

**(APPROVED: 08/06/09)**

**CULTURAL RESOURCES COMMISSION  
REGULAR MEETING  
MAY 7, 2009**

*\*\* 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, Hawaii. \*\**

**A. CALL TO ORDER**

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Erik Fredericksen, at approximately 10:12 a.m., Thursday, May 7, 2009, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

Mr. Erik Fredericksen: I'd like to call the, let's see, May 7, 2009 Maui County Cultural Resources Commission meeting to order, and I want to welcome everybody. Thanks for coming. We've got a relatively full agenda. One item, I'm sure's going to generate a lot of testimony. If anyone needs to leave early and wants to give testimony, they're welcome to do so once the meeting gets underway. If you wanna, let's see, testify on multiple -- with multiple agenda items or for multiple agenda items, you can do that as well if you need to leave. The sign-up sheet's passing -- making its way around the room. If the last person that signs it could bring it up to the desk over that, that would be great.

Let's see, first -- first item is approval of minutes of the March 5, 2009 meeting. Any of the Commissioners have any additions or comments?

**B. APPROVAL OF MINUTES OF THE MARCH 5, 2009 MEETING**

Mr. Ray Hutaff: I move that we approve the minutes as written. I see no changes.

Ms. Verna Marquez: Second.

Mr. Fredericksen: Any second? Okay, seconded.

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

***It has been moved by Mr. Hutaff, seconded by Ms. Marquez, then unanimously***

***VOTED: to approve the minutes as written.***

Mr. Fredericksen: Okay, let's see, going to Item C., Permit Review, Item 1 is Stan.

Mr. Stanley Solamillo: Good morning, everyone. My name is Stanley Solamillo, for those of you who are visiting us for the first time.

*Mr. Solamillo read the following item description into the record:*

**C. PERMIT REVIEW**

**1. DEMOLITION PERMITS**

- a. **MS. HANA KRAKER requesting review and comment on the proposed demolition of a single family residence built circa 1926, located in the Lahaina National Historic Landmark (NHL) District at TMK 4-6-008:035, 164 Hale Street, Lahaina, Island and County of Maui, Hawaii (SMX 2008/0349). The CRC may provide comments and recommendations. Public testimony will be accepted.**

Mr. Solamillo: Well, it looks like our projector's gone blue on us so I guess if everyone can bear with me. We have color. Alright. This slide, with the red or the orange triangle and the orange arrow, provide the location of the Kraker residence. It is located within the NHL. The NHL, as everyone should remember, was established in 1966 and amended in 1974. Also, it includes two Historic Districts, which were created by Maui County: Historic Districts 1 and 2. The orange arrow indicates where it is in relationship to the harbor as well as the courthouse and the banyan tree and Moku`ula, and here's a black and white enlargement, which shows it adjacent to the development which occurred across from the Lahaina Courthouse. These are two views of the front facade as well as a corner view of a front and side facade. This building is relatively intact, and I'll say "relatively;" it has its original doors, windows, roof, configuration. The only probable change is the addition of asbestos siding, which would have covered the original wood siding, which would probably be vertical board, as well as a rear shed addition. The windows are typically, I believe, six-over-six single-hung wood sash. This is the view of the rear of the property. There are two other ancillary buildings on the property and they are: one is a carport, and another one is an outbuilding, and they are not probably significant. It's debatable what time period they actually date to.

Demolition, as we all know, is a permanent change and Lahaina has seen its share of demolitions. We began doing HABS work for buildings that were being demolished in Maui County in 2005, and that includes various houses that we have seen across our islands, all three islands, which have come in for demolitions. These are part of our architecture patrimony. We don't know a lot, for instance, about how houses developed from the early

Hawaiian hale all the way through the American plantation system, and because they are disappearing at such a rapid rate, these buildings are worth recording.

Typically, for HABS, we hit every class of building. This is Wo Hing in Lahaina, and this is an example of a full HABS 1 Level documentation, which is full plans, elevations, and sections. This building was dated 1916. An earlier temple, which was there in 1905, was also documented as far as the HABS documentation. We also do temples which are Japanese churches, which are Japanese. These are all HABS projects that Maui County has -- has done. We also do plantation architecture as it relates to sugar mills. This one was the sugar bin behind Pioneer Mill in Lahaina and it looked kind of like an insignificant building until we looked at another building located here in Kahului Harbor. They were both built in 1941, both built out of wood, and they were both constructed for bulk sugar. So that was pretty important. After the war, Lihue had a sugar bin that was similar, built in 1946, and also sugar warehouses that were similar but they were built of metal or concrete. We also do commercial buildings. This is Hotel Lana`i on Lana`i. These are examples of later dwellings that we have documented but the situation that we find in Maui County, if you go to Hana or you go to Lana`i City, you will notice that the courthouses don't look like courthouses, they look like houses, and that's why it's important that we document all of these building types because oftentimes, in the cases of courthouses and jails, specifically, we have residential and outbuilding dwelling -- outbuilding types being used for government uses or other uses. Lana`i City is really important because we deal with something called a "double-house" and these are being documented now. The double-house is important because even though it's a really mundane building, these were here built in 1923 by Japanese contractors who built most of Lana`i City from that year until 1929. We also go back to 1908 when we can see Aiea Plantation on Oahu. This is a predominant building type that was constructed by plantations. So here's a blow-up of that photograph, and you can see another one from Lana`i City in 1923, and lo and behold, they're pretty close. The only difference is that the depth of the building, which will determine how high the roof is, is different. It's actually wider in the Lana`i City variety.

What's most important, I think, is when we look back at Hawaiian hale, we can see what happens when the Americans arrive with their European building types. You can see hale change through time. You have shed additions made to hale. Porches. The porches become enclosed. We can look at a photograph from Keanae in 1904 and see that house type, this double-house is like the predominant house type in the island.

Given that importance, and oftentimes it takes us years after we do the type of research and documentation to find out where the Kraker residence sits in the whole topology of Maui County's building history, but it is a one of a kind building and for that reason, the County is making a recommendation for HABS Level 1 mitigation. If the Commission has anymore questions for me, I will answer them, and then we'll open probably for public testimony.

Mr. Fredericksen: Any Commission Members have questions?

Mr. Hutaff; Yeah, I have one, Stan. What is -- what is around that house? Are there like buildings or are they buildings built in 1997 or --

Mr. Solamillo: No, the context of that particular building is gone now. It is surrounded by new construction. We've got new construction on both sides, so they're modern houses that have been built within the past eight years on either side of it.

Mr. Hutaff: And those new homes that were built, they replaced existing homes like -- like this one?

Mr. Solamillo: I really don't know. I think they may have been vacant lots at the time. I don't know for sure because I haven't gone back through the building history.

Mr. Hutaff: Okay, thanks, Stan.

Mr. Solamillo: Okay.

Mr. Fredericksen: Any other questions? Stan, so what -- so this is a permit for demolition based on -- on what?

Mr. Solamillo: The applicant's desire to --

Mr. Fredericksen: Just to demolish it?

Mr. Solamillo: She can come and address any questions that you might have.

Mr. Fredericksen: Okay. Well, I think no more question, okay, we can go ahead with the next ...(inaudible)...

Mr. Solamillo: Ms. Kraker?

Ms. Hana Kraker: Good morning. I'm Hana Kraker and let me answer your question first. As far as what -- the houses around, immediately surrounding the house, before, right next to us there used to be the Nakooka house, that's gone. They're in the middle of constructing this huge house with huge walls all around it. Next to us also, on the opposite side, was a house that was owned by the Silva family; that was redone maybe within the past ten years. In front of that, right on Luakini Street, at the intersection of Luakini Street and Hale Street, is another relatively new building that was put up say within the past five years. It looks like two Legos just put -- just a little square, a multi-family property.

Mr. Hutaff: Okay, so there was really nothing like what you have there in the last ten years or so that would have come through the CRC or --

Ms. Kraker: You know, I -- I haven't really looked at the houses further on down the street towards Waivee Street too much.

Mr. Hutaff: It's on Waivee, yeah. I'm familiar with Waivee.

Ms. Kraker: It sits at a -- Waivee runs parallel to Luakini --

Mr. Hutaff: Right.

Ms. Kraker: And it's just a short street right in between. But, anyway, my name is Hana, and 164 Hale Street in Lahaina has been the home of my dad's family since he was young - sometime in the 1920's and 1930's. His grandparents lived there together with part of their extended family. And then in the 1940's, his parents and brother moved in. My dad bought the property in the 1950's so that his parents would always have somewhere to live. And while my grandparents has since passed away, my uncle has been there continuously until May of 2008. I'm here today because I've applied for a demolition permit. My uncle moved out, as I said, in May of 2008, but he used to always joke that the termites in the walls were holding hands to keep the walls up, and I don't think he was far off the mark. When you stand next to house and look up under the eaves, all you see is nothing but rotten wood. Someone had gone there, I'm not sure when, but they have some newer two by fours and they're just to keep the roof up, I think. When we moved the washer from that house, it created a whole in the wall; same when we pulled out the refrigerator.

After my uncle had been gone, I went back a couple of times to check on the property. The termites had taken over within a matter of a couple of weeks. The floors were covered with droppings. Then after a few months, it appeared that people had been in the house. The locks we put on the doors had been pulled out, and some furnishings, which were left in the house, had been moved and repositioned. And though I had turned off the water at the meter box, it appeared that someone, nevertheless, had been using the shower area, which has a separate entrance outside the main house but is attached to the main dwelling. So in November, I went in and boarded up the house to prevent anyone from going into the house uninvited.

The State Historic Preservation Division as well as the County are requiring a HABS documentation but I don't see that they have any good faith basis to believe that there's anything of historical significance on the property or that the building itself has any historic value. The building is over 50 years old but not every 50 year old building is historic. The property is not associated with events that have made significant contribution to the broad patterns of our history. The property, as far as I know, is not associated with lives of

persons significant in our past. And I don't know that the property has yielded or is likely to yield information important to prehistory or history. So I'm here to ask that you simply grant me permission to go ahead with the demolition so that I don't expose myself to liability. And then once that's demolished, we can sit down and decide what we wanna do with the property. At this point, we don't have any immediate plans to build anything but we just simply want to make the property safe so we don't have to worry about it. Are there any questions?

Mr. Fredericksen: Anyone have any questions, Commission Members?

Mr. Hutaff: Yeah. If you were to tear down this building and, at some point in time, want to put something on it, would you be willing to commit to building something that looks of that era? In other words, I kinda understand your dilemma, and I certainly do sympathize, but old buildings are old buildings, okay, and my home was built in 1948 from a kuleana home, so really a plantation room was set up there in 1948 and we did all -- people did all kinds of stuff to it. And when I go underneath the house and I look at all the wood and stuff that's underneath there, those are true four-by-fours and you can't even carry a five-foot length - it's so heavy, okay, and the only visual impact I have about how old that home is and its historical value is when I go under the house. You know what I mean? And, trust me, I kind of admire under there because it's all kapakahi, you know, made all different ways. So if -- would you be, you know, willing to entertain the idea that if you did put another home on there, that you would want to have it look at -- of that era? In other words, not necessarily all the wood and things, just kind of a facade of how it looks?

Ms. Kraker: You know, I don't know that I'd wanna commit myself to something like that because I don't know what I'd wanna do. If I -- at this point, like I said, my dad bought the house, he's 88 years old, so he passed the house down to my siblings and myself. I'm not sure that we're going to do it in my lifetime so then it would pass on to the next generation and I wouldn't wanna have them bound by any commitment that I make here.

Mr. Hutaff: Okay, you've answered my question. Thank you.

Ms. Kraker: Okay, thank you.

Mr. Fredericksen: Any other questions? Comments? Alika? Veronica?

Ms. Marquez: I'm old school so when you say "porch," is it the same as "veranda?" Oh, I guess I'm real old school. You didn't understand that one. Maybe you don't know.

Ms. Kraker: I don't know what the difference is.

Ms. Marquez: Yeah, so I mean so it's the same? Maybe you can help.

Mr. Hutaff: A porch is generally something that's a little bit smaller. A veranda is usually something like a deck, you know, but what would we call a deck today? It's usually covered so you have screen.

Ms. Marquez: So it's more -- more nice than a porch.

Ms. Kraker: Yeah.

Mr. Hutaff: Alika, did I get that right? He's the architect.

Ms. Marquez: Oh, excuse. But then again, you know, I've been in old buildings, you know, on Molokai, a Maunaloa plantation house, and this might make you laugh but if were in your home, and I was lying on my couch and my foot went up and touched the wall, would it make a puka?

Ms. Kraker: If you were lying where?

Ms. Marquez: If I was relaxing on my couch and the other leg goes up like everybody else's leg go up, then don't just admit it, but -- and if my toe hit part of the wall, would it make a puka in the wall?

Ms. Kraker: I don't think so.

Ms. Marquez: You don't think so?

Ms. Kraker: No. I don't think so.

Ms. Marquez: Thank you.

Mr. Fredericksen: Okay, any other comments? Okay, let's see, I guess I have -- my only comment would be is it's -- I'm sad to see all the -- all these houses disappearing and I do understand that things get old but, anyway, that's my comment. As far as the request for not carry out HABS 1 mitigation, that's -- I don't think that that -- that's something that you do need to do for the -- for the property per the State and County recommendations. Anybody else?

Mr. Alika Romanchak: I think my only comment would be that, you know, until you do that HABS mitigation, the history that may be behind the house is really unknown and that's the purpose --

Mr. Fredericksen: And that's -- it is.

Mr. Romanchak: For doing it, and I can appreciate the liability that is associated with the house, but I think that's the reason for doing it and I think that it's a good idea.

Mr. Fredericksen: Any other comments? Okay, thank you.

Ms. Kraker: Thank you.

Mr. Fredericksen: Any other -- does anybody wanna give testimony on this item? Stan?

Mr. Solamillo: Probably there's a few things that I'll comment. This is a contributing building to the Lahaina NHL, and I have not stood up here before you and advocated that we absolutely must save this building because it is one of a kind and the only one left in Lahaina. The statements about the significance of persons and the significance of events that have happened in Lahaina, we have gone over this many times. I think for the -- for the record today, what happens when we, and I am a decedent from a Pioneer Mill family as well, when we get farther and farther away from our ancestors, we tend to dismiss their accomplishments because they probably didn't, you know, become rich and famous and -- and do things like that, get on television, have books written about them. I think as decedents of plantation families, the conditions under which people worked were horrific, Pioneer Mill especially in its early years, under Hackfeld, was a really brutal place, and the Japanese community in Lahaina suffered specifically under a certain Pioneer Mill manager, who later went on to the Phillippines, and later took his life in San Francisco. We don't know the extent of our family's experiences in Lahaina. We have a horrific strike in 1905 at Pioneer Mill, which was started by Japanese. Two thousand workers participated in that. Many of them came from Lahaina Jodo Mission; many of them came from the other temples in town. Workers were shot at Pioneer Mill. All of this stuff, you know, these people have lived it. And so the importance of little buildings that were associated with these people, these events that they lived through were significant events to the history of this place, and they are significant to our families. So, for that reason, plus the fact that it is a contributing building to the Lahaina National Historic Landmark District, that is why the National Park Service, on average, usually recommends HABS Level 1 mitigations. To make it easier for moderate income persons who own property in Lahaina, the County has a special fund and we are willing to do a one-to-one match for the drawings of the production of drawings as well as photographs, and Maui County will also take up the burden of doing the research and producing the HABS Level Data Sheets. So we do that, you know, to help persons who find the requirement to be difficult to meet. If there's any other questions, that's it.

Mr. Fredericksen: Any Commissioners have questions? Okay, so are you going to do recommendations? I mean that's what, basically ...(inaudible)...

Mr. Solamillo: The recommendation is a HABS Level 1 mitigation with a County contribution of a one-to-one match for drawings and photographs with the commitment that the County will produce HABS Level 1 Data Sheets.

Mr. Fredericksen: Now, we don't need to vote on this item do we? We do? Okay. Okay. Anybody wanna make a motion?

Ms. Marquez: I move to accept the recommendation HABS Level mitigation as documented.

Mr. Fredericksen: Is there a second?

Mr. Hutaff: A second with a comment. Okay. For Hana, I feel that what you have to go through because of the potential liabilities and stuff like that, definitely, are sending you in this direction and maybe if it had not sent you, if you hadn't had people walking in the house and doing things, maybe you would not be looking at this at this time. Within the Historic District, it is important that we try to preserve as many buildings as possible, and I think the County's willingness to work with you would -- is why I would second the motion, okay. I know it's not what you want, okay, but maybe you can kinda think along the lines of supporting this in your own way or fashion with the County's help so that you can feel better about it because I am seconding the motion.

Mr. Fredericksen: I'd like to add a comment to what Ray just shared. And I would encourage the property owner to try to get as many or collect as many stories as you can about the house, about your own family so that those stories could be included in the documentation because couple generations down, one generation down, that information will be gone. Okay, so we've got the motion, it's been seconded. Let's vote on it.

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

***It has been moved by Ms. Marquez, seconded by Mr. Hutaff, then unanimously***

***VOTED: to accept the recommendation HABS Level mitigation as documented.***

Mr. Fredericksen: Okay, motion passed. Let's see, Item No. 2, Historic District Applications.

*Mr. Solamillo read the following item description into the record:*

## **2. HISTORIC DISTRICT APPLICATIONS**

- a. **MR. DENNIS SCHMITZ, on behalf of THE WEINBERG FOUNDATION, requesting an after-the-fact Historic District Permit for the replacement of windows, doors and siding in The Marketplace Building "6" located at 490 Front Street at the corner of Lahainaluna Road in the Lahaina National Historic Landmark (NHL) District, TMK (2) 4-6-009: 011 (Por.), Lahaina, Maui. The CRC may take action on the request. Public testimony will be accepted. (E. Wade)**

Mr. Solamillo: The planner for this project is Erin Wade. I'm going to give just a really brief background and then Erin will be asked to fill in the blanks. This building was erected, I believe, in 1970's at 490 Front Street and it was located in something which was identified at the time as Lahaina District No. 2, it still is, but at the time that the district was -- was formed, there was some statements made that had been codified as, I'm going to remind you, are incorrect. It states that Historic District No. 2 has no historic sites or buildings located in it. This is wrong because we know that when the Historic District was actually formed that the Lahaina Store, which was built in 1913 by Pioneer Mill, was within or was an anchor in that district.

This gives you the location of the building within the larger Lahaina NHL District. These are various views from Front Street of this development, and Erin probably could come up now and begin her walk through on the property and a description of the project.

Ms. Erin Wade: Aloha and good morning. My name's Erin Wade. I'm the Small Town Planner. This project came to me for repair and maintenance of windows, doors, and the canopies on Building 6. This is actually not Building 6, this is the one fronting Front Street. Building 6 faces Lahainaluna Road and you can see it from portions of Luakini Street as well. In your packets, I distributed some photographs of the building in question, Building 6, along with a little map that indicates where each of those photographs was taken from.

When the project came to me, I believe only a portion of the work had been done. Since, a majority of the work has been completed and the reason it's before you today is because materials have been used other than those outlined in both the Architectural Style Book for Lahaina and the Lahaina Design Guidelines. So for discussion for you today is the appropriateness of the materials that have been used and the after-the-fact status. Okay, thank you. And I believe -- is the applicant here? Okay, and Dennis Schmitz, the applicant, is here to comment.

Mr. Dennis Schmitz: Good morning. Dennis Schmitz. This shopping center was given back to the foundation, I believe, in '06, and we did a pretty extensive walk through, and this particular building had a lot of dryrot and a lot of termite damage in it. So we're dealing

with the building inspectors on it, and we were going under the assumption of \$5,000 worth of repair work, which we have found out now, because it is in historical, that there is a different evaluation other than the \$5,000. We got into it, and I was dealing with Mike Ramick, the whole way on it. There was so much damage in there that his suggestion to me was to go ahead and apply for a permit, which we started the process in '07. Now it's come before your board. What we're trying to do, because of a liability standpoint, is basically repair the building. Erin knows that -- also came to us because some of the windows were pretty dryrotted out. There weren't even panes in them. We matched the windows but one of the materials that we did use were vinyl windows because that's what the owner wanted us to use because of the maintenance factor. The rest of it, the siding is basically matched, the paint is basically matched to what is there and what is existing, and I think you can see in your pictures that it pretty much is what was originally there other than we're trying to take the dryrot out of it because of the liability standpoint. Questions?

Mr. Fredericksen: Yes, go ahead, Veronica.

Ms. Marquez: So the essence behind this is you're repairing versus --

Mr. Schmitz: Yes.

Ms. Marquez: You're replacing versus repairing?

Mr. Schmitz: Some is repair; some is replacement. There is a lot of -- once you pull a little bit of the siding off, you will see behind there some of the structural members are dryrotted out. They're in pretty bad shape. We're also worried about the structural integrity of the building because of this. You go and you open it up, the two-by-fours, basically, they just turn into powder in some areas when you touch'em, you know, from either termites or from water damage.

Ms. Marquez: Thank you.

Mr. Schmitz: Sure.

Mr. Fredericksen: Any comments? Questions?

Ms. Rhiannon Chandler: I have a question. You mentioned dryrot and liability. Were there materials on the list that you could have used rather than these to replace any of the items that ...(inaudible)...

Mr. Schmitz: Well, I think the only -- the only thing in question really, according to Erin, are the windows, which instead of vinyl, could have been -- wood could have been used on it but, basically, that was a decision by the owner because of maintenance.

Mr. Fredericksen: I have a comment.

Mr. Schmitz: Sure.

Mr. Fredericksen: You know, it's in the Historic District. If the owner -- that's what -- I was on -- this is the second time I've been on the CRC and I got a pretty short fuse with all this -- this sort of thing occurring. This is in the Historic District. The Architectural Style Book for Lahaina is out, and the design guidelines are out, everybody needs to follow the rules. That's all.

Mr. Hutaff: Yeah, I agree. I think the, you know, what you're really looking at is the visual presentation of the building --

Mr. Schmitz: Sure.

Mr. Hutaff: As far as the Historic District is concerned. Going inside and replacing dryrot and stuff like that, you don't have to use the wood from 1912, okay. Two-by-fours from Home Depot is fine, okay.

Mr. Schmitz: Exactly.

Mr. Hutaff: But I also think that you are in the Historical District and when you -- when you buy into that place, you kinda know, you know, what your obligations are to the Historic District itself. And although this may look close, it's like, you know, having two cockroaches, you know. You don't have two cockroaches, you have a million cockroaches because you have two. And for us to look at this and say: Oh yeah, it kinda matches. It's going to be okay. Is really circumventing what we're supposed to do with the Lahaina Historic District and that's to maintain and preserve its visual impact. And so I would go back to the owner and say if I, you know -- for you and say: Look, we've been kinda scolded by the CRC for not adhering to the design guidelines of the Historical District so we're going to take'em down and we're going to go and make it right.

Mr. Schmitz: Sure.

Mr. Hutaff: Since that's the only thing that you're having to do is not that big of a deal --

Mr. Schmitz: No.

Mr. Hutaff: In my opinion, and it also help to kinda move this process along because if you do have dryrot and you do have liability problems, you can't be waiting on us.

Mr. Schmitz: No, not at all.

Mr. Hutaff: Okay?

Mr. Schmitz: That's why we applied for the permit so we could get the ball rolling on it.

Mr. Hutaff: We certainly can understand, I think, all of us understand is, you know, how you began and where you are now. I have a lot of respect for the Weinberg Foundation and all the things that they've done in the past, but my respect for that is not going to condone the single cockroach.

Mr. Schmitz: Sure.

Mr. Hutaff: It's gotta be done. That's my feeling on it.

Mr. Fredericksen: Any other comments from the Commissioners? None? No? Okay.

Ms. Marquez: So you already did say that some of the things are being replaced --

Mr. Schmitz: Yes.

Ms. Marquez: And some are -- so really that's good cause not all that's being ...(inaudible)...

Mr. Schmitz: Well, it has eliminated some of the liability problem that existed with the building that was already there, which helps.

Ms. Marquez: Yes, but the bottom line with historical places, am I to summarize that buildings like this needs to be repaired as opposed to replace?

Mr. Fredericksen: The design guidelines for Lahaina Town specify certain architectural components need to be used and I believe vinyl's not one of them.

Mr. Hutaff: Part of it.

Mr. Fredericksen: Yeah.

Ms. Marquez: Right. Okay, thank you.

Mr. Schmitz: Sure.

Mr. Fredericksen: Any other questions? Thanks. Sorry about the short fuse. I just -- I was on the Commission --

Mr. Schmitz: Don't worry about it.

Mr. Fredericksen: This is my second five-year term and, oh boy, the first time it was just like all the time and whenever one of these things comes up, it's like: Just look at the design guidelines.

Mr. Schmitz: We'll forgive you this time.

Mr. Fredericksen: Okay. Any other questions? No? Okay. Thanks. Let's see, Erin?

Ms. Wade: Thank you, Mr. Chair. Our recommendation was to have the windows all replaced with the materials consistent with the design guidelines. I just would like to add that we would also request, as a condition, that plans, up-to-date plans, be provided of the work that has been done to date because they're not -- what's been provided is not consistent with the work to date so just as-built would be preferable. Thank you.

Mr. Fredericksen: Okay. Thank you.

Mr. Hutaff: Yeah, I move that we accept the Planning Department's recommendations and clauses.

Mr. Alika Romanchak: I second the motion.

Mr. Fredericksen: Hold on. We got a little ahead of ourselves. Does anyone wanna testify on this item? Come forward, please, and state your name.

Ms. Joyclynn Costa: Good morning. My name is Joyclynn Costa. I kinda wanna couple it with the lady that was here prior. There's two examples here: One person who tries to do it correctly, and another person who tries to do it after-the-fact. And my question is: When you do it after-the-fact, what are the repercussions? If there are stipulations that you -- that somebody worked hard to put together and you do not adhere to it, is it that you just come in front of a commission and say, well, I have reasons why I did it, which is valid reasons, but yet the bottom line is you did not follow the rules? What would have happened to the other lady if, because of her reasoning, she demolished it and came in front of you and said, well, I had to? The house was falling apart and people was breaking in. What would have happened to her? So I kinda looking at contrast here and when somebody tries to do it right, it doesn't always go their way. But when somebody is doing it wrong, what happens then?

Mr. Fredericksen: Well, they're being required to redo what they've done in the proper, you know, following the design guidelines, so they have to take the -- whatever windows they have installed that are vinyl are out of there and they're going to have to put back with

materials that are in the approved design guidelines for Lahaina Town. So it's not just like, oh gee whiz, see ya. It's okay. And as far as the person with the -- with the house, the trigger on that one, I believe, would be applying for the demolition permit, per se, so she would -- well, I guess if somebody just took a tractor over there without a permit, then I don't know what the repercussions would be because it was, you know, without any permit and, you know, creating nuisance and dangerous conditions. But I do hear what you're saying and I do agree with what I believe is the intent. You know, if a -- especially businesses, but homeowners too, but even more so businesses, if you're in the Historic District, you've gotta comply with the rules period. It's a Historic District. If they don't like that, you know, there's Kihei and other places that have a different set of rules that may be easier to deal with.

Ms. Costa: Thank you.

Mr. Fredericksen: Thank you.

Mr. Hutaff: Can I make a comment on that too? I think when we look at it, we look at it as the intent. I don't think there was any intent to defraud --

Mr. Fredericksen: No.

Mr. Hutaff: Or any intent to circumvent the authority of the Historic District. I think it began as a project, and sort of evolved, and then the contractor was told by the owner - the owner's at fault for not understanding the laws and rules. The thing is is that what we really want in the end is it to be pono. Is it to be correct. And so requiring them to replace the windows with like windows of that era is a cost factor that's punishment enough. You know what I mean? I mean I don't know how much those things cost - whether they cost 4 or \$5,000 probably. So, you know, and now they're going to have to pay again to take it down and then redo it and do all these things. And I also think it goes along too is that -- is that we believe that the people who are in the Historic District know the rules. We believe wrong, okay. And it goes along with what we wanna do where we have somebody out there who can go: You're going to replace those with wood windows. And he would tell the contractor or the individual here and he would get back with the owner and say, hey, you know, we can't put these vinyls up. And so the belief factor or the knowledge factor of what the laws are are there. So that's what, you know, we wanna do is have somebody out there, and it's been in the works for 15 years, and we're going to put an end to it within the next year where we have that. As far as the repercussions go, you know, I think if this lady had just demolished her house, that she would be very unfortunate when she finds out what the laws and fines are from the Planning Department. Right now, she's doing everything correctly and -- but she's not getting her wish, exactly.

Ms. Costa: And that is my point exactly. This is a lay person who did their due diligence to understand her limitations. Whereas people with the capacity and the resource to educate themselves and be very sure of what the laws are don't.

Mr. Hutaff: Well we think that -- we think that that's a norm. The norm of lack of knowledge is the norm and what we wanna do is change that. We recognize that all the things that have happened in the Lahaina Historic District has not necessarily been done to circumvent the authority of the Historic District with a couple of exceptions, okay, and we're going to tackle them big time, okay, but I think what it is is that we need somebody out there in the Historic District as new owners come in to understand what their responsibilities are within the Historic District. If you look at how many acres and thousands of acres of land there are on this island and how many of it is in the Historic Districts, we find it's a very small portion so it's very likely that people don't know. And if we really wanna have a positive outcome, we can't fine, blame, or after-the-fact. The CRC, the Planning Department, the Historical District has to take a proactive approach to make sure that these people who are running businesses out there, who are buying the businesses understand their obligations to that Historic District before they sign the bottom line.

Ms. Costa: Well that's where the -- the saying "ignorance of the law is no excuse" comes in, I would say.

Mr. Hutaff: Well, obviously he's going to find that out --

Ms. Costa: Yeah.

Mr. Hutaff: Okay, because he's going to have to replace this.

Ms. Costa: Right.

Mr. Hutaff: So it's definitely a fine within itself, but the idea is is to have the Historic District look correct and to start taking a stronger stand with the CRC and to do things and also accept the act and understand the fact that -- that people are going to continue to do this, that's why I made the cockroach thing, you know, it's one tiny little thing here, one little sliding window over here, and then 20 years down the road, there's 400,000 changes that have been made, just small ones --

Ms. Costa: Exactly.

Mr. Hutaff: And you've changed everything.

Ms. Costa: Cause you've gotten so deep into it now it's like you gotta all the way back and --

Mr. Hutaff: You can't sometimes.

Ms. Costa: Exactly.

Mr. Hutaff: We've already been down that road with other issues. And so taking a proactive approach, I think, answers your question and -- and we understanding that if we wanna keep the Historic District, we have to take the stand and we have to take the kuleana, we have to take the responsibility to have somebody out there who can monitor these things so that the cockroaches don't get out of hand cause the cockroaches are not at fault, okay. They're doing the best they can. This gentleman did the best he can.

Ms. Costa: Right.

Mr. Hutaff: The owner said do it - he did it.

Ms. Costa: He needed to do something --

Mr. Hutaff: Now he goes back and says: Hey, guess what? You lose. Pay me anyway.

Ms. Costa: Yeah.

Mr. Hutaff: Pay me twice, okay. But it's also a good lesson that gets around out there that we're going to stand our ground and that they need to come to us first, and then if we can place somebody out there who can be beneficial to the businesses and to the communities to give them guidance on what's available because I didn't know that you could get this one-to-one thing. That's amazing. That's great to try to preserve some of these things. So I think that you need to stand down a little bit and let us try to do our job and understand that we're -- we understand that people don't know the rules and if we don't say anything, okay, then insanity, right, you know.

Ms. Costa: Over and over.

Mr. Hutaff: You continue down the same path expecting different outcome and it doesn't change, you know, it's what the definition of insanity is. We wanna stop the insanity.

Ms. Costa: Right. And that's my --

Mr. Hutaff: But we want to.

Ms. Costa: That's my reasoning for --

Mr. Hutaff: But we want to and we sympathize but we're going to stand out ground --

Ms. Costa: Yeah.

Mr. Hutaff: Okay, and then we're going to go out there and we're going to go and preempt anything that happens. We're going to stomp on the cockroaches, basically, okay. And as far as a fine or the difference between the lady and these guys, I think they're both the same. They're both doing the best they can, okay, and we need to take the responsibility to educate the people out there; if we gotta knock door to door --

Ms. Costa: Right.

Mr. Hutaff: Whatever.

Ms. Costa: Right.

Mr. Hutaff: We gotta do it, otherwise, we're just going to keep having the problems. Thanks.

Ms. Costa: Thank you.

Mr. Fredericksen: Alright. Veronica?

Ms. Marquez; And to share mana`o piggyback on your mana`o. You know, you said you're lay, you know, at times we're here; at times we're there. Do you get this feeling like, you know, let's be real here, that you know what? Sometimes let's just do it and then face the board later on and just make up for our sins. What I'm saying is there's mana`o out there saying, hey, look at the first scenario, she's following all the rules, I'm not saying the others didn't, but I'm saying there's an after-the-fact mana`o in here. So sometimes as lay people we feel like: You know what? And I know what you're saying, they're just -- I just wanna say that sometimes out there as lay people we're saying, you know what, well what happens to the one who follows all the rules and look what happen? What happens to those who didn't and they just get a -- a slap on the hand, per se? So your mana`o, your feelings sometimes, is that what you feel sometimes?

Ms. Costa: Oh, absolutely. Absolutely. Because just that whole after-the-fact, it should be insulting that it's coming to you folks after-the-fact, you know.

Mr. Hutaff: It is and -- but we also need to understand how come. If we don't understand the how come, then it is going to be continuous.

Ms. Costa: Right.

Mr. Hutaff: Since we now understand the how come, that's where we wanna take the proactive approach.

Ms. Costa: Yeah.

Mr. Hutaff: This, you know, new CRC and with a new Chairman and these wonderful people we have here now, I think we all agree that we need to take a proactive approach because everything you say is a hundred percent correct, okay, and if we don't take a proactive approach, then our past will become our future, and we don't want that. We want our future to be much better than the past and so we need to take the responsibility. We need to stand up and say: These people don't know. We need to make them know. We need to make them know.

Ms. Costa: Yes. Mahalo.

Mr. Hutaff: And then hold them accountable.

Mr. Fredericksen: And in this instance, that's what's going to happen and that will -- it's an educational experience.

Ms. Costa: Thank you.

Mr. Fredericksen: Thank you. Okay, let's get back. We had a motion and it had been seconded. Is there anybody else, I'm sorry, that wants to testify? Foster?

Mr. Foster Ampong: Aloha. Good morning. I apologize for my voice. I'm overcoming a cold. I wanted to add --

Mr. Fredericksen: Name? Name? For the record.

Mr. Ampong: Oh, my name is Foster Ampong.

Mr. Fredericksen: Thank you.

Mr. Ampong: I wanted to add to the discussion because you brought up a very good question. You asked if the feeling outside in the community was, as Joyclynn had expressed to you that, you know, we, the common folks in the community, feel that we see instances where an applicant will come after-the-fact, as in the case with the wahine that came before, there is a lot of that feeling out there and I think a lot of you understand that that's a result of what's taking place throughout the State in the Hawaiian community. And, you know, I know it's a very sensitive and a very uncomfortable subject to talk about - what's happening to the Hawaiians in the community. Lahaina is very special, as you all

know. I grew up in Lahaina. And I think what Joyclynn was trying to impress upon you, which is very important, is that, in our minds, when we see such events take place where, you know, the intent behind the owner of this property was well and meant well, however, he didn't follow the criteria or the guidelines that was set forth, and so, as you explained, you need to take all the facts into consideration and that many people don't know about these guidelines or don't know about the mandates that have come forth. And I think what's really important is that we, in the community, speaking for myself and many of the other Hawaiians in the community, we see this in many instances as an excuse that many people do understand the laws, do understand the mandates, and the requirements, but it's usually more convenient, in many cases, to pretend or to act like they don't recognize it. And I think the point that Joyclynn is trying to make to you is that is there some kind of mechanism in place right now that can assure us that, not only would a circumstance like this be properly addressed, but is there a mechanism in place that would give us the confidence, the Hawaiian community, give us back the confidence in the process? Because, right now, we're under such extreme stress and pressure and attacks from all quarters of government. So there is a lack of confidence and a lack of trust in the government bodies. And I'd like to say that, you know, I used to come to some place where we can have dialogue, you know, and not be, you know, laughed at, scorned at, and what have you, so I think, for me, what I wanna ask is: We want to have our trust and our confidence returned, really sincerely, but, thus far, it hasn't happened. So I think if there is a mechanism or some kind of policy in place, you know, and that you can say: Look, you know, we understand, you know, and you all expressed yourself well about the first lady that came forward. I'm sitting in the back and I'm thinking: You know what? She's thinking about liability. And I would say, based on that, let her demolish it. Don't put any restrictions or conditions on her. But allow her to do it just for the sake of liability. And then take and start your dialogue there after that. And, in this case, I understand what you're saying. They're going to have to come and make things right, you know, and I think if you can come up with a better articulation for us, we would feel better and more confident.

Mr. Hutaff: I think we're going to do that. It has been started before, like I said, for 15 years, at least in Lahaina, and it's never come through. We've -- the CRC has made a commitment and Erin here has made a commitment for us to put some teeth into somebody being out there so that you can have confidence that there is sort of a police force out there monitoring these things to keep things correct, okay. Whether you're going to trust the rest of the government, I can't say. But I'd like to be able to answer your question a year from now and say: Hey, have we done what you wanted? Or we've given you confidence at least in Lahaina's Historic District that they will --

Mr. Fredericksen: Okay, Ray, we're starting to --

Mr. Hutaff: Ramble?

Mr. Fredericksen: Get a little too far away from our agenda item. It's vaguely related but, Foster, I thank you for your testimony and we will -- we will be revisiting this and, as a Commission, we will be discussing this later today about what each of us is interested in trying to accomplish this next year. So maybe let's try to keep it a little more specific, great discussion, but let's try to keep a little more focused.

Mr. Ampong: Okay, and in ending, can I make a suggestion cause I'm going to say something that most people think about but are afraid to articulate? I keep hearing plantation, plantation, plantation. Hawaiians were here before the plantation.

Mr. Hutaff: Thank you.

Mr. Fredericksen: Yeah.

Mr. Hutaff: Thank you so much.

Mr. Fredericksen: Anyone else want to testify on this item? Okay, everybody's pau? Okay. Now let's return to our -- okay, we had a motion and a second. Does anybody need refreshing what it was or we good to go?

Ms. Marquez: Okay, so help me understand this. Okay, so we're going to vote on this yay or nay. If we say "yay," that means he needs -- they need to go with the recommendations of the repair, replace, etcetera. If we say "nay," what does it mean?

Mr. Solamillo: It means we're allowing it to stay as it is.

Mr. Fredericksen: Allowing to be after-the-fact as is.

Ms. Marquez: Just let'em go?

Mr. Fredericksen: Yeah. So yays will be for having them replace with the property materials, which were not used to being with.

Ms. Marquez: And nay is aloha - you pau?

Mr. Fredericksen: Yeah.

Ms. Marquez: Thank you for clarification.

Mr. Fredericksen: Stan, did you wanna add something? Okay, so it's been seconded.

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

***It has been moved by Mr. Hutaff, seconded by Mr. Romanchak, then unanimously***

***VOTED: to accept the Planning Department's recommendations and clauses.***

Mr. Fredericksen: Okay, motion passes. Okay, moving on to, under Historic District Applications, Item B.

*Mr. Solamillo read the following item description into the record:*

- b. MS. JESSICA THOMPSON, on behalf of THE FRIENDS OF MOKU'ULA INC., requesting a Historic District Permit for the three year archaeological and educational program, Ka 'Iimi 'Ike located at Malu-ulu-o-lele Park, on Front Street in the Lahaina National Historic Landmark (NHL) District, TMK (2) 4-6-007: 002 (Por.), Lahaina, Maui. The CRC may take action on the request. Public testimony will be accepted. (E. Wade)**

Mr. Solamillo: I apologize to all the -- my apologies to everyone in the room for talking too much about plantations. This is the most important site in Lahaina. It's the royal compound, and it is referred to under several different names, Moku`ula is one of them. And I apologize for not being as astute on Hawaiian history, but there are people in this room who are. The location within the Lahaina NHL District as well as its size in sheer acreage makes it the largest site within the Lahaina NHL. The site is marked by an orange arrow, which shows the parcel as it sits today, adjacent to Historic District No. 1 as well as Historic District No. 2.

We visited this site in some detail when we were discussing an event last year that comes back every year, and it shows that the site was documented in 1884, if not, earlier, and then it was filled in by Pioneer Mill in 1918. These are a series of maps that were made through time and it shows the location of the site in 1904. In 1914. And another parcel map from 1914, which shows it a little more clearly designated and opposite the armory, which was demolished at some point in time.

An original parcel map was prepared by Montserrat in 1840 and that's on your left. We have a 19<sup>th</sup> Century image of it. And then we James Baker's photographs, which are now at the Bishop Museum, which were taken in 1910.

In a study that was -- was made in the '60's, it is the point of interest for Lahaina and, literally, it is, as I said before, the largest site with much meaning, both historical as well as religious meaning for our Hawaiian community.

The expressed plans for the applicant is one day to restore this site, and we have had discussions about Lahaina and all the pulls that it gets commercially, and the most important thing is recentering Lahaina as it is historically and as it is religiously an important center for the Hawaiian people. So the end result, I think, for plans is to restore this place. The project that they are bringing to you today is a phase in that process and Erin Wade is going to make a presentation on that. I know that at this late -- or early date, there is probably going to be varying view points and I ask all the Commissioners to listen to all sides in this particular case. Erin?

Ms. Wade: Thank you. Good morning again. This application came to me as a request for an event. The event at what is the public property at Malu-ulu-o-lele Park is leased currently by the Friends of Moku`ula and the Friends of Moku`ula are the applicants. They've requested to have a recurring three-year event at the site. This permit request is for the temporary structures to be located at the site, so that would be the temporary observation deck, the two signs that are educational and in association with the archaeological activity to be completed, and some canopies for shade, to provide shade, as well as a temporary fence around the archaeological area.

The application for the review under the provisions that I've noted: the zoning ordinance, the archaeological -- or the Architectural Style Book, the regulations of Historic District 1 and 2, those activities include only the discussion of the temporary structures and the event itself. The actual archaeological activity is being reviewed by the State Historic Preservation Office and probably by the Burial Council as well. So, at this time, the discussion is for the event activities and the structures, and I will let the Friends of Moku`ula present the event.

Mr. Fredericksen: Thank you.

Ms. Wade: Ms. Jessica Thompson.

Ms. Jessica Thompson: Aloha. Good morning.

Mr. Fredericksen: State your name please.

Ms. Thompson: My name is Jessica Thompson. I'm the Program Coordinator for Friends of Moku`ula. My director supervisor, Shirley Ann Kahai, who is our project assistant and current Acting Executive Director is -- is not here. She wanted me to acknowledge that and let you know that she's at another event giving a speech this morning. Our Executive

Director, as you may know, Akoni Akana, is currently on medical leave but he is still involved in the project and still a big advisory part of everything that we do. So I just wanna preface my presentation with that.

I'm going to give you a little background on the project itself and how it came to be, and then speak in more detail about the proposed items that are up for discussion. The entire program entitled "Ka `I`imi `Ike" was developed by Akoni to move the Moku`ula restoration project forward, and the idea was to create a program that incorporates activities that we either need to do or are already doing to continue forward. And as some of you are aware, it's been a little quiet on the site and that's just because there are other things going on in the background that may not involve activity on the site.

Mr. Fredericksen: Excuse me?

Ms. Thompson: Yes?

Mr. Fredericksen: I have a question. The first time I was on the Cultural Resources Commission, which was 1999 to 2004, you folks came -- came before us just with kind of an overview of what the plans were, etcetera, and the CRC was involved in -- in some -- in assisting to some extent, get things rolling, so to speak, or to help, and at the time, there was some discussion about applying for World Heritage Site status. What -- I mean that's a while back, what has happened with that?

Ms. Thompson: I can tell you that current -- I've been with the organization since July and part of my role is a grant writer, but it's also to run programs, and as we're a small staff, I've also been working on items like that and contacting the UN and UNESCO to initiate that process. I can tell you that, as of maybe two weeks ago, I was in touch with someone who recommended that really our first step in that process is to go through the National Park Service; that they, for the United States anyway, they're the ones that mitigate, per se, nomination into that program, if I'm understanding. I may be --

Mr. Fredericksen: Okay, there was another related project that came through where the Army Corps of Engineers --

Ms. Thompson: Okay.

Mr. Fredericksen: Conducted a study and I believe it was to assist in indicating the approximate outline of the lake prior to being filled in by the plantation in whenever it was - 1918 or 19. At the time I thought, and maybe I misunderstood, but I thought that the Park Service was going to be approached regarding, you know, national -- the national status and that -- so that one hasn't occurred either?

Ms. Thompson: You know, I'm not sure. I'm sure that Shirley could speak to that better and since I'm -- you know, she's been with them for eight years, I know of the US Army Corps' involvement and, in fact, I know of their ongoing work to restore the wetland area of the pond, and I believe recently completed their hydrology testing, and they're at the phase of now seeking and waiting for additional funds for their ongoing efforts there, but as to what you're specifically talking about, I'm not sure that I could answer that for you.

Mr. Fredericksen: Okay. Yeah, and I -- and I know these things take time but the Park Service -- or getting it so it's a Federally or nationally recognized site, per se, because it's one of the most significant sites --

Ms. Thompson: It is an -- it is a nationally recognized historic site.

Mr. Fredericksen: Okay, then what -- what else were you talk -- I don't understand the comment about the -- the World Heritage Site.

Ms. Thompson: The UN --

Mr. Fredericksen: Yeah.

Ms. Thompson: That I was talking about? Well, there's the national recognition --

Mr. Fredericksen: So it's on the register?

Ms. Thompson: I believe it is. Yeah.

Mr. Fredericksen: Okay.

Ms. Thompson: I believe it is.

Mr. Fredericksen: Then what -- then what's -- I'm not --

Ms. Thompson: What's the UN recognition?

Mr. Fredericksen: Yeah. I mean that's another ...(inaudible)...

Ms. Thompson: They have their whole -- they have a whole other set of --

Mr. Fredericksen: No, I know --

Ms. Thompson: Of world sites.

Mr. Fredericksen: But here's my question. The -- okay, if there's -- if it's nationally recognized at this point, which is great. It should be. What's the UN -- what else are they suggest -- or indicating they need to have before looking at that World Heritage Site status?

Ms. Thompson: They just have a -- a completely -- my understanding of it, which is -- is new, at best at this point, is that they have a -- a completely different set of rules and regulations and you may or may not already be a designated national site before you go to that process. My understanding is not -- it's part of it, but they have a whole other list of nomination procedures and their list actually, in my observation, seems to be a little bit smaller and because it's worldwide, I think they really hone in on things. But I -- we're at the very beginning of that and it's something I was asked to look into so --

Mr. Fredericksen: Okay.

Ms. Thompson: I hope that's helpful.

Mr. Fredericksen: No, and that's fine. It's just -- it's one of those things that would -- it's going to be a benefit.

Ms. Thompson: Absolutely.

Mr. Fredericksen: Which is -- and so whatever --

Ms. Thompson: I agree with that

Mr. Fredericksen: Whatever, you know. if there's something we could do to help you folks out on that, I don't know if a letter of a support from the CRC, we did one before when I was on the Commission, that may be targeted to that.

Ms. Thompson: Okay.

Mr. Fredericksen: And that's something where if you could maybe get in touch with Stan or come back about it just to ask. I mean I don't -- I'm not trying to speak for the Commission. I'm assuming you folks are -- that this is okay. And we may have to make a motion about this after but it's just something I'm thinking about.

Ms. Thompson: Okay.

Mr. Fredericksen: Cause that would be really helpful, I believe, for you.

Ms. Thompson: I agree, and I would be happy to -- I'm sure Shirley would agree as well and I'd be happy to work to facilitate that.

Mr. Fredericksen: Okay, so now that I've completely got you distracted off what you were talking about, continue. Sorry.

Ms. Thompson: Okay. So, as I started saying, the program was designed to move the Moku`ula restoration project forward; to also benefit the community; and because in this phase it is a grant funded in part by HTA, it's also in part to educate the visitor groups that come to Maui. And that's something that we do already through our Maui Nei tours. The program itself, luckily, seem to be an exact fit with HTA's strategic plan goals to honor and perpetuate the Hawaiian culture and community and to strengthen the relationship between the visitor industry and the Hawaiian community. And as we all know, that's can be lacking in many projects on island. So we applied for this grant. We received \$30,000, which is not what we asked for. As you know, we asked for a lot more and that's usually the case. So what happened when we got less than we asked for is we had to redesign a little bit and part of that is the archaeological component, which I'll speak to first.

We ended up getting recommendations from our currently contracted archaeological firm, Pacific Consulting Services. Their recommendation with that lower amount of funds was to operate the project as a field school, which we love because that allows us to benefit the community even more than just having a private firm come out. So they, in turn, recommended MCC and they recommended our current archaeological consultant, Janet Six, and she's been working with us since then to create this field school and MCC has taken on the responsibility of fostering that part of the program.

The other part of this is the visitor activity, and I'm going to use the word "visitor" very broadly because it includes, first, the community visitors, the student visitors, and not just the field school students, but students all over Maui and -- who are also going to be a part of this project. And as part of the visitor activity, we wanted to put some measures in place to secure the site and also provide a safer and a more educational experience through some of these items. So what I'll do first is, I guess, talk about the -- some details of the field school.

The field school originally was designed to operate this summer and also in the fall. And Janet is working on the data recovery plan currently and it's at the stage now where we've had two community meetings or forums, I should say, about it, and she's currently adding that community component to her date recovery plan, and we'll also be meeting with kupuna in Lahaina about the project to get further recommendations on her data recovery plan to make sure that she is meeting the concerns of the community as far as the archaeological dig goes.

Mr. Fredericksen: Okay, can I interrupt for a second?

Ms. Thompson: Yeah.

Mr. Fredericksen: Okay, that's good because, you know, when I first saw this, I mean I -- and I understand about the funding thing. It's really -- it's a difficult situation and you folks are trying to -- to use the, you know, the educational aspect of it using it as a field school because you get lots of free labor and I understand because it's the student -- well they're volunteers. They're learning. However, this is a really culturally significant site and so that -- that community input part of this data recovery plan is absolutely, positively essential period. And it's -- I mean -- and I know there's a lot of folks here that are going to be giving testimony and everything, and there's a lot of issues that are going to need to get sorted out, but --

Ms. Thompson: I agree.

Mr. Fredericksen: But the -- okay, so at this point, just to -- so I understand and the Commission understands, the data recovery plan has been initiated and it is being developed; absolutely essential that public input, especially of course from the native Hawaiian community.

Ms. Thompson: Yeah. Absolutely.

Mr. Fredericksen: It's essential that that be gathered.

Ms. Thompson: And we understand that. And I think something I wanna mention is that although we have our guidelines in terms of, you know, the funding and the schedule, as far as Friends of Moku`ula is concerned, we -- we wanna do things that are adhering to all sides, and, of course, first and foremost is input from the native Hawaiian community and our partners in that community and our kupuna, and second is, obviously, the rules and regulations of the State and the County, which is why we're here today to talk about those permits. There are no dates that are set in stone and I know that all of our partners are in support of making sure that however we commence, even it means pushing dates or adhering to the Hawaiian moon calendar, really working together to make sure that everyone in as much as it is possible is, you know, a team and is making this a -- a sacred and -- and thoughtful effort.

Mr. Fredericksen: Yeah, it really needs to be a community - absolutely a community based effort.

Ms. Thompson: And in our -- in our initial community forums and in our initial kind of launching informing the community about the project, a lot of those issues have come to light and we're happy for that because it means there is a dialogue and it means we can, as I like to say, course correct. We can make sure that everyone is onboard because we - I can speak for the rest of our staff and our board and say - we don't want to open ground without having those proper Hawaiian protocol in place.

Mr. Fredericksen: Good.

Ms. Thompson: And -- and I, personally, just on a personal level, I don't wanna be involved in something that is not going to have that in place, and I am not the protocol person so I look to my supervisors and I look to our kupuna and look to the members of the community to guide us on that and I can say that we have met with them there is a process that's underway, and however fast or slow that goes, it will be done first.

Mr. Fredericksen: Okay, thank you.

Ms. Thompson: Okay, so -- so that being said, I'm not going to tell you when the field school's going to be because at this point, we wanna make sure that those things are in place, and there have been ongoing meetings; last night, you know, last week. It's a process. So right now we're looking at when the best time will be with all people involved. And the date recovery plan will not be turned into SHPD until those community concerns are addressed within that plan and our -- and Janet Six has been in contact with SHPD to kinda keep them abreast of -- of where she is in her process so they can, you know, eventually they'll know when they're going to receive it. And she is here so, at the end, if you have any specific scientific questions for her --

Mr. Fredericksen: Okay.

Ms. Thompson: She can come up. As far as the observation platform goes, the idea for that is twofold: One is to secure access to the excavation area to authorized personnel only, and authorized personnel obviously means the members of the community who are working on this, the archaeologist, and the field school students. The deck would be used to allow visitors, who we do have both as tourists, tour groups, and as school groups. We get over 600 local students to the site every year. It would give them an opportunity to observe archaeology going on and see a little bit more from that a little bit elevated view, and it would also reduce the foot traffic of them walking through an area that's obviously very sacred and also would have some physical hazards as well with pits being open and whatnot. The deck is going to be -- we've been working with MCC's sustainable construction academy lecturer, Cliff Rutherford, who has done numerous student projects on Lana'i and here, in Maui, and he would like to work with his students, his construction students in Lahainaluna, to design and build and build this deck. The deck would be built actually at their site, and since it is portable and modular in nature, it could be then brought after to be assembled by the instructors on the site, but the kids would be involved at Lahainaluna in the, you know, measuring -- choosing materials, measuring materials, and building of it there. And they're, the Department of Education and MCC and these kids, are really excited about this because, as you know, with the economy, funding for many projects has dried up and so we're happy to offer this opportunity to them and feel like it's a win-win for both.

Mr. Fredericksen: And this deck is not going to be -- it's modular so it'll be surfaced anchored, not going subsurface?

Ms. Thompson: Correct. And, as you may have seen in your packets, Cliff has drawn up the conceptual designs for you and in terms of adhering to the Lahaina Historic Guidelines for the aesthetic, we're open to that and we'll absolutely follow that. So if there are recommendations from the Commission on color and, of course, the guidelines do state that as well, that is a part of the process and will be followed. And the idea is -- was not to have it permanently in the ground because with archaeology, as you know, you know, it can move around, and we also, with the vision of the full restoration of the site, it would end-up being kind of obsolete because other things would come in.

As far as the signage goes, the intention would be to have one sign, temporary sign, of educational in nature attached to the platform so that those who go onto the platform can read about, first and foremost, the importance of the site to native Hawaiians, to history, and it hasn't been designed yet for the very reason that we wanna make sure that Akoni and our staff and the community has an opportunity to make sure that the information that's on the signage is accurate. And I believe that everyone would agree that, you know, Akoni has become somewhat of an expert on this topic over the years and all the information that he -- I don't provide the information, it is provided to me and the coordinating of it. Eventually, that sign may become part of our outreach when we go to conferences and whatnot, but for the time being that the deck is on the site, it would be used there. The other two signs proposed are free standing and moveable and to help assist visitors, community or otherwise, in obviously correct procedures on entering the site and also, you know, continued historical information cause not everyone's going to be, you know, on the deck at one time. We just wanna make sure that people get that information before they really enter the site as well.

The tents that we talked about are for shade and comfort of all that visits the site. Primarily, the use will be for the field school students but, of course, anyone is going to be welcomed because it is a predominantly sunny and hot area, and I've read the recommendations of the Planning Department to make sure that those tents are properly secured and safe from any winds that come through and stormy conditions, and they are going to be, you know, the pop-up temporary tents; nothing subsurface.

Mr. Fredericksen: Nothing subsurface.

Ms. Thompson: Yeah. The last element is the -- the fencing. The fencing is also going to be above the ground. Currently, we're looking at renting the fencing from GP Roadway Solutions on a month-to-month basis, as needed, especially -- and, of course, while the excavation is open and in process. These will be gates that will surround the entire archaeological dig area as well as the observation deck in the nighttime hours to secure

the site and keep unwanted foot traffic or people who think they wanna come in at night, we wanna really discourage that, so that's part of our security measure during the day and in the evening is to keep the site secured and locked up using this fencing that's also moveable so we can adjust it depending on where the location of the dig is.

Mr. Fredericksen: Yeah, I - and this is just something for -- this is food for thought - done an awful lot of work in Lahaina over the years. I grew up there. I played in that park as a kid when I was going to King Kamehameha III Elementary School. Once there's an archaeological excavation in process, it's going to be visible like this. There will be people who will come --

Ms. Thompson: Right.

Mr. Fredericksen: To bottle hunt. Guaranteed. So that's something that, you know, Friends of Moku`ula are going to have to really -- when whatever process needs to get dealt with before, you know, the archaeology finally start, whenever that may be, but that that's something to keep in mind is the security issue because several different projects that we worked on in the past have been hit and --

Ms. Thompson: Right. I've been prepped on that too. I'm aware of other sites here in Maui that have also been hit by that.

Mr. Fredericksen: Oh, Lahaina's notorious.

Ms. Thompson: Exactly. And I know that that is a possibility and we've talked about, and I've talked with Stan about it too, the different security measures that we can put into place, including, you know, cameras --

Mr. Fredericksen: Or maybe just lighting so it's lit at night.

Ms. Thompson: Lighting, as well as any additional signage that may be needed. I've also talked about, with numerous people, about alerting our local authorities, who do come by that site very often, but really keeping them abreast of what's going on so that they can be on the alert for that kind of activity and really help the community to keep it protected. We're still open to instilling other measures as well if they come, you know, recommended to us. I guess something I wanted just really touch on because I think I've addressed the permitting issues is the involvement of our local students, and I've heard a lot of comments about this being, you know, an HTA project and for tourists, and I hear that very loud and clear and I just -- I would like to reiterate that it is our sincere goal to do what we've already been doing as far as educating the community and the visitors and working with the community and the visitor industry, and this program was funded by HTA's Living Hawaiian Culture Program in their efforts to address some of those things that are lacking right now.

Mr. Fredericksen: Yeah, it's about time.

Ms. Thompson: You know, and I can't speak to that because I'm not an HTA representative, you know. We simply applied for the funding and were awarded it. And we have other partners too. So I just wanna reiterate that we'd like to make this project more community based first with the byproduct being with all that involvement, hopefully, we can also educate our visitors on what is accurate and respectful portrayal of the Hawaiian community as it exist today, you know, and in the past. So I just wanted to kinda preface that cause I know that that may be something that comes up and -- as other things. So I hope I've answered your questions and if there's anymore, I'm happy to --

Mr. Fredericksen: Commissioners, any questions? Rhiannon?

Ms. Chandler: Hi, Jessica.

Ms. Thompson: Hi, Rae.

Ms. Chandler: I wanted to say to the Commission that Community Work Day Program is a partner listed on the HTA grant in that we would assist them with the removal of trash generated by volunteer community litter pickups around the site. That's an ongoing thing and not necessarily just in association with this grant. And also I would like to ask if you could use the word "kupuna" rather than "kapuna." They're two different words.

Ms. Thompson: Oh, sure. Thank you for that clarification. You're the first person to bring that to my attention, so thank you. Are there any other questions?

Mr. Hutaff: Just a comment. Culture before tourism. Tourism will come.

Mr. Fredericksen: Yeah.

Mr. Hutaff: Culture before tourism. That needs to be stressed a lot when you're doing your things, otherwise, organizations, like HTA, will use it to their benefit, not necessarily to yours. Culture before tourism. Tourism will come. No problem.

Ms. Thompson: I hear you. Thank you.

Ms. Marquez: I hear a lot of the mana`o alluding to education. Basic mana`o common sense is before we educate, we need to be educated. So just another correction on the mana`o "kupuna" versus "kapuna." Maika`i. It's a good start. So I think it behooves all of us to do our homework prior to coming to, you know, mana`o, community, and to pa`a, to firm up what we're talking about. You know, a lot of us, we look Hawaiian and a lot of us don't know, however, we're going to come to the community and sort of advocate for

education. I'm a retired teacher, not tired, retired, and a lot of this thing about they say "education education," that's maika`i; however, before we can educate, we need to be educated. And so in hopes that the mana`o coming from your organization, all this stuff, funding sounds maika`i, however, bottom line is we all want to educate; however, we need to model the behavior that we would want from name it visitors, call them want you want, malahini, kama`aina, people, it doesn't matter - we need to pa`a our mana`o. We need to make sure that we do our homework and we know what we're talking about, and I'm talking about everybody, not only malahini, not only kama`aina - all of us to pa`a our mana`o to make sure we know what we're talking about so when we go out there, you know, if we're correct, then that's maika`i what you said, oh, thank you for the correction. That's good. It's a good beginning. However, that is a beginning and we need to move, hele on forward to make sure that we know what we're talking about.

Ms. Thompson: Thank you. Could I -- could I speak to that cause I --

Ms. Marquez: Sure.

Ms. Thompson: I really appreciate you bringing that to -- to my attention and also to the room here? I wanna clarify cause I have gotten questions about the visitor activity, which is not being run by myself or the -- the program's position in our organization. It is being run by Maui Nei Tours and Leihua Hough, who is our manager of sales and operations there. Maui Nei Tours is a part of Friends of Moku`ula and it is the tour company that whose net proceeds go to the benefit our efforts. And Akoni Akana is the developer of that program, I know that it has won numerous awards, and it is something that is close to his heart and he has taken a personal hand in working with and training every single kumu that comes to work for Maui Nei Tours and as well as chanters, and so as we initiate visitor tours and, again, I stress that that means it includes all of our community tours as well, those tours are led by Maui Nei and their trained staff, and not by myself or Shirley or anyone else, it's only those who have passed through that training program.

Mr. Hutaff: I think it's important that you open up to the visitors. Today, discussions of Lahaina, Lahaina being Front Street, we all know that you gotta go back another 700 years and that's the culture part of the tourist -- of the culture first, bringing to the attention what the culture really is about in Lahaina is significant, otherwise, it's just Front Street, and that's not right. That's not -- that's not pono. Also, your tourists are our resource. You have many that have very strong backs, that are retired and have lots of time. You have many that would be willing to make donations or, as was presented to me by I think you or Keoni or the Embassy Suites was approached to give a million dollars to your program --

Ms. Thompson: It wasn't me.

Mr. Hutaff: It wasn't me? By a visitor. Obviously, the Embassy is not going to do that, but it is a voice that came from somebody who was not of the culture. The fact that they were educated and felt the culture, is also important, and a lot of our visitors do feel the culture before they leave here and tapping into that resource for donations, even on site if that's possible, can help facilitate your movement. I don't always believe the ends justify the means, but I believe that, in the proper protocols and proper education of the visitor, that they can actually be an asset. But culture first. So, yeah, go for it.

Ms. Thompson: I agree.

Ms. Watanabe: I have a comment. I think this is, you know, really wonderful. I think our culture needs to be seen. It needs to be more visible within our County. And I think a lot of our island people need to be educated. I think so many of our island people -- I think it's so important to include our island people because they really need to be educated as much as our visitors. But I -- and like Commissioner Veronica said, it starts with us, and it's very important that we start with us, but I like the education component and it's an ongoing thing. And I hope that, not only on Maui, but, you know, within the County of Maui, which includes Lana`i and Moloka`i as well, that everybody can learn by this. But I really feel that part of rebuilding Hawaii is to -- to make our culture, Hawaiian culture, because we are the host culture, to be more visible, you know. Thank you.

Ms. Thompson: Thank you.

Mr. Fredericksen: Okay, we're good? Okay, thank you.

Ms. Thompson: You're welcome. Thank you.

Mr. Fredericksen: Okay, now we've got -- let's have public testimony. Yeah, I've got the list. Now, does anybody not here -- who is not signed, want to sign up? Sol, you can -- when you come up and testify in a bit, you can just sign up up there. How's that? Okay, I've been requested -- I guess we may have a quorum issue, let's try, if we can, to keep -- to keep comments so they're approximately three minutes. We'll see how it goes. And us, Commissioners, let's try to not have as many comments during all the questions, and I'm the one who is the most -- the furthest away from that, what I'm saying, I'm sorry, but this is a very important -- very important place and we wanna make sure we have a chance for everybody to have their say and so let's go ahead and have public testimony. Let's see, the first person on here -- oh, you know what? It might be -- it might be helpful, at some point, the -- to have the project archaeologist to come up, but let's have some public testimony first and then if there's questions, the project archaeologist can come up. Let's see, I guess we can go in order of who's -- who's here. First one, Charles Maxwell.

Mr. Charles Maxwell: Aloha, Mr. Chairman, members of the committee. My name is Kahu Charles Kaluawehi Maxwell. I'm a cultural practitioner. And I've been in contact with Mr. Faulkner, who is the President of Moku`ula, Friends of Moku`ula. Over the last three days, we've had meetings and our idea was a bunch of kupuna went to create a kupuna council because there was no hint of any protocol, any spiritual or cultural things that they must follow before they go into the education, before they touch the site, before they build a platform, and up until last night, Kimo called me that he couldn't get in touch with all of the board of directors to appoint a kupuna council. A lot of this that was presented this morning is flawed. Flawed in a cultural sense. And before -- and I really agree with Mr. Hutaff, what he said, before anything else, it's spiritual and cultural because Moku`ula is a kakou thing. It's everybody's thing. It's an important site for Maui. It is -- it's not about drawing tourist. Children that work on the site, doing archaeological work, who is going to teach them? Who is going to teach that person? How will the monitors know between a flange or a bone or a tooth or an artifact? And, you know, when we, Erik, when we find remains, it's really sacred, everything stops, and there's chants that we do and, you know, we hi`uwai, we go at night and take a bath in the ocean before we touch the iwi. So, on top of that, this place is so sacred that you gotta find all the protocols and this is what I was trying to create with Keeaumoku, who is tremendous with protocol, and with Lyons Naone, and we all -- we all gathered there and so that we could help because Moku`ula belongs to all of us. We're not going to let this die. The funding from the tourism can be used in a very beneficial way and educational way. But with education, children gotta learn, if they're going to touch iwi or they're going to touch any artifact, they gotta know the -- what's in the back of it that -- the responsibilities that are to it, you know. You know, Erik, yourself, even you sometimes are not permitted to come up to the -- the pit with us because it's sacred. So, I mean, I am in favor of the overall picture of this but not right now, until everything is in place, until we can set protocols. I'm concerned as how they are promoting Moku`ula to the general public, to the tourists, to the walking tourists. I'm worried about it because Hawaiians, we have to come to a point where Hawaiians gotta tell this story, not non-Hawaiians tell the story about us, then it don't come out right, but Hawaiians have to tell their own story. Thank you very much.

Mr. Fredericksen: Charlie?

Mr. Maxwell: Yeah?

Mr. Fredericksen: I have a question, and for the council members here - or Commission Members here, Charlie's the chair of the Maui/Lana`i Islands Burial Council. The -- when you spoke with you said Kimo Faulkner?

Mr. Maxwell: Right.

Mr. Fredericksen: Yeah. Did Kimo -- what did Kimo say about the kupuna council?

Mr. Maxwell: He was all for it.

Mr. Fredericksen: Okay.

Mr. Maxwell: Yesterday, he supposed to have contacted his board. There was a lot of people was at the -- Sol and everybody was at this meeting at MCC and he says, "Tomorrow, we're going to do it." So I was waiting because I knew this meeting was coming up and, you know, he called me probably about 9:30 last night and said he couldn't do it, there's extenuating circumstances, he said, but we will.

Mr. Fredericksen: But it -- but they are, the Friends of Moku`ula, are open to that?

Mr. Maxwell: They're open to that but we're going one step above. On Friday, we meet at 5:00 and we are going to form our own kupuna council for Moku`ula, then they can pick us up or not, but we have, as kupuna, we have that right.

Mr. Fredericksen: Right. Any comments, Commissioners?

Mr. Maxwell: And Akoni was not happy with it. I spoke to him in the hospital.

Mr. Fredericksen: Well, I -- my only comment would be is I think, in the big picture, this is a -- it's a good -- it's a way, ultimately, to get the -- this project to come to fruition. The, you know, the restoration process. But there definitely does need to be community involvement, the kupuna council, so everything can be pono and -- yeah.

Mr. Maxwell: Yeah, Erik, we wanna -- we wanna bring back water. That's a number one issue. We wanna bring it back to Mokuhinia, and that's the number one, and I think we can do it because we have Kamehameha Schools that's, you know, leasing water out, water rights, and I'm sure they would go for a project like this. It's just a matter of pushing the right button.

Mr. Fredericksen: Thanks, Charlie. Let's see, boy, okay, I cannot -- I think it's Rebecca Shepherd. It is Rebecca?

Ms. Rebecca Shepherd: Yes.

Mr. Fredericksen: Okay.

Ms. Shepherd: Aloha. Thank you --

Mr. Fredericksen: State your name please.

Ms. Shepherd: My name is Rebecca Shepherd and I'm here today to comment about this project, and we all know how sacred this site is and what it means. I have to agree with Uncle Charlie. I did attend the public forums as well as a private meeting in regard to this and my experience was that there was a -- a profound lack of cultural and spiritual understanding around this. The first -- the first forum meeting that was -- the protocol was not correct and yet this -- these are people who have supposedly been through this -- Akoni's teaching, so I question that, and that's my concern is that unless there is a kupuna council that can really oversee that things are done correctly that it will not be pono, and that's my feeling on it that, you know, this -- this is a necessity and that the board recognize that and are open to being counseled and overseen by this council.

Mr. Fredericksen: Okay, thank you. Any comments? No. Thank you. Keeaumoku?

Mr. Keeaumoku Kapu: Hi. Aloha mai kakou. Keeaumoku Kapu, ko inoa. Gee, for the, I guess, past few sessions we had discussions about this very topic. A lot of questions came about and, well, first of all, I've been sort of an advocate and a strong supporter for the Friends of Moku`ula for a long time, especially when they came in front of the County, the Full County Council for -- when they was going for the lease and all the political spins that was involved in that. So I have sort of an interesting history based upon, you know, what had transpired from that time and I'm glad to see that the Friends of Moku`ula is finally at a point in time as pertaining to, you know, doing something that going be beneficial, not only for just the place itself, but for the people of Lahaina. That's my point where I wanna come across that there's mixed feelings that I have based upon a lot of things, and one is religion, yeah, based upon protocol; the other is policies based upon making sure that, you know, everybody's input is implemented, even SHPD's input is implemented. I mean there isn't anything, any recommendations, or anything that came from the SHPD level, which might give me even a better understanding pertaining to what is the recommendations, not only from this board, but the recommendations that going come from a greater board.

And, first of all, I would like to just put my disclaimer down. I am not a kupuna. I went to the meeting and I stated that myself. I would like to -- to be, you know, involved every step of the way, and I think that the key thing is to not seclude this only to be a part of a so-called "advisory council" of such that we should also go out there and seek mana`o from everybody. I mean get people that live in Oahu as well as Kauai that can be valuable to the information that needs to be added within this project because Kaumuali`i was a part of Lahaina also and is still buried there today. And Keopualani and Kaumuali`i had a relationship, so we have family in Kauai that has a relationship to Moku`ula as well too so we no like sort close in the corridors to make sure that this site only going be determined by the people that live around there or the people that is from the general area. And I shared some concerns based upon that, based upon what we actually looking for in an advisement of a kupuna advisory commission. We need to understand that our kupuna, the Lukela, I would say, they passed already. The ones that could share the traditional

knowledge, the generational knowledge that had passed down from them from the time of their kupuna that was living in that era. The kupuna of today has lived in a time of infamy, genocide, poverty, all those kinds of things. The lack of the ability to even speak the language in the time that they was raised. So if the kupuna that is involved in this have any outside mana`o pertaining to being involved in invasive mana`o that was a part of their life, then we gotta be cautious pertaining to what kind mana`o we going to get from this kupuna of today versus the kupuna of the past.

My mana`o to this is I'm familiar with this certain process because I belong to Na Papa Kanaka O Pu`ukohola, and that is an organization that was founded by one of them, which is our kumu, Keola Lake, John Keola Lake, and he is of the kahuna class. My position there is I am a kaukau ali`i. I have a position there as a chief. And from the time of the earthquake damage, Pu`ukohola has been ruptured; Mailekini has fallen; there's seven important sites on the Big Island that has fallen, and under the direction of the National Parks. So our job is to do a cultural inventory assessment based upon how we going implement the restructuring of Pu`ukohola Heiau, which is one of the important sites and structures of Hawaii. It was the temple of government. So instead of finding information from the scientific world on how we going incorporate this so-called "rebuilding" of this important site, by implementing the traditional management to be a part of the so-called "National Parks curriculum" on just going out there, putting one bid, finding one mason, one master mason or such, and not even looking into the areas pertaining to looking for somebody who is keen to the kuhikuhi pu`uone kind of mentality. The architecture masters of yesterday and to try to make sure that we not just going inside there and rebuilding one facade. There's certain things that need to be done. There's certain chants that need to be researched. Before you even start there, there needs to be a cleansing process based upon who going be coming to this, this place. When we work on this, if you ma'i, you no work. Those kinda things need to be looked upon. As we're working on the site, we get chanters that chanting 24 hours when we're working on this site whether it's to incorporate, yeah, and to not be dictated by the scientific perspective that Hawaiians no longer live there and they lost their traditions. That's important to us.

So I coming at you at a different -- different points pertaining to my, I guess, experience as pertaining to what I've been through and why these things are important. The policies. We gotta look at policies and religion, like I said. When you start bringing haumana that is of a different religion, yeah, or students of a different religion, will they accept the policies and religions of the native Hawaiian community, especially when, all of a sudden, the kupuna says: You gotta learn this chant. That's kinda discriminatory. So we gotta be cautious pertaining to the kinds of implementations that we're going to allow to be a part of this process or else we going be facing liability issues because one religion feels they more dominant than an old religion. Those kinda things are really important to think about. And we deal with these kinds of issues, especially with the National Parks when they have somebody hired from Philadelphia and they come down and, all of a sudden, this guy, in

order for him to go on a site, he gotta go to one hi`uwai ceremony, yeah, that he can go on the site and be allowed to work. So we get policies versus culture. Or we get religion versus old religion. So I feel the importance as pertaining to having, you know, some kinda advisory, I don't know what kind of advisory that it's going to be, but we need to be open at this. Do not look just only in one small little area. We need to -- we need to think wide.

I am really questionable -- the question draws to me, you know, and she talked about it, basically, about the HTA grant, Hawaii Tourism Authority grant. The visitors. I looked at the proposal that was drawn up and it's -- every time I read visitor community - visitor community. It's like the visitors come first before us. Mahalo for that comment. The educational component to this is very important. I look in the so-called "guidelines" pertaining to what the expectations are and I see three native Hawaiian students. Why is there a number placed on the limited amount of native Hawaiian students going be allowed here? I would like to see something more as to all 10 or maybe 12 going be of native Hawaiian ancestry because they kinda little bit more keen to understanding the importance when they go on these areas, or, you know, we cannot be, once again, prejudice, but just to know that this going be one -- one excitement when you read'em on the bulletin board at the community college when people say that, eh, we looking for Hawaiian archaeologists to be archaeologists tomorrow. Eh, I might go back school. I like sign up for this program too. I'm thinking about it too of signing up for this program because I like be one archaeologist. I think my expertise is more wanted out there as a person of my expectation based upon what I see and how we can intermingle the tradition or management versus the scientific management. I think get plenty conflictions over there.

When Moku`ula was talked about back then, it was to bring back the honor of the place. We living in traumatic times now. My fear is if nothing happens now, then the State already looking at historic districts as a question whether or not one is important, two is even important, or three is important, or does one even have a place in our society because of the after-the-fact permits we've been dealing with this morning. Once things change, does it alter the Historic District 1 application? If it does, then we need -- I feel the importance that we need to bring Moku`ula back so we know, yeah, out of mind out of site. We don't know why that place is called the Historic District 1. But if we bring it back, then it brings back character and identity ...(inaudible)... generations to know why that place is important, yeah, and they not looking at one baseball field saying that we used to have one historic sacred site over here but it's no longer there because of mosquito pestilence.

I used to be a part of the Friends of Moku`ula Maui Nei Walking Tour. I know a little bit background on that and it definitely covers, not only Moku`ula, but it covers everything else in that town. So we're looking two different perspectives here when you're looking at the HTA grant for it based upon that versus what's actually going be happening over here. Cannot intermingle both of them together. That's separate that. When I used to work for Maui Nei Walking Tours, I'd march around 25 to 30 tourists that come off the tour boats,

yeah, to intrigue them in an idea that with their support, they can bring back, yeah, if you build it-they will come. I thinking another generation back. *Field of Dreams*, yeah? Well let's take it back another generation based upon what was really there to see whether or not Hawaiians going come back. We came home for one reason. Many families are coming home for a reason. And they coming home to look at a baseball field. So my importance is very stringent based upon supporting the Friends of Moku`ula in starting this project but I have many reservations based upon how it's going to be done.

So in the educational perspective, everybody like that. Auntie said she was one teacher. Yeah, sure, but we gotta make sure we understand what we educating our kids. On the religious perspective, whether or not they going be acceptable or families going be acceptable pertaining to their kids going there learning Paganistic chants. That's the reality we looking at. We accept them to these chants today. Why? Because it's for sale and profit. The hotel industries love to see the kanaka over there doing one e`ala`e ceremony in the morning while blowing the pu and somebody lighting the torch; then next thing you know, bling-bling. The money fills up the hotels, yeah. But when it's of this magnitude when you doing something, yeah, to bring back dignity, honor, and all these kinds of things, everything changed now. Things change. So I'm here in full support.

Mr. Fredericksen: Keeaumoku, so you would be willing to be involved in the -- in this advisory board?

Mr. Kapu: If they no like me there, I still going be there anyway.

Mr. Fredericksen: Okay, well, but see this is -- this is -- and this is good that people can be listening to all of this, and that's good, and I -- and this is -- I don't know what, you know, this, as far as I'm concerned, this agenda item's going to have to be ultimately deferred because we, as a Commission, can't make any sort of a determination today based on the obvious fact that there, at this point, hasn't been enough community involvement, enough -- enough, you know -- there just needs to be more -- more involvement. I think everybody in this room thinks or agrees that, you know, hey, bring this sacred site back. Bring it back to life. I think everyone would support that.

Mr. Kapu: Yeah.

Mr. Fredericksen: So --

Mr. Kapu: I also, da kine, signed up to talk on couple other items, yeah, but I just -- maybe in my creative way, I can round it up with just --

Mr. Fredericksen: Okay, try.

Mr. Kapu: Including this discussion with the others. And that other one was based upon the -- the application for the - what is that? The boating and ocean recreation - what is that? The small boat harbor? You know, that has a lot to do with what their project is all about at the same time, you know. Because when we start talking about making changes to the ocean atmosphere and all these boats start coming in, then it's definitely going to hinder the relationship based upon what this town is going to -- I talking about the Historic District kind of things, yeah. So be kinda mindful because this is Lahaina National Historic Landmark and you get one request for review and comment on proposed repair and maintenance improvements. I remember a time when they talked about the expanding of the harbor.

Mr. Fredericksen: Yeah, I believe that none of that -- this is for the, you know, the pier that's on the inside of the break wall? The inside.

Mr. Kapu: Okay.

Mr. Fredericksen: Yeah, it's not -- it's not anything to do with outside where the old Carthaginian to used to be. None of that. That hasn't -- that is not the item.

Mr. Kapu: Okay. Okay, well, anything that happens in Lahaina is definitely related to this so-called "subject" we talking about now, and especially the investigative committee I also signed up to talk about that too as well. On to develop a general policy for new development on lands identified as burial grounds and other traditional cultural properties. If that's, you know, this investigative committee, how do you get involved in that investigative -- is this the investigative committee or --

Mr. Fredericksen: Well, I think it would be probably somebody -- a couple Cultural Resources Commission members but also I would assume and hope that there would be participation from, you know, I don't know members of the Burial Council. We're just going to be discussing it.

Mr. Kapu: Okay, with all your support, maybe you guys might put my name down over there and maybe da kine the County might consider me being in the investigative committee to the so-called creation of this.

Mr. Hutaff: Without getting too far into that, I think the idea is is we wanna be ahead of the fact rather than addressing things after the fact. That's what we're trying to do is saying, hey, we need to know about it before they start leveling these things and come across burial grounds. We wanna hear it first so we can bring the community in and the moku and the moku and the people, the kupuna of knowledge to tell us whether that's going to be a problem site before people start to do anything cause we've been involved so much after

the fact that it's hurtful when the only thing we can do is say: Can you just make sure nobody touches the bones that have already been uncovered?

Mr. Kapu: And I'm glad you brought that up because, you know, just so happens I, as well as Charlie Maxwell, sit on the Maui/Lana`i Island Burial Council, I'm a commissioner for the Burial Council but I'm here as a kanaka, yeah, today, and the way I view that, I sat on the Cultural Resources Commission in the past --

Mr. Fredericksen: As vice-chair.

Mr. Kapu: And requested for recommendations and -- and all the recommendation that came from the State and viewed all these applicants on how limited the authority was in here to address human burials because that was another -- in another department. I have certain mixed feelings based upon how the County Planning Department or the County Commission would involve themselves to address human burials based upon what going be addressed because we no like one -- one mixed plate of all these kinds of things because we gotta worry about the 45-day window, the 30-day comment period, and all these kinds of things before we enact on these kinds of things, and I don't know whether or not it's going to make things more horrendous, yeah, from the State side to address burials to be -- to be properly taken cared of when we get these -- these bucking heads inside here, yeah, the County and State going be bucking, but mahalo for this investigative committee because I get mixed feelings based upon where I am at the point too as well whether or not we missing certain things. We might miss one thing, yeah, and well if there's another entity that may address some concerns to it, eh, fine.

Mr. Fredericksen: Yeah, I think the -- if this goes forward, it would be only as a compliment and in support of the Maui/Lana`i Island Burial Council because, by law, all burial issues, etcetera, are -- that's the council's kuleana. But, anyway, Keeaumoku, thank you for your testimony and we'll -- we'll let you know about the investigative committee, if it goes forward and if you would like to be a member, that would be very well.

Mr. Kapu: Okay.

Ms. Marquez: May I? Kala mai. You said, and you're not a kupuna, so I need to be educated, and all of us need to be, so here's my heninau`ao. What makes a person a kupuna? I'm going to be 60 December. My age? My color? My waha? And we not being well-winded, no offense. Can you summarize your -- now this is your mana`o cause I may ask somebody and they get different mana`o and so I'm not asking somebody else. I wanna hear your mana`o as to your definition of what a kupuna is.

Mr. Kapu: Well, first of all, within a year I got six grandchildren.

Ms. Marquez: Okay.

Mr. Kapu: Within a year.

Ms. Marquez: Oh, so that's it?

Mr. Kapu: Within a year I got six grandchildren but that don't make me a kupuna. You know, my -- I'm infatuated with the mana`o from kupuna. When I came home, I went on one kupuna hunt. I found the oldest kupuna that was living in Lahaina. The oldest one I found was 96 years old. And why it infatuated me because I wanted to learn more and more about ka wa kahiko, about the trust past. I see kupuna because I've -- all my life I've been around'em, yeah. I cannot even hang around people my own age because, when I was 17, my best friend was 63 years old. And the wisdom that they share is of a time not of this place. And when you talk about ho`oponopono, yeah, making right decisions, yeah, to not -- to not cause conflict upon whatever the discussion is, the kupuna is there to mend; the kupuna is there to make sure no more ho`omalemale against each other no matter how you feel towards an individual. A kupuna is one that will be there, yeah, despite their personal feelings, can get over the personal feelings and concentrate, really concentrate in providing well-being for both sides as well as himself. A kupuna is there to make sure that the politics is not the discussion. That is not the discussion, the politics. The politics is not even a part of bringing something where everybody can come together and understand the importance as to why these things need to be done. That's the advisory I looking for. That's the kind of advisement I looking for to make sure that when we go into one room, everybody loves each other based upon the wisdom of this kupuna and nobody has any pule loko agenda. That's my mana`o that I've gotten from my kupuna. When this -- when I came home, I talked to six kupuna that was also concerned about Moku`ula. They no longer here. They passed already. And these kupuna came to me and says, "In despite, Keeaumoku, no matter what happens, somebody needs to make sure that the character and identity and respect of Lahaina and the people of that place is restored. Love your enemy as much as you love your neighbor or your friend."

Ms. Marquez: So on that note, can a non-Hawaiian be deemed a kupuna?

Mr. Kapu: Of course.

Ms. Marquez: Thank you. I'm pau.

Mr. Fredericksen: Thanks, Keeaumoku.

Mr. Kapu: Mahalo.

Mr. Fredericksen: Charlie, you have to go, I understand, and you wanted to testify on something?

Mr. Maxwell: Yeah, on the investigative committee.

Mr. Fredericksen: Uh-huh.

Mr. Maxwell: You know, looking at it, I was against it. But hearing the explanation, there would be several problems though for applicants because they would have to apply to the State of Hawaii, and then to the Cultural Commission. And, as you know, the State of Hawaii is failing so bad, SHPD is so out of whack that they're not taking care of their responsibilities that is happening right now as we speak. And so, yeah, I think it would be a terrific idea but, you know, you gotta consider the burial grounds and traditional cultural properties are, when you look at it, all Maui or all where they get sand, Ku`u One Hanau, from Waihe`e all the way down to Makena, because that's where Hawaiians used to bury. So, yeah, I think that's a good idea on a County level if it's not going to impede applicants to have another application.

Mr. Fredericksen: And we've yet to completely discuss it, of course, because this is something that we are going to be discussing, but I think the intent is to try to -- because there have been some very recent projects have fallen -- slipped through the cracks, if you will, Hanako`o, I'll say as an example, where it was at a County level where it wasn't even sent --

Mr. Maxwell: Yeah.

Mr. Fredericksen: To the SHPD to review the proposed action, so it would be an effort to try to have, at a County level, maybe areas identified so that the County automatically would just go: Oh, it's in this area, you know. The State needs to review this instead of just issuing a permit.

Mr. Maxwell: And the County failed miserably because it's a graveyard.

Mr. Fredericksen: Yeah.

Mr. Maxwell: Six feet away was the burials. So I mean do you say, well, all graveyards cannot be dug? Yeah, but what about, you know, the -- what about Maui Lani? Maui Lani shows up by the hundreds.

Mr. Fredericksen: Oh I -- yeah.

Mr. Maxwell: But we're still digging out there, you know, and so what is the medium? How do we stop that?

Mr. Hutaff: Well that's -- that's actually what brought about this idea to have this committee find out what happened so that we can look forward as a prevention for the next time because we really got to it way too late. There was nothing we could do. And our goal, which may or may not be able to be accomplished, is to have these things come sooner than later; come maybe before the fact; maybe even before the developer puts a shovel into the ground; come before the CRC or the burial council and hear the mana`o of the communities and the kupuna of the area who can share the value. Just because something looks like it's abandoned, like Makena, to a developer, that's an opportunity, and we don't have the ability, as a community, to go and protect each individual site and lay claim to it and to show what's out there. So some of these places to a developer look like rubbish land. They're not to us. But we wanna try to see if there's a method of finding what the problem was that came to us so late so we can get to the developer ahead of time; to the County can get to the developer ahead of time and say: Look, you need to go to the CRC and find out what kind of problems you're going to have in the future cause you may not want to develop that area. It may not be rubbish land. It may be so sacred that they can't go there cause we don't have the protocols anymore.

Mr. Maxwell: And we've crossed that many time before. What you folks will have to appraise yourself, and Erik knows, it's 6E; 6E sort of give the developers the right to go in, whether you like it or not, after they follow certain criteria so, you know, that's what we're working with, and it's very frustrating on the Burial Council when it happens. Erik comes before us all the time.

Mr. Hutaff: Well, we certainly don't want to interfere with the Burial Council but be a compliment actually by trying to be ahead of the game.

Mr. Maxwell: After your explanation, I think it will be a compliment.

Mr. Hutaff: Thank you.

Mr. Maxwell: Good.

Mr. Hutaff: Coming from you, it means a lot.

Mr. Maxwell: Thank you.

Mr. Fredericksen: Thanks, Charlie. Let's see, next person I believe on the list is Joyclynn Costa.

Ms. Joyclynn Costa: Aloha. My name is Joyclynn Costa. I've been to the last few meetings pertaining to Moku`ula and -- and I'm sure it's not intentional but it becomes disturbing when you start to listen to the discussions. To me, it looks like there's a focus on this scientific data retrieval and the importance of this archaeological find. But it gives it the appearance of the importance of the culture. And I stress the word "appearance" because, from what I gather what you said that you've been familiar with this Moku`ula for how many years now and Keeaumoku has been, this has been in discussion for many many years. And just recently, the meetings that I've gone to, they don't have a real clue on the culture. So how much importance and due diligence have they put into discovering the culture? I'll give you an example, and I apologize, Janet, cause I don't wanna insult you, but I took offense on a comment where there was a question about iwi, you know, and her comment back was: Well, we don't expect to find any but in case there is, possibly like a drunken sailor fell in, we may come up with something. I took offense to that. The place does not represent drunken sailors. And I know she didn't mean it in that fashion, but that's the way I took it. When they were asked about the students that were going to go on site, how well versed they were in the culture, they were -- we were -- I was listening and said that they had informed us that they will take a one week intensive course on the culture protocol. I, as a kanaka maole, would not be able to capture that protocol in a week, even if I went 24/7. No way. It's an ongoing learning thing.

Mr. Fredericksen: Yeah, and I guess, ultimately, that's -- that's what -- what it is all about is that there would be, you know, it would be an educational process but I -- I do -- I have some reservations myself about, you know, this sort of an approach but I think the advantages outweigh the disadvantages because it's a way for the -- for the Friends of Moku`ula, once the process with, you know, an adequate amount of community input cause that's -- I think everybody feels that the goal -- it's a good goal to get to bring the site back, to bring the water back, but at this point it's, you know, how does one actually, you know, bring that about? And this advisory -- the cultural advisory council, however one wants to put it, term it, the kupuna council, that certainly needs to be put forward.

Ms. Costa: This council concerns me too because who gets to pick the council? Many a times I watch developers come in and they have advisories but they stack it in their favor, and so how do we safeguard that that these people that have the illusion of doing the right thing may not sneak up underneath and actually have agendas? How do we become confident in knowing that the advice being given is correct? My question is: What will be the function of that place? That place had a function. That is where the constitution was written. That is where the mahele was created. That is -- that is all of us, our identity, so now what is it going to become? Is this why our tradition -- our traditional values and our culture now become entertainment? I'm tired of that. It's not for the purpose of entertainment. And I don't care how much you tell me education, education, education, most of these people going come purely for entertainment and we not -- I don't want us to be put on display for people to gawk at anymore. It should be -- if it's going to be erected,

which I'm all for, then it should be for a proper function, and it shouldn't be where people can watch them go dig it up. And it shouldn't be because somebody just decided that we're going to do it now. It should be done in the proper time for the proper reason so that it'll be done pono. And I think because there is so much huki right now, it may not be the right time and it may not be for the right reason. We need to stop and think about it.

Mr. Fredericksen: And this action is going to be -- well, I certainly feel that it should be deferred.

Ms. Costa: And make no mistake, it's not that I'm against it. I'm all for it for the right reasons. And there's a lot of flaws, like everyone has said, you know. And I wanna just comment on kupuna. My father's 73 years old. He's a practitioner in his own right. And yet he doesn't wanna deem himself a kupuna because he did come from that era of: no talk your language; don't give you kids any Hawaiian names because then they're going to be nobody in the society. If there's any identification of you being a Hawaiian, you one nobody. You one rubbish. So that is -- this is true. I watching you shake your head no but I living it, okay.

Mr. Solamillo: No, I know. I'm agreeing.

Ms. Costa: My father, and so he tells me: I cannot help you cause I wasn't taught. I wasn't told. My kupuna never like tell me cause they might take me away. So all I can tell you is what I went read or what somebody went tell me. It's secondhand knowledge. A lot of it is secondhand knowledge. If you can find one pure one that actually went live it, do it, and can tell you, that is a kupuna. And for my father for be able to move himself away from that -- from that honor, I think he then qualified himself as one.

Mr. Hutaff: Yes, absolutely.

Ms. Costa: So I hope that I will be able to honor and walk in his footsteps when it is my turn. Thanks.

Mr. Fredericksen: Thank you. Let's see, someone needs to leave, this is for a different -- testimony for a different agenda item, Theo Morrison, on the harbor improvements. And then we're gonna -- we will need to break.

Ms. Theo Morrison: Good morning. My name is Theo Morrison. I'm the Executive Director of Lahaina Restoration Foundation, and I do have to leave, so I'm just going to testify on the harbor -- the proposed harbor repair and maintenance of the marginal dock. This is the dock that's next to the breakwater. And I live in Lahaina. My kids have a boat in Lahaina. And my grand kids play in this dock. It's really, really, really unsafe. The Lahaina Harbor is an integral part of the Historic District and the improvements that are being proposed

will -- will be really a safety issue. So we are, as Lahaina Restoration Foundation, we're very much in favor. It's way long overdue. The electric lines hang in the water. The boards of the pier are broken. I mean for years I've heard the tales of woe from the boaters who -- who have boats out there. So we are definitely in favor of this, the proposed improvements to the harbor.

Mr. Fredericksen: Thank you. Any questions? No? Okay. So we're going to take a break? For the harbor?

Ms. Costa: Sorry, Joyclynn Costa again. I forgot to also let you know that -- that research or committee -- investigative committee, even if you can't, I leave myself at your call if you need to find information, you have my number. Call me.

Mr. Fredericksen: Thank you.

Ms. Costa: And if I have time, I will make sure that I will find out information for you.

Ms. Marquez: Before she leaves, quick question, quick answer. Do you think there'll ever be a time there's no huki huki? Cause you said right now there's huki. Maybe it's not the proper time. Do you feel in your heart that there will come a time with a`ole ka huki?

Ms. Costa: All things are possible.

Mr. Fredericksen: How long -- 15 minutes? Yeah, we're going to take a 15-minute break to eat lunch and then we'll -- then we'll be right back.

*(A recess was called at 12:37 p.m., and the meeting reconvened at 1:00 p.m.)*

Mr. Fredericksen: We might continue eating while people are testifying but don't mind us. Let's go ahead and reopen the public testimony on Moku`ula. Let's see, the next person, Kaniloa.

Mr. Hutaff: Mr. Elvis.

Mr. Fredericksen: Please state your name. Thanks.

Mr. Kaniloa Kamanu: It's not Elvis. My name is Kaniloa Kamaunu. I came to speak on the Moku`ula. As I was sitting back listening to the comments being made, I kinda reflected on a story that was told to me, and I believe it deals with this Indian boy, he was up on a mountain top, and he had come across this rattlesnake, and it was in a cold area so the rattlesnake asked the little boy if he would take him back down to where it was warmer cause it was too cold for him up there, but the little boy told him that, you know, he didn't

want to because snakes bite and he didn't know if the snake would bite him. He said, "No, I promise that if you take me down that I would not bite you." He still kinda was hesitant but decided, okay, being a good person, he would take the snake down. So he takes the snake down, down into the warmer climate, and lo and behold, what happens is the snake turns around and bit him. And he said, "Why did you bite me?" "You knew I was a snake." So the essence is, it doesn't change, you know. Things, even though they try to make it look more tempting to be able to suffice certain things to get done, they're still a snake. Now -- or they still end up biting you because that's their nature and that's what he tells him - that's my nature. So though the idea may be, you know, very -- it looks very good. You know, I mean I agree with some of the things that they put up on there, you know, restoring the area, but then what comes along with a lot of the other things? And I know you guys already going to think of deferring this item after you guys vote on it. And a lot of things come to mind is that, you know, and were brought up -- I agree with Keeaumoku's comments and Joyclynn's comments on the -- on the kupuna. It's not just where you are as far as your age but a lot of it is to do with the mana`o or the knowledge you have of the area, I think is important; of how you view your -- your culture as far as understanding it and how it works. And that not to be disrespectful, but coming to a lot of the meetings, I feel we've been sold out by them on a lot of comments that have been made, and I prefer not to mention anyone, but a lot of things have been coming up. We actually have been kind of -- I've been let down by some of the comments made by so-called "kupuna" on my behalf. So I believe that, you know, there are a lot of younger people out there, men and women, from our culture that are well versed in -- in our culture and shouldn't -- it may not be, as Keeaumoku said, kupuna, but yet are very well cultured in our area and very well educated and should be taken into consideration that the kupuna program may be -- or the -- this association that you looking to make with them should be considered on what their mana`o is and what they can contribute to make sure that -- that things are done accordingly and are actually beneficial to all that are there.

I think another point, you know, we talk about relationships between visitors and -- and the people here, especially come back into the kanaka. I think what we kinda have to look at is we have to bring forth the issues of why so much anger; why so much disappointment. I think you cannot escape from that. And, you know, any healing process goes through this. You have to determine what the problem is. You have to take the person -- why is the person or persons so angry and what is going on. And those things have to be reflected upon and those things have to be kind of taken care of. For things to be truly pono, you gotta have those things taken care of because, otherwise, we know, sooner or later, you know, if you leave a cigarette there long enough in the leaves, it sooner or later burns. So continuously having those ambers or embers continue to burn will end up making a -- a big mess and I think what has to be done is look at why the situation is there and try to settle things that can be done; try to make it so that, you know, I look at the project, I look at a lot of these projects, they really don't consider using a lot of the kanaka. We have -- and, you know, not knocking anybody, you know, but I feel, and I made this

comment to those people down in Waihee that -- to that reserve down there, you know, I went on one of their hikes and I, basically, told them, I said, "So, with all this, you're going to bring back the people that lived here?" They said, "No. We don't want the people here." And I said, "The land is worthless because the people that made the history here, I mean the things that make the history there are the people. So if the people are displaced, then the culture is displaced. If the culture is displaced, then what do you have?" Like he said, "rubbish land." The land holds the knowledge of the people. The people belong to the land. Without the people, without the kanaka, the land cannot survive because they relate. And I've seen this in writings at the OHA office and many comments from people not from here, but writings from other people from other ...(inaudible)... that they recognize the relationship between the kanaka and their land. And without them, without their placement in the society where they belong, there, you know, really is nothing. I'm grateful you guys taking the time to listen to me.

One more comment. You know, I've been -- because of other things going on, we've been researching a lot of the kingdom laws and a lot of those laws really hold great wisdom in what they signify and why they were brought about. And I really would appreciate if people would educate themselves on the kanawai because when you look at it, you see a great relationship and knowledge of what the people knew and how to govern their society and how that relates to us today. Thank you.

Mr. Fredericksen: Thank you. Okay, let's see, next person on the list to testify is - I think we'll have Hinano come up maybe last, Hinano Rodrigues - Sol?

Mr. Sol Kahoohalahala: Hi. Aloha, Commissioners. My name is Sol Kahoohalahala.

Mr. Fredericksen: No? Go ahead. I'm sorry.

Mr. Kahoohalahala: I just wanted to add my support and comments to this application that's before you, and I wanna say that I agree with the statements that have been made earlier by -- by Kahu Maxwell, by Keeaumoku Kapu, and by Joyclynn, and to that I wanna add some of my own comments, but not as -- as comments against the forward movement of Moku`ula, but also to add support in a process that I think needs yet to be completed, okay. And I wanna disclose that I served as a board member to the Friends of Moku`ula and in January, I just resigned from the board because I took my position as a elected Councilmember, so I do have and have served many years on the board for the Friends of Moku`ula so I understand our inter-workings and I understand the challenges that are -- that we have been tasked with from the Friends of Moku`ula so -- but I wanted to say that aside from what you have responsibility to consider, one is the observation deck that is being proposed; you also have been told about an education component where students will be part of the construction of that deck and the guidelines that the deck will incorporate would be those guidelines of the Historic District; you're talking about signage that you have

to approve, and that there would be a developed sign to help people understand the project of Moku`ula itself, and that information to inform visitors on signage as to what would be protocol when they come into the site at Moku`ula; you're dealing with tents and fences to help keep the area; and then, lastly, you introduced or talked about the idea because it was concern about security, you know, and how do you secure the site once it's unveiled to the -- to the world actually. It was mentioned that it would be something that would be placed on the Worldwide Web, you now. I wanna say that before any of these items can be dealt with, perhaps what is, first and foremost, was the need for us to acknowledge that the Hawaiian cultural protocol needs to be in place. So without that, I don't know how you can deal with all of these other components of this project because underlying this is that part that needs to be resolved, and so I think that's the mana`o that's being expressed to you by -- by those who are in attendance so --

There is a distinction between what is scientific processes and that is what I think you are being tasked with and that's why you look at making sure to allow this process to meet all of the criteria, but underlying that is a spiritual and a cultural layer and that is as important because I think, not only is Moku`ula important to Maui and Maui Nui, it is really important to Hawaii all together. It is the location, as has been testified earlier, where Kauikeaouli was inspired to put together our Hawaiian Constitution and to have Keopuolani, his mother, Nahienaena, whose residence this was. We're not talking about just a Hawaiian site. We're talking about one of the most important places in our history. So to not give consideration to this -- this layer of Hawaiian cultural protocol, Hawaiian spiritual, Hawaiian cultural practices would be, in a way, kapulu, not complete, yeah. So what we're trying to do is I think express on how we might complete this so that it can move forward in the right and the proper manner. So it's that direction that I wanna support is take care of all of these layers of concern and interest and importance because it is -- it is the most important place for us in terms of Moku`ula and Kauikeaouli.

The other thing I wanted to express, and you brought this up, Chair, is that at the meeting that was held at MCC the other night, I had asked Janet to be sure that she made available a data recovery plan that could be reviewed because in the data recovery plan would be the details of what she is anticipating as the work to be done in the site, and what I wanted to be sure is that the kupuna had a chance to review the data recovery plan because perhaps in that plan - and that they know what is anticipated as work - there might be cultural concerns or issues and unless that's resolved up front, auwe. We're going to be in -- in trouble again because we proceeded with some plan that was approved but had no review from a cultural --

Mr. Fredericksen: The cultural context.

Mr. Kahoohalahala: Context. So here again is the scientific process and then we're talking about where the Hawaiian process lies in that and then how to bring that two together so

that the plan can proceed knowing that all sides are informed and everyone understands what is going to be done, and how the artifacts, as they come about, are going to be dealt with; how are they gonna -- like the iwi, if they should be found, how that's going to be dealt with; where do you store them; where do you keep them. And then, lastly, I talked to them about whose information this is. Who will be the owners of the information that's derived from the work that comes, and that decision has not even been made yet so -- so it's in that direction.

I agree with what Joyclynn said earlier, and I had it in my notes here, that -- that we are no longer in a place where the Hawaiian people and its culture is put on display. It is not an opportunity for people to come and visit and look at as though we were part of a -- a museum artifact and that we come and visit and we look and just simply glaze over this. It is too important for us to even look at this project as that being one of its main objectives or purposes.

And then, lastly, I wanna be -- I wanna be an advocate for what I wanna put on the table as an acknowledgment of Hawaiian intelligence; that Hawaiian people are capable of doing all of this work. They have all of the experience in their culture. They have all of the mana`o of their culture. And that is a knowledge-base that too often is not given any consideration in our work today. So along side what is being proposed here as an archaeological project, let it be known that archaeology is only a science, and talking to the archaeologist right here, but it's the science of quantification. But there is a part of the science of archaeology that I think goes beyond what the science is able to do and that's when you talk about the qualification. And I do not believe that as an archaeologist you can necessarily cross that line that that Hawaiian intelligence belongs to the people whose place this is. It is that intelligence that you need to call upon. It is that intelligence that you need to rely upon. And too often we begin these processes without any acknowledgment of Hawaiian intelligence, Hawaiian science, Hawaiian engineering, Hawaiian mathematicians - all of that is incorporated into the site. The engineers of Moku`ula knew exactly where the water was. They're the ones that built this. They're no different than what we talked about in terms of European aqueducts. Hawaiians engineered this in every way because they understood water, and they knew how to take care of it, they knew how to direct it, and they created many things in that. The loko i`a is a Hawaiian creation. No one else on earth developed the fishpond system except the Hawaiians. So why would you rely on anyone else to ask for information about the Hawaiian system that was developed and created by the Hawaiian culture and its people? So it's that direction that I wanna lend support that you, as the Cultural Resources Commission, need to give consideration to what is Hawaiian intelligence and acknowledge the fact that it exist, it is part of our inheritance, it is handed down from our kupuna, it is in our genealogies, and it is gifted to those who are chosen to have this. So allow them to -- to emerge and allow them to be heard, allow them to participate, and allow them to give instruction and direction where other processes are only merely simply overlaid upon it. So it's that direction that I wanna

give support and say Moku`ula has yet to resolve some of these issues and I would encourage Moku`ula and the board to come to terms and make these decisions but, ultimately, I think that once that's completed, then I think that there's no reason why it could not proceed. So mahalo.

Mr. Fredericksen: Thank you. Oh, Sol?

Ms. Marquez: E kala mai. For clarification for me cause you where many hats. Who do you represent today, Mr. Kahoohalahala?

Mr. Kahoohalahala: Myself.

Ms. Marquez: Yourself?

Mr. Kahoohalahala: Yes. Yeah.

Ms. Marquez: Thank you.

Mr. Fredericksen: Okay, so Hinano does not want to testify. Okay. Sorry.

Mr. Hinano Rodrigues: I hadn't signed up so I don't know ...(inaudible)...

Mr. Fredericksen: Oh, I was told you were going to testify. I'm sorry. Does anyone else wish to testify understanding that we do -- we are starting to get pressed for time but you wanna --

Mr. Kapu: Maybe one ...(inaudible)...

Mr. Fredericksen: Okay, one real quick one.

Mr. Kapu: Based upon the stage that's going to be built, the platform --

Mr. Fredericksen: Name first. Name.

Mr. Kapu: Keeaumoku Kapu. Going fast through this. I forgot to mention about the platform that's going to be built. Really think about that because we looking down upon one historic sacred site, yeah, and in the old days, we had to kulou to this so-called "site" so kinda interesting on how this thing is going to be where our sacred site going be revealed upon one platform.

Mr. Fredericksen: Yeah, and that's a great comment and the -- the comment about Hawaiian cultural protocol and that's something that, obviously, needs to be looked at more. Thanks.

Mr. Kapu: Okay, thank you.

Ms. Janet Six: You didn't call me. I was on the ...(inaudible)...

Mr. Fredericksen: Yeah, if you'd like to testify, please come forward, give your name.

Ms. Janet Six: Aloha. I'm Janet Six, the archaeologist on the project.

Mr. Hutaff: Oh, cool.

Ms. Six: I wanna say, I cannot thank the Hawaiian community enough. From the beginning when Akoni Akana and Jessica Thompson contacted me, they got my name from Sarah Collins and the people at Pacific Consulting Services, and they said, you know, maybe Janet, she's over at the college, maybe she could do a field school, and I've run field schools for UH-Hilo and other institutions, and I've worked different parts of the world. My expertise is in sugar plantations and I went into sugar plantations specifically to avoid, you know, having any kind of issues and dealing with important Hawaiian cultural sites; of course, the plantation I picked was on top of Hilea Village, which was an ancient Hawaiian site, and I ended up in the middle of a Supreme Court battle so, 2007, so inadvertent find, and my part, which was a bunch of maps so it ended up me in the middle of this thing. So when they came to me, I understand the importance of this site and my focus is an historic period, which part of this site, obviously, encompasses. I apologize for my comment about finding a sailor. I actually was speaking at the time -- the excavations, as currently planned, based on what I've reviewed in the reports of the archaeology done prior, is to work in front in the pond, not to be anywhere near the island, and they've done the electronic, you know, the imaging so they know where walls are and ponds are. So I, with my students particularly, do not wanna be involved in burials at all. I've never done that. I have no experience in burials and I think I'm proud of that, so it's not that I am naive about iwi, it's just that it's not been my personal kuleana right now. So for me to take this on, I want to have some specific guidelines. The community forum meetings are exactly to get this input --

Mr. Fredericksen: Yeah.

Ms. Six: From everyone and to form this kupuna council because I have been -- I've been hired as the scientist but I'm trained in anthropological archaeology. Dee Fredericksen was my teach at Maui Community College. My PhD's from University of Pennsylvania, and I had to study cultural, linguistic, physical and archaeology. They do blend it at Penn. We

do not see archaeology as a science that's removed from a descent community or living population. So my whole dissertation's on public outreach archaeology so that's my goal is to help. I was in the tourist business forever. I could care less about tourist. I mean they're very nice and everything. I was on the glass bottom boat. But I really want native Hawaiians to get the skills that they're interested in to interpret their own culture if they're interested in doing that. And so I just want to correct Keeaumoku's comment. It's not three maximum Hawaiians. We'll take hundred percent Hawaiians. And if there's a Hawaiian archaeologist that wants to step up and do it, I'll step down. I'm there as a facilitator to help and a permitted archaeologist, but I will not go forward if we can't make most of the people happy. You can never make all the people happy all the time.

So with that said, if you guys have any questions for me, I am not submitting the data recovery plan until it has been reviewed. I spoke to Patty Conte on Monday. I'm following the State guidelines. Obviously, there's a cultural component that I cannot -- I cannot speak to. So I am too glad, and I've talked to both Sol, Charlie, Keeaumoku, they're all going to have a chance to look at it and then, as you know, Erik, it sits for 30 days for public comment, and then there may be changes.

Mr. Fredericksen: But you're gonna allow them to view the plan before it's forwarded to SHPD?

Ms. Six: Yes, before it's submitted. Oh yeah. Absolutely.

Mr. Fredericksen: Okay, good.

Ms. Six: And that was very, very clear. And the thing is we're dealing with guidelines the college has about when summer school starts, once we realized there were some celestial events that'll be happening that might be more appropriate to move the date, our vice-chancellor was there, she saw how passionate people are about this, I think the administration gets it now that it's not just, ooh, a field school. As to children on the site, some of my field school students are here and we're all a little bit older, so -- just so you know, and I do have two native Hawaiians at this point signed up. And I spoke to Keeaumoku, who was happy to hear, I want as many native Hawaiians on the site as possible if I can get tuition waivers to make that, facilitate that. So that's all I have to say. Thank you very much. Any questions for me?

Mr. Fredericksen: But we'll be seeing --

Ms. Six: Yeah.

Mr. Fredericksen: Seeing you again?

Ms. Six: Yeah. I just wanted to speak to some of the things I heard.

Mr. Fredericksen: Okay, thank you.

Ms. Six: I'm not really a snake. I'm really harmless so, you know. We can keep you warm. I won't bite.

Mr. Fredericksen: Okay, anybody else wanna testify? Okay, public testimony is now closed on this. Okay, Commission Members, I think we've heard enough to -- to realize that we're not going to be making a decision on this today. Does anyone have any comments?

Mr. Hutaff: Yeah, I kinda -- I'm always -- pardon me. I'm going to keep it real short. First of all, I've definitely been a strong supporter of Moku`ula. I even asked Keeaumoku one time, "What can I do?" And in his infant wisdom said, "I don't have a clue." You know, and I kinda realized that, at the time, that's a good answer. When Costa mentioned that maybe it's not the right time, I like to look at it a little different way. I think that it's about time, and it's about time is when the culture is finally, or I shouldn't say finally, but is coming to bear and that there's a -- there's a cultural protocol that needs to be followed, not just to restore the site, for whatever reasons. There's a thousand reasons why the site should be restored...(inaudible)... thousand reasons why the site should be restored. That's not an issue. It's what the proper way. And I think the kupuna who or those who have suggested a kupuna council are doing the right thing at the right time to comment on whether the kupuna are going to open it to the young groups who may have direct knowledge or more knowledge than the kupuna - that's why you go to the kupuna, okay. That's what they're there for. You -- you know, I was brought up that if you wanted to do something out of the ordinary that was done, you went to the kupuna to seek the knowledge that they had cause they had the wisdom of time. Not always did my answer come from the kupuna. Sometimes I was directed to somebody else. And so we need to trust that the Hawaiian culture teaches us to go to our kupuna first, and we value their wisdom and their knowledge and their openness to listen to others and to seek out the truth when they don't have the truth or they don't have it all. So I think this problem is not a problem. I think it's really the opportunity to do it right. I am humbled by Charlie Maxwell and Keeaumoku and Sol, who have pointed out that, you know, there needs to be protocols. I never considered that. And now I realize that that's the most important thing. You can't even begin until you begin with the protocols and the culture, and we're doing that I think by going to the kupuna.

I recommend that I think, from what I've heard, is that we defer this permit process because the permit is things that are going to be laid upon the land without the protocols being done first and without the information from the kupuna. It's not that the request is unreasonable to put these things on there as far as the eyes of what's going to be done, but I think it's unreasonable for us to make a decision on whether these things are appropriate. The

Cultural Resources Commission has to bow, I think, to the kupuna and give them the chance to speak first, and then we can revisit this soon to see if the plans have changed. We're, certainly, I think all of us here, very much awaiting the re-emergence of this unbelievable, historical landmark, and I hope that we will share it with everyone who comes because we should be proud, not dog and pony show, but to be proud to show the visitors what Hawaii, what the engineering, what the quantification, what the qualifications, what history was done. I think that that brings a bigger point to our visitors whether they be the community, even some of the Hawaiian community who don't know what the site's all about, and the visitors and that to really ...(inaudible)... place that we're not a dog and pony show; we're not a hula; we're not a chant. These are real real real things and we do it for real. If you see it, admire it because it's for real. And so I think we should defer this automatically and I wanna make the motion that we defer this.

Mr. Fredericksen: Does anybody have comments before we go there? Veronica.

Ms. Marquez: You know what baffles me? and this is for all of us, is we want to have the expertise from our na kupuna. Maika`i. However, in essence in itself, we have na kupuna who come from different mana`o, and which is human nature. So how do we, all of us, determine who is the appropriate na kupuna for this mana`o? I mean -- and I'm Hawaiian, and I might be brown, but I need to learn. You're point up, and it doesn't help me.

Mr. Hutaff: I honestly believe that Akua.

Ms. Marquez: Ke Akua.

Mr. Hutaff: Ke Akua guides us and that's why we're here today and that's why the kupuna have come forward at this particular time - it is because we are being led. Our kupuna, my version, my understanding, is they don't have to be alive. We gain our knowledge from our ancestors and so I think our ancestors are leading us in the right direction to do this correctly, and the trust comes from that. Hawaiians - we trust to a fault, okay. To a fault. It's human -- it's the nature. And I think we need to trust that this is the right process because it's come at the right time, to the right place, and we trust in Akua to lead the kupuna and the younger ones who don't consider themselves kupuna yet to give their mana`o based upon our ancestors. That's all.

Ms. Marquez: Mahalo.

Mr. Fredericksen: Any other comments? Okay, Ray, do you wanna go ahead and put your motion forward again?

Mr. Hutaff: I move that we defer this until we get some input from the not yet formed kupuna council. And for the kupuna council, I'd say, kinda hurry up. We wait long enough but can.

Mr. Fredericksen: Is there a second?

Ms. Marquez: Second.

Mr. Fredericksen: And I -- I just would have a comment about -- well, I'm sure the whole concept or the issue of Hawaiian cultural protocol will be visited in detail before we hear from this -- on this agenda -- on this item again. Okay, we have a motion, second.

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

***It has been moved by Mr. Hutaff, seconded by Ms. Marquez, then unanimously***

***VOTED: to defer this until the Cultural Resources Commission get some input from the not yet formed kupuna council.***

Mr. Fredericksen: Okay, deferred. Thanks everybody for coming for this item. Next item is, let's see, No. 3, Advisory Review, 3.a. Okay. Okay, we're going to have a five-minute break.

*(A recess was called at 1:30 p.m., and the meeting was reconvened at 1:35 p.m.)*

*Mr. Solamillo read the following item description into the record.*

### **3. ADVISORY REVIEW**

- a. **MIKE MUNEKIYO of MUNEKIYO & HIRAGA, on behalf of HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF BOATING AND OCEAN RECREATION, requesting review and comment on proposed repair and maintenance improvements to the Marginal Pier at Lahaina Small Boat Harbor, Lahaina National Historic landmark (NHL), TMK (2) 4-6-001 :002 and (2) 4-6-001: 015, Lahaina, Maui. The CRC may comment and provide recommendations. Public testimony will be accepted. (S. Solamillo)**

Mr. Mike Munekiyo: Good afternoon, Mr. Chair and members of the CRC. My name is Mike Munekiyo. I am the planning consultant for the Department of Land and Natural

Resources. I do have with us this afternoon Mr. Eric Yuasa, Mr. Miles Nakamura, from the Division of Boating and Ocean Recreation. We also have Lahaina Harbor Master, Hal Silva, here as well. So we do have resources available should any of the Commission Members have any questions. So we'll take you to the next slide.

Just a little bit of background about this project. It's called "The Lahaina Small Boat Harbor Marginal Pier and Utility Improvements Project." What it is is a repair and maintenance project, and I'll show you some photographs in a minute to show you why this project is needed. It is an application of the State DLNR, Department of Land and Natural Resources. It's at the Lahaina Small Boat Harbor. It's within the urban and conservation districts. What's pertinent to the Commission, it is -- is that the Lahaina Small Boat Harbor does fall within the Lahaina Historic Landmark District as well as the -- a part of it within Historic District No. 1. Portions also are affected by the County's Special Management Area. So we'll go to the next slide.

Here is just an area location map and just a delineation of some of things that I talked about. This dark bolded line here represent the boundaries of the Lahaina National Historic Landmark, and here is the small boat harbor. You can see in this light shaded area are the boundaries of Historic District No. 1 and a portion of Historic District No. 1 actually fall or is overlaid onto the small boat harbor or boundaries. So we'll go to the next slide.

Here's an aerial view of the harbor. I think all of you are familiar with it. Pioneer Inn here. Kamehameha III School here. The project involves what is referred to as a marginal pier and that marginal pier starts from here, goes along the inner breakwater, all the way down to here. And I think, technically, it's referred to as marginal because there is a space of water between the breakwater and the -- the dock, the decking itself, so it's a type of pier that is being repaired. We'll go to the next slide.

This is a view of the current marginal pier facility. This is looking towards Kaanapali side. And as you can see, the condition of the pier is quite bad, actually. These poles are braced -- these are light standard light posts. You can see the lamps at the top. But these are bracing that were added because there was some sag in the decking area itself. This is existing wood decking. It's probably nearly 40 years old now. We also have here these railings. These are galvanized pipe railings. And, you know, there utility services. You can see the -- the water hoses along here. There is a water connection at each of the berths so -- or between berths. So this is how the current marginal pier looks like. We'll go to the next slide.

This is a photo taken from the north, looking towards Launiupoko. This is an access ramp. This is existing. Again, here's the marginal pier going this way. We'll go to the next slide.

This is just a photo that we have included to show some representation of the condition of the pier. These are the existing galvanized piping. It's rusted. I think somewhat questionable in terms of sturdiness in some areas. Again, you can see the planks, the wooden planks, these photos really don't show it very well, but some of them are in fairly bad condition. We'll go to the next slide.

This is just a recap of some of things I spoke about earlier. The project includes the replacement of the existing marginal pier, along here - from here, along the inner-breakwater, to roughly here. So there's no new berthing areas being considered. It's strictly a replacement of existing -- existing pier structure. There is also a part of the -- as part of the project new ADA accessible parking stalls and a concrete walkway, which leads to the first three berths, which are ADA accessible. This line here represents the boundary of Historic District No. 1 as well as the Special Management Area boundary so there is going to be a need for a Special Management Area Assessment that will be submitted to the Planning Department as well as a Historic District application. By the way, these applications have not been filed with the Department at this point. We are -- we did wanna come before the CRC to make sure that the CRC was aware what kinds of materials will be used before we proceeded with the permitting phase of work. We'll go to the next slide.

So what we'd like to do is review with the CRC some of the design elements of the new marginal pier, the replacement marginal pier. The decking right now is a wood decking. The replacement decking will be fiberglass decking and this is what the decking material will look like. It can come in different colors. It's fairly rough. It provides for a nonslip surface. But again, this would be the decking material to replace the wood. This type of material is quite durable and it has an expected life cycle far in excess of what wood might be able to provide.

The other item that would be part of the pier, and I'll have photo examples later, is the real decking - I'm sorry, the real piping. The -- you saw the rusted nature of the galvanized piping that we have right now. This is the aluminum piping that would be used to replace it, it's marine grade, so it's, again, it's going to be quite durable; fairly long life cycle quality.

I also wanted to show one other item. This will be the fascia, which we would place along the decking, and you'll see in a minute where this would go. But, basically, it's a plastic composition with a wood type of finish so as to create a more natural kinda visual effect. However, it is much more durable than, again, a wood fascia type material. And finally, we'll have pedestal lighting, which will replace the lamps that you saw in the first photo, and we will see an example of that in a minute. So we'll go to the next slide.

Again, just a recap. What we're doing here is, in addition to the parking and concrete walkway, we'll have the new -- new decking in here. Okay, next slide.

This is just an example of what the decking looks like, this is totally out of context of course, but what we wanted to show was what the decking looks like when compared to the wood decking that we have today. It would roughly six feet in width versus what we have today, about four feet, a little wider to provide for a little bit better accessibility; some added space for utilities. As you saw the, in the first photo, it was fairly narrow. The hose pipes hanging on the side, you know, some -- some degree of tripping hazards, so I think with added width and perhaps a smoother surface, this is really an overall safety improvement. And, in fact, the objective of this project is really to eliminate the safety hazards that the harbor users face right now. So we'll go to the next slide.

This is just another view of the -- the decking but this is the galvanized piping that I referred to. This is the location where the -- this material would be used. So if you were looking from the land side towards the breakwater, rather than this wood beam structure, you'd be looking at something like this. It would be very representative; still conveying a wood type of feel. Again, this photo is to show what the railing would look like, again, out of context, you know, but more to show what the railing material's going to be looking like. Although it shows it somewhat reflective here, over time, it does going to get into a more natural type of I guess visual feel. Again, we just wanted to give you some example of what some of these different materials are going to look like. And the reason we -- we come to you for input is because these materials are not reflected in the Architectural Style Book for Lahaina so we -- before we actually move forward with the permitting phase, we really felt it important to come to the CRC. Okay, next slide.

And finally, this is the pedestal lighting and, if you recall the first slide, we had those light standards with the lamps on top. This would be more pedestrian oriented; consolidates a number of things. You'd have the shielded lighting here, kinda low-level shielded lighting. We have the hose bibs here for the water. Electrical panel for inlets right here. Right now, a lot of the -- the outlets are kind of in an unsafe location. You know, again, just from a condition standpoint, it needs to be improved. So these would be placed between berths just so that, again, we have better infrastructure service to all of the users.

Mr. Fredericksen: Excuse me, Mike?

Mr. Munekiyo: Yes?

Mr. Fredericksen: How tall is that pedestal lighting about?

Mr. Munekiyo: I understand it's about this high, yeah.

Mr. Fredericksen: Three, four feet?

Mr. Munekiyo: About four feet high. I think that's it. That's our last slide.

Mr. Fredericksen: And the lighting -- so there's no lighting going up, going skyward, basically?

Mr. Munekiyo: Right.

Mr. Fredericksen: It's directed down towards the walkway?

Mr. Munekiyo: That's correct. Can we go back to that slide, Colleen? Just -- right, so the light actually come out from under this shield here, and again, it's pedestrian oriented moreso.

Mr. Fredericksen: What's it made out of? Aluminum? Stainless?

Mr. Munekiyo: Yeah. Maybe I'll ask Myles Nakamura. You want -- Myles?

Mr. Fredericksen: Could you come up, please, and state your name, please.

Mr. Myles Nakamura: My name is Myles Nakamura. I'm an engineer with Boating. We've used these type of -- we're not guaranteed that this is exactly what we'll get but this is what we're asking for. Usually they're made out of either stainless steel or a marine grade --

Mr. Fredericksen: Galvanized aluminum.

Mr. Nakamura: Yeah. Right.

Mr. Fredericksen: Thank you. Any other questions?

Mr. Hutaff: The existing lights that are there now - do they work?

Mr. Fredericksen: Some of them.

Mr. Hutaff: Do they work? Those are kinda nice lights. They kinda fit Lahaina. Would you consider replacing those instead of -- I mean and still have this? Obviously, this is much needed. But would you consider still having that lighting cause when you go down to the harbor and you look out, you see those lights on the harbor at night? It kinda adds to where you're at. Taking them away -- because it's the only thing you're really going to see from the Plantation Inn or even from the -- yeah, or Pioneer Inn rather, or even from the walkways cause the only thing you really see is the lights and the boats, and that's kind of a nice outlook. I mean it's just a personal observation. Yeah, aesthetics.

Mr. Eric Yuasa: Hello. My name is Eric Yuasa. I'm a boating engineer, Division of Boating and Ocean Recreation. We would be happy to consider keeping or duplicating some of

those lights that are out there now. But one thing that we need to keep in mind too is there's a lot of concern over what they call "light pollution."

Mr. Fredericksen: Yeah.

Mr. Yuasa: Where it is said that sometimes the light disorient sea birds and turtles and we would have to check with our Federal partners: U.S. Fish and Wildlife, and National Marine Fishery Services if this type of lighting is still permitted.

Mr. Hutaff: It was just a comment on the visuals but, yeah, I'd save the turtles and scrap the lights.

Ms. Watanabe: Yeah.

Mr. Yuasa: Thank you.

Ms. Marquez: I commend all of you for coming to this body and presenting your mana`o.

Mr. Fredericksen: Yeah, before. Right. Before everything is been ...(inaudible)...

Ms. Marquez: Right. You know, I mean that's what I'm saying. I commend you all for coming to this Commission prior to getting permits, and we thank you for doing so and following the protocols. Mahalo.

Ms. Watanabe: I have a question.

Mr. Fredericksen: Okay. Nani.

Ms. Watanabe: Are they -- is visitors actually going for activities - are they using this to go to the -- access the boats? I mean is the public going to, you know, like -- oh, the harbor guy. Okay. Harbor guy.

Mr. Hal Silva: Good afternoon, everybody. Hal Silva. I'm the Harbor Master.

Ms. Watanabe: Okay.

Mr. Silva: Yes, Nani. We do have a lot of --

Ms. Watanabe: Traffic.

Mr. Silva: Traffic there. We have -- we did some -- we ran some numbers today and this marginal wharf replacement project includes a total of 53 berths. About 9 of those 53

berths are commercial. A majority of those berths are all recreational. So, you know, we do have a combination of, sure, some tourists are going to be walking out there to boats; majority of the people that are going to be on that dock are people who own the boats or work on those boats. Also, the general public. There's a lot of people that would prefer walking on the marginal wharf, maybe not now in its condition, rather than walking on the breakwater. The breakwater is very uneven. It's very difficult to walk on. If you wanna take a look at our plans, along the marginal wharf, there are currently two access ramps to the breakwater. We've decided to keep those there. So, you know, let's somebody's walking on the breakwater, ooh, I'm having a hard time; walk down one of those access ramps and, you know, take a walk on our fancy fiberglass decking. I wanna make a comment. I really like that snake story. That was really cool. Snakes. Snakes in the Boating Division. No snakes here. Our design consultant from Mitsunaga and Associates contacted me about a couple -- last month sometime, and he wanted me to verify the placement of the cleats on the pier or the dock, whatever you wanna call it, and what I had to do was I had to go out there and measure every cleat and record its distance. Well, I'm the carpenter that measures once and cuts three times. So, anyway, the consultant came down the other week because he had some questions on the -- the measurements. I was pretty close. The reason I mention this is, you know, there's always this concern of: Ooh, these guys are going to change something. They're going to do something different. They're going to bring more boats in. Well, as Erik knows, you know, being a boater, cleat placement is really important because we don't have piers dividing the slips. The cleat is the boater's boundary line or their stake or whatnot. We're looking at language that we're gonna be putting in the final contract that will require the contractor to follow our measurements but measure one more time cause when they replace the section of dock, that cleat has to go exactly in the same position. So we're -- we're not doing anything different. We're making things better but putting things back exactly the way they are.

Ms. Watanabe: I was -- I was just asking that because I work with persons with disabilities and I like to see things more in compliance and ADA compliance and -- and I know for many people on wheelchair, not only wheelchair but, you know, because of the elders --

Mr. Silva: Sure.

Ms. Watanabe: I mean I think it's the safety. I mean, yeah, I mean it's the safety of the people and definitely it needs repairing.

Mr. Silva: We're required by the government, the Federal Government, to incorporate a percentage of -- of these numbers of berths, so the total numbers of berths, to be ADA accessible. And if you wanna later come up and take a look, we can show you the details from the -- the ADA, the new ADA parking stall, the access ramp, and the berths, in particular, that are going to be ADA accessible to specification. But again, we're increasing

the width by about a couple of feet throughout the whole length of the wharf so even people who can get around easily will have more room.

Ms. Watanabe: Great. Thank you.

Mr. Silva: Thank you.

Mr. Fredericksen: Okay, Rhiannon.

Ms. Chandler: I just had one comment and it's not actually for the speakers. Although I do think that the materials that you selected are very attractive and durable, my question is more for the other Commission members that these materials are selected for their longevity but they're not actually in the architectural style guide for the area, so I just wanna be careful that we're potentially setting a precedent that we're going to have to be held to later on. I just want to put that out there.

Mr. Hutaff: Yeah, I think that's a good point and I think we should address it. Personally, looking at what they're going to be doing, I think it's, one, needed, and I think it's, two, appropriate. I think it fits outside of our concern for architectural design because it's -- we don't see it. If you go out there to the harbor, and you sit at the end ...(inaudible)... you're not going to see these improvements as changing the architectural style of Lahaina. You'll see the back of the boats. And I think that for the safety and for the ADA that this is one of those things that doesn't quite fit within our -- within the Lahaina Historical District as far as architectural design and it doesn't have a visual impact. If it stood 50 feet high, we'd have a different conversation because we've had that conversation once before and -- which we didn't want something done. But I think in this particular case, and based upon our time, that this one is probably very much appropriate.

Mr. Alika Romanchak: I would add that I feel -- I would comfortable in allowing the materials, not only that perhaps they're not as visible, but it's a unique enough circumstance than somebody asking for a fiberglass door in their building. They're not building a pier.

Mr. Hutaff: Yeah.

Mr. Romanchak: So --

Mr. Hutaff: This is a different.

Mr. Romanchak: It's a pier, not a --

Mr. Fredericksen: I think our Planner wants to say something.

Mr. Solamillo: I've got a good manufacturer for fiberglass windows and I'll be bringing them in on the next Commission hearing. No. I'm trying to lighten everything up.

Mr. Hutaff: It looks just like wood, huh?

Mr. Solamillo: I think probably there are two ways to go. We have existing guidelines and they're basically for architecture and engineering on land. We haven't been dealing with anything with the harbor yet. If you want to amend for materials on salt water or adjacent to salt water to allow for this, we could.

Mr. Fredericksen: Or, specifically, just for the interior of the harbor.

Mr. Solamillo: Yes.

Mr. Hutaff: Just for this particular --

Mr. Fredericksen: The interior of the harbor.

Mr. Solamillo: Just for this. I wouldn't wanna start the run on --

Mr. Fredericksen: Yeah.

Mr. Solamillo: Vinyl looking like wood, and fiberglass, and this is a rubber nail but it looks real.

Ms. Marquez: So are we saying that today's appropriate materials that's in the guidelines are not fit for this project? I'm not following.

Mr. Solamillo: No. This project currently, under the guidelines, wouldn't be allowed in the Lahaina NHL so --

Ms. Marquez: Okay. However, I think you just said we'll an -- a change to ...(inaudible)...

Mr. Solamillo: We could amend -- we could amend the guidelines to allow for this in this specific use.

Mr. Fredericksen: This one --

Mr. Solamillo: This application.

Mr. Fredericksen: This one specific case within the harbor, inside of the harbor.

Ms. Marquez: Inside.

Mr. Romanchak: Do we need to amend the guidelines or can -- is approving this particular instance to be --

Mr. Solamillo: Right now --

Mr. Romanchak: ...(inaudible)... setting a precedent?

Mr. Solamillo: Right now, I wouldn't do anything until we really research it because this is they're taking your comments. They do not have a final application yet and the time between now and when they have an application, we can find the best way to do it, either by amendment or some other means.

Mr. Fredericksen: Okay.

Mr. Solamillo: I just -- I apologize for being not really smart today. But I think that, you know, everything that we've heard thus far and the materials ...(inaudible)...

Mr. Hutaff: Yeah, I think we can at least say that we're encouraged and that in order to avoid confrontation in the future, we probably should follow the protocols and amend just for this particular thing and say yes.

Mr. Fredericksen: Yeah. Yeah. Just to one incident because -- because I agree with what Rhiannon said earlier and then what Alika just kind of alluded to as well. I mean this is one -- this one specific incident period so there's no, hey, why can't we do this down the road about something else in an inappropriate area.

Mr. Solamillo: Cause they could have come in with those plastic planks that they use at Kaanapali, right?

Ms. Marquez: He's just being facetious.

Mr. Munekiyo: So, Mr. Chair, members, I just wanna make sure that, you know, we'd like to proceed with the application, we'd like to proceed with these materials, and hope that the CRC might be able to support us moving in this direction.

Mr. Hutaff: I think we can say, honestly, that we support it but we also have to address the concerns about the rest of Lahaina, and so we'll need to do that first before we could put our stamp of approval, but I think, intelligently, right now, that we support what you're trying to do. Now let's just make it right. Is that good enough for now?

Mr. Munekiyo: Yes, from a processing standpoint, would the Commission have any objections to us proceeding with the filing of the Historic District Application?

Mr. Fredericksen: Okay, let's see, I'm going to put our attorney on the hot seat for a minute just so we can get some legal input in here because given the nature of this particular project, you know, personally, I think it's fine to make an exception, but we are concerned about, you know, inadvertently setting precedence so, James?

Mr. Hutaff: The bad guy.

Mr. James Giroux: As it's agendaed, you're being requested to review and comment on the proposed repairs and maintenance. So as far as, you know, your final -- I mean it's not something that, as far as it's agendaed, you're not looking at it as a final permit, per se, and I think that would distinguish that. I think I guess a comment is is that you acknowledged that it doesn't conform to your guidelines, however, you know, and then dot, dot, dot. That's part of your comment and they can take that into consideration. I mean if there is alternative materials that are just as good, that would give them a chance to look at it. But if there's not and this is the best, you know, as far as for health, safety, and, you know, longevity, and etcetera, then I guess that'll be part of their evaluation of how to proceed. So I think that's what they're trying to do is get comments from you as, yeah, how strenuous do you want to -- want this project to conform to your -- your guidelines because you really do not have final permitting authority over it.

Mr. Fredericksen: Well, as I understand it, I mean do the guidelines -- I don't -- do they apply to the -- the inside of the harbor as it is now? Stan?

Ms. Watanabe: I don't have the answer.

Mr. Solamillo: I don't have the answer. I mean, look, we've got buildings that extend way over, you know, past the seawall --

Mr. Fredericksen: Right.

Mr. Solamillo: Right? They're on posts and they're out in the ocean and they're the equivalent, if we probably measured the distance, well maybe not, they're set in and they don't go as far, but I mean the issues of everything that goes from lighting, to the comfort stations at this, you know, Lahaina, you know, the pier, I mean -- or the harbor, everything has come in to this Commission and it all falls, essentially, under the design guidelines.

Mr. Fredericksen: Okay.

Mr. Solamillo: So I mean if we're going to do, and I'll compliment Commissioner Chandler, you know, that if we're going to do anything, that we have to keep in mind that it does deviate from the design guidelines. So the best way that the Department has to deal with it right now is see what is the best way to deal with it. If you're going to do it an amendment, amend the entire guidelines or do it as an exception, as has been suggested, in order to allow it to happen in this specific case only because, otherwise, it could be that next tidal wave of additions to Lahaina.

Mr. Fredericksen: What -- I'm just trying to think how, because they're kind of, at this point, it's the chicken and the egg cause they haven't submitted their permit and they have to submit it based on something using materials and, in this case, potentially are not within -- they do not fall within the design guidelines handbook.

Mr. Solamillo: The Commission could probably recommend that if the Commission finds no fault with the materials as they've been presented, that they could instruct staff to find a way to, you know, process this permit to allow for those materials. I'm sure someone can word it better than I can as a motion.

Mr. Munekiyo: Mr. Chairman and Commissioners, if it's appropriate, what we can suggest is this: We can, as part of our SMA Assessment and Historic District Application request approval of these materials and include in that application a justification for the unique circumstances that these particular materials will be used; in other words, so that when the CRC does get the application, it'll be specific to this particular case with specific justification, which we believe won't be applicable beyond the harbor limits, and so we can, that way, proceed with filing of the application but provide the Commission with some solid information as to why it is we have a unique set of circumstances here.

Mr. Hutaff: It'll be helpful.

Mr. Fredericksen: Thanks, Mike. Stan, can you come back up? Okay, how does that sound in terms of -- of the Planning process being able to make sure that this is a one, you know, if this, you know, if the Commission says, yeah, that this is fine. It's a one case scenario. There's not going to be something else that challenges that sort of thing.

Mr. Solamillo: Actually, we'll do a harbor map and it will show where this material will be used --

Mr. Fredericksen: Okay.

Mr. Solamillo: As part of this because I don't even dare, the more I think about it, I don't dare --

Mr. Fredericksen: No, I know I just --

Mr. Solamillo: It's like we've got so many infractions right now within the district that we have to deal with in the coming months just dealing with vinyl windows and so I think the best way is we'll have it very nailed down. Okay.

Mr. Fredericksen: Alika?

Mr. Romanchak: I do have one more question for Mr. Munekiyo, and that is if you could give us some idea of the difference in life expectancy between using a I guess it would have to be a wood system under what's allowed now for the materials and the system that you propose, and also if there's any precedent of a pier replacement using wood in the last, you know, 10 or 15, 20 years and what sort of a life they've gotten out of doing a wood -- a replacement with wood pier.

Mr. Munekiyo: We can provide that response right now.

Mr. Romanchak: Okay.

Mr. Nakamura: Myles Nakamura. For the wood systems, it's normally considered actually a temporary structure. And in the marine environment, we could probably expect it to last about 10 years before we need any major renovation and repair. For this type of system, the designers shoot for 30 years but it will probably last 50, so we wouldn't have to expend any maintenance and repair funding for the next 30 years, and I'll be dead, so Hal won't be able to go after me, so, yeah, about 5 times, I would imagine, for useful service length before major renovations.

Mr. Romanchak: Is there a precedent in the State of doing replacement with wood?

Mr. Nakamura: As far as piers?

Mr. Romanchak: Yeah, in a similar scenario for a marginal pier that's actually, you know, in the water.

Mr. Nakamura: The last major pier replacement that was done with wood, I think, Eric did when you were a trainee, yeah?

Mr. Yuasa: Hello. I'm Eric Yuasa. As Myles said, the last wood pier that we actually did for Boating and Ocean Recreation was at Keehi in Honolulu, Hawaii. We did a pier out of wood and the problem with wood now is that they don't have the big timbers that they used to have. It's very difficult to get a 4-by-12 or 4-by-14 that's anymore than 20 feet long. So a lot of our spans we have to span anywhere from 30 to 40 feet so the only available wood

option is Glulam and we're still not real comfortable using Glulam in the marine environment because we feel that it may delaminate over time. So we believe that the new piers that we put, aluminum, because of its higher strength and because of its easy to work workability, aluminum frame seem to be a good replacement for wood -- wood type systems. Thank you.

Mr. Fredericksen: Stan?

Mr. Solamillo: I think I might have a way out of this dilemma.

Mr. Fredericksen: Okay.

Mr. Solamillo: This is a Federal District. Why don't we take the samples of the materials and send them to the National Park Service cause this is a Federal District, right, the NHL? They become the ultimate jurisdiction here that way we don't have to mess with our design guidelines and it's a one-time application. Yeah, we'll deal with that but the -- I mean we gotta deal with the issue of its being in the NHL, will the National Park Service in Oakland accept this material and the planned application.

Mr. Fredericksen: Given the circumstances.

Mr. Solamillo: Given the circumstances. And if NPS signs off on it, then we'll -- then we'll roll on. I can give you the contact person. It would be Elaine Rotundo Jackson in Oakland, California.

Mr. Fredericksen: Okay.

Mr. Solamillo: And that way, because it is the Federal District, they have the ultimate decision making.

Mr. Fredericksen: Yeah, Veronica?

Ms. Marquez: Just to add to that. So the -- you're State people? The State's bottom line is more so repairing or replacing with materials that will last beyond your death? I mean way beyond? I'm getting your bottom line and I'm trying to relate it our purpose as the Cultural Resources Commission so there is a happy-medium. What he has suggested is quite doable. I'm just saying, from what I've gathered from your mana`o, of course, you know, logic comes into play, money comes into play, you're State personnel, so are you more so looking towards a long-term solution as opposed to preserving the historical mana`o? Anybody.

Mr. Nakamura: I guess I should explain what I was trying to say is that if you have a structure that you need that is made out of wood, it'll deteriorate and, you know, because of safety concerns, it -- it is not something that we would want to have happen because if you look at the structure that's there now, eventually it'll be beyond repairing so it becomes a safety problem, like the structure that's there now. So if we put this type of facility in, it'll be guaranteed for at least 30 years and I think it does save money. I mean in terms of initial expenditure, this would probably cost way more than a wood system, a lot more, but because we want to have something that's there and doesn't look really bad, like it does now and become unsafe, this is why we chose this for engineering.

Mr. Yuasa: I think what we did was we took a look at the materials that would last longer and require less maintenance, but we also were concerned about how it would look, especially because it's in a Historic District. And I was the project engineer that worked on the Lahaina Comfort Station and I know we went to this Cultural Resources Commission many, many times to get the look correct, and I think our consultants did a pretty good job on it, and it does blend into the environment, so we are concerned about how it's going to look because this fiberglass decking that you see in the brown color, actually it comes in yellow. The color that this fiberglass decking is typically manufactured in is yellow, it's by Strongwell, and we've used it in other facilities and it's probably the best grading that's available right now but because it's in the Historic District, we did talk to them and they did say that they could make it specially in this brown color, and the brown color was actually used in a project in San Francisco where they were concerned about how it would look and how it would blend into the environment. And as for this -- these plastic wood, I mean they come in all different colors - you can get anywhere from black, to white, to gray - but we felt that this brown color would match the natural wood color the best.

Mr. Hutaff: I like the purple.

Mr. Yuasa: So we are definitely concerned that this project is in a sensitive area.

Ms. Marquez: And to add to that, and correct me if I'm wrong cause I'm wrong quite a bit, you know, we want the integrity of the outside -- well, I don't know if there's a outside/inside in this project, you know, because this came up before, it's like we want to make it look like -- help me understand what I'm saying.

Mr. Fredericksen: We're -- well, what my concern is with this project, okay, this is within the harbor, it's not visible very much at all, I would be very uncomfortable not having the wording such so it went to the outside of the harbor because we had another project that came through that was not appropriate given the national -- you know, given the Lahaina National Landmark status.

Ms. Marquez: So you're saying not visible to whom?

Mr. Fredericksen: When you're looking at the harbor, it's really not visible.

Ms. Watanabe: You know, you can't see it because all the boats ...(inaudible)... well, so when -- oh, do you take the boat? Cause when you come in --

Mr. Fredericksen: Yeah, the breakwater is blocking.

Ms. Watanabe: But you see the ramp though.

Mr. Fredericksen: Yeah. Anyway, yeah, I'm kinda conflicted because there's the maintenance thing but there's also the materials thing. If we do go with the maintenance side of it in this one particular instance, it's an issue, you know, to me, it's very important that it's very case specific. And I think given where this is, Stan's recommendation to send the materials to the Park Service is the appropriate way to go.

Mr. Romanchak: I think we just need to be very careful. I think it's a great idea if you could, in your application, explain why this is a unique situation and I don't think maintenance should really be the thing because anybody along that waterfront can claim maintenance.

Mr. Fredericksen: And they'll say maintenance, yeah.

Mr. Romanchak: So it's gotta be that it's, you know, a pier that's sitting in the water that nobody else can claim.

Mr. Hutaff: Yeah, and it doesn't have a visual impact.

Mr. Munekiyo: And Mr. Chair and Commissioners, if it is that this Commission can provide comments to the extent that it -- well, offers some guidance to the Park Service people. I'm kinda concerned that the Park's folks in Oakland might ask -- come back and ask the CRC, and timing is somewhat of an issue here --

Mr. Hutaff: I think you can use our minutes.

Mr. Munekiyo: Okay.

Mr. Fredericksen: Any thoughts on that, Stan?

Mr. Solamillo: I mean we can send them kind of a verbatim minutes from what we have.

Mr. Hutaff: Yeah.

Mr. Solamillo: What's your filing time? When do you intend to file the application?

Mr. Munekiyo: We were hoping to file it after this meeting.

Mr. Solamillo: After this meeting? What I need to do -- I can give you the address and the contact information for this person. You can pack up the samples and then send it, and her turn around is usually 30 days. I'll send an email to her that says it's timely.

Mr. Fredericksen: Okay, we don't need -- yes, Veronica?

Ms. Marquez: Confusion. If I read this right, we are to make comment and provide recommends, so we're not really hear to approve any mana`o --

Mr. Fredericksen: No, it's advisory.

Ms. Marquez: Cause you need to go and get your permit, right?

Mr. Fredericksen: It's advisory.

Ms. Marquez: So where are we? I mean what are they asking in relationship to what we're supposed to be -- our responsibility?

Mr. Giroux: I'll try to take a stab at this.

Ms. Marquez: I'm sorry but --

Mr. Fredericksen: No, don't be sorry.

Mr. Giroux: What's going on, I believe, is that this is almost like a pre-consultation meeting. It's a type of meeting that we usually discourage because you are going to see a real permit where you guys are going to have to actually make a decision. But I think what's come to light is that we have definitely a Planning issue here. This is -- we have materials that are clearly not within the guidelines and we a project which is clearly unique. So what they're, I guess, you know, probing at is is this board going to be okay with that, which is kinda putting you in a weird place because you're, you know, you are supposed to be enforcing the guidelines. Anyway, and so it creates a Planning problem, not a CRC problem, because your job is going to be able -- you are going to have to see this permit under its totality, you haven't, you've only seen a portion of the project, and, you know, it's really not fair for you guys to have to actually make a decision and then be held to it in the future because the burden of proof and production on a permit that you do have final authority is on the applicant, and I guess what they're trying to see from your comments is how much, you know, how much pre-work or work or rework they're going to have to do on

their project in order to get it to conform to the guidelines or what's going to be the advice of the Planning Department in a situation like this. We need to see a recommendation, you know. I mean that's what we need. So, anyway, that's my take on it. It's not that we haven't seen this happen before, but being that I'm advising the Commission and not the Department, I really don't see it as -- I mean I don't see it as a Commission problem. I see it as a Planning problem so --

Mr. Hutaff: Let's don't discourage them from coming here first though.

Mr. Giroux: Right.

Mr. Hutaff: Please. Thank you so much.

Mr. Giroux: Yeah, but the problem is is that there is a permit out there that you're going to have to have final authority on and I don't like situations where people are given an opportunity to make prejudgments without full and fair information because it prejudices both parties - the applicant and this Commission. And that's what I don't like. So that's my mana`o on this. So I see where the applicant is between a rock and a hard place.

Ms. Watanabe: Yeah.

Mr. Giroux: But that doesn't make it a CRC problem. Again, it's supposed to be the professionals out there who are supposed to foresee these types of problems and offer solutions, not to throw it on the laps of lay people and for us to decide whether or not we're going to follow our guidelines or not. In zoning, these types of situations are also given up to variances, okay, and so that's -- that's the pickle.

Ms. Marquez: So on that note, with that information, what is our next step now? No, really. I'm asking crucial questions because I wanna walk out that door knowing that we've done something. What is our next step now?

Mr. Fredericksen: That material -- those -- that material needs to be sent off --

Ms. Marquez: Like Stan said?

Mr. Fredericksen: Yeah, and see what -- what --

Ms. Marquez: Okay.

Mr. Fredericksen: What -- cause we don't wanna do something that's going to, you know, compromise the Federal side of things.

Ms. Marquez: Okay.

Mr. Fredericksen: And see what they say.

Ms. Marquez: So that's our next step. And then we stop at that?

Mr. Fredericksen: Is that --

Mr. Giroux: Yeah, I wouldn't want you guys to be making a -- a motion that would bind you to a future action without having seen the full project so that's my advice.

Ms. Marquez: Thank you.

Mr. Fredericksen: Stan?

Mr. Solamillo: So we need a motion.

Mr. Hutaff: No.

Mr. Solamillo: Or no motion.

Mr. Hutaff: The motion is to adjourn.

Mr. Solamillo: We have two other items on the agenda.

Mr. Romanchak: Mr. Chair, I need to excuse myself. I have a prior commitment.

Mr. Fredericksen: Okay, yeah, you did speak to me about that. Thanks, Alika, and thanks for staying late. I know you stayed longer than you said you could. I appreciate it.

Mr. Solamillo: Thank you.

Mr. Fredericksen: See you next month.

Mr. Romanchak: Thank you.

*(Commissioner Romanchak was excused from the meeting at 2:30 p.m.)*

Ms. Marquez: Question. Does he need a motion to send those materials over? Do we need a motion?

Mr. Fredericksen: Yeah, we could do that.

Mr. Giroux: We could do that if we can get -- we have the majority vote. I mean it basically would be a motion to defer with the direction that there be --

Mr. Fredericksen: The samples be sent.

Mr. Giroux: That there is an acknowledgment that these products do not meet the design guidelines.

Mr. Solamillo: Correct.

Mr. Giroux: I think that's the only analysis, at this point. I'm just gleaming this from the conversation. But I think that would be an appropriate motion if it would carry; otherwise, there's just no action and the comments made on the record are the comments that have been made on the record.

Mr. Fredericksen: Anybody wanna make a motion? Take a stab at it?

Ms. Marquez: And even if we made the motion, do we have a quorum to vote on it?

Mr. Fredericksen: ...(inaudible)...

Mr. Hutaff: It has to be a -- what I'm understanding what the motion's going to be that we defer this till the final permit?

Mr. Fredericksen: No, that the --

Mr. Hutaff: Or that we defer this --

Mr. Fredericksen: To begin with that the applicant send those materials, which are not conforming, to the Park Service, to the address that Stan had --

Mr. Solamillo: Will provide.

Mr. Hutaff: But that's a recommendation. But what's the motion?

Mr. Solamillo: The motion to recommend.

Mr. Hutaff: Motion to recommend that they send it for their input.

Mr. Giroux: Ray, just say "so moved."

Mr. Hutaff: So moved. Thank you.

Mr. Fredericksen: Okay, one question or two or --

Ms. Marquez: I thought the motion was to defer something with sending this material out?

Mr. Fredericksen: We need more information to begin with.

Ms. Marquez: Okay so -- so how do you word it?

Mr. Fredericksen: I can't. I'm the Chair.

Ms. Marquez: You can't? Somebody has to. I mean, no offense. I just wanna make it so clear that what are we moving?

Mr. Fredericksen: What we need to do, as a Commission, is to -- we need to have some more information because this is in the Federal, you know, it's a Federal National Historic Landmark.

Ms. Marquez: Right.

Mr. Fredericksen: That material needs to be sent off and then we need -- cause, at this point, we don't know -- we need to have that input.

Ms. Marquez: So what are we deferring? That's my question.

Mr. Solamillo: Okay --

Ms. Marquez: What are we deferring?

Mr. Fredericksen: Anything else with the project until we get more information.

Mr. Giroux: Yeah, and any decision.

Mr Fredericksen: Yeah.

Mr. Giroux: Because you're -- they're going to have a choice of like they can either come back and do another pre -- pre-pre, or they can just come back with their permit and let us know that they did send it off and they have that information --

Mr. Fredericksen: And what was the response, yeah.

Mr. Giroux: Or what the response or outcome of that.

Ms. Marquez: So we're really deferring anymore comments at this point. We're not deferring any decision cause today is not to make a decision.

Mr. Solamillo: There's no action.

Mr. Fredericksen: No decision.

Mr. Giroux: Yeah.

Ms. Marquez: Okay. I got it.

Mr. Hutaff: Then second it.

Ms. Marquez: I didn't move it.

Mr. Hutaff: I moved it. You second it.

Ms. Marquez: Second.

Mr. Fredericksen: Okay. Well, this was an interesting one. Now -- we do the best we can.

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

***It has been moved by Mr. Hutaff, seconded by Ms. Marquez, then unanimously***

***VOTED: that the applicant send those materials, which are not conforming, to the Park Service, to the address that Planner Stanley Solamillo will provide.***

Mr. Fredericksen: Okay, so we -- what is it - by majority? Okay, they're going to need to send the -- this material off to the address that Stan will provide and then when they get that information, they can come back, if they wanna have the permit with them or the permit application, and then at that point, we'll

Ms. Marquez: Give us a better --

Mr. Fredericksen: Yeah. It's the materials ...(inaudible)...

Mr. Yuasa: Thank you, Chair and CRC.

Mr. Fredericksen: Yeah, and thank you, folks, and, you know, it's -- this is kind of one of those difficult grey area ones and -- but that's the way that we can figure out how to deal with it.

Mr. Hutaff: But thank you so much for coming to us first --

Ms. Watanabe: Yeah.

Mr. Fredericksen: Yeah, and thanks. It's a very unique situation.

Mr. Hutaff: Yeah, and you guys are doing an excellent job. We appreciate it.

Mr. Fredericksen: Okay, let's see, Item D, Investigative Committees. I don't know if --

*Mr. Solamillo read the following item description into the record:*

**D. INVESTIGATIVE COMMITTEES**

- a. **Discussion regarding the designation of an Investigative Committee to develop a general policy for new development on lands identified as "Burial Grounds" and other "Traditional Cultural Properties," for the purposes of proposing amendments to the Maui County Code. The CRC may act in designating an investigative committee. Public testimony will be accepted. (S. Solamillo)**

Mr. Solamillo: And, Corp. Counsel, do you have --

Mr. Fredericksen: Okay --

Mr. Solamillo: I've got one question to Corp. Counsel, which is the number of members that need to be on this committee?

Mr. Giroux: The Sunshine Law says that it's gotta be less than quorum and so you're -- this body has seven? Or nine? What's the max?

Mr. Fredericksen: It's supposed to have nine.

Mr. Giroux: It's supposed to have nine, so it's gotta have less than five to be in compliance with the law. So quorum would be five so you have to have less than quorum to establish an investigative committee, so four would be the maximum amount of members.

Mr. Fredericksen: Okay. One of our Commission members, Rhiannon's gotta leave, so we're --

Mr. Solamillo: So we're going to lose quorum now?

Ms. Chandler: No, I can stay until 3.

Mr. Fredericksen: You can?

Mr. Solamillo: Stay till 3?

Mr. Fredericksen: Okay.

Mr. Solamillo: Okay. We'll roll through it fast.

Mr. Fredericksen: Thank you.

Mr. Solamillo: Okay, I've got something really short and simple here.

Mr. Fredericksen: Okay, thanks, Stan.

Mr. Solamillo: The next one's a little more lengthy but I'll roll through that really fast. This, as you remember, came out of an -- not an applicant, but a citizen who came to this Commission last year at the same time that one of the later phases of Maui Lani came in, and I had been to my first Burial Council meeting in 2001 as a visitor from the Mainland and I was shocked. And I should apologize to Hinano but I haven't been back to one yet even though I get announcements for them. There is either conflicts in schedules and there's, on my part, a really -- a reticence to go there because, to me, they're very difficult issues to deal with.

The problem that I had been seeing, and I think Hinano can address this better than I can because he's in the thick of it, is that probably we've had development that really ramped up, you know, in the last 20 years, but a lot of what we're going to be dealing with is stuff that goes back to Statehood and the way that -- that land uses were established and it was maximize your profit and drop a hotel in anywhere, and there's been conflicts on Maui. There's another case that's going to be coming to you soon that involves yet another -- another burial ground and it just -- it just seems to me that at some point in time, because now with the population shift that has occurred since the census in 2000 where everyone,

even to use the “p” word, the plantation family word, even if you’re part of those immigrant populations that came here from somewhere else to work, you are now officially a minority as of 2000 given our basic population in Maui County. That means that Filipino graveyards at Pu`ukoli`i, you know, that had, you know, markers in 2001 and in 2003; in 2008, didn’t have the markers anymore. They somehow had disappeared and everybody’s burial ground is under some kind of stress. We’ve got Pu`upiha, another cemetery that folks living around the site, you know, headstones around. I’ve got Waikapu Cemetery, Japanese, somebody plowing a backhoe through -- through Japanese graves, you know, and this -- this is kind of -- it’s ongoing. It’s happening now. So I guess what was disconcerting is you’ve got large projects; we had known burial grounds; State law says you can, you can’t, you know, they have certain guidelines that they have to operate. I wanted to see if it was possible to develop a general policy on how the Planning Department deals with applications for development that come into burial grounds or are adjacent to burial grounds or, you know, right on top of it. And then the other thing that trickles into other sensitive areas, such as ceremonial sites and sacred sites, but also something that is disappearing or under threat of disappearing, which is the cultural landscape. Every time we get, you know, ag subdivisions that are rolling up into a valley, you know, I mean on West Maui they’re taking over the entire, you know, west side, but every time you have that, you’re impacting living culture and you’re impacting aspects, such as medicinal plants, and all sorts of other things that are important to continuing life ways of native Hawaiians and there’s very little -- little thought, currently, and no process to deal with that.

So just a few things. This has a longer history than I, you know, I don’t know much about this site because I’ve only been dealing with it as a fire issue for the last couple of weeks and it will come to you, but it was part of a much larger graveyard or burial ground that was actually mentioned, Kepa had found in the -- a Hawaiian language newspaper in 1839 that referred to a boat that ran against the point and mentioned “next to the great burial grounds,” right, so that suggested that this thing went way on -- beyond what its current size is and then it was one of Maui County’s executive order parcels so, in this case, it was Executive Order No. 1, and this is adjacent to Mala Wharf, and we had other burial grounds, Japanese and Chinese, not necessarily in that order, that were added adjacent to, and also some Filipino Catholic burials, but this just shows that, you know, and there’s been history at least to the ‘70’s of burials being taken out for capital improvement projects nearby and there’s a proposal for something similar today. So you will be seeing this and this will test your metal again, especially the metal of our Chair.

This is Moloka`i. Does anyone remember the name of the sands?

Ms. Marquez: That’s Papohaku?

Mr. Solamillo: Yes, thank you. Papohaku Dunes, actually. We’ve got this development that is right up to the dunes and it’s a very, very, very sensitive area, and we have lots of

the projects that are happening with ...(inaudible)... subdivisions. I don't know. Go back, in this case, maybe to the '80's. In the case of fishpond development, specifically on Molokai, you know, the subdivision goes back to just around Statehood, the '50's, so that's when the grab for land and taking the Honolulu lead or the stuff that had been on Oahu. The problem is we're, again, we're -- and I'm glad that the Council member mentioned, you know, Hawaiian intelligence because this all ties together; this is the reason why probably I get so amped up about is because it involves food production. Right now you go to our grocery stores, and we're getting this stuff from everywhere else, and we're paying all of this and it's like these were, you know, things that were developed over hundreds, if not thousands, of years to provide food for populations that lived here on the islands, you know. And once you begin to divide adjacent lands, cover springs, grading and grubbing without permits cause there's constant pressure, development pressures on these lands, and we somehow don't have a -- a policy at the County level to say that this cannot happen or should not happen or must not happen - whatever wording that this body chooses to recommend. We've gotta say something. A lot of them are also National Registered or Hawaii Registered sites, which also complicates the problem. But it's just something that impacts whether it's valleys, lands, and the last one, of course, is how we even do site planning, but that'll get touched on in the next presentation. But there's this historical use of lands here which -- which the mono culture completely took out, but there was balance in the whole ahupua`a system that was in place was for the, you know, the use of resources and some balance of "sustainable way," the big buzz word of today, so we can go to Waipio Valley and see that within -- in the lo`i system there, you've got different plants being grown and it's -- it's pretty amazing. I'm actually to the point right now, sometime down the road, that I'm going to suggest that the Hawaiian's use of water, which predated contact, actually became the model that everybody used to move water across the lands even though they did it in metal pipe or they did it in concrete ditches it was still the auwai system that was already in place when they got here. And it is, I think, the denigration of the culture through time that continues to this day and it's the cause of much of our frustration.

This is the recent phenomenon on the north side of our island, which is the flattening off of -- or the flattening off of pu'u or cliffs for house sites. It's a most disconcerting thing but this is the cultural landscape. If you go to certain parts of this island, the road that was cut by Maui County, you know, under -- that was designed by Paul Lo, you know, the Chinese engineer who was working for Maui County, and actually cut that road to Hana from this side, you'll see photographs today, and you can match them up from photographs made at the same time, you know, in 1920, or 1960, or 1904, and they were virtually identical, and that is an intact cultural landscape. We're looking ...(inaudible)... look down at the lo`i, you know, you can see virtually it's intact. Those are places that are extremely special, you know, and we do them from opposite ends of the spectrum whether it's this specialness from being sacred or a place occupied by, you know, indigenous people for a millennium, all the way to we need places like this because of their importance for taro

production and things like that. It's just -- I feel somewhat uncomfortable during the time of the General Plan, which is why we're following the General Plan with the Cultural Resource Management Plan, and then in that plan we're also going to identify policies and objectives and also action items of things that need to be done.

So we begin with the iwi and burial grounds, and then expand into larger things, such as cultural landscapes and traditional cultural properties in this committee, and my question, I guess, who wants -- who wants to get dirty, cause it's not just Maui?

Ms. Marquez: So what would be our investigative committee's connection with the current Burial Councils?

Mr. Solamillo: It's not. We're -- we -- and, Hinano, could you? Hinano probably could explain how the Burial Council works --

Mr. Hutaff: I would hope that whatever --

Mr. Solamillo: In ten words or less.

Mr. Hutaff: Whatever we intend to do that we include the Burial Council.

Mr. Solamillo: Yeah, but it's not that we're sitting in -- I mean the suggestion this morning was that they wanted someone to be on -- on this investigative committee. That's fine. As far as having a link, I don't wanna take it to the point where we're involving applications and things of that nature. This is a policy thing.

Mr. Fredericksen: Right.

Mr. Solamillo: This is to instruct the County Planning Department which, up to this point, has not, I don't think, and I may be wrong, grappled with the issue of traditional cultural properties or burial grounds and that's why we had the Maui Lani thing happen and, you know, hundreds of graves being pulled out for a development. So the policy -- I guess the policy I would be asking this committee to consider is: Is it possible to say that we discourage development? Can we have a policy that says, you know -- I don't wanna lead anybody.

Mr. Giroux: Just because I advise --

Mr. Solamillo: Thank you.

Mr. Giroux: The General Plan, the Planning Commission, you know, different levels, and everybody deals with different decisions, you know, like today, we had to look at materials

and we're like: Are we the final authority? Well, what's our guideline? Well, all of these decisions all have to go back to some type of rational basis, a study, a -- you know, something. And if you look at what role this Commission can play in a larger picture where we're dealing with a General Plan and community plans, and if this body does an investigation, identifies through the professional, you know, status or what we have as our responsibilities to, basically, look at cultural resources and identify them, what the Planning Department can do is take that information, incorporate it into their planning policy document, which as the General Plan or a community plan, like if we're doing Moloka'i, and we're in the community plan process, and this body had identified important cultural lands, let's say whether it's Hawaiian graveyards or historic graveyards or things like that, there can be a designation put into that plan and what has to happen is is that when a development comes through, there's a lot of layers they have to get through, and one of the layers is subdivision, and then the other layer might possibly be a special management area permit. If these lands are designated a certain designation and it's not consistent with the State designation or the County designation, the zoning, then the developer has to stop. They actually have to stop and get conformity. Or they have to get mitigation. If these lands aren't identified, like in Maui Lani, they may, historically, they may -- yeah, County zones it ag but it's sand, you know, if they're not identified anything else, then the developer has consistency - his development proceeds. And then if runs into a bone, he reports it. Whereas, if you don't -- you know, in the land use process, if -- what has to happen is you have to have a designation, something that says, you know, right now all we have is public/quasi-public or open space or -- right now, the General Plan, some of the maps I saw, have what they've called "extremely sensitive areas" and they're usually using that watershed areas, you know, gulches and valleys that run from mountain to the stream that are not running all the time but they do flash, and they're calling those sensitive areas cause you don't want to be bulldozing in that, and that's, I think, the idea is that it's the bulldozer. It's the bulldozer. So you have to be looking at, if you're going to designate it open space, you know, well, that's not going to stop much, you know, because we also have to be looking at our grading laws, Title 18. They don't have anything in there about looking at these issues. The -- you know, our zoning. You know, can we make up a zoning designation called "graveyard" that says the only thing you can do in these areas is further graveyards? You know what I mean? And it's not just unique to burials. I mean we've got problems with dumps. What do we do with our dumps? We wanna do recycling and we can't do it at the dump site because we didn't designate it in our zoning. Yeah, it's a -- you know, we don't have a dump designation. We don't have it. So we do it in ag, which is not acceptable, you know.

Ms. Watanabe: So -- I have a question. So, actually, this one actually try to -- there's more consistency as these are being done cause it looks like when there's development, there's no, you know, there's no monitoring or when something comes up, I think it seems like this would actually be more of a --

Mr. Solamillo: Proactive.

Ms. Watanabe: Exactly.

Mr. Hutaff: Yeah.

Ms. Watanabe: And -- and I guess it says also it says, okay, and then that way because I think sometimes there's always questions like: So who contacts the burial -- how does, you know, the burial committee, or why haven't they been contacted?

Mr. Fredericksen: Well, they, typically, that would happen. I mean, by law, you're required to contact the State Historic Preservation Division and, depending on the -- well, usually, no matter what anyway, the Maui/Lana'i Islands Burial Council as well.

Mr. Hutaff: Oh, yeah, but it comes after the fact.

Mr. Fredericksen: But it -- yeah, and that's what I was just going to say.

Ms. Watanabe: Right. Right.

Mr. Fredericksen: It's an after-the-fact situation, and I mean I've been involved in several projects where we were called in after-the-fact because, basically, the County didn't send the permit to SHPD for review and so there were permits -- permits were granted, and it ended up, one case out in Lahaina side, Hanakao`o, get a human burial with no monitoring or anything, and I mean these cases happen and -- and we had to, you know, fix -- fix the situation, you know, mitigate it, but the way I look at this is it's a -- well, as long as it wouldn't be too cumbersome, the way to try to, maybe at the County level, just have -- just to help insure that there aren't so many permits just given without, you know, allowing SHPD to review them and trying -- it's just a way to try to prevent -- would be one way to try to prevent or, you know, put to lesson anyway the amount of things that fall through the cracks.

Ms. Watanabe: So, in other words, this would actually eliminate after-the-fact?

Mr. Fredericksen: Well, it wouldn't eliminate it, but, hopefully, it would greatly reduce it, but I mean --

Ms. Watanabe: It'll reduce it then.

Mr. Giroux: It bring it to the foresight.

Ms. Watanabe: Okay.

Mr. Hutaff: What I think it would be the outcome that I foresee, and I'm sure it'll change slightly or if not completely, is that we set these guidelines when something comes across the Planning Department, you know, for a permit, they're looking at right now, okay, where do you get the water from? What materials are you using? Are you grading within the permit area? What's the foundation ...(inaudible)...

Ms. Watanabe: Right.

Mr. Hutaff: And that's all their approval and disapproval is, okay.

Ms. Watanabe: That's it.

Mr. Hutaff: What we wanna kinda do is try to say, you know, there's -- there's some really severe cultural areas and have these developers investigated that? Is there a heiau on it? Okay, and come to us first and we can get the community's input from people who live in the area, kupuna, before these guys go and put their shovel in the ground because it's what is fair to everyone, you know. You can't go the developer and say, okay, well, you just spent, you know, twenty million dollars on grading this project and all this kind of research and development and stuff like that - go away. Okay. It's just not going to happen, okay. That's the problem we had with Maui Lani is that, you know, we would have rather not see the project there but by the time we got it, everything's already been disturbed.

Ms. Watanabe: Yeah.

Mr. Hutaff: It's after the fact. So to have the Planning Department have this insight, oh, okay, you know what? You need to go through the CRC or you need to go through some of the process before you go and put your shovel in the ground; before you do anything to see if there's anything out there that may become a problem for you in the future so you can go back and re-analyze, reevaluate what you're going to do. In other words, before you spend a million dollars, you might wanna decide to go away. Or if you're going to spend a million dollars, or ten million dollars, or twenty million dollars, you're going to go on to already have a plan to protect some of the cultural sites out there that may not be documented. There's heiau that had been covered over --

Ms. Watanabe: Yeah. True.

Mr. Hutaff: You know, I have a picture grab of over a thousand heiau that was established back in 1810, okay. And you know what? There's probably less than 50 now. From Kihei, to Makena, to Kula, to Kahakuloa - there were so many different places out there and there's only 50 left. And you know what? None of them -- not many of them are actually known so a developer could come in and just go: This is an area with a bunch of rocks. We wanna level it off, flatten it off and make a house over here.

Mr. Fredericksen: Well --

Mr. Hutaff: We wanna to have that prevention process ahead of it.

Mr. Fredericksen: Yeah, and, Ray, for a lot of the heiau have been at lease, you know, they're partly documented and they're at least on a data base.

Mr. Hutaff: Right.

Mr. Fredericksen: But I think where the problem arises is when there are permits given out without any SH -- State Historic Preservation Division input.

Mr. Hutaff: There's nobody's input really.

Mr. Fredericksen: Yeah.

Mr. Hutaff: I think that would be my goal is to have that ability to ...(inaudible)...

Mr. Fredericksen: You want to say something, Hinano? Come.

Mr. Giroux: Can I?

Mr. Fredericksen: Oh, yeah, sure.

Mr. Giroux: What I wanted to add to Ray's idea is that the County has like a flood plain program. The Feds gave us a bunch of money; we went out; we spent millions of dollars studying the islands to find out where flash flooding happens. Now when a developer comes in, we show them the map and we say: Okay, you wanna build here, but guess what? It's going to be in a 15 high stilted thingy and every hundred years, you're going to be about five feet under water. And that's the power the County has. We actually tell you how you're going to build your house because guess what? You're in a flood plain. And it's the same thing with the graveyard. Hawaii has a unique situation. Native Hawaiians did not bury their people in nice little lots like we like to do. It's unique. So if we go out and we map these areas, and when the developer comes in, the County shows them the map and says: Dude, you get a bulldozer out there, you're going to be -- I guarantee you will be uncovering bones sooner or later, so guess what? This is how you're going to build your house. Or this is how your going to subdivide. Or this is how you're going to do it. And it's going to minimize the impact. Because for them to say: Well, we didn't know we were going to -- well, mass grading? You're mass grading how many -- and engineer looks at a map and says: We're moving a hundred tons of sand. Okay, you're in an area where there's -- you know, but it's never been mapped, you know. And the thing to say is, well, inadvertent versus known. Well, the known is that you're in an area that is historic.

Mr. Fredericksen: Yeah.

Ms. Watanabe: True.

Mr. Giroux: And so now we -- if the County has that policy in place, we can then tell the developer: Look, you need to take special precautions. We can't tell you can't develop, but we can tell you that these are the things that you need to pass before that development will actually be able to pass our policies and our permitting processes.

Ms. Marquez: So the -- I think I understand the intent. I'm grappling with the approach. So how are we going to do this - to map that mana'o?

Mr. Hutaff: That's what the committee would do.

Ms. Marquez: To figure out how to map it?

Mr. Hutaff: ...(inaudible)... establish policies, procedures, and scope.

Mr. Giroux: Yeah, well taking -- what would -- the envision is is that you're taking a cultural aspect, a cultural landscape map, which with your expertise, first getting verbal. What's the verbal history? Talk to people. Oh, yeah, see that mountain ridge there, we buried or we know that there's caves up there and that's the area that, historically, they've -- but we've never gone up there. We don't look. We haven't seen it. And then you go talk to archaeologists. Have you guys gone up and have you seen this stuff? Oh, I've seen one or two, but there may be hundreds up there. Oh, okay, so from that area, from this ridge to this ridge, you guys -- there's a cultural understanding that this area is burial area.

Ms. Marquez: I understand that, however, what I do not understand is the disconnect between what we're attempting to do and what already exist - called the Burial Council. That's where I cannot understand.

Mr. Giroux: Well, the -- it's about the law. The law is coming from 6E and it tells the Burial Council when somebody finds a bone, what do you do with it.

Mr. Fredericksen: Yeah.

Mr. Giroux: And that's the only position they --

Mr. Fredericksen: Once it happens.

Mr. Giroux: And even then, they may not have the authority, based on whether it was inadvertent or known, the ultimate decision is on the State on what it wants to do with those bones once they're found.

Ms. Marquez: Hence the members per committee can be only Commission members? Is that what we were saying?

Mr. Giroux: Well, we're getting into Hinano's field.

Ms. Marquez: Oh, excuse me.

Mr. Fredericksen: Wake up, Hinano.

Ms. Marquez: Wake up.

Mr. Giroux: I don't wanna be crossing jurisdiction.

Ms. Marquez: Oh yes. I understand.

Mr. Hinano Rodrigues: Hina Rodrigues. And just thinking about chicken luau in my office that I didn't eat for lunch yet.

Mr. Hutaff: Dinner.

Mr. Rodrigues: But anyway, to narrowly focus the discussion on what is agendized, my understanding is that you wish to create an investigative committee that would discuss what -- what cracks there might be such that certain sites are not protected. That's my understanding. And I'm looking at the terminology that was used: one is burial grounds, and the second one was TCP. That language does not exist in State law. That's language that comes directly from Federal law, okay. And I think that your committee would investigate those items, and your Corporate Counsel made a very important point, and the point is that Hawaiians did not bury in cemeteries, okay. So, technically, under State law, and he refers to 6E, burial grounds don't exist in this State. Wow, that's a major, major problem for us, Historic Preservation and you guys, because under 6E in Hawaii Administrative Rules, someone needs to show me that, okay, here's a human remains, only then does my -- is there a trigger for my jurisdiction. Other than that, I don't care how many burials I see at Maui Lani, I cannot say, guys, we've got a burial ground here. I want all construction stopped. The law is not written that way. And I think that's what you guys are going to do is define the issues and suggest resolutions outside of what already exist in State law.

Ms. Watanabe: So when we're hearing the comments from the community saying when do you say to stop, you know, and nobody has the --

Mr. Fredericksen: There is no answer.

Mr. Rodrigues: Nobody can say stop.

Mr. Hutaff: You can't stop it. That's the problem. We wanna prevent --

Ms. Watanabe: True.

Mr. Hutaff: At the beginning, or divert.

Mr. Giroux: Yeah, this is -- this is similar to the discussion of how do we control the population. We have a State policy that says we're supposed to control the -- we have a county population -- you can't. But you have to look at your land use; you have to look at your budget; you have to look at, you know, your resources, and our resource is that within your powers and duties, you can actually start getting information that would lead people to understand that there's lands that have a special use, and that's what we're talking about - use. Right? We want these -- well, we -- I think from hearing the talk about how these remains are being treated, I think that the idea is to let them rest, and it's use. To dig'em up is not the intended use. It's the byproduct of --

Mr. Fredericksen: The different culture.

Mr. Giroux: The use of a bulldozer.

Mr. Rodrigues: A very -- a very, very hypothetical example of what you guys could come up with or what the County could come up with, let's say you have a situation where the geography of that area or the geology of that area are sand dunes, so you might come up with a policy that we will not permit a change in the land. If you're going to build on sand dunes, you're going to build your house up, and that works, because those of you who've been around for a while know that that is exactly what was done at Sandhills. All those homes. We all know there's burials there, but all those homes were built up because, back then, that was the kind of thought that they had. So there are ways of dealing with the issues that you are about to define.

Ms. Marquez: Okay, so help me understand this, anybody. What's lacking today that we're trying to -- that's our mission of this committee? What's lacking? A County policy? A State law? What's lacking?

Mr. Fredericksen: Permit process.

Mr. Hutaff: That's part of the investigative process that we'll go over is what happens?

Ms. Marquez: So we don't know what's lacking?

Mr. Fredericksen: No, okay --

Mr. Hutaff: No. That's part of the investigative committee.

Mr. Fredericksen: Hold on. Okay, in my opinion, one of the biggest problems it's -- well, there's several, but one of the problems is that there are too many -- the review process is too permeable. Sometimes permits are not forwarded to SHPD for review. I can think of four in the last six months -- yeah, six months, four different projects where there should have been monitoring and there was no monitoring that we're involved with. One of them had human remains; hopefully, the other one that started today will not, but -- okay, so that's four examples that I know of, personally, that I'm -- you know, my company's involved with and it's all after-the-fact stuff. The problem is that the County, at this point, has had -- has had -- there hasn't been a consistency for sending permit applications to the State for review cause the State's the agency that's tasked, SHPD would -- well, given where this property is, this is what you gotta do for the archaeological mitigation, you know, for whatever the project may be. That's not -- it's happening but it's not -- you know, that is -- it would be an effort to try to improve that and to also broaden it so there's more advance warning if something's going to occur so the developers can be put on notice, if you will, like what Hinano was saying, you know, appropriate -- if a piece of property's going to be developed, it doesn't necessarily mean, okay, well, there's a big sand dune, bulldoze it down, sell the sand, and then build, you know, your flat, you know, on the flat because there's probably going to be a whole bunch of burials in there and they're going to get displaced, you know, in an inappropriate manner. They should be ...(inaudible)...

Mr. Hutaff: My understand of the word "investigate," okay, which is what we're trying to do cause you're looking for a problem, okay. When you find a problem, okay, you come up with potential solutions. Then when you have these potential solutions and you act upon them. So the investigation part would first be to see if there's a way to identify the problem that we can cure, come up with a solution to that problem, and then whether we try to act, move it forward Federally, or State, or County, of Planning Department, or all of the above, okay, would be part of the investigation. That's what it kinda means. We have no answers, okay. We don't even have a procedure or policy. That would have to be done by the investigative committee to set-up how they're going to do things. But the beginning is to find the problems. You see what I'm trying to say? Is that I understand where you're coming from a whole bunch and you're looking for the action. The investigative committee is you're looking for the problem first. Then when we find the problems, then we recommend solutions; then those solutions we act upon whether, again, we take it to change Federal law, add State law, change the County to make recommendations to the

Planning Department - that's all conjecture at this point because we don't really understand what happens.

Ms. Marquez: So, I need to think. So if I ask anybody is there a mission statement for this mana`o --

Mr. Hutaff: To find the problems and create solutions. That's too general?

Ms. Marquez: So we're going to form this brand new never happened before committee, this brand new never happened before committee will come up with a mission statement?

Mr. Hutaff: Yes, that's all.

Mr. Giroux: And a report. A report.

Mr. Hutaff: Yeah, a report.

Mr. Giroux: A suggestion to the body as a whole and then they can discuss it on the record as far as -- they can take your ideas, you know, that you're going to try to hand them something that they can work with.

Ms. Marquez: So what we're saying is we're going to find the bodies for this committee and then start from zero?

Mr. Fredericksen: Okay. Okay, hold on. I think what we're going to need to do after Hinano says something is defer this because if there's anybody else -- if there's anyone else on the Commission who wants to be on this investigative committee, we need, you know, we need to talk about it next month, and this has been really good discussion, but I, you know, I think everybody's --

Ms. Watanabe: Rhiannon has to go.

Mr. Fredericksen: Yeah, Rhiannon's -- she's running out - running out of time, not running out on the Commission. She's already stayed here a lot longer than she said she could. Yeah, so, Hinano?

Mr. Rodrigues: So in closing, let me take a stab at what Veronica is asking. I don't know if Stan did this intentionally, but he used very -- very concise language and in the language that was up there, it was two issues: burial grounds, as your Corporate Counsel discussed, and the second one was traditional cultural place.

Mr. Fredericksen: Either of which are ...(inaudible)...

Mr. Rodrigues: Now, that's really interesting because most people don't understand what a TCP is. Now, let's say you got a heiau, so you got archaeology involved. That is tangible evidence of a cultural practice. But what if you've got a situation where there is nothing tangible there, but yet it is a TCP, it's a traditional cultural practice? And let me give you the perfect example on this island - Haleakala.

Mr. Fredericksen: Yes. Absolutely.

Mr. Rodrigues: That is a TCP for us. It is what we call the "wao akua." It is a place of the Gods. We do not go there. We didn't build heiau or anything. The fact that a heiau or a ko`a or an ahu is absent does not itself make that place less significant; quite the opposite. It makes it even more significant. But now we approach signs and we say: Well, Haleakala is significant. And they go: Where's your evidence? Well that is the reason why the Feds came up with this thing called "TCP." So we might -- I think some people might be alluding to the fact that maybe Maui Lani is a TCP.

Mr. Fredericksen: Or the Pu`uone Dune complex.

Mr. Rodrigues: So that's it.

Ms. Marquez: So what is national Federal -- is Federal synonymous with national? Federal law supersedes State law supersedes County law?

Mr. Rodrigues: Right. The problem is your State law and your Federal law is like this and the reason why I say that is your applicable Federal law is 106. It's called "106." Federal law 106 requires some kind of Federal tainting in that process, and that Federal tainting is, number one, you either going use Federal funds --

Mr. Fredericksen: Funding, yeah.

Mr. Rodrigues: Or it's on Federal property. Only then, under 106, does the TCP come in, but we don't have the same kind of counterpart in our State laws.

Mr. Fredericksen: Hinano, I've got a question for you, and this goes on to what Veronica was talking about and you. Now, on the traditional cultural property, okay, yeah, there is -- it's Federal recognition, but like you said, you know, you've gotta have the funding, Federal funding involved or it's on, you know, like Haleakala National Park, park -- or Federal grounds property. What -- I mean how involved do you think it would be to get that -- cause that -- there's been efforts to try to get that recognized, that concept, traditional cultural property, recognized on a State level and a County level too, and a lot of -- I mean and that's just from what I've gathered, you know, indirectly from public testimony over the

years. How, you know, nuts and bolts, how involved would that be? I mean is it a law? Would that be -- would it have to be legal?

Mr. Hinano: Yes, but I would -- what I would try to do is, and I gotta look up the law or maybe your Corporate Counsel can look up the law, I would try to find some kind of nexus between the National Historic Preservation Act and State Historic Preservation because, remember, State Historic Preservation is a child of --

Mr. Fredericksen: Right. Right.

Mr. Hinano: Right? And what's really import, and this is my personal opinion, it's not SHPD, what's really important with respect to TCP is there's a 1995 court decision, and it's Pueblo of Sandia versus the United States of America, and within that court decision, the court discussed the role of let's say your State agency in performing due diligence or good effort, and there was one more thing that's really important to us Hawaiians and that is, remember we have confidentiality in our sharing of knowledge, well so did the native Americans. So the court discussed how do you deal with that? Because what they did back -- what New Mexico, what's the Park Service did back then is say, hey, we sent these tribes this letter asking for information and nobody answered us. Well, the court said that is not good enough. If you know that you're working with a group of people where confidentiality is a part of ...(inaudible)... then you need to take that extra step ...(inaudible)... so then now we can use that 1995 court case.

Ms. Marquez: So confidentiality could be used as evidence?

Mr. Hinano: The fact that something is confidential says that now you gotta take that extra step, okay. You cannot just say, well, and I see it on some CIA's that come into my office, where that firm says: What, I sent them a letter and nobody answered. Yeah, well, that's not good enough. Under 106, under Federal law, under that decision, you can somehow take that and incorporate that into State law.

Mr. Giroux: Hinano, looking at like PASH and Pa`akai, it looks like the Supreme Court of Hawaii at least has used Article 7 to at least say that the State agencies and the county agencies do have an affirmative duty, they have to at least look at the area and say: Is there a traditional, and that's the initial I guess crossover, is that is there a traditional use or, you know, that's been established in the past? So I mean can we use that I mean to make a bridge to cultural lands because I mean burials -- would burials fall under that umbrella of a traditional use?

Mr. Hinano: No, the burial laws -- Historic Preservation and burial laws are led by 6E, and 6E is really specific. Then you take 6E, which is a statute, and then you use Hawaii Administrative Rules to apply 6E, and so you're really narrowed in that focus.

Mr. Giroux: So it's in our SMA analysis that we are actually able to take a little bit of an extra step --

Mr. Hinano: Yes.

Mr. Giroux: Because of 205A.

Mr. Hinano: Yeah. You know 6E is so restrictive that I have no jurisdiction unless there's some kind of trigger, and the trigger normally comes in the form of a permit request, and that's what Erik was talking about - 6E says -- it tells the County: If you got any permits, technically, you're supposed to go ask SHPD for comment, but the County doesn't do that, see, so they're in lies another issue that your investigative committee can discuss. She has to go, yeah?

Mr. Fredericksen: Yeah. We all gotta go. Thanks, Hinano.

Mr. Solamillo: Thank you, Hinano. We'll need a motion to --

Mr. Fredericksen: Defer.

Mr. Solamillo: Defer and adjourn.

Ms. Marquez: I move to defer the mana`o we just discussed.

Mr. Fredericksen: Is there a second?

Mr. Hutaff: I second it. Thank you.

Mr. Fredericksen: Okay, we got the motion and a second.

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

***It has been moved by Ms. Marquez, seconded by Mr. Hutaff, then unanimously***

***VOTED: to defer the mana`o that was just discussed.***

Mr. Fredericksen: Okay, so that's that one. I guess we're just going to go. We'll wait till Stan's pau cause we're not going to -- you have to go.

Mr. Hutaff: Well, once she goes, we might as well adjourn.

Ms. Chandler: Yeah, well, when he --

Mr. Fredericksen: Yeah, let's just go ahead and -- well, let's ask him. Hey, Stan? Thanks, Hinano.

Mr. Solamillo: Thank you, Hinano.

Mr. Fredericksen: Okay, so we're pau. Rhiannon's gotta go.

Mr. Solamillo: Right.

Mr. Fredericksen: So let's move to -- who wants to move to adjourn? Somebody, a motion?

Ms. Watanabe: I so.

Mr. Giroux: We'll probably defer all of ...(inaudible)...

Mr. Fredericksen: Yes.

Ms. Watanabe: And defer.

Mr. Fredericksen: Yeah.

Mr. Solamillo: I wanna thank everyone very much, and thank you, Rhiannon.

Mr. Fredericksen: Yeah, thanks for staying.

Mr. Hutaff: Yes, thank you so much.

Ms. Watanabe: Thank you. Thank you.

*The following items were deferred:*

- b. Discussion regarding the designation of an Investigative Committee to develop amendments to the Maui County Code, Chapter 36, "INDIGENOUS HAWAIIAN ARCHITECTURE," as necessary to allow for the construction of "Kauhale," or indigenous Hawaiian dwellings for residential purposes. The CRC may act designating an investigative committee. Public testimony will be accepted. (S. Solamillo)**

**E. DIRECTOR'S REPORT**

1. Proposed Channelization Extension of I'ao Stream, Wailuku, Maui.
2. Annual Halloween Parade in Lahaina
3. June 4 CRC Meeting Agenda
4. Administrative Permits Report
  - a. Demolition Permits

**F. COMMISSIONER'S ANNOUNCEMENTS**

**G. NEXT MEETING DATE: June 4, 2009**

**H. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 3:20 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions

**RECORD OF ATTENDANCE**

**Present**

Erik Fredericksen, Chairperson  
Raymond Hutaff, Vice-Chairperson  
Rhiannon Chandler  
Veronica Marquez  
Alika Romanchak  
Nani Watanabe

**Excused**

Kepa Maly  
Kalei Moikeha

**Others**

Stanley Solamillo, Cultural Resources Planner  
James Giroux, Deputy Corporation Counsel