

(APPROVED: 04/09/08)

MOLOKAI PLANNING COMMISSION
RECESSED MEETING OF FEBRUARY 13, 2008
RECONVENED ON FEBRUARY 19, 2007

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

The recessed meeting of February 13, 2008 of the Molokai Planning Commission was reconvened on Wednesday, February 19, 2008 at 12:48 p.m.

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

A. CALL TO ORDER

B. APPROVAL OF MINUTES OF THE NOVEMBER 14, 2007, NOVEMBER 28, 2007, AND DECEMBER 12, 2007 MEETINGS

C. UNFINISHED BUSINESS

1. MOLOKAI PROPERTIES, LIMITED requesting comments from the Molokai Planning Commission on its second Draft Environmental Impact Statement (DEIS) prepared for the La'au Point Project located at TMK: 5-1-002:030(portion), Kaluakoi, Island of Molokai. (EAC 2006/0017) (CPA 2006/0009) (CIZ 2006/0015) (SM1 2006/0040) (CUP2006/0005) (N. McPherson) (The Draft EIS diskette was previously distributed to the Commissioners. The matter was deferred from the January 23 meeting.)

The accepting authority for the EIS is the State Land Use Commission. The deadline to receive comments on the DEIS is February 22, 2008.

The EIS is a supporting document for the State Land Use District Boundary Amendment with the State Land Use Commission and various county land use applications. The County land use applications are for a Community Plan Amendment, Change in Zoning, Special Management Area Use Permit, and County Special Use Permit. The County land use applications will be reviewed by the Molokai Planning Commission some time after the EIS process has been completed by the applicant with the State Land Use Commission.

- a. The Molokai Planning Commission will accept public testimony from interested members of the public on the DEIS.
- b. The Molokai Planning Commission will share what information it has that may enable the public to better understand how the environmental review and ancillary processes evolved to where it is today and where related processes are intended to go in the future.

- c. The Molokai Planning Commission will take action to provide its comments on the Draft Environmental Impact Statement (DEIS).

Mr. Vanderbilt: O.K. I'd like to call the recessed meeting from February 13 to order. Today we're going to deal with approving comments for submission by the commission on the Molokai Properties Draft Environmental Impact Statement. Nancy you had some handouts, could you explain what the handouts are?

Ms. McPherson: Yes thank you Chair, Nancy McPherson staff planner, Molokai. Good afternoon commissioner's. There is a draft letter from the commission which has quite a few comments on it and that is a compilation of all of the comments that I received via e-mail from various commissioners and those have been compiled. There may be some redundancy, I didn't have enough time to really go through it to eliminate all redundancy, but I've numbered the comments so if it's obvious that something is stated twice, we can just delete that one, if you notice it. So just let me know. I'm going to sit down by my computer. We also have a two page addendum to comments. I'm going to, if you so will, I'm going to append those to the first draft set of comments. I received it basically after we were already printing everything out. So that's the addendum. There's also a one page sort of table that was submitted by a member of the public for information only to the commission regarding some, looks like some voting or support information regarding Land Use Committee of the EC and I think it's regarding Molokai Ranch master plan. So, that's just for your information. So if you want to take some time to read through the comments, I would support that.

Mr. Vanderbilt: We'll take a little bit of time. Nancy the last attachment, you said the one page, that came in from a Molokai resident? Who did it come in from?

Ms. McPherson: that was faxed to us by Kahualaulani Mick.

Mr. Vanderbilt: The addendum were comments submitted by a commissioner?

Ms. McPherson: Yes the addendum is comments submitted by a commissioner. We have one other handout that you provided us with Chair, it's the letter, signed letter to USGS, requesting comments, them to make comments on the DEIS.

Mr. Vanderbilt: That was just for the commissioners information, the letter that they approved going out at the last minutes was sent.

Ms. McPherson: O.K.

Mr. Vanderbilt: O.K. commissioners, again, Nancy has some time to do any editing, changes or knocking out duplications of, I instructed her not to take a lot of time on style and just put things together because we don't have time to do probably as organized job as we would want on these

comments that would make of course MPL's job of responding a lot easier, but since we didn't get the extension and Nancy is all so having to do the entire comments for the Planning Department, I didn't want to have her spending all the extra time to edit and style make our all that pretty.

Ms. McPherson: Chair can I just mention that the comments from the department, I have drafted comments on behalf of the department and those have been forwarded to the Planning Director. So he's reviewing those right now. I also wanted to just say that in the case of where there were a bunch of comments that seems to fall under one, where I could lump them together I did do a little bit of lumping, I didn't try to do it too much. If it was logical that a statement was followed by a couple of questions than I kind of put them together.

Mr. Vanderbilt: Thank you. At the last meeting we asked you if you were going to get any help from the Planning Department to put the Planning Department comments together and you mentioned that you had some inquiries out to various departments in the county, did you get any responses to help you with the input?

Ms. McPherson: Not yet but I'm hoping for some to come in today. Of course the Cultural Resource Commission is going to be making comments on Thursday on Maui.

Mr. Vanderbilt: So the Planning Department's draft was put together solely by your efforts?

Ms. McPherson: Yes.

Mr. Vanderbilt: Thank you.

Ms. McPherson: It's 115 comments.

Mr. Vanderbilt: O.K. commissioners. Any comments regarding the comments?

Mr. Chaikin: I have a comment on the comments here. When you look at this letter with our comments on it dated February 19, it's not abundantly clear just by looking at it that it's from the Molokai Planning Commission. I mean when you read through it you could probably figure that out. What's the situation with letterhead or how can we present some kind of a letter where it's abundantly clear just by glancing at it that it's from the Molokai Planning Commission?

Ms. McPherson: Well I brought up the question of this planning commission having its own letterhead. I haven't got a lot of response from the department on that, but we could put it on departmental letterhead and I could perhaps put, maybe I could put a, or the clerks could put a water mark or some kind of Molokai Planning Commission underneath the departmental letterhead, if you'd like it to look that way.

Mr. Vanderbilt: Nancy I would put right under the address, put in big capital letters, bold and underlined, subject, comments from the Molokai Planning Commission.

Ms. McPherson: We could put that under subject. I basically submitted this just the way it was sent to me.

Mr. Vanderbilt: Thank you. That's a good point Steve. I think Nancy's got a little bit of time today and tomorrow to clean up anything and make it a better letter.

Mr. Chaikin: The other comment that I was going to make was that in regards to the comments you're making Nancy, we as commissioners are not expert planners. We're basically lay people. We don't really have the expertise to know all the ins and outs of short term and long term planning and all the ramifications this project may entail. The Planning Department are the experts. They have lots and lots of experts in the Planning Department and we rely on them to come forward with their expertise to provide comments on this. So I would maybe reiterate to the rest of the staff that the Molokai Planning Commission was looking forward to all the expert comments from all of the different people in the department that have actual expertise in that area because we certainly don't.

Ms. McPherson: What I can do is make sure that you get copies of all of the comments that were made by perhaps other county departments and that sort of thing. If you'd like copies of those I could get those to you in advance of the final EIS being submitted, the proposed final EIS being submitted. If that would be helpful.

Mr. Chaikin: I was just trying to get some, you know you got long range planners in there and this is definitely a long range kind of a, this whole master plan, you would think that they would be forth coming with some comments. So I was just hoping again to get the word out that we had the meeting here today and they were wondering if you were actually going to submit comments.

Ms. McPherson: Well unfortunately I got kind of backed up behind the deadline and worked on them over the three day weekend. But I do have background in long range planning and I went through every single page of volume one. If there was a concern about long range planning issues I was looking for it.

Mr. Chaikin: I appreciate your efforts, thank you.

Mr. Vanderbilt: I want to thank everybody for participating in putting these comments together on short notice and also for the public, for submitting on short notice again some pretty professional testimonies at our last meeting. In particular there were some very technical points in them, I'm referring to testimony presented by Alton Arakaki on the soils and he brings up some points that are not addressed in the current draft EIS. Some comments on cumulative impacts by Steve Morgan, a West End resident who was personally responsible for Molokai Properties adding in a map of the undeveloped but entitled hotel and condo properties north of the Kalua Koi Resort. We had some

testimony from sort of an expert water guy, Glenn Teves, regarding the US water studies, the water transmissions, segmentation and a few other things. He brings up a lot of good points. Then there was testimony that was condensed in his verbal testimony at the last meeting but it was, it looks to be 10 or 12 pages and he goes through and makes some points, some very good points, some that have never been raised before, that was from Adam Kahualaulani Mick. We had this testimony or this chart that came in from Mr. Mick that also addresses some points because in the draft EIS the Ranch puts a lot of emphasis on various places on the make up of the Land Use Committee and the EC and what went down with the voting. So this chart is fairly interesting. Whether it's accurate or not, we don't know. I would like for the commission to approve today that we approve the comments that Nancy has compiled that have come in from the commissioners and also give her the liberty to extract any comments that aren't covered in our comments from the letters that came in that I just mentioned and as long as, with the understanding that the statements extracted will not be amended in any ways. It will reflect the true indication. This was done in our last comments. We took out, people came and shared their mana'o with us and we did extract some of the information from some of the testimonies that were presented. As far as these letters, everybody received these letters at the last meeting except for the one that came in from Mr. Mick. So basically that is what I would like our commission to approve today.

MOTION: I WOULD LIKE TO APPROVE THE COMMENTS PROVIDED BY THE COMMISSION AND GIVE NANCY PERMISSION TO EXTRACT COMMENTS THAT WOULD NOT BE AMENDED IN ANY WAY FROM THE TESTIMONIES SUBMITTED ON THE DRAFT EIS.

MOVED: COMMISSIONER LYNN DECOITE

SECOND: COMMISSIONER JOSEPH KALIPI

MOTION UNANIMOUSLY APPROVED.

Ms. McPherson: May I just ask? I know the motion has been approved but in the case of comments that have actually been submitted by the commissioners, to reflect that testimony that was submitted I don't need to repeat those comments do I? Like I think you stated it. Whatever hasn't been covered by the commission and their own comments, to extract from...

Mr. Vanderbilt: But when you extract those comments, those will be comments from the commission.

Ms. McPherson: I understand but what I'm saying is if those comments are already in, if as commissioner's as you asked at the last meeting actually processed that public testimony and made it part of their own comment and I compiled that, so if it's already in there I don't have to add it back in again, that's what I was asking.

Mr. Vanderbilt: You're going to have to look at a letter and you see a comment that we haven't really comment and it's good than just type it up and put it as our comments.

Ms. McPherson: I just wanted to clarify that.

Mr. Kalipi: Nancy what about maybe just putting a reference name there as a commissioner also state the same thing rather than rewriting the whole comment again, would that work?

Ms. McPherson: No I think I can just do what the Chair suggested, I think that would work fine.

Mr. Vanderbilt: Thank you Commissioner Kalipi.

Mr. Chaikin: Nancy if we could just review, the whole purpose of these comments is for us to get our concerns over to Molokai Ranch and then they're going to provide their responses and then it's going to turn into a final, proposed final EIS. At some point it's going to be determined whether or not it is adequate. Now, for those of us who haven't done as much homework as maybe we should have, I mean where do we go to find out what a definition of adequate is?

Ms. McPherson: Well I've been using the OEQC guidebook myself actually because it talks a lot about EIS's, and the kinds of information that is supposed to be provided in an environmental review document. The kinds of impacts that are supposed to be documented, discussion, let's say if you're talking about a community plan objective or policy you have to actually discuss how the proposed action does not conform with the policy as well as perhaps how it or some other component of the project does. The point is it can't all be sweetness and light. Your analysis has to be balanced. It cannot just be all of the good wonderful things and how the project meets all of these standards and policies and requirements. You have to talk about also the places where it doesn't and accurately assess the impacts. The probable impacts as much as you can predict.

Mr. Chaikin: Sounds pretty subjective.

Ms. McPherson: Well yes it's an art rather than a science I would say.

Mr. Chaikin: Let me just ask you a question about water. You know there's been developments in the past that have moved forward and they really didn't have to show that there was adequate water supply to do their development. Now I've heard things that they may be developing a new ordinance where developments would be required to actually show that there's sufficient water to do their development. Where does this project fall in that? Are they actually required to show that there's an adequate supply of water?

Ms. McPherson: Well Title 16 has been amended by the County Council via an ordinance nicknamed show me the water bill. If you haven't received a copy of that then I'll make sure you get a copy of that. Basically what it says is that the source of water needs to be identified. But my

understanding at this point is, as far as the Public Works Department goes which is the department that administers Title 16, you don't actually have to do that until you get to the building permit stage and so there has been some discussion in our Planning Department about perhaps asking for that kind of information much sooner, let's say at the land use and titlement or preliminary subdivision phase. That has not been formally adopted as a policy but good planning practices dictates that you do look at those kinds of issues and you do look at logical sources of water for any new development of any magnitude, significant magnitude.

Mr. Chaikin: So what about EIS's. I don't know about EIS's. I saw this one and I've seen one or two others but that's the extent of my experience with EIS's. You've seen quite a few. Do they typically address the water issues, exactly where the water is coming from and whether it's an adequate supply?

Ms. McPherson: Well my past experience in my previous position was in the State of California where water issues are very, very important and have been going on for a long time and development has actually staged or phased or limited for a lot of different reasons from water to infrastructure roads, schools, you name it. So there's a lot of precedent in California for looking at the impacts as a way to put conditions on proposed actions or developments. My experience here in Hawaii isn't quite as much as deep, so I would have to say that I'm not aware of any except for the case of the Wailea 670 Honua'ula project on Maui. I know that they have come up with some pretty serious water issues and they have had to, I think that stimulated this show me the water bill. So the document needs to show, it needs to discuss and provide enough information to determine what the impacts will be on natural resources and other kinds of resources such as water supply.

Mr. Chaikin: O.K. Nancy let me just shift gears for a minute. In reading that EIS, I was looking through it and I was jotting down notes. One of the things that came up as far as I was concerned was roads. I tried to look on the map and I tried to figure out how many miles of roads, I mean there must be 20 miles of roads out there when you add them up. That's a lot of road way and those are private roads. Does the county have any connection? Are they just on their own? Is it an honor system out there that they're going to keep those things in good shape or is the county require some kind of written agreement, do you know anything about that?

Ms. McPherson: The road situation is kind of complicated out there from what I understand. Its private roads but I think, there are those that feel it would be nice if it were county roads because then they would be maintained. I think it would be important to look at the road system as a system and look at the impacts to the existing roads which need repair based on increased traffic going out to La'au Point which would have nice new roads. But you have to look at the whole system.

Mr. Vanderbilt: Let me jump in there. In the CC&R's it says these roads will remain private but there's no obligation that says or no document that says the home owners will not try to get the county to take over those roads like Kawela Plantation, those were private roads and they finally got the county and the tax payers to take those over and maintain them. So even though the CC&R's

will say they will remain private roads, CC&R's are subject to change and that's one of the things that isn't protected from change.

Mr. Chaikin: I don't understand how it works with county roads. Does the county not want the roads because it's an extra cost for them to maintain or would they want the roads, do you know?

Ms. McPherson: Well in this case I think the situation is if the roads had been better maintained, the county might actually consider taking them over at some point. But because they're in disrepair, the county is actually less likely to do that because they're going to have to be upgraded.

Mr. Vanderbilt: You're talking about Kalua Koi Resort.

Ms. McPherson: Yeah, Kalua Koi Resort because there's gonna have to be a lot of money put in to doing that. There is one location in the EIS where I did see that it was stated that the Kalua Koi roads would be fixed up if and when the La'au Point development is approved.

Mr. Vanderbilt: But they can't be dedicated to the county. I talked to Goodfellow Brothers and they said the roads would have to be totally ripped up and redone and put a new base on and if that isn't done they wouldn't be to county standards so they wouldn't be accepted. La'au Point roads which I assume they're going to build them to county standards unless they want to save money. If they're not built to county standards there's no way the county is going to take them.

Ms. McPherson: Now in the EIS it says that they will be built to county standards which frankly I would prefer more rural standards myself since it is a rural subdivision.

Mr. Vanderbilt: Well that's inconsistent with our community plan than. Our community plan suggest that we build road ways to reflect the rural atmosphere.

Ms. McPherson: Well the county code says that it should be wide enough for the fire engines.

Mr. Vanderbilt: O.K.

Mr. Chaikin: Nancy what about the parks. I mean does the Park Department would they want those parks or do they consider, well that would be an extra burden, we would rather not even have them. What's the county's position with parks, is that something they would want to take over?

Ms. McPherson: Frankly I don't know what the county's position is on parks. I haven't met with them to discuss that.

Mr. Chaikin: Are all the rest of the parks out there county parks?

Ms. McPherson: I believe Papohaku recently became a county park, it wasn't originally a county

park, I think it was again owned by the home owners association and that was deeded over, I'm not sure the year that was happened though. Again there's a lot of land on Molokai that people have tried to donate to the county for parks and the county, my understanding is that the county turned them down. I need to do more research to find out what the situation is with the Parks Department. Again, that's maintenance cost and that sort of thing.

Mr. Chaikin: I was, just one more question here. On the conservation zone, do you know how it works with the conservation zone? I know that we've had petitions come before this particular commission to actually build a house in a conservation zone, so the fact that they've got all this conservation zone out there, I'm not sure what it all means. Is there different classifications of this conservation zone and do we know what classification this is going to be?

Ms. McPherson: In Chapter 205 they do talk about the conservation district. The rules, the Hawaii Administrative Rules talk about the different kinds of permitted uses in those districts based on the sub zone. Now there was a short mention of sub zones in the document, they did talk about protective and general, limited and general sub zones. General allows for a lot of different things. The case that you're mentioning in particular I believe had to do with the fact that there are kuleana parcels in some of these districts and people are allowed to build small dwellings on a kuleana parcel. Even if they're not genealogically linked to the kuleana. That was kind of a special situation. That wouldn't be the case here. There would be a conservation district, I have some comments about how the Department of Land and Natural Resources conservation district and they're the one responsible for jurisdiction. In the document it talks about the land trust and the home owners association and etc. But my understanding is that there will be conditions on the areas covered by the conservation district which will...

Mr. Vanderbilt: Conditions from who?

Ms. McPherson: From the Land Trust and the home owners association that will be very strict about what's allowed in the conservation district.

Mr. Chaikin: We haven't seen that language. I was just wondering, you talked about sub zones, or sub districts or something and that's what, the hearing that we had here for the house that was built, they were able to build that because it was in a particular sub district or whatever.

Mr. Vanderbilt: Steve let me jump in here. When they did the Papohaku Ranch Lands, those lots go right to the conservation district. As soon as that got approved all the home owners got together and tried to extend each lot into the conservation district which would have allowed them to build one fairly big house in the conservation district. The La'au Point conservation area is one TMK, so there'd only be one house allowed unless they some how subdivided it. Right now if you own a lot in the conservation district and there's nothing on there and there's a legal TMK you can build a fairly substantial size house in there, is that right?

Ms. McPherson: I'd have to check and read the language.

Mr. Vanderbilt: 2500 square feet.

Ms. McPherson: It's in the general sub zone at Papohaku.

Mr. Vanderbilt: But I think at La'au it's just one, just one TMK, the conservation area.

Ms. McPherson: Yeah I have to double check what the subdivision plans are frankly. If you'd like I can do that right now.

Mr. Chaikin: I was just asking some general questions because it's a good time to ask questions, most of the time we don't have the opportunity to ask questions because we're so pressed for time.

Ms. McPherson: Well the sub zone issue is critical and it has not yet been determined and it will be determined in consultation between MPL and the State Department of Land and Natural Resources. I think, they're not only be changing the size of the conservation district there but there's some discussion on what the sub zone is ultimately going to be, that hasn't been resolved yet.

Mr. Chaikin: Maybe just one more about the access. The county requires this 1500 feet between accesses. Now according to the EIS they don't really want to do that. So if they don't want to do something that's required what process do they have to go through to get out of what's normally required?

Ms. McPherson: They'll have to go through a variance process. I'm not sure, they might have to go to the Board of Variances and Appeals, I'm not certain about that. Because it's going to be a different section of the code, it has to do with subdivision requirements and that's with Public Works. I'm not sure what the process is there but I know they will have to go through a process.

Mr. Vanderbilt: What's happened is this process has gone all along, the Ranch or MPL has said things, the community has believed those things and those things has changed as we go along. I was on the Enterprise Community Land Use Commission and we voted 22 to nothing to amend the language so that there would be the CC & R's could not be changed at all. Basically there's a million ways you can change the CCR's and the draft that we got. The same goes for what you were mentioning Steve. The two far accesses were to protect the, to limit the access, the public really to the shoreline. It was intended too that the home owners wouldn't be able to go down to the beach. The early documents the Ranch says would be blocked by heavy dense kiawe and no trails or anything else and in the current one the home owners are actually paying money and actually encouraged to cut down the kiawe which is an evasive species, which will make it easy to get to the beach for them. So things just change and that's what's frustrating with this draft EIS. Everybody forgets what was said in the last document and the Ranch takes all the professional, and solid knowledge input coming in from the community, sits back and figures out how to argue for what

they want to do to move forward. I think out of this whole process and the community input and the input from the commissioners and the working people like Nancy, this document is so much superior than the first draft EIS, but it still seems to be lacking answers to some key issues, whether it be water or what ever.

Ms. McPherson: The access issue is handled by the shoreline area management plan. There's a lot of mitigation and management of both the conservation district area and the trails and access. I don't know the whole history but that plan would need to be reviewed by coastal zone management, DLNR and the county in order to see if that's actually going to work and if that's something that could be enforceable and would actually produce good management.

Mr. Vanderbilt: We're in a time in our history right now all over our country including Molokai where the word change keeps coming up. Tonight we're going to go out and vote and one of the candidates is pushing for change. On the last page of these comments, it says the project and its governing documents which is a collective term referring to the declaration and any supplemental declaration which has to do with the CC&R's, the articles, bylaws, rules, the SAMP and the resolutions of Board of Directors, as they may be duly amended, must be able to adapt to these changes while protecting the things that make the project unique. The opening statement from the Ranch is that communities such as the Project are dynamic and constantly evolving as circumstances, technology, needs and desires and laws change as the residents age and change over time and as the surrounding community changes. So these CC&R's the SAMP, there's no protection there that they can't be changed at the will of the people there.

Ms. McPherson: Well Chair, again, planning is an art and the difficulty can be finding out what are the non-negotiable and in this case they have been protected by the perpetual covenants I believe. There's the three tiers of covenants, those are unchangeable, then comes the master plan covenants, I forget now and those have to be, any changes have to be approved by the Land Trust. There's the bottom tier of covenants and I think the idea of being that over time things do change but what you have to do is figure out what are the things that you absolutely, the community, as a community is unwilling to see change, make sure those are made into perpetual covenants and than the manini stuff, that you actually could have some covenants that could be changed in the future to adapt to changes in reality.

Mr. Vanderbilt: O.K. but the reality is that the CC&R's, the draft CC&R's the information there, they said was taken from guidance from the Land Use Commission. We had asked even, the Land Use Committee, the EC Land Use Committee, when we put the master plan together. We never got any draft CC&R's, we didn't get anything so that's what let the EC to vote 22 to nothing on a simple statement ensure that nothing can be changed in the CC&R's because the community was not going to have any input in the CC&R's and we won't. They say in the draft EIS, conditions to the CC&R's could be put on by the council or the State Land Use Commission but the community is out of the loop now. That's all ready a major violation in my mind that they just ignored what the Land Use Committee voted and it was adopted by the EC Board.

Ms. McPherson: I think you have to look at what was adopted by the EC Board and if all of those were made into perpetual covenants. If they weren't then yeah, I agree that you have a problem.

Mr. Vanderbilt: Well the Land Use Committee wanted everything to be a perpetual, they wanted the whole document. What is there that you couldn't live with? What would have to change? The Ranch never brought up that they were going to have three tier's, and we're going to do this, this is all something that came up dealing with their own lawyers and everything. It has nothing to do with our community.

Mr. Kalipi: Can I jump in? I just want to share some mana'o and it may be repetitious but it's very short, one point and I don't have 500 points or comments to make but I do want to get myself on the record as contributing to this process. I'll start by saying...

Mr. Vanderbilt: You contributed a lot Joe.

Mr. Kalipi: Thank you. As I look at the EIS, environmental impact statement, I kind of wanted to swallow the definition of it and through the process. It can really be viewed in a different light or a different manner depending on who you talked to or understanding the process. When I look at the environmental impact statement and understanding the process it's pretty much a plan that's going to be designed to give information, do research and have actualities and just to put together such plan to minimize environment impact. Through the process I'd like to think that I kind of relate to it as a business plan, if I was going to go into business or anything like that. If I was going into business I would have to research the competition, what's out there in the market, I would have to do my projections, I would have to do my cost analysis and so forth and so on. In the point and time going though that whole process I come to a conclusion and summary in some case you call it an executive summary, that you really put through your analysis and you come out with a conclusion of yea this something that I'm going to do or nay this is something that I'm going to put my foot in my mouth. So through that analysis it gives you a light of you should go forward or you should not. So thinking of these things I come to understand that this Molokai Ranch Master Plan is one of the greatest plans I've ever seen. It's one of the greatest plan that I've seen put together by Molokai Ranch, I give them that much in the sense that there was hard work, the process was awesome and is awesome as it continues. It's awesome of the participants and the comments and involvement of the community, it is awesome, the plan itself has many great incentives and good ideas built into the plan. However in saying that of the plan, I do want to say although you spend that much time and that amount of money in a plan or in a process, it should not be considered if it's going through or to go forward or to be held back. I say that because I see several different things in decision making and just because of people spend a lot of time and process to something it doesn't make it any more greater or lesser to go forward or to with hold it. So I'm just trying to talk about the process. I guess personal experience I see people that go around, they go around on a table, it's the same thing but then after that they so tired that they're going to pass it. I wanted that comment in consideration just because you spend a lot of time through process and time and money, yes it's an awesome process and time and money that was spent, however, it doesn't mean anything when it comes to the final

result. That you should go forward or not. In saying that, further more my input in hearing the testimonies and just reviewing some of the document I just want to say that I am one of the delinquents that haven't really read the document because of time constraints and space, but what I do know in my position and the one comment that I'm going to comment in this process is that I look at it in final comment or the main key of it that this planning commission is going to share besides all the mana'o, I'd like to think that a lot of the activist are showing where is the inadequacy in the plan. Because that pretty much is the key point. If we want to make, if we're going to find this adequate in inadequate as an EIS. So we heard wonderful testimonies and I believe most of our commissioner's, if not all of us, agree in many of them that really points out the inadequacy of the plan. We really determining if it's adequate or inadequate and that was something we decided on the last go around. So my input reviewing one source which is of course and everybody on the table would know is water. Reviewing and understanding the issue that we have with water. This plan will never be adequate unless they settle issues with water. This plan can never go forward unless the appropriate information be produced and they can really assess how this is going to affect the environment. If they cannot even agree on the resource that we have now, how can you really assess of water, how it's going to impact the water? There are so many issues and I don't want to go through it and everybody else is going to say different things about the resource, the water rights, the Ranch delinquency and the list can go on about water. To me everybody knows that's the big question or the big problem, or the big issue. Therefore how can you call it adequate when you don't settle the water? To me if you're not going to settle this or really go at this than how can you continue to pile projects or junk upon unsettled issues? Therefore this EIS will never be adequate because of these issues of water. Now there's many other stuff like CC&R's and roads and other things that we may find inadequate or lack of information and stuff like that, but if we can't pass first base which is the water, if we can't really figure out or come to a conclusion of water, the EIS shouldn't get to second base which is all the different manini stuff that using Nancy McPherson's language of things outside of water that needs to be settled. So when I look at this in my way of processing information and I could be politically incorrect in giving you the definition of the EIS or politically incorrect as looking at this as a plan, a business plan because when you look at a business plan or an EIS you gotta believe that it's an actual thing. These are actual figures of analysis. We don't see that actual analysis and you can't have actual analysis when you don't know the present resource or there's a lot of disagreements with issues of the water, even now. So you never can come up with a really agreeable or really reality of the resource or one actual analysis. So therefore if you cannot pass first base than I believe we shouldn't even consider going to any other base than second base or the other different things. So that's my input.

Mr. Vanderbilt: Thanks Joe. Commissioner DeCoite?

Ms. DeCoite: Wow Joe that was one long one. I wish I could be so eloquent. My mana'o is, this whole process on MPL is a crock of****. I hate to say it because, and I going tell you why, I think we wasting a lot of our county time, we're wasting a lot of time for Nancy to be doing other things only because we went through this process, we continue to go through the same thing and I getting really tired of chewing my cud twice. The water hasn't been solved. We working with Molokai

Ranch and apparently Molokai Ranch does not want to work with us, let's just face the facts. You pull off of the table with the Water Working Group, what do you have to hide if we here to look at the community and to benefit this island in its best interest. The signs are on the wall, I mean we get one carrot dangling in from of us, o.k. should I bite the carrot, curiosity killed the cat, call it whatever you like. They are not playing fair, the manipulated the whole process and they going continue to manipulate the whole process. It's all good and well that we get the public coming out and testifying on their behalf and I agree with it. We here to go after the EIS and see how the inadequacy or the adequacy of it, it's not there. They don't make our job any easier and I not asking for the job to be easy. I just saying that when they continue to throw things at us, the master mind behind it all basically manipulates the situation to benefit the rich and forget about the poor. They going continue to do this and if so be it you labeled as an activist or so forth I don't think it is right what they're doing, I don't think it is right what they're doing and the law speaks for itself and we killing plenty trees making all this paper. We just shouldn't be pushing this thing any further and if I had to run this at the Land Use Commission I would throw the whole thing right out the door and say stop wasting our time and that's what my mana'o is.

Mr. Vanderbilt: Thank you Commissioner DeCoite.

Ms. McPherson: Could I caution the commissioner's please because Mike isn't here and I know if he was he would be getting very nervous right now because we need to just talk about the adequacy of the information and the data that's presented in the EIS. Because there will be permit applications coming before you in the future. It is o.k. to say that there are many, many, many parts of this EIS that you strongly feel at inadequate, that's fine. Let's try to limit the scope of our comments to that if we can.

Mr. Vanderbilt: I think that's good advice Nancy and I think Commissioner Kalipi and Commissioner DeCoite really were focusing their comments on the EIS process and this whole thing which has been very frustrating. I would have to agree with them because most of us were here at the last meeting, we had some very good testimonies but you could tell people were just getting tired of the process. Even though they gave some very outstanding testimonies. I'd hate to see all of this enthusiasm go down because, but I will have to say that the public and the commission and everybody else has really contributed to making at least improving the draft EIS document into a better document for decision makers. That's the whole intent of this process. So anyway, I think that the thing that's frustrating to us when we talk about adequacy is that Michael Hopper, I talked with him on the phone and he says Mr. Orondenker from the Ranch had some comment about the process in an editorial in the Maui News but we didn't have time to get that. We'll look at that. When I was at the Cultural Resources Commission Mr. Orondenker told them when he was asked about what happened to the other draft EIS he said well, we had to withdraw it from the Land Use Commission and we didn't even had a chance to present our case. That was just a flat out inaccuracy because the Land Use Commission would have allowed them to make a presentation. MPL decided it didn't want to make a presentation. Now we're stuck in a situation where their apparent company's annual report said they'll have this great final EIS that will be approved by the

commission and they ought to be before the commission early in 2008. Now they have to react to that so they quickly slapped together this draft EIS, put it back on the community in a short period of time and now they're going to try and respond to the comments as quickly and get back before the EIS so they can present damage control to their parent company. That's just the personal way that I see it. There's no way they could have really accurately addressed all the concerns that were raised in 60 days or whatever it took. Any how, but, I sure appreciate this commission's and the communities hard work in the process.

Mr. Chaikin: Let me reiterate a little bit what Nancy was saying. We as a commission are basically gathering information and we're really not supposed to come to a conclusion until all the information has been gathered. We run the risk that if we come to a conclusion prior to getting all the information that it could affect us down the road. Somebody may have to recuse themselves or something because they've taken a particular position without getting the information. I would just caution the commission that we should remain as neutral as we possibly can until all the information comes in, public testimony is closed and then we're in a position to liberate and say whatever we feel. But if we prematurely come out with stuff it may be problematic down the road.

Ms. DeCoite: You know I don't know if I just agitated or frustrated but that's so loyal of us to recuse ourselves and you know what I mean. That's why with the land trust, this is the joke part that I gotta look at. The land trust also being appointed on EC's Board, there's something wrong with this whole picture. None of them when it came down to the vote, where's the loyalty, where's the legal obligations? I know Degray you ready to jump on me but that's not the point. The point being made is I think we gotta be honest and fair, not only to ourselves but to the community that we represent. A lot of this has been basically politically driven. You guys know me I just going call it like I see it and that is not fair to this community. Who are we? Are we the higher authority than EC? I think that needs to be laid on the table for us. Seems like EC has been making the decisions for our community and not the commission. You know where do we draw the line? Who made EC? EC bends the rules every which way? The land trust is appointed by EC, come on we hypocrites or what to this whole thing? I just no agree with that process, it's good for one should be good for all though we manipulate our bylaws in certain ways to meet personal agendas and I not attacking nobody personally. This is what is happening, we see it, o.k.? Perfect case in scenario came down to voting, the community votes certain people out, the board reappoints certain people back on. Where's loyalty? Where's commitment? That's what I looking at. We should be fair and not just to ourselves but to the community which is who we represent. So yeah I frustrated and I aggravated.

Mr. Vanderbilt: Thank you Commissioner DeCoite. Any other comments? O.K., hearing none, I do have, I have one other thing. At the last meeting, wasn't it Nancy, the commission authorized to send out a letter to the State Land Use Commission which I have not gotten. I got the one out to the Ranch on the extension and the one to the USGS. But I was waiting for some disk to give to the Land Use Commission and that letter which will go out this week was to authorize or to ask the LUC for an in-depth explanation of why the public testimony was selectively removed from the LUC's verbatim transcript that was done by the court reporter. What I wanted to do was to attach to the

letter a video tape which is in three DVD's which we have now of the meeting and to ask the Land Use Commission to hire the court reporter back and have her recreate the public record. The only reason it's really important to do something like that is if the Cultural Resources Commission, they had asked before realizing that it had been stricken, they were asking for any of the public testimony, if the transcripts were available so they could help make their comments. That's when they learned they weren't available. So hopefully that would get out this week because there was a lot of good information and I know several testifier that made lengthy testimonies, didn't have written testimonies. Our commission does have a copy of all the written testimonies given during that meeting and I want to thank, well I can't say who I want to thank because they did it as a favor. They copied all of the transcripts free and we had another person do a favor and put them all on line and so we will have binders and a record of all the written testimonies at the planning commission office for the public and anybody else that want to research them as we go forward. Any more comments from anybody else?

Mr. Chaikin: Did we ever hear back from the USGS on this letter? Whether they were going to make comments, do we know about that?

Mr. Vanderbilt: I called Mr. Tribble to see if he got my e-mail and to tell him we'd follow up with a letter and he said they were going to make comments. Normally they don't make comments but they felt there was a need to make comments on the draft EIS on this case. But they won't do it unless they get an official request from another government agency. So that'll help clarify some of the water issue.

Mr. Chaikin: Would it be appropriate at some point in the future to have someone like the USGS come and do a presentation to this body, does that seem like, because we got to make decisions based on water and we don't have really any first hand information as to what the situation is.

Mr. Vanderbilt: Well the USGS has had a representative at every Water Working Group Meeting and they've always been a long time independent reliable source of information for this island and they really tell it like it is. They don't side with one side or the other. This is the way it is. And they really, it's really good to have them to, our commission, and that's something we should think about. Especially if it's, it would be good to have them along with some others that are stake holders in the water situation. But that's what the Water Working Group is trying to do now. We had all the stake holders and now we're missing Molokai Properties, unfortunately. Hopefully the document comes out of the meetings with the Molokai Water Working Group, they're trying to get as much solid data as they can and maybe from that base the commission can have some people in to try and refine those water numbers further.

Ms. DeCoite: Mr. Chair what was the reason for Molokai Ranch pulling off of the Water Working Group?

Mr. Vanderbilt: Didn't we all get the letter? Well they didn't give a reason they just said they didn't

think their participation was needed any more. I think they gave the times of few reasons in an interview but I can't recall what they were. But if you look back at some of the Molokai Times articles.

Ms. DeCoite: See but when stuff like that happen and we had all the players on the table, it leaves to believe that they got something to hide. Why not cooperate?

Mr. Vanderbilt: I don't want to go to that I just think that it was, I don't think it reflected well on MPL no matter what the reasons were. But it was their call and there's nothing that we can do about it.

Mr. Chaikin: Nancy? I was just wondering at our last meeting Commissioner Pescaia made some comments about the Makahiki and that was a special cultural time for the Hawaiian's and that I know MPL was trying to be very culturally sensitive in this whole project. I was just wondering, do you recall reading any comments on that, that actually put forth this whole review during the Makahiki season, any comments on that?

Ms. McPherson: No, nobody mentioned that timing issue but if you would like to make that comment now, we can add it in. That it may be culturally sensitive to put the public comment period for a large draft EIS during the Makahiki time where they may be a lot of Hawaiian's, traditional Hawaiian's that would like to comment on it.

Mr. Vanderbilt: Somebody would like to make a motion to include that type of comment in the commission's comment, I'll entertain something.

Mr. Chaikin: I think it was pretty important because there's a lot of different things that happen. We asked for, on behalf of the community and ourselves we asked for an extension and the Ranch was really trying to culturally sensitive and basically it became evident in this particular example that they failed to live up to their cultural sensitivity in forcing this right during the Makahiki season. I would be in favor that we put some comment and have the Ranch come forth with a response on why they particularly put this forward during the Makahiki season which was very insensitive to the Hawaiian culture.

MOTION: I MOVE THAT WE ASK MOLOKAI RANCH TO COME FORTH WITH A RESPONSE ON WHY THEY PUT THE DRAFT EIS FORWARD DURING THE MAKAHIKI SEASON WHICH IS VERY SENSITIVE TO THE NATIVE HAWAIIAN'S.

MOVED: COMMISSIONER STEVE CHAIKIN

SECOND: COMMISSIONER LYNN DECOITE

Mr. Chaikin: I'd like to give Nancy the flexibility to maybe rephrase that a little bit so it makes a better sense than the way I said it.

Mr. Kalipi: I somewhat agree but I think even hearing some concerns that it's a similar comment that Chair Degray as when I think the first EIS was extended that I believe Mr. Sabas said that they wanted to be community sensitive through the process and allow the extension. I guess the question or the concern would be why the change of heart from the first EIS and then you have a combination of not an appropriate time to examine the new EIS. Not only the appropriate time because it's so important to the community, also the fact that it was the time of Makahiki celebration and participation. I think both comments is of similarity or one of the same.

Mr. Vanderbilt: Thank you Commissioner Kalipi, any more discussion?

MOTION UNANIMOUSLY APPROVED.

Mr. Vanderbilt: Is there any other announcements or anything from the commission? We have voting tonight at your favorite precinct. With that...

Ms. McPherson: Is the commission going to make a motion to adopt the comments that were submitted, both the first set and the addendum?

Mr. Vanderbilt: We did.

Ms. McPherson: You did that already?

Mr. Vanderbilt: We made a motion to accept those comments and also to allow you to extract comments from the four or five documents that were presented to our testimony. Thank you.

Mr. Chaikin: I was just wondering, Nancy what's on the horizon for this commission? What do we have coming down?

Ms. McPherson: Well I haven't had a lot of time to work on much else actually, I'm trying to get some SMA permits processed. There's going to be a policy memo coming to you confirming the stream lining that we did try to do a while back, so that should be coming to the next meeting. But I'm kind of up against a lot of deadlines right now so I'm not sure what items I'm going to get for the next meeting. Not sure.

Mr. Vanderbilt: What is the status on getting you the basic software package that the other planners on Maui have and the equipment that the planners on Maui have?

Ms. McPherson: I was told that a purchase orders been signed for the desk top computer and I'm getting good feed back from the department on the kinds of software that's going to be put on that

including GIS, adobe, photo shop that sort of thing so that I will have pretty much what the long range planners have. I'm shooting even for the next level up from the current planners.

Mr. Vanderbilt: So when did they estimate that this might be in?

Ms. McPherson: I couldn't say. The wheels turn slowly some times.

Mr. Vanderbilt: Well let us know how we can speed that up because this is just incredible that we have Nina here, we have you here, two professionals and your guys abilities are getting compromised by Maui. We have the resources here to really do a good staffing job for this commission and it's just beyond me why Maui is so reluctant to let you guys have a fairly free reign to do what you do. If you don't do it good then they can squawk. But I can guarantee you that you'll do a lot better job than the Maui staff. Because they're over burdened over there. So your job would only be to look out for Molokai and I think you guys would do a terrific job. But that's another battle at another time. Anyway...

Ms. DeCoite: Mr. Chair what is the out come of, I know yourself and Mr. Dunbar is leaving us has there been a replacement when your time expires?

Mr. Vanderbilt: I haven't heard if the Mayor's sent anybody down.

Ms. DeCoite: Thank you.

Mr. Kalipi: I'll add on to that. Maybe Chair you could, I don't know if you need to do it now but maybe in the near future you would promote your successor also. That would help us to decide or even evaluate of who we think should be voted in.

Mr. Vanderbilt: Thank you for even listening to me. Being the first haole Chair of the planning commission.

Ms. McPherson: There's a first time for everything.

Mr. Vanderbilt: When I leave the commission I'm going to have a full time job just keeping control of my tribe.

D. CHAIRPERSON'S REPORT

1. Molokai Planning Commission Letter to Molokai Properties Limited (MPL) requesting MPL to: a) grant a 30-day extension of the public comment period on the La'au Point Draft EIS document, b) to place two additional copies of the La'au Point DEIS in the Molokai Public Library, and c) make a more user friendly DVD version of the La'au Point Draft EIS, which can be cut, pasted, and edited.

E. DIRECTOR'S REPORT

1. Open Molokai Applications List
2. Closed Molokai Applications List
3. Agenda items for the February 27 meeting

F. ANNOUNCEMENTS

G. NEXT MEETING DATE: FEBRUARY 27, 2008

H. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 2:01 p.m.

Respectfully submitted,

NINA-LEHUA KAWANO

RECORD OF ATTENDANCE

Present

DeGray Vanderbilt, Chairperson
Steve Chaikin , Vice-Chairperson
Lynn DeCoite
Joseph Kalipi
Sherman Napoleon

Excused

Kip Dunbar
Bill Feeter
Mikiala Pescaia
Linda Kauhane

Others

Nancy McPherson, Staff Planner, Molokai