

(APPROVED: 05/06/10)

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
FEBRUARY 4, 2010**

*** 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, Hawai'i. ***

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Erik Fredericksen, at approximately 10:05 a.m., Thursday, February 4, 2010, 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 -- hope everybody had a good month. It's February 4, 2010 meeting of the Maui County Cultural Resources Commission - calling to order. We'll go into Item B, Stanley.

B. RESOLUTION TO THE FAMILY OF COMMISSIONER LEE KALEI MOIKEHA

Mr. Stanley Solamillo: Aloha, Commissioners. This morning we have to recognize one of our own, and this is Commissioner Lee Kalei Moikeha, who serves on this Commission from 2005 to the present. He passed away last month and a lot of us were pretty surprised and shocked. But anyway, I could never project how this gentleman would vote. He was kind of a wildcard. But he was always unmovable and unshakable in one thing and that was his dedication to the host culture. And if anything, we should remember that when we debate all of the agenda items for this year and this meeting. He described himself on his applications to boards and commissions, in 2005, as wanting an opportunity for public service, with the thought in mind to rescue or preserve historical sites. He went on in characteristic fashion, "I'm not exactly sure what skills are necessary, however, I can read, write, ask questions, make suggestions based on data and facts, and I have a desire to listen and to learn."

Kalei was born in Wailuku on December 26, 1953. He was the son of Jubilee and Florence Moikeha. He graduated from Kamehameha Schools in 1971. He went to BYU Hawai'i Campus and graduated with a BA in 1977. He was employee of Hawaiian Airlines from 1978 to '81 at Kahului. He was a sales manager for Hawaiian Airlines in Waikiki from 1981 to 1986. He returned to Kahului to work for Aloha Airlines in 1986 to 1991. He was a longshoreman with McCabe, Hamilton & Renny Company from 1991 to 2008, and a longshoreman for Matson Navigation from 2008 to 2010.

He is the father of four and Jena Kaulana Silifaiva, Micah Moikeha, Kailea Moikeha, and Chad Moikeha. He was a grandfather of six: Kama Anderson, Noa Silifaiva, Avei Silifaiva, Amira Silifaiva, Tehani Moikeha, and Dylan Moikeha.

He was, from time to time, the member of local organizations, such as the Maui Jaycees, the Kihei Rotary Club, the Boy Scouts of America, and Ke Ali`i Pauahi Foundation as a contributor to Na Pae Ha`awina Student Scholarships. He was appointed to this Commission, representing Kihei, on March 11, 2005.

When I found out about his passing, I Googled him and there was a statement by a fellow surfer who remains unnamed at this time. He said: "My friend, a true Hawaiian, passed yesterday on the island of Hawai`i. No wonder I rode so many great waves today. My friend, I shall miss you. Until we meet again. Aloha no."

In his passing, the following Resolution has been prepared for your signature today:

*Resolution of the Cultural Resources Commission
Expressing heartfelt condolences to the family of Lee Kalei Moikeha*

Whereas, Lee Kalei Moikeha served the County of Maui from April 2005 as a member of the Cultural Resources Commission; and

Whereas, Mr. Moikeha served with distinction and performed his duties in the highest professional manner with the Cultural Resources Commission; and

Whereas, the Cultural Resources Commission expresses its sincere appreciation for his pass dedication and untiring public service to the people of Maui County;

Now, therefore be it resolved that the Cultural Resources Commission hereby expresses its heartfelt condolences and deepest sympathy to his family for their great personal loss by his sudden passing in January 2010; and

Furthermore, be it resolved that this Resolution be transmitted to the family of Lee Kalei Moikeha, and copies transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui, and the Honorable Danny Mateo, Council Chair of the Maui County Council

When I was Googling him, I found out that, of all our Commissioners, during the heyday debates about Halloween in Lahaina, he was the one who was quoted and he was picked

up the Maui press, and then picked up by the Honolulu press, and then put on the internet, and sent around the world. And in two sentences, he was able to capture the whole essence of our debate that we go through so often here on Maui. He said, "What do you want Lahaina to be remembered for? The host culture's importance as the home of the ali'i or royalty, or for the Halloween party?"

We thank him for his presence here and thank his family for being here today. We know they are suffering a deep loss but we will always remember him as being one of our best and, in probably dialogue, one of our shortest commenters on the Maui County Cultural Resources Commission. At this point in time, any Commissioners who feel they wish make comment, can do so.

Mr. Fredericksen: Before we make any comments, I'd like us all to just have a moment of silence and I'll come back on in a minute or two.

***The Commission observed a moment of silence in honor of
Commissioner Lee Kalei Moikeha***

Mr. Fredericksen: I just would like to say I didn't know Kalei for a really long time, I was on the Commission for about a year, maybe two -- year-and-a-half -- two years, when he was -- cause he was on before I came back on. I really, really appreciated all of Kalei's comments and he was a very, very welcomed presence. He always seemed to just come up with the right, very succinct point on view on things and I really miss his presence and contributions here. And I just would like to extend my best, you know, feelings towards his family. I can relate to a pretty sudden loss myself from own personal experience and I just want you folks to know that we really appreciated him and I know he was a very, very good person. I live in Pukalani and one of my neighbors knew him quite well and worked with him at the harbor over here. But he was a very, very good person and he's in a really good place now. Any other comments from Commission Members? Ray?

Mr. Ray Hutaff: Looking at the words that we wrote, I realize that there's not a lot of words on the page to actually say who he really is and what we really feel about him. I didn't know him except for here, and he sat where Kepa is, and one thing I noticed is that he always had a smile until he something important to say, not many words, like you said. And sometimes he would even challenge the way that we were thinking, and it was most appropriate. For me, the saddest part I think is not being able to have a closer friendship to know him longer and better. And also, I think we have a great loss because he did challenge us in his own way of thinking. In his own way of thinking, everytime he spoke, always moved us into his way of understanding and that's a sign of an amazingly great person and I wish there was a way we could put it all into words, but there's not enough words. So, for my friend, aloha. For his family, aloha. Thank you.

Ms. Nani Watanabe: I just wanted to say that it was -- I had an -- it was an honor for me to know Kalei. He was such a -- so local. I'm really going to miss his -- drinking his protein drinks in a ziploc bag and then he would bring all these nuts and, you know, raisins and try to share. And I would see him in Wal-Mart. One time I saw him at Starbucks and he would, you know, sneak and talk about an issue with the Cultural Resources Commission. And then he goes, "Oh, we better not be seen together," you know. But he was just so local. He was so Hawaiian - especially when we went to Lana`i and we were able to share so much on Lana`i and I thought he was like -- I said, "Are you a resident of Tahiti or what?" You know, I mean he was off to Tahiti and -- and, you know, and then we talked about Halloween. I mean he was really -- he was himself. He was not a put on and I told him, "Eh, did you see the article, they wanted to tar and feather us because we didn't, you know, allow Halloween to happen?" You know, and he would make all these remarks. But he was so real, and that's what I liked about him, and he was just himself. And my heart goes to you all and you have a legacy, a wonderful legacy to remember of Kalei. Mahalo.

Mr. Fredericksen: Veronica?

Ms. Veronica Marquez: Kalei - I'm the Commissioner from Moloka`i, but Kalei, especially Lana`i, I used to watch his body language. You know, this man would sit there, he won't say anything, but I don't know how come we kinda sat next to each other for some odd reason, I used to watch this young man and I go, "Oh, when he's ready to say something, he's going to say it," and that's how this young man was. And when he said it, he didn't think of how political, he didn't think who the heck was here, he said it, and later smiled. So from the heart to your family's hearts, that man was very aloha, and does come from the heart ...(inaudible)... ohana.

Ms. Makalapua Kanuha: I just been really blessed to know Kalei in different capacities. As the family knows that I knew Kalei, working with him as a co-worker for a longshoreman for McCabe Hamilton & Renny, and working with Kalei, because there was only two gals on the waterfront, so he was the big brother and, as the family know, that there's many times that we're sent off-island to work in Honolulu, so because there was only two gals, Kalei made sure that the gals were okay and we always got the bedroom, the boys got the front area of the hotel room. So -- but one thing I remember about Kalei too is being a warmhearted good brother, always took care of us. He was always encouraging me because we had no representative for Lahaina for a while on the Commission so being that I had his cell phone number, I said, "Hey, Kalei," so he said, "You know what, Dee, just sign up already." He said, "It's going to be fun. You're going to learn new things." And he's very right. The only unfortunate thing is that I didn't have that much time to spend with him and learn from him. But when I heard about it, I just couldn't believe it, like the rest of us. It was like just something that went impact our Commission. And I know that his legacy will live on in his children and his mo`opuna, and I know baby is going to be born on March 10. It's a good day to be born. But I just wanna say thank you to his family for

sharing your dad with the rest of our community and his imprint of making a difference and standing up for what is right when it comes to protecting things. Thank you from our family as the Commissioners, and from my family to your family.

Mr. Fredericksen: Any other Commission Member?

Mr. Kepa Maly: Just quickly, sorry. You know, the Moikeha, Kila, la mai ka hikina, whose genealogies are so significant in Hawai'i and Moikeha went the path of his kupuna and you know that he's with him and I'm sure his studying knew paths for his hanauna`o, the generations that will follow him so, you know, we just mahalo Ke Akua, mahalo to the family for their aloha, as Makalapua said, for sharing him and, you know . . . *(spoke in the Hawaiian language)* . . . hui hou me Moikeha. Aloha no.

Mr. Fredericksen: Good man and you folks take good care, okay? He wants you to continue doing your thing. Thank you.

Mr. Solamillo: We'll call a ten-minute break, please.

Mr. Fredericksen: Yes.

(A recess was called at 10:25 a.m., and the meeting reconvened at 10:38 a.m.)

Mr. Fredericksen: I was going to say this when Kalei's family was here, but I know they know, but it just brings home the importance of enjoying every day and all we can do is just do the best we can. We never know.

Mr. Hutaff: Thanks for the prayer.

Mr. Fredericksen: Okay, well let's -- you okay, Stanley, to --

Mr. Solamillo: I'm okay.

Mr. Fredericksen: Okay, we'll continue on then.

Mr. Solamillo: Alright, the next item, Stanley Solamillo, on behalf of Maui County -- oh, I'm sorry.

Mr. Fredericksen: We need to do C, the approval of minutes.

Mr. Solamillo: I'm sorry. Approval minutes of the December 3, 2009 meeting.

Mr. Fredericksen: Sorry...(inaudible)... did any Commission Members have any comments or if there are no comments, is there a motion to approve the December 3, 2009 minutes?

C. APPROVAL OF MINUTES OF THE DECEMBER 3, 2009 MEETING

Mr. Alika Romanchak: I move that we approve the minutes.

Mr. Hutaff: I second.

Mr. Fredericksen: Okay, I'm assuming all are in favor. Minutes are approved. Okay, Stanley.

D. ADVISORY REVIEW

- 1. MR. CHESTER KOGA, on behalf of R.M. TOWILL CORPORATION, requesting consultation as required by Section 106 of the National Historic Preservation Act of 1966 (NHPA) for Makawao Avenue and Makani Road Improvements From Eddie Tam Gym to Kalama Intermediate School, STP-0900(72), Makawao, Maui, Hawai'i. The CRC may comment and provide recommendations. Public testimony will be accepted. (S. Solamillo)**

Mr. Solamillo: Mr. Chester Koga, on behalf of R.M. Towill Corporation, requesting consultation as required by Section 106 of the National Historic Preservation Act of 1966 (NHPA) for Makawao Avenue and Makani Road Improvements From Eddie Tam Gym to Kalama Intermediate School has been deferred by a request from R.M. Towill, so they will not be one the agenda today.

Mr. Fredericksen: And, Stanley, they haven't indicated when they're going to come back?

Mr. Solamillo: No. I've actually, and will probably put this in writing, I've done it verbally, but I'll ask that they provide us the powerpoint presentation that they're going to do in order to reschedule their appearance.

Mr. Fredericksen: Do you know if there's been any consultation with the community or anything at this point?

Mr. Solamillo: I don't know at this point, no.

Mr. Fredericksen: Okay. Okay, so that item's deferred.

Mr. Solamillo: Correct.

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

2. **MR. STANLEY SOLAMILLO, on behalf of Maui County Department of Planning, requesting recommendations for amendments to “REGULATIONS ON BUILDINGS AND USES” as described in Chapters 19.52.010 and 19.52.050, of the Maui County Code. The CRC may comment and provide recommendations. Public testimony will be accepted. *Item requested by Corporation Counsel . (S. Solamillo)***

Mr. Solamillo: Most of this code - I'm going to give you a little background - is centered on Lahaina, the NHL actually, Historic Districts Nos. 1 and 2, although we do have language in that code which also refer to Wailuku Historic District No. 3, which is primarily the government buildings, one of which we're in today, the library and the buildings that go across the street.

A little background. Again, you're going to see these slides so many times this year that you will be sick of them. These are aerial photographs that show you the development of Lahaina. Again, this is taken in 1946. The NHL, as it is -- as it was codified into a National Historic Landmark District, is in the lower right-hand corner. It extends three miles out into the ocean; then extends from Jodo Mission, which is this -- on the left-hand side of the aerial photograph, which is the point, following the road system at that time, they jog the highway and then come back to a place formerly -- well, whose Hawaiian place name is Makila, which is known today at Puamana. You'll notice that in this slide in '46, the buildings are primarily located along the coast and what was Front Street, and then they collect along Lahainaluna Road, and then you have the mill at the center of the photograph. Everything else is primarily cane. Baldwin Packers, which is on the left-hand side of the photograph, is the pineapple packing plant.

This is a shot from 1960. It shows that there is a little bit of development along the intersection of Front Street and Lahainaluna Road. And then going south, towards Moku`ula, you can see that that whole area begins to also build up. Kamehameha III has an expansion at this time. And we do have a new wharf at -- opposite the Lahaina Courthouse. This is a shot from '75. The south-end of Lahaina is being cleared and new subdivisions are being developed. So, all of a sudden, you have all those cane fields which were suddenly urbanizing. 1967, hotels become the next things, and shopping centers, are the next things that get added into the Lahaina District and they begin to fill in all the blank space between the former commercial district as well as the highway.

By 1997, almost all the cane fields are gone and what we have is now a heavily urbanized district. Consequently, when we went to survey for cultural resources, we find that as far as the architecture that is standing and standing buildings and structures is pretty minimal because, remember, it collects along the coast and it collects along Lahainaluna Road and everything else has been filled in with new building.

Okay, this is the district. NHL boundaries are green. Historic District 1 is in blue. Historic District 2 is in red. Historic District 2, I will remind everyone, was made actually -- formed to maintain the "theme." And in the language, actually, in another part of the code, which does need to be changed, it says, "There are no historic buildings located within this district." That, at the time, was -- was incorrect. Okay, when we go to the first --

Mr. Fredericksen: Stanley?

Mr. Solamillo: Yes?

Mr. Fredericksen: Excuse me. Could you comment a little bit on that term "theme?"

Mr. Solamillo: Theme? That means if we build today, we make it look like it did yesterday. So I can take -- and we have gone through, I think, several cases last year --

Mr. Fredericksen: Okay.

Mr. Solamillo: Where we had a plantation building which became, along the lines of theme, a whaling building.

Mr. Fredericksen: Thank you.

Mr. Solamillo: Okay. I'm going to probably open up - and anybody needs to feel free to make comments on what they would like to see discussed or changed or proposed for amendment in this code as it stands today - the only thing that kind of jumped out at me on this page, which is the first page, is Architectural Style, and it refers to something -- we have to recall that all this was codified in 1966-67, so a lot of the knowledge that we have today about vernacular architecture or building or importance of vernacular building wasn't known or recognized at that time, it is since, at least the late '80's, been recognized. They refer to something called a "Monterey Style," which is a two-story. It's kind of like looking at Baldwin's house, which is a two-story building with a gable roof and it's got a two-story balcony. And that was one of the styles that they were talking about. I think the saving grace is that we have, in the next paragraph I believe - I'm having problems with my eyes - it makes reference to buildings which have achieved importance or architectural styles which has come into use from 1900 to the present. That allows for in-fill, okay. If we wanted to get down to it, I think it's too late at this juncture, to try and actually do anything

about architectural style in Lahaina. I mean we've got modernist buildings in Lahaina right on Front Street, and of course they're outside Historic Districts 1 and 2 but still in the NHL, and the whole thing is kind of a lost battle. So if there was anything to maybe be questioned, it would be to find another name for Monterey Style as it is described here, or we could just leave it there.

Mr. Fredericksen: Rhiannon.

Ms. Rhiannon Chandler: Wasn't there something else that we discussed in the last meeting that there's a date in here that --

Mr. Solamillo: Yeah, I'm getting to that.

Ms. Chandler: Oh, okay.

Mr. Fredericksen: Yeah.

Mr. Solamillo: That's on another page. The other thing that kind of jumped out at me and that could be questionable is a 45-day clause and that could be opened up for debate because sometime, when cases come in, you know, and it doesn't happen to often in this Commission, we usually have an ability to get something on the agenda in 45 days but it could be problematic if we had a filled agenda.

Mr. Fredericksen: What do you think or no quorum?

Mr. Solamillo: Or no quorum.

Mr. Fredericksen: What sort of a date, time range do you think would be more workable within kind of the constraints of --

Mr. Solamillo: I would prefer 60 or more but that would be left up to Corporation Counsel --

Mr. Fredericksen: James?

Mr. Solamillo: To recommend. It's got a 45-day minimum that a case has to come here and be heard by Commission and sometimes that's not possible. That was a little too tight. So it's 30 days plus 15.

Mr. James Giroux: Yeah, the -- in the HRS, there's a section that says that if -- if a development type permit goes through an agency, that the agency has to make rules that creates a situation where there's not an ability to just shelve it, and HRS uses the word a *reasonable* time, and then the board, through code or through the board, there has to be

some time. Now, the word *reasonable* is out there, you know, and the board of variances has struggled with this because people get variances for things that may actually be dangerous to themselves or the community and if the County isn't able to actually meet those deadlines, they get what's called "an automatic variance," which is very dangerous because that health and safety issues are, you know, at stake. So it's a balance of looking at the board's ability and also the Department's ability to say, well, what's an average? Maybe let's go a little bit more than average just to build out a safety mechanism. I think in the original rules - I mean you gotta look at the population of the island, you've gotta look at the workload of the Department, their procedures, all of those are what we in the legal field call "the totality of the circumstance," because if somebody's going to say unreasonable, then we have to look at the system and how -- what is the, you know, speed of the system that would make something reasonable. You know, you can throw out numbers there to get a feel for something, and then you can work backwards. You can say, well, how's a year? Okay, well let's start looking at the system. What does the average permit take to get through the application, initial review, calendaring, discussion, and vote, and then an order submitted to the applicant. So we need some data. We need to say, well, what's an average and can we build in a buffer? So if you look at the rules of the board of variances, I think they have -- they have two rules: one is a 60-day rule, and one is a 120-day rule, and the problem is that the trigger starts at different -- the race starts at different times. One race starts when the director deems the application complete. And then the other one is triggered after the public hearing, after the public hearing is closed. So you gotta look at your -- your trigger cause those triggers, in and of themselves, cause problems too. So that's the type of things that you have to be aware of when creating a deadline because there's a balance between being expedient, you know, you don't, as a landowner, you don't want to wait four years for the County to decide that your -- you don't fit Monterey style because, one, they couldn't figure out what Monterey style was, and you don't, as a Commission, wanna be crunched to say, hey, this is being shoved down our throats. You know, we need time to review this. So there's a balance and that's where the term *reasonable* - although it's objective. If you put it on certain data, it doesn't become arbitrary and capricious. It becomes reasonable. It's based on reason. So we need some of that data, I think, coming from the Department because they're on the front lines. They receive permits. They have to process them. Sometimes they have to send it to two or three --

Mr. Solamillo: Agencies.

Mr. Giroux: Yeah, agencies within their own Department and then they gotta outside the Department; then they gotta go outside the County - they gotta go State and Federal; then they've gotta get responses back from different agencies within the State agencies. So we have to know what makes this reasonable because if our own planners are telling us 40 days, it's never been done, we're not going to do it, it can't be done, and, basically, we gotta

go back and revise. We gotta look at that. We gotta say, well, then what is -- what can they achieve in a reasonable time and what gives us the leeway so --

Mr. Solamillo: I would need to do some more researching and come back to Commission.

Mr. Fredericksen: Could there be something put in there, the term you were using, James, or a reasonable amount of time after the 45 days? I think that should be bumped up to at least 60 days, personally, but then have the clause after that even that says 60 days or reasonable amount of time because if it's, whatever, falls in the holidays or when the Commission doesn't meet --

Mr. Giroux: Yeah, there's several things you can look at is that you can, in the law, you can say that the Commission has to make rules in accordance to Chapter 91, so that means you guys gotta come back, it'll come back as an administrative rule where you'll have in your rule -- cause we have the rules of the Cultural Commission, so you can actually put a time frame in there, in your rules. Or the other point is that if you -- if there's an exception, the exception being whether there is an -- the Commission deems an application complete, that's one thing. I think we saw with the window -- the window issue in Lahaina was people -- the question from the Commission was: Are there -- can you actually get these windows? You know, I mean was there an attempt to go out and get that. So there's a huge lack of information in the application possibly that would deem it. And the other exception is whether or not it goes into a contested case or a formal contested case proceeding where, you know, if there's interveners, and now, you know, now the people are doing depositions and acting like a court case, that could be another reason to say, hey, you know we -- we need to be able to actually fully function in our adjudicatory processes in order to come up with a full and fair decision on it. It's not longer just an administrative permit. And I think that's why originally when you look at this 45 days, in our eyes, it's totally unreasonable for the County to actually meet this deadline, but back in the day, it was probably just that, you know, come up to the -- the desk, and somebody would grab it, and then come back in 30 days and somebody had probably reviewed it. Here you go. You know, and so it's a different world. We work in a different world. The Departments are dealing with many levels of review and community plan and historic district and -- you know, so we have to know what's actually going on at the ground level to say, you know, we have to find a balance between efficiency and preservation.

Mr. Fredericksen: So, at this point, Stanley, you need to do a little bit more research --

Mr. Solamillo: Yeah, and then I'll bring it back.

Mr. Fredericksen: On that thing? Now how about the Monterey, that label? Commission Members have any other -- Alike, any suggestions on something more generic than that? Is that what you're looking for, Stanley?

Mr. Solamillo: Well, really what I need to do is bring back to the Commission the results of our survey and I didn't have time this month to put everything into presentation. It shows what we have --

Mr. Fredericksen: Okay.

Mr. Solamillo: That is historic, and they can be contributing buildings to the NHL and to Historic Districts Nos. 1 and 2.

Mr. Fredericksen: So maybe a label like that?

Mr. Solamillo: Yeah, that's based on actual things on the ground because Monterey is just kind of like --

Mr. Fredericksen: Yeah.

Mr. Solamillo: Well, it's made for California but I'm sure we have another name for it here by now.

Mr. Fredericksen: Well, it's just like what you said, contributing resources. That's --

Mr. Solamillo: Yeah.

Mr. Fredericksen: That sounds good.

Mr. Solamillo: Okay. Let's see, on the next sheet, 19.52.050 on Page 617 refers to demolition or movement of structures.

Mr. Giroux: Stanley, did you go over .52.020 already?

Mr. Solamillo: Which one was that?

Mr. Giroux: It's right after the --

Mr. Fredericksen: Reviewing plans.

Mr. Giroux: .010

Mr. Solamillo: What page is it on?

Mr. Fredericksen: 616, review of plans.

Mr. Solamillo: Review of plans. What item is it?

Mr. Giroux: I guess what we did is we went over Item F?

Mr. Fredericksen: Yeah.

Mr. Giroux: Was there any other suggestions as far as updates or modifications coming from the Department possibly?

Mr. Solamillo: Nothing at this point. If there was anything --

Mr. Giroux: Can I just throw --

Mr. Fredericksen: Yes.

Mr. Giroux: Stuff out just --

Mr. Solamillo: I'm asking you to.

Mr. Giroux: Okay. Thank you, Stanley. You know, from the legal standpoint, what I'm concerned about, at this point, is that the terms used throughout that section, all the way from A to F, there's -- well, first of all, the board's name. The Historic Commission has now been changed to the --

Mr. Solamillo: Maui County Cultural Resources Commission.

Mr. Giroux: Okay. And that's gotta be all the way through.

Mr. Solamillo: Thank you.

Mr. Giroux: The other thing is I don't know if this ever existed but there's a superintendent of building inspection. If that isn't even a reality, we need to look at this procedure and actually just change it.

Mr. Solamillo: Okay.

Mr. Giroux: Because this superintendent has to notify the chairman of the Commission that we need to update the name, and so it's really difficult, you know, for the lawyers to look at this and say we're following procedure because we don't have a superintendent and we're calling the Commission the wrong name even though in Charter and everything we know it's changed. It just helps the people on the ground floor to say here's the law. Are we following it. It's a lot easier to just have it in front of us. So if that can be modified and just

to modernize the statute. And I would ask the Department to look at their review procedure and see if they even match this process as far as who receives -- you know, I mean is there a certificate of approval? I mean does that even exist? You know, and I'm just asking these questions because this is the nuts and the bolts that if they don't exist, we're going to have a hard time following the law. If we're not following the law, how we're going to make the law stronger? And that's what I'm concerned about from hearing the discussion of the board is that we -- if we need enforcement, the people reading the law need to understand that, hey, okay, well I'm going to call the superintendent. Well, he don't exist. Hello. There is none. You know what I mean? We need to modernize that law to bring it up into --

Mr. Solamillo: It should actually be --

Mr. Fredericksen: Who is the contact?

Mr. Solamillo: Public Works Director.

Mr. Fredericksen: Public Works Director.

Mr. Solamillo: Director of Public Works.

Mr. Giroux: Yeah, so those are the type of ground -- ground things we need to do with that section.

Mr. Solamillo: Okay.

Mr. Giroux: The other thing is is what I would like to see, and Stanley was going to move over there to 19.52.050, is when I read the law, there's a real disconnect between building things and tearing things down. We have a terrific procedure that may or may not exist as far as having a superintendent and yada, yada, but when you look at review of plans, it's really not spelled out that the review of plans is also the same procedure for review of demolition. If I were to get into an argument with another attorney, it would be very interesting and I hope beer would be involved because one attorney would argue, no, you use that same procedure. Demolition is review of plan. And the other one would say, well, it doesn't say that and, therefore, demolitions doesn't have a procedure. And then the other attorney would say, well, that's ridiculous. How can you have a procedure without a procedure? You gotta have a procedure. And so you see this ambiguity causes weakness in the law because now, if I don't wanna do it, I just go hire an attorney and he makes this argument, and now nothing happens because we're in litigation, and yada, yada --

Mr. Fredericksen: For the loopholes.

Mr. Giroux: Yeah, so when you're trying to modernize laws, you wanna close these loopholes. We wanna bring things together. And if you want demolition procedures to follow the plan review procedures, then you should clearly state it in the first paragraph: *Within any historic district established in this article, the commission shall have the power to approve all plans including demolition.* And by adding that one phrase, you've eliminated all ambiguity of what your powers and procedures are. So those are things that I would really want the Department to look at because I've been approached many times by planners and the comment is: We don't have the authority not to disapprove a demolition. And I'm reading it, as your attorney, looking at it going, well, I would argue fully well knowing that another attorney would argue back, and you don't -- you don't wanna be in that position. You don't wanna have to argue. You wanna point to the law and say, yeah, this is what it says and these are our procedures and it's very easy to follow.

Mr. Solamillo: Can Corporation Counsel supply these recommendations to the Department?

Mr. Giroux: I can help you out, Stan.

Mr. Solamillo: Thank you. The thing is I'm not an attorney.

Mr. Giroux: I think, you know, I mean I gotta say something. You know, a lot of times we get -- the attorneys get accused of not helping enough, and what you gotta understand is that we're looking at it from the side of we wanna advise you guys of these things. If I get involved too much, I get accused of setting policy. I don't want and I shouldn't be establishing policy. I -- my job is to make you aware of the strengths and weaknesses of the law, and to allow you to, if you wanna tighten the loophole, tighten it. If you don't, don't. Because I'm not in a position of an advocate. If I start advocating for something in a way that when it -- because this is going to be a Council decision and maybe two or three Council Members don't like that policy, then as a lawyer, I end up getting into really strange situations. So what I can do is I can strongly advise for you to look at this and I can help Stanley to model some language that would send it in that direction.

Mr. Fredericksen: And we can look at it as a Commission.

Mr. Giroux: Yeah, and then you -- then you can look at and say, well, too strong, too weak, you know, and then we can start looking at the words that we choose to accomplish that, but I really gotta just let you guys know that I wanna put these ideas out there for discussion and then you put the words in for policy, and I think that'll help you out because there's not one lawyer writing this law. There's nine Commissioners discussing and agreeing the strength and weaknesses of the language. So we can -- I can help Stanley do that.

Mr. Romanchak: James, ultimately, the Planning Department would make this recommendation to Council, and that's how it would get written into law?

Mr. Giroux: Well, let me draw what happens. Right now, as your attorney, because the discussion came up in another context, I advised you to review the law. My review of the law was that there seems to be a lot of room for improvement. Now, the way it works in the County is we -- as attorneys, we rely on the staff that is staffing the agency to look at the laws and come up with recommendations to improve them or, you know, modify them, amend them, and also to look at your rules. Your rules are the same thing. But what happens is that because this agency has the powers and duties to make recommendations to Council to make changes to the ordinance, then what we're going to do -- well, Stanley, as your staff, is going to try to listen this conversation to date, try to draft something, and like I said I'll help him try to put something roughly together so there can be clearer discussion, and then when you have fully discussed it and chosen language and things, then we're going to transmit that recommendation to Council as I believe the Director would actually be requesting, on your behalf, modifications to the ordinance.

Mr. Solamillo: Actually, the way it would go it would go from me, to the Director, who would then give it to another staff person, that's Joe Alueta because he handles all the code revisions, and he would prepare a draft. He would come back to us again to make sure that what has been prepared is what we wanted. And then it would go from the Director to Council.

Mr. Giroux: So we're at the very kind of brainstorming. This is where you can give the staff some direction, some direction to modification and, you know, some language too.

Ms. Marquez: Quick question. Does the next step beyond us know what we're doing or have a hint of what's coming up?

Mr. Solamillo: No.

Mr. Giroux: No. This is so far off of their radar that there would really need to be some interaction with Council Members to alert them of the urgency or the concern coming from the Cultural Resources Commission. I mean either, you know, the Planning Department or Members would need to, you know, kind of let them know, you know, that I'm on the Commission and we're working on these modifications and we think they're important, you know, because what you're doing is you're being really proactive. The County doesn't -- we usually wait until, you know, something really important, you know, like the Lao Theater gets demolished and we say oh my God, you know, and so what you're doing is really cutting -- front line cutting edge, you know, and so you have to realize that you're pushing forward and it takes, you know, a certain tipping point to --

Ms. Marquez: Okay, so how do we, as a body, formally alert the next step on what we're doing?

Mr. Giroux: Well, it'll probably come with the transmission but there's other forces that, you know, are --

Mr. Fredericksen: How about a memo just say -- just stating that we are currently, the Cultural Resources Commission, is currently looking at this, you know, Chapter 19.52 because the Commission has some concerns that are currently addressing, or not addressing, but discussing just to let them know.

Mr. Hutaff: Maybe a good word would be "updating."

Mr. Fredericksen: Updating. Yeah, that's better. Yeah, updating. Stanley, is that -- just a brief memo?

Mr. Solamillo: I don't even think, to be really honest, I don't think it's necessary because review our agendas every month when they come out and then if something, you know, gets somebody upset or, you know, they'll -- they'll let me know. I think that since it is on the agenda and, you know, the Director's appraised that way and if there's, you know, their knowing, and there has been some discussion at some time that we needed to do this. It's been known through two administrations, so this is like no big surprise. Yeah, I mean we're actually doing what, you know, people, you know, back in 2005 said we ought to do so --

Mr. Fredericksen: Okay.

Mr. Solamillo: I think it's -- it's not necessary.

Mr. Hutaff: And I think the word you're looking for, Veronica, is maybe "lobby" the Council.

Mr. Solamillo: Lobbying always. Always lobby.

Mr. Hutaff: This stuff is coming up - get on our side. First one gets to them wins.

Mr. Giroux: So it wouldn't be official.

Ms. Marquez: So -- excuse me. So you're saying that people beyond us do -- supposed to look at the agendas or prefer to look at the agendas as part of their job?

Mr. Solamillo: No, it's posted and many people do. I mean I get calls, you know, even about the tiki stuff. I was getting contacted by tourism people. So I mean people read the

agenda. The agenda is posted on the internet, people do read it, and if they wanna complain or want a copy of what this Commission got transmitted, they can get a copy.

Ms. Marquez: But I'm talking about our next step. Our next step is?

Mr. Solamillo: Our next step is to -- I will get together with Corporation Counsel. We'll come up with some kind of draft, actual language. We're just kind of concept -- doing concepts today.

Mr. Fredericksen: Right.

Mr. Solamillo: And then we'll actually begin to look at language and then I'll bring it back to this Commission to actually deal with language.

Mr. Fredericksen: Next month?

Mr. Solamillo: I cannot promise. It may be next month. I need to bring, and this is supposed to be Director's Report when we do the agenda, I've got another item that's big so -- it's the survey. So if I can just continue?

Mr. Fredericksen: Yeah.

Mr. Solamillo: Okay, the next item, and probably this is the one that's nearest and dearest to my heart - demos. Demos and removals. Lahaina, on this graphic, we've got yellow parcels, all those parcels have gotten demos, and this is a graphic that documents demos from 1980 to 2008. The ones that are yellow and have a little red circle with a number on it, that means there's multiple demos on a property. So you can see that's a good chunk of Lahaina, okay. And of course we have the Kraker residents that came in last year for a demolition. And this is -- this is kind of my biggest hot button with -- with our islands, that's plural, is that we remove lots of buildings every year. At the rate we're going...(inaudible)... to 51, I came here in 2005, we were clocking at 80 to 100 buildings a year. We're now down, you know, to 30 to 50. But I'm just saying that over time, if you project that out 10 years, what are you looking at? You're looking 3 to 5,000. At some point, you know, the island cease to look what we know them to be, right? Because the -- those visual keys - the buildings, the structures - they're like, you know, I mean they're not as beautiful and they won't last as long as the natural environment if no one tents the building. But the whole point is this is what makes our place different from somewhere else and my concern is is that over time, you know, more and more buildings go down, they're replaced by more and more buildings, which looks like somewhere else, and guess what? You don't look like Hawai'i anymore period. Paia will not look like Paia. Lahaina -- I look at old photographs of Lahaina now and I'm going: I can't tell you a landmark. Where am I looking? Where am I standing in Lahaina? You know, and you go to places like Hana, still today, you have rock

walls that line that road and you go -- and that is the traditional way. Lahaina used to look like that. You know, I've got another department that issues permits with the contingency you will remove your rock wall. How did that happen? But I'm just saying that over time, this thing will change the landscape and that's why it's so important to do one of two things: we either slow this baby down, and I really -- and that's creating a different culture and -- and, you know, I know anybody attached to the plantation, we dislike what we suffered to endured under it, and I'm a descendent so I -- my family experienced it, but one thing that they did do, a lot of was reusing of older buildings. They would take one house over here. Olowalu took a whole bunch of houses, moved them up to Lahaina, you know, they did reuse buildings and that's something that we've lost total -- you know, so it's not in our lexicon of activities. So now we do have occasionally - I've got, you know, three people that wanna move buildings but they get all sorts of obstacles, like they're building new. Well, they're not building new. We're taking one building from here; moving it to another place. You know, but the obstacles that they get to get a permit are like why is it -- you know, why should we even do it?

So we can come -- in 2005, I could go take a picture, actually I could take a couple pictures, I could give you a single-line drawing that had, you know, showed you basically where some of the walls, maybe the doors and windows were, like real estate agents that do single-line drawings, right? And I could submit that and that would pass. I couldn't -- I mean I will show you some stuff later on that'll make your, you know, make your hair stand up. A building could be documented that way and get a demo permit.

In 2005, that changed and we began to say, no, we need more information because demos are forever and once they're gone, they're gone. And since no one had done a typology for our islands, right, you can't tell, you know, back in 2005, I couldn't tell you what building came first, when the shingle style started, when the double house appeared, what relationship does that have to a hale, and vice-versa, you know, and the same thing was -- could be said for our commercial buildings.

So what we started to do in 2005 was do an active HABS HAER program, which ended up giving us actually the beginnings of documenting our architectural heritage. In the NHL it's really important. If Wo Hing burned down tomorrow, which God forbid that that ever happens, but if it burned down tomorrow, we'd at least have enough drawings to rebuild the building. Now that can't be said about all the other buildings that line Front Street. So we were lucky with this one, got pretty good coverage, and then we went into other things, like the things that no one knew about for a really long time. What do those plaque say? This is Mantokuji, Paia. That was -- this was HABS Level 3 and it's just to give you floor plans. In this case, this accompanied a National Register Nomination. This was a HABS 1, Puunene Japanese Church. And then we've done, in 2005, the field work was completed and the drawings are coming out now for Pioneer Mill. This is the first time this was ever done this way. Still there's a real -- you know, people don't appreciate the sugar mills for

what they were and how important they were, you know, to our industrial heritage, so they've gotten a short drift. Then when we went to Lana`i City, we started looking at buildings which were done by, you know, specific Japanese carpenters through time and we began to draw these too, but what this is doing is giving us a much more complete picture of our architectural heritage, so that includes teachers' cottages, things like this. These things had never been documented up to this point, okay?

Then the double-house, really important. Why? It shows up on all these early photographs. You can even go to this, you know, to other plantations on Oahu, this is Aiea Plantation, 1908. That house is there but this is the first that we're actually -- how big are they really? How big are the rooms? Everybody tells you they get 10 and 12 kids and you're going, okay, how you sleep them all? Right? But it's part of our tradition and part of our heritage. Outside of Lana`i, this house type does not exist in the islands anymore. It's gone. But in 1900, it was everywhere. Photograph, upper right-hand side, Hana, or excuse me, Keanae. Right in the middle lo`i, that house type. What is the relationship? Look how closely it looks actually to a hale, right? You can look at the development of the hale in the post-contact period, we have rear rooms that are added, we have porches or lanais that are added, they're enclosed first with canvas or a temporary material, and then they wall them in. That's pretty amazing. So that's why the house I'm ...(inaudible)... becomes pretty popular. It's shape. You know, its probably room dimensions are very similar and it's easily adaptable by Hawaiians.

Okay, so what you've been looking at are HABS Level documentation; that's HABS Level drawings. HABS Level 1 is full architectural drawings, large format photographs minimum four-by-five with photographic scales plus site plan, floor plan, sections, elevations, and details, and written narratives that actually tell you something about the building, the building history, as well as who occupied it, when, and where. We have HABS Level 2; that's if you've got buildings say from a company like HC&S, they've got the original drawings, then you can substitute those for the second part but you still have to do the large format photographs and the written narratives. HABS Level 3 are large format photographs, written narratives, and just the floor plan. Most of our historic buildings that are eligible for listing, if they're residential structures, we do as HABS Level 3. If they're really in great shape, and a one-of-a-kind example, then we bump to HABS Level 1. What happens in the NHL, National Park Service routinely orders HABS Level 1 documentation and that is what needs to be probably codified into this code along with the statement, which strikes 19.10, and uses the Federal guideline, which is buildings 50 years of age or older. Any comments?

Ms. Marquez: I have a question --

Mr. Solamillo: Sure.

Ms. Marquez: But I think it's for Corporate Counsel. You know, I'm looking at the first sentence under demolition, A, and my question is: You see the word "shall?" As opposed to "will," which is more powerful? Which is more like gotta do it? Because, you know, depends on how you write this, is "shall" like very powerful or would "will" be more there?

Mr. Giroux: Yeah, the Hawai'i case law on the word "shall" is really interesting.

Ms. Marquez: Thank you.

Mr. Giroux: And it goes along with the cases that have "may" in it. This is a very confusing area of the law where you actually -- you actually have to look at what happens after the word in order to find out whether it has teeth or not. You know, I think we all raised in the biblical context where we see "shall" and it means you gotta do it. And what you gotta understand is that if there's no consequence after the word "shall," and if in its totality of procedure there's nothing that would either create an action, you know, like let's take the community plan, let's take something really big, and you see in the law the word "shall" all the time, and then you see a deadline even, but then you don't see a consequence. *The council shall make a decision by 180 days after receiving it.* And then you read the rest of the law, and nothing happens. Council members don't get fired. The document doesn't get shelved. The Planning Department doesn't get a spanking. Nothing. So that -- when you're reading the law, you have to be very careful of being focused on the word "shall" but look at what it says after "shall" because the next word you see is "discouraged" and a lot of people see that as a very weak word. "Discouraged" is like suggesting not to do something. So you shall suggest not to do something, and then the next step is, after you do that, what is the consequence? What is the consequences? And if you look at the -- if you look at Section 19.52.020, at the 42-day time line, the consequence is that the application shall be approved. Now that's huge. That's the ba-bing. You know, you're going -- even if it said "may," you probably would be, hey, that -- that guy just got a permit and it was never reviewed. And so that's -- when you're reading the law and trying to find out is it weak, does it have teeth, is there consequence; it's more -- and -- and the more that you want it to have consequence, the more you would lean to the word "shall." You would lean to that word "shall" because that's your connotation is that it means you have to. But in the law, the word "shall" has been used in situations where it's been, you know -- and -- and the word "may" has been used in the same fashion. You know, *the Department may transmit to the Planning Commission.* Well, no, it doesn't say "may." I mean it's "shall." You have to do it. That's the reviewing agency. The Charter says that you're the reviewing agency. The Department doesn't have a choice. But in the law it read "may." It doesn't mean they have a choice. It means that they have to do it cause another document says they have to do it. It's just that when they're writing another section of the law, it -- the "may" was more of after certain things are fulfilled, then you may -- then you may transmit, but you have to wait for certain things to be fulfilled. It doesn't mean that even after those things are fulfilled, you can chose not to transmit. So there's a very -- you know, I mean like I said,

in Hawai'i, the case law, it's very -- it doesn't follow the normal lexicon I think - it's the big words - but, you know, we don't see "shall" as the -- we would use it as a layperson but you have to look at the totality of the law to find out what does that "shall" mean.

Ms. Marquez: So in this instance here then, there's a "shall be discouraged," and isn't that the consequence that follows - then "the Commission shall not." That's a consequence.

Mr. Giroux: Yeah.

Ms. Marquez: So in this context, this says ...(inaudible)...

Mr. Giroux: Yeah. And, you know, that's something that I saw when I was reading it was after the comma, that "shall" seems to have a consequence. The problem is -- the problem is is that, okay, you go weak - discourage, strong - shall not issue, then you go weak - except when the -- okay? Now another department or another agency has to deem it none -- well, I would say simplified non-habitable. The Department of Health representative has it be a hazard.

Mr. Hutaff: That's kinda scary because uninhabitable we've seen but we haven't given a demolition permit because it can be re-habitable --

Mr. Fredericksen: Rehabilitated.

Mr. Hutaff: Yeah. So I think that that kinda needs to be, you know, put in there or the Department of Health's taken out because if it can be rehab, then fine. And it is kinda funny that you say, you know, "shall be discouraged." "Discouraged" is not final. You know, it's not absolute. Discourage means I really don't want you to do that but -- right?

Mr. Giroux: I think what you see is the throw roadblocks.

Mr. Hutaff: Yeah, and -- and then again I think if you just got the, you know, "shall not issue." If you eliminate the word, "shall be discouraged," if you eliminate it all together, then it goes, you know, or moving "the Commission shall not issue a certificate." You know, that's very finite. There's no compromise, yeah? And we'll leave it at that.

Mr. Giroux: Well, what -- what I want you to focus on again is look at the last half of the -- after those statements, look at the last half of that section because what happens is is that it starts kind of gutting, it starts gutting that finite decision, and what you wanna have is when you're making finite decisions is to have clear standards. You want clear standards to say, well, if it meets this criteria, then you shall not. And then you argue about whether or not it meets the criteria. But as a Commission, what you want is a clear direction to say we have the powers and authorities to do action A. What are our criteria so that we don't

get sued because we're following the law in order to make that decision? So what you have to look at is it looked like they attempted to create criteria, but the criteria they created then just became very gutted, yeah, because I mean at the last one, look at the year they used.

Mr. Fredericksen: Yeah. That's the way to go.

Mr. Giroux: 1910. Now, all of a sudden, when in Section A you're using -- you're using the word "worth," "historic or architectural worth," and then you skip to Section B and you say "yeah 1910," and you don't even use the word "worth." You use the word "historic significance," and that has a specific meaning in historic preservation law because now you evoke the Federal law, "historic significance." So you have to have a criteria. What criteria -- were we trying to use the criteria of the Federal law, or were we trying to use a date, or were we just trying to say if we deem it worthy? And that's where, as a Commission, you don't wanna be put in that position. You want a clear -- say, okay, if it's 50 years old, no. We're not going to approve a demolition. Or if it is on the State or Federal Register, we're not going to approve a demolition. Or, you know, I mean these are much easier as a Commission to say, well, Stanley, is it on the State Register? And Stanley looks in his register and he goes, no, it's not on the State Register. Okay, then let's go to the next criteria. What's the next criteria?

Mr. Solamillo: But is it eligible? Is it eligible?

Mr. Giroux: Right.

Mr. Fredericksen: Yeah.

Mr. Giroux: Is it eligible? Right, so you have to be clear about what is your standard and then it makes the enforcement of the law so much easier because you're not being challenged on the ambiguity. You may be disagreed with - *I don't like your decision*, but that's different than I'm going to sue you, you didn't meet a standard, and you guys are arbitrary capricious and you're -- you know, that's a different scenario. And that's, again, I just wanna emphasize, what makes a law and what makes it strong is its ability to be dragged into court because you want it -- your decision, when you do a findings of fact, in the findings of fact it will clearly state the law and then it will clearly state the facts that relate to that law, and that makes the lawyers happy because when we go into court and we say, "Judge, agency decision based on the law and the facts support the law. I win." Now, if we don't have the law that does that for us, lawyers get nervous because now we gotta be creative.

Mr. Hutaff: I like that word. I understand what that word means.

Mr. Fredericksen: Okay, so we're going to get some legal --

Mr. Solamillo: Yes, I'm going to ask again that Corporation Counsel transmit those recommendations and that assist the Department with the actual outline and language cause you just presented a really nice way of doing the demo ordinance, which is to establish is it on the register, Hawai'i or National Register; is it eligible; blah, blah, blah, blah, and to take us through a process and outline one. That does not exist. The other thing - we cannot, as a body and agency or otherwise whether it's a local or Federal, tell a private property owner that they cannot demo a property period. Now that's the unfortunate part but that's the facts. So the reason why I emphasize HABS standards because it's a Federal set of guidelines which were establish whereby you preserve on paper that building, structure, or whatever so that it's not a total loss. Nothing, however, can actually substitute for an original building --

Mr. Fredericksen: Right.

Mr. Solamillo: An original structure or archaeological site, but that's the whole point of having mitigation. How do you mitigate the adverse -- what they call "the adverse affect of the demolition," which is the laws, and that is by preserving through this mitigation process all the information that can be derived from it at a certain point in time. Okay.

Mr. Fredericksen: Yeah, Rhiannon?

Ms. Chandler: I just have one question. Is there any kind of precedence in historic preservation where the owner is asked to rebuild the same building?

Mr. Solamillo: I'll have to defer to this --

Mr. Fredericksen: Hinano?

Mr. Solamillo: Hinano might know, but I do not. I do not.

Mr. Fredericksen: Okay.

Mr. Hutaff: I have a question if it has kind of a short answer. What's to prevent a building owner from just letting it naturally demolish?

Mr. Solamillo: That is called "demolition by neglect" and that's what people usually do. That's what they do. That's what's happening to Lana'i. That's what's happening in Lahaina, you know. I was just asked to look at a building last week where the guy said -- cause I always ask, "Well, when was the last time you tented the building?" "Oh, never." "You bought it when?" "Oh, 1970." "Look at the termite damage." "Yeah, no kidding."

Mr. Hutaff: Is there anything we can do about that?

Mr. Solamillo: Require maintenance. Again, you're --

Mr. Giroux: Well, I'm a little bit out of my league on this one, but I -- from my understanding of law, there are - I don't know if Maui County has them, but I know there are laws about, you know, fire hazard, health hazard, sometimes if properties are so neglected, the owner may stop actually paying taxes on the property, so then the County would go in and put liens on, you know, on the property to --

Mr. Hutaff: But all that does is support demolition.

Mr. Solamillo: Yes.

Mr. Maly: That's right. That supports demolition.

Mr. Giroux: Yeah, so, like I was saying, it's a little bit outside of, you know, an actual law stopping them from doing that.

Mr. Hutaff: Would it be possible to have someone tattletale on a home like that and brought to us here where we could deem it a historical building and then -- does that change anything, or it can still just be neglected?

Mr. Solamillo: You cannot force a property owner.

Mr. Fredericksen: Yeah, I think at this point, I mean this is going off into the gray zone. Let's just try to stay on the agenda item and --

Mr. Solamillo: I'm going to --

Mr. Fredericksen: I think getting the -- getting this code or whatever, yeah, the Chapter 19.52 updated, to use Ray's - that's a good term, updated and so some of the loopholes are taken out. I'm assuming this 19.10 is going to disappear and we're going to put in the 50 years or older? Okay. But getting it so we've got a stronger chapter is --

Mr. Solamillo: I mean this probably hasn't been updated since what - '66?

Mr. Fredericksen: When it was written - 1910 date.

Mr. Solamillo: Right.

Mr. Fredericksen: Yeah.

Mr. Solamillo: And '66, bear in mind, they dropped Kamehameha III School.

Mr. Fredericksen: Right.

Mr. Solamillo: Right? That was built in 1913. They dropped the armory. They did a lot of stuff in Lahaina. They dropped major buildings and it was like, whoa, so you -- and remember, that's DOE, that's the State, right?

Mr. Fredericksen: Right.

Mr. Solamillo: Maui County did the armory. I think -- Lahainaluna. I don't know when they dropped Lahainaluna but those buildings all got dropped and they built new. It was this whole thing that just came like a wave.

Mr. Fredericksen: And how old's the new King Kamehameha III Elementary?

Mr. Solamillo: It's like the following year.

Mr. Fredericksen: So '60?

Mr. Solamillo: No.

Mr. Fredericksen: No?

Mr. Solamillo: If they dropped it in '66, it'd be '67 or something like that.

Mr. Fredericksen: So that -- I went to school there when those buildings were there, the existing buildings --

Mr. Solamillo: So they dropped them before.

Mr. Fredericksen: So they had to have been built before.

Mr. Solamillo: Okay. I don't know.

Mr. Fredericksen: Hinano, do you know when King Kamehameha III Elementary, the second phase, if you will, was built? I thought it was built in the '50's.

Mr. Solamillo: Maybe it was.

Mr. Fredericksen: Cause it's, yeah, it's probably right at about where it - the campus as it sits.

Mr. Solamillo: Cause those palms --

Mr. Fredericksen: I mean the structures.

Mr. Solamillo: Cause those palms, right? The royal palms that kinda don't belong there anymore. Those were -- they frame the entry to the original --

Mr. Fredericksen: Yeah.

Mr. Solamillo: 1913 building

Mr. Fredericksen: It was a really nice building.

Mr. Solamillo: Yeah.

Mr. Fredericksen: I mean just from the photos I've seen.

Mr. Solamillo: Yeah.

Mr. Fredericksen: Okay --

Mr. Romanchak: One -- just one other minor comment.

Mr. Fredericksen: Yes?

Mr. Romanchak: I would take a look at the sign section, Stanley, cause I know now there's a other code about signs.

Mr. Solamillo: Okay.

Mr. Romanchak: If -- just be clear that this one takes precedence or it, you know, the two of them shouldn't be in conflict with each other.

Mr. Solamillo: Okay.

Mr. Fredericksen: Well, this, if anything, they do need to be brought up.

Mr. Romanchak: Or if they do conflict, then this would take precedence.

Mr. Fredericksen: Cause the signage was done -- when was that approved? That was approved, I think, when I was on the Commission the first time when it was up --

Mr. Romanchak: The other -- that ...(inaudible)...

Mr. Fredericksen: Yeah, the updated signage.

Mr. Romanchak: Yeah, so as long as this one's --

Mr. Fredericksen: This matches at least.

Mr. Romanchak: Or it's going to be stricter, I should say, that this takes precedence.

Mr. Fredericksen: This -- yeah. Thanks.

Mr. Solamillo: Okay. Very good. I think that's all I go into. If there's anything that Corporation Counsel or the Commissioners want me to add in?

Mr. Fredericksen: Well, and this is just in its preliminary element as it were.

Mr. Solamillo: Yeah, this is very --

Mr. Fredericksen: So and this will be coming back; then we'll have something, you know, in writing that's more, you know, more on the updating side. We can look at it again. Any other questions or comments? Anybody want to -- Veronica?

Ms. Marquez: I love words but, you know, I'm looking at the sign. It's interesting how they word it as -- if it goes like -- no signs that ...(inaudible)... or contain like ...(inaudible)...

Mr. Fredericksen: Neon.

Ms. Marquez: But then shall be allowed. But it's no. No. Okay, so it's not allowed. However, on the side, what we were just talking about, it's like highly discourage or shall be discouraged. So are they doing a play on words here? I guess Corporate -- I mean they both no ...(inaudible)... but they're saying in a different way, you know.

Mr. Fredericksen: This ones much less ambiguous. This side is much less ambiguous on the signage.

Ms. Marquez: On the signage.

Mr. Fredericksen: I mean it seems to me, it's much less ambiguous.

Ms. Marquez: I just thought -- I mean think about it the way do word things.

Mr. Hutaff: Well, actually I kinda think that, you know, you're erecting a sign; whereas, you're demolishing a building. So erecting a sign, you can erect but in no way can you do

this or that or that. On the demolition, it's discouraged because, like everybody's pointed out is, the owner doesn't have to follow us, okay? So the only thing we really can do is discourage it. We can't say no, you can't do it, because then they come back and say, well, the law allows me to do it because I own the land. You see what I'm saying? You can build a sign any way that you want as long as you don't make blinking lights and it follows the thing, but demolishing a house, you're taking away something, so it's kinda two different things.

Mr. Fredericksen: Anything else on that, Stanley?

Mr. Solamillo: No.

Mr. Fredericksen: Any public testimony? Going once, twice. Okay. Let's go ahead and move into No. 3.

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

- 3. MR. STANLEY SOLAMILLO, on behalf of Maui County Department of Planning, requesting review and comment on letter from the Maui County Cultural Resources Commission to Hawai'i Tourism Authority, Maui Visitors Bureau, and GPS-Companies, Inc. on "TIKI CULTURE." The CRC may comment and provide recommendations. Public testimony will be accepted. (S. Solamillo)**

Mr. Fredericksen: Are you going to read that in or you're going to put it up?

Mr. Solamillo: I'll read it.

Mr. Fredericksen: Okay, thank you.

Mr. Solamillo: This is addressed to Mike McCartney, President, Hawai'i Tourism Authority, Mr. Terry Vencel, Executive Director, Ms. Lynn Erfer, Director of Marketing, Maui Visitors Bureau, and Mr. Jim Pouba, GPS Companies, Inc. Aloha, this was a draft that was sent to Commissioners:

Aloha:

In November and December 2009 an issue of ART & CULTURE ON MAUI MAGAZINE, published in Wailuku by Jim Pouba, GPS-Companies, Inc., featured a cover story entitled, "RE-IMAGINING TIKI" which was circulated throughout Hawai'i at the State's international and regional airports.

Many members of Maui's Kanaka Maoli community have found the article to be at best "insensitive" and at worst "offensive" because it promotes a non-authentic representation of Hawaiian Culture, includes an eclectic combination of aspects borrowed from other Pacific Island cultures, and employs caricatures of Hawaiian sacred images (ki'i), dance (hula), burial remains (iwi), and indigenous women (wahine).

As you may be aware, "Tiki Culture" is a thoroughly American phenomenon that was originally produced on the U.S. mainland during the Great Depression of the 1930s. It enjoyed widespread national appeal that peaked in the 1950s and then waned by the 1970s. A resurgence of the phenomenon began in the late 1990s in California and Florida and continues into the 2010s. Its re-introduction to Maui and the Hawaiian Islands has accompanied an in-migration of persons from the U.S. mainland that occurred during the latter period.

The wide circulation of ART AND CULTURE ON MAUI magazine and potential to reach thousands of tourists prompted the Maui County Cultural Resources Commission to review the article and "Tiki Culture" in general at a public hearing, which was held in Wailuku on January 7, 2010. The publisher was invited to the hearing but did not attend and the commission voted to send a letter to the Hawai'i Tourism Authority, Maui Visitors Bureau, and the publisher, along with a copy of the article, and include the following findings:

"Tiki Culture" was created on the U.S. Mainland during the 1930s, was primarily marketed by non-Hawaiians to non-Hawaiians from that decade through the 1970s, and used to sell a variety of commodities ranging from alcoholic beverages to home furnishings;

It is not an authentic culture and utilizes caricatures which debase Native Hawaiians and other indigenous persons, their religious iconography and objects, as well as ceremonial and cultural practices;

Hawaiian religion, its iconography and objects, as well as Hawaiian ceremonial and cultural practices are regarded as "Traditional Cultural Property" and associated with the beliefs of a living community which are rooted in the community's history, that are still practiced and valued in the present day, and that are important in maintaining the continuing cultural identity of that community;

“Tiki Culture,” whether in its earlier or present-day form, should not be promoted under the auspices of “Art & Culture” by any agent of the visitor industry on Maui or on any of the home islands of the Hawaiian people; and,

It conflicts with the objectives and strategic directives of the Hawai‘i Tourism Strategic Plan (2005-2015) which state: “Honor and perpetuate the Native Hawaiian culture and respect and collaborate with the Hawaiian community;

The Native Hawaiian culture is what makes Hawai‘i a unique place to live and a unique place to visit. It is the one single attribute that distinguishes the Hawai‘i experience from all other visitor experiences around the world. It is essential to: accurately and respect- fully represent the Native Hawaiian culture in tourism activities and marketing efforts; provide support for Native Hawaiian practitioners, musicians and artists to perpetuate the culture; and increase collaboration and bridge the gap that exists between the Hawaiian community and the visitor industry.”

We ask that you assist us by ensuring that the latter is communicated to the publisher and that a plan is developed to “bridge the gap” between the Kanaka Maoli community of Maui and this agent of the visitor industry.

Sincerely, Erik Fredericksen, Chair, Maui County Cultural Resources Commission.

Mr. Fredericksen: Okay, comments?

Mr. Solamillo: Comments? This was like the mail end. The principle comment that -- that I recall, and I can be corrected because, for some reason, I’m forgetting a lot lately, was that we use native Hawaiian or kanaka maoli throughout the letter. Okay, since the actual tourism document says “native Hawaiian,” then we’ll have to take out “kanaka maoli” and just use “native Hawaiian” throughout, if that’s okay with this Commission. The other thing that would change the body of the letter was a comment by a Commissioner that said we shouldn’t single out GPS Publications as, you know, this big ogre but should actually say that GPS Publications is representing a trend or is an example of a trend --

Mr. Fredericksen: Yeah.

Mr. Solamillo: And suggested that the paragraph highlighted in yellow be used as kind of a preamble into and it says --

Mr. Fredericksen: Could you read that?

Mr. Solamillo: Yeah, "A goal identified in the Hawai'i Tourism Authority, 2005-2010, Hawai'i Tourism Strategic Plan is to "honor and perpetuate the Hawaiian culture and community." One of the critical issues identified in that" -- or "is that," excuse me, "the Hawaiian culture is often inaccurately portrayed. We would like to bring to your attention a recent example with the expectation that HTA will take a more active role in monitoring and educating agents of the visitor industry to avoid such distortions and misrepresentations in the future," which is a really great lead. I just would have to fold it in.

Mr. Fredericksen: Yeah, any comments?

Ms. Marquez: I don't think the essence would be like honing on GPS's negativity. It remains a fact --

Mr. Fredericksen: Right.

Ms. Marquez: That this article was -- it came out of this so I would like to keep that in there because when somebody's going: Where'd they get this from? It's right there, and it is a fact, it's not an opinion, it's true, and I don't see it as being in a negative thought or ...(inaudible)... someone's company.

Mr. Fredericksen: Yeah, well, and companies need to take responsibility too. It's not saying, oh, they need to be fined or something like that. It's just like, hey, they need to be called out on it, not -- it's not -- I don't it's overly critical. Some of that language could be incorporated within that -- within the paragraph maybe. But I don't know. Any other comments?

Mr. Romanchak: I think the way that letter's written is very clear. It's very succinct. It's great. You know, I would be in favor of leaving the language the way it is and adding that, you know, that language as the first paragraph which just is --

Mr. Fredericksen: Kind of intro --

Mr. Romanchak: Briefly stating that this is a broad -- broader issue that they need to be aware of and here is a recent example that is a very good illustration of what we're worried about, and then, you know, the rest of the letter, there's no changes to the rest of the letter.

Mr. Fredericksen: Any other --

Mr. Romanchak: It just puts it in a broader context than this one particular instance.

Mr. Fredericksen: Yeah, like just bringing it, like you said, this is a broader context and here's the example the CRC looked at.

Mr. Romanchak: Yeah, I mean the language in the letter, as it exists, I think is great.

Mr. Fredericksen: Any other comments? Rhiannon.

Ms. Chandler: I just had one comment that Terryl Vencel is a woman so we need to change that to Miss instead of Mister.

Mr. Fredericksen: Thank you.

Mr. Solamillo: Okay.

Ms. Chandler: And is it possible to cc the Mayor on this or does anybody not agree that that's relevant? I think it's kind of a proactive step that we're taking here and we had discussed, last time, that maybe some of these agencies would take on a cultural advisor to see that the things that they are putting out are authentic. I don't know if that's adding too much to the letter to say something like that, but it is a precautionary step, I would think, on their part.

Mr. Solamillo: This is -- I mean it's written intentionally. It asks, actually, assistance in some kind of plan. If I were being my normal self at two in the morning, I would say I wanna -- I want you to have a cultural advisor. I demand that you have one, right? Because you've got folks writing, who aren't from here, have no clue --

Mr. Fredericksen: Right.

Mr. Solamillo: Right? And they took the article, the subject came from the New York paper. What is it? New York what?

Mr. Maly: *Times*? The *Times* or --

Mr. Solamillo: Was it the *Times*? Anyway, it was one of the New York papers, right, and it was like, you know, New York publications have never been a front to Hawai'i anyway so, you know, but that was saying, you know, so because it's a fad and it's really big on the Mainland, you wanna bring it here. I went to Café Mambo over in Paia last week and they got the menus are on top of a head of a tiki that's four or five feet tall, you know. I have to get the menu from there. And I go the next restaurant up Baldwin Avenue, and they got a big tiki four feet tall hanging on the wall. And it's like, well, what's the point? And then Commissioner Chandler shows me, you know, tiki art, you know, call for artists by the Southshore Tiki Lounge, and I said, "Well, what's the point? You know, they've landed and they're taking over." It's kind of -- I think that people need to be made aware of just how serious this really is and most people don't care because, you know, it's people from the Mainland don't care.

Mr. Fredericksen: Well, they just don't know.

Mr. Maly: Yeah.

Mr. Solamillo: But I mean if you actually, you know, pulled, you know, Tom, Dick, or Harry at -- you know, aside on the street and said, well, you know, it's freedom of artistic expression, and you'd get a whole bunch of stuff about -- and I always come back with, "Where are you? You're not in Hollywood, Florida, or San Diego, California." So that's -- so, anyway, it was to leave open, when I did the initial language of a plan, it is to leave open that possibility without demanding it because I would prefer to demand it but that would be too strong.

Mr. Hutaff: What about encouraging it?

Mr. Solamillo: Well, I mean I think the letter encourages it but it's actually for people, for private citizens and I think for native Hawaiian organizations and cultural practitioners to being speaking up because, remember, staying quiet or not saying anything is, in simple language, acquiescence because it'll take over. It'll become popular.

Mr. Fredericksen: Well, I like Rhiannon's suggestion that the Mayor be copied.

Mr. Solamillo: Okay.

Mr. Fredericksen: I think certainly the Mayor should be copied this cause, you know, we're the Maui County Cultural Resources Commission so certainly the Mayor should be copied. It's going to the Hawaii Tourism Association and the Maui Visitors Bureau and, of course, the outfit that published the, you know, the article, and that coverage seems -- that's good. I don't know what the Commission feels, but maybe it'd be a good idea to copy the Governor's office as well?

Ms. Watanabe: Oh yeah. Yeah.

Ms. Kanuha: The Governor, Congress, the House of Representatives - everybody.

Mr. Fredericksen: I mean let's get it -- let's get it out there. I mean Oahu is another problem but that's not our kuleana, per se, but just a larger audience, as it were, so there's more visibility for this issue and other issues as well. Any other comments or additions or comments on the letter?

Mr. Hutaff: Yeah, kind of -- kind of. The way I'm kinda looking at this is we've identified a problem, okay. And then when you identify a problem, you bring that problem to the surface so that you can find a solution. I'm not real clear on the solution and if it's okay, it's what

I responded to, if I can read what I responded to, and it may take us a little off a little bit but I think we can get it back:

Here is my concern. Legally, the artist has a right to paint and interpret as he/she feels. Art is a freedom that is protected by the U.S. Constitution. There have been many cases of art so offensive that the average person, which is the foundation for the law, whether it works or not, the average person found it unacceptable; yet, there is no wrong as far as the Constitution goes. We state that in the paragraph, in the first paragraph, of how offensive that really is. The article itself is protected by the same freedoms but it is not the information that is not provided in the article that is wrong. The article itself is protected by the same freedoms, but it is the information that is not provided in the article that is wrong. Nowhere does it accurately provide the reader with how important and sacred the tiki is to all of Polynesia. Okay?

So they can write anything they want, basically, okay? But they're trying to provide information as being the kind of -- you go to and, like a dictionary, and you're going to find the right information. They give that perception.

Yes, there is the tourist tiki, those made in China and Taiwan to be sold to the visitor, but it is not as rude as the article is. The magazine hints of culture; it hints that it has information; it hints it has correct information. A reasonable person would think this about Hawai'i and the Hawaiian culture. Closer reading tells the real truth. It is about the culture of art, not about the culture of Hawai'i. An argument that the magazine was never meant to be about the Hawaiian culture but art culture can be easily argued by the article's about live aloha and the lei. But let's avoid the argument and get them on our side. That's what I'm interested in doing. That's my solution. They can do more to help provide correct information to the public than we could do as a Commission, okay.

So what do we want to change? So how do we change the direction of the publisher to get him on our side. My idea is to challenge the art as offensive within the purpose of the magazine that uses culture to sell advertisement.

Mr. Fredericksen: And the letter though --

Mr. Hutaff: It does.

Mr. Fredericksen: I think does that.

Mr. Hutaff: It does.

Mr. Fredericksen: Really well.

Mr. Hutaff: It does that really well, okay, and I make comment on that also. To have this art it is insensitive to the culture on the front cover and then to give the same cultural respect to the tiki bars is not the way to properly teach and inform the public about the Hawaiian culture. Actually, they could have used the art on the front cover as a method to teach the reader how important each piece within the work is to the Hawaiians and Polynesians and why it is offensive no matter how good the work of the artist is. Only two changes could actually do that, okay. The first thing is the tiki culture, where we have there on the last page, if it could be in comment to the article.

Mr. Fredericksen: Where are you looking at, Ray?

Mr. Hutaff: The last -- that's presented where it says, "'Tiki Culture,' whether in its earlier or present-day form, should not be promoted under the auspices of 'Art & Culture' by any agent of the visitor industry . . ." If you change the tiki culture, the article in this book, or however you wanna put it out there, really states that we're not challenging the artist, we're challenging the misinformation, and then down there, it would make better sense to say, "A plan to bridge the gap." What we're really asking them to do is help us get out the correct information because they're subject to the wrong information themselves, and now they're perpetuated under the guise of culture. The culture of art, as we can read the book, is what it's really talking about. It's not talking about the Hawaiian culture in this particular article. So if we associate the tiki culture as the article down here, "plan to develop to bridge the gap," I think that what we're saying then is that if you -- we would like them to help us get out the correct information because they -- if they argue with us, they're just going to trash it and we can be trashed and everybody will be, not everybody, but most people will be on their side going, yeah, how can they tell an artist what to do? But if we point out that the article is what's really offensive, okay.

Mr. Fredericksen: Well, that's what -- that's what, I believe, this letter is addressing is the article itself. Yeah, it's using the art that was -- that it presents their, you know, the tiki culture or whatever, but it's the -- it's the --

Mr. Hutaff: Article.

Mr. Fredericksen: The article itself.

Mr. Hutaff: Right. Except that we begin it out here in the front, which it says includes, you know, a combination of aspects borrowed from either other Pacific and island cultures, employs caricatures of Hawaiian sacred --

Mr. Fredericksen: And that is the so-called "tiki culture" itself.

Mr. Hutaff: That's not talking about the art?

Mr. Fredericksen: It's -- well, that's one of things that's within that, you know, the fake everything, fake tikis, and fake motifs, and --

Mr. Hutaff: Sure. I was just trying to separate the art from the article. Attack the article and not the art.

Mr. Fredericksen: Well --

Mr. Hutaff: That's -- and whatever you guys wanna do, I'm on your side because, as I pointed out to Stan, that what I just read to you is a penny-and-a-half to his million dollar writing, okay. I just wanna kinda put it out there cause something's gotta be done.

Mr. Fredericksen: Sure. Comment?

Ms. Marquez: It's going to be so difficult to divorce the art of the article because, the way I see it, the art makes the article.

Mr. Hutaff: It does but the idea is that when you're writing something, sometimes you wanna lead somebody to a conclusion, which is what this article has actually done, and we can do the very same thing. If we attach a little phrase in there that says, "The article," we can say, well, we're only talking about the article. Although the perception is that everybody who reads it, we're talking about the art. You follow what I'm saying? It's the same thing that they're doing. Cause they're laying claim, okay, that they have information, correct information, about the culture and the art depicts that, but there's nowhere in there that it really does.

Mr. Fredericksen: The second paragraph, Ray, on the first page.

Mr. Hutaff: Yeah.

Mr. Fredericksen: Any members of - and this is going to be struck, let's put "native Hawaiian community" --

Mr. Hutaff: Right.

Mr. Fredericksen: So "kanaka maoli" is going to be taken out, that reference -- have found the article to be, at best, insensitive and, at worse, offensive, etcetera.

Mr. Hutaff: Yes. The article is pointed out.

Mr. Fredericksen: And that comes right up on the, you know, that second paragraph, after the first paragraph and maybe with some -- some of that additional wording up front as an introduction from the -- from a broader perspective. Stanley?

Mr. Solamillo: Yeah, if someone -- if one of the Commissioners can be redlining your copy of the letter.

Mr. Fredericksen: Well, you had it up on the --

Mr. Solamillo: Right.

Mr. Fredericksen: Up on the screen.

Mr. Solamillo: Right. Yeah, I mean I've got that copy but outside the changes which I've identified for you, any other changes, such as, Ray, you wanna insert something within the paragraph, I'll need a markup that shows that. I wanted to, because we're talking about tiki culture and tiki art, you know, this is part of the presentation that was given at the last Commission meeting, and it was like look at the images that means this whole thing. I can go from one end of the Pacific, grab, you know, a head off of a sacred image here, and take it to another end of the Pacific, and combine them, and come up with a new thing, and that, you know, the artist are real masterful at it. I'm not debating the question of the art. The question is: Well, what gave you the right to do that anyway when that is, in fact, a sacred image, and then bring it back to the place where you took it from and say, hey, this is legitimate culture? That's the debate here. That woman, look, she's got a flower in her hair and she's got an ukulele, right? But it's the whole point of where do we -- we have people that come here as immigrants or as colonists, whichever word you choose, and it, you know, I used to think, oh well, the colonization happened way back in 1910 or 1850. No, it continues to this day because every generation, for some reason, never learns or comes from somewhere else with biases and they have to be reminded. So they can't -- they can't go to this Hawaiian church across the street and make fun of that, but they can go to the art of the ancestors and the sacred art of the ancestors of the people that built that church and make fun of that. So it just -- and then make money off it, right? Cause this really is all about money. None of this would be coming here if it was hot on the Mainland. So that's really -- how do you stop it? I don't know. It's a huge wave at this point. But to be silent is to say it's okay. So we worry about trying to --

Mr. Hutaff: This is more than has been done in a long time and I'm very happy to be part of this Commission at this particular time doing this. It's a great beginning.

Mr. Fredericksen: Any other comments on the letter at this point?

Mr. Maly: I just -- I wanna apologize for not being able to be at the earlier meetings where this was discussed, but it is really important to remember that in the native Hawaiian context, that ki`i is the word tiki. A "k" is -- or "t" is replaced by a glottal mark, but the word was most often accompanied by another word - ki`i akua, the god image, the representation of the god being called to. And so I gotta tell you, from kid time, talking with people like Noelani's tutu folks and other kupuna, you know, born in the 1880's - 1890's, that one of things that always peeved them about seeing image is tiki images, you're just asking for trouble when you have one open-mouth image in front of your place of business and stuff like this because the idea is that akua, that ki`i akua is out there to eat, and if you don't feed it, it's going to eat whether you feed it or not, you know. And so I mean the depth of it is staggering and it has been so trivialized, you know, that -- and that's the idea is, hopefully, there'll be a chance through this letter and through ongoing awareness in the native community and beyond that that people realize that it's inappropriate but ki`i, tiki, is more than that. It was qualified by what? Akua. God. God images. Representations of. So, you know, that's just my two cents on, you know, why it's important to do this.

Mr. Fredericksen: Yeah. Any other comments from the Commission at this point? Let's go ahead and see if anyone wants to testify on this. Come on up. State your name. Yeah, Keeaumoku.

Mr. Keeaumoku Kapu: Good afternoon, Commissioners. Keeaumoku Kapu from Lahaina. You know, I mahalo the comment, the last comment was made by Ray, because where does it end? I think we also gotta look at other establishments on -- on Maui or throughout the State of Hawaii that portrayed the image. They might say, well, that's 50 years old so it triggers historic preservation too. You know, those kinds of things, yeah. People would find all kinds of ways to create an excuse to say, you know, the tiki that they had is legitimate because it falls under the historic preservation's mandate of 50 years old - those kinda things, but it's good that this is a step in the right direction. I would like to request that this letter also be cc'd to Kuleana Kuikahi, LLC, if can. Mahalo.

Mr. Fredericksen: Okay, any other comments, Commissioners?

Ms. Chandler: I just wanted to say thank you to Stan because the letter is really well written and the subject matter is very passionate and you ended up writing it in a way that it's --

Mr. Fredericksen: It's good.

Ms. Chandler: Yeah. But it's not opinionated. It's factual.

Mr. Fredericksen: It's not like we're going --

Ms. Chandler: Yeah. Yeah.

Mr. Fredericksen: Although we might feel like we wanna do that.

Mr. Hutaff: We do want a bigger hammer, but Stan did a wonderful ...(inaudible)...

Mr. Fredericksen: Yeah, thank you, Stanley. It was --

Ms. Watanabe: And, Stan, just check on Terry's last name. I think it's C-Y-L.

Mr. Solamillo: Okay.

Mr. Fredericksen: So, Stanley, you -- any comments back to us about the letter?

Mr. Solamillo: I can send one more draft back.

Mr. Fredericksen: Okay.

Mr. Solamillo: Okay.

Mr. Fredericksen: I mean do we wanna look at -- do we wanna look at the draft one more time or do we wanna just send it out? I mean, you know, I guess I would be -- do I sign it?

Mr. Solamillo: Yeah, you would sign it.

Mr. Fredericksen: I mean do you folks feel comfortable with -- with it as discussed? I, personally, would like to get the letter out sooner rather than later.

Mr. Hutaff: I think we just need to make a motion to that effect and then it happens, right?

Mr. Fredericksen: Yeah. Any motion? Any motion or emotion?

Mr. Hutaff: I move that Stan, based upon the information that we've discussed here, modify the letter slightly, okay, to accommodate those issues and forward it and give it Erik for final say. If he approves it, send it out.

Mr. Fredericksen: It would just be to sign basically. Any second?

Ms. Marquez: 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: *that Stan, based upon the information that was discussed here, modify the letter slightly to accommodate those issues, and forward it, and give it to Erik Fredericksen, Chairperson, for final approval and signature. If he approves it, the letter can be sent out.*

Mr. Fredericksen: Okay, unanimous. And thanks once again, Stanley.

Ms. Watanabe: Good job.

Mr. Hutaff: And thanks, Commissioners, for letting me ready my stuff.

Mr. Fredericksen: No, Ray, and thank you.

Ms. Watanabe: Thank you, Erik, for signing this letter.

Ms. Marquez: He hasn't signed it yet.

Mr. Fredericksen: Stanley?

E. DIRECTOR'S REPORT

1. Resolution for KU'IWALU to Preserve and Protect Native Hawaiian Plants and Animals by Reducing the Devastating Threat of Rodents Through the Appropriate Use of Approved Rodenticides to Eradicate Rats and Mice in Maui County

Mr. Solamillo: Under Director's Report, a Resolution for KU'IWALU to preserve and protect native Hawaiian plants and animals by reducing the devastating threat of rodents through the appropriate use of approved rodenticides to eradicate rats and mice in Maui County has been prepared with the two changes, which were asked, at the last Commission meeting, be incorporated. It's a long reso. I don't think I'm going to read it again cause the changes were really manini but I'm going to pass it around for review and signature. If, before the end of the Director's Report, if there was any Commissioner not at the last meeting who has any issues and does not wish to sign, let me know, and then we'll bring it back up for discussion.

2. March 4, 2010 CRC Meeting Agenda

Mr. Solamillo: The next item is the March 4, 2010 CRC meeting agenda and we had a cultural survey, cultural resources survey conducted for Maui County, and we got over 300 pages of text, plus pictures, all on CD-ROM, so for those who want to receive a hard copy, I need to have a show of hands, otherwise, we're going to do just CDs for everybody.

Mr. Hutaff: Oh, CDs?

Mr. Solamillo: Yeah, CD or trees. Your choice. This is an important thing that the Commission needs to review and comment on, okay, and it was a survey that --

Mr. Fredericksen: How long is the document?

Mr. Solamillo: Over 300 --

Mr. Fredericksen: It hasn't been accepted yet --

Mr. Solamillo: No.

Mr. Fredericksen: By the County?

Mr. Solamillo: No. I mean I've taken it but I have not written any comments on the document.

Mr. Fredericksen: Okay, so there's still -- it's possible to have changes.

Mr. Solamillo: Not significant changes probably but if you find --

Mr. Fredericksen: What sort of changes are you envisioning?

Mr. Solamillo: If you find editorial changes or things that you want restated, if you find sites that were completely missed, and stuff like that.

Mr. Fredericksen: Okay, so it's a 300-page long document. It is going to be PDF?

Mr. Solamillo: So site forms -- yeah.

Mr. Fredericksen: PDF? I'd like to have a copy of the final but I don't need to -- I can look through a PDF. The only thing is if there's any changes, it's a little -- well, I could just note down the page number.

Mr. Solamillo: Just note the page and paragraph. That's what I usually do.

Mr. Fredericksen: Yeah.

Mr. Solamillo: ...(inaudible)... paragraph.

Mr. Fredericksen: Yeah. I'm fine with that than doing it in trees. I would like to have a copy of the final though once -- after, you know, we've looked at it --

Mr. Solamillo: Okay.

Mr. Fredericksen: If there are any changes. But anybody else? CDs are fine.

Mr. Solamillo: And the purpose, yeah, I mean the purpose of the survey was to go and essentially nail down hot spots on our island of places that needed to be preserved, where we could get districts out of them, it's to be used as a planning tool because from here get generated the, you know, the nominations so -- so anyway, that needs to be on the next agenda. So how much I could fit in as far additional work ...(inaudible)...

Mr. Romanchak: Stan, can this kind of information be included on like GIS type like mapping?

Mr. Solamillo: Yep, cause GPS points were taken first for sites and districts. So all of this is eventually is going to get incorporated into the County GIS system and I guess it serves the basis, as I've said, for planning purposes.

Mr. Fredericksen: Are there -- in that, the GIS, the County GIS system that's going to, you know, the data's going to be incorporated into, is that -- are Federal funds being used for that? So it's all in-house? Simplifies things.

Mr. Solamillo: Okay, are there any things that are hot that like gotta be on the next agenda?

Mr. Fredericksen: Anyone? Ray?

Mr. Hutaff: For the next agenda, I -- you know, we didn't talk about what happened on Lana'i.

Mr. Solamillo: That's next on our Director's Report.

Mr. Hutaff: Okay, cool. Thanks. I'll wait for that then.

Mr. Solamillo: Okay.

Ms. Marquez: Not hot, but maybe lukewarm, I'm gonna suggest for future, maybe not March, maybe April, could we address the -- you can hug me all you want, I'm going to say it, could we address this mana`o that we put on the front page, which Erik showed me, there is a "may be established on the three minute limit." I would like to bring up that we should be adhering to when people testify that we adhere to this three-minute limit, however, I was told by the man to my left that there's the word "may be established." I would like to just bring that up to see that, you know, so that the meetings flow forward, that we be consistent and we allow the three-minute limit. I mean the word "may" -- "shall."

Mr. Solamillo: Shall. No testifier "shall" be allowed more than three minutes.

Ms. Marquez: Put a consequence in there.

Mr. Solamillo: Okay.

Ms. Marquez: So maybe for the April --

Mr. Solamillo: Okay.

Mr. Hutaff: We need lights. We need those red, green, yellow lights.

Mr. Solamillo: There you go.

Ms. Marquez: Okay.

3. Hawai'i Register of Historic Places Review Board Hearing on the proposed Lāna'i City BCT Historic District, Lāna'i City, Lāna'i, January 9, 2010

Mr. Solamillo: Okay, now my favorite subject, Item 3, Hawai'i Register of Historic Places Review Board Hearing on the proposed Lāna'i City BCT Historic District, which was held on January 9, 2010. SHPD and in an attempt to prevent a contested case from occurring, requested that Castle & Cooke and Maui County meet in Honolulu and try to get a district boundary hammered out that all would -- that would be acceptable to all parties. So the negotiations, there were three meetings in December, the negotiations went down to the wire on the 6th, the hearing was on the 9th, excuse me, yeah, of January, so the meetings went into January. So three days before the official hearing in Lana`i City, we had a district proposal that was okay, you know, for Castle & Cooke and I was directed by Maui County Department of Planning to go with. That was a smaller district. That was Dole Park as the center piece and then one building depth all around the park, so it included all the churches, all the commercial buildings, it included Hotel Lana`i, and it included the Dole offices, but

all the double-houses, all that stuff that we talk about in vernacular housing was not included as part of the district.

When we came out of the meeting on the 6th, well the instructions were that we present this to, you know, the State Board of Review, which was meeting on the 9th in Lana`i City. So to that end, I made the presentation, Castle & Cooke, since they didn't have everything outlined and on an MOA, or memorandum of agreement, wanted the action to be deferred, SHPD agreed, and Maui County asked for a deferral on the action.

The citizens of Lana`i were not happy and at the beginning of the meeting, I met with -- with various representatives from various organizations, including the Council Member Sol Kaho`ohalahala, and he was pretty incense. So in essence, a lot of the public testimony, which was made at that hearing, was against doing a smaller district. In fact, they wanted the original boundaries plus some, and they wanted a larger district all together. The consensus was go with the original Maui County submittal, one block depth on all four sides of Dole Park, and then extend it over to include all the buildings in the baseyard. The Board of Reviews sent it back, decided to send it back to Maui County without prejudice and instructed that a community meeting be held so that members of the community as well as Castle & Cooke could come to some agreement on, you know, "a district." Originally, when Maui County did the district and came up with the borders or the boundaries, the Mayor would not support anything larger than the original commercial district, which is why we drew it up the way we did.

Mr. Fredericksen: When was that?

Mr. Solamillo: That was back in 2008.

Mr. Fredericksen: A different -- oh, same administration.

Mr. Solamillo: Same administration. And originally, you know, you can't separate the Dole or the Hawaiian Pineapple Company buildings at the baseyard because they are part and parcel the same -- built by the same guys who built the houses using the same window styles, you know, although in different configurations. So we're going to have a meeting and the State Board of Review instructed the applicant, Maui County, as well Castle & Cooke to be at -- be present at the community meeting and to revise the nomination accordingly.

Mr. Fredericksen: I'd just like --

Mr. Solamillo: I'm not done yet.

Mr. Fredericksen: Okay.

Mr. Solamillo: Since then, the administration, being that it is an election year, has -- has instructed the Planning Department to essentially hold off until they can have a meeting between Planning as well as the Mayor's office to actually decide where they wanna go on it. So that's kinda where I am at. If we were instructed, if the Planning Department was instructed by the Mayor's office to extend the hold on the nomination or table it, then the nomination would be given to a third party to resubmit at SHPD.

Mr. Fredericksen: Third party being?

Mr. Solamillo: A third party and that would be all I can say. A citizens group can --

Mr. Fredericksen: Okay.

Mr. Solamillo: Can take the nomination because it is public information --

Mr. Fredericksen: Right.

Mr. Solamillo: I will provide digital copies and the nomination can be kept alive by resubmission.

Mr. Fredericksen: I have a question - actually, it's a comment and then a question. I'm disturbed as a -- as a taxpayer because from what you've shared, it sounds like SHPD - the State does this sort of thing sometimes - basically, things were done without public comment on reducing the size of the -- of the proposed district. Is that correct?

Mr. Solamillo: Well, I think it's a little bit more. I mean from the surface, it looks, you know, the way the citizens took it, it looks like you got in bed with the developer, I mean, well, no. I mean we had a time constraint and we had somebody saying I -- and they said in writing, we contest this nomination, we're going to go to contested case. So in order -- the big fear, because all the attorneys, including our own, you know, and probably more so from the State than Maui County, were saying we've never won one and we don't anticipate that we will, so we gotta get the best that we can get and if it's a smaller district, we go with a smaller district, and then you amend -- you amend the district and enlarge it, right? But the whole point was, in fact the presentation that I gave at that -- at that hearing was, you know, I was faced with a similar situation in Dallas, Texas, Catholic Diocese wanted to tear down a school built by Mexicanos using Mexicano money, right, to satisfy a pedophile case, so the community came out and there's this long drawn out fight that goes, you know, in the press and, you know, it's going on for two-and-a-half years. So finally we get down to another commission and we gotta compromise, and nobody's happy with the compromise, and the least of which are the abuelitas, the grandmothers, that cooked and sold enchilada dinners to pay for, you know, this school that educated generations of Mexican children. And it's the same thing. It's not -- it's not the best of anybody's world but it was in Dallas, Texas,

the first Mexican American building nominated ever, right? It was in the center of El Vardeo, which no longer exist, that whole community is gone, right, but it was the first nomination. In this case, this was the first nomination that actually included Filipino history. You can go through the whole State, there are no National Register or Hawaii Register sites dedicated that even talk about Filipinos. So this was a first and so my presentation was saying you gotta get a beachhead in order to, you know, get a larger deal but, you know, I understand how the community reacted.

Mr. Fredericksen: Yeah, and it wasn't, and I just wanna clarify my comment, it's not a dig at you --

Mr. Solamillo: Well, it shouldn't be a dig at SHPD either because SHPD, had they not been involved, we wouldn't have gotten any kind of negotiations because Maui and Castle & Cooke were not going anywhere.

Mr. Fredericksen: Well, then here comes my -- here's my question.

Mr. Solamillo: Yeah.

Mr. Fredericksen: Okay, let's say this reduced historic district is agreed upon, would it be possible then to have kind of like what's in Lahaina, okay, there's Historic District 1, and then later maybe expand -- expand out through further negotiations? I think you used the term "beachhead" ...(inaudible)...

Mr. Solamillo: Yeah, I'm using a lot of military terms these days.

Mr. Fredericksen: ...(inaudible)... that's just something that's just outside the box ...(inaudible)...

Mr. Solamillo: I don't -- I mean to be -- let's be real honest. The company has another vision for Lana`i City, alright, and this doesn't fit into that plan, and that plan changes, it morphed, you get -- you know, how many versions we've seen of it, and that's the really unfortunate thing and that -- and then to get back to that whole point they haven't tent their buildings in 20 or 30 years and we're back to the demo by neglect, and then we had an actual vice v-p from Honolulu stand up and say, "I will let these buildings fall down before I put any money into them." So given that, you know, it's like, yeah, if we can get an agreement, fantastic, but, you know, I don't know. I can't project at this point. And because of the election cycle being the way it -- where it is right now, there is, you know -- but I think for Lana`i citizens, you know, we had Filipino women actually standing up and testifying, that's unheard of over on Lana`i. They don't come out and they don't speak and --

Mr. Fredericksen: Yeah.

Mr. Solamillo: These women spoke with passion about getting in there, you know, when the whistle blew, you know, going there in the morning to the baseyard and why it was important. So I think it's -- did a lot of good. So anyway, but as far as how it's going to go or anything like that, there is no way to project it, and I'll be honest.

Mr. Fredericksen: Thank you for the candor. I mean it's not -- I know it's not satisfying for the involvement you had.

Mr. Solamillo: Well, it took 18 months.

Mr. Fredericksen: It's very --

Mr. Solamillo: But I really, you know, wanna compliment SHPD because had it not been for Pua Aiu and Rod Stevenson, those folks over in Honolulu demanding that Castle & Cooke show up and ...(inaudible)...

Mr. Fredericksen: Well, I'm glad that some --

Mr. Solamillo: You know, we would not have gotten as far as we did.

Mr. Hutaff: I have a question. How can the Planning Department get into negotiations with Castle & Cooke after this has been sent to the Mayor and signed and sent to the others? I mean isn't that kinda like -- something tells me that if I were to do that with Veronica, that we'd have a Sunshine Law problem. So my question is actually to you, but please keep it short cause I have another question for him.

Mr. Giroux: Well, I have written -- no. I have bullet point written comment for Ray anticipating his -- no. Yeah, as the attorney, I mean I gotta say that being put in this position has been educational at best, you know, on all realms as far as, you know, state and county goes. As far as, you know, because I'm the Cultural Resources Commission attorney and I -- I got brought into this as, basically, being, well, you're familiar with cultural resources so if this gets into a contested case, why don't you be the attorney that, basically, takes care of the litigation aspect of a contested case. So my marching orders is very peculiar because it's getting on the boat and going to Lana'i, it was -- it was under the strict understanding that the State had failed to notice us as far as there being a contested case. So the information I had was that the rules state that if somebody files a complaint, the owner files a complaint that there shall be -- "shall" be a contested case. However, the way the rules were written also that they said that there shall be -- "shall" be a public hearing. And I'm familiar with this because the County has this strange bazaar rules with the Board of Variances because, again, we're dealing with the difference between a public hearing and a contested case. So I was fairly comfortable that we were going to go to Lana'i and hear people testify, as the attorney, you know, going, okay, this is where we're at. This is

how the State is going to fulfill their duties on that said date because we had not received anything in writing that was in accordance to Chapter 91 stating that we shall be prepared for a contested case. So when -- when I was notified that the client had entered into negotiations with the company, it was -- it was a shock to me because I wasn't part of a negotiated settlement, but also I wasn't the attorney yet because the contested case hadn't been declared. So in a sense that they're dealing with an administrative process still, it's still what I'm looking at. I'm looking at the applicant, the County, has the authority to modify their own application.

Mr. Hutaff: Okay, you answered my question on that.

Mr. Giroux: No, you know, I understand your concern, Ray, because the rules do state things about sending it through the Commission and stuff --

Mr. Hutaff: But they, ultimately, at our request, they became the applicant and so that changes things.

Mr. Giroux: Yeah --

Mr. Hutaff: I really had a hard time but I kinda thank you on that because, you know, to tell you the truth, it really, really bothered me. It hasn't changed how I feel about the outcome but I feel a whole lot better about the process, okay. And as sort of a side comment about contested cases, you know, I never learned how to ride a bicycle or a motorcycle without falling off a few times in the beginning; if I gave up after the first two, I never would have ridden a motorcycle and became second State champion. So I don't really agree with the fact that using that never winning a contested case is a really good idea because all it does is perpetuate the fact that you've never won a case.

Mr. Giroux: Yeah, and that's -- I was able to talk to some of the commissioners about that that I didn't see that as a legitimate concern, you know, that my indication was that they were unprepared or unwilling to give us a process. I think there was discussion about hiring a hearings officer. Their attorney was not present. Their Attorney General was not present. They gave them --

Mr. Hutaff: "They" being who?

Mr. Giroux: The board. Yeah, the State.

Mr. Hutaff: Oh, okay. I noticed that. Yeah.

Mr. Giroux: Yeah, so their attorney was not there. They were being advised by staff whose only experience was that the State has never won a contested case, and I didn't agree with

that in any way, shape, or form because I advise boards and commissions that do contested cases on a bi-weekly basis and some of the boards and commissions I've advised have been appealed, and we've lost or they've overturned decisions, but it was based on process or interpretation of rules or, you know, and that doesn't mean that we should stop process. It means we should look at our process and make sure we're actually following the process, which takes the guidance of an attorney, you know, and I think that's the advantage the County of Maui has is that most of the boards and commissions are closely staffed by attorneys and that's not -- what I learned was that that doesn't always happen in the State level. The State is very not arms length with their attorney. As far as advice as to how to proceed, I think that the commission, at that point, was at a loss, and they felt that if they took the position of a negotiated settlement, it would avoid having to go through that growing pain of actually having to conduct a contested case hearing. On the County's side, as the attorney who would possibly do that contested case, as far as fear goes, my only fear was that the State wouldn't be able to provide a process, which would not, you know, would not be any -- any fault of the County. It would be that if the State didn't know how to conduct a contested case, that would really muck things up, and that's not good place to be. So leaving Lana`i, my hope was that they would actually realize that there may not be a settlement and that they should be prepared and start learning how to conduct a contested case using proper notice and proper protocol in order to make sure that there was a process that was fair and balance. That was my hope.

Mr. Hutaff: Are we going to have updates on this, Stan?

Mr. Solamillo: Yes.

Mr. Hutaff: Thank you. Thank you, Mr. Lawyer.

Mr. Fredericksen: Okay, Stanley?

Mr. Solamillo: I feel the need to make some kind of closing -- closing remark, but I think one thing I've become painfully aware of is how historic districts are hated. How there is this extremely negative thing about HDs and preservation in general and I get it every time I bring -- bring one up, you know. Things like, you know, small towns like Paia, Makawao, these are communities which should be protected period, you know. They're one of a kind and it's a rough ride. I'm serious. It is really a rough ride. And I don't know. I kinda describe it as this 1980's bubble that I've kind of dropped into because it's the same kind of arguments I would get in Texas when I first started working there in '82, you know. Really proud of Texas history but no. We're not going to preserve. We're not going to landmark that building and we're not going to put it on the register. It's like what? I mean, you know, there's money available. Well, we don't want any involvement from the Feds. But I always say that, you know, when I left 20 years later, every republican in Dallas, Texas, wanted the buildings in the central business district on the register so they could get tax credits. In

Hawaii, we don't use 'em. Haven't used 'em. The tax credit law's been on the book since 1973 and so there's this huge learning curve. It's like where you guys been? So it's kind of -- it's really frustrating I think, for me, it's like having some weird deja vu thing, you know, I'm in some dream but, you know, I came home to Maui, right? But I'm in a time warp that's like, oh my God, people hate preserving stuff, you know, and it's strange because this is the stuff that makes this place so important. So that's all I can say.

Mr. Hutaff: Having been at that meeting on Lana'i, I found that there was a lot of misinformation or the lack of information on what the historic district was going to be and what the benefits and what the landowner still could do was not available to anybody even Castle & Cooke as the landowner. I mean the board members were the ones that was going, oh, timeout. It doesn't mean this. It doesn't mean that. And so that definitely is what, to me, has separated the community on there is the misinformation from the lack of information, and I think that's why people don't want to be a historical district anyway cause you -- they have this misinformation out there.

Mr. Solamillo: Yeah. Okay, Commissioner's Announcements.

F. COMMISSIONER'S ANNOUNCEMENTS

Mr. Hutaff: Yes. One short one. On this Haleakala, this United States Department of Interior, I've asked them to cc us on all of this stuff. They are going to go with what they're going to do with Kipahulu and as I've noticed from Haleakala, they have a tendency to move off their straight and narrow of protecting things and go off on a little different direction, so if you could pay attention to these when they come in. The other thing you could do, most importantly too, is sign up to receive the newsletter so that we can monitor what's going to be taking place out there, okay, cause there's a lot of historical sites out there that nobody really knows anything about including the National Park other than we're doing out research, and that's a good thing cause they do a thorough research and they'll come to a conclusion and they'll end up present it and be about 94 percent accurate; the problem is it'll be about 10 years after they do whatever they're going to do.

Mr. Fredericksen: Yeah.

Mr. Hutaff: Okay, as I said, so I've asked them to please make sure that we, the Cultural Resources Commission, gets this. If you could sign up for this ...(inaudible)... postage.

Mr. Fredericksen: Is this -- is the CRC on this -- this mailing list right now?

Mr. Solamillo: No.

Mr. Hutaff: Are they on this list? I'm assuming the fact that we -- that we got this here and I have --

Mr. Solamillo: Not for the newsletter.

Mr. Hutaff: I don't know if this came as a result of my request or if this comes automatically.

Mr. Solamillo: No, I don't get regular mailings for a newsletter.

Mr. Hutaff: From them?

Mr. Solamillo: No.

Mr. Hutaff: Okay, I will --

Mr. Fredericksen: When did you request this?

Mr. Hutaff: I requested it about the 3rd or 4th of January.

Mr. Fredericksen: Okay, and this is the 22nd -- or the 10th. The 22nd of January when it was received so maybe that prompted it - most likely prompted.

Mr. Hutaff: And I will make sure that we are on that list. I will qualify it again. If not, I'm on the list. I'll bring it in.

Mr. Fredericksen: Yeah, well they -- the -- it's certainly appropriate. I mean they're doing something in Maui County and, yeah, it's Federal land, but it's within Maui County.

Mr. Hutaff: Well, believe it or not, they have a 1.2 million dollar bathroom that never got permits for. Pretty building.

Mr. Fredericksen: Any other announcements?

G. NEXT MEETING DATE: March 4, 2010

H. ADJOURNMENT

Mr. Fredericksen: Okay, let's -- well next meeting is here March 4? We're all -- I'm experiencing a lowering of my blood sugar so let's all make a move. Any -- okay, anybody wanna make a motion to adjourn? Yes, Ray?

Mr. Hutaff: I move we go home.

Mr. Fredericksen: Second somebody, please?

Ms. Watanabe: Second.

Mr. Fredericksen: Okay, any – if there are any objections, please state them otherwise let's ... (inaudible)... have a great rest of February. See you all next month.

There being no further business brought before the Commission, the meeting was adjourned at 12:38 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Erik Fredericksen, Chairperson
Ray Hutaff, Vice-Chairperson
Rhiannon Chandler
Makalapua Kanuha
Kepa Maly
Veronica Marquez
Alika Romanchak
Nani Watanabe

Others

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