

**LANA`I PLANNING COMMISSION
MINUTES – REGULAR MEETING
JUNE 20, 2007**

APPROVED 07-18-07

A. CALL TO ORDER

The regular meeting of the Lana`i Planning Commission was called to order by Chairman Reynold “Butch” Gima at approximately 7:03 p.m., Wednesday, June 20, 2007, in the Old Lana`i Senior Center, 309 Seventh Street, Lana`i City, Lana`i.

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

Mr. Reynold “Butch” Gima: Okay the meeting is in order for the June 20, 2007 Lana`i Planning Commission meeting. Let the record show that we have quorum with Commissioners Elliott, Endrina, Zigmond, Kaye and Gima present.

B. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON FOR THE 2007-2008 YEAR

Mr. Gima: At this time, we will be electing a Chairperson and Vice-Chairperson for the 2007-2008 year. Do we do this separately or together?

Mr. James Giroux: You can do it one at a time.

Mr. Gima: One at a time. Okay.

Mr. Giroux: . . . (Inaudible) . . .

Mr. Gima: Okay.

Ms. Sally Kaye: I wonder if Mr. Gima would consider remaining as Chair?

Mr. Gima: But isn't Larry – isn't the progression the Vice-Chair moves up? I think we should go for another Chair because I think my term is up in March. Yeah, this coming –

Ms. Beverly Zigmond: . . . (Inaudible) . . . What I said was that we typically have elections in April, I think, and we just didn't because we didn't have a meeting. And so we're asking you to stay for all those months. We'll figure it out in April.

Mr. Gima: Well, that doesn't hold any water. Okay. I'd be willing. Yes.

Ms. Kaye: I'd like to move that Butch Gima stay on as Chair of the Commission.

Ms. Zigmond: Second.

Mr. Gima: Okay, it's been moved by Commissioner Kaye, and seconded by Commissioner Zigmond that I stay on for – as the Chairperson for the next year. Any other nominations? Hearing none – what was the term? – something by affirmation? – okay, all in favor say “aye.”

Commission Members: “Aye.”

Mr. Gima: Oppose? Okay motion is carried. I'll accept nominations for Vice-Chairperson for the 2007-2008 year.

Ms. Zigmond: I'll nominate Larry.

Mr. James Elliott: Second.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond, seconded by Commissioner Elliott that Larry Endrina remain as Vice Chairperson for 2007-2008 year. Any discussion? Any other nominations? Hearing none. All in favor say “aye.”

Commission Members: “Aye.”

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

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

VOTED: Reynold “Butch” Gima as Chairperson for the Lana`i Planning Commission for the 2007 - 2008 year.

(Assenting: Commissioners L. Endrina, S. Kaye, B. Zigmond, J. Elliott, and R. Gima

Excused: D. Gamulo)

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

VOTED: Lawrence Endrina as Vice-Chairperson for the Lana`i Planning Commission for the 2007 - 2008 year.

(Assenting: Commissioners L. Endrina, S. Kaye, B. Zigmond, J. Elliott, and R. Gima

Excused: D. Gamulo)

C. APPROVAL OF THE MARCH 21, 2007 MINUTES

Mr. Gima: All right. Now moving onto approval of the March 21, 2007 minutes.

Ms. Zigmond: I did read them and I move that the minutes of March 21, 2007 be approved.

Mr. Endrina: Second.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond, and seconded by Commissioner Endrina that we approve the minutes of March 21, 2007. Any discussions? Corrections?

Mr. Endrina: I have a question. On all of the items that were discussed in the last meeting, when does that actually – will somebody tell us that it's coming up on the six months or the 180-days? I think it was a 180-day extension.

Mr. Gima: Colleen would you like to respond to that?

Mr. Endrina: For the last meeting with all the conditions – not conditions – these were for the extension, the condition for extension, when will that be reported back to us? Or will somebody let us know that we're at the 180-day mark?

Ms. Colleen Suyama: Lana`i Company has to submit some information to the Department, and one of them was they were asked to submit an updated compliance report to the conditions to the original approval. The Department had not received that yet. And we had told them that until we received the documentation, we will not be scheduling. And we're looking at, at this date because you need to do notice requirements, the earliest would probably, at this date, would be in August.

Mr. Endrina: So until such a time that they turn in the compliance reports.

Ms. Suyama: The compliance reports. Right.

Mr. Endrina: Okay, then that will come up.

Ms. Suyama: Right. And at that time, we would look at the conditions, make sure they are in compliance, and then we will then notify them when we will schedule for public hearing.

Mr. Endrina: Okay. Thanks.

Mr. Gima: On top of that there were several things in the minutes that said that there was going to need to be a follow up, separate from what Larry had to say, I mean, ask. Is this the appropriate time to ask about those follow up items? Or would it come in the Director's Report?

Ms. Suyama: You can ask now if that's what you want.

Mr. Gima: Okay, on page #21, I think Mr. Rombaoa was suppose to submit a report to the Planning Commission regarding Larry's specific question about construction water use. Have you received that report from Mr. Rombaoa?

Ms. Suyama: No we haven't, and that probably would be submitted with the compliance report that we've asked for.

Mr. Gima: Okay. Then on page #53, Thorne Abbott was suppose to talk to Dober about the fuel tank. So, that's going to be addressed later on in the Director's Report?

Ms. Suyama: Right. We have a section that's under the old business for reporting.

Mr. Gima: Okay. And, likewise Mr. Rombaoa is going to report in the compliance report about the master drainage plan for the Manele Project District?

Ms. Suyama: Right.

Mr. Gima: Okay.

Ms. Zigmond: Mr. Chair?

Mr. Gima: Bev.

Ms. Zigmond: I have a question regarding also – this is regarding the LSG MOA. I don't know if this is the time to ask or not, but we had requested to have an informational workshop by LSG and I understand that's not happening, and I was wondering, (a), if it's still going to happen, and (b), if we can get copies of the MOA?

Ms. Suyama: I know that the reason that the workshop was not held is because the County of Maui is in – with the Land Use Commission – in contested case hearings. And one of the issues is the Memorandum of Agreement. And we've been advised by our Corporation Counsel for the Land Use Commission that until that time that that matter is settled, they would not advise us to schedule any workshop dealing with the Memorandum of Agreement. The other thing that they are concerned about is that the County of Maui is

not a party to that Memorandum of Agreement and therefore we are not in the body that would enforce the agreement. And they are concerned about scheduling a workshop before the Lana`i Planning Commission.

Ms. Zigmond: I'm really missing something here because I understand that the County is not partied to that agreement. So I guess I really don't understand why we can't have them come in and talk to us anyway. And, I'm still not hearing if we still can have that workshop after this agreement is settled and where can we get a copy of the MOA? – because I think it's a really important document especially it might be useful coming up with the community plan.

Ms. Suyama: What I can do is I can go back to the office and talk to basically Clayton Yoshida, to find out if we have a copy of the Memorandum of Agreement, and if so, you know, make available copies to the Commission.

Ms. Zigmond: And the question about rescheduling that at a later date – the workshop.

Ms. Suyama: I will have to follow up with the Director about the rescheduling of any workshop dealing with the Memorandum of Agreement.

Ms. Zigmond: Because I really don't – I'm sorry – I'm not trying to be difficult, I'm just trying to understand. And I don't understand why this is not happening.

Mr. Gima: Have you any idea what the specific fears or concerns of Corporation Counsel is for the Commission to obtain information about the MOA even though they're not a party to the MOA nor are they, from my understanding, a defendant in the Land Use Commission Contested Hearing case?

Ms. Suyama: I'm not really sure. I wasn't involved in the discussions about the Memorandum of Agreement and that's why I need to go back to the office. Probably, you know, we may end up asking the Corporation Counsel that's involved with the Memorandum of Agreement with the Land Use Commission, maybe to come before you to explain why there are concerns about the Memorandum of Agreement.

Mr. Gima: Would you be willing to have Jane Lovell send the Commission a letter stating? Then we won't have to wait till the next hearing.

Ms. Suyama: Okay. You may have to wait until the next hearing anyway, the next meeting date, because Jane Lovell right now is on vacation. She's going to be gone until, I believe, the beginning of July.

Mr. Gima: Okay. Thank you. So there's a motion on the floor to approve the minutes of March 21, 2007. Any further discussion from the Commissioners? Hearing none, all in favor say "aye."

Commission Members: "Aye."

Mr. Gima: Oppose? Wait, let me take that vote again. All in favor say "aye."

Commission Members: "Aye."

Mr. Gima: Oppose? Okay. Motion is carried.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Lawrence Endrina, then unanimously

VOTED: To approve the March 21, 2007 minutes as presented.

(Assenting: Commissioners L. Endrina, S. Kaye, B. Zigmond, J. Elliott, and R. Gima

Excused: D. Gamulo)

D. COMMUNICATIONS

- 1. Mr. Jeffrey Hunt, Director, Department of Planning requesting that the Lanai Planning Commission consider holding two meetings (first and third Wednesdays) per month for the period from August to November 2007 for the purposes of its deliberations on the Countywide Policy Plan portion of the Maui County General Plan Update.**

Pursuant to Section 2.80B.050 of the Maui County Code, the Planning Commissions have 120 days after the first public hearing on the Countywide Policy Plan draft document to transmit their recommendations to the Maui County Council. At this time, it is estimated that the public hearing for the Lanai Planning Commission on the Countywide Policy Plan will be held on August 15, 2007. The public hearing will be preceded by several workshops conducted by the Long Range Division, Department of Planning. The 120-daytime period would end around December 15, 2007.

The Lanai Planning Commission may act to amend its meeting dates

**for these months to accommodate the review of this portion of the
General Plan Update.**

Mr. Gima: Okay, we're onto Communications. Is that yours Colleen?

Ms. Suyama: What's happening is that the General Plan Advisory Committees have finished their work for all three Islands, and the Policy Plan has been developed – the Countywide Policy Plan. So what the Department is asking is that in light of the meetings, we would like to schedule a workshop with the Lana`i Planning Commission for their July 18, 2007 meeting, which is, you know, to give you the basic information about the General Plan process, and also look at – because you need to hold a hearing on the General Plan Policy Plan, we're looking at – it's probably because of your deadline of 120-days, you're probably are looking at more than one meeting a month. So we want authorization to at least schedule, from August to November, two meetings a month for the Commission. And we're looking at this point, the first and third Wednesdays of each month as, you know, scheduling special meetings.

Mr. Gima: Any comments or questions from the Commissioners?

Ms. Kaye: Is that – you mean, for example, August 15th would be our regularly scheduled meeting, but there would be an additional one on the 1st?

Ms. Suyama: Yes.

Ms. Kaye: Okay. Same in September?

Ms. Suyama: Yeah, all the way up to November.

Ms. Kaye: A special one –. Okay, but the 19th and the 3rd Wednesday would be our normally scheduled meeting?

Ms. Suyama: Right. So we wanted to keep it the first and the third Wednesday. The other thing is we would just want an authorization for the special meeting. If the discussion, the hearings and the discussions progresses well, and you may be ahead of that, you know, you may not need two meetings per month to get through the Policy Plan – we're not sure – but we want the authorization from the Commission to schedule special meetings as needed.

Mr. Gima: Any oppositions from the Commissioners? Any scheduling problems?

Ms. Kaye: Will we need a quorum for both meetings?

Ms. Suyama: Yes, you will need a quorum for all of these meetings.

Mr. Elliott: The 18th of July works fine for me, but the – I'm already scheduled to be off-Island on the first two weeks of August. The second one works for me. September works for me. October works for me. November.

Mr. Gima: Anybody else have vacations planned? My schedule looks good so far.

Mr. Giroux: . . . (Inaudible) . . .

Mr. Gima: I didn't ask you James. Okay.

Mr. Elliott: Can I ask, is it possible that it could be scheduled starting with the second one in August and going forward? Would that throw the schedule off?

Ms. Suyama: Well if we're going to have a problem with quorum on the first meeting in August, then I don't think it would be a problem.

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

Ms. Suyama: Yeah, we have to deal with, you know, we're short Commission – a Commission that doesn't have a full body.

Mr. Elliott: By the same token, I'd be comfortable with the last weekend in July and the second one in August.

Mr. Suyama: Unless you want to adjust August to be second and forth week.

Mr. Gima: Well, we can find out about Dwight when he returns and see if he'll be here on the 1st of August.

Ms. Suyama: Okay.

Mr. Gima: Okay, do we need a motion on this?

Ms. Suyama: You need a motion. Right.

Mr. Kaye: I move that this Commission approves one extra meeting to be the first Wednesday of each month between August and November.

Mr. Endrina: Second.

Mr. Gima: Okay. It's been moved by Commissioner Kaye, and seconded by Commissioner Endrina that we approve the Planning Department's request to have an extra meeting on the first Wednesday of each month from August through November 2007. Any further discussion? Okay, hearing none, all in favor say "aye."

Commission Members: "Aye."

Mr. Gima: Oppose? Okay motion is carried.

It was moved by Commissioner Sally Kaye, seconded by Commissioner Lawrence Endrina, then unanimously

VOTED: To approve the Planning Department's request to hold an extra meeting on the first Wednesday of each month from August to November 2007.

(Assenting: Commissioners L. Endrina, S. Kaye, B. Zigmond, J. Elliott, and R. Gima

Excused: D. Gamulo)

E. DIRECTOR'S REPORT

- 1. Lana`i Planning Commission inquiry as to whether gas tanks and gas fuel lines are covered under the Department of Land and Natural Resources approved Special Management Area Use Permit for the Manele Small Boat Harbor Ferry System Improvements Project. (Thorne Abbott)**

The inquiry was made at the Lana`i Planning Commission's February 21, 2007 meeting.

Mr. Gima: Okay. Onto the Director's Report.

Ms. Suyama: The first matter was dealing with the Manele Small Boat Harbor. You had questions regarding the storage tank, fuel tank, at the Manele Harbor. And there was a memorandum that was prepared by Thorne Abbott regarding this issue. And basically what it is, is that the storage tank was not included in the SMA application that the Commission reviewed. The only thing that was included was the fuel line, and they wanted to put that in so that there wouldn't be any future disruptions. Which means that, if in the future, they want to put a storage tank, they will have to either come back depending on

the valuation of the improvement. If it's greater than \$125,000, they will have to come back with an SMA application for that, which would be reviewed by the Lana`i Planning Commission. If it's less than \$125,000, depending on when the application comes in, it may qualify as a minor permit, and it may, you know, become an administrative approval rather than a major permit. But one of things that the way we gauge things also is that if the improvements have not been completed, and they have not gotten their final compliance report approved, a lot of times we will tell the applicant that it is still part of the original application, and we would recommend that you come back to a modification of the original permit. And if it's a modification of the original permit, then it would come back to the Lana`i Planning Commission.

Mr. Gima: Okay. Any questions from the Commissioners? Sally?

Ms. Kaye: No, no questions.

Mr. Gima: Okay. I have a question. So if it's under \$125,000 and it's a minor, the Director has the option of doing an administrative approval or he could also bring it back to the Commission, if he so chooses?

Ms. Suyama: Yes. Yes.

Mr. Gima: Okay.

Mr. Ron McOmbler: . . . (Inaudible) . . .

Mr. Gima: Okay, Ron, grab a mic please.

Mr. McOmbler: Ron McOmbler. I sit on the Harbor Advisory. I strongly advise this Council, this Commission, to have them come back to you whether it's a minor or a major anyway. I really think that the community needs to approach this. It should not be done by the Director in Maui. It should come right back to this community because that's what we're having with the Harbor Advisory. And we have some definite things about that that needs to be addressed before that tank can be put in. So I would strongly recommend this Commission that you direct the Director, whether it's a minor or not, that you would like to see this before this body. Thank you.

Mr. Gima: Any comments about Ron's request or recommendation? So could we put a note on this project that, if and when that comes about, that the Planning Commission is requesting that if a minor application is appropriate that the Director brings it back to the Lana`i Planning Commission as oppose to an administrative approval?

Ms. Suyama: Okay. I will inform the Director that the Lana`i Commission wants to review the application.

Mr. Gima: Thank you.

2. Department of Planning letter regarding the Country Town Business District review for the Jacaranda Square project

Ms. Suyama: The next item under the Director's Report is the Jacaranda Square Project. I have Dan Shupack who's the planner that originally reviewed your request regarding how this project got its approval, and I'll turn it over to Dan at this point.

Mr. Dan Shupack: Thank you. Dan Shupack with the Maui Planning Department, Current Division. And I was – I actually issued the final Country-Town Business Design Approval, or actually, I processed and the Director signed off the approval back in 2005. This is for a commercial building at the corner of Sixth and Jacaranda – between Jacaranda and Koele Streets. And it was brought up at a previous Commission meeting, by Mr. McOmber, some concerns about the height, and particularly with regards to the Lana`i Community Plan which states that "building heights in the commercial area around Dole Park be limited to single-story." So I researched and went back into the history of the original approval, and basically if you read through the report, it kinds of pretty much outlines the history of this particular project with respect to the Planning Commission. If you'd like, I can go back through the report – I don't know if everybody's had a chance to read it – but basically –.

Mr. Gima: . . .(Inaudible) . . .

Mr. Shupack: Yeah, it's the April 4th memorandum to the Commission. The subject is Country-Town Business District Design Approval for the Jacaranda Square Commercial Project. Basically –

Mr. Gima: Excuse me. So the statutory issue was the Urban Design Review Board approved the two-story and Ron was asking how could they do that if the community plan says only one-story in the CTB district.

Mr. Shupack: That's correct.

Mr. Gima: Okay. So that was the statutory conflict. So if you could, refresh my memory, what was the ruling on the conflict?

Mr. Shupack: Basically we concluded pursuant to Chapter 19.15 of the Maui County Code

which concerns the Country-Town Business District. Chapter 19.15 states that “all new buildings within the Country-Town Business District shall be designed and constructed within the established design guidelines in that community,” which in this case is the Lana`i City Community Design Guideline document. This document was adopted in 1997 to establish design criteria for Lana`i City. The guidelines in the Design Guidelines, the language is a little more permissive, I guess, as far as height. It states that existing buildings are predominately one-story in height. New buildings should continue to be of approximately the same height so as to maintain the pedestrian and residential scale as it currently exists. So, you know, it doesn’t explicitly require one-story buildings, but it just suggests that new buildings have some flexibility in regard to the height.

So we took it before the Urban Design Review Board, and they reviewed it. They reviewed it pursuant to the Lana`i City Design Guidelines. And there’s a copy of the minutes from that meeting which was attached as Exhibit #3, I believe. And the highlighted section basically talks about – this is difficult to read – it didn’t copy so well. But I guess Mr. Paul Horner, who, I think I believe, he’s the Board Member from Lana`i. And they asked him to specifically to comment on it and he actually, you know, said it was a good addition to that corner. And he had no objections to it. And basically –

Mr. McOmbler: . . .(Inaudible) . . .

Mr. Shupack: You know, I apologize. Yeah mines is like almost blacked out – I apologize – oh, here we go. And the architect had commented on the scale, basically, that because it’s kind of on a little bit of slope that when you’re walking down that it basically reads as a one-story building from the side. And like when you’re walking down Sixth Street or when you’re walking down Jacaranda Street, it reads as kind of a one-story building. Basically this is on page six of the minutes.

Mr. Gima: So the intent of the CBT Design Guidelines was to maintain the architectural feel of the structures within the district. And my impression is Ron – well I don’t want to put words into your mouth. Is the issue for you that it’s two-story? Is the issue the height? Or is the issue that it’s not consistent with the rest of the buildings in the CBT? Yes, please.

Mr. McOmbler: Ron McOmbler. Without getting into a lengthy discussion, I was on the Community Plan that we discussed that area when we put it on the Community Plan. And it specifically says in the Community Plan, there will be no two-story. It doesn’t say a height limit. It doesn’t say it doesn’t conform. There will not be a two-story, and I’ve got the Community Plan right here if you’d like to see it.

Mr. Shupack: It’s actually included as Exhibit #4.

Mr. McOmber: But my complaint is how can the Urban Design Review Board trump the Community Plan? It shouldn't even be discussed in front of the Urban Design Review Board because the Community Plan specifically says there will be no two-story buildings within this business town district. Whether you think it looks like one building from one side or something else, it's going to stick above the post office on one end. That's going to be two-story. It is two-story.

Mr. Shupack: I mean, we reviewed the buildings within the Country-Town Business, or Country-Town Business District pursuant to the Code which states that it shall be reviewed pursuant to design guidelines of that district. So in this case, pursuant to the Lana`i City Design Guidelines. So that's what we did, and that's what the UDRB based its decision on.

Mr. McOmber: We specifically asked Bill when we did the Community Plan years ago, we specifically asked is the language we have in here is enough to protect and make sure that it's one-story? And we were told by the County at that time that language was enough to do that. That's why we researched that. And as far as their architect saying that it looks all right. Of course he's going to say it's all right because he's the one that designed it. And whoever this guy Horner is, he's not even in this community anymore. And you hold these meetings in Maui and nobody from this Island has a chance to sit in. And if you don't fight it within – what 20-days or something like that – how do we know it even passed? We didn't even know it passed? We didn't even know it passed until this came up. And that was years later. There's no notice that we had a chance to argued that point that the Urban Design Review Board put forth. It never came back to this Community. So all the way around as far as I'm concerned, the County "muffed" this one. And they're taking hard work from this community and how we say we want our community to look like, and just throwing it out the window. I don't think that's fair. My objection is and my understanding was anything in this town core, from Sixth Street to Ninth Street, from Lana`i Avenue to Fraser is the town core. Whether its facing the park or not, it's still the town core. It's still the town, Country-Town Business, and it will not exceed one-story. That's how I felt about it.

Ms. Suyama: Mr. McOmber in response, the problem is that the original Design Guidelines were adopted in 1997. The Community Plan was adopted a year later. Unfortunately, the way to have it corrected it originally is that when the Community Plan was adopted, then in terms of implementing the Community Plan, the County, which is basically our Department, should have gone back and revised the Design Guidelines. However, we didn't do that.

Mr. McOmber: That's exactly right. But why do we have suffer because the County didn't go back and do their job? I specifically asked Bill Medeiros when we were doing it, right

in this room, are we protected? And he said, “yes.” Because he went back and looked at that, the Country-Town Design Guidelines, and he said, if you put this language in this, that will protect you. That’s enough to suffice. Now if that’s not, then you guys are not communicating with each other.

Ms. Suyama: Unfortunately, you know, these are people that are no longer working for the Department. And the way to correct it is to actually to amend the Design Guidelines. So, you know, you figure 1997 – this is 2007 – I think it’s about time that we go back and we make the amendments to the Design Guidelines, so they’re consistent to the recommendations in the Community Plan. And that would be my solution. So that problems like these don’t occur again is that the actual document is revised.

Mr. McOmber: But that’s what the County research people – that’s your job to do. Not you in particular, but that’s the County’s. They looked at what the Community Plan came out and they should have seen this and compared it with the Country-Town Design Guidelines, and said “we’ve got a problem here, we need to correct that.” Now, we’ve got this “humbug” where the guy found a loop hole, and he sat right in this room when they did the variance, and spoke verse and chapter of the Community Plan that they didn’t have to have two curbs and they didn’t have to cut this down, they didn’t have to do the setback. But I never once heard him say also in the Community Plan it says one-story. We didn’t hear that. And he spoke verse and chapter of the Community Plan. He held it right here in this room, and said this is what it is. If I’d have the Community Plan in my hand that day, I would have put that in the lap of the variance people and said “this is not right.”

Ms. Suyama: And the only solution that I can propose to resolve something like this is that we, as a Department, go back and revise the Design Guidelines. I mean, that’s the solution so that we don’t have future problems.

Mr. McOmber: But that should have been done when –

Mr. Gima: Hold on Ron.

Ms. Suyama: Again, I can’t answer for what should have been done 10-years ago.

Mr. Gima: Okay. Jim and then Sally.

Mr. Elliott: I just want to say for the record I really understand how, you know, concerned Ron is about this. I think we all are. We all would be that – that something like this would happen, and that’s exactly what I wanted to do is propose right now. Because the big question I was going to have for you is how do we see that this never happens again. And you’ve given us the answer that what we need to do is to request that the County go back

and revise those guidelines. And I'd like to put some kind of a motion into effect, you know, into play to that effect, if we could. That's what I would like to do, and I could do it right now. Can we do that?

Mr. Gima: Why don't we wait till discussion is over, and then –.

Mr. Elliott: Okay.

Mr. Gima: Sally.

Ms. Kaye: Yeah, I'd like to just add a few thoughts to this. There are three documents. There's the Maui Chapter 19. There's the Design Guidelines, which as you both pointed out is 1997. And the Community Plan which is 1998. Basic principals of statutory construction say that you build on these and read them together. There's no conflict in them. And the most recent one usually trumps anything that comes becomes before and is presumed to have the information, assumed inside the last one. So now you have all these Boards going out and not paying any attention to what was in the Community Plan. I went back and read the minutes from March 2006 meeting here. I wasn't on the Commission, but read them real thoroughly then and I read them again, and the Planning Department had many number of staff people here, reassuring this Commission that anything that was adopted by Ordinance had the force of law. I mean, I can quote you out of the minutes where they said it time and time again, you don't need to do this. You don't need to make these changes. You adopted these, and this goes for the Lana`i Community Plan. So now, we're back with things being trumped that shouldn't be. And if making a motion to revise these Guidelines will solve the problem, then it should be done as expeditiously as possible. But I would argue that you would not even have to appeal the Urban Design Review Committee because it was illegal in the first place. Because they adopted something that the Lana`i Community Plan would have pre-empted. So you don't have 10-days to appeal a nullity. So, I think, having included that in your conclusions of law was erroneous. Plus part of the Chapter you relied on to take that appeal was clearly written for someone whose design was denied, and they had 10-days to appeal. So, the community shouldn't have to watch dog other Boards that sit in other places, and I understand the situation. But what happens now with something that's been approved against the Community Guidelines?

Ms. Suyama: I believe because it was done in good faith, I believe the approval still stands.

Mr. Gima: Corporation Counsel, would you like to comment on Colleen's response and/or Sally's comments?

Mr. Giroux: This raises a very serious, you know, discussion about what does the

Community Plan mean and what is its force and effect. And we've had these situations with SMA issues where the SMA law specifically says that, you know, basically that there's got to be consistency between the Community Plan, General Plan and Zoning. And also, in the subdivision, where there's got to be consistency and conformity with, like, in the General Plan, Community Plan and Zoning, and State Land Use Designations. I think in the past that the County has taken the position that where there's a law that says that there needs to be conformity, then the Community Plan is the law. You have to – there's no if's, and's or but's about it. However, in situations when there's underlining zoning that's already in place, and the Community Plan – whatever approval is being sought or permit is being sought, there's not, within its process, explicitly say that there needs to be conformity. Then the take on the force and effect of a Community Plan then becomes guidance. I'm not advocating that position, but what I'm doing is I'm reiterating what some prior Corporation Counsel decisions have said as far how to deal with possible inconsistencies between different levels of land use applications.

In the sense that the UDRB should have been aware of that and probably should have had that in their discussion is, you know, a major concern. Whether or not that rises to, you know, a level of being able to nullify this decision would probably only be decided by litigation itself. As far as a judge looking at, you know, did –. One of my concerns is that I'm reading the law, and I also know that the law has also been amended, or updated, in the last session or last year – one of my concerns is that I'm not reading within here where UDRB actually has approval authority in of itself. It says that the "Design Guidelines are to be administered by the Planning Director." Unless the staff can guide me to another.

Ms. Suyama: It's not the UDRB that approves the project for the design. It's just made a recommendation to the Planning Director, and the Planning Director actually approved the two-story element of the building. And the procedures are written in the rules that the Lana`i Planning Commission adopted for the BCT Guidelines. It sets the procedure.

Mr. Giroux: Thanks Colleen.

Ms. Kaye: Okay, then I would have to reiterate my concern that last year this time, in March, the Planning Department were here saying exactly the opposite than what was written. It's adopted by Ordinance – it had a force of law. There was a huge discussion about whether you guys should mess with – when they were amending Maui County Code for the Business Guidelines. And you were reassured over and over again by Joe Alueta that this was only for use. You had a big discussion about height and one-stories. And I've got them. I mean, there's three or four times, different people told this Commission that you've already done it. You're covered. So do we need a legal opinion? Do we need something in writing guiding this? Which controls? Or are we just doing the guidelines over again to conform with the Lana`i Community Plan?

Mr. Giroux: To end my discussion was – the other thing that I wanted to say is that with the recent changes to BCT is that they've added that – one of the concerns was, you know, about the specific issue of, you know, what, how strong the BCT can be and one of the recommendations for Corporation Counsel was to actually adopt the individual BCT Guidelines for different areas by Resolution. And to specifically within the new law say that where there's a conflict between the BCT Guidelines and Public Works, or Title 18, that specifically the BCT Guidelines would trump that, unless there was specific findings that there would be detrimental to health, safety and welfare. So I think that's something that you should be aware of because, you know, right now on my desk there's some BCT Guidelines that were suppose to – everybody thought they had been adopted, but they have never completed their procedures. And now the Department is asking what are they? And you know, I'm like, well, 15 years ago these should have been signed by the Mayor and they haven't. But you know what, actually we could go back and do it by Resolution. Because then with the new Ordinance, it does bring a little bit more clarity. I don't think it's going to alleviate all litigations or all misunderstandings between the Department, or between the community and the County, but I think it does bring a little bit more clarity to the issue. *(Inaudible... Changing of tapes)*

Mr. Endrina: So going back to this. This has already been approved. If we do anything from here to change – to get this Resolution or whatever it is that we can do – this has already passed already?

Ms. Suyama: This has already passed.

Mr. Endrina: So this one is actually just going to go through?

Ms. Suyama: At this point, I believe it's going to go through because I don't see any mechanism by which the Director can rescind the approval.

Mr. Endrina: Yeah.

Ms. Suyama: You know, of the past Director.

Mr. Endrina: Okay.

Mr. Gima: Even if it was wrong?

Ms. Suyama: Well, I really don't believe that it was wrong because your Rules say that the guiding document that we use when we review design guidelines is the BCT Design Guideline, which was approved. Unfortunately, you know, a lot of these Guidelines have not been up-dated since their enactment.

Mr. Gima: Is the Lana`i City Community Design Guidelines synonymous with the BCT Design Guidelines?

Ms. Suyama: Yes. The enabling – the BCT Ordinance in Chapter 19 – actually Title 19, is the enabling legislation that allows us to do design review within the Business Country-Town Design area. It also states that the Guidelines are to be approved by rules established by the various Planning Commissions. And the Rules set the procedure by which the project are reviewed. Under what circumstance is the project is reviewed? Some of them are done strictly administratively. We don't even send it to the Board. Some are sent, by the Rules, automatically to the Board for recommendation. But the Board is used because it's a semi-professional board of architects, engineers and lay people, who have, you know, a background in design. They make a recommendation to ultimately to the Director, but the Director is the one that ultimately makes the decision, the final decision based upon all of this input. So, the Director could have said no to the UDRB Board's recommendation and he could have denied it at that point.

Mr. Gima: Ron.

Mr. McOmbler: I'll go back again to the question. We specifically , when we did the Community Plan, asked if what we're putting in there can be trumped by anybody? And I was told, and we were told at that time, "no." And that's why it upsets me. And it wouldn't be so bad if they'd done this in 1997 before our plan came in 1998. But this is well in when the Community Plan was already formed. They didn't do this till 2004, and the Community Plan was well in by 1998. What I'm saying is somebody didn't tell us the truth or they missed it, and when this Urban Design Review Board is held on Maui, and it doesn't come here like the variance do, nobody in this community was aware of it, except the one person that sits on the variance board. I'm really upset about that because we didn't have a say so here. We would have come to that and spoke on that issue at that time. Instead of having two people, which is the architect and a Board Member from Lana`i which is really not a Lana`ian saying that this will look wonderful. We should go forward with it. When we specifically in this community said we do not want two-story in this commercial area.

Mr. Gima: Okay. Having said that, Ron, what specifically are you requesting? Because we can go back and forth all night long. What are you specifically requesting from the County Planning Department?

Mr. McOmbler: She just said that they're not going to do anything. I would like to have the Director re-review this and look at and because I talked to members of the Variance Board that sits here, and they said if that issue had been brought up to them, they would have questioned it that day because I was so upset. After I went home and looked at my Community Plan after the meeting was over with, I went, "they can't do this." And that's

my assumption. And at that point in time, none of this conversation was every held. I'm just hearing stuff now – and with my letter I got from Hunt – telling me what they found out and what the agreement. I don't know. I just don't think it's a proper application that's been put forth on this community.

Mr. Gima: Okay. Yeah, we know your position so I think it's a fair request. Any questions or concerns of the Commissioners of Ron's request? Jim.

Mr. Elliott: I want to reiterate, I share Ron's concern. I have it too, and I really do believe if I was sitting there. I mean, if we would had any opportunity to change that at the point that, that would have been a good thing. I'm not convinced at this point that, with what I'm hearing here, that it's in the best interest of our community to deal with this one issue. We've got to prevent anything like this from ever, ever happening again. But what I'm concerned about is a war of legal battlefields lining up on this particular issue, which I don't think is, in the long run, going to be in our best interest of our community. Because there's a lot of other things that would get involved in that process.

Mr. McOmbler: Jim, let me –

Mr. Gima: Wait. Hold on Ron. Any other questions or comments from the Commissioners? Okay.

Mr. McOmbler: In that same thing, we have a developer on this Island that if this door is opened up and this stuff is going to be run underneath our nose in Maui County without us knowing about it on this Island, we'll have all kinds of this stuff. I mean this is not healthy for this community. When the community thinks that you're taking a position with your community and have a voice in how your community looks like. This developer – I would not put it past this developer to do the same thing that this architect did and this owner of this piece of property. And it could be in a grand scale. We could have Richard Shopping Center a two-story Richard Shopping Center put anywhere around here.

Mr. Elliott: Well, I'm with you totally. I'm willing to do everything in our power to put something into law, whatever it needs to be, so that nothing like this could every happen again. But I'm not sure the answer right now is to take this one thing on and end up – I mean, I can see this taking years and years and years, you know, to ever get resolved, from just what I've heard just little bit here right now. That's what I think.

Ms. Suyama: The only solution that I can propose is amending the Design Guidelines, you know, initiate that through the Department. The other thing is writing to the original applicant and asking him that based on community concerns, if they would reconsider doing the second story element, and you know, come back with a revised plan. I mean,

we can ask that in a letter to the original applicant, but at this point, I don't think the Department has the power to force them to do something that they've already gotten an approval of.

Mr. Gima: Okay. Will you also have the Director re-review the decision made by Mike Foley, and then let us know what options are in regards to the statutory conflicts.

Ms. Suyama: Okay. We can do that. We can follow up with other members of the Corporation Counsel with what the problem is and getting some advice from them, as well as, responding back to the Commission as to what our decision would be.

Mr. Gima: Okay. Go ahead Sally.

Ms. Kaye: Colleen, do we need to make a motion? I think that's a great solution. It sounds like something that can be done very expeditiously and shut the door before it gets open anymore. Do we need to make a motion? Or would you folks just do that routinely because now you see that there's a need for it?

Ms. Suyama: I think we would do, but it wouldn't hurt to have a motion done by Commission.

Mr. Elliott: I would love to make that motion, and you can put the right wording to it, but that we make this consistent with our Community Plan as the highest priority.

Ms. Suyama: So I'd say the motion would be that the Department initiates amendment to the Design Guidelines in compliance with the Lana`i Community Plan. And that we would also follow up with the applicant, you know, about reconsideration of the design for the building.

Mr. Gima: And number three.

Ms. Suyama: I think that was the two solutions.

Mr. Gima: And then the third was to –

Ms. Suyama: The third would be to follow up with our Corporation Counsel as to whether there are any other legal recourse that the Department has in which to try to rescind the original approval.

Mr. Gima: Okay. I can live with that.

Ms. Kaye: I second.

Mr. Gima: Okay, it's been moved by Commissioner Elliott, and seconded by Commissioner Kaye that the Planning Department will complete the three things that Colleen mentioned. Okay, any discussion?

Ms. Kaye: I just have one more question, Colleen. I'm sorry. Can you just tell me as a matter of procedure. We made the motion. You folks go do it. And then does it come back to us?

Ms. Suyama: In order for us to amend the Design Guidelines, we need to do a Rule Amendment. In other words, your basic Rules will have to change, just like the new Design Guidelines. The other thing is that we will report back to you, you know, what the outcome whether we've talked to Mr. Palumbo who was the original applicant, as well as whether we found out if there's any legal recourse that the Department has to rescind the permit or the approval.

Ms. Kaye: So would it require a public hearing?

Ms. Suyama: Your Rules changes would require public hearing.

Ms. Kaye: We'll see it part of the agenda then?

Ms. Suyama: The other two would be partly Director's Report, reporting back to the Commission.

Ms. Kaye: Thank you.

Mr. Giroux: Colleen, correct me if I'm wrong, but, I mean, there were amendments to 19.15 which states that these Guidelines should be moved forward by Resolution, right? I mean, shouldn't we take it one step further and have the Department actually follow through with moving these from Rules to a Resolution?

Ms. Suyama: That would happen when we come back with the amended because the Rules themselves have to be amended to reflect any changes to these Design Guidelines. So we usually come up with a whole set of new Rules, and then from that point, rather than just having the approval of the Mayor and the Commission Chair, Corporation Counsel and et cetera, you know, it would be also based upon the change. You would send it up to the Council for approval by Resolution.

Mr. Gima: Okay, if there's no further questions.

Mr. McOmber: . . . (Inaudible) . . .

Mr. Gima: Okay, we've got to vote on this first and then I'll get to you and Pat. Okay, if there are no further discussions, all in favor say "aye."

Commission Members: "Aye."

Mr. Gima: Oppose? Okay. Motion is carried. Now we go to Pat and then Ron.

It was moved by Commissioner Jim Elliott, seconded by Commissioner Sally Kaye, then unanimously

VOTED: To amend Lana`i Design Guidelines to be consistent with the Lana`i Community Plan. Also requested that the Department write a letter to the owner to consider reducing the building to one-story. And to get opinion from Corporation Counsel as to whether approval by former Planning Director Michael Foley can be rescinded.

(Assenting: Commissioners L. Endrina, S. Kaye, B. Zigmond, J. Elliott, and R. Gima

Excused: D. Gamulo)

Mr. Pat "Fairfax" Reilly: Thank you Mr. Chairman. This discussion is very interesting because you're about ready to review the General Plan and the Community Plan. And the issues you have for discussion have to do with sense of control. Now you're going to be reviewing the Design Guidelines in the process of doing a new General Plan and a new Community Plan within the next year. I would – we struggled with this on GPAC as to who trumps who. It seems like the whole process is influx now. And so your review of the General Plan as it comes to you, I just strongly recommend that you ask the hard questions about if you review these Design Guidelines when the new plans come in, then you're going to have to do it again. And it just sounds to me, briefly, like it has to do with the plans of the Commission – the general rules of procedure for this Commission. So I urge you to tackle the General Plan with those elements in mind because it's something we discussed a lot about. Where does the control lie? Thank you.

Mr. Gima: Thanks Pat. Ron.

Mr. McOmber: Maybe you can help me with this. Why does the Urban Design Review Board not meet on the Island that the item is being looked at like the Variance Board does?

Because that would solve some of this if we had the meetings on the Island where this is taking place. We would've had people here who could've expressed their voices either way, just like the Variance Board does. What do we have to do to change how they do their meetings in relation to whatever the project is? Can you answer that? Or do you know? Or can you find out for us?

Ms. Suyama: Okay. Normally the Urban Design Review Board is an advisory body. It's not an approving body. And usually on their agendas because they're County-wide, they take all the projects – design projects – from all three Islands. And it's very rare that you're going to find just enough Lana`i Project that would make it onto an agenda to justify the expense of having a Board conduct their meetings here. Some of the other ones like the Variance, usually you conduct it on the Island that its occurring because the Board of Variances and Appeals is an approving body. It's like the Planning Commission. It has its own powers and duties, and they are giving final approval to some deviation from standard just as this Commission is giving final approval to the SMA permit.

Mr. McOmer: No, I understand that. But, their approval or disapproval goes to the Director and he makes a decision on that. He probably never or hardly trumps what they say. I don't know that much about it but I can't image if he's got an advisory board sitting here and you're waiting for these people to tell you "yay" or "nay," and then come up and say yes, and he says no I don't like that. We don't have any way to lobby somebody like that. If that board – the item that before the Variance here was only a one item thing. It wasn't several things on Lana`i. It was only one item and they all came here. The County paid their way here. They listened to it. Even though they make a decision, it's not fair to Moloka`i or Lana`i or places like Hana if they're going to have these kinds of reviews that the public doesn't have a participation in it. Nobody gets paid to go to Maui and sit on it. If I had know that this was going on in 2004, I would have been over there. But it's a rare thing to have another voice. See what I'm saying? It's only equitable that we have those meetings that pertain to Lana`i, be here on Lana`i. And if something got to change in the Rules. Maybe we have to do that through the GPAC. Or maybe we have to do that through the Community Plan. But somehow that's got to be changed because that gap cannot happen again like this.

Ms. Suyama: What I can do is I can refer your concerns back to the Department Head as well as the Mayor.

Mr. McOmer: Right. And I also will voice it to her because it's concerning to me.

Mr. Gima: Okay. Thank you Ron. I don't know if I should call for last call on this Jacaranda Project. I think the Commission is satisfied with the motion that was approved. Colleen, number three.

3. 2007 Hawaii Congress of Planning Officials Conference hosted by the Hawaii County Planning Commission and the Hawaii Planning Department - September 26-28, 2007, Hapuna Prince Hotel, West Hawaii.

Ms. Suyama: Number three is just to notify you of the next Hawaii Congress of Planning Officials Conference which is to be hosted by Hawaii County this year. And it will be held on September 26 to 28 at the Hapuna Prince Hotel in Kona. So I think you folks all got the preliminary notice that came from Hawaii County. They will be sending more detailed information about the Conference at some later date. So just to let you know that these are just the dates that's anticipated for the Conference so you can either mark your calendars in case you want to go.

Mr. Gima: Do you know what the focus or theme is of this year's conference?

Ms. Suyama: No, they're just giving us the preliminary notice saying that these are the dates that we've chosen, this is the location.

Mr. Gima: Okay. Anybody interested in going? Who hasn't gone to an HCPO Conference? Larry, Jim, I went.

Mr. Elliott: But I'm interested in going to this one.

Mr. Gima: Yeah. I'm interested in going again.

Ms. Suyama: For your information, when the conferences are done, the neighbor Islands do a better job than Oahu, in terms of subject matters and the workshops.

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

Ms. Suyama: I believe we try to send at least the Commission Members, you know, that want to go. We've been trying to send almost everybody. At think at one time, they had limited to two members per Commission.

Mr. Elliott: But that's not in effect now?

Ms. Suyama: I don't think so. I think we budgeted it for the Commissions to go. And in a lot of cases, you know, we don't have, like, 100% attendance to the conference.

4. Open Lana`i Projects Report

Mr. Gima: Okay. On to #4, Sally's favorite agenda item.

Ms. Suyama: The open Lana`i Projects. I went through the open Lana`i Projects and Dan Shupack is our KIVA Permit person that basically tries to get these reports. And he is aware of some of the problems. And one of them is, as we said the last time, letters, LTR, is not really a permit, it's a letter that was received by the Department and should not even be on the reporting. And the other problem that we noticed is that the majority of these things that are under Lana`i, have been completed. There is only one open project currently on Lana`i, and that's on page #32 or #41, and that's the Island Club House for the Challenge at Manele. That is the only permit that is active, that is still open. And that one is still currently under agency reviews. Once it's completed – because it's a Project District Phase 2 Approval – once the agencies have completed their review, the Department will then schedule a public hearing with the Lana`i Planning Commission. Everything else is done.

Mr. Elliott: I'm sure you just said this, and I missed it. That all of these things that say "status open," don't necessarily mean "open," is that right?

Ms. Suyama: Yeah. So we're going to correct that. And as you noticed, most of the "open" is under one planner, and we're suspecting that he's not closing up the application when it's done. So, we'll be talking to that one planner.

Mr. Endrina: Question. Colleen, on this Island Club House, do you kind of know what that is? Or can you give some idea what it is?

Ms. Suyama: That's one of the problem is that this planner did not put the scope of work so I couldn't find out, you know, in the short time that I had, as to what it is. And this application came in this year, 2007, so it's a pretty recent application.

Mr. Elliott: Butch, question.

Mr. Gima: Go ahead.

Mr. Elliott: I'm glad Larry raised that question because one of my little pet peeves is that very often materials come to us about 30-minutes before, you know, we really analyze it. And I, for one, would be very interested in this information, and I don't know why we need to wait 24-hours before a public hearing takes place. So I would appreciate if whatever information you have available on that, you get to the Planning Commission Members like now.

Mr. Gima: Wait, before you do Ron, Sally do you have anything on the open –? Okay,

Ron.

Mr. McOmber: Have you got a report yet due by the Company on the things that they have to complete at Manele? Is that what you're waiting for – on that first phase? Is that what –? You said at the beginning, the report like on the parking down at Manele – the things that complete that project.

Ms. Suyama: It was in reference –

Mr. McOmber: They asked for an up-date, or they asked for an extension another whatever.

Ms. Suyama: Right. At the last meeting, when that thing came before the Commission, one of the things that, you know, because there were a lot of conditions that you were asking what is the status, what we have requested the Lana`i Company is that we want a compliance report on how they've met the conditions that were established.

Mr. McOmber: Okay. This goes directly back why we talked about the agreement between Lana`ians for Sensible Growth and the Company. Because some of those agreements were agreements with us that they would do as they go to the project. Like the parking was an agreement with us. It was not an agreement with the County. It was an agreement to us that they agreed to do, which they put in that. That's why it's so important that this MOA – there's only one item that you're concerned about – that they're talking about is water. Take the water out of it. But for this body needs to know what that MOA says in it, and what the Company has agreed to do prior to their development. That's what this MOA is all about. So, that's why it's important that this MOA that they get educated verse and chapter of that, so they understand –. Well you said you would do this, and that is what we discussed that night. And if I remember correctly, and one of them was the parking for access to the beach park, or to the beach walk area.

Ms. Suyama: One of things that you have to remember is that the Memorandum of Agreement is a private agreement between the Lana`ians for Sensible Growth and the Company. It is not this body that make sure that the terms of the agreement are enforced.

Mr. McOmber: That's not what I'm saying. I'm saying that some of the things that you're talking about that the Company has to come back and bring back to this body is part of that agreement. That's the reason it got there in the first place. It wasn't that they did this "willy-neally" on their own. This was because they said they would do that. And we're hold their feet to the fire. We're not asking you to enforce that rule. We'll enforce our own, but this body has to know that part of that agreement was the MOA. We're not asking this body to take on LSG. We'll take care of ourselves. We're not worried about that. But

there are things on there that are directly on that permit that they have to complete down there. And it showed that night. And several things were not done, and they were also in agreement with us. That's why they're on there. I've agreed to do that in the building process.

Mr. Gima: Okay. Thank you Ron. Okay, #5, Colleen.

5. 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.

Ms. Suyama: I believe this is your request dealing with the 65 acres of land donated to the County of Maui by Castle and Cooke for affordable housing. And what we had previously stated about this is that the Department had been asked to comment of the land entitlements for the property, and there were several things that needed to be done. One of it is that depending on what Housing Division wanted to do with the project in terms of affordable housing. If they wanted to do strictly single-family, the Lana`i Community Plan allows it. But if they wanted to go into multi-family projects, you know, to provide apartments, the single family designation would not allow them to do that presently. The other thing is the property still need to be zoned for the entitlement. And I believe it was still in the State Agricultural District, as well as, Zoned County Agriculture. So in order to get the land entitlement, because it's 65 acres, it will still have to go to State Land Use Commission to get it changed from Ag to Urban. And then it would have to come back to the County, the County would then will have to zone the property based upon what ultimately the County wants to do with the affordable housing. The fastest method which is, for affordable housing projects, is that they go through what we call the 201G process, which the Council approves it as an affordable housing project, and they can, on their own, then waive the requirements for Community Plan consistency, under the Community Plan, as well as Zoning, County Zoning. The only thing they can not waive is the State District Boundary. That still needs to go before the State Land Use Commission. So you need to take it out of the Ag district into the State Urban District. And that still needs to go before the State Land Use Commission. But those are the process. But then one of things we did tell them is that in order for you develop your housing, you need to find from the Lana`i Island, what kind of housing is needed? Because if it's rentals then you may want to go with the multi-family. But if it's single-family residential, then that's a different scenario. So first Housing needs to find out. First of all, what kind of housing do want to provide on this 65-acres?

Ms. Kaye: Thank you so much for saying that. I want to thank also – I sent you an email and you sent me some names of people because we have not had a housing study done, to my knowledge in the last foreseeable pass. And none of them ever called me back or responded. It's not your fault, you know, I should've pursued it but I didn't hear back from them. When you say that Housing needs to decide, are you talking about the County Department of Housing?

Ms. Suyama: That's correct.

Ms. Kaye: And what will they do? What kind of input will they use to make that decision?

Ms. Suyama: We're trying to arrange to have Housing come before the Lana`i Planning Commission to talk about the housing situation and what they want to see happening. We haven't been able to arrange that right now, yet, but we're still pursuing it with the Department of Housing and Human Concerns. They probably, in our recommendation to them was, you know, to find out exactly what kind of housing needs to be provided because you don't want to provide a product that no one wants. I mean, no one's going to take the option of getting into multi-family if they don't want multi-family. And so you have to make that decision first. What is the housing needs? What is the type of housing you need – before you even develop a housing project. So I'm not sure what kind of information the Housing Department has for Lana`i as to what, you know, what type of housing type they have in the income groups of the Lana`i community because that also makes a difference. Because if your income group is below what people can afford, then you may, you know, the Lana`i community may be forced to settle for rental housing – affordable rental housing – or you have to develop other mechanisms by which to get people qualified to pay for mortgages. So you have to look at all of those factors before you can up with your programs as to what affording housing needs to be provided.

Ms. Kaye: Is there any interest from the Housing Department, as so far you as would know about, in community land trust?

Ms. Suyama: I'm not really sure. That's why we're trying to get the Housing Division here because they would be better equipped to answer a lot of your questions than the Department.

Mr. Gima: Sally, who were the three individuals that did not return your calls or email?

Ms. Kaye: Colleen was kind enough. I asked her if she had anyone – I think you gave me, I think someone on Oahu, with the State – it was so long ago now. It was a couple of months ago. I don't recall. But it was just a general inquiry on my part, and I explained who I was and said that Colleen referred me. But it sounds like that we may not need to

pursue that anyways right?

Ms. Suyama: Yeah. We're trying to get the Housing Division here.

Mr. Gima: Bev.

Ms. Zigmond: I'm glad to hear that a housing survey is going to be done. It's my understanding that the Company just did a housing survey and they said that there was no need at this time for non-employee housing. So, I think a, maybe more unbiased survey would be good.

Mr. Gima: So who's the Director?

Ms. Suyama: Vanessa Medeiros is the current Director.

Mr. Gima: Okay, and who would be taking the lead or responsible to ensure that the housing study is completed?

Ms. Suyama: It was a recommendation from our Department. As to whether the Department of Housing and Human Concerns is implementing that, I'm not sure.

Mr. Gima: So what stronger action can we take to get DHHC here at the meeting? I mean it sounds like you made a request and it doesn't sound like it's a priority for them right now.

Ms. Suyama: You want to take a motion to ask that the Department of Housing and Human Concerns conduct an informational meeting on the housing needs for Lana`i?

Ms. Kaye: I wonder if you could, or either of you – the 201G process, as I understand it if a developer goes through that, they can pretty much – they bonus density and zero-lot lines, concessions and that sort of thing, correct?

Ms. Suyama: It depends on whether the Council approves the waivers. What happens is that the Department of Housing and Human Concerns reviews the housing proposed by the developer. They basically vet it out, you know, they go through, you know, all of the division/department, getting comments from them as to what should or should not be included as part of the package. And in a lot of the cases, what they want, the agencies will come back and say "no, we don't want to grant those waivers." Because it's a health, safety and welfare issue, especially with people like the Fire Department and the Public Works Department, when you try to reduce standards. But whatever ultimately, the Housing Division/Department is the one that comes up with the scope of the waivers that are proposed. And if it's acceptable to them, then they present that to the Council. And

the Council has 45-days to either approve it or deny the housing project.

Ms. Kaye: Okay. Can I just ask one further clarification because I've heard all kinds of rumors – the – what is it called – across from the hardware store? – low income taxed credit housing. There are Federal and State and County monies involved in that project?

Ms. Suyama: I don't know. I can't answer your question.

Mr. Gima: I think it's a Federal project.

Ms. Kaye: So it's like Section 8?

Mr. Gima: In a sense, yeah.

Ms. Kaye: So that housing then will be restricted to Lana`i residence?

Mr. Gima: That I don't know.

Ms. Kaye: Okay.

Ms. Suyama: Just for your information, affordable housing could be provided not only by the County – State can also provide affordable housing, you know, through their own programs.

Ms. Kaye: I would, Mr. Chairman, make a motion at this time that the Planning Department contact the Housing, the Department of Housing and Human Concerns, and request that they, as soon as could be possible, hold an informational workshop and conduct a study for housing needs for this Island.

Ms. Zigmond: Second.

Mr. Gima: It's been moved by Commissioner Kaye and seconded by Commissioner Zigmond that the Planning Department requests that the Department of Housing and Human Concerns make a presentation to the Planning Commission about housing, and also conduct a housing survey for the community of Lana`i. Any further discussion? Okay, hearing none, all in favor say "aye."

Commission Members: "Aye."

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

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

VOTED: For the Department of Planning to request the Department of Housing and Human Concerns to make a presentation to the Lana`i Planning Commission about housing, and also conduct a housing survey for the community of Lana`i.

**Assenting: L. Endrina, J. Elliott, B. Zigmond, S. Kaye, and R. Gima
Excused: D. Gamulo)**

F. NEXT REGULAR MEETING DATE: JULY 18, 2007

Mr. Gima: Okay. Colleen, are we're going to talk about this Special Management Area Use Permit for the Manele Small Boat Harbor Ferry System Improvements, dated June 20, 2007, or is just information?

Ms. Suyama: That's just for your information.

Mr. Gima: Okay. Before we adjourn – next meeting July 18 – everybody is going to be here? July 18?

Ms. Suyama: Just for your information, the July 18th, the Department is scheduling the first workshop on the Policy Plan with the Lana`i Planning Commission, so it's going to be an important meeting. The Policy Plan is a workshop, to start you in your process of reviewing the policy plan.

Mr. Gima: Before everyone leaves, please update your address, and phone numbers and email with Leilani, just so she has everything updated. And lastly, please everyone, continue to recruit three more members for our Planning Commission. I've talked to several. So they can either contact the Mayor or Council Member or the Planning Department. Is that correct Colleen?

Ms. Suyama: That's correct.

Ms. Kaye: I understand two people I know personally have put their names in and have been told that they were going to be submitted and then nothing happened. So I don't know what happened.

Ms. Suyama: Well, the Department had recommended that Reverend Gannon be reappointed because he had served less than two years. We haven't heard anything since then though. You may want to call the Mayor.

G. ADJOURNMENT

Mr. Gima: All right. Another productive meeting. Thank you everybody. Meeting is adjourned.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:27 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN
SECRETARY TO BOARDS & COMMISSIONS I

RECORD OF ATTENDANCE:

PRESENT:

Reynold “Butch” Gima, Chair
Lawrence Endrina, Vice-Chair
James “Jim” Elliott
Sally Kaye
Beverly Zigmond

EXCUSED:

Dwight Gamulo

OTHERS:

Colleen Suyama, Deputy, Planning Department
Dan Shupack, Staff Planner
James Giroux, Deputy Corporation Counsel