

**LANA‘I PLANNING COMMISSION  
REGULAR MEETING  
NOVEMBER 15, 2017**

**A. CALL TO ORDER**

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

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

Ms. Kelli Gima: Good afternoon everyone. We're going to go ahead and get started. It is now five o'clock, and it is the November 15<sup>th</sup>, 2017 Lanai Planning Commission. At this time we do have quorum. We do have five commissioners here. I would like to introduce our newest member, Shelly Preza. Unfortunately she's unable to attend this evening as she had a trip already planned so we'll do the more formal introductions at our next month's meeting.

So let's get started with public testimony. And just a reminder I'll open up public testimony again after the agenda items, but I'll go off of the sign-up sheet and I'll start off with Pua Manuel for Mike and Kathy Carroll. So come on up...to the microphone and state your name for the record please.

**B. INTRODUCTION OF NEW MEMBER – SHELLY PREZA**

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

Ms. Pua Manuel: Good afternoon. My name is Pua Manuel and I am testifying on behalf of Mike and Kathy Carroll.

“Dear Chair Gima and members of the Lanai Planning Commission.

We have lived on Lanai for almost 17 years and have owned and operated the Mike Carroll Gallery since 2002. As small business owners we encourage the Lanai Planning Commission to approve the request for the Manele single-family/multi-family residential permit extension. Like other small family owned businesses on Lanai, we have weathered many financial challenges over the years. We believe the possibility of selling 40-lots at Manele and construction of houses on the lots would be good for jobs and our local economy. Whether the owners of the houses are part-time or full-time, they will spend dollars at local restaurants and merchants which will help sustain a vibrant, small

business community. We are very excited and optimistic for the future, and enthusiastically support the permit extension.

Mahalo for your time and consideration, Mike and Kathy Carroll, co-owners.”

Ms. Gima: Thanks Pua. Up next we have Patrice Moynihan.

Ms. Patrice Moynihan: Hello and good evening, Patrice Moynihan, a Lanai resident. Short and sweet, I'm here to support this development which has been long-time in the making, and thank you very much for your consideration. I'm very much in favor of this.

Ms. Gima: Thanks Patrice. Next we have Jim Clemons.

Mr. Jim Clemons: My name is Jim Clemons, I reside down at Manele with my wife Sally. We've been here for 22 years, and obviously I'm in favor of advancing this permit. It can only be good for the Manele District. We'd love to have more neighbors down there and looking forward to it. Thank you.

Ms. Gima: Thank you. Next, Alberta de Jetley.

Ms. Alberta de Jetley: Good afternoon Commissioners. My name is Alberta de Jetley. I am supporting and I am here to support the extension of the permit for the Manele Project District. The people who reside at Manele have been extremely good and generous neighbors to our community, supporting many of our non-profits such as the Lanai Youth Center, LAPA, the animal sanctuary. They have just been involved in countless, different organizations in our community. I think that it would be very, very beneficial to have the project extended and hopefully have neighbors that move to Lanai that are nice and as generous as the ones that we now presently have. Thank you.

Ms. Gima: Thank you Alberta. Next, David Green.

Mr. David Green: Good evening Commissioners. Dave Green. Live down at Manele. I'm also the President of the Manele Homeowners Association, but I'm testifying on my own behalf. You may have noticed if you have a small business, or even if you don't have a small business, that you're seeing less island club members or homeowners, or whatever you want to call them from Manele. That's because over the last several years, Mr. Ellison has started buying condominiums for people who are wanting to sell their property. Right now he owns about 27 condominiums, we only have 103 members/units in our Manele Homeowners Association. That's almost a third. And so basically we're not getting new blood. If you approve this permit, there will be 40 more lots that will be available to sell, for sale. If you don't, in the short-term, there isn't any inventory for anybody else to move in because Mr. Ellison basically owns it. I'm not criticizing him, but we're kind of a shrinking community, and we need to grow and we're here because we love this community. So I urge you to support the approval of the Manele Project District single family and multi-family permit.

Ms. Gima: Thank you. And last on the list we have Linda Mau.

Ms. Linda Mau: Actually I scratched my name off but I, I support the project and I think we just need to expand our community and look forward to the plan of Pulama actually to grow this community to be more sustainable, right, and that's part of it.

#### **D. COMMUNICATIONS**

- 1. MR. KURT MATSUMOTO, Chief Operating Officer of LANAI RESORTS, LLC, a Hawaii limited liability company doing business as PULAMA LANAI requesting a Special Management Area Use Permit and a Phase II Project District Approval 10-year time extension on the period to complete construction of the Manele Residential and Multi-Family Development at TMK: 4-9-017: 014-018, 024, 025, 033, and 4-9-023: 006-011, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001) (K. Scott) (Commissioners, the application booklet was previously mailed to you. Please bring your copy to the meeting.)**

**The Commission may take action on this request.**

Ms. Gima: Thank you Linda. Anyone else that hasn't signed up that is wishing to give public testimony at this time? Again, we will re-open public testimony after the various agenda items. Okay, I'm going to go ahead and close public testimony and move on to Item D, Communications, Item no. 1 . . . (Chair Kelli Gima read the above project description into the record.) . . . So I will turn it over to you folks.

Mr. Keith Scott: Thank you very much Chair and members of the Commission. My name is Keith Scott. I work for the Planning Department for Maui County.

The action under consideration as you mentioned is a time-extension for Special Management Area Use Permit 95/SM1-015, and Phase II Project District Approval 95/PH2-001 for the development of 166 single-family housing lots, and 54 multi-family units, along with related recreational and public improvements.

The project was initially approved by the Lanai Planning Commission, December of 1995, and initiated in 1996. In April of 2003, the Commission approved the time-extension for completion of the project to 2007. In November of 2007, the Commission approved another extension to 2012. And November 2012, the Commission approved another extension to October 2017. On July 18<sup>th</sup>, 2017, the Planning Department received a request from the applicant for a 10-year extension for the construction of the project. After discussion between the applicant and the department, the applicant is now requesting only a five-year extension. The applicant will be providing project background and specifics of their time-extension. I want to note for the

record that the parcel numbers used in the report title were purposefully used to reflect the parcel numbers of the original permit for consistency sake. Since the initial approval, some of the parcels have been subdivided resulting in the parcel numbers as found on page 3 of your report, description of the property, Item 1, which are currently under consideration. I also want to acknowledge that there may be some confusion over the number of lots. The bottom line is that Pulama Lanai only wants the ability to develop an additional 40-lots. The applicant may wish to elaborate on this point. At this juncture Karlynn Fukuda with Munekiyo Hiraga will lead in a presentation for Pulama Lanai.

Mr. John Delacruz: Can you clarify something on -- you said 40 additional lots? But, but on page 5 of the, I guess, Docket No. 95-slash -- anyway this thing that you mailed to us. Paragraph two, under recommendation says that final construction of the project shall be in accordance with blah-blah-blah, with the exception that 81 single-family lots will be developed instead of 166. How does this align with the 40 that you just said?

Mr. Scott: 166 was the original -- originally approved number of lots. Some have been developed and sold, others have been developed and not sold, and Pulama Lanai is looking to actually reduce the number of lots that are to be developed, and their request is for just 40 additional lots, in addition to the number that have already been developed.

Mr. Delacruz: Which would be . . . (Inaudible. Did not speak into the microphone.) . . . Would the math sum up to be 81 like it says on page 5?

Mr. Scott: I believe so. As I mentioned I think there may be some confusion with respect to that number. But the bottom line is 40 lots are to be developed.

Mr. Delacruz: Thank you.

Ms. Karlynn Fukuda: Good evening Chair and members of the Lanai Planning Commission. My name is Karlynn Fukuda of Munekiyo Hiraga. We're here tonight to present the request for the time extension to complete construction for a portion of the Manele residential and multi-family development project.

Joining me tonight is Lynn McCrory, Senior Vice-President of Government Affairs for Pulama Lanai, the project's applicant.

As mentioned by Planner Keith Scott, tonight's request is limited to 40 single-family residential lots for the Manele Project. We are requesting a five-year time extension in order to complete construction of those lots. We'd like to provide some background on the project. As mentioned the original approval for the project was granted in 1995 by the previous, or to the previous land owner. An SMA Major Permit and Project District Phase II approval was granted for the development of single-family residences and multi-family residential units in Manele. The original approval was for 166 single-family lots, and 54 multi-family units. As noted here, some of the single-family lots have been sold and developed as Mr. Scott

mentioned, and additional lots were sold but not developed, while all of the multi-family units have been completed.

There were 25 conditions of approval on the SMA and Project District Phase II approval. Pulama Lanai is in compliance with or has completed those conditions. We note that Condition No. 16 requires quarterly water quality monitoring reports for Hulopoe Bay, and mitigation and restoration activities if the reports determine that there is an impact to bay waters.

A similar condition is included on the State Land Use Commission approval for the Challenge at Manele Golf Course. The Manele Golf Course condition for the monitoring, mitigation, and restoration of Hulopoe Bay is required as long as the golf course continues to operate. As such Hulopoe Bay waters will continue to be monitored by Pulama Lanai after the Manele Residential Project is complete.

This slide provides an overview of the Manele Residential Project. The parcels shaded in yellow, here, are the 40 lots that are being requested for the five-year time-extension in order to complete construction. Five of these lots will be utilized by Mr. Ellison, and the remaining yellow lots will be marketed for sale.

The request before you tonight is to amend Condition No. 1 of the SMA and the Project District Phase II approval. The language of Condition No. 1 is noted here. As Mr. Scott noted there was a time extension approval back in, I believe, 2014. If the Commission approves the time extension, the five-year time extension, the new deadline to complete construction on the 40 lots would be October 17<sup>th</sup>, 2022.

As previously noted this is the breakdown of the 40 lots included in the time extension request. It is noted that with this request about half of the originally approved single-family lots which would have homes or about half of the originally approved single-family lots would have homes constructed on them.

This graphic here shows the lots in blue which would represent the development plan of what the Manele Residential would look like. The single-family lots included in tonight's request for time extension as well as the ones that have been developed or sold, as well as the multi-family units are shown here in blue shade.

The remaining areas will not be developed, and if there was future development desired on those areas it would require the filing of new permit applications.

Thank you for your time tonight. We respectfully request the Commission's approval of a five-year time extension request for the SMA Permit and Project District Phase II approval for 40 lots within the Manele Residential Project. We are available to answer any questions you may have. Thank you very much.

Ms. Gima: Thank you. Commissioners, any questions at time or comments?

Mr. Delacruz: Just that the...October 17<sup>th</sup>, 2022 was the date that you stated up there?

Ms. Fukuda: Yes, that's correct. The language in Condition No. 1 has October 17<sup>th</sup>, 2017. So with five-year time extension it would be October 17<sup>th</sup>, 2022.

Mr. Delacruz: Okay, thank you.

Mr. Bradford Oshiro: Question. On Condition 13, you talk about putting in native, native plants and not bringing in invasive species. Is there somebody that's going to be checking up on that? Because if you noticed all over Lanai right now when I grew up there wasn't all these invasive species that we have on the island right now. And these are plants that were brought in and the invasive, you know, different types of little frogs and things like that we never had on this island, but we've got them now. So is somebody going to be checking up on these houses homes as they're being built that, that they use native Hawaiian plants or are they just going to be let to? Because on this condition is says that invasive species will not be allowed.

Ms. Fukuda: Do you want to respond? Okay, so I'll defer to Lynn McCrory.

Ms. Lynn McCrory: The answer is yes.

Mr. Oshiro: Who's checking up?

Ms. McCrory: It's a combination. Dave will address some parts of it -- David Green -- and I'll address some parts. We have hired invasive species technicians who actually go around now and remove invasive species. We have a nursery that's doing all native species plants now so we're starting to grow our own so that they can be used in other places. But, yes, that's part of what you do. And Dave, I'll let you finish.

Mr. Green: We have two different committees at Manele that monitor this. The first committee is the Manele Bay Architecture and Landscape Design Committee. They have to approve all new construction and landscaping. We have adopted the Maui County list of native plants and a prohibited list of invasive plants. So any new, any landscape plans for a new construction has to abide by that list so we do not allow invasive species.

For existing homes, there's a different committee that work in the homeowners association and that's the Landscape Review Committee and we have adopted the same list. And so if people are changing their landscaping they have to get our approval, and we do not allow invasive species that are on the Maui County and State lists.

Mr. Oshiro: Okay, Condition No. 25, construction road. The ramps and everything was built right?

Ms. McCrory: You bet. Timely.

Mr. Oshiro: Okay, is that open to the public or just construction only?

Ms. McCrory: That road is not open to the public. It's construction road, and the ramp was built so that we wouldn't have construction trucks running down that road without any way to stop. So it's a runaway ramp that literally is off to the right and stops any trucks. We haven't had an issue. We haven't used it is the good news.

Mr. Oshiro: I got a question about the historical. Are there any historical sites in these lots especially the ones closer to the . . . (inaudible) . . . ?

Ms. McCrory: There are not, and all of the historical archaeological plans are now completed. We finished. There's one other condition in there in the plans, and we finished with the total preservation plan for the last, I believe it was eight sites in Manele, and that has been accepted by SHPD. And then Kepa just recently submitted to them -- well, recently being six to eight month ago -- another plan for a trail that goes along the coastline in front of the resort, and that plan has also been accepted. So we have completed all things that, for Manele, archaeologically that needed to have been done that had not been done.

Mr. Oshiro: Okay --

Ms. Gima: Can I just piggy back on a question?

Mr. Oshiro: Sure. Go ahead.

Ms. Gima: I noticed in the Condition No. 12 it says that that Kepa's department does regularly goes to preserve and monitors. Define "regularly?" Is that monthly, weekly, as needed?

Ms. McCrory: It's quarterly most of the time because they have areas that they have to do. They're also the group that does the monitoring for construction for new projects. So the archaeologist we used is Tom Dye, and he comes out and trains Kepa's staff on what they need to do. He'll be with them as they start the work and then they go from there. Yes?

Mr. Oshiro: Okay, this question leads up to the next question. Actually I think it should be a condition. Okay, can you tell me what's the progress on the Hale in getting rid of invasive species because this all deals with water?

Ms. McCrory: No, I don't think I can give you an answer on removing invasive species. I don't know where the technicians are working in particular in various areas so I don't have that information. I can get that information for you.

Mr. Oshiro: Yeah, I would really appreciate it. This is something that I'd like to put in as a condition is that these new homes coming up shouldn't be allowed to put in a swimming pool.

The reason for that is because of the water situation. Unless we can find an alternative way besides what we have now, an alternative way, I don't think we should let homeowners put swimming pools in there -- and especially down in Manele because of the evaporation rate and most of these people will not be living on the island for 365 days. They'll be coming in maybe once a quarter and so the swimming pool is not going to be used to the fullest extent.

Ms. McCrory: Possibly an alternative would be that the swimming pools are covered when no one is there which seriously reduces water loss.

Mr. Oshiro: No, the reason why I say this is because I wasn't here for the Koele project because I would have said something about that because of the situation where I do not believe that we should be using drinking water to fill a lake that somebody might, might use or might not use. And then I didn't understand these hale that you guys are going to put up, these bungalows that you put up for the massage treatment, that they would have a Jacuzzi or a fudo like type, and then you not going use the same water for the next person so you going dump that fudo or that Jacuzzi. So the amount of water that you use is going be more than what you projected...you know, up at Koele. So what I'm saying is because of the water that you're using there, I don't think you should be putting swimming pools unless there's an alternative, an alternative water source.

Ms. Gima: And I'll, just to piggy back I was going to ask about that with Condition 14 where there's needing to have the alternative non-potable water sources. So I read that that condition was fulfilled by the development of Well No. 15. Was that...I guess, in a sense sufficient to fulfill that that condition? I mean, who determines that that is sufficient? I mean because the condition is not very specific, right? It just say other non-potable water sources.

Ms. McCrory: I think the development of that well would have been sufficient. Well 15, and I don't remember the exact pumpage that comes out of there, provides a great, a great amount of the brackish, non-potable water for the Manele irrigation in that area. It is, it is one of the main wells. So if it's providing that, it's, it's quite a bit.

Ms. Gima: Okay, thank you. Brad?

Mr. Oshiro: Like I said, I'd like to, you know, put another condition in there and, you know, because I believe that the water situation here on Lanai really prevents us from wasting water where people only going come quarterly or less than that and you going fill up a whole swimming pool, and you going put like a cover over it and you think you going protect it from getting evaporated? No. I don't think it's right because you know what, I, myself, do a lot of walking around the island, and where I used to see brackish water coming out of the ground, I don't see it no more. I don't see anymore, and to me that tells me we either wasting the water, it's not there no more, and then more we put into like these swimming pools. Because, I mean, if you buy one of those lots down there, most of the people that going to buy those lots, going to want a swimming pool.



Ms. Gima: So noted, and we could definitely have that conversation when the time comes to discuss conditions. Lynn, with the plan for the development of these 40 lots, how many include pools?

Ms. McCrory: We aren't looking to develop the 40 lots. We're looking to sell the lots.

Ms. Gima: Okay. Sorry. I'm --.

Ms. McCrory: You know, we haven't, we haven't said how many would have pools or not have pools, or whether they would be inside or outside in terms of the water. There is an amount that goes with every single family home in Manele that is in the Water Use and Development Plan. And remember the Water Use and Development Plan is a guide. It's, it's not a set, carved in stone amount, but there is, there is a quantity of water. I'm -- later on in the agenda I was going to talk about the water that was being used right now and I can tell you right now that the average water use that we're using is like almost 1.7 million gallons per day. The water, the island has a sustainable yield of six million gallons per day. We are using less water now than we used in 2002, and a lot less water than what was used when plantation was here with pineapple. That's -- it's going down. It went with down with Manele. It's...going to go down with Koele is my understanding from where they were, which is also underneath the guidelines of the Water Use and Development Plan. So I hear what you're saying, but the number at which we have an issue with our sustainable yield is 5-point -- is when we use 5.4 million gallons of water per day. At that point, and literally shortly before that the Commission on Water Resource Management would be coming in to the Lanai Water Company, and would say to them we're taking the Lanai Water Company over because you're using too much water. But that's when we're at 5.4 million gallons, and we're using right now, somewhere just under 1.7 million gallons. That is a very big difference and a very long way away.

Mr. Oshiro: You can, you know, you can throw numbers to me and stuff, but what I'm saying is when I walk the shoreline, where I used to see brackish water coming out out of the ground, I don't see it anymore. And then if you look at the island itself, the island is drying up. We not getting the rain that we used to when I was growing up. I don't see that rain anymore, okay. But what I'm trying to say is if we keep using water, unnecessary -- to me a swimming pool is unnecessary. You've got a nice ocean right in front of you. You've got beautiful Manele Bay. Use it instead of wasting drinking water.

Ms. McCrory: These homes when they are built will need to come back in front of you before they built. They are on a Special Management Area Exemption Permit. So at the point that the home is planned for construction --. And I don't think you were --. We've had one before. You were on, I think, Kelli, at that point. And you have more leeway at that point with that permit.

Mr. Oshiro: I'm going to interrupt you. The only reason they gave the permit was because they were going to desal water and that's what most of the people that were sitting on the

board because I was on the board at that time, they all thought they were going to desal water. So the water that -- you know, they weren't going to be using drinking water. You was going to use desal water so it never happened. So if that permit had come back again, I still would be saying the same thing now.

Ms. McCrory: And that really is my point. You have at that point the ability to go back and say to that person who wants to build this, we don't think you should put a pool in, we think that's not okay. That's when you have it because that's when they can do it.

Mr. Oshiro: Why not put it in front of them now so they know this. Unless you just trying to use it as a selling point.

Ms. McCrory: I don't think that would be necessarily a selling point that we would put out. We're selling a lot is what we're looking to do, and then they would be constructing and designing home for that lot.

Ms. Gima: Would all of those lots fall in the SMA?

Ms. McCrory: You bet. That's one of the reasons they were chosen was because they're going to be in an area where we believe is very attractive to someone so you'll see every one of them other than, I think, up above. There's one or two up above? Five or six up above. But if you look along that -- if you look at that, it's Exhibit 3 that has the pale yellow...I think we put the red line in for the SMA line. And then if you remember from last meeting, they actually are moving the SMA line further north when it goes around the archaeological preserve so it will cover a number of lots.

Ms. Gima: Commissioners, any other questions or comments for Lynn or the applicant? Okay, I have just a few. Looking at the handout that was given to us regarding Condition No. 24. I think Commissioner we received that on our table tonight. You know, the condition states that the applicant shall provide an annual report to the Department of Planning and the Lanai Planning Commission for review that it should include the following. One of what was mentioned was the meter readings of water usage, both potable and non-potable, that differentiates between what is being used for hotel operations, hotel irrigation, beach park, golf course, residents, etcetera, and so we do get those reports. The one question I had was when looking at that report, attached to this handout, they give a breakdown of hotel property including irrigation, but it's not broken down as to how it's worded in the, in the specific condition about hotel operations and hotel irrigations.

Ms. McCrory: If it, if it says hotel, that's operations. If it says irrigation, that's hotel irrigation.

Ms. Gima: Right, but it's lumped together. So is there are numbers that differentiates as how the condition states?

Ms. McCrory: Yes there is. I can get that for you.

Ms. Gima: Okay. Because that would be interesting to know. Because right now it's just lumped as hotel property and hotel irrigation.

Ms. McCrory: It may be -- Condition 14 which is also in there requires that same information and my guess is that it may be --. Because I'm remembering that sheet --

Ms. Gima: Let me look at the other handout, and the other handout is Condition 14.

Ms. McCrory: -- as having part of the graph.

Ms. Gima: I know, again, it's, I mean, it's just hotel property including irrigation. The next one is hotel landscaping on hill.

Ms. McCrory: It can be separated. I can change the graphs.

Ms. Gima: Yeah, I mean, I think that's what was specific in the condition so to have those, those designations, I think, would be helpful. And then on that same Condition 24, Item H says the status including findings and recommendations of any study initiated to verify the size of the Lanai single aquifer. And it was stated that we have not commenced the study in 2016 that would have resulted in verifying the size of Lanai's single, single aquifer. So my question is why was that not done to verify the size?

Ms. McCrory: I can't give you an answer other than we did not do that.

Ms. Gima: So then when it was said that all conditions have been fulfilled, that's not the case then because this is part of Condition 24, and if that hasn't been completed, then Condition 24 hasn't been fulfilled?

Ms. McCrory: The condition doesn't read to go ahead and do that. The condition reads the status including findings and recommendations of any study initiated to verify the size of Lanai's single aquifer, and we had not done any study to verify the size. So what I gave you was the status that says we haven't done any study.

Ms. Gima: Okay...I'm just trying to --. I read it, I read it differently that this would be something that would be --. Status including findings and recommendations of any -- okay, so the status is you haven't done this study so therefore there's no way of verifying the size of our single aquifer. Is there plans to do the study? Has there been a study done in the past? Has there been findings or recommendations, and if so what are those?

Ms. McCrory: As far as I know, I we have not done a study like that. I don't, and have not seen anything in Castle & Cooke's records or files that said they had. I don't know if there are any plans at this point to go forward with it.

Ms. Gima: Okay. And then...yeah, that was, that was my only questions. Go ahead Roxanne.

Ms. Roxanne Catiel: Okay, I have questions on the...single-family and the multi-family. Okay, so 54 was the going number, so 53 of them was built. Okay, so you asking now for 81 single-family or is that 80? I mean, you know, for the single-family homes, because right now we have 16 developed with single-family homes on it. 24 additional lots, but it's...it's sold, but there's no homes on it. So you're asking for 40 lots, right? Five, five homes, five developed with homes on it, and 35 lots to be developed, but to be sold. So a total of 80.

Ms. McCrory: Yes.

Ms. Catiel: So where is that 81?

Ms. McCrory: 81 is part of the number that would go away. 81 lots will not be developed.

Ms. Catiel: Isn't that --? No, but then according to this handout it has TMK 33. That's on the top of -- it's part of on the --. I guess it's --. Right, it's up there. That's TMK 33. So is that part of the lot that's going to be developed?

Ms. McCrory: No. Or if it is already developed.

Ms. Catiel: It's not developed.

Ms. McCrory: It says it is already sold.

Ms. Catiel: It sold already.

Ms. McCrory: So that would be part of the group that's already sold.

Ms. Catiel: Okay. Yeah because I was --. I mean, yeah, I'm just looking at TMK's. And then on the lots --. So...Lanai Resorts doing business as Pulama Lanai own all of the parcel lands? Or cause like on the...

Ms. McCrory: The answer is yes.

Ms. Catiel: Okay, so who is Lanai Developers?

Ms. McCrory: That would probably be one of our other companies. We have multiple companies.

Ms. Catiel: And so they fall under Pulama as well. So same as Lanai Estate?

Ms. McCrory: That's another company.

Ms. Catiel: Okay, just verifying because on the business it just shows --

Ms. McCrory: It just shows those names.

Ms. Catiel: Yeah, it just shows those names, so, you know, it says Pulama --. I mean --.

Ms. McCrory: It doesn't say Pulama Lanai on it.

Ms. Catiel: Yeah, yeah, it doesn't show Pulama so I'm like okay.

Ms. McCrory: Yeah, because the legal is Lanai Resorts or a particular company. Pulama Lanai is a doing business as name.

Ms. Catiel: Right.

Ms. McCrory: It's just an easier name. I think the easiest way to explain this permit is that what we're looking to do is we're removing over half of the lots that would have been developed out of this 166 originally. And all we're looking to carrying forward is, like, 40. We're just saying, we don't think the lots that are...that were...that were here, here, and here. I'm sorry -- that are off to the side or out of the SMA, we don't think they'll sell, and we think if we're looking to move forward with this permit, this is what makes the most sense is just cut the number down, get it to a number that we think can be sold, we think can be developed by whoever. This is what we're trying to do all of them. Obviously it hasn't worked and we don't want to keep doing the same thing over and over, so we're trying this. We'll find out fairly quickly how it works and then go from there.

Ms. Gima: Anything else Roxanne? Okay. My question was then I was kind of waiting to hear about it in the, in the presentation, but I guess what is the need for the extension and why needing another five years? What happened in the past five years or what --? Can you kind of just give some information on that please?

Ms. McCrory: Sure, the prior extension to the permit was filed by Castle & Cooke in like a couple of weeks before they sold the property to Lanai Resorts. They filed for the extension and it kind of sat in Planning for probably over a year plus, I think as I recall. And finally someone said, well, you know, this is in Planning, do you want to do something with it? We didn't even know it had been filed. And at that point it's like, oh, wait a minute, this allows us to sell lots, this allows us to go forward. Not having any plans at that point in time, we said could we just extend this permit at that point because we don't know what's going to happen, and that's what occurred. So that's why it isn't a full even five years because it goes back to 12 which is when they said that was the five year extension. In that, in the last few years we have done Manele, we have done Koele, we have done a lot of other permits and projects around the city, and the selling of these lots just didn't come up again. So here we are, one more time, saying can you give us five years to move forward on this? We think this is the

opportunity time. Five years ago, economy wasn't quite as good. It's better now. People have money, people are looking so we believe we have a better shot at selling them now.

Ms. Gima: Thank you. So basically it just wasn't a priority at that time and now it is. Okay. Alright.

Ms. Caron Green: Continuing on that same point Lynn, is there a plan to market these or just wanting to hold them in the eventuality you might want to market them?

Ms. McCrory: There is not a marketing plan at this point. It depends on getting the permit, to be honest. If you have the permit, then you do the marketing plan. If we don't have the permit, then it all goes away, and you have just basically what's there now until we stop long enough to lay out what should the project district look like because that would really be the long-term goal. And I know that is not being looked at this time.

Ms. Green: If you were to market them do you have any idea who would do the development? That hasn't been --

Ms. McCrory: We would be marketing the sale of the lots. The individual owner would make the decision as to who would do the development, who would be construction and so forth, and then come back to you for approval.

Ms. Green: I had one other question and this is going back to the water issue because I'm not terribly familiar with the Water Use and Development Plan. Do you know if the plan included 166 developed lots unit?

Ms. McCrory: It did.

Ms. Green: So in essence then you're cutting in half the number of lots that would be using water per that plan.

Ms. McCrory: Yes. We're not saying it's going to go away because it's already in the Water Use and Development Plan. Not differently than -- excuse me -- the number of hotel rooms have decreased at Manele -- that you don't go back and make a change to that plan. It's just as you're going forward when the day comes everyone says, okay, it's time to do the water use and development plan, review it, make any changes we need to make to it. This is when you take into account all of those things. So it isn't a matter of saying, okay, we're only going to develop, we're only going to sell half of the lots, therefore they get to use the other half of the water. That's not the case.

Ms. Gima: Commissioners, if there isn't any other questions --. Okay, go ahead.

Mr. Oshiro: Lynn, question. Where does it say that the owners of the lot have to come back in front of this Commission?

Ms. McCrory: It's in your Planning, Lanai Planning Commission Rules, that that's a Special Management Area Exemption Permit.

Mr. Oshiro: The Special -- I just making, just, just to clear things -- the whole development area.

Ms. McCrory: No. Hold on. If you look on this, you'll see a red line. That's the Special Management Area.

Mr. Oshiro: Okay.

Ms. McCrory: Everything below that from there to the ocean. The only change that Kathleen was talking about at the last meeting was taking the preserve, the archeological preserve here and moving the SMA line up here and then taking it down. So literally all of these lots would be completely in the SMA, so they will come in front you. It's just how it works.

Ms. Green: Lynn, I just have a request. I noticed on Condition No. 15 it says that drainage areas filter fences and sedimentation basins shall be regularly maintained. I live down at Manele as you know and I've noticed that we're getting a lot of kiawe trees growing in the ditches in the various gulches, and there seems to be some issue on who's going to maintain that. So I would just request -- well, yeah it's not being done.

Ms. McCrory: Agree.

Ms. Green: There's seems to be --. And if you can just straighten out whatever issue there is around that, David can fill you in.

Ms. McCrory: Yeah, I think shortly after we assumed responsibilities, or shortly before, I'm not sure which, they actually came in and kind of cleared those trees down to, what, six-inches high, and we all went, oh my gosh the dirt is going to down and out. I mean, that doesn't make any sense. That's what they do. They maintain the sediment and the soil up there. So, yes, if they're at the point where they need to be trimmed, then they should be looked at. And again, the sedimentation basins, which are also in there too, have been cleared. The one that had the most sediment in it was the one behind Manele Small Boat Harbor when we removed sediment out because it's all --. I mean, there's nothing up there so everything just comes down. But that was a huge amount of dirt that came out of that.

Ms. Gima: I have another question, but I think it might be more for the Planning Department, the planner specifically. These conditions that are in place, you know, the applicant is saying that they have fulfilled everything. So when the -- if the permit for the extension gets approved, do these conditions still carry over and are they now having to start --? I just want to kind of wrap my head around on kind of what happens with these conditions that are supposedly already fulfilled.

Mr. Scott: Sure. If, if they've fulfilled the condition, I mean, if they've already done what the condition said that they had to do, then it's done. But there are other things -- there are other conditions there that requires something that ongoing, and those stay in place.

Ms. Gima: Okay. Thank you for clarifying that. Okay Commissioners, if there's no other questions, I'm going to open public testimony again. And we don't have a sign-up sheet so if there's anyone that wishes to come on up. Sir?

Mr. Christopher Richardson: Thank you very much. Hi. My name is Christopher Richardson, 1246 Mana Street. So...congratulations Pulama, five years right? No more than five-years. So it's been my observance and at that the five years that they've done their due diligence on the project thus far. They've shown the correct sort of best management practices and stewardship of the land, so I would --. Questions that come --

Ms. Gima: Sorry to interrupt you. If you guys have conversations to take care of can you please do so outside to respect the person testifying and also to just avoid any interruptions.

Mr. Richardson: Thank you Chair. Thank you very much. So in short I say this is a step in the right direction, so therefore I would vote for immediate approval of this. And I do recognize that this Commission volunteers a lot of time to make sure that every detail is taken cared of appropriately and we appreciate that. I believe that a lot of these questions you had around could maybe done off site in subcommittee and then represent that amendment. And I would ask that someone make a motion that we just right now say, as is, given the fact that we have a chance to edit it later and approve later, let's say approve tonight. We all high-five and leave early and have a good time. Thank you. Any questions?

Ms. Gima: No, but I don't think we can approve and then edit later.

Mr. Richardson: Well, I mean, pending one more presentation to the public. Or you can even poll the public right now and see how people in this room go yay, and do the same amongst yourselves. These are suggestions. Of course I know I'm not on the Commission, so one of you would obviously have to make that motion. So I'm recommending that that's one potential motion that one, somebody on the Commission can make. And like I said, five years, you know, they'll follow up with you and solve it. And I'm speaking from someone who has managed land down there and around the island and so I know this is a step in the right direction. So when the developer is saying build more, that's when we really want to get skeptical. They're saying build less, and we know the 200-year history and we can name off all those names of those 200-years, and it's been the strategy of taking the top soil off. This, by letting lands go natural, controlling some, maybe the sucking plants like they've already done at Koele, like those sucking trees over there, those water...eucalyptus trees, you know, they were drawing a lot at Koele. Plus also technology, they're using the best technologies and they've shown that they're using good technicians. So I say yes, in short. Any questions? Hi, hello.



Ms. Green: My only comment would be on -- the idea of having a committee to discuss this. I believe that we need to be totally transparent in our dealing, and the reason why this will be discussed in front of everybody.

Mr. Richardson: Thank you very much for that question.

Ms. Gima: Thank you Chris for your testimony.

Mr. Richardson: Okay. Thank you.

Ms. Gima: Anyone else? I saw someone else stand up in the back. Come on up. Come on up and state your name for the record please, on the microphone. Come on up.

Ms. Winifred Basques: Good afternoon. My name is Winifred Basques. I've been on this island 54 years, okay. Brad asked about the brackish water. Do you folks know where it is? I know where. It's in Keamoku. All the houses there before used to have brackish water well. That's how we used to use the water, for do their own purposes, okay. The thing is that when you talk about water, do you folks know how much water when you flush the toilet? It's five gallons...per day, depending how many you have in the family, okay.

The second one, Brad when talk about the road, the construction road. I drive that every morning, Monday through Friday. Why? Because I have to deliver the lunches to the Mexicans who's doing the irrigation. I go all the way up and there are three gates you gotta pass before you reach them, to the nursery. The road is not good. I don't know who when cut that road. There is no more shoulders, there is no more stop signs, there is nothing. There is only one guard rail on the side when you coming up the road. Why? There was an accident. My friend died. He coming down from the road, in the truck. Now the truck just got out of the shop. He went right over and he died instantly. So the thing is that, that road is not good.

And one more, that whole area, over there, get all heiau. Hawaiian is a graveyard. My husband and the MN&E surveyor when surveyed that whole area which has heiau. So please people be very careful what you do. Don't go using the bathroom outside. Don't touch no stone. Don't do anything because it's going to come back for you. Bye-bye.

Ms. Gima: Thank you. Thank you.

Ms. Basques: You're welcome.

Ms. Gima: I guess my question would be back to the applicant after hearing that, one, a non-construction worker is driving down this private road, and would like to hear the response regarding this road.

Ms. McCrory: Lynn McCrory. There shouldn't be anyone driving down that road. There are gates that are up and are locked. So, I mean, unless someone's going around them. I know people walk on it. I mean, that's kind of a given, but those gates are locked so I'm not sure. Maybe this was a different time period prior to the point that we locked the gates, and put that in, put the runaway ramp in.

Ms. Green: But when they were doing the renovations at Manele they were using that road.

Ms. McCrory: Yes. Definitely.

Ms. Green: And so if there would be further construction down at Manele, possibly it would be open for those construction vehicles again?

Ms. McCrory: More than likely. If you're looking -- when we were looking at where the lots were, it would make sense for them to go down that road because they're on that side. That would make. And then they wouldn't be coming through the main road that way.

Ms. Gima: So just to clarify what you had said earlier, the road conditions are good and safe.

Ms. McCrory: No, I didn't say that. I said the road --

Ms. Gima: That's how I interpreted it.

Ms. McCrory: Okay. The runaway ramp is there. The road is paved as it should be. We are using it. Now there's a concrete crushing facility up there so as the concrete is being -- that came out of Manele which was an incredible amount of concrete -- that is now crushed up there and then people will take that off to another site. So we're using it, but as far as I know no one else is. And if we're hauling concrete and bringing, and doing that, it's got to be very safe. Nothing has happened that I know of. Not even a runaway anything.

Ms. Gima: Okay. Thank you for clarifying that. Commissioners, any other questions regarding what Winnie testified about? Or Lynn? No? Thank you Lynn. Any other residents or --? Come on up.

Mr. Reynold "Butch" Gima: Good evening Commissioners, my name is Butch Gima. As you make your decision, if in fact water is a main, or one of the main considerations, if you are satisfied with the data that's been provided both by the Company and the Planning Department, then please disregard my testimony. However, if you are unsatisfied with the data that's provided by the Company and the Planning Department, then I would suggest that you defer this matter until such time that you have data that you can make an informed decision about this. Now I think it's fair for me to ask for this deferral because... I have testified on several occasions that the data, the raw numbers and the charts that you have are very confusing. They're not helpful. Even us working in Lanai Water Advisory Committee (LWAC) have a lot of difficulty deciphering this data and charts. So if you so choose to defer this

matter I would suggest you have the Company go back and work with the LWAC to come up with information that you can make a good, informed decision about.

Now earlier Lynn was saying that they're using less water, and LWAC totally agrees. Overall the water usage of the island has gone down, and in part because they don't use as much, they've really beefed up their conservation efforts, they've cut out all the leaks, so, you know, kudos to them. That doesn't mean they should not provide you guys accurate information that is easy to decipher so you can make a good decision.

Now if I were the applicant tonight I would show the difference of the water that was projected to use when they were going to build the 160-something units and compare it to specifically what they project it's going to be with only 40 more. That would be an easy, easy chart to put in front of you instead of what you have in front of you tonight.

It's been very frustrating because my understanding tonight, in addition to this agenda item, were going to be two other things. What Caron brought up last time that Kurt was going to come here and talk about the, the data that was supposed to be presented back to the Planning Commission on the approval for the Koele Project that came before the Planning Commission several months ago. And the second thing what you asked Kelli about having the Planning Department ensure that all water matters come before the LWAC so we can make a presentation to the Planning Commission so we don't have to spend two or three hours on water, water matters.

Now the LWAC met on October 27<sup>th</sup>; that was our regularly monthly meeting. Pulama did not show up. We knew this was coming before the Planning Commission tonight so we called a special meeting on November 10<sup>th</sup> to talk about to this in addition to Caron's request and Kelli's request for this meeting. Pulama did not show up. So, you know, we were trying to be flexible and make some accommodations so we can discuss these issues so that we can come to the Planning Commission and provide you our input and our recommendation. Unfortunately we were not able to do that at the last two LWAC meetings.

So to wrap up I would suggest that if you're not satisfied with the data provided by Pulama please defer this until you can get accurate, easily, decipherable information. Thank you.

Ms. Green: Could you be a little more -- could you be a little more specific, Butch, about what you think is insufficient information or confusing information? And also pertaining to the 166 units versus 80 units I don't see how that's -- I mean, it's a projection. If you're doing half the lots...it seems to me kind of a no brainer that you would think you're using half the water. Is there something I'm missing here?

Mr. Gima: Well, with the data and the charts, I mean, one column has x-amount of days that it covers. The next one covers a different set of days so it's hard to compare and, and, and to come up with looking a patterns. I mean, in LWAC we don't look at only one reporting period. I mean, we look at water use. I mean, water that's pumped and water that's used

over a minimum of a year's period. We just don't look at one small period because that's, that's -- you cannot draw any conclusions or patterns that way. I'm, I'm -- it's not only me. I mean, LWAC members have had difficulty looking at that data that you guys have and coming up with some idea of whether that is, is a good basis to make a decision.

And you're right, you're right, going from 160 to 81, it seems like a no brainer that it's going to be using less water...but you cannot use no brainer mentality to pass a, an application. It's good to have data showing that this is what was projected for 166, this is what we project for 81, and so we can see an estimated savings annually of blah, blah, blah. And I think that's helpful in, in having a foundation to make your decision. It sounds real simple to put together. LWAC would be able to help Pulama do this.

Ms. Gima: Thank you. Any other questions Commissioners? Oh, go ahead. We're not going to do public testimony to exchange comments. That can be done --. No, no. I'm the Chair. Public testimony is on this specific agenda item. If you guys want, or anybody in audience wants to have conversations that can be outside because if not this will become a --

Mr. Clemens: . . . (Inaudible. Did not speaking into a microphone.) . . .

Ms. Gima: You can speak when the next public testifier comes up, but it won't be an interaction between past testifiers.

Mr. Clemens: . . . (Inaudible. Did not speak into a microphone.) . . .

Ms. Gima: Yeah, because he's going to ask him a question still, and then you can come up next.

Mr. John Delacruz: Actually not really a question, just comment. All this data that's presented to the Lanai Planning Commission people, I look at it as statistics, and you know what they say about statistics. So really I -- because Butch has been doing this for years, even though a lot of people look at him as being a pain in the butt, I depend on his testimony because I trust him more, okay. And it kind of ticks me off that I was asked to be on the LWAC because I'm on the Lanai Planning Commission, and I go to meetings and Pulama doesn't show up. And why is that? Are they just dissing the LWAC saying you don't count? You don't have to answer that; it's just a comment.

Ms. Gima: Any other questions or comments? And thanks for that comment. Okay, thank you. Mr. Clemens, you want to come up next?

Mr. Clemens: I had a question. I think we're losing sight of what's being asked here tonight. They're asking for a five-year extension to be able to sell 40-lots. Everything has to come back to this Commission. If you don't want a pool in it, you've got time to get rid of it. So I just think we're losing sight of what they're asking. It's a simple request tonight. It doesn't have anything --. You have plenty of time to answer about whether swimming pools, all those

stuff has to come back to the Planning Commission. So I just want to remind everybody what was being ask tonight, simple. Thank you.

Ms. Gima: Thank you for that comment, and yes, you are right, there are things that will come back to us for an SMA Permit but when we have a list of conditions, some with specific to water, I think there needs to be that conversation. Brad?

Mr. Oshiro: . . . (Inaudible. Did not speak into the microphone.) . . .

Ms. McCrory: That is correct. They do not come back in front of Lanai Planning Commission.

Ms. Green: There are only six lots of the 40 lots that are not in the SMA.

Mr. Oshiro: But what I'm saying is everybody down there needs to come back to the Planning Commission to get approval to put a swimming pool. And it's up to the board whether they, they say yes, no, or you know. What I'm just saying is that I don't think, you know, I don't think. That's my own opinion, okay. But, they should all come back in front of the board, and everybody on this board should have their own opinion for what they think is going to happen. Because I was born and raised here. My dad was the luna or the supervisor for irrigation, and we talked a lot, and you know what I see after when I go out and do, you know, hunt or walk the fishing line, all around the island, I do not see what I saw when I was growing up. And that's either the climate change, and if climate change is going to happen, the water is not going to come back as fast as it did before.

Ms. Gima: You going to come up and join us Mili? Yeah, come on in. Let the record note that Commissioner Mililani Martin is now here and it is 6:15 p.m. Let's finish up because public testimony is still open. Is there anyone else wishing to give public testimony at this time? Okay, so I'm going to go ahead and close public testimony. I'm going to -- let's take a 10 minute break since a commissioner just walked in, if she needs to review anything that's on her desk. So we'll come back in 10 minutes.

*(Commissioner Mililani Martin joins the meeting at 6:15 p.m. The Lanai Planning Commission recessed at approximately 6:15 p.m., and reconvened at approximately 6:27 p.m.)*

Ms. Gima: Brad, you ready? Okay. Alright, we're going to call the meeting back to order. Again if there's going to be any side conversations, please take that outside. So again Mili has joined us. Mili, we've been -- we're still on the first, the first item. So you did have some new materials that were handed to you, and if you have any questions for the applicant or for the County at this time. You're okay? Alright. Okay, Commissioners, so we're still looking at this SMA Project District Permit extension.

Ms. Green: I would just like to ask the Maui Commissioners, does the board here have final say on this permit, or will it go from here back to the Planning Department for final approval? Where does it go from here?

Mr. Yoshida: Yes, Commissioner Green. For the SMA Use Permit and the Phase II Project District Approval the Commission has the final say.

Ms. Green: Just for the record I had a conversation with Counsel before. I am a resident down at Manele, and I asked her if I should recuse myself, and she said, no, in that I do not have a financial interest in this whether this project goes or not.

Ms. Gima: Thank you Caron for putting that on the record and having that conversation, and Corp Counsel for providing that conversation to her. Okay Commissioners, so we closed public testimony. Is there any other questions that you may have for the applicant, any other questions you may have for the County, any discussions about conditions, now is the time to do so.

Mr. Oshiro: Kelli, I'd just like to, you know, add that one condition, extra condition is that, you know, even if you outside the SMA, you still got to come in front the board...for your approval on your planning...your lot that you want to -- how you want to build it and if you want to put in a swimming pool.

Ms. Richelle Thomson: Chair, if I can? Thanks. So the, the applications that are before you right now, it's a Project District Phase II time extension and then an SMA Permit. So the SMA Permit only applies within the SMA boundary so neither of those two methods would give you a trigger to come back if you're outside the SMA as far as, you know, having review over building permits or such for those handful of lots that are located outside of the SMA.

Mr. Oshiro: It's pretty hard to tell somebody because you live mauka, you live mauka, farther up the mountain, that you can put up a swimming pool. But the people that live near the shoreline, you can't because you're part of the SMA.

Ms. Thomson: Chair, if I can answer. So the real, the real way to address the swimming pool issue is to change the Project District ordinance and that is done through County Council. So what you'd want to do is contact your County Council Member and request an amendment to the Project District ordinance itself. So, you know, amending the permit, doing permit conditions, things like that, that applies to this permit holder. It may or may not apply throughout history. It's not --. You know, it's probably not a condition that would run with the land. What would really affect future developments on the lots is the Project District Ordinance itself, so that's where the change would really need to be made.

Ms. Gima: So just to make sure I'm hearing you correctly Richelle is that what Brad was recommending or discussing about a condition, there's no nexus here and therefore that couldn't be a condition on this permit application.

Ms. Thomson: Yes.

Ms. Gima: And that, again just to verify, anyone within the SMA district when time to develop will come before our Commission, and that there is a way to address your concern Brad about the ones outside...by contacting our Council Member and going through a change.

Ms. Thomson: Correct. There's two things that are going to happen in the future for development of the lots. So single-family homes still have to come before you because you consider SMA Exemptions so that's one way. And then the other way is looking to amend the Project District ordinance itself.

Ms. Gima: And thank you for clarifying especially for new commissioners that we have that may not be familiar with that. You know one thing that I wanted to bring up that, that I had asked Lynn was in regards to Condition 14. And, you know, I think it's --. Wait, hold on. No, 24. Sorry, let me pull this up here. And again it's --. Well, it's this -- well, it's separate document that they provided us. It's regarding Condition 14 specifically about applicant shall provide annual reports to us, and as well as the Planning Department. And one thing that I brought up that still stands out to me is Item H which was the status including findings, recommendations of any study initiated to verify the size of our single aquifer. And, and I heard you Lynn. You guys basically fulfilled that condition by reporting that there was no status. What I would like to discuss is looking at a separate special condition that would make the applicant get the findings, recommendations or a study that would verify our -- and I put emphasis on this -- single, single aquifer. I think that's very important. We talked a lot about, tonight, about water, concerns with water. Yes, you know, with this development it will cut the lot, I mean, the size in half, and sure there may be savings in water. But I think this, you know, wanting to honor conditions that were thoughtfully thought out and put in previously, and making sure that we do have a verification of the size of our aquifer because -- and I could maybe not be understanding this correctly. But if we can verify the size of our aquifer, wouldn't that make more sense for all of us when we're looking at the data and the tables and the numbers regarding water usage? I mean, we don't have verification of the size. I mean, I think, this is something important and that, you know, we should have a discussion about. And, yeah, I think how it's written can be interpreted in different ways, and so having a very, tight, clear condition. Because like Lynn said, yeah, they reported on the status. There's no status. So, yeah, you guys fulfilled it. How I read it was a bit different so it's kind of left up to interpretation. So having a very clear condition makes sense. Richelle, did you want to say something?

Ms. Thomson: Yeah. One of the things that, you know, in general, regarding any conditions for any permits, you're looking for the nexus, right, between what they're asking for and what the condition --. It has to, it has to relate, and it also has to be roughly proportional. So the thing is you can't make any applicant bear a cost that society should bear as a whole. So there are certain things that are so large, such, you know, such a large exaction, that society a whole should bear versus one entity, even if that entity happens to be, you know, a well to do entity. So what you're looking for is...you know, a study on an aquifer is probably -- and I'm not an expert on this by any means -- but I would assume that this would be a very

immense undertaking. It could be multiple years. It could cost a lot of money. What they're asking for in this application -- you have to bring it back to what are they asking for? They are asking for a time extension on, on two different types of permits -- they're related -- but two different types of permits. And the increase in use of the increase and impact on what already exists, as I understand it, is 40 single family homes. So you need to look at, you know, look at that. What they're asking for is permission to go forward for five years to develop lots and then sell, you know -- develop and sell. Is that impact consistent with having to do an aquifer study of this magnitude? And, yeah, in my opinion it would be that it would be a bit of a stretch.

Ms. Green: Can I ask, Lynn, you know, when we had hearings a year or so ago about the non-potable water, and there were a lot of studies that were done for Pulama Lanai. Did any of these studies fall within this category? Do you know what I'm referring to?

Ms. McCrory: Not off the top of my head. I'm trying to think what studies were done. Give me a little more of a hint.

Ms. Green: Well, they were talking about was there water moving from potable water to non-potable water, and you know how many dikes and how many wells and all that.

Ms. McCrory: Yes, that was the Land Use Commission, condition 10. You know honestly I don't remember. There are -- there was an incredible amount of information coming from those meetings. I could probably get it pulled to give you that and possibly we could do a workshop on what came from those because those are done by the University of Hawaii. That's who was doing -- that's who was doing studies along with a number of other people to see what those say. That may be an answer.

Ms. Gima: Okay, thank you for clarifying that. Commissioners, anything?

Mr. Oshiro: Kelli, I'm not too sure when but it might have been when I was sitting on the board the first time because they were asking for potable water to water the Koele, and I think there was some study that was done then. And I cannot remember what year. I mean, Bagoyo was still here, so I'm not sure.

Ms. Gima: That was a long time ago.

Mr. Oshiro: Yeah, a long time ago. But what I'm saying, I think there was some studies that was done during that period of time.

Ms. Gima: Okay. Well, and I mean in this specific handout it just said that they have not conducted a study in 2016. It didn't say if they haven't ever done any studies, but that, that's how it was worded in their response to this condition.



Ms. McCrory: And I think I answered that question with I have not found anything in Castle & Cooke's.

Ms. Gima: Right. Correct.

Ms. McCrory: I know we have not.

Ms. Gima: Correct. Alright, thank you Lynn. Unless does anybody -- while Lynn is still standing up here on the microphone, does anybody else have any questions so that we can move on with this agenda item?

Mr. Delacruz: Not so much a question, but a comment. Going back to the water thing and the LWAC, the --. You know, so...the Planning Department is saying that the, you know, the concern about the water is not a nexus to, to defer this action. Correct?

Ms. Thomson: No, I wouldn't say the concern about the water is not a reason to defer. So let me kind of address the LWAC issue, and the issue of obtaining information from other sources.

Ms. Gima: Do you think that we can address that at another time or is it applying to this current application?

Ms. Thomson: If you're considering deferring it because you need -- you would like additional information from LWAC or something like this. I'll address it in more depth later on during our training because I think it will be kind of important, but in the context of contested cases, and this is a contested case setting. It's a single party contested case, but there's still rules that, you know, we have to follow here. One of the things that you can do is, you know, anybody is welcome to come and offer their public testimony, provide documents. You know, you weigh them for credibility. It offers the applicant an opportunity to rebut that evidence with its own evidence. You know, so there's no prevention in hearing from people, you know, or resources that you feel are, you know, desirable to come tell you things. It needs to be done in a setting though so that it's all on the record, the applicant has the opportunity to rebut, and you get to judge the credibility of the evidence too, right? Usually all of the water related reports and things are typically public records, so they're easily obtainable from the government agencies that keep those. I'm sorry, to get a little more long winded, but as far as those reports, whether they come from, you know, a group calling itself LWAC right now, or you know, the group that was organized under the Board of Water Supply previously. You know, regardless of what an entity is calling itself right now, if you have information that you feel is necessary, you know, you're free to ask for it. And it can be provided to you or not provided to you. I hope that helps. It might make it a little more confusing.

Mr. Delacruz: Based on what you're saying all of the information that we would want or all the information we would need can be requested through from a public entity?

Ms. Thomson: Well, in general, I'm saying that probably water related reports are kept by government agencies such as CWRM.

Ms. Gima: But not in the case of Lanai where we have a private water company.

Ms. Thomson: Well, I think that CWRM oversee Lanai Water Company.

Ms. Gima: So I'm going to, I'm going to, for the sake of time here, I'm going to table this. And this, I think we need to continue with this discussion on the agenda because there's some other things and I think this is a lengthy conversation. So, for the sake of this permit, you know, we need to act on this. So, if there's any motions or if someone has more questions or needing to ask for additional information, now is the time. Whether that being needing additional information from the applicant, or additional information from the Planning Department. Is there anyone that has questions that would make it easier for someone to make an informed decision?

Mr. Delacruz: I'm not sure if it directly relates to this particular application, but on the agenda, on the agenda for tonight...the communications, under F, where Vice-Chair Caron Green requesting that Pulama Lanai report on any subsequent meeting, blah, blah, Lanai Water Advisory Committee. And then Item 2, Commissioner Roxanne Catiel asking for more specific information as to what project satisfied the affordable housing requirements for the Koele Development. I think those two requests directly relate, maybe not to this specific permit, but it relates to the process of the permitting. Why was this put behind this request for permit because these were asked for two meetings ago?

Ms. Thomson: I can address that, Chair, if you'd like. Those two topics are not related to this current permit, to these two permits that are the single items so that's why they were separated out. And...so they're on the agenda, so we will be getting to them later on.

Ms. McCrory: Lynn McCrory. I would, I would ask that you defer the project if you can tell me what information you're missing, and none of this and something you have to figure out. But tell me what you need and we can come back at the next meeting and provide that to you. I'm not sure what it is at this point. I can give --. I have, later on, in relationship to Caron's question, I have a presentation that I'm going to give you that is all of the public documents that are available. And I am going to be giving you a sheet that shows the water use and development plan for Manele and the various -- or for Koele at that point, and you have it as part of a handout already in front of you. So I mean, I will, I will be fine with a deferral and answer the questions, but I really do want to be very clear what it is that you're missing. Because you have in front of you with all of those graphs, not one period, but eight periods. You have two years of data on the water usage, and you get that. We started with giving you four years of data. We went backwards to do that to give you things that were clear. And then it was like, okay, four years is a little much, let's get it down to a reasonable size. So, you have two years of data that you look at, every single six months and annual on everything,

so you have that. So if you can give me something that you need, Karlynn will write it down for me, and --

Ms. Gima: What table are you specifically referring to Lynn? Because we have --

Ms. McCrory: Any, any of the graphs. Any of the graphs that are attached.

Ms. Gima: I mean, there's so many. Hold on here.

Ms. McCrory: Any of the graphs.

Ms. Gima: Well, there's one graph that's in a -- attached to a response regarding Condition 14. That's one graph.

Ms. McCrory: Yeah, and that shows two years.

Ms. Gima: And so we have the Manele Project District potable water, quarterly usage report...and non-potable and R1 water quarterly usage report.

Ms. McCrory: Yeah.

Ms. Gima: Brackish. Yeah.

Ms. McCrory: And these are, these are the same graphs that we use, and every time we get to a new quarter, we add on the new ones. And these are the ones that normally show up on the agenda, and then I get up and answer any questions that you have.

Ms. Gima: So Commissioners, I know water, as it has been in the past couple of times that the applicant has come before us has been a hot topic and -- which it should be. And, you know, is there any questions regarding the graphs? Anything that you want to know more that you can ask Lynn right now. If Lynn doesn't have that information, then that would make sense to defer and then have her bring that back. But, yes, we need to be able to provide a reason for wanting to defer if that is the case. If not, then someone can go ahead and, and make a motion to either defer -- what is the words I'm looking for? Accept. No, not accept. Approval. Sorry. It's approve or deny, or also approve with conditions.

Mr. Oshiro: I move, as it's written, I approve. I'll say let's approve. I still debate on the water, on the swimming pool, so I got to contact our Council Member and let him know what I think about the situation, see what he comes up with. But other than that, Pulama has come through and has provided most of what -- most of the things that we need to make this decision. Maybe not. You know the one on how deep the wells are and stuff like that. But I can see where the lawyer is saying to us that the money that it would cost to develop such a plan is pretty outrageous, but you know, you would like to see it if it can happen. But -- and right now I'm just saying, let's go ahead and approved this the way it's written.

Ms. Gima: So you made a motion to approve the permit extension.

Mr. Oshiro: A long way, yeah? Let's approve.

Ms. Gima: Okay, so Brad has made the motion. Do I hear a second?

Ms. Green: I will second.

Ms. Thomson: As was recommended by the Planning Commission. I'm sorry, the Planning Department. Thank you.

Ms. Gima: So it's been moved -- moved by Brad, and second by Caron, to approve these permits as recommended by the Planning Department. Before we vote, is there any discussion? Okay. All in favor of the motion raise your hand. Okay, all opposed? None. So that unanimously passes.

Yes, and we will definitely have more conversation on process and how we work through this. Sure Caron.

**It was moved by Mr. Bradford Oshiro, seconded by Ms. Caron Green, then unanimously**

**VOTED: to approve the time extension as recommended by the Planning Department.**

**(Assenting: R. Catiel, J. Delacruz, C. Green, M. Martin, B. Oshiro)**

**(Excused: M. Baltero, S. Preza, S. Samonte)**

Ms. Green: Lynn, this has to do with your water report and I've noticed this before. I just have a request from you and it's a concern I have. Single-family water usage -- I'm a single-family water user -- but we seem to be going up. Now I know there's been a big construction down there that probably used a lot. Do we, do we know what's causing that?

Ms. McCrory: Leaks. Really we had some very, very serious leaks down at Manele. One of the things that has been actually by some of the higher people that had the leaks were very excited about the smart meters that we've put in because they literally can look on their cell phone and see whether or not what water is being used. So even when they're not here, if there's water being used at two o'clock in the afternoon and they know no one's in there, guess what? You have a leak. And so we can look at it, they can look at it. They are looking at it. We -- you will see that spike go down. This was, this was one particular house that had three leaks, and they have found two and shut off the water to the third area. That smart meter is in, and we were able to get an additional funding on it from CWRM who will buy more smart meters. They're turning out to be wonderful leak preventers. People can look at their, and there's a number of them in Lanai City, and see whether or not they actually have a leak.

So we'll keep adding those smart meters, and then every homeowner and every person who is renting will be able to see.

Ms. Green: Are they on both potable and non-potable water?

Ms. McCrory: I believe at this point they are on the potable water system. Or shall I call it something else?

## **E. ORIENTATION WORKSHOP NO. 2**

- 1. Lanai Planning Commission's Roles and Responsibilities**
- 2. The Sunshine Law (Chapter 92, Hawaii Revised Statutes)**
- 3. Ethics**
- 4. Contested Cases**
- 5. Property Rights**
- 6. Rational Nexus and Rough Proportionality**
- 7. Bed and Breakfast Homes and Short-Term Rental Homes (uncompleted portion from the April 19, 2017 meeting.)**

Ms. Gima: Okay, thank you. We're going to move on. I know we have an orientation workshop to do. We are now at two hours into this meeting. I really want to make sure that we get to Item F, Communications. Those were specific requests from the Commissioners, and also not having Shirley here who is a, a new commissioner. Would there be any objections to deferring the orientation workshop until we have all the new commissioners here? Because I mean, I think, it's just think a lot easier when you guys have that information presented to you versus just giving you a bunch of handouts. Is there any objections at all to moving, to changing it up?

Ms. Thomson: And, you know, if it works out better for the Commission, if you wanted to do a training, you know, earlier, or, you know, since several of you have sat through it a few times, I could host it for those that haven't. You know, typically we try to do it over everybody --

Ms. Gima: That would be a great idea.

Ms. Thomson: So, you can let me know what works best for you guys and I'm happy to do that.

**With no objections from the Commission, the Orientation Workshop No. 2 was deferred.**

## **F. COMMUNICATIONS**

- 1. Vice-Chair Caron Green requesting that Pulama Lanai report on any subsequent meeting with the group referred to as the Lanai Water Advisory Committee (LWAC) regarding the new water tables and water usage projections for the Lodge at Koele Wellness Center project.**

Ms. Gima: While and then I think also we can talk about timing for that when we talk about next month's agenda. If there's not a loaded agenda, then we can make sure that this happens. But, okay, so there's no objections we are going to move along and go on to Item F of communications starting off with Item No. 1. It was Vice-Chair Caron Green requesting that Pulama Lanai report on any subsequent meeting with the group referred to as the Lanai Water Advisory Committee, also known as LWAC, regarding the new water tables and water usage projections for the Lodge at Koele Wellness Center project. So I know Caron had requested Kurt to come back as he was the one who presented that information. Correct Caron? I don't see him here. Is there a representative from Pulama Lanai that's going to be --? You again? Okay, so Lynn went to the restroom. Okay, so we will just wait a little bit and let her come back.

She's -- I think they're addressing the second one. Is Pulama or County of Maui, Planning Department addressing Item No. 2? Pulama, okay. Alright, well, here she comes. We'll let her get situated.

Lynn, sorry to put you on the spot, but we moved things around. We're going to do our orientation workshop the next time because we want to get to Item F, so I'll let you kind of get your things together and get set up for that.

Ms. McCrory: Yes, this is the one you're looking for. It was a handout. Okay, what I wanted to do tonight was answer I think the questions you had as to the information that was presented to you. Present to also information that is all available to the public. It's -- you can find it. It's not a secret, it's, it's right out there.

So let me start with one statement which is this first page is, or first set, is dealing with what was given to you for the hearing, the meeting in July. And as you can see, and we'll start with the Water Use and Development Plan projections. They are the corners over here. The Water Use and Development Plan is a guide. It's not an absolute. It doesn't say you can't exceed or you can't do less. It's a guide. What it also is when we pull numbers that say you can have 61,200 or 58,800, these are from an appendix. These are not the plan. The Water Use and Development Plan is a different document. And Karlynn can you hold up that one big chapter, the one big paper clip? Just to give you some idea, this is only chapter four, the demand section of the plan. So a lot of information on the internet. Type in Lanai water use and development plan, and it will come up and you can look at it. So I'm going to talk about the pages that go that match these.

So for Koele what was allowed, if you want to use the word allowed, or the guiding numbers was 120,000 gallons per day.

Ms. Green: Sorry, I just want to start with an understanding. Are talking the whole project district or are we just talking about the hotel?

Ms. McCrory: We're talking only about the hotel and the landscape irrigation. And the next sheet I show you is the page from the Water Use and Development Plan where you'll see it very specifically laid out. But that's all we're talking about. And what they proposed they would, they would use for Koele was 106,209. So this is the actual power point presentation that was put up for everyone. So you can see it is below the numbers in the Water Use and Development Plan.

If you, if you go to the next page and it looks like this one, this is a page from the Water Use and Development Plan. And this is the page that deals with Koele, and you can see on the bottom area graph part, under Koele it says Koele Project District Redevelopment Portion. It says Koele Project District Hotel. It says Koele Project District Hotel Future. It has Koele Project District Hotel Irrigation. And it goes on to be commercial for the tennis courts and stables, single-family/multi-family, common areas irrigation which is around the homes or in that area, parks, and the Cavendish golf course and maintenance. What you don't see is a total for Koele Project District. So when you're looking at the numbers coming out of the Water Use and Development Plan, you're looking for the hotel number which you look over and it says 61,200 which is the number on the previous page that we discussed, and then 58,800 for the irrigation. So these are the guiding numbers that you look at for the specifics. Now there's multiple of these pages. There's one that has Manele on it. There's one that covers all of Lanai City. They're all listed. All available, all public documents.

If you go to the next page...it looks like this one. This is also from the Water Use and Development Plan. Now why I wanted to use this page to show you is that it actually has pumped water, actual pumped water on it. And look at the left column at the bottom half, and it says 2008. In 2008, they were pumping 2,241,222 gallons per day. That's what was being pumped. And what this chart is is just laying out, saying if for whatever reason the most extensive numbers were used, this is what it could be. And if it was the base, what they think it is which is your base numbers that were given to you, or if they used a lot less. What could be used by 2030? So this is starting already with two million two, and we're not at two million two.

Ms. Gima: That's 2008, correct?

Ms. McCrory: That's 2008.

Ms. Gima: Is there --? I mean, that's like nine years ago. Is there a recent number for pumpage? Oh, okay.

Ms. McCrory: If you go to the next page.

Ms. Gima: Thank you.

Ms. McCrory: Which looks like this. This is what's called a periodic water report. This is the one that goes in every 28 days to the water tsar if you want to call it that. It's Commission on Water Resource Management (CWRM) and this commission is the one, as I was talking earlier, that if we hit anywhere near 5.4 million gallons, they could come in and take over the Water Company. So, it's 28-days because it's an easier reporting function so you see 13 periods in this. And when you look at where we are at the end of the eight periods, and I redid the number down at the bottom so you get gallons per day, we are using right now an average of 1,612,273 gallons.

Ms. Gima: This is island wide?

Ms. McCrory: This is island wide.

Ms. Gima: Okay.

Ms. McCrory: This is everything that's pumped. So it's including anything that leaks. That's in pump. That's your big number. That's what comes out. This report is available on the Commission on Water Resources Management website. It is available on Lanai Water Company's website. And on the back of that page which is also available is an explanation. Joy Gannon who's our Water Director actually writes this up. This goes on CWRM's too. So when you're looking at something you can see about where it is. She talks about what are the highlights, what are the important things for this particular period, how much is the pumpage, where is it at, issues on temperature and chlorides, issues on well levels. So this gives you even more information, but it's all public. And that's, that's what I'm trying say, there is an incredible amount of information that's available on the internet, is available to all of you so that if what you thought was we were giving you information you couldn't validate you can. I mean, you can do it just by going out to these sources.

So my apologizes that Kurt is not here. I think I'm a better looking Kurt to be honest with you, but, you know, he couldn't make it and he asked to accept his apologizes. So, I wanted to be sure you had this. And if -- what page is it on?

Ms. Gima: I think this really brings up a good idea to definitely have a workshop on water.

Ms. McCrory: We would be delighted.

Ms. Gima: But not just from, from Pulama Lanai, but getting all, whoever, whether that CWRM or whoever involved. I mean, I think, I'm speaking for myself anyways from our July hearing and probably why Caron had requested to have this come back because it was very confusing



for a number of reasons. One, to the normal person, this is just confusing. We are not water experts. We don't necessarily understand all of the terms and the tables and whatnot, but I think also what was specifically confusing at that meeting was that we were seeing different numbers and different handouts and presentations whether that be from the applicant or Planning Department. So I think all of this can be prevented by, I don't know what happened between the applicant and the Planning Department there, but, you know, with providing us very easy to read, straight to the point tables and data, and then I think, having a workshop because water is going to continue to be a topic as it should. There's going to be questions and the more that --. And again, I mean, it's not going to be one workshop and we're experts, but having a little bit more knowledge or where these resources are or I think would be very, very beneficial because just like tonight as in July we spent a lot of time talking about the water. And we can address that when we get to that point of the agenda but Caron my question for you is -- because this was your request to put on the agenda -- is this sufficient to what you requested or do you have any more questions?

Ms. Green: No, I appreciate you coming Lynn and doing this. And also I, you know, I've never gone on the web, the internet to look for all of this. But, you know, it's also like where do you go? There's a lot of stuff there. So, getting some direction on where to go and how to find this information, and the more that you can help us in that department, the more we appreciate it.

Ms. McCrory: When we do the Manele and any other areas where water was affected, we have a page that is at the back -- well sometimes in the back, I think we moved it forward -- but it had five, five requests that came out as we were going through, part of it was from this first extension as saying, you know, well if you're going to do this, then you really do want this additional information. You had some of it given to you in the Koele application, just not as detailed. You got these for Manele. We did them for Manele. We gave them to you so that you could see them. And the water and how it looks is one of them. Another one is, you know, where are the construction workers going to stay, where are they coming in, how are they going to affect the community, what is the effect on small business? I'm trying to think what the other ones are. Karlynn? There's five. And so those, those come to you. That's in the application. Different from what other Planning Commissioners and other areas of the County receive, you get the full applications. You get every single thing that we send in to the Planning Department, so it isn't a matter of missing information somewhere. You get it all. Under normal -- under other Planning Commissions, what they get is just that little piece of the Planning Department's recommendation. But you can see in those applications if we've done anything from archaeology, or flora and fauna, whether there's drainage or storm water runoff, you have every single thing that applies to that. And, and we did that -- I'm trying to remember which one we started this at because it's been -- we've been doing this for three plus years. It's to make sure you have more information, enough information. I know it's a lot to read, but we try to get it to you, like, six weeks in advance so that you have the time to peruse it, come up with questions. I remember one, one meeting Kelli came back with a list of I think it was 23 questions. It was huge, so --. And they were very good questions. I mean, but what we realized is the answers were in the application. They're in there. So, you know,

Kelli had to come up, we deferred the decision making until we could get back with the questions that you wanted, and we thought, no better to give you every piece of information that we submit into the Planning Department, then you know what we've done and, and had an opportunity to go through it.

So I would be happy to be a part of any water workshop. We'll bring Joy Gannon in. She's our new water director. I think you've met her before. But what a delight. I mean, I miss John, but Joy is really, really good and well, well respected in the water community which is saying quite a bit.

Ms. Gima: Thank you Lynn. Yeah, and like we can talk about that further down on the agenda. Is there any other, Commissioners, any other questions that you have for Lynn? I will open public testimony if there's anyone wishing to give testimony at this time. Okay, come on up. And again we'll do -- to answer your question John -- we'll do public testimony after every item.

Mr. Gima: Butch Gima. I think on your agenda it reads something to the fact that they're supposed to come back and say if they met with LWAC to provide you the information that you wanted. Well on the record, they have not come back to LWAC since you approved that in July to provide you the data that we all felt that you should have received. Again, in my testimony in July I think just anecdotally I felt their permit application met all the thresholds that the Water Use and Development Plan had for the Koele Project District and the hotel. My beef was despite that being the case they should provide that accurate information to you, not inundate you with all of these tables and data, and everybody was confused. You guys spent almost two-and-a-half hours going back and forth. And I was very disappointed because Kurt was making the presentation that night, not Joy. Joy --. I didn't know Joy was sitting in the back. I know she came on later. I was disappointed she's not here tonight. She should be making this presentation if Kurt wasn't going to make it. She, she is the expert for the company on water, so I'm very disappointed. I think it could have been easy done. It could have been done in LWAC. You'd have a group collaborative effort to make the presentation tonight to Lanai Planning Commission. So shame on Pulama. They had an opportunity all these months to do what you requested, Caron, and they failed when it could have been an easily done.

Mr. Delacruz: The information you're saying Pulama should present to the Council -- Commission. Okay, sorry -- are you getting this information also, or you waiting for them to give it to the Commission and you at the same time?

Mr. Gima: No. Prior, prior to the July hearing, we had one or two special LWAC meetings so that we could make a recommendation to you guys so it would have been an easy discussion that night. And, and the data and information that was provided to us at LWAC was insufficient so we made suggestions, we came back for another meeting prior to the Planning Commission meeting, and it still wasn't accurate. That's why I was all so futless at the July

meeting. Because we had tried to work with Pulama to make a recommendation that was going to be in favor of, of the application. That's what's frustrating.

Mr. Delacruz: So there's no mechanism where...the data to be presented to the Commission will be discussed within the LWAC before it's presented to the Lanai Planning Commission.

Ms. Gima: Well that's what was -- and we'll get to that later because that's what I had requested numerous times to be on the agenda tonight, but I guess it was failed to take note of my request. But, Lynn --. I mean, yes, I remember and Caron correct me if I'm wrong, the recommendation that we gave and specifically Caron that night due to the back and forth of all the water information was can Pulama go back, meet with LWAC and then come back. So is there a reason why Pulama has not participated in LWAC...when that was the specific request from Caron?

Ms. Thomson: I can --. Let me take a step back from that and just give some context also.

Ms. Gima: Wait, let me --. Hold --. Public testimony, thank you. And you'll --.

Ms. Thomson: Do you want to go ahead through public testimony and then I can address that?

Ms. Gima: Yes. Is there anyone else wishing to give public testimony? Alright, I'm going to close public testimony.

Ms. Thomson: Thanks. Let me answer it kind of a broader sense. So, you know, call them organization x. You know, any organization. You can't mandate that an applicant consult with an outside agency. You can request that that outside agency come and tell you, you know, on the record when you're considering an application, what they think of the application. You know if you want to hear from some certain entity, you can request that they come, present what they have to present to you, and you know, ask them questions, give the applicant the opportunity also to inquire into their information and to rebut if they need to rebut it. So that's kind of the form that it needs to happen in and because these are contested cases. Your decisions have to be made on your record here instead of an outside record that happens someplace else, you know? So that where your record can get really muddy.

Ms. Gima: I definitely hear you, but I think in this specific case there was nobody mandated anybody. Caron didn't say Pulama you have to go and do this. It was asked and they responded, yes, we will do that. I guess it didn't happen. So I think, I guess, it's kind of apples and oranges from what you're speaking about because we've never mandated them to go and work with an outside entity at all. I think it was --. We're trying to take it in good faith that the applicant would follow through with a request from a Commissioner especially because of how confusing everything was that night, so...yeah.

Ms. Thomson: Well, I mean this isn't anything to do with a legal opinion but it sounds like -- it

sounds like you're getting more on the same page about what the Commissioners want to see when you have applications before you that have things to do with water usage. You want to know where you stand in terms of how this project fits and with your universe with water here on the island. You know, it's a very valuable piece of information to have, you know, so that's good. It's a really good conversation to have and it may not -- the information may not get back to you, you know, with outside meetings between Pulama and LWAC or some other agencies, but those are good questions to ask.

Ms. Gima: Yeah, and I think our -- my understanding anyways because it has been presented by the applicant as well as LWAC numerous times that Pulama was a part of LWAC and they work together. And so, you know, being able to ask or make a request that, hey, can you go to the meeting you basically already go to every month, talk about it, and then come back. Yeah.

But, you know, since we're on this topic, I just want to put on the record that, and for those of you who were here in our -- I don't think we had an October meeting -- whatever our last meeting was when Roxanne had requested this on Item 2, and Caron Item 1 for the agenda, one thing that I did request was to be able to have a discussion about how can this Commission utilize LWAC and can you guys explain to me why that was totally ignored not once, but twice because even when the draft agenda came to me, I said hey can we please make sure that that we have this discussion? I think I even responded to and emailed to you Richelle and said -- or let me know if legally we can't have this discussion and it came back. And I feel very frustrated because this request came out, I think, of the Commission really having a hard time with grasping certain water concepts and really wanting to hear from LWAC but wanting to go the right route and have the discussion on record here if there is anything prohibiting us to do that. So I guess my first question is why was my request specifically ignored from everyone else's?

Ms. Thomson: So the way that we're, that we're going to address your question is in the broader context of how does, how does the Planning Commission consult with outside groups, or, you know, other governmental boards or commissions. How do you use outside groups as resources no matter that they're LWAC or a different one. So I was going to address it just more in a broader sense than the --

Ms. Gima: But my request was specifically to talk about LWAC.

Ms. Thomson: So LWAC...we can get into this because, you know, training is on the agenda and it's not off topic. It's part of . . . (inaudible) . . .

Ms. Gima: No, it's totally on topic from everything we talked about tonight.

Ms. Thomson: Right. So LWAC was established by the Board of Water Supply as a group that was advisory to the Board of Water Supply for the development of the Water Use and Development Plan, and its implementation. So I think that's where -- that's where things have

kind of continued on that a group that was established for a certain purpose kind of continues to exist but, you know, and I don't, I don't advise LWAC and you know they are --. The way that they were set up the Water Director is the one who calls LWAC meetings. They are a sunshine law board so they're subject to all the sunshine law rules if they're meeting and acting as this LWAC that was created by the Board of Water Supply. If it's a different kind of group that happens to have the same name, you know, then they -- it would be a citizen group that's not functioning as a governmental group. It's confusing because the names are exactly the same.

Ms. Gima: Right, and I think, I think everyone is aware that LWAC is not a government group, and I think what you said about -- and correct me if I'm wrong -- about 10 minutes ago is that the Commission can request information from any entity, correct?

Ms. Thomson: You can --

Ms. Gima: A public entity or any entity?

Ms. Thomson: Any entity.

Ms. Gima: So if we wanted to have...let's say we're aware that an application is coming and pretty sure that water will be a discussion as it should be for any type of development permit, we have the right to request for information? I mean, how would that process go? Because at this point I really don't care if they're a government agency or not. I think it's pretty clear that all of us have some -- don't have the knowledge of water use, also water use and development plan, as members on the LWAC too. And to get, to get insight from people who've been doing this for years and who are on island who are aware of the water issues. I mean that's very valuable. And, why I asked to have this on the agenda too was I don't want to spend two to three hours talking about water. I mean we have to have the discussion. We have to ask the questions, but, you know, if we had requested for LWAC to share their thoughts through public testimony or submit, you know, something in written testimony, I mean, I think that would be very helpful.

Ms. Thomson: Well, I think one of the things is there is that there's -- it's incumbent upon this citizen group calling itself LWAC right now to come to you, you know, it's if they have information. You know, everybody knows what's going to be on an agenda, and the information that you have to make your decisions is available to anyone in the public. They can also request additional information if they need it from the Planning Department so it's incumbent upon that group to initiate contact with you. If, you know, just like if, you know, any public citizen feels that they have something that is relevant to your topic, they should be coming to you, right. As, as far as you reaching out to them, you know, you could send an official communication requesting their presence, you know, that kind of a thing. Can parties in contested cases call witnesses? You know, we can get into, it's sometimes there's a much more formal proceeding when you have especially, you know, an applicant and an intervener, you know, then we handle things in a much more formal fashion. But one of the

things that this group doesn't have the authority to do is to appoint investigative groups, like subcommittees that are not made up of your own members. So you could appoint investigative groups of your membership, but you can't basically deputize other groups to do your work for you.

Ms. Gima: I don't think anybody was asking LWAC to do the work for us. More of just to share information.

Ms. Thomson: But, I just wanted to be clear. So, what, what I would say is that, you know, the group or the citizens who make up that group are free and willing to, you know, please come and tell you what they think. If they have documents they think that you would be, you know, you should take a look at, they can submit those for your, your review. You know, they should understand that their evidence needs to be weighed just like any other piece of evidence does, right, for credibility, reliability, where did they get it, you know?

Ms. Gima: I think part of the reason why, again, why asking an entity like LWAC was we were -- again, I can only speak for myself -- I was in understanding that Pulama Lanai, who's the major applicant, is part of LWAC, you know, and so they're going to be discussing whatever they need to discuss, and then come, if they want to provide public testimony.

Anyways. Okay, I hear what you're saying, so here are my questions. So they can come and provide public testimony, they can submit written testimony so that we -- for our meetings, correct?

Ms. Thomson: Yes.

Ms. Gima: If they needed any documents --? I mean, how far in advance from a meeting is an agenda published? Couple of weeks?

Ms. Thomson: So for public hearings, that's a 30-day notice. You know, the application is it's published in the newspaper. Usually from that point on, you know, maybe not all of the materials are ready. You know, the Planning Department's report, you know, I can't speak to that kind of internal process, but the applicant, the applications would have been filed a long time ago. You know, those are public records, so they should be able to get a hold of the materials just like, you know, anybody from the public would be able to, so that they would be informed enough to come with information.

Ms. Gima: I think one of -- and I think I probably know what the answer is going to be, but one of the questions that I had before was how an applicant is sent, and application is sent out for comments, and we get all these comments from all these agencies. Some that really have nothing to do with our island. Can that be done to non-government agency? Is there any rules, any laws that prohibit that from happening?

Ms. Thomson: I can look into that.

Ms. Gima: So I would like to --

Ms. Thomson: Clayton, do you know the --? Do you know the answer to that whether --?

Mr. Yoshida: I guess the application is sent to applicable government agencies, both at the Federal, State and County levels.

Ms. Gima: Is there any rules that prohibit it going to a non-government agency? So, I mean, this is what I had asked last time, and so obviously no one was prepared to even put this on the agenda, so can you, Richelle, look into this?

Ms. Thomson: I think, you know, I think probably what that group, you know, say like Sierra Club or something, you can get notices of any agendas, you know, and then also you can get notices or public hearings or obviously published, you know, a lengthy time in advance. And then that entity or group could request the information from Planning. So I don't know if there's an automatic way for anybody to, you know, have access, you know, to be one of the always required agencies. A lot of the reasons for the consultation, you know, like if it's an environmental impact statement consultation, there are agencies you have to send those to, right? So I don't know that there's a mechanism for...kind of all kinds of groups to get the information.

Ms. Gima: Could you please look into that?

Ms. Thomson: I'll try to find out.

Ms. Gima: I was kind of was just thinking this would be a lot smoother in a sense that, you know, Pulama would be participating, actively participating in LWAC. They would share their application. That obviously has changed so, anyways, okay. John, do you have a question?

Mr. Delacruz: I have a comment. So LWAC advises whom? The Water Board?

Ms. Thomson: LWAC is advisory to the Board of Water Supply. But as far as LWAC, the County Board...I don't know if it's, you know, I don't know if it's meeting in accordance with the law that establishes it or the administrative rules that are developed that oversee that government created board, or if it's meeting as a group of citizens concerned for the same topic calling themselves the same name. So if they are meeting as a -- you know, if they are meeting as a government group, they may have some issues with sunshine law.

Mr. Delacruz: So the Board of Water Supply is part of -- not really part of the County government.

Ms. Thomson: The Board of Water Supply is part of the County, the County overall.

Mr. Delacruz: And does that Board send consultation or recommendation to the Planning Department for any purposes?

Ms. Thomson: The Board of Water Supply? Yeah, sometimes. The -- as far as -- you know, I did read through LWAC's kind of organization document and, you know, I'm not, I'm not commenting on whether this is right or wrong, but meetings of LWAC are supposed to be called by the Director of Water Supply and my understanding is he hasn't called a meeting of LWAC, the County Board, in several years. So, you know, I don't, I don't have any information why, you know. But, you know, that's, that's what I know about that so --

Mr. Delacruz: So they're basically a non-participant in the process. My concern in the matter of LWAC is data is always subject to interpretation. When the data is submitted by Pulama to the Commission it's presented in the light of the objective that the presenter wants to obtain. And for me, sitting on the, on the, on the Commission, data presented at a meeting is...not easily digested. Okay, I would like to see that same data being presented by Pulama presented with an interpretation by a different group, in this case, being LWAC.

Ms. Thomson: I think that can be -- that can be done. They have access to the same information. They have access to the application and everything that's been submitted to you. And so if they have a different interpretation, I think that they can do that, and you know, public testimony is the, is the mechanism for getting that before you. They can submit written testimony and they can come and appear in --

Mr. Delacruz: Yeah, but one obstacle to that also is it may be as difficult for LWAC to digest as maybe for me during the presentation. So either the information is made available to LWAC before...a Lanai Planning Commission meeting so that they can present their light on it. Or, if the Company is going to make a presentation, don't expect us to make a determination on that same night.

Ms. Thomson: So the information that is presented to you is, is in the applications. And the applications are in the works for a really long time before they get here. So if there are applications that any group wants to monitor and watch, they can request copies of those far in advance, you know, and they can have a lengthy period of time to review them, and come up with, you know, questions or whatever they want to do, and come and participate and tell you what they think about it, right.

I had another point and I don't remember what it was.

Ms. Green: Well, in regards to my request, this was precipitated by the fact that there were rather last minute changes to the data that was being submitted and that lead to some confusion. LWAC or I should say Butch speaking for LWAC had recommended that we defer the decision until they could report back. We did not defer the decision so it was my request that Kurt, since Kurt was the presenter that night, go to LWAC and resolve any issues that they had so that they could come to us and tell us that, yes, they agree with the decision of



the board, and as Butch said they wanted to approve the project. So I was just merely asking for a reaffirmation on the part of Pulama Lanai to talk these issues through with, with LWAC. And I don't know how much time they had had to see the data before it happened. I just know we all were presented with the different data at a rather last minute before the presentation, so that's what precipitated this whole thing. It was probably a unique situation.

Ms. Thomson: Sure, that makes sense. Some of the other things, you know, I sit on a lot of Boards and Commissions and they're citizens, all of them are citizens with very different backgrounds. And you do as Commissioners end up relying a lot of the Department and, you know, the reports that are submitted to you and the applications and all. You know, one of the things that, you know, with any application, if the applicant isn't giving accurate and truthful information and it's discovered later...that's, you know, grounds for either revoking or taking some kind of action against the permit. So it behooves the applicants, you know, on any island over any matter to give you accurate and clear information because they're held to that too. They're held to what they submit.

Ms. Gima: Well, yeah, that's, that's definitely great to know. I think I said it before, I think the concern has been that Pulama Lanai who is the applicant is also the -- is also the Water Company. And so to have additional information that may match and maybe perfect, and I'm not trying to say Pulama is trying to just spew out lies, but, I mean, it's in their benefit to get the application, you know, the permit. It's just not your normal situation. You know, the Department of Water is not going in for development permits and whatnot, so that has always, I think, been a concern. And then wanting to get additional input. So now I'm hearing that it's basically up to any group or entity to obtain the documents. They can make the request through the Planning Department. We can make a formal --. What's formal communication? What would that be? Like if I wanted to invite LWAC to January 2018's meeting to provide input on an application. How would I do that? Can I just send them an email as the Chair or does it have to go through you, or do it have to go through --? I mean, are there rules about this? I guess, I guess the first question and even before we get into this conversation is can you please go back and look into these rules? I really was hoping that this was already going to be done, but again, my request was ignored. So, if, you know, you can provide rules that make it clear what we can or cannot do, and how can do it, or how we can't do it, I think that would be helpful to see that specific documents or verbiage from a rule.

Ms. Thomson: I don't think that that specifically exists.

Ms. Gima: Okay.

Ms. Thomson: You know, how do -- basically how does a board consults with outside agencies or community groups. Like I said generally it's -- like Sierra Club for example -- they monitor almost every application that goes through all the Planning Commissions. You know, they're up at Council all the time, at Maui Planning Commission all the time, and they weigh in heavily. But they're very involved, so they take the initiative of staying involved in the applications and following them all the way through.

Ms. Gima: Yeah, and I heard you on that. I mean, LWAC can definitely go --. I'm asking how does if anyone of us, not just me as the Chair, but if anyone of us want, got an application and we're, you know, trying to grasp some concept of water, how does anyone of us reach out? Is there rules against us reaching out? And what I'm hearing is there really isn't. So I could send an email to all of the LWAC members and say, hey, could you please -- I invite you to come and provide feedback on this application on this date. I just want to make sure I'm not out of line in any way.

Ms. Thomson: What any of you would want to stay away from is doing your own investigations, you know, so -- because that is outside the record. It's not . . . (Inaudible. Multiple speakers)  
. . .

Ms. Gima: I wouldn't be investigating if I was asking something.

Ms. Thomson: I understand; you're just inviting them.

Ms. Gima: I just want to know, Richelle, it's a very simple question.

Ms. Thomson: I know.

Ms. Gima: How do I invite someone? Is there anything legally that I cannot do? I just want to know how to invite someone to a meeting to provide public testimony.

Ms. Thomson: No, you can --. Yeah.

Ms. Gima: Okay, I can do it.

Ms. Thomson: You can do it. Yeah, all I'm saying is try not to get into a back and forth conversation about it --

Ms. Gima: That's fine.

Ms. Thomson: -- outside of the record. But far as saying, hey, I know you're concerned about this issue, please come testify or whatever.

Ms. Gima: Okay, thank you. That answered my question.

Mr. Delacruz: One thing that might have to be avoided is --

Ms. Gima: I can't cc all you guys.

Mr. Delacruz: She cannot cc me.

Ms. Gima: No.

Mr. Delacruz: If I'm on the LWAC and also the Lanai Planning Commission, can she send me an email as part of LWAC?

Ms. Gima: I can have communication with one other LPC member, so you can be included. I could not include everybody else in the e-mail. Yeah. Thank you, and yes, if there are -- if you go back and find anything I would greatly appreciate it. And I just would like to make a request that when I make a request to have, to have something on the agenda that it's not ignored. Yeah, I don't know if you guys are trying to avoid this conversation or you and Pulama are not wanting to have this, I don't know. But I was trying to go through the rules and I didn't see anything that prohibits someone from requesting something to be on the agenda.

Ms. Thomson: And you're right as long as it's related to board business. So the way that I wanted to address it with you folks was as part of the training, and it was really more a part of, you know, just as we're talking about now, how do you consult with outside groups if you want to no matter who they are so . . . (Inaudible. Multiple speakers) . . .

Ms. Gima: Next time just e-mail we back and let me know that and then I wouldn't be so shocked when there's like -- . . . (Inaudible. Multiple speakers) . . .

Ms. Thomson: Sorry. I've been --

Ms. Gima: -- okay, we're just going to totally ignore Kelli's request for the agenda.

Ms. Thomson: It's not an excuse, but I've absolutely buried under both sand mining, followed by trying to ban sunscreen, so I've just been wiped out by Council happenings. So my apologizes for not getting back to you.

**2. Commissioner Roxanne Catiel asking for more specific information as to what projects satisfied the affordable housing requirements for the Koele development.**

Ms. Gima: Thank you. Okay, so that, we'll move on to the next item which is number two, which is Commissioner Roxanne Catiel asking for specific information as to what projects satisfied the affordable housing requirements for the Koele Development. And that's back to you Lynn.

Ms. McCrory: Thank you. I thought it would be easier if I gave you the whole history and so that, you know, it won't, it won't come up with another question, whether or not we have satisfied everything because it's a little bit different than some projects where they just come in front of you, or you hear about a project for housing and then guess what, you have an

affordable housing requirement. The Project District works a little differently. And then at the same time, Castle & Cooke did the 201G which was even much different because this was, this was putting houses that people were living in and allowing them to buy them, or allowing them to buy the lots and still requiring affordable housing. So it was confusing to me. I won't even tell you how long it took me to go through documents to try to figure out, well, wait a minute which project was this, and which project was that. But, the end result is we have 35 credits of single-family affordable housing. In other words, they built 35 more units or sold the lots more than they needed to do to meet the requirements, and the County of Maui agrees with that. And then whenever we submit the additional documentation on the affordable rental housing we'll have 58 because the projects have been done. But you have kind of the full detail and then the documentation from the County I attached. So I'd be happy to answer any more questions and hopefully you don't come up with something like that again.

Ms. Catiel: No, we're all good.

Ms. McCrory: Thank you.

Ms. Gima: I mean, this was very helpful. I think what happened at the July meeting is it was just so confusing. We had a letter come in from Riki Hokama and it was like what's going on? So unfortunately this was after the fact, but I, I do appreciate having this history. And also I think when it was presented in July and they were talking about credits, none of us understood even what that meant right? So thank you for putting this together.

Ms. McCrory: Yeah, that's what I, I was guessing because if you don't deal with it, you've never going to -- you just aren't going to come across it.

Ms. Catiel: Yeah, if not this item is just going to keep on showing up. So, it's buried.

Ms. McCrory: Yeah, thank you.

Ms. Catiel: Thank you Lynn.

Ms. McCrory: You know, and you also got at the July meeting the summary of all of the conditions that were still outstanding for Koele and Manele. So you have that as a base document. And one has been completed. That again was the Manele preservation plan for those eight archaeological sites. So even that old letter, we're making progress on it. So, thank you. I learned a lot too.

Ms. Gima: Commissioners, any other questions or comments for Lynn regarding this?

Ms. Green: What is the definition of "affordable?"

Ms. McCrory: That actually changes on a regular basis. There is, there is, there's an organization somewhere that makes the decision based on where you actually live and what

kind of income it is. The Housing Department in Maui County has the lists and the charts, and she could, you know Carol could probably tell you where does this all come from, but I kind of never asked the question only because if you give me the chart, I know what it is. But it is someone with the expertise to make a decision that if you live in Detroit, Michigan, or you live in Lanai City, Lanai, what is affordable to both of them is very different.

Ms. Gima: And don't they look at the median household income or I mean, there's all these tables that they look at.

Ms. McCrory: Yeah, the income is very different because your affordable is based on whether you meet a 20% of the median, or you're 50%, or you're 120% is where you fall. Affordable housing projects a lot of the time will say we're going to sell to people in the 60 to 90% range of affordable, of the income. And some will even be lower than that. So it's just, it just depends.

Ms. Gima: Well thanks again Lynn for having this. I think this is good to have as reference if this ever -- conversation ever comes up again, we now have the history and the numbers, so thank you for putting that together.

Ms. McCrory: You're welcome. Thank you very much.

## **G. DIRECTOR'S REPORT**

### **1. Native Hawaiian Law Training – December 9, 2017**

Ms. Gima: Alright, we're going to move along to Section G, Director's Report, so I'll turn that over to Clayton.

Mr. Yoshida: Thank you Madame Chair. Item (1), Native Hawaiian Law Training, December 9<sup>th</sup>, 2017. I was informed two days ago, now that we got to talk to the law professors at the Native Hawaiian Law Center at the William Richard School of the University of Hawaii that that training has been postponed. As you know the Council passed an ordinance last year requiring the Planning Commissioners to attend a training on Native Hawaiian Law conducted by the Native Hawaiian Law Center of the University of Hawaii. Since all the workshop trainers teach during the week, the only day of the week that they could conduct the training was on Saturday. The Department said well this will requires the three planning commission and Hana Advisory Committee. The Department said sounds like a good idea but we don't have money. They said, oh, well the Native Hawaiian Law Center is funded by Office of Hawaiian Affairs, and twice a year the Native Hawaiian Law Center does these training on Native Hawaiian Law for State board and commission members on Oahu. So we thought that, first, oh, well like with the Council meetings you can have the training done at the Council Chambers, and they can at first, you know, feed it out to the district offices; the Hana, Molokai and Lanai district offices. And then they said, oh, we have a better idea. We can do live

broadcast or direct streaming on a Saturday for the whole day to do the training. Well, then the Native Hawaiian Law Center, oh no, we can't do the live broadcast, so we're doing to do our training for right now in December, for the monies that we get from the Office of Hawaiian Affairs for State board and commission members who are required to have this training. So the Department said, well go in to the Council for a budget amendment to get funds so that the trainers can go to the different area, Molokai, Lanai, Hana and Maui, to do the training. So that's where it stands, and we're looking at possibly doing the, having the training done maybe late spring, early summer, of next year. So that's the long story short; it's postponed till next year, late spring or early summer if we get funding from the Council. Any questions?

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

Mr. Yoshida: Okay, next item is, we submitted our list of open Lanai applications, if there are any questions on that?

Ms. Catiel: Short-term rental, where do we stand on that?

Mr. Yoshida: Short-term rentals?

Ms. Catiel: For the -- I see there's three open.

Mr. Yoshida: Yeah, they have --. Yeah, I guess as of that reporting period of 11/07/2017, they had three short-term rental home permit applications that were open. Again --. Well, we didn't get to finish the training on short-term rental homes that was started in April because we lost members, and we tried to get new members, but it took four months to get new members. However, again, the trigger for it come to the Commission if there are two or more permitted operations within 500 feet of the proposed site, or if it meets the threshold of neighbor protests when they send out the notice of application to the neighbors within the 500 foot radius. So far that hasn't been triggered yet, but, you know, that's kind of the status on that. So we're just saying as of November 7<sup>th</sup>, there were three, there are three open short-term rental home permit applications in Lanai City.

Mr. Oshiro: Clayton, question. The man sitting right there off to your right, he has two lots that abuts his property. One in back and one on the side. So I ask this question before, how, you know, how you guys decide who gets the short-term rental. Because, I mean, he sits here, the street runs here, he has one here, and one in the back of his property. That's less than 500 feet. I mean, there's no . . . (Inaudible. Multiple speakers) . . .

Mr. Yoshida: Well, when the ordinance was first developed it was one or more permitted short-term rental homes within a 500 foot radius. But when the Council did the 2016 amendments, it was increased from -- the threshold was increased from one to two permitted short-term rental home operations within the 500 feet. That would trigger the next one having to go before the Commission, or have them make, decide on the permit application.

Ms. Gima: Clayton, I think we asked this before, but whatever happened to the recommendations that we made to Council? I think we -- I think we made a lot of recommendations. One having caps, about actually all short-term rental applications come before the Planning Commissions. I mean, we had all these recommendations and I think it was with Gina, is her name, the planner, and then we were going to submit those recommendations to Council. Do you know the status of that? Because we trying to make a little bit different for here given the circumstances are different on Lanai.

Mr. Yoshida: Yeah back in September of 2016, the Commissions dealt with a resolution from the Council concerning short-term rental homes. I guess you have to own it for at least five years or more was one proposal. And there were certain, increasing the enforcement provisions for bed and breakfast to make it comparable to the short-term rental which is more stringent than the bed and breakfast. Okay all those minutes from the Hana Advisory and the three planning commissions have been transmitted to the Council and are with the Land Use Committee. But they haven't gotten --

Ms. Gima: Okay.

Mr. Yoshida: -- but they haven't gotten to --

Ms. Gima: Okay.

Mr. Yoshida: -- to it.

Ms. Gima: So it's just. I just wanted to make sure it didn't get lost. So they will review our recommendations.

Mr. Yoshida: The minutes from that meeting where they said, oh, perhaps we should have a cap on Lanai and --

Ms. Gima: Yeah, because I remember we went --. Well, it was probably only Brad and I. Right, we had a -- Gina went through all these things, and we had made comments about, yeah, we would like to see that or yes we would like a cap or no we don't want this. I mean -  
-

Mr. Yoshida: Yeah, those minutes were transmitted to the Council.

Ms. Gima: Okay. Is there a timeline for when they finalize this resolution?

Mr. Yoshida: When it comes to the Council they have their own timeline.

Ms. Gima: Yeah, never mind.

Mr. Yoshida: As to when --

Ms. Gima: I don't even know why I asked.

Mr. Yoshida: -- when they're going to deal with it.

Mr. Oshiro: Clayton, one more question. Okay, who looks at these properties? Does anybody look at this property, you know, before they give them the short-term rental permit? Because you know I complained. I went through Riki. I sent to Planning. You know, I said, hey, these guys, these guys their hedges is as tall as the stop sign, you know. And well they cut the hedges down, but they grew lemon trees and stuff, right there, next to the stop so I still cannot see when I come out to the stop sign. I got to go almost into the road to see. And then the guy, the property line, he's, he's like three feet into the County property. I mean, who looks at these properties? Nobody -- I don't think anybody looks at these properties.

Mr. Yoshida: Okay, I mean as a Director would explain, you know, enforcement is complaint driven so we would typically if someone from the public has a problem then they would issue a request for service number so we could check on the status of any request for service.

Mr. Oshiro: But you know if you just take a drive around Lanai you can see that people's hedges are like 10-feet high, and the stop sign, you cannot -- you got to come out into the middle of the road. A good one is right here on Twelfth and Lanai, Dream Home or whatever, it's a short-term rental, his hedge is like 10-feet high, and it's right there on the corner. You know, I mean, who looks at it? Anybody looks at it?

Ms. Gima: Are inspectors supposed to come when they're in the permitting process?

Mr. Yoshida: I'm sorry, they're supposed to come?

Ms. Gima: Are inspector -- I mean, is some form of an inspector supposed to come during the permitting process to look at are they meeting the permit requirements for a short-term rental or bed or breakfast?

Mr. Yoshida: Yeah, they would respond to the request for service.

Ms. Gima: But that has to be driven by a complaint.

Mr. Yoshida: That calls for --. Yeah because we're complaint driven.

Ms. Gima: So if no one makes complaints, then no one is going to come out to inspect.



Mr. Yoshida: Yeah, well, or if they are, in the case of a short-term rental, if they're advertising on say the website, that is considered to be operating under the current short-term rental home ordinance. And so they do look through, search the internet to --

Ms. Gima: No, but I mean, like, if someone puts in an application for a permit and they're starting that permitting process, does someone initially comes out, does someone then come out when the permit is complete to make sure that they follow that? I mean, I'm just --. I understand that it's complaint driven, but you would assume that when someone is taking out a permit and then completing the project for the permit that there would be some form of inspection.

Mr. Yoshida: Yeah, if there is a request for service filed, then there would be a follow up --

Ms. Gima: So only on complaints.

Mr. Yoshida: -- from the enforcement division.

Ms. Gima: Okay, so no one comes out when someone applies for a permit.

Mr. Yoshida: The planner comes out. Kurt comes out.

Ms. Gima: Okay, someone from the County comes out.

Mr. Yoshida: He does, he does the inspection and see that they meet the requirements.

Ms. Gima: Okay, that's the answer to my question.

Mr. Yoshida: Yeah, Kurt comes out on various --

Ms. Gima: Thank you.

Mr. Yoshida: Yeah. I mean, and also I guess they have to file a compliance report on any renewal of the permit.

**3. Agenda Items for the December 20, 2017 and January 17, 2018 Lanai Planning Commission meetings.**

Mr. Yoshida: Okay, moving to Item 3, agenda items for December 20<sup>th</sup>, 2017 and January 17<sup>th</sup>, 2018 Lanai Planning Commission meetings. We don't have any public hearing items scheduled, to schedule right now for the December 20<sup>th</sup>. For the January 17<sup>th</sup>, Council Member Guzman introduced a resolution regarding the definition of resource extraction, and the Council has referred that to the three planning commissions for their review and comments. So for January 17<sup>th</sup> meeting we'll have at least Council Member Guzman's

resolution on the definition of resource extraction. This is all kind of tied into the sand mining. Richelle is very familiar with sand mining because --

Ms. Gima: So I know we have to do the rest of the orientation workshop. Are you suggesting that because there is nothing in December that we cancel the December's meeting and just move on to January or can we do the workshop in December? I mean I know it's like close to the holidays so I don't even know if everybody will be here.

Mr. Delacruz: I won't be here.

Ms. Gima: Okay so that's two --. Okay, so maybe -- I mean there's a couple --. We know Marlene will never be here, so maybe we should just look at...canceling December's meeting if there's -- you said there's no public hearing meeting, right? And then we can have in our January meeting, other than Don Guzman's resolution is there anything else?

Mr. Yoshida: Not that I know about at this time.

Ms. Gima: Okay, but then we could do the rest of the orientation workshop then.

Mr. Yoshida: Yes.

#### **H. NEXT REGULAR MEETING DATE: DECEMBER 20, 2017**

Ms. Gima: Okay. I mean, Commissioners, are there any objections to canceling the December 20<sup>th</sup> meeting? Okay. And then I know we had talked about earlier maybe wanting to do a water workshop as well. I think that would be very beneficial. How and who will do it, and I don't know. Not all on the same day but I think it's something to start thinking of especially who would, you know, do that workshop, but I think it would be very beneficial to have. Okay, great. Thank you.

And then just because I was kind of on the topic. I mean, I just want the record to show like Marlene has never really been to any of these meetings and doesn't --. I don't know. Leilani, like you said she didn't respond to your e-mail this time. I mean at what point --? I know there's a process for someone to get off of a Commission, but I feel like she's just holding a seat that someone who would actively participate and be here. How do we go about doing this? I think I can count on, like, one hand how many times she's been to meetings.

Ms. Thomson: I can follow up with the Mayor's Office and ask them to reach out to her and see if she would like to voluntarily resign or if she can give some information on why she's not here.

Ms. Gima: Okay.

Ms. Thomson: So I'll follow up on that.

Ms. Gima: I would appreciate that. Thank you. Alright so --. Clayton, I'm sorry, are you done? Anything else you wanted to add?

**With no objections by the Commission, the December 20, 2017 Lanai Planning Commission meeting is canceled. The next meeting will be held on January 17, 2018.**

## **I. ADJOURNMENT**

Mr. Yoshida: Yes, other than we'd like to wish everyone a Happy Thanksgiving.

Ms. Gima: Thank you Clayton. You too. And a Merry Christmas because we won't see you until 2018.

Mr. Yoshida: And a Happy New Year.

Ms. Gima: So again the next regular meeting will be on January 17<sup>th</sup>, 2018. And at this time it's 8:05 p.m. and meeting will be adjourned.

There being no further discussion brought forward to the Commission, the meeting was adjourned at 8:05 p.m.

Respectfully submitted by,

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

## **RECORD OF ATTENDANCE**

### **PRESENT:**

Roxanne Catiel  
John Delacruz  
Kelli Gima, Chair  
Caron Green, Vice-Chair  
Mililani Martin (from 6:15 p.m.)  
Bradford Oshiro

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**EXCUSED:**

Marlene Baltero  
Shelly Preza  
Shirley Samonte

**OTHERS:**

Clayton Yoshida, Planning Program Administrator, Current Planning Division  
Keith Scott, Staff Planner  
Richelle Thomson, Deputy Corporation Counsel