

2/26/07 Testimony Submitted for City Council Public Health, Safety and Welfare Public Hearing on Tuesday 2/27/07; Prepared by Alan Lennard; Includes four Additional Attached Documents as PDF:

3_pg_let_from_delacruz_chang.pdf
hon_adv_2_14_1972.pdf
INFO_AND_INSTRUCT.doc.pdf
mayor.mufi.letter_9.8.06.pdf

Honorable Committee Members and Council Members,

I am writing to describe the inherent problems with the current DPR Conflict resolution process and the interpretation of the current criteria within the City DPR Conflict resolution process.

First of all, I would like to respond to a letter sent to myself and to the city councilman Donovan M. Dela Cruz by the DPR (signed by Lester Chang & dated December 27th 2006; attached as: 3_pg_let_from_delacruz_chang.pdf).

The Letter stated that the North Shore Lifeguard Bodysurfing event “Ka Hana Nalu Haiana O’ Ehukai” was granted dates within the formal DPR North Shore events calendar. Actually, I was informed by both people involved with that event and received verbal confirmation from Miles Hazama that the event was actually denied its initial application for Late March 2007 and the applicant’s were advised by DPR that they could request dates after March 31, 2007; which is outside the regulated calendar of the city (note: the cover letter sent out from DPR to all contest applicants states “surf/shore water events for October 2006 to March 2007 time Period”; attached as: INFO_AND_INSTRUCT.doc.pdf).

Additionally, Mr. Chang’s letter falsely intimates that I have participated in two previous lawsuits involving the city DPR. I learned that a lawsuit was filed against the city DPR concerning permitting (10/27/1999; Hui O He’e Nalu vs C&C Honolulu) , however, I was neither requested nor compelled to appear. I did appear on my own, to learn what I could, at one of the hearings, but was completely unaware that the city’s policy was to refuse requests for appeal.

As late as October 2006, my conversations with city DPR staff, including Miles Hazama, was unable to provide definitive information regarding an appeal process or how that process worked.

Since written requests and several months later I the letter I received from Mayor Hannemann (September 8th, 2006; attached as: mayor.mufi.letter_9.8.06.pdf) several months after my request for appeal, stated that:

“regrettably, will require more time for the Department of the Corporation

Counsel to review before the City can issue a response”.

If the city DPR Et al contends that I was aware there was no appeal process. then the city DPR Et al should have expeditiously advised me that my ONLY recourse was in court (to allow the issues to be heard in a timely and fair manner). Conversely, it appears that the city DPR by omission was attempting to stall any attempt at resolution including an appeal to the city DPR and efforts to have the Mediation center of the Pacific act as a mediator/facilitator to possibly solve the scheduling problem.

Additionally, the letter sent to myself and to the city councilman Donovan M. Dela Cruz by the DPR (signed by Lester Chang & dated December 27th 2006; attached as: 3_pg_let_from_delacruz_chang.pdf) misrepresented another important historical issue. The City DPR (under direction of Chuck Shipman) ran the Pipeline Bodysurfing event beginning February 19th and 20th 1971 (original name “North Shore Paipo and Bodysurfing Championships”; refer to Hon. Advertiser; 2/14/1972; attached as: hon_adv_2_14_1972.pdf). The event was offered to be run by the evolving bodysurfing clubs and commercial sponsors circa 1980 (ref: Honolulu Bodysurfing Club results sheet: AMF Voit / Lightning Bolt 1980). There was no policy by the city DPR to stop assisting and coordinating the event, conversely, private entities stepped in voluntarily to increase the events visibility.

Additionally, I believe the City DPR should disclose a written document with the explicit instructions made to the City by Judge Sabrina Mckenna as mentioned in Mayor Hannemann's letter (September 8th, 2006; attached as: mayor.mufi.letter_9.8.06.pdf) addressed to me. I have researched the court case and cannot locate these instructions.

In reference to the city's written statement that Mr. Manny Menendez, former Director of the Office of Economic Development, left with the (Former Mayor Harris) departing Harris administration without providing the final blue ribbon report and the accumulated supporting documents (minutes, notes or recommendations), to the current Office of Economic Development; I advocate an investigation into the disappearance of this body of work product from numerous meetings between large groups of people investing hundreds of hours in personal and professional time. I believe this may have constituted an illegal act since this information included official and evidentiary documents submitted to the city.

In regard to Testimony for the Public Health, Safety and Welfare on Tuesday 2/27/07 exploring ongoing problems with the city DPR and its conflict resolution process as well as problems with the methods currently used to issue North Shore shorewater event permits, I have several recommendations.

The following comments and criticisms to the City of Honolulu ET AL regarding the current outcome of the City DPR Conflict resolution process for 2006-2007 Contest Calendar are as follows:

1) In regard to the method the city DPR uses in determining diversity within the

group of North Shore shorewater events applicants, I wish to clarify the following issue, The Information and Instructions city DPR Contest Application 2007 cover letter states the following:

- “ ii. Diversity of Events (20%) Under this criterion, the City will consider various factors including, but not limited to, the following:
Whether the event provides the City with a diversity of shore water events. “

It is clear that the city is seeking to determine which applicants in the final events calendar are most diverse (most heterogeneous) or representative of the entire population of individuals involved in ocean recreation.

The method being used now (according to the OIP release from city parks Department) is a numerical ranking of all the applicants for All 3 criteria. [i. Community Relations Record (60%) ii. Diversity of Events (20%) iii. Diversity of Participants (20%)]

This measure cannot be sensitive to the final calendar being representative of the diverse nature of ocean recreation population.

Having spoken with statistical experts (James Browning PhD & Michael Kliks PhD) in the analysis of diversity, it is clear, that the city DPR process is flawed. Diversity cannot be measured until the “tentative” calendar (composed of non conflicting applicants) is established and then a comparison of conflicting applicants is judged in relation to this calendar based on their contribution of diversity.

In order to correct the flawed measure of diversity, the city DPR needs to identify or flag the applicants who are NOT in conflict and create a TENTATIVE calendar. Then after identifying the conflicting applicants, **ONLY the CONFLICTING APPLICANTS WOULD BE MEASURED** to determine who represents the MOST diversity related to the non-conflicting applicants composing the tentative calendar. This is an appropriate way to measure an applicant based on its contribution to the external diversity of the tentative shore water event calendar.

2a) Despite the fact that the city DPR uses a measure in their informal criteria to determine the community contribution of each applicant, the methodology and instructions to the City Application reviewers is flawed. This is apparent in that an event (the Monster Energy Pro; reference 2006 community contributions) was ranked higher in relaying its community contribution, than the event (the Pipeline Bodysurfing Classic), which voluntarily shared the time with the former event to co-exist on its holding period.

Furthermore, the Monster Energy Pro event (the Monster Energy Pro; reference 2006 community contributions) purporting to have conveyed benefits to the community, had NO permit at all for 2006 (the Monster Energy Pro was allowed by invitation to share the permit granted to the Pipeline Bodysurfing Classic; therefore all of the benefits conveyed

to the community for 2006 were actually derived from the goodwill of the hosting permit holder applicant / event (the Pipeline Bodysurfing Classic).

2b) Additionally, the city parks department uses a measure in their informal criteria to determine the community contribution, which is supposed to include the element of Historical longevity as a measure, the senior applicant (the Pipeline Bodysurfing Classic) was excluded from the event calendar by the junior applicant (the Monster Energy Pro). We have not seen any weighting in the rankings based on this factor in the materials provided by the city DPR OIP request.

3) Employees of the city parks department who are selected to determine the calendar should be asked to recuse themselves from determining the outcome of events if there is a possible conflict or perceived conflict of interest regarding their involvement or past involvement with any of the applicant shorewater events.

4a) We recommend that applicants who are willing to share their venue receive points or recognition in the form of community contribution since these applicants are attempting to assist the entire calendar by accommodating more applicants and increasing the external diversity of the shore water event calendar.

4b) We recommend that wording be included in the statute defining an appeal or administrative hearing to allow for recourse under the specific conditions when a conflict resolution process fails to accurately measure an applicants worthiness in the calendar using the established conflict resolution protocol.

5) Verification of statements made in the Datasheet and event application including the time required to run stated event, the processing of competitors, the breakdown of gender, the representation of components of event, previous history of event, and other supposed factual information contained in submission.

6) Commitment to run an event if issued a permit excluding hazardous conditions prevailing during entire holding period, or sacrifice tenure status on next year's event application with elevated possibility of having time slot awarded to another event applicant.

In conclusion, we have no accurate method of determining the fairness of the rankings issued, obviously the perceived potential of bias exists regarding the exclusion of the Pipeline Bodysurfing Classic applicant from the 2006-2007 contest calendar with the inclusion of the Monster Energy Pro applicant. This process severely needs revision!

We very much appreciate your consideration of this testimony,
Sincerely,

Alan Lennard

Alan Lennard
North Shore Bodysurfing Club