

**LANA`I PLANNING COMMISSION
MINUTES - REGULAR MEETING
OCTOBER 3, 2007**

APPROVED 11-07-07

A. CALL TO ORDER

The regular meeting of the Lana`i Planning Commission was called to order by Vice Chair Lawrence Endrina at approximately 6:04 p.m., Wednesday, October 3, 2007, in the Old Lana`i Senior Center, 309 Seventh Avenue, Lana`i City, Lana`i.

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

Mr. Lawrence Endrina: Call to order the meeting for October 3rd. Just noted that we have Commissioners Gamulo, Commissioner de Jetley, Commissioner Elliott, Zigmond, and Kaye, and myself. Butch is detained so I'll start the meeting, and he'll take over when he gets in. First we have minutes – we have minutes in this packet –so I'll entertain a motion to approve minutes.

B. APPROVAL OF SEPTEMBER 5, 2007 MINUTES

Ms. Beverly Zigmond: I motion that we approve the minutes of September 5, 2007.

Ms. Sally Kaye: . . .(Inaudible) . . .

Mr. Endrina: Thank you. Motioned by Commissioner Zigmond, seconded by Commissioner Kaye. Any discussion? No discussion?

Mr. James Elliott: I'm just noting that these were not the minutes of the last meeting, so at some point we'll get caught up with the last meeting?

Mr. Endrina: Exactly. This is September 5th, so the next meeting minutes will probably be at the next Commission meeting. So all those in favor of approval of the minutes from September 5th – all those approve say aye.

Commission Members: "Aye."

Mr. Endrina: All those oppose? Okay, passed.

**It was moved by Commissioner Beverly Zigmond, seconded by
Commissioner Sally Kaye, then unanimously**

VOTED: To approve the September 5, 2007 minutes as presented.

Mr. Endrina: Commissioner, since we're scheduled for 6:00 to start off on the Policy wide plan, any objections or any discussions on taking the items out of order from the agenda – taking the county policy wide plan first?

Ms. Zigmond: I don't have an objection, but I'm just asking that we not necessarily go into the third item which was the infrastructure, and maybe leave that later on if we're still awake past ten o'clock or maybe not – because again, I feel like we were kind of penalized for started later than the other two islands and our meetings are quite a bit long. Thank you.

Mr. Endrina: Any other discussion on that Commissioners? Yes?

Mr. Joseph Alueta: Mr. Chair, I looked at the agenda and for the item from Mr. Hunt regarding the Historic and Cultural Resources Commission, we have noticed it at 7:00 p.m.. So I'm just letting you know, even though it would be nice to take it early, we can't take it early because it was noticed for 7:00 p.m. So if there are people who received the agenda and have testimony on that item, they're planning on showing up at 7:00 p.m. So the only items that you could reorder would be the ones that you have ordered for the 6:00 hour.

Mr. Endrina: Yeah, so we're actually just taking the countywide policy?

Mr. Alueta: Yes.

Mr. Endrina: Yeah, that's the one we're taking first.

Mr. Alueta: Yes. Thanks.

Mr. Endrina: Okay. Thanks Joe. Do we need a motion on that? Okay, if no objections, I'll turn it over to Simone.

C. UNFINISHED BUSINESS

- 2. MR. JEFFREY S. HUNT, AICP, Planning Director, transmitting the 2030 Countywide Policy Plan (Plan) to the Lana`i Planning Commission pursuant to the provisions of Chapter 2.80B of the Maui County Code. The Lana`i Planning Commission may review and provide recommendations on Section IV (Goals, Objectives & Policies) of the Plan, which was revised to reflect the recommendations of the Maui, Moloka`i and Lana`i General Plan Advisory Committees. Emphasis will**

be placed on the revised Preserve Local Culture and Traditions, Promote Sustainable Land Use and Population Management, Expand Housing Options for County Citizens, and Improve Physical Infrastructure Sections.

The Maui, Lana`i and Moloka`i's Planning Commissions are being asked to provide recommendations and proposed revisions to Section IV of the draft Countywide Policy Plan. The Planning Commissions have 120-days to complete their review, with the Lana`i Planning Commission's 120-day period beginning on September 5, 2007. *(Plan was mailed previously. Commissioners: Please bring your copy. To view Section IV, (Goals, Objectives & Policies) see Maui County website at: http://www.co.maui.hi.us/departments/Planning/pdf/Full_Directors_Report.pdf)*

- a. Public Testimony**
- b. Action**

Ms. Simone Bosco: Thank you. Well, good evening Commission and I wanted to let you all know right off the top of the hour here that you guys are leading the pack. You're first. The other two Commissions have fallen slightly behind, and you guys are about neck to neck with Maui Planning Commission now, and then Molokai will be handling the same topics as yourself. So that's good news. You're not behind. I wanted to cover some of the unfinished business from the last meeting. There were several questions I wanted to address right off the bat. There was a question under the Natural Environment section if we've addressed recycling some where else in the plan, and just so you all know, we have. There's several policies under the Physical Infrastructure section which we were suppose to cover tonight if we get to it. If we don't –. In any event, they're in that section. Also, there was a question about if we covered GMO's. And I wanted to double check on this, but I believe there is nothing at this time, as far as policy statements directly referencing GMO's. There was a lot of discussions about GMO's at the Maui GPAC, and there was a motion that had failed regarding a policy statement, so it never made it into the either the GPAC recommendations nor the Director's recommendations. So if you did want to propose a policy to address GMO's then you can do that, and it would be an addition to the Natural Environment section. Okay? So if you can think on that.

And then we also have one remaining section from the Local Culture we had not voted on. And if the Chair doesn't have any objections, or if the Commission doesn't have any objections, we'll cover that remaining section that was deferred from the last meeting. And that was – let me just go to it – that was B-2 – Objective B-2. Pardon me? So, we can defer it for the next meeting if you all prefer, and we'll go instead–. It's up here. Did you

want to go through it now? Okay. What the discussion was at the last the meeting was there was some concern about the B-2 section having some policies that actually are better scope under B-1. So the very section – the very first objective actually focuses on the Hawaiian culture, and in looking at B-2, objective B-2 and the supporting policies, I was able to only identify two policies that could potentially be moved to section B-1. And if you take a look at the screen, policy B-2-a, this Commission had suggested be moved to the previous objective. And also B-2 – that very last policy statement is that B-2-e – I'm also noticing maybe better under the first objective because it discusses something to do with the Hawaiian culture. So I'd like to ask the Commission to read through – I can read it actually since you don't have the paper – B-2 through B-2-e – and Julia has copies.

The large matrix is in your binder so you can refer to that. So B-2 read emphasize – excuse me – B-1 reads perpetuate the Hawaiian culture as a vital force in the lives of Maui County residents. And this entire section, B-1 and the supporting policies, really relates to Hawaiian culture, and we didn't vote on the following section and I'm going to go ahead and read the objective and the policies. B-2 reads emphasize respect for the natural environment family and local culture in our island life-style. B-2-a, treat the Hawaiian culture as host – as the host –. Hold on here. The Commission had recommended, treat the Hawaiian culture as the host culture and as such perpetuate an attitude of respect and humility toward the Hawaiian people and their practices. And this policy was suggested to be moved to the section B-1. B-2-b reads perpetuate a respect for diversity and recognize the historic blending of cultures and ethnicities as vital to the quality of life within the County. B-2-d, protect and prioritize funding for recreational activities that support local cultures such as surfing, fishing and out-rigger canoe paddling. This is suggested to be an implementing action. B-2-c, the Commission had amended this policy to state, encourage the perpetuation of the unique cuisine, attire, music, folklore and recreational activities of all cultures within the County. And then the last statement is suggested as an implementing action. It read, study, establish and enforce minimum stream flow thresholds provided for the Hawaiian culture. And the Long Range Division recommends this be moved to the B-1 section since it relates to the Hawaiian culture. And so now we can discuss this, and if you'd like, please go ahead and make your recommendations and we can vote on this.

Mr. Endrina: Commissioners, any discussions? Any comments? If not, then I'll entertain a motion.

Ms. Bosco: Does the Commission also agree that B-2-e should be moved to the earlier section? You can vote on that.

Mr. Endrina: Do it separate or you want to just do all?

Ms. Bosco: All of them.

Mr. Endrina: All together? Okay. I'll take a motion then.

Ms. Kaye: I move we adopt B-2 and its amendments as read by Simone.

Ms. Zigmond: . . . (Inaudible). . . .

Mr. Endrina: It was moved by Commissioner Kaye, and seconded by Commissioner Zigmond.

Ms. Bosco: You need a vote.

Mr. Endrina: All those who approve, raise your right hand.

Commission Members: (*Hands raised.*)

Mr. Endrina: All those oppose, do the same. It's unanimous.

It was moved by Commissioner Sally Kaye, seconded by Commissioner Beverly Zigmond, then unanimously

VOTED: To approve Objective B-2 and its supporting policies as amended.

(Assenting: Commissioners L. Endrina, J. Elliott, D. Gamulo, S. Kaye, B. Zigmond, and A. de Jetley

Excused: R. Gima. M. Mano)

Ms. Bosco: It's unanimous. Thank you. Okay. Great. After Julia is finished with that, we'll move to the Land Use section. Five-zero. Did the Chair vote on that? You did not – you did – six. Okay, so it's 6-0, with the Chair. So we'll move to the Land Use section next. After Julia is finished, we'll be ready here.

Starting at the top, we have goal J, community character, lifestyles, economy and natural assets will be preserved by managing growth and using the land in a sustainable manner. And we'll take the first objective and the supporting policies, and I'll go ahead and just take one at a time for you to discuss so we can go down the list. We'll start with the goal.

Ms. Zigmond: I have a question as to why the word limiting was changed to managing

because I'm not really happy with that word managing.

Ms. Bosco: It's a different way – managing refers to growth management practices. Limiting, we didn't feel is as broad of a term. However, if the Commission doesn't prefer the term managing, we can change to limiting. Managing implies there's a tool box of ways that you can manage growth and that's one of the mandates of Bill 84. So that's one of the reasons. A lot of the land use policies pertain to managing growth instead of just limiting growth, so that's the rationale in general. This was a point of discussion at the Maui Planning Commission too. They changed the language to say managing population growth actually, so, but it is – you can discuss that. Did you want to go on to the objective or did you want to come back to this?

Mr. Endrina: Bev, did you want to make a change on that?

Ms. Alberta de Jetley: Larry? Mr. Chair?

Mr. Endrina: Yes.

Ms. de Jetley: I agree with Beverly and think that we should change that to limiting growth.

Ms. Bosco: Okay, no other comments, we'll move on to objective J-1, and I'm not going to read any.

Mr. Endrina: Wait Simone.

Ms. Kaye: I understand your point and I had the exact same question – why was limiting removed? You know, it's an unhappy truth, but we have to limit growth. So I wonder if we couldn't do both. I wonder if we couldn't say preserve by managing growth with a view to limiting it to sustainable growth. No. Managing –.

Ms. Bosco: I had originally suggested and it wasn't taken by the Maui Planning Commission. Although it wasn't objective to, initially I proposed if you struck the word growth, you would have the statement, will be preserved by managing and using the land in a sustainable manner. But that wasn't accepted, so it's just a thought. We do have growth as a basic principal though.

Ms. de Jetley: Mr. Chair, I think that there will be vast differences of opinions between the word managing and limiting. And I think that we are at a point in this state now where we have to realistically limit growth. We've all returned from the Big Island and seen the explosive growth that has occurred there. If we managed growth, that might end up being

a possibility to see that kind of growth on Lana`i. This island will only hold a certain amount of people so it's not managed. We need to limit.

Mr. Endrina: Would you suggest wording for this? Can you suggest a wording for this?

Ms. de Jetley: I would say keep it as it is – just change managing to limiting and I would suggest that we vote, you know, bring it to a vote so that we can move on.

Mr. Endrina: Okay. You want to make a motion on that? Just on that one item?

Ms. de Jetley: Okay. I make a motion to change the Director's wording on J-9000 to insert limiting instead of the word managing.

Ms. Zigmond: . . . (Inaudible) . . .

Mr. Endrina: Okay, it was –. Go ahead Jim.

Mr. Elliott: I just want to make sure –

Mr. Endrina: Wait, hold on. We have motion on –.

Ms. Bosco: You can take discussion.

Mr. Endrina: We can take discussion? Okay.

Mr. Elliott: As a matter of discussion, the only thing is I'm – leaving at limiting is a very nebulous exact word. I mean, what limiting is to one person is not necessarily limiting to somebody else. And I'm not sure exactly what that word would entail. I mean, limiting would there be no more houses built on Lana`i or Maui or whatever? I mean that might be somebody's interpretation. Managing is the reality that we have to live with. So I don't know what limiting means is what I'm saying.

Ms. Zigmond: Mr. Chair, I think managing is very more nebulous than limiting.

Ms. Bosco: Would the Commission feel adding both words as too many? Or you can saying managing and limiting growth.

Ms. de Jetley: Mr. Chair, I'd like to call for the question.

Mr. Michael Hopper: The parliamentary procedures are in the realm of the Chair, so

generally the Chair would be the one calling for the question. If you would want to make a motion to the previous which essentially is to cut off all debate which is a non-debatable motion and you can take a vote to take up and cut off debate then you can do that. Technically calling for the question, that is something that only the Chairperson would do.

Mr. Endrina: Okay, so we're back to discussion and voting on the motion.

Mr. Hopper: I mean, if you want to allow discussion to continue, yes, but if one of your – under Robert's Rules of Order which you've adopted, and your decision on this parliamentary rules are the final decision, but I can't –. But I would just point out that there's no such thing, in Robert's, as a member of the Committee calling for a – or member of the Commission calling for the question. The member would make a motion for a previous question. It would be seconded. It's non-debatable. You can take a vote and that would cut off debate on the motion and basically that's how a member could force you to call for the question under Robert's Rules of Order.

Ms. Bosco: Thank you Corporation Counsel. It's your decision. You can –.

Mr. Endrina: If there's a motion and a second already. Okay, a motion was made and it was seconded by Kaye.

Ms. Bosco: It was seconded by Beverly I believe. Wasn't it?

Mr. Endrina: Okay – earlier. Thank you. We'll take a vote. All in favor of – yes?

Ms. de Jetley: . . . (Inaudible) . . .

Mr. Endrina: Yes, that's for limiting – for limiting and leaving out managing. All those in favor, raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Endrina: All those oppose?

Commission Members: *(Hands raised.)*

Mr. Endrina: Noted that four votes for.

Ms. Bosco: The Chair can also vote if there's a need to vote.

Mr. Endrina: Yeah, I actually want to do against.

It was moved by Commissioner Alberta de Jetley, seconded by Commissioner Beverly Zigmond, then

MOTION FAILED: To change the wording in Goal J from managing to limiting.

(Assenting: Commissioners: A. de Jetley, D. Gamulo, B. Zigmond, S. Kaye

Dissenting: L. Endrina, J. Elliott

Excused: M. Mano)

Ms. Bosco: So the motion failed.

Mr. Endrina: Yeah.

Ms. Bosco: We can continue if you'd like or we can stay on this goal.

Mr. Endrina: Why don't we continue on.

Ms. Bosco: Okay, the objective we're discussing is J-1, improve land use management and implement a land use and directed growth strategy. I'd like to note that this is required by Bill 84, and we made sure that it was in there so it's really going to be done even though it's required. Any other comments on that?

Ms. de Jetley: Mr. Chair, the reason I wanted to use the word limiting is that the Moloka`i and Lana`i GPAC recommended it. Our vision of what we would like to see on in our island communities is quite different from Maui's vision. And we have seen rapid growth on Maui. We have seen great divisions within the Maui community. And I really feel that on this island, we need to limit our growth, and by limiting our growth we can continue to use our land in a sustainable manner. In previous meetings, we have discussed water. The water – the availability of water in itself will limit our growth. Regardless of how we manage our water, we will still have only a limited supply of water. And that's why I strongly recommend that we move on with this, change the wording to limiting growth and get on with the rest of this evening's business.

Mr. Endrina: Going back to it.

Ms. Bosco: Okay, discussion on--.

Mr. Endrina: Any discussion? Bev.

Ms. Zigmond: Mr. Chair, I do agree with Commissioner de Jetley. And the only other comment that I have though is perhaps if in our Lana`i Community Plan we might limit more – we might be able to do that.

Mr. Endrina: Anyone else? I don't know where to go from here.

Ms. Bosco: We can go forward and discuss the rest of the section, and then we can come back and decide.

Mr. Endrina: To this section?

Ms. Bosco: Yes. We're on objective J-1 and this pertains establishing a directive growth strategy and implementing – well, improving land use management. If there's no more discussion on this, we'll move on to J-1-j, and this one actually does address growth limits. J-1-j reads establish and enforce urban and rural growth limits.

Ms. Kaye: Can I suggest that we follow past practice and just go down the line. I'm going to assume that we've all done our homework and we've all read these and made notes on ones that we wanted to question, is that correct fellow Commissioners? Is that okay with everybody? Is that okay with you?

Ms. Bosco: Absolutely.

Mr. Endrina: Yeah, do like the whole thing like we did before.

Ms. Bosco: Okay, go ahead. You want me to open discussion right?

Mr. Endrina: Yeah.

Ms. Bosco: I'm not going to read it.

Mr. Endrina: No.

Ms. Bosco: Okay.

Ms. Zigmond: Mr. Chair, on J-1-k, I'm not really happy with the abbreviated version of the Director's recommendation.

Mr. Endrina: Do you have any suggestions on the wording?

Ms. Bosco: I'd like to – staff would like to note that the next – those three policies after that – the three together are related and the one that you're on, J-1-k, was actually bifurcated – it was split in half – and we brought down a portion of that policy to the next policy statement. And then the one after that addresses maintaining a sustainable balance between resident and visitor population which is a related policy.

Ms. Kaye: Okay, then I have a question. It sounds like an awful, strong attempt to segregate. Number of visitor accommodation units encompasses what? Hotels, TVR's, bed and breakfasts?

Ms. Bosco: Yes it does.

Ms. Kaye: Okay. And community plan areas involves each island – the entire island.

Ms. Bosco: That's right, in this case.

Ms. Kaye: Okay. Then I would make the argument that we take out limit and we put in manage because Lana`i needs those accommodations. Lana`i cannot function if the only alternative is the Four Seasons Hotel. We really need that.

Ms. Bosco: Okay, thank you.

Ms. de Jetley: Commissioner Kaye, you're saying on that we should – on that particular item, J-1-b – we'll have managed the number rather than limit the number, right?

Mr. Endrina: That's correct.

Ms. de Jetley: Good.

Mr. Endrina: Thank you. Any other comments? Discussion?

Ms. Kaye: I had a question about J-1-c.

Ms. Bosco: Okay.

Ms. Kaye: I see that as the same as E-2-c , but I think it was on the next one, Housing Opportunities. I didn't see much of a difference.

Ms. Bosco: E-2-c?

Ms. Kaye: Yeah, so if you guys want to tell me why there's a difference between –.

Ms. Bosco: I see. Okay. J-1- which one was it? C?

Ms. Kaye: Yeah. J-1-c. They're both in-fill housing provisions.

Ms. Bosco: Okay, E-1-c reads seeks innovative methods to secure land for the development of low and moderate income housing. We're not switching – Julia, it's okay. We're just reading what she's referring to here. This policy under Housing is really directed at trying to obtain ways and land to develop affordable housing.

Mr. Endrina: Excuse me, Simone, it was E-2-c.

Ms. Bosco: It's E-2-c. Okay. I'm sorry. E-2-c – that reads promote in-fill housing in urban areas at scales that capitalize on existing infrastructure, lower development costs, and are consistent with existing or desired patterns of development. Exactly, this is focusing more on housing whereas the land use policy, J-1-c, really refers to all kinds of in-fills. It includes commercial in-fills. It could include public uses, like parks, schools. It's really a broader policy. It's saying we're going to promote in-fill in general across the board.

Ms. Zigmond: Can you define in-fill for me?

Ms. Bosco: Sure. It's land that typically is zoned urban – in this case, State urban – and the land is typically vacant or under utilized. And it could have higher intensities of uses which are not even developed or that somehow they're sitting dormant. And so instead of re-zoning lands beyond the urban boundaries, we would support focusing on vacant lands or under utilized lands within the urban cores or urban areas so that you keep that urban core – you utilize that urban land the most efficiently it can be used, instead of leap frogging into, you know, the agricultural and rural inner lands.

Ms. Kaye: It's typically, my understanding used in opposition to green field development which is open space, building houses, you take an old school and re-do so it's lost in an urban center.

Ms. Bosco: Does that answer your question though? Okay. Any other discussion on this section? It's a lot here.

Ms. Kaye: I would like to ask you what you guys – what other people thought on J-1-d –

discourage residential, resorts or commercial shoreline development?

Ms. Bosco: That's an excellent question. When I looked at this policy, I almost felt as if, what's intending to say is just discourage shoreline development. That's its intent – is we want to try preserve the shoreline resources. And instead of focusing the development along the shorelines and hardening the shorelines and taking up a valued natural resource, we want to try and preserve that coastal areas. Because really most of the development occurs along the coast line, and so, that resource is really being encroached upon. So, that's the intent.

Ms. Kaye: Okay, and then one more question, and then I think for those Commissioners who were at the conference, this came up, J-1-f, the use of ahupua`a management was a hot ticket item. There was some strong opposition to that as a practical managing tool in today's spacial allocation. So given that, how did anyone else looking at this or the department or your planners think that this would work?

Ms. Bosco: Excellent question. Actually from what I recall there was a lot of support for this policy and similar policies. It's a difficult principal to try and implement, but I think the principal behind it is to care for the resources – consistent with the traditional Hawaiian practices to not take more than what you can use and to support sustainable practices. So the general concept if it can be applied would be implemented. However there's a lot of aspects of traditional Hawaiian ahupua`a management that can't be. So we recognized that, but –.

Mr. Endrina: So my question is – I think I brought this up before – any of the descriptions or the definitions for these words are going to go with the policies?

Ms. Bosco: Yes. Yes.

Mr. Endrina: Okay.

Ms. Bosco: Yes. That has come up to. Yes.

Mr. Endrina: And so will that become the actual policy – although there's all different interpretations of it?

Ms. Bosco: That would be defined –

Mr. Endrina: All the Hawaiian words used in this policy?

Ms. Bosco: Yes. Yes, we would define them, and we would definitely do with consultation too.

Mr. Endrina: Okay. Thank you.

Ms. Bosco: Any other questions?

Ms. Zigmond: Mr. Chair?

Mr. Endrina: Yes Bev.

Ms. Zigmond: I'm jumping to a new policy. Is that okay? J-1-m. I just need a definition on carrying capacity please.

Ms. Bosco: That's –. I will not define it because it's very difficult to define. I'm so sorry. But we just had this come up. There's different ways of looking at carrying capacity and that's one of the challenges of actually studying it. By the time you study carrying capacity, things change, and so, I'm going to have to actually bring back a better definition for you. So it's very difficult to define. In general what it means is what can the public facilities and the services and the resources – what level of population – or what demand can services carry? In other words, is the demand for a service being met by the capacity that's there? And setting those standards is a moving target, but that's where that is going. Do you have anything to add to that Colleen?

Ms. Colleen Suyama: Normally the way carrying capacity standards are set – it's the standard that the community finds acceptable. Like if you talk about traffic, what level of service does the community find to be acceptable? Because you have level of services from A to E. And where some municipalities may say level of service D is acceptable, other communities say no, we want a higher level of service. It's the same thing with, like, what standards in terms of how you provide your school systems, your park systems that the community finds to be acceptable. And that's why when you have this kind of recommendations, it's basically telling the County, you need to establish what those standards are that the community wants, and not necessarily what standards nationally, you know maybe acceptable, in national standards. You know, it's standards that are geared to the particular community.

Ms. Zigmond: Thank you, and nice to see you again.

Mr. Endrina: Commissioners, any other discussion? You want to vote on this objective?

Ms. de Jetley: I have a question Mr. Chair.

Mr. Endrina: Yes, Alberta?

Ms. de Jetley: Commissioner Kaye, are you going to change the wording on J-1-d?

Ms. Kaye: I thought we could make a motion to adopt all of the policies – the objective and the policies with the amendment of putting management in place of limit on J-1-b.

Ms. de Jetley: No, on J-1-d. That's 9006? That's discourage residential, resort or commercial shoreline development. Could we maybe consider just putting discourage shoreline development?

Mr. Endrina: Alberta, I think there was no change on that one. You can make the changes if you want to.

Ms. de Jetley: One of the things that I noticed at the Hapuna Prince Hotel – that is the largest white sand beach on that side of the island, and they plunked this hotel down in the middle of this beach effectively, blocking public access to the beach, and discouraging the general public from using it. So, I would like to discourage on residential properties, unless the County was willing to pay the owner for the land, it would be very difficult to discourage. So I would like to read to say discourage resort or commercial shoreline development.

Mr. Endrina: Jim.

Mr. Elliott: Alberta, I just wanted to make an observation about that, that I had the opportunity to attend the Big Island at some earlier point, and I just want to make the comment to you that there is the Hapuna Beach State Park which is right next to the Hapuna Beach Prince Hotel. And a group of my friends went and visited that State beach and as a result we walked up the beach and were able to go up and, you know, see the hotel. I'm just saying partly what you're saying is true, but part of it is not. I mean, there is an access of the public to the Hapuna Beach State Park. And so I just wanted to clarify that because I think it's a statement of truth anyway.

Ms. Kaye: I would think –. My personal opinion is we either do it the way you first suggested it, Alberta, which is to discourage just all shoreline development, or leave the three in. I don't think there's any – we either have to make up our minds and say all development along the shoreline is bad – if we can discourage it, we should. I mean, I'm not sure why those three are in there. What other kind of development is there that I'm not

thinking about?

Ms. Suyama: The reason I would caution you is if you wanted to do park development, that is considered a development. So I think the reason why it said residential resort and commercial development, it's like, you're not saying all development should be discouraged – you're saying just particular types of development to be discouraged.

Ms. Kaye: Thank you. That makes much more sense. And I know that developments have to provide access, but I know there's been issues on Lana`i with fisherman trying to get past the big homes down along those shoreline so I would be residential in. I think all three of them should be discouraged.

Ms. de Jetley: On the island of Kaua`i at Hanalei Bay, they have really large setbacks because of the high winter surf. So they have like 30 or 40 feet of sand and sand dunes and grass to protect the community from the big surf. So it's all left in open space and in park. So, you know, that's what I would like to see because it's been my personal observation at Manele that when local people walk from the beach and wander into the hotel grounds, it's like, kind of frowned upon. But if you're Caucasian, then it doesn't matter. They just think you're a guest and you're allowed free access. So right away you have a double standard there. So I would really like to see resort and commercial development restricted.

Mr. Endrina: Alberta you want to leave this policy as is or you want to make a change to it?

Ms. Bosco: I think I heard she wants the word residential taken out. Is that right?

Ms. de Jetley: Part of the problem with taking out residential is then the County or the State will be actually – they will actually be condemning property from a private homeowner, and that would not be possible, I don't believe.

Ms. Suyama: The word discouraging is just to discourage future. It not necessarily means that it's going to affect those that are already scheduled or are already developed along the shoreline. I think what it does is it sets a policy for you that when you review your Lana`i Community Plan, what happens is that then you specify or you further define what you mean by discourage this types of development. And it maybe in the terms of changing your land use patterns. It maybe in terms of providing additional goals, objectives and policies that talks about shoreline access, et cetera. So, you know, you have to look at these are the general goals and objectives for the whole County, and then when you come to your specific Community Plans you're going to further define that – what you mean by

your limitations, what you mean by discourage – I mean, you set those standards in your Community Plan.

Mr. Endrina: Thank you Colleen.

Ms. de Jetley: Okay, Mr. Chair, I'd like to make a motion to change J-1-d to discourage shoreline development.

Mr. Endrina: Any second? No second.

Ms. Bosco: We can –. Anymore discussion?

Mr. Endrina: Go ahead Jim.

Mr. Elliott: I only just want to make a comment because that – as was explained earlier, that would leave out even park development. Would it not if you worded it that way? And I'm not sure that's what – is that what you were proposing?

Ms. de Jetley: I don't think that the development of the park – you're going to be discouraging buildings, not parks and recreational spaces for the general public.

Ms. Bosco: Again, Colleen is absolutely right when she says that you can further define where you restrict or limit or discourage certain kinds of developments at the Community Plan level, or even through other implementing tools like ordinances, and even in the – well, in any event, it doesn't mean that we're going to just completely restrict all development, but the community will have to further decide how and where. And keep in mind there are a lot of other uses too that would need to be evaluated against this policy. For example, there are harbors, there are boating facilities and all kinds of things. But, again, this policy won't be – it's a restrictive language but we would need to further define an implementation.

Ms. Suyama: . . . (Inaudible. Changing of tapes) because unless it's just left in its natural area where people just have access in it. Normally in parks you have restroom facilities, you have parking lots, you have public access ways that are developed, you have landscaping that's done, you have irrigation systems put in, fencing put in – those are all considered development.

Ms. de Jetley: Mr. Chair, I would look at this and I would look at the back side of the island. I would really like to discourage any development down there, so I stand with what I said, discourage shoreline development. When you look at the picture on Lana`i and even if

we did develop parks there – on second thought, I don't want parks there. It just turns into a great huge mess with dirty bathrooms, and trash left behind, and camp sites that are filthy – just discourage shoreline development.

Ms. Bosco: Okay.

Ms. Suyama: Can I just respond? If that's what the intent of community – what the community wants – you can define that in your Community Plan. You know, through your land use maps as well as through your goals and objectives. I mean, if you want to say no development in certain areas of Lana`i, you put it in your Island Wide Plan actually.

Ms. de Jetley: I'm reading this to mean discourage as not say no, you can't do anything. You can do it, but we're going to put in – people are going to be discouraged from doing it, not prohibited. And it's not an out right stand on development.

Mr. Endrina: It's now –

Ms. Bosco: As a – I'm sorry.

Mr. Endrina: Go ahead Simone.

Ms. Bosco: As an alternative – I'm listening to her concerns and Commissioners concerns, and we can propose an implementing action that would have more restrictive language if the Commission wants to – something along the lines of restrict shoreline development of when supported by the community or when supported by community's needs. And even though it won't be retained as a policy, it could be further developed at the Community Plan level.

Ms. de Jetley: If you look at the Moloka`i GPAC recommendation, they're restricting. So I'm asking the Lana`i Commissioners to consider the word discourage.

Mr. Endrina: So would that be together with the policy or would that be on this island?

Ms. Bosco: It would be an implementing action that would further develop at the island level. So it would not be a policy. I'm not recommending – I'm saying as an alternative – if this does not pass as a policy – I mean, if her language doesn't pass, she could make a motion to create an implementing action statement that isn't a policy but would be able to further defined in the Island Plan. We can recommend that.

Mr. Endrina: So we would actually take motion for this particular policy first if she wants

to?

Ms. Bosco: Yes, that's right.

Mr. Endrina: Alberta, you want to do a policy for this one?

Ms. de Jetley: No, I'm going to move on.

Mr. Endrina: Okay, shall we take a vote?

Ms. Kaye: I'm going to make my motion again, then that we adopt the objective and policies under J-1 with an amendment to J-1-b to substitute manage for limit.

Ms. Zigmond: Can I say something about that?

Ms. Bosco: We need a second, and then there's discussion.

Mr. Dwight Gamulo: I second.

Mr. Endrina: Okay, it was moved by Commissioner Kaye, and seconded by Gamulo to accept objective J-1 and all its policies with the change in wording for J-1-b for manage instead of limit. All those in favor – I'm sorry, sorry – discussion.

Ms. Zigmond: Mr. Chair?

Mr. Endrina: Yes.

Ms. Zigmond: The same rationale that says that we can refine what we want for this island and our Island Community Plan is why I don't want to change that objective – I mean that policy – to manage instead of limit. Because they may want to limit it on the other islands but which is what this is for. But when we come to our community plan, we can manage them because I agree that it's different here than there.

Mr. Endrina: So that would be for the J-goal?

Ms. Zigmond: No.

Mr. Endrina: The actual goal? Wasn't that what it was?

Ms. Zigmond: . . . (Inaudible). . .

Ms. Bosco: Are you in support of the word manage?

Ms. Zigmond: No, limit; and manage, in our Community Plan.

Ms. Bosco: Got it. So we can –.

Mr. Endrina: Okay, we'll go to vote.

Ms. Bosco: You can call for a vote.

Mr. Endrina: All those in favor of accepting objective J-1 with the changes – with the amendments – with the one amendment to manage instead of limit. All those is favor, raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Endrina: All those oppose?

Commission Members: *(Hands raised.)*

Mr. Endrina: Okay, motion failed.

Ms. Bosco: Motion failed.

It was moved by Commissioner Sally Kaye, seconded by Commissioner Dwight Gamulo, then

MOTION FAILED: To approve objective J-1 and its amendments.

(Assenting: Commissioners D. Gamulo, S. Kaye

Dissenting: Commissioners A. de Jetley, B. Zigmond, J. Elliott

Excused: R. Gima, M. Mano)

Ms. Bosco: We're about five minutes to 7:00 p.m.

Mr. Endrina: I didn't vote.

Ms. Bosco: Pardon me?

Mr. Endrina: I didn't vote.

Ms. Bosco: It still wouldn't have passed I don't think.

Mr. Endrina: Okay. Shall we move on?

Ms. Bosco: We have five minutes. Do you want to –?

Mr. Endrina: Go on.

Ms. Bosco: Go on, okay. All right. We have not taken a vote on the first objective, and we're going to move on. J-2, strengthen planning for and management of the County's agricultural lands and rural areas and there are four supporting policies. Any discussion?

Ms. Kaye: Yes, I just have a question on J-2-a. Can you clarify for me – the context of this statement – the difference between rural and ag?

Ms. Bosco: The way this is reading –. Okay, I'll give you two answers. Rural is a State Land Use designation. It has a whole separate set of permitted uses. It's a higher density. Ag is, or agriculture lands, is lower density lands under the County's jurisdiction. So agriculture usually refers to agricultural uses. Title 19 – excuse me – the State determines what the permissible uses under the State Ag district. The way the statement is reading here – rural identities is of a more broader term. Rural identities could include actually agricultural lands that have a rural land use pattern. A rural in use, but I guess the cracks of the matter here is to maintain a rural community, meaning not high density in certain areas of the County. Rural also pertains to maybe small farming, small productive farms, and as well, major agricultural enterprises. The first part of the sentence though is very clear. It identifies that we'll be protecting – we'll want to protect the prime productive and potentially productive ag lands. Okay, so that is very specific to the State Agricultural district.

Mr. Endrina: Any other discussion? No. I'll entertain a motion.

Mr. Elliott: I move that we accept J-2 as written.

Ms. Zigmond: . . . (Inaudible) . . .

Mr. Endrina: It was moved by Jim accepting objective J-2 and all of its policies, and seconded by Beverly. All those in favor, raise your right hand.

Commission Members: (*Hands raised.*)

Ms. Bosco: Okay, unanimous. And did you vote Chair?

Mr. Endrina: Unanimous. I did. Yes.

It was moved by Commissioner James Elliott, seconded by Commissioner Beverly Zigmond, then unanimously

VOTED: To approve Objective J-2 and its supporting policies as presented.

Ms. Bosco: Six - zero. Thank you. Okay, we're at 7:00 p.m. I don't know. I think we need to –. Did you want to take public hearing item?

Mr. Endrina: Yeah. Shall we take a five minute break and then come back to public hearing? Okay.

(The Lana`i Planning Commission recessed at approximately 7:00 p.m. and reconvened at approximately 7:08 p.m.)

D. PUBLIC HEARINGS (Action to be taken after public hearing. To begin no earlier than 7 p.m.)

- 1. MR. JEFFREY S. HUNT, AICP, Planning Director, transmitting a Bill for an Ordinance Amending Title 19, Maui County Code, Relating to the Maui County Cultural Resources Commission.**

The amendments replace the Maui County Cultural Resources Commission for the Historic Commission in Title 19, Maui Code. (J. Alueta)

- a. Public Hearing**
- b. Action**

Mr. Endrina: Call back in this meeting. We'll go into public hearing. I'll turn this over to Joe.

Mr. Alueta: Good evening Commissioners. My name is Joe Alueta. I'm your Administrative Planning Officer for the Planning Department. I apologize for not having a summary report or a memo report that explains what the ordinance is, but I will try to make a short and sweet. Basically what has happen is that the Historic Commission –

there was use to be a thing called Historic Commission – that was renamed to Maui County Cultural Resources Commission. However, in Title 19.40, and that's in Title 2.a, I think, of the Code, but throughout in Title 19, in 19.48, and then in also 19.52, in the Zoning Code, they still reference the Historic Commission. But their name is now called the Cultural Resources Commission. This ordinance, and the only thing this ordinance amendment does is change that name from Historic Commission to actually what they're called now, which is the Cultural Resources Commission, and that's all it's doing. And because it is an amendment to Title 19, all three Commissions need to review it and make recommendations to the County Council.

Ms. Kaye: So you're saying it's the same group, it's just a different name?

Mr. Alueta: That is correct.

Ms. Zigmond: I just have a question. Is there a Lana`i representative on that group? I'm just curious.

Mr. Alueta: Yes there is. I just don't know who it is.

Mr. Endrina: Any other discussions Commissioners?

Mr. Alueta: So we are recommending that you recommend approval to the County Council to amend the 19.48 and 19.52 to reflect the new name of Maui County Cultural Resources Commission.

Mr. Endrina: Thank you Joe.

Mr. Alueta: Okay, then you have public hearing.

Mr. Endrina: I'll open it to public hearing. Anyone has anything to say? Noted no one approached, and I guess we can take a vote on this. Sorry, close the hearing then. Okay, we can take a vote on this. I'll take a motion.

Ms. Zigmond: Mr. Chair, I move that we change – we're not changing – to approve to amend to replace the Maui County Cultural Resources Commission for the Historic Commission in Title 19.

Mr. Alueta: The other way around – Historic Commission to be replaced with the Maui County Cultural Resources Commission.

Ms. Zigmond: That's what I move. Thank you.

Mr. Endrina: So noted. Any second?

Mr. Elliott: Second.

Mr. Endrina: It was moved by Commissioner Zigmond, and seconded by Commissioner Elliott. Any discussion? No discussion. All those in favor of amending to approve the name change from the Maui County – wait – from the Maui Historic Commission to the Maui County Cultural Resources Commission. All those in favor say aye.

Commission Members: "Aye."

Mr. Endrina: All those oppose? It's been carried. Thank you.

**It was moved by Commissioner Beverly Zigmond, seconded by
Commissioner James Elliott, then**

**VOTED: To recommend approval to the County Council to amend
19.48 and 19.52 to reflect the name of the Maui County
Cultural Resources Commission**

**(Assenting: Commissioners D. Gamulo, A. de Jetley, J. Elliott, L.
Endrina, S. Kaye**

Excused: Commissioners R. Gima, M. Mano)

Mr. Endrina: Okay, we can go back and finish our GPAC?

Ms. Bosco: Okay, Julia is going to project the next section, but I'll go ahead and begin the discussion.

Mr. Endrina: I'm sorry.

Mr. Hopper: Mr. Reilly wanted me reiterate what I told him earlier. He's a member of the GPAC. And remember earlier, a few meetings ago I talked about GPAC members coming to you and testifying at your meetings as resource personnel or as members of the public, and it raised concern because they were on the GPAC which is actually still in operation right now. The concern I had was with the sunshine law that if more than two of those members showed up at a one of your Planning Commission meetings, it can be considered a meeting of the GPAC and a violation of the sunshine law if that meeting wasn't noticed.

I spoke to OIP and they said the issue is whether or not it's a likely hood that they would be doing with board business of the General Plan in the future. And because they were being kept in existence, my presumption was that it is likely they will be dealing with that business in the future because they were kept alive essentially to have questions put to them as the GPAC. However, I was informed and I spoke with someone from OIP last Friday, and she said that the OIP's interpretation of board business is actually very narrow. It generally means that you've got something on an upcoming agenda or it's going to be on a very soon to be posted agenda coming up for your Commission. So in this case, what she told me is that on the facts where you have no upcoming agenda for the GPAC – remember the GPAC have finished their review of the plans though they may serve as a commenting agency – she said that a responsible interpretation on my part could be that there is no board business of the GPAC right now even though they are still in existence, they actually have no business before them. So that would actually allow them to come to your meetings and to testify or to talk to you and give you information about the plan. So I was glad I got that clarification from OIP, so your GPAC members can come and talk at these meetings unless something gets posted on a GPAC agenda that involves the business that you're dealing with here. So I just wanted to make this clarification.

Mr. Endrina: Thank you. Pat.

Mr. Pat Reilly: I'll exercise my rights. My name is Pat Reilly. I am a member of GPAC, resident of Lana`i, and I just want to appreciate as you engage in this. I noticed many people were looking back at what the Lana`i GPAC Advisory Committee was saying. We spent many hours on discussion of those individual words and what it meant for Maui County and what it meant for Lana`i. So I appreciate the struggle you're going through with meanings. It's very important on how the General Plan for Maui County could eventually relate to Lana`i. So I'm saying take a look at what the Lana`i GPAC language was knowing that we spent lots of hours talking about it and probably had the same values you're expressing tonight. Thank you very much.

Mr. Endrina: Thank you Pat.

Ms. Bosco: Thank you Pat. Are we ready to go forward?

Mr. Endrina: Yes.

Ms. Bosco: We're on objective J-3, design all developments to be in harmony with the environment and compatible with the community's sense of place, and we'll take discussion on that objective and its supporting policies.

Ms. Kaye: The only recommendation I had is in J-3-b – you insert the word “that” – ensure that adequate open spaces.

Ms. Bosco: Thank you.

Ms. Kaye: I had a question on what does it mean to ensure better connectivity between land uses? What did you envision?

Ms. Bosco: Thank you. That intends to create better connectivity in all ways, in all land uses. And one of the best examples I can give you is to create more connecting roads or more pedestrian linkages, especially for emergency type of medical vehicles. They can't –. For them, it's a bad idea to just have one access, so creating linkages between uses. It could mean in a, actually, in a commercial area, that you allow for more access points between business uses or connecting roadways like that.

Ms. Zigmond: I have a question, Simone, please, on J-3-a. It looks like you broke the – or someone did, sorry – the original language into two things. Is that –?

Ms. Bosco: That's right. We originally – let me go to the matrix. If you look up the matrix, J-3-a, originally stated establish design standards which will protect the unique architectural in landscape characteristics of each community – that's really an implementing tool. Design guidelines are an implementing tool. It would be appropriate to remove that part of the statement and carry it forward and create those design guidelines and standards.

Ms. Zigmond: Yeah, I can appreciate that. I'm just curious, the establish design standards seems like it's just hanging there like ribbon. Is that complete?

Ms. Bosco: Establish – okay – well we tried to retain the original language. No it's not complete. It would need to be further developed as an implementing action or even an implementing strategy. Okay? If there's no further discussion, did you want to take a vote on this section?

Mr. Endrina: Okay, I'll entertain a motion.

Ms. Zigmond: I move that we approve objective J-3 with its supporting policies with the amendment that Sally made.

Mr. Endrina: Any second?

Ms. Bosco: There was no amendment – I don't believe.

Ms. Kaye: . . . (Inaudible) . . .

Ms. Bosco: Which one?

Mr. Endrina: J-3-b.

Ms. Bosco: I'm sorry. Thank you.

Mr. Endrina: Any second? We didn't have on yet.

Ms. Kaye: . . . (Inaudible). . .

Mr. Endrina: Second by Sally. Jim?

Mr. Elliott: What was Sally's amendment again? I missed that.

Ms. Bosco: Insert the word that.

Mr. Endrina: All those in favor of accepting objective J-3 with its policies and amendment raise you right – all in favor.

Commission Members: *(Hands raised.)*

Ms. Bosco: Okay it's five-zero. Thank you.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Sally Kaye, then unanimously

VOTED: To approve Objective J-3 and its supporting policies with amendments.

(Assenting: Commissioners S. Kaye, B. Zigmond, J. Elliott, D. Gamulo, A. de Jetley

Excused: Commissioner R. Gima, M. Mano)

Ms. Bosco: Okay, next section J-4. Objective J-4 reads strengthen County land use planning and management, and the supporting policies goes to the bottom – the next page – J-4-k. Discussion?

Ms. Zigmond: I have two things. One on J-4-b – the word citizen – can we put resident back in there?

Ms. Bosco: Thank you.

Ms. Kaye: Actually, I made note of that too, and I wanted to ask you why it was changed?

Ms. Bosco: Well there are a lot of non-residents, part-timers, absentee landowners, and the word resident excludes those people. A resident is defined as anyone who lives here more than six months a year.

Ms. Kaye: And citizen?

Ms. Bosco: And citizen, it's an odd term. It's not actually –. Citizen –.

Ms. Kaye: Citizen is where you vote and where you have your driver's license, and where you pay your bills.

Ms. Bosco: Yeah. You have rights. It's actually more for a term of the Country. You would have rights as American citizen. Using this word though implies that, you know, you have rights here, to be here. Any other discussion?

Ms. Kaye: Yeah, actually, I'd like echo something Alberta said at one of the previous meetings – local residents should come out, and County.

Ms. Bosco: Which policy are you looking at?

Ms. Kaye: I'm sorry, J-4-c. It's right below it. I'm sorry.

Ms. Bosco: So it should be changed to –?

Ms. Kaye: County residents.

Ms. Bosco: County residents.

Ms. Kaye: Yeah, local is –

Ms. Bosco: Thank you. So change the word local to County. Did you want to change the word citizen to resident or did you want to keep it as it was?

Ms. Zigmond: I see the word citizen is used, I think, in the first one of Housing, and I just don't like that word. I don't know if we can come up with anything. If we can't, we can't. I can't think of anything.

Ms. Kaye: Having had citizen explained in this context it makes sense. I wonder if there would be some way to identify or define that term in the words – in the context that you did somewhere in there.

Ms. Bosco: That we would include it in the definition section.

Ms. Kaye: Yeah.

Ms. Bosco: And it is a word used frequently throughout the plan too.

Ms. Zigmond: I have one other on J-4-k. I'm sort of wondering how we're going to hold Federal and State officials accountable if this is a County plan?

Ms. Bosco: Good question. I wonder if Colleen can take a stab at that? My interpretation of that is it would imply we need to closely coordinate with the other agencies. And it implies that we also have to do our part. So if there's something that needs to be done, for example, if there's a school that's needed, the State typically takes exactions from developers, and there's a fund to develop and maintain State facilities. Okay, the County needs to coordinate closely with the State and make sure that the communities needs are taken cared of. So that's how – we need to work together is the essence of this statement. But if there's something that's not being done, we need to bring it to the State or the Federal agencies' attention. That's how I interpret that statement.

Ms. Zigmond: I mean, I'm all for accountability. Just that's very awkward to me – for lack of a better word.

Ms. Bosco: Do you have any proposed language for that? This is an implementing action, keep in mind, so it will be removed. But we will further develop it.

Mr. Endrina: Sally.

Ms. Kaye: What if we – if it makes you uncomfortable, what if we use improved accountability? I mean, hold them accountable implies they're not doing it at all now. Improve means there's more of that kind of contextual give and take that you were talking about Simone.

Ms. Bosco: So the language for that statement would be? How would you –?

Ms. Kaye: . . . (Inaudible) . . .

Ms. Bosco: Improve the accountability of Federal, State and County officials to make land use decisions that are consistent. Okay. Thank you.

Ms. Suyama: This is going to be a very hard recommendation to enforce because the County officials are, you know, accountable to the County documents that we create. But you have to realize the Federal and State officials are not accountable to what the local government, you know, puts in their plan. So especially the Feds – I mean, the Federal government – I mean, they can override State and County laws. You know, they just have to be accountable to Federal laws. And you know, it's a nice statement, but it may not be enforceable in any way, you know, other than to make County officials or State officials – if they don't necessarily do what you like – the committee wants them to do – if they're an elected official the only way you can hold them accountable is not elect them.

Ms. Zigmond: That's why I raised that objection. So do you have a suggestion?

Ms. Bosco: You could say collaborate with Federal and State and County officials to make land use decisions. Something like that.

Ms. Suyama: And basically to the extent possible, you know, you could coordinate to make sure that both Federal, State and County officials, you know, try to comply with the Community Plans or the General Plan.

Ms. Bosco: So collaborate and coordinate with.

Mr. Reilly: Pat Reilly – GPAC again. There's two issues here. The one that we just – I think the intent of GPAC was to put on the record, to hope that the Federal agencies and State agencies would look at the Community Plans and pay attention to them. We wanted a statement in there that said hey don't just come in here and do any kind. Please look at our Community and Maui County General Plan, and don't just run ruff shot over it. Whether they legally can or not, that's another issue. But I think the point was to put the people's vision in our plan so that when, hopefully, somebody would look at and say, oh, this is different than we had in mind. They don't want that.

Secondly, I was a little concerned about – and I don't know how that decision is made – J-4-I – require that a reliable long-term source of water be available to serve major new developments prior to their approval is going to be moved to implementing action. We had

a long debate on that one. And maybe we need a review, but my understanding is the water use and development plan will be tied to the individual community plans. That's part of the new ordinance. However, again, we wanted to be sure that there was a strong statement visible to everybody that water and development went hand and hand, and that you had to see both. So I can't tell when something gets moved to implementing and when it just stays policy. Maybe somebody can help me with that. Thank you.

Ms. Bosco: I'd like to refer to J-1-I. You'll note that there are no GPAC comments all the way along the line. And the reason for that is this particular comment came from a member from the public testimony, so it did not have its genesis from the GPAC. And it is beginning recommended as an implementing action, but the Commission can retain that as a policy – J-4-I. It's under J-4.

Ms. Kaye: Actually, I had all kinds of problems with this one and left it alone because it was moved as an implementing action. I know there's a water accountability bill being drafted on Maui right now that would do this very thing. But for purpose of this statement, what is major?

Ms. Bosco: What is major?

Ms. Kaye: Yeah.

Ms. Bosco: That is, well, anything –. How do I define that? Colleen how do you define major? In the Special Management Area, it's over a \$125,000. Major, in my mind, is anything that goes through a public hearing, a significant – like a re-zoning is major. Any kind of a significant project – for example, project districts, planned developments – anything that requires a major public process.

Ms. Kaye: What would happen to this statement if you took major out?

Ms. Bosco: Well then it would – well – we would have to define then what kind of developments, down the line, this policy –

Ms. Kaye: Would be exempted which is what the water availability does.

Ms. Bosco: That's right. That's right. We would have to further define what developments. Colleen is –

Ms. Suyama: The word major is defective. You could take major to be large projects like Koele and Manele as being large projects because they are project districts. You could

take it like a hotel that has several hundred units to be a major development. But it's subjective idea, and, you know, which isn't defined in any manner. So everybody's going to have a different idea of what major development is. The other thing is if you take out the word major from the recommendation, it means all new development. Anybody that comes in for some kind of permit is going to be a development. And what you're saying is that even to get a building permit, if there's no water, then you shouldn't be getting the building permit – same thing. Whether it's getting zoning applications, getting SMA permits, getting developmental rights, ministerial permits like building permits – that's what the word taking major out would do. So it means it would apply to any development.

Ms. Bosco: So as an example in the SMA area, the SMA rules applied to all developments, and the County has had to further refine in the rules and so forth which developments are exempted and can go through the administrative approval. So what we've done here is we've kind of tried to fast forward the policy to apply only to the major developments. And then we would have to define what that means.

Ms. Zigmond: So where will that be defined?

Ms. Bosco: Well, this is re-scoped to be an implementing action. So we would further define it in the implementation programs of each community plan.

Ms. Zigmond: Can we move it out of implementing action?

Ms. Bosco: You can.

Ms. Kaye: The question I would have if we would do that is major on Maui means something different than major on Lana`i or major on Moloka`i or Kaua`i. So if stays implementing, then it becomes something we define for our community plan. If it goes to the policy, then we lose the ability to define major. I pose that as a question.

Ms. Bosco: That's right. You don't lose the ability to define it. No, you don't lose the ability to define it, but it becomes policy that will be used County wide. Okay? So this would be something that land use planners will look at and ask themselves, okay, has this been met? Has this policy been served?

Ms. Kaye: I'm not understanding. Perhaps I should ask this question. Colleen, you made it sound like the way it would be implemented would be a bad thing.

Ms. Suyama: What I'm saying is that because everybody has a subjective idea of what major development is – what major, new development is. The thing that I think it would

have to have some basic definition if it's going to be in the General Plan policy – that it has to have some basic definition. But I don't think it precludes the GPAC later – the Lana`i Plan, Community Plan – further defining what major development is or major new development is for them. I mean, you can still scope downwards. The only thing that I thought would be – you know, because there was talk about talking the word major out and just leaving it as new development – the only thing I had to caution you is then that means all development.

Ms. Kaye: . . .(Inaudible) . . .

Ms. Suyama: It may not be a bad thing, but it then restricts you. If there is no water resources by this definition or this policy, it means that essentially you've banded all development. And that would include to me, when you talk about, you know, like if you had a house, you wanted to build an accessory dwelling, you would not be allowed to build an accessory dwelling. If you, you know, have a vacant lot and you wanted to build a residence, that would also come under that. Any increase construction in any kind of public facilities would come under that definition – by saying new development.

Ms. Bosco: This policy raises this standard of accountability with regards to water source very high. Right now, as an example, just like what Colleen was saying, if you have an existing home and it has so many fixtures and you want to add a room, that's considered a development, but normally that building permit would go through. But with this kind of policy, we would need to really ensure that, you know, certain kinds of additions on homes would not have to go through say the Water Department for an approval. You know what I mean? So there's a higher level of accountability.

Ms. Kaye: If I was building a house on Maui now, would I have to go through – with the permitting process that I would go through require a pass by from the Water Department to get this?

Ms. Bosco: Yes.

Ms. Kaye: Okay.

Ms. Bosco: But an addition is just one room on a house.

Ms. Kaye: But if I wanted to build an ohana – separate building?

Ms. Bosco: That would require new fixtures, so then it would trigger a water issue.

Ms. Kaye: Water. Okay.

Ms. Bosco: But if a room has no fixtures, but it's considered a development, then it would trigger sort of looking at this policy and you'd have to evaluate well is there enough water every single time. You can exclude certain kinds of development by creating rules around a policy like this so that you don't get hung in the bureaucracy. But by saying major new developments, we're already eliminating a lot bureaucracy and the need for rules and a need for further definitions. But we would have to – Colleen is right – we would define major developments in the policy plan for the sake of this statement.

Mr. Endrina: So then the Island Plan then would take care of the nitty-gritty applications?

Ms. Bosco: That's right. Okay, now I forgot where we were at. We had taken a motion and you were in discussion?

Mr. Endrina: Not yet. No. We were still in discussion.

Ms. Bosco: Okay, so we are on J-4 and if there's no further discussion.

Ms. Kaye: I just want to ask you one question. Improve land use – J-4-g – what is land information systems?

Ms. Bosco: That – okay – improve land use decision making through the use of land and –. Okay, a land information system is – it's kind of like an information management database. It's what the County uses to keep track of all land use decision. It's just a computerized way of managing land uses. Okay, so this is the use of higher technology to make land use decisions.

Ms. Kaye: So would that include encouraging the Planning Department to keep old minutes on disks so we could get our hands on them?

Ms. Bosco: Yeah, that would be it.

Mr. Endrina: Okay, any other discussion? I'll entertain a motion.

Ms. Kaye: I move that we approve objective J-4 and the policies underneath with one amendment and that is replacing County with local. I'm sorry, local with County on J-4-c.

Ms. Bosco: And did you want to change the language on J-4-k to read what Julia has here? It says collaborate and coordinate in order to improve the accountability of Federal,

State and County officials to make land use decisions that are consistent with the visions set forth in the County plans. Is that language? I think the first recommendation was to add improve the accountability of. And the second recommendation was to add the word collaborate and coordinate. Did you want all of those words or did you want one or the other?

Ms. Zigmond: . . . (Inaudible. Changed tapes.) . . . and coordinate in order to improve the accountability.

Ms. Bosco: Okay.

Mr. Endrina: Go ahead Jim.

Mr. Elliott: Just to make it read more clearly though, I would say collaborate and coordinate with Federal, State and County officials in order to improve –

Ms. Bosco: Yeah. Thank you. Okay. Thank you Julia. I think those were the only two amendments. No there's another one Julia. J-4-c – right, you had change the word the County – local to County. And Julia I think you don't want to add the to approve. That was not – I think that was – there you go. So take a look at the changes. Do you want me to read something? You want me to read anything? Can you read it? So collaborate and coordinate with Federal, State and County officials in order to make land use decisions that are consistent with the visions set forth in the County plans.

Mr. Endrina: I think, still should have improve in there. Wouldn't that be something? To add the word improve.

Ms. Bosco: Do you want to change the word make to improve? Wait, let me see how that reads – in order to improve – no.

Ms. Suyama: . . . (Inaudible) . . .

Mr. Endrina: Yes Colleen.

Ms. Suyama: Collaborate and coordinate with Federal, State and County officials in order to – in order that land use decisions are consistent with the visions as set forth in the County plan.

Ms. Bosco: Thanks.

Ms. Suyama: Take the other that out – are consistent with the visions set forth in the County plans – I think that makes more sense.

Mr. Elliott: I suggest now that you say in order to ensure.

Ms. Bosco: Thank you.

Ms. Kaye: For my two cents worth, I'd leave it alone. I'd go back to the original language. It's just my opinion, if you're going to hold Federal government accountable on different levels than you would with State or County, but there's no reason why you can't hold all three of them. Together or separately – accountable.

Ms. Bosco: Thank you.

Mr. Endrina: Yeah, that was taking it back to the original.

Ms. Bosco: Okay, any other discussion on this? Now we have a suggestion to retain the original language or we have the recommended changes. We can call for a vote if you'd like.

Mr. Endrina: Discussion – we can call for a vote. Yeah.

Ms. Bosco: Did you already call for a vote?

Mr. Endrina: No I didn't.

Ms. Bosco: Okay.

Mr. Endrina: Why don't we call for a vote on this one? There was no second. You want to – shall I restate it? Or shall she restate the motion? Okay. I just need a second for the approval.

Ms. de Jetley: I second the motion.

Mr. Endrina: Thank you Alberta. Okay, all those in favor of accepting objective J-4 and all policies with the amendments? Can we go back to discussion?

Ms. Zigmond: The last one, I'm not sure what we have decided to include. Is it –?

Ms. Bosco: The motion was to –. My understanding, the motion was to take the amended

language.

Mr. Endrina: Go ahead Jim.

Mr. Elliott: Sally, you're just recommending to take out the word collaborate.

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

Mr. Elliott: It doesn't matter a lot to me either.

Mr. Endrina: Did we get a second on that?

Ms. Bosco: Yes, it's seconded.

Mr. Endrina: I'm sorry. Thank you Alberta. All those in favor of accepting –.

Ms. Bosco: I think there's three all together. They're up on the board right now.

Mr. Endrina: Okay, all those in favor of accepting objective J-4 and its policies with amendments, shown on the screen. All those in favor, raise your hands.

Commission Members: *(Hands raised.)*

Ms. Bosco: Unanimous.

Mr. Endrina: Unanimous.

It was moved by Commissioner Sally Kaye, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve Objective J-4 and its supporting policies with amendments.

(Assenting: Commissioners S. Kaye, A. de Jetley, D. Gamulo, B. Zigmund, J. Elliott

Excused: Commissioners R. Gima, M. Mano)

Ms. Bosco: Thank you. We got through this section, and we're going to go back to the goal statement.

Mr. Endrina: Exactly.

Ms. Bosco: And the first objective which was improve land use – okay – improve land use management and implement –

Ms. de Jetley: Excuse me Mr. Chair.

Mr. Endrina: Yes?

Ms. de Jetley: Are we going to do the whole GPAC? We have people here to present unfinished business. We can't go back on the agenda?

Mr. Endrina: Yeah, this is actually going through this portion of the Commissioner's list.

Ms. de Jetley: What are we doing? We're waiting for who?

Mr. Endrina: We're just going through this portion of the –

Ms. de Jetley: When is he due?

Mr. Endrina: Okay, Simone.

Ms. Bosco: What we're doing is trying to get a vote on the first objective which we never obtained. So we're trying to finish this entire section. Yeah. So the goal statement and objective J-1 still needs a vote, and I'm asking does the Commission – would the Commission accept these statements as they are proposed now on the screen with the change to – an amendment to the goal statement. That failed. The objective J-1 as it's written. J-1-b has one amendment to change the word limit to manage. And then scroll down Julia – and that's it – no other changes. Only one amendment and the amendment to the goal statement. Actually two amendment totals for this section. Any further discussion?

Mr. Endrina: Any discussion? No further discussion? I guess we'll go to a vote. Can I take a motion to accept?

Ms. Zigmond: I move that we accept goal J and objective J-1 with the amendments shown on the screen.

Ms. Bosco: And the supporting policies.

Ms. Zigmond: Sorry, and the supporting policies as amended, shown on the screen.

Mr. Gamulo: . . . (Inaudible) . . .

Mr. Endrina: Any second? It was moved by Beverly and seconded by Dwight to accept goal J and its supporting policies, and objective J-1 with supporting policies and the amendments. Any discussion? All those in favor, raise your right hand.

Commission Members: *(Hands raised.)*

Ms. Bosco: Unanimous.

Mr. Endrina: Unanimous.

**It was moved by Commissioner Beverly Zigmond, seconded by
Commissioner Dwight Gamulo, then unanimously**

**VOTED: To approve Goal J, Objective J-1 and its supporting
policies with the amendments.**

**(Assenting: Commissioners S. Kaye, A. de Jetley, D. Gamulo, B.
Zigmond, and J. Elliott**

Excused: Commissioners R. Gima, M. Mano)

Ms. Bosco: Thank you. You've completed Land Use. Is that it? Yeah. We've completed all four sections. Thank you. Okay, were we wanting to move on?

Mr. Endrina: Move on.

Ms. Bosco: The next section if the Commission would like is Housing. Julia is switching over, and so am I – hold on.

Ms. de Jetley: Mr. Chair? Mr. Chair?

Mr. Endrina: Yes Alberta?

Ms. de Jetley: Could we call for a recess? I'd like to consult with Planning staff.

Mr. Endrina: Okay. Counsel?

Ms. de Jetley: Can I consult privately with staff?

Mr. Endrina: Okay, let's call for a five minute recess.

(The Lana`i Planning Commission recessed at approximately 7:53 p.m., and reconvened at approximately 8:00 p.m.)

Mr. Endrina: Okay, call to order the meeting – we'll proceed Simone.

Ms. Bosco: Okay. Thank you. We're on Expand Housing Opportunities for County Citizens, and small typo in the title but everybody knows what that meant. Goal E, quality, island appropriate housing will be available to all citizens of Maui County, and we'll take the first objective, E-1, referring to affordable housing. It reads eliminate the affordable housing deficit for County citizens. And then there are a number of supporting policies addressing this objective.

Ms. Zigmond: On objective E-1, just a typo – two periods at the end – take out one please.

Ms. Bosco: Thank you.

Ms. Zigmond: And I guess because we had citizens before and we approved that, we're stuck with citizens again. Okay, on E-1-a, I would like to put the word substantial back in there.

Ms. Bosco: The word substantial in –

Ms. Zigmond: In E-1-a.

Ms. Bosco: – in E-1-a.

Ms. Zigmond: Ensure a substantial portion.

Ms. Bosco: Thank you.

Ms. Kaye: I would want to, I think, E-1-d, insert other between and supportive. Otherwise, the sentence doesn't –.

Ms. Bosco: Okay, so and other supportive programs?

Ms. Kaye: Yes.

Ms. Bosco: Okay, Julia?

Ms. Kaye: And I don't know how everybody else thinks, but E-1-f, the range of senior citizen and special needs housing choices – after that, I would insert, on each island, as a County policy.

Ms. Bosco: Well it's implied that we're – but you would like it clear?

Ms. Kaye: Yeah.

Ms. Bosco: Thank you.

Ms. Kaye: Sorry, after housing choices on E-1-f, insert on each island.

Ms. Bosco: Thank you.

Ms. Kaye: On E-1-j, I would change community to communities. And I wonder, Simone, if you could talk to us a bit about E-1-h – I see that as the mixed private / public issue.

Ms. Bosco: Okay, I'm looking for E-1-h.

Ms. Kaye: Yeah, insurance is something –

Ms. Bosco: Ensure –

Ms. Kaye: Homeowners insurance and manageable property taxes, I see as two totally separate functions. Insurance you get from private entities and property taxes are set by the government.

Ms. Bosco: To be honest, I'm going to have to ask for clarification on this one myself. I recognize that it is a partially a private matter. Manageable property taxes is clearly in the public domain. The question about how we can ensure that citizen have access to affordable homeowners insurance, I'm not sure. I'd have to ask.

Ms. Kaye: That sort of speaks to me that the County is going to get involved in it some how or there's going to be some sort of regulatory?

Ms. Bosco: Yeah.

Ms. Kaye: And I don't know if that's the intent.

Ms. Bosco: And I'm not sure how we can do that.

Mr. Endrina: Yes Pat.

Mr. Reilly: Pat Reilly. Thank you. During our discussion, one of the big issues was a hurricane insurance, flood insurance, which are now State functions, in part, when the State came in to help the homeowners recover. So, I recall part of our discussion had to do with not just general housing insurance, but had to do with also insurance that covered disasters, floods and other damages of which the State is now involved. And we felt that the County should put a public statement in its policies that this is a big issue for all homeowners in the County and it needs to be addressed. And again, it would be a collaborative effort – not strictly private business. Thank you.

Mr. Endrina: Thank you Pat. Manageable property taxes, though, that is actually County mandated.

Ms. Bosco: That's right. That's right, and I believe – Colleen can correct me if I'm wrong – but when there are any increases in property taxes, it goes through the public process.

Mr. Endrina: Any further discussion? If not, I'll take a motion.

Mr. Elliott: I just have a question on – and if somebody could just answer me – on E-1-d. I don't know, how do you provide homeless people permanent housing? I don't understand what that is exactly.

Ms. Bosco: Are you on E-1-b or –?

Mr. Elliott: E-1-d. The word permanent was added by all of the GPACs and I just was wondering what the implementation of something like this – how do you provide for provide for permanent housing?

Ms. Bosco: This is an excellent point. The County will need to really collaborate with private developers and stretch its resources to try and provide housing that the people that would normally be excluded or disadvantaged don't have to – they can hold on – can remain in. Right now a lot of the housings are temporary. Implementation, as an example, there could be some kind of mechanism, say, community trust or some other means to create an affordable housing project for people that have been homeless. There could be ways to acquire land that the County could develop somehow with partnerships in the community. There's many different innovative ways to provide permanent housing. There's even Habitat for Humanities – that's one example too. But the way this statement

is reading, it might actually be better to say support the provision – or support – the County shall support efforts to provide the homeless population with emergency transitional and permanent housing. It's not only the County's responsibility. It can be other entities and groups in the community that can help do that. Does that help? I'm not sure that answers your question.

Mr. Elliott: Yeah. Actually I was hoping that maybe one of the GPAC members could just tell me what they had in mind in that.

Mr. Ron McOmber: I knew I'd get wrapped into this. Ron McOmber. We kind of looked at what's going on Oahu right now. They're taking old office buildings and old warehouses and they're converting them over to housing for the homeless. They're getting them off the beach because they have such a problem. They're going to have that same problem with Maui. Basically we were looking at that type of thing – have the policy and the County that you lead in that direction. There's lots of buildings in Maui that you can turn into homeless shelters – permanent housing for these people to get them off the beaches which is impacting the tourists and the residents using those beaches.

Mr. Elliott: I guess I just wanted to comment that, you know, if something like that could be done, I think it's absolutely wonderful. But that would be my only question is the ability that it would get done. So that's the reason, I was confused about the word.

Ms. Bosco: Okay.

Ms. Zigmond: I move to accept goal E and objective E-1 and supporting policies with the two amendments.

Ms. de Jetley: I second the motion.

Ms. Bosco: I believe there's three amendments.

Ms. Zigmond: I'm sorry, with three amendments.

Ms. Bosco: Four amendments. I'm sorry. Four amendments.

Ms. Zigmond: Sorry, four amendments.

Mr. Endrina: Okay, it was moved by Beverly and seconded by Alberta. All those in favor of accepting goal E and objective with all of its policies and amendments – all those in favor, raise your right hand.

Commission Members: *(Hands raised.)*

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve Goal E, Objective E-1 and its supporting policies with amendments.

(Assenting: Commissioner S. Kaye, B. Zigmond, A. de Jetley, J. Elliott, D. Gamulo

Excused: R. Gima, M. Mano)

Ms. Bosco: Unanimous. Thank you. Five-zero. Moving to the next section, objective E-2, increase the mix of housing types in Maui County's towns and neighborhoods to promote sustainable land use planning, expand consumer choice and protect the County's rural and small town character, and then the supporting policies.

Ms. Zigmond: I have one grammatical change on E-2-f, and it's with the word ohana. I believe the Hawaiian dictionary has okina o,h,a,n,a, and if we're trying to promote the correct use of the Hawaiian language, we should do that.

Mr. Endrina: Okay.

Ms. Bosco: Just clarify that again for me so Julia can get it up straight. Is it okay? Okay. All right. Thanks.

Mr. Endrina: Okay, so again, the definitions for the Hawaiian words are going into policy?

Ms. Bosco: Thank you. Any other discussion?

Ms. Kaye: The only thought I had was on E-2-e – to add the word facilities after transient.

Ms. Bosco: Okay, job centers coma facilities.

Ms. Kaye: No, no. Job centers and transient facilities.

Ms. Bosco: Thank you. Transient facilities.

Mr. Endrina: Okay, any other discussion?

Ms. de Jetley: Mr. Chair?

Mr. Endrina: Yes, Alberta.

Ms. de Jetley: Could we have a discussion on E-2-f, expand opportunities for the development of ohana cottages? If you look at the community in Kahului where they have a lot of ohana cottages, there's a lot of people now because of the multiple cars in families, that the ohana units have actually put a terrific stain on the communities. So do you really want to expand that opportunities? If we built ohana units here on Lana`i, it would put twice as many cars out into the street because we just don't have the parking available. Can we discuss this? Anybody else with ideas on this?

Mr. Endrina: Maybe we should ask GPAC.

Ms. de Jetley: I'd like to ask Mr. Reilly what the GPAC's recommendation was.

Mr. Reilly: Pat Reilly. Check me if I'm wrong on this, but part of it was filing – for Maui County as a whole, if you are going to preserve ag land and keep open spaces, and you needed more houses, the question arose is where would you put them? And, of course, ohana housing is one tool by which you could add density without using ag and rural lands to keep exploding and expanding your city. But you're absolutely right, it would increase traffic. So the balance in the housing policy was can we find a way to add housing without expanding the urban boundary into the ag and rural areas? And that was a choice that some people may have. But it was a trade off, you're correct. Thank you.

Mr. Endrina: Did that answer your question Alberta? Anything else?

Ms. Kaye: Joe, didn't the issue of ohana building come up in prior meetings, and you had some advice to give us on what was happening on the island of Maui, in any event, that ohana cottage were being abused. They were –.

Mr. Alueta: I may have.

Ms. Kaye: I just sticks in my mind that you said that one of the things that the County is trying to crack down is ohana housing that's being abused. You know, it's built, but then the child doesn't use it and it becomes a rental and adds to the –.

Mr. Alueta: The ohana dwelling was as it says there's family – to preserve extended family as well as provide for what would be somewhat of an affordable rental – not necessarily –. It could be for family members or for members of the local community or long term residents. That was established – the whole concept of ohana and the allowing for an increase density within the structure was first allowed by the State Legislature which

encouraged the County's to do that and then the adoption of the County Code, 19.35 – I thought I had my report – it's over there – but that's what established the ohana district and this specific purpose was for preservation of large families – five housing as well as somewhat of an affordable rental. That's why we oppose the use of ohana units for short term rental.

Ms. Kaye: Then I wonder if it would satisfy your concern Alberta – is there some way to put an intent into this because really it just says let's support the development of it. It doesn't really speak to who would use it or limitation on.

Ms. Bosco: Would you want to language such as for the local resident? Or – that's the only – I think that would define who's using it.

Ms. Kaye: Actually because it's an implementing action, I was going to leave it alone. I just trying to share some information that Joe had.

Ms. Bosco: Thank you.

Mr. Endrina: Okay, any further discussion Commissioners? Okay, I'll entertain a motion.

Ms. Zigmond: I move that we accept –

Ms. Bosco: E-2 and supporting policies.

Ms. Zigmond: Brain stopped there – Objective E-2 and supporting policies as amended.

Ms. Bosco: I don't believe – is there an amendment?

Ms. Zigmond: It was one of my grammatical one.

Ms. Bosco: Two.

Mr. Endrina: Okay, any second?

Ms. de Jetley: I second.

Mr. Endrina: Okay, moved by Beverly and seconded by Alberta.

Ms. Bosco: Next is E-3 or excuse me.

Mr. Endrina: Wait, we have to take vote.

Ms. Bosco: I'm sorry.

Mr. Endrina: All those in favor by accepting objective E-2 with its policies and the amendments, raise your right hand.

Commission Members: *(Hands raised.)*

Ms. Bosco: Unanimous.

Mr. Endrina: Okay.

Ms. Bosco: Five-zero.

Mr. Endrina: Thank you.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve Objective E-2 and its supporting policies with amendments.

(Assenting: Commissioners S. Kaye, A. de Jetley, D. Gamulo, J. Elliott, B. Zigmond

Excused: Commissioners R. Gima, M. Mano)

Ms. Bosco: Thanks. E-3, strengthen County planning dedicated to building up and maintaining the affordable housing stock throughout Maui County and the supporting policies. Discussion?

Mr. Endrina: I don't know, I had a problem with building-up. The word building-up.

Ms. Bosco: You need a better word? Increasing? Hold on.

Mr. Endrina: It's the E-3.

Ms. Bosco: Is increasing a better word or no?

Mr. Endrina: I think I would rather have that.

Ms. Bosco: If anyone has any other better word, I think changing building-up to increasing is proposed. Okay, Julia change the word building-up to increase. Thanks.

Ms. Zigmond: I'm jumping to E-3-e. I'm just a little bit confused with public private partnership. Is there suppose to be a hyphen in there or is that like something that I don't understand?

Ms. Bosco: Okay, E-3-e – there should be a hyphen, yeah. Thank you.

Ms. Kaye: I would recommend for everyone's consideration that we, E-3-d, add at the end of that sentence, on each island.

Ms. Bosco: So after future conditions, on each island?

Ms. Kaye: Yes.

Ms. Bosco: Thank you. If staff can go back to the E-3-e – actually, I would propose including the word non-profit too – to develop public/private and non-profit partnerships.

Ms. Kaye: The only other suggestion I had was E-3-g. I'd just take out imbalance with the development of affordable housing. Just minimize the intrusion of housing on prime and regionally valuable agriculture lands is a nice strong statement that gets pretty messy when you add that.

Ms. Bosco: Thank you.

Ms. Kaye: Unless the intent is that it is a good thing to take. You're talking prime and valuable ag lands, and then messing it up with affordable housing.

Ms. Bosco: That's right.

Ms. Kaye: We heard a lot at the conference about preservation of prime ag lands and don't mess with them.

Ms. Bosco: Right. And I can see the genesis of this letter phrase is because a lot of 201G projects occur on agriculture lands. So by removing the tail end that you might actually – how do I say this? – it may discourage affordable housing projects on ag lands. So that's the decision that the Commission needs to consider when they're looking at that statement.

Mr. Endrina: Sally, you want to put it back in or leave it like that?

Ms. Kaye: No. If you took out prime ag, I wouldn't have a problem with the sentence nor the intent. But it runs counter to a lot of information and a lot of really strong feelings about what to do and how to preserve prime ag lands.

Ms. Bosco: Absolutely. Is there any –? Would the Commission want to remove the word prime from this sentence or take the last part of the sentence out?

Mr. Endrina: Yes Pat.

Mr. Reilly: Pat Reilly. You may be aware that the State is now evaluating all agricultural lands, and I believe in our discussion of this is that the State will go around and identify. I'm not sure the legal word is prime and important agricultural lands in the whole State and they will create an inventory. So, that was maybe why those two words were in there and that we were aware that this inventory was going to happen. It will go on a map at some point. And then as permits come up, Planning Commissions and Departments would have to decide what can go on those lands. I'm not clear exactly once they're identified what kind of developments can happen. Thank you.

Mr. Endrina: Thank you Pat.

Ms. Bosco: Okay, any other discussion or would you like to vote on this section?

Mr. Endrina: Okay, I'll entertain a motion.

Ms. Zigmond: Okay, it's my job. Let's move to accept objective E-4 with supporting policies and the amendments as discussed.

Ms. Bosco: E-3. I believe we're on E-3.

Ms. Zigmond: Sorry, E-3.

Mr. Endrina: Any second?

Ms. de Jetley: I second.

Mr. Endrina: Moved by Beverly and seconded by Alberta. All in favor, raise your right hand.

Commission Members: *(Hands raised.)*

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve Objective E-3 and its supporting policies with amendments.

(Assenting: Commissioners S. Kaye, A. de Jetley, J. Elliott, D. Gamulo, and B. Zigmond

Excused: Commissioners R. Gima, M. Mano)

Ms. Bosco: Unanimous. Okay, I'm not sure now –. The Chairperson is here now. So are you voting on this? No. So it's five-zero. All right. So next is E-4. We have only three supporting policies under E-4 which reads expand access to education about housing options, home-ownership and residential construction – discussion. Last section too.

Mr. Endrina: E-4, I just have a problem with the about housing options. I would rather see relating to.

Ms. Bosco: Related to?

Mr. Endrina: Yes.

Ms. Bosco: Thank you. Change the word about to related to. Any other discussion?

Mr. Endrina: Any discussion? No discussion, I'll take a motion.

Ms. de Jetley: Mr. Chair?

Mr. Endrina: Yes?

Ms. de Jetley: I move that we accept policies E-4 a, b and c as written.

Ms. Bosco: And the objective statement? And the objective statement too?

Ms. de Jetley: And the objective statement.

Mr. Endrina: With amendments?

Ms. de Jetley: With amendments.

Mr. Endrina: Any second?

Mr. Elliott: Second.

Mr. Endrina: Okay, moved by Alberta and seconded by Jim. All those in favor of accepting objective E-4 and its policies and amendments – all in favor raise your right hand.

Commission Members: *(Hands raised.)*

Ms. Bosco: Okay, five-zero – unanimous. Thank you. Completed housing. Congratulations. We can move on to the next agenda item now, right? Okay. We're done with two sections. I think the Commission had wanted to wait on Physical Infrastructure, is that right? So that's all we're prepared to discuss tonight.

It was moved by Commissioner Alberta de Jetley, seconded by Commissioner James Elliott, then unanimously

VOTED: To approve Objective E-4 and its supporting policies with amendments.

(Assenting: Commissioners S. Kaye, A. de Jetley, D. Gamulo, J. Elliott, and B. Zigmond

Excused: Commissioners R. Gima, M. Mano)

Ms. Kaye: Just for point of clarification. I thought we were instructed to prepare for three sections for each meeting

Ms. Bosco: That's correct.

Ms. Kaye: But we're not going to do that tonight.

Ms. Bosco: Well, it's not my decision. It's entirely the Commissions decision.

Ms. Zigmond: And Simone, if I wanted to draft a policy to add to the Natural Environment Section on GMO's, I could do that?

Ms. Bosco: You can, but you don't have to do it right now. So, again, we are prepared to discussed Physical Infrastructure, but if the Commission does not want to, we can defer.

Mr. Endrina: Any comments Commissioners? You want to proceed?

Ms. Zigmond: Personally, I'd like to keep that on tail end if we have time considering that the Planning Department is suppose to leave about 10:30 p.m.

Mr. Endrina: So, we'll go on to –

Ms. Bosco: Thank you for your work today on this item. I appreciate it.

Mr. Endrina: Thank you Simone. Can we take another short break – another five minute one? Okay, let's break for five minutes.

(The Lana`i Planning Commission recessed at approximately 8:30 p.m., and reconvened shortly thereafter.)

C. UNFINISHED BUSINESS

- 1. MR. RALPH MASUDA, Vice-President of Planning and Zoning of CASTLE & COOKE RESORTS, LLC requesting an amendment to the Special Management Area Use Permit and Project District Phase 2 Approvals for a 5-year time extension on the period to complete construction of the Manele Residential and Multi-Family Development at TMK: 4-9-017: 001, 002, 003, 004, 005, and 4-9-002: 049, Manele, Island of Lana`i. (95/SM1-015) (95/PH2-001) (P. Fasi) (A time extension was previously granted by the Lana`i Planning Commission in 2003.) (Previously discussed at the March 21, 2007 meeting.) (Public hearing conducted on September 19, 2007.)**

The Commission may take action on this request.

Mr. Endrina: Resume the meeting. I'm going to relinquish – now that our Chairman is here – I'm going to relinquish the gavel to the Chairman.

Mr. Reynold Gima: Thank you Larry. We are now on Item #1 of the unfinished business. This was an item that was deferred from our meeting two weeks ago. At this time I'll turn this meeting over to Paul to give us a recap.

Mr. Paul Fasi: Thank you Mr. Chair and good evening Commissioners. Let me just give you a brief recap. It's in the handout right here, and I'll just go over it briefly. Just a chronological events that brought us up to this point. On March 21, 2007, this is the original date that this issue was brought before the Planning Commission, and it was deferred due to some clarification points of conditions #3, 7, 9, 10, 12 and 14. The other

issue was the applicant was requested to develop other non-potable water sources for irrigation, and bring these items for clarification to the Planning Commission within a 180-day deferral time.

On August 31, 2007, the Planning Department received the up-dated compliance report from the applicant. After review, the Department concluded that the report was satisfactory and compliant, and we would therefore recommend approval before the Planning Commission. On the September 19, 2007, the issue was brought before the Planning Commission, after the 180-day time frame expired. At this meeting, the item was deferred due to the fact that consensus could not be reached on the time frame or the wording of the conditions as they apply to the matter.

On September 25, 2007, the Department received an amendment from the applicant which was reviewed by the Department and brought to this meeting for discussion before this body. The amendment is in your package, and the Planning Department, after reviewing the amendment, has no objections to the amendment as proposed by the applicant.

Also, handed out this evening by Commissioner Sally Kaye was the revised conditions or clarification that she had authored pending these conditions of the proposal by the applicant which was to be discussed at tonight's meeting before this body. Thank you.

Mr. Gima: Paul, could you go over the applicant's amendment, and what it was amending.

Mr. Fasi: On September 25, 2007 – that's the date of this document from Castle & Cooke – they would like to be granted the five-year extension with an expiration date of October 3, 2012, with the following conditions. They have agreed to an annual compliance report to be filed with the Maui County Planning Department. The second condition that they proposed is that the water usage reports be filed with the compliance reports. And the water use projections as build-out of the SMA and the Planned Development Phase 2 area occurs – as it occurs, it will be provided as well. The third condition is that the progress reports on the subject SMA and the Phase 2 development drainage improvements in relation to the subdivision processing shall also be provided in the annual compliance reports. #4, they're proposing that the water chemistry monitoring program be transmitted to the Chair of the Lana`i Planning Commission via the County Planning Department. So we would be sending that to the Chair of the Lana`i Planning Commission. And last, that further time extensions be granted upon favorable review by the Lana`i Planning Commission. . . .(Inaudible. Changed tapes) . . . These are their proposals. The Planning Department doesn't have any objections to these proposals.

Mr. Gima: Okay, any questions or comments from the Commissioners regarding the

applicant's amendments? Okay, I have a question. Paul, what's the Department's position on amendment #1 regarding, what I believe Corporation Counsel said last meeting that if we have annual compliance reports that in essence means a one year extension?

Mr. Fasi: That is – you can view it as that.

Mr. Gima: No, I'm not viewing it as that. Corporation Counsel said that was what it would be.

Mr. Hopper: I said that if it was review and approval by the Planning Commission, and if you had to go for approval, I stated that in my opinion that was a one year time extension in substance if they have to continually get approvals every year. But, if that's what you would – . I mean, you have your discretion to grant the extension for any period that you want.

Mr. Gima: I was just needing clarification how the Planning Department viewed amendment #1.

Mr. Fasi: Yes, I understand your question.

Ms. Kaye: I have a question. If I hadn't submitted anything tonight for everyone to review and we were only just looking at this, and a compliance report was filed on an annual basis, it wouldn't even be an agenda item, correct? It would just be a compliance report. And if we found something that didn't satisfy some member of the Commission, then how would that get moved forward? I never knew how that worked.

Mr. Hopper: I said if you had to approve it, then that would probably be considered a one year extension. You can't approve it unless you have a meeting and have it agenda and take a vote to approve of the compliance report.

Ms. Kaye: I understand that. And you're not suggesting that we approve it, I don't think.

Mr. Hopper: Okay. But that's fine. My comment was that –

Ms. Kaye: So what's the purpose of an annual compliance report?

Mr. Hopper: That the Planning Department would review it.

Ms. Kaye: The Planning Department decides. Okay.

Mr. Fasi: Well no. They are proposing that the Planning Commission – on #5 – it has to be filed by the Planning Commission. Excuse me. They are proposing in #5 that further time-extensions be granted – time extension. I'm sorry, I thought it was the compliance report.

Ms. Zigmond: I'd like some clarification that relates to the water report and I guess I need to ask the applicant about this. It was my understanding that according to the MOA that both parties were suppose to approve of the person or entity who did those monitoring of the water. Sorry, it's not water usage, it was water quality, the one that's being monitored. I'd like to know if that was ever the case where both sides did agree on the selection of the person or entity who did the monitoring. And if that was the case with Mr. Brock, and if not, then what happened to that? Because in the letter that we got from Castle & Cooke's attorney, I believe it said that Mr. Brock was funded by Castle & Cooke, so I was just wondering if the other party to the MOA had agreed to that person.

Mr. Gima: Ralph, could you answer that question please?

Mr. Ralph Masuda: Quarterly reports, and why are we funding it? It's a requirement.

Ms. Zigmond: No, not why you're funding him, but was he agreed upon by both parties to the MOA? And if the person or entity whoever did it before him, if it was a joint, a mutual, agreement on that selection?

Mr. Masuda: There was nobody before Dr. Brock. Okay, this was something that he started in before the MOA – before the MOA – if you're talking about LSG MOA 1990. He started the project way before the MOA. He did his base line back in 1987-1988.

Ms. Zigmond: Then I'm really confused that why in the MOA for 1990 it says that, that –

Mr. Masuda: I don't know.

Ms. Zigmond: Well if it was signed, it doesn't make any sense to me.

Mr. Masuda: I'm not here to discuss the 1990 MOA.

Mr. Gima: Any other questions or comments on the applicant's amendments? Okay, you can continue Paul.

Mr. Fasi: The Department has no further comment.

Mr. Gima: Okay. Any comments / questions by the Commissioners?

Ms. Kaye: I would just like to comment that I think that these should be considered in conjunction with the ones that were handed out to – the additional ones that were handed out – because some of them were redundant. We don't need all the language in both.

Mr. Gima: You're referring to – when you say both, you're referring to? For the record so it's understood what "both" means.

Ms. Kaye: Okay, I'm sorry. On the basis of the last meeting that we had, I prepared some suggested conditions and amendments to existing conditions for consideration tonight. The five conditions suggested by Mr. Masuda are in part redundant, so I would think we would want to review them together.

Mr. Gima: Have all the Commissioners had time to review Sally's suggestions or recommendations?

Ms. Kaye: I apologize for not getting it out to everybody sooner, but I didn't finish it until today.

Ms. de Jetley: Mr. Chair, on #24, that all multi-family units in the Manele Project District – at the very end of that, it says Manele Project District and the Koele Project District – you should strike the Koele Project District because it is not part of this project.

Mr. Elliott: I guess I just wanted to get some clarity. Does everybody in the room have access to this? I'm just thinking though if we're going to be referring to this that perhaps you should read it into the record at some point so that everybody would have the similar knowledge.

Mr. Hopper: If there was a motion made, you would definitely want to state all of the conditions that you would want to put on whatever the decision is that you make.

Mr. Elliott: And for the record if I could. I mean, I only saw this about three or four minutes ago myself so I had no opportunity to go over them.

Ms. Kaye: Okay, you want to go through them one at a time?

Mr. Elliott: Or maybe I think you should probably read it all and then have everybody have an opportunity to weigh in on what's going to take place.

Ms. Kaye: Okay. Condition #1 is simply the same condition #1 that was on the last time this extension was granted. The date I put in as what I heard this Commission say they were comfortable with at the last meeting – a three year extension period. Do you want me to read the whole thing? Okay. That the construction of the project shall be completed by October 3, 2010. Failure to complete construction of this project will automatically terminate the subject Special Management Area Use Permit and Phase II approval. Any request for extension shall be filed with the Planning Department at least 90-days prior to the expiration date and forwarded to the Lana`i Planning Commission for review and approval.

Mr. Gima: Okay, any questions or comments on Sally's proposed change to condition #1?

Ms. de Jetley: Yes Mr. Chair.

Mr. Gima: Okay.

Ms. de Jetley: Sally, I really appreciate you doing all of this work, but I have several problems with it. This application is in for a five-year extension, so I would honor that request and make it for five-years. The failure to complete construction of this project will automatically terminate the subject Special Management Area Permit – the housing market and especially the luxury housing market is in the down swing. It would be to the community's advantage for them not to build out at this time. So for us to automatically terminate this Special Management Area Permit and have them go back to a base line again would be a very difficult thing for any developer to do.

Ms. Kaye: Alberta this is the same condition that was in last time. This is no different than the other one. They would just simply go through this process again if I understand this correctly.

Ms. de Jetley: But you're saying it's automatically going to terminate it.

Ms. Kaye: That's what it did in 2003 as well.

Ms. de Jetley: So they can't just come back in for a renewal? Okay, I apologize.

Mr. Elliott: I'd only like to say to this particular – actually to everything that's in here – I think we need to get some points of view of a variety of different people about what their reaction of these things are because if something like that can have an immense impact on our community and we may not know that. I don't think we did vote for a three year last time because we could not pass. So I think with this and I think we should go through the

other items, but I'm just feeling like out of fairness that we need to get response from other people in terms of their interpretation of various points of this so that we can have the full advantage of all the wisdom that's available to us before we would adopt any action. So I'm hoping that we'll have that opportunity.

Ms. Kaye: Then I would suggest we don't vote on them one by one, but go through them all – discuss them, and then revisit.

Mr. Gima: Paul, you were going to say something?

Mr. Fasi: Well if you're just going to read them through, I can hold my question. I just had a question. Here's my question – what's new in this first proposal is that – shall be filed before the Planning Department at least 90-days prior to the expiration date and forwarded to the Lana`i Planning Commission for review and approval. Could you clarify that – for review and approval for just the request?

Ms. Kaye: Actually I put that in there because we learned at the Conference that the Planning Department has some ideas that this kind of request would be an administrative one somewhere down the line, and I thought that – I was trying to word it in such a way that if they did make that administrative decision, it would no apply to this.

Ms. Suyama: Can I answer? The only way that it would become an administrative function with the Department is that it would require Rule changes to your Lana`i Planning Commission Rules. We have done it for the Maui Planning Commission. We just recently passed their Rule changes. We set some criteria under which the Department would review the time extensions. And one of the other things that the Maui Planning Commission wanted is that when these time extensions came in, we would basically notify them with the justification or the analysis that comes from the applicant. They would then have the opportunity to vote as to whether they want to review it – those time-extensions. If they do not vote to review the time-extensions, then the Department would administratively process it for on behalf of the Planning Commission. Similar type of Rule changes would be required with the Lana`i Planning Commission before we could implement such an action.

Ms. Kaye: So you're saying that can be struck?

Ms. Suyama: Yeah, that can be struck because unless your Rules are changed, the Department does not have the administrative authority to do the time-extensions for you.

Mr. Fasi: And the only reason I bring that up is sometimes it becomes a little more

cumbersome to approve just a request. You want something more substantive brought before this body. Thank you Mr. Chair.

Mr. Gima: Ralph, any comments?

Mr. Masuda: All extension requests so far has been approved by the Planning Commission. I mean, whether it's a minor project or a major project, it's been always been approved by the Lana`i Planning Commission, and that's how the condition reads. So basically we haven't asked for any deferral of the action to be taken by the Department.

Mr. Gima: Thank you.

Ms. de Jetley: Could I make a comment Mr. Chair? If you read the papers, an affordable housing project on Maui just got withdrawn because the Maui County Council spent so much time looking at it. I think we're in danger here. As a Planning Commissioner I rely on the Planning staff to make recommended suggestions. I think that we're threading on really dangerous grounds here if we, as Commissioners, start writing conditions. This, if – we're in danger here I think of having this whole project just fall apart and be totally withdrawn because the conditions from meeting to meeting will be changed, and the applicant's expenses for this whole Manele Project District will just fall apart. It will no longer be feasible, and the whole thing will collapse. This is just my personal opinion. Manele Project District has been on-going for many, many years now. Castle & Cooke has been good neighbors to this community. There have been excellent employers to the residents of this community. And I would support their request for a five year extension with Mr. Masuda's conditions as I believe that they are fair and reasonable.

Ms. Zigmond: Mr. Chair. I think we're in danger if we don't keep local control. I mean if we accept – this is not meant to be anything derogatory against the Planning Department, but Planning Department does not reside on Lana`i and we do. And if we just accept all of their recommendations without imposing any conditions that are important to us, I think that's a real danger myself. And Ralph's conditions, in my mind, are not extensive enough especially regarding project specific conditions like the next one we're going to talk about.

Mr. Gima: So the plan is that we want to do this one by one?

Ms. Kaye: I'll read them one by one and we can –. I don't think we should vote on any of them until the questions and as Jim says some of the rationale behind these and some of the questions about them are discussed.

Mr. Gima: Okay, if we're going to be doing it one by one, any testimony from the public only on this proposed condition #1? Okay Pat?

Mr. Reilly: Good evening Mr. Chair and Commissioners, and you're doing some very hard work tonight. I submitted 15 copies of my testimony [*Note: Copy was not submitted for Planning Department file*] to the Vice-Chair and hopefully you've had a little time. After coming away from the last meeting, I'm recommending that maybe you guys need a matrix because when I went away, it seemed like there are many things within the Manele Project District that have different permit lengths. And whether that's on the compliance report or not, one of my recommendations is when does the permit start? When is the expiration date? And what are the conditions for each permit – SMA and Phase II? That might help you. I went away and after having sat there for five years, I'm thinking, maybe there are different conditions on each one and there's no an over-all project district thing. I may have that wrong, but that's what I came away with. So sites A, B and C might have different permit lengths and different conditions. I wasn't sure why that would be.

Secondly, being an educator, you need to have some objective outcome and whether the Planning Department is the compliance agent or it ends up being a review for a time extension. For example, if you're saying there should be an alternate water source, well, what will be the objective? Where can they show you that source is? And when should that happen? And what are the bench marks leading toward it? For example, if it was desalinization plant, when would that plant go into construction, gets it permits and when would it be done?

And lastly – I mean Commissioner Kaye mentioned this earlier – in reviewing my minutes I realized all I get were drafts and they get revised by the Planning Department, and hopefully at some time, and I know it's an expense, that the Planning Department or Maui County can have a public library or web access to all the minutes so people can review the discussions from the last permit. Thank you very much.

Mr. Gima: Hold on Pat. Do you have any comments specific to proposed condition #1 by Sally?

Mr. Reilly: No, I don't have that document. That's why I didn't want to make a comment, but no, I don't.

Ms. Kaye: I would like to have a response to Pat. Actually I came up with the same confusion Pat, when I was trying to figure out as a result of listening to a tape of the last meeting's minutes, I realize this doesn't even include the Palms. And I don't know the same information you don't know. So that is one of the conditions that's in here tonight.

And if it's difficult, I couldn't get it out sooner, and I knew couldn't do it piece-meal. If everybody wants more time, we can take a break, we can do it next time, whatever. I don't want anyone to feel rushed.

Mr. Gima: Let's continue. Last call on proposed condition #1. Okay, Ron and then Ralph.

Mr. McOmbler: Let Ralph go.

Mr. Masuda: I have just one comment on the time. Rather than three years, we had requested five years. So rather than 2010, it would be 2012. That's my comment.

Mr. Gima: Okay. Thank you.

Mr. McOmbler: Ron McOmbler. Because of the things we saw in the original conditions, I don't think three years is short. I think it's the right time. Then we have a better handle on up-dates because they had an MOA or a unilateral agreement with the County in 1997 to do those parking stalls. It's in their response and they didn't do it until they after it was brought to their attention in March of this year. So that proves right there that the Company was not following through and the on-sight inspection was not be held. So I think we need to have it close as scrutiny. So #1, I'm in favor to #1's condition.

Mr. Gima: Okay, thank you Ron. Okay, last call on condition #1. Okay, you want to move on Sally?

Ms. Kaye: Okay #14. This is just a re-wording of the original #14, with a few additions – that the applicant shall develop alternative sources of non-potable water, as defined by State Department of Health regulations and EPA primary drinking water standards, for irrigation purpose. These additional sources shall be outside the higher level aquifer, as defined by the map the applicant provided the Lana`i Planning Commission in October 2006, and in addition to those water sources existing or being used as of October 3 – assuming that this would be the date the extension is granting – 2007. Expansion of capacity to store and/or process non-potable water shall not satisfy this condition.

Mr. Gima: Okay, any questions or comments from the Commissioners regarding Sally's proposed condition #14?

Ms. Zigmond: Mr. Chair, I'm glad to see this spelled out. Sally, thank you for doing all this by the way. That condition was a stumbling block for me especially when we learned in September that up to this time, or up to that time in September, that nothing was done in that regard and that was a condition – a previous condition. So I think that this is really

important.

Ms. Kaye: I just want to point out that, that condition existed – the condition as worded that the applicant shall continue to develop other non-potable water system – in the response that was provided, what was relied on well #14 which was drilled in 1995 and some verbage on the expansion of the waste water treatment plant which didn't speak the source. And water is our greatest resource and I think it's our responsibility to shepherd through what the applicant has agreed to do in the past, which is develop alternative sources of non-potable water. Not as needed and not down the line – that was an absolute condition. And I just want compliance with it.

Ms. de Jetley: Commissioner Kaye, could you explain your expansion of capacity to store and/or process non-potable water? Why not expand capacity?

Ms. Kaye: No, no, Alberta – that's not what I'm saying.

Ms. de Jetley: What are you saying then?

Ms. Kaye: I'm saying that you can expand the capacity to store and/or process non-potable water all you want, but that doesn't speak to where that water is going to come from. And the answer –

Ms. de Jetley: Okay.

Ms. Kaye: Okay?

Ms. de Jetley: Okay, I've got it.

Mr. Gima: Any comments from the Planning Department on proposed condition #14?

Ms. Suyama: In some ways this condition #14 is really changing the current condition #14 because all that current condition #14 states is that you shall develop other non-potable water sources for irrigation purposes. And now you're saying shall develop alternative sources of non-potable water. And you now setting some criteria and you're also then referencing information that not all the Planning Commission members have had because we do have new members, and you know, they weren't here on October 2006 when these maps were provided to the Lana`i Planning Commission at that time. And then you're also – and then you're asking for, you know, new information which is as of October 3, 2007 which is in addition to those water sources existing or being used as of October 3, 2007. And at this point you're not sure what those sources are and what's being used as of

today. And the way I read your expansion of capacity to store and process non-potable water shall not satisfy this condition is that you're saying that by expanding this and storing – to store or process non-potable water does not meet the condition about alternative sources of non-potable water. Because your original condition is just saying you need to use non-potable water – develop other non-potable water sources for irrigation purposes. And now you're saying capacity can be a method of providing an alternative source because you could provide capacity to capture rain water that you use for irrigation purposes, so you're excluding that as a reason why non-potable sources have been provided.

Ms. Kaye: I have no problem with taking that last sentence out. I just sort of wanted to bring to the attention of the Commissioners that the response that was put before us – to Condition #14 – had nothing to do with –. And this condition, according to Mr. Masuda at the last meeting as been around since 1995, and there have been no efforts that I'm aware of. And this condition – I mean they would have a year to comply with it and provide that information. But I don't have a problem with taking that last out.

Ms. Suyama: But what I'd caution the Commission is that – since you're referencing additional information, that not all the Commission members have gotten or seen, and you're asking for additional information as of this date, October 3, 2007 – I would caution that you look at the information – all the Commission members look at that information before they make a decision. Right, when you're dealing with new members on your Commission, you have to ensure that the new members get that information also in order to make that decision – that you're asking them to do.

Ms. Zigmond: And sometimes the old members don't get the information either.

Ms. Kaye: Okay, part of what I struggled with when trying to work on this is the lack of information and continuity. Commissioners changed, staff changed, Castle & Cooke employees changed and I don't know how you make any kind of decision when there's no continuity. I mean – okay, we'll just take them one at a time.

Mr. Gima: Any other comments from the Department?

Ms. Suyama: No that's all we have.

Mr. Gima: Okay, Ralph – applicant.

Mr. Masuda: I have Joe Kaakua here to kind of help me along with this condition. Primarily we have developed a non-potable source since the 1995, and that's well #14, although it

is in the high level aquifer. The Department of Health regulation EPA primary drinking water standards are basically potable water standards. They do not have standards for non-potable water. In terms of additional sources of the outside high level aquifer, this is something that we have to object to because if we do, do another well to shut down one of the brackish wells, then we would like to locate that well in close proximity to the well that we're shutting down. So it would still be in the high level aquifer. And then the high level aquifer, depending on who's high level aquifer line you're using, it can go all the way down to the shoreline. So we have problems with that. And again, the last sentence, expansion of capacity to store and/or process non-potable water shall not satisfy this condition.

Ms. Kaye: That's out.

Mr. Masuda: Okay.

Ms. Kaye: In response to that I would only say that this – whatever composed this body in 2003, that was the condition as it was stated; and you're still relying on a well that was dug in 1995. The tape of the last meeting that I listened to, the question was specifically asked, "do you have enough potable or non-potable to go to build out?" Your answer was "no." The question was asked, "have you identified sources?" And the answer was "No. Not yet. It would be done as needed." This gives me pause because this condition says you will do it. So I tried to craft something that would simply deal with accountability. And there's a lot of letters I think we all got – acknowledgment that it's –. Well let me respond to your comment about the defined by State Department of Health. Anything that meets that standard is potable. Anything that doesn't is non-potable. That's why I used that as a cut-off.

Mr. Masuda: Basically, you're talking about non-potable sources – development of new non-potable sources, so that's why the primary standards would not apply to non-potable sources.

Mr. Gima: Joe, could you add anything to clarify that?

Mr. Joe Kaakua: Yeah, we are planning to propose to drill another well, non-potable well for irrigation system, and it's in the high level aquifer – in response to your question.

Mr. Gima: Okay, anything further from the applicant? Any testimony from the public? Ron.

Mr. McOmber: Ron McOmber. There's only two people in this room that has been through this whole process and he's sitting right in front of me – that actually walked through this

whole thing. The County's right – nobody at that table up there understands. That's why we didn't have a workshop on the MOA. If we went back to the basic MOA, which was signed by this Company that number B, on the MOA – on the 1990 MOA – says ensure that no high level aquifer water will be used on the golf course irrigation. This is an agreement between Castle & Cooke and Lana`ians for Sensible Growth. Now if you take that as a gospel and we have lived on that as a gospel, we gave up the right to do an EIS before the development. And one of the conditions was that they wouldn't use that water. And ever since they've done that, they've attacked and tried to get that water because they found that they do not have another source of non-potable water on this island other than from the high level aquifer. Sally's right when she writes this. The water from the outside of the high level aquifer you can use all you want, and it's very limited. Castle & Cooke has said that their wells #1, 9 and 14, are non-potable. They maybe non-potable but they're still within the high level aquifer. You heard Ralph say the same thing. Joe says the same thing. We have allowed this Company to use 650,000 of our water every day on that golf course because the County came up with an ordinance to supercede our MOA. And we've lived with this for years. And we've worked with this Company. Now they've expanded that 650,000 into over a million gallons a day at Manele. 65% of your water being used is being used at Manele. And a large percentage of that is what they call non-potable, and it goes on and on and on. There's got to be accountability here folks, and this Planning Commission needs to have that workshop that you desperately need because there's many things in that MOA. And tonight I gave every Commissioner that didn't have a copy of all three MOA's – the unilateral agreement, the MOA from 1987 and the MOA from 1990 – you all have a copy [*NOTE: documents were not provided for the Planning Department file.*] I suggest you take them home and read them. And that was from me, from LSG, I gave out. We seem to be having road blocks up against this by not having a workshop. The County doesn't want us to have a workshop. The Company doesn't want us to have a workshop. I took it on my own to make those copies and give to each member.

Mr. Gima: Okay, Ron, do you have specific comments to Sally's proposed condition #14 as it applies to –

Mr. McOmber: Exactly what she said.

Mr. Gima: Wait – I'm not finished – for irrigation purposes other than the golf course? Because these conditions don't pertain to the golf course. So do you have any specific comments on Sally's proposed condition #14?

Mr. McOmber: Well she's saying the same thing that we're saying. The EPA really regulates that, and we had a dispute about that in front of the Land Use Commission.

That's what's going before that now. What is potable and non-potable. But what the real difference is none of this water should be used from the high level aquifer because they promised not to do that. So I agree with what Sally said on that.

Mr. Gima: Okay, thank you. Any last questions from the Commissioners? Dwight?

Mr. Gamulo: Okay, I asked this question before, but I'll ask you again. How much potable water does Lana`i need a day? One million gallons? I think it's one million gallons. How much potable water does Lana`i use every day?

Mr. Gima: Joe – be on the record.

Mr. Kaakua: The average for 2007, from January to August, is 1.3 million gallons of potable water.

Mr. Gamulo: Okay, and you're pumping that?

Mr. Kaakua: That's pumpage.

Mr. Gamulo: How much could you pump – with everything that you have working right now?

Mr. Kaakua: Of potable water?

Mr. Gamulo: Yes.

Mr. Kaakua: Of what we have working right now, that's available to us, we have 3.3.

Mr. Gamulo: How much will you need when you build out – when this permit is complete – the total? In other words, how much more are you going to need when you add these homes? There's got to be a standard for this number of volume right? So what is it?

Mr. Gima: Dwight, while they're figuring this out, does this tie into non-potable water?

Mr. Gamulo: Yeah, because –

Mr. Gima: Okay.

Mr. Gamulo: Because if you use more non-potable water than you actually have, which means you're going to be using potable water. If they continue to use potable water for

non-potable water, is that going to last? Are we going to have the capacity? . . .
(Inaudible. Changed tapes) . . .

Mr. Gima: Ralph, Ralph, before you speak up, Joe did I hear you correctly that you're saying that you have the capacity of pumping 3.3 million gallons a day of potable water?

Mr. Kaakua: Yes. Yes.

Mr. Masuda: Commissioner Gamulo, just to clarify the question that you had. You're talking about build out for this project, the SMA and the Project District Phase 2, for what we have approved?

Mr. Gamulo: Yes. Well, that you're getting the extension for. Well it's so many gallons per house, yeah, and how many houses you've got? You're decreasing your resource for potable water if you use potable water for non-potable right?

Mr. Kaakua: For Manele SMA build-out – 105,000 gallons.

Mr. Gamulo: So you're going to use approximately 1.45 a day after the build out?

Mr. Kaakua: That's build-out of Manele.

Mr. Gamulo: Yeah.

Mr. Kaakua: Yes.

Mr. Gamulo: Okay, and then are you required – do we have a reserve available beyond what's being use presently?

Mr. Kaakua: Yes.

Mr. Gamulo: What is that?

Mr. Kaakua: Well, let me give you an example. I mentioned 3.3 million gallons a day.

Mr. Gamulo: Yeah.

Mr. Kaakua: We don't run our wells 24 hours, so you can't get 3.3. Roughly, maybe we like to run them 2/3 of the time. So for 3.3 operating, we like to run it about 2 million gallons. We like serve 2 million gallons of demand even though we have a capacity of 3.3.

Mr. Gamulo: Right. So, if you have after your build out here, you're going to be using 1.45, then you would have to have – you'd have to be capable pumping still less than 3.3 or is there such a requirement?

Mr. Kaakua: Yes, yes.

Mr. Gamulo: There is a requirement?

Mr. Kaakua: We'll pump less than 3.3.

Mr. Gamulo: And that will meet your requirement for your available reserve?

Mr. Kaakua: Yes.

Mr. Gamulo: You said yes? Okay. How much non-potable water does Lana`i use now? About the same isn't it? About 2 million gallons or something?

Mr. Kaakua: 2007 average, we used an average of 0.9 million gallons a day.

Mr. Gamulo: A day? 0.9 – that's used. And how much can you pump?

Mr. Kaakua: We can pump 1.35 million gallons a day.

Mr. Gamulo: So you don't need –

Mr. Kaakua: Let me clarify that. We have some issues with one of our wells. We can not run it 24 hours forever. It's the same thing – 1.35 – that's everything running 24 hours.

Mr. Gamulo: So, let's say the well –. Let's say, ½ of the wells that are pumping 0.9 go down, then you could still pump 0.9? If you opened up – if you used some of your other resources that you're not using right now?

Mr. Kaakua: No, we only have three wells on the potable side.

Mr. Gamulo: And that's pumping the 0.9?

Mr. Kaakua: Yes.

Mr. Gamulo: So if one of those go down, then you can't pump 0.9 or you still could?

Mr. Kaakua: We just barely can.

Mr. Gamulo: Okay. Since you're taking water from the high water aquifer, and you define it as non-potable, could any of that water be defined as potable through testing?

Mr. Kaakua: Not in my opinion because it will just take the quality of water down. We're going over something that was discussed before, you know. In my experience, 34 years, our limit was always, in Honolulu, 250 parts per million chlorides – anything over that, brackish. We feel people can taste 160 parts per million. But, anyway, that's our limits. These wells are all over 250. I think well #1 approaches 300, but that's usually around 325 parts per million chlorides and we consider that non-potable.

Mr. Gamulo: Does the –. When you take higher out water, even if it's non-potable, from a high water aquifer, are you degrading the potable water supply because there may be, you know, water going from the potable source into the non-potable area, right? I mean, that's possible.

Mr. Kaakua: It is. It is.

Mr. Gamulo: But do you know whether or not it's doing that?

Mr. Kaakua: There's a lot of theories, and one of them is it spills over from the potable supply just by elevation because our potable wells are up 1,000 feet, and these wells are a lot lower – 700 feet. So it spills over and all our wells are all up higher.

Mr. Gamulo: Right.

Mr. Kaakua: We are doing a ground water study – looking at the movement of water and how it moves. So, the consensus is no, but, you know, we can always get better information.

Mr. Gamulo: Say it is taking from the – your non-potable source is taken from the potable source, could it degrade the potable source to the point that it will affect the needs for potable water by Lana`i?

Mr. Kaakua: I would say no, mainly because we have three potable – we have three non-potable wells and they are all small quantity wells – ½ a million gallons – less than ½ million gallons each. Whereas our potable wells are over 1 million gallons – a million gallons and up – in what we can take. Now these wells, the non-potable wells in the area where we're drawing it from, the wells are limited. We can not take a lot of water from one

well. Maybe if we spread it out we can. Whereas the potable water that we're drawing from, we can take out larger supplies of water. So there's more movement on the potable side, which is higher in elevation – the potable supply than the non-potable. So, personally, I don't think it's taking. You know, there is a limit, in my opinion. In the high level aquifer, there's a limit of the amount of non-potable water you can take out, and there's another limit as to the amount of potable water you can take out – and the potable supply is actually greater.

Mr. Gamulo: So you're saying that there's enough potable water sources either in theory or in fact – which is it? I don't know – to last Lana`i for the foreseeable future, even after this build-out? Apparently that's what you folks are saying because otherwise I don't see why you would degrade the potable water system to the point where it becomes so depleted that it can never be viable again. Otherwise, you know, you're kind of like shooting yourself in the foot.

Mr. Kaakua: Yeah, I agree, but, you know, the level of water, you know, because it's so much higher, there so much storage in the potable wells, you know, like there's 1,000 feet elevation, that's where the water is. Whereas the non-potable, it's a lot lower.

Mr. Gamulo: So is that like coming from water – where is that coming from? Does that come from dikes or is that coming from the water land?

Mr. Kaakua: Over here there's not a water land, everything is dikes. The water builds up in the dikes from sea level.

Mr. Gamulo: Okay, I'm done.

Mr. Gima: So, Joe, Castle & Cooke feels that wells #1, 9, and 14 are considered non-potable based on the fact that chloride levels are above 250,000 parts per million. Is that accurate?

Mr. Kaakua: Yes.

Mr. Gima: And is it also true that based on – I can't remember which government entity's standards – the chloride level is a secondary standard for determining whether it's potable or not?

Mr. Kaakua: What was the question now?

Mr. Gima: I was asking that – isn't chloride levels a secondary standard? It's not the primary standard to determine potable or non-potable water?

Mr. Kaakua: I've heard that. I've heard that – someone mentioned that.

Mr. Gima: So getting back to Sally's proposed condition #14 – my understanding Sally in what you proposed is two things. One that whatever water that's going to use for irrigation purposes should come from outside of the high level aquifer. Is that accurate?

Ms. Kaye: Right.

Mr. Gima: Okay, and then the second intent of this is to ensure that there is a source identified for its use before we can really consider whether it's appropriate or not. Is that accurate? Okay.

Ms. de Jetley: Mr. Chair, I have a question for Joe.

Mr. Gima: Okay.

Ms. de Jetley: How much water is actually reclaimed water are you using from the sewage treatment plant?

Mr. Kaakua: We have two R-1 plants where we treat and polish the water where you can use it again for irrigation. The Manele plant averages about 90,000 gallons a day, and that goes for the golf course. Koele, Lana`i City, has a plant and they vary from 200,000 to 300,000 plus gallons a day, and that goes directly to the golf course.

Mr. Gima: Okay, last call on condition #14. Okay, next.

Ms. Kaye: Okay, #24, that all multi-family units in the Manele Project District constructed by the applicant or under the applicant's direction or subcontracted out by the applicant will include, at a minimum, solar water heating systems and energy efficient appliances qualifying for energy star rating or be subject to a monthly energy surcharge equal to \$10 per person, per unit, payable to Lana`i Utilities and kept in a separate account to provide low-interest loans to Lana`i residents seeking to purchase and install solar panels. The applicant will actively promote the use of solar panels and energy/water efficient appliances by all current and future home builders of single-family residences within the Manele Project District. I would remove, at your pleasure, Alberta, the Koele reference. This is in here primarily because the Company by various people have made huge commitment to making Lana`i green – to doing the wind farm, to doing the solar farm – and yet the covenant at Manele community and Koele pretty much prohibit using solar panels on the roof of any single-family residences if it can be seen. Such technology doesn't exist, so I consider that an out-right proficient. Be that as it may, it seems to me that the

prudent stewardship proper thing to do would for the Company to walk the talk, and put use of solar energy at Manele which is the sunniest place on the island – that was my thinking in doing this. I also note that while saying we want to be green and we want to conserve energy, the residents of Iwole got a letter essentially threatened eviction if they didn't stop hanging their clothes out front which is not an environmentally correct move, so that's why I did that.

Mr. Gima: Okay, any comments, questions from the Commissioners? So this is just for multi-family, and it's not single-family?

Ms. Kaye: I thought that was the only way to do it because that's under their control.

Mr. Gima: Comments from the Planning Department? Paul is here.

Mr. Fasi: I think we're threading on new territory here and I'm going to have to defer this condition to Corporation Counsel.

Mr. Hopper: I guess I missed a question. What was the question?

Mr. Gima: We're on proposed condition #24.

Mr. Hopper: Okay.

Mr. Gima: We just wanted to see if County had any comments. Maybe Ralph can respond while you're looking at condition #24.

Mr. Hopper: Comments – you're asking specifically for my opinion as to these conditions?

Mr. Gima: From the Planning Department.

Mr. Hopper: From the Department – well I can't respond on behalf of the Department. What I can say is that under your Rules for the SMA – an amendment to the SMA permit terms, conditions and time stipulations – Subsection E states "that findings of facts, conclusions of law, and decision and order for any special management area use permit application seeking to amend or delete permit terms" – which this is – "conditions and time stipulations shall be issued in accordance with the rules of practices and procedure of the Commission in the effect any action is taken," and the review guidelines are set forth in Section 12-402-11. That deals with the requirements of 205A. So what you're going to have to do for – if you do eventually vote on these conditions is to come up with findings of facts and conclusion of law basically setting forth the basis for the conditions how they

deal with Chapter 205A of Hawaii State Law. And the Planning Department typically assists in preparation of that for these types of time extensions. For a time-extension it would probably be a bit more basic, but if you're looking to add substantially more detailed conditions as you are today, I recommend that you deal with those in the findings of fact, conclusion of laws setting forth the basis. The Project District Phase 2 permit does not require that much detail, but the SMA permit – your SMA Rules do require that you issue a findings of facts, conclusion of laws. So at the conclusion, if you do determine you want to vote on the conditions, those would have to be prepared and voted on to be adopted by you. Again, they can be prepared by the Planning Department at your direction. But they would have to be prepared non the less. I don't really have any comment on the conditions at this point and advising to the legality, I would do only in Executive Session. I wouldn't give that advice publically.

Ms. Kaye: Does this comment applies to everything that's on the table tonight or just the one that you were asked about?

Mr. Hopper: All conditions.

Ms. Suyama: Can I also add some other things? Because these conditions are coming from the Commission, the Commission in some way, before they vote on it, will have to set some of the record as to the basis for the conditions and facts behind it because it's not coming from the Department. Normally when we prepare documents and if we were suggesting changes to the condition, we set it up in a report as the basis by which we are recommending these changes to you. So, since this is coming from the Commission, you will have to at least provide some guidance to the Department as to why these conditions are coming about so that we can help you set the findings of facts. I know you had asked Paul about condition #24, and there are some serious things that I have some concerns about – this condition. And one is dealing with your requirement that a monthly energy surcharge equal to \$10 per person – that provision and that they provide low interest loans to Lana`i residents seeking to purchase and install solar panels – you don't have the authority to require that. I mean, you're basically like taxing them a surcharge and you're requiring them to provide a benefit – a monetary benefit – to residents to provide them solar panels. So I would definitely not be in agreement that you put something like this into any condition. You know, in terms of energy measures, in terms of the SMA, the Planning Commission on Maui we do have standard condition about incorporation of energy measures into the project, but we don't tell the applicant exactly what they have to implement. They come back and they say or they provide to the Commission what they propose their energy measures and the Commission either agrees with it or, you know, they leave it up to the Department to determine what those energy measures will be.

Mr. Gima: Thank you. Anything from the applicant? Maybe this would not have to be worded as such, if the applicant is willing to do this.

Mr. Masuda: Basically it would just be an echo to what Colleen had discussed on this condition. But another thing is that it talks about the entire Manele Project District and this matter deals only with the SMA and Phase 2 of a certain portion of that project district rather than an entire project district.

Mr. Gima: Anything else?

Mr. Masuda: No. I mean, because basically what the Department is saying is right to me. And basically what the Corporation Counsel said about finding of facts, conclusion of law, decision and order, that is correct also.

Mr. Gima: Any comments from the public? Hearing none, any last thoughts or comments from the Commissioners having heard the comments from Ralph and the County? Sally do you want to make any changes or stay with what you have?

Ms. Kaye: I'd like to hear the pleasure of the Commissioners on this particular condition but I don't think we have to do it now.

Ms. de Jetley: Mr. Chair?

Mr. Gima: Alberta?

Ms. de Jetley: Commissioner Kaye, would you consider deleting item #24 totally so we can move forward?

Ms. Kaye: . . . (Inaudible) . . .

Ms. de Jetley: Without it.

Ms. Kaye: . . . (Inaudible) . . .

Ms. de Jetley: Yeah. But if we could move forward with just deleting it as a condition. Can not?

Ms. Zigmond: Perhaps revising it if there are portions of it that we can not do, like imposing a surcharge, but I think there should be some language at least to the energy efficient appliances and the solar heating, et cetera.

Mr. Gima: I think we have to be cognizant of what Corporation Counsel has said in terms of any new conditions – you know, we have to establish some foundation for these conditions.

Ms. Kaye: If it's the consensus of the Commission, just delete it.

Mr. Gima: What I suggest is taking out the surcharge part for now and then coming back to it later.

Ms. Kaye: That, by the way, was based on Maui Electric's savings per person, per household – actually it was more than that.

Mr. Gima: Okay, last call on #24. Okay, #25.

Ms. Kaye: Okay, I'll practice by saying that this is just data gathering. This is from making calls to various water department and talking to people at the conference last, and looking at what I could find on line, what I would find available by way information where we are on Maui, so that's where this started from. That the applicant will provide an annual report to the Planning Department, and the Lana`i Planning Commission for review and approvals that shall include, but not be limited to the following: the status of all wells and water storage facilities including for each well utilized, the well head levels, chloride content, and water extracted each month. B, whether existing wells are producing potable or non-potable water and the specific destination of the water drawn. C, the condition of any mechanical parts and, or, lines within the water system that have been repaired/replaced and reason for such. D, any decline in the storage level of any existing well. E, any changes to the number and level of certification of all operators employed by Lana`i Utilities, also known as the Water Company. F, date and results of annual testing conducted by the Department of Health. G, metered reading of water usage, both potable and non-potable that differentiate between what is used for hotel operations, hotel irrigation, roadside landscaping irrigation, Hulopoe Beach Park, the golf course, construction and by residents in the single-family and multi-family units in the Manele Project District. H, the number of private swimming pools permitted on multi-family and single-family lots in the Manele Project District and verify capacities and drainage plans utilized. I, detail on the status of all outstanding permit, permit applications, subdivision processing in the Manele Project District, the progress made towards build-out, drainage improvements, and the actual and projected water usage relevant to each permit or permit application. J, detail on all steps taken to manage degradation of the watershed and improve its quality. K, progress on the fog drip study. L, progress on developing a tiered water usage rate system – I'm sorry – rates. And lastly, additional data as may from time to time be requested by the Planning Department or the Lana`i Planning Commission. I'll

just end by saying that these things – this data gathering would go a long way to having to repeat the same conversation when you get new Commissioners and there's a new Water Director. If this is done every year, it's out there, it's transparent, it's information to mind you already have. It would just make this process so much easier.

Mr. Gima: Jim?

Mr. Elliott: I just wanted to say that from my experience on being on this island that I believe that there's a real desire and groups of people wanting to come together to make things better for this island. And I'm reminded way back when in old college days when I learned something about systems theory. And the picture of system theory is as though there was a frame and you had a whole bunch of rubber bands dividing it up. The interesting thing is when you pull a part of the rubber band it affect a whole of other pieces in the picture. And I guess what I'm saying here, I think there's a lot of things, some very good things, a lot of things that I don't understand, and some things that need a lot more clarification. And I'm almost feeling – because Sally, you've done a great job of putting together a lot of information here. I think the thing that I'm a little concerned about is the process of what's happening here because a lot of things are put down here without getting a lot input in from the other side of understanding what the implications are. I'm just kind of wondering – I can't imagine myself being able to vote on some things here tonight that could end up having some terrible effects somewhere else for some reason. And I don't know that, that could be true, and it may not be true. But here's what I'm wanting to suggest Sally – I almost suggesting – the good news is we're on a two week cycle of this Planning Commission, and I would think it would be possible for you to bring your issues and sit down with Castle & Cooke and Planning Department – you know, both – and let them respond on some of the things in terms of what implications – well what the implications might be in doing some of these things.

Mr. Hopper: I would just raise that as an issue as an ex-parte communication. You're in a situation – a quasi-judicial capacity – you know, that sort of discussion can certainly take place, but it really should be in front of the whole Commission, and back and forth.

Mr. Elliott: Actually, I was talking to everybody, as a matter of fact.

Mr. Hopper: Certainly shouldn't go. It's got to be on the record.

Mr. Elliott: But I guess what I'm suggesting is that there is a piece of information at 10:00 here tonight that we don't have and that's a full analysis of what implications would be in some of these things. Not suggesting that some of these, you know, could be absolutely wonderful things in our process and believing perhaps that a lot of these things could be

put together and everybody would be in agreement about that. But, boy, I would should hate to vote on something without having the whole impact of what the input would be from all the various sources, and that's what I'm reacting to. And I just want to go back, Sally, you did a lot of work for putting this together that we didn't see until a few minutes ago really, and I just don't know that we can understand all this in order to make a decision here tonight, and that's my comment at least at this point.

Ms. Kaye: At this point, it's my understanding Mr. Chair, it's only condition #25 that we're discussing and that has no implications – that's all fact gathering.

Ms. de Jetley: Mr. Chair, I have a question for Mr. Masuda.

Mr. Gima: Hold on Alberta.

Mr. Elliott: Sally, you were just saying that these are all just fact gathering and not –? So what you're saying is that it has no implications unless it produces a problem for the people producing the facts. And I think that would be important for us to know if we can actually get that fact or not. That's my point.

Mr. Gima: Okay, Alberta and then Bev.

Ms. de Jetley: Yeah, Mr. Chair, that was going to be my question to Mr. Masuda – would you be able to provide us these reports requested in item #25 or would it create a hardship?

Mr. Masuda: We do have some questions on some of the items to be voted on. We want to know like any decline in the storage level of any existing well.

Ms. Kaye: Why is that a problem Mr. Masuda?

Mr. Masuda: Well, exactly what do you mean by storage level? Do you mean –?

Ms. Kaye: That was the different between – that's the way the former Water Director advised us was the difference between the status level and the – and that was a short cut term that he used.

Mr. Masuda: Are you talking about the high and low?

Ms. Kaye: When the wells running and they turn it down to let it stabilize, and they measure it.

Mr. Masuda: And it rises up.

Ms. Kaye: Right. It's what he called storage level – I'm sorry – bad term.

Mr. Masuda: Well, basically, you know, that's what we said that we would also provide for the Commission – the periodic water report – the high and low levels of each well.

Ms. Kaye: The only periodic water reports I've ever seen are the ones that are posted. And they have no high and low level on it, and they are indecipherable. And this just seems like for your sake a context in which you can provide this community information that's user friendly, that we won't keep asking you the same questions. That's what struck me is how many times in the minutes, the same questions got asked.

Mr. Masuda: Basically that's my condition #2 – in my – the water usage report data similar to periodic water report filed with the State Water Commission and everything else like that. Basically it's water usage, temperature, chloride levels, and the high and low.

Ms. Kaye: Sorry, I can't comment on that because I've never seen it, so I don't know if that's acceptable.

Mr. Masuda: Well, we'll make it – we'll provide the Department with this and they can file or make a report to you guys.

Ms. Kaye: Well, can I just point out the inconsistency that you would recommend that the conditions that Mr. Masuda – just a point of order – that we haven't seen, and we're suppose to accept them because you recommended it, but we don't have them in front us. So –

Mr. Masuda: Well how are we suppose to know what you're talking about too Commissioner Kaye?

Ms. Kaye: That's exactly what I say – we have the same argument to be made on that point – that's all I'm saying.

Mr. Gima: Bev.

Mr. Masuda: If that's what she's talking about – the high and low level of each well, we don't have any problem – if that's what she's talking about because we were going to make this report – the same report that LWAC gets and everybody else gets – to the Commission.

Mr. Gima: I think one of the initial questions was will that present a problem for the Company to provide some of this information? By providing the periodic water report to the Commission, that will take care many of these lettered items. So on the remaining items that the periodic report does not cover, would that be an imposition on the Company to provide that data?

Mr. Masuda: The only one I think we would have problems on is the number of private swimming pools permitted on single-family lots, and project district verifying capacities in drainage plans utilized because basically we're in the lot sales only.

Mr. Gima: Sally, in item H, you were looking mainly at water usage right? You were looking at primarily water usage?

Ms. Kaye: Right.

Mr. Gima: So that would be reflected in the periodic water report.

Ms. Kaye: But I know that there are some actually residents in that area that expressed a concern that at one time I guess there was a representation made that there wouldn't be private swimming pools, and now there are. And in fact that was in Mr. Fasi's report to us that each multi-family unit would have a swimming and waiting pool. And that was in there just to try to get information on how much water and where is it going when they drain it? Because I know that it can't buy into your covenant – it can't go into the golf course. So I understand if that information not available to you, then we could either strike out the single-family because you have no control over that, and just leave it with multi-families which I'm guessing haven't been built yet and doesn't have any pools.

Mr. Masuda: Basically multi-family are not swimming pools. They are spas and stuff like that. But, yeah, I mean, if it's just multi-family, then we'll provide it.

Ms. Kaye: If that's the only information that you can control, then yeah, I'd be willing to do that. But I would say that the report that came out to the Commission on April 21st, which by the way our new members haven't seen either, did say that the swimming pools – there would be swimming pools on multi-family residents.

Mr. Gima: Jim.

Mr. Elliott: As long as we're on just that subject of the swimming pools – has anybody done a study? Because obviously the huge issue on this island is the water. Has anybody done a study that determines how much full swimming pool uses? Does anybody have that kind

of knowledge?

Mr. Masuda: You can figure that out just by the volume – taking the size of the pool and figuring out volume, and you can guess at the evaporation rate and how much water you need to keep on putting back everyday. I'm quite sure that, like for the – what's coming up before – well not before the Commission but for the Island Club – when we did do the swimming pool, we did have some numbers on the water uses for that pool. So, you know, we can figure it out based on the pool's manufactures or the pool contractor's numbers that they give us – we can.

The other, I, under #25-I, I don't think we'll have problems with I. J, degradation of watershed – to manage degradation of the watershed and improve its quality – that's fine. Progress report on the fog drip study, we'll provide that. Progress on developing tiered water usage rate – we can provide that too. However additional data as may – I can't agree to that.

Mr. Gima: Okay, before I open up to public testimony, Colleen says that the County needs to leave at 10:30 p.m., so I will probably stop all discussion and then we need to make some kind of motion on this whether we're going to approve, approve with conditions, deny or defer. Those are our four option, correct? Okay, open to the public – anyone? Ron, and then Angel to follow.

Mr. McOmbler: Ron McOmbler. Sally, I concur with what Castle & Cooke said. F, H, I, J and M – everything else is pretty well covered by the Lana`i Working Group. We get that data. I think it would be so much simpler for the Planning Commission to ask us for that information because we get it on a monthly report from them. We get the reports, and we would be glad to hold a workshop and show you how to use that water working – that chart.

Ms. Kaye: That's not the intent here Ron.

Mr. McOmbler: No, say that again.

Ms. Kaye: . . . (Inaudible) . . .

Mr. McOmbler: No, but I'm just trying to help you. This report that they send out isn't a perfect document. We're even trying to refine it as we go through this. There's things that needs to be changed – more clarity on where the water goes. We're working on that on a monthly basis. And to save your precious time here, we would – that's really what we're there for. We're working on this. I'm surprised that Jim didn't say that because Jim gets

the same reports. When he hears the numbers that Joe said we can pump so much, we've been told a little bit different figures on that. But, we sit on this every month, and we're going to have another one this month. So great ideas, but I think it's simplified if you just let the water working group help you with that. And it doesn't have to come from the Company. It comes from residents here on Lana`i.

Ms. Kaye: I think any additional information that the Water Group would want to provide to the Commission would be welcomed. I think this condition belongs with the Company's annual report.

Mr. Angel Allas: My name is Angel Allas. I speak tonight as a resident of Lana`i. I was born and raised here – moved back in 1990. I think you guys are faced with a very important decision here. I've been back for 17 years now, and it's taken Castle & Cooke, 17 years to build what they have now. And I just want to make the comment that the decision you make whether to defer, to deny or to grant will ultimately affect the entire island and the community. If you decide to deny, maybe 25%-30% of the community people will not have jobs to continue on. And I really wanted to stress that – that point – and to be sure that you understand that I'm speaking right now as a resident.

Mr. Gima: Thank you Angel and Ron. Any questions or comments from the Commissioners for Ron or Angel? Jim?

Mr. Elliott: I guess I would like to hear Ralph respond to his interpretation of the effects of the 2010 versus 2012 issue that's before the –. Can you respond to that?

Mr. Masuda: Basically it boils down to economics and the financing of the projects. Bankers don't look at two or three years, or even one year. They look at maybe five, 10, 15 years down the road. And basically, we found out that maybe five years is the minimum they would like to look at in financing a project because the stake – of one of the project up at Koele is \$35 million. I mean, you know, you can't commit \$35 million for just a two year or three year type of project because it may just take you that long to finish the project. Then you'd have to go through not only Planning Commission review and approvals, but building permits, and maybe even subdivision approvals. I mean, even the five year is a time period that it's very hard to work with. But, you know, we're willing to take the five years rather than three years, or even one year for that matter. It deals with economics.

Mr. Elliott: I'd like to ask another question and actually probably more to Joe – but both of you together – and that is to what extent in your interpretation would the five year extension threaten the water supply on the island in that respect? Do you have any concerns that, that might be a real threat to the island?

Mr. Masuda: The length of the extension? The length of the extension, we don't think it would.

Mr. Elliott: Right, in other words if the project was approved for five years, is there a chance that so much water could be used at Manele that would be a threat to the island? That's the question.

Mr. Masuda: The project that you're discussing right now – for the extension – deals with 166 single-family lots, and 54 multi-family. The multi-family has been completed and the single-family is all that's remaining. So I don't see a terrible impact on our water supply.

Mr. Gima: Okay, getting down to it. I'm sorry, Joe.

Mr. Kaakua: I agree. We mentioned 100,000 gallons – 166,000 gallons – units. He deals with units, I deal with water – about 100,000 gallons of water. It doesn't make that a big impact on us.

Ms. Kaye: Okay.

Ms. de Jetley: Mr. Chair?

Mr. Gima: Okay, Sally and then Alberta.

Ms. Kaye: Two things real quickly. You're saying in five years, you don't think there would be a big impact because you strictly said clearly on the record at the last meeting that there wasn't enough non- and potable water to go to build out. So, we'll just leave it at that. I'm going to assume that your response was in five years. You said at the last Lana`i Planning Commission there was not enough potable or non-potable to go to full build out. So I'm going to assume your answer was "yes." That was the question.

Mr. Kaakua: . . .(Inaudible) . . .

Ms. Kaye: Full build out of – no – of this. Cause you exempted the Palms from that.

Mr. Masuda: Full build out – we're talking about the 868 acres project district. This approval that we're asking for does not include the full build out of the project district.

Ms. Kaye: You see why we need a matrix of all the permits and where they –.

Mr. Masuda: It doesn't include the areas that we're looking at going in to develop.

Ms. Kaye: Okay. I'm thinking that maybe Jim's suggestion is a good one. I'm hearing that there's some legal issues with some of these conditions and supporting documentation that I'm not going – I don't know what you're going to want or that I could provide tonight aside from the maps. So should we entertain a motion to defer?

Mr. Elliott: If you don't mind, I just want to clarify the last point too because I do sit on the Lana`i Water Advisory Board. The full build out that's being talked about is a 20-year phase, so it's not the five-year phase. And so, anyway, back to your point, I would move that we defer this for two weeks since we meet again in two weeks and allow – the County has a question about it – but we are meeting.

Ms. Suyama: For one thing, I assume that there are information that this Commission wants from the applicant, and one is that periodic water report that they're talking about. I would also, you know, suggest that they look at these proposed conditions and come back with a response to the Commission as to what is acceptable and what is not because they may end up tailoring some of these conditions that would be acceptable to them, you know, which the Commission can consider. And I'm not sure if the information you're requesting – two weeks is enough time for them compile that information, get it to the Department so we can transmit it to the Commission. So that's one other thing that, you know, I would consider that. If they're not able to do it in two weeks, then you might want to defer it to sometime in November.

Ms. de Jetley: Mr. Chair, I was waiting for a chance to speak and you said I would be able to do so after Commissioner Kaye. Excuse me. Looking at this site, I appreciated the comments made by Angel – Angel Boy. I really think that we are in walking a really fine line here. If we continue to impose all of these conditions on a project that's already been in existence, that we are in danger of losing it totally. If you look at the real estate reports, the market is in a down swing. For me personally, I think, it would be very, very doubtful that in five years we will be built out to a 166 houses. And I think we will see this Company coming back in for another five year extension in the year 2012. I would like to see us approve this project with a five-year extension. I really appreciate all of the comments and all of the work that Commissioner Kaye has done on the conditions that she presented to us, but I'd like to see us strike item #4. Strike item #24. Retain all of item #25, except we would delete item D – any decline in the storage level – we would amend item H, which we would strike single-family lots. So we would ask for the number of private swimming pools permitted on multi-family. And we would strike item M. The additional conditions, Commissioner Kaye's recommendations, item #1 from Mr. Masuda's letter could be adopted. Item #2 could be accepted. #3 is redundant. #4, she recommended that it not be adopted, and #5 would not be adopted because it is also redundant. But I strongly would like to move on with this and get a motion on the floor to – what would it be

– to permit this five-year extension with those conditions.

Ms. Kaye: I'm sorry. You went a little too fast there Alberta. I'm sorry.

Mr. Gima: Hold on. We're running into a time crunch. We had already one motion on the floor and that was by Jim. Is there a second?

Ms. Zigmond: Second.

Mr. Gima: Okay, it's been moved by Commissioner Elliott, seconded by Commissioner Zigmond that we defer this matter. Any discussion?

Mr. Elliott: I didn't have a chance to finish my motion, but the motion included to defer to allow the opportunity for some additional discussion to take place and come back which I think would resolve most – all - of these issues, even including the ones that Alberta said. And unless I heard a comment from somebody else here that, that two weeks would be an unbearable burden, I think it would be a good motion. But it included a deferral with the opportunity for a consultation to take place with additional information to come back to us. Two weeks. Well I'm not sure that, that can't be resolved. I mean with what's being put forward here – to come to an agreement. And maybe if it comes back and there is no agreement and there are issues that we can't decide on, then it would have to get pushed back further. But the fact is, I'm on the belief based on what I heard Ralph say is he went down his list of what he thought could be done. And we heard the County already say what things they think might be stepping over our own bounds. And I think if those things were resolved, in two weeks, we would have what we needed. That would be my thought. And we're going to meet in two weeks anyway.

Mr. Gima: Any further discussion of the motion?

Ms. de Jetley: Yes. I would amend that motion to limit it to what has been presented to us tonight on this document prepared by Commissioner Kaye, and that no additional conditions will be allowed on it because we can't keep changing. We can't keep deferring it and bringing in new information at each meeting that we have. It's just not fair to us because we receive it too late. It's not fair to the applicant because he doesn't know what we're going to be hitting him with. So I would amend it to be deferred with just what's on this paper – conditions on this paper.

Mr. Gima: Okay, there's a motion to amend Jim's original motion. Do I hear a second?

Mr. Endrina: . . .(Inaudible) . . .

Mr. Gima: Okay, it's been moved by Commissioner de Jetley, and seconded Commissioner Endrina that we amend Jim's initial motion to limit the deferral to only address the conditions presented by Commissioner Kaye and that no further conditions be imposed upon the applicant.

Ms. Kaye: Can I just ask if that would also include the five that Ralph submitted too? Because we didn't take any action on them.

Mr. Gima: Okay, in addition to the five conditions submitted by the applicant. Okay, any discussion on the amendment? Hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried.

It was moved by Commissioner Alberta de Jetley, then seconded by Commissioner Lawrence Endrina, then unanimously

VOTED: To amend the main motion to limit the discussion on the proposed conditions submitted by Commissioner Sally Kaye and the proposed conditions proposed by Castle & Cooke, and that no other conditions be imposed and/or be presented at the next meeting – Approved.

(Assenting: Commissioner S. Kaye, D. Gamulo, L. Endrina, A. de Jetley, B. Zigmond, J. Elliott

Excused: Commissioner M. Mano)

Mr. Gima: Now we're back to the original motion. Any further discussion on the original motion? So it's clear that Jim's motion is to defer for another two weeks. Okay, hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried.

It was moved by Commissioner James Elliott, then seconded by Commissioner Beverly Zigmond, then unanimously

VOTED: To defer the subject matter for two weeks.

Mr. Gima: Due to the time, 10:24 p.m.

Mr. McOmber: I received that water quality report from my source in California and the Department has a copy – the Planning Department – .

Mr. Gima: Wait.

Mr. McOmber: I'd like to have –

Mr. Gima: Just get it on the record.

Mr. McOmber: My name is Ron McOmber. At the last meeting, I made a statement that the water quality report – I have a copy from that source and a copy has been sent to the Planning Department in care of the Lana`i Planning Commission. I'd like to have a copy to be given to each one of you.

Mr. Gima: Okay.

Mr. McOmber: Thank you.

E. UNFINISHED BUSINESS

- 1. Discussion on when it would be appropriate for the Lana`i Planning Commission to discuss the 1990 Memorandum of Agreement (MOA) between the Lanaians for Sensible Growth and Castle & Cooke Resorts concerning development at Manele.**

The Commission may decide on whether the matter can be discussed at a future date and select a date for the discussion. (Previously discussed at the September 5, 2007 and September 19, 2007 meetings.)

- 2. Discussion on the processing of SMA exemptions. (Previously discussed at the September 5, 2007 and September 19, 2007 meetings.)**

The Commission may look to direct staff to produce draft legislation regarding amending the current process.

F. DIRECTOR'S REPORT

- 1. Commission Chair's request to discuss the following:**

The feasibility of changing the zoning of the remaining 65 acres of land donated to the County of Maui by Castle & Cooke for affordable housing. The change would go from its current zoning to the appropriate type of zoning that would make the land ready to be improved.

- 2. Chair's request to consider the implementation of zoning for properties designated Open Space in the Lana`i Community Plan.**
- 3. 2007 Hawaii Congress of Planning Officials Conference – September 26-28, 2007 at the Hapuna Prince Hotel, Big Island.**
- 4. Open Lana`i Applications Report.**
- 5. Bed and Breakfast and Transient Vacation Bills Public Hearing – October 17, 2007 at 7 p.m. at the Lana`i High and Elementary School Cafeteria.**

G. NEXT REGULAR MEETING DATE: October 17, 2007

Mr. Gima: Thank you. Due to the flight schedule for the County, I'm going to take the liberty of adjourning the meeting until October 17th. County are we meeting at 6:00 p.m. again? Okay, 6:00 p.m. Wednesday, October 17th. Thank you everybody.

H. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 10:26 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN
SECRETARY TO BOARDS & COMMISSIONS I

RECORD OF ATTENDANCE:

PRESENT:

Reynold “Butch” Gima, Chair (from 8:35 p.m.)
Lawrence Endrina, Vice-Chair
James Elliott
Dwight Gamulo
Sally Kaye
Beverly Zigmond
Alberta de Jetley

EXCUSED:

Matthew Mano

OTHERS:

Colleen Suyama, Deputy Planning Director
Joseph Alueta, Administrative Planning Officer
Simone Bosco, Staff Planner, Long Range Division
Julia Staley, Staff Planner, Long Range Division
Paul Fasi, Staff Planner, Current Planning Division
Michael Hopper, Deputy Corporation Counsel
Suzette Esmeralda, Secretary to Boards and Commissions II