

MOLOKAI PLANNING COMMISSION

REGULAR MEETING SEPTEMBER 10, 2003

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Malia Akutagawa on Wednesday, September 10, 2003 at 1:04 p.m. at the Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii

A. CALL TO ORDER

A quorum of the commission members was in attendance. (See record of attendance)

Ms. Akutagawa: I have one question, at the last meeting we had we talked about the Director providing some kind of report on the status of various projects, Molokai Ranch, Halawa, in response to Wayne Lee's letter, so I'm wondering if a report was generated and if it will be presented today.

Mr. Boteilho: Madam Chair we are prepared to present an update on Halawa Valley. The rest, I'm sorry, I really was not aware of that. But we have Halawa Valley here.

Ms. Akutagawa: You're going to present that at your Director's Report?

Mr. Boteilho: Yes.

Ms. Akutagawa: O.K. and the other issues if you can cover for the next meeting.

Mr. Boteilho: I have to check back to that letter.

B. ORIENTATION WORKSHOP II

1. Parliamentary Procedures
2. County Policy Against Sexual Harassment
3. Land Use Regulatory Framework in Maui County
4. Hawaii State Plan
5. General Plan and Community Plans
6. State Land Use Law
7. Zoning
8. Chapter 343, HRS, The EIS Process and Environmental Assessment Process
9. Special Management Area Rules
10. Shoreline Area Rules
11. Other Related Boards and Commissions
12. Hana Community Design Guidelines
13. Meeting Agenda

Ms. Akutagawa: Is the workshop postponed?

Mr. Boteilho: Yes it is postponed until further notice.

C. UNFINISHED BUSINESS (Previously scheduled for the July 9, 2003, July 23, 2003, August 13, 2003 and August 27, 2003 meetings.) (To begin after 1p.m.)

1. MS. FLO WIGER, Provost of the UNIVERSITY OF HAWAII, MAUI COMMUNITY COLLEGE requesting a 10-year time extension on the State Land Use Commission Special Use Permit to continue operation of the Molokai Education Center Post-Secondary Satellite Campus on approximately two acres of land at TMK: 5-3-003: portion of 001, Kaunakakai, Island of Molokai. (SUP2 980010) (J. Higa) (Deferred at the June 25, 2003 meeting and August 27, 2003 meeting.) (Deferred due to a lack of a voting quorum.)

Ms. Akutagawa: I talked to Donna Paoa with the Molokai Education Center, I guess she wasn't aware that this was on the agenda, the Flo Wiger, University of Hawaii, Molokai Education Center satellite campus, basically. So I think she is coming but she may be late so I don't know if we want to move on to the second item, Molokai Ranch.

Ms. Buchanan: Do we need a motion to amend the agenda?

Ms. Akutagawa: Actually Donna is right there so we'll just have her do it. Donna you're up already. We'll let staff do a description because its been a while.

Ms. Higa presented the staff report.

Ms. Akutagawa: Are there any questions for staff?

Mr. Vanderbilt: Julie I was looking at these projects specific conditions and it talks about number 7, it says the applicant shall notify the department of planning in writing that the DPWEM is approved, the discontinuation of the temporary system. Do you know what the status of that drainage system is because drainage came up at an earlier meeting on an issue surrounding the college. I just wanted to know what the intent of these specific condition was and what the status is now.

Ms. Higa: As far as I know and maybe Ralph can correct me, but, at this point they didn't have any funds to do anything more than what they have provided.

Mr. Vanderbilt: Number 7. It says that the applicant shall construct and maintain the temporary on site drainage system until the blockage of the existing makai channel and box culvert located across the street from the subject property is resolved. What was being resolved, how is it going to be resolved?

Ms. Higa: That was when Goodfellow had some construction activity going on and that created a blockage. But subsequently Goodfellow corrected that problem with the situation. Because that was a temporary construction activity that was occurring on the opposite side.

Mr. Vanderbilt: So if it was a temporary system, the last sentence says the applicant shall notify the department of planning in writing at DPWEM has approved the discontinuation of the temporary system.

Ms. Higa: As far as I know that hasn't been done but I haven't seen any letters or any information that they've done anything different.

Mr. Vanderbilt: O.K. it just mentioned that Goodfellow had corrected something.

Ms. Higa: Right, that was across the street. That was resolved. But as far as whether they discontinued the use of the temporary retention basin, or drainage basin, as far as I know it's still there, there's no need to necessarily to discontinue it, I mean like fill it.

Mr. Vanderbilt: Does Ralph have anything to add to that?

Mr. Nagamine: Not really.

Mr. Vanderbilt: Ralph the only reason why I asked that question is in an earlier SMA hearing this past year on the college, everything this commission heard about the terrible flooding and everything with the college and that was used as a primary example of why things had to move forward with another project associated with the college site. So here we are talking about drainage again, I was just wondering how that all came about.

Mr. Nagamine: I think this commission was placed on the approval when we first came in, many, many years ago and I don't recall exactly why the condition was placed on there. I think it had to do with the complaint from the down stream property owner and the commission at that time decided to place this condition on the approval. But I don't know if anything was done to address this condition. I do know that the department does have a master plan for this whole area, Kaunakakai Town, that would alleviate the runoff to this area. But that's being implemented in phases and we

just haven't gotten to this area yet.

Mr. Vanderbilt: So you're saying when the county gets to this area there'll be no need for the college to have to worry about fulfilling this condition?

Mr. Nagamine: I have to go back but I believe that is the case, but again I'm not sure if the applicant, the college was supposed to do something in the mean time.

Mr. Vanderbilt: It's kind of hard on this commission when you put these things that may be oneness and may not be to the college. You just never know so why even have it in there if nobody really understands what it means or why it's there or if it's really effective at all?

Ms. Higa: I think the point though is unless there's some kind of activity that's going to occur on the site, they wouldn't have any need to discontinue use of it because it's just there. All it is is a berm and the swell that they created on the property. So only if there's some kind of new construction or they're planning to change the terrain in some way that we would be concerned. That would be discontinuation. At this point it's just basically like your yard.

Mr. Vanderbilt: Well what I'm saying is that there's a major roadway going in now, the expansion of the roadway and that's changing the landscape considerably.

Ms. Higa: But it's not changing where the temporary basin is located on the site now. That's not affecting, where the road is is not where the drainage basin is located.

Mr. Vanderbilt: But it could change the flow of water and everything. All I'm saying is why do we have this in here if you're saying that they can just leave the berm's there forever. If they discontinued what would they do, bulldoze it back to level again?

Ms. Higa: They could place some structure on it or use for parking, I mean there's a number of things you could do with it so at this point unless the study is further we would not want them, we want to keep the condition there just in case rather than to do any more further what if. Why would we change a situation when at this point there's no activity occurring.

Mr. Vanderbilt: Well what I'm saying is that Ralph mentioned that if the, there may be a situation now where this condition isn't needed and it could be used for parking or it could be used for some other thing. I think...

Ms. Akutagawa: Maybe you should suggest that when we go into staff recommendation and the

conditions. But let's try and move on with the questioning. Commissioner Dunbar has a question but before he asks a question I just wanted to disclose for the record that I'm conflicted out for this application because I work with the community college. Go ahead Mr. Dunbar.

Mr. Dunbar: Actually I believe you're talking about the swell and that dip right in front of the college which is very nicely grassed and it goes all the way down to that culvert on the other side and the county regularly cleans that out but I think it also has to do with that whole master plan for that lower drainage system that's going to take it out through Seaside eventually. Whether it's in or out really doesn't make much difference for me. It's the college. Thank you.

Ms. Akutagawa: Any other questions? Donna do you want to talk about the project?

Ms. Haytko-Paoa: Hi everybody for the record I'm Donna Haytko-Paoa. I appreciate that Malia works for the planning commission because I didn't get notice that we had been rescheduled today. I don't know how that happens but 20 minutes to one I got noticed and I found the paper. My understanding is that what we're actually approving is that we get to continue to stay there for a few more years and that would make sense to me, that's my only comment, that I would hope that you would approve that. We didn't build a building there to leave, it took us that long to build it so I think that would be a one real valid reason why to approve the project. That's all, any questions? Thank you.

Ms. Akutagawa: At this time we'll open up for public testimony. Is there anyone in the public wishing to testify on this matter? Closing public testimony now and now staff recommendation.

Ms. Higa: For the record I'd like to note that the applicant is Flo Wiger and we did notify the applicant and it's up to her to decide whether she comes herself or to send someone else.

Ms. Higa presented the staff recommendations.

Ms. Higa: I think the issue across the street has been resolved but we have not determined the impact so we still want to maintain or ensure that the on site drainage and retention system is still there and not affected at all until it studies further. But this condition was already a prior condition and we didn't want to change it because we're not sure exactly what the situation is because there has not been any studies done. So to be on the safe side it's better to leave it as is.

Mr. Vanderbilt: Julie you said strike out the first sentence maybe in condition #7. But condition #7 says that the applicant really only needs to maintain the temporary on site drainage until the blockage of the existing makai channel and box culvert located across the street from the subject project

property is resolved.

Ms. Higa: The way I look at it, what is the harm of leaving it in there as opposed to taking it out, rather to be safe, to ensure that the on site drainage and retention basin is maintained the way it is and the applicant retain the situation as is until we study it further. We were not going to take the time to study this further and request a whole new drainage report for a time extension. We didn't feel it was necessary to do that. It was better for the applicant to and to be on the safe side for us to retain this condition as is.

Mr. Vanderbilt: One other question is number 8 was also in the initial findings of fact as a condition. What happened with the, as explained to us when the road was put in, that was part of the original facility in the description of the project, the access road. Now that has been expanded. But no State Land Use District Boundary amendment was done.

Ms. Higa: The road is not the colleges road. It has nothing to do with the college expansion. That was on the Master Plan for more than two community plans.

Mr. Vanderbilt: That might have been right but if you look at your original findings of fact, exhibit one and you look at the description of the facility it includes the access road.

Ms. Higa: That access road had to be developed in order, sub-access to the main highway, that has nothing to do, that has nothing to do with the expansion of the college facility. That is a county road, not a community college road.

Mr. Vanderbilt: Just be a little bit more attentive to how you relate back to where you talk about the project because when the road was going in they were saying, listen community, you know this road was in when you approved the college facility, that was the argument used by the county. As far as not going where the community wanted the road, now the roads going in and there's nothing that can be done about that. But you can't argue both sides of the fence all the time. Because they said look at the original, and they used that example. Look at the original description of the project in the facility and it included the access road, not just the buildings. Anyway that's just....

Ms. Higa: If you look at the report of the college it did say that it was connecting to the upper road. I think it was very clear that it was a connection.

Mr. Vanderbilt: Well I don't have the original thing with me, maybe somebody else does. But if you look at the project description it includes buildings, antenna's , parking, the access road and everything else and that's the same facility that you referred to in condition 8. Anyway, that's all,

the county used that argument in trying to get the road where it was.

Ms. Akutagawa: O.K., enough already. Anybody else wants to ask a question of staff before we entertain a motion?

Ms. Buchanan: Madam Chair, this is just a time extension, has nothing to do with any future special use permit for any other construction going on for the MCC college, is that correct?

Ms. Akutagawa: Yes. Is there anyone wishing to make a motion?

MOTION: I'D LIKE TO MOVE THAT WE GRANT THE MAUI COMMUNITY COLLEGE REQUEST FOR A 10 YEAR TIME EXTENSION ON THE STATE LAND USE COMMISSION SPECIAL USE PERMIT TO CONTINUE OPERATION FOR THE MOLOKAI EDUCATION CENTER POST SECONDARY SATELLITE CAMPUS.

MOVED: COMMISSIONER JANICE KALANIHUIA

SECOND: COMMISSIONER KIP DUNBAR

Ms. Akutagawa: Any questions?

Ms. Buchanan: Madam Chair I would like to leave suggestion to item 7 and I agree with Julie that actually we could strike it if you wanted to because that blockage of the existing makai channel was corrected by Goodfellow, Goodfellow went ahead and did their own thing over there and they were cited for that and it was corrected. So actually item 7 doesn't have to be in there but just for safety precautions it would be good to leave it in there. Other than that I agree with everything.

Ms. Akutagawa: Any further discussion?

Mr. Dunbar: Well I think if the sway was in there and it is doing what it should be doing and it will reach in a water way from the road the college seems to have grassed it very nicely and mowed it very nicely and it does lead into another channel that's off the ball park.. I would say just leave it in.

Ms. Akutagawa: Anything else? Any further discussion?

Mr. Vanderbilt: I would just like to suggest that people seem to think that the existing makai channel and box culvert is across the subject property has been resolved. I'd like to see if we could get a

letter from public works just following up on that and based on their opinion if it has been corrected.

Ms. Buchanan: Yeah, that would be good Madam Chair. Also I don't know who was sitting on this commission at the time when they had a presentation by the engineer stating that because the college was there they now had the federal matching funds to do the whole drainage system following the natural river behind the cemetery. The main reason they got those funding was because the college was now there and that was an added hoist to get the monies to go ahead and do that. So maybe staff can look into that, what ever happened to that with the, we had the presentation here about he drainage and just so that the other commissioners who weren't here can be brought up to current on what is happening with that drainage on that side.

Ms. Akutagawa: You guys can follow up on that staff? Thanks. Any further discussions before we take the vote?

MOTION UNANIMOUSLY APPROVED.

2. MOLOKAI RANCH, LTD., requesting a Special Management (SMA) Minor Permit for the construction of a six-acre sediment basin and related improvements as part of the Papohaku, Kaluakoi, Island of Molokai. (SMX2003/0257) (M. Niles) (Deferred at the June 25, 2003 meeting and August 27, 2003 meeting) (Deferred due to a lack of a voting quorum.)

Ms. Akutagawa: Can staff kind of bring us up to speed on this issue, its been awhile since we reviewed it and we'll have Harold come up.

Mr. Boteilho: Madam Chair I would like to call Planner Julie Higa to provide an over view on this matter.

Ms. Higa: Mr. Edwards from Molokai Ranch is here and has been here at every meeting and maybe you would want to hear from him first.

Mr. Edwards: Thank you Julie. Madam Chair and members of the planning commission, good to see such a nice compliment today. Basically as the staff report indicates when we acquired Kaluakoi in December of 2001 as part of the sediment agreements they had was the Health Department. Kukui Molokai had to pay a \$200,000 fine to the state general fund or put it in escrow to do an environmental enhancement project which they did do and we've been working since than to come up with a good environmental project to do something that would help the environment out there and we first looked at doing some regressing in some bare areas and figured \$200,000 wouldn't go any

where and we'd run out of money and not have much to show for it. So the next project we looked at was taking the Papohaku Gulch that when we have big storms you see it goes right to the county park and put it back in a drainage channel that was put in back when the Papohaku subdivision was done. In fact it was the original water course for the gulch and build a large sediment basin down stream of that so that when the silt comes down it would be captured. Corps. of Engineer that did the hydrology study on it would capture between 30 and 60% of 12 tons of sediment that flows through that gulch in there every year. That's the real depth of the project. We had kind of a half presentation so I don't know if you want more information or had specific things but I'll stop there.

Ms. Akutagawa: Any questions of Harold?

Ms. Buchanan: Harold is the drainage still blocked up?

Mr. Edwards: The bottom half of the culverts still have silt in them, correct.

Ms. Buchanan: Are you going to leave it like that until you reroute everything and get your project done?

Mr. Edwards: Well I don't really know.

Ms. Buchanan: Well it's September and it's going to be a rainy season and I'm just wondering. What happened in the past with that drainage ditch all blocked up now the way it is when you had rain?

Mr. Edwards: My understanding in the past it has over topped the highway and our engineer looked at it and said basically anything beyond the 35 year storm, even with the culverts completely clean it would over top the highway. The standards don't really count for storms with much more intensity than that.

Ms. Buchanan: That's what I figured too, that it's not going to stop the flooding and I realize you have a problem with that and we went out and took a look at that sediment catchment basin and although it might not be sufficient I guess it's the best case scenario trying to solve a problem although I don't agree that looking at your environmental issues and I don't know who you asked to do your assessment with planting native grasses to stop this, that's the end result, like 30 to 60% or 12 tons of sediment is going to come down that gulch and we're going to catch it, hopefully, or catch most of it. I guess what can you do because its already been diverted. The natural way that the water went before and came out through the ocean, that was already diverted when they did Kaluakoi so you're going to divert it again which is probably a better solution to what you have now

draining out at Papohaku Beach. But it's just funny, you really need to stay on top of those drainage pipes and keep them clear, that's all. That's my comment.

Ms. Akutagawa: Any other questions?

Mr. Vanderbilt: Are we going to have a chance to ask questions of staff or? There was a letter dated June 28 to Mike Foley from the Director of Public Works regarding his project which we were given today and it says a grading permit will not be required for this project if this land management project is approved by the Molokai Land, Soil and Water Conservation District. I didn't see anything in the staff report regarding whether or not this was approved by the Molokai/Lanai Soil and Water Conservation or if there has been a grading permit issued. Had there been a grading permit issued and secondly, was this project approved by the Molokai/Lanai Soil and Water.

Mr. Edwards: I have a Soil and Water Conservation District letter here which you can take a look at. Previously we got a letter from the Department of Public Works that basically said we're exempt from a grading permit which is similar to the letter of June 23 or 28, the second letter on that subject matter. The first one was issued back in October 18, 2002.

Mr. Vanderbilt: My question is to Julie and staff, Lori, Commissioner Buchanan and myself went down there on a site visit when there wasn't a quorum, Harold was nice enough to take us through and this was a massive project down there and we have, in the SMA area, and we have four or five page letter report here. Harold showing us some good letters that he got. Here's one from Mike Foley dated June and I'm just wondering, when you do these reports isn't it good to attach these things so that the commissioner's aren't sitting here just wondering the extent on some of these things?

Mr. Edwards: Let me address that if I can. Molokai/Lanai Soil and Water Conservation support letter was something we were asked to do as requirement from the Health Department. So I'm not so sure we ever gave that to the planning department when we submitted our application. It's addressed to the Molokai Planning Commission, that one is, I solicited their support for the public hearing that we were going to have on this back a while ago. So, it's not my question to answer but hopefully that clarifies it. Our original obligation to the Health Department was to get Molokai/Lanai Soil and Water Conservation support us and before we came to this hearing we sought another letter which is the one that I'm circulating now to address the planning commission that they supported the project. I don't know if we ever approached the planning department with any of that information.

Mr. Vanderbilt: Julie this was addressed to Mike Foley the Planning Director from the Director of

Public Works. So wouldn't have he submitted this to you saying...

Ms. Higa: Well this is why I was going to say that for the record that we put this as part of the report because this came after the report was drafted. So this would need to be included as part of your findings. Now we didn't get, I'm not aware of getting a copy of the Soil Conservation letter because I don't have a copy here. But, now that it's being presented it would be included as part of the record. When the planner is doing the final approval letter all of these things will be included and addressed.

Mr. Vanderbilt: All right so there was a grading permit granted?

Ms. Akutagawa: I believe he said it was exempt, right? Commissioner Dunbar you have a question?

Mr. Dunbar: Harold I'm just basically concerned about the design. I think it's a great idea, even if you stop only 30% or 60% compares to a 100% that gets out there now. What is the design and the reason for the question is, if you're going to be, if the capacity says it's going to have a two to four year capacity, is there an alternate plan that goes with this and take that matter that runs in there so that you can keep dredging the basin to keep it, maybe the first year is 30 to 60% and next year it'll be 25 to 50% and the following year would be 20 to 40%, I mean is there going to be a plan to continue to truck this silt that stops there out so that the basin continues with the capacity or do you plan on expanding this so that the capacity is never reached or in fact even enhanced? I'm just curious.

Mr. Edwards: Good question. I did a good job of confusing you in my earlier comments, I apologize. The engineer's estimate is that there is 12,000 tons of sediment that flows through the gulch on an annual basis and basically what he's saying is that by the 30 to 60% capture is that that will all come in small storms, the sediment basin is big enough, I think 65,000 cubic yards to capture all the water which would cause all the sediment to fall out and none will get into the ocean. In those cases you would have a 100% capture. If you have a very big storm basically the basin fills up, it slows down the water, a lot of the silt falls out but eventually when the basin gets overfilled it goes over the spill way, goes out into the ocean and you start losing some of the sediment at that point and time to the ocean. So to the extent you have a season of a bunch of little storms, you get a much higher capture rate to the extent that you have big flashy storms which fills up rather quickly, you don't get as much capture. So the low range for here would be 30% of the 12,000 average, the high would be the 60% capture and basically given the size of the basin, I think it was 5 to 7 years is the anticipated time to fill up the basin if you did no maintenance. What we are finding that as people try to build their lots down there and they're building a few a year that that becomes a great place for them to come get dirt so we haven't had much trouble getting people to clean out the drainage way for us as a source

of fill. We would expect that that would be how we would keep it maintained. But in theory we would have five to 7 years from when it was completely cleaned out to where it would fill out on an average storm weather.

Mr. Dunbar: So you're saying that's the use of life for this, 5 to 7 years or would you than continue to maintain this for ever and ever so that whether it fills up or not you'd be able to...

Mr. Edwards: We would maintain it from year one so that it would never get to the point that it would be full. What I guess I'm saying is that the demand for people to take the soil out of there is going to come and go with people trying to build houses and it's going to fill.

Mr. Dunbar: Thank you.

Ms. Akutagawa: Any other question?

Ms. Buchanan: Real fast, those culverts are going to stay there right? The culvert is still going to be the main pass through for the highway right there?

Mr. Edwards: Correct.

Mr. Vanderbilt: On the report Harold it says the cost of the project was \$99,000. Did you provide information to the planning department verifying that \$99,000 or was that just your estimate?

Mr. Edwards: The engineer submitted those numbers basically there's three components for the project, there's the engineering and the permitting of the project, this was about \$30,000. There was the drainage way maintenance which got an SMA exemption from the planning department, most of which has been done, that was around \$70,000 and then there's the basin itself which is the \$99,000. So that's the three cost that add up to the \$200,000 that's available from the escrow for this project.

Mr. Vanderbilt: The cost of the project you said was only \$99,000 and that's why it's an SMA minor permit?

Mr. Edwards: The part that requires an SMA permit is \$99,000. To be real clear about it, when we started two years ago with this project we came to grips with the SMA issue and the difference between an SMA major and an SMA minor, basically the permitting cost is the \$30,000 bill to go from a minor to a major. We sat down with the planning director and said we got two choices here. We can spend another \$30,000 doing an SMA major and call it a \$140,000 or can we look at a way

that says the maintenance doesn't require a permit which puts the balance under the minimum and have another \$30,000 to put into doing a little environmentally good thing and the planning director was able to see the wisdom in that. So we built part of it under exemption, part of it is pending this permit today to be finished out.

Mr. Vanderbilt: So that was planning director Foley?

Mr. Edwards: That was back before his time, that was John Min.

Mr. Vanderbilt: So did you all ever in our planning commission rules, especially on projects within the SMA it says that an assessment application shall be filed with the planning department so that the director can assess whether or not they're exempt or whether a minor permit or major permit is needed. Did you all ever file an SMA, there's one for the Molokai Planning Commission, assessment application?

Mr. Edwards: Yes in January 7, 2002 we received the exemption letter saying that the maintenance channel portion would be treated as maintenance and didn't require a permit. So that was done in January.

Mr. Vanderbilt: So you did file an assessment application?

Mr. Edwards: Correct.

Mr. Vanderbilt: Madam Chair I was just wondering, is the planning commission, this is not anything on the Ranch or with Harold but many times with the planning department applicants are in working with the planning department several months, maybe even a year ahead of time before things come to the commission. A lot of times there's a lot of information in those assessment applications that would be good to have for the planning commission or for local knowledge, especially on Molokai where maybe the planning department is not as familiar with what goes on. My question though, Julie, are these assessment applications, are planning commissions ever notified when they come in like we have an application for a major project or does the commission ever given copies of these applications?

Ms. Higa: No.

Mr. Vanderbilt: Is there any reason that they couldn't be?

Ms. Higa: You could have it under director's report and we could report a list of the applications.

Mr. Vanderbilt: Similar to what you do on minor permits and everything for the Maui Planning Commission.

Ms. Akutagawa: I'm just going to direct staff to do that. Any projects coming on the horizon just to let us know in the director's report, provide a list and if any of the commissioner's want to see those assessment documentation they can arrange with staff to do so. I don't see a need to provide all that information to the commission.

Ms. Higa: Technically you cannot individual just receive the information. Its gotta be a commission item. Once it comes to the commission it's a commission item. So I think the way to handle it is that if there is some project application or any application comes in and there's a question that any commissioner have they can bring it up at the meeting and that could be brought, or you could ask, call the department to say specifically that they want that particular application and maybe that could be brought in to the meeting. Because you can't individually on your own do your own.

Ms. Akutagawa: But it's proper to provide just a list of projects on the horizon, correct in the director's report?

Mr. Boteilho: Yeah, I'm sure we can do that. Just for clarification so that I don't have to apologize again, projects on the horizon coming up in the sense that they have their environmental assessments being done?

Ms. Akutagawa: I believe if they're coming up for assessment, I guess a pre-SMA, is that correct Degray?

Mr. Vanderbilt: If they applied for a Molokai Planning Commission Environmental Assessment application.

Mr. Boteilho: O.K.

Ms. Higa: The concern now is if they're exempt, if this is going to hold up the processing because sometimes it's just a minor thing like fixing the window. Does that mean we cannot process it until you have looked at it?

Ms. Akutagawa: I don't want to interfere with your procedural work. I think, I'm looking at this as an issue of courtesy. What projects are coming up, just provide a list and if it looks very contentious perhaps we'll raise an issue. I don't want to see this thing being stalled, I don't want to see the process stalled. I want the applications to be processed according to what ever criteria and proto-call

you guys follow.

Mr. Vanderbilt: Madam Chair I think this commission would be aware of that. They're not going to be nit picking and everything. The only reason I brought that up is this is such a major, Lori and I walked through that thing and it looked like we were walking through the Los Angeles Colosseum, personally I don't know how Harold does it for \$99,000 but I want him to negotiate for me on anything I do down the road. So anyway, thank you.

Ms. Akutagawa: Any more questions before we open for public testimony?

Mr. Boteilho: Just one point, maybe if we're going to provide a list of upcoming projects, maybe everything, maybe not only the SMA's but everything, upcoming changes of zoning and things like that.

Ms. Akutagawa: That's fine. You can just send it through our mail. Any other questions? At this time we'll have public testimony. Is there anyone in the public wishing to testify? Please state your name for the record.

Mr. Ford: My name is Sam Ford and I lived out on the west end for 18 years and have seen the effects of the loss of the sediment out into the near shore waters. It really is quite massive. Most of our problems are not the small little rains that come along. They're the major ones. Like in February of 1988 when we had 11 inches drop in one day. Even more recently last October the 16 we had 4.6 inches come down. Now that kind of rain really does dissipate the drainage channels and so a retention basin of this magnitude really is indicated and I would like to endorse it. However, on the point that Mrs. Buchanan raised about the culverts, the ideal situation out there would be to have multiple, smaller basins upstream. Because that basin or that channel's, maybe four to 500 yards up the way and if it was possible to make several small ones up in there it would mitigate the effect of the silt as it fills up under the roadway. For the future that would be something that would be indicated, I believe. The main question I have is who maintains this basin. Logically it ought to be the county's responsibility. There ought to be a state attachment to any approval as to who is going to maintain it. Years ago I served on a planning commission in Southern Nevada where we also had problems with flash flooding, Las Vegas, Boulder City, places like that. That was always our problem. Is that the drainage channels fill and who is responsible to maintain them? It doesn't seem really equitable that it should be the Ranch's responsibility when what we are protecting are the county and state near shore waters and the beaches. In any instance I think that needs to be really clarified. But I would certainly endorse it, thank you.

Ms. Akutagawa: Thank you Mr. Ford. Are there any questions?

Ms. Buchanan: Mr. Ford you've seen the culvert in question.

Mr. Ford: Yes I've been through it.

Ms. Buchanan: You've been through it, o.k. it's a rather large culvert. Because it's large enough that the deer can run right through it, that's how large it is, you can walk right through the culvert. But the culvert in question is now filled with dirt so there's no way that water can go through there unless it's so strong that it is actually going to push it out. That one, my question coming up next, if I made a motion is who is going to maintain that culvert because your catchment basin is only good as your water is going to flow through your culvert. So I'm glad that you brought that up.

Mr. Ford: Because there was the culvert in 1988 in the Kaluakoi Hotel Property that led to the 10th green. During that flood in February it backed up to the point where it under cut the Paniolo Hale wall. Nobuo had to fix that and it totally washed out, that massive culvert that led to 10. So that I think is a really major issue.

Ms. Akutagawa: Any other questions? Degray?

Mr. Vanderbilt: Sam thanks for coming. Earlier we spoke and you mentioned that you had attended some site visits?

Mr. Ford: Well Commissioner Vanderbilt, I saw the notices at the bank and so I went down at 9am when these were to happen and there was no one there. When it was rescheduled I went down again and there was still no one there. So I walked in on my own, a little bit, but you can see it all from the road, but there should be some other mechanism where by when you all get notification that the meeting is cancelled or a site that's been cancelled, that perhaps the applicant would simply staple on a post some notice at the site that there was not going to be any meeting. There's no problem for me to go, I'm only a mile or so away.

Mr. Vanderbilt: I think this commission would like to get the public involved as much as possible and appreciate your involvement and I apologize for that and your suggestions will be duly noted.

Mr. Ford: Thank you very much.

Ms. Akutagawa: anyone else in the public wishing to testify? At this time we'll have staff recommendation. Public testimony is officially closed.

Ms. Higa presented the staff recommendations.

MOTION: I MOVE THAT WE GRANT THE SPECIAL MANAGEMENT AREA PERMIT FOR CONSTRUCTION OF A SEDIMENT BASIN AT TMK: 5-1-003:025, PAPOHAKU, ISLAND OF MOLOKAI FOR MOLOKAI RANCH WITH ALL THE CONDITIONS AND ALSO WITH ANOTHER CONDITION THAT MOLOKAI RANCH DOES MAINTENANCE OF THE EXISTING CULVERT THAT CROSSES THAT PAPOHAKU ROAD THAT LEADS INTO THE SEDIMENT BASIN ON A MONTHLY OR BI-MONTHLY BASIS OR UNTIL SUCH TIME THEY ENTER INTO AN AGREEMENT WITH MAUI COUNTY OR THE STATE OF HAWAII AS TO THE MAINTENANCE OF THAT CULVERT WHICH WE WILL RECEIVE IN WRITING AND WE SHOULD RECEIVE A COPY OF THAT FOR THE PLANNING COMMISSION.

MOVED: COMMISSIONER LORI BUCHANAN

SECOND: COMMISSIONER DEGRAY VANDERBILT

Mr. Vanderbilt: Obviously maintenance is a key issue and there's been a concern about maintenance of streams all over the island. Not only the culvert but I would like to see Commissioner Buchanan's condition include not only the culverts but the dredging of the basins if needed which Mr. Dunbar brought up that if you had some rain storms those things are going to fill up. Again maybe it is by the Ranch until an agreement is made with the county or the state and I don't know if Mr. Nagamine has been involved in any major drainage projects like this on Maui and else where in the county where he could shed some light on, how such an agreement might be feasible. You think we could hear from Mr. Nagamine?

Ms. Buchanan: I didn't include that because I figured it was kind of common sense that Molokai Ranch would not want their pristine golf course flooded which would be the result if they don't maintain that sediment basin that all the run off would just go right into the golf course and that would not be good business and that's the only reason why I didn't add that as one of the conditions. But that's fine with me too, I don't care. I can amend my motion.

Mr. Vanderbilt: Well I think like the college if it's good to have it there and it's good for the Ranch, they'll probably clean it out and give that dirt to people as fill for filling and there's always a market for that dirt. I'm not going to withdraw anything. That was just for discussion purposes and I'll go with the flow with Commissioner Buchanan.

Mr. Dunbar: This culvert that obviously leads out from Papohaku Gulch and into your sediment basin, does that, how far away is your sediment basin from this culvert? The question is the culvert goes under the road. Papohaku Gulch leads down to that culvert that goes under the road. That culvert then leads into your sediment basin, so how far from the road and the end of that culvert is

the sediment basin, is it 100 feet, 100 feet, is it going to be included as part of your sediment basin that you're planning here?

Mr. Edwards: The old drainage basin was 20 feet wide at the base and then it sloped out one to one and it ran basically 1300 feet. The new channel flowing to the sediment basin is 1,000 feet long or 1,300 feet long, 100 feet wide with sides that slope. So the channel that's proposed is basically sized to take all the flow that come out of the three culverts. The three culverts are I believe 9 feet wide and 15 feet tall. They're good size culverts. If I could speak to the last condition to the motion, when Sam provided his testimony, I agree with Sam that maintenance for this thing but I would ask you commissioner's to go back to where we started in this. We inherited a \$200,000 fine that Kukui paid into an escrow, was given a choice to let that money go into the general fund and provide no benefit to Molokai or to spend a whole bunch of time and effort that we didn't get compensated for to try to do a good environmental project on the island. Which is what we endeavored to do. We've been working on this since December of 2001. My concern if you put a condition on us to require us to take on a maintenance responsibility, we don't currently have, it creates a cost obligation that we don't currently have and when we take that type of recommendation back, we may decide that the only prudent thing for us to do is to take the remaining \$100,000 sitting in escrow, give it to the department of health and walk away because while our intentions are good about wanting to maintain that, we'll use our best efforts to have to build a budget that guarantee's that every two months we're down there spending money that right now is (inaudible) to fix a drainage culvert, to me we're killing the goose that lays the golden egg here. We've got a chance to do something small but good for the environment. Our endeavors to do good but if I have to take back a condition that says I failed to negotiate something there that's a win, win for the island and now it's a win lose for the Ranch, we'll leave the money in the escrow, we'll forfeit it to the state and the project won't go forward. We really do want to do a good job and we will try to maintain it as best as we can but when it goes from being our reasonable discretion to do well, to you got to do that, that creates a financial burden that I'm not able to say we will take on today. So I would ask you to reconsider that and either kill that motion and try again or come up with some wording that suggest that we all agree that maintain that's critical to being successful, but as soon as it moves into a hard financial obligation to us I don't get to play any more. It's that simple.

Ms. Buchanan: Wait I have some comments to Mr. Edwards. I appreciate that, what you have to say and I understand what you saying. But you said it's your discretion now and you're maintaining it as it is right now, is that correct?

Mr. Edwards: Yes.

Ms. Buchanan: So obviously when I went down there to see this the drainage was all clogged up.

So it's not just a drainage, it's a clogged up drainage, maintenance needs to be done and you haven't done it. I know what you trying to say but you also didn't have to do an SMA or EA, you said your self you saved \$30,000 right there with the planning department's help to get this done without having to spend the \$30,000 on an EA. What I trying to do is also suggest to the county and state that they need at some point, like you did to Papohaku Beach, was develop it and turn it over for maintenance. That's what needs to be done in this case. You can build it and you'll spend the money as a trade off to your deal which you had to have a sediment on but there still needs to be maintenance and who's going to do it? I'm saying for now you can do it but at the same time I'm saying the state or county needs to, because how good is a sediment basin if there's no drainage if the culverts is clogged up?

Mr. Edwards: Since middle of summer we had three contractors down there working at once trying to get that dirt out of there and they created a huge dust problem for us and we kicked them all out until we had this permit done so we wouldn't have any permitting issues with dust when we're in front of you. With regards to the dedication issue, we spent a half a million dollars building the community park up in Maunaloa with the promise from the county that when we built it they would accept dedication and take it over and maintain it. The parks been done since '96 or '97 and the council has not seen the deeds because they keep getting lost within the administration. I've always defended the administration as being busy and having a lot of important things to do but the fact is it's expensive for us to maintain this kind of things. Like I said I would ask you to look at this in the worst case scenario, we get it built, we'll keep 65,000 tons of sediment out of the ocean if we fill it up and never maintain it, we will when we build it forever get the flow out of the county park and back on to our property which will obviously in the new system maintain it and approve the situation for the county park. So I would ask you to not load any more baggage on us then necessary so we can make it happen. Thank you.

Mr. Dunbar: Harold I guess the fast question is on the design, at the end of the culvert is what? 30 feet elevation and the bottom of sediment basin is going to be a 20 foot elevation? What's your slope from the end of your culvert into your basin?

Mr. Edwards: The engineer sorted all that out. I want to say that the elevation of the roadway is about 26 feet so the top of the culvert is about 24 feet and the spillway elevation of the sediment basin is set so that it won't back water up into the culvert. So the current topography kind of facilitates that building up that you see now. I think the new design will cause it to go through that area fairly quickly and not (inaudible) settle out. I think once we get it built I think it'll be in a much better shape.

Mr. Dunbar: Thank you.

Mr. Vanderbilt: Harold if you get a big rain storm and it can't get through that culvert, you said that its been designed to take the sediment away from the beach park and private property owners and onto your property. But where will everything flow if it just clogs up at the culvert and never gets through there?

Mr. Edwards: Basically if it backs up over the, behind the culvert it will come over the top of the road as sheet flow. Everything that is to the north of the berm that's part of this project will flow to the golf course, everything that's south of the culverts will sheet flow across the properties across the street.

Mr. Vanderbilt: Were you planning to clean out those culverts as part of the project so that when this project is complete those things will be completely clean?

Mr. Edwards: Yes.

Mr. Vanderbilt: What would be the cost of keeping those culverts clean because you're got full time employee's that, you say when you're driving by there and you see a clog run the bob cat through there real quick, is it really a big cost to maintain those culverts if it's done as needed basis?

Mr. Edwards: Right now we have no financial obligation that's set in stone that we gotta do or die and this is adding one as it's currently drafted. I mean unfortunately culverts have a long history of not being well maintained and this creates a requirement that could be several thousand dollars a year.

Mr. Vanderbilt: I guess my concerns comes, you're going through a minor sMA and the staff report says there will be no significant impact on the environment or anything else. But if these things get clogged up and we have a major storm there are going to be some significant problems if not for the Ranch, for some of the existing property owners and I don't think it's this commission's right to go ahead and approve projects that's going to set up a none safe situation for private property owners in order to get the Ranch out of just doing some general maintenance that it could do at a very low cost.

Mr. Edwards: The proposed work will minimize the potential for the culverts to back up because it will allow the water to get away from the down street side of the culverts much quicker which will keep most of that silt suspension until it gets to the siltation basin. So it will remedy that problem and there's nothing in this project that adds harm to the environment. It's all working towards improving these environments. So I'm asking is don't put financial constraints that don't currently exit.

Mr. Vanderbilt: Well if that culvert comes down and it drops and the water can't back up, that's going to keep silt from backing up into the culverts. So if that works there shouldn't be much debris. The only thing that could clog the culverts is if a tree or something comes down and gets clogged up in the culvert and you'd want to get that out. It's just hard for me to imagine where the big cost are unless maintenance is neglected for two, three years.

Ms. Kalanihulia: Maybe I missed this but whose responsibility is it really to keep that culvert clean? Anyone know?

Mr. Edwards: Long term we would expect to dedicate to the County of Maui and just like any other drainage thing in the county road it would be the county's responsibility. In the interim it's our responsibility. I guess the issues that I was trying to deal with is the precise time table which we will go down there for maintenance which creates a cost issue we currently don't have.

Ms. Kalanihulia: So is it your responsibility now?

Mr. Edwards: Correct.

Ms. Kalanihulia: But you haven't been doing it?

Mr. Edwards: We're on hold right now because we're in the middle of getting permits.

Ms. Kalanihulia: So what you're saying is that it's your responsibility and once this thing gets set you will maintain it on some schedule but you don't want your feet to be held at the fire in terms of a set schedule that's part of this.

Mr. Edwards: Exactly

Ms. Kalanihulia: As someone who's running a business I can understand that every little thing you add on adds cost and there is no money. I understand that but is there a compromise that you can play, can we amend this so that it would be pliable to you and you'd be able to stay on and do this project?

Mr. Edwards: Sure I think anything that chided me that I needed to be responsible for maintaining that culvert I'm happy to accept. What I can't take back to the people I answer to is I've gone from no automatic, gotta spend it category to now, we got an automatic set cost we have to bear that we didn't have before I showed up today. That's the only difference I need to see in that language.

Mr. Vanderbilt: Harold you would be willing to, if there was a condition to say that the Ranch will be responsible for maintaining the culverts without any specific, the only reason I say that, right now this commission is in a law suit with cruise ships and if there's a problem with private property owners and they look back and they look at the record and we discussed this and we said oh well we're going to let the Ranch off the hook because they can't afford it that's going to make us look pretty silly.

Ms. Kalanihulia: But they already said that it's their responsibility.

Mr. Edwards: The only thing I would like to see in that language is that until such time we dedicate it to the county or to the homeowners association or, as long as it's our responsibility, we agree to our responsibility. But some where down the road we'll either dedicate it to the homeowners association or the County of Maui or and at that point we obviously want to be out of that obligation.

Mr. Vanderbilt: Well how about maintenance of culverts until such time as that maintenance is assumed by some other entity.

Mr. Edwards: That's fine.

Ms. Buchanan: Madam Chair there's a motion made can we take a vote on the motion made?

IN FAVOR OF MOTION: COMMISSIONER'S LORI BUCHANAN, ROBERT RIBAO AND
DEGRAY VANDERBILT

OPPOSE: COMMISSIONER'S JANICE KALANIHUIA AND CHARLOTTE SEALES

MOTION FAILS

MOTION: I WOULD LIKE TO MAKE A MOTION THAT THE SPECIAL MANAGEMENT AREA MINOR PERMIT BE APPROVED ACCORDING TO RECOMMENDATIONS OF THE MOLOKAI PLANNING COMMISSION, WITH THE ADDITION OF RECOMMENDATION #6 SAYING THAT MOLOKAI RANCH WILL BE RESPONSIBLE FOR THE MAINTENANCE OF THE CULVERTS UNTIL SUCH TIME AS THAT MAINTENANCE OBLIGATION HAS BEEN ASSUMED BY ANOTHER VIABLE ORGANIZATION.

MOVED: COMMISSIONER DEGRAY VANDERBILT

SECOND: COMMISSIONER ROBERT RIBAO

MOTION UNANIMOUSLY APPROVED.

D. CHAIRPERSON'S REPORT

Ms. Akutagawa: I passed out this newspaper article that was on the Maui News, something I downloaded from the internet. Basically, title is excursion sets off tempers on Molokai. Apparently a 340 foot clipper Odyssey is called, small sized cruise ship holding 128 passengers stopped by the north shore, Wailau area last week Friday and the waters were rough so no passengers were brought ashore. But apparently they received some kind of approval from DLNR and I'm wondering, this is also conservation lands and I'm wondering if the planning department was informed at all about these stops and correct me if I'm wrong, but it is within the SMA area. So I'm just trying to see what happened if the planning department knows anything about this and does this commission have any kind of reviewing authority on this.

Mr. Boteilho: Madam Chair as far as I know we were not consulted. I didn't know anything about this, I have not seen anything in writing about this. I was going to agree that I think the planning department should look into this. Might take some time.

Ms. Akutagawa: any of the other commissioner's have any questions?

Mr. Vanderbilt: Just to help you out, the same thing happened on Kauai and what does it say 340 foot clipper odyssey, on Kauai a few years ago a 440 foot cruise ship called the Sea Born Pride rolled into Kauai and unloaded passengers off zodiacs and sent them in and there was a big up roar in that community and it came to a grinding halt despite no help from DLNR or the boating committee and the governor, Cayetano at that time, was strongly opposed to cruise ships doing this and said just as we would not allow boats in Hanauma Bay on Oahu because of its environment, we should not be launching commercial boats from the Hanalei Estuary. These boats needs to be safely launched from a commercial small boat harbor. Although we need to cater to tourist, small towns across the islands from Hana to Hanalei and never fail to care for their residents. It's about more than taxes in our fiscal treasury. It's about what we treasure as a people. So if you go back to the Kauai situation and look up this southern pride there was a whole, it's the exact same thing that happened on the North Shore of Molokai.

Mr. Boteilho: So noted Madam Chair.

Mr. Dunbar: I don't really care too much about what happened on Kauai but you gotta keep this thing from happening on the North Shore of Molokai, period. Not when I read some of these letters and it says well it wouldn't apply just to that ship, it applies to all ships. That is a pristine, wonderful

area to get away with, you go out there for the residents to enjoy. While they can land a cruise ship here in Kaunakakai if they want, that's o.k. with me, the North Shore is totally off limits. As it should be in any of our small areas. The reason why those areas are so nice is because they don't have it. But to compare the small boats that we go back there with to a 340 foot ship, that's ludicrous.

Mr. Boteilho: I hear you.

Ms. Akutagawa: Commissioner Vanderbilt asked me about the orientation workshop, I guess this has been, you said earlier its been postponed indefinitely. I think it's important that they do receive the orientation, especially the new commissioner's. So I don't know if it can be arranged so that at least they receive the orientation or what are other alternatives available?

Mr. Boteilho: I said postponed until further notice. The reason for that is because we have had one resignation and I was thinking maybe we should wait for that person to come one because that person probably would be the most person who needs the orientation. Like Kip was on the DVA and Degray he knows a lot, but if you like we could go ahead for the members now. When the new person comes on we could orient that person by himself.

Ms. Higa: The thing too is that you gotta have the EA on the environmental assessment and environmental impact statement procedural training which all of you need to discussing because as we noted there's going to be an environmental assessment on the Molokai General Hospital issue coming up and the process has to change because of Judge August's ruling on the environmental assessment and EIS has to approved by the planning commission. So the procedure needs to be established on how this commission, we've already gone through with the Maui commission and went through the same discussion with them. So it needs to be done here before the November 12 meeting. So it's critical that we can get a quorum. In order for us to make a decision on how you're going to process the EA.

Ms. Akutagawa: What's the estimated time line that you guy's going to find somebody. Will it be before the November 12 meeting, or no?

Mr. Boteilho: Possible but I doubt it because we need council confirmation.

Ms. Akutagawa: Just put it on the next agenda and if I can have the assurances by the people here that we will have quorum. Especially for the new commissioner's that they will be here to receive this training.

Ms. Higa: The priority at this point is the EA and you need to look at that and make some kind of

decision on it.

Ms. Akutagawa: The EA is part of the orientation training right?

Ms. Higa: Good to do the whole thing but the priority is the EA.

Mr. Vanderbilt: Julie I noticed on watching the public television that the Maui Planning Commission had, it seemed like one whole meeting with members of the Office of Environmental Quality Control over there going through the whole EA process, was that true and then they went up to the Council.

Ms. Higa: No it wasn't a whole meeting it was like during their regular meeting there was one item on the agenda.

Mr. Vanderbilt: But it wasn't mixed in with their orientation on the other portion.

Ms. Higa: No.

Mr. Vanderbilt: So will we have that same luxury of having the experts from OEQC available for this commission?

Ms. Higa: The environmental assessment session that's in here is related to what the staff did, presentation with the planning commission on establishing procedures. The OEQC with information on what's the OEQC expected and their processing of the environmental assessment, that was like a separate meeting that we had and it was like a hour presentation and that was all. Nothing to do with the process and procedures with the planning commission, that's two separate issues.

Mr. Vanderbilt: With regard to the orientation, I noticed when the Maui Planning Commission had their orientation Mike Foley mentioned and I just want to read this and see if it would apply of our commission. The second thing I want to say and this is Foley talking to the commissioners, is that we strongly encourage to ask questions particularly of the staff before, during and after meetings. We are here to serve you and we are available to answer your questions about agenda item or about procedural items or about planning in general. You may ask us before the meetings or interrupt the proceedings and ask us during the meetings or ask us afterwards. We have absolutely no problem with that. We encourage you to do that, the planning staff as you will learn has some extremely wide range of training and we will find the answers to your questions no matter how difficult. So they're saying that individual commissioner's can contact the planning department if they have a concern or want to learn something more about the rules or planning in general. I was wondering, I would assume that that would apply to this commission and also later on in the minutes. Brian Moto was

there, the corporation counsel and he said I'm just going to cover a lot of these big documents briefly but if you all are encouraged to go review them and if you have any questions contact us. I know we've been going, I've been trying every time I have something to go through our commissioner but sometimes it bugs her. We haven't had the orientation and I have a lot of questions. Wayne said oh Degray he's been around and all this but it's very complicated. So sometimes there are some questions and I was wondering if individual commissioner's could write in to the planning director or to corporation counsel if they have a question regarding some issues since corporation counsel represents us.

Ms. Higa: I think it would have to come before the commission. It needs to be public request at a public information because you're a commissioner. If you want to write a letter it would be also posted on your agenda as a letter received from yourself.

Mr. Vanderbilt: So every time a council person asks corporation counsel a question or anything it has to go to a public meeting?

Ms. Higa: No. It has to be listed that the communication was received and everybody supposed to have access to the information.

Mr. Vanderbilt: That's just fine but that's not exactly what Mike Foley told the Maui Planning Commissioner's.

Ms. Higa: I think you need to look at the context of that meeting but you can ask corp counsel, as far as the legality of each commissioner going out and doing their own research or doing their own questioning on your own. I don't think that's actually permitted.

Mr. Vanderbilt: Well I'm not saying about a specific project, I'm just saying that it's hard to understand something. If you read title 19 there's some real conflicting things in there. If this applies does this mean this doesn't apply?

Ms. Akutagawa: Degray my impression is and this is my own practice, if there's an immediate question that needs clarification, I just ask it, this is what corporation counsel is for or I ask staff, within the context of this meeting. So I think we gotta use common sense. You have a questions, it needs clarification, it's a legal issue or a technical issue, we can ask staff right now. We can ask corporation counsel right now. It doesn't need to be a reinventing of the wheel. I don't think this is a major issue. The main issue I want to focus on is that orientation be provided, particularly for our new commissioner's, especially now with these new rules about EA's and EIS's that we all are properly trained. I just want this to be on the next agenda and have the assurance that we will have

quorum and the commissioner's will be here and I saw nodding of the heads so let's move on.

Mr. Vanderbilt: Madam Chair just one question here. If you read the minutes of the Maui Planning Commission meeting they had to rush through a lot of things and the advice of corp counsel and the planning director was take these things, read them, study them if you have some questions. I guess when I got onto the commission I was given this thick booklet, I think kip got it too, Janice was just looking at this booklet and said where did you get that? So I'm wondering if all of our commissioner's have all of these documents in which to study up so they can be prepared for the orientation meeting. Or are they just going to be lot cold.

Ms. Akutagawa: My understanding is that we all received these documents. When we first arrived on the commission was received these documents. You know what lets just schedule the orientation, have all your burning questions there at the next meeting. If anything else needs to be clarified later on. We'll faced that when it comes

Ms. Kalanihulia: How long do you think this will take, this orientation?

Mr. Boteilho: I would say about an hour or little over. Maximum about hour and a half. To answer Degray's question, yes, Mike Foley's statement applies to this commission too. We are there to help any individual commissioner. If you like to know more about zoning or planning, you can contact us. No commissioner is preventive from doing their own research or educating themself. The problem is, if it's relating to a project, we cannot use the powers of our department to help one individual commissioner. In a case like that if we're not sure than we're going to go through the chair. But if you're trying to educate yourself on something that's probably not a problem. But we shouldn't be writing letters without the chair knowing of it.

Mr. Vanderbilt: Thank you. Just one last question Madam Chair, real brief, I just don't want to have to read things that are applicable. On our agenda it says that we have to, one of the things on the orientation is the Hana Community Design Guidelines.

Mr. Boteilho: It was a typo. It should be Molokai Country Town Design Guidelines.

Ms. Akutagawa: That concludes my chairpersons report.

E. DIRECTOR'S REPORT

1. Regular starting time of Molokai Planning Commission meetings
2. HCPO Conference October 8-10, 2003

Mr. Boteilho: The Director's report I would like to defer items 1 and 2 and the reason for that is that I found that letter August 13 from Wayde Lee. I have to apologize, I did not follow up on this. It doesn't make me happy to have to apologize but we have a department that is really under staffed and the deputy and everybody is doing a lot of things that should be done by somebody else. Again we don't have the staff for that. But I will assure you that we are trying our best. We do not want to look back and we didn't make progress so we're going to change that.

Ms. Akutagawa: O.K. if you can just provide a report by the next meeting that will be fine. Based on the issues that were raised in that letter.

Mr. Boteilho: However we have a unique situation today. We can update you on Halawa Valley and we'll yield to corp counsel if we can discuss that today for informational purposes only.

Mr. Kushi: If I understand the question what it would take to amend the agenda? The general rule of Sunshine Law is that the agency can amend its agenda by a 2/3 majority vote if the matter to be added on is not significant and does not affect very many people. I'm not sure what you're going to talk about but you all should keep that in mind. If it's for informational purposes with no action involved, I feel comfortable just discussing it. If you're going to make any type of action or discuss any type of action I would discourage it.

Mr. Boteilho: There will be no action. The reason for this request is because we just happen to have the inspector here today and I wanted him to give some results of what happened on the inspection.

Mr. Kushi: Madam Chair if that's the content of the agenda item to be added you need to be very specific in phrasing it, information on Halawa Valley, inspection by the county for the commission's information only and that it be added to the agenda. You need a motion and 2/3 majority vote of those present provided that 2/3 is at least a quorum. So how many you got here?

MOTION: I MOVE FOR INFORMATIONAL PURPOSES WHILE WE HAVE THE INSPECTORS HERE AND THE COUNTY HERE THAT WE HEAR THE ISSUE OF HALAWA VALLEY THAT WAS RAISED BY MRS. DAVIS.

MOVED: COMMISSIONER KIP DUNBAR

SECOND: COMMISSIONER LORI BUCHANAN

MOTION UNANIMOUSLY APPROVED

Mr. Boteilho: Thank you Madam Chair and before I start I have to apologize again. This inspection was originally scheduled for July but the inspector on that day got sick and he had to go to the hospital. I failed to have the inspection conducted sooner, however it was conducted today and yesterday and I'd like to ask Ron Sandate to give an over view of what he has found so far.

Mr. Sandate: Good afternoon commission. I was just given the assignment Monday afternoon to come to Molokai to look into the situation of alleged guided hiking tours being conducted. I got here yesterday and unfortunately I was stuck at the airport for a while and by the time I got down there it was pouring rain. I was able to drive a round a little bit, basically what I was told to look for was blocked access and a parking lot having been constructed. I didn't see a blocked access. I didn't go all over the properties, I didn't see any evidence of a parking lot. The only parking lot I saw was adjacent to the church and I'm sure that's been there for several years. This morning I was able to do an internet search and find that it was being offered and I've got names for a couple of people to be contacted and I found a place where they will take your money and give you a voucher for the tour. I was a little bit late after doing the research, I was too late to book a tour, to make arrangement to go down and meet anyone. I did try to rush out there and see if I was able to meet any of the tours or anything and I didn't see any evidence of that. I've also been informed that I could go hiking up there on my own. I wasn't led to believe by anybody that access would be denied. That's basically all I have, sorry to say.

Ms. Akutagawa: Will you conduct a follow up visit?

Mr. Sandate: I will give the information that I have to my supervisors and let them make the decision on that.

Ms. Akutagawa: I guess what I would like to see is if you follow up with these different guides that you found on the internet sites and to see if they have any kind of permits for their commercial activities.

Mr. Sandate: That would be at the discretion of my supervisors.

Ms. Akutagawa: O.K. Wayne can you make it happen?

Mr. Boteilho: Yes.

Ms. Akutagawa: Thanks. Any questions?

Ms. Buchanan: I wish I knew you were here because I was in Halawa yesterday just as a matter of

fact doing control work for several hours. I didn't take the tour but I did pass three tours going in and out. While I'm working in Halawa I can hear the people on the trail because I'm not far from the trail. What I was surprised to see that probably happened in the last three weeks since I was last in Halawa on the trail was the construction of a new trail diverted away from the persons house where the trail went before. Did you notice there's a big sign now that says keep this area clean, was never there before. They cut a trail through the hao tree's coming up and they actually are constructing a bridge, a little walkway over the awai that was not there because the other crossing is just a side board with gratings. So that was new, I was surprised to see that and that's been up like I said, for the last three weeks. So I'm assuming the people that are running the tours have done that as to be more friendly to the neighbors. Because I think there's somebody new in that house there that has been really complaining about people trespassing right through this yard. That's something new that I've noticed. But if you need help in going up there and recognizing people and stuff I'd be glad to help you because I've been working in Halawa a lot. I pretty much know who's running tours in there. I see them all the time and I know where they're parked and they're parking illegally on other people's land and I'm glad that either the county or opened the chair area or somebody took it down or ran it over in order to park in the pavilion area. So that's just for information.

Mr. Dunbar: The only thing I've seen down there, when we used to go up to the valley you park by the church, walk down the road and you cross a couple awai's, you go across the stream and you're into the bushes and where you go? I haven't been up there for a number of years now but I understand there's an alternate way going across the bridge and take a left and go up by the lo'i and now you're on the north side of the stream and you don't have to cross it and you can go in that way. But, I haven't really heard about the parking lot and the parked cars. Thanks Mr. Sandate.

Mr. Vanderbilt: Thanks for coming. You mentioned that somebody told you that you could go up on your own without paying anybody. Who told you that? Was it somebody with a tour company?

Mr. Sandate: Yes it was one of the tour guides he was going up on a tour some where else and I was asking him for information and how to do it and I told him I went up there 30 years ago and I think I remember why do I need to pay somebody? He said you don't. You can go up there on your own.

Mr. Vanderbilt; So this was an individual that was involved in some other type of tour not the Halawa tour?

Mr. Sandate: Yes.

Mr. Boteilho: Madam Chair if that is through if we can move on to the original director's report. Item number one, regular starting time of the Molokai Planning Commission meetings, right off the

bat I would like to propose that we go back to 1:00pm. Every planning commissioner came in knowing it was 1:00 and we should hold on to that. I had brought up possibly 9:00 but mainly because we could catch Commercial flights so it was like if it's o.k. with you folks than maybe we can go 9. I think 1:00 is better. The mornings, we still have it reserved, we'll keep it open in case there's some kind of emergency thing. Even if we start at 1, if we know it's going to be a long meeting or something we would stay over night. But I think we should go back to 1:00 if that's the preference of the commission.

Ms. Akutagawa: What is the preference of the commission?

Mr. Ribao: For me 1:00 has to be. I put in a letter of resignation because the time changed to 10. I can't make any of the morning meetings. If they change it back to 1 I can attend these meetings. If they're gonna keep it at 10 I gotta resign from this commission.

Ms. Kalanihulia: For me either way it doesn't matter but I need to know when it's going to be and I need for it to be relatively consistent. Given the letter we got from Mr. Foley this past week which basically said come to the meetings and if you can't come we'll find somebody to take your place, I think it's important that it's consistent. So meeting down at Papohaku at 9 or 8:00 or whatever it wasn't in my plan because when I signed on it was 1:00 and that's the time I blocked off every two weeks for ever and ever. For me it's important that it's consistent.

Mr. Dunbar: When we're going to have a site visit, I basically told Nina I can't come to site visit but I will come to the meeting. I don't know how many people went to the site visit, maybe nobody but then you come to the meeting at 1:00 and there's no quorum either. It's just a waste of time. I think there's only four of us.

Mr. Boteilho: Well at 1:00 we didn't seem to have that quorum problem. It seemed to happen when we changed to the morning.

Ms. Akutagawa: Personally I prefer 1:00 or if it was in the morning it would just be in the morning and not a whole day event. The last time when we had, I think it was like 6 hours or planning commission and I'm the director for a one man office and it's hard for me to justify being gone a whole day without taking vacation. So I prefer to have like a three hour block that's reasonable for me. 1:00 seems to work better for everybody, I just don't like the whole day kind of meetings. If the commissioners can be cognizant of that then we need to get business done. It's important to ask very good questions but we need to manage our time more effectively so we don't burn out. So I would ask the commissioner's tolerance of that and cognizant of that. Anybody else need to say anything?

Ms. Seales: I guess when I enrolled in a class at MCC it was a morning prior to us wanting to try the mornings so it wouldn't have worked out for me for this semester. 1:00 because it's consistent is good. I can see when sometimes there is a site visit, I can understand about the flight information so I could go either way. But for me this semester it would not work for me because I would have to interrupt my class to come here to start at 10:00 or 10:30 so it wouldn't have worked for me this semester but I think 1:00 is good.

Ms. Akutagawa: So I think it's safe to say that 1:00 is o.k. Degray?

Mr. Vanderbilt: I have no problem with 1:00 especially now that Wayne said that they would, if it went longer than 3 hours they would stay over night because that's the problem that we used to have is that, is that the county had to close up shop and go at 4:00 or whatever. We haven't even tackled a lot of tough issues that have come up, there hasn't been any real tough issues lately that's going to require public hearings and you're gonna get a lot of public testimony. I don't know if you're going to schedule those at night or whatever. We had some pretty easy meetings the last few times compared to some of the issues that are say before the Maui Planning Commission where they have, they go all day because they have a lot of testimony and some real controversial projects. I wouldn't mind 1:00 but I would hope that the planning department will get the commissioner's their information, especially on complex projects well ahead of the time so you got some time to look at it, not just get it four or five days before the meeting where if you do have some follow up after reading it you don't really have any time to do it. I think that would speed up the meetings so you could focus your testimony and if that same information be made available to the public to, in our planning commission office so people from the public could focus their testimony. Thank you.

Mr. Boteilho: These night meetings Madam Chair, it's not like we're going to schedule 20 items, it's more like if we know there's going to be heavy testimony, we'd check with you first and maybe we could hold the other projects during the day and maybe as a public service we would have the heavy testimony item at night. But it's better at night because than people don't work.

Ms. Akutagawa: O.K. thank you. Anything else Wayne?

Mr. Boteilho: I guess just HCPO.

Mr. Ribao: Wayne can I make a note here before you go? We're changing the time back to 1:00 officially? In my case I sent a letter to resign because of the time change, I'm going to withdraw that.

Mr. Boteilho: I did not accept your letter yet.

Mr. Ribao: I just wanted to note that.

Ms. Akutagawa: Thanks for staying on Robert.

Mr. Boteilho: HCPO, first of all those of you that did sign up come and see me after the meeting I got your airline tickets. For those of you that haven't you can still sign up. You can see Nina, you can fill out your registration today, in fact we'll hang around a while and you can fill it out and give it to me and we can process it. One thing I would like to encourage, maybe there's no choice, I don't know, we would like to encourage you to arrive at the same time because we're looking at shuttles. We're going to have staff shuttling the commissioner's to and from the conference. If there's some valid reason that you cannot shuttle than we'll look at a rental car. But we ask that if you could all arrive at the morning flight. That's all I have.

Ms. Akutagawa: Thanks Wayne. Any questions before we adjourn?

F. NEXT REGULAR MEETING DATE: September 24, 2003

G. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 3:02 p.m.

RECORD OF ATTENDANCE

COMMISSIONERS PRESENT	1.	M. AKUTAGAWA, CHAIR
	2.	L. BUCHANAN, VICE-CHAIR
	3.	K. DUNBAR
	4.	J. KALANIHUIA
	5.	C. SEALES
	6.	D. VANDERBILT
	7.	R. RIBAO

COMMISSIONERS ABSENT:	1.	N. SHIMIZU
-----------------------	----	------------

STAFF:	1.	W. BOTEILHO, DEPUTY DIREC. OF PLNG
	2.	J. HIGA, PLANNER

Minutes, 09-10-03
Regular Meeting
Page 34
Molokai Planning Commission

3. R. NAGAMINE, DSA
4. E. KUSHI, CORPORATION COUNSEL