

PLANNING COMMITTEE

Council of the County of Maui

MINUTES

January 10, 2006

Lanai High and Elementary School Cafeteria

CONVENE: 6:03 p.m.

PRESENT: Councilmember Charmaine Tavares, Chair
Councilmember Danny Mateo, Vice-Chair
Councilmember Robert Carroll, Member
Councilmember G. Riki Hokama, Member
Councilmember Dain P. Kane, Member
Councilmember Michael J. Molina, Member
Councilmember Joseph Pontanilla, Member

EXCUSED: Councilmember Michelle Anderson, Member
Councilmember Jo Anne Johnson, Member

STAFF: Jo-Ann C. Sato, Committee Secretary
Kim Willenbrink, Legislative Analyst
Carla Nakata, Legislative Analyst/Attorney

OTHERS: James A. Giroux, Deputy Corporation Counsel, Department of the Corporation
Counsel
Milton Arakawa, Director, Department of Public Works and Environmental
Management
Clayton Yoshida, Planning Program Administrator, Current Planning Division,
Department of Planning

Item 12: Ron McOmber
Norm Brindo-Vas
Michael Hunter
Tanna Swanson, President, Maui B&B Assoc.
Winifred Basques
Nim Stevens, Clinical Manager, Lanai Dialysis
Gary Suzuki

Others: (10)

ITEM NO. 12: TRANSIENT VACATION RENTALS (C.C. No. 01-150; C.R. No. 02-94)

ITEM NO. 16: CONTROLLING FOWL IN RESIDENTIAL AREAS (C.C. No. 01-277)

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CHAIR TAVARES: . . . (*gavel*) . . . Will the Planning Committee please come to order. First, I'd like to introduce the Members of the Council that are here. Our Vice-Chair of the Committee, Mr. Joe Pontanilla, oh, no, excuse me, got the wrong committee here.

COUNCILMEMBER CARROLL: Joe is my Vice-Chair.

CHAIR TAVARES: I stole your Vice-Chair. I'm sorry. The Vice-Chair of the Committee, Danny Mateo. We have Members Joseph Pontanilla, Mike Molina, Dain Kane, Robert Carroll, and your very own, Riki Hokama. From our staff, we have Carla Nakata who is our Legal Analyst; Kim Willenbrink who is our Legislative Analyst; and our Secretary Jo-Ann Sato. If you have not yet already and wish to testify on either of the two items before the Committee today, please come and sign up with our Committee Secretary. You can testify on either or both of the issues before us today and they are the transient vacation rentals issue and also the fowl in residential areas. So, those are the two issues that we are taking testimony on.

On the transient vacation rentals issue we have in our Committee right now two versions of . . . two different versions of a bill to regulate transient vacation rentals. When we have a bill that we can all agree on as a Committee, we will be adopting that bill and sending it to the various Planning Commissions and they will go through the Lanai Planning Commission, Maui Planning Commission, and the Molokai Planning Commission for review and comment, then it comes back to the Council who will then do final action on the bill.

Regarding the fowl in residential areas, I think that bill will almost go through the same thing because it will be tied probably to a land use zoning classification. Right now, the proposal is to prohibit the raising of fowl in residential zoned areas, and that's what is before us. And we'd like to have your input, your feelings about your community in both of those areas. So with that, Members, we will go ahead. When you come to the microphone, please state your name for the record. You'll have three minutes per item and one minute to conclude on each of the items. And as I shared with Mr. McOmber, don't feel compelled to use the entire three minutes. But use the time that you need to get your point across. So, at this time, I will call our first testifier, Mr. Ron McOmber who will be followed by Norm Brindo-Vas.

. . . *BEGIN TESTIMONY* . . .

MR. McOMBER: For that, I'm going to use the four minutes. Good evening. Again, welcome Chair, Madam Chair, and Members of the Committee. Because of those comments, I'm going to try to do it within four minutes instead of three. I'm glad that . . . basically you're looking for comments on the vacation rentals and the fowl bill.

CHAIR TAVARES: Yes.

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MR. McOMBER: Okay. The vacation rentals on Lanai are a lot different than what I understand is on Maui. Our vacation rentals on this island handle State workers, County workers, vacationers, mostly kama`aina traffic on Lanai. Workers come in for two or three days, they do a job for Castle & Cooke or for whoever, for the school, whatever. My vacation rentals consist of 90 percent or 99 percent kama`aina inter-island travel people. And as you know, we have two 13-week hunting seasons on Lanai which is half a year, and that's about to start. Those hunting homes, I was on Maui Friday for the drawing, and I filled all of my houses with just from the drawing for the next 13 weeks. This is really important to this community. It's a financial burden that would be really hurting if we didn't have some place to put these folks that come in and spend a weekend. And these homes that we're doing are the regular plantation homes. These are not homes that are at Manele. These are not homes that are at Koele. These are old plantation homes except for one two-story that I rebuilt over the years I used to live in. These are plantation homes that people own that don't live here any more but they still own the property; they've moved to Vegas or they've whatever . . . they've retired or they've given it to their kids; they've died. So we didn't build these homes and we haven't done anything to these homes other than leave it in tact. And we've tried to repair them and keep them in shape so if they're returning residents they can use them. They're clean, they're ready for them. It serves two purposes: it pays their taxes, it pays all the upkeep; all the electricity, new appliances. All this is down is through their contribution of the transient accommodation. We pay 10 percent accommodation tax, which I think the County needs to get more of. I believe you folks need to be really going after that to get more accommodation money cause it is done in Maui County. Okay. All I ask is what you say, send it back to the Lanai Planning Commission, to the Molokai Planning Commission, and let us deal with it at this level because it is nothing whatsoever what I've seen is going on in Maui. These are not \$350,000 homes. Well, they are now but anyway, just for that reason we would appreciate you send this back and let the Planning Commission.

Now, the fowl bill if I can have a couple seconds on that.

CHAIR TAVARES: Hold on a second. We'll see if there's any question. Any questions from the Members on his testimony on the TVR? Mr. Kane.

COUNCILMEMBER KANE: Thank you, Chair. Are you paying residential property taxes on this?

MR. McOMBER: Yes, I am.

COUNCILMEMBER KANE: Would you object to having, if there is a bill that goes through that allows since it's currently illegal, would you have an opposition to paying increased property taxes in these units that are accommodating since a hotel has to pay hotel rates?

MR. McOMBER: I think it's invariable that it's going to happen. I think we need to pay our share. We're making money from it. But I think it should also be figured a little bit on

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how old the homes are and what district you're in. We don't have real expensive homes here. But I can see a raise in tax because it's not my primary residence. We do pay but I would imagine that's where it's going. I don't . . . I'd be stupid to stand here and say, oh, yeah, I'll pay anything. I think it's reasonable because we are making money from that. What I don't understand is, we have ordinances on the books now for bed and breakfast and nobody is enforcing that . . . only if somebody complains about it. And I think that needs to be looked into. I mean, these ordinances need to be enforced. If they're going to be enforced, that's okay. But if it's only going to be enforced when somebody complains about it, that you're going to turn your neighbor into watchdogs, I don't think that's fair.

COUNCILMEMBER KANE: The other question I have is, do you have a vacation rental in your home, your personal home?

MR. McOMBER: No. All my vacation rentals that's what it is. I assumed that vacation, short-term rentals what I call it is a house with one occupant. Whether there's five people in that group or six group, I don't put this group and this group together in the same house. It is all – they know each other. If it's two people, one person or ten people, they're a single group that's taken that house. It is a full house, fully-furnished. It is not a bedroom situation. It is not a room situation. It is not a bed and breakfast, basically.

CHAIR TAVARES: Any other questions, Members? If not, go ahead with your other testimony.

MR. McOMBER: Now we're going to get into the fowl stuff. Being from Lanai and have lived on Lanai for 35 years, I've come accustomed to the chickens. I can think of a lot of other things you ought to regulate other than the chickens on this island. Again, I think you should go back to the Lanai Planning Commission and let the Lanai Planning Commission deal with it. But I can think of a lot of things, like the dogs, we need a full-time dog warden. We need a lot of things on this island that are more of a pain in the okole than the chickens are. Now, that's my opinion. I've lived around them from both ends of the town. I've lived where they have slaughtered dogs and they have slaughtered pigs and they have slaughtered goats in their backyard. I have no offense to that because that's the culture of this island. And people that move into these neighborhoods and then complain about it . . . shame on them. But I don't have any problems with the chickens myself. And I think pretty soon you tune them out. I have people sit on the phone that's been in the mainland and say, have you got a chicken in your kitchen? I said, no, and then you stop and listen and it's the one the neighbor next door that's crowing. If we can stop full moons they wouldn't have it in the middle of the night but we can't do that. So, again, I encourage you to send this bill also back to the planning commissions and let the local planning commissions deal with it. Okay. Thank you.

CHAIR TAVARES: Alright. Thank you. Any questions for Mr. McOmber? If not, thank you very much.

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MR. McOMBER: See that wasn't so bad, was it?

CHAIR TAVARES: No, that wasn't. You didn't even use your four minutes. Okay. Norm Brindo Vas will be followed by Michael Hunter.

MR. BRINDO VAS: This is kind of a new experience for me so if I look like an amateur, your assessment is correct. What I want to bring up is a different angle here that I don't know if you were thinking about. When you have a community where it's an economic community or a biological community, there's stability and diversity . . . there's stability and diversity. So what I'm saying in principle for this community you should encourage the diversity and the economics and that would mean encouraging bed and breakfast, not discouraging. There are some economic interest that we'd like to get rid of the bed and breakfast but it's probably better off for the community if it's encouraged.

And to cite an example of what happens when you take the diversity and eliminate it. Back in 1985 we eliminated a diversity in terms of putting our human waste into the soil which was distributed all through the city, we made a sewer system. We now . . . every person is paid enough to buy a new car and the benefit is all the trees are dying because all the trees grew up around the cesspools so they're all dying. When the wind switches, which it will, we're going to have a lot of trees fall over and that's because they took the cesspools out. When the wind comes from that direction, you're going to get hepatitis and HIV in the town because that place is going to pollute the town with everything that's in the primary facility, the treatment facility. Junk. Whoever thought that out didn't think of it enough. So think about the diversity you'd get by encouraging bed and breakfast. Draw your own conclusion. Any questions?

CHAIR TAVARES: Any questions, Members? Thank you very much for your testimony. Okay. Michael Hunter. And Michael will be followed by Tanna Swanson.

MR. HUNTER: Good evening. Thank you for coming to Lanai to hear our testimony. Let me just start by saying I've been taking part in this process for over 15 years. I was involved in the first bed and breakfast ordinance and since then I've had a bed and breakfast. My wife and I have run that for 15 years here on Lanai. We've been illegal for 15 years and I just want to bring up a few reasons why. As lawmakers when you, and I don't mean you personally, I just mean generally, when lawmakers pass an ordinance that is indigestible to the public you find that people don't step forward to apply for permits. And I want to cite a few examples. The original bed and breakfast ordinance that was put into place was largely punitive. And I can go through it in detail if you wish and just discuss a few different things. We have a situation where I can run my business for 15 years without a complaint. The only complaint I've ever had came by the Planning Department. I was issued a cease and desist order at that time. We had two vacation rental homes and we had a bed and breakfast. We were given ten days to close our business. When I said that I wished the same criteria applied to myself be applied to Castle & Cooke, the previous administration sent a Courier over to Lanai to take back my cease and desist notice. Since then, we've continued to operate. We closed our vacation rental industry business

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and we proceeded to comply to the bed and breakfast ordinance. As we went down the line, we had run our original bed and breakfast for 15 years in our home with our children, raising our children with guests in our house. It's totally intolerable to do that. Can you imagine having guests come and stay with you for 15 years? How do you feel after two weeks of guests in your house no matter how much aloha you have? That's one issue.

The second issue is parking issues. You would have me pave six off street parking stalls on my beautiful lot. We've seen what's happened in Maui. Why repeat that same mistake? We don't have a parking problem here. We don't have a noise problem here. There's more noise from chickens and dogs than there are from guests. These are all great misconceptions and it's very convenient to blame the bed and breakfast industry and the vacation rental industry for lack of affordable housing for noise issues and for all of this. What I would suggest to you is that there's been one recurring thing through all of this for the last 15 years, and that is, when people step forward to testify we see everybody listen, we can go all the way down the line to the 11th hour and if you go back and look at the records from the previous time when the bed and breakfast issue went forward, we got to the 11th hour all the testimony had been heard, agreements had been made, and suddenly the people that were in your seats decided they knew best what's for us. And what I want to say to you is, please put your personal opinions aside and look really at what's going on. The police have come to me and said . . .

MS. WILLENBRINK: Three minutes.

MR. HUNTER: Thank you. The police have come to me and said, please don't have your guests park inside but they have to cross the sidewalk all the time. That's dangerous. I mean, there's a lot of issues like that. And to sum it up, let me just say, we aren't Maui. We are Lanai. And I believe you need to find a mechanism that will address that fact because that's just the basic fact. I'm sure there are regulations that are needed in Maui but we don't need them over here on Lanai. And I don't want to sound arrogant but I do want to say that I'm prepared to just completely go out of business because when the dialysis nurses needed accommodations they stayed with me. And I can go on and on about all the essential services. So, I would ask you to find a way so that Lanai and Molokai are separate from Maui.

In summary, I would like to say there's a proposal before you which is from the MVRA and I would say I strongly support that as a mechanism to go forward. I know in the end it all gets nit picked and pulled to pieces but what I want to say is if we end up back in the same place 15 years later where we get an ordinance that nobody can deal with and no one is prepared to step forward to, then you would be back here in another 15 years. Thank you very much.

CHAIR TAVARES: Any questions for the testifier? If not, thank you very much. Okay. Tanna. Tanna is the last person to sign up. If there's any of you out there who would still like to give testimony, you know, please come up forward or come up to the

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microphone afterwards and you can sign up after you're done with your testimony. Go ahead.

MS. SWANSON: Aloha. My name is Tanna Swanson and I'm here at the urging of David Dantes who was supposed to be here tonight but due to a medical emergency he's unable to attend these meetings and I'm taking his place. But I'm also speaking as the President of the Maui Bed and Breakfast Association because I, too, stood here before this Council on Lanai with Michael back in the days and spoke to a Council similar to you guys, and we discussed and worked for two and a half years on a bed and breakfast ordinance. And it is sad to say that agreements were made, votes were taken and Michael is right, at the 11th hour things were really changed. And if we look back at that testimony and had a review of what would have worked, not what actually passed at the 11th hour that would be actually a great starting point because that's what the public was telling you. And now I'm here to also encourage the people on Lanai we have so much on Maui in the courts that say that your voice is too small that you do need to come out, you are being heard, but you need to come out in public to do that. Lanai is . . .

CHAIR TAVARES: Tanna, you need to address us.

MS. SWANSON: Lanai is a beautiful place and we all understand that it is a different lifestyle here and this came up in our last discussions about the diversity of Lanai and Molokai in the same boat that we have separate different issues. And again, after the bed and breakfast ordinance was passed, we were told that we would come back in a year and review what would work and what wasn't working, and we really haven't had that opportunity. And we are hoping to get that opportunity this time around. But I do want to encourage the Lanai people to come and testify. To at least write in if they're afraid to come and speak in person to at least write in to their Council Members and let them know their true feeling because what we want to distinguish is the hearsay from the facts – what people perceive as vacation rentals and bed and breakfast and the impacts to actually having in the residential neighborhoods and such to what is really going out there. Not perception but what facts are out there and what the impacts really are.

MS. WILLENBRINK: Three minutes.

CHAIR TAVARES: Thank you. Any questions for Ms. Swanson? If not, thank you very much. Alright, is there anyone who would still like to give some kind of testimony on either the TVRs (transient vacation rentals) or on the fowl in residential areas? You can sign up after you're done with your testimony. Please state your name for the record.

MS. BASQUES: Good evening. Thank you for coming. My concern is . . .

CHAIR TAVARES: State your name please.

MS. BASQUES: Oh, my name is Winifred Basques. I am with the Council on Aging with John Tomoso.

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CHAIR TAVARES: Okay.

MS. BASQUES: Okay. First of all, my concern is the vacation rentals and the bed and breakfast. I'm in favor of it due to the fact that on the island of Lanai there are limited houses to rent.

First of all, we get hunters come in, insurance people come in, we get people from off island for meetings. They cannot stay at the hotel because it is so darn expensive you going only come for one night and pay a ridiculous price, forget it. Bed and breakfast is way much better and this is to do with culture. This is how Lanai people live. They make ways to accommodate people to come to their place to stay. It's not saying that but if they're going with all their rules, I don't see why not the vacation rentals and bed and breakfast should be established on Lanai but there are little rules that you folks have to go by saying maybe one week they can stay and they have to go out and come back again.

It was in the newspapers several months or years ago about bed and breakfast in the *Maui News*. And first of all, I would like to say, you know, it's very hard to come here especially if you're going to come here for hunting you have to pay a ridiculous price on the airfare plus go stay up that hotel, which you cannot do your thing up there -- bring your guns and stuff like that. The bed and breakfast and rentals they can do that with no explanation to nobody. The thing is that, we have to take care of everybody but in a good way where these people who come here to testify about their bed and breakfast and rentals I think they're trying to make, excuse me, ends meet or whatever they're trying to provide for the kids as well because they have kids going to college and that's the only income they can get to help out the family. The thinking is that helping family out is very, very crucial on this island due to the fact that jobs are very limited on this island. And I do not like working for the hotel. Excuse me. Plain and simple. But other than that, I'm glad you to say you folks came and I'm for the vacation rentals as well as the bed and breakfast and I thank you very much for you folk's time and effort. Mahalo.

CHAIR TAVARES: Mahalo. Any questions for our testifier? Not seeing any. Thank you. And now if you can come up here and fill out the paper.

MS. BASQUES: Sure.

CHAIR TAVARES: Anyone else wish to offer some testimony? Yes, come forward, please.

MS. STEVENS: Hi. My name is Nim Stevens and I'm a new resident in town and I agree with what she said just as a person who likes to have guests. You can't invite anybody to come visit because they can't afford to stay at the hotels so I think it should be encouraged that we have smaller, you know, rentals available . . . less expensive rentals and I think it also helps with the economy as well.

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And I'm also for chickens. We don't have a rural area. We're not really allowed to leave town and everyone here is a rural person, and I think that having chickens in town they used to, they tried to get us to have the places outside of town to raise animals and vegetables but those are like very hard to get into. So it's hard to have any vegetables or chickens or eggs or anything without having them in your yard. And I don't think anybody here in town really cares whether there are chicken noises, you know. We all like fresh eggs and we should have chickens. Okay.

CHAIR TAVARES: Okay. Any questions? Thank you very much. Alright, anyone else wish to say something? If not . . .

MR. McOMBER: Could I add something?

CHAIR TAVARES: No. You already testified. You can talk to us after the meeting. Okay. Anybody else who has not yet spoken? People being shy? Gentleman who just walked in, would you like to share some of your thoughts with us regarding either the transient vacation rentals or the chickens in the residential area?

MR. SUZUKI: Oh, yeah.

CHAIR TAVARES: Yeah, come. No, come up to the microphone. We're just about ready to close the meeting.

MR. SUZUKI: Oh.

CHAIR TAVARES: So this is your chance. And you can sign up afterwards. Just state your name when you get to the microphone.

MR. SUZUKI: Aloha. My name is Gary Suzuki. My mom, Momi, behind there she has a bed and . . . I mean, transient --

CHAIR TAVARES: Vacation rental.

MR. SUZUKI: --vacation home. I'm not sure what all this was about.

CHAIR TAVARES: Can you speak into the microphone?

MR. SUZUKI: I'm not sure what this all was about but I heard from Ron today that . . . something about the chickens in the residential, and I kind of think it's part of the lifestyle here on Lanai. Growing up . . . you know I think you should leave it how it is. Just like the pig farmers, Kuli'ou'ou . . . they kick 'em out go Waianae. Somebody come over there all the smell or they buy the place next door, oh, now the noise, you know, grumble about the noise. I guess we're all accustom to it. I'm not sure if everybody but I don't have chickens next door or what. . . . Now, Waianae . . . now they want to get it out

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of Waianae now. I feel that they should leave it how it is. That's my mana`o. Thank you.

CHAIR TAVARES: Okay. Thank you. If you could come up and sign up here for us with the Secretary. Just fill out a little paper. Okay, thank you.

MR. HUNTER: Could I say something about the chickens?

CHAIR TAVARES: Oh, you didn't testify about those yet. Okay. This is Norm Brindo Vas, right?

MR. HUNTER: No.

CHAIR TAVARES: Oh, Mike Hunter. I'm sorry.

MR. HUNTER: This is Michael Hunter here. I just wanted to say quickly that I've been here and I was here when Mr. Murdock came in and decided that he really didn't like the chickens. And I think that was the genesis for getting a lot of these birds out of town. I was working for him at that time and I heard him say that personally. So that's not hearsay. But what I want to say is that one of the things that I noticed was as the chickens went out of town they were replaced by dogs. And my experience has been that the dogs make more noise than the chickens. And from what I can see so far is that as far as regulations go, the Police is very quick to respond to some issues and very slow to respond to others. So, if the reason why the chickens are being moved out of town is for noise, then what are we going to do about the dog noise? And so, what I would say is that as it is a rural area and many people when they're talking to me on the phone say, oh, I love the sound of those birds in the background whether they be chickens or false minors. So I don't think it's really a problem so much here as it may be in a residential area like Pukalani where there's a lot more density or in Makawao. And I would say that just talking amongst the people here if you just, you know, as you talk story to people you'll find that really isn't a big issue on Lanai. Thank you.

CHAIR TAVARES: Thank you for your input on that. There is a regulation about dogs barking, by the way. And you know they have this certain duration or whatever. I think there's a noise ordinance having to do with barking dogs. So that ordinance passed some years back and do they have the half-time person here, the dog warden?

MR. McOMBER: We need a full-timer.

CHAIR TAVARES: Yeah, so you have a half-time person here. It might be vacant, but we'll check on that. But there is an existing ordinance already that's supposed to control the noise by dogs.

MR. HUNTER: Let me just respond to that. I just wanted to say that, in general, you know that noise issue; in Maui it might be vastly different. In Lanai, if there's a noise problem and

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I can testify to this, at 10:30 at night I've had the police come and say, if you don't turn the music down we'll arrest you. And they were there within five minutes. And so I think in terms of that whole issue there is a mechanism in place already.

CHAIR TAVARES: Thank you. Alright, last call. If not, people I would like to thank you very much for being here and, you know, we'll be around for a few more minutes while we're packing up so if you want to talk with any of us individually, please feel free to do so. If not, this meeting is adjourned.

ACTION: DEFER pending further discussion.

ADJOURN: 6:33 p.m.

APPROVED:



CHARMAINE TAVARES, Chair
Planning Committee

pc:min:051128

Transcribed by: Jo-Ann Sato