

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
DECEMBER 12, 2018

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chairperson Lawrence Lasua at approximately 11:05 a.m., Wednesday, December 12, 2018, at the Mitchell Pauole Center, 90 Ainoa St., Kaunakakai, Molokai.

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

Vice-Chair Lasua: Good morning, everybody. We'll go ahead and start until the Chair gets here. We're a bit past, 5 after 11, so we'll go ahead and start, so I'll go ahead and call the meeting to order, as item no. A. Next item on the agenda will be public testimony. Is there any public testimony right now? Yeah. Go ahead. Come on up. State your name.

B. 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. **Testimony will be limited to a maximum of three (3) minutes, with 30 seconds to conclude.**

Mr. Godfrey Akaka: ...(inaudible - not speaking into the microphone)...

Vice-Chair Lasua: Yeah. Yeah.

Mr. Akaka: Aloha. This testimony is for --

Vice-Chair Lasua: Can you state your name first?

Mr. Akaka: Godfrey Akaka, Jr.

Vice-Chair Lasua: Thank you.

Mr. Akaka: I am a Hawaiian subject. I am a retired firefighter. And I currently reside in Hoolehua. As a Hawaiian subject, I am a protected person, as defined under Article 4, of the 1949 Fourth Geneva Convention. I, too, have come to learn that the Hawaiian Kingdom continues to exist as a independent and sovereign state that has been under an illegal -- an illegal and prolonged occupation by the United States since January 17, 1893. I am also aware that the United Nations Independent Expert, Dr. Alfred de Zayas, sent a memorandum to members of the State of Hawaii Judiciary, which stated international laws, the Hague and Geneva Conventions, require that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by the application of the laws of the occupied state. In this case, the Hawaiian Kingdom, not the

domestic laws of the occupier, the United States, and according to Amnesty International, war crimes are crimes that violate the laws or customs of war defined by the Hague and Geneva Conventions. Article 43, of the Hague Regulations, and Article 64, of the Fourth Geneva Convention, obligates the United States to administer Hawaiian Kingdom law, not United States law. This deliberate failure by the United States to administer Hawaiian Kingdom law has led to grave breaches under Article 147, of the Fourth Geneva Convention, and International Humanitarian Law, which constitutes war crimes committed against me, as a protected person. This body illegally enacts United States laws in violation of the Hague and Geneva Conventions, and as a victim of war crimes that stem from this unlawful legislation, I demand that this body immediately cease and desist. Thank you.

Vice-Chair Lasua: Thank you, Godfrey. Was there any item on the agenda that you were referring to at this time, Mr. Akaka? No?

Mr. Akaka: What is on the agenda?

Vice-Chair Lasua: Adoption of written and decision and orders for proposed findings of facts and conclusions --

Mr. Akaka: Okay. Yeah.

Vice-Chair Lasua: Waiver or non-waiver of special management area.

Mr. Akaka: All of 'em. All the agendized items.

Vice-Chair Lasua: And Mrs. April Shiotani, Department of Parks and Recreation. Any questions, Commissioners, for the testifier? No? Thank you. Anybody else?

Ms. Judy Caparida: Before I say my thing, first, I would like to support our -- our athletics, those that going fix up the park. We got it on the agenda, right? So I would like to support them, and I thank you for that. And my follow-up is my name is Judy Lokelani Caparida, and I am Hawaiian. I am a kupuna. And I've been very active in our community from way back, and I've known and I agree with everything that God has furnished for us on Molokai, and so I needed to just say that part and then as I follow-up, okay? Okay, let me see now. I am from Manae but now I'm at Hoolehua, Hawaiian Homestead, and let me see now. I am a protected person to defend -- defined under Article 4, of the 1949 Fourth Geneva Convention. This body illegally -- United States laws in violation of the Hague and Geneva Conventions, and as a victim of war crimes that stem from this unlawful legislation, I demand that this body immediately cease and desist. Thank you. Any questions?

Vice-Chair Lasua: Thank you, Judy. Any questions from the Commissioners? No. Oh.

Ms. Buchanan: Thank you, Judy. I appreciate your testimony. I apologize to the former testifier that I arrived a little bit late, and I only caught the tail-end, and I not going make any assumptions, but based on your testimony, I would like to request a recess for executive session so that I may consult with my attorney on my rights and privileges and duties to this Commission. But thank you for your testimony. I no really have one question. Thank you, Aunty. So --

Ms. Desjardins: Okay, so in order to go into executive session we -- there has to be a motion, and then a second, and then there has to be a -- a vote amongst the members, it has to be five members of the Commission have to approve going into executive session, so -- go ahead.

Vice-Chair Lasua: Okay, can I get a motion to go into executive session?

Ms. Espaniola: I second that motion.

Vice-Chair Lasua: There's a motion on the floor. Is there a second? Chair second? No? You can go ahead and make the motion then? Okay, it's second -- I mean moved and second that we go into executive session. Any discussion? Seeing none. Ready for the question? All in favor, raise your right hand? Look like we got a unanimous vote. No? Okay. All oppose, raise your right hand? Abstain? Okay, let the record show that Mr. Sprinzel abstain from the vote.

Ms. Desjardins: Okay, so the motion carried so we're going to take a recess and prepare the room for executive session. Okay, go in the back. Okay, thank you.

Vice-Chair Lasua: Okay, thank you.

Mr. Sprinzel: Mr. Chair, I abstained because I don't feel I have the authority to discuss the matter in hand.

Vice-Chair Lasua: Thank you, Mr. Sprinzel.

It was moved by Commissioner Lori Buchanan, seconded by Commissioner Leonora Espaniola, then

VOTED: that the Commission enter into Executive Session to consult with its attorney on the rights, privileges, and duties of the Commission.

(Assenting: L. Buchanan; L. Espaniola; W. Moore; L. Poepoe; J. Sprinzel-Abstain)
(Absent: J. Perez)
(Excused: J. Pele)

The Commission entered into Executive Session from 11:15 a.m. to 11:24 p.m.

Vice-Chair Lasua reconvened the meeting at 11:26 a.m. and continued with agenda item B, Public Testimony.

Vice-Chair Lasua: Okay, Commissioners, I'm going to go ahead and call the meeting back to order. So we'll go ahead and continue with the testifying. Anymore testimony to be given? Please step up to the microphone, state your name, and you have 3 minutes with 30 seconds to conclude.

Mr. Jonathan Lindo: Good morning. My name is Jonathan Lindo, and I'm a Hawaiian subject. I'm a retired firefighter and I currently reside on Lot 128, Moomomi Avenue, Hoolehua, Molokai. As a Hawaiian subject, I am a protected person, as defined under Article 4, of the 1949 Geneva Convention. What's that? I thought she said something. This body illegally enacts United States law in violation of the Hague and Geneva Convention, and as a victim of war crimes that stem from this unlawful legislation, I demand that this body immediately cease and desist. Our group, Native Hawaiian Gathering Rights Association, wanted to testify today so at least we get one paper trail because you guys opening up to testimony for us so that's why we're here, it's not to say you guys wrong, we right, or whatever, it's just to put something out there that we're concerned about as Hawaiians. Thank you.

Vice-Chair Lasua: Thank you, Jonathan. Any other testifier?

Mr. Walter Rawlins: Hi. My name is Walter Kamanahikiola Rawlins. I am a Hawaiian -- Hawaiian subject and currently reside in the Hoolehua, Molokai Lot 51. As a Hawaiian subject, I am a protected person, as defined under Article 4, of the 1949 Fourth Geneva Convention. The body illegally enacts United States law in violation of the Hague and Geneva Conventions, and as a victim of war crimes that stem from this unlawful legislation, I demand that this body immediately cease and desist. And I'm also with the Hawaiian rights too. Thank you.

Vice-Chair Lasua: Thank you, Mr. Rawlins. Anybody else?

Ms. Irene Kaahanui: Aloha. My name is Irene Kaahanui, a kupuna, and I currently reside at 700 East Moomomi Avenue, in Hoolehua, and I'm a retired government worker, and I am a protected person, under defined Article 4, of the 1949 Fourth Geneva Convention. This body illegally enacts United States laws in violation of the Hague and Geneva

Conventions, and as a victim of war crimes that stem from this unlawful legislation, I demand that this body immediately cease and desist. I also have a question regarding the announcement of your meetings to the community. It's just not pono. You know, there's a hold up somewhere and I think something should be done about. That's why you hardly see anybody at the meetings, you know. And about this having the meetings at 11:00, can't you guys change it because the working people are also interested in your meetings too. So that's all I have to say.

Vice-Chair Lasua: Thank you, Irene. Anymore testimony?

Ms. Mahina Poepoe: Hi. My name is Mahina Poepoe. I wanted to support the wellhead protection overlay. I think the last time I was supportive as well or, yeah, I was. I think I also spoke of how I would be supportive even of stricter BMPs or requiring existing uses to comply. You know, it's important to keep pollution and chemicals out of our water supply at any cost. And then also to comment on the decision and orders, I haven't been keeping track of them all, so I'm just curious as to how many more there are, if any, coming through. Okay. That's all. Thank you.

Vice-Chair Lasua: Thank you, Mahina. Were there any other questions? Were there any questions for Mahina from the Commission? No? Oh, she had a question. Okay.

Ms. Cora Schnackenberg: Aloha. My name is Cora Caparida Schnackenberg. I am, at this time, based on the information I just got today, it's under your folks' item E, Unfinished Business, regarding the over -- the wellhead overlay, I am going to -- I oppose to it. The purpose, if I understood correctly, was that -- that the homework of the petitioner or was going to -- it was deferred so that he would be back to provide us information as to consultant or being in conversation with DHHL. I don't see it. I don't see that that had happen, so, at this time, I continue to oppose. I also have with me the island of Molokai original plan for DHHL, which also indicate the watershed and its location of the parcels that I feel will be affected. I'd like to provide this also to the Commissioners. I also would like to reiterate that all those -- all the beneficiary and also that are under the lessees or are beneficiaries under Department of Hawaiian Home Lands that they also are person as was I are under the -- I can't read this thing -- the protected persons under Article 4, of the Geneva and also the Hague Convention that this body is operating in an act of war and I also say that this body should de cease or -- cease or desist. Thank you.

Vice-Chair Lasua: Thank you. Any other testifiers? Oh, just a minute.

Ms. Buchanan: Thank you for your testimony, Cora. I just wanted to provide some feedback, not so much a question. I'm aware that Department of Hawaiian Home Lands Planner, Nancy McPherson, is aware now of the overlay and that she's working to respond to the Department from the agency's perspective. I just talked to her I think it

was yesterday, so I just wanted you to know that they were -- were not aware of it at the time that we had the first meeting, and also in our packets we were provided this, and I don't know if you guys get copies, okay, but get copies in the back too. Thank you very much, Cora.

Ms. Schnackenberg: May I -- May I respond to that? Thank you. My concern is that the beneficiaries are not the ones that are being informed, and I acknowledge that you folks may have gotten that information, but the Department of Hawaiian Homes beneficiary hasn't. Thank you.

Vice-Chair Lasua: Thank you, Cora. Anymore testimony? Seeing none, we'll go ahead and move to the next item, item -- oh, sorry. We'll go ahead and close the public testimony and move on to item C.

Vice-Chair Lasua read the following agenda item description into the record:

C. ADOPTION OF WRITTEN DECISION AND ORDERS

- 1. Proposed Findings of Fact, Conclusions of Law, Decision and Order denying the request of STEPHEN PILLAR for a State Land Use Commission Special Permit in order to operate the Pa Loa Hale, a three bedroom short-term rental home, located in the State Agricultural District at 891 Pa Loa Loop, TMK: (2) 5-1-006:033, Kaluakoi, Island of Molokai. (SUP2 2017/0001) (S. Lopez)**

The Commission may take action to adopt, adopt with modifications, or take some other action regarding the proposed Findings of Fact, Conclusions of Law, Decision and Order.

Vice-Chair Lasua: Go ahead, Sybil.

Ms. Lopez: I'm just here to --

Ms. Desjardins: I'm Sorry. I just wanna say something really quick before we start.

Vice-Chair Lasua: Go ahead.

Ms. Desjardins: I just want to note that the Chair, Ms. Buchanan, is present and that we -- you folks determined that the Vice-Chair would go ahead and continue to chair the meeting for today, and also, I just want to make -- put on the record that all the Commission Members present have read the findings in their entirety as well as the

attached minutes and exhibits. Has everybody read that? Okay, so everybody is nodding in the affirmative. Thank you very much.

Vice-Chair Lasua: Thank you, Corporate Counsel. So noted for the record.

Ms. Lopez: Thank you, Vice-Chair. This is Sybil Lopez, the Staff Planner on this project, so I'm just here to guide you if you have any questions regarding the report and would like to let you know that this should be the last D&O for this year.

Vice-Chair Lasua: Any questions from the Commissioners regarding this item? No? So can I entertain a motion?

Mr. Poepoe: I move to adopt.

Vice-Chair Lasua: Move to adopt and second by Mr. Sprinzel. Any discussion? Seeing none, ready for the question? All in favor to adopt, raise your right hand? All oppose, raise your right hand? Okay, motion carried.

It was moved by Commissioner Laakea Poepoe, seconded by Commissioner John Sprinzel, then

VOTED: to adopt the Proposed Findings of Fact, Conclusions of Law, Decision and Order denying the request of STEPHEN PILLAR.

(Assenting: L. Buchanan; L. Espaniola; W. Moore; L. Poepoe; J. Sprinzel)
(Absent: J. Perez)
(Excused: J. Pele)

Ms. Lopez: Thank you, Chair. And I will be sending the signature around so --

Vice-Chair Lasua: Thank you. Next item on the agenda, item D.

Vice-Chair Lasua read the following agenda item description into the record:

D. WAIVER OR NON-WAIVER OF SPECIAL MANAGEMENT AREA (SMA) ASSESSMENT REVIEW

- 1. MS. MICHELE MCLEAN, Planning Director, notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed action located within the Special Management Area is not a "development" and therefore exempt from the**

requirements of the Molokai Planning Commission's Special Management Area Rules:

- a. **MRS. APRIL SHIOTANI, DEPARTMENT OF PARKS AND RECREATION requesting a Special Management Area (SMX) assessment exemption for improvements to the ball fields at three Molokai Parks, Kaunakakai Little League and Duke Maliu Ballfield, including fencing replacements, scoreboard replacements, and installation of concrete slabs for the batting cages, located in Kaunakakai, Molokai, TMKs (2) 5-3-003:012; (2) 5-3-002:105, 94, 97, 167 (SMX 2018/0338) (Valuation: \$606,563) (S. Lopez)**

The Commission may act to waive or not waive its review.

Vice-Chair Lasua: Go ahead, Sybil.

Ms. Lopez: Thank you, Vice-Chair. Sybil Lopez again, the Staff Planner on this project, and I actually do have Ms. April Shiotani here and she can come up and explain her project, but you did have it in your packet. The application, the drawing plans, the . . .

**** Due to technical difficulty, portions of the remainder of these minutes may be deemed inaudible ****

Mrs. April Shiotani (...*Portion inaudible*...), Department of Parks and Recreation, provided an overview of the proposed improvements to the Kaunakakai Little League and Duke Maliu Ballfield.

Vice-Chair Lasua: Okay, Commissioners, any questions for April?

Ms. Buchanan: ...(inaudible)...

Mr. Peter Pale (...*Portion inaudible*...), Department of Parks and Recreation, District Supervisor, Molokai, provided reasons for the proposed improvements such as rusting of the fencing and aging of the scoreboards and bleachers, and to provide improved access to the batting cages for the kids.

Vice-Chair Lasua: Peter, just a question. Are they going to be upgrading the bleachers over there too, over here?

Mr. Pale: The bleachers?

Vice-Chair Lasua: Yeah.

Mr. Pale: Those bleachers are pretty newer, the ones over there ...(inaudible)...

Vice-Chair Lasua: Yeah.

Mr. Pale: Yeah.

Vice-Chair Lasua: Okay.

Mr. Pale: Oh was missing for little while that's why, yeah?

Vice-Chair Lasua: Yeah.

Mr. Pale: I think one of the reasons that we removed them and left them out for a while is because never have games and we sent a message to people who come there and litter, the guys who just loiter and just hang out and a lot of cigarette butts.

Vice-Chair Lasua: Okay. Thank you, Peter. Any other questions for Mr. Pale? Thank you, Peter. Very good.

Mr. Pale: Thank you.

Vice-Chair Lasua: Okay, Sybil.

Ms. Lopez: Just here if you have any additional questions for staff. Thank you.

Vice-Chair Lasua: Anymore questions for staff? No? So -- so I'll go ahead and entertain a motion to waive or not waive.

Mr. Sprinzel: Propose to waive.

Mr. Poepoe: Second.

Vice-Chair Lasua: Second? Okay. Moved and seconded to waive its review. Any discussion?

Mr. Pale: I'd also like to thank the Mikami family for being here too because on our little league field, portion of that field sits on their property so we had to go through process with them help ...(inaudible)... so thank you Mikami family.

Vice-Chair Lasua: So thank you to Mikami ohana ...(inaudible)...

Ms. Kimberly Svetin: So my name's Kimberly Svetin and I don't come to these meetings very often, but Peter's been excellent to work with, and I also want to let you know that Molokai Ranch and Molokai Properties, Limited is also one of the landowners under the property, so there are actually two property owners that lease the land back for a dollar a year. So as a mother of two children who has utilized the parks and still, to this day, my kids still -- I was actually at the pool this morning so I'm huge supporter of parks and recs, and I think sometimes we don't vocalize the importance of parks and recs in our community and it is critical that we maintain these parks and recs before something bad happens, and so I'm so glad CIP is here today, but it's really critical that we look not just as a project like this, but long-term planning as well for the maintenance and improvements and even adding to the current parks and recs. When you look at the amount of usage we have on this island, I think most people, when I tell them what we have here, people are just absolutely blown away by what we have on this little island, so I know I don't normally tell Peter but thank you.

Vice-Chair Lasua: Thank you, Kim. So although we're out of order and we had a move and second, and since there are no discussions, so I'll go ahead and ready for the question? All in favor to waive its review, raise your right hand? All oppose, raise your left hand? Okay, motion carried.

It was moved by Commissioner John Sprinzel, seconded by Commissioner Laakea Poepoe, then

VOTED: to waive its review of Agenda Item D.1.a.

(Assenting: L. Buchanan; L. Espaniola; W. Moore; L. Poepoe; J. Sprinzel)
(Absent: J. Perez)
(Excused: J. Pele)

Ms. Lopez: Thank you, Commission.

Vice-Chair Lasua: Okay, Commissioners, we're under item E.

Vice-Chair Lasua read the following agenda item description into the record:

E. UNFINISHED BUSINESS

- 1. MS. MICHELE McLEAN, Planning Director, transmitting Council Resolution No. 18-149 to the Lanai, Maui, and Molokai Planning Commissions containing a proposed bill to establish a zoning district to be known as the Wellhead Protection Overlay District. (D. Raatz)**

**(Public hearing conducted on November 14, 2018. Commissioners:
Please bring your documents.)**

**The Commission may take action to provide a recommendation to the
Maui County Council.**

Mr. Alueta: Good morning, Commissioners. I'm Joe Alueta, I'm your Deputy Director for Planning right now. Again, this is your standardized resolution that has come down from the County Council that require -- because it does deal with a land ordinance change, it requires that the three Commissions provide comments back to the County Council. Years ago when I presented bills to you guys, there was two methodologies in which to change land use ordinances or Title 19, one is by Department initiated, which one comes from, you know, from the Department itself, or by a Council initiated change and this is a Council initiated change primarily deal with wellhead protection. You did have a previous presentation on this -- on this and I believe you guys deferred for a variety of reasons. I'll turn it over to the Department of Water Supply 'cause this is -- they've been spearheading this bill and will be pretty much working with the Department in hand to not only process the permits ...(inaudible)... process the permits, but enforcement would be a joint effort on both sides because it is in Title 19. Thank you very much.

Mr. Alex de Roode: Aloha, Chair. Aloha, Commissioners. My name is Alex de Roode. I'm a planner with the Department of Water Supply in the Water Resources and Planning Division. I presented to you last month, at your last meeting, the proposed Wellhead Protection Overlay District Ordinance, and I have the -- almost exactly the same presentation available again today if you would like me to present that material, I'd be happy to so. It's basically the same that you have in the handout and if the Commission is interested, I'd be happy to present on it again. Beyond the presentation, I do have some updates I can give you regarding communication with DHHL since the last meeting. You want me to start with that?

So since we last met, we did reach out to Jonathan Scheuer and Kaleo Manuel, with DHHL, via email, and they were -- they were familiar with the proposed ordinance from previous public meetings and outreach, but we did forward them the draft ordinance, the maps that you've all received copies of, and the presentation via email, and encouraged them to send a representative here today if they were able to in order to give you more insight into their perspective or position on the proposed ordinance, and that's all about the communication we've had since the last meeting, and it sounds like Chair had -- had some communication as well. And so I don't have much more insight to give you on that front other than that, as mentioned in the previous meeting, when we had public meetings here on Molokai in the past, Dan Ornellas was also, with DHHL, was involved in some of those discussions. And, also, just to reiterate, something we mentioned last meeting was that the Molokai Water Advisory Committee was presented information on this proposed

ordinance, I believe that was in 2009, which I realize it was quite a while ago. At the time, they were supportive of the overlay zone. So that's all the additional information I have other than a few clarifications and whether it's a DHHL TMK or non-DHHL, if it's a sewer, if there's a property that's sewer or it's wastewater, it would not have any restrictions with regards to or added cost with regards to, not cesspool, but septic, having to have a more upgraded septic system, so I realize it's not, you know, we have many on the island of Maui as well, areas that are not sewer, and I'm not sure for new proposed DHHL projects whether the plan would be to sewer those or not -- or to not.

Vice-Chair Lasua: Thank you. Any questions?

Ms. Buchanan: No, just further comments. Thank you. That was really thorough and it's nice to know that Jonathan and Kaleo already been aware. I know they inundated with a lot of stuff, we all are, but I think my only comment again was just to clarify that wellhead protection is a great thing. We should be protecting our water resources. My concern at the time was that I was aware that a rather large project with -- involving millions of dollars was proposed for the same site, and I just wanted to make sure that the -- the people who are doing the project was aware that there might be things in the future that might impact the development, and so it's always nice to have communication and to have everybody aware 'cause it's easier to do that upfront than have people asking about what's going on after, just like earlier testifiers asked about the announcement and how we get things out. I think government doesn't do a great job at communicating in general because they're so inundated with their work, but from the public's perspective, it's number one, it's not that we don't care, it's just that we don't know, so my concern at the last meeting was just giving enough time on the deferral so that affected persons would be aware that this was going on and that's about it. Thank you.

Ms. Espaniola: I got a question.

Vice-Chair Lasua: Go ahead.

Ms. Espaniola: So it appears that the problem is public awareness on any type of project, so my question is how extensive is the department letting the public know these kinda projects that's going on? Is it in the bulletin? Are you shifting the responsibility to DHHL to tell them that, you know, serving an official notice of intent? I mean anything like that has, you know, been done to let the beneficiaries of DHHL know of such project? How extensive is that?

Mr. de Roode: Sure. So I was not part of the early public outreach process, but there were, to my knowledge, I think six or more meetings held on Molokai, not just specific to DHHL, but for the general public and did have some DHHL, I mentioned Dan Ornellas, and DHHL input into the current draft ordinance that is before you now. There have been

opportunities also; every time this, and I understand not everybody follows every agenda for every meeting and commission, but every time it has come before a body within the County, there's an opportunity for public testimony whether in person or written, so we've had it before the Board of Water Supply a number of times, we've had it at the Water Resources Committee of the County Council a number of times as well. Right now, the Planning Commission is being asked, on Molokai, Lanai, and the Maui Planning Commissions are all being asked to comment on the proposed ordinance and from there, it's going -- it's going to go back to Council and, again, there there would be opportunities to provide public testimony. So in terms of the -- the Department itself reaching out to individuals, we do have kind of the constraints of limited resources to do so, and also, in some cases, not the most, especially on Molokai and Lanai, not as tapped in to the local networks to get the word out to the right people, so since the last meeting, we did send an email out to a list that we had from I wanna say it was from the Water Use and Development Plan, Molokai Water Use and Development Plan process, which was back in I wanna say that was in the 1990s, the last time, because it's due for an update again, and it's a 20-year plan, we had a list from that effort, and we also reached out to the Planning Department to ask them for any recommendations on who we could send this information out to, and then we had some kupuna who reached out to us directly and said, hey, we wanna know more about this. So any way that we can, you know, have people on the ground help us to reach more people, we certainly -- we'd like that opportunity to let people know more information as possible.

Ms. Espaniola: So the target -- the focus is on DHHL beneficiaries, so it's obvious today we had a testifier who's saying they just got the information today and there been months of notice that's been put out, so like I -- like the question I asked, so how far -- to say that your Department is saying that we did the notice, we gave it over to DHHL, and they say they're working on it, so that -- that alleviates you from saying that we did our part and now it's their part to make sure that the beneficiaries are aware of this overlay project, so I don't know if that's something that you can do, I'm just suggesting to not have the blame, you could say, for not making the public aware, the beneficiaries aware, so just because we had a testifier say just today they knew about it, and if we pass this today, we, ourselves, as the Commissioners, we'll say that, well, nobody knew about it, plus there's many different ways, and there are many different residents that don't have access to computers or don't come out, you know, so the extent of making sure the shifting the responsibility to the right people ...(inaudible)...

Mr. de Roode: Yeah, just to follow up on that. We do look to DHHL to help us get the word out to beneficiaries. There's no way for us to confirm that unless we say will you confirm that you forwarded this the beneficiaries. I do know that during the initial public outreach process, there was a -- an analysis done of all TMKs that fall within the wellhead protection areas and that those TMKs, whatever mailing addresses were on file with the County, were sent a letter about the proposed ordinance. Those addresses may not

always be up to date, or it may not always get to the intended recipient, that's what we have access to. But, yeah, thank you for your suggestion. I will definitely try to work more closely with DHHL to get that ...(inaudible)...

Ms. Desjardins: Vice-Chair, may I say something? So since today, what you folks are doing is providing comments on this wellhead protection plan rezoning overlay issue, what I would suggest is one of the concerns, I hear two major concerns, and you're going to be giving comments to the Council regarding your review of this and what's happened in these two meetings, you may consider comments, two comments: One is your concern that public outreach was not effective or sufficient enough for you to gain enough understanding as to what the public concerns are, and second of all, there wasn't enough information provided to this Commission about the interface with DHHL to provide communication on how this would affect homesteaders, including cost to them, etcetera, so that when this goes to the Council, they know very clearly that it's their concern that these things fell short. They got that ...(inaudible)...

Vice-Chair Lasua: So that would be our recommendation to the Council then. Okay, Commissioners? Okay, anything else? Go ahead, Mr. Sprinzel.

Mr. Sprinzel: While the protection of these wells is a no-brainer, obviously, have you formed in mind that the one -- the discussion and dispute last time is the area where the ten-year plan ...(inaudible)... consider expansion from Kaunakakai to that area, so there will be a big demand for water and probably a sewer system, so I hope you think about that.

Vice-Chair Lasua: Thank you, Mr. Sprinzel.

Mr. de Roode: Can I ask a quick follow up on that?

Vice-Chair Lasua: Go ahead.

Mr. de Roode: Are you referring to the Community Plan for that area or the Water Use and Development Plan when you mention the ten-year plan?

Mr. Sprinzel: Community.

Mr. de Roode: The Community Plan. So for the growth boundary, you're saying that --

Mr. Sprinzel: We made a lot of recommendations when we had the council on this ten-year with provisions for expansion of that area ...(inaudible)... when that happens, and I'm not sure when ...(inaudible)...

Mr. de Roode: Well, we're about to embark on the planning process for the 20-year Water Use and Development Plan for the island of Molokai, and there'll be -- it'll be kicked off with an extensive public process, we're hoping, during the first half of 2019, coming up this year, and that public process may go beyond that into, you know, the second half of 2019, but during that process, we will be getting input and conducting analysis on 20-year projected growth, population growth, and associated demand on water supply, and that will include an analysis of what available supply is there in different aquifer systems throughout the island, so that'll be definitely, at least, you know, if not comprehensively addressed, it'll be substantially addressed in the Water Use and Development Plan.

Vice-Chair Lasua: Anything else? Anymore questions from the Commissioners? So where it stands is the recommendation to the County as stated by Corporate Counsel.

Ms. Desjardins: And let me just add, you might wanna also include a recommendation based on this last conversation between Commissioner Sprinzel and the testifier from Water about how this proposal interfaces with the current Molokai Community Plan to not lose sight of that ... (inaudible)...

Vice-Chair Lasua: Okay, so since the draft plan is now the plan. We'll go ahead and, okay, so we'll go ahead and move on to item F, Director's Report. Thank you for your --

Mr. de Roode: Thank you. I think I understand your -- your feedback, which would be concern over communication with DHHL and to the DHHL beneficiaries, how this ties in with projected growth and water demand and possible future wells or demand on water resources, and what was the third one? So DHHL communication, projected growth, and a third?

Ms. Desjardins: Lack of public outreach or concerns about the extent of public outreach that was conducted to get public input to this Commission.

Mr. de Roode: And I would say also the Department would welcome any feedback in support of any aspect of the wellhead protection proposal, wellhead protection ordinance, if you have some items that you appreciate in the current draft. Okay, thank you.

Vice-Chair Lasua: Thank you. Okay, Commissioners, so we can go ahead and move on to item F, Director's Report. Joe, you can give us the report.

Mr. Alueta: Yeah, I'm hoping the Commission would take an action on -- on the comments, to vote on that.

Vice-Chair Lasua: Okay, so we'll go ahead and take an action on the -- motion to adopt the recommendations.

Mr. Poepoe: So moved.

Vice-Chair Lasua: Okay, moved by -- moved and second. Any discussion? Okay, ready for the question? All in favor for that motion, raise your right hand? All oppose, raise your left hand? Motion carried.

It was moved by Commissioner Laakea Poepoe, seconded by Commissioner Lori Buchanan, then

VOTED: to adopt the recommendations of the Commission.

(Assenting: L. Buchanan; L. Espaniola; W. Moore; L. Poepoe; J. Sprinzel)
(Absent: J. Perez)
(Excused: J. Pele)

Vice-Chair Lasua: Thank you, Joe. You can go ahead.

F. DIRECTOR'S REPORT

1. Reports from members who attended the December 7 Native Hawaiian Law Training

Mr. Alueta: I guess the first part is I guess is going to be for members who attended the Native Hawaiian Law Training discussion on that, comments.

Ms. Espaniola: Aloha. Both, myself and William, attended the Native Hawaiian Law Training course on December 7, it was a full day, and Lawrence, just three of us. We had a wonderful day by the way. We covered the foundations of kuleana, public land trust, the native tradition and customary practices, water as a public trust, the iwi kupuna, and I, for myself, it covered laws that was relevant to help me make better decisions as a Commissioner. I learned -- we had a lot of refresher, you know, on Hawaiian laws and I -- I suggest, I recommend that all Commissioners should attend that, the Hawaiian training course. It really opened my eyes now and I can see Lori and why she's so adamant about making sure that we cover these areas and I'm a little bit more respectful in that sense when we're covering land use, so I really enjoyed it. I enjoyed myself ...(inaudible)... we well. We had breakfast together, so thank you very much for the opportunity to attend this course.

Vice-Chair Lasua: I'd like to also add that I think, yes, as Commissioners, we should be privy to those trainings and, for me, I think we should probably do it on an annual basis 'cause, you know, we only hit the first part of it, the primers, but I think there's more to it

than just what was presented at the - I don't know what you call it - training, but I think, yeah, I'd also like to say that, yes, while we attended, we also didn't discuss any Commission -- so there was no ...(inaudible)... okay. Mr. Moore, you have anything to say?

Mr. Moore: Yeah, I found it very interesting. I was glad that I was able to go and I'd like to go again wherever it may be held. Lawrence and I had to catch the plane at 4:00 so we didn't get to hear the last two, about the water and the iwi, but those that we did hear, I found it very interesting what Davianna McGregor had to share about the land. I've been in Hawaii 60 years and I hear a lot of things about land division and how it was long time ago, but the way she presented it was a lot more clear, well, at least to me. Kamehameha felt that if he didn't own land, he didn't have private land, he was the overseer of all but he felt that if he couldn't own land, nobody under him could own land, and eventually split the land up between the King, 245 chiefs, and the tenants on the land, and she told how much each one would get, it was supposed to be divided up equally, and I always thought the United States was the threat to the islands but in her presentation, Great Britain was a threat one time and that was one of the reasons that the chiefs wanted to split up the land among the people rather than have the threat of the British taking over. There was a lot more to it and I think she talked for 45 minutes. There was a short question and answer period. And then how - let me look at my notes real fast. And then the public land trust and they talked about ceded lands and Prince Jonah Kuhio was the one that established the Hawaiian Homestead because he felt that the people were either gonna be homeless or destitute if they didn't have land, and they didn't get into detail about living on the land, it was just an overview, but I learned a lot and when we left, they gave us -- I have two books, one about the water and one about the iwi, I didn't get to read that yet, but I really enjoyed going. If I hear anyplace it's going to be held again, I would just pay my own way to go. But thank you. Thank you for the opportunity.

Ms. Espaniola: You know, so today when we had our testifiers, I do now have more respect for a Hawaiian subject and people coming and will share on behalf of the Kingdom. I learned about the Mahele process and ...(inaudible)... listen to what they're talking about so I really appreciate for those who are willing to boldly come up and share their rights as a Hawaiian and help us to make decisions in the process. Thank you very much.

Mr. Poepoe: I'm glad that I can hear the feedback of the people that attended the meeting was positive. I was trying for this whole past year-and-a-half for get the training finally done. That was just me asking Clayton for do 'em ...(inaudible)... thank you. Thank you, Clayton, even if you no deserve the credit but whatever. But it's good for hear that everybody like do 'em more than once, or once a year at the very least. That's great.

Vice-Chair Lasua: Okay, Joe.

Mr. Alueta: Okay, thanks. Thank you. That was -- so the takeaway is basically it was good. It was worthwhile. And we'll try to do it again. We're still getting through, not all of the staff has gone through it and we're still trying to get everybody ...(inaudible)... and again I think even with the new administration coming on, they will try to keep us on, not only training for staff, but also the commissioners, but I think we pretty much have been with the commissioners, but most of the time we try to get the commissioners training, we try to focus on the annual HCPO conference when it comes about, I know we had a little lag there with the Big Island having a little difficulty with some earthquakes and some volcano going off, so we will be hosting, I believe, Maui Planning Department is hosting this coming 2019 so we're just in the beginning planning stages and so I'll try to take that back to the incoming administration and ...(inaudible)... commissioners this variety of training, not just Robert's Rules or Hawaiian law or ...(inaudible)... but thank you for your input.

2. Pending Molokai Applications Report generated by the Planning Department with the December 12, 2018 Agenda Packet (Appendix-A)

Mr. Alueta: The next item is your report on Appendix-A on the back of the agenda, so the open projects, if you have any questions, and then Sybil is also here because the majority -- the majority is hers, but we'll try to figure out, if you have questions, I can always go back and find out what -- what in particular that you have on those.

Ms. Buchanan: Okay, Mr. Vice-Chair, I have questions then for staff on the projects.

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: And either, Acting Deputy or Sybil, if you can just give one really fast, fast, quick and dirty response 'cause I have a few, and so on the first page, 'cause sometimes I forget and sometimes these run really long, the Papohaku Beach House, Norman Rizk, what is the status on that?

Ms. Lopez: So the Commission approved that, so it'll continuously be an open like because it's an open permitted -- so this is one of the four permitted at the West End, Papohaku.

Ms. Buchanan: Okay, that answers that for me. So the Poolau Beach House SUP2, Rubin, Joseph and Donna family trust.

Ms. Lopez: So the Rubins, you guys just seen the D&O, so it's in the process of close. Actually, the status has changed from open to deny.

Ms. Buchanan: Okay. And then all of the request for comments on the Hawaiian Home Lands wells and all of the associated water comments, and the ones from the CWRM, yeah, what is -- what is that?

Ms. Lopez: So you looking from Hawaiian Home Lands, the Kauluwai 1 and 2 Wells, Agrigenetics Well, Molokai Public Utilities, Maui Department of Water Well 17, and Kualapuu Mauka, so all of that should be closed status 'cause the comments already went through, so those were all request for comments from CWRM requesting comments regarding these projects that they have regarding these applicants.

Ms. Buchanan: Who is Molokai Public Utility?

Ms. Lopez: Molokai Ranch. Molokai Properties, Limited.

Ms. Buchanan: Okay. I thought we had one new -- new guys in town and I just was wondering. Okay, and then I couldn't -- maybe I wasn't here, but we have an EA from the Hoolehua Vet Center? I know they just had one meeting that's why.

Ms. Lopez: Yeah, and that should have been closed. So the Hoolehua Vet Center, Kanakaloloa Cemetery, those should be closed.

Ms. Buchanan: So the Planning Commission gave comments on the Vet Center?

Ms. Lopez: The Vet Center only came to the Department and not the Planning Commission.

Ms. Buchanan: Only the Department?

Ms. Lopez: Yes.

Ms. Buchanan: Okay. Kanakaloloa Cemetery that's one ...(inaudible)... but can -- what I wanted to do as an action item is request an update on this project. It's another DHHL project, yeah?

Ms. Lopez: Yes.

Ms. Buchanan: If we can send one letter to them for one request for an update. And then the Moss SMA after-the-fact renovations, which one was that? Was that the one up here?

Ms. Lopez: No. That is the Laundromat next to Molokai Fish and Dive. So that whole parcel. So they're still going into SMA review.

Ms. Buchanan: Okay, so that's how come we never see that yet?

Ms. Lopez: Not yet.

Ms. Buchanan: Okay. Thank you. I like ...(inaudible)... and then maybe one other status update report on the Wada building, the 18-room --

Ms. Lopez: Eight. Eight-room unit --

Ms. Buchanan: Yeah.

Ms. Lopez: In town. Okay.

Ms. Buchanan: On page 3 of 5 ...(inaudible)... I know we gave the okay but I just wanted to know where they are in the process 'cause people keep on asking me when this thing going come up.

Ms. Lopez: I think they're still in permit -- they're still in permitting and I think they're under DSA review.

Ms. Buchanan: Okay, I just was wondering if they had any big issues with that and --

Ms. Lopez: They should have started at the end of the year so I think ...(inaudible)... extend it to 2019.

Ms. Buchanan: Okay. And then the Molokai Education Center, somebody -- they having one EA come out, yeah?

Ms. Lopez: Yes they are. This is for pre-consultation so RFC was for pre-consultation with the Department of Planning and our recommendation was that they have -- that they would hold their own public meeting and awareness before coming in to doong their EA so that can reflect ...(inaudible)...

Ms. Buchanan: Yeah, because they doing plenty stuff, yeah?

Ms. Lopez: They are.

Ms. Buchanan: Like they need one boundary zone, SMA, and all kind stuff.

Ms. Lopez: Yes. Yes. Because they're subject to their conditional permit that they have existing.

Ms. Buchanan: Okay. The Molokai Health Center New Healing Center, what is that?

Ms. Lopez: They are requesting to construct a traditional hale and so they've been -- they're still under review. They've been hitting a lot of roadblocks so --

Ms. Buchanan: I was kind of wondering if the zoning was according. Okay, well, eventually we going see that too.

Ms. Lopez: Yes.

Ms. Buchanan: Okay. And then the Cozy Cottage STMO?

Ms. Lopez: It will be coming in front of you.

Ms. Buchanan: Okay, that's ...(inaudible)...

Ms. Lopez: In 2019, so that would be one -- one of the short-term rentals that will be coming for Commission authority decision.

Ms. Buchanan: And then Kawela Plantation, the retention pond?

Ms. Lopez: Actually -- they're actually going to withdraw their application so they're in the process of withdrawing.

Ms. Buchanan: Okay, so they not going to nothing?

Ms. Lopez: They had consultation from the environmental specialist and those that came in, experts that came in and they said that they don't need to do that type of scope of work 'cause it's a natural occurrence so they were recommended that it would --

Ms. Buchanan: That's in writing someplace?

Ms. Lopez: Well, that's what they're going through right now.

Ms. Buchanan: Okay.

Ms. Lopez: The withdrawal process.

Ms. Buchanan: No, is the --

Ms. Lopez: Which includes that assessment.

Ms. Buchanan: The recommendation.

Ms. Lopez: Yes.

Ms. Buchanan: Okay, okay. Can we have a copy of that when it's done?

Ms. Lopez: Sure.

Ms. Buchanan: And then the Kalena Cottage is also one proposed that going come?

Ms. Lopez: Actually, you guys already seen this and the only -- and you guys approved to waive its review; the reason why it's still open is because they -- they're still going through their flood development permit.

Ms. Buchanan: And then what is one update on the Kapaakea flood mitigation?

Ms. Lopez: It was supposed to be closed but if you want a status update, like the rest, I can put that on the list.

Ms. Buchanan: Yeah, please. Thank you. That's it, Sybil. Very good. Mahalo.

Ms. Lopez: Thank you.

- 3. Closed Molokai Applications Report generated by the Planning Department with the December 12, 2018 Agenda Packet (Appendix-B)**
- 4. Agenda Items for the January 9, 2019 meeting**

Mr. Alueta: Do you have any closed -- I'm sorry. You have your closed ones also on Appendix-B for your information. January 9, 2019 is your next meeting.

Ms. Buchanan: Acting Deputy, you know you sound like Clayton, yeah, when you just said that?

Mr. Alueta: I'll go back and check the recording and see if I ...(inaudible)...

Ms. Buchanan: Thank you.

Mr. Alueta: Okay. Any questions on the closed ones ...(inaudible)...

Vice-Chair Lasua: Any questions from the Commission for Joe? Seeing none, okay. So the next scheduled regular meeting January 9. Okay. So if there's no -- January 9.

Ms. Lopez: So January 9th, so far we don't have any -- anything on our agenda but you are looking forward to another public hearing for a short-term rental for January 23rd, which you guys have seen but got deferred, Mr. Tabor in Waialua, so that's already set for January 23rd.

Mr. Poepoe: Is that the one -- Tabor?

Ms. Lopez: Yeah.

Mr. Poepoe: Tabor?

Ms. Lopez: Tabor.

Mr. Poepoe: Was that -- did you just say that the thing was scheduled for denial? No?

Ms. Lopez: No.

Mr. Poepoe: Which one was that?

Ms. Lopez: Actually that was where it -- they did not notify, so the notification, so it was more an error where Mr. Manera, the consultant, came in and expressed what had occurred --

Mr. Poepoe: Okay.

Ms. Lopez: During the missed -- I guess misfiling or mis-notification so because of that, we had to reschedule, which it's coming up on January 23rd so, other than that, that's all you have for January, and I just wanted to comment, since I have the floor, that I just wanted to let you know that the Planning Department was well-represented at the training, the Native Hawaiian Law Training on Friday, so I just kinda wanna let you guys -- reassure you guys, to let you know that Planning Department was there and the staff was there.

G. NEXT SCHEDULED REGULAR MEETING DATE: JANUARY 9, 2019

H. ADJOURNMENT

Vice-Chair Lasua: Okay, Commissioners, so next scheduled regular meeting, so if there's nothing else before the Commissioners, I'll go ahead and adjourn this meeting.

The meeting was adjourned at approximately 12:32 p.m.

Submitted by,

SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present:

Lori Buchanan, Chairperson
Lawrence Lasua, Vice-Chairperson
Leonora Espaniola
William Moore
Laakea Poepoe
John Sprinzel

Absent:

John Perez, III

Excused:

John Pele

Others:

Joseph Alueta, Deputy Planning Director, Dept. of Planning
Sybil Lopez, Staff Planner, Molokai, Current Division, Dept. of Planning
Mimi Desjardins, Deputy Corporation Counsel, Dept. of the Corporation Council
Suzette Esmeralda, Secretary to Boards & Commissions II, Current Division, Dept. of
Planning