

**LANA`I PLANNING COMMISSION  
REGULAR MEETING  
JUNE 15, 2011**

**APPROVED 07-06-2011**

**A. CALL TO ORDER**

The regular meeting of the Lana`i Planning Commission (Commission) was called to order by Chair Gerald Rabaino at approximately 5:31 p.m., Wednesday, June 15, 2011, in the Lana`i High & Elementary School, Home Economics Room, Lana`i City, Hawaii.

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

Mr. Gerald Rabaino: Noted for the record that Shelly is not going to be here. She's on medical leave. Letty, haven't heard any word from . . . (inaudible) . . . so we do have a quorum as of 5:31 p.m. Alberta de Jetley is currently just walked in. Aloha Alberta. Alberta, did you get the distribution? You have the distribution in front of you? Okay. So we have two missing yeah? Letty and Shelly. Review your stuff before we continue. Corporation Counsel, anything to add?

Okay, a little reminder for the record, this is for the Commissioners – HCPO Conference at Grand Wailea Resort and Spa at Poipu dated September 21<sup>st</sup> to September 23<sup>rd</sup>. If any of you are interested let Leilani know. Right now we know Alberta has committed, as well as Vice-Chair Stanley, Commissioner Stanley Ruidas, and myself. We'll see what happens from there.

**B. APPROVAL OF THE MAY 18, 2011 MEETING MINUTES**

Mr. Rabaino: Okay, for June 15<sup>th</sup>, Wednesday. We did Item-A. We going to Item-B, approval of the May 18, 2011 minutes. Commissioners, do I hear any corrections or accept it as is? Anyone?

Mr. John Ornellas: I move to accept the minutes.

Mr. Rabaino: Any second?

Mr. David Green: Second.

Mr. Rabaino: So it has been moved by Commissioner Ornellas, and second by Green. All those in favor say aye.

Planning Commissioners: "Aye."

Mr. Rabaino: So voted for the record.

**It was moved by Commissioner John Ornellas, seconded by Commissioner David Green, then unanimously**

**VOTED: to approve the May 18, 2011 meeting minutes as written.**

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**(Assenting: J. Ornellas, D. Green, S. Ruidas, M. Mano and A. de Jetley  
Excused: S. Barfield and L. Castillo)**

**C. UNFINISHED BUSINESS**

**1. Status of the No Ka Oi Grindz and Richard's Market permits**

**This is for information only.**

Mr. Rabaino: Item-C, Unfinished Business, as we move along, status of No Ka Oi Grindz and Richard's Market permits. Corporation Counsel?

Mr. Ornellas: Mr. Chair, was the invitation sent out to No Ka Oi Grindz and Richard's as far as coming?

Mr. Rabaino: I have no knowledge. Lei?

Mr. Ornellas: Okay, Mr. Chair, can we put this on next month's agenda, and make sure Mr. Yoshida send invitations to these two companies so that way we can get an update?

Mr. Green: I think I remember seeing an email or something from Mr. Yoshida saying that he had invited them, but he can't compel them to attend.

Mr. Ornellas: I understand. Thank you. Mr. Chair, also at last meeting we discussed possible inviting our member, the Lanai member, on the Charter Commission to come and speak, and I don't see it on the agenda. But I would like to add that to give Mrs. Okamoto a chance to speak now and tell us what her feelings are as far as what Lanai needs to do and be prepared for when the Charter Commission comes to Lanai in a month.

Mr. Michael Hopper: Just a note, you pretty much do have that as Item-D. I think that you could certainly, if Ms. Okamoto wanted to testify or you can get into a pretty broad discussion on Charter Amendments in that process if you'd like on that item. So even though they might not be that specific I think you can have that discussion at that item if you guys want to.

Mr. Ornellas: Okay. So we –. Okay.

Mr. Hopper: And the point of that is, I think, give them your comments because they sent you a letter. But you can certainly get into a discussion of any proposed amendments or the process. And if Ms. Okamoto wants to testify you can certainly ask her questions.

Mr. Ornellas: Okay. Great. Thank you.

Mr. Rabaino: So your suggestion, Commissioner Ornellas, that we're going to move – you want to discuss this on Item-D under communications for Kay Okamoto as the Charter Amendment?

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Mr. Ornellas: 10-4.

Mr. Rabaino: And the status of No Ka Oi Grindz and Richard's Market to be moved to July 20<sup>th</sup>? Is that correct?

Mr. Ornellas: If that's our next Lana`i Planning Commission meeting, yes.

Mr. Rabaino: Do I hear any motion to move it Commissioners?

Mr. Green: I think I asked the last time, I'm still not sure why you want to have them come in here and what your concern is or what you're trying to find out.

Mr. Ornellas: Mr. Chair, what the County is telling us at the last meeting is not what is being said around town. They said they have a permit, but No Ka Oi Grindz is still digging up, I guess, either installing a grease trap or setting up the sewer to handle that. So I don't think the County of Maui would give them a permit to open without all these things being in place and receiving the okay from the County of Maui. So I just wanted them to come and say, yes, we got our permit, we are operating, we are two weeks away of our grand opening, and that's all I want. I don't need to know the whole . . . (inaudible) . . . but I want to make sure that they get – they get support from the County because it's been –. You know, they've had a business loan for over two years and they haven't open their doors yet. So, I mean, it cost money to pay rent on that space on Ninth Street on a monthly basis, but yet they're not open for business yet. So I just want to show that we are aware and we want to support, and we're hoping that the County will do the same.

Mr. Rabaino: Okay, thank you Mr. Ornellas so noted for the record.

Ms. Alberta de Jetley: Mr. Chair, yesterday I had an opportunity to speak on another matter with Naomi Ohashi and she told me she's just completing her grease trap. Ricky Sanches, Ricky's Plumbing, is just doing the final work, and she was expecting Timmy Leis, from Dorvin D. Leis, to come in this week, and he would be putting the finishing touches on it. So she said as soon as his work is done, then she will be able to close up the hole, and she will be ready to open for business.

Mr. Rabaino: Did she require – I mean, was the permit given to her or that was part of the –?

Ms. de Jetley: She has everything she needs now. She's just finalizing the grease trap problem. There was a problem with it, so she's just taking care of it now. So I told her that on our agenda that we have invited her to come and just give us an update of where she was, but she was unable to come tonight.

Mr. Rabaino: Okay. Thank you Commissioner de Jetley. Noted for the record. So more or less in your conversation with her, by the end of this week or next week she can move forward.

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Ms. de Jetley: Yes, she can move forward. And I think the reason we had these two businesses on our agenda was we, as Commissioners, wanted to show them that they had the support of the Lanai Planning Commission and that we would assist them in any way we could to expedite the opening of their businesses.

Mr. Rabaino: Thank you Commissioner de Jetley. Yes, the Planning Commissioners would like to see her open it as soon as possible. That was her dream and her food in ono. Okay, shall we move on? The next item or did I miss somebody else?

Mr. Spence: Mr. Chairman. Pardon me. And by the way, My name is Will Spence. I'm the Planning Director and I'm very happy to be here. With that information from Commissioner de Jetley, do you still want this information on your next agenda item?

Mr. Ornellas: I would still like to hear what the updates are on Richard's Market expansion.

Mr. Spence: Okay.

Mr. Ornellas: What their plan is and what their time frame is. That way, we, as community members, we get asked a lot of questions as we go around town, so, you know, when they start working on Richard's, a lot of people will ask what's going on and we would have straight scoops.

Mr. Spence: Okay.

Mr. Rabaino: Okay, are there any other discussion on Item-C, regarding No Ka Oi and Richard's Market, Commissioners? If none, shall we move on to Item-D, Communications? Number one, Mr. Joshua Stone, Chair of the Maui County Charter Commission, submitted May 10<sup>th</sup>, 2011. A memo asking for comments from the board and commission by June 30<sup>th</sup>. Copy of memo was distributed with May 18<sup>th</sup>, 2011 agenda. Okay, being that we have a special Lana`i resident here, would you have the opportunity to share what you have with us, Sally? I mean, excuse me, Kay Okamoto. I'm getting Kay's mixed up here okay. No offense. No offense. Thank you.

#### **D. COMMUNICATIONS**

- 1. MR. JOSHUA STONE, Chair of the MAUI COUNTY CHARTER COMMISSION submitting a May 10, 2011-memo asking for comments from the boards and commissions by June 30, 2011. (Copy of memo was distributed with the May 18, 2011-agenda packet.)**

**The Committee may act to make comments. Comments from the board should relate to its powers, duties, and authority.**

**The Commission may provide its recommendations.**

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Mr. Ornellas: Mr. Chair, I'd like you to officially open up testimony from the public, so Kay could be the first, and then followed by anybody else who wants to come up and speak.

Mr. Rabaino: Okay, I've been reminded and stand corrected. Okay, for the record, we open up to public hearing for the public, and our first speaker would be Kay Okamoto.

Ms. Kay Okamoto: The Charter Review Commission has met, I believe, three times, and we have had two public meetings. One in Pukalani, and there was approximately seven or eight people who came to testify. And then the last one we had earlier this week was in Kahului, and there were five people testifying, two of which who had testified the week before at the other one, and I'm sure we'll see them at every meeting. Which is for Lanai is something to think about because the more people hear something, the more it sticks in their minds. And obviously some people who live on Maui have the time to come and testify at every single meeting.

Two of – well, two or three fairly big issues. One has to do with the budget cycle, and there are people who are proposing that rather than the County Council every year do their budget which takes up half the year as most of you know, you're Council members are totally tied up, that they do the main budgeting every other year, and then with just an added one if they need in between. That's one proposal that's come up. Of course, the big proposal that we hear about has to do with district voting, and there is a lot of feelings out there. There's a lot of misinformation or everybody has their own idea of what that means. There evidently was a survey done by a west Maui group – I'd say, six month ago – and according to that group, 65% of people are for district voting. However, through district voting means we will be likely are in the legislature, tied in with Lahaina, probably. There is a push that we would not be tied in with Moloka`i because that's just – I mean, it's crazy for one person to get to three islands. So they're okay going to two island. But there are two or three proposals already on the table. One of them that we received at our meeting on Monday had to do with true district voting – you know, purely one man, one vote – but they would then have elected the Planning Commissions. And those would be elected, you know, you would run for the office, would be elected on Lana`i and on Moloka`i, and with a little bit more responsibility and ability to do things. However, nothing would have to do with the money and the budget. So you know, you could do more with maybe zoning, you could certainly make the decisions on things like bed and breakfast and that kind of thing, but that's not real clear. That proposal just came up.

I believe the meeting that's coming to Lana`i is on July 20<sup>th</sup> which I think is your –. So I don't know if we've got a – you know somehow we need to work that out together. But right now, I believe, the July 20<sup>th</sup> is when the Commission will be on Lana`i, and it's just to me, it's very important to Lana`i and Moloka`i and Hana, to have a lot of people there because the other places don't. You know, it's a handful of people. And so I think you need to show that you're interested regardless of even if you just go to listen but certainly if you can have testimony. And it doesn't just have to be on that issue, but that seems to be the main issue. One thing that came up was the inefficiencies of the way the Council works, and this person's whole thing was the way they are elected, you know. There are things that are being thrown into that. And so

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I know that there are going to be Lana`i who will say yes, district voting is what we want because we want to be able to have a say and not have the whole Maui community vote. However, there are draw backs to this. So people just need to understand both sides of it. And if there's other possibilities that people can come up with, then I think it's important that people do come up and testify. Testifying at that hearing is going to be extremely important.

Mr. Rabaino: Okay Commissioners, any questions for Kay? Mr. Ornellas? Mr. Green?

Mr. Green: Are the meetings in the evening? The testimony or the public meetings that you've attended on Maui, are they in the evening? Because then I think we ought to make some kind of recommendation on how we handle two meetings at the same time that are both important meetings.

Ms. Okamoto: Yes. The meetings have been at 6:30. The first meeting ran till about nine. The second one was probably over about 8:30. But the meeting starts at 6:30, and all it is is for public testimony. It's not a regular meeting which is part of, so it's purely reserved for people to testify. One other issue that is also probably going to be coming up is whether to go to two or four year terms. That comes up, I think, every time, and I guess it's been suggested that you go to four year terms quite a few times, and the voters have always voted it down. But that's also be.

Another one is that may be eliminating some of the boards and commissions, or recommending. Anything the Commission does is a recommendation and then it goes on the ballot, and it would go on the 2012 ballot.

Mr. Ornellas: Mr. Chair, if I may? Thank you Kay for coming tonight. I've participated in Maui politics for many years, and you know, this piece of paper, this book right here, this Maui County Charter, is how our government, our County Council, or County government operates by. I cannot stress how important this document is. And for, in the past, and I think it's revised every 10 years, so the last one there were some changes as far as what happens into the Charter. But this one may really effect our island, and this district voting, if it passes the way some of the people are wishing that it would happen, Lana`i would lose it's representation on the Maui County Council. Because they would lump us in with either Lahaina or east Maui or even Kahului, and if they lump us in with that, you know, with 1,500 registered voters, and only about 800 of those actually vote, we wouldn't stand a chance. So the people that will be living in those districts would have another Council member. So both us, Lana`i, and Moloka`i, is basically in the same boat. So it' very, very important that we show up at this meeting and express our opinions about this district voting. Because if it does come to true, we have no body, no Lana`i resident, in the State and County government that represents us here on Lana`i. So I would hope there would be a discussion before the end of the night as far as how we are going to handle this, as far as having competing meetings. And to me, I would think that we would, the Lana`i Planning Commission meeting would be secondary to this Charter if there's nothing else can be done about it.

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Mr. Rabaino: Thank you John. Alberta, any comments? Commissioner Mano? Vice-Chair Ruidas? Mr. Green, any comments?

Mr. Green: It looks as if the way this is written that we have an opportunity to make recommendations now. Do we want to do that? John, you said it, do you have any – it's not my position to ask, but I would assume that we could make comments or recommendations at this time, as well as, at the public hearing.

Ms. Okamoto: Yes. That is correct. You could do recommendations tonight. You could do – if you met before then, pretty much by the end of July, the Commission is asking for input from the various boards and commissions, so it does give you a little bit of time. I will tell you one other thing that frequently has come up with testifiers. They use Lana`i, well, you know, the person who gets the most votes on Lana`i may not, you know, win, and so you know that's not right. But then they don't give you the other side that, you know, well that may be true, but competing against Lahaina or whatever maybe be even more difficult. It is obviously less expensive for people to run. That is one thing. Also there has been one potential was to do senatorial districts and elect three from each of the senatorial district, but they would be at large in that district. So for instance, our district is, I think, it's Hana, but it's a very large part of the Haiku – and so theoretically all three could be from Haiku, for instance, if that was one person's proposal. So there have been a few different proposals come up. None of them have been, you know, real firm, but those are people kind of putting the ideas out. One other one was to have nine districts and then three at large. And some of you may remember, we use to have some at large representatives, and usually those came from Kahului. I mean, Wailuku-Kahului-Central Maui. So those are just some of the proposals that would directly affect Lana`i. However, there are other things in there that, you know, it does behoove people to review the Charter.

Mr. Rabaino: Kay, I have one that I read a two days ago on the Maui News regarding – for the Lana`i side. There was an article in there regarding the Maui Charter that stated – and this is the way I interpreted it – that they would leave the status quo for now.

Ms. Okamoto: I missed that particular one. I will tell you that Rick Medina who use to be, I believe, a representative, one of the Council. He testified that it should stay the way it is now. He has been –. Others have testified on other issues, but he specifically testified he likes electing at large. He said I want to know who all of my Council people are, so that may have been what was in there, in the paper, because he did testify on Tuesday night that he wanted to see it remain the same.

Mr. Rabaino: Thank you. Any other questions Commissioners? Okay, thank you Kay.

Mr. Hopper: Mr. Chair?

Mr. Rabaino: Yes?

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Mr. Hopper: Just as a note, it was, I think, Commissioner Green said earlier about making recommendations tonight. Just to let you know tonight, if you wanted to make a recommendation as the Planning Commission, you would have to vote on what that recommendation would be. If you wanted to make recommendations in person as individuals, you could do that afterwards, outside the meeting. They just wouldn't be as the Lana`i Planning Commission's recommendations though. I think what they did, they sent it to all the different boards and commissions, and asked all the different boards and commissions about their recommendations, presumably dealing with the area that each board and commission deals with. And also as individuals you would have the right to go to those meetings and testify about what you feel as individuals. But for Commission action, you would need to take a vote on what the recommendation would be and give guidance to staff on how they would draft the letter on your behalf to go back to the Charter Commission. So, just as a note, that's what we've been doing with the other Commissions with something like this. So they're asking specifically for the Lana`i Planning Commission's recommendation. So that's what they're interested in I think with this type of letter.

Mr. Rabaino: Okay. Thank you. I'll ask the Commissioners but we're still in public testimony, yeah. So the next one would be Ron McOmber. Would you like to? You're number two. And Pat Reilly you're number three. And anybody else wish to speak?

Mr. Ron McOmber: My name is Ron McOmber. I've been a resident of Lana`i for over 40 years, and pretty active within the community. This Charter Commission stuff that Kay is sitting on it's got to be a nightmare especially for small communities like ours, Moloka`i and Lana`i. We still want to be selfishly want to be represented by one person. I'm not sure if we had – if we split this up and Lana`i is put in a canoe district with Maui, I think we'll lose a lot of our representation. There's a debate on whether we have representation now or not, but that's another thing. But at least we have somebody we can grab a hold of and they got to come back home, and this would not be home for that person more likely unless somebody from Lana`i won that district. Which I guess it will be the option that they could do that. We could end up with a Lana`i representative representing Lana`i and then some district on Maui. Is that the way it's going to break up? I don't know. So that's something the Charter has to look at. There's a good possibility that Moloka`i also could have their representative could also represent other districts. Hopefully, but I don't think we have enough votes to get that. It's going to be political. So my recommendation is, I know, Kay got a tough job ahead of her, and I see her when she gets off the boat, she's like, going through a rain puddle. It's not going to be easy for her. It's not going to be easy for any of us, especially we saw what happened with the Maui Charter stuff. I mean, not the Charter, but the – anyway – they had 25 members on that Commission, on the GPAC, and it just turned out to be a nightmare. That's probably one reason that we're not getting any further along than we are right now. With that many people, there's a lot of politics involved and it's going to continue. So, again, I want to have our representative at least pushed for representatives from as it is right now. Thank you.

Mr. Rabaino: Commissioners, any questions for Ron? None? Okay, Mr. Pat Reilly, you're next.



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Mr. Fairfax “Pat” Reilly: Thank you Commissioners. Pat Reilly. 468 Ahakea Street. I noticed here that your recommendations have to be submitted by June 30<sup>th</sup>, 2011, so you will not have another meeting prior to June 30<sup>th</sup>, 2011 to make a recommendation. I tried to read through Kay’s minutes and the minutes of the Charter Commission, which are quite extensive and complex because they’re discussing procedural issues just to get their work done. I personally feel that whoever came up with the unique way of electing our Council members at large by having a seat at least for Lana`i and Moloka`i is essential. And if you agree with that, then I would hope you could reach a consensus tonight and make that recommendation. Failing to do that, and if you, even as Commissioners or we go out individually and make the recommendation, I don’t think it’s as powerful as if the Planning Commission makes a recommendation. And despite all the issues about residency and I just cannot see us functioning or having a voice at the Council without a Lana`i seat. So I hope you could reach a consensus on that, although there may be difference of opinions, I understand that. Thank you very much.

Mr. Rabaino: Commissioners, any questions for Pat Reilly? Come forward Ms. Okamoto.

Ms. Okamoto: The letter that came out asking for comments gave a June 30<sup>th</sup> date but that is simply a recommended to try to get things in. It will not be a total cut off date.

Mr. Rabaino: Thank you. Mike? Mike? Mike, would you like to come forward and give your opinion? Thank you very much. Andrew, you want to also speak on this behalf?

Mr. Michael Schocket: Thank you. My name is Michael Schocket, resident of Lana`i, and I agree with what Kay Okamoto said and Pat Reilly. I think it’s absolutely essential that we have Lana`i representation. Otherwise, we’re just another spec in the County and not thought about all the time. Thank you.

Mr. Rabaino: Thank you very much. Any questions for Mike, Commissioners? Okay, at this time being that Andrew does not want to speak – what about you dear? Okay, we’re going to close the public testimony right now, and Commissioners would you like to recommend?  
Mr. Ornellas?

Mr. Ornellas: Mr. Chair, I think in Mr. Reilly hit the nail on the head. I think we should – it would be a stronger message to the Charter Commission if we, as the Lana`i Planning Commission, voiced our opinion officially on this matter. You know, when we run for office from Lana`i and there’s three former candidates on the Lana`i Planning Commission, we understand before we sign our name and collect our papers and then we hit the campaign trail, we understand the requirements of us to run for this office. So you’ll always have people from Lana`i run for office whether, you know, not maybe every election, but at least when things seems like there’s an opportunity, you will get candidates. And a few ago there were five of them from Lana`i that ran for the County Council. So for us not to have a representative on the County Council at least, you know, it’s basically, it puts us out in the boonies. You’re going to have Council members that are going to be so bogged down especially nowadays with the way the budget are being

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established and the lack of money. They're going to be basically hogged tied on Maui, and will not be able to come to the outer islands on a more frequent basis. I mean, we have that problem now with our State House Representative as well as our Senator. We haven't seen our Senator here in almost two years. But I would like to make a recommendation, a motion, to – a motion that we, the Lana`i Planning Commission, accept that we, on Lana`i, should have representation on the Maui County Council. And I guess we can kind of clean up the language to say the status quo is good enough, and we accept that and we recommend that.

Mr. Rabaino: Commissioners? Alberta? Your comment, suggestions to John? Is that a motion that you're presenting Mr. Ornellas?

Mr. Ornellas: . . . (inaudible) . . .

Mr. Rabaino: Okay. Anyone wants to second his motion? Commissioners? Or you want to discuss it further?

Ms. de Jetley: Mr. Chair, could we discuss it without –

Mr. Rabaino: So the motion is ahead, but we're going to discussion the motion.

Mr. Hopper: Technically you would need a second to discuss the motion in this situation. If you really want to go by Robert's Rules of Order, that's technically the case.

Mr. Rabaino: Mr. Green?

Mr. Green: I'll second the motion.

Mr. Rabaino: Okay, Mr. Green has second the motion. Discussion?

Ms. de Jetley: John, I think the motion as you worded it is way too wordy, and I think that we should just vote it down and reword it. Because basically you're just asking us to maintain the status quo. We don't need all those other words in there, I don't think. So –

Mr. Ornellas: . . . (inaudible) . . .

Ms. de Jetley: No, it just bogs it down even further if there's an amendment on it.

Mr. Ornellas: Mr. Chair, I withdraw my motion.

Mr. Rabaino: Anybody want to accept the second? Anybody second the withdraw? None? You can withdraw.

Mr. Green: I withdraw my second.

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Ms. de Jetley: Okay, then I'll make the motion. I move that the Lana`i Planning Commission recommends that we maintain the status quo.

Mr. Rabaino: Anyone second the motion that Alberta just made?

Mr. Hopper: With respect to the election of Council Members? Just to clarify that. I mean, I think everyone knows what you're trying to say, but if we want to get that on the record. You want to keep the status quo with the respect to the election of Council Members in Maui County?

Ms. de Jetley: Yes.

Mr. Ornellas: I second that.

Mr. Rabaino: So it has been second. Can you read that back for us Mr. Corporate Counsel? Thank you very much.

Mr. Hopper: That the Lana`i Planning Commission recommends that the status quo be maintained for the election of County Council Members.

Mr. Rabaino: Okay, is that fine Commissioner Green?

Mr. Hopper: And I think the – I'm not sure which Planner would be drafting that up. Normally a letter would be done in favor of the Commission, but clearly that person you should make sure because she's going to actually write a letter and I think have the Chair sign it, or will sign it on behalf of the Chair. And so that's the language that would be going to the Charter Commission. They probably aren't going to read through your minutes though. I think they want a letter with that and any other recommendations that you might make.

Mr. Green: I think it would be helpful even though it might be a little bit more wordy to put a little bit of an explanation. From what I understood from John, and I support that, is that any of the other proposals that we're aware of would likely result in Lana`i's representative being grouped with another geography and would more than likely lead to the loss of representation. Therefore, we support maintaining the status quo as it is today.

Mr. Spence: Mr. Chairman, Commission members, we will put some sort of explanation in it of what the discussion was. I think the direction is pretty clear.

Mr. Rabaino: So the motion is there. Did anyone want to second that motion? We did? Who second the motion?

Mr. Ornellas: I did.

Mr. Rabaino: John. Okay. So it reads as, for the record. Thank you.

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Ms. Gina Flammer: The Lana`i Planning Commission recommends maintaining the status quo – that’s as far as I got – with respect to the election of County Council members.

Mr. Ornellas: With a little bit of an explanation.

Ms. Flammer: And the explanation I have, and I can word smith this. But what I basically heard is your concern is that district voting would result in Lana`i being grouped with another geographic area and as result Lana`i would lose your direct representative. Dedicated representative?

Mr. Ornellas: Elected representative.

Mr. Rabaino: Elected? We want to word elected in there. Is it going to be elected or –? So can you re-read it again? Thank you.

Ms. Flammer: The Lana`i Planning Commission recommends maintaining the status quo with respect to the election of County Council members. The concern is that district voting would result in Lana`i being grouped with another geographic area and as a result Lana`i would lose their dedicated representative.

Mr. Rabaino: Okay Commissioner, is that language acceptable?

Ms. Flammer: I’m open to word smithing.

Mr. Rabaino: Mano, acceptable? Stan? Okay, call for the vote, regarding the language. All those in favor say aye.

Planning Commissioners: “Aye.”

Mr. Rabaino: Any opposed? None opposed, and ayes got it for the record. Thank you very much.

**It was moved by Commissioner Alberta de Jetley, seconded by Commissioner John Ornellas, then unanimously**

**VOTED: to recommend maintaining the status quo with respect to the election of County Council members. The concern is that district voting would result in Lana`i being grouped with another geographic area and as a result Lana`i would lose their dedicated representative.**

**(Assenting: J. Ornellas, D. Green, S. Ruidas, M. Mano and A. de Jetley  
Excused: S. Barfield and L. Castillo)**

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

**1. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 11-24 referring to the Lanai, Maui, and Molokai Planning Commissions containing a draft bill amending Title 19, Maui County Code, relating to Short-term Rental Homes. (G. Flammer)**

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

Mr. Rabaino: Next on the agenda is the – we're on public hearing. Okay, public hearing. Action is to be taken after public hearing. Mr. William Spencer, Planning Director, transmitting Council Resolution No. 11-24 referring to Lana`i, Maui, Moloka`i Planning Commissions containing a draft bill amending Title 19, Maui County Code, relating to short-term rental homes. You have the floor sir.

Mr. Spence: Thank you Mr. Chairman and members. And just for the record, my last name is Spence, with no "r." I got asked that early on, not to be confused with one of the Maui developers. One of the reasons I wanted to come here tonight was especially for this bill. I know that, you know, each island has it's own distinct needs and it's own distinct personalities and desires. You know, there's certain issues related to short-term rentals that are on this island that are not on Maui, and it's not on Moloka`i. And when I go before the County Council and they start holding their hearings and whatnot, I wanted to be able to accurately portray what was said at the Lana`i Planning Commission meetings. So I'm doing that with, you know, all the Commissions. We went out to Hana Advisory Committee as well. I know that there's – you have a very unique economy here, distinctly different from other parts of the County, so we wanted to come out and present this to you and hear, you know, your feelings. And we'll propose some amendments, you know, to you, and we can modify according to your recommendations. So with me tonight we have our staff planner Gina Flammer, and she's been kind of carrying this proposed legislation around to the different communities and community associations, and so tonight we're going we're bringing it to you.

Ms. Flammer: It's up to you. I could do the presentation, then we can hear public testimony. Or we could do public testimony first.

Mr. Rabaino: Commissioners, do we want public hearing first, then testimonies, then we can hear from the –

Ms. Flammer: The department – Gina Flammer.

Mr. Rabaino: – from Gina later?

Mr. Ornellas: Mr. Chair, I would recommend that we do the public hearing because there's some people here that want to testify and then be on their way and not put up with any more

of this nonsense. Thank you.

Mr. Rabaino: Okay, fully understood. Okay, public hearing is open for the short-term rental.

Ms. de Jetley: Mr. Chair?

Mr. Rabaino: Yeah?

Ms. de Jetley: I have a letter that was given to me to read into the record, but I will wait until these people who are here are through testifying, and then I would like permission to read this letter into the record for this person.

Mr. Rabaino: Okay, so noted Commissioner de Jetley. And when the public hearing is done, then it will be your turn to read that letter. Anyone from the public would like to come forward? Pat Reilly. Second, Ron McOmer. Anybody else interested to testify?

Mr. Reilly: Pat Reilly. 468 Ahakea Street. First thank you for coming to Lana`i to explain this. I agree with you that we have a unique situation both in terms of zoning on the island particularly in the city, and the nature of the plantation. I got a little confused in reading the amendments, and maybe you can address this in the presentation because the standards for the proposed amendments to Title 19 seems to address different zoning portions, some of which we have on Lana`i, and some of which we don't. Secondly, our lot, due to the plantation, our lot sizes are unique and it didn't seem like we would fit into that. My immediate response was some of the language from Moloka`i, except on Lana`i. And because we're about ready to start our community plan, I don't know if it's useful. To me, it would be useful for us to have that discussion within the community plan process to be able to develop a clearer idea of how we wanted to do that on Lana`i rather than just trying to get it all out in public tonight. I don't know if that makes sense. But certainly these short-term rentals in my opinion are important to what I call the local economy of Lana`i. And I think other speakers will maybe elaborate on that, but you will find on this island that there are due to two hunting seasons and the shortage of affordable short-term places to rent other than the Four Seasons Resorts and Hotel Lana`i, that it's critical to both agencies, non-profit agencies to governmental agencies. I'm a retiree of the Department of Education here at this school. We have people coming in all the time that need to stay over night just due to plane and boat schedules. And therefore, just to shorten up my thing, if it's appropriate, I would recommend to the Commission to either place language that says, except for Lana`i, early in the amendment, and be able to work out a system where that the community plan works out the details. Thank you very much.

Mr. Rabaino: Commissioners, any questions for Pat Reilly? If none, Mr. Ron McOmer?

Mr. McOmer: My name is Ron McOmer, resident of Lana`i, and I'm intimately involved in short-term rentals. First of all, when we first started talking about B&Bs and short-term rentals or vacation rentals – actually when it first came out was vacation rentals and B&Bs. I have tax certificate from the State that I pay for my short-term rentals - TAT tax. When I first saw this

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come out, I didn't respond to it because it didn't really involve me. I don't have 30 day rentals. I don't have 15 day rentals. I have one or two or three day rentals, and these are existing housing that was built and have been built, and some of them are over 50 years old on Lanai. I have two houses in that category, I have one that was probably 35 years old, and one that I built myself to accommodate hunters, fishermen, golfers, people that come in here for two day work project for the State or for the County or for the developer. I have automobiles that I rent, you know, to these people. They're my own personal vehicle.

You know, when you start talking about Lana`i and Moloka`i, it's a unique situation. . . (inaudible) . . . and everybody here knows that. What we thought was going to happen is we were going to get our community plan by now, and we were going to address that in the community plan, and that's what's holding us up. And Kay was sitting on our first committee when we did the community update stuff, and we said at that time, the ones of us that sat on the GPAC, said we will defer that part of Lana`i part of it, and we'll put that in when we do our community plan. Well, so far we haven't seen a community plan yet that we could address that. I think it's only fair that the Lana`i Planning Commission be the regulatory agency that gives the permit, to take them away, because they know who's doing business and who's doing rotten business and who's doing good business and so on and so forth. I only know one person on Lana`i right now that's doing a bed and breakfast thing, and he has never been approached to have his license, to get a license. And he's dealing under the same thing I deal under which is completely different than what I do. I have one house, usually one tenant. I don't have two different tenants in the house. A whole house, if it's one person, they get the whole house. If there's five people, they get the whole house. It's not five people here, three people over here where you cause problems, more traffic, and more parking, which I can understand how you wouldn't want to have a B&B and have five rooms and you have five different vehicles out front.

Economically for Lana`i – We just finished the survey of hunters. They came to Lana`i for the last year hunt. We did a survey of 833 hunters. They came to Lana`i. Now that may not sound like a lot, but if you figure that each one of those hunters spend \$600 to \$800 per person or more for a three day stay on Lana`i, where do you think that impact that is to the grocery stores? It has nothing to do with Castle & Cooke. It has nothing to do with the hotel. It has nothing to do with the car rentals other than whatever is available for them. That's a tremendous – I was even shocked by the numbers. And the hunters themselves have said this – some of them spend \$2,000 a piece because they come and do commercial hunt. So it's the amount of money that's put back into this community 26 weeks out of the year is vital to this community. I mean, the amount of beer, the amount of soda, and the amount of food. And we can't carry everything on the airplanes anymore. It use to be they could bring two or three coolers, they could bring their kaukau and everything with them. They can't do that anymore because it's \$35 for every bag that goes on the plane, and then there's no guarantee when the plane gets here that the bags are going to be there. So we're in an economic situation that we need to have corrected. And I don't need to tell the Commission . . . (inaudible) . . . because they already know what the situation is and we all face it.

We have a tremendous – I'm really surprised how people get referrals especially in Maui. The

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contractors in Maui have this coconut wireless, and this coconut wireless is amazing. It's like they know how many deers we shot last week in Honolulu. They know that. It's just an unbelievable message. So we would –. And right now we're dealing with the end of the contract for Castle & Cooke and DLNR. And I just got the word today that they are talking maybe as high as a 10 year extension on that contract which is going encompass where the windmills are going to go. But still until that time occurs we're looking at the possibility of a 10 year extension on that contract. Which means we'll have hunting on Lana`i for probably another 10 years hopefully – at least five. We don't know what's going to happen down there. So you see that impact is completely different than what it would be on Maui or anywhere else. Moloka`i the same thing. They've got a lot of hunters going to hunt on private land on Moloka`i, so I would recommend that –. And again, we got to get our community plan. I can't stress that enough. There's so many things happening on this island right now that we need to have the community plan so people can come out and understand what's going to happen to their island. And thank you very much for you coming, and looking us in the makas, and see what we're going to tell you. But I know for a fact I'm very close to this situation and I pay my TAT tax religiously. And I know that the Governor over here wants to take it and use it on their side, but that's too bad. If you have any questions I'd be glad to answer them.

Ms. Flammer: I do have a question. This is Gina from the Planning Department. Who did the study of the –?

Mr. McOmber: The Lana`i Hunter's Association. We would pick –. How that happened is in the cafeteria about two and a months ago, Castle & Cooke invited all of the hunters to come out and they were going to form a Hunter's Advisory Group. That group of people – there must have been 60 to 80 hunters in there – all the local boys. They picked five of us to a one vote vote, and whoever got the most votes, the highest five people got to sit on this thing. Well, it back fired on Castle & Cooke because they thought they were going to get somebody else on there, and the locals picked the ones that do this all the time. So we did a survey and Castle & Cooke gave us a trap. They said, tell us what you're hunting this hunting season. Tell us what your hunters are talking about. Well, I'm not going to put that like that because I want the hunters to tell it. So we did a forum, and I sat at the check in station every Friday afternoon when the hunters checked in. I got 833 responses, and out of that 85% to 90% said please continue hunting on Lana`i at the same rate we're paying now. That is how important. It has nothing to do with the locals. The locals are saying the same thing. I knew what the locals would say, but we had to get this on paper and now they have to oblige by that. They're going to have to look at that because both DLNR and Castle & Cooke is going to have to look at this as a done deal because it's right there in black and white. People's name, phone numbers, they can double check, they can cross check it. It's not Ron McOmber doing it. It wasn't the hunting people on Lana`i doing it. It was the hunters off island, and I was even shocked how much money they said they were spending even though I see it all the time.

Mr. Spence: So Mr. Chairman if it's okay. You're saying it's between \$650 to \$800 per person per visit?



Mr. McOmber: Per visit.

Mr. Spence: Okay, those visits are typically two, three, four days long?

Mr. McOmber: Well, it depends on the hunt. Now we're having two day hunt. That increased it by one day because they usually come in on Friday and they don't go home until Monday morning. Because they stay and hunt Saturday and Sunday on the hunt, and Friday they come an scout. What they do they get in trucks and they drive around look where the deer and moufflon are, and then on Saturday and Sunday it's a two day hunt. Two animals, two day hunt. And we heard the hunters before saying well I'm not going to come for a one-day hunt. I can't afford it. So DLNR gave us a two day hunt, people came back and we had a good turn out. Again, if you talk to the merchants, they don't really want to tell you that, but we know without even talking to the merchants how much money they're spending here on Lana`i because they can't bring the food on the airplane. The only guys that do it is the guys that come in the boat on Expedition. And they bring huge coolers and their beer and all their ice and all their kaukau. But 95% of the people that come in and hunt on Lana`i come by airplane and they can't bring that stuff because they've broken down – they're carrying three guns in one gun case now because it cost them \$35 for each guns case. So they change their old habits, but they still want to come. And I was really impressed of the 833. If you'd like to see that survey, I'd be glad to get you a copy of it – and the comments – and the comments that was said in it. It's unbelievable. So thank you very much.

Mr. Rabaino: Commissioners, any questions for Ron McOmber? If none, anyone else wish to testify? Go ahead Kay. You come right ahead.

Ms. Okamoto: I'm testifying with a different hat, as an individual. Ron mentioned all the hunting, but there's also a lot of the construction. Hawaiian Tel will send somebody for two weeks. The school has a job that may last two months. First of all I would like to see the 180 days amended. Six months is really long. A short-term rental should be under 30 days. All the others should be allowed. But the 180 days make it really difficult for a lot of construction work, other things that go on. There's one other thing in the document, the part that I read, that talks about having to be handled by a real estate professional. There are only a few of us on the island, and most of us don't want to handle short-term rentals, so somehow as I checked with my other real estate colleagues. I understand the reasoning for it because it gives you some liability backing and so forth. But for the small areas there needs to be some other possibility there because I know that my office we handle a few only because it just works out that way, but we would not want to be handling all the hunting and that kind of thing.

Mr. Rabaino: Commissioners, any question for Sally? I mean Kay? Kay? Dave, go right ahead, and then I'll ask Sally later.

Mr. Green: Kay, you're concerned about 180 days. Isn't it any period up to a 180 days? At least that's what I understood from reading through this so it doesn't have to be a 180 days. So I just wanted to make sure I understood what your concern was that 180 days is too long.

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Ms. Okamoto: Because currently let's say that you have someone who comes and they want to teach summer school for the summer. That should not be considered a short-term rental. But somebody that comes for five months, that's a short-term rental. That should be under somehow a different category so that up to the 30 days – from one day to 30 days, I agree is a short term rental. But it's that in between that –. You know, somebody is here for 179 days, that's half a year, that really shouldn't be, to me, a short-term rental. That should be under a different.

Mr. Spence: Mr. Chairman, that's the way that the current County Code is. Anything less than 180 days is considered short-term. I'm getting instructions from the attorney. But if you were to ask Council Member Couch or Council Member Baisa, they –. Part of the purpose of this bill would be to address these very things related to construction, teachers coming over and those kinds of things because technically it's illegal to do.

Mr. Hopper: Just to let you know there's like two definitions in the County Code. One is short-term rental. That is for periods less than 30 days. There's transient vacation rentals which is periods less than 180 days. So currently in the Code, a short-term rental is a type of a transient rental, but it's 30 days or less. Transient vacation rentals, you're correct, though, they are illegal. You cannot rent out for less than 180 days under the County Code. Whether it's one day, two days, three months, that's technically illegal. Your State law does define it the same as short term rentals, and I believe Planner Flammer can go over this, but there is a proposed change in the definition of a short-term rental to 180 days. So I don't know how you'd want to –. That's part of this bill I think. That's why the Commission is here, is to give comments on things like that. So just to clarify the status quo is that any rental less than 180 days is considered a transient vacation rental and is currently illegal. And then there is the short-term rental definition which is 30 days or less – but yeah you're right, both are illegal.

Ms. Okamoto: So it's just a confusion. If that can be cleared up.

Mr. Rabaino: Okay Commissioners, any other questions? I got mine. You like run away yeah. Okay, you said how many of you folks are professional real estate that is established on the island?

Ms. Okamoto: Right now I believe there's three offices – four offices.

Mr. Rabaino: Four offices?

Ms. Okamoto: Four, yeah.

Mr. Rabaino: Okay, now the fourth one would be the company real estate?

Ms. Okamoto: No, there's the company real estate, there's mines, there's Lana`i Real Estate, and Pali Kai Pau Hana. And to do something it has to have the broker's permission. So one of my agent could not do it without it going through my office. So even if I had 20 agents, it still

comes back to me.

Mr. Rabaino: Okay. Thank you. I've got a question for Corporation Counsel, yeah. I'm going back to this thing here that I wrote my little notes regarding –. Okay wait, any more testifier from the public? If none –. Sorry Alberta, I forgot about you.

Ms. de Jetley: I left my seat so there would be no confusion that I am reading this for someone else. This letter is from Michael and Susan Hunter, and it's addressed to the Maui Planning Department. Subject is the draft bill allowing vacation rentals in Lana`i City.

Aloha and mahalo for the opportunity to express our support of the draft to allow vacation rentals in Lana`i City. Thank you for coming to Lana`i. We are sorry we could not be here in person. We are 25 year residents who know only too well the challenges of raising a family and making a living on Lana`i while maintaining traditional values of a small business country town. From our experience diversity is the key to survival. In nature, a healthy eco-system is defined by it's diversity, likewise, an economic system. Monopolistic systems often discourage entrepreneurs delivering low quality and high prices. In actuality, vacation rentals has long been a harmonious part of the traditional aspects of life on Lanai. The last few years have shown that money needs to go not only into the hands of the major employers, but also directly into the hands of the residents. Without that, Lana`i will continue to lose it's population as we have seen these last few years as workers are laid off. Vacation rentals, bed and breakfasts, home based businesses not only put money in the hands of the people, they directly contribute to the well being of the community, and County and State through the taxation system. They also promote values espoused by the HTA. Furthermore, it allows those of us on Lana`i who wish to share the spirit of aloha by welcoming each visitor as if it was our own ohana. Naturally we support this bill and thank you in advance in helping us keep Lana`i special.

It's signed by Michael Hunter and Susan Hunter. I'll give this to Leilani. Any questions?

Mr. Rabaino: Commissioners, any questions for Alberta regarding the letter from Mike Hunter? If none, you can submit that for the record. Okay, we're going to close public testimony. Mike, you want to? Come forward please. State your name for the record before I close after you. Mahalo.

Mr. Schocket: Thank you. My name is Michael Schocket. My comment is that rather than closing the session, Chair, perhaps the presentation should be heard because there maybe more comments or public testimony after the presentation. That's the only thing I wanted to say at this time because I think it would be very helpful to know what the background of this is because it looks like it's something that started in Maui. It really pertains to Maui, that, you know, one size doesn't fit all. So it maybe very appropriate for Maui, and totally inappropriate for Moloka`i and Lana`i. So that's why I'm making the request. Thank you.

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Mr. Rabaino: Thank you very much. Okay, Commissioners, do you want to leave it open, and Gina Flammer can explain? But before Gina starts her thing regarding this docket, I have some questions that I would like to ask if that's okay with you, Gina? Okay, on exhibit –

Mr. Ornellas: Mr. Chair?

Mr. Rabaino: Yes?

Mr. Ornellas: Please close the public testimony and then if we need to we can reopen it at the end.

Mr. Rabaino: Okay. Thank you Commissioner Ornellas.

Mr. Hopper: I would just advise if you're going to let public testimony later on, you should probably just – I don't see a problem with leaving it open at this point just because you close it and reopen it, I mean, that's kind of procedurally irregular. It has been in the past where you hear a presentation and then have testimony afterwards for, I guess, people that haven't testified. And I've seen it reopen before, but procedurally I just advise you should leave it open. I wouldn't see any . . . (inaudible) . . .

Mr. Ornellas: Request withdrawn.

Ms. de Jetley: Mr. Chair? Mr. Chair?

Mr. Rabaino: Okay thank you. Go ahead Commissioner de Jetley.

Ms. de Jetley: Because we're on a really tight time table tonight, why don't we let Gina make her presentation, save our questions and then ask her the questions later if she hasn't answered them during the presentation.

Mr. Rabaino: Okay, so be it. Okay, Gina you have the floor, and we will leave the public testimony open as mentioned by Corporate Counsel. Is that Corporate? Mahalo. We ready to continue?

Mr. Spence: And just for the Commissioners, just so you know, we have to be out of here at 8:30 p.m., so following along with Commissioner de Jetley's comment. The pilot has to be back on Maui by nine, and all of that good stuff.

Mr. Rabaino: We're very familiar with that scenario.

Mr. Spence: Thank you.

Mr. Rabaino: Okay. Begin. Thank you Gina.

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Ms. Flammer: Okay. Great. You all know who I am. I want to thank you all for coming especially everybody out in the audience. We're really here to listen to you, and I want to stress that as much as I can. We want to know what's going on in your community, and what you think, and what you want. We did propose some amendments. There are guidelines to see where you guys fall. We're not trying to dictate to you. We're just trying to get ways to get some discussion.

Okay, so let's start. I printed a handout. There's a couple floating around back there for the people in the audience. If you haven't seen it, go ahead. I have some extra copies of the ordinance should anybody want it, and I have business cards if anybody wants to call. I love talking to people about the issue even if you're just the average citizen. If you have a question or if you have an opinion, please, feel free to call me. I've met with all kinds of people. I want to hear what you have to say.

So third page, what the purpose of the bill? Why did this come about? Where did it come from? The bill originated with the County Council and was passed out through the Planning Committee to our Planning Department to go out for comments. It was done, it was modeled after the current bed and breakfast bill, and it was done with the intentions to go out – it's written rather broadly – to go out to the communities and get their input and then add input right into it. So the whole bill is designed to have input into it.

We acknowledge there's an industry going on. We recognize the need to regulate the industry so that people, that we reduce business risk for the owners, we provide legitimate places for tourists to come stay. We also would like to have some restrictions to make sure that we know that we have good ones out there that have good standards. We're looking at tax rates. We recognize small businesses. It creates opportunities for them. We realize visitor's experiences. They're turning to alternatives. They need it especially here on Lana`i. We recognize that. I think one of my favorite comments at one of the community meetings during the – I think John was there too – it was at the Kula Community Association and there was a discussion about B&B and vacation rentals on Lana`i. Winnifred – it wasn't John – somebody said you know you can't clean your deer at the Four Seasons, and that kind of set it off for Lana`i. I thought, there is a need for these, and we understand that. We also understand you got to retain the character of a neighborhood. You know, if you have residents, you don't want people on vacation that have different hours, disturbing neighbor, so we have to balance that.

So what is a short-term rental? It's really good when Mike and I get together, and he tells me like there's already a definition, so we're going to work on clarifying that. Currently the proposed ordinance does change the short-term definition. It actually creates a new definition called short-term rental home, and what that is it's an overnight accommodation to guests for money for periods of less than 180 days. Anywhere from one night up to 179. No more than two detached single-family dwelling units. So if you have three farm dwellings, you could probably just use two of them. Each home has to have a bedroom, one kitchen, and a living area. We're not looking for a multiple units. It does only apply to homes, not condominiums. There's a maximum of six bedrooms for the entire property to both Lana`i and for Maui.

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Moloka`i decided they wanted three bedrooms for the B&B bill, so it's translated into this draft ordinance. The maximum occupancy is two per bedroom. You're looking at a maximum of 12 people. If it's three bedroom, it's six people. One parking stall required for each bedroom.

There is some permanent signage language. For Lana`i and Moloka`i and within Hana, they recommended a one square foot sign, or the draft ordinance has it identifying the permit number. The sign has to be in front of the property along the main access road. It could be attached to a fence. It's a little tricky – shall be attached to a fence. I'd love to hear what you guys think about that. Moloka`i, the sign shall state the phone number of the owner, caretaker, or off-site manager. Yesterday, we went before the Maui Planning Commission, and they voted to recommend that it also be applied to Maui or to the entire ordinance. I'd want to hear what you guys have to say about that. Would you want the sign to have the name of someone to call? You call tell me that when we're done.

Ownership. Anyone can own a rental home. You don't have to be a Maui resident. However, if you're not a Maui County resident, then a resident manager or a state licensed real estate professional – you need to use that. That real estate professional needs to be accessible 24 hours a day. The Planning Commission did add a recommendation yesterday to have that be within the same community plan district or within 15 miles, whichever closer by travel. They want to make sure if there's an alarm going off at the house at 2:30 in the morning, someone can get there soon and figure it out. If there's a party going on, someone can get out there and talk to them. Permit cannot be held by a corporation, partnership, limited liability. We're not looking to renew industries or corporations. We're looking to help people. One person may hold only one permit. The permit is non-transferrable, and that's so that it doesn't go into the appraisal value of the home when you sell it, so we didn't want speculation. Only one permit per lot. And homes need to be fully constructed prior to filing for an application. We thought that would address the issue of building homes just for this. There was quite a lengthy discussion yesterday at the Maui Planning Commission about that. They talked about maybe having if your home was built, you know, 2011 or prior you're eligible. After that, you're not eligible. They didn't end up recommending it. They couldn't get an agreement, but it was an interesting discussion.

Neighbor notification. You have – you're coming into to apply, you need to notify owners of properties within a 500 foot radius of the boundary of that property when you turn in your application. Notice states that written protest can be filed with the County. That doesn't apply to Lana`i because you guys review all your initial applications. You make the rules simpler when you see them all. We don't have to have triggers. Yeah, you're a small enough community, I think that's why they did that. There's the sign – you don't have any here, B&B signs or B&B applications so I don't know if you've seen the sign on Maui for B&Bs. I almost got a car accident when I saw the sign because it was so large. We recommend it be a little bit smaller. It's going to four square feet. So I said again Lana`i and Moloka`i being small communities, you guys want to review all of them, and we completely understand that. For Maui, just so you guys know, there's triggers. We have seen 53 for Maui. The Planning Commission has seen about half. There were a lot of concerns. You know, could we really handle all of them there?

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Yesterday, they expressed they don't want to see all of them. They're fine with the Department administratively looking at them. The triggers that would make it go to Planning Commission would be if you had another permitted operation within 500 feet, it would get reviewed by the Maui Planning Commission. I had those written protest for 30% more, we're recommending as the Department, and the Commission adopted the recommendation yesterday, that if there are two protests from adjacent neighbors or across the street, it would trigger going to the Maui Planning Commission. Get a variance, you needed to use to meet the requirements, it would go. Now if you do it on ag land, you need a State Special Use Permit, any way, to satisfy State law. It's going to go before Planning Commission for that permit as well. And then in Hana, they recommended for the B&B bill so it translated to this, that the number of bedrooms proposed if it's three or more, they want the Planning Commission to take a look at it.

Renewals, they typically are granted by the Planning Director for up to five years on Lana`i and Maui. Only for one year on Moloka`i. The Planning Commission did accept yesterday the Department's recommendation of two additional triggers for renewals. You know, these come in as proposed operations. Sometimes they have to history, sometimes they don't. So when you go out for renewal, if there's two or more protests received from your adjacent neighbor or across the street, that's going to get bounced to our Maui Planning Commission, or it would get bounced to you also, on Lana`i, because you don't have the provisions for renewing all renewals in the bill. Or if you have 20% or more of noticed owners within that 500 feet, so you've got a problem going on if that happens. It needs to go be reviewed.

The bill does include Maui Community Plan District Caps and that's because you guys review them all. We figured, no need for a cap for Lana`i or Moloka`i. But if you're curious on Maui what we have, the Department has recommended on Maui that maybe we cut those in half. A little concern about how to . . .(inaudible) . . . and I'll talk about that in a minute.

Taxes. The bill does not specify a tax category, however, it does prevent the operation from receiving a homeowner's exception. The Department of Real Property, Finance, did reply to agency comments that unless the County Council puts them in this other commercialized residential category they created for B&Bs and some of the conditional permits – unless the Budget Committee does that, they would get taxed as hotel. So we don't know right now what that would be. If you have comments, I'd love to hear that. Applicants do need to have the current TAT and GET licenses when they apply. When you come in for renewal you have to show that you're paying your taxes. You can't renew if you're not paying.

So why are we here today? I think our Director talked a little about that. Council and the Department, we want to hear what you guys have to say. Our report is due back to the Council Planning Committee by July 22<sup>nd</sup>, so I'm going to incorporate your motion, your recommendations, comments. I have gone out to a lot of the different communities to hear what they have to say, and I'm going to continue to do that. And I've also talked with a lot of the industries to listen to what they have to say. The Vacation Rental Association has been really useful with letting us understand how operations work. I mean, everybody knows there's good ones, and there's ones that aren't so good at controlling guests. We've been real serious about

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how can we identify when the applications come in? So that's been useful.

Hotel and Lodging Association and Maui Visitors Bureau, they like the idea of this legal alternative towards vacation. They don't want to see tourist out there having reservations cancelled because there's a problem, a complaint from a neighbor shutting down an operation. They want to send these people to permitted places, and they acknowledge that this diversification is happening and it's good. So they were supportive yesterday.

The Department, we had an all department meeting, and I love meeting with other planners because they're so knowledgeable and many of them come from other areas and they've seen things like this. They brought up a lot of the concerns that are thrown out in the community. We're also working with our Long Range Division in the Planning Department, and that's to understand the public policy issue of this. What are the effects on the housing with the tourism market? We're working with our Zoning Division and Corporation Counsel to look at enforcement and compliance so that we have tools that we can actually use. And so the people that come in to be permitted are being treated consistently and fairly. They're not getting looked at closer. And then once we receive your comments, we're going to be working – we have a B&B team that processes our B&B applications right now, so we're going to sit down with them. I'm part of that team too. And we're going to take a look at it from an application processing perspective. We want it to be easy for applicants to understand the application. We don't want this to be a consultant driven thing. Most B&B applicants don't need to use a consultant. And we want to make sure as planners that we have the information we need so we can evaluate properly what's going on.

We went out to the Hana Advisory Committee last week. They made some recommendations which are in here. I'll read them off because I think people in the audience don't have this. They recommended that only properties within the Hana urban district be eligible for these permits. However, the Planning Commission had concerns and voted not to do that. They were concerned that could take away from local housing, funneling it all in. They know when their community plan comes in that they can address at that point too. And when I'm talking with our Long Range Division about the Community Plans coming up, because this is really an issue where you want to do ground up. You want to use your Community Plan process like you said, to make it fit for the community, but that is a long process and we have an opportunity now with the bill. So what we're recommending is adopting a bill, however you guys would like in there, and then when it's time for the Community Plan, you can fine tune what you need. And then what's put in there can either be, again, Title 19 can be amended, or you can put specific language in there that can guide the Planning Department and the division too, so we're really looking forward to that when we get there. And I know Long Range is this close to coming to Lana`i too. We get updates on that at our regular monthly meetings. Hana also requested that all permit applications be reviewed by the Hana Advisory Committee. I can't blame them for that. They know their neighborhood. They also asked that all operations qualified as grandfathered under Maui County Code be allowed to continue. And then they also looked at the cap, district cap, and saw that it was a little bit too high and just asked us to take a closer look at that.



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So what have we been hearing out in the community? I broke down into public policy concerns and then kind of practical operational concerns. There's concern about the effects on the long term housing market. Of course, if you take away inventory out of that, you know, you're going to get a less supply, higher demand. It's a little concern. I'll talk about how we're going to address that. There's been a lot of talk about the positive economic effects of tourism, and we need to acknowledge that, and we're doing that with this bill. And then ag land was also another topic that we've heard out there – pros and cons. So with the housing market, there's also been concerns that inflating housing values can cause higher property taxes. But while the permit is not transferrable, there was concern that it still could raise property values and your appraisal rate. We did have someone yesterday at the Maui Planning Commission come down from the Finance Division and they did talk about. So they do not use current properties of these permits as comparable for other properties that do not have these permits. So because of that it's not going to raise property values for them, for tax reasons. I have talked to appraisers before who have explained if it's non-transferrable, they don't have a way to add a monetary benefit to the appraisal for that, so it doesn't go into the appraisal. There was concern, or there is concern, that a permitting system is going fuel an already strong off-shore market. And there has been worry about loss of community and neighborhood character if you have a high concentration in one area. You know, you want to know your neighbors and not see new people every day.

The effects on the housing market continues. The Department is concerned about this too, and we're looking at using the Community Plan District Caps on Maui to manage it. For Lana`i, we would, we count on you guys. You know, you're going to see them. We want you guys – you know what your community can handle so we trust you with that. For Maui we're going to keep the caps and they're a very small percentage of the housing market. We're interested in hearing other tools.

So when you're looking at the character of a neighborhood – that's the other part of the housing – we have two ways. One is that you can have specific evaluative criteria and then the other way is just to have case by case review, and that's what's going to happen on Lana`i and it kind of sounds like that's the best for you. You can let me know.

When we look at economic policy, tourist policy, we see at least on Maui County, 40% of the economic activity. I'm going to guess Lana`i is probably a little bit higher here, so we recognize that this brings in dollars. We also know that these alternative accommodations diversify tourism. They're needed. They're not just for tourist also, and I think I heard that here. They're for families. They're for workers. Yeah, they're not on vacation. These are people that aren't going to stay at the Four Seasons while they're working here – not that they might want to. We also recognize that it generates more economic activities per dollar. It stays in the community. And it does provide opportunities for small businesses. However, you know, there are some that are worried about what tourism is doing to our County and that we're just going to become more dependent with this, and that they're worried about having tourist market shift from the resort areas into the residential areas. This is a policy consideration.

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Ag land, we've heard both positive and negative. If you look at it from a philosophical or a land use perspective, you know, the purpose of ag land really is to grow food or flowers or fiber. There's concern that it has enough pressures on it as it is. This is going to add one more pressure. On the other side, the County doesn't have ways to mandate farming with the exception of if you build a second farm dwelling, or if you apply for a B&B. So people have thought, hey, this is one way to get some farming. We're pretty rigorous with our farm plan. There's also been – I've also heard it encourages agri-tourism and that's a trend, and that's what people are coming for. And also, you know, you're wondering, I heard somebody say this is to benefit Maui. And honestly a lot of this is from the North Shore. Maui is the wind surfing capitol of the world, and right now we don't have – you can't bring your wind surfing gear to, you know, Grand Wailea, so they want to stay in houses. Much of that area is zoned as agriculture. So from a practical standpoint of view, you take that out. It becomes problematic of putting everybody into compliance.

Operational concerns. Number one thing I hear everywhere is noise, and I hear it's not just short-term, it's also long-term can be a problem. We can't really address long-term renters with this bill, but we can look at practices for short-term rentals. Parking is a big concern. The bill does require all parking onsite. And then enforcement has been a big issue. I don't know that I see that on Lana`i.

Mr. McOmber: . . . (Inaudible) . . .

Ms. Flammer: No, I'm talking about on the lot itself. There's been concern in communities like Kihei where there's already a lot of street parking being used – that they don't want these units taking up parking on the streets. So you have to meet that parking before you can even come in. We didn't – we made an amendment to this, and I'll talk about that in just a little bit. Okay, so what's the history? Well, you know, Lana`i there is no history for permitted ones. But I'll just real quickly kind of run through with what's going with Maui and Lana`i. There's been 12 permitted operations for a conditional permit. Two of those, or one of them, actually, is on Moloka`i. We have 53 operations permitted for bed and breakfast in Maui, only Maui, in the past two years. We've got good history on that. Again, we don't have anything on Maui – I mean on Moloka`i or Lana`i in terms of B&Bs. In exhibit-20 of the report, on the one page, I did just list out what are these conditional permits, and I put in the presentations some pictures of them. I did that partly to remind the Maui Planning Commission because they had reviewed them, and also to just let you know what these places are. So I'll let you just kind of go through them and take a look at what they are. They're all over the island.

Complaints, what are we hearing out there? Well, we've only had four complaints since 2002 for those conditional permits for those short-term rentals, and three of those for one that operated – they put in an application in 2001, and I haven't done the research. I don't know why I put 2008, but during that time, they obviously appeared to operate and somebody continued to file complaints. There were concerns they were using other units on the property. So three of those four were for one property. Then there's another odd one about concrete work being done. Nothing really happened with that one. It was very vague. It was –. They

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were concerned they were adding to the sidewalk and that parking would be done, so we sent an inspector out and everything was just fine. A little bit of a neighbor dispute was involved in that one.

Okay, so where are these B&B permits in Maui? They're pretty much concentrated in the north shore, the south and the west. You have a couple upcountry. Maui Planning Commission reviewed about half of them, and that would mostly because they're on ag land. We had at least two that went because there was one within 500 feet. And the complaints, there's been – I went through each area and I'll just let you guys take a look. There hasn't been a whole lot of complaints. But one thing I noticed is you'll get one person that will complaints against competitors and that happened for quite a while on Maui. Then there would be complaints filed against that competitor. I found that often when the sign goes up for the application we get a complaint that they're operating so a lot of these encompasses that. A lot of vacation rentals in Maui Meadows, and one person just one day wrote complaints about her neighbors, and we went out and took a look. I can understand when you have four right within where you are.

So what does the Department think? Well, the Department recognizes this is based on the bed and breakfast law where the owners lives onsite. Because of that we need a little bit further neighborhood provisions. We want a little more additional review. You guys are already reviewing and this is for the Maui Planning Commission. We are concerned about the effects on Maui of the housing market and that's why we're recommending the smaller cap. We kind work about enforcement, we're meeting just to try to come up with some specific provisions for how to do that on Maui. And then we did have some specific amendments, and one of them was, you know, we already have the provision that the off-site manager can be used. We're asking that that person have an office or reside within that community plan district or within 15 miles of the rental home. So on Maui it would be – I mean, on Lana`i it would be the entire island or within 15 miles. We'd have to look at that for Lana`i. Whichever is closer by travel time. So for you, I don't know, I'd like to hear what you have to say about that.

Mr. McOmber: . . . (inaudible) . . .

Ms. Flammer: Also we asked for an amendment that each dwelling permitted has only – can only rent to one group at a time, and I think we heard why. There's lots of good reasons for that. And we said if that's going to happen then you really only need two parking stalls likely. You probably don't need, if you have six bedrooms, six stalls, but we're open to your comments on that. We also had a bill previously when we did the B&B bill, we had a whole packet, one of the bills, the way we addresses this was to outright permit them in certain resort areas. We've added the provision that if the County Council wants to do that and designate a resort area they can. We haven't recommended any areas, but they can take a look at that. We recommended more triggers for Maui Planning Commission. Again, you review them all. Renewals, we did ask, like I mentioned earlier, if there's two or more protest from your immediate neighbors right there that it comes to see you guys. Also if 20% of people filed written notices it's going to come to you guys for that renewal. And then enforcement where we're looking at having appeals go to the respective Planning Commission. So if you have a

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violation on Maui, I mean on Lana`i, and there's an appeal, you're going to hear it. And we think you know your community, and we think you would be reviewing these initial applications, you're going to know what you heard, and you're going to know probably the most. We really respect what you guys do. And then, you know, we did recommend the district caps, but I won't go into that too much.

So what did the Maui Planning Commission do yesterday? I could wait for you to ask, or I could just tell you real quick. They added a few things. One, just clean up. They wanted to have Hawaii before the licensed real estate professional. It makes sense. You don't want someone who's licensed in Nebraska. They recommended the permanent sign be up and it states the name of the owner. If there's a problem, you can look and see it and call. They did accept the recommendation by Hana that the Hana Advisory Committee review all of them, and also that those are grand-fathered in be allowed to continue. There's a technical addition of a word to make things easier to read. They did request that the notice of application be provided to the physical addresses as well to people within 500 feet, not so . . . (inaudible) . . . with notice. Though there is a sign up too. And I mentioned earlier about how they were concerned about housing being built for this. And I had a couple of other clean up items on very back page that we need to look at. So if you guys have other questions, we did just figure out the short-term questions today so I added that to the list. So again, I'm open for questions and comments.

Mr. Rabaino: Commissioners, you have any questions for Gina other than that? I will go to the public for testimony. Ron McOmber?

Mr. McOmber: Ron McOmber again. Question – what is your definition of a B&B? I'm serious because it's a whole lot different. My understanding of B&B is you can rent rooms, individual rooms, out in a building and they don't have to know each other.

Ms. Flammer: Yes, for a bed and breakfast, it is defined as – well, you have to be on – the owner needs to live on the property. You can do it in two dwellings. So you could rent a house, live in the ohana, or the other way. Or you could be in your house and rent out different rooms. They are not restricted to one group at a time. They look at more the traditional B&B when you go back to old England where the concept started where people would come to different rooms, stay in the bedrooms and they all meet in the community kitchen. It's a different experience.

Mr. McOmber: The reason I asked that question is the one person that's doing B&B here, they've got lots of different vehicles parked down on the street. The reason I asked you about is because they park them on the street. And if you get three rooms, you've got three different vehicles. They have room on their property to put them, but they never put the cars on their property. They're always out on the street.

Ms. Flammer: If they were permitted, we would require them. I'd be curious why people on Lana`i aren't coming in for permits.

Mr. McOmber: And the other thing is you know the 500 foot circle, that's almost half the island

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is wherever that's at. I did a 500 circle around one of my houses, it went from Fraser Avenue to Lana`i Avenue almost, and it took in almost all the labor yards and it's unbelievable. I would be, in this situation, it would be better for the short-term rental people that every house that touches that lot and across the street be . . . (inaudible) . . . because that's really where the effect is. It's not the person who lives four blocks away. And the guy who lives four blocks away may not really like you, and he could make a fuss over here, you know, in this situation. I would recommend for Lana`i and even probably Moloka`i that whatever property touches your property – you've got four corners of that and across street – that they would have to be notified instead of 500 foot. I mean that seems a lot more reasonable, and they're the ones you're going to affect more than anybody else. All my neighbors and all my houses know my phone number, they know where I live, and they're told. And they're told if there's a ruckus, I get the first call and the cops get the second call or vice versa because I will not put up with it. I can't afford to because I don't want my neighbors hoo-hoo at me and that's where you get the whole thing about Lana`i.

Ms. Flammer: Yeah, so process, if that's the way you want, the Commission needs to make a motion and pass it.

Mr. McOmber: I would like to see that as a concern of ours any way, the ones of us that do that.

Mr. Spence: And that's one of the reason why we've included the revision that if two of your neighbors complained. On Maui we run into a lot of situations where we have neighbor disputes for this one neighbor. It's less likely you're going to have two neighbors disputing. But I would like to see some kind of –. And I thought about the 500 foot thing, it takes in most of Lana`i City, so, you know, when we start –. I mean, on Maui, it's going to trigger Planning Commission review, but here, everything is going to the Planning Commission any way. It's kind of redundant.

Mr. McOmber: It really scaring me to think about it. When I was on the Liquor Commission, we'd have protesting people that said that this bar was making too much noise, and you go 500 feet, the guy that's making most of the noise lives two apartment houses away up on the upper floor who's making all . . . (inaudible) . . . about the bar. It wasn't the people right next to the bar. So it's amazing how that happens.

Ms. Flammer: I'll let you know too that notice needs to be provided by certified mail. I think it's \$5.00 a piece. Yeah, we talked yesterday about Maui Meadows have half acres lots, and I have a couple of applications I had, they're looking at 60 lots. I had someone who had three condominiums around them. They had 3,000 people and they withdrew the application.

Mr. McOmber: I think how they got away with some of this on Maui is they have an association. So they notify the association and that's not going to pass. Everybody in that association has to have a letter.

Ms. Flammer: Yeah. Anyway, it has to be certified.

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Mr. McOmber: If they live in Alaska, they get a copy. Anyway, I appreciate that, but I just want to know, kind of look at that, as far as notification would be anything connected is very reasonable and it should be. Thank you.

Mr. Spence: Maybe before we get to Council, what we'll do is we just do a couple of exercises on Lana`i City and see how big, how many lots are encompassed with the 500 foot. It's just –. I used to be a consultant and I had one of those projects that was next door to a couple condominiums within 500 feet and my client spend like \$12,000 just in postage. So, you know, one of the goals of this is to make this, the permitting process, affordable so you don't have to get a consultant, live within reach of, you know, your average person and not leave the –

Mr. McOmber: . . .(inaudible) . . .

Mr. Spence: Yeah, I have no doubt. Okay, so what we're going to do – the exercise we're going to do, we're going to circle around Ron McOmber house, then we'll do 500 feet.

Ms. de Jetley: Mr. Chair?

Mr. Rabaino: Is there any more questions?

Ms. de Jetley: Yes, Mr. Chair?

Mr. Rabaino: Yes?

Ms. de Jetley: Sue Murray has a question, and after that I have something I want to discuss with the Commissioners.

Mr. Rabaino: Okay, state your name for the record. Thank you.

Ms. Sue Murray: Sue Murray, Lana`i resident and former Maui resident for 30 years. In the interest of full disclosure, I'm also the principal broker for Island of Lanai Properties and Vice-President of Sales and Marketing for Castle & Cooke Resort and Lana`i Developer.

I have one question about your – I noticed you exempted CPRs. So how are you planning to address condominiums in particularly in those . . . (inaudible) . . .?

Ms. Flammer: We didn't write the bill so I've asked, you know, where did it come from. The best I can understand is they decided it was just too much to take in with one bill, to deal with. And it's condominiums. Now, if you have – this applies to homes not condominiums. If you have a condominium lot with dwellings on it, you are eligible unless you're on ag lands. It's one of my items to clarify though from yesterday because they got into a discussion with it and our attorney needs to do a little more research on how that would work.

Ms. Murray: So currently the zoning, how does it impact condominiums currently and could you

elaborate a little bit more that grand-father issue?

Ms. Flammer: Yes. Okay, so there's four ways right now you can have a legal vacation rental. It could be hotel zoned. They could do a B&B, Conditional Permit or you could be grand-fathered condominium. And you might know more than I do – 1991 there was ruling by Corporation Counsel. Anyway sometime about that time, there was a ruling that pretty much said, if you've been in existence until this point, you can be grand-fathered in. Okay, here we go, we'll let Mike talk about it.

Mr. Hopper: You would have to have been in an apartment district. It's a very specific. It's not just condominiums. Typically right now, unless you're in a hotel area, you can't do transient vacation rentals. They're illegal. So unless you have gotten conditional use permit, a bed and breakfast permit, within a hotel zoned area or you were in an apartment district and operating as a transient vacation or under certain circumstances prior to a certain date, so that's going to depend, and that's through a Corporation Counsel opinion. It deals again with only areas that are zoned apartment, so it's very specific. It all depends on the particular project because the opinion was based on a law came in and said that projects that received certain types of permits or that were doing certain things before, I think, 1991. 1981 the law changed and made transient vacation rentals illegal throughout the County except in hotel districts and in apartment districts. In 1981. In 1991, it changed again to eliminate apartment districts from areas where transient vacation rentals were allowed. However, there was a Corporation Counsel opinion that said that if you are in an apartment district and under certain circumstances, that legislation would still allow you to operate. But the general rule is that renting for less than 180 days is illegal in the Maui County right now unless you are in a hotel district. This particular section is 19.37. If you have a timeshare and transient vacation rentals, and they're prohibited, again, everywhere, except hotel districts. Unless you've got a conditional use permit, you're doing a bed and breakfast home or –. This bill though would allow somebody to – if short-term rental homes are listed use in your district, it would allow you to do that short-term rental use in that district with a permit.

Ms. Murray: So not to take much more of your time and to focus on this bill, but it sounds like we'd have to do specific research for Koele and Manele in relation to this.

Ms. Flammer: That is what I was going to ask you. I'm going to give you a business card so we can follow up on that because we want to make the law work.

Ms. Murray: Okay. Thank you. Having been a resident of Maui for 30 years and growing up with up this issue – just some comments that I have – I think 15 or 20 of those years were in Maui Meadows and I think I was the only person on my block that was a resident. I think having a designated caretaker is really a critically issue. My frustration was not – it took a long time to find out who to call when there was issues. And then I think immediate neighbors notified and I think Ron brought up a good point, I think anybody that touches the property and across the street, it would seem that would be a basic courtesy thing. And I think adequate parking is an important thing and I think Lana`i has a unique situation so maybe off-street isn't always

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possible but I think if we look for that as a realistic solution, I think the parking should be – you should have to demonstrate that you have adequate parking. And I think I'd probably recommend a three year renewal process and that it not be transferrable.

Mr. Rabaino: Okay, don't disappear yet. Commissioner Green has a question for you.

Mr. Green: Actually, I have a question on an issue that you raised, and I wondered if I could clarify. Corporation Counsel mentioned that if it's an apartment district, is that –. In other words are you saying any area that's zoned multi-family?

Mr. Hopper: No specifically apartment. There's multi-family duplex, and then I think there's apartment district. Again, the ordinance, the ordinance in 1981 passed that made the short-term rental or transient vacation rentals illegal except in hotel and apartment districts. And then in 1991, they eliminated apartment districts. And the way that ordinance read was interpreted by our office years ago to mean that certain hotel, certain uses in those apartment districts at that time, pre 1991, were allowed to continue to operate under certain circumstances. But apartment zoning, I believe would require zoning for that, and before 1991, and operating, I think, at that point.

Mr. Green: Okay, I would just add that in another life, I'm also the President of the Manele Bay Homeowners Association, and we do have some condominiums that are being rented on a short-term basis. And I have tried for a long time to find out if this is legal, if it's illegal, et cetera. I know that in the Manele Project District, there is condition number five that seems to allow short-term rentals for condominiums. And also language in condition number five in the Manele Project District ordinance that states that single-family homes can only be rented on a long-term basis. So another question I'd like to understand is if this bill were to be passed in some form, does it supercede the Project District conditions?

Mr. Hopper: That's a very critical point you brought up. Project District is it's own zoning, so it would not be apartment zoned at any point. It would be Project District would be the zoning, and then the specific terms of that Project District would dictate the allowed uses in that area. This bill, unless –. What this bill does is establish short-term rental homes as a permitted use, and goes through how you get that permit, just like the bed and breakfast home bill. In order for someone to take advantage of that permit bill, that use needs to be then listed in that zoning category that the person has zoned. For example if you lived in a residential district, you would look on your residential district to see what are all the uses permitted. And one of them would be a bed and breakfast home with a permit, and the other one would be short-term rental homes with a permit. If you were zoned Project District in any one of these district, you would either need to have that either hotel or short-term rental use listed in that Project District or list this short-term rental home as permitted by this section, actually written into your Project District zoning. Something you could recommend today that the Planning Department do is you want to allow people in those Project Districts to apply for these permits. Now they'd have to go through the same rules. And if that particular district already allows those rentals – and I can take a quick look now. I wasn't necessarily anticipating this certain issue, but I can take a quick



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look in the district to see how it's allowed. It's obviously allowed in some of the Project District, but we need to look and see whether that's allowed. Basically you can allow – the basic answer is that use can be allowed in those project district areas through this permitting scheme if you would like that. Then you have to just say, we want this listed as a permitted use, through the permitting scheme, in those project districts, if that's what the Commission wants.

Mr. Green: So just to make sure I understand what you're saying. I think what I hear you saying is this bill would not impact the project district in any way unless we chose to change the project district zoning or regulation.

Ms. Flammer: It's not listed and I should have gone over this in the beginning. It sounds like you are correct the way it is now. I will real quickly tell you what districts that we are recommending adding them into – the interim district, residential district, SVR, Country-town business, B1 which is business district, B2 business district, rural and ag.

Mr. Green: And I noticed it doesn't say anything about special project districts, right?

Ms. Flammer: No.

Mr. Spence: And I would also comment that –. I mean, I don't doubt that you read condition number five many different times. I have not – I cannot conclude, I don't think without actually looking at it, we can conclude that short-term is permitted in Manele Project Districts. I mean, we look at that. Now, that brings up a really good point.

Mr. Hopper: Just to let you know the project district ordinance does have – what they do in a Project District ordinance, it's kind of like it's own little zoning district, so they come up with a bunch of different uses. And in this particular, Lana`i Project District One Manele, for example, they have residential, multi-family, commercial, hotel, park, and in each one of those it says what it's allowed uses, and one of them is hotel which is 19.70.050. There's also multi-family and you would want to see transient vacation rentals or short-term rentals listed there. If you wanted to amend this Project District ordinance as part of this bill, I think you could do that. As far as the hotel district –. What I can do is tell you all areas that are part of this hotel district are allowed to do hotels, but the ordinance itself doesn't have the map of the project district so you would need to know which of these particular areas are zoned in each of these areas. So it's possible the area you're thinking of could allow hotel. But if you wanted to allow these short-term rentals, you would need to write, you would need to recommend that and have it written into the ordinance. And to know what areas it affects, you would need to know which areas you're amending and where they actually are in the project district. So doing that to the Project District can be a pretty complicated process. You can recommend it be allowed every where in the Project Districts theoretically I suppose and that would make it a little simpler but that's up to what you as a Commission would want to recommend.

Ms. Murray: I just had one more comment on my designated caretaker qualifications. Because of the situation on Lana`i, I would prefer that it not be required that it's a licensed real estate

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broker. But in the event it's a non – that the caretaker was not be the owners themselves that it should be stipulated that they cannot accept monies and manage monies . . . (inaudible) . . .

Mr. Rabaino: Commissioners, any other questions for her?

Ms. de Jetley: Mr. Chair?

Mr. Rabaino: Okay, time is limited yeah just letting you folks know.

Ms. de Jetley: Mr. Chair, I had asked if I could be asked to speak. Okay, looking at the basic operations, one of the things that I think we should be extremely careful about on this to say maximum of six bedrooms for the entire property for Lana`i and Moloka`i. State specific properties – the social hall. The social hall is used extensively by Lana`i people. My family just used it for a funeral gathering. It has more than – I think about 10 bedrooms. You can park. You know, you're saying two people per bedroom. That doesn't work at the social hall. Actually at the social hall, you can get 30 to 35 people in there very, very easily and it would be a just outright shame if we didn't really consider taking that are special like the social hall. Because if we followed this, it would be illegal for Castle & Cooke to rent it to community members.

The other thing I'm really concerned about is it's saying one parking stall required for each bedroom used for the rental. It would wipe out more than three-fourths of the houses on Lana`i.

Ms. Flammer: I'm sorry. Could you say that again?

Ms. de Jetley: If we went by your requirement to have one parking spot, stall, required for each bedroom used for the rental, more than half of the people who are doing it would be out of business because our lots are too small. There's street side parking. There is street side parking that can be considered, but many of these places – I know of one hunting house where they have had hunters for 25-30 years, they have two parking spaces, so it would just wipe them out totally. So I just want all of you to think about the social hall and make sure that we don't do anything that will make it illegal for Castle & Cooke to rent out to Lana`i people.

Mr. Rabaino: Okay, at this time, I would like to close public hearing so the Commissioners can add in all of their comments or make some kind of recommendation as Alberta has quoted. Before I do, Pat Reilly? After Pat Reilly, I will close the public testimony so the Commissioners can get business at hand. I'm on a time table here. 7:30 p.m.

Mr. Reilly: Pat Reilly. Thank you for coming, but my initial comments were exactly this. This is a criticism, but it's constructive criticism. Many times when these laws are written, they don't have a clue about Lana`i, and this is what you're hearing. This is such a special place that has traditionally done so many things, and to try to write a regulatory process that this Commission – and I'm sitting here listening to Corporation Counsel – you guys are going to have to approve these. And I agree with Commissioner de Jetley. There are many places that are just going to get wiped out. This bill, the way it's written for Lana`i, will destroy the character of this

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community. And the Project District, see nobody has thought about the Project Districts, social hall, the apartments across the street, so I would caution the Commissioners to say –. You know, I mean, I understood what you were saying about, well, you can revamp the plan when you go through the Community Plan process. But if this goes through, you're going to have maybe a law that's going to prevent these activities from happening that are essential to Lana`i. So thank you very. Please take that into consideration.

Mr. Rabaino: Thank you Pat. Any questions for Pat?

Mr. Spence: Let me address first, Mr. Chairman.

Mr. Rabaino: Go ahead.

Mr. Spence: First off, these concerns are exactly why we're here because one size does not fill all. Okay, when I was a staff planner back in the 90's and I use to come over here from time to time, I would hear these different kind of things, and I heard about the vacation rentals at that time. When we were working on the Community Plan we heard things about the vacation rentals. How old is your Community Plan now? Okay, I was involved with the bed and breakfast ordinance as a consultant for different people. I heard exactly the same things that Mr. Reilly was talking about, you know, how an essential component of this economy and how certain things don't fit here. So these are the reasons why we come out here, just to hear these things. If you were recall in the bed and breakfast ordinance, there are lines that go along, we're going to do all these things, except on Lana`i. We're going to do all these certain things on Moloka`i, except on –. Or, you know, do all these things except on Moloka`i. So there are adjustments and fine tuning that we can do for this island as recommended by this community and by this Planning Commission, and we can take those things to the County Council. There's also, as we've mentioned with the Community Plan, which is starting very shortly, this Commission and this community will have opportunity to craft policies that will help guide vacation rentals and those kinds of things. So I don't want this Commission to be concerned at all but, you know, somehow this island isn't being considered or that, you know, we're going to put something in here that isn't going to fit.

Mr. Rabaino: Okay, before –

Ms. Flammer: If we could address the other comment real quickly.

Mr. Hopper: I just want to note to the Commission, but I think I said it before, just briefly. If nothing changes in the law right now, all short-term rentals, except in hotel district, are illegal. So there might be, you know, problems with the standards and things, but just as note, I think I have to advise that if, you know, if the current law stands, then short-term rentals aren't legal outside of hotel district. And I think that's important just as a note.

Mr. Rabaino: Okay so noted. Gina, you going add anything in because I want to have the Commissioners start questioning you folks. I have a whole bunch of questions here, okay? So

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I know time is pushing for you guys to fly out. So I'm going to close public testimony. We're going to take up Alberta's social hall issue with the Commissioner to direct it to you. Ornellas, what do you have to say?

Mr. Ornellas: Corporation Counsel, are the bed and breakfasts and the short-term rentals that are on Lana`i, are they illegal now?

Ms. Flammer: The answer is yes.

Mr. Ornellas: So they've been illegal for how long?

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

Mr. Ornellas: Okay. Alright. So my thing is that this issue is very important to Lana`i, and this is just a fraction of the people that are involved with this kind of stuff. And that's why I think this stuff should be deferred to the Lana`i Community Plan so that way everybody can come and give their mana`o as far as what they feel. And then create the if's, the what if's, or the exceptions that Lana`i is different than Moloka`i and from Maui. You know, when they brought up the issues about Manele, Manele is a completely different animal as far as rentals than it is up here in town. So whatever is going to happen here in town may affect these guys, and whatever affects these guys may affect us up here. So that's why we all have to get together and discuss this, and pound it out and then put it into the Community Plan and then you guys can take it from there.

Ms. Flammer: Okay, hold on a second. You've been around politics a long time? When there's a door open with a bill, you don't always get that opportunity. The Community Plan –. What I would recommend is that you put a task force together. County Council is going to be considering this this fall. You have many months to go through and figure out what you need. You might want to put it on as a other agenda item. For us, our report goes on the 22<sup>nd</sup>, but Council is going to take some time going through this. Figure out what you need now. You don't want to exclude yourself and then you have – they'll illegal – I mean, there's nothing that will qualify. You may want to accept something now, and then when we you get your Community Plan, you can massage it a little bit. You may want to really get to do some work in the next couple of months with your community. That's what I would recommend.

Mr. Rabaino: Well, Gina, that's the reason why when all these past meetings been cancelled, and I will finger Clayton Yoshida, we want to move forward with this planning, you know BTC and everything. Cancel, cancel, cancel. Now you preaching something to us just now that we're going to have the opportunity. Well, we wanted the opportunity to present this, okay, and that's the reason why every time some thing was cancelled, Stanley would say, what's going on? Okay, there's nothing on the agenda. And every time it's cancelled because it's not budget. So we want to move forward to get all of these things moving. We've got the GPAC here, there's this docket that I've been reading too, yeah, and you get other things that we want to talk about. But I'm going to suggest that we move this also for the July 20<sup>th</sup> because

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according to our agenda, I also want to – because you guys are on a time limit with the plane – I want to move and recommend and request to move item-F, G, H for July 20<sup>th</sup>. And then with that said, I have all these things in here as you can see marked for questions. So maybe we should move this and continue this item regarding the resolution number 11-24, to continue on this short-term vacation rental for July 20<sup>th</sup>. But in the mean time what Alberta has mentioned, I would like the Commissioners to come up with some kind of a motion to grand-father the social hall because it's an old building and this community is changing. As far as the district project, which Mr. Green is there, okay, he knows the area. We're more concerned with Lana`i City because of the historical preservation. And the GPAC that Ron McOmber has asked in the past meetings to have Clayton Yoshida and that other community that came here during these past years and taking all these surveys and nothing has formulated in black and white back to us Commissioners and with the town meetings that we have. Okay, so we want to move forward, but stop cancelling. And Director, stop cancelling all these meetings because the list is getting longer. And a lot of us is going be moving on. So everything is fresh, and we have a lot of – one, two, three – well, us four here are old timers. And I was here before the plantation decided to go into tourism, okay, so there's a lot of history that needs to be presented to you folks because you say you came here to listen to. There's a lot of new faces. Some of the history are slowly being lost because our old folks are gone. Ron is one of them. You got Andrew probably could add a lot more in too, see, so, I wish to and make that request we continue this 11-24 in July because you got to catch a plane and that's becoming a religious practice with you folks to leave early, yeah, Mr. Director? So back to Alberta's regarding the issue of social hall. Would someone would like to make a –

Mr. Ornellas: Mr. Chair, if I may?

Mr. Rabaino: Go ahead.

Mr. Green: In the past, the planner has taken a list of the items that we wanted to amend, and we voted on the whole list. I would rather, since we may have a number of things because I think what the recommendation is, we need to do something now. And it may not be perfect but it will be better than having everything be illegal. And so I would suggest and a way of saving time is for Gina to keep a list of the things that we would want to do, and then we can vote on all of them at the end and decide if that's the right list that we want to have.

Ms. de Jetley: Mr. Chair, can I address Mr. Spence? I took it upon myself to contact many of the people I know who have short-term rentals because they did not know anything about this meeting. And I contacted Leilani and I got them the link that I wanted them to look at. Many of them feel that if they come to our meeting and speak publicly that they would be prosecuted. They're opening themselves up to be prosecuted.

Mr. Spence: You know, I apologize if there's any impression of that kind of thing. I want –. This is –. Having been on the private side, having been also as a staff planner, and now in this position, I want there to be legal vacation rentals. I think, especially for this island, I think those are essential. Nobody wants to enforce. You know, there may be individual cases where it's

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necessary but, no, I think there really should be an open avenue for people to be granted permits. Is that –?

Mr. Rabaino: You're in the right direction.

Mr. Spence: Yeah? And I bring up all this stuff about, you know, being a former planner and everything – I was on that direction for, you know, almost 20 years now.

Ms. Flammer: Okay, I'm going to give you my perspective on writing legislation. You have to work with the groups that are – you have to work with the industry. They're the only people that knows how it works. If our bill is going to work, we have to talk to the people operating. On Lana`i, it's critical because if you have unique circumstances I need to know. Have them call me directly. On Maui, I talk to people all the time. I will not file an RFS. We are not interested in doing that. Sometimes they don't tell me their names, sometimes they do. I'm not the police. I want to know how they're operating and how this bill can work for them.

Mr. Ornellas: I'd like to make a motion so we can put this thing –. I would move that we move this issue to the July meeting, and then let's just stop this. I'm really adamant about our Community Plan process. I don't care what you guys think, and what you guys come up with over on Maui, it does not fit this shoe. So we need the Community Plan process to take hold, and we will bring this issue before the Community Plan. And the Community Plan, once it's done, will have this issue defined what is needed here by the community, what the community wants. You know, you guys must have this thing plastered on your desk that if you have the opportunity to make this decision, make it now because we heard the same thing from Joe last month about the M1, M2, M3. Because we have basically the same thing – why not fit – let the Community Plan decide how this community is going to be built and developed.

Mr. Stanley Ruidas: Okay my turn. Okay, I think this is for the Commissioners. We dealt with this TVR and the B&B bill last year or whatever. And what we did was defer it to the Community Planning, and let the Community Plan decide how we're going to attack this. So I think we should make our comments tonight, or set conditions if you want, and just say not on Lana`i, except for Lana`i, and defer it to the Community Plan.

Mr. Ornellas: Chair, I had made a motion prior to Vice-Chair about deferring this issue to our next meeting. And so that way we don't have to discuss this anymore and belabor the problem. Then in July we should have more time to discuss this and come up with something. And it also gives us time to go through our minds and say, hey, you know, the social hall, the labor yard, you know, and we can bring those issues to the next meeting.

Mr. Rabaino: Okay, is that your motion as you've stated? Commissioner Green?

Mr. Green: I'll second it, but I'd like to discuss it.

Mr. Rabaino: Reschedule? No, what you said?

Mr. Green: Can we have discussion now?

Mr. Rabaino: You want a discussion on it after you second it?

Mr. Green: Yes.

Mr. Rabaino: Okay. Shoots. No arguments here.

Mr. Green: Well, I'd like to ask, from what I read, July 20<sup>th</sup> is too late. So I don't know if it is or not.

Ms. Flammer: My report is due on the 22<sup>nd</sup>. That's fine. I'll stay up late. I want to hear what you guys have to say.

Mr. Green: That's one question. The second question is we have a conflict on July 20<sup>th</sup>, so is it going to be July 20<sup>th</sup>, or not going to be July 20<sup>th</sup>? I just think that – well, I understand what Commissioner Ornellas is getting at, I don't want to miss the boat.

Ms. Flammer: Did you want to deal with the July 20<sup>th</sup> meeting now so you know what you're doing? Did you need to move the date?

Mr. Rabaino: Well, can we just throw our line item that is concern, and then you can come back with something prepared?

Ms. Flammer: Yes.

Mr. Rabaino: Okay, so, number one is the social hall, grand-father it into whatever you're proposing.

Mr. Ornellas: Mr. Chair, excuse me.

Mr. Rabaino: Go ahead.

Mr. Ornellas: We have a motion on the floor that has been seconded. It's – let's finish that process and then move on to something else.

Mr. Rabaino: Okay. Commissioners? The motion is on the floor and Commissioner Green seconded it. All those in favor say aye. Any opposed? One, Stanley. Two, excuse me. We have three opposed. And do I vote? Okay, let's redo it. All those in favor raise your hand so Leilani can take a physical count. In favor of deferring this to the next meeting of July 20<sup>th</sup>, right? Three. And opposed? Three. There you got it. So we're on a dead beat. Even kill. That's for the record now, until we have –. Letty's not here tonight for the record, as well as Shelly is out on medical yeah. So we have any replacement soon for Bob Hera? Corporate Counsel, anything? Lei, did you get a resignation? You did. Okay, so anyway, the motion is

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made and we have tie-tie.

**It was moved by Commissioner John Ornellas, seconded by Commissioner David Green, to defer resolution 11-24, relating to short-term rentals to the July meeting – MOTION FAILED**

**(Assenting: Commissioners Gerald Rabaino, John Ornellas and Alberta de Jetley**

**Dissenting: Commissioners Stanley Ruidas, Matthew Mano, David Green**

Mr. Green: It failed, so we ought to go ahead and make our list.

Mr. Rabaino: Okay.

Ms. de Jetley: So Mr. Chair, also, you know, while we're doing this, since there's a conflict on dates on our next meeting, we need to change our meeting. So maybe we should do that first. So I move that we defer to Planning Department to select another meeting date.

Ms. Flammer: You want to do a week earlier? The 13<sup>th</sup>? No? I don't know.

Ms. de Jetley: You'd have enough time for public notice?

Ms. Flammer: Seven days, Leilani? Yeah, seven days. Six days.

Mr. Rabaino: Okay, so July can we hold, well, for Lana`i a special one on, let me see, the 13<sup>th</sup> or the 6<sup>th</sup>? How's that, continue this thing before the deadline? Are you open to that? It's not going to hurt your budget?

Ms. Flammer: Well you're moving your meeting, I mean.

Mr. Rabaino: Yeah, because we want to be at the other one, you know, what I mean? So we can make noise over there.

Ms. Flammer: Like tonight you don't miss the boat, yeah.

Mr. Rabaino: Okay, you're proposing the 13<sup>th</sup>, Commissioner Green? What does the Planning Committee, do you have another date, alternative date? Commissioners, July 13<sup>th</sup> will be fine, Commissioners? Yeah, it's going to be one week earlier than the 20<sup>th</sup>. Instead of the third Wednesday, it's going to be moved up to the second Wednesday of July 13<sup>th</sup>. You guys are in agreement? All those say yes? Stanley? Okay, so noted for the record, July 13<sup>th</sup> the Commissioners has agreed that we continue this forum.

Mr. Hopper: Just as note, Leilani put up a really good point. There's a public hearing notice in the paper for July 20<sup>th</sup>. You can cancel your meeting, it's just that public hearing notice, I think



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would have to be re-issued for another date, so the Department would re-notice out in the paper, and I think would have to public notice of the cancellation of that public hearing as well. Is that what you usually do for these deferred situations? Yeah, that date would not happen. Leilani said she actually hasn't publish the notice for that meeting, and wouldn't have enough time to publish for the 13<sup>th</sup>. So this item would have to be to the meeting after that, as long as you don't mind that T-Mobile West would have to get it's Special Use Permit hearing later than the 20<sup>th</sup> because there's not enough time for her to publish for a 30 day notice for the 20<sup>th</sup> of July – no, for the 13<sup>th</sup>.

Mr. Green: I mean, we had public testimony tonight. Do we need to have public testimony on the 13<sup>th</sup>?

Mr. Hopper: Well, on the 13<sup>th</sup>, that's a separate issue. This is a special public hearing item that has to go into the newspaper 30 days.

Mr. Green: The other agenda item that's proposed for the next meeting. Is that what you're talking about?

Mr. Hopper: This is something – I'm sorry – this is a public hearing on the 20<sup>th</sup> for T-Mobile getting a County Special Use Permit for a wireless communication site. That was scheduled for the 20<sup>th</sup>. It has to be noticed in the paper 30 days in advance. Changing to the 13<sup>th</sup> now, we can't notice that 30 days in advance, so the Department is just going to have to notice it for the meeting after that. So just to let you know, that's not going to happen on the 20<sup>th</sup>. She hasn't published it yet though so that's not a problem.

Mr. Rabaino: Okay, so just move T-Mobile back. Move that to the August, yeah, and then we continue with our stuff. They can wait because they make us wait on the phone. Sorry, Commissioners, are you guys in agreement with that? Commissioners, agree with that, move T-Mobile back? Put them on a delay item so we can continue our agenda for Lana`i? All those in favor?

Planning Commissioners: "Aye."

Mr. Rabaino: Okay so be it for the record. You're okay with that Corporate Counsel? You're not smiling.

Mr. Hopper: So that was to change to the meeting date?

Mr. Rabaino: For T-Mobile, yeah, move it back to August.

Mr. Hopper: So right now we've got the – was the meeting date agreed on for July 13<sup>th</sup>?

Mr. Rabaino: That's what we wanted yeah.

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Mr. Hopper: And then the next issue is going to be what you're going to do today on the recommendation on this bill, if you're going to defer it or if you're going to – well, whatever if you guys would like to do.

Mr. Rabaino: What does the Commissioners wish? You made a motion earlier, right, we agreed on.

Ms. Flammer: Do you want to give me some issues and I've got some time to talk to people and do some research if you need? We've got a half an hour.

Mr. Rabaino: Yeah because I already closed the public hearing, right?

Ms. Flammer: No, no, no. If I need to do some research about some things, then I call and do that. And I'll have a chance to talk to some other people during this time, and have a clearer idea of where you're at.

Mr. Green: Well, I had a couple of issues. Just a concern and it's more philosophical. It's that without enforcement then the whole process is worthless. And I didn't notice anything about enforcement. It's probably less of an issue here on Lana`i other than depending on – well, other than once the law takes effect, is everybody going to turn a blind eye to those operations that don't get a permit? How is that going to be handled? So there's enforcement to make sure that those who are operating are appropriately permitted. And then there's enforcement about making sure that those that are properly permitted are properly operated and that there is a process to ensure that the complaints are dealt with. So I didn't see anything in here other than a recommendation by the Planning Commission that you're working. I saw that in your presentation and then in your write up that you're working on enforcement. But I would be, I guess, I would be concerned to have this be approved by Maui County Council without anything more specific about enforcement.

Ms. Flammer: Exhibit four –

Mr. Green: And therefore, I don't necessarily want us to be in a position of making a recommendation without necessarily knowing what enforcement is going to be involved.

Ms. Flammer: Okay I'm going to tell you in the bill we do what we always do. We have a specific section in the Maui County Code 19.53. It's Exhibit four in the staff report. That is our enforcement. It's tucked away because it's tiny. It's right after the farm plan information. However, the Department is looking at adding specific enforcement language right into the bill to give us more tools for that. We would like to take the approach where we have kind of a carrot on the stick. We have a process that's attractive for operators to come into compliance. It's easy enough to do. We have enough review. We need to balance it with that. And then on the other hand, the people that chose not come in, that's when we use enforcement for that, and that's the other incentive to get everyone to comply. You did bring up a good point. Enforcement is two sides. We have enforcement of the people that don't – are not permitted,

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and then we have enforcement of compliance of the people that are permitted, and they're two separate things and we'd like to address. Because the bill does address it now for our current enforcement code, and we recognize that's complaint based, then the inspector goes out.

Mr. Green: Is that like a zoning violation?

Ms. Flammer: It's the same.

Mr. Green: Or suspected zoning violation? Is that the same process?

Ms. Flammer: Yeah. That's exactly what it is. Yeah.

Mr. McOmber: . . .(inaudible) . . .

Mr. Spence: So enforcement has been a big topic throughout this process. Part of the urgency that you hear coming out of me to get something passed is that right now all short-term rentals are illegal. That's a zoning issue. That's not tax issue that has come up, you know, with Mr. McOmber. There are very few of these things that are grand-fathered in. To say something is grand-fathered, I mean, it's almost redundant, you know. They were legally existing at one time, and they can continue to legally exist. But our enforcement on Maui – well, I should say County wide – is complaint driven. So if we get complaints we have to go investigate. If we find that somebody is operating and we gather sufficient evidence and all that stuff, we have to go in and enforce, so that's why we would like to have an avenue for people to come in and get legal and have the proper review and everything.

Mr. Green: We're just a little taken aback by the letter from Mr. Lutten. We have a Lutten here on Lana`i as well. Mr. and Mrs. Lutten in Kihei, where they talk about their complaints, and after a year nothing was done and so that makes me wonder how effective the current process. Maybe there's more to it, but it makes me wonder how effective the current process is. There's nothing worse than having something – we would have an issue with a condominium down at Manele that is being rented, and in a number of instances where there are significant issues. And it's difficult to get people to complain, and secondarily, people have the feeling that if they do complain, nothing will happen. Therefore, the abuse continues.

Mr. Spence: And I hear that same thing, and I've watched the same thing over the years. Sometimes enforcement is very effective, sometimes it's not, but that's a different issue for a difference ordinance. We're working with what we have now, so –. Yeah, and in this particular case, it's a very unique case, and I can't go into the details of it, but my understanding is that particular operation is not operating anymore. And I have met with the Lutten's and discussed it to quite a degree.

Mr. Rabaino: Thank you. Gina, can you give him your business card please?

Ms. Flammer: . . .(inaudible) . . .

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Mr. Rabaino: You gave it all away? Okay, just before we close, yeah, because your guys time is running short, I would like to –. We're on E, b? Are we on E, b or we've done that already? I would like to discuss F and G, then we can close. And everything else carry on for the July 20<sup>th</sup>. Go ahead John.

Mr. Ornellas: Mr. Chair, I want to get to H, the Director's Report, especially number one.

Mr. Rabaino: Okay. Wait now, hold on. Are we done with E, b, action? Did we discuss that after we had the public hearing? You made a motion, right John? Is that the one?

Mr. Ornellas: It failed.

Mr. Rabaino: It failed. Okay. Sorry, I never write that down. Okay, now we go to –

Mr. Green: Excuse me, Mr. Chairman, can I? I'm not sure what the plan is now to come back with this. I thought we were going to discuss this a little bit, but it doesn't seem like anybody wants to do that. So are we coming back and this is going to be on the agenda for the meeting on the 13<sup>th</sup>? And are we – we can't do anything as a group outside of the meeting, so we're just really suppose to come back with our own ideas as individual Commissioners for things that we would like to have modified from the proposed legislation for Lana`i – modifications specific to Lana`i. Is that correct?

Ms. Flammer: Yes. I would encourage you to read the staff report and think about it, and write down your ideas, and bring them to the meeting. And write out what you want for Lana`i, and make a motion, and discuss it, and vote on it, and it will go into our report. That's the most efficient way. Michael will talk about the procedure real quickly.

Mr. Hopper: Just a note, you need five votes to take an action, whether it's with – if not to defer, it's to defer immediately. But if you wanted to do something like Commissioner Ruidas wanted to do, you would need five votes to make that recommendation. If you can't get five votes to do something, then in substance it's going to be deferred to the next meeting anyway because you will have no action. And it will pop up as another item if the Department is okay with taking this back to you. So yeah, it's going to be deferred if you can't get five votes to do something. So if you're just deadlock and there's no chance you can get five votes, then you'll have to say, well, automatically it's going to be deferred until the next meeting. Until you end up taking an action on it, I wouldn't see there being something done. So, yeah, I think it will automatically move on to your next meeting.

Ms. Flammer: I have in my notes to follow up on the Project District. Are you thinking you might want the law to apply to that? Or are you concerned that it could be?

Mr. Green: Well, I'd like to first start out because I tried to get an answer to this. I'd like to first start out what's legal and what's not legal that exists today. And then we – the second step is do we want to – if let's say for example, right now I believe, and I what I read from the Project

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District, single-family homes are not eligible for short-term rental, only long-term. So we would at least be able to consider do we want to change that or do we not? I'd like to understand specifically with condominiums. As I say, from what I've read in the Project District, at least from what I have discovered here somewhere.

Ms. Flammer: Do you have homeowner's meetings that I could attend?

Mr. Green: Yeah, but –

Ms. Flammer: Okay. I would be willing only if you think I would be productive.

Mr. Green: Yeah, yeah, not yet.

Ms. Flammer: Okay.

Mr. Green: It says here – it says as such time, if additional hotel units are constructed or provided within the Project District, the uses of multi-family units for short-term vacation use shall be discontinued. That's what it says, which leads me to believe that it is currently approved. Otherwise you wouldn't need to discontinue it. But I have been unable to determine exactly what is there. And there is a Koele Project District as well which has potentially different conditions.

Ms. Flammer: Are there any other areas you would like me to research? Social hall? Zoning on the social hall? I'll do a good look at that.

Mr. Rabaino: Yeah, the social hall up there. Okay, and then will that affect the historical site? I mean, will that be –. Well, under the Country-Town – let me look one fast one over here. Okay, under the short-term, yeah, in Exhibit-A, is under the short-term rental home – Exhibit-2, excuse me, 19.02A.03, permitted property used for single dwelling. For the city limits, everything over here is plantation style, yeah, is less than 6,000. Is that going to be grand-fathered? Make a little notation that the plantation homes are grand-fathered? Because if somebody turns around and buy it – for example, so you understand it better – and renovate everything but keep everything the same to blend with the city, turns around and sells it because there are a lot of homes being sold. You know, a little bit modern, but it's still within the city limits. But the property size is not 6,000. Some of them is less, you know, 3,000, 4,000, but they making two-stories. So, if you keep some of the plantation grand-fathered under the city district.

Ms. Flammer: Is that related to short-term rentals? Is this something different that you're asking? I do know our planner –

Mr. Rabaino: Because you have residential, right? Residential district – well, the town is considered residential district, right?

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Ms. Flammer: But you have an overlay.

Mr. Rabaino: Yeah, but you want to make sure something is grand-fathered for the house itself because a lot of them are complete homes that are rented. But when they offer the employees to buy the home and they buy it but keep it's character, yeah.

Ms. Flammer: Okay, I'll talk to Erin Wade about that.

Mr. Rabaino: And because of the less than 6,000 square footage. And that's on Exhibit-A. And then my other one over here is – where's that marker? Here it is – on Exhibit-16, that's on youth. You know, everything is in the city so it doesn't really matter with the Harbor Division, period. But on page-15 in this document, under the table for Lodging by Type of Accommodation, State of Hawaii 2006, you have Lana`i, you listed apartment/hotel, under available units, one; property, one. Where is the location? Are you referring to the Lana`i City apartments in the town, right across the school?

Ms. Flammer: I just need –. You're on page-15 of the draft ordinance?

Mr. Rabaino: Yeah.

Ms. Flammer: And you're looking at?

Mr. Rabaino: This chart right here.

Ms. Flammer: That chart?

Mr. Rabaino: Yeah, table four.

Ms. Flammer: I'm going to come take a look.

Mr. Green: That's in one of the attachments. It's an economic study.

Mr. Rabaino: Is this current because you have 2006 over there. Yeah, for bed and breakfast you say three. Oh, that's not the one, okay. Well, but those are the concerns that we need to know how many are existing right now on the island within the areas because of the BTC.

Ms. Flammer: Yes, and we do not have recent data. And the reason we do not have recent data is because they are not allowed, and they, from what I can understand it's not that easy anymore to find them on the internet because, you know, they do not want to get in trouble so we don't have recent data.

Mr. Rabaino: Okay, and then my last one over here is 19.04, farm dwelling. . . .(inaudible) . . . Cooke established this kind of farm plan on Lana`i and where would they suggest it to be? Because currently we have one at Palawai Basin, okay, as well as the agriculture farm by the

airport. So you probably ask Kathleen where they stand on that.

Ms. Flammer: Okay, I'm just going to give you a real quick lesson on how to read graph legislation because it is not easy especially with a bill like this. This bill is going in as amended. How it works with draft legislation is we take our current County Code and we start from that. Things we remove, we put in brackets. Things we are adding, we underline. The reason you're seeing these zoning code of the current Maui County Code is because we're going to be adding short-term rentals as use, when permitted, into the Code. The only new part is the stuff that's underlined in there. Yeah, it makes it hard to read. I can still find out your questions for you.

Mr. Rabaino: And lastly yeah, like over here, public hearing, I've been telling the company they should build outside of the city. Because everything they want to do over here, they want to make us look like sardine factory, squeeze every land that they get within the city limits. It's time to expand, yeah, so if you can come up with something before the different districts. Thank you. Alberta, anything? Commissioner Mano? Green, you want to add anything? Commissioner Ornellas? Okay, so be it.

Mr. Green: Just one quick question. The . . . (inaudible) . . . period said that properties located under your recommendations, properties located in resort areas, are designated by the County Council as an outright permitted use. What is the resort area?

Ms. Flammer: It would be an area where they – that would be – they would designate what the area is. We could say Lana`i City. I don't know a good resort – Kahana.

Mr. Spence: Like Wailea or Kaanapali.

Ms. Flammer: Manele. Manele? Possibly. If the County Council wanted it to be, they didn't have to go through a permitting process. They saw some areas where they just thought it would be okay. They could put a circle on a map and then designate an area and then you don't need to get a permit. It's an outright permitted use like it is with the hotels. That's what that one is.

Mr. Rabaino: Go ahead John.

Mr. Ornellas: Are we done with number-E? I hope we're done with number-E.

Mr. Rabaino: Yes we are.

## **F. OTHER BUSINESS**

- 1. Lanai Planning Commission's LWAC representative(s) to provide a brief update on the Lanai Water Advisory Committee (LWAC) meeting (Commissioners John Ornellas/David Green)**

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**G. UNFINISHED BUSINESS**

**1. Discussion on amending the SMA maps for Lanai**

Mr. Ornellas: Can we defer F, Lana`i Planning Commission LWAC's representative, as far as the water advisory? We could defer that to the next meeting.

Mr. Rabaino: Okay, so F defer.

Mr. Ornellas: Okay, and then defer G, on unfinished business, the discussion on amending SMA maps for Lana`i.

Mr. Rabaino: Okay.

Mr. Ornellas: Since we don't have the time. We have 15 minutes and this discussion will take a lot longer than that.

Mr. Rabaino: Okay, Commissioners? Alberta, agree, defer F and G? Mano?

Mr. Ruidas: Can we put G as first on the agenda? This thing has been pushed months and months, and years, from last year May because of the previous administration. So can we at least get this thing done?

Mr. Rabaino: Gina, can we have the shoreline management map for Lana`i discussion? That's the one you guys cancelled the meeting twice, you know, like that. And anymore Mr. Commissioner Ornellas?

**H. DIRECTOR'S REPORT**

1. **Discussion of the May 16, 2011 letter from Director William Spence to Ms. Karlynn Fukuda, of Munekiyo Hiraga, regarding the time extension request to the Special Management Area (SMA) Minor Permit for the Installation of Temporary Tents at the Manele Bay Hotel, Lanai (SM7 2001/0002). (Requested by Commissioner John Ornellas at that May 18, 2011 meeting.) (Copy of memo was distributed with the May 18, 2011-agenda packet.)**
2. **Open Lana`i Applications Report**
3. **Streamlining Ordinances**
4. **Agenda items for the July 20, 2011 Meeting**

**A. Public Hearing on the following:**

1. **MS. LAURIE ANN K. CHAN, Director of Client Services of**



**APPROVED 07-06-2011**

**AVALON DEVELOPMENT COMPANY, LLC on behalf of T-MOBILE WEST CORPORATION requesting a County Special Use Permit in order to install improvements at two wireless telecommunication sites, each approximately 300 square feet in area at TMK: 4-9-002: 001 (por.), Island of Lanai. (CUP 2010/0009) (J. Prutch)**

- a. Site 1 is located 0.25 miles north of the Koele Lodge.**
- b. Site 2 is located at Manele Bay adjacent to an existing water treatment facility.**

Mr. Ornellas: I'd like to go straight to H, Director's Report.

Mr. Rabaino: You want to discuss that currently?

Mr. Ornellas: Yeah.

Mr. Rabaino: Okay. Gina? Director?

Mr. Spence: And I'm sure the Commissioners will fill in the blanks. My understanding is this was an SMA Minor Permit for Manele Bay that has special events and put up tents. And it started in like in 2002, and the permit would last through like five years and they could have, I think, it's eight events every year. So they would set up a tent for a couple days and then take them back down. And I have not looked at this particular permit so, you know, like I said fill in the blanks for me. So I guess it's been renewed a number of times and this last time it was renewed there was a reporting condition taken off. I'm not sure that report was comprised of, or where it went, if it just stayed in the Department or the report was forwarded to the Commission. So I'd be interested in hearing what the Commission's concern is on that.

Mr. Ornellas: Okay, my objection to that was that I think you have authority to approve a permit extension. What do they call that?

Mr. Spence: A time extension.

Mr. Ornellas: A minor permit. You have the authority to sign off on that and I guess it doesn't have to come before us. I took exception to that because this community has worked hard in preserving Hulopoe Beach Park and the Manele Bay, the beach park mostly, and we're very involved. We have a beach park council that gets involved in that too. And so for you to approve this without at least giving us the benefit of e-mailing us. I mean as long as we see it. And I really don't have a problem with the extension because it's been done in the past. It's just you not coming to us and at least notifying us that this is being done. And then to remove – and the discussion is to remove the reporting part of the –

Mr. Spence: The permit. The condition.

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Mr. Ornellas: Yeah, that. We would have liked to know why because we do want to keep tabs as far as that beach park. And we don't want to start letting the things that we've worked so hard for the last 20 something years to start to erode away.

Mr. Spence: Okay, I understand. I understand that this Commission Rules designates authority for Minor Permits to the Planning Director, but yet this Commission sees all the SMA Exemptions as well. So at least permit processing wise, you know, we're following your rules. I'll tell you one thing, Maui Planning Commission Rules are different – is every – they meet every two weeks. There's a requirement in their rules that we report to them every SMA Minor. And I don't know if that –. Oh, and Lana`i as well. Okay, I'm not sure why that wasn't reported to you.

Mr. Ornellas: Receiving notification a half an hour before our meeting, that to me, is not notification. I mean, you know, it's just a clump of papers on the side of your desk. In fact, it wasn't even on top, it was at the bottom, so usually that stuff just sits on the side and we take care of our business. So when I found that, that kind of disturbed me, and my initial reaction was, you know, I don't mind you doing that, but we need to be notified. And then if it really means something to the members, we would e-mail you back and say, hey, you know, we didn't think – I don't think it's right or whatever and then we see if we can put it on the agenda for the next one. So, but according to Corporation Counsel, you're saying that a Minor has to come before us?

Mr. Hopper: Not for approval. What it says – is it's probably similar to Maui I would guess – is:

“the Director shall notify the Commission at the Commission's next regularly scheduled meeting of the issuance by the Director of the Special Management Area Minor Permit, receipt of which shall be acknowledged by the Commission. Such notification shall include but not be limited to the name of each applicant, the development authorized by the permit, and the location and purpose of the development.”

Now as far as a time extension, I don't have time to check to see if there was different rules for time extensions, but it does say Minor Permits are suppose to be – you're suppose to be getting this notification with this basic information at a regularly scheduled meeting, and that you should be acknowledging it. I don't know if you get that as a list or something and if you want the Department to give you more detail in that type of notification, maybe let the Director know and he can do that. I'm not sure what you actually got for this one since I wasn't here, and I'm not your regular advisor, but that rule does state that you're suppose to be getting notification with that information and acknowledging receipt of that notification as part of the process.

Mr. Ornellas: Okay. All I'm asking is, you know, if you have to make a decision on something, at least give us three or four days to respond to the e-mail that maybe –. And if you don't get a response, go for it, you say hey I sent you all an e-mail, you guys didn't respond, and I thought it was cool to go ahead.

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Mr. Spence: And maybe I should ask. I mean, we send you a package of materials like a week ahead. Okay, is that notification in your packet?

Mr. Ornellas: It was not. It was placed at our seat the night of the meeting. And like I said, it was like a packet like this that was sitting at our seat. Here we go, Mr. Green had it, and so this was sitting right there and it was dated May 16<sup>th</sup>.

Mr. Spence: Okay. Well, I mean, technically we probably followed your rules, but maybe what we should do in the future –. What we do with the Maui Planning Commission is we include a list. I mean, if you only have one, you know, we'll include the one in your package. And then what happens is Maui Planning Commissioners then ask staff for more clarification. What was this about? Why was this done? Et cetera, et cetera. I mean, we get – instead e-mailing all the Commissioners, you know, before every meeting, if we just included it as part of your package. And as you're looking through your package, you go, hey, I've got a question about this and then you can e-mail staff.

Mr. Ornellas: Okay, but you're dealing after the fact. I'm talking about something that should be brought to us or at least mentioned to us before you sign off on that extension. And I don't think we have that many that comes before the Planning Department where, you know, where a Minor Permit will come through. So all I'm asking is just for us to get a heads up before you approve. And if you get a response from us then you know there's some concern and maybe you could hold off until our next meeting and then bring it as part of the agenda for the next meeting.

Mr. Spence: Okay, well that, I think would require an amendment to your rules that you would start reviewing Minor Permits. Right now that is –

Mr. Ornellas: I don't want to overburden us or you.

Mr. Spence: I know.

Mr. Ornellas: Because I don't think there's that many of them, so –

Mr. Spence: Well that is part of the concern.

Mr. Ornellas: And that's why I was kind of dealing on a lesser level where, you know, just to provide –

Mr. Spence: When we start –. I understand it would be – I think it would really nice if we could do a lot of things on that level, but unfortunately that –. I mean, you're getting into a public body that those kinds of things need to be put into the rules.

Mr. Ornellas: Okay, can the Planning Department or Corporation Counsel come up with a draft as far as amendments to that rule?

Mr. Spence: If that's something the Commission would like?

Ms. Flammer: Are you familiar with where this area is? It's at the hotel, it's the lower area where they do the luau's?

Mr. Ornellas: Uh-huh.

Ms. Flammer: That's the tent area. It's not in the park.

Mr. Ornellas: There's access to the park, and you can see it from the park.

Ms. Flammer: Where it's tucked behind, yeah?

Mr. Ornellas: Yeah. We know where the tents are. It's just our roads are –. You know people watch and we keep track of what's going on so we don't want to lose any control over what we have now.

Mr. Rabaino: That's the only beach we've got. Okay, it's 8:25 p.m. any other discussion or topic Commissioners?

Mr. Matthew Mano: Wait, wait. You know that SMA permit, is it for the Hulopoe Beach Park or is it for the hotel itself?

Ms. Flammer: For the hotel itself, for where they do their luaus.

Mr. Mano: Okay. That's all I wanted to know because I heard a lot about the Hulopoe Beach Park.

Mr. Rabaino: Yeah, just for your reference, I sit on the Hulopoe Beach Park as well as Ron McOmer. There's a lot of touchy things going on down there. Commissioners, do I have a motion to close? Before we close, what's going to be on our agenda Corporation Counsel please? Can you read what we agreed to that's going to be on the agenda for July? Just to make sure the Commissioners understand.

Ms. Flammer: Okay, we're going to do the short-term rental. You guys would like to – you said you wanted to defer F and G, is that correct?

Mr. Rabaino: Yeah, but the G would become the first item of the agenda, which is the unfinished business for the SMA maps. Which I brought everything tonight, but I guess not, so that's for the next one. Okay, continue.

Ms. Flammer: So then F. Did you want F to be two?

Mr. Rabaino: Correct, and everything below that.

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Ms. Flammer: Well, you're going to have the short-term rental come back.

Mr. Rabaino: Yeah, everything, yeah going move. And then the T-Mobile one is moved back, right, to August? Very good. And we'll see you Director in the next meeting?

Mr. Spence: Maybe. I don't know yet. . . (inaudible) . . .

Mr. Rabaino: Okay.

Ms. Flammer: Charter Commission? Did you want that on there? You made the recommendation. That was it.

Mr. Rabaino: Yeah. Okay, thank you. Do I hear a motion to close this meeting Commissioners?

Ms. de Jetley: I move to adjourn.

Mr. Rabaino: Any second?

Mr. Ruidas: . . . (inaudible) . . .

Mr. Rabaino: So moved by Stanley, and motion was made by Alberta. Okay, the time is now 8:28 p.m. so they catch their plane and fly back safely. Mahalo for your time Gina.

**I. NEXT REGULAR MEETING DATE: JULY 20, 2011**

**J. ADJOURNMENT**

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:28 p.m.

Respectively transmitted by,

LEILANI A. RAMORAN-QUEMADO  
Secretary to Boards and Commissions I

**APPROVED 07-06-2011**

**RECORD OF ATTENDANCE**

**PRESENT:**

Gerald Rabaino, Chair  
Stanley Ruidas, Vice-Chair  
Alberta de Jetley  
David Green  
Matthew Mano  
John Ornellas

**EXCUSED:**

Leticia Castillo  
Shelly Barfield

**OTHERS:**

William Spence, Planning Director  
Gina Flammer, Staff Planner, Current Planning Division  
Michael Hopper, Deputy Corporation Counsel, Department of Corporation Counsel