haven't read through all of these recommendations, but what the Planning Department typically does is try to incorporate the comments of all three Commissions in as best as possible. In some instances, even referencing island specific areas or reference of community plans. But once that Bill comes to the – once that Bill comes to the Council Committee and it comes out of the Committee, you'll be able to see what the Bill is going to look like before it comes up. And you could, you know, monitor what the Bill is going to look like there. But the Council could decide to not go with any of your recommendations and could read through the minutes and find that information. But, the Department, I think, has made an effort to incorporate all the Commission's comments.

Ms. Kaye: That would be my question is how to track this easily because we spent a lot of hours trying to make a point that TVR's are essential to function here. And putting the Conditional Use in for the year until a community plan comes in, is a great idea at the time we did it. But months have gone by already and we haven't even started the Community Plan. And as you know, TVR's aren't even mentioned in the old community plan. So I just wouldn't want to see this fall through the crack. Is there some way, some site to go to where it would be posted? You guys could just like – I'm sorry, the Planning Department – could let us know.

Mr. Hopper: Well it's Council's hand technically right now. The best place to get it would be from the County Council. They should have all of that. It should be public record. It's in their binders. The best way actually to get your hands on that, I'm not sure, because I'm right there. I can go up and get one of the binders and read it.

Mr. Kaye: Good, we'll just count on you then. Thank you Michael.

Mr. Gima: You dug your hole. The other thing too, you can request from our Council member updates.

Mr. Hopper: Right. Or if you want to, if you agenda it and if it's coming up on a Council, the Planning Committee, you could agenda it on your agenda, vote to send as a standing Committee one or two members. You could go down to Council and testify in public testimony and state the issues you may have with the Bill, or certain clarifications that you

as a Commission feel. I wouldn't encourage people to go individually without getting permission or authorization because it can get confusing as to whether you're speaking for the Commission or yourself or what you're doing.

Ms. Zigmond: Colleen, quick question please? On page #2 it says the Planning Department has accepted most of the recommendations of the three Planning Commissions. Do you recall any of the Lana`i recommendations that you didn't approve?

Ms. Suyama: I really can't recall anything that we didn't support.

4. March 19, 2008 public hearing on the amendments to the Lana`i Planning Commission's Rules regarding the processing of SMA exemptions at 6 p.m. at the Lana`i High & Elementary School Cafeteria.

Ms. Suyama: Besides that, the next item is just to remind you that March 19th, your next Planning Commission meeting is going to be the Lana`i Commission Rules for the SMA exemption. That's scheduled. I'm not going to be here for the March 19th meeting. Fortunately that's my daughter's birthday, so I'm taking off at that time. So probably Joe Alueta will be representing the Department, both management as well as being the Planner conducting the public hearing.

5. February 5, 2008 receipt of Council Resolution No. 08-5 referring a Draft Bill to Authorize Home Occupations in Various Zoning Districts to the Lana`i, Maui and Moloka`i Planning Commissions. (J. Alueta)

Ms. Suyama: The other item is for your information. We transmitted the Resolution dealing with home occupations, and this was submitted to all of the Planning Commissions. And I believe we're looking at the April 16th meeting in which to hold the public hearing on this. This is also going to be your orientation meeting. So what I would suggest is maybe the public hearing on the home occupation first, take public testimony, etc cetera, and hopefully you folks can come to a recommendation. And then at later part of the agenda, doing the orientation that we normally do for each Commission on the beginning of each new year. And that's usually because that's about the time we also get any new Planning Commission members that need to be on the board.

F. NEXT REGULAR MEETING DATE: March 19, 2008

Mr. Gima: Okay, any other questions for Colleen?

Ms. Kaye: I have a really quick question for you Colleen in terms of what happens when

– remember the permit extension request that was granted to Castle & Cooke and they agreed to six months reporting back to the Planning Commission. I think we're coming up on that. So how does it work? Once someone agrees, if they just simply don't provide it and the Planning Department notifies them?

Ms. Suyama: Or normally what would happen is that if there was something that needs to be followed up with, then it would be the responsibility of the Planner in charge of the project to write a letter to the applicant reminding them that there is a report due, a reporting that's due to the Commission. I can go back and remind the Planner to make sure that's done.

My final announcement, if you haven't heard, is that I've decided to retire as of July 1st of this year. So July 1st is when I'm officially going to retire from the County after 32 years with the County of Maui. If you haven't heard that, I'm just letting you know because I've already notified the Mayor that that's my future plans. And I'm now notifying you that June would probably be my last meeting with the Commission.

Mr. Gima: Colleen called all the Chairs at the time she had made the decision and I really appreciate it. So, we have a couple more months of picking her brain. Okay, next – next meeting, March 19th. Will everybody be here? Okay, can I place on the agenda since, I think that will be Jim's and my last meeting, we need to replace Jim on the Lana`i Water Advisory Committee. Because Lana`i Water Advisory Committee has a representative from the Lana`i Planning Commission and Jim has been doing that for the last couple of years. And could we get just something, a Director's Report, regarding the proposed Community Plan start date?

Ms. Suyama: I can make sure that there's a status report at the next meeting.

Mr. Gima: Okay. Thank you. And then we have to recruit two vacancies. All right – Larry too? Three. So Larry's term was how many years? So he can re-up.

Ms. Suyama: What we can do is we can go back because I believe the Mayor has sent down her recommendations for the different boards and commission to the Council so we can find out who's on, for the Lana`i Planning Commission, and we'll report back at the next meeting.

G. ADJOURNMENT

Mr. Gima: All right. Thank you everybody. Meeting is adjourned.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:14 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE:

PRESENT:

Reynold "Butch" Gima, Chair
James Elliott
Dwight Gamulo (from 7:00 p.m.)
Beverly Zigmond
Sally Kaye
Matthew Mano
Alberta de Jetley
Stanley Ruidas

EXCUSED:

Lawrence Endrina, Vice-Chair

OTHER:

Colleen Suyama, Deputy, Department of Planning
Danny Dias, Staff Planner
Michael Hopper, Deputy, Department of Corporation Counsel