

**HANA ADVISORY COMMITTEE  
REGULAR MEETING  
JUNE 19, 2003**

**A. CALL TO ORDER**

Planning Director Michael W. Foley called the meeting of the Hana Advisory Committee (Committee) to order at 4:27 p.m., Thursday, June 19, 2003, at the Old Hana School Cafeteria, Hana, Island of Maui.

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

**B. INTRODUCTION OF PLANNING DIRECTOR MICHAEL FOLEY and DEPUTY PLANNING DIRECTOR WAYNE BOTEILHO**

Mr. Foley: The second item on the agenda is the introduction of myself and the Deputy Planning Director Wayne Boteilho. Wayne is sitting in the back of the room there. And Wayne brings years of experience to the Planning Department. And he worked for many years for the County. He was trained as a planner, but was working in the Council Services Office until I appointed him or the Mayor appointed him Deputy Planning Director. And he and I both started in January.

And as you may or may not know, I worked for 37 years as a planner before moving to Maui. And I worked as a Planning Director in numerous other locations all in the Old Country. And I've lived on Maui for approximately five years and have been Planning Director now for six months. So I'm new to this also.

**C. INTRODUCTION OF NEW MEMBERS - FAWN SHERIE HELEKAHI-BURNS, MAVIS OLIVEIRA-MEDEIROS, and KAU'I KANAKA`OLE**

Mr. Foley: The second item on the agenda is the introduction of our new members. We just had the three of you introduce yourselves. Would any of you or all of you like to say anything about why you're on the Hana Advisory Committee? You don't need to if you don't want to. But if you'd like to say anything, you may. Fawn, go ahead.

Ms. Helekahi-Burns: My main concern why I'm involved is for the future of Hana. Being that I've gone away, and I've seen the big cities here in Hawai'i, and also in California, I've experienced that. And knowing the awesome and the unique lifestyle that we have here in Hana, I feel that we can somehow sustain it or progress more wisely instead of just getting a big urban boom here. So that's my main reason why I sit here on this Advisory Council and why I'm here. Mahalo.

Mr. Foley: No other introductory statements? Okay. Good. Well, I think that's why we're all here. And I appreciate the opportunity to attend this meeting and to visit you. It's always great to come back to Hana. I was here Christmas Day with my wife's family

and we had a great time. And it's nice to be back. The weather is a little cooler today.

**D. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2003-2004 YEAR**

Mr. Foley: The fourth item on the agenda is the election of the Chairperson and Vice-Chairperson. The people that are missing may discover that it's hazardous to miss a meeting. I'm going to open the floor for nominations for the election of Chairperson.

After nominations duly made and seconded, the following persons were elected:

**B. Nalani Shamblin to the Office of Chairperson  
Fawn Sherie Helekahi-Burns to the Office of Vice-Chairperson**

**E. RESOLUTION FOR OUTGOING MEMBER CLAIRE CARROLL**

Mr. Boteilho read the resolution for Claire Carroll into the record. (See attached.)

**F. APPROVAL OF THE NOVEMBER 14, 2002 MEETING MINUTES**

It was moved by Mr. John Romain and seconded by Mr. Dan Omer, then unanimously

**VOTED: to approve the November 14, 2002 meeting minutes as presented.**

**G. ORIENTATION WORKSHOP**

**1. Roles and Responsibilities**

Mr. Foley: I just wanted to make some very brief introductory comments addressed to all of you. And that has to do with how much we appreciate you donating your time to serve on the Hana Advisory Committee. The Planning staff, the Planning Commission, and the County Council all look to the five of you, and your missing members as well, for advice regarding Hana. And there will be an interesting variety of matters that come before you for review. And we really do value your recommendations. It's very important for us to hear from people who live and work in the Hana community because a lot of us are only blessed with visits to Hana. And you are all much more familiar with the daily goings on in the Hana community. So we really do value your input and we welcome your advice. And we will be forwarding a great, interesting variety of applications and questions to you for review.

It's going to be a very exciting year because we're going to be starting on the update of

the Maui County General Plan, and we will soon be starting on the update of the Hana Community Plan. And we want you to use the Hana Community Plan as a resource when you review applications. And when we prepare staff reports for you, the primary document that we will be using for policy direction and implementation programs will be the Hana Community Plan. So we encourage you to become very familiar with it. We will be referring to it frequently. And if there are sections of it that you either don't understand or have an issue with, we certainly would like to know about it. So feel free to contact the Planning staff. You can contact anybody in the Planning Department, including me. And we will have variety of planners working out here. We don't have a system where any particular planner is assigned to different areas. It depends on what kind of application it is and how many applications various planners are reviewing. But feel free to contact us if you have any questions or concerns. We sincerely appreciate your dedication and your time. And we'll be asking you lots of tough questions.

The next session of the orientation will be handled by Wayne and then Cindy's going to handle some of the legal issues.

## **2. Parliamentary Procedures**

Mr. Boteilho: Thank you, Chair and members. I'd like to go over two things tonight. One is parliamentary procedure, and this is for the benefit of the newer members and as a refresher for the past members. And the other topic will be the sexual harassment policy of the County of Maui. I'll start with parliamentary procedures.

Why do we need parliamentary procedures? Well, parliamentary procedures are needed to ensure justice and courtesy to all. Do only one thing at a time. Ensure that the majority rules. Also ensure that the rights of the minority are respected. To ensure that each main motion or debatable proposition is entitled to a full and free debate, and also to ensure there should be no partiality shown by the Chair. Basically, parliamentary procedures are designed to expedite business, maintain order, and ensure justice and equality for all.

The County of Maui's standard parliamentary procedures are *Robert's Rules of Order*. It's widely used, but there's some people who don't use *Robert's Rules*. I believe Congress uses *Cushing's Rules of Order*, but the County of Maui is *Robert's Rules of Order*. I do not recommend that anybody here try to read *Robert's Rules of Order* and try to become an expert. It would take you about six months of full-time study to do that. And besides, on boards and commissions, it's proper that you be more informal. So I'd just like to go over some basics with you. I'm going to start with motions.

There are three types of motions; the main motion, a subsidiary motion, and an incidental motion. The main motions are the ones that you do when you're trying to take an action. For example, "I move that we approve this particular project." That's a

main motion.

A subsidiary motion is something that you want to amend the main motion. So an example of that would be if the main motion is "I move that we approve this project," an example of a subsidiary motion would be, "I'd like to move that we approve the main motion on the condition that they have to complete construction within one year." So now you have two motions. You have the main motion and the subsidiary. The subsidiary motion must be voted on first. And if it passes, then you would vote on the main motion as amended.

Incidental motions are more about how you run the meeting itself. And because of that, incidental motions are really privileged motions because they take precedence over taking action. For example, somebody makes a motion, "I move that this project be approved." Somebody can say, "Madame Chair, I move that we defer this item and not vote until the next meeting." So in that case, you would vote on the privileged motion first because that would determine what is the outcome of the main motion. Other examples of incidental/privileged motions are to suspend the rules which takes a two-thirds vote, to withdraw a motion, to recess, to adjourn right now. So as you can see, it's more how you run the meeting. So I'm through with motions.

I'd like to get more into the Chair's role. The Chair basically runs the meeting. And the Chair also makes parliamentary decisions or judgements. If there's a question of whether the parliamentary procedure is correct, the Chair will decide. However, this is subject to the body. If the body disagrees with the Chair's decision, then somebody can make a motion, "I move to override that." Then you would have to vote on that.

And one thing about the committee as a whole, I tell you, the strongest method in parliamentary procedures is consensus. And *Robert's Rules* actually says this, if you have consensus, then that automatically passes. For example, "If there's no objections, we shall pass this project." And if there's no objections, then that passes. However, if even one person objects, then you have to take an actual vote on the main motion. And the reason for that is because if even one person objects, then you have a division. So you don't have a consensus anymore.

And I guess I'd like to end parliamentary procedures by saying again, to be informal, and basically run the meeting as you would like to do. You don't have to follow every single thing in *Robert's Rules of Order*. In fact, I was watching the State legislature about a month ago. They were using parliamentary procedures so strictly that they were not getting anything done. Recess, after recess, after recess. And somebody makes a motion, and somebody rises for a call of parliamentary procedures. And it was laughable. They just weren't getting anything done. So I would recommend you be informal and that should take you far.

### **3. County Policy Against Sexual Harassment**

Mr. Boteilho: Now, I'd like to move on to the sexual harassment policy for the County of Maui. This briefing is a required briefing according to Federal law which prohibits discrimination in employment based on race, color, religion, sex, or national origin. And the courts have interpreted discrimination based on sex to include sexual harassment.

What exactly is sexual harassment? It is conduct of a sexual nature in the workplace. And this includes any unwelcomed sexual advances, any request for sexual favors, any verbal or physical conduct of a sexual nature, and the display of sexually explicit or suggestive materials.

The County of Maui has a policy which says it is illegal and against County policy for any officer or employee to sexually harass or engage in the sexual harassment of another officer, employee, the public, or individual under consideration for County employment. All employees have a legitimate right to expect a workplace devoid of sexual harassment. The County, its department, agencies, its management and supervisory personnel have a responsibility to prevent acts of sexual harassment. The County of Maui will not condone or tolerate any sexual harassment in the workplace, and this includes boards and commissions. Violations of the sexual harassment policy by any officer or employee will result in disciplinary action up to and including termination.

Any officer, or employee, or board member who feels subjected to sexual harassment should immediately make a complaint to his or her immediate supervisor unless the supervisor is the individual committing the alleged harassment. In such a case, conduct should be reported to the next higher level supervisor, department head, or the Equal Employment Opportunity (EEO) Officer. For the Planning Department, I am that officer. However, you can also file a complaint with the State Civil Service Commission. And you can file a complaint with the Hawaii Civil Rights Commission. And you can file a complaint with the Federal Equal Employment Opportunity Commission. So you don't have to go to someone in the County if you don't wish to.

How does this relate to board and commission members? Each board and commission Chairperson is responsible for supervising their respective members. Failure by a Chairperson to control sexual harassment may be cause for disciplinary action against the Chairperson. Chairpersons may be held to a higher standard of accountability as they are the Mayor's representatives. Any board or commission member who feels subjected to sexual harassment should immediately make a complaint to his or her Chairperson unless the Chairperson is the individual committing the alleged harassment. If the Chairperson is the alleged offender, such conduct shall be reported directly to the County's EEO Officer. And again, that is me.

Board and commission members may request legal representation from the County's Department of the Corporation Counsel. The EEO Officer will designate an investigator in case of complaints filed by or against the board or commission member. The investigator shall promptly inform the County's EEO Officer of the findings and recommend disciplinary action, if any. The EEO Officer shall review the findings and shall approve or modify the recommended disciplinary action. Any modification shall be accompanied by a written explanation. The EEO Officer shall recommend action to the Mayor.

And with that, just as a closing thought, I'd like to say that the main point of this is that if you are a victim of sexual harassment, or if you witness any sexual harassment, go to somebody. Put it in the process. We do not want to tolerate that kind of behavior. So again, it doesn't have to be me. It can be Director Foley, Corp. Counsel, or anybody, or the Mayor. But please, go to somebody because you have to be assured that there is a process, and there will be help. And things will be kept confidential to the maximum degree. And with that, members, I thank you very much.

Ms. Helekahi-Burns: Thank you, Wayne.

- 4. Discussion of Boards and Commissions Booklet Distributed by the Office of the Corporation Counsel**
- 5. The Sunshine Law**

Ms. Cindy Young: Thank you, Madame Chair. I don't really have any discussion on the Boards and Commissions Booklet that's distributed by our office. So I will turn to the Sunshine Law.

I won't bore you with all of the details of the Sunshine Law, but basically the Sunshine Law was designed in order to foster open government so that everyone in the community knows what's going on. So that's why there's minutes. That's why the meetings are open to the public except for in certain situations, for example, executive sessions.

An executive session would be appropriate perhaps where the Commission needs some legal guidance as to their legal responsibilities and certain issues like indemnification. Would we be held legally responsible if somebody sued us for an action? Those kinds of issues would be in an executive session which would not be held in the public forum.

The only other thing about the Sunshine Law is that board members are not allowed to engage in deliberations outside of the formal meeting process subject to certain exceptions. One such exception is when two or more members, but fewer than a quorum, so in this case, three, two or three members could discuss things that occurred

in the meeting. So basically informational issues, but not issues related to voting, how are you going to vote, what do you feel about this issue, but purely for informational purposes. Maybe if a member is absent that member could call another member, and ask what happened. And that member could give an update. That would be appropriate under the Sunshine Law. And that's all in regards to Sunshine Law.

## **6. Ethics**

Ms. Young: Moving on to ethics, basically the issue in ethics that arises most often in boards is if a member has a financial interest in the decision that's being made by the board. Then that member would be in a conflict of interest and should recuse themselves from making a decision on that issue. If specific instances arise where you feel that it may be a conflict of interest, even if it's something where it's a potential for a financial gain, then that member should raise it at the meeting, and we would resolve it at that point in time. And that's all I have with regards to ethics.

Ms. Helekahi-Burns: Thank you, Cindy.

Ms. Robyn Loudermilk: . . . regulations within Maui County and how it relates to this body in general. So if we could just have a few minutes recess to set up and we can continue with the orientation.

(A recess was then taken at 5:00 p.m. and reconvened at 5:07 p.m.)

- 7. Ex Parte Communications**
- 8. Rules of Practice and Procedures**
- 9. Land Use Regulatory Framework in Maui County**
- 10. Hawaii State Plan**
- 11. General Plan and Community Plans**
- 12. State Land Use Law**
- 13. Zoning**
- 14. Chapter 343, Hawaii Revised Statutes, the Environmental Impact Statement (EIS) process**
- 15. Special Management Area Rules**
- 16. Shoreline Area Rules**
- 17. Other Related Boards and Commissions**

Ms. Loudermilk: Good evening, members and Chair. What I'm going to go through is an introduction to land use regulations in planning in Maui County. As part of your packet, we did provide various slides. And this will cover most of the remainder of your orientation workshop. Then after Cindy will go back into some of the legal cases. But this is just background on the various regulations and so forth that we in Maui County

work with.

We deal with a lot of various documents. There's the Hawaii State Planning Act, County General and community plans, zoning, the State Land Use Law, and other boards commissions. We have other Planning Commission permits and approvals, environmental impact statements, and the coastal zone management.

I'd like to start off with the Hawaii State Planning Act. It was adopted in 1978 and it sets forth the establishment of a statewide planning system to include an overall theme; goals, objectives and policies; establishment of a statewide planning system; and priority guidelines.

The Hawaii State Planning Act is also the enabling legislation for the various County General Plans. It sets forth the required elements of the General Plan. And some of these include population, physical development patterns, unique problems, needs, transportation systems, implementation priorities, and so forth.

The Maui County Code sets forth broad guidelines for future growth having to do with the County General Plan and community plans. There are nine community plan regions with Hana being one.

There's some general features for the General and community plans. There are ten-year revisions of the General Plan and community plans. There's always been some discussion: what is the role of the community plan? The community plan is part of the General Plan. As of right now, this past process which adopted the current General Plan and community plan that we work with evolved from a citizens advisory committee which is a 13-member advisory committee. And as Mike alluded to earlier, one of the tasks before us would be updating and revising the General Plan including the General Plan process. There are always revisions and amendments to the General or community plans. They can be proposed three ways. Either initiated by the Planning Director, or the County Council, or any other State or individual. Are there any questions at this point in time?

Mr. Omer: Does the community plan create legal limits on the decision-making of this Committee?

Mr. Foley: My interpretation and the interpretation of the new administration is that the community plans are elements or chapters of the General Plan which is adopted by ordinance, and which is mandatory for compliance. The easiest way to answer your question is that projects which are not in conformance to the community plan, for instance, they have a different designation on the community plan map. In a case like that, it's necessary to do a community plan amendment before the application can proceed. So our interpretation is and will continue to be that all development



applications, including public projects must be comply with the community plans. And in some cases, that's a map compliance. And in other cases, it's a policy or implementation compliance. But at the beginning of our review of all public and private projects, the first thing we do is look at whether or not it conforms to the General Plan and the community plan. The General Plan, as you can tell by its name is very general. And it has such policies as protect agriculture, support affordable housing, protect the coastline, protect the rural ambience of Upcountry, protect the rural ambience and character of Hana. It's motherhood and apple pie kind of general statements in the General Plan. The community plans are significantly more specific. And they will become even more specific as they are being amended in the near future. But the answer to your question is, yes. Applications must conform to the community plan.

Ms. Loudermilk: Any other questions before I go on? Now, we'd like to go on to the County zoning. Chapter 46 of the Hawaii Revised Statutes allows a County to establish zoning and provides guidance on how zoning should be accomplished. And the State law also allows for the establishment of planning and traffic commissions. And this is taken directly out of Chapter 46:

Zoning in all counties shall be accomplished within the framework of a long range, comprehensive general plan prepared or being prepared to guide the overall future of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner.

So there's always a discussion of the role of zoning within the community plans. And we need to remember that the enabling legislation for zoning was adopted 20 years prior to enabling legislation for the State plan and the County General Plan. And in Maui County, we've been really good at community planning and really poor at rezoning. So we do have some of these conflicts that do continue to occur.

Title 19 of the Maui County Code provides for two types of zoning. We have interim zoning which was created for the purpose of providing interim regulations pending the formal adoption of a comprehensive zoning ordinance and map. And then we have the comprehensive zoning provisions in which to regulate the utilization of land in a manner to encourage orderly development in accordance with the land use directives of the Hawaii Revised Statutes, the revised Charter of the County, and the community and General plans of the County.

Several types of actions usually occur under County zoning. We have a change of zoning. We have conditional permits. And then we have County special use permits. Change of zoning is basically change one land use to conform with the community plan. For example, from agriculture to residential is one if it's so noted in the community plan. Conditional permits provide the opportunity to consider establishing uses not specifically

permitted within a particular zoning district. And then lastly, we have the County special use permits. Within the various zoning districts, certain special uses are permitted upon the review and approval of the Planning Commission provided that certain criteria are met.

And then we do have some special zoning designations. We have project districts. The intent is to provide for a flexible and creative planning approach. That's where we would have the landowner/developer develop their own zoning regulations and guides.

And then we have planned developments. It's similar to the project district in that you want to provide some flexibility. The major distinction is that for the planned development, the underlining zoning prevails over the property what's ever in Title 19. Say you have a hundred acres. Twenty acres is residential. Thirty acres is multi family. The remainder is hotel. If you want to do a resort community under a planned development, you have to use the existing criterion in Title 19 for those various zoning designations. But what the planned development allows you to do is to site the property in such a way that it allows for additional open space. So you may have some natural constraints on the property such as gulches and wetlands, or areas that you want to protect. So you don't necessarily have to follow all the current setbacks and so forth. So it provides that type of flexibility whereas I indicated before in a project district, you create your own zoning. It's adopted by the Council and becomes part of Title 19 and then gets implemented.

Next we'll go into the Land Use Commission and the State Land Use Law. Basically the State Land Use Law designates all land in the State of Hawaii into one of four districts: urban, rural, agricultural, and conservation. Chapter 205 also sets forth criteria for the districting of lands, as well as identifies permissible uses within each of the four land use districts.

There are basically two types of actions that occur. One is district boundary amendments in which we reclassify lands from one district to another such as reclassifying lands from the State agriculture to the State urban district. The second type of action is the State Land Use Commission special use permit which allows for the establishment of unusual and reasonable uses not outright permitted in the State agriculture and rural districts.

Briefly, for those district boundary amendments greater than 15 acres, and for all lands in the State conservation district, this type of action is filed with and acted upon by the State Land Use Commission. The County of Maui Planning Department is a mandatory party to these proceedings. For boundary amendments less than 15 acres, it is filed with the Maui Planning Department and acted upon by the Maui County Council. The Planning Commission conducts the public hearing and transmits the recommendation to the County Council.

Regarding the special use permits, those projects greater than 15 acres are filed with the Planning Department, and is acted upon by the State Land Use Commission. The Planning Commission conducts a public hearing and transmits recommendations to the Land Use Commission. For those actions less than 15 acres, the application is filed with the Planning Department and acted upon by the Planning Commission. So any questions regarding Chapter 205?

Okay, this is where you folks fall under: other boards and commissions within Maui County. We have the Redevelopment Agency, Urban Design Review Board, the Cultural Resources Commission, the Hana Advisory Committee, the County Arborist Review Board, Napili Bay Civic Improvement District Advisory Committee.

What's special about the Hana Advisory Committee is that for Maui Island, you are the only committee established of this type that holds public hearing items for various actions that we had talked about, such as a change in zoning, community plan amendments, special use permits, the delegation of the public hearing is with this committee. And then you folks would make the recommendation to the Maui Planning Commission for either final action or to further that recommendation to the County Council. So you folks are unique on the Island of Maui.

So basically, Urban Design Review Board deals with design issues for special management area permits that are commercial in nature. The Cultural Resources Commission deals with actions located in historic districts that are part of the County zoning, as well as other areas related to cultural and historic resources.

The Arborist Review Board is actually under the jurisdiction of the Parks Department. However, there are certain reviews that this department makes in regards to trees, subdivisions, and so forth.

Just briefly, there are other types of permits and approvals that do occur. I'm not too sure how often they come before this Committee but we just want to make you folks aware of these: off site parking approvals, accessory use permits, amendments to the zoning code, and type of actions initiated by the respective department or commission.

Off site parking, basically if you have activity occurring on the property, all parking is supposed to occur on that property. You're not allowed to park on the street and so forth. But there are certain situations where there's maybe not enough parking on site. So this type of action comes before the Planning Commission. An example of this is Kaahumanu Center and Piilani Shopping Center. They're very large. And for tax map key purposes, they're more than one entity. And so technically, to provide the required parking, they need this type of approval as a shopping center might be comprised of five different properties, but the parking is for the entire property. You don't want to segment it out so it's more of a technical procedure type of thing that fortunately, we

don't have to deal with as much.

Accessory use permits, we have identified different zoning districts in which if you look under Title 19, they have uses that are identified specifically as accessory. Again, it's a communication item to the Commission, but it does require review and approval. And basically what usually occurs is that you want to make sure that the use is consistent with the intent.

There can be amendments made to the zoning code. There are several different ways this can occur. One is Council can initiate the action. And if it comes from Council then it will be sent forth to the various Planning Commissions. And there are different time lines in which for them to provide recommendations back to the Council on the zoning changes. So we have some additional deadlines. The Planning Director or the Commission can also initiate actions similar in that there are certain guidelines and constraints. There's a hundred-day review period from when the Planning Director transmits the proposed request to the Council. So any questions on these types of permits?

Okay, now we want to get into environmental impact statements. Again, this is State law, Chapter 343. What it does is it sets forth criteria as to when an environmental assessment (EA) and an environmental impact statement is required. They also allow for exemptions of this review process for certain types of actions.

Some actions that trigger the EA review would be a use of State or County lands or funds. Any use within lands classified as a conservation district by the State Land Use Commission. Any use within the shoreline area as defined in this particular section of the State law, but we know it more as the shoreline setback. Any use within any historic site as designated on either the National or Hawaii Register of Historic Sites. Any amendments to existing County General Plans. Reclassification of lands classified as conservation district by the State Land Use Commission. The construction of new or the expansion or modification of existing helicopter facilities. And any uses within the Waikiki area of Oahu.

The law sets forth who can accept environmental impact statements. For those actions which we call agency actions like we have before you today: Public Works is requesting a special management area use permit for the reconstruction of the bridge. So with the use of not only County, State, but Federal funds, they were required to go through this 343 process. And in this case, the Mayor for the County accepts that document.

Then we have applicant actions and this one will be changing. As of right now, it's usually the agency that is processing the proposed request. And before this Commission would be the Planning Department. However, there was a recent circuit court case which indicated that according to State law, depending on the type of permit,

it would either be the respective Planning Commission or the State Land Use Commission. And we're not too sure how this body would be part of that process if there are any actions occurring in the Hana Community Plan region that would be considered applicant actions. And it's still evolving even as we speak. We're going before the Maui Planning Commission on the 24<sup>th</sup> with the first two of our documents. So this Committee may or may not have a role in that, but it's just to let you know that these documents are not done and accepted in a vacuum.

Then lastly if there's any shoreline setback variances, it has always been the respective Planning Commissions.

There are also what are called exempted actions. And there are ten classes of actions that have been identified within the State law as well as the administrative rules. However, all exemptions are inapplicable when the cumulative impact of a planned action in the same place over time is significant. Basically it's a catchall clause in that we can make an assessment to determine whether though it may fall under an exempt class of action due to unique circumstances, this project should go through the review process.

So basically when a project comes forward, does Chapter 343 apply? If no, then the whole process is pau. If yes, then we look, does the project qualify as one of those ten exempted actions? If yes, then you're pau. If not, then you continue on through the process. And that's basically, does the agency anticipate any significant impacts as a result of the project? If not, then the EA document is prepared with an anticipated finding of no significant impact. If the department does anticipate any type of significant impact, then it would recommend the full-blown EIS process to the applicant. Any questions?

Chapter 205A, we have three components of the Coastal Zone Management Law. The first component is the Coastal Zone Management Law itself, objectives and policies, implementation actions. Basically all lands in the State of Hawaii, excluding Federal lands are located within the coastal zone. Then we have special management areas which is a special subset of the coastal zone. And then we have shoreline setbacks which is a more specialized area subset within the special management areas.

Basically, there are ten categories of objectives: recreational resources, historic resources, scenic and open space resources, coastal eco systems, economic uses, hazards, managing development, public participation, beach protection, and marine resources. And these ten categories of objectives have a wide variety of mandates.

For economic uses, provide public or private facilities, and improvements important to the State's economy in suitable locations. Regarding hazards, we'd like to reduce hazards to life and property from tsunami, storm waves, stream flooding, erosion,

subsidence, and pollution.

Policies to be implemented: recreational resources, providing and managing adequate public access to and along shorelines with recreational value. Economic uses, we want to concentrate coastal development in appropriate areas. Scenic and open space resources: preserve, maintain, and where desirable, improve and restore shoreline open space and scenic resources.

Additional policies regarding coastal eco systems and hazards, we want to exercise an overall conservation ethic. And we do want to control development in areas in which there are various coastal hazards. So that's the big overall picture for coastal zone. And then that trickles down into special management areas which is before you tonight as well as shoreline setbacks.

On the findings and purposes, the legislature finds that special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources, and the foreclosure of management options. And to ensure that adequate access by dedication or other means to public-owned or used beaches, recreation areas, and natural reserves is provided. They further find and declare that it is the State policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii.

All development within the special management area requires a special management area permit. There are two types of permits. Before you this evening is a major permit. It's valued more than \$125,000 and it has a potential for impacts. The Planning Commission reviews and approves the SMA. As it's located in Hana, you folks will hold the public hearing tonight and make a recommendation to the Maui Planning Commission. And then we have minor permits: projects valued less than \$125,000 with no impacts. The Planning Director has been authorized to approve those for Maui Island.

Development includes a wide variety of things. You see placement or erection of solid material; the change in density and intensity of land use; water; construction, reconstruction, demolition or alteration of structures. Since those definitions are so broad, we even have a longer list of what does not constitute development. For example, construction of a single family residence that is not part of a larger development; subdivision of a parcel of land into four or fewer parcels with no associated construction activities; structural and nonstructural improvements to existing single family residences where otherwise permissible. Similar to the environmental impact statement law, we do have the catchall phrase that if any excluded use like a single family residence may have a cumulative impact, or a significant environmental or ecological effect on a special management area, then it can be defined as a development.

So we have various guidelines in reviewing the development. It shall be subject to reasonable terms and conditions. We want to ensure adequate access to publically-owned or used beaches, recreation areas, wildlife preserves and reserves. We want to make sure that there is disposal of various waste products. Ensure that any type of alterations will have minimal adverse impact to water, and scenic, and recreational resources, as well as a variety of coastal hazards.

No development shall be approved unless the Commission has first found that the development will not have a substantial adverse environmental or ecological effect except that such adverse effect is minimized to the extent practicable, and clearly outweighed by public health, safety, or compelling interests. So this is the area that we balance competing interests within the special management area.

We want to make sure that the development is consistent with objective policies of the special management area, and that the development is consistent with the County General Plan and zoning.

The authority shall also seek to minimize, where reasonable, the types of development that will reduce the size of beach area for public recreation. Would reduce or impose restrictions upon public access to tidal and submerged lands, and portions of rivers and streams within the special management area. Additionally, if there's development that will substantially interfere with or detract from the line of sight toward the sea from the State highway nearest the coast. As well as adverse impacts on water quality in general as well as it relates to fishing grounds, wildlife habitats, or agricultural uses of land.

The last component in the coastal zone management is the shoreline setbacks. The setbacks distance range from 25 feet to 150 feet from the shoreline depending upon the depth of the lot. As of right now, the Maui Planning Department has proposed changes to setbacks based on coastal erosion rates, but they are not yet adopted.

Structures are prohibited within the shoreline setback area. However, there are certain exceptions such as structures necessary for or ancillary to the continuation of existing agricultural or aquiculture in the shoreline area. Minor structures that do not affect beach processes, or artificially fix the shoreline, and do not interfere with public access or public views to and from along the shoreline. Repair of existing permitted structures.

We have variances. Variances may be granted for certain prohibitive structures including types of landscaping, drainage improvements, and private improvements. Basically we don't want to have any structures that will adversely affect beach processes. And criteria for the granting of variances, we want to ensure safe lateral access to and along the shoreline. Minimize risk of adverse impacts on beach processes. And we want to minimize the risk of structures failing and becoming loose

and going on public property. And minimize impact to public views. Any questions? That includes this very brief introduction.

### **18. Hana Community Design Guidelines**

Mr. Foley: Robyn, there's one more item on here that I don't know whether you're going to comment on or not, but that's the Hana Community Design Guidelines.

Ms. Loudermilk: I can comment on that briefly. With the adoption of the business country town zoning, which is part of the Title 19 zoning that we went through was the requirement for the development of design guidelines to implement within various small towns on Maui, Hana being one. And for those properties zoned B-CT, we have a set of design guidelines that have been put forth and adopted which these various business owners must adhere to. So it's general. For certain zoning, there's certain types of design guidelines that need to be adhered to.

In addition to Hana on Maui, Paia has their own design guidelines, Upcountry Makawao. On Molokai, you have Kaunakakai town. On Lanai, you have Lanai City. The main intent was you wanted to have community business urban type uses within the regions, but you didn't want to have the big box type construction. You didn't want to have the Costcos come in. You wanted to be able to address size and scale of the structures in relation to the business uses itself.

Ms. Helekahi-Burns: This only applies to businesses and not to residents?

Ms. Loudermilk: My understanding is that it applies only to those businesses located within the business country town zoning district. So it is specific to a zoning district, but we can get that verified. That concludes my portion.

Ms. Helekahi-Burns: Mahalo, Robyn.

### **19. Meeting Agenda**

Mr. Foley: The only thing we have to say about the agenda is just that it is prepared by the Planning Department and distributed to you with background material. And if you have any questions regarding anything in that package, you can contact the Planning Department. And sometimes you might want to ask questions before the meeting rather than at the meeting. It depends on the type of questions, but that's really all we have to say about the agenda. There will always be one and there should always be something attached to it. If there are no items for a particular meeting agenda, we cancel the meeting and notify everybody. And normally, we would run that through the Chair of the Committee.



## **20. Recent U.S. Supreme Court Decisions on Takings Issues**

Ms. Young: Basically there's two types of takings. There's an actual physical taking where— I should back up. Under the U.S. Constitution, government is required to compensate landowners for any taking. The government may use the property for a public purpose but it has to compensate the landowner for such use.

The two types of takings are physical and regulatory. The physical would be where the government actually puts, let's say, a sidewalk on your property, and does not obtain a right-of-way. In those cases, it's probably a taking because they're using your property. And so the landowner would likely in that case get compensation for that.

The second type is regulatory where the government through, let's say, zoning or other types of regulations basically regulates you out of using your property. So if there is no economically practical use for your property, then the landowner would probably have a case for a regulatory taking. So that's all I have on takings. That's just a brief overview.

## **21. Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission**

Ms. Young: With respect to PASH, that was a case involving the Public Access Shoreline Hawaii and the Hawaii County Planning Commission. And it came up to the court as a standing issue for the Public Access Shoreline Hawaii, but ended up being a case on basically acknowledging the rights of Native Hawaiians to practice their cultural and traditional practices. And the importance for this body is that the Planning Commissions are obligated to take into account those rights that are established both under the Hawaii Constitution, Article 12, Section 7, as well as the case law that formally acknowledges that that is the right associated with that provision in the Constitution. Subsequent cases have kind of limited those rights and have kind of spelled out that any person that is claiming that they're practicing such a right, they have the burden of proving that such a right exists. And it has to be a clearly established right or practice. And that's all I have on the PASH line of cases, Madame Chair. Thank you.

Ms. Helekahi-Burns: Thank you.

(A recess was then taken at 5:52 p.m. and reconvened at 6:00 p.m.)

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

- 1. MR. GILBERT COLOMA-AGARAN, Director of the DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT requesting**

**a Special Management Area Use Permit for the Waiohonu Bridge Replacement Project in order to retain the single lane design, the vertical balustrade-type railings and the concrete railing caps in the vicinity of Waiohonu Stream approximately 3.5 miles south of Hana Town at TMK: 1-4-012: 019, 1-4-012: 002, and 1-4-012: 016, Hana, Island of Maui. (SM120020025) (R. Loudermilk)**

Ms. Loudermilk gave a brief overview of the proposed project.

Design plans and related aspects of the proposed project were then presented by Mike Munekiyo, project consultant, and Richard Sato, project engineer.

Mr. Foley: What is the total cost?

Mr. Sato: The total cost is in the neighborhood of 1.3 million. And for the benefit of the residents that are living there, there is a driveway to this property that would be in close proximity. There is another driveway into this property on this side of the street that would impact the property, but they will have access to the property.

Mr. Omer: How long will the project take?

Mr. Sato: We estimated that it will take between maybe eight and ten months.

Ms. Helekahi-Burns: So the pink parts of the diagram indicate private property? Is that why it's in a different color?

Mr. Sato: The basic reconstructed bridge would be mostly within the existing right-of-way but the detour area would be – we would have to have a right-of-entry for the period of construction.

Mr. Foley: Will the temporary bridge be there the entire eight to ten months?

Mr. Sato: I would think that it would be there for most of the eight to ten months of reconstruction period, yes.

Mr. Joseph Oliveira: How high is the...(inaudible)...?

Mr. Sato: It would be about the same level as this bridge here.

Mr. Oliveira: (Inaudible)

Mr. Sato: It would be at least as high as this one.

Ms. Oliveira-Medeiros: (Inaudible)

Mr. Sato: The contractor would have to negotiate with adjoining property owners if he wants to park equipment.

Ms. Oliveira-Medeiros: (Inaudible)...1-4-12:16.

Mr. Sato: No, they would not be able to park on your property, not without permission.

Ms. Ipo Cosma: Are there any stop signs?

Mr. Sato: Yeah, there will be adequate signage: a stop sign, a speed limit sign, a warning sign. There'll be the whole gamut of signage, yes.

Mr. Foley: The new bridge when it's constructed, when it's done, would be one foot? The travelway would be one foot wider than the existing bridge?

Mr. Sato: It would be 16 feet wide, so approximately eight inches wider. And that's the width that after going through the preservation plan, the State and Federal plus the community had decided on 16 feet. That allows for a 12-foot travel lane with two-foot shoulders on each side.

Ms. Cosma: I have a question. Right in front of our house, always a lot of people park right outside of our house. In fact, now they're going by the Medeiros' property also.

Mr. Sato: Yes, we noticed they were parking alongside.

Ms. Cosma: On both sides there's always a lot of cars. Where are they going to go?

Mr. Sato: On the reconstructed bridge, there'll be a guard wall here and here. So if you live here, they're not going to park right in front of your house. Similarly, there'll be a guard wall here. So the closest they could park is right here or along there. Now, we don't have the authority to do traffic control after the project is done. I think that's the County's responsibility.

Ms. Helekahi-Burns: One of my questions is about the waste during the demolishing of the bridge. And how expedient will it be taken out of the river just in case it runs, and it doesn't go into the pond that's below and the oceanfront, because it's still used for gatherings and things like that?

Mr. Sato: They will not be allowed to leave debris within the stream or within the existing right-of-way. So as they demolish it, they need to take it away.

Ms. Helekahi-Burns: What would the weight capacity be of it being that you did eliminate two of the legs and you did reduce the thickness of the bridge?

Mr. Sato: The standard requirement for this type of bridge, for this type of highway is 20 tons. So it'll be a 20-ton capacity bridge.

Ms. Helekahi-Burns: Is there a guaranteed life span of the bridge in which you guys put upon the bridge? Like you say you would at least guarantee 50 years or those kinds of things?

Mr. Sato: It's very difficult to do a guarantee for that period of time, but the life span of the new bridge I would imagine would be in excess of over 50 years.

Any more questions? Well, thank you very much. This is a great opportunity for us to come to this beautiful place here. We really enjoy coming here. Thank you.

Ms. Loudermilk then presented the Planning Department's report.

Ms. Helekahi-Burns: Any comments? I do have a couple questions for Mr. Sato. The first thing is, the compensation of the land for the detour bridge, is that put into your proposed budget for the private landowner?

Mr. Sato: Joe, would you be able to answer that?

Mr. Joe Krueger: My name is Joe Krueger. I'm with the County. Yes, there is money in the budget to compensate landowners for the rental of their property during construction. What we'll do is we'll have it appraised and then we'll make an offer to the landowner.

Mr. Omer: I'd like to mention that based on that comment that I'm employed by the owners of 1-4-12:002. And I don't know what impact that might have on my participating on the decision. It's just a statement that I'm employed by the owners of that land. And it was mentioned that there might be compensation. So I guess I want a legal opinion of whether I can participate in this. Do I need to recuse myself?

Ms. Young: Just to clarify, is the situation that your employer is a party – their property would be involved in this?

Mr. Omer: That's correct as part of the detour. And there was just indication that there would be compensation to the owners...(inaudible)... So my employer would potentially receive some compensation?

Ms. Young: Can I just ask for a short recess, Madame Chair?

Ms. Helekahi-Burns: Yes, let's take a five-minute recess and then we'll reconvene.

(A recess was then taken at 6:45 p.m. and reconvened at 6:49 p.m.)

Ms. Young: Madame Chair, if I might answer Mr. Omer's inquiry, there is no conflict of interest in your situation.

Ms. Helekahi-Burns: Before we vote on this, or make a motion to accept or not accept—

Ms. Oliveira-Medeiros: Since I wasn't here the first time, I just wanted to make sure it goes on record that I will be recusing myself from voting because my husband, Earl Medeiros, is the owner of 1-4-12:16, I think. Thank you.

Ms. Kanaka`ole: I have a question to our Planning Director. The letter from Mr. Reeser stated that we needed to state that there would be no irrevocable commitment to lost or destruction of any natural or cultural resource that would occur as a result of the proposed project. Was there anything that came about because of his letter?

Ms. Loudermilk: I think I'm in a better position to answer. Maybe not directly as a result of the letter, but his concerns were reiterated by the Cultural Resources Commission. And that was in response to the preliminary documentation that was provided in which there was no mention that the Hana Belt Road was a historic road, was listed on the National and State Register. That was the main point that he did want to make. Going through this Section 106 process also notes that there would be a significant impact to the bridge. And the Cultural Resources Commission will not be part of that MOA agreement. So the letter did have an impact in that it did bring to light these other issues. And the fundamental issue is the rehabilitation versus preservation of the bridges. And some of these bridges are in dire need of repair or replacement. We cannot speak about the lack of money and maintenance in which led the bridges to come to the conditions that they are today. And the County of Maui has made a concerted effort to try to keep the historic and cultural integrity of any of the new bridges coming up. And that is appreciated by the Cultural Resources Commission. And they really commend the County for coming a very long way compared to the bridge in Kaupo to what we have now. And the County Public Works Department continues to be very sensitive to keeping the bridges similar to what will either be replaced or repaired. So, yes, the letter did have an impact. What we have here today is one of the results of the letter.

Mr. Foley: I just wanted to clarify that the environmental document is an informational document. And its purpose is to fully disclose all of the potential impacts of any kind of a project. And in this case, the letter that you're referring to is a further description of the historical significance of the roadway and the bridge. But it's the historical significance and the attention given to this project by the Park Service and the Cultural

Resources that resulted in the bridge design looking extremely like the bridge that's being replaced. So the staff and the Cultural Resources Commission would probably all rather see the bridge not have to be replaced, but the staff recognizes that the bridge does have to be replaced, and commends the Public Works Department for coming up with a design that is sensitive to the historic nature of the road.

Mr. Romain: On that same idea where it mentioned the potential de-listing on the Historic Sites, if I remember right from a previous issue, or something I heard is because we are designated as a National Historic District that the County's able to get Federal funding and not have to go through those Federal standards. It resulted in the Kaupo Bridge, for example. And if there was a potential of being de-listed, wouldn't that put the whole thing in jeopardy for future bridge repairs to get the Federal money and still be small bridges?

Mr. Foley: Part of the response is that each bridge will be evaluated individually as to whether or not it's possible to repair it, or whether the recommendation is going to be to replace it. So there is no foregone conclusion that any particular number of bridges are absolutely definitely going to be replaced. If the County made a decision to replace all of the bridges and to design them like bridges that were outside of a historical district, then I think there could be some jeopardy of being de-listed from the Historic Preservation Register. But I think that kind of a consideration is way down the road, if you pardon the pun, because these bridges are going to be individually evaluated. And I think everybody involved is really appreciative of the fact that the designs have changed significantly over the last several years so that this bridge being designed looks very, very much like the bridge that it's going to replace.

Mr. Sato: It is our impression contrary to what you have said about Federal funding is that the Federal Highway Administration will not participate in funding the project if we do not meet their standards. And they will not back down on their safety standards. So either you try to get Federal money and meet their standards, or the County fund it 100 percent. This should be verified by the Public Works.

Mr. Romain: So there's no Federal money on this bridge?

Ms. Loudermilk: There is Federal money. In fact, the department has to go to the Federal Highway Administration to get what they call a design exception. To get the money to do the bridge how we want to do it, we have to go through all this extra paperwork. Otherwise, we would be required to build a bridge like we have in Kaupo. So in terms of the Federal funding, the County can still receive it. We have to go through extra hoops to be able to maintain the funding to do the types of repairs that we need to do.

Mr. Sato: The Federal Highway Administration is participating up to 80 percent of the

cost of the bridge, so the County pays 20.

Ms. Helekahi-Burns: Did the CRC make some kind of resource analysis of what kind of cultural resources that might be lost down in that area?

Ms. Loudermilk: The Chair of the Cultural Resources Commission did the actual paperwork for the listing of the Hana Belt Road for both the State and the National Register. Her concerns and concerns shared by some of the other commissioners is the integrity of the resource. And I have taken that to mean the original resource, not a replacement. They do acknowledge that their primary purpose is for the protection of historic and cultural resources. And they are the advocates within the County. By the nature of the roadway being listed, there was no dispute regarding the cultural historic resource. Again, it goes to the major issue of rehabilitation versus reconstruction. And that certain things are out of the control of the County. Certain things are in control such as monies for continued maintenance. But we're at a point for a lot of these bridges that it's too late. We're talking 75-plus years. It's listed. It's important to us. However, the recognition that they still prefer the rehabilitation of the bridge over replacement. That's their preference. We, in the department, recognize that there needs to be a balance. And we think what's being proposed is the best approach regardless of the talk of de-listing and so forth. Somebody's going to have to actually try to do it if they really wanted to. So, yes, there was a good analysis in that this has been listed on a State and National Register. As it's listed, it's a resource that we are charged with protecting. And their comments did assist in providing the project that we do have today.

Ms. Helekahi-Burns: Okay, mahalo, Robyn. Any more comments or questions?

Ms. Oliveira-Medeiros: Can I ask a question that doesn't really have to do with the bridge? I was just wondering, Dan, because I'm not sure, can you tell me what is your title and what you do for Hana Ranch?

Mr. Omer: I can tell you my title. I'm chief operating officer and I guess I just oversee the day-to-day operation.

Ms. Kanaka`ole: Is this the first bridge that we are looking at out of the ten that need to be restored?

Ms. Loudermilk: It's my understanding that this is the fourth bridge. And with each bridge, there have been tremendous strides and refinements in terms of design with the issue of replacement versus rehabilitation.

Ms. Kanaka`ole: So this is the fourth out of the ten that was listed in here? It was said that ten needed to be restored.

Ms. Loudermilk: I think 14.

Ms. Kanaka`ole: So this is the fourth out of 14? I just have a small concern that if we take a look at this one-by-one, bridge-by-bridge, and then we find out at the end that all 14 need to be totally redone, and not restored, then is there a possibility of us being de-listed from that Register because of the bad shape of all of our bridges?

Mr. Mike Ishikawa: I'm Mike Ishikawa from Sato and Associates. I believe according to the preservation plan, there's 14 bridges under County jurisdiction. Of the 14, the plan recommends replacement of ten with four being able to be rehabilitated.

As far as your concerns about the Hana Belt Highway being de-listed because of the replacement of the ten bridges, maybe it would be a good idea that you invite Kainani Kraut from Federal Highway to your next meeting. During testimony in a CRC meeting, I believe she stated – and I'm not speaking for her so you need to talk to her directly – she had stated that according to the Federal Historic, they felt that the reason the highway is historic is not for its individual structures, but for the corridor as a whole. And they didn't feel replacement of the bridge would impact that corridor. But then again, you need to talk to her because it was from her that that came from.

Mr. Munekiyo: Thank you, Madame Chair, Mike Munekiyo again. Maybe just to crystalize the discussion that we're having this evening regarding the significance of the bridge, and the significance of the Hana Belt Road Historic District, I think the fact that the bridge is within the historic district, and I think all parties agree that the reconstruction of the bridge is an adverse impact that needs to be addressed. So I think there's no arguing among parties that reconstruction, although it's the only alternative at this point that has been identified to move forward, it is an adverse impact.

The process that the Federal government and the State of Hawaii has engaged into as Robyn mentioned is called the Section 106 process. And as part of that process, a memorandum of agreement is prepared by the Federal government. And it's signed by both the Federal Highway Administration and the State of Hawaii Historic Preservation Division. And the agreement looks like this. It's an agreement. It's kind of formed in legal terms with whereases and all of that. But the purpose of the agreement is to acknowledge that the Section 106 process involved consultation with a number of parties including the CRC. And that as a result of that consultation, certain things need to be done to recognize that this is an adverse impact that needs to be addressed. And so as part of that memorandum of agreement, there's what they call mitigative stipulations or actions that the County and the Federal government need to take to make sure that because of the reconstruction action that certain things are done. And among these actions that the County must do is, for example, they must do the design as suggested by the CRC. They must also document the existing bridge. They must do a report on the bridge to explain its historical significance. They must take a



photographic documentation. And these are very strict standards which must be done before the bridge can be removed. It's called the Historic American Engineering Record and Historic American Building Survey. These are the kinds of things that must be done to record the bridge both photographically and in narrative form. So there are a number of things that this memorandum of agreement says that the County needs to do. But all in recognition of the fact that indeed, it is an adverse impact, but certain things can be done to make sure that the record is maintained, and at least from a design standpoint, the character is also maintained. So I just wanted to add that as clarification. So those studies under Historic American Building Survey and the photographic documentation are being done right now.

Ms. Helekahi-Burns: Thank you. One more question which is pretty much not dealing with the bridge but all the bridges that are going to be repaired or redone. Whether or not the bridge names will be put back on them. I see that on this one they did put the bridge name which is a plus. To me it's a big plus because a lot of our bridges get redone and their names are lost. But just to keep that in mind if whether or not a lot of the bridges that we do redo in the future that their bridge names, or of the stream, or the bridge does remain on the bridge. And if we can – I don't know if that needs to be a motion in which in order to redo bridges in the future, but just to remain where the bridge name is a part of the bridge, and that it does be part on the construction whether that needs to be a motion? No?

Ms. Loudermilk: No, not at this point.

Ms. Helekahi-Burns: Okay.

Mr. Romain: Also, maybe a consideration of putting the original date along with the rebuilding date.

Ms. Loudermilk: In terms of parliamentary procedures, it sounds like we're starting to get into deliberations and we haven't even made our recommendation. Any other discussion related to the project itself? If not, then I can go into the recommendation. Oh, we need to conduct the public hearing first.

Ms. Helekahi-Burns: If anybody from the public wishes to testify – Auntie Ipo?

Ms. Ipo: My name is Ipo Cosma and as I listened to all your deliberations, I really appreciate all the work. And I have to say that as a parent growing up by that bridge, my children and the kids in the area, we used to go under that bridge. We used to play up and down that whole riverbed. And I have to tell you that as a parent, I always felt that bridge was not safe. And I'm glad to see the changes. And I have to say that I am for the project.

Ms. Helekahi-Burns: Mahalo, Auntie Ipo. Anybody else? Any testimonies from the public? Okay. At this time, does anybody on the Board like to make a motion? Oh, do we need recommendations first?

Ms. Loudermilk: Close the public hearing.

Ms. Helekahi-Burns: Okay, pau the public hearing.

Mr. Foley: Now you ask Robyn to make the recommendation.

Ms. Helekahi-Burns: And, Robyn, please make the recommendation.

Ms. Loudermilk then presented the Planning Department's recommendation.

Ms. Loudermilk: I am waiting for Public Works to provide me with some language for when would be the appropriate time to have a final compliance report since the bridge or roadway does not need a certificate of occupancy. So I'd just like to bring that to your attention that as part of the recommendation, we would be changing some of the triggers for condition no. 9 and the compliance report.

Mr. Foley: Robyn, could it be at final inspection?

Ms. Loudermilk: The Department of Public Works and Environmental Management is proposing that we include the language that a final compliance report shall be submitted to the Planning Department for review and approval within 60 days of the completion of the bridge – 60 days of construction. And that would allow the department as well as the consultant to be able to meet any outstanding commitments and conditions.

Mr. Foley: Could we add a condition that in addition to the bridge having the name placed on it, it also have the date of the original bridge along with the date of the new bridge?

Ms. Loudermilk: We can propose a condition no. 12 indicating that the applicant shall include the name of the bridge on the bridge itself, as well as the date of the original bridge, and the date of the replacement bridge. So we can propose that as well. So that concludes our recommendation with modifications to condition no. 9 and that we will add a new condition no. 12.

Ms. Helekahi-Burns: Thank you, Robyn. At this time, do we have a motion to accept the project?

It was moved by Mr. Romain, seconded by Mr. Omer, then

**VOTED: to approve the Planning Department's recommendation as amended.**

**(Assenting: J. Romain, D. Omer, K. Kanaka`ole, and F. Helekahi-Burns. Recusing: M. Oliveira-Medeiros.)**

**Motion passed.**

## **I. DIRECTOR'S REPORT**

Mr. Foley: I don't have any Director's Report tonight unless anyone has a question about anything that occurred. And if you don't have any questions, then you can accept a motion for adjournment and it'll probably be unanimous.

## **J. ADJOURNMENT**

There being no further business to come before the Committee, the meeting adjourned at 7:24 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI  
Commission Support Clerk

## **RECORD OF ATTENDANCE**

### **Members Present:**

Fawn Helekahi-Burns, Vice-Chair  
Dan Omer  
John Romain  
Kau'i Kanaka`ole  
Mavis Oliveira-Medeiros

### **Others:**

B. Nalani Shamblin, Chair  
Francine Tolentino

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**Others:**

Michael W. Foley, Planning Director  
Wayne Boteilho, Deputy Planning Director  
Robyn Loudermilk, Planning Department  
Cindy Young, Deputy Corporation Counsel