

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

January 8, 2020

Council Chamber, 8th Floor

CONVENE: 9:01 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair

Councilmember Shane M. Sinenci, Vice-Chair (out 11:26 a.m.; in 11:29 a.m.)

Councilmember Kelly Takaya King

Councilmember Alice L. Lee (in 9:37 a.m.; out 11:26 a.m.; in 11:30 a.m.)

Councilmember Michael J. Molina

Councilmember Keani N.W. Rawlins-Fernandez

Councilmember Yuki Lei K. Sugimura (in 9:04 a.m.)

STAFF: James Krueger, Legislative Analyst

Ana Lillis, Legislative Analyst

Clarita Balala, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

Sarah Pajimola, Executive Assistant to Councilmember Keani N.W. Rawlins-Fernandez

Gary Saldana, Executive Assistant to Councilmember Michael J. Molina

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

Michele McLean, Director, Department of Planning

Paul Fasi, Planner, Department of Planning (PSLU-32)

John Buck, Deputy Director, Department of Parks and Recreation (PSLU-32)

Seated in the gallery:

John Rapacz, Planning Program Administrator, Department of Planning (PSLU-16)

Bill Medeiros, Administrative Assistant, Office of the Mayor

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

OTHERS: Mike Moran, President, Kihei Community Association (PSLU-44)
Jeffrey Paisner, Nahiku Intervenors (PSLU-32)
Rob Weltman, Vice-President, Kihei Community Association
(PSLU-44)
Scott Shapiro (PSLU-34, PSLU-43, and PSLU-44)
Moki Bergau (PSLU-32) (Hana - via telephone conference bridge)
Will Spence (PSLU-34)
Terry Kristiansen (PSLU-32)
Teresa Allred (PSLU-32)
Joyclynn Costa (PSLU-32 and PSLU-44)
Mark Joiner (PSLU-44)
Clare Apana (PSLU-16, PSLU-32, and PSLU-43)
Susan Vickery (PSLU-16)
Lucienne de Naie, President, Haiku Community Association
(PSLU-34 and PSLU-43)
James Kauihou Sagawinit (PSLU-32)
Kaniloa Kamaunu (PSLU-16)
(1) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*

CHAIR PALTIN: *... (gavel) ...* Will the Planning and Sustainable Land Use Committee meeting of January 8, 2020 come to order. The time is nine o'clock. And I'd like to ask anyone to...or everyone to silence any cell phones and noise-making devices. My name is Tamara Paltin and I'll be your Chair for this Planning and Sustainable Land Use Committee meeting today. With us this morning, we have my Vice-Chair Shane Sinenci. Aloha kakahiaka.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha. And we have Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha auinala, Madam Chair.

CHAIR PALTIN: Aloha auinala. We have Councilmember Kelly King.

COUNCILMEMBER KING: Aloha kakahiaka.

CHAIR PALTIN: Aloha kakahiaka. And we have Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. From Corporation Counsel, we have Deputy Corporation Counsel Michael Hopper. From the Administration, Department of Parks and Recreation we have Mr. John Buck.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. BUCK: Good morning, Chair.

CHAIR PALTIN: Good morning. And from the Department of Planning, we have Director Michele McLean.

MS. McLEAN: Aloha, Chair. Good morning.

CHAIR PALTIN: Aloha, good morning. And in the gallery today, we have the Planning Program Administrator John Rapacz. And later we'll probably have some Administration from Public Works. Committee Staff, with us today, we have Clarita Balala, Committee Secretary. Good morning.

MS. BALALA: Good morning.

CHAIR PALTIN: James Krueger as our Legislative Analyst. Ana Lillis, another Legislative Analyst. And we have five items on the agenda today. We're getting kind of ambitious, now that we got our feet wet, we're hitting the ground running. For individuals...or the agenda items are PSLU-32, Community Plan Amendment, District Boundary Amendment, and Change in Zoning for the Nahiku Community Center in Hana; PSLU-16, Amending the Comprehensive Zoning Ordinance Relating to Resource Extraction or Processing; PSLU-34, Establishing a Kihei Advisory Committee to the Maui Planning Commission; PSLU-44, Advisory Committees in the Maui...to the Maui Planning Commission; and PSLU-43, Establishing the Paia-Haiku Advisory Committee. For individuals testifying in the Chamber, please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with District Office Staff. Testimony will be limited to the item on the...items on the agenda today, and pursuant to the Rules of the Council each testifier will be allowed to testify for up to three minutes per item. When testifying, please state your name and the name of any organization you may be representing. If you are a paid lobbyist, please inform the Committee. We have established a connection to the Council District Offices; however, there are no testifiers in Hana, Lanai, and Molokai. Our first testifier signed up, but before I do that, I would like to welcome Councilmember Yuki Lei Sugimura to our Committee. Good morning. We have Mike Moran and he's testifying on behalf of the Kihei Community Association on PSLU-44, and his title is the President. Good morning, Mr. Moran.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. MORAN: Good morning, Chair Paltin. As you said, Mike Moran for the Kihei Community Association. And we are not paid, we're all volunteers, and we are unfunded. And I know you...that's part of what you paraphrased before to distinguish what paid people can do and what volunteers can do and quite a difference. We're here this morning to express community support for this action, PSLU-44. On this item we came today because we feel it is so important to our region to have some official input concerning development since in spite of the verbiage in our community, current community plan, development is nowhere near concurrent with infrastructure.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

A volunteer group of South Maui residents began a series of monthly meetings back in April of last year, under the guidance of our district Member Kelly King. The meetings are held in the evening in the district so that residents can more easily participate. Over those many months, the volunteer committee refined the makeup to establish a core group who were committed and dedicated. At one meeting, we entertained input from the current Maui Planning Commission Chair. Toward the end of the year, we met with a series of developers who proposed a series of projects in South Maui ranging from affordable housing, both purchase and rentals, as well as very high residence, very high-end residence. We elected a provisional chair and vice-chair, and we included the Mayor's South Maui appointed representative, but we believe it is vital to have the Council approve the volunteer members. If the Mayor decides the makeup of such a committee, we would have an advisory community group selected by the Mayor, advising the Maui Planning Commission also composed of selections of the Mayor, under the guidance of departments appointed by the Mayor. I think we can all see a bit of imbalance in that and that the Council is kind of shut out. Our intent was to be able to hit the ground running when the full Council gave us an official designation. We missed our goal of that happening this month, but we still have our volunteer meeting set for this month in the unofficial capacity as we proceed. We have always found our district community challenged to participate in the Maui Planning Commission meetings on Tuesday mornings in Wailuku. However, participation hardship was exacerbated a few years ago when public testimony was only accepted on an item at the time that the item was addressed. You can see this could mean waiting for hours or waiting your item or trying to gauge when it could be discussed and find out you're too late. I have one...two more sentences please, Chair.

CHAIR PALTIN: Please conclude.

MR. MORAN: A South Maui Advisory Committee public meeting held locally in the evening offers greater opportunity for the local residents to hear from the developers and express their concerns to committee members who could then offer this officially to the Planning Commission. So, we thank you, Chair, for scheduling this item, instituting a South Maui Advisory Committee. And we hope that this Committee sees the value for direct local voice and puts it officially in place. Mahalo.

CHAIR PALTIN: Thank you, Mr. Moran. Members, questions for the testifier? Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. You know, Mr. Moran, we had a public meeting, you're talking about your organization and --

MR. MORAN: Yes, ma'am.

COUNCILMEMBER SUGIMURA: --availability for the community to come and speak before your organization. And the project that came before us was the Maalaea Spencer project, and they mentioned that in order to get their project presented that it would cost them \$500 to do that for the Kihei community. Is that correct?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. MORAN: No, ma'am, it's not correct, and we specifically sent a letter to all Councilmembers clearly expressing what our policy was. So, I'm astounded that you didn't see that.

COUNCILMEMBER SUGIMURA: I didn't see that.

MR. MORAN: We did get some acknowledgment from some Councilmembers so I felt it was received. But to clarify, what it is, we ask, ask, there's no requirement, that if a developer wants to develop in South Maui that they voluntarily become a member of our association. Nobody has to, we never have turned down any entity who said no, I don't want to be a member of your group, we still want to present. But we do ask it and most people are glad to do it. They say we want to be part of the community.

COUNCILMEMBER SUGIMURA: And it costs just \$500 to be a corporate member, is that the cost?

MR. MORAN: Well, it's...we're a membership organization and if you want to join at that level, yes, that's the highest level we have. We have many community businesses who voluntarily do this every year, and they have done it because they support a community organization. Not that they're required to do it, but if others don't want to do it, they certainly don't have to and they never...no one has ever been shut out.

CHAIR PALTIN: Okay, thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR PALTIN: Let's keep it tight to the agenda. Any further questions? Seeing none, thank you so much --

MR. MORAN: Thank you very much.

CHAIR PALTIN: --Mr. Moran. Our next testifier is Jeffrey Paisner and he's testifying on behalf of the Nahiku Intervenors. He's a Nahiku property owner. Hello, Mr. Paisner, thank you for coming all the way out.

MR. PAISNER: Aloha. Before I start, you start your timer. John Blumer-Buell has asked if I could use his three minutes to read what he wrote, is that possible? We don't have many people here.

CHAIR PALTIN: Yeah, I have five items so I don't think that's possible. But we --

MR. PAISNER: Okay.

CHAIR PALTIN: --I've read all his, you know.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. PAISNER: Well, then before you start, I'll just remind the Council that he's, he has sent numerous documents which he's done a lot of your homework for you if you take the time to read it.

CHAIR PALTIN: Thank you.

MR. PAISNER: Thank you. Let me just find my notes so I can get in and out of here for you. My name's Jeffrey Paisner, I've been a property owner in Lower Nahiku for almost 50 years, before some of you were born and probably when some of you might have been little girls, or maybe before all of you were born except for Mr. Molina. I've spoken numerous times here about the Nahiku Community Center. I first want to start by letting you know that the SMA permit process was avoided initially by the County of Maui undervaluing the cost of the project. I don't know why they did it, they valued it at 400-and-something-thousand dollars when they knew it costs much more. As a matter of fact, we've probably spent that much money just on our lawsuit against Kuponu Builders. So, it's fraudulent from the beginning, and the County did that. And I don't know why the County did that. The actual current budget exceeds \$2 million, exclusive of the additional cost of the lawsuit. It's, you know, if a private citizen had done this on an application, it would be considered perjury and it would be subject to penalties and fines. So, there's no reason why the Maui County government is not...should be held above the law, the laws of conduct for which they demand that their taxpaying citizens also be held responsible, and they were not. The current cost of the lawsuit versus Kuponu Builders, if we have to get that from a Freedom of Information Act we will, but we would like to know what the current expenditures are by Maui County regarding the Kuponu lawsuit. Regarding the road to Nahiku and this has been said many times in the past over the years, the road from Hana Highway is not a legal road, it encroaches upon private citizens' property. I doubt very much that the County should be allowed to expend funds, millions of dollars of funds to build a government-operated facility on a road that is not, does not have a legal easement to the actual proposed site. That's a matter of fact, it's not a matter of opinion. One of the reasons for building this according to the Nahiku Community Association is that it would be great in times of emergencies. Well, if you any of you have ever been down there, it is basically a one-lane road that does not provide adequate ingress or egress for emergency vehicles. It's a very dangerous situation. You need to see it for yourself. Again, this is a fact, the width of the road is the width of the road. The NCA by the way, the Nahiku Community Association, has been deemed to be the spokesperson for the citizens of Lower Nahiku. I will state again, they are not. They do not represent the diversity of opinion of all the Nahiku residents. I...

CHAIR PALTIN: If you can wrap it up, thank you.

MR. PAISNER: Okay, but there's almost nobody here. I came all the way here, will you just give me a chance to speak?

CHAIR PALTIN: You have one minute.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. PAISNER: Okay. So, right now Maui County, they're squandering hard-earned taxpayer's funds on an ill-conceived project location. I am not against there being a Nahiku Community Center, I just believe as I've said before it should be situated in a place where there is real access for emergency vehicles. There is not that in Lower Nahiku. I believe you need to involve the community and not assume that the Nahiku Community Association has the sole command of the opinions of the people of Nahiku. Just like your Council disagrees on things, we disagree on things also. The people that control the Nahiku Community Association are basically one family. There is no diversity there. We have 11 intervenors now that have...including lineal descendants who have lived there since their childhood who oppose --

CHAIR PALTIN: Thank you.

MR. PAISNER: --this community center.

CHAIR PALTIN: Thank you, Mr. Paisner.

MR. PAISNER: Please read John Blumer's testimony.

CHAIR PALTIN: Members, any questions for the testifier?

MR. PAISNER: Please read John Blumer's testimony.

CHAIR PALTIN: Thank you.

MR. PAISNER: He's done all of the homework for you. We need to get our bridge repaired, that's where funds should be spent.

CHAIR PALTIN: The next --

MR. PAISNER: Thank you.

CHAIR PALTIN: --testifier we have for...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

COUNCILMEMBER KING: Question.

CHAIR PALTIN: Oh yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Two questions.

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Thank you, Chair. So, thanks for being here, I know it's a long drive. Do you have a list of the members or the...in the...

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. PAISNER: The 11 intervenors are...their letters...

COUNCILMEMBER KING: No, let me finish my question. Do you have a list of the members of the Nahiku Community Association?

MR. PAISNER: I don't have it with me but I can give it to you.

COUNCILMEMBER KING: Okay.

MR. PAISNER: Yes, I can absolutely supply it.

COUNCILMEMBER KING: And who the officers...

MR. PAISNER: It's all one, it's basically one family.

COUNCILMEMBER KING: Okay. And then if you could, if they have official officers if you could let us know who those are.

MR. PAISNER: I will supply that information and I will e-mail it to all of your offices --

COUNCILMEMBER KING: Okay.

MR. PAISNER: --so that you know that they don't represent all of Nahiku.

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: Thank you.

MR. PAISNER: Thank you.

CHAIR PALTIN: Vice-Chair Rawlins-Fernandez, did you --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: --have a question?

COUNCILMEMBER RAWLINS-FERNANDEZ: I do. Mahalo, Chair. Aloha, Mr. Paisner. Mahalo for your testimony and for driving out to testify this morning. You said there are 11 intervenors, in what case?

MR. PAISNER: The 11 intervenors, we filed as intervenors to try to stop this project. Our testimonies are all...

COUNCILMEMBER RAWLINS-FERNANDEZ: With what entity? Sorry, I'm new to the Council so...

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. PAISNER: The entity is with the intervenors, we haven't mobilized or certified ourselves as being a community organization. Our testimonies are included in the information that John Blumer...including the testimony of the Kahookele's, of the Mattson's, of lineal descendants, not, you know, not only haoles but local people who grew up there as children who are opposed to the community center. And you have all that information, it was sent by John Blumer...

COUNCILMEMBER RAWLINS-FERNANDEZ: I read it, I read all of his testimony. Mahalo. It was very informative. So, you said that you're not opposed to the community center but it should be placed elsewhere. Is there a location that the community --

MR. PAISNER: No. I don't have one.

COUNCILMEMBER RAWLINS-FERNANDEZ: --is recommending?

MR. PAISNER: I just believe --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. PAISNER: --that the County should spend their resources to buy a piece of land in Upper Nahiku on the Hana Highway that is truly accessible for emergency use and to more people on a safe, on a safer, much safer road than Lower Nahiku.

COUNCILMEMBER RAWLINS-FERNANDEZ: Got it. Mahalo. Mahalo, Chair.

CHAIR PALTIN: Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Thank you, Mr. Paisner, for being here. So, I just had one question. You know the Hana Advisory Committee to the Maui Planning Commission, so in 2017, they asked that this item be deferred and that an EA be provided, an Environmental Assessment be provided prior to making any zone changes.

MR. PAISNER: Yes, they had a meeting at that date that you referred to. They voted five to zero that they felt that this project deserved an EIS review so that the public can truly be involved, that the project had all of the earmarks of a project that should be, require that review. They voted five to zero. They were totally ignored by the planning board who did not take their vote at all into consideration. And I was at that meeting with the planning board, and when I asked the chairmen then if he had ever even been down to Lower Nahiku before he could make an educated decision, you know, no, he'd never been there. So, I said well, how can you make a decision whether that's a safe road to go down without ever even seeing it with your own eyes? And why would you ignore local, a local organization that's supposed to have advisory capacity and ignore their vote? It was ignored.

VICE-CHAIR SINENCI: Thank you.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Members, any further questions for the testifier? Seeing none, thank you for your testimony and thank you for driving out.

MR. PAISNER: Thank you. We'd like to have our own group just like Kihei and Haiku wants so you can consult with the diversity of our entire community.

CHAIR PALTIN: Our next testifier is Rob Weltman, and he's testifying on PSLU-44 on behalf of the Kihei Community Association, and his title is Vice-President.

MR. WELTMAN: Aloha kakahiaka ...*(spoke in Hawaiian)*... South Maui Advisory Committee. Good morning, Chair and Members of the Committee. So, I'm speaking in favor of PSLU-44 to create a South Maui Advisory Committee. I think this is an important step that will help the community in many ways, because one of the problems I've seen is that very often a development or a change happens and people feel like they were taken by surprise, they find out about it too late, they get involved too late, and at that point there is so much invested that it becomes...the positions are locked and it becomes very difficult to resolve. So, anything that can lead to more people finding out about and being involved in the community in new developments and changes at an earlier stage I think will ultimately...will immediately I think lead to less conflict, but ultimately I think it will lead to more engagement and it'll also lead to better decisions. So, that's why I'm...and I should say also that I have been a member of the provisional South Maui Advisory Committee and I'm looking forward to continuing with that committee as this is finalized. Mahalo.

CHAIR PALTIN: Thank you, Mr. Weltman. Members, questions for the testifier? Member King?

COUNCILMEMBER KING: Thank you, Chair. Just to clarify that you're testifying in favor of PSLU-44?

MR. WELTMAN: I am.

COUNCILMEMBER KING: Okay. The 34 was kind of a leftover from something else.

MR. WELTMAN: Yes.

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: Member Sinenci? Oh, we have one testifier in Hana? Okay. I'll take one more testifier in the Chamber and then we'll go out to Hana. We have Scott Shapiro. He's testifying on PSLU-34, 44, and 43, so he may have nine minutes but maybe he can say what he needs to say in less.

MR. SHAPIRO: I can definitely do that. My name's Scott Shapiro. Good morning, everybody. So, I combined those three just because they're so similar, and I wanted to talk about advisory committees kind of in general. So, if that's okay, just run the nine minutes but I won't take that long. First, importantly by establishing these district advisory

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

committees like people have said, you're creating a community venue for residents to speak up in a more informal setting than the Planning Commission meetings and have their voices heard in their own community. In the case of South Maui, meetings are held in the evening which are more easily attended by people who have taken time off of work. Okay. So, at the outset, people I know think about these things as it just takes more time, it's just adding time to anything that's happening. I was just handed a timeline of things for the Hana Advisory Committee, referrals from the Maui Planning Commission to the Hana Advisory Committee. And there are many items that go to...all items for the Planning Commission go to the Hana Advisory Committee. The Maui Planning Commission just passes everything to them. They don't really do much work at all. Hana Advisory Committee does all the hearings, everything's done out there. These other advisory committees that could be established don't have to listen to all the short-term rental permits. We can limit what is heard to just developments, okay, bigger things. So, you have that ability to create what we want to hear in those things. I think that's important so we don't have to hear everything that goes before the Maui Planning Commission. As far as time versus community involvement, you know, you're weighing two factors, you're weighing well, it's going to take, you know, two months, three months, four months more for something to be heard if it goes to an advisory committee. But you have people who can never show up at these meetings, can't go to the Maui Planning Commission because they're during the day. So, it's important for the community to be involved. When there's something on the table that's very important, not short-term rentals but if they want to do that they could go to the Maui Planning Commission. Developments that are bigger, it's very important. The draft bills that you have in front of you, one for Haiku or for Paia-Haiku and one for South Maui are similar but they have some differences. And I sent in written testimony last night, discussing the differences and the important items that I think you guys should look at if this is going to happen. I'm also on this preliminary South Maui Advisory Committee and I think it's a great thing. There are two big differences that I think that these draft bills will change. One Mike Moran touched on and I think Rob might have too is that right now the Mayor appoints everybody on the committee. The South Maui advisory draft bill allows for you guys to appoint members, six of the seven members. It also changes the Hana Advisory Committee to over time as people retire or term out, that you will be able to appoint and the Mayor gets to appoint one person. I think that's very important to have different viewpoints than Administration viewpoints. The other thing is that what that last testifier just talked about in Nahiku is that the Hana Advisory Committee voted 5-0 for an item that the Maui Planning Commission didn't even really...I don't know, it sounds like they...guy didn't even go to Nahiku to check out what was happening. I think the, these draft bills define certain things that have to be seen by these advisory committees. And I think it's also important that the advisory committee minutes or recommendations that are sent to the Maui Planning Commission are read in public at that meeting so people can hear what happened. That's not in any of these draft bills. I think that's very important to give it teeth. I'm sure the Hana Advisory Committee on the Nahiku issue feels helpless, why are we even here, it's a waste of time. So, if you're going to create these things, give them teeth and make them not take six or eight months, give them a certain time period to get things done and if they don't do it, it's passed. So, it can be done, it won't add a

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

lot of time, and doing it on big issues, not the smaller things can help do that. So, thank you.

CHAIR PALTIN: Thank you, Mr. Shapiro. Members, questions for the testifier? Member King?

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Scott.

MR. SHAPIRO: Sure.

COUNCILMEMBER KING: So, in looking at the draft bill for the South Maui and the changes to the Hana Advisory Committee, the item D(1) [sic] does state that the advisory...each advisory committee will review and provide a recommendation on all Changes in Zoning and any amendment to Title 19 of this Code, conditional permits, General Plan amendments, County special use permits, bed and breakfast permits, short-term rental housing, and also items within the Title 19. So, are you saying that you don't necessarily need to do all of those items?

MR. SHAPIRO: Right.

COUNCILMEMBER KING: So, maybe we change that from "shall" to "may" if there's something critical that needs to be reviewed, but then, you know, not make it an absolute that every bed and breakfast and short-term rental has to go to the advisory committee. Is that...

MR. SHAPIRO: That's right. I think that probably the advisory...I mean you can leave it open and leave it up to the advisory committee, but I don't think that that's, you know, the intent is to, you know, every short-term rental that comes along doesn't have to be reviewed at all and there's a lot of items like that on the Maui Planning Commission schedule that would waste a lot of time. But the important thing is yeah, so somehow limiting. I haven't looked at that language and I know both draft bills are a little bit different, so I'd be happy to look at 'em both again and submit some more testimony, you know, written testimony.

COUNCILMEMBER KING: Okay. And, Chair, if there's no objections, could we ask Mr. Shapiro if he can stay, if he could be a resource for, when this item comes up?

CHAIR PALTIN: Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR PALTIN: Are you available to stay?

MR. SHAPIRO: For a little bit, yeah.

CHAIR PALTIN: Okay.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. SHAPIRO: Thanks.

CHAIR PALTIN: Hopefully we get to this, we got a lot of testifiers lining up. Councilmember Vice-Chair Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just in case Mr. Shapiro has to leave, I want to ask this question. Mahalo for your testimony, Mr. Shapiro. We received testimony from another testifier in writing actually recommending that instead of an advisory committee that South Maui get its own Planning Commission. And that would as you said give that side of the island more teeth or that, you know, entity more teeth and more home rule and less bureaucracy. And so, instead of the community members going to testify at an advisory hearing and then having to go and testify at a commission, that the decisions would be made by the South Maui Planning Commission. I don't know, what are your thoughts on that?

MR. SHAPIRO: My initial thoughts on creating a South Maui Planning Commission are I think that's too much to do. I don't think that that's necessary for a bunch of reasons. I think the Maui...there's not so many things happening all the time that the Maui Planning Commission can't handle what's happening. What I'm afraid is happening is like the Nahiku issue, they're not listening to what Hana Advisory Committee said to them it sounds like. I don't know that issue but it sounds like from that testimony that, you know, something was voted 5-0 and it wasn't considered. The, so the idea of a Maui [sic] Planning Commission right now I don't think is the right step. I think the advisory, establishing advisory committees, you know, in any district that has a representative would be the greatest thing to get community involvement. People are less I think scared to show up at that these meetings, at the advisory committee meetings than maybe in a public setting. It's a little bit more informal. I don't know what's happening right now but anyway, I hope that answers your question.

COUNCILMEMBER RAWLINS-FERNANDEZ: We might not be sticking to the agenda item enough.

CHAIR PALTIN: So, Members, yeah, everybody else wants to ask Mr. Shapiro a question as well, and I'm just concerned that if we ask him all questions, we're not going to get to the actual agenda item, but it's your call.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR PALTIN: You have more questions, Miss...

COUNCILMEMBER RAWLINS-FERNANDEZ: No, that was it.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Shapiro.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: We also have Member Sugimura, Member Molina, and Member Sinenci waiting to ask questions. Did you want to ask your question now?

COUNCILMEMBER SUGIMURA: Yeah. I'm just curious with your testimony and your involvement with the community and we've seen Mr. Moran here with Kihei Community Association a lot, and I was just wondering, so what do you see happening to the community association if there's this entity that is being discussed today?

MR. SHAPIRO: Okay. I think that the...so, two separate things. The community association is a volunteer organization like the committee would be. People don't have to go to the community, to Kihei Community Association. They're...developers are asked to go, they don't have to go there. At the advisory committee, it would be an established hopefully monthly meeting that people in the community know about, that is advertised in however, you know, it has to be with Sunshine laws. So, I think as far as community participation, it's going to be kind of more, kind of a more generic place to go than Kihei Community Association which sometimes may have...some people like, some people don't like that association, okay. I happen to like it because it involves the community, but not all people agree with Kihei Community Association. Where the advisory committee is more of a, you know, generic committee that people can feel comfortable I think going to. Just like what's happening with the West Maui updates, you know, for the community plan update. People of every walk of life go to those meetings all the time and voice their opinion so I think it's important to have this as a committed or...committee for the County.

COUNCILMEMBER SUGIMURA: Thank you.

MR. SHAPIRO: Thanks.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. And I just have one question just to clarify Mr. Shapiro's testimony. So, it's an interesting suggestion you have where up six months the advisory committee has to consider an applicant's proposal. And I know you came from the building industry and time is of the essence, 'cause then assuming it makes it through the advisory committee level, then you got to go to the Planning Commission level and then the Council level. So, what's your thoughts on maybe shortening that to maybe say 120 days instead of 180 days?

MR. SHAPIRO: Yeah, I...it really depends on the Sunshine laws and how quickly things can happen. The quicker the better for sure. And again, if it gets sent to a committee, an advisory committee and they don't see it, they don't have quorum, it's...I think it could be passed. If it's that important to the committee, they'll show up --

COUNCILMEMBER MOLINA: Right.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. SHAPIRO: --to the advisory committee. So, any way to shorten that is very important, you'll get less pushback from developers and other people who think this time is, you know, just adding on and on and on.

COUNCILMEMBER MOLINA: Yeah, and that's been one of the constant criticisms of Maui County's process is the time it's taken to get something to addressed, yeah.

MR. SHAPIRO: That's right.

COUNCILMEMBER MOLINA: Okay.

MR. SHAPIRO: So, you got to weigh both right, the community involvement versus, you know, real community involvement, not people who show up at all these meetings all the time 'cause they can get here but the community at night. I think it's so important.

COUNCILMEMBER MOLINA: Great. Thanks for your insight, Scott.

MR. SHAPIRO: Sure.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

CHAIR PALTIN: Thank you. Thank you, Member Sinenci, for waiving until the item comes up. We have nine more testifiers and some of them have signed up for multiple items. So, we'll go out to Hana at this time. Ms. Mavis Oliveira-Medeiros, are you there?

MS. OLIVEIRA-MEDEIROS: Aloha, Chair. This is Mavis from the Hana Office. I have one testifier on PSLU-32, and this is Moki Bergau.

CHAIR PALTIN: Thank you. Please proceed.

MR. BERGAU: Good morning, Committee Chairperson Paltin. Yes, my name is Moki Bergau and I'm a lineal descendant of Lower Nahiku. And, you know, it is not me for question of what is and what is right and what is wrong. It is facts that tells the story and this special item, on this one item here the Nahiku Community Center, it is an item that has very disturbed, very disturbing consequences. If this is allowed to go through this Committee here today and the formal, all in the past has contributed, is contributing to the death of Nahiku, Nahiku Village as a village. You will never, never see or witness another thing like this again. This is just so out of date, this type of functioning, this type of entity trying to represent Hana...Nahiku people. Now, that is an entity. Nahiku people is the lineal descendents. Nahiku ohana has always been there. We are an entity in itself. Our concern is the resources. Our concern is our way of life. What this represents is the tourist industry, that's the only thing that this whole community center is about, representing tourism. It has no room in Nahiku. What it has is a valuable, valuable resources that this Committee is looking at. And I do appreciate your guys' vigilance in this matter. I don't, you know, I'm not interested in criticizing anybody, but the outcome so far this past ten years has been

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

devastating. And now I got a transmittal of why this thing is up here, this transmittal on the item or public hearing, Hana Advisory Committee, October 26, it's so bogus, fraudulent that it's unspeakable, it's unspeakable. And you continue down this path, we questioning about entities and all that, the entities of NCA has been the responsible for all this chaos. Thank you. And please consider it. I apologize for the, for my emotional thing but it's beyond that. So, thank you very much and I hope you guys take into consideration in the outcome of your decision today. Mahalo. God bless.

CHAIR PALTIN: Thank you, Mr. Bergau. Members, questions? Vice-Chair Sinenci? Please talk into your mic.

VICE-CHAIR SINENCI: Thank you, Chair. Mahalo, Mr. Bergau, for coming out today and testifying. Yeah, the issue was passed down from the Administration on March 11 of 2019. So, it was referred to the Committee and so that's why the Committee Chair is bringing it up today. But...

MR. BERGAU: I want an explanation, Shane.

VICE-CHAIR SINENCI: Well, I mean you're getting one. And so, that's why we're...it's on the agenda today. Thank you.

MR. BERGAU: Thank you.

CHAIR PALTIN: Okay, thank you. Any further questions? If not, I'd like to recognize Councilmember...or Chair Lee to the Committee. Thank you, Mr. Bergau, for your testimony. Next up in the Chambers, we have Mr. Will Spence testifying on PSLU-34 for himself as an individual. Mr. Spence? Going once...right on.

MR. SPENCE: Thank you, Madam Chair, Committee Members. I have a handout.

CHAIR PALTIN: If you can give it to Staff --

MR. SPENCE: Sure.

CHAIR PALTIN: --and they'll distribute it.

MS. OLIVEIRA-MEDEIROS: I think she pau. Pau in Hana?

CHAIR PALTIN: Yeah, pau. Thank you, Hana.

MS. OLIVEIRA-MEDEIROS: Oh.

MR. SPENCE: Okay, my time is running and I haven't started yet.

CHAIR PALTIN: We'll restart.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. SPENCE: Thank you. So, Committee Members, my name is Will Spence. I've been a land use planner on this island for 27 years and Planning Director for about 7½. I've been to literally hundreds of Planning Commission meetings so I'm speaking with some experience in doing this. I have to respectfully disagree with the establishment of more advisory committees. Hana, I can entirely understand, it's 50 miles away. On a day like today, you're going to have wind and rain and possible slides, et cetera. That's entirely understandable, that it's a hardship for Hana residents to come and testify, and that's why we do it via telephone now. The...Kihei on the other hand is ten miles away on predominantly dry roads on Maui's major roadways, so access is not an issue here. The...I'll tell you why I have a problem with establishing advisory committees. Anytime you add additional regulatory layers, you are going to create complexity and you're going to create delay in the permitting process. From the Countywide Policy Plan, the Maui Island Plan, our community plans, they all say streamline the process. This is, to me this is a step back. I went through...the handout that I did, I went through the Hana Advisory Committee meetings, their agendas for the last ten years so we could get some kind of pattern. The average amount of time it takes to go from, to get a referral from the Planning Commission, to get it scheduled for Hana Advisory Committee, and then back to the Maui Planning Commission is over ten months. That's ten months additional time that we would be placing on agenda items for the Hana, I mean, excuse me, for something that has to go to the Maui Planning Commission. It also adds significant expense, because you are...each one of those Hana Advisory Committee meetings, you're sending four staff members. You're sending a senior staff member, you're sending the planner, you're sending a Corporation Counsel, and a clerical person. One, it adds to their workload but two, you're talking travel time and overtime pay. So, as we get more and more advisory committees, you're adding significantly to the workload of the Planning Department and the planners within it, not to mention the expenses. I can finish in one minute?

CHAIR PALTIN: One minute.

MR. SPENCE: My thought is the fix is very simple. I am all for public input. I think that's vital to our planning processes. The fix to me would just codify that developers must go to whatever local...whatever community association and present their projects. That could be at the evening, that could be in, you know, whatever works for that association. The...that to me, that involves the public. Oh, also require that you must talk to the area residents. You're notifying everybody in 500 feet anyway, require that you have a meeting with those people. And that's a lot simpler, a lot faster. The Planning Commission expects it anyway. I've seen them turn away projects because they didn't...

CHAIR PALTIN: Thank you, Mr. Spence. Members, questions --

MR. SPENCE: Okay, thank you.

CHAIR PALTIN: --for the testifier? Member King?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER KING: Thank you. I appreciate you being here, Will. I disagree with the idea that this would not be streamlining it however. But have you considered if you have your recommendation to go to the community associations, we have several in South Maui. So, this kind of is a one-stop shop for developments. We have the Maalaea Village Association, we have the Kihei Community Association, we have the Maui Meadows Neighborhood Association, we have Wailea, we have Makena --

MR. SPENCE: Right.

COUNCILMEMBER KING: --and who knows how many else. So, have you thought about all those different entities that you would be requiring people to go to because something might be in the middle of Central Kihei?

MR. SPENCE: Yes. And like, you know, as a, now as a consultant, I tell my clients you need to go talk to these associations, you need to do your footwork. You need both, not just talk to the associations, 'cause they're one body, they're one entity and they have a very valid point of view. But you also need to talk to your neighbors. Those people are most directly affected by whatever you're proposing so you need to talk to both. The...now as...and things we're going to bring before the Council we're also expected to go talk to the Aha Moku, at least the representative of that district. So, right now informally, we're supposed to talk to at least three different entities. And I think just codifying that, that to me as a former Planning Director that would be sufficient.

COUNCILMEMBER KING: No, I appreciate that because that's kind of what this is, because we have Aha Moku representation, we have representation from all the community associations on the provisional South Maui Advisory Committee. So, thank you.

MR. SPENCE: Thank you.

CHAIR PALTIN: Members, any further questions for the testifier? Seeing none, thank you for your testimony, Mr. Spence.

MR. SPENCE: Thank you. Thank you, Committee Members.

CHAIR PALTIN: Next up we have Terry Kristiansen testifying on PSLU-32, and she will be followed by Teresa Allred, also testifying on PSLU-32.

MS. KRISTIANSEN: Good morning, Members of the Committee, Chair. My name is Terry Kristiansen and I'm a resident of Nahiku farming on our land since 1992. I wish to speak to you on the subject of your two agenda items, PSLU-32 before you at this time. Until the ongoing lawsuit with Maui Kuponu Builders is settled and an EIS or EA required by law and recommended by the Hana Advisory Committee, we ask that no changes in zoning classifications for this TMK take place. Further, any amendments to the Hana Community Plan should come after the EIS recommendations are reviewed. Over \$200,000 of public funds have been wasted. Let's not continue putting the horse before the cart. Settle the lawsuit, try to recoup your losses on the Maui Kuponu Builder's lawsuit, spend some of the allotted funds

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

for this project by starting with a thorough audit, an EA which will reflect the desires of the community at large and not just one family who has hoodwinked the County into believing they are the voice of the majority. Come to Hana and hold your hearings, hear the recommendations of the Hana Advisory Committee, look at the results of three petitions that reflect over 80 residents that support these recommendations. Proceed knowing that you're giving the community something that they want, that they can live with. It won't be a community center located in the floodplain. That's what it is. It will be a center of some sort, up closer to the Hana Highway where people can go when natural disaster occurs, where medical and fire services can reach community members in a timely manner. It won't be a location where the streetlights are darkened because residents prefer looking at the stars. Nahiku residents aren't looking for a place to hold events. A pavilion and some grass and restrooms is about all anyone in Nahiku would make use of. A proper EIS will reveal what truly needs to happen at the current site location. Use the funds you save to help improve Helene Hall and the non-existent sewer system at Hana Bay. Thank you very much.

CHAIR PALTIN: Thank you so much, Ms. Allred [sic]. Members, any further questions for the testifier? Seeing none, thank you. Next up we have Teresa Allred, PSLU-32, to be followed by Joyclynn Costa, PSLU-32 and 44.

MS. ALLRED: Good morning to you all. I appreciate being here. I just have a very simple request and that is that I would like to see a document, the document, the ownership document for this property and any associated agreements related to that. As far as I know and you may know differently, we have asked for that and asked for that and not gotten any information. It seems to have disappeared. And I think that as responsible people, you know, being in this community, we need to know who really owns this property and what agreements are around this property. And that's all I have to say. Thank you.

CHAIR PALTIN: Thank you, Ms. Allred. Members, questions for the testifier? Seeing...oh, Member King?

COUNCILMEMBER KING: Just real quick. Thank you for being here, I know it's a long drive. Have you submitted a, what we call a UIPA request for this information?

MS. ALLRED: No. Tell me what that is?

COUNCILMEMBER KING: That's UIPA and if you submit that to the department for that documentation, they have ten days to respond, so you should get your information.

MS. ALLRED: Thank you very much.

COUNCILMEMBER KING: Okay, thank you.

MS. ALLRED: That's interesting.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Thank you.

MS. ALLRED: Okay, thank you.

CHAIR PALTIN: Next up we have Joyclynn Costa, she'll be testifying on items 32 and 44, to be followed by Mark Joiner who will be testify on item 44.

MS. COSTA: Before I...I have some handouts here.

CHAIR PALTIN: Oh, please give it to Mr. Krueger and he'll distribute them for us. Thank you.

MS. COSTA: Good morning. My name is Joyclynn Costa. I was the last resident there at the Nahiku Schoolhouse. I had the privilege of living there via a lease from the State of Hawaii through my father James Kauihou Sagawinit who is also here to testify. The pictures that you're looking at is the actual schoolhouse, and I believe in 2007, there was a House Bill 1833 that referenced the community center to be replicated to this particular building. But the design that was presented in Hana nowhere looks near to what is presented. I don't believe that this should be rezoned. It is very agricultural. We were doing ti leaves at the time. In fact, the late...Piggery Sue is what we called her, had also come down to ask for cuttings from our ti leaves to begin her project in Hana, Upper Nahiku. I don't think that it would even be anything that could benefit the community as far as emergency. It's almost a three-mile drive from Hana Highway to get there, and if you've ever taken that drive, you've got at least two blind turns that you'll probably have to crawl around to make sure there is no other car coming, 'cause there is no escape from either a rock wall, actually cliff or the road railings. So, you...it's a very treacherous drive if you're not familiar with that road. So, to deem it someplace for emergency is kind of irresponsible. As far as flood zone, during my tenure living there, on the heavy rains which it is a rainforest, we've entertained the children to come and boogey board in the front yard because that's how much water it accumulates. So, to think that you're going to put a building there and not be underwater is foolish. That house that was there before was on stilts and they knew how to do it back then. I don't think the structure that was presented is appropriate for this area, what is appropriate for the right area for the right people. Lower Nahiku is not it. As far as advisory committee, I would like to say that I live in Haiku and we've seen the amount of bureaucracy. It's amazing that...to sit here and witness Will Spence testify to not having to listen to the community and yet say that the setup now in government is well enough equipped to listen to the community when I know for sure--just a minute--above Haiku School, the development that came up there, State Historic Preservation said no permit. It was an oversight by the Planning Department to give them the permit when there was actual burials, not just iwi, conventional burials there, and by the time they got there, everything was graded, grubbed, and dug out, and they said well, it's kind of too late. So, when the community was suing and saying stop, Planning was going ahead with their bulldozers. So, let's have the community really have a voice in this individually and not in a Chamber where nobody sees what's really going on on the ground. Thank you.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Thank you, Ms. Costa. If you had more to say, you actually had six minutes for the two items. You have a couple more minutes.

MS. COSTA: I have...if you look at the documents, please study the documents because we were the last residents there. We were the ones that were asked to leave the premises on the grounds that they were going to do a community center and that no one in the community wanted. So, Mele Carroll came down to the community, asked the community what do you want, and the two kupuna went across the street from the church yard which has a pavilion that is adequate for the community and they said look, whatever the kupuna says is what we're going to decide here today. And they went across to the school yard, came back and rendered their decision, no community center. Mele Carroll at that time said okay. What happened and transpired after that was just rhetoric, was that there were feeling threatened, all of these things were coming out so Peter, what was the DLNR before, Peter Young had written a letter and said that no, we're going to stop your lease and we're going to do the community center. But there was a sunshine to that. I believe the sunshine was 2012, I could be wrong, but once that whole thing went through, the State turned it over to the County to give the County a year to create a community center. If it was not, it's supposed to revert back. And as for the question of ownership, it is Royal Patent 21 from Kalakaua for educational purposes only. It...I saw it when we got the lease from the State. So, there's a reverter clause in there too. So, if you're going to make it into a community center, it reverts back to Kalakaua because you're not making a school.

CHAIR PALTIN: Thank you. And when you, just for clarification, when you said sunshine did you mean like sunset?

MS. COSTA: Sunset, yes. They gave you a year to make that community center and if not it's supposed to go back to the State. The State doesn't really want to have it because then they have to take responsibility again and will be more than happy to redo the lease.

CHAIR PALTIN: Thank you. Members --

MS. COSTA: Thank you.

CHAIR PALTIN: --questions for the testifier? Seeing none, next up we have Mark Joiner, a homeowner testifying on PSLU-44, to be followed by Clare Apana.

MR. JOINER: Thank you. Aloha kakou. Good morning, Members. Good to see everybody. Good morning, Chairperson. I'd also like to add if possible the PSLU-34 to my testimony if that's possible?

CHAIR PALTIN: Sure, PSLU-34.

MR. JOINER: Okay, great. Thanks. I doubt I'll use all six minutes. I can't even begin to express to you how much I disagree with the testifier that said there was not a need for a South Maui planning committee or advisory committee. As a homeowner, as a

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

long, longtime homeowner in South Maui, we have watched a transition take place over the last few years especially of just a tremendous amount of development that has come into our community that looks non-planned or looks poorly planned and looks at least...I'm representing hundreds of people that I know here that sees it as something that could with resident and with citizen input become a lot, a lot better. Particularly since we're the fastest growing part of the County right now, I believe we have one of the highest populations in the County, we need representation. To me, there's no question about that. And to hear somebody come up here and say...I couldn't agree more with the woman from Haiku that people need to come into the County Chambers in a relatively hidden process--I think she put that very, very well--rather than being able to come to an advisory committee in South Maui which I would be more than happy to serve on. I just find it abhorrent. So, anyway, you can tell I'm a little emotional about this. Also, we have issues. One of the issues that Kelly and I have been working on involves a parking lot that belongs to the County of Maui and DLNR and is currently leased. And the community quite frankly, especially these last few days over the holidays is up in arms about what is going on there in terms of they have designated so many spaces for the hotel that's there and so many spaces for the public. Well, the public has been jammed and I can tell you that from firsthand experience, but I'm also the administrator of a Facebook page called Save Mana Kai Beach Parking which I would invite everyone to take a look at, and it's very, very well documented now both with video and also with reports. So, this is something that we need to deal with, you know, this is something that I could certainly see an advisory committee like this deal with. So, anyway, mahalo nui. Happy New Year. Great to see everybody and thank you.

CHAIR PALTIN: Thank you. Members, any questions for the testifier? Member King?

COUNCILMEMBER KING: I know you're trying to move it along. Thanks for being here, Mark.

MR. JOINER: Sure.

COUNCILMEMBER KING: So, I just wanted to get your thoughts on the proposal to have this body be appointed by a Councilmember, the Members, the resident Councilmember, because hopefully that's what will kind of change the structure of it so that you have a different body advising the Maui Planning Commission which is appointed by the Mayor.

MR. JOINER: Yeah, I think that's very important actually because that gives us a direct connection and with the County Council and also with the Planning Committee. So, absolutely, I think that's a perfect way to go. I especially once again I like the connection with the County Council because this is the decision-making body that we all need to rely on.

COUNCILMEMBER KING: Okay, thank you.

MR. JOINER: Thank you so much. Aloha.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Thank you. Members, any further questions? Seeing none, next up we have Clare Apana, to be followed by Susan Vickery and Lucienne de Naie. Ms. Apana will be testifying on PSLU-16, 32, and 43, so she does have a total of 9 minutes.

MS. APANA: Thank you. Good morning. Good morning again. I'm sorry, I don't know which numbers go with the items so I'm just going to start with the last one that was spoken about the community advisory committees. I think that's a great idea. Coming from someone who has...I live in Wailuku and I'm relatively close to the County Council and to the Planning Commission hall, and I feel like my voice has been totally trampled upon, and I have gone to speak out. And the travesty of the way the system is now is that no matter how much effort a community member puts into bringing out the true laws, the legal limits to development, it can be totally overrun in a meeting where few people come and now they're not even televised so they don't go onto public scrutiny. I totally support this advisory board, especially for the areas that are farther away. And then secondly, I would like to speak about the Nahiku project.

CHAIR PALTIN: Can you restart the clock?

MS. APANA: Oh. The Nahiku project is one that is very close to my heart in that I have heard Uncle Jimmy tell his story, and it is heartbreaking about how he has been treated in this area and how he still stands for this area, this very area that we're talking about. I don't think that it would be right or even appropriate for voices that come from outside of this place to override the people who have lived there, especially, especially in Nahiku. So, I ask you to give them every chance to say what they want for their community. And then the third I would like to speak about the sand mining study.

CHAIR PALTIN: Okay, please restart the clock.

MS. APANA: The sand mining study and the zoning ordinance. First of all, I'd like to say that the present proposed ordinance which is not necessarily before you but in the title should be totally dismissed. I don't know how you do that, I've never seen that, but it is a poorly written bill and allows for taking of sand or any kind of thing, but it specifically states sand from a property that is being developed in an amount that is not ever going to be able to be counted by the County. If you cannot propose a bill that would allow taking of necessary small amounts and I can't see why anybody would ever have to take sand off their property, that can be very carefully and very well controlled and monitored by the Public Works Department, then you should not change the way it is. The way it is, is you cannot take any resources from residential areas. You cannot take it out because of the zoning, and I believe that that is what the Public Works Department can monitor. 'Cause in the sand mining, those hundreds and thousands of cubic yards that left and were sold off-island are not accounted for and have never been accounted for. So, there you see it. I also spoke to the person who did the study, the sand mining study, and he said that two of the great drawbacks were that one, they never left their office to come do the study, and

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

there just wasn't, it wasn't funded so that you could actually do the borings into the earth to see how deep the sand is. So, they were pretty much estimating what they thought it was. And that he said that...I said well, how could you possibly have more sand now than it was in the other 2006 study, and he said the area that was measured or that was looked at was much, much larger. It was probably the entire 12½ miles of the...that were in the sand mining moratorium. So, and what they looked at before was just the Maui Lani portion of it.

CHAIR PALTIN: If you can wrap it up within a minute.

MS. APANA: And so, I'd like to say this as we've said before, there should be no intrusion into the sacred burial grounds of our kanaka people. This is a burial ground that has been vetted with traditional knowledge, it has been acknowledged by the Burial Council. It has just not been acknowledged by people who want to take the sand out of there despite the burials. And I call on you to continue to protect these burials and our sacred burial areas. Thank you.

CHAIR PALTIN: Thank you, Ms. Apana. Members, any questions for Ms. Apana? Member King?

COUNCILMEMBER KING: Thank you, Chair. Thanks so much for being here again. I know you come often and I always appreciate your testimony. So, I just wanted to clarify that on PSLU-16 that what you said, your testimony is that the proposed amendments would allow more extraction and that's why you oppose it?

MS. APANA: The, if it is the same bill, the same proposed ordinance that was there in, at the end of the last Council in December and it was withdrawn by Mr. Guzman on the floor, yes, it will allow for unbridled sand mining, because the...your County departments will never be able to tell how much sand has actually been moved.

COUNCILMEMBER KING: Okay. All right, thank you. Thank you, Chair.

CHAIR PALTIN: Members, further questions? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Apana. Mahalo for your testimony. I'm sorry in the past you felt like your voice has been trampled here, and I hope we do a better job at making your voice heard.

MS. APANA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I have one question on one item and another question on another item. Okay. So, for the sand mining item, you said...how much sand did you estimate or how much did you say that they estimated the sand amount?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MS. APANA: I don't know, it's in the study, but it was more sand than they estimated was available in 2006, and the reason being that the area is probably about three times larger in this present study.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. APANA: Although they just kind of had to estimate how deep the sand is.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay, and then on the Nahiku Community Center item, you said that you wanted to support Uncle Jimmy. Is Uncle Jimmy, James Kahookele?

MS. APANA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And so, in the testimony we received it said that in a *Maui News* article on March 12, 2012, currently the State owns the property, although Kahookele said it was formerly owned by her family and the land was supposed to be returned to her family after the school closed. She said that she has the documents to prove ownership. Is that your understanding?

MS. APANA: Yes, and I wholeheartedly support vetting that and I think you will find that the family is absolutely correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo, Ms. Apana. Mahalo, Chair.

CHAIR PALTIN: Members, further questions? Seeing none, thank you for your testimony, Ms. Apana.

MS. APANA: Thank you very much.

CHAIR PALTIN: Next up we have Susan Vickery, to be followed by Lucienne de Naie, and James Kauihou Sagawinit, and our last testifier is Kaniloa Kamaunu. Ms. Vickery is testifying on PSLU-16.

MS. VICKERY: Good morning, County Council. Happy New Year. And, Chair, thank you for having us here today. Again, it goes back to sand mining, they call it all these other fancy name, resource extraction, but anytime you're dealing with the sand, you're dealing with iwi anywhere in the islands most of the time, especially these sand dunes. This 2018 update of the Maui Inland Sand Resource Quantification Study, I'm not real up on it and familiar with it, but I would like to see that. So, basically just kill the bill and...what was, let's see, December 19th. Yeah, the update. I need to go find out more about it but thank you for doing the right thing and stop sand mining and digging up the bones. Mahalo.

CHAIR PALTIN: Thank you. Members, questions for the testifier? Seeing none, we'll have Lucienne de Naie testifying on behalf of the Haiku Community Association. Her position is the President. And she's testifying on PSLU-43 and 34, so 6 minutes total.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MS. de NAIE: Thank you, Chair Paltin and Members of the Committee. I am here representing the Haiku Community Association and we're very grateful to our Councilmember Molina for putting forward a bill to address concerns that he heard at one of our election forums. And our audience has come...our questions come from the audience so we don't make this stuff up. People write it down and we had several questions we combined about, you know, how there could be more review of projects in the Haiku-Paia area, because although some people who live in that area maybe only live ten miles from town, I personally drive 40 miles every time I come to see you folks or the Planning Commission. And there are people who live further out than I do in Kailua and further reaches of Huelo where it's a 50-mile trip. So, we face some of the same issues that people in more remote areas face. The idea suggested by our Planning Department that we encode that developers need to meet with community associations isn't a bad idea, there's kind of something like that in your checklist for subdivisions already, it says you're supposed to reach out to knowledgeable and interested people. I would think the first place you would go would be your local planning...your local community association or your Aha Moku Council. But some developers have absolutely no interest and just tell you so to your face. So, where we're at is we strongly support that there be advisory groups for both South Maui and Paia-Haiku. We both have a lot in the pipeline. Our Planning Department thinks that there's just nothing to look at, but we have over 1,000 acres in the SMA that's undeveloped land, some of it has Urban designation from the State Land Use Commission already. There's places in Kuau, there's places right across the street from the community center, there's 100 acres. To think that large landowners are sitting on these opportunities and aren't going to sell it off to someone who wants to develop it I think is very naïve. Our community is going to have projects to look at and we would like to do it in the evening in the comfort of our own community where people are around their neighbors and feel they can share their mana'o and most importantly that it's going to count. I have to say that we've reviewed the bills for both advisory groups and we support the requirements for service and the requirements for expertise in Native Hawaiian traditional and customary practices. The one thing that we would really like to see changed is we prefer what's in the South Maui bill where most members would be appointed by our Councilmember and the Mayor would appoint one or, you know, if it's a balance of five and two, two members like you have for the community advisory committees. So, we would just like to see that changed, but all the other things make sense. The only other questions that we have and this comes from the Paia side is would Spreckelsville be included? It's not technically in our planning district right now, but the Spreckelsville people really feel connected more to Paia than the Wailuku-Kahului district that they're lumped in with right now. And there's hundreds of acres right outside Paia that were recently sold by A&B that are going to be developed by somebody. A part of them are in the Maui Island Plan. We just need a process as soon as possible that allows the community to have a real say. And our concern with the Planning Commission is it used to be...maybe some of you are familiar with this, that when you went to the Planning Commission, if you had a busy day you could testify at the beginning of the meeting as to your item. You could provide written materials and so forth. Or you could stay until your item was...if you had the time, it was called and testify then. Now, you do not have that

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

choice. You can only testify when your item is called. You have no control over when that will be. So, that really limits the number of people, especially working people. And then I have to say you feel kind of insulted because you hear commissioners comment oh, it's those same old people that come all the time, meaning retirees like me and Aunty Mopsy and Dick Mayer, because we're the only ones who can afford to not know when we might ever have a chance to share our manao and wait all day and cool our heels. Even developers have people that they can call them when their item's going to be up. We don't have that luxury. So, we would love to have a meaningful body that could give input in our own community in its own time in the evening when people, working people can come. So, thank you for your consideration. And I know these are tough decisions to make.

CHAIR PALTIN: Members, if there's no objection, I would like to designate Ms. de Naie as a resource person so we can further involve her in the conversation when the item comes up so that we can get to the item today.

COUNCILMEMBER KING: Are you able to stay?

MS. de NAIE: Sure, yeah. Yeah, I can stay.

COUNCILMEMBER KING: I can hold my question then.

CHAIR PALTIN: Thank you. Okay. Two more testifiers, James Kauihou Sagawinit testifying on PSLU-32, to be followed by Kaniloa Kamaunu testifying on PSLU-16.

MR. SAGAWINIT: I am James Kauihou Sagawinit. Nahiku that I love. In the '40s, my mom took me to Nahiku. We lived in Haiku and Haiku had restaurants, theatres, whatever, but yet I fell in love, a little kid falling in love with Nahiku. Thirty years ago, or over 30 years ago I had the opportunity of leasing the Nahiku School. I stayed there for 27 years until the kids burned it down. I knew I couldn't get my lawyer to help me so I let the State rectified laws that the kids burned down the school. For me, the school I had insurance that would cover if you would get hurt in the property, a half a million dollars' worth, but yet who helped me if anything happened to me? Well, when the kids burned down the school, they said that what I had was \$36,000 worth of property that lost. Well, the school for me had two houses in it, but yet when I first came into the school lot, it was dilapidated and the land was just terrible. Before anything happened, I called Keanae and Hana and Nahiku to come and listen to what I had proposed. My proposal for them over 30 years ago was you help me with this school building and the classroom in the Nahiku School will be our community center, over 30 years ago. And they had it if by any chance they would help me with the school building, but nobody came. Nobody came. But yet within the school building, I had people come all the way from Kauai to the Big Island to wherever, I never knew but from a friend to a friend they came. They came to a place that they never knew existed because there was no traffic, there was no ambulance, there was quiet, peace and quiet. Honolulu people came and they were amazed that this place was so quiet.

CHAIR PALTIN: Thank you. If you can wrap it up in one minute.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. SAGAWINIT: So, with all of that I helped the community. I built the bus stop for the kids so that they wouldn't be in the rain, but yet the kids put me in the rain by burning down the schoolhouse. I would like to go back there. I would like to go back there not just for myself, but if I could help the community in any way, I would. I built two houses for families in Nahiku, never charge 'em a penny because that's how you're supposed to be. You're supposed to help your community. I went down the landing, Nahiku Landing and I cleaned up the landing. I planted coconut trees. I made it beautiful, but yet when everything happened, then the tourists found out and they came.

CHAIR PALTIN: Thank you.

MR. SAGAWINIT: But it was nice, it was supposed to be sharing with the whole world.

CHAIR PALTIN: Thank you. Thank you so much for your service to Nahiku.

MS. COSTA: Just wanted to make a correction on the identification of James. James was...Uncle Jimmy --

COUNCILMEMBER LEE: Chair?

MS. COSTA: --Kahookele, that is not him. He's James Kauihou. Kahookele is actually the Kamamalu, Dorothy Kahookele that claims association.

CHAIR PALTIN: Thank you. Member Lee, question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that.

COUNCILMEMBER LEE: Thank you. Thank you for coming. I just wanted to have more information, when did you...do you still have the lease or when did that expire?

MR. SAGAWINIT: I don't know if it's expired or anything like that, because they...I really, I don't really understand why I couldn't go back and build a house there. And I would like to go and build a house there, because I get more to share with the community. And with the County workers on Hana when they come down, I take care them. If they stay there for one week, on a Thursday nobody bring lunch, I prepare lunch for them. Yeah. I'm grateful for people that help the community, so I had to give back to that too.

CHAIR PALTIN: Thank you, Mr. Sagawinit. Any further questions for the testifier? Seeing none, our last testifier that I have is Kaniloa Kamaunu testifying on agenda item PSLU-16.

MR. KAMAUNU: Aloha mai kakou. Kaniloa Kamaunu.

CHAIR PALTIN: Aloha.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. KAMAUNU: Aloha, Chair. So, as we continue on this journey as far as dealing with sand mining. For me, I don't like the title sand mining, it's very...it disconnects actually what is actually happening here. We're not really talking about the sand and its removal, what we are talking about is what's in the sand. And there isn't a project that hasn't run into the iwi kupuna. But again, you gotta go one step further. The...you guys only consider or we only consider the bones. When we find the bones okay, it's a burial. That's not true. Specifically in this area, you know, talking about Maalaea coming out towards what we know now as Kakanilua and the history of the battles that are there. You don't realize that what makes up a human being is not just the bones but it's the whole thing, the flesh, whatever bodily fluids. So, when a person expires all those things, especially back in there because they didn't have indestructible--what do they call it--caskets like they do today that last for whatever. So, all those things become part of the sand. Hawaiians call that ano. So, you're talking about when that person expires, all of them is there and the adage of ashes to ashes, dust to dust, this is what it meant, return back to the earth. So, my question is how do you separate one grain of sand from the human that died there? You cannot only look at the physical bones, you have to look at what makes a human. The spirit in our culture they live there and I can prove this, go talk to Maui Waena. Every year they bring in somebody, some kind of spiritual person to give them one blessing every single year. Talk to the families that moved in there and the experiences that they experience with being in the dunes. They going tell you and you can go years and years and get stories of people. Safeway when they first came up, it was on the news, the DJs was talking about oh, go see this for Halloween. The scariest place to go in Wailuku, Safeway. So, this is what you're talking about, the person. The person is there. The iwi, the ano, the spirit is still...the uhane is still there, they're still present, but we only looking at the resource. And I object to this correspondence for whoever sent it in, because they have an ulterior motive which is to make money.

CHAIR PALTIN: If you can conclude in one minute.

MR. KAMAUNU: Yeah. Okay. So, the thing is we as a people, kanaka maoli again being taken advantage of. There is no reciprocation of what they're taking. We lose everything, we lose our identity, we lose our history, we are losing our people. When does this become ridiculous and when does it stop? It just becomes absurd. To even think to have somebody to take the sand and recently somebody put it online to sell sand, it was on Facebook. But where did the sand come from? Did anybody go investigate? So, when we look at these talking about extraction, what are we really looking at? We cannot just look at sand because it makes us comfortable. Thank you.

CHAIR PALTIN: Thank you, Mr. Kamaunu. Members, any questions for the testifier?
Member King?

COUNCILMEMBER KING: Thank you. Thank you for being here, Mr. Kamaunu. I just wondered if you had a chance to read the study that's part of this item, the Maui Inland Sand Resource Quantification study?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. KAMAUNU: Well, from what I understand and from what I see and dealing with especially the governmental bodies, they really don't do an investigative study. They gather whatever information is possible, because again you're dealing with what money is available for them to spend to take the time to do an accurate and very in-depth study, you know, of this. So, for me I look at their studies as being very shallow because they really don't take into aspect everything. And you can see it, you know, I mean when you look at the bill, it only talks about sand itself, it doesn't incorporate what it's all made up of. You know what I mean? It doesn't go back to the history of what this area was, what transpired, how many people were actually there. Because in our mind nobody lives in the sand dunes but that's not true, you know what I mean? So, is it an accurate, I say no. So, for me a lot of the studies that are done...and this is dealing a lot with SHPD too, because I know they came here and presented one year and they said they don't go out and actually send somebody, 'cause they don't have the money or the people. They basically just sign off on the permits without investigating what was reported by the so-called archaeologists, and it gets passed. And that's what Mr. Guzman posted in saying you mean you guys don't do anything physically? And they don't have nobody qualified. So, you know, to...for me I have a hard time with the studies, because who's doing it, what are their qualifications, and what is their background culturally? All those things are missing. So, how do we depend on these things?

COUNCILMEMBER KING: Okay, thank you.

CHAIR PALTIN: Thank you. Members, any further questions? Seeing none, thank you for your testimony this morning. We do not have word of any further testifiers in the District Office. At this time, I'll make a last call for testimony in the Chamber. Seeing none, without objection, I will now close public testimony.

COUNCILMEMBERS: No objections.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR PALTIN: Okay. I think we can do it, Members. Thank you for your trust and faith in me to guide this Committee.

PSLU-32: COMMUNITY PLAN AMENDMENT, DISTRICT BOUNDARY AMENDMENT, AND CHANGE IN ZONING FOR THE NAHIKU COMMUNITY CENTER (HANA) (CC 19-145)

CHAIR PALTIN: Our first PSLU-32 item is Community Plan Amendment, District Boundary Amendment, and Change in Zoning for the Nahiku Community Center. And we're going to be leaving the Hana Office on the line so that they can listen in. So, if Members can please speak into their microphones. Sometimes it's difficult for them to hear. And I introduced this agenda item at the request of Member Sinenci, and we'll

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

take a break right after this item. And so, I'd like to give him a minute or two to explain his request, and then I'll explain why I scheduled the item. Mr. Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Yes, the Nahiku Community Center has certainly been a process that has transcended many years, Administrations, Councils, and committees. There's been extensive meetings and work done on this project including the many testimonies has been sent in from East Maui residents. So, I'm happy to see that the Planning Department is here so that they can maybe help clarify some of the past issues and decisions that were made back then. Again, I wanted to reiterate that the Administration had referred this item to the Committee back in March so we wanted to address it today. And I think today's discussion hopefully will weigh both the challenges and the benefits of this issue at this time and just to seek what direction we should proceed in today. So --

CHAIR PALTIN: Thank you --

VICE-CHAIR SINENCI: --mahalo.

CHAIR PALTIN: --Vice-Chair Sinenci. And so, for me the reason why I scheduled this item, I always would like to accommodate my Vice-Chair of course and he did such a great job with our Hanakao bill. So, you know, definitely want to return the favor there. The way that I see it, you know, in the County Communication itself there was over 200 pages of documents. Mr. Blumer-Buell has been sending us e-mails since we started this term and up until today also. And I'm not sure if folks realize that the overarching theme of today's agenda is, you know, communities, advisory councils, and whatnot. So, for me I would ask to hear from the Administration, but the direction that I'd like to see this go is I support the community, I support the advisory council, I support the idea of having a community center, and none of that can be done without an Environmental Assessment in my opinion. An Environmental Assessment will say if this is the location for a community center or if there's other locations that are more suitable. I'm not opposed to changing in zoning, I'm not opposed to giving it back to the State, but for the Change in Zoning, district boundary amendment, I'm not willing to take that up until there has been an Environmental Assessment, and if the Environmental Assessment deems there needs to be an Environmental Impact Statement. So, that is the direction I would like to go. Just needed to schedule this, hear from the community, and let that be known in open session that I'd like to defer this item until there is an EA or an EIS done, and that's my intention, if there's no objection from the Members. Vice, Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Based on testimony received and heard today, I think even before an EA, I think land ownership, proper land ownership needs to be researched and documentation need to be provided to us. Before the County spends any more money on this, I would like to see who properly owns this land. So --

CHAIR PALTIN: Yeah. That can be --

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER RAWLINS-FERNANDEZ: --that's my manao. Mahalo.

CHAIR PALTIN: --you know, step one, step two, that sounds like a good idea. Any further comment? Yes, Member King?

COUNCILMEMBER KING: Well, I was going to say the same thing but then expound on it too. The EA is not going to tell us whether there's another site that's appropriate, it's just going to be focused on that one site. So first of all, we have to figure out the ownership and whether that is the right site. And then, you know, if there's another site, maybe that's where the EA should be done. So, I agree with Vice-Chair Rawlins-Fernandez that we should...

CHAIR PALTIN: Deputy Corporation Counsel, Mr. Hopper, would an EA not identify possible alternatives?

MR. HOPPER: Director McLean may also have something to add, because she deals with EAs and EISs frequently. I think it can, I'd want to review the EA rules versus an EIS but I think it is. And it is generally would review alternatives to the proposed action. That may be a bit more in the EIS than in an EA, but I do think that again if the County did an EA on this, that could be something that requests --

COUNCILMEMBER KING: We could direct that.

MR. HOPPER: --review.

COUNCILMEMBER KING: We could direct that.

CHAIR PALTIN: Would it also clarify ownership, an EA or an EIS?

MR. HOPPER: Yeah, I don't know if an EA would necessarily do that. That's something that, you know, the Department in conjunction with the State would be reviewing and determining. I don't think an EA is the type of document that would necessarily deal with that issue. You could have a title report or other means of determining that.

CHAIR PALTIN: Okay, thank you. So, that's the general direction I'd like to go with that so hopefully we can have that recorded. But at this time if there's any comments from Parks or Planning on that course of action?

MS. McLEAN: Thank you, Chair. We have no objections to that course of action. I just wanted to state procedurally in case it was confusing, 'cause some of the testimony suggested to me that this wasn't quite clear. That what's in front of the Council is a change in zoning, a community plan amendment, and a district boundary amendment which would be needed to develop this. What's also needed is a Special Management Area major permit. Mr. Blumer-Buell and others in the community have intervened into that SMA permit. There isn't an intervention process for the designations that are under the Council's authority. So, if whether for this site or a different site, if it's in

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

the SMA, if the Council were to approve the entitlements for that, then the SMA permit would be considered by the Planning Commission and intervention could be addressed at that time. So, only if the Council approves the land use designation would the SMA major permit come into play, and only at that time would the intervention be dealt with, because that's an intervention into the SMA which can't proceed without the entitlements. So, I just wanted to make that clarification. There were also a couple comments about the EA exemption that was issued, and I want to make clear that that was the Parks Department that issued the EA exemption, not the Planning Department. There are plenty of things that we rightly get blamed for but not that particular action. So, thank you, Chair.

CHAIR PALTIN: Thank you, Director McLean. I did work for that Parks Director and so I just want to say I disagree with the exemption. And, you know, sometimes in the process of trying to push things through, it makes it take actually longer so I think we need to do all the steps. Any comments from the Parks and Recreation? Member Lee, question?

COUNCILMEMBER LEE: Yeah, I have question for Director McLean.

CHAIR PALTIN: Oh, okay.

COUNCILMEMBER LEE: But if you want to go through them all first that's fine.

CHAIR PALTIN: Yeah, maybe just let 'em give their little opening comments.

MR. BUCK: The position of the Department right now is it's the will of what the Council wants to do as far as changing the zoning and the will of the people. If everybody is in agreement and everything is approved, then the Department would move forward. But again, that's the will of the Council as far as if you're going to okay the change in zoning and if it's what the will of the people.

CHAIR PALTIN: Thank you.

MR. BUCK: That's all I have for right now.

CHAIR PALTIN: Thank you, Mr. Buck. Member Lee, questions for either?

COUNCILMEMBER LEE: Director McLean, I just wanted to confirm that you are recommending the amendment to the community plan, district boundary amendment, and change in zoning? All of it right?

MS. McLEAN: That is the recommendation that was transmitted to the Council.

COUNCILMEMBER LEE: But and because if we did this today, then it would allow for an EA or SMA to go forward?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MS. McLEAN: If this were done today, then there...I don't see...procedurally the EA would typically be done before the Council would consider the land use changes.

COUNCILMEMBER LEE: Oh, I see.

MS. McLEAN: And so, because these land use changes are for a specific parcel. So, if through the EA process a different location is determined, for example, then there wouldn't be a reason to redesignate this particular parcel. So, the EA is typically done much earlier in the process.

COUNCILMEMBER LEE: Okay. So, actually you would recommend that the EA be done first before these land use changes?

MS. McLEAN: This is a tricky one for us because when this project...when the Planning Department initiated these land use changes that was done to support the Parks Department's proposal at that time. And at that time, the Parks Department had issued an EA exemption. And so, the Planning Department was supporting the Parks Department's project, and that is why we recommended approval. As I said, we have no objection to the EA being done, and if it's the Parks Department's position now that pursuing an EA or an EIS is a better way to go, then we would support them in that direction as well.

COUNCILMEMBER LEE: Yeah. So, that's what I'm sensing the group here is, you know, in support of. So, the Parks Department would do the EA/EIS, not the Planning Department?

MS. McLEAN: Yes, we don't prepare EA's or EIS's, we process them as part of an application but we do not prepare them. So, the Parks Department would hire someone to prepare that document.

COUNCILMEMBER LEE: So, Mr. Buck, if this is the direction that the Council would prefer, would you work with the Committee Chair on, you know, the describing how we want the specifications of a EA or EIS?

MR. BUCK: The Department would be willing to work with the Committee Chair as far as the direction you folks want to go.

COUNCILMEMBER LEE: Okay, thank you.

CHAIR PALTIN: Thank you. Members, further questions for the Administration? Member Sugimura?

COUNCILMEMBER SUGIMURA: So, in order to do this next step then is there a budget item that would be associated? Maybe that's a question you can ask the Department. I'm not too sure how those things get generated but budget is coming up. The other question I had is listening to the testifiers, it was stated that the Hana Advisory

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

Committee decisions were not adhered to, and I just wonder if the Department can make a statement about that.

CHAIR PALTIN: Member...or, Director McLean?

MS. McLEAN: Thank you, Chair. The Hana Advisory Committee recommended deferral, recommended to the Maui Planning Commission that they defer making a recommendation until an EA was done. It was the Maui Planning Commission's decision to proceed and not defer. So, I would agree that the Maui Planning Commission didn't follow the recommendation of the Hana Advisory Committee. And so, again that was...there was also in written testimony that the Planning Department didn't consider the Hana Advisory Committee's recommendation, but they're not advisory to the Planning Department, they're advisory to Maui Planning Commission which we can get into later in the later item.

CHAIR PALTIN: That's in three, four, and five.

MS. McLEAN: But it is accurate to say that the Maui Planning Commission did not follow the recommendation of the Hana Advisory Committee which was to defer.

COUNCILMEMBER SUGIMURA: Okay. Thank you for that clarity.

CHAIR PALTIN: Thank you. Member King, followed by Member Rawlins-Fernandez, followed by Vice-Chair Sinenci.

COUNCILMEMBER KING: I think I'll defer to...

CHAIR PALTIN: Okay, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, and mahalo, Member King. So, I guess either Parks or Planning Department can answer. Can you confirm that the County has clear title on this property?

MR. BUCK: I have the Executive Order from the State of Hawaii. If I may, if it's not...what I want to say as far as from the Department's concern is that it was Executive Order Number 4220 setting aside for public purposes with the intent for a community center purposes. And this was back in December of 2000...March of 2008, March 24, 2008.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, I understand that part of the history, background of this. So, from State Executive Order to County. Prior to State, does the State have clear title? From Great Mahele on, do we have clear title?

MR. BUCK: That I cannot answer, I don't know.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, I think that would need to be done first and foremost. The other thing that I'm hearing really is that the community doesn't want it there. So, I mean I haven't done extensive research and, you know,

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

talking story with the community or even the area representative to find out more information. But it sounds like it's an inappropriate location, and I, at this moment I don't really support putting any more funding toward that at all. I think that it would be more appropriate for us to allow the community to go back to the drawing board and see exactly what it is that they would like to propose to the County and then come to us then, and completely scrap this idea. That's where I think I'm at right at this moment. Mahalo, Chair.

CHAIR PALTIN: Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. For Mr. Buck, one of the testifiers, Ms. Costa mentioned about a sunset from that Executive Order. Was there anything that was in that, something about that, the sunset after a year if the, it would return if the community center wasn't built? Was there anything like that in the Executive Order?

CHAIR PALTIN: Deputy Director Buck?

MR. BUCK: I'm not really sure, I would have to double check on it. So, thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Real quick.

CHAIR PALTIN: Member Molina, followed by Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. For either Director McLean or Director Buck. The Planning report mentions that the construction was never initiated due to the litigation related to the construction contract for the project. Has this litigation been resolved and is there any other litigation matters pending? I don't know, maybe Mr. Hopper.

MR. HOPPER: I believe the lawsuit is active. I believe it's in your, one of your committees, it's the Kuponu Builders case. I believe it's in another committee. I think to go into discussion of that lawsuit I think would probably be in that committee.

CHAIR PALTIN: I think it's in your Committee.

MR. HOPPER: But there is active litigation.

COUNCILMEMBER MOLINA: Yeah.

MR. HOPPER: I'm sorry?

CHAIR PALTIN: I think it's in Member Molina's Committee.

MR. HOPPER: Yeah, so that's ongoing litigation right now --

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER MOLINA: Okay.

MR. HOPPER: --is my understanding.

COUNCILMEMBER MOLINA: Yeah. So, thank you for the update on that 'cause Kupono Builders I have no idea who that was. I believe I was on a Council years ago when former Councilmember Medeiros made a proposal to the Budget Committee for the funds to acquire the property. That's the last I remember of it and since then apparently there's been some problems with this to say the least. Is there clear title for this property at this point? I know we've heard that in testimony, the issue of title to the property.

CHAIR PALTIN: That's what --

COUNCILMEMBER MOLINA: Oh sorry.

CHAIR PALTIN: --Member Rawlins-Fernandez had --

COUNCILMEMBER MOLINA: Oh sorry.

CHAIR PALTIN: --asked and --

COUNCILMEMBER MOLINA: Sorry, I didn't...

CHAIR PALTIN: --it's unclear still.

COUNCILMEMBER MOLINA: Still unclear?

CHAIR PALTIN: Yeah.

COUNCILMEMBER MOLINA: Okay. And as far as the building that was established as a school from 1906 to 1958, is there any historical significance to the site that needs to be recognized or preserved? So, is that a pending issue as well?

CHAIR PALTIN: I know that there is a heiau nearby, but I don't think it's on the same property but it's close.

COUNCILMEMBER MOLINA: So...

CHAIR PALTIN: Member Rawlins...or are...

COUNCILMEMBER MOLINA: Yeah. You know and I'm sorry, I'm just asking so the departments...the Department concurs with Chairman Paltin's...

MR. BUCK: I, at this point in time I'm unable to answer. We can provide that information upon request.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER MOLINA: Okay, thank you. Thank you, Madam Chair.

CHAIR PALTIN: Do you want us to make a formal request to the Parks Department?

COUNCILMEMBER MOLINA: Yes, please.

CHAIR PALTIN: Staff, you got it? Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm sorry, I missed that last part. Did you ask for the Executive Order?

CHAIR PALTIN: No.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Can we get that?

CHAIR PALTIN: Formal request --

COUNCILMEMBER RAWLINS-FERNANDEZ: I would like that.

CHAIR PALTIN: --for the Executive Order --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR PALTIN: --as well? Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. Thank you. And I'd like to move to file this item.

CHAIR PALTIN: Okay. Let's hear from Member Sinenci first.

VICE-CHAIR SINENCI: Thank you. First, I just wanted to address Director McLean. Thank you for explaining, and I apologize if I had mixed up the Planning Commission with your Department. On the Commission's summary minutes of August 14th, I guess they voted to defer action on the petition to intervene until either the County Council takes action on the community plan amendment, so that's why we're here also, correct? Okay. And I just wanted to share with the Members, you know, Nahiku is a special place for East Maui communities. Nahiku means seven, it refers to the Big Dipper. And so, the cultural significance is that there were actually navigational heiaus throughout Nahiku, and some stories point to those heiaus actually forming the Big Dipper. So, but a lot of these navigational heiaus has since been bulldozed from development and from the rubber plantation that was once there. So, a lot of the testimony we're hearing and we appreciate from some of the families that were left over and still were, grew up in Nahiku community. So, I appreciate everybody's, you know, attention and love for Nahiku. Mahalo.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Thank you, Vice-Chair Sinenci. Procedurally I'd like to ask Deputy Corp. Counsel Hopper, if we file this item and then we get the answers from the Parks Department, how do we transmit it to the Members?

MR. HOPPER: Madam Chair, you can also consult with OCS Staff maybe for details of this, because that's not something I deal with on a day-to-day basis. But my understanding would be maybe it would be...if...they would be transmitted maybe under another...that would create another item if that item was filed. And so, if there were transmitted answers it could say...I mean it couldn't refer to the item that's been filed is my understanding if that's gone. So, maybe a new item would be created based on those responses. But yeah, there wouldn't be an existing item anymore if the full Council would vote to file is my understanding.

CHAIR PALTIN: Okay. Member Lee?

COUNCILMEMBER LEE: So, I'm not clear what the District representative just said. Do you want to file or you don't want to file?

VICE-CHAIR SINENCI: Thank you, Chair Lee. You know again this has been an ongoing discussion with the community way before I, you know, I've been sitting in this seat. So, I would like to defer to my community who's come out strongly to express their feelings. So, I think if the community wants to go ahead and file it, I'm supportive of their decision, whatever, you know, they decide and we want to support them in their decision.

CHAIR PALTIN: So, I guess the question for me is do the Members want to pursue getting answers on their own, or do they want to leave this open and we can return and discuss the answers? Member Rawlins-Fernandez, followed by Member Molina 'cause he also asked a question for follow-up.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. I am fine requesting the document for myself, my office can request it and receive it. I don't need this item. I would like to help PSLU Committee by getting items off of our master agenda. So, I'm happy to request that information on my own. Mahalo, Chair.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Yeah, ditto, Madam Chair.

CHAIR PALTIN: Okay. So, I'll entertain a motion if anybody wants to make one.

COUNCILMEMBER RAWLINS-FERNANDEZ: I move to file PSLU-32.

COUNCILMEMBER KING: Second.

CHAIR PALTIN: The motion has been made by Council Vice-Chair to file PSLU-32 and seconded by Councilmember King. All in favor say...

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

MR. KRUEGER: Oh, excuse me, Chair?

CHAIR PALTIN: Oh.

MR. KRUEGER: Chair?

CHAIR PALTIN: Yes?

MR. KRUEGER: Sorry to interrupt. Staff would just like to clarify that filing of the item would result in the filing of County Communication 19-145?

CHAIR PALTIN: Yeah, that and any discussion. Sorry.

MR. KRUEGER: Okay, thank you.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: So, listening to the testimony and all the documents, I mean many documents that were presented to us and the questions that the Councilmembers have, I think it warrants keeping it open just so that if information does come, Mr. Sinenci who represents Hana or the whole area, not only, you know, certain testifiers I guess, not to be, you know, that pointed. But I think that to keep it open then allows the Council to take this up at another time when more information is provided, unless if you want to kill the project 'cause that's what you're talking about and you're the representative for the area. So, if you want to kill it and not have it, file it, that's what's going to happen.

VICE-CHAIR SINENCI: Thank you.

CHAIR PALTIN: Thank you, Member Sugimura. Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. And thank you, Member Sugimura. Again, the project has been, you know, it's, it started like in 2007 and during the last years, I guess whatever funding that has been put into this project has now lapsed. The community has, you know, have come...a majority of the community have I guess come up against it and because of, you know, it going through the advisory committee and it's going through the Planning Commission. And so during that time, the project just kind of had stalemated and it's been, you know, over ten years now. Like I have mentioned before, it's past transcended a lot of Administrations including Councils. So, the community if they want to go ahead and create a new project then, you know, that could always be something in the future. So, I hear what you're saying and I appreciate the Members' comments. So like I said, I'm open to, I mean if we file it then the community can take another approach to this project. But as far as continuing on a docket for another decade I think it's just kind of, you know, exhausted a lot of time, energy, and monies on the County level. So, I hear what Member Rawlins-Fernandez

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

is saying too, if we want to go ahead and file it, then we end it and then we start anew with another project.

COUNCILMEMBER SUGIMURA: So, those are your wishes. Okay.

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Thank you, Chair. Yeah, I just wanted to also add my support to the community and the advisory committee's wishes. But to get...you know, everybody who has come out and testified today has talked about how inappropriate this site is. It's far off the road, it's in a flood zone, there's a couple of hairpin turns to get to it. So, you know, rather than doing an EA focused on this site even if it's going to include other sites, I would rather have...see the community go back out to finding a more appropriate site. Everybody mentioned that a more appropriate site needs to be off the Hana Highway so it's accessible. So, I'm good with filing it and then seeing what else, what comes back from the community as far as looking at another site. But, you know, just keeping this open is just going to cause us to spend more time and energy and resources on a site that doesn't sound like anybody wants. So, I would support the filing of this communication.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. You know it's interesting you mentioned today that the theme is about community and getting input from our citizens, and I can respect the proposal from Vice-Chair Rawlins-Fernandez to file and also comments from Councilmember King. I'm...if we were to vote on doing a community plan amendment today with all of the issues. I certainly would not support that. But again the...I would prefer maybe for the time being keep the item open, alive, and get more input from the community like, you know, evening meetings. 'Cause we're only hearing a segment, you know, concerns from a segment of the community today. So, at least maybe at some future point...we may even hear comments about this during the Budget Session when we go out to Hana. So, I think it's just a bit premature to file it at this point. But I'd like to hear more comments from the East Maui community at a later point this year on this, 'cause...and maybe by that time some of the questions that we had asked for some information could be presented to us prior to an evening meeting out in East Maui out in Helene Hall.

CHAIR PALTIN: Maybe site visit along the way.

COUNCILMEMBER MOLINA: Even a site visit, good suggestion. So yeah, that's why I'm just hesitant at this point to file it, 'cause I feel it's fair that we go out to Hana and hear from the citizens out there 'cause it's not easy for the Hana citizens to come out here too. So, just to be respectful to hear all points of view on this. So, that is why at this point I cannot support filing. And of course, Madam Chair, you're the Committee Chair, it's, you know, your call as well. If you want to hear this thing again, you could just, you could keep it open and choose not to hear it if, you know, there's an outcry in your mind that maybe it's something...there's a lot of questions that are still

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

unanswered. So, it's your call, as well, as the Chair. But for me I would like to if possible, we take it out to the Hana, East Maui community and get a lot more input on this matter as well. And we may find out that there are other things we may not have been aware of as well. So --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: --those are my thoughts, Madam Chair. Thank you.

CHAIR PALTIN: Thank you. Chair Lee, did you have any input?

COUNCILMEMBER LEE: Yeah, I'm kind of leaning that way myself. I think we should go take a site visit. I'd like to look at the bridge, that whole area in fact. So, and how many people are we going to be affecting? And are there any viable other alternate sites?

CHAIR PALTIN: Okay.

COUNCILMEMBER LEE: So, I mean I'd be happy to support your recommendation, but I'm just sharing with you what I'm thinking. Thank you.

CHAIR PALTIN: Yeah. I'm good with leaving it on as well, but we have a motion on the floor, so shall we take a vote? Or yeah, an additional comment?

COUNCILMEMBER SUGIMURA: I just want to ask Mr. Hopper regarding the lawsuit that people have been talking about. If we're thinking of filing it and what would the filing...that's the motion right? So, what would that do to this?

CHAIR PALTIN: That's actually in Member Molina's Committee, the lawsuit portion.

COUNCILMEMBER SUGIMURA: But does this...

MR. HOPPER: I would say that --

COUNCILMEMBER SUGIMURA: Oh, sorry.

MR. HOPPER: --related to that, again the lawsuit itself is an item in Member Molina's Committee, but to talk to litigation counsel about that and advise you as a counsel on that, maybe, as I'm thinking about it now it may be something that's worthwhile whether filing versus other action would in any way affect ongoing litigation. It's actually an interesting point that you raised. So, that's something that I think would maybe be worth bringing up with litigation counsel and have...advise you on that item potentially.

CHAIR PALTIN: Okay. So, motion on the floor is to file. All those in favor...

COUNCILMEMBER KING: I have just one more question.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Yes?

COUNCILMEMBER KING: Because I was going to bring up the fact that there's that lawsuit and the lawsuit is basically asking us to do what we're...what's on the floor, correct? And basically they don't want the facility, the community facility at that site.

MR. HOPPER: No, my understanding is the lawsuit is the County suing the contractor for...a contractor for non-performance of the contract.

COUNCILMEMBER KING: Okay, so that may go on?

MR. HOPPER: And well again, I don't want to comment on that --

COUNCILMEMBER KING: Okay.

MR. HOPPER: --in detail in this meeting because it's another agenda item. It is related to this property though so that's correct. But again, there is a Litigation Division in our office and that item's in the Committee and I believe the Committee has been updated on that item. That I haven't been in those meetings so I think it may be worthwhile to have litigation counsel take a look at that issue.

COUNCILMEMBER KING: Okay. But that's, that lawsuit is based on past actions?

MR. HOPPER: That's my understanding. My understanding is that there are counter claims against the County as well in that case so I don't want to get into, again, details on all aspects of it, but I think generally that's the description of the lawsuit. And again that's in Mr. Molina's Committee and the existence of the lawsuit is public record. But again, I don't want to say anything on the floor here and not properly advise you on that item when there is litigation counsel --

COUNCILMEMBER KING: Yeah, I understand.

MR. HOPPER: --involved in that.

COUNCILMEMBER KING: I just wanted to know if it was based on this decision we're making here today or past action.

CHAIR PALTIN: Okay, second and final. Council Chair...Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, it sounds like you would be voting against the motion, and I'm still not super sure where Member Sinenci for East Maui is on the motion. But if both your direction would, you know, your preference would be to keep the item open, I'd be happy to just withdraw my motion instead of taking a vote.

CHAIR PALTIN: Okay. I think that's...

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, I'll withdraw my motion.

CHAIR PALTIN: Okay. Member Molina?

COUNCILMEMBER MOLINA: Second and last. No, I was just thinking of another option for you as the Chair. You know the term is almost over so if this is something you as the Chair would recommend filing at the end of the term, there's that option for you as well to consider with --

CHAIR PALTIN: Oh, it's --

COUNCILMEMBER MOLINA: --the item.

CHAIR PALTIN: --from the Planning Commission so that's not an option but I'm for deferring, yeah.

COUNCILMEMBER MOLINA: Or I mean, yeah, this item, yeah.

CHAIR PALTIN: Yeah.

COUNCILMEMBER MOLINA: I guess you could...we could just...

CHAIR PALTIN: We would have to take the action to file it. It'll roll over because it comes from the Planning Commission.

COUNCILMEMBER MOLINA: Oh, so we couldn't just file the item. It's...so it would be --

CHAIR PALTIN: We'd have to physically --

COUNCILMEMBER MOLINA: --now for the next term...

CHAIR PALTIN: --file it. Yeah, it'll rollover for the next term because it's coming from the Planning Commission.

COUNCILMEMBER MOLINA: Okay. Well, so much for that idea. Thank you.

CHAIR PALTIN: So, I'll entertain a motion to defer it and with that we will get the answers to the questions that have been asked, and it'll give us additional time. Yes, Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. And thank you, Members, for that discussion. I think, you know, the project still has a lot of questions that like I've always said has come up throughout the years. So, I think I can support an EA if that's the will of the Chair, and hopefully that would answer a lot of the questions that we're still mulling over, including road designation, community input, proper land ownership. So, if those things can come prior to the zoning, Change of Zoning, we could support that

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

and we could have the community come out and speak, you know, for what's best for the community. Thank you.

CHAIR PALTIN: Thank you. Chair Lee?

COUNCILMEMBER LEE: Is your recommendation simply to defer or add on the other things?

CHAIR PALTIN: My recommendation is to defer until we get the answers to the questions that have been asked and 'till an EA has been done.

COUNCILMEMBER RAWLINS-FERNANDEZ: And title.

COUNCILMEMBER LEE: So moved.

COUNCILMEMBER RAWLINS-FERNANDEZ: And title.

CHAIR PALTIN: And title. Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, so since we're adding things on for information, the information that Mr. Buck gave on the EA, so if we're not going to use it, my question is can we give back the EA so it's not then a responsibility of the County?

CHAIR PALTIN: If we're not going to use what?

COUNCILMEMBER SUGIMURA: This property.

COUNCILMEMBER LEE: EO.

COUNCILMEMBER SUGIMURA: I'm sorry, EO. I'm sorry.

CHAIR PALTIN: Oh.

COUNCILMEMBER SUGIMURA: Sorry, wrong word. EO, EO.

CHAIR PALTIN: Yeah, that would be one of the questions, you know, if we still have the land really because of the EO. Some folks had said it expired already so that would...there's a title report, EO, if we still have the land, and if so, do we do the EA. And so, there's a sequence of things and questions that can be done before this comes back to this Committee. But I think that this discussion and this time has been good to give the Administration the direction instead of it just, you know, languishing in the master agenda. Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I move to defer.

COUNCILMEMBER SUGIMURA: Second.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER KING: Second.

CHAIR PALTIN: It's been moved by Council Vice-Chair Rawlins-Fernandez to defer and seconded by Member Sugimura. All those...any discussion?

COUNCILMEMBER KING: I just have a quick question because I want to make sure that what we're deferring is to the title first, and we're not authorizing an EA on this because I think that could be quite expensive. And if there's no title, there's no point in going to the EA.

CHAIR PALTIN: Yeah, so sequentially answer the questions, title, EA.

COUNCILMEMBER RAWLINS-FERNANDEZ: Title, EO, EA.

CHAIR PALTIN: Title, EO, EA --

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

CHAIR PALTIN: --EIS.

COUNCILMEMBER RAWLINS-FERNANDEZ: And, Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. There's no money right now to do an EA anyway so it would have to come through the budget, and my understanding is an EA is going to cost like a million dollars. So, that's typically how much an EA costs.

CHAIR PALTIN: Five hundred thousand.

COUNCILMEMBER RAWLINS-FERNANDEZ: It depends. And a lot of money, especially if it's not something that's supported. So, mahalo, Chair.

CHAIR PALTIN: Yes, Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. This whole conversation stimulated my curiosity more about, you know, the lawsuit itself. So, I just want to offer to my colleague from East Maui and to the Members that I'd certainly like to schedule, get an update from Corporation Counsel on this lawsuit with regards to the proposed builder of the community center.

CHAIR PALTIN: Oh awesome, right on.

COUNCILMEMBER MOLINA: Get us up to speed on everything, so --

CHAIR PALTIN: Yeah, thank you.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER MOLINA: --I'll certainly entertain getting it --

CHAIR PALTIN: Scheduled.

COUNCILMEMBER MOLINA: --you know having the hearing expeditiously hopefully before budget.

CHAIR PALTIN: Oh, awesome. Thank you so much.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PALTIN: Okay. Any more discussion? Are we ready to vote? All those in favor of deferral?

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Seven to defer and zero opposed.

**VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and
 Councilmembers King, Lee, Molina,
 Rawlins-Fernandez, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: DEFER.

CHAIR PALTIN: And let's take a ten-minute recess before our next items. . . .(gavel). . .

RECESS: 11:12 a.m.

RECONVENE: 11:26 a.m.

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of September...or January 8, 2020 at 11:26 return to order.

**PSLU-16: AMENDING THE COMPREHENSIVE ZONING ORDINANCE
 RELATING TO RESOURCE EXTRACTION OR PROCESSING (MISC)**

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: There's been a request, Members, to defer the Amending the Comprehensive Zoning Ordinance Relating to Resource Extraction or Processing, PSLU-16, because we don't have enough time to get significantly into that item. So, if there's no objections, I will like to defer PSLU-16.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: ALL and SMS)

ACTION: DEFER, NO DISCUSSION.

CHAIR PALTIN: Okay, thank you. And next up on the agenda, I would like to...as PSLU-34, 44, and 43 are all very similar in nature as many of the testifiers have mentioned, I'd like to take the three up at the same time. PSLU-34 was a budget referral without a bill attached, PSLU-44 is from Member King, and PSLU-43 is from Member Molina. And my intent overall is to take the three and just combine it into one item in the future. And my intention for today, what I'd like to do is give Member King an opportunity to introduce why she submitted the items and, you know, go into a little tiny bit of history from how the budget referral evolved into the other bill and give Member Molina a chance to explain why he introduced his item. And then from there I'll be disturbing kind of a hybrid that I've worked on with Staff of the two bills. And there's still some areas that are highlighted for discussion. And then we can form a new bill that takes all three into account. So, if there's no objection at this time, we'll be bringing up...

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes?

**PSLU-34 ESTABLISHING A KIHEI ADVISORY COMMITTEE TO THE MAUI
PLANNING COMMISSION (MISC)**

COUNCILMEMBER KING: Yeah, I just wanted to see if we could go ahead and file PSLU-34 since that...there's nothing attached to that and we made a new item when we --

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

COUNCILMEMBER KING: --I made a new item when we decided to call it the South Maui Advisory Committee. So, I think we can dispense with that first one. I'll just make a motion to file that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: Okay. If there's no objections, any discussion on the filing of PSLU-34? Okay. All in favor?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? So, we have...the motion passes five [sic] to zero with Member Sinenci just walking in and Member Lee excused at the moment.

VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and Councilmembers King, Molina, Rawlins-Fernandez, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Lee.

MOTION CARRIED.

ACTION: FILING of miscellaneous communication.

COUNCILMEMBER KING: Okay.

PSLU-44 ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION
(CC 19-402)

PSLU-43 ESTABLISHING THE PAIA-HAIKU ADVISORY COMMITTEE
(CC 19-401)

CHAIR PALTIN: So bringing up PSLU-44, Advisory Committees to the Maui Planning Commission, and PSLU-43, Establishing the Paia-Haiku Advisory Committee. I'd like to give Member King a couple minutes to introduce 44 and Member Molina a couple minutes to introduce number 43.

COUNCILMEMBER KING: Okay, thank you, Chair. If you look at, on Granicus at County Communication dated September 27, 2019, that has the bill attached. And this was something that actually it's been talked about probably for about ten years in South Maui. It's come up during presentations at the Kihei Community Association multiple times, and it was something that we discussed during budget, but there wasn't good support on the Council because I think there wasn't a good understanding of what this would mean or how it would take shape. And so, I followed through on my commitment to form a provisional body to make sure that we had the political will in the community, to actually volunteer for this kind of work and follow through on a monthly basis which we did. And we included as many of the community associations in South Maui as we could get ahold of. Some of them didn't...were more homeowner associations. So, we have represented Maalaea Village Association, the Kihei

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

Community Association, someone from the Maui Meadows area, homeowner's association or neighborhood association they call it. We reached out to Makena and Wailea and we still hope to hear back, but we had also a representative from Aha Moku who, Cody Nemet who actually stepped down because he's working on a Parks project in South Maui that the Aha Moku has partnered with on the parking lot. So, we're trying to cover all bases. We have the environmental sector and we're going to also have somebody from the, you know, the Hawaiian cultural sector through the Aha Moku. So, it's been a pretty comprehensive body, and we've been able to review some of the projects that are coming up in South Maui, give some input back to the developers. And I think because we don't see the Planning Commission action as necessary just a geographic inconvenience for Kihei, we see it as disconnected in a way because it's not in our community, it's not community people looking at all of these projects which is what the South Maui Advisory Committee is so we can give input from the community of South Maui to the Planning Commission on these projects. And there also as Mr. Shapiro said and I hope he gets to say a few words, he was elected as chair, we started out with this body as, with Max Tsai as chair who was on the Planning Commission so he gave good guidance to this body on things that the Planning Commission reviews. And the, as Mr. Shapiro said, there's not a desire to get into ministerial issues like if someone's adding on a bathroom or a garage, you know, apartment. It's really about the bigger issues in the community and the developments, and we've had some issues in the past, recent past in my first term, where projects were started and done in the middle of the night that kind of violated the permits. And people had to find out about it by seeing some activity, you know, in the wee hours. And so, this is...there's a concern about projects like the Hilton which used to be the Maui Lu coming back after 15 years and having gotten extensions on their SMA and now looking at activity makai of the South Kihei Road. So, those are things I think that if you don't live in the community, you're not going to see and you're not going to feel as the Planning Commission the impact of it. We just saw that in the discussion we had on, in Nahiku where the community, the advisory committee made a recommendation and it was voted against five to zero. So, I think increasing the number of...and I'm really pleased that Haiku and Paia wants to go ahead at some point. I know that they have issues where they want to have some community meetings first possibly. But I think my intent in bringing this up in budget was to make the point that we can...that we could have done this for all communities, all the district areas, but to me it's more effective to do it in the areas that are ready for it. And I think probably West Maui will be ready for it after they finish...you finish your West Maui community review. But I didn't want to push an advisory committee on my community if I didn't think that they were ready, willing, and able to do this. So, they've proved that they are and we're actually getting, I think it's much more efficient with this body because it's a one-stop shop. If you're trying to develop something in Kihei, you don't have to go to the KCA and then the Maui Meadows neighborhood and then the Maalaea --

CHAIR PALTIN: Thank you.

COUNCILMEMBER KING: --and then all the individual people. You can come --

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Yeah.

COUNCILMEMBER KING: --to this one body --

CHAIR PALTIN: Okay.

COUNCILMEMBER KING: --we're all there.

CHAIR PALTIN: Thank you, thank you. And I just wanted to clarify the filing of PSLU-34 which is the budget referral item entailed the filing of the Miscellaneous Communication dated May 21, 2019. Member Molina, would you like to speak a few words to your item 43? And then I'll go over my intent.

COUNCILMEMBER MOLINA: Okay. How much...how few words will you allow me? I got a little bit a lot to say, but I'll try to keep it, you know, brief --

CHAIR PALTIN: A little bit a lot.

COUNCILMEMBER MOLINA: --somewhat, yeah.

CHAIR PALTIN: A little bit, a lot of words.

COUNCILMEMBER MOLINA: But first thank you for giving us, Councilmember King and myself the opportunity to explain our rationale for establishing these advisory committees. The creation of the Paia-Haiku Advisory Committee will one, build a healthier community understanding of the entitlement process, heighten public awareness on projects in the community, and manage growth and empower our neighborhoods. For example, City and County of Honolulu they have neighborhood boards and it was established in 2008, to increase primarily and assure effective citizen participation in the decisions of government. And these neighborhood boards they also review planning matters, community-based issues such as capital improvement projects, efficiency of government, and also to provide public information and effectuate recommendations on a variety of substantive issues. And, Madam Chair, we live in the day and age of open and transparent government, and I see this as a way to increase our citizen participation. And I've heard the concerns about why we shouldn't have these, I mean, you know, because of cost, another layer of government, inconvenience to employees. And that may be legitimate, but to me we should prioritize above all else what our citizens want. They're the taxpayers, they pay the salaries of elected officials, they pay the salaries of our directors, and they pay the salaries of our County employees. So, to me it's money well spent. So, that is how I'm looking at this. We...let's let our citizens be empowered, that's what this is about. And we wonder why people don't come out to vote because they don't feel empowered. So, we should do everything we can to provide our citizens the opportunity to voice their concerns, especially when there's a project that's going to...could affect the quality of life of our citizens in our various neighborhoods. So, you know, I don't know how much more time you want to give me, but I've got a boatload of stuff but I'll try again to, you know, basically keep this to a minimum. And upon hearing some of the

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

testimony and suggestions today, I know it probably won't be your intention to pass either one of our...or take a...make a decision here today. I would certainly agree with you on that, because I would like to have an evening hearing in the Paia-Haiku area. If you recall months ago, you brought an item out to the community and they were so appreciative of you doing that. And I would like the decision made out there with input from the community. And so, we can get people out during the evening. And Lucienne told us today that at the Planning Commissions, you have...I don't know who made that statements to them about seeing the same old people. Well, the reason sometimes you see the same old people is that those are the only ones that can come out 'cause we got a lot of people that work. And, you know, to live in Maui County you got to work and it's hard to ask struggling families who want to participate in government and then to ask them to take time off from their jobs, some of them who work on hourly wages to wait and stand in line to testify on something. So, we should make it convenient again to have them come out during the evening hours which these advisory committees would meet. So, that way you'll get full maximum participation. And I tell you what, Madam Chair, I believe each Councilmember is allotted two evening meetings, yeah, I would be willing to give up one of my two to you to have an evening meeting and you will get a lot of love from the...Aunty Mopsy, Lucienne, Joyclynn, and everybody. And you know last time they were very appreciative of when you came out. So, that's my plea to you, you know, defer this today and we'll provide more information. And I would like to work with your Staff to consider other revisions to the proposal and suggestions that were made in testimony.

CHAIR PALTIN: Thank you...

COUNCILMEMBER MOLINA: Have I said enough?

CHAIR PALTIN: Yes.

COUNCILMEMBER MOLINA: Okay.

CHAIR PALTIN: Thank you, Member Molina. I couldn't agree more and based on that, I would like to at this time with time being a factor distribute a hybrid version that I've made, and I think it takes into account some of the testimony from Mr. Shapiro and other members. And of course this isn't to vote on today, it's simply, you know, maybe we can have a ten-minute discussion and you can look it over. The Staff and myself have kind of put these together. And my intent, what I would like to see done is send this over to the Planning Commission for comment, because ultimately the Planning Commission is the one that's going to have to deal with the advisory committees or listen to them, however you want to word it. And so, you know, maybe that can be done while we're going through budget if we want to appropriate money for these types of things. And then after it comes back from the Planning Commission then we can have night meetings within the district to, before any final decision is made to get the input. And basically, you know, I took portions of both Member King and Member Molina's bills, and I kind of squished it into one bill. And it's kind of, you know, also takes into account advisory committees. And so, now we're adding on Hana Advisory...or not adding on but we're having Hana Advisory Committee, a South

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

Kihei-Makena Advisory Committee, and Paia-Haiku Advisory Committee. And what I really liked from Member Molina's version is how it ties to the community plans, because, you know, that's one of the things that they would weigh in on is community plans, so we tied it to the community plan district. Instead of saying South Maui we made Kihei-Makena Advisory Committee so if they're going to be weighing in on the community plan, it's within the community plan district. The areas that have been highlighted on your guys' versions are the areas that, you know, we just think that it warrants more discussion from the Members. That's...this is an extremely rough draft we worked on over the past couple days. And, you know, that's not to say that anything else underlined which is added in might need more discussion as well, but we're aware of the highlighted portions in particular might need more discussion. Couple of comments that I have, I think in one of the person's purview, I'm not sure if it was Member Molina or Member King, we took out the input on agricultural subdivisions and not because we don't think that's needed, but because that's not under the purview of the Planning Commission, so that was removed. So, any comment or question from the Members? Member King?

COUNCILMEMBER KING: Yeah, I appreciate your proposed revisions. I'd like to get, you know, our...maybe some comments from Mr. Shapiro. And I'm kind of disappointed that we weren't...we're not in a position to pass this today, because I wanted to get this started going through the process. But I did want to make a point, too, that everybody in South Maui has agreed that the community plan when we do the review needs to be called the South Maui Community Plan just like the West Maui became West Maui Community Plan because it encompasses so much more than Kihei-Makena. It goes all the way up to Maalaea. And I've actually sat through in the first term in looking at CIP projects where some of the projects in Maalaea were listed as Wailuku and, you know, I had to remind the Department that Maalaea is actually part of the South Maui District. So, that terminology, I mean we can...since it's ordinance we can change the ordinance when we change the community plan name, but I just want to make that point that that's why we wanted to encompass everyone in South Maui. And Kihei-Makena leaves out a pretty large part of our district.

CHAIR PALTIN: Yeah, so whatever the community plan is we can tie it to that, because that's the document that they would have jurisdiction over. So, I mean it's not set in stone but we wanted to tie it to the community plan.

COUNCILMEMBER KING: Right, but then you also have the issue that was brought up earlier about what to do with Spreckelsville, because it's not part of that community plan but they want to be considered. So, I'm not sure how you would deal with that. Because they do come out to those, the community association meetings. But, you know, can we actually, can we get a comment from Mr. Shapiro since he waited all this time to...

CHAIR PALTIN: Let's take a quick comment from the Administration first --

COUNCILMEMBER KING: Okay.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: --and then our resource people. Ms. McLean?

MS. McLEAN: Thank you, Chair. I appreciate that and I appreciate the effort to try to combine the bills into one. Councilmember Molina had transmitted his bill to us, and we sent back extensive comments that it doesn't appear were provided to the Committee but I'd be happy to share those. We were not asked to comment on Councilmember King's bill, and this is the first time that we're all seeing the combined bill. As a policy, we don't really have a position either way. We obviously see the benefits in providing greater community input and transparency, but you do also have to consider the time, the cost, the efficiency, and the amount of work that this would create. So, just balancing those two things. From a practical perspective, I think it's really important that you have a better understanding of what the Maui Planning Commission actually does and how they conduct their business, and what the Hana Advisory Committee does and how they conduct their business. 'Cause otherwise you're not going to have realistic expectations going into this and the community isn't going to have realistic expectation, and it's, it was clear to me from the drafts and from the testimony that that understanding really doesn't exist. It's important to identify what you want the advisory committees to review but again keeping in mind what the Planning Commission has authority over and what...how they function with the Hana Advisory Committee. I would point out that it can be challenging to get people to serve on these committees. I know that there's an active group in South Maui right now, but over time it can be challenging to get members to attend. If they don't have a regular meeting schedule which I doubt they will, it can be difficult to get quorum. We find that pretty frequently with Hana. It's also difficult to find meeting venues 'cause they have to be public facilities that can accommodate the layout and public testimony, so those can be challenging just from a practical point of view. The justification for these two groups I can certainly understand there's a desire in the community, but if you look at population and growth projections, I would think West Maui would be higher on the priority than certainly Paia-Haiku and I'm a Paia resident so, you know, I'm speaking against the place where I live. But understanding what the justification is for this, and then if this does go forward then we do need to be prepared for additional funding for additional staff, because it definitely will take some more staffing. There was a comment that it's not fair that the Planning Commission takes all of its testimony upfront, but I would point out that the Council does that too. So, that isn't...it really...a fair criticism.

CHAIR PALTIN: Oh, I think that's what they wanted. They wanted to have all the testimony upfront but they're saying that they don't do it.

MS. McLEAN: No, that's not...they...it is, it's separated out when there are certain applications, and again this is getting at understanding how the Planning Commission conducts its business, because unlike the Council, proceedings over which the Commission has final authority are contested cases. And we've gotten sued and lost by not conducting those proceedings appropriately. And so, when there are contested cases, the testimony has to be taken when that item is taken. That was legal advice from Corporation Counsel. So...

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Yeah, that was the complaint, but they probably don't know the background.

MS. McLEAN: So, in moving forward with something like this I think it would be worthwhile rather than talking through specific language in a bill, trying to clarify what you're trying to achieve. Is it having meetings at night? Is it having meetings in that physical location? Is it having more community or members of that community participate in the process? Is it input, notification? So, there are a lot of things that I can understand, but to come up with a good bill, we'd want to know what your goals are, because just creating this like this doesn't mean those meetings are going to be at night and doesn't mean those meetings are going to be in that district. So, if that's what you're after, let's make sure that's what you want and make sure that's what the result is going to be. So, I appreciate wanting to get the Planning Commission's input, I think that's valuable. But I, you know, I'm not trying to delay this, but I would want to delay it in order to get a good bill that does what you're trying to achieve for the reasons that you're saying. And I'm not sure that it's...that we're there just yet. Thank you, Chair.

CHAIR PALTIN: Thank you, Director McLean. And before we move on to the resource people, I agree, this was just a step taken by this Committee so that we don't have different methods and different sections that different district advisory committees go to. It was just kind of to streamline it, if any district wants an advisory committee, just to get everyone on the same page. We don't intend to pass this legislation today, it's just the next step in the process. If I may hear from the resource people, maybe two-three minutes of comment if you have any on where we're at right now?

MR. SHAPIRO: Hi.

CHAIR PALTIN: Hi.

MR. SHAPIRO: Thanks for having me. I'll keep it short. I'm not sure of the appropriate method, Director McLean's idea is a good one. I don't know if a TIG or some kind of a group could get together to form a draft bill that would make sense, that encompasses everything that's important to these advisory committees. Again, to have teeth in these advisory committees. I'd even go so far as having...I don't know how this would take place that the, whatever the will of the committee, whatever the vote for a particular item that that may be a vote that would be affirmative or denial in the Planning Commission as a...I don't know if that can happen but it comes right from the community. So, you know, like the Nahiku process, one of the Planning Commission votes would have been an affirmative to whatever that decision was. But I think what everybody's talked about having more community involvement in the evening. This, these bills don't say that it has to be in the evening. I know South Maui does conduct their provisional meetings in the evening. Developers have come out, they come out early, so sometimes the plans that we see are not complete yet. So, a lot of things have to I think take place to make these advisory committees effective. And definitely West Maui and Upcountry I think are important areas to have these. So, I'd...I'm happy to help in any way I can to get these completed.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Thank you. Ms. de Naie, couple comments?

MS. de NAIE: Thank you, Chair Paltin. I really appreciate that we're getting input from the Planning Department, and I did read the letter that Ms. McLean sent and I think input from the Planning Commission itself would also be valuable. This is how you craft bills. I do agree that it's good to be specific about the evening meetings and about, you know, the intent. It is our intent, the Haiku Community Association has four public meetings a year, one a quarter, and so we end up packing a lot into them. So, the hope would be if there's an advisory committee, some of these things can be vetted in that more appropriate setting. And then a recommendation can be made to the Planning Commission. And we may not have the visible population, but of the Upcountry area, I think we have the largest concentrated population. We have the most Water Department users, we have the most hook-ups. More than Kula, more than Makawao, more than Pukalani. So, there's a lot of people hidden there in the Haiku-Paia area. And I'm just looking at a Planning Commission agenda, and I'm sorry, it says public testimony will be taken when each agenda item is discussed. It does not say you can testify at the beginning of the meeting if you want or later if you want. And whether it's a contested case or not, that's just how the Commission is treating it. So, it really is a burden. I have waited all day for things that weren't contested cases, and I just, you know, had to sit it out and hope it got heard. So, it would be better for things that are important to our community to have this nighttime option however we can achieve it. So, thanks to everyone for moving forward and finding solutions.

CHAIR PALTIN: Thank you, Ms. de Naie. And to Ms. McLean's point, I just wanted to point out under PSLU-43, correspondence from Councilmember Molina, dated January 7, 2020, is her correspondence and input on the bill that...or the resolution correspondence that he had sent to the Planning Department. So, Members --

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: --I like the...yes, Member King?

COUNCILMEMBER KING: Yeah, thank you. I just wanted to make a comment and thank everybody for their input. I had thought that this...that our bill for South Maui had gone to Planning, but I checked with OCS and I guess it didn't go to Planning. So, I would love to get...I don't...is that letter from Ms. McLean, is that on Granicus?

CHAIR PALTIN: Yes, it's under PSLU-43, correspondence from Councilmember Molina, dated January 7, 2020.

COUNCILMEMBER KING: Okay. Because I think it's all pertinent too, but I do agree that we need one bill and it should be something that could flow into West Maui and whatever other communities. But my thought at the beginning of actually proposing this, it was sort of on the heels of Member Hokama proposing a water, another water board or commission or committee for Lanai which he added I think it was \$15,000 for support

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

from the Department. So, I think if we can do...if we can get from Planning maybe a cost estimate of what extra you might need in the budget to support, you know, going forward with the two committees. And we know that it's a part-time thing, it's, you know, once a month at most, maybe it's as needed. I also think that we need to not lock ourselves into nighttime only, because there may be times when it's more appropriate to meet on a Saturday morning or middle of the day or something depending on what we're doing. Just like the Council doesn't lock ourselves into having to meet at 9:00 a.m. or 1:30. We want to encourage the most appropriate and accessible, But I think the list of, the list that Ms. McLean gave about the reasons why we might want this, it's all of the above. And especially I wanted to point out if you've ever gotten a parking ticket for sitting at a Planning Commission meeting, the places that we've been meeting in...the place that we've been meeting in South Maui we do have a venue, we do have a regular meeting, monthly meeting. We have free parking and so we don't have any of those issues that we have over here. So, the...geographically it's important, but even more than that it's more important to be accessible where people can say oh yeah, there's this going on. The last thing I wanted to say is that we had, you know, when we had Mr. Spence come down and say it adds more time, well, without this Kihei advisory or South Maui Advisory Committee, we've had projects in our area, I mean the Wailea 670 it's been 26 years and they still haven't even broken ground because there's not an area for...there's not a venue for them to go to the community and say, you know, here's what we're trying to do, is this acceptable, and if not, work on it. I've been encouraging developers to do it since I got on the Council, and it will shave time off their...if they can go to the community and get some input and maybe change their plans a little bit, tweak their plans a little bit so it meets what the community needs, it's going to shave years of community protest off their development time. And so, I think that's what we saw with Doug Bigley with his affordable rentals. And, you know, he went...he did a lot of work in the community and he saved himself the time it would have taken to fight the community. So, that's the main purpose of it is to get the communities working with the developers instead of just coming after the fact and saying why something's not good.

CHAIR PALTIN: Thank you.

COUNCILMEMBER KING: So, I want to say that it's been successful so far in South Maui and I really appreciate everybody that has put their time into it.

CHAIR PALTIN: Thank you. I just wanted to go over the highlighted portions and kind of explain my rationales. It's three, four, and five...or three and four highlighted is kind of based a little bit on how the CPAC members are chosen, yeah. So, there's a portion appointed by the Mayors and a larger portion appointed by the Council by resolution. We just wanted to make sure everything is fair and balanced regardless of who represented the district and whatnot. And the vacancy parts a, b, and c under number four was based on a vacancy that we had in the West Maui CPAC where we knew for a long time that there was a vacancy, but we were unable to fill it or even begin to start the discussion until there was a written letter. And so, that's the reason for a, 4(a). On the second page, we highlighted this, I believe this is from

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

Councilmember King's version and we just wanted to clarify with Deputy Corporation Counsel if it is possible to, I don't want to use the word cherry-pick, but pick sections of the Charter to follow and not follow other sections. So, that was, you know, something we just wanted to clarify about how that was done. And the final one, I know some folks talked about 120 days or 90 days, we just put 60 days in. The reason behind that was, you know, we don't want to hold up the process any longer. And we figure if the Planning Commission has 120 days, we can't take 90 or that much days from them to get it through so we just split the difference, 60 days for the advisory committee, 60 days for the Planning Commission. But, you know, it's just a starting point for discussion. So, those were the areas highlighted. I did add on Page 3, B and C, and just wanted to bring your attention to that. I don't know if we can get that passed but I really like that language. And so, I think from here, I really like the idea that Mr. Shapiro had about a TIG. I don't know that it needs to be a formal TIG. I mean now that Haiku and Kihei, or South Maui advisory committees has this streamlined squished-together version, maybe you can take it back to your respective entities and then give us all your feedback. We can combine it into one bill. Also, based on Director McLean's feedback of the intent. And then we can reintroduce it as a single item and then get it off to the Planning Commission for comment if that's an acceptable way forward for the Members and the resource people.

MS. de NAIE: We have a board meeting on the 16th and I think Kihei has one coming up too.

CHAIR PALTIN: So, maybe you guys can be our informal TIG and come back to us with your recommendations based on Director McLean's comments and this draft as a sort of starting point.

MR. SHAPIRO: My only thought would be that if we're going back to our respective advisory committees, we may have differing, you know, we might not be agreeing because we're in separate rooms so to speak. So, it'd be nice if everybody is kind of talking. It might be a good starting point but at some point to all come together and kind of discuss one formal draft bill.

CHAIR PALTIN: True. And we could do that or you guys could do that. There's nothing preventing South Maui and Paia from coming together in Central Maui and hashing it out and coming back to us.

MS. de NAIE: Yeah, we'd have to invite the Paia folks to participate as well because we are two very busy communities that are, you know, have their own sets of people.

CHAIR PALTIN: Yeah, yeah.

MS. de NAIE: And we do have spaces to meet, we have two community centers, we have churches, we have Haiku School, we have Paia School. We generally do have places where these, a committee could meet, you know, a, what you call, an advisory committee could meet. We have the Heritage Center on Baldwin, there's a number of places available.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Yeah, so I would love to see the communities weigh in separately and then together and then get back to us, and then we'll send it off to the Planning Commission and see if there's monies available in budget as Ms. McLean did mention that there will be financial requirements if we are to move forward. How does that sound to the Members?

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Yeah, we were just talking earlier about probably needing to do this in a format of like a talk story first, because if we're not making decisions, it's a lot of expense to have a formalized committee meeting and then we have to have *Akaku*, and OCS people on overtime. So, if we can work it out with our respective communities to maybe figure out what we want and then try to figure out coming together or having a few people from each community sit down and hash out the, what we want to see in the bill. And then we can bring it back to an actual Committee meeting. If we can do that in the next couple months and get that done before budget, that would be great.

CHAIR PALTIN: Thank you. Yes, that's what I was envisioning. And just mentioning we're five minutes over but I feel that we're real close to wrapping up. And this is the most I've ever done, four items in one Committee so just . . .*(pats back)*. . . Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. A big pat on the back. Congratulations. This is very productive. So, I just have a quick question --

CHAIR PALTIN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --before everyone goes and gets feedback. I wanted clarification on Page 3 on the top. The existing A and the proposed B, would these seats...did you envision that the person who would satisfy both A and B here would be separate people?

CHAIR PALTIN: Uh-huh.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, if...I'm not sure if it explicitly says that. So, maybe if the intention is clarified now that, you know, one seat would satisfy A and a separate seat would satisfy B is the intention although the language isn't --

CHAIR PALTIN: Isn't clear.

COUNCILMEMBER RAWLINS-FERNANDEZ: --yeah, that clear on that intention there. And then that way it's not A and B together in one seat 'cause I could see how someone would try to --

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CHAIR PALTIN: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: --say that. Yeah.

CHAIR PALTIN: Maybe I can get --

COUNCILMEMBER RAWLINS-FERNANDEZ: Thanks, Chair.

CHAIR PALTIN: --Staff to make that revision and then we'll send out a revised --

COUNCILMEMBER RAWLINS-FERNANDEZ: Perfect.

CHAIR PALTIN: --copy to everyone before your community meetings.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. And I'll try not to keep your meeting much longer but just some comments in response to Director McLean who brought up some points which were valid. The intent for these advisory committees is not to have them meet as frequently like a Planning Commission where they meet twice a month. And that would make it difficult for a lot of people, but more meet on an as-needed basis, like when I worked in the Mayor's Office I oversaw boards and commissions and I recall the Hana Advisory Committee they didn't meet as frequently as our, typically as our other boards and commissions. There was no rule set in stone that they had to meet once a month. So, that's how I envision this, these advisory committees. I think what catches people's attention the most is when there's any proposal for a large-scale housing development or commercial development. That's where I think the community likes to give their input and those, especially those who cannot come out to the Planning Commissions or to the Council meetings. And also I would like maybe under your signature as the Committee Chair, from the last five years, the frequency and amounts of meetings Hana Advisory has met because I know that's been an issue with cost. So, let's see how many times they meet. And I think, you know, in talking to my colleague Mr. Sinenci, they meet anywhere...

CHAIR PALTIN: Mr. Spence gave us the last ten years in his handout.

COUNCILMEMBER MOLINA: Is that in a handout?

CHAIR PALTIN: I think when...he did your...he did my homework for you.

COUNCILMEMBER MOLINA: Oh, okay. Okay.

CHAIR PALTIN: It's the handout he gave during testimony is the Hana Advisory Committee over the last ten years I believe.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBER MOLINA: Frequency of meetings that they've had?

CHAIR PALTIN: Yeah.

COUNCILMEMBER MOLINA: Yeah. Okay. Okay, well since we have it already, that's good. But again, my point is we don't have to put anything set in stone that they have to meet once a month. So, just meet on as an as-needed basis. And again, it's just a stepping stone, recommendations from the community that will eventually go on to the Planning Commission. So, that's my spiel on that. And I like Mr. Shapiro's suggestion too, where we may insert language such as if you look at Section D, number two where each advisory will review. Now, rather than for some of the things like bed and breakfast permits, maybe insert language that says may. So, I know Mr. Sinenci told me that Hana Advisory they do consider I guess proposals for bed and breakfast permits. But if...depending on the advisory committee, if they feel it's more necessary to hear the big topics versus, you know, topics that are...not to say that they're any less important. But I'm open to maybe inserting language like "may" for some of these other --

CHAIR PALTIN: Yeah.

COUNCILMEMBER MOLINA: --topics, so.

CHAIR PALTIN: And in the future I'm looking to introduce legislation to limit as we did for Paia in the Paia site visit meeting, to also limit South Maui and West Maui to the existing short-term rentals because of the Minatoya codification that there's way more than 88 or 100 and something, you know, so that's also something my Committee is working on. So, maybe then they won't have to do short-term rentals as much. Member...

COUNCILMEMBER MOLINA: Thank you.

CHAIR PALTIN: Are you finished? Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you for doing all this work. I wondered if you could send us the...it's not in Granicus your document you sent out so can you send us all a copy of it?

CHAIR PALTIN: Yeah. We'll make the revision from Member Rawlins-Fernandez and then we had one other revision that we needed to make. We noticed that we need to renumber, put Hana Advisory Committee as 131, Kihei as 132, and Paia as 133, because, you know, for form and consistency. So, we'll make those revisions and then we'll send out the starting point draft to everyone. And if there's no further questions, shall we file these items? Defer? Okay. If there's no objection, I'd like to defer PSLU-43 and 44.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR PALTIN: And, Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, real quick. So, in the beginning when you opened these items for discussion you said that you wanted to combine them. Is the intention to keep them separate as PSLU-44 and 43 or did you want to combine them?

CHAIR PALTIN: I did want to combine them, that's why I wasn't sure if I should file or defer.

COUNCILMEMBER KING: We can defer. Let's just defer for now and we can check with OCS.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo.

CHAIR PALTIN: Yeah. So, eventually we'll be combining it into one single item but for now we'll defer the item.

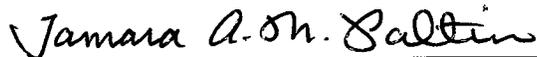
COUNCILMEMBER RAWLINS-FERNANDEZ: No objection.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: This concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, Members. The time is now 12:11 and this meeting is adjourned. . . .(gavel). . .

ADJOURN: 12:11 a.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:200108:ds

Transcribed by: Daniel Schoenbeck

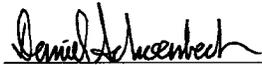
PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 8, 2020

CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 24th day of January, 2020, in Kula, Hawaii



Daniel Schoenbeck