

(APPROVED: 09/24/07)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
AUGUST 22, 2007**

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairman DeGray Vanderbilt at approximately, 12:38 p.m., Wednesday, August 22, 2007, Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

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

Mr. DeGray Vanderbilt: Okay, yeah, I'd like to call the meeting to order, August 22, the regular meeting of the Molokai Planning Commission.

B. PUBLIC TESTIMONY ON ANY AGENDA ITEM FOR THOSE WHO HAVE TO GET BACK TO WORK OR HAVE OTHER SCHEDULING CONFLICTS

At this time, the Commission will take any testimony for any agenda item or any issue you feel is a planning matter on Molokai if you have to back -- if you have to get back to work and can't stay for the meeting. Is there anybody that wants to testify now or can you wait?

C. APPROVAL OF THE MINUTES OF THE JULY 11, 2007 MEETING

Okay, seeing nobody, we'll move on to the approval of the minutes of the July 11 Planning Commission meeting. Do I hear a motion to accept the minutes? Moved by Commissioner Feeter.

Mr. Joseph Kalipi: I second.

Mr. Vanderbilt: Seconded by Commissioner Kalipi. You wanna take a minute to look them over in case you have any amendments to them or is there any discussion or amendments to the minutes? Okay, hearing none.

There being no discussion, the motion was put to a vote.

It has been moved by Mr. Feeter, seconded by Mr. Kalipi, then unanimously

VOTED: to approve the minutes of the July 11, 2007 meeting.

Mr. Vanderbilt: Minutes approved.

At this time, I'd like to introduce the Commissioners here. We have at the far end Commissioner Bill Feeter; next to him is Commissioner Sherman Napoleon; Commissioner Joe Kalipi; Commissioner Linda Kauhane; Vice-Chair Steve Chaikin, and my name is DeGray Vanderbilt. And to my left is Michael Hopper, who is the legal counsel for this Planning Commission. And we have Suzie Esmeralda over there with Planning staff that's taking our minutes. And then from Long Range Planning, we have John Summers and Simone Bosco, who will be at tonight's meeting for the review of the first public hearing on the Countywide Policy Plan. And then, in front of me here, in the white shirt is Ralph Nagamine, and I -- he's sort of with Land and Use and Codes, Subdivisions, Public Works, everything. I gotta get that title for the next meeting. And then over by the microphone is our own Staff Planner, Nancy McPherson.

So, with that, we'll -- I just wanna go over the agenda. We have one communication item, and this will be for an extension of a County Special Use Permit for Akaula School. Then we'll have the Chairperson's Report, scheduling a site visit to Laau Point. And we have the Director's Report that will be regarding open and closed applications that the Planning Commission deals with. There'll be something on the meeting tonight on the Countywide Policy Plan. And then there's, on here, the September 12 public hearing on a proposed amendment to the zoning ordinance dealing with rural districts.

So it's a fairly short agenda today and, with that, I'd like to go to Item D.

Chairperson Vanderbilt read Item D.1. into the record.

D. COMMUNICATIONS

- 1. MS. LORI BUCHANAN, Trustee of the AKAULA SCHOOL, requesting a two-year time extension on the County Special Use Permit in order to continue operation of a private middle school, Akaula School, serving grades 5-8 in the B-CT Country Town Business District at 15 Kaunakakai Place, TMK: 5-3-001:077, Kaunakakai, Island of Molokai. (CUP 2004/0003) (N. McPherson)**

The Commission may take action on the time extension request.

Mr. Vanderbilt: I'd like our Planner, Nancy McPherson, to give a little overview of the project. Nancy?

Ms. Nancy McPherson: Thank you, Chair Vanderbilt. Good afternoon, Commissioners. Nancy McPherson, Staff Planner, Molokai. Our representative isn't here yet. I have a feeling that Lori might be running a little bit late but, hopefully -- oh, okay.

Mr. Vanderbilt: No, I think there's a stand in for Lori.

Ms. McPherson: Okay, great. Thank you. Okay, this is a request for one last -- one time extension to continue to search for a permanent site. The school is in negotiations with Department of Hawaiian Home Lands to locate a permanent site on Hawaiian home lands for the Akaula School. They're still in that process so they're requesting a time extension so that they continue to -- they can continue to operate the school at 15 Kaunakakai Place, over by Pizza Café and Rural Development Offices over there. So this permit has expired on June 30, 2007, but they did submit the application before it expired so the department chose to go ahead and process it. I've attached the decision and order for the original permit, so you should have received that in your packets. Hopefully, you've all gone through that because that had all the analysis for the approval of the original permit.

As far as my analysis goes, there have been no deleterious impacts to the community that have been reported. There have been no complaints. The school is an asset to this community. In many people's opinions, they're doing a wonderful job of educating children here on Molokai, and, in particular, a group of children worked very hard on a research project on vacation rentals and came and reported to this body on their results and did a very fine job of doing that. So I -- in my opinion, the school is doing a very good job. My understanding is that they are very considerate of their neighbors. It is a small parking area there but, you know, there have not been any, you know, there's been no feedback that that is causing problems. It seems that they have worked -- worked it out as far as parking and transportation and that sort of thing. It's still a fairly small school but it has expanded. They do have more students than they did originally. So, obviously, they are going to need to relocate to a new site fairly soon. My understanding is that, hopefully, within the next year, year-and-a-half, that will -- that will happen, but I'll go ahead and let the applicant remark on that if they'd like to.

So we're -- you have several alternatives here: deferral, approval with no conditions, approval with conditions, or denial. The recommendation is that the time extension be granted. Basically, what we put in were the same conditions that ran with the original permit. I think one of those conditions was removed because it's no longer germane. So that is pretty much my summary and if there are no questions --

Mr. Vanderbilt: Thank you, Nancy. Are there any questions for Nancy regarding her presentations? Commissioner Feeter.

Mr. Bill Feeter: Thank you, Nancy. Two questions. Number one is: Is the two-year extension period going to be adequate? My thinking is it should be up to five years even though they are looking at another site. And the second question is, I think probably for Mr. Hopper: On the indemnification, is that absolutely necessary? I'm thinking that that

extra cost could be better put towards school books and facilities rather than -- perhaps Vicky can answer how much a year that is, but it seems to me that's unnecessary.

Ms. McPherson: Chair, may I respond to the first question?

Mr. Vanderbilt: Go ahead, Nancy.

Ms. McPherson: The request was for two years. If the applicant feels that more time is required and the Commission so wills it, that could be changed to five years. I do think though that if they continue to increase their student body, they're going to be running into space constraints, so, you know, that may be a constraint for them to stay in the same place for much longer. I know they're already very motivated. As far as the indemnification requirement, I would have to defer to Corp. Counsel to respond to that, and I don't have any idea of how much that --

Mr. Vanderbilt: Thank you, Nancy.

Ms. McPherson: Cost.

Mr. Vanderbilt: Michael, do you have any comment on the indemnification, whether it could be waived or not?

Mr. Michael Hopper: I don't believe it can. That's pretty much County standard procedure that if you grant any permit or anything really to -- to any entity that they would provide an insurance policy, basically, indemnifying the County. It's against any and all claims or demands for property damage, personal injury and/or death arising out of this permit. So, basically, this would generally be the things that would -- you know, the school's going to be using the property for their purposes and if there someone gets injured, it is the school's liability there, it's not the County's liability, and I think that that's an essential provision for the -- for the County to have in case someone attempts to sue the County out of something that is the -- that happens at the school. So I think that that's an essential procedure and it's not something that should ever be waived in these circumstances.

Mr. Vanderbilt: Well, thank you. Are there any other comments for Nancy? Commissioner Chaikin.

Mr. Steve Chaikin: Thank you. Nancy, you know, this is really a learning process, an ongoing thing, and I just have some general questions. She's coming in for a special use permit. Is that a use that's not permitted in that kind of a zoning?

Ms. McPherson: It's a use that's permitted by a special use permit.

Mr. Chaikin: Okay, so is that -- is there I guess zoning areas where schools are permitted without having to come to us or --

Ms. McPherson: Yes, but this isn't one of them.

Mr. Chaikin: Okay, so I understand that. On Page 3, you refer to another special use permit, which was given to the, I guess. developer. It says, "A special management area use permit was given to the developer of the center."

Ms. McPherson: Right.

Mr. Chaikin: So that's one. Is that in good standing?

Ms. McPherson: Well, I haven't checked on that, frankly. I'm not sure. But because the use can be permitted within the development, within the shopping center by special use permit, and there's no activity that they're doing that is in violation of special management area rules, you know, I, frankly, I assumed that once that was approved, if there's no change, then, you know, they're in compliance with the SMA rules.

Mr. Chaikin: Okay, yeah, I -- I concur with Commissioner Feeter when he was asking whether or not that was an adequate amount of time because it takes a lot of time and energy and effort on behalf of the school, and the County, and the Commission to go through this process on a fairly, you know, on an often, you know, a little too often, so I would like to hear directly from the applicant, you know, where they are in this process of moving towards a new location to see if this two-year does seem like an adequate period of time. Thank you.

Mr. Vanderbilt: Thank you, Commissioner Chaikin. Are there any other comments for Nancy? If not, we'll bring up the applicant. Vicky, would you like to -- okay, just introduce yourself.

Ms. Vicky Newberry: I'm Vicky Newberry, and I'm head of Akaula School, past President of the Board of Trustees. Obviously, not Lori Buchanan and not as well prepared as Lori Buchanan and not as knowledgeable as she is. Mr. Chairperson and Commissioners, thank you for this opportunity.

Good questions. We've been in negotiations for about a year-and-a-half now with DHHL so, to answer your question, probably more than two years. We hope not. And another question in terms of population, within the current facility, I think our permitted use might be 75 or even 80 students. We would never go that high. Both because of the traffic situation it would generate we feel, and as well as just the space that children need indoors. So we've pretty much limited ourselves in terms of growth to 62, 65 students as a

maximum in that current facility. And that also has to do with teaching staff. So, yes, we're anxious to move, we're actively pursuing, and we're also looking at private purchases, at this point, as an option because we know if we were to move forward, we need to move on; not as easy to do as we thought it would be and not quite as quick as I know some of you understand.

I'm trying to think of any other. I think that was the main question was on time so, five years, I'm hoping we don't. We pay over \$4,000 a month lease and that certainly could be better spent on a lot of things, so it's not that we're looking to stay there longer. Our landlord's been great to us. We like being in town. We jokingly say we're an intercity school and we're proud of that. We're proud of being able to use -- work with the County to use County facilities so we don't have to duplicate. We think there's a lot of common sense in that kind of partnerships in a small community and taking, you know, supporting each other, so that's a real central part of what we are and we hope to stay within an area that will allow us to continue those relationships with County, State facilities, as well as, hopefully, someday being able to have our own facility be available to other organizations for some of the type of rooms we might build that aren't currently available as well. And if you have any questions, I can --

Mr. Vanderbilt: Okay, Commissioners, does anybody have any questions or comments for Vicky at this time? Oh, go ahead, Commissioner Chaikin.

Mr. Chaikin: Thank you. Well, first, I'd like to thank you for coming forward to renew your permit because I often wonder how many permits this Commission issues that people are still out there doing it and don't come in to renew their permit. Unfortunately, the County doesn't offer that information to us so we don't know who's out there, who's in compliance, and who's not in compliance. But I just wanted to make that statement, you know, to thank you for coming forward.

You know, as far as the time period, you just said, basically, you thought two years wasn't enough. I mean he was talking about five years. I think that might be stretching it out a little too far because of the growth of your student body and it might get problematic, you know, as it gets to, you know, bigger numbers, but, you know, I'm certainly open to, you know, increasing that two years to -- cause you've already eaten up a bunch of that two-year period already, I mean we're looking back at June, it's almost September and --

Ms. Newberry: Yeah.

Mr. Chaikin: You know, before you know it, you're going to have to start this paperwork all over again and nobody wants to go through that exercise. So, you know, I would certainly be, you know, open to maybe moving it up to three years to give you a chance, anyway, to accomplish your move, you know, before you run out of time.

The other thing that I just wanted to comment is that, I'm sure you're aware of this but let me just bring it to your attention anyway, we issued another special use permit right in your same area, that was that same parcel, right, this -- the antenna?

Ms. Newberry: Yes, right behind us.

Mr. Chaikin: The antenna.

Ms. Newberry: Yep.

Mr. Chaikin: So, you know, I'm sure you're aware of it but I just wanted to bring it to your attention cause there's going to be construction --

Ms. Newberry: Yep.

Mr. Chaikin: Or what have you and just for you to coordinate with those guys so it doesn't, you know, adversely affect, you know, your -- your teaching and all that but --

Ms. Newberry: Thank you.

Mr. Chaikin: I think that's all the comments I have right now. Thank you, Mr. Chair.

Ms. Newberry: One of the things the students like, by the way, very quickly, about the school, we have a longer school day. Our students go to school until three, they start at 7:50, and it's possible, because of one of our expense factors, which is that air conditioning, and that also kind of insulates us from some of the external noises advantages and disadvantages. But our landlord's been very good about keeping us informed about that project. Thank you.

Mr. Vanderbilt: Yeah, and I just had a comment to follow-up with Commissioner Chaikin. Another problem I see with going five years is that if people you're negotiating with know you have five years --

Ms. Newberry: Yeah.

Mr. Vanderbilt: They drag their feet on coming to a decision. But if you say, "Look it, I only got three years and I gotta get out," well, you don't have to get out. You can come back before this Commission and, you know, you probably can get a renewal if everything's in -- but so that's -- that's one problem I see with a longer term is that there's no sense of urgency on the people you're negotiating with.

Ms. Newberry: Lori's feeling was to ask for an amendment to three years and she's currently sitting on the board and she's one of the key persons in our land acquisition committee.

Mr. Vanderbilt: And one other thing, Vicky. As far as indemnification insurance, you've got to have that probably for the landlord of the building --

Ms. Newberry: Yes.

Mr. Vanderbilt: And everything too so --

Ms. Newberry: Yeah, thank you though.

Mr. Vanderbilt: But I'm glad Mr. Feeter brought it up --

Ms. Newberry: Yeah.

Mr. Vanderbilt: Just because you guys are, as Mr. Feeter mentioned, burdened with so many costs that it's too bad you have to provide that though.

Ms. Newberry: Thank you.

Mr. Vanderbilt: So, anyway, are there any other comments for Vicky at this time? Do I hear a motion? Commissioner Feeter.

Mr. Feeter: Chair, I'm very pleased to say that we accept this with the exception that -- or with a condition that there be a three-year waiver length of time.

Mr. Vanderbilt: So your motion is to approve the extension of the special use for three years?

Mr. Feeter: That's correct.

Mr. Vanderbilt: Is there a second? Oh, excuse me. Corporation Counsel.

Mr. Hopper: I just wanted to note: Is the three-year period as well as the other conditions that Nancy recommended? Cause Nancy's recommended five conditions and I'd like the -- if that's the motion, it'd be a good idea to state that you would recommend approval subject -- and adopt the conditions recommended by the Planning Commission with the exception that it's a three-year time period instead for two. If that was intent. If not, then you don't have to impose those.

Mr. Vanderbilt: Well, I think if we approve the extension, the same contract is still enforced, isn't? The same permit that's an extension of an existing that has the same conditions on it?

Mr. Hopper: Nancy, are these conditions verbatim? The same conditions as in the original permit? I mean because that was a couple of years ago. They could have been updated, right?

Ms. McPherson: Yes, they are standard conditions for the special use permit and there was actually one that was deleted. If you look at the original decision and order, let's see here --

Mr. Vanderbilt: Okay, well, let's not even go there. Why don't we -- Commissioner Feeter --

Ms. McPherson: The final compliance report was submitted. Actually, that condition should probably be in there as well that they will need to go ahead and submit a final compliance report again if they come back in for another time extension. So that's -- that's also a standard condition and I shouldn't have left that one out so --

Mr. Vanderbilt: So is that compliance report, that was in the original conditions?

Ms. McPherson: Yes.

Mr. Vanderbilt: So if we accept Commissioner Feeter's motion to just provide for a three-year extension of the existing contract, it would roll over and they'd still be required to do a compliance report, wouldn't they?

Ms. McPherson: I believe so. I'm not certain though. Would -- Mike, do we normally just go ahead and use the -- I mean you said that the conditions probably need to be updated to reflect the current standard conditions, correct?

Mr. Hopper: I would just recommend whether it's an extension or an approval of a new permit that you state that it's going to be subject to conditions, and whatever conditions you would want them to be subject to, just specify it, and say subject to the conditions in the original permit or in the new permit or whatever just so there's not any doubt as to what conditions would apply.

Ms. McPherson: Okay.

Mr. Vanderbilt: Commissioner Feeter, would you entertain a friendly amendment to accept the recommendations of the Planning Staff with the exception that the time extension will be three years instead of two?

Mr. Feeter: Yes.

Mr. Vanderbilt: Who made the second?

Mr. Napoleon: I'll second.

Mr. Vanderbilt: Okay, moved by Commissioner Feeter, seconded by Commissioner Napoleon. Is there any discussion? Commissioner Kalipi.

Mr. Joseph Kalipi: Chair, I'm going to be asked to be excused for this vote. My daughter goes to Akaula School. And just for the record, I'm not going to be voting because of that.

Mr. Vanderbilt: Thank you for that input, Commission Kalipi. Commissioner Chaikin, do you have a --

Mr. Chaikin: Just a question on the formality of this. Is this something that we need to allow the public an opportunity to testify on or --

Mr. Vanderbilt: You're absolutely right. At this time, thanks to the Vice-Chairman, the Chair will, after-the-fact, give the public an opportunity to testify on this. Is there anybody that wants to testify? I was going to get off the hook.

Ms. Judy Caparida: Good afternoon. I know the place where they're having the school. I mean there have not been any kind of distraction cause I work at -- volunteer my services in the laundromat and it's just like there's no school there. This is not like at our high school and our middle school, you know there's a school there. But I'm really thankful because they have a choice where they wanna put their children and it's to see that they get educated a little bit higher, you know, at least something that we benefit on Molokai. I just feel that we do the three years and, in the meantime, try to push for a bigger place because there's a lot of children there. I mean they almost look like our middle school and we really need the room. So, like I was talking to Vicky, she said she had put a proposal in through the Hawaiian Homestead, she said they're very slow, so we're going to help support her in pushing it so that it'd be faster cause our kids really need -- they're really big. They were little but now when I see them, they're really grown, and I'm really thankful for Vicky and Deborah -- Dera, pushing our children that we have fast learners and we have slow bloomers, but the thing is that to see that they can go in a way that they feel good about learning and that's why I feel that we should support them and I'm in support of them.

Mr. Vanderbilt: Thank you, Judy. Are there any questions for Judy? I just have a comment that Akaula couldn't ask for a better pusher than Judy Caparida.

Ms. Caparida: ...(inaudible)... for our children.

Mr. Vanderbilt: Okay, so, with that little detour in the process, we're back. We have a motion on the floor to approve the extension of the special use permit for Akaula School, as recommended by the Planning Department, with the exception that the time extension will be for three years instead of two. Is there anymore discussion?

There being no further discussion, the motion was put to vote.

It has been moved by Mr. Feeter, seconded by Mr. Napoleon, then

VOTED: to approve the time extension of the special use permit for Akaula School, as recommended by the Planning Department, with the exception that the time extension will be for three years instead of two.
(Assenting: B. Feeter; S. Napoleon; L. Kauhane; S. Chaikin; D. Vanderbilt)
(Recused: J. Kalipi)
(Excused/Absent: L. DeCoite; K. Dunbar; M. Pescaia)

Mr. Vanderbilt: The motion passes. And good luck with the new school.

E. CHAIRPERSON'S REPORT

1. Scheduling of Site Visit to Laau Point

The Commission may decide on the scheduling of a site visit to Laau Point.

Okay, moving on, we have the Chairperson's Report. The first item on there is scheduling a site visit to Laau Point and I think, at the last meeting, we had asked Nancy to possibly check with the Attorney General to see if we could leave it as an open date or what the situation. Maybe you could give us an update on that, Nancy.

Ms. McPherson: I'm still waiting for a response from the Attorney General's office. I will try to get that information to the Commission as soon as I can. If Mike says it's okay, I'll send out an email. But I did submit the grounds in a draft memo that was submitted with your packets so that's just, basically, kind of a recycling of the original memo with a few

changes that you received when you originally were considering doing this, so that would basically be the same, virtually the same grounds for the request, and I have a feeling it could take a month, maybe longer, for them to process it. I don't know for sure though.

Mr. Vanderbilt: Well, we'll give you a three-year extension. Okay, thank you.

Ms. McPherson: What I'll do is I'll go ahead and draft a letter and then if you approve -- if you need to approve that letter, we can --

Mr. Vanderbilt: We don't need to approve that letter.

Ms. McPherson: Okay, so I'll go ahead and send that letter to the Attorney General's office.

Mr. Vanderbilt: Wait a minute.

Ms. McPherson: Wait.

Mr. Vanderbilt: Wait a minute. The Chair's having a bad day here. I guess there's another procedural situation here.

Mr. Hopper: Well, of course, as you now know, you have to allow public testimony on this item. But as a separate issue, before you can have Nancy send that letter, you've never taken a vote the second time with this Commission to have a limited meeting --

Ms. McPherson: Yes.

Mr. Hopper: And made findings that it's dangerous to the public health and safety and that's another finding that's required to be made, just like the first time the Commission voted, so you gotta take another vote because the time that you had originally scheduled that meeting with the vote has expired so you would have to make another finding.

Mr. Vanderbilt: We -- we were going to -- is there any reason that she couldn't ask if there could be a limited meeting and then we vote whether we wanna have one, if it's approved that we can have one, by the Attorney General?

Mr. Hopper: Well, it's -- it's you have to make the findings first, essentially, for her to be able to ask since she's just your staff person. She's asking on behalf of you. And until you actually make that finding, you haven't really given her a directive to go and send that letter yet.

Mr. Vanderbilt: Okay, all of you got the draft that Nancy referred to, the date is August 14, regarding why there needs to be a limited meeting and in order to have a limited meeting there has to be safety concerns and some other qualifications, which Nancy put together a pretty extensive list there so --

Ms. McPherson: Chair?

Mr. Vanderbilt: If you look on Page 4, where there's bullet points, those were the five reasons given why there's a need for a limited meeting and, again, the reason for the public, who might wonder why we're having a limited meeting, the landowner will not allow this Commission to go down there without signing waivers and that poses a real problem because if anybody wants to go down there as part of the public and doesn't wanna sign a waiver, then the limited meeting just doesn't happen so -- I mean the site visit doesn't happen.

Ms. McPherson: Chair Vanderbilt?

Mr. Vanderbilt: Nancy.

Ms. McPherson: I would like to add, now that I think about it, that I did recommend that we remove the winter months justification. Now, I'm thinking that if we request -- if you vote to conduct a limited site meeting before the end of this year, we could actually leave that justification in there because if we're going in November or December, we could be suffering those conditions as well.

Mr. Vanderbilt: Well, Nancy, I thought one of the things you were going to ask him was that if we could leave the date open that was suggested by Commission Chaikin so as we get closer, it might be some time before -- I mean before this situation comes. Weren't you going to ask if --

Ms. McPherson: Yeah, yeah, and I haven't gotten a response.

Mr. Vanderbilt: If the AG accepts these as good reasons for having a limited meeting and says you can, can you leave the date open? But --

Ms. McPherson: Well, would you like it open indefinitely, or would you like to say within the next year, or --

Mr. Vanderbilt: Probably within the next six months.

Ms. McPherson: Okay. I think we can word it that way. I will double check though to find out whether we need a date certain, whether or not, but --

Mr. Vanderbilt: Do -- okay. As far as that goes, we'll -- we'll look at these and take an action on these today so at least we're approving these as the reasons. Is there anybody that has any -- is there anybody from the public who wants to testify on this limited meeting item? Hearing none, public testimony is closed on that issue. And, Commissioners, you've had a chance to look at those five bullet points on Page 4: The area's remote, far from emergency services and is accessed, in some cases, by four-wheel drive only; the area's along an exposed coastline so subject to high wave and tidal action, storm surges, tsunami; vehicle access is not possible along the majority of the coastline; and the existing pathway along the coastline is unimproved, uneven, and in close proximity to the shoreline; sections of the coastline are rocky or consist of escarpments and cliffs, therefore, making coastal access difficult and hazardous; in winter months, the coastline is subject to high wind, wave action, including high winter swells, storm surf, therefore, creating a high hazard level. And, yeah, and another reason that was suggested at the August 8 meeting was that there's the possible presence of unexploded ordnance. So, with that, do I hear a motion to approve these reasons why this Commission feels that there should be a limited meeting?

Mr. Kalipi: Chair, I'll make a motion to process a limited meeting stating for these five causes and process the meeting with the Attorney General that we do a site visit to view Laau, the area of Laau Point.

Mr. Vanderbilt: Is there a second?

Mr. Napoleon: Second.

Mr. Vanderbilt: Any discussion? Commissioner Chaikin.

Mr. Chaikin: Yeah, I think that, you know, when we submit this to the Attorney General, we're really looking for a successful response, and if you look at these reasons right here, you know, there's rocks there, there may be a tsunami, it's far from emergency services, there's some cliffs, and there might be winter swells; basically, it's not a super, super strong argument, so I would also make sure that we take these five and add that sixth that there may be unexploded ordnance in the area since that is -- there is a bombing target in the area, and I think that might be more compelling for a successful response from the AG on this.

Mr. Kalipi: I'd like to comment too. I would see to change it to alter the sixth point that Commissioner Chaikin said but just to make a note: I believe that we already been approved prior with only these five reasons prior but we actually cancelled, if I'm not mistaken, and this was sufficient in the prior process then we asked for the -- is that correct?

Ms. McPherson: Actually, we never did get approval from the Attorney General's office so -- so we still have to get that. That didn't happen before.

Mr. Kalipi: Even the original one?

Ms. McPherson: You voted on it but the request wasn't sent and then it kind of expired, the dates passed, so that was my fault and I apologize for that, but that won't happen again.

Mr. Vanderbilt: So this is a new request.

Mr. Kalipi: Okay. And then we can add in the sixth point, which is ordinance, by Commissioner Chaikin.

Mr. Vanderbilt: Commissioner Napoleon, are you going to second that friendly amendment?

Mr. Napoleon: Yeah, I'll second the motion.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Kalipi, seconded by Mr. Napoleon, then unanimously

VOTED: to approve the five reasons for a limited meeting, as submitted by Planner Nancy McPherson in her draft memo dated August 14, 2007, and include an additional reason regarding unexploded ordinance in the area.

Mr. Vanderbilt: Motion carries.

F. DIRECTOR'S REPORT

- 1. Open Molokai Applications List**
- 2. Closed Molokai Applications List**
- 3. August 22 Public Hearing on the Countywide Policy Plan portion of the General Plan - 6:00 p.m., Kaunakakai School Cafeteria**
- 4. September 12 Public Hearing on proposed amendments to the Rural District bill in Title 19**

Okay, we got -- we have now Item F, is Director's Report, we'll start with Item 4, if you don't mind, Commissioners. That's, Nancy, that's something regarding September 12 public hearing?

Ms. McPherson: Yeah, the only information -- oh, okay, Suzie has some information for you, which I don't think I've seen, and I did discuss this a little bit with Corp. Counsel before the meeting so he explained it very well.

Mr. Vanderbilt: Well, if you don't mind, Nancy; Corp. Counsel, would you mind just explaining the little background on this ordinance?

Mr. Hopper: I prefer to do that at the public hearing -- well, after the public gets the announcement on this, but it's an amendment to the rural bill, which deals with rural zoned properties and all it does is add in standards for the County Rural Districts, which there's actually no County Rural zoned properties on Molokai; only RU-0.5 property here, so the reason it's gotta go to you because it's amending a section that has applications to Molokai because there's RU-0.5 zoned properties in Molokai, but it will actually not affect anything that's currently existing on Molokai, but because of the section it amends, it has to come before all three planning commissions, and I can get into more detail with you at the public hearing. That's good that you have a preview here to look at it. But, as far as substantive changes to existing property in Molokai, it will not affect it. It will affect properties on Maui Island.

Mr. Vanderbilt: Thank you, Michael, and thank you, Suzie, for getting this to us, you know, as far in advance as possible. Are there any questions by the Commissioners? We need to have public testimony on this? Okay, if there's anybody that wants to give any public testimony on this item, there will be a copy of this available at the Molokai Planning Commission office and does anybody know if there's a copy of this currently online at the County website of this rural zoning?

Ms. McPherson: I can take a copy over to the library if --

Mr. Vanderbilt: Well, that'll come out with the package but if -- okay, so if nobody's going to testify on this, then we will move on to -- Judy, aloha.

Ms. Caparida: Aloha. I would like to know what is that all about because you cannot set something up for a hearing if you don't know what you're going to be hearing. You need to know what's going on so that we can vote for do it affect us or it doesn't. So I think that it too short of a time for you folks to give the papers at the hearing. Hello! We need time to think about whatever your plans are. So that's what I needed to add.

Mr. Vanderbilt: Well, and that's going to be at the meeting on September 12, but I think what Judy is saying is that it's hard to come to a meeting on the 12th if you don't have the information ahead of time and some little synopsis. That's why there will be a staff report associated with this, right? Okay. Huh? Somebody will have to do a staff report because -- well, Joe will have to do one and explain, not only that it doesn't affect, but how

it could do something in the future, could it affect anything in the future that we may wanna do, but Joe will be here to answer questions but, as far as this affecting anything on Molokai at this time, our Corp. Counsel says it won't, but I think Judy's point is she wants to make that determination herself by having information that she can look at and come to her own decision.

Ms. Caparida: Well, we -- that's right. We want to know ourselves. We live here. They can say anything they want but they don't really know because they don't live here. So I think that we need to read and find out if it's going to affect us or someone that -- our loved ones that is there. That's what we are here for.

Mr. Vanderbilt: Thank you. And I'll try to get that information together before the public hearing and --

Ms. Caparida: Thank you.

Mr. Hopper: Because this has been provided to the Commission, it's gotta be made available to the public as well cause once all the Commissioners have it, it's gotta be at the office and available to all members of the public so --

Mr. Vanderbilt: Suzie, is this going to go out in our packets also next time? Okay, thank you.

Okay, moving on to -- we have the open and closed Molokai applications of things that are pending before this Commission or have gone before the Commission. Does anybody have any questions on any of those that you needed any clarification on? I didn't look at mine that closely but I -- it -- earlier, we had talked about any -- any new things that come on maybe they could be put in bold in the future, you know, any new -- or checkmark or something by them cause it gets pretty hard for the Commissioners to keep all these things and compare different schedules from before to see what's new and what's not, so if there could be some notation made on those that would be very helpful.

Ms. McPherson: Also, Commissioners, I'd like you to note that we have been working with Susan Underwood of our MIS Department and we no longer have these, you know, 1 of 45 pages, or 10 of 45, or whatever it was where they were just printing out sections of the entire Countywide report. We actually are now able to query by Molokai TMK only and so that is making, hopefully, making your report less confusing and more informative.

Mr. Vanderbilt: Thank you. That's a great improvement, Nancy, and thanks -- tell Susan thank you.

Okay, now, moving on we have Item 3, which is tonight's meeting, August 22 public hearing on the Countywide Policy Plan portion of the General Plan. Does anybody -- oh. Oh, we have -- we have the boss here of the Long Range Planning, John Summers, and I'm sure he could give us some good insight into tonight's meeting. John?

Mr. John Summers: Thank you, Mr. Chairman, members of the committee. We'll see you at 6:00 at the elementary school in the cafeteria for a public hearing this evening on the Countywide Policy Plan. This will really kick off the Commission's four-month review so we'll have a long extended time to really work through that document and it's an exciting opportunity for the County. So, again, that's 6:00 this evening. Thank you, Mr. Chairman.

Mr. Vanderbilt: Are there any questions for John? Commissioner Chaikin.

Mr. Chaikin: Yeah, is the public aware of this public hearing on this tonight?

Mr. Summers: The public was informed through the public hearing notice requirements so we do -- did have public notice of tonight's meeting.

Mr. Chaikin: And what is that? How were they noticed?

Mr. Summers: Well, it's a -- the County requires for public hearings that the advertisement of the meeting be placed in the newspaper 30 days in advance of meeting so --

Mr. Chaikin: Okay.

Mr. Summers: We did that both for the Maui paper and the Molokai paper.

Mr. Chaikin: Thank you.

Mr. Vanderbilt: Well, I think that, and this is something that I brought up, that it came out in the Molokai paper July 25 but the document that's subject to the public hearing and future hearings over a 120 days was really not made available to this community until August 15 and so I think -- but I think John -- Simone and John and Long Range, they've been under a lot of time frame constraints but I think our community got a little compromised on this first meeting but we're going to make a 200 percent effort to make sure that the community knows cause it's a very big document and the plan was that, at each meeting, we would review a couple of sections of the plan and that would be stated to the community. You could testify on any portion of the plan but, specifically, we try to concentrate, say if it was education, that would be advertised in advance so the people that were well versed in education in this community may come to that, they may not want to come to the one that's on infrastructure or the one that's on economic development or land use or preservation of the environment. So that didn't happen this time, but Molokai took

a little bit of the brunt cause we're the first one, but we'll get up off the mat here and -- cause our public is, as I mentioned in my email to you, John, is really serious about participating in the planning process and they do do it with more enthusiasm and follow-up than nearly any community I know of in Maui County and so I just, you know, I might be screaming and hollering a little bit, and I apologize for that, but we work for the community, we don't work for the Mayor or the County or anything, we work for our community, and so I just, and I'm sure all the other Commissioners are with me on this, we want to make sure that our community gets all the information in a timely manner and so they can come well prepared because that's where we learn, we gotta make decisions, and we -- we really learn from our community so -- and I appreciate your follow-up and agreeing to a lot of things on that. So we'll see you tonight. Are there any questions from any of the Commissioners? If not, anybody from the public have anything to say on this? Okay, well with that, do we have any announcements? Okay, Commissioner Chaikin.

G. ANNOUNCEMENTS

Mr. Chaikin: Yeah, I've got an issue I'd like to bring up that's -- it's not on the agenda so we're really not at liberty to discuss this, but I bring it up only for, you know, the Chair's consideration for a future agenda item, and that is that, several meetings ago, we had a meeting on a subdivisions and I thought it was a good workshop, and we learned a lot, and we got a lot of good information, and there was also some issues that were brought up that could be a concern to this community during that workshop. And that workshop ended rather abruptly and we really didn't get to discuss any of those items. But I think that, you know, this is really the only quasi public body that can advocate on behalf of the community, and I'm just bringing it up cause there might be some items there that could be a concern, you know, to the community moving forward and I mean knowing that we are not the final authority on this but we can act, and maybe through a resolution or a communication or, you know, some kind of a -- I don't know, some kind of a communication to the bodies that do make the decisions on subdivisions, and I know that Ralph was saying he actually sent something up as a potential change, and we might even wanna concur with him or bring up our own, you know, possible, you know, revisions to the current situation. So I just throw that out to the Chair for his own consideration and that if he thinks that's important, he might consider it for a future agenda item. That's all. Thank you.

Mr. Vanderbilt: So you were looking at a future meeting whether it be the next regular meeting, which Item H on the agenda, or some meeting after that to get some kind of follow-up summary of what we learned and what we're going to do with what we learned? Okay. The Chair will talk to the Planning Staff and see what we can do to follow-up on your request, Commissioner Chaikin. Are there any other announcements?

H. NEXT REGULAR MEETING DATE: September 12, 2007

The next regular meeting date is September 12 and is there anything besides the -- well, that's just the September 12 is the next regular meeting date so -- okay.

I. ADJOURNMENT

As far as, number I, if there's no more business, anybody have a motion to adjourn?

Mr. Kalipi: So moved.

Mr. Chaikin: Second.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Kalipi, seconded by Mr. Chaikin, then unanimously

VOTED: to adjourn the meeting.

Mr. Vanderbilt: This meeting is adjourned. Thank you for coming. Aloha.

There being no further business brought before the Commission, the meeting was adjourned at 1:35 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

DeGray Vanderbilt, Chairperson
Steve Chaikin, Vice-Chairperson
Linda Kauhane
Joseph Kalipi
Sherman Napoleon, Jr.
Bill Feeter

Excused/Absent

Lynn DeCoite (E)
Kip Dunbar (E)
Mikiala Pescaia (A)

Others

John Summers, Planning Program Administrator
Nancy McPherson, Staff Planner, Molokai
Michael Hopper, Deputy Corporation Counsel
Ralph Nagamine, Administrator, Development Services Administration, DPW