

HISTORICAL RECORD OF THE
HALTING OF A McDONALD'S AT
UTULEI BEACH

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2014

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to include, for historical purposes, information about my opposition to the construction of a McDonald's at Utulei Beach.

[Press Release, Apr. 26, 2006]

FALEOMAVAEGA MAKES FINAL APPEAL TO
MCDONALD'S CORPORATION

Congressman Faleomavaega announced today that he has made a final appeal to Mr. Jim Skinner, Vice-Chairman and CEO of the McDonalds Corporation, in a letter dated April 26, 2006. The letter was copied to Jonathan B. Jarvis, Regional Director of the National Park Service, Governor Togiola, Lieutenant Governor Ipulasi, President Lolo Moliga and Senators, Speaker Matagi R. McMoore and Representatives, Lydia Faleafine of the DOI in American Samoa, Peter Bush, Managing Director/CEO, McDonalds Australia, Charles Tautolo, CEO of McDonalds American Samoa, and Lelei Peau, Chairman, PNRs Board, ASG. The full text of the Congressmans letter is included below.

Dear Mr. Skinner:

As a follow-up to my letter of May 25, 2005, I am once again requesting your immediate intervention regarding a decision made by McDonalds to build a new facility at the Utulei Beach Park in American Samoa. Utulei Beach is the only public beach in America Samoa and building at this site goes against the core values of McDonalds which promotes an agenda of community involvement, environmental protection, and a promise to earn the trust of your customers and everyone else affected by your business.

Most importantly, based upon relevant information including documents, maps, and other material, there is a signed agreement (attached) between the American Samoa Government (ASG) and the US National Park Service (NPS) that places Utulei Beach Park within the Land and Water Conservation Fund Program (LWCF) as park land dedicated to public outdoor recreational use in perpetuity. Also included with the agreement is a map (attached) clearly showing that the entirety of the Utulei Beach Park is included in the agreement which places the proposed McDonalds within a protected park area and violates ASGs agreement with the NPS. Because ASG has accepted over \$4 million from the federal government since signing this agreement, I can assure you that the NPS is prepared to take whatever legal action is necessary against ASG and the McDonalds Corporation if this matter is not expeditiously resolved. Please note that both NPS and ASG are under the jurisdiction of the US Department of the Interior and any action taken will directly involve the US Secretary of the Interior and this will not be good for ASG or for McDonalds.

As you know, last year I copied you on a letter I wrote to Mr. Charles Tautolo, CEO of McDonalds American Samoa, in which I requested a copy of the feasibility study of the proposed plan to construct a McDonalds at Utulei Beach Park. To date, I have not received a copy of the feasibility study and I am very concerned about how the McDonalds Corporation can support construction of a new facility at any location when no environmental study has been conducted.

I also question how the McDonalds Corporation can support a lease agreement

which is itself under review by the court. In brief, the Governor initially signed what he thought was a 9-year lease agreement with an option of renewal for an additional 20 years plus. However, the legal counsel for the local Senate noted that the proposed lease was actually for ten years and, as such, local law requires the lease to be approved by the local legislature. Consequently, the counsel for the Senate filed suit in court challenging the validity of the proposed lease. While the case was pending in court, the Governors counsel re-drafted the lease agreement to make sure the terms of the lease was for less than ten years so that it did not require legislative approval. ASGs attorneys petitioned the court to dismiss the Senates lawsuit but the court denied the request so this matter is also pending.

While it was my hope that the McDonalds Corporation would have interceded and resolved this situation more than a year ago for no other reason than it was the right thing to do, I would strongly urge you to take action now before this situation brings unwanted embarrassment to the McDonalds Corporation. I would also suggest that you direct your Managing Director for McDonalds Australia to be more responsive to the concerns of the people of American Samoa. I am extremely disappointed that he did not even offer a courtesy response to my letter of almost a year ago and I consider his lack of interest in this issue to be unprofessional and unbecoming of a corporate official of the McDonalds Corporation.

Considering that this issue now involves the federal government and based on documentation provided by NPS which I am convinced is correct, I am trying my best to prevent a confrontation between the McDonalds Corporation, ASG, and the US Department of the Interior. For this reason, I am making a final appeal to you and I am hopeful that at your earliest convenience you will work to favorably resolve this matter and support efforts to put an end to construction of a new McDonalds at Utulei Beach Park.

The Congressman concluded his letter by saying, As I have previously stated, the people of American Samoa will support the construction of a new McDonalds in American Samoa at any other location. We also applaud the many valuable contributions McDonalds has made in American Samoa and wish you continued success.

[Press Release, July 24, 2006]

FALEOMAVAEGA THANKS US NATIONAL PARK
SERVICE FOR RESPONDING TO HIS CONCERNS
ABOUT ITS RECENT MEETING WITH GOV-
ERNOR TOGIOLA REGARDING MCDONALDS
LEASE

Congressman Faleomavaega announced today that he wishes to thank the US National Park Service (NPS) for responding to his concerns about its recent meeting with Governor Togiola in Oakland, California on Friday June 23, 2006 regarding the McDonalds lease and Utulei Beach Park. The NPS provided clarification about its meeting in a letter dated July 6, 2006 which was addressed to Governor Togiola and copied to Congressman Faleomavaega, Deputy Secretary of the Interior Lynn Scarlett, and Deputy Assistant Secretary Papalii David Cohen, Office of Insular Affairs (OIA) at the DOI.

I thank the NPS for responding to my concerns which I raised in a letter to US Secretary of the Interior Dirk Kempthorne on June 29, 2006, about a week after the Governor met with OIA and the NPS behind closed doors to discuss the proposed construction of a McDonalds at Utulei Beach Park, Faleomavaega said. While I appreciate that the meeting was held as a result of Acting Secretary of the Interior Lynn Scarletts

letter to Governor Togiola dated June 7, 2006 regarding ASGs failure to comply with the legal requirements of the Land and Water Conservation Fund (LWCF) Act, I stated that the public wants to know what federal and local officials are doing to resolve this problem.

I also stated that I expect the DOI to strictly adhere to the standards of conversion, or replacements of lands, as outlined by federal law. While I was also hopeful that Governor Togiola would protect American Samoas only beach for future generations, federal law leaves him with two alternatives. One, he can propose construction of a McDonalds at a site other than Utulei Beach or, two, he must give up valuable ASG land of similar value and recreational use in order to commercially develop Utulei Beach if he can find ASG land that meets the strict criteria set forth for conversion, Faleomavaega said.

Federal law requires the NPS to consider the Governors proposal to offer up replacement lands but I have made it clear that I am opposed to any proposal or framework of resolution that lowers the standards of conversion. I have also urged the DOI to let conversion negotiations proceed between NPS and ASG without undue influence.

In response to the concerns I raised in my letter, NPS has responded appropriately and provided clarification which shows that NPS is committed to adhering strictly to the law. In fact, The NPS makes it clear that the framework of resolution which resulted from the Governors meeting of June 23rd is only an outline and a brief summary of their conversation. NPS states, we feel other details of our conversation are important to keep in mind as we move forward.

Some of these details include the following statements made by NPS in its letter of July 6, 2006 to Governor Togiola:

We are obliged both philosophically and legally to preserve the publics outdoor recreation estate. The National Park Services ability to authorize conversions of LWCF property is strictly circumscribed by the LWCF Act, and in particular the regulations found in Title 36 of the Code of Federal Regulations, Part 59. The details of these requirements were referenced in our conversation in terms of the proposed replacement property needing to meet LWCF standards. We spoke specifically at the time of the necessity of having sufficiently considered alternatives to converting parkland, the need for appraisals for all properties involved to insure that the replacements are of at least equal fair market value, the necessity of any replacement property meeting the criterion of reasonably equivalent usefulness and location, and that the proposal be in conformity with the Territorys Comprehensive Outdoor Recreation Plan.

The NPS further outlined nine criteria that govern conversions and informed Governor Togiola that it will need documentation showing that these criteria have been met. The NPS also said that—

Being that Utulei Beach Park is the only beach affording public access to good swimming and recreational boating on Tutuila Island, the threshold for replacement property to meet the reasonably equivalent usefulness and location criterion is quite high. The Government of American Samoa must make the case that this criterion is met by any replacement property in another location.

In offering replacement lands, the NPS stated that Governor Togiola said other locations had been considered for the McDonalds lease but that locating it at Utulei Beach is critical to the overall redevelopment plans for the Utulei and Fatagota area.

Based on this representation, the NPS said it would consider the Governors proposal as required by federal law, Faleomavaega said.

However, in the same letter, the NPS also stated that in its discussion with the Governor, the Governor said that he did not intend for there to be any further commercial development of Utulei Park other than the proposed McDonalds.

On the one hand, the Governor says he needs to construct a McDonalds at Utulei Beach because this is critical to the overall redevelopment plans for the Utulei and Fagatogo area and, on the other hand, he says that the McDonalds corporation will be the only corporation allowed to build at Utulei Beach. How fair is this to Kentucky Fried Chicken, Pizza Hut, and the rest of our local business owners? Faleomavaega asked.

Do our business owners have a say in this? What about our Pono? Has the Governor submitted an economic development plan to our Legislature for consideration? If not, why not? Also, what is the role of the Pono in determining what lands the Governor may offer up as replacement lands for Utulei Beach?

Whatever direction this takes, I believe the NPS has an obligation to keep the public informed and I will do my part to make sure this is so. For now, I am pleased that the NPS has agreed to provide an initial review of proposed replacement properties that would indicate if there are any obvious facts that would render them ineligible before funds are expended to obtain surveys, appraisals, recreational development plans, and environmental compliance. Most importantly, I am pleased that the NPS has underscored the importance of the Governor's commitment to prohibiting any ground disturbing activity related to the McDonalds lease until NPS has completed the review and approval process for replacement properties.

Again, I thank the NPS for providing clarification on its recent meeting with the Governor and I am encouraged that the NPS is taking this matter very seriously. I am also encouraged that the NPS has documented its meeting with the Governor in its July 6th letter so that all facts pertaining to this historic issue can be made part of the public record. Utulei Beach is the peoples beach and, as such, our people have every right to know how ASG officials make decisions that will impact, for generations to come, the use of the most scenic and only beach park in American Samoa.

Our people also have every right to know what local lands will be given away to the federal government to accommodate the needs of one business owner. For this reason, a full copy of the NPS letter dated July 6, 2006 is posted on my website, Faleomavaega concluded.

[Press Release, May 19, 2006]

HOUSE PASSES INTERIOR APPROPRIATIONS BILL WITH OVER \$33 MILLION FOR AMERICAN SAMOA; URGES ACCOUNTABILITY OF FEDERAL FUNDS AND DISCOURAGES COMMERCIAL DEVELOPMENT OF UTULEI BEACH

Congressman Faleomavaega announced today that late last night the House Committee on Interior Appropriations passed by a vote of 293 to 128 H.R. 5386, the FY 2007 Interior Appropriations bill which includes over \$33 million for the operations of the American Samoa Government and Capital Improvement Projects (CIPS). The bill also includes language which urges greater accountability of ASG funds and discourages the commercial development of Utulei Beach Park.

As I said in my release of May 16th, ASG continues to be the only government that receives a direct appropriation from Congress for the operations of its government despite being designated as high risk, the Congressman said. As a result of this support, I am hopeful that our local government will provide better accountability and I commend ASG for the progress it is making.

At this time, I thank the House Committee on Interior Appropriations for including my request to set aside \$500,000 of the \$22,880,000 ASG will receive for government operations. As stated in the Committee report, The Committee expects the government of American Samoa will use no less than \$500,000 of this funding for physical education activities at school. I am pleased by this outcome since our public schools lack adequate facilities, equipment and personnel to provide quality health and education programs which are critical to the physical, mental, and social development of our students. As a result of this funding, I am hopeful that our local DOE will have the support it needs to purchase equipment and establish sports programs for the benefit of our children.

I am also hopeful that our local leaders will work quickly to resolve the McDonalds issue that has now drawn Congressional attention. Again, I like McDonalds and I applaud the many valuable contributions McDonalds has made in American Samoa. I also support construction of a new McDonalds anywhere in American Samoa but Utulei Beach.

The fact is Utulei Beach is a federally protected park area and, by contractual agreement, cannot be used for any commercial purpose. Therefore, the current proposal to construct a McDonalds within a federally protected park area is a potential violation of ASGs agreement with the US National Park Service (NPS) and, as such, is an issue that has escalated into a federal problem that must be expeditiously resolved.

In other words, the current debate about McDonalds is a debate about location. If McDonalds builds on land solely-controlled by ASG, then its a local issue. But if McDonalds seeks to build on land that has been protected as a federal park area, then its a federal issue and this is why Congress has taken an interest.

Put another way, ASG, by choice, entered into an agreement with the NPS to protect Utulei Beach and now Congress has spoken out in the FY 2007 Interior Appropriations bill to encourage the American Samoa government to not allow commercial development of waterfront areas of Utulei Beach Park because this site has such high recreational and natural values, and it has enjoyed funding from the Land and Water Conservation Fund Program which indicates that this park land should be dedicated to public outdoor recreational use in perpetuity.

While it is unfortunate that construction of a new McDonalds in our Territory has received Congressional attention and while it is worrisome that the US Congress has taken notice that ASG received federal funds to preserve Utulei Beach but is not being accountable for those funds, I believe it is in the best interest of our Territory to resolve this matter quickly so that other federal funding we receive will not be jeopardized.

As I said in a previous release, American Samoa, on a per capita basis, receives more federal education funding per pupil than any other State or Territory. Our health care funding has also doubled and recently we were able to significantly increase our Medicaid funding. With the amount of support and funding we are receiving, I am convinced if there is better accountability of federal funds we will see significant improvements in this Territory.

Again, I thank my colleagues for their support and, as this bill now moves to the Senate for consideration, I will continue to work to make sure American Samoa receives its fair share of federal dollars, Congressman Faleomavaega concluded.

HONORING WILLIAM L. GIVENS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2014

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize William L. Givens. William is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 1261, and earning the most prestigious award of Eagle Scout.

William has been very active with his troop, participating in many scout activities. Over the many years William has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, William has contributed to his community through his Eagle Scout project.

Mr. Speaker, I ask you to join me in commending William L. Givens for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING DJOUNEDOU TITIKPINA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2014

Mr. SERRANO. Mr. Speaker, it is with great pleasure and admiration that I stand before you today to honor Mr. Djounedou Titikpina for his many years of selfless and compassionate public service.

Djounedou Titikpina originally hails from the nation of Togo, but brought his passion for public service and community building with him to the United States. This passion is clearest in Mr. Titikpina's founding of the African People Alliance, Incorporated. This organization, which serves as an umbrella organization for other groups working to develop the African community here in The Bronx, has the unique dual role of providing social services while also working to fortify the work of existing groups throughout the community. The African People Alliance routinely hosts cultural exhibitions, youth and adult soccer programs, and legal assistance to individuals, while providing groups with infrastructural support and development they need to grow. Additionally, the African People Alliance plays a lead role in the annual coordination of the Bronx African United Day Parade and Festival.

Today, he serves as Founder and CEO of Djounedou T.'s African Fashion & Embroidery Design, Corporation, is a member of the Northwest Bronx Community and Clergy Coalition's Immigrant Rights Campaign Board of Directors, and provides services as a family court interpreter at Geneva Worldwide, Incorporated. With the ability to speak more than nine languages, Mr. Titikpina's talent to communicate and understand the needs of the community, and respond to them in meaningful ways comes as no surprise.

Mr. Titikpina is an individual who is clearly committed to ensuring that our community's work in tandem to grow in healthy, respectable ways. He has fostered partnerships among groups and individuals that are all working towards a common goal, and this type of leadership is what keeps our community moving in