

**LANA'I PLANNING COMMISSION
REGULAR MEETING
APRIL 20, 2022**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Sally Kaye, Vice-Chair at approximately 5:00 p.m., Wednesday, April 20, 2022, online via BlueJeans videoconferencing platform, Meeting No. 566 898 631, and at the Maui County Council, Lanai District Office, Lanai Community Center, 8th Street, Lanai City, Hawaii 96763.

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

Ms. Sally Kaye: . . . 2022 Lanai Planning Commission meeting to order. I'm going to be a Vice-Chair for about a nanosecond so that I can log in our quorum and then we're going to turn it over to the Planning Department to do our election process. So if, when I call your name, if you could just say you're here. And I believe we have to say where we are and whether we're alone, is that right, Jordan?

Mr. Jordan Hart: That's correct. But perhaps your Counsel is going to get on. I thought that there was going to be a suggestion on, on this first item. Is that right, Richelle?

Ms. Richelle Thomson: Hi. Jordan. Hi Commissioners. Nice to see all of you again. It's been a couple of months. So in terms of the -- whether -- I can handle the election process, you know, or Jordan can either way. I was suggesting before you had sufficient members that if you have bare quorum that you could wait until next month. But, you know, it looks like you have either have or are expecting six. But at any rate, if it turns out that that either there is insufficient votes or you all prefer to wait until next month to elect your officers you can't do that. So we'll just see how it goes.

B. INTRODUCTION OF NEW COMMISSIONERS – ERIN ATACADOR AND REYNOLD GIMA.

Ms. Kaye: Okay then. So when I call your name, if you would just say you're here. I don't see Chelsea yet, but Erin, our new member.

Ms. Erin Atacador: Here.

Ms. Kaye: Okay. And, and we have to say where we are and whether anyone is with us.

Ms. Atacador: Sure. I'm at home on Lanai, and no one is in the room with me, but my husband and my son are in the house too.

Ms. Kaye: Okay. Thank you. And Zane de la Cruz?

Mr. Zane de la Cruz: Here. And I'm at home. No one else is here.

Ms. Kaye: Okay, and Lisa Grove?

Ms. Elisabeth Grove: Here in my home office alone.

Ms. Kaye: Okay, Butch Gima, our new member too.

Mr. Reynold Gima: I'm here alone in my house.

Ms. Kaye: Okay. And I also am in my house alone. And Chelsea has joined us. Chelsea, are you here and where are you?

Ms. Chelsea Trevino: Yes. In my home and I'm alone.

Ms. Kaye: Okay then. Would you like to take it away Richelle?

C. ELECTION OF CHAIR AND VICE-CHAIR FOR THE 2022 – 2023 TERM

Election of Chair:

Ms. Thomson: Thank you very much. So your next order of business is to elect your Chair and Vice-Chair for the 2022-2023 term. So, do I have any, any nominations for Chair?

Ms. Kaye: Yes, I'd like to nominate Butch Gima for Chair.

Ms. Thomson: And is there a second to that motion?

Mr. de la Cruz: I second.

Ms. Atacador: I second.

Ms. Thomson: I think Zane beat you out just, just by a hair. Are there any other nominations for Chair? Okay. Seeing none, I'll go ahead and do a roll call vote. And I'm just going to go in the order that I see all of you on my screen. But Commissioner de la Cruz?

Mr. de la Cruz: In favor.

Ms. Thomson: Commissioner Kaye?

Ms. Kaye: Aye.

Ms. Thomson: Commissioner Gima?

Mr. Gima: Aye.

Ms. Thomson: Commissioner Grove?

Ms. Grove: Aye.

Ms. Thomson: And Commissioner -- and I haven't said your name out loud and so please forgive me, Erin -- Atacador?

Ms. Atacador: Yeah, that's perfect. Aye.

Ms. Thomson: And Commissioner Trevino?

Ms. Trevino: Aye.

It was moved by Ms. Sally Kaye, seconded by Mr. Zane de la Cruz, then unanimously

VOTED: To elect Mr. Reynold Gima as Chair for the 2022-2023 term.
(Assenting: E. Atacador, Z. de la Cruz, S. Kaye, R. Gima, E. Grove, C. Trevino)
(Excused: S. Menze, S. Preza)

Ms. Thomson: Okay. That's unanimous. And welcome to Chair Gima. Would you like to take over now and go ahead and call for the nominations for Vice-Chair?

Election of Vice-Chair:

Mr. Gima: Thank you very much. Yeah, this time I'll accept motion to nominate Vice-Chair for the Lanai Planning Commission.

Ms. Trevino: I'd like to nominate Sally, nominate Sally (*echo*).

Mr. Gima: Okay, any second?

Ms. Grove: I second, second.

Mr. Gima: Okay. It's been moved by Chelsea and seconded by Lisa that we nominate Sally Kaye for the Vice-Chair position. Okay, any discussion? Hearing none.

Ms. Thomson: Chair, do you want to ask if there are any other nominee?

Mr. Gima: Oh, I'm sorry. Excuse me. Commissioners, any other nominations? Okay, hearing none, I'll close nominations. And at this time we'll vote on the nomination for Sally for Vice Chair. Okay, Chelsea?

Ms. Trevino: I'm sorry, are we voting now? I'm switching to my phone? I'm so sorry. Are we voting now, voting now?

Mr. Gima: Yes.

Ms. Trevino: Aye. Aye (*echo*).

Mr. Gima: Lisa?

Ms. Grove: Aye. Aye (*echo*).

Mr. Gima: Erin?

Ms. Atacador: Aye. Aye (*echo*).

Mr. Gima: Sally?

Ms. Kaye: Yes, I'll vote, yes. . . . (inaudible) . . . Yes, I would add, add that, that I'd like to see like younger . . . (inaudible) . . . here.

Mr. Gima: So noted. Zane?

Mr. de la Cruz: Aye.

It was moved by Ms. Chelsea Trevino, seconded by Ms. Elisabeth Grove, then unanimously

VOTED: To elect Ms. Sally Kaye as Vice-Chair for the 2022-2023 term.
(Assenting: E. Atacador, Z. de la Cruz, S. Kaye, E. Grove, C. Trevino)
(Excused: S. Menze, S. Preza)

Mr. Gima: Okay, it's unanimous. Thank you very much Sally.

Okay. So let the record show that we do have quorum for this evening, and we shall move on to Item D, public hearing. But before we do that, Richelle, given the number of people we have tonight, how many are needed to either approve or disapprove the motion tonight?

Ms. Thomson: Because you're a nine-member board . . . (inaudible) . . . Yeah, there's a couple of circumstances where you would need two thirds, but if it's just to take action on any items you need the majority of five. I can hear myself. I can hear myself.

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

1. A BILL FOR AN ORDINANCE AMENDING TITLES 2, 18, 19, AND 20, MAUI COUNTY CODE, RELATING TO WETLANDS RESTORATION AND PROTECTION

Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting Resolution No. 21-171 referring to the Maui, Molokai, and Lanai Planning Commissions a proposed bill to amend Maui County Code Titles 2, 18, 19 and 20 relating to wetlands restoration and protection. The purpose of the ordinance is to conserve and protect sensitive ecosystems and ecosystem functions and values, and work toward building environmental resilience by establishing requirements to map and protect wetlands. (E. Derrington)

The entire text of the proposed bill for ordinance is available at the Planning Department Proposed Legislation webpage <https://www.mauicounty.gov/1127/Legislation---Proposed>

Mr. Gima: Thank you. Okay, first item on the public hearing is a bill for ordinance amending Titles 2, 18, 19, and 20, Maui County Code, relating to Wetlands Restoration and Protection. Ms. Michele Chouteau McLean, Planning Director, transmitting, transmitting Resolution Number 21-171 referring to the Maui, Molokai, and Lanai Planning Commissions a proposed bill to amend Maui County Code Titles 2, 18, 19 and 20 related to wetlands restoration and protection. The purpose of the ordinance is to conserve and protect sensitive ecosystems and ecosystem functions and values, and work toward building environmental resilience by establishing requirements to map and protect wetlands.

So at this -- before I turn this over to the Planning Department, public testimony will be taken on each agenda item tonight and will be limited to three minutes as timed by our commission secretary. If you would like to testify on an agenda item, please sign up directly with Leilani using the chat function by providing your name and the item you wish to be heard on. Commissioners will not be using the chat function. And everyone please mute your audio and video until you testify. After those who wish to testify via BlueJeans have testified, we will hear from anyone who has signed up and wishes to testify via phone. Remember to ask Leilani if anyone signed -- excuse me.

So Jordan or Richelle, is it protocol to take public testimony first before Commissioners comment or question the Planning Department or can the Commissioners ask questions before we take public testimony?

Ms. Thomson: Thanks Chair. You can do it either way. You know, you can have all of the testimony at the beginning of your meeting on all of the items, or you can take public testimony as the items come up. I think that some Commissions have found it to be valuable to have the -- and you know, in this case it's the Planning Department present and then take public testimony and then take Commissioner questions. It seems, you know, that sometimes the

public's questions will be answered by the presentation, you know, and they, they may have more difficulty forming the questions without having a little bit of background. So but it is up to you on how you'd like to do that. Your mic's off.

Mr. Gima: Commissioners, do you have any preference whether we take testimony before we question either the applicant or the Planning Department? Or would you prefer that the Commissioners do this after public testimony?

Ms. Kaye: Butch, I'd like to just weigh in here since this is your first meeting. What Richelle said is what we've been doing and she's absolutely right. The Planning Department makes the presentation first and then we, of course, have reviewed the materials, but it would raise more questions and may answer some that the public might have. So I would concur with her that we do it in that order; Planning Department presentation and then public testimony, and then we ask questions of the Planning Department. Just my two cents.

Ms. Thomson: And just for clarification, I think it is important to, to have the public testify before you get into Commissioner questions or discussion because in a, in a public hearing context it's not such a big deal. But when you're doing a contested case, you definitely want to keep the sections very discreet. And so you know it's better to do public testimony before you get into the commission discussion phase.

Mr. Gima: Okay. Any other comments or preferences by the Commissioners?

Mr. de la Cruz: I would prefer we continue the method we've been using, which is presenters, public testimony, and then commission discussion.

Ms. Grove: I would too.

Mr. Gima: Okay. Hearing no further comment we will continue as Sally, and Zane, and Richelle had pointed out. Thank you. Okay, I shall turn this over to the Planning Department to make their presentation. Let's see who will be making the presentation tonight?

Ms. Jacky Takakura: Good evening Lanai Planning Commission. This is Jacky Takakura.

Mr. Gima: Okay. Thank you, Jacky.

Ms. Takakura: And congratulations Chair Gima and Vice Chair Kaye. So my name is Jacky Takakura. I'm with the Zoning Division of the Planning Department, and I'll be making this presentation regarding the Wetlands Bill for Ordinance. I also have here with me or with us today is planner Erin Derrington and she's going to answer all your hard questions. This was definitely a team effort so but I'm going to start off with the presentation. I'm going to share screen. And can I get a thumbs up if you can see my screen. Thanks. Okay.

Good evening. And this evening, we're talking about an important subject that is not well covered in the Maui County Code. It's not in Title 19. We're presenting a proposed bill relating to wetlands restoration and protection.

First of all, let's talk about what it is that we're talking about. What exactly is a wetland? And you can see here there's two different definitions. One is from the State and one is from the Federal government. And with the State you've got this definition that includes all waters. And then it talks about the kinds of waters including fresh, brackish or saltwater. Then it also covers the location around and within the State. But it's including coastal waters, streams, rivers, drainage, ditches, ponds, reservoirs, et cetera. And then it also has a caveat on what's not included, which is drainage, ditches, reservoirs as part of water pollution . . . (inaudible) . . . And it's just straight out of Hawai'i Revised Statutes.

But the Federal definition as it relates to waters of the U.S., they talk about areas that are inundated or saturated by surface or groundwater. So a surface water, it would be like streams, reservoirs or groundwater, like in our aquifers, underground, at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Some important words you see here in the Federal definition is this one here, vegetation, soil conditions. So it's not just water or it's mentioned too, but it's the vegetation and . . . (inaudible) . . . conditions that make up wetlands.

So one thing you can see here also with these two definitions is that they're not consistent. And you will see that this foundation, the very definition of the term wetlands, leads to inconsistencies in policy too. And that's why we're here today before you.

Why do we care about them? Well, they're actually more important than most of us realize. They mitigate flood hazards like here on Maui when it floods in Kihei, they're really important. They're ecosystems in and of themselves that support plants, birds, fish and insects. They provide ecosystem services. And what I mean by that when I say ecosystem services, those are the benefits that humans, us human populations derive directly or indirectly from an ecosystem function. And things like clean air, greenhouse gas regulations, storm protection, drought recovery, erosion control is an important one, soil formation, pollution control, species habitat, pollination, food production, et cetera. Those are all the kind of things that wetlands provide for us that we can thrive on this Earth.

A lot of wetland areas are of cultural and historical importance. And many people use these areas for enjoyment like the Kealia Boardwalk you see here in this picture on it. Yeah. And many of these areas are simply beautiful and a pleasure to visit.

But, where are they? They are all over. They are mauka to makai on all islands of the County. And we'll look at some maps later. Most of the maps they do include estuaries, which are the tidal mouths of a large river where the tide meets the stream, salt and freshwater wetlands, forests or shrub wetlands, freshwater ponds, lakes and rivers. So you can see them down,

you know, close to the coast. And then you can also see them up in the forest, forested areas too. As I mentioned previously when we talked about the definitions, because the different agencies have the different definitions that leads to varying maps. That's kind of a challenge. And as I also mentioned when we talked about the definition, the wetlands is not, it's not just about the land being wet. Soils matters too. And especially with some of the agencies and how they determine what's a wetland and what.

So let's look at the maps. And the first one here is the map details of the island of Lanai. And I know it's a little hard to see. But in this legend, you have here on the top, you can see, like the green is the estuary and the marine. So of course, that's the one surrounding the island. And then this lavender color would be also, I guess, more coastal or inland. You got a little bit of the peach color. That's freshwater emergent wetlands, so you see that more inland. And you can see them more in this yellow of the forest and shrub. You can see that more on the island of Maui and Molokai, those two islands more so than on Lanai. And also on the others there's other types. But these maps, they're non-regulatory representations of from the U.S. Fish and Wildlife Service, National Wetlands Inventory, and these are then incorporated by the State Department of Land and Natural Resources. But they're not considered binding or definitive. They're based on vegetation layers for habitat mapping purposes.

This is West Maui, and you can see here this is the West Maui . . . (inaudible) . . . area. And then here you can see some of these forested wetland areas more . . . (inaudible) . . . Freshwater emerged higher on the peaks. This is on the upper right is Kahului Harbor area. This is just a little bit more detail of the West Maui Mountains, which is the water source for Central Maui and for West Maui. Next one is also on Maui. I can see as you're going up towards Hana clearly forested shrub wetlands. And this is the water source for upcountry, yeah. And then over here in this picture, this is the Maalaea area, like that picture of the Kealia boardwalk that I had earlier. So that's what you can see and the bright pink is considered lake.

And I just have some images from Molokai. Here you can see in these areas . . . (inaudible) . . . forest and shrub wetland. Down here, a little bit of that freshwater emergence. That's a little bit more detail around Kaunakakai area.

So who regulates them? Well, there's quite a few agencies, and I had this picture in here because it's just an old paper map I found in this office. It's a photograph from the 80s, 1987 with the 1991 map from the U.S. Army Corps of Engineers of Kihei area, wetlands that were there. But it's not just the Army Corps of Engineers for Federal, it's also the EPA and Fish and Wildlife Service. And then there are State agencies too, the Department of Land and Natural Resources and then Department of Health in terms of water quality. And there is a County also jurisdictional a little bit in terms of the Conservation Planning Committee, Public Works and then Planning, our department, when it comes to special management area and flood permits. So you can see that the regulatory oversight is inter jurisdictional. So, and the County can supplement but not supplant State and Federal requirements. So we can add to them, but we can't replace them that those requirements. And not only government, but there's other

agencies, you know, like private or nonprofits that have various interests in wetland management.

So as you can see, the definitions and the policy goals are not really consistent. And so that leads to the proposed bill for ordinance, which ideally should be covering these things in terms of mapping the wetlands, conservation of them, and then also management, which would be public health, safety and well-being. So these concepts are good to keep in mind as we discuss the proposal.

So now let's move on to the resolution that came from the County Council. If you have the packet sent to you and then that's also linked on the agenda, the resolution is in there. Stated purpose of the bill is to establish a program for wetlands restoration and protection. And it proposes revisions to different parts of the Maui County Code. Title 2 is Administration. Title 18 is Subdivisions. Nineteen which is, you know, Zoning. That's a comprehensive zoning code. And then Title 20 is Environmental Protection. There's some language in the bill about an overlay in addition to existing zoning, and then it has details about the new chapter in Title 19. It also has revisions to the Conservation Planning Committee's authority. And then it just has some details about administrative rules and the effective date.

So what we did when we got this resolution is we went and asked for agency comments. And it takes a little bit of time because as you can see from the previous slides, you know, there's a lot of agencies that have a say or that, you know, participate in this wetlands area. And so it did take a while, but their comments are included in the packet in summary. This is what they said. For the Army Corps of Engineers, the jurisdictional status of wetlands can only be made by them. The jurisdictional status of any one particular wetland is made on a case-by-case basis, and takes him to consideration site specific conditions. The U.S. EPA noted that the Clean Water Act protection continue to evolve. And they also made some comments about definitions, and they had some questions about their resulting reports and what they would include. And they had some questions about clarity resolution. Questions about how the data will be . . . (inaudible) . . .

From the State side, from DLNR. They support the intent of the proposal. They commented that many of the wetlands in Hawaii have the potential for functional restoration have been altered or filled with sediment or overgrown by invasive plants or otherwise not apparent as wetlands under that definition. They also recommended that the definition of wetlands and therefore the scope of the program be amended to include those areas that are currently or formerly inundated or saturated. We . . . (inaudible) . . . comments and put them in the bill.

The State Office of Planning and Sustainable Development had three minor comments about adding estuaries to the definition, adding that grubbing permits be added to the list of required permits, like with the grading permit, and then also required permits that . . . (inaudible) . . . exemption under this chapter does not constitute compliance of other permits or approvals. We did also check with the Maui County Departments of Public Works and Environmental Management, but they didn't have any comments. So then after that what we did was we took

all those agency comments and we pose some revisions. And that's what you can see in the package as the red line bill. And we think that the revisions will be effective in accomplishing the goals of mapping, conservation and management.

So if you have the red line bill with you, you can just see that, you know, we just made some changes to section one, which is the purpose. We added that we want to protect sensitive ecosystem and ecosystem functions, built environmental resilience, and have requirements for maps, protect them. We have some revisions to the definitions in terms of the overlay, the protective buffer and the wetland. And then we have a lot more revisions to chapter, the proposed Chapter 19 because that's the chapter that we would be administering. So adding a section on establishment of the overlays. We have some revisions to the policy to protect environmentally sensitive ecosystems and their services, including flood control, water quality enhancement, species protection and climate adaptation and mitigation. We have some revisions regarding the reports. Then also decisions consistent with the reports. And then revisions to permitted uses and prohibited uses. We have revisions to mapping and the establishment of the overlays. And there's some also some revisions towards the end about the Conservation Planning Committee to make it consistent. And then we have some revisions to Section 10 about the date, the effective date of the ordinance as it relates to transmitting the maps to the Planning Commission's Council Conservation Planning Committee and the Director of Public Works.

So when you review this proposed bill, there's three policy notes and considerations for you to think about. And the first is the mapping updates. As mentioned previously, different agencies and different definitions can lead to different maps, and that can be confusing. Especially having different maps and them being non-regulatory. That's an important part here. We need to, we need it, we want a clear definition and revise maps to help inform what should be assessed as a wetland and what also has the potential wetlands. We would like to get some clarity on that and to have that in the bill.

So in addition to mapping, the next important thing to think about is critical watershed areas with regard to the wetlands. This photo here is of Waikamoi in the east Maui watershed on the slopes of Haleakala. That's our water source for upcountry Maui. You know, wetlands are an important part of critical watershed areas. Like with the wetlands, future bill or program could consider defining or mapping all components of the critical watershed areas and have descriptions of use, values, management, standard and criteria. And important parts that are here that's going to really make a difference is the interagency coordination, the overlay mapping and criteria.

And then the third consideration is regarding the various agency wetland classification systems and guidance. You can see from these images that there's different agencies and they have different documents and guidance for wetlands. So we'd like to work with the different agencies regarding the definition of wetland and in identifying management priorities so that we can address the mapping effort and management actions. So this will take a lot of interagency coordination.

So review the goals as wetlands mapping, conservation, and the management program being that we're taking into consideration public health, safety and well-being. You know, this is a complex and important topic, and I would expect that you have lots of questions and comments. We will take your comments and your recommendations back to the County Council for their action. And that's my proposed, our presentation. I can stop sharing, but I can always come back to any page if you want to look at anything like the map or something. But, you know, we already did take this to the Maui Planning Commission and the Molokai Planning Commission, so we can also share if you're interested in hearing their comments. But that's my presentation. I'm going to stop sharing and like I said, I can always come back to any of these slides if you want to, if you need. Thank you.

Mr. Gima: Thank you, Jacky. At this time, we will take public testimony. Leilani, has anyone signed up in the chat to provide testimony?

Ms. Leilani Ramoran-Quemado: Thank you, Chair, no one signed up to provide testimony. But, uhm, as part of the new sunshine law, the requirement is that we have a physical location, so we do have Denise physically on Lanai who has opened their facility to allow people to go in and testify. So if you could check with her to see if anyone is there.

Mr. Gima: Thank you, Leilani. Denise, do we have any testifiers in the Council office?

Ms. Denise Fernandez: Aloha, Chair and members, there are no testifiers at the Lanai District Office.

Mr. Gima: Okay, thank you, Denise. Okay, so at this time, Commissioners, any comments questions for Jacky and the Department? Richelle and then Lisa.

Ms. Thomson: And just quickly, since you have no public testifiers and just go ahead and close public testimony just to say it into the record.

Mr. Gima: Okay. Thanks, Richelle. So at this time, we'll close public testimony and then Lisa.

Ms. Grove: Okay, thank you so much for a really thorough presentation. I really appreciated it, and you did a great job explaining a lot of complicated things. I have a couple of questions mostly for edification, sort of like what was the thinking behind it? If it's okay, Chair, may I just kind of go through my questions one by one? So my first question –

Mr. Gima: Sure.

Ms. Grove: -- is I'm looking at all the red -- just the red line document. I was just curious why the words mitigate climate change were struck from the original version? Shall I keep going or wait for response?

Ms. Takakura: Thank you Commissioner Grove. I'm going to call on senior planner Erin and Jordan to help answer some of these questions.

Ms. Grove: Thank you. So should I keep offering my questions or are they going to take that?

Ms. Takakura: Erin, you're muted. I think you were trying to answer.

Mr. Jordan Hart: Leilani, can you check? You can also try and call in, Erin, with your phone. I'm sorry, Commissioner, could you repeat your question? I may be able to answer it while Erin is reconnecting.

Ms. Grove: Sure. So at the very beginning of the ordinance -- I'm looking at the red, red line version -- that just the words it looks to me like the words mitigate climate change were struck from that version. And I was just curious to understand that given the pressing nature of the problem of climate change. Just curious.

Mr. Hart: You know, I'm going to have to wait for Erin. I have . . . (inaudible) . . .

Ms. Grove: Okay because there's references later to sequester carbon and things like that in there that are climate change mitigations. So I was just curious especially given, again, how important that issue is for our County. I was just curious why it got struck.

Ms. Takakura: Hopefully Erin we can hear you.

Ms. Erin Derrington: Aloha Commissioners. Sorry about that. Okay, we'll try that. So thank you for the question. And for the record, my name is Erin Derrington. I'm a planner supporting this initiative and I am looking at the red line version of the text that we transmitted and I was hoping actually for a clarification there because in the section that I have in front of me, I'm not seeing -- Oh, I see, mitigate climate in section one. That was the section you're asking about? Okay.

Ms. Grove: Correct.

Ms. Derrington: Yeah. I think part of the thinking here was that in order to align this bill with the authorities of the Department focusing it on sensitive ecosystems in the purpose statement and then talking about the ecosystem services in the following sections where climate and carbon sequestration, as you mentioned, were addressed, would more clearly align the purpose of the bill. But there were several parties that were involved in the red line, but that is just my recollection of that, that conversation. But I hope that's helpful.

Ms. Grove: Thank you. My next question is on the red line on page four. You talk about the - - sorry Section 19 report -- Planning Director must produce or cause to be produced quote by a qualified scientist scientific professional. How is that professional described or defined?

Ms. Derrington: Thank you very much for that question as well. And this is actually something that came up with the Maui Planning Commission also when we presented to them, and it was recommended that it be clarified that this would be a qualified environmental professional, of which that would be a category that, I guess, it's a bit of a term of art, referring to people with a background in hydrology or wetland plants or soils. But given the interest in that particular definition, it might be something that would be worth adding a definition in the ordinance to address as well. I hope that's helpful.

Ms. Kaye: Lisa, you're muted.

Ms. Grove: Right. First time. Just kidding. My looking at page Six, the permitted uses. There is a reference to, again, I'm just looking at some of these do feel like a little bit of terms of art, but reference to appropriate agriculture, and then later down traditional plant cultivation. And I just want to make sure that that we all are on the same page with those definitions, especially the definition of traditional.

Ms. Derrington: If I may reply.

Ms. Grove: Please.

Ms. Derrington: So that that is also a question that came up when we were sharing this red line version with the Molokai Planning Commission in terms of what that would encompass. And at this juncture, additional clarifying text, I think, would, would be very constructive. So if there were ways to further specify what the Commission would like to see in terms of allowable activities I think it would be a very productive, beneficial exercise to discuss that further. Thank you.

Ms. Grove: Thank you. Appreciate your answer. On page seven, B, talking about the updating and transmittal of the, the maps. It jumped from annually to every five years. I don't know if that is a unit of measure that looks like a big jump, but can -- is it possible to explain the rationale behind going from one which seems too short to me, but to five?

Ms. Derrington: Yes, thank you for that. And indeed annually would be quite an undertaking. Even five-year updates would be quite an undertaking for, for mapping all of the wetlands in Maui Nui. And so I think this was trying to provide a reasonable frequency to revisit the available information and work to update it as resources are available to do so. So it does allow a little bit more flexibility while still providing a fairly reasonable time period to get something produced in what the Department felt was a reasonable timeframe. Thank you.

Ms. Grove: Thank you. I agree with that. And then on page eight, number two, it is what looks like the black part that's been stricken, but I'm just curious why eminent domain or conservation easements were extracted from the language.

Ms. Derrington: I believe the intention here was to allow some flexibility in terms of the approach of how these management measures or conservation efforts would be initiated, initiated. But I don't know if Jacky or --

Ms. Grove: And they would still be on the table as tools the County could deploy if need be?

Ms. Derrington: Absolutely.

Ms. Grove: Okay. Thank you so much. And then this is just kind of ridiculous question. I'm sure it's been contemplated and, and people have been very careful about it. But I assume that -- I would like to assume that there's no adverse effect on Hawaiian fishponds or any of the other Hawaiian traditional, cultural shoreline or wetlands practices.

Ms. Derrington: Absolutely. So I think when initial discussions we're talking about traditional uses that was part of the intention. There was also the included language to support restoration and conservation initiatives as formidable activities in these areas. And so I think read together those provisions would support conservation activities and traditional management. But certainly, if there are ways to refine that, I think that would be, be well received and address some of the concerns that were also raised at the Molokai Planning Commission.

Ms. Grove: Great. Thank you so much. That's all I have.

Mr. Gima: Okay. Thanks, Lisa. So, Erin, what would it be helpful with some of Lisa's questions on terminology and, you said it would be good to kind of define it better. So would that be included in the section two under the definition's categories?

Ms. Derrington: If that was the Commission's recommendation I think that could be a clear direction that could be included in your comments. And if there were specific components that you wanted to see referenced or elaborated on, I think that would be very helpful feedback as well.

Ms. Thomson: I have a suggestion for related to that topic. Rather than, you know, putting in additional definitions, under the permitted uses, number four is traditional -- currently, it says traditional plant cultivation, but perhaps changing that to traditional agricultural or aquacultural uses. That would encompass those areas of fish ponds that might be part wetland, part not.

Ms. Grove: My concern is that word traditional. Is traditional -- are we talking about Hawaiian practices or how we grew sugarcane?

Ms. Thomson: Okay. So legally, the traditional and customary those are terms of that would refer to Native Hawaiian practices.

Mr. Gima: Okay, thanks, Richelle. Commissioners, any other comments or questions for the Planning Department. Is your hand up, Sally?

Ms. Kaye: Yes, it is. I, I, I was waiting to see if anyone else had questions first.

Mr. Gima: So ahead, Sal.

Ms. Kaye: Okay. So on page three, if you could tell me what wetland migration actually means.

Ms. Derrington: Thank you. That's an excellent question. And essentially, these are dynamic living systems that as we get more water going into the systems, they will tend to expand. And as we have less water going into the systems, they, they may contract. And so that's one of the reasons why mapping, regularly updating the maps for these systems is so important because what was a mapped wetland in 1980 may not look anything like what we have on the ground today. So, it's another term of art. I apologize just to talk about the way that these systems sort of up and flow and move.

Ms. Kaye: Well, I kind of assumed that's what you might say. And since this, if I'm understanding this process since if this is an overlay that's going to add another set of potential requirements for, let's just say, a private landowner, then as it shrinks or expands, do the regulations that go along with it shrink and expand as well?

Ms. Derrington: Well, I think there, there are two components of that. I think that the short answer is yes, these maps would need to be ground proofed on a case-by-case basis to determine the current extent of a wetland boundary as, as what we currently do to see where it is right now. Because that is how we manage a project to look at this point in time and see where the wetland is. However, with the establishment of environmentally protective buffers as part of this overlay, it would provide a little bit of an area of protective buffer area to allow for that ebb and flow that migration, based on best available science, based on the report of the department and partners would develop the recommendations that this program would help put forward and implement down the road to provide some, I suppose, reliability in the maps where, you know, that something had been here a decade ago, it's likely to be in this general area, and there's a buffer where planners and property owners might look to say, well, is this something that may affect my property that my development may affect now or in the future? I hope that's a helpful answer to the question.

Ms. Kaye: Yes, yes thank you. And then right under that also on page three, I noticed that DOFAW had a comment that recommended that you insert currently or formerly in front of inundated or saturated. But it wasn't inserted. Was that a deliberate omission?

Ms. Derrington: Well, I think, I think there was some consensus. So, the comment was discussed and currently the way that wetlands are regulated in the State, the U.S. Army Corps of Engineers manual is, is applied, and it does have a section in it on areas that were formerly wetlands. And the analysis of what was a wetland in the past is very technical, very complex.

And so including that in the definition of all things that would need to be mapped as wetlands would have a bit of a convoluting effect on the mapping program. It would take a lot more time and effort and technical expertise to address that particular matter. And so again, there's an opportunity to address that on a case-by-case basis. If there's evidence that there was a wetland on site and it had been filled or altered in the past that's certainly something that there are provisions for at the Federal and State level now. But applying those provisions are very technically difficult. And so in order to, I think, make, to strike a balance between what is as realistic and what may be improved targets for restoration in the short term, it was not included in the definition. But that is something that certainly the Commission could discuss and expand on if they were so inclined.

Ms. Kaye: Okay. Thank you. On page five, this is just kind of a legal nerd speaking, but you have used the word prior. And I know previous and prior are interchangeable. But when, when I hear prior, I think of immediately before. When I think of previous, I think it is more encompassing. And so I'm wondering what the intent was here? Is it all previous impacts of excessive siltation and pollution? If it is, then I would recommend we, we recommend that it should be previous.

Ms. Derrington: Okay, and then --

Ms. Kaye: I am sorry. Go ahead.

Ms. Derrington: No, not at all. I was going to agree with you, and it seems like a constructive improvement.

Ms. Kaye: And then in number ten, you have maintenance and possible hazard mitigation. Is that climate hazard mitigation?

Ms. Derrington: So I believe in that context, it was focusing on flood hazard mitigation, which I suppose would be a type of climate impact mitigation. But I do recognize there is some overlap in the use of those terms.

Ms. Kaye: I, I just, yeah, it's just hazard just kind of jumped out at me is not as ill defined. Okay. Then, if you could just tell me on page eight, number C, at the top, provision should be construed if possible. Okay, fine. What if it is impossible? What are, what are, what's the fallout? What's, what are the ramifications?

Ms. Derrington: Well, I suppose in the creation of this program, there would be additional guidance that could be developed to address that question specifically. I'm trying to think of an example where that might apply. But, I'm not thinking of a good one.

Ms. Kaye: Okay. I just, you know, kind of hanging out there. Okay. And then if you could just tell me on page ten, what's the difference between anchoring and stabilization? I saw one was taken out and the other was inserted.

Ms. Derrington: Indeed. And I think that comment came from another member of our shoreline team specifically talking about some of the, I suppose, restoration activities that are supported by, for example, beach nourishment programs where you would be stabilizing. But stabilizing systems where anchoring would be perhaps prohibited by it; would be thought of as more of like a hardening.

Ms. Kaye: Got it! Okay. Okay, and then on page 11. This would be under C. No, no. I'm sorry. I'm sorry. This is under D. Third line up from the bottom, it says, will be automatically approved and it must be the duty. Why isn't it just and it is the duty?

Ms. Derrington: That would seem like a good addition.

Ms. Kaye: Yeah, just an English correction. And then just a general question throughout. Was there some reasoning behind the insertion of the word must instead of shall, which is a more legal term of art?

Ms. Thomson: I can answer that one. That's, it's actually the preference of the Office of Council Services (OCS) to change all shalls in the County Code to the word must. And it's OCS's opinion that that is more a plain language and that it facilitates the reading. Anyway, we don't agree. Our office doesn't agree. I like shall. Shall is my favorite word. It's just very clear to me from a legal standpoint. Shall means shall. So –

Ms. Kaye: Right.

Ms. Thomson: Yeah, it's just OSC's preference. So they're, they're basically systematically going through and changing all the shalls to must as they review ordinances.

Ms. Kaye: And they get, they trump your preference?

Ms. Thomson: Yeah. Unfortunately, well because the Council is going with that recommendation rather than ours.

Ms. Kaye: Okay. All right. That's it for me. Thank you very much. I really -- this was a really stunning on this. I'm very impressed. Thank you.

Mr. Gima: Thanks Sally. Commissioners, other questions, comments? Zane? Erin? Chelsea? Okay, hearing none. I just, I just have a few. Being this is Erin's and my first meeting, was there something that prompted this bill? I mean, was there a problem? Was there something that happened that makes this come before all the Planning Commissions versus in 2018 or 2000?

Ms. Derrington: I can speculate unless Jacky, yeah, would you like --?

Ms. Takakura: Chair Gima, so this came from the Climate Action, Resilience and Environment (CARE) Committee of the Maui County Council in September. So that's what prompted this is the resolution from the County Council, and I'm not sure what prompted them to work on this, but that's where we got our marching orders.

Mr. Gima: Okay, thank you. Question number two, and I don't know, it doesn't seem like the sentiments of our Commission is going to move towards deferring, but are, is the Planning, is our Planning Commission under any timeframe to take action on this bill?

Ms. Takakura: Chair Gima, if I may. The answer is yes sort of. The, the CARE committee wanted, would like to have our feedback or the Commission's responses by the end of April. So my plan is tomorrow I'm going to start writing up what I have at least to try to finish up. And, you know, with the Moloka'i Planning Commission, they did defer. They were supposed to discuss and make a decision on the 13th, but they had to cancel due to lack of quorum. So we are going to try one more time on that twenty-seventh to see if they can come to a recommendation. But we are going to -- we really would like to try to get the Commission's responses back to the County Council by the end of this month. But if cannot, cannot, but we'd like to try if can.

Mr. Gima: Are there any things that were brought up by the Maui or the Moloka'i Planning Commissions for the Lanai Planning Commission to take into consideration?

Ms. Takakura: Thank you, Chair. You know, can I share my screen? Because I do have -- I just made a quick word document that you can see what the Maui Planning Commission, their recommendations were? Is that okay if I share that just so for you to see?

Mr. Gima: Sure. Thank you.

Ms. Takakura: Can you just see the white? It's just a word document. So they had similar concerns that you folks brought up and this came up with the Molokai Planning Commission too. It was about the cultural and historic uses and values at the policy objective . . . (inaudible) . . . sections of this ordinance. And also like Commissioner Grove mentioned about the professional -- suggesting to change that to environmental professional because maybe it's an engineer. You know, it could be not necessarily a scientist, but you know, someone else that has the kind of influence. And then at the end, section ten, of the effective date, we want to see a date in there. That was the Maui Planning Commission's recommendations. On Molokai, they deferred. They did hear it on March 23rd and then they deferred. But they weren't able to discuss it again. Hopefully, we can hear from them on the 27th. But they had similar concerns about cultural and historic uses, and some of the agricultural uses. They asked about the loi and the taro farming. They actually asked if Molokai could be exempted. But we really, because it's such an important bill and water wetlands are so important to protect, we tried to encourage them to include Molokai in this. So that was it. I'll stop sharing, but I can also come back to the screen if you want. That helps?

Mr. Gima: Thank you. Yes. Thank you. Yes. Um, I have one last question. In anticipation of this bill being passed, can you give us an idea of how this bill will be op, operationalized, let's say, on the Lanai? I mean, what's going to happen on Lanai when this bill passes?

Ms. Takakura: We'll have to defer to Erin and Jordan because I think, like, like, you know, as I mentioned in our goals, the first priority is going to be mapping and that's going to be a lot of working with the Federal and State and hopefully getting some funding for it. And, you know, that's a lot of work. I'll see what Erin and Jordan have to say

Ms. Derrington: Jordan, would you like to --?

Mr. Hart: No, you can go ahead and maybe if I have any follow comments.

Ms. Derrington: Yes, thank you. Well, assuming that this ends up being the version that, the red line version is the version that moves forward through County Council, it would create a program where the Department would work with local, State and Federal agencies that are all, that Jacky outlined, all have some regulatory oversight over wetlands to develop additional recommendations. And I would imagine that there would be representatives from all of the islands that would be affected by such regulations that are already affected by such regulations, in fact, to be able to comment on priorities. And so I think there's a tremendous opportunity here to define perhaps even as an island specific level what wetlands matter to what islands, which is not currently reflected in the bill and not something that the Department attempted to define in the red line version. What it did is it proposed the development of management priorities and standards so that high value, high priority systems could receive a certain level of protection and support for a restoration of perhaps impacted systems, while puddles and agricultural ditches perhaps may not receive the same level of scrutiny. But that is a programmatic question that jurisdictions throughout the U.S. have been struggling with, I think, for some time. And so I would imagine there would be some element of looking at best practices from other jurisdictions, a lot of community outreach and feedback to develop those recommendations that would then I imagine, need to go back for implementation to the Commissions. And, and I believe that the maps as well would need to be adopted. And so it would basically establish a feedback loop where people could talk about the systems that they wish to value and protect, and provide mechanisms to do that. But it would take some time and it would, I imagine, be somewhat case-by-case depending on how each island wanted to proceed.

Mr. Gima: Okay, Jordan, will the Planning Department, be the entity that would be responsible to implement this bill?

Mr. Hart: We could. It depends. That all depends on how Council funds things and assigns to do portions of it. But, you know, we're obviously a party to the to the bill. So, it depends on how it unfolds. But, we'd be legitimate candidate.

Mr. Gima: Okay, thank you. Richelle?

Ms. Thomson: Thank you, Chair. When the, when the Commissioners are finished with their questions, I had a couple of things that I wanted to just bring up before for, for discussion sake when I was going through the red line.

Mr. Gima: Okay, we'll circle back to you. So last call on comments and questions for the Commissioners. Sally, then Lisa.

Ms. Kaye: Chair, thank you. I just would like to know Jacky on what basis Molokai would exempt itself.

Ms. Takakura: That's a tough question to answer. Jordan, can you help me out with that one?

Mr. Hart: Sure. Rather --. Well --. The basis --. Each of the planning commissions make recommendations to the Council. So, so it would be --. It was a recommendation or a potential recommendation. And I think that the way the conversation unfolded there was that rather than kind of just spend the time to focus on the legislation that's in front of the body and make comments to it, the conversation went to a broader, why are we here or what are we doing? Do we agree with the direction that this is going in? And that was a byproduct of that kind of thought process as opposed to what happened tonight, which was kind of go by line by line, call out things that you're concerned about, you know, recommend specific changes. And so, you know, what I had told them was that the way Council does things and funds things is that this initiative, initiative is happening now and it may be better to be included than to be excluded because if you're not included then there would need to be the motivation to open this up again and add you back. Or if there are technical studies or community outreach exercises that are funded and carried out and you're excluded then you'd have to lobby to get that funding back in to give you the second chance. So we talked about those things, but it just ended on, you know, kind of that outlook despite potential benefits and explanations that were provided.

Ms. Kaye: Okay, thank you.

Mr. Gima: Lisa?

Ms. Grove: I just want to say that I continue to be troubled by the exclusion of climate change mitigation language. I forgot to note earlier that even the stated goals had nothing about climate change in the, in the power point that was presented. I get that's not the, the, the resolution, but I find it a bit worrisome.

Ms. Derrington: If, if I, if I may comment, I think, a little bit more on the thoughts behind removing climate mitigation. One of the issues with wetlands is they can be a source of methane. A healthy, functioning wetland can actually be contributing to greenhouse gases. And so there would need to be some fairly technical studies going into Hawaii's wetlands to demonstrate to what extent they are carbon sinks and to what extent they are outweighing

the very significant methane sources that they might also be providing. And there are a lot of other benefits that go into it. And so I think if there were concerns about the omission of the climate mitigation benefits that wetlands can provide, perhaps talking about the climate mitigation and adaptation potential would be a way to acknowledge those, those functions and roles without necessarily stating as a matter of fact or law or policy that they, they do function in a way that perhaps the sciences is still a little bit unclear about. But that's, that's just my . . . (inaudible) . . .

Ms. Grove: Yeah. When you look at sort of the most successful blue carbon enterprises to date, they have been on in wetlands and estuaries. I think we have a huge amount of potential in the carbon sink side. But more importantly, it just feels like anything that relates to environment or conservation in Hawaii right now should remind us always that this should be part of the focus. They also can --. I mean, you know, we, we all know, but they, they can be, you know, they can be buffers for us that we may absolutely need.

Mr. Gima: Lisa, based on your Q&A's about that. Would you --? Are you, are you thinking about including some edits as part of the whatever motion we have?

Ms. Grove: Yes. And I'm not exactly where sure where that should go. I would leave it to the experts. Erin did a tremendously great job explaining all of this to us, and certainly show your capacity around this issue. I don't want to micromanage the edit. I just want to highlight the priority.

Mr. Gima: Okay. Thanks, Lisa. Okay. If there are no other comments or questions from the Commissioners, then I want to circle back to Richelle.

Ms. Thomson: Okay, thank you Chair Gima. I also wanted to add my just tremendous support and congratulations to the Planning Department, and to Erin, and Jacky, and Jordan for the work going on this red line version. I think it's very much of an improvement, and it addressed many of the concerns that we had, you know, in our review of the initial proposed draft. So, I had a couple of questions. One of them is on the report section. It's 19.57.030 and this is --. I also have a kind of a highlighted red line version that I can pop up on screen if it's helpful. But I was wondering if it would be better to, the Planning Director must require a report on their feasibility, et cetera to be prepared by this qualified environmental professional as part of a complete application. So that the Planning Department isn't required to prepare this report. That it's clear and it's provided by an applicant, subject to your review. The other, kind of the other thing in that same section was that the Planning Director must provide recommended mitigation measures along with the report to whoever the decision-making body is. It might be the Planning Director or Department. It might be a planning commission or Council. And the others, let's see.

Mr. Hart: Do you mind if I ask a question on the -- does the language or cost to be produced address the option of, of having the applicant produce it?

Ms. Thomson: I think so. You know, it just wasn't, it wasn't quite clear if that was the intent of the Planning Department's changes to allow that, you know, similar to the way that like EAs are done. You know, you don't, you don't draft them or do them. You require the applicants to. So, yeah --

Mr. Hart: The way I read that first section is that it seems that it like hypothetically there could be a regional study that's done by the County or there could be project specific. Like it has to be done and there may be two options of how that could be done. There was the second, the second portion that you would make comments about recommendations -- where -- can you just kind of clarify the location of that?

Ms. Thomson: Yeah. And let me just pop it on screen really quick.

Mr. Hart: Okay, thank you.

Ms. Thomson: Okay. So what I was looking at is Section B, bottom of page four, uhm, that, you know, if this is in the case of the Planning Department isn't the entity that's preparing the report that you would basically provide recommended mitigation measures, conditions, you know, to go along with the report. One of, one of the things that I was a little stuck on with, with the report is that later on in the section, it says that, um, it's almost like this report controls the conditions. But if it's -- it really should be the deciding authority, you know, consistent with the policy. So that's another, another kind of set of recommendation is where it says is -- these are my little spot here. Let's see if I can scroll down here. Ah, here. The decisions consistent with the report. It depends on who prepares the report. But really you want the conditions, I think, to be consistent with the policy, which, you know, is the policy set out in this in this ordinance, you know, to preserve and protect and enhance the wetland areas and all? So that was just something for consideration.

Mr. Hart: Erin, do you mind if I ask a question on that? You know, we have you in the Department right now, but, you know, you just recently joined and you happened to have this background and it's not a characteristic of your specific position within the Department. I had liked the qualified scientific professional or something to that effect because there is some sort of expertise basis for the mitigation measures. Am I, from a practical perspective from the Department, you know, let's say there was a situation where you weren't here with us or we didn't have a specific position who was a wetlands expert, is the, is the ordinance established in a way that there is an umbrella report for the County that would have those potential mitigation measures kind of establishes a menu item that the Department can select from? Or would we be relying on a location by location, technical study and maybe those professionals are providing a menu of additional potential mitigation measures?

Ms. Derrington: Well, I think it may be a little bit of both. So, um, so I think that when this report is generated, there would be a menu of potential mitigation options, restoration, restoration interventions and priorities. However, that would need to be applied to this on a site by site basis because every system is different. So, you can have guidance and you can

um, you can certainly outline what, for example, the mitigation hierarchy would recommend in terms of avoid, minimize, mitigate within the area, then mitigate offsite with compensatory mitigation if need be. But what that looks like for a specific impact would very much depend on an impact or on the wetlands that have been impacted. But you would need someone with a background in wetland delineation, wetland restoration science, which is a small cohort of individuals. But I do believe there are some on, on island.

Mr. Hart: Okay, so, so Richelle, basically like I, I think that that's good. What I would be concerned about is that how does the Department touch bases with a rational nexus so that when we're calling for mitigation measures or conditions that may cost a landowner or applicant money that that we're able to touch bases. And I don't think that we have the existing, aside from Erin, who, like I said, we were fortunate to have, but, but it is kind of like a characteristic that you bring with you rather than an, you know, you're sitting in the wetlands czar for the department position, for example. And I don't, I just don't want to draft the legislation so that we're left in a position where the average planner is, is essentially making recommendations, maybe based on good experience, but not technical expertise. And then we --. So anyway, if there's a way to shape that so that we have some way to touch bases with an authority I'd feel much more comfortable about.

Ms. Thomson: I think the, the others, the others is also . . . (inaudible) . . . There's some feedback. The other could also be true, too, is that if the report is prepared by a -- they may be a qualified environmental professional, but they may not be, I don't know. The report that they produce may not be the best report. So, if you're stuck with that report as the decision-making document rather than a County individual, you know? That's, that's sort of what I was struggling with is this environmental professional is not necessarily part of the County. It's an external person, you know, similar to any of the firms that prepare EAs. You know, some are better than others. But ultimately, the conditions imposed are the Commission and the Department, you know, and Counsel. But that's, that's really where I was kind of reserving the ultimate deciding authority to a County official and not to this report.

Mr. Hart: Okay. Okay, I hear you. I hear you on that, and I'll, you know, in listening to what you just said, it makes me think about SMA major permits, for instance, there will be a technical professional to prepare a study and it will have proposed mitigation measures. And a lot of times those are the starting point. And sometimes there's additional supplemental things that are proposed that end up getting added on. Okay, I understand where you're where you're coming from with that. I think that that's clear to me.

Mr. Gima: Anything else, Richelle?

Ms. Thomson: I, I already mentioned, I think, just maybe changing that traditional agricultural uses to -- or the traditional plant cultivation -- I don't have the wording in front of me -- to traditional agricultural and aquacultural uses.

Mr. Gima: Okay, thanks. Commissioners, any questions or concerns about the Q&A between Jordan, Richelle and Erin? Okay, so, um, yes? Erin? Erin is that you? Okay, so hearing no questions or concerns about Jordan, Richelle and Erin's Q&A, we're at the point of --. Well, what's, what's the Commissioner's pleasure at this point? Are we ready to consider our, our options? Or do any of you have any questions or comments about process and what our options are?

Ms. Kaye: I would like to ask a question. And Jacky, I assume, has been taking notes and I assume further that our purpose tonight is to, you know, she captures what we recommend and then it goes back to Council. So we have our four options. I don't -- we don't have to go back and go through them. We've already, I mean, I didn't hear anything I disagreed with. I think everybody said something really very smart and very necessary. So, do we just go to the four options and pick one or do we have to do something further?

Mr. Gima: Good point Sally and --

Ms. Kaye: I think that's a question for you, Jordan.

Mr. Hart: Can we start with the recording? Jacky, did -- because I was not taking notes in this meeting -- you feel like you've captured the input?

Ms. Takakura: Chair Gima, can I share what I think are the takeaways so far? Is that all right?

Mr. Gima: Please.

Ms. Takakura: Okay. So the first one was regarding in the purpose, including climate change mitigation, having that in there, and I'm not sure --. I know it was climate change mitigation. Yeah, mitigate climate change, not, not, not necessarily adaptation. So mitigate -- having mitigate climate change back in section one as one of the purposes of this. The second one was in reference to the, the plants. And . . . (inaudible) . . . Changing the traditional plant cultivation to traditional agriculture or aquaculture uses. And then the third thing I had was changing the word prior on page five to previous. On page eight, we had a question about the term, if possible. So I'm not sure what we're going to do with that one. And then we had --

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

Ms. Takakura: Actually that was about it because Richelle's comments was about the traditional ag. Well, Richelle had some comments too. Anything else?

Ms. Kaye: Yeah, I think we, we talked about and your planners agreed that it should be is and not must on page --

Ms. Takakura: Page 11. You're correct Vice-Chair Kaye, yes.

Ms. Kaye: Okay.

Ms. Grove: And I apologize if I missed this. Did, did, did you also note our qualified scientific professional as are the other county?

Ms. Takakura: Yes.

Ms. Grove: Okay, thank you.

Ms. Takakura: That's actually from all three Commissions. Yes.

Ms. Grove: Okay. Thanks so much.

Ms. Thomson: And just to Vice-Chair Kaye's point about -- this is, which is on the top of page eight. It says the provisions of this chapter, chapter must be construed if possible to be consistent with and in addition to relevant Federal or State regulations and statutes. I actually just don't think that's necessary to say it.

Ms. Kaye: Well, actually, okay then I agree. If you don't have an alternative to it's not possible, then it should just go. I agree.

Ms. Takakura: So if there wasn't anything else, tomorrow, I'll make sure I get Corporation Counsel's, Richelle's, I'll make sure she emails me her. . . (inaudible) . . .

Mr. Gima: Okay, so you're done with your takeaways, right Jacky?

Ms. Takakura: I think so, but please correct me if I'm wrong.

Mr. de la Cruz: Can I ask a clarifying question? Just when we're talking about the qualified environmental or scientific person, we're specifically asking for the word qualified to be defined. Is that correct?

Ms. Takakura: Chair Gima if I may try to answer that. So Commissioner de la Cruz, so I think the question, the issue, at least with the other Commissions, the term scientific was the challenging part because it could be somewhat limiting because there could be engineers that would be qualified professionals. So the recommendation was to change the term from scientific to simply to environmental professional, which is a little bit broader. To include other professions, not just scientists.

Mr. Hart: Can I clarify Jacky? Was that also intended to be defined, though, not, not just clarified, but also defined to like, for instance, you know, to include civil engineers or --?

Ms. Takakura: I don't have further notes on that.

Mr. Hart: Okay. Well, I'll just say that now then. I think that if it's not going to be defined, then there will be a debate on who's qualified so there's that.

Ms. Thomson: There's, right now this isn't included, but that can be fleshed out in administrative rules, which I don't think that it needs to be. That you have the adoption of administrative rules it's, you know, inherent in the statute. But whichever department that this kind of jurisdictionally belongs to at the end of the day, which probably will be Planning, you know, that you can adopt administrative rules to flesh out, you know, those environmental professionals will be and what is a complete application so that it's --. And you know, and more, and defining what the report needs doing and all that stuff.

Mr. Gima: Okay, Zane, do you feel your question was answered? Okay, so Commissioners, can we assume that the Planning staff has captured all of our priorities and sentiments and will incorporate it into the revised bill? Okay, hearing nothing, then I guess that assumption is, is accurate. So back to our options. It looks like, um, based on Commissioners' comments, we're looking at recommending approval of the red line version of the bill to the Maui County Council with additional edits by the Planning Department. Is that somewhat safe preliminary recommendation?

Ms. Kaye: That's a perfect motion except that we should add edits by the Planning Commission and the Planning Department.

Mr. Gima: Okay, so I will entertain a motion to recommend approval of the red line version of the bill to the Maui County Council with additional edits from the Maui and Molokai Planning Commission, along with the Maui County Planning Department.

Ms. Kaye: No, just us. No, just us (*echo*). Just the Lanai Planning Commission, Commission, and the Department's . . . (inaudible) . . .

Mr. Gima: Okay. So I'll hear a motion to recommend approval of the red line version of the bill to the Maui County Council with additional edits from the Lanai Planning Commission.

Ms. Grove: I second. Second (*echo*).

Mr. Gima: No, I can't make the motion. So, if someone agrees with that, they can say so moved and then we'll come in with a second.

Ms. Kaye: So move. So move (*echo*).

Ms. Grove: Second.

Mr. Gima: Okay, it's been moved by Sally Kaye and seconded by Lisa Grove that we recommend approval of the red line version of the bill to the Maui County Council with

additional edits by the Lanai Planning Commission. Any discussion? Hearing none, I'll take a roll call vote. Lisa?

Ms. Grove: Aye.

Mr. Gima: Sally?

Ms. Kaye: Aye. Aye (*echo*).

Mr. Gima: Zane?

Mr. de la Cruz: Aye.

Mr. Gima: Erin?

Ms. Atacador: Aye. Aye (*echo*).

Mr. Gima: And Chelsea?

Ms. Trevino: Aye. Aye (*echo*).

It was moved by Ms. Sally Kaye, seconded by Ms. Elisabeth Grove, then unanimously

VOTED: To recommend approval of the redline version of the bill to the Maui County Council with additional amendments as discussed.

(Assenting: E. Atacador, Z. de la Cruz, S. Kaye, E. Grove, C. Trevino)

(Excused: S. Menze, S. Preza)

Mr. Gima: All right. Motion is unanimously carried. Thank you, everybody. At this time, let us take a five-minute recess.

Ms. Takakura: Thank you. Thank you (*echo*).

(The Lanai Planning Commission recessed at 6:31 p.m. and reconvened at 6:37 p.m.)

Mr. Gima: Before we get to the next agenda item, did any, did any of you have problems with audio? I had about three times when the static was, or the static and or feedback made it real difficult to hear who was talking?

Ms. Trevino: I'm just hearing echo often.

Mr. Gima: No problems with you, Sally, Zane or Erin?

Ms. Kaye: Yes, I'm hearing the same thing as Chelsea. Just the occasional echo.

Mr. Gima: Okay. So, I mean, what are you guys going to do when the audio goes really bad? Do you guys are going to just raise your hand or stop? So that we can stop and do something about it? What's your pleasure?

Ms. Kaye: Actually, in the past, if, if it's been that bad, then either somebody at the County level or the Chair will say, wait, hold it and ask, you know, make sure everybody's muted or, you know, figure out who isn't. And in the past, it's always gone away. I've not seen what we've had tonight, actually.

Mr. Gima: Okay, County staff, any suggestions?

Mr. Hart: Chair, no, we're just have to play it by ear. We're going to try and get back to the in-person meetings, and there will be a virtual component for people who want to attend virtually. But I think that we're kind of, you know, dealing with the bandwidth of the system and every individual person's hook up, and it's, it's just one of those things. And it does slow down on Maui sometimes too just on Maui meetings. So it's just a shortcoming of the system we're using.

Mr. Gima: And we're, we are required to be on visually, right?

Mr. Hart: A quorum needs to be on visually. And maybe more specific to your conversation, I believe it's, there's a specific time, amount of time that's described where if the connection is lost, where the meeting gets called, I thought it was a half hour, but I'd need to double check that, um.

Ms. Thomson: Yeah, it's 30 minutes. It can be less than that if it's specified in the agenda.

Mr. Hart: But generally the in all of these meetings that I've done throughout this time period that there will be an individual who's having a hard time or sometimes everyone will drop, but they'll generally come back. And I haven't had a full outage so far. . . (inaudible) . . .

Mr. Gima: Okay, thank you. Yeah, let's move on. Okay, we're on to Section E.

Ms. Trevino: Can I ask you a quick question, quick question (*echo*)? I had to change location, so I'm at my mom's house. Do I need to make a statement that now I'm in a home -- I'm in a room by myself, but there is another human being in the building, if that makes sense?

E. COMMUNICATIONS

- 1. JAMES COON AND RANDOLPH COON, requesting a five-year time extension of the short-term rental home permit for the three-bedroom Hale O Lanai STRH, located at 436 Gay Street, Lanai City, Island of Lanai, Hawaii. TMK: (2) 4-9-007:039 (STLA 2019/0003) (J. Burkett)**

Mr. Gima: So noted.

OK, on to Section E, Communications, number one, James Koon and Randolph Coon requesting a five-year time extension of the short-term rental home permit for the three-bedroom Hale O Lanai short term rental located at 436 Gay Street, Lanai City, Island of Lanai, Hawaii. TMK, two, four, dash nine, dash zero, zero, seven, colon zero, three, nine, parentheses STLA 2019 dash 003 parentheses. So at this time, I will turn it over to the Department for their presentation. Who's taking this? Jared?

Mr. Jared Burkett: Aloha Chair. Aloha Chair. This is Jared Burkett with the Planning Department. So, this is a relatively quicker process than you have had with the initial applications. So the renewal application is before you, as you requested, and according to what was it, the Ordinance 5300 has changed so that you are seeing all the renewal applications for the short-term rental homes. So, this approval was issued by the Lanai Planning Commission on March 20th, 2019, and this is their first renewal for James and Randolph Coon. Jim and his consultant, Debbie Mitchell, are on the, on the meeting, if you'd like to ask any questions. But in the meantime, as you see in the memorandum report, there isn't much to report. There weren't any incidents that were filed and like as far as RFSs or complaints. So, or, sorry, or a police report. So, the Department is recommending that you approve the time extension for additional five years, and it would be with the same conditions as outlined previously. So, if you have any questions or if you'd like just to ask any questions of the consultant or owner as well, they're available.

Mr. Gima: So Jim or Debbie, would you like to add anything to what Jared has already presented?

Ms. Jim Coon: No, Chair Gima. I think we'll just stand on this testimonial unless you have any questions.

Mr. Gima: Debbie?

Ms. Debbie Mitchell: So we will just leave it to Jared to speak for us, for us.

Mr. Gima: Thank you. Richelle, on these items, do we, do we also take public testimony?

Ms. Thomson: Yes, go ahead and open it up for public testimony . . . (inaudible) . . . Chair, you have your microphone on. So, yes . . . (inaudible) . . .

Mr. Gima: Okay. So we will now open for public testimony. Leilani, has anyone signed up to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one signed up to testify.

Mr. Gima: And Denise, is anyone in the Council Member's office there to testify on this item?

Ms. Fernandez: There are no testifiers here, testifiers here (*echo*).

Mr. Gima: Thank you, Denise. Okay, Commissioners, any questions, comments about the request for the five-year time extension?

Ms. Trevino: I had a couple of questions just in the terms of immediate family member what that definition is in the context of they say, they have the manager as Niki Alboro and it says immediate family member. And then I don't know if I read it correctly or not, did, did the, did the previous permit expire last month? Because I think it said you were required to renew 90-days prior to expiration? So those were the only two things that kind of stood out to me that I wasn't sure about.

Mr. Burkett: So this is Jared with the Planning Department. I can answer your question. I'll start with the application date. It was submitted on January 5th, 2022. So the requirement is that they submit the application -- and the wording was within 90 days of the expiration date -- so they did that. But since then, the Code has changed that the applicant will have to submit it 60 days prior to the expiration date. So we will change the condition on their approval letter -- sorry -- approval letter to reflect that Code change. But then the, the Code also allows the Department to process the application for six months after the permit expiration date. And so the applicant still has a valid permit as long as the Department is taking . . . (inaudible) . . . not the cause of the delay. It's not the applicant causing the delay.

As far as the question about the relation, I'm looking it up in the Code right now. I don't know if I'll find it quickly, but it says --

Ms. Thomson: Jared, if you want.

Mr. Burkett: Okay, I found it.

Ms. Thomson: Okay, go ahead.

Mr. Burkett: It says in Maui County Code Section 19.65.030 and it is in D-2. And it says the permit holder must serve as a manager of the short-term rental home, except the permit holder may designate an immediate adult family member of the permit holder to serve as manager. Immediate family includes a person's parents, spouse, children and their spouses, siblings, stepparents, stepchildren, adopted children and their spouses, and hanai children, or an individual with an active State of Hawaii real estate license. But it does continue on. It says, except for properties located in Hana or Lanai community planning areas where an individual may act as a manager as allowed by State law.

Ms. Trevino: Okay, thank you. I just was questioning whether it was immediate family member. And thank you for the clarification on the submission versus actually coming to the Planning Commission.

Mr. Gima: Any other Commissioners have questions or comments about the request? Seeing, hearing none. I have I have a couple. Okay, I think I heard you say, Jared, there are no complaints or compliance issues during this three-year, two year -- two- or three-year period. Is that accurate?

Mr. Burkett: Yes, sorry. I was trying to navigate . . . (inaudible) . . .

Mr. Gima: Okay. And so, yeah, I believe Niki is not an immediate adult family member of the Coon family. So maybe they erroneously or whoever prepared the document erroneously checked that box. However, I think, yeah, there are several things it seems to be an error. The address is a Lahaina P. O. box. Niki's Lanai or Niki's phone number is not listed on the application nor on the sign. So, could either you or Jim or Debbie respond to that please?

Ms. Debbie Mitchell: I can respond. We did have a new sign installed with Niki's, with Niki's phone number on it, and that photograph was provided to Planning showing, showing the new sign that had Niki's number.

Mr. Gima: Jared, do you have that? I think she has a six, four, nine prefix number. Does that new sign reflect that?

Mr. Burkett: Oh, I will have to look in the file for a second. I'm not the planner that has been processing this application. But the sign that's in the packet seems to have a different number than what you're describing. But if it was submitted to the Department, it just might not have been included in this package. So, I can look though.

Mr. Gima: Yeah, the main thing is the manager designation form and the sign and the letter that goes up to the neighbors all have to be consistent that if Niki is the manager, they need to have that number so if she needs to be called, they have the correct number. Is that your understanding of what needs to happen?

Mr. Burkett: That is correct. It looks like there is a document that was submitted separately. So, I'm looking at that right now. Oh, I don't --. It appears to be the same number that's on the sign in the picture. So we could just, you know, ask that they make sure those are consistent and add that to this renewal as, like, a condition.

Mr. Gima: Okay, thank you. And then under house rules, it was interesting. After number four note said the shoreline area is the property of the people of Hawaii and is open for the free use for everyone. So that seems odd that this would be included in the House Rules for a house up in the city. So I'm just wondering if this is a cut and paste house rules. Could you or Debbie or Jim comment on that, please?

Ms. Mitchell: I can comment on that. It's taken verbatim from the requirements of the ordinance. We just, we just use the exact language and so that is what we use on anything in Maui County.

Mr. Gima: Okay, thank you. And then under the short-term renewal condition compliance report, under the permit conditions, I mean, they're, they're pretty self-explanatory. Under number, nine, 10, 11, 12, 14, 15, 16, uhm, how, how is this enforced or is this --? And it's not just, not just with this short-term rental renewal or application, I'm just wondering how are these conditions enforced? Or is it based on the Planning Department receiving complaints and, or, is it just based on trusting the applicant's word?

Mr. Burkett: So the conditions are presented so that they --. So if we look at the advertisements and they said something different than this, then enforcement action could be taken, or most likely would be taken. But that would require something to be brought to the Department's, someone to bring that to the Department's attention. So it would either be when we're looking for to do the renewal, we look into their ads. We look at, we look at the, the reviews that are left by the guests and to make sure that, you know, they're not discussing any parties or, or there's photos of weddings at the site. And it's of, of course, also based on complaints by the public. So it's a complaint is made, then they're in violation of those conditions. And so they would have to refute that and show evidence otherwise. But then they could be enforced on as well, which would lead, could lead to the revocation of their permit.

Mr. Gima: Yeah, I mean, I understand the Planning Department doesn't have the staff to actively enforce something like this. So I'm guessing that you guys have to just trust that the, the applicant is going to follow through. Based on other short-term rentals and with a property manager here, I mean, sometimes a property manager is gone, and they're still renting out the unit. And so I'm just wondering how that is supposed to be handled. Not, not suggesting that that is the case for this renewal request, but just, just in general.

Mr. Burkett: So the property manager is required to be up, to be within 30 miles driving distance whenever it's being rented. So that, so that doesn't apply between, like, Lahaina and, and Lanai because it's not driving miles. But so if they're away and they're not complying to that and something were to come up, then enforcement action would be taken.

Mr. Gima: But again, somebody would have to bring it to your attention or the Planning Department's attention, correct?

Mr. Burkett: Correct. Or while we're researching for the renewal and we noticed something that that would also to be something that's been posted or public information.

Mr. Gima: Okay, thank you, Jared. Commissioners, any other comments or questions about this request?

Ms. Atacador: Yes. Yes (inaudible) . . .

Mr. Gima: Go ahead Erin.

Ms. Atacador: Thank you. So I apologize for not knowing, but I just wanted to ask why it was previously approved from 2019 to 2020, and now it's from 2020 for a five-year period. Was there, was there a prior change there or was it only approved for three years in the past time it was submitted?

Mr. Burkett: I, I think what you're asking is why it was earlier only a three-year permit, but now it's a five?

Ms. Atacador: Yes, that's correct. Sorry.

Mr. Burkett: So for the initial short-term rental home permit application, they can only apply for a one to a three-year approval. And then the Code allows for the applicant when it's after the initial approval, they can apply for a one to five years.

Ms. Atacador: Ah, understood. Thank you.

Mr. Gima: Okay. If there no other comments or questions from the Commissioners, I will entertain a motion to recommend approval of a five-year short-term rental permit extension for Hale O Lanai with a new expiration date being March 31, 2027.

Ms. Grove: So move.

Ms. Kaye: . . . (inaudible) . . .

Mr. Gima: Was that a second, Sally?

Ms. Kaye: Yeah, I'm not sure we're recommending approval. I think we're, we're agreeing with the County's recommendation that it be approved. And I'm not sure of the technical way to do that, but yeah, I'm a second.

Mr. Gima: Okay. It's been --. Let's see how we're going to --. So we're agreeing with the Department's recommendation. Is that what you're saying, Sally?

Ms. Kaye: Yes.

Mr. Gima: Okay. Lisa, you're okay with that change in the motion?

Ms. Grove: That's right. Thank you.

Mr. Gima: Okay. It's been moved by Lisa and seconded by Sally that the Planning Commission agrees with the Planning Department's recommendation to approve a five-year short-term rental for an extension for Hale O Lanai. The new expiration date will be March 31, 2027. Any discussion? Okay, hearing, seeing none, we'll take a vote. Chelsea?

Ms. Trevino: Aye.

Mr. Gima: Erin?

Ms. Atacador: Aye.

Mr. Gima: Zane?

Mr. de la Cruz: Aye.

Mr. Gima: Sally?

Ms. Kaye: Aye.

Mr. Gima: And Lisa?

Ms. Grove: Aye.

Mr. Gima: Okay, motion is carried unanimously. Thank you. All right.

Mr. Coon: Thank you very much, Counsel. Thank you.

It was moved by Ms. Elisabeth Grove, seconded by Ms. Sally Kaye, then unanimously

VOTED: To approve the Department's recommendation for a five-year time extension.

(Assenting: E. Atacador, Z. de la Cruz, S. Kaye, E. Grove, C. Trevino)

(Excused: S. Menze, S. Preza)

F. UNFINISHED BUSINESS

- 1. CHRISTINE FEINHOLZ, GISP of PACIFIC CARTOGRAPHY, and JORDAN E. HART, DEPUTY DIRECTOR on behalf of the DEPARTMENT OF PLANNING presenting information and progress in establishing a methodology and process for the MAUI COUNTY IMPORTANT AGRICULTURAL LANDS STUDY which will identify and map parcels which may be eligible for designation as Important Agricultural Lands on the Island of Lanai.**

Presentation and discussion were conducted at the March 16, 2022 Lanai Planning Commission meeting. The Commission may continue to discuss and provide comments on the methodology and process being established.

Public testimony will be taken on this item.

Link to the Project Website containing the IAL Technical Report and Island Reports: <https://pacificcartography.mysocialpinpoint.com/maui-ial-mapping-project>

Mr. Gima: Let's see. Moving on to unfinished business, Christine Feinholz, GISP of Pacific Cartography, and Jordan E. Hart, Deputy Director, on behalf of the Department of Planning, presenting information and progress in establishing a methodology and process for the Maui County Important Agricultural Land (AIL) Study, which will identify and map parcels which may be eligible for designation as important agricultural lands on the Island of Lanai. Presentation discussion was conducted at the March 16, 2022 Lanai Planning Commission meeting. So I'll turn this over to you, Jordan.

Mr. Hart: Chair, thank you very much. So the we did the full presentation at the last meeting, and we took some preliminary comments and we wanted to come back to see if the Commission had any further comments and to allow for one other additional chance for the public to testify on the item. And then at the conclusion of that, I would hope that the Commission would, you know, reach a conclusion on the comments that they would like to provide through the Director to the project. Thank you.

Mr. Gima: Jordan, could you give Erin and I a Reader's Digest version of what you guys discussed last month?

Mr. Hart: Sure Chair. And if I could share screen that may help.

Mr. Gima: Yes, thank you.

Mr. Hart: Are you able to see that, the, the map? Okay, great. So I'll just show the map and kind of give an overview. So Hawaii Revised Statutes establishes that each of the counties need to identify important agricultural lands and designate them for the preservation of, of agricultural capacity and food sustainability for the future of Hawai'i. The Maui County Council designated funding for the Planning Department to initiate the process of mapping the important agricultural lands. In analyzing the project, we outlined three phases the project should be done in.

The first being a preliminary mapping where we create a grading system and then establish parcels that should be considered for the discussion.

The second phase, which is we're requesting funding from the Council right now in this current budget request, is to identify incentives that would motivate or incentivize landowners to participate in the IAL designation. Because the Hawai'i Revised Statute language does include, does include language that describes the limitation but does not describe very many benefits. Obviously, the benefits are for the preservation of agricultural capacity and the promotion of food sustainability. But for the individual landowner, there's limitations on what you can do, but, but not too many clear incentives. There is a loan guarantee program on the State level and there's a tax benefit program on the State level. But there is no existing Maui County incentives, so we think that that's an important package to, to motivate participation. Obviously, on Lanai, it's a single landowner, but throughout the County it's, it's many different landowners. Some being private individuals, some being corporations, all with varying interests and capacities and intentions of their land.

The final phase three is proposed to be the process of finally establishing after the incentives are in place, which parcels should be designated as important Ag lands. So with that, I'll add on to that phase three, a little bit further. After that goes through a community process of establishing those lands to be designated that would be referred to the Maui County Council. The Maui County Council will make the final referral to the State Land Use Commission, and then the State Land Commission would be the authority to actually designate lands.

And so within the consultant team, we made use of existing data that's available because there was not resources to do new technical studies for this purpose. So we compiled existing data. Things like soil, rainfall, existing agricultural uses, important agricultural lands, studies that have been done in the State of Hawaii. Overlaid all of those things through GIS and graded the parcels from less favorable to more favorable. Dark green being more favorable, and yellow, and then red being the least favorable as far as the appropriateness of designation of the lands. Excluded from this study are lands that are owned by the Federal government, lands that are controlled by DHHL, lands that are not in the State and County agricultural districts. And so it's a narrow scope and in that scope we graded the lands. For the Island of Lanai, here are the parcels that were rated. Green being more eligible and yellow being less eligible.

There was also a website with a Countywide technical report that established the framework for the project. And then three island reports Maui, Molokai and Lanai, and established how that framework was applied to each of those, each of those islands. You can click on a parcel, for example, this is the grading process that was established establishing agriculture lands of importance to the State of Hawaii. The amount of acreage and coverage, information regarding irrigation, water fall, aquifer availability, the soil levels, and all of those kinds of things were factored in layered on for each other to come up with a score.

I'm going to stop sharing for the time being, but that's kind of the quick explanation of, of what we talked about with graphics and over a longer period of time during the last meeting. I do want to add that we have sent the project out. I believe it was approximately March 8th. One

second. Let me actually get the date; March 18th, sent the report to the Lanai Culture and Heritage Center for review and comment. And we also did send it to Pulama Lanai specifically for review and comment. And I know that the project team did have a meeting with Pulama. Although I was not able to attend, but our technical consultants did attend, Pulama, to discuss the project and the legislation and so on.

And if you would like, I can kind of give a brief overview of the comments that we got last time. There are more questions than comments, but I can recap that if you would like.

Mr. Gima: Sure. And thanks Jordan. Before you do that, was this item deferred to this month because of concerns or were there time restraints?

Mr. Hart: I think that there -- it's a lot of material. First of all, I think you should hear from your Commissioners. My interpretation was two things. First of all, this is a lot to digest, so I think that there was a desire to have more time. And from the Department's perspective, I did want to have a second chance of public comment or testimony because I do think opening that two times is better for the outreach record of the project than only one time, but that was my interpretation.

Ms. Thomson: Chair, I'm sorry to butt in, but it looks like we've lost quorum. I think that Commissioner Kaye and Commissioner Chelsea had to leave. So unfortunately, what that means is that we have to defer the items to the next meeting.

Mr. Hart: Okay, well, I'll just say that, you know, unfortunately, the public comment period for the project is, was -- and I was worried about this with the other two items -- but with public comment period for this project ends on April 30th. So we have the comments that were received in rough form. I'll consult with the Department's Counsel and the Director on how we may recognize the Commission's rough comments. There were specific comments, added type comments which we, we have addressed. The other thing I can offer to you is that you can all reach the, the, the project material by using the link that was provided in the agenda. And you each, as individuals, can provide comment into the project. You know, obviously it's preferable to have comment on behalf of the, of the body, but I don't know how we can do that if there is no body to act in that context. But I do want you all to comment. So if you if you have time, if you, you're welcome to submit your personal testimony. And any members of the public, I would encourage the same thing. And Michelle, I believe that there is a question from a member of the public on whether or not testimony could happen now that there is no quorum. I mean, I didn't mean to say Michele, Richelle, sorry.

Ms. Thomson: It's okay. I answer to that too. Unfortunately, so meetings that have to be canceled for lack of quorum, so if you just don't start with, you know, only four of you are here at the start of the meeting, then you can take presentation and testimony. But if you lose quorum in the middle of it, basically the meeting just has to end, so you can't have testimony and presentation once, you know, once you have commenced the meeting and then it . . .

(inaudible) . . . So the answer, the short answer is no, unfortunately. But the testifier can definitely provide their comments on the, on the IAL study as you suggested, Jordan.

Mr. Hart: Chair, in that context of my understanding the steps you're going have to take next, I would just like to in closing say that the Department is requesting funding in this budget for the incentives process, and that would include a community outreach and analysis to formulate incentives based on input to present to the Council for their consideration. And that following a successful outcome of that, we would request funding for the third phase, which would be the actual designation. And I would encourage everyone in the public to keep an eye on that and participate in that process as you see it move forward.

Ms. Grove: Jordan, I have a quick question, and I apologize because I missed last month's meeting as well. When -- can you help me understand what you mean by incentives?

Mr. Hart: Sure. So, the IAL legislation on the State level is described as being regulatory, and it's strictly holding agricultural lands to agricultural purposes. Where under the existing State land use designations and County zoning, there are other potential uses that are, that are not specifically agriculture. And there are also conditional and special permits that can be obtained that are, are clearly not agriculture. And IAL seems to be describing itself as not for that, but for agriculture and for the housing of a farmer in their family and Ag laborers, but, but no other types of things. So in exchange --. And it also, and the legislation also describes the need for incentives. So in exchange for this layer of encumbrances that promotes Ag there, that could be viewed as a stick by the landowner. So this legislature is saying there needs to be a carrot to get people to participate in this process. And so from my perspective, I do believe that legitimate incentives that would be attractive to landowners to voluntarily participate in this process is critical to the success of this overall proposal. And I will say that Kaua'i County has drafted an IAL plan but has not taken it to the State Land Use Commission, and they did that several years ago. I can't remember off the top of my head, but it's essentially not moving. And the City and County of Honolulu just took it to the State Lands Commission and was rejected. So it's not --. This is a complicated and intensive thing that is proposed by the Legislature, and the Council has asked the Department to initiate. And so it's got to be a fair process if it's going to be cooperated with and supported to the completion.

Ms. Grove: Thank you.

Mr. Gima: Okay, Jordan, I heard you say that April 30th is the deadline for receiving public testimony. What about are there any deadlines for our Planning Commission to act on this?

Mr. Hart: Yes, Chair. Unfortunately, I have to hold everybody to the deadline and the reason for that is that this contract was awarded right as COVID was beginning. And I kept -- and I'm the project manager -- and I kept on waiting for COVID to end because I don't like to do community outreach meetings like this virtual. And it kept on not ending, and we just basically ran out of time to keep on extending. We did two contract extensions and we can't do anymore, and we're actually at the end of our time with our consultants. So we have to, we

have to do this now. And so I encourage everybody to provide their comments direct to the Department through the website. There's a number of venues you can do that. I do intend to work with Counsel and the Director to figure out a way to capture the comments that we did receive during our first visit to the Commission. But we don't have the resources to extend it in this phase.

Mr. Gima: Okay. It was my understanding that this agenda item will not be tabled, deferred to the May LPC meeting?

Mr. Hart: No, it's not going to be, Chair. I will say this if the Lanai Planning Commission wants to hold a special meeting within the next ten days, I'll be here. But that's, that's the best I could offer you, and I apologize.

Mr. Gima: Okay, thanks Jordan. Zane, do you want to offer any comments about last month's meeting, what Jordan has to say, and then we'll follow up with Lisa's question?

Mr. de la Cruz: I have no comment.

Mr. Gima: Okay, Zane. Lisa?

Ms. Grove: I was just going to ask if we had testifiers and people that were, we missed it. Are there people ready to speak to this that are missing the opportunity because we lack a quorum?

Ms. Thomson: Yes, it looks like Keiki-Pua Dancil did sign up to testify. However, because the meeting does have to terminate, I let her know in a chat, you know, that you can also submit the direct, you know, direct testimony, or direct comments, I should say, and to the Planning Department. And, yeah, we will work with Jordan on I'm getting the Lanai Planning Commission's preliminary statements, you know, incorporated into the, into the record and all.

Ms. Grove: And no other testifiers or commenters?

Ms. Thomson: Leilani, was there anyone else?

Ms. Ramoran-Quemado: This is Leilani. I didn't receive any other testimony other than Keiki-Pua.

Mr. Gima: How about you, Denise, at the Council office?

Ms. Fernandez: There are no testifiers at the Lanai Office.

(Ms. Sally Kaye and Ms. Chelsea Trevino were excused at approximately 7:02 p.m., and due to the loss of quorum, the meeting ended. The remaining agenda items (Items F, G, and H) will be scheduled on the next meeting's agenda.)

G. COMMUNICATIONS

- 1. February 17, 2022 Q3 through Q4 2021 Semi-Annual Report (Condition 14) submitted by MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017-001, 002, 003, 004, 005 and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001)**

The Report is provided to the Lanai Planning Commission for its review.

- 2. February 17, 2022 Q4 2021 Quarterly Report from mid-August through mid-December and 2021 Annual Report from mid-December 2020 through mid-December 2021 (Condition 15) water usage reports for the project site submitted by MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI for Project District Phase II Application for the Four Seasons Resort, Lanai, Koele Proposed Improvements (PH2 2017/0001).**

The Report is provided to the Lanai Planning Commission for its review.

Mr. Gima: Okay, thank you. So let's go to Communications G, on Keiki-Pua and Pulama's two reports will be moved to the May 18th meeting. Alright, will Zane, Lisa, Erin, will you guys be here for the May 18th meeting? What about you, Erin? Okay, Leilani, do we have any agenda items already set for May 18th?

H. DIRECTOR'S REPORT

- 1. Open Lanai Applications Report as distributed by the Planning Department with the April 20, 2022 agenda.**
- 2. Agenda Items for the May 18, 2022.**

Ms. Ramoran-Quemado: Thank you Chair. Yes, you do have a public hearing item . . . (inaudible) . . . I'm going to mute you, Chair. Yeah, so you do have a public hearing item. It's the Pulama Lanai is requesting a Community Plan Amendment, Change in Zoning, Project District Phase One Development Amendment to the Koele Project District.

I. NEXT REGULAR MEETING DATE: May 18, 2022

J. ADJOURNMENT

Mr. Gima: Okay, thanks Leilani. Okay, a couple of things before we adjourn. Please remind me again either Jordan or Richelle, what's the protocol for Planning Commission members to request items to be placed on the agenda?

Ms. Thomson: Jordan, did you want to handle that?

Mr. Hart: I think, Chair, you should consult with your Counsel about, you know, your purview. But as far as the way the -- you know, you're the chair of the committee. The Department puts together a draft agenda based on the applications and items we have moving through the Department. You know, for instance, there's resolutions that are sent to the Commission that need comments or there's applications where you're the authority. And so we populate the agenda based on our existing material moving to the Department. But if there were things that you felt were appropriate to address and, you know, your Counsel agrees that that's appropriate to be brought in, then, then you would basically just communicate with the Department as Chair and say that you would like things to be put on the agenda.

Mr. Gima: Okay, thanks, Jordan.

Ms. Thomson: And just to add to that. You know, it does need to be within the wheelhouse of the Lanai Planning Commission. So within your jurisdiction. But in terms of that you could ask for trainings, you know, on SMA, on SMA on water use and rights and all kinds of very interesting topics that I think are --. You can also add those to your agenda and request that the Department reach out to people that can assist with those kinds of training opportunities.

Mr. Gima: Okay.

Ms. Grove: Is it possible to ask, to ask (*echo*), another procedural question? Which is if we have questions about items that we didn't get to discuss today that may make for a more thorough conversation next month, is it possible to ask those questions tonight or is that inappropriate?

Ms. Thomson: Probably that --. So there are questions that you might need answers to before the next session, you can reach out to the planning staff or to myself directly if you'd, if you'd like to.

Ms. Grove: Okay, like they, it refers to the, like, the open projects I have a question about an item on that. And then I have a question about the water use documents.

Ms. Thomson: Well, those are going to be on the next agenda. So I think if it's something that Jordan can answer pretty quickly, you know, I'd say go for it.

Ms. Grove: Okay. I was just -- I would love to have an understanding about the jump in potable water use that Koele. It looks like a 20 percent increase from Q3 to Q4. So maybe next time we can discuss kind of what's going on there. And there's been a consistent increase in those, just curious of where we hit the capacity on that.

My second question pertains to the open projects. There's the first item on that list is Lanai Farm Labor dwellings. And again, I apologize, I was not here last month, maybe I missed the conversation, but I've just kind of wanted to understand what that was. Thank you.

Mr. Hart: Chair, it looks like that, Chair, it looks like --. Actually, is Jared still here? Jared is not. Jared is assigned that project. It looks like it just came in about a month and a half ago. I haven't, I haven't seen that yet personally, so we can, I can get information on that for next meeting.

Ms. Grove: If you want to just add it, yeah exactly. Thank you.

Mr. Hart: No problem.

Mr. Gima: Okay. My last thing before we wrap up is what happened to Planning Commission minutes. I noticed we didn't have to approve any minutes.

Ms. Thomson: They're posted online. The law requires them to be posted within 30 days of the meeting, but there's no requirement actually that you have to approve them. So I know that that's --. I don't remember when Planning Department stopped putting those on the agenda. But it hasn't been on the normal agendas for quite a while. And other boards and commissions, there's a few that still approves their minutes, but generally it's not on the agenda anymore. They're just posted since they're verbatim minutes.

Mr. Gima: Okay, thank you. All right. If there is nothing else to discuss or requested for next meeting, if there are no objections, meeting is adjourned. Thank you, everybody.

There being no further discussion brought forward to the Commission, the meeting ended at 7:27 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Erin Atacador
Zane de la Cruz
Reynold Gima, Chair
Elisabeth Grove
Sally Kaye, Vice-Chair (excused at 7:02 p.m.)
Chelsea Trevino (excused at 7:02 p.m.)

EXCUSED:

Sherry Menze
Shelly Preza

OTHERS:

Jordan Hart, Deputy Director, Planning Department
Jacky Takakura, Administrative Planning Officer
Jared Burkett, Staff Planner
Erin Derrington, Staff Planner
Denise Fernandez, Executive Assistant, County Council, Lanai District Office
Richelle Thomson, First Deputy, Department of Corporation Counsel