

**LANAI PLANNING COMMISSION  
REGULAR MEETING  
JUNE 19, 2013**

**APPROVED 08-21-2013**

**A. CALL TO ORDER**

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 6:00p.m., Wednesday, June 19, 2013, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

**B. UNFINISHED BUSINESS**

1. **MR. WILLIAM SPENCE, Planning Director requesting concurrence from the Lanai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area (SMA) exemption can be issued for the following:**

**LANAI RESORTS, LLC submitting a Special Management Area (SMA) Assessment for renovations at the Four Seasons Resort at Manele Bay of the existing 236 guestrooms, repair and replacement of exterior architectural elements, privacy screens, upgrading and replacing plumbing and electrical systems and fixtures, replacement and upgrade of HVAC systems, interior upgrades of kitchen equipment at 140 Restaurant, installation of sushi bar and two teppanyaki stations at Nobu Restaurant, and convert existing storage area to a computer room at TMK; 4-9-017:001, Manele, Island of Lanai. (SMX 2013/0168) (Valuation: approximately \$27 million) (J. Prutch)**

**The Commission may take action on this request to concur or not concur with the recommendation for SMA exemption.**

Mr. John Ornellas: . . . come to order, the Lanai Planning Commission meeting of June 19, 2013. It's 6:00 p.m., Lanai Senior Center. I call this meeting to order. And first up is unfinished business on the agenda. (*Chair Ornellas read the above project description into the record.*) Okay, now we had this on the agenda last meeting, and we had some questions for Lanai Resorts, Lynn, Vice-President of Government Affairs, and Mich Hirano from Munekiyo & Hiraga. So let's – anybody have any questions right off the bat?

Mr. Clayton Yoshida: Maybe we can start off with having the staff planner, Joe Prutch, gonna describe what documents he found because the commission had questions of the department also to provide some more information. And then if you wanna hear from the Lanai Resorts LLC representatives about the additional responses that they had to questions raised by the commission at the May 29<sup>th</sup> meeting. And then, if you have any further questions, then you can ask further questions.

Mr. Ornellas: Any objections? Members? Alright. First up Joe.

Mr. Joseph Prutch: Yes. Okay thank you. Good evening everyone. Yes, at the last meeting, May 29<sup>th</sup> I believe it was, you guys discussed the possibility of concurrence with our proposal for an exemption or not concurrence. And at the end of the meeting there were a list of things that you asked Lynn to provide answers to and a couple of things you asked staff to provide. Those were – I'll go ahead and list off what they were – from Lynn, you asked to discuss water usage and estimates of water usage, post pre and post. You asked for the impacts to public service, mainly police. You asked for impacts to the local businesses. You asked for policies and rules for contractors, drug testing, different things like that. You also asked where will the contractors live, off island, on island. Where will they be coming from. That kind of questions. And then the number of local employees that they may be able to use for the project. And then from staff, you asked us to provide you with the conditions of approval and a final compliance report for the original SM1, PD2, which was approved back in 1987. And then what you should have in front of you is you should have the Lanai Resorts response. So Lynn put a couple of pages together with her responses to her portions of it. You have that. And then from the Planning Department you have a, an old document from 87 which was the approval of the hotel, the SM1 and PH2 for that, and that list all the conditions of approval. As far as the compliance report, back in the 1987 times, we didn't have a condition for a compliance report. Nowadays we do that, but back then there was no condition. What I did find as well which was handed to you today is an approval of their phase three, which means they made it through the phase two step, which is part of the SMA approval. And essentially their construction drawings were exactly in compliance with what the phase two was developed. So we did find the phase three document from 1988 that shows that they were in approval for all that. So that is what we have now. I think I'll go ahead and let Lynn go ahead and discuss her side of it, what she found for you. And then if you have question of me of, of the original approval, I can try to answer some of those too.

Mr. Ornellas: Go ahead Lynn. Please, please introduce yourself for the –.

Ms. Lynn McCrory: I'm Lynn McCrory with Lanai Resorts, and thank you chair and members of the Planning Commission. You asked for a number of things which I think we'll start providing every time we have something in front of you. But in specific terms for the contractor's conditions, part of this was a result of what had occurred in a prior time frame so I had looked and talked with a number of other people on issues that were brought up so we went forward with what would make good sense in terms of how do the contractors have to behave. And obviously the first one is, was a major issue, was the drug issue. So we put in besides these terms being in the St. Regis terms as to how contractors have to behave. It's very simple, possession and use of illegal drugs or narcotics are prohibited at all times while on Lanai. Violation of this prohibition will result in termination on the job. These community, contractors community code of conduct is in their contract so it's real simple. The same thing on illegal disorderly conduct or under the influence of alcohol or drugs, they're out of the job. They're gone.

We tried to look at how we would impact into the community, and how the community could

almost be the eyes and ears if they see something and not be calling the police. So we came up with a hotline which is to be manned 24 hours a day, seven days a week. It will be a number that will be answered. So if there's anyone doing anything that you see if it is illegal or there is disorderly conduct, this is the number you call. We'll put that number onto notices that we'll post around town, not differently than you see we're trimming trees here or there's a movie night coming up. But those will be posted around town. And then we'll put it on our website so if somebody has it, if they're going to end up living next to a contractor, we can have the phone number right there to call.

We're going to do an orientation for these contractors, managers, and supervisors, which they in turn are suppose to drop down. It will include this. It will include, you know, how to behave on Lanai. It will include one piece that I was not able to put in here, only for legal reasons, and that was don't bring your coolers over, don't go fishing in the ocean, don't take it home. But I can do that verbally, so that is the intent. I wanted to let you know there's a reason it's not in here. But I intend to do it verbally.

Then there will also be the monthly meetings, so that if people want to know where we're at on the renovations, what's happening, we'll do those also in front of the community and answer any questions. So I think that will give the community an opportunity to go forward. And these to me are, are the main pieces that I think will eliminate the problems that occurred last time.

In terms of impact to local businesses, it looks, from what I can see, as there could be an increase. It just depends on what they will spend, where they will spend it. But at minimum they're gonna need gasoline for their trucks. I don't think they're all going to operate with electric vehicles so there's a whole range of other things.

In terms of the impact to social services, your emergency or police, this was one of the other reasons we set up the hotline. Call this number. These are the people that should react the first time it's coming through. And at the same time you should have a decrease in hotel guests because we're closing the rooms down. So what that does is we will have 84 guest rooms closed in the first phase. With the average hotel occupancy that should net about 96 days – 96 people per day, a reduction, that won't be there to utilize social services. And with the increase, at the maximum peak increase, for the construction workers, that then actually ends up being a decrease of – the increase of 54 people over what the guest will be. And if you add that back into the hotel occupancy, the hotel would be at 75% occupancy which we've been at multiple times. So I think the services on the island can handle it, and the first services are the hotline number to call.

Where will the construction workers live? Well, that was surprising to me when I started adding all the numbers up and what we have is availability in Lanai City where we have a possibility of 88 construction workers that can live in there. The Manele Hotel will house a number. We're estimating local employment of 47 workers. And any, when you add it all together it means we have potential housing for 176 to 179 construction workers. And what we're talking about in terms of peak is 150. We're talking about a 25 to 30% would actually stay on the island. The others would be going back and forth in terms of either a contract for an additional Expedition

that would be coming over, or they would be coming over in planes. There would also probably be a contract unless Island Air has that much more space. And the last few times I've been flying Island Air they had more than adequate space onto the planes.

And then when they get to the island – depending where they live – the contractor is responsible for moving them to the job site down at Manele. So whether he will pick them up which I'm assuming he's gonna do, is stand at this location, we'll come and pick you up at a set time. And nicely the Four Seasons have said for people who are staying down there, they will, they will have weekend activities if they stay over.

Water usage comes in at another reduction. And it is down to a 6.7% reduction on an average basis. And what I did was deal with the one time use of the bathroom because beyond that how many times people use the bathroom, I'm only gonna guess and it's just the one time, so we move it that point. We will have during the renovation a reduction in water usage because they're not going to be cleaning the rooms, they're not going to be cleaning the sheets, or towels, or any of the rest of the things on a daily basis. The construction workers will get it cleaned once a week. So that will be that for that.

So overall I think we'll have good results in terms of setting up community standard code that the contractors need to abide by. The St. Regis has a code that they must abide by when they are on the job site. We have a 24/7 day a week hotline for people to call. And they will be kind of scattered around the community so not that many people. So the impact is not as great as saying we're going to have 150 people here. It will ramp up, it will go down. So thank you.

Mr. Ornellas: Alright, thank you very much Lynn. Mich, do you have any? Okay. Do we have any? Okay, I wanna open it up for public testimony based on what you heard. Anybody wants to testify? I guess not. Thank you. We'll close testimony, public testimony, on this particular item, and then I'll open it up for questions here from –

Ms. Beverly Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Lynn, hi, I have a couple of questions – actually a handful – and first of all, thank you for supplying that information. St. Regis? You said St. Regis.

Ms. McCrory: Four Seasons, sorry. I think I'm still in Kauai some days. It's Four Seasons.

Ms. Zigmond: Okay, that really confused me. Thank you.

Ms. McCrory: Yeah, it should confuse you. It's the wrong hotel. Sorry, my apologies

Ms. Zigmond: That's okay. That's alright. I just want to make sure I didn't miss something.

Ms. McCrory: I'm not a little nervous am I.

Ms. Zigmond: You know, I'm still struggling with the SMA thing and part of this is, is going to be just a comment and maybe a question later for the Planning Department, but when they talk about cumulative impacts and impacts – a commitment to larger actions – so I'm not sure how this all this fits in with this particular project which I have no objections to as long as I'm not paying for the renovations. But the Planning Department reported no impacts on anything except maybe short term economic benefits. But, but you said that there would be some potential ones, and so I appreciate that because I think that's much more realistic. When you mentioned the social services there was no mention of medical facilities, or mental health facilities, and I thought maybe, would that be included in social services?

Ms. McCrory: It certainly could be. I think if we are at the point where we're needing some mental health services, we probably need to get the worker off island.

Ms. Zigmond: Even medical, emergency room, going to the doctors, the clinic, because that was – that was not anywhere in the reports.

Ms. McCrory: And it would depend. The security service down at the Manele Hotel is trained to be first responders. So assuming that at this point it's nothing major, then they would handle it.

Ms. Zigmond: I mean, like, I've got a cold, I have something I have to go to the doctor, and you know, how a cold –

Ms. McCrory: That should be coming out of Manele Hotel, those types of simple things.

Ms. Zigmond: There's, there's a doctor there?

Ms. McCrory: There's not a doctor there, but they feel that the security staff, if it's something as simple as they have a cold and they need some medicine, then that should be handled by the hotel.

Ms. Zigmond: Practicing medicine without license?

Ms. McCrory: No. Well, I hope not. I don't think they're giving out prescriptions. They may be giving out aspirin. It would be kind of the same thing where they come in to buy cold tablets. I think if there was an, if there was a serious accident on the construction site, then yes, they're going to need to be flown off the island. But their safety – they have a whole safety crew. The contractors have a whole safety crew. And the intent is not to have anything like that occurring. But, yes, that could result in a flight off the island.

Ms. Zigmond: I'm not even thinking of, of something that major, but people do need to go to the doctors on a regular basis. I mean, whether it's, you know, your, your high blood medicine or something, and, and, you know –. But any way, I just see that there, with 150 people, potentially there, would be a need for additional services, but –

Ms. McCrory: Okay, there – I can tell you that we don't have any way for prescriptions to be filled on this island. Only if you are at the Straub Clinic, and the Straub doctor has prescribed it can they. So someone couldn't just come up to the clinic, as an example, and get a prescription filled. That, that cannot occur. That's against state law.

Ms. Zigmond: Oh, they can go to the community clinic and get so –. Any way my point is not to belabor that. I just, I thought that was something. But anyway are the 150 workers that are going to be over a period of time, are they all for just for the renovations?

Ms. McCrory: Yes. And it's over an eight month period which it will ramp up and then ramp down.

Ms. Zigmond: That construction workers that are living at the hotel, are they going to be mingling with the guests?

Ms. McCrory: No, they're not allowed to. And if they do, they have an area that they're going to be working in because the guests isn't going to be allowed to go over there. And they have very specific statements that if they encounter a guest any where they need to behave very respectfully and all of the other things which is what we'll cover in the orientation we use for them. They already got those and theirs were – I mean I need stronger glasses almost to read it. It was multiple.

Ms. Zigmond: And only two more. Thank you. It said that the bids were due 6/7. Have they been awarded yet?

Ms. McCrory: No, they have not. The bids did come in. They have not awarded the contract. They're still in the process of reading it, so I can't tell you who the contractor will be.

Ms. Zigmond: Okay, and just one more. The Miki Basin potential housing for the workers?

Ms. McCrory: No, not in this case.

Ms. Zigmond: Not in this case.

Ms. McCrory: That would be the major hotel renovation that will be coming down. And that's not this situation at all.

Ms. Zigmond: Okay. Is that going to be on the 20 acres of industrial?

Ms. McCrory: No, it's actually going to be on ag, so it will come in front of you. It will be a Special Use Permit, so you will see, you will see even – we've actually gone through modular home structure versus we were initially talking about Matson containers. They just upgraded it. That's not okay. That's not how we're going to treat people. So even though –. Tulsi Gabbard was okay sleeping in that in Afghanistan. It's apparently not going to be okay for the construction workers so what I had showed some members of the community earlier just was

changed last week, and upgraded. So that will come as we get closer to doing that actual renovations, and you will see all of that in front of you.

Mr. Ornellas: Anyone else have any questions?

Mr. Bradford Oshiro: John? I get one.

Mr. Ornellas: Go ahead.

Mr. Oshiro: You know what bothers me is housing still yet in Lanai because I did an inquire, and I found out that there's 100 people waiting on the waiting list for houses. 40 people waiting for Kanepuu and 80 Iwiole so where are you gonna house all these people?

Ms. McCrory: I'm getting the information from the hotel in terms of where they have the availability, and – hang on a minute. Let me go back to that section. Apparently there are – and some of this is the Monday through Friday only. There's – let's see – that we could house 88 construction workers in units that are Monday through Friday. And these are primarily the units that go out for hunting over the weekends where they rent them out, and that's why it's Monday through Friday. And then at that point, at the Manele Hotel, there's room for 60 workers. And the Koele Hotel there's room but I didn't include them in here because it didn't appear as though we needed to say they're going to up at Koele. But it's available for them. And local community employment was 47, a very small number, so they would live here. And this results in a total of 106 to 179 areas. But these are basically rentals that go out for the hunting, so there may be a waiting list for things, but they're not going to live on a Monday through Friday basis.

Mr. Ornellas: Anybody else? Go ahead.

Ms. Stacie Koanui Nefalar: My concern is will the construction companies be providing food for their workers or will they be using our grocery stores?

Ms. McCrory: No, the Four Seasons will be providing three meals a day for the construction workers, so that's why I put in that there could be. I'm sure of gasoline. But if they don't come up or they don't stay over for the weekend, then it's very possible that they may not be buying groceries. I don't think if they're living in a hotel room they're going to buy groceries. They may if they're living in one of the Monday through Friday. But the hotel is intending to provide three meals a day.

Mr. Ornellas: Thank you. Anybody else? Go ahead.

Mr. Stuart Marlowe: Who is going to be manning the 24/7 hotline? Is that a, a Lanai Resorts employee?

Ms. McCrory: No, it's a contractor, one of the contractors. This is part of what they've been, they're required to do whoever has that.

Mr. Marlowe: And would it make sense if their only alternative if something is recorded that they would simply dial 9-1-1.

Ms. McCrory: No, that isn't acceptable alternative unless it's that serious of an emergency. I mean the whole point of it is not to stress the social services. We are in conversation with the Police Department as we get ready to go into that larger mode of do they need more police, do they need more equipment, how do we do this? And so we'll add, as, you know, just as you're telling me, don't forget to secure social services, don't forget those types of things, we'll look at those as being additional pieces that need to be put into the bigger picture.

Mr. Marlowe: Yeah, because there's a liability.

Ms. McCrory: Oh, yeah.

Mr. Marlowe: So, that's where you guys got to be careful.

Ms. McCrory: Very much so. Yes.

Mr. Ornellas: Alright, anybody else? No? I have a couple. And now, at the last meeting, we talked about the ripple effect and how things accumulate. Alright, so this project is gonna take—?

Ms. McCrory: Eight months.

Mr. Ornellas: Eight months. Alright, so, during that eight months, there's a possibility that you're gonna start working on the desal plant. Okay.

Ms. McCrory: I think we'll be doing wells.

Mr. Ornellas: Okay, so –

Ms. McCrory: But the desal plant will not – not in eight months, it won't be in place.

Mr. Ornellas: Okay.

Ms. McCrory: We, we aren't –

Mr. Ornellas: I under – what I'm getting at is you've got workers that are not Lanaians that are going to be working on these drill sites, and so that's added group of people that's gonna be to the 150 that you've already said.

Ms. McCrory: More than likely, more than likely they would be going on and off the island, or not?

Mr. Ornellas: John Stubbart, Director of Utilities.



Mr. John Stubbart: John Stubbart, Director of Utilities. We expect to have two crews on site. Each crew is probably made of four to five people, so I'd say it's 10 people. They could be drilling six days a week with a day off. And in the past they have left the island just depending where they're from, and so they may. If they're from the Big Island, they may not go back to the Big Island. It just depends where the crew members come from. But it would be about 10 extra added for those sites.

Mr. Ornellas: Okay. Alright, thank you. But you see, you see my –? Okay. You know, when we start, when we start doing stuff, it should be all looked at from the whole, the big picture, as far as when it comes to employees and housing and social services and that kind of stuff, so that's all that I was getting at.

Ms. McCrory: Right. Okay.

Mr. Ornellas: And then the second thing is you talked – when you talked about fueling the trucks, the company is not gonna allow, or not gonna sell gas from the company pumps to these contractors. Will they?

Ms. McCrory: I don't believe so. I've not heard that one come in front of anyone. That's never been suggested at this point. If anything, they might bring their own gasoline over in containers so they can fuel their trucks.

Mr. Ornellas: That –. Okay, John's dying to say something. John Stubbart, Director of Utility.

Mr. Stubbart: In, in the past we have had accounts set up for contractors to fuel at our facilities, and then we set up a monthly account with them if they're all qualified, you know, to financially settle.

Mr. Ornellas: Do you give them a break? I mean, is it the same price as Lanai City Service, our only gas station on the island?

Mr. Stubbart: I do not know. They set that up with fleet. But I know I've taken contractors over to set up accounts over there.

Mr. Ornellas: Okay. Please. You know, to take – to not allow businesses to prosper from these times might, might cause some negativity within the community so please –

Ms. McCrory: Encourage.

Mr. Ornellas: – encourage them to go to Lanai City Service. Buy a soda, rent a jeep.

Ms. McCrory: Yeah, rent a jeep. But then they're going to be all over the place and on your roads.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Just going on, on that same vein though. Okay, that's a, that's going to be an increase in need for petrol, yeah? And that hasn't been addressed anywhere either. I mean, is our, is our once three full moons that the barge comes in with our gasoline is that going to be enough for everybody?

Mr. Ornellas: It's not. It's changed. They don't have fuel barge anymore. They have a, they have a bladder system. They bring containers over every week for, for gas, so it really doesn't – they can recover within a week. That's not a problem, so, but – please.

Ms. McCrory: Encouragement should be there.

Mr. Ornellas: Yes. Thank you. Anybody else have any questions? Alright, go ahead Joelle.

Ms. Joelle Aoki: Maui Oil supplies – their pod supplies Lanai Resorts, right?

Mr. Stubbart: Lanai Oil.

Ms. Aoki: Lanai Oil? Excuse me, Lanai Oil. So I think the question would be if we do anticipate an increase in petrol use, then we need to make, ensure that Maui Oil is aware of that as well, so that they can ensure we can fit it on the barge. Because I, I know we're almost to capacity.

Mr. Ornellas: Thank you Joelle. Alright, not hearing any more questions, I would like to hear a motion in favor of supporting the SMA project for Manele Bay Hotel.

Ms. Aoki: I motion.

Mr. Ornellas: You make a motion to accept?

Ms. Aoki: To accept the project renovation at Manele Bay Hotel.

Mr. Ornellas: Do I hear a second?

Ms. Aoki: In the mic.

Mr. Ornellas: Yeah, yeah, Stu second. We got em.

Ms. Zigmond: That's not really what we're voting on. We're voting for giving them the exemption. We're not voting on the remodeling.

Mr. Ornellas: Correction. You're right. We're giving them the exemption.

Ms. Aoki: Mr. Chair, what was the correct wording?

Mr. Ornellas: We're gonna – I'm looking for a motion to approve the exemption as written in the, for the SMA Project number, SMX 2013/0168.

Ms. Aoki: I so move that we approve the exemption for SMX 2013/0168 for the SMA exemption.

Mr. Ornellas: So move. Seconded by – you gonna? Can you make it official and say it into the mic please?

Mr. Marlowe: Second.

Mr. Ornellas: Thank you Stu. Any discussion? No discussion. We'll vote. All in favor of the motion say aye. All against? So it's unanimous.

**It was moved by Commissioner Joelle Aoki, seconded by Commissioner Stuart Marlowe, then unanimously**

**VOTED: to concur with the Department's SMA Exemption.**  
**(Assenting: J. Aoki, S. Barfield, P. Felipe, S. Koanui Nefalar, S. Marlowe,**  
**B. Oshiro, B. Zigmond**  
**Excused: K. Gima)**

2. **January 2013 Semi-Annual Report submitted by Lanai Resorts LLC regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017:001, 002, 003, 004, 005, and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001) (J. Prutch) (Comments made by Lanai Resorts, LLC at the April 17, 2013 meeting.)**

**The Commission may provide its comments on the report.**

Mr. Ornellas: Alright Joe. This is item number two, unfinished business. *(Chair Ornellas read the above project description into the record.)* Joe Prutch. And comments will be made by, made by John Stubbart. No, John Stubbart – Joe will give it first, and then John Stubbart, Director of Utilities, will follow.

Mr. Prutch: Yeah, simply a condition of approval for these SM1. There's quite a few things is to have water reports, either quarterly or there's some annual ones, submitted to you, to the Planning Commissioners. We get copies of them. We forward them to Leilani to you. And if you have questions like this time then you can bring those questions up and we of course got John down here because I don't know the answers to the water report questions. So John will go ahead and take it from here and be able to explain and answer your questions.

Mr. Stubbart: Thank you. The last time I was here we were about seven minutes from the final

and ready to leave, and, so afterwards Beverly was kind enough to come up. So I'm going to launch to some data and some technical things. And Bev brought up that, I think the first thing is why is this in here. She was just kind of what is this report that you're going to be looking at as members of this council? And so let me start with that, that this is part of a reporting that we have for the Manele Project District. And the – we report every six months. It was one of the requirements and it's the brackish water that comes down to the resort from the wells up in the Palawai Basins. And we are – what we report on is the daily use – break it down to a daily use for gallons per day per unit, or for gallons per day. And in the reporting requirements we were asked to break down the – you can see there SM1 Phase Two, and we report the number of single family units that we have down there. And at that time of that last report it was 19 units. We have multi-family units. And what we do is we gather during that period of time that we do our meter readings that how many gallons were on all the meters, and how many days there were. And so we get a total gallons, and then we divide that by the number of days that are shown at the top of the report – 182. And then we get the gallons per day per unit. What that does is it gives everybody a common data point so we know that gallons per day per unit. The – your home, here in town – let's say you use 400 gallons a day per unit, another person uses 280 gallons per day, and so it gives us a comparison based on looking at what the water use is per unit and what we expect it to be by design. So on this report, single family was – this average for all of the homes down there was 2,179 gallons per day for single-family resident. Multi-family, 975 gallons per day per unit.

So we look at that as a water manager. You would look at it to look for data on water use down in the, in the Manele area. At look at it to see where we're going, what the gallon usage is and then get back to our planning people to make sure what our resources are, and that we're gonna have enough water. But it also has on there the Manele Palms. That wasn't in the original phasing, but we put that in because we wanted to show how much the Palms was using, is using also, so that you can see that they're at 176 gallons per day per unit. So their design is much more efficient on the brackish water, so we take note of those kinds of things. We also have roadside irrigation, and that's all the common areas, all down, all the roadsides down there is all irrigated with non-potable brackish water. And so we look at that number also to track how much it goes up or down. And I also track that on the water use, periodic water report. We look at those numbers too to just kind of say what are we using down there for residential water for potable and brackish. What are we using on the golf course? What are we doing so that we can identify a few things – conservation efforts, do they have an impact? Do we have a leak? Because if I'm down there and where everything is normal and we have seasonal changes, I'm going to be looking at it for, wow, the water went up, where did it go? And so for us it's management tool, and for you it's a, it's a reporting, reporting requirement. But that's the kind of thing we'd like convey to the planning committee, is this is data for future reference and for review that we as the utility and the planners want to look at over periods of years.

Real quick, I know this is really exciting stuff, but for me it is. We had a drop in use per unit for the single-family. We're down to –. We started off at like 36 – 3,600 gallons a day, and now we're down to 1,700 gallons per day. So, we, you know, we're, we're, we're seeing decreases in conservation. We're seeing 43% drop and that's because people are trying to get that.

Ms. Zigmond: John, excuse me, where are you reading from?

Mr. Stubbart: From my notes.

Ms. Zigmond: So it has nothing to do with what we have in front of us?

Mr. Stubbart: No, you're going to get a newer report from these guys.

Ms. Zigmond: That makes it a little difficult.

Mr. Stubbart: Yeah, a little more difficult. I'm sorry. But, let me, let me just say that – and on there you see that we're below the multi-family – 900 – that's a good number for us. We're below a 1,000. That's our benchmark we wanted to see. So some of things we're doing, conservation plan, coming up this year. Multi-family landscape, we're working with AOAOs down there on the multi-family units to look at changing the landscaping to more of a zeroscape. And we've been working with people down there on conservation efforts. And our design review committee, they're the ones that look at all the new plans, and we're working with them to make sure that we have a stronger enforcement of the type of landscaping that gets approved for residences down in the area and it's appropriate and more conservation efforts in the plant species. Thank you.

Mr. Ornellas: Alright, thank you John. Do we have questions for John from the members?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Thanks John. I'm really confused now because I was looking at what was in front of me. But anyway, I am looking at the January 15, 2013 report and it says the reporting period is June 15<sup>th</sup>, 2011 to December 20<sup>th</sup>, 2011. Is that correct? And why is only being recording now because shouldn't the six month one be 2012 and not 2011?

Mr. Stubbart: We sent in another one for the next half of the year. Well, let me put it this way. We take meter readings down there every two months, and so we don't get exactly a six month period. One period is going to be shorter, one period is going to be longer, just because the way we read the meters. And so you'll see it, this is from June to December, 182 days. So we break everything down to – so this report came out in March – yeah, in March.

Ms. Zigmond: No. No, but this – but I would think you would be reporting on the second half of 2012 because this is June of 2013 already.

Mr. Stubbart: Right.

Ms. Zigmond: So why do we –

Mr. Stubbart: So we're putting another one together for you to for the next, from December 20<sup>th</sup>.

Ms. Zigmond: So then it's late.

Mr. Stubbart: No, we haven't complied it and send it in to the Planning Department yet. It will be through June. May or June.

Ms. Zigmond: June of what year?

Mr. Stubbart: Of 2013. Another six months.

Ms. Zigmond: But we, but we don't have 2012 is what I'm saying.

Mr. Stubbart: This is 2012.

Ms. Zigmond: No, it says 2011. So it's either a typo or it's old data. What, what you all have submitted to us is 2011. Yeah, okay, I have 11 which is what we were given to us.

Mr. Ornellas: Yeah, you're looking, you're looking at the summary?

Ms. Zigmond: I'm looking at the summary, yes.

Mr. Ornellas: Okay. If you go behind the summary, and you look at fourth quarter, it say 8/20/2012 to 12/20/2012.

Mr. Stubbart: On the back of that.

Mr. Ornellas: It's on the back. Yeah, they shouldn't, they shouldn't have done this because it confuses the heck out of everybody.

Ms. Zigmond: I'm really confused now. I don't know what the heck I'm looking at.

Mr. Ornellas: Okay, so, I tell you what. Don't look at page 2. Look at, behind page 2, and it gives you the –

Ms. Zigmond: But then why is page 2 there? Anyway, I have some other questions.

Mr. Ornellas: Go ahead.

Ms. Zigmond: So it says that the company would like to build out the remaining lots units by the end of the extension. Is not the second extension soon to expire?

Mr. Prutch: Okay, the time extension for the residential portion of Manele, yes, we do have that. It's been on my desk for quite some time. I was working with Ralph Masuda some time last year, and we got – and now I'm working with Lynn. I think there's, I believe, if I remember right,

there was one small item that was remaining that she was going to get some answer for, or Ralph or somebody. When I have all that stuff and I'm ready to go, it will be coming to you soon, hopefully really soon with the extension request. So it's still pending.

Ms. Zigmond: My, my question was when does it expire because I understand that it's 90-days before it expires that you have to re-submit.

Mr. Prutch: Well, they, they did submit their request for renewal. So, I mean, if it takes them time to get it done. They made the request. I don't remember when it expired off the top off my head. Okay, they're saying October of 2012 was the expiration date, and they made their request, I believe, in June to get it renewed. And then, I was working with Ralph and then it kind of fell off the edge of my desk, end of my desk, and then now Ralph and Lynn are picking it back up. So now we're moving forward with it again.

Ms. Zigmond: Okay, I just wanted to make sure on that.

Mr. Prutch: Yes.

Ms. Zigmond: Okay. Thank you. So I've got a couple of other questions then. I'm still looking at this page 2 thing and I don't care what date it says, but I was wondering who controls the water for multi-family units?

Mr. Stubbart: Multi-family units are controlled by an AOAO. It's an association for the, for that group of condo units. And down in Manele there's a AOAO for phases one, two, and three. That's Kapiaha and Awehi Road. There's phase four which is Polihua on the bottom side. And then there's two buildings on the top on Polihua Way and that's phase five. So there's one, two, three condo associations and then the Palms is another one. So they, they manage their water and landscaping and maintenance.

Ms. Zigmond: Okay, thank you. I, I had grabbed some old reports to compare and I brought up 2010 to compare to what we have here, and it looked like the single-family went down even though it's much more usage than the city does. But the multi-family seem to have increased, and I was curious about that which is why I asked who controls it. And the Palms also, multi-family, had a big increase. Can you speak to that? Okay, well, what I see for November of 2010, multi-family is 737, and, and on this report it's 992. And single-family was, in 2010, was 3000 plus some change, and this report is 2000 and some change, so that went down. But the multi-family went up and, and, and I was curious about that.

Mr. Stubbart: May I? The one I do have, 2011, I've got those. I didn't pull 2010. And yes, the single-family went down. The multi-family, in phase one, it's in the 900s, 975. The one I have is 992, so it's close. Not enough for me to get excited about personally as the water manager. And then the other one at Palms was 160 and it's 176. I don't know, what was it in 2010, the Palms?

Ms. Zigmond: In 2010, the Palms was 97, and now it's 160 gallons per day per unit.

Mr. Stubbart: Yeah, I think what that was they had a lot of stuck meters. In the beginning they had the heads of the irrigation heads were all getting stuck with algae and so once we solved that problem their actual irrigation went up because they were using the irrigation system properly.

Ms. Zigmond: There seems to be a big variance between 2010 and 2012. The numbers go up and down, and up and down, and, and I'm curious.

Mr. Stubbart: Water use went up and down. We went into the drought period. We came back and worked with the associations through the HOA on getting conservation programs going, replanting. So remember that when they came in the water was free, and then we enacted the tiered conservation rates on the brackish water. So a lot people used water like they did before until they go their bills. And then they scrambled to find ways to conserve water, change their irrigation systems. So the overall direction that we were looking was to see a decrease. And I – the variations going up and down, I think are just people getting accustomed to getting a standard practice of irrigation. You know, especially like the AOA, they had to get contractors in and get them trained up on operations and repair.

Ms. Shelly Barfield: And back then you also had the leaks. Nobody could fix, nobody could find nothing. And we had to repair almost everything.

Mr. Ornellas: Identified yourself first please.

Ms. Barfield: Shelly Barfield. But yeah, you have to remember we had all the leaks back then, and then they came in and they started fixing everything. Remember? I remember.

Mr. Stubbart: Near down that area? Just to mention, these were meters before – we had leaks in our primary system, and so these numbers are actually after the customer meter. These were customer meter, actual numbers, so that we could give you in the report how much those units actually used. And there were leaks in some of these systems that occurred, and so we fixed leaks, the landscapers fixed leaks, and so their water use also helped by good management practices to come down like Shelly says.

Ms. Zigmond: That's great. And if you can humor me for just a couple of more, on the quarterly report it says that that one meter is discontinued. Why and how is the water being tracked?

Mr. Stubbart: The meter was on an abandoned line, and so we capped the line to make sure there was no further use. And so it was turned off and capped. It was along the hill side by the entrance, and they, they did hook it up to their other irrigation system, so it's tracked through the hotel.

Ms. Zigmond: Thank you. And then on the Lanai Water Use and Development Plan provisions action items which was distributed a couple of, of weeks ago, just a couple of things, it says a conservation plan will be available by the end of 2013. Is that, is that available?



Mr. Stubbart: At the end of 2013 we will make it available. We're working on that now.

Ms. Zigmond: Yeah, okay.

Mr. Stubbart: Yeah. Let me add that our conservation manager, our director I should say, Paula . . .(inaudible) . . . – yeah, I'm bad with names. I work with her almost every day. Paula is working on that plan with us. We've had some preliminary draft plans, but she's fine tuning it. In fact, if you see the helicopters flying around, they're doing counts on the deer, and moufflon, and anything else walking down there so that they can get the count for part of our conservation effort. So we're getting all the base line data in. Yes, so that's the plan to have that conservation plan, and out to the public by then.

Mr. Ornellas: Any more questions Bev?

Mr. Oshiro: John, I have one.

Mr. Ornellas: Go ahead.

Mr. Oshiro: Bradford Oshiro. You know those post cards you put in the mail yesterday? We've got a lot of seniors who have no access to the internet. So how is they suppose to see the report?

Mr. Stubbart: We post it around the city in all the locations that we post PWR. So at the stores.

Mr. Oshiro: Library and everything.

Mr. Stubbart: The library and the bulletin boards. So that's our other way to get out the information.

Mr. Ornellas: Anybody else have any questions for John Stubbart? Alright, hearing none, then I'd like to open the floor up to testimony from the, from the public. Butch?

Mr. Reynold Gima: Good evening. Butch Gima. I think Bev brought up a good point about you guys having accurate information in front of you. It's very confusing and I've been on the water committee for 20 years now. In order for you guys to make informed decisions you guys have to have accurate information. I don't buy what John said. This is mid-2013. You guys should have the 2012 data and he is right he has the data in the back, but it's not in the narrative. And the narrative is being submitted to you to take action on. And so when, when Lanai Resorts took over, they made it clear that they wanted to do business different from Castle & Cooke. This was a classic Castle & Cooke type of practice bringing shotty information to the Lanai Planning Commission. So I'm disappointed, I'm disappointed that Lanai Resorts has not improved, you know, what they're providing to you as, as a body.

Now, separate from that, I, I think in order to use this information effectively, just getting numbers and data in one period of time does not really help. One point in time doesn't really

help. I think it's important to look at historical patterns. So if this data comes in six months increments, then you want maybe the past three six months increments so you can compare very easily. One of the things – I don't know if you guys talked about it in previous submissions is how does the irrigation of the single-family units and the irrigation of the multi-family units compare to Lanai City? And then how does the single-family units and the multi-family units water usage compare to some place similar to Manele like Kihei? Then you can get a better indication of whether this is excessive use, or on par use, or they're doing well in terms of conservation. So without having those comparisons it's hard for all of you to make a distinction or determination on whether, you know, they're providing you just numbers or whether they're making an effort to decrease the, the use down at the Manele Project District. I mean, you gotta remember that about a million gallons a day of both types of water go down to the Manele Project District. It's about 67 – it's any where from 67 to 75% of water pumped every day depending on, you know, what time of the year it is. So, if I were sitting over there, I wouldn't accept this report. Thank you.

Mr. Ornellas: Thank you Mr. Gima. Any body else? Not hearing any, I'll bring it back to the members then. Any other questions for Lanai Resorts Water Company?

Ms. Zigmond: Mr. Chair, it's not for the water company, but so if we don't approve it then –. Well, it says that we may provide comments on the report so – maybe we can provide comments.

Mr. Ornellas: Okay.

Ms. Zigmond: Like have better, easier to understand data..

Mr. Ornellas: Yes.

Ms. Zigmond: And have the same, the same thing in front of us that is in somebody's notebook.

Mr. Ornellas: Understood. Any other comments to go on the report? Go ahead Joelle.

Ms. Joelle Aoki: Mr. Stubbart, could you please tell us, for example, today is June 18<sup>th</sup>, when would your next reporting period be for the next period?

Mr. Stubbart: I don't know the exacts dates. We will, we read the meters and we would have three, probably three, two month periods in the next report, from December into June, or a little less. We do quarterly reports, so the quarterly reports would be done after our readings on the 20<sup>th</sup> of the, of June, so they're in. And our department would, Ernie would tally up the, the information, and then we would put that into the semi-annual report that we would send to the County. So we probably would send it in July.

Ms. Aoki: So roughly would you say it takes you 30-days to generate that report?

Mr. Stubbart: Pretty much yeah. Between doing the bills and then tabulating it and double

checking it and then sending it over.

Ms. Aoki: And then from that point, when you release to the public, you're also releasing to the County?

Mr. Stubbart: We release it to the County directly through, on that letter.

Ms. Aoki: And again, just for the record, my understanding, Mr. Chair, is that the reason why we're reviewing this now is because it's been tabled several times? Alright, thank you very much Mr. Stubbart.

Mr. Ornellas: Go ahead.

Ms. Barfield: Hey John, can you explain, I mean, with the report, first quarter is 63 days, right? Second quarter is 120 days. Then third quarter is 60. Can you explain the rationality behind that?

Mr. Stubbart: Yes, we read the meters – now you're looking at the other chart, not that data, the six month. So when you read meters every two months, when we –. Because a quarter doesn't fall exactly in the reading period, it will get two meter readings in one period, and then the next period might have three, and the next period –. It hits the quarter so that's why we break everything down to gallons per day because the reading periods coinciding when the reports due, they aren't gonna match up every, every time. So if you go back in previous reports, you'll see that it's the same thing, a big, a longer period, a shorter period. A longer period, a shorter period. And so we read the meters on our schedule not to make the reports. So that's why you break it back down to gallons per day. Because that becomes your consistent data comparison – gallons per day. You got that? That's on the quarterly. Yeah. But same thing on the, the semi-annual report, the same thing. It will be a different number of days based on what's on the quarterly report.

Ms. Zigmond: Mr. Chair? You know that brings up something else. The quarterly – I mean, we have a six months report and a quarterly report, and that's really a challenge to kind of – you know, it's like apples and oranges.

Mr. Stubbart: The six months report comes from the . . . (inaudible) . . . report, but it's different data. It's different purposes. The report format is what it was –. I've been following the format since it was given to me by our predecessors. So it was part of the conditions for reporting. Mr. Gima mentioned that, you know, we should be doing it better. Well, this is how the County has been setting it up, and we've been reporting this way before, before I got here. So that's why I didn't challenge trying to change it because that's what we were asked to do.

Ms. Zigmond: And, you know, maybe we can be a rebel and when you come in for the next extension and we put a condition on it you can make it easier.

Mr. Stubbart: Yeah, and I'm not opposed to making it easier. I think what we'd like to do is

maybe work with the County's staff on putting a graph as Butch suggested because this data is meaningless unless you can see trends. I always look at trends. And so just looking at numbers, unless you can compare trend lines over the years, then it makes more sense.

Mr. Ornellas: Go ahead Joelle.

Ms. Aoki: Would it be possible, please, John, to have noted when you sent this report, maybe at the bottom of the report, just in the case. I know you send it with a letter, but, maybe a footnote here when it was sent to the County. And then, please, if the Planning Department could stamp when it was received. That way when we get it we know what happened in the process and how long it took for it to get to us. Please?

Mr. Stubbart: No problem. We're on it.

Ms. Aoki: Thank you.

Mr. Ornellas: Alright, do we have any other questions? That the County and the utilities department will come up with a better way of reporting? That sounds like a novel idea. Alright. Anybody else have any questions? Hearing none. I do have. I, you know, I mean, I gotta go with Bev. I mean, Ralph is gotta be nuts to stick a – I mean, you know, okay. Alright. Okay. Okay, great. Alright. And then, you know, by ordinance, LWAC is still in existence. Lanai Water Use – sorry, the Lanai Water Committee is still in existence by, by the Maui County Council. So I'm asking, I'm going to be asking the Planning Department to add LWAC to the distribution of this report whenever it comes out so we get, we get, the chair will get a copy of this report and not depend on other people to, to hand deliver them. This goes to the County. So the – I'm asking the county to add it because on the cover page from, to Ralph Matsuda from Mr. Yoshida, they give copies to Joe Alueta, and Joseph Prutch, Lanai Planning Commission, project file, general file, and I'd like to see next time, Lanai Water Advisory Committee. Can you do that?

Mr. Yoshida: Yes. The staff planner will do that.

Mr. Ornellas: Alright. I love it when a plan comes together. Alright, so is there any other comments that we can put on, on to this before we send it on its way? I guess not. So we're just – we've given our comments and the county can then proceed. And we'll move on to the next item on our agenda, no. 3, completion of orientation workshop no. 1, conducted on April 17<sup>th</sup> 2013 on legal issues.

**3. Completion of Orientation Workshop No. 1 conducted on April 17, 2013 on Legal Issues. (M. Hopper for J. Giroux)**

Mr. Michael Hopper: Good evening Mr. Chair and members of the commission. My name is Michael Hopper, filling in for James Giroux this evening. James told me that the couple of items that he didn't get a chance to address were a review of some case law and legal issues that will

come up from time to time at the commission especially dealing with conditions that you may place on projects. In addition I'm going to go over the contested case hearing projects.

Ms. Zigmond: Michael, excuse me. Mr. Chair, all the side conversations are making this difficult.

Mr. Hopper: And then going over some contested case hearing procedures. Just to note, these, these notes that I have may not match up exactly with Mr. Giroux's presentation. I'm giving the presentation that I give. This is not intended to be a comprehensive presentation on these issues, and you won't be able to get everything you need necessarily from a brief orientation like this. That's why you –

Mr. Ornellas: Excuse me, Joe, John, can you take it outside? Thank you.

Mr. Hopper: And that's why with – along with this, this is why you have a Corporation Counsel with you during meetings is these issues will come up during the actual process of reviewing projects, taking action on projects, and so as those, those projects and those issues come up, you will have a Corporation Counsel to advise you on these issues. But again we're trying to get a very basic overview, not comprehensive, but a basic overview of some key issues when you're dealing with land use and the law involved with land use practice.

The first issue I'm going to go over a few case law, some relevant case law in the State of Hawaii. And the first issue deals with Takings. You may or may not know the Fifth Amendment of the United States Constitution prohibits the taking of private property for public use without just compensation. Basically the government can take personal, can take people's land and take private property, but it has to pay for it. It cannot get that land for free. This comes in to conditions that the Maui – or that, that, in Maui County that, that various boards and commissions, from time to time, dealing with land use permits, may require as a condition to that permit, something that would perhaps involve maybe an easement, an access easement or the dedication of a portion of property for the, you know, as a condition of approval for the, for that permit.

In addition, this Takings clause is also implicated when a board or a commission may act to either prohibit a permit from being granted, or condition a permit from being granted on the, the applicant giving up some type property right. The Supreme Court has stated in a case in the 80's entitled Nolan versus California Coastal Commission on the following:

*“The government's power to forbid particular land uses in order to advance some legitimate police power purpose includes the power to condition such upon some concession by the owner, even a concession with property right, so long as the condition furthers the same governmental purpose advanced as the justification for prohibiting the use.”*

So that's where we get into essentially this three part test of the U. S. Supreme Court has come up with that the Commission is going to have to consider if it plans to condition a land use

entitlement on the fulfillment on some type of, on the giving up on some property right, or the performance of some act by the individual or company seeking the permit.

First is the issue of, again, legitimate state interest which is what we just went over. And that means that the, the type of condition needs to deal with the type of, the type of issues that the permit being sought is, is seeking to target. Meaning, for example, the Special Management Area law. The SMA law does not allow you to place a condition upon a project for anything that you want what you think would be good. You couldn't condition an SMA permit on, for example, saying well, you want to build something in the SMA you have to give a million dollars to charity of our choice or something like. That's generally not a condition that, that you could impose. It needs to be related to some of – a goal, objective, or policy of that law. The Special Management Area law, for example, has a list in the law of a specific list of goals, objectives and policies of that SMA law. That is a good place to go in order to determine if in that case a condition that you're contemplating deals with an issue that the law seeks to deal with. And this applies for all permits, and using SMA as an example because it's a type of permit you'll see a lot if you're dealing with the State Special Use Permit or other types of permits that you're deciding. The topics, essentially, that you can use of condition or other mitigation that you would like to impose on, on the applicant, needs to be related to the purpose of that law. Why do you need a permit to do this thing? In the case of the State Special Use Permit, it's because it's a use that's not allowed by the agricultural law. So you would look at the purposes of HRS 205 which is the ag law, the state ag law. And for the SMA, for example, you would look for the goals, objectives and policies of the SMA law and focus your attention there.

Now in addition to the legitimate government interest issue is also the concern of rough proportionality. There may be an impact on the project, but the condition that you impose to mitigate that impact needs to be roughly proportional to the impact that the project is going to have. Generally you could not require, let's say, for a State Special Use Permit, I don't know, the re-paving of an entire four lane highway for a single-family house being built or something along those lines. Even if the house might have a traffic impact in a given case, you wouldn't be able to condition that house and make that house pay more than their, what they would call their fair share of an impact in order to get the permit. And then deny the permit if it refuses to, or is unable to, meet that condition. That would be a failure of rough proportionality.

So here's what you're dealing with essentially when you're dealing with any condition. You're dealing with a legitimate state interest in a central nexus with that interest which is another issue which is the condition imposed actually mitigates the, the issue that you're seeing that, you know, the condition has to do something to prevent the potential harm that the project may have if that condition were not imposed. And then rough proportionality which is the, essentially, the degree of impact the project may have. And the condition can't be any greater than the degree that the project is anticipated to have. Again, I went over the SMA law has a list of goals, objectives and policies in it. That is a good place to go to see if your condition is one that is covered by the goals, objectives, and policies of the SMA law.

Those goals, objectives and policies include protection, preservation, restoration and improvement of the quality of coastal, scenic and open space resources, and the design and

locating of new developments to minimize the alteration of existing public use to and along the shoreline. That's an example.

Mr. Ornellas: This stuff you're talking about now is not, was not in our packet. This, these last two pages, so we're basically –

Mr. Hopper: I typically don't give this out when I give you the presentation. I give it orally. If you like the slides, I can provide that to you. This is all case law though that's relevant to the, to the commission, and is in fact very important. It's not – I may have a different presentation than Mr. Giroux had sent out, but because of a scheduling issue he was unable to attend this. This is, I mean, this is the law at the time, and you know, if we need to – I can certainly provide this to you.

Mr. Ornellas: Okay, any objections for him to continue without the piece of papers in front of you?

Ms. Zigmond: Especially regarding the SMA, I'd like to have as much information as I can. I don't know that I have any real objection, but again, it's making it difficult not to, to have in front of us. My ears don't process that quickly at this time of the night.

Mr. Ornellas: Okay Bev. In talking with Clayton, next meeting, we are going to go in depth with SMAs. Okay? Any objections? We'll just let Mike continue.

Mr. Hopper: And again, I, I typically give this as a power point which is a bit more helpful, but I do not hand out the slides unless requested after the meeting. So I've done this before. I think I've probably given this exact same presentation before to this commission. I know I've done it with others, but I apologize if it's a bit difficult to follow. But again when an SMA permit comes up to you, you will have a legal advisor to advise you on that permit because there's, there's very different issues depending on each particular permit so that's important to know.

One case that was, that's important to, I think, talk about is Topliss versus, and the, I believe, it was the Hawaii County Planning Commission. In that case, the planning commission denied an SMA permit because of the excessive traffic impact they believed the project would have. The court, the Hawaii Appellate Court reversed the commission's denial because the commission in denying the permit based on traffic concerns did not tie the traffic concerns to any of the specific goals, objectives and policies in the Coast Zone Management Act. Now if you read the Coastal Zone Management Act which is HRS 205A, you will not see traffic as one of the concerns that act seeks to minimize. However, the court said perhaps in this particular case, the traffic issues did relate to a goal, objective and policy, but it sent it back to the commission in order to make findings. The traffic issues had some sort of impact, again, dealing with, for the most part, coastal zone impacts. And again, there's a list of goals, objectives and policies. And the court, in that case, reverse the commission's denial of the permit because it was not satisfied with the findings it had made. It was not satisfied on the findings it had made with respect to the denial. Because traffic impacts in of themselves without tying the goals, objectives and policies is not something that the special management area law

seeks specifically to mitigate. Possibly because traffic is an impact that happens whether or not you're in the SMA or outside of the SMA. I think that's appropriately done through the ordinances or other types of approvals. But that's what the court decided in that particular case.

In addition to the issues with the Takings clause. Those were a series of Takings cases, and what kind of conditions that are, that are allowed. I also want to briefly talk about some other actual duties the commission has in deciding its permits, and these includes SMA permits and State Special Use Permits. The commission, the planning commission has an affirmative duty to protect cultural resources. And, in addition, specifically the commission is obligated to protect the reasonable exercise, customary and traditionally exercised rights of native Hawaiians to the extent feasible. This, potentially, in certain cases may require a developer to retain a qualified archaeologist to determine significance of various archaeological sites on lands to be developed, and prepare written reports regarding preservation or salvage historical resources and archaeological sites prior to the issuance of the SMA permits. Now, this, this is again a reason why you have a legal advisor for a particular case. But how this would normally happen was that if the commission is made aware of either traditional and customary native Hawaiian practices occurring on property that's seeking an SMA Permit or is aware of other issues such as presence of Iwi on that land, it has an affirmative duty to prior to acting on the SMA permit to determine what those rights are and to protect them, including through, whether it's through easements, requiring the developer to have, have certain areas preserved or undisturbed, and potentially requiring the developer to do an archaeological report and provide that to the commission prior to decision making. Again, these are if those gathering rights are brought to the commission's attention, the commission is made aware of them, and has information on those, those customary and traditional rights. Once that happens there are certain legal duties the commission does have. And again you will be advised on them when the permits, when the permits come to you. That that's something there is a variety of case law on. I won't go over all of the case law or all of the details because it's not possible to really get a feel for all of it quickly, but those are issues that come up.

And finally I want to talk with you about the Religious Land Use and Institutional Persons Act or RLUIPA which is typically how it's referred to. This prohibits the government from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution unless the government demonstrates the imposition of the burden on that person, assembly or institution is in furtherance of a compelling government interest and is the least restricted means of furthering that compelling interest. Essentially what you need to know now I think is that if you are dealing with a religious institution, a church or other institution that's coming in for a permit, there are particular issues that come into play, and the commission is going to have to make additional findings typically in voting on that permit or conditions on that permit. That, again, your legal advisory can advise you, but that has come up from time to time. Again, only implicated if you're dealing with a religious institution.

And that's my, and that's my introduction on case law. Again, it's not possible to go over as many years of Hawaii cases that have been, that have happened over, you know, the entire life of, you know, since the 60s when the Hawaii land use laws were in place in this short amount



of time. But I'm trying to give a basic overview so that when we do talk more specifically about those issues with you while permits are pending, you will have a good basic understanding of what's happening. And again, I can provide the power point slides to you after this meeting, but these are the, the kind of basics, and this the typical presentation I would give for a commission. And before contested cases we can do questions. It's up to the chair.

Mr. Ornellas: Do we have any questions for Mike, Commissioners? Do we have any, anybody in the audience would like to ask Mike questions about what he said? I have one. Can, can the Lanai Planning Commission, can the planning commission trigger EA's or EIS's?

Mr. Hopper: Well typically you would need to review the – there's HRS 343, there's a list of triggers. Typically those triggers are, if there's a use of state or county lands or funds. I'm not aware of a case where a commission is voted to require a project to go through an SMA or to go through an environmental assessment. Now the commission knows when it's dealing with SMA permits, has the ability to request information that it needs and can, can require an awful lot of information. I would say, almost to the extent of what an environmental assessment would, would required any way through the basically the fact that an applicant for an SMA permit has a burden to establish that they're entitled to the permit and meet the criteria in the permit. And so if you're not satisfied with the information provided, then that can be provided to you. I'm not aware of the case though of the Maui Planning Commission ever – of Maui Planning Commission or any other planning commission taking a vote to require an EA trigger. Maybe Mr. Yoshida knows of that, but I don't think that, that's ever been done. Typically the department would require that EA be preformed prior to that permit coming to you. And I think in fact that the planning commission is typically the accepting authority of an environmental assessment when that comes to you prior to even the SMA permit coming to you. I have seen that in many cases. But, I mean, the planning commission within the SMA is the authority under HRS 205A, and that's important. So, again, I'm not aware of any case where that's happened. Typically you have the – you know, I suppose the commission could look at a denial of a permit because they did not have enough information or, or because they believe that an environmental assessment should've been provided and was not. But I've never seen a case where the commission said, you've got to do an EA, and took action to require that. I've had a commissioner in the past state that but there was, there was, no one seconded the motion, I think, to require an EA. That's my experience. Maybe Mr. Yoshida has additional comments, but that's all I know.

Mr. Yoshida: Typically if there is a trigger under the environmental impact statement law, Chapter 343, HRS, and the commission is dealing with some permit or approval, like a community plan amendment or shoreline setback variance. If it's an applicant action, the commission would be the accepting authority on the environmental document.

Mr. Hopper: Again, for environmental assessments there's a specific list of what triggers an EA. There's also an exemption list of things that are exempted that the environmental council of the state has to approve. And that has a list of exemption for certain issues. But that's where you get the EA requirements. So it's not that if someone needs an SMA permit, for example, that's not trigger in or itself. They would have to either have a, need a shoreline setback, have a use

in the shoreline setback area that would trigger, a use of state or county land or funds. And I know that's broad, so there's a lot of exemption categories there and certain other triggers. But it's not, for example, every project in the SMA or every special use permit that requires an EA. It's a separate set. And I think the department will give you a more specific orientation on the environmental assessment law. If it hasn't already done that, I think that's something that's coming to you in the future. And I know that's part of the standard orientation.

I have one last thing on contested cases. Contested cases basically has this commission and the commissioners acting as a judge and jury. You are what we call a quasi judicial body acting within your quasi judicial capacity. A contested case by state law – and this is found in Hawaii Revised Statutes 91, HRS 91 – it means a proceeding in which the legal rights, duties or privileges of specific parties are required by law to be determined after an opportunity for agency hearing. So, two things. You would need to have someone's legal rights, duties, or privileges determined by the commission, and a hearing required before the commission. Not necessarily a public hearing through newspaper notice, but that's a separate term in the county code. But, just a hearing before the commission where the person is allowed to present the case to you.

Now once you're in a contested case hearing, there are several issues that, that apply to you specifically. The requirements are that the parties to the contested case hearing have to be given notice. They are allowed to submit evidence before the commission. They are allowed to cross examine any witnesses that testify, and also provide rebuttal evidence, rebutting any evidence against them. And the, the state law states that the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. And the degree or quantum of proof shall be by preponderance of the evidence. That's a fancy word for saying that it is the, the applicant has to show that is more likely than not that they have, they have established the – they have established the criteria required for the permit. Preponderance is to be – is considered usually to be a showing of 51% likelihood. It's to be contrasted with, for example, beyond a reasonable doubt. That's an evidentiary standard in criminal cases. That's typically meant to mean around a 90% plus chance of, of proving the case. But when you talk about preponderance of evidence that means that the proof required was to show that it's more likely than not that you've established that you're entitled to the permit and meet the criteria. And that's in state law for all contested cases.

Another issue with contested cases is that the decision maker is required to personally consider the whole record or such portions of thereof as may be sided by the parties. And every decision and order adverse to a party must be in writing and be accompanied by separate findings of fact and conclusion of law. So when the commission makes a decision on say granting an SMA permit typically you'll have a staff report, and then there will also be a recommendation from staff which includes conclusions of law and then a decision stating the permit's approved and here are your conditions. That's required in contested cases. Typically SMA permit approval hearings would be contested cases. The decision needs to be served on the parties, and parties are entitled to judicial review of final decisions on contested cases. That means if the commission makes a decision, parties in that case are permitted to seek judicial review from

the circuit courts essentially looking at your decision.

When the review is happening, an administration agency's findings of fact are reviewable for clear error, while conclusion of law are freely reviewable. This means that the court in reviewing your decisions is going to look at your fact findings with a degree of deference. It's going to defer to you unless you're clearly wrong on those facts. But when you're dealing with conclusions of law which are legal issues and legal conclusions, the courts can freely review those legal conclusions and does not need to give the commission any deference. This means that while the commission is making its decision, I think the best thing the commission can do is to back up its decision making, and the department, in drafting these reports, to provide back up in the form of as many facts as possible in favor of the position. Because when that gets to court the worst thing you can have is that there's no findings made by the commission on an issue that was required to have findings made on it. If there were findings and the court disagrees with them, it still can't overturn them unless its findings are completely wrong. But if there's an area where you've made no findings on such as in Topliss, the commission didn't make any findings that the traffic impacts were related to the goals, objectives and policies of the SMA law, the court remanded and said, you've got to do this over again and make some findings here. And so that's why it's good if there's issues the commission reviews to make clear findings on those issues.

And I believe – oh, and this is what the court can do with your decision. The court may affirm the decision of the agency or remand the case with instructions for further proceedings. And so, the court can send the decision back to you and say you've got to make changes or make additional findings. Or, it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudice because the administrative findings, conclusions, and decision or orders are – and there's a list of problems that the commission can find or that the court can find. I'm not going to go over every single one of them. I would literally be reading HRS 91 right now. But there's a variety of issues that the court can review. I think that the main point to take out of this is in your final decisions you should make sure that you're comfortable with the written findings and conclusions the department provides to you. If you want to add anything to those, you can add to that, and request that be transmitted along with the commission's final decision. But that's, that's very important.

One final note. When you're dealing with the contested case, you are acting as a judge in jury. This means it's very important that you have no contact with any of the parties to that contested case outside of here, in public, at the hearing. It would be as if the juror went and either did their own investigation in the middle of the case, or went and talked to one of the parties outside of the case. There should be no contact between the applicant, individuals who may oppose the project, et cetera, with the commission members while a contested case hearing is going on. It needs to be taken seriously as if you were a juror in a case. And so that's important. You're also required to remain impartial throughout the proceedings, and I would advise against making conclusory remarks or statements for or against a particular project because that could result in you, potentially, having to recuse yourself from that project. If, for example, before a project comes to you, and you may say publically, this is a really stupid project, there's no way this should be approved. If that happens, then you could find yourself not being able to vote on

that project when it come before you. The, the goal of this law is to require that all the parties have a chance to present evidence before you and get their, the due process to which they're entitled, and then you make a decision based on the evidence presented to you and the record that's presented to you and not on anything outside of that record. So that's the general –.

Oh, again, avoid any statements that may be mistaken as an attack on someone's race, sex, gender or religion in the proceeding. Frankly, I shouldn't have to tell you that, but that's, that's the law, and, you know, that's something you need to be aware of that you're on the record here and when we're dealing with contested cases anything that happens on the record here could end up in court and be very closely scrutinized. So just keep that in mind while we're, we're looking over projects.

Mr. Ornellas: Thank you Mike. Any questions for Mike on, on what was just presented?

Ms. Aoki: I have a question.

Mr. Ornellas: Go ahead.

Ms. Aoki: How would the planning commission might initiate an amendment to the SMA boundaries?

Mr. Hopper: Well, that's a bit beyond the scope of my presentation, but we do have rules in your, in your SMA rules, and they do have a process for doing that. It does require a, a study typically. Let's see – oh, no, this is a different section of your rules. Sub-chapter three – I don't want to go over all of it – but sub-chapter three of your rules, which is on page 402-22 of your rules, is entitled procedures to adopt special management area rules, and several other – and adoption and amendment to boundary and maps. They – you are required – there are certain voting requirements. I think there's a two-thirds vote required. And typically a study would need to be done showing the basis for the expansion. I think that's been asked before by this commission. Not necessarily these commissioners, but by this commission. And that information was provided. But again, it's in your rules, and there's a specific process for that. It says, yes, it says the commission may amend the special management area boundaries only upon the finding that the amendment will further the objective and policies of Chapter 205A, HRS, as amended, and will be consistent with the General Plan and other applicable ordinances of the County of Maui. And so in, in, in past cases, in order to fulfill that, there have been studies done in order to show the basis for extending the boundaries. But there has to be – there's other requirements the commission is required to follow.

Ms. Aoki: Mike, what kind of studies? Could you elaborate please?

Mr. Hopper: Maybe Mr. Yoshida can – basically showing that the potential environmental impacts, I believe, of those areas. And I mean, typically, you wouldn't have an SMA boundary extended to cover an entire island in a case. But that's something that I think – I haven't dealt with the previous studies that have been done. I don't know if there's been a study here. I believe there was one for, for the boundary in Kihei. Actually, to reduce it. But, you know,

those are, those are cases that I haven't been involved in. But typically in order to make that finding, you would need a basis that was sufficient under your rules. And the State Office of Planning has said that if the boundary is extended, in order to retract it, I think that you do need the permission of the State Office of Planning in order to retract that.

Ms. Aoki: So either retraction or extension, you would still need the State's consent.

Mr. Hopper: I don't know about extension. This is, this was from years ago. I remember the State Office of Planning coming over and saying, yeah, you can extend it without state approval, but any retraction requires state approval. Now again this was several directors ago, and several years ago, so I don't know if it's still the case. But that's what we were told years ago. I think when – it was Mr. Tom who had come over. But again, I think Mr. Yoshida or I'm not sure who worked on that project, but we have worked on SMA expansion projects before. I think Molokai considered it as well. Clayton, do you have anything to add?

Mr. Yoshida: I think we can talk about this further at the next meeting because we have the CZM workshop. We'd be going over your SMA rules and your shoreline area rules. But I guess it should relate to promoting the policies and objectives in protecting the coastal zone management.

Mr. Ornellas: So we'll bring that question – in fact everybody – for the next meeting, bring your questions concerning SMA so we can have a real good discussion about it.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Is that going to be a workshop? I think it needs to be as in depth and comprehensive as possible.

Mr. Yoshida: Yeah it's part of your orientation training because we break it up into land use permitting, case law, ethics, sunshine law that Corp Counsel does, and then Special Management Area and Shoreline Area.

Ms. Zigmond: Will we have good handouts please?

Mr. Yoshida: Yeah, they typically have a power point presentation and they will provide their handouts with their power point presentation.

Mr. Ornellas: Homework for next meeting, read the chapter, in your binder, on SMAs. Alright, anybody else? Alright, thank you very much. Alright let's go on with – I think we're on director's report. Director's Report, Open Lanai Applications Report.

### **C. DIRECTOR'S REPORT**

## **1. Open Lanai Applications Report**

Mr. Yoshida: First of all I would say that the property address of the Adam Waterous proposed new dwelling property at Manele is 145 Kapihaa Place. And we see market increase in the number of open projects that were submitted in the latter half of May as reflected in the statements made by representatives from Lanai Resorts at the May 29<sup>th</sup> meeting. So, we have a lot of applications from Lanai Resorts LLC.

Mr. Ornellas: Thank you.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Are we still on this? Because I have a question and a comment.

Mr. Ornellas: Yeah, the open projects?

Ms. Zigmond: Yes please.

Mr. Ornellas: Yes. Go ahead.

Ms. Zigmond: First of all thank you all for the cheat sheet with all the abbreviations and such, but I think the department can save some taxpayer's dollars and doesn't have to put that in every month because we could, you know, have it for – it seems an excess use of paper. Sorry. This one, the – this one.

Mr. Ornellas: Yes. You're right.

Ms. Zigmond: But anyway my question on the completed projects there is a conditional permit that happened at the beginning of the year. I was just wondering if somebody could tell us what that was, Dr. Jennifer Dustow a request for a Conditional Permit. It's on the completed projects about midway through.

Mr. Yoshida: That was a request for comments, an RFC, regarding possibly a need for a Conditional Permit, and it was handled by Mr. Prutch, so maybe Mr. Prutch could report on it further.

Mr. Prutch: Yeah, I'm trying to remember. It's coming back to me. Like he said, it was a request for comments, so it wasn't a conditional permit. Not yet. She was asking what permits do I need to do, I believe it was a, kind of a medical facility of what, of some sorts, but I don't remember it specifically. If you want I can probably pull that and I can send the letter to you. But anyways I commented, told her what kind of permits she would need to do what she asked to do and I don't believe she's come forward with an application yet.

Ms. Zigmond: Was it in the city?

Mr. Prutch: I believe so, but I don't quite remember. I'm sorry.

Ms. Zigmond: I mean, a medical facility is pretty, pretty huge.

Mr. Prutch: I think it was more of a specialized, small medical facility. Oh, the conditional permit part of it was small medical facility, very specialized, with some over night. There was over night accommodations to go with it, like it was a week long session or something like that, but I don't remember specifically what it was for. I can get a copy of that letter easily and send it to you if you like. I just don't recall exactly what it was. I vaguely remember.

Ms. Zigmond: Thank you.

Mr. Prutch: But I don't believe there's an application yet.

Mr. Ornellas: Joe, I mean, you know, stuff like that, I mean, you don't need an address for Lanai Airport runway? But you should provide an address for Dustow, Jennifer, doctor. You know what I'm saying? So that way we have some sort of an idea where this, this address is.

Mr. Prutch: Yeah, I mean we have a TMK number, but if you're not able to look that up then yeah.

Mr. Ornellas: Okay, but that gives – that was coming on my next question is if it was just a request, then why was it a permit number issued to it?

Mr. Prutch: The permit number is the RFC. That is a request for comments. So any time, an RFC can be anything. In her case, she submitted a letter saying this is what I'd like to do on Lanai, I believe in the city, but I can't quite remember. What do I need to do to do this properly? That was her letter to us. And then it gets given a permit number by our clerical, and then it gets put on my desk. And then I review it and I respond to it, and then it's done. So it's just simply a request from somebody in the public and it's our comment to them. That's the permit. It's not really a permit like you're thinking of a conditional permit, but it's a request for comment permit number.

Mr. Ornellas: Go ahead Joelle.

Ms. Aoki: So this is a private practice, I believe, right?

Mr. Prutch: I believe so, yes.

Ms. Aoki: Thank you.

Mr. Ornellas: It's on Houston?

Mr. Prutch: Houston. Thank you.

Mr. Ornellas: 254 Houston. Thank you Shelly.

Mr. Prutch: Good job Shelly.

Mr. Ornellas: You work for the Planning Department. No, you already work for the County. But can you see, can you see my point? I mean everything on here, everything on here is we can – we know where Lanai Resorts hang their hats, and so you don't need to really – but that one would be – is that the purple church? Okay, so, I mean, if we had the address, then we would have known it was the purple church. Okay. It's not like you're going to do one for everybody. It's just those ones that, that stick out like a sore thumb.

Mr. Prutch: I hear you. I'm, I'm not the maker of these reports, so it would have to be either Clayton or Leilani. And I believe this is done through KIVA as an automatic. It just spits it out based on KIVA information, so I'm not sure how we'd get the address in there, but that might be something to look into or put it in separately.

Mr. Yoshida: Yeah, we'll, we'll check to see if we can include the address.

Mr. Ornellas: Like I said on, like, this whole page just that one stands out. We all know where the laundry mats at, the Health Center, the Police Station so –. Anybody else have any questions concerning projects, closed or open? Hearing none, I want thank Lynn for getting all these, after the fact permits in. Thank you very much. You have one more, and what one would that be? I don't want to put you on the spot.

Ms. McCrory: It is for work down at Beach Park where they took the grass out and then they raised the drainage out.

Mr. Ornellas: Oh, okay, the center part of driveway.

Ms. McCrory: The center part of that, so we have to get a certified shoreline. It's going to be months before you see that one.

Mr. Ornellas: Okay, great.

Ms. McCrory: But, that's our next one.

Mr. Ornellas: Thank you. I just found another one. It's on the open, second from the bottom. Adam Waterous, new dwelling, Lanai.

Mr. Yoshida: . . . (inaudible) . . .

Mr. Ornellas: Is that the one you did?



Mr. Yoshida: Yes.

Mr. Ornellas: Thank you. Next time staple it to my forehead so I wouldn't miss it. Okay, let's move on here. This is – we're done with Lanai applications. Then we go on to number two, agenda items for July 17<sup>th</sup>, Lanai Planning Commission meeting. Public hearing on the following matters, (a), William Spence, Planning Director, transmitting a bill for an ordinance amending Chapter 19.27, Maui County Code, repealing Chapter 19.615 relating to Parks District. Can you just give us a reader's digest version of this?

- 2. Agenda Items for the July 17, 2013 Lanai Planning Commission meeting. July 17, 2013 Public Hearing on the following matters:**
  - a. Mr. William Spence, Planning Director, transmitting a Bill for an Ordinance amending Chapter 19.27, Maui County Code, and repealing Chapter 19.615 relating to Park Districts. (J. Alueta)**

Mr. Yoshida: Thank you Mr. Chair. Basically in Title 19 there are two park districts. There's 19.27, Central Maui Park, and 19.65, Park District. So we're trying to consolidate the two in to one. And also, Joe Alueta has been, Administrative Planning Officer, has been going to classes of systematically trying to amend our zoning ordinance, update our zoning ordinance, I guess, section by section. So, you know, we've done the residential, we've done the apartment, we've done the hotel, we've done the business, we've done the industrial. So now it's time to work on the park district.

Mr. Ornellas: Okay, great. Thank you very much. And then item (b) Mr. Spence, Planning Director, transmitting a bill for an ordinance amending Chapter. 19.04, Maui County Code, to include the definition of wet bar.

- b. MR. WILLIAM SPENCE, Planning Director, transmitting A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, TO INCLUDE A DEFINITION OF "WET BAR." (J. Alueta)**

Mr. Yoshida: This arises from our experience with short-term rental homes where they have a single family dwelling and they have, like, six wet bars, which, which are like kitchens. I mean, pretty much you have a heating element, you have a refrigerator, you have a cooling element, and so forth. So we're just trying to refine that so that everybody is on the same page and we don't have six wet bars in one single-family resident.

Mr. Prutch: A big deal on Maui.

Mr. Ornellas: Will we, will we be getting an example brought to our meeting fully stocked?

Mr. Prutch: It is Joe Alueta. Maybe.

Mr. Ornellas: Okay, and then also the SMA will be also added to the SMA on instructions, and that's important for us to read that, our binders.

Okay, just a couple of announcements, tomorrow we have CPAC. Butch is chair so it's gonna be held at the old bowling alley at 6 p.m. tomorrow. And I, I hope that most of the commissioners get a chance to go because they're moving ahead, and there's definitely some, some new things in the horizon. Yes sir John.

Ms. Zigmond: Mr. Chair?

Mr. Stubbart: . . . (Inaudible) . . .

Mr. Ornellas: Yes, understood. I was getting there. I was getting there.

Ms. Zigmond: Before you get there –

Mr. Ornellas: Go ahead.

Ms. Zigmond: Isn't there a conflict? It's my understanding that we all just can't show up at the CPAC.

Mr. Ornellas: It was clarified at the, at the workshop that we all can attend, but we can't discuss it amongst ourselves. But we can attend. I mean, we're a part of this community just like anybody else, and we have the right to, to go to these things. And according to Joe, he said that we can go, but we can't huddle in a, in a group and make decisions based on what we're hearing.

Ms. Zigmond: That's not what I remember James saying a couple of meetings ago.

Mr. Ornellas: No. Okay, and I asked James too, and he said basically the same thing. We cannot discuss or make decisions at, at, at these, at the CPAC meeting or the workshops or whatever that comes to the island. But we can attend. We just can't discuss it among ourselves.

Ms. Zigmond: And we really can't sit together or stand together because it will be the perception of.

Mr. Ornellas: Understood. But, we're grown ups, so, if, if, you want go, if you want to be sued, then this would be, this would be an item that Mike just talked about. If you want to be sued, then, then go ahead and start talking amongst ourselves about some of these stuff, and we will be sued. And I've been involved in a lawsuit a while back with the Department of Health, and that was for millions, and millions of dollars. So we don't want to get into that. So just be on our – let's just be good boys and girls and not discuss this amongst ourselves. But please show

up. We need to know what's going on in this community. And then also the IRP is tomorrow night, and it's going to be held in this room at 5 p.m. tomorrow.

Ms. Zigmond: Hale Kupuna.

Mr. Ornellas: Oh, it's Hale Kupuna? I thought it was this room. Butch? It's Hale Kupuna?

Ms. Barfield: Can you clarify what's IRP?

Mr. Ornellas: It's the electric company.

Ms. Zigmond: Integral Resource Plan.

Mr. Ornellas: Right. If you, if you need to find out details call Sally. She's our representative on – she's Lanai's representative on the IRP, along with a few others, but that's the only one I can remember.

And I have a question for Clayton. American Planning Association.

Mr. Yoshida: As reported at the last meeting, I did discuss this with the director, and at this point we're willing to fund the membership for the chairperson.

Mr. Ornellas: Alright, and has that been sent in? Has the application been sent in?

Mr. Yoshida: Not, not yet, as we're doing it for the three planning commissions.

Mr. Ornellas: Okay. So hopefully soon. Anybody else have any comments or notices that they want to get out? Nothing hearing none, can I – our next meeting is July 17<sup>th</sup> so all in favor of adjournment say aye. Anybody wants to stay longer? Alright, it's adjourned. Thank you.

**D. NEXT REGULAR MEETING DATE: JULY 17, 2013**

**E. ADJOURNMENT**

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:34 p.m.

Respectively submitted by,

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

**RECORD OF ATTENDANCE**

**PRESENT:**

Joelle Aoki  
Shelly Barfield  
Priscilla Felipe  
Stacie Koanui Nefalar  
Stuart Marlowe  
John Ornellas  
Bradford Oshiro  
Beverly Zigmond

**EXCUSED:**

Kelli Gima

**OTHERS:**

Clayton Yoshida, Planning Program Administrator, Current Planning Division  
Joseph Prutch, Staff Planner  
Michael Hopper, Deputy Corporation Counsel, Department of Corporation Counsel  
Mich Hirano, Munekiyo & Hiraga, Inc.