KAUA‘I PLANNING COMMISSION
REGULAR MEETING
June 26, 2018

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Apisa at 9:22 a.m., at the Līhu‘e Civic Center, Mo‘i keha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Donna Apisa
Vice Chair Glenda Nogami Streufert
Ms. Kanoe Ahuna
Mr. Roy Ho
Mr. Kimo Keawe
Mr. Sean Mahoney

The following staff members were present: Planning Department – Deputy Director Ka‘āina Hull, Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Jodi Higuchi Sayegusa; Office of Boards and Commissions – Administrator Nicholas R. Courson, Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Apisa called the meeting to order at 9:22 a.m.

ROLL CALL

Planning Deputy Director Ka‘āina Hull: Good morning, Madame Chair. The first order of business is roll call. Commissioner Ho.

Mr. Ho: Here.

Mr. Hull: Commissioner Streufert.

Ms. Nogami Streufert: Here.

Mr. Hull: Commissioner Mahoney.

Mr. Mahoney: Here.

Mr. Hull: Commissioner Keawe.

Mr. Keawe: Here.
Mr. Hull: Commissioner Ahuna.

Ms. Ahuna: Here.

Mr. Hull: Chair Apisa.

Chair Apisa: Here.

Mr. Hull: Madame Chair, you have a quorum.

**APPROVAL OF AGENDA**

Mr. Hull: The next agenda item is Agenda Item C – Approval of Agenda. The Department would recommend amending the agenda to reflect General Business I.3., the Kaua‘i Springs case, be moved to General Business (I.)1., so that it directly follows the Executive Session.

Chair Apisa: Motion to amend the agenda?

Ms. Nogami Streufert: I’m sorry – could you repeat that?

Mr. Hull: Sorry. If you look at (Item) I, General Business Matters, No. 3 is the Kaua‘i Springs case. The Department would recommend that that No. 3 be moved to be the first item of (Item) I, General Business Matters, 1., so that it is heard directly preceding [sic] the Executive Session pertaining to the Kaua‘i Springs matter.

Mr. Keawe: I had a question, Madame Chair.

Chair Apisa: Yes.

Mr. Keawe: Preceding it or--

Mr. Hull: After – my apologies – after it.

Ms. Nogami Streufert: I move to accept the agenda as amended.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Motion carries 6:0. The agenda has been amended as recommended.

**MINUTES of the meeting(s) of the Planning Commission**

Regular Meeting of May 22, 2018
Mr. Hull: The next agenda item is Agenda Item D – Minutes for the Regular Meeting of May 22, 2018.

Chair Apisa: Motion to approve?

Ms. Ahuna: Motion to approve meeting minutes from the May 22, 2018 meeting.

Mr. Mahoney: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

RECEIPT OF ITEMS FOR THE RECORD

There were no items to receive for the record.

HEARINGS AND PUBLIC COMMENT

Mr. Hull: The next agenda item is Hearings (and) Public Comment. At this time, if there are any members of the public that would like to comment on any agenda item, this would be the time. Seeing none, Madame Chair, we will move on to the next agenda item.

Continued Agency Hearing

Mr. Hull: We have no continued agency hearings.

New Agency Hearing

Mr. Hull: We have no new agency hearings.

Continued Public Hearing

ZA-2018-1: Change from Open District (O) to Agriculture District (A). Parcel Location: Located approx. 500 ft. west of the Kainahola Road/Kawaihau Road intersection in Kapa’a Homesteads, further identified as 6765 Kawaihau Road, Tax Map Key: (4) 4-4-013:002, and containing a total area of 3.377 acres = Baird Family Limited Partnership. [Director’s Report and Supplement No. 1 to Director’s Report received 10/10/17; hearing deferred 10/10/17, deferred 11/14/17.]

Mr. Hull: We do have one agenda item under F.3., Continued Public Hearing – ZA-2018-1: change from Open District (O) to Agriculture District (A). Parcel location: Located approximately 500 feet west of the Kainahola Road/Kawaihau Road intersection in Kapa’a Homesteads, further identified as 6765 Kawaihau Road, Tax Map Key: (4) 4-4-013:002, and containing a total area of 3.377 acres. The Baird Family Limited Partnership is the applicant.
At this time, is there any public comment on this agenda item? Seeing none, Madame Chair, the Department would recommend keeping this public hearing open as the applicant’s representative has submitted a letter requesting deferral to the November meeting.

Chair Apisa: A motion to defer Item ZA-2018-1?

Mr. Mahoney: Chair, move to defer Item ZA-2018-1 to 11/14...no, that’s not...I’m sorry. When was it deferred to?

Chair Apisa: Is there a requested date?

Mr. Hull: 11/13.

Mr. Mahoney: To when?

Mr. Hull: November 13th.

Mr. Mahoney: November 13th, okay. Excuse me – to November 13, 2018.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0. So it is deferred for one year. The agenda here says deferred 11/14/17, so now we have deferred it to 11/14/18 [sic]; it is a one-year deferral.

Mr. Mahoney: Correct. Thank you.

New Public Hearing

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

Mr. Hull: There are no further agenda items for F, Hearings and Public Comment.

CONSENT CALENDAR

Status Reports

Director’s Report(s) for Project(s) Scheduled for Agency Hearing.

Mr. Hull: We do not have any agenda items for G, Consent Calendar.

EXECUTIVE SESSION

Pursuant to Hawai‘i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County’s legal counsel on questions, issues, status
and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, Special Permit SP-2007-01, Tax Map Key: (4) 2-8-002: port. 005 = Kaua‘i Springs, Inc.

Mr. Hull: The next agenda item is H, Executive Session. I will let the County Attorney read that on to the record.

Deputy County Attorney Jodi Higuchi Sayegusa: We are on Item H.1. – Pursuant to Hawai‘i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County’s legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, and Special Permit SP-2007-01, Tax Map Key: (4) 2-8-002: portion of Parcel 005 – Kaua‘i Springs, Inc.

I think we would need at least a roll call vote to go into Executive Session.

Chair Apisa: Roll call vote.

Mr. Mahoney: Do you need a motion?

Ms. Higuchi Sayegusa: I’m sorry – a motion and a second, and then a roll call vote.

Ms. Nogami Streufert: I move that we go into Executive Session.

Mr. Keawe: I second.

Chair Apisa: Roll call.

Mr. Hull: Commissioner Ho.

Mr. Ho: Aye.

Mr. Hull: Commissioner Streufert.


Mr. Hull: Commissioner Mahoney.

Mr. Mahoney: Aye.

Mr. Hull: Commissioner Keawe.

Mr. Keawe: Aye.
Mr. Hull: Commissioner Ahuna.

Ms. Ahuna: Aye.

Mr. Hull: Chair Apisa.

Chair Apisa: Aye.

Mr. Hull: Madame Chair, the motion passes 6:0.

The Commission recessed this portion of the meeting at 9:28 a.m.
The Commission reconvened this portion of the meeting at 1:13 p.m.

Chair Apisa: We will (reconvene) to our regular session. We have one member of the public, here, that would like to testify. We will call you forward at this time.

Ms. Higuchi-Sayegusa: Sorry – just to be clear – I think we didn’t technically call the agenda item.

GENERAL BUSINESS MATTERS

In the matter of Remand from the Hawai‘i Supreme Court for Amended Decision and Order based upon Additional Evidence for CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, Special Permit SP-2007-01, Tax Map Key: (4) 2-8-022: por. 005 = Kaua‘i Springs, Inc. [Hearing Officer’s Report and Recommendation of Contested Case Hearing; Certificate of Service (10/20/17) deferred 11/14/17; deferred 1/23/18; deferred 3/27/18; deferred 4/10/18]

Mr. Hull: My apologies, Chair. Having completed Executive Session Item H.1., we are now on General Business. The first matter before that is Item (I.)3., which was moved in the amended agenda to be reflected as No. 1 in General Business, which states, “In the matter of Remand from the Hawai‘i Supreme Court for Amended Decision and Order based upon Additional Evidence for CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, Special Permit SP-2007-01, Tax Map Key: (4) 2-8-002: portion of 005 = Kaua‘i Springs, Inc.” A Hearing Officer’s report and recommendation of Contested Case Hearing, Certificate of Service (October 20, 2017) was deferred on November 14, 2017, deferred on January 23, 2018, deferred on March 27, 2018, and finally on April 10, 2018.

As you stated, I believe now would be the appropriate time for the members of the public to testify.

Chair Apisa: Thank you. Just to remind you, it is three minutes and state your name for the record, please.
Ms. Tessie Kinnaman: Tessie Kinnaman for the record. Thank you for allowing me to testify today. I would like to start off with saying flowing water is a natural resource owned—

Mr. Keawe: Can you state your name, please?

Ms. Kinnaman: I’m sorry – Tessie Kinnaman for the record. Flowing water is a natural resource owned by the State subject to, but in some sense, a trust for the enjoyment of certain public rights. This public trust doctrine is a constitutional principle which requires the government of the State to preserve trust resources for the use of the public, free from the obstruction or interference of private parties. Thus far, the court has identified a handful of public trust purposes, including environmental protection, traditional and customary Native Hawaiian rights, (inaudible) rights, domestic water uses, and reservation for the Department of Hawaiian Homelands. Public trust purposes have priority over private commercial uses which do not enjoy the same protection, and the public trust dictates that any balancing between public and private purposes must begin with the presumption in favor of public use, access, and enjoyment, and establish use consistent with trust purposes as the norm or default conditions.

Stream diverters who seek to use water for their private commercial gain have the burden of justifying proposed uses in light of protected rights in the resource. For instance, an applicant who wants to take water from streams for commercial use must prove both the social and the economic utility of the proposed use, as well as the absence of alternate sources of water. Moreover, those who seek for non-agricultural purposes bear an even heavier burden of proof.

The original Planning Commission back in 2006, I believe, is correct in their decision to deny the Class IV Zoning Permit, the Use Permit, and the Special Permit for this property – Kaua’i Springs, the applicant. This application for these uses should be denied and put to rest and not set a precedence, especially being unregulated and in need of, I believe, a constitutional EIS.

As an aside, Knudsen Trust covenants – they are supposed to be having 350,000 gallons per day running through Waikomo Stream, whereas right now I think there’s probably about 270,000 gallons per day. The excess chlorinated water is going into Waikomo Stream, and we do need water for the environment and the ecological health of Waikomo Stream as well because it also empties into the Kōloa Landing area.

Ms. Higuchi Sayegusa: Three minutes, Madame Chair.

Ms. Kinnaman: Thank you.

Chair Apisa: Oh, perfect timing. Thank you.

Are there any other members of the public that would like to testify? Not seeing or hearing any, we will close the public testimony.

Ms. Nogami Streufert: I move to close the public testimony.

Mr. Ho: Second.
Chair Apisa: All in favor? (Unanimous voice vote) Opposed? (None) Motion carried 6:0.

Ms. Higuchi Sayegusa: At this point, it is really up to you folks on what you want to do as far as the report and recommendation of the Hearing Officer.

Chair Apisa: Do we call them up?

Ms. Higuchi Sayegusa: If you wish, yes.

Chair Apisa: Would you, Applicant, like to come forward to make any closing statements?

Ms. Higuchi Sayegusa: I think we’ve moved on from that at this point. We are just at a decision-making stage or, again, what you folks want to do with the report and recommendation and, ultimately, the permit application.

Chair Apisa: I want to make sure we follow the proper protocol there.

Ms. Ahuna: First of all, I would like to thank Jodi, the (Deputy) County Attorney, for providing us with some further information regarding this to help us move forward in this decision.

I do want to say that I really, truly understand and feel that the majority of the public here as a whole, within our community, really should be acknowledged in regards to the public trust doctrine and public trust rights. With that said, I think – other Commissioners, if you guys want to share or add to this, it would be appropriate – but for myself, Native Hawaiian and cultural traditions and rights are very important to me, and restoring lo‘i, kalo, the o‘opu, and the opi in the stream is of value and we need to look at this, not only today, but for the future purposes of our ‘āina and our keiki and moving forward into the future. Just putting that out there as...if you guys want to add to that, or...because I know we’ve...before we just go into just making a statement in regards to this. Any of you want to share or add?

Chair Apisa: Anyone have comments they would like to make?

Ms. Nogami Streufert: I think one of the primary concerns...and I may be speaking out of turn so if this does not reflect the other Commissioners, then, please, by all means, jump in. One of our major concerns here is public trust and how this has a potential impact upon present and future generations in the utilization of water and conservation of water, and how this has an impact upon the public trust responsibilities that we, here, have. So that was the primary thrust of our deliberations.

Ms. Ahuna: In addition to that, it was not only just the volume of water, like whether large or small, but the overall public trust of water rights and the public trust doctrine.

Ms. Higuchi Sayegusa: At this point, there is no motion on the floor and this is the deliberation time, so–
Chair Apisa: Maybe we should have a motion on the floor and a second, and then we can open it up for discussion. So would someone like to make a motion?

Ms. Ahuna: I would like to make a motion to reverse – and correct me if I’m wrong in (the) language, Jodi – to make a reversal of the Hearing Officer’s recommendation in the matter of remand from the Hawai‘i Supreme Court for Amended Decision and Order based upon additional evidence for CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, and Special Permit SP-2007-01, Tax Map Key: (4) 2-8-002: por. 005, Kaua‘i Springs. Correct?

Ms. Higuchi Sayegusa: Right.

Ms. Nogami Streufert: Second.

Ms. Ahuna: That’s the motion.

Chair Apisa: Was that the full–

Ms. Ahuna: To reverse the Hearing Officer’s recommendation.

Chair Apisa: Are we going to do it in multiple motions?

Ms. Ahuna: I thought we have to.

Ms. Higuchi Sayegusa: Right, and so I guess “reversal” in effect means that you folks are moving to deny the permits.

Ms. Ahuna: Yes.

Ms. Higuchi Sayegusa: Okay. And I believe there was a motion and there’s a second.

Chair Apisa: Is there a second?

Ms. Higuchi Sayegusa: Was there a second?

Ms. Ahuna: There is a motion on the table.

Mr. Keawe: We made a second already.

Chair Apisa: Okay, I didn’t remember hearing the second, so there was a second?

Mr. Keawe: Yes.

Chair Apisa: Okay. All right, any discussion?
Ms. Ahuna: So basically, our discussion was based on that in regards to the overall majority – and you guys can jump in on this discussion – the overall majority of just the benefit of public rights or public trust that we…after reviewing all of the documents and all of the information, basically we feel that it is contrary to the public trust benefit for the community in regards to this and that the Petitioner didn’t meet his burden of following through in reference to the public trust doctrine–

Chair Apisa: Any other discussion?

Ms. Ahuna: —for the benefit of the community.

Chair Apisa: Are we ready for a vote? All in favor? Do we want to take a roll call?

Ms. Higuchi Sayegusa: I’m sorry. Did you want to, maybe, go around? Just to receive a little bit more–

Ms. Ahuna: Yes, can we?

Ms. Higuchi Sayegusa: —deliberations and discussion on (inaudible).

Chair Apisa: Okay.

Mr. Keawe: I think we all deliberated extensively and read all of the case material, and I think I feel a similar situation or similar position as Commissioner Ahuna that our primary concern is the public trust doctrine and the duty to maintain the purity and flow of our waters for future generations. I feel strongly that we should make sure that, in our decisions, we look at the greater good for the public in general. The resources that we have – the land and the water – we need to make sure that the decisions that we make are not for a few; the decisions we make are for the public in general and to protect that trust that has been entrusted to us for future generations.

Chair Apisa: Any other comments from the Commissioners? That pretty much sums it up?

Ms. Higuchi Sayegusa: Just to clarify the mechanics of the motion, the motion was to reverse the recommendation and report of the Hearing Officer, and it is a denial of the permits?

Ms. Ahuna: Yes.

Ms. Higuchi Sayegusa: Okay.

Ms. Ahuna: Based on the public trust factors and tests.

Ms. Higuchi Sayegusa: Okay. Since the report and recommendation is really based on the recommendation of approval, I think, perhaps, the discussion could clarify a little bit more the factors and the test of the public trust and the reasons for your analysis that it doesn’t meet that test.
Ms. Nogami Streufert: The public trust, I think, has several different parts to it: one is the maintenance of water in its natural state, two is to ensure an adequate supply of drinking water, three is to protect the use of water and the exercise of Native Hawaiian and traditional and customary rights, four is reservation of water as recognized by the State Water Code as a protected use, and that the public trust duty, when it is required, should be in keeping with the presumption in favor of the purposes of the public trust, public use, access, and enjoyment; and that is from Waiahole – the case study. We are charged with the careful stewardship of Kaua’i lands and we take that very seriously, not just for today, but also for tomorrow.

Ms. Ahuna: So basically, the Planning Commission… I am just going to read this direct, is that okay? Because that’s…

Ms. Higuchi Sayegusa: Well, I think, again, we have to… part of the deliberation is to discuss the reasons before we take a vote.

Ms. Ahuna: This would be my reasoning.

Ms. Higuchi Sayegusa: Okay.

Ms. Ahuna: I mean, if you guys don’t feel the same, now is the time to discuss it, but I am just going to read it because I feel that we’ve all had time to share and so forth, unless any of you guys want to jump in?

Chair Apisa: Maybe you could, like, summarize it or read it. Go ahead.

Ms. Ahuna: Okay, and then if you guys want to jump in, you just jump in. We have concluded that the bottling and commercial sale of water is not a reasonable and beneficial use of the public trust resource in reference to public trust factors and tests; more kind of related to 1978 Constitutional Laws of water rights in that sense. However, to further it would be that the Commission is duty-bound to place the burden on the applicant to justify the proposed water use in light of the trust purposes and in light of the high level of scrutiny required for proposed private and commercial uses. So we really, really, really had to, like, review this and really look at the public trust doctrine because there is so much to this, and honestly, it was a hard decision to make. I believe… I mean, look, we’ve deferred it several times and because it is, really, a decision that has been put on us as commissioners. I feel that a lot of this is interpretation. Much of the information here is interpretation and it came back on to our decision, so in that case, the Planning Commission determines that the Petitioner has actually failed to meet its burden to justify the proposed water use in light of the trust purposes. One of the reasons was because during the hearing held on November 14, 2006, an individual who identified him or herself as Ka’imi Kanaka Maoli presented a reasonable allegation of harm to Native Hawaiian traditional and customary practices. Particularly, the testifier testified that as a Kanaka Maoli, he or she has an interest to restoring lo’i kalo and raised the issue that the lack of sufficient overflow of that chlorophyll water that was going back into the stream does affect species that aren’t found anywhere else in the world, such as opi and o’opu. Also, that the Petitioner did not meet its burden to demonstrate that there is no harm, in fact, or that the requested use is nevertheless reasonable and beneficial without the Petitioner’s analysis that its proposed use of 645 gallons
per day does not, in fact, truly harm...well, what I am saying is that the volume of gallons of water, whether small or large, you guys haven’t been able to identify if it is actually, truly, affecting lo‘i or opi and o‘opu, and that the chlorophyll – the amounts of it – we don’t know that for a fact. I guess what we are saying is that us as a whole...you guys really have not met the public trust doctrine in the majority as a whole.

I mean, help me out here, Commissioners. We kind of put this in a situation where we really believe that we have a right to respond to the public trust doctrine, and it has been put in our position to do that. I think that we have actually reviewed all of what’s on the table and that’s what it is.

Mr. Mahoney: Chair, I would like to say this has been a very complicated case that has gone all the way up to the Supreme Court and back to the Commission. I think in the deliberations that went on, like Commissioner Ahuna mentioned, it always came back to the public trust, and I think she articulated the reasoning behind and that the Commission seemed to be leaning...we evaluated all the evidence that we could, we went through a thorough process, and I think the underlying factor was the public trust, for the reasons that were articulated, was the reasoning behind our decision. I think each and every one of us had a very difficult time in making this decision. There’s a lot of facts, but–

Ms. Higuchi Sayegusa: We are still deliberating.

Mr. Mahoney: We are still deliberating, yes.

Ms. Higuchi Sayegusa: Yes, we didn’t make the vote yet.

Mr. Mahoney: I apologize for that and that’s all I wanted to say.

Mr. Ho: Madame Chair?

Chair Apisa: Yes, please.

Mr. Ho: I guess to condense it, my question would be, does Kaua‘i Springs have a legal right to commercial and sell water resources? And under the public trust, I would say no. I think the public trust does not protect commercial use of water, and in that judgement, the yes or no I think is answered. The outliers – maybe, could be, should be. The black and white is it is not a protected use of the water.

Chair Apisa: Thank you for your comments and input, all of you. Anything further anybody want to add?

Mr. Keawe: Are we going to revisit the motion on the floor?

Chair Apisa: Okay. No further comments? Then we are ready to proceed to the vote? Take it by roll call.
Ms. Higuchi Sayegusa: Sure.

Mr. Ho: Could you restate the motion once more, please, Madame Chair?

Ms. Higuchi Sayegusa: I believe the motion was to reverse the report and recommendation of the Hearing Officer and a motion to deny the permits.

Ms. Ahuna: Yes.

Ms. Nogami Streufert: Based upon public trust.

Ms. Ahuna: Based upon the public trust.

Ms. Higuchi Sayegusa: Okay, so that is sort of like a clarification and amendment to the original motion.

Mr. Keawe: Just to be (clear), an “aye” vote is to deny.

Ms. Ahuna: I will just repeat the motion.

Ms. Higuchi Sayegusa: That would be great. Thank you.

Ms. Ahuna: The motion is to reverse the Hearing Officer’s recommendation and to deny the permit in the matter of remand from the Hawai‘i Supreme Court for Amended Decision and Order based upon additional evidence for CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, and Special Permit SP-2007-01 as it reflects to public trust doctrine, or I guess specifically to the public trust doctrine in response...

Ms. Higuchi Sayegusa: Okay. As not meeting the public trust doctrine?

Ms. Ahuna: Yes.

Ms. Higuchi Sayegusa: Okay.

Chair Apisa: Okay, and that was seconded. So we have the motion on the floor. All in favor—

Mr. Mahoney: Roll call.

Chair Apisa: Roll call.

Mr. Hull: Roll call, and just as a reminder to the Commission, a vote in the affirmative is a vote to deny.

Commissioner Ho.

Mr. Ho: Aye.
Mr. Hull: Commissioner Streufert.


Mr. Hull: Commissioner Mahoney.

Mr. Mahoney: Aye.

Mr. Hull: Commissioner Keawe.

Mr. Keawe: Aye.

Mr. Hull: Commissioner Ahuna.

Ms. Ahuna: Aye.

Mr. Hull: Chair Apisa.

Chair Apisa: Aye.

Mr. Hull: Madame Chair, the motion passes 6:0.

The next agenda item we have is Agenda Item–

Ms. Higuchi Sayegusa: Sorry, just sort of a housekeeping...being that there is a...well, not housekeeping. You folks voted to deny and so I think we still owe a Findings of Fact, Conclusions of Law, and Decision and Order. I can make an attempt to finalize such a Decision and Order, and then–

Ms. Ahuna: Do we have to make a motion to request that?

Chair Apisa: Just a statement that you’re going to do it.

Ms. Higuchi Sayegusa: I will revise it based on whatever your discussion was, and I guess it will have to be executed and then provided to the parties.

Mr. Keawe: Does that need to be done today?

Ms. Higuchi Sayegusa: Well, it could be done in short order, I think, and we could do that today. Otherwise, we can just send it over.

Ms. Nogami Streufert: Does it also require a cease and desist order?

Ms. Higuchi Sayegusa: Did you folks want to...?
Mr. Robert Thomas: Us? No...I mean, you put your counsel in a very difficult position. She is somehow going to write this thing up in a way, and she has no idea, I mean...I don’t want to speak for you, but she is going to find it very difficult to take the vague notions that you’ve described on the record here and turn that into something that will hold up versus Kaua‘i Springs. I’ve told Jim...I’ve asked him to be quiet. Your decision is your decision. Very disappointed. Shame on you. Six hundred forty-five gallons a day is nothing; more rain comes off of the roof of this building during a heavy rain. So, Jim...I don’t mean to interrupt. I know you’ve deliberated. I think you are flat wrong; that you put your counsel, unfortunately, in a very difficult position because she is going to have to somehow take what you have done, try to waive some alchemy over it, and make it work for you guys, so good luck. Jim, relax.

Mr. Jim Satterfield: These are not my waters, okay? (Inaudible)

Mr. Thomas: I don’t mean to speak out of turn, but that’s the reality.

Mr. Hull: I’m going to have to interject because we are having a fairly long discussion off the record and we are on the record, so I think the plan of the day is, essentially, the County Attorney’s Office will prep the Decision and Order; it will be circulated to the parties. I don’t imagine that can be done by today, Jodi. It is going to have to be circulated, ultimately, to the parties for final review and adoption at the subsequent Planning Commission meeting.

Ms. Higuchi Sayegusa: That would be, actually, I guess...not cleanest, but that will provide sufficient time, and then it will give you folks an opportunity to review it as well and digest. Perhaps I could do that and circulate it, and at the next meeting, we could revisit the decision and whether to adopt or amend that draft.

Ms. Ahuna: Do we need to make a motion to amend and adopt the findings?

Ms. Higuchi Sayegusa: Well, you folks voted to deny, and so now it’s...

Mr. Keawe: Now it’s a question of the D&O.

Ms. Higuchi Sayegusa: I think we also need to – we owe a decision, right? – memorialize such a decision, and so perhaps the plan is for me to draft something, circulate it to you folks, and at the next meeting, you folks will have to discuss amendments to that draft and whether to approve or amend whatever I’ve come up with.

Mr. Keawe: Well, we’ve already approved the–

Ms. Higuchi Sayegusa: You have already voted to deny.

Mr. Keawe: Right.

Mr. Hull: So what, essentially, Jodi has to do is Jodi is going to compile a Decision and Order. In that Decision and Order, there will be findings, and she will submit it to this body for its final approval, reflecting the action you took today. This body may look at some of those findings
and say no, that was not what the Commission found, and that is what Jodi is essentially getting at; she is going to submit a draft Decision and Order with findings to you folks. If you folks feel that those findings and analysis is not the findings that the Commission made, that is where she is essentially saying you get to come in and finalize that Decision and Order to be signed by the Chair of the Commission. So it is not looking at, per se, amending your decision as it happened today, but there may be amendments to the draft she creates to reflect the action of this body today.

Ms. Higuchi Sayegusa: The draft will be based on your deliberation, your discussion prior to the vote; that is the basis of what the decision will be based on. As far as I can tell, it is circling around the public trust doctrine, obviously, and the failure to meet the burdens required under the test. That’s all.

Mr. Hull: Thank you, all. So, continuing on with the agenda—

Chair Apisa: If I could just…I just wanted to, I guess, address your comment about its only 640 [sic] gallons, I mean—

Ms. Higuchi Sayegusa: It may not be the most appropriate at this time to revisit the permit.

Chair Apisa: It was discussed in very great detail.

Mr. Thomas: Well, I do hope you ask the same of every user of water who comes in here for any kind of permit; subdivision, hotel, any commercial user of water (inaudible).

Mr. Hull: I don’t want to be the guy because we are all parties to this (inaudible). If you want to talk, you are going to have to—

Mr. Thomas: I don’t mean to talk out of turn. (Inaudible).

Chair Apisa: All right, thank you.

Mr. Thomas: (Inaudible).

Mr. Hull: Thank you.

Chair Apisa: Thank you. Moving on.

Mr. Hull: Moving on to the next agenda item, Agenda Item I, General Business—

Ms. Nogami Streufert: Excuse me.

Mr. Ho: Now that our decision has been made, is there a cease and desist order to follow?

Mr. Mahoney: Not yet.
Ms. Higuchi Sayegusa: Maybe we can reserve that portion of this discussion...it is not technically--

Mr. Hull: It is not an agenda item, per se.

Ms. Higuchi Sayegusa: --an item on the agenda. For now, it was just really the decision before the Body about the underlying permits. Any enforcement action, I think, we can...that’s, I guess, for the Department to consider.

Mr. Hull: Any last (inaudible) before we go on with the rest of the agenda? Thanks folks.

Clerk of the Commission’s Recommendation to Refer an Appeal of the Planning Director’s Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU #4235, Elizabeth and Stephen Rigotti (Hale Hoku) for Failure to Timely Renew, Tax Map Key (4) 58008045, Hanalei, Kaua‘i, received on May 18, 2018 via email, to a Hearings Officer (Contested Case Hearing No. CC-2018-3); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.

Mr. Hull: The next agenda item is I, General Business, Agenda Item I.2. — Clerk of the Commission’s recommendation to refer an appeal of the Planning Director’s decision related to the forfeiture of Non-Conforming Use Certificate TVNCU #4235, Elizabeth and Stephen Rigotti (Hale Hoku), for failure to timely renew for Tax Map Key (4) 58008045, Hanalei, Kaua‘i, received on May 18, 2018, via email, to a Hearings Officer (Contested Case Hearing No. CC-2018-3); request for delegation of authority to the Clerk of the Commission to procure and appoint a Hearings Officer on behalf of the Commission for the instant appeal.

So just for clarification, this is an appeal to the Department’s action to deny a TVNCU that did not meet the timely requirements - renewal requirements of the TVR Ordinance — and so this was appealed. The administrative action was appealed and the Department has recommended it be referred to a Hearings Officer.

Ms. Nogami Streufert: I move to delegate authority to the Clerk of the Commission to procure and appoint a Hearings Officer on behalf of this commission for an instant appeal of the forfeiture of the Non-Conforming Use Certificate TVNCU #4235.

Mr. Keawe: Second.

Chair Apisa: Okay, any discussion on this? The motion is to refer this case to an Appeals [sic] Officer. All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

Clerk of the Commission’s Recommendation to Refer an Appeal of the Planning Director’s Decision Related to the Planning Director’s Notice of Violation & Order to Pay Fines for the continued operation of an unpermitted homestay, Steven and Eddi Henry, Tax Map Key (4) 49011038, Moloa‘a, Kaua‘i, received on June 1, 2018 via email, to a Hearings Officer (Contested Case Hearing No. CC-2018-4); Request for Delegation
of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.

Mr. Hull: The next agenda item is I.3. – Clerk of the Commission’s recommendation to refer an appeal of the Planning Director’s decision related to the Planning Director’s Notice of Violation and Order to Pay Fines for the continued operation of an unpermitted homestay, Steven and Eddi Henry, Tax Map Key (4) 49011038, Moloa’a, Kaua‘i, received on June 1, 2018, via email, to a Hearings Officer (Contested Case Hearing No. CC-2018-4); request for delegation of authority to the Clerk of the Commission to procure and appoint a Hearings Officer on behalf of the Commission for the instant appeal.

The recommendation from the Department is essentially similar to the previous action you folks just took, but this isn’t a Non-Conforming Transient Vacation Rental operation; it is a homestay operation that, in fact, has come before you folks for a Homestay Use Permit. The Department recommended a denial on that Use Permit. Ultimately, this body recommended that that case be referred to a Hearings Officer and is being reviewed currently by a Hearings Officer. During the review of their Use Permit, the Department was apprised of the fact that they are up and operating the homestay without the necessary Use Permits, and so a Zoning Compliance Notice and, ultimately, a Notice of Violation was issued to the property and an Order to Pay Fines.

So (in) this situation, the property owner is appealing that administrative action by the Department and, again, in this situation, we are recommending that it be referred over to a Hearings Officer as well.

Mr. Keawe: Okay. Go ahead.

Chair Apisa: Question?

Ms. Nogami Streufert: At one point, there was a situation where there were 13 or 14 cases that were combined into 1 appeal. These names seem very familiar. Is this part of that?

Mr. Hull: Yes.

Ms. Nogami Streufert: Okay.

Mr. Hull: Some of those appeals have...I believe – and Jodi may have to correct me if I’m wrong – were under one particular counsel – one attorney. Since that time, they have split to take different attorneys, not the same attorney representing them, but they were all, I believe, a party to the one action through...there was an objection to the Hearings Officer and the way procurement was done, so they all came under one blanket appeal or one blanket objection on that issue, but they are still being pursued individually as far as the Use Permit reviews.

Ms. Nogami Streufert: Were these people issued a cease and desist or whatever?

Mr. Hull: Part of the Notice of Violation is to cease the operation. So they are appealing that notice; both the notice to cease operations, as well as the Notice to Issue Fines on the property.
Ms. Nogami Streufert: And as I recall, that was from 2016?

Mr. Hull: Yes. The first cases for applying for the Use Permits goes back to 2016. Some of them were found to have continued operation of their homestay without the necessary Use Permits and so those fines have been issued, and this is just one of the ones that we found to now be operating without the necessary Use Permits.

Mr. Keawe: Okay, so are we ready to do something?

Chair Apisa: Yes, I will entertain a motion.

Mr. Keawe: I make a motion to delegate the authority to the Clerk of the Commission to procure and appoint a Hearings Officer for the violation of unpermitted homestay for Steven and Eddi Henry, Tax Map Key (4) [sic], Moloa‘a Kaua‘i.

Ms. Nogami Streufert: Second.

Chair Apisa: Any discussion on this matter? Hearing none. All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

Update and briefing on Ordinance No. 1035, an emergency ordinance relating to standards, permits, and fees for work on buildings, structures, and property damaged in the historic rain event of April 2018.

Mr. Hull: The next agenda item we have is Agenda Item I.4. – Update and briefing on Ordinance No. 1035, an emergency ordinance relating to standards, permits, and fees for work on buildings, structures, and property damaged in the historic rain event of April 2018.

You folks all have, attached to your agenda, Ordinance No. 1035, which is the emergency ordinance that the Council recently adopted. Let me hand out this handout, too. Hold on one second.

Mr. Keawe: Is this in addition to what we did the last time?

Mr. Hull: Related.

Okay, so I believe, at the last meeting, there was some discussion in Executive Session about the emergency ordinance; I don’t know how far you guys got into it or whatnot. Ultimately, the Administration proposed to the County Council an emergency ordinance to expedite the permitting process for those structures damaged in the April 2018 flooding event. Just to be clear, because there has been some confusion in the public that this ordinance is similar to ‘Iniki in that anybody affected can rebuild exactly where they are regardless of previously adopted ordinances that may have prohibitions or restrictions. Under the ‘Iniki Ordinance, many of them were able to rebuild without having to meet the newer standards that had been adopted.
With this ordinance, it is not waiving existing standards – flood, shoreline, or otherwise. There are standards that have been adopted in the past, like flood standards and shoreline standards, that require structures, if they are damaged and need to be rebuilt, to meet these new standards. This ordinance does not waive those standards.

What it essentially says is that yes, there were several homes damaged in the April 2018 flood and many of them need repairs done and some of them reconstruction to a certain degree. If you were affected by the flood zone and you are not a non-conforming structure in the flood zone, you are not in the shoreline area, you are not a historic structure, and you are only going to be rebuilding and repairing what was damaged, you can have an expedited process in which you apply to the Planning Department. Within three days, the Planning Department will verify whether, again, it’s in that shoreline area, a non-conforming flood structure, a historic structure, or whatnot. If it is out of all those zones and they just want to do repairs, a Planning Department inspector will inspect the property and ensure that it was, indeed, damaged by the flood. Within three days, the Department will get back to that property owner as to whether or not they can have an expedited process. If they are not within those constraint areas, we stamp “approval” (on) the expedited process.

It essentially eases the burden on a lot of these guys that need to repair or reconstruct certain structures because they don’t have to go through the drafting process of new plans, then the permitting process of waiting for Public Works and Planning and all these agencies to approve them. They can go ahead and start the process with the understanding that within 30 days or, perhaps in some scenarios, 60 or 90 days, they will come in to the County with the draft plans and run them through the permit process. But they are still going to have to meet the Building Code and whatnot; they can’t go outside of those standards. It just says you can start constructing right now to get your families and loved ones back into the home that you guys live in, and that’s it.

If they don’t qualify – say if it is in the Shoreline Setback Area or if it is a non-conforming flood structure, it is not like they get denied – it’s just that they still have to go through the normal permitting process to ensure that they meet the new standards that are imposed on their property.

Ms. Nogami Streufert: If they don’t meet some of these standards – for example, if they don’t meet the shoreline setback at this point, but they are rebuilding on the same footprint that they had before, does that qualify them for this?

Mr. Hull: Not for the expedited process. If they are affected by the Shoreline Setback Ordinance, meaning – the Shoreline Setback Ordinance pertains to all those properties within 550 feet or 500 feet, depending on the way your property is structured, but within that 500 to (550)-foot buffer – if you are within that area, you are subject to the Shoreline Setback Ordinance, meaning you don’t qualify for an expedited permitting process, period.

Ms. Nogami Streufert: Even if it is on the same footprint and (inaudible)?

Mr. Hull: Even if it is on the same footprint, yes.
Mr. Ho: One of the things that I picked up on is that inspections can be done whether you are on the property or not on the property and any violations are going to be posted on the building. Is that how I understand it to be?

Mr. Hull: No. For this purpose...for our inspectors to get on site, it is just to verify that the damage had actually been done to the property and still exists from the flood. There is no intent to utilize the emergency ordinance to get our guys on property and start just assessing every little violation out there. The intent is to help families to get back in their homes. And quite honestly, with the turnaround time that our inspectors have, they've got literally 24 hours to make that inspection. Once that application is complete, they don't have time, quite honestly, to be on a property, building a case for an illegal shed, quite honestly. They got 24 hours to get out there—sometimes as far as Wainiha—get the photos, and get back to our office to load up the photos so that our Review Team can make their assessment—after the 24 hours—within 2 days of whether or not they have an expedited process. So there is a commitment and a legal mandate upon the Department to respond within three days of the completed application so that these property owners are aware of whether or not they will get the expedited process.

Mr. Keawe: What about those few homes way up mauka that were done before the CZO? Some of the older Hawaiian families that I think Commissioner Ahuna was talking about the last time.

Mr. Hull: Sorry, I wasn't here for the last discussion that went on.

Ms. Ahuna: Basically, like the homes on kuleana lands or...technically, a lot of the homes—because it is an old area within our county—have been there possibly since before we even had a Planning Department, so how does this affect those homes?

Mr. Hull: It depends where they are. If they are just doing true repairs and...true repairs don't even require a Zoning Permit, right, unless you are in the SMA or the shoreline area because there has to be an assessment of whether or not you meet this 50 percent threshold of reconstruction. But true repairs, which is drywall and flooring, there is really no issue with that. Where you do come into some issues with these homes that were constructed prior to 1972, or even prior to 1980 or 1990, is that if they are in the flood zone and they are a non-conforming structure in that flood zone, they are not going to get the expedited process and they are not going to be able to reconstruct that house exactly the way it was because there have been new standards adopted, particularly pertaining to flooding, that says you are in this zone and you were affected because it is a flood area, and you are going to have to rebuild it to new standards to ensure that your structure does not go through the same impact in the next 15 or 20 years.

Ms. Ahuna: Due to this flood, have the flood zones changed under the Department of Planning at all?

Mr. Hull: Well, Planning does not manage the floodplain at all.

Mr. Keawe: Federal, right?

Ms. Ahuna: So how do you guys acknowledge it?
Mr. Hull: We have a Floodplain Manager, who is within the Public Works-Engineering Division, so he manages the floodplain program. But ultimately, as Kimo Keawe was alluding to, it is a Federal program. So in order to actually change the flood levels and the layers of...is it Flood Zone X or is it in the floodplain or whatnot...in order for those to change, that actual Federal program itself needs to be adjusted; sometimes that can take, as I understand it, several years.

Ms. Ahuna: Just curious.

Mr. Hull: I think there is a lot to say, perhaps, it should be adjusted given the height and the amount of rain that this island experienced, but at this point, the answer to the question, Commissioner, is no, those levels have not been adjusted.

What else I handed out to you folks is essentially the application itself for the...what is referred to as the RAIN2018 Qualification Form, which is a form for the expedited process. It is relatively simple to fill out; no drawings are needed. It is straight up – where is your property, TMK, what type of improvement is on it, what type of improvements do you want to do, and we will make our assessment – our department, as well as in conjunction with the Public Works-Engineering and Building Division – as to whether or not it qualifies for an expedited process.

Our teams were out last week – we had one day designated for them to be in the Kōloa area, one day designated for them to be in the Kapa‘a/Anahola area, one day for them to be designated in the Hanalei area, and one day in the Wainiha area – accepting, via satellite campus, applications. A handful have been turned in and were turned in through that process, and the Department will still continue to accept these applications at our front counter until the ordinance phases out, which is within 60 days of adoption.

Ms. Nogami Streufert: Has this been adopted?

Mr. Hull: Yes. It was signed into law on June 19th, so we have until August 19th for it to essentially be phased out.

Ms. Nogami Streufert: Will there be some information to the public so that they know what the deadlines are? Or how is that information getting out?

Mr. Hull: It was circulated out via a press release. We probably will continue to issue press releases as it is in effect to remind the public that it still is in effect if they want to submit their applications for an expedited process to come to the Planning Department.

Ms. Nogami Streufert: Is there an appeal process in case they don’t meet this or if they don’t agree with what the Department has stated?

Chair Apisa: “They” meaning the homeowner?

Ms. Nogami Streufert: Yes.
Mr. Hull: Technically, yes, you can appeal an action by the Department. In all honesty, the appeal process would probably take several months because it would have to come before you folks, and they could get a regular Class I Zoning Permit quicker than the appeal. But, technically, yes, there is an appeal process.

Chair Apisa: All right, so that was just an update and a briefing so no action required.

Mr. Hull: We just need a motion to receive.

Chair Apisa: Oh, motion to receive, okay.

Mr. Mahoney: Chair, move to receive.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

COMMUNICATION (For Action)

Mr. Hull: Next agenda item – there are no communications for J.

COMMITTEE REPORTS

Subdivision

Mr. Hull: So the next agenda item is K, Committee Reports. We have one subdivision action matter listed on the Subdivision Committee agenda. I will turn it over to the Subdivision Chair.

Mr. Keawe: That has been delegated.

Mr. Hull: Oh.

Mr. Keawe: I would make a motion to...I think you all got copies of this, and I just want to say this was probably the longest and had the most items on any Subdivision Committee (agenda) we’ve had, so I make a motion to approve and receive the report.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

UNFINISHED BUSINESS (For Action)

Mr. Hull: We have no Unfinished Business, Madame Chair.
NEW BUISNESS

ZA-2018-1: Change from Open District (O) to Agriculture District (A). Parcel Location: Located approx. 500 ft. west of the Kainahola Road/Kawaihau Road intersection in Kapa'a Homesteads, further identified as 6765 Kawaihau Road, Tax Map Key: (4) 4-4-013:002, and containing a total area of 3.377 acres = *Baird Family Limited Partnership*. [Director’s Report and Supplement No. 1 to Director’s Report received 10/10/17; hearing deferred 10/10/17, deferred 11/14/17.]

Mr. Hull: We have M, New Business, which refers back to the ZA-2018-1 – change from Open District (O) to Agriculture (A). Parcel Location: Located approximately 500 feet west of the Kawaihau Road intersection in Kapa’a Homesteads, further identified as 6765 Kawaihau Road, Tax Map Key: (4) 4-4-013:002, and containing a total area of 3.377 acres. The applicant is Baird Family Limited Partnership.

As discussed during the public comment portion, the attorney and firm for the applicant has submitted a letter requesting a deferral until the November 2018 meeting. Based on that, the Department would recommend deferral of this agenda item to November 13, 2018.

Mr. Keawe: Just a question, Madame Chair. Can I?

Chair Apisa: Yes, please.

Mr. Keawe: Is he still arguing with his neighbor or...?

Mr. Hull: As far as the request, this was still working out with the Department, not only the mitigation measures, but its appropriateness within the adoption of the new General Plan.

Mr. Keawe: Oh, okay.

Mr. Hull: So the layers haven’t really changed, in effect, but (inaudible).

Mr. Keawe: I know that one of the neighbors had submitted written testimony several times that she had a problem with what was going on.

Mr. Hull: Yes, so it is some of that, but it is also further discussion of how a proposal aligns with the long-range policies that the County has recently adopted (inaudible).

Mr. Keawe: Because – bottom line – it is a zoning amendment, right; taking it from Open to Agriculture.

Mr. Hull: Correct.

As a reminder, the Department is recommending deferral to November 13, 2018.

Mr. Mahoney: Did we do this this morning? No?
Mr. Hull: Commissioner Mahoney, to your comment, the public comment portion of the public hearing was deferred to November 13th, but you folks also have to take action on the actual general business matters.

Mr. Mahoney: Okay.

Chair Apisa: So we need a motion to defer.

Ms. Nogami Streufert: I move to defer ZA-2018-1 – change from Open District to Agriculture District for a parcel located approximately 500 feet west of the Kainahola Road/Kawaihau Road intersection in Kapa’a Homesteads, further identified as the Baird Family Limited Partnership – to November 13, 2018.

Mr. Mahoney: Second.

Chair Apisa: Any discussion? All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: The next agenda item is Announcements – Topics for Future Meetings. The list hasn’t changed much since the last time you folks received it in May. We’ve got a handful of Class IV Zoning Permits and Use Permits coming in – everything from a telecommunication to the shared-use path out on the east side – but we got nothing new to add to that list at this point.

Ms. Nogami Streufert: I think at the last meeting we had...someone – I’m not sure who – had suggested an update on the Coco Palms.

Mr. Hull: Oh, okay. Yes, and I actually had a discussion with the Director on that before he left. He asked me if I wanted or was comfortable updating you folks; my response was no. So when Mr. Dahilig gets back, somebody with a lot more historical knowledge and intimacy with that project will be briefing you folks.

Mr. Keawe: So hopefully at the July meeting, right?

Mr. Hull: Correct.

Mr. Keawe: July 24th?

Mr. Hull: Yes. Mike should be back on July 12th, so the preceding meeting on there – we will make sure he gives you guys the briefing.

Any other questions?
Mr. Keawe: Yes, I had one question. After we finished the General Plan, it went to the Council and there was a whole bunch of amendments and all (that). Can we get a copy of the final with all of the amendments?

Mr. Hull: Definitely.

Mr. Keawe: For me, I need a hard copy.

Mr. Hull: Definitely.

Mr. Keawe: I don’t know about… I need a hard copy so we can go through it and I think that would be great. Because we got all the draft copies of when we were actually doing it, but then it went… you know, and it was what? Another six months or so before that was—

Mr. Hull: Definitely, Commissioner Keawe. We can work with Marie and her team to get you each one of your own copies.

Mr. Keawe: Great.

Mr. Hull: I can say I just got mine last week, so we are just getting them off the presses. There was a lot of incorporation of those new adoptions and codifying it, so we will get each one of you a copy of the complete and final General Plan.

Mr. Keawe: Great.

Ms. Nogami Streufert: Could we also get that in electronic format so we have it here (inaudible)?

Mr. Hull: Yes, definitely; in fact, I believe it is already online.

Mr. Keawe: So, that “thank-you” thing.

Mr. Ho: Oh. No.

Mr. Keawe: No?

Mr. Ho: No, we don’t have it yet.

Chair Apisa: Next meeting.

Mr. Ho: Yes.

Chair Apisa: Deferred to next meeting.

Mr. Keawe: Okay, we defer it to the next meeting. In essence, just to thank Jodi – thank you for—
Chair Apisa: Just some accolades for Jodi. Just getting us through Kaua’i Springs.

Mr. Keawe: Yes, it’s...

Ms. Higuchi Sayegusa: Doesn’t feel that...

Mr. Keawe: Yeoman, kind of herculean effort.

Chair Apisa: It’s not over.

Ms. Higuchi Sayegusa: It’s not over, yes, so...

Chair Apisa: It’s not over.

Ms. Higuchi Sayegusa: Yes.

Mr. Keawe: Oh, yes, but thank you so much for--

Ms. Higuchi Sayegusa: We will work on something for next meeting, yes.

Mr. Keawe: --what you do.

Ms. Nogami Streufert: Regardless of it, we acknowledge the fact that you went above and beyond what’s usually expected, and we know that a lot of effort and research went into it as you were putting this all together. And Mr. Ho had a draft letter of appreciation that he wanted to send, and maybe he could read that before we send it.

Mr. Keawe: Yes, that would be good, Roy. Thank you, Glenda.

Mr. Ho: Thank you, Glenda. We, the members of the Planning Commission, wish to acknowledge your work, legal guiding, helping us reach our decision on Kaua’i Springs. Your position paper – I know it took a lot of time and research – provided clarity at a time when we all needed it. And you didn’t have to do this paper, but all of us acknowledge your dedication and your work, and we would like to thank you.

Chair Apisa: Thank you, Jodi.

Ms. Higuchi Sayegusa: Thank you. Well, again, it is not over; I mean, you folks still have to adopt a decision.

Ms. Nogami Streufert: That’s for the future.

Ms. Higuchi Sayegusa: Okay.

Ms. Nogami Streufert: Thank you very much.
Ms. Higuchi Sayegusa: Okay.

Mr. Hull: Is there anything else, Commissioners?

Chair Apisa: Any other...? So the next meeting, then, is July 24th. So just to clarify, there is no meeting on July 10th, correct?

Mr. Hull: No. At this point, no.

Chair Apisa: That is correct, okay.

Mr. Hull: Correct.

Chair Apisa: So I am deleting it off my calendar to make sure we are up to date. So July 24th – there is a meeting.

Mr. Hull: Correct.

Chair Apisa: Okay, great. All right, just wanted to (inaudible).

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu‘e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu‘e, Kaua‘i, Hawai‘i 96766 on Tuesday, July 24, 2018.

Mr. Hull: So I will just read that onto the record – the following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, at the Līhu‘e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu‘e, Kaua‘i, Hawai‘i 96766 on Tuesday, July 24, 2018.

Chair Apisa: Acknowledged. Thank you. Any other business?

**ADJOURNMENT**

Mr. Keawe: Move to adjourn.

Chair Apisa: Second?

Ms. Ahuna: Second.

Chair Apisa: All approve? (Unanimous voice vote) Motion is approved 6:0. Meeting is adjourned.

Chair Apisa adjourned the meeting at 2:11 p.m.
Respectfully submitted by:

[Signature]

Darcie Agaran,
Commission Support Clerk

( ) Approved as circulated (add date of meeting approval)

( ) Approved as amended. See minutes of __________ meeting.