

(APPROVED: 04/28/10)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
MARCH 10, 2010**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chairperson Steve Chaikin at 12:08 p.m., Wednesday, March 10, 2010, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

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

Mr. Steve Chaikin: Let's get started. Sorry for the slight delay. I wasn't realizing that I was chairing this meeting today so I'm just sitting over here doing a little bit of catchup, but, at this time, I'd like to call this meeting to order and welcome the public for taking the time to be here today. I'd like to recognize some of the members of the Maui County Planning Staff that are here. We have Clayton Yoshida over there. Also we have Mikal Torgerson. Mikal is our new Molokai Planner and we'd like to welcome him here today. He has appeared a couple other times but this is his first time that he's really come and, you know, been here from the beginning, so we wanna welcome you. The Molokai Planner position is a very important position on this island. It's kind of -- everything kinda pivots through you. The future of this island is really somewhat in your hands. I mean you have the ability to kina steer it one way or the other depending how you handle things and it's -- it's a very difficult position cause it's almost like we're playing tug-o-war and you're the rope. There's people that wanna do stuff, wanna accomplish stuff, you're meeting with them, and then there's us, the Commission, some of the public that are trying to pull the thing in the other way, so it's a difficult position and when you come here, sometimes the Commission is going to be giving you a hard time. It's nothing against you personally. It's the just the nature of the process that, you know, you're trying to pull one way, we're trying to pull some other way, and we want more, and it's a hassle to get more, so we always run into that. But just know that, you know, we're really appreciative that you took on this position. We're here to support you and do whatever you can. So thank you and welcome aboard. Alright, also we have Suzie Esmeralda over here. She's a Secretary of Boards and Commissions. And also our Corp. Counsel sitting next to me, Michael Hopper, is with us today. Also, the Commissioners that are here, we have Commissioner Buchanan, Bacon, Pescaia, Napua Leong, and Commissioner Sprinzel, and I'm the Vice-Chair, Steve Chaikin.

Alright, so we can get ready to move forward on our agenda. The first item on our agenda is public testimony on any land use or planning issue. We like to make a time available at the beginning of each of our meetings if there's anything that anybody from the community

feels that we should be aware of, we provide this time that they can come up and provide testimony on that. Also, if there's any agenda item that somebody wants to testify on and doesn't wanna sit through the whole meeting until it gets to that agenda item, they're welcome to come forward at this point and provide testimony. So is there any member of the public that wants to provide testimony on any planning issue or -- yeah, state your name just for the record. Thank you.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE, except Contested Cases as defined in Hawaii Revised Statutes Section 91

Mr. Walter Ritte: Aloha, Commissioners. I'm trying to set the example for the class here. My name is Walter Ritte and I live in the ahupua`a of Ho`olehua, and I'm now part of Ho`omana Hou School, which is a charter school. And today we have our Ho`omana Hou students and we've been having classes now for about - how many years? About one week. So we were here on another mission and just so happen we saw everybody coming into the room so I thought this would be an excellent time to have the students practice some of their political science and their social studies and all of those kinds of things all in one, and we put a lot of pressure on them saying, please, can you guys practice coming up and participating in today's meeting? So they're very, very nervous about what they're going to do but they were all game to do it. So we're going to be starting off with CHE. CHE, can you come up and share some mana'o.

Mr. CHE Gonzales: Aloha, Commissioners. My name is CHE Gonzales from Ho`omana Hou High School. I'm from the ahupua`a of Kawela and I get one issue about how we can't raise pigs and we can raise goat on top Kawela land and I just don't understand that. So mahalo.

Mr. Chaikin: Thank you for that. Is there anybody else that wants to come up and say a few words? Thank you. Step right up.

Mr. Brandon Luuloo: My name is Brandon from the ahupua`a of Maunaloa or Kahuakoi, and I'm a student at Ho`omana Hou School, and I have an issue about hunting on private lands and how you guys can help us of hunting on it and hunting for food for our family. Yeah, mahalo.

Mr. Chaikin: Alright, thank you for that. Does -- Commissioners, if you've got any questions or anything, just pipe right in and ask them. Alright, go ahead.

Ms. Mahaka Gomes: Aloha. My name is Makana. I come from the ahupua`a of Kaluakoi and I go to Ho`omana Hou School, and I'm here to talk about the wasted ranch lands, like the Kaluakoi Golf Course and The Lodge that's only collecting cobwebs, and I feel that

they should like bust them down and like build a youth center or something that's going to be put to use and not poho. Yeah, mahalo.

Mr. Chaikin: Thank you.

Ms. Estrella Torres-Kahala: Aloha. My name is Estrella Torres-Kahala. I come from the -- I mean I live in the ahupua`a of Ho`olehua. I go to Ho`omana Hou. I feel that us, Ho`olehua homesteaders, need help in farming so that we can feed all of Molokai. Mahalo.

Mr. Chaikin: Thank you. Anybody else?

Ms. Danielle Mersberg: Aloha. My name is Danielle. I come from the ahupua`a of Maunaloa. I go Ho`omana Hou. My issue is to help save Maunaloa Elementary School cause the kids, they gotta wake up early just to get to school down here and they gotta wake up extra, extra early just to have breakfast, so please save Maunaloa. Thank you.

Mr. Chaikin: Thank you. Does anybody wanna make comments?

Ms. Ky-Lee Dudoit-English: Aloha. My name is Ky-Lee. I live in the ahupua`a of Kaunakakai and I attend Ho`omana Hou, and my issue today is about wasting food. Yesterday, me and our classmates went to go look an heiau and when we was walking out, we walked over Mapulehu Bridge and we found a dead deer and I feel that people is wasting them when other people could be eating them and, yeah, sorry, and mahalo.

Mr. Chaikin: Thank you. Anybody else?

Ms. Kendra Hubin: Aloha. My name is Kendra. I come from the ahupua`a of Naiwa, and my issue today is the historical sites. Our class went out to Ili`iliopae Heiau and it was really overgrown yesterday and I feel that, as a community, we should be taking care of the historical sites. Mahalo.

Mr. Chaikin: Thank you for that. Anybody else?

Ms. Loretta Ritte: Aloha kakou. Yeah, we kinda like all in training here. My name is Loretta Ritte. I'm a homesteader on Ho`olehua Homestead Lands, 69E, and I have a real issue and the issue - I don't know if you folks can, you know, do anything about it - but my issue is the recycling at the rubbish dump. Every time I go there, I just cringe. I don't like to go to the rubbish dump cause the mountain gets higher and higher and higher. It's mount opala. And in the recycling area, it's lepo, and it's not sufficient, and there needs to be something done to make it work effectively. Mahalo.

Mr. Chaikin: Thank you. Anybody else wanted to make any comments? That's it. Alright, well look, you know, I think it's, you know, just the fact that all of you students came in here and got engaged and involved in the process, I think that's something that we should all be very proud of. And, you know, this is a start cause we really -- when we're talking about planning, we're really talking about the future, and this whole process is really for you cause you are the future of this island. So thank you for your testimony and thank you for taking the time and getting involved in the process. But let me just make a comment on how the process works. Every 10 to 20 years, Molokai gets together as a community and makes what's called the "community plan," and that's an outstanding time for each of you to get involved and put your mana`o into the plan because that community plan is what this community uses over the next 10 to 20 years to move forward, and when you're talking about all of the different issues that you brought up, those -- all those issues are in that plan but exactly how they're in that plan depends on what the community says and wants. So I would encourage you to, you know, stay connected to this process and you'll see in the newspaper there'll be announcements and stuff that they're starting the community planning process and I hope you'll continue to be involved in that. So thank you once again. Okay, is there anybody else in the community --

Ms. Lori Buchanan: Chair?

Mr. Chaikin: Yeah, sorry.

Ms. Buchanan: I wanted to make an addressment to the testifiers.

Mr. Chaikin: Oh, yeah. Go ahead.

Ms. Buchanan: First to testifier number one, Walter Ritte, congratulations on your new tenure as teacher at Ho`omana Hou School. To testifier CHE, aunty wasn't real sure about what your issue was about the ability that you cannot raise pigs but you can raise goats, so maybe you can followup with me later about that. For testifier Brandon from Maunaloa, your issue about hunting on private land for food and family, it would help you to research on the DLNR website on the permitted hunting areas and how you can obtain a legal hunting permit in order for you to hunt legally and provide for your family. That might be helpful and if you need help with that, aunty can guide you with that. For testifier Makana from Kaunakakai, about the wasted ranch lands, it might be a good idea to write letter about your concerns to Molokai Ranch, and it's helpful that you point out to them what your vision is and what you would like to see and how you feel. Estrella, from Ho`olehua, the homesteaders need help. There's meetings all the time by the Department of Hawaiian Home Lands and they have meetings on Molokai all the time. Right now they're having plan on everything what they like do on Molokai with all their lands. So I would encourage you to attend those meetings and voice your opinion that you guys -- you feel that you need help as a homesteader. Danielle from Maunaloa, Maunaloa School -- Maunaloa

School has a lot of outreach going on right now about having to save the school so I would encourage you to continue to participate with the people who organizing those efforts to save the school. And for Ky-Lee, about wasting food, I not sure if that poor deer was shot or it died from old age or whatever, but it is an issue and on Molokai, we all don't have a lot of money and so not wasting any food is important and you should continue on maybe expanding how you can -- there's a program on Maui, and it was on the radio, where there's an organization of people who will come to your house for free and pick up your fruit that is falling from your tree that maybe you have fruit in your yard that you don't pick or you don't have the time to pick, these people will come out and gather that food for you and then take it to the Food Bank and to elderly and whoever is in need, so maybe you might wanna organize something like that that would help in not wasting food. Ky-Lee - oh, I did you. Kendra, historical sites is very, very important, and I think because the way the economy is, we cannot depend on government to take care of our historical sites, so people within the community where the historic sites is should really start to organize and spend the extra time - they call that "civil service" - to go out and clean your historical sites. So you might wanna look at organizing within your own backyard what you can do to preserve because Naiwa has a lot of archaeological sites so -- and, Auntie Loretta, that's my concern too. The hill is getting too big and I really don't know what to do about it, so I hope maybe this Commission can look at that later. Okay, thank you. Thank you guys for coming. We appreciate that.

Mr. Chaikin: Any other Commissioners have comments? Commissioner Sprinzel.

Mr. John Sprinzel: Before you guys go, we hear a lot of not such good things about the youth of today, especially old folks like me, but you've just proved them all wrong. Brilliant. Thank you for coming.

Mr. Chaikin: Anybody else have comments? Commissioner Pescaia.

Ms. Mikiala Pescaia: When I was -- when I was 13 years old, I came to this very room and provided my first public testimony in front of the American Indian, the Senate -- Senate Select Affairs Committee -- oh, Senate Select Committee on Indian Affairs, and it was in regards to increasing the length of Hawaiian homes leases, and I was raised by parents, grandparents, I had aunties and uncles, in fact the same aunties and uncles that are your teachers today that taught me, when I was your age, how important it was to be involved and to have a vision for myself. And I love seeing youth walk in this door especially cause most of you I see you in other realms, I see out paddling and sports, in my NA Pua Noeau Program, and I love seeing you guys come out here and engage, and I see all the little things that the aunties and uncles, all these little gifts that we've given you through the years and have you bring it forward and put it to good use. All those seeds are starting to grow. And I look forward to seeing one of you, one day, sitting in this seat taking on this role, or even sitting his seat, or sitting in Counsel Hopper's seat to be the attorney, to be

the planner, to be a commissioner because it's not farfetched and it starts with a simple two-line testimony in front of us today. If there's anything we can do to help any of you with your concerns, like Commissioner Buchanan, I offer myself if there's anything I can do to help you with your concerns, feel free to approach me whenever you see me. Mahalo nui.

Mr. Chaikin: Thank you, Commissioner Pescaia. Is there any other Commissioners? Alright, with that, thank you all for taking the time to come in. Is there anybody else from the public that wants to provide any comments on any other land use or planning issue? Alright, seeing none, we can move along with the agenda.

D. APPROVAL OF MINUTES OF THE JANUARY 13, 2010 MEETING

The next thing on our agenda is approval of the January 13, 2010 meeting minutes. So do you have any comments on that, any of the Commissioners? If there's no comments, I'll entertain a motion to accept the minutes as they're presented.

Mr. Sprinzel: I propose we accept the minutes as presented.

Mr. Chaikin: Okay, motion by Sprinzel, second by Commissioner Leong. Is there any discussion? Seeing none.

There being no discussion, the motion was put a vote.

It has been moved by Mr. Sprinzel, seconded by Ms. Leong, then unanimously

VOTED: to accept the minutes as presented.

Mr. Chaikin: Okay, unanimously passed. Thank you, Commissioners. Moving on our agenda, we go down to E., Communications, under that, the first issue is Roy Katsuda, Executive Director of Hale Mahaolu, is requesting a time extension for a County special use permit. This is for the operation of an adult care center at Home Pumehana facility. Mikal, do you wanna present us some background on this?

E. COMMUNICATIONS

- 1. MR. ROY KATSUDA, Executive Director of HALE MAHAOLU requesting a time extension on the County Special Use Permit in order to continue operation of an adult day care center at the Home Pumehana facility, TMK: 5-3-002: 168 and 5-3-003: 001 (por.), Kaunakakai, Island of Molokai. (CUP 00/0003) (M. Torgerson)**

The Commission may take action on the request.

Mr. Mikal Torgerson: Thank you, Chair. I'd be happy to. Okay, this project was originally approved in 2001. The site, as probably everyone here knows, is just over that direction. We have here a vicinity map and site plan as the project was approved. It was constructed substantially in conformance with the approved plans and one of the original issues when the project was approved in 2001 was related to an off-site parking permit. The off-site parking permit was also granted in 2001. You see here a photo of the off-site parking and it's a grassed parking lot. The reason the project took a fair bit of time to get processed in terms of its time extension, which technically expired in 2006, was that there was a question related to whether or not the off-site parking permit ran with the land, so to speak, or whether or not it needed to be renewed in the context of this time extension. It was ultimately determined by Zoning, in Maui County Zoning, that it did run with the land and so this is just informational to sort of give you some background, but the off-site parking question has already been resolved and isn't a part of this time extension request. Again, the grass parking lot. This is a copy of a email that I received from Francis Cerizo, of Zoning, again confirming that the off-site parking was satisfied. Photos of the facility.

So since the original approval was for a ten-year period -- sorry. I guess it would have been a five-year period. It expired in 2006. At that time, the Commission found that the project was consistent with the special management area objectives, policies, and guidelines. And they also found that it was in compliance with the criteria for special management -- or special use permits rather, and really nothing about the project has changed from that time until now. And so, given the fact that the character and intensity and use is substantially the same as that which was originally permitted, the Department is recommending a ten-year extension from its expiration date in 2006, which would make it July 31 of 2016 subject to another time extension, which would be granted by the Molokai Planning Commission upon a timely request for extension that would need to be filed within 90 days prior to the extension. The second condition that we recommend is that the applicant shall submit to the Planning Department five copies of detailed report addressing its compliance with the current conditions of the County special use permit upon any time extension request. And with that, I'll conclude my presentation and be available for any questions that you might have.

Mr. Chaikin: Commissioners, do you have any questions, any further clarification on anything? Well they're thinking -- so what is the reason that they have to have a County special use permit? Is that something that's not normally permitted?

Mr. Torgerson: That's correct. It's a use that's not generally permitted within the zone so that's --

Mr. Chaikin: And so what is the zoning again for that -- where they're at?

Mr. Torgerson: The State land use is urban; County is A-1.

Mr. Chaikin: I know we just went through some bills and were revising what's allowed in the different areas and that was one of the items that was getting kinda played around with in allowing it in more areas than it currently is, but those bills not passed yet so -- okay, Commissioners, do you have -- Commissioner Buchanan.

Ms. Buchanan: Planner Torgerson, is it safe to assume that in my packet all I received was the decision and order from 2001 and that this is your -- what we usually receive as an update? Because, honestly, I was confused by reading the paraphernalia that I had in front of me because under Communications, it says that you're asking for a time extension for a special use permit, but in all the original data that came from 2001, you know, I noticed that I signed this back in 2001 and that was a long time ago and since then, I've learned a lot more, and on the original document in 2001, on Page 3 of 38, it has a background of I guess a chronological background of what transpired, the different -- it looked like it bundled -- the project bundled a lot of other permitting issues. So my question is: Exactly what -- we're talking about the parking area, but is it -- are you just asking for the specifically time extension just for the off-site parking area?

Mr. Torgerson: No.

Ms. Buchanan: So a special use permit for the entire project?

Mr. Torgerson: It's for --

Ms. Buchanan: Is that -- okay, is that because the conditions or the background or the permitting that they were supposed to get never came about? I understand that the County Council approved a community plan amendment for this project from ag to apartment. Then the State land use district boundary amendment from ag to urban. And then there was a change in zoning from AG-1 to apartment. And all that was done. That's correct?

Mr. Torgerson: I'm not intimately familiar with that past action but what we're looking at today is not related to the parking. It's related to the --

Ms. Buchanan: I'm trying to -- I'm trying to decide why we still need the special use permit if all the zoning -- appropriate zoning changes were made. Clayton, you can try and clear that up for me? And I also wanna know about the subdivision and the perpetual subdivision and what's up with that.

Mr. Clayton Yoshida: Yes, Mr. Chairman, Commissioner Buchanan, I guess I was there in 2001 and you were there in 2001, but, basically, I guess they did come in for various entitlements to zone the property to A-1, and also for the special management area permit, and the off-site parking approval, as well as a County special use permit because the adult daycare center is not an outright permitted use in the apartment district but is a special use,

and the permit was only valid until I believe it was 2006, however, the applicant did apply for a time extension prior to the expiration date but there was a determination that needed to be made as to whether a variance that was issued for the parking, off-site parking, was still valid or not, and we didn't get confirmation on that until recently.

Ms. Buchanan: So the special use was dependent upon what? Because the use wasn't consistent with the zoning? That was not -- that was not fixed by the community plan amendment or the change in zoning? I no understand.

Mr. Chaikin: Commissioner Buchanan, we can get Corp. Counsel to give us clarification on that.

Mr. Michael Hopper: I looked it up and I think the issue is that a special use permit, in apartment, all uses that are allowed in residential districts are allowed. And in residential districts, daycare centers are allowed as a special use, not as an outright permitted use. So I believe that appears to be that's what's going on. It's a County special use permit, not a State special use permit. Remember, State special use permits are only required in ag and rural. This is urban. But the County zoning says in order to do a daycare center in this area, and correct me if I'm wrong, but the way I read the code, it says that you need a special use permit, County special use permit, in order to do a daycare center in A-1. I suppose if the zoning was something that a daycare center was outright permitted in, they wouldn't need a special use permit. But the way it is now, it's A-1, and to do a daycare center, they do need a special use permit under the County Code, as I read it. Again, since I'm not as familiar with the background, correct me if I'm wrong, but that's, just reading the code right now, I think the reason we're here.

Mr. Torgerson: Yeah, I think that's an accurate portrayal of what we're doing here today.

Ms. Buchanan: Okay, my question is then if the lease is the County for Hale Mahaolu is until year what - 20 -- what is it? 2079? 2097? I read it somewhere. Are they going to have to be asking for a special use permit until the end time of the their lease?

Mr. Torgerson: Yeah, the special use permit has time line associated with it. That's why we're recommending ten years. It seems that the first five went smoothly and everything's working properly.

Mr. Yoshida: I believe if you look at Page 33 on the decision and order regarding the decision on the special use permit, it was only valid until July 31, 2006.

Ms. Buchanan: And wasn't that contingent upon them having being able to fix that in order for that not to be a special use anymore?

Mr. Yoshida: They probably would have to amend the zoning -- apartment district zoning to allow the adult daycare center as a permitted use or as an accessory use.

Ms. Buchanan: In Joe Alueta's I guess reconstruction of comprehensive overhaul of Chapter 19, was that -- would the adoption of those amendments have an effect on this issue?

Mr. Yoshida: Well, I guess those amendments, you know, still have to be transmitted to the Council and the Council has to deal with them. I think all we brought forth was the residential district and the business districts as far as uses were concerned, and then we had the Council Resolution regarding not having the stacking of uses in the industrial and hotel districts because it's kind of a pyramid type of zoning where uses permitted in the lower tiers are also permitted in the -- say, businesses uses are permitted in the light industrial districts.

Ms. Buchanan: So is Planning -- is Current Planning or Long Range Planning advising the applicant in any other way besides coming in every ten years or what it is to ask for a special use permit instead of trying to guide them to making an amendment of some kind that would secure their space at least in their lease with the County until the end of the lease?

Mr. Yoshida: We can probably discuss with Joe, the Administrative Planning Officer, if they, when it comes to the apartment district, if he's planning to do any revisions to the apartment district section of the code and if such uses would be considered as accessory to a permitted use.

Ms. Buchanan: Okay, I see on Page 11 of 38 that the subject property is owned by the County of Maui and is leased to the applicant to the year 2079, so that's my concern. The lease is till 2079 and so they going be asking for one special use permit -- I mean I know from now it's only ten years, but we going have to revisit this for the term of their lease. But on the other note I wanted to ask Planner or Clayton, has the perpetual exclusive agreement ever been -- was that ever done because of the subdivision or the -- that whole question about the parking area because all you asking us today is for a time, right, extension, not to do anything with the parking or anything like that?

Mr. Torgerson: No, that's an entirely separate issue. And if I could, Commissioner Buchanan, you had asked if there was a staff report, a new staff report, there is. This is not -- I didn't just give you the old one and if you'd like, I can give you an additional copy.

Ms. Buchanan: Yeah, please give me one new one. So, my bad. Sorry. Okay, so in addition to this, you not asking us for any decisions on the parking, right, today?

Mr. Torgerson: That is correct.

Ms. Buchanan: Just a time extension?

Mr. Torgerson: That's correct. And the time extension is related only to the special use and not related to the parking. That issue has already been decided and Zoning confirmed it. The off-site parking question runs with the land or is in perpetuity.

Ms. Buchanan: Okay. Okay, so this gives us a good chance to at least review this project cause it is a special use project, and so my question is: Has any issues with the subdivision been resolved because the County did ask the applicant to resolve some subdivision issues of the property with the parking and the Bureau of Conveyances?

Mr. Torgerson: Perhaps the applicant or the representative for the applicants could answer that question better than I.

Mr. Chaikin: While Commissioner Buchanan is figuring out if there's any other issues, does any other Commissioners have any questions? Did you want to make a presentation at this time on your project? You can if you want. Is that your intention or just to answer that one question?

Mr. Roy Katsuda: I can try to answer that one question.

Mr. Chaikin: Okay.

Mr. Katsuda: Okay, my name is Roy Katsuda. I'm the Executive Director of Hale Mahaolu. I don't believe that there were any other things that we're looking to amend or ask for a variance. The only issue that we have today is to meet -- conform with County law and that's to ask for the extension to allow the adult daycare center to continue to operate for the next ten years. I understand Commissioner Buchanan's concern. If you'd like to make it to the year 2079, I think it's within your purview, but she's right. If this passes, then about every ten years we have to come back and ask for an extension to that special use to allow the adult daycare center to operate.

Ms. Buchanan: Mr. Katsuda, I have a question.

Mr. Katsuda: Sure.

Ms. Buchanan: You know on the off-site parking approval, did -- was the unilateral agreement ever filed with the Bureau of Conveyances?

Mr. Katsuda: You know, I'm not -- I won't pretend to know the legal --

Ms. Buchanan: Okay.

Mr. Katsuda: Terms but as far as the County is concerned, we've satisfied their requirements so Corp. Counsel has ruled that the off-site parking runs with the land.

Ms. Buchanan: Mr. Katsuda, your current agreement with Molokai Ranch, what is that agreement?

Mr. Katsuda: I think you're referring to the one-acre piece. Yeah. The one-acre piece was purchased by Hale Mahaolu from Molokai Ranch and that was intended to be the permanent parking area when the entire complex was completed and when we could do the porte-cochere on the - I don't know what's that road, that road that's kinda blocked right now - so that was supposed to be for parking. When we build on Molokai, we anticipate a higher cost, but we didn't realize it was going to be that high, so we quickly ran out of money and we had to make a choice between finishing the building or finishing up all those parking areas, so I'd like to think that one day we'll finish everything.

Ms. Buchanan: Mr. Katsuda, are you guys still using the onsite well for irrigation?

Mr. Katsuda: Onsite?

Ms. Buchanan: At that time --

Mr. Katsuda: Oh, you mean the well?

Ms. Buchanan: Yeah.

Mr. Katsuda: Yes, we are.

Ms. Buchanan: You are. And that's just for irrigation, yeah?

Mr. Katsuda: Just for irrigation.

Ms. Buchanan: Have you guys had any problems with water consumption or the County of Maui having issues with PH levels or any type of your impacting the neighbors with your water issues?

Mr. Katsuda: We have to file I believe a monthly report and we file that with the State, and I don't know if the County gets a copy, I think they do, but so far we haven't been notified and the quality hasn't been compromised as far as we know, and we're very careful. We only use it for irrigation. And there are times when our pump is down so we don't use it at all. We kinda let the grass grow a little bit drier at that point.

Ms. Buchanan: Okay, that's it. Thank you.

Mr. Katsuda: Okay, thank you very much.

Mr. Chaikin: Does any other Commissioners have any questions? Commissioner Leong.

Ms. Napua Leong: Hi. I'm just wondering, for clarification, is ten years the maximum time period for an extension of a County special use permit, or where did you get the ten-year figure?

Mr. Torgerson: I don't think ten years is the maximum, and perhaps Corp. Counsel could chime in. I know that there is a maximum limit that creates -- my understanding is that some legal issues can be created if too long of a time period is given, but perhaps Corp. Counsel could chime in on that.

Mr. Chaikin: Yeah, Corp. Counsel is not aware of any rule pertaining to -- offhand or maybe he's just not aware of it.

Mr. Torgerson: Okay.

Mr. Chaikin: Okay, does any other Commissioners -- Commissioner Sprinzel.

Mr. Sprinzel: Mr. Chair, so there would be nothing to stop us passing it for 20 years?

Mr. Torgerson: I guess that's what we've just heard.

Mr. Hopper: Though I don't necessarily see anything written, and I'd like Planning to give an opinion on this because they've done a lot more special use permits and seen a lot more than I have, personally, the only issue I could see potentially is if you grant one that's perpetual, you kind of in effect be altering the zoning. It'd almost be like a variance, and we've got had a Maui judge with a case involving Maui Lani, an area of Maui, basically say things like variances, mass variances, for example, of a subdivision or something that amounts to zoning are not permitted because that should be done through a change in zoning. So I wouldn't recommend doing something for in a permanent, you know, a permanent period of time would be more like a variance. This is a special use permit. A lot of times agencies struggle with this issue, the Land Use Commission struggles with this issue of whether or not to continually grant these special use permits or to require a change in zoning at some point. Sometimes its controversial for a change in zoning because that permanent affects the whole property whereas a special use permit is specific to the use. So the only thing I'd really caution against, and there's -- I don't see something written in the code, I know for a State special use permit it should be for a limited period of time, it doesn't specify the limit, and I would advise for this to do some

type of limit. There's not a specific rule on it. Again, I'd like to get Planning's take, but I wouldn't recommend something permanent that would basically amount to a change in zoning or a permanently granted variance. You've got criteria for a special use permit, it's in the code, some of the criteria says it has to meet the community plan, so that's one issue, and the analysis should have been done on that, and basically you need to look at its effects on public schools, parks, things like that. So as far as the time period go, I would not advise an unlimited time period at this point, but that's the best I can advise you now.

Mr. Chaikin: Any other Commissioners have any questions? Okay, you got something?

Ms. Buchanan: No, but I would comment that I agree with Corp. Counsel. On any special use permit, I would not go past ten years even if you have to revisit it like we're doing today. It's a good time to see that the project is being compliant since it is a special use permit. At the time the project was built, there was real issues by the County for the project on water use and -- and in ten years, that condition has not changed. We still have the same issues. Until something changes and new wells are built, that issue's not going to change. So I, myself, would not be voting for anything more than a ten-year extension.

Mr. Chaikin: Alright, thank you, Commissioner Buchanan. Obviously, you know, daycare, adult daycare centers are something that's very important for this community and it almost seems like that need is going to continue to grow. I mean I don't have any data but just looking around, it seems like the general population is aging on this island. So, you know, there's no question that you provide a very valuable service to our community. I think when we look at special use permits, at least my vision is that, you know, there's something that's not normally allowed in that area so when we're trying to -- trying assess something like this, we really look to see if it's having, you know, really substantial adverse impact on the surround community or if there are a large number of complaints or something like that, that would be the only, in my view, the only negative thing that would, you know, impact negatively on your project. So let me ask Clayton because, you know, you haven't been around long enough, Clayton, have we had complaints into the Planning Department on this special use permit?

Mr. Yoshida: For this particular facility, no, not to my knowledge.

Mr. Chaikin: Alright, thank you for that, Clayton.

Ms. Buchanan: I have a question for Clayton.

Mr. Chaikin: Yeah, go ahead.

Ms. Buchanan: They have an off-site parking approval, yeah, Clayton? No run away. The project got an off-site parking approval, yeah, this project?

Mr. Yoshida: This project?

Ms. Buchanan: Yeah.

Mr. Yoshida: I believe so.

Ms. Buchanan: Okay, because at that time was contingent upon the applicant agreeing to consolidate the properties so I was just -- if they have an approval, then that means the consolidation of the properties happened. That's what I'm just wondering.

Mr. Yoshida: I guess we'd have to -- we'd probably have to check with ...(inaudible)...

Ms. Buchanan: Okay. Well, that's what I wanted to know if they have a off-site parking approval cause obviously they've been parking so I'm assuming they got one, and if they got one, that that agreeing to consolidate the properties must be with the Bureau of Conveyances, so can you check on that? Okay.

Mr. Yoshida: Yes.

Ms. Buchanan: Okay, thank you.

Mr. Chaikin: Clayton, while you're there, you know, this Commission has to make a decision on a special use permit whether they approve or disapprove, or go for 5, 10, 20 years or whatever it may be, does that time period go back retroactively to 2006 or does it start as of our approval?

Mr. Yoshida: Well, I guess, again, the applicant did apply before the expiration date so we would kinda run it from that time of the expiration forward.

Mr. Chaikin: So that was 2006, right? What was the date of that?

Mr. Yoshida: I believe it was July of 2006 - July 31, 2006.

Mr. Chaikin: So almost four or five years later after the point, right?

Mr. Yoshida: Yeah, I think it was the Department trying to discern whether the variance that they got for the parking was still valid or not.

Mr. Chaikin: Alright, thank you. I just throw that out for the Commissioners to -- to consider if they're considering some time limit.

Mr. Yoshida: Yeah, I think it was for the -- I don't know if it was for the paving or the non-paving cause, typically, for the required parking, you have to have concrete, asphalt, or equivalent, so they might have asked for a variance from the surfacing material.

Mr. Chaikin: Thank you, Clayton. Let me just ask, all of these agenda items, we give the community an opportunity to come up and if they want to provide some testify or input onto this issue, they can. Is there anybody out there at this time that wants to provide testify on this? You're welcome to come up, yeah.

Mr. Katsuda: Just as an additional comment, there was a good comment on your observation. If ten years is granted, then it goes back to 2006, so we will be back here in six years, okay. So I mean, for us, and Na Pu`uwai officials are here as well and they're the ones we're partnering with with Arcadia and together we're able to pull this activity together. I would think that if it was ten years from today, it might be a little bit easier for us. But I just wanted to make that comment. Okay, thank you.

Mr. Chaikin: Alright, thank you for that. Aunty Judy, did you -- alright, step right up.

Ms. Judy Caparida: Aloha, Commissioners and all those that is in the house. My name is Judy Caparida and I'm very active in our community cause I really care for community and not only that, I mean I getting to the age where I'm going to have one day the need to go into a home like that if the Lord don't take me home right away. And so it was many years though that we tried to get care for our families here on the island. We used to have it at our hospital where they used give the care for the elderly, and then they ran out of funds. It was too expensive. So we had to get them out of the hospitals and into private places to put them and off-island. It was miserable for a lot of them. And I think there were only seven of them that was left back and they said throw me in the hole, throw me anywhere, but I'm not leaving, and so they had to keep them there, and I think there's just two more left. And in the meantime, they're there after they're dead, nobody else going be taken in. That's the rules of the hospital. Anyway, this is where I come in ...(inaudible)... a health center that is very -- is expanding as well and I see there's a need for our kupuna and our old folks that was the leaders of yesterday that brought us to this day need a place for rest. They need a place to stay. So, you know, what's the problem? Why can't we make exemptions? I hate that word "exemptions" because they use it only for them who wants to use it for. They use for other things. But when it comes to Molokai, we have to go through the damn mill, we have to go through the grinders just to get a life on Molokai. I no think so. I don't think that's fair. I don't think that's the way we supposed to do things. If anything, you care for the aina of Molokai because they have nowhere else to go. This is their home. So if we need fixing something, say what we need to get fixed so we can do the fixing and get it on, not making story so -- so impossible to answer, and yet it's so simple. Life is so simple. Man makes us miserable. They just confuse you with with a lot of words. And that's why I'm here. I'm here for a lot of stuff because I know that

when come outside, boy, extension, whatever you call it. When come for your own, hello? Gotta wake up. I no have to say I'm so thankful for that building they built over there for our Molokai base. It's beautiful. I must say that. It's really beautiful. I went there and check it out. It's nothing that is outrageous. It's like our lifestyle. It's right down our way of living and that's the way we want things to be. When we're going to make this old folks house, it's not going be fancy. It's going be for something that is livable, someplace that they can rest, and one day they go home. No need worry already. No need bother family. So this is why I'm here to let you folks know give us our people here a place so they can rest and when they go home, no need worry about them. Give them every ten years. That's fine. Cause every ten years is the time when they renew a plan. The plans get renewed every ten years. So you know what? Leave 'em for ten years. After the ten years up, whoever's going to be here to bring it up again, they have a chance to do it and reapply for another ten years. Whatever the plan is. Don't make so impossible for us guys to get something. I need to tell you guys that I appreciate you guys and I love you guys, but I need to tell you, life is so simple. If it wasn't God's love today, we wouldn't be here. So I love all of you, even if you mad with me, I no care. Aloha.

Mr. Chaikin: Thank you, Aunt Judy. Is there any questions for the Commissioners? Alright, seeing none. Thank you, aunty. Anybody else out there that wants to say anything or provide any testimony on anything? Alright, seeing none. It's back in our hands, Commissioners. You have any comments? Commissioner Sprinzel.

Mr. Sprinzel: Would there be any objections from the other Commissioners to make it a 14-year extension on this occasion so that they have their ten years and it includes the back 4?

Ms. Buchanan: I have no opposition to that but I need one question answered first, and maybe staff can answer that question.

Mr. Torgerson: I'll do my best.

Ms. Buchanan: My question is this, and it's going to be real simple, has the required parking for the center been dedicated in perpetuity for the use of the center?

Mr. Torgerson: Yes, according to Zoning, it has been.

Ms. Buchanan: They have documents supporting that?

Mr. Torgerson: I do. It's in your packet and -- and I sent the following email to Francis Cerizo in Zoning to confirm, for myself, and he responded and said, "This is to confirm that the OSP, the off-site parking permit, runs with the land and does not expire, so that was obviously a controversial item in its original approval but it -- and that's actually what

apparently took this four years to process was that question was being asked and it was vetted thoroughly and the determination is that is satisfied.

Ms. Buchanan: Okay, I guess that's what all my questions was in the beginning was to get down to that basic question of was the required parking dedicated to the project in perpetuity and the answer is yes. Right? So if the answer is yes to that question, then I don't have an opposition to a 14-year extension.

Mr. Chaikin: Thank you, Commissioner Buchanan. And just to followup on Commissioner Sprinzel's comment, you know, my inclination is to give them more years rather than less years because as much as we, as a Commission, wanna think to the contrary, it is really -- it's not a very pleasant experience to have to think about coming before this Commission because it's really like a box chocolate - you never know what you're going to get. So, you know, it's really important that we send them off and let them go do what they do best without having to be interfered with us in a short period of time. So my comment is, you know, I'd like to see more years rather than less years. Is there any other comments by any of the Commissioners? If not, we have to move towards a vote. Any last questions before I call for a motion on this? Seeing none. Is there anybody that wants to make a motion? Commissioner Sprinzel?

Mr. Sprinzel: I would propose we grant an extension of 14 years of this special use permit for Hale Mahaolu.

Mr. Chaikin: Alright, we have a motion on the floor. Is there second on that? We have -- Corp. Counsel wants to provide some input here.

Mr. Hopper: You have a staff report and you've recommended conditions in the staff report. If you're going to recommend approval, if you want any of those conditions to be part of that, you would have to say. If you don't want any conditions, you can say unconditional approve for 14 years. It's just you need to specify which one you would like.

Mr. Torgerson: Yes, I think there were two conditions and we were asking -- we were rather recommending that the board approve this ten-year extension with the staff report as the findings of fact and those include the two conditions.

Mr. Chaikin: For clarification, could you just let us know what those conditions -- could you read those conditions to us? Thank you.

Mr. Torgerson: Yes. I just took your report. I apologize. I'll give it right back to you. The first was that the County special use permit would be valid until July 31 of 2016--

Ms. Buchanan: Planner, what page are you on?

Mr. Torgerson: This is the last page of the staff report, the new staff report. The -- the date obviously could be changed by motion - subject to a timely filing of an extension within 90 days before its expiration. And the second condition was that the applicant shall submit to the Planning Department five copies of a detailed report addressing its compliance with the conditions of the County special use permit upon filing any amendment request in the future.

Mr. Chaikin: Thank you for that. We do have a motion. Did you want to amend your motion to reflect those comments? Commissioner Sprinzel?

Mr. Sprinzel: If I accept those conditions, it says six years doesn't it?

Mr. Chaikin: Something like that. You can change that date if you so desire.

Mr. Sprinzel: Well, if we can just change that to ten years and then I would amend it to accept the second -- July 31, 2020, and we'll accept the second condition.

Mr. Chaikin: Okay, we have a motion on the floor, so July 31, 2020. Do we have a second on that?

Ms. Buchanan: Second.

Mr. Chaikin: Okay, we have a second by Commissioner Buchanan. Is there any further discussion?

Ms. Buchanan: I have discussion. I would like the -- somewhere in that to include the clarification of zoning. The Zoning letter of whatever date that was where the Zoning had cleared up the issue of the off-site parking.

Mr. Chaikin: So you want it reflected in the --

Ms. Buchanan: It's important enough. If they took four years to come up with that, that's how long took them --

Mr. Chaikin: Right.

Ms. Buchanan: To figure that out, that's important. That was my issue for the -- that was the whole issue on the special use permit and I would like that to be reflected as the reason why we're not going with staff recommendation and making our own recommendation.

Mr. Chaikin: I see. So that's -- that's a provision that potentially could be added on to the existing motion to have that verbiage reflected in the permit, I guess.

Ms. Buchanan: It's Exhibit C.

Mr. Chaikin: Okay, so we have a motion on the floor, it's been seconded, and then we have what appears to be a friendly amendment to the original motion. So I gotta go back to the motion maker and see if he's willing to amend his motion to include Exhibit C as part of the permit verbiage, I guess. Alright, we gotta let Corp. Counsel give us input.

Mr. Hopper: As I understood the original motion, it's to include the Planning Staff Report as your findings and conclusions and these are the conditions you'd be granting the permit. If that document's already an exhibit, it is part of the record on which you made your decision. I think if you wanna include language that's very specific that we relied on this understanding of the parking, I mean I suppose you could come up with that language, but it's generally not necessary to put as a condition the basis. I mean what you said will be reflected in the minutes and there is an exhibit attached. I don't know if that's satisfactory but, you know -- so you could add special language but I just wanted to note that it is reflected in the record and these will be part of the minutes as well as, you know, showing your basis. So for whatever that's worth.

Mr. Chaikin: Commissioner Buchanan, are you satisfied that being in the staff report and us basing our decision on the information in the staff report - that's sufficient or would you like to see more than that?

Ms. Buchanan: No. I'm satisfied. Thank you.

Mr. Chaikin: Okay, so we have a motion on the floor. The motion's been seconded. Is there any other comments, questions, concerns? Seeing none. I'm going to call for the vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Sprinzel, seconded by Ms. Buchanan, then unanimously

VOTED: to accept the Planning Department's Staff Report as its findings of fact to approve the time extension with the amendment to change the expiration date to July 31, 2020.

Mr. Chaikin: Okay, it passes unanimously. Thank you, Commissioners. And thank all of you for your patience and I guess we're going to see you in ten years or so. Alright, well thank you.

2. **MR. JEFFREY S. HUNT, AICP, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that Special Management Area (SMA) exemptions can be issued for the following:**
 - a. **MR. KIP DUNBAR of DUNBAR MAKAI PARTNERS requesting a Special Management Area Assessment determination for the Dunbar Wetland Habitat project in order to dredge a deteriorated wetland at TMK: 5-7-004: 008, Kainalu, Island of Molokai. (SMX 2009/0226) (Valuation: \$25,000) (M. Torgerson) (previously scheduled for the January 27, 2010 meeting.) (Commissioners: Please bring your reports with you.)**

The Commission may take action on this request

Mr. Chaikin: Alright, we can move right along with our agenda. We're under Communication, E, and we're moving down to Item No. 2, which is the Planning Director Jeff Hunt is requesting this Commission to concur with his determination to exempt Kip Dunbar's Makai Partners' request for a special management area assessment determination for the Dunbar Wetland Habitat Project in order to dredge a deteriorated wetland area. We've gotten information that there is additional information that needs to be obtained and so, at this time, the applicant is not prepared to come forward. Do you wanna comment on that, Mikal?

Mr. Torgerson: Yeah, if I could expand on that. The Planning Department has been in contact with the applicant, Kip Dunbar, and he's pursuing various Corps of Engineer permits for the same project that this SMA is related to. It's been our position that the Corps permits need to be issued and approved by the Corps before we would bring it to your board for SMA exemption and concurrence, and the thinking there is that the Corps is ultimately the higher authority on environmental matters in this case and so we would rely on their expertise more than ours as it relates to the environmental issues related to wetland restoration. And so the applicant is asking for a deferral until whatever date that the Corps permit is approved.

Mr. Hopper: I think deferral until the applicant lets you know when he wants to proceed with this permit.

Mr. Torgerson: That's accurate.

Mr. Hopper: Okay.

Mr. Torgerson: And that's what would prompt ...(inaudible)...

Mr. Hopper: Because it wouldn't be the date of the permit cause there be scheduling and everything like that. Just to be clear.

Mr. Torgerson: That's accurate.

Mr. Chaikin: Alright, thank you. So I guess we'll just go ahead and defer this -- this agenda item for a date uncertain. Let me just say that when it does come back up on our agenda next time that you give us a full complete package of all the details --

Mr. Torgerson: Certainly.

Mr. Chaikin: Cause I don't think we had all the information that we needed on this.

Mr. Torgerson: Absolute, Chair.

Mr. Chaikin: Okay, anybody have any comments? No.

- b. MR. REYNALDO ARTIEDA requesting a Special Management Area Assessment determination for the proposed construction of an above ground covered deck totaling 144 square feet attached to an existing single family residence located at 255 Wili Wili Place , TMK: 5-3-011: 030, Kaunakakai, Island of Molokai. (SMX 2009/0340) (Valuation: \$7,000) (C. Thackerson)**

The Commission may take action on this request.

Mr. Chaikin: Alright, moving right along, also under Communication, Item b. here is Mr. Reynaldo Artieda is requesting a special management area assessment determination for the proposed construction of an above covered deck totally 144 square feet. Now, I guess that you've already made a determination and you're looking for concurrence from us on that?

Mr. Torgerson: That's correct.

Mr. Chaikin: Okay, so you wanna give us little presentation on what this is about?

Mr. Torgerson: Absolutely. Thank you, Chair. As he mentioned, this item is a proposed construction of an above-ground deck totally 144 square feet. It's attached to an existing single-family residence on a previously developed site. The project is not subject to the Molokai Shoreline Rules, and it's not adjacent to the shoreline. It's not in a flood zone,

flood hazard zone, as determined by ZAED and so no flood development permit is required. The project valuation is stated at \$7,000 and so it's obviously under the \$125,000 trigger. It was determined by the Planning Department that this proposal is not development and that fell under the structural and nonstructural improvements to existing single-family residences. It has an exemption within 205A. The State Plan for this area is urban, the Molokai Community Plan is single-family residential, and the County zoning is interim. The property is, as you can see here, you can see the small deck addition that they're proposing. It's fairly modest in nature. We have here architectural elevations of the front and side. And a transverse section indicating their shed roof with metal roofing and the railing and all that. Here you see some photos of the existing site that's proposed on the front of the house.

So in summary, our recommendation is to grant a SMA exemption on the project. The project is consistent with the objectives, policies, and SMA guidelines set forth in HRS 205A, and it's consistent with the County General Plan and zoning. And so we respectfully ask concurrence from the board.

Mr. Chaikin: Alright, thank you, Mikal. Commissioners, any questions? This is just a general question. When somebody wants to build a deck onto their house, does that increase the square footage of the house? Are decks included in square footage?

Mr. Torgerson: I guess it depends on who you ask. I know the AIA, for example, has calculation standards for calculating square footage and it would not be included in that. I know the Board of Realtors have their own methods of calculating as well and it would typically not be included in that. But it seems like everybody has a slight variation on how to calculate square footage.

Mr. Chaikin: Well, I would be interested in what the County's interpretation of that is cause certain lots, like if you have a ohana unit on the lot, it can't be more than, in some situations, I think over a thousand square feet, but I wonder if you can put a 2,000 square foot lanai on a 1,000 square foot house and still be in compliance.

Mr. Torgerson: Yeah, the covered lanai, in terms of the County's calculation in that instance, are counted.

Mr. Chaikin: Okay, thank you for that clarification. Commissioners, anything? Nothing? Is there anybody in the public that wants to provide some testimony? You're good, Aunty Judy? Okay, thank you. Alright for that. So then it's back in our court. Any last questions or comments before I call for a motion and a vote? Seeing none. Okay, at this time I'll entertain anybody that has any motion on this.

Ms. Buchanan: Hurry up. I'd like to move that we concur with the recommendations on the approval of exemption for a single-family - what is it? Deck totaling 144 square feet at 255 Wiliwili Place.

Mr. Chaikin: Okay, we have a motion. Any second on that? Commissioner Pescaia. Any discussion? Seeing none. I'll call for the vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Buchanan, seconded by Ms. Pescaia, then unanimously

VOTED: to concur with the recommendations on the approval of exemption for a single-family deck totaling 144 square feet at 255 Wiliwili Place.

Mr. Chaikin: Unanimous. It passes. Thank you. Alright, I think that was a record time that we moved through that agenda item.

Ms. Buchanan: That goes to prove that simple things can be simple.

Mr. Chaikin: Okay, thank you, Commissioners.

F. UNFINISHED BUSINESS

- 1. Discussion that the Molokai Planning Commission be a consulted party on permits issued by various State and County agencies such as water use permits.**

The Commission may take action on this item.

Mr. Chaikin: Alright, so that takes us to Unfinished Business. The next item is discussion of the Molokai Planning Commission to be a consulted party on permits issued by various State and County agencies such as water use permits. We've been discussing this a little bit at some of our past meetings and I think it's probably been on the agenda three or four times. We just have a tendency to somehow make mountains out of molehills where all we really needed was a little email to be shot off to the Water Department and we would have been good to go. But, basically, where we're at right now is we're getting a form letter that somebody -- Mikal, can you comment on this form letter of where we're at on this?

Mr. Torgerson: Certainly. I was asked by Clayton to prepare a form letter that could be issued from the Chair of this board to other jurisdictions, such as the Water Commission,

to be cc'd applications and offer -- give commenting ability to you folks, and so this was really meant to be sort of a first shot of at a boilerplate type of letter of that nature.

Mr. Chaikin: Okay, so who put this together - this letter?

Mr. Torgerson: I did.

Mr. Chaikin: Well, thank you very much for that.

Mr. Torgerson: You bet.

Mr. Chaikin: Alright, making progress. Good job. Alright, so, at this point, this is for the Water, right?

Mr. Torgerson: Yes.

Mr. Chaikin: And so we're going to get that off, and I think at some of our earlier meetings, somebody brought up that there were other departments besides the Water Department they felt that would be good if we were, you know, one of the agencies that they at least ran the project by. Commissioners, was there any other departments that you wanted to get on the list with at this time? So far we've got the Water Department -- Water Commission.

Ms. Buchanan: You asking if we like send one letter like this to different departments?

Mr. Chaikin: Yeah, like this would allow us to be a consulted parties or one of the agencies so if they send out comments, somebody wants a water use permit, this Commission would be on that list and --

Ms. Buchanan: Oh, I thought we had one whole list already just stated.

Mr. Chaikin: Well, yeah, we had a meeting and you started saying a whole lot of different agencies but now we're to the point where we're really going to start sending out letters, so so far we've got the Water Commission, is there any other agencies? Because I mean, you know, it's really -- if we're going to be on the list, we really should be responsible and provide comments so it's, you know, it's not something to take lightly cause we have to actually followup. We don't want them to ask for our comments and then have no comments, you know, or just not even respond. So it is an extra responsibility on our part so we should, you know, tread lightly. Commissioner Sprinzel?

Mr. Sprinzel: When we get those reports or proposals, which have been to all different agencies, nine out of ten say "no comment" so I don't think that's particularly a problem. As long as we get to see it.

Mr. Chaikin: Right, yeah, but we actually have to respond and say "no comment," so, you know, we don't want to be sending out 12 letters or 24 letters a month or something or however many -- I don't know how many we're going to get but it could be a lot. You know, we don't wanna create a big burden for the staff. Go ahead. You got some comments?

Ms. Buchanan: I think our concern is because our purview is only over the special management area, we only get comments from the agencies that are directly affected in the areas but as a Commission and we feel that our duty is islandwide and actually transcends past the SMA, even though it's none of our business, we stick our nose there, so I know for my self I regularly check the Office of -- OEQC, which is Environmental Quality Control because they're the people that issue all the environmental assessments and the findings of EIS and stuff like that so I usually try to check their website once in a while to see if anybody not in the SMA is applying for a big type of permit especially conservation use under DLNR and the Board of Land and Natural Resources, a lot of their decision making impacts us on Molokai and sometimes we don't even know it until it's done and that's who I usually have an issue with is DLNR.

Mr. Chaikin: You mentioned the Office of Environmental Quality Control. That was one thing. Let's just talk about that logistically. Those are like EAs or EISs, right? So what does that mean? Does that mean when they send out for comment they gotta send out a zillion EISs to all of the members or is that something that we just could get online so it's not burdensome to -- you know, from a paper standpoint? Or is that how that works? I mean I'm not familiar with the process. So they send out a bunch of copies or one copy or do you know?

Ms. Buchanan: I think if we're listed and there's a directory, from what I understand, a directory for Maui and all -- as well as in Honolulu of a list of agencies that would like to be contacted as offering information to a project, and so I would like to be a consulting agency for DLNR because they got so much departments under DLNR that we work with right now, which is State Historic Preservation, Forestry, Boating, and so on and so forth. But if the whole department as whole, anytime they have anything to do with Molokai, they should use this Commission as a sounding board for projects.

Mr. Chaikin: Okay, so what -- so are you proposing that we send a letter to the head of DLNR and say we wanna be for all of the Molokai stuff rather than trying to hit each one up independently and individually?

Ms. Buchanan: That's what I saying.

Mr. Chaikin: Okay. So why don't you turn that into -- you have a comment?

Mr. Torgerson: If I could answer one of your earlier questions, Commissioner, it is traditional to identify yourself as wanting to receive paper copies or electronic copies and in my job as the Molokai Planner, I'm occasionally doing EAs to review as an outside agency. I just reviewed one on the pali actually above Kalaupapa for a trail proposal. So -- and to answer your question, it was online and they just emailed me a link and asked for comments.

Mr. Chaikin: Okay, well thank you for that. So does any other Commissioners have anything else that they would wanna add to this potential list? You have a question about the letter? Okay, what's your question?

Ms. Pescaia: I was just wondering, we don't wanna see all applications, right? We just wanna see Molokai applications.

Mr. Chaikin: Right.

Ms. Pescaia: I don't know if that's clearly stated cause it says, "referral of all future development related applications." Yeah, we just gotta add in "on Molokai" somewhere in there. And then just small kine stuff I think, on the bottom, Joe's name doesn't -- it's J-O. I no think get one E after that. And I think Commission get two S, but that's just like manini kine.

Mr. Chaikin: Did you --

Ms. Pescaia: Cause you get two S --

Mr. Chaikin: Did you take note of those three items?

Mr. Torgerson: I did, yes. Thank you.

Mr. Chaikin: Okay.

Mr. Torgerson: I'll make those revisions and forward the revised letter.

Mr. Chaikin: Alright, those are duly noted. Commissioner Leong?

Ms. Leong: Just one more, in the first sentence, "The Molokai Planning Commission board has historically," I would add "sought and continues to seek."

Mr. Torgerson: Duly noted.

Mr. Chaikin: Alright, thank you, Mikal. Alright, so any other Commissioners have any additions, subtractions, any other comments to make on this? So, Commissioner Buchanan, is the Water Commission is under DLNR is that correct? Okay, so do you wanna turn what you said into a motion and then we can second it and vote on it?

Ms. Buchanan: I move that we include the Department of Land and Natural Resources sending them a letter to include us for review and comment on any project on Molokai.

Mr. Sprinzel: Second.

Mr. Chaikin: Okay, any discussion? Seeing none.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Buchanan, seconded by Mr. Sprinzel, then unanimously

VOTED: to include the Department of Land and Natural Resources sending them a letter to include us for review and comment on any project on Molokai.

Mr. Chaikin: Unanimous. Thank you, Commissioners. And we'll see what we get. Alright, let's see where we are here. If I can find my place.

2. Report from the committee to review the rules of the Molokai Planning Commission.

Mr. Chaikin: The next item is report from the committee to review the rules of the Molokai Planning Commission - that's me. Okay, I'm the -- I guess the Chair of this committee that's reviewing the rules. I, personally, read all of the rules. Those are the Molokai Planning Commission Rules of Practice and Procedure, there's also rules on the Molokai SMA rules, there's rules on the shoreline -- shoreline rules for the Molokai Planning Commission, there's also rules on special uses in the agricultural and urban areas, so I've reviewed those, and I think the next move is for me to meet with all the other members of the committee, so I'll talk to you after the meeting what might be an appropriate time to do that. The other outstanding issue that we had brought up at the last meeting was it would be very helpful if we could get these rules on some kind of a format that we can actually cut and paste and we could actually work with rather than trying to retype the whole thing or the parts that we have problems with, and I know that's something that's done on some of the rules for Maui so I went to their site and, wow, you can actually cut and paste some of this stuff and then I go to the Molokai site, the same rules, and no, you can't do that. Mikal or Clayton, did you wanna see if somehow we could get a file that we can cut and paste?

Mr. Torgerson: I'll certainly look into that.

Mr. Chaikin: Okay, that was what we were going to do at the last meeting is look into that. Clayton, did you have any update on that?

Mr. Yoshida: Not as far as providing a format that can be manipulated.

Mr. Chaikin: Okay, so if we change the rules, how are you guys going to do it? You're going to retype the whole thing?

Mr. Yoshida: You know, we could still check on that and --

Mr. Chaikin: Okay.

Mr. Yoshida: Report at the next meeting.

Mr. Chaikin: Alright, cause we're trying to move forward, you know, faster than a super slow pace, so try to get back with us next week and see if your tech people can learn how to come up with some kind of a format that we can utilize. Okay. So with that, I think -- does anybody have any comments on that? Yeah?

Ms. Buchanan: I don't have a comment on that but can I make a report on something else? Wait. I think Mikal get something.

Mr. Chaikin: Yeah. Okay.

Mr. Hopper: Just to say, because of the Sunshine Law and how these committees work, I'd recommend that this report issue not be put back on the agenda until there's actually a report ready. It also says that discussion and deliberation and decision-making on the commission or the committee's report back can't be made until the next meeting, so you wouldn't be able to discuss it at that meeting, and again, I'm just reading what the, you know, the Sunshine Law gets real strict on this, and so I'd recommend this not be on the agenda as a report back. I think you could have that testimony issue if you wanted to hear from the public, but I think that report back should really be reserved for whenever the committee has, you know, has some recommendations to report back as far as what's going on. That's just my recommendation to you as your attorney just so, you probably won't get into any trouble, but it is what the, you know, the Sunshine Law says and I did talk with OIP about this and I think they were -- that would probably be consistent with what they've advised so that's all.

Mr. Chaikin: Alright, Commissioner Buchanan, do you have anything on this?

Ms. Buchanan: Not -- not about this but on something else. Is that okay?

Mr. Chaikin: Alright, let's finish this item up real quick.

C. ANNOUNCEMENTS

1. The Commission would welcome any testimony relating to proposed amendments to its existing rules for its Subcommittee on Rule Changes

Mr. Chaikin: My mistake on this is I looked through the agenda, this was actually on the agenda under Announcement, C.1., which I just passed right by, so let me just ask or let me just say that the Commission would welcome any testimony relating to proposed amendments to the existing rules for the subcommittee on rule changes, and that's just an announcement, and those can be submitted to the Planning Department on behalf of the Molokai Planning Commission and the committee would get those. Alright, any other topics on this? Alright, Commissioner Buchanan?

Ms. Buchanan: No, just an update. Remember we went out to the Kawela Bridge project, I know some of us was there at the site inspection, and the question by this Commission at that time was the incorporating of the County water line into the bridge project to move across, so I did push through that, and what is currently now and it's subject to budget cuts but I understand that the \$80,000, I hope and maybe Clayton can verify it, is now going to be allotted for the bridge project. But because of that, the Federal timeline on the request for proposals had to be moved back to accommodate them raising up the money for that. But it looks like right now it's a go. So that's one thing. The second thing, I hope you guys all got my first email of trying to generate a list of archaeological monitors for Molokai Island moving towards trying to get a list started for this Commission.

Mr. Chaikin: Alright, thank you, Commissioner Buchanan, and thank you for following-up on that Kawela Bridge thing because it is important to put the infrastructure in while you're doing the project and not try to rip it up couple years later, which is normally done. So thank you for following-up on that. And I think as far as, you know, getting this arch. list together, maybe that's something we could actually put on the agenda for the monitor list or -- and we can cover that when we go over with Clayton future agendas.

Okay, so, well since you went into announcement mode, let me just say that we have a Molokai Planning Commissioner resignation. Teri Waros has decided to step down as a Planning Commissioner. She sent a letter to Mayor Tavares notifying her of that and that -- I have a copy of the letter in the event that the Planning Department doesn't have that if you want that for your file, I can give you that letter.

G. CHAIRPERSON'S REPORT

- 1. Improvements to the Planning Commission's and Planning Department's service to the community.**
- 2. Status of the County Contract to allow the filming of Molokai Planning Commission meetings.**

Mr. Chaikin: Okay, moving on to the Chairperson's Report, improvements to the Planning Commission and Planning Department's service to the community. One of the things was the AKAKU, which is kinda could be under this. Yeah, so did you have any information on that, Clayton?

Mr. Yoshida: Yes, Mr. Chairman, Members of the Commission, I did make an inquiry again of the Mayor's office regarding the status of the contract but I haven't a response, so I will -- if the Commission wants, I will continue pursuing with the Mayor's office on the status of the contract.

Mr. Chaikin: And is it they have not called you back? When they say "no response," are they -- they haven't gotten back to you? You called them and they don't return your call or --

Mr. Yoshida: Yeah, I've sent them a email expressing the -- well, the Commission inquiring about the status of the contract and I haven't a response.

Mr. Chaikin: Alright. Yeah, I'd appreciate it if you can continue on and see what -- see if there's any hope for restoring, you know, the community being able to see. Do you guys have any -- I know we've got the GPAC coming up, do you guys have any budgeted money for AKAKU?

Mr. Yoshida: No, not to my knowledge.

Mr. Chaikin: Cause I did talk to Nancy and she was hoping to make AKAKU, you know, a part of that whole community plan process so the community could actually be aware and involved when they develop their own plan, so I just throw that out as a comment.

Mr. Yoshida: Yeah, we'll be having our annual orientation training I guess starting in April. We did plan to have the Long Range Division come out and talk to the Commission about the plans for the community plan update.

Mr. Chaikin: Alright, well, it would be nice if just somehow there was some money or something to get someone like AKAKU to film those cause that's, you know, the best

outreach that you have to get the community involved in the process just to have everybody be able to see that so maybe you can take that to the Director and see if he can find a little bit of funds or something to do that, or else the Mayor. That doesn't sound too good. She don't even respond to your email. So, anyway, that's that. Any other comments on that? Does any public have any comments? Alright, seeing none. We can go ahead -- yes?

Ms. Buchanan: Chair, you brought up the GPAC. What is the status on the GPAC, Clayton? Status on the GPAC for Molokai?

Mr. Yoshida: The Molokai Community Plan Advisory Committee has not been constituted yet because once it's constituted, then that starts all the time, the clocks ticking on getting each entity to review the plan update. So they're not ready -- they're not ready to take the plan update to the CPAC.

Ms. Buchanan: But Maui -- Maui has started, yeah? Maui, they stay full swing?

Mr. Yoshida: Well, with Maui, see because there's six -- see, for Molokai, the community plan is their island plan. For Maui, because we have six community plan regions on the island, we have a Maui Island Plan, which is the island plan, so they -- the GPAC and the Maui Planning Commission have dealt with the Maui Island Plan and the Council Planning Committee is dealing with the Maui Island Plan now.

Ms. Buchanan: I thought there was a law, Corp. Counsel, that said that the advisory committees were to run concurrently?

Mr. Hopper: Alright, A, this is not on your agenda but for information purposes, Maui has not looked into any of its community plans. You would be, I believe, you and Lanai I think are scheduled to be, if I'm wrong, Planning can tell me, the first two community plans updated. The Maui Island Plan is something different. That deals with their whole island. And then they each have their own community plans and none of those have started up yet. They've got the island plan that they're dealing with but no one's looked at their community plans yet. As far as running concurrently, I don't think that's necessarily a requirement. The GPACs had to review the Countywide Policy Plan, which replaces the existing General Plan at the same time, and that's all done. That's going before Council for second reading at its next meeting I believe for final -- to be finalized, but that's a general policy document that deals with all the islands. The Maui Island Plan would not involve you because -- you, as Molokai, because it only applies to Maui Island, and then the community plans are separate from that, and so each separate community plan - Molokai, Lanai, and every community plan through out Maui - would have its own committee from that community and they would review those plans, and none of those have been formed yet, to my understanding.

Mr. Chaikin: Just to followup on that, Clayton, you know, I know that the Planning Department doesn't wanna come up with any dates because that hasn't worked out well in the past for you, I did ask you earlier in the year if thought that the process in which the public was going to get involved and was going to start this year, and you said you though it would, is that still -- do you still go with that 2010 start date?

Mr. Yoshida: Well, again, we'll have the Long Range Division here next month to provide you with the most in-depth schedule, current schedule that they have. I believe they are going to start the community outreach at least this year.

Mr. Chaikin: Okay, thank you for that. Right now, we're on improvement to the Planning Commission and Planning Department's service to the community, any public wanna provide any testimony on this? Judy, you can step up to the mike.

Ms. Caparida: Hi. I just wanted to followup on our GPAC. I mean the thing is three, going to four years, you know. I mean for such a small island, we have so much problems and they cannot even solve it. The thing is that we need to know cause we need plan for our island and the thing is while they doing their thing over there, they adding us over here, us into their plans and then we're out taking ours apart that we originally has made for our lifestyle here on Molokai, and I don't think that's fair. I'm waiting. I'm waiting. Me and my sister, we waiting for the GPAC because we spent a lot of hours out there and a lot of those that's involved, we stayed in to late to go home, and then now to find that this year we're not going to have it, what is the problem? I mean, you know, we gotta shape up. They're going to do something, no come over here and try to unravel what we have made plans for for our island. This is what I see. I see they coming over here and they stay trying to take us apart. I don't think so. I don't think that's really fair because we work hard to keep what we can afford to keep our lifestyle and yet can still live. So that's what I needed to share. That was just a followup, okay? I watching you guys.

3. Status of the project to place tsunami warning signs on Molokai.

Mr. Chaikin: Thank you, Aunty Judy. Okay, I guess that concludes that agenda item and we can move on to the next, which is Item No. 3, status of the project to place tsunami warning signs on Molokai, and they should have really read, "The status of the project to place tsunami warning signaling devices on Molokai," rather than "signs." Did you have -- did you find anymore additional information about that?

Mr. Yoshida: Yes, I guess since our last meeting, I did contact the County Civil Defense Department who referred me to the State Civil Defense Department who said that they do have moneys for the placement of tsunami inundation area signs that they get from the Federal Government from the National Oceanic and Atmospheric Administration, NOAA, but they have to have a County sponsor. I did then contact the Civil Defense

Administrator, Gen Iinuma, who then contacted his Molokai Advisory Group, Punahele Alcon, Steve Arce, Jonas Palani Noea, Scott Schaeffer, and I guess I'm kinda going back to Gen and seeing if -- cause I think the County, I mean in talking to Steve, you know, they're willing to place the signs as long people tell them where to place the signs, and so probably I need to talk to Gen about, you know, if there's like a strategic planning effort as to, you know, where they can place these signs and if the County of Maui would be willing to kinda be like a sponsoring agency to access the Federal money, some Federal moneys that the State Civil Defense has for the placement of the signs.

Mr. Chaikin: Okay, yeah, I guess what I had originally brought up was not necessarily the signs but the sirens. Sirens.

Mr. Yoshida: Sirens.

Mr. Chaikin: Tsunami warning sirens. There was, just to reiterate, you know, after that big earthquake in Indonesia and all these people died, there was a big rash of activity around the Pacific Region to get money to put more sirens up so in case there was a short notice, people would be able to hear the sirens, and that money did come through for the State of Hawaii. And so they went around and they identified all the sites to put these sirens up and then it just sat and sat and sat and sat, and so that's why I brought it up. Hey, what's happening with this? And that's really what I wanted you to check on is the sirens more than the signs. I did actually talk with a consultant for the project and it sounded like everybody was just waiting for everybody else. It's just kind of in this government long jam that it -- that I think there was some signals that seemed to be problematic, which were holding all the rest up; whereas, there's some they've already got permission and everything and -- and it did seem like, after I talked to them, that, oh, well, maybe we should just go ahead and put some building permit applications in for these sirens. So I don't know what happened. That's all I know, but do you know anything about that?

Mr. Yoshida: So is the consultant -- is he the consultant for the State Civil Defense Department?

Mr. Chaikin: Yes.

Mr. Yoshida: Okay. So --

Mr. Chaikin: So if you can just followup and see if there is -- you know, I don't know if anybody submitted any building permits or not because I know the money is there, I know the approvals have gotten there, it's just a matter of the government to get the wheels moving, and I know you don't submit the applications, somebody else has gotta submit it to you, but if there's anything that you know that's holding it up or something that -- you have any comment on that, Mikal?

Mr. Torgerson: Yeah. I've been cc'd on an email list from the consultant that you're referring to and he's working with Jim Buika in our Department on Maui for the same things, and Jim and I have been in discussions about consolidating SMA approvals into a single application for multiple sirens, for example, and so I know that it's being discussed in our Department and Jim Buika is the one that's kinda heading it up and I could get more information and let you know at our next meeting if you'd like.

Mr. Chaikin: Well, I just wanted to know that it's moving forward. I mean that was my main concern that it was just stuck somewhere in a black hole. So it does sound like it's happening. My recommendation is that if there's any sirens that seem to be particularly problematic, that they be pulled out of that group pile so it doesn't hold up all the rest from moving forward.

Mr. Torgerson: Yeah, it's moving forward and we're committed to moving it as quickly as possible to the point where we've said we'll group them in this single SMA to make it easier.

Mr. Chaikin: Okay, great. Any other comments? Anybody got any comments on this? Public? Judy, you wanna say something?

Ms. Caparida: I gotta come up here and say that there was no siren on Manae. The cute thing is standing over there but no ringing. I mean cute. If the thing going hit over there, everybody standing there and nobody would know. You talk about that. I wonder what year they're going to do this. You know? This is serious. If all over the world is trying to get things together and we cannot even fix our small little island, I think that's a damn big problem. But Manae's one did not work. Okay? So better do something.

Mr. Chaikin: Alright, thank you, Judy. And we do have Mikal right now that's working on our team so we can rest assure that he's going to do the best that he can. Commissioner Pescaia?

Ms. Pescaia: And I just wanted to add, I'm not sure if there is one in Halawa, but as far as tsunamis go, Halawa has a history of being affected by tsunamis that come from that -- from Alaska and from that -- from the east, and lucky we live grassroots where somebody actually drove down, tried to call -- you know, go around to all the families and actually just made a big fire bomb on the beach while it was still dark, and so it shook the whole valley, and people came down to the beach to find out what the heck that was, and that's how they found out that there was, you know, this tsunami warning. I don't know how many people didn't wake up or didn't come down to the beach, you know, but that's something that I -- Halawa has a history of being affected and if there isn't one on the plans, I don't think there is one, I don't see one.

Mr. Chaikin: No, I'm looking at the map right in front of me and Halawa is not one of the places they're proposing putting a siren.

Ms. Pescaia: So, people live down there. It's difficult to get to. I mean on the East End, somebody going tell the neighbor, you know, you got more chances kinda finding out there's a situation, but Halawa is a far drive for someone to get the word down there. Just a thought.

Mr. Chaikin: Yeah, well, that's a good point. That should really be directed at the consultant or the Civil Defense or something. So I think maybe at some point, we can do that. Can you do that, Mikal? Alright. Thank you. Does anybody have any comments on this? If not, then we can move on towards the Director's Report and so I'll turn it over to Clayton.

H. DIRECTOR'S REPORT

- 1. Pending Molokai Applications**
- 2. Closed Molokai Applications**
- 3. Agenda Items for the March 24, 2010 meeting.**

Mr. Yoshida: Yes, Mr. Chairman, we've circulated our list of pending and closed Molokai applications.

Mr. Chaikin: Commissioners, any questions on the open or closed? No? Alright, we'll give that up. We'll give that a break then for this meeting, Clayton.

Mr. Yoshida: The next thing is our next meeting is on March 24. To my knowledge, we don't have any application items yet, and I might not be here on -- be able to come over for the meeting on the 24th because that's our Planning Department's day with the Council Budget Committee.

Mr. Chaikin: Well, I mean it looks like it's pretty weak so if nothing very important comes up, it potentially could be a canceled meeting so we'll -- we'll let you make the call on that.

Mr. Yoshida: We would only report, I think at the last meeting I had stated that Commissioner Bacon had -- I guess his name had been filed for reappointment and that was discovered to be a typographical error so Commissioner Bacon's term ends on March 31, 2014. So all of you will be returning and we just have one vacancy now that Commissioner Waros has resigned.

Mr. Chaikin: Okay, just for the future meeting of whenever that might be, was there any -- does anybody have any agenda items that they wanna see on a future agenda?

Ms. Buchanan: No, but I wanted to give Planner an A for his first day at work.

Mr. Chaikin: Alright, thank you. And I think that, you know, it's great to have someone here on the island, we've been in limbo for a while, so we kinda feel like we're getting back in the groove again, so thank you. So anybody else have any further business? Clayton or Mikal, do you have anything else before we close down this meeting? Commissioners, do you have anything else? Alright, seeing none. We'll see each of you at our next Molokai Planning Commission meeting, whenever that might be, and this meeting is now adjourned.

I. NEXT REGULAR MEETING DATE: March 24, 2010

J. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 1:57 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Steve Chaikin, Vice-Chairperson
Nat Bacon
Lori Buchanan
Napua Leong
Mikiala Pescaia
John Sprinzel

Excused

Joseph Kalipi, Chairperson
Teri Waros (Resigned)
Don Williams

Others

Clayton Yoshida, Planning Program Administrator
Danny Dias, Staff Planner
Mikal Torgerson, Staff Planner, Molokai
Michael Hopper, Deputy Corporation Counsel