

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF APRIL 20, 2006**

A. CALL TO ORDER

The regular meeting of the Hana Advisory Committee (Committee) was called to order by Wayne Boteilho, Deputy Planning Director, Maui County Department of Planning, at 4:00 p.m., Thursday, April 20, 2006, Old Hana School Cafeteria, Hana, Island of Maui.

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

B. INTRODUCTION OF NEW MEMBER - DAWN LONO

Mr. Wayne Boteilho: Good afternoon, Hana Advisory Committee. I'm Wayne Boteilho, Deputy Planning Director. With me tonight, Mr. Paul Fasi, senior planner, Mr. Clayton Yoshida, head of the Current Planning Division, Mr. Francis Cerizo, a supervisor in the Zoning Enforcement and Administration Division, and Suzette Esmeralda, our clerical tonight. Temporarily, until we elect the chair, I, on behalf of the Planning Department, I'll serve as a temporary chair. So I call to order and if we could move to Section B, Introduction of our new member, Dawn Lono. Dawn, could you say a few words? Would you like to say a few words?

Ms. Dawn Lono: Say a few words?

Mr. Boteilho: Yeah.

Ms. Lono: I'm Dawn Lono, member of the -- I'm Dawn Lono, member of the Hana community for twenty-six years. I'm a flower farmer. Our farm is Naupua O Hana. I also am a real estate agent as well as the Council Aid here at the Council Services office on behalf of Bob Carroll and the County Council. It's just great to be back. I served on the Committee five or six years ago, Clayton? Yeah, a few years ago, and it's good to be back, and I look forward to participating and representing our community. Aloha.

C. ELECTION OF OFFICERS FOR 2006-2006 YEAR - CHAIRPERSON AND VICE-CHAIRPERSON

Mr. Boteilho: Okay, thank you. Now we move on to C, election of the officers. I'll preside over the election of a chair and then the chair can take over after that for the election of the vice-chair. So, first off, is there any nominations for Chair of the Hana Advisory Committee? Yes?

Ms. Lono: I would like to nominate Kauai Kanakaole.

Mr. Boteilho: Okay, is there is a second?

Ms. Mavis Oliveira-Medeiros: Second.

Mr. Boteilho: Seconded. Okay, it has been moved and seconded that Kauai Kanakaole be the Chair of the Hana Advisory Committee to the Maui Planning Commission.

There being no further discussion, the nomination was put to a vote.

It has been nominated by Ms. Lono, seconded by Ms. Oliveira-Medeiros, then unanimously

VOTED: that Kauai Kanakaole serve as Chair for the 2006-2007 year.

Mr. Boteilho: Seeing no nays, congratulations Madam Chair and you may preside over the election of your vice-chair.

Ms. Kauai Kanakaole: Are there any nominations for vice-chair?

Ms. Lono: I would like to move that Mavis Medeiros be our vice-chair.

Ms. Kanakaole: Do we have a second?

Ms. Oliveira-Medeiros: Can I decline?

Ms. Kanakaole: Mavis has declined.

Ms. Lono: Okay.

Ms. Oliveira-Medeiros: I will nominate Fawn Burns, who's not here, for vice-chair.

Ms. Lono: So we can -- we can elect someone who is not present?

Mr. Boteilho: Yes ...(inaudible)...

Ms. Lono: I second.

Ms. Kanakaole: Okay.

There being no further discussion, the nomination was put to a vote.

It has been nominated by Ms. Oliveira-Medeiros, seconded by Ms. Lono, then unanimously

VOTED: that Fawn Helekahi-Burns serve as Vice-Chair for the 2006-2007 year.

Ms. Kanakaole: Okay, so moved.

D. RESOLUTION THANKING OUTGOING MEMBER JOHN ROMAIN

Mr. Boteilho: Okay, Madam Chair, moving on, we have a Resolution thanking outgoing member John Romain. May I read the resolution into the record?

Ms. Kanakaole: Yes, please.

Mr. Boteilho read the Resolution for John Romain into the record (see attached copy).

There being no objections, the Resolution was accepted by the Committee.

Ms. Lono: Excuse me, Madam Chair, a little out of order, but I failed to present this lei to you as the new Chair of our Committee. So mahalo for willing to serve.

E. APPROVAL OF THE MINUTES OF THE NOVEMBER 17, 2005 MEETING

Ms. Kanakaole: Okay, moving on to the next item, approval of the minutes of the November 17, 2005 meeting. Have all the members had a chance to read over the meetings -- the meeting minutes? Are there any changes or discrepancies? Is there a motion to move to accept the minutes?

Ms. Lono: I wasn't here so I don't feel like I can ...(inaudible)...

Ms. Kanakaole: Mavis was the only one that was here. Do you have any objections?

Ms. Oliveira-Medeiros: No.

Ms. Kanakaole: Okay. So the meeting minutes for the November 17 meeting is approved. Okay, Orientation Workshop.

Mr. Boteilho: Well, Madam Chair, we have a request from staff and that is, if it's okay with the Advisory Committee, if we can move up on the agenda Section G, the Public Hearing. And the reason that we are asking for this is because staff tonight, Planning Department staff tonight has a flight back so we can go back really quick, the other people, a lot of them

drove in from Wailuku or Central Maui, so if we can take care of the public hearing first, then they can start driving back earlier and staff will stay as long as they need. Is that okay?

Ms. Kanakaole: Yes.

Mr. Boteilho: Okay. Okay, in that case, I'll turn it over to Planner Paul Fasi.

G. PUBLIC HEARING (Action to be taken after each public hearing item.)

- 1. MR. MILTON ARAKAWA, Director, DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT requesting a Special Management Area Use Permit for the realignment of a section of Nahiku Road and corollary improvements at TMK: 1-2-003:058 (por.), Nahiku, Island of Maui. (SM1 2005/0024) (P. Fasi)**

Mr. Paul Fasi: Thank you, Wayne. This matter arises from an application for a special management area use permit filed with the Maui Planning Department on August 4, 2005. The application was filed pursuant to the Special Management Area Rules of the Maui Planning Commission by Michael T. Munekiyo, of Munekiyo & Hiraga, on behalf of the County of Maui, Department of Public Works and Environmental Management, who is the applicant, for land in the Hana District, island and County of Maui, identified as Maui Tax Map key 1-2-003:058, which is the property. I'll present this project in terms of how it relates to Maui County Code and the applicant will go over the project in terms of its details with you.

The applicant's requesting a special management area use permit in order to begin improvements to Nahiku Road located in the Hana District. The improvements would realignment and repave a small portion of Nahiku Road. They have eliminated the turnout jug handle that was on the previous original application plans. There will, however, remain the guardrail and the retaining wall. Since the project involve the use of State and County lands as well as County funds, an environmental assessment has been prepared, was prepared in accordance of the provisions of Chapter 343, Environmental Impact Statement Rules. In addition, Nahiku Road falls within the County of Maui's SMA requiring an SMA permit review and action by the Hana Advisory Committee and the Maui Planning Commission. Standards for reviewing a special management area application are found under Hawaii Revised Statutes 205A-26, and 12-202-10 and 12-202-11 of Chapter 202, Special Management Area Rules of the Maui Planning Commission.

The general land use designations are, State land use district, it is ag; it's in the Hana Community Plan as ag; the County zoning is ag, and it is in the special management area.

The principal component of the project is a realignment of approximately three hundred lineal feet of roadway mauka, south of the existing alignment. This happens to be Figure 3 in the report. The roadway segment begins approximately sixty feet from Nahiku Road's intersection with the Hana Highway. This realignment will necessitate the provision of approximately two hundred seventy-five feet of new guardrail on the makai side of the Nahiku Road as well as the Hana Highway side connecting to the existing guardrail in the vicinity of Makapipi Gulch. The existing utilities, which follow the roadway, will also need to be realigned. The roadway will be repaved from its intersection with Hana Highway to the makai extent of the realignment. The impact. The proposed action is not anticipated to result in any substantial adverse impacts to any of the public services in regards to this project nor will it impact the existing infrastructure. That concludes the Department's report as it relates to the County Code. Are there any questions before I turn it over to the applicant to describe the project to you? Mike, are you going to do the presentation?

Mr. Boteilho: And while we're waiting, I forgot to introduce your Corporation Counsel, Mr. James Giroux, and also from Public Works, Mr. Joe Kruger.

Mr. Mike Munekiyo: Good afternoon, Madam Chair and members of the Committee. My name is Mike Munekiyo. We are the planning consultants for the Department of Public Works. We assisted the department in preparing the special management area permit application as well as the environmental assessment that has been approved or filed as a finding of no significant impact.

The project is under the administration of the Engineering Division of the Public Works Department and Mr. Kruger is the project engineer. We also have the consulting engineer from Sato and Associates, Mike Ishikawa, if there are any questions specific to the design. But what I'd like to do very briefly is to just explain what it is the project is and what necessitates the action that we have before you today.

We did pass out, I believe Paul did, the handout, and the first sheet is just a location map. I think everyone is familiar with the location of Nahiku Road. So if I may ask the Committee members to turn to the second page of your handout, and this is really the -- a blowup of the second sheet, and I can just go over it real quickly with you. Again, this is Hana Highway, Nahiku Road here heading makai, and on the right side are photos of Nahiku Road looking makai direction. Now what's really important to see are the photos on the left side here. You can see that this is the edge of the guardrail here, and on this side of the guardrail is the road itself. Both the top and the bottom pictures show the edge of the guardrail with the roadway to the left. And what has occurred is that there's been sliding of the earth into the Makapipi Gulch area so, effectively, what happens here, you've got the roadway guardrail at the edge of a cliff condition and so it's somewhat of a, I would say, a significant safety concern that the Public Works Department has and so what they are proposing, if I could just turn the board around, as Paul mentioned, it's this area that

is very close to the edge or at the edge of the gulch face, that vertical cliff, and so what needs to be done is to shift the road towards Hana Highway in this direction. In this area here we're shifting it about ten feet away from the current edge. And so what would be done to complete the improvements, of course, will be the repaving of the road, and this section here is as if you are standing up in this area here looking down makai, there'll be the new guardrail, as Paul mentioned, and because this is a cliff area here coming up to the Hana Highway, it would also need a new retaining wall here. So the action, actually, in moving the road away from the edge of the gulch, would involve cutting into this hill a bit and, of course, then resurfacing at the end of the project. So that is a general overall description of the project and why it's so important that the Public Works Department proceed on this fairly quickly. If there are any questions, Mr. Ishikawa can answer them, or Mr. Kruger if there are any questions for Public Works. Madam Chair, that concludes our presentation.

Ms. Kanakaole: Thank you. Are there any questions from the members?

Mr. Munekiyo: If I may, clarify one thing. The original proposal had a cup handle, and by a cup handle I mean there was a turnaround area here, that has been eliminated to reduce the project scope, primarily because, of course, there were landownership issues getting into this area here, but, more importantly, when the engineers first did the concept layout, they thought that they would really be tightening this turn here. Coming from Hana Highway heading towards Wailuku, and if you wanna make a right turn, it's a really tight, tight turn, and the thought was, with these improvements, perhaps that would really make that condition more -- a worse condition, but after they did their detail designs, it actually did not -- that was not the case and so that cup handle or this turnaround here was really not needed so that is the reason for the elimination of that part of the work. I know when you get to the recommendations stage of the deliberation today, I think Mr. Fasi will make reference to the changes in the plans that we have before you today so that was just a explanation of the change.

Ms. Lono: I acknowledge that I have not completely read all of this documentation here but I do -- my major concern would be relative to any runoff from the construction phase and it's clear in here that the Department of Health has addressed that and there are requirements if there -- if there is going to be any runoff of any kind, so that would be one of my major concerns that that be mitigated and taken care of since it is so close to the stream and would end up in the -- in the ocean and the possible impacts of that. And then the other thing I'm not clear on is the repaving. In the earlier discussion, I heard something about paving from the center to the makai side of the road. So is it -- so would it be true -- since the whole road is moving over, would that, in essence, mean that the whole width of the road would be repaved?

Mr. Munekiyo: That's correct.

Ms. Lono: Okay, cause we've experienced, in Hana, with our -- the recent water project that paving half of the road is -- does not work so I just wanna make sure that that would be the case. I don't have any other questions at this time.

Ms. Kanakaole: Any other questions or comments from the board?

Ms. Oliveira-Medeiros: I was just curious. I haven't been down Lower Nahiku for years, but isn't there a cave like on the bottom side of the road towards the main Hana Road, like rocks, a cave? I'm just curious.

Mr. Munekiyo: The area of the improvements are limited to just the very mauka section, three hundred feet from Hana Highway. I think that area is just along the gulch edges. It's just a vertical or a very steep sloping condition.

Ms. Oliveira-Medeiros: Thank you.

Ms. Lono: How will the impacts on the people who live in Lower Nahiku be taken care of cause I'm assuming that there's going to be some sort of road closure or one lane, or will it be possible to have one lane open during the construction period and how is that being handled?

Mr. Joe Kruger: The -- I'm Joe Kruger. The plan is to have one lane opened at all times but there will be maybe couple times where the contractor is moving their equipment, they're going to have to shut the road down, and it's not like there's traffic all day. But before we start work, we're going to hold a meeting at Lower Nahiku with the contractor and we'll have contact names and phone numbers so the contractor can keep them informed on what's happening.

Ms. Lono: And the contractor is?

Mr. Kruger: Not known yet.

Ms. Lono: Not known yet. Okay. Cause we've had experience with that in the past also in the community that, you know, the contractor has numbers that you can call but then you just get a recording that says this is the situation and you don't really get a voice or a human being that you can speak to and find out what's really going on, and it's caused a lot of problems, especially in the Keanae area when we were doing that area, so just to make sure that that gets taken care of. And there is traffic down Nahiku Road all day long, I mean that is the case. There are a lot of tourist that go down there and there are a lot of local residents who come in and out of there, so there is traffic along that road all day long. Just to clarify that.

Mr. Kruger: Thank you.

Ms. Oliveira-Medeiros: I'm assuming that the Lower Nahiku people know about this and they agreed to it, yeah?

Mr. Kruger: Oh yeah, yeah. We talked to several of the people down there. In fact we sent our environmental assessment to a couple of them that had asked for it. I just talked to one today about it today too so most of them are aware of the project.

Ms. Kanakaole: No other questions?

Ms. Lono: I would just like to thank and acknowledge the Public Works Department for the -- taking care of the potentially dangerous situation there and that drop off. It has been a problem for a while and I'm really glad that something's being done about it. Mahalo.

Ms. Kanakaole: Okay, if there are no more questions from the board, we'll open up for public testimony. If anyone wants to testify concerning this issue, you can come up now and speak.

a. Public Hearing

Mr. Moses Berga: Aloha. My name is Moses Berga. I'm a resident from Lower Nahiku and we're in a process of creating a association in Nahiku so there'll be a lot of contact numbers. It will be very important for the residents in Nahiku to find out the contractor and scheduling of the closures and all that. But if I can have a contact number for you guys, for whoever is involved here, that will be nice, before the end of tonight. Thank you.

Ms. Kanakaole: Is there anybody else who'd like to testify? Can you state your name too?

Mr. Frank Cabral: Yeah, my name is Frank Cabral. We live or we have a section right next to Kuhiwa. I just wanted to know if they were going to move the waterline because it's going down that area.

Mr. Kruger: No, we're not.

Mr. Cabral: So it'll remain in the road?

Mr. Kruger: Yeah, well, one waterline is along the edge, along one side, and whatever -- where the other one is will just stay where it is. Unless you have a concern with that.

Mr. Cabral: If you're going to improve the road and then it, you know, it breaks later, then it's going to be like a double job. I don't know like, you know.

Mr. Berga: Yeah, it's a big concern. It's a big concern. The waterline, it runs right by the construction site. It's right along side there, and it should be incorporated, I think, into the project to really stabilize it. Then it goes from that point to the bridge.

Mr. Kruger: Right. It goes across the bridge and then it goes up to the tank, the upper tank.

Mr. Berga: Well the up -- I don't think you guys should be too concerned about that --

Mr. Kruger: No.

Mr. Berga: But just right in that area --

Mr. Kruger: Yeah.

Mr. Berga: That's where it's undermined and right -- as of now, the waterline is just floating quite a distance, so there's a small concern about that.

Mr. Kruger: Okay, we'll look at that. We'll look at that.

Ms. Lono: In the response from the Water Department, the Department of Water Supply, excuse me, it does say that the Department of Public Works and Environmental Management will coordinate with the department to discuss the possible realignment of the waterline running along the existing Nahiku Road, so that has been thought about and just would encourage that to be addressed. Mahalo.

Ms. Kanakaole: Anyone else? If there's no one else, then we'll close public testimony and we'll have Mr. Fasi read the recommendations.

b. Action

Mr. Fasi: The Planning Department -- the Planning Department, based on the facts presented to the -- in the department report, finds that the proposed action will not have a significant adverse environmental nor ecological effect provided that mitigation measures are incorporated into the project and, therefore, the Planning Department is in support of this project and recommends approval of the project. There are eleven standard conditions and five project specific conditions, nothing of note. I will, however, mention that the change has been noted that the turnout area will be incorporated into the SMA permit as one of the conditions that it be taken out as presented. Thank you.

Ms. Lono: I would like to request a moment to read the eleven standard conditions before we take action. Is that okay?

Ms. Kanakaole: By Mr. Fasi?

Ms. Lono: No, I would like to read them. You know, we can just read them on our own. I don't know if we need to read them out loud.

Ms. Kanakaole: Okay.

Mr. Boteilho: Five-minute recess.

Ms. Lono: Yeah, that would be great, a five-minute recess.

Ms. Kanakaole: Okay, we'll take a five-minute recess and reconvene.

(A recess was called at 4:37 p.m., and reconvened at 4:42 p.m.)

Ms. Kanakaole: Let's call the meeting back to order.

Ms. Lono: I understand from Mr. Fasi that these are standard terms and conditions but I had a concern about number two, which says that the project shall be completed within five years. That seems like an awfully long time, and there are a lot of things going on or being proposed to go on in the Lower Nahiku area, so that is a bit of concern to me that five years is a long time.

Mr. Fasi: Yes, ma'am, that is standard --

Ms. Lono: So we can make a recommendation otherwise?

Mr. Fasi: That is standard policy. You can make a recommendation otherwise. It has to be a reasonable recommendation. They can't be expected to complete a project like this in couple of months.

Ms. Lono: Okay. I think we would be reasonable with our recommendation. I guess the only other recommendation that I would have is that the department, or the contractor, or whomever would be appropriate would be required to contact the Lower Nahiku community association and keep them abreast of especially the schedule and any upcoming road closures, especially if the road is going to be closed completely for any length of time, that they be required to communicate with whomever the appropriate person would be in the Lower Nahiku community and that be a direct contact by telephone and in writing. Is that possible?

Mr. Fasi: Yes, ma'am.

Ms. Lono: That's all my comments at this point. Mahalo.

Ms. Melissa Mauliola: I have a concern with number one, "The construction of the proposed project shall be initiated by May 31, 2009." And the pictures look pretty bad. It looks like it needs to probably start sooner than that.

Mr. Fasi: I will turn it over to my supervisor, Clayton.

Mr. Clayton Yoshida: Yes, I guess the standard conditions are what they say is standard conditions and, typically, we allow three years to initiate construction and five years to complete construction. Hopefully, if, you know, since this is a public project, they could try to start as soon as they are able to.

Ms. Mauliola: Is that date determined, the date that they're going to start the project?

Mr. Yoshida: I would leave that to the Public Works representative.

Mr. Kruger: We are requesting Council for funds for the construction. We anticipate funds available this July 1st, then we'll put it out to bid, so there's like a month of advertising, and then there will be a month-and-a-half to execute the contract and get the project ready to start.

Ms. Mauliola: So it could be started within three months? So the date here is just the deadline of when it --

Mr. Kruger: Should start.

Ms. Mauliola: Should start?

Mr. Kruger: Yeah. Well, let me give you another scenario. If Council doesn't give us the funding, we can't start this summer. We probably have to wait till next summer when they give us the money since I have no control on that.

Ms. Lono: Two things. I just wanna clarify the process from this point forward. We are advising the Planning Commission and whenever that meeting takes place, and then from the Planning Commission it goes to where?

Mr. Kruger: That's it.

Ms. Lono: That's it. Okay. And is the money currently in the proposed budget for this coming year?

Mr. Kruger: Yes.

Ms. Lono: Okay, so it has been placed in the budget?

Mr. Kruger: Correct.

Ms. Lono: So we could actually make a recommendation that we move this date up and that we also change the five-year completion to try to expedite, you know, the project because it is a very real concern and needs to be taken care of so I --

Ms. Mauliola: Yes.

Ms. Lono: Echo your concern. So would it be appropriate for me to make a recommendation that we change this date to, say the funds would be available in July, so perhaps we change the date to July of 2007, just because, I mean I would really -- I'm trying to be reasonable, like Mr. Fasi asked, so, you know, I'd really would like to propose to move that up but, being extremely reasonable, July 2007 and then be complete within two years. What is the time line for the project once it actually is started, taking into consideration our beautiful Hana weather and how that can impact schedules? What is the time line?

Mr. Kruger: It'll probably take a month to two months to complete it. It's real small job.

Ms. Lono: Yeah, it -- okay, cool. Well, then I think we should propose to change those conditions and so, being generous, July 2007 and then completion within two years?

Ms. Mauliola: Two years.

Mr. Boteilho: Madam Chair? Joe, your funding, has it -- has it been approved by the Council yet?

Mr. Kruger: No.

Mr. Boteilho: No.

Ms. Lono: No, the budget is still --

Mr. Boteilho: Yeah, yeah, so I guess, if it's not approved, then he can't do it by July 2007 because he won't have the money for one whole fiscal year. Maybe you could entertain maybe two years. That might be a little more reasonable. So if he's disapproved this year from the Council, he can go back next year and ask them. And if he doesn't get it again, if he doesn't get the funding in 2007, that gives him a year to come back to you to ask for

an extension. But if you give him one year and the Council says no, then he's basically dead in the water if the Council says no.

Ms. Lono: Well, perhaps this would be a motivator for the Council to keep it in the budget and as soon as this meeting is over, we can, you know, let them know, I don't know how well that would work, but I understand that there is support for the project in the Council. I hear what you're saying and I don't want to, you know, cause undo duress, you know, on the Public Works Department in getting the project done, so if that is your recommendation, then I could certainly concur with that.

Mr. Boteilho: Okay, thank you, because I'm concerned about Mr. Kruger is going to have a condition that he might not be able to comply with no matter what he does, even if he tries his best, he could not comply. So thank you. Two years will be fine.

Ms. Lono: Okay, could we put a condition on that that it would be two years conditional upon the funding, that if they get the funding, that they do it within a certain amount of time that way we don't open ourselves up. So if they get the funding in the 2006-2007 fiscal year, that the project will be done within a year from that funding date. Is that fair?

Mr. Boteilho: Well this condition is not done, but started by --

Ms. Lono: No, no, no --

Mr. Boteilho: Well, no, there's a -- okay, well, we should address that in --

Ms. Lono: Initiated by --

Mr. Boteilho: Yeah, yeah.

Ms. Lono: Would be one condition, and then completed by would be Condition 2.

Mr. Boteilho: Yeah, yeah, yeah. So if we're just dealing with No. 1, that would be very reasonable to go with from the date of the funding. One year or two years from the date of the funding.

Ms. Lono: So if it's approved for July 2006 budget, then initiation of the project would be reasonable by June 30 of 2007 giving it a really, really ...(inaudible)... so we could say June 30, 2007, and then construction completed by June 30, 2008? I mean that gives them another whole year, which they don't really need according to what he said so --

Mr. Boteilho: Yeah, well the applicant, by nodding his head, said that's fine with him.

Ms. Lono: So I would like to formalize that as a motion for the Committee.

Ms. Oliveira-Medeiros: I don't really understand what the rush is, but it's been that way for what? Forty years now? Is it really falling apart or something?

Ms. Lono: Well, I think anytime that we have funding available to correct a very serious problem along our highway that we need to do it immediately, before disaster happens, because we have these kinds of situations all along our highway and, at any moment, it could become a very serious issue.

Ms. Oliveira-Medeiros: Have there been a lot of accidents there?

Ms. Lono: I don't think it's about accidents; I think it's more about the condition. If you look at the picture and look at how precarious this situation is with being right there on this drop off into the stream --

Ms. Oliveira-Medeiros: I've been that way.

Ms. Lono: Yeah, that's the concern is that it's been that way for a long time and that the longer you wait, if you look at the way this guardrail is positioned in here, I mean that's pretty scary. It's falling away underneath that and that could -- that could be a problem at any moment, that guardrail could slip away and then the road starts, and we've experienced that. So I would just like to see us try to expedite it and get it finished and utilize the funds if they are -- if they are approved by the Council.

Ms. Oliveira-Medeiros: I would like to see the places where the fire truck fell off and couple other cars repaired soon.

Mr. Fasi: Could I clarify this and say that the proposed project shall be initiated by June 30, 2007. Is that correct? And completion date by June 30, 2008.

Ms. Lono: That was my proposal.

Mr. Boteilho: But, Madam Chair, but No. 1 is contingent on the funding?

Ms. Kanakaole: Yes.

Mr. Boteilho: Yeah, okay.

Ms. Kanakaole: We need to add that -- that wording in there.

Mr. Boteilho: Okay, thank you. Well, one year from the date of the funding.

Ms. Lono: Okay.

Mr. Boteilho: So, yeah, so if he gets it on July 1 of this year, then he has till July 1 of next year.

Ms. Lono: That sounds great.

Ms. Kanakaole: Yes.

Mr. James Giroux: Paul, do you wanna take that as an amendment to your report or would you feel more comfortable if we took it up as a motion? We can do a motion to approve and then a motion to amend your recommendation?

Mr. Fasi: That's fine.

Mr. Giroux: Okay, the Chair would entertain a motion to approve the recommendations, and then you take a motion to amend the recommendations, and then we'll take it one paragraph at a time to make the amendments.

Ms. Lono: Why would we approve it ...(inaudible)... amend it and then --

Mr. Giroux: Well, it's to start -- because when you amend it, once the amendment's made, then we could do another motion --

Mr. Boteilho: Yeah, no, no, you will vote on the amendment.

Ms. Lono: Okay.

Mr. Giroux: Yeah, and then that way it's -- because, right now, there is an issue about what the exact date we want, and there is an issue about what exact wording we want. So if it's done by a motion, we can clarify exactly what the language is and what the time is, and once that's moved and seconded, then it would be included in the motion, in the main motion.

Ms. Lono: Okay.

Ms. Kanakaole: So do we have a motion to accept the recommendations?

Ms. Lono: I so move.

Ms. Kanakaole: Second?

Ms. Mauiola: Second.

Ms. Kanakaole: So moved.

Mr. Giroux: So we can take up the motion to amend.

Ms. Kanakaole: Okay.

Ms. Lono: I would like to move that we amend the motion, the main motion, under Standard Condition No. 1, that it say that the construction of the proposed project shall be initiated within one year of funding approval by the County Council, and the rest of that condition will stay the same. So we take one at a time, right? Okay, so that's my motion.

Ms. Kanakaole: Is there a second?

Ms. Mauiola: Second.

Ms. Kanakaole: It's so moved.

Mr. Giroux: Now we can go back to the main motion and take up a motion to amend Condition No. 2.

Ms. Lono: We should vote --

Ms. Kanakaole: Vote on No. 1?

Ms. Lono: Yeah.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Mauiola, then

**VOTED: to amend the first sentence of Standard Condition No. 1 to say,
"That construction of the proposed project shall be initiated
within one year of funding approval by the County Council."
(Assenting: F. Helekahi-Burns; M. Oliveira-Medeiros;
M. Mauiola; D. Lono)
(Excused: S. Sincenci; F. Tolentino)**

Ms. Kanakaole: Okay, so moved.

Ms. Lono: So I would like to make a motion to amend Condition No. 2, that the construction of the project shall be completed within one year of the start date of the project, since we can't put a official date on that because we're saying that it's one year from funding, so one year from the start of -- start date of the project it will be completed.

Ms. Kanakaole: Do we have a second to that amendment?

Ms. Helekahi-Burns: Second.

Ms. Kanakaole: Thank you, it's moved.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Helekahi-Burns, then

VOTED: to amend the first sentence in Condition No. 2 to say, "That the construction of the project shall be completed within one year of the start date of the project."

**(Assenting: F. Helekahi-Burns; M. Oliveira-Medeiros;
M. Mauiola; D. Lono)**

(Excused: S. Sincenci; F. Tolentino)

Ms. Kanakaole: It's so moved.

Mr. Giroux: We'll go back to the main motion.

Ms. Lono: I have one more ...(inaudible)... I wanted to add, can I add a condition at this point or -- I just wanted to add that condition about the communication with the Lower Nahiku community association or a representative in that area of the community about scheduling and road closures that there be a very clear line of communication with their representative.

Mr. Boteilho: Okay, we'll take that as a motion.

Ms. Mauiola: Second.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Mauiola, then

VOTED: to add a new condition about the communication with the Lower Nahiku community association, or a representative in that area of the community, about scheduling and road closures that there be a very clear line of communication with their representative.
(Assenting: F. Helekahi-Burns; M. Oliveira-Medeiros;
M. Mauiola; D. Lono)
(Excused: S. Sincenci; F. Tolentino)

Ms. Kanakaole: It is moved.

Ms. Lono: Okay, I move that we pass the motion with the amendments as voted on.

Ms. Kanakaole: Do we have a second?

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Mauiola, then

VOTED: to accept the Planning Department's Recommendations as amended.
(Assenting: F. Helekahi-Burns; M. Oliveira-Medeiros;
M. Mauiola; D. Lono)
(Excused: S. Sincenci; F. Tolentino)

Ms. Kanakaole: The motion is carried.

Mr. Boteilho: Thank you, Chair -- Chair and members. We are completed with that section. I guess we move back to the top of the agenda, Section F, Orientation Workshop.

Ms. Kanakaole: Can we do the Section H before we do --

Mr. Boteilho: Okay. Yeah.

Ms. Kanakaole: F.

H. COMMUNICATIONS

- 1. MS. CHERYL VASCONCELLOS, Executive Director of HANA HEALTH requesting by letter dated April 2, 2006 that the Hana Advisory Committee conduct a site inspection of the proposed Hana Wellness**

Village site on or prior to the May 18, 2006 review by the Hana Advisory Committee of the State Land Use Commission District Boundary Reclassification and Change in Zoning requests for the Hana Wellness Village at Hana Town, Island of Maui. (J. Alueta)

The Hana Advisory Committee will decide whether or not to conduct a site inspection of the proposed Hana Wellness Village site prior to its May 18, 2006 meeting and select a date and time for the site inspection.

- 2. MR. RICH VON WELLSHEIM of WHISPERING WINDS BAMBOO requesting that the Hana Advisory Committee conduct a walking tour of the Ola Honua project site prior to the Hana Advisory Committee conducting a public hearing on the County Special Use Permit application on the agricultural farm workers' dwellings for the Ola Honua Project site at Kipahulu, Island of Maui. (P. Fasi)**

The Hana Advisory Committee will decide whether or not to conduct a site inspection of the Ola Honua project site. If the Hana Advisory Committee does decide to conduct a site inspection then it may select a date and time for the site inspection. The County Special Use Permit application will be heard by the Hana Advisory Committee some time after May 2006.

Mr. Yoshida: Good afternoon, Madam Chair, members of the Committee. We have two requests for scheduling of site inspection. The first one is from Cheryl Vasconcellos, from the Hana Health Group, requesting that the Advisory Committee conduct a site inspection of the Hana Wellness Village site. The public hearing on the district boundary amendment is scheduled for May 18. The second request is from the Whispering Winds Bamboo requesting that the Committee conduct, Advisory Committee, conduct a walking tour of the Ola Honua project site prior to the Committee conducting a public hearing on the County special use permit application on -- for their agricultural farm workers dwelling at Kipahulu. Again, the Hana Wellness Village item is scheduled for May 18, the Ola Honua could be scheduled say about a month after that, in June, and I don't know about the availability of the Committee members, you know, if they wanna conduct the site inspection, number one, on the Hana Wellness Village site prior to conducting the public hearing on -- at 4 p.m. on May 18.

Ms. Lono: Is it appropriate for me to comment now on that question?

Mr. Yoshida: Yeah, I guess if the commissioners, the board -- committee members wanna allow public testimony at this time, fine. If you have questions for staff, they can ask questions.

Ms. Kanakaole: Is there anyone here wanting to testify for the Hana Health site visit or the Whispering Winds Bamboo Ola Honua site visit?

Mr. Rich von Wellsheim: I would like to ...(inaudible)...

Ms. Kanakaole: Please state your name.

Mr. von Wellsheim: My name is Rich von Wellsheim. Good evening. Thank you. I'm the manager at Whispering Winds out at Kipahulu, and we're a farm growing tropical timbers, bamboo for timber and edible shoots, and bamboo for landscaping plants in our nursery, and also doing some native restoration work higher up on the project. And we have five or six houses out there with workers in them that are illegal. The owners of the property wanted to upgrade that farm worker dwellings into a legal situation and the mechanisms that we've chosen to do that is to apply to the County for a special use permit for farm worker dwellings. We're a big project out there. It's a considerable impact in Kipahulu in terms of the noise of my machines during the day and people concerned about more people living on the land. We would just love it if you all would come out and look at what we're doing so that when the public hearing came before you in June or whenever it is, you'd have a better understanding of what we're asking for and a better grounding of the comments and questions that would come before you. So, I know it's a long way to go in to Kipahulu but it's a great place to visit and we'd love to have you come out and walk. Take about forty-five minutes to an hour just to tour kind of the lower parts of the land but we have examples of native restoration work and the timber and the bamboo, and you can see the housing and where the housing is being proposed to be sited on the land. Any other questions? It would be a walking tour so good shoes, raincoats, and umbrellas cause it'll surely rain. And then if you do decide to go, I can give you directions as to how to get there.

Ms. Lono: ...(inaudible)...

Mr. von Wellsheim: I'd love to feed you. How long do you wanna stay?

Ms. Oliveira-Medeiros: How big is it?

Mr. von Wellsheim: It's -- the parcel of land is a hundred and seventy-five acres. The parcel within that that we're asking for the farm worker dwellings is about twelve acres. So fairly clustered and fairly tight. We -- the owner really did not wanna go through the

subdivision process in order to get enough housing for everybody, which would have been a way to do it. We chose this mechanism instead.

Ms. Helekahi-Burns: Are you the owner?

Mr. von Wellsheim: No, I'm not. The Hecks family owns the property. I work for them. I'm the manager out there.

Ms. Helekahi-Burns: It's a concern of mine to not see the owner here. I mean this is obviously more of the business side of it that's looking for the agricultural special -- special management permit, you know, for that specific area so just to help me understand, are you leasing this portion from the owner of the hundred seventy-five acres?

Mr. von Wellsheim: No, I'm not. I work for the owner. She did --

Ms. Helekahi-Burns: So you manage all hundred seventy-five acres?

Mr. von Wellsheim: Yes, ma'am, I do. And she will be here at the public hearing. This was just a request for you guys to come look and so we didn't feel it was necessary for her to come. She does live off-island at the moment so it's our bad if it would have been better or more appropriate for her to be here. We apologize.

Ms. Oliveira-Medeiros: How big is the farm area?

Mr. von Wellsheim: We're working all hundred and seventy-five acres. We have eighteen acres of timber and shoot bamboo, and we have about twenty acres of tropical timbers which includes koas and naras and teaks and mahogonys, pheasant woods, and then we have about five acres of what we call native restoration, it does include the canoe plants as well as in that. As we get further up the mountain, the canoe plants will drop away and it will just be species found in that area mostly from the cable ridge area.

Ms. Kanakaole: How many workers or people do you have working for you?

Mr. von Wellsheim: We have eight full-time workers.

Ms. Helekahi-Burns: So all eight workers or those in dwelling housing are full-time workers for the farm?

Mr. von Wellsheim: Actually, eight full-time and one part-time, and I commute, I don't live on the property. We have ...(inaudible)... Malukini who comes in from Hana and the rest of my workers do live on the property, yes, and one of my workers has a family with two kids.

Ms. Helekahi-Burns: Will you be advertising for other people, like using your housing, agriculture housing as an advertisement for more workers to come in? Is that -- I mean it's obviously that you have all these houses, I mean you obviously have some houses that are not occupied as of this moment.

Mr. von Wellsheim: No, that's not correct. I don't have nine houses.

Ms. Helekahi-Burns: I mean --

Mr. von Wellsheim: I have six -- I have four 12-by-12 cabins that share a community kitchen, and I have a 24-by-24 house that the family is in, and they are all filled.

Ms. Helekahi-Burns: So all of the housing is filled as of now?

Mr. von Wellsheim: Right now.

Ms. Helekahi-Burns: And how much more are you asking for to be put there or just that, those houses that are there for them to be legal?

Mr. von Wellsheim: No, the application is for nine houses plus the community kitchen and a dorm structure with six beds as something that we would grow into over the next five to ten years.

Ms. Helekahi-Burns: Will this be helping the Hana economy, helping those people who live here in Hana to be able to, you know, another source of income or are you advertising outside of Maui, outside of Hana for people to come to work for the farm?

Mr. von Wellsheim: No, it's very much our desire that it be for Hana people, for the Maui people, for people that are qualified and interested in what we're doing. One of the problems I've had is being able to secure people that need real housing. It's a little, how can I say, substandard not, you know, I had some people -- rustic. I've had some people from Hana that I've had to turn down for employment cause they needed bigger housing and more secure housing but, with this proposal, it'll be great to get more Hana people on the land.

Ms. Kanakaole: I hate to pull us back because we, on the agenda, we just have to figure out if we are going to actually go to these sites.

Ms. Lono: Madam Chair, since Rich is here, I'd like to address number two first and I would like to propose that we do visit the site and do it on a day that is separate from our public hearing because it is a big trip to go out there and to come back and I don't know

how the Planning people feel about that because that would require you to have two trips. Is that correct?

Mr. Yoshida: Yes.

Ms. Lono: Okay, so it's about a forty-minute drive.

Mr. von Wellsheim: From here, yeah.

Ms. Lono: From here to go out there, and if we spent forty minutes and then say an hour by the time we gather and do all that that's -- and then forty minutes back, that's three hours almost right there, and for us to do that and then come back and have a hearing at a time that people can -- cause that would be a public hearing also, right? I mean that would be open to the public --

Mr. Yoshida: Yes.

Ms. Lono: To attend that because of Sunshine and all of that, that that would be also open to anyone from the public who would want to come.

Mr. Yoshida: Yes, that's correct.

Ms. Lono: So I think in order for it to be at a time that the Committee, cause I think we're all working people here, and for the general public to attend, that they would probably have to be two separate meetings. So I just would like to entertain, I don't know what everybody's schedule is, but I think that's the most appropriate thing to address now is when people think that they could be available to go out there, and is this Monday through Friday we're talking about, basically, that we couldn't do it on a Saturday? Your guys schedule would keep us from doing that on a Saturday?

Mr. Yoshida: Well, I mean if it could be scheduled Monday through Friday, if it's a Saturday then --

Ms. Lono: You just get overtime?

Mr. Yoshida: Right. Or comp. time.

Ms. Lono: Okay, so I think it really is subject to the availability of the Committee and I'm relatively open for any schedule after three in the afternoon on most days of the week.

Ms. Kanakaole: Before we even pick a date, I need to address the rest of the members to ask them if this is even a possible -- if even a possibility for the rest of you? If, you know,

visiting this site or any site is a possibility for the rest of you because I know there is some concern about having this be a precedence for every other case or, not case, but every other business or whatever that comes before us that we're asked to go and visit the site.

Ms. Oliveira-Medeiros: Madam Chair, and what if there are twenty a year in Hana? No, that's kinda unlikely to happen but I was concerned that since one person asked, now another person is asking, and I understand why he wants us to come out there so we have a feel for the place, but I was wondering if there might be another way, like maybe a video? I go to classes like two or three times a week after work and I go to like one or two meetings approximately a week, so it's kinda -- kinda hard to go after work for me.

Ms. Mauliola: It's a trek for me cause I live in Keanae, but it's not a problem, I mean I could make myself available, but I agree with Mavis here that I don't see the necessity of a site inspection. In fact, for the Ola Honua project, I would like to see the presentation first before we decide whether a site inspection is necessary. And then for the Hana Wellness Village, we've already seen their presentation twice and I don't think that a site inspection is necessary. It was pretty much to scale.

Ms. Helekahi-Burns: Personally, I agree with the Chairperson. Hana is a big-- a big chunk of land that we would have to go to if we have to go to Kaupo to Keanae. And if, you know, a lot of those who are coming for special management permits would request the Advisory to go and see it, it will be, I mean we'll be bombarded by a lot of this eventually in the future. So, personally, I think I would rather -- I would rather stick to public testimony being that most of these people who do testify during the public hearing have a better understanding of what really goes on in their communities and what really the downfalls and the positive parts of each project. Personally, I don't wanna start something that eventually will continue and maybe get out of hand. Doing site visits, I'm a person who, you know, if I see it, it's like, ooh, I might want it, you know, however, that might keep me blind to when public hearing comes up, you know, and so, personally, just to keep myself in more of a neutral area, I would rather just stick to public hearing and testimony. Thank you.

Ms. Lono: I have to say that site visits have been a part of the process as long as I can remember, and I believe that the more you know, the more intelligently you can make decisions on situations, and there's nothing like being on the land and seeing the real project. Seeing it on a video, on a screen, in a slide show in no way can compare to actually putting your feet on the land, feeling the air, the mana, the vibration of the area, and in pule deciding whether or not that it is pono for that area. So I value very greatly the opportunity to put my feet on the land and to see what's going on on the land because, like I said, sitting in this cafeteria and watching something on a screen is no comparison. So I would like to encourage us to go to Kipahulu, those of us who can, for a public review of the project on the land, and really see and feel what it's like there. And I also would like to

encourage a public -- at Hana Community Health Center because that is a huge project in a very central part of our community that unless we're standing there and unless we see physically where these proposed structures and where this development is going to be and how it's going to be laid out, there's no way that we can capture that in a setting like this. There's no way that you can really grasp the depth of what is going to happen unless you're on the land. So my recommendation to our Committee would be that we do make site visits to both of these places, for those of us who can, and that, you know, of course it is a public site visit that other people in the community, who may want to see this and testify for or against the project, having really been educated about what it's about. I don't think you can get educated about it on paper and I don't think you can get educated about it in photos or videos or slide shows; that the only way to really see is to be there. So my recommendation is that we make public site visits to both of these places. I think the Hana Community Health Center one can be done the same day as the public hearing because it's right up the road and it won't take a very long period of time so we could make it as part of that hearing and keep that agenda very short that day, perhaps only having the Hana Community Health Center on the agenda so, therefore, it would make the meeting be able to be contained within a reasonable amount of time to comply with all of our schedules of those of us who work. However, I think the site visit to Kipahulu will need to be on a separate date and I would like to encourage us to do that. Mahalo.

Ms. Kanakaole: I think I can make a recommendation to everybody's concerns and it says that a board can designate two or more board members to do these site visits and the two board members that go on the site visits are required to report their findings and make recommendations to the entire board at a properly noticed meeting.

Ms. Lono: I would like to volunteer to be one of those members to go to the Kipahulu -- to go on the Kipahulu site visit and would welcome anyone who wanted to go with me as a second person, and I would commit to providing a thorough report of my observations as follow up at our next public hearing.

Ms. Kanakaole: I can commit to the Kipahulu meeting -- the Kipahulu site visit also. Do we have --

Ms. Oliveira-Medeiros: It's not that I don't want to go, it's just that I don't know when I would be free to do it.

Ms. Lono: Madam Chair, could we say that the volunteers, myself and yourself, would be the ones who are committed and that anyone else who would like to go, of course, is welcome because it is a public site visit, so any of the other committee members who could make it, at that point in time, are of course welcome to come along and we should come up with a properly scheduled date that we could go out there.

Mr. Giroux: Just one comment. If it's done this way, it's more under the auspices of an investigation so it wouldn't actually come under the public meeting requirements, so you would have your, you know, you two would go, do your report, and then the public participation would be at when you gave your report to the full body.

Ms. Lono: I guess, personally, I would like to make sure that the public is invited for anyone who would like to come whether it is just an investigation on our part that it be noticed to the public that we are going out on this day and this time and anyone wishing to go out and look at the site would be welcome to come along.

Ms. Kanakaole: That's fine. Who does that?

Ms. Helekahi-Burns: One more question. In what ahupua`a is this at?

Mr. von Wellsheim: Maulili.

Ms. Helekahi-Burns. Maulili.

Ms. Lono: Does anyone have a calendar?

Ms. Kanakaole: Do we have, while we're looking at the dates, do we have two volunteers to do a site visit to the Hana Health Center?

Ms. Lono: I would like to be on that site visit cause I have not seen the previous presentations so I think it's important that I -- that I go on that site visit and I'm very interested in being there.

Ms. Helekahi-Burns: Madam Chair, I also would be committed to that one, to the Health Center's visiting.

Ms. Kanakaole: Okay, thank you.

Ms. Helekahi-Burns: I can't do the 18th. The 18th is May Day so just, personally, that's -- I cannot do the 18th but if we can do the 19th, it's a better open day for me.

Ms. Lono: It would have to be before the 18th because the 18th is the scheduled meeting.

Ms. Helekahi-Burns: 18th is the hearing?

Ms. Lono: Yeah, the hearing.

Ms. Helekahi-Burns: So what time are you looking at? 3:00?

Ms. Lono: Yeah, something like that, just right before the hearing ...(inaudible)... if the hearing is at 4:00 -- is the hearing at 4:00?

Mr. Yoshida: Yes.

Ms. Lono: So we can call the hearing to order at the site, and have the site visit at 4:00, and then adjourn this meeting after the site visit here. Would that be appropriate?

Mr. Yoshida: I believe the Committee could call the hearing to order as scheduled at Helene Hall because, in the past, we've anticipated -- there's been a lot of people that have shown up at these meetings the past two or three times the Committee, Advisory Committee took this up last year, so we feel that this facility is somewhat too small for the amount of interest that there is in the community in this particular project. So I believe the Committee could call the meeting order to Helene and recess until a time specific, well, recess and possibly do the site inspection and then come back.

Ms. Lono: So we couldn't convene the meeting at the site? We couldn't open the meeting at the site visit and then go to Helene Hall? We would have to go to Helene Hall, then go to the site, then go back to Helene Hall?

Mr. Yoshida: Well, I believe that it's been noticed in the newspaper as such that it's the public hearing would start at 4 p.m. at Helene Hall on May 18.

Ms. Lono: What's the requirement for public notice? What's the time requirement?

Mr. Yoshida: This is a requirement under the County Code for the district boundary amendment as well as also the applicant has sent out notices to the surrounding landowners within the five hundred foot radius of that. You know we -- I guess we could notice that, you know, they're going to do -- the Committee is going to do a site inspection first and then have the public hearing.

Ms. Lono: Yeah, I mean that seems like it would be way more efficient than convening there, going there, and coming back, you know. It would save time, energy, gas money. So my recommendation to the Committee would be that we call that meeting to order or convene the meeting at 3:00 at the Hana Community Health Center for site inspection, and then recess the meeting to Helene Hall following the site inspection and continue the meeting there.

Mr. Yoshida: Well, I think if the Committee has the site inspection at 3:00, then we could just notice that the site inspection is at three, the hearing is at four at Helene Hall.

Ms. Lono: Okay.

Mr. Yoshida: The hearing is at four at Helene Hall.

Ms. Lono: Sounds good to me. If that's the motion, then I'd like to make that motion.

Ms. Kanakaole: Would we have quorum? Do we have at least four people going to the Hana Health Center site visit?

Ms. Lono: Well there's other people on the Committee that we don't know whether they can commit at this time but I'm sure with the level of interest that there would be more people there.

Mr. Giroux: Cause it's treated as regular -- it would be treated as a meeting. In order to invite the public, it would -- we'd have to have a quorum. If we show up and there's not a quorum, we may have to cancel the site inspection.

Ms. Lono: Okay, so who here is -- Fawn, are you able to be there at three?

Ms. Helekahi-Burns: Yeah, I can do that at three.

Ms. Lono: Mavis? Kauai?

Ms. Kanakaole: No.

Ms. Lono: You cannot?

Ms. Kanakaole: Not that day.

Ms. Lono: So three of us here and I find it hard to believe that not one other person on the Committee would be there considering the interest in this particular subject so I would like to --

Ms. Helekahi-Burns: ...(inaudible)... Committee members that are not present might come. I'm sure Shane might be one that's not present today, and I think Fran we cannot count on her right now cause she has relocated and ...(inaudible)...

Ms. Lono: Well I think to expedite this matter perhaps we should just go ahead and schedule it and then if we have to, you know, if we don't have a quorum, then we don't have a quorum we wait till 4:00 but let's go ahead and do it. So I'd like to make a motion that we convene our meeting at 3:00 at Hana Community Health Center for the site inspection followed at 4:00 with the public hearing.

Ms. Kanakaole: Is there a second to Dawn's motion? Mavis has second.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Oliveira-Medeiros, then unanimously

VOTED: to conduct a site inspection of the Hana Community Health Center at 3:00 p.m. on May 18, 2005, followed by the public hearing at 4:00 p.m.

Ms. Kanakaole: Okay.

Mr. Boteilho: Madam Chair?

Ms. Kanakaole: Yeah?

Mr. Boteilho: I just wanted to comment, maybe I can jam things up more now. I just wanted to comment on the investigation, and I have some experience with this with the County Council. I would prefer that you designate the people tonight for proper public -- public notice because only those people should go on the investigation. You shouldn't have a chance meeting where everybody else comes and now you have a quorum or someone that, quote, was not authorized to come.

Ms. Kanakaole: So we either make it an investigation or we make it a public meeting?

Mr. Boteilho: Yes.

Ms. Kanakaole: Okay. So it's either two, if it's an investigation, two of us, or if it's a public meeting, we have to have four?

Mr. Boteilho: Ah, you could go three I guess. It says --

Ms. Kanakaole: We could go three?

Ms. Helekahi-Burns: Right now I'm -- I'm --

Ms. Kanakaole: Okay, so we can go three? So we can make it a investigation --

Ms. Helekahi-Burns: With three people?

Ms. Kanakaole: The Hana Community Health Center one?

Mr. Giroux: Well I think we already voted. Didn't we?

Ms. Kanakaole: We did vote.

Mr. Giroux: For the Hana one, we're doing a public meeting.

Ms. Lono: Yeah, that's one out of the way.

Mr. Boteilho: Yeah, no, I was just --

Ms. Lono: We're talking about Kipahulu now, right?

Mr. Boteilho: Yeah, yeah, Kipahulu I was talking about. Sorry.

Ms. Kanakaole: Oh, okay, okay.

Mr. Boteilho: I told you I was going jam things up more.

Ms. Lono: I have a question.

Mr. Giroux: So three now.

Ms. Kanakaole: For the -- for the Kipahulu?

Mr. Giroux: For the Kipahulu.

Ms. Kanakaole: Okay. Is there a motion to designate three people for the Kipahulu visit?

Ms. Lono: Actually, I have a question before I make a motion.

Ms. Kanakaole: Okay, go ahead.

Ms. Lono: Can I or do we need a motion and a second before we can discuss it?

Ms. Kanakaole: Go ahead.

Ms. Lono: Okay. I hear what you're saying about an investigation versus a public hearing and if all these people gather, then it looks like it's a public hearing, but if we notice it as an investigation and we do not conduct it as a public hearing, would it not be appropriate for people to come and participate in the investigation because I'm really concerned that the general community, who is going to be involved in making this decision, be able to be a participant in the site visit. So, as long as we invite them and we do not conduct a meeting,

that we just have a site visit, an investigative site visit, would it not be appropriate to make it a public noticed investigation.

Mr. Boteilho: That would be fine. Yeah, I went out two rounds with Councilmember Charmaine Tavares and we did exactly that. We did not formally post the meeting but we notified the public of this investigation, and public could come, they could talk, and in fact you didn't have to even have motions or anything, just kinda like a workshop. So, yes, you can do that. So we'll assist in -- we won't formally post this but we'll assist. We have a mailing list that we can mail out to people, notifying, we'll send out a little flyer about this. What I need to know is, well, so you're going to assemble, well I need the assembly place and the time and the date --

Ms. Kanakaole: For Kipahulu?

Mr. Boteilho: But you can give that later. Yeah, for Kipahulu. But you can give that later.

Ms. Lono: Give it later on today or --

Mr. Boteilho: Oh, you can give it today, yeah. Just that, when we put out the flyer, we wanna notify everybody where to go on what day and what time.

Ms. Lono: Well we have -- I volunteered and you volunteered so if we can agree on a date, you and I, then we can set that meeting and then move forward. Correct?

Mr. Boteilho: Yeah.

Ms. Lono: Okay. So you wanna set a date now or do you wanna --

Mr. Boteilho: You know, another way you could do it is you could investigate on your own and just on your own you would invite people that you think would might want to come. That, well, the advantage of that is you have the maximum flexibility. You can actually change the date if you need to or -- but I'm just throwing that out as a possibility.

Ms. Lono: I would rather have it be publicly noticed so that anybody can choose --

Mr. Boteilho: Okay.

Ms. Lono: To be there rather than trying to personally invite -- cause I'm going to invite people who I think are going to be -- the way I think about it but if it's the public that's out there and anyone who's concerned or interested about this project should be there. That's the key to the whole process is public involvement and people getting educated. So my vote would be to have it really noticed and invite the public to be there.

Mr. Boteilho: Okay, yeah, so we'll need the date and time, yeah.

Ms. Lono: Okay, so June ...(inaudible)... I'm off on Mondays so the 19th would be a good day, 19th of June.

Ms. Oliveira-Medeiros: The 19th ...(inaudible)...

Ms. Kanakaole: June --

Ms. Lono: It's a Monday.

Ms. Kanakaole: June 19 or June 22.

Mr. von Wellsheim: June 19. The 27th I'll be off island.

Ms. Kanakaole: 22nd.

Mr. von Wellsheim: 22nd.

Ms. Lono: June 22.

Ms. Helekahi-Burns: Just to ask if -- if I choose to wanna go, will it be a problem?

Ms. Lono: No.

Ms. Helekahi-Burns: No. Okay.

Mr. Boteilho: Well, yeah, actually.

Ms. Helekahi-Burns: It is public, right? Does it --

Mr. Boteilho: Well, no, you shouldn't go cause you're a member and you, technically, you were not authorized by the body to conduct this investigation and the reason for that is because the Sunshine Law is pretty strict, you gotta do everything in public, but they allow this investigation but it's for those who are authorized by the body itself so --

Ms. Lono: Well just jump on and then if you can't go, then you can't go then you can't go.

Ms. Helekahi-Burns: Yeah, I think I'm -- I'll -- I would wanna at least be on -- at least authorized to be able to visit.

Mr. Boteilho: Okay, we have three then?

Ms. Kanakaole: Yes.

Mr. Boteilho: Okay, yeah. Okay. So, for the record, we have our three.

Ms. Lono: 22nd at what time?

Ms. Kanakaole: What time of the day is --

Mr. von Wellsheim: Anytime is fine for us. Whatever works for you.

Ms. Kanakaole: What time is everybody there working and --

Mr. von Wellsheim: We start at 7:30 and we stop at 5:30 so --

Ms. Kanakaole: Okay.

Mr. von Wellsheim: And we'll stay late.

Ms. Kanakaole: Nine?

Mr. von Wellsheim: Nine would be great. Although, you know, if we're making it a public -- if you're making it a public process, it might be better for folks out there if it was at the end of the day.

Ms. Kanakaole: Oh, okay.

Mr. von Wellsheim: For their workdays and whatnot.

Ms. Kanakaole: Yeah, okay. Three?

Mr. von Wellsheim: It's fine with me.

Mr. Boteilho: Okay, we have the date, time, and the assembly place you can provide. I guess we have the address. But we might ask you maybe a little map or something. Okay, that sounds proper.

Mr. Boteilho: I just wanna make clear though -- oh, okay, sorry. Sorry. Proper motion.

Ms. Lono: Okay, I so move, June 22, 3:00 for Fawn, Kauai, and myself to conduct an investigation at --

Ms. Kanakaole: Kipahulu.

Mr. Boteilho: Okay, yeah.

Ms. Lono: At Whispering Winds Bamboo.

Mr. Boteilho: Okay, if there's no objections, we'll take that as an order.

Mr. von Wellsheim: Thank you very much.

Mr. Boteilho: Okay, and I want to make clear though, you know, staff doesn't have to go, like if we can, you know, maybe we will, but we don't have to go and while we will help publicize in the spirit of aloha, our community service, it will not be a formal posting. Okay, thank you.

Ms. Lono: Mahalo.

Ms. Kanakaole: Okay, next order of business is shall we move back to F, Orientation Workshop, or Director's Report?

F. ORIENTATION WORKSHOP

1. Role and Responsibilities

Mr. Yoshida: I guess we can deal with the Orientation Workshop and, Madam Chair, again, according to the County Code, the Hana Advisory Committee's responsibility are as delegated to it by the Planning Commission. It is a seven member board consisting of Hana residents, four is a quorum, so we need four members to take any kind of action or voting one way or the other.

Ms. Kanakaole: Excuse me, sorry.

Mr. Yoshida: Typically we would take applications for the Hana community plan region, it is pretty large, I mean a hundred forty-five thousand acres and it covers from Kailua over to Kahikinui, ninety ahupua`a, and we would take applications within this region to the Planning Commission and they would designate that the Hana Advisory conduct the public hearing on these matters. You operate in a purely advisory role, as you did today for the SMA permit for the Nahiku Road improvement project and --

Ms. Helekahi-Burns: I just wanted to make a motion to the Madam Chairman if we could do Director's Report first being that I have to leave early.

I. DIRECTOR'S REPORT

1. **Maui County Council referral of resolutions to the 3 planning commissions relating to:**
 - a. **A draft bill establishing a residential workforce housing policy.**
 - b. **A draft bill relating to the permitting of transient vacation rentals**

Mr. Yoshida: Okay, if that's the concern, then we can move to Director's Report and, essentially, the Council, the County Council, on April 7, transmitted two resolutions to the Planning Commissions for their -- to conduct a public hearing, make review and comment. One is the residential workforce housing policy. You may have read in the paper that the housing division is proposing a thirty percent affordable requirement for residential development, some Council members want up to eighty percent affordable requirement for residential development, and there's all these proposals in between. There's the Maui Nui Housing Task Force, etcetera. And that has been referred by the Council Housing and Human Services Committee, Chaired by Councilmember Mateo. The second resolution or bill, draft bill that which the Council has transmitted to the three Planning Commissions regards permitting for transient vacation rentals. As you've read in the paper also, there's a lot of different viewpoints on whether transient vacation rentals should exist and how should they be regulated. This was in the Planning Committee that was -- is Chaired by Council member Charmaine Tavares.

The two resolutions were received by the Department on April 12. The Commissions have a hundred and twenty days to transmit their comments back to the Council, this is by Code. They have sixty days to establish a public hearing date. One the Maui Planning Commission agenda on Tuesday is an item regarding the scheduling. One is whether the Commission wishes to refer these two resolutions to the Hana Advisory Committee for their comments, the residential affordable housing bill and the transient vacation rental bill. I guess we -- this is on the agenda because if the Commission does that on Tuesday, then we have to have -- schedule a meeting and I believe that because the Commission probably would take this up sometime in mid-June and minutes have to be done of your meeting, that you probably would have to have a special meeting, besides the May 18 meeting on the Hana Wellness Village district boundary amendment. If that is the case, I believe that -- well I know there's been the Council Planning Committee came out here, I believe, a couple of months ago this year to get comments on the transient vacation rental bill and rooster bill or fowl controlling regulating fowl in residential areas. You know I believe that there is a somewhat unique perspective out in the more rural areas, like Hana and Molokai and Lanai, regarding transient vacation rentals. If we have to establish a special meeting, if the Commission votes on Tuesday to refer the bills to the Hana Advisory Committee, we were looking at possibly having a meeting in May, possibly, well, the suggestion I would throw out maybe like May 8. See right now the Council is involved in the budget, as you know, budget deliberations so they're not taking up any of these items,

they're not having any committee meetings other than the budget committee, so we need some time to do the minutes and transmit those minutes to the Planning Commission.

Ms. Lono: When is their meeting?

Mr. Yoshida: When is the Planning Commission meeting? That has to be decided also. That's another item that the Planning Commission is going to deal with on Tuesday but, again, there is a lot of interest in this transient vacation rental bill because there is the Maui Vacation Rental Association that's very much for this, and there are groups, such as the Kula Community Association which are against some of these types of uses in their area and there's kind of everything in between. There's about four different types of bill, four different bills, but the one that they transmitted is the one developed by Council member Bob Carroll.

Ms. Lono: So you're asking us to find a date in May, preferably the week of May 8, to have a public hearing regarding the transient -- regarding these two issues?

Mr. Yoshida: Well, to have a -- to consider having a public meeting for the purposes of discussing the bills and as a public meeting, anyone can testify on any agenda item unless it's somehow privileged for the -- which is fairly rare. But in order for the Commission to get input from this body and from the citizens of east Maui, other than them having to drive over to Wailuku, you know, that's a possibility if the Commission decides to ask the Hana Advisory Committee to provide comments.

Ms. Lono: So what else ...(inaudible)...

Ms. Helekahi-Burns: ...(inaudible)...

Mr. Yoshida: Yes, we would transmit the resolutions to the -- the proposed bills to the board and have, you know, the board read it and have some discussion.

Ms. Lono: So should we be considering a meeting here in, like I said, the week of May 8 to schedule a meeting in Hana cause that's what we're trying to do right now.

Mr. Yoshida: If that, yeah, in anticipation that the Commission may refer the matter, since we have you all here today, rather than having to call you individually and then trying to sort out, well, when can we get at least four people here.

Ms. Kanakaole: Anyone wanna look at the calendar? The week of May 8. Is there a particular day that is better.

Ms. Helekahi-Burns: Is May 8 good for the board?

Ms. Kanakaole: It's a Monday.

Ms. Helekahi-Burns: It's a Monday.

Ms. Lono: The week of May 8 we're looking at.

Ms. Kanakaole: Yeah.

Ms. Helekahi-Burns: Oh, anytime during the week. Do you guys -- is there any suggestion from your guys, you know, you gotta come from outside?

Mr. Yoshida: Well, I guess we have other boards and -- well we have probably six other boards and commissions that the Department services and we have kind of a set schedule, so does your Corp. Counsel. The only good thing is that we don't have any Council committee meetings now so we don't have to go to those. You know, we pretty much are tied up, like on the second and fourth Tuesdays with Maui Planning Commission, the second and fourth Wednesdays with Molokai Planning Commission, the second and fourth Thursdays with the Board of Variances and Appeals --

Ms. Kanakaole: So it leaves us Monday.

Mr. Yoshida: The first Thursday with the --

Ms. Kanakaole: So it looks like Monday.

Ms. Helekahi-Burns: So it looks like Monday --

Mr. Yoshida: Monday.

Ms. Helekahi-Burns: Is the day.

Mr. Yoshida: Right, other than the third Thursday, but that's already taken up by the Hana Wellness Village.

Ms. Kanakaole: Okay, Monday.

Ms. Helekahi-Burns: Alright.

Ms. Kanakaole: Monday, May 8.

Ms. Helekahi-Burns: Thank you for giving us a choice.

Ms. Oliveira-Medeiros: I cannot come because I have classes on Mondays but I'm sure you guys can get a quorum without me. I have finals on Monday.

Ms. Kanakaole: Okay, so Monday, May 8, at 4?

Mr. Yoshida: Yes, I guess that's in anticipation that the committee will refer the bills to you to get your comments because this will affect all of Maui County.

Ms. Kanakaole: Okay, yeah, Monday, May 8. Does everybody concur? Monday, May 8, at 4:00. Okay. Shall we move back to Item 5 -- I mean Item F, Orientation Workshop?

F. ORIENTATION WORKSHOP (CON'T)

- 1. Role and Responsibilities**
- 2. Meeting Schedule**

Mr. Yoshida: Yes, so typically, well the board is advisory all the time. We have the County General Plan, which was developed in 1990, which is going, currently, going through a revision process with the general plan advisory committee. We have the Hana Community Plan, which was adopted in 1994, a broad policy document covering the hundred forty-five thousand acres in the Hana Community Plan region. We have zoning and the like. You would be making your recommendations to the Planning Commission and in some cases, the Planning Commission is the final decision maker, such as in the special management area permit, and in some cases, the Planning Commission is advisory to the Council, such as with the Hana Wellness Village district boundary amendment, so it's going to go from this body, your recommendations to the Planning Commission, the Planning Commission's recommendations to the Council, and the Council is going to make the final decision on the district boundary amendment for the Hana Wellness Village. So as far as -- and, typically, the criteria for each type of permit is listed in the staff report. We try to send out the staff reports at least a week in advance.

As far as meetings, the board meets sort of on an ad hoc basis. We had maybe four meetings last year, which was relatively busy, I mean the first three months of the year we had maybe three meetings, and then we didn't have one till November, and then the next one was this one. Again, because of the scheduling, we would like to have meetings on the third Thursday of the month, considering the workload of your Deputy Corporation Counsel because he also serves the Maui Planning Commission, the Cultural Resources Commission, the Board of Variances and Appeals, the Lanai Planning Commission, the Council Planning Committee, and the Council Land Use Committee, so they have all their set meetings and the third Thursday seems to be the most ideal day and the time at 4:00 is when the Hana Advisory Committee has, traditionally, held its meetings. So we just wanted to discuss if the third Thursday is okay with the Committee. We're going to be very

busy in the next three to four months, as you can see, with these Council resolutions, the Hana Wellness Village, and the Ola Honua County special use permit so at least for the next -- we would ask that you reserve the third Thursday of the month for the next three or four months. I guess Patty Eason is the Hana member on the Maui Planning Commission and this is her last year, I guess, you're allowed to serve a five-year term. This is her last year on the Planning Commission. Okay, are there any questions? If not, I'll turn it over to your Deputy Corp. Counsel, Mr. Giroux, to talk about the Corp. Counsel handbook and the Sunshine Law.

- H. Office of the Corporation Counsel Handbook for Members of Boards and Commissions**
- I. The Sunshine Law**
- J. Ethics**
- K. Takings**

Mr. Giroux: The Sunshine Law, we've already thorough discussion on. Basically, it's under the Hawaii Revised Statute, Chapter 92. It governs the way in which government conducts it business and it wants -- when there's decision making, it wants the process to be open as much as possible to the public, and we already discussed already the fact is that two people can converse with each other about matters that might come before this body, but if a third person is involved, then it's going to look like a meeting and that -- it can't -- you cannot have three people talking about possible board business without a duly properly noticed meeting. You do not want to be violating the Sunshine Law. If you knowingly violate it, it is a misdemeanor and you could get impeached and kicked off the board and such like that. So you wanna make sure that you are following the rules of the Sunshine Law and not be discussing board business with more than two people. And even when talking with another person, you should limit your discussion to informational gathering and not be trying to convince the other person to vote or not vote or have a position in any way. Those types of discussion should be happening at an open meeting where it's recorded and the public can participate or at least what -- what the members are thinking as far as what kind of decisions they're going to make regarding a project.

We want to avoid what's called ex parte communications with board members as far as people coming up and trying to lobby you as far as to take a position. Sometimes that happens. People are approached either by members of the public or by applicants and they start trying to pitch their, you know, pitch their product or trying to convince you to, you know, have a certain position on a certain project. You wanna let that person know that, you know, as a board member, that you think that this type of conversation should happen more properly in a public forum where all the members could be privy to the kind of information that you are receiving from that person and then it can be on the record and the decision making bodies who are taking the recommendations would know what kind of information you got in order to make that decision.

There's exceptions to the Sunshine Law and when there are exceptions, it's very narrowly tailored, like one we went over today, the investigation exception where we can nominate two or less than a quorum to do an investigation, come back do a full report on what they investigated. The other one is your executive session. Basically, the law allows us to go into an executive session, which would be a confidential and not a public meeting. The public would be excluded from that meeting. If there is questions of rights, duties, and liabilities were to come to light. Being that you're not the ultimate authority in a lot of these, we probably wouldn't go into a lot of executive sessions, but other committees where the decision could end up in a lawsuit, let say a denial of a permit or things like that, or there's a threat of a lawsuit, if people don't think we followed proper procedure or we could possibly be named in a lawsuit, if any type of conversation like that comes up, I would, basically, request the chair to have us to into executive session so I could explain to you what our options were and what kind of, you know, possibilities -- actions that we could take to either limit our liability or preserve actions that we have taken in order for them to be defensible and those conversations would be privileged and the public wouldn't be allowed to look at the transcript or the minutes of that meeting. It's narrowly tailored so that means that if we start talking about other stuff during that meeting, and if somebody challenged it and the court reviewed it, then, at that point, if it was found that we were improperly in an executive session or had improper conversations about a project, then that would be open to the public for review.

Ms. Helekahi-Burns: I do have a question. So at public -- at, what is that, Planning Commission meetings or Council's, like, for instance, when the Council came out to Hana for the transient vacation rentals, we are not to speak on -- us, as public members, to voice our opinion at those kinda things?

Mr. Giroux: No, as members of this body, you can voice your opinion. When you go to meetings such as those, you have to make it clear that you're not speaking for the body. You may say that I am a member of the Hana Advisory Commission, however, I'm here in my own personal, you know, because you have a first amendment right to participate in that. What you have to watch out for is that if -- if there's something that is going to come before this commission, like let's say an application or a permit that might be discussed at another meeting, what you have to watch out for is taking a position on that before that comes before this body because then that could raise issues of, oh, she shouldn't be giving -- she shouldn't vote. They would do like a motion to recuse you because you already developed your opinion about their project before you heard the public testimony or they had a proper hearing, and they would say that they didn't receive a fair hearing in front of this body if one of its members had already made a decision and made a public statement about it.

Ms. Helekahi-Burns: Okay, because I did, as a public -- as a public, a person in Hana community, did testify on the transient vacation rentals and I realize we're going to come for the resolution, so I'm wondering will I be a conflict of interest being a part of the resolution?

Mr. Giroux: No, the way I see those is they're bills of general applicability. They're not like somebody's permit, you know, like we had people come in who have their piece of property affected. I think bills of general applicability, I don't think that we'd run into very much, very many problems as that because you're -- it would come before you, you would review it, and then you would be giving your feedback back to the Council anyway. So, as a member of the public, the fact that you did that I don't think would create any harm, but you really have to be careful when you're dealing with people's property in the sense that if they are looking for a permit or an application for a special use, conditional use, change in zoning, community plan amendment, which are specific to their parcel. You know we're going to have the general plan advisory committee, which is a general, yeah, it's a general policy piece of work but, again, you have to ask yourself the question is that, you know, will -- if I testify at this hearing, will it affect, you know, my future ability to sit and make decisions based on future applications. So it's something you have to keep in mind and if you do have a question, you can feel free to call staff and if they can't answer it, they would call me, and if I can't answer it, I would probably, you know, look towards either Office of Information Practices or our own Board of Ethics to try to help you out in figuring it out.

And that would take us right into the ethics. As far as boards and commissions, you're governed by our Charter as far as ethics and the two points that you have to look at is possible conflicts of interest, which was brought up by Dawn, and what you have to look at there is in conflicts of interest, if you're getting a financial gain from a project that's before you, that would be a concern and you wanna bring that up to me as soon as possible. As soon as you get the agenda, you should preview the agenda and say, oh, that's, you know, that's my uncle's property or something and then you can call me and we can talk about it because in situations like that, it's very fact specific. It's really -- it's hard to advise you at the generality but it's helpful if you give me all the facts that you know about it, we talk about it, and then we can see if we have to disclose that to body before you take action or if you have to recuse yourself from voting on it. If I can't answer it, again, I would probably refer you to the Board of Ethics to see if we need to get a clear opinion about whether or not you can participate in the meeting regarding that application. The other point is if you're receiving gifts. The main thing to -- on the forefront of this is, you know, we're in Hawaii, people give each other gifts in the spirit of aloha. What you have to ask yourself if am I receiving this gift, is there anyway that this can be perceived as trying to influence my decision on something that's going to come before me. And a lot of times if you look at what you're being given, you can see whether or not it's, you know, a large gift, a small gift. If you're uncomfortable receiving a gift from somebody, you can let them know, you know, you're not comfortable with it. You could call staff or call Corp. Counsel to talk about it to see if that's something you need to be concerned about. And there are certain monetary gifts that if you do get, that you have to disclose, okay. That's about it. So I mean those are just, in a nutshell, things you should, you know, be conscience of as members of the commission and to be aware that there are certain things that may come up that you may wanna just disclose to the staff in order to talk about it or give Corporation Counsel a call.

And if there's any questions regarding anything you read in these packets, we have the *Open Meetings, A Guide to the Sunshine Law*, and we have the *Information Packet for New Board and Commission Members*, and the *Orientation for Board and Commission Members*. If there's anything in there that you wanna just talk about if you don't understand, you can just give me a call and I'll be glad to explain it. Is there any other questions?

(Committee member Fawn Helekahi-Burns left meeting at 6:00 p.m.)

8. Hana Community Design Guidelines

Mr. Yoshida: So if there aren't any questions for James, another document that we have is the Hana Community Design Guidelines, mostly for the business, development of business regarding the architectural design, landscaping, lighting, signage, and the like. It also covers roadside stands. This was a very arduous undertaking. I think it was about a four-year endeavor covering from 1993 to 1997, and it went from the Hana Advisory Committee to the Maui Planning Commission, and this is part of the Rules of the Maui Planning Commission, but each of the country town areas has their design guidelines specific to that area to enhance and maintain the character of Paia, or Hana, or Makawao, etcetera. And this, the primary consultant for these guidelines was Chris Hart and Partners and we look to them whenever we have say commercial development being proposed in the planning region as well as for roadside stands. Any questions? If not, I'll turn it over to Francis Cerizo, from our zoning division, to talk about flood hazard districts and the County Policy against Sexual Harassment with his powerpoint presentation.

Ms. Mauliola: I have a quick question. Could we get a copy of that or is it available online, that last book let that you showed us?

Mr. Boteilho: The design guidelines?

Ms. Mauliola: Yeah, the design guidelines. It's in the binder?

Mr. Yoshida: Yeah, I think we presented --

Ms. Mauliola: Okay. Okay. Thank you.

9. County of Maui Policy Against Sexual Harassment

Mr. Francis Cerizo: Good evening. My name is Francis Cerizo. I'm with the Planning Department Zoning Enforcement Division. My first presentation today is on sexual harassment, and this is also included in your booklet, and this is what the harassment policy looks like, it's a twelve-page document, and every year we're required to give you a annual

review on this -- on this matter. So I'm going to give you the brief two-minute review on this and then we can move on to our other project.

First of all, the County has no -- has zero tolerance for sexual harassment and so today's presentation will give you two things. We'll show you or advise as to what is sexual harassment, and if it occurs, how do you report the incident. Sexual harassment, first of all, is not only illegal, it cost a lot of money, not only for County, but also for the other parties, and it's a cost in legal fees and also in lawsuits, in settling lawsuits. But one of the main -- main affects is that it affects not only the committee's environment, but it could affect your performance.

So what is sexual harassment? There are five examples of that rule -- five different actions. One of them is making unwelcome sexual advances or request for sexual favors. The second one is making remarks of a sexual nature. The third is using gender based or sexually abusive language and sexual innuendos. Fourth is visually displaying materials of a sexual nature. And fifth is physical contact of a sexual nature.

So what do you when you feel that you have been harassed. We have levels of people you can make your complaints to and the first one is the Planning Director. If it deals with one of the staff members, perhaps, you would go to either the Planning or the Planning Deputy Directors. If it's one of the Committee persons, it's appropriate to notice, give notice to the chairperson, otherwise, the other bodies that you can make the complaint to is the Managing Director and in your packet, there's also a Federal and County -- Federal and State agency that you can make calls to and file the complaint. So that concludes this portion. I'm going to move on to the flood zone section.

10. Flood Hazard Districts

Okay, this photograph here is a picture of a dwelling after a hurricane in Fall of '95 in Panama City, Florida. And it's pretty beat up. It started -- the building itself was on the shoreline and it was relatively higher than most of the other buildings in the area, but because of the intense hurricane and high water, it undermined the building, the footing, the slab fell down, the walls got weakened, and then wind just took care of the rest of it. Today's presentation will show you how the County would, with its own standards under the Flood Hazard Ordinance, will building dwellings or structures that are -- that are resistant or in response to these type of hazards. We will go through the flood maps and standards. We'll also explain was the County's involvement in the community rating system, which provides cheaper rates, insurance rates because we have higher standards, and, thirdly, the Planning Commission's role and your role as advisory to the commission, how would you be -- how your involvement would be in providing a community that is flood resistant.

The County's Flood Hazard Ordinance was adopted in 1981 and its main purpose is the protection of life and property. We've all seen, you know, major damages in Kauai, Honolulu, now in New Orleans, and the ordinances help to build and actually build in response so that you have a building that is -- that you can feel that you're safe in, that will not get damaged, and the second purpose of the ordinance is for the reduction in public cost for flood control, rescue and relief efforts. The vivid of examples of cost of flood control is New Orleans. It's going to cost billions of dollars to -- to rebuild the city. Now there's a question on should they rebuild the city or should they -- if they do that, are they going to pay for the full cost of the flood control. Are they going to rebuild the dikes. So that's being debated now in New Orleans and the option is to, in some areas, to actually build, in fact it's in the news now, people say, well, we have to build five feet higher now, I have to raise the building up five feet. In doing that, those areas is, you know, if they build all their houses up to that height, they're basically saying, you know, they're flood proof, they'll be protected, so sometimes these cost of flood control may not be required because their houses are already protected. And the other rescue and relief efforts, we've seen that, and in a major way, also in New Orleans. If they were protected, you know, those relief efforts and rescue efforts could be reduced.

We review our -- our standards starts with the floodway maps and the flood insurance rate maps. These maps provide us with information on the type of flooding, how deep is the flooding, and, you know, how far does it -- and does it affect your property. We have here an example of a -- okay, on this map here is -- okay, I won't use that. It's almost the same map. Okay, in the -- you can see in the floodway areas, there's two types of flooding. One is riverine flooding. Obviously, well, this one here is Iao Stream, you can see the pointed area that it's a hatch mark, it's the riverine areas and the flood elevations are actually shown on the previous map, the wavy lines, that's how high the flooding is and how wide. On the shoreline, the gray area along the beaches, that area is the coastal flooded area. We have tsunamis, usually tsunami generated, the other flooding that occurs on the coast is hurricane flooding, like we had in -- on Kauai.

In the flood zone areas we have developments that -- that require to have streams improved in order to make the area usable. Okay, this area here was a flooded area and anyway on the right hand side part of that stream was lined and improved so that the flooding wouldn't occur in that area and what we did was, in those areas, you need to get a flood insurance or a flood study made and approved by FEMA and they will go in there and redesignate the area so that it will be, well, it will show that it's not flooded, one, and, secondly, it would help you so that you wouldn't have to get flood insurance.

Now in the flood zones there's two types of, well, there's two types of flood zones. Flood Zone A, is the riverine flooding, and the standards on construction is to, basically, to elevate the structure to the base of the elevations, design the structures to withstand the flood forces, and, thirdly, protect your utilities. This almost looks like Honolulu. Flooding also

affects roadways and highways. I know in Hana we've had times where the stream got so big it overflowed the road, all the rubbish comes in, and then you're kinda cut off for a while, and sometimes it happens on both sides, down in Kaupo side there's areas where the stream just takes away your road, so it definitely affects your highways and roadways and that's something that, with the flood zones noted, you can tell how much flooding is going to occur and perhaps that's something that as far as, as a community, you can ask the County or the State to assist you in protecting yourselves by increasing or protecting the roadway from damages as shown on the photo.

Coastal flooding is initiated by two types of flooding. One is tsunamis and tsunamis is, you know, similar to what we had in India where whole cities, whole towns, whole coastal areas were devastated. We have areas here in -- along this coast, Keanae and Hamoa, that are in low lying areas and if you go down there, the newer houses are elevated and, you know, about ten feet high so you know that area there that's about what the height of the flooding is.

On the right side, coastal flooding is also done by hurricanes and -- and also tidal surges. The photo on the right is down at Suda Store and typically Suda Store is, you know, it doesn't really get flooded unless there's like a big, big storm. As you can see in this photo, it's kind of -- it's blue skies, you know, it's like why is it flooding here. We had a storm front coming in and, in this year, this was about five years ago, we had one of those -- we had the highest tidal rise in a long time and just by combining the two, we had this part of Kihei in about a foot to two feet of water.

So what are the standards in the coastal flooding? It's similar to the riverine flooding, however, it's a little more stricter. On the right side, you have an example of a structure that's elevated. It has to be what we do in here is that any obstruction below the building has to be breakaway. The only thing that's allowed is parking and access and limited storage. The structure is also designed to withstand the higher wind forces and, in this areas here, the utilities have to be tied down to your actual structure so that it doesn't get torn away, as you see here on the left. This is a typical section of the type of construction that we just talked about. The left side is tsunami or coastal area where you elevate it up to the -- where your lowest cross member is higher than the wave. On the right side is shallow flooding; that's when the water is, you know, not moving, it just comes up and like ponds on your property so they allow you to actually have that. You can build it up to the top of your floor.

The County has been part of the community rating system. It's a national flood insurance program. Basically what we have is we have higher standards that we have adopted and the Federal Government has, because of that, they have reduced our flood premiums. Right now we have a rating of eight and the County of Maui has, on your annual basis, has reduced its premiums for those people in the flood zones by more than \$300,000.

So what is your role as part of the -- being advisory to the Planning Commission? How can you assist the communities and your neighbors so that -- to avoid this type of damages? Well one of them is the use of the open space. The Planning Commissions and as your committee also advises the Planning Commission, the use of open space is -- starts at this level. Basically, open space is the use -- this use is intended to limit development on certain urban and non-urban lands which may be inappropriate for intensive development due to environmental and physical constraints, such as shoreline buffer areas, drainage ways, flood plains, and tsunami areas.

So, on a grassroots level, there's certain areas that because you know it's going to be damaged, in some areas, you know, I'm not sure if it's here more than in other areas, but I know some areas it gets repeated, whenever there's a big tsunami or hurricane, these areas get pummeled, they get torn apart, and so these are the type of areas that should be looked at or considered for open space. We have an example of a -- of that use. One the right hand here is the flood plains of Lao Valley and on the community plan, those areas were made into open space so that if there's any major flooding, this flooding in Lao Stream is one of the -- the higher -- has one of the higher volumes of storm runoff that comes down any river and so they kept a certain area just open for -- for the river to overflow.

The other area is a special management area along the coastline. This is the island of Maui and we can see that one in Hana. We have their fair share of SMA. We also have, in those areas, under the Special Management Area Rules, Section 12-202-12, e through j, it requires an evaluation on the potential adverse and environmental and ecological effects on sensitive areas such as flood plains, shorelines, tsunami areas, erosion areas, geologically hazard areas, and coastal waters.

So whenever there is a development next to a stream, you, as the community, probably know what areas gets flooded out more than others. You might hear from your parents or from the older guys that say, hey, when that hurricane -- when that tsunami came in, it just wiped out this whole town. So whenever there is a development in a tsunami area or a flood plain area, you as the Committee, and we as the staff should inform you or you should request complete information as to is this area flooded? How much is it flooded? I mean how deep is it going to be? You know sometimes even if they tell you, oh, the base flood elevation is twenty-five, and does it mean it's twenty-five feet of water or does it mean it's just five feet of water, and building in that type of area, you know, at least now you know the information, is it going to cause problems to your -- to the neighbors? Can they build in that area? So all these questions, as the rules say, that's something you can evaluate and so the information should be made available.

So the special management area, in addition to open space areas, are the two areas that you have where you can evaluate, you can propose controls and open space. If there's areas where it's extremely hazardous, those are the areas that you should look at for open

space designation. And in SMA areas, always ask the questions and make sure that the developer or the staff provides the information so you can make a better decision.

The building that you see here was in the same storm of 1995 and this was in, what city was this, this was in Pensacola, Florida. As you can see, you know, the building is pretty much elevated. No damage. The high winds was -- it was newly constructed and this was the only building that stood along that coast. So, hopefully, you know as we -- you go through your reviews of such projects that -- that we can build all our homes so that they can withstand these types of events. That concludes my presentation. Any questions? Thank you.

Ms. Lono: I move we adjourn.

Ms. Kanakaole: That was the last item on the agenda?

Mr. Yoshida: Yes.

Ms. Kanakaole: We can adjourn. Are there any objections? Okay, meeting adjourned.

J. ADJOURNMENT

There being no further discussion brought before the Committee, the meeting was adjourned at 6:30 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE

Present

Kaui Kanakaole, Chairperson
Fawn Helekahi-Burns, Vice-Chairperson (Present 4:15 - 6:00 p.m.)
Mavis Oliveira-Medeiros
Melissa Mauliola
Dawn Lono

Excused

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Shane Sincenci
Francine Tolentino

Others

Wayne Boteilho, Deputy Planning Director
Clayton Yoshida, Planning Program Administrator
James Giroux, Deputy Corporation Counsel
Paul Fasi, Planner
Francis Cerizo, Planner