

(APPROVED: 12/15/08)

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF MAY 5, 2008**

A. CALL TO ORDER

The meeting of the Hana Advisory Committee (Committee) was called to order by Clayton Yoshida, Planning Program Administrator, at 4:10 p.m., Monday, May 5, 2008, Old Hana School Cafeteria, Hana, Island of Maui.

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

Mr. Clayton Yoshida: I'd like to call the meeting of the Hana Advisory Committee to the Maui Planning Commission to order. Let the record show that there is a quorum of the members here. We have Kauai Kanakaole, Shane Sinenci, Dawn Lono, and David Kaina. My name is Clayton Yoshida. I'm the Administrator of the Current Planning Division, Department of Planning, and with me from the County are Joe Alueta, our Administrative Planning Officers; Paul Fasi, Staff Planner; Suzie Esmeralda, Secretary to Boards and Commissions; we have Michael Hopper from the -- he's the Deputy Corporation Counsel, and representing the Department of Environmental Management, we have their Director, Cheryl Okuma.

B. INTRODUCTION OF NEW COMMITTEE MEMBER TINA-MARIE LEIMOMI KAHULA

I guess we were going to introduce our newest member, Tina-Marie Leimomi Kahula. For those of you who were on the site inspection two-and-a-half weeks ago, on April 17, Leimomi was there when we went to the cinder quarry site and the Hana Landfill site. So she's the newest member.

C. ELECTION OF CHAIRPERSON AND VICE- CHAIRPERSON FOR 2008-2009 YEAR

And with that, we'd like to proceed with the election of chairperson for the 2008-2009 year, so the floor is open for nominations for chairperson.

Mr. Shane Sinenci: Shane Sinenci. I nominate Dawn Lono as our new chair for this board.

Ms. Kauai Kanakaole: I second that.

Mr. Yoshida: Are there any other nominations for chair?

There being no further nominations, the nomination was put to a vote.

It has been nominated by Mr. Sinenci, seconded by Ms. Kanakaole, then

VOTED: that Committee Member Dawn Lono serve as Chairperson for the 2008-2009 year.

(Assenting: K. Kanakaole; S. Sinenci; D. Lono; D. Kaina)
(Excused: L. Cosma; L. Kahula; M. Mauliola)

Mr. Yoshida: Okay, congratulations, Dawn. You can run the election for vice-chair.

Ms. Lono: Okay, so nominations for vice-chair?

Ms. Kanakaole: I want to nominate Kawika Kaina.

Ms. Lono: We have a second?

Mr. Sinenci: I second that motion.

Ms. Lono: Okay, we have a nomination and a second. Any further discussion? If not, we'll take a vote.

There being no further nominations, the nomination was put to a vote.

It has been nominated by Ms. Kanakaole, seconded by Mr. Sinenci, then

VOTED: that Committee Member David "Kawika" Kaina serve as Vice-Chairperson for the 2008-2009 years.

(Assenting: K. Kanakaole; S. Sinenci; D. Lono; D. Kaina)
(Excused: L. Cosma; L. Kahula; M. Mauliola)

Ms. Lono: Okay, the motion is carried unanimously. Our Vice-Chair will Kawika Kaina. Now we have the Resolution?

D. RESOLUTION THANKING OUTGOING MEMBER MAVIS OLIVEIRA-MEDEIROS (Outgoing Vice-Chair)

Mr. Yoshida: Yes, we have a Resolution of the Hana Advisory Committee for Mavis Oliveira-Medeiros. It reads:

Whereas, Mavis Oliveira-Medeiros has served the County of Maui since April 2003, as a member of the Hana Advisory Committee to the Maui Planning Commission; and

Whereas, Ms. Oliveira-Medeiros has served as Vice-Chairperson from 2007 to 2008; and

Whereas, Ms. Oliveira-Medeiros has served with distinction and has performed her duties in the highest professional manner with the Hana Advisory Committee; and

Whereas, Ms. Oliveira-Medeiros' term of office expires on March 31, 2008; now therefore,

Be It Resolved that the Hana Advisory Committee and the Maui Planning Commission hereby commends Ms. Oliveira-Medeiros for her dedication and untiring public service to the people of Maui County, especially the people of Hana; and

Furthermore, Be It Resolved that the Hana Advisory Committee and the Maui Planning Commission express their sincere appreciation for Ms. Oliveira-Medeiros' services and extend their best wishes in her future endeavors; and

Furthermore, Be It Resolved that copies of this Resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui; Honorable G. Riki Hokama, Council Chair of the Maui County Council; and Johanna Amorin, Chair of the Maui Planning Commission.

Mr. Yoshida: So if all of you could sign this Resolution and we will move it forward.

E. APPROVAL OF MINUTES OF THE FEBRUARY 21, 2008 MEETING *(previously circulated with the March 20, 2008 agenda)*

Ms. Lono: Okay, thank you. While that's going around, we can move ahead to our minutes, approval of the minutes of the February 21, 2008 meeting. Does everyone have their minutes? Whenever you're ready, we'll take a motion to accept the minutes.

Ms. Kanakaole: I move to accept the minutes of the February 21 meeting.

Ms. Lono: Kauai moves to accept the minutes. Second?

Mr. David Kaina: Second.

Ms. Lono: David Kaina seconds the motion. Is there any discussion on the minutes?

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

It has been moved by Ms. Kanakaole, seconded by Mr. Kaina, then unanimously

VOTED: to accept the minutes of the February 21 meeting.

Ms. Lono: Motion carried unanimously. Moving along smoothly here. So now we have Unfinished Business, Cheryl Okuma, Director, County Department of Environmental Management, requesting a State Land Use Commission Special Use Permit, County Special Use Permit, and Special Management Area Use Permit for the County's Hana Landfill for land consolidation, boundary realignment, and grading activity on approximately 74 acres. You can see in the agenda all of the particulars there and, Cheryl? Oh you? Okay.

F. UNFINISHED BUSINESS

- 1. MS. CHERYL OKUMA, Director, COUNTY DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, requesting a State Land Use Commission Special Use Permit, County Special Use Permit, and Special Management Area Use Permit for the County's Hana Landfill for land consolidation, boundary realignment, and grading activity on approximately 74 acres at TMK: 1-3-006: 012 (por.) and 1-3-006: 007 (por.), Hana, Island of Maui. (SUP1 2007/0004) (CUP 2007/0001) (SM1 2007/0003) (P. Fasi) (*The public hearing was conducted on February 21, 2008. Site inspection conducted on April 17, 2008. Members: Please bring your documents.*)**

The Committee may take action on these requests.

Mr. Paul Fasi: Before we begin, when the public has their chance to speak, just be sure that you guys use the microphone because we're recording the minutes and it's not for the speaker, it's for the minutes. It's being directly into the tape. Okay.

So once again, this matter arises from an application for a Special Management Area Permit, County Special Use Permit, and a Land Use Commission Special Use Permit. We're reviewing three permits today. The Planning Department originally received this application on June 12, 2007. This item was before this Advisory Committee on February 21, 2008, it was also before this Committee on April 17, 2008, and it is before this Committee as we speak.

This application did trigger Chapter 343 relating to environmental impact statements because of the use of State lands and County funds. The finding of no significant impact was issued by the Department of Environmental Management on November 17, 2007. That will bring us up to date. Thank you.

Ms. Cheryl Okuma: Good evening, Committee Members. Thank you very much. I appreciate the opportunity to be before you this evening and especially the opportunity that we had on April 17 to do a couple of site visits. And, basically, we're here to request your support of the State Special Use Permit as well as the County Special Use Permit and the SMA, and just to kind of remind folks and put things in context, the Department of Health, the State Department of Health will only issue us our operating permits for such solid waste facilities, like a landfill, if we have our land use entitlements in order. In other words, we have to be able to show that we are in conformance with the State land use requirements and so this is one of the reasons why we're before you asking for your support.

Also with me this evening is Mich Hirano, from Munekiyo & Hiraga. They are our consultants on this project. And we appreciate, again, the opportunity to be before you this evening. Thank you.

(Committee Member Lehua Cosma arrived at the meeting at 4:20 p.m.)

Mr. Fasi: I'd like to make one correction to the -- the FONSI that was issued. The actual date was November 23, '07, and not November 17. Thank you.

Ms. Lono: So at this time, can we open up for public testimony? Is there anyone who would like to speak regarding the Hana Landfill? John Blumer-Buell.

Mr. John Blumer-Buell: Aloha, members of the Hana Advisory Committee and County staff. At the last meeting, which you were not able to get a quorum for, I submitted a letter that's dated April 17 with ten problems and ten solutions. Subsequent to that, I wrote Laura Thielen, who's the chairperson of the State of Hawaii Board of Land and Natural Resources, to try to get them involved, and then I wrote a letter today so I'm just going to read that.

Aloha, Chair Kanakaole, and now it should read: "Aloha Chair Lono," and Committee Members. On April 17, 2008, I submitted a four-page letter to you and the County of Maui with ten "problems and solutions." Because there was not a quorum present, this letter could not be officially considered. It should be noted there was a quorum present earlier on the same day for the site visits to the mining operation mauka of Kaeleku and the Hana Landfill. Mahalo for requesting the site visits. I think it was very important. The site -- the site visit to the mining operation proved beyond any doubt that the mining operation is a direct environmental impact of the operation of the Hana Landfill.

I hope you have taken time to carefully consider the complete record including the ten problems and solutions, the environmental assessment, the revised environmental assessment, and the site visits.

Today, I am submitting another letter dated April 25, 2008, which I've given you, to Laura H. Thielen, Chairperson of the Board of Land and Natural Resources for your consideration. I made three requests to Chair Thielen and the Board. Their response is essential for your full consideration of this application.

It is premature for the Hana Advisory Committee to the Maui Planning Commission to make any recommendations regarding the subject application until a complete record of the facts are available for the Hana Community and you to consider. There has been no environmental assessment for the mining operation. This information was requested by me more than four years ago in a letter dated April 21, 2004, which is part of the draft environmental assessment. I have a copy of that today if you want to -- want me to read some relevant parts of that. The County of Maui previously claim the mining operation was "beyond the scope of the assessment." The mining operation is undeniably a directly related environmental impact to the proposal. Since the site visit to the mining operation, I hope the County of Maui now recognizes the need for environmental assessment of the mining operation before making any decision regarding the application.

Now the letter to Chair Thielen basically request that they require an immediate environmental assessment for the un-permitted mining operation and that they request an environmental assessment before making any possible decision on a "right-of-entry" for the County. The County, according to James Perry at the site visit, the County has no right-of-entry even at this point. All of what went on at the site visit I tried to document in this April 25 letter so I hope the County will, you know, if we had -- if I had gotten a lawyer and raised these issues during the first environmental assessment, they wouldn't have a finding of no significant impact. There are significant impacts and those impacts include possible financial obligations from the State to the Office of Hawaiian Affairs. I estimated based on my walking of the site up there that they have mined at least 400,000 cubic yards and that could translate into, if market value is \$10.00 a yard, that could translate to \$800,000 for OHA. But that is not for me to make that case. That would all be in an environmental assessment. And if you read the letter I sent to you for your last meeting, I suggested that some of these issues should be referred to the Board of Land and Natural Resources, to the Aha Moku Council, and to a number of Hawaiian organizations to get their mana`o on this.

Just two more points. And one is that the County in the environmental assessment and the revised environmental assessment did not present any option for this and, at this point, we know from Mr. Takamine, who's the head of the Solid Waste Division of the County, that they are considering Hana for as a satellite dump; meaning they're considering taking the

rubbish from Hana to the other side. That is documented in some General Plan Advisory Committee minutes. And the other thing that an environmental assessment would look at, I believe that it's going to cost the County less than half as much to take the rubbish out of here. Less than half as much and we won't have the, you know, the absolute scar up on the mountain.

Ms. Lono: Less than half as much as what?

Mr. Blumer-Buell: What they're currently spending. In other words, in the EA it would, and I requested this in 2004, would require the County to give us the numbers on what it's actually costing to mine up there and by their own James Perry said that they're bringing down 120 yards a day. I'm assuming that's five days a week. It could be six or seven. But the point is to run 12 dump trucks up there and back every day, there's a significant cost to all this and there could actually be -- it may cost the County and the taxpayers less to take the -- to take the rubbish to the outside and then there's -- it could also be explored the possibility of them bringing back black top in their trucks and starting in having the County guys pave the roads. That's a -- that would be explored in a alternative plan.

The final thing is I haven't had time to do it but if you don't -- if you decide to wait until we hear from the Board of Land and Natural Resources and to take this under consideration at your next meeting, I will actually do a breakdown of the Special Management Area Permit, the County special management permit, and the State Land Use Commission Special Use Permit. I don't think the County has -- has -- qualifies -- I mean they just don't qualify under these standards, and I'm not going to be a lawyer and try to make the case to you today but I will in the future. That's -- that's about it. I think the key to all this is to get the County to acknowledge that the mining operation is directly linked to it. It was an oversight not to include it in the environmental assessment. They should do it now. And just one legal thing. I have talked with Office of Environmental Quality Control today, and I'm not trying to be lawyer here, but I was asking them about the lease situation. They said that under Chapter 171 of the Hawaii Revised codes that the County is required to have all their permits for mining in place before they can process this application. They have nothing at this point. And there is -- I have the statute written down too. They said there's little question that they need to look into the possible financial debt that the County owes the State and OHA. There's that. It's definitely -- James Perry said they had a permit for 25 years. I requested a copy of that and the records. They haven't had a permit, I think, for at least 5 years, and even if it was legally waived, the expenses for the 25 years, which is what they've claimed, then there's the expenses over the last 5 years in those financial agreements. The person from Office of Environmental Quality Control said they thought that that would be the case. So I'm not making that at this point but I think our Corporation Counsel could look into those issues. Mahalo.

Ms. Lono: Thank you, John. Any questions for John from the Committee Members?

Ms. Sinenci: John, can you explain -- I think you mentioned access, the access road up to the mining site. Is that under -- is that County access road?

Mr. Blumer-Buell: One of the things that I asked to be disclosed in my initial letter in 2004, and I have it here if you'd like to look at it, is that if you recall, all that land up in that area is -- was State land and just before Governor John Waihee left office, he signed an executive order turning most of that land into Hawaiian Homes. So at this point, most of that land, running all the way from the Dan Omer's old nursery going all the way back to Wakiu all the way back to the access road, I think those were all Hawaiian Homes now, but there's a question about the mining site itself and I've been told, I've asked around, I've been told by some kanaka maoli that I talked to about this more than ten years ago, they believe that the mining site is on crown lands and they are entitled to financial compensation as required by law for that. And I will say that if they did a mining -- an EA for the operation up there -- I have also talked with Hawaiians and just making inquiries that believe there may be chants regarding Olopawa Mountain and the impacts upon the winds, the way they impact the winds at Honokalani, and so I'd like to find that out. It seems a real shame to me to be destroying a mountain that has -- that could have some chants associated with it and -- but this is the kind of thing that you get to during an environmental assessment process. This is a disclosure document and that's the reason for it. Mahalo.

Ms. Lono: Any other questions for John? Is there anyone else wishing to testify regarding the Hana Landfill issue? Seeing noone. Committee Members? Discussion? Would you like to take a few minutes to read the documents you have in front of you from John? You need some time to read that? Okay, so we'll take a five-minute recess, I guess, just to read these documents and then we'll be back.

(A recess was called at 4:35 p.m., and the meeting reconvened at 4:38 p.m.)

Ms. Lono: I'd like to call this meeting of the Hana Advisory Committee back to order please. Order in the court. Okay, Committee Members, discussion, questions?

Unidentified Speaker: ...(inaudible)...

Ms. Lono: I just said that. We called the meeting back to order and the Committee is going to discuss. Did you have testimony regarding the landfill? That's the topic we're on right now. Okay. Yes. State your name and then your testimony. Thank you.

Mr. Brian Smith: My name is Brian Smith. I didn't know I'd be up here doing this. When we first moved here, over ten years ago, at the dump, they had recycling at the dump and the glass recycling, the aluminum, things like that. I have no idea how that is doing. And then, as John says, the dump is filling up, everyone knows this. How can we go and help

protect our environment better, and I'm sure that you guys are bringing all this to the foreplay to the County? Can you please tell where we are with that?

Ms. Lono: Well, the only thing that we can address right now is this application but we'll be asking some questions so we can probably try to get some information on that throughout the meeting process. Is that your total testimony? Have anything else?

Mr. Smith: ...(inaudible)...

Ms. Lono: Okay. And is there anyone else? I did ask if there was anyone else that wanted to speak regarding the Hana Landfill. If not -- okay. David Greenberg.

Mr. David Greenberg: My name is David Greenberg and I'd like to testify about the dump. Also, when I first moved here 12 years ago, the dump was one of the most beautiful places in this side of Maui and taken care of by someone who just loved his work and loved to take care of the place, and it was a major recycling place, not just for cans and bottles and all kinds of stuff like that, but all kinds of materials and houseware things, and it was all departmentalized, and a major recycling situation was going on there. And when we left, you know, his job a few years ago, the dump totally changed, nothing was recycled, and I think it's a joke if it's not -- I think that John brought up some really good points about other aspects of it. But I think if we don't consider recycling in a major way in Hana and the dump is a major part of it and that should be part of some kind of environmental impact thing cause it's -- it used to be great and now it's not great at all. That's what I wanna say.

Ms. Lono: Thank you, David. Anyone else wanting to testify regarding the Hana Landfill. Okay, if not, then we will close public testimony and, Committee Members, questions, discussion regarding the Hana Landfill?

Mr. Kaina: I have a question. I'm not sure who to address to. But the issue was brought up by John about Department of Hawaiian Home Lands owning land up there. I just wanted to clarify if this site is a part of it or if anyone has contacted DHHL on the matter?

Mr. Mich Hirano: Yes, Committee Member Kaina, my name is Mich Hirano. I'm with the consulting firm Munekiyo & Hiraga. We're advising the County on this matter, this application before you, and we prepared the environmental assessment. The question was whether the Office of Hawaiian Affairs had commented on the application and the answer is yes. We've had two letters from the Office of Hawaiian Affairs during the environmental review process. The first letter was when we did the early consultation, we sent out a brief summary of the action to all agencies and asked for consideration of scope that should be reviewed during the draft environmental assessment. And then we respond to those questions and comments that are raised during early consultation in the draft environmental assessment, and then distribute the draft environmental assessment to the same agencies

for their comments and review. So have two letters in the environmental assessment from the Office of Hawaiian Affairs. The first letter was done in the early consultation stage and they had asked that a cultural impact assessment be carried out and also that they had asked for a archaeological inventory survey be carried out. And so those two things were carried out during the draft environmental assessment. The final letter, when they reviewed the draft environmental assessment, it's contained in the final environmental -- or the final environmental assessment, which was provided to the Committee, and I'd just like to -- just paraphrase some of their key points.

Ms. Lono: Can you tell me what page that's on?

Mr. Hirano: Okay, it's in the final environmental assessment, it's in Chapter 10, and I have it marked as Page 33 in Chapter 10, and these are handwritten page numbers.

Ms. Lono: Okay.

Mr. Hirano: You got it?

Ms. Lono: Okay, wait a second. Chapter 10. It's on Page 184. Yeah, that was great, thank you. And we did only receive one copy of this as the Committee and we didn't receive it until we actually requested it after this first came on our agenda, I wasn't at that meeting, but because we did defer action on it, we realized that there was an environmental assessment, so I called and requested a copy. So we do have one copy of that but we didn't even have it to review before this was brought before us so kinda hard to do it without all the information.

Mr. Hirano: I think what we mentioned as well during the February 21 meeting was that the environmental assessment was prepared pursuant to Chapter 343, the environmental rules, and we followed that, and the final environmental assessment was prepared and submitted to the Office of Environmental Quality Control. The draft environmental assessment was provided to the Hana Library. There's no requirement, under Chapter 343, for the environmental assessment, the final, to be provided except to the Office of Environmental Quality Control --

Ms. Lono: Excuse me?

Mr. Hirano: But the Planning Department does provide a summary report to the Advisory Committee for review.

Ms. Lono: Yes, but I'd also like to point out that that report to the library did not get provided to the library until I called and I got this copy and they sent a copy to the library

at the same time. That copy never reached the library until after that February meeting. So it was not available to us.

Mr. Hirano: No. I was talking about the draft environmental assessment, not the final.

Ms. Lono: Okay, cause I don't think that it was available at the library so it's really important for us as a community, just for future, that we -- these documents do get to us because we don't have any other way, you know, to look at them unless they're available in the community. So I've been asking to have the Hana Council Office have a copy of these documents so that people can come in and look at -- the public, it can be available to the public and even though we do get a summary report from the Planning Department, their comments are their comments and we need to kinda look at it from our perspective, you know, if we just took everything that the Planning Department said word for word or -- well then we would really kinda have no need to have a meeting like this. We just rubber stamp everything they did. So I'm really grateful that we got a copy and I thank you for providing it to us.

Mr. Hirano: And just another comment on that, Chair Lono, is that one hard copy was provided to the Committee Members and a CD of the draft was provided to all members, yeah? Okay. If you look on the Office of Hawaiian Affairs letter, they said that they have -- they are in receipt of our letter dated June 6, request for comments on the draft environmental assessment, and applications for a Special Management Area Use Permit, Land Use Commission and County Special Use Permits for the Hana Landfill.

Thank you for addressing the concerns from our previous comment letter dated April 14, 2004 with your follow-up letter dated May 4, 2007. The 2003 archaeological assessment conducted by Xamanex Researchers reports that there are no significant cultural resources in the project area due to the habitation patterns and land use of the region. Although Parcel 12 is not included in this expansion plan of the Hana Landfill, if any significant impact of landfill operations were to encumber that stretch of coastline, the operation were to ever occur in that parcel, we would require the necessary steps be taken in accordance with Hawaii Revised Statutes, Chapter 343, relating to environmental impact statements, and Hawaii Revised Statutes, Chapter 6E, relating to historic preservation.

If ground altering activities are planned on this parcel, an archaeological inventory survey, including subsurface testing, must be conducted.

And the reason their comments are framed in this manner is the application is really not for any expansion of the current landfill activities so that's why they commented in this manner.

The second part of their comment was that:

The cultural impact assessment included in the *Draft Revised Environmental Assessment for the County of Maui's Hana Landfill and Land Acquisition* meets the criteria set forth by Hawaii Revised Statutes, Chapter 343, and Hawaii Administrative Rules 11-210 for cultural impact statements. We are satisfied with the consultation of Mr. Samuel Kalalau and Chairperson of the Maui Cultural Resources Commission.

So they have reviewed this document and these were their comments. They didn't mention anything about, you know, any royalties that were owed to -- to their office or anything like that in their comments. So thank you.

Ms. Lono: Mahalo. I guess we need to back up a minute here cause I have a question. After our site visit at the last meeting, is it acknowledged by your department that the cinder pit in Kaeleku is an integral part of the landfill operation and that it should be considered along with this application because as acknowledged by Jimmy Perry in that meeting, the landfill cannot operate and would be shut down if they did not have the cinders?

Ms. Okuma: Thank you, Chair Lono, for the question. I'll address -- try to address that and the perhaps Mich can elaborate further. But basically, that cinder is needed in order to -- as landfill cover. Landfill cover is a regulatory requirement and should we not do that, then we would be in noncompliance and the State Department of Health could seek enforcement action against the County, which can result in a number of things. But basically, that cinder is the only option we have currently in terms of any kind of landfill cover.

Ms. Lono: So considering that -- that that is the case, would it not be necessary to include that in the environmental assessments and, you know, all of these questions that have been brought up about the cinder pit because it hasn't been addressed at all in this application?

Mr. Hirano: Our response to that, Chair Lono, is that, you know, that -- the operations were continuing and the license was permitted by the State and has been in operation since 1976. That license had considered the taking of the cinder, not only for the landfill, but also for the roadways in Hana and, as was mentioned during the site visit, the cinder is also available to the residents of Hana to use for whatever purposes and household purposes that they need it for. I think the appropriate time, if there is an environmental assessment, a need for the environmental assessment is upon the review of the license for this cinder pit operations. It was existing activity and available source during the -- since 1976 for the Hana Landfill. If the State requires an environmental assessment, it would be determined by the Department of Land and Natural Resources and I think the appropriate time for that would be when they review the license application.

Ms. Lehua Cosma: Aloha. I wanted to comment on that site visit we took at the cinder pit. Somehow with the questions and John Blumer-Buell raises in his letter to the Committee, I do see it as a cultural impact, environmental impact because if it's the mine -- the cinders has been taken from 1976, I can see why the mountain is becoming not a mountain anymore. And before this site visit, I, as a resident long time in Hana, I was not aware that the cinders were available for the residents of Hana up until our visit, which is a good thing that I believe is a benefit to this community. The cinders are important to the Hana Landfill because it needs -- they need it to operate. But at the same time, it's also important to our culture and that the mountains be preserved, and I think if it was included in the environmental assessment, there wouldn't be all these questions asked today about it because it does tie to the Hana Landfill to me and it's important.

Mr. Sinenci: Yeah, I wanted to add to that. After the site visit, looking at the operations, without any engineering assessment of the area, what had happened was they had completely mined this one area so they had made another road that went on top or halfway up another mountain. So, for me, looking at that, I would -- I would, just for safety reasons, require an engineering assessment. I don't know if that was done with any engineering input that they go up on the mountain and -- and start on another part of the mountain. Another thing was, you know, we have other cinder. You know if we are depleting this or to the point where the mountain is about to fall down, maybe we should be considering some other areas where we can take cinder and possibly a place where the County owns or you know where nobody -- where we're getting into this. It seems like for this very small thing, there's so many other unfinished things or we're going into other areas over this one issue. So my point was just the safety -- for safety reasons, we should have a, in my opinion, we should have some kind of environmental assessment so that these -- our workers, our Hana workers, are safe and they're not putting, you know, our people in danger by going up this mountain without any soil analysis. Cinder is always very loose, you know. So they're doing this without any soil analysis and we're putting some, you know, couple tons of equipment up there and putting our people in danger, I think.

Ms. Kanakaole: I understand that, you know, we're asked to recommend - there's two. There's a "A" and a "B". And the "A" is to realign the boundaries of Parcel 12 to be expanded. And the "B" is to construct a hundred by a hundred foot runoff detention basin period. But it's really hard for us to not look at, you know, this other issue because that would be pretty much saying that, yes, you can. It's okay with us to expand the boundaries of the dump without even looking at how that would impact these other things. And I think the cinder pit is a integral part of this whole operation. And by us saying, okay, it's alright to, you know, expand the boundaries and do the detention basin, and not say anything else about the cinder pit, would be remiss of us. So I think that's why we're stuck on that and it needs to be addressed somehow.

Mr. Hirano: My response, Committee Member Kanakaole, is perhaps the Committee can make a recommendation to the Maui Planning Commission and to the State Land Use Commission that, you know, as part of the permitting process, the engineering of that mining operation or the cinder extraction be reviewed and a report be provided to -- as a monitoring program. But it's not just the -- it's not just the County Environmental Management Department that is, you know, using that operation. It's also the Public Works Highways Division. So -- but it certainly doesn't stop you from making that type of recommendation and then it could move on and it would be addressed, you know, in that manner.

Ms. Lono: Thank you. Not only, before we -- we move into that and you guys can maybe be formulating a motion in the meantime, but in conjunction with that too, Jimmy also did state in that site visit that he felt there was only enough cinder up there for the next five years and this expansion is for I think we talked about 50 years, so there's -- you know, I don't see any answers in here about how it's going to operate in the future without the cinder operation and what the answers to that are.

Ms. Okuma: Let me just address that by saying this. One of the major undertakings in our department is an integrated solid waste management plan. It's a legal requirement that we, actually all the counties, review and revisit that plan. In fact, one of the committee members appointed by the Mayor is Councilmember Medeiros on that committee. And that plan has not been finalized. We're in process right now. But there's been discussion about all our -- all the landfills, including Hana, I think it was -- something was mentioned about Hana, I don't think the word was "standby" but the correct term --

Ms. Lono: ...(inaudible)...

Ms. Okuma: You're right. It's actually the concept that it be placed on standby as we look at other ways to divert out of our -- out of our waste stream, basically, but even standby means we need the permit and in order to get the permit, we still need these land use permits in place. And also it was mentioned the question about what happened to recycling and redemption efforts. We're ready, basically, on that site. We brought in the roll-off bins there but we cannot begin to operate or get permission from Department of Health because they're looking to make sure that all the State and the County use permits and SMA are in place. So it's all kinda related. But certainly in terms of, you know, an overall management plan for solid waste, we are looking at -- the committee has been discussing the kinds of things that could be done as far as programs and technology to see what we can actually divert out of our -- out of our waste stream so that goes to the question of, you know, what's going to happen in the future, know that there is an ongoing effort to look at how we're going to manage all the waste within -- within the County.

Ms. Lono: Any further discussion? Anyone would like to make a motion? A suggestion?

Ms. Kanakaole: It's hard to word but I'll try and maybe you guys can help.

Ms. Lono: Maybe our legal department could help us with that.

Mr. Hopper: One thing I think - I'm sorry. Paul has a staff report and you've got recommended conditions and things like that as well, right? So if you were looking for conditions -- remember you got three different permits here. You've got a County Special Use Permit, a State Special Use Permit, and an SMA permit. All of them have different legal requirements, all of them are probably susceptible to different types of conditions. Now the staff report recommends I think some conditions for you. You could take a look at that. You could make a recommendation to follow the staff's recommendations as well as the conditions and then add some of your own; if you wanna subtract some of the conditions; if you don't like them, you could tweak them, but that's typically where commissions start is the staff report as sort of a skeleton and then -- and work from there, or you could craft your own sort of conditions. You have a little bit less of a standard because you're not actually approving anything right now so you don't have to have detailed findings of fact and conclusions of law if you don't want them, but I would certainly try to be clear on what your recommendations are particularly if you have wording on specific conditions how you would want to have them worded.

Ms. Lono: Okay, did we go through this staff report at the -- in the February meeting? I wasn't here. So do we need to go through this again and revisit that and decide how we want to address their recommendations - accept them, change them? Okay. So do you wanna take a few minutes to review this real quickly and then --

Ms. Kanakaole: Yeah, so we can figure out where we can change --

Ms. Lono: Okay. Okay, so we'll be taking a recess for five minutes. We'll just take a quick look at this staff report again.

Mr. Fasi: What you're concerned -- the permit you're concerned with is the State Land Use Commission Permit because the mining extraction operation is not in the SMA.

Ms. Lono: Yes.

Mr. Fasi: It's not a County jurisdiction. It's the State Land Use Commission.

Ms. Lono: Right.

Mr. Fasi: So that's what you wanna focus on. And before we take a break, perhaps Mich -- he said a few words prior to the motion and he had the basic skeleton so -- a

recommendation. Maybe you wanna work from that. You wanna repeat what you said, Mich, or --

Mr. Hirano: ...(inaudible)...

Ms. Lono: Yeah. Yeah.

Mr. Fasi: Oh, was it you, Kai? You had it?

Mr. Hirano: Yeah, Kai had it.

Ms. Kanakaole: ...(inaudible)...

Ms. Lono: Yeah, we'll --

Mr. Fasi: And if you would just keep in mind what Corp. Counsel said, you don't have to get very detailed. You just want the general intent there and we can work on it later.

Mr. Hopper: You can be detailed if you want. Paul actually laid them out by different permit and why he -- this is in the recommendation. You've got a staff report and then you have a separate recommendation, which is very important to read. He breaks down each of the permits: the County, the State, and then the SMA permit, and I think there's the conditions are recommended on the SMA permit, although I believe that you could also recommend condition -- well, these are -- yeah, these recommendations are -- well, it's --

Ms. Lono: Oh, it's a separate document.

Mr. Hopper: Yes, it's a separate document entitled *Recommendation*, and I'm not saying the other documents aren't relevant, but recommendation would be where you find, I think, the substance of what your motion would be or would follow.

Ms. Lono: We're in recess at the moment so thank you.

(A recess was called at 5:05 p.m., and the meeting reconvened at 5:10 p.m.)

Ms. Lono: Okay, we're going to call the meeting back to order. So we're looking at the *Maui Planning Department Recommendations for the Hana Advisory Committee*, dated February 21, 2008, and that has their recommendations, which I'm assuming were provided to the Committee at that meeting and reviewed at that meeting, so should we go through these recommendations and decide whether or not we want to support them or change them and/or add other recommendations? Is that what you guys wanna do? How you wanna do it? So they have a list of recommendations for realignment of the boundaries of

Parcel 12 and the construction of the hundred-foot by hundred-foot runoff detention basin and appurtenant infrastructure. We can go through these one by one or you can just choose -- we could entertain a motion to accept them as submitted.

Ms. Kanakaole: Can we just go and add -- add to them and then -- do we have to accept them first and then add, or we add and then accept the whole body, Corp. Counsel?

Ms. Lono: We can -- we should look at these first, I would think, and then add to it.

Mr. Hopper: Yeah, don't make -- put it all together in one motion but, you know, I wouldn't make a motion and then add the stuff later. I'd try to make one motion with all of your recommendations in it just so it doesn't get confusing. As far as considering, you know, going through and saying we have a consensus on this, that, you could go through it that way and then make a final motion at the end.

Ms. Lono: Right.

Mr. Hopper: If you'd like to, you could certainly do that. So, technically, it's anyway you want but I'd recommend that the actual motion include what you finally want to have as your result because that makes things a lot easier. You can do each permit by one motion but I think all the conditions for that particular permit should be addressed in a single motion. That would be a lot easier.

Ms. Lono: Okay, so we're looking at the recommendations of the Planning Department, as I've just described, and I think we should go through and at least acknowledge each one if we wanna accept it as it is or change it and then we can make a motion at the end to adopt the recommendations.

So, No. 1, is that State Land Use Commission Special Use Permit and County Special Use Permit shall be valid until February 28, 2018, subject to further extensions by the Land Use Commission and/or the Planning Commission, as required by each permit accordingly, upon a timely request for extension filed at least 120 days prior to its expiration. The Maui Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension. Okay?

That the conditions of the State Land Use Commission Special Use Permit shall be enforced pursuant to Sections 205-12 and 13, Hawaii Revised Statutes. The County Special Use Permit conditions will be enforced pursuant to the provisions of Chapter - blah, blah, blah, blah, as stated here. Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency. Notifying the permit holder of the violation and providing the permit holder no more than 60 days to clear that violation --

Mr. Joseph Alueta: Madam Chair?

Ms. Lono: Yes?

Mr. Alueta: The first 14, they're your standard conditions.

Ms. Lono: Okay, so they're just standard. There's -- okay.

Mr. Alueta: We normally will recommend those as part of the -- of this permit.

Ms. Lono: Okay.

Mr. Alueta: And then you should look at the --

Ms. Lono: So -- so we could move on past these. I guess I have a question about No. 2 though. Who is going to oversee all of this and look for violations and so forth? That's one of the problems that we have with our whole system is that, you know, nobody seems to --

Mr. Alueta: Both the Department of Public Works as well as the Planning Department.

Ms. Lono: Okay. And I did -- in No. 7, it says, "That the applicant shall begin construction of the landfill expansion within three years from the issuance of the Land Use Commission's decision and order." Three years?

Mr. Alueta: So you're going to have seven through -- this is not my project. I'm just trying to make sure you're ...(inaudible)... but the first six --

Ms. Lono: Yes, we're looking --

Mr. Alueta: The first six are the standard conditions that we attach to every State Special Use Permit.

Ms. Lono: Right.

Mr. Alueta: And then the 7 through 14 are your project specific conditions.

Ms. Lono: Okay, so did you understand that? These are standard conditions through 6 so No. 7 --

Mr. Alueta: So if you wanna add -- if you wanna add anything, you should do it after 14.

Ms. Lono: But No. 7 says three years so if we wanted to address that time, then we should do it while we're looking at No. 7? Okay. So -- yes, sir?

Mr. Hirano: Chair Lono, the -- normally under SMA conditions and State Land Use Commission and County Special Use Permit conditions, there's a period of time in which the applicant has to initiate the action that is being applied for so this is what Condition No. 7 addresses. The action that will be required to be completed -- or to be commenced before -- within the three year period is the detention basin, the new detention basin, the hundred feet by a hundred foot. The rest of it is pretty much standard operations that are currently ongoing at the landfill.

Ms. Lono: So you have --

Mr. Hirano: But if you --

Ms. Lono: Three years to do the detention basin?

Mr. Hirano: That's -- that's a fairly long time horizon for that but I think it's adequate, it may seem long, but, you know when you get the permits, the grading permits, sometimes it takes up to 12 to 18 months to get those --

Ms. Lono: Right.

Mr. Hirano: And, you know, to start the thing. So it was just a comfortable time period, which is a fairly standard period, but I would say I think two years, you know, if you consider it, but anything less than that is pretty tight.

Ms. Okuma: And let me address, we gotta get it in the budget.

Ms. Lono: Right.

Ms. Okuma: So it's not in '09. If anything, it'll come in '010 or thereafter.

Ms. Lono: Okay. And then I assume there are going to be a lot of considerations as you're looking at the overall plan that you were talking about, the one that's being worked on? Sorry I forget the name of it.

Ms. Okuma: It's the -- yes, it's the integrated solid waste plan --

Ms. Lono: Yeah, that one.

Ms. Okuma: But this would not -- neither one holds up the other so --

Ms. Lono: Right.

Ms. Okuma: Yeah.

Ms. Lono: Okay. So does anyone have a question or a concern about the three years and should we recommend something shorter or just leave it?

Ms. Kanakaole: Leave it.

Ms. Lono: Okay. Any other discussion about the other 7, 8, 9, 10 through 14?

Mr. Sinenci: A`ole.

Ms. Lono: A`ole. Okay, so we would recommend that we -- we support these conditions. Okay. So are there any other conditions that we wanted to consider?

Ms. Kanakaole: I wanted to -- I have two. I was wondering if they're -- all the conditions go under -- I mean all the recommendations go under this so mines would be 15 and 16, or is it specific to, you know, the SMA or the County use permit or the State land use permit or does it matter?

Mr. Fasi: Fifteen, sixteen.

Ms. Kanakaole: Okay. Cool. So I suggest No. 15 should read: "That the Department of Environmental Management make their best effort to work with the Public Works Department to ensure operations are carried out in a safe manner regarding engineering, slope and soil stability at the cinder pit site - at the Olopawa Site." And --

Ms. Lono: We'll do one motion at a time. Was that your motion?

Ms. Kanakaole: I think we do it all at once.

Ms. Lono: Is there two motions that need ...(inaudible)...

Ms. Kanakaole: Do I state two recommendations and then we approve the whole thing?

Ms. Lono: No, let's do one. Let's consider one at a time so we can discuss it.

Ms. Kanakaole: Okay.

Ms. Lono: So if that's a motion, if there's a second, then we can discuss that motion.

Mr. Hopper: Well, it should be noted that there's no, unless I missed something, there hasn't been any motion on the floor for anything yet, right?

Ms. Kanakaole: Right.

Ms. Lono: Yeah, that's correct. We're entertaining a motion right now.

Mr. Hopper: Would that include the approval of all the permits subject to all of the conditions or would you just -- would the motion just be to add this one condition cause you haven't added any of the other conditions yet?

Ms. Lono: We were going to do it all at one time as you recommended. We would take those conditions and then add some conditions and then adopt the whole thing at one time. Isn't that what you recommended?

Mr. Hopper: Yeah, I thought that right now though you were considering adding one condition as a separate motion without putting the others one at -- if I was mistaken, I'm sorry.

Ms. Kanakaole: I thought that's what you suggested too, Dawn. Did you suggest that we do that?

Ms. Lono: Yeah, so I mean -- okay. So we need to discuss them one at a time. We can't discuss three separate topics --

Ms. Kanakaole: Okay.

Ms. Lono: At one time.

Ms. Kanakaole: Okay. So we're just discussing now?

Mr. Hopper: Yeah, it's at the discretion of the Chair however you want to do that certainly.

Ms. Kanakaole: Okay. So does anybody have any discussion about my 15 -- No. 15 recommendation?

Ms. Lono: Would you just re-read it again?

Ms. Kanakaole: The Department of Environmental Management make their best effort to work with Public Works Department to ensure operations at the Olopawa Site are carried out in a safe manner regarding engineering, slope and soil stability.

Ms. Lono: Everybody okay with that? Okay, 16?

Ms. Kanakaole: Sixteen to read: "A cultural assessment be conducted to address cultural concerns pertaining to taking cinders for the landfill operations."

Ms. Lono: Read it one more time.

Ms. Kanakaole: "A cultural impact assessment be conducted to address cultural concerns pertaining to taking cinders from the Olopawa Site for landfill operations."

Ms. Lono: Okay? Discussion?

Mr. Sinenci: Should OHA be involved in this part of the -- this cultural assessment? It sounds like, from the letter in there, that they were just addressing the expansion of the landfill and not Kawika's question about Hawaiian Homes Lands or --

Mr. Hirano: Chair Lono, may I just respond to that? Generally when cultural assessments are carried out, the Office of Hawaiian Affairs is consulted and they are asked to identify cultural persons that may be interviewed for the assessment so that's one of the -- the reviews. I think also, just to help with the -- the way the condition is worded, if there was a time frame for this it might better to -- like "prior to construction" or something like that.

Ms. Kanakaole: Prior to expansion.

Mr. Hirano: Prior to expansion, yeah.

Ms. Kanakaole: We should just add that in both of them? So 15 would read: "The Department of Environmental Management make their best effort to work with the Public Works Department to ensure operations are carried out in a safe manner regarding engineering, slope and soil stability prior to -- prior to expansion."

Mr. Hirano: ...(inaudible)... three-year period.

Ms. Kanakaole: Within the three-year period? Okay. And No. 16 would read: "A cultural impact assessment be carried out to address cultural concerns pertaining to taking cinders from the Olopawa Site for landfill operations during the three-year period prior to construction."

Mr. Sinenci: Can we add to include representation from the Office of Hawaiian Affairs?

Mr. Hirano: ...(inaudible)...

Ms. Kanakaole: That's automatic.

Mr. Hirano: That they be consulted and that Office of Hawaiian Affairs be consulted during the cultural impact assessment. During preparation of the cultural assessment.

Ms. Cosma: The culture study was done by you said Sam Kalalau?

Ms. Lono: No, he ...(inaudible)...

Ms. Cosma: No? What did you --

Mr. Hirano: No, he was one of the people interviewed during the landfill cultural assessment but we're speaking of a different one now, yeah.

Ms. Cosma: Okay.

Mr. Fasi: Fifteen and sixteen is going to trigger 343.

Ms. Lono: Which means what?

Mr. Fasi: Which means an EA.

Ms. Lono: Well that's kinda what we're trying to get to. I mean it's -- I think what we're recognizing here is that the relationship between the two is very critical and that the Kaeleku Olopawa cinder pit is important to look at in conjunction with the landfill operation. So that's, I think, what we're trying to get to and, unfortunately, you know that probably is going to cause some time constraints on the whole thing and I guess I wanna understand from Cheryl, you know, where -- where this leaves us. I mean a lot of time has lapsed in trying to get the special use permits and doing all of this, and it's important for us to have a operating landfill in Hana; in the meantime, as I understand it, we've had to deal with all kinds of fines and continuing fines from the Department of Health and the State of Hawaii, so balancing the relevance and the importance of addressing all of these other things but not shutting our landfill at the same time because it's critical to our community.

Ms. Okuma: Chair Lono, you bring up a good point and that is that the way Department of Health views the landfill operations is they will not give us our operating permits unless we can show that all our State and County land permits and SMA's are in place. And technically, we would be in violation -- we are in violation for, you know, and the worst thing that could happen is, yes, they can, you know, shut down our landfills if they so move in that kind of direction plus penalties. So it is critical to our operation and that's something for the Committee to be aware of.

Ms. Kanakaole: Can we address -- did you say the Department of Health?

Ms. Okuma: Yes, the State Department of Health regulates us and we have to get permits in order to run the operations and that's the operating permit that I've been referring to and, legally, in order to operate these types of operations, we need to get that State permit. And in addition, I had mentioned about a recycling redemption effort on the landfill. We cannot even begin that until we can show Department of Health that we have our State and County permits in place.

Ms. Kanakaole: So how can we, you know, share with the Department of Health our predicament that we're in right now and so they show us some kind of, I don't know, leniency or mercy or something?

Mr. Hirano: Well, that's why I think the time frame was -- sorry. May I speak on that, Chair Lono? That's why I thought the time frame was important that it was prior to construction so I think that the permits could be issued, the special use permit, State land use permit, special management area permit, but before construction starts, these studies will be carried out and then they'll be reviewed by the department that they meet, you know, the conditions of the permit. So the process would be that when the County Department of Environmental Management is ready to start construction, they'll do a preliminary compliance report, how they've met all these conditions, and that would include the Condition 15 and 16, the additional conditions if they're passed, and then the department will review those and see if they're, you know, in compliance and that those issues have been addressed. And so I think the permits will be allowed to be approved, you know, the way the conditions are worded.

Ms. Lono: I don't think, and I didn't write them down the way you worded them, but I guess one of the concerns that I have is the lack of an existing agreement between the State of Hawaii and the County for the Olopawa cinder pit. And as I understand it, generally, and this may not apply here, but if you have a lease that lapses, generally, the lease continues on a month-to-month basis until a new lease is negotiated. So I would assume that perhaps there is an assumed lease at this point in time until they negotiate a new lease. Is that correct?

Ms. Okuma: I'm uncertain -- I'm not sure if it's a -- was a license or right-of-entry or exactly what that document was, and there's been a lot of discussions with DLNR, and the only thing I can really say is that, today and currently, we have Corp. Counsel that request has gone into, prepare whatever legal document we need in order to be able to then take it for discussion to DLNR, so I'm not even sure we know exactly -- exactly what that legal document was.

Ms. Lono: Okay, so would it be appropriate or would the Committee Members like to address that as a condition that that lease -- yeah, that that lease be --

Ms. Okuma: Perhaps whatever the appropriate legal document is and that's what we would take up with Corp. Counsel; they'll tell us whether it's a licensed lease or a right-of-entry, so I suppose the point is that whatever legal document is needed in order to address the cinder, right? I believe that's what you're trying to get to.

Ms. Lono: Appropriate legal document in terms of the agreement ...(inaudible)...

Ms. Okuma: Yes, to reflect an agreement between the State and County as far as the handling or removal of the cinder for landfill operations. I guess something like that.

Ms. Lono: Office of Environmental -- because that might be your responsibility to -- the Office of Environmental Management --

Ms. Okuma: Yes that --

Ms. Lono: Would be required to -- to execute an appropriate legal document to address the cinder -- to reflect an agreement between the State and County regarding the Olopawa cinder operation.

Ms. Okuma: That's fine.

Mr. Sinenci: For the ...(inaudible)...

Ms. Lono: Yeah, in conjunction with the Hana Landfill --

Ms. Okuma. Correct. Right. Yes.

Ms. Lono: Refuse Disposal Site. You got that? You don't have it?

Mr. Fasi: I'll review it with you after.

Ms. Lono: Okay. Well we definitely want to include that as Item No. 17. Okay, are there any other conditions? I just wanna -- alright, I'm just re-looking at John's letter, John Blumer-Buell's letter, and John, I have to say, he puts an awful lot of effort into researching all of this stuff and providing information and a lot of it is worthy of our consideration, so I'm just -- I just wanna take a minute to look at John's ten problems and suggested solutions very quickly to see if we wanna address any of those in our recommendations. So we'll recess for a couple more minutes. Thank you.

(A recess was called at 5:25 p.m., and the meeting reconvened at 5:40 p.m.)

Ms. Lono: Okay, we need to call back to order this meeting over here. I think -- what we're discussing right now is the need for an environmental assessment on the Olopawa cinder pit and the need for that environmental assessment, and what I was thinking we were trying to do was not -- what I was thinking we were trying to do was to not hang up this process and make them have to wait until that's done in order to get this through because I mean as sensitive as these issues and as important as these issues are, we need our landfill and we need to not to be fined, you know, multi tens of thousands or hundreds of thousands of dollars by the Department of Health for not being in compliance. So if we ask for a environmental assessment of Olopawa, can we -- can we do that after -- can that be done after this -- after the special use permits and all of that, we can request that to be done within that three-year period. Is that what -- is that correct?

Mr. Hopper: Can I make a comment?

Ms. Lono: Yes.

Mr. Hopper: The term "environmental assessment" has a very specific, as you know, you know, legal definition where there are consultation period. There's -- there's notice, there's situations where -- and then there has to be a determination. The objective of the environmental assessment, as you know, as an information document, not as -- and in and of itself, it is there to provide information for decision makers, not for any other reason. So if you believe that there's information that should be provided to somebody, and they've done an EA, they've issued the FONSI, the challenge period for that particular EA has run out; however, if there's additional information you need or you believe should be disclosed, you can place that as a condition on the permits whether or not an environmental assessment is required. Let's say this was not a State project. Let's say this was a separate project that didn't involve the State or the County lands, someone could place, as a condition, that there be a consultation with, you know, with certain agencies regarding cultural impacts or things like that, completely outside of any environmental assessment, which is, you know, a specific type of review. Essentially, you can request the information an EA would have given you without requesting an EA. So that is something that you could consider as well that you could request the actual information without actually requiring any sort of EA be done.

Ms. Lono: That would then require us to get very specific and delineate each one of those things that we would like to see disclosed or have additional information on rather than just covering it with a blanket of an EA.

Mr. Hopper: I mean cause an EA was done and it --

Ms. Lono: But it was not done including the Olopawa cinder site --

Mr. Hopper: Right.

Ms. Lono: And that's what we're trying to get at.

Mr. Hopper: Okay, well then rather than do another EA from the beginning, you could address what you believe were inadequacies in that environmental assessment, require that those be done because you believe that those are impacts that need to be mitigated through conditions on the project, and basically you could say you believe this EA was inadequate, you didn't have any authority over that EA, you couldn't have rejected that EA for example, however, the way that Hana Advisory Committee and that the -- eventually the Planning Commission and the State would have oversight over that would be to place appropriate conditions on the project to get that information and mitigate those impacts appropriately either through conditions or through denying the permits if they believe the impacts would outweigh the benefits of the permits. That's one of way of going about it.

Ms. Lono: Okay, Committee Members?

Mr. Sinenci: Counsel, did you mention that there were three separate permits that we are -- okay, and then -- and then -- miss, sorry. Well, and then these guys said that if we were to include the -- the recommendations for the Olopawa site, we should be putting it under the State -- the State special management area use permit because right now it is not in -- the cinder pit is not part of these permits so can -- my question is: Can we technically just, you know, go ahead and propose to okay the first two permits and then make our changes to the State section of those permits?

Mr. Hopper: Yeah, in general, if you want to place any conditions on a permit, I think -- well, first of all, you're making recommendations so you do have a bit broader of a discretion. If something, you know, turns out to be problematic, it could be sorted out with the Commission. In general, conditions placed on permits, there has to be what's called a rational nexus between the -- the condition that you're imposing and the impact of the project. So basically what you're looking at is that each separate permit, which is needed for different types of operations, has different impacts, you know. Each section of the project has different impacts that the permits are required for. The permits are required for different reasons. For example, the SMA permit is for shoreline protection. It's for environmental protection of the special management area. So the conditions you could impose on those permits depend on what the scope of the, basically, the project is, the impacts of that project, and basically it has to have a nexus to what the permit is attempting to regulate. When you're dealing the SMA permit, for example, it deals with coastal resources. So not only would you want to specifically impose those types of conditions on only the permits that would deal with the projects that are creating those impacts that the

conditions are there to mitigate, but you would also only be able to place those conditions on those particular permits. In other words, if you tried to place a condition on an SMA permit on an impact that the project that's in the SMA didn't have anything to do with, then that condition would be illegal. So you need to place the conditions on the permits as appropriate to what that permit is -- what the impact of that permit is having.

Ms. Lono: Okay, so if we were to -- let's -- maybe we should take it one permit at a time then, the special use permit, I mean -- I mean the SMA permit, which has to do with the coastal issues. So, okay these conditions that we just were looking at were relevant to what part of the permit. The recommendations from the Planning Department. This was on the State Special Use Permit and the County Special Use Permit. So we could go ahead and address the SMA permit and get that out of the way. Is that what you're saying?

Mr. Hopper: And I wanna hear from Planning what conditions they have recommended for each permit. That would be important.

Ms. Lono: Okay, we have --

Mr. Hopper: And I see that those are two. I don't see any for the SMA permit.

Ms. Lono: The SMA permit, right.

Mr. Hopper: Do you have any conditions that you'd recommend for the SMA permit?

Ms. Lono: Here. Right here. SMA Use Permit is also required, blah, blah, blah, and we recommend deferral on the SMA permit until such time as both the State Special Use Permit and the County Special Use Permit are obtained. If the State -- if the SUP and CUP permits are obtained without any major revisions to its proposed conditions, then the Hana Advisory Committee would recommend approval of the SMA permit subject to the following conditions:

If there are substantive changes by the State Land Use Commission to these conditions, then the Hana Advisory Committee may want to recommend referral of the SMA permit request to the Hana Advisory Committee for revised recommendation.

Mr. Hopper: And that's because the special management area permit can't actually be granted until the State gives the permission. So you can make recommendations on it but the actual permit cannot be granted until the State acts. Is that correct?

Mr. Fasi: You can't have one without the other.

Mr. Yoshida: Because the use is not an outright permitted use in the State ag district or the County ag district, they need the State Special Use Permit. Because it's more than 15 acres, it has to go to the Planning Commission and then to the State Land Use Commission. The County Special Use Permit would go to the Planning Commission. One of the tenants of the special management area permit would be that the use is consistent with the General Plan, applicable zoning ordinances, subdivision, and other ordinances, so we couldn't make that finding until the special use permits were granted.

Ms. Okuma: Chair Lono, may I ask that our consultant, Mich, address this issue?

Mr. Lono: Okay. Okay, sure. We are going to be taking up, by the way, the home occupation bill this evening so we need to get through this but we are going to take this up this evening so --

Mr. Hirano: Chair Lono, I just wanted to follow-up on what the Corporation Counsel was saying about specific concerns and I felt that the Condition No. 15 and 16 that were added regarding cultural impact assessment and the engineering safety aspects of the cinder operation dealt specifically with those impacts and, you know, a way to mitigate those through these studies. The issue of the environmental assessment, as I mentioned earlier, is really whether or not the action triggers Chapter 343 and I think that the State Department of Land and Natural Resources, as they're looking and reviewing the licensing for this, that's where that would be dealt with. If that triggered an environmental assessment, then an environmental assessment would be carried out at that point. So, you know, I think you've covered the specific concerns with that and then with the environmental, I'm sure that, you know, in the trigger for that, if it's -- if it does trigger it, will be dealt with when the permit and license is being acted upon and that's No. 17, which is that you get that proper license. So I don't think it's an issue that you need to -- well, I'm thinking it will be dealt with if it's relevant.

Ms. Lono: Yes, Kaii?

Ms. Kanakaole: I agree.

Ms. Lono: Okay.

Ms. Cosma: I don't quite agree because I still believe it is impact. They were using the cinders. Somehow it's all related into one thing. So that's my opinion.

Ms. Lono: So what are you saying? You're saying that what? What would your recommendation be then?

Ms. Cosma: I'm just saying that it does trigger an environmental assessment because we are using that as -- to tie in with the landfill.

Ms. Kanakaole: But it will be addressed. I mean our concerns --

Ms. Lono: Right.

Ms. Kanakaole: Will be addressed in 15 and 16 and 17, and then if it -- if that triggers even more, then an environmental impact assessment will take place.

Mr. Sinenci: I think he's saying that the environmental impact, if I'm not mistaken, is just to help us decide? Is given to help us to make a decision. What Counsel said.

Mr. Hirano: No. No, I think I'm saying that there's specific triggers for, you know, an environmental -- when you have to do an environmental assessment and those triggers relate to the use of County lands and State lands and resources. So the reason that it wasn't included in the existing environmental assessment is that it's a current operation that's been ongoing since 1976 but if the trigger, when the new license is being applied for and being granted, the Department of Land and Natural Resources, as part of granted the license, would determine what studies need to be done if it triggers an environmental assessment. So that's what I was saying that it's the -- it's the action that triggers it, you know, that triggers that whole thing.

Ms. Lono: So that's one way that it would be triggered is through the DLNR in negotiating that. Yeah. So I guess what -- is it -- is what we're trying to do guarantee that an environmental assessment get triggered. Is that what we're wanting to do? Cause if that's what we're wanting to do, then let's just make that a condition.

Mr. Sinenci: But I think why -- why we didn't go that route was we wanted to fast-track the other operations of -- of the --

Ms. Lono: Right.

Mr. Sinenci: And get our permits so that we would avoid some major fines and I think our wording in "three years prior to construction" was so that all these things happen while our permits are being put through the process.

Mr. Hirano: That's one point. The second point, I think which is fairly important, is you can't just say do an environmental assessment, you know.

Ms. Lono: Right.

Mr. Hirano: It has to be -- that has to be triggered by an action which -- and there are seven classes of actions and three administrative kind of situations that require environmental assessment. Some people, you know, just -- you know, just volunteer to do it but the requirements are very specific in Chapter 343, so I'm saying if one is -- if one is required, the Department of Land and Natural Resources will determine that when they review the license.

Ms. Kanakaole: I think by us being specific in our 15, 16, and 17, it carries more weight than just the Hana Advisory Committee saying we an environmental impact assessment.

Ms. Lono: Okay, okay, wait a minute. I just was looking through this, you know, John's letter and I want to consider these things and if we want to incorporate any of these into our recommendations so -- okay, so that we addressed. Oh, regarding the height of the Hana Landfill. The County of Maui does not recognize the height of the Hana Landfill as a significant impact. We are not actually going higher; we are actually going horizontal. He recommends that we recognize the vertical expansion of the landfill as an environmental impact, including cultural impact, upon the community. A site visit to Fagan's Cross, Kauiki or other locations will confirm this allegation. Consultations need to be made with the Kaahumanu Society, konohiki of the ahupua`a and moku, and the Aha Moku Council and other cultural organizations. So it looks like what Mr. Blumer-Buell is representing is that that did not get taken into consideration in the environmental impact statement so is that something that we want to address and recommend get -- get looked at or do we want to move on?

Ms. Cosma: I think in all respect to John Blumer-Buell's hard work and knowledge of doing his homework, trying to preserve the Hana Community, it might be best that we recommend that we follow-up if that could be a condition.

Ms. Lono: Well, personally -- okay, I don't know how far I can go as a Chair, but as a person of this community, I have been concerned about the impact of those views and being able to see the landfill that we were never able to see before because of the height that it has grown to and the continued growth of the height of the landfill. So if there's something that we can do to address that, I think that's our responsibility to do that and that's the same consideration for the Olopawa cinder pit because you never used to be able to see the mining operation and now so much of it has been taken down that you can now see it. So is this something that we want to address in our conditions and how do we address it? Does anybody have a suggestion?

Ms. Kanakaole: What is it -- can you -- can you guys advise as to, you know, the height? I know he told us there was, you know, a height requirement or limit and we were way below the height limit but is there --

Mr. Hirano: I think, Committee Member Kanakaole, when Tracy Takamine was here, he said the height of the, from grade, the height of the landfill now is about 24 to 30 feet, and he said that the design height of the landfill is 60 or -- is it 60 feet?

Ms. Lono: Yeah. I thought he said 80.

Mr. Hirano: Eighty? Eighty.

Ms. Lono: But that's just my brain.

Mr. Hirano: Yeah. Is it more than that? Eighty feet then? That was the design capacity of the height so there is, you know, that was the range in which we were operating in.

Ms. Lono: Okay, so there's obviously going to be a visual impact on our community especially if you can see it now at 24 feet. Can you image what we're going to be able to see when it's at 80?

Ms. Kanakaole: Right.

Ms. Lono: So is there -- I mean is there a way to address that and what are our options?

Ms. Kanakaole: It's not in our community plan.

Mr. Hirano: The -- I think there are a couple of options. One, you know, the license is till 2018. It's not -- you're not going to be there at that time so there will be a renewal to or an opportunity to review that fact during the, you know, the next period of the permit. You can also just limit it to a certain height. I think by doing that, you know, I think that the Department of Environmental Management will probably challenge that, you know, because these are recommendations to the Planning Commission --

Ms. Lono: Right.

Mr. Hirano: And to the State Land Use Commission and, you know, I think that the Department of Environmental Management has their operating plan with what, you know, they see as the long-term capacity of the landfill and they may challenge that and try to remove that as a condition.

Ms. Lono: Well that's their -- you know, it's our responsibility to perhaps impose that and then they can do what they need to do. I think what that also triggers are some of the other options and some of the other concerns that we brought and community members have brought up about recycling, about also it being a satellite facility where looking at those considerations where the refuse is trucked out of Hana, which I, you know, I have concerns

whether or not that would be a cost-efficient method of dealing with our -- our refuse in Hana, and we have consideration for those bridges, of the traffic, and, you know, there's a whole other study that would have to be done to deal with that. So, you know, it's a delicate balance. I think that we should consider adjusting the height if the Committee Members would like to do that so --

Mr. Kaina: I have a quick question regarding that. If we do put a limit on the height of the refuse, are we in turn jeopardizing the longevity of the landfill?

Mr. Hirano: I think so. Yes. I think that because, you know, it's expanding this way and it's limited this way too so it does expand the -- it does impact the capacity of it. And I just say this that, you know, it's one of these conditions and suggestions that maybe the Department of Environmental Management cannot fully endorse and I just want you, you know, to know that that will be an issue but, you know, I think department's trying to be sensitive to the community needs and to be responsive to those by trying to come up with the conditions that addresses those and to work with the Hana Community in mitigation. But I think the height issue is a -- it's a sensitive community issue but it's also a very important issue for the Department of Environmental Management because it does limit the capacity and, as a result of that, you know alternatives may be -- have to be developed earlier which may be more costly, those haven't been explored yet, and we were talking I think 80 years or so, I mean in terms of life, so it's a fairly long term consideration.

Ms. Okuma: Right, but I think now that we do hear the considerations, and as I mentioned, we are undertaking this effort in terms of an integrated solid waste plan. There's a lot of moving parts in play and so we appreciate the concerns and comments and, you know, we'll take a look at the entire situation as we look at how all these different parts of our program fit in. And I -- but I guess just the concern is not we be hampered in so much that it becomes impossible to do our job.

Ms. Lono: I wonder if we could make a recommendation if there's some kind of planting or something that could be done. I mean would it be able to be screened in some way to try to mitigate that impact of looking from one of the most beautiful places on the entire island being having to see this mound of garbage?

Mr. Hirano: That's a good point because, you know, the application to acquire the additional area is for a buffer --

Ms. Lono: Right.

Mr. Hirano: And if they had control over that, perhaps, you know, planting can be done to screen it. I mean that would be maybe the recommendation that the department could live

with is that in the long-term, mitigation be looked at in terms of for the height by screening and landscaping in the buffer area.

Ms. Lono: So mitigation by screening -- by screening or other methods -- mitigation of scenic impacts. So No. 18 could be something like "mitigate the scenic impact or the view --"

Mr. Hirano: The vertical height of the landfill through landscaping mitigation.

Ms. Lono: Okay. Landscaping or other method --

Mr. Hirano: Yeah.

Ms. Lono: So we could open it up to other possible ways of -- so is that acceptable to you guys to put that in there? Something about that?

Ms. Kanakaole: Yeah. Can we add in the recycling thing too in there?

Ms. Lono: Yes. Go ahead and -- so that's 18. Is somebody -- is somebody keeping track of these for us?

Ms. Kanakaole: Maybe that could be a part of 18 too as a part of controlling the vertical height --

Mr. Hirano: Yeah, by diversion by --

Ms. Kanakaole: Have a recycling plan in place.

Mr. Hirano: Yeah.

Ms. Lono: Yeah. To make every effort --

Mr. Hirano: And alternatives -- and alternatives be explored, such as recycling --

Ms. Lono: Yeah, okay.

Mr. Hirano: To reduce solid waste disposal.

Ms. Lono: Okay. That sounds great what you just said.

Ms. Kanakaole: You are good at that.

Mr. Hirano: But I think, for that mitigation, again, the time frame is important because you can't just do it -- that within the three-year period but maybe a plan for the ten-year period be done.

Ms. Lono: Well, that would need to be something that would be looked, you know, along with the -- the growth of the facility --

Mr. Hirano: Right.

Ms. Lono: And the use and so forth so -- oh yeah, that's a good idea. At 40 feet it would -- that's --

Mr. Hirano: Okay. Yeah ...(inaudible)...

Ms. Lono: Or prior to it reaching 40 feet, a mitigation plan would be developed and implemented. Something like that.

Ms. Kanakaole: That sounds good.

Ms. Lono: I like that 40 feet.

Mr. Hirano: I think --

Ms. Kanakaole: It's ...(inaudible)...

Mr. Hirano: Director Okuma just said that if it was done within the ten-year period of the permit, that it would give them more flexibility to do that as oppose to, you know, at a certain time, yeah.

Ms. Lono: Okay, so what do -- what do you guys think? Within the ten-year period. Okay, so, Suzie, when we -- when we develop these, do you write these down for us so that they can be read back to us? Okay, so he's -- you're doing that? So what --

Mr. Fasi: Can you clarify that again? The 40-foot height limit is limited within a 10-year time period?

Ms. Lono: No. What we're saying is rather than say 40 years, we would say within the 10-year time period of the permit.

Mr. Hirano: That a -- maybe we could say that a height mitigation plan that will incorporate landscaping and other alternative -- alternative action, such as waste diversion and

recycling, be carried out within the ten-year license period or within the ten-year permit period.

Ms. Lono: Okay, so that is -- is that 18 or is that 19? What number are we on - 18?

Mr. Fasi: That was 18. So I've got mitigate visual vertical height of the landfill by landscaping or other methods such as the recycling --

Ms. Lono: Diversion --

Mr. Hirano: Waste diversion and waste recycling.

Ms. Lono: I would like to add one more condition that -- this is really a key one I think to me on this is that immediately, we need to immediately begin the recycling programs for the Hana Landfill. I mean not even, you know, as soon as possible, we need to get that in place and there should be nothing stopping us from recycling everything that is recyclable, you know, glass, cans, newspaper, cardboard, plastic, all of it because that should all be diverted out of our landfill immediately.

Ms. Okuma: Right, and just as a reminder, we are set up on the landfill --

Mr. Lono: Right.

Ms. Okuma: We just need the permit to -- to start that operation.

Ms. Lono: To do that. So just to make sure that that's addressed in here. So number whatever we're on - is it 19?

Mr. Fasi: Nineteen.

Ms. Lono: Okay, to -- would be to --

Mr. Fasi: Begin recycling --

Ms. Lono: As soon as the -- as soon as the permits are issued --

Ms. Okuma: As soon as the permits are issued and the Department of Health has given us legal authorization.

Ms. Lono: Okay, you go that? As soon as the permits are issued and Department of Health grants --

Ms. Okuma: Grants the permit to us --

Ms. Lono: Permit and authorization.

Mr. Hirano: And the landfill will accept the recycling waste -- or accept recycling material.

Ms. Lono: Yes. All recycling material and I'd really like to put some specifics on there so newspaper, cardboard, glass, aluminum, you know, we -- excuse me?

Mr. Fasi: The usual items that you can recycle.

Ms. Lono: Yeah, so but I'd really --

Mr. Fasi: Household items.

Ms. Lono: Like to have these detailed in the recommendation because, you know, I've been trying to work with Hana Steele and I get a lot of, well, we're going to do this but we're not going to do that. We're going to do this but we're not going to do that. So I'm trying to include in here that we want all of those things. So is there anything else? We got plastic, glass, newspaper, cardboard --

Mr. Hirano: Batteries.

Ms. Lono: Batteries.

Mr. Hirano: Oil.

Ms. Lono: Oil.

Mr. Hirano: Tires.

Ms. Lono: Tires.

Mr. Hirano: Appliances.

Ms. Lono: Appliances. Got it. You the -- they're all there. Okay. Okay, so let's see. Was there anything else in here so we can move off of this one? Transfer station, you know, that'll be addressed, I'm assuming, when you look at the options. Oh, this water quality situation. The water quality testing criteria needs to be examined by professional biologists. Require water quality monitoring and testing every three months. Develop a comprehensive list of chemicals that should be tested -- that should be tested for in consultation with the Hawaii Department -- Hawaii State Department of Health and the U.S.

Environment Protection Agency, and independent biologists. Require additional testing wells to cover more possible outflows and discharges. Do you guys have concerns about the water quality and do you wanna address this condition as a condition?

Ms. Kanakaole: It seemed like the last time the test that were taken were too far in between. I forget how many years it was.

Mr. Hirano: The -- you know, there is a report. the groundwater monitoring report is done twice a year, semi-annually at landfill site and that's a Department of Health or Environmental Protection Agency requirement, yeah.

Ms. Lono: So does twice a year feel adequate or do we wanna consider a recommendation that it be done more frequently?

Ms. Kanakaole: More frequently. It's just because there was a marine biologist here that time and she testified saying that you cannot -- it's hard to get hard data just testing the water twice a year. It's hard to see, you know, how it goes up and down and after big rains, what happens to the water, and so she was saying twice a year is not really a, you know, valid information.

Ms. Lono: Okay, so could you word a recommendation? What are we recommending?

Mr. Hirano: Maybe quarterly?

Ms. Lono: Quarterly? Is that the required water quality? Okay, so could the recommendation be that we require water quality monitoring and testing every three months, which would be quarterly, and develop a comprehensive list of chemicals that should be tested for in consultation with the Hawaii State Department of Health, the EPA, and independent biologists.

Ms. Okuma: I just wanna mention that I believe for this, EPA -- I mean DOH has probably been delegated the responsibility so I guess the question is: Would it be okay to deal with DOH because it's a program that EPA has delegated and it saves us from dealing with more than one regulatory agency? DOH is easier cause their local, locally here, whereas EPA is, you know, out of San Francisco.

Ms. Lono: Okay, so what does that mean? Okay, so -- so we would ask the Department of Health to do this testing? Is that what you're saying?

Ms. Okuma: No, they won't do the testing but we'll deal with Department of Health in terms of, you know, submitting the data and informing them of -- which we do anyway --

Ms. Lono: Okay.

Ms. Okuma: But we have to report to them.

Ms. Lono: Okay. That's fine.

Ms. Okuma: So we will continue our regulatory process.

Ms. Lono: To report to the Department of Health?

Ms. Okuma: Right.

Ms. Lono: Okay.

Ms. Okuma: Thank you.

Mr. Sinenci: To include studies at the -- at the Waikalua area and in front along the coastline.

Ms. Lono: So the water testing would take place in front of Waikalua where the landfill actually is and where --

Mr. Sinenci: And on the north side of the Hana Bay.

Ms. Lono: So and near the Hana Bay area, which is where all our children play and that's where all the water comes out actually and affects that area so we wanna be sure that those are included. That's what you're saying?

Mr. Sinenci: Right, and should we add some instances of MRSA and what is that? Just general staph infections.

Mr. Hirano: Again, I think that that's another area where that the Department of Environmental Management will not try -- well, will challenge and request that they be relieved from that condition because there's no indication from the ground water testing that's been carried out that there is any leakage or, you know, transportation of those ...(inaudible)...

Ms. Okuma: Yeah, coastal testing, that kind of monitoring and testing along the coastal area is fairly comprehensive and quite expensive. The one thing that I will mention that I will be -- actually there's a whole effort right now through the University of Hawaii East-West Center where they're just trying to, throughout the State, collect data, existing data from -- in terms of what has been done in coastal areas as a start because I think this

question you raise is also a question raised in other places because of discussions about various impacts on coastal waters, it's not just from government activities, but it's from surface runoff and, you know, every imaginable activity you can think of. So I'll just say that these kinds of studies are fairly -- can be fairly comprehensive and quite -- quite costly so I have a bit of concern about the extent of effort, not that it's not important, but there might be other efforts within the State where it would make sense to see what data is already out there and, as I said, there seems to be that kind of ongoing effort within the State where they're actually trying to get various State and local agencies together to start some sort of effort, and I don't know too much about it because we haven't even gone to that yet, but there's that level of effort that's going on.

Ms. Lono: Okay, so how do you feel about the water issue? Do we wanna put a condition on or move on? Yes, Paul?

Mr. Fasi: When I was a planner at Lanai Planning Commission, they've got a water quality study that they do, and there's a Doctor Bock, from the UH that does it out their I guess Marine Biology Department, that report is this thick and he does it twice a year, and you need a Ph.D. You can have multiple Ph.D.'s and you'll never make rhyme or reason out of that thing. It's so complicated and so convoluted that they sent it to UCLA to have it explained to them --

Ms. Lono: Well, I think we're talking --

Mr. Fasi: And the guys, the UCLA guys had a hard time trying to decipher what was in it.

Ms. Lono: Right.

Mr. Fasi: You have -- I mean you can do the report and you can get it, but it's just a bunch of information that's -- that's -- you can't use so be careful what you ask for.

Ms. Lono: Right, I guess that what we would specifically be interested in are things like staph, and lead, and those things that, you know, affect the lives of our children on a daily basis that swim in Hana Bay, which is directly downstream from the Hana Landfill, so it's not an invalid concern but maybe what you're saying is we need to be a little more specific and maybe there are some less comprehensive tests that could be done to address those concerns. Is that what you're trying to say?

Mr. Fasi: That's acceptable.

Ms. Lono: So the -- anybody have any suggestions on how to address that then?

Mr. Sinenci: Just note it in case we go into hearing.

Ms. Okuma: And let me just mention that we do have groundwater monitoring that's going on so you've already increased that to every quarter so that's an indicator of what's happening and, you know, I think that'll --

Ms. Lono: Okay.

Ms. Okuma: That'll at least give us some information.

Ms. Lono: That's a good point. Okay, so how are we? Are we good on conditions? Lehua, did you have something else?

Ms. Cosma: I just wanted to add to your Hana Bay that Waikalua, addressing the landfill, is where the children also swims --

Ms. Lono: Right.

Ms. Cosma: And that's a bigger impact and to establish a baseline water quality information and then a program of ongoing monitoring in conjunction with the State of Hawaii and the United States Environmental Protection Agency and independent professional biologist, adjoining property owners, and the Hana Community. That's another solution to that that might be helpful.

Ms. Lono: Okay, Committee, what's your pleasure? Do you want to add that condition, Committee? Kawika? Okay, we need to not talk to each other, we need to -- so what is your -- what are you saying? Quarterly? Okay, so that's the one that's -- we already did that already then, the quarterly monitoring. Okay. Any other conditions? Okay, so we're ready to do something real here now then. Okay, so we need to go through -- we have three -- three issues before us so these conditions were relevant to the -- the State Land Use Commission Special Use Permit and the County Special Use Permit. Is that correct? Okay. So we now need to have a motion.

Ms. Kanakaole: I move that we approve the recommendations stated in this document, in the Planning Commission document, Recommendations 1 through 14 --

Ms. Lono: Okay.

Ms. Kanakaole: Adding Recommendation 15, 16, 17, 18, and 19.

Ms. Lono: Is there a second?

Ms. Kanakaole: And 20.

Ms. Lono: Oh, 20? Okay.

Mr. Kaina: I second the motion.

Ms. Lono: Kawika seconds. Any discussion? Do we need to have those conditions re-read or are we all clear on what they are?

Ms. Kanakaole: All clear.

Ms. Lono: Okay. Any discussion?

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

It has been moved by Ms. Kanakaole, seconded by Mr. Kaina, then

VOTED: I move that we approve the recommendations stated in this document, in the Planning Department document, Recommendations 1 through 14, adding Recommendations 15, 16, 17, 18, 19, and 20.

(Assenting: L. Cosma; K. Kanakaole; S. Sinenci; D. Kaina)
(Excused: T. Kahula; M. Mauliola)

Ms. Lono: Okay, motion carried unanimously. And then we have the Special Management Area Permit, which there was a recommendation by the Planning Department, yeah. Oh, you got the paper? Okay, the recommendation by the Planning Department. They recommend deferral of the SMA Permit until such time as both the State Special Use Permit and the County Special Use Permit are obtained. So if the SUP and CUP permits are obtained without any major revisions to its proposed conditions, then the Hana Advisory Committee would recommend approval of the SMA Permit subject to the following condition: If there are substantive changes to the State Land Use Commission -- by the State Land Use Commission to these conditions, then the Hana Advisory Committee may want to recommend referral of the SMA Permit request back to the Hana Advisory Committee to revise the recommendations -- for revised recommendations.

So, in other words, if when they -- when they approve the SUP and the CUP, if there are major changes, then it would come back to the Hana Advisory Committee to be reviewed again. And if not, then it's done. Yeah.

Ms. Kanakaole: I move that we accept the recommendation made by the Planning Department for the Special Management Area Use Permit.

Ms. Lono: Okay. Second?

Mr. Sinenci: I'll second that motion.

Ms. Lono: Okay.

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

It has been moved by Ms. Kanakaole, seconded by Mr. Sinenci, then

VOTED: To approve the recommendation made by the Planning Department for the Special Management Area Use Permit.

*(Assenting: L. Cosma; K. Kanakaole; S. Sinenci; D. Kaina)
(Excused: T. Kahula; M. Mauiola)*

Ms. Lono: Motion carried unanimously. Thank you for patience and for answering our questions.

Mr. Hirano: Thank you very much, Committee. Thank you.

Ms. Lono: We really appreciate it. I'd like to take about a ten-minute recess.

(A recess was called at 6:25 p.m., and the meeting reconvened at 6:34 p.m.)

Ms. Lono: We'd like to call the meeting back to order. Okay, so we are now on Item G, Communications.

G. COMMUNICATIONS

- 1. Maui Planning Commission referring the following resolution to the Hana Advisory Committee for their comments:**

Council Resolution No. 08-5 referring A Draft Bill to Authorize Home Occupations in Various Zoning Districts to the Lanai, Maui, and Molokai Planning Commission *(Previously circulated with the March 20, 2008 agenda).*

The Committee may take action to provide comments on the draft bill.

Mr. Alueta: Good evening. I'm Joe Alueta. I'm your Administrative Planning Officer for the Planning Department. I handle all your rule changes, bills, and ordinances. As you know, there's two ways in which we can get a law changed and that would either be director

initiated bill change that's coming from the -- from -- we the staff generate that or it can be done by resolution from the County Council. When you have one from the County Council, you kinda more or less do damage control. You have 120 days to get -- get comments and get them back to the County Council. Most of the time resolutions are say for items that are pretty straightforward, for the most part, and have pretty much a consensus among the Council as being something they support and what they're seeking is to deal with home occupations.

Home -- the definition of home occupation, if you look at Exhibit 2 of the memo report that I did, that's the existing definition. It's kinda written -- it says on the top, "19.04.040," okay and it's unusual that you would have a standards for home occupations but that's, when the Council adopted that, this is how they adopted it. They wanted to be very clear as to what counted as a home occupation. This is not someone who wants to run a massage or any type of business. This is for someone who wants -- who has a home office that maybe does an internet business and has no clients coming to them and was totally in keeping in character with the idea of the residence. Okay, this is not businesses moving into the residential district. This is about what is considered very innocuous home office use, primarily geared toward, again, you know e-bay people, people selling on e-bay; maybe an attorney who likes to work from home but doesn't have clients come there, prepares wills either -- and deals with e-mail or by packages; sometimes you have architects do the -- work the same way, a lot of architects work out of their home office; engineers, and whatnot. So it doesn't apply to your general retail office or store where you have clients or even anything like that and so they try to make it very simple and what was going to be generally accepted to everyone, okay.

When they adopted this -- or the definition change, the only -- the only place that where home occupations were specifically permitted or listed were in three of the project districts in Wailuku. So -- but when the bill was adopted, the definition, it was adopted in 19.04, which generally applies to -- which does apply to all of Title 19, so when this bill -- when the definition was created the Planning Department, by its own accord, had a policy, a department policy, and wherever -- and so we allowed for people to go ahead and if they met the criteria of this to -- if they had a single-family home, they would be allowed to have a home occupation and so that's where it all came about. But, however, the Council, in this resolution, is trying to make it crystal clear as to what districts are allowed to have a home occupation, okay. This is not the first time that you probably seen home occupation. The reason that that -- that definition was crafted the way it was is that there was a whole big push at one time to get home occupations defined or allowed in a lot of different areas.

At that time, there was what I call "Christmas tree hanging" is when you have a good bill, you know, someone -- something everybody generally agrees with, there's always going to be that five percent that says, oh, what about me? What about, you know, hula halaus? What about my Amway or my Tupperware parties? Or what about my massage studio?

What about my transient vacation rental? And that kind of bogged the whole process down with regards to home occupation, and this is for the 80-90 percent of the people out there who just had an office and was just, you know, had a spare room in their house, was communicating via the internet or by phone or fax, and they just wanted to make sure that they were legal, you know, and because they were already claiming it on their taxes as a home, you know, and so that's when -- so that's how all of that stuff got kicked to the side and the definition was very specific. And again, so once again, Council is just trying to clarify again where they can be. I didn't draft this ordinance. This is coming out of Council. And the department is supportive of their proposal to be more clear. It makes it very simple where you can and cannot have a home occupation. So it basically codifies a lot of the Planning Department's policies that we were already operating under.

Two things that -- from our policy that we would like to carry over to the Council that we would recommend, and that's on Page 2 of my memo report, and that is we think home occupation should be allowed in the County and State Rural District. Wherever in the rural district single-family residences are listed as an outrightly permitted use, that is a principle use within that district, therefore, we feel that a home occupation qualifies wherever that is listed as the principle permitted use.

We also feel that there should be a cap as to how big. Currently, the definition sets the cap of a home occupation at 25 percent, okay. From a department standpoint, in our policy, we had set the cap at 25 percent not to exceed 250 square feet, okay. Given the state of, I don't know about you guys, but we have a lot of mansions on our side and I'm sure you have a few here, houses in general have gotten bigger, you know. Twenty years ago, 1100 square feet was probably considered good size. You're now seeing, you know, 4,000 square foot at a minimum now sometimes. Up to 8000. We even had a house in that was 25,000 square feet. So if you're looking at 25 percent of the square footage of a home that's 4,000 square feet, you're looking at a thousand square feet and that's a pretty good size operation you could say going on and may not necessarily, even though it met all these criteria, just the sheer size of it may -- may cause you think that there's a little more activity going on and maybe that person should really think about moving on to another area where it's -- is less intrusive. So we feel that that should be the safety cap of 250 square feet. And if you think about it, that's about 2 bedrooms, if you look at a normal bedroom is either -- runs around 10 by 12, to 12 by 12, so that's about 2 bedrooms the way we look at it.

That's pretty much our comments on it. The Water Department, their comments are that because this would be listed as a permitted use, they would not have an opportunity to impose any type of restrictions on the water. And again, we're not looking to have someone put in a new \$10,000 fire hydrant to run a home office because they do e-bay. That's not the intent of this and so where we think that Water Department would come into play is, again, is if you have to -- if your business doesn't qualify as a home occupation, the other vehicles or other permitting or entitlement permits that we have are both the County

Special Use Permit as well as the County Conditional Permit. And on the State land use side, you have what you call the State Special Use Permit, which many of you are familiar with here in Hana because of the rural district. In the Hana house lots area, you have all the one-acre rural lots, and all of those lots, you had like Bob Vogel, you know, if you remember the auto body, you had Dollar Rent-a-Car was using it as their office and storage/wash area, and you had that type of -- they came in with a permit at that time. And then during those additional permits, we feel that you're going to come and review it, you're going to have a public hearing on it, Water Department's going to have an opportunity, and other agencies. But again, those are for above and beyond what is covered under this. We're talking about really simple home occupations.

So again, the department is recommending approval of this to you and to the commissions and that you consider our recommendations that are on Page 2 of the memo report with regards to adding a cap on the size as well as expanding the use to the rural district. And again, the reso would expand it to the R-0 area, the apartment district, and business district, and all the residential districts, so we're talking R-0, R-1, R-2, R-3, the apartment districts, as well as business districts. We don't see it as need to have it in the business districts because it's a redundancy because it's a business district, you can do business, it doesn't matter, without any limitations. But if they wanna add it in there, it's not going to hurt. It's just that I think that they got confused because single-family residence, existing single-family residence are listed in the business district so --

So beyond that, the department wanted to also make you aware that we feel that there needs to be more significant revisions to the residential districts and we added a draft, a preliminary draft copy of our proposal and that's our Exhibit 4. That's more for your information. If you see something striking from it. But it just shows you we're thinking along the same lines as the Council but we feel that there needs to be some expansion and structural changes. We do not think that this should be done now. We think that the Council's Resolution is a quick fix and will address everyone and that later on we can do more of a -- a permanent structural fix with the residential districts and also to address home occupations again as well as the other uses. So that's Exhibit 4 and so if you have any questions, that's all I have as far as a staff report.

Ms. Lono: any questions from the members? I'd like to open up the meeting for public testimony. If there's anyone from the public that would like to testify, now would be the time.

Mr. Robin Riley: My name is Robin Riley. I'm a resident of Hana and I -- I want to say, first of all, that I support this resolution. I think the idea of making legal businesses, home businesses in general is a good idea, however, I have some concerns. The planning board has extended their recommendation to include rural areas, however, Hana has very little residential area. Most of our area is either interim, agricultural, or rural, or interim-rural or

interim-agricultural in which case this bill does not really apply to us although -- so I think although I think the bill is a good idea, it doesn't -- it doesn't really affect Hana that greatly. So I would suggest that perhaps as well as having rural included, you might consider including interim as another zoning category for -- for this bill and also agricultural, which I know is sensitive for all kinds of other issues but it still is -- it is -- farm dwellings are allowed and people do live in those dwellings and although the primary person may be farming, there may be other residents in that family that are doing other kinds of businesses to help support the family, the farming, or whatever, and they should be allowed their little accounting businesses or whatever it is. So I would encourage the planning board to expand the districts to include those three. I also think that, again, Hana's a little different from other parts of Maui in that we are very rural and there are lots of cottage industries. I understand the special use permit is one way to address those special uses but here there's, again, everyone is in interim or rural or agricultural zones and I don't -- I don't know if it's possible to create some kind of cottage industry for those kind of zoning where people could be allowed to have certain kinds of businesses that may in fact include clientele, small numbers of clientele coming to -- to your residence or other sorts of things that might ease some of the burden of this community in terms of being able to live here and have a business and make an income, so that's just another suggestion. I thank you very much for allowing me to speak.

Ms. Lono: Thank you, Robin. Does anyone have any questions for Robin? Robin, do you have a business in Hana?

Ms. Riley: I'm an architect, and I live here, and I am prepared to do work at my house if that's considered legal but right now, I think that it's not because I'm in an interim zone.

Ms. Lono: Okay, thank you. Any other wishing to testify? Bob Getzen.

Mr. Bob Getzen: Okay, thank you. You all know me as Bob Getzen. I agree with the previous speaker most of what she said. Hana is a very unique place, as you are all aware. We can't -- we don't fit in the same situation as they do in Wailuku and Kahului and particularly with the current economy, I think we really need to look at home-based business, and if you look at the price of gas now, for somebody to think about getting a job and driving to the other side, you know, that's pretty out of the question for a lot of people. One of the things I think we should include is being able to allow clients or customers to come to the -- to your home as long as you're not creating a problem with the neighbors. It should have off-street parking or something. If you're doing accounting, or if you're an attorney, or an architect and stuff, to have somebody be able to come to your home may be you can only have one client at a time. It's not like, you know, a drive-in business where you got, you know, ten cars at your place. You know, right now we do have a lot of businesses in Hana that we realize aren't legal and, you know, we just kinda look the other way and stuff so the idea is to come up with something reasonable if there's any -- if we put

everything into the special use permit, that's going to take up everybody's time. We don't have the time to make each case a special use permit. I would suggest maybe, particularly in Hana, 250 square feet may be a little small for some businesses; maybe you wanna go to 500 square feet. I agree to say 25 percent and you end up with somebody that has a 10,000 square-foot house is, you know, that's a pretty substantial business so, you know, if you're going to limit the square footage, you know, come up with something that works. And again, I think the key is allowing people to come to the house, like for instance massage therapists or a chiropractor, these are places we don't have -- the other side there's business districts that are available for this, we don't have business districts in Hana that can fulfill all our needs so I think it's important and I agree we need to look at it at all zoning levels. There's people in, you know, there's a lot of interim zoning here in Hana. Rural and ag areas we'll work for -- there's your ag areas. If you're drawing stuff on your property and engaged in agriculture, you may still have another side business that you wanna operate. So anyway, thank you for your consideration.

Ms. Lono: Thank you, Bob. Any questions for Bob? Okay, mahalo. Anyone else wishing to testify? Okay, public testimony is -- okay, for Robin.

Ms. Riley: I did wanna add one thing or in concurrence which is the size that's being recommended. As an architect, 250 square feet, when you look at size of drawings and storage and stuff, it's a little small for me. I also work as an artist and that's a little small for me too. So I -- I -- although I understand the concern about the very large dwellings and 25 percent, the other restrictions of this regulation would limit -- I mean if you cannot hire anyone else to work for you and you don't have any clients coming in, then it's kind of hard to justify a 10,000 square-foot space for a home business. So I think by the definitions of regulation in itself will limit the size and I don't see the reason to limit the size beyond that or if you are going to limit it, limit it to something that's flexible enough to take into account any other type of home business. Thank you.

Ms. Lono: Mahalo. I have two written testimonies that were left earlier today so I'll read them very quickly.

This one is dated 5/5/08:

The undersigned Hana Community members ask that the Hana Advisory Committee reject Resolution 08-5 because the restrictions on home occupation, if enforced, will put numerous community members out of business causing financial hardship and making goods and services unavailable in Hana.

It was signed by Gay Fayerstein, Terry Lynch, Dean Holm, Bob Getzen, Brian Smith, and somebody that I can't read their writing at all. I wonder -- well, anyway, and they left their phone numbers and so forth. So there's that one.

And then this one, at the top it says, "Reject Resolution 08-5, Bill for Ordinance to Authorize Home Occupations in Various Zoning Districts."

To members of the Hana Advisory Board and Community members: My comments concern small home business, home occupations. First, although I am grateful that the board is hearing testimony on this issue, I am pessimistic that it will influence the ultimate outcome. I hope I am proved wrong. I have seen repeated, over and over, this situation that people are given a so-called voice and permitted to give input and join committees and so on that, but then those with power or influence, whether visible, elected officials or bureaucrats, or influential developers or whoever they are, routinely ignore, change, or throw out the recommendations that don't match their plans. We have what somewhat resembles a democratic process but no democratic results. Frankly, as long as small cities like Hana are not able to incorporate so that they can legislate their own laws for their own conditions, we will be wasting most of our efforts; that's why there aren't more people here. Despite this situation, I offer the following observations in hopes it will at least plant a seed that will eventually lead to change.

Businesses are the life blood of a community whether they are farms, services, lodging, or markets. Without commerce, Hana will shrivel and die. Without the jobs and income created and the services provided by private businesses, Hana wouldn't have much to offer the people who live here, and not many people could afford to live here. Don't we want to promote local self-sufficiency? Don't we want to spend money locally so it comes right back into our community? When I do to a local small business, whether it's a plate lunch place or to get my taxes done, I know that my money is going to circulate back to me once somebody gets a sore back, right?

I don't need to go running to the other side as much and I get to do business with my friends and neighbors. If local home businesses are severely restricted, it's just that much more money -- it's just that much more money that goes out of the community. And also as we burn the gas to drive to the other side to get the computer fixed or the car repaired or the sore back work done, we are sending our money, the measure of our time and effort right over to the Middle East.

Everyone agrees that businesses need to be regulated so that noise, traffic, and general appearance of the community aren't a problem, but don't regulate business out of existence. Business is how we all live. If not directly, then as a courtesy of the business person who pays the taxes. It is just as bad to have regulations which are not enforced unless there is a complaint. This makes people vulnerable to whomever might complain whether it's justified or not. It's a type of extortion. Laws are supposed to provide equal protection to people, not be used against people sometimes. Laws or lack of laws -- laws or lack of laws, I think it's what it's supposed to say, laws or lack of laws that people put into a position where they are operating illegally are bad laws and they set up a climate of fear, injustice, and corruption.

I ask this Committee to recommend three things. One, local control of the home business and TVR issue. Hana Should be able to regulate itself much better than some agency in Wailuku. Two, regulating businesses as little as possible have clear, simple, and minimal regulations, maintain personal freedom -- oh, maintain personal freedom by regulating businesses as little as possible. Don't pass bad laws that are then selectively enforced on the basis of complaints. It contributes to a climate of fear and corruption. Pass fair and reasonable laws that support the existence of small home businesses and strengthen our community. Thank you. I welcome any questions or comments from the Advisory Committee.

However, there is no signature. Oh, is that who it is? Brian Smith? Okay. And that's all the public testimony that we have. So, Committee Members, discussion?

Mr. Alueta: Did you close public testimony?

Ms. Lono: Yeah. Thank you. Closing public testimony. Oh, we got another one? Oh, the same one. Okay. Okay, Kawika needs to leave. He has to pick up his children so we still have a quorum. Thank you for being here. Okay, open for discussion.

(Committee Member David "Kawika" Kaina was excused from the meeting at 7:05 p.m.)

Mr. Alueta: If I may, Madam Chair, address a few things and that is home occupation, because of the gray area, is currently not legal at this point in time. This bill or the ordinance that's being proposed by the County Council would make it legal for the 80-90 percent of the people out there. So for that aspect, it's a good bill in the sense that it helps those and does no harm to those who don't meet the qualifications. Again, I talked about why the last time the home occupation bill failed was because of the Christmas tree hanging and the key phrase is "it doesn't meet my needs" and that seems to be the echoing

sound of whoever comes in and testifies will be it doesn't meet "my" needs, therefore, it must be a bad bill. That's where we run into problems and I think that this bill as proposed can be modified. I agree with the adding it to potentially to the interim district where a single-family is the principle use and is existing. That would make sense. So I don't have too much of a problem with that. So again -- and then again, in the long term, we feel that solving the individual cases, if they truly have to impact, then -- and they have, under certain circumstances, then working them through a County Special Use Permit or in areas that require a State Special Use Permit is the best -- is the option that we proposing at this point. But for those what I call "no-brainer uses" and that have everyone agrees that you have total consensus that, yeah, that makes sense, that doesn't have an impact, we would recommend that you move forward with that and that's with the exceptions of expanding it to a couple of districts, I guess, the rural district and potentially the interim district, as well as capping the size and the number is up to you. Again, we threw out 250 because that has been the policy or department interpretation of how we've been doing things.

Ms. Lono: Thank you, Joe. Yeah, I wanted to address the interim because Hana, when everybody's rural was rezoned, Hana's rural was not rezoned and it remained interim so all of our rural lands are just designations so that leaves a huge gap, so perhaps considering that interim is important. So, Committee Members?

Ms. Cosma: Hi. First of all, I'd like to say Hana is unique and we're so different from Kahului, Lahaina, and all that, and I see some home occupations as a value to the community cause some of our family use it and it helps the economy, and if we can make some kind of exceptions to allow some them, I think it helps the economy. And if it's an impact to the neighbors, I think that that's something the homeowner should get a waiver maybe from the neighbor saying that they grant permission for them to do so what they're doing, like we have someone doing hair-cutting at their home, because no matter what way you look at it, they're still going to do it whether it's legal or not legal. That's how I think.

Ms. Lono: I hear Joe's point that at least this blanket covers, you know, like he said 80 percent or so of the home businesses without any issues whatsoever and it looks like they're going to be addressing this more broadly coming up, that this is just, like he said, a band aid sort of measure at this point in time, so I understand that. I really think, along with the TVR issue, that Hana should also write its own home occupation bill. But in the meantime, this is something that takes care of a whole category without having to deal with anything. It just will -- will handle all of those. So I would like to propose, and I don't know if the Chair, what I can actually do, but I would like to ask for a recommendation from the other Committee Members to perhaps add in -- start with adding in the interim zone for Hana if that's something that the Committee Members are interested in doing.

Ms. Kanakaole: Should we make a -- should I make a motion to add in or to recommend?

Ms. Lono: We could do the same thing we did last time if we want to address the recommendations from the Planning Department, and then just add to those, and then adopt them all at the same time at the end. That's the recommendation that you made last time, right?

Mr. Hopper: It's at the pleasure of the Chair. You could potentially do it that way. Then you need just a motion approved by four people that states all of your recommendations.

Ms. Lono: Okay. So we'll just -- let's look at the -- at the two recommendations from the Planning Department and then we'll add to those.

Ms. Kanakaole: Okay.

Ms. Lono: Okay, so the first one we have is to add home occupations as an allowed use in Chapter 19.29, Rural District. The department does not believe that home occupation needs to be included in the commercial districts. Business offices and commercial operations are allowed by right within the commercial business districts. So does that seem acceptable to everyone? That would just be adding the home occupation in the rural district. That's what you're doing there.

Ms. Kanakaole: And I think we should add interim to that.

Ms. Lono: So rural -- so No. 3 would be to add interim. Okay? And then No. 2 is amend 19.04.0409(2) to read, see Exhibit 2 for full definition of home occupations, so we have to look at that Exhibit 2.

Mr. Alueta: We're just adding not to exceed 250 square feet.

Ms. Lono: Okay, so let's discuss the 250 square feet. Does that seem appropriate or do we wanna adjust that, make a recommendation to adjust it, or accept it?

Mr. Sinenci: It would be ...(inaudible)...

Ms. Lono: No, 250 square feet is 10 by --

Mr. Alueta: Ten by 24 -- 10 by 25 is 250 square feet. Ten by 25 is 250 square feet.

Mr. Sinenci: Oh, that's big that.

Mr. Alueta: That's what I said.

Ms. Lono: Yeah, I mean I -- I know it's, you know, depends on what your business is doing and like - what was her name? Robin? Yeah, Robin. If you're an artist, perhaps, you know, you need a whole bunch more space to lay out all your canvases and whatever and whatever, but most of these businesses that are being addressed here would probably have adequate space in 250 square feet, but I'm not sure, so what do you guys think?

Mr. Sinenci: Who are the people that signed this? Are these people against it for it?

Ms. Lono: Well these people --

Mr. Sinenci: Why reject resolution --

Ms. Lono: Yeah.

Mr. Sinenci: Because of restrictions but they didn't say what kind of restrictions.

Ms. Lono: Well, what it doesn't do is it doesn't address the chiropractor business, it doesn't address -- well his business isn't really in his home. He goes out and work. I don't know about B and, you know, the chiropractor, but it doesn't -- it's like -- it's like Joe said that they're -- that 80 percent of the businesses are going to be covered by this and then the 20 percent outside of it that are really either -- would require a special use permit or could possibly be addressed in this future upcoming look at this bill. So for the purposes of perhaps passing this ordinance and covering those 80 percent, we just kinda leave it as is, but I'm wondering if 250 square feet seems to be adequate.

Ms. Kanakaole: I think it is.

Mr. Hopper: Can I make a comment?

Ms. Kanakaole: I think it's adequate.

Mr. Hopper: I just wanna make a comment. You may all realize but if you would reject the bill, that would actually keep the current standards in place, which are far more restrictive right now because right now no home-based businesses are permitted anywhere so all home-based businesses would be illegal even the ones that meet this definition cause they haven't been adopted in any of districts yet. This would make some legal. There could certainly be an argument that people don't feel that the current definition, when it's expanded, is enough but if you would reject the bill, that would actually make all home-based businesses illegal. So you just need to be aware of that.

Ms. Lono: That's a good point. Thank you.

Mr. Alueta: And the current process for someone to legalize their home-based business or home occupation would be either through a County Conditional Permit, which is very hard to get, it goes through Council, or -- and potentially a State Special Use Permit so this would make it, basically, an outrightly permitted use in those districts that we have listed.

Ms. Kanakaole: So those people who have businesses that people come to their homes, they're not covered under this and they would have to apply for a special use permit?

Mr. Alueta: Yes, regardless.

Ms. Kanakaole: And that's a crazy --

Mr. Alueta: Regardless of whether you pass this bill or whether you --

Ms. Kanakaole: Right.

Mr. Alueta: Yeah.

Ms. Kanakaole: And that's a hard process?

Mr. Hopper: Joe, would it be a conditional use permit or would they be able to get a County Special Use Permit, depending on their district for a home-based business where people come to their home?

Mr. Alueta: When we do that update, the potential update, which would be a County Special Use Permit. Under the -- unless it's listed under that specific district as a special use permit, then it's you can't get it. So if you look in the residential district, it list what items can apply for a special use permit.

Mr. Hopper: It says, "domestic type businesses," right? Certain domestic type businesses such as --

Mr. Alueta: That could be one way they could apply for it.

Mr. Hopper: In residential only so that, again, wouldn't cover rural, it wouldn't cover any of the other areas you're talking about here?

Mr. Alueta: Correct. Correct. So, yeah, so some of those --

Mr. Hopper: And you would still need a special use permit so those types of businesses, which are like sewing and dress making and I think things like that, which I don't think involve people coming to the home, those types of uses would actually then become

outright permitted uses so you wouldn't need to get the special use permit if you are in residential. And right now, in the other areas, it's not even listed as a special use so you would need a conditional use permit then in those areas.

Mr. Alueta: That is correct. Yeah, if it's not listed.

Mr. Hopper: Okay. And then your further changes, you're thinking of making them special uses then in the future perhaps?

Mr. Alueta: That is correct.

Mr. Hopper: Okay.

Mr. Alueta: Correct.

Ms. Lono: I think I'm just going to interject again here because in order to make this as to cover 80 percent of the businesses that are operating right now, this is kind of a speedy, like you said, band aid effect to take care of that. To address, more thoroughly, these other types of businesses that have clients coming and going and, you know, have a different kind of services, that's going to be taken up in a future bill or a future proposal by the Planning Department, and I'm also recommending that Hana write its own home occupation ordinance because, like we've all said in every situation, Hana's different than any other place and we do have, you know, a lot of extenuating circumstances, but at least this bill covers a whole gambit of businesses immediately.

Mr. Sinenci: Does it cover it all those roadside lunch areas?

Ms. Lono: No.

Mr. Alueta: The existing State Special Use Permit as well as the County Agricultural District does.

Ms. Lono: Yeah.

Mr. Alueta: And so they're covered under our existing agricultural operation -- agricultural bill, 19.30A, does allow for roadside stands, not the size that you see at the strip mall, but I believe that they did get a --

Ms. Lono: They got a special use permit.

Mr. Alueta: They got a special use permit. And again, would you wanna have that many strip malls going from here back to town? Or would you wanna restrict them?

Ms. Lono: Skippy's.

Mr. Alueta: Skippy's. Yeah. Anyway, I call it a --

Ms. Lono: That's what would help to control is that kind of a situation.

Mr. Alueta: I call it "the strip mall" but -- and again, that's why you -- you wanna have a permit process for some things to restrict the number of those that do come in, in itself, the process is a limiting factor because, I don't know, in business it's called "barriers to entry" so by having that, you can limit it in itself through your permit process. And again -- again, this is a bill we're trying to get through for 80 percent of the people it helps. It doesn't hurt anybody that doesn't meet that criteria and -- and whatever bill comes in -- you come back -- we come back, don't look at it as the end-all, be-all Christmas tree hanging, you gotta cover everything in Hana. Remember there's another bill coming through that'll be coming forward with, which is the SBR bill --

Ms. Lono: Right.

Mr. Alueta: And so when you see the comprehensive of all the different bills that come in, you may find that satisfies your need as far as what you view for commercial operations, and then those other -- those outside percentages that don't those criteria, could then still be process via the -- either a conditional permit or State Special Use Permit, depending on their location, but, again, we're just looking for this resolution that I feel covers, like I say, 80 percent is a good bill and with it and we have our recommendations and so that's all I have.

Ms. Lono: Well, I see that one of the concerns that we have as a community is some people, like our chiropractor, is operating out of their homes and because there is no commercial place for them to operate. There's no available land anywhere except for the one that's hung up with Office of Hawaiian Affairs right now, which is the Hina Village Market Place. So there's no commercial property available to do that business and we need these services, and it was pointed out very clearly in this letter, that for us to get in a car and drive to the other side to go get, you know, chiropractic services is really tough and very costly, so we need to address that, but I think the point is is that that can be addressed in the upcoming bills and also these people could be proceeding with a special use -- the special use permit processing, getting a special use permit to do the services, so that's another option. But we have right now, we added the interim district on there, do we want to adjust the square footage, 250 square feet, do we want to adjust that, or do we wanna just not pass this on and just say we -- we don't like it?

Ms. Kanakaole: I'm fine with it.

Ms. Lono: You're fine with the 250 square feet also?

Ms. Kanakaole: Yes.

Ms. Lono: Okay. Shane?

Mr. Sinenci: How much was it again, 25 by 10?

Ms. Lono: Yeah. Or however you can figure the 250 square feet. I mean most bedrooms, like he said, are like 12 by 12, which is a hundred and forty -- two hundred and forty --

Mr. Alueta: A hundred and forty-four, 12 by 12 is a 144.

Ms. Lono: Yeah, 12 by 12 is a 144 square feet.

Mr. Alueta: So -- and you also gotta -- it's 25 percent or maximum 250, so if you have a thousand square-foot house, that would max you at the 250. If you had a 650 square-foot cottage, you would only do 25 percent, which would be smaller than 250, okay. But our concern is that anything bigger than a thousand square-foot house, if you had a 4,000 or a 2,000 square-foot house, that's 500 square feet, that's a 10 by 50, or a, you know, a 25 by 25. I don't know. Gotta check my math there but so, again, we came up with 250 because that's a little -- about 2 bedrooms.

Ms. Cosma: What if we made anything beyond 250, would have to come here for a public meeting?

Ms. Lono: Well that's what it has to do now. Yeah. If you capped it at 250, then if it went over that, they'd have to get a special use permit or whatever, yeah. Okay, are there any other suggestions to this bill? So can we add in here that -- or make a note or a recommendation that Hana be able to draft its own home occupation bill? Is that a recommendation that we could make as a Committee that we'd be able to draft a bill for Hana specifically?

Mr. Alueta: You can make that recommendation that, you know, you'd wanna tailor make it to you and when we come back with our revisions to Title 19. I don't encourage it; just letting you know. I just don't like having an ordinance that has "for Molokai only;" "for Lanai only;" "for Hana only." It's nice and if that's the way people want it, I'm going to do it because that's my job. My job is to help you do it. But from a planning aspect, it's very cumbersome to administer, but it's not unheard of. So again, we have several sections in our code that has uses and say "for Molokai only;" "for Hana only;" for -- I mean so it's something that we have to look at and deal with the reality and we're going to aid you as best we can to make as clean as possible so -- but I, again, urge you to, you know, make

that recommendation and then when you see the SBR bill, and you see the lands that are potentially could be impacted, and you see the revisions to the residential districts, you can make a decision as to how much more you want to expand commercial uses outside of those core districts, and when you also analyze what your existing community plan says because there's some strict language in there and it's not my position to try to expand your commercial entities outside of your core districts. If you have specific language within the community plan that prohibits that, it only makes me look like I didn't read you plan, okay, so -- but again, today, we're just dealing with a -- what I call a, hopefully, "a clean bill."

Ms. Lono: Okay, so we added the interim district and then would anyone like to make a recommendation that Hana be able to write its own home occupation bill ordinance?

Ms. Cosma: Okay, I'd like to make a recommendation that Hana does its own home ordinance in this, apply that to this home occupation bill that's before us.

Ms. Lono: Okay. Any other --

Mr. Sinenci: Maybe to reflect our community business plan. No? You don't wanna try and tailor -- tailor it to our present community plan?

Ms. Lono: Well, the problem with the present community plan is it's extremely restrictive and if we were to tailor it to the language of the community plan, then --

Mr. Sinenci: We wouldn't have home occupation.

Ms. Lono: We wouldn't have home occupation. However, what's happening is we're coming up on reviewing the Hana Community Plan here in the next couple of years when the Maui County General Plan finally finishes and the Hana Community Plan was supposed to have been reviewed quite a few years ago already, so it's about 14 years old now, I believe, so if we put that in there, that would be like -- really be very restrictive so if we just --

Mr. Sinenci: Okay, so let me rephrase that: "To reflect our unique and isolated lifestyle."

Ms. Lono: Okay. Any other?

Mr. Sinenci: I think Joe mentioned something about single-family was one. He made one point about single-family --

Mr. Alueta: Right now, our recommendations are, again, capping it, setting the cap 250; adding the rural district; I believe you guys wanted to add interim district, and that's pretty much it. What we're saying is that when we come back, we're going to come back to you

with a number of bills, one of which is your SBR, and one is the residential district where I'm going to have -- try to explain the format in which we think the home occupations should be managed as well as those that don't meet the criteria for home occupation. And at that point, I think that, you know, Hana can try to tailor it more toward your needs or make some special adjustments as needed. But at this point in time, the resolution from Council, I didn't want to hold up the resolution from Council because I feel it is a good bill and it solves some immediate problems and, again, covers 80 percent or more of the people out there that have home occupations.

Ms. Lono: Okay, so I'd like to entertain a motion to approve or adopt this ordinance or the recommendations of the Planning Commission, No. 1, No. 2, adding No. 3, which is adding the interim district, and No. 4, recommending Hana drafts its own home occupation ordinance to reflect it's isolated and unique lifestyle.

Ms. Kanakaole: I move to do that.

Mr. Hopper: Madam Chair? When you said recommendations of the Planning Commission, did you mean the Planning Department?

Ms. Lono: I mean the Planning Department.

Mr. Hopper: Okay.

Ms. Lono: Excuse me. Thank you. Brain cramps. Okay, is there a second to that motion?

Ms. Kanakaole: I moved. I had to move because she cannot make the motion so I move.

Ms. Cosma: Okay, then I second that motion.

Ms. Lono: Okay, any further discussion on this?

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

It has been moved by Ms. Kanakaole, seconded by Ms. Cosma, then

VOTED: To adopt the recommendations of the Planning Department, No. 1, No. 2, adding No. 3, which is adding the interim district, and No. 4, recommending Hana drafts its own home occupation ordinance to reflect it's isolated and unique lifestyle.

**(Assenting: L. Cosma; K. Kanakaole; D. Lono; S. Sinenci)
(Excused: D. Kaina; TM Kahula; M. Mauliola)**

Ms. Lono: Unanimously carried. Okay, moving on, Mr. Director? Yeah, we just got business matters to take care of.

H. DIRECTOR'S REPORT

- 1. Possible Agenda Items for Upcoming Meetings of the Hana Advisory Committee**
- 2. Meeting Day of the Week for Hana Advisory Committee meetings**

Mr. Yoshida: Very quickly, Madam Chair, members of the board, some of the upcoming Hana applications, the department is currently processing, in the order in which they were submitted: One, the Mark Collins change in zoning, he's waiting for the SBR bill, when that'll happen, we look to other sources; Two, is the Hana Bay Boat Ramp Improvements SMA and Shoreline Setback Variance done by the Division of Boating and Ocean Recreation; Three, is we have a TVR application in the ag district that needs a State Special Use Permit and conditional permit; and, four, just last week, we receive from the Parks Department the SMA application for the Pa`animai Park expansion SMA. So those are the four applications that the department is currently processing. So I don't foresee us having a meeting unless we get some kind of legislation soon, say for July or later. July.

Ms. Lono: Okay, could I -- could I ask a question relative to member Melissa --

Ms. Cosma: Mauiola.

Ms. Lono: Yeah, that one. She has not attended meetings for quite a while and we find that it's very difficult for us to be operating with a shortage of members, so I'm wondering if it would be appropriate for us to write a letter to her requesting her resignation so that we could replace her with an active member?

Mr. Yoshida: Well, typically, those things are handled through the Mayor's office.

Ms. Lono: Typically. But is it an option, I'm just asking if it's an option for us because that's the long way around the situation if we go through the Mayor's office. Would it be appropriate for us to request her resignation and then let the Mayor know that we need to replace her cause she's not showing up for meetings and it's very inefficient and it's affecting the operation of this Committee especially when the last she committed to being here, so we had all of these people come out here, and then she didn't show up and that was a waste of a huge amount of money on the County's part and we are trying to avoid that in the future, and on our part too, those of us who did show up?

Mr. Yoshida: Well, I think the Chair or appointed representative could give the member a call and kinda find out what the situation is. If it's something that's going to be reoccurring because of her life circumstance, then, yeah, maybe --

Ms. Lono: Okay, I guess Suzie had some inside information that she's moving actually to the other side of the island and so and so forth, so maybe a phone call would be the appropriate way to get her to deal with this, you know, rather than just letting it lay fallow until her term comes up. Yeah. She can resign on her own accord. She's just not doing it.

Mr. Yoshida: The other item is I guess if the Committee wanted to adjust the meeting day of the week. I guess we have Commissioner Kahula --

Ms. Lono: Yes.

Mr. Yoshida: And Thursdays are difficult for her.

Ms. Lono: Well, her job has now changed so that's going to change. She's no longer in that position at the hotel anymore so that's going to change so that's something we can relook at again when we schedule the next meeting is finding out from her what's going to work now cause her job has changed. So I'm -- I'm open to any day but Wednesdays.

Mr. Sinenci: Tuesdays and Fridays bad for me.

Mr. Kanakaole: Any day but Friday.

Ms. Cosma: Yeah, any day for me but Friday.

Mr. Yoshida: So I guess we'll maybe canvas the members who aren't here. For us it's very difficult on Tuesdays and Wednesdays because we have Maui Planning Commission, Molokai Planning Commission, Council, Council Committees also occurring, well now that the Council will be back in session.

Ms. Lono: So Monday works good for you?

Mr. Yoshida: I guess for Mr. Giroux, because he's also staffing the Maui GPAC now, you know, and they have a six-month -- well they were here on Saturday --

Ms. Lono: Right.

Mr. Yoshida: But they have kind of an accelerated schedule. I think they tend to meet on Thursdays a lot so maybe -- and Mr. Giroux is also staffing the Board of Variances and Appeals that meets on the second and fourth Thursday, and then he also staffs the Maui County Cultural Resources Commission. I mean each -- each attorney is, you know, if it went to Mr. Hopper, then he has a lot of boards and commissions and departments that he's working with. For Mr. Giroux it's the first, second and fourth Thursdays are occupied by other boards and committees.

Ms. Lono: Well, now that you know what our response is then you gotta work around all those schedules, but it sounded to be like Monday was the open day, you know, Wednesday, Thursdays doesn't work -- yeah, so that's our response at this point in time to what works for us so --

Mr. Yoshida: Okay. Okay, thank you for your input.

Ms. Lono: Anything else?

Mr. Yoshida: That's all we have.

Ms. Lono: Okay, moved by Kauai, seconded by all of us, the meeting is adjourned.

I. ADJOURNMENT

There being no further business brought before the Committee, the meeting was adjourned at 7:35 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Dawn Lono, Chairperson
David "Kawika" Kaina, Vice-Chairperson (Excused at 7:05 p.m.)
Lehua Cosma (Arrived at 4:20 p.m.)
Kauai Kanakaole
Shane Sinenci

Excused

Tina-Marie "Leimomi" Kahula
Melissa Mauliola

Others

Clayton Yoshida, Planning Program Administrator, Dept. of Planning
Joseph Alueta, Administrative Planning Officer
Paul Fasi, Staff Planner
Michael Hopper, Deputy Corporation Counsel
Cheryl Okuma, Director, Department of Environmental Management