

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

MINUTES

February 5, 2020

Council Chamber, 8th Floor

CONVENE: 9:01 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly Takaya King
Councilmember Alice L. Lee (out 12:20 p.m.)
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez (out 11:55 a.m.)
Councilmember Yuki Lei K. Sugimura (in 9:21 a.m.)

STAFF: 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)

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele McLean, Director, Department of Planning
Jordan Hart, Deputy Director, Department of Planning
Jordan Molina, Deputy Director, Department of Public Works
Eva Blumenstein, Planning Program Manager, Department of Water Supply

Seated in the gallery:

Paul Fasi, Planner, Department of Planning

OTHERS: Mike Moran, President, Kihei Community Association (All items)
Scott Shapiro (PSLU-44)
Albert Perez, Executive Director, Maui Tomorrow Foundation (PSLU-41)
Lucienne De Naie, Conservation Chair, Sierra Club Maui, and President, Haiku Community Association (All items)
Lynn Britton, President, Maalaea Village Association (PSLU-41)
Kaniloa Kamaunu (PSLU-16)
Joseph Bertram III (PSLU-44)
Clare Apana (PSLU-41)

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

February 5, 2020

Mark Spencer
Vince Bagoyo, President, V. Bagoyo Development Group, LLC
Stacy Otomo, President, Otomo Engineering Inc.
(2) additional attendees

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

CHAIR PALTIN: . . . *(gavel)*. . . Aloha kakahiaka. The time is 9:01 on February 5th, Wednesday. Will the Planning and Sustainable Land Use Committee please come to order. And at this time, I'd like to ask everyone in the gallery and Members to silence their cell phones or any other noise-making devices. My name is Tamara Paltin, and I'm the Chair of the Planning and Sustainable Land Use Committee. I'd like to introduce my Vice-Chair, Member Shane Sinenci.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. We have Member Molina, who's coming. We have Member King.

COUNCILMEMBER KING: Good morning, Chair. I just want...I just found out yesterday that my predecessor, former Councilmember Wayne Nishiki is in the hospital, so I want to send warmest wishes to him. I know we all wish him well.

CHAIR PALTIN: Oh, I thought he just came back from Oahu. Yeah.

COUNCILMEMBER KING: I just heard...okay, I just heard it late yesterday, so, but he's, yeah, he's under the weather, so I wanted to wish him well.

CHAIR PALTIN: Yeah, he's on the mend though. He's getting better.

COUNCILMEMBER KING: He's been on my mind a lot because he was such a force for South Maui.

CHAIR PALTIN: Yeah. He was in the hospital in ICU, but he's getting better, so that's the good news.

COUNCILMEMBER KING: That's great.

CHAIR PALTIN: And I'd also at this time like to recognize Member Molina.

COUNCILMEMBER MOLINA: Good morning, Madam Chair.

CHAIR PALTIN: Good morning. And Council Vice-Chair Rawlins-Fernandez.

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

February 5, 2020

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair. And yes, it is great news to have such a force and community advocate back on Maui with us.

CHAIR PALTIN: Aloha kakahiaka. Yeah, so stoked and sending more prayers for former Councilmember Nishiki. And we also have Councilmember Hokama is not a voting member but welcome to join us at any time. We have Council Chair Lee.

COUNCILMEMBER LEE: Good morning, Madam Chair. Bom dia from Brazil or someplace in the world.

CHAIR PALTIN: Good morning and bom dia from this place in the world.

COUNCILMEMBER LEE: Okay, very good.

CHAIR PALTIN: And we have Councilmember Sugimura, who's running a little bit late and Council Pro Tempore Kama who's welcome to join us at any time but is not a voting member of this Committee. We also have with us today Deputy Corporation Counsel, Michael Hopper.

MR. HOPPER: Good morning, Chair.

CHAIR PALTIN: Good morning. And Deputy Director Jordan Hart.

MR. HART: Good morning, Chair.

CHAIR PALTIN: Good morning. And in the audience today we have Planner Paul Fasi, and Department of Water Supply Program Planning Manager, Eva Blumenstein. Our Committee Staff today we have Committee Secretary, Clarita Balala.

MS. BALALA: Good morning.

CHAIR PALTIN: Good morning. And Legislative Analyst, Ana Lillis.

MS. LILLIS: Good morning.

CHAIR PALTIN: Good morning. Our District Staff in Molokai is Zhantell Lindo, Lanai is Denise Fernandez, and Hana Office is Mavis Oliveira-Medeiros. Good morning to you, ladies. For our agenda item today, we have PSLU-41, Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision. PSLU...which was recommitted, it was at the Council but it got recommitted due to some questions. PSLU-16, Amending the Comprehensive Zoning Ordinance Relating to Resource Extraction or Processing. And PSLU-44, Advisory Committees to the Maui Planning Commission. Testimony, 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 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 and, so the green light will be on for your

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

testimony, yellow light when you have 30 seconds remaining, and at the red light please wrap it up. When testifying, please state your name and the name of any organization you may be representing. If you're a paid lobbyist, please inform the Committee. And we have established a connection to the Council District Offices. From what I've heard so far, there is no testifiers waiting at the Lanai, Molokai, and Hana Office, and we'll check back in with them before we close public testimony. Our first testifier in the Chamber today is Mike Moran and he'll be testifying on all three items on behalf of the Kihei Community Association. He's the president of that organization. Good morning, Mr. Moran. Thank you for being here today.

. . . BEGIN PUBLIC TESTIMONY. . .

MR. MORAN: Thank you very much, Chair. And aloha to you and to the Committee. As you said, Mike Moran for the Kihei Community Association. Will be on all three items but very briefly on the first one, which is 16 and we realize you're not taking any, not proposing any action on it today, but we certainly support the intent of where this is going. So, moving on to 44. If there were an equitable way to keep this parcel as open undeveloped land in perpetuity, would anyone in the Chamber object to doing so? Anyone on the island? We do not expect so, but that term equitable and some synonyms equitable are just, impartial, even-handed, fair-minded, unbiased, unprejudiced, and plain old fair. The land was purchased by the Spencer family long ago and KCA has had numerous conversations with the family and their reps and other associations over almost ten years on a variety of proposed developments at this location. The issue remains the location and most important voice is the opinion that there are too many reasons simply not to build there but then we get back to equitable. How do we make it equitable for the Spencer's? Back in meetings in 2012 and 2014, it was then brother Doug Spencer with ever present Vince Bagoyo who met with us at the latter meeting when the suggestion was considered if a non-profit land trust could acquire the land to keep it open, Doug said he would be fine with that, so long as his family could get fair compensation. Now, it's 2020 and we see a new attempt to accomplish this as part of the Pohakea Watershed plan. KCA suggests the Committee and the Council look closely at that possibility before voting in favor of a community park [sic] amendment and change of zoning to encourage development when almost no one thinks it's a good location. Mahalo.

CHAIR PALTIN: Thank you. And just for the record, that was PSLU-41. Members, any questions of the testifier on that item?

MR. MORAN: Thank you.

CHAIR PALTIN: Seeing none, please continue with PSLU-44 testimony.

MR. MORAN: Thank you. Can I attribute old age to getting numbers confused? After many years of discussion of a district, a localized advisory group, groups in a variety of plans and proposals, KCA finally saw a proposal for action offered by the, by our Councilmember Kelly King. She asked if KCA would be in support of something of this

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

February 5, 2020

nature in 2018. It took several months before we began to...before we began an unofficial activity. It was never proposed to commence as an official government agency, simply a voluntary action by community members from varied locations within a district gathering at varied venues for discussion under the guidance of our elected rep. As we organized, it became a scheduled monthly meeting to decide on leadership, responsibilities, activities, and more to demonstrate a willingness and ability to ultimately be a district committee to advise the Maui Planning Commission. The group labeled South Maui Advisory Committee currently has an elected Chair and Vice-Chair, has had several presentations by developers, a presentation by the current Maui Planning Commission Chair as well as some organizational meetings. Each meeting was at 6:00 p.m. within our community and we have been meeting since last April and believe we are the only established experienced group of this nature on Maui. KCA has testified at all the meetings of the Council in this Committee since the fall of 2019. We just ask you to consider how long this community under the guidance of our district member has worked on this issue and we understand that it's become way more complex now. We were hoping to start this year, the beginning of this year, not gonna happen now, but we just ask for some consideration that the community and our Councilmember have worked on this for some time. Mahalo.

CHAIR PALTIN: Thank you, Mr. Moran. Members, any questions for the testifier? I just have one. Are you going to be able to stay around for the discussion of this item?

MR. MORAN: I will but I think we have...yeah, we do have the vice... 'cause I'm not an officer of this group. I'm speaking for the KCA, I'm an officer for that. But for this volunteer group, we do have probably the most knowledgeable member of the volunteer group, the Vice-Chair Shane Sinenci [sic]. He'll probably be much better able to speak overall.

CHAIR PALTIN: Mr. Shapiro?

MR. MORAN: Yes, Mr. Shapiro.

CHAIR PALTIN: Okay. Thank you.

MR. MORAN: Thank you very much.

CHAIR PALTIN: Thank you.

MR. MORAN: Aloha.

CHAIR PALTIN: Next up we have Mr. Scott Shapiro testifying for himself as an individual on PSLU-44.

MR. SHAPIRO: Good morning. Thanks, Mike, for saying that I could probably stay. I think I'll volunteer myself, yeah, I can stay if you need to. But it's actually pretty simple. So on 44, we're down to kind of two, I hope, final drafts right now. Chair Member King and Chair Member Molina's versions and as far as the, as far as I'm concerned and as the South Maui Advisory Committee, I believe, we went over all the different changes and

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

February 5, 2020

we're down to just a few differences, and I'll talk about if I can the South Maui Advisory Committee differences to Councilmember Molina's changes. And if you, I don't know if you have the versions in front of you right now, the drafts, but basically an A for the first section, A(4), Councilmember Molina talks about the two alternate members are appointed. South Maui thinks that we should say two alternate members may be appointed. We want to keep alternates as a choice, not as a definite thing, just in case. So, we'd like that version of may be appointed to stay. In Section B(4), Councilmember Molina adds language that no more than three members on a committee from the same town because we addressed it a little bit differently. We wanted to kind of keep it a little bit more flexible again there depending on every community is a little bit different. So in a different section, we added the term geography to the makeup of the board that I think it's on Page 3, Section 2.28.070(C). In making appointments to each advisory committee the Council and the Mayor should strive for diversity, balance of age, gender, background, profession, heritage, experience, location within the district, and ideology. And I think we put, I thought we had put in there geography as a, to keep diversity on the board. Wow, I guess I will have to stay because there's a couple more things. We all agree on 90 days, not 60 days to make recommendations. We all agree that members should meet nights and weekends. We all support that. And we also added...I'm stopping.

CHAIR PALTIN: Please conclude in a --

MR. SHAPIRO: Okay.

CHAIR PALTIN: --a few sentences.

MR. SHAPIRO: 'Cause you might not need me later. In Section, again, A(2), if we go to the very first page, we said each advisory committee consists of a minimum of seven members, again, looking at the diversity of districts, it may be down the road that more than seven members are important, nine members, or eleven members, but we also recognize that it's gotta be an odd number. So, we're just keeping as a minimum of seven members, not that it is consisting of seven members. And the last thing, I believe, is in A(3). Sorry, this'll be the last thing. Because the above changed to at least seven members, we're saying that two members be appointed by the Mayor and the remaining by district Councilmember. So, that's the, that's our change there.

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

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Thank you. Thanks for being here, Scott. And I just wanted to verify with you that the changes you went over were the document that I sent you that you sent changes back on, so I just wanted to let the Councilmembers know that we will be handing this out when we get to that. And so, if you haven't gotten all the complete notes, we have them in --

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

February 5, 2020

MR. SHAPIRO: Yeah.

COUNCILMEMBER KING: --a document to hand out later.

MR. SHAPIRO: There is one last thing I'd like to add that hasn't got, if I could just real quickly and it can be put anywhere, that the recommendations have to be read in public by the Committee at some point, whether it's by the, if it goes directly to the Council or to the Planning Commission either when the item is heard or before the item or something. I mean, without...and I don't know what's done now, but I think it's important to hear those recommendations. I'd also like if I could talk on 41 real quick.

CHAIR PALTIN: Sure. You have three minutes for 41.

MR. SHAPIRO: I don't need three minutes. I...in looking at the community plan, Kihei-Makena Community Plan, this district was supposed to have, I think, 1,200 homes in 1998. That was the plan. And we're down to, I believe, 21 or 25 homes. I'm fine with that. I mean, it's gonna basically remain open space, you know. It's gonna have 21 or 25 large parcels if that's the effect to have it as open space. The County doesn't have to buy it and I would support it if it's, if that's, you know, in that kind of a simple look at it. Thank you.

CHAIR PALTIN: Thank you, Mr. Shapiro. Members, questions for Mr. Shapiro? Seeing none, thank you for your testimony and all your hard work on this. Our final testifier signed up at this time is Mr. Albert Perez testifying on PSLU-41 on behalf of the Maui Tomorrow Foundation. He's a registered lobbyist for the organization and his title is Executive Director.

MR. PEREZ: Good morning, Chair. Good morning, Committee Members.

CHAIR PALTIN: Good morning.

MR. PEREZ: Albert Perez, Maui Tomorrow Foundation, testifying on PSLU-41, the Community Plan Amendment and Change in Zoning for Maalaea Ag Subdivision. We are not in support at this time. You know, for many years, Maui Tomorrow Foundation and our allies have expressed concerns about development on this 257 acres. Due to the scenic qualities, the proximity to frequent traffic jams, proximity to Maalaea Bay, and also cultural resources, and frequent wildfires on the site. Now, I have a great picture of what happened after the last fire. My computer messed up last night, so I don't have it for you. But it's just like when you go to the Big Island and there's fresh lava, there's no plants anywhere and you can see everything. It was pretty devastating and then if you look up there there's about 20 gulches that dissect the mountain above this parcel, and the soil is not that securely held partly due to those frequent wildfires. So, during rainstorms, any future farm dwellings, the homeowners on that land are gonna have to deal with not only runoff but sedimentation. And during the September 2016 storm, the few detention basins along the highway filled up almost immediately and the mud flowed over the highway and into the ocean, it was visible for about a mile offshore, so

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

February 5, 2020

that was pretty devastating. Also, every afternoon, almost every afternoon, it's extremely windy and is no coincidence that the wind farms are located up above it. So, when the wind is blowing 40 or 50 miles an hour, all it takes is a spark as we found out, and it gets out of control. Fire breaks are ineffective at stopping windblown embers from finding weak spots on homes where fires can start. This area was designated in the 2006 County of Maui Scenic and Historic Resources Inventory Report, and they said that they qualify the views from the highway across the project as high quality and it's the gateway to West Maui and it's a key part of what visitors come here to see. The Land Use Commission said similar things in 1992, uninterrupted views of the West Maui Mountains and establishing the open space character of the region. So we are very supportive of efforts to acquire this for public ownership and managing it consistent with the Pohakea Watershed plan and other public purposes and we would support any efforts by the Hawaiian Islands Land Trust to possibly match County open space funds for site purchase, but we do not support putting anybody in harm's way. Thank you.

CHAIR PALTIN: Thank you, Mr. Perez. Questions for the testifier? I had a question.

MR. PEREZ: Yes?

CHAIR PALTIN: Did you reach out to Hawaiian Islands Land Trust and have any dialogue with them?

MR. PEREZ: We talk with them frequently.

CHAIR PALTIN: On this?

MR. PEREZ: I haven't personally, but I believe that members of my organization have.

CHAIR PALTIN: Okay, thank you.

MR. PEREZ: I can check on that and get back to you.

CHAIR PALTIN: Okay.

MR. PEREZ: Thank you.

CHAIR PALTIN: Next up we have Ms. Lucienne de Naie, to be followed by Lynn Britton. Ms. de Naie is testifying on all three items on behalf of the Sierra Club Maui and Haiku Community Association and her title is Sierra Club Conservation Chair and Haiku Community Association President.

MS. DE NAIE: Thank you. Good morning, Committee meetings...Committee Members and Chair Paltin. The first item I'd like to address is with my title of Sierra Club Conservation Chair and that is PSLU-41, the Maalaea Agricultural Subdivision. Well, of course, everyone would think that going from 1,100 houses that you could've built because of someone who made a very, very bad decision back in 1998 because they were told that if they did, a sewage treatment plant would be built for Maalaea...the house of lies here.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

Of course, that's not desirable, of course it seems much better to have 20-some lots and then we just have "free open space" but this is a polite fiction. The problems on this land are not going to be managed by 20-some household owners. I live in an ag subdivision of about 18 lots and we're always arguing over drainage. It's always someone else's problem. They built a berm. They put the drainage on our land. They put the drainage on the wrong part of the road, now it goes down our driveway. Homeowners associations are notorious for not working these things out, and they're dealing with a place that was described in public documents as the most distinct visual feature is a steep transition from the valley floor to the mountain slope. This is at the base of mountain slopes. It is not up to these 20 people to deal with the runoff from the State land. There needs to be an overall management strategy. You guys have a nice condition in there that somehow they'll contribute a bit to this and that and the Pohakea Watershed plan will magically happen because these people will support it. None of that may ever happen. The lots may not sell for years, you may have no homeowners association. We saw this in Olowalu. Their homeowners association for 14 ag lots were supposed to solve all kinds of problems. About six of the lots got sold, some of the people...eventually the other lots got sold, some people never build, they just bought it as an investment, they were disinterested, and all the things that were promised that were supposed to mitigate runoff there never happened. So, I'm just saying realistically you are saying let's give the green light to an area that has no reliable water supply, the wells are very salty, and the County wouldn't accept water from wells like that, but you're asking these 20 homeowners to accept water that's above 150 parts per milliliter. The archaeological report is 15 years old. They did one trench every 20 acres. Gosh, I wonder why they never found anything there. This is just a lot of surprises waiting to happen if it's developed. It should be purchased and managed because it's an important public resource that we really need to get right at a place to one of our largest commercial ventures, Maalaea Bay and Maalaea Harbor. Thanks for your consideration of those. I know this isn't the popular way to look at things, but it's real, it's reality check. I'd like to testify as well on the sand mining ordinance. Just...

CHAIR PALTIN: Before you start on that, Members, any questions on Ms. de Naie's first item? Seeing none, please continue on to your next item.

MS. DE NAIE: Thank you. Just...yes, we're glad the report finally got done. It kind of says what some other reports said a while back that, you know, the amount of sand, it's a little hard to know how much sand there is, but we're kind of burning through it. And so, I do support that we got this done and I know others do as well, but now we need the policies to go along with it. We just had to report a bulldozed sand dune in Spreckelsville with no archaeological monitoring or anything the other day and the County just didn't catch it, you know. It wasn't mined, but it was just no one thinks these dunes are worthy of any consideration. Our Planning Director said, well, it's not a coastal dune, you know, 'cause it was 300 feet from the beach instead of 100 feet from the beach. And thankfully Councilmember Molina heard our pleas and got State Historic involved and Public Works involved, but it was too late, it was already bulldozed. So, anyway, sand is something that we're gonna need to manage very well, so I'm glad the study got done. That's my testimony on that.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

CHAIR PALTIN: Members, any questions on that testimony for that item? I just wanted to clarify that the quantification study, you're aware is just based on quantification and it has no cultural overlay.

MS. DE NAIE: Right. That's true.

CHAIR PALTIN: And so, you know, --

MS. DE NAIE: Yeah.

CHAIR PALTIN: --that might be another thing to overlay onto this study depending on how the discussion goes or the presentation of what was studied is.

MS. DE NAIE: Thank you for that consideration. It is true. Our community plans, especially the Wailuku-Kahului Community Plan, where lots of sand dunes are located give strong support to that being our viewpoint. They --

CHAIR PALTIN: Yeah.

MS. DE NAIE: --say these are wahi panas, these are important cultural places. But our policies don't always follow suit.

CHAIR PALTIN: Yeah, so this study was kind of narrow and specific --

MS. DE NAIE: Right.

CHAIR PALTIN: --while the issue is much broader than what this study covers, and I just, for me, I just wanted to get it out there since it was done and it was reported, kind of, at the end of a term and I didn't want it to get lost in the shuffle of things.

MS. DE NAIE: Yeah.

CHAIR PALTIN: Although, it's kind of --

MS. DE NAIE: Thank you.

CHAIR PALTIN: --in some ways been delayed over a year or two. Yeah, it's chance. If you would conclude on your last item.

MS. DE NAIE: Yes. The last item is on the Advisory Committees to the Maui Planning Commission and I am authorized to represent the Haiku Community Association there. Well, we're certainly heading in the right direction here and it would be good to move forward, look at the suggested changes, which have come from community input, there's obviously a lot of nuances to this, but and it was considered at our Alliance of Community Association meetings, which some of you attended just last Monday. But the...I think the bottom line is it's good to try new things, if they don't suit the purpose that they were intended for, they can be adjusted, or they can be abandoned, but just

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

to not try because it hasn't been done probably isn't the best course of action right now. I know for the Haiku community when this was discussed at our meeting it was a very, very popular concept. We had, I don't know, 60, 70 people in the room and two people came up to me and said, I'd like to volunteer for this, who do I talk to? So, there is interest in our community. These are people I've never met before, so it's not the usual suspects, it's people who are rank-and-file citizens in the community that just would love to have a say during a time that is accessible to their fellow citizens. They really like that concept of having things more locally involved. And I'm happy to say I think that there's some good dialogue with the Planning Department as well. So, whatever is in your wisdom to move forward today, it would be good and we appreciate all the efforts that have been put into this by Councilmember King, Councilmember Molina, the Chair, and other members who, of course, don't have as much of a dog in the race because it's not about their communities but their care and concerns and ideas are appreciated. Thank you.

CHAIR PALTIN: Thank you, Ms. de Naie. Members, questions for the testifier? Seeing none...oh, Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. At our last meeting with this, when we took up this item, you asked each of the Councilmembers or community members to go back to their community associations, so I just wanted to confirm. I heard you say that—mahalo for your testimony, Ms. de Naie—I heard you confirm that you were authorized by the Haiku Community Association to speak on their behalf.

MS. DE NAIE: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, that means...or I...they looked through the bill?

MS. DE NAIE: We had a public meeting on the 22nd, yeah, so after between this meeting and your last Committee meeting and it was on the agenda. Councilmember Molina made a presentation, we had a brief discussion, and had questions, you know, we always, we have a lot of questions from the audience at our Haiku meetings. They're very kind of informal style and, you know, and people were excited by the concept, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, what I heard from your testimony is they support the bill, the concept in totality, but did they have any specific...

MS. DE NAIE: We submitted some very specific things --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

MS. DE NAIE: --at the last meeting, ordinance line by ordinance line that were a result of our extensive discussion at our executive board meeting, you know, we have a 11-person, whatever, you know, board for the HCA, and those were concepts that Councilmember Molina suggested incorporating many of them. They included things like considering the idea of having alternates, so that you get around the problem of

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

February 5, 2020

quorum and have it so that those alternates would actually attend every meeting. It's not like, oh, you just sit at home and then all of a sudden you're needed so someone calls you up and you come and you haven't heard anything in the past, no. The alternates would be free...would actually be part of their description to attend every meeting. If they were needed as a voting member, they could vote. If not, they could participate in the discussion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

MS. DE NAIE: So, that was one suggestion we had. We had several others --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MS. DE NAIE: --that I believe have been incorporated.

COUNCILMEMBER RAWLINS-FERNANDEZ: I see January 21st, that testimony --

MS. DE NAIE: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --with the input from the executive board on January 17, from January 17th meeting?

MS. DE NAIE: Right, exactly.

COUNCILMEMBER RAWLINS-FERNANDEZ: Did the...at the last community meeting, did, that you had, did they also get an opportunity to review some of this input from your January 17th executive board meeting?

MS. DE NAIE: Oh, we actually just verbally...we didn't have a slide or anything that...I had a slide prepared but it was too hard to read. It was too detailed, so --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. DE NAIE: --we had it in our...you know, we project slides as people talk, so instead myself and Councilmember Molina went over the provisions, the general idea, and then the provisions that had been brought up by the HCA, and just asked for questions from, you know, from the community. So, that's how that was handled. We didn't like vote on provision by provision at that community meeting to make it clear, no.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. DE NAIE: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. De Naie. Mahalo, Chair.

MS. DE NAIE: Thank you.

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

February 5, 2020

CHAIR PALTIN: Thank you. Member Molina, to be followed by Member Sugimura.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Lucienne, and thank you for your testimony. You hit on something really good that, you know, it's good to try new things. And you've been a part of the Haiku community for a long time and this, you know, our community as well as Councilmember King's community have some similarities, they're both shoreline communities and all the talk right now about shoreline erosion and climatology sort of ties in. From your experiences and I've noticed your meetings have been very well attended and there were some at that Alliance meeting saying that, oh, you know, that if we create this board people are not gonna attend, blah, blah, blah, but, you know, comparing one community to another is sometimes not the right thing.

MS. DE NAIE: They are all very different --

COUNCILMEMBER MOLINA: Yeah.

MS. DE NAIE: --and we need to honor that, --

COUNCILMEMBER MOLINA: Right.

MS. DE NAIE: --you know.

COUNCILMEMBER MOLINA: And from your observations over the years as part of this community, is this the most participation you've seen people want this feeling of more empowerment, a bigger say in what happens in their community?

MS. DE NAIE: We have heard this message for a while from HCA. In fact, going back in the records, John Bose, who was our president back in the '80s and served as, I believe, the Chair of the CAC for the community plan update in the '90s, suggested that really there maybe should be some review boards. See even in the '80s, I mean, people think, oh, the '80s is like, you know, Maui was like, you know, nothing compared to now. People thought Haiku was like kind of the center of a lot of development proposals, mostly ag land, and, you know, community just kind of never found out about it. And so, we had them trained in the '90s, they actually came to the community association, anyone having a large project, and I think it was the different kind of people you had like Chris Hart would always bring projects he represented to the community association. Then you get a different generation of developers and they just tell you to your face nothing requires us to meet with you and we're just not going to, you know. So, this has been on the discussion boards for 30-plus years and that's why I think it comes up, you know. We don't write the questions at our election forum. They come directly from the audience and we just read them, as you noticed, they, we have a little basket that goes around, nothing's prewritten. So, we had several questions about this and that's why it became a discussion item among the candidates after the forum and that's why some action, you know, moved forward.

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

February 5, 2020

COUNCILMEMBER MOLINA: Okay, great. Well, thank you for your insight on this and all your hard work in the community. Thank you, Madam Chair.

CHAIR PALTIN: Thank you. Member Sugimura, any clarifying questions?

COUNCILMEMBER SUGIMURA: Yeah, thank you. Good morning, Lucienne.

MS. DE NAIE: Good morning.

COUNCILMEMBER SUGIMURA: Good morning. I was just curious, I've been to your community association meetings and it's active, I mean, it's packed. So, how many members do you have?

MS. DE NAIE: Gee, paid members, that's a good question. I think paid members we maybe have about 80 people who've paid dues. We have far more members that come to our community meetings. You can be on our e-mail list. Our e-mail list has hundreds of people on it, but our paid membership, not everyone buys a membership. It is, I think, around 80 at this point.

COUNCILMEMBER SUGIMURA: Well done though. And your communication is good, so you get the community to come out and represent the people as well as to hear about projects, so appreciate...

MS. DE NAIE: Oh yeah, most of our meetings are about other things than development projects, you know, the new voting mechanism, we'll have the Census people there, we have roads people there. We're a forum for people to find out what's going on in our community.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much.

CHAIR PALTIN: Thank you. Next up we have Lynn Britton, to be followed by Kaniloa Kamaunu. And Ms. Britton is testifying on PSLU-41 on behalf of the Maalaea Village Association and her title is President.

MS. BRITTON: Good morning. Aloha. Thank you for continuing to look at this issue. It's not easy. It's certainly easier to look at 21 ag lots than it is to look at larger homes. I'm still questioning whether everybody...everybody keeps saying that 1,100 homes were allowed in the community plan project district. I'm still waiting for clarification on that because I was on the Council in '93 and '94 when we started working on the community plan. I don't remember actually 1,100 homes being part of the project district so. My understanding for the recommitting to the Committee today from the full Council was to resolve the water and drainage issues, so thank you, Chair and Members, for being willing to look at those issues again. And I look forward to hearing from the two departments that I think will be reporting today on water and drainage. As it has been mentioned, we are current...the community associations, we met last week, and Maalaea Village Association and Kihei Community Association and I think Haiku Community Association, we're all currently trying to develop enough community

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

support to request the Hawaiian Islands Land Trust to possibly work with the County on purchase, so we are in the process of doing that now. My understanding is the door has been opened and the first application, deadline for application for the Hawaiian Island Land Trust is February 17, so we are on a tight timeframe right now. So, if there's any interest on the part of this Committee or the Council or the Administration to possibly partner with the State on the Maalaea land purchase we need to get moving on that so just wanted to let you know. We do appreciate the Committee deliberations on the conditions, and on the conditions themselves I did have a suggestion on 13 and 14 if I could draw your attention to that. I did mention it to your Committee clerk the other day, 13 talks about water and then it goes on to talk about Pohakea. My suggestion is to break out the Pohakea Watershed from the water discussion, so it would be 13 would be water and then 14 would be a separate paragraph on Pohakea. Let's see what else. The other suggestion on conditions would be under 15, you talk about the 20.644-acre property. It has the Historic Preservation Division mentioned there stop work. Wouldn't that apply to the entire parcel? Shouldn't the entire parcel be subject to Historic Preservation review? So, that was a little confusing. Thank you so much for continuing to look at this issue. We appreciate it.

CHAIR PALTIN: Thank you. Thank you for your work on this issue. Members, questions for the testifier? Member King, followed by Member Sinenci.

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Lynn. I just want to clarify a statement you made about the working with HILT and their deadline. So, they have an actual annual deadline for applications?

MS. BRITTON: Yes, the...David Penn sent me information and also the application and according to the materials, the application materials were available January 24th and February 17th is the deadline to submit Form 5, so I do have all that application. He mailed it to me.

COUNCILMEMBER KING: Okay. And what is Form 5?

MS. BRITTON: Form 5 is Fiscal Year 2022 agency consultation for land acquisition. There is a form and a process.

COUNCILMEMBER KING: Okay. So, it's not necessarily saying that all your ducks in a row...

MS. BRITTON: No, no. That's just the application start date and then March 30th applicant receives Form 5 response, and then April 13th is the application deadline, the 21st is public meeting, and then April through June 2020 will be the field visits with the applicant, so that is the process.

COUNCILMEMBER KING: Okay.

MS. BRITTON: Thank you for asking.

COUNCILMEMBER KING: Thank you. Thank you, Chair.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

CHAIR PALTIN: Member Sinenci?

VICE-CHAIR SINENCI: My question was answered. Thank you, Chair.

CHAIR PALTIN: Thank you. Any other questions for the testifier? Seeing none, thank you for your testimony.

MS. BRITTON: Thank you.

CHAIR PALTIN: Next up we have Mr. Kaniloa Kamaunu testifying on agenda item PSLU-16 and that's the last...second to the last testifier we have in the gallery today. Mr. Kamaunu will be followed by Joseph Bertram III, testifying on PSLU-44.

MR. KAMAUNU: Aloha mai kakou. Kaniloa Kamaunu. Aloha, good morning, Chair. Geez, how many years we've been doing this now? Must be almost 14 or 15 years now we still having this same conversation. And, you know, the conditions haven't changed. There's not a project that hasn't been done in the sand dunes that has not come up with iwi. You try name me one project that hasn't. In fact, the recent court case that we are, well, one of our members are in with Phase 6 of the Maui Lani. So, they started off, when you look at their thing, they started off with finding four, that's what the archaeological survey came out with. Okay, after that they went from 4 to 74, within the recent years, 186. So, it was decided that they would do sonar testing, yeah, so they wouldn't have to dig anymore, which they did. They came out with 196 anomalies. So, the thing is they cannot determine whether or not it is iwi or not, but it's an anomaly, something that shouldn't be there, out of place. So, their solution was to go and dig it up anyway. That area was already a preservation site. It has a preservation site set apart over there. They actually were allowed to cut a road through that preservation site knowing that there were burials already preserved. They went and cut a utility road that they had no permit for. And today, you know, so you know it's a preservation site set apart. They found 186 with the digging that they already doing. They already showed that they have 196 more anomalies, which are more, which is possibly, very highly possible that it's iwi. So and, you know, you go to Safeway. Safeway had tons of iwi. Get reports the workers there digging the side of the, digging deep into the ground and having po'os, the heads, hands, feet come out, yeah, constantly. Shipping 'em over to Oahu, one of the barges had the po'o roll out and it's still on the island of Oahu. They don't want to send it back even though they were asked to send it back to be put back. No, it's still there. So, we having these problems and we, you know, the thing is this is our history, you know, and our people there actually have a law and I keep telling everyone this. In the Kingdom, they were given a right, yeah, they were given a right to later, 1860, the law of the sepulture stating that you had to have authority to be able to touch them, move them, and those that didn't from the concept of the idea of going in there and moving them from the time it is done, all those people actually are responsible and by right, by the old law, they all supposed to be fined or jailed. And yet, today, we look at this, the same thing happening and America already knows that they don't, they never naturalized us, so they never naturalized us, 103-150, whereas, 29, says that we still sovereign. So, we still sovereign, our iwi kupuna still sovereign. They still sovereign,

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

February 5, 2020

that law of 1860 governs their sovereign right to stay there, but yet this continues to happen. And the last point, we just went to a contested case against somebody who was acting as a archaeologist here on Maui, Lisa Rotunno-Hazuka. And the thing is in that case for us to get a contested case from DLNR it was stated that we as kanakas still have property rights even though somebody else buys that and has that right they, we still have property right. This came from the Mauna Kea case. So, he cited that we have rights and that they had to give us a contested case hearing on the matter, but, you know, for me it's like ridiculous, they should be preserved and left alone. Mahalo.

CHAIR PALTIN: Thank you, Mr. Kamaunu. Vice-Chair Sinenci, you had a question?

VICE-CHAIR SINENCI: Thank you, Mr. Kamaunu, for being here. You mentioned about some of the iwi that was found in some of the sand on Oahu and being able to bring it back to Maui because it was from Maui. What were some of the concerns or why wouldn't they...the challenges of bringing that...

MR. KAMAUNU: Because according to them, they said they couldn't verify.

VICE-CHAIR SINENCI: That is was from Maui?

MR. KAMAUNU: Even though the barge came from Maui, they couldn't verify it, so they still have that iwi. Well, there's other areas that have iwi from us and still in that area and hasn't been returned. You know, I think Kauai is one of them. You know, so, because Maui has, you know, sourced out its sand for years and this is not, this is one case that actually came to the Burial Council several years ago, when Ke'eaumoku Kapu was actually the Chair. And so, that has never been resolved. There are iwi that SHPD has from Home Maid Bakery for almost 26 years. It hasn't been reinterred and still there's an argument of how they gonna do that. So, they're scattered all over and, you know, with the way that they treated the bones when they would send 'em to the, to be refined, a lot of the bones got crushed. So, there's bones all over, anybody who took sand it's like you trying to say, whoever took sand all the cement that's used especially in the older buildings get iwi inside. There's no way that people were monitoring saw, you know. It's still a concern.

VICE-CHAIR SINENCI: Thank you. Mahalo, Chair.

CHAIR PALTIN: Thank you. Members, further questions? Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Kamaunu. Mahalo for your testimony. The last time you came before us you had spoken about the sand being in the glass of water test, can you explain, like, why that --

MR. KAMAUNU: There was...

COUNCILMEMBER RAWLINS-FERNANDEZ: --information is important to this...

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

MR. KAMAUNU: This person did a video, his name is Paul Hanada, I believe from...anyway, he did a video and he showed why the sand to be used to replenish the beach from the... using the sand dune was not a good thing to do. What he does is he actually takes sand that he had from the dune and he basically put it in water and when it separates you see all the dirt because people don't realize that this sand is not the same grade of sand on the beach. They don't use beach sand to make cement because it's not conducive. Same thing for...that's why they use the sand inland. It is conducive for construction. It's a highly sought after sand because of its components, but those components put onto the beach, now those components get mixed up into the beach sand and it will end up when it separates, the particles will sit, you know, I mean, such as the heavier particles will sit on the reef. And you can already see that when a lot of the water comes down, like what happened with Iao several years ago when all that sediment came down and it blanketed the reefs, which happened with Iniki in Waihee. It's the same...that's the...you're talking about the same thing happening if you take the sand from the dunes and you use it on the beach, it's not conducive, it doesn't belong there, you know, so that's the findings. And it was, I believe, it was talked about when we were going through this when they came out with this discussion when back in the day for the study and it, they, it was already said the grades of sand are different and it's not conducive. And with the way things are going, you're not gonna keep the sand so, you know, I mean, so it doesn't make sense.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that explanation.

MR. KAMAUNU: You're welcome.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Thank you, Members. I just have one clarification. The law that you were referring to, was it the law of sepulture?

MR. KAMAUNU: Yes, sepulture law is, it's, it was given 1860 for this mere reason that basically they recognize...because, you know, in our culture for all us it's because they hala or they pass on, doesn't mean they don't live and doesn't demean that they are still people. And like I did a demonstration here, what people don't realize is that to make up a person you need all of this that . . . *(inaudible)*. . . the flesh, everything, all the blood, everything. So, what people don't realize they only look at finding the iwi, but they no talk about the ano, yeah, the ano of the person. When all this breaks down and it's an adage that they used in burials before in western terminology, ashes to ashes, dust to dust. You will return to what you were, so we're organic. So, nobody realize that in the sand is the rest of the person.

CHAIR PALTIN: And I think that, you know, majority of cultures do have something similar in the way we currently treat our burial grounds and whatnot, so it's not an issue of not recognizing it, it's more of an issue of equity that, you know, some burial grounds deserve memorialization and some are treated as construction resource. And I think, you know, that's something that the entire community needs to recognize that if we treat

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

February 5, 2020

one burial ground in a certain way, we need to respect all burial grounds in accordance with the cultures that they came from.

MR. KAMAUNU: And that's the argument we've been having for years and I think with what Councilman Sinenci has done with the archaeologists and the problem comes with the archaeologists who basically they don't look at the mo'olelos, the story, the oral history, and their thing is while there isn't a, you know, what was that, a headstone, there's no nothing to mark it, so it's not a real grave or it's not, you know, a burial area. And so, this is what we've come into. So, you know, we all try to find the parts but then it's, we get lost in all of this because we don't have supposedly a PhD or we don't have accolades after our names, so it's kind of hard.

CHAIR PALTIN: Thank you very much for your work to bring awareness that, you know, the different types of burials deserve the same type of respect.

MR. KAMAUNU: Yeah, everybody does.

CHAIR PALTIN: Thank you.

MR. KAMAUNU: Mahalo.

CHAIR PALTIN: Next up, our second to last testifier again is Joseph Bertram III testifying on behalf of himself on agenda item PSLU-44, to be followed by Clare Apana.

MR. BERTRAM: Good afternoon, I mean, good morning, folks. Yes, I've been a real champion of trying to get something done as far as in Hawaii being the only state in the union with no municipal governments. And it's what's our basic building block of democracy is people being able to experience being a city council, to be able to learn how to run your own government. The proposal before us doesn't quite do that. It just is an advisory committee to the Planning Commission with limited powers and/or limited scope of service. One of the things that I learned when I went to that meeting of community associations that was brought up earlier was that it's very tough to get a quorum of people who want to really show up for these advisory committees, who truly have no power and they really don't provide for any kind of feeling that you're doing something. So, what I recommend is that we just go right to, and this was brought up by the Chair of the Planning Commission, that we go do something if you want to call it a neighborhood board that would be something and that could be our, basically our community associations. We need to just empower them. We need to give them the power to do these things as part of their responsibilities, and we need to give them the power to be able to raise funds so that they can pay the folks to go on this, the neighborhood boards. On Oahu, they are paid. We need to get people to be able to show up and be paid for the work that they're gonna be doing and they could do all of it then. They need to be basically a city council and cover all the issues that would be part of, whether it's potholes or anything else and do those types of issues. So, I would recommend that they...you just redirect the direction of this wonderful idea of some kind of municipal or additional powers to us. That we really look at community

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

February 5, 2020

associations and making them the neighborhood boards or if you want to call 'em that. So, and that's what I recommend for this particular item.

CHAIR PALTIN: Thank you, Mr. Bertram. Members, questions for the testifier? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Bertram. Mahalo for your testimony. You said in your testimony that on Oahu the City and County of Honolulu neighborhood boards' board members are paid. Do you know where you can cite that? Do you know where to cite, you can cite that information that the board members are...

MR. BERTRAM: I looked it up on the internet.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I don't...okay, mahalo. Mahalo, Chair.

CHAIR PALTIN: Members, further questions for the testifier? Member King?

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Mr. Bertram. And I do appreciate your contributions to our community in the past for South Maui. The neighborhood boards that you were talking about doing, I mean, we don't have municipalities, so I'm assuming you're talking about the neighborhood boards. So, you would be in favor of... 'cause I think those are elected, correct?

MR. BERTRAM: Yes.

COUNCILMEMBER KING: So, you would be in favor of adding to the ballot the names for all of these neighborhood boards?

MR. BERTRAM: Absolutely.

COUNCILMEMBER KING: And are you talking about having one for each community association?

MR. BERTRAM: Yes.

COUNCILMEMBER KING: Okay, 'cause we have several community associations in South Maui.

MR. BERTRAM: Yes, absolutely. But, yeah, we need to get away from the idea of appointments, that these need to be voted on and put in by the voters.

COUNCILMEMBER KING: Okay.

MR. BERTRAM: Not appointed by a Council or a Mayor. This needs to be the real exercising democracy and not an, just another, you know, a layer of people being appointed.

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

February 5, 2020

COUNCILMEMBER KING: Okay.

MR. BERTRAM: This needs to be elected.

COUNCILMEMBER KING: Okay. And then do you see this as being something that requires a Charter amendment?

MR. BERTRAM: That's probably gonna be it, yeah, that was brought up at the meeting as well. And I said that we need to have a Charter change for that and that would be in a year, so, you know, give it a try 'till then.

COUNCILMEMBER KING: Okay, all right. Thank you for your input.

MR. BERTRAM: You're welcome.

CHAIR PALTIN: Members, further questions for the testifier? Seeing none, thank you for your testimony and for your years of service.

MR. BERTRAM: You're welcome.

CHAIR PALTIN: Next up we have Clare Apana and she'll be testifying on agenda item PSLU-41 on behalf of herself as an individual. And Ms. Apana is the last testifier we have signed up to testify today.

MS. APANA: I'm sorry, Chair. May I also speak to the community board agenda item? I don't know what the number is.

CHAIR PALTIN: PSLU-44, certainly, you can have three minutes for each and then just ask... pause in between for Members to ask questions.

MS. APANA: Thank you. I'm in support of the, forming those community boards or community hearings, and I just want to relate something that occurred in relationship to the sand extraction, resource extraction. Last year, or in 2019, sorry, 2018, it was brought before this, the Council and it was the sand extraction bill that you, we are looking at, the resource extraction bill. That bill had to go through three Planning Commissions. It was agendized like two days after the moratorium passed. We didn't notice it. It was agendized for the Maui. I live relatively close to that, but I didn't see it. And by the time I found out about it, it had gone through the Maui Planning Commission and the Molokai, but there was a really good response given by the Office of Hawaiian Affairs who analyzed the whole bill and gave very good critical comments and suggestions of how to fix what was happening and these, the Maui Planning Commission of Maui and the Molokai Planning Commission did not receive this letter so I had to call to see why they were not put on for the commissioners to see. And it got put on Lanai's one, which was the next week, and Lanai voted unanimously to adopt it. So, this is something that happened right here in Wailuku but, you know, if someone like myself misses it, then it's gone. I think if it's in a community, especially the communities that have a hard time getting here, then it will have a fairer chance of being seen and the item properly

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

February 5, 2020

given its due, its day, you know, of being looked at. And what happened when it came back to Council, all of the things from the Planning Commission were buried. All of the things that the...even the Planning Director and the Public Works Director was buried in that very long blue list of documents and what passed out was the bill that's before you today...and so I guess that's beeping me. I'm going on to the sand study now. And...

CHAIR PALTIN: Oh, before you do, any questions on the advisory committees to the Planning Commission for Ms. Apana? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for your testimony, Ms. Apana. So, just for clarification, you said that the PSLU-44, the advisory committee to the Maui Planning Commission item was scheduled on the Lanai Planning Commission agenda but not on Molokai and Maui's?

MS. APANA: No. I'm sorry, what was not given to the Maui and the Molokai Planning Commissions was the Office of Hawaiian Affairs letter, which gave a very good analysis of the bill, and Lanai was given that because in general the public complained about why it wasn't there and the Office of Hawaiian Affairs called in and then it was put on the Lanai board's agenda so that they could read it and they adopted it unanimously. So, you know, we don't know why things happen like that, you know, but they happen enough that you wonder about the system and one more check in the community would be good to have because what we're really looking for is protecting our land, right, doing the best that we can, having the comments come out, like, you know, you can get so much more input and often there are things that come up in the sand. They never ask us, you know. They never ask us for our comment, yet it's in the laws of SHPD that they should get our comments. So, I think that having the community-based groups would help to bring that peace to light to have better, much better input and people like myself wouldn't have to find out the next day, oh my God, I missed that, you know, and it's too late now, it's already been voted. Thank you.

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

CHAIR PALTIN: Thank you. Any further questions for the testifier on that item? Seeing none, please continue with your next item.

MS. APANA: Thank you. And so, I'd go right on with that particular bill and ordinance, which is before you connected to the sand study. I think that what I'd like to see is to kill the bill or to see that it's zero resource extraction as it is now until we can really get a much better system to protect the sand and the burials and the dunes themselves, these magnificent dunes that took thousands of years to produce. And in this day of climate change, I wonder how important they are to our community as far as what we can expect in flooding and even the beach sand dunes in the, what they do in protecting the communities that are already built. So, I think that the bill is tremendously flawed. We testified about it, represent...Councilman Guzman pulled the bill at that time and I think that it seriously has tremendous flaws. We, ourselves, our group have been working with the County to see how we can make it better, and so at this time it is not quite ready but we have been working really hard to try to produce that and hopefully we will

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

February 5, 2020

go through the Land Use Commission committee when we get something that's good on the books. And so, just to let you know that this resource extraction bill is not good and it's giving 100,000 cubic yards with no permitting. Even giving one bucket, as I said before, I don't think the Public Works Department can vouch for that that even one bucket was taken. So, we need a better system and I think we can get it. And so, in the sand study itself, there's some really good things in it. I think it could've been done better if you had the money to do the borings and see how deep the sand actually is, but, you know, it's a no-brainer. We know the sand is there. We can see it, and we know that if you keep mining it and tearing down the dunes 15 feet at a time, which is allowed by the grading ordinance, we will have none just like the Maui Lani Park, you know, those were like 40, 50-foot dunes and now it's flat and is going to be scheduled to be built into houses right around a 72 burial area that the bulldozer did in one fell swoop and the park is now going to be much smaller. There's gonna be housing there, but that was a magnificent sand dune. And the sand study shows us so many things such as this is a finite resource, we all know that. This is a place of traditional burial ground for kanaka maoli, we all know that. Sometimes we are guided so greatly by the need to develop and the need to build second homes for people who don't even live here and I think it's time to stop and very practically say aole, that's not a good idea, it's not in the community plan, we just need to protect these sand dunes and that's it. We need to protect our finite resource that is so important to people like myself who are Hawaiian and who feel the need to preserve our burial traditions. Thank you. I think I'm out of time, sorry.

CHAIR PALTIN: Thank you. And I just wanted to clarify that we're just receiving the sand quantification study and we may discuss it, but there is no legislative action gonna be taken on Mr. Guzman's bill today. There...it's not gonna...

MS. APANA: Okay.

CHAIR PALTIN: It's not agendized to happen, so we can't take any kind of action on that. But I am appreciative of your suggestion of bringing the number down to zero.

MS. APANA: Thank you.

CHAIR PALTIN: Members, any further questions for the testifier? Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Nice seeing you here. So, you said in your testimony that you're working on and working with changes to this. So, who are you working with?

MS. APANA: We have been continuously working on this since the moratorium.

COUNCILMEMBER SUGIMURA: Oh, I see. So...

MS. APANA: And so, we have spoken to several Councilmembers and...for input and OHA and we've met with zoning and we've met with Michele McLean and we've met with Rowena Andaya. And we are not yet at the final stage of it, but we are diligently working

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

February 5, 2020

on something that can be acceptable both to the County laws and to us. And, believe me, from the standpoint of our group, affordable housing and housing for local residents is very important to us too. So, that has come up over and over again and I just want you to know that that is really important to us. That is the group of people that we come from.

COUNCILMEMBER SUGIMURA: Thank you. Thank you.

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

MS. APANA: Mahalo.

CHAIR PALTIN: I have received word that we do not have any testifiers at our remote sites. Making the last call for testifiers here today, seeing no one come forward. Any objection to closing public testimony at this time?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. Public testimony is closed.

. . .END OF PUBLIC TESTIMONY. . .

**PSLU-41: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR
MAALAEA AGRICULTURAL SUBDIVISION (CC 19-347)**

CHAIR PALTIN: First item on the agenda is PSLU-41, Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision. The Committee is in receipt of County Communication 19-347, from the Planning Director, transmitting proposed bills to grant land use entitlements for property in Maalaea, Wailuku, Maui, Hawaii, for the proposed Maalaea Agricultural Subdivision project. Planning and Sustainable Land Use Committee Report 20-9, that was recommitted at the January 24, 2020 Council meeting, recommending passage on the first reading of the following, a proposed bill entitled A Bill for an Ordinance to Amend Kihei-Makena Community Plan and Land Use Map from Project District 12 to Agriculture for Property Situated at Maalaea, Wailuku, Maui, Hawaii, Tax Map Key (2) 3-6-001:018, as well as proposed bill entitled A Bill for an Ordinance to Change Zoning from Open Zone, R-3 Residential District, and Proposed Road to Agricultural District (Conditional Zoning) for Property Situated at Maalaea, Wailuku, Maui, Hawaii, Tax Map Key (2) 3-6-001:018 Portion. And so, I scheduled this item as it was recommitted from Council at our last Council meeting due to some questions and the departments not being available to come on such short notice to explain the answers to the questions at the Council meeting. So, this item is limited to the applicants, application for a Community Plan Amendment and Change in Zoning. At this time, I would like to ask Deputy Director Jordan Molina who's in the gallery to provide opening comments and comments on what we had discussed after the Council meeting that the drainage reserve discussed by the Committee isn't feasible. If the

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

February 5, 2020

Deputy Director can come down and share. And just the, to refresh Committee Members' memories, we were talking about a dedication for drainage purposes and in my discussions with Department of Public Works, well, I'll let Deputy Director Molina explain, but they don't have any reason for any dedication of property but he can probably explain it better than I can. Mr. Molina?

MR. MOLINA: Good morning, Madam Chair Paltin and Members of the PSLU Committee. My name is Jordan Molina, I'm the Deputy Director with Public Works. So, my understanding is what the Committee is considering is acquisition of lands mauka of the highway that contains drainage ways as part of the project and how that relates to the County's drainage infrastructure. So, currently in Maalaea, there's essentially two distinct drainage systems. On the south end, essentially from the Kihei junction, stormwater from those drainage ways get collected through...across the highway and along the highway there's a large open channel. They flow down towards or through the old sugar cane fields towards the condos on Hauoli Street where we have a drainage basin that retains all that runoff, which we recently upgraded that basin to address flooding on Hauoli Street. The second area on the north end, which collects drainage from the drainage ways on this project, cross beneath the highway and enter storm drain systems, which the County maintains through that commercial area and along Maalaea Road, that drainage outfalls into Maalaea Harbor at this point. So, from the existing drainage infrastructure standpoint, there's no, everything's has enough capacity to handle the drainage that's coming through Maalaea without issue. So, from operation standpoint, purchasing those mauka lands would not add value to our current drainage infrastructure at this point and how we manage our drainage systems, which is really to convey water away from properties to prevent flooding. The question of, you know, treatment essentially of these drainage ways is another matter. We operate that in very limited capacity. On the west side, we do have large retention basins, which we inherited from Soil Conservation District and Maui Pine, which they constructed with Federal fundings. These basins help to retain sediment and we periodically go in and clean to remove the sediment to keep the basins operational. Perhaps the Council may consider something similar in Maalaea, but at this point, we would not, as a Department, would not be looking to take on that responsibility. One, because we don't see, well, I guess from a drainage control standpoint there is no need and we would need additional staff and resources to actually construct and implement any such drainage infrastructure in that area, and we're not familiar with what that watershed management plan is proposing as far as what they see as the improvements being sought for those drainage ways. So to sum all that up, from the Department's standpoint, we don't have a need to acquire those lands for infrastructure purposes at this time.

CHAIR PALTIN: Thank you, Director Molina. Members, questions for the Deputy Director? Member Lee...I mean, sorry, Member King?

COUNCILMEMBER KING: Thank you, Chair. So, thanks for that explanation, Mr. Molina. I guess my concern is a little more holistic about drainage and, you know, we look at runoff and things like that because it's right across from the bay. So, if that's not your concern, which department would have that concern?

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

February 5, 2020

CHAIR PALTIN: Director Molina?

MR. MOLINA: I guess at this time I'm not sure who specifically has that charge given to them. We are still trying to get just localized flooding under control. We have not expanded to the point of looking at water quality treatment from the stormwater drainage ways.

COUNCILMEMBER KING: As far as Public Works is concerned?

MR. MOLINA: Yeah, as far as Public Works is concerned.

COUNCILMEMBER KING: Okay, because I thought that...in the early...looking at our proposed drainage plans for South Maui, which are kind of old now, but there was a lot of discussion in the community about runoff, you know, and what comes down through from up above down into the ocean and that was a Public Works, part of the Public Works discussion. But I'm hearing now that that's not your concern and that's not something that you are responsible for, so I'm just trying to figure out who, which department would be...would address those kinds of issues.

CHAIR PALTIN: Director?

MR. MOLINA: I guess it could fall to Public Works, but as I mentioned the, I guess the situation with drainage generally throughout the island is an expensive problem and as I mentioned we basically, we're still trying to get a handle on just the flooding control at this point. We haven't even tried to add the cost to try and do remediation to clean the waters that are discharging into the ocean. The way our drainage ordinance works is developments are not allowed to discharge any additional runoff, so essentially what can get generated from impervious areas we require them to provide retention so that that additional runoff does not leave the site, but it does not address existing runoff flows. We don't require private developers to basically catch all the water. And that would be problematic in some place like Kihei where the drainage corridor is miles long, you know, stretching all the way to the top of Polipoli and Haleakala. So yeah, the drainage management is a big challenge for the Department and, you know, if this body feels that we should be looking at remediation management in that sense, you know, we would need to be supported with additional resources to undertake that aspect of drainage.

COUNCILMEMBER KING: I guess...and I appreciate that, but I guess what I'm, where I'm confused is now you're talking about existing runoff versus new runoff or something. So that is something that you are...that your Department is determining for these different areas? Do you have...do you study what is existing runoff versus what is potential new runoff?

CHAIR PALTIN: Director?

MR. MOLINA: Yeah, Madam Chair, so part of the subdivision process requires the applicants to do drainage studies and they hire hydrogeologist to assess the watershed and

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

February 5, 2020

estimate what the flows will be, what existing flows will be, what future, or what the increase could be from the project. And depending on the size of the project, we have different standards for storm events, which they have to size their, you know, whatever their capture system they design to accommodate, and so that's how we currently deal with drainage from projects.

COUNCILMEMBER KING: Okay. And then...and you're working on that or you worked on that with this proposed development so that you're satisfied?

MR. MOLINA: Madam Chair, yeah, so that's correct. As part of the preliminary subdivision approval, they have incorporated it into the design retention basins that run parallel to the highway, sized, I believe these are sized for the 100-year storm, 1-hour event, but I would need to confirm that, but based on the size there's a certain standard of storm event they have to size their retention basins for.

COUNCILMEMBER KING: Okay. And but that's...is that based on looking at current runoff and what the drainage is currently or is that just a standard that you apply to every community or every development?

MR. MOLINA: That's correct. We have a standard based on the size of the project, so the existing runoff is the baseline and then there's a calculation done for...

COUNCILMEMBER KING: Okay, no, that's what I was getting at. You have an existing baseline for the runoff right now that you can share with us?

MR. MOLINA: It would be part of the drainage report submitted by the applicants.

COUNCILMEMBER KING: Oh, okay. So, it's not something that Public Works Department...

MR. MOLINA: No, we don't actively go and maintain. We do have for certain areas where we've done master planning like Kihei, but I don't believe we have one for Maalaea at this time.

COUNCILMEMBER KING: Okay, all right. Thank you. Thank you.

CHAIR PALTIN: Members, any other questions for the Director of Public Works, Deputy Director? Okay, seeing none, thank you so much for your manao. Next...any preference...

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, Chair. Real quick, Mr. Molina.

CHAIR PALTIN: Oh, sorry. Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Relative to the parcel in front of us, where is the north and the south drainage, like the distance?

MR. MOLINA: Madam Chair, so the cutoff is essentially at the fork in the road from the highway to Maalaea Road. I don't know if you guys have noticed that there's kind of a concrete

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

February 5, 2020

channel on the makai side of that, of the highway that ends right at that fork, so that channel will spill out into our Hauoli Street basin, then everything north of that gets collected on the roadway and into the underground drain lines through that developed area.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so those are, some of the pictures of that drainage system is in the Pohakea Watershed study, is that correct? Some of the...

CHAIR PALTIN: Director?

MR. MOLINA: Madam Chair and Member Rawlins, I have not seen that study, so I'm not familiar with what the scope of it at this time.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, okay. So, that's the north drainage system or both the north and the south is that one area? You said there's two, the north and the south.

MR. MOLINA: Yeah, so the southern portion ends at the fork because that's where the drainage gets...comes to the highway, either crosses under the highway or runs off into...along the makai of the highway and is directed towards our basin. Then the area in question for this project we're talking about crosses under the highway and enters the drainage system in the commercial area, which I would, which I'm calling the north drainage area.

COUNCILMEMBER RAWLINS-FERNANDEZ: I see. Okay. Mahalo for that clarification. Mahalo, Chair.

COUNCILMEMBER KING: Can I just make one follow-up?

CHAIR PALTIN: Before you do, I just wanted to clarify the Department of Public Works stance on outside agencies or organizations attempting to address issues of drainage and runoff, do you guys, does the Department of Public Works have any stance on that? Like, say if, you know, for example, the Maui Nui Marine Resource Council wanted to take it upon themselves to implement recommendations based on this, does the Department have any opinion or stance on that?

MR. MOLINA: Thank you, Madam Chair. Just to clarify, I got my directions mixed up. So, north is above on the Kihei junction side and south being the harbor side. So, regarding, you know, outside groups participating or wanting to contribute towards drainage work, I guess the existing model has been through the Soil and Water Conservation District, which was, you know, more of a prominent group when ag was more of a active operation. So, like I mentioned, a lot of the ones in West Maui were initiated and built with, through the Soil and Water Conservation District program and the people associated with that. I know there's a few groups on the West Side that are trying to coordinate with the landowners to also do similar watershed improvement projects. Yeah, the Department does not object to participating in these projects, you know, to

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

February 5, 2020

the extent that it doesn't affect what our primary duties are at this time. So, I guess I'll leave it at that.

CHAIR PALTIN: Thank you. Member King, you had another question?

COUNCILMEMBER KING: Yeah, thank you. It was a follow-up based on the mention of Hauoli Street. We, you know, we put it, we the Council put in a million dollar budget to fix that culvert and because there was so much flow going through and there was, they were supposed to put in a culvert, but there's a lot of damage to that, I guess. I don't know if it wasn't done properly or if it was just not feasible in that area, but do you, can you speak to that like what's happening with that drainage going into Maalaea Bay through that area?

MR. MOLINA: I guess I'm not familiar with the current issue on Hauoli Street, but yeah, so the southern portion of this drainage system does dump into the harbor at this time. As you know, all drainage ways empty into the ocean whether they be improved developed drainage ways or naturally occurring drainage ways. So, I guess I don't have any other comment at this time on that.

COUNCILMEMBER KING: Okay. So, that's an...I mean, is it something that the Public Works is looking at as far as repair? Because, you know, we put a lot of money into this to fix this issue and it may be just that it's not possible. I don't know. I mean, I'm asking you 'cause you're, you guys are the experts, but this is, you know, across from the area that we're talking about so the runoff comes from up above.

CHAIR PALTIN: Director?

MR. MOLINA: I'm sorry, I need some clarification on where exactly. Are you referring to on Hauoli Street?

COUNCILMEMBER KING: Right.

MR. MOLINA: Okay.

COUNCILMEMBER KING: It's kind of at the bottom where it opens up into the harbor.

MR. MOLINA: So, Hauoli Street starts essentially below the harbor, so I'm not understanding where exactly you're referring to.

COUNCILMEMBER KING: Okay. So, maybe...so, you're not familiar with the project. It's a CIP project that was funded in the last term. Major issue for the Maalaea area.

MR. MOLINA: So, if you return to the basin off of Hauoli Street, is that what you're referring to?

COUNCILMEMBER KING: The culvert that...Chair, maybe we can ask for, you know, send a formal letter to Public Works. Maybe we need to go investigate it and talk with the

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

February 5, 2020

Maalaea Village Association and kind of look at...there's actually pictures on Granicus of this area and the, what the damage to that drainage project, which is fairly new. So, that's, you know, that's part of this issue of runoff problem that we're looking at. I mean, if it's not a...that's why I'm concerned that about which department would be looking at this issue if it's not Public Works.

CHAIR PALTIN: I just gave him the Pohakea Watershed study to look at the photos of Hauoli Street.

COUNCILMEMBER KING: I don't want to put the Deputy Director on the spot. So, if it's something that we need to have him go...because he's fairly new that, you know, this is an issue from the last term that maybe we can ask for a report on what's happening with that drainage and how it relates to the drainage flow from up above.

COUNCILMEMBER LEE: And how it relates to this project.

CHAIR PALTIN: And how it...okay.

COUNCILMEMBER LEE: And if it relates to this project.

CHAIR PALTIN: Any comment at this time?

MR. MOLINA: So, as I mentioned earlier, this drainage basin was intended to receive the northern portion of that runoff. So, this project does affect essentially all the drainage ways from, in Maalaea from the junction to the Pali. So, like I mentioned earlier, the project is designed to not add flow that we already have to manage. Regarding this issue here, I am aware that one of the challenges with that project was it called for grassed embankments. As you know, it's not so easy to grow grass in a dry, arid area. So essentially, we were never able to get the slope stabilized, which contributed to the failures which we're working to address. But I can follow...

COUNCILMEMBER KING: Okay. Sorry, I'm not an engineer, so I don't know. That's why I'm just asking the questions from the Department. So, yeah, I'm not aware of why, you know, what grasses are difficult to grow. I'm just wondering why it's not working. So, if you can...

MR. MOLINA: Well, yeah, that's the reason.

COUNCILMEMBER KING: Maybe we can just follow up with asking for a report on that.

MR. MOLINA: Sure, we'd be happy to respond.

COUNCILMEMBER KING: And how it relates to the total drainage issues in, you know, coming down into the harbor, into the bay.

MR. MOLINA: We would just ask for clarifications on the specifics of the issues that you're referencing.

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

February 5, 2020

CHAIR PALTIN: Yeah. A clarification...

COUNCILMEMBER KING: More specific...

CHAIR PALTIN: I mean, it sounds to me like the drainage at Hauoli Street is an issue and the solution was to plant grasses and stabilize the slope and that hasn't happened, and as Chair Lee said, how this relates to this project. Do you have a comment on how the failure of the Hauoli drainage relates to this project?

COUNCILMEMBER KING: Chair, I'm just trying to get a handle on because I'm hearing on one hand that Public Works doesn't address runoff, they're only worried about drainage for flooding, but then we have these other runoff things that are in Public Works. So, I'm just trying to figure out where everything fits together, what is the...you know, what department is looking at drainage issues for runoff and pollution and how all this works together. Because we have some really good public, what I see as public/private partnerships with the State and the County in that area, but it sounds like we're not fully engaged. And, to me, this area that we're talking about for the subdivision is key because that's, you know, where some of the runoff is coming from and everything that comes down to one or two points in the bay for drainage, to me, is relevant. But, I, you know, I'm not trying to...I'm just trying to understand like whose responsibility is that, who, which department connects those dots and can give us a good understanding of how it all fits together before we keep doing more development in this area. So, that's where I'm just like, you know, if you can try to, as Chair Lee said, you know, connect the dots for us and how does this drainage relate to this project with the retention basins. Is that meant to keep stuff out of the drainage that's going down into the bay? I don't know. I'm not the engineer, so I'm just asking the questions.

CHAIR PALTIN: Deputy?

COUNCILMEMBER KING: And I understand if you can't answer them right now, but I'd like to be prepared.

CHAIR PALTIN: Director Molina?

MR. MOLINA: Madam Chair, yeah, we'd be happy to respond in writing.

CHAIR PALTIN: In writing?

MR. MOLINA: Yeah.

CHAIR PALTIN: Okay. Members, any questions for our other resource? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I kind of wanted to follow up on what Member King was saying regarding the proposed retention basin at the bottom of the parcel. If Deputy Director would be able to kind of explain if the intention of that

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

February 5, 2020

retention basin is to hold all the runoff that comes off mauka of that area or if it'll just retain, you know, X amount of volume and then the spill off would connect to our drainage system? If you have the answer, right now. I know you said that you would respond in writing, so but...

CHAIR PALTIN: Deputy Director Molina?

MR. MOLINA: Yeah, Madam Chair, so the onsite drainage would all drain into this retention basin. So, during low rain events, there's enough volume to catch everything essentially. The capacity is set, you know, for the 100-year storm 1-hour event, so that at that intense of a rainfall the basin will fill up and then spill out into the County's drainage system.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. So, you said the 100-year storm for...it would be able to hold the capacity for one hour and just for clarification?

MR. MOLINA: That's correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, okay, all right. And we know with climate change the 100-year storm is going to be more frequent than 100 years. Mahalo. And so, I think that's how it's connected, that the spill off would then go into the County drainage system. Mahalo, Chair.

CHAIR PALTIN: Chair Lee?

COUNCILMEMBER LEE: What is the standard requirement for all projects since we're not trying to target just one? Is it 100-year storm 1-hour event?

CHAIR PALTIN: Director?

COUNCILMEMBER LEE: Is that the general standard?

MR. MOLINA: Madam Chair, there's two standards depending on the size of the project. I'm not familiar with the thresholds but there's smaller projects of a 50-year storm event.

COUNCILMEMBER LEE: So, this is the higher standard?

MR. MOLINA: Correct.

COUNCILMEMBER LEE: All right, thank you.

CHAIR PALTIN: Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair, and thank you for this discussion. I was just looking at the Pohakea Watershed and it just looks like...I know the project is down at the bottom at Maalaea, but it looks like they've done extensive studies on the major gulches that are mauka and almost up to the top of the kuahiwi. And so, there's four major and

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

February 5, 2020

some of them granted are south around the bend of Maalaea, so it looks like one or two of those large gulches that empty down come down to Maalaea. So, I just wanted to add that I think the study had done some extensive research of the drainage and just some historical content to add to the discussion. Thank you, Chair.

CHAIR PALTIN: Thank you. Any further for the Director, Deputy Director of Public Works? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Sorry, I know we have other items, so I'll make this quick. So, the retention basin is not a treatment, it would just kind of try to help to prevent sediment from going into the drainage and then into the bay and covering our reef. But with this potential development, so it wouldn't help to filter some of the pollution that would come off from the houses that would be built there. And in that Pohakea study, it already shows that the status quo without this development that the roads, parking lots, and buildings associated with the oceanfront resorts, condominiums, create all this runoff, swimming pool, back wash. So, if these houses have swimming pools, the back wash, the car wash, any kind of petrochemicals, heavy metals, trash, and other pollutants would then go into the sediment, the retention basin and any spill off would then go into the County drainage system and then into Maalaea Harbor with any...without any kind of treatment. That's correct, yeah?

CHAIR PALTIN: Deputy Director?

MR. MOLINA: So, the detention basin it does function to provide treatment in that it helps retain sediment from going into the ocean. So, we do try to keep up with maintenance of essentially dredging that material out of the basin to maintain the capacity of the basin. But, yeah, during extreme flows, the basin is designed to spill out into the ocean just 'cause, because that's how the drainage ways work. So, it is a form of treatment to some extent, but it's not, you know, a complete, you know, it's not a wastewater treatment operation at this point. So, I guess one comment I'll make is that, you know, the existing terrain through there is mostly dirt. Sometimes when it rains the grass grows green but it goes back to brown pretty quick. All that barren land contributes to sediment in the runoff going down into the ocean. So, if there was development there, there would be added flow from impervious areas. But you may also get less soil runoff perhaps to augment or offset by some of the other potential pollutants you mentioned, but you would have more active management of those lands by the property owners, whereas, currently, you know, just essentially fallow ag fields.

COUNCILMEMBER RAWLINS-FERNANDEZ: Last two. So, you mentioned dredging of the retention basins, would the County be responsible for dredging those basins?

MR. MOLINA: That's correct. We do all the maintenance to make sure those basins stay at capacity.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. And then, MS4, sorry, I'm like not super familiar with it. Is the rules and laws connected to MS4 only for Central Maui or does it extend to the entire island?

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

February 5, 2020

MR. MOLINA: So, currently that boundary was set by the Census to determine the urbanized area. The current boundary ends in Waikapu, but there's no guarantee that that boundary could be extended to Maalaea. If you're familiar with the current boundary, it goes all the way to Waihee and then all the way out to Kuau and all the way to Waikapu, which they're calling Central Maui.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that. Mahalo, Chair, that's all.

CHAIR PALTIN: Thank you. Any further questions for the Director, Deputy Director? Just to make sure that there's no misunderstanding or misinterpretation, I would ask that Councilmember King and Council Vice-Chair Rawlins-Fernandez write out your own questions and submit them directly to Council or, sorry, Deputy Director Molina. I don't want to take the chance that we don't encapture [sic] your full scope of questioning. He did...he was here to hear your questions, so, you know, there's that. But I don't want to leave anything up to interpretation or misinterpretation as you may have it, if there is no objections. Mr. Hopper?

MR. HOPPER: I just wanted to clarify one of the last statements. I think there was a question on County responsibility for maintaining drainage basins, and I think the Deputy Director's answer was as to County-owned basins, but if there's a privately-owned basin that's built as part of a project that hasn't been dedicated to the County yet, I think that's still the property owner's responsibility to maintain that. I think that's correct. But because we're talking about different basins and there was a Hauoli Street project as well but just to get that clarified on the record.

CHAIR PALTIN: Thank you, Mr. Hopper. Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Mr. Hopper. So, just to clarify with Deputy Director, the intention of this project would, it, when you responded to my question was the understanding that these retention basins or this retention basin would be dedicated to the County or at the point that it is dedicated to the County then the County would dredge and manage it, but until that point it would be up to the responsibility of the landowner?

MR. MOLINA: Madam Chair, that's correct. To my understanding, I don't believe these basins are intended to be dedicated to the County, so we would not be responsible for those.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that information. Mahalo, Chair.

CHAIR PALTIN: And just to be clear, so I asked them to write out their own questions to give to you so that there's no misinterpretation or lag time or anything. Are you okay with that accepting their written questions and responding in writing to them as well as the Committee?

MR. MOLINA: Madam Chair, yeah, we have no problem responding to written correspondence.

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

February 5, 2020

CHAIR PALTIN: Thank you.

COUNCILMEMBER KING: Chair? Just as a point of matter of process because I've been hearing, you know, trying to get questions answered and sometimes has...then we get this response it has to go through the Mayor. So, I guess my thought would be to send you the questions and have you as the Committee Chair transmit the question to the Department 'cause I think that's more in line with their process.

CHAIR PALTIN: My intention is to discharge this for the Council meeting on February 7, so if you want the answers to your questions before then and Deputy Director Molina is willing to answer them, that would be the way to get the answers.

COUNCILMEMBER KING: Okay. Well, I definitely want the answers to some of the questions and concerns before I vote on it, so that would be an issue for me if it doesn't, if I'm not...but I will try that. I'll try sending directly to them. It's just not...it hasn't always been...and nothing against Director Molina, but we've been hearing from some of the other directors that, you know, questions have to come through the Mayor's Office, which adds another couple days usually.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I'm...I know that you have on, you know, discharge for this item on the Council agenda. And to try to maybe answer their concerns, is there a way that the Department can, I don't know, you can take a break on this or bring this back again so they can get that answered or maybe it's, you know, they need more time than just 'till 12:00 noon today just to appease, you know, them and they, so both of them can feel like their answers [sic] relevant to this project can be answered? I...it sounds like to me, you know, that the Department is trying their best based upon this, you know, good questions and the developer maybe they can come down and talk about what they're planning on doing with the basins, retention basins, and so we can move this forward.

CHAIR PALTIN: We actually need Deputy Director Molina for the next item, so.

COUNCILMEMBER SUGIMURA: Oh. He has to do everything.

CHAIR PALTIN: Yeah. Chair Lee?

COUNCILMEMBER LEE: I support your idea of having the individual members send their questions to the Department because it sounds to me that some of the, some parts of the questions really are not pertinent to the project but pertinent to drainage in general and perhaps projects that are similar in Kihei and so forth. So, rather than take up the time of this meeting today, I think having written questions submitted would be much more efficient. Thank you.

CHAIR PALTIN: Thank you, Chair Lee. Member Sugimura?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES

Council of the County of Maui

February 5, 2020

COUNCILMEMBER SUGIMURA: Yeah, this is important discussions as drainage is, it has great impact. So, I would like to hear more about this issue or item as it relates to what, you know, Member King was saying and put an item in my Committee and we can have a more extensive discussion about it in the bigger pictures of this. We just had a drainage item in Molokai that came up also. So, it is a Countywide concern and for us all to understand why it's important. I think that's why we're having these questions and what really the responsibility of the Department is and what we do and what we don't do and it sounds like it's kind of some of it is operational. And I think Member Molina was honest when he said that if we want, if the Council wants the Department to also take care of the bigger picture of this and we would have to provide more resources, which is, you know, time and money and, you know, to do more CIP projects or whatever it is. So, I'll do that, Chair --

CHAIR PALTIN: Thank you.

COUNCILMEMBER SUGIMURA: --and Members.

CHAIR PALTIN: And I think it's very timely given that the budget is coming up and, you know, we can set our priorities in that manner because runoff whether it's from a development or from the State land, it's all runoff, so it's pretty critical. Member King?

COUNCILMEMBER KING: Yeah, one last comment. And I appreciate Member Sugimura's comment on the discussion, but the discussion, the concern I have is not drainage as a whole, it's basically this area and how much planning we've done for this area and I was just relating some of the planning that we've done for Kihei drainage system because that does address runoff, not just flooding. So, you know, I do have grave concerns about this entire area and the community wanting, you know, a little more master planning or some addressing of the overall issues, which, you know, I think your Committee can handle as well. So, I just wanted to clarify that that it...I believe it is pertinent because all of the runnage [sic] retention whether it's private or public still runs off into the bay and that's everybody's problem. You know, it's just, it's not just, you know, one department or the Council's problem or one development. All of our...it's all of our problem when we see brown water in the bay. So, anyway, thank you for supporting the idea of that.

CHAIR PALTIN: Chair Lee?

COUNCILMEMBER LEE: Yeah, Madam Chair, just wanted to make sure that it's abundantly clear that these types of discussions probably should have its own item in the Water and Infrastructure Committee, because we're talking about 21 lots today and we're talking about one project. And certainly nobody is expecting that one project to manage and control the drainage off the entire mountain, so we, you know, that's why I'm trying keep this focused on this particular item knowing that, yeah, everything creates, you know, drainage problems when there's severe weather episodes. So, that was my concern is just, yes, let's have more discussion on drainage in general, but for now, if we can get back to the project. Thank you.

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

February 5, 2020

CHAIR PALTIN: Thank you, Chair Lee. Mr. Hopper, I'm not sure...I just wanted to clarify we are discussing the 21 lots as it relates to the Change in Zoning and the Community Plan Amendment, but the focus is really on the Change in Zoning and the Community Plan Amendment more so than the 21 lots or was Chair Lee more accurate?

MR. HOPPER: Well, I...it's both, I think to an extent. You do have a...there's been a lot of discussion about the preliminary subdivision approval in the context of the drainage that's going to be made available. There is a requirement for the Change in Zoning to provide, for example, part of the application requires an identification of the topographical and drainage patterns existing on the subject parcel and any proposed alterations to these patterns. That's something of record that you can look at and so as part of that they may have...I don't know if they provided you specifics as far as what the lots would look like. You have attached a subdivision plan as a condition, so I think you're looking at both to an extent. I think you're right, in a broader sense, you're looking at the Change in Zoning and Community Plan Amendment. I do think as part of the County Code, you do look at what's gonna be built there as part of that issue. Where this ends up going I think is your criteria for granting a Change in Zoning, one of the criteria is that the application, if granted, would not adversely affect or interfere with among other things, drainage, roadway, and transportation systems or other public requirements, conveniences and improvements. So, I think that's where a lot of the discussion is. I think it is correct to say that it's focused on this project. I'm not saying that it's not relevant to look at drainage in the area with respect to how this project affects it. So, I think both are potentially relevant here as things to look at, but I would say focus on the criteria in the Code for granting a Change in Zoning. Among that is drainage, you know, certainly so you can look at that issue. But it is correct that it's not necessarily a issue of one project solving all the drainage problems in the area, but it's an issue of does that project, if granted, will that have an adverse effect on drainage given with their mitigation is planned. So, I think that's where the discussion should be dedicated, and certainly I think drainage in that area, in general, could be worthy of a separate item that's at the discretion of the Council. But with respect to what's posted today and these applications, I think it is focused on this project while understanding looking at the area and how the project affects that is relevant to that.

CHAIR PALTIN: Thank you. Thank you, Mr. Hopper. Okay, so we have some other resources in the gallery today to thoroughly vet this before it goes to Council. Do Members have any other questions for our other resources? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I...as...I would like to call Lucienne De Naie as a resource. She...you had asked a question about HILT's interest and she has information that might be relevant to this and it's related to the Change in Zone and CPA amendment because if we approve it, then that could affect the potential transaction.

CHAIR PALTIN: Okay. Before we do call her as a resource, if there's no objections, I was referring to Water and Planning because we have them here now and...any questions for Water and Planning? Member King?

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

February 5, 2020

COUNCILMEMBER KING: Yeah, thank you, Chair. I think one of the reasons it, this item came back to Committee was because of water and drainage issues, and so I would like to hear from the Water Department. I mean, I think we had an engineer, Wendy came and . . .(inaudible). . . --

CHAIR PALTIN: Ms. Taomoto, yes.

COUNCILMEMBER KING: --made some comments but I see that we have Ms. Blumenthal [sic], and so maybe we could get a more comprehensive...

CHAIR PALTIN: You'd like to hear from Ms. Blumenstein?

COUNCILMEMBER KING: Blumenstein, yes, sorry about that.

CHAIR PALTIN: Okay, Ms. Blumenstein, do you mind coming down and making some opening comments?

COUNCILMEMBER KING: On whether we do have definitive, sufficient water resource for that...

CHAIR PALTIN: On whether we have definitive, sufficient water resources. Wherever you feel most comfortable. If you would please identify yourself and provide any opening comments on this item that you may have?

MS. BLUMENSTEIN: Thank you, Chair. Eva Blumenstein, Planning Program Manager for Department of Water Supply. As I understand this project is proposing to use a private system that Pohakea Wells 1, 2, and 3, so it's a private water system. The Department only provides comments through the County Code 14.12 process. And as of two weeks ago, the Engineering Division does not have a engineering report yet to assess the private system per se. So, we have only provided comments to the Community Plan Amendment and Change in Zoning projected demand impact on the aquifer so that's where it stands.

CHAIR PALTIN: And just to clarify those comments, before the subdivision process is completed, you would have that information to make your final comments on the subdivision process?

MS. BLUMENSTEIN: Yeah, the Department couldn't really make any comments if there isn't...if it's either a statement from Department of Health that the system will not be a public water system, meaning serving more than 15 meters or 25 people or if it's a source to be approved by Department of Health, then it's a preliminary engineering report, so that would be required for the Department to make comments on the private water system.

CHAIR PALTIN: Thank you. Members, questions?

COUNCILMEMBER KING: Chair, could I follow up?

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

February 5, 2020

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: So, we did get that letter from the Department of Water Supply saying that the cumulative demand from this project and the Waikapu Country Town project may exceed sustainable yield, so I think that was one of the reasons why we brought it back. We were hoping to have that answer, but in the letter from the Department of Water Supply it says that you haven't, this is back on the 16th, hadn't yet received the engineering report. So, I was hoping that maybe...this was like two-and-a-half weeks ago. Who would you be receiving that engineering report from if you, if and when you do get it?

MS. BLUMENSTEIN: Yeah, so the first part, the comments, projected demand and impact on Waikapu aquifer was the comments just for the Community Plan Amendment and Change in Zoning as part of the subdivision approval. The engineering report would be from the developer --

COUNCILMEMBER KING: Okay. So, are you...

MS. BLUMENSTEIN: --through Public Works.

COUNCILMEMBER KING: I mean, because for me, Chair, that's one of the reasons it came back here and it's hard to say whether we should, you know, discharge it or vote on it until we get those answers, I thought that was the point. But you have no idea when you'll be receiving those reports, the engineering report?

MS. BLUMENSTEIN: No, no, I don't.

COUNCILMEMBER KING: All right, thank you.

CHAIR PALTIN: Or can I clarify, as part of the subdivision process you would get the engineering report, is that --

MS. BLUMENSTEIN: Yes.

CHAIR PALTIN: --correct?

MS. BLUMENSTEIN: So, we have provided our comments already for the Community Plan Amendment --

CHAIR PALTIN: Change in Zoning.

MS. BLUMENSTEIN: --Change in Zoning application only.

CHAIR PALTIN: So, as we proceed through the subdivision process, which we...or as they proceed through the subdivision process they would be submitting those engineering reports to you at which time then you would make comments on the engineering report as part of the subdivision process?

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

February 5, 2020

MS. BLUMENSTEIN: Yeah, so the subdivision processing and approval goes through Engineering Division. Our Engineering Division handles the administrative process. We do just the discretionary permit, meaning my division, Water Resources and Planning. So, we may not see the engineering report, but Engineering would review this part of the subdivision approval.

CHAIR PALTIN: And to clarify, you're talking about County of Maui Department of Water Supply Engineering Division?

MS. BLUMENSTEIN: Yes.

CHAIR PALTIN: Okay.

COUNCILMEMBER KING: Okay, so...

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Yeah, it seems a little backward because we're asked to make a decision of whether to move forward knowing that that's the plan is for the subdivision without knowing if there's enough water. And we won't know until there's a subdivision process. So, maybe that's a process issue for the Council to decide, but, you know, going forward but we have a community that's saying we want to know these things before we make these Community Plan Amendments. So, you know, to me that's kind of a bigger issue of how we move forward with Community Plan Amendments. Thank you.

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

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, in the correspondence that received, we received from the Department of Water, it, there is some comments about the quantity of water and how it impact the, it could potentially impact the aquifer, the Waikapu Aquifer sustainable yield, so but there's also a question about the quality of water. Would the Department or the engineers whoever would be doing the approval accept the well that has 180, was it, milligrams per liter of chloride?

MS. BLUMENSTEIN: So, to my knowledge the wells are not proposed to be dedicated to the County, so would just be a review of the Department of Health's engineering report. So, whether the wells are acceptable water quality would be Department of Health determination. Typically, 250 milligrams per liter is saltwater and that's what we consider it's not a drinking water standards, it's a secondary standard, so it's more acceptability standards so to say. So, at 180 milligram per liter you may probably detect, you may notice chloride, so that's not a, like a firm disqualifier that the Department would have in this case for private wells. We have our own policies or, you know, direction of where we see rising chlorides for various reasons in the municipal wells.

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

February 5, 2020

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. What is our policy?

MS. BLUMENSTEIN: Well, it's more terms, in terms of if we see changes in chlorides over time, which may just mean that that well is pumped so you see a change in the aquifer, so.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Blumenstein. Mahalo, Chair.

CHAIR PALTIN: Further questions for Ms. Blumenstein? Seeing none, any questions for the Planning Department? Seeing none...Member Sugimura?

COUNCILMEMBER SUGIMURA: Does the Planning Department want to say anything regarding this conversation we're having and how it impacts the project? You're fine with your...

CHAIR PALTIN: Deputy Director, would you like to provide to opening comments on the discussion that we've been having?

MR. HART: Thank you, Chair. So, you know, with regard to water availability, you know, there's the water availability ordinances, the County Code that's required to be complied with for subdivision. There's a water quality review by the State Department of Health. So, I recognize that the Council is basically interested in, you know, participating in the front row of those review processes, but there are administrative branches of State and County government that do that on behalf of the Council. But we can, you know, provide the engineering material that was prepared by the project's licensed engineer, which got us, you know, all the way out of Committee the first time, and, you know, circulate that information for review. And then we have a licensed professional representing the project who's able to specifically answer questions on any of that documentation as well as the agencies here to concur with that or object to any of those statements. So, I mean, I think that, you know, you have all the resources here before you in the process. I mean, if you want specific documentation we can circulate that, but, you know, this is just a standard operation of any subdivision application that goes through the process and it's verified by Public Works, by the Department of Water Supply, by the State Department of Health if it's a private water system, you know, every time. So, that would be the extent of, you know, relevant comments that I think I have at this time.

CHAIR PALTIN: Vice-Chair Sinenci, did you want to hear from the project's licensed engineer, Mr. Stacy Otomo?

VICE-CHAIR SINENCI: And just for clarification for Planning Department, you mentioned that you do have the engineer's report?

MR. HART: There is a drainage and engineering report that's submitted as part of any land, not any, Change in Zoning, Community Plan Amendment land use applications are included, so those are part of the material that was received by the Planning Department. I'm not 100 percent certain whether or not the entire report is transmitted up to Council after Planning Commission or if an abbreviated version that addresses the component, like we distill down a staff report that addresses the critical components

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

February 5, 2020

for decision making purposes on the community...Planning Commission level rather than provide the entire package of material, but we have all of it to share with the Council if there's any parts that they would want to review in more depth than what was transmitted by the Administration to the Council.

VICE-CHAIR SINENCI: Yeah, 'cause I think that's what the Department of Water Supply was asking for the engineer's report.

CHAIR PALTIN: Ms. Blumenstein?

MS. BLUMENSTEIN: So, I just checked with the Chief Engineer as of two weeks ago, so the final engineering report for the wells have not been reviewed or received by Engineering Division as far as I know.

CHAIR PALTIN: Did you want to hear from Mr. Otomo?

VICE-CHAIR SINENCI: Sure, Chair, that'll be fine.

CHAIR PALTIN: Mr. Otomo, would you come down to the podium? Would you like to provide any opening comments on the discussion that we've been having in regards to the engineer report surrounding the water issues?

MR. OTOMO: Good morning, Chair, Members of the Committee. My name is Stacy Otomo, the Civil Engineer and consultant for the project. The reports regarding the water, I think we looking at two different things. The engineering report is a preliminary engineering report which addresses what Deputy Director Hart mentioned, drainage, water systems, and so forth. The engineering report that the Water Supply is looking for comes at the time when you actually do construction documents for the plans. Those plans are incorporated in, again, it's called a preliminary engineering report but it's for the water system itself and that is a very detailed report along with a technical, I don't know the formal name for it, but it's a technical and capacity report that goes along with the water system. So, basically it's a document that talks about the physical infrastructure and there's another document that talks about the operations and actually running the system so that it shows that it can be financially viable and those documents are turned over to the Department of Health. However, it's premature at this stage because part of the requirements are you need full construction documents of the water system, which is our civil plans, to be part of that preliminary engineering report and we're not at the stage where we have those documents. But expanding on what Deputy Director said regarding drainage and the water system, that will come into play, for example, the water system, again, along with our plans, there's normally a water system engineer such as Tom Nance or a hydrogeologist that analyzes the whole, from the well to the water system itself, and then it also includes the water quality, not only chlorides but chemical analysis and so forth. That comes in the water system engineering report that goes to the Department of Health. What the Water Supply is looking for is basically an approved version of that and that, again, comes at a time when we're further down the road. Regarding the drainage, we have a preliminary engineering report, which addresses in general what the scheme for addressing the

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

February 5, 2020

drainage is. We go through several steps because the Department of Public Works reviews our drainage report. They...for a project this size, they normally turn over the review to a third-party reviewer, normally a consulting firm out of Oahu that reviews the report. And I can tell you they commented to the bone and they make sure that the drainage report for the project meets all the County drainage as well as water quality standards. So, it's not only the Department of Public Works, but it's the third-party reviewer that reviews the drainage report, and along with that we got to get the State NPDES permit, that National Pollution Elimination Discharge System [sic] permit. So, there's a number of checks before we can actually go under construction on this project.

CHAIR PALTIN: Thank you for that clarification, Mr. Otomo. Does that satisfy your question, Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Yeah, thank you, Chair.

CHAIR PALTIN: Thank you. Members, any further questions for Mr. Otomo? Thank you. Thank you for your manao. Any objection to designating Ms. de Naie as a resource person in terms of...what was it about?

COUNCILMEMBER RAWLINS-FERNANDEZ: You asked the question of a testifier about HILT's interest in purchasing this land for open space.

CHAIR PALTIN: Oh. Mr. Hopper, is there any problem with that in having...

COUNCILMEMBER RAWLINS-FERNANDEZ: The connection to this agenda item is that if we approve the CIZ and the CPA amendment, then it could affect the, a potential, you know, purchase. Yeah.

MR. HOPPER: I think I advised at your earlier meeting in Maalaea that if there's testimony about the criteria for approving or denying the Change in Zoning or Community Plan Amendment that's in the Code under this item, then if the resource person has relevant information on that based on her expertise, then that's potentially something I think you could discuss. If it's going to deal with acquisition of the property, I don't see that as related to this agenda item or the Code requirements, that was my opinion at the previous meeting and I think it's still the same opinion. I think the agenda item is going to be based on the criteria listed in the Code for an approval or disapproval for the Change in Zoning and Community Plan Amendment. I understand the argument that, being made that if there are entitlements granted there wouldn't be a purchase of the property, but that's not something that's put into the Code or posted on this agenda item. And so, I think that was my advice previously and I haven't, I don't have a change to that advice.

CHAIR PALTIN: So, my recommendation at this time is if Members want to pursue the purchase of the whole land and working with HILT, a separate agenda item being made for that.

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

February 5, 2020

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo, Chair. So, to answer your question, HILT was interested, the executive director expressed interest. Mahalo, Chair.

CHAIR PALTIN: Thank you. At this time, I would like to distribute a revised Condition 11 that the project folks and I had worked out. As Mr. Hopper had stated previously that there needs to be a reason why we're creating a condition on the project, and now that Deputy Director Molina had said that drainage isn't necessarily a reason. We did speak with the landowner and, you know, similar to the Waikapu Country Town he was willing to offer the County first right of refusal and that the County would have 30 days to commit and then 1 year from the date of such notice to close on its purchase. And with the Budget coming up, if that is something that we're serious about we can get this process rolling and, you know, hopefully seal the deal within 1 year for that 40-acre parcel. So, this is my recommendation for a revised Condition 11 that we have worked out with the landowner, they're okay with it. They've agreed to the new language in Condition 11 and I plan to move to amend Condition 11 during the Council meeting on February 7th if there is no objection. And then based on testimony that we received today from Ms. Britton, I was wondering if Members had, and the landowner had any objection to, I think it was splitting Condition 13 up into 2 separate conditions and renumbering it, so not changing any of the substances but just ending the part where it says water and then the part where it says the homeowner association fee, making that be a separate condition and not together. I don't know that that's a substantive change but just checking if there's any objection to Ms. Britton's request in her testimony. I don't know if Mr. Hopper wanted to comment if that is a substantive change or not, it's just splitting one condition into two and renumbering.

MR. HOPPER: I'm sorry, Madam Chair. I was still looking at Condition 11 --

CHAIR PALTIN: Oh.

MR. HOPPER: --just for clarity and I don't know if this has been discussed. But I don't know from the Administration standpoint if 30 days is sufficient time to...it says, at any point after final subdivision they'll get the right of first...the written notice, County shall have 30 days from the date of such notice to accept the purchase terms and one year to close. I mean, you need Council action to accept a purchase like that and I don't know if it would be...if 30 days would be feasible for Administration to...I don't know if they're talking about like an offer letter of acceptance that's obviously conditioned on Council approval or if there's Council approval that's attempted to get in, you know, to that 30 days. I know we had this discussion a bit at the, at first reading, but I don't know if 30 days is sufficient time. I don't want to speak for the Administration as far as...and I think Finance would probably be involved since they deal with property purchases but that was my initial question and I think Deputy Director Hart had that question and I don't necessarily have an answer for you, but I just raise that as a potential...if that's enough time, if there could be...

CHAIR PALTIN: Do you know what would be more acceptable than 30 days?

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

February 5, 2020

MR. HOPPER: I haven't spoken to the landowner, obviously, but I would want to get some input from, you know, probably Finance Department or the appropriate Administration official on how long it would take for Administration to actually, in general, accept the terms and what that would entail.

CHAIR PALTIN: Thank you. Member Sugimura?

COUNCILMEMBER SUGIMURA: I was just wondering if we could ask Finance that question or, you know, to support what Mr. Hopper is saying so we could move this forward or ask the developer.

CHAIR PALTIN: Chair Lee?

COUNCILMEMBER LEE: Well, I've been involved with these types of issues and 90 days would suffice.

CHAIR PALTIN: Okay. If a representative from the landowner would accept 90 days? Yes. Okay. So, if Members could on their amendment strike 30 days and replace it with 90 days and any objection to that?

COUNCILMEMBER SUGIMURA: No.

CHAIR PALTIN: Okay. And then moving on to Ms. Britton's suggestion...

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes, Member King?

COUNCILMEMBER KING: If we're still on this amendment, I don't have any objection to the 90 days. But I just wanted to ask about the language that says that we have 90 days to...the County has 90 days to accept the purchase terms. So, I guess the purchase terms are just gonna be given to the County and we either accept or reject them, it's, there's no...I mean, what's the negotiation ability of the County in those terms?

CHAIR PALTIN: Mr. Hopper, any comment?

MR. HOPPER: Would you want to say agree upon purchase terms rather than accept, so it's less unilateral?

COUNCILMEMBER KING: I think the County needs to have some leeway. I mean, when we did --

MR. HOPPER: Sure.

COUNCILMEMBER KING: --the purchase of that parking lot last term for that North Kihei beachfront area, the Council actually sat here and negotiated with the landowner when he came in front of us and he agreed to lower his price. But, you know, just to say we

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

February 5, 2020

have to accept the terms or not doesn't give us any, you know, any ability to negotiate, so.

MR. HOPPER: I think you could say agree upon purchase terms. And you may also want to clarify that that's not for Council approval time, that that would be done within the one year to close on its purchase, which would include but not be limited to...including Council approval of such transaction or something. I presume the idea was not to get Council approval within 30 days, but a suggested term for the first item as discussed would maybe be, agree upon the date of such notice to agree upon the purchase terms.

COUNCILMEMBER KING: Okay. And then would that be done, Mr. Hopper, would that be done by the Mayor?

MR. HOPPER: Presumably, I believe Finance Director along with the Mayor because --

COUNCILMEMBER KING: Okay.

MR. HOPPER: --Finance Director, I believe, does have to approve purchases. But again, nothing is actually approved until Council approval as far as a purchase of a property. I suppose if it's under \$250,000 there's the potential for it not have to go before Council, but we would want to maybe just say for number, the as far as number one or for the one year that it would obtain such Council approval as would be required, --

COUNCILMEMBER KING: Okay.

MR. HOPPER: --that may be required.

COUNCILMEMBER KING: Okay. But, basically, if the Administration says no, then it stops there?

MR. HOPPER: I believe for acquisition of real property, 3.44, that's how it works that the Finance Director would have to sign those, generally. I can look again for examples of the Council simply accepting the terms, but I believe you'd have to go through the Finance Director's acceptance as well for any acquisition of real property.

COUNCILMEMBER KING: Okay. That's...that was my understanding. So, I just wondered, Chair, if we have, if we've had any discussions whether, you know, if we're gonna put this in there whether they're open to that.

CHAIR PALTIN: Before we address that, Mr. Hopper, I was wondering if you could clarify if the Council can go through this with the upcoming Budget process, either to line item a purchase for this parcel or any other way that the Council can pursue this independently?

MR. HOPPER: For this Condition 11? I think it would have to be...as far as this upcoming Budget, I don't want to give an opinion on whether it's prudent to do that or not. But I

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

February 5, 2020

think that, I mean, you'd have to have money in the Budget to acquire the property, so that would be one way of doing it, for, you know, certainly.

CHAIR PALTIN: Okay. And then if the landowner or representative would care to comment on the discussion we've been having as far as, you know, changing 90 days from the date of such notice to agree upon the purchase terms and 1 year from the date of such notice to close on its purchase of Lot 21. Is that correct, Mr. Hopper?

MR. HOPPER: So, just clarify that within that one year to close on its...one year from the date of such notice to close on its purchase of Lot 21, which will include any required Council approval.

CHAIR PALTIN: Which will include...

MR. HOPPER: Any required Maui County Council approvals.

CHAIR PALTIN: Any required...

MR. HOPPER: Maui County Council approvals. Just to make sure, clear that that's, that doesn't all have to be done in the first 90 days.

CHAIR PALTIN: Okay. Any comment from the landowner? You're okay with that? Okay. Can we move on from that Condition 11? 'Cause we can work simultaneously through the Budget process if that's a thing that Members would like to pursue the purchase of the 40 acres or the purchase of the entire project, we can work on that concurrently and separately. Do Members have a problem with moving on to Condition 13 and simply splitting that up into two separate conditions and renumbering? Would you consider that a substantive change?

MR. HOPPER: If it's just separating them out, I don't think that's a major issue. You may want to consider just a 13(A) and 13(B) though rather than a new number, so you don't have to change all of the other numbers.

CHAIR PALTIN: Members, any objection to a 13(A) and 13(B)?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: No objections. Ms. Britton, is that acceptable?

MS. BRITTON: Thank you, Chair. My suggestion was to break out the Pohakea piece separately rather than . . .(inaudible). . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, she needs to be on the mic.

CHAIR PALTIN: Would it be all right if you come to the testifier stand so that we can have your response on record, if that's okay with the Members?

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

February 5, 2020

MS. BRITTON: Thank you, Chair.

CHAIR PALTIN: Thank you, Ms. Britton.

MS. BRITTON: Thank you. My suggestion was 13 right now starts with the must provide water for the property. The water section goes through one, two, three, four, five lines and then on the fifth line it starts furthermore, any future homeowners association dah de dah de dah will collaborate with the Maui Nui Marine Resource Council. My suggestion was to break out the balance of that paragraph that starts with furthermore on line five, make that a separate one. And then the item 14 also deals with water supply issues, so my suggestion was to include the paragraph and 13 on water and the paragraph 14 that is just water, put those together on water, and then separate the Pohakea issue so that it stands out by itself.

CHAIR PALTIN: Mr. Hopper, any objection to that suggestion or recommendation?

MR. HOPPER: I think if you want to rearrange the conditions, I think you're certainly free to do so however the Committee would like.

CHAIR PALTIN: Does the landowner have any objection of not changing the substance but just rearranging? Do the Members have any objection with that?

COUNCILMEMBERS: No objection.

CHAIR PALTIN: Okay.

MS. BRITTON: Thank you.

CHAIR PALTIN: And then, Ms. Britton, if you wouldn't mind staying and if the Members don't object to her also commenting, I think, 15(A) was your other concern about the 20.644 acres. And, Mr. Hopper, just confirming, would those conditions by the way that we do things apply to the whole parcel or...on 15(A)?

MS. BRITTON: Chair?

CHAIR PALTIN: Yes, Ms. Britton?

MS. BRITTON: My main concern was 15(C) --

CHAIR PALTIN: Oh.

MS. BRITTON: --which had to do with the Historic Preservation Division. My comment was wouldn't that apply to the entire parcel?

CHAIR PALTIN: Oh, I'm sorry, 15(C). Mr. Hopper, would that apply to the entire parcel?

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

February 5, 2020

MR. HOPPER: First of all, this is a recitation of Land Use Commission conditions, so this is why it's affected this area 'cause it's actually recorded there. Whether the...if you wanted to have a more general condition on, like, C here, I think that's not a typical. I don't know offhand if there's another condition dealing with archaeological issues. You can certainly put a condition like that in general, but the way that this condition was phrased it looks like it was just added to reclarify that the Land Use Commission conditions, which apply only to this 20-acre area, will apply to that 20-acre area. I mean, it's a bit redundant because they're already recorded there, but if you wanted to make...right now, the answer is no, that section does not apply to the whole project as far as your conditions. And if you wanted to... 'cause they're Land Use Commission conditions and they're recorded. If you wanted to make that a more generally applicable condition you could look at doing that but it looks like it's relatively standard wording with respect to SHPD. I mean, you can ask the applicant about this as well, but I think I've seen conditions like that. It's, as relatively typical conditions on projects.

CHAIR PALTIN: Deputy Director Hart, any comment that you're aware that that's a standard condition that if landowners must immediately stop work and contact SHPD should any archaeological resources such as artifact, shell, bone, or charcoal deposits, human burial, rock or coral alignment, pavings, or walls be encountered during crop cultivation or any subsequent development activity? Is that a standard process or is that something extra special?

MR. HART: I'm not completely certain. It's...I'm pretty familiar with that type of provision, but I'm not sure if it's taken from some existing State law or administrative rules at this time or if it's just a repeat condition that's often presented.

CHAIR PALTIN: Any comment from the landowner on that condition?

MR. OTOMO: Stacy Otomo, again. What you just said, it's actually...there's a note that's required on the construction documents and it refers to State Historic Preservation Division and it covers what you just mentioned. There's a specific note that we are required to put on our construction documents.

CHAIR PALTIN: Okay, so this is just redundant because it came from the Land Use Commission regarding that.

MR. OTOMO: Yes.

CHAIR PALTIN: Okay, thank you. So, I think it is addressed. Members, if there's no further discussion and no objections, I'll defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

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

February 5, 2020

CHAIR PALTIN: Okay. You guys are such hard workers, I'd like to give you a four-minute recess, if there's no objections.

COUNCILMEMBERS: No objections.

**PSLU-16: AMENDING THE COMPREHENSIVE ZONING ORDINANCE
RELATING TO RESOURCE EXTRACTION OR PROCESSING
(CC 17-140)**

CHAIR PALTIN: And then, you know, seeing the time again, I'd like to also at this time defer PSLU-16, because I think we may need more time again for that and take up PSLU-44 on our return.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER, NO DISCUSSION.

CHAIR PALTIN: Okay. Thanks. Oh, sorry. Mr. Spencer?

MR. SPENCER: Hi, Mark Spencer. Did you mean discharge our item instead of defer?

CHAIR PALTIN: Yes --

MR. SPENCER: Okay.

CHAIR PALTIN: --discharge.

MR. SPENCER: Thank you.

CHAIR PALTIN: Or...the discharge happens at the Council meeting on Friday, so we're deferring it today so that we can discharge it on Friday.

MR. SPENCER: Okay.

CHAIR PALTIN: Okay. Thank you. Is that clear?

COUNCILMEMBER LEE: Can we have a short recess?

CHAIR PALTIN: Sure, let's have a short recess at the call of the Chair. . . . *(gavel)* . . .

RECESS: 11:37 a.m.

RECONVENE: 11:51 a.m.

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

February 5, 2020

CHAIR PALTIN: . . . *(gavel)* . . . Will the Planning and Sustainable Land Use Committee meeting of February 5th return to order. The time is 11:51 and we straightened out, defer is fine, and we can discharge on...at the Council meeting this Friday.

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

CHAIR PALTIN: Moving on to the next agenda item is PSLU-44, Advisory Committees to the Maui Planning Commission. Nine minutes. The Committee is in receipt of County Communication 19-402, from Council Chair Kelly T. King, transmitting a proposed bill to establish a South Maui Advisory Committee to the Maui Planning Commission, which would advise the Commission on land use matters pertaining to South Maui. A revised proposed bill dated January 22, 2020, from the Committee Chair, entitled A Bill for an Ordinance Amending Chapters 2.28 and 2.40, Maui County Code, Relating to Advisory Committees to the Maui Planning Commission. The purpose of the revised bill is to propose...is to establish a Kihei-Makena Advisory Committee and a Paia-Haiku Advisory Committee to the Maui Planning Commission. The Committees would advise the Commission on land use matters pertaining to the Kihei-Makena Community Plan Area and the Paia-Haiku Community Plan Area, respectively. And correspondence dated January 29, 2020, from Councilmember Michael J. Molina, transmitting a revised proposed bill to establish a Kihei-Makena Advisory Committee and Paia-Haiku Advisory Committee to the Maui Planning Commission. And I scheduled this, you know, as part of our ongoing discussion of community advisory committees that a lot of our communities are very concerned about being able to have input in items that are...items and projects that are affecting their community. And so, Councilmember King wanted to distribute something and I wanted to distribute something. And I just wanted to explain one of my Staff dug up this working group comparison for Member King's Staff for her Climate Action Resilience Committee. And in looking over it, I mean, obviously a TIG wouldn't be appropriate for an advisory committee, but in looking through it, I thought independent working groups may be another option to look at especially if we don't have a chance before Budget to solidify anything, you know, as a interim measure or a trial basis. As one of the testifiers mentioned today that, you know, sometimes we just got to try new things. And I did have a brief conversation with Director McLean about the independent working groups that have worked in the past, and I just wanted to put it out there for consideration. You know, there's nothing stopping our community members who are currently meeting on this from forming that, and Director McLean did have some comments about, you know, how that could work and possibly that they...we can write it in that they be consulted at the application level and that their...or that their comments or recommendation be read in public by the Planning Commission or whatever entity that they are making the recommendations to. So at this time, I'd like to open up to Director McLean for any comments that she had shared with me previously.

MS. MCLEAN: Thank you, Chair. This broadens the discussion quite a bit, which is great. It's the same idea that I had. We did transmit a letter to the Committee dated January 31st asking a handful of questions for the Committee to consider when moving forward and the idea of working groups just broadens that even more so that the

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

February 5, 2020

Committee can really have a full discussion on what is best...what is the best way to get that community input and convey it to the decision makers whoever those decision makers may be. So, I'll just really quickly, there are five questions that we posed in this letter that we sent and then gave our responses to it. One is what authority should the advisory committee have and what authority can they have? Should the advisory committees be limited to matters under the Maui Planning Commission's authority? What role would the advisory committees play in the community plan update process? Will additional personnel be needed? And then are there issues with other provisions? So, just a snapshot of the discussion that we were hoping to participate in, and then the idea of working groups that goes even farther. I mean, it's really just finding out from the Committee what vehicle that they think would be the best to convey their recommendations to whatever the decision making body may be whether it's the Planning Commission or the Council or Administration.

CHAIR PALTIN: And, yeah, basically I wanted the communities to consider this because of the freedom that it allows, you know, they won't be subject to the Sunshine Law, they won't be subject to any kind of budgetary constraints on the Council or the County's end and, you know, they can meet whenever, wherever, however much they want as well as talk about issues they want. And then the other thing was that, you know, it's not us or the Mayor or anybody telling them who can participate, it's not like an exclusive type of working group. It's...I would imagine hopefully be more inclusive, but it also gives each district the opportunity to define for themselves what their working group means. I think in discussion Director McLean said, you know, if we give these working groups opportunity to comment or be consulted on during the application status, it could be up to that area's Council representative to designate who the working group is and, you know, work with them and say, you know, this isn't meant to be an exclusionary process, it isn't meant to, like, hamper their freedoms to talk to one another or, you know, only meet when the Planning Department can staff their meetings and whatnot. So, I just wanted...you know, this is kind of a big step and I do agree it's a needed step, but I just want us to consider the range of options and I just wanted to put it out there during committee so that, you know, it's on Granicus and folks can, you know, totally vet it. And in this way, I think that the communities aren't prevented from taking action and starting to form right now as some of them already have in Kihei, South Maui and the Paia-Haiku District. So just...it's not meant to, you know, it's just meant to broaden the discussion. So, we have about two minutes left if any Members wanted to make one comment. I'll start with my Vice-Chair, Member Sinenci.

VICE-CHAIR SINENCI: I just had a question, Chair. Was this for the Climate Action?

CHAIR PALTIN: It was originally distributed in the Climate Action Resilience [sic]. It was a item that was I think former Member Guzman had done for his Ag Working Group and my Staff member Kathy Kaohu had given it to Member King's Staff member. And in looking over it, I thought, you know, this is something that, you know, we can consider for any type of working group, you know. So, I just wanted to get it out there and include it as an option. And some of the Members, Ms. Sugimura and Member Molina, are not on the Climate Action Resilience Committee, and so I just wanted to share it with all the Members as another option to...for discussion.

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

February 5, 2020

VICE-CHAIR SINENCI: Thank you, Chair. I'll yield to the other Members.

CHAIR PALTIN: Member Molina, any question or comment?

COUNCILMEMBER MOLINA: No questions but definitely a comment. No disrespect to this proposal but myself and Member King, we've gone out to our communities over a, you know, significant amount of time and we've heard them. And our respective communities have told us they would prefer going with advisory committees. And for me now to go back and tell my community, well let's consider this alternative I think will be disrespectful to them because they've made it loud and clear. You heard from Lucienne, who's a long-time member of the Haiku Community Association, say...refer back from 1980's it was recommended that some type of a advisory group be formed for Haiku's future. So...and in those candidate forums some of the questions were asked about any of our thoughts regarding an advisory committee out there. So, I think now to change our position and go back would really be difficult, and for me I'm not comfortable with it. And like I stated before, it's high time now. These are...our communities are both shoreline communities. We're talking about shoreline erosion and the impacts of any proposed land use developments in our communities. We need to empower the people who are going be impacted the most by formalizing a committee of our citizens who can get into the land, proposed land use process early on so they're not blindsided in the future with some development that came up where a lot of the people who are in our communities were not informed or for whatever reason. So, this way we form these advisory committees. It's much more formalized and it carries the weight of it with the County being overseeing this and the Department. And also with a TIG it seems more fluid, I mean, yeah, you might have this group of folks for this particular TIG, then when another TIG comes up, do you stay with the same group or is it someone else? So, I don't know, to me, there's just a little bit more uncertainties. I mean, I see some benefit with TIGs but in my case --

CHAIR PALTIN: Oh.

COUNCILMEMBER MOLINA: --I am speaking on behalf my...

CHAIR PALTIN: Sorry, just a clarification. I didn't mean the TIG part.

COUNCILMEMBER MOLINA: Oh, okay.

CHAIR PALTIN: I should've crossed that out. I was referring to the independent working groups and certainly --

COUNCILMEMBER MOLINA: Oh, okay. Or independent, yeah.

CHAIR PALTIN: --no disrespect meant to the community. It was just, you know, with the Budget approaching. If we don't pass anything out, I didn't want them, the communities, to sit on the side waiting for us, for them to be able to take action. But, yes, I see your point.

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

February 5, 2020

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: And, yeah, I wasn't meaning the TIG one, I'm sorry. That's the first one...

COUNCILMEMBER MOLINA: Oh yeah. Oh, no, no. But no...and I appreciate you throwing out alternatives and by all...I have no objections to you wanting to throw something else to consider. I'm just speaking for my, on my behalf and for community members who put in a lot of time with this. So, it's just more out of respect for the fact that the community is driving this as well. It's the preferred vehicle, if you will. So, I want to honor that and stay with this. And we're pretty close in my opinion, Madam Chair, to move forward with this, but due to time constraints I don't think we'll be able to hammer everything out. But, anyway, I think I've said enough and I think you know what my feeling is. So, thank you.

CHAIR PALTIN: Thank you. Member King?

COUNCILMEMBER KING: Thank you, Chair, and thank you for the, looking at those alternatives. I agree with Member Molina and I think we have, you know, we've proven in Kihei that we can create this body. We did the experimentation that you're talking about and having these meetings monthly. The part that's missing and the part that the community really wants is that buy in into the process and the formalization so that the Council recognizes the importance of this body and also gives them resources. So, you know, I'm hoping that we can get from the Director what this would, you know, what this would entail as far as extra support and that we can fund this through the Budget process. Because we did...we have funded items through the Budget process before and then done the ordinances afterwards. We do that almost every session. So, I think we can, yeah, I'm hoping that we can pass the actual ordinance out of this Committee at least, because the Council meets, still meets regularly through the Budget process. But even if we don't get to that point, we could...if we had a funding, an idea of the funding that was needed and the bodies, we could still put that into the Budget and then pass the ordinance after. But I feel that this is an idea that's been discussed for at least two decades in my community at least and possibly your community, Mr. Molina. The...asking volunteers to, you know, to keep this process going when they have no support, you know, that...we've been able to keep it going in South Maui, because my, you know, I've had a Staff member that goes and takes notes for them and arranges the meetings and that was the purpose of trying it for since April, because I brought it up last Budget Session then I agreed let's see if we have volunteers available that are willing to do this on a regular basis that want to be that voice that will show up regularly. And we've shown that we have, but I believe that Haiku and Paia, you know, they're already getting phone calls for members that want to join it. But I agree that this, you know, this is coming from the community wanting this same structure. We're looking at the Hana Advisory Committee structure and realizing that it's not about geography, about not being able to, about how far Hana is, it's about how we're gonna be able to participate. And so, the evenings and weekends are great, probably evenings will work better for, I'm assuming for the Department. But I'm pretty excited about where we're at and I think, you know, the...my handout has some changes more to give

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

February 5, 2020

flexibility to the advisory committees what, you know, the idea of changing, you know, the alternative to “may” have an alternative, have alternative members, things like that.

CHAIR PALTIN: So, I think to move forward the questions that Director McLean had submitted, those are things that she would need answers. I mean, I don't want to speak for you. But it would seem that those questions that she had submitted to the Committee would require some answers to move forward, but we can certainly continue this discussion during Budget. I mean, if it is any Member's priorities, I mean, --

COUNCILMEMBER KING: All right.

CHAIR PALTIN: --go for it.

COUNCILMEMBER KING: And, Chair, I, you know, I kind of almost...when I looked at the questions I thought that some of them had actually been answered by Director McLean, 'cause we, you know, the last Committee meeting we had where, Director, you talked about the advisory committees the authority that it has now and what it could have, you know, there could be some things that we take directly to the Council. That was proposed in my amendments and so, you know, you guys work with the Hana Advisory Committee right now, so you know what the existing structure is for that Committee. And then our proposals would be, you know, if you looked at the iterations of the Member Molina's, Member Paltin's, and now the South Maui, then I would actually look to you for advice on whether that would work or not as far as our current ordinance and how the committee interacts with the Planning Commission, the Planning Department, and the Council. So, I was actually really excited about, you know, having that option put in front of us like maybe there's some things that the advisory committee could make recommendations directly to the Council and bypass the Planning Commission, so we could actually not add another layer onto some of those. We would just be making that layer be more at the committee level, I mean, at the community level rather than at the, you know, at the County level. So, anyway, I'm glad that we're having this discussion and I'm open to whatever, you know, suggestions you have and constructive criticism on our proposals.

CHAIR PALTIN: Director?

MS. McLEAN: Just really briefly, what I had suggested before was for the advisory committees to have approval authority because that would take the step away rather than them being advisory to the Planning Commission. In terms of cutting the Planning Commission step out, that would, depending on what you're talking about that would likely require a Charter amendment, because the Charter calls for the Commission to review certain things.

COUNCILMEMBER KING: Okay.

MS. McLEAN: And so, that's just something that needs to be --

COUNCILMEMBER KING: Vetted with the Charter.

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

February 5, 2020

MS. McLEAN: --talked through and decided upon. We do say twice in our letter that whatever is ultimately decided if that can be uniform for all three so that we don't have Hana Advisory doing one thing, Paia-Haiku doing another, --

COUNCILMEMBER KING: Right.

MS. McLEAN: --South Maui doing another 'cause then we're just gonna get confused.

COUNCILMEMBER KING: No, I totally agree with that, yeah.

MS. McLEAN: So yeah.

COUNCILMEMBER KING: Yeah.

MS. McLEAN: Thank you, Chair.

COUNCILMEMBER KING: No, I totally agree with that. We don't want you to have to deal with three different structures.

CHAIR PALTIN: Member Sugimura? Chair Lee?

COUNCILMEMBER LEE: So, what was your plan to do with this today?

CHAIR PALTIN: My plan would be to, you know, just get this out there on Granicus, the two items submitted by, I believe Member Molina's is already on Granicus and Member King submitted it, so just, you know, distribute it during Committee and any community members that are interested in following this they have it up on Granicus, it can be posted up on Granicus for folks to get a broader look. I was concerned that if we didn't pass any ordinance before the Budget, I didn't want the community members to, you know, fall off in their participation of this subject and say, oh, now they're going through Budget, we're not gonna get anything done for two, three months or whatever. Or I just wanted it out there, like, you know, if they're already meeting and if depending on how much authority that they have if their authority is to make a recommendation to the Planning Commission, if their authority is to make a recommendation to the Council or whatever entity for them to know what's out there in terms of options. And like how the Ag Working Group formed, you know, you can have a district working group in preparation for whatever ordinance that we pass in the future. As Ms. de Naie said, you know, we need to...we do need to try new things because at times the community does feel they're not being heard. And this would just be, you know, possibly a trial thing, possibly an interim thing, I just wanted to throw it out there for...to broaden and deepen the discussion. After seeing it being proposed in Councilmember King's Committee for her Climate Action Working Group, I mean, it sounded like it was a real way to participate and brainstorm stuff and we can tailor it to the communities and it would, for the time being, alleviate some of the burden for the Planning Department. I mean, they can always submit during Budget how much it would be for each...for if we were to do an actual formal advisory committee and we can budget for that. But in the

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

February 5, 2020

interim, you know, I don't want folks to become disengaged or wait for us to take the action. I wanted to empower them to, you know, continue to meet and not feel that, you know, because we're not actively involved and funding the process that their meeting is irrelevant or doesn't have value or worth it. Them meeting and giving us recommendation or giving anyone recommendation has value or worth to me regardless if we're funding it or whatnot. If they're working with their Councilmember, if they're discussing applications, if they're discussing items before the Planning Commission, it's all very valuable to me personally. And I didn't want to stifle that with the timeframe that we're given in terms of holding meetings, in terms of, you know, Sunshine Law, agendaizing things and like that, I wanted to keep it going regardless if we're funding it or formalizing it. I just want them to continue to...you know, it's...I think even if we do pass an ordinance it might not be perfect the first time and so just for them to consider all their options and, you know, just give a broader depth to what it is. I mean, it wasn't clear to me like some people are still talking neighborhood boards, some people are talking just to the Planning Commission, some people are talking Planning Commission and Council and it was just a suggestion that, you know, maybe we don't need to define it at this time. If they try this independent working group and they say, like, well, South Maui wants to just advise the Planning Commission, we don't want to have anything else or whatever. You know, I don't want to stifle them or pigeonhole people. If you have 15 very active people, what about the 800 that aren't, you know, involved in that conversation? So, just meant to be for discussion, you know, if it is offensive I deeply apologize and, you know, it wasn't meant to be offensive.

COUNCILMEMBER LEE: I don't...I didn't take it that way. Because this is not something that can happen immediately, it's gonna cost money, it's gonna require additional personnel, it's gonna require additional offices and resources, and the complete cooperation of the Administration. Because at these meetings I'm sure they want more than just a planner, you know, they'd want other resource people assisting with the information that goes...that they'll be reviewing. So, yeah, I...you know, and then you want to come up with the type of advisory committee if that's what they want that is consistent across the board. So, and that is not something everybody's gonna agree with overnight, so this will take some time. And in the meantime, the more we have conversations the more we'll know in our, you know, we can estimate how much it's gonna cost and what it's gonna require 'cause that alone is gonna take a while. So, you know, I appreciate the different options you giving people. And, to me, I took it as in the meantime.

CHAIR PALTIN: Yeah, like an interim option --

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: --or, you know, to add on to the current conversation, not definitely, not to stall anything. You know, some folks don't know what options that they have and, you know, in making an informed decision, I just would like to give the full array of what's happened and, you know. I think that this would give folks a little bit more freedom to tailor it to them...their specific needs, whereas, like how Director McLean said, like, for advisory committees as we're being discussed it needs to be...or they'd prefer it to be, you know, kind of a standard procedure and perhaps, you know, West Maui or

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

February 5, 2020

Upcountry doesn't fit that mold that's being given. So, I mean, you know, even for obviously South Maui and Paia is very community driven right now, but, you know, maybe the other districts would like some input but they're not there yet, this could be another vehicle for them. You know, like as maybe the first step to getting to where they're at, you know, it's just letting folks know what options are out there and, you know, just to deepen the discussion maybe while we're in Budget, you know, so that they can continue the conversation and really fine tune it to the end product that we all want to see.

COUNCILMEMBER LEE: Because we all know how long it takes just to fill a commission, the nomination and selection process is quite long and so this is nothing. We don't want to mislead anybody, let them think that this is something that could happen quickly because it can't, --

CHAIR PALTIN: Yeah.

COUNCILMEMBER LEE: --you know, just logistically and financially.

CHAIR PALTIN: And one of the testifiers didn't even want appointed folks, they wanted elections. So, I mean, there is a whole range of opinions out there, but I do know that there are specific groups that are honing in on what they want and I definitely don't want to discourage that type of organization. But, you know, just putting it out there for the public at large and, you know, just broaden the discussion.

COUNCILMEMBER LEE: Yeah. And actually if they're not too small it's better, because, you know, actually we see the same people come here all the time. It'd be nice to see others within the community to get a broader perspective. And, you know, to make the committee or commission 15 members or something like that I think is a great idea. Thank you.

CHAIR PALTIN: Okay. So, if there's no further discussion, this concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much.

COUNCILMEMBER KING: Chair, I just have one more --

CHAIR PALTIN: Yes, Member King?

COUNCILMEMBER KING: --discussion on this item because I am hoping that we can come back to Committee and I don't think that we're that far apart on our proposal. So, I would like to bring back to the next...I mean, we've been working on this a while, this is not an overnight thing, so this has been going on for months. But I think on this final, maybe we can make one final iteration and I can work with Member Molina as, you know, Member Hokama did with Member Kama on the housing proposal. And then we can just bring one for discussion at the next Committee and hopefully get that passed because I feel like we're, South Maui's not getting the recognition that, you know, when we keep talking about we should try this. We've been trying it and it's working and so we're ready for the next step. I want to thank the Director for actually sending out...this

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

February 5, 2020

was actually pretty exciting to get because they actually sent a request to South Maui Advisory Committee to review an item for the South Maui Community Park amendments, and so that's the kind of interaction I think that we need to make people feel like they're making a difference and that they're coming out. But I think if you had every community have its own format and its own, that would be the nightmare for the Planning Department because we have to work with all nine different communities and nine different structures and some people that take minutes and some people that don't. So, that's the idea of trying to structure it so it's the same in every community and then give the Department the tools and a budget they need, and I don't think it will take that long to figure it out because we already have the Hana Advisory Committee, so we know what support that takes and then we just have to extrapolate that out for possibly more meetings in these other two districts. But I would make that commitment, I...this...that working with Member Molina to...and so you don't have all these different iterations with different proposals just to have one proposal next time. Thank you.

CHAIR PALTIN: Okay, if there's no objection...yes?

COUNCILMEMBER MOLINA: Oh, sorry, Chair. Just want to...

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: So as far as the next time we hold a hearing on this at this point, you...I know you probably have a full docket for the last two regularly scheduled Planning Committee meetings, so prior to going into Budget and so just so I can tell my community in case they're asking when the next...when will this be heard next, so shall I tell them after the Budget Session then?

CHAIR PALTIN: Well, depending on what happens on Friday, I may be looking for new Staff so my...that's my first priority.

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: I haven't really thought much further than that. I had a surprise situation occur, so...

COUNCILMEMBER MOLINA: Okay. Well, we can talk about it later but, yeah, just so I can...in case I'm asked by my community as far as when the next hearing. So, I'll just kind of give 'em a general timetable as when you could possibly hear...

CHAIR PALTIN: It is definitely a priority item for me as well as, you know, hearing from Director McLean on our pre-budget rundown that Council Vice-Chair Rawlins-Fernandez has assigned to each of us and some other items that I did have planned but it is...I mean, we've...we have been having it on the agenda for the past two agendas, so I mean, I would hope that shows my commitment to hearing it.

COUNCILMEMBER MOLINA: Yeah. As far as today's, well first item took quite a long time.

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

February 5, 2020

CHAIR PALTIN: Every time there's a lot of discussion about a lot of things, so yeah, I can't really make a commitment at this point.

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: My first --

COUNCILMEMBER MOLINA: Okay.

CHAIR PALTIN: --order of business is to hire some more Staff so that we can move forward in a deliberate manner.

COUNCILMEMBER MOLINA: And, you know, I agree with what was said earlier, you know, things take time and, you know, Member King and I, our proposed ordinances came out last year. So, it's been worked on a lot and a lot of this has...is the input from the community as far as the structure and proposals and I know money is always the case. Everything costs money, Madam Chair, but you know what, you cannot put a price on democracy and providing our people an additional venue to get involved in government and decision making. So, that's what I'm gonna say. I mean, everything costs money and we cannot keep using money as an excuse to potentially muzzle our citizens' participation in government and decision making, so I'll leave it at that, Madam Chair. Thank you.

CHAIR PALTIN: Thank you. So, if there's no objections, the Chair will defer this item.

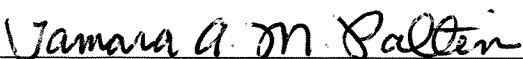
COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: KRF and ALL)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR PALTIN: And this concludes today's Planning and Sustainable Land Use Committee meeting. Members, you've certainly put in your overtime with very little break time today. Hopefully, Chair Kama will go easier on you than I have been. Thank you very much, Members. The time is now 12:24 and this meeting is adjourned. . . . *(gavel)* . . .

ADJOURN: 12:24 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

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

February 5, 2020

CERTIFICATE

I, Michelle Balala, 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 26th day of February, 2020, in Kihei, Hawaii



Michelle Balala