

PLANNING COMMITTEE
Council of the County of Maui

MINUTES

November 5, 2013

Helene Hall, Social Hall

CONVENE: 6:04 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Stacy Crivello
Councilmember Mike White

NON-VOTING MEMBER:

Councilmember Robert Carroll

EXCUSED: VOTING MEMBERS:

Councilmember Gladys C. Baisa
Councilmember Elle Cochran
Councilmember Don S. Guzman

STAFF: David M. Raatz, Director, Office of Council Services
Yvette Bouthillier, Committee Secretary

Dawn Lono, Council Aide, Hana Council Office

ADMIN.: Michele McLean, Deputy Director, Department of Planning

OTHERS: Sky Pierce
Andrew Rayner
Ward Mardfin
Arabella Ark
Ed Cashman
Others (5)

CHAIR COUCH: . . .(*gavel*). . . Will the Planning Committee meeting of November 5th in the Hana District please come to order. My name is Don Couch, I'm the Chair of the Planning Committee. And joining us tonight is the Vice-Chair of the Planning Committee, Councilmember Mike Victorino. Good evening.

VICE-CHAIR VICTORINO: Good evening, Chair.

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CHAIR COUCH: And down at the far end, we normally introduce the voting Members first but since Mr. Carroll is the Member of this district, Members, if you don't mind, I'll introduce --

VICE-CHAIR VICTORINO: No problem.

CHAIR COUCH: --non-voting Member Bob Carroll. Good evening. And coming right down the line, Councilmember Mike White and Stacy Crivello, Councilmember Stacy Crivello. And from the Administration we have Planning Deputy Director Michele Chouteau McLean. Good evening. And then Council Services, we have the Director of Council Services, we're privileged to have the Director of Council Services with us tonight, Mr. David Raatz. Good evening. And then of course the ever-present Yvette Bouthillier. And of course in the back we have your Council Services representative over here, Dawn Lono. Good evening. All right, Members, we're going to kind of do this like we did Upcountry. We have so far two people signed up to testify, so we'll take that testimony first. And then if other people want to come up and just talk and ask questions, we'll have a little chat for a little bit so that people can at least hear what we have to say. Members, we're talking about Item PC-33 which is the Home-Based Business Bill. We're going out to each of the communities to see how people feel about this new bill and some things, the concerns that they may have. So without objection, I'd like to open public testimony.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay. Testifiers, please, you get about, you get three minutes officially. You'll get a three-minute warning from Mr. Raatz I believe, and then after that if you could wrap up your comments. And then when we're done with this whole thing, we'll get a chance to talk story a little bit. That being said, the first person who signed up to testify is Sky Pierce, followed by Andrew Rayner. And please state your name when you come to the microphone. And I think somebody needs to turn it on, yeah. We're doing that for recording purposes.

...BEGIN PUBLIC TESTIMONY...

MR. PIERCE: Can you hear me? Hello? Okay. Thank you, everyone, for coming out. My comments really are just sort of general. Mr. Couch came out and spoke to the Hana Business Council of which I am a member about this bill and we went over it in a lot of detail, and honestly, most of it looks much improved compared to the previous draft that I had seen. There were a couple things that came up. One was the sign which isn't really a do-or-die issue, but the issue of signage struck me as a little odd that it would be restricted to such a small size when the required signs for bed and breakfasts are so large

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in comparison. It seems like the bed and breakfast permitting signs are much more of a nuisance than any sign that would be up for a small, a home-based business. I also just would ask the Council to consider that Hana is a different situation than most of the rest of the island. A lot of the home-based businesses that exist out here exist on Ag land, and I know that there are State requirements that cover a lot of that. But as much as the Council is able, just consider that it is less of a nuisance for neighbors to have a small, a home-based business on an Ag lot of two or three acres where they don't have any neighbors than it would be in a small subdivision, and so the rules that apply and make sense for a subdivision type area don't make sense for many of the small businesses out here. That said, of course we do have a subdivision area in Hana, and we have neighborhoods where homes are closer together than that and may or may not be on Ag land. And but I would just ask to, that you consider that when you're looking over this bill, and realize that home-based businesses and small businesses are the life blood for a lot of people in Hana. Not everyone works at the hotel or the school and a lot of people depend on these home-based businesses, and doing whatever you can to allow them to continue operating provided that it's not a nuisance for neighbors in the real world is important. So something like a 4x4 sign on the edge of my property when my nearest neighbor is 300 feet away is not the same type of neighbor impact as it is on a cul-de-sac in a subdivision.

CHAIR COUCH: Okay, thank you.

MR. PIERCE: Thank you.

CHAIR COUCH: Members, any questions of the testifier? Seeing none, thank you, Mr. Pierce. And Andrew Rayner is the next person and the last person to sign up to testify.

MR. RAYNER: Andrew Rayner. I'm Hana Business Council and on my own behalf. I wasn't expecting to testify today and because we had a long conversation and Mr. Couch was extremely helpful not very long ago, so I'll be very brief. I very much welcome the new draft of the bill which appears to embody two principles to a much greater extent which I certainly appreciate. The first is businesses are allowed except when there is something objectionable. In other words, the burden of proof is that they don't work and businesses in general should be permitted. This is important in Hana, we have no idea what businesses people are going to send up, set up. Things can change and they do change very rapidly. The rules should really be drafted in such a way that they're flexible for the future. The second thing I see in there to a much greater extent than the original draft is you trust us much more than you did, and thank you. It's, I think it's a good way to draft a law that your voters are inherently trusted but you put in rules to keep abuses out of the way. On a particular matter I want to echo what Sky said about signage. You've drafted in things like, expressions like wall signs which simply aren't appropriate here. Our lots are very various and some have hedges, some have grass going way back. Can you

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please come up with rules about signage which allow for the variety of lots that we have. Signage is very important. I'll give you two little examples where I think we're going to need signs which work. One, we have a wonderful vet here who is likely to retire before very long as he's well over 80 years old. He'll be replaced we hope, with difficulty we think, by somebody else who'll probably be a new premises. He desperately needs a sign to show he's there. Similarly, we had a chiropractor not long ago, would love to get one back again, but a chiropractor has to have a sign outside which is visible, doesn't have to be big, doesn't have to be gross, but it just has to be a normal business sign. And that's the sort of thing that we would like to see allowed. I think that's probably all I'd want to say except on the matter of Agricultural lots, and I know this is not in your gift, the problem is in Honolulu and not in Wailuku. But can you please do whatever you can to get the law changed so people on Agricultural lots don't have to go through the Special Use Permit in order to conduct a little business on their land. We'd love to be able to comply with a piece of law which made sense in terms of small businesses, we don't think the requirement for an SUP should be necessary. Thank you all very, very much for coming out. And I'm sorry Hana hasn't supported you to a greater extent tonight.

CHAIR COUCH: That's okay. Thank you. Members, any questions to the testifier? Seeing none. If anybody out there would like to just have a discussion as to their concerns or questions on this bill, we'd be happy to listen to you and have a little talk back and forth. Otherwise, if I don't see any motion...oh, come on up. Just because we are recording this, we need to have your name and then you need to fill out one of these.

MR. CASHMAN: Yeah. My name is Ed Cashman. I live in Hamoa. I can see the good things about home businesses because a lot of people survive by that, but also my concern is how do you guys enforce it. You folks . . .(inaudible). . . bed and breakfasts, vacation rental, like where we live in Hamoa there's maybe 20 houses. We have more illegal than legal and there's no enforcement. I keep asking the question and the, well, the director, they had to hire one new enforcement person, you know. We have people who run restaurants, they get live music, they even have gambling, and nobody does anything. We have one place there, they put up a pavilion and there's three different people, sometimes four, they take chance running businesses and nothing happens. When we get holidays, they run one gambling game. Yeah, I mean it's good to have all these things but if you don't have enforcement you folks rely on complaints. And, you know, just like me I'm retired, I'm not going around and complain because what happens? It comes back to us. That's exactly what happened to me. I complained, I was attacked, I had to prosecute through the courts.

CHAIR COUCH: Right.

MR. CASHMAN: I mean to me it's not fair, you folks going to do something, you gotta put in place before you do it how you going enforce it. Relying on citizens' complaint is not

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enforcement. You putting the burden on, like me and my wife. I mean we had to bring in people from outside so we can stop it. We called the police, like well it's not our...we had to bring somebody from Honolulu to, so we could stop the threats, and they're still doing it. I mean it's like we call, there's illegal camping on State land, we voiced the complaint, it took two years for them to put the sign. And I asked them for four signs, they brought two. I said you took two years for two signs? I mean it's...and they had, they have surf meets, no permits. They bring hundreds of people. We complained, the officer comes, he said well, just be low key. And, you know, they're drinking, they're doing drugs, and it's a little neighborhood, you know. You folks going to do it, have enforcement, please.

CHAIR COUCH: Okay, thank you. Members, any questions, comments? Thank you. Anybody else? I don't see anybody rushing to...all right. Well, Members, our next meeting is on Ms. Crivello's island, the Mitchell Pauole Center, Wednesday, November 20th. And, you know, folks, if you know somebody who couldn't make it to the meeting tonight or who just wasn't able to get to us, please submit testimony in writing and we'll be happy to, or you can come to these other meetings. And I've got to converse with my Staff for a second. Oh, okay. Yeah, you can always submit written testimony and we'll be happy to take it into the record and take it into our consideration. Yes, ma'am, come on up. We need to hear it.

MS. ARK: Hi, I'm Arabella Ark. I just wanted to say I think there are so few people here because you came out and you gave us so much information that you answered our questions. And because most of us live on Ag land we realized that the Council members couldn't really help us, it's all SUP and CUP. But thank you for coming.

CHAIR COUCH: Thank you. All right, Mr. Mardfin.

MR. MARDFIN: Yes, Ward Mardfin. This isn't really typically germane but I do want to thank you for coming out even though you're not getting much testimony tonight. And I also agree with Arabella, I think the pre-meeting you had with us and the Hana Business Council made a huge difference in answering our questions. The second thing and I suspect it has nothing to do with you folks, why are they taking the okinas out of the Code? They're changing Moloka'i to Molokai and...I know it's not a Planning Department issue but they seem to be systematically striking out all the okinas.

CHAIR COUCH: Okay. That is part of the bill so.

MS. McLEAN: I can't answer that question directly, what I can share with you is the Planning Department also provides staff support to the Cultural Resources Commission, and the Cultural Resources Commission recently reviewed a document with a Cultural Impact Assessment and other cultural and archeological documents in it. They were very

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concerned that okinas and kahakos were not being used properly, and they, one of their, they made only a few recommendations on this document and one of those few recommendations was either make sure that you use those correctly every single time you use them or take them out altogether. So perhaps --

MR. MARDFIN: They've opted to take them out altogether.

MS. McLEAN: --a similar...and again, I don't know the thinking behind your question in particular, but it's possible that the thinking is if you're not going to use them correctly all the time then don't use them at all.

MR. MARDFIN: I think it's...

CHAIR COUCH: And I had heard that as well.

MR. MARDFIN: I think it's a shame that we can't use it all correctly all the time. But and even in the bill they're not okinas that are in there, they're apostrophes that are in there so. Anyway, thank you.

...END OF PUBLIC TESTIMONY...

ITEM NO. 33: HOME-BASED BUSINESSES (C.C. 12-74)

CHAIR COUCH: Okay, thank you. All right, Members, that's almost everybody who came. So thank you all for joining, and if you still have questions, please feel free to ask. But at this point this meeting is adjourned. . . .(gavel). . .

ACTION: DEFER pending further discussion

ADJOURN: 6:21 p.m.

APPROVED:



DONALD G. COUCH, JR., Chair
Planning Committee

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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 13th day of November, 2013, in Kula, Hawaii



Daniel Schoenbeck