

MOLOKAI PLANNING COMMISSION

REGULAR MEETING

APRIL 28, 2004

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lori Buchanan on Wednesday, April 28, 2004 at 1:09 p.m. at the Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

A. CALL TO ORDER

A quorum of the commission members was in attendance.

B. APPROVAL OF MINUTES OF THE MEETINGS MARCH 24, 2004

MOTION: I MOVE THAT WE APPROVE THE MINUTES AS CIRCULATED.

MOVED: COMMISSIONER BILL FEETER

SECOND: COMMISSIONER DEGRAY VANDERBILT

MOTION UNANIMOUSLY APPROVED.

C. ORIENTATION WORKSHOP - PART II

1. Rules of Practice and Procedures
2. Land Use Regulatory Framework in Maui County
3. Hawaii State Plan
4. General Plan and Community Plans
5. State Land Use Law
6. Zoning
7. Chapter 343, HRS, The EIS Process
8. Special Management Area Rules
9. Shoreline Area Rules
10. Other Related Boards and Commissions
11. Molokai Country Town Design Guidelines
12. Meeting Agenda
13. The 2004 Meeting Schedule

Ms. Loudermilk: Good afternoon commissioner's. As Chair Buchanan had indicated we're going to have a power point presentation. Basically what this presentation is going to be is an over view of the various land use and planning and regulations of Maui County. For some this will be a refresher course and for others this will be an introduction.

Ms. Buchanan: Robin is it o.k. to ask questions during the presentation?

Ms. Loudermilk: I do have some, after certain sections an area for questions. Let's try that first and see how it works. This will be done in two parts. We'll take a 10 to 15 minute break half way through.

Today's topics of discussion include the Hawaii State Planning Act, Maui County General and Community Plan, Zoning, State Land Use Law, Other Boards and Commission, Other Planning Commission Reviews and Approvals, Environmental Impact Statements and lastly Coastal Zone Management Acts. So these are all the different areas that come before this commission either directly or indirectly.

(Ms. Loudermilk went over the handout that was distributed to the members)

-Hawaii State Planning Act: Chapter 226, HRS

Ms. Buchanan: Robin I have a question about a community plan amendment. You said you currently in a period for the processing of, how would one come forward with an amendment to a community plan?

Ms. Loudermilk: As an individual or entity an application is submitted to the planning department and then the planning department will send it out for agency review and comment. Part of the application is that a community plan amendment triggers an environmental impact statement, that's a chapter 343 process that we'll be talking about later on. EIS process can last anywhere from 4 to 8 months, depending on the depth and scope of the project. Once that gets completed and once we get agency comments back the department will schedule a public hearing before the commission and the county in which the community plan amendment is for, so if there's one for the island of Molokai it will come before this commission. This commission will then make a recommendation to the county council and the final decision on the community plan amendment is with the Maui County Council.

Mr. Vanderbilt: Robin when is the first 10 year span up?

Ms. Loudermilk: Technically we'll be going on our third 10 year span. This Bill 84 repealed and replaced the previous provisions in the Maui County Code on how we not only process but the components of a community plan amendment. We will be starting this year the third round of updates for the general plan and then go for the community plans. So while this new process is on the book community plan amendments can still be put forth by individual, the council entity and we would process it as I had described. Once this new round gets finished and a new general and community plans get adopted, there are certain restrictions that are put in place in when community

plan amendments can be submitted for review and approval by the respective commissions. For the island of Maui and Lanai one year after the adoption of the community plan is when the first community amendments can start coming in. Either on an individual basis or we're looking forward to do an annual review that gets submitted to the department, we'll look at it comprehensively and make the recommendations. In that comprehensive review and EA would not be required. But if you do not want to wait for that review and do it independent, as occurs now you would still need to do the environmental assessment. For the island of Molokai you have to wait three years. You'll have to wait three years after the adoption of the community plan for the island of Molokai before any community plan amendments would then be considered. The process would be similar as indicated either individual or will be developing an annual or bi-annual review for any amendments that would come in. So that's where the transition period come in and we'll be starting a new process to try to improve over the past 10 years but in the mean time until those documents do get adopted we are still required to process these community plan amendments as they do come in without stopping that.

Mr. Vanderbilt: Robin you mentioned changes in the Molokai community plan three years, isn't it five years?

Ms. Loudermilk: I don't have Bill 84 in front of me, I apologize. My understanding it was three years but we can get it clarified on how many years after.

Mr. Vanderbilt: Well I was just reading Bill 84 that we were given out and it says non-decennial amendments to the Molokai community plan an active pursuant to section blah, blah, blah may be proposed by a person during July of each year provided that such amendments shall not be accepted within five years after the enactment of the decennial revision.

Ms. Loudermilk: O.K. then it's five years, if that's from the bill. The discussion was on Lanai and Maui and of the council before final reading for Maui and Lanai was changed for one year.

Mr. Vanderbilt: Can a community plan amendment, you say there needs to be an EIS, even if the community plan amendment is to a policy statement?

Ms. Loudermilk: That is unclear, that is unclear. Usually community plan amendments that occur relate to mapping. Related to a use and that question we would have to request an opinion from the corporation counsel.

Mr. Vanderbilt: Well I wish you would. The only reason I asked that is that in our existing community plan there was a statement in there to, I'm not sure where it is now, but it said revise

subdivision codes so that there is public review on Molokai and the environmental impacts and everything could happen. That was also in our '84 community plan.

Ms. Loudermilk: But it's part of the subdivision ordinance.

Mr. Vanderbilt: I know but the planning department never initiated that change in the ordinance from our '84 plan and then our 2001 plan. So I'm saying if a community wanted to come in and make that a planning standard under subdivisions rather than part of the subdivision code, it's my understanding that if it's a planning standard then all subdivisions will have public review on Molokai, then, that has the force and effect of law which and you don't have to amend the subdivision code, is that correct?

Ms. Loudermilk: I cannot answer that. I cannot answer that.

Mr. Vanderbilt: The only reason I asked is that there was a major subdivision on the west end that was denied by Planning Director Foley because one of our planning standards says for subdivisions of four lots or more you gotta have at least minimum lot size of 25 acres and that was never adopted into any ordinance, that's just a planning standard in our community plan.

Ms. Loudermilk: And part of that the planning department is one of several agencies that provides comments to the Land Use and Codes who handles the subdivision. So you're indicating that's the letter that we recommend the denial of the subdivision to subdivisions.

Mr. Boteilho: Just in general Madam Chair I don't think a text change to the community plan, a policy change would require an environmental assessment. However as indicated by Robin it would depend on the circumstances. If you're doing a text change that is (inaudible) to a land use change or a mapping change then we may have to ask for a corporation counsel opinion. But we will be asking for a corp counsel opinion regardless, just to make sure.

Ms. Loudermilk: Degray I think this will be one of the questions that will be coming up within the next round of the community plans in terms of interpretation of Bill 84 and the development of the general and the community plans and how they get implemented. This will be one of those issues that should be addressed.

Mr. Vanderbilt: O.K. and I just had the existing general plan it has a statement on page 21 that all laws shall be consistent with the intent of the general plan and as I understand it, the community plan is part of the general plan.

Ms. Loudermilk: Yes.

Mr. Vanderbilt: So what does that mean? Maybe corp counsel could explain that, what is consistent mean? If it's not consistent with certain policy statements, an action, is the agency sort of bound to deny the action?

Ms. Loudermilk: Degray I'll do an initial response. In the development of the general plans and the community plans a lot of, we have various areas and they do not all agree. You will always have some kind of conflicting statements in terms of, for economic development you may have something in there that may conflict with something in land use. You'll have that in the community plan, in the community plans. That's the nature of the base because the adoption of these documents come through a lot of compromise at the council level and the community plan levels. You'd have to analyze all of those statements and make your decision based upon that and the public policy. That's just the standard. This is the nature, the general nature of the general plans, the community plans which may be more specific in certain areas but than again general.

Mr. Vanderbilt: I think what I was talking about was the intent. Again in Bill 84, it says on page two, all agencies which is we're an agency so was the planning department an agency of the government shall comply with the general plan and it says, all agencies shall comply with the general plan and...

Ms. Loudermilk: I believe that will be starting from this point forward, the agencies will have to start moving forward. Remember Bill 84 was only adopted last month. So keep tabs on this. Make sure.

Mr. Vanderbilt: But from what I understand from the last meeting our community plans are going to start, we're going to be the last one in line so you're going to have a general plan and than we're going to have our existing community plan there and what is the status of our existing community plan until we get to the decennial?

Ms. Loudermilk: It's the full effect of law at this point and time.

Mr. Vanderbilt: O.K. thank you.

Ms. Loudermilk: Any other questions regarding general and community plans? If not I'd like to go forward with zoning.

Ms. Young: I'm sorry but can I respond very briefly to the question regarding whether or not a policy statement within a community plan, whether or not a change in that policy statement will require an

environmental assessment. The deputy director of planning mentioned that on a case by case basis we would concur with that because there is an exemption in the provision requiring community plan amendment to get environmental assessment. The exemption would be for community plan amendments that are comprehensive in nature. So we couldn't provide just a general opinion on that it would have to have a specifics that are circumstances and we would evaluate those specific circumstances to see whether or not it was in fact a comprehensive amendment or not.

Ms. Loudermilk: Thank you Cindy.

– Zoning

Ms. Loudermilk: On Molokai we do have one planned development area and that's in Kaluakoi and that was initially adopted in the late 60's early 70's.

The main distinctions between these two special zoning designations is that a project district allows a developer to actually create their own zoning ordinance and gets adopted by the council and gets to be part of Title 19. Whereas a planned development would initially set forth to deal with natural and environmental constraints on a property to allow for the allowable density but flexibility in design layout and so forth.

Mr. Dunbar: My question is when you're doing a district boundary amendment and you're talking about greater than 15 acres are you talking about with 400 acres and you want to change 10 or are you talking about a parcel that might be 25 acres and you want to change 16? What triggers it the over all parcel or the part you want to district bound?

Ms. Loudermilk: Good question. The trigger would be the acreage of property that you want to change the designation. It could be a portion of a larger parcel for example 400 acres but maybe only 100 acres is being requested to change. So in that case that would go before the state land use commission and that same acre and parcel if say only 5 acres is being requested for reclassification than it would come before the Maui County Council for final decision making. Good question Kip.

Mr. Vanderbilt: With regard you would talk about Chapter 205, if the last, I think it was at the last meeting we were talking about enforcement of illegal activities say on agricultural land and I think Wayne mentioned that the enforcement policy of the county was to enforce only if it was a complaint filed by a resident. I'm looking at this Chapter 205 and it says enforcement and it says that the county is really responsible for enforcing violations in the state lands and they're supposed to follow up on those and get back to the land use commission.

Ms. Loudermilk: Not to the land use commission.

Mr. Vanderbilt: Well maybe I'm reading this wrong. 205-12, it says the appropriate officer or agency charged with the administration of the county zoning laws, the planning department, shall enforce within each county the use classification districts adopted by the land use commission and the restrictions on the use and the conditions relating to agricultural districts under section 205-4.5 and shall report to the commission all violations. So the county is supposed to enforce and then report violations to the commissions according to this and there's nothing in here that says enforcement shall only be if Molokai neighbors report violations.

Ms. Loudermilk: That is true what that law has indicates is that it has delegated the enforcement to the respective counties as however they want to enforce it.

Mr. Vanderbilt: But you have to report to the commission any violations. I mean that's what it says...

Ms. Loudermilk: That is the language there and maybe Wayne B. can better describe the existing practice. But I do know that the enforcement and the interpretations are delegated to the county's.

Mr. Boteilho: Madam Chair when I spoke earlier about this enforcement I was describing the practical way the county enforces in the various complaints of possible violations. Basically that we take, basically that we will allow them to continue if they put in an application to correct the problem. As far as reporting to the commission, to be honest I'm not sure if we do that in every single case I'll have to check. But I'm sure the major ones are reported to the land use commission. I'm not sure if I answered your question but I took a shot at it.

Mr. Vanderbilt: Well I think Chair Buchanan was even asking a question about or maybe it was former chair Akutagawa about this policy of not enforcing violations whether it be in Halawa or out at the ag subdivisions that have vacation rentals on them. I'm just wondering, it seems like you have a responsibility to enforce and you know people look to this planning commission and if you guys aren't enforcing what are we supposed to say, oh well, that's just some practical policy there's nothing to do with the law, they're just bending the law to fit the staff basically.

Mr. Boteilho: Well I would say refer them to us but tell them what our policy is, we should be able to defend what the policy is. Currently we are looking at this policy, for example Halawa Valley, for example, Papohaku Subdivision. But you know as I noted earlier this policy was in place for a long time so sometimes it takes time to huli back.

Mr. Vanderbilt: Thank you.

Ms. Loudermilk: Any other questions?

- Other Boards & Commissions
- Other Types of Permits

Ms. Loudermilk: Off Street Parking, for certain reasons when projects get developed for financing they may have, to us it may look like one comprehensive project but underneath there may be four or five different tax map keys. Based on their interpretation of our zoning code for parking, the required parking for the use needs to be met for each lot. However you don't necessarily plan projects that way so to cover any technicality you indicate that this project has four separate tax map key lots, total parking is this it meets the parking requirements and no matter where you park on these four lots it's o.k. An example would be Kaahumanu Shopping Center in Wailuku. To us it looks like one comprehensive development but for title purposes and financing it really isn't. Not too many exist but they do occur and I think one has come before you regarding the Watanull Building. For this no public hearing is required. This is basically a communication item to the Molokai Planning Commission.

Ms. Buchanan: You know the Hana Advisory Committee, you said was there before the regular commission's was there?

Ms. Loudermilk: I'd like to clarify that. My understanding is before the establishment of the Molokai Planning Commission and the Lanai Planning Commission's they had advisory committee's that made the recommendations to the Maui Planning Commission. This Hana Advisory Committee is in that similar mode in that but the one thing that's slightly different is the delegation of public hearing authority. The practice for the Maui Planning Commission has been any public hearing item the delegate that to the Hana Advisory Committee, they meet as needed. The reports and presentations that we would do before this commission, we do before that committee. The public hearing is done in Hana. Upon completion of the meeting the committee would make recommendations and to the Maui Planning Commission and we would transmit those recommendations to the Maui Planning Commission and they would make the final decision.

Ms. Buchanan: Why do you still have the Hana Advisory Committee?

Mr. Boteilho: Madam Chair these advisory committee's were set up a long time ago when there was only the planning commission. Not even the Maui Planning Commission. The intent was then to have the outlined areas would have some voice to the planning commission. It's far away and good

to have their own people and have the public hearing there. Since then now there's a Molokai Planning Commission so there's no need to have a Molokai Advisory Committee. Hana however does not have its own planning commission so we have retained the Hana Advisory Committee.

Ms. Buchanan: But then what if West Maui came in and said they want to have an advisory committee as well?

Mr. Boteilho: That could be considered. But Unlikely, I guess Hana is the farthest you can get, I guess it's based on distance.

Ms. Buchanan: That's good for them but in honesty with all the development coming on at Kahakuloa and that side of West Maui they could position you for a West Maui Advisory Committee. I guess I just wondered why it wasn't dissolved to begin with because you would leave the door open to other advisory committee's.

Mr. Boteilho: Hana historically has always been viewed as this isolated place. That's about the only reason I can say.

Ms. Loudermilk: Any additional questions? If not I'd like to ask the chair for a 15 minutes break because we have two more sections, environmental impact statements, special management and I think our brains need some time to digest what we have now and get ready for what I'm going to throw out to you.

After a short recess the meeting was reconvened at 2:17p.m.

Ms. Buchanan: For the new commissioner's as well as the old commissioner's we're going into environmental impact statements and trigger's and etc. and etc. It's very, it's pretty lengthy if you actually down load it and it goes into NIPA and everything else. At some point and time I encourage all of you to actually go through it because I'm not going to ask Robin to be here till tomorrow to try and explain everything, I just going ask her to touch briefly and if we can have our questions, be real specific, that would be nice. Thank you very much.

– Environmental Impact Statement, Chapter 343

Ms. Loudermilk: Any questions on the EA process? I'll be going straight into the coastal zone management and that is very long and in depth so if you have any questions?

Ms. Buchanan: I have a question on exempted action. I heard some place that if an exempted, you

can put exemptions into your community plan, that would be exemption for EA's or EIS, for the trigger's like Alaska, Alaska Town and put in some kind of in their community plan where they absolutely couldn't have cruise ships, helicopter landings or whatever and in that case somebody couldn't come in and apply for an EA.

Ms. Loudermilk: We do not have that here.

Ms. Buchanan: We could yeah?

Ms. Loudermilk: You would have to make that proposal and go to the Environmental Council and make your case.

Ms. Buchanan: But it is possible?

Ms. Loudermilk: It is possible because the exemptions are not listed, specific exemptions are not listed in 343 but I can double check on that. The further definition of what constitutes those exemptions are in the administrative rules. Administrative rules can be amended, you would have to go to the Environmental Council.

Ms. Young: If I could just clarify that for a bit. The exemptions yes are in the administrative rules and each exemption group, each county and the state has its own exemption list. So our list may not be the same as City and County of Honolulu or County of Kauai or Big Island. We have our own set of exemptions that I believe the department is looking at, the planning department is looking at revamping that list because it is a bit outdated.

Ms. Loudermilk: I'd like to just add on to that, the law allows for these exemption list by various governmental agencies based upon the exemption classes. For the County of Maui we have one that is county wide but that does not preclude any other actions that are not on that list from being exempted. As long as it still falls under the general classification. The intent of this exemption class list was for various government agencies to look at what they do on a regular basis. The type of actions that they need to do on a regular basis, how it relates to the triggers and most government actions are triggers because you state of the funds or the land, and identify those types of activities that are not specifically listed under a specific exemption class but fall under that general category and further defined. This has been done mostly at the state level, like State Harbors has their own exemption list, DOT, Airports, the Department of Land and Natural Resources, because part of their everyday repair and maintenance, you don't necessarily have to go through the full blown process. But, it is a public review process through the Office of Environmental Quality Control in Oahu. I don't know how they handle the meetings and they would be the final decision making authority

whether to accept that list or not.

Mr. Dunbar: I need to get a grip on the word. Picture 55 shows discretionary permit is required. The reference to the word is discretionary is all of pictures 51, 52 and 53, am I correct?

Ms. Loudermilk: No. What discretionary, in this context discretionary permit means any type of action that needs to be reviewed and approved by a board or commission and is not, verses administrative. An example would be the subdivision ordinance is considered administrative and as long as you meet x, y, z criteria somebody can sign off on it. Whereas a special use permit before this county is considered discretionary because you have to make your case before a body that you meet this criteria and if there's any impacts this is how you mitigate.

Mr. Dunbar: The question was how do you understand the word discretionary but also there are a number of watershed projects that are coming up. We have the most watershed projects whether it be for fire control or to raise tree's, commercially or for the reestablishment of water shed. If they funded, you're going to find them on conservation land number one. By that nature those funding sources are requiring that an EA process be done by the applicant.

Ms. Loudermilk: Now I understand your question in relation to discretionary. When we talk about discretionary in here it's those permits in which the Molokai Planning Commission would be the accepting authority verses what you're talking about is that you have all these triggers. What are the different triggers for that. So the distinction would be in regardless of the government agency if you're going to get funding from them, for example the watershed or reforestation projects they are funded through government grants, that's one trigger. Now it's with, depending on who the funding sources, you need to work with that agency in terms of whether they require an EA document or whether they determine that this type of action could be an exempted action. So you're gonna have to work with the specific agency providing the funding. Now it may be, sometimes it can get a bit tricky if you're in the conservation district under the jurisdiction of the Department of Land and Resources but maybe the funding is federal funds. Maybe it comes through the Department of Land and Natural Resources in that case you don't have a jurisdiction issue, it's both Department of Land and Natural Resources and you just have to work with DLNR in terms of getting an answer. However if those federal funds come from another agency than those two agencies have to determine who's going to take the lead and how they want to implement this 343 process.

Mr. Vanderbilt: Robin I had one question. You mentioned that a subdivision approval is an administrative action?

Ms. Loudermilk: Generally it is considered an administrative type of action.

Mr. Vanderbilt: Would you say that it would have to be consistent with the intent of the general plan?

Ms. Loudermilk: Degray, generally yes, but how does that relate to Chapter 343?

Mr. Vanderbilt: You mentioned that the Molokai Planning Commission SMA permit was not an administrative action, an approval of a permit.

Ms. Loudermilk: No I did not say that.

Mr. Vanderbilt: Than I misunderstood. We were talking about discretionary you mentioned an example of a subdivision approval is an administrative action.

Ms. Loudermilk: Maybe that was a bad example and there are some subdivisions that are located in the special management area which is a discretionary permit. So before they can get final subdivisions approval they would have to get an SMA permit approval. So if we talked about a subdivision outside of the special management area than it would be considered more administrative, similar to a building permit.

Ms. Young: If I could just clarify. When there is reference to discretionary permit is actually it would be as opposed to a ministerial permit which would be like a building permit. It's not necessarily that just because its an administrative body that planning department or public works, it's not that an administrative body issues the permit it's just that discretionary verses ministerial. Discretionary would be for example an SMA permit where there's criteria. But it's not necessarily a check list type of criteria. There's discretion in looking at the criteria that set forth for an SMA permit. Verses a building permit where there's very limited, very limited discretion where almost a check list of do you have adequate access, do you have adequate water, and similarly, for a subdivision approval that would be considered as a ministerial type of approval where it's very check list oriented. Do you meet certain specifications, accesses met, that would be the distinction for purposes of Chapter 343.

Mr. Vanderbilt: Let me get that because I'm really having a problem with this conformance to community plans and general plans. You're saying that a building permit there's nothing in there that says it has to be consistent with the community plan and general plan is that correct?

Ms. Young: I'm not speaking to that issue. My clarification is to Commissioner Dunbar's question on discretionary. So the clarification is discretionary verses ministerial.

Mr. Vanderbilt: Is there anything in the code that describes ministerial in definitions?

Ms. Young: I believe the distinction may be either in the text of Chapter 343 or in the rules. It may also be clarified in case law that interprets Chapter 343.

Mr. Vanderbilt: But subdivision approval would not be discretionary even though for instance the planning department, the planning department sends in comments whether it's consistent with the general plan and the community plan and other land use laws and then the head of the public works that approves the subdivision has to look at all these recommendations and comments and make a discretionary judgement before it gives subdivision approval, is that correct? I mean I'm just trying to find out if subdivision approval is a discretionary, I mean that's a big issue because ministerial is, nobody's got control over those things.

Ms. Loudermilk: Technically it is because we are only one of the comments. You could get preliminary subdivision approval as long as you meet all these conditions, similar to a building permit. You can get an approval if you meet all these conditions. Now if the county says no it doesn't meet the conditions then you cannot....

Mr. Vanderbilt: You mean if the planning department commented to public works that this didn't meet?

Ms. Loudermilk: With it and two things, the comments were timely based upon the subdivision ordinance if you do not have your comments in within 30 days you're automatically subject to preliminary approval. Which is subject to preliminary approval one of two things happen, you have a check list of conditions that need to be met when you gotta come in and get a special management area, change in zoning, what ever and if you meet those conditions as well as other conditions you just sign off on it. Now if comments come in prior to the 30 days in which you have comments such as from the planning department then you're not granted preliminary approval therefore you're not granted the subdivision. These are the agency comments. When we talking, I'd like to...

Mr. Vanderbilt: So if the planning department drags its feet and doesn't meet the 30 day time limit then...

Ms. Loudermilk: Yes, yes. But I'd really like to move forward because right now it doesn't have to do with 343, it does have to do with what we had talked about earlier about general plans and conformance and that type of issue. The last section will be the coastal zone and this is the largest body of, other than the zoning code, largest body of text that this commission helps to implement.

- Hawaii Coastal Zone Management Act. Chapter 205A

Ms. Loudermilk: For the State of Hawaii all lands are in the coastal zone management area except for those lands owned by the federal government. However there are no regulatory type of actions taken. However activities should be consistent with general objectives and policies.

The special management area, this issue comes before this commission a lot. Deals mostly with shoreline areas.

- Special Management Area Use Permit

Ms. Loudermilk: Also just because a project is \$125,000 or less doesn't automatically mean that it's a minor permit. We also have to review for other impacts and depending on the types of impacts we will kick it up to a major. The distinction would be the type of information that will be required, the agency comments required, public hearing notification and so forth. Which will be required for a major permit and a minor permit would be a communication item before this body, no notification required at all, only the agenda.

- What is not a "Development"

Ms. Loudermilk: The various planning commission's can further define what is meant. For example for the Maui Planning Commission the construction of a single family residence that is not part of a larger development, in their rules, they further refine that. A single family residence is to include, associated structures as well as any allowable ohana unit. Whereas for the Molokai Planning Commission it does not constitute a single family. The legislature sets forth some specifics but it can further be refined by each commission to address the unique needs that come up.

However similar to the environmental assessment, if there's any excluded use that would have a cumulative impact or significant environmental or ecological effect on a special management area, that use or operation shall be defined as a development. Just because you're a single family house doesn't automatically mean you get exempted. If you're going to build that house in a wetland area where you have native species, you gotta tell us how you're not going to impact that. That would be kicked up into a use permit. So there is that provision.

- Special Management Area Guidelines

Ms. Loudermilk: We have a supreme court case from Maui Gatry vs. David Blane that said that at least within the special management area the county community plan and general plan, the land use

map are force and effect of law and you need to have the consistency between the zoning and the community plans.

Mr. Vanderbilt: Starting with the last slide, the variances, no variance will be granted unless all the conditions are met? What if they meet one and are in conflict with one because it says and on the last one?

Ms. Loudermilk: It depends on each case. Each situation is slightly different.

Mr. Vanderbilt: And did you say that the final decision on the variances is with this body?

Ms. Loudermilk: Yes, with the Molokai Planning Commission, for the shoreline setback variances.

Mr. Vanderbilt: So theoretically if someone doesn't comply with one of them that could be grounds to deny an SMA permit? See on slide 72, it says...

Ms. Loudermilk: I see we start off with the authority shall seek to minimize where reasonable and on slide 71 we start and we finish up with slide 72.

Mr. Vanderbilt: It just says on 69, no development shall be approved unless the commission has found that...then it goes through all of these and it doesn't say or it says and right before the last frame.

Ms. Loudermilk: All of them again are balancing acts because they may all, because not all of them may apply to the particular...

Mr. Vanderbilt: The ones that apply need to be in conformance with all the ones that comply?

Ms. Loudermilk: That do apply. Becoming into compliance could also include imposing conditions to ensure that they are in compliance. Again it's a balancing act.

Mr. Vanderbilt: The shoreline setback, Realtors send a lot of letters over here because Maui was increasing their shoreline setback and areas. Why didn't Molokai be part of that process to evaluate whether or not shoreline setbacks had to be increased?

Ms. Loudermilk: The shoreline setback rules were recently revised for the island of Maui. For several years there have been erosion control studies on various urban area on the island of Maui to the UH, the department of geology. Based upon that study and the continuous studies, the result of

that was the development of erosion rates in front of several property areas in the various locations. Those erosion rates were then incorporated into the shoreline setback calculation for the island of Maui. So actually they have two processes. One they use the same process here on Molokai, based on the lot depth and then if your property is located, a shoreline property is located in an area in which it's part of that erosion rates study, then you would be subject to either the erosion rate formula, there's a formula for the erosion rate to get how many feet back, or, the lot depth. Which ever is greater. For the island of Molokai we don't have that kind of study.

Mr. Vanderbilt: So that's why we weren't considered.

Ms. Loudermilk: That's why we weren't considered.

Mr. Vanderbilt: Are there any studies planned for Molokai?

Ms. Loudermilk: I am not aware of any.

Mr. Vanderbilt: Thank you.

Mr. Dunbar: The shoreline setback area you said ranges from 25 to 150 feet according to the depth of the lot.

Ms. Loudermilk: Yes.

Mr. Dunbar: Is there a scale from 0 to 100?

Ms. Loudermilk: Yes. That's part of the rules that you folks have. It will provide that scale and it will be in the documents provided to you. That's just a general range.

Mr. Feeter: On the coastal zone management what's the distance from the shoreline outward to the sea? In relation to the map that you showed?

Ms. Loudermilk: It's technically not part of the land coastal zone but there is a three mile limit in which the state has claimed jurisdiction of uses and outside of that would be international or state waters. So the land base side is under these set of rules and regs and then the ocean side is set on a different set of rules and regs. In terms of, yes the general intent of the whole coastal zone management act is to minimize any impact to the coastal area. From land base activities. So there's different degree's of review and regulations. So the coastal zone in general and than you get more specific to the shoreline management that comes before you and more specific to the setback area

itself. When you talking about waters you talking about big jurisdiction issues between the State of Hawaii and the US in terms of jurisdiction and what can or cannot be mined or used in those waters.

Ms. Kalanihulia: Do you think it's possible for us to get a small copy of the SMA maps?

Ms. Loudermilk: Sure what we'll do, if you can really see everything in a small scale, we'll try to make it as small as practicable but large enough so that you folks can actually see it. We'll work on getting the map resources over here on an individual level and larger level for the office.

Mr. Vanderbilt: I think an 11x17 can be folded over.

Ms. Loudermilk: We'll try with that first.

Mr. Vanderbilt: I got a question on the SMA boundaries, on your slide, it says that the SMA boundaries were set up in 1979.

Ms. Loudermilk: The interim boundaries were set fourth by the state legislation in 1975, 300 feet and than each county was commissioned to further refine those boundaries and the County Of Maui did that and adopted those maps in 1979.

Mr. Vanderbilt: Well if you notice the Molokai SMA map it includes the whole Kaluakoi Resort, mostly, except for the stuff that came on in 1981 which was the 4,500 acre ag subdivision down there. In 1984 we requested that the SMA line be moved and the county didn't do anything about it and in our 2001 community plan we again requested in the community plan that the county do it and they haven't done it. Yet now we hear that the planning department is looking at amending the boundary lines on Maui and Kihei, Makena and other areas even though it's not in their community plans. I can see where you left this out on the setback rules but here's something we've been fighting for for 20 years, to include jurisdiction where it's really needed. The county hasn't done anything so now I'm wondering, what do we need to do to implement what's in the community plan?

Mr. Boteilho: Madam Chair that particular project that we're requesting federal funding to look at redoing all our SMA boundaries, that our intent is county wide. It's not only for Maui. Right now the scope of services, well we're asking for \$18,500 in federal monies and we would match them with our own \$18,500 for \$37,000. Intent is to look at every island and justify increase, or decrease in the SMA boundaries and than the first phase will end there. The second phase probably next year we would go out to the communities.

Mr. Vanderbilt: So you're gonna be doing Molokai the same time as all of them?

Mr. Boteilho: Yes. I hesitate to a certain degree because Maui has more buildings on the shoreline but the intent is there, I can tell you that.

Mr. Vanderbilt: Do you know if there's anything in the other community plans that that's one of the implementing actions they asked for?

Mr. Boteilho: I'm not sure.

Mr. Vanderbilt: Thank you.

Mr. Dunbar: Wayne being a shoreline owner I'm not in favor of you coming in and telling me from 25 to 125 and they moving it up to the 500 foot level.

Mr. Boteilho: Well we'll hire a consultant that would basically recommend to the planning department, increase or decrease. It maybe decreased. We don't know at this point. The important thing about getting the consultant and why we needed one was for justification. We still have to go out and get a consultant. Now after we have the recommendations then the planning department looks at it and we can modify as we would like and then we go out to the community.

Ms. Loudermilk: I would just like to add onto that because when I was at the Office of State Planning the Big Island County was beginning the process of revising their special management area boundaries and it's not a matter of saying we think it should go here or go there, any proposed boundary amendment has to meet all these guidelines and criteria that have gone before you. So you'll need a variety of studies to be done to justify that. Secondly we have to get approval from the Office of State Planning Coastal Zone Management Program, that's a state law. So, yes there will be a lot of jotting and position that maybe on agreement or disagreements. That's just gonna be part of what we need to go through to determine whether the existing boundaries are sufficient, should they be less, should they be larger? Now on the Big Island I did not have an opportunity to review all those documents, the time I was there, but I did attend the community meetings out there and a lot of our questions gets asked and nothing is taken for granted in terms of just because this area has already been developed we should move this line down. Because there could be unique circumstances in which that line should stay there or other places that you increase or decrease. But whatever changes to the boundaries, it has to meet all these guidelines in the special, that's set forth in the special management area.

Mr. Vanderbilt: Well I think that's one of the reasons the community had wanted it because we're having a tremendous degradation especially on the south shore and other areas from various developments that's happening inland. If you talk with the national resources conservation services

they have photos that show the erosion and in here it says one of the policies, it says to practice stewardship protection use and development of marine and coastal resources. That's the guiding principal behind this whole thing.

Ms. Loudermilk: And what may come out from the study is that moving the special management areas may not be able to do that. Because you have other exemptions. But you don't know, it's hard to predict what is going to be said. We understand the intent the historic degradation I did on here after heavy rains and state DOT has (inaudible) to open up highways going Wailua side.

Mr. Vanderbilt: Robin that's o.k. One last question, this \$37,500 that will allow you to apply for various sma boundary amendments whether they're further or smaller of do you have to get more money and where would that money come from?

Mr. Boteilho: O.K. the first phase is to come up with the final recommendations which we will take to the community and these recommendations will not be set in stone. In fact one of the beautiful things about public hearings is that the people who live there know the most about the area. So we may very well take back our own recommendation. So to answer your question, the second phase would be to go out to the community. After we have community input than we would come up with the final recommendations and then we would have to submit to the Office of State Planning and they will have to accept or reject.

Mr. Vanderbilt? So when you come out the first time with that \$37,000 you'll have done some technical reports to support your position or you're just going to shoot from the hip?

Mr. Boteilho: Oh no, it will be technical reports. Again the consultant will be charged in justifying in a professional manner why the increase or the decrease.

Mr. Vanderbilt: If Molokai raised the money say a third of that, \$10,000 and wanted to move on its own, is there anyway to do that? If somewhere in the process we get shoved to the back of the line again.

Mr. Boteilho: That's possible. We probably have to go through a process where the Council accepts the money as a gift but it is possible.

Mr. Vanderbilt: O.K. Thank you.

Ms. Buchanan: Can we move on in the interest of time because it looks like they have a lengthy director's report.

D. CHAIRPERSON'S REPORT

Ms. Buchanan: I have a communication from Molokai Properties Limited. I don't know, it's short enough where I can read it really fast. This is regarding the last meeting where we brought up that subdivision. Most of you have this letter. This is Molokai Properties Limited writing to the person who wants to subdivide his lot in Kaluakoi. So really fast, as we recently discussed by phone your pending subdivision was discussed at the last Molokai Planning Commission on April 14, submitted as a communication item with commission action necessary. It in fact consumed 90 of our time and I'm just going to go really fast through this. Among those testifying was Alan Murakami who was also the attorney for the Hokulia Case on the Big Island. What this letter goes on to say is that their conclusion from listening to the two arguments and this is MPL, is that Mr. Murakami will file a law suit to enjoin any subdivision approval. This is cause for concern to Molokai Properties Limited, the declarant under the seventh supplemental declaration of covenants (which is the CCR) which affects your property. This document requires the receipt of our (MPL) consent to any subdivision within the Papohaku Ranchlands Subdivision which to date has neither been requested nor provided. You got that? In view of the current threat of litigation, if the proposed subdivision is approved we find it necessary at this time to inform you and the County of Maui Planning Department by copy of this letter, that if such consent were requested, we would not be in a position to favorably act on it at this time. We believe it is critical that any request for consent address the legal issues that have been raised. We would encourage you, prior to seeking our required consent, to obtain the advice of legal counsel in Hawaii to specifically review the legal issues that have been raised in the public forum and include any opinion of your legal counsel with any formal request for consent. This was signed by Harold Edwards the Senior Vice President. That is in response to the last meeting which I believe most of you were all here. It was Commissioner Vanderbilt that had bought up the subject at that time. So Degray did you get a copy of this letter? O.K. So that's my part that's good to hear, good to see. Thank you Harold for your letter. Anybody have any comments on this before we move on to the Director's Report? Wayne you have a copy?

Mr. Boteilho: I can get one from Nina. I haven't seen that letter.

E. DIRECTOR'S REPORT

1. Community Input Regarding Matter Related to County Planning
2. Update on Halawa Valley
3. March 30, 2004 letter from DeGray Vanderbilt to Ralph Nagamine, Administrator of the Development Services Administration concerning the Papohaku Ranchlands Subdivision Proposal at TMK: 5-1-006:075, Kaluakoi Island of Molokai. (LUCA File no. 5.657).

Mr. Boteilho: Well first of all Madam Chair you can ask Nina my office is way in the back of our department so the letter's, I get everything last. First of all, community input regarding matters related to county planning, is there anybody here that would like to give input on planning? O.K. seeing none. This I would just like to note, if someone comes at the beginning of the meeting and they'd like to give their input at the beginning because they have to leave, you could move this up to the beginning.

Update on Halawa Valley. As I had promised at the last meeting I spoke to my Director about this regarding the cease and desist order. He said that he would prefer and this is what we're going to do, as an interim measure, we'll send them a letter instead. We will attach the state letter's expressing concerns and we will ask them to do all mitigative measures to avoid any degradation of the area.

Ms. Buchanan: O.K. but you're going to fall short of asking them to cease operations?

Mr. Boteilho: Yes. The justification I guess is two fold. One, is to give them a warning. Two, to monitor if they actually do any degradation.

Ms. Buchanan: I thought we already gave them a warning? Wasn't the warning they got that spurred them into applying for this permit?

Mr. Boteilho: Well I speaking more about the letters we received recently from the state expressing concerns about environmental issues and the possible damaging of the trail. Our earlier warnings was you have to apply for a permit.

Ms. Buchanan: O.K. so in other words Mike not going do anything about it yet.

Mr. Boteilho: Well We'll send the letter.

Ms. Buchanan: Anybody have any comments?

Mr. Vanderbilt: This commission has been following this Halawa Valley and people have come and testified. These letters that come into you they went some where, did the commission get copies of those letters? Or could we get copies?

Mr. Boteilho: Yes. That was mailed out.

Ms. Kawano: The whole file was mailed out, whatever was in it.

Mr. Boteilho: We had mailed it out to you.

Mr. Vanderbilt: So these aren't just recent letters?

Mr. Boteilho: Well a month or a half ago. I'm not sure exactly when they came in.

Mr. Vanderbilt: O.K. thank you.

Mr. Boteilho: It is the most recent letters.

Ms. Buchanan: Wayne if you don't mind you can move to where Robin was and than free up the mike for somebody else up here? Thank you.

Mr. Boteilho: Next item on the agenda is the Papohaku Subdivision. Tomorrow we have a meeting with Director Foley. Corp Counsel, myself and Francis Cerizo and probably a few more planners and we're going to discuss how we're going to handle this. I don't know what the outcome is going to be but, and I'll just leave it as that. But we will meet with Director Foley tomorrow.

Ms. Buchanan: Corp Counsel want's to add something and I think the letter from MPL is very important for you to take to your meeting.

Ms. Young: Thank you Madam Chair. The planning department has asked Mr. Notman, the subdivision applicant for information or documentation to support his statement to the department that he, I'm sorry, that with regards to the requirement that the domestic water source be used for domestic purposes only. Mr. Notman has indicated to the department that there is a separate water source or water line for agricultural use. So the department is in the process of working with Mr. Notman to get some kind documentation supporting that statement. If this is merely an issue of water resource allocation then we would view the restriction on the domestic water source as merely as a resource allocation and not necessarily an agricultural restriction. I should prophesied by saying that we're only applying as to that particular restriction in the code and in Chapter 205 and we're not necessarily looking at whether or not there is sufficient water, that's a different issue that we were not asked to look at. So we are not aware of whether or not there is sufficient water in the area. The only issue for us is the particular, whether the covenant restricts ag. That's all we were asked to review. Thank you.

Ms. Buchanan: Too bad that was all you were asked to do.

Mr. Dunbar: I have two questions. They can probably subdivide this piece into 400 pieces but they

may only have one meter for the whole thing. (inaudible) I know in Maui I have a lot and it was subdivided and when I went in for the final approval they said sorry pal there's no water any more. There was water when they let me subdivide it but at some time when I did the final requirements for the subdivision which was the standpoints, basically a number of fire hydrants, but during the course they gave me the right to subdivide but they ran out of water. That was basically what happened.

Mr. Boteilho: Madam Chair just briefly. I guess that's the crocks of the issue. That's why I didn't want to be promising too much today. Yeah, it's ministerial verses growth management. Ministerial basically says hey, either you subdivided lot is two acres or it's not. On that base, if it's two acres you can be approved. On the other hand, do we want to allow for all this subdivision land knowing that there's no water? That's the crocks of the problem. The, I guess the optimal outcome that we have some kind of compromise. But legally I'm not sure if planning can actually stop the subdivision at this point.

Mr. Vanderbilt: Is it possible that a representative from the planning commission who is also, we're also officers like you guys of the county, be present at tomorrow's meeting?

Mr. Boteilho: I would say not. It's set up as a private meeting. As a staff meeting.

Mr. Vanderbilt: Well if, somebody handed us today this Hokuli'a Case, a few guys studied this and the judge over turned because they were doing residential uses with no real feasible farm. There was no affordable water, no affordable land and everything else. It was deemed to be inconsistent with the Hawaii County General Plan, inconsistent with HRS 205 and I think if you look at this, I put a letter together which I hope this commission will consider, that you have a lot of reasons to deny this thing because it isn't consistent with the general plan, with your own purpose and intent of zoning, with the Molokai Community Plan which has discouraged this type of gentlemen estates and pseudo agricultural uses on ag land and it'll have a very harsh impact on the development of the West End. I don't know if you know it but I mentioned in the letters that the Ranch is working with the community whether it works out or not on a plan that they hope the community will accept and they can bring in an investor because no investor is going to come into this community unless the community is working with the Ranch and there's some sort of agreement on things going forward. One of the big issues at the West End is water. Now if this subdivision goes through because it's already for sale, the lots through Friendly Isle Realtor and he hasn't even gotten subdivision approval.

Ms. Buchanan: Get to the point Commissioner Vanderbilt.

Mr. Vanderbilt: Well I think the point is water resources are a real important issue. And they were in the Hokuli'a case. If the resort does get say two million gallons from another well going down there, if this guy subdivides and everybody else starts subdividing because land prices go up you're going to have four, five hundred additional lots which will set up a problem with water, first come, first serve. That's going to make it pretty hard for an investor to come in when you're saying we're going to do these development plans. Well I wonder if these individual land owners wanting to take advantage of land speculation, subdivide before we get our economic development whether it be reopening the hotel or reopening another one...

Ms. Buchanan: Degray I'm sure they're all aware of that. So you drafted a letter I suggest you give your letter to Wayne.

Mr. Vanderbilt: Well I drafted a letter for this commission to maybe consider recommending that Mike Foley deny this subdivision on the basis that it is not consistent with the Molokai Community Plan, the Maui County General Plan, Maui County Code, and Chapter 205. I gave a lot of the reasons and I attached some documents...

Ms. Buchanan: You didn't give any of us that letter to review right?

Mr. Vanderbilt: Well I just wrote it this morning.

Ms. Buchanan: O.K. so you asking this commission to entertain, support, or a recommendation to them before they have their meeting tomorrow specifying that we don't recommend approval of this subdivision. Is that what you're saying?

Mr. Vanderbilt: Right.

Ms. Buchanan: Cut to the chase.

Mr. Vanderbilt: And the reason is there's several documents that are...

Ms. Buchanan: O.K. we know all the reasons because you bought it up at the last meeting. I don't mean to cut you off but...

Mr. Vanderbilt: One last thing. At the last meeting we didn't, we weren't given a document that Mike Foley approved on March 15 and it was an important document, approving of farm plan that allows this to be an agricultural use based on him just leaving the grass that's out there now, the natural grass on 51% of his property. I think that would have been a good document to have. Also,

well anyway, I just think that, also there was a letter in the file which was, and that was just done by the lot owner himself that was sent to the planning department that we didn't get a copy of saying that this will have no economic impact on Molokai, this subdivision and that there's plenty of water, there's plenty of water to supply him. And the last thing...

Ms. Buchanan: Hurry up....

Mr. Vanderbilt: Is that there was talk about this ag water line. If you look at the original covenants and restrictions or the public policy statement, this is what you have to look at before you buy a lot out there, the original one talked about two agricultural lines or two lines, an agricultural line for non-potable water and a domestic line for potable water. As things went on, each new owner has to file a new public statement to sell the unsold lots. So the Japanese had to file one and that was on file when Mr. Notman bought his lot and there's no mention of the agricultural line.

Mr. Tancayo: Point of order please.

Ms. Buchanan: O.K. Wait I have an opinion from corp. counsel.

Ms. Young: Thank you Madam Chair. I guess I want to reiterate that we have not received any written information from Mr. Notman regarding whether or not there's an agricultural water line. This is just what he has told the department and corporation counsel. So I want to make that clear. The other thing I want to make clear is that with regards to this water supply issue that's a separate issue from the agricultural, you know chapter 19.30A. That's a separate issue. In the subdivision code which is section 18.20.010 in the chapter entitled improvement, it provides that any subdivision here after to be laid out within the county shall be provided with water in accordance with the rules and regulations of the Board of Water Supply enacted in conformity with Chapter 8 of the Maui County Charter and all amendments thereto. So basically the Water Department does have to sign off on a subdivision on the final subdivision plan in order for final subdivision approval. So that's a separate issue and that's something that the Water Department could comment on. I don't think that the planning department is the correct body to be tasked with determining whether or not there is sufficient water supply. As I understand it the issue for planning in this particular subdivision was whether or not there was covenant that restricted agricultural activity.

Ms. Buchanan: Besides we don't even believe that they supply water to the West End anyway. So I don't know if that would apply. Very, very, brief.

Mr. Vanderbilt: You say there is an ag water line there but it never was put in use and it's not functional now so does that come into your play at all?

Ms. Young: Again all the information we have is a verbal statement from Mr. Notman. He is supposed to be providing us written documentation. So all we are aware of from his discussion is that there's an ag line. We have not had the chance to confirm this. That's why he's sending us documentation. So we're not saying that there is an ag line. We're saying that is what we were told.

Ms. Buchanan: O.K. but your department has to confirm all of this.

Ms. Young: Well yes, the planning department will be in contact with Mr. Notman and I believe Mr. Notman will be providing the department with that documentation.

Ms. Buchanan: But you also have to send an inspector out to confirm because it doesn't seem that Mr. Notman has been disclosing anything that was pertinent to this case. But let me cut everything short because we all getting really tired of this discussion because we heard it all last week and we heard it all this week. Is this board in consensus? I'm assuming that most of us is in favor of the department at their meeting tomorrow, at least really going over this with a fine tooth comb. What is the feeling of the commissioner's now? We all know what Degray has but...

Mr. Dunbar: My advice is, we were handed this document by Degray this afternoon. We haven't had time to digest it, and he's the one that always complains about getting documents to read. We discussed this before and I have confidence that Wayne's going to take it, and Robin is going to take it and I don't think Mike Foley is going to act on anything that he shouldn't act on. I'm not going to sign this.

Ms. Buchanan: But do we want to as a commission send a message to the... O.K. Janice you have anything to say, Bill? Our new commissioner's? Do we want to at least give them some kind of directive for the meeting tomorrow? For myself, you know I'm kind of feeling the same way because of the cumulative impacts down the road and we always have to look at cumulative impacts and it might have one and that's all I'm saying. Regardless of the red tape involved whether the CCR says this or that, it really doesn't matter because there might be a cumulative impact. It might trigger other things down the road that we cannot see at this time. That's why I want you guys to tread lightly. Even with Mike, I'm really disappointed, and I'll go on record saying that I'm disappointed that all he's going to do is issue a letter to the people in Halawa because we recommended from this board that we wanted to have more, something more impacting then just a letter and a slap on the wrist. It's not satisfying us. I am not satisfied. So that's all I'm saying.

Ms. Kalanihulia: I would like to go on record and agree with Lori regarding Halawa Valley.

Mr. Tancayo: I don't know where we at, we at Halawa Valley or Papohaku?

Ms. Buchanan: We're on director's report. We're on the Papohaku Issue.

Mr. Tancayo: O.K. but then I hear Halawa Valley?

Ms. Buchanan: That was my fault I went out of order.

Mr. Tancayo: I have confidence with the staff that going meet tomorrow. Wayne know what our feelings are. I can't digest all of this that Degray gave today. I have my confidence with the staff that's meeting tomorrow.

Mr. Feeter: I concur with the findings and the pleadings of their attorney. Last time we heard Glenn and Wayde and I would concur with that.

Ms. Buchanan: That's correct we did have some community input on that. I just wanted to say one good thing in Commissioner Vanderbilt's defense, thank you very much for bringing this up to the board because if you didn't it would be a done deal already. So I really want to thank you for all your time spent investigating. Sometimes people don't appreciate it but I do. I just want to say that Wayne, I think you get the jest of how this board feels as well as taking in the input from the last meeting, as well as the letter from Molokai Properties Limited. So please take all that into consideration and than give us a report next week on how your meeting went with the director. One last thing.

Mr. Vanderbilt: I want to, well Commissioner Dunbar's gone and Commissioner Tancayo is here and I want to apologize to them for getting this last moment but these are documents I just found on Friday afternoon that were pretty important documents. I would just ask that maybe you take this letter with you and review it tomorrow, it's not a position adopted by this planning commission but it has a lot of information in there and also, besides just the water, if you would assure this commission that at least because it says that no subdivision shall be approved unless, if it's in consistent with the Molokai Community Plan and I would at least hope that you guys would look at our community plan and the policy statements in there about land speculation and discouraging these types of gentlemen estates and factor that into your decision as to whether this is consistent with our community plan, could you do that?

Mr. Boteilho: Yes.

Mr. Vanderbilt: Thank you.

Ms. Buchanan: Next we have announcements. But before that in your discussion tomorrow if you

can also bring up, again, before we requested about maybe in your budgeting a planning person on Molokai, we would like to reiterate that request. Also let him know that we're not happy with his decision to have a letter to the people in Halawa. I going tell you why, because the situation down there is a little better then it was a year ago. But you still have people's temperments, you know sizzling on the back fire down there. I would hate for it to come to something and you going look back and be sorry because you never do one simple action. But that's all I have to say and you have announcements.

Mr. Boteilho: Can I ask you a fast question Madam Chair? Are they traversing on private property?

Ms. Buchanan: Of course they traversing on private property.

Mr. Boteilho: Do they have permission from the landowner?

Ms. Buchanan: I don't believe they have permission. How can you get permission from several landowners? That's the problem.

F. ANNOUNCEMENTS

Mr. Boteilho: The microphones. We have made progress. First of all we have the microphones, we know which ones we're going to buy. I have put in the requisition already. Basically this will be state of the art high tech microphones. The reason it took long was because they original price for these 8 high tech microphones was \$16,000. The consultant kept on looking and he found it for \$10,000. So this is going to be very good microphones. He also had to go to the FAA to actually reserve air wave frequency. So that's why he took long. So I put the requisition in \$10,000, however, the rest of the story is we have been told by the administration that we should save as much money as possible to protect our bound rating for next year. I put in the requisition saying that we need this to go through because if it doesn't we may lose that frequency from the FAA. So hopefully no one is going to give me a hard time.

Mr. Vanderbilt: Hey Wayne with regard to saving money you might consider that in your decision tomorrow because in the Hokuli'a Case that the County of Hawaii went up against Native Hawaiian Legal they ended up paying legal fees of excess to two million dollars to Native Hawaiian Legal Corporation.

Ms. Buchanan: He's aware of that, thank you Degray.

Mr. Boteilho: We had been appearing before the Budget Committee for the past month. Basically

we're asking for 6 more positions. Three planners and three plans examiners. So far nobody told me that we're not going to get it so hopes are still high. This will go a long way to, a long way down the road to get a Molokai planner. To be honest I cannot see one for the next fiscal year, we talking next fiscal year because these 6, really, in my opinion is to catch up with the back log of work and it helps, it's something positive.

Rates and fees, I think this is something I think that will help to get a Molokai planner. All this time our rates and fees believe or not was just sitting in the finance department because it could only be used for advertising, you know like public hearing notices. We've worked with corp. counsel and council staff and we're going to amend that. So now the rates and fees will go to the general fund and we're going to request the council to basically appropriate it back to us. So again this is something positive and helps us with getting a Molokai planner. Last year we had raised it and as a result, prior to raising the fee's our revenue from the rates and fees was \$120,000. This year we're expected to received \$250,000 in rates and fees monies.

G. NEXT REGULAR MEETING DATE: MAY 12, 2004

H. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 3:50 p.m.

RECORD OF ATTENDANCE

COMMISSIONER'S PRESENT:	1.	L. BUCHANAN, CHAIRMAN
	2.	D. VANDERBILT, VICE-CHAIR
	3.	J. FEETER
	4.	J. KALANIHUIA
	5.	K. DUNBAR
	6.	S. NAPOLEON
	7.	M. TANCAYO
ABSENT:	1.	C. SEALES
	2.	R. RIBAO
STAFF:	1.	W. BOTEILHO, DEPUTY DIREC. PLNG
	2.	R. LOUDERMILK, PLANNER

3. C. YOUNG, CORPORATION COUNSEL