

**LANA'I PLANNING COMMISSION  
REGULAR MEETING  
FEBRUARY 15, 2017**

**APPROVED 04-19-2017**

**A. CALL TO ORDER**

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair Kelli Gima at approximately 5:00 p.m., Wednesday, February 15, 2017, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Ms. Kelli Gima: Good evening everyone. We're going to go ahead and get started. It's now 5:00 p.m. It's February 15<sup>th</sup>, 2017, the Lanai Planning Commission meeting, and we do have quorum, so we're going to go ahead and get started with public testimony. Has anyone signed up for public testimony today? No? Anyone wishing to give public testimony at this time? Alright, I'll go ahead and close public testimony. We'll go to Item C, approval of the minutes for November 16<sup>th</sup>, 2016 meeting.

**B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.**

**C. APPROVAL OF THE MINUTES OF THE NOVEMBER 16, 2016 MEETING.**

Ms. Beverly Zigmond: Madame Chair?

Ms. Gima: Yes?

Ms. Zigmond: I have two corrections. Do you want those now?

Ms. Gima: Sure.

Ms. Zigmond: Okay, the first one, Leilani, is really, really manini. Page two, second line, I think it's suppose to be "except" and not "expect the ones that really care." But perhaps more importantly to accurately have the record reflect our voting. On page 4, Caron abstained and I was wondering if that needed to be included in the voting record.

Ms. Gima: Yeah, that would.

Ms. Zigmond: And that would be all that I found. Thank you.

Ms. Gima: Did you get those notes Leilani? You want to come up on the microphone

please?

Ms. Richelle Thomson: Thanks, and Caron you might be able to help me remember this, but if I'm remembering it right, you hadn't signed your Oath of Office yet...for the last meeting? So if you hadn't signed your Oath of Office then you wouldn't be voting since that's what you need to do to be an official member. That's my memory of it.

Ms. Caron Green: Quite frankly I don't remember what date I did it. I just remembered that I abstained because I had not been a member of the Council at the time of the, the meeting -- the minutes of the meeting. But there is one other correction on page 9, when we voted, I was not listed as assenting.

Ms. Gima: So was Caron not noted on page 9 because the same thing? She didn't sign her Oath yet? Okay. So, just for clarification, so a commissioner, even though they haven't signed their Oath of Office they can still sit on the Commission but not vote?

Ms. Thomson: So the, the reason for the Oath of Office it's your official act under the Charter and that allows you to be a voting member of a Commission. So I think that, you know, your presence as a courtesy and participated in the discussion as a member-elect.

Ms. Zigmond: Okay, Richelle, so I'm, I'm confused. I'm sorry. If she can vote, then it should be recorded as such, correct?

Ms. Thomson: She can't vote.

Ms. Zigmond: Okay, but she did.

Ms. Thomson: Then we can correct that on the record then.

Ms. Zigmond: Does that change any of our votes then?

Ms. Gima: I -- okay, well, let's look at this really quickly here. So we got on page 4, we had a vote, that was to approve the minutes and so Caron's name is not listed on there and there were five votes, so that wouldn't affect that. And then on page 9, we voted, that was, I think, a proposed bill to Maui County Council, she wasn't listed on there, but we did have six votes so that wouldn't have affected that. And I think that's it, so we're good. So basically it was just, then, Bev, your comment about making the changes on page 2, second line, from "expect" to "except." Okay.

Ms. Zigmond: I just want to say that Leilani you obviously knew all that and so --

Ms. Gima: But thank you Bev for going through it with a fine toothed comb to really -- that's very helpful. Commissioners, any other discussion in regards to the November minutes?

Any revisions, edits? Okay, do I hear a motion to approve the November 16<sup>th</sup>, 2016 minutes?

Ms. Green: I move, so move.

Ms. Gima: To --?

Ms. Green: Approve the November 16<sup>th</sup> minutes...with the one correction.

Ms. Gima: So Caron has made a motion to approve the November 16<sup>th</sup>, 2016 meeting minutes with the one correction.

Ms. Zigmond: Second.

Ms. Gima: Beverly seconds. All in favor of the motion raise your hand? All opposed? None. So that's unanimous; that passes.

**It was moved by Ms. Caron Green, seconded by Ms. Beverly Zigmond, then unanimously**

**VOTED: to approve the November 16, 2016 meeting minutes with the one correction.**

*(Assenting: M. Badillo, M. Baltero, S. Ferguson, C. Green, S. Koanui Nefalar, B. Oshiro, B. Zigmond)*

*(Excused: S. Marlowe)*

## **E. COMMUNICATIONS**

- 1. January 26, 2017 Fourth Semi-Annual Report (July through December 2016) submitted by MS. LYNN McCRORY, Senior Vice-President of Governmental Affairs, PULAMA LANAI regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017-001, 002, 003, 004, 005 and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001)**

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

Ms. Gima: Okay, next item, and I am moving a little quickly tonight because our Maui folks are going to be flying out on the last flight. So our Item D, which was regarding to making amendments to the rules, we're going to move that to later on in the agenda because when it was posted, it was posted that it would be at 5:30 so we'll come back. Any objections, Commissioners?

Okay, so we're going to go ahead and move to Item E, which is Communications. And the first item is . . . (*Chair Kelli Gima read the above project description into the record.*) . . . And we may provide comments on this report so I'll invite Lynn to come up.

Ms. Lynn McCrory: Good afternoon, Lynn McCrory, Pulama Lanai. This report, you have seen multiple times before. We started doing it probably about three years ago. What you used to get was a sheet with numbers, which even I got lost on trying to understand what it is. So we moved it to a chart format, and then instead of just getting six months, we moved it two years so that you could actually see what was happening in the various areas. This deals with the water usage for the single-family and multi-family homes, and we've added in the golf course and a few other things just so you could see everything on one, one -- or two pages of a chart. So any questions I can answer on them?

Ms. Gima: Commissioners, no questions or comments? I'm going to open it up for public testimony and Lynn if you could just stay up? Is there anyone in the audience that would like to provide public testimony specifically on this item? Alright, I'll close public testimony. Thank you Lynn, but you can stay up because you have another item on the agenda. And so #2, Pulama Lanai to provide an update on the sod farm. And so a Commissioner had requested to have this on the agenda. I think regarding...I think there was community meetings about no longer going to be a golf course, and so just wanted to get an update like we've gotten from Pulama Lanai in the past on other projects. So go ahead Lynn. Thank you.

## **2. Pulama Lanai to provide an update on the Sod Farm.**

Ms. McCrory: Well thank you. Yes, we did a community update meeting on Koele, and the status of Koele, so let me preface it a little bit so it's not just out of the blue and everybody is trying to figure out what we're talking about because I don't remember too many of you being there. And what we talked about was what was going to happen with Koele, and there are two major issues there. One is economics and one is water. We're a shortage of both. When we look at the economic part, neither Manele nor Koele Hotel have ever made money from the point that they were built. The golf courses don't make money either in terms of how that works.

So...made the changes into Manele. Put a few hundred million dollars into that and the good news is we're actually seeing a difference. We actually think we will have a break even or a profit next year. That will be the very first time. People are coming. People are spending that kind of money that it takes to stay there, so, you know it's very -- it's just kind of confirming the old statement that if you want something to be different you don't keep doing the same thing. And that's what pretty much what occurred at Manele. There were a lot of changes that made the hotel different.

So when we looked at what we were going to do with Koele, it's the same thing. What do we do? Do we just reopen a hotel, and reopen the golf course? It's not going to be any different so it doesn't make sense. So in terms of the golf course, there isn't enough water. The only water that could be used on that golf course is the R1 water which comes from the Lanai sewer treatment facility that we have here. It has never been enough water. Even if we try to replant holes there would not be enough water, and you keep holes closed for months as a result of not having enough water to do that.

So as we looked at it and said what do we do, and I think we changed our minds umpteen times and I won't even tell you that it's going to be exactly what I'm telling you right now that it won't change again. We came to the decision that we would close the golf course and set it up as something very different, kind of a museum sculpture garden, walking course kind of situation. A museum quality, I should it put it that way. So that results in pretty much the same people working there because you still have to keep it looking nice, it still has to be maintained, so it's not a matter that we should see fewer people. And hopefully we will have enough water with using the R1 water because we won't be irrigating such great distances, the fairways and so forth that are currently now irrigated.

And one of the things we that we had initially started and I think if you remember back to the beginning what we originally started with looking at was taking -- now I'm forgetting the golfer's name. He's the bear. Thank you. We were going to do a Jack Nicklaus revision, and his team had come out and had done all kind of re-plans and everything else for the golf course. And we knew that those grass that was there does not work. I mean, it's not a Nicklaus quality. So we ordered this particular salt water tolerant grass which means that you can use brackish water on it. You can use a different type of water. You don't need totally clear potable water or even R1 water on it. And the way that works and the way they sell it is that you -- they give you the seed, you grow it, and when you use it, you pay for it. I know that sounds backwards, but that's how they sell this grass. And the concept of it is that until you use it you're not going to be making any money so therefore we don't charge you for anything. But once you do use it then we charge you for it. And with that they expect that what will happen is you'll keep repeating the order for additional grass. So long term they have money coming in.

So at this point when we look at Manele and the prospects for Manele which we are going to make that a world quality resort -- a world quality golf course. And the intent on that one is to have it be the very best golf course in the state. That grass would work great there. And we are in the process of working through a permit for irrigation. We're upgrading the irrigation. We're reducing the areas we're going to irrigate. So once more we're going to drop the water usage on that golf course, and so this grass could be planted where we have to install new lines because they're going to dig up basically the course, but not every part of the course.

The other thing with this grass is that --. I mean, to me, it's probably one of the most

beautiful green colors that as you know, you're driving out to go the airport and you see this green and it's like, gosh, that's really nice. We're looking at that as a possibility of also going on to where the sculptures are going to be, and placing it down at the bottom there. I'm not sure it will use everything that we've planted. But the good news on that grass is that it's being watered by the R1 water that would have gone up to the Koele golf course. And it's also being watered with brackish water, so it's not using any of the potable, drinkable water that we all think we have. So how much of it we'll use? I can't tell you at this point. It won't become a golf course. What, what's planted there would never had made the golf course anyways. We needed -- that's about 25 acres and the golf course was going to require about 60. So we got in the first shipment of the grass, and then would have been working our way probably, like Manele's irrigation project, it's going to be about a good year of going through, digging up, replacing and something like that. The replanting, had we gone forward with making it a golf course, it would have probably been a good year or more of refurbishing now on that. So, it's still in place. A couple of places to use it that we can see right now, and if for some reason we decide not to use it, then what we do is we just don't water it and that's it.

Ms. Zigmond: Lynn, can I stop you right there? I'm confused. Are you speaking --? Are you saying that this wonderful grass is being grown at the sod farm?

Ms. McCrory: Yes.

Ms. Zigmond: Okay, somehow I kind of missed of that and it's only R1 water?

Ms. McCrory: It's R1 water and some brackish water. But basically it's using most, all of the R1 water.

Ms. Gima: Thank you Lynn for the update. Commissioners, any questions or comments for Lynn at this time? I will open up public testimony again. Oh, sorry, go ahead.

Mr. Bradford Oshiro: Lynn on -- you saying that what is not used you just going quit watering?

Ms. McCrory: That's what --

Mr. Oshiro: And you not paying the company for the grass?

Ms. McCrory: Yes. That's what you do, yes.

Mr. Oshiro: What kind of business is that?

Ms. McCrory: Well --

Mr. Oshiro: You know, it doesn't make sense. Okay, let's --

Ms. McCrory: I, I -- that's when they first told me this when I'm, like, oh, how do they stay in business, right? Actually they stay in business most of the time because people do put the grass in. And then what they do is they keep buying more and more and more. And that's where they make their -- they make their return over the long-term of it all. Because at this point, we have not paid them anything.

Ms. Gima: Okay. So, yeah, I'm going to open up public testimony. I just want to make note to the audience, this is just an update that we had asked Pulama Lanai to give. This is not up for a permit, not up for any approvals or votes. So, if there is any comments or questions, you know, keep it specific to the update on the sod farm.

Mr. Oshiro: Me first.

Ms. Gima: Go ahead.

Mr. Oshiro: How many acres?

Ms. McCrory: There's 25 acres planted is what I understand.

Mr. Oshiro: And how long has the farm been up and running?

Ms. McCrory: I think two years. I would have to go back to look at when I first notified Land Use -- I'm sorry, Commission on Water Resource Management and gave them the notification that we would be growing the sod and we would be using -- because you have to notify them every time we would change something. So initially when we went in we had a smaller quantity with less water usage. Or I'm sorry, more water usage as you were starting to grow it, and then the water usage reduced. So I've sent them probably two or three letters letting them know.

Ms. Gima: Anything else Commissioners? Beverly?

Ms. Zigmond: One quick one. So I read an article in *Pacific Business News* that said that the Koele golf course is actually being designed by The Bear.

Ms. McCrory: No. He, he gets things not quite right on a regular basis. I mean, he's using information that has been -- was out even back to when we were doing the Community Plan. If you've read some of his articles, you'll note that he's pulling things that are a long time ago. He, he has to write everything -- something at least once a week.

Ms. Zigmond: So Koele golf course will never in the existence of this earth be opened up again.

Ms. McCrory: I don't think I'd ever say that.

Ms. Gima: That's not the plans right now.

Ms. McCrory: At this point in time I've given you what the plans are, and, you know, as I've said, they've changed. I mean, they've changed pretty regularly. And, you know, at first it was like, hey, this is difficult, how am I suppose to come out and talk to the community and then you change your mind again. But what I've noticed now it's almost been four years I've been here, every time they change it they tweak it a little more. It gets a little better. I mean when I look at, and Manele is probably be the easiest one to look at --

Ms. Gima: Lynn, I'm going to, I'm going to stop you.

Ms. McCrory: Okay, I'll stop.

Ms. Gima: Because I want to open up public testimony as we need to move forward. Uncle Ron you're up here, get a mic please.

Mr. Ron McOmber: This --. My name is Ron McOmber. I sit on LWAC. Also, have been watching this project. What a terrible waste of money, time, and energy to put that sod farm in there, and now we're not going to use it. I just don't understand this. This is throwing money out the window. Koele is such a special place, and now we're not going to have a golf course. We have no idea what the hell is going up there. They'll do all kinds of crazy things and turn it into a circus. As of, as of a member of this community that's been watching this water forever...we asked about that. They don't even own that sod farm. If you talk to, to Pulama, they don't own the sod farm which I don't understand. It's on their property and it's their water that they're using. I don't understand that. I could never get a straight answer on that, and not get a straight answer from Lynn either. So I just am really concerned. We need to watch what's going to go on at Koele from now on. I mean, Koele is very, very special to this island, and it should not be used as a toy, so I hope as we go through this thing that we have a better outlook of what's going on at Koele. Koele's breaking my heart what they're doing to Koele. It's probably one of the best places on this island. It really is, and the Hawaiians and the people that, that lived up there were born and raised on this island, their hearts are being broken from this. They're destroying Koele with their, with their on this, and off that, and on this, and off of that. They're not, they're not holding anything true. Tomorrow it will change again so anyway that's just my comment on it. Thank you.

Ms. Gima: So just to clarify, Lynn, from what I heard from you earlier was that it's not that you're not going to use any of the sod. It will be used down at Manele when you guys are reworking the irrigation, and it makes sense to use that type of grass down at Manele, and then you'll also use some at Koele for the sculptures.



Ms. McCrory: No, I did not say we would.

Ms. Gima: Oh, sorry.

Ms. McCrory: What I said is we could.

Ms. Gima: Oh, could, okay.

Ms. McCrory: And that's why the sod farm continues.

Ms. Gima: Okay.

Ms. McCrory: Because we're still waiting for, you know, the layout. We still haven't designed what we're going to do.

Ms. Gima: But that's proposed.

Ms. McCrory: But it's proposed.

Ms. Gima: Okay.

Ms. McCrory: Because otherwise the easy answer would be to just stop watering.

Ms. Gima: Okay thank you. Thanks Uncle Ron.

Mr. McOmber: That's, that's exactly what I'm saying. They have no idea what they're going to do with it, and we could be using that water that they're watering that and do some, do some agriculture. If they're going to throw the dodo water away, then we ought to use it.

Ms. Gima: Okay, thank you. Any other audience members want to give public testimony at this time? Okay, I'm going to go ahead and close public testimony. Commissioners, any last questions or comments for Lynn? Okay thank you Lynn. We'll go ahead and move on to Item F, which is the Director's Report, the first one being open Lanai applications, so I'll turn this over to Clayton.

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

### **1. Open Lanai Applications Report as distributed by the Planning Department with the agenda.**

Mr. Clayton Yoshida: Good afternoon Madame Chair and members of the Lanai Planning

Commission. We have circulated our list of open Lanai projects. We would note that several of them are waiting for Council action before they can be closed such as the Community Plan Amendment and Zoning Change for the three houses on Lanai Avenue, and the Manele Golf Course special events Conditional Permit. There are others that are going through administrative review such as the Country Town Business District application for the Lanai Food Market, the 1036 Lanai Avenue, and also the inquiry on the Hotel Lanai from Synergy Hawaii. That essentially leaves us with several short, short-term rental home applications in Lanai City, and the SMA Assessment for the irrigation repair at the Manele golf course.

Ms. Zigmond: Madame Chair, I have a couple of questions for Clayton. Clayton, you mentioned Hotel Lanai, so can you tell us what that Request for Comments is about, what's the plan?

Mr. Yoshida: I think it was just an inquiry from Synergy as to whether the proposed -- well, action that Hotel Lanai are subject to the Lanai Community Design Guidelines.

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

Mr. Yoshida: They are subject to review with the -- using the Lanai City Design Guidelines.

Ms. Zigmond: And then the Lanai Food Market, where is that? Because it's Country Town Business.

Mr. Yoshida: Yes.

Ms. Zigmond: Do, do you know what that is? Is that Richard's? Is that --?

Mr. Yoshida: I guess we can, we can provide --. I'm not sure right now, but we can provide clarification to you as to the location.

Ms. Zigmond: And I have one more please. At our previous meeting we had talked about a, what appeared to be a house being built at Manele in the SMA that hasn't come before us, and it was unclear if the Department was going to do the Request for Service or what because nobody had an exact address for it. And it's on page 20 of the minutes. It's a conversation with Joe Alueta, and I was just wondering if anything has happened on that because I don't want that to fall through the crack either.

Ms. Gima: Yeah, on page 20, it say quotes you Clayton saying that you guys will check on it so was there any follow up on that residence?

Mr. Yoshida: I think Joe had subsequently stated that they should file an RFS. Joe has subsequently left the Department at the end of last month, so --

Ms. Gima: So it would be on --.

Mr. Yoshida: I can check on that.

Ms. Gima: Okay. And if we wanted --? So it would be on, like, us as a...resident or, I mean, to just file an RFS to get information?

Mr. Yoshida: I guess it would be a resident or --. I mean, if they could give us the exact location of where the --

Ms. Gima: Right. I guess my question is could I as a Planning Commission member but also a resident do an RFS just as Kelli Gima, resident of Lanai?

Mr. Yoshida: Uhm --

Ms. Gima: I don't see why not, unless there's --

Mr. Yoshida: Yeah, I don't see why not.

Ms. Gima: Okay. Bev, anything else?

Ms. Zigmond: No, I appreciate it.

Mr. Yoshida: Yeah, actually Joe retired from the County, after 25 years of service.

Ms. Green: I have a question. In the past you had a -- we had hearings on the heliport down at Manele, and I understand it was up for final approval along with several other things on this list, but I don't see it on the list.

Mr. Yoshida: Yeah, that should be on the open projects list. I mean, there were two locations in that application. One was the Koele helistop and the Manele helistop, and essentially the Commission denied the Special Permit for the Koele helistop, but recommended approval of the Special Permit for the Manele helistop, and recommended approval of the Conditional Permit for the Manele helistop. So the Conditional Permit for the Manele helistop is still waiting for action by the Council, so that should be on this list. That's correct.

Ms. Gima: So it should be on it. It's just for some reason it didn't get on.

Mr. Yoshida: Yes. Right.

Ms. Gima: Okay. Caron, anything else? Commissioners, anything else? Okay, I'll open for

public testimony. Is there anyone in the audience wishing to give public testimony at this time? Sure, come on up Lynn.

Ms. McCrory: The question on -- Lynn McCrory, Pulama Lanai -- the question on the Lanai Food Market, it is International Market. It's their rear storage area, and we're going to take it down and rebuild it, so that's what this is.

Ms. Gima: Thank you Lynn. Anyone else? Okay, I'm going to go --. Oh, come on up. You have to come up and provide it on the microphone please. State your name.

Mr. John dela Cruz: My name is John dela Cruz. I would ask for a clarification from Lynn, rear storage area on what?

Ms. McCrory: International Market . . . (inaudible) . . .

Ms. Gima: International, their storage.

Mr. dela Cruz: . . . (inaudible) . . . Okay.

Ms. Gima: Their storage.

Mr. dela Cruz: You mean the shack in the back? The one we put up in 1952?

Ms. Gima: Okay, so you can have that conversation with Lynn on the side. Thank you. Anyone else? Okay, come on up.

Mr. Butch Gima: Just a request to the Planning Department for those of us who don't know how to read this report, can you put a legend at the bottom for all your acronyms especially in the permit column. Thank you. Yeah, before you close this can Planning Department tell us all the acronyms under the permit column please?

Ms. Gima: Yeah, that would be helpful.

Mr. Yoshida: S-T is short-term rental. L-A is Lanai. If it were in another district like if we were on Molokai it would be S-T-M-O. C-T-B is Country Town Business District design review. C-I-Z is a Zoning Change. C-P-A is a Community Plan Amendment. E-A is Environmental Assessment. R-F-C is Request For Comments. S-M-X is SMA Assessment.

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

Mr. Yoshida: Oh, C-P is Conditional Permit.

Ms. Gima: Okay, thank you. Okay, we're going to go ahead and close public testimony, and

now move on to Item #2 which is the Director's Report, the agenda items for March 15<sup>th</sup>.

**2. Agenda Items for the March 15, 2017 Lanai Planning Commission meeting.**

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

**1. MR. WILLIAM SPENCE, Planning Director transmitting the following proposed amendments to the Rules of Practice and Procedure for the Lanai Planning Commission:**

- **Section 12-401-12 is proposed to be amended to change the physical address of the Department of Planning.**
- **Subsection 12-401-14(e) is proposed to be amended to state that the Lanai Planning Commission meets once a month in Lanai City or as otherwise directed by the Commission Chairperson or the Planning Director, and to state that meetings may be canceled due to a lack of pending business.**
- **Section 12-401-20 is proposed to be amended to allow the filing of documents with the Commission to be submitted electronically.**
- **Subsection 12-401-92(e) is proposed to be amended to increase the notice period for a public hearing on a rule amendment from 20 to 30 days, in compliance with Section 91-3(a)(1), Hawaii Revised Statutes.**

**A true and correct copy of the proposed rule amendments: is available under "Hot Topics" on the Department's website ([www.co.maui.hi.us/121/Planning-Department](http://www.co.maui.hi.us/121/Planning-Department)); will be mailed to any interested person who requests a copy and pays the required fees for the copy and postage; and is on file at the Maui County Department of Planning, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, Maui.**

Mr. Yoshida: Is it 5:30 p.m.? Yeah.

Ms. Gima: Okay, so we'll table that, Item F, #2, and then we'll go back now to the front page of our agenda, which is Item D, under the Public Hearing section, and it is . . . *(Chair Kelli Gima read the above project description into the record.)* . . . So I will turn it over to the Planning Department.

Ms. Thomson: Hi, thank you. This is Richelle Thomson. I'm actually your Deputy Corporation Counsel. Deputy Director Michele McLean is here if you have any questions for the Planning Department on the rule changes.

So just kind of to orient, to orient everybody the material that's bracketed is being removed from the rules, any words that are underlined are what we're adding. And those sections of the rules that the Chair read, read out are set forth in full in your handout, and we can either go through them one by one, or if you have any changes, questions on anything we can just do it that way too so what would you prefer to do?

Ms. Gima: Well, I just had a quick question before we start it. We had requested, to give some background to the audience, we have requested to look at amending the rules especially around meetings. Am I correct when I say that we're only then allowed to talk about these specific sections of the rules tonight?

Ms. Thomson: That's a good question. Yes, so these are the -- these will be sections of the rules that, that are on the public hearing notice for amending. What I would recommend is that we talk about, you know, what's before you today, but if you have other, you know, other rules, we can bring that up but we'll have to have a separate public hearing and publish notice and stuff.

Ms. Gima: Sure. That, that was what I kind of wanted to get to because I think in my mind anyways when asking for this to be on the agenda it was to have a discussion, I think, in general about the rules and not necessarily looking right away into specific rules, so that's -- we can discuss that after and that could be put on for like the next meeting. But basically it has to have a public hearing notice, correct?

Ms. Thomson: No, not necessarily. So to adopt new rules we have to have a --

Ms. Gima: Well there was just --. Like, you know, I mean, this, I'm glad this was put together and for us to see what you folks are thinking and then we can provide comment and feedback. I mean, I also had wanted to look at 12-401-28 which is regarding attendance, but that obviously wasn't posted for public hearing. So let's just go ahead and then just get started with what we, you know, was posted, what we do have in front of us. And I think it would be helpful, yeah, to kind of break it down and go through it.

Ms. Thomson: Okay, great. So the first rule that we're looking at is 12-401-12. It's communications, and that's a housekeeping change to change the mailing address for this Commission to the current Department of Planning address. What we did was since you wanted to bring up the topic of the -- with the Ombudsman's letter and the mandatory once a month meetings and the incorrect location that was in your rules, we decided to go ahead and go through the rules and then make some housekeeping changes at the same time.

So the second -- the second rule is rule #14 and that's meetings and the section that we would be looking at changing is to address that concern that I just talked about. So "regular meetings shall be held at least once a month" -- we're deleting at the Lanai Public Library, and inserting "in Lanai City, Lanai or as otherwise directed by the chairperson or the director."

Ms. Gima: I have a --. I'm going to stop you since we're talking about this. It makes total sense obviously to remove public library because we haven't met there in I don't know how long. How I read this and what you guys are now putting is saying that meetings will be held at least once a month in Lanai City, or as otherwise directed by the chairperson or the director. That last statement I think is a little too vague. I mean it could be interpreted as, well, the director now wants us to come to Maui and basically according to the rules he would be following that. I think it needs to be specific. What was the thinking there with that statement?

Ms. Thomson: Well, that you could hold it in Lanai City, or if there was a reason, for example, to hold it down at Manele, you know, that you could change the location on the island of Lanai if there was a specific reason to be in a different geographic area.

Ms. Gima: Oh, like when we did like a site visit or something like that?

Ms. Thomson: Right.

Ms. Gima: So I think -- yeah, I think it may have to just be a little more specific. Maybe saying "on the island of Lanai."

Ms. Thomson: Yeah, but the other -- the other thing that that would refer to though is that its regular meetings shall be held once a month or otherwise directed. So it could be more than once a month or less than once a month. That was the problem in the rules that the Ombudsman were going to address.

Ms. Gima: Right. Yeah. Yeah. I just don't like how it's reading right now because it's so vague. I mean, really like I just gave the example. I mean, let's face it there are times that we don't want -- you guys don't want to come over for if there's, you know, expenses or what not. We've had that whole conversation. I just fear that this could be interpreted as, well you know what, this month, we don't want to come over so we're going to have the meeting on Maui. And how I'm reading that, that would fly according to the rules. So I think we need to just I hear the intent and I totally agree, but just having to change up the verbiage to make it very clear that the meetings are held on the island of Lanai.

Ms. Zigmond: So what you're saying is it might not be in Lanai City, it might be at Manele or wherever, but it will always be on the island of Lanai.

Ms. Gima: Correct.

Ms. Zigmond: Absolutely. Thank you.

Ms. Michele McLean: Chair, if I may? I'm Michele McLean, I'm the Deputy Planning Director. It sounds like better language could be "regular meetings shall be held at least once a month, or as otherwise directed by the chairperson or the director, on the island of Lanai."

Ms. Gima: Yes.

Ms. McLean: So the frequency is what we were saying . . . (inaudible) . . .

Ms. Gima: Right, right, right. Yeah, I think --

Ms. McLean: And because this refers to regular meetings, your regular meetings are always going to be here. I can't imagine --

Ms. Gima: Right, I know. I just want to make sure it's tight, it's -- we're all on the same page. No, I think rewording it --

Ms. McLean: Does that sound better?

Ms. Gima: Yeah, that sounds a lot better. So then it would say "regular meetings shall be held at least once a month, or as otherwise directed by the Chairperson or the Director, on the island of Lanai." Okay. Thank you.

Ms. Thomson: And then just down at the very last sentence of that particular section, "meetings may be canceled due to lack of pending commission business," and that also addresses the Ombudsman's concern because --

Ms. Zigmond: I, I have a question on that one, please?

Ms. Thomson: Sure.

Ms. Zigmond: So, do we need to specify who might be canceling the meetings due to lack of pending business?

Ms. Gima: Yeah, I had that note down as well.

Ms. Thomson: We could repeat that same verbiage that's previously...if you'd like.

Ms. Gima: As directed by the chairperson or the director.



Ms. Thomson: As directed by the chairperson or the director.

Ms. Gima: And so I --. Yeah, I mean, that makes sense because that was exactly what I was wondering. Well, who would cancel that, and, I mean, and when we would be -- I think to be when we would be notified. And then I had also wrote down that you guys didn't put lack of quorum, which in the past that has been --. We've had many meetings canceled because there has been lack of quorum, so it's, at this time, it's looking at just for the lack of pending commission business. Because technically we could still have a meeting without quorum, just not able to vote on anything.

Ms. Thomson: It's a -- technically it's as a canceled meeting, so you don't have a meeting. We still have to do the minutes to capture, you know, the presentations or the testimonies, but it's actually not a meeting. But I think that your addition at the end of that sentence would clarify that too; "and may be canceled due to lack of pending commission business."

Ms. Gima: As directed --

Ms. Thomson: Yeah, "or as otherwise directed by the Chairperson or the Director."

Ms. Zigmond: Madame Chair, can I correct something that you just said?

Ms. Gima: Sure.

Ms. Zigmond: I think you said there have been many times in the past where there was a lack of quorum, and I think that we, we acknowledged the last time that there were very few.

Ms. Gima: Where meetings were canceled because a lack of quorum? Okay.

Ms. Zigmond: I don't think -- I don't there were many.

Ms. Gima: Well, okay, I will reword that. We have in the past, had meetings canceled because of the lack of quorum. But with this rule it would just pertain to not having pending commission business. Now pending commission business, does that mean action items? Because that was also, I think there has been some meetings that were canceled because we couldn't act on anything, or, you know, no action items.

Ms. Thomson: So pending commission business, commission business is it's a legal term, and what that means is a matter over which the board has supervision, control, jurisdiction or advisory power. It's the same as board business in Hawaii Revised Statutes and so that's the definition.

Ms. Gima: Okay, so there is a definition. Okay.

Ms. Thomson: It's not just action items. It's also advisory.

Ms. Gima: Okay. Okay.

Ms. Zigmond: So could that include like our workshops? Requested workshops and such?

Ms. Thomson: It would if it's something that is within your jurisdiction such as Special Management Area and things like that, yes.

Ms. Gima: Okay. Alright, so for that one then it's just adding that last sentence to it to specify who will be canceling those meetings.

Ms. Thomson: Okay, got it. Down to rule #20. So the changes in that rule section are to allow documents to be filed electronically...and that's two ways. Those changes are being made to other boards and commissions rules too so that to streamline the receipt of electronic submissions by applicants to the Planning Department.

Ms. Gima: You have a question?

Ms. Green: Before we go on to that, could we go back to the previous section because I have a question here? On (i), #1, it says "notice of public hearing shall be published as required by law." I just wish you would please explain to me what the law says.

Ms. Thomson: Sure. It's actually the same as for rule amendments, so a public hearing requires 30-days notice.

Ms. Green: But it doesn't specify how the notice goes out.

Ms. Thomson: It's published notice, so it's published in the newspaper.

Ms. Green: Okay because we have a little problem with that on Lanai in that our newspaper only comes out once a month. And so depending on the time --

Ms. Gima: Maui News.

Ms. Green: Pardon?

Ms. Gima: Maui News.

Ms. Green: So Maui News qualifies for here?

Ms. Thomson: Yes. It's published other ways, it's just we have to publish in a newspaper of

general circulation in the, in the geographic area. But it's also published by way of, you know, posting with the Clerks, the Clerks Office, on the website, and then other, other various places but those -- the one that is required by law is published in the newspaper.

And do you have -- do you have any questions on the electronic submission of documents to the Department?

Ms. Gima: No, that kind of really doesn't impact us directly because it's just what the applicants have to do.

Ms. Thomson: Correct.

Ms. Gima: Okay. Any other questions, Commissioners, on that section? No.

Ms. Thomson: Down on the -- this is in that same rule, we're just correcting some of the -- there's a typo actually. So section (e) amended pleading, so "any time prior to the hearing" versus "any time period to the hearing."

And going to rule #92. So that's at the very end of that section we're changing 20-days to 30-days notice, and that's to comply with State law, and I don't know why the rule said 20, but it is 30 and that's what we've been -- you know, we always comply with the 30-days so we wanted to make that change to have conformity with the State rule.

So those are -- those are all of the changes that we have for you today. But if you have any questions on any of those.

Ms. Gima: So for the purposes of these changes, we, as a Commission, we would vote to approve these amendments. Then what are the next steps after to actually getting it? Is it - - does it have to go before County Council? No? It's just us?

Ms. Thomson: It's -- you would vote to approve them, and then they're -- we would obviously get a copy signed by the Chair and then it goes up to the Mayor's Office and the Mayor signs it.

Ms. Gima: Oh, so an easy process.

Ms. Thomson: Somewhat. Some things are easy.

Ms. Gima: Well, I mean, instead of having to go, you know, for review and review and review. I mean it's kind of good to know that we actually have that authority over our rules so, yeah, okay. Commissioners, any questions, comments or discussions? I mean I think - - thank you for putting this together and getting this on the agenda. I think it's great that we're able to clean things up a bit and so that hopefully there's never a complaint against us

from the Ombudsman's Office again. So, anything Commissioners? Any discussion? So it's looking at --? Oh, let me open up public hearing. Anyone at this time want to give public testimony on this item come on up. And again, this is just regarding these rules that are in front of us that we are discussing.

Ms. Winifred Basques: Good evening. Winifred Basques. Been on Lanai, ending of this month, it will be 54 years I've been on this island. Okay, change of subject now. When I go to the big kind meetings in Honolulu, okay, it has to be published by the AG within seven days before the prior of the meeting. It has to be because it goes according to the Robert's Rules as well. I go to big kind conventions. Just about a month ago I was at the Capital. I always lobby at the Capital. Okay, but when I look at this kind of situation, the changes with us no notification, you know, people wonder why, how come it changes just automatic. And it's not supposed to be like that because it has to be with your folks group to make the change and, excuse me, and notify the Maui office. When I go to the meetings like the . . . (inaudible) . . . DHHL, DLNR, OHA, all those big organizations it's . . . (inaudible) . . . when you have a meeting on a certain time it's in the news. Every day I go to the store and I buy my Maui News and it's always inside there. It has Molokai Planning Commission meetings, Maui Planning Commission meetings, as well as Lanai Planning Commission meetings. And of course, there are other issues on different islands have their own issues. But the thing is when you think about this kind of stuff it makes you confused. Where are we going from here? What are we doing for the community? The community has to be involved in all this kind stuff, but yet they cannot come. Why? They work. They not here.

Ms. Gima: So Auntie Winnie --

Ms. Basques: You can ask . . . (inaudible) . . .

Ms. Gima: I mean, I'm hearing your...concern that we're just bringing this up now?

Ms. Basques: No, no, no. It's just that I see, every time when I come, there's a different.

Ms. Gima: Different what?

Ms. Basques: Reports.

Ms. Gima: Reports on what?

Ms. Basques: Anything in general on Lanai. But see the thing is that --

Ms. Gima: I don't quite understand what you mean on any reports in general.

Ms. Basques: Okay, you talking about your amendments.

Ms. Gima: Correct.

Ms. Basques: Okay, you talk about the issues that people want to do their bed and breakfast as well. It's on the paper now.

Ms. Gima: Right things are all published ahead of time.

Ms. Basques: The thing is that --. Yeah, but I didn't see in the newspaper.

Ms. Gima: So let's -- let's ask the Planning Department, when you guys published this for this meeting, was it published in its entirety like this or just it was just a notice that this was going to be discussed?

Ms. Basques: Thank you. Good evening.

Ms. Gima: So just to clarify Auntie Winnie this didn't just come out of nowhere. You know this was put on the agenda, this was given to us in advance, and this is exactly why we have the meeting so that we can share and discuss what's before us.

Ms. Basques: Thank you.

Ms. McLean: Thank you Chair. The law requires that certain actions have a quote on quote, a public hearing. And if something is subject to a public hearing, then that needs to be published at least 30-days in advance. Rule amendments are one of those things. In this case because the amendments were relatively straightforward and the rules themselves are so long, what was posted on your agenda was actually what was in the public hearing notice, a summary description of them, not the entire rules.

Ms. Gima: Okay. Right.

Ms. McLean: Sometimes depending on the nature of the changes we do publish the exact wording.

Ms. Gima: I mean, I think this summary was --

Ms. McLean: So that's what was published in the paper --

Ms. Gima: -- sufficient.

Ms. McLean: -- at least 30-days prior.

Ms. Gima: Okay.

Ms. McLean: Other things like communication items, things that are on your agenda, the agenda as you know needs to be published at least six days prior to your meeting, and those are published. And all materials on all of our boards and commission agendas are available online once the packet gets sent out which is usually about a week and a half prior so those can be accessed online.

Ms. Gima: Thank you. Anyone else wishing to give public testimony? Come on up.

Mr. Gima: Butch Gima. On the first page at the bottom where they're talking about meetings can be canceled by the chairperson or the director, I'd like to see something more specific that gives more authority and autonomy to your, our, planning commission. To their -- to the Planning Department's credit, they made these changes, but I think the changes and amendments were made secondary to the Ombudsman's investigating and the number of planning commission meetings that were canceled. And just anecdotally talking with different commission members, I think many would have preferred that they had meetings instead of canceled meetings. And I understand the need to have commission business, but you as commissioners can put on the agenda things that you would like at the next meeting, and it doesn't necessarily have to be rule amendments or petitions from Hawaiian Tel or Pulama. It can be things you might be interested that pertains to how we plan for our island. Over 10 years -- over 10-15 years ago we used to have workshops when they didn't have so-called official business, and you have the right to request that and have at these meetings. I don't want to see the Director being the one that unilaterally can cancel a meeting just because there isn't so-called official business. So, I would hope that you guys agree with the recommendations so that you guys have more authority and autonomy over our planning commission. Thank you.

Ms. Gima: Thank you.

Ms. Zigmond: Butch, can I ask you a question? So would it be something like...as directed by the chair and the director? Would it be a joint thing?

Mr. Gima: Yeah, I wouldn't -- I wouldn't want it to be a unilateral decision by the director. And I would think the chair, whoever that is, would consult with the members before considering canceling your planning commission meeting.

Ms. Zigmond: That's why I asked Richelle before if a workshop, assuming that it was something that was relevant to us would be business, right, and so, yeah, it feels like it's still a little loose.

Ms. Gima: Thank you. Can I make a recommendation that we vote on amending the rules and then come back to talking about this specific one... about changing the wording? So that's on 401-14, and then but can we just go forward? Because I think the other ones are straight forward, you know, about electronic filing and changing the address to the Planning

Department. I think this, this one about canceling meetings and whatnot, I think, it sounds like we may need to have a little bit more discussion on, so can we --. Oh, I'm sorry, I apologize, any more public testimony? Come on up.

Mr. Myles Saruwatari: Myles Saruwatari. I just have a question on the wording of the subject of canceling meeting. It say due to lack of pending...you know, but...how do they define pending? I mean, do they consider new items that have to be considered also part of the pending?

Ms. Gima: Thank you for that question. Planning Department?

Ms. McLean: I think using the word "pending" makes it clear that it's something that has already been brought to the Commission or talked about being put on an agenda. Because if it were to just say "lack of Commission business," well commission business as Richelle said is, is a very broad thing so there's always the possibility of commission business. That -- you wouldn't -- that wouldn't be a basis for canceling a meeting because the commission's authority...exists in perpetuity, so we can talk about how to better clarify that so it's clearer. But it is --. It would be either things that have come through the Planning Department that we're ready to present or things that have come from the community or the commission that you want to discuss that says, oh, you know, these are the things we have cued up for a future meeting. That's what we would consider commission business, pending commission business.

Ms. Gima: Okay. Any other public testimony? Okay, I'm going to go ahead and close public testimony at this time, and let's now look at each of the proposed amendments...starting with the first one, Section 12-401-12, the propose to amend to change the physical address of the Department of Planning.

Ms. Zigmond: Madame Chair, I move that we approve that change.

Ms. Green: I'll second.

Ms. Gima: Okay, so it's been moved by Beverly and second by Caron to amend the Planning Department's address in the rules. Any discussion? All in favor of this motion raise your hand? All opposed? None, so that passes unanimously.

**It was moved by Ms. Beverly Zigmond, seconded by Ms. Caron Green, then unanimously**

**VOTED: to approve the amendment to Section 12-401-12 to change the physical address of the Department of Planning.**

*(Assenting: M. Badillo, M. Baltero, S. Ferguson, C. Green, S. Koanui Nefalar, B. Oshiro, B. Zigmond)*

*(Excused: S. Marlowe)*

Ms. Gima: We're going to skip because we're going to come back to the canceling meetings, and let's go to Section 12-401-20, proposed to amend to allow the filing of documents with the Commission to be submitted electronically.

Ms. Zigmond: Madame Chair, I move that we approve that amendment.

Ms. Green: I'll second.

Ms. Gima: Okay, so it's been moved by Beverly, seconded by Caron to amend Section 12-401-20 to allow the filing of documents with the Commission to be submitted electronically. Any discussion? All in favor of this motion raise your hand. Any opposed? None, so that passes unanimously as well.

**It was moved by Ms. Beverly Zigmond, seconded by Ms. Caron Green, then unanimously**

**VOTED: to approve the amendment to Section 12-401-20 to allow the filing of documents with the Commission to be submitted electronically.**

*(Assenting: M. Badillo, M. Baltero, S. Ferguson, C. Green, S. Koanui Nefalar, B. Oshiro, B. Zigmond)*

*(Excused: S. Marlowe)*

Ms. Gima: On to the next one, Subsection 12-401-92(e) it's proposed to amend to increase the notice period for public hearing on a rule amendment from 20 to 30 days in compliance with Section 91-3(a)(1), Hawaii Revised Statutes.

Ms. Zigmond: Madame Chair I move that we approve that amendment. Nobody else wants to.

Ms. Green: I'll second.

Ms. Gima: Okay. So again it's been moved by Beverly, second by Caron to amend Subsection 12-401-92(e) to change from 20 to 30 days notice period. Okay, those, that --. I'm sorry, any discussion? All in favor of the motion raise your hand. Opposed? So that passes unanimously as well.

**It was moved by Ms. Beverly Zigmond, seconded by Ms. Caron Green, then unanimously**

**VOTED: to approve the amendment to Subsection 12-401-92(e) to**



**increase the period for public hearing on a rule amendment from 20 to 30 days in compliance with Section 91-3(a)(1), Hawaii Revised Statutes.**

(Assenting: *M. Badillo, M. Baltero, S. Ferguson, C. Green, S. Koanui Nefalar, B. Oshiro, B. Zigmund*)  
(Excused: *S. Marlowe*)

Ms. Thomson: Thanks. Just for clarification, if -- since we're going rule by rule, there are a few areas that we corrected typos and, you know, maybe we could just say, there could be motion to correct the typographical errors as noted in the proposed rules. If somebody would be okay with making that motion.

Ms. Gima: Where was that?

Ms. Thomson: 401-4. Sorry, page 4, it's a little -- (e), period to prior or take out period, put prior.

Ms. Gima: So it would just be motion to amend typos?

Ms. Thomson: Right.

Ms. Gima: The proposed amendments for the typos.

Ms. Thomson: Let me see if there's anything else in here. There's another; it's the third line down of rule #20. We're changing -- taking out "at" and putting in "in."

Ms. Gima: Okay.

Ms. Thomson: I think that may be it.

Mr. Oshiro: I move that we accept the typo errors.

Ms. Gima: To amend --

Mr. Oshiro: To amend it to the correct whatever.

Ms. Gima: Okay. So it's been moved by Brad. Do I hear a second? Second by Fergie. Oh, I should --. I don't even know his first name. Stephen. Yes, formal and it's been second by Stephen to...amend the typos. Any discussions? All favor of the motion raise your hand. Opposed? None, so that passes unanimously as well.

**It was moved by Mr. Bradford Oshiro, seconded by Mr. Stephen Ferguson, then unanimously**

**VOTED: to approve the correction of typographical errors as noted in the proposed rule amendments.**

*(Assenting: M. Badillo, M. Baltero, S. Ferguson, C. Green, S. Koanui Nefalar, B. Oshiro, B. Zigmond)*

*(Excused: S. Marlowe)*

Ms. Gima: So let's go back to kind of the whole reason why we're here in the first place, looking at, you know, proposing about canceling meetings. I think it's safe to say through our discussion if I'm hearing everybody correctly and please correct me if I'm wrong that we all agreed on the verbiage about "regular meetings shall be held at least once a month" and then changing the public library to say "on the island of Lanai." And I think we said "on Lanai City," yeah. I mean, "on Lanai," "on the island of Lanai." So we all agreed there. I think where the issue or maybe needing some more discussion is about meetings being canceled. So what it's proposed to --. The proposed amendment is to read "meetings maybe canceled due to lack of pending commission business." And, so, just as we had talked about before putting that verbiage, "or as otherwise directed by the chairperson or the director." So I think that's what we kind of need to discuss and clear up. Commissioners, thoughts, comments?

Ms. Zigmond: Madame Chair? So...listening to what Butch said, in answer to my question, it would be great if the Director had a conversation with you and you would have a conversation with us, but you can't have a conversation with us because that violates the sunshine rules.

Ms. Gima: And that's kind of been the issue because when it has been proposed to cancel meetings, I would, as a Chair, get an e-mail. But, yeah, I can't go around and then consult with the rest of the commissioners, and I feel like that...that should kind of be the case. Because how would I know if, yes we do our -- we set our agendas. Or not set it, but we make suggestions for the agenda at the end of every meeting. But let's say, you know, or two weeks before the March meeting and it comes saying, okay, we're proposing that we're canceling. But let's say Caron in that time, wants something on the agenda, but I wouldn't know that because we can't discuss commission business. So I feel like to give all the commissioners the opportunity if they want to request something to be on the agenda, and again they might know that at the end of the meeting, there's need to be -- I think it needs to be made very clear in here how that canceling would work. Who's notified? Is it discussed amongst the commission? Is it voted on? I mean, I don't think anybody -- well, I can't say that -- I don't object necessarily to canceling meeting if there's absolutely nothing. You know there's no workshops, there's no commission business, yeah, I mean, it makes sense to cancel. But there needs to be a procedure, I guess, and how this looks like -- what it will look like in terms of canceling.

Ms. Thomson: What the -- the sunshine allows two board members to discuss board

business, so the Chair and the Vice-Chair could -- you could consult with your Vice-Chair.

Ms. Gima: So if I got an e-mail saying Planning Department is proposing to cancel the meeting, so then I can go to, individually, one person by one person? No.

Ms. Thomson: No, you can talk to one other person.

Ms. Gima: Right. But the point being is how would I know if my other commissioners have something that they really want to see on the agenda? I mean, would this --? Do we have to say that this would be decided at the end of our meeting because that's the only time we can actually talk all together?

Ms. Zigmond: But Kelli, if Caron had an agenda item, you are still -- you are only two commissioners. So she could say, hey Kelli, how about this? Is that not correct?

Ms. Gima: Yeah, so she could e-mail me or call me and --

Ms. McLean: So if I could answering your question separate from this rule. Let's say there was no mechanism to cancel meetings, how would that item currently get on the agenda? I believe a commissioner could ask you or could ask the Department directly and then the Department would check with the chair. So this doesn't change that.

Ms. Gima: Yeah, I think that was a poor example that I used, but I think it's more so of just being just able to have that discussion as a commission to cancel our meetings. And I think -- and, you know, I think that's what the concern is is that if it's always just the Planning Department or the director coming saying we want to cancel, we want to cancel, we want to cancel through a form of an e-mail a week before the meeting, there's not that opportunity for the commission to act on that or say, hey, you know, I really want to get an SMA workshop or whatever, or an update from Pulama on this, but -- and that's something. I mean, this leads into a whole other discussion of what is considered...worth having a meeting. Because that's been a discussion in the past too where, you know, we've asked for something, well, that's just the only thing on the agenda so we'll, you know. I think this all needs to be very clear. Because it holds everybody accountable, right? It holds the Planning Department accountable, and it holds us, as a commission, accountable as well, knowing that we are following the rules.

Ms. McLean: By saying chairperson or director it does give either of those individuals the authority to do it...and that -- I don't mean to sound glib, but that protects either individual from the other acting...out of line, if you will. If the -- if there is no business and the chair is insisting that there is a meeting, the director has a responsibility to staff and to Corp Counsel of we're not going over there. And at the same time, it protects the chair from, you know, no, we don't want to have a meeting, you're not going to -- that item isn't ready to be scheduled, you know, the community still has issues with it, no, we're going to cancel --

we're going to cancel the meeting because we need more time before that item is scheduled. But I really wouldn't have a concern if it was changed to chairperson and director.

Ms. Gima: But it also says --

Ms. McLean: So that the two together would have to concur.

Ms. Gima: Right. Because that, how it's reading now, that doesn't protect if I came and said, you know, we want a meeting and for these three reasons. The director could come back and say, no.

Ms. McLean: That's right.

Ms. Gima: So...

Ms. McLean: That's right. So if it, if it is "and" --. I mean, there has been times when we've disagreed and also when the Director has disagreed with --

Ms. Gima: Sure. Sure, and that will happen absolutely.

Ms. McLean: -- with prior chairs, but by making it "and" it is more cooperative and both are mutually responsible. And again --

Ms. Gima: So it could not be canceled unless both agree. Yeah.

Ms. McLean: Technically, yeah. I mean, that's...

Ms. Gima: It's an "and," not an "or," so yeah.

Ms. McLean: It's an "and," not an "or." It's at least a lot clearer than it is now.

Ms. Gima: Well, yeah. Yeah, definitely. And again, you know, I'm bringing this up not because I'm going to try it every time say, no, we need to have a meeting when there's nothing. It's just...to clean this up really, you know, nicely, and that it's --. And being us, being able to have this discussion is very helpful because I mean up until this point how many people really went and read through all the rules, you know? But now we're having this discussion, and we're all going to be aware specifically on this item or this section what it's going to be.

So...so changing it to then say, so the first one, "(e) Regular meetings shall be held at least once a month on the island of Lanai, or as otherwise directed by the chairperson and the director." Was that how we said it? I'm sorry.

Ms. McLean: We were going to flip that one around.

Ms. Gima: Oh, yeah, yeah. "Regular meetings shall be held at least once a month, or as otherwise directed by the chairperson and the director, on the island of Lanai."

Ms. McLean: Right.

Ms. Gima: Yeah? Okay. Okay, so that section, any -- just this one. We're not going to the next line yet. Any more discussion, Commissioners, on that? Okay, so the --. And then it would follow with "the regular meeting may be held elsewhere when necessary to enable the commission to effectively conduct its business." Wait a second.

Ms. Zigmond: That almost seems moot since we are --

Ms. Gima: Yeah.

Ms. Zigmond: -- anywhere on the island of Lanai, not just Lanai City.

Ms. Gima: So would we propose to strike that then completely? Yeah because it doesn't --.

Ms. McLean: I can't imagine that you could effectively conduct your business anywhere else but on the island of Lanai, so I think that sentence could be deleted.

Ms. Gima: Okay. So the next underline sentence which they're looking -- which was proposed to be added was "Meetings may be canceled due to lack of pending commission business." And then we had said having it attached "as or otherwise directed by the chairperson and the director." Or should it not -- or otherwise, should it be "Meetings may be canceled due to lack of pending commission business by the commission -- the chairperson and director?"

Ms. Thomson: I think that the reason that you wanted to have that full phrase is to address some issues like if you have lack of quorum. Like if we knew that we had pending commission business, but we also knew that we had a lack of quorum for that particular meeting.

Ms. Gima: Okay. Discussion, Commissioners, on this?

Ms. Zigmond: Madame Chair, I think, at least, speaking for myself that those changes as just stated addressed the concerns that I had.

Ms. Gima: Okay, let me just like -- I just got to read it in its entirety so we can hear how it sounds. So Section (e), "Regular meetings shall be held at least once a month, or

otherwise directed by the chairperson and the director, on the island of Lanai. Meetings may be canceled due to lack pending commission business or otherwise directed by the chairperson and director.”

Ms. Green: We've gone back and forth on the wording on this first sentence several times, and one version had "Regular meetings shall be held at least once a month, on the island of Lanai, or as otherwise directed by the chairperson and the director." In other words, keeping the "on Lanai" up front rather than at the end.

Ms. Gima: No, but if we -- I think what we said was if we kept it up front it would read -- so meetings should happen at least once a month on Lanai, or as otherwise directed by the chair and the director. So I think that was the thinking of placing it --. Yeah. So for me, I mean that -- it's, it's the second part that kind of --. I don't know what it is about canceling due to lack of pending commission business or as otherwise directed by the chairperson and director. And I think -- oh, what we were saying earlier is we need to tighten up how, and have it stated how it would be canceled. And I don't know if we have that answer now, but I think having it in there so it's very clear how it's canceled. So like if I'm a new commissioner and, you know, meetings are being canceled that you can refer back to the rules and be like, oh yeah, okay it says right here, this is, this is how it's, you know, the procedure of it being canceled.

Ms. Zigmond: Kelli, can I ask you, what do you mean that, that you or, and or the Director notifies us or we get a phone call or is that what you're saying?

Ms. Gima: Yeah because how I was saying earlier is right now how it happens, right, I get an e-mail saying they want to propose canceling the meeting. I give my feedback whether I agree or not, and then usually then Leilani sends out an e-mail to everyone, right, meetings canceled.

But like I was talking about earlier, what if they're saying, okay, there's nothing on the agenda or whatnot, and then two people want something on or to at least bring that forward to look at is it feasible to put it on next month's or should it wait? I mean, it's just being able to have that dialogue and discussion.

Ms. Thomson: I think one of the things too just to keep, keep in mind though is as the Deputy Director said you are all free to communicate to me, to Planning Department staff, you know, to make inquiries about projects that you're hearing about, what's the status of this, when do we anticipate seeing it on the agenda, that kind of thing.

Ms. Gima: So, yeah and I hear you on that. So like Stacie could say, hey Kelli, you know, I really want this item on the agenda and then the Planning Department can come back and say, no, you know, what we'll just wait for two more months. But then it's like Stacie against the Planning Department. I mean, putting -- and not to say it's against, but in that position

where I feel like, okay, well I guess I can't really do anything. Whether if it was all of us, as Commission, and then Medigale and Marlene may be like, yeah, you know, I would really like to learn about the SMA boundaries. Because like -- okay, I'm just going to be open and honest, it does feel like that sometimes when you're, through e-mails, saying, no, you know, I want this on, or feeling like I have to explain myself or being questioned on why things, you know. I think there just -- it needs to be a very clear process, and I think we all have seen in the past, as long as I've been on the Commission anyways, . . . (inaudible) . . . things are canceled and then we -- you know, we've had the whole discussion about feasibility and the financial part of it, and you know, wanting to have workshops. And, you know, it's just this kind of ongoing discussion, but it's never really clear, like, where the Planning Department stands on some of these things. And I'm not trying like -- well, I'm calling you guys out, but I'm not, you know, not in a -- I'm not trying to be confrontational or anything. I just -- this needs to be discussed because that's how it feels sometimes.

Mr. Oshiro: I have a question. What if -- I don't know if you can do this, you know, or you can shoot the message to all of us, and if somebody has something that they want to place on the agenda, it's up to the director and the chairman whether the meeting goes or not. Cause right now, the way I look at it, it's the director that's canceling all the meetings, so he's the boss. So he says yay, nay. We don't have any voice in that. So, right now if we do put the chairman and the director has to agree that the meeting going be canceled, I mean, can it go to all the members and then if somebody has, you know, something to say, let them put it out there, explain why they want the meeting, and if the director feels that it's not something that can be handled for that meeting, can be put on the next agenda?

Ms. Thomson: I guess something that we want to be careful about, though, is that if we got into a group discussion about board business outside of a regular meeting, then we run afoul of the sunshine law. So we have to kind of keep that in, you know, in the back of our mind that, you know, we have to follow those rules for these meetings. Maybe what I would suggest would be more communication with the Planning Department. So if, you know, if there's something that was coming up, if you let staff know, like if you let Clayton know, he would, when they're looking at, you know, we don't have any board business that's ready to go to the Commission, but you would have communicated to him if there's something I would like to see on an upcoming agenda. When he's discussing with the Chair, we don't have anything, except I heard from, you know, Commissioner Oshiro, he would like to have this item, and then she would be able to discuss that with Clayton.

Ms. McLean: Can I ask Richelle a question? I think what you might be looking for is if the chair and the director have a discussion, okay, we want to cancel it, are you looking -- would the director be able to notify the full commission and say we're considering canceling this meeting for these reasons. If you have concerns let us know. You know, just respond to us, not to everybody, but just respond to us. Would that be --?

Ms. Thomson: . . . (inaudible) . . .

Ms. McLean: That's okay?

Ms. Gima: As long as it says don't reply all, right, like in e-mail?

Ms. McLean: Right.

Ms. Gima: And that would be --

Ms. McLean: . . . (inaudible) . . . something like that cause then, you know --

Ms. Gima: Well, and I think that's a really --

Ms. McLean: -- Caron could say, oh wait, I need this.

Ms. Gima: Yeah. I think that's a very --

Ms. McLean: We could say, could that wait till the following time?

Ms. Gima: -- good idea. Where it's not just put -- because I feel like sometimes as the chair, it's put on me to make that decision, at that time, well, not considering everyone else. So, yeah, if there is a discussion of looking at possibly canceling, having someone from the -- I know it's not -- it's normally like Clayton or Leilani sends out. And then sending out to everyone this is possible -- it's a possibility that there's, you know, we'll cancel, is there anyone that has anything that they would like to see on the agenda, don't reply all. Don't reply all. That would be sufficient, correct? Then I think there needs to be that kind of understanding between the Planning Department and us...so that everyone's in the loop.

Ms. Thomson: . . . (inaudible) . . .

Ms. Gima: Yeah, I mean, I think we could have that even added on in there, and it's just simply saying, meetings maybe canceled due to lack of pending commission business or other, or otherwise -- what is it? -- or otherwise directed by the chairperson and the director. If meetings are being -- if the meetings are being considered to be canceled, the Planning Department or Chairperson will e-mail the commission --. I don't know.

Ms. McLean: We're --. Richelle and I are working on language, something to the effect of, if a meeting is proposed to be canceled, the director shall notify individual commissioners for input prior to the announcement of cancellation or something. Or prior to the final decision of cancellation or something like that.

Ms. Gima: And I think -- yeah, that, that definitely sounds better than what I was mumbling. Yeah, and then I think again just making sure it has that the decision is on the chairperson



and the director.

Ms. Thomson: I'm not trying to make this more complicated either, but I just wanted draw your attention also to section (f) which we're not changing, not proposing to change, "special meetings maybe called by the chairperson, the director, or a majority of the commission members at any time and place as scheduled." So a special meeting would just mean something outside of your normal third Wednesday. So if there was something that came up, the commissioners do have an avenue of, you know, bringing that to the table. You know, so it's not exclusively only the jurisdiction of the chair, and the, and the department.

Ms. Gima: I see.

Ms. Thomson: I kind of think that the wording that Michele was just referencing would probably work. What you're looking for is a notification to everybody prior to the final decision for canceling, and, and the opportunity to have feedback.

Ms. Gima: Yes. I'm going to -- I see some heads nodding and, and shaking in the background, and given that, you know, we have a few community members that did stay all the way to the end to listen to discussion, I'm -- if, if commissioners, if you don't object to me opening up public testimony one last -- one, last, time -- one last time, so that they could ask questions or provide any feedback. Any objections? Okay, so I'm going to open public testimony. Is there anyone that would like to come up and provide public testimony?

Mr. Gima: Thank you. I think we got to remember again, this is a home rule issue. For those of you who are not here in the early 90s we didn't have our own Lanai Planning Commission. We had a Lanai Advisory Committee to the Maui Planning Commission, so don't --. The recommendations are making are to reinforce home rule. Now I think the commission should have monthly meetings. That should be the default position...so that if there's consideration of cancellation the chair and the director will discuss, and then have to have good reason to cancel. If the -- if the chairperson and the director disagree, then the meeting will still go on because it's a default position that we will have a meeting every month. Now you can have commission business that you guys are interested and put it on what we call like a parking lot, so that when you do have time, you can discuss these issues. Because the, the things that you guys may want in terms of information or workshops are not time limited. You don't have to make a decision on it like a lot of these business, so you can have three or four things pending on the parking lot. And then if there is no official business, okay, boom, already you can put two things for the next meeting. Again, this is your, your commission, and I think Planning Commission is a misnomer because basically you guys react to everything that's brought to the Planning Commission. You don't -- you guys don't say, you know, I don't know enough about SMA, or I don't know enough about the financial implications about the changing the rules, and you guys deserve to have that information. And this, again, I keep saying, this is your commission. I don't

want the Planning Department, nor the Planning Director to have too much power on deciding when you guys meet and what you guys talk about. Thank you.

Ms. Gima: So in response to that, what I'm -- you know, what you're saying about if the chair and the director don't agree, then it still happens. I think that's pretty much how it says right now, right, if it says, regular meetings shall be held at least once a month, so it has to happen at least once a month. And in order for us to cancel both have to agree. There can't --. So, if, if I want the meeting and the director doesn't it's still going to happen because we both have to agree. That's where the "and" comes in.

Mr. Gima: Okay. I mean if --. We, we can all understand the intent of that, but the lay person reading it and I don't know if Corp Counsel would agree, I think it has to be real clear because the, the first sentence about the frequency, if you keep out the, the wording about, about the Planning Director and the chairperson, then I would agree, yeah, that's the default position. But when you put in that wording allowing the chairperson and the director to possibly change the frequency, then it no longer becomes a default position.

Ms. Gima: So -- so actually because we added that wording and the second part of it, it kind of becomes redundant, right? Like, right now, it's saying that regular meetings shall be held at least once a month, or as otherwise directed by the chairperson and the director. But then it goes into canceling, or as otherwise directed --. So it could actually just read, regular meetings shall be held at least once a month on the island of Lanai. Meetings maybe canceled due to lacking -- lack of pending commission business or as otherwise directed by the chairperson and the director. So it's maybe striking that first one because that still applies to like everything we just talked about. Does that make -- I think that makes better sense because it's kind of redundant right now, correct?

Ms. McLean: Yeah because it does say "held at least."

Ms. Gima: Right.

Ms. McLean: That means you can have more.

Ms. Gima: Right. But at least it's having a monthly meeting and that if it is going to be canceled, then it has to be upon the agreement of chairperson and director.

Ms. McLean: And then there's the following section that special meetings can be called.

Ms. Gima: Right. So...as a chairperson can I make a motion because I just want to move this along? Would somebody want to make a motion?

Ms. McLean: If you'd like me to read what I believe we have --

Ms. Gima: Okay.

Ms. McLean: -- so far. Regular meetings shall be held at least once a month on the island of Lanai. Can't be more clearer than that. Meetings maybe canceled due to a lack of pending commission business or otherwise directed by the chairperson and the director. If a meeting -- and this was the new language we talked about -- if a meeting is proposed to be canceled, the director shall notify individual commissioners for input prior to the chairperson and the director directing that the meeting is to be canceled.

Ms. Gima: Okay.

Ms. McLean: Is Leilani changing her tape? Like that's the most important part; we need the language.

Ms. Gima: You got it? Okay. No, I think that was read perfectly. I mean, any discussion on what's that -- on what's being proposed? So can I get a motion?

Ms. Medigale Badillo: . . . (inaudible) . . .

Ms. McLean: Then the last sentence, the new last sentence -- if a meeting is proposed to be canceled, the director shall notify individual commissioners, or I'll say all individual commissioners just to make that clear...for input prior to the chairperson and the director directing that the meeting is to be canceled.

Ms. Gima: Everybody got that? It will be in our minutes. It will be nicely typed in our minutes for us to read. Okay, so thank you for, I mean having that back and forth conversation with us and hearing what our concerns are as well as the community's and I think that was a good dialogue. Commissioners? I can't make the motion, so do I hear a motion?

Ms. Zigmond: Madame Chair, I motion, I move that we...accept the amendment, the amendments as read by Deputy Director.

Ms. Gima: Okay. So that is the motion.

Ms. Zigmond: In the record.

Ms. Gima: That is the motion. Do I hear a second?

Mr. Ferguson: I'll second.

Ms. Gima: Stephen has second. And who's that? Any discussion? Okay, all in favor of that motion raise your hand. All opposed? None, so that passes.

**It was moved by Ms. Beverly Zigmond, second by Mr. Stephen Ferguson, then unanimously**

**VOTED: to accept the amendment to Subsection 12-401-14(e) as read, in the record, by the Deputy Director.**

*(Assenting: M. Badillo, M. Baltero, S. Ferguson, C. Green, S. Koanui Nefalar, B. Oshiro, B. Zigmond)*

*(Excused: S. Marlowe)*

Ms. Gima: Thank you very much. I just had -- I know we're getting close on time, but there was one thing that I just -- when I was going through the rules and it wasn't obviously on the agenda, but just one thing was attendance. Which was kind of -- it's like no member shall be absent for the service of the commission unless the member is sick or otherwise unable to attend and has so advised the chairperson prior to the meeting. That might need to be amended or updated because that's --. So you know, this is great. We have everyone here except one person tonight. But for the past couple of years, I mean, there has been and times where we just barely have quorum. There were a few times where we didn't. I think the one time the Mayor was here, he made a comment about, you know, taking your role as a commissioner seriously and being at the meetings. I remember when I first came on board there was a commissioner that didn't show up for a year, but took a seat and took a seat away from someone in the community that could have served. Now, sure, people get sick, people have to go off island, I'm not at any way saying you can never be absent, but there has to be, I think, some verbiage for those situations when you're, like, five months have passed and you haven't even shown up for...for a meeting.

Ms. Thomson: We deal with this in other, other commissions too and the Charter says that the Mayor can appoint. So you've all gone through the appointment and confirmation process. To remove a commissioner, so say if you have someone that's, you know, absent 80% of the time and everybody knows it, but to remove that commissioner, it can either be done voluntarily. You know, and that's what we usually is if we can see a chronic problem, staff reaches out to that person, and just say, do you -- would you like to submit your resignation? If they submit a resignation, then that's easy. The Mayor can appoint someone new. If they don't submit a resignation which happens occasionally, the removal would have to be done by Council. So, we can't make more strict rules than that because that's in the Charter.

Ms. Gima: Okay. So there is nothing we can do in our specific rules to help that? Alright.

Ms. Thomson: You know, I think, one of the things that you could do as a commission though is you would bring it -- you can bring it up as an agenda item and to say, you know, commissioner x hasn't been here for the last 10 months --

Ms. Gima: Would you like to voluntary to resign?

Ms. Thomson: Right, or, you know, or ask staff. Say, we're directing staff to reach out to that person, and if you don't get a hold of them, to contact the Mayor's Office, and you know --

Ms. Gima: So just putting it on as official business? Okay.

Ms. Thomson: Yeah, and then, you know, if --

Ms. Gima: That makes sense.

Ms. Thomson: -- those avenues don't work, then you could ask --

Ms. Gima: Okay, so it would be a rule change, it would just be having that discussion?

Ms. Thomson: Yeah.

Ms. Gima: Okay. Thank you ladies very much, we appreciate it. The last item on the agenda was just...our agenda for our March, our March meeting. So Clayton? So your --. I guess, my question, Michele, would be then, you guys will type up this, and then we'll sign at the next meeting? So that's an agenda item then for our next month's meeting?

**G. NEXT REGULAR MEETING DATE: MARCH 15, 2017**

Ms. McLean: I don't think -- Richelle if you can confirm, typing up the rules for them to sign, that doesn't need to be agendized. That would just be circulated for signature.

Ms. Gima: Okay. Okay.

Ms. McLean: Thank you.

Ms. Gima: Thank you.

Mr. Yoshida: The next meeting is -- your next meeting is scheduled for March 15<sup>th</sup>. From our side, at this time, we don't have any public hearings on land use applications, legislation, either from the department or from the Council for the commission to consider because we would have had to publish the notice 30-days prior to the meeting, and we're 28-days prior to the meeting.

Ms. Gima: Okay. So I guess this is the time to discuss, commissioners, is there anything that you would like to propose to be on the March agenda?

Ms. Zigmond: Madame Chair?

Ms. Gima: Yes?

Ms. Zigmond: To resume the SMA workshop discussions.

Ms. Gima: Yeah, we haven't done that. I guess that. And then we'll hopefully get some follow up on what we had talked about the open projects. Any, anything else commissioners? Okay, thank you Clayton. Caron, did you have something?

Ms. Green: I'm sorry...I'd just like to understand what you're saying Bev. You want to have a meeting in which we talk about workshop items that we would --

Ms. Zigmond: Yes, in the past, it has been very beneficial for commissioners all to enhance their knowledge of certain topics that are related to items that come before us, and we had started prior to you joining us discussions on changing our SMA boundaries, the rules for our boundaries, and --

Ms. Gima: Bev, I'm going to cut you off. I apologize because they have to get going. Yes, so having the SMA boundary workshop, and then also maybe having that discussion. I like the parking lot idea of what we would like to see, so go home and think about what kind of workshops would be helpful or discussions to have, and that can be discussed as well.

Ms. Thomson: We're fine on the time table.

Ms. Gima: Okay. Well, we're done. We're done.

Ms. Thomson: Okay.

Mr. Yoshida: Yeah, as far as SMA boundaries, I think the director had come to a commission meeting, and said that the Plan Implementation Division is in charge of that project so I'll check with our Plan Implementation Division. They just hired a new planner, February 1<sup>st</sup>.

Ms. Gima: Okay. Anything else?

Ms. McLean: I'll just follow up on that. If the staff is available to come over, then we're certainly fine to come over and continue that discussion. We'd also be mindful, though, that three commissioners will be leaving at the end of March --

Ms. Gima: Oh, that's right.

Ms. McLean: -- and if it would -- not that we can't have that discussion, but then we would have to repeat a lot of that once the three new commissioners were onboard, so just something to mull over and think about but we can keep that discussion open.

Ms. Gima: And then just kind of one last thing. Is there any commissioners -- I mean you guys are all here. But any objections to starting the meeting at 5:00 p.m. when Planning Department is planning to fly over and trying to get back on the last flight? Okay.

Ms. McLean: And that would depend on what is on the agenda.

Ms. Gima: What's on our agenda. Correct.

Ms. McLean: If we know it's going to be a long discussion, of course, we'll stay.

Ms. Gima: Right. But I mean if we can accommodate that way, then I think it's fairly clear that we're all willing to accommodate that way so --. Alright, so it is now 6:45 p.m. and the meeting is adjourned. Thank you.

## **H. ADJOURNMENT**

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 6:45 p.m.

Respectfully submitted by,

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

**RECORD OF ATTENDANCE**

**PRESENT:**

Medigale Badillo  
Marlene Baltero  
Stephen Ferguson  
Kelli Gima, Chair  
Caron Green  
Stacie Lee Koanui Nefalar, Vice-Chair  
Bradford Oshiro  
Beverly Zigmond

**EXCUSED:**

Stuart Marlowe

**OTHERS:**

Michele McLean, Deputy Planning Director  
Clayton I. Yoshida, Planning Program Administrator, Current Planning Division  
Richelle Thomson, Deputy Corporation Counsel