

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 11, 2016**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes' file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chairperson, Douglas Rogers, at approximately 11:00 a.m., Thursday, February 11, 2016, at the Department of Hawaiian Home Lands Conference Room, Kulana Oihi, 600 Kamehameha V Highway, Kalamaula, Molokai.

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

B. INTRODUCTION OF NEW MEMBER - WILIAMA AKUTAGAWA

Vice-Chair Doug Rogers: Okay, Mike's not coming so it's up to me. Say a little prayer for Mike. Hope his surgery goes well. This meeting is called to order. We've got a new member, Willy, I think everybody knows, Wiliama Akutagawa, just for the record. Welcome, bruddah. And public testimony. Public testimony is open.

C. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Ms. Collette Machado: I came before you folks at the previous ...(inaudible)... at the Kaunakakai School -- Elementary School Cafeteria. My primary purpose at that time was to provide you with our, the Office of Hawaiian Affairs', testimony, dated November 12, 2015, with regards to recommended revisions to the Molokai Community Plan to the Molokai Planning Commission. So we had hoped, at that time, back in November, that our testimony could have been included in the CPAC approach to make some of the associations or at least the statutory constitutional standards applied to the Office of Hawaiian Affairs. What I witnessed that night, which is normally what happens at any of our public community meetings, was that there was a diverse understanding of what this -- what I consider cultural practices and traditional access, and then we wanted -- then we ended up getting into a debate. What I was hoping to avoid. When we go to Maunloa and some of the other communities that we would be able to visit over this process with the Planning Commission up to March was to actually say that we've included OHA's comments and the revisions, and I'm afraid that if I -- if we don't take a position strong

enough to support the Office of Hawaiian Affairs' testimony, you might get others that might want to add their names to this position. Now, I checked internally with our Chief Operating Officer, Kamana`opono, we have a vetted process that as we go through this review and any kind of testimony that the agency actually supports, it has to be vetted properly, so to add anybody else onto the testimony would take a serious approach that would take longer than probably exceeding March. So I would like to say that the November 12 testimony stand as the kind of comments that would be reflective and which is supported by our native Hawaiians here on Molokai. So that's what I'm trying to do today.

But I also came with some primers that the law school -- we worked with the law school students, and we developed these primers, yeah, and one of them is -- I don't know, Clayton, you came to one of the trainings that we had at the University of Hawaii Law School -- Richardson Law School - you can pass this out, I got 11 copies. Did you come to the one at the Richardson Law School? OHA has been doing training for land boards and commissions, and at the last one we had, Councilwoman Stacy Helm Crivello attended, and what we've been doing with the University of Hawaii, we call it the "Excellence in Native Hawaiian Law - Ka Huli Ao Center," is there have been -- we've paid for these primers to actually outline some of the critical areas at what the law represents in some of the past cases. So this is something, I think, reinforces some of our commitments in our testimony that was written up. So I get one copy that's in here. There is another primer that we did on water management. The only one I don't have is the one on the iwi kupuna, we ran out of copies, but I'll be able to get that at the next meeting 'cause I needed to get 11 for your folks. So this one will discuss some of the provisions on water management, and some of the role of appurtenant rights and registration and what this means. So these are called "primers," which associates with some of the positions we've taken in our testimony.

We have -- there were actually four primers that were done on behalf of OHA with the law school. This one is called "A Legal Primer for Quiet Title and Partition Law in Hawaii." So this gives you a little bit more about some of the legal provision on land title in Hawaii.

The only one that's missing from this set of four primers is the one on the iwi kupuna, which was written by Law Professor, Malia Akutagawa, so at the next meeting next month, I'll be able to bring that primer. They didn't have any at the OHA office so they had to get a batch to come down from the law school 'cause I was on Oahu yesterday.

So these are all part of the information, I think, when you render these decisions, help you begin to look at and sought through some of the debate that we go through every time we gather. So that's something that I would truly encourage the Commission to take a position in incorporating. I hope that your staff has actually reviewed the testimony and is feeling very comfortable about accepting it 'cause we did not take any outside or go outside of the boundaries, outside of what we're responsible for, and that's what I wanted to support. If

we don't take a position at this level, you're going to end up having people divide up on what is said, and I hate to say this word, "what could be and could not be," what I call "making things up," and that's why I really would encourage you folks to consider this position, if not at this meeting, maybe at the next month's meeting, or demand from staff, Clayton, that you folks review our testimony and agree that this represents our responsible agency responsibilities and can support this internally 'cause, originally, it went to the Planning Commission staff, the Planning Department, but we didn't hear anything, so as usual, over here, we have to rock and roll at this level, so I would recommend that, Clayton, seriously -- are you still the deputy? Are you still the deputy?

Mr. Clayton Yoshida: No. I am the Administrator of the Current Division. Michele McLean is the deputy.

Ms. Machado: Oh, Michele. I know Michele, yeah. Or I can go straight to Spence. But I would encourage you folks not to -- not to act on this because we going get caught in this debate, as you saw last month, you know, who said, what said, OHA said this, I said this, I want to add on more stuff, and next thing you know, you folks are all like deer with the headlights on. So I just bring these things to your attention 'cause there is some factual foundation, and I can honestly say, I went through all of the positions, and I marked up my book, we don't overstep any of our responsible areas to oversee the outcome in the CPAC.

And I have to tell you, on the issue of the community plan, there is a group that, East End Policy Statement, there is a legitimate group that has been meeting seriously on the first Sunday of every month to go over the old plan, the 1981 plan, and then to look at some serious consideration for revision, and they not prepared yet. I think they're going to wait to next month. We have one more meeting next month to come forward with our testimony on what to do with the East End Policy Statement. And I wanted to leave you with, if you look at -- if you don't have our testimony, I wanted to tell you why the -- what this all means to us, the community plan, this is what OHA says, "OHA recommends including the original statement as a record of the Manae community's original and enduring vision for this place." That this is how we feel about the Molokai Community Plan. It is an enduring vision over time that will help us guide some of the principles with land use planning, and also to look at the future growth of this island, and a lot of time you get tremendous community push back because there's so much passion and there's a lack of trust on the decision making, but I only encouraging you to actually support OHA in this manner 'cause we are the -- the recognized agency, both constitutionally and statutorily, to represent native Hawaiians and their claims as cultural and subsistence practitioners. So with that said, mahalo.

Vice-Chair Rogers: Okay. Thank you, Collette. Yeah.

Mr. Wiliama Akutagawa: Oh yeah, sorry for changing the subject, I'd just like to thank all of you people and thank Aunty Stacy Crivello, Mayor Alan Arakawa for giving me this opportunity to have an important voice in this community, and I would try the best of my abilities to serve -- serve the community well and do a good job. Thank you.

Vice-Chair Rogers: Thank you, Willy. That's all we can do. Anymore public testimony? I guess public testimony is closed.

Mr. Clayton Yoshida: Thank you, Mr. Chair. We will forward copies of these reports to our Long Range Division, who will be conducting the meeting at 3:00 this afternoon on the community plan update.

Mr. Yoshida read the following agenda item into the record:

D. COMMUNICATIONS

- 1. MR. JERALD JOHNSON requesting a Special Management Area Minor Permit in order to construct a new 25' x 167' solar panel structure over the parking lot of the Paddlers Inn property located in the Kaunakakai Country Town Business District at 60 Kamehameha V Highway, TMK: 5-3-001: 060, Kaunakakai, Island of Molokai. (Valuation: \$105,000) (SMX 2015/0312) (S. Lopez)**

The Commission may take action on this request.

Ms. Sybil Lopez: Good morning, Vice-Chair Rogers, and Commissioners, and the public. I'm Sybil Lopez, the Molokai planner and staff planner on this project, and this matter arises from a request for an SMA assessment filed on July 22, 2015. The application was filed pursuant to Chapter 205A, the Hawaii Revised Statutes, and Chapter 302, of the SMA rules of the Molokai Planning Commission, by the consultant, Luigi Manera, who is here and is ready and willing to answer any one of your questions that you have here today regarding this matter, the approximately 38,895 square feet of land in the Kaunakakai Country Town Business District, situated at the 60 Kamehameha V Highway on Molokai.

So the applicant is requesting an SMA minor permit to construct a new solar panel structure so -- over the parking lot on the Paddlers Inn property, so it will be Neighborhood Power Corporation, will be the solar company to install the new structure, and the structure will be located on the west side of the Paddlers Inn Restaurant. So if you can have all your exhibits, the exhibits that I added into the report is mostly in regards of the specifications and the materials that are being used to construct this structure. So if you have any questions. Thank you. Oh, we do have -- also have the approval letter for the country town

business district. They did go in front of the UDRB, on December - let me see - on December 1 so --

Mr. Marshall Racine: We can ask Luigi questions at this time?

Ms. Lopez: Yes.

Mr. Racine: I noticed in our specifications single-line drawings is -- I used to know how to read them, I don't see any batteries. Is this going to be an active system that basically provides power to the local -- I mean to business during the day or feed its excess back to Maui Electric and then shuts down at night and there's no batteries, or they're called and I don't see them?

Mr. Luigi Manera: Luigi Manera. There is no battery in this system.

Mr. Racine: Okay.

Mr. Manera: This is just a, you know, it work in the day, in the night, obviously, we take power from the electric company.

Mr. Racine: Okay.

Vice-Chair Rogers: Anymore questions, comments? A motion?

Mr. Billy Buchanan: So move.

Vice-Chair Rogers: Second?

Mr. Lawrence Lasua: Second.

Vice-Chair Rogers: Okay, moved and seconded.

It has been moved by Commissioner Buchanan, seconded by Commissioner Lasua, then unanimously

VOTED: to approve the SMA minor permit in order to construct a new 25' x 167' solar panel structure over the parking lot of the Paddlers Inn property at 60 Kamehameha V Highway.

Vice-Chair Rogers: It's unanimous.

E. DIRECTOR'S REPORT

- 1. Agenda items for the future regular meetings**
 - a. February 25, 2016 meeting**
 - b. March 8, 2016 meeting**
- 2. Pending Molokai Applications Report generated by the Planning Department (Appendix A)**
- 3. Closed Molokai Applications Report generated by the Planning Department (Appendix B)**

Mr. Yoshida: Thank you, Mr. Chair, next order of business is the Director's Report, agenda items for the future regular meetings --

Mr. Lasua: Clayton, your mike's not on.

Mr. Yoshida: Okay, our next order of business, under Director's Report, is agenda items for the future regular meetings. We have a meeting scheduled for February 25, but we don't have any agenda items at this time, so we'll probably cancel meeting, but we do have a meeting scheduled for March 8. We probably will have some SMA assessments. I don't think we'll be really busy until we get to April, well, as far as the regular meeting, you folks will be busy with the community plan update meetings, but we won't be busy until April because there have been several council resolutions transmitted to the three planning commissions for their review and comments, so those will probably come up in April and May. So any questions regarding future regular meetings?

Okay, we have circulated, under items 2 and 3, our pending and closed Molokai applications report, if there are any questions on either the pending or closed applications reports? If not --

Ms. Zhantell Dudoit: Wait. I have a question, Clayton.

Mr. Yoshida: If not, the next --

Ms. Dudoit: Just because I always looking for 'em and now I don't see it at all, but whatever happened with Malama Cultural Park?

Mr. Yoshida: Maybe Sybil can answer that.

Ms. Lopez: So we -- the Malama Cultural Park project is still open, and it's pending on budgetary, so the constraint is more budgeting. That's what we're waiting on the consultant. I guess they exhausted the funds to proceed. So that's where we're at at that point. But majority of the work has been done.

Ms. Dudoit: But their approvals don't have one end date, right? So we no have to worry about them -- I just -- we just haven't, in such a long time, that I wouldn't want them to expire and then have to redo everything all over again.

Ms. Lopez: As far as the shoreline certification survey, they would have to. That's been expired.

Ms. Dudoit: Okay.

Ms. Lopez: So that's one of them that would have to be redone because that was back in 2011. As far as future agenda items, you will be seeing a change in zoning, I know you guys seen it already in the past with the Molokai High School, so it will be coming up in maybe March or April, just that small parcel, changing it from that single-family and that agriculture, so that we can change the zoning and make it all consistent. So just a heads up. I know you were not going to be in discussion on this one, but the next community plan update you will be discussing the land use, and I'm pretty sure that Long Range will be bringing that to the table so at least you know that you're aware of that, and once Long Range has that discussion with you, I'll be bringing -- the Current Division will be bringing it up in the next couple meetings, so I just wanted you guys to be aware of that. Another thing to be aware of is the short-term rental permits, so, like what Clayton's been saying, we'll probably might speed up more in April or May and June. I do have a lot of short-term rental permits on here that's actually waiting for the council's decision, so that's just a heads up for the Planning Commission.

Vice-Chair Rogers: Thank you, Sybil.

Mr. Yoshida: Again, we'd like to welcome Mr. Akutagawa to the Molokai Planning Commission. I guess he has the distinction, on his first day, of having to attend two meetings, two Planning Commission meetings, but so there'll be another meeting at 3:00 at the Maunaloa Community Center on the community plan update.

Vice-Chair Rogers: That one's going to take longer. I think that's about it.

Ms. Lopez: Can I just make a quick announcement --

Vice-Chair Rogers: Certainly.

Ms. Lopez: Regarding the community plan update with corp. counsel, so corp. counsel just wanted to reiterate again that they will be here next week -- the next meeting, so if you guys do have any questions, make sure you kinda be prepared for them being actually here at the next meeting, so they just wanted to kinda give you guys that announcement. Thank you.

F. NEXT SCHEDULED REGULAR MEETING DATE: February 25, 2016

G. ADJOURNMENT

Vice-Chair Rogers: Okay, thank you. Take a note of that. Have them questions ready. Okay, thanks, Sybil. I think -- I think that's all. I think this meeting's adjourned.

There being no further business brought before the Commission, the meeting was adjourned at 11:20 a.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Douglas Rogers, Vice-Chair Person
Wiliama Akutagawa
Billy Buchanan
Ron Davis
Zhantell Dudoit
Lawrence Lasua
Marshall Racine
Diane Swenson

Excused

Michael Jennings, Chairperson

Others

Clayton Yoshida, Planning Program Administrator, Current Division
Sybil Lopez, Staff Planner, Molokai, Current Division