

**(APPROVED: 12/10/08)**

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
OCTOBER 8, 2008**

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

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission was called to order by Chairman Steve Chaikin at approximately, 12:48 p.m., Wednesday, October 8, 2008 at the Mitchell Pauole Center, Meeting Hall, Kaunakakai, Molokai.

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

Mr. Steve Chaikin: I'd like to welcome everybody here and bring this meeting of the Molokai Planning Commission to order and start just by recognizing the people from the Maui County Planning Department that are here with us today. We have Clayton over there sitting on that far table. We've got Joe Alueta over here, Nancy McPherson, and over here manning the -- all of the comments that each of us make is Suzie Esmeralda. Sitting next to me making sure that we stay in line is Michael Hopper sitting right next to me. And also I'd like to introduce the Commissioners here today. We have Commissioner Buchanan, Commissioner Williams, Commissioner Feeter, and we have our newest Commissioner here, and I haven't personally had the opportunity to welcome you to the Commission, so congratulations on your appointment, your selection, and we look forward to working with you on the Commission, so welcome aboard.

Alright so let me just briefly go over this agenda and we might do a little juggling. If you guys aren't quite ready yet, we can do a little swapping and have some of the other agenda items go first. But let me just kinda briefly go over what we have planned for today. We're going to start off by taking public testimony from any member of the public that feels they wanna come forward and make any comments on any land use or planning issue that you might have. And then after that, we're gonna or planning to, which we might switch, move into discussion on improvements of the Molokai Integrated Solid Waste Facility, which is basically the dump. And then we're going to move into some unfinished business. We have a bill for an ordinance that Joe's going to go over with us dealing with enforcement, and then we'll move on to a proposed project up at the airport for a new fire station facility up there at the airport. And then under the chair's report, we're going to discuss different ways that we can improve this whole process that we're going through. Also, we're going to take another look at jet ski regulations and see if there's anything that we, as a Commission, wanna do in regard to that. We also are going to take a quick look at the West End water issues and see if there's anything that the Commission wants to move on that. And that's it for the Chairperson's Report. Then the Director's Report, we'll take a

look at some of the open and closed applications that are pending right now before the Planning Department. And then we're going to take a quick look at our next year's schedule and see if it's okay with the Commissioners. And then we're going to discuss future -- like our next couple of meetings and if there's any agenda items that we might wanna put on those agendas, we'll have an opportunity to do that.

Okay, at this time, Christy, are you guys ready or do you wanna swap places and -- you wanna swap? Okay. If it's okay with the Commissioners, if we could just maybe swap the first two agenda items and give them a little bit longer opportunity to get set up. Any -- no objections to that? Okay.

#### **D. UNFINISHED BUSINESS**

- 2. MR. JOHN L. SAKAGUCHI, AICP, Senior Planner of WILSON OKAMOTO CORPORATION on behalf of the STATE DEPARTMENT OF TRANSPORTATION AIRPORTS DIVISION requesting comments in the pre- Environmental Assessment (EA) consultation process for the Molokai Airport Aircraft Rescue and Firefighting Station Improvements project at TMK: 5-2-004:008; 082; 083, Hoolehua, Island of Molokai. (N. McPherson) (Previously discussed at the September 24 meeting. Commissioners: Please bring your documents.)**

***The Commission may finalize its comments on the proposed project relative to the development of the draft EA to send to the planning consultant.***

Then we can move into Item No. 2, which is basically -- it's the State Department of Transportation Airports Division requesting comments on a pre-environmental assessment consultation process for the Molokai Airport Aircraft Rescue and Fire Fighting Station Improvements. So this is something that, you know, we as Commissioners are just allowed to comment on from the very beginning. Rather than being the last person to comment, they're giving us the opportunity to comment right in the very beginning and so we'll just see if the Commissioners have any input on that. But, Nancy, did you wanna kinda go over where you think we're at on this?

Ms. Nancy McPherson: I was just going to say that whatever comments you do have, if you could either assent to those by, you know, unanimous consent or take a vote, either way, you know, and then what I can do is after you've done some discussion, I can take down your comments and then I can read them back to you and if those are what you want your comments to be, then I can draft a letter to that effect and I can -- I can either bring it back to you or you can just say, yeah, those are comments and you can draft the letter and send it off for us.

Mr. Chaikin: Thank you, Nancy, for that. What kind of time frame are we under on this? Is this basically the last opportunity to comment on this?

Ms. McPherson: No, this is actually a pre-consultation phase. They're preparing a draft EA.

Mr. Chaikin: Yeah, I understand that but just as far as this particular pre-consultation, did they give us a deadline?

Ms. McPherson: Well, actually, you were supposed to -- you're supposed to submit your comments by October 13 so --

Mr. Chaikin: Okay, so today would be our last opportunity --

Ms. McPherson: It would be --

Mr. Chaikin: If we wanna make any --

Ms. McPherson: Yes.

Mr. Chaikin: Comments on this? Okay, so I think that's great. If you assist us in that, in doing that. Let's just see if there's any -- if the Commissioners have any comments. Did you have a chance to review this and do you have any word one way or the other as far as that facility goes? Anybody? Comments?

Ms. Teri Waros: When I looked at what was supplied to us, it looks acceptable. It's within the airport. Obviously, the need. I think we all certainly understand and if -- the affect of the impacts as far as what's noted here, I had no objection to it, personally.

Mr. Chaikin: Okay, Commissioner Buchanan, do you have anything further or anything?

Ms. Lori Buchanan: I -- only that if the FAA -- or who is this? Who's wanting this comment? If Wilson Okamoto really wanted some real feedback, this summary or project summary isn't sufficient and one cannot actually make a good comment on this. I actually had to go back and look that I wasn't missing something on the two meetings and found out from Suzie that this was all that was submitted, so it's hard to make comments. My initial comment would be that an inspection that was dated on May 1, 2003, showed that the station was substandard. And if the station was substandard at that point in time, then what was the purpose of building the temporary structure now? And I noticed in the Molokai Community Plan, when it discusses the airport, it calls for, under all circumstances, not to enlarge or lengthen the airport facilities or the runway in particular, and there was talk in the past of moving the airport facilities from its area now into Palaau, and that was a

State discussion. I believe that was ...(inaudible)... about ten years or more. So my question then would be if that was still on the books? If they're going to spend a million plus dollars of your taxpayer's money on this facility, then why did they spend money on a temporary structure? And then also the intent. If what's driving this application is the fact in here that they say the station did not provide the needed operational space that would promote personal safety and more alert ready individuals. And later on down, it says that they plan to put in dormitory rooms, fitness rooms, lockers, showers. So I'm assuming it was just that type. It wasn't actually the safety issue more than it was a comfort issue for the -- whoever was there, and I don't know what is the -- it says nothing about how many people need to be housed, what their schedules would be, and so I guess the big feedback is that there's nothing there to give feedback on.

Mr. Chaikin: Nancy, from what we know about this project are we either going to be a -- have any role as far as a recommending body or a final authority body on anything relating to this project as far as you can tell?

Ms. McPherson: Well, I may have to defer to Clayton to answer that question, but there may be -- would there be a special use permit involved, Clayton, for -- for these improvements or -- I think it's still zoned ag but I'm not sure? It is zoned ag. So there would be some -- probably a special use permit and that would come before you for recommendations. Also, you will see -- you will be a commenting agency on the draft environmental assessment so you can make your comments. You know, I'm madly taking notes here and, Commissioner Buchanan, if there's any way that you could type some of this up and email it to me, that would be really helpful. But, you know, I don't think I got everything. But what we would mainly look at is what areas would you wanna make sure that the draft EA covered in some detail. What subject areas. That's how I would approach this pre-consultation. I would say, you know, we would like the alternatives to the location of the airport explored in full. Please reference previous State discussions regarding relocating the airport to Palaau. I would also suggest you discuss, you know, fully discuss why a temporary structure was -- was built, and fully discuss, you know, safety needs versus comfort needs. You know, at this point you gotta be kind of general because Commissioner Buchanan's correct, there's not a lot of information provided, so I think what they're looking for, this is called a "scoping process," so what they're looking for is hot button issues or areas that the Commission knows could be, you know, something that really needs to be covered.

Mr. Chaikin: Alright, thank you, Nancy. Yeah, we do have to get very specific and we need to do that now because, as a Commission, we need to approve whatever recommendations that we're going to set forth and move on, but let me just make a couple of comments. First, I would like to thank them for giving us the opportunity to weigh in on this project right from the very beginning and being from the beginning rather than what we just experienced in the last application, we were the last ones to comment on this and we really didn't have

any opportunity to steer the project in the direction that we thought it should go, so I wanna make sure we thank them for that. I guess my overarching comment on this whole thing is that we are in an extremely difficult financial situation in this State. I mean this is -- you know, we clearly need to separate wants and needs, and this seems like something that if I was going to do the priority list, this would not be very close to the top of the priority list. We're talking about a fire station for the airport that doesn't get utilized very often. And, furthermore, what it does is it's building units so people can sleep there. And the reason they need units for people to sleep there is cause they want to hire people from off-island, which is really, you know, counter to, you know, all the logic that, you know, all of us should have as we put together these things. This fire station only works during the period of the day in which they have airlines coming in and out so it's closed all night. So, typically, what they do is they might have one guy, you know, from Molokai and then they fly in the rest, then they stay there maybe for a couple days and they fly out, so the whole concept of building this whole unit - there's a couple of things. One is they're building a new fire station cause our fire trucks have gotten bigger and bigger and bigger over the years and the building has stayed the same size and now it's not adequate in size for the fire station, so that's one of the reasons why they need to do it. But the second is to build permanent housing for these firefighters, which, you know, I object to. I think that they should be hiring local people. When they get off the shift, they should go home, and sure they need some place to hang out to, but the temporary structure that they have up there right now is for a four-bedroom unit. So, again, just to, you know, clarify, you know, I question the need for this project from a financial standpoint and I also question the need because they just are now completing what they're calling a temporary structure, which, to me, looks like a permanent structure. It's the exact same as a single-family house when you look at it so it doesn't look very temporary to me. It looks like it could be used for, you know, a longer period of time. Did you wanna say something, Nancy?

Ms. McPherson: Yeah, Chair, could I just remind the Commission that, at this stage, we're mainly looking at impacts. We're looking at environmental, social, cultural, economic, etcetera, etcetera, and so I think those are all valid points but the trick with commenting on this kind of document is kind of couching those comments in a way where the applicant has to provide the information that will answer your questions. So think of it in terms of phrasing it as a question or a request for additional information. And what will happen then is that they will have to provide that information in the draft EA, which will help identify additional areas that may need more information, which they will have to include in the final, but the point is to get the best draft EA we can get because that's circulated the most widely and that gets the most comments and that actually gets feedback when they prepare the final EA. They have to reply to all of those comments so you will get a letter back from them replying to all of your request for information and saying we will provide that in the final EA or we don't have it or whatever. So I would just make that suggestion.

Mr. Chaikin: Well, okay. Alright, let me rephrase the question -- put it in a question, something that you can write down. Is this project a high enough priority to move forward considering the financial crisis that the State is in? The other comment that I would like to make, if you want it in a question form, is: What is the purpose of building housing units for firefighters when we could train local firefighters here on the island?

Ms. McPherson: Okay.

Mr. Chaikin: The other thing, and I don't know, maybe we are -- I don't understand the process probably as much as I should, but does this mean we are now a consulted party? Cause I don't really understand. You know, sometimes we're out of the loop as a Commission and sometimes we're in the loop as a Commission, and I don't understand how you get in or you get out. Does this mean we're in the loop?

Ms. McPherson: We've had that discussion with Corp. Counsel, Mike, we've had that discussion, so would you like to help me illuminate the Commission as to when they are consulted or not or why or what's the best way for them to be able to provide input as part of the Chapter 343 process?

Mr. Chaikin: Well, I mean, at some point can't we request to be a consulted party or has that already come and gone or --

Ms. McPherson: I'm not -- I'm not really sure about that. How about you, Mike?

Mr. Chaikin: Do you have any -- Mike, anything on that?

Mr. Michael Hopper: I'd have to brush up on my reading of 343 and the *Environmental Guidebook*, which right now actually the State has suspended. They're not relying on it anymore in order to see substantively what exactly a consulted party would do. Right now, you've given an opportunity to comment here. They don't have to give you that opportunity, I don't believe, and in some circumstances, at least in my view, it's -- I think I said this in the last meeting, I think it's sometimes better to have the EA prepared and then if you're going to make a decision, not necessarily be commenting at the earlier stage based on the risk of forming a picture in your mind of what the project is before you get all the information before you. So it can be a double-edged sword. It's good to know early but you may be getting, you know, an obviously incomplete picture, as Lori brought up, these are, you know, two pages of comments, and I know on occasion the CRC has basically said they can't really provide any comments based on the information given. I think the idea is for you to give them the information that one would want to see in an EA and they appear to be turning to you because they believe that you would be a good source of information for that. So that's my take on it but, again, I'd want to brush up on 343 and the *Environmental Guidebook* on what applies in order to understand what exactly having a consulted party

status would entail. I think right now you are in a position to make the comments and, as Steve said, you would have to get those comments pinned down today on exactly what you want to say, so that's very important.

Mr. Chaikin: Clayton Yoshida, do you have something to add to this?

Mr. Clayton Yoshida: I would only say that, at this point, the State Department of Transportation, through their consultant, Wilson Okamoto, is trying to get your comments early in the process, as early -- the earliest part as possible, which is the scoping phase, and, you know, whatever comments you have will be transmitted to the consultant for the State Department of Transportation.

Mr. Chaikin: Thank you, Clayton. Something that I brought up at the last meeting is that if you take a look at the brand new facility that they're just completing right now up there, if you take a look at that, you'll see that their main entrance -- entry and exit to the building is basically a wheelchair handicap ramp and this is -- so the firefighters actually have a longer way -- they've gotta go all the way down the ramp, there is no stores -- stairs, so I just question that, you know, how -- maybe just to phrase it in a question: How can they get out of the disability, the Federal Disabilities Act at a fire station so they don't have to build all this stuff? I mean when you look at it, it almost looks ridiculous at this fire station that has all this, you know, ingress and egress for the handicap.

Ms. McPherson: Is it for handicap or may they be wheeling equipment in and out of there.

Mr. Chaikin: No, this is not for the fire station. This is for the living quarters and, you know, just I was happened to be up there and I said, "Hey, what's that?" And they were laughing about it, you know, saying, "Oh, we've gotta build this so we're building it," and it's a wheelchair ramp at the fire station. So this is a question, you know, just ask them if there's a way to get out of that Federal Disabilities Act or whatever that is. Alright, Commissioners, do you have any further comments on this?

Ms. Buchanan: Anticipated impacts for traffic flow and construction cause our airport is already small and we only have traffic flow one way. Any impediment in that flow of traffic is a concern.

Mr. Chaikin: Nancy, are you prepared to -- I mean do you have all those comments down? Do you feel you're comfortable with all the comments that we just made?

Ms. McPherson: Well, let's see --

Ms. Buchanan: Nancy, one more. Also that this is not part of a larger development.

Ms. McPherson: You would like that discussed whether or not it is part of a larger development?

Ms. Buchanan: No, I'm just wondering if it's part of a larger development. If there's a phasing potential.

Ms. McPherson: You know, I haven't looked at the airport plan lately.

Ms. Buchanan: Yeah.

Ms. McPherson: But that would be something --

Ms. Buchanan: And probably at some point with the EA probably I would like a copy of the May 1, 2003 district inspection report by the Federal FAA.

Mr. Chaikin: So what do you think, Nancy? You think you have our comments? Are you clear enough as far as what they are that you could put those in a form of a letter?

Ms. McPherson: Yeah, I would say one item would be the purpose of building the temporary structure, you know, which could kind of coincide with this discussion of what is the long range plan for the airport and, you know, discuss this facility in terms of that long range plan, you know, and whether or not this is part of a larger development. Then also because of, you know, discuss how the project falls in terms of Molokai Community Plan objectives, policies, etcetera. Expand it or provide a discussion of the State's consideration of relocating the airport to Palaau as, you know, part of the alternatives discussion or even prior to that a history, maybe a history of different plans, issues, alternatives that have been discussed in terms of the airport, so kind of expanding the discussion. Then the issue again of firefighters being Molokai residents versus providing living spaces for off-island firefighters to be staffing this station. You know, what is that the policy or is it the policy and what would be the reasons for that and what is the staffing situation on Molokai as far as Molokai residents go, etcetera. So kind of the overall strategy there. I guess this is State though so this is different than the County Fire Department so that may be a whole different thing. You know, and provide more details about how many people need to be housed. Prioritization of public works projects in terms of the current fiscal crisis, Statewide fiscal crisis. The ADA issue. Discuss ADA requirements as regards to this facility. And then discuss anticipated impacts to traffic flow and impacts from construction activities on circulation at the airport, congestion, circulation. Okay, that's pretty much what I have right now.

Mr. Chaikin: Just a clarification on the ADA part. What we wanna do is have a discussion on whether or not there can be an exemption from that for the fire station. Commissioner Feeter?

Mr. Bill Feeter: Thank you. If we want commercial aircraft to land at our airport or the airport, we have no choice. If the FAA said that we're substandard and that survey was done in 2003, our hands are tied and we're an ugly stepchild and they're going to go ahead and do this. I think we just ought to say go ahead.

Mr. Chaikin: Thank you, Commissioner. And I agree with you. We don't have a lot of choice. It's just that I think even the Federal Government's going to take a good look at some of things that are requiring all these people to pay now that, you know, all budgets throughout the country are getting slashed dramatically.

Ms. McPherson: But at the same time, sometimes you can totally mitigate impacts with fairly low cost measures that the project proponent just maybe didn't think of and we have so many smart people sitting on this Commission who could really help them out, so let's kind of think of it that way.

Mr. Chaikin: Okay. I'd like to just bring up one more thing before, you know, we open it up to the public and see if there's anybody out there that has any comments on that, but that's, you know, this is something that I brought up at the last meeting and, you know, when we have projects like this that are proposed for our island, you know, I think we have to figure out how we can get maximum benefit out of that project in terms of the construction and all of that. And we had talked a little bit of how these projects go out to bid I guess and we don't have any control over that and whatever happens happens but, you know, I'm not so sure that, you know, we should give up so easily on that or at least not make that a comment within the document, but I would like to understand a little bit better how this whole RFP thing works and I was just wondering if, Commissioner Williams, I mean how does this work? I mean are you able to bid on a project like this if it goes out to bid or do you have any comment on how that process works?

Mr. Don Williams: I think anybody that's -- can pre-qualify for Federal projects. I think you could --

Ms. McPherson: On the mike.

Mr. Williams: I think that there's several contractors that will be legitimate to bid the thing. It's a Federal job and they do allow things like preference, you know, that could -- let's just say you had a HAO, a Hawaiian organization, or an Indian owned business, there's some of the things that you can do to kinda point that direction. I think we can make recommendations that they let local contractors, you know, not necessarily get the job, but be allowed to bid on it. I think Federal is always you gotta kind of be in that business in general, you know, be familiar with the things like ...(inaudible)... other things that -- so there's a lot of contractors don't really go in there and bid Federal or State jobs. They pre-qualify and they're generally in that business, you know, to do that kind of thing.

Mr. Chaikin: But so you did say there are some contractors here on the island that you thought might be bidding on some project like this?

Mr. Williams: Sure. Sure.

Mr. Chaikin: Well that's good news. And then we might just put in the document somewhere that, you know, since this is -- does have the highest unemployment rate in the State that somehow if there's anyway to, you know, steer the - I guess the bidding process towards Molokai, then it would -- it would really help out our community. Alright, we've all heard all of the -- oh, Commissioner Buchanan, go ahead.

Ms. Buchanan: Sorry. Sorry.

Mr. Chaikin: Yeah, go ahead.

Ms. Buchanan: I was looking at the project site map, which is not a great map, but I would have a concern if the project site is going to displace the private commercial planes now because it looks exactly that's where it's going to be, as well as current helicopter operations and if they're going to move that. I guess where they moving them to.

Mr. Chaikin: Yeah, it's going to be adjacent to the tower, kinda right next to the tower, so I don't think it'll have any great impact on airport operations.

Ms. McPherson: So private planes won't be affected - parking for private planes?

Mr. Chaikin: No. Well let me give the community -- is there anybody in the community that has any feelings one way or the other? You wanna say anything in regards to this project? Okay, step up to the mike.

Ms. Judy Caparida: Hello. My name is Judy Caparida and I'm here to speak on behalf of this project. The board is new. This is an old thing. It's from 2003. And in being that the project is old, then you folks have to catch up to what's going -- has been said 2003 and what's leading up to now. You know? You cannot just make plans, you know, cause it's not really a down packed answer. They talking about just housing the people. What's important is what we have now. What we're going to do when there's an emergency. Not worrying about where you're going to keep the man. Hello, get plenty hotel. The thing is that this programs, you know, if you look at the paper that was given to us, that was the plan. On top here get McPherson. McPherson. So many times. And she's new. They have plenty problems from 2006, 2003, 4, 5, 6, and it's all open. It's all open. She's never reached a lot of the stuff that has already been done - only what she's doing now is what's occurring in the 2008. So this is why you just cannot say that, oh, we just go do 'em. You cannot agree to something that you don't even know nothing about. We don't even have

the back -- we gotta know what happening in the back to come forward. I mean I only get educated because I come to the meetings, and I hear what's going on, and it's very serious. Anything that comes to this board is serious. I take it serious because you know why? It's coming to Molokai. It's here. It's our place here. So we're looking for benefits of our island for our people. So I think that you should have more research so that we can really know what's really garans because a lot of stuff is all guessing game. I no like guessing game. I like to make sure it's yes, yes, no, no, but we make sure that we can find out a solution for the problem. It's not making a new problem. Because if you cover up a lot of problems, you going have more problems. But if you get to the root of the problem, then it's pau already. Then we move up to another problem. That's what I need to share because this take so long and you cannot even get it because it's -- you gotta go back before you can come to the present. Thank you.

Mr. Chaikin: Any questions for Aunty Judy? Alright, seeing none. Is there anybody else in the public that would like to comment on this? Alright, seeing none. I'm going to close the public testimony portion right now and I think us, as Commissioners, we've all heard what Nancy said that she was going to put into the letter. Is there any objections to that? Well then can we move this to a vote? Can I have a motion of some sort from one of you?

Ms. McPherson: Or you can all concur I think too.

Mr. Chaikin: Okay, no objections then? Well, you know, previously I said if we're going to write any letters, that we would take a vote on it.

Ms. McPherson: Oh, that's right. I'm sorry.

Mr. Chaikin: So we really should, you know, if we're going to write a letter out, let's take a vote on it and --

Ms. Buchanan: Okay, I move that we accept Nancy writing the letter with what she proposed to us.

Mr. Chaikin: Okay, any second on that? We're looking for a second and then we can go on to discussion.

Ms. Teri Waros: I second it.

Mr. Chaikin: Okay, we have a second. Any discussion on this item?

Mr. Feeter: Yeah, where is the message going to go to? What agency?

Mr. Chaikin: Is that the consultant, Nancy, that was asking for the comments?

Ms. McPherson: Yes. Yes, it'll go to the consultant and you'll get a copy of the letter. You won't be able to see the letter before it's sent out if we're going to make the deadline for comment. But if you -- if anything needs correcting, I will kind of be phrasing things in the -- kind of the environmental review syntax, you know, for comments.

Mr. Chaikin: Well, I mean my comments are, you know, I trust Nancy, you know, to -- to put our comments forth and, you know, I should probably sign the letter so I'll have an opportunity to read it right before it goes out and if there's any big giant objections, I can hold up on the thing, but, you know, I don't see any reason. I think some comments are better than no comments so I'd be willing just to move forward on it. Any other comments? Nothing?

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

***It has been moved by Ms. Buchanan, seconded by Ms. Waros, then***

***VOTED: to accept Nancy writing the letter with what she proposed to us.***

*(Assenting: L. Buchanan; D. Willams; T. Waros; S. Chaikin)*

*(Dissenting: B. Feeter)*

*(Excused: L. DeCoite; J. Kalipi; S. Napoleon; M. Pescaia)*

***Motion failed.***

Mr. Chaikin: Okay, motion fails. So is there any particular objection, Commissioner Feeter, that we could overcome to move forward on this or --

Mr. Feeter: The -- I've already stated that this inspection that was made three years ago -- three? Five. Five years ago failed and I'm surprised they haven't closed the airport already for commercial flying in view of this. So my only comment would be that it should, this improvement to the aircraft rescue and recovery or rescue and firefighting, it's beyond the -- beyond this Commission and so I think we don't have -- we have no alternative but to -- they were courteous enough to send us the information but I'm really not convinced that they meant us to take any action.

Mr. Chaikin: Thank you, Commissioner Feeter. So, you know, I'm willing -- cause obviously they've put a lot more thought into this whole thing than we have, and they've come to conclusion that they need this facility, and I've come up with a suggestion questioning their judgement. Do you really need this facility in light of the current crisis? And, Commissioner Feeter, I'm willing to delete my comment, you know, questioning -- cause I questioned whether or not they really needed it and what I think you're saying is they absolutely do need this facility. Is that what you're saying? So if I delete my

comment, in which I was questioning whether or not they really need this facility, is there any other things that would be objectionable in sending a letter out with our recommendations?

Mr. Feeter: Actually, I really don't have any -- anything to enhance that, the comments on that. It just appears that the FAA and the Department of Transportation are in the leadership here and this was just, again, this was a courtesy to let this community know and, obviously, they went ahead and built the living quarters, we didn't even know about that --

Mr. Chaikin: That's true.

Mr. Feeter: And so it's -- to be kind of facetious about it, I hear a train whistle and the train has already gone.

Mr. Chaikin: But we still have the opportunity to, you know, steer it in a direction that, you know, we'd like to see it go and make it a little bit better for our community and that's just why we're throwing out some comments to them. This is only the beginning of a long commenting phase. So the real question is: Do we just remain silent on this? Cause if we don't send any comments, it's just like we're saying no comment. Whereas we did have some comments that we wanted to move forward. Commissioner Waros?

Ms. Waros: Thank you, Chair. If I may, Lori, I think you brought up some very good points and if my brief experience with the EA process, and you talked about keeping it in the syntax, Nancy, with this process, this is a very preliminary step in a long process. I do believe strongly that we need to reply to the developers that have given us the opportunity. Again, Commissioner Buchanan brought up some very great points that this is going to go through the EA process that gives this community an opportunity to continue to mitigate it or to make it work the best that it can for our island. I do believe, as part of that process, that on that letter that we do ask and request to be consulted parties then we would ensure that we're continued to be kept in the loop. I would support sending the letter to them.

Mr. Chaikin: Thank you. Commissioner Feeter, are you, right now, you're leaning towards sending out a letter with some comments or sending no letter out or --

Ms. Buchanan: Maybe I can help Commissioner Feeter. I wanted to say that I support what they call "scoping," okay, because scoping is a very basic preliminary before they actually start to draft the EA and we're always grumbling about, you know, if we had a heads up, we could have gave them feedback instead of sitting back and getting the EA, draft EA, presented to us and then we have a whole lot of comments. The scoping part is an honest attempt on the part of the applicant to head off potential problems that might be seen and so they consult people, like us, who might have some feedback because they're

not here, they don't know, so they're asking community members to give them some feedback on potential impacts so they can address that in the draft EA, and remember, when it's in a draft stage, it's when everybody gives comments and then they have to go back and do a final EA. So in a very preliminary stage at this point, I always support scoping as long as we don't go over and above what we're asked to do and that's why I support it at this time. And it's really general. I don't think we can stand on any comments we give now because I think they're all welcome at this point. And so I gotta support it that way.

Mr. Chaikin: Thank you, Commissioner Buchanan. So, Commissioner Feeter, what are your feelings right now? Do you feel like we should send this letter out with some comments on it or not?

Mr. Feeter: It's -- no, don't send it out because I think it's a waste of Nancy's time. She has other priorities and the deadline that Wilson Okamoto Corporation needs is Monday, this coming Monday, and so the real question is what are we going to tell them? That that's sacred ground out there? There's a migratory bird that is endangered? I'm not making this up. But we have come up with no concrete reason for them on airport -- on State land to not have search and -- I keep coming up with search and rescue -- aircraft rescue and firefighting, and it would be -- if they close that airport, and I don't know that they would, I think that's the real question. If we don't have adequate safety, then we're going to close the airport until we do have. I don't know that. But maybe that's the question that, okay, if we send Wilson Okamoto a letter and say will you close the airport if we don't let you build a -- or if we object to building a facility.

Mr. Chaikin: Commissioner Feeter, they just built an interim facility up there that they're just putting the last coats of paint on, brand new, that is going to take them through the period until they get this new facility so they've got a brand new building up there so, you know, I don't think they're in any great jeopardy of being shut down anytime soon. Nancy?

Ms. McPherson: Maybe I can help kind of clarify things for Commissioner Feeter. You're only making request for information. This is an informational document. You are not making a decision. You are not stopping a project. You are not even making any comments that would require them to go out and do additional studies. All of this information is already available. They just have to do a little bit of homework. I actually see these comments as facilitating and possibly speeding up the environmental review process. You're actually helping them out by doing this. What it does is it gets them to create a better draft so that when they circulate -- I mean they're going to be getting comments from other people besides this Commission; even at this stage they've already circulated it to a bunch of people, a bunch of agencies for their pre-consultation. So what that does is that actually facilitates it. What takes longer is if you don't provide the basic information at the draft stage. If you don't create a good draft, then that's what usually slows things down.

So I think you'd actually be facilitating this project's final approval by providing the comments that you've given to me here now and I don't see that it would be impeding or inhibiting the project in any way.

Mr. Chaikin: Commissioner Feeter, did you feel that you needed to hear what was the comments again or --

Mr. Feeter: No. Since I'm on trial here, let me read -- you've all read this. This is make work on our part, I think. "Since the project site has been previously cleared." And so therefore we're just adding more minutia to this. That's -- no, I think it's just make work busyness.

Mr. Chaikin: Alright, if that's the case, basically we've had a motion, the motion failed, so we're just going to have to move on and get not comments unless Commissioners have any other plans on this.

Ms. McPherson: I will add that since I have listened to your comments, and I am also making comments on this as well, that I will, you know, take your comments under consideration in developing my own comments.

Mr. Chaikin: I think that'll be good if you do that. Any objections from any of the Commissioners that Nancy goes ahead and add some stuff under her comments? None? Seeing none. Okay. Alright, well thank you, Commissioners.

## **C. COMMUNICATIONS**

- 1. Discussion on improvements to the Molokai Integrated Solid Waste Facility with a presentation by Kamehameha Environmental LLC. on a technically advanced waste disposal system.**

***The presentation by Kamehameha Environmental LLC is for information purposes.***

At this point, we can move on. What we did is we kind of flipped the agenda around giving -- giving Christy and Billy and Steve the opportunity -- are you guys ready to go or not? Okay. Okay, we're going to skip back to C on the agenda, Item No. 1, which is discussion on improvements to the Molokai Integrated Solid Waste Facility with a presentation by Kamehameha Environmental, which is basically an advanced waste disposal system, and when I first talked to Billy about this, he had asked me if he could, you know, put this on our agenda and it was basically a way to, you know, improve our landfill, and so, you know, I was thinking, well, if we're going to be discussing improvements to our

landfill, we might as well open it up to any and all ideas for improving our landfill and not just limit it to this one idea. So at that point, I brought it up a couple of times at one of our other meetings when you guys weren't here and we discussed it a little bit, but just to give everybody a little bit of background on where we're at on this is that Maui County has spent a lot of time and energy and money developing an integrated solid waste management draft plan, and this is a very -- this is only the overview. This thing is like this thick. It's a very thick document. And right now, it's in the very final stages of its development. It has gone through all of the processes and is now at the Health Department for a few final comments from them, which would be incorporated into the document. And when that's done, that's basically the County's vision of a way to move forward with all of the solid waste in Maui County. The only problem with a plan like this is it's just a plan. Basically, this thing is going to be put on the shelf. Nothing really happens unless it moves to the next stage or phase, which is the implementation plan which hasn't even been started yet. And when you look at Molokai and you look at our landfill, I mean this mountain is just getting bigger and bigger and bigger, and it's not something that any of us should be very proud of. It's part of our legacy that we're going to leave behind for our future generations - a big huge pile of unwanted waste. So really the idea here is: How can we move to improve that situation? What can we do so less stuff ends up in our landfill? Well, according to this plan, roughly, in Maui County, about 30 percent of all of the waste gets diverted, which means it doesn't end in our landfill. Now what they wanna do is they wanna change that to about 60 percent, which is a pretty high rate, so only 40 percent of the waste will actually end up in the landfill. But, of course, that's going to cost a whole lot of money to do that cause these technologies are pretty expensive. So the idea was to open it up and, at our last meetings, you know, I opened it up to the community, hey, do you guys have any ideas, and, you know, what we can do so we get less stuff going into our landfill. And we did have one testifier that came up here and said, hey, you know, there should be -- we should be allowed to have automobiles up there where you can pick through the automobiles and, you know, get parts instead of having to buy 'em and we can reuse that, and that idea kinda, you know, got elaborated into just generally having a reuse facility in general, someplace that you could stop, as you drive up to the landfill, and you could drop off an old blender that still works cause you got your brand new blender, and there's a lot of stuff that people throw away that really shouldn't be thrown away. So that was the thought. And I had the opportunity to talk to like Hana Steel, the recycling coordinator -- that's her name? And then she, you know, I was talking to her about actually about this draft plan and then I said, "Oh, by the way, you know, we had this meeting and somebody brought up this reuse facility," and she said, "Okay, well let me just pass you on to Stacia Bobikevich, I probably botched her name, but she's in charge for the recycling for Molokai. You know, and I said, "You know, we had this meeting and, you know, the people came here and, you know, they came up with the idea of maybe a reuse facility," and she goes, "Oh yeah, that's a take it or leave it facility." And I said, "You know, it could be really simple. All we'd have to do is put a couple pallets down as you drive into the landfill and if there's something you think maybe somebody else could use, you could drop it off. And

if there was something there that you thought you might be able to use, you could pick it up and then that way there would be less things going into the landfill.” And let me just say that -- that -- well let me characterize her response as less than encouraging. And I have to say that I was a little bit disappointed because I was hoping that someone from a department that is as forward looking as the recycling department would be a little bit more open-minded to initiatives that would ensure to the long term benefit of the landfill. And it just seemed that if there’s any type of idea or initiative that’s going to require any exertion on behalf of the County, it’s typically not very well received and this type of behavior seems to be endemic in the County culture. And so I pondered that for a while and after a couple of weeks, I -- well, I’m not done with the story yet. After a couple of weeks later, I called Hana Steel up at the recycling department over in Maui and I had a similar discussion with her, and I can tell that she was very open and very receptive to new ideas that any of might have to improve our landfill. And so, once again, my faith in the County was redeemed. So she is actually very excited in any ideas that we might come up with. Stacia’s objection to that was that she was saying, well, if we did that, then we have to have a new permit because everything we do at the permit requires a new permit, and then if we’re going to require the recycling guys to watch over this place, then we have to renegotiate the contract and the union’s going to get involved, and it was just a bunch of bureaucratic stuff that basically put a monkeywrench in the whole thing. When I talked to Hana, she was very optimistic. She says, oh yeah, we can, you know, in fact I’m working on a new plan right now to -- to basically present, you know, to get a new permit for the dump and, you know, if there’s any good ideas, maybe we can incorporate it into that plan. She also said that they renew their contract every year for the recycling guys up there and that they could feasibly move forward and, you know, put some other task on the list of things that they need to do. So, anyway -- and she was so excited she actually wanted to come to our meeting to further discuss what it might be that, you know, what other initiatives we might have to move forward on this. And I don’t know. That’s something for, I guess, us as Commissioners to figure out how far we wanna go because this whole thing is a bit of a tangent from our normal and usual business - getting off on this whole landfill, you know, thing, so we have to figure out, you know, if we wanna either do nothing on this or we just wanna write them a letter and say, hey, we’ve got a couple suggestions, or we wanna take it a whole other level and have her come and present. Her -- what she was really looking for was ideas from the community in which we could help in terms of more of the commercial sector because the residential people are all taken care of pretty much. They can go to the landfill. They can bring their used oil as long as there’s not more than two gallons up there. But what about all the rest of the guys? They do not accept commercial quantities of any type of -- of trash or recyclables. So like what happens to all the oil on this island? And you can only supposed to take up two gallons up to the dump. Do you know how many backhoes there are on this island? Each one of those takes like 30 gallons of oil. I mean every time you -- you know, if you’re going to change the hydraulic fluid, I mean there’s a lot of stuff. So, you know, the real question is what happens to all of that? So, anyway, it’s just something for the Commissioners to think about whether or not we want

to get a little bit deeper in this or -- or which way we wanna go on that. So I thank all of you for your patience in listening to me through all this but I'm going to turn it over -- Christy, are you going to do the presentation or who's going to do the presentation from Kamehameha Environmental? Alright Billy. Great. So, Billy, why don't you tell us a little bit about what you've got going and how you might be able to help this community or even Maui County.

Mr. Billy Buchanan: Okay, first of all, my name is Billy Buchanan. But the first thing I want to address is what Mrs. Caparida had to say is what's good for us, for the people of Molokai, and that's how I got started on this whole program, three years ago, looking at the different possibilities of having taking care of our landfills, not only the present landfill, but the other landfill down in Kalama`ula. We did a lot of research regarding how the landfill's built and its present status and, to make a long story short, I think the best thing to do is to let you folks look at the -- the video and let the video speak for itself. However, you need to really really pay attention to the video because it's a sales video, okay, so it's going to move -- move along quite rapidly. It's going to just go from one thing right to the other, from the dumping of the rubbish and on and on. Okay, this is also a video that my business associate Steve has just got back from Germany. He has witnessed the whole program that we're about to show you - the video. We have seen it and we're very excited. Everybody claims to have the best technology but you know what? You guys going have to decide, I think, and that's why we're bringing it back. I'd like to just leave this as an informational type of a situation, not necessarily asking the Commission to write us a letter of support, we're waiting for an RFP from the County. We've attended the SWAC meetings with the integrated solid waste. We've attended those. There's been a lot of information that has been exchanged. But I think we're on the right track with what the technology that we have so without further ado, Christy, go for it. This takes about seven minutes. It's not that fast. But watch real closely because it moves relatively fast. Thank God you guys operating that. I wouldn't know where to start.

Mr. Chaikin: Speak into the mike.

Mr. Steve Price: You can hear me, right?

Mr. Chaikin: Just for the record, we have a recording of the meeting.

Mr. Price: Okay, what we do is we remove the water first. Most of the waste is about 40 percent water. Then we remove all the recycled materials that are noncombustible. We take the rest of the material, process it into a stabil, which is a German word for stable, so it's a stable fuel source. So what we can do is create electricity out of that. We've been running this plant here in Augsburg, Germany, since 1996, processing 90,000 tons of solid waste.

Dresden, this is a plant here, we've re-mediated the landfill that was by Dresden, as you can see behind it the Cat dozer up there, they've pulled all the trash out of the ground and just put the dirt back. It's dumped into an enclosed building so there's no smell, no odor. It's crushed by these crushers here that'll pin it down into about 250 millimeters. All these cranes are mechanical so nobody touches the rubbish at all. As you can see, there's a toilet there, it'll crush that right down into 250 millimeters. As all the glass and everything's crushed, it's cycled out by ferrous and non-ferrous metals from eddy-currents and magnets.

They put the crushed material into a box so they know the weight from the mechanical crane. All these cranes run mechanical to close the boxes. What they do is they put the lid on the top of the box for seven days; at that point, they biologically digest the material with air coming from underneath the box to process that material out in seven days.

All the air and moisture that comes up to the trash is filtered through those bio-filters right there to take the processed gas and then we run, the same gas always comes off of trash, even in landfills also, but we take the same gas, we process through those filters on the right-hand side, and then run all that through and clean the water and treat the water to use in our cooling towers and systems and redo the landscape and stuff around the plants.

After the water's processed off, some of it'll evaporate out the top, some of it is closed in the red loop and keeps coming back around. The stuff going to the bottom goes through a lara, which is a patented material that heats up to 850 degrees Celsius, which is 1562 degrees Fahrenheit. Anything that's exhausted into the air at that point is basically been thermally oxidized into nothing so we have zero emissions.

Those are just the cooling lines for lara. That's the inside of it. They're going to break off the top here and show how it's heated inside those ceramics and all the processed air goes through that lara filter before it goes into our environment so it's safe. It's not like H-power or mass burn incineration.

Once the waste has been dried, it's then separated all the way out from all the metals to the glass. This is the burn value, sort to speak, of your material without the moisture being removed. Once the moisture's removed, you can see the burn value's up but the metal content is still in your solid waste.

Everything's covered. No dust. No problems with that in the plant. The plants are very clean.

I don't know if you can see that real well, but that's everything that's been separated that's dropping down. The heavy materials is separating down and falling to the bottom. Screening off the top and the lights are blown into the air to be processed back out for a

stabil fuel. That's all metal from a spoon to a beer can to whatever, and aluminum foils. That's what's left over. That's a stabil material.

After you remove the metals from the solid waste for selling for recyclables, your burn chart goes off.

Those are the cooling towers to cool everything down for the process and make sure the air is purified before it goes back out - the emissions.

That's them remediating the landfill there in Dresden.

Old batteries come out by an acidity meter so that way they don't have a crushing problem with the batteries and stuff like that. This is a new material and recycled products to be sold. Leaving the metals in there you have small value for electricity. By taking the metals out and using it, you have a lot more electricity to put into the lines. Hopefully we can drop our power rates on Molokai someday.

This is the separation of glass. As you see, the product go over the top, that optic light right there will shine in and blow that glass shards out of the way and then will separate them down by green, white, and brown or amber, and then this is saleable product. You can't have more than 25 grams of different colored glass in a material to be sold for high dollar. Just line of green glass then they'll show you the clear and the amber glass.

In a normal landfill process they have two to four employees running the landfill. This process would put on 20 jobs.

That's just stone and inert material that falls into the landfill or recycling the materials. Everybody worries about the ash content left after over for making electricity. We mix that ash, since there's no metal contents in it, we mix it with the inert materials and it's classified as Class 2 Road Base.

This is just a pie structure of what's left from the stabil and what we've pulled out of the whole recycling matter. These were all done on the process of what we've been doing in Germany and Belgium and France and Italy since '96.

This is the plant in Asslar, Germany, where we had the electricity power plant right behind it. You can see that that's the last thing they're planning on. This is the use of burning that stabil in a regular furnace and creating electricity out of it. This electricity can be created for about 11 to 13 cents per kilowatt hour. Most people's bills on Molokai has 46 to 59.

Just a mechanical cooling that goes all the time with the process of the power plant.

They're working on a process of creating diesel fuel out of the material. This would be the design of the plan, as I told you in the beginning, sin gas is always a part of solid waste, so if we create sin gas with poralysis gas and mix it in the back with those tanks, we can create diesel fuel out of the byproduct.

I'm just going to name some of the plants that they took pictures of for this video. This Venice, Italy, actually. They have all the trash now from Venice, they bring it to Venedig, which is right out of the Mestre District and treat all the trash for Venice.

That's it. That's the end of the video you guys. I'm sorry. I've never narrated it before so I apologize. Germany, right now, landfill is nothing. Nothing goes to a landfill, which I think is great. I think Maui County could benefit from processing the solid waste and doing it that way instead of putting it in our ground.

Mr. Chaikin: Well thank you for that presentation. Is there any of -- any of these waste tech, waste tech is what, in this plan, they call any of the technologies where they turn the waste into energy or something, is there any of them in use in anywhere in Hawaii?

Mr. Buchanan: They have the H-Power in Honolulu.

Mr. Price: They have H-Power in Honolulu but they're not doing a full hundred percent recycle of the product before it's being used for waste energy. Three hundred thousand tons of material goes to the Waimanalo Gulch Landfill and they have to shut down for service. So we have still, you know, 300,000 tons going into our landfill. The ash that comes out of their product has a very high metals content so it still has to be put into a landfill. My personal opinion is they might want to look at it as a hazardous material with metal content in it.

Mr. Chaikin: So you're saying, yes, they do use it but on a small scale?

Mr. Price: I think they're doing 700,000 tons over there but -- which is a large scale, but it also has a big ash content, as you saw in the video, if you have the metal contents in there, you don't have as high a chlorific value for energy and you have a product ash at the end which is a lot more. Ours is about seven percent. I think they're running about 35.

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

Mr. Feeter: Radioactivity.

Mr. Price: Radioactivity? I'm not processing anything with radioactivity. I don't anybody can. It has to go to a hazmat landfill, which is probably in Bakersfield, California.

Mr. Buchanan: I got a question for Steve. Can we do this here on Molokai?

Mr. Price: We can do a small process here on Molokai. We do 6,724 tons a year, which is in that Maui solid waste draft, as we'll call it. We can a small process of that or we can do an anaerobic digestion process and process electricity that way. But to your answer, yes.

Mr. Buchanan: How does landfill affect our water sources?

Mr. Price: Well, in every landfill in America and across the globe today has always leached materials into the ground, which contaminate our groundwater. In a few areas of Nevada, which have been researched, they cannot use the groundwater anymore for drinking or cooking or anything of that nature due to leaching.

Mr. Buchanan: Can we take care of this with this system?

Mr. Price: I can say that if we take the trash back out of the ground, we can stop whatever might be getting into the ground, but I cannot say that I can pull out and retreat the ground that has maybe already been contaminated from the very first landfill on Molokai.

Mr. Chaikin: Billy, can you use the mike if you wanna -- cause we need to have this on the record. Thank you, Billy.

Mr. Buchanan: I'm trying to keep this realistic for us so that, you know, how is it going to affect us, Molokai people, yeah, cause I'm concerned about water sources. Somebody said, oh, the landfill is sitting on one rock bed up ...(inaudible)... water goes through the rock somehow just as well and that landfill over there is beginning to look like Mount Pala`au and I'm not too happy with that. And then if -- if those of you that do fishing down Pala`au, go look below the landfill, the old landfill outside of there, there's no seaweed growth, very little fish growth, anything that's growing outside of that landfill right down there in Kalama`ula, and this is how I got really involved with this project because we have a good opportunity to do this. There's a lot of other technology out there, and don't be fooled by it, but every other one that I looked at or researched, all has residue left over that has to go back into a landfill, and some of it is toxic. This process does not have that. This process filter the air, we didn't see a very good clear picture, but it goes through what they call a lara system, it goes right out -- everything goes out in the air, that lara system just cleans it all out, it oxidizes it, and we get clean air going back into the community and no more BS. Okay? And I think I talked enough. Thank you.

Mr. Chaikin: Commissioners? Commissioner Waros.

Ms. Waros: Steve, if you could. I just -- Uncle Billy, you spoke at the beginning and said that you're waiting for an RFP from Maui County, yeah?

Mr. Buchanan: That's correct.

Ms. Waros: Okay, so that's, just so that we're clear, that's to build one of these in Maui County.

Mr. Price: That is correct.

Ms. Waros: Okay, right now not necessarily on Molokai?

Mr. Price: I think Molokai's landfill has to close before anybody else's landfill in Maui County so I think Molokai should be addressed first of what we're going to do here.

Ms. Waros: Okay, so what we're looking at, if I understand, is hopefully to get the first one here on Molokai to be a model that we can show other parts of our County and even our State an actual program of generating our own fuel, becoming self-sufficient as far as energy needs are concerned, and in the meantime, we're sorting our opala down to the color of glass?

Mr. Price: That's correct.

Ms. Waros: And then that all gets recycled and --

Mr. Price: And when we sell that product, that money and revenue comes back to the city or county. What we do is we do a financial model on a \$100 a ton for processing and 11 to 13 cents per kilowatt hour and a 20-year agreement. With those three key things in place, we can completely 100 percent fund the whole project.

Ms. Waros: And with the amount of opala right now on Molokai, would we generate enough power to cover our current power needs?

Mr. Price: Only if we put some solar on top of the building also and on the side. But, yes, I think we can create enough power to create Molokai.

Ms. Waros: So you're thinking the building -- this process, what's the process itself called? What do we want to call it?

Mr. Price: The Herehof process?

Ms. Waros: The what?

Mr. Price: Herehof process.

Ms. Waros: Herehof. Okay, the Herehof process, as we saw here, the model that we're -- that you folks have in mind for Molokai would provide, an estimate, I know at this point of the game it's still early, but 90 percent of our power needs? 80?

Mr. Price: I hate to say that. Yeah, it'd be close. We'd have to look at it real good. I think -- I went to Maui Electric. Maui Electric has an RFP out for a renewable resources power plant to be 20 to 25 megawatts. With a 360,000 ton plant in Maui, I can produce 29 megawatts but there's no RFP yet out to get the solid waste so I don't know where they're going to come up with 29 firm power for Maui County at this time in 2009. Solar power does not meet firm source of power cause when the sun goes away your power stops. Wind does not meet firm source of power because when the wind stops so does your power production. So, at that point, they're not classified as firm sources of power. If you don't have firm power and you're putting electricity on the line, that's where people will lose refrigerators, computers, and so forth and so on from a brownout or not enough power on the line.

Ms. Waros: Okay, so this is firm power because it's solid and you got it constantly going so there's, like you said, the sun can go down and we're still -- that's when everybody turns on their televisions and lights and ...(inaudible)...

Mr. Price: You got it.

Ms. Waros: Thank you.

Mr. Desmond Manaba: ...(inaudible)...

Mr. Chaikin: Excuse me, Desmond, did you wanna -- I'll allow you to come up to the mike if you wanted to -- cause you gotta talk into the mike cause this whole thing is being recorded.

Mr. Manaba: Have you guys met with State level and the Federal EPA?

Mr. Price: I have met with the Federal EPA. Our process exceeds the standards for EPA for processing solid waste. I've met with the State Health Department in Honolulu. They have all of our environmental paperwork on their desk. Mr. Joshua Strickler is aiding in our situation of getting it permitted for the State, yes.

Mr. Chaikin: Now, what about the County? Have you met with any of the --

Mr. Price: I've met with Cheryl Okuma. I have met with the Mayor. They are fully aware of what I'd like to do for Maui County but, as you can see, they hired GBB Consultant Firm to come up with a solid waste management draft. I think our process answers everything above and beyond what the draft has to say.

Mr. Chaikin: Right. I think what, you know, the plan is almost complete and then, I guess, the next step, according to Hana Steel, is they really need to move into the implementation plan --

Mr. Price: I agree.

Mr. Chaikin: And that hasn't been started yet. So that's something that, you know, is really the next step and that's an administrative thing, it comes from Mayor down I guess, but, you know, they're going to move, you know, in that direction. So, you know, I would say that's -- that's the, you know, where you really have to spend your time is trying to get that process started. Also, I think, we haven't seen anything in terms of, you know, numbers and costs and all that kind of stuff but I know when the County Council, you know, if they ultimately look at this, that's what they're going to be looking at, cost versus benefit and all of that, so I think you're going to have to get a lot of that all ironed out when you presented that to them and state your case the best you can.

Mr. Price: Thanks. Appreciate it.

Mr. Chaikin: Okay, anybody else? I'll let the public -- if there's any member from the public that wants to testify on this or really have any improvements to the landfill, if doesn't have to be on this particular project, but if you have any improvements that, you know, we can make to our landfill, then this is the time.

Ms. Judy Caparida: Yeah, I'd like to share when -- my name is Judy Caparida. And this sounds really exciting because there's a need on Molokai for electric, for gas, and all, but I remember when we first got our chip, you know the electric, we had this big thing about, oh, it was so good. It didn't last long because when the thing brokedown, they didn't have the part to fix it. I mean we like to know if everything intact. Do they have parts to replace or we going just be going back again to the old style again. This is what happened to us. And that's why, you know, I'm a old timer in this. So I really wanna know is this garan or is this just short term. I mean but this is really a good idea. We just wanna make sure that this will work, you know, cause there's a lot of money is going to be put in that. I mean I don't care what you say about now no money. Whenever you start something, money comes first, and then after that then you know when you're on a role, then it'll come back, but until then, I just was concerned about that. But I'm really pleased to know that there is something that we can look forward to. But until then, I like make sure it's garan man. We've been getting the bag on this island. Thank you.

Mr. Chaikin: Thank you, Aunty Judy. Any questions for Aunty Judy? Seeing none. Yeah. Alright, go ahead, Uncle Billy.

Mr. Buchanan: Okay. Yeah, no I remember that -- what she's talking about. That big kiawe crushing thing breakdown and then --

Ms. Caparida: The chip.

Mr. Buchanan: Yeah, the chip machine, yeah? I remember that. We are -- our manufacturing plants going be right in Seattle so parts we going be readily available for us real quick. And we are so excited about this thing. The kind of excitement that we have is like what you're concerned about, yeah? Whether the thing is -- we can handle it, whether there's enough parts for it, and all the questions that you have. I believe, if we had time, we'd love to sit and talk with you and even give you a lot more -- all the questions you get cause I think we really spent enough time with the community and we thank the Commission very much for giving us that opportunity.

Ms. Caparida: Think so too and I'm glad. Thank you.

Mr. Chaikin: Alright, thank you. You know, as a community, we really have some really major challenges ahead of us and so, you know, to have these guys come forward and just be a part of, you know, the community coming up with potential solutions on some of our problems, you know. I can't say enough for, you know, members of the community stepping up and coming forward and trying to solve some of our problems so thank you guys for coming in. Did you have something you wanted to testify -- go ahead.

Ms. Tracy Howe: I'm Tracy Howe. I just had a comment on the recycling that we have here on the island. I know on the different islands we have different recycle bins that make it more -- well, given the price of gas, you know people from East End, West End have to all drive to the landfill to do the recyclables, you know, plastic, bottles, so I don't know if it's possible or if it's something you thought of or something that can't happen already but, you know, could there possibly be other recyclable areas where just the bin is available for people in Maunaloa, in East End where they can put their plastics and put their bottles and their cans? You know, I'm just -- cause I noticed on Maui, when I lived there, it was really more economical for me to drive up the road where the bins were available to separate my cans, my bottles, and all of that instead of having to, like I work, so I have to wait till the weekend and drive all the way to the landfill; sometimes you're not going to take that time to separate it and keep it for two weeks to have that time to drive to the landfill on the weekend, you know, where if you have something that's, you know, 24/7 available to the people, that will make the recycling more available and I think more people would participate even. You know that would cut down on the rubbish that's just thrown into your daily or weekly pickup trash.

Mr. Chaikin: Alright, you have any questions? Okay, well thank you very much cause this is the kinds of comments that, you know, we hope to get from the community, you know, just different innovative approaches that we can use to try to solve some of our problems and that's the kind of thing that I think Hana Steel was looking for when she asked, you know, if she could come here and talk to her about making the plan for Molokai, you know, in terms of how we can recycle better. Is there anybody else out there that wanted to provide any additional testimony? How about Commissioners? Do you guys have any potential ways that we can improve the landfill, the recycling center, or any initiatives in that area? Well I did have an opportunity to talk to Duane up the recycling center and I just kind of -- I was asking him, hey, what's going on up there? Do people really recycle or what's happening? I mean, you know, and then he said well -- you know, I said, well look, do more than half the people recycle or less than half. He said less than half recycle. He said, basically, it's the same people that come over and over and over again. The recyclers recycle and everybody else doesn't. So then the question was, well, you know, and from his perspective, people are not very knowledgeable about recycling, and I'm included in that group. I don't know near as much about recycling as I should. I mean computer paper. Does that get recycled or does it not? Yes it does get recycled cause I asked him that question. There's a whole lot of questions like that that the general public really doesn't know. So as far as education goes, I think we have a long ways to go in terms of recycling. And then, you know, to take it to the extreme, I think one of our problems is that the landfill is free so people really don't need to recycle or they just chuck everything away, so that's another thought: Should it be free? Or should you be required to be part of the solution rather than part of the problem? And then the thought came up: Well what happens if the landfill was only free if you came with some newspapers or you came with some used bottles or tin cans or papers or green waste or something that you could divert and not have to put into that landfill and, you know, it could be diverted and reused or whatever? So that was another potential idea. And then we also had the idea of the resource or the reuse take it or leave it center there so that people could drop some off -- stuff off that they thought might have value to someone else instead of putting it into the landfill. So what I've heard so far is education, I've heard take it or leave it center, and we've heard the remote recycling place so people don't have to drive all the way down to get rid of, you know, the recyclables at the landfill, so those are three things right there. I don't know. What do you guys wanna do as a Commission? I mean how do you guys feel about this? This is, as I said earlier, kind of a tangent from our normal and core business. You know, we can either do nothing and just move on, or we could write a letter to Hana Steel and say, hey, you know, we've discussed this, we have a few suggestions, this is what we've come up with, and leave it at that. Or we could take it to the next level. She wanted to come here and talk to us. We could invite her and, you know, and take it. She wants to find out more and more things to put in her plan for our landfill, and I don't know. If not us, then who? I mean so, you know, that's really the question. I mean we can, you know, do whatever you guys wanna do. I mean the ball's in your court. What do you want to do, Commissioners?

Mr. Feeter: Anybody in this audience against this? Okay, there's no problem then is there? Okay, then our elected officials are elected by us to give us goods and services. Is that correct? Okay, then they hire or solicit experts, and we just heard an expert. This weekend, I read some material where Hawaii, per individual, creates everyday 6.2 pounds of rubbish, every one of us, that's collectively throughout the islands, 6.2 pounds per day. Roger that? Okay. Germany, 2 pounds per day. That's correct. Thank you. So education and who's this gentleman, Tracy Takamine, Solid Waste Division, Department of Environmental Management?

Mr. Buchanan: ...(inaudible)... City and County of Honolulu.

Mr. Feeter: Okay, that's -- that's Honolulu County -- city, county, okay.

Mr. Hopper: Tracy Takamine works for Maui County.

Mr. Feeter: Oh, okay. We stand corrected, uncle. Alright then why aren't these people jumping up and down and getting the job done? Aunty Ruth and Judy, you've taught us well. No, that's my point. It's -- we've done the surveys, we know it's beneficial, and the toxic waste has got to be converted to usable energy, as this gentleman has told us, and this is -- I can't imagine anybody not wanting to do this. Look to our leaders and we have got to -- all of us stand up on our hind legs and say, leaders, you are elected, election is coming up by the way, and we want some activity, and the technique is there, the technology, and pu`u opala is growing by the minute. That's not -- what is it? Not even ten years old is it, Uncle Bill? Basically. Alright, thank you. Enough said by me.

Mr. Chaikin: Excuse me, just to, you know, let everyone know what's going on with our present landfill, it looks like the current location is good until about 2015, which means we have about eight years left on that facility. Then they have an additional nine acres that's connected to that facility, which they could implement that, which would take us out to about 2029, so we have about roughly 20 more years at that current site. That's if we don't implement some drastic diversion method, like what was brought up here today. Okay, so, Commissioners, I mean what do you want to do? Do you wanna make a recommendation to Hana Steel with what we have so far, you just want to forget it and move on, or do you wanna invite her over? What do you guys think?

Ms. Buchanan: I -- there's too much information to absorb and form an opinion. I don't care, actually, who comes over and talks about -- if Hana wants to come, that's really good. And not to change the subject, but was I reading between the lines, Steve, did you make an assertion that you would go back and remove the waste at the old Kalamaula dump site? Okay, I kind of was thinking that that's what you were referring to. I get about a million-and-a-half questions, but I'm not an engineer. I would have to see more than just one presentation, and it's all good, but the base on the root of the problem is to reduce

waste and he just said it, we six times more than they dumping in -- in, you know, Europe, so we're real wasteful, so it's multiple things that gotta introduce. And if nobody's making a move, I'm inclined to go there, Steve, if you wanna go there and do whatever we can but I would have to have some concrete stuff to look at and numbers, stuff from the EPA that show that your emissions going be meeting the guidelines to show that the water that is not recycle, used within the plant goes where, that kind of stuff, real basic kind stuff. I am angry at the state of our current landfill to the point where I would probably wanna file a lawsuit against the County. They've already been fined. The EPA has fined them because right now they blocking plain view from the road. They above the natural grade and to say that they going be there to 2015 and we get one other 20 years -- 20 years over there, I would say 20 years of what? Blocking everything so I cannot see Maunaloa anymore when I drive up the road? So I am angry about that and, yeah, we gotta do something about it as long as we can take care of business amongst us as a Planning Commission first, I would be in favor.

Mr. Chaikin: Alright, well, you know, I think that I need to explore that a little bit more with Hana cause, you know, she was basically coming here to look for suggestions that we might have in particular with the commercial sector trash because, technically, they can't go dump their tires, they can't dump their oil, they can't dump their metals, so what happens to all of these stuff?

Ms. Buchanan: Yeah, all stay down Kamalo in the bushes. That's where they stay right now.

Mr. Chaikin: Yeah, so that's, you know, so that's what, you know, what her core focus would be to come here and if we don't have anything to tell her, then there's no sense for her to spend the time to come over here. If we have some concrete ideas, you know, in which she can move forward, then it would be worthwhile for her to come.

Ms. Buchanan: It may be worthwhile if the Chair sees fit that he appoint a separate committee to look into a fact-finding or a suggestion on that part.

Mr. Chaikin: Alright, well, you know, that's certainly a possibility. You seem to be very involved or concerned, and it's kind of like more your area the environmental part, so I mean I would recommend that if we did that, that you would be on that committee because I think you would be a good chair or steering person for that committee. So, you know, I just think this is our island and if we don't take this on, who's going to do it? Nobody, you know, so, you know, that's one of the things that we can do as a Planning Commission is step up and try to help where we can help. And if we can do something to make things a little bit better around here, we should. So, you know, I would be willing to, you know, vote for forming a little committee and then with that committee we can maybe talk to Hana Steel and see exactly what kind of, you know, what she's looking for and then see if we can

find any recommendations that might, you know, assist her in developing her plan. She wants to develop this plan by the end of the year, specifically for our island, so -- yeah, if there's anybody from the public that wants to comment on that, feel free. Come on up to the mike and let's see if we can get anything else here. Yeah, while Aunty Ruth's coming up, Commissioner Feeter, do you have a question?

Mr. Feeter: Real quick. No, no, go. Who would you -- I don't know this office of Hana Steel, what is her capability?

Mr. Chaikin: She's in charge of the recycling for Maui County and so, you know, that's what her concern is and that's what her focus is and up at our landfill, it's a little bit of a blur because they have the recycling center and then they have the landfill, it's in the same spot and some of the functions slightly overlap, so, anyway, that's what her position is.

Ms. Ruth Manu: Aloha. I'm Ruth Manu. Since Lori was talking about a board, about the EPA, EPS, or whatever, me and my sister volunteer to stay on the board because this is for Molokai, right?

Mr. Chaikin: That is correct.

Ms. Manu: So when we talk, we gotta do action. We like to go where the action is.

Mr. Chaikin: Alright.

Ms. Manu: Me and my sister, Judy, not only myself. Remember now, we kupuna we volunteer our service.

Mr. Chaikin: Well thank you very much, Aunty Ruth. So now we have -- we have more support here. So, Commissioners, who wants -- is there any volunteers that would like to be on a committee? Corp. Counsel has a point of order here so let's hear that.

Mr. Hopper: Well, first of all, I'd want to say that on your agenda it says this presentation is for information purposes only. Second, in order to appoint a committee, the Sunshine Law has a pretty precise process for that, and you can do it, you just have to make sure you follow it, and so for this meeting I don't -- I wouldn't recommend doing that at this meeting. On a future agenda, you could certainly do that and look into it and we can describe how that all works, and it's been done before so don't worry, but we'll just have to do it right.

Mr. Chaikin: Okay, so what I think you said was that we can't take any action today on any of these items cause it was just an informational thing but that we can go forward and appoint a committee. Am I correct?

Mr. Hopper: You can appoint a committee at another meeting where the agenda says a committee may be appointed because, right now, your agenda says the presentation is for information purposes and that's all it says, so maybe people from the public would want to comment on the committee and what they would do, things like that. I would recommend that you make that more precise in a future agenda because that's what I've advised, you know, in that situation in the past.

Mr. Chaikin: So if you're ever going to appoint a committee, it takes two meetings to do that: one to figure out that you're going to put it on the next agenda, and then the meeting to actually appoint the committee? I'm just trying to streamline this process. It seems like it's awfully cumbersome just to do some simple things. So maybe Corp. Counsel can read us the letter of the law here and confuse us more here.

Mr. Hopper: You will not believe how complicated it is under the Sunshine Law to appoint a committee. It actually takes three meetings. The first step you have to appoint the committee and say which members are going to be on it, it has to be less than a quorum, assign all their specific duties, and then that committee goes -- has their meeting, they have to give a presentation to -- five their findings and recommendations to the full board when they are finished and come back to their meeting, that has to be agendaed separately, and at that meeting, you cannot deliberate on that presentation. You have to wait until a subsequent meeting to take any action. So I'm leafing through. I can read the provisions for you. They make it very cumbersome because it's an exception to the Sunshine Law. It allows more than two members potentially to get together and actually deliberate and make decisions on things. That's why the Sunshine Law is very careful about what happens. In fact, and it happens outside of the regular meetings. In fact, we just had, for the Maui GPAC in front of Council right now, it was very controversial and the Maui GPAC wanted to form some committees. They got badmouthed by Council and by the public for closing their meeting to the public in forming a committee to do that. So I can just say, from experience, it has become controversial in the past to do things like that so that's why we have to be very careful that we follow the procedure and look very carefully on how we would go about appointing the committee.

Mr. Chaikin: Alright, well, you know, it sounds like it's a pretty complicated process. Hana Steel wants to complete her report by the end of the year and we only have a few more meetings left. So if it is actually going to take us three meetings, that's kind of problematic to get started. So I would recommend that, you know, we, as a Commission, basically are the committee and, you know, I'll just leave this thing on the agenda and why don't you guys think about it. If you have any improvements or you can think of anything, then you know I'll put it on the next agenda and also put potential action on the thing so if we actually wanna make some recommendation, you know, that we can, and in the meantime, I'll talk to Hana Steel and see if it's, you know, if it's really worthwhile for her to come or if she has

anything to -- that she might wanna add to the process. Okay, is there anything else?  
Commissioner Waros.

Ms. Waros: Well, first of all, I'd like to say that I lived in Germany for a time period and the reason that they probably dispose of two pounds versus our six pounds per person is that the catalogue or the handbook that tells how to put your trash out is like a telephone book, of course it was all in German so I couldn't understand it, but they are very specific and it's very community driven. They are one of the most environmentally concerned people I've ever met that they'll shut down entire freeways because of the migration of frogs, and everybody in the neighborhood, I'd go out and find out what the German speaking people what they're putting out that day cause one day you can put out this kind of trash, one day you put out this kind, it's very mandated. So, again, if we wanna look at that as a potential model information for Hana, I'd take a look. I also -- I'd wanna go back again because keeping this recycling in mind and this conversation that we're having and because Billy and Steve you're still here, I wanna ask you, the last conversation that I witnessed here in a Planning meeting about our landfill, there's a lot of conversation about the things that just sit forever in the bushes or in a landfill, is there anything in this landfill or being disposed of, and we talked about oil, we talked about hydraulic fluids, tires come to mind, old cars, old refrigerators, appliances, is any of that not appropriate for this type of processing?

Mr. Chaikin: Okay, I can open it back up. Steve, you can come up to the mike and answer that. No problem. That's what we're here for.

Mr. Price: Anything with oil doesn't go in the process. That would be a hazmat material as it burned out. What we do is we package it back up and we send it back to the manufacturer and they reprocess it. As for tires, if we had a shredder we could shred it and put a whole bunch in a container and send them back to Armstrong Rubber in Visalia, otherwise you just container them like they got here and send them back. They'll pay for the rubber that way. The oils go back to the oil manufacturing company. There's two in Visalia. There's about seven in L.A. Send it back to them. They'll take it as recyclable material.

Ms. Waros: Okay, if I can, now that I got you back at the microphone.

Mr. Price: Okay.

Ms. Waros: The process that we're in right now, estimated time lines, I mean what I would hope is that we don't have anything except this presentation that you gave us and a little bit of snippets of information, and I think that this is so on the edge that we would like to be apprized of continued information, and I don't know again to be proper in how we conduct out meetings if we keep it on the agenda so that if there are updates, that we hear it here first I guess is ...(inaudible)...

Mr. Price: Okay, I can make some files for everybody, and then drop them off, and then you guys can look at them, whatever, but I'll give you all the information of emissions and everything for our system.

Ms. Waros: Okay, thank you.

Mr. Chaikin: Okay, thank you. Commissioners, does anybody else have anything else? Alright, if that's the case, I'm going to leave this on the agenda and we can just revisit this at our next meeting.

At this time, I'd like to thank Joe for his patience, and now we're going to move on to taking a look at a proposed bill for an ordinance that has to do with enforcement here in Maui County so, Joe, maybe you can just kind of tell us where you think we're at on this right now.

#### **D. UNFINISHED BUSINESS**

- 1. MR. JEFFREY S. HUNT, Planning Director transmitting Council Resolution No. 08-55 containing A Bill for an Ordinance Section 19.530.030, Maui County Code, Pertaining to Administrative Enforcement to the Lanai, Maui, and Molokai Planning Commissions. (J. Alueta) *(The public hearing was conducted on September 24, 2008. Commissioners: Please bring your documents.)***

***The Commission may take action to make recommendations to the Maui County Council.***

Mr. Joseph Alueta: At the -- when we last left this dynamic duo over here, we -- we deferred action due to the fact that water -- I believe it was Water Department requested to, one, add themselves to the 19.510, as well as add some clarifying language. To bring you back up to date, what happened at the last meeting and the purpose of the intent of the resolution is we currently have an administrative enforcement provision within Title 19, and that's called 19.530. That allows for civil fines and a process in which we will cite people rather than going through the criminal process. Planning Department and the Public Works Department has been doing this process for several years. It's way more efficient than going through the criminal process. And because it's in Title 19, it falls under Planning, but for some reason, when they did the charter amendment, Title 19 was originally under Public Works, but they did a charter amendment that made Planning in charge of Title 19, which is fine. However, the provision within 19.530, which deals with the administrative enforcement still references the Director of Public Works. It still should reference the Director of Public Works, however, for zoning, for the various titles that are referenced in Title 19.530, you have 12, or excuse me, you have 8, they wanna add 8, but there's 12, 14,

16, 18, 19, and 20, and just to give you a refresher course on what those provisions deal with, Title 8 deals with water, which is where the Water Director wants to come in, as well as solid waste and landfill dumping; 12 is your streets and drainage, that's the chapter that deals with streets and drainage; 14 is your wastewater; 16 is your building, your plumbing, your electrical code; 18 is your subdivision; 19 is the zoning provision, which is what you normally deal with; and 20 is the environmental branch, okay.

Another charter amendment that occurred had to deal with the splitting of Public Works into two departments: One would be the environmental branch which deals with the wastewater and solid waste issues, and then you have your Department of Public Works.

As you know, water is dealt by the Water Department. Streets and drainage is Public Works.

Essentially, 19.530, which is the enforcement provision only references Director of Public Works. The proposed amendment that are by resolution, which is coming down from the County Council, would add: One, the Director of Planning, so we can zoning violations more efficiently and correctly; the Director of Environmental Management, okay, and that was the original intent. However, since that time, you have the Director of Water Supply would also like to be added and they also added their comments with regards to the clarifying language as to who gets appeals. Now, that's where you ran into trouble because remember the Board of Water Supply, or, excuse me, Department of Water Supply used to be, you know, separate. You know, they were kind of a public quasi separate system from the County before they became integrated and they had their own administrative rules and they had their own board called, and they still do, called the Board of Water Supply. Appeals of the Director of the Water Supply didn't go to the BVA but went to the Board of Water Supply, okay. The language that is being added, right, deals with -- clarifies that the appeals of only enforcement actions would go to the BVA. Appeals of the Director of Water Supply with regards to the normal operations, like the granting of permits or granting of meters and stuff like that, would still go to the Board of Water Supply, which makes sense. So the way this would work out is if -- I don't know what kind of violation -- but say someone illegally tapped into a meter, okay, and Water Department came up with a provision, well, if you illegally tapped into this the water and steal water from the County, we're not going to call the cops, well we'll call the cops maybe, but we're also going to hit you with a civil fine of \$1000 plus, you know, \$100 a day for everyday you do it, okay. Someone may appeal that type of fine or say, hey, I wanna appeal that -- your decision or that fine and that appeal would go to the BVA, okay, in dealing with those fines. Now, say someone came in for a subdivision or, you know, had a review of their water and the Water Director said we're denying your subdivision for water -- or your request for water meters to service this subdivision because there's not enough water capacity, okay, therefore, you're not getting meters. They can appeal that decision of the Director of Water Supply but that appeal is dealing with their process of their normal function of their job and that appeal

would go to the Board of Water Supply. That's not a civil fine or some kind of violation. That would go -- in essence, that would still process under the existing rules.

So what's happening today is we're dealing with civil fines that deal with kind of a violation, okay. And this resolution that came down would add Director of Planning; would add the new Director of Environmental Management; would retain Public Works also because they still deal with subdivisions and building code; you would add Title 8 at the request -- you would add Title 8, which deals with water and solid waste landfills, that was at the request of the Environmental Management Director; and at the request of the Water Department in the agency comments that you were given, they're asking to add language that clarifies where the violations that we talk about within 19.53 go to BVA but the appeals of directors of normal decisions of the function of the Water Supply still goes to Board of Water Supply, and that's pretty much what this resolution and proposed amendments are doing.

Mr. Chaikin: Thank you, Joe. Did everybody get all of that? There's going to be a test.

Ms. Buchanan: I think so but I have a question.

Mr. Chaikin: Okay, go ahead, Commissioner Buchanan.

Ms. Buchanan: So, from the date of this September 17, 2008 letter, the amendment -- there's more amendments on here that is not showing at this time, right?

Mr. Alueta: That is correct.

Ms. Buchanan: At the writing of this letter, right?

Mr. Alueta: At the writing of this letter, well I should say at the writing of the original resolution --

Ms. Buchanan: Okay.

Mr. Alueta: The original resolution that you have --

Ms. Buchanan: Where's the amended resolution?

Mr. Alueta: There is none because these are just comments coming from agencies. So the original resolution only dealt with adding solid waste -- Environmental Management Director and Planning Director. That was the initial reaction. When it went out for agency comments, the two main agencies that had comments, right, were, one, the Environmental Management Director because she's in support of it, she wants it -- but she wanted to -- she recognized that -- that title or Chapter 8 was not in there, which Chapter 8 deals with

solid waste dumping, like when somebody dumps a refrigerator on the side of the road, what do you do? You gotta call the cops. They wanna be able to go after these people with a civil fine and that's why she wanted Title 8 added. The Water Department is already listed, is already in there as far as their chapter, however, they would wanna have the Director of Water Supply added so that it's clear that he can also issue violations for whatever reason, you know, some type of -- different type of water use violation and that if they appeal that director's fine or violation, only those types of fines or violations would go to BVA, but the appeal of the normal rules and regs of, you know, water system and when they, you know, comment on what type of -- how big a line you wanna put in, you know, disagreement over you need a -- they say you need an eight inch and the developer only wants to put six inch, they can appeal that decision and go to the Board of Water Supply to make the final call, but they don't want to have the Board of Water Supply that deals with water issues dealing with these civil fines. They feel that it should stay with the BVA. That's the crux of the matter. I mean that's how civil fines are handled now. They all -- whether you're the solid waste director, the Planning Director, Public Works Director, if you cite someone with a civil fine, you know, for -- you would go to -- and you wanna appeal that fine, you would go to the Board of Variances and Appeals.

Ms. Buchanan: Okay, so I have a question then. So that's all good. I no have a problem with that. My problem comes in at the types of appeals that the BVA would be hearing so where are those types of civil fines listed? Where can I -- where can I see the types of civil fines that the BVA would be reviewing?

Mr. Chaikin: Corp. Counsel can give us some information on that.

Mr. Hopper: First, Joe, do they have any administrative rules yet for civil fines for water violations?

Mr. Alueta: No.

Mr. Hopper: Okay, they have none yet but, currently, what you have is Title 14 is listed in 19.530; it already says rights now that if rules are adopted, this is how they would enforce those rules, and those fines could be up to \$1000, that's the maximum under the charter, so they don't have administrative rules yet, apparently. What they want to ensure though, since 14's already listed in here and was listed in here a while ago I believe, and because the Water Supply is the one that enforces that anyway, they wanna put the name of their director in their to clarify because if you had 14 in there, you should have the director that enforces 14 if you're going to have 14 in there and then -- because that section where 14 is listed already says that appeals go to the BVA, they wanna clarify that they'll go only to the BVA to avoid any conflict. That's what Water, I believe, is asking. But if they don't have administrative rules right now, then the fine scale for what types of violations and how much they would be for each violation, which is what you have on the Public Works rules

right now that Planning and Public Works use, you wouldn't be able to know exactly which fines they would end up charging. That would not preclude somebody from issuing a notice of violation for a violation of Title 14 just because you don't have the rules for it, necessarily, because that -- as long as the basis of that fine is reasonable, that fine, I believe, would be able to stay up in court. But right now, I think you're being asked, if 14's going to be in there, they wanna have Water Supply listed as a director and that the BVA is going to hear appeals from this section, as it already says, but I believe Water may be concerned that there's other sections of water regulations that say that the Board of Water Supply hears certain types of appeals. So at the very least, it's ambiguous and I think their asking you to clarify --

Mr. Alueta: Yes.

Mr. Hopper: Where they would go.

Ms. Buchanan: Okay, so 8, 12, 16, 18, 19, and 20 get their administrative rules and they process for the civil fines?

Mr. Hopper: Eighteen and nineteen I know of personally because -- I'm not -- I think 16's building permits too, I think you're right, and 19 is zoning, which is under Public Works rules but they're going to be revised and put into Planning's rules. So I believe you have administrative rules. We have them for sign violations too. I know that. I'm not sure if 8 has any rules yet. Is that --

Mr. Alueta: That's the one that -- the new one that wants to be added for solid waste.

Mr. Hopper: Yeah, I think that the logical step is to come up with -- you come up with code section first. The code section gives you the authority to adopt administrative rules, which is something you need before you do it. You need authority in the Maui County Code to adopt your administrative rules, which this section does have. So I think that's probably the first step that, I don't wanna speak for them because -- but I know from Planning, Planning wants to have this Planning Director in here first before they adopt rules so this section gives them the authority to do it. So this is, I would believe, step one in a -- before adopt administrative rules, in most cases, cause if you don't have this section, you don't necessarily have the authority to adopt rules that you can enforce with that section.

Ms. Buchanan: Well, then I would need to know what type of -- of fines or what type of cases and appeals would be -- I'd be handing over to BVA if -- and taking out the hands of the Department of Water before I do that. That's only fair.

Mr. Hopper: I'd say that's fair although you're not -- you're not taking away anything necessarily, you're resolving an ambiguity because, right now, 14's already -- already in

there but I mean certainly if you need, you know, that information or, you know, I can't speak for Water and I'm not sure what their plan is.

Ms. Buchanan: So again, Joe, when the changes went into effect, and they occurred without the corresponding revisions to the enforcement section of the county code, why -- what was the reason why the revisions was not made at that time?

Mr. Alueta: With regards to Planning?

Ms. Buchanan: Yeah, because you guys changed the charter amendment, right?

Mr. Alueta: Yeah.

Ms. Buchanan: And then so --

Mr. Alueta: Well Public Works one, solid waste one was done last year. That was the last charter amendment.

Ms. Buchanan: But they knew what they was doing at that time would cause this problem so I asking, at that time, why they didn't do the revisions? Was there a reason why the revisions were not made at that time?

Mr. Alueta: I would have to say that it was probably low on the priority list, and then, two, be given all the other projects that are going on, at least from the Planning Department's standpoint, because we're responsible for drafting changes to Title 19, the primary person for changing Title 19, and I think also when the Planning was transferred, right, I think that, you know, that the person that was previously in my position just -- it was just one of those sections that we didn't know about. We didn't realize that it just said Public Works Director. And so as we go through -- as you know, we're going through the code and updating the code section by section and as we discover these things that need to be changed, we're trying to hit those, and we're trying to hit the easy ones first, I guess you could say, and either the most pressing ones that have lawsuits going on or -- or the ones that we consider pretty benign that are pretty straightforward and easy to understand, we consider this -- I mean I consider this amendment obviously more of a housekeeping matter and obviously the Council did too because they -- they just said, okay, here's a reso, let's just get this changed because we did the charter last year, let's do a reso, and they recognized, when they were doing solid waste, hey, we didn't do -- we gotta do solid waste but we didn't add Planning. The last time we did the charter, we didn't do Planning, let's just add Planning now, and so that's where it all came about, I mean that started the wheel rolling on it, and so that's why they're asking for these. And again, it's more of a -- it's more a housekeeping matter because it reflects what's in the charter and then as far as Water Department, their comments, they're just trying to provide clarity because they're one of those departments

that have this separate board that has their administrative rules that says they can -- that the Board of Water Supply hears those appeals and so they just wanna make sure it's clarified who gets these appeal process.

Mr. Chaikin: Okay, any other questions by Commissioners? Alright, so we have this bill for an ordinance sitting here in front of us and, apparently, it's missing a few things, right, so Water came forward and said that we should put a couple more things into this resolution, specifically a couple things, I'm hearing Title 8 should be in there that started there, and I'm hearing some language to clarify exactly who hears the appeals, you know, whether it goes to the Water side or it goes to the Board of Variances and Appeals, so that's -- so that's all that's not in here, that Section 8 and some clarifying language?

Mr. Alueta: That is correct. Actually, the Environmental Management Department is asking for Title 8 because that deals with their landfills so they're ones that recognized that we need to add Title 8 in there. And then it was Water Department that also said we need the Director of the Water Supply needs to be added as well as we just want this one clarifying paragraph in the front that says, "Notwithstanding any provision to the contrary, the Board of Variances and Appeals shall be the only County board or commission to hear appeals of order issued by the Director of Water Supply pursuant to this section," and that means pursuant to 19.530, okay.

Mr. Chaikin: Okay, so I heard three things. We have this bill for an ordinance but there's three things that are left off that one is the Water -- the Director of Water Department wants to be listed; we also wanna put Section 8 in there; and we also wanna put clarifying language for the appeals in there. So there's actually three things that they're asking, hey, could we add this to the resolution or asking us whether or not we'll concur with adding those to this resolution and whether we concur with the whole resolution in general.

Mr. Alueta: Right, and from our aspect, if you don't agree with some of it, just let us know and that'll be you vote and we'll move it on to Council. We just wanted to make sure that you understand it and discuss it.

Mr. Chaikin: Any other Commissioners have any other comments on this? So, Commissioner Buchanan, what's your feeling with this? I mean are you -- are you okay with the way this whole -- the clarifying language as presented by Joe in relation to the appeals?

Ms. Buchanan: Again, it's been a day of you asking me to -- for an opinion on something I cannot form an opinion about cause there's no information. I guess they're asking for us to approve an ordinance for enforcement of rules of which there are none at this point, okay? So it's like giving a blank check. I know it's all good and it's housekeeping and all of that, but -- but we throwing in water, okay. We throwing in water, and the Department

of Water, and I really need to know in my mind that an ordinance that I am going to support is not going to come back to bite me later on because I don't have the administrative rules for that section yet. So I don't know exactly what type of civil fines or what type of cases might be appealed to BVA and not to the Department of Water Supply unless somebody can -- I've never heard that. I didn't hear it today. So it's hard for me to give the, yeah, it's okay, when I don't even know so --

Mr. Chaikin: Alright, well that's a legitimate concern. I mean -- I mean our recommendations could include that that, you know, the part about water, you know, we're not supportive at this time because there's no administrative rules and we're agreeing to something that we don't exactly know, you know, what we're agreeing to cause --

Ms. Buchanan: We don't even have the amended ordinance in front of us to even know. We just have a letter that says, you know what? In anticipation of this, you know, passing, we like throw this thing, we like throw that in, and we like throw the kitchen sink in, so fine.

Mr. Chaikin: Well, Joe, can you -- can you answer that concern? I mean here's -- we have an ordinance before us, you guys are considering changing it, are you going to come back with us with the revised thing or do we not even get an opportunity to look at any revised ordinance before it goes to Council?

Mr. Alueta: No, you won't get an opportunity. This is your opportunity with regards to this resolution. I will tell -- I mean I voiced your concern to the drafter of this letter for the Water Supply as also I emailed the Director of Water Supply for clarify to try to -- and I tried to, you know, give her my best guess as to what she meant by or what potential violations, and I gave you an example of an illegal tap or something like that, and that's as best as I could do and similar concerns were echoed by one of the Maui Planning Commissioners and Maui chose not to include Water because they, again, were unclear as to what Water wanted, and at the same time, he was also a former Board of Water Supply commissioner and felt that the Board of Water Supply should continue that power. He felt that -- he was concerned that some of the Board of Water Supply's powers would be diminished by that. Again, we didn't have an opportunity to go into further details before the vote but they did exclude them. I will tell you that the language that is put in here by them clearly states that the appeals to BVA only deal with the fines or the enforcement provision established under 19.530 and have nothing to do with the rules and regulations of the Water Supply, which do get appealed to Board of Water Supply but have nothing to do with the Department of Water Supply's general rules and regs that's all I'm saying and that's what they wanted to clarify.

Mr. Chaikin: Alright, Corp. Counsel wants to chime in on this.

Mr. Hopper: Joe, just out of curiosity, so did the Maui Planning Commission take Title 14 out of 19.530?

Mr. Alueta: No, that's the funny part. They did not take 14 out. They just did not include the Director of Water Supply and did not include their language but they left -- I know. Don't look at me. We -- that's how it went. So they kept the ambiguity in there.

Mr. Hopper: Okay, and then just another thing. If someone would want to take a recess, I could go through and write in where these changes are. The letter, I think, made it clear where each change -- which paragraph each change would be and where it was if we need to go in and either type it in or put it in there to make it clearer, you know, we could do that, that's pretty simple to do, if there's trouble visualizing it cause you have two separate letters. And I guess the only thing is that -- the only last thing is that as far as administrative rules, I guess perhaps Water and whoever else could come to you with draft administrative rules but, just to clarify, this section, the best practice is that this section really is required before any administrative rules should be adopted because this section provides your -- your authority under the code to adopt them. Normally, a department cannot adopt administrative rules unless they're authorized in the county code and some departments have a blanket authorization to do anything. I know Planning, for example, can't just adopt administrative rules and anything it wants generally. They would need some sort of Council authorization to do that so -- and this provides it with regards to enforcement. So I think that's an important point to make also.

Mr. Chaikin: Alright, thank you. I'd like to thank the public for their patience here while we go through this and just -- if you're getting a little bit bored, let me just tell you that there's a file here that has all of the paperwork that we go through with our meeting so if you wanna kinda follow along with us, you're welcome to get any of the documents out of the file that's sitting here. So let just ask Commissioner Buchanan, I mean what she thinks our best strategy is, at this point, to safeguard us. You know I hear is it -- would it help if we recommended that all of the appeals stayed with the Water Department or what do you think our best approach is at this point?

Ms. Buchanan: I think Corp. Counsel had a good suggestion because it seems that we have to give some feedback today and we had this from last week, but I have to agree that I think my concern is to not diminish or even take a chance at diminishing the responsibility of the Water Department in hearing appeals, and the whole purpose behind that is because the entire island of Molokai is designated as a water management area, so it's even more important for us cause we are a sole aquifer of water to really protect our water rights and to start dishing it out without knowing exactly what type of appeals might go pass the Board of Water Supply, which is hearing all appeals now, and head on to BVA, it would be a concern, and I think nobody really knows today what that's looking like, and so sometimes it's better to just go status quo than have a change. But I can understand the Board of

Water Supply being so overburdened by little civil manini cases that it might be better to not hear those. So I don't know. But at this point, who wants to take a chance at losing that?

Mr. Chaikin: Well, I mean they're doing it all right now so I mean if we just, you know, if we didn't wanna give it to the board of appeals, then the other option is for them to keep all of the appeals over at the water board supply, so doesn't it seem like we either have to go with what's being proposed or say, hey, let's keep it all on, you know, all the appeals with the Board of Water Supply?

Ms. Buchanan: Well, it's them who's asking to be included at this point so I would first see what Corp. Counsel has suggested and written up and then go from there.

Mr. Chaikin: Okay, but I think, you know, by including them, they can go ahead and instead of do a criminal prosecution, they can do a just a civil fine, right, and so even though, you know, they're including themselves, they're making it a lot easier just by moving forward civilly rather than criminally. So, well, let's take that recommendation. Why don't, you know, we're all getting a little tired, we've been at this a while, so why don't we take a break and ask Corp. Counsel, during the break, to incorporate some of this stuff into the ordinance and then we, as a Commission, will try to take a look at that and see if we can come to some sort of action, and then we'll move on to the Chairperson's Report and the Director's Report and, hopefully, we can get through this meeting without having to sit here all day. Alright, thank you.

Mr. Feeter: Can I ask one question --

Mr. Chaikin: Sure, go ahead.

Mr. Feeter: Before we break? I'm looking at Abby Mayer's comments and is it, and this is probably aimed at Corp. Counsel, is it appropriate or is it usual that a State department, in this case DBEDT, make comments on a County ordinance change?

Mr. Hopper: I'd ask Joe. I think we send those comments around to everybody and include them usually, right, Joe?

Mr. Alueta: Yes. That is correct.

Mr. Hopper: Okay, then yes. I guess that would be the answer. I think all the ordinances go around as sort of the standard procedure to a variety of people and that's -- they're one of the people included.

Mr. Feeter: Yeah, okay, thank you, because he, in his comments, he wanted -- he made comments dealing with SMA and shoreline setback variances and I was trying to tie that in with what Joe had said so, okay, thank you.

Mr. Chaikin: Alright, so we'll take a ten-minute break.

*(A recess was called at 3:05 p.m., and the meeting reconvened at 3:20 p.m.)*

Mr. Chaikin: Alright, Commissioners, we should probably get this show on the road here. So we did get some papers handed out to us that Corp. Counsel has gone over and inserted some of the provisions that had been requested by the different agencies to be inserted in this bill for an ordinance, and he passed it out to the Commissioners, so I'd like the Commissioners to take an opportunity just to read what -- what our Corp. Counsel did and see if they have any questions or suggestions or comments. And while we're doing that, I should probably give the public an opportunity if there's anybody out there in the public that wants to comment on this particular issue, now would be the time to do that. Alright, seeing none. We need to kinda move in the direction of taking some sort of action on this. Commissioners, do you have any comments on what's -- what has been written on this?

Ms. Buchanan: Now Page 2, Item C, at the end of however, an appeal to the board of variances shall not stay provision order, and then inserting language written at the bottom. That is the way -- I want Corp. Counsel to go over this.

Mr. Chaikin: Okay, Corp. Counsel, you're on.

Mr. Hopper: Okay, again, since I'm not with the Water Department, I can't advocate on behalf of how they want to do things, but I what I literally did was transcribe from the letters you got and these comments what they asked. And this, at the end of C, they asked for -- to "include the following language in Subsection C of the bill." I literally wrote in the language they had. I put it down at the bottom there. You can see in that Section C, if someone was issued an NOV under 14 of this title, that appeal would go to the BVA, and this would make doubly clear that that's the only place it would go. What I think what Water wanted to avoid was what one would call forum shopping. If they wanted to the Board of Water Supply, they would appeal to the Board of Water Supply. This is, again, the violator would decide where they would file their appeal. If they wanted to go to the Planning -- or they wanted to go to the BVA, they would go to the BVA. This would clarify it so you wouldn't have one day the Board of Supply Hearing an appeal, and then another day the BVA hearing that appeal, even though this says BVA, I believe Water was concerned with a section in Title 14 that talks about that the director -- appeals from decisions of the Director of Water Supply shall go to the department of -- or the Board of Water Supply. So I think what they wanted for -- to do in this ordinance was to clarify where, if you get an

NOV under this section, where it would go for appeal rather than have someone be able to choose two different places they could go.

Ms. Buchanan: But we don't know what type of violations would be under that section?

Mr. Hopper: Any violations for which a notice of violation would be -- would be issued. Any enforcement action would be under 14. You're right, there's -- they haven't specifically said how they're going to enforce and what they're going to enforce, but if they issue anything under 14, it would go to the BVA. Anything else, as Joe said, let's say the Water Supply has -- I guess maybe the -- maybe they would have to approve a subdivision to say there's adequate water or something and then someone they said they don't have adequate, they can't subdivide, you know, where would you appeal that? You could potentially go to the Board of Water Supply for that one. Or for, you know, other issues, getting a water meter, things like that, that would go to the Board of Water Supply; that wouldn't go to the BVA because you wouldn't issue an NOV, necessarily, for them -- I mean they haven't done anything. They haven't violated the law. They're just disagreeing with you and saying we think we should get a water meter. So, as Joe said, it's difficult to go through all the theoretical, you know, the instances in which you could be with the BVA or with the Board of Water Supply. It's just saying that, under current law right now, if there's an NOV issued, notice of violation issued under Title 14, then it's gotta go to the Board of Variances and Appeals because they're the ones that generally hear those appeals.

Mr. Chaikin: So this language is saying that all of the appeals will go to the -- the Board of Variances and Appeals, right? It's not saying that some of them will go to the Department of Water Supply and some will go to the department. It's transferring all of them. Is that correct?

Mr. Alueta: It doesn't transfer it. It's just that's how it is set up now. Title 19.530 all go to BVA. Any appeal of a violation goes to BVA.

Mr. Chaikin: Well --

Mr. Hopper: If a notice of violation --

Mr. Alueta: Notice of violation.

Mr. Hopper: Which is a document you get that says you're in violation of this section of the code, pay this fine or appeal within a certain amount of time.

Mr. Chaikin: But I thought right now it all goes to the Board of Water Supply, any appeal.

Mr. Alueta: If we cite someone for an illegal transient vacation rental, it doesn't go to the Board of Water Supply.

Mr. Chaikin: No, I'm talking about the water issues.

Mr. Alueta: Okay, the water, because they're -- because, again, as our Corp. Counsel pointed out, like in 14 it makes reference to appeals of the director's decisions which has to do more with like denying of a subdivision because there's inadequate water supply or requiring an infrastructure improvement to grant a subdivision, that type of decision would be appealed to the Board of Water Supply. They just want --

Mr. Chaikin: Where does it say that?

Mr. Alueta: In 14 itself. But what's clear in 19.530 is that any notice of violation goes to BVA. So if you, under 19.530, issue a notice of violation, the director gives you, under the provisions established of 19.530, the only board you go through is Board of Variances and Appeals.

Mr. Hopper: And I think what Joe's saying also is that it's ambiguous right now if you issued an NOV, your adopted rules, you issued an NOV under the current rules, if it'll go to the Board of Water Supply or the Board of Variances and Appeals. I don't think -- if they've got no admin rules, I don't believe they're issuing NOV's right now by the Board of Water Supply, and what they wanna avoid is getting into that whole debate. They would like it, which it should be, clarified at, you know, one way or the other, frankly, in the ordinance. And if you disagree with Water and think they should all go to the Board of Water Supply, then I think these ordinances need to be rewritten and, you know, and the Board of Water Supply should be taken out of 19.530 and perhaps draft its own enforcement section. But, you know, that's -- I think they want that clarification so they know where these appeals are going to be headed.

Mr. Chaikin: Okay, so --

Ms. Buchanan: Can I ask a question?

Mr. Chaikin: Yeah, go ahead.

Ms. Buchanan: What type of enforcement capabilities does the Department of Water Supply have currently?

Mr. Alueta: I'm not -- unknown.

Ms. Buchanan: What you mean unknown?

Mr. Alueta: I don't know. I'm not in the -- I'm not in the Water Supply. I did ask them to attend this meeting but, like I say, they -- the enforcement, as far as like if you steal water or tamper with your meter, somebody comes but I -- it's not one of our departments.

Mr. Hopper: To my knowledge, I don't think they have any inspectors, but I'm not sure. Again, I don't --

Mr. Alueta: Yeah.

Mr. Hopper: I don't advice them.

Ms. Buchanan: So the Board of Water Supply does not issue any notices of violations?

Mr. Hopper: I just don't know.

Mr. Alueta: I don't --

Mr. Hopper: I'm not aware of any.

Mr. Alueta: I'm not aware of any either.

Mr. Hopper: I'm not aware of any but --

Ms. Buchanan: Okay so, currently, there's about five large water users on Molokai that have been and are currently operating over and above their permits, so I'm going to issue them a notice of violation. If I approve this now, it's not going to go to the Board of Water Supply, it's going to the Board of Variances and Appeals?

Mr. Hopper: Depends on what the violation's for. If it's for a permit --

Ms. Buchanan: The violation is for using water over and above the permitted use of their permit. That is the violation.

Mr. Hopper: Of a water permit or a --

Ms. Buchanan: Of a water use permit.

Mr. Hopper: Okay, yeah, I can't -- I can't give you an opinion on that. I know that if it was a -- it was a conditional use or a special use permit or something like that, that would be a zoning violation and enforced under Title 19.

Mr. Alueta: The current -- currently, if you have a water meter from the County of Maui, the only restriction on that meter is the size of that meter. So you can run -- if you have a five-eighth inch meter, you can run that five-eighth inch meter 24/7. There is no -- I mean I'm not aware of any cap. As long as you pay, I'm not aware of any cap. If you are taking water that is under the jurisdiction of the water commission, then -- such as auwai or streams or whatever system they have authority over, you get a water use permit from the water commission and they will tell you you can take x-amount of water per day, but that's a State function, and this only dealing with the County Water Department where you get an actual meter that comes out of the --

Ms. Buchanan: Then I think, at this point, I'd have to -- I have to be more on the side of the Department of Water Supply having to create and draft their own administrative rules and not be part of this action.

Mr. Hopper: And if the Commission agrees, then that can be your recommendation; one's to take Water out of here, and have them draft their own rules if you believe that Water, you know, should be doing that.

Mr. Chaikin: What do you think, Commissioners? I mean I, you know, my feeling is that, you know, we have to be as conservative as we possibly can with the water. And if for somehow, you know, what's happening is we're going down a path that we don't exactly know where that path's going to lead because we don't have the rules sitting in front of us, so I think that's what Commissioner Buchanan's, you know, part of this whole thing is and then -- so, you know, it is within our option to approve everything as presented and leave Water off the table and just say, hey, leave it as it is. That's one option. Any comments from any other Commissioners on this? So what would be your recommendation, Commissioner Buchanan, at this point, cause we need to make some recommendation or --

Ms. Buchanan: I would not -- I would not support the additional -- the hopeful addition by the Board of Water Supply to this ordinance.

Mr. Chaikin: Okay, so what would that mean? That would be -- are they listed here under one of the titles?

Mr. Alueta: Then I would -- if I may, Mr. Chair.

Mr. Chaikin: Yeah, go ahead.

Mr. Alueta: If that is the wish of the Commission, all we would suggest is that the only change that you would make to the existing resolution that has come from Council is to add Title 8 and then -- so the only -- so this 19.530, Administrative Enforcement Provision, the

only directors that would be listed would be the Public Works Director, the Director of Planning, and the Director of Environmental Management, and Chapter 8 would be added, which deals with solid waste and so -- and then the language that was suggested by Water Department as well as listing the Director of Water Supply, you would not concur with that recommendation from the Water Department. But if you concur with the changes recommended by Solid Waste Division, which was one of the -- or excuse me, Environmental Management Division, then we would suggest you add -- the only change you would make to the resolution would be to add Chapter 8.

Mr. Hopper: And recommend adopting the rest of the resolution as presented --

Mr. Alueta: And, yes, thank you.

Mr. Hopper: Including Planning and Environmental Management in there, which is what got us here in the first place.

Mr. Alueta: That is correct - to add -- to adopt the original resolution with the only change being adding Chapter 8.

Mr. Chaikin: So, Commissioner Buchanan, how does that recommendation sound to you?

Ms. Buchanan: I would agree to that.

Mr. Chaikin: Do any of the other Commissioners feel strongly one way or the other about this discussion? Cause I'm -- I'm inclined to go along with Commissioner Buchanan if that's what, you know, her feeling is on this. So if we're ready, you know, Commissioners, you can make a motion and we can move forward. Anybody wanna make a motion on this? Basically, what the motion would be is to accept the resolution as presented to us by the Planning Department with the addition of adding Title 8 to the resolution. We have a question. Commissioner Feeter.

Mr. Feeter: The County Council has already approved this. It's kind of moot what our action is. Is it not?

Mr. Chaikin: Well, they're waiting for our recommendations prior to them making -- approving it. Is that correct?

Mr. Alueta: I'll let Corp. Counsel go ahead.

Mr. Hopper: They've approved the resolution so you're absolutely right, Commissioner Feeter. We should refer to the recommendations are on the ordinance. The resolution transmits the ordinance down to you, to the Commission. They signed that resolution.

They say we're going to send this down to you. They approved that resolution. You're absolutely right. And now the resolution sends you this ordinance, which is the change in the law, and ask you what you think about that -- that ordinance and you make your comments on the ordinance. So the resolution was the way of them acting to literally send it to you, and that's done. What you're looking at is the ordinance, which is law, the changes in the law that they're asking you to advise on.

Mr. Chaikin: So do they, after they get our comments, decide whether or not they're going to make it -- do they have to make -- take action on this any further?

Mr. Hopper: They would have to look at your recommendations, along with Maui and Lanai, and decide what they're going to adopt, what they're going to pass.

Mr. Chaikin: And if they do nothing, does this resolution become law?

Mr. Alueta: No.

Mr. Hopper: No. It's just like any other law.

Mr. Chaikin: Okay. Right.

Mr. Hopper: They have to pass it.

Mr. Chaikin: So they have to still pass this thing.

Mr. Alueta: That is correct. The charter requires that any change to Title 19 be reviewed by the three -- all Planning Commissions and that's why -- and it's my job to bring it to all three commissions and then you have -- by doing it via the resolution, it sets the time frame of 120 days in which for you to return back. If you do not get the comments back to them, then the charter allows the Council to act without your comments.

Mr. Chaikin: Commissioner Feeter, go ahead.

Mr. Feeter: Yeah, if a motion is appropriate.

Mr. Chaikin: Yeah, the floor is yours.

Mr. Feeter: The motion is that the Molokai Planning Commission accept the -- this ordinance.

Mr. Chaikin: So there is a motion on the floor. Is there any second for that motion?

Mr. Hopper: To clarify. That motion would be to adopt the ordinance as its written, which would not include the extra letters that were sent out, so you'd be adding Planning and Environmental Management, and not Title 8.

Mr. Chaikin: So I think what they were hoping that we would do is add Title 8 to this. Would we allow, if somebody dumped a refrigerator on the side of road, it'll allow them to give them a civil fine without having to do criminal prosecution. So that hasn't been a controversial issue so I think what we had talked about maybe is adopting the resolution as presented with the only addition being the addition of Title 8 to this. Did you wanna restate your motion? Alright, any second on that motion? Alright, no second. Motion fails. Does anybody else wanna present a motion? Yeah, go ahead, Commissioner.

Ms. Waros: I'm sorry, Joe. I'm still trying to get my mind wrapped around this. If I look at the first place, and again Michael state quotes here, okay the first place that they're suggesting to write in the Director of Water Supply is in the sentence under 19.530, right, and it says, "the director of environmental management or the planning director or the director of water supply determines that any persons are violating any provision of titles," we wanna add in 8.04, and then it has 12, 14, 16, 18 -- "any rules adopted thereunder, or any permit issued thereto, the director may have the person served, by mail or personal delivery, with a notice of violation" blah, blah, so that particular place, if we added the director of water in, it seems to me it's just stating that they can decide if a person has -- they can issue a violation, right, a notice of violation? That's what that sentence means, right?

Mr. Alueta: Yes.

Ms. Waros: So, personally, I'm speaking on myself, I don't have an issue with adding them and section or Title 8 to that because I just think that makes sense. And then if we go into C, "The provisions of the order issued by the director of public works, the director of environmental management, the planning director, or the director of water supply under this section shall become final thirty days after the day of the mailing or delivery of the order." So if I understand that sentence correctly, it just means that when they send out a notice of violation, it's got a 30-day deadline, right?

Mr. Alueta: That is correct.

Ms. Waros: And it's giving the director of water the ability or the authority to do so. Is that correct?

Mr. Alueta: No, you did so in the previous section.

Ms. Waros: Okay.

Mr. Alueta: This one just affirms who sent it.

Ms. Waros: Okay.

Mr. Alueta: It's just reiterating that -- if either one of these directors send it, it's final.

Ms. Waros: Okay, now this is where I think the critical question lies. "The person," and this is not up for discussion whether we add it or not, this is already in the ordinance, "The person may appeal the order to the board of variances and appeals as provided for in this article." And if I understand you correctly, Joe, basically there's two kinds of violations that you've been so kind to point out to us: one is like you're breaking the rules and stealing water or something, a notice of violation, okay, that now the director of water can tell you you broke our rules, you got a notice of violation, and we're going to fine you. And that, if the individual says, uh-uh, I didn't tap into the line, he's going to go to the board of variances and appeals. If someone's going in to disagree with a decision of the Board of Water Supply, that that's still going to go through the same avenue that it does now. That's not a Board of Variances and Appeals, correct? That's kind of what I understood.

Mr. Alueta: That is how we would interpret it and I guess the point is that they wanted to add that additional language because I guess there could be what we call some ambiguity and a violator could potentially shop around who they would want to tend that appeal because -- because the Water Supply is added to this section. If I'm reading, Mike, our Corp. Counsel, correctly.

Ms. Waros: Okay, so the purpose -- the purpose of this being in front of us right now is to just clarify and it's at the request of the water -- the Board of Water Supply or the Director of Water Supply?

Mr. Alueta: Correct.

Ms. Waros: Okay, to put this in because they feel that that would make their agency more effective and efficient by getting rid of the manini stuff that goes to the BVA and they're still going to keep the big stuff. Is that correct?

Mr. Alueta: Correct. And right now as, again, none of us know how -- how they deal with violations. For all we know, they don't do anything like this provision and it currently only go through criminal, and I guess they would like this because then they could deal with a lot of -- some of these violations on a civil matter and they could then take them and they could go to the BVA and they just didn't want to have them establish rules or have violations issues and because they have another section of their code that says appeals of the director -- appeals of decisions of the director would go to the Board of Water Supply and they didn't want the Board of Water Supply handling violations. Even though it clearly

states in this section that it's violations would go to BVA, I guess the Water Supply -- Water Director was extra cautious to reiterate again to say violations under this section go to BVA, notwithstanding any of the other sections.

Mr. Hopper: And the whole key is that Title 14 is already listed in here --

Mr. Alueta: Yes.

Mr. Hopper: Before we did anything. It says the Water Department or violations of that section, which deal with water, wastewater I believe, those are under this section. If they weren't under this section, then I don't think we would necessarily be talking about this as an addition to this section. It just so happens a lot of other departments happen to use this section to do their enforcement and, frankly, if they use this section in, you know, Title 8, Title 14 instead of Title 19, they wouldn't have to go to the Planning Commissions to make changes to these ordinances so --

Mr. Chaikin: So if we don't include Water in this and Water wants to provide a fine to somebody for some sort of violation, they would have to go to another director and have them to do the fine? Is that how that would work? Cause they're in the provision under 14, right?

Mr. Hopper: They'd have to get their own ordinance adopted and I think that's what they're telling you here is that they don't wanna do that. They want these changes so they can use this section, cause they like it, it's been used before, and they wanna keep using it. If you took 14 out of here, they would have to come up with - it would probably be a similar provision of fining people, issuing violations, perhaps under their own section or perhaps somewhere else. So I think that's their point is that they want to use this section to do their enforcement cause it exists and it already tells them they should it for their enforcement.

Mr. Chaikin: Commissioners, any comment? So, Commissioner Waros, what's your feeling with all of this? I mean you've examined a little bit more thoroughly. Did you come to any other conclusion than what we had previously talked about?

Ms. Waros: You know, I'm going to -- I don't know the whole story well enough. However, I believe, again, in the interest, and you spoke to this, Chairperson, earlier, of making our government and our planning process work more efficiently, and if you read the actual sentences, I don't -- I don't understand why we would be in opposition to it.

Mr. Chaikin: Well, here's my feeling on this. You know -- you know we have this thing in front of us. Everything seems to be all straightforward except for one thing, and that's the appeal. What happens if the Director of Water Supply issues some notice of violation, somebody objects to that, okay, and then it goes to the Board of Variances and Appeals.

These people know absolutely nothing about water, okay, and so they're making the determination. I think those are just commissioners. Who is on that department of appeals and variances? Aren't those just lay people that don't have any particular expertise in water?

Mr. Alueta: I don't think particular to water. I think the expertise or the hearing of the body is more about whether or not proper notice requirements was done, whether the person violated the rule, per se, as opposed to whether or not the engineering -- they disagree with the engineering specs of how much -- what the capacity of that water line is really. You know what I'm saying? Whereas, if you appeal the Water Director, denies a subdivision or -- and because there's inadequate water supply and he says you need to upgrade that six-inch line to an eight-inch line, you appeal that director's decision of doing an upgrade to that line because you -- your engineers say that six-inch line can service my new four-lot subdivision. That's when it would go to the Board of Water Supply to say -- and they would be the one to determine water. This is more violation as you got -- you got hit with fine of a \$1000, it racked up to \$25,000 because you were illegally tapping into your waterline before the meter and using it to water your lawn and you got busted, here's the pictures, here's the evidence that we collected, here's the paperwork that says we gave you a 30-day warning, we gave you a notice of violation, and we served you correctly, and what they would determine is the evidence that is provided appropriate. I mean I don't staff the BVA but from meetings I've attended, that's the kind of deliberation and they determine, well, is that fine appropriate? Is that too harsh? Should we knock the fine down? And that's where you get these sometimes settlements and they hear, BVA, is like unusual and hardship issues, you know, that's the kind of stuff that gets appealed.

Mr. Chaikin: So, yeah, I guess that was my concern is that BVA wouldn't have the expertise to hear some of these, you know, more complicated water issues that come before them. But what you're saying is some of the more complicated stuff is still going to go to the -- the Board of Water Supply and just more the fines, somebody just illegally tapped into something or something along those lines, would be going over to -- but then how do we know where they draw that line? Or I mean whenever there's a notice of violation, then it'll go to the BVA. And if there's not a notice of violation but there's somebody who just objects to their decision, then it goes to the Board of Water Supply. Am I saying that correctly?

Mr. Alueta: Yes, again, both Corporation Counsel and myself don't really advocate for Water because we don't deal with Water enough and so it's hard for us to be absolutely certain on some of these how they administratively operate it. We can only -- I can only surmise how they would operate and the types of things because we have very similar issues within the Planning Department. Again, I don't wanna muddy the water anymore but you have coastal zone, like SMA violations, appealing of the director's SMA violation, it doesn't go to BVA, it goes to the Planning Commission, okay? So that's -- if you wanna

look at it sort of that way, if somebody appeals the director's decision because he denied them the SMA, it would go to -- it goes to this body. If a person -- if the Water Director denies a subdivision because of inaccurate water supply, it would go to the Board of Water Supply.

Mr. Hopper: And that's State law that makes you hear those. But, yeah, the BVA, most of their cases are fact based. Did you do this or not? Here's the evidence. They say they didn't do it. Most of them. However, they do have the ability to make legal determinations. If someone says, yeah, I did this but it was illegal. They don't deny that they factually did it but they say it wasn't illegal so you can't fine me. Then the board's going to have to make a factual determination. But they have to do that for -- for a lot of different things. They have, you know, an attorney as their chair right now. They've got a lot of different people. They have -- they deal with subdivisions. They deal with building permits. They deal with zoning. They deal with a lot of other things. So, you know, it's your decision, you know, if you don't think they should be in the BVA, then that can be your judgement.

Ms. Waros: May I ask another question? The way I'm looking at it now and with something that you said a little bit earlier, Corp. Counsel, it seems to me that the Water Department wants to utilize this section, right, that happen to fall under Planning, that's why it's on our table today, to give them another venue for enforcement. Like you mentioned, this way it might get them to fine more people. If they know that they can get it through the civil, then it's a easier or less costly or less burdensome than going through the criminal. So they really kinda like this because other departments use this and this is another means for them to enforce their rules. Is that correct? Do you think that's what they're trying to do?

Mr. Hopper: Well, they're already in it. They're listed as they have to use it right now. That's why they want you to do that. I can tell you if they -- if they didn't want to use it, then they would have to draft their own amendments to the County Code, go before Council, and get those adopted.

Mr. Chaikin: Let me just, you know, say something. Like Water is already in there, right? They can already use the civil fine method but just the Department of Water Supply -- I mean the Director of Water Supply is not one of the ones that can go ahead and fine somebody. They have to go get one of the -- one of the other directors and get him to make the fine. Is that correct? Unless we list him, he's not on here.

Mr. Alueta: I guess that's an argument. It could also be argued that because this Section 14 is already listed, right, and because the charter makes the Director of Water Supply in charge of 14, he's still --he has the authority to issue the violation without him being specifically listed. Similar to how Planning is doing it because Planning is not listed but we're going out and citing and enforcing Title 19 because the charter gives us that authority of being in charge. So in that aspect, whether you add him or not is -- we just

want it to be clear, you know. I think that's the whole point and that's why, for us, it was more of a housekeeping matter because we're just trying to be clear as to who's the directors that are in charge and, at the same time, it's like we wanna -- we don't want anybody arguing against us or throwing mud in the water by saying, hey, you can't cite us because you're not listed here. You know what I mean? You are not listed here. And then we have to go to court and explain to the judge, no, here's the charter. The charter says that we have the authority even though it's not specifically listed. And so I think in most -- we're going to win, but it's just another step in the process. This is a way to delay the process, I think.

Mr. Chaikin: It sounds like this ordinance, there's really not much change between this ordinance and what we're doing right now with the exception of adding Title 8. Aren't we doing everything that's already listed in here? In this new resolution? I mean what are we not doing right now today?

Mr. Alueta: Not much. You are -- just to add 8 but also you're being clear by adding Public Works, Environmental Management Director, and -- or, excuse, Director of Environmental Management, and the Director of Planning. We're just clarifying.

Mr. Chaikin: Right, it's just a clarifying thing. We're not changing the way we're doing anything other than adding Section 8.

Mr. Alueta: That is correct.

Mr. Chaikin: Right. Okay, thank you. Commissioner Buchanan?

Ms. Buchanan: Okay, so let's cut to the chase. Okay, so if I make a motion, Corp. Counsel, this question is for you, so if I make a motion to accept the resolution with the addition of adding Title 8, that will exclude the additional language by the Board of Water Supply that states notwithstanding any provision to the contrary, etcetera, etcetera, etcetera. Is that correct?

Mr. Hopper: It would be to, you know, adopt the ordinance as recommended and -- or adopt the ordinance with Title 8 listed in there. That would not only take out the appeal provision but also take out adding Director Water Supply as being a named person because you got basically three separate things. You got this letter from Water Supply --

Ms. Buchanan: Right.

Mr. Hopper: Which had the Director of Water Supply --

Ms. Buchanan: Right.

Mr. Hopper: And the -- and the appeals section. That's one thing you got. The other amendments were asked for was for Title 8. And then you've got the ordinance as it is, which is Environmental Management and Planning. So that's right. If you made that motion, you would -- all you would be doing was adding Planning Director, Environmental Management, Title 8, and you wouldn't be making any of these Water Supply changes that are listed in the ordinance.

Ms. Buchanan: Okay. Okay, I'm happy with that.

Mr. Chaikin: Does anybody wanna make a motion?

Ms. Buchanan: I'll go for it.

Mr. Chaikin: The floor's yours.

Ms. Buchanan: ...(inaudible)... move along. Okay, I move that we accept the resolution with the addition of only adding Title 8.

Mr. Chaikin: Do we have a second on that? If it gets a second, then we'll have an opportunity to discuss this motion.

Mr. Don Williams: I second the motion.

Mr. Chaikin: Huh?

Mr. Williams: I second the motion.

Mr. Chaikin: Thank you, Commissioner Williams. Okay, we have a motion on the floor. It has be seconded. Is there any discussion?

Ms. Buchanan: I have discussion. The whole purpose and why I moved for leery was -- was the whole Water part of the Board of Water Supply asking to put language specifically in the ordinance or the resolution that would direct the NOV's to go to the BVA. Only adding Title 8 would exclude that provision asked for by the Board of Water Supply.

Mr. Chaikin: But what about having the Director of Water Supply listed as one of the directors that can issue fines? Is that something that you feel shouldn't be on there or should?

Ms. Buchanan: I would ask Corp. Counsel to -- to talk to that if that would have to be tied into the language of the notwithstanding.

Mr. Hopper: Well, yeah, certainly you could do either one. You could adopt your own amendments here. You can make up things that you wanna add as long as they're within the scope. But I mean the issue you're getting at is, well, if you don't want to specify who the appeals go to, then should Water be using this to enforce at all in the future or do you want them to draft their own County Code section. Because I can tell you if they're going to use this section, their appeals should go to the BVA cause that's what happens in this section. If your issue is that you want them to go to Water Supply for a particular reason, then that might not be appropriate for this but I think Joe could send that in a transmittal and say the reason the board -- the Commission excluded this is cause they wanted the Department of Water Supply to come up with their own rules separate from using this section because you don't want it to go to the BVA. If that's what I'm hearing.

Ms. Buchanan: Well that is what I'm asking for - advocating that.

Mr. Alueta: I can make a note of that, you know, in the final transmittal.

Mr. Chaikin: Is there any further discussion on this? Commissioner Feeter.

Mr. Feeter: Is it appropriate that we can another condition to this motion?

Mr. Chaikin: Well, we would have to either amend the motion or we would have to have the motion fail and do a new motion, but what was -- what's your discussion item?

Mr. Feeter: I'd like to delete the Planning Director. Just leave in the Director of Environmental Management and the Director of Public Works.

Mr. Chaikin: And what would be your rationale for leaving out the Planning Director?

Mr. Feeter: I don't -- I wanna alleviate that office from enforcement.

Mr. Chaikin: But that -- the enforcement is under that office right now. One of the divisions of the Planning Department is the enforcement division so you would almost have to have the Planning Director be allowed to do that because it's within their division, the enforcement division.

Mr. Feeter: Yeah, well they have their own -- that's true. They have -- I'd like to have it remain their own enforcement and not this coordination between the other departments. I think that's cumbersome and --

Mr. Chaikin: Well, it's actually the opposite. Maybe we can get Corp. Counsel to maybe talk a little bit -- to clarify.

Mr. Alueta: Yeah, I'll clarify.

Mr. Chaikin: Okay, thank you.

Mr. Alueta: Each department has their own enforcement provision and personnel. So the building inspectors, you know Carl? Carl does your enforcement for building code and for Public Works. He helps us out occasionally with zoning but for the most part, we send our own zoning enforcement officers for Title 19 over to Molokai. So on Maui and on Lanai, you know, our own zoning personnel in Planning does all the Planning zoning violations. All the building violations are handled by the building inspectors and those violators. The subdivision, grading and subdivision ordinance, that's all -- those -- they have, within Public Works, they have their own grading and site inspectors to go out and make sure that knew if you're trenching in the County right-of-way. They have their own inspectors for that. So each provision would have their own enforcement personnel and we do not crossover for the most part. And we found that when we did have Public Works trying to enforce zoning, it did not work very well and that's why Planning was split out during the charter amendment and given zoning enforcement officers because it was very specific. It's a very -- it's very specific. I mean building code has to know exactly where studs are. Electrical inspectors need to know where electric -- so that's -- that's the reason. We do not crossover.

Mr. Hopper: And putting in Planning Director in this language would specify their the ones that handle enforcement. If you leave it how it is, Public Works is the only one listed and arguably Planning would have to get permission from Public Works to issue a notice of violation. By putting Planning Department here, then it does specify that they're the ones that are going to be issuing those notices of violation and nobody else so I think that's why they wanted Planning to be listed specifically.

Mr. Chaikin: Commissioner Feeter, does that clarify the situation for you as far as having the Planning Director specifically listed on here? And the reason why this is so important is there's only five of us here and we need five affirmative votes to move something forward so we all have to be in total agreement or else, you know, the net affect of that is we end up doing nothing. So, you know, that's why I'm just bringing that up to you is that, you know, if we can solve whatever issues that you might have with this, we might be able to move forward and make some recommendations.

Mr. Feeter: Well, I just feel strongly that that -- this is not the most effective way to deal -- as I say, the Planning has -- have your own people enforcement already and so that -- I feel there's enough difference between Environmental Management and Public Works in terms of expertise that it's cumbersome. It just seems like that they're still going to have correlate with all of these three departments and I'd like to get away from that.

Mr. Chaikin: Well you're absolutely correct. There is a lot of difference between the departments and that is why, you know, the new proposal is to have each department be able to do their own enforcement rather than have some other department crossover and have to enforce over in the other department, so that was one of the benefits of having the Planning Director's name on there is that they can do their own enforcement and they don't have to rely on some other department for their enforcement. Does that make any sense to you, Commissioner Feeter?

Mr. Feeter: Well from a bureaucratic standpoint, yes, but from an actual serving the people and being less cumbersome, no. I think it's still very bureaucratic.

Mr. Chaikin: So who do you think should be the -- who do you think should be doing the enforcement for the Planning Department?

Mr. Feeter: Well, again, they do their own. They have the ...(inaudible)...

Mr. Chaikin: Right, and that's why we wanted to have the Planning Director be able to issue notice of violations.

Mr. Feeter: Yeah, but leave it in Planning, not -- there's enough difference in the area of expertise between the other two, the Public Works and the Environmental, that I can see where there would be crossed over there and -- but I don't -- I wanna keep the Planning Director in its own department. I feel that there's enough improvement and -- that can be done in that area.

Mr. Alueta: If I may, Mr. Chair. If I can, Commissioner Feeter, by adding the Planning Director, he is only responsible for Title 19, okay, so that's the reason we're trying to add him because Title 19 is listed right now, the Planning Department currently has its own enforcement personnel and we go out and enforce Title 19. If we don't add the Director of Planning, then every time we go out and do a zoning enforcement, we would have to get permission from the Director of Public Works to do so, and that would be very cumbersome so --

Mr. Hopper: So, Joe, if Planning Director is added as it is now as it's proposed, would you change at all the way the department does its enforcement right now?

Mr. Alueta: No, we would function as we are now.

Mr. Hopper: You'd continue in --

Mr. Alueta: Correct.

Mr. Hopper: Zoning Administration and Enforcement Division would continue to handle all enforcement?

Mr. Alueta: That is correct.

Mr. Hopper: And if they're taken out, how do you think that might change the way your currently do enforcement if it's not included?

Mr. Alueta: It means that anytime we try to do an enforcement, we would have to coordinate with the Director of Public Works to get his authorization to do enforcement and all paperwork would have to funnel through Public Works as well -- I mean so it would create a paper nightmare, and so that's why we wanna have the director -- that's why this resolution adds Planning Director specifically to -- to keep a streamline process that we currently have.

Mr. Hopper: So, yeah, if Planning is listed, then you're saying you'll have less of a bureaucracy than if it's not listed, in your view?

Mr. Alueta: That is correct.

Mr. Hopper: Okay.

Mr. Chaikin: So, Commissioner Feeter, they're trying to streamline the process to the best that they can to make it less cumbersome and more efficient. So I don't know. How do you feel? I mean it's your right I mean to feel however you want and if you don't want the Planning Director listed there, then that's fine. That's certainly your right not to have it listed. But I would like to at least know how you feel right now so we know how to proceed on this. Commissioner Feeter, do you feel like you still wanna have the Planning Director not listed?

Mr. Feeter: That's correct.

Mr. Chaikin: Okay, so at this time, I would -- excuse me, if there's no object, I would like to defer this item to our next meeting and then we can retake it up and -- because there is some -- some other issues that, you know, I had brought up at the last meeting when I said that I thought that this particular ordinance didn't need a minor tune-up, that it needed a major overhaul, that one of the real reasons that in our County we've had massive widespread noncompliance with land use ordinance was specifically because of this ordinance, but, you know, I'm not -- you know, if there's not some big concurrence with the rest of the Commissioners on that, I'm certainly not going to press that issue, but I just bring it up when you have a maximum fine of \$1,000 for an offense, and you have potential TVR's that are making 100, 200, \$300,000 a year and all's you can fine them is 100 -- I

mean \$1000, you know, if you're wondering why there's widespread noncompliance, you need to look no further than this ordinance. So anyway, we're going to defer this item and we can take this up at our next meeting. I think we had a member of the public here that wanted to provide testimony and I don't know -- I'm sorry. Yeah, go ahead, Joe.

Mr. Alueta: I believe you still had a first and a second on the floor. I think you still had a motion ...(inaudible)...

Mr. Chaikin: Oh, okay. Alright, so --

Mr. Hopper: Mr. Chair, you could table the motion if you -- if it was --

Mr. Alueta: Okay.

Mr. Chaikin: Well, let's give -- let's give the motion an opportunity to run its course. So --

Mr. Alueta: Cause, currently, the motion, my understanding, is only to adopt the resolution with Chapter 8, with the addition of Title 8 to it, and that was the only motion that was first and seconded.

Mr. Chaikin: That's correct. So is there any further discussion on this item?

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

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

***VOTED: to accept the resolution with the addition of only adding Title 8.***

***(Assenting: L. Buchanan; D. Williams; S. Chaikin)***

***(Dissenting: B. Feeter; T. Waros)***

***(Excused: M. Pescaia; L. DeCoite; J. Kalipi; S. Napoleon)***

***MOTION FAILED***

Mr. Chaikin: Okay, motion fails. Okay, so we'll go ahead and defer this item to the next meeting. And I'd like to thank the public for being so patient as we worked our way through the process here.

So we did have somebody from the public, and I don't know if I neglected to give them an opportunity earlier to speak, but, at this time, if there's anybody in the public that wants to bring up any, you know, land use issues or planning issues, you're welcome to come up and speak at this time.

## **B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE**

Ms. Tracy Howe: Hi. And I also apologize if I did miss on your agenda Part B, Public Testimony on Any Planning or Land Use Issue. But I am speaking in regards to my concerns regarding the County baseyard that I believe was already approved. And my concern would be that -- regarding the entrance of this so-called baseyard. I would like to propose that because I live on Kamehameha Highway, and I've lived there for over 30 years and back to when I can remember, it was only corn field. At that time, we had to put up with the spraying of the corn field. Now there is a baseball park there and the problems that exist there now are, you know, late night drinking till four in the morning, you've got baseball games, not enough parking, you got people all along the roadside there parking, you've got -- we've had gang fights. You know, besides myself and my neighbors, only the Police Department would know about these issue. But, you know, baseball tournaments sometimes get out of hand so you have the drinking, you have the boom boxes all hours of the night, weekdays because you have baseball games during the week. It's not only a weekend problem. But it's Tuesday nights and Thursday nights. You have the car racing. Speeding in and out the park there. We've had an incident where there was drinking and driving and someone hit the telephone post in the baseball park, knocking the post over, the lines are across the road. I mean, you know, that was one of the problems you had. One where there was a little child who was in the middle of the road that came from the baseball park - that was another incident. There were several more that I could -- but it all surrounds the existing baseball park, okay. Now -- now we go to the baseyard. They wanna put a baseyard across the street from where I live. Okay my thing with that is if the entrance is, again, in and out of the baseball park, what other problems will we have to deal with with living on that main Kam Highway? So I would request that the entrance would be towards the back of Maui Community College where you have area there where there is noone living on either side of that road at this point. You have the college here, I'm sorry I don't know what the name of that road is, but, you know, if this is baseyard, I don't know where the planning -- you know, how they have it planned, but my concern is that the entrance is not coming in and off the Kam Highway entrance or the baseball park, if that's how it is planned at this moment. And I'm sorry I don't know how it is planned but I'm just glad I have -- I'm on sick leave so I had the time to be here and, you know, give my mana`o. But according to I think couple meetings ago Mr. Helm had answered by mother's question about the hours of, you know, noise problem and that kind of thing and he said that, you know, they would only be working hours, Monday through Friday, whatever, seven to five, but that's not true because I know. The County vehicles are used at times where there is flooding, times of fire where they have to use the County vehicles, so it wouldn't only be during working hours that these -- these big trucks, you got backhoes, you got the dump trucks, you got the portable water trucks, so we're not talking little vehicles, we're talking big vehicles going in and out of the entrance, and that's my concern cause we do live there and, you know, it would only be the immediate people who live right across the street that would have these problems but that is a highway that I think

we should look into the traffic in and out of there, but that was my concern. And one last thing I would like to just interject here. The -- to clarify about the recycling comments that I had earlier, this wouldn't be recycling centers at East End or Maunaloa. It would just be the recycling bins, you know these green bins that we see on Maui? You know, that would make it easier for the people to -- to go there and you wouldn't have -- it wouldn't have to be a station where somebody's manning, you know, constantly but just where it's available for people to -- to drop off their recyclables. Thank you.

Mr. Chaikin: Well, thank you for your comments and I sure wish you were here at the -- the last meeting and wished the consultants were able to hear your testimony. We're not really at liberty to speak to this issue cause it's not something that's on our agenda but if there's any concerns that you ever have, you can either email those to us and we can work on getting those items on our agenda. The agenda is posted on the website. You can also sign up for an email notification of the agenda so it'll be emailed to you as soon as it comes out. It's also posted around town so, anyway, thank you.

Ms. McPherson: I'd be happy to forward those comments to the Parks Department.

Mr. Chaikin: Okay, thank you. Thank you, Nancy.

Ms. McPherson: Thank you for your testimony.

Mr. Chaikin: Is there anybody else from the public that wants to provide any testimony on anything else? If not, we're going to move right into the Chairperson's Report.

## **E. CHAIRPERSON'S REPORT**

### **1. Improvements to the Planning Commission's and Planning Department's service to the community.**

And, you know, the first thing that is on the list is improvements to the Planning Commission and Planning Department's service to the community. This is really where we can figure out how we can do a better job at what we do, and one of things that has just recently come out is a brand new website. The County has a new website and the Molokai Planning Commission has a new website and I don't know how many of you have had the opportunity to look at that and kind of, well, critique it, either good, bad, or make any comments on that, but it's something that we, as a Commission, should do. We should be taking a look at that website and see if that's, you know, how we wanna present ourselves. Is there anything there that's missing that should be there? Clayton, can I ask you a few questions about the website? I was just wondering if there's -- do you have the -- the ability to talk to the people that are actually working on the website and offer potential improvements or suggestions on how we might make that website better?

Mr. Clayton Yoshida: Yes, we can talk to people from -- from the technical side, the Management Information System Division.

Mr. Chaikin: Okay cause maybe you can take some notes. I just took a quick look at the website. I noticed that we didn't have all the Commissioners listed. Commissioner Teri Waros was not listed on the website. Also there is a community calendar on our website, right in the corner, and it has the date of our meeting but it doesn't really have the time. So I thought if they were going to bother, you know, putting it up there, they might as well give all the information so -- and then I tried to actually find out when our meeting was and it takes a bunch of clicks, so as long as they're going to put the date, they might as well put the date, the time, and maybe the place, and that'll save people a lot of, you know, searching around to figure out when the next meeting is. The other thing is if somebody goes to our website, the question is: How do they contact us? There's no contact information on our website. So it would be nice if you actually could list that on there so people can contact us. The -- when you go to the agenda and minutes section and you click on that, further down on all the agendas and minutes there's a bunch of dead links there. You try to click on it and page not available. So you might just check into that. Also, when you go to the agenda on the website, it list the whole agenda, and then when you come down to the bottom, it has our email address and it has our website, and they're in blue, so usually indicates that it's some kind of a link that you click on. That's a pdf so you can't click on it. It's a dead link. So it would be better to save some people some frustration trying to click on the thing, it should be all black, I think, or else make it a live link, one of the two, but don't make everything black and that blue and then -- and cause people to spend a little time.

Mr. Alueta: If I may --

Mr. Chaikin: Yeah.

Mr. Alueta: Chair Chaikin. The site was -- the police I guess when we all reviewed it, a lot of our department reviewed it, and we recognized there was a lot -- few things that needed to be improved. A lot of them were what you call major changes. I remember they had to redo the entire -- I mean I don't know if you've ever done a conversion over for a major website, like the County's, but it's an incredible task and it took several months, but the policy and directive I guess was that we're going to move everything over, warts and all. We wanted to make sure that we could get at least get the information over as soon as possible, and cut over, and your comments are -- is what we do need but it would -- I don't think Clayton's going to be able to take all those technical changes that you have in writing right now and I would recommend you just email me directly and then I'll take care of it.

Mr. Chaikin: Excuse me, maybe you can just get a copy of the minutes from today and it should be all on there, and I don't know if anybody else has any other comments too, but

I had some other suggestions while you're at it. One of things is is that we really should have our own email address, I think. You know, if somebody wants to send us an email, they should send it to the Molokai Planning Commission. They shouldn't send it to the Maui Planning Department. I mean, granted, the email could end up to you guys, that's fine, but it should really be differentiated from all the other mail that you guys get, all the email, so if that can be achieved, you know, that would be, you know, an advancement, and I'm not trying to sit here being critical. I'm just telling you what, you know, what I've noticed and what could be improved in the site. Commissioners, did any of you have a chance to take a look at that or do you have any comments on that or anything? No? Okay.

Just moving on here, the other thing is we had talked a little bit about changing the time of our meetings here because, you know, after all, the government has spent a lot of time, energy, and effort putting together a process which involves the public. It, you know, enables the public to come here and be a part of the decision-making process. And then we, as the Planning Commission, jump up and hold our meetings at a time when the public really shouldn't be here, and it's really contrary to the whole intent of the process. So we, as a Commission, have been taking a look at how we can hold these meetings at time when the public, you know, could come cause they really shouldn't be here right now, they should be at work, but we've looked at that and we looked at maybe moving it later on in the afternoon where the Planning Department could still get back on the same day, and so that seemed like it might be a viable approach but I think most recently they have changed their flight schedule once again, and the last time I looked, there is no real later flight for you guys to get back on, so I think we're going to have to put this particular item back on hold again and maybe we can revisit it down the road.

**2. Discussion on jet ski regulations and writing a letter to the State Department of Land and Natural Resources concerning the use of jet skis in the waters Surrounding Molokai.**

Mr. Chaikin: Alright, moving on on the Chairperson's Report. The next thing, we had talked a little bit about the jet skis here on Molokai and whether or not we, as a Commission, wanted to take any action on this, and there had been some conversation about writing a letter to have the DLNR enforce, do a better job at enforcement, and then we kind of moved a little bit in that direction. Subsequent to that, I checked and got copies of the ordinance, the thrill craft ordinance, which I -- which I basically distributed to everybody, and in that, I noticed that the ordinance is very unclear. I mean when you read that, it's not crystal clear whether you can or you cannot operate -- operate jet skis. It's very -- when you talk to the DLNR, they say that it's absolutely prohibited to ride a thrill craft with the exception of these areas that they have designated to ride in. But then we you ask them, okay, let's look at the -- your administrative rules and show me where in your administrative rules it says that, that's where they have a hard time so, you know, my

thought with this is that we surely should have them clarify their rule so just normal and ordinary people can read the law and figure out whether they can or they cannot use jet skis. And during that process of a clarifying rule amendment, you know, everybody will have the opportunity to come and present their own particular mana`o on the subject and they can -- and then the authority, which is the DLNR, can make the determination of how to move forward. But, Commissioners, did you have any feelings about how we should move on this or whether or not we should do anything? Commissioner Feeter?

Mr. Feeter: I would recommend that this be -- issue be put to the Governor's Advisory Council, which comes here monthly, with the thought that that would be a direct line to DLNR and possibly expedite a lot of the side bureaucracy urgency, in other words.

Mr. Chaikin: And that's a good suggestion. And I can tell you that I did talk to the DLNR guys and they are aware that, you know, the administrative rules are very unclear and it's hard to interpret exactly what they're trying to say. And they -- I think everyone agrees that they need to do a little amendment to clarify the rules but there doesn't seem to be any great deal of urgency in that and that was my only thing is try to, you know, just try to get some urgency in to them clarifying the rule, but that is a good suggestion, Commissioner Feeter.

Mr. Feeter: Yeah, one quick -- there's tremendous commercial pressure on our administrators from the manufacturers of these machines. A correlation would be what happened on Maui with the off-road vehicle, ATV's, quad tracks, and so forth. The merchants that sell these funded an area where owners of these ATV's could go and so one concession would be to have these machines, jet skis, in an area designated only for them and they can thrill themselves to death and that's a partial answer, maybe it's not a good one, but it's a partial one and -- but so much for that.

Mr. Chaikin: Yeah, and that is -- that is what the rule-making authority would do. They would take a look if there's anyplace on Molokai they can specifically designate it for thrill craft, and they have done that on all the other island. They've made areas in which these things can operate. The real confusion is, when they made up the rule, they have these designated areas, these designated open ocean management areas, Waikiki, Kailua Bay, you know, Hawaii Kai, Lahaina, all of these different areas all around the -- they are very important that they need to protect and they made those designated management areas. And then within those designated management areas, you can't ride jet skis. You can only do it if there's a specific area that's, you know, outline for you to ride your thrill craft in. And then they made up these rules and they said, well, in non-designated areas, thrill craft may operate under these certain set of conditions, so that's -- that's the part that's very unclear because they interpret that as meaning that, no, you cannot ride them anywhere unless we say you can ride them in that spot, but in the rules, it says you can so it's a little confusing.

They need to clarify that. So is there anybody in the public that wants to comment on this? Go ahead, Judy.

Mr. Judy Caparida: Hi again. Aloha guys. I went to Honolulu on the whole week of a workshop and while being there, I got in touch with Laura Thielen, and then she turned me over to Gary Moniz, who is the enforcement. He's in the enforcement department. And I told him. I say you guys got plenty plans you say no can, no can, but you guys come over here and tell me, oh, you know what? We not sure. I say you know what? I don't want you sending one of your pumpkin heads over here. I want you -- you come or Laura come to the next meeting. And I heard, you know, at the time of the meetings that you folks were going to write a letter to them so, you know, we should follow-up on this cause it's important. While I was gone, I came back home, I just came home, I was there, I came home Thursday, and then somebody called me up they already had -- they had plenty calls on my phone. They think me I'm the one working, you know, But I do it because I love Molokai. I do it because you know what? It is food. I told them. I think you folks like - what they call that now? Recreation. I say your recreation days are over. When you start having children, you start thinking how you going put food on the table. I say the jet skis is really a lot of stuff you can do with it - illegally, get plenty. No work, but get nice big trucks. Now, you know, the kupuna, they like police officers. You no have to go out there - they come to you. They let you know what's happening. And so because my concern is I get 23 grandchildren, 4 great-grand ...(inaudible)... my days is already finished but I'm looking to their future. I looking to what's going to happen to them because they all want fun. Nobody like work. So, anyway, I talked to Moniz and I told him that when we come back home, we like I call him up and he finally called me up, and say that he couldn't make this meeting but we want to put it on there he can come to a meeting cause either him or Laura, I told him. So, anyway, that's how important it is. I even went for the safe drinking water branch. I called them up too because there's some kind of concerns about our water pipes on the island and I don't think there's time to say anything because I'm not on the agenda. So nobody can talk to me about water. You know I thought to myself everything going be pau already. But you know what? I been to every water meeting. Even her. She's our reporter over there. She knows everything that goes on on this island, more than, you know, it was so important about water, those guys that is responsible for the water would be here, not having somebody talk for them. The thing is it's not really accurate unless you got the person who's responsible. That is not hard to figure out. So all these long talking and all that, just say you know what? If you're not here, out of here. Just get the meeting going so that we can get everything that is good down for our community and move on. You know, I really feel really -- I come to meeting, yeah, but you know what? I like make sure they get backup. They get something to support whatever they talk about because it is very meaningful for us on Molokai. I'm on the east and the west, we're not separated by water. Everything happens on the west, we get hurt. Everything happen on the east, west should be affected. All the way around the island. We should be affected. We are Maui County and that is ...(inaudible)... hello, come give

us a help. Help us to go ahead and find some solution to all the problems that we're having. Thank you.

Mr. Chaikin: Thank you. Any questions for the testifier? Thank you, Aunty Judy. Anybody else from the public wanna testify on this? Alright, seeing none. Commissioners, you know, we have a choice. Either we can do nothing and just move on and I'll take this off of our agenda, or we can go ahead and write that letter that we had talked about writing earlier. But what's your guys feeling on that, Commissioners?

Mr. Feeter: Okay, it's -- I think we have to refer to a higher order here and Aunty mentioned Laura Thielen and that's about as high as you can go, and that it's a Molokai issue. I think it's like we're a separate entity here on this jet ski business so that, yeah, a letter requesting or don't even waste the paper, email and say let's get somebody from DLNR here that can really make a judgement call and get some enforcement or at least, yes, you can, or, no, you cannot. It's not that simple but until we start from the top and work down, we're not going to get any answers on this. So, yeah, I would encourage you to keep it on the agenda.

Mr. Chaikin: Thank you, Commissioner Feeter. Any other Commissioners have any comments on this? Commissioner Buchanan.

Ms. Buchanan: I would suggest we take one or more of the following stance: Draft a letter that states the position of the Molokai Community Plan, which specifically identifies and words the use of jet skis on Molokai, and forward that with concerns to the Department of Land and Natural Resources, Laura Thielen, the Governor, as well as the Governor's Advisory Committee and Sharon Ching, and we should draft that letter and vote on that letter at the next meeting.

Mr. Chaikin: Okay, so what would we say in the letter? I mean what -- what are we asking them to do?

Ms. Buchanan: I would hope that we would take the excerpts of the section that specifically mentions jet skis in our community plan because we are obligated to carry out the community plan and so that's why it is a concern and it is mentioned in the Molokai Community Plan; even though we're up for getting that amended, the plan as it stands right now says that jet ski use on Molokai is not permissible, and so we should just take it right out of that and say because we oversee the Molokai Community Plan, this comes from the plan and this is our concern. Even though it's a State issue, it has to do with our community plan.

Mr. Chaikin: Okay, so we should send -- well you're -- I guess you're advocating is we send them a letter and we state in that letter that our community plan prohibits the use of

thrill craft, but then it'll be nice if we took it a step further and said that we need to have them clarify their rules so their rules concur with our community plan. Is that your sentiment or what?

Ms. Buchanan: We can just tell them we need to fix this problem and they need to clarify their rules, which we know it's going to cause an administrative overhaul but besides that, we gotta be true and keep the integrity of our community plan. That's the bottom line, okay. So I no care who we send 'em to. We send 'em to the President you like. But I would suggest that we send 'em to everybody because where we cannot take a position, the community plan is our position, okay.

Mr. Chaikin: Right, okay. So we have the community plan in there and we're asking -- they're already very adamantly against jet skis, that's the current department's position, so they're in concurrence with us. The only thing that's not in concurrence is when you read those rules, they don't seem to, you know, provide a lot of support so that's why I was kinda pushing for them to do a clarifying rule amendment at their earliest convenience or, let me say, their earliest opportunity to kinda push this forward, you know, cause they might do this and who knows in years and years but we need to get them going in a little bit faster pace. Nancy?

Ms. McPherson: I did go through the community plan and I did look for all what I thought were the applicable goals, objectives, policies, and implementing actions that might relate to this, and the strongest word I found was "discourage" the use of jet skis, but that's a pretty strong word. And, you know, I think a letter that stated those directly quoted out of the Molokai Community Plan when where they're coming from and then just requesting a clarifying rule amendment, I think that would be sufficient.

Mr. Chaikin: Alright, looks good to me. Can we make a motion to do something along those lines? Alright, I heard Bill Feeter support that idea.

Ms. Buchanan: I move that we draft a letter with excerpts from the Molokai Community Plan stating our position on the use of jet skis on the Island of Molokai, address that to Department of DLNR, the Governor, the Advisory Council, the Maui County Council, and other pertinent people, and also to keep it on the agenda.

Ms. McPherson: Commissioner, when you say "we," who is that specifically going to be drafting that letter?

Ms. Buchanan: I was referring to we, I mean the Molokai Planning Commission, the letter from the Molokai Planning Commission.

Ms. McPherson: Okay, does that mean that you're asking the Planning Department to draft the letter?

Ms. Buchanan: I'm asking Planning -- our Planner, Nancy McPherson, to draft that letter.

Ms. McPherson: Thank you.

Ms. Buchanan: Which we will approve of at the next meeting.

Ms. McPherson: Okay.

Ms. Waros: I second the motion.

Mr. Chaikin: Okay, any discussions on this motion?

Mr. Feeter: Recommend that this also be sent to the Mayor and to our Councilmember so that they are fully aware of our intent.

Mr. Chaikin: Okay, could that be a friendly amendment?

Ms. Buchanan: Yeah, that is a friendly amendment and I move to add those from Commissioner Feeter.

Mr. Chaikin: And the other thing I have to add is that, you know, we need to present this in sort of a sense of urgency because, you know, they say, oh, I'll get around to this, so I would -- I would use that word "at your earliest opportunity" to move forward on this issue. Is there any other discussion on this?

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

***It has been moved by Ms. Buchanan, seconded by Ms. Waros, then unanimously***

***VOTED: that a letter be drafted by Planner, Nancy McPherson, with excerpts from the Molokai Community Plan stating our position on the use of jet skis on the Island of Molokai, address that to Department of DLNR, the Governor, the Advisory Council, the Maui County Council, Mayor, Councilmember Danny Mateo, and other pertinent people, and also to keep it on the agenda.***

Mr. Chaikin: Okay, motion passes. Thank you, Commissioners. We will keep this on our agenda for the next meeting and we'll take a look at that letter at that time.

### **3. West End water delivery issues.**

Alright, moving forward, the next item that I have on the Chairperson's Report is the West End water deliver issues and really the reason that I put this on the agenda is if there's any members from the public that wanna say something about that, we would be able to respond to them or have some sort of conversation because if it's not on the agenda, we're not allowed to discuss that issue. So I put that on because I know it's very important to this community but let me just briefly just tell everybody where, at least from the vantage point that I have, where we are right now. I think everybody knows that on August 14 the PUC came up with a temporary rate for the Molokai Public Utilities and there were no formal complaints to that rate to the PUC. The public had an opportunity, a ten-day window of opportunity to request the PUC to reconsider their temporary rates and there were not objections from this community. So this temporary rate now will stand. But they were only temporary in nature. It means that within that -- that order requires the Molokai Public Utilities, within a six-month period, to come forward and request a permanent rate proceeding. So sometime between now and end -- or August 14 and six months, the Molokai Ranch and their utility should come forward for a permanent rate proceeding and that starts a whole other process, and that whole other process is about a six-month process in which the -- the PUC and the DCCA will take a look at coming up with some permanent rates, and the ball really shifts from the PUC to the DCCA cause it's really this Department of Commerce and Consumer Affairs that's going to come up with the rate. Now the PUC may agree or not agree with that rate and they have the opportunity to modify what's presented to them, but the ball's really in the court of the DCCA to come up with that rate. And what they're going to rely on is information that they get from the reports that are mandated in the current temporary order. And in that temporary order requires every other week they've gotta write in reports, they gotta have financial reports, and not only do they have to have final financial reports, but they've gotta have backup documentation that supports those reports. So somehow if we can get the DCCA to substantiate lower rates, that's going to not only provide lower rates for the Molokai community, but whatever the difference is between the now temporary rate and the permanent rate, that money will be refunded to the rate payers. So there's an opportunity for people to get some money back. What's unknown at this point is what is going to be included in that permanent rate because the Molokai Utilities are going to come forward and request a certain rate and what's going to be in that rate. So far there's no profit in that rate. A lot of utility companies put profit in there. So is there going to be that profit component? There's also a lot of infrastructure and permitting that needs to be done on those water systems and the question is: Is that going to be a component of that rate? When HELCO wants a new machine, they need to allocate that over a period of time and they put that on the rate. So that's kind of like the unknowns right now. There is a couple of proceedings, as you probably know, there's a lawsuit between the County and the utilities, and that's maybe going to be one of things that's going to be flushed out is who has to pay for those system upgrades. Is that going to be put over to the rate payers or is that

going to be something that the Molokai Ranch has to absorb because of prior commitments that they have made? So it's, right now, there's this period of just collecting data until we start that major rate -- that general rate hike proceedings and, at that point, that's the time where this community really has to get on the DCCA to make sure that we're getting the lowest rate that we can get. So, you know, that's all I really have. Is there any other Commissioners that wanna comment on that or is there any comment from the public on this particular issue? Alright, seeing none. This is -- we'll just move right along.

#### **4. Molokai SMA maps and Molokai zoning maps.**

We have the SMA maps. Nancy, did you have any update on that? And the zoning maps?

Ms. McPherson: Yeah, it looks like you folks will get one set of hard copy and then you'll get them on CD of the maps that are existing. That's no new maps. So, you know, I talked to the Long Range Division yesterday, actually, so that's coming. But if you want, you know, new maps and everything to be GIS and all that sort of thing, and be clear and -- and in color and in hard copy, you know, that's -- we gotta look at that as part of the community plan update process so that's kind of long term. But in the short term, we can get you what's existing now, get you copies of that. It may not be the best quality but it'll be something.

Mr. Chaikin: Right, it'll be something; more than we've got right now. So, yeah, we'll take a look at that when we get it and, you know, we'll figure out if that's good -- good enough at that point. But thank you, Nancy, for following up on that. That's all I have on my -- on my Chairperson's Report. And now I'd like to hand it over the Clayton Yoshida. He's got the Director's Report.

### **F. DIRECTOR'S REPORT**

#### **3. Proposed Meeting Schedule for 2009 The Commission may adopt or modify the meeting schedule.**

Mr. Yoshida: Yes, thank you, Mr. Chair. Moving very quickly because we have to pack up the equipment to catch a plane, I'd like to talk about Item 3, which is the proposed meeting schedule for 2009. I presented this to the Commission and if there aren't any objections, we'll proceed to reserve the meeting facility for these dates. The only conflict we have with a holiday is on November 12. November 11 is a Wednesday, Veterans Day, a holiday, so the first meeting in November got moved to the Thursday.

Ms. Buchanan: Chair, I would like to defer this item for the next meeting.

4. **November 24 Special Meeting in place of scheduled November 26 Regular meeting**
5. **Agenda Items for the October 22 meeting**

Mr. Yoshida: Okay, moving to Item 4. At the last meeting, the Commission said it wanted to have a special meeting on November 24 in lieu of the November 26 meeting so we'll proceed with reserving a meeting place on Monday, November 24, instead of November 26.

Mr. Chaikin: Okay, did you already get the reservation of the room or is that still pending?

Mr. Yoshida: We would still have to kind of make the reservation but I believe that was the sentiment of the Commission at the last meeting.

Mr. Chaikin: Correct, and that you were going to check to see if that was a possibility but we're still -- do we know we're going to have that meeting on that date and where it's going to be or we're still not sure?

Mr. Yoshida: It'll probably here --

Mr. Chaikin: Okay.

Mr. Yoshida: If we get the room. The next -- the last item is the agenda items for October 22. We had the deferred items from today's meeting, which is the discussion on improvements on the Molokai Integrated Solid Waste Facility, the Council Resolution 08-55 regarding administrative enforcement, and the discussion on jet skis regulations. So those are the carryover items from today's meeting.

Mr. Chaikin: Okay, any other Commissioners have anything else they wanted to see on the agenda?

1. **Pending Molokai Applications**
2. **Closed Molokai Applications**

Ms. Buchanan: No, but I see Nancy asking for something, but they gotta catch one plane and we scooted over pending Molokai applications. At the next meeting I wanna take it up because I noticed on our pending applications our planner had 58 open cases, okay, and I wanna know at one point in time when the Planning Department is going to give her some assistance because this is unacceptable, but I don't know what is the norm for planners and

staff on the Maui Planning, but just looking at this one right here, my planner has 58 open cases so --

Mr. Chaikin: Well maybe we can ask Clayton to find out and come back with us on a report and what they -- the normal workload is for the planners over there on Maui. Clayton, is that something you could bring back to us for our next meeting?

Mr. Yoshida: Yes, we can discuss that at the next meeting.

Ms. Buchanan: I'd like to take it up on as a agendaed item.

Mr. Hopper: Yeah, that should be more specific than just pending and/or closed Molokai applications so, yeah, agenda that a little more specifically I would say.

Mr. Chaikin: So you're going to put that on your Director's Report, Clayton?

Mr. Yoshida: Yes.

Mr. Chaikin: Okay, thank you. If there's nothing else, I just wanted to ask one more thing about that HCP conference. You guys said you were going to make some audio available on the website for the different sessions. Is that still happening?

Mr. Yoshida: Yes, that's what we plan to do. We're checking on the quality of the audio recordation at this time.

Mr. Chaikin: Okay.

Mr. Yoshida: And we have, you know, various breakout sessions, they're at least 12 or more breakout sessions to check.

Mr. Chaikin: Alright, thank you. So, County, do you have any further business for today's meeting?

Mr. Yoshida: That's all we have.

Mr. Chaikin: Commissioners, do you have any -- anything else for today? Alright, seeing none. It sounds like it's happy hour right now so, at this time, I'd like to thank everybody, thank AKAKU for being here, thank you for your patience, and we'll see at the next regular scheduled meeting of the Molokai Planning Commission. This Commission meeting is now adjourned.

**G. NEXT REGULAR MEETING DATE: October 22, 2008**

## **H. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 4:50 p.m.

Submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions

## **RECORD OF ATTENDANCE**

### **Present**

Steve Chaikin, Chairperson  
Lori Buchanan  
Bill Feeter  
Teri Waros  
Don Williams

### **Excused**

Lynn DeCoite  
Joseph Kalipi  
Sherman Napoleon, Jr.  
Mikiala Pescaia, Vice-Chairperson

### **Others**

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