

MOLOKAI PLANNING COMMISSION

REGULAR MEETING

MARCH 24, 2004

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chair Lori Buchanan on Wednesday, March 24, 2004 at 1:10 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)

B. APPROVAL OF MINUTES OF THE JANUARY 14, 2004

MOTION: TO ACCEPT THE MINUTES AS CIRCULATED

MOVED: COMMISSIONER ROBERT RIBAO

SECOND: COMMISSIONER JANICE KALANIHUIA

MOTION UNANIMOUSLY APPROVED.

C. COMMUNICATIONS

1. Discussion on the March 10 Community Information Meeting and the March 13 Molokai Ranch Open Day conducted by the Molokai Enterprise Community Governance Board, Ke Aupuni Lokahi, Inc. (EC) and Molokai Properties Limited

Ms. Akutagawa: I'd like to thank Aunty Stacey Crivello and Harold Edwards for coming. There was some questions posed at the last meeting about the strategic planning going on and whether it may conflict or compliment our community plan process and the work of the Molokai Planning Commission. I guess I'd like to invite Aunty Stacey Crivello to kind of give us an update and be open to any questions the commission might have.

Ms. Crivello: Aloha my name is Stacey Crivello. I think about a week and a half ago or two weeks I received a call from Mr. Boteilho asking if and Malia also contacted me if we could come and do a presentation to your commission in regards to what's happening with Ke Aupuni Lokai, Molokai Enterprise Governance Board and Molokai Properties. I need just express that in my opinion this is premature for us to do any kind of presentation. So I'm just going to give an over view as to whats been taking place. This has been in dialogue for about 5 or 6 months ago where we created one of our projects to for compatible development on Molokai and how the Kaluakoi Resort and how our organization could be in support or in partnership with the Molokai Properties and Molokai Ranch to assure that there will be a redevelopment of the Kaluakoi Resort. From there it involved into actual community participation with their land use. Actually when you look at the core of the

participants, those who have been on the CAC, those were people who watched the movement of the community plan and many of them are the watch dogs, which I call them and we had two days, intensive meeting with the Ranch as to how or if we decide we can move further in trying to have the community create a working, a working group and working on their land use. So from there we started to meet the first week in March. We're going to fast track it and this has come from the community to try and see what we can put together in three months. Molokai Properties and Land have contracted an independent, non-profit organization from Virginia called the Conservation Fund, it's headed by Pat Nunan who was once head of the Nature Conservancy. They've been up here and met with us as well as other community people, I think four different meetings so far, they're expected to come up again in a couple of weeks. What will happen is that the community will work with the Ranch as to how we can identify the cultural and archaeological significance of their land, needless to say their lands are untouched and large land mass and undeveloped. So what we've broken up into as far as different committee's. We have a cultural and archaeological committee, the two (inaudible), recreation, environment and economic. Based on many of the guidelines that was put together for this strategic plan, for the Molokai Enterprise Community that's kind of been our guideline as to how, let me back up a bit. The matrix, the conservation people, their main objective is to preserve and conserve land. So our, out of this they will draft on behalf of the community and of course the property owner, Molokai Ranch, as to how we will come up with some possible uses of their land. I say this is premature because we're only in the discussion stages. We're getting input from community people on this March 10 in reference to your concerns with this community meeting. We do have extended invitation to all the community to participate. So on the average we've been meeting everyday since March 1. Everyday there's a meeting Monday through Thursday, meaning tourism and recreation committee meets on Monday. Environment meets on Tuesday, Economics meets on Wednesday's and cultural and archaeological historical sites on Thursday and on the average we're having about 15 to as much as 30 something people from all walks that are participating in these various meetings. We continue to extend the invitation. We re-group as facilitators and as a whole and we meet again with the Conservation Fund and we go back and try and we go back to the community. So it's a process that we've added because it's a community process. I think is a mile stone, number one, quite historical to get many affairs on the table to start this dialogue. It is our hope that we will be able to come up with something that both sides can be of benefit, meaning our community as well as the land owner. It's not to say we're not dealing with the issues that have been on going whether it be infrastructures of development that comes with water and still trying to be in compliance with the community plan. That's the just of it. If you have any questions I think I can answer them.

Ms. Akutagawa: Are there any questions from the commissioner's?

Mr. Vanderbilt: You know I have been participating in the meetings with the tourism committee, I

attended a couple with the recreation committee and all of the economic development committee meeting and it just seems that this is something that is a no lose situation. If something good comes out of it, nothing can be implemented without going for a community plan amendment. So I mean everybody can talk and come up with a plan but if there's anything in that plan that's outside of what's already entitled under the community plan it would have to come back for a community plan amendment. But it just seems that we may as well talk and try to get something on the table and work out a situation which might be a 50 or 100 year plan instead of having all this bogus planning documents coming out of the county which this community works very hard on and every 12 months or so you get some major amendments coming through where you have to continue with meetings and everything else. As far as my participation, we're going to get a lot of information and the Ranch has been very open to saying exactly what they're making, what they're losing, how much water they need, how much water they're using right now, what they want, what they might give and of course the community's going to come in from the other side and hopefully something positive can work out instead of this community also reacting when something big comes up and nobody knows about it and it was worked on for about a year. I think it's a process that we could at least give it a try. There seems to be a lot of people interested in, most of the talks that I've been involved in and the workshops and all of this with the working groups, they all echo the objectives and the goals that are in our community plan. I haven't heard any radicle, new things come out. So, I think it's a good process to see at least where it goes but it's not, what ever comes out of this is going to have to come back to the over all community and this planning commission.

Ms. Buchanan: On that note Wayne, where is Corp. Counsel?

Mr. Boteilho: For this particular meeting I had let, there was a request from Corp Counsel not to attend this meeting because she was here Monday and Tuesday and I granted that request on the basis that I felt that I could handle today's agenda.

Ms. Buchanan: Well I have a question for Corp Counsel and maybe you can relay that message. Commissioner Vanderbilt just said that he's participating in the whatever discussion that are going on with the EC, with that at a later point pose a conflict of interest saying some special conditional use permits or a community amendment should be made or asked of this commission, would his participation at this point be a conflict of interest?

Mr. Boteilho: O.K. I can discuss that with Corp Counsel.

Ms. Buchanan: And Degray I would take that into consideration and that was my point for, but do you have a question for Stacey? Because she's kind of filling us in because I don't know besides you who else on this board is involved with the talks that are going on with the Ranch and the EC.

That's why we asked Stacey to come here because I personally don't know and that's why we have her here to ask questions.

Mr. Vanderbilt: Has anybody else from the committee been attending these meetings?

Ms. Akutagawa: I think at this point I should disclose that I was invited to participate in the economics committee in my capacity as a Rural Development Project Director. My objective was just to educate myself. But in terms of what was requested by Commissioner Buchanan I thought this would be helpful for the rest of the commission to receive information on this issue and I'm also educating myself on all this as well.

Commissioner Kalanihulia?

Ms. Kalanihulia: I attended the community meeting and thought that it was really well put together, there was a wide cross section of folks attending and thought for a minute about attending some of the sub-committee meetings but it's hard for me with work, I thought you folks did a good job Stacey, and you too Harold.

Mr. Ribao: I have a question for Stacey. Anyone getting compensated for this or is this just a thing the community wants to do?

Ms. Crivello: No, we're not getting compensated.

Mr. Vanderbilt: I've been promised a new microphone.

Ms. Crivello: I just want to add that instead of the Ranch sitting in their board rooms, the difference is the community and our community facilities are the board room and the participants. So hopefully we'll have positive outcome from this instead of what we've experienced in the past.

Ms. Buchanan: O.K. Stacey I just need one picture drawn, sometimes I need a picture drawn as to how all this is working because it's kind of incomprehensible to me at this point. I heard it over and over and over again. But I'm still trying to sort it out in my brain because I'm trying to think of the Ranch's point of view, EC's point of view and the Conservation Fund's point of view. I understand the Conservation Fund is going to be acting as a facilitator to combine what the Ranch wants with what the community or the EC suggest and they're going to make a suggestion to Molokai Ranch on development, on future development?

Ms. Crivello: After the development portion for the Molokai Properties and Land, maybe Harold can

correct me or give his input, actually it's their portion of the development is being contracted to PBR. The Conservation Fund, they're contracted to draft with what the community comes up, in participating role with the Ranch.

Ms. Buchanan: So the Conservation Fund is being contracted by Molokai Ranch. Does that mean that they're doing it for a fee? Yes. O.K. I didn't know that.

Ms. Crivello: They are contracted as I mentioned earlier. They are contracted as an independent land use planner that their objective is conservation and preservation.

Ms. Buchanan: O.K. because I have to go over the community plan because I really haven't looked at it for some time. I found that it was really defined as to land use designation. I'm sure that the EC as well as Molokai Ranch is familiar with the community plan designation. So I was wondering with the community plan as it already, what exactly is the EC trying to do on their five committee's, I cannot see how, unless we're going to amend the community.

Ms. Crivello: That's a possibility that we may come before you folks for amendments. But at this stage it's still premature for me to say yes that will happen.

Ms. Buchanan: I know a lot of people are working really hard on this project and I understand that you've fast tracked it and you have three months to work it and then come together and go from there. I guess we all developing the sit back and wait and see attitude. In the mean time because I am a commissioner and because our bible is the community plan, that is my concern. Amendments to the community is a concern and that's why I want to stay informed about what you guys are doing and at the same time stay in objective because I looking down the road should this all come back to the planning commission for an amendment to the community plan. I don't know what to think at this point. I only sat in one or two brief meetings because I heard verbing about this plan coming about. As I understand Mr. Peter Nicholas is the primary person taking responsibility and he has been charged with the authority to make decisions on behalf of the Ranch as a corporation.

Ms. Crivello: He has advised us of that.

Ms. Buchanan: That's what he said yeah?

Ms. Crivello: That's what he advised us.

Ms. Buchanan: See I remember Ian Hurst, and I remember all the past Ranch employee's and he is an employee who had the really good intentions of Molokai in their heart and really tried to strive

to make things better for Molokai as a community and the next minute they were gone. That's my concern too because Mr. Nicholas came out and said I have full authority to act on behalf of the Ranch and now everybody is working hard to come up with this plan or this strategy to help them out because it's really to benefit the Ranch and in turn benefit the community, kind of a win win situation, that's what I hear. But we always have that out there, that Mr. Nicholas can be here today and he can be gone tomorrow and we can all be back to square one. But I guess we cannot help.

Ms. Crivello: We rolling the dice on this one. But, to erase that when I say but, I believe that, we have met with the chairman of the board on Friday and his assurance is that Peter Nicholas has the autonomy to authorize what ever his decisions he makes. Like I said this is premature I cannot, on behalf of the Enterprise Community or the community as a whole, we're deemed questioned as to in more ways than one. But I encourage, if it's not in any conflict for the community, because you where several hats in this community for you to participate and be part of the, I would like to also add that when we're working, we have a community plan it was dumped and became matrix 2000 and there where changes that was fast tracked made and there are many of us on this process that recognizes that and that way the community process, whether it means we have to come in with an amendment or to make sure we're in compliance so that we can make sure that we're meeting what will come up and it's probably going to be a general plan for the community, so I think the economy is good. When you look at this as an opportunity and hopefully you can come up with an outcome, naturally we recognize that corporate, Molokai Corporate will be a benefit but you can be assure that we're there to make sure the community benefits also.

Ms. Buchanan: Maybe it would be a good idea after your fast tracking is done or if you have some preliminary results when you meet with your board if you can share it with the commission. If Corp. Counsel see's that it's best that we stay out of the proceedings as community members, that it might affect us down the road, it would be nice to keep us abreast.

Ms. Crivello: Will do.

Ms. Akutagawa: I want to ask a question and it may involve Harold answering as well. Two questions, once this plan is finalized, is there a commitment on the Ranch's part to implement the final plan? Second is, has the Ranch submitted development plans already to the community that it's going to be incorporated in the final plan? My concern is when we had the La'au Point Subdivision discussion I think the Ranch had put in an application with the county and than this commission took it upon itself to hear input from the community and nothing ever went forward since than so my question is, is it still that plan to develop La'au Point to the extent that it was foreseen in our previous planning commission meeting or has the Ranch kind of strung back and reassessed based on this community planning process?

Mr. Edwards: Harold Edwards, Molokai Properties Limited. I think that first two day session that Stacey referred to to the end of January, Peter (inaudible) was caviot that that's kind of where we're starting from, that's where we end up is the function of this process. Basically what he said was that he saw development in Kaunakakai, Kualapuu, Maunaloa be functioned as what the community wanted in terms of growth. The other thing is we have to figure how to pay the bill and La'au figured into that in some form, clearly not the form the current way was originally presented, that's off the table and we'll figure out where we're going with that one. I think he also said that he thinks it's important that the property at Kaluakoi has zoning, retain that zoning to help us attract investors but we don't have any plans to go out and do anything with it at the present time. I think part of that presentation is the statement that we don't have any money to do development, that we're going to need to, after we craft a plan, the community is going to be able to do that, find an investor that wants to partner with us and implement it and that would have some impact on the timing of development going forward. That's where we're at.

Ms. Buchanan: So, is that yes or no?

Mr. Edwards: Well that was a complex question.

Ms. Akutagawa: Let me try and sum up and you can correct me if I'm wrong. I think Maunaloa, Kualapuu area, Kaunakakai, what the community envisions for that will likely be what implemented but you need to pay the bills and you're kind of reevaluating how to work La'au Point. The original plan is off the table but you're looking at how you can make it economically sustainable for the Ranch and you're looking at improving Kaluakoi, correct?

Mr. Edwards: Correct. As we see it and part of the reason why the Conservation Fund was interested in taking on this project if you will and the comment Peter made back at the March meeting was that you don't hire the Conservation Fund, you petition them through your project. They take on unique land planning situations where they think they can bring something to the party and create a model for further planning use that involves conservation. I guess with regards to Maunaloa Town, Kualapuu and Kaunakakai what we're saying is that we don't have any aspirations to do anything with the town but because of our 50 or 100 year plan, we would assume that it'll be logical for those towns to grow over time and we're very open to what this community's wishes are in terms of those, in what the extent of the growth should be.

Ms. Akutagawa: Any other questions?

Mr. Vanderbilt; One other thing that was left out that Peter mentioned was that there were gonna be more water. I think that was in that original letter too. I just wanted to ask Harold because it'd kind

of hard for me to figure out, we're doing all this and we keep talking about the 50 to 100 year plan. Will the idea be that whatever came out of this community process that the community could be assured that they wouldn't have to continue meeting and that would be plan for the next 50 to 100 year without a bunch of amendments?

Mr. Edwards: I think that's the intent, yes, very much so.

Mr. Vanderbilt: So could that be done with these restrictions? How can you do that if our community plan comes up for review every 10 or 20 years and there might be new planning commissioner's and there might be a new population with different objectives?

Mr. Edwards: I guess the question is, the integral part of this process and why the Conservation Fund was interest is the fact that see a consumable of acreage that we've put into a controlled land trust so basically it would come out of our hands and go into the community's hands and than we wouldn't have a say in that going forward. So that's the big protection that suggest that you don't worry about over development in the future.

Mr. Vanderbilt: Harold would you see the lands within the Kaluakoi Resort the undeveloped hotel sites and everything going into the land trust also?

Mr. Edwards: To be honest with you I think Stacey commented about it, some of this being premature, I don't know where this process is going to take us at this point.

Mr. Vanderbilt: The only reason I asked that is we got such things as pyramid zoning and everything else and everybody thinks well that might be a hotel site there but you could have residential, you could have multi family, you could have everything under there. Hopefully if the plan comes up it's something that people could look to in the future that has its standards instead of having the hotel sites when that land becomes more valuable it's not sold off to some millionaire's to put 6 or 7 houses on it. It has to be something that the community can rely on and go back to making a living and stop worrying about coming to all these meetings.

The one thing that I wanted to just add is that I was concerned as Commissioner Buchanan was about Peter's tenure here and how secure that was. Stacey did have the advantage of meeting with the Chair or Brierly but I remember one of the meetings I asked if we could get a letter from Brierly just saying, Mr. Nottage has complete authority to act on behalf of the corporation and it just seems from Peter's point of view that that might be a little awkward to do. I mean I didn't push the issue because I think this is just an advantage because I think the big corporation did make the move, they're going to say well, so long Molokai because they're going to have bigger fish to fry. That's just my, Peter

has control, any plan that comes out of this community and say this commission gets involved and says, not the commission, but if this plan gets approved by the community does Peter Nicholas have the authority to commit Brierly to this or does that plan have to go back to the board of director's?

Mr. Edwards: Peter is the CEO of Molokai Properties Limited and he understands what his scope of authority is so if he says he's authorized to do it, he's authorized to do it. I have no basis to say otherwise. There's nothing in the by-laws of Molokai Ranch that would preclude that from happening.

Mr. Vanderbilt: Just what they do has to get board approval from Brierly.

Mr. Edwards: Molokai Properties is a stand alone company and it just so happens that Brierly owns 100% of the stock. So there's a board of director's of Molokai Properties Limited, I'm a director, Peter's a director, that board makes all of those binding decisions for the corporation and Peter runs that board.

Mr. Vanderbilt: It would be the Molokai board that made the decision, not the Brierly board?

Mr. Edwards: From a legal spectrum, yes. They are the share holders and share holders obviously pick and choose who they put on the board of directors but at this point they're happy with the board of director's they have and they're the ones that will make the decisions.

Mr. Vanderbilt: Thank you.

Ms. Akutagawa: Commissioner Feeter?

Mr. Feeter: The question, Harold, is it possible to get or Stacey, is it possible to get a copy of the Conservation Fund report?

Ms. Crivello: When you say report, what we're doing right now is feeding them information after each community meeting as well as documenting and video and sending that out to them. So, if you're asking if you would want their initial or first draft of the report or do you want the final report?

Mr. Feeter: That partially answers my question, actually, as we go along I suspect there will be reports coming through EC. I'm multi concerned about the initial report to see what their goals and objectives initially were without being totally burdensome. It's all interesting to see intentions in here that the Conservation Fund has been retained by Molokai Ranch and I think Harold said you

have to ask them, ask and retain. Also if they're paid consultants, I think that's going to be bias. The other, just one last comment is, anyway, is it possible to see that report or in your opinion not be useful at this time?

Ms. Crivello: Actually what we have is the preliminary request on how the guidelines on how they would like us in compiling our report, that's about it that I have, if you want some background information, who they are, some of the work they have done I can get that. But I don't see a problem, I'll verify with them, I don't see a problem with us passing on the initial report that they'll put together.

Mr. Feeter: I'll try the computer first.

Ms. Crivello: There's quite a bit of information.

Mr. Feeter: I'm sure the Conservation Fund would be on the big screen. Just one last comment, I've gone to the recreation group and also the environmental group and so far so good. I sense that there is some division within each of those two groups, one was water. In fact Peter wasn't at that meeting and they got smashed, just like that, they want to talk about it. If that doesn't fit in with environmental, I'd be lost to see what would have priorities than that.

Ms. Crivello: I need to assure you that the water issue is on the table. We're just trying to get to the different avenues of dealing with if it's environment, if it's recreation and how it's all going to fit in. If you look at the membership and the participants, the people that are facilitating, those are people who have been involved in water suits. We've met with lawyers that handled the Waiola case, so it's I go back again and there may not be a lot of trust with the corporate side but I can assure you there are many people in the community that's involved that we trust that have said we would work on a workable plan. These are people that have history that are, because of their dealings with the Ranch. So, I'm confident, that's my personal opinion, I'm confident that when decisions are made, when it comes to that, from the get go, that was put on the table.

Mr. Feeter: One last question is I understand the three Paniolo Camp sites are up for sale as well as Kaupoa, well that would be the third one.

Mr. Edwards: I think probably a year ago we advertised, we put a brochure for the Kolo and Paniolo Camps and we had one or two nibbles, there's no real interest. I don't know if I would actually call it being marketed. If somebody came along and found a way to put it back to use and create some jobs, and came up with something that made more sense.

Well can I make just one last comment. I think Lori's question about the topic of interest is an incredibly important question that needs to be looked at very carefully. I'm real comfortable from my perspective that anybody and everybody that came to the meeting on the 9th, when everyone was there wouldn't play a conflict of interest. But there's something in the back of my brain that says the planning commission is getting deeply involved in individual community stuff that might create the conflict that Lori was worried about when it came time when we come back to this commission. That really troubles me because if that's the case you guys got to make a conscience effort to not be involved in that stuff. On the other hand this is an incredibly unique opportunity to, the community hasn't seen with the Ranch and it's just important to get all the input that can be there because I'm tickled to see what we're doing and I think a lot of people in the community are real happy with what we're doing and I'm real optimistic we're going to get to a happy win-win result. But it would be a shame to have a problem with being able to deal with the planning commission level with several of you having to withdraw when it came up because of active involvement of the process. So giving that opinion, sort it out carefully, I think it's really, really important. But that's my two cents on that one.

Ms. Akutagawa: Any more questions?

Ms. Seales: You said 15 to 20 in each group that came from the different. Were they kind of like the same ones or was there a lot more from the community? Because 15 to 20 is nice, in the sign in list did you find it was the same people?

Ms. Crivello: You would have people from all boards that made an attempt, at least I do and other board members. But over all its people who have interest in environment, that's their chosen committee. Economics, if they can be the brains of it all, a real challenge, you'll have people there but the cultural side, no I don't. Maybe the tourism and recreation you might have an overlapping of participants because they basically, they overlap, the tourism and recreation.

Ms. Seales: I guess this question is for Harold. When you had at the bottom of the visitation of those sites, what was the reason really for that? The visitation of the sites that's usually closed to the public, what was the reason for the community and how much people did show up for the various sites?

Mr. Edwards: I think it came out of the cultural sub-committee meeting that people wanted to get on the ground and look at some of the stuff so we said sure, let's do it. If I recall there was something like 200 people that came out that day and that maybe some double counting. Some people went to one site in the morning and ran over and visited the other site in the afternoon. But it was like 220-260, something like that.

Ms. Seales: The other thing I wanted to say is do you find Harold working with EC, do you find that this maybe can make the way for this dirty, much more acceptable. Because with people like Stacey in place, do you find that the community might be more accepting to maybe some of your thoughts, you folks mana'o as far as development in that end?

Mr. Edwards: I've been with the Ranch now 10 years and I've been through watching us not to do it the best way, this is the right approach and I'm tickled, senior management said this is the way to do it, back up and do it right. I'm excited about it and we're now wising up to figure out how to get to the end of the road and do it well.

Ms. Seales: O.K., thank you.

Ms. Buchanan: This is mostly for planning and this is before you r time Wayne, wasn't your fault, was who ever's fault was before you but I petition the commissioner's to please look through your community plan because you're gonna have in there about water designation because in 1992 the island of Molokai was designated as the water management area. So you need a permit for water usage other than the county lines and the residential stuff. That hearing has to be on Molokai. About the subdivision thing under the land use goals, way up there between items one and five you have subdivision, page 11 right now in the Molokai Community Plan, under Land Use goals, it says about subdivision approval, it said should consider environmental, economical, social impacts, archaeological, all that and the last line it says, and should undergo public review to allow neighbors the opportunity to comment. I think what happened prior was that Molokai Ranch got their prior approval from the planning department to go ahead with the 266 subdivision plan which at that time and probably till now, was the largest ag subdivision planned in the State of Hawaii. Now if that should not come out for public review I don't know what would. But the planning department pushed it off and said go ahead, go home make your plan without even consulting anybody. That's been there and then it says discourage developing, item four, discourage developing and subdividing agriculturally designated lands for gentlemen estates or sudo agricultural uses in which the residence would be the primary use and non-intrusive ag activities would be secondary. That's a problem we're having throughout Maui County right now. We've already seen it here in Kaluakoi as well as Kawela Plantation as well as the 266 La'au subdivision proposed by the Ranch. So this is mostly to petition the department that you gotta go back to the community plan and without approving, giving preliminary approval for any of this stuff you have to come to the community first. That's just it. Also to point out the water designation, that they have to get a permit.

Mr. Vanderbilt: I agree with what Commissioner Buchanan said and I guess one of the real problems this commission has is the Maui County Planning Department. I think our community plan asks that the subdivision laws be changed to put that wording in to the law so any developer whether it's the

Ranch or anybody else has to come to this commission. But if you look on the back side of our community plan I think, I don't know what page it's on, but there's about 20 or so implementing actions that the planning department is supposed to do to make our planning document more effective and they haven't done any of them. So, and that's probably going to come up in discussion on Bill 84 which is supposed to improve the planning process, how is that going to happen? If the Planning Department had gotten off their okole's and implemented this community plan amendment to the subdivision code, Molokai Ranch would have had to come back to this community which they did. Once again we're under staffed, too bad Molokai. I'm really upset Wayne that Corp. Counsel didn't come here, I think it's a real insult to this commission and our time that they didn't. You don't see that happening on the Maui Planning Commission. My son is visiting over in Maui now and if I know there wouldn't be Corp. Counsel here which is going to make the discussion of Bill 84 a lot less meaningful, I wouldn't even come to this meeting. But I figured Corp. Counsel would be here and this would be some good time to get some heavy questions answered. Anyway the last thing I just wanted to mention was in the community plan also it states that under economy, consider a community land trust or community development cooperation as tools for community based economic development appropriate to Molokai's lifestyle. So I think that the process and the EC and the Ranch and the community are going through is in line with one of the objectives in the community plan also. So, thank you.

Ms. Akutagawa: Anything else? I just wanted to add with what Lori was saying. I think what would be helpful, you know we look at, just on a county level and state level, there's not enough inter agency cooperation so like one hand doesn't know what the other hand is doing. I think we have a unique opportunity to really have a better coordinated effort in the planning process. I think what I would suggest is to incorporate some of the elements of the Molokai community plan into this plan that is coming forth through the Enterprise Community, Molokai community members, the Ranch, so if you could convey that to the Conservation Fund that if they can look at the Molokai community plan and incorporate some of the elements that relate to the lands that Molokai Ranch has.

Ms. Crivello: That has been advised already and actually I think the community has to be the ones with that responsibility and our participation. We also have that community plan with us.

Mr. Edwards: The first set of documents that we sent out to the Conservation Fund so that they understand the regulatory environment included a copy of the most recent community plan.

Ms. Akutagawa: Well I'd like to commend you both for doing such an excellent job. I think part of the tension that has been felt with in the past with the Ranch has been kind of, the community didn't know and you have this plan now and you never had any idea about it. The commission and other members of the community said there needs to be a more coordinated effort. The Ranch needs to

talk to the community and so I see this as a very positive thing. There's some reservations that I had and I feel that you've kind of cleared that up for me, personally. So I commend you on your efforts and thank you very much for providing a forum for us to kind of discuss what the issues are. Thank you.

Ms. Kalanihulia: I need to excuse myself, I need to go back to the hospital. I also want to say that I'm sorry I won't be able to be at the goodbye dinner for Nobuo and Malia tomorrow and I'd like to thank them for what they taught me here. I think both of you with the background involved and your knowledge of water and Molokai Ranch has been very valuable and so I just want to make sure to get that on record and I'm gonna miss you, thank you.

Ms. Akutagawa: Mahalo Janice, thank you so much.

2. U.S. FEDERAL AVIATION ADMINISTRATION by letter dated March 9, 2004 requesting comments, suggestions, and input on the scope and concerns related to the development of Air Tour Management Plans (ATMPs) for six National Park Service units in the State of Hawaii including the Kalaupapa National Historic Park. The objective of each ATMP is to mitigate or prevent the significant adverse impacts, if any of commercial air tour operations upon the natural resources, cultural resources, and visitor experiences of the subject national park unit.

Mr. Boteilho: This kind of throws us a curve. It came in late and they're asking for comments by April 12 so we scheduled it for this meeting. Basically the FAA is, I guess on a federal law asked a few years ago, they required to come up with these air tour plans that fly within half mile or over a national park. This letter was sent to the Molokai Planning Commission because one of those parks is Kalaupapa National Park. They also state in their letter that they plan to meet with each state agency later. So, I would think that at this point they're just looking for preliminary comments, this is the opportunity for any preliminary comments.

Ms. Akutagawa: Any comments or questions?

Mr. Ribao: The first question I have is is it under our jurisdiction because last I heard Kalaupapa was under another, yeah, Honolulu jurisdiction.

Mr. Boteilho: Not under your jurisdiction but I believe the federal law requires that they seek comments from certain agencies.

Mr. Vanderbilt: I have a comment. I know there's been a lot of discussion on when the tourism

committee, I think even the recreation committee about things such as no helicopter based tours out of Molokai and also restricting these Maui helicopter tours from just going every where they want to go on Molokai. They're impacting some of the rancher's up at Maui Ranch, spooking the cattle, they're going into deep Halawa Valley and so, I think a lot of people in the community, if they wanted comments, we ought to put it on the agenda that we need comments on helicopter traffic around Molokai or something so we can bring the public out to get some comments rather than us just assuming knowing what the community wants.

Mr. Feeter: This is appropriate because there were five copters within sky distances our place today which includes everything on the south side. That in itself and I got thinking about it because it made me sit down and consider this because we used to live on Maui and it was a real problem over there. It was every 10 minutes from the airport over Haleakala. It supported the boom to the tourist business. There were 9 helicopter company's offering tours. This was in 1989. I actually worked for a helicopter company picking up tourist and that was enlightening. So it gave me a little insight from both sides. From the locals as well as from the business stand point. I observed there were 6 different kinds of helicopter operations, first of all military which I don't think any of us have any control over, I just say they fly any time, day or night and we all see them. In the past, 10 years or so ago here there was a lot of helicopter activity and I think it was down right annoying along the Kalae region. So much for military. The other ones are private helicopters and I can't honestly say too much about that, they come and they go. The other ones of course are rescue and we all know that's a magnificent thing and hopefully air-medivac will be placed some day down the line. So certainly rescue helicopters can function. Along with that same thing is fire fighters. We've seen a lot of good work with helicopters flying endless hours in the forest and other adjacent areas. I was told with the new fire truck that was dedicated yesterday over here, if you haven't seen it it's a great piece of equipment, that will do a lot of access from that piece of machinery and take up some of the slack for the helicopters. The other thing of course we have day after day is work helicopters. The worker's from here go to Kaho'olawe twice a week, they're the hunting helicopters and there's spray helicopters and they certainly we have to factor in. Then we come down to the tour helicopters which seems to be what is in that notes that was handed out, pretty much. As far as Molokai is concerned with the exception of absolute rescue and mandatory helicopters, I would just pass, in other words I would not be in favor, just random, any time flying of helicopters from a stand point of noise, to our delicate eco-system and just to the people that are annoyed by the noise. Unless there's some new technology where they're very, very quiet, otherwise, noise I think is a big impact plus the effect on the environment.

Mr. Ribao: Question, are we talking about fixed wing aircraft landing in Kalaupapa and running tours too?

Mr. Boteilho: I'm not certain on that. Not landing in Kalaupapa, well actually possibly. I don't know but I think it's more flying over. Which would also include landing again. But flying tours.

Mr. Ribao: I have to agree with him, besides the helicopters making noise and if they're going to land fixed wing aircraft in Kalaupapa, there's a danger factor there, that's not the best airport to be landing planes, that's just my concern.

Ms. Buchanan: I wish somebody from the FAA was here today. So what, what ever comments we have in this meeting, the minutes of this meeting is going to go to them as comments?

Mr. Boteilho: Yes what we'll do is take the transcript of this meeting with a cover letter sayings these are your comments.

Ms. Buchanan: O.K. than I have comments. The first comment is this would have been nice if I could have read it before today's meeting instead of sitting here and trying to read it now. I didn't have this in my packet and I was kind of wondering what in the world is this. It's my understanding is that the FAA is asking for the air space for air tours, yeah, I'll just come out and say no. No, no, no, no. No air tours on the North Shore. This is for the whole entire North Shore of the island. They're including the national parks because it's under the Department of Interior which is a federal agency. But, out of all these national parks that is listed and this is what was going to be my question today after reading this letter, out of all the national parks in Hawaii how many national parks have actual residents living and residing on a daily basis in the national park other than county, government, staff, paid, salary employee's other than Kalaupapa National Park? Kalaupapa National Park has residents living in the national park. On these other national parks I don't think they have anybody that's residing in there that's being paid to be there. I might be wrong, but I don't think so. So that is my first objection as to air space over Kalaupapa. How would you feel if you had a tour bus in your back yard, a helicopter landing in your back yard every day just because you live in a national historical park.

The second thing is, like I said, it's not going to open up, maybe future air tours or tourist in Kalaupapa, the air space for the entire North shore is going to be affected by this and anybody can spend the day in Halawa, when you think you're in such a pristine area and every half an hour you get one air tour coming through, zooming up the valley and zooming back down and flying around in circles, the whole ambiance is gone. I think more tours than the one daily tour at Kalaupapa would be damaging to the residents. I am personally associated with many of the residents there, at least 40 of them living day to day, I know they are in opposition of this usage of air space for air tours and I really appalled that the national park, which I think they in business to be a national park, would be asking this of Kalaupapa National Park. Although they are a separate county, Kalawao

County, they're still attached to the island of Molokai. I consider them a part of the island of Molokai. Anything that affects them affects me. I take anything that goes on in Kalaupapa personally, I am going to follow this closely, I promise the patients that I will inform them, follow them closely about this proposal or I'm just reading now that they're going to do an EA and that's why they taking this into consideration because we all know any time you do one EA you gotta do the adverse impacts or socio impacts or what ever is considered. And they have to consider Kalaupapa as being exempt under special conditions because of people actually living in the park, that's the bottom line. You cannot subject these people to any more outside intrusion that is already present by the daily tour and the one plane that comes down and comes back and the one freight plane, I can sit up on the ridge and watch the military doing touch and go, touch and go with their military helicopters all the time and they do it because number one, it's the Department of Interior so they can do it. Department of Interior has just recently shifted to under the Department of Security and all Native Indian issues are no longer under the Department of Defense. So all of this is recent changes within the federal government. Right now the residents are afraid, they see the national park as stepping up on a lot of up grades in the park and they're wondering why they're up grading everything and they working really hard to establish the historical sites in the settlement. The timing for this couldn't be worst because now they'll see it as the national parks wanting to start their tours. As soon as Father Damien becomes a Saint, that's going to be a big, big pull for anybody from Europe to come to Kalaupapa. So in defense of the residents there I am in opposition of this, I think they gotta take a good look at it in their EA and they better assess it well.

Mr. Feeter: Something comes to mind with what Lori says is in the past few years there's been some tragic, fatal accidents. In itself a loss of life is tragic and our heart goes out to the family involved with those people. But the clean up and the impact on the environment is pretty heavy. Thousands of dollars when the young man crashed his plane on the back side a year or so ago. Many of our young men in park service, conservancy people went in and helped, they didn't ask, they just did it. But it does have an over all impact with numerous fly overs, it's not wind but it's going to happen and we've seen that in the past few years, tragic as it is. If we don't have fly overs we won't have them. So, I think that's another thing to look at from the heart side. Who pays for somebody, typically an industry goes in and exploits an area, who pays for it? We do. I'm not in favor of that.

Mr. Vanderbilt: I've been involved in Kalaupapa a lot of years, I have the honor of being Santa Claus down there every year at the Christmas party. I've been involved heavily down there at a lot of meetings and the establishment of the Kalaupapa Ohana. I don't know if any of you saw the meeting at the State legislature about a month ago when the Kalaupapa residents went over but it's worth seeing if you haven't because they've had enough and they're speaking out now and they said we've suffered a lot in our lives and we want to live the last 10 or 20 years without a lot of hassles. So I think this FAA group is probably get an ear full when they go down. Charlotte just showed me on

that letter there's an attachment, there's going to be a meeting here at Kaunakakai School on March 27th and then they go to Kalaupapa on March 29th to have a meeting. I'm sure they're going to get some more input there. But to get to Kalaupapa, that's what happens, they come down the North Shore, they go up Halawa Valley and then they sweep up the cliff and come up over the Meyer Ranch, a lot of them do, so there's impacts all over Molokai, not just Kalaupapa and I hope the FAA looks at the whole island. Thank you.

Ms. Akutagawa: One comment with respect to Kalaupapa, I know there's a lot of cultural, historical sites there so any kind of impact that the helicopters could have on them could be detrimental. Just in say observing how these tours helicopters go, the kind of swoop down really low and get really close to whatever water fall or whatever they looking at. I know that crater, I forget the name, I heard the legend of that place, there's a, it's a legendary type of supernatural Hawaiian being from Hawaiian mythical legends and so I can kind of envision the helicopter going deep into that crater show tourist and that's culturally, totally unacceptable. So things like that because there are critical, historical, cultural sites there, I wouldn't want to see them impacted by the nuisance of these kind of tour helicopters and also to respect the residents to reiterate what Commissioner Buchanan stated about respecting the residents and their daily lives and not having that interrupted by tours. Anybody else want to make...

Ms. Buchanan: Malia it's just a caution that once you get the air space it's only easy to get the landing permit. We not stupid. One is going to go hand in hand with the next.

MOTION: THAT THE HELICOPTERS ONLY FLY FOR LIFE SAVING EFFORTS AND OR ENFORCEMENT PURPOSES

MOVED: COMMISSIONER BILL FEETER

SECOND: COMMISSIONER CHARLOTTE SEALES.

Mr. Boteilho: That would be an appropriate motion so if you vote on that we can note that in our letter.

Ms. Akutagawa: Any discussion?

Ms. Buchanan: I guess that would be a recommendation from the board. But I guess what the FAA is asking for specifically in this as far as the air tour management plan for the national parks. I guess we can make a recommendation, whatever, that we do not recommend any air, any type of air tour

management plan for the North Shore of Molokai period. Only if emergency and enforcement type air things or what ever be allowed. But that would be good, a recommendation from the board.

Ms. Akutagawa: Would you care to amend your motion?

Mr. Ribao: Can I make a comment first? Before you do that you gotta think about the helicopters, some people back there who live back there have to use helicopters to bring in lumber, material, for build them whatever, there's a family that lives out there, Nainoa, cannot be only to rescue and that kind of thing, it has to be worded as such.

Ms. Buchanan: I pretty familiar with the helicopter operations on the North Shore beside tour helicopters. Only one person lives in the back and that's Joyce and she's the primary person that stores fuel for Pacific Helicopters as much as Windward Helicopters. They store fuel there. Their primary functions for Windward and Pacific Helicopters is to do conservation work for Conservation Entities. Number one, national parks is working on a national air reserve areas which would be Olokui and Puali'i and they do frequent helicopter operations there because they building a fence line. So they hauling material up there on a weekly basis and they don't go through the settlement although they use the settlement because hello, they're national parks. So they going fly their stuff into what ever they like. But Pacific and Windward will stop if they have a flight between Maui and Honolulu or if they doing conservation type operations at Joyce Kanoa's house for refueling. That I definitely know they do. Other than that everybody else is just, Coast Guard, Military and air tours in Halawa and the North Shore from Maui. Not initiating, there's no tours that's initiating out of Molokai.

Mr. Vanderbilt: Why are we limited to the North Shore? How about Molokai? Bill was just mentioning that there are a lot of people where Bill lives and they have helicopters rolling down there all the time.

Ms. Buchanan: I like know how they got a permit to land in a residential area. I want to know how Doctor Corboy got his permit to land in a residential area as well as Gary Gallagher. I like know that. How they can do heli-ups from their house.

Mr. Vanderbilt: Is this focus on air tours right now?

Mr. Boteilho: Yes, in fact I would recommend that we, yeah because your recommendation would be much stronger.

Mr. Vanderbilt: Can we make a recommendation because its come up with the EC and the recreation

and tourism no helicopter air tours on Molokai including Kalaupapa.

Mr. Boteilho: That would be o.k. But I can see them ignoring the Molokai part because they seem to have only jurisdiction over Kalaupapa. They would say that the rest of the island is county or state issued.

Mr. Vanderbilt: Well let them come back and say that. Let's not assume what they're going to say.

Mr. Shimizu: I'd like to say something. We not on our subject matter. We talking about national park, we not talking about anything else. Number one if we talking about national park I think our biggest concern should be what the people of Kalaupapa think, do they want it, or they don't. I think we shouldn't be making decisions for them.

Ms. Buchanan: They only concern there is that you not only national parks now, you have Hawaiian Homestead lands and you have State lands as well as the national park lands all situated in Kalaupapa National Park. So, as a Native Hawaiian I do have an issue with Department of Hawaiian Home Lands because there's a list already of people who want to live there under Hawaiian Homestead Lands.

Mr. Shimizu: As far as I know when they make helipad they try to put the helipad as far away from the community as possible. But be safe for everybody if the helipad is way in the boonies.

Mr. Vanderbilt: I think the national park is looking because they know that air tours going to Kalaupapa impact the rest of Molokai also, because why would they have two meetings? They're having a meeting at Kaunakakai Elementary School on March 27 and then they're having a meeting down in Kalaupapa on March 29. So I think the FAA has got a lot of complaints from Molokai people and so I just think that they feel it's kind of hard to just go to Kalaupapa and not impact areas of Molokai. I would still like the commission to consider a motion that no helicopter tours on Molokai including Kalaupapa. If the Kalaupapa residents want tours, I guarantee you, buy anybody dinner that's not going to happen down there. But anyway that's the motion I would make.

Ms. Akutagawa: I think the proper procedure is that there has to be a withdrawing of the first motion and the making of another motion or consideration, amend the motion and vote on that and then we vote on the amended motion. I guess I would talk to the movement of the motion.

Mr. Ribao: Question, we still in discussion? I just want to make a comment. I agree with Nobuo, I think it rest on the Kalaupapa residents and she said there's about 40 people down there and the decision should be their's if they want to allow these helicopters to fly or not. For me, personally

I don't want it. I don't want tour helicopters in there or fixed wing crafts flying or even landing on Kalaupapa, but that's my opinion. I agree with Nobuo, it should be their choice.

Ms. Buchanan: Well I like the motion that Bill made because we gotta be specific to the applicant too. They just asking right now for national parks, but excuse me, how you going get to the national park if you no fly over the North Shore from Maui or from Honolulu from the West Side. But in order th get to the national park air space, but, I just want to mention for FAA people, if we going on record, shame on you guy's to put the public hearing on a Saturday night. Shame on you folks. It's very difficult, people don't want to go any place on a Saturday night because they work all week and to put a public hearing on a Saturday night I think on their part I think was on purpose. So I like Bill's thing, I like to be specific. It is up to the residents of Kalaupapa but as a resident of Kalae in less than two miles of Kalaupapa National Park I would be impacted also. I'm in favor of that motion but not on the suggestion of Molokai as a whole because it's not in question at this time.

Mr. Vanderbilt: Along the lines of respecting the Kalaupapa residents I think the Kalaupapa residents would like to know where topside people stand or is going to be where we're not going to say anything and they go down there than they're going to say we don't want to say anything. If we're going to help Kalaupapa, if they know the feelings of some of the commissioner's and I'm going to be at the Kalaupapa meeting so I don't know how we relay that word but they're very supportive of top side Molokai, the residents down there. Anyway I see no problem and we're not speaking for the residents of Kalaupapa but we can still mention or say we worry about the impact of helicopter tours on Molokai but what ever. I got my comments on the record I don't need a motion anyway.

Ms. Akutagawa: I forgot to open it up to public testimony. Before we make any vote, please, anyone in the public wishing to testify? At this time public testimony is closed.

What's the pleasure of the movement here?

Mr. Feeter: One last comment, it was said that the FAA should have been here and not being any kind of a pilot, if we think through this thing, if that could be a restricted flight area, I think that could be a possibility. The other possibility is that the FAA can tell us who could use a restricted flight area. We do need their input and they're not here. I would withdraw my motion but I still firmly believe what we don't want.

Ms. Akutagawa: Anybody want to make a motion or use the comments that we provided as a basis?

MOTION: THAT THIS COMMISSION OPPOSE AIR TOURS FOR KALAUPAPA NATIONAL PARK AND THAT'S MAINLY DUE TO THE MAIN POINT, LIVING RESIDENTS IN THE

PARK THAT WILL BE IMPACTED BY AIR TOURS. ALSO TO INCLUDE ANY ASSOCIATED PATHWAYS TO THAT PARK.

MOVED: COMMISSIONER LORI BUCHANAN

SECOND: COMMISSIONER BILL FEETER

IN FAVOR: COMMISSIONER'S LORI BUCHANAN, BILL FEETER, ROBERT RIBAO, CHARLOTTE SEALES, DEGRAY VANDERBILT AND MALIA AKUTAGAWA

OPPOSE: COMMISSIONER NOBUO SHIMIZU

MOTION CARRIED.

Mr. Boteilho: I have to apologize about that part about the meetings on Molokai. I would have noted that otherwise.

The meeting was reconvened at 2:47 p.m. after a short recess.

3. Bill 84 workshop regarding the General Plan and Community Plan Updates

Mr. Boteilho: Madam Chair thank you. I was gonna go into a brief explanation about how I'm going to conduct today's workshop and it ties in well to that Corp. Counsel not being here. There was no intent to insult the Molokai Planning Commission. What was going through my mind at the time was that I felt, actually we were not ready for a full blown workshop it was going to be scheduled at the next meeting at the same time as the orientation. But I felt that I wanted to come and give an over view, from my own perspective because I wrote a good portion of this bill. I wanted to give my perspective on what we're trying to achieve and point out the high points of what we did to achieve that. Also, I felt that a segmented kind of workshop, an introductory workshop now and a full workshop next time and maybe a follow up workshop would be the better way to go because some times you get too much information so I just wanted to get started, give you the over view and than also take questions. If there's questions we can be ready for them at the next meeting.

Bill 84, look at page one. I'm going to start with the purpose and intent. This I guess is the most important because this is what we're trying to achieve. It says, "The purpose and intent of this chapter is to establish an improved process to update the general and community plans. This chapter is designed to provide plans that clearly identify provisions that are meant to be policy guidelines and provisions that are intended to have the force and effect of law;" Early there were comments

about the Molokai Community Plan, that subdivisions are not following the plans. I would submit to you that they're advised about the community plans in the past were not written and followed, they were basically written guidelines. Certain times we wrote things as law in that we specified with TMK, this TMK shall do this and this and that is something that the other departments such as Public Works would look at and they would just follow because it was very specific. These policies in the plans, it's almost like if you keep on looking you can find any policy to justify anything. Subdivisions must have public review but you can probably find something to expedite the county processing. Also the next thing we're trying to achieve was to "implement and enforce the plans through prioritization and accountability". This is a major component of having the plans having the force and effect of law and I'll get more into that later. Also, this bill was intended to "empower the advisory committees". In the past the advisory committee's they really just met for a short period of time, like 60 days, and once they made the recommendations they were pau. They were not in existence any more. We felt they should have a longer term and I'll get into that also later. Also, "to place more emphasis on island wide and inter-regional issues". That again I saw as a problem. Planning should be inter-grated. Also, "to encourage more frequent updates of the plans and to establish deadlines for completion". I'll get more into that later. Finally one thing we're trying to achieve, "and to increase public and community participation in the planning process".

Moving on, if we go to page two, I'm not going to go over ever section because the intent was to give you the bill, you can look at it and we can have a more in-depth workshop next time. Since we're going over what we're trying to achieve, the purpose and intent, I'd like to point out some highlights in this bill that are really now and is not in the current planned update process. In fact the old planned update process is like three pages long. This one is like 20 or 18 pages long. There are a lot of provisions put in here that greatly improve the planning process.

Page two, section 2.80B.030 General Plan. If you go to B and let me read that. "All agencies shall comply with the general plan. Notwithstanding any other provisions, all community plans, zoning ordinances, subdivision ordinances, and administrative actions by agencies shall conform to the general plan". This is nothing new. This is in the current planned update process. What is new is the second sentence. "Preparation of County budgets and capital improvement programs shall implement the general plan to the extent practicable. The community plans authorized in this chapter are and shall be part of the general plan of the County, as provided by section 8-8.5 of the charter". What I'm saying is that for the first time the planned update process mandates that the county budgets and the capital improvement program must or shall implement the plans to the extent practicable. There are some other provisions that would seek to accomplish this.

Ms. Akutagawa: I wanted to add a comment to that Wayne. I think it's a critical distinction and as commissioner's once we implement this Bill 84 there has been court cases on whether the

community plan are part of the County General Plan. One of the things we look at for the triggers for environmental impact statements and environmental assessments is the Hawaii Revised Statutes, 343, one of the trigger's is if a certain action requires an amendment to the County General Plan and when we had that La'au Point discussion one of the things that John Min, the Director of the Planning Department was asking Corporation Counsel to do was to determine whether this planning commission had purview over the issue and whether an EIS was required. What I stated was if it calls for an amendment of the community plan than it's a trigger for an environmental impact statement and therefore an environmental impact statement or assessment must be done. Now that the planning commission has purview in reviewing environmental impact statements and assessments there is greater power on this commission on determining what kind of developments take place. When, that's why it's critical to understand the applicable rules that govern this planning commission, the applicable rules in the general plan and in our community plan so that this commission knows what its power and authorities are and can make wiser decisions based on that. I think this is a critical distinction because it's actually stating community plans are part of the County General Plan. So with respect to the environmental impact statements, you know that issue is that the commission has purview basically.

Mr. Boteilho: I would agree because this is another provision that is in the old update process. I'm not sure what Mr. Min was talking about, some how it separated. Anyway, if you look at C on page two, "The general plan and the community plan shall be internally consistent", this goes back to what I was saying about the past plans you could find anything to justify anything. However, now, you have to be internally consistent. You cannot have one implementation action such as subdivision must undergo public review and some other section that's inconsistent with that. I feel that this was a very powerful provision.

Mr. Vanderbilt: Wayne can I ask you a question on that? What do you mean by internally consistent? Howe does the community plan, if you read through this and the only reason I might have a few more questions is I had a copy of this for a week now only because I was over on Maui. But if you read the general plan used to be general now it's going to be very detailed and the community plan that comes up after that has to be consistent with that. So tell me what the difference in the community and the general plan will be if the community goes through and makes a detailed general plan and than the community plan has to be consistent with that, what can the community plan have in it that's different from the general plan? We're just duplicating the process.

Mr. Boteilho: No, well to answer your question. Over and over in this ordinance it says that any amendment to a general plan that directly affects the community plan you must process that concurrently. That's trying to get to the consistency and vise versa.

Mr. Vanderbilt: Let me ask, just right on that point, this planning commission said that there'll be no community plan changes for five years after the community plan is enacted. That was something that Danny Mateo supported, that was something that Charmaine Tavares suggested in the workshops for all of Maui County. Alright it stuck with Molokai and I went over and testified, provided written testimony that there was a problem in the bill in that the general plan can be changed right after it's enacted. So if you change the general plan right after it's enacted, but you can't change the community plan for five years how can you get consistency? What's the deal there? I thought they acted on the five years for the general plan too but for some reason they dropped it.

Mr. Boteilho: You know I think you're right. That may have been a loop hole. But the thinking was that from now on the general plan shall drive all the community plan amendments. The general plan right now will be much more developed, it would really be a very good plan comprehensive plan that will drive all the community plans.

Mr. Vanderbilt: What is the format of the general plan? As you get further in you'll see there's a Lanai General Plan Advisory with 13, a Molokai General Plan Advisory with 13 and a Maui General Plan Advisory with 25 people or something. Is the general plan going to have a section that deals with details for Molokai, a section for Lanai and a section for Maui?

Mr. Boteilho: I'm going to try and lead up to that. This bill just sets the process it really doesn't say what the plan would look like at the end. That's why we have the process. I really don't know and I haven't give that much thought.

Mr. Vanderbilt: Well this doesn't address the process at all.

Mr. Boteilho: What I'm trying to say is that this bill does not mandate that there be another, a separate section in the general plan. However, I envision that the planning department will do so especially if the general plan advisory committee's recommend that.

Mr. Vanderbilt: Let me ask just one simple question, if we have all these advisory committee's and they have 180 days to work and they might have three meeting a month each on Lanai, Molokai and Maui, are they all going to meet together some where, the Maui, Lanai and Molokai general plan advisory committee's? It doesn't talk about the process in this whole bill.

Mr. Boteilho: Again that's possible. There's certain details you have to leave to the future. That's possible. But I would say that the intent was....

Mr. Vanderbilt: The only reason I say this is because it was very clear in the old community plan

laws that said the community plan, the Molokai Citizen's Advisory will meet for 180 days and they can extend that time, they'll have meetings on Molokai and this doesn't say anything about that. It just says there'll be general plan advisory's and it says nothing about the meetings will be here, they will be combined meetings for Maui or what. So it's kind of hard to figure out, this is supposed to be an improvement.

Ms. Akutagawa: I think some of the commissioner's are really looking at this with a fine tooth comb and this is very good in that we can find out where we need to fix the leaks kind of thing. So I think the most productive way to handle this is to take some of the comments of the planning commission and go back to the County Council to say these are where the puka's are and where we could potentially run into trouble in the future. This internal consistency and issue, I think this is something valid to bring before the Council in your position as the Planning Department Deputy Director, Wayne.

Mr. Boteilho: Yeah we will go through the process of the workshops and perhaps we can vote on some recommendations and than we'll send them to the Council.

Ms. Akutagawa: O.K. thank you.

Mr. Vanderbilt: Commissioner Akutagawa I think from one of the staff people with the council, they said this leaves a lot of stop open about how the process will actually work. I don't know who decides finally whether it's the Planning Director because maybe this planning commission could say that in the general plan we want our own space, we want meetings on Molokai and suggest that these tell how the process should work for the benefit of Molokai.

Ms. Akutagawa: Can we approach this in the terms of, for example, when we look at the State process, legislation comes down and than from the legislative branch and than the governor's executive branch provides the implementation by the appropriate agency and they come up with admin rules. So can we look at this county general plan and Bill 84 as kind of the skeleton and template for us to form more specific rules on when we meet, how often we meet, what our order of business is supposed to be, is that the intent here, Wayne?

Mr. Boteilho: Yes we hold the workshop normally to inform you of what's in the bill but to get input.

Ms. Akutagawa: It will be, by the pleasure of this commission, to refine its own rules in consistency with Bill 84 and the county general plan. The planning commission has that flexibility determining what, how it would like to implement the various sections in this bill, correct?

Mr. Boteilho: That's possible for the nebula things about such as the meetings have to be on Molokai. Pardon me I didn't, I didn't realize you were talking about rules.

Ms. Akutagawa: I guess what I'm trying to say is that we're getting into the real nitty gritty, if A than B, so, can you guys handle the A and we handle the B in terms of hammering out the details on how we want to conduct it here on Molokai?

Mr. Boteilho: We'll try our best.

Mr. Vanderbilt: Wayne the only concern I have is we have a Molokai Community Plan, let's say that's all about Molokai but that has to be consistent with the general plan that is put together by 25 guys on Maui, 13 guys on Lanai and 13 guys on Molokai. So Molokai has got only 13 and the other two islands have 38 yet our community plan has to be consistent with the document that these guys put together. So, it's hard for me to see what this whole internally consistency means, what the extent of that consistency is, does that mean it has to be similar, does it have to be exactly alike? Can it have certain things that the general plan doesn't and that doesn't really spell out too much I think in the document. Maybe have some kind of chart on how the process might build, it could be easier to understand because it's really tough once you read through this thing to comprehend because it doesn't explain how the process is going to work.

Mr. Boteilho: O.K. why don't we take that up next time. Moving on to page three, direct your attention to a third down the page, that number one, all I'm trying to do is point out that these are things that are not required in the past general plans, island wide land use strategies for Lanai, Maui and Molokai. Vision statement, Managed directed growth...

Ms. Akutagawa: So this bill has already been approved?

Mr. Boteilho: It is law.

Ms. Akutagawa: So when you giving us this workshop we really cannot provide much comments for changes anyway, right?

Mr. Boteilho: You could provide comments to changes and for the council to consider.

Mr. Vanderbilt: I think where it would be helpful for the community is to understand the process so that the community can gear up for the process. Right now it's not very clear and they left it open and I don't know who makes the final call. But on this page three where you are now it says the island wide land use strategies for Lanai, Maui and Molokai and the general plan and each of those

will include a vision statement an action plan so it does sound like there'll be separate sections for each island within the general plan. But when you ask, but it doesn't really state that.

Mr. Boteilho: I guess the most straight answer I can say is that it would be up to the General Plan Advisory Committee and the public on what they want to see. If they say we want our own section, than that would be the recommendation.

Mr. Feeter: Comment, on page 19 under Molokai, well it's, first of all I just want to make comment. Chairperson's already said that this is into law signed by the Mayor and the court. Back to 19, it says here that the existing runway needs to be extended. I'm sorry, discourage, I apologize, I read it wrong.

Mr. Vanderbilt: Bill that's the existing general plan that was attached to Bill 84.

Mr. Feeter: This is history than.

Mr. Vanderbilt: This is the current general plan that's going to be revised through this process. They just attached the old general plan to the Bill.

Mr. Feeter: Oh well than, ekalamai.

Mr. Boteilho: Madam Chair if there's no objections from the commission, maybe I think we'll go through all my highlights and than....

Ms. Akutagawa: This is kind of dragging on and you could have given us another workshop anyway. Just give us, without even looking at this thing just give us an over view of what this bill was basically.

Mr. Vanderbilt: Chairman Akutagawa just let me ask one question of page three, right in the middle of number 1.b, it says "for the island of Maui, the managed and directed growth plan shall include a map that delineates urban and rural growth areas." Why wouldn't there be a map for Molokai and Lanai?

Mr. Boteilho: At the time it was felt that Maui was the most developed island and was the island that needed such boundaries for growth management.

Mr. Vanderbilt: If we don't get some growth management now we'll end up like Maui, and we'll say oh, now we need growth management so why don't we put it on now?

Mr. Boteilho: Again the General Plan Advisory Committee said we recommend rural growth boundaries, that'll go a long way.

Madam Chair I'll give you, what I was trying achieve, but I think it's better that I look at this. O.K. if we go to, if we go to page four, about half way down the page you'll see C, implementation schedule. Again this is very important. "The implementation schedule shall identify and numerically prioritize specific actions, the implementation actions commencement and completion dates, the lead implementation agency or person, the estimated implementation, cost and the anticipated funding, source or sources." So this is much more comprehensive than what is in there now.

Mr. Vanderbilt: Just one quick one right here. If we all turn to page 10 under the community plan, bottom of page 10, it says implementation schedule and has the identical words, it has these identical words, so we have the General Plan Advisory Committee that's going to set something that the community plan has to be consistent with, so why does the Community Plan Advisory guys do? They can't have a different implementation schedule that was already approved by the general plan so they just say o.k., we'll just go with what the general plan guys say.

Mr. Boteilho: The intent here was to, when you look at the plans, again, instead of finding anything to justify something, you can look at the plan and say this is the number one priority, this is what we should work towards first. Both in the general plan and in the community plan. Again I gotta stress, a major tenant of this bill of this order is that there needs to be concurrent changes to the general plan and the community plan so that they can be consistent. We don't want the other way around, that the general plan is not consistent.

Mr. Vanderbilt: Let me say just one more thing, here's the 1984 Molokai Community Plan, implementation matrix, who's responsible, it's going to happen in the first five years, the next five years and the next 10 years and it goes through everything in the plan. As Ronny Kimball said when we were doing our current community plan he could find only two out of a 100 that were implemented in 1984 and if you look at the implementation schedule on our current community plan it's probably the same thing. So why are people going to implement things now when they didn't do it when the community went through all the work before this? You're saying the same thing.

Mr. Boteilho: Because I stress the word, numerical prioritize. For the first time we're going to have this is number one, this is number two, this is number 10. In the past you didn't have that.

Mr. Vanderbilt: Well they didn't do any of them.

Mr. Boteilho: Let me go to page five. On page five these are the hands down, the most important provision in this whole ordinance. This is what makes us achieve what we are trying to achieve and I'm going to go to F, status report. "Each agency shall prepare a status report on its implementation and enforcement of the general plan, which shall be transmitted to the director of planning at the same time the agency submits the third-quarter budget implementation report pursuant to section 3.04.050 of this code." So for the first time you cannot just ignore this implementation action you gotta report annually what you have done.

Mr. Vanderbilt: What if you don't, what's the penalty? If you look at the Paia/Haiku Community Plan it has that exact same word age in it and the county official ignored it. You got it here but there's no penalty, you're either too busy or under staffed, so aloha. We're just talking about what we experienced before and you guys are so short handed and everything.

Mr. Boteilho: Well one they would be in violation, two, the Mayor would start asking why and so would the council. But let me read the second part. "The director of planning shall also contact persons outside the county government for status reports on appropriately assigned implementation actions. The director of planning shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the mayor and the council." Now not only they go to the Mayor and council, as I noted earlier, the implementation statuses must be considered as part of the budget. So if you do not comply than the council will see you budget time. But anyway that's some of the incentives if not penalty.

Mr. Vanderbilt: Do you think it would be, they would also send a copy of the implementation since the community and the commission has been such an integral part of this that not only the Mayor and the council get it but the planning commission get a copy of that too.

Mr. Boteilho: Yes we intend to. Through the process we fully intend to do certain things.

Mr. Vanderbilt: So hopefully we can make recommendations to fill in the gaps to bring the commission more in the loop on this.

Mr. Boteilho: In fact what I want to do in the future is put it on the internet. So that everybody can see. But anyway to me this is the most important thing. No longer will the planners go, we have this plan throw it on the shelf, who cares. The department's now are going to be mandated to implement these plans and if they don't they have to explain why. To me this is the biggest thing in this whole ordinance.

On page 6 I'd like to go to number three. I just wanted to note, " the Molokai general plan advisory

committee shall be composed of thirteen members, nine appointed by the council and four appointed by the Mayor.” Why does Maui more like 25? Because they have 6 community plans this year.

Mr. Vanderbilt: But that shouldn't be a problem if they're just dealing with them. But if we could combine and everybody's voting on everything it's a lot different. But if we're dealing with our own section it doesn't matter if they had 100. How about C there? “The director of planning shall be responsible for providing staff to support the work of the general plan advisory committee?”

Mr. Boteilho: I have no idea on how they're going to do that.

Mr. Vanderbilt: In our previous plan our CAC really got involved for 200 days, they were having three meetings a month on the island. If you get three meetings a month on Molokai, Lanai and on Maui it's going to be tough. Unless you start that 180 day period at different times with the different islands.

Mr. Boteilho: Let me address that thing about staff little bit. The thing about lack of staff to me, that's not an excuse. To me my judgement that's a valid problem and that is the problem that I am working hard to solve. This year, this fiscal year we got 8 new people in the planning department. 21% growth and more people than the last 5 years combined. So I'm not just talking lack of staff I'm working to solve the problem and I'll be working to solve this problem also.

Ms. Akutagawa: One of those 8 people going be on Molokai yeah?

Mr. Boteilho: I would agree with that and if we have enough, yeah. Like I always said we need 20 more planners and one would be on Molokai.

I'd like to move on to page 6. Towards the bottom (b) non-decennial amendments to the general plan enacted pursuant to section 2.80B.050 may be proposed by a person, which is basically anybody, corporation, what ever, during July of each year provided that such amendment shall not be accepted within and the county changed it, from three years to one year. Again I was looking at this if it had been left for three years than the issue of Molokai's 5 year limit wouldn't have been as...

Mr. Vanderbilt: The big development companies on Maui put the pressure and the last meeting, second reading before the council, for Maui, they thought three years was too long so they knocked it down to one year and than they took out Molokai's 5 years that was on the table for putting it in on the general plan too. When we get to the community plan it says the community plan can be revised on Maui and Lanai every year but on Molokai not for 5 years and than you have that gap between the general and the community.

Mr. Boteilho: I guess we would need corp. counsel opinion on this. But also on that section it says, nothing in this section shall prevent the concurrent processing of general plan and community plan amendments. So that alone I think you would have to amend the Molokai community plan even if you have 5 years.

Mr. Vanderbilt: 5 years doesn't mean anything for Molokai. We got sand bagged by Maui again at the last meeting.

Mr. Boteilho: It would mean if, it does have meaning if the community plan amendment does not directly trigger an amendment to the general plan than they gotta wait 5 years. For example let's say a designation change from single family to open space, and it doesn't trigger, that is not inconsistent with the general plan for some reason than they have to wait 5.

Mr. Vanderbilt: So you're saying that the designations, there's one difference than. The general plan will not have designations. Those will only be a community plan.

Mr. Boteilho: Yes.

Mr. Vanderbilt: O.K.

Mr. Boteilho: Page 8. This is the section that I was talking about, D on the top. Unfortunately it's there, nothing in this section shall prevent concurrent processing of other actions related to a proposed amendment. Where an amendment to the general plan directly triggers an amendment to a community plan, such matters shall be processed concurrently.

Mr. Vanderbilt: What would be an example of a general plan amendment that would trigger a community plan amendment?

Mr. Boteilho: O.K. let's say the general plan had an urban growth boundary like for Molokai and somebody wanted to change their land use designation outside of that boundary to make urban than you would also have to amend the general plan to change the urban growth boundary.

Mr. Vanderbilt: From what you just read, concurrent processing, what change in the general plan would trigger the need to have concurrent processing and change the community plan? Say the first year after the general plan came on somebody made a change, what type of change would mean that we would have to give up that 5 year window on the community plan and concurrently change the community plan?

Mr. Boteilho: I can't really give a good example right now but it would depend on what's in the general plan.

Mr. Vanderbilt: I guess that's where the process is really left open and I'm wondering does this commission help guide the planning director on how Molokai might want to see the process or is the planning director is just going to decide on his own?

Mr. Boteilho: Just briefly what the process is, the planning department comes up with the first draft of the general plan. Then it goes to the general plan advisory committee. They have like 180 days, 6 months longer than before to come up with their recommendations. After that, once the planning director gets that recommendation he has 30 days to put it on the planning commission agenda and then the planning commission has 180 days to recommend to the council.

Mr. Vanderbilt: With regard to that 180 days, it says no later than 180 days after the planning commission holds its first public hearing meeting. Now if we need more time can that...if the planning commission needs more time it says they can go to the council like the CAC did and extend that time period by resolution, right? We have 180 days to look at it unless the council extends that period.

Mr. Boteilho: Yes also you could defer holding the first public hearing.

Mr. Vanderbilt: I think the council was meaningful because the community was working hard, they weren't lagging, they were doing three meetings a month and needed more time and the council granted the extension.

Mr. Boteilho: It says here on the top, the council by resolution may extend the time.

Page 8, starting of the community plans, it's basically the same process as the general plan. Unless I have a note here I am done. That's it Madam Chair.

Mr. Vanderbilt: When would the Molokai community plan get taken up? We were sort of near the end the last time, do we get to be first this time? Or are they going to go on the same order and make us last again? On page 8 it says the following community plans and list the dates that they were done.

Mr. Boteilho: Hang on. On the interest of time I'm going to have to get back on that. There was a provision in there that said the plans shall be updated in the order that they were adopted so Molokai would be last again. But I'll see, may be it was taken out.

Mr. Vanderbilt: So what happens than? We have this general plan in a year, it's done. Our community plan has to be consistent with the general plan but we're still on our existing community plan which isn't going to be consistent with the general plan, what happens to our current community plan until we come up for review? Is it just a non-document?

Mr. Boteilho: No it's not a non-document but it would have to be adhere to as much as possible. Including adhering to the general plan. It's unfortunate there's going to be that lag time.

Ms. Akutagawa: Can we move on? Thank you Wayne. Next is chairperson's report.

D. CHAIRPERSON'S REPORT

Ms. Akutagawa: I know earlier it was mentioned of Corporation Counsel wasn't available today. I think Wayne we need to make that mandatory, just to protect the commissioner's because if there's any entity in the public that wishes to challenge a commissioner, the planning commission's actions this could be a serious, this could become very serious if no council has been provided. So we just need to make that a policy that every meeting corporation counsel comes even though the agenda looks benign, just to cover our okole's yeah?

Mr. Boteilho: In fact again I was just, I had decided perhaps wrongly, but what was going through my mind at that time.

Ms. Akutagawa: It's just my understanding of (inaudible). If us acting in official capacity if we're held liable for our actions verses if we act outside of the scope of our professional duties and that line can potentially be crossed when there is no council to referee the actions of the planning commissioner's. So just to protect the commissioners we need to have corporation counsel.

I don't really have anything else on my report just to thank this planning commission for all its hard work. It has been a pleasure and an honor working with you all and I seen this commission grow tremendously, over my tenure here and it's very heartening to me, I feel very proud and this commission always does its homework and ask the critical questions and give staff hell and all that but we run a tight ship and this is our obligation to the community in terms of accountability and I'm very proud of each individual commissioner on this planning commission and I think your guys will continue to do wonderful work. I also want to thank the staff. Sometimes we butt heads but I see how you guys work tremendously hard though there's some areas that we need working on. I feel it has been such a pleasure working with you guys as well so thank you.

Mr. Boteilho: Thank you too Madam Chair.

Ms. Buchanan: Thank you very much Malia, you're going to be very sorely missed, you have no idea.

Ms. Akutagawa: Thank you Lori.

E. DIRECTOR'S REPORT

1. Update on The Neighborhood Store land use permit transfers
2. Community Input
3. List of SMAs over the past year
4. Update on Halawa Valley

Mr. Boteilho: Thank you Madam Chair. The first item up is the update on the Neighborhood Store land use permit transfers, that has just been sent to the county council. In fact I just passed out a letter dated March 16, 2004 which was the transmittal letter. At the last meeting it was requested what was the status on this matter, had it reached the council yet.

Mr. Vanderbilt: It has reached the council?

Mr. Boteilho: Yeah it was transmitted to the council recently, March 22.

Mr. Vanderbilt: You give us a lot of letters and everything but wouldn't it be good in case somebody wanted to testify if we got a copy of what went to council? Along with everything else? I mean what did they recommend?

Mr. Boteilho: They recommended what the commission voted. We could not put anything... I think that maybe the duplicate file, which we're going to start next week, in fact Nina's going to come over twice.

Community Input. In talking to corp. counsel they said that would be permissible under the Sunshine Law but they recommended that we try to post as much topics as possible. We don't want to have this nebulars thing, you're trying to give the public as much notice what you're going to talk about as possible. So, I'm going to recommend to my director, this is a little above me, I gotta get it past my director but I'm going to...

Mr. Vanderbilt: Wait a minute, you mean your director can tell us what we can put on our agenda?

Mr. Boteilho: Yes.

Mr. Vanderbilt: Where does he have that authority?

Mr. Boteilho: Under the charter the Molokai Planning Commission is a part of the planning department and the reason that you're here in a sentence is because for us to get input, public, citizen input on our planning projects you folks will see things that we as planners won't. That's basically it. Now, Mike and I, we realize that you folks are also placed in a position of community leadership and so that's why I'm saying, I'm going to recommend that we have that community input item on. But basically the planning director sets the agenda.

Ms. Akutagawa: I think one of the things that was not on the agenda prior was the Chairperson's report and I think how we resolved that issues was that anything that I supply in my report though it's not formally noticed, that those items will not be items that the commission takes action on at that time. So if it is foreseeable, for example a community person comes in and says I'm concerned about such and such issue can that be put on the agenda, the commission at this time will not take action on the item that is brought up by the community person, but at least the commission is kept abreast of what issues are out there and should be placed on the next agenda. So if you can convey that to the planning director, I think this is something that would be very valuable for our planning commission.

Mr. Boteilho: The intent was not to limit testimony, of course somebody shows up for community input we're going to let them testify. The intent was just to be as safe as possible and provide as much public notice. It's going to be general categories.

Mr. Vanderbilt: General categories? Why not leave it community input and just put an explanation. Anybody can come and there will be no action taken on any input but you can come and talk about a planning issue or an enforcement issue or to find out if the planning commission can help you out with a problem and leave it open. Then people start coming in and get two minutes or three minutes, you're not going to get a lot of people doing it but somebody might have a concern and they know the only real authority on this island with any legal power is the planning commission so they can be very helpful on enforcement issues, planning issues or just other things that come up that may or may not be part of the planning commission's per view.

Ms. Akutagawa: That way you're very clear about not over stepping Sunshine Law issues. I'm hearing you, you want to make sure it's not in violation of the Sunshine Law so what is being proposed now is suggestions to the planning director on how we can be well within the Sunshine Law.

Mr. Boteilho: There's a practical aspect to this too that I was going to bring up later but I wanted to

keep this to like planning department issues, land use, community plan, SMA, zoning enforcement, again general categories. Just about anything in planning department you could come and testify. Because we shouldn't be having people coming and saying you know my water bill is wrong.

Mr. Vanderbilt: Why not? I mean we can say that's not our jurisdiction, thank you. Why don't you just give it a chance? What's the difference between the Chairperson's report? There's nothing listed under there. Anything that comes up we talk about. But the public doesn't know what we're going to talk about.

Mr. Boteilho: Because the community input section would be basically inviting people to come and testify. If they say, I was not notified that you guys were going to talk about land use issues, and the thing about the water bill, I mean...

Mr. Vanderbilt: Let's go back to the Chairperson's report, if we talk about something here it says Chairpersons report but it always says that and then something comes up about a letter or something and we talk about it. We've not got any complaints from anybody that they didn't know it was going to be talked about at that meeting.

Mr. Boteilho: Well o.k. let's say it this way. I'll discuss with corp. counsel more and that's basically the advice that I have. But let's end on a good note. I'm in favor of putting this community input on and it will be on what ever forum.

Mr. Vanderbilt: If it gets out of hand we just change it.

Mr. Boteilho: Maybe. Let me talk about this, I was just trying to explain what my thinking was. I haven't made my mind up yet.

Ms. Akutagawa: I believe this can be resolved with appropriate specificity when you draft the agendas and community input should be limited to issues referred to SMA, special use permit, conditional use permit type related matters. So within the Sunshine Law, we try to tailor the community input to the salient issues that are within this commission's per view to rule on and at the same time we can have community input. So let's look at this in a solution oriented way, win/win situation.

Mr. Vanderbilt: Can I just add something to that? Let's make it not intimidating. You can testify on SMA, TMK, you can testify on anything you think might be a planning issue or an enforcement issue or any other thing that you might think the planning commission can help you out with.

Mr. Boteilho: What I'm thinking of saying is community input on planning issues and maybe put in parentheses, SMA's or what ever. Just on that stuff, it's bothering me. The thing about a water bill, if somebody comes and says my water bill is wrong you folks have to solve it, it might be disappointing to tell you really gotta contact water supply. That's just my comment.

Mr. Vanderbilt: But on the other hand he might say, gosh, thank you for telling me where to take this and it gets resolved. Look at the positive side.

Ms. Akutagawa: Let's treat this as a pilot project, let's test it out and let's not get into the slippery slope arguments and let's test it out.

Mr. Boteilho: Next is the list of SMAs over the last year and that was provided, it was in your packets. I guess it's titled, planning department completed projects by TMK report for projects completed between 3/15/2000 and 3/125/2004 does not include permit types and letters. I look at this and I say typical to read, going to have to work on that. But the intent going on here is if we could do it through our computer system and this is the best that we can do. Not only is it difficult to read but I think some of the projects might be out dated. For example there's two projects listed under Maria and she's not even working for us any more. But this is something I wanted to show that at least we can do something at this point. At last meeting I mentioned that well if we gotta do it manually it might take a long time.

Mr. Vanderbilt: I wanted to say something. You know you have all these smx's and sm5's, it would be nice to have a little legend down there as to what all those things mean.

Mr. Boteilho: I would agree. Update on Halawa Valley. This is kind of a sticky one. At the last meeting it was requested that we look into ordering the applicant's to cease and desist now. Just to say it straight out, I am not prepared to go down that road. I realize that the county policy has been that if you have an application pending we're not going to tell you cease and desist. I realize that, the policy has been there for so long that yeah it doesn't become law it doesn't change the law but it becomes so entrenched and so wide spread that you get into this thing about, well if I gotta do it than why not all the other 500 people and I'm just not prepared to do that at this time. I can say however that we have received all the agency comments on the SMA assessment. So we're close enough.

Mr. Vanderbilt: Will the planning commission give a copy of the SMA assessment? I mean we're in the loop and than you take us out of the loop and people are asking us what the status is and there might be some comments in there from these off island agencies that we might see are off base, it happened before.

Mr. Boteilho: We can do that.

Ms. Buchanan: Wayne I still like know how you guys can permit anybody to operate in conservation in a conservation district.

Mr. Boteilho: Actually its kind of the other way around. The state has jurisdiction within a conservation district. What the planning commission is involved in is in the SMA. Luckily the conservation district is not exempt from SMA. If it were than we absolutely could not do anything.

Mr. Vanderbilt: So do they have a conservation district use permit?

Mr. Boteilho: I don't know. I know that this was, this has been going on for years. This issue has been debated for years with the state, DLNR.

Ms. Buchanan: How many complaints does the planning department have to do before they don't develop an attitude that you going ask to cease and desist? How many actual complaints are filed with the Molokai Police Department does the planning department have to do before they enforce?

Mr. Boteilho: Well our process right now is that when we receive complaints and we inspect and there's violation than we tell the violator that you must apply for a permit which will be done in this case.

Ms. Buchanan: So they already done that so they in the permitting process but in the mean time they still carrying out operations and in the mean time you still getting intimidating reports from the tour operators. That's not good faith and that should be all compiled into the permitting process. Whether the person who is asking for the issue to be, for the permits to be issued to them are acting in good faith. If they still intimidating people, tourist or who ever it might be into paying for tours into the valley, wouldn't that figure into whether you want to give this kind of people a permit or not?

Mr. Boteilho: I'm not sure because, well yes first of all. The intimidation part is almost like a police, but the reason I'm not sure is because we have land use criteria that we have to follow and if they meet that criteria we have to process.

Ms. Akutagawa: O.K. this sounds like passing the buck and unwillingness to enforce. But I think maybe the best thing to do right now is to formally request that corporation counsel provide an opinion on this issue in terms of enforcement authority for planning department, for non compliance, whether a cease or desist order is required when an individual not in compliance and not until they

receive a permit can they continue their operations because this is looking like a pattern and practice without any sort of legal justification and I would like to get an official legal opinion on this.

Mr. Boteilho: I just want to note that this is like wide spread.

Ms. Akutagawa: It is wide spread Wayne but it doesn't justify the continued lack of days ago attitude. When I was litigating the Hokulia case in Kona, the third circuit judge was very clear with the county and the state despite this long standing pattern and practice of allowing non-compliance, that it was in fact legally justifiable. They got their okole's kicked because of that and I don't want to see this Maui County acting in the same kind of manner because there is no legal justification or precedence for this. So I would formally request that corporation counsel submit a legal opinion on this issue.

Mr. Vanderbilt: I think Wayne that's the problem, it's helter skelter on Maui because people just set up tour company's. They don't care, they don't go for any permits and nobody enforces. I have a letter I'm going to give you that I had to write down because they wouldn't give me the letter but it was on the letter head of the Halawa Valley Waterfall and Mana Heiau Tours. Have you heard that name?

Mr. Boteilho: No.

Mr. Vanderbilt: All right it's from a couple that just moved here from the Big Island and it's to the judge of the circuit court. We write to you this letter today to tell you what life is like now. The crimes we are about to be sentenced for almost three years old, blah, blah, blah. They say how they changed their lives and we saw how our life was heading and we took it upon ourselves to move from the Big Island to Molokai on one of our family's land in Halawa. This is relatively drug free environment, if there is drugs here we don't have any contact with them, blah, blah, blah. And it says we are now, we run a small start up company in a business of showing people the beauty and sacredness of Halawa Valley and we're also in the start up business in opening a food bank in Halawa Valley. Sincerely Robert Tinao and Gloria Magdum. So here's another one going. These aren't even local residents. These are just somebody that moved in. It's just like all the realtors are coming over here to sell property from Molokai. All the tour operators and you guys gotta stand up and do something about it. You can't just ignore it and say that's the way it is on Maui. It doesn't have to be that way on Molokai.

Mr. Boteilho: To me these solutions can be a phase in approach and say cease and desist, everybody, now.

Ms. Buchanan: Why not when I was building my house they came stick one red sticker and said stop it right now you no more one permit and give me \$700. They did it to me.

Mr. Vanderbilt: If you don't they keep on doing it.

Ms. Akutagawa: It's like the whole after-the-fact permit situation. This is not just confined to Halawa. It has to do with Bed and Breakfast, all these things taking place without permits. This is a critical issue that should be analyzed by corporation counsel. This is too much already.

Mr. Boteilho: I'll talk to corporation counsel. I'll seriously take into consideration about these threats of harm.

Ms. Akutagawa: Another thing I forgot to add in my Chairpersons report, this is based on this federal aviation administration comment thing we have to make, since it was brought to our attention that helicopter tours are taken placed in Halawa and other areas of Molokai, I'd like for some kind of investigation to be done on what helicopter tours are taking place on Molokai and that they be notified of permitting issues. Permitting requirements.

Ms. Buchanan: I just wanted to point out something really funny. I pointed out to the FAA of illegal helicopter landing in the Molokai baseball park and I found out that there's no rules or regulations of where and when you can land your helicopter and this is from the FAA themselves, the investigation bureau. You can land your helicopter any where you damn well please as long as you do it safely. You are not in any kind of harm of any residents or any type of structures, that's what they told me personally. I was kind of appalled when I found out because I took the tail number down and had kids playing the field and everything and they did nothing. There is no law. You can land any place you like.

Ms. Akutagawa: Kind of related to that I know that there's certain, one of the EIS triggers is the putting up of a helipad. Anyone wishing to make a helipad they have to do an EIS. I don't know if this Gallagher guy did one but if you can also look into that.

Mr. Boteilho: His name is Gary Galligher and he lives on Molokai?

Ms. Akutagawa: He's in an ahaino on the east side.

Mr. Vanderbilt: Can I suggest something be put on the next agenda which is very prescient and it has to do with what Commissioner Buchanan and others talked about in our community plan. Apparently I found out when I was in Maui that there are subdivisions going through on the West

End for these existing agricultural lots that were sold and now the values are going up so people are coming in and resubdividing them and it looks like the county, they've been going through for 6 months now and the county was about to approve them all and there was one that the planning department had said that they wouldn't, you can't have a subdivision where there's any documents that restrict agricultural use on the lots. The owner of the lot told the county that there are no documents restricting ag on those lots. Well the CC&R for that Papohaku Ranch lands said that no water shall be used for the irrigation of crops or the raising of livestock on a commercial basis and that comes right out of the ag law and I got a letter from the landowner to the county saying, it says there are no restrictions of any private agreement contained in any lease deed, agreement of sale, or other conveyance. So when I bought this up to the planning department, the zoning enforcement, they said oh, we didn't know that because the guy told us there wasn't any. I said well you're going to approve these and they're going to be coming in fast and furious and that's going to put more impact on the water and the planning and everything else.

Ms. Akutagawa: So this is the Papohaku Ranch lands, resubdivision?

Mr. Vanderbilt: I was hoping maybe it could be put on the next agenda so we could understand because it gets back to where we asked to be notified when subdivisions come in because we have some local knowledge that these guys over in Maui they get so busy they don't really look, they don't do their homework. So now I think what they're going to do, but I don't know because this is a very powerful guy with a lot of bucks, he's the vice-president of Intell Corporation, he stands to make a lot of money if he can get this subdivision on this beach front lots. But I think they're going to maybe tell him that we can't give you subdivision approval till you go back and get an amendment to those CC&R's taken the restriction of ag off of there. But I'm not sure. But it's really going to throw a kink into everything if these guys can continue to do all this stuff.

Ms. Akutagawa: So convey to Wayne too on who is the actual owner.

Mr. Vanderbilt: Well the actual owner it was, it had to do with tax map key: 5-1-006:075, it was Papohaku Ranch Land subdivision and the owners are Steve and Laura Knottman from Oregon.

Ms. Akutagawa: For the meeting packet also include the recent Hokulia decision on ag land because this is actually very appropriate because that involves CC&R's that put restrictions on ag use and that was ruled by the court as invalid. Include that opinion.

Mr. Boteilho: The only comment I had was that the next meeting was supposed to be for the workshops, the orientation workshops. We'll put this on but we'd like to do the workshop first.

Mr. Vanderbilt: This has been processed for 6 months, its gone through all the county departments, everybody signed off but planning and the guy was ready to sign off, if I hadn't had just happen to see this when I was over there and walked into his office and he said the owner's been calling everyday to try and get it approved.

Ms. Akutagawa: Maybe make the orientation on the following, this sounds like a critical issue. Make the orientation on the following meeting, after the next one.

Mr. Boteilho: Maybe put it on but make it first. Again I think workshops should be like several.

Ms. Akutagawa: Anything else Wayne?

Mr. Boteilho: Madam Chair I just wanted to say that on behalf of the planning department we'd like to thank you for your service to the County of Maui.

Ms. Akutagawa: Thank you Wayne.

Mr. Boteilho: Personally I enjoyed working with you too.

Ms. Akutagawa: I enjoyed working with you too Wayne, I'm going to miss this commission and working with you folks.

Mr. Boteilho: But on a happier note I'll see you tomorrow.

Mr. Vanderbilt: Madam Chair I had requested Wayne when I was over the planning department, I just jokedly said to Suzie Esmeralda, she's our staff person on Maui and I asked if she was coming to the farewell dinner and she said she'd like to but didn't think she could. I said I'm not taking anybody, you can go with me, so I asked Wayne if he could look into it because there's three commissioner's not coming and give her a little recognition for the hard work she's done because they put in a lot of hours over there and tell Mr. Foley to spring for a dinner and an airplane ticket if he can or I'm not going to give you a ride to the dinner.

Mr. Boteilho: I was going to ask Mr. Foley but Madam Chair I have to object to these personal things being brought into the Molokai Planning Commission.

Ms. Akutagawa: I might bring a different guest because she wants to watch the zombie movie, she said so long as she can leave at 7 and I told her we was going eat at 6. But that's o.k. I can find a different date.

Mr. Vanderbilt: Madam Chair I'm going to leave this Halawa Valley letter with you Wayne?

Ms. Buchanan: I'm sorry Wayne it's just that because I work in the Nature Conservancy Office I get guys right off the boat from New Jersey and they've been here one day and they already coming into my office and they tell me where can we can hike and I say well you can go down to Halawa and they go we heard that you cannot go there, we heard it's restricted. They've been here one day and I hear every week Wayne, every single week. Every time the same thing, we heard you cannot just go on your own and we don't want to pay for a tour. So I tell them to say Lori Buchanan from Nature Conservancy said you can go and if they have a problem call me up. Call me if you have a problem with going up that trail and somebody telling you not to go. So, I get personally offended because it's affecting the perspective of the island and that's the only reason why Halawa is a bad issue.

Mr. Boteilho: I don't take anything personally, I worked for the county council for 14 years and I'm well trained in pressure.

F. ANNOUNCEMENTS

G. NEXT REGULAR MEETING DATE: April 14, 2004

H. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 4:13 p.m

RECORD OF ATTENDANCE

COMMISSIONER'S PRESENT:

1. M. AKUTAGAWA, CHAIRPERSON
2. L. BUCHANAN, VICE-CHAIR
3. B. FEETER
4. N. SHIMIZU
5. J. KALANIHUIA
6. D. VANDERBILT
7. R. RIBAO
8. C. SEALES

ABSENT: 1. K. DUNBAR

STAFF: 1. W. BOTEILHO, DEPUTY DIREC. OF PLANNING
2. R. NAGAMINE, DSA