

**CULTURAL RESOURCES COMMISSION  
REGULAR MEETING  
NOVEMBER 1, 2012**

*\* 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, Raymond Hutaff, at approximately 10:35 a.m., Thursday, November 1, 2012, 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).

Chair Raymond Hutaff: The November 1<sup>st</sup> Maui County Resources Commission Meeting is now called to order. No. We're not going to approve any minutes? Stan?

Mr. Stanley Solamillo: Yeah, the first item is approval of the minutes of the July 5, 2012 meeting and July 13, 2012 special meeting.

**B. APPROVAL OF MINUTES OF THE JULY 5, 2012 MEETING AND JULY 13, 2012 SPECIAL MEETING**

Chair Hutaff: Okay. Any comments on the July 5 - let's take it one at a time - on the July 5 minutes? Okay, anybody want to make a motion to approval?

Ms. Rhiannon Chandler: I move to approve.

Chair Hutaff: Okay. Does anybody want to second?

Mr. Warren Osako: Second.

Chair Hutaff: Motion has been approved and second. Any discussion? No discussion. Okay, we'll put it to a vote.

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

***It has been moved by Commissioner Chandler, seconded by Commissioner Osako, then unanimously***

***VOTED: to approve the minutes of the July 5, 2012 meeting.***

Chair Hutaff: Okay, motion is carried is carried. The minutes for July 5 has been approved. Minutes for July 13. Any comments on that, changes, corrections? Okay, anybody want to make a motion?

Mr. Osako: I make a motion to approve the minutes of the July 13 special meeting.

Chair Hutaff: Okay. Somebody want to second that?

Mr. Gaylord Kubota: Second.

Chair Hutaff: Perfect. Any discussion? No discussion.

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

***It has been moved by Commissioner Osako, seconded by Commissioner Kubota, then unanimously***

***VOTED: to approve the minutes of the July 13, 2012 special meeting.***

Chair Hutaff: Motion has carried. Okay, next item.

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

**C. BANYAN TREE PARK - Report from MAUI COUNTY DEPARTMENT OF PARKS AND RECREATION on Confirmed Users for Banyan Tree Park for 2013**

Mr. Solamillo: The speaker is Mr. Alvin Kametani, of the Parks and Rec Department.

Mr. Alvin Kametani: At present, I resubmitted the one from the last meeting that I attended. We have a group, Aloha Festivals, that is requesting a date along with the Prince Kuhio, so we have two dates that are being requested.

Chair Hutaff: And so this is the updated?

Mr. Kametani: No. This one, I just got these dates this morning.

Chair Hutaff: Okay. You want to --

Mr. Kametani: So the one date that they want is, for the Prince Kuhio, is March 31 -- oh, 30<sup>th</sup>. Okay. That was for the Prince Kuhio, and the Festivals of Aloha would be September 22.

Chair Hutaff: What was that again? Sorry.

Mr. Kametani: September 22.

Ms. Chandler: On that -- Chair, sorry. On this date, September 22, it says, "Closed for Maui Marathon," so would that be amended?

Mr. Kametani: As far as?

Ms. Chandler: "Closed for Maui Marathon?"

Mr. Kametani: Yeah, I just got the dates so I'm trying to work through this thing. I've been told, on occasion, they've had the event on the same day of the marathon and it's -- because the marathon is done early, the event starts a little later and then it kind of works through okay, and then the people who run the marathon actually have an opportunity to attend the festival so --

Chair Hutaff: Okay. Quick question. What have down here on 3/26, the Prince Kuhio date, is that the same as the 30<sup>th</sup>?

Mr. Kametani: The Prince Kuhio date I believe is the holiday. It's the actual holiday.

Chair Hutaff: Oh, okay. So there's actual use of the park --

Mr. Kametani: Yes.

Chair Hutaff: For that particular day?

Mr. Kametani: Yes.

Chair Hutaff: Okay. I got it. Okay. Before we open up for public testimony, does anybody have any comments? No? None? Thank you. Okay, let's see, Aunty Patty.

Ms. Patricia Nishiyama: Aloha kakahiaka, Commissioners. Maika`i to be here. It's been so long since I've been here. Anyway, Na Kupuna O Maui supports Aloha Festivals to be under the Lahaina Banyan Tree. This event is Hawaiian. Kupuna recognizes Uncle Richard Hoopii as Lahaina Grand Marshall of this event. For two years we have shared one day with Aloha First, Aloha Festival; now kupuna feels that Aloha Festival should have their own day of this event and that we ask you to support them in having this event under the banyan tree. And I just heard now that they're asking for Prince Kuhio Day. Prince Kuhio Day has been always, every year, been celebrated by Na Kupuna O Maui, so I do

not agree with them having Prince Kuhio Day. We do not. So anyway, that's what I have to say and thank you, and mahalo, and aloha.

Chair Hutaff: Yeah, could you just state your full name for the record?

Ms. Nishiyama: Oh, I'm sorry. My name is Patricia Nishiyama, aka Aunty Patty Nishiyama.

Chair Hutaff: Perfect. And the first day that you were asking about, what particular day is that?

Ms. Nishiyama: The Aloha Festival?

Chair Hutaff: Yes.

Ms. Nishiyama: Any day that they want to have it; usually it's in September.

Chair Hutaff: Okay.

Ms. Nishiyama: So that's fine. And we have been sharing with them for two years.

Chair Hutaff: Okay.

Ms. Nishiyama: But because it's a Hawaiian thing, they should have their own schedule of having this event under the banyan tree, like Kamehameha parade.

Chair Hutaff: Okay. And you're asking that we re-look at Prince Kuhio stay on Saturday the 30<sup>th</sup>?

Ms. Nishiyama: Well, every time when the calendar comes in, we work it out with Lahaina Arts Society.

Chair Hutaff: Okay.

Ms. Nishiyama: So Lahaina Arts Society says, okay, this is a Hawaiian event, you should have this event, and every year, we have been having Prince Kuhio Day. So, actually, every ali'i birthdays, Na Kupuna O Maui goes to the banyan tree with cake to share the birthdays of our ali'i, and they share it with the tourist, the visitors, and the community. So Prince Kuhio Day has always been our day every year but they didn't come up to me to ask me about Prince Kuhio Day, you know. But anyway, it's part of our celebration for all of our Hawaiian ali'i.

Chair Hutaff: Got it. Okay, do you have a question?

Ms. Chandler: Yes, Chair. Mahalo, Aunty Patty. I believe there's two dates requested for Prince Kuhio, so Prince Kuhio Day is still an open day on the calendar, which is his true birthday, which I would expect Na Kupuna could be there.

Ms. Nishiyama. Okay.

Ms. Chandler: And then there's a second day that is now requested in celebration of Prince Kuhio on the 30<sup>th</sup>, which is four days later. Are you okay with that?

Ms. Nishiyama: Oh, okay. That's fine.

Ms. Chandler: Okay.

Ms. Nishiyama: Yes.

Ms. Chandler: Mahalo.

Ms. Nishiyama: Okay. I see. That is fine as long as they do not 'aihue our Prince Kuhio Day. Okay. Mahalo. God bless you.

Chair Hutaff: Thank you, Aunty Patty. Appreciate it. Anybody else want to add to public testimony? Go ahead. Please just state your name, your full name, and that you're talking about the Banyan Tree Park.

Ms. Yuki Lei Sugimura: So my name is Yuki Lei Sugimura, and I am the county coordinator for Festivals of Aloha, also known as, in the past, it was Aloha Festivals, and I think a lot of people, because our name is so similar, we all talk, but we all know it's the same thing. So we are very grateful to have partnered with Aunty Patty for these last two, she allowed us to have our ho'olaulea under the banyan tree, and we sort of have a tradition that we do like -- we actually do events countywide. We are honoring our host culture, so the Hawaiian culture is our main focus of our festivities, and we actually do a total of about over 20 events countywide. We do Maui, and we do three days in a row of which we are asking for, in this case, September 22, which is a Sunday under the banyan tree for Maui; I do a kickoff at Wailuku First Friday beginning of September; Hana does a week long festivity in the month of October; Moloka'i and Lana'i also does a series of events on their island, so that's kind of what we do. It is very successful and over the years, we've rebuilt Aloha Festivals, it had a little stumbling for a little while, regrouped, and we are now called "Festivals of Aloha," and for about five years now, we've been our own entity, that's why people get confused, but we answer for both. We truly want to be under the banyan tree and Daryl Fujiwara, who's our Maui island coordinator, actually came from a family whose mother -- oh, grandmother started the ho'olaulea for Aloha Week 60 years ago and when we approached is Aunty Crystal Alboro, and then Daryl now has taken over

the family name to kind of, you know, push forward what his grandmother started, we think it's very, very significant for him to have this interest, and I think everybody knows Daryl from Kamehameha Day Parade and everything else that he does, hula, he's quite a character in his own right. And then the new date, Aunty Patty, sorry that we didn't have a chance to pass it by her, but is for March the 30<sup>th</sup>, it's a Saturday, and I guess Daryl was approached to see if he could honor Prince Kuhio and create a ho`olaulea with Hawaiian culture again and doing makahiki games and, you know, very, you know, traditional Hawaiian things and really honor and celebrate Prince Kuhio in mele and `olelo, so song and, you know. So those are the two dates we are requesting and we appreciate having the opportunity for the banyan tree to be I guess open to new events as I think there's, you know, lots of good ideas around and it, I'm not sure, but it sort of looks like it's taken already so I'm grateful to be able to have the opportunity of, you know, having new dates open to community in partnership. We are working with Lahaina Town Action Committee, Aunty Patty, and Daryl has his whole network, you know, of the Hawaiian community. The Hawaiian Civic Club is the one who's doing the Prince Kuhio Day, the ho`olaulea on March 30.

Chair Hutaff: Cool. Any questions for her? Okay. I don't really have a question; kinda have a statement. First of all, mahalo.

Ms. Sugimura: Oh, thank you.

Chair Hutaff: Okay. And to everybody here who came for the banyan park, the thing that I liked about what you said is more cultural events and then you went to explain that it's not just the opportunity to, you know, raise money for worth organizations but actually to perpetuate the culture and to inform our visitors. If I could make a statement to encourage all of you to do more --

Ms. Sugimura: Thank you.

Chair Hutaff: Along those lines to honor Lele, Lahaina. That certainly would, I think, I believe, warm this Commission's heart. So I that's just my statement.

Ms. Sugimura: We appreciate that and we -- we'll take it to heart. Thank you.

Chair Hutaff: Please. Yeah. And anybody have any other questions, comments? Thank you.

Ms. Sugimura: Thank you.

Chair Hutaff: Okay. Anybody else, public testimony? We're going to end public testimony if -- okay. Perfect. Just state your name.

Ms. Lucienne deNaie: Good morning. My name is Lucienne deNaie, here testifying on my own behalf. Nice to see you all this morning. And I want to express my appreciation that there's going to be a discussion of the tool of traditional cultural properties as a planning tool for preservation and recognition and management of areas that may not be, you know, very visible as cultural sites or may not be recognized as cultural sites because they don't have imposing edifices, but they are, nevertheless, very, very important to various cultures, and I just want to share experiences from, I'm a writer and researcher and so I've interviewed a lot of kupuna over the years, and I'm just amazed by their stories that many places that other people see in a certain way, they have shared, you know, have very special meaning, and so I think that, you know, we know some of these places for sure, like Haleakala is one of these places. We --

Chair Hutaff: We are discussing the Banyan Tree Park, right?

Ms. deNaie: Oh, it said public testimony in general, no?

Chair Hutaff: No. For the Banyan Tree Park.

Ms. deNaie: Oh, only?

Chair Hutaff: Well, for right now, we'd like to get pass that.

Ms. deNaie: Oh, I'm sorry. It said public testimony would be taken at the start on any agenda item.

Chair Hutaff: You know what? I really --

Ms. deNaie: I'm sorry.

Chair Hutaff: Probably made that mistake and before you got too involved in it --

Ms. deNaie: Yeah.

Chair Hutaff: You know, if we could --

Ms. deNaie: Oh, okay. Yeah.

Chair Hutaff: We'll bring it up again because we definitely want to hear --

Ms. deNaie: Okay. Alright. Thank you.

Chair Hutaff: You know, what you have to say about that, but if we could continue on with the Banyan Tree Park issue. No more public testimony for that? Then we're going to close that off for now. Basically ...(inaudible)... the Banyan Tree Park, the report from the Maui County Department of Parks and Recreation is more informing us of what's going on. We had this on our agenda the last time. We asked that it be brought up again to have all the stakeholders involved and have comments so we could make sure that the Parks Department and us understood exactly what everybody had in mind and make sure there was no conflicts. I don't believe we have to put this to a vote, correct? Okay. So I would like to, with the Commissioners' nod of agreement, say that we're happy with the list, we're thankful that the people came and gave us some insight, and we were able to ask for more, okay, from everybody, so we're going to consider the Banyan Tree Park list good, ready to go, and we're done. Mahalo.

#### **D. WORKSHOP**

- 1. Workshop on “Traditional Cultural Properties” including Guidelines for Identification, Evaluation, and Documentation,” and “Cultural Resource Management and Planning.” Public testimony will be accepted (S. Solamillo)**

Chair Hutaff: Okay, now I have a question for you, Stan. Okay, my understanding of the workshop is that's something that you give us to digest and then public testimony is taken based upon what you have said?

Mr. Solamillo: Or you could do it ahead.

Chair Hutaff: Or would you like to do it the other way around? Yeah, I think that, based upon a couple of comments out there, that maybe having the public comment first, okay. In doing so, we're kind of opening ourselves up for a lengthy meeting, we do have one Commissioner who has to leave at certain period of time, so if we do have public testimony, could we just kinda keep it right to point and short, and that way too, after Stan gives us his presentation, I will open it up again for public testimony so people could add to what they've already said again in this short fashion. So let's see, where's our lady who we asked to sit down? You can standup now. Sorry about that.

Ms. deNaie: No problem. Well, you've already heard my intro. Anyway, I just want to support the idea that this is an important tool to consider in Maui County, and I know that this Commission gets very busy and looking at one more thing to do, like evaluating places on Maui that would be appropriate to be viewed as traditional cultural properties, may be like a daunting task, and I just wanted to suggest, I served on the GPAC, and what we did when we had these daunting tasks is we formed independent research committees where

two people, or three people, on the committee would just meet offsite, and do research, and bring back suggestions to the whole committee, and so if there is interest, this might be one tool you might want to use to pursue this because, otherwise, you know, your agendas are very full and, you know, there wouldn't really be the time, I think, to do the research and background to find out if there's some places that really would be a good fit for this. And I would just say that, from my perspective of, you know, research I've done, sand dunes are, you know, some of the Central Maui sand dunes would be very, very appropriate for traditional cultural properties because they can just be interpreted as things that are in the way and, yet, so many of the kupuna that I have talked with just hold them in reverence because of the burial aspect and also just the view plane aspect. Thank you.

Chair Hutaff: Any questions?

Ms. Chandler: No.

Chair Hutaff: Comments?

Ms. Chandler: No. Just mahalo, Lucienne. We appreciate you coming down today.

Chair Hutaff: Okay. Could you state your name again for the record? And I have a comment.

Ms. deNaie: Sure. My name is Lucienne deNaie.

Chair Hutaff: Perfect. You know, we have mentioned, since I've been on the Commission, that the public, okay, really needs to get involved by pointing out areas of significance, and then pointing that out either through this Commission or through various means so that we don't have what we've seen in the past, i.e. the sand dunes, where all of a sudden we have a development going on and somebody goes: Time out.

Ms. deNaie: Yeah.

Chair Hutaff: Try wait. You know, I believe that I kind of made the comment that, you know, developers are not necessarily bad people, okay. They go out there, they look, and they see undeveloped land, unused land, kiawe tree; to some of us, we might even drive by and say "rubbish land."

Ms. deNaie: Exactly.

Chair Hutaff: Okay. And they go: Gee whiz. Here's an opportunity for us to do something for the community and for ourselves and get involved with it and then, all of a sudden, somebody goes: Try wait. So I think that, you know, if somebody or many people could

spearhead, in their own communities, opportunities to drive around and kinda look at "rubbish land" from the eyes of a developer and say, no, that's not rubbish land. Okay. And then go ahead and make note of why that land is important. Now, we've tried this before and some in the community are worried that if we give away too much information, then it could be a problem, and I kinda get that. But for the Commission to actually go out and institute that would be rather difficult, so we would hope that people in the communities would put together a little, you know, thing and go out to various areas and say these are very important, bring it to the Planning Department, bring it to the Commission, bring it to the State of Hawai'i, bring to anybody that possibly can as being a potential for historic district and why is a way for us to protect in advance rather than try to protect after-the-fact. After-the-fact never makes anybody happy.

Ms. deNaie: Yeah. That's an excellent point, if I may respond, and if you look in the community plans, there's often a lot of guidance there where the community has come together, for instance, the sand dunes are named in the community plans as being a very important historical resource, so we need to build on the citizen work that's been done before.

Chair Hutaff: And that came about, again, after-the-fact.

Ms. deNaie: Oh no. No. The community plan was passed in 2000.

Chair Hutaff: Yeah, but the sand dunes development project was going on since 1985.

Ms. deNaie: Well, that's true, but not all of them.

Chair Hutaff: No.

Ms. deNaie: Yeah.

Chair Hutaff: But again, the idea is that encouraging the communities to get the communities together to go out and look at some of these significant areas and at least identify them and give us, give somebody an outline of why it is so because, you know, again, if a developer drives by and goes: Oh, what's this? Then we can do this. He goes to the Planning Department and he goes: So what's up with that property? Well, this is what we have in information. Then good. We're good to go. And then two years later, three, four million dollars later, somebody goes: No. You can't go there. And everybody gets unhappy. So what you're saying is actually something we've talked about before and, you know, your role up here is to actually ask for that. We're kind of like asking it back.

Ms. deNaie: Fine. I think that the public always likes to know that there's a, you know, a body willing to hear their suggestions.

Chair Hutaff: Okay. Any comments or anything else for her?

Ms. Chandler: Mahalo.

Ms. deNaie: Thank you.

Chair Hutaff: We're good to go? Nobody mad at me yet? Okay. Okay, let's see, Yuki?  
Or -- were already up. Claire Apana.

Ms. Claire Apana: Good morning. Claire Apana, Wailuku. Thank you for the information. I would like to tell you my story because I am from Wailuku, and actually I was born here, raised here, playing on these sand dunes, and I'd like to tell you my story of doing exactly what you said to go and tell the commissions, tell the county, tell the different developer that this is an important area, and I'd like to preface that with this area is in all the historical text of Kamakau, Westerfeld, all of them, Malo. There is mo`olelo of this area that is so important to the Hawaiian history and in 1985, as you said, the sand dunes were starting then, the developer of the Maui Lani project area identified this battle and said how important it was and how important it was to be very careful because of the known burials here. And as that project went along, the history started to disappear, and be reported incorrectly to make it happen down at the next in Waiehu, and till finally they were saying: Oh, I wonder if this battle, this history ever happened. But there it is, in 1985, identified. But as they started building, it is not part of their plan. And so here I come late because it didn't really hit my neighborhood until the '90s, and that is when I got involved, in 1995, and I go looking for the why are there so many burials here? Why are the kupuna calling me to come and help? And what I find is this great wealth of history about these sand dunes from the most recorded historical text of Hawai`i, and what I find is a coverup of this important history. And so what do I do? I don't know anything, you know. I mean I'm a physical therapist. I go to the planning commission. I tell the planning commission: Listen, this is an important area. The burials, you're going to find more burials. This is an important area. I give them the history. I came to the CRC. I gave you the history. And then it's completely disregarded. So as why -- this was the project I'm talking about is the little Maui Lani shopping center across from Baldwin Highway, that is a half-block away from my house, and the kupuna frequently call me to come over there, and especially now. I've been there three times this week because they're really digging into deep ground in new areas and disturbing the kupuna. And so there is the other layer, the layer that we don't see that happens also. And so when the Waiale project came up, right, two years ago, 2010, 2008, I went in early and I talked to SHPD, and Mr. Rodrigues told me, you know this area, the only protection you might have is if you have a traditional cultural place study and have it designated for what is really is, a traditional cultural place, a very important part of our Hawaiian history. And so I went to the developer, and talked to the project manager, and said this is what you have here. You've already found 90 burials just doing sand mining of a small area here. This is the history. This is what you need to

protect. You need to do a traditional cultural place study. You cannot do just a CIA, a cultural impact assessment. That's not enough for this area. Well, they decided that they didn't need to and so they didn't. And as it went to the Land Use Commission --

Chair Hutaff: Can I ask you who "they" is just to --

Ms. Apana: A&B.

Chair Hutaff: Okay.

Ms. Apana: And so we went to the Land Use Commission, and there were about ten of us, eight to ten of us, who came and testified in front of the Land Use Commission to tell them the history of the area, to tell them the importance of the water rights, to tell them the importance of this land being actually government land because it was last on a lease, and to tell them that this needed to be preserved, what was left of the only sand dunes of this entire area that wasn't put -- that didn't have houses on it or been sand mined down to nothing or below nothing. This was the -- there was a little section of like 22 acres that was left of the sand dunes of this whole, and that needs to be preserved. When they went to the Waikapu community before they even brought it up in 2005, they said the same thing. The sand dunes, just preserve the sand dunes that are still there 'cause that protects our community. The sand dunes are a wind abatement. And they decided that they would schedule it for multi-family use, residential use, and light business, and I went through the entire process at the Land Use Commission informing them, tell them, giving them laws, and they still voted against it without one condition, not one condition for a traditional burial area. So I want to tell you that what I -- what our group did was we made a preservation plan. And also there is endangered species there.

Ms. McLean: Five minutes, Mr. Chair.

Ms. Apana: And we made a preservation plan that was fashioned after Mo`omomi on Moloka`i, and that plan, that place was done as a cooperative effort of OHA and the DLNR. And more of that needs to happen, and I think that if you were able to identify traditional cultural places, and we could start to work together, I mean I didn't ask for the whole project area, I only asked for the places where the kupuna hadn't been sand mined, and if you could be identifying places like this, it would give it a chance for something better, and I think -- I believe that is really what you were trying to do with your -- with the change in the bill that you were doing. I wanted to give you my experience, and I have the plan that we made, and it's a good plan, and it's a plan that would allow them to do their development but have -- also respect the importance of this cultural resource, but it will not be heard, and I will keep trying, I'll go to council, and I will keep going, but who am I? I have gone through all the steps, all the steps to try to preserve this place. Thank you.

Chair Hutaff: Yeah, with that, that's kind of I think what, you know, deNaie - did I say your name correctly? Yes. Was trying to portray. You two getting together, okay, is -- well, I heard a comment that it says it's happened. We kind of understand, at least I do understand, being on this Commission for a little while, that things don't always go smoothly or in a straight line, okay. I believe that in the sands district there, that we were aware of some burials after-the-fact and we did corral them to try to protect them. I know that, you know, we had discussed that. I don't know if it's the same issue, okay. But I what I would like to, you know, suggest is, again, getting back together. Now, there's some good news, okay. You have a wonderful Commission here, okay, with all the people that are here. I'm not going to be on this Commission after March of 2013, for at least a year, I don't know if they're going to allow me back if I decide to come back, but what can happen is that I would like, at the end of this meeting or at some point, give you my email address so that once I'm not a commission member, I can actually do a few more things as far as guidance goes. I'm going to publicly ask Stan, okay, to please accept my emails after March 13, and Michele, and Richelle, so we can try to formulate a way to get these things done because we can't undo the past, but we certainly can lay the groundwork for the future, and your issues, which was just discussed with us, says, okay, there's a problem, okay. We've identified what the problem is. Now what do we come up with as a cure; and how do we get it to the correct commissions; how do we get it correctly so that these areas of significance are protected? So I'm offering you that - my email address. I can't discuss it outside of a meeting until after March 13, but if you can all get together, I'll give you my email address, and I would be certainly glad to do whatever I can with he limited knowledge I have to try to make things work. But thank you for your testimony.

Ms. Apana: Thank you. And would I be able to bring my plan, my preservation plan to this Commission as well as the history of why this is a traditional cultural place?

Chair Hutaff: Who would receive that information? Who would be the best to get that information prior to -- I think that's what we're trying to say is that there's a gap, and I can help fill the gap, but I can't do it till after March 13.

Ms. McLean: It's not clear to me what the role of this Commission would be in that. The Commission could offer comments, but I believe it's the state that has approval authority.

Ms. Apana: Oh, I'm sorry. I thought you were having a meeting today to see what you might be able to do for traditional cultural places.

Chair Hutaff: Actually, the workshop is to, you know, give us information on what our rules and guidelines are, okay, to bring it to the forefront. Again, you know, the bureaucracy of it all, there are some holes in every system, no matter what it is, there's some holes in the system, and you've kind of brought up some major things where you've tried, and nothing's happened. That, to me, is a hole. Okay, something should have happened, even to say,

sorry, we're not going to help you, is an action. When you're just ignored or there's no one that says anything and then that becomes a hole in the system. Again, being on the Commission, we have our Sunshine Laws and we have certain rules where we can't help. Okay. Yeah. You know, maybe we can, again, you know, look at this. The State of Hawai'i Historic Preservation Division, who's usually here, Hinano's not here is he? Is another one that you can make your comments to.

Ms. Apana: I have already done that.

Chair Huttaff: Okay. I kinda had a feeling, you know.

Ms. Apana: He suggested the traditional cultural place.

Chair Huttaff: Yeah. This is not really the kinda point that we can do anything about at this particular point in time, but I gave you my personal feeling. Does anybody else have any comments? Go ahead.

Ms. Chandler: Mahalo, Chair. Mahalo, Claire. I certainly appreciate all the work that you're continuing to do and I think our goal here today is that you don't work in a vacuum; that we're hoping that we can setup a system of designating traditional cultural places, and what you're talking about is actually further down the road than where we are right now because it would be the application of the traditional cultural place designation that would lead to maybe helping in the issue that you're specifically talking about. So I think that we're probably going to have more than one meeting about this because today is just a workshop about what this tool could be, and then we would have to go through a process of specifically designating areas, and at that point in time, I would ask that the Commission have a meeting to ask for public testimony about places that they feel are traditional cultural places that deserve designation, at which point in time, it would be good to bring that back and any other, you know, related information you have about those places, I would imagine.

Ms. Apana: Thank you. I will be here. I will be here to bring that to you.

Chair Huttaff: Well actually, you have to kind of bring it to us first.

Ms. Apana: Okay. I'll bring it to you immediately and you can hold it until the appropriate time.

Chair Huttaff: Well actually, if you could get together with, I mean just a suggestion, you can do anything you want, okay, if you can get together with others so that it becomes a very important and well thought out and complete, maybe as far as a meeting goes, and get with, you know, Stan or Michele here, in writing, and let them know who you are again

and what you want to present so that we can actually look at it from that, that would be a very, very good first step.

Ms. Apana: Alright. I will do that.

Chair Hutaff: Thank you.

Ms. Apana: Thank you.

Chair Hutaff: Okay. Anybody else? I think it's a Jane?

Ms. Janet Six: ...(inaudible)...

Chair Hutaff: If you wanna come up, come on up.

Ms. Six: I gotta take off ...(inaudible)...

Chair Hutaff: Perfect. Oh, I remember you.

Ms. Six: Hi. My name is Dr. Janet Six, and I'm an archaeologist and anthropologist at the college, and have been before this Commission on different cases and different things. I want to make a couple quick comments. I have a class and have some of my class members here, it's a heritage class. I wanted them to come and see some of the processes, and it is a bureaucracy, and it is -- we appreciate people on the council working hard and we understand you got a lot on your plate. I just wanted to make a couple of statements, based on a traditional cultural property, is when you see empty land, when people see that, it depends on what's in your head how empty it is or not, and we have to remember, it's not the land, it's the water, it's the plants, it's the cultural materials, it's the stars above that'll form the archaeoastronomy, so we have to look at a traditional landscape as allowing people transhumance from mauka-makai, like the PASH rights do; allow people to have dignity. When the kupuna called Claire; Claire calls me, you know, and then I have to come and go and -- she called me the other day and I went over to Kahoma Stream and luckily the bones that they had were bovine and porcine, they were cows and pigs. But sometimes I get calls from people to come. So I understand the fight people are doing, and they're fighting a good fight, and a lot of people have been ahead of the development, and a lot of it does go down the drain, so the idea is to think about all those things. In Hawai'i, particular, we can't separate nature from culture. First born, kalo, nature. Reverence for that. So you cannot separate it out in a more western, you know, land ownership. So when they talk about a traditional cultural property, in Hawai'i, we'd want to think about the Hawaiian culture and how it might look at a traditional cultural property different than the Navaho, different than people who have sense of place as well, and you can look at that. So I just wanted to bring that up and just say that I'm very much

interested in seeing these guidelines and how they could maybe be applied, and maybe if we help to make some of these places, like Lo`iloa in `lao Valley, and understand that it was connected to Haleki`i, and just because its been bifurcated by development, it doesn't mean that it's not a traditional cultural landscape. Thank you.

Chair Hutaff: Thank you. Any questions for her, Commissioners? Okay, next, Daniel.

Mr. Daniel Ornellas: Good morning. My name is Daniel Ornellas, and I would have wanted to see the workshop first, but I'll just make some basic comments in support of establishing traditional cultural designations. I live in Waiehu Kou and, right now, the land use district that we reside in is agriculture, and what has been proposed in the area is things like rural but those types of classifications really doesn't reflect what, I believe, the people living there and their lifestyle, so I'm not sure what kind of tools Mr. Solamillo is going to propose, but if we can apply that amongst the entire landscape north of `lao Stream because a lot of the areas north of `lao Stream, out towards Kahakuloa, is typically traditional cultural. We have a few mistakes, which is Wailuku Country Estates and the Hawaiian homes California style subdivision, but other than that, you basically got just the old plantation Waihe`e Town and everybody else lives on kuleana. So when you have a monstrosity, like Halemua in the ready to be built 3,000 homes, I don't know what kind of influence these tools might have on a zoning that has not been subdivided yet, but you could do simple things, like just bring back the old land use maps, which is the old kuleana, and make that a consideration in the subdivision application because the kuleana is tied to water rights and that Na Wai `Eha contested case hearing is going to have significant impact on how lands are used in the regions north of `lao Stream, so I'm excited to see what Stan has to propose, and I highly recommend that all landscapes north of `lao Stream be designated traditional cultural properties and maybe we can designate it as a project district, I don't know what the tools are again, but we have a tremendous opportunity, the resource is there, the people are there, and the landscapes are there. Thank you.

Chair Hutaff: Cool. Anybody have any questions? I have something for you. Nobody has any questions? Do you have all that, what you just said, in writing?

Mr. Ornellas: I can.

Chair Hutaff: Okay. That's kind of what we're trying to suggest here is that there be documentation or, you know, first thing is acknowledgment, like, okay, that's not raw land like what's her name said, but in also documentation even if it's documentation based upon hearsay, word of mouth, traditions, and things like that; no matter what, that's going to be a very, very, very important document at some point down the line. And again, getting with, I guess there's probably a line of people back there, together and maybe you can represent your own community or you can find somebody to represent your own community to write these things up, to get the information, to document them, and then figure out a way for

us, or somebody, to receive this information and go: Thank you. This will help. So the words are good. The actions need to be a little more, in my opinion, you know, definitive, okay, more get to it. I'm really excited, like right now, because this is the first time I've heard people talk about doing rather than just, by the way, you know this place has this problem, it has these burials, and have these things, but to be a preemptive, okay. It's kinda sad in a way that you would think that our culture would have progressed to a point where all the information kind of went ahead of us; instead, progress has gone ahead of us and the culture stayed behind. We kind of need to reverse that process. Would you, I'm asking you, would you be willing to do that?

Mr. Ornellas: Willing, and able, and I'm not, again, I'm not sure what your presentation is going to consist of, but would that include methods on providing information and applications?

Chair Hutaff: Probably not.

Mr. Solamillo: ...(inaudible)... Thumbnail.

Chair Hutaff: Thumbnail. Yeah. The idea is you're going to make it a foot, you're going to make it a mile, but you can begin. You're welcome -- naturally, we're kind of doing this for a reason, a little backwards. I will, you know, hopefully, you'll stick around, listen to the whole presentation, we can get through it before everybody has to leave 'cause we're on a time constraint here, so that you can have information.

Mr. Ornellas: Yes. That's what I'm here for.

Chair Hutaff: Okay. Thanks. Okay. Hannah, you want to talk?

Ms. Hannah Bernard: Aloha kakou. Hannah Bernard, Hawai'i Wildlife. I'm president and our nonprofit is dedicated to the protection of Hawai'i's native wildlife. And what I've heard, I just want to be brief because I know you want to get to this presentation, but tying everything together with the archaeological, the cultural, the ecological. Once again, Claire mentioned the preserve at Mo'omomi, and a group of us tried to emulate that with the Pu'uone preserve here on Maui, and we do want a mechanism for presenting this kind of plan and having it accepted and implemented so that we can protect these areas because it ties everything together, of course, it's all interrelated, and we're talking about the culture, the native wildlife, we're talking about the lands and the water, everything together. And I think I want to acknowledge your willingness and openness to try and do this right, but what we have to get back to is that the environmental impact assessments and the cultural impact assessments, we have to get back to the intent of these kinds of protective mechanisms, why were they established, so that we could identify places that need to be taken cared of appropriately, and what we've come up against, and you've heard a bunch

of us back here saying we've, yup, we did all of the process, we did everything we could, and guess what? We got steamrolled anyway. And that's because there's an -- not an intent to support the appropriate usage and access that's guaranteed under Hawaiian Kingdom law and state law, and in our State Constitution, so that's what we have to get back to is the true intent of access and protection and recovery of the health of this land. So I think what you're doing is huge, and to have just a quick presentation is probably not going to really serve you so much, and allowing the public to have testimony and be involved in future discussions because once you get your tools, and you hear this presentation, the we can say, okay, and we've done that and we've been turned down at this juncture. How can we make it even better and stronger so to keep this open dialogue and not just pay lip service to one more method to say that we can protect the land and in the meanwhile, we're watching it erode before our eyes. So thank you so much for your time.

Chair Hutaff: Any questions? Again, a statement. So you're going to have that in writing, right? You have all that in writing? Perfect. Because, culturally, you know, we all, I believe all of us here understand that the culture is one word, okay, unfortunately, the definitions go on longer than we could speak, even me, okay, and they are all tied into everything. There isn't anything that is not tied in to the culture because they are all interrelated. So what you've said, you know, is a component that needs to be added to this huge document that you guys are going to participate in, okay, and then we just have to figure out somehow, okay, how do we go about making sure that these things actually work. Right now, they don't work. You said, you've come to crossroads, been steam rolled. I don't believe steam rolled is probably correct. I believe it's an outcome. I don't think anybody said let's steam roll her off and mow you down, but, unfortunately, the outcome is the same. So, you know, for me, personally, I'm encouraged that, you know, I was wondering what I was going to do for a year, I kinda have an idea what I'm going to do for a year, hopefully, I stay out of trouble, but again, I think that this is really a way to do is to bring all the different components together, find a place that these issues can be, you know, given to whether it be the mayor, whether it be the council, whether it be just the Planning Department, whether it be the public, but so that there's an outcome that's not defined as steam rolled. So but document, document, document. Write it all down.

Ms. Bernard: And getting back to our plan, our community plan or island plan, and it had that cultural overlay for Maui, we need to look at what's been done before that's been disregarded in lots of places.

Chair Hutaff: Those are good things to write down. Perfect. Anybody else for public testimony? Okay.

Ms. Johanna Kamaunu: Aloha. I'm Johanna Kamaunu, and I come from Waihe`e, and I was really glad to hear about what it is that's going to be presented to you on this

workshop, and I was real curious how that was going to apply to us afterwards. And so, at this time, I'd just like to give you some things to think about as we're looking at this workshop 'cause I'm not sure what all the parameters are. I'm glad that you'll have an opportunity to make those designations. I'm also glad that the communities will have an opportunity to participate on this. The thing that I'm most encouraged by, and I think is within your parameters to do even right now if you wanted to, is to make a motion to assign someone or some people to -- to - what is the word? Do a research on it just to do a review of a situation, say for a month or two months, and see what we come up with. If you make a motion, it's something that's actionable, and it's something that gives us this participatory feeling in the process that's going on. And, you know, I've been told that we can be on agendas and have been committed to appear on the commissions and board agendas, and then when the date actually comes, we've not been there and it's not been part of the agenda. So I think if you make an action, that some of us can move towards doing this, even if you want to assign me to do something, I'll go do it, you know, and you've had Daniel here say something ...(inaudible)... yeah, everybody wants to do something to move this and to help you 'cause it's going to be helping us. So if you could entertain that idea today, that would be, you know, make this whole meeting worthwhile for us, not that rest won't be not worthwhile, it's just that it would be more so for me. Thank you.

Chair Hutaff: Okay. Okay, anybody else public testimony? Okay. I'm going to close off public testimony for now. Stan, you want five minutes or you want five minutes? Okay, five-minute break, and then we're going to -- here's what we're going to plan to do: We're going to go over this the workshop, and then if there's time allowed, we can have this discussion and even discuss what the young lady there said that we might want to consider as far as that goes. So we'll take a five-minute break, so 25 till by that clock.

*(A recess was called at 11:30 a.m., and the meeting reconvened at 11:39 a.m.)*

Chair Hutaff: Okay, so we're going to reconvene. Stan, let the show begin.

Mr. Solamillo: Aloha kakahiaka kakou. We're going to begin with a little bit of text, please don't get angry since what we do involves a lot of language and a lot of regulations. This is a valley in Kaua`i, and it contains large numbers of lo`i, and this cultural landscape was once on Waikiki and other places in Hawai`i, but it no longer exist. So as a cultural landscape, it's very important because it's like one of the last left. This presentation was first given to you in 2009, this is kind of an abridged version of that, and it came from Ms. deNaie's testimony this morning about a concern about a development in an area which had been identified as a burial ground, so this Commission actually requested that this presentation be made, and Commissioner Chandler asked that it brought up again to this Commission at this time.

The Bulletins that I'm going to be referencing you can get online, you go to nps.gov and look for National Register Bulletin, so every time I give you a Bulletin number, write it down, and then you can go get the Bulletin online, get it as a PDF, downloaded onto your computer or just print it from its source on the web.

The first Bulletin is No. 15, How to Apply National Register Criteria for Evaluation. And I'm going to state, probably several times during this presentation that National Register designation does not protect properties. National Register designation does not conversely take away a property owner's rights. Those are two statements that you will find that are also given on the nps.gov website. So I need to make that perfectly clear. If a property owner wanted to tear down a building that was registered or listed in the National Register of Historic Places, the property owner could. The only time when it can delay a demolition or something like an adverse effect, is if there's federal money involved - if it's part of a federal activity, if it's funded as part of a highway construction project or a bridge project, or something that involves federal money. When that happens, then you have to go through a series of reviews, and that's all that it will do. It will not protect sites. And I think the public's general perception is that once you designate something, it's protected. And really, in reality, no, it is not.

Okay, for purposes of the National Register, you have basic historic property categories; one includes a building, which is a house, can be anything from a garage to a mansion to a barn or a work shed; then you have a structure, structures are bridges, towers, anything that essentially are not buildings; then you have objects, objects can be things that are buried in the soil, can be a pohaku; then you have a site, which is a location of a significant event, prehistoric or historic occupation, you can include the building and the structure; then you have a district, which is usually a concentration of sites, buildings, structures, or objects, which are united historically or aesthetically to a theme or a historic context. Remember those basic categories.

We have something called "criterion" or "criteria," which we use to review those categories that we just looked at to see if they are eligible for listing. Criteria A, are things that are associated with events that have made significant contributions to broad patterns of our history; B, those are things which are associated with the lives of persons significant in our past; or C, those that embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction. And, usually, things in Hawai'i, when we talk about historic buildings or walls, kuleana walls, we call them "vernacular" because by themselves, they're not outstanding but they do represent a period or type of construction that can be tied directly to a historic context involving people and a culture. Criterion D, this is usually for archaeology, things that have yielded or may be likely to yield information important to prehistory or history. Those are your criteria. Things like cemeteries, birthplaces, graves of historical figures,

religious institutions usually do not qualify, individually, but they can if they're used or part of a district.

These following criteria refer to considerations that allow religious properties to be included, or graveyards. And I'm not going to go into them because of the amount of time that we have. These are all in the Bulletin that I cited at the beginning of these slides.

For anything that you do for the National Register, everything has to be placed in context, and we call that a "historic context," and that is essentially a well researched, well written document that pulls all the pieces together and identifies everything linking it to a person or persons of significance to culture or cultural events of historical significance, and that's the main body of your nomination.

The other things that are very important to look at are listed under "Integrity." Integrity evaluation of properties includes location. Is it the place where the historic property was originally constructed, or where the event occurred. Is the design a combination of elements that create the form plans, space, structure, or style of a property that is contiguous to its period. Is the setting or physical environment of the historic property relatively unchanged. Are the original materials present. The physical elements that were combined or deposited during a particular period of time, are they in the original pattern or configuration that was used to form the historical property. "Feeling" is kind of a broad word, but does the property have or express aesthetic or historic sense of a particular period of time. Association. Does it have a direct link between an important historic event or a person and a historic property.

To actually fill out the form, you need to go to National Register Bulletins No. 16A and B. The 16A is for an individual property; 16B is for multiple property, and when you look at TCPs, there are usually multiple property forms so go and get 16B. If you're doing historic or National Historic Landmarks, you would use another form, I don't think I have the actual form Bulletin, but it's listed on the site when you go there, to nps.gov, and it's identified as, "How to Prepare National Historic Landmark Nomination Forms."

When we look at TCPs, we're looking at landscapes and typically what's been developed on the Mainland deals with rural historic landscapes, and that's a geographic area that historically has been used by people, or shaped or modified by human activity, occupancy, intervention, and that possess a significant concentration, or linkage, or continuity of areas of land use, vegetation, buildings and structures, roads and waterways, and natural features. All the evidence that you're looking for of human use or activity is examined through 11 landscape characteristics. Those are land uses and activities; patterns of spatial organization; response to the natural environment; cultural traditions; circulation networks; boundary demarcations; vegetation related to the land use, building structures, and objects; clusters; archaeological sites; and small scale elements.

Rural historic landscapes are listed in the National Register as sites or historic districts following identification of historic landscape characteristics evaluation, according to the National Register criteria that you just went over, and documentation on a registration form, which will always be, in this case, 16B. To identify a rural historic landscape, you have to develop a historic context, conduct historical research, and survey the landscape; to evaluate National Register eligibility, you have to define significance, assess historic integrity, and select boundaries; and to register historic landscapes, you use NPS Form 10-900, which again is available at [nps.gov](http://nps.gov).

I'm going to skip over cemeteries and burial places after I read the intro for NAGPRA. The National American Graves Protection and Repatriation Act of 1990 sets out the rights of Indian tribes and native Hawaiian organizations regarding human remains, funerary and sacred objects, and other culturally significant objects for which they can demonstrate lineal descent or cultural affiliation. That's very important. Remember that. Anything that you need to find for NAGPRA, you can find it under Bulletin 41, and that will be found at [nps.gov](http://nps.gov) as well.

Now all of these things that we just identified to you are part of what we call "traditional cultural properties." Bulletin 38 that the Commission was given a copy of, which is also available to the public at [nps.gov](http://nps.gov), and it's defined as a property that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that are: A. Rooted in the community's history, and, B. Are important in maintaining the continual or continuing cultural identity of the community. The designation of a TCP is a way to recognize the cultural heritage of a property or an area based on its living history or those elements of the culture that are still practiced and valued in the present day and that maintain the vitality of a cultural community. The TCP must be rooted in the physical environment, therefore, is concerned with the way in which extant properties play a part in communities historically based by continuing beliefs, customs, and property -- or practices. A TCP must have tangible aspects to be preserved; it can't, for instance, be the sky or the air; it must be something that you can see and touch and describe, thus, fulfilling the purpose of the National Register of Historic Places. Once designated, TCPs are subject to the same controls and benefits that apply to any property listed on the National Register, and again, designation of any property to the National Register does not guarantee its protection.

The National Park Service goes on to say, "A traditional cultural property is a building, object, site, or area that is currently occupied, functional or active, and associated with cultural practices or beliefs of a living community that are rooted in that community's history that are still practiced and valued in the present day and that are important in maintaining the continuing cultural identity of the community." We can't underscore that enough. Verification by the cultural community as well as concurrence by the National Park Service is a requirement to determine a traditional cultural property and it does not result in actual

listing of a property on the National Register, which is a separate process that may be initiated by the property owner. And the key again is property owner consent for designation or listing on the National Register of Historic Places.

Ms. Chandler: Stan?

Mr. Solamillo: Yes?

Ms. Chandler: On the last line, some of those things are not necessarily quantify-able, they're more like qualitative data. Do you know how much needs to be typically included or we're going to discuss later?

Mr. Solamillo: I'll give you an example.

Ms. Chandler: Thank you.

Mr. Solamillo: But bring it up if I miss it. There's a procedure for designation. The first one, I think the community brought to us this morning, which was to establish the level of effort, involve traditional communities and groups, conduct field work and reconcile sources, and must include ethnographic and ethno-historical documentation. That can really only come from a community and be vetted by a community; in this case, native Hawaiians who reside in places that they regard as traditional cultural properties. For determinations of eligibility, ensure that an entity under consideration is a property, that's a first concern, so it must be a district, or a site, or a building, structure, or object. Integrity is important. You must integrity of location, design, setting, materials, workmanship, feeling, and association. You must have integrity of a relationship between a property and the beliefs and practices that gives it that significance. The property has to be evaluated with reference to the National Register criteria that we just went over and it must meet the same criteria as any property eligible for listing on the National Register of Historic Places.

Traditional cultural significance is derived from the role a property plays in a community's historically rooted beliefs, customs, and practices, properties may have significance under Criterion A if they're associated with events or series of events significant to the cultural traditions of a community, but a property or natural feature important to a traditional culture's religion and mythology is also eligible if it's importance has been ethno-historically documented, and if the site can clearly be defined.

Okay, we're done with all the text, and now we go to fun stuff.

This is -- I'm going to show you a series of slides, and they're from different places in the Pacific, and most of them are recognized by the International Council on Monuments and Sites, which is ICOMOS, and that's an organization which was created by the United

Nations Educational, Scientific, and Cultural Organization, or UNESCO, in 1965, which actually predated, by one year, the National Historic Preservation Act, which established the National Register of Historic Place for the United States.

ICOMOS provides some guidance as far as developing historic context, and they call them "thematic studies," and before you even delve into this, because it involves a lot of documentation, you should look at ICOMOS thematic studies and just Google that and that'll show up on the web as well. But they've been important in recognizing indigenous specific island culture, specifically sites like Rapa Nui and Lapaha Royal Tombs in Tonga, and they've come up with typologies for Pacific indigenous sites, they've actually recognized organically evolved cultural landscapes, and there's a whole series of definitions that fall under that title, and they've broken the actual settlement in the Pacific among some basic themes; following that, we have Pacific colonial, which can include cultural landscapes exemplifying extraction of natural resources, creation of plantation economies, "civilizing" projects of missionaries, and establishment of colonial rule. And I think just in the two typologies, you see the difference between indigenous as well as western views of the world and views of the environment, which cause us to look at actual designations today, one is extractive and the other one lives more in harmony with the environment, in fact, the natural environment and cultural development are one in the same for most indigenous cultures. Other sites in the Pacific, which are identified and recognized by ICOMOS, are Raiatea and Kerikei, Moorea, Tuamotu Archipelago, which, by themselves, physically are quite stunning, Taranaki, Sigatoka Dunes in Fiji, Rapa Iti. The Rapa Iti ceremonial place at the top is quite stunning and the whole island looks like a city ...(inaudible)... Coming to our own archipelago, we obviously have the most recognizable TCPs, which are Mauna Loa and Mauna Kea, on the Big Island of Hawai'i. Keauhou battle ground and burial grounds.

Again, traditional cultural properties are always places; they're physical, they are not intangible. A traditional cultural property is eligible for the National Register only if it meets the National Register criteria. Like other kinds of historic properties to be eligible for the National Register, a traditional cultural property must have integrity, integrity of relationship, and integrity of condition. A traditional cultural property is subject to the same general time threshold as the other historic properties. It must have been important to maintaining traditions for at least 50 years. To be determined eligible, TCPs must not be ineligible because of one or more National Register criteria considerations. TCPs must be described and their significance documented. And finally, TCPs must have physical boundaries.

For those of us who have been trained in the universities of the west, we often have biases, and biases, and I suffer from that illness as well, and it's called "ethnocentrism." In Hawaiian culture, natural and cultural resources are one in the same, and that can be broadened to embrace most indigenous culture where you will find natural and cultural resources being synonymous. The native tradition or the indigenous tradition in Hawai'i

is quite rich about how the Hawaiian archipelago was formed and how it came to be inhabited by native Hawaiians.

In the development of that world view, there is a context called "kinship" that the ancient Hawaiians addressed to their environment and it is the basis of the Hawaiian system of land use, and that is very different from what we -- we employ everyday. Archaeologists and historians described the inhabiting of these islands in the context of settlement, which resulted from voyages taken in canoes across an open ocean, but this, as I said, does not represent the indigenous view here. Things that we possibly take for granted, or like to build on, include Haleakala, `Iao Valley, `Iao Stream, bifurcated, as it was mentioned by testimony this morning. And there's places which have been restored, such as Pi`ilani Heiau. Places which are in need of restoration, like Pu`upuha burial grounds on the edge of Lele, or Lahaina. Places that many are fearful about, like Papohaku Dunes, because it has traditionally served as a burial grounds. And of course, the basis of that or the articulation of Hawaiian culture and land use and world view is in the ahupua`a; in this case, an idealized diagram, which was developed after Professor Minerbi, at the University of Hawai`i at Manoa, but it breaks out the zones which were used to support indigenous Hawaiian communities throughout the islands.

Studies were done at UH and they formed a model for what we've been actually looking, how do you look at a traditional cultural place, and how do you begin to identify everything. Minerbi's example is quite wonderful, and you can find virtually any of these pieces, if you will, for a traditional cultural property type in many of our valleys here in Maui and throughout Maui County. In Waipi`o, UH did another study which attempted to define kuleana parcels within the valley as well as how stream flows, an `auwai functioned, the uses, plus ceremonial sites, locations of heiau, etcetera. They actually parcelized the lo`i and put it in a context where it's tied to water sources. They identified wauke, or paper mulberry; kula, or dry land or pastures or open uncultivated fields, and then house lots on top of that. And if we look at Waipi`o today, it looks a little bit different from photographs which were taken at the turn of the century when it was much more populated, and a lot of the depopulation of this and other valleys throughout the archipelago came as a result of a tsunami, which happened, I believe, in 1946, which pretty much decimated the valley as well as aquiculture and fishponds throughout the archipelago.

Another study that's been done by some friends of mine in Waihe`e Valley, and Waihe`e is a very special place even though we have the development of house lots at the front end of the valley, we have people in that valley, new immigrants as well as old established families, who still grow taro and they still care or take care of their lo`i, and they still take care of the `auwai, which carries water for at least half-a-mile uphill and is a thousand years of age. I was gifted to live there for two years and I hated leaving it because it was a very, very special place.

There was a great student, who now is employed at UH, and for his masters degree in urban planning, he decided to look at this area in the context of Na Wai `Eha, and he did the series of diagrams that will follow what I'm trying to tell you is there's a whole methodology or a whole series of things that you can do and people dedicated to doing this kind of documentation that it would be a good idea to connect with and parcel out the work so you can actually describe a place physically, how the water works, how the environment works, what biota is located in a specific valley, and then all the cultural connections therewith and the things that make it a traditional cultural property. The student's name is Jason Jeremiah, and he looked at the four valleys: Waihe`e, Waiehu, `lao, and Waikapu, and what he's identified are kuleana parcels, which exist to this day. This was one of the richest taro producing regions on Maui. I was quite shocked in actually looking at the history of the place and how much taro was produced here. This all was purchased by Wailuku Sugar Company. There was first two sugar companies: Waihe`e and Wailuku Sugar Company, they were consolidated around the turn of the century, and Wailuku Sugar Company owned everything from, literally, Waihe`e, all the way to Ma`alaea. The red arrow denotes the valley.

In Waihe`e, in the valley, you have archaeological stream corridors, which is the red hatch line, you have ag lands, you have a fishery, you have 'ohana lands, you have watershed management lands, wetland restorations, and it's all contained within the ahupua`a boundary, which is the black line that outlines all the color layers. There are over 96 archaeological sites. These are known sites within this specific watershed and ahupua`a of Waihe`e. There are several `auwai systems as well as streams and ditches. The ditches follow the `auwai which were built over a thousand years ago and they, literally, take water from Waihe`e River and feed kuleana lo`i, which will be in the next slide. In 1920, I think Wailuku Sugar found that taro production was so great here that they actually opened up a poi factory and for one year produced 92,000 pounds of poi. That's a lot of poi. That's a perishable item. And you can see this growth from, I believe, 1905 to the high point in the mid '20s where they have 92,000 pounds of poi produced here. There were two `auwai. The yellow parcels are fed by a water source called the "north `auwai" or "north Waihe`e `auwai." And then the south Waihe`e `auwai are those parcels or kuleana parcels which were identified in read. So, literally, they were carrying the water long before any of the ditches were built by the sugar companies, literally, they're carrying the water away from the stream to kuleana parcels a long way because we're pass Waiehu Kou when we're at Waihe`e, actually we're on the edge of Waiehu Kou. This gives the millions of gallons per day, which the water systems of Waihe`e produce, and of course it's under the subject of and has been the subject of litigation.

But it's this kind of definition I think this study by Jason Jeremiah is probably one of the best ones of how to actually look at an area which you can identify as a TCP, occupied for a thousand years, and you're actually bisecting it and taking a look at everything, how it all works and functions. As we all know, water is very important.

Another place that has been looked at, although not to the degree that Waihe'e was looked at, was Keanae-Wailuanui cultural landscape study I think that was done in the '90s, but it's not to the degree that I was just showing you, that's the level of study that lo'i parcels and stream flow has gotten to, and it would need to a lot of work to get that way. This is kind of interesting as a TCP because it's a peninsula, you know, it has boundaries on three sides and actually you could use the water at the bottom to form the fourth side, or the stream. Again, you would have to go in there and get at least a majority of the property owners to support a designation to get it TCP designated and go through this whole thing of actually recording the history of the place, both its mythical history, its Hawaiian occupation and its settlement history, as well as how it actually functions and works, and all the biota that are involved there, both from the fisheries as well as the land.

This place, in particular, Keanae has been photographed since well before 1900. There are tremendous photographs that I've seen at the State Archives in Honolulu, and it would be that kind of documentation that would also be asked to be a part of the record for a designation for a TCP. So at least back to 1880, 1890.

In the case of all of these traditional cultural places, house lots, kuleana, lo'i, they're all occupying the same space. When you go to the dry side of the island, these are places as well which could be obvious TCPs, and there are villages and settlements. Because they're sparser and sometimes involve lands which are owned by ranches, again, you would have probably small numbers of kuleana parcels involved but major landowners and you would have to get major landowners' consent for a TCP.

My pet preservation idea, which has not come to pass, is the preservation of fishponds. Fishponds have an ancient history here and we are blessed in Maui County with having the largest number in the entire Pacific. Fishponds were in use until that tsunami hit and what I've received from oral tradition from mostly Moloka'i but also on Big Island is that after the tsunami, fishpond production almost vanished. There are 35 types of fishponds. They've been recorded and studied almost 20 years now, everything from establishing typologies to actually how do you reconstruct them, how do you make them work, what kind of fish do you keep them or keep in them, and it's kind of to the point where, okay, we've studied it and it would be nice to do something about the food production and putting them back into production, which is a traditional cultural property use, and that connects it directly with the past. Again, many of them are hundreds if not a thousand years old.

Threats to fishponds. You see a lot of it on O'ahu, in particular, siltation with development. It seems to be something that occurs a lot. On the north shore, they're still fairly intact, but on the south shore, most of them had been built on. This is Moloka'i, and I think there are well over 30 fishponds surrounding that island. Threats include siltation again, but a lot of development that's done on the shore which covers up springs and prevents stream water

from actually mixing with saltwater to create the brackish conditions, which are necessary for fish fry to live and grow, and that seems to be a major problem.

Chair Hutaff: Stan?

Mr. Solamillo: Yeah?

Chair Hutaff: Could you kinda repeat that?

Mr. Solamillo: Which one? Streams.

Chair Hutaff: Okay, I'll repeat it.

Mr. Solamillo: Streams.

Chair Hutaff: Okay. That the fishpond --

Mr. Solamillo: Fishpond.

Chair Hutaff: Needs two things; the ocean and stream water --

Mr. Solamillo: A freshwater source.

Chair Hutaff: To supply the fishpond with the fry ...(inaudible)...

Mr. Solamillo: A brackish water source. Well, it creates a brackish water where fish fry grow --

Chair Hutaff: Perfect.

Mr. Solamillo: Of certain types of species of fish.

Chair Hutaff: So not only is the ocean important, but also the freshwater going into it.

Mr. Solamillo: Correct. So if you cover the freshwater entry point, you prevent it from functioning as a fishpond, and this is going to be a finite number of fishponds within that larger classification list that I just briefly showed you. I couldn't tell you what fish. I couldn't tell you what type of fishpond. I'm just saying that the factors that we tend to overlook are all because indigenous occupation was here as long as it was and is a very finely tuned science to everything, and it's something that new people coming in or westerners, like myself, will fail to see. So I think it was the same thing that Janet Six was alluding to this morning, you look at a piece of land you call it "trash land" and actually it's not.

I will briefly cover this because this is a whole other component of TCPs that we probably won't touch upon here in Maui County and that's urban TCPs, and the statements that are at the bottom of this particular slide are things to remember: TCPs may in fact exist in an urbanized setting; they remain intact after a community has been in fact displaced; and they may remain intact after development and gentrification has occurred. That latter one you might think about using although I would restrict it to urban areas.

Ms. Chandler: Chair? Stan?

Mr. Solamillo: Yep?

Ms. Chandler: Thank you. So they may in fact be intact after a community has been displaced. Is that a qualification for urban TCPs because I thought that when you had listed the site specific TCPs that --

Mr. Solamillo: I would use it for urban.

Ms. Chandler: Yeah. The culture -- well, the cultural interaction has to be contiguous when you list the site specific ones?

Mr. Solamillo: Yep.

Ms. Chandler: Thank you.

Mr. Solamillo: But people do return. You have to remember that.

Ms. Chandler: Yeah. Okay.

Mr. Solamillo: Okay. So the displacement issue of a specific cultural community or population does not remove or sever the relationship of that community with a TCP, and this has been used specifically with Japanese communities, which have been displaced in Southern California. I think the total here is 43.

Alright, an example of a TCP nomination to the National Register of Historic Places would be Mt. Taylor, New Mexico, it was nominated by five tribes: The Pueblos of Acuna, the Laguna, and Zuni, Hopi, and the Navajo Nation. Mt. Taylor got its name from I think a USGS guy who surveyed and named it after President Zachary Taylor. The tribes have their own names for this place. It's a large expansive mesa, it's eroded, and it sits on the largest known deposit of uranium in the United States. For that reason, it's classified as "endangered" and it's often in court. Despite that and, obviously, mining companies are not so interested in having TCPs established, but beside that fact, the TCP was prepared and filed in 2009. This is only part of the documentation. It's 300 pages of documentation.

It include archaeology, ethnography, geology, hydrology, biology, property owner support required, and deed and title for this particular project 3 inches thick. This is the amount of parcels involved. All that points to is that's a lot of documentation and you have to have really dedicated people who are going to be interested in doing that. And I can't underscore enough, in the case of multiple parcels, you have to have the majority property owners' support. If you want to go after individual properties, you have to have the owner's support.

I'll pass this around. Alright, a little TCP quiz. That concludes the bulk of the presentation. I'm sorry it was so brief but we don't have a lot of time. So, first site up top, is it or is it not a TCP?

Mr. Osako: Yes.

Mr. Solamillo: Correct. Second site?

Mr. Osako: Yes.

Mr. Solamillo: Can be. Correct. Third site, bottom, Paia Mantokuji? Yes, that's correct. Top site, the view from the boat coming back from Lana`i? Yes. Next site? Yes. Pineapple fields?

Chair Hutaff: Yeah.

Mr. Solamillo: Can be. Depends how deep the grade is, right? And of course, the last one, yes.

Chair Hutaff: Absolutely.

Mr. Solamillo: Any questions? And again, my apologies on the brevity of the presentation.

Chair Hutaff: Any questions? You know, a quick comment. Obviously, very important what we've seen today. Thanks for making the quorum.

Ms. Kamaunu: I had a question, and it was about the -- my question is: What about sites where properties are urban in a rural or mixed zone? You were talking about the Japanese one, it's in urban designation and you had a TCP in that. What we have in Waihe`e urban and mixed-use zones.

Mr. Solamillo: I wasn't using a zoning category, per se. I think the challenges for Waihe`e are that the landscape is radically changed, and the water sources are still there, but I don't know how intact -- you would have to do a survey, much the same thing that I was showing

in those original diagrams, to show the parcel, the kuleana parcels in relationship to the `auwai and tied to a stream, and then note that Hawaiian life is still going on in much the same way as it has always gone 'cause you can go to parts of that whole watershed of 'eha, you still find these places that are quite incredible because it'll be very urban from the street, and you go to the back, and everybody's still, yes, the lo`i is there, the taro is there, and it's pretty incredible, and we haven't really looked at that, and that's living Hawaiian culture today. So I think it would be something that we'd have to look at in more depth. Any other questions?

Chair Hutaff: Go ahead.

Ms. Chandler: In response to that question though, that kinda goes back to the cluster nomination and so there's probably multiple landowners and you had mentioned that a majority of the landowners is needed. What is that majority?

Mr. Solamillo: I would say at least 51%.

Ms. Chandler: 51%?

Mr. Solamillo: Yep.

Ms. Chandler: Okay. Great.

Chair Hutaff: Then you may run into the problem where that a single landowner who says, no, my property, and doesn't comply with the whole, like say 10 out of these multiple owners, so even if the majority of the owners said, yeah, we want to do it, they can't still circumvent the property rights of an individual. You know what I mean? Unless it's like condominium property or kuleana property, or something like that. So it makes it -- but still yet, what you can do you can do, you know.

Ms. Chandler: So in that case where some owners decline but you still got a majority, you would have a TCP that looks like it has holes in it on a map?

Mr. Solamillo: Probably.

Ms. Chandler: Okay.

Mr. Solamillo: I mean it's like when you do a district and you have contributing and non-contributing buildings, the non-contributing buildings are holes. Yep.

Ms. Chandler: And so the preservation of a TCP landscape, per se, like if you were looking from Lana`i over to West Maui and you wanted to maintain that same view, and you

nominate the view, of course that would be a very convoluted list of landowners and things like that, is it possible that that is even possible 'cause you had it on your slide?

Mr. Solamillo: I think that the slide is used -- it gives you valleys. These are the West Maui Mountains, the Hawaiian name, I'm sorry, I can't think of it right now, but it's like those valleys are TCPs in themselves, the peaks, every dip, but I wouldn't -- it wouldn't be a view. You would have to physically designate the peak, the valley, and what it contains or has on it.

Ms. Chandler: Okay.

Mr. Solamillo: You can't do a view.

Ms. Chandler: Okay. Thank you.

Chair Hutaff: Question. Fifty-one percent of the landowner or fifty-one percent of the land?

Mr. Solamillo: Property owner.

Chair Hutaff: The property owner?

Mr. Solamillo: The property owner consent clause is huge.

Chair Hutaff: You have something?

Mr. Osako: Well, when we're done, I have a comment but I don't have a question.

Chair Hutaff: Comments are good.

Mr. Osako: Okay. Well, my comments are general and it's partly for the public also is that this body actually has no decision-making power, we make recommendations to the Planning Department or the county, as it were, so we are not a body that actually makes a final decision, and so in that way, the system is flawed in many ways, and part of the problem is that the system or everything evolves around economic activity, and, you know, that's why there are developments, it's economic activity, and sometimes for the government, whether it be the state or the county or the Federal Government, they look at economic activity, and you hear a lot about economic activity now in the election cycle, right, you know, if a development goes through, you know, the state, the county, the Federal Governments actually get economic benefit, you know, they collect taxes and make money. And in the review process, like whether it be the archaeologist, or the cultural consultant, or the botanist that do these studies, they're actually paid by the developer so there is a little bit of conflict of interest, right? If you're one of these

consultants, and you always go against the developer, who's going to hire you the next time. So we gotta understand the flaws in the system and I realize that, you know, we all wanna preserve these things but we are fighting a system that is flawed. So that's just my comment.

Chair Hutaff: Okay, we're going to open it up for public testimony then. We gotta officially do that. Go ahead. Yeah, if we can kinda keep it quick, you know.

Ms. Kamaunu: It's a form of a question I guess, but the concern that's always going to come up for kuleana is: How do we maintain our rights in this designation because we're already fighting the water rights situation, right? The state wants or has the ability to manage water in Na Wai `Eha, but the problem is they don't know how to manage the kuleana and they're not recognizing them as they should be. For us, if it helps you to understand, the kuleana, their ability to be kuleana is tied into their right connected to the land for which the state doesn't have all the necessary, I guess -- well, anyway, bottom line is we're fighting there because they want to manage us. Going into a TCP would mean that there would be also others managing this area, a federal designation, or the state. We come to this thing about permitting things to happen. Kuleana rights cannot be alienated from us, but they can be relinquished by us, knowingly or unknowingly, through a permitting process, and that's kind of where the problem starts to come up for me. If we participate in a TCP, and put it under where there's federal or state management or purview, how does that affect our rights as kuleana? You know, that's a real serious problem for us right now because we're already in danger of losing all the water that comes to our properties, we're already being encroached on by developers in the area, and we're already being -- we're feeling the sting of taxes as real properties valuation goes up. You know, so are we going to be subject one more time if we got to TCP? I mean I like the idea, you know, that you could preserve something, but that would be a drawback for me.

Chair Hutaff: Go ahead, Stan, and I'll answer -- I have question and a comment.

Mr. Solamillo: I would advise that you would have to speak with legal counsel before you make a decision involving your kuleana rights. TCPs or traditional cultural properties is a designation only. What you could benefit from it is by being -- you are a historic property if you're listed on the National Register of Historic Places. You are a property owner, that is your land, you live there, that is your domicile, so, technically, you should be able to get a reduction of your property taxes because of it. You should. But I cannot speak for -- you would have to go and check with the county office that's responsible for it. But it should give you the same -- the same ability as private -- of the owners of houses who live in them in Lahaina, who have those houses designated, they get a reduction on their property taxes. And that's provided, that's tax abatement, which comes with designation. As far as anything further beyond that, as I told you earlier, the National Register does not impede your property rights.

Ms. Kamaunu: Yeah.

Mr. Solamillo: And you would have to, of course, you know, you're going to have to check with legal counsel to actually look at all the possibilities, but it states, from nps.gov, several times, registration or designation for listing on the National Register of Historic Places does not save a place, does not protect it from destruction, and does not take away your property owner's rights.

Chair Hutaff: Okay, yeah. You know exactly what you said, we hear on Lana`i, Hana, it's like, well, we don't want to tell anybody we don't want to do anything because then they'll come and tell us what to do. So we do nothing, okay. If you understand your option of doing nothing, we're here. This is what doing nothing accomplishes, okay. My personal feeling on it is that you do something, and the first thing you do is you jump up and down, and you say, okay, I'm here. How do you begin to fight? You put your fist up. Okay. Actually, I'm not saying that you get violent; I'm just saying that you put your hands up and say I'm here. We have an issue with this property. We want to protect it for whatever reason. And you go through the motions of the TCP, okay. If you read anything into that, it says 300 pages of documentation, okay. I think that's a thin one. And you document from all sides, cultural aspects, aquatics, whatever you feel you dissected the various categories and be redundant so that you have this whole story. Then, when it comes time to present it to be a TCP or to, you know, do whatever, then you get with somebody who has knowledge of what you are going to gain from that. Recognition is important, okay. Kinda what we talked about today here is a lack of recognition creates, you know, demolition, basically, they're going to come clear an area and say we're going to put something on it, because we don't know that there's anything there. So you want recognition. You want to have recognition. You want to recognize a spot for what it is you want everybody else to recognize it. The TCP is just one entity in order to do that, but having all the components there, all the writings, the 300 pages, or whatever it is is saying here we are; this is who we are; this is what it's all about. Now, we just gotta get it to the right people in the right format. TCP allows you to do that, okay, where you can have it designated as that. What you're giving up, again, as Janet tried to point out, is a whole lot of time and hard work. You're not giving up management of your property. You're not giving up your water rights. You're not doing anything else, as far as we can see here. Naturally, getting an attorney, okay, who's very good at this, to explain to you if you are giving stuff up. It's amazing how much misinformation -- when we go out to various places, they say, okay, well if you make it a -- if you protect this area, it's now going to end up becoming like a Waikiki or it's going to end up having all these people come in and make big businesses, and, unfortunately, none of that's been true, okay. It's just been fueled by perception and ignorance and lack of information. So get your stuff together, get it all sorted out, you're going to need that anyway. It's a way to go. If you hear about something happening, say, no. We already have this documented rather than say can you wait two years. I'll get back to you. Get it done now. Present it. And then just before you present

it to become part of the TCP, have somebody look at it and see what you're giving up, if anything. Get the facts correct 'cause, otherwise, we do what we're doing today, okay, will be the same issue we have a hundred years from now, which is nothing. To do something is important. That's my comment to that. Any questions? ...(inaudible)... go ahead. Come up. Please.

Ms. Marcial Pualani Kamaunu Basbas: Mahalo, Chair Ray. Thank you for allowing me to testify today. I wasn't able to make it earlier and I'm glad I have the chance. My name is Marcial Pualani Kamaunu Basbas, and I'm from Waihe`e, and we have over 200 years of our family living in Waihe`e and more. And I am the President of `O Waihe`e Ma Community Association Cultural Center Where our Community and Culture Connect, and our vision here is who we are, and our vision statement is: "Empowering Waihe`e community and its families by establishing meaningful connections to embracing a sense of self, a sense of place, and a sense of future where one lives and practices their culture." And like Commissioner Warren had mentioned earlier about the development, it is about our economy and we need to -- and so as `O Waihe`e Ma has done we actually are working on our community plan and want to submit that to the county council, which is actually the next step in the planning process. And so we've taken that into account and during our planning, and that's the first -- after the first page, that just gives you an idea of who we are, and the next part of it is the first part of our plan, and we're right now in the draft process.

And so our theory statement, which I really like, is: "People in our community create the community we want to live in." And so I know in our community, and we've worked for quite a long time, and some of the concerns our community has had and the issues that are there that faces us, of course, is the development, and even rezoning from ag to rural or urban is a concern. So the Waihe`e community has really been working hard the last few years, and we're actually a newly formed association as well as the cultural center because we looked at our ahupua`a as a living cultural center, and we looked at it as today, what's going on today in our ahupua`a, however, we also look at the rich history that we have.

So if you go through our plan, `O Waihe`e Ma Community Association Cultural Center Where our Community and Culture Connect, and we had the Hawaiian proverb: "Planning for a year, plant taro; planning for ten years, plant koa; planning for a hundred years, teach the children," and so our -- we're looking at a hundred-year community plan, and not necessarily just twenty, thirty 'cause, you know, we need to plan. We just feel that that's what it's all about, planning more than just thirty years or twenty years. So we create the community we want to live in. So our vision statement is: "One hundred years from now, Waihe`e will be a thriving pu`uhonua as a living cultural center where all of its resources are renewed and in balance for perpetuity and its families enjoying a rich quality of life

independently." So want to see what we can do now in establishing our community so they can be self-sustaining.

So our introduction: A primary objective of `O Waihe`e Ma 100-year plan is to ensure independent sustainability by implementing traditional cultural values as how we as a community define ourselves. Now that's unique to Waihe`e because we have many different cultures in there, but I can remember my mother and even my aunt today talks about how those multi-ethnic cultures all came together, and they all went to each other's schools, each other's churches and participate. Today, we still have this ...(inaudible)... with each other. My aunt knows where all of her different people that she grew up in Waihe`e with where they're at today. She's in connection with them. They are connected with her too.

So, in the framework of our community plan, we want to foster the spirit of our past, present and future to preserve the charm of Waihe`e Ahupua`a and a serene environment as we preserve its natural and cultural resources.

O Waihe`e Ma recognizes the important connection between the health of our mountain, from its heavens to its oceans depth, the sea's horizon and our community, and the vital role that fresh water plays in connecting it all together as the properties to which traditional cultural value is vital and significant to our community.

We encourage a diverse economy that will provide enterprising opportunities for self-sufficiency. Ensuring traditional ecological knowledge of the ahupua`a guiding principles and best practices, and other supporting facets which will provide effective and efficient land management based on the fundamental skills of its local assets, which is cultural practitioners and educators, and resources for its future through traditional cultural practices, spiritual beliefs, and ancestral ties that is intrinsic to Waihe`e and its families today.

And so some of the recommendations that we've been talking about as a community is developing our community plan, and that's the next part of this plan that we're working on and I didn't have it all together and ready yet to present today and so but I do have a list here, and also identify and recording the uniqueness of Waihe`e, create activities that will keep our remarkable history alive, not many people know that Queen Ka`ahumanu has a pu`uhonua in Waihe`e, which is Waipukua, and we know where it's at, located at today, and not many people also don't know that Ka`ahumanu's roots is actually in Waihe`e. This is where her mother was born, and this is where her grandmother actually owned all of Waihe`e Ahupua`a. So after King Kamehameha conquered the Maui Island, he returned actually Waihe`e Ahupua`a back to her and also designated that as a pu`uhonua and even kapu the fishponds that were in there for her. So there's history there. And then we need -- and we also want to identify and record all historical sites and resources not previously

recorded, and also look at establishing Waihe'e as an open space culture educational center to benefit our children from zero to 21 years of age, and that would mean promoting our Waihe`e practitioners and educators; in other words, bring in our kids instead of having them going out to Baldwin High School or Lao, but have them there and have a educational cultural center so children can stay home and be there and use our teachers. So another thing that we need -- we're also looking at is encourage and support our children and adults, family in traditional recreational activities for Waihe`e residents, such as sports activities, educational activities, and training and so forth. And one of the things too I just -- well, I knew about Queen Ka`ahumanu, she loved to surf. She surfed always and in the Waihe`e area. Now, I can't imagine that today because we don't really have the big waves over there, we have waves, but not as big, you know, like how the surfers like the big waves today, but she surfed in that area. That's where she came and she actually ...(inaudible)... but she also like to fly kites. She would -- likes to make them and likes to fly them, so I thought -- that was one of the ones I just found out recently and thought that was really interesting. Encourage and support implementation of traditional restoration, replenishment, replacement practices mauka and makai. And preserve, perpetuate our unique language of the Waihe`e community. We actually do have a unique language that not many people know about. But one of things too is that we do want to -- we have farmers, kalo farmers in our area, and they are struggling, it's hard, but they want to carry on what their ancestors did, so we do have them in Waihe`e doing that. There are intact terraces, 24 of them on one piece of property -- I think they're actually on two pieces of property and it's in the kupuna side. There's also iwi that's been found, not only in the dunes area where the cultural land trust is at, but up in the puna, which is down below Waihe`e Valley, and there's been iwi found in that area and cultural remnants and stuff so -- but we are -- we know that there's need to look at how we can still be diverse in the development so we take that into consideration. And mahalo for having me.

Chair Hutaff: Okay, and your -- you've understood what we said, document all that kind of stuff --

Ms. Basbas: Yeah.

Chair Hutaff: Write it all down.

Ms. Basbas: And that's what ...(inaudible)...

Chair Hutaff: Get it all there? And some avenues too, the hard part sometimes is, you know, it's so much easier to speak than it is to write, but there are a lot of students in the Kamehameha Schools and at the Maui campus that their job is to write, and, you know, they get credit like for that stuff too, so you might want to contact the universities and say --

Ms. Basbas: And that's what we're looking at. Actually, we're looking to celebrate --

Chair Hutaff: ...(inaudible)... smart people who can write?

Ms. Basbas: And that's what we're planning to do because we're planning a birthday celebration of Ka`ahumanu and encouraging our children to write stories about it or, you know, find out the history, so that is one of things that we're working towards.

Chair Hutaff: Good. Perfect. Thank you.

Ms. Basbas: Okay. Thank you.

Chair Hutaff: Next? Go ahead. Thank you.

Ms. Theodora Palani Savala: Aloha. My name is Theodora Palani Savala, and I am Marcial Palani Basbas Kamaunu's daughter, and, yes, she should have her grandson, Joe Anthony Aguilar and Ahina Keani Aguilar from Kamehameha Schools write that down. Definitely. I'm here actually to also represent from -- I was born and raised from upper Waiehu all the way to Waihe`e Valley, which is kuleana lands, and my studies have, my genealogy that I've been doing recently, has brought me from upper Waiehu, which has sadden me because of what I found recently. As I've seen throughout the slides where now you see sugarcane, where it went from Waihe`e, Wailuku Sugar Company, Wailuku Agriculture, and then Wailuku Water Company. I'm the seventh generation of Ka`awa. He owned nine apanas. My grandfather, supposedly, in the 1800s, sold his nine apanas for a dollar. My father turned 70 years old yesterday. And as I've been doing the genealogy, trying to take down the testimony that my father has remembered, aside from what he has also remembered from also growing up in Waihe`e, he's also remembered the burials that has been leveled out. I think the last slide that was shown, like the sugarcane that could have possibly be TCM -- I believe TCP? That it could be because it's been leveled out, like my father said, one pad heaps where my seventh great-grandfather's property is, but because the sugar company came and leveled it out, it no longer has the heaps. Well, I'm married to a Native American and because I am at my baby steps at becoming an attorney, I started to do research. In my research, it brought me to a case, Native American case, just so happen it was about an American, Native American Indian that they had uncovered approximately, the Native American was buried 200 years ago. They thought only one, so they said it was just one person buried, so they were going to build. They was going to continue to build. And all of a sudden, they continued to build, and as they continued to build, they just continued to dig up, well, as they continued to dig up, it wasn't just one person. It became 600 burials. Well, I study at UH-Maui, and at UH-Maui, not only do I take law classes there, I also take Hawaiian studies. In Hawaiian studies, I'm starting to learn about the Ritz-Carlton. And what did happen in the Ritz-Carlton? What did they find? And what is I believe now wanting to be happening to the Ritz-Carlton also wanting to be taken off the historical site. So now here I am today, in 2012, again, I wasn't going to be here, I was actually just coming from Kamehameha Schools, because my daughter

had asked me to help her with a project, so I'm just done in helping my daughter with the project, not thinking I would even make it to be here to pickup my mom, but just so happened my kupuna must have known. Again, it brings me back to our kuleana lands. What is historical? Three hundred papers. I can read that in less than a few hours. I go to the courthouse. The sheriffs know me, literally, by name. The clerks know me by name. I'm not a -- I'm not an attorney. I'm not a paralegal. I have no letters behind my name; neither does my father. He's worked from the time he was nine years old. He just turned 70, like I said. But 300 papers, I read within a couple of hours. I have read dockets that are nine volumes long. But like I said, I'm here, whatever I need to do to preserve whatever historical places that need to be preserved. Economics I understand. We've been dealing with economics for years. I've worked 20 years in retail. I know about return on investment. I left retail because there's no money there. I can be a politician all my life and not make any money. But I can learn a lot from my kupuna. Thank you very much. Aloha.

Chair Hutaff: Thank you. One last person, I believe back there. You wanted to say something? We're done with public testimony then? Cool, well not cool, but any discussion, questions, ideas, thoughts? Stan, we're concluded? For some reason, okay, before we go on to the next one, maybe kinda defining or understanding what we just saw and heard, and for the public out there, is we were given a workshop on how to go about identifying, evaluating, and documenting, and also cultural resources management and planning, and based upon the community, what I've heard from various sources is that they've kinda sort of tried that, okay, in some way, shape, or form, and haven't had the positive outcome that they wanted. And everybody's kind of heard my advice and a few other comments about what we can't do, okay. I certainly believe that we don't have the gavel to say this is how we're going to do it, this is what we can do, this is how we're going to have the outcome, but we certainly have our voice, and having known that the planning commission and the county council, this Commission has value to them. We even heard that from the Planning Committee where some of them stated that they really valued what we did and do and stuff like that, so for us to have this educational ability is great, or educational input is great, but also we need to understand that the community is part of the culture. We are just a Commission. We don't represent anybody but our own community, so to speak. We're not voted in by our communities. We're voted in by the council and appear by the mayor. And so, in a way, there's this gap that you mentioned quite clearly and they've gone through before, and as a method of, you know, trying to close that gap for the future, because I think that all voices need to be heard and decisions need to be made, whether we like the decisions or not. No decision is not a decision. No decision is where we are today, okay. No decision is a continuation of loss and lack of judgement. And so I would suggest that, at this juncture, before we move on to the next one, I know we're kind of out of order here, is that at the next meeting, everybody show up, plan on it, I'll email everybody, and we see if we can't put together, maybe Gaylord can think about helping us out on this, a committee to research the method in order to be heard as whole.

Again, we don't have a decision-making power. We can't say slam dunk this way. But I think that many people that we've heard speak have mentioned that they have not been heard; "steam rolled" and so forth and so on were terms. So maybe at the next meeting we could make it an agenda item where we could hear from the public and also discuss among ourselves, as a Commission, okay, she's telling me we can't do this -- that we make it so that we can discuss this and maybe put together one or two or three people to help facilitate it, and at least have something within the Planning Department and the Commission to help make sure it gets to be heard in the right order and if there is no order, if there is no protocol, they do establish one. Okay. That's what I would recommend for the next meeting. And?

Ms. Thomson: I just -- I wanted to add that it's not entirely true that you have no power; it's what power exist in the code currently related to both nominations to the State Historic Register of the National Register, so the Commission can initiate, accept, review, and recommend to the State or to the National Register, so you already have that power to do that type of work and information gathering. You can also recommend new ordinances establishing special treatment districts and archaeological districts, so those powers currently exist; whether they're being exercised or not, and whether you want to make that a priority would be a decision of this body.

Chair Hutaff: So, with that in mind, can we make that an agenda item for next -- anybody disagree with that? Comments, Gaylord? I'm going to give you a little hint, okay, is that if we have a committee, I'm going to ask you. I'm going to ask. There's only two possible answers, or three: yes, no, and maybe. Okay. And a lot of it will based upon what other people's timeframe is, but to help guide these people through the system or develop a protocol system. Okay. I guess we're done with that. We made our comments. Am I correct? Are we all legal? Okay. You want to go on to the next one? Thanks to the public too for enlightening us as always.

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

## **E. DIRECTOR'S REPORT**

### **1. Demolition by Neglect, Alternatives from Other Jurisdictions**

Mr. Solamillo: I beg this Commission's indulgence --

Chair Hutaff: Yeah, I think we should --

Mr. Solamillo: And am asking to defer to the next meeting.

Chair Hutaff: Please.

Mr. Solamillo: Thank you.

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

**2. Update on Status of a Bill Amending Chapter 2.88, Maui County Code, Relating to the Cultural Resources Commission, and Title 19, Article III, Maui County Code, Relating to Maui County Historic Districts**

Mr. Solamillo: You have a communication, which was handed out to you by Deputy Director, Michele McLean. I guess are there any questions about that specific communication?

Chair Hutaff: Yeah, attending the last committee meeting, my understanding was is that Elle Cochran and Don Couch wanted to define the type of tree rather than go by the size, 42 inches around, 60 inches high, and it was brought up that most of our waist sizes are below 42 inches, so that's still a very large tree and that even the monkeypods that were in question in Lahaina would actually not fit within that 42 inches. So Elle Cochran made a suggestion that maybe we come up with a tree list rather than a defined size or whatever. I had emailed Rae and asked her if she could, and then I went out myself and tried to come up with a list, and then she answered me back that if she had time, and I kinda realized that I had asked her an unending question, you know. It seemed like it was an easy question. Just go ahead and write down a bunch of these things; yeah, yeah, yeah, give me 35 minutes. When I started to look at it, oh my gosh. There was a lot more to it than just that. And so I don't know what's going to happen at the meeting to tell you the truth.

Ms. Chandler: And actually I'm afraid to do a disservice, you know, if we list some species and we miss others, then we now have a protected list that maybe is not all encompassing, and I do feel like - actually, I wasn't at the last meeting where maybe this was discussed so I might be missing some information - but in the letter, I noticed that there's an ...(inaudible)... part on the back about, you know, deferring to the Arborist Committee, which we had discussed in our July meeting --

Chair Hutaff: Right.

Ms. Chandler: And I feel like that's so much more appropriate, you know, that they have more knowledge, tree specific knowledge, and that it's not helpful to create a list of trees that because, inevitably, we will miss something.

Chair Hutaff: What's funny is that the whole reason that we're in front of the Planning Committee is because of the tree issue, okay. That's what brought about us, our ability to

comment on this bill, and the committee was reminded that's where it came from. It was about that. I know that the Planning Department, I wish Michele was still here, but the Planning Department Head mentioned to me that they thought that the arborists should be the ones to comment on that. I wasn't all in favor of that because the, you know, I wasn't, you know, sure that the arborists were going to come from a cultural standpoint.

Ms. Chandler: I respect that.

Chair Hutaff: Yeah. You know what I mean? There's also a bill pending to come about about planting of trees, and stuff like that. I think that the arborists are definitely highly intelligent people and know their plants very well, certainly a lot more than me, and what we learned at the last meeting was pretty amazing by an arborist to explain how the monkeypod actually collapses its leaves when it rains and clouds come over and how it feeds the ground. I'm like I didn't know that. I just thought it was a cool tree. You know, it gave shade. And never gave it much thought. So I actually agree with you quite a bit is that, you know, if we did only indigenous endemic, we kind of miss out on some of the other important trees, you know, that so our problem right now comes -- is that Monday they have a meeting, okay, and I plan to be there, and they're going to ask me a question, okay, which is where is the list, okay, and here I have two problems, okay. First, I don't know how to answer that. The second part is is that without your permission, I can't answer that question. So in a way we kinda have to come up with somewhat of an answer. And she's going to tell me I'm wrong again.

Ms. Thomson: Yeah, well, you can provide the information that you have, and you can give them, you know, information about the discussions here.

Chair Hutaff: Right.

Ms. Thomson: You can't make decisions outside of the meeting, obviously, but if you don't have anything to provide them, you're right, it would be difficult.

Chair Hutaff: Yeah, 'cause we were kind of hoping to say, well, you know, we all make up an individual list, present it to them, and then we do it if we got a quorum as a list of the Commission. I'm just going to ask for, I'm going to go around the turn here and just ask what you think I should say as far as how do we approach it. Do we want to leave it up to the arborists? Do we want to ask them to defer that? Which I'm not in favor of because we can actually come to a conclusion pretty soon. I don't know. Or do we just ask them to take it off the list and count on the arborists doing their job, and then we, you know, get with the people who worked on this planting guide and have them come up with the rules to protect, or say nothing, or I don't know. So, you have any suggestions for me?

Ms. Chandler: I think that, if possible, that we could keep those guidelines for say trees measured at four feet off the ground that are over -- was it over 45 inches in diameter?

Mr. Solamillo: Forty-two.

Ms. Chandler: Forty-two inches in diameter.

Chair Hutaff: The problem is the coconut wouldn't be able to qualify.

Ms. Chandler: Exactly. So I think we keep those guidelines for all non-native and non-introduced trees, but if they are Polynesian introductions or native trees, that they should be -- they should require a separate approval before they can be cut down.

Chair Hutaff: Basically, we could say "mature."

Ms. Chandler: Yeah.

Chair Hutaff: Instead of doing it by size, we can say "mature."

Ms. Chandler: Yeah, mature, native, or Polynesian introductions.

Chair Hutaff: Because again, even those monkeypods would not have qualified. And then you have the hao, which doesn't necessarily get that wide. So maybe making a statement that mature Polynesian and -- like it doesn't -- if --

Ms. Chandler: And native of any size. Yeah. So there's no size qualifications if they're native or Polynesian introduction. There should be no size qualification. They should require approval before they can be cut down.

Chair Hutaff: And other mature trees cannot be --

Ms. Chandler: Yeah.

Chair Hutaff: Just taken down. Good idea. Gaylord?

Mr. Kubota: I can't see making a list of this.

Chair Hutaff: I tried.

Mr. Kubota: Like you pointed out, that's --

Chair Hutaff: I tried. And the problem is is that if somebody asked me why is that on the list, you're going to have to study the cultural side of it, where it came from, where it also grows. I mean maybe in 40 years I could it. Maybe, if I spent all my time doing it so I was kind of like embarrassed after I asked Rae and she sent me back if I get time. I'm like, yeah, I kinda get it. I went to go do it and I went she was being kind to me. If you would have asked me to do that, I would have just told you off.

Ms. Chandler: No. No. I think that's a good way to proceed though. I mean because we're talking about within the historic district, right?

Chair Hutaff: That's actually because of what this PC-10 is right? It's more along our duties as the Cultural Resources Commission and, you know, we can't go out there and say, you know, gee whiz, you know, you can't cut down the ones at the winery.

Ms. Chandler: Yeah. No. So I think if you distinguish between that native and non-native. So native and Polynesian introductions are treated separately than non-native species.

Chair Hutaff: So protected --

Ms. Chandler: Yeah.

Chair Hutaff: At best --

Ms. Chandler: Yes.

Chair Hutaff: And then mature trees at best.

Ms. Chandler: Yeah.

Chair Hutaff: Okay. Utilizing the arborists and the cultural resources. So maybe we can figure out a way to word that one when we get there.

Ms. Chandler: I don't see them -- I mean why are they -- I can't really think of the situations, but if they are in a need to cut down a trees, it is probably for a construction project, which is going to trigger a permit, which is going to come to us at some point anyway.

Chair Hutaff: Well, actually, the whole reason it came about was the mango trees on the corner of Lahainaluna Road, that all those mango trees, there was probably six or seven of them right across from the sugar mill, all of a sudden it disappeared.

Ms. Chandler: Yeah. That's right. So under these qualifications, because those trees were so old and big, they would have fit the size requirements which would have prevented them from being ...(inaudible)...

Chair Hutaff: And also, what one of the arborists pointed out, you know, I don't know if you got to watch the other meeting on Akaku, but I was rather surprised that it's not necessarily the type of tree that we should be concerned about, but all trees because when we take down a tree, we also change the winds, okay, and that Lana`i was suffering as a result of what we did on Maui and the fact that its pine trees are, you know, getting to a point where they're going to die, they're going to fall over, and so the seedlings that are under the trees, the koa seeds, are all being eaten up by the animals because they have no water resource and that comes from what we do on Maui, so every time we cut down a tree, we affect another island. And another thing, I went to Polipoli, and they're clearing up Polipoli, all these trees, and right across from the lavender farm, on the right hand side, as you look down towards the ocean, and I saw one of the contractors and I asked what they were doing, how come they were doing that, just out of curiosity, and he said the county told them that because of the size of their property, and what they were using for agriculture, they wouldn't qualify for the tax writeoff as an agriculture, so they told these people you need to grow more things to sale to qualify for your agricultural tax writeoff. So here they are destroying 25 acres of trees, which is -- obviously, that's not the intention, you know, but it does affect with the more trees we lose, the less trees we plant, so all trees are important from that standpoint. I have that link. Maybe I'll follow it again and try to get his exact words, and I know we're not going to have the agenda, but trees are important, more than just from the cultural standpoint, but even the winds.

Ms. Chandler: Yeah. And environmental standpoint.

Chair Hutaff: Yeah. The shades and, you know, all these kind of stuff ...(inaudible)... of the land all affects our clouds, all affects our rain, all affects our water, you know. We cut down a tree, we lose; we grow a tree, we win. That's kinda how I'm going to try and present it, if that's okay with everybody. Nobody's disagreeing with me.

Mr. Osako: Certain trees are more beneficial than others.

Chair Hutaff: Right. Yeah. I mean the idea is what we want to do is not cut down anything, but we want to grow the really good ones, you know, because even kiawe, you know, is a very wrong plant. If you go to Makena, the old fishponds, they're all dry, okay. You know that there's three or four koa trees growing inside of them that are more than 50 years of age? And that pond there is below sea level, the land is below sea level, so how come it's dry? Because the koa -- I mean the kiawe, okay, is a water sucker.

Mr. Osako: Yeah.

Chair Hutaff: Unbelievable. It destroys everything underneath of it by sucking up this water. And there are two types of kiawe, and the way you can tell the bad one is by its root system or by its trunk system. Its trunk system has many different levels of roots going down. That's the one that just goes after all the water, it sucks up all the water, whether it be freshwater, saltwater, or whatever. If there's water, the root's touching it, and it's sucking up like a straw in a soda, okay. The other one that's a little bit bigger, which was the ones that were actually brought in are a single trunk. You can rarely find those, okay. But that one doesn't have the same problem as far as sucking the water up. So you have fishponds that are dry today because of the kiawe's growing in them and guess what? It's more than 50 years older. That's actually a protected tree now. But, unfortunately, we can't go out and say that's a bad tree, that's a good tree, because it opens up all kinds of issues. But, yeah, every tree, but, obviously, we want to plant good trees. So maybe in our time, we can write up a list of good trees, maybe six or seven. Okay, go ahead, Stan.

### **3. December 6, 2012 Meeting Agenda**

Mr. Solamillo: Alright, next item is, besides the establishment of a TCP committee, which may occur at the next meeting and be listed on the agenda, do you have any other agenda items for the meeting on December 6, 2012?

Ms. Chandler: Just the deferred item of how other property handle their --

Mr. Solamillo: Okay.

Ms. Chandler: Yeah.

Chair Hutaff: Yes.

Ms. Chandler: Demolition by neglect.

Chair Hutaff: Perfect. Good idea. We'll try that one again.

### **F. COMMISSIONERS' ANNOUNCEMENTS**

Mr. Solamillo: Next item is Commissioners' Announcements.

Chair Hutaff: Any commissioners' announcements? I have an announcement, okay. December 6, next meeting, okay, no other plans, don't get sick, nobody can get ill, okay. Mandatory. Absolute. Everybody show up, and I'll email all the others too so, you know, I don't know how much control or power I have, I've read the things, the Chair has a pretty good amount of power, okay, so my power is no can get sick, brah. Okay. Next?

Mr. Solamillo: Pau.

**G. NEXT MEETING DATE: December 6, 2012**

**H. ADJOURNMENT**

Chair Hutaff: Anybody wanna call this meeting adjourned? Nobody wants? Wanna continue? I can talk all day and say nothing.

Mr. Osako: But we're having so much fun.

Ms. Chandler: I move to adjourn.

Mr. Osako: I second.

There being no further business brought before the Commission, the motion was put to a vote.

***It has been moved by Commissioner Chandler, seconded by Commissioner Osako, then unanimously***

***VOTED: to adjourn the meeting at 1:20 p.m.***

Chair Hutaff: Motion is carried. Thank you so much, people. Thank you so much.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions

**RECORD OF ATTENDANCE**

**Present**

Raymond Hutaff, Chairperson  
Warren Osako, Vice-Chairperson  
Rhiannon Chandler  
Gaylord Kubota  
Kahulu Maluo

**Excused**

Irene Ka`ahanui  
Makalapua Kanuha  
Brandis Sarich  
Bruce U`u

**Others**

Michele McLean, Deputy Planning Director  
Stanley Solamillo, Cultural Resources Planner  
James Giroux, Deputy Corporation Counsel  
Richelle Thomson, Deputy Corporation Counsel