

**LANA'I PLANNING COMMISSION
REGULAR MEETING
AUGUST 21, 2013**

APPROVED 10-16-2013

A. CALL TO ORDER

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 5:00p.m., Wednesday, August 21, 2013, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Mr. John Ornellas: The Lana'i Planning Commission meeting of August 21st come to order. Looks like we have quorum. In fact we have a full house. Thank you all for coming. First, first item B on our agenda is the minutes, approval of the minutes of June 19th, 2013 meeting. Bev, you want to start off? You had some –

B. APPROVAL OF THE MINUTES OF THE JUNE 19, 2013 MEETING.

Ms. Beverly Zigmond: Mr. Chair?

Mr. Ornellas: Yes, good morning Bev.

Ms. Zigmond: Yes. Yes buenos dias. I had sent around to Leilani minor corrections and I will move that the minutes be approved with those corrections.

Mr. Ornellas: Any objections members? Hearing none, all in favor to accept the June 19 –. Can we have a second then?

Mr. Stuart Marlowe: Second.

Mr. Ornellas: Okay, everybody wants to be a second. Brad, you seconded it? Oh, Stuart. Stuart seconded. Any discussion? Hearing none, all in favor of accepting the minutes with the exceptions –

Ms. Zigmond: Corrections.

Mr. Ornellas: – correction raise your hand? Unanimous. Thank you.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stuart Marlowe, then unanimously

VOTED: to approve the June 19, 2013 meeting minutes with the corrections as submitted.

(Assenting: J. Aoki, S. Barfield, K. Gima, S. Koanui Nefalar, S. Marlowe, B. Oshiro, B. Zigmond

Excused: P. Felipe)

Mr. Ornellas: I do have one questions for, for the County. Leilani, the July 17th minutes, how far are we from that? Okay, since next month's meeting is a no go because we're all – you guys are all going to this conference, we'll be able to catch up, catch up to the October meeting? Okay, great, thank you. Let's go to item C, presentation by Pulama Lana'i on proposed Lana'i desal plant. Lynn McCrory, Vice-President Government Affairs, will, will lead it off. What's that? No. John de la Cruz, can you hit the lights there please? You got it.

C. PRESENTATION BY PULAMA LANA'I ON PROPOSED LANA'I DESALINATION PLANT – Lynn McCrory, Vice-President of Government Affairs, Pulama Lana'i

The presentation is for information purposes only. No action will be taken.

Ms. Lynn McCrory: Wow. I don't think I've seen a crowd this large in I don't know when, so thank you all for coming. I'm Lynn McCrory with Pulama Lana'i, and we are delighted to be able to give the first presentation on the desalination facility that we're planning down at Manele. This presentation is going to be a general overview. It is – I'm sure there's going to be some detailed questions that we can't answer at this point. But I do want you to know that we will be doing ongoing presentations some where between every four or six months as we further progress on it so be prepared for additional time that we can all get together and enjoy it. And these guys are really comfortable on the sofa over here, so you can kind of line up to get there first. So thank you Chair Ornellas and commission members. I'm going to turn it over at this point to Arlan Chun. He is our senior vice-president of development and construction and the desalination facility is his responsibility so he will introduce the team and then we'll go through the presentation. And at the end we'll have questions from the commissioners. And then –

Mr. Ornellas: We, we will have – we'll have public, public testimony followed by public questions, then commission members questions.

Ms. McCrory: We're not going to put commission members questions first?

Mr. Ornellas: No. We'll going to put them at, we're going to put us at the end.

Ms. McCrory: At the end? Okay, fine. Thank you all again for coming. We're very delighted to see as many of you here. So I'll turn this over to Arlan. Thank you.

Mr. Arlan Chun: Welcome everybody. Thank you Mr. Chair and commission members. I'm just going to point to kind of give you an overview of our, of the facility, and leave some of the technical questions to our experts that we have on hand. And let me introduce you – let me introduce you to the people that we have onboard as part of our project team. Closet to me sitting in this row right here is John Stubbart. He's director utilities with Pulama Lana'i, and also in charge of the water company. Next to him is Mark Lambert with IDE Americas. IDE is the company that we have engaged to design and fabricate the actual desal plant, and they are

located in San Diego. Next to him is Byron Washom. He is our energy consultant out of UC San Diego, and he is, for this, the purpose of this meeting he is focused on the energy requirements for the desal plant, but his overall and much broader responsibility is working on the energy structure and design for the entire island. Next to Byron is Hugh Strom. He's a senior vice-president with Aqua Engineers. Hugh is onboard as our liaison with the Department of Health regarding working on approvals, test protocols. Anything that we need to satisfy Department of Health, Hugh is going to leading that effort for us. Next to Hugh is Tom Nance with Water Resource Engineers. He's our well designer, well engineer. He's designing, producing the specs for our wells, and, and interfacing with our drillers. So you'll be hearing from these guys in a short time, and they'll be going over some of their more specific areas of their responsibility.

So as you can see this is an overall map of Lana'i, and the, our desal facility is located down in the Manele area. This is the hotel right here. So this is a blow up of our master plan for the desal project, and it consists – so you can see down here the golf holes up at the top – and it consists of, right now what you're seeing is our phase one, phase two master plan. So phase one is going to be composed of three source wells down in the corner here. Two of which are going to be used by the desal plant, one is going to be acting as a back up. The disposal for the recharge wells on this site we will need, we'll be drilling two wells, one which will be used, and one which will be a back up. And then the main desal facility with the, the main plant, the control buildings, storage tanks and what not are going to be there. Phase two includes another well on each side, more tanks, and also we're going to be introducing pump hydro which is an energy storage type of facility that we will when we start integrating renewable energy – solar, wind, what not – that will be used to kind of off set the fluctuating power out put.

Now in phase one, the phase one design is going to be for 2.5 million gallons per day. And the objective of phase one is to isolate and keep the, upon completion, keep the Manele area independent from the high level aquifer wells which is wells number two and four. So once, once we are finished with phase one, then Manele would be only served by the desal plant and not by any of the higher aquifer wells. Now Manele at this point requires 1.1 million gallons per day which means we have an excess of 1.4 roughly. That 1.4 is going to be taken up to the Palawai Basin where we'd use it for, at this point, to contemplate it for some type of agricultural crop. But we haven't gotten far enough to determine water requirements, what types of crops, so that's kind of still in progress. We've got a couple of years to sort that out.

Now one thing about a desal facility is the source, the source water from these wells is pumped up into the desal facility where there's two things that are coming out of the desal. One is product water which is the, the clean water that we use. And once we chlorinate it, it will become non, it will become potable water. Coming out of the plant itself is only one quality of water. So once we chlorinate we'll have potable water. The water that comes out initially from the plant is, will be used, can be used for irrigation, but it will not be drinkable until we chlorinate. Then we have coming out on this side and down to the discharge or the disposal wells would be the concentrate which is a water quality that's higher in salinity. And those would be put down into the ground, into deep water wells, and then it would be defused and going out to the ocean.

Now as far as the time line, right now we're still, we're currently in design, and we expect that in two years that we would be starting commissioning, going through testing and Department of Health certification. So right now our time line for completion of this facility is the end of 2015. So we're two years, roughly two years out at this point.

Now Byron's going to talk a little bit more about the power requirements. It, it, this facility requires about two and a half megawatts of power to run. And we're going to be providing generators to power up the facility, but we're going to be providing a higher amount of power just because we need backup so that we can maintain critical flow especially for potable water source down in the Manele area. And just to give you an update as to where we are at this point, we, I think many of you know, we started drilling – I mean, we started work on RO2 and then we started drilling back in, I think, the first week of August. Now last week we had reached the bottom of our design depth which is about 100 feet – 150 feet below sea level so that, the initial drilling of the well is complete. We've taken, we'll be taking water samples over the next week or so, so we can get that information over to IDE so they can start their preliminary design of the plant, including the membranes and filters.

And in order to satisfy Department of Health, one of their regulatory requirements is that we conduct a pilot test. So starting in approximately February time frame, we're going to be doing a down sized pilot plant. We're going to be running maybe about a tenth, a tenth scale of water. So we're going to be producing product water so DOH can validate our procedures, our testing produces, the quality of the water that's coming out, our operations, and the performance of the membranes and the, the plant itself. So I think that's going to be something that everybody is going to be looking for because that's really what the overall plant is going to be able to achieve two years from now and that's –. So some time –. That will be running for somewhere between 90 and 120 days. So probably by summertime we'll know and get sign off from DOH on, on the actual plant, the operations of the plant.

I'm going to turn this over to John who's going to talk about a little bit more about the site layout, but also about the flow schematics for the – in the Manele area and the desal plant.

Mr. John Stubbart: Slide please. These are really basic sketches of what's going to happen and the changes in the water system so that you can see that on the right side, this is for the potable water, and on the right side of the slide you'll see that they're consistent. So this is the delivery. These are the customers that we're serving, and that side stays consistent. It doesn't change. What I want you to focus is on the left side. What you see here is that the, this area here which comes from our high level wells, wells four and two. These are the ones above the Hii tank, the silver tank up on the hill. So that water that, that flow down, and our potable water that goes all the way down into Manele, that no longer goes there and the desal plant takes over that water supply. So this water that used to go down would still service the Palawai Basin and be used for other purposes. So that fresher potable water stays up on the mauka side.

Slide please. So here's the schematic of the irrigation. Same thing. Right now we use brackish wells down in the Palawai Basin. One of them is well nine, right when you come out of town, on the right side. Well 14, the one that has a generator, on the left side of the road. Those are

our brackish well and they service the irrigation, most of the irrigation, for the golf course and the residential areas. So same kind of thing, customers stay the same. But what happens is that rather than using these resources that are from the upper level, high level aquifer, they will be used and for other purposes to be determined in agriculture or other activities that we're planning for the island. The desal plant now takes all this off line and all the irrigation water comes, for the Manele area, from the desal plant. One thing that Arlan noted was there is a line that will come back up to the Palawai Basin and bring the water that we produce and not currently using in the Manele district up to the Palawai, or in Miki area, for agricultural activities. So I will now turn it over to Tom Nance who is our hydro geologist and I've working with the design of the well and he'll show you little bit about the aquifer and what we're doing.

Mr. Tom Nance: As John indicated, as also Arlan, the first phase will have three supply wells here, and two disposal wells over here. Important concept is first that the supply wells will be drawing saline ground water. Ground water that has a salinity 98 - 99% of salinity of pure sea water, and we'll use the separation, the lateral separation. These sets of wells are between 3,900 and 4,500 feet apart from each other. The supply wells will be drawing saline ground water from maybe 60 or so feet below sea level, all the way down to about 140 or 150 feet below sea level where the water there is entirely salt water. And the disposal wells will deliver that concentrate from the RO even deeper, probably between 160 and 300 feet below sea level.

The important concept to understand to know that we can in fact make wells that will not disturb high level ground water or basal ground water and just use the salt, the salty water below the basal lens. Most of you are aware that Lana'i has a high level ground that covers about 50 to 55 square miles of the central part of the island, and provides all of the drinking and the irrigation water at Manele. Around the perimeter of the island is basal ground water, separate from the high level ground water. It's brackish. There's not enough flow through it to put in wells that can successfully produce water without the salinity rising to uncontrollable levels. Geophysics that we've done suggest that the separation between high level ground water and basal ground in the Manele area is somewhere over here. If I drilled up here I'll get a probably get a high level brackish water well. And if I drill down here I'll go into the basal lens.

Important concept – this is kind of washed out in color. Hopefully your handouts a little clear. But this graph shows increasing salinity on the horizontal scale and depth into groundwater on the vertical scale. And if you drill a well down such as over here, over here, you run your instrument down and measure what the salinity is. As you go with depth, you run into the basal lens at the top. I've shown it to be about five parts per 1,000, ocean being 35. So maybe about 14 or 15% sea water. You go through a zone where the basal water is mixing with the saline ground water. We call it the transition zone. And then you get into saline ground water forever more. These wells will be designed to only draw water from this saline zone. They will not influence the basal lens. We'll do testing to demonstrate that we can in fact pump this 35 PPG, essentially ocean water forever more without ever pulling this water down or impacting it in any way.

We have drilled the pilot hole of the RO2 supply well, and I made a salinity profile just yesterday. This is a hypothetical profile that I prepared for the slide just to illustrate the concept.

Yesterday's profile showed that it actually is about like that. That's the salinity of the basal lens, and location is about 15 parts per 1,000. 40% of sea water salinity. Far too salty for irrigation use. But nevertheless the wells is going to leave it alone, and the well will only draw from that zone.

The supply wells will be deeper. They'll, as I say, it's probably between 160 to 300 feet below sea level is the zone in which that water will be delivered. Densities are important thing in this concept. If you look at a basal lens it's basically brackish water floating on salt water below. The density difference between those two water bodies is only 1.4%, yet it keeps this water floating on top of the other. The concentrate that will be delivered from the RO plant will actually be about 1.8% denser than a receiving saline ground water, so that when we deliver the concentrate into that zone that water will tend to drop because it has a greater density, greater salinity than the receiving saline ground water. So that water will slowly migrate probably discharging in the ocean off shore more than two miles at a depth that's greater 600 feet.

I don't know who's next.

Mr. Mark Lambert: Thanks Tom. I'm Mark Lambert with IDE if you didn't catch that at the beginning. So first of all I'd like to thank everyone for allowing me and my team. I have three desalination experts sitting at the table here with me so we're represented by four. And I want to also thank you for allowing us to visit your very, very beautiful island. We had a chance to swim today. It's my third time here, and I hope to come back a lot.

I thought I'd spend a little bit of time telling you about who IDE is, but not a lot. You can go on our website and see who we are. I'll tell you a little bit about desalination, in particular the reverse osmosis process, and then maybe some specifics about this particular facility that we're, we're in process of. So IDE is established since 1965. I don't want to read all these. We have about 450 employees. We have installed over 400 desalination plants in 40 countries over four decades. We are the world leader in desalination both thermal processes and membrane processes which we're going to talk about membrane processes here. We have a strong track record. You can look us up whenever you want and see that we're, we're legitimate. That's all we do is desalination. We don't do any other kind of water treatment. We're a desalination company, period. We're owned by two very, very large companies, but they let us, gives us the flexibility to do what we need to do. Next slide please.

We are recognized almost annually by Global Water Intelligence which probably the definitive resource on doing global market research and active in the desalination industry. We're members of IDA. We consistently win awards. The first one here, I just want to highlight that we won a thing called the Deal of the Year for the Carlsbad, California desalination plant which we're currently in the process of designing. IDE will design that plant. We're in partnership with the construction company that will build it, and then IDE will operate the plant for 30 years selling water to the City of San Diego. So we're in it for the long term. We've won other ones.

The Sorek plant which is in Israel is the largest desalination plant in the world. I might add that

Carlsbad will become the largest desalination plant in the western hemisphere when completed. So next slide, I won't bother with all this.

Here's just some photographs of some of the, the plants that we've done around the world. One in Cyrus, three in Israel and it's worth commenting that 85% of all the water in Israel comes from desalination process, all of which were built by IDE. The bottom right hand corner is relevant here. This is the Carlsbad, or the Carlsbad location which is currently under construction so you don't see the plant there yet, but it's in process, and it will deliver water in the year 2016. Next slide.

A little bit about IDE Americas. We are an American subsidiary of our Israel parent. I'm the president and CEO of IDE Americas. Got about 20 people that work for me, plus or minus, depending on what day of the week it is. We're, we're responsible for north and south America. I live, work in San Diego County. I've been in the water industry for over 30 years. It's my passion. I love it. They say once you get water in your blood, you can't get it out. It's true. In the Carribean we have a lot of thermal units. That was the way that they had chosen to do desalination over a long period of time. Just another comment on Carlsbad, as I said earlier, we're responsible for designing that plant and then we'll be around for 30 years to operate the plant. So that's a little bit of background on IDE. You can ask questions when the question time comes. Next slide.

I don't want to bore you with detailed slides about the process. What I think I'd like to do here is tell you a little about the desalination process that will be deployed here. It's a pressure driven process so it uses a membrane separator to, to separate salt from water. Tom talked about the saline ground water that's being used. I love this water. It's the cleanest water that's available for desalination process. The typical reverse osmosis, desalination process, consists of some pre-treatment, membrane separation, and post-treatment. It's that simple. The pre-treatment in here is minimal where there's hardly any need for pre-treatment. The point of this slide is that the desalination process is chemical free. That's not normally the case. In most facilities globally they're taking sea water off the surface of the ocean. We're not doing that here. So I don't need any pre-treatment chemistry. I don't uses any chemistry to clean my membranes. So it's a chemical free process, the desalination proposed. And I won't bore you with this slide on how the membrane cleaning works. You can, you can read that. Next slide.

This is the proposed foot print for the full scale plant. It depicts kind of how the plant would be laid out on that site that Arlan pointed out earlier. You can see that it's modular in construction, so the way it will be delivered and fabricated – the beauty of a modular construction is we can do a lot of the construction and assembly off, off-site sort of speak, and bring it here in modular fashion and do a scaling process. So we talked about 1.25 million gallons a day leading to 2 ½ million gallons a day, potentially leading to more. So here's what the layout of something like this might look like. You can see an administration building. In those units blocks that say units 5,000, there's pre-treatment included in that, and the reverse osmosis trains are included in that, and then you see a product water tank in the bottom right hand corner. This is very typical of what our facility would look like. You can see that we engineer it so it looks nice and friendly. It always takes advantage the local environment. There will be trees around, and nice looking

buildings. These are, if you drove by this, you wouldn't know it was desalination plant. Next slide.

I think it's my last slide. This is maybe just a 3-D rendition of what one of those module looks like. One of the 500 units or 5,000 units that I showed. Just kind of gives you an impression, an engineering impression, of how compact it is. We'll deliver it in this format if you will, and, you know, kind of comes with an ability to kind of bolt together on site, sort of speak. I won't call it Lego, but it's almost that simple. So I think I pass on to, sorry, Byron, our –. I'm very pleased to be working with Byron, the energy expert, and he's going to talk about the energy required for this particular facility. Thank you.

Mr. Byron Washom: Thank you very much. Good evening and aloha to all of you. My name is Byron Washom. I serve as the Director of Strategic Energy Initiatives at the University of California at San Diego. And there we have a 42 megawatt micro grid. And 42 megawatts is about 10 times the size of the grid here on Lana'i. And we self generate 92% of all of our own electricity. So my assignment here is to work on the island, but my focus tonight is on the desalination plant. The desalination plant will have a total of 4.7 megawatts of new energy capacity that would be installed there. What's unique about it is that it will be 100% off grid from the MECo grid. We will be totally self generating and confined. In addition to that we will be bringing in a system that is built in a three principles for the long-term, that will be replicated throughout the island. And that this reliability, keeping the lights on and the power flowing at all times. The other is survivability, and that is to withstand should we ever receive a hurricane like Iniki hit Kauai. We need to prepare for that from day one. And the second – the third principle is resiliency. After that hurricane does hit how do we rebound and immediately go back to work? That's very, very key. That is a fundamental principle for any micro grid. So we will have a small micro grid at Manele for this desalination plant. And it will also have the principle, a very high principle of environmental protection, and bringing in clean fossil fuels and renewables as well. Initially we will have 3.3 megawatts to – that will be powered by the cleanest fossil fuel that we can find. And that is liquify natural gas in the form of natural gas. The systems that we are bringing to the island to utilize that natural gas will be 65% more efficient than what can be supplied currently by the generating capacities of MECo. That means 65% less fuel delivery, 65% less cost, and 65, approximately 65% less emissions. And that 3.3 megawatts will run what we call base load, and that's about, as Arlan mentioned, about 2.5 megawatts of that is for the desal plant alone, and then about another 0.7 megawatts is for the other pumping requirements . . . (inaudible). . . power that is needed to run this plant. We will then have 1.4 megawatts of back up, and it will be ultra low sulfur fuel. And this is in the case should we have a sustained outage on one of these two units, or if we are to have a supply disruption of liquified natural gas, we have a minimum capability. Again, reliability, survivability, and resiliency.

But then after that, no sooner do we install these fossil pieces of equipment, we are anxious to bring renewable energy to the plant. And when we bring the renewable energy to the plant it will start throttling back to different generators. And we want to bring as much renewable energy as we possibly can. And as Arlan alluded to in the beginning and that is the ability to do pump hydro. Remember in the playground we played on the see-saw and the balances.

We always had to stay in balance. And if there's an in balance we had to move up or back. Well energy is much the same way of always in balance. The beauty of pump hydro is when we have surplus of electricity from renewables. We'll merely turn up the power – the desalination plant produce more water, and with that water will then pump it up hill with the free electricity that is now flowing from renewables. And the opposite is true. When we have a deficit or a reduction of renewable energy because the wind's not blowing or the sun's not shining, we'll throttle back and we will draw that water down hill. And when it's running down hill it will be producing electricity. So we have a very balanced system of harvesting the land, harvesting the sun, harvesting the wind, and harvesting the sea. So that is what is our progressive goals are. To be reliable, sustainable and resilient to fossil fuel and immediate start to wean ourselves with renewables. Thank you very much. And now Arlan will wrap it.

Mr. Chun: Well thanks guys. I think you guys now know everything there is to know about desalination. I'm not – I can't remember if I said this or not so I'm going to – if I repeat it, I apologize – but I know I said that the phase one for our plant is design a 2.5. Our phase two is another 2.5, which takes us up to five million gallons. But our ultimate goal and our distribution infrastructure for the plant is design the 10 million gallons per day. So we have a big cushion. We don't know when we'll get there, but looking into the future where this island needs more water, much more water, we're, we're designing for 10 million gallons per day. So with that I – that's the end of our presentation, and I will open it up to, Chair, you said public?

Mr. Ornellas: Yeah, we're gonna –. John, can you turn on the lights again please? Thank you. Alright, so, we're gonna ask for anybody who wants to come up and do public testimony, and we can do that now. So if you have – if you want to do public testimony please find a mic. Gary, do you have a mic there, Toma? Is there a mic there? Arlan has it. Okay. Grab, grab the mic from Arlan and then do your testimony. Anybody want to do public testimony please come forward. Go ahead. Please. The mic's over here. Please state your name and if you're representing anybody.

Mr. Chris Richardson: Hello. Chris Richardson. I'm just representing a citizen of Lana'i. The presentation mentioned how the depth would go below the fresh water basal lens, and that, I believe, it said it should not affect the aquifer. And we talked about how the water would or should flow to the ocean. So my question is this – in the injection wells are suppose to go to depth into, into the, to the sea. But if we take out five or 10 million gallons, are we lowering the fresh water basal lens by reducing the amount of water that is coming out the aquifer and then returning half of that? And then returning half of the water ay double ocean salinity, how will that affect the aquifer over a period of time? Has this been done on another similar island? You know I know it's been done in Israel and other countries, maybe different methods, but has it been done on an island with a single aquifer? And if so, what is the end result of that after 10, 15, 20, 50 years? So what are projections for the health and stability of the aquifer 100 years from now? A 1000 years from now? Will this improve or will not affect the aquifer at all? Thank you very much.

Mr. Ornellas: Thank you. Anybody else want to provide testimony? Hearing none, we'll close public testimony now, and we'll open it up to the audience to provide questions to our group of

representatives here from IDE and Pulama Lana'i.

Okay, Arlan will direct the –. Somebody – if somebody has a question, it will go through Arlan, and then Arlan will direct the question to those individual. Any questions from the audience? Okay, go ahead. Can you do it on the mic? The reason why we have to put on mic is because we are – this is being taped and this going on the record. So if you have a, if you have a record maybe you wouldn't want –.

(Female Testifier): . . . (inaudible) . . . the salt is going to be deposited back into the ocean floor from 160 to 300 feet approximately below. Do they – in the past where they've done this before, is it far enough down where it does not affect any of the fish, reefs, ocean, any of that?

Mr. Chun: So we have two depths that we're talking about. So the, the source wells are about 150 feet below sea level. The basal lens that we're talking about is about 16 feet below sea level. The disposal wells are going to be about 300 feet below sea level, so there's a pretty big gap. Now what, what wasn't said was that we have already taken readings in the ocean both at surface and at bottom so that we have a base line so we continue to monitor to see what, what's happening. You know, the one thing to realize is that the disposal wells are not a concentrated source back into the ocean. It's a defused source that goes through the ground before it gets to the ocean.

(Female Testifier): So what does that mean, defuse source? Explain that.

Mr. Chun: Well, it's going to be diluted as it starts moving towards the ocean.

(Female Testifier): So the entire, what's put back loses its concentration.

Mr. Chun: Exactly. The concentration is about 1.8 times sea water, so it's not heavily, heavily concentrated, but it is concentrated. I mean, it's about 1.8 times concentration of sea water.

(Female Testifier): An 1.8 meaning slight instead of what it was originally or –? What does that mean, 1.8, I mean?

Mr. Chun: It's just twice the salinity of sea water.

(Female Testifier): So it's doubled?

Mr. Chun: Yes.

(Female Testifier): Okay.

Mr. Ornellas: Thank you. Just for information I talked to Brock – does a, does a quarterly testing of Hulopoe Beach, Hulopoe Bay, for drainage issues that we had back in the 80's and 90's, so he does that and I was told by Pulama that they will increase his scope to do more and more testing for exactly what you're saying. Is there going to be any, any effects on the, on

Hulopoe Bay from this injection wells for the salt. I said it right? Okay, anybody? Pat Reilly, come up. You don't? Okay. John de la Cruz? You can grab this mic too if you want.

Mr. John de la Cruz: A simple three part question. If anyone here was going to ask it, just tell me and I'll go away. It seems really that this is going to cost a lot of money so three part question is what's it going to cost? What your projections for pay back? And who's going to pay the payback?

Mr. Chun: Yeah we're still –. I mean one of our initiative was to – that this island needs water, a reliable source of water if this island is going to continue to grow. So we are moving forward with the design and implementation of the desal plant and we haven't gotten all of our costs back yet. We're just moving forward because this island needs water. Once we, at some point in time when we know the cost then we'll, we'll share it. But at this point we don't, moving forward.

Mr. Ornellas: So John, the three questions again? What was it? How much it's gonna cost?

Mr. de la Cruz: . . . (inaudible) . . .

Mr. Ornellas: And who's gonna pay? And so, you don't know, you don't know how much it's gonna cost.

Mr. Chun: No we're working with a budget right now.

Mr. Ornellas: Okay.

Mr. Chun: But we are still validating cost because we're at the very beginning of our design process.

Mr. Ornellas: Okay. And what was the second question again?

Mr. de la Cruz: The payback.

Mr. Ornellas: The payback, you don't know that.

Mr. Chun: When you say payback.

Mr. Ornellas: Return on investment, is that basically what you're saying John? Return on –

Mr. de la Cruz: If it's gonna cost you a million dollars to build this whole thing. I'm sure it's gonna cost more. Okay. So initially you want to get the million dollars back from someplace, and to continue operations, you need a continual stream of revenue. Are the homeowners at Manele going to pay for it? Are the hotel guests going to pay for it? How much are we going pay more for our room? How much are the Manele homeowners are gonna pay for water versus what they're paying for water now from the high level aquifer. You know all these things

are projections that a business person does before they get five or three consultants to work on it.

Mr. Chun: I don't have an answer for that. One thing I realized when I started working here is this is not a normal development type of operation. So in a way it makes our job easier, and in a way it makes our job more difficult because, you know, I think under most circumstances . . . (inaudible) . . . you need to get approved. But I think the mandate that we have to move the island forward to raise the economy that Mr. Ellison wants to, he's moving at a different – I don't know if it's pace or velocity, but, you know, we will share when we have more information, at this point, in the future.

Mr. Ornellas: Anyone else? Sally?

Ms. Sally Kaye: I just wanted to ask –

Mr. Ornellas: State your name please.

Ms. Kaye: Sally Kaye. This probably goes to you Byron. What wasn't addressed in, in, in what you presented was the role of MECo. We're five megawatts island now, and you're talking about doubling it, and yet taking a significant collective draw off the grid. If Manele is powered, is that – I'm posing that as a question.

Mr. Chun: The – I think what Byron is referring to is that the desal plant will be off the grid, and it's not a MECo load that's been taken off the grid. We are creating a separate power source for the desal plant.

Mr. Ornellas: Okay Robin. State your name.

Mr. Robin Kaye: Thank you. Robin Kaye. Just a couple of questions. First of all, when you talk about the water going, the 1.8 concentrate going back into the ocean at a depth of about 600 feet – 300 to 600 feet – is that targeted to go into Hulopoe Bay?

Mr. Chun: I – that may be a Tom question. I believe the ocean currents go move away from Hulopoe Bay. And we're – I think if you look in there, I think we're further west of Hulopoe Bay, much further west.

Mr. Kaye: So you're not anticipating any impact on Hulopoe Bay? John is saying yes. No.

Mr. Stubbart: No.

Mr. Kaye: Okay.

Mr. Stubbart: Don't look at me.

Mr. Kaye: Anyway, the second question is refers to Chris' comments. I'm not real clear. I wish

you could re-express that, that the impact you foresee this is not having on our aquifer and our fresh water supply for the island right now. I'm assuming you're saying that there will be no danger to ruining what we currently live on should this project fail. So could you just articulate that a little bit more? And then lastly I have sort of a semi-technical question for IDE I think. Why couldn't you use brackish water rather than going for deep sea water? Wouldn't it be easier – I'm not understanding your process perhaps, but wouldn't it be easier since there's less salt?

Mr. Chun: Well, I think, I'll – and Tom can correct me if I'm wrong on the aquifer – I think when Tom explained that we're outside of the aquifer and that the fresh water that we're dealing with is the basal lens which is a very thin lens out. As soon as you get towards the ocean that becomes very thin lens, and we're much lower than that, so we're not drilling into the aquifer itself. So there should be no effects on the aquifer.

As far as, you know, the brackish water lens is – actually not lens – but the brackish water zone or the transition zone is pretty thin. So I think if we tried to draw water out of that, I think that's when we run into the risk of pulling down the basal lens right above it.

Mr. Ornellas: Anyone else has questions? Yes sir. Dave?

Mr. David Ambry: Hi there. My name is David Ambry. My concern is what about the job? The education for the people of Lana'i. Where is staff – I don't see any of that here, you know, creating jobs for us, here, the people, the young and the children. Are you guys doing any type of outlook to that for our children here?

Mr. Chun: I, I think jobs will be, they'll be on different fronts, right? I mean there's going to be a lot of construction work that ideally we'd would like to try keep as much on island, but a big facility like this, I don't know if this island has the resources to do this internally. But in the long term, you know, this is a plant that will probably employ between six and ten people for the long term. And this is going to be people that needs to be trained to run the plant. IDE would be operating the plant, I think, for the first two years in training people, and then bringing on board hopefully locals, people that want to be in that business, willing to train. These are long term jobs, and these are going to be good, good jobs.

Mr. Ornellas: Anyone else? Yes sir in the back, I can't see your face, but –. Oh Winnie. Please come forward and tell everybody your name and then ask your question please.

Ms. Winnifred Basques: Thank you. My name is Winnifred Basques. I'm here to represent Na Ahu Moku Advisory Council. Okay, you spoke about the water is going into the ocean. What part of the ocean it's going in? First of all Hulopoe Bay is a conservation area. You need to have a permit to put the water in there. Okay? Now the thing is that if it's going somewhere else, then it's okay, I presume. But the thing is that you have to think good. Where is it going? How effective, if it's going to Hulopoe Bay, will it disturb the swimmers? Will it disturb the fishes in the ocean? Will it disturb everybody else in the community? When you say it's not going to be potable water. The potable water is for us to drink, not the – I should say, the other water,

the brackish water is a salt water. The salt water goes to the golf course, not the drinking water. And thinking is that when you folks bring all these dignitaries in here, there is only a few local people be here to hear what you folks have to say. And I hate to tell you folks this, I don't like it one bit. Why? Like Robin say and all the other say, how much will it cost, who is it gonna benefit out of that, and where is the money going in the pocket of who? Is this a corporation or is it the man over there? But remember you folks can everything in the island. You folks can do everything in the ocean as well as the lands. But remember the man upstairs is watching. What you doing is ruining his land. I'm saying the one up there. The one who created heaven and earth. He supplies everything. Like I say, several meetings ago, he provides everything free, for all people. Not certain people, all the people. Wherever they are because why? We are going to benefit. We're not going benefit when the kala come rolling in and we ain't going to get nothing. Thank you very much for listening to me.

Mr. Ornellas: Thank you Winnie.

Mr. Chun: Thanks Winnie. I'm not sure if I can answer all of it what she brought up, but as far as the water going back into the bay, it is, you know this is something that's not going like a concentrated out fall directly into the bay. It's going down into the, into the ground and then being defused and back out as, as maybe a little more concentrate than sea water. But with the extent of the ocean, it is going to be defused and diluted pretty quickly. And it's not a concentrated outflow, it's a defused outflow.

Mr. Ornellas: Thank you. Anybody else have any questions? Yes sir? Anybody else before we go, before we go around? Debbie, please come forward.

Ms. Debbie de la Cruz: My name is Debbie de la Cruz. I'm speaking for myself. All these years I've been told that, you know, the way our water filters down and all that stuff is not an exact science. So I'm really concerned when they do anything that affects our aquifers. So my question is why are drawing water from a well rather than directly from the ocean?

Mr. Chun: I don't know all the regulatory approvals that you need to go through, but I know it is much more complicated to drawing surface water out of the ocean. Number one and number two, you know, to be able to do that in a conservation area, I think it's gonna – it's not gonna be approved. But the approval process is much longer, much stringent, when you have to deal with surface water because there's a lot more contaminants in the water itself. The ground underneath the ocean – I mean, underneath the island helps purify and filter out a lot of the contaminants that's in the water. That's why you heard IDE say that in most places you need three treatment. A lot of that is because you're taking surface water rather than ground water. And they don't have that type of natural filtration system that we have under the island.

Mr. Ornellas: Thank you Debbie. Anybody else please? Mr. Richardson.

Mr. Richardson: Aloha. Chris Richardson. Three brief questions. Do you know about the current federal involvement with some problems on Maui right now with some waste water injection wells? Now, I know it's not desalination, but injection wells and apparently these wells

are now contaminating the ground water and there's some efforts being made to try to stem this. Did you know about this?

Mr. Chun: I don't personally. My team does. And you know, the one thing is that we're not putting down waste water into the well. This is actually just a little slightly concentrated sea water that goes in that's chemical free.

Mr. Richardson: A little meaning two million gallons a day, or five million gallons a day?

Mr. Chun: No, I mean, that's the volume of the water. I said earlier that it's about a little less than two times more concentrated. They're more salty, saline than sea water.

Mr. Richardson: Okay thank you. Next is the term of life of the installation. When will it become obsolete?

Mr. Chun: I don't expect it to be obsolete. I mean you may need to – I mean there's a life span for pumps. It's going to be constantly changing out the membrane's filters because they probably have a life of maybe five or seven years. So those will be constantly rotated out with new filters and membranes putting in. And if we have to take a train down to replace . . . (inaudible) . . . but I can't tell you what's the life because we expect it to run for quite a while.

Mr. Richardson: 20, 50, 100 years quite a while? When will the reinvestment need to occur?

Mr. Chun: Well, that's the other questions I was trying to answer, but I don't know if we have a reinvestment requirement on our end as, as, you know, a typical developer would.

Mr. Richardson: Okay, thank you. One, one more thing. You mentioned that something about the fresh water basal you were going below 16 feet. You said a thin fresh water basal ground is how thin? A foot? Half a foot?

Mr. Chun: It's about 16 feet I believe.

Mr. Richardson: 16 feet? If that's accurate, then your well would have to be 16 times 40 foot deep to get below it. Isn't that correct?

Mr. Chun: Well, we're gonna be, we're going to be down 150 feet below sea level. The top, from, I think the basal lens is roughly 16 feet from sea level, below sea level, at the very top.

Mr. Richardson: It's not, it's not the actual lens then?

Mr. Chun: Yeah.

Mr. Richardson: Okay. The – so the lens must be below – less than a foot. So it's a few inches. Okay, because that makes more sense then. It's a few inches thick. Okay. And is there anything wrong with the current water dynamics we have now if they do not grow the population

or plan any large developments? Will we be okay as a community if we don't do any developing?

Mr. Chun: I think projections are if, you know, the – I think if the island stays the way they are, then you probably wouldn't have a water issue. But I think the island will get stagnant. People are – you know, one, the one thing that we see right now is that a lot of people that have moved off island are planning to return to the islands to work. And these are the young people that are going to be the future of the island. If there's nothing happening on the island, there's no growth on the island. I think the economy is stagnant without any development. And I think in order to have development we need water.

Mr. Richardson: Thank you very much.

Mr. Ornellas: Yes sir Robin. Come back and check with the mic again.

Mr. Kaye: This is, this is for Byron. Could you tell us a little bit more about LNG since the state seems to be having such a difficult time dealing with bringing LNG in. How will you deal with bringing it to Lana'i? Will it come direct from the mainland? Will we need all kinds of storage facilities? All the complications we hear about in Honolulu.

Mr. Washom: Yes, it's much different from the, the program on Oahu where they're looking for bulk shipping and also bulk storage on Oahu, and then distributing through the existing pipeline. We're a totally different case. You on almost a weekly basis see a 40-foot container of LPG, liquified propane gas, running down the street. So what we will be doing is from the west coast charging a forty-foot container that will be shipped to Honolulu, transferred to a barge, and from the barge, it will then be trucked down to the desalination plant, so a very short distance. Then in that container, that is our storage, and will remains the storage. So it's pressurized, it's certified, it's safe. And then when that canister is empty, we ship it back to refuel it. So we have a rotation if you will, of these containers, that will run the barge, roll of the barge, and it's a constant rotation. There's not a centralized storage facility. It is an oversize LPG tank. And I might add to have liquified natural gas, it's apparently safer than LPG. And the reason for that is LPG is heavier than air. If there's a leakage, it spreads out along the ground. With LNG, if there's a leakage, it goes up into the air. Okay?

Mr. Ornellas: Thank you. Anybody else has a question for the gentleman? Yes sir, go ahead.

Mr. Charlie Palumbo: Hi, Charlie Palumbo. Common sense would tell me that, that, it's not really – it's, it's not a zero effect on the aquifer. I would think that it would be a positive affect on the aquifer to have the desal plant. And I think that would be important to kind bring up, you know, if we are putting, you know, 10 million gallons a day, converting that into fresh water much of that is going out to crops, irrigating things, and going back into the soil. So I would think that, you know, there would be positive effect for desal on the fresh water lens of the island.

We have examples of desal in use so I'm just kind of wondering like in the Carlsbad area, what

are they expecting, you know, a regular ag, whatever unit of water, that, you know, naturally comes out of the ground, versus a desal unit of water. What is the premium that they're paying for desal?

And the third question I have is, you know, there's gonna be this, you know, doubling of our energy consumption. A lot of that is gonna be through, you know, alternative energy. So I'd assume a big chunk of that would be solar and, you know, wind. You know, that is a bad connotation on island. And I don't know if this is the right meeting to talk about that, but sort of what is the vision of the company? And how much is wind going to contribute to that equation?

Mr. Lambert: Thanks for the question. I'll address the Carlsbad question. The cost, the projected cost of the finish plant operational for Carlsbad – the term used in the western half of the United States is acre foot so I apologize if I used that, but that's how those number is basically. And, and the number is around \$2,000 per acre foot of water is what the desal cost will be. Currently, the state of California, Arizona, and Nevada, all rely on the Colorado river. There's a federal law to reduce discharge from the Colorado river hence the views towards desalination.

In southern California if you're aware there's a thing called the metropolitan water district. Carlsbad is a little different than here. This is a public utility. In California it's heavily regulated in California. Current rates from metropolitan water district are in the range of \$1,500 an acre foot so to answer your question, the premium for desal is about 25 to 30% today. It's projected to actually fall under what the cost of public water will be in about five years time. In other words the line will cross and desal will become less expensive. Hope that answers it.

Mr. Ornellas: Yeah, let's not go too much into, into the island. Especially don't get into . . . (inaudible) . . . alright?

Mr. Washom: I will respect the chairman's wishes . . . (inaudible) . . . On the renewables, we are taking in all of the above approach. And remember when I was talking about the metaphor of the see-saw of keeping it in balance. The sun doesn't shine during the night time and sometimes the wind blows at various times. And then we also have waste energy on this, potential on this island. As soon as we cap the facility, the dump, that will be a source of methane that we can capture, as well as . . . (inaudible) . . . So there's a lot of different renewable energy sources. We're gonna take a portfolio approach on not only on the desal plant, but later, at another time, we'll talk about the island as a whole. But I will be quick to add that when we talked about when, this is mini me, a miniaturized size, the size of what you might have been exposed to. And that is what we call community scale wind. And I do that not out of public interest – or I mean, public concern, but the size of when, that I need on this island, is significantly smaller in size than what was previously proposed. And so I can't absorb that big of a system. Thank you.

Mr. Ornellas: Thank you. Anybody else please? Oh yes. Go ahead Cathy.

Ms. Cathy Carol: Just a quick question.

Mr. Ornellas: Your name please.

Ms. Carol: Cathy Carol, representing myself. A question for the IDE I think. I just – I didn't have the handout so I couldn't tell the scale the footprint of the facility itself. How does it compare to, are we small, are we big, compared to the Carlsbad, or some of Saudi Arabia, the middle eastern.

Mr. Chun: As far as the volume?

Ms. Carol: Just overall scale of the, of the size, of the plant itself. Are we small, are we large? The projection

Mr. Lambert: Well, the IDE had to down scale a bit quite a bit to get to our size plant. They're at 50 million gallons per day. We're starting off with 2 ½ million gallons.

Ms. Carol: Oh 50. You're at 50. Carlsbad . . . (inaudible) . . . okay, I just wanted to know where we are . . . (inaudible) . . .

Mr. Ornellas: Okay, so we're just going over his projects that is listed and he uses 205 for Carlsbad, cubic meters, right?

Mr. Lambert: Yes, that's correct.

Mr. Ornellas: Okay, so, you know, I went to St. Anthony and I failed that, that class, so we kind of figured it's close to – how million of gallons is the Carlsbad have?

Mr. Lambert: I apologize for the units. We work in acre feet in California, we work in cubic meters per hour or per day, globally. Some people use liters per second if you're in Chile. And, yeah, I like million gallons a day, so I apologize if the slide doesn't say that. Carlsbad is 50 million gallons a day, and I think it's listed there at 200,000 cubic meters a day, so rough rule of thumb would be to divide it by four. And I don't like doing math lessons, but it's 50 MGD is Carlsbad. The proposed facility here, as Arlan said, to start off at 2.5, go to five, and maybe some day, project to 10. That's a small size plant. It's a very small size foot print and the modular nature of it. In, in . . . (inaudible) . . . if you will allow this to go through a very, very small footprint. The slides I showed up there on the board is roughly the size of a football field, maybe a little smaller.

Mr. Ornellas: That puts it in –. That puts it into perspective. Anybody else have any questions? See the more we go we learn more yeah? Yes sir. Come grab a mic Mr. de la Cruz.

Mr. Zane de la Cruz: I'm Zane de la Cruz. Just a couple of questions. One, you guys keep saying that it's only a two time salinity you're putting into the water, and you keep saying it's . . . (inaudible) . . . very quickly. What I'd like to know from the point of injection what is the defusion, like if you're 100 meters away from the point are you at 1.5 concentration? Like, that's something I think we should know. And you're talking about when you're pulling from ground

water you don't have to deal surface water contaminants. But I'm sure you're aware that every filter has a capacity if we're dealing with mainly chemicals that can be broken down naturally, like you're never going to reach capacity. But if you're dealing with a like – if you're worried about if there's chlorinated solvent, there's heavy metal, you know by drawing more water through the geology there's going to accumulating that and building that up and building that up. And so how do you plan to deal with that issue because that is an issue. And for the, bringing in the liquified natural gas, you know, we all know that we don't exactly have the most stable transportation routes. So what – and when you're small scale storage, so what is your, your overlap when you're transporting containers? Thank you.

Mr. Chun: I'll answer one of those questions, and then I'll pass it on. You know, we'll know pretty early on what the water qualities are that we'll be drawing out of the wells because we're going to need to pass that through Department of Health. So once we've completed the well, we'll be able to take water out and we'll know exactly if there are any contaminants in the water, and design, and design the plant for that. We don't expect any, but, you know, once within the next –. John, when are we testing? . . . (inaudible) . . . So sometime in September we'll be pulling water out of the well so we can test the water quality and we'll know how good our water is at that time.

Mr. Nance: On the question of what we considered the lack of dependability on the supply of, of any fuel, be it diesel, be it gasoline, or be it LNG. And so as a result our primary generator which will be 2 ½ megawatts it's uniquely is a dual fuel generator. It can use both natural gas and it can be diesel fuel. So we will have some diesel storage onsite, and we have the LNG onsite as well. So we are doubling the odds of not running out of fuel at any one time for this plant. We also have a back up system I mentioned of 1.4 megawatts that will be diesel. And we have looked through the different combinations of what plant goes out or is not been able to fuel. But on the supply cycle we will actually have more of those canisters on island ready to plug in case if we have as an example during the storm, and the barge can't arrive, we will be able ride through that. Or actually two barge cycles at least.

Mr. Ornellas: Alright thank you. Alright at this time we're gonna close public audience questions and we're gonna open it up to the members here, for the Planning Commission. Members, any questions for our guests?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: One is just a reflection and other is a, is a question, and what I seem to be hearing is that money is definitely not an object and so we don't have to consider things that, that maybe the rest of the world would. And I think I heard Arlan say that this wasn't the real world or something like that. I'm paraphrasing you. So – and to me it seems like that's why we're not going for the more complicated route of, of drawing water from the ocean because we don't have to worry about it. So I think that's pretty amazing, but my question is we had talked – someone had talked about considering hurricane in this whole process, or are

earthquakes ever an issue? Do we have to consider that ever? Are you considering it?

Mr. Chun: You're the first one I've heard brought that out. I mean, that, that is taking into account in all the designs of building by the building code, but not, you know – the one thing we're doing for hurricanes is to try to underground like strategic communications and what not, power, so that it's protected because right now a lot of, a lot of the power distribution on island is above ground which is very vulnerable.

As far as not going the complicated a route, I think the route we're is probably a better route that trying to deal with surface water because the – trying to deal and get approval for surface water, desal plant, is much, much more complicated and much more risky, I think, because of the contaminants that you can run into with water. And especially in the area we are with the protected conservation zone, I think, that would have been a pretty sale for anybody.

Mr. Ornellas: Hello, anybody else? Go ahead Stacie.

Ms. Stacie Koanui Nefalar: So I'm trying to understand all of this. Two times the salinity going into the water, it's suppose to be deep enough into the ocean and it should dissipate. At what, at what rate will it eventually get too salty? And will, will the salt kind of settle around the island as the current moves? What do you know about that?

Mr. Chun: I may pass this on to someone.

Mr. Nance: The salts aren't accumulating. What we're doing is pumping salt water out of the supply wells and essentially returning almost all of those salts back into the ocean where they originated. There's not going to be a continuous accumulation of salts. If we discharge into the disposal wells and the salinity is about 60 parts per 1,000, ocean being two miles offshore, 600 foot elevation, the mixing that will happen along that two mile route we would expect that the salinity of the concentrate that was discharged in the well would be approaching sea water salinity but not getting there. But the reality is once it's discharged diffusely several miles off shore, I would bet that within 50 feet of that no instrument would be able to detect anything going on. We have discharged this kind of salinity of water for 20 years at the . . . (inaudible) . . . plant in Campbell Industrial Park. Discharge salinity of 57, 58, 60 feet deep, absolutely no accumulation in, in the aquifer and absolutely undetectable offshore. This very similar to that experience.

Ms. Koanui Nefalar: So no affect on fish and –

Mr. Nance: No.

Ms. Koanui Nefalar: What happens – so I know you're saying test wells – what happens if you determine that the test well is no good?

Mr. Nance: There's no such thing. No, I'm quite serious.

Ms. Koanui Nefalar: Because you're a test, right, so –

Mr. Nance: Well, I don't use that term. What, what we have done quickly in the stages, we start with a 14 inch hole, we got the salinity profile that we saw, run a video camera, decide where we want to draw the water from at the bottom hole. We'll next open the hole from 14 to 17 ½ inches that will start tomorrow. When that's done, we're going to put a 12 inch casing inside and we'll going to put pack where I want to seal it off. We'll stick a pump it that and we will find out what that quality of that water is, find out how much water we can take out of it, demonstrate that we can pump that saline ground water with no impact on the basal lens above. If, where I selected doesn't work, we've got two options. We'll seal it at a different or we'll simply drill deeper. But don't work isn't in my vocabulary.

Ms. Koanui Nefalar: Okay my last question is how loud is the plant – is an operating plant?

Mr. Lambert: Could I just go back to your previous question for a moment? About one percent of all the drinking water around the planet is produced by desalination, and so this isn't the first time that anyone has taken water from the ocean and separated the salt from the water, drank the water, put the salt back in the water, and then put that water that you drank back. So the net salinity globally is the same, and so this a small version of that. But Carlsbad this issue was identified as well and correctly solved. There are a handful of islands in the Carribean that survives exclusively on desalinated water. Small islands with reefs and fish and, you know, similar, similar questions to what you have been addressed.

In terms of noise, I can't give you a decibel rating for it, but we construct and design to insulate and provide well below the guidelines and standards that are dictated by law. That answers your question.

Ms. Koanui Nefalar: Thank you.

Mr. Chun: One of the things I actually I wanted to add, excuse me Mr. Chair. You know, one thing I didn't mentioned because we have not identified specific uses yet, but one of the, one of the things that we'd like to do with the brine is actually to use that and find products that we can use, either salt, or brine shrimp, or brine freezing if we wanted to allow Lana'i, at least the harbor, to be a stopping off point for the fisherman so they don't have go to Honolulu, all the way to drop the fish off and come back. You can use that product, that off product to freeze, assist in the freezing of fish so that they can turn around and go straight back out to the fishing grounds. So we have two years to try to determine what we can do with the brine. I mean, you know, realistically some of that would have to go back into the wells, but hopefully not all if we can find other uses for it.

Mr. Ornellas: Is that it Stacie? Stuart, no questions? Brad?

Mr. Bradford Oshiro: . . . (inaudible) . . .

Mr. Ornellas: Alright. Kelli? Shelly? Joelle?

Ms. Joelle Aoki: Do you know if it will raise when you're putting, when you're returning the water, and although it's underground, and it's very far from the coastal area, do you know if it will raise the temperature of water in any way, the ocean water? And have you –? And the second part to that question, I'm sorry – and have you conducted any testing along the coastal areas to date on water quality as well as water temperature? And where have you conducted these tests? Excuse me, by ocean, by ocean or along the coast?

Mr. Chun: I'll answer the second question because I'm not sure about the temperature of the discharged water. But, yes, we, we engaged a company to – it's Marine Research Consultant I believe is the name – to do ocean testing right off, right off the bay, I think, not directly in the bay, but just outside of where the discharge well is going to be. And we took surface water readings and also bottom of ocean and I would have to see the report because I don't know how offshore they did it, but they had to use a boat in order to take those readings. So they were offshore in the bay.

Ms. Aoki: Do you know tests are being done on the temperature? Well, you haven't –. Well, you're not pumping it, right?

Mr. Chun: No.

Ms. Aoki: So once you begin the process of pumping will you be testing also for temperature?

Mr. Chun: We could easily do that because we'll also do periodic testing.

Ms. Aoki: Would it be possible in the future to get a report back on those temperatures please?

Mr. Chun: Sure.

Ms. Aoki: Thank you. Okay, I have one more question which is will you be utilizing any type of battery storage? I know that you'll be utilizing gravity flow at night when the sun is down, but will there be any type of battery storage and will this be nuclear?

Mr. Washom: It definitely will be – yeah, it definitely will not be nuclear. And on battery storage, we want to use gravity in nature as much as possible, that, that's guiding principle. There may be some energy storage, and that is going back to the teeter totter metaphor. There's very short periods of time when there's spikes when all of sudden the sun goes behind the cloud or ultimately appears, there's a sudden spike. And our hydro power can't adjust that quickly. And so in that case we have very short term batteries that are like 15 minutes durations. And think of it as a shock absorber, and so we can take those shocks from the sun and the wind or disruptions or whatever and ride through it just like the shock absorbers. But big scale batteries, no.

Ms. Aoki: Thank you.

Mr. Ornellas: Anybody else members? I have one and this is going to be for Lynn. I'm going

to put you on the spot. There was, there was a mention about education, about running these plants with locals. Are you in concert with Maui College in providing these classes so that we can have local people get trained on these? And will, and will IDE also help in the training of local people to operate these, this plants?

Ms. McCrory: Yes.

Mr. Ornellas: Okay.

Ms. McCrory: Okay, let me explain a little further. Okay. No, yes, part of what we're doing is working the University of Hawaii, Maui College on the various educational components that will be coming in. For those of you that haven't attended the CPAC meetings they have a very large acreage that we're looking to set aside for the college to come in, to have research facilities on the site, so that various testings can be done. It is the goal of IDE to train people, actually doing some of the work right in the plant. It is – what we're looking to do is have them go away and just periodically come back, check everything, make sure we're handling it right, and that it is about hiring local people.

And let me just say one more thing, to kind of talk about jobs because I think it's really critical that if we're going to have some growth here, on the island, we have to have water. There has to be water. So even in looking at the bigger picture, when you step back and we say, I really want to have other economic opportunities or I want to have something else, you're going to need water. That's what this facility will do. So hopefully what it will do is for everyone's children who wants to stay here, who wants to make a living here, that we will have jobs that we be created for them. And for all of the grandparents they get to spend time with their grandkids. That's kind of the bigger picture. Without the water, you're going to have the same problem when the operation will decline and people will move off island because there won't be jobs. So water is, water is truly the key element to all of this. Is that enough?

Mr. Ornellas: Yeah, that's more than enough. Joelle, you have another question?

Ms. Aoki: Is Marine Research Consultant, Dr. Richard Brock. . . (inaudible) . . . ?

Ms. McCrory: Joelle, Dr. Brock has been testing Hulopoe Bay for, I think, 20 years. And we have reports going back describing that. That's one of the reports that we're going to try to combine into a new summary so that you can see, very similar to the water graphs that you have, that you can see the qualities going forward and not just have to work your way through paper that is very thick. But that's the intent of it. And we intend to have Dr. Brock continue.

Mr. Ornellas: Hopefully those reports will come to the Lana'i Planning Commission as well as the Hulopoe Beach Park Council.

Ms. McCrory: Yes.

Mr. Ornellas: Alright.

Ms. McCrory: Absolutely.

Mr. Ornellas: No more questions members? Alright, so thank you very much for coming and we hope to see – well maybe not Byron, but hope to see most of you. But we really appreciate you guys coming out and, and giving us this information. And I guess you're taking this show on the road tomorrow at the Maui County Resource, Water Resource.

Ms. McCrory: One more quick point.

Mr. Ornellas: Hello?

Ms. McCrory: Sorry, if you do have questions, if you can direct them either into central or to me, we'll be happy to get answers back to you. Alright. No problem. So anybody who needs cards, I'll give them to you right now. Can we take a quick break?

Mr. Ornellas: Okay. You know, well, I figured everybody wanted to stay and listen to the rest of our agenda, but I guess not. So let's take a five minute break.

(The Lana'i Planning Commission recessed at approximately 6:35 p.m. and reconvened at approximately 6:40 p.m.)

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

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 13-66 containing A Bill for an Ordinance Amending Section 19.510.040, Maui County Code relating to Change of Zoning Protests. (J. Alueta)**
 - a. Public Hearing**
 - b. Action**

Mr. Ornellas: Let's get this meeting back on track. If you're – if you're not going to be part of the – don't want to be part of it and you want to continue talking, take it to the outside. Alright, so back to our agenda. Item D, public hearings, action to be taken after the public hearing. *(Mr. Ornellas, Chair, read the above project description into the record.)* And so we've got Mr. Joe Alueta. Thank you.

Mr. Joseph Alueta: Good evening commissioners. Again, my name is Joe Alueta, I am your administrative planning officer. I'm basically the liaison or I handle all of your change, changes to Title 19 or your administrative rules.

Mr. Ornellas: Excuse me Joe.

Mr. Alueta: Yes?

Mr. Ornellas: John, can you take that outside if that's important, please? Alright, go ahead Joe.

Mr. Alueta: Okay, so basically I handle all the changes to Title 19 as well as your administrative rules, as well as some process, some of your SMA, Planning Commission rules. For Title 19, it's the zoning code for all of Maui County. There are two methods, methods in which you can amend Title 19. One is either via the department initiated which I come to you on a regular basis with amendments to Title 19. I think the last one I had was the Parks District, and then I had the change 19.04 which was the definition for Wet Bars and Kitchens. The other method in which you can amend Title 19 is via a Council Resolution and that's basically what this does. So the Council has proposed this amendment, and then they send it down to the Planning, three planning commissions because the Charter requires that all three planning commissions have a hearing on it and send back comments to the County Council.

The Resolution 13-66 deals with Protest Provision within 19.510. Okay, 19.510 is our application and procedures section of Title 19. It outlines, outlines, outlines the process in which permits, public hearings, and whatnot are done or it can, so how, how permits that requires a public hearing is handled, how a permit is handled that doesn't require a public hearing, etcetera. In this case it's dealing with specifically to the Change In Zoning and the Protest Provision. Typically what happens with a Change in Zoning process someone will request a Change in Zoning to the Planning Department. All Change in Zoning comes before the Planning Commission and you make a recommendation to the Maui County Council, and then an ordinance to change that zoning is done. However there's a protest provision which you have if so many people or a percentage of the property owners that surrounds the property that is coming in for a Change in Zoning objects to that, okay? They object to it and they follow an objection with, with the Planning Commission prior to the public hearing. Action, a positive action by the Council to change that zoning requires, currently, requires a super majority or seven out of the nine votes. Okay? Currently the way we calculate those percentages is by land, land area. Okay? And so it's been, the question is it by property or by land area? We currently do it by parcel and land area. So in this case many times the one land owner that holds 50% of the land around and represents one TMK such as like a large agricultural lot. Okay? So, to give you an example, you have three-quarters of around a property is ag land owned by one family or one person. Next to that area is a subdivision of 7,500 square foot lot, and there's about 20 lots there. Though, even if all 20 of those individual parcels protest, they all only represent about 7,500 square feet of land. And the gentleman, that one person, he or she owns, that owns 75% of the property around it, right, owns 75% of the land area surrounding that. And so that one person basically trumps all of the other people who owns individual parcels around it. And that's where the -. But again, this is just for Protest Provision. It has nothing to do with does Council act or they do not act. It's just whether or not that Change in Zoning has to get a higher vote count. Okay, it still has to pass Council. So those other people may still be able to lobby the Council and - because they have the Change in Zoning denied.

But right now there's been arguments over how do you count the land area or do you count parcels, and Council wanted - has proposed this amendment to try to clarify. So in this case one of the big key clarifications is it's by parcels, and every parcel gets a vote. And it also

clarifies that if you have a parcel that's owned by five people – you know we often have like hui lands – if one person from that parcel, owner, opposes or, or files a protest then that parcel is considered to be in protest. Okay? And it also clarifies that roads, county owned properties count in the percentages of in the Change in Zoning. So roadway parcels, park lands, or even school properties by the state would, would count in calculating the percentage. It also reduces the – it reduces the threshold from being a super majority to a, just six council members need to vote in the affirmative should they make, reach that provision on the protest. And so it basically outlines all of that.

So it talks about within the 500 feet. It also deals with if a parcel in partially in, it's considered in, within 500 feet. It also sets a method in which someone can withdraw their protest. Okay, that was always a question. So let's say, again, the example would be someone may not know much about the project but wants to file a protest anyway on, on the Change in Zoning, learns more about the project, decides I'm not that considered anymore, they need to figure out a way, there's no way to withdraw that protest from being counted.

Let's see. It sets the owner and leasee of record. It doesn't change the amount. That's still 40%. But it also allows leasee of record. Most times if you're a leasee, most of the time it's greater than five years. You will record that lease with the Bureau of Conveyance so there will be record of that person. It also clarifies that Change in Zoning initiated by the Planning Director or Council is not subject to this, this Protest Provision. This, this clarifies that –. It doesn't mean that, you know, unless we chose to do it. But many of the times when we're doing comprehensive zoning for the County it's a wide area or it's a type of parcel. So when we did the Business Country Town Zoning it was business country town that was – business country town parcels in the community plan in Wailuku, on Lana'i, on everywhere. And so it would be very difficult and very expensive for the County to try to figure out 500 feet from all of those individual changes because it's basically it's a mass. And most times, the County, believe it or not, doesn't try to do anything bad. It's just, it's trying to make things better. So we're not trying to – so if we're giving someone zoning, we are trying to do it for the betterment, betterment of the community so it's –

Just putting that out there now. And the courts have ruled in our favor saying that we're normally not try to do anything wrong, we may make a mistake every now and then, but for the most part, they give us the benefit of the doubt that we're doing, what we're doing is for the betterment of the community. And most times, if the County is doing a Change in Zoning most people are happy because they don't have to go through the Change in Zoning and to implement the community plan or what the County wishes.

Some of the questions, I guess, the department had on the thing was parcels can be a condominium parcel also. And so that's going to be counted, okay, and that's fully for tax purposes. If you have a building, right? say in Kaanapali and the 500 foot line cuts, bisects a 10-story building. So half of the building, half of the building's units would be in and the other half would not. So right now it's clear that that's how you would count it because you're won't be using the lot. Okay? So it's hard. But at the same time that land in which that condominium complex sits on is a parcel also. So it, it needs – that should be clarified how, how you would,

if that occurs, how you'd handle that.

And then the big question that the department always has is is it donut or a hole? Okay, when you're making a notice, a note, a notification around the parcel, it's normally a donut, meaning there's an . . . (inaudible) . . . like if you have a square here. These four squares are being on the floor, are the parcel that you're talking about. Your 500 foot notice would only go to the parcel out, all the parcels around the area. But what if the – but do you notify the owners of the parcel that is actually getting a Change in Zoning? Can they protest? What if they don't want to be changed? And we've had that issue come up in Kaanapali. Do you count that? How do you count that in the percentages? Okay, do you –? And so that is one of the questions that I think we do need to get answered by the Council is when you're doing the Change in Zoning is it possible for, for the property owner to protest that change? Or if you have a split zoning – I mean, not a split zoning, but you have a, a, a multiple owners, and it is possible for an individual owner who, of that parcel, to come in and file for a Change in Zoning. And he may not have – there may be internal conflicts between the property owner, and so some of them may not want the Change in Zoning.

The other question the department wouldn't want to ask the Council and it could be a problem is what happens when you have a large individual parcel, say Lana'i, and you're only changing a portion, a zoning change, for a portion of a larger parcel. Okay? But you're not subdividing that out because we do have properties that has split zoning. So we have a property that is 10 acres, but you're only zoning one acre of the front. Where do you start the notification line? Do you do it from the whole 10 acres or do you do it from only the portion that is being zoned from. So those are the kind of questions that we want to ask Council. That was our concerns. There needs to be an answer and so that's, that's basically the department's comments and concerns on that bill itself. Otherwise, it's good in the sense it's a step in the right direction. It does provide more clarity than questions. But there's still just a few more questions we want to get resolved. Thank you.

Mr. Ornellas: Thank you Joe. Alright, is it – by chance, is this, is this a time sensitive type issue?

Mr. Clayton Yoshida: Because it is introduce via Council Resolution the commissions have 120 days once the department receives it to transmit their recommendations back to the Council, or the Council can act without a recommendation from the commission.

Mr. Ornellas: So 120 days from what date?

Mr. Yoshida: I believe we received this in mid-June.

Mr. Alueta: June 12th.

Mr. Ornellas: Okay, well, because I am desperately trying to find the exhibit.

Mr. Yoshida: Okay, the secretary tells me that it was e-mailed to the commission when it was

first received, and it was given to the commission, so the commission got an e-mail of the reso and they got a hard copy of the resolution prior to this meeting because they wanted to distribute it as soon as possible, as soon we received it so that commission will have time to review it and come up with their comments.

Mr. Ornellas: You know, if, if you're gonna bring up things, if you're going to bring something to the agenda on a particular meeting date, it's best to – I mean, yes, you may have sent it out before and it may be an e-mail, but like me I got 340 e-mails I haven't read yet, so, you know, you should include the hard copy with our packet on something that we're gonna decide this meeting, and not take it for granted that we have – yeah, we've got and we were – if it's in the packet we have no doubt.

Ms. Zigmond: Mr. Chair, if I can just add something to that too is that, you know, even though – and I remember seeing it in the hard copy not in the e-mail because I don't do real well with that – but we can't talk about because we'll violate sunshine laws, so if we, you know, like this would be the venue to do it, and we would need to have it in front of us. Maybe a reminder to bring it, we sent it to you or something, but I, I was shocked to see that on, on here, to be quite honest.

Mr. Ornellas: Alright, well, and how's the – what is the County's recommendation on this, Joe?

Mr. Alueta: The Planning Department is support of it because it does make changes to the ordinance that provides more clarity that currently exists, therefore we are in support of it. We would prefer to continue to use the term "parcels" as they use, as they call it as opposed to land. Again, I pointed out the two different methodologies. The current method is land, and that, that, the department has taken to mean land area, so we go by the area rather than individual parcels. This would sort of – I don't want – I mean, I don't wanna say balance the scale but it would put the, the weight of the notices and the protest with individual landowners as opposed to large landowners, I guess you could say. Landowners, big landowners still has a vote, but his vote still only counts – his or her vote only counts as one, whereas an individual person who has a smaller lot will have the same voting right as the person who has a bigger lot. So, I mean, it's up to you how you do it. The way we look at it, I mean, I guess in some places is that, you know, projects impact really people on the land, not so much the land in itself. So you wanna have that, have their voices heard. So that's kind of what Council was trying to – I think Council was trying to accomplish was to give individual people more of, of a way.

We also agree that by using parcels, right? that term is used in our notifications. So we consider the parcel like a legal, a legal notifications. When people do notice, they notice individual parcels. So condominiums are parcels, so they're also included. And so by using the term parcel, condo parcels, condominiums would be included in this protest provision.

Mr. Ornellas: Thank you Joe. Hang on. We're going to do public hearing, and then we'll come back and ask questions. Okay, so let's open it up to the audience for public hearing. Anybody want to weigh in on this subject please come forward. Alright, seeing none, close public

hearing. Opening up members' questions. Go ahead Brad.

Mr. Oshiro: Okay, I just trying, trying to make head or tails, okay. We use the east side of the island where there's a lot of ohana that's got parcels down there. So like I know somebody that, one family that owns three parcels but they're not close together, they're like a mile apart from each other. So what, they get three votes?

Mr. Alueta: If they're a mile apart, depending if they all three fell within –

Mr. Oshiro: No, I mean, you know, if like they were to be developing on that side of the island.

Mr. Alueta: Okay.

Mr. Oshiro: You know what I'm saying?

Mr. Alueta: Yeah.

Mr. Oshiro: The whole, on the east side, they want to develop. So the, the three parcels, do they all count as three different votes?

Mr. Alueta: Yes it does.

Mr. Oshiro: So the, the land, right now the major landowner got one vote?

Mr. Alueta: Yes, so it's like – but it has to fall within the area that's being – the noticed area, the 500 feet.

Mr. Ornellas: Any other members? What? Okay. Bev, you have a question?

Ms. Zigmond: I'm just wondering since we don't know when our October meeting is going to be, October would be 120 days, I'd just – I'd really like to defer it.

Mr. Yoshida: You have 120 days from the time that the department received the resolution from the Mayor's Office, so it would probably be about mid-October.

Ms. Zigmond: Clayton, when's our October meeting? I know that's later on in the agenda, but can you tell us that now?

Mr. Yoshida: Okay, we are cancelling the September 18th meeting because of the Statewide Planning Conference. We have a safety value date, makeup date of October 2nd if we have agenda items that are ready to go, and cannot wait until October 16th. So, we have this facility reserved for October 2nd as suggested by the members at the last meeting to make up for the canceled September 18th meeting, if we have agenda items ready to go.

Mr. Alueta: I mean, Mr. Chair, I do have – I mean, I have two copies, I have my original as well

as my copy if you want to take a short recess and review the bill. The ordinance is really short. It doesn't – it wouldn't take long to read it even people who went St. Anthony probably can make it through it. So –

Ms. Zigmond: Or we could defer it till October 2nd, yeah?

Mr. Alueta: That, that is an option.

Mr. Ornellas: Yeah, we have, looking at, looking at the calendar, it looks like the, the third Wednesday is the 16th of October.

Mr. Yoshida: Yeah, we have a makeup date for cancelled September 18th meeting of October 2nd if we have agenda items ready to go and we cannot wait the October 16th meeting.

Mr. Ornellas: Okay, so noting that, then Bev, you want to make that motion to defer until the October 3rd meeting? 2nd meeting?

Ms. Zigmond: Mr. Chair, I would like to make a motion to defer this action item till our October 2nd meeting so we can be better prepared. Thank you.

Mr. Ornellas: Thank you. We have a second?

Mr. Oshiro: I second.

Mr. Ornellas: Second by Brad. Any more discussion? Hearing none, all in favor raise your hand. That seems like about everybody except for Joelle and – that's five, we still have enough to pass so we'll defer it until the October 2nd. And can we make sure we get, each get a copy of that for that, please? Thank you. And from now on let's not – don't mail it early, just mail it with the packet. That way everybody will read the packet and, and –. They'll mail it in the packet. No, no they don't have to mail it early. Just put it in the packet. It's not much to look at. Okay. Thank you. Let's move on to –. So, Joe, you gonna have to come back and give that spiel again alright.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Bradford Oshiro, then

VOTED: to defer.

**(Assenting: S. Barfield, K. Gima, S. Koanui Nefalar, S. Marlowe, B. Oshiro,
B. Zigmond**

Dissenting: J. Aoki

Mr. Alueta: Sure. I, I, I'll have another one. I'll have another one. I'll have another bill.

Mr. Ornellas: Give us the reader's digest version next time.

Mr. Alueta: I have another one.

E. COMMUNICATIONS

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

MR. KELLY MCKINLEY of ID9 ASSOCIATES, INC. on behalf of ADAM WATEROUS submitting a Special Management Area (SMA) Assessment for the construction of a 5,040 square foot single residence with a 1,060 square foot detached garage and 650 square foot art studio with pools, spa, pergola, outdoor sports court, retaining walls, utilities, landscaping, driveway and appurtenant improvements on approximately 35,527 square feet of land located at 145 Kapihaa Place, Lot 56, The Terraces Phase II at Manele Bay, TMK: 4-9-022: 007, Manele, Island of Lana'i. (SMX 2013/0195) (Valuation: approximately \$5.214 million) (C. Thackerson)

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

Mr. Ornellas: Alright, E, communications (*Mr. Ornellas read the above project description in to the record.*) And I guess C, Candace Thackerson is the planner.

Ms. Candace Thackerson: I'm staff planner Candace Thackerson, and I am a coastal zone management planner for Maui County. As stated the above project is being proposed by Kelly McKinley, the associates, on behalf of the owner Adam Waterous. The architect for the project is Maui Architectural Group, and the architect here is with us. Representing that group, Peter Niess. So he might be able to go into some more details for the project.

The proposed project, as stated, is the construction of 5,040 square foot single-family residence with 1,060 square foot detached garage and a 650 square foot art studio with all of the lovely accessories that were stated earlier. The value, approximate valuation is \$5.214 million. In our special management area I provided in front of you a map of Manele Bay that shows the special management area, and the parcel that lie inside and out of the special management area. The Terraces at Manele actually, the special management area cuts that subdivision through it. So houses are in the special management area, and some are not, and that's why some have been built and you have not seem them. They don't come before this body if they're not located in the special management area.

The Terraces at Manele received most of their – they had an SM1 done. They had an SM

Major done when they did all the subdivision improvements originally to get the road built, to get the drainage put in, to get all that so that the homeowners could come in later and build the homes that they purchased the lots individually. Murdock's residence is up there. You know, a lot of nice homes and things like that are all located up there. Very, very nice homes.

So they received that SM1 permit from this body in 2005, and they also received their Project District Phase II approval in 2005 from this Commission, and that was for approval to construct all the drainage, roadways, and various other improvements. The Planning Department gave them a Project District Phase III approval to subdivide the lots out so that they could – for this particular one, and I've, I've noted in the exhibits.

According to our SMA law our first exemption on our list is single-family homes. Single-family homes and – exemption is an interesting word. It's, it's not technically – when people hear exemptions, they think no laws don't apply. They still have to meet all building permit codes. I have to do an assessment to give, to even recommend an exemption before this body so I have to look at how far away they are from the shoreline, their view plan analysis, their drainage effects. I routed the permit to the Department of Land and Natural Resources and made sure that they have their archaeological inventory survey done. And they've approved it and said no historical properties will be affected on the parcel.

Otomo Engineering did the drainage report so the drainage will be captured onsite, so pre- and post- development will be caught there, and, you know, filtered and retained onsite so that the runoff will not be going into the near shore waters. I included a view plain analysis for you as well from the public roadways. The SMA law only speaks to protecting public views. We don't really speak to protecting private views, so I included a view plain analysis from the public roadway. And the house is going to be down set into the mountain side and cut in, so if you see on there, you won't see much of the house from the roadway. The roof line, you'll see the roof line. They have a 30 foot building height maximum. They're actually not building it to the maximum, and they're lowering it significantly from there. They're cutting the grade.

SMA Exemptions, the rule states according to Hawaii Revised Statutes, Section 205A, 22, that a development does not include construction of a single-family residence including accessory units that is less than 7,500 square feet of floor area and is not part of a larger development. While this is part of a subdivision, it's not part of a larger development. Larger developments would be subdivisions that have a cookie cutter house that you can pick the design, the model, and then you come in. Developers can't exempt all of those. That's, that's not what we mean by single-family homes. We mean when someone purchases a lot and wants to build their home on it. 7,500 square feet is a lot, but that's what the law calls for. The department is, in light of all this, recommending an exemption for the permit from the SMA requirements. That, that basically just means we can't put any conditions on them, any further conditions, or, or a time limit for them to build construction, as opposed to minor permits or majors which we can put conditions on. I tried my best in the assessment to rule out and go through a lot of the effects that I thought they would have that came to my mind immediately when I was doing it, as in view plains. Shoreline setback, I calculated that out for you guys. The average lot depth. Even though they're not technically considered a shoreline parcel, there's a parcel between this

house and the ocean that's owned by, I think, the State or the County. And so you can't – we usually ask people to do a certified shoreline survey to identify where the shoreline is. You can't do that if they're not the owner of the parcel touching the ocean. But I still calculated the average lot depth which you just do by adding to the two sides and the middle line, divide by three, then that gives you. Then on our scale we can do the setback. They have a 63 foot setback from the shoreline, and they're more than farther away from that. Their parcel is. And then from that, they even set it back 65 feet before they begin construction and anything permanent.

In light of all of that the department will recommend that the commission concur with the department's SMA exemption for the construction the single-family home and related improvements located on lot 56, The Terraces at Manele Bay. I'd be happy to answer any questions and the architect is also here.

Mr. Ornellas: Thank you very much. Members, we have any questions for the planner as well as the, the architect?

Mr. Stuart Marlowe: My only question. Is there no time limit for them to complete construction?

Ms. Thackerson: There is no time limit for them to complete construction for the SMA permit. Once they put in for building permits, building, they may have their own time limit.

Mr. Marlowe: Yeah, something under the HOA I am assuming.

Ms. Thackerson: Yes, yes. Yeah, and the subdivisions have an HOA and they have their own restrictions. But, but for SMA permits, no.

Mr. Marlowe: Okay. Thank you.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: I really – these are more again observations and thank you for all of the hard work that you did on all that. It was very helpful to have all that information. I believe that it is a – it should be exempted, and I just think it's a very busy lot. I'm curious if the pergola is included in that because without it, it's just 750 feet under the limit, so we're really, you know, using the shoe horn there. But I think mostly I wanted to just put for the record a little historical note is that long, long time ago when the, this project district was just a twinkle in someone's eye, this community had said no pools down there because of the water issue. But I guess after we heard, what we heard today, we don't ever have to worry about that again, so go for it.

Mr. Ornellas: Go ahead Brad.

Mr. Oshiro: I, I don't mind they building it. It's just that the aquifer – your desal plant is not going

come on board until 2015, so I don't think the pool should be built. If they do build this pool, I was just saying to somebody, if you going build the pool, you better not fill it up till 2015. Because 75% of the water that's pumped daily goes down there, and the majority of the population is up here. So, and if they don't use brackish water to fill a pool, right? But, I don't think they gonna do that.

Mr. Ornellas: Thank you Brad. Anybody else? Joelle?

Ms. Aoki: I have question on the hydraulic – hydrologic calculations. You noted here that determining the 50 year one hour rainfall at 1.5 inches per hour, and after calling around and looking at our own, my own calculations as a rancher here on Lana'i, I would estimate the estimates to be closer to three inches per hour with a 50 year or even 100 year flood. And so how will the landowner, homeowner mitigate the erosion and runoff should that occur? What kind of protective measures are they putting in place to mitigate that? Being that they're, they're on a, a slope and they're next to a, not necessarily a gulch but a runoff, a very deep crevice.

Ms. Thackerson: I'll let the applicant answer that question. Peter Niess.

Mr. Peter Niess: Peter Niess from Maui Architectural Group. We're not the design architects on this. We are the architects of record, to make that clear. And in terms of the runoff, that's calculated by Stacy Otomo, civil engineer, and he placed two retention basins on the down hill side of the property to deal with that. In terms of mitigating it, if there is runoff off the site, he designed it so that there will not be runoff. And if there is, I'm not sure what, what the penalty would be for the landowner.

Ms. Aoki: Thank you. And I understand that you're asking for an exemption with no stipulations, but should there be erosion and runoffs that occurs which would affect our, our marine life conservation district, how do we address that in the future if, if there are no stipulations put on to this exemption in the long term because, for example, when the previous landowner built the retaining walls at Manele, their reply was there will be no runoff, there will be no erosion, and there was a massive flood and serious lawsuits. And only a – no one could predict nature or the act of, you know, nature. And so I just would like – I'm very concerned about the fact that if we do not have any stipulations on this, on this exemption, or the request for exemption that how will we address that in the future with the landowner because we've not put any stipulations and we've released them from any liability should that occur.

Ms. Thackerson: That's a complicated question. I'll try my best to answer it. I, I mostly only do SMA permits. I'm very familiar with runoffs and my personal hobby is coral reef, and I love doing coral reef revitalization projects. If you noticed in your map the SMA line, right across the road, the other guy is not in it. Part of the subdivision – you know, and he can come in and build a home, and that can also affect near shore waters. Mother nature does not listen to our SMA lines, or our zoning lines. Water flows from up hill to down hill, and we all know, especially on Maui too, how the ag run off, that people who live upcountry can it go right down to our near shore waters regardless of them not being in the SMA and not having an stipulations. That's an issue that we fight a lot and we do have SMA violations where if someone if found violating

SMA law they can be held accountable for that, and they are fined. Without any conditions on the permit we really can't hold them to having specific conditions. We can only say as represented before the Planning Commission and they, in the packet, and in their plans through building permit have to use best management practices to keep the runoff and things like that especially during the construction phase from going into our near shore waters. So when we say there's no stipulations, there's no further stipulations upon receiving the exemption. The Planning Department has already made them, you know, get the archaeological monitoring done, have the drainage plan done so that Public Works will accept it. And that is something that the – it meets our County's standards. Now, whether or not nature is going to send a, a major storm our way or not, unfortunately we can't predict that. And it's a shame, I've, I've seen days so clear one day the ocean water, and the next day it's like chocolate milk from all the ag runoff, or just runoff sediment in general. So, yes, that is something that we struggle with. And not being able to put a condition on it will make it harder legally. But who's to say that runoff is coming from his property or literally the property across the road up the way from him who has no – and doesn't even have to come in and get an SMA permit. So I, I hear your concern. It's something that we struggle with. All I can answer for that is that they have best management practices in place, and their drainage is built for the regulations of the Maui County Code. We, we really have a hard time asking people to go above and beyond that.

Mr. Ornellas: You finish Joelle?

Ms. Aoki: Thank you.

Mr. Ornellas: Alright, anybody else? Shelly? Oh, go ahead Shelly.

Ms. Shelly Barfield: I noticed in the plan, I didn't see anything about landscaping, as far as you know their landscaping, whether – because water is an issue. You know, a lot of, a lot of the homeowners down there, they're encouraged to do zero scaping so that was just a question.

Mr. Niess: I know that the – they've worked to get under the SMA or the SM1 requirement. I believe it's 1,000 gallons a day for irrigation. And I know that what they have designed is under that. I wasn't aware that it's not in those plans. But it is, it is under a 1,000 gallons a day, for sure.

Ms. Thackerson: And the – Candace Thackerson, staff planner – the regulation he was talking about for the SM1 when he was referring to was when the original subdivision was built. I guess the homeowners association, they have their own stipulation. And to get that approval in the first place, they said each home has to come in and you have to meet these standards, so they're held to the regulations of that prior permit.

Ms. Aoki: Will you be communicating any of our concerns today on to the engineering firm as well?

Mr. Niess: Yes, for sure.

Ms. Aoki: Thank you.

Mr. Ornellas: Shelly? Hi Stacie.

Ms. Koanui Nefalar: My question is will there be an archaeological monitor during the grading process?

Ms. Thackerson: Yeah. The archaeological monitoring has already been done. Yeah, it was surveyed and I believe the parcel partially grading and there was archaeological monitoring done at that time. And they have deemed now that no historic properties will be affected so I don't believe there will be any archaeological monitoring going on during, during any more construction.

Ms. Koanui Nefalar: Because sometimes the – you know what you see on the surface is not always – it's usually on, it's usually below ground. So you were saying that they were going to dig, they're going to go deeper, so what if something pops up during grading?

Ms. Thackerson: When they do archaeological monitoring surveys in the beginning they dig trenches throughout the property to test certain site which always kind of struck me as kind of odd because, you know, you're digging around to find something. But that's what they do in the beginning part. So they did do the surface area and then they do dig in certain samples.

Ms. Koanui Nefalar: I'm just thinking about like on Oahu the church and the, you know, the rail, they ended up finding stuff even after the testing was done.

Ms. Thackerson: Yeah, we can only go by what the State Historic Preservation District says, and if they give them a clearance letter that says no historic properties will be affected, I, myself, is not an archaeologist so I, I can't, I have to take what they say and, and go with that.

Mr. Ornellas: For information, when I did see this I had that same question so I asked Kepa, and Kepa has been down there way too often he says. And he said there's really nothing down there because on the right hand side, the west side of this is lot is Mumford, and then on the left hand side is Murdock so –

Ms. Koanui Nefalar: I'm only asking too because one of the archaeological survey it says that there was a boulder there, and so they said they moved that one boulder so I'm thinking if there was one boulder what other things may pop up later?

Mr. Ornellas: Okay, can we make that as a – can't do nothing.

Ms. Thackerson: No, we can't. And, and –

Mr. Michael Hopper: Conditions would not be permitted. If the applicant is willing to make a commitment to, to do that, that's something in that in the past, I know with the Molokai Commission we have had applicants have that as part of their project plans. But conditions are

only permitted on SMA permits. Now the commission, in reviewing this, under State law, can find an exemption is not exempted if based on the language in HRS 205A it states that whenever any excluded use or if the authority finds that an excluded use, activity or operation may have a cumulative impact or significant environmental or ecological effect on the Special Management Area that the use or activity or operation shall be defined as development for the purpose of this part. There have to be finding made on behalf of this commission. If the commission would have that concern and the applicant would be willing to say that they can commit to having an archaeological monitor onsite that can be part of the proposal. If the applicant say they cannot commit to that at this time, then there's nothing that the commission – the commission could not impose that as a condition unless there was an SMA permit before it. So those are the options. And I know that's happened before at the Molokai Commission.

Mr. Ornellas: Okay, and I haven't – I want to come back to that. And I also want to come back to what Brad was saying to about pools. In the, in the, in the description it states pools. Spa. How many gallons are we talking about when accumulated?

Mr. Niess: I do not know off hand how many gallons the pools are.

Mr. Ornellas: Okay. Do you talk to this guy, the owner?

Mr. Niess: Yeah. Kelly McKinley is the applicant.

Mr. Ornellas: Okay.

Mr. Niess: He's the actual applicant. He wasn't able to make it, so I was told on short notice to come here. I do not know how many gallons the pool is. I assume it will be filled by a hose bib.

Mr. Ornellas: I just need to know, you know, the spa and the word pools in the description kind of –

Ms. Thackerson: I said pools because there's a little lap pool.

Mr. Ornellas: Okay.

Ms. Thackerson: Right there on the plans, on exhibit –

Mr. Ornellas: Next to the, next to the big pool?

Ms. Thackerson: Yeah. It's like a, like a thinner kind of – it actually looks like it's connected to the other pool.

Mr. Ornellas: Okay.

Ms. Thackerson: I just didn't want to say pool, and then on the building plans when they come

in they have two pools, and then they have to amend their SMA. I just said pools.

Mr. Ornellas: Okay. Is this time sensitive for us?

Mr. Yoshida: I guess Corp Counsel can chime in, but looking at your SMA rules under section 12-402-13.1, Commission review and final determination of SMA Exemptions, the commission shall make a determination and notify the applicant in writing within 30 calendar days after the application is reviewed by the Commission that the proposed action is either one, exempted from the requirements of this chapter because it is not a development pursuant to HRS Section 22, 205A-22 as amended, or, two, non-exempted pursuant to HRS Section 205A-22, applications determined not exempted shall be transmitted to the director with findings and conclusions. And the director shall process the application under 12-402-12F. The commission does not make a determination and notify the applicant in writing within 60 calendar days as provided in subsection D, the proposed action shall be deemed exempted.

Ms. Thackerson: Can I comment on exempted versus not exempted?

Mr. Ornellas: Go ahead.

Ms. Thackerson: Because exempted like I said is such a strange word. Because it's not that they don't have any laws put upon them. They still have to go through all the building permit process. If I were to take this on as SMA Major – because it would be an SMA Major. It would be an SM1, public hearing and notification of neighbors, and routed it out to all the agencies. Our, our Water Department doesn't comment anyways on, on these permits because you guys have private wells. So they would give it back to me and say we have no comment. SHPD, State Historic Preservation Division District, would come back with the same letter and say we've already, we've already moved everything of historical importance off the property and we've surveyed it and there's no historic properties. Now if the applicant – I don't know if Peter can speak on behalf of the applicant, but if they would be willing to do an archaeological monitoring onsite, and just said that representation was made before the commission today, we can include that as part of the plan. It's not really a condition. It would just be something that they're proposing. That may be one way to take care of your concern. I've, I really don't know what to say about the water because unfortunately the County Department, we don't comment on that.

Mr. Ornellas: Understood, but when you have that much water going down to Manele as it is, and the desal plant not in operation for another couple three years so – two years – and, you know, would just – you're, you're basically writing a check that we don't think we can support, this island can support, as far as water. If the applicant maybe on two levels, maybe the applicant can also do archaeological monitoring as well as build the pools, and like don't fill it. Or be that at the, at the end of the project, build the pool when, when the desal plant goes online.

Ms. Thackerson: Phase it in?

Mr. Ornellas: Yes.

Mr. Niess: That would be difficult to get the owner to agree to that. That would change the whole construction schedule. The way we built. And the, the amount of water is already been – they're trying to work diligently to keep the amount of water use low. Filling the pool initially would be the one time large water use, and they can only use so many gallons a day, so they can't fill it all in one day anyway. But, it's hard for me to put stipulations on the project without, without explaining to them why they have to do this.

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: Mr. Chair, you know, I feel everybody's pain about the water, that water is always an issue that I bring up and that's why I gave that little historical piece because for a long time we've been concerned about the water. I, I'm just not sure that we really have a right to stand on. I mean there's already pools down there. I, I don't know that that we – and I know that we can't put any stipulations on it, so that's what I'm hearing.

Mr. Ornellas: Yes, you are correct. But we're also asking – so either or. Either we deny it or we support. If the, if the, the, the landowner is willing to make those accommodations a better chance of it being supported by us. Because you're right because if it doesn't – if majority of us don't feel like – if, if the water is an issue for the majority of us, or an archaeological is a majority, the thing will fail. They'll have to go through the process again. Go ahead.

Ms. Thackerson: They, they have the option to appeal your denial as well on the ground. I mean, they don't have to go through the whole process again, is what I'm saying.

Mr. Ornellas: They can appeal. It's okay. That's their right.

Ms. Aoki: But if they were to appeal – just, just throwing this out there – maybe they could come to attend so they can hear our concerns. Because if they're going to be homeowners here, I think it would be good that they hear these concerns, or send a representative back would plan to ahead of time to be here and be prepared to address our concerns.

Mr. Ornellas: It would be great if we had the guy who's paying the bills.

Ms. Aoki: Specifically to these issues.

Mr. Ornellas: If we had Waterhouse, Waterous here, so he can make that decision. So anyways, any more questions for the, for the, the planner and the architect concerning this project?

Ms. Aoki: No, but thank you. I appreciate you putting this together and thank you for coming.

Mr. Ornellas: Yeah, it's, it's very well done. Thank you.

Ms. Barfield: I have a question.

Mr. Ornellas: Go ahead.

Ms. Barfield: So all in all if we vote no, we're not in favor, let me just remind you that the ground there is all brown and there's nothing there. Everything is graded. The BMPs are in place but should a huge rain flood come down that dirt will run into the ocean, so just to put that out there.

Mr. Niess: If you, you are thinking of voting no, what would the adverse cumulative negative effect be of the project? What would be the reasoning for nothing wanting to do it?

Mr. Ornellas: That will be – that would probably – I don't know – it would be basically, it would be basically, as far as I can see it, right now, is water and archaeological sites so –. Now, yeah, you know –

Ms. Thackerson: Archaeological site is kind of hard. Yeah.

Mr. Ornellas: Well, still yet. There were things found there at one time, so who's not to say that there's more things on the lot?

Ms. Thackerson: SHPD.

Mr. Ornellas: Okay. That's yeah, that's – are we gonna go down that?

Ms. Thackerson: No, I'm just playing devil's advocate.

Mr. Ornellas: Okay.

Ms. Thackerson: Because I gotta write this up later.

Mr. Ornellas: Understand. Alright.

Ms. Barfield: Well, if they do find archaeological site, they, you know, they have to follow due diligence. They have stop.

Mr. Ornellas: If there's no monitor, why, why would they? Okay, anymore questions, anymore comments on this project? So can I hear a motion to approve, disapprove this? Wait, hang on.

Mr. Hopper: I need to comment for the record. If there's a motion for denial, the rules do state that, that applications determined not exempted shall be transmitted to the director with findings and conclusions, and the director shall process the application basically as an SMA Minor or Major. This would be a Major, so the, the rule requires that basically findings and conclusions be made by this commission. That's typically in the form of the reasoning given to the planner as to essentially why this is, even though it is a home that falls within one exemption that because of the adverse environment or ecological effect that the project may have that effect

based on whatever findings you make. And then your, your planner will need to transmit that to the applicant based on what you approve here today, or what you approve as your reasoning here today. Again, you would need five votes to make that determination. You would also need at least five votes to make your determination of exemption and concur with, with the Planning Department's report.

If no decision's made, there's a 30-day time frame for, for the decision making, as I understand it and Clayton can perhaps illuminate on that, but in that situation if the determination is not made, they proposed action is deemed exempted if there's no action taken. So you would need to have five votes one way or the other to take action. If no action was taken and the time frame lapses, then the project would be deemed exempted.

I would also note that I don't necessarily agree that there's an appeal from the commission's decision. It would go to an SMA Major permit. And then after that decision on the Major Permit is made, if that's denied or, or, maybe there's a condition that's problematic, I believe that's when the appeal time would run because there's not really a denial of a permit. It's just a finding that a permit must be processed, and so I wouldn't necessarily agree that there's a right to appeal the denial of an exemption right away. I wanted to just get that on the record that if there's a motion made, and again there can be details added to either the motion or after the motion is made if there's one for denial. The reasons for the denial need to be stated on the record that, so that your planner can transmit that to the applicant. And, and this, you know, the planner basically becomes your staff at this point to transmit your reasons to the applicant, again, if that's the determination.

Mr. Ornellas: Okay. So, can I get a motion to, to acc – Okay, can we – let's get public testimony up. It didn't say on here that's the reason I didn't. Okay, let's, let's open the floor, questions up to the audience. Anybody wants to make some public testimony on this particular issue, on this SMA? Yes sir. Please come up Mr. de la Cruz. Please give your name and –

Mr. de la Cruz: Zane de la Cruz. So I'm just curious, the three, or from what I heard there are three kind of objections to the SMA exemption. One is that the water usage for the pools which historically has been an issue. One is that, that the calculation of rainfall is it could be . . . (inaudible) . . . and archaeological sites. Is that the three issues. . . (inaudible) . . . as we've seen on Lana'i that you can get like 3/4 of an inch in 15 minutes or like two hours, so that completely destroys the runoff grades . . . (inaudible) . . . I think that's a very important point to look at.

Mr. Ornellas: Thank you. Anybody else? Yes sir John.

Mr. Stubbart: John Stubbart, Director of Utilities. The term that there's a water shortage, I think is inaccurate. The district has an allocation of water for the future. We do have landscape regulations that we impose and want to. One finally trying to meet these regulations. Building a pool and identifying the filled pools before from our water services, and yes, they pay the going rate. It's \$1.62 per 1,000 gallons. And, but I, I can't support that term that there's a water shortage. We don't have a water shortage. We have adequate water supply for the district.

At it's present build out is 19 homes in a planned community of 160 homes. So I, as the Water Department, would not support that statement.

Mr. Ornellas: Thank you John. Yes sir Mr. de la Cruz, please come back.

Mr. de la Cruz: Zane de la Cruz again. For me it's not so much the term water shortage. Even if we ample amounts of water, it's how we chose to use that water. And using it for recreation pool, you know, . . . (inaudible) . . . it's kind of weird to me. So just, maybe, you guys keep that in mind, you know. It's not just because even if we have enough water it doesn't mean we should be using it for pool side recreation.

Mr. Ornellas: Alright. Thank you. Anybody else have a comment?

Ms. Aoki: So we have –

Mr. Ornellas: Hang on. Hang on. So we're gonna close public testimony right now. Members, continue.

Ms. Aoki: Thank you Mr. Chair. So we have no idea of the capacity of the pool, and the lap pool and the spa? I think that might be good information.

Mr. Ornellas: We'll recess, to go to the restroom and stuff, and then --. Oh, you have it?

Ms. Thackerson: He said it was approximately 60,000 gallons.

Mr. Ornellas: Well, let's take a five minute break.

Ms. Thackerson: Thank you.

(The Lana'i Planning Commission recessed at approximately 7:45 p.m. and reconvened at approximately 7:50 p.m.)

Mr. Ornellas: Members? Everybody back? Alright, great. Let's continue sir.

Mr. Niess: Peter Niess again. Approximately 52,000 gallons for the swimming pool, 2,700 for the spa, and 10,800 gallons for the lap pool. And total –

Mr. Ornellas: Thank you. Anymore questions for the applicant, or the planner? Hearing none. Can I hear the motion to support the County of Maui's Planning Department's recommendation to accept the exemption?

Ms. Barfield: I make a motion to accept.

Mr. Ornellas: Can I hear a second?

Mr. Marlowe: Second.

Mr. Ornellas: Okay. Shelly made the motion and Stu seconded it. Anymore discussion? All those in favor of this, this motion, raise your hand. We have three. Okay, so, against is this four. Okay, let's go back. So all in favor of the motion raise your hand? That's four. All those against? That's three. I vote negative. Motion fails. You heard, you heard what we had discussed today, tonight, okay, so take that back to your guys and tell him what we talked about and, and then maybe we can do something different.

It was moved by Commissioner Shelly Barfield, seconded by Commissioner Stuart Marlowe, then

VOTED: to accept the County of Maui's Planning Department's recommendation for an SMA exemption.

(Assenting: J. Aoki, S. Barfield, K. Gima, S. Marlowe

Dissenting: S. Koanui Nefalar, J. Ornellas, B. Oshiro, B. Zigmond)

MOTION FAILED

Ms. Thackerson: Can I get –? Oh, yeah –. Do we –. Will they need to give me the findings of facts, conclusions of law?

Mr. Hopper: There was not enough votes to pass an approval motion, but that's not the equivalent of a denial. You will still would need to have five votes one way or the other to take action. Whether it's a deferral, which in this case it would probably result in an automatic exemption based on the time frame. Or a denial which based on whatever findings that you make you would still need five votes to pass as a, as a denial. So there still would need to be commission action if there's any other motions to be made by – if any commission members have motions along those lines. But a failed motion is not the equivalent of action. You still need to have five votes to take action in some way, shape or form. Right now the commission has taken no action on this application. And if there's no further action in a form of a motion, that's going to be the result.

Mr. Ornellas: Okay, so, so what action would we – what would be the next? But we can't do any exemptions to the – exemptions to the exemption. So why would we have to do another vote? Okay. Is there any other motions from the members? Go ahead.

Ms. Aoki: I'm sorry, I have a question. Please, could you clarify once again, if there's a denial with five votes, what happens from that point, please?

Mr. Hopper: If there's a denial, that's not a denial of the whole application. That just means that there has to be an SMA Major Permit obtained, and so, Ms. Thackerson or Mr. Yoshida could perhaps explain that process. But the denial would be transmitted to the applicant stating the reasons that you provide the planner. That denial would be explained. It's the denial of the

exemption basically says that the SMA law would then apply to the applicant. They would need to get an SMA Major Permit. Your rules set forth guidelines – not guidelines – rules, for getting an SMA Permit which includes sending out for agency comments, and, and a notice in the newspaper for neighbors, I believe, within 500 feet of the application, published in the newspaper, and to applicants within 500 feet, I believe. That will come back to you as a public hearing item, and you would have the project to review for approval or denial which you could provide conditions for and approve or deny based on your SMA rules. And Ms. Thackerson and Mr. Yoshida can explain that to you in more detail. But the first step is to state the reasons if there, if there is a motion for denial of the exemption, state the reasons on the record for that, so that your planner can provide that in writing to the applicant and, and have the ability to provide that notification and then begin the process for an SMA Major Permit for this home.

Ms. Aoki: One more quick question please. So if, if, if there is no action from the commission as it stands currently, is there any notice sent to the applicant regarding the reason for no action? Is there any communication made to the applicant outside of the denial?

Mr. Yoshida: Well, if the commission does not – I guess according to your rules, 12-202-42-13.1 – see if the commission does not make a determination and notifies the applicant in writing within 60 calendar days as provided in subsection B, the proposed action shall be deemed exempted. So it defaults into an exemption.

Mr. Ornellas: So are we looking for a motion to deny?

Mr. Hopper: Well, Mr. Chair, at this point it's whatever motion a member want to make. And your options are approval, denial, or deferral at this point. If you do nothing further – all we've had on the record so far is a motion for approval and that failed. At this point, the two other options which are deferral or denial based on those reasons. Or – yeah, that's all that I can think of at this point. And so if neither one of those options are taken – obviously, if deferral is taken, that's essentially the same as no action, then based on your rules, you'll be falling under the no action scenario. So I think the proper thing now is to request if there's further motions by any other member with the understanding that if there are no other, if there's no other action taken, the project will most likely be exempted based on the time, the expiration of time as stated in your rules.

Mr. Ornellas: Okay. Yes, Joelle?

Ms. Aoki: . . . (inaudible) . . .

Mr. Ornellas: That's a good observation. So do I have a motion?

Ms. Gima: Mr. Chair?

Mr. Ornellas: Yes.

Ms. Gima: If we do a motion to defer, would that, would then mean we would have a meeting

next month? No?

Mr. Ornellas: So if no one's going to make a motion, the thing stands and it's gonna lapse in 30 days and –

Ms. Koanui Nefalar: Chair, I'd like to motion to deny the SMA exemption for this project based on archaeological, or – what's the word – environmental. Based on significant, environmental, ecological effects, or proposed or potential environmental, ecological effects due to previous findings of archaeological artifacts on the property. And unknown effects on water consumption and usage.

Mr. Ornellas: Alright. Do I hear a second?

Ms. Zigmond: Second.

Mr. Ornellas: It's seconded by, by Bev. Any more discussion on this, this denial, motion to deny? Go ahead Bev. Go ahead and amend your motion.

Ms. Thackerson: You're quoting the SMA law, pretty much, right?

Ms. Koanui Nefalar: Yes.

Ms. Thackerson: Yeah.

Ms. Koanui Nefalar: And amend the to add unknown effects with runoffs in that area.

Mr. Ornellas: So will you accept, second that addition? Okay. Got that Leilani? Okay. Any discussion on the motion to deny based on those three items? No discussion? All in favor of denial of the project raise your hand. We have three. All those in favor? I'm sorry, all those rejecting, opposing the denial, motion to deny, raise your hand. Motion fails.

It was moved by Commissioner Stacie Koanui Nefalar, seconded by Commissioner Beverly Zigmond, then

VOTED: to deny the Planning Department's recommendation for an SMA exemption on the proposed project based on potential environmental, ecological effects due to previous findings of archaeological artifacts on the property, and unknown effects on water consumption and usage. The motion was further amended to include unknown effects with runoffs in that area.

(Assenting: S. Koanui Nefalar, J. Ornellas, B. Oshiro, B. Zigmond

Dissenting: J. Aoki, S. Barfield, K. Gima, S. Marlowe)

MOTION FAILED

Okay. Alright, alright, so if we don't do anything else between tonight, then in 30-days it's going to become an exemption. Okay? I just want everybody to know that. Alright. Thank you very much. And you still might want to –

Lana'i Planning Commission was unable to take any further action.

Mr. Niess: To the, to the property owners.

Mr. Ornellas: Thank you.

Mr. Niess: Let them know serious concern and it was four to four on the vote.

Mr. Ornellas: Okay. Thank you.

Ms. Thackerson: I'll do the same in the write up letter for their exemption.

2. **July 2013 Semi-Annual Report submitted by Pulama Lana'i 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 Lana'i. (95/SM1-015) (95/PH2-001) (J. Prutch)**

The Commission may provide its comments on the report.

Mr. Ornellas: Thank you. Okay, so let's go onto – time flies when you're having fun – E, E2 (*Mr. Ornellas read the above project description into the record.*) Joe? Joe was the – he was the planner for this. Yeah, yeah, remember?

Mr. Joseph Prutch: Yes. Yes.

Mr. Ornellas: Yeah, the reason why you're here tonight.

Mr. Prutch: Sorry. Okay, as you know the last few meetings we've had discussion about water usage and water reports, and very confusing reports, and very confusing tables, and lots of numbers and just make no sense of it, and, and no rationale to it. So Lynn, myself, and John as well, we kind of got together and we, we, we worked. Well, they did the majority of it. I made some suggested. We made some changes to it. They made some changes to it. And what I think we came back with is something that has some graphs, it has some tables, it has a little more just common sense use to be portrayed to you guys so that you can actually see what's being used, and where it's being used, and see graphs of things, see where it's been escalated and maybe it's dropped a little bit since, and get a better sense of how the water is being used in all the different areas in Manele. So that's my part of it. The rest of it, I'll hand over to them because they're the ones who can explain the number and the charts and stuff.

Mr. Stubbart: The comment – I'm sorry Butch isn't here because it was Butch's comment to help expedite this, to expedite this report. And I think it was excellent – presented poorly – but a

great idea in one that I've been trying to explore and motivated by his comment because Lynn's and her help with her staff. So these are the tables that we used to see in the reports you got from the quarterly and semi-annual reports and all that good stuff, so it was very hard to read. And so what this does is it gives you a graph of the information so that you can quickly identify on a rolling chart and just went back and did from –. Yeah, the first quarter of 2009 when these all started so that we can start rolling this and you can start seeing quickly by looking at the graph areas where the stability of the water use, the areas where we have high water use for what reason that might be we would come to present that to you and say, hey, this happened and that happened. And so this gives you the data to see where we're going and it's pretty. I like it. It helps me, and it – gallons per day. And you can see the hotel, and the other Manele uses, and the color coding on the bottom helps you identify those. So I know when Bev was trying to read them the other – Beverly was trying to read them last time and was very confusing. This is hopefully a step, the kind of thing that will help you and the planning commissioners to quickly look at it and see where we're going, and if you have questions about the direction or the gallons per unit or per day that it makes more sense than the report you were receiving.

Ms. Zigmond: . . . (inaudible) . . .

Mr. Stubbart: Yeah, and there were two sides of the form, and I didn't realize you had two sides, so it was very confusing. And so if you'd like to look these over. Do you have anything to add?

Ms. McCrory: Yes. Lynn McCrory. These make a whole lot more sense to me. At least I can see what I'm looking at and whether they're staying level, or if there ends up being a leak, you're going to see this water usage spike and you'll have – you can see it and ask the question, and we'll come back with questions, or answers for them.

We, we went out this far, the four and one quarter years just to give, you know, kind of a long term view. What I'd like to do going forward because you don't necessarily need to receive 11 x 17 inch paper all the time is to put two years on, and it will be two continuing running years. And then you'll have a lot of that information. And you were okay with that? The Planning was okay with that. And I just wanted to verify with you if you're okay with it or if you have any other suggestions that you'd like to see on these because we're – if you're alright then we'll start producing the other water reports basically in the same type of manner so that there's something to look at and something that you can easily question and not have to go, "I don't know what this number meant."

Ms. Zigmond: Mr. Chair, are we commenting?

Mr. Ornellas: Go ahead.

Ms. Zigmond: I'm just trying to hurry it up because I'm sure everyone wants to get out of here.

Mr. Ornellas: I'm, I'm not.

Ms. Zigmond: First of all, thank you. It is a lot easier to read and it's very pretty and it's in color,

and I, I have a couple of comments. I guess when I first looked using potable water for irrigation, I went, that's my drinking water. And then I remembered for 20 some years now we're still fighting whether or not to be able to do that, and you can do that for 650,000 gallons per day. But a question is on the other Manele potable water golf course, is that the clubhouse? Yes? Okay, and then just another comment related to this is that we're still going to have the extension come before us at some point right? Okay, thank you.

Mr. Ornellas: Anybody else have questions for the group? Hearing none. Make sure you put LWAC on the, LWAC on the mailing list please. Butch, he is the chair of the LWAC. And Butch does, did see this and he smiled when he saw the graphs so –. Yeah, he was happy. Okay, anybody in the audience want to have a say on this water report? Seeing none, close public testimony. Anymore questions for the, anymore questions for the guest? No? Hearing none, thank you very much. Continue. Didn't take you guys long to do this, but we really appreciate it. Thank you.

Ms. McCrory: Okay, thank you.

3. Pulama Lana'i's Upcoming Projects Update - Lynn McCrory, Vice-President of Governmental Affairs, Pulama Lana'i

This is for information purposes only.

Mr. Ornellas: Okay, let's go on to Lynn McCrory, upcoming projects update.

Ms. McCrory: I'm just going to turn this page around because it's singled space and it was a listing of the permits or entitlements that we have filed or are in process as of July 15th. What is yellow is what will come in front of you. You don't have it. It's a bunch. So some of it may be as simple as maintenance projects. We're doing, as an example, repair to the golf cart path at hole 17 down at Manele. That's going to come in front of you. We're repairing a gate at the Manele Beach Park. That will come in front of you. The relocation of a ranger station along with electrical supply to it will come in front of you. So these are, these are very simple maintenance projects but they will come in front because it's in the SMA and they will come in front as soon as we get a certified shoreline. Because in order to put these in front of you we have to do a certified shoreline. So literally from under the golf course to the other end of the beach park is surveyed, and now we're waiting to get in front of DLNR to do that. So just, you know, don't think you'll, you know, get five or six months and nothing will be in front of you. Just wanted to let you know that piece.

Also I wanted to let you know we found one more after-the-fact. I know, I keep rolling my eye balls, and saying, there can't be another one. This is one down at – and I still have not know how to say this correctly, but we call it club Lana'i, but the correct word for it? And in that particular case there was installed back in December a ladder for the dock, and then stairs into the water. And everything is into the water. Without permission. It is a DLNR permit. So we have been in to see Sam Lemmo over at OCCL, and have submitted to him a letter that says we are asking permission to take it out. We aren't looking to keep it in so we're not even going

to go in for permit, but we have to ask to take it out. So as soon as we have the letter back from Sam Lemmo we will take them out. And that should get that one cleared. So the only other – the other the after-the-fact permits and I think I talked about before which was the shower areas down at the beach park and where they lifted up the drainage. That's waiting for a certified shoreline also. So some of these that we thought would come through quickly turned out not to be because –. At least –. It should be another –. It should be within, they're telling me four to six months to get the shoreline certified so you've got a little ways for that one. But I want to thank you for listening and your attention, and hopefully I won't have too many more after-the-fact permits, to talk about. And that's it.

Mr. Ornellas: Thank you. Any questions for Lynn? I do. Certified shorelines, can't the County just get the State to start certifying our shorelines? I mean, why do they have to go always go back and get this – the landowners. It's the landowner's responsibility?

Ms. McCrory: Yeah, it's the landowner's responsibility, and they are only good after the certified for one year. So, which is even more exciting. So what I said to Doug Stevenson and Ed Jensen is would you please start looking for any other repair projects that you want to do because you only have a one year period to do them in after the certification comes back. And if not, then we have to go right back out and our surveys, and then we have to go and get state certi –. And the process is TM Towill Surveys presents it to the state surveyor within DLNR. He then eventually comes out, agrees or disagrees with it. And if he agrees, then it's certified. And then from that point, and that will go in front of land boards, so we'll be testifying in front of them to support that certification. Then after that, from that point, we can then submit the rest of the projects in. But we're doing –

Mr. Ornellas: And you pay, you pay money for this?

Ms. McCrory: Yeah. Well, I think the end of the golf course all the way to Hulopoe Bay, the other end. But we literally, I mean, if you looked at it, there are projects all along there.

Mr. Ornellas: And then you mentioned gates down at the beach park. Is that the gate that's going to go across the street? Is this another gate?

Ms. McCrory: I don't know whether it goes across the street . . . (inaudible) . . .

Mr. Ornellas: Because they were talking about it one time putting up a gate and then having the gate monitor 7/24 by rangers.

Ms. McCrory: It could be that gate. I can't answer you right at this moment.

Mr. Ornellas: It isn't?

Mr. Stubbart: My understanding is because I went down to look. That's a gate by the sand parking lot going up to the kiosk. So when you go around the loop and you go off pavement into that sand lot area which people get stuck all the time. We're always pulling them out so I think it's a chain or some kind of a gate at the end of paved parking, going into that sand parking

area.

Mr. Ornellas: Okay. Let me ask the chair of the Hulopoe Beach Park Council. Has been something been brought forward for that?

Ms. Gima: No. We, we had discussions about it in the past, but at this time nothing has been brought officially to us.

Mr. Ornellas: Okay.

Ms. Gima: So I think the one they're talking about is already an existing gate, not the one that would be put by the ranger house.

Mr. Ornellas: Okay.

Ms. McCrory: My understanding that it's not by the ranger house.

Mr. Ornellas: Okay. So will you guys go to them first?

Ms. McCrory: Yes.

Mr. Ornellas: Get their blessing, and then come to us.

Ms. McCrory: Once we have the certified shoreline and everything written up then we'll come in.

Mr. Ornellas: Okay, the beach park council doesn't want to feel like left out.

Ms. McCrory: . . .(inaudible) . . .

Mr. Ornellas: Alright. Great.

Ms. McCrory: Don't feel bad, you won't be left out.

Mr. Ornellas: Okay, is that it Lynn?

Ms. McCrory: That's it.

Mr. Ornellas: Alright. Great. Thank you very much. Now let's go to item F, director's report.

F. DIRECTOR'S REPORT

1. Open Lana'i Applications Report

Mr. Yoshida: Thank you Mr. Chair. First of all we're kind of mirroring Ms. McCrory had talked

about. We have our open Lana'i Projects Report. A lot of them are from Lana'i Resorts LLC, and a lot of them the project leader is Mr. Prutch. Is there any questions?

Ms. Zigmond: Clayton? There are four SMXs on the open project report. Those will be coming before us? It's on the open one. Five, I'm sorry, I missed one. There's five.

Mr. Yoshida: So the question was?

Ms. Zigmond: Are they coming before us?

Mr. Yoshida: Yeah, if they have to come before you, it's either an exemption or a major SMA permit.

Ms. Zigmond: Even, even though the work's been done and it's after-the-fact? Okay.

2. Revised October meeting schedule

Mr. Yoshida: If it's an exemption or major that comes before you. Any other questions on open Lana'i Applications Report?

Okay, as I mentioned before we are cancelling the September 18th Lana'i Planning Commission meeting because of the Statewide Planning Conference on the big island. But we have the alternative date of October 2nd. So I guess we're going to deal with that Council Resolution that we're dealing with tonight on the protest for zoning, change of zoning applications. Is there anything else that the commission wants on the agenda? Normally we don't know until two weeks out if we have other agenda items ready. There is a time – you know –.

Mr. Ornellas: Will some of the Pulama permits be ready for that by that time?

Mr. Yoshida: I think we are working on the time extension on the SMA for the Manele Residential Project. It's been pending for a few months. Few months. And hopefully we can get that on the October 2nd agenda. Any other questions on that? We have to have the regular meeting on October 16th.

Mr. Prutch: And Clayton too maybe the project, the project districts may come forward too for the – what is it? – the tree cutting removal, after-the-fact.

Mr. Yoshida: Project District. Oh, those are administrative.

Mr. Prutch: They don't have to come? Okay. I thought maybe they did.

3. Agenda Items for the October 2013 Lana'i Planning Commission meeting

4. Lana'i Planning Commission representatives at the Hawaii Water Works

Association (HWWA) Conference on Maui - October 23 - 25, 2013, Makena Beach and Golf Resort

Mr. Yoshida: Okay, let's see, we talked about agenda items. The Maui Water Department is hosting the –

Mr. Ornellas: There is a, a, there is a Hawaii Water Works Association Conference on Maui, October 23rd to the 25th, of 2013, Makena Beach and Golf Resort. I'm going, and I'm looking for somebody else to go. Somebody with –. You wanna go? Anybody else? Stacie's going. Okay, so Stacie will be the other.

G. NEXT REGULAR MEETING DATE: OCTOBER 16, 2013

Mr. Ornellas: Okay, so then our next meeting will be October 2nd.

Mr. Yoshida: Yeah, so, that's the next meeting. That's a special meeting. So the next regular meeting is October 16th, but we have a meeting scheduled for October 2nd.

Mr. Ornellas: Okay. Great. Thank you very much. I have a question. Some of the –. I've been going over the SMA rules and obviously because of tonight I'm a little bit confused. But there are some issues, there are statements in, in the SMA Rules, Lana'i Rules, that I would like to see changed. How do we go about –? Can I put this on a letter to the director or to you to start, to start the process to get some of these rules changed?

Mr. Hopper: Rules changes, and Clayton can, Clayton can elaborate, rule changes have to be approved by the commission after a public hearing, and to do the rule drafting, typically –. I mean, what we usually do is have on the agenda that discussion. Depending on how detailed you want to be. Sometimes that involves setting forth essentially an investigative group of a couple of members to come up with your own rule drafts and then present that to the full commission, if you want to do that. If you want to do it, a little bit more simply, I guess you could, you yourself, could talk with the chair. Not the chair, with Clayton or with planning staff and say I want to have a couple of revisions here and there. And if that happens then they do have to go through our office for revisions, I believe James Giroux would work on them. And then normally they would go to the commission for essentially a once over. And if the commission is satisfied with them, it would vote to that set, they'll set for public hearing. If that happens the rule changes would be published in the newspaper, and then they would be scheduled for public hearing before the commission, and then you could take action on the rule changes.

Recently this 13.1 with commission review was actually an amendment that was relatively recently, I think within the last five years at least. So that was a process where, where, you know, that's the most recent amendment to Lana'i Rules that can think of. You also had a lot of amendments to your rules of a practice for violations because you previously had no enforcement rules and those were placed in, I believe, around the same time or maybe before or after or approximately. So it's been done in the recent past so there is a pressing for it, and

that's normally the way to follow.

So depending on how extensive, I think, you could look at having a committee appointed, or looking at a committee or an investigative group of a couple of members. Or if you want to, you, yourself, not a group, but you, yourself, directly contact the planning staff and go over here's some rule changes, I think that could happen that way, although planning staff prefers it some way different they can comment. But I think that's, that's, those are a couple of different ways.

Mr. Yoshida: Yeah, that's true, and we probably have to consult with our planning director.

Mr. Ornellas: So would you want my, my questions directed at you or to the planning director?

Mr. Yoshida: Well, I guess you could direct, work through me, and I'll, I'll relay them to the director.

H. ADJOURNMENT

Mr. Ornellas: Okay. Great. Alright, I'll work with that. Anybody else have anything. Tomorrow we have the, we have the disaster plan and it's gonna be held some place. Where's it going to be at? Cafeteria, the Lana'i Cafeteria, and it starts at six? Six o'clock. A very important meeting for this island. And there's something that's happening on Friday. Anyways, anybody else have any questions or answers? If not, then we'll – can I have a motion to adjourn? Any objections? You don't want to say here for another half an hour? Alright, we're out of here. Thank you.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:27 p.m.

Respectively submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Joelle Aoki
Shelly Barfield
Kelli Gima
Stacie Koanui Nefalar
Stuart Marlowe
John Ornellas
Bradford Oshiro
Beverly Zigmond

ABSENT:

Priscilla Felipe

OTHERS:

Clayton Yoshida, Planning Program Administrator, Current Planning Division
Joseph Alueta, Administrative Planning Officer
Joseph Prutch, Staff Planner
Candace Thackerson, Staff Planner
Michael Hopper, Deputy Corporation Counsel, Department of Corporation Counsel
Mich Hirano, Munekiyo & Hiraga, Inc.
Bryan Esmeralda, Munekiyo & Hiraga, Inc.