

(APPROVED: 08/27/08)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
JUNE 25, 2008**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Molokai Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairperson Steve Chaikin, at approximately, 12:38 p.m., Wednesday, June 25, 2008 at the Mitchell Pauole Center, Meeting Hall, Kaunakakai, Molokai.

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

Mr. Steve Chaikin: Alright, it is 25 June, 2008, and at this time I'd like to bring this meeting of the Molokai Planning Commission to order. First, I'd like to welcome each member of the public here today. Thank you for taking the time out of your day to be here. I'd like to start by introducing some of the members of the Maui Planning Department who took the time to come here to be with us today. We have Clayton Yoshida, and then our own Planner over there, Nancy McPherson; we also have Suzie Esmeralda, and we also have - what is it? Mahina Martin? Martin, okay, from the Office of the Mayor. Is that correct? Okay, so thank you for coming. And also we have Michael Hopper here, and I think we go Joe Alueta around here. Thank you, Joe. And let me just say that, you know, these people come from Maui at, I must add, a great expense to be with us to spend these few hours with us so we want to try to -- to make the most out of the time that they have here.

Also, I'd like to introduce our Commissioners. We have Commissioner Williams; Commissioner Napoleon; Commissioner Buchanan; Commissioner Feeter, Commissioner DeCoite.

And, alright, on our agenda today, we have -- we're going to start off with, as we always do, having public testimony if there's anybody from the public that wants to say anything. Then we're going to get into a Resolution thanking the outgoing Deputy Planning Director. And then we're going to go into a public hearing. We have two bills for ordinances. One's on establishing a service business residential district. The other bill for an ordinance is pertaining to off-street parking and loading. We do have some unfinished business, which is a request for an exemption from a special management area permit that we'll take a look at, and then we'll go into my Chairperson's Report where we're going to -- we're just going to talk a little bit about the West End water delivery issues, and we're going to talk a little bit about the displaced Molokai Ranch employees, and also different ways that we can improve this Planning Commission's interface with the community.

So we do have a lot of stuff, and then we're going to get into the Director's Report, and he's got a bunch of stuff including what we want on future agendas and follow up some of the stuff that we've had on previous meetings, but we do have a lot of stuff on our agenda today so we really should get going with any further to do, except for the fact that I'd like to take just a moment here to recognize somebody that has been a great asset to this community, somebody that has been an asset to this Commission, somebody that I think has gone way beyond the normal call to duty, and somebody that has kept this community informed during very difficult and challenging times, and I'm talking about Kate Gardner of *The Molokai Times*. And, you know, she's -- she's an intern and she has sat through countless meetings with a lot of patience and -- and then taking that information, which is often, you know, very difficult and complex issues and presented them in a way to the community that we could, you know, understand, and I think this community has received a lot of benefit from all of the reports that she's put forth during this last year. So I know that you have to move on and you have to get a real job that actually pays real money and -- but we -- I just wanted to take just a little bit of time to thank you for all that you've done on behalf of this community. So thank you, Kate.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Mr. Chaikin: Alright, so we also start each of our Commission meetings with an opportunity for the public to come forward and provide testimony on any planning issue or land use issue that they feel is important, or any agenda item that's going to come up further on into the meeting and they don't wanna stick around here to listen to us go through all of our stuff, so is there anybody from the public that wants to -- to present any testimony on any issues?

C. RESOLUTION THANKING OUTGOING DEPUTY PLANNING DIRECTOR COLLEEN SUYAMA

Mr. Chaikin: Alright, seeing none, we can move right ahead into the first -- the next item, I should say, on our agenda, which is a Resolution Thanking Outgoing Deputy Planning Director Colleen Suyama, and let me just read the Resolution to you. It says:

Whereas, Colleen M. Suyama has served the County of Maui with distinction and with a high degree of professionalism as Deputy Director of Planning for the County of Maui from January 2, 2007 to June 30, 2008; and

Whereas, Ms. Colleen M. Suyama began working for the County of Maui as a Planning Aide on February 10, 1975; and

Whereas, Ms. Colleen M. Suyama has been a professional planner with more than 30 years of experience with the County of Maui; and

Whereas, Ms. Colleen M. Suyama will be retiring from the County of Maui on June 30, 2008; and

Whereas, Ms. Colleen M. Suyama has contributed greatly to the profession of land use planning and the economic development of the County of Maui; and

Whereas, during Ms. Colleen M. Suyama's tenure as Deputy Director of Planning, the Department of Planning has strived to improve its internal efficiencies.

Be it Resolved, that the Molokai Planning Commission hereby commends Ms. Colleen Suyama for her dedication and service to the people of the County of Maui; and

Be it Further Resolved, that the Maui County Molokai Planning Commission does hereby express its deepest gratitude and appreciation to Ms. Colleen M. Suyama for her service and does hereby extend its best wishes in her future endeavors; and

Be it Further Resolved, that copies of this resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui, and the Honorable G. Riki Hokama, Chairman of the Maui County Council.

Mr. Chaikin: And this will be sign by each of the Planning Commissioners. So we wanna thank her and wish her the best.

Alright, so moving right along, we're going to move right into our public hearing, and as I mentioned earlier, we have two bills for ordinances which we're going to take a look at. I'm sorry, did you wanna say something?

Ms. Lori Buchanan: Chair Chaikin, I apologize for not being on top of what you had already said earlier, but can I propose an amendment to the -- today's agenda?

Mr. Chaikin: Yeah, go ahead.

Ms. Buchanan: I'm proposing we take care of Item E, No. 1a, the Goodman residence that we had last week that we deferred and putting that up first cause I think the public hearing is going to take some time today, and I think we might be able to resolve that item quickly cause I think they've been working on it since our last meeting.

Mr. Chaikin: Thank you, Commissioner Buchanan. I have no problem with shifting the agenda. Do we have any -- does anybody oppose -- any Commissioners oppose to doing that? Alright, so we'll go ahead and shift that then and we'll go ahead put that, the exemption request, first on our agenda. We'll take a look at it now then. So then we shift

over to Nancy McPherson. Did you wanna bring us up to date on -- on what you have found out since the last meeting? Thank you.

E. UNFINISHED BUSINESS

1. MR. JEFFREY S. HUNT, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area exemption can be issued for the following:

- a. **Goodman Residence - SMX 2007/0471(SM5): 2,080 square foot single family dwelling and 576 square foot garage on 12,897 square foot abutting Kanoa Pond, at TMK: 5-4-017: 002, Kawela, Island of Molokai. (N. McPherson)** *(This item was deferred from the May 28, 2008 and June 12, 2008 meetings. Commissioners: Please bring your documents.)*

The Commission may act on whether or not to concur with the Planning Director's determination that an SMA exemption be issued.

Ms. Nancy McPherson: Thank you, Chair Chaikin. Good afternoon, Commissioners. Nancy McPherson, Staff Planner, Molokai. Taking the request for additional information that this Commission gave myself and the applicant at the last meeting, we went ahead and gathered some information about potential persons who would be willing to be employed by the owners to do monitoring, onsite monitoring, during any excavation activities for the individual wastewater treatment and the footings for the house. I believe there was some additional information transmitted to you in your packets, dated June 18, and one of those, the last exhibit, Exhibit 4, is a letter from the owners. I had spoken to the agent for the owners, Luigi Manera, and he was communicating with them. I also advised that it might not be a bad idea to state clearly to the Commission that there was -- was never nor will there be an intention to use the home as a vacation rental. So they went ahead and included that in their statement because we all realize that there, you know, there have been some of those uses in that area. They also agreed to the archaeological monitoring and so that has been set up. Luigi said he was going to be here today and I think we're trying to get him to come over. He thought, because of the order of the agenda, that it would be happening a little while later. There was contact with the Water Department regarding availability of water to the property. They do have a meter. They do have a water meter. They have looked at the fixture unit count for the water meter and it is below the maximum, therefore, the meter is adequate for the stated demand, so that was taken care of and responded to by the Water Department. I also submitted the letter from the Department of Land and Natural Resources, State Historic Preservation, to you, and also the -- that's Exhibit 2, and then Exhibit 3 is the approved special flood hazard area development permit, so that was secured based on the plans that have been submitted to

you. And that's kind of where we are. My understanding, from Mr. Manera, is that Steve Emenger has agreed to be the onsite monitor so he's been contacted and has agreed to do that. So we have also started generating a list of names of persons who could serve in that capacity and when that's completed, I can go ahead and forward a copy of that to you if you would like. So that's all the additional information that I have at this time.

Mr. Chaikin: Thank you, Nancy. Commissioners, do you have any follow-up questions or concerns that you would like to Nancy --

Ms. McPherson: Oh, we do have a -- oh, here we go. We do have representatives for the owners here if you have questions for them.

Mr. Chaikin: Thank you, Nancy. Commissioners, do you have any -- any questions or anything? I just want clarification on the water. Is that County water or is that Kawela system water?

Ms. McPherson: It is County water, yes.

Mr. Chaikin: Okay, thank you. Okay, hearing none. Do I have a motion on the floor to concur with the Planning Department on this?

Mr. Don Williams: I would like to make the motion that we concur with the recommendations of the Planning Director and accept the application and move forward.

Mr. Chaikin: Alright, we've got a motion by Commission Williams. Any second? Second by Commissioner Napoleon. Any discussion on this matter?

Ms. Buchanan: No, other than I think because it was a deferred item if they need for public hearing. Check with Corp. Counsel. But, no, my only input is that it seems that the applicant, between the last meeting and this meeting, has met all the requirements that we set forth.

Mr. Chaikin: Thank you, Commissioner Buchanan. Is there anybody from the public that wants to provide testimony on this item? Alright, seeing none, we're going to close that at this time.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Williams, seconded by Ms. Buchanan, then unanimously

VOTED: to concur with the recommendations of the Planning Director and accept the application and move forward.

Mr. Chaikin: Okay, unanimous. It passes. Thank you, Commissioners. Alright, we're going to skip back to our other agenda item, which was the public hearing that we're having today on the two bills for ordinances and -- and I'm going to turn this over to Joe Alueta and he can take us through this.

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

1. MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance Amending Title 19, Maui County Code, to establish a Service Business Residential District. (J. Alueta)

Mr. Joseph Alueta: I don't have your agenda in front of you but, again, my name is Joe Alueta. I'm your Administrative Planning Officer. Before you today, you have two bills. One is the SBR bill, and the other one is the parking -- it deals with parking. Mr. Chair, if you can, which one is the -- which item is the first public hearing item?

Mr. Chaikin: We've got the SBR on the top.

Mr. Alueta: Okay. Alright. For your information, the proposed SBR ordinance would amend, one, some of the definitions to incorporate into the Title 19, that would be created; 19.06 is just establishing the chapter for service business residential; 19.36 is being amended to incorporate parking standards for the new service business residential district, and then 19.11 would be the new development standards and use, allowed uses for the new district called "Service Business Residential." This is to implement existing community plan and general plan language or, specifically, community plan language that promotes or request that new district that has some commercial but keeps the residential feel be established within Title 19.

Just to be clear from the get-go so there's no confusion is that we are not zoning any property service business residential. This is just to establish the development standards for someone to zone, if they chose to zone their property, service business residential.

Also to be clear, there is no land designated within Molokai service business residential so, in essence, it doesn't impact you at this point in time. The only time this would come into play is if, during your next community plan round, you designate some properties that you feel would meet the criteria or you would like to see in the future become service business residential. So, again, if you do nothing in the next community plan round, the only way someone could establish an SBR zoning within Molokai would be through a community plan amendment and then a -- and then also a change in zoning. And as indicated, a community plan amendment is one of the criteria for triggering an environmental assessment, okay, so -- but let me just --

Ms. Buchanan: Excuse me, Joe, repeat the last two sentences about the environmental assessment.

Mr. Alueta: A trigger for -- a community plan amendment, okay, is one of the criteria, under 343, for an environmental assessment. Okay. But because this is an amendment to Title 19, the Maui County Charter requires that all three Planning Commissions review and comment to the Maui County Council on the proposed amendments. So I will briefly go over some of the purpose and intent, I guess you could say, for service business residential, which I kinda talked on, which is primarily impacts the Hana District, and I've provided maps as exhibits, which is -- shows the parcels and the location of where there is lands designated on the community plans for service business residential. They're primarily located within Wailuku Town, Paukukalo area of Wailuku also, as well as the Hana Bay region, so those are the only -- and so there's only two community plans that currently have taken advantage of the SBR and it is the result of those community plans that we're proposing these amendment to Title 19 to establish this SBR district.

In summary, the purpose of the SBR is to try to create a -- allow for some commercial, right, in areas of residential areas that are on the fringe of either adjacent to the commercial district or provide commercial uses in a neighborhood scale and so I guess the intent during the community plan discussions was they wanted to have people have some kind of limited amount of commercial in these pocket areas but wanted them to maintain the residential character of the buildings and to make sure the use wasn't like a full-on, you know, office building or commercial -- large commercial structure. And so if you look in the definitions that were added and discussed during the -- it was limited to a maximum of 2,000 square feet. And if you read some of the language within the community plan from Hana, they speak specifically to SBR, to the establishment of SBR, and they also set up further criteria at least for their region with regards to the management of transient vacation rentals or allowing bed and breakfasts in those regions.

Some of the things that have come up during the -- the development of this code and have come up from some of the other Planning Commissions, this has already gone through both Lanai and the Maui Planning Commissions, and so I'll -- and we've also discussed this with our Corporation Counsel to some of their -- in their comments. This has not been formally reviewed by Corporation Counsel for form and legality and so we've just done a cursory review. The form and legality portion will happen after the public hearings because it's always anticipated that there will substantive changes to the bill by the three commissions. Some of things that were discussed by Corporation Counsel was the -- what they felt was an ambiguity in the definition for SBR service establishment, which means a structure which neighborhood scale commercial services, and they felt that somehow neighborhood scale commercial services should be quantified in some fashion so it's not ambiguous. I think part of that, from our department's standpoint, again this is a carryover, we feel that, hopefully, that the 2,000 square feet as well as some of the comments and the purpose and intent, meaning keep it in the residential character, as well as for Hana, they

specifically requested that these business establishments be located within existing residential homes so you don't come in and build brand new. It has to look like a home or the only qualifying areas that would be allowed to do SBR and the location of those establishments would have to be located within the existing single-family structure so that the size and scale is limited.

Other discussion points or correction, and if you wanna follow along on Exhibit 1 of the memo report, I'm kind of just going through some of the language in the ordinances, on Page 3, Line 1, of the proposed ordinance, we would be striking where it says, "1, G. One transient vacation rental," and it says, "rental unit per lot," we would strike the word "unit" cause we already have a definition of what a transient vacation rental is per lot. This became a discussion with both Corporation Counsel as well as at the Maui Planning Commission as to what do you mean by transient vacation rental? We have a definition of it but they were like we consider it one rental is if you rent it out as whole unit. So if you have a three-bedroom three-bath house and you rented the whole house out only, that's one transient vacation rental. If you rented it as three individual units, you broke it up and you rented each room and bath as one by itself individually, then that would be considered three vacation rental units or vacation rental -- vacation rentals, okay, so that would be -- and we feel that's the intent that we have and that's how we intend to manage it. There was some discussion at the Maui Planning Commission to potentially try to say one vacation rental per lot with a maximum of so many rooms, or by square footage. There was no motion to it, it was just a discussion item, and they did ask the department to potentially look into it in the future as to -- to help further clarify that but we feel that we can -- our clarity is that -- is what I just said. If you rent it as one whole thing, that's one unit. And if you choose to rent it individually, then that's multiple units.

Under -- under Special Uses, if you looks under Page 3 again, Line 21, it's currently worded, "Transient vacation rentals up to five units on a lot." The -- we are -- the new -- or based on our discussions with Corporation Counsel, it should say, "A. Up to five TVR's on a lot." That's the wording that we -- it doesn't substantially change it. It just -- but it makes it more clear that it's up to five.

On Page 4, Line 6, if you look at Line 6, it says, "shall review and approve, at" and it says, "at his discretion," and it should be, "at the director's discretion" because do we do have female planning directions.

Mr. Feeter: Question? Can we?

Mr. Alueta: It's up to you, Chair, if he wants to --

Mr. Chaikin: Yeah, if somebody wants to ask a question, go ahead.

Mr. Feeter: Joe, could we go back to Line 9, 10, 11, 12, in that area?

Mr. Alueta: Sure.

Mr. Feeter: Okay -- Page 3, yes. On the -- Line 12, D., "Garages, porte-cochere, mail boxes, trash containers." What about things like dog houses and -- people do have dogs?

Mr. Alueta: Right, no, I --

Mr. Feeter: And tool shops and sheds, for example?

Mr. Alueta: They would also be counted as accessory uses to the principle use and probably would be under E, if there's a question on it. You can add it in if you want. The intent -- the structure that the department is going to -- is going forward with the revisions to Title 19, and it applies not only to this chapter but to future amendments throughout Title 19, is that in the uses, you're going to have what do we consider as outright permitted uses? What do we consider to be accessory uses to the principle use, okay? And what are we determining to be special uses that would need additional review? And that's how we're laying out all of our three or all of our chapters going forward, and we feel that's a little more clearer, you know, you wanna know what am I allowed to do outright; what things can I have that are considered to that outright permitted use; and what uses could be appropriate within the district provided there's additional review, and that's where the special use permits come in. So to answer your question like you wanna add it specifically?

Mr. Feeter: No, it doesn't but that -- okay, you're talking about 6,000 square feet. Is that correct?

Mr. Alueta: That's the minimum lot size.

Mr. Feeter: Okay. And then you -- some other things come up. We got a compose bin. We've got machinery, garden machinery, backhoes and so forth, boats. There's one, I think, very important aspect of this type of zoning is noise and, reading through this, I don't see any wording relative to noise abatement and I think that's critical in this confined type of zoning, and I'd like to see that in there.

Mr. Alueta: Do you have any suggestions? I'm not -- I'm not disagreeing with you at all. I'm just saying is that this zoning category is kind of a hybrid between a single-family residence and a business district. In fact, the SBR zoning is being placed in ----

Mr. Feeter: Yeah, well, that's the point because those things all come into play and -- and so that, again, have boats, machinery, extra cars, motorcycles, so forth. Those -- you're a planner and that wording, I think, should be entered into that as far as taking those aspects into consideration and particularly noise, barking dogs, that's where the dog house

comment came in, and just everyday incidental things that go along with living in this type of a zoning and, again, I'd like to see wording to that effect in here.

Mr. Chaikin: Okay, excuse me, Commissioner Feeter, that's a valid point, so why don't we just make, you know, all of us, if we have concerns that we wanna add to this ordinance, we'll just make a note of it and then at the end, when we go and try to figure out -- right now, let's try to understand, you know, what the ordinance is, and then we can go through and make our recommendations of what we wanna add or how we wanna change this. Alright, Joe, you wanna go ahead?

Mr. Alueta: Thank you, Mr. Chair. So again, those are the uses that we've -- the structure of it and the uses we've allowed. Again, it's very similar to, as far as outright uses, it's very similar to the single-family residential district, that's the primary and principle uses, with an inclusion of neighborhood scale residents or commercial activities for these specific districts and limited in size to 2,000 square feet and/or limit it in the number of like types of uses. As far as -- and the district standards are very similar to your residential R-1 type standards as far as minimum lot size and so your setbacks and development standards are the same as the residential district. Within a commercial district, I'm not sure if you're familiar with the setback, there are no setbacks, okay. So in the commercial district, you can build to the property line, okay, so it's only in the -- so that's one of the key difference is this one does have setbacks to -- because it does into account that you are inserting and you're walking that fine line of inserting a commercial type activity within the residential district, and as pointed out by Commissioner Feeter, the concern over noise that could be associated with that business activity and, therefore, you have established setbacks, similar to the residential district, you also have limitations on the scale of the operation, so those are all placed in, and then if the -- and on certain uses that could be allowed and potentially may have increase impact to that residential neighbor, a County special use permit would be required. The final authority on the County special use permits are the Planning Commissioners. So each Planning Commission would be the one to make that final determination for County special use permits.

Let's see. That pretty much summarizes the bill. Again, we are not -- this only creates the development standards for an SBR district. Currently, there is only two districts or community plans that have designated properties; that is the Wailuku-Kahului Community Plan and the Hana Community Plan. In Hana, it's imperative that we sort of get an SBR ordinance established. We tried to establish one, if you look through the history of the document through the memo report, there was an effort back in '96, it was derailed for several reasons, and it got pigeonholed at the County Council. Residents of Hana have - you could say they're clamoring for this because, currently, all of the properties that are in Hana that was in the SBR district got rezoned into urban reserve because when the County went through and did a comprehensive rezoning of the interim districts within the Hana core, because there was no SBR ordinance established for it, they rezoned all those interim properties to urban reserve, and urban reserve is basically purgatory, okay. You can't do

anything there. Whatever is existing is existing. But you cannot -- there is no development standards, there are permitted use -- I mean it's a very different zoning category that was placed on there and so we're hoping that by having this, those properties can either, one, come in for a change in zoning to the SBR, or if they need to, during the next community plan, if the community has changed their mind with regards to what they want, can then redesignate these properties to another district and then we can rezone it.

Mr. Chaikin: Joe, Corp. Counsel just wants to ask some questions for clarification.

Mr. Hopper: Just to clarify, I mean I know the answer, but for the benefit of the Commission, so those areas in Hana and in Wailuku, in their community plans that currently says SBR is their community plan designation?

Mr. Alueta: That is correct.

Mr. Hopper: Right. And since SBR zoning does not exist, they're inconsistent right now and that actually would be so -- you know, so they've got community plans right now and if other areas wanted to move into those community plans, that would be the first step, but the problem is they adopted community plan standards without adopting zoning at the same time and so they're kind of in limbo like you said? Okay.

Mr. Alueta: That is correct. I guess "limbo" would be a better term than "purgatory." Is there any questions at this time?

Mr. Chaikin: Any Commissioners have any clarifications?

Ms. DeCoite: Hey, Joe, I kinda confused because -- because there is no SBR for Molokai, like you just brought up, and say you have a backyard business going on and -- and, you know, the complaints have come in, you know, what's the enforcement part on it? I know you saying you can come in and they can make an amendment to the community plan, but as we've seen already with the transient vacation rentals, is a perfect example of businesses operating in this capacity, I mean what -- I mean I just don't understand the impacts to the neighboring people of these -- you know, to rezone for commercial types of businesses. I mean it's --

Mr. Alueta: You could, if it's a commercial operation happening say in the residential district or in the -- if it's in the residential district, you could either qualify as a County special use permit in the residential district in which we would go to the Planning Commissions, and those are specified specifically within the residential district what is a -- what would qualify for a special use permit. If you did not qualify for that special use permit, you would have to go the conditional permit route, which is what many of the -- for transient vacation rentals have done. But you need to, like on Maui and on -- we've handled County special use permits for people who have done pickled eggplants. The guy was pickling eggplants

in his garage. He got a permit from the State Health Department to set up a commercial kitchen in his garage and he was pickling and bottling eggplant. We've had candle shop makers. People who have converted part of, you know, a back room and was making candles, you know. And some of the -- we had the Maui Cookie Company, if you're familiar with them, a pretty big operation. They started as a County special use permit in their house and, you know, when they got a certain size, we said, "You know what? You've gotten so big, we cannot recommend approval or recommend for a time extension because your operation has grown a little large. We recommend that you seek commercial zoning at another location and relocate to it," and they did. And that was the start of a great thing for them because once they moved to a commercial location, they blew up as far as expansion in their business and they came to us and said, "Hey, thank you very much, you know, that was actually the best move. We were kind of scared to move out of our house and pay rent but it worked out for the best." And so we don't encourage the use of special use permits but it's an option there. It's not meant to run a full-time business. It has limitations to it, very similar to what the new home occupation bill will do.

Ms. DeCoite: Well, I guess what I trying to say, Joe, is that these guys doing this stuff. They're doing it. And when come up and they say, "Oh, you know, they illegally running these things." Where's the County? You know, and the enforcement? And then we always get the same answer: Oh, we don't have the manpower and stuff. And I always come back with the same answer to you guys: Your manpower and your funding comes from the penalties that would be inflicted. It's not fair is what I'm saying. So I mean I know we doing the bills and ordinances, but I cannot see that implementation on an amendment to these residential areas because it's all around us, I mean you have a rent-a-car area in the middle of one residential area and I mean everybody knows the rent-a-cars is the guys that's just blazing pass and it's a residential area and whether the conditional permit or the special permit use is being applied in that situation, I don't know. I just saying that we setting a precedent and it's continuing to go on and there's no enforcement is what I'm saying.

Mr. Alueta: I understand your concerns. I don't, personally, handle enforcement. It is in our division. We are trying to hire more people but I cannot speak specifically to how they handle the enforcement or, you know, what the ramifications. The ordinance before you is, like I say, is just a development standard ordinance for specific -- to establish a new district that is similar to -- just like you would be establishing B-1 or B-2. It's establishing a new commercial type district and that whether or not those people would come into that, we're not trying to solve that problem. This is not something -- because if they don't meet the criteria or have not been designated on their community plan as being SBR or any commercial use, they do not have the potential to come in for a change in zoning, and the only option is, one, is you're right, we need enforcement, and then if -- but if the community feels that is a correct location, maybe with a -- they can temporarily get a, like I say, a County special use permit. Again, when you do a County special use permit, you set criteria, you set very -- a lot of limitations on it and it's also renewable and revokable.

Zoning is a little different. Once you get zoning, right, it's -- as long as you meet the criteria, there is no enforcement. It allows you to do it as a permitted use if you have the correct zoning, you know. In the single-family district, that's the zoning. You have a right to do a single-family home. Anything more than that, you're going to either have to get a rezoning or get some type of permit.

Mr. Chaikin: Alright, Commissioners, anybody else wanna ask any questions or have comments? Commissioner Buchanan, do you? Commissioner Feeter?

Mr. Feeter: Yeah, what are we going to do with this?

Mr. Chaikin: We're going to discuss it, we're going to continue to discuss it and try to understand it, and then we're going to decide whether or not we wanna make some recommendations to improve it or whether we wanna accept it as it is, whether we wanna defer it and try to get additional information. So does anybody want -- have any clarifying questions that we can better understand this? Yeah, Commissioner Buchanan, go ahead.

Ms. Buchanan: Chair Chaikin, I have questions for staff. Hang on. Joe, you had mentioned that Hana came up with their own conditions to the SBR and seeing that this was probably generated by the problem they had in Hana where they were already doing all this stuff, and the County came in and did comprehensive zoning, and we've talked about comprehensive zoning in the past and why I fear sometimes of comprehensive zoning, and amazingly they did it anyway, and so now you have all these people operating the way they used to for the past whatever, 50 years, and then now the County is saying, "Oh, you not zoned for that," so now we gotta make one new zoning, so here we going, we going with SBR, which has its own mixed uses for residential, but I notice that Hana came up with their own conditions to that SBR on Exhibit 4 - let me find Exhibit 4 - Exhibit 4 on the back, Page 29, and when you had mentioned that -- you were very clear to point out that -- that this would only apply to community plans right now, that we're reviewing community plans, for Wailuku and Hana, and it's not in our community plan, however, at the point where maybe during our next community plan go around, this community would want to institute the SBR, at that point, would we be able to go back and put conditions or we would have to do that now as a recommendation to the County Council, just like Hana did on Page 29?

Mr. Alueta: If you so choose to, you could -- if you have that magic crystal ball and you can see into the future as to what issues might come up for your community plan and for SBR, then by all means put that conditions in. I don't have that crystal ball so if you look on page -- on Exhibit 1 of the -- of our issue, I did -- was able to go back and look at what Hana did, obviously, I did because I attached it as an exhibit to the staff report, was that they had some concerns and issues, and I had put in subject to -- on No. G, then when you read their thing, I put in "subject to further restrictions as provided by the region's community plan" and that was specifically to deal with Hana, okay? So -- and that issue would

probably take into account any -- obviously it's going to take on any community plan. Secondly, the biggest point is -- or there's two other points. One is if you don't like what's in this thing, you are going to review the community plan and you can take those -- if someone, by chance, wants something to be SBR and you disagree, you can either remove that designation from the community plan, or in your community plan, you can put specific language within it which would set the criteria for where and how SBR zoning is granted, okay, and then again, we're not zoning anything. We're just setting the development standards. When that -- if that parcel then by chance gets the community plan designation, and they would have to go in through a change in zoning process. They would then come before this Commission and you would, obviously, look at your community plan and if your community plan had criteria for the establishment of SBR zoning or wanted to establish limitations, you would establish those limitations and -- for that specific parcel or for anyone that came in for SBR zoning and put down conditions of zoning, okay. So in the case of Hana, if you look, they have about using the existing structure, single-family homes, establishing one transient vacation rental on a lot, limiting it to that, provided that there's a long-term rental on the property or a long-term residence existing on the property. So when somebody comes in for a zoning, we're going to look at the community plan and we're going to make recommendations to Hana as well as the Maui Planning Commission as to what conditions should be established for that particular parcel that would be consistent with their community plan. And so that's how the whole process would be managed.

Ms. Buchanan: And what I trying to say is that's a pain and I would actually want Corp. Counsel to comment on that conditions of the zoning for future should that come up in a community plan. And I don't have a crystal ball, but it's my job as a planner to kind of be the crystal ball for my community. And so I'm saying that that's why Hana went that way because when you mentioned about each bedroom in a house can be one TVR, you know, it's like, wow, you get three TVR's in one three-bedroom house, and then I'm assuming that Hana guys said, "Oh, you know what? That's not acceptable for us. You can only have one TVR if you have another long-term rental." So that's what I'm trying to see. I'm trying to figure out the implications of what we gotta -- we have to do this now? Is it to our benefit to condition this thing now? Or we just going sit back until the day our community says, oh, we want SBR, and then we going have to go and try to do all this limitations, conditions, or criteria of how you going implement this SBR? That seems kind of troublesome to me.

Mr. Alueta: That's how you're doing it with all your zoning. That's how it is now. That's how -- I mean -- and so in this, in the case of the community plans with SBR, you have specific language that specifically address the use of SBR and where the SBR zoning could --

Ms. Buchanan: Okay, I have other questions. You said if the design guidelines do not exist for the region, then the director will use the business country district design standards in reviewing new development. By the region, what is the definition of "region?"

Mr. Alueta: For Molokai, you have a BC-T design guidelines.

Ms. Buchanan: So that is a region?

Mr. Alueta: Yeah, like -- and a lot of the regions can either be broken down by community plan, some of them are broken down by -- by specific towns. On Molokai, you have one Molokai Business Country Town Design Guidelines but you have specific design guidelines for Maunaloa and Kualapu'u --

Ms. Buchanan: Okay.

Mr. Alueta: And so forth, and Kaunakakai.

Ms. Buchanan: Okay. You said the SBR commercial uses will be limited to a maximum of 2,000 square feet. Is there a percentage of that 2,000 square feet that has to be the dwelling for residents or could that whole 2,000 square feet be used for the business and then say they living there?

Mr. Alueta: The whole property could be a commercial SBR entity. There is no requirement for the SBR zoning or establishment to be a mixed use. It's encouraged to be a mixed use; it allows for mixed use, similar to what we did with the BC-T and the BC-T district we allowed for mixed uses also.

Ms. Buchanan: The parking for this new SBR is that included in the other Chapter 19, under the parking stuff that we going review after this?

Mr. Alueta: No, it's actually included in this bill.

Ms. Buchanan: It's included?

Mr. Alueta: Yes, if you look at section -- it should have been. Let me double-check here. Section 4 of your Exhibit 1 is --

Ms. Buchanan: Exhibit 1.

Mr. Alueta: So if you look at each section of this Exhibit 1, Section 1 deals with amendments to the definition section of Title 19, which is 19.04. Section 2 is an amendment to 19.06.

Ms. Buchanan: 04 - okay. Okay, do some quick math, Joe. How many parking I need for 2,000 square feet?

Mr. Alueta: Seven.

Ms. Buchanan: I need seven parking spaces in one residential area for my 2,000 square feet SBR. Okay.

Mr. Alueta: That is correct. And -- and again, that discussion at the Maui was that potentially that should be either rounded -- put up to four -- one per 400 square feet. They discussed it because they felt it should be rounded up so that the square footage rounds up to the maximum of the 2,000 so it's an even number, which makes sense. I just carried some this over from the old bill and --

Ms. Buchanan: Okay. And then I have up to five TVR's I can do on that lot with my 2,000 square feet. Is that correct?

Mr. Alueta: No. There is limitation on the square footage with TVR's.

Ms. Buchanan: Just the limit is on five in the SBR?

Mr. Alueta: With a special use permit.

Ms. Buchanan: It has to have a special use permit when I get over what number or just for every --

Mr. Alueta: Over one.

Ms. Buchanan: Over one?

Mr. Alueta: Yeah. If you go beyond one TVR, you have to get a special use permit, which would be approved by this Commission, if you had SBR in Molokai.

Ms. Buchanan: Okay, wait. So, Joe, would it be to our benefit, as Hana had did, to come up with our own maybe criteria for the use of SBR at this time, or would you suggest that we wait?

Mr. Alueta: I would suggest that you keep it as a top of mind with regards to the review of the community plan because I think that if you have -- if you even choose to designate any property SBR, okay, if you choose to designate it in that community plan, you can say this is the criteria that should be used for, one, either community plan designating the property SBR and, two, what criteria or things that should be limited in that district when they come in for a change in zoning. Because remember, just because you color it on the map of a community plan, that's just what you future want to see, and it also only tells you that that plan is a 30-year plan. You update it every ten years but it's really a 30-year plan. So just keep that in mind. So you may color it but -- and then you'll set your own criteria for a change in zoning. And just because you have the community plan designation, it doesn't assure that you're going to receive zoning. I mean it's not a given.

Ms. Buchanan: Okay, I think last one, Joe, on the Exhibit 1, Line 39.

Mr. Alueta: Page?

Ms. Buchanan: Page -- Exhibit 1, Page 1.

Mr. Alueta: Okay.

Ms. Buchanan: Where you said that Corp. Counsel thought was pretty ambiguous. I think ambiguous is what Hana's conditions are set forth. That was pretty ambiguous. But anyway, the neighborhood scale commercial uses which are determined by the planning -- by the Director of Planning to be similar character and use, at what point does this Planning Commission -- does the director have purview over that specifically cause it says so, or will that, at some point, come back for community review? And what would be the --

Mr. Alueta: Again, the way it's currently written, it's left to the purview of the Planning Director.

Ms. Buchanan: You know I've always been an advocate of taking out a -- he get enough things to do. We would like to do that for him. So whenever it says that we giving up decisions up to the director, who that changes with every new mayor or whatever, then I feel like, you know, it should come back here, so I always going try substitute the use of the Director of Planning with the Molokai Planning Commission. You get questions? I give you guys chance.

Mr. Alueta: What you could do, Commissioner Buchanan, is that, traditionally, and if you look at some of the -- I don't wanna say "traditionally," but if you look at the past business districts as well as the industrial zoning categories, they always put a catch-all phrase or catch-all at the end of allowed uses, and they put in "similar uses that meet the purpose and intent of the chapter, as determined by the commission -- as determined by the Planning Commission." So if you wanna -- if you feel or are concerned over who and how and what is considered similar character and uses for a neighborhood scale, and you don't want the director to do it, you could have that caveat, again, put in as a -- a line - let me check my alphabet - H on Page 3, somewhere around Line 3, you would put an H and put that character -- put that similar uses, you know, the standard language that we have in Title 19 as determined by the commission.

Ms. Buchanan: And that would also go for Page 4 of Exhibit 1, Line 6 or Line 5.

Mr. Alueta: I'm sorry. Repeat that again?

Ms. Buchanan: Oh, that goes you know on Page 4, Line 5 and 6. Thank you, Commissioner Feeter.

Mr. Alueta: Okay, I would not recommend that because --

Ms. Buchanan: Because that's the guidelines, design guidelines for the region?

Mr. Alueta: That is correct. And because you're --

Mr. Chaikin: Corp. Counsel just wants to make a comment on this.

Mr. Hopper: I just thought, Joe, if they want Commission approval, could you make the similar uses simply a special use that they'd have to get a special use permit to do those uses? Because isn't that the same method that the -- if the Commission's going to review it rather than the director? I know the director was supposed to review in effort to, I guess, expedite permits and things, but if it requires Commission approval, why not list it as a special use? Take it out of the definition cause director review and approval criteria probably shouldn't be in the definition section and then put it in a special use or -- I mean cause if you're going to list it subject to Commission approval, that's what a special use is anyway, unless is there a separate section of special use permits that go over a lot of other criteria one would have to meet or --

Mr. Alueta: That's a good point and I -- I think that -- I think the intent that, at least I'm hearing from one Commissioner, is that they want to have the purview of the Planning Commission to make that determination. How we accomplish that legally and structurally, you have a good point, maybe that should be just put under a special use permit, however, that's under 19.510, which sets up a public hearing requirement and I'm not -- and my goal would not be as a public hearing requirement, it would just be as a communication or item to the Commission and that's why I would not want to have that placed under special use permits. I'd like to streamline process for the -- as Ms. Buchanan pointed out, the director has a lot to do so does staff, I don't feel that generating another staff report, holding a public hearing would solve the issues or concerns that they have. I think just putting it on their agenda as a published notice and having the Commission make that determination because it's -- do you follow me?

Mr. Hopper: Oh yeah. I mean, yeah, your recommendation and the Commission sure has their own so, yeah, I think they understand that.

Mr. Alueta: Okay.

Mr. Chaikin: Yeah, I think it all gets back to that vague definition that we have to work with. You know, as you pointed out before, we're dealing with neighborhood scale commercial, whatever that is. It's kinda like art. It's, you know, every individual has a different interpretation of what that means. And when you read through this, I'm not really sure how this works. I thought that we were trying to implement this zoning so people can just move forward and do their thing. So if there is SBR zoning, and somebody wants to start a

bakery in their house, don't they just start a bakery, or do they have to get permission from the director? Cause it says here that it's up to the director's discretion. So at what point does the director or the Planning Commission, if it's the Planning Commission, get involved in this?

Mr. Alueta: I think one of the -- I think they would -- in the case of a bakery, and they were limited to less than 2,000 square feet, we would consider that an SBR establishment.

Mr. Chaikin: That's correct. But where do you draw the line between what has to get Commission or Planning Director's approval and what does not?

Mr. Alueta: Bus repair.

Mr. Chaikin: Right. That's obvious. But there's a lot of things that may not be obvious and I think that, you know, some operator in the residential district is just going to go forward and do his thing. You know, he's not going to go to the director and say, "Hey, director, I've got this feasibility study. You wanna okay it for me?" He's just going to go forward and he's going to do his thing. He's going to open up his little repair shop and he's just going to do it. So I'm just, from a practical standpoint, there has to be a clear definition between, you know, where it falls on the line of meeting the okay of the director and where it's already established. And right now we have very vague definition so it's hard to tell whether they can just go ahead and do their thing or they need to get special permission.

Mr. Alueta: I guess I've met very few and far between businesses that -- that would operate unless they knew that they were illegal. The ones that have gone ahead and said, oh, I'm going to do it, has been because they know they're illegal. Most of the businesses that I've run into and the ones that have come into our office, the first thing they do is sit down and meet with the Planning Department or staff, zoning administration to get a zoning confirmation form done to say what is my zoning and this what I'm going to do. Can I do it? And that is your traditional business. They say, hey, is this listed? When it's not -- because you don't have it specifically listed, the first question is: Do I qualify? That they're going to ask is do I qualify? This is what I'm proposing. Do I qualify as an SBR establishment? Okay. I think for the most of these, the people that -- and the areas that are traditionally designated for SBR are your beautician shops, your architects, your lawyers, those types of uses but those that are -- if they're not already designated SBR as existing operations, they're going to ask: Does this use qualify?

Mr. Chaikin: Well, that's exactly what I mean. You've just listed some businesses. And if they were actually listed that was specific, then it would be clear. But as I just previously stated, it's like art. You say neighborhood scale commercial, and, you know, how is somebody going to determine whether or not their thing should or should not be included? They can go to your office and ask you, but I'm not sure people actually do that.

Ms. Buchanan: Commissioner Chaikin? Oh, no, you pau?

Mr. Chaikin: I'm sorry. Go ahead. Yeah, go ahead.

Ms. Buchanan: Okay. Well, I had a question and a consideration, and an answer probably to your question, I don't know everything, but is if they doing one SBR, it's a designated, you know, they can do an SBR, the answer is that you don't have that purview to review and make that decision but it's already outlined what the uses are for each zoning but -- and that's how come we had that discussion by Corp. Counsel about a special use permit cause every special use permit will be reviewed by this Commission, although that generates a lot of extra work for our already overtaxed planner, okay, and if I was Nancy, I'd be going: Oh my God, no. I don't wanna be reviewing every special use permit. I mean for the uses, taking away the purview from the Planning Director, but maybe that's what we gotta do because think about it - we just approved a 2,000 square-foot home in Kawela. Can you see a parking stall for seven cars parking outside that gate down in Kawela if we decided, hey, we wanted to make that an SBR designated area? So now you get seven parking stalls. What about Ranch Camp? Can see seven people parking outside around your little corner on a cul-de-sac? In my neighborhood, I cannot, okay? A good example of this would be Hawaii Kai Salts. Some years ago, when they first came and there was a small business they wanted to start down on Beach Place, right, so they had to come for a special use permit, okay, because that wasn't a normal use, that was something new, and there was discussion because they were attaching the side lots and then putting all that salt solar panels and then sucking up water, which they got a permit from whoever to do that, so that was a discussion. That would kind of a type of use but it's not in here right now, and Joe scratching his head, but that came to our purview because it was a special use permit. Now had that been an SBR, you couldn't say nothing. It's like exempted like a single-family dwelling house. So that's all I was trying to say is getting to the point where if we have a problem and somebody does have something, right now, you can only do a request for service at Maui County, and that's answering her question. You know, how you going enforce this? You going have to complain, complain, complain, complain, and that's when you get enforcement, you know. You no more parking anymore in Maui, in Kahului. You get the mcmansions now. I went there. I had to park two blocks away to get to my aunty's house because there's no parking because there's total build out. You get ten families living on one space because nobody can afford to do this anymore. So I don't have a crystal ball but I tell you what, everybody wants to come to Molokai, so I trying to be that crystal ball and try to interpret. So I just trying to see right now, we going do SBR, I'm in favor of maybe doing an SBR but maybe we make our conditions now.

Mr. Alueta: If I may, Mr. Chair, the -- I think you bring up some very valid points and those are all the discussion points that you would have during the change in zoning process that you would address the specific location, specific site, and specific concerns for that during the change in zoning process, much less the normal feting process of the -- of designating the property SBR during your community plan process.

Ms. Buchanan: I have one more question, Chair Chaikin, and he having his own discussion. Would this apply to Hawaiian Homestead land? Corp. Counsel, Joe, somebody?

Mr. Chaikin: Corp. Counsel?

Mr. Hopper: DHHL land that is used -- that's leased to native Hawaiians for homestead purposes is exempt from County zoning. If DHHL land is used other than for homestead purposes, then it's subject to HRS 171 for the use of -- the use of land, public lands, which in some circumstances does have to go through County zoning. There's an Attorney General's opinion on this in 1972 that dealt with the issue of whether or not County zoning applies and the opinion determined that, in certain circumstances, County zoning does apply to DHHL lands, but each individual situation actually has to be examined as far as to determine whether or not the lands being used for homestead purposes or not, but it's abundantly clear that if the land is being leased for use to live, you know, for the -- on the terms of what the Hawaiian Homestead Act allows, which are the 99 years nominal leases, then those lands used clearly for homestead purposes are not subject to County zoning, not subject to SMA either.

Ms. Buchanan: Okay, the reason why I ask that question was because I sat in for DHHL on an applicant who came in and wants to start a business, a small business that would fit perfectly into the SBR designation, and that applicant was told by Hawaiian Homes that if she met all applicable Maui County Codes and whatever, and that it was fine with them. It actually was like a green go light for every homesteader to open up a small business on their residential home. And after that meeting, I specifically remember saying, "Quick, everybody, let's go out and everybody start your own business. Hurry up. The, you know, the floodgate is open. You can do whatever you like." So that's why I trying to get clarification because that person still never open her business because she said she needed to get permits from the County so that's why I was wondering, and it's a food establishment place.

Mr. Hopper: If that person was told that they needed to comply with all the County rules, that's maybe why she ended up -- I don't know that situation, but generally on those lands, someone's not subject to, if they're used for homestead purposes, they would not be subject to County zoning.

Mr. Chaikin: Thank you. Joe, just, you know, just try to clarify this whole zoning issue. It's a little bit fuzzy cause it seems like there's so many different layers of zoning. I mean I don't even know all the layers. I know the State has their zoning, right? Community plan has their zoning. The County has their zoning. I don't know if there's other layers of zoning too. But for SBR, does that have to have some underlying zoning that's compatible with this, like if it's State, can you go under any of the categories or only certain categories.

Mr. Alueta: State Urban. We only have the authority to -- right, technically, the authority primarily lies within the State Urban District.

Mr. Chaikin: Thank you. Let me just ask you if, like for instance, if on Molokai, if we came to the point where we, you know, in the community plan we put SBR in some area, is -- and say there was already commercial operations in there that exceeded 2,000 square feet, I mean are they retroactive in or would they have to change or how do you grandfather existing commercial operations?

Mr. Alueta: First of all, how would they have been a grandfathered existing operation if they weren't legally established?

Mr. Chaikin: Well, I don't know. I'm just saying that maybe right now there's spot zoning and they wanted to change the zoning, I don't know, I mean I --

Mr. Alueta: Why would you change it to a zoning that would make you nonconforming?

Mr. Chaikin: Okay. Alright. Commissioner, you have any other questions?

Mr. Alueta: Again, the Hana one is illegal. None of them were legally established.

Mr. Chaikin: Commissioners, any questions? Alright, at this time, I'd like to allow the public to come forward and if there's anybody that want to provide testimony on this, now's a great time to do that.

a. Public Hearing

Ms. Judy Caparida: Hello, everybody. I'm here today. Nice to see you guys. I mean this paper is really thick. Thick for me anyway. I mean just given to us. There's a lot of stuff inside here that was passed from 1996. I remember those -- those times. And it was already brought up before about this. And they have said because there was a motion made that I feel that I need to make this motion in order to have things rolling. I make the motion that we adopt the Planning Department proposal for the SBR or service businesses residential zone and attach any additional recommendations from the Planning Department. Okay? The motion did not pass. There was one in favor, five against. So this is where we're at. The thing is that we're stuck with B&B's, we stuck with TRV's -- TVR's, we stuck now with a new junk just came out - SBR's. Now you know what? No even time for read to know what the heck this is all about. All I see is letters. Letters that don't even fit into our plans. I mean we went to this Planning Commission for Molokai's needs and all this is not our needs. I mean why we going answer to something that he says is not here yet. It's supposed to be for Maui. We talking about Maui. But in a little sly way, it's trying to sneak its way in to us. So you know what? We so used to with this sly mongoose stuff. And we don't need it. I mean we come out, we tell the truth because you know why? We

keep telling you give us the things that we can afford; the things that we know we can manage our lives here on Molokai. We not talking about those places that no more room already, no more space, no more parking, and this is what is really getting us, get us down with all this stuff because you know why? They just wanna do what they wanna do. The B&B's over here, the TVR's and all that, you know we gotta be very careful. To get all those stuff in place, you going have to go through a lot of steps. Now you not just going jump in a bed and make money. No. There is steps that you gotta go by to make it look good and legal and look presentable. Now we don't want our place on Molokai to look like Maui. A lot of little shops, a lot of little businesses in the house, and this is all the kind people only two in a home. They can afford to have all these. But if you look all the way going up on our roads to Mana'e, there's only two people, but the two people doesn't live here. The two people live in the Mainland. They get others taking care of their places. They not even what? Full-time livers here. Three months out of the year. You know what I found out? That's what they call what? Snow birds? They come home because it's cold up there. So what we're going to do to manage all these things to make it suit our lifestyle, our living? It is very very disgusting. No talk about crystal balls. It is common sense. Common sense tell you this is what we can live by and what we cannot live by; what we can give out and what we can bring in. The problem is they taking too much and not enough going out, or they taking out too much and giving in, and that's what's jamming us up. The whole world is getting messed up because of the plans that man make. So I need to bring this up. I say I looking through all this cute pages, oh, I remember this. I remember this. But you know what? Get down to the nitty-gritty of what's going to cause us to get to that point. That's what I need to say. It's not an easy thing - just come here and make the plans and want us guys to vote in a hearing. Hello? There's no hearing because why? We don't even know nothing about it. We should know something about it, Commissioners, and that's what I'm here to say. Thank you.

Mr. Chaikin: Thank you, Judy. Any -- any questions for the testifier? Alright, seeing none. Any other member of the public wanna testify on this bill? DeGray?

Mr. DeGray Vanderbilt: Yeah, aloha, Commissioner Chaikin and members of the Planning Commission. My name is DeGray Vanderbilt, 30 year resident of Molokai. You know, Judy brought up a good point, and again, it gets back to giving the public a chance to provide constructive testimony so you can make more informed decisions, and I think there's a lot of people in this community would help out if they would get the information on a timely basis. Joe put together a lot of good information here. You guys got it and you had a chance to review it. I got this today from Joe as did Judy. This would have been a very easy thing to scan in with the agenda online so when people pull up the agenda, they would get all this information, they could study it, and they could come here and provide constructive testimony to you. The Planning Department continues to not wanna do that kind of stuff to best serve our public and I think the Commission should really push that issue with them.

Again, I testified at the last hearing of the TVR's before the Council, and I had passed a copy of this bill. I didn't get a chance to testify that day cause I was a little late and one only other person testified. But it's coming up again on July 1 and I wanted to say that why wasn't this bill that deals with TVR's, bed and breakfasts, country inns in commercial areas be brought up when we were doing the TVR's? As a matter of fact, our Planning Commission, in its recommendations to the Maui County Council, recommended in all the commercial areas that there be no country inns or TVR's or bed and breakfasts. That was the recommendation. Now we're coming back with a bill that's coming in from left field that's setting up some kind of designation for the community plan that says that if you want, you can try to get this cause our Planning Commission thinks it's a zoning which could apply to Molokai, yet, on the TVR's, you were contrary to that so -- I mean I had a lot of points in this -- in this deal. I think Judy brought up a good one in the Planning Commission meetings that our Planning Commission didn't pass this back in 1996.

The other thing is I just wanted to make a comment about these designations. When we come up to our community plan, I think it would be best if this was just not proposed for Molokai, you say, "except on Molokai." If you wanna do this on Maui, have this designation, fine. Then when we come to our community plan, we can talk about maybe putting designations on with S -- what is it? SBR -- SCB -- or whatever. We could -- we could discuss that and if we wanted to put it, then we could put our limitations and conditions and we'd have time to really work on it, and then we also -- then we'd have to go back and change the ordinance to take out the "except Molokai," but we would have done it on our time and not rushing around at the last minute cause we -- we're trying to simplify things and this is just -- this is just another thing that -- that gets everybody frustrated and, as Judy said, give us -- we want stuff that we can manage and this is just one more uncertainty, there's a lot of questions in your mind, I know I have a lot. I just haven't had a chance to read all of these attachments and everything that Joe put together. But anyway, I just wanted to share my mana`o. Thank you.

Mr. Chaikin: Thank you, DeGray. Any questions or comments for DeGray? Alright, let me just say that, you know, on everyone of our agendas so far I have put on there this section on how we're going to make this Commission more user-friendly to the public, and we continue to work on that so -- and we are pushing the department every single meeting to come up with some of these recommendations that will make it more user-friendly, so we are moving in that that direction. Thank you.

Mr. Vanderbilt: Well, I just had one other comment was that I don't know how long you have, there was one of the alternatives here was to defer action until you get some more information, I don't know whether you have 90 days or 120 days, but anyway thank you.

Mr. Chaikin: Thank you. Any other members of the public wanna make any comments on this particular bill for an ordinance? Okay, seeing none, we'll close the public testimony at this point and we can kinda go into deliberation. I mean we have some choices, some

recommendations. Can you just go over those, Joe? What are our options at this point?

b. Action

Mr. Alueta: Recommend approval, or recommend denial, recommend approval with conditions, defer action if you feel that you need more information with the specific --

Mr. Chaikin: Thank you. So what's the -- what's the feeling of the Commission? Do you guys feel like we have enough information to make a decision, you think we need more time to kind of mull this over and come up with some more specific recommendations if we wanna approve it with recommendations, or do you any of you feel -- have any feelings one way or the other towards this?

Ms. DeCoite: Joe, oh, I'm sorry.

Mr. Chaikin: Go ahead.

Ms. DeCoite: Joe, how much we get on this -- what is the time line?

Mr. Alueta: A hundred twenty days -- I believe it's 120 days from the time of the public hearing for us to return -- to get it up, yeah.

Mr. Chaikin: Any other Commissioners have any comments on this? Commissioner Feeter, go ahead.

Mr. Feeter: Could we make comments and then discuss it briefly and then vote on it as Joe --

Mr. Chaikin: Yeah, we're -- like we're in the commenting phase right now. We're trying to figure out what course of action we wanna take and if we wanna make some recommendations that will make this bill more, you know, appropriate for Molokai, now is the time to bring up those discussions. Go ahead.

Mr. Feeter: If I may, I noticed that in the cover here that, okay, on - oh, there's no page - but under summary of agency comments, I won't belabor that, but there were two that had negative comments: Department of Transportation, one, and that's very clear; the other one was the Department of Health and that was also very clear and very emphatic. However, I didn't see anything from the Department of Education. How in the world are you going to increase development, which I believe this clearly indicates, this SBR, and without having any subject matter of education facilities, campuses, teacher housing, etcetera?

Mr. Alueta: That would occur during the subdivision or during a change in zoning for residential districts; that's when most of the Department of Education assess their fees or normally during an entitlement process, such as a change in zoning. Because this is more of a -- this potentially does have some residential areas that they may choose to assess it, but because this is more for specific lots, for SBR, you're not really creating a lot, it's a zoning change.

Mr. Feeter: Well, what you're going to do with the school children?

Mr. Alueta: They normally go to school but I don't know -- I don't understand as far as the rational nexus --

Mr. Feeter: Why wasn't Department of Education apprized for their comments?

Mr. Alueta: Because we're establishing a zoning category and development standards. There currently is no zoning and you're not doing a subdivision, or a change in zoning permit, or a district boundary amendment, or you're not doing a community plan amendment at this point that would establish --

Mr. Feeter: Okay.

Mr. Alueta: Have a rational nexus between the Department of Education and the land use entitlement permit that's being requested.

Mr. Feeter: Okay. Well I, personally, would -- I think that that should be addressed. In any community development, education is one of the primary concerns and I'd certainly like to see that and, hopefully, this group will take that in consideration.

Mr. Alueta: I agree with you, Commissioner Feeter, however, this is not a land use development permit.

Mr. Chaikin: Any other Commissioners? Commissioner Buchanan, go ahead.

Ms. Buchanan: I can move to make a motion, but before that, is the County real clear, and maybe Corp. Counsel can give one -- one really short and reason why that they felt that this not -- that this action or legislation did not trigger 343 or an EA since, obviously, it would have cumulative impacts, that's question one; the second question is: If you have a TVR in a SBR and a small business in 2,000 square feet, besides the seven parking you need for that business, do you need additional parking for a TVR?

Mr. Alueta: First, there is no trigger under Chapter 343. I'll answer that question for --

Ms. Buchanan: Okay.

Mr. Alueta: For Corporation Counsel. He can correct me if I'm wrong. Secondly, you would be assessed as you are now with any parking requirement based on the uses and the square footage allocated. So in the case of a mixed use district for SBR, say you had a single-family residence, and then you -- then you also had -- somehow got a permit to build a 2,000 square-foot commercial entity, and on the second floor of that commercial entity you put a transient vacation rental, you would be assessed two stalls for your single-family home, you would be assessed seven stalls for the 2,000 square feet of commercial area, and you would be assessed the parking requirement for a transient vacation rental, whatever that parking count is. I don't know -- have that one off the top of my head.

Ms. Buchanan: You don't know what that is? Cause right now, we're up to nine parking stalls plus the TVR.

Mr. Alueta: That is correct.

Ms. Buchanan: So that -- what would that have to do? You would have to allow for the parking space on site in -- off of the County roads or State roads?

Mr. Alueta: That is correct. And they would also have to meet the, during that development -- during -- off of County and State roads, they would have to provide the parking on site and they would have to meet the criteria of the design guidelines. So if the establishment, per se, was on a small lot, 6,000 square-foot lot, it is highly unlikely that we would approve that development because they probably would not meet the criteria for a -- for that area because the lot is too small. But if somebody had a 20,000 square foot lot and they were able to put all the parking behind that 2,000 square-foot in the back, he probably would be in character with the area.

Ms. Buchanan: Okay, so logistically, as Chair Chaikin had pointed out earlier, if the area I move into will automatically I get this SBR designation onto my land, I can start business tomorrow. I don't have to come to you for a permit. I don't have to clear how much parking I doing. I just going start opening business and then at the point where it starts to impact my neighbors and they call Maui County with a request for enforcement or whatever, that's -- I'm kinda trying to see if that would be the scenario because they don't have to come out and -- and ask your permission if they're in the SBR, right?

Mr. Alueta: They would have to get the zoning. And on Molokai --

Ms. Buchanan: I'm assuming we have the zoning.

Mr. Alueta: You would have to have the community plan designation and then you would also have to have the zoning so --

Ms. Buchanan: Okay, so I have my community plan, I have my designation, I'm zoning, I'm living in an SBR --

Mr. Alueta: So somehow --

Ms. Buchanan: I wanna sell cookies tomorrow.

Mr. Alueta: Okay, you would be allowed to; that would be assuming that, one, that this Commission recommended to have the SBR on Molokai in the community plan process, and you just willy-nilly picked a random parcel with a throw of a dart on a land use map, that may be the case, and you also granted broad-based zoning with no review, yes, there is a potential that someone who had that foreseeable luck of winning the lottery on Molokai would get that blanket, and I'm not trying to be facetious, but that's the reality. There's so many built in checkpoints in the SBR zoning because it is a fine balancing act between allowing commercial within -- within on the fringes of residential. So the selection of these parcels that would qualify for SBR has to be vetted out very carefully during the community plan process, and most people probably have a good idea. Secondly, you're going to go through the third gambit of getting a zoning change and you would have to get a zoning change with no conditions, other than just the zoning standards.

Mr. Chaikin: We have a clarifying comment over here.

Mr. Hopper: Yeah, Joe just caught it at the end. Whether or not there's comprehensive zoning to SBR or there is a rezoning of SBR for a particular landowner, that's going to have to come before Planning Commission and the Council's going to have to act on it. This may be different than -- than any -- changing zoning standards for zoning that exist. For example, if there was an amendment right now to the ag bill, and you change something in the ag bill, that would affect people immediately and those people would be able to go ahead and take advantage of or would be affected by that change. But since SBR zoning, this establishes it from the beginning, it exist nowhere right now, so there's -- for anyone to establish this as their zoning, they would need to either individually come in for a zoning change and be subject to conditions, or have comprehensive zoning by the County, in which case though there's the County Council gets to decide on that, that would have to come before the commissions first. So it's different than changing the -- the -- it's different than changing the standards for an existing zoning category, and this in addition to the fact that the department's position is that no one can get this SBR zoning unless they also get a community plan amendment because SBR, I guess, does not fit into any existing community plan category other than SBR itself, which only exist in those couple of areas. So -- and I think DeGray's point was correct in that if somebody did -- if you made a recommendation now to either exclude Molokai and decided later in the community plan that the community plan advisory committee and the Council decided that SBR was appropriate, since Molokai was excluded, you would have to then go ahead and: A) Take out the prohibition "except for Molokai," and B) The people would individually still have to

come in and get the zoning. So if you wanted to establish standards now, then that extra step would be taken care of. If you wanted to exempt from Molokai if there was a decision in the community plan level to adopt SBR zoning, there would have to be a change to the entire section, which could be initiated by the Planning Commission or the County Council or the -- or the Planning Department; that would have to go through public hearing, your review, and then the County Council would have to decide on that. And then after all of that happens, someone would have to then still come in for a zoning change to their property. So those would be the steps that would be involved in adopting this, you know, as the SBR zoning. If someone operates illegally, I mean that's a separate situation and they're subject to fines in that situation. But in order to legally take advantage of SBR, those would be the necessary steps.

Mr. Chaikin: Commissioners, does anybody else have any comments to this or anything they wanna add to the discussion? Alright, well, we have heard a number of different things from the Commission. I think Commissioner Feeter earlier brought up the thing about noise abatement, and then we heard from Commissioner DeCoite about enforcement, and I think that's kind of a theme that runs through all of these different ordinances that we see. They're not really enforcement friendly. There's no verbiage within the -- within the bill that says that, you know, if these guys turn out to be a nuisance and not compatible with the neighborhood, then the Planning Director can, at his sole discretion, have them shut down, or something like that. There's no language in there and so it falls into this black hole of the enforcement department that has been a problem in the past keeping up with this stuff. So I'm just throwing that out that, you know, it would be nice to have this ordinance some mechanism that something could happen very easily and quickly should there be some, you know, some thing that turns out to be a nuisance. Any other Commissioners have anything to add? Okay, we also heard about the, you know, there's the issue about whether or not we, as a Planning Commission, wanna take a look at these businesses instead of automatically approving them. Right now, I think the Planning Director, as it's written in here, takes a look at -- at some of these businesses and unilaterally makes the decision whether or not he thinks that they're compatible with the neighborhood, and I think Commissioner Buchanan had brought up that we thought that maybe we, as a Commission, could somehow take a look at that, I don't know how that would work as we talked about before, but those are some things that, you know, I've thought up if, you know, that we could revise this ordinance that would include some of those things, but do you guys have anything else or any feelings about what we wanna do with this ordinance? Commissioner Feeter, go ahead.

Mr. Feeter: Is it possible to either delete some of the words and sentences, or -- yeah, let's leave it at that?

Mr. Chaikin: Well, anything's -- we can make any recommendation we wanna make. It's just that if you have any specific --

Mr. Feeter: Yeah, I do. On Page 4, I would like to delete "at his discretion," and that is Line 6, and Lori referred back to that a little earlier. And if you want to say, well, what would we put in there? We would add "according to guidelines."

Mr. Chaikin: Yeah, or we could say instead of saying "at his discretion," it saying "in concurrence with the Planning Commission." So he would have to come --

Mr. Feeter: That would be good.

Mr. Chaikin: We would have to concur with his finding.

Mr. Feeter: Okay, that's number one, and I'd like to see that changed. And the other one is on Page 3, getting back to maximum building height, and then in the note section, if you'll all follow me on that, it says, "except for vent, pipes, fans, chimneys, antennas, solar collectors, and roofs, shall not exceed 40 feet." We've got to go green and so wind antennas are important and there are home use wind antennas and so, therefore, I'd like to add wind antennas to that, on Page 3, relative to height. And there has to be a common sense things and obviously you don't want one 150 feet but there are home wind turbines that will immeasurably save on the carbon footprint and also on the electric bill. I just wanna throw out a personal thing on this, and Sherman and I have shared this a little bit, and, you know, our electric bill for the two of us is now \$18.00 a month and I wanna know, the neighbors are 300 and so forth, and we've got to do something about that, and so things like this I think the Planning Department is - I won't say turning a blind eye to this because it's going to be in the conference that's coming up and it's going to be very worthwhile - but we can't use these old archaic systems of height. We've got to -- we've gotta be tolerant and we gotta use some common sense in it. So I would like to add the word "wood turbines" -- excuse me, "wind turbines." Thank you.

Mr. Chaikin: Well, you were talking a little bit earlier about, you know, noise issues. Does a tall wind turbine going to create a noise problem for the neighbor?

Mr. Feeter: Unfortunately, I wasn't able to find a diagram and a photo of what I had in mind but in a recent publication there is a wind turbine that is up on -- a couple has a home and the wind turbine is just a little taller than the man's height, and it's not a propeller type of a thing, it's a rotating - forgive me for not being able to explain it - but it catches the wind in a spiral manner and it's --

Mr. Alueta: It's a horizontal -- horizontal axis wind turbine.

Mr. Feeter: Well, horizontal or vertical. It's the axis that's vertical and the rotating -- it's transparent. That is the -- they call it the --

Mr. Alueta: It's looks like a cut out 55 gallon drum.

Mr. Feeter: Yeah, so it's not -- it's not a school bus size generator on top of 150-foot tower. It's probably six to eight feet and generating enough power for that family's needs. So let's not -- let's not put the brakes on, by zoning techniques, on being able to be independent of oil. Thank you.

Mr. Chaikin: Thank you, Commissioner. So is there any other feelings from any of the Commissioners whether we wanna tackle this today, right now, putting, you know, some amendments on this or you guys have any feelings on this?

Ms. Buchanan: Are you calling for a motion?

Mr. Chaikin: If you're ready to make a motion, we'd entertain a motion at this time.

Ms. Buchanan: I can wait till Commissioner DeCoite comes back but I'll make a motion for discussion sake.

Mr. Chaikin: Okay.

Mr. Kalipi: Before you make a motion, I guess I'll comment and then waiting for Lynn or whatever, but if not --

Mr. Chaikin: Alright, since Lynn's not here and you're going to have to state the motion again anyway, let --

Mr. Kalipi: Yeah, yeah. She didn't make a motion. I said I'm going to comment before she makes her motion or you can make your motion and we can go into discussion.

Mr. Chaikin: Alright, sorry, Commissioner Buchanan. Go ahead, Commissioner Kalipi.

Mr. Kalipi: Okay, I really like the thought and the idea of "except for Molokai" that I've heard just because then the community plan of Molokai will have to be in conjunction with the Planning Commissioners to get such SBR on our program and then we can really scrutinize it and detail it, spend little bit more time, and look at special -- specific areas and conditions. However, you know, my -- I guess my popular saying is that if it's not for Molokai, then, you know, if it's for Hana and Wailuku, then let them make their own decision because if we had to make Molokai decisions, I wouldn't want somebody else in somebody else's district to tell me what I can do in my own district. However, if they're making a decision and someday it's going to affect us, then I think that's why we should, you know, I like the discussions that we scrutinize the language and the process. And so with that said, I would like to think that we could also recommend to Wailuku and Hana or the Commissioners at that side if they would consider looking at noise pollution, if they could consider looking at revising where "the Planning Director" is to put in "the Planning Commission Commissioners," that they could look at the maximum build height of wind turbines and so

forth that was from Mr. Feeter. So what I'm saying is that I'm kind of putting in suggestions to help them if -- to make a decision and if they don't want it, that's their decision. If they don't wanna take these food for thoughts, then that will be their decision. I would like to think that if I'm making a decision in my own backyard, that I'll be able to make that decision. And so when I look at "except for Molokai" and how that plays out that we're able to establish the boundaries, the time frame, the specific areas, and so forth and so on, I like that because then we're -- we're in charge of making the decision concerning SBR when and if ever it comes our way. And so that's my food for thought.

Mr. Chaikin: Thank you, Commissioner Kalipi. Commissioner Buchanan, did you wanna go ahead?

Ms. Buchanan: ...(inaudible)... make a motion ...(inaudible)...

Mr. Chaikin: Well, for discussion purposes as you had said.

Ms. Buchanan: Okay. So I appreciate everything that Commissioner Kalipi had to say and I wanna take his suggestion and wanna bump that up and actually start to implement something, so the motion is this - let me get my eyes on - I move that we defer action on this proposed bill in order to gather specific additional information. That specific additional information would include the following: For staff to research and come back to this Commission with a way to implement this SBR designation on the Island of Molokai as a special use permit, which would then trigger a public hearing which would allow for community input should people wanna establish this SBR on Molokai. And that's the motion and then we'll have discussion after.

Mr. Chaikin: Do we have a second on that?

Ms. DeCoite: I'll second that motion.

Mr. Chaikin: Motion seconded. Any further discussion on this?

Ms. Buchanan: Since I made the motion, let me give you my reason why. I think this designation has a place for use on Molokai, to be honest. I think what is stopping us or what we fear is unregulation and people just going crazy within this designation. As we all know, homesteaders already run several small businesses off their homesteads even though they're exempt from County rules. That might change. There's already been discussion to change that. Yeah, going take some time. But anyway, for people who not fortunate to be Hawaiian, and need to make a living, I think this SBR works for people who starting out, who's small, who might fit the criteria, but what I wanna do again is take that purview away from one person and giving that responsibility back to the community. As we've seen with Manae Goods and Grindz, and other businesses that are operating in areas that needed a special use permit, it's all good. If the community is in favor of your

business or whatever it might be, and I can name several already on Molokai, then trying to cockroach into a special use permit or whatever, maybe this SBR would work. It's a good thing to have as long as you make your conditions, as Hana has chosen to do, although I don't agree with Hana's recommendations, by the way, but that's my reason for the motion.

Mr. Alueta: Mister --

Mr. Chaikin: Thank you. We have a comment over here.

Mr. Alueta: Okay.

Mr. Hopper: I actually had a question to clarify the Commission's intention. Is it an intention to require a special use permit to get the zoning SBR, or require a special use permit for certain uses within the SBR district because -- which of those? Was it someone trying to get a special use permit to be in SBR or to establish a TVR or was there any specific use that there would be --

Ms. Buchanan: I think it would be both. What I trying to get at is -- is trying to allow an SBR designation. Instead of us always falling back on an "except for Molokai" and be live we no like nothing you guys are doing, you know, this does has a -- it has a place for the small business person trying to work out of their home until they get big, so what I'm trying to do, Corp. Counsel and Joe, is help me out here, get me something that will, as a safeguard to this community, at least have the community have input, besides going through the community plan and all that kind stuff, where it says here, in your Exhibit 1, that it comes to us instead of going to the Planning Director for review.

Mr. Hopper: In this case, to get SBR, again, someone has to get a change in zoning. They have to do a lot more than the special use permit, as it would stand now, which is to actually get a legislative action by the Council to change their zoning cause it doesn't exist in zoning anywhere. So in order to establish their area as SBR, the person would have to do more than get a special use permit right now. They'd have to actually get a change in zoning. That's why I was trying to clarify between if there were special uses cause -- cause right now the director can't designate an area SBR. He can't -- he or she can't do that. The director is permitted to do certain things under the SBR ordinance, which could be delegated, well not delegated, could be bumped up to the Planning Commission as far as a special use permit. But there's only a couple of things the director has the authority to do here: one of them is to allow businesses other than the ones that are specifically listed, and then one of them is to, I think, interpret the design guidelines. Those are -- so that's why I just -- we can certainly research and try to get additional information or try to think of things creatively but as it stands now, in order to establish this zoning district anywhere, an individual lot owner or landowner would have to get a change in zoning, which comes not

only before you but also before the Council. It's actually a lot more difficult than a special use permit.

Mr. Alueta: And, Mike and Commissioner Buchanan, in addition to it, you don't -- to get to even apply to the zoning you have to have a community designation of SBR and you do not have any lands on Molokai designated SBR. And if you somehow chose to, during the community plan process, designate some lands SBR, you would have an incredible amount of discussion on what properties would qualify for SBR and you probably would establish your own criteria as to whether or not what properties would qualify even for a zoning change. Then you would have to come back and each individual parcel would have to get a zoning change to get zoning to the SBR. Only then, after those two rigorous legislative processes, would you have a -- would they be subject to SBR. If you don't want any SBR or make it even twice as difficult, I guess you could say, to get an SBR on Molokai, don't put SBR in your community plan --

Ms. Buchanan: Yeah, yeah.

Mr. Alueta: Yeah, as your designation, and if somebody wants to somehow be zoned SBR, they would have to then do a community plan amendment, which would then require an environmental assessment, and then they would have to do a community plan amendment through this Commission, and then do a change in zoning and come before this -- and at all three of those steps, you would have to have a public hearing, not a public meeting, but a public hearing in which there would be notice to the surrounding property owners. So I am -- so having the special use permit or if you wanna have that type of discussion I think has to -- would occur probably at your community plan level first.

Ms. Buchanan: Okay, wait, stop. Stop. Joe, you said a little while ago that an individual can come in for SBR designation. Let me clarify cause when I think of a designation, I'm thinking about a whole district or whole area. Can individual people come in for a designation?

Mr. Alueta: You can come in and designate your small 6,000 square-foot lot, ask for a community plan amendment to be SBR, and they would have to come in and do an EA; they would then have to also do a public hearing before this Commission -- well, one, the EA would have to be a public hearing, you would have a meeting, and you would be the accepting authority, so then you would have to decide whether or not there was any comments or corrections to that EA and your concerns based on what is being proposed.

Ms. Buchanan: Okay, wait. Stop. Stop. Let me understand even you gotta draw me one picture, draw me one picture. Okay, so let's fast forward. My community plan says I can have an SBR. They clearly -- they choose the area. Where do I get from an individual can apply for an SBR between my community planning designating an area or whatever? I not following that.

Mr. Alueta: Community plan designations happen -- can either happen during a -- during your community plan update and review, in this case, the one you're doing now. At that point, people can come in to the Commission and ask: Can you please consider this land to be designated SBR on the community plan? You would then make a recommendation or say no or yay to that person in your deliberations, okay, for that individual parcels, okay. Now, secondly, after that, once the community plan is adopted, my understanding of 280 -- 280B -- whatever the new community -- 208B, 280B -- is that community plan amendments are only going to happen once a year so you're going to take them as a batch group in which people who seek community plan amendments would come before each of the commissions with all of their proposed changes so individual owners would come before you with a community plan amendment sometime in the future during -- you know, after you've adopted your last community plan.

Ms. Buchanan: Okay, wait, wait. Stop. Stop. I guess you're not following me, Joe. Okay, and I -- well maybe I not following myself. Let me understand this. Okay, my community plan says they allow for SBR designation say for the Island of Molokai, okay. Let's just say or for all of Kaunakakai Town, for Kalamaula why we cannot that? What is -- how --

Mr. Alueta: You do each individual parcels. Individual parcels are designated as being single-family residence, being business --

Ms. Buchanan: Okay.

Mr. Alueta: Being light-industrial, being commercial. You may do multiple parcels. So you may take a strip of outlining residential areas that are along a major roadway and say, "You know what? This is a strip of single-family homes, it's out in wherever, it's zoned residential, but we think this should be SBR." You say, "All of these ten lots along this major roadway we're going to say SBR." At that -- and you may set up your own criteria as to why, during your discussions, as to why you want to designate it SBR. After that, those individual lots would have to come in for a change in zoning. At that point in time, they're going to explain, well, I want a change in zoning because I wanna do a 1500 square-foot bakery and yada, yada, yada, whatever it is; you, at that time, would set conditions of whether or not that person is legit and you would say, "Yeah, that use makes sense in -- and I think we're going condition you to be -- you can have SBR and we're going to limit you to 1500 square feet, not the 2,000, we're going to limit you to just --"

Ms. Buchanan: Okay, this is what I'm getting at, Joe. This is all we want. All we want is, at a point, is somebody looking at reviewing this kinda stuff. See the logistical implementation of this designation is what I trying to get at, the nitty-gritty. Down -- tomorrow, if Hana gets their designation tomorrow, since they started all of this, if they get their designation tomorrow, what's going to happen?

Mr. Alueta: Individual parcels would come in --

Ms. Buchanan: To who?

Mr. Alueta: To the Planning Department, file an application for a change in zoning from urban reserve to SBR.

Ms. Buchanan: And who says yes or no?

Mr. Alueta: The County Council. They then would -- that application would then go to the Hana Advisory -- or first go to Maui Planning Commission; the Maui Planning Commission would designate the Hana Advisory Committee to hold the public hearing on behalf of the Maui Planning Commission; we take the thing; we hold the -- we publish a notice 30 days before; send notice to 500 feet radius to that particular parcel for all the parcels that are applying for that zoning change at that time; everybody gets noticed; we hold the public hearing in Hana Town, in that district; they get commentst; Hana Advisory Committee makes a recommendation to the Maui Planning Commission; Maui Planning Commission takes those recommendations; then adds their own recommendation for or against to the Maui County Council; the County Council then deliberates and approves or denies the request. If they approve it -- most likely --

Ms. Buchanan: Okay.

Mr. Alueta: They will attach conditions of approval.

Ms. Buchanan: Okay, this is what I was trying to get at. Okay, a level of scrutiny, not just designating a district and then everybody just can start business tomorrow. If it's that way where you say that each individual person that wants to be zoned that, because I wanna cook cookies tomorrow and sell them tomorrow, I gotta come to you guys, you guys going turn around, so the Planning Director not just going review this and exempt this, this going have to go to County Council?

Mr. Alueta: Yes.

Ms. Buchanan: Even for Molokai?

Mr. Alueta: Yeah, for every --

Ms. Buchanan: Okay.

Mr. Alueta: For every zoning change and --

Ms. Buchanan: No, I just -- I just making clarification.

Mr. Alueta: No, no, no. No, no, and I'm saying also is that in the case of Molokai, in case of Lanai, you have extra review over this, okay, because you don't have any lands that are community plan designated SBR. So you're not even -- if this is adopted tomorrow, right, nobody could even come in for -- I mean could do an SBR use that's listed because nobody's zoned SBR and to even get to the point where they would be subject to this legislation, they would have to, again, like I say, go through a community plan amendment --

Ms. Buchanan: Okay.

Mr. Alueta: And the whole change in zoning.

Ms. Buchanan: But, Joe, when I start having my public hearings for my community plan amendment, I going come up there and I'm going to say to my community plan people that I would like them to allow SBR designations on Molokai as part of the community plan.

Mr. Alueta: And at that point in time, right, you would --

Ms. Buchanan: Which is soon.

Mr. Alueta: Correct. You would either, one, if you're going to testify in a broad manner to wanting SBR on Molokai or not wanting SBR, in your case if you want it, you would say I think this bill -- that there's a zoning category called "SBR," we think maybe Molokai could have SBR but this is the criteria, meaning you're going to say, properties -- properties located along major highways, or whatever your criteria is you're going to say that's your criteria. Or you're going to say, you know, so and so's got a -- he's doing this, this, and this. These properties, these specific parcels should be looked at as potentially being designated SBR on the community plan. So there's, again, I don't know how --

Ms. Buchanan: That's what I trying to get at.

Mr. Alueta: Okay.

Ms. Buchanan: Okay. That's, in a roundabout way, two hours ago, that's what I was trying to get at is the criteria whether we should accept this SBR designation and then go with criteria upon ourselves, you know.

Mr. Chaikin: Alright, Lori and Joe, we need to get moving here, and you did make a motion a motion to defer this. I mean I think it goes beyond what you and him were just talking about because once the SBR is established, it's established for that lot, and that guy can open up his bakery, go bankrupt the next year, and then who knows who's coming in there and opening what business. We don't know. He doesn't have to go to anybody. He just opens up his thing and, hopefully, it's compatible. So we need to get some, you know,

protection in this ordinance that will protect us, you know, so people just don't go hog-wild and open up whatever they think. So, you know, we really need to move on so I would like to open up some kind of a motion or entertain a motion that we can defer this and get a little bit additional information. I would -- well you have the -- you already made the motion and she seconded, but there's some other, you know, friendly amendments that I would like to put on there because there's some other things that I think we should look at. I'd like to see language that would make this enforcement-friendly that would allow the Planning Department to enforce relatively easy some business that turned out to be a nuisance or -- or something so, I don't know, I just think it should be in the ordinance and not referred to some enforcement ordinance in some other place that is difficult, so maybe you can come up with some wording for us on that. Did you still, on your motion, I know you got that motion out, Lori, you had that motion with the special use permit, is that something that you're still sticking with or -- or you're resolved with the --

Ms. Buchanan: I'm going to withdraw my motion but I think Commissioner Feeter, since we're still in discussion, has something to say.

Mr. Chaikin: Okay, Commissioner Feeter?

Mr. Feeter: Okay, let's be realistic.

Mr. Chaikin: And, Commissioner Feeter, can I just interrupt you and say we've gotta be very quick because we've got people that flew in here from Maui to present some stuff and we've gotta make sure that we have an opportunity to get to them before we ...(inaudible)...

Mr. Feeter: My middle initial is brevity.

Mr. Chaikin: Okay, brevity. Thank you.

Mr. Feeter: Let's be realistic. Is -- are we anti-development? Are we anti-community? We've got people that are crying for jobs. The economy, from -- all the way from Aloha Airlines has trickled and of course we all know about the Ranch. There are people that have home industries, upholstery, catering, pigeon flying, food preparation, masseuse, jewelry, bee culture, and tourism. Now are we -- are we going to sit here and be -- deprive the people that can't be at this meeting? There are people out there right now that are working two jobs and struggling to spend time with their families, it's unlikely they will speak out even if they were predisposed to speak out, that they would dedicate extra hours to attend any Council or Planning meetings, let alone write a letter to the paper. They can't be here cause they're working. So let's put this in perspective. We've got to help the people of this community. We've got to look at some hard and fast data. We can -- gotta stop this speculation in saying that this is this and this when we don't have hard and fast data to prove it. And my point is that I'd just like to delete this whole special use business because we're -- we're hurting people and this constant bicker about, oh, we're going fine,

and oh, we're going to turn 'em in. You know, it's going to take it's own course. There are agencies to deal with that, it's always been complaint generated, and that could work out. It still works. Basically --

Mr. Chaikin: Well thank you, Commissioner Feeter.

Mr. Feeter: That's what my point is.

Mr. Chaikin: Yeah, and --

Mr. Feeter: Let's be helpful.

Mr. Chaikin: And that's well taken and that's something that Joe had offered up earlier, if there's a way that somehow we could somehow have authority where it wouldn't be a special use permit and have to go through the public hearing thing and all of that. Maybe you could explore that between now and the next meeting and see if there's a way where we can have some authority over, you know, what businesses go forward and which ones don't; maybe if they're not specifically listed, then they have to move forward and get the Planning Director's approval and our concurrence, or something along that line.

Mr. Alueta: We can -- what we can do is I can cut and paste a lot of the uses that are within the neighborhood business district, from the B-1, and add those to the -- to this SBR district so that there will be a specific listing of those types. The reason that we kinda -- the department has moved away from listing everything, like a laundry list, is that you're going to always miss one and times changes, like you know back in the '90's, the classic was: where do you put a roller-blading repair shop? There's a roller-skating repair shop. There's no roller-blading repair shop. So technology changes. I mean so -- and things change so that's why you try to leave some ambiguity or broadness for interpretation by the director, by the -- and so if you wanna leave, like I say, have that catch-all phrase, we do a laundry list of allowed uses to make you feel for comfortable, and then put anything else that's suitable and similar in capacity is determined by the Planning Commission. I can draft that up for you. I mean I can -- that would be -- that could be your recommendation. Is that my recommendation? No, obviously not. That's -- that would come to -- come from you as being the Planning Commission to the County Council.

Mr. Chaikin: Alright, thank you. Joe, you basically heard, you know, our discussions here and you know what some of our concerns are so if there's no objection here, I would like to defer this item and give us more opportunity to, you know, think about this and see if there's anything that we wanna put in there. But before I defer this, is there any other comments by Commissioners that you want them to look at and come back to us at the next meeting with?

Ms. Buchanan: Since we had a motion on the floor and we didn't take a vote on the motion, I think it would be more proper to withdraw that motion and make a new motion.

Mr. Chaikin: You said you were going to withdraw the motion but --

Ms. Buchanan: Yeah.

Mr. Chaikin: Okay.

Ms. Buchanan: Cause right now you're calling for a deferral but that's still in discussion so --

Mr. Chaikin: Okay.

Ms. Buchanan: Let me do this, let me withdraw my motion and let me make a new motion. The new motion is to defer to let this Commission come up with the criteria for SBR should be decide that we needed SBR. That's my motion.

Mr. Chaikin: Okay, any second?

Mr. Feeter: Second.

Mr. Chaikin: Any discussion?

Ms. Buchanan: That would be, sorry, to include what Joe had said a little while ago. You can include a laundry list, not that we going take the laundry list, but you can include that and anything else that you would find helpful from this discussions.

Mr. Chaikin: Alright, any further discussion?

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Buchanan, seconded by Mr. Feeter, then

VOTED: to defer to let this Commission come up with the criteria for SBR should be decide that we needed SBR.

***Assenting: D. Williams; S. Napoleon; L. Buchanan; B. Feeter;
L. DeCoite; J. Kalipi***

Excused: M. Pescaia

Mr. Chaikin: Okay, unanimous. Thank you, Commissioners.

Mr. Alueta: Thank you.

Mr. Chaikin: And, I tell you what, why don't we just take a really short break, maybe like a four-minute break, and then we'll get going again and we'll very quickly go through this next ordinance, and we may have to defer that as well. Thank you.

(A recess was called at 2:45 p.m., and the meeting reconvened at 2:51 p.m.)

Mr. Chaikin: Alright, at this time I'd like to bring this meeting back to order and move on with our next agenda item, which is another bill for an ordinance for off-street parking and loading. Joe, can you give us a quick recap of this bill?

2. MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance Amending Chapter 19.04, Maui County Code, pertaining to General Provisions and Definitions, and Amending Chapter 19.36, Maui County Code, pertaining to Off-Street Parking and Loading. (J. Alueta)

Mr. Alueta: Again, this is a -- this is sort of a rehash bill. If you remember a while ago, and I put it down in my -- it's in my staff report, that you guys previously saw this and I have a table of summary of your previous comments over that 19.36, if recall, there was a bill that Riki Hokama had proposed for mixed use developments. His new definition or new parking standards for those mixed use developments and what defined a mixed use development was very narrowly focused to project districts in Maui Lani as well as maybe potentially on Lanai. It also limited it to projects that were 20,000 square feet. The department felt that with new urbanism and smart growth, principles of mixed uses, and other mixed use developments should be limited to that narrow of frame of say those specific zoning areas or that big a use. We feel that you should be able to get a break on your parking even if you have a 10,000 square-foot lot and you're only doing a couple -- some residential uses with some commercial that you should get a break on the parking because they're compatible and it should be based on some kind of criteria for that parking waiver and not just a blanket - here's the new parking standard. We felt that was little too cumbersome. So the -- so when we went to Council with those proposals and brought those proposals, you supported the department's recommendations, however, when we were at the Council, they felt that they wanted to pass something immediately, they improperly noticed our bill, so they adopted Riki Hokama's bill, but they liked our bill and they told the department to go back and incorporate some of the suggestions that they had at that time, and as well as the Mayor had some other suggestions, and so because of that, we felt -- we're going back around to all of the three commissions to reintroduce them to the bill and then also this new bill incorporates Riki Hokama's previous or past amendments.

Some of the highlighted changes since you last saw it, again, this -- is that the only thing that we've changed since you last saw it was that we've set up a criteria or limited it for compact stalls, and this is one of the Mayor's suggestions in which she wanted to have

compact stalls grouped and labeled as compact only, so not just compact stalls randomly placed within a parking lot area. And as a refresher course to some of the changes that we're proposing to make is, again, one is we're incorporating the table format. Instead of being word math problems, we try to be clear - you know, train A leaves Chicago headed east 45 miles an hour - all those kind of math word problems. I don't like those. I think it's easier to have just a table and say how many stalls are required and what's my use, and I've done that. I've consolidated or redid the -- the old ordinance, or the existing ordinance to have more of a table format so it's easier to read. So all of those areas that you see on Page 5, 1 through 43, that's all stricken out. All the crossed out areas are actually just placed within a table format rather than in that, like I say, word math problem. That pretty much covers Pages 5 and 6 or the ordinances.

Also, I like graphics. I think if you're trying to -- you wanna really say something, you try to use a picture as best as possible. Under the landscaping and fencing requirement for parking areas, it basically -- it has a, again, a word math problem description of what we want, and where we want these trees, and how big a median strip you need, and how big a landscape area, why not just draw a picture of what a standard or what typically is expected, and that's what's on Page 10 and 11 does, they just -- we have a typical example of what we expect to see as far as the spacing of the trees, the size of the landscaping strip, etcetera.

Other changes that you previously saw was we're trying to eliminate excess parking. On Maui, we have a tendency to over-pave areas. The classic example is Home Depot where they were required to put in 300 parking stalls or 298, and they ended up putting in 600 parking stalls. So that's a lot of area being paved up. We feel that it creates a heat gain within your urban core and other issues as well as runoff. We feel if you're going to do excess parking, you need to either do it in a parking structure or have some kind permeable surface, either grid or grass parking, or there's some new products out there called pervious asphalt that's popular now.

We feel that parking -- we've consolidated the parking waivers and reductions throughout the code, and I discussed this at your last meeting, is that during a parking waiver and reduction, it's scattered out. You have a parking waiver reduction for industrial areas; a parking reduction for storage areas, you have a parking waiver for churches, you have a parking reduction for certain -- if you're in so many feet of a County parking lot. Page 16, Line 23, it's a new section called "19.36.160, Parking Reduction Waiver." It sets out the criteria of what -- who can apply for parking reduction, what is the criteria that the department is looking for in which we will qualify you as a parking waiver, and how much parking waiver we will grant you. For the most part, that is just consolidating the parking waivers that are existing in the code, but it also incorporates what we call -- what we're calling a mixed use projects, which again is if somebody incorporates a residential use with a commercial use, or has another mixed use -- a residential mixed use project near or will be most likely visited by nearby residences, that would be a criteria for a parking waiver.

Ms. Buchanan: Like one -- like one SBR?

Mr. Alueta: Like an SBR. Exactly. And again, like I say, the business country town district allows for mixed uses. The -- and I won't go back into the SBR but there's a slight difference there. That pretty much sums up some of the changes and summarizes the overall changes to the ordinance that you previously saw way back when on February 14 and February 28, 2007.

Mr. Chaikin: Thank you. Commissioners, do you have any questions for Joe? Commissioner Feeter?

Mr. Feeter: Thanks, Joe. That was a great job and I think we should support this a hundred percent. When you said, "smart growth" and "within walking distance," that's what we've gotta do and this -- I don't know if it's in order to have a motion?

Mr. Chaikin: Yeah, we need to first have the public hearing and then see if there's anymore comments or questions or clarifications from the Commission.

Mr. Feeter: I just had one thing I'd like to show the public even though you can't see it from here, but this is a picture, a photo recently taken in a geographic magazine, perhaps some of you have seen it. This is what a village can and does look like in other parts of the world, and it's a old-fashioned village where you walk to work, and you have your garden and your business, and you can -- you're welcome to see this, and I think this type of amendment to the County Code is pushing for this so it looks -- it's something that I think could work. It's worked in other places. Thank you.

Mr. Chaikin: Thank you, Commissioner Feeter. Any other Commissioners?

Ms. Buchanan: At what point is staff going to require paving to be pervious? At what point does the County wanna take that there?

Mr. Alueta: That it's going to be pervious surface? If you do, again, if you do excess stalls, above ten percent or more than 40 stalls, it needs to in pervious surface -- pervious surface. If the community plan or the design guidelines call for use of another type of material, okay, because the director can -- if you look at the amendments or the proposal language on --

Ms. Buchanan: So, Joe, if I go to my community plan amendment hearing and I say I want all the parking stalls on Molokai for businesses and whoever needs a parking stall by -- from Maui County standards to be in pervious, would that supercede this parking requirements? Or would that just be a consideration?

Mr. Alueta: It would be a consideration if it was a design guideline. In the case of the director -- I'm sorry. On let's see -- one Page 11 of the proposed -- Page 11 on the proposed ordinance, Line 3, paving, Section 19.36.080, we require that the parking areas be paved, okay, but the -- it says here that the director may allow or require other surface material consistent with an approved regional or community design guidelines. So if you -- the new design guidelines, any amendments to those design guidelines have to approved by Council and, therefore, the position that the Council I guess is trying to establish is that if they have a design guideline and it says you need to use grasscrete or pervious asphalt, then we -- by that they consider a force of law and we would be required to enforce that so if somebody came in for a new development, we would say you gotta put in pervious asphalt. But I will tell you that -- so that's our goal. Our goal is to go to where -- and respect the design guidelines as well as community guideline areas and they would have the ability to supercede, in many cases, the County Code with regards to its standards.

Ms. Buchanan: So how can I do that right now with this?

Mr. Alueta: By adopting this ordinance.

Ms. Buchanan: With what?

Mr. Alueta: We've already got it in there.

Ms. Buchanan: Okay but --

Mr. Alueta: We've already accounted for your concerns.

Mr. Chaikin: Any other Commissioners have any questions? Alright, Joe, I think the Mayor brought forward the suggestion that she wanted all the compact stalls grouped, but isn't one of the reasons there are a lot of compact stalls is because you're requiring a shade tree every five spaces, and then isn't that -- is that correct you have to have a shade tree every five spaces over so many spaces?

Mr. Alueta: You have to have one shade tree for every five parking stalls and we concur --

Mr. Chaikin: Right, so if you have a wide open field, you put your tree, and then there's one compact on each side and then you can go back to your -- isn't that the way they normally do that? I'm just wondering how you're going to group them when you have to have these shade trees all throughout your parking lot.

Mr. Alueta: A lot of times, as indicated in the illustration, you do a four-foot landscape block or you do a landscape strip down between the parking stalls. So it can be -- it would be accomplished.

Mr. Chaikin: Okay, it can be accomplished?

Mr. Alueta: Yes, it can. Cause I like say if you can't meet the requirements for landscaping within your parking lot, then you've overdeveloped your site and you need to reduce the square footage of your commercial building.

Mr. Chaikin: Alright, thank you. And another thing that's happening in our community is gasoline prices are continuing to rise, and automobiles are becoming less and less an attractive means of transportation. How are you accounting for increased use of mopeds and motorcycles and bicycles when we take a look at parking requirements?

Mr. Alueta: I believe that if you're a licensed motor vehicle, you can park in -- you can park in a parking stall ...(inaudible)...

Mr. Chaikin: But is that the best use of the space to take up a whole parking spot for a moped or --

Mr. Alueta: I -- it's much more efficient to have that than to have a large SUV taking up two spaces of a compact stall, which is what we're having.

Mr. Chaikin: Well, I just bring that up cause, you know, at some point we need to change the way that we do things and it's really getting to the point where we have to be more economically the way we transport ourselves and, you know, I think, you know, we're going to be moving more and more towards, you know, some cheaper modes of transportation than large vehicles so, at some point, we need to put in bike racks and we need to put in moped parking or whatever so we can get around a little bit cheaper.

Mr. Alueta: I think this ordinance does that and it goes in the right direction.

Mr. Chaikin: Okay. Any other -- Commissioners, you have any other questions or comments?

Ms. Buchanan: Joe, on Page 9, the landscaping, since you mentioned landscaping, Item B, C, D, E, actually all the landscaping, you guys have guidelines for that design guidelines instead of just large crown shade trees, blah, blah, blah?

Mr. Alueta: Yes, Maui County does have a planting plan, a planting guideline book, design book that was approved by the arborist commission.

Ms. Buchanan: Are they required to use those guidelines in this plan?

Mr. Alueta: Yes, we review those to make sure that the tree or species during the landscape planting plan approval review to make sure they're using a large crown shade tree and we also discourage the use of invasive species.

Ms. Buchanan: And you going tell me what large crown shade trees I can use?

Mr. Alueta: We will tell you and we'll point you in the right book and there's about 40 of them that are listed.

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

Mr. Chaikin: Alright, thank you. At this time, I'd like to open the public hearing if there's any members from the public that would like to provide testimony on this particular bill, now would be the time to do that. Alright, anybody? Alright, seeing none. I'm going to close the public hearing at this time and come back to the Commissioners and do you have any further questions or comments or does anybody wanna make a motion at this time? Commissioner Feeter?

Mr. Feeter: Thank you. Recommend approval of the proposed bill to the Maui County Council.

Mr. Chaikin: Okay, we have a motion on the table by Commissioner Feeter. Any second? Alright, I got Commissioner Napoleon who's seconded it. Alright, any discussion? Commissioner Buchanan.

Ms. Buchanan: Discussion about the paving again on Page 11. It says the director may allow or require. Again, at what point can the community require?

Mr. Alueta: During their community -- during the review of the their regional or community design guidelines, which comes before this Commission. The current community design guidelines that you do have is -- is the one -- the business country town --

Ms. Buchanan: That is ongoing, yeah? I mean that's just not like a community plan review thing. It's ongoing with the Commissioners, right, advisory committee?

Mr. Alueta: No. We have a -- right now, you only have a business country town design guideline. We have in this next budget that will become in effect at the end of this month of the first of July for a small town planner. One of the duties and responsibilities of that small town planner will be to initiate these design guidelines and to expand them from not the business country town, but to the -- the whole regions of the areas.

Ms. Buchanan: Is it a requirement for a Molokai person to be on that advisory council cause the guy that was here earlier this morning was in the past?

Mr. Alueta: I'm not aware of any board that exist right now.

Mr. Chaikin: Any further discussion? We do have a motion on the floor. If there's no further discussion, I'll go ahead and call for a vote at this time.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Feeter, seconded by Mr. Napoleon, then

VOTED: Recommend approval of the proposed bill to the Maui County Council.

***Assenting: D. Williams; S. Napoleon; L. Buchanan; B. Feeter;
L. DeCoite; J. Kalipi***

Excused: M. Pescaia

Mr. Chaikin: Okay, thank you, Commissioners. Passed.

Mr. Alueta: Thank you very much.

F. CHAIRPERSON'S REPORT

2. West End Water Delivery Issues

Mr. Chaikin: Alright, that concludes our public hearings for today, and the next item on our agenda we had already heard at the very beginning, which was our Unfinished Business, so at this point, we can really move forward to the Chairperson's Report. We have some time issues here so if there's no objections from the Commission, I'd like to change the order as agendaed of my Chairperson's Report. Is there any objections? Alright, seeing none. We're going to go ahead and take Item No. 2 first. And Item No. 2 is the West End water delivery issues, which are really the Molokai Ranch's announcement that they're going to be shutting their utilities and -- and I think that this is an issue that we, as a Commission, have heard testimony on at our -- one of our previous meetings. It's an issue that affects a great deal -- number of our residents in our community, and I think that there's a great deal of concern, not only for the short-term impacts of this, but the long-term impacts and there's a lot of uncertainty out there in the community and -- and I think there's uncertainty because there's been a lack of communication. We really don't know what each of the parties are up to. So we're kind of in limbo right now just trying to figure out what each party is going to do. So the thought here was really to try to get some additional

information, you know, to -- to get out to the public and my hope was that we could have the director of the Maui County Water Department here because, after all, the director of the Maui County Water Department is a member of this Commission, and I have not yet met him so he has not been taking his duty as a member of this Commission very seriously. But I did have an opportunity to talk to him and he did reiterate some of the -- some of the issues and where, I think, the department's at and I think, right now, everybody is pretty much taking a particular posture and they're kind of digging their heels in waiting for somebody else to make a move. As you know, the Public Utility Commission has ordered the utilities companies to continue service and they're going to be instituting a rate hike proceeding and within their order, the Public Utility Commission has kind of urged the County to take the leading role and take over these services. Now let me read to you from the order what they say. It says, "As it is, the County's responsibility to ensure that its citizens have access to basic water and wastewater services. The commission urges the County to add expeditiously to do what is necessary to acquire the water and wastewater systems. While the commission will do all it can within its authority to seek to ensure that continued provision of water and wastewater service for as long as possible, we ask the County to be ready to take these systems over when the utilities eventually discontinue providing service." So the PUC is strongly urging the County to step up and take a leading role in -- in these utilities. Now, fortunate for us today, we have a representative from the Mayor's office here. We have Mahina Martin that's going to be able to reiterate the County's position of what their saying about this. And we do have some documents that I have had -- the County has set forth some positions in regard to this, and let me just say a couple of things that the County had said. It says, one, "The County has no legal duty to bail out mismanaged private utilities." Another thing they have said is the State Legislature has determined that regulation of the utilities is a State rather than a County concern. Another thing that the County has said is that MPL should not be allowed to shift their liabilities to the taxpayers while retaining its assets. And another thing the County has said is that the County cannot operate a water system that lacks legal source of water. So we're kind of in limbo. We're hoping that MPL will continue to provide the services as they're ordered to do, but it is really the long-term solution that is of great concern to this community because water is just a vital necessity of life and, you know, as a community, it makes a big difference who manages and operates these utilities and what's happened all across the United States is -- is that, basically, it goes to the highest bidder and often large corporations have, as their primary concern, their owners and their shareholders and not the needs and the welfare of the community. So as this thing is in limbo and able to go to the highest bidder, it's of great concern to this community that it goes in a direction that would be most appropriate for the long-term welfare of this community. But I would like to have Mahina come up and -- and if you could just reiterate where the -- where the Mayor stands or whatever information you have to provide to us, we would surely appreciate that. Thank you.

Ms. Mahina Martina. Sure. Aloha, Commissioners. My name is Mahina Martin. I am the Mayor's Community Relations and Communications Director. She sends her regrets.

Obviously your agenda came out and it's a very very good thing that the Commission comes forward with its concerns. Obviously you are of Molokai and the work that you do is for the well-being of Molokai. You know, I don't think it's fair to say that sometimes people say to us at the County administrative level, administration level, you know, do you know how worried we are? And we can't guess and I would be, quite honestly, as would the Mayor, and so we are very worried about, perhaps it's not so obvious because we are, one, on another island and, two, you can tell by the paperwork I've given you, we seem to be in the realm of the palapala of things, you know, just zipping away letters between each other, and that's the unfortunate thing, so that we can be concise and clear about what the County position is with other State agencies and other entities involved. It has made its way to the paperwork world. But I do wanna tell you that, you know, the Mayor is very concern as is her administration. It's a serious situation, as you know. It's unprecedented. And, you know, there are different levels of the immediate need. What happens the day after the date that Molokai Properties has proclaimed it will walk about from the water and wastewater systems, as well as the long-term affect to the Molokai community? It's unprecedented in that every county in the State is watching this situation, probably not as intently as the citizens who would be affected by it, whether their, you know, toilets flush or water flows on the next day is important moreso for them. But what's unknown, I think, and, you know, we are still gathering very concrete data, so I can appreciate the Commission's wishes for data. All of our decisions should be based on facts and based on information that we can gather. But for Maui County, you know, less than 50 percent overall in the County, the water for Maui County citizens are not in the majority provided by the County. On Kauai, there was no information available for water, but on their wastewater side, from the County of Kauai, to put in perspective about why we're even going back and forth with the papers and the posturing, as it's know or is called, is on Kauai only 15 to 20 percent of wastewater systems are county operated. On the Big Island, on the Island of Hawaii, for their water, they have a population of 171,000, and it's coming in different language because that's whatever their offices have given us, but initial reports from the Big Island have said that with their population of 170 plus thousand people, they service 103,000, so they say about 19,000 water meters are private. And in the City and County of Honolulu, they have about a million people, and, you know, in terms of water, they have 171,000 meters. So there are varying degrees. You'll notice that some of the neighbor island counties have less than the private systems so for us, it has been, and you'll see as you enjoy your reading this evening or through the week, it's quite a lot of information, you know, you'll see that it's a serious decision long-term for the County and while we're worried and fighting really hard for what the community deserves and should get with regards to water and sewer service, the concern is every private system is waiting to see the outcome of this situation. On Maui, there are two larger private companies: EMI, East Maui Irrigation, of course, as well as the Wailuku Water Company on the ag side, and then there's all the private developments that have built their systems. So what would happen to the four counties and the State should private systems start to walk away? So we're really grappling with this wanting and needing to ensure the welfare of Molokai, who's

affected, and at the same time knowing that this is how serious the situation is and will be in the future.

So, you know, for us, and it's so difficult cause, you know, you all are here and we, you know, we just can't come to you all the time, but there are some points that I think are worth knowing, you know, what's been happening. As you can see, we've engaging in a heck of a lot of discussions with the State, and State meaning the Governor's office as well as the regulating agencies, and you'll see from the timeline of correspondence, what's missing in there is the first correspondence to the Governor is April 23, but not until April 30 was there actually a sit-down meeting between Mayor Tavares and Governor Lingle, and that included Senator Kalani English, State Representative Mele Carroll, along with Councilmember Mateo, and the Governor's Chief of Staff, Barry Fukunaga. So at that meeting, that came as a follow-up, but the Mayor already was worried because she was hearing rumors coming from your -- from your community. We were getting phone calls. We were getting emails saying something is coming down; we don't know; no one can get confirmation. We -- I can tell you our staff were running around trying to get confirmation. So the April 23 letter launched it for Mayor Tavares saying confirm or disembowel, but is going on for the people of Molokai, so it goes on and on and on. The one thing that's also not on here is our final action, our recent action on June 16. The last thing on your list is a letter from the PUC to Mr. Nicholas of the Molokai Utilities. And I do wanna say that while your Chair had noted that the Public Utilities Commission had -- it was wasn't actually an order, it was a letter, but was asking the County to be prepared to take over the system. By the same truth, the very same day in a later dated June 13, the PUC also sent a letter to Mr. Nicholas, and Mr. Nicholas, as you know, is the director on behalf of Molokai Properties and Ranch of the utilities known as Waiola O Molokai, Molokai Public Utilities Incorporated, and Mosco, so that letter varies a little bit from the letter to the County. The letter from PUC to the County asserts that of course it's you folks so get ready. The letter from the PUC to Mr. Nicholas says, "You have failed to provide us with the information we requested." And it was fairly firm letter, you know, and the PUC takes them to task for not responding to them and it talks about the unregulated sewer system and cites HRS notes in here about, again, requiring the utilities to provide them information. And we have filed a formal complaint through our attorneys, the County attorneys, with the PUC saying, to the full extent of the law, we are asking you to fight for Molokai because this cannot happen, for a company to walk away like this.

So are we doing besides engaging in a whole lot of postage with the State agencies? You know Mayor Tavares has instructed very firmly, for the last several weeks, her cabinet, her directors of her departments to assess the situation here, and while we have some limited information on the wastewater systems, we got that from public information sources, we have not been able to get information on water, unfortunately. We had, through the director, Director Jeff Eng, had gone to the Ranch, have gone to the Abbey Mayer, who heads the Governor's task force, I believe, you know, responding to this -- this situation once the Ranch laid off workers, starting from that end, have had no cooperation or return

phone calls from these entities, so quite honestly, Director Jeff Eng has his hands full because some of the questions that's been coming up involve quite serious things, you know, on the wastewater side, the County would like to know, and this is a short list, what are the records of all the properties connected to the sewer lines? Where are the maps? Where are the documents disclosing the conditions of the assets? What are your manpower requirements? You all know what it's like to go apply and get a job with State or County. So how many employees we're talking about? How do they get into the government system? What are the yearly budgets for the past five years? What's the record of violations of fines of enforcement actions? On the water side, you know, our department has been seeking and still asking everything that the wastewater department has been asking in addition to billing records, the number of water meters, the sizes of the meters, what's the water consumption data? What are all the Department of Health conducted sanitary survey results? We also need maps. What are the maintenance records of the water storage tanks? The reservoirs? To expect the County to expend public money with so much unknown in about eight to ten weeks is incredible. So we have been, you know, holding our ground for that reason because we -- we just don't know, you know, and we would be very very irresponsible if we jumped any time anywhere in the State to say, okay, sure, walk away. The key -- we have been asked about Kualapu'u. What happen -- what about when the County took over Kualapu'u? Now Del Monte no longer operated. Here, as your Chair, you know, had stated earlier, the company will walk away from providing these services but retain its assets, land development and future opportunities. So this is a concern for the County, of course, and we need to ask the correct questions.

So Mayor Tavares has asked all of these -- all of her departments to provide the questions. The questions are now we're trying to get the answers. And, you know, these include things like parks. We're a consumer. We're a customer of the water that's being affected, the system, because our parks are quite frankly from this system, so that makes us a consumer. Our Fire Department. What happens if there's a public need for water in our fire hydrants? The County needs to know. What about with regards to the -- our housing and human concerns? If and when the rates go up, what financial impact will that have on residents who probably already cannot afford other things? Now we're going to tack that on. And we understand that the PUC is reacting to the company's, Molokai Properties Ranch Utilities', statement that they are operating in the red and so the PUC is saying, "Okay, if you need this much money, then let's take a look at the rate hikes to pay for it." So in the meantime, you know, it doesn't answer the need for water.

So, you know, Mayor Tavares wants to -- wants me to thank you for putting it on your agenda, for your concern for yourselves, your family, and your friends, and encourage you to attend the community meeting on July 8. I think we went public with it so, hopefully, you're aware of it, and at 6:30, right here. Mayor and Councilmember Mateo will be here and, at that point, you know, a little bit more information -- each week the information gets

a little more clear and clearer as we understand what the questions should be, and then we go after the answers.

You know it's recognizing how difficult it is is important. Knowing what to do next and still being answerable to the public is pretty much where we are right now. So, you know, this is a lot of information that I'm giving you and I think it'll give you some insight, probably more than most people will have, coming into the July 8 meeting, and they are public record.

Mr. Chaikin: Thank you, Mahina. You know, I really appreciate you coming here cause you didn't have to come here, you could have just not come, so the fact that you did means a lot to this community.

Ms. Martin: You're welcome.

Mr. Chaikin: But while you're here, Commissioners, do you have any questions or --

Ms. Martin: I do wanna say, Chair, that it came up that -- I forgot who -- DeGray. DeGray was the one that said, "Hey, you know it's on the agenda." And so I brought it to Mayor Tavares' attention and it just took one look from her across the table that said you need to go so, you know, and it was under instruction that what you're looking was compiled. She thought it would be helpful for you to see the chronology of events from our end.

Mr. Chaikin: Alright. Well, thank you. Commissioner DeCoite?

Ms. DeCoite: Mahina, I just wanted to thank you also for coming and for the Mayor to stepping up to the plate. You know, we've been I think involved in this from the get-go on this water situation and thanks for the letters and stuff and, you know, I'm just glad that our legislatures are involved and that you guys are taking great concern on the community. I had several meetings on these issues earlier about how the public utilities were handled with MPL and a sit down talk with Harold Edwards at that time and just for information for you guys also, our biggest issue was the Well 17 and the issue attached to that was that they would not hold Brierly Guoco responsible for Well 17. They had put in KW, LLC, as a limited liability corporation to umbrella in case of the event of right now, and we had been adamant that we wouldn't stand for that and everything got lost in the shuffle, and this is exactly where we predicted we would have been on the pull-out and this had been made public knowledge in the meetings that have taken place alongside with the homesteaders at that time, from DHHL. But I'm glad that Mayor Tavares put her foot down and didn't be railroaded and ram-rodged by Molokai Properties Limited. So thank you very much.

Ms. Martin: Thank you, Commissioner. I do wanna say Well 17 continues to be a very very hot point in the complete thing so I'm glad you're all are aware of it. It's unfortunate and, you know, as a former DHHL commissioner myself, it's a little interesting to see how

it's all playing out. But water, for Molokai, certainly needs to be answered. It's the how between now and then.

Mr. Chaikin: Thank you. Any other Commissioners have any questions?

Ms. Buchanan: I just wanted to echo the sentiments from Commissioner DeCoite, and I wanted to tell you to personally tell Charmaine that we support what she's doing a hundred percent. I'm really happy that the County is taking this stand. I fully support where you guys are coming from now and I'm really happy to see the Mayor going this route.

Ms. Martin: Oh, you will make her day. I will tell her that.

Ms. Buchanan: No, we support her. It's we're kind of really well informed about the water. I think at least four or five guys on here are following the County water use development project as well so it's not like we don't know nothing about all the shenanigans that have been going on, so we really support our Mayor and the stand she taking and Director Eng, and thank you for coming, Mahina.

Ms. Martin: Yeah, my pleasure.

Mr. Chaikin: Alright, any other Commissioners have any other comments? If not, I'm going to allow the public, this is an agenda item, so I'm going to allow the public to come up and I only ask you that you can -- you know, I'm not going to put a time limit on there but just, you know, just keep in mind that we do have a time constraint so keep it as concise as you can.

Ms. Martin: Thank you, Commissioners, Chair.

Ms. Mahealani Davis: Okay, Mahea Davis, just real quick. I wanted to add to the -- well, first of all, request if I can get a copy of the record, the packet that you've been given for the community water files. The one thing I wanna add to the information that's being brought today is that I can remember back when the Waiola Water Company was requesting permits to operate as a water company and there were questions that we brought forward because they were a foreign corporation. PUC usually requires foreign owned companies who want to establish a water company in American to put up a bond in case of situations like this. And for some reason, the PUC waived that bond. I'd like to know why because at this point in time, that would have been the logical place to go to cover their expenses instead of putting a 100 to 120 percent water rate increases on the consumers out there. Thank you.

Mr. Chaikin: Any questions? Thank you, Mahea. Next, DeGray?

Mr. Vanderbilt: Thank you, Mr. Chairman. My name's DeGray Vanderbilt. I'd like to thank Mahina for putting this together and it's really appropriate based on something I'm going to say in a minute. But as of Monday, Mr. Peter Nicholas told the PUC that even with the rate increases, he's not going to be able to continue operation, so that leads me to believe why we're even having a meeting the PUC on the 15th if he's telling the PUC that even with the rate increases, they're going to walk.

The other thing is that I attended the Governor's Action Team meeting on the 16th and one of the fellows that testified was a guy called Paul Mordisini, who is head of the West Molokai Homeowners Association, and he didn't have much nice to say about Molokai or the County, and he says, "It does not appear that anyone at any level of government has tried to broker a long or short-term solution and the PUC solution is to increase our water rates so the utilities can stay in operation a little longer." Well, I think what Mahina showed you today showed that the County was doing its due diligence for the taxpayers in our community and doing a heck of a good job. Mr. Mordisini went on to say that you've got the real technicians here, Monsanto and Dow, they're worldwide experts. Talk to them. Go find out how you operate water systems. And I thought that was kinda funny because I just found out that two percent of the 240 MIS users, two percent, that's five guys are using over 80 percent of the water that the MIS can produce each day based on current development standards. Two of those five are Monsanto and Dow. So of course they'd like to help us work out a water system.

So anyway, I guess the other thing is that why -- how did we get to this situation? Molokai Ranch has been telling us they're losing money, yet, in their annual report to their shareholder of Guoco Leisure that owns the Ranch, they've said, in writing, "We have experienced a positive cash flow with our Molokai investment in 2005, 2006, 2007." So how is it that they have to shutdown? I think it's been said by *The Maui News* editor and it was brought up by Mahina that they wanna sit back, get rid of their employees, get rid of their utility expenses, let the price of the land go up when the County comes in with the water system, and then cherry pick the land sales, and I think that's unexcusable and irresponsible to our community. My suggestion to the PUC and to the County is to let the Ranch walk away on August 31. Let 'em walk away. Declare an emergency system. Then the County can come running in here and help out a little while. And then assess the Ranch, the \$25,000 a day fine, which is 9 million a year, on Molokai Properties and its owner Guoco Leisure, and then put a lien on their land to collect those fines. They've had offers to buy the hotel, they have offers from the wind company to buy the land up there for the wind farm, and they've stonewalled all those offers. So they wanna sit back and not do anything to be accountable for running these utility systems, even though they could be in a cash positive position. They've had this -- they've had this operating license for these utilities since 1981 and all companies, all these major developments, like on Kauai as Mahina said, all these landowners have their own utilities. That's the cost of doing business. And my other recommendation would be, this is to Guoco Leisure's top man, a guy called "Quek Leng Chan," from Malaysia, my advice to Mr. Chan would be to get rid

of Mr. Nicholas and his salary alone would be more of a savings, they'd have plenty of money to operate the utilities without having to raise the residents of Maunaloa and Kuaplu'u's water rates by almost three times as what they are now.

Mr. Chaikin: Alright, DeGray, can you finish up pretty soon cause we got a lot of stuff to cover and got a time constraint here? Mr. Vanderbilt: So anyway, okay, that's about all I have to say, but it's just -- it's just -- the one other thing I have to say is the PUC is worried about piercing the corporate veil. One of these utilities, I don't know whether it's Waiola or MPU, is wholly owned by MPL. Now MPL is a wholly owned subsidiary of Guoco Leisure. Now when you're wholly owned, you are the company. So through that utility, the PUC, the County, and anybody else can get to the land holdings of Molokai Ranch and they ought to pursue that. And I'm glad that Danny Mateo, our Councilman, has filed a resolution with the Council to hire special outside attorney and they're looking for some real hardball players to take on Guoco Leisure and get the community what it deserves and I really thank Danny for that, and I thank the Mayor for all that she's done also. So thank you, Mr. Chairman.

Mr. Chaikin: Okay, Commissioners, any questions for DeGray? Yeah, go ahead.

Ms. DeCoite: DeGray, you said Guoco Leisure gave Peter Nicholas his walking papers and there will be plenty of money to operate the utility companies and money left over. Where did you come up with this?

Mr. Vanderbilt: Well there was an article that was reprinted in *The Dispatch*, it was done by Howard Dicus, that said that the top five Guoco Leisure executives were making \$500,000 or more a year, and it just so happens I have the 2007 Guoco Leisure report, and the top five senior management include Linda Hoen, Tim Scobel, Paul Collins, Martin Divenza, and Peter Nicholas. So Peter Nicholas is making over 500,000. The total losses of all the utilities is less than 400,000. So just get rid of Mr. Nicholas and we got the problem solved.

Ms. DeCoite: Okay. DeGray, where did you get the figures, that two percent of the MIS water, which I know was 80 percent of all the water that MIS is capable of producing is based on the system's current operating standards?

Mr. Vanderbilt: That came from the Department of Agriculture's most recent monthly billing and it showed that the top five users were I think it was Monsanto, Coffees, Dow Chemical, which is Microgen, Akea Farms, and Hawaii Tropical Plants.

Ms. DeCoite: Okay, based on that too, I was told because they are overdrawing, these guys have been sent mandatory letters. So, right now, as of now, they get one 30-day mandatory - either they pull back on the operating water or pumps -- meters are removed. Okay, just one more question. You mentioned that Peter Nicholas had told the PUC that

even if the PUC grant rate increase to the Ranch, they still could not afford to operate the utilities. When did he say this?

Mr. Vanderbilt: He said it Monday. Oh, and I'm sorry. I -- I forgot to handout -- I have a letter here, dated January 23, from Peter Nicholas to the PUC, where he's finally answering the questions that Mahina brought up that he -- they refused to answer. They sent him a hard-nosed letter and he decided to answer some of the questions. So I'll pass this out to the Commissioners just so you have it in your packet. And I'll get -- it doesn't have all the attachments but I'll give a copy with the attachments to Nancy so she can make the copies.

Ms. DeCoite: Thank you.

Mr. Vanderbilt: Thank you very much.

Mr. Chaikin: Thank you. Any other Commissioners? If not, is there anybody else from the public? Okay, we got another testifier.

Ms. Ruth Manu: Aloha. I'm Ruth Manu. How should I say this? Well, I worked for Kaluakoi, Tokyo Kosan, they took over Kaluakoi Hotel. There was Louisiana Land Developers first and then they took over, Japan, the Japanese. They had a water bill up the yang-yangs but they didn't leave the bill behind. They paid it. They paid up all their bills before they left, if I'm not mistaken, because they couldn't move out of here without paying. They had sewage bill; they had the water; they had the electric; they had everything. They got a lot citation and everything and they paid it before they went move out. They even paid us. Wow. That was wonderful because we were in the union and they did. They pulled out. So these guys like walk away from it - I no think so. Mayor Tavares, what she's doing, she doing great. Our Governor should step in and do something for the Island of Molokai cause she claims she come from Molokai - hello? Smell the roses. Now we need you. Help the 120 families in Molokai up there, Maunaloa. What West End is going, East End feel the same. We're all on the same island. It makes no difference. What, we are ohana. We are one. So you know what? Get the message straight, Commissioners. Tell them pay their debt before they move. It doesn't matter, like how DeGray say, go ahead. We still can get the money, or straight to jail, or whatever. The part is just fulfill his commitment. That's not our fault and that's not our family's fault, okay? That's what I'm saying. Aloha. Any questions? Thank you.

Mr. Chaikin: Thank you, Aunty Ruthy. Any other members of the public would like to testify? Okay, Aunty Ruthy.

Ms. Caparida: Aloha guys again. I've been with the water over 35 to 40 years and I've known everything about the water. Hello? Nobody tell me about water. I live on Mana'e. Today I can say the water is dry. They say the more people you get, the more water you have. Hello? That's wrong information. The more people you get, the less water you're

going to get especially when no more rain. I went in the back there, it's dry, and this is God's truth. It's not only Molokai, it's all over, but I'm talking about Molokai. That's our concern today. Our Governor was the mayor when she went and let this all happen. She was part of that development and I went up there, I was the only one from our community that went up there to face Maunaloa, their whole community, to let them know that they have to make sure they decide what is right because salt water or sand might come out of their pipes because the development they were asking for was too much than what we can produce. When we had Dole up there, had plenty water. Had plenty enough water. They get less people over there now and yet we still had enough water. That's what is our concern is. They want to do what they wanted to do and it never worked. So the thing is that we're -- what I saying is that our mayor at the time knew what was going on. Our 120 families had no more job today. They said, "Judy, you know what? No more money. The State no more money. Hey, that's the State's problem. They went allow that; now she's governor, go ahead and take care of the families because why? They never had nothing left them. This is foreigners. Foreigners that used ours and they abused them, left them flat, and us with the community, we aloha because we have to stand the jerk now. So what more clearer we can make it? I'm really happy for Tavares. That's right. No, County has nothing to do with it. County has their own problems. Get them to do it. So that's what I needed to share. Water, you cannot live without. Electric, honey, you can take the electric. Heck with the TV. But not water. Thank you.

Mr. Chaikin: Thank you. Any questions?

Ms. DeCoite: Steve, I get one quick comment.

Mr. Chaikin: Okay, Commissioner DeCoite?

Ms. DeCoite: Real fast. I was just on Maui this past weekend and, you know, kinda looking around and just seeing what's happening Upcountry. You know, there has been talk a lot on Maui because of our water system and how the people here are doing and the water delivery, and it's sad that I had to hear something that kinda bothered me, and it was that, what now? Now Maui going pay for Molokai's water system? And my answer to that was that it's not a matter of Maui paying for Molokai's water system, it's a matter of the State, our prior mayor, who was Governor Lingle, had approved all that development, and these were Upcountry citizens that were very concerned and I had to make to the statement to them was that you don't understand, and just for your information, you guys are all on massive water cutbacks. I do not see West Maui cutting back on nothing and we continue to see them funneling water. It's sad that they got meters that they cannot even open and they have mandatory cutback and if they overdraw, they take their meters. It's five percent is five percent. But just for record, it's that it's not our fault. It's that the Governor needs to step up to the plate and I just like them understand that. Thank you.

Mr. Chaikin: Mahina, you wanna make a comment? Go ahead.

Ms. Martin: Thank you, Commissioner. That was a good point. It is very very unfortunate when in the feeling of districts, you know so to speak, people would start to distant that, and it's not the -- it's certainly not Mayor Tavares' opinion because it's about your right to get what you need, not one compared to the other, and to Councilmember Mateo's credit, he has been, you know, kinda hammering away at the point that the State does subsidize a private entity, known as the Hawaii Superferry, by way of paying for the tugboat fees and paying for Department of Ag inspectors, and just doing a whole lot of things to assist. So to Councilmember Mateo's credit, you know, he's been taking that angle and asking the Governor to exercise all the powers available as was done in the instance of the Superferry. So I do wanna tell you, you know, that we are trying to get that support on that side as well as an example of how it could be done for the State to step in.

Mr. Chaikin: Thank you, Mahina. Any other last comments here? Alright, seeing none. You know, once again I'd like to thank Mahina and just say that, you know, this is a very problematic issue for all of the parties and I just hope that, you know, both the County and the State can work together to work this out because it's not one responsibility or the other, it's everybody coming together to join hands to solve this problem. So I hope that, you know, between the State and the County, that you guys will figure out a way to be ready, willing, and able to take over these systems in the event that Molokai Ranch fails to take care of their duties and obligations, and also work together for a long-term solution that's really in the best interest of this island. Thank you.

3. Support letter for the displaced Molokai Ranch employees

Alright, we're going to move right ahead to the next item, we've only got about ten minutes left here, but I can just go through some of these things very quickly and then we'll let Clayton come up here and do what he needs to do in his Director's Report, but if you look at Item No. 3, it's support letters for displaced Molokai Ranch employees, and it came up that, you know, is there anything that this Commission can or should do to help these displaced workers, and what had come up is the State Department of Planning had identified that one of the -- the most immediate concerns was that there's some of those members that have health issues and their getting their health insurance yanked out from underneath them, so the thought was to apply for a grant to HMSA to get some funding to prolong their insurance, or get some money to pay for some of the COBRA payments, which will allow a little bit more transition time, so what happened was that the -- the State actually quarterbacked an application to get submitted and they were looking around for support letters. But as it turned out that -- that submission turned out to be problematic cause when HMSA get it -- got it, they said that they are not generally -- they don't generally accept applications to take money to give it back to themselves. So, basically, I don't know, they might still do something with it, but it's not something that this Commission I don't think would wanna entertain at this point. But in a larger context, if there's ever anything that we can, as a Commissioner, if the Commissioners or the public

feel there's anything out there that we can do as a Commission, we would certainly, you know, take a look at that. Alright, thank you.

1. Memorandum dated 3/27/08 of meeting with Chair and Vice-Chair with Director and Staff

The next item, let's go up to Item No. 1, which is basically some things that we had talked about in the past, and, you know, it has to do with things like getting the emails out to the public for agenda rather than having them mailed out, and having to do with things like, well, the letterhead, which is on his -- his agenda, also getting just, you know, just more in a broader perspective, to be more user-friendly to the public. So if there is any, you know, if there's anything that the public thinks that we should be doing as a Commission, or any of the Commissioners feel that we should be doing as a Commission to make a more user-friendly thing, we should be bringing this up and letting the Planning Department know so they can move forward with these initiatives. Now, Clayton, can I ask you, some of the old initiatives, like the email thing, you know, we have been getting nowhere week after week after week of just trying to get emails sent out - I mean agendas sent out via the email and I suggested that maybe we should have the IT guy show up because that would facilitate -- we could talk directly to the guy and he could tell us if we could or could not do that. Have you come up with -- did you ask him or where are we at on that?

Mr. Yoshida: Yes, Mr. Chair, members of the Commission, I did speak to some people from the Management Information Systems section of the County and, you know, we are going through a shift with the website, you know, we're moving to a new website, and that may be the cause of some of the problems. Now they did provide a demonstration of -- of the new website, how the web page for the Planning Commission would look like, and, to me, it'll be a lot more user-friendly than it is right now. But, you know, that should happen in the next month or two.

Mr. Chaikin: Well, that's good news. Are we going to have an opportunity to be able to respond or provide input so we can have a look at it, review it, and provide input on -- our web page?

Mr. Yoshida: You know, we would appreciate any suggestions the Commissioners may have on how we can improve the website and we can probably take it -- suggestions to Management Information Systems section and see if, you know, that can be done.

Mr. Chaikin: Okay, so can you -- when did you say you were going to be able to get us a copy or we're going to be able to log onto the website and have a look at it?

Mr. Yoshida: Well, if the Commissioners have any suggestions on how to improve the Molokai Planning Commission's web page, you know, we would appreciate any suggestions and --

Mr. Chaikin: But you just said you were coming out with a new one so is that developed already cause it would be good for us to respond to what they had planned.

Mr. Yoshida: Well, I think the information is kind of migrating to the -- the new -- this new County website.

Mr. Chaikin: Okay, so it looks like another month or so it's going to be available for us to take a look at?

Mr. Yoshida: Yes.

Mr. Chaikin: Okay, is this still going to be in the beta stage where we could make changes if there is something we thought was --

Mr. Yoshida: Well, you can take a look at it. I mean it's designed to be a lot more user-friendly than --

Mr. Chaikin: Well, that's good news.

Mr. Yoshida: What currently exist.

Mr. Chaikin: Alright. Okay. So we'll leave it at that. Commissioners, you have anything else on this? Softer chairs. Okay, well, those --

- 4. Administrative Rules of the Molokai Planning Commission**
- 5. Molokai SMA Maps and Molokai Zoning Maps**

I've got some other things on my Chairperson's Report, like the zoning maps and the administrative rules, but I think we can defer that at this point to give Clayton an opportunity to get into his Director's Report and so we can really complete this and wrap this up because I know that you guys have a plane to catch.

Mr. Yoshida: Yes.

Ms. Buchanan: I think, Chair, you already made one suggestion at the last meeting on Item No. 5. They have -- they were charged to come up with something I think in July -- July meeting and then if not, they were supposed to hire out to get us maps. That's what I remember.

Mr. Chaikin: Okay, so did we have a specific --

Ms. Buchanan: We'll check the --

Mr. Chaikin: The minutes.

Ms. Buchanan: The minutes, yeah.

Mr. Chaikin: Okay, thank you, Commissioner Buchanan. Alright, we've got an update on that? Okay, Nancy McPherson.

Ms. McPherson: Yeah, I have talked to GIS folks in the Long Range Division. They have contracted out for those maps to be produced and that contract's gone out. I haven't seen it. I haven't seen what the product is supposed to be. So I'll try to get a copy of that and then I'll follow-up with you folks on what the product is going to be and what time it's going to be done and delivered.

Mr. Chaikin: Thank you very much, Nancy, I mean it's always great to hear things are moving in the right direction. So I'm turning it over to Clayton for his Director's Report.

G. DIRECTOR'S REPORT

- 1. Pending Molokai Applications**
- 2. Closed Molokai Applications**
- 3. Scheduling of the public hearing date and time for the entitlements (Community Plan Amendment, State Land Use District Boundary Amendment, Change in Zoning, and Special Management Area Use Permit for the County Parks Department Maintenance Baseyard at Duke Maliu Park, Kaunakakai, Island of Molokai.**
- 4. Status of the Filling of the Vacant Molokai Planning Commission position**
- 5. Molokai Planning Commission Having Their Own Stationary**
- 6. Moving the Time of the Molokai Planning Commission Meeting**
- 7. Agenda Items for the July 9 Molokai Planning Commission meeting.**

Mr. Yoshida: Yes, we have submitted out list of pending and enclosed Molokai applications so the Commissioners have any questions on that. If not, we're about ready to schedule the public hearing date for the Parks Department baseyard, maintenance baseyard at the Duke Maliu Park in Kaunakakai. We are looking at August 13. I guess we're confirming with the Commission as to the time, you know, if you want it in the daytime or in the evening or -- this requires a number of entitlement but basically, yeah, a special management area use permit.

Ms. Buchanan: Sorry, Commissioner, they asking to build something at Maliu Regional Park? That's what it is? They asking to build a structure there?

Mr. Yoshida: Yeah.

Ms. Buchanan: Okay.

Mr. Chaikin: Commissioners, do you have any preference on when we schedule this?

Ms. Buchanan: Realistically, I don't think there'll be too much interest if they're building it at Maliu Park other than staff and County workers, so we could live it the same time. I have no preference.

Mr. Chaikin: Thank you, Commissioner Buchanan. Anybody else have any preference? Okay, Clayton, when would you like to schedule this?

Mr. Yoshida: I guess 12:30 if that's okay with the Commission on August 13,

Mr. Chaikin: Okay.

Mr. Yoshida: Okay, regarding the filling of the vacant Molokai Planning Commission position that was vacated by Commissioner Kauhane, I did check with the Mayor's office; thus far, I believe four people have applied. You know the Mayor would make her selection and submit it to the Council for their approval or disapproval. So that's the status of the --

Mr. Chaikin: Did she give any time frame when she's going to do that?

Mr. Yoshida: I don't think they gave a specific time frame but I believe it'll be sometime soon as Commissioner Kauhane probably resigned in mid-April.

Mr. Chaikin: Right, and this was something that was, you know, we thought she was going to do expeditiously, but maybe if you have any pull in that area, you could -- you could try to get her to do that in a timely manner.

Mr. Yoshida: Yeah, we could pass that along to the Mayor's office. Also, I guess we did look at -- well, regarding the Planning Commission's stationary, having their own stationary, I guess we did talk it over as a management team, none of the other six boards and commissions that we service have their own stationary. We'll be happy to place any letter that -- from the Commission that's adopted through the -- by the Commission on our Planning Department stationary.

Mr. Chaikin: Well, if there's something on the Planning Department's stationary, who would ultimately sign that?

Mr. Yoshida: It could be the chairperson if that's --

Mr. Chaikin: Okay, so cause before the director was kind of adverse to having, you know, Planning Department stationary going out with verbiage on top of it that he didn't concur with. Did he change his position on that?

Mr. Yoshida: Well, again, I believe if the letter is properly adopted by the Commission, you know, at a meeting that's notice and so forth --

Mr. Chaikin: Okay.

Mr. Yoshida: Then, you know, the department could assist in placing the letter on the Planning Department's stationary.

Mr. Chaikin: Alright, thank you.

Mr. Yoshida: With regards to moving the time of the meeting, we did research the airline schedules between Maui and Molokai, it's fairly limited as you know. I know Island Air has only one flight in the -- direct flight now, not two hours going to Honolulu and come back, one direct flight in the morning, at 7:45, and one flight in the evening at 5:45, and going back, there's just the 5:00 flight. So -- and the other airlines seem to follow suit, you know, between 6 and 8:00, they have a flight coming over, and they're flights going back range from, well, maybe 5:00 till 8:00, but that's if we're lucky, I mean these are smaller planes and if we're lucky to get three to five seats on the plane. So going commercial is going to be difficult. I mean it's difficult right now for four of us because some of us are on Island Air, and some of us are on PW-Express, and some of us are on GO-Express, and so we're all leaving at different times because we can't find enough seats for everybody on one airline. So going commercial is going to be difficult if we move the meeting time much later and, you know, into the early evening. It's just the realities of air travel going to and from, from Maui to Molokai.

Mr. Chaikin: Alright, well thank you, Clayton. I think that, you know, it was really a, you know, a function of the Commissioners being able to show up here and for us to have quorum, so I think that, you know, why don't we just see how it goes. You know, if we continue to be able to, you know, show up and have quorum and there's not really issues or problems then, you know, I think we'll continue as it is. If it turns out that it continues to be problematic, the whole quorum issue, then we can revisit it and see what options may be available. So thank you for checking into that.

Mr. Yoshida: For July 9, I believe we have a couple of SMA assessments that are scheduled, and Joe's SBR bill probably won't come back to you until August 13 cause he's going on vacation.

Mr. Chaikin: Okay, Clayton, you said we had some assessments coming up for exemptions to be exempt?

Mr. Yoshida: Well, either for exemptions or minor permits.

Mr. Chaikin: Okay, let me just say, if we have anything coming up for single-family residences on the West End, you know, prior to having that, you know, I would like to have either the Fire Department be here or something so they can really make it abundantly clear to us exactly what options are available, you know, for fire protection because I think the last time, we got information that might not have been thorough and so we were running around trying -- and we never did get the straight scoop so, you know, if there is anything coming from the West End, single-family residence, we would like to have the Fire Department either here at that time or prior to that to give us, you know, a little definitive information on that.

Mr. Yoshida: And I guess if you're planning to attend the HCPO, Hawaii Congress of Planning Officials Conference and have not signed up yet, we hope that you'll register soon.

Ms. DeCoite: Yeah, I get one real --

Ms. Buchanan: No, no, I just wanted to ask, Clayton, if DJ Ocean Farms is on the July 9 agenda cause, at the last meeting, you had mentioned there was an assessment for DJ Ocean Farms or was what -- I don't know what the discussion was?

Mr. Chaikin: Nancy, do you have any information on that?

Ms. McPherson: Yeah, it's SMA assessment for just a portion of it. They are restoring the wetlands and they have a restoration plan that they are implementing, so that's -- that's only for a portion of that. The rest of it is going to be handled by the lessor, which is Bishop Estate. So -- and we're going to be bringing that to you for the next meeting.

Ms. DeCoite: Nancy, I get one concern on here. You get one project for Laau Point still on the open projects. What is that for?

Ms. McPherson: They have not formally withdrawn any of their applications so --

Ms. DeCoite: Well, if they're filing for closure, I like request that the withdrawal be made ASAP. I mean --

Ms. McPherson: Clayton, do you wanna respond?

Ms. DeCoite: They have no designated source right now and according to last time I checked, you know, they withdrawing.

Mr. Yoshida: Again, typically, the applicant, we would defer to the applicant, you know, whether they're going to withdraw their application or not, and as Nancy had explained, for this application and the renovations of the Kaluakoi Hotel, they have not withdrawn their applications yet.

Ms. DeCoite: What would it take for the withdrawal?

Mr. Yoshida: A letter from the applicant saying they're withdrawing the application.

Ms. DeCoite: Well, I'm assuming, based on the situation that MPL is in, is that why should we wait for the applicant withdrawal? Can we make the recommendation for us to have them withdraw? Because I kinda looking at it, the water system is an issue, are we to play prairie dog and rebuff the system and then the application stands as is and then all of a sudden, they got money to go ahead with the project? They should be able to reapply if that's the case.

Mr. Yoshida: Well, again, you know nothing can move forward until the Land Use Commission accepts the Final EIS, which is still pending before them.

Mr. Chaikin: Okay, any other Commissioners any final comments? County, do you have anything else before we adjourn this meeting?

Mr. Yoshida: No, that's all we have.

Mr. Chaikin: Okay, Commissioners, nothing? Commissioner Feeter?

Mr. Feeter: The perennial question about the Veteran's permit and also the Pond permit?

Ms. McPherson: The letters, comments letter for the Veteran's Center have been transmitted to the applicant and they're in the process of responding to those. And I'm working on the Pond one as well so -- but I had to kind of drop everything and work on doing some research for the Mayor's office for the whole West End water issue so that's slowing things down a little bit.

Mr. Chaikin: Anything else? Alright, at this time, I'd like to thank the public for being here and for your patience and, Commissioners, thank you for your attendance, and our next regular meeting of the Molokai Planning Commission will take place July 9, 2008 here at the Mitchell Pauole at 12:30. So, AKAKU, thank you for being here, and at this time I'd like to adjourn this meeting.

H. NEXT REGULAR MEETING DATE: July 9, 2008

I. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 4:10 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Steve Chaikin, Chairperson
Lori Buchanan
Lynn DeCoite
Bill Feeter
Joseph Kalipi
Sherman Napoleon, Jr.
Don Williams

Excused

Mikiala Pescaia, Vice-Chairperson

Others

Clayton Yoshida, Planning Program Administrator
Joseph Alueta, Administrative Planning Officer
Nancy McPherson, Staff Planner, Molokai
Michael Hopper, Deputy Corporation Counsel
AKAKU