

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
MAY 4, 2017**

*** 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, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, Maui, Hawai'i.*
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A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson, Janet Six, at approximately 10:06 a.m., Thursday, May 4, 2017, 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)

B. ELECTION OF CHAIR AND VICE-CHAIR FOR THE 2017-2018 BOARD YEAR

Dr. Janet Six: First thing we're going to do is election of a chair and vice-chair for 2017-18 board year. I would like to nominate Lori Sablas as chair. Do we have a second?

Ms. Luana Kawaa: Second.

Dr. Six: Do we have any discussion? Any other nominations? I don't want to do it again. Alright, two years is enough.

It has been nominated by Commissioner Six, seconded by Commissioner Kawaa, then unanimously

VOTED: that Commissioner Sablas serve as Chairperson for the 2017-2018 board year.

Dr. Six: Congratulations. It's all you, babe. Alright, now we need a vice-chair. Do we have a nomination for a vice-chair? You trying to tell me who to nominate? Are you a commissioner?

Mr. Ivan Lay: I'll nominate myself.

Ms. Kawaa: He nominated himself.

Mr. Lay: I nominated myself alright.

Dr. Six: Okay, do we have a second?

Ms. Kawaa: Second.

It has been nominated by Commissioner Lay, seconded by Commissioner Kawaa, then unanimously

VOTED: that Commissioner Lay serve as Vice-Chairperson for the 2017-2018 board year.

Dr. Six: Congratulations. Alright, now we have public testimony, and at the discretion of my last day as Chair, public testimony may also be taken with each agenda item discussed, and I will allow for public testimony at the end as well. At this time, is there anyone that has any public testimony to offer? Hello.

C. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. Maximum time limits of at least three minutes may be established on individual testimony by the Commission. More information on oral and written testimony can be found below.

Mr. William Spence: Commissioners --

Dr. Six: Oh, Lori. Swap?

Ms. Sablas: Really?

Dr. Six: Yeah. Oh yeah. Only too happy.

Ms. Sablas: Okay.

Mr. Spence: I was wondering who I was going to address, Madam Chair.

Dr. Six: Dude, after two years, oh, please, let me go sit over there. Congratulations.

Chair Sablas: Hi.

Mr. Spence: Hi, Lori, Madam Chair. I just wanted to come down and, if you don't know me, I'm Will Spence, I'm the Planning Director, and you will seldom see me, but I just wanted more than anything to say I really appreciate your time; I appreciate your efforts in this. Your input in the projects and in permitting and review of, you know, historic district, etcetera, is very valuable to this county, very valuable to the department. When we have things like SMA permits or we have -- there's going to be shoreline setback issues, we take our recommendations very seriously and, as Ivan and Chairwoman know, you know, the commission, Planning Commission, really listens to those things. So I just

wanted to introduce myself and say welcome to our -- to Luana, our new member, and just thank you for your service. You're in very good hands with Michele and Annalise.

Chair Sablas: Thank you. Okay, so at this time, I'd like to open the floor for public testimony. Any of those in the audience wishing to testify now on a particular item of the agenda, you may do so now or if you need to leave, or later on at your discretion, so the public testimony is open.

Mr. Bill Caldwell: Good morning.

Chair Sablas: Good morning.

Mr. Caldwell: My name's Bill Caldwell, with Expeditions, the Lanai-Maui Passenger Ferry, and I do support this project, definitely needed with the business of the harbor. The ferry is the lifeline for the people of Lanai, so we definitely need to keep that going. So, again, I support this project. Thank you. Questions?

Chair Sablas: Any questions?

Mr. Lay: I have a comment.

Chair Sablas: Yes?

Mr. Lay: I just wanted to thank you for the services that you provide for the people on Lanai. For some people, that's the only way for them to get back and forth from the island, and we do appreciate the service that you give them. Thank you.

Mr. Caldwell: You're welcome.

Chair Sablas: So, Mr. Caldwell, may I ask, have you been involved in any of the process of the design or anything like that? Have you given your input?

Mr. Caldwell: Very little. So that is what it looks like. The team, I'm informed, the engineering team, is here today so I am going to go ahead and go over some things with them as well, insurance, if it does go ahead, so that way I can give some input and try to get some answers for concerns of the operations once that's pier's installed.

Chair Sablas: Thank you very much.

Mr. Caldwell: Thank you.

Chair Sablas: I see Theo Morrison. Are you wanting to testify now? After? Okay, that'll be fine. How about Erin Wade?

Ms. Erin Wade: Good morning. My name's Erin Wade, I'm the Small Town Planner, and I staff the Maui Redevelopment Agency. Unrelated to any of the items on the agenda but more to intent and purpose of the Cultural Resources Commission, we've begun the process for the design of the parking and events facility at the Wailuku Municipal Lot, and I just wanted to inform the Commission this process has begun and we're doing outreach at this time for the cultural significance of the site, and history, anything. We're looking to learn as much as we can as possible about the history, who lived there, what the stories are of the place, all of those kinds of things. So I wanted to deliver this to you as sort of an explanation of what the project is, and what the timeline is, and invite you, if you know of any folks who we should be interviewing or talking with, please contact me. My contact information's on the back. Okay, thank you very much.

Chair Sablas: Thank you. Okay, if there's no other listed for testimony, then we'll move forward to item D, under Hearing, and item 1.

Chair Sablas read the following agenda item into the record:

D. HEARING

Munekiyo Hiraga, on behalf of the Hawaii Department of Land and Natural Resources, requesting approval of the plans for the Proposed Lahaina Small Boat Harbor Ferry Pier Improvements, including repairs to the seawall fronting the Coast Guard lighthouse property, construction of a new ferry pier with an open shade structure north of the existing pier, construction of a new gangway, demolition and replacement of an administration building, improvements to utilities, and improvements to Wharf and Hotels Streets, located within County Historic District No. 1, Lahaina, Hawaii, TMKs (2) 4-6-001:002, 003, 014, 017 (E. Wade)

The Commission may approve or disapprove the plans pursuant to Subsection 19.52.020.A of the Maui County Code

Ms. Wade: Thank you, Chair. I'd like to introduce the project. This project has been going on or over a decade in terms of the design.

Chair Sablas: Excuse me. This is our new member from Lanai, Kaleo. Welcome. Aloha. Just in time. Talking about an issue I'm sure important to you. I'm Lori. Aloha. Okay, you may continue.

Ms. Wade: Thank you, Chair. So the project includes the improvements to the existing pier and a new ferry pier to the north of the existing pier as well as the connection and some additional facilities and utilities that would be incorporated. During the first phase of design, there were several issues raised by the community; concerns about the project. The team went back to the drawing board, consulted with the community, did do their 106, the required Section 106 consultation for federal funds, and worked with the Lahaina Restoration Project -- Program and their Imagine Project, which was to improve the whole of the harbor front area. So I did provide you with a memo and some recommendations for conditions of approval. I do need to highlight one thing in advance. This project will require a shoreline setback variance and a flood development permit, which the applicant completely understands and is in the process of obtaining as well, however, I didn't include that as one of the conditions of approval, so I do have a little additional condition of approval that I'm going to pass around for you, and I know you have the other recommendations, but this one is that a flood development permit shall be obtained for this project. Should the requirements of these permits impact the design of the project, the applicant will amend the historic district approval accordingly. If there are substantial changes to the design, staff may require the amendments to the historic district permit be reviewed and approved by the Cultural Resources Commission. Okay, so that's just sort of to place up in the fact that a design will be approved here, and if modifications need to happen, they'll come back to you folks.

I'd like to introduce Colleen Suyama to introduce the project to you. Thank you.

Ms. Colleen Suyama: Good morning, Commission Members. Congratulations, Lori, for being Chairman, and, Ivan, as Vice-Chairman. Anyway, before I start, I wanted to introduce Finn McCall, from the Department of Land and Natural Resources. He's going to give short overview of the project before I do my presentation. Finn?

Mr. Finn McCall: Aloha. Good morning, Commissioners. Thank you for taking the time this morning. Yeah, as Colleen mentioned, I'm going to give just a brief project overview, a short history of the project. As Erin had mentioned, yes, this project has been ongoing since 2004; that's when we first began the pre-consultations for the EIS that was done for the project. In 2008, we began the Section 106 consultations in which we had presented our original design concept that has since been significantly revised and reduced in scope based on recommendations that we received.

So to go into the project need. You know, Lahaina Small Boat Harbor is one of our busiest small boat harbors in the state, and there is a lot of congestion especially during cruise ship days and days when the ferry is operating, and there's other commercial operators operating within the harbor, including all the recreational boaters in there, and that's the primary purpose for this project is that there is a definitely need for improving the safety and congestion within Lahaina Small Boat Harbor, and this new ferry pier will most

definitely alleviate that issue. Right now, the direct commuter air transportation to Lanai has been severely limited. In 2008, Aloha Airlines went out of business, in 2014, Go Airlines also left Hawaii, and in 2016, Island Air discontinued service to Lanai and Molokai. And there's limited service to Lanai currently provided by Hawaiian Ohana, so, therefore, a lot of the Lanai residents heavily depend on the ferry for transportation to and from Maui, and so that is a significance purpose for this project going forward.

I just wanted to show this slide to show what the initial proposed project included. It has since been very much reduced. We had originally proposed a large -- larger two-story structure on top of the ferry pier with stores, restaurants; it was originally proposed to be 30 feet -- 35 feet wide, 120 feet long. As we went through the EIS process and in consultations with the Lahaina Restoration Foundation and various other community groups, it has been reduced to just having a trellis structure on the ferry pier itself; that had been reduced from just a four small shade structures on the pier itself. So the overall visual impact of the project has been significantly reduced to, basically, the way it stands now is the barebones functionality of the pier itself, which is to allow passengers to load and unload at the ferry pier. And that's, basically, what I wanted to kind of explain to you folks here. Yes?

Dr. Six: It's only going to be used by the ferry or it will be used by other vessels as well?

Mr. McCall: It will have preferential use by the ferry so that when the ferry is using the dock folks will not be allowed to use it, but when they're not using it, other vessels will be able to use the dock. And that's, basically, my portion of it. So I'll just move and introduce -- reintroduce Colleen again, and she's going to go into the presentation going over the full project. Thank you for your time. Aloha.

Ms. Suyama: Thank you. I was asking if there was a portable mike. I didn't see it. Anyway, Colleen Suyama, with Munekiyo Hiraga. With me also from our office is Mark Roy, and then you met Finn, from the Department of Land and Natural Resources. We also have Mitsunaga & Associates here. We have Chrisp Vaul, Christina Hawk, and Patrick -- Andrew -- and Andrew representing Mitsunaga & Associates.

This is an aerial photo of the Lahaina Small Boat Harbor. The red roof building is actually the Lahaina Courthouse building, and to the left of that is Hotel Street, Wharf Street is immediately in front of the Pioneer Inn and, as you can see, the existing pier and the harbor structures. So this is to orient you as to where the project is located. This is the tax map key of the project. It includes both Wharf and Hotel Street as well as four individual parcels within the harbor. It also includes parcel 3, which is owned by the United States Coast Guard Service.

As noted by Finn, you know, this went through CRC review during the EIS and the Section 106 review in April and May of 2008. In 2004, the final environmental impact statement was accepted, and on August 11, 2004, the State Historic Preservation Division issued a Section 106 concurrence letter of no adverse effect on historic properties. Then on September 10, 2014, the National Environmental Policy Act Categorical Exclusion was approved by the United States Department of Transportation, Federal Transit Administration. Since the time of the EIS being approved in 2014, there was a design change that was made to the project. Originally, they were going to move the project, the pier was going to be 60 feet from north of the existing pier but, in the meantime, because the ferry boats are larger or wider, they had to move it another -- to 70 feet, and that changed required Department of Land and Natural Resources to issue that the modification would not require a supplemental EIS, and that was published on December 8, 2016, and then on January 26, 2017, the Federal Transit Authority reconfirmed the NEPA Categorical Exclusion.

We did submit our application for historic district approval of the project plans. We're asking for the demolition and reconstruction of the administration building, what is known as the "Harbor Master Building." We are asking for construction of the new pier, shade structure, and utility connections; the construction of a new gangway to the pier; repair the seawall fronting the Coast Guard Lighthouse, this was requested during the Section 106 review, there were concerns that because of the deteriorated condition of the existing seawall, there is these existing voids, they had asked the Department of Land of Natural Resources if they would repair those voids, and they have agreed to do that. It's part of this application. We also were requested, during the Section 106 review, to do an information kiosk and what it would do is the information kiosk would include, not only the use of the pier harbor, but they wanted to also include information about the nearby historic value and the proper protocol at the Kamehameha Brick Palace property that's adjacent to the harbor facilities, and they're also proposing some improvements to both Wharf and Hotel Streets.

This is a site plan of all the improvements. To the right, in that gray shaded area, that is the Lahaina Restoration Foundation project that was recently constructed, and as you can see, there's the new administration building on the harbor, existing pier, the gangway to the left of the existing pier, and the new ferry pier that's being proposed. Also, they're going to repave both portions of the pier property as well as Hotel Street, portions of Hotel Street, and Wharf Street as well as the existing parking lot, and install new bollards within the property.

There also, as part of the project plans, are asking for approval for alternative building materials that are not identified in your *Architectural Style Book*. For the administration building, they're asking for cement fiber boardsiding, the use of an aluminum railing system, use of fiberglass doors and frames, and use of vinyl single-hung windows. And

for the gangway and pier, they're asking for the use of aluminum, including the railings, and fiberglass reinforced plastic grading and decking. So these are alternative materials that they are requesting as part of the approval process.

This is a perspective of the improvements, and as you can see, the new administration building is to the left with a crow's nest or balcony on the -- above the roof's top, and to the right, you can see the new trellis structure on the proposed pier with the gangway.

Okay, and to the right, aligning the lighthouse structure, is the proposed kiosk building.

The first building is the administration building. This is what it looks like today, the administration building. We did do some research on the administration building to establish that it is not a historic structure. The earliest record that we could find that there was any kind of harbor master or agent's office on the pier was in 1991. Everything before that, from 1970, there wasn't any structure on the pier itself. So we established that it is not a historic structure based upon the 50 years or older.

Dr. Six: There used to be an ice house there. So we're talking about just what's current there?

Ms. Suyama: Yeah. And then when this building was built, it was built --

Dr. Six: ...(inaudible - not speaking into the microphone)...

Ms. Suyama: Yeah, so it was built, you know, sometime after 1991 because we had to establish that it was not a historic structure. Okay, this is the elevation of the building. This is not the original elevation that we submitted as part of our application. We had meetings with the department, and the department suggested redoing the roof structure to reflect more what was existing, and we did tell them that that crow's nest or balcony on the room was necessary, it's an operational need for the harbor masters and their staff is that as the boats are coming in and out, they need to the visual clearance to direct traffic and make sure that traffic is entering and existing the harbor safely, so we worked out the railing system and the design with the department as well as how the windows and door features would be.

This is a floor plan of the project. To the left is the floor plan showing that the will have additional storage for the harbor master building because one of the things that the Section 106 consultation asked is that, there were all these miscellaneous structures that were storing things, that if they could get rid of those structures and then store it in the new building, so they've made accommodations for additional storage to do that, and the other thing is, they needed more office space for their staff and they have now like a lobby

area for people, when they come to the building, there's a place, and they have a break room and bathroom facilities within the -- yeah?

Dr. Six: Will only staff be allowed up in the crow's nest?

Ms. Suyama: Yes. It's a safety issue. This is a look at the cement fiberboard siding that's being proposed. On the left is what the boards look like, it replicates lumber, and the reason they're asking for this, it's a more durable material in terms of maintenance especially since they're directly on the ocean side. They're also, for the railing system, is asking for aluminum rails, and this is what they may look like, you know, replicating wood, and they're going to be on the second story so it's going to be very difficult to tell whether it's wood or aluminum. It's going to have the appearance of wood.

The next one is the pier and shade structure and gangway. This is the location of the new pier. There's these existing stairs that the surfers and people -- public use to get into the ocean. And to the far left, you can see part of the navigational light. The new pier is going to be in front of the navigational light but, unfortunately, this is the best picture I could find. This is a close up of the pier. As you can see, the first 35 feet of the gangway is aluminum, proposed to be aluminum, connecting to the concrete area of the 35-foot long concrete gangway, and then connecting to the pier itself. And even through the whole consultation process, the pier was reduced in size from, you know, to 20 feet by 115 feet long, so they reduced the size. And through all the discussions we had throughout the consultation period as well as with the department, the four pavilion structures were further reduced, in discussions with the department, to just a trellis structure that would replicate what the Lahaina Restoration Foundation had done for their project. This the gangway. It shows you the aluminum gangway; the 35 feet connecting to the concrete gangway and the pier.

Dr. Six: Can I ask just a question?

Ms. Suyama: Uh-huh.

Dr. Six: Do those come on to either side of the new pier or just in the ...(inaudible - not speaking into the microphone)...

Ms. Suyama: I believe it's mainly on one side but I think, yeah, I think there may be opportunities for people to park on the other side, but that's something that Finn probably would be able to --

Dr. Six: How far is this from the birthing stone?

Ms. Suyama: It's more than a hundred feet away. That's one of the things that we had to make sure that whatever we did did not affect the Hauola Stone, and it's not going to affect any reef structures. Everything is one the sand bottom of the harbor.

Mr. Lay: Chair? Chair, can we hold the questions till the end so then she can go through her presentation 'cause she might cover the exact questions you're asking and --

Chair Sablas: I was just going to suggest that but I wanted to respect the former Chair.

Dr. Six: Oh no, that's fine.

Chair Sablas: Yeah, so --

Ms. Suyama: Okay, this is the existing gangways that are in the Lahaina marginal pier, and it's going to be -- the gangway railings are going to be similar to this, they're made of aluminum also. And this is the proposed deck grading. They're going to have grading to allow light to go through so that -- to encourage coral growth on the piles of the pier. And this is the fiberglass reinforced plastic lumber. This is going to be placed on the edge of the pier so when the boats dock, you know, like it's hitting against those reinforced plastic lumber. And the top photo is more representative of what it probably would look like.

Then the other thing is the lighthouse seawall repair. This is the existing lighthouse, and you can see the existing gangway that was to the old Carthaginian before. What they're proposing to do with that is they're going to cut the pile below, just below the waterline so that it would encourage, you know, keep the coral that's growing on those piles to exist. And the seawall is in front of the lighthouse that is identified by those bollards that go along -- around the lighthouse structure. And this is the plan of the improvements. What they're proposing to do is to put geotextile fabric, plywood on the ocean side of the seawall, and from the landward side, they're going to be drilling these holes to push concrete trimming, which is the slurry concrete, to fill out whatever voids that are in the existing seawall to reinforce the seawall. And this one of the request from the Section 106 consultation that they were afraid that because of the deterioration of the seawall, that during construction, if improvements weren't done to the seawall, that it may collapse, so DLNR agreed to fix the seawall as part of the Section 106 consultation.

The other thing was the kiosk. There's a mistake on this slide, it's not with shake roof, it's going to be corrugated metal, as shown on the illustration to the left, and this was also something that came out of the Section 106 review that besides the proper protocol, you know, within the harbor, they were concerned about the use of the Kamehameha I Brick Palace property, you know, by people, so they wanted to include what is the proper protocol because it is a significant Hawaiian site, what is the proper protocol while you're at that site, so they wanted to put that information also on the kiosk, and they were --

they're thinking of working with the Lahaina Restoration Foundation as to how to develop that information, you know, for the information board.

The other thing is there will be improvements on Wharf Street. This is the existing Wharf Street, the parking to the left, and the Pioneer Inn to the right, and in the background, you can see the Kamehameha Brick Palace property. And at this intersection with Hotel and Wharf Street, they are going to improve the crosswalk as well as the sidewalk and curb on the Pioneer side of the intersection. This is a picture of what's happening. You can see the new crosswalk striping, the new curb, ramp, and sidewalk to the left, as well as repaving both, you know, that portions of Wharf Street as well as the parking lot, and portions of the existing pier. They're using concrete, and the reason for this is that there's heavy service equipment that do month service to the pier, and, you know, originally, you know, they were contemplating those brick pavers that the Lahaina Restoration Foundation has used, the problem is that they're not made for heavy equipment or the weight of heavy equipment, so, you know, in discussions with the department, we came up that it's going to be concrete for both, you know, durability as well as maintenance.

We are requesting, the Department of Land and Natural Resources, is respectfully requesting historic district approval of both the project plans and the alternative building materials that are being requested. Okay, and we are here to address any questions that you may have.

Chair Sablas: Thank you very much, Colleen. And before we go into discussion, I do need to disclose that I am a board member of the Lahaina Restoration Foundation, that I have been involved in some of the sessions with Imagine, so I am somewhat familiar with the project, so I need clarification as far as is there anything that I should be concerned about in my role as a board member?

Ms. Richelle Thomson: Given that application is being made by DLNR and the foundation, I don't think you have any kind of direct conflict, but I would just let any of the members know if you have special knowledge that might affect your decision making as we go through it.

Chair Sablas: Okay, again, my special knowledge is that I have been part of the community process of the Imagine, you know, where community members were allowed their input, so just so you know. Okay, so now it's open for questions, and I'd like to remind, in Robert's Rules of Order, that you recognize -- you be recognized by the Chair and so that I can, you know, pretty much give everyone a fair chance to have -- share their mana`o so -- okay, so the floor is open for members for questioning of the project. Commissioner Lay?

Mr. Lay: Okay, I have a -- I guess I'll start with one question. My concern would be the surf spot. I've surfed there when I was a small kid, and even when I was not a small kid, I've surfed there a lot. I'm wondering, is there going to be a dredging affect in the surf out there and, also, the ramp that comes in where everybody -- the surfers do come down, is there going to be a replacement ramp?

Ms. Suyama: Maybe, Finn, you want to answer that?

Mr. McCall: Hi there.

Mr. Lay: Hi.

Mr. McCall: There won't be any dredging associated with this project. Nothing's going to affect, yeah, any of the water that's in there. You know, we do have a plan, a harbor channel dredging project coming up, but that's been done as a routine maintenance dredging project over the years, so that shouldn't affect that component of it. I'm sorry, what was your second question regarding the ramp?

Mr. Lay: They have a stairway for the surfers to do down that stairs to go in the water, and right now your new harbor is going to -- the pier is going to past that, so is there going to be another spot where they can go into the water safely?

Mr. McCall: Right now, we're not going affect where the stairs are currently, but the project doesn't include providing another like launching point for surfers, but they will be able to still utilize the stairs and they would kinda have to paddle around the new ferry pier, but I believe there should be sufficient clearance between there.

Mr. Lay: Because they will jump off to get in the water. We'll see. You might be prepared for that.

Mr. McCall: Yeah. I understand.

Chair Sablas: Thank you. Other Commissioners have questions?

Mr. Timothy Bailey: No question, just one comment on the kiosk information. Also with the Lahaina historic -- Aha Moku O Maui, Inc. is located in Lahaina, so they're a good resource to tap into for kiosk information or maybe even final drafting.

Ms. Suyama: Right. Keeaumoku Kapu was part of the Section 106 consultation, and so we'll keep him informed of what's happening.

Mr. Lay: Okay, so I saw your colors that you've chosen, the light brown, brown, and, you know, when you look from the ocean and you're looking towards the shoreline, you've got the Pioneer Inn in the background, which is all white, you know, trimmed down, and you got your -- the library on the left-hand side, so I'm wondering if there can be a little more color coordination to kinda blend in, I'm not sure if you guys have chosen your guys' colors yet, but that might be taken into consideration on that.

Ms. Suyama: Well, the color coordination, we worked it out with the department and they suggested trying to keep to the original building, which is that beige color, but, you know, colors are, you know, subjective. I mean if you folks want a different color, we can continue to work with the department as to what would be the appropriate color.

Mr. Lay: Okay. Thank you.

Chair Sablas: Thank you. Other Commissioners? Commissioner Six, you had a lot of questions so --

Dr. Six: Oh, thank you. That was -- I thought they were answer so I can ask them again. I was just wondering, because of course we want to service the people of Lanai and we're also going to be servicing a lot of tourists, which part of harbor, I spent many years down there, so I was just asking about boats being on the outside of that, you know, how much traffic will be on that pier. It's meant to obviously service the ferry, and just 'cause ...(inaudible)...

Ms. Suyama: That's something Finn McCall should --

Dr. Six: I was just wondering if it's just going to be in that central puka or if it was going to be coming around the other side because of the cultural resources that are near the coast there.

Mr. McCall: Aloha. Hi. So yes, the ferry will be primarily on the inside. They won't be allowed to go on the north side of the pier. However, there is sufficient depth for smaller vessels, so we will allow smaller vessels to utilize the north side of the pier, but all the larger vessels will be required to be on the south side of the pier where there's adequate depth and clearance.

Chair Sablas: Yes, Michele?

Dr. Six: I don't know if you'll be able to answer this or -- you know, talking -- Commissioner Bailey was talking about the cultural resources there as far as the brick palace, when I moved here in the '70s, there were little plastic domes over it and it was vandalized, and I'm not sure, because I haven't been to Lahaina recently, but I just want to make sure that

the -- you know, when you tell people there's something there sometimes people go make trouble, I'm just wondering how the resource will be protected because once there's an interest peaked, and people go over just, you know, they talk about protocol, but I'm just wondering how the resource -- but I guess that may not be part of your kuleana.

Mr. McCall: Yeah, I don't know how to necessarily answer that question.

Dr. Six: And like the birthing stone, the Hauola, just things like that.

Ms. Suyama: That's one of the reasons why, when we did the Section 106, there was big concern by the consulted parties as to what was exactly happening at the Lahaina Brick Palace, and I remember when those shades were over, because I working for the Planning Department at that time, and people were breaking those shades, taking the material, which is the bricks, because we used to have people send them back to our department saying can you please return this to where we found -- we took it from, but my understanding is because of that vandalism that was going on, eventually they pave it over to prevent people from doing that kind of damage, and there's also vagrants problems at the brick palace site so that was one of the reasons why, through the Section 106, they wanted to setup, as part of the information kiosk, what is the proper protocol and what is the significance of that site so people know, when they go through it, I mean you don't ride your bicycle through it, you don't drive your vehicles onto the property, etcetera, because that's what's been happening there that, you know, that information, especially for tourists that are visiting and, you know, locals that are there, that they know that this is a significant site, there is a proper protocol that you should be recognizing, and DLNR is willing to work with, you know, the Section 106 people, consulted parties as well as the Lahaina Restoration Foundation. I think when they're into the process of doing the kiosk and the information board, they'll work with the community to make sure that it's what the community wants in identifying what that proper protocol is.

Chair Sablas: If there's no other questions, I mean I have some comments. In the past, as a CRC member, you know, we came up with the indigenous native Hawaiian architecture. Do you remember that?

Ms. Suyama: Right.

Chair Sablas: And a lot of the purpose was to kinda like get a sense of Hawaiianess at our ports-a-call, so I suggested this before at the Image process and at different meetings, but I'm going to bring it up again, about the possibility of using some synthetic type of thatching for the structure at the ports-a-call. I've been to Tahiti several times and I've seen them use it very successfully, so when you approach, you know, the thatching, to me, looks more Polynesian, so I'm just going to give it one last shot, you know, as far as, you know, alternative building materials, if there's any possibility of consideration for a

synthetic type of thatching that is more conducive to a Polynesian approach in our ports-a-call.

Ms. Suyama: Either Mitsunaga, as the designers, and Finn may be able to answer that.

Mr. McCall: Aloha. We could certainly consider it. Our main focus is to try and provide what the community overall wants to see in the general aesthetic of the building, so we could certainly look into that in terms of alternative materials for the roofing structure.

Chair Sablas: Well, I appreciate that because this is the opportunity and, you know, if there's an opportunity to make us look more, you know, I mean, you know, like -- especially with the arrival process, out in the water a lot, it's just -- so thank you very much for considering it.

Mr. McCall: Certainly. Yes. Thank you.

Chair Sablas: So, at this time, if no further discussions at this moment, it's open for public testimony, Theo Morrison.

Ms. Theo Morrison: Aloha. I'm Theo Morrison, Executive Director of Lahaina Restoration Foundation. So, it's been a long process. We're really pleased that DLNR and the designers worked with the community and really scaled down this project from what was first presented in, whenever it was, 2004 or something. So that's great. And we actually recognize the need for this extra pier in the Lahaina Harbor. Lahaina Harbor is super, super busy. We're also very pleased that they're willing to utilize a lot of design elements that we utilized in our, we call it phase one of the Harbor Front Project, so the two projects coincide. That is really fantastic. We actually talked to them, talked to DLNR, at some point in time, and asked them to do that, and it's quite amazing that they agreed.

So in regards to the brick palace, that is -- that is part of our phase three, I think it is. We currently have a preservation plan in front of the SHPD, it's been there for a year, so, hopefully, that gets -- that gets approved. If you've been down there lately and seen that site, it's horrendous. It's horrible. It's a safety hazard. It's -- you know, I don't want to go into it. But our plan, and Keeaumoku has always been part of our planning of this whole project down there, so he's in agreement with this, our preservation plan that's sitting in front of SHPD right now, is filling up the interior. What you see down there is not -- is not the archaeological stuff, all that's underground, so what it is is marking the spot. So and what's significant is the outline showing the size of the building in brick 'cause it was brick. So that's -- and then putting in more interpretive panels so people understand what that was.

As far as significant sites on that piece of property, there is a more significant site there, and the brick palace wasn't really a palace, it was actually built by some ex-convicts, what's -- it was built at the request of Kamehameha I, but it never really worked very well 'cause they built it -- it's the first western style building built in Hawaii, so they made bricks out of the dirt in the Lahaina, the rains came, it kinda started sagging, and it was never really utilized very well, very much, but the First Constitution -- the Constitution of the Nation of Hawaii was written in that area. So those -- there's more things. Then we have the birthing stone too. So there are more things in that area. It's a really, really important area. The brick palace, in and of itself, isn't that significant. But when we do our whole phase three of the Imagine Project, which is the whole, we will be incorporating all those things.

So going back the pier. Yeah, we're really pleased that we've come this far and ready to finally get it going. I would like to, you know, to DLNR and to CRC, to just suggest that, in the future, you start with the community. That's what we did. We had a planning grant, I went to the community, held a big public meeting, and I had no drawings, I had no ideas, and I had no agenda, and I said to the community we have an opportunity to improve the whole harbor front area, Lahaina Restoration feels like it's in pretty bad shape, and it's a really important historical and cultural area, and you guys -- if you guys want to work on this, we can all work on this together. And if you're not interested, that's fine. We'll do something else. And it -- and I got challenged at that very first meeting of having an agenda, and I go, well, actually, I don't have one. I don't have a plan. I don't have an agenda. And that was just our, you know -- and from that, we spent nine months in community meetings, and we developed a plan with the community and with paid consultants, and so our project is done. And this project, which started way before us, is starting. So it's just a much -- the community is going to -- they're going to be involved. Either you start -- you involve them at the beginning or you involve them at the end when things are all contentious. If you start at the beginning and build the project up with all their input, along with, you know, you also have to have paid consultants that understand stuff, and government that understand stuff, those things have to be part of it, but it makes a better project in the end and a much more pleasant experience for everybody. That would be my suggestion.

Chair Sablas: Thank you, Theo. Any comments, questions of the testifier?
Commissioner Lay?

Mr. Lay: So you have a lot history and information about this area, and I'm wondering, is this going to be shared, I know they have an information kiosk, I'm just curious 'cause you've been working with them if this information is going to be shared or history shared so it's not forgotten?

Ms. Morrison: Oh yeah. Actually, that's what we do. As far as the kiosk goes, that wasn't something we were directly -- that was really Keeaumoku's idea, so I'm not sure what his ideas were on that, but he was involved with, like they said, the 106 and our, that's what we do. That's why we exist is to share history and make it accessible to people and yeah. So yeah, absolutely.

Chair Sablas: Commissioner Six?

Dr. Six: I just want to thank you for everything you do, but it seems, and I know you said there's many important sites in that area, there's the taro patch that Keeaumoku has been working on in front of the library that was Kamehameha's, but we tend to focus often on the post-contact buildings, Seaman's Hospital, the Pioneer Mill Stack, the Baldwin House, you know, so it would just be nice to get some additional -- like Keeaumoku is involved, because that was the Kingdom of Hawaii, you know, Moku`ula, I worked there for two-and-a-half years, there's a lot of history in that whole area, no one knows better than you, so I really appreciate the fact that you're working from the beginning with the community. I just want to thank you for that.

Ms. Morrison: Yeah, and that we see this as a very significant Hawaiian site, and you're absolutely right, people come to Lahaina and they don't see the Hawaiian sites. So we are just starting on the Front Street side of the library to -- that little taro patch we have out there, that was just an experiment, so we're starting to redevelop that whole area with extensive taro patches, and different varieties, and more education. Right now, we have every Tuesday, from 9 to 12, we have - what's her name? Wainani Kealoha's out there teaching and educating people about kalo, and so it's been really successful, I want to keep that up and do more. Our ultimate goal is to take -- we have docents inside the museum, we want to put docents in the park, cultural people in the park, which will help the issues we have with the homeless and all that stuff as well as educate the people, so that's any people, you know, the tourists or whatever that come by. There's a lot of people that use those parks. So that's our ultimate goal.

Chair Sablas: Yes, Commissioner Six?

Dr. Six: Just one more comments, it's not necessarily directed towards you, but I did like to back up both what Commissioner Lay said and Chair is that the aesthetic, when you approach the harbor, it would be nice, 'cause we always think, if you remember, it was the whaling town, we got rid of that idea, then it was the plantation aesthetic, but it's nice to go back and have something that is showing the original people, and so whether it's a brown building or you get the synthetic thatch or something, just to try to incorporate in the Hawaiianess because, as we all know, Lahaina or Lele is such an important place, prehistoric, pre-contact, pre-European contact.

Ms. Morrison: Well, our goal, and we worked for this for many years, was having Mo`okia out there, and they decided, Hui O Wa`a decided to move the canoe to Maalaea, but that was our -- for the very same reason that you're talking about, approaching the harbor and seeing this beautiful canoe, having the canoes sailing back and forth, doing all those things, loading there so -- that didn't happen, but that was part of our -- definitely a key part of our plan.

Dr. Six: Thank you.

Chair Sablas: Well, this has been a long ongoing process as we know. I do have a question for you, Theo. Do you have any issues with any of design as proposed 'cause you're very familiar with the -- are you all okay with all the design --

Ms. Morrison: Yeah.

Chair Sablas: Processes?

Ms. Morrison: Yeah, we've been -- our whole board was at the last meeting with all the design presentations so, yeah, no, we're okay with it.

Chair Sablas: Okay, well, thank you for everyone involved in this long, long due process, and, you know, so, Members, are we ready to make -- oh wait. I'm sorry. Yes, are there any other public testimony? Okay, seeing none, so are we ready for a motion? Come on, Commissioners.

Mr. Lay: I'll do it.

Chair Sablas: Commissioner Lay, please.

Mr. Lay: I'll move we approve the plans pursuant to subsection 19.52.020.A, of the Maui County Code.

Ms. Thomson: Just for clarification, is that with the additional condition recommended?

Mr. Lay: Yes. And all our comments always.

Chair Sablas: The six -- the six recommendations as recommended.

Mr. Lay: And including our comments.

Chair Sablas: And our comments. Wonderful.

Dr. Six: I second it.

Chair Sablas: Do I hear a second?

Dr. Six: I second it.

Chair Sablas: So we have a motion that's been seconded to approve the proposal as presented with all of the six conditions as well as comments from the Commissioners.

It has been moved by Commissioner Lay, seconded by Commissioner Six, the unanimously

VOTED: to approve the proposal as presented with the six conditions and comments from the Commission.

Chair Sablas: Motion passed. Congratulations. Move forward. Aloha. Thank you for everyone for your efforts towards this wonderful project.

Ms. Suyama: Thank you, Commission Members. Now we can move forward to the next permit.

Chair Sablas: Yes. Yes. Thank you. Okay, now let's move on to item E, Unfinished Business.

Chair Sablas read the following agenda item into the record:

E. UNFINISHED BUSINESS

Presentation by Maui County Department of Water Supply on the Ka Pa`akai process for the Maui Island Water Use and Development Plan (WUDP) and request for assistance in identifying (1) cultural/historic/natural resources or Native Hawaiian traditional and customary practices and (2) potential impacts that may occur if preliminarily identified strategies for the draft WUDP are implemented, and (3) mitigation measures to protect these resources and rights (A. Kehler)

The Commission may advise the Department of Water Supply on cultural/historical matters as they relate to the draft WUDP's preliminary identified strategies pursuant to 2.88.060.A, Maui County Code

Ms. Kehler: Yeah, so this is an item that took up at the last meeting and I can, if it would be helpful, I can kind of run through some of the comments that were made last time and

then we can summarize those and give those to the Water Department. So there was some comments about the need to differentiate between diversion ditches and auwae users. There was another comment the term "host culture" and "Hawaiian practitioners." The terms kind of can bring up some things that maybe are not appropriate. Let's see. One Commissioner had a comment that there needs to be a definition of "kuleana water users." There was another comment about instituting the seven realms. And then there was another comment about the plan being clear on gathering rights but there wasn't a lot about kuleana water rights. And those were the primary comments that I had written down.

Chair Sablas: Yes?

Ms. Kawaa: I think there was also a request made. I made a request about having a list of current kuleana water users so that they could be identified.

Ms. Kehler: Oh, okay.

Chair Sablas: And also, I was, sorry, remiss in not asking for public testimony on this agenda. Is there anyone in the audience wanting to testify on this item, item E.1? Please come and identify yourself, please.

Ms. Claire Apana: Hi. Claire Apana. I just want to clarify when you say "kuleana water user," are you speaking of a kuleana allodial title family member or you're talking about a person who has bought a property that is claiming rights to kuleana water? And are you talking also about people who are registered with DLNR because there are many kuleana water users who are not registered and there's actually no reason why they should have to be registered with DLNR? That's another whole other system that their kuleana came before that. And so I'm just wondering if you have clarification of that?

Chair Sablas: So, Ms. Apana, I think you need to be offering testimony so your testimony could be, you know, but not the question so --

Ms. Apana: Okay. My testimony, as I have heard in this discussion of kuleana water users, there are many different kinds of kuleana water users that have been identified. For myself, the kuleana water user who holds the allodial patent title through their families and descend from the patent holder, those are the kuleana water users that have the entitlements of kuleana water, and that often they do not identify themselves in the state system, and so I just want to bring that information in your looking at what your -- at this water plan and the identification and the cultural implications and rights of water and kuleana water users that realize that they do not have to be registered with DLNR; that would actually, in some ways, negate their kuleana water rights to be then underneath

the DLNR where the kuleana water rights come from a system that is outside of the State DLNR and is still handed down and water laws are still there. I'm sorry. Was that clear?

Chair Sablas: Members? Okay, any comments?

Ms. Kawaa: Yes, I have a comment. So there wasn't a request by the any of the Commissioners for people to be registered with the DLNR as kuleana water users. The request came when Keeaumoku Kapu was giving testimony about his kuleana water and how that is being used and how the -- this current plan will affect that, and so the request was made or the question was asked of Keeaumoku is there a current list or system that the Aha Moku has that list who these kuleana water users are per the definition of the Aha Moku, not DLNR. So just to clarify that.

Chair Sablas: Thank you.

Ms. Apana: Very good. Thank you. It wasn't clear when you were speaking about it. Thank you.

Chair Sablas: Thank you very much. Comments? Are there any further public testimony? Okay, I'd like to close the public testimony on this item and, again, move on. Are we clear on our recommendations, Members, to -- any additions? Did we leave out anything? I had a question, reading through, you know, there's this about the evaluation form, Annalise, did people fill out that evaluation form and what's the status?

Ms. Kehler: I'm going to refer your question to the Water Department representative, Alex Buttaro. He might be able to better answer that.

Mr. Alex Buttaro: Aloha awakea kakou. As far as I know, we had not received any of the -- the evaluation forms were about feedback to the Ka Pa`akai process, yeah? Yeah, I don't think. We'll have to look 'cause the woman who was previously in charge of that has resigned, so we'll have to look into that, but my impression was we had not received feedback. Yeah, but that was impression, but I'm not sure.

Chair Sablas: Can check that, Annalise, and confirm, and that would be part of the report that that evaluation form was made available but we didn't receive any feedback, if such is the case? Any further discussion, Members? Are we okay with the -- what's been recommended, everyone? It's the opportunity to speak up. Yes, Mr. Kaleo, quiet man? You have anything to say?

Mr. Ropa: No, I don't, Commissioner.

Chair Sablas: Okay. Sure. Okay then, so this is -- Annalise, anything further on this item?

Ms. Kehler: Nope.

Chair Sablas: Can we move on?

Ms. Kehler: Yep.

Chair Sablas: Okay, well thank you.

Ms. Kawaa: I have a quick question, Commissioner.

Chair Sablas: Yes?

Ms. Kawaa: Would this be the last opportunity that we have to advise on this particular plan?

Ms. Kehler: You know, I can't answer that. Michele?

Ms. Eva Bloomenstein: Aloha, Chair, Commissioners. I'm Eva Bloomenstein, Planning Program Manager for Water Department. I wanted to clarify too that -- thanks again for having us back, Alex Buttaro gave a presentation at your April meeting and how we're trying to integrate the Ka Pa`akai analysis into the Water Use and Development Plan. I saw assessed in the general material that the draft plan is completed but it is not. We are finishing it up though this month and we are submitting it to our Board of Water Supply by the end of the fiscal year, so that's next month. Then they have another 180 days to review the plan and make recommendations and revisions before it gets submitted to County Council, and eventually to the State Water Commission. So there's plenty of opportunities for public input during -- over the next year. However, I understand we didn't get any feedback and responses, specifically, to the consultation form from this body, we did get a few responses using the same consultation from other parties, and we -- if there's still an opportunity to receive that, then we appreciate it. We're still going through this process. You may know also the State Water Commission, it's still figuring out or evaluating how to integrate the Ka Pa`akai analysis into the overall Hawaii Water Plan, which is the umbrella for all the County Water Use and Development Plan and the Agricultural Water Use and Development Plan and so on. So we'll be happy still to receive feedback from this -- from this group or if there are other resource persons that you know that we should reach out to or can contribute, so we appreciate the opportunity.

Chair Sablas: So are we clear? Yes, Commissioner Lay?

Mr. Lay: I have a quick question. I know I'm a little stepping backwards on this. Who's in charge of making sure that kuleana waters are maintained and, you know, who makes sure that it is being delivered?

Ms. Bloomenstein: If you're referring then to kuleana water rights and as defined in the State Water Code, the overall authority lies with the State Water Commission under DLNR. Then we're mandated to develop, on the county basis, the Water Use and Development Plan to guide the Commission and the County Council in their decisions about reservations, so in terms for Maui, you're probably also aware there are the East Maui contested case ongoing and Na Wai Eha contested case ongoing, so for the purpose of kuleana rights, I mean we try to make a good faith attempt to address and assess what the needs are and make an assessment of the resources knowing that -- not knowing what the outcome of these contested cases will be. So it's sort of like a good faith effort and specifically for West Maui, where we're not in court, there's definitely some opportunities to also help the commission in making and reaching out to the community and trying to get data beyond what is just the registered water users and the registered kuleana that they're already in databases. That answers your question?

Mr. Lay: So you're responsible for the delivery of the water, right?

Ms. Bloomenstein: Well, so again, I mean we're sort of wearing two hats here, I mean we're with the Department of Water Supply, but this plan addresses all water uses and users so that includes kuleana, ag, private water purveyors, so even though we don't have any authority to reserve or allocate a specific well or a specific stream, that lies with the State Water Commission, we can still guide the commission and council in what is the community's desires to use that specific water resource, and the plan is also more on a hydrologic unit water resources basis, we're not talking about specific well sites off of our systems or watersheds and ...(inaudible)... so, that level.

Mr. Lay: Okay, thank you.

Chair Sablas: Oh yes, Commissioner?

Ms. Kawaa: Well, I just had a quick question. So you are -- when you're referring to kuleana water users, you are referring to those who are registered with the DLNR?

Ms. Bloomenstein: So when we talk about stream uses and the pending outcomes of the contested cases, we're using "kuleana" as is defined by the State Water Commission, but we are making an attempt to use that broader especially in, and credit Alex because he's preparing most of the Ka Pa`akai analysis, to include a broader definition of what that is that is not necessarily the registrations but it goes beyond that. You'll see a broader definition in the plan.

Ms. Kawaa: Mahalo.

Chair Sablas: Thank you. Commissioner Bailey?

Mr. Bailey: So, Chair, just -- just so we can be thorough on this, I think we should incorporate Auntie Claire's comments on the three different definitions of the kuleana that she talked about. I think it doesn't hurt because this is an island-wide water use development plan. It doesn't hurt for us to put in all three of these definitions: allodial, purchase, and register. I think it shouldn't just be a choice to be used loosely. I think it needs to be incorporated in the development plan, period. I also believe that we should be a little bit more definitive on the concerns that were addressed, like the host culture, you know, I believe they talked about the realms, we really need to incorporate the realms via the moku system 'cause each ahupua`a, each moku is different, there's different realms in all these areas, and this is really kanaka-type management, and also to be labeled in cultural practitioners and all these things that were commented, I think we should put -- we should make recommendations that they put in all the definitions of what a native Hawaiian are in this development via U.S. codes, via the Hawaiian Homes Act, whatever definitions that are out there, it's not going to hurt, it's actually going to give it a more refined document or a defined document to be used 'cause we're looking at an island-wide water use plant that's going to affect everybody, and as a kanaka, we need to protect these things that have been established prior to the Kingdom, all the way to kuleana, all the way to registered, so I think we just need to be a little bit more thorough on -- and just add everything, I know there's different U.S. codes for defining what a native Hawaiian are, I also know there's a state definition now that's come out, there's also Aha Moku Council, whatever it can be. The more incorporative we can of all these thing and these comments, I think the document will just enhance our overall plan, so that's my suggestion.

Chair Sablas: Mahalo. You had a comment? No.

Ms. McLean: I just wanted to review the process with the Commission and with the Water Department. So it sounds like this would be the last opportunity for this Commission, as a group, to review the document and provide comments as a Commission, and that would be done, Annalise would prepare a letter outlining the comments that you agree to submit today, and then it sounds like the evaluation forms is -- could potentially still be an open process, so individually or, you know, anybody in the community could provide those comments, and then the Water Department would incorporate what they feel is appropriate into the document and provide that to the board, but the board would also have all of the backup information as well, so even if it's something that the Water Department may not choose to include, the board could make the decision to include other things, so they would have all of that information together. So I just wanted to

establish that that would be the process moving forward so that we're all clear. Thank you, Chair.

Chair Sablas: So for clarification for process, so after the input from all of the board members, you know, individually, do we need to get a collective consensus before it becomes a part of our recommendation?

Ms. McLean: Today would be the opportunity to vote, as a board, on the comments that Annalise would put in the letter.

Chair Sablas: Okay, so, Members, would you like to go through the process then and take each item, Annalise, you would present it, and then we'd make a motion and go through it because I think it's really important that we give our input, that it's documented, because we don't have an opportunity after that to see it, from the understanding. I mean before you send our recommendation to the next level, Annalise, the board -- does the members have an opportunity to review the comments or is it pretty much left up to the department? What if you left out something, for instance?

Ms. Kehler: Typically, it's up to the department but there is a provision in the, I think it's the rules of practice and procedure that the Chair has the opportunity to look at letters. Is that correct, Richelle?

Ms. Thomson: It could probably be done, however, the Commission feels comfortable if you wanted to review your comments at the next meeting but I think we -- I don't know if we're going to run into a time issue as far as getting comments in a timely manner to the Water Department, so probably what I'd recommend is that you go through your comments today and make sure the department understands what they are, and then go ahead and agree to transmit them.

Chair Sablas: Okay, are we all okay to move along that process, so I guess it's up to you, Annalise, and we'll take -- yes?

Mr. Lay: A quick comment on this. From what I've heard, everything for has been positive so I don't know if we have to go through everything individually or can we take everything as we all agree upon what we've all discussed today, so if no one have any conflict on it; if there is conflict, we can take on that individual item and it might just be a little faster. That's all.

Chair Sablas: Yeah, I understand, but I just would like to have her repeat the whole process again --

Mr. Lay: Yeah. Definitely.

Chair Sablas: As a total, and then we can -- we don't have to take each individual I think, like what you're saying, make a motion. So we can make a motion on the total and then the additional individual comments but, for now, let's proceed on Annalise's recommendation as -- from comments from the last meeting.

Ms. Kehler: Okay. So we have a request for identification of all kuleana water users, and that's by all definitions. We have a request to follow up with whether or not any organization or individual has completed and returned evaluation forms to the Water Department. We have a request to incorporate the three definitions of "kuleana water users." A request to remove the terms "host culture" and "cultural practitioner," or to consider using alternative terms that are used in federal and state law. We have a request to incorporate the seven realms. And I believe that was -- am I missing anything?

Chair Sablas: Commissioner, didn't you --

Ms. Kawaa: I just -- I'm sorry. Did you say the difference between the auwae and --

Ms. Kehler: Oh, okay.

Mr. Buttarro: Earlier she did. Yeah.

Ms. Kawaa: But not in this one?

Mr. Buttarro: Not in this one. And then may I offer, we're kind of struggling with the synonyms for "practitioner," and we have some ideas but it's not clear like, you know, what we're going to end up with, but that's -- we are going to use "practitioner" because that's a legal term actually, right, so, again, we have to get terminology and the context defined when we're discussing things so people know all these different semantics, basically, right?

Ms. Kawaa: I have a comment on that. So I'm in agreement with all of the recommendations that were made except for that one, requesting the removal of the "host culture" and "cultural practitioner." I don't know if we're all in agreement on that or not, that was given in public testimony, but I don't think that was discussed by the Commission, so I would like to have a little more discussion on that. On a personal level, I think these are commonly recognized terms and I don't see an issue with it myself.

Chair Sablas: I agree. I agree. And if others agree. I mean yes, Commissioner?

Mr. Bailey: I was just going to clarify. I don't think they requested it being removed. I think they wanted it defined.

Chair Sablas: Defined.

Mr. Bailey: So I think we just -- all that we talked about, let's just define it, and then, therefore, as it's being used throughout the next 400 years, we can just be copasetic and apply it to ...(inaudible)...

Chair Sablas: So what we asking is just to be included with the comments the definition of "practitioner," and I think "host culture" was another term, right?

Mr. Bailey: Yeah, just defining it.

Chair Sablas: Okay. Sounds good.

Ms. Kawaa: I'm good with that.

Chair Sablas: Okay. So do we need a motion then to approve the recommendations as proposed?

Ms. Kawaa: I move that we approve the recommendations as proposed.

Chair Sablas: Do I have a second?

Mr. Bailey: Second.

Chair Sablas: Okay, it's been moved and seconded that we approve the motions as recommended by our staff member.

It has been moved by Commissioner Kawaa, seconded by Commissioner Bailey, then unanimously

VOTED: to approve the recommendations as proposed by Planning Department Staff.

Chair Sablas: Motion is carried. So at this time, then let's talk about the additional comments or proposed, and then we can take a motion as a group. I think I'll go with Commissioner Lay, he expressed his recommendations. Any discussion on Commissioner Bailey's, rather, comments and recommendations? Nod of the head means yes.

Ms. Kawaa: Sorry, just for clarification. We're looking at additional comments that were made today? I'm sorry, what did the additional comments ...(inaudible)...

Chair Sablas: I'm going to kinda go around. We've already had recommendations by staff, now I'm going to look at individual recommendations, but I'd like to be able to get a consensus of the group before we say that's part of the -- so it's not an individual but it's a consensus, if that's okay with the Members. So that's, you know, I think this is a very important issue. I want to make sure that you, as Members, share your mana`o, that's why we're here, you know, for the betterment of our community and our, you know, cultural practices. So if I may, I'm going to start with Commissioner, again, Bailey, I don't want you to repeat, but, you know, I think --

Mr. Bailey: So I believe that it was incorporated in what Annalise said so I -- it's nothing different from what the six that she just reviewed. Basically, I was just saying that if there's a "kanaka" or "native Hawaiian," define it. Put all the definitions in the document and it can be utilized.

Chair Sablas: Okay. Thank you.

Mr. Bailey: I think she covered it.

Chair Sablas: Thank you. Commissioner Six?

Dr. Six: I agree. Incorporating Claire Apana's, as Commissioner Bailey mentioned, testimony today and getting those clear definitions.

Chair Sablas: Thank you. Commissioner Ropa.

Mr. Ropa: I agree with getting the clear definitions on everything that was spoken today.

Chair Sablas: Mahalo. Commissioner Kawaa.

Ms. Kawaa: I have nothing additional.

Chair Sablas: Thank you. Commissioner Lay.

Mr. Lay: I think we did good.

Chair Sablas: Okay. So cool. We all okay, group? Okay, pau this item. Yay.

Ms. Kehler: Chair, I have a request.

Chair Sablas: Who's talking? Oh, sorry.

Ms. Kehler: Would it be okay if we moved item G to the next item? It's a discussion on preservation incentives available to nationally registered historic buildings, such as Kaahumanu Church.

Chair Sablas: I'm okay with that. Any objection from any of the Members? Okay, so we'll move then to New Business at this time?

Ms. Kehler: Yeah.

Chair Sablas: On item --

Ms. Kehler: G.1.

Chair Sablas read the following agenda item into the record:

G. NEW BUSINESS

Workshop on historic preservation incentives available to nationally registered historic buildings such as Kaahumanu Church (A. Kehler)

The Commission may provide information on financial incentives available to buildings listed in the National Register of Historic Places pursuant to Subsection 2.88.060.B of the Maui County Code

Chair Sablas: Can I open it for public testimony before we have staff presentation --

Ms. Kehler: Yeah.

Chair Sablas: On this item?

Ms. Kehler: Yeah.

Chair Sablas: Seeing none, then if you -- oh, wait.

Ms. Apana: Sorry, I should probably testify afterwards but, you know, just let me know if you want me to 'cause I'm not absolutely clear on what your goal is here, but I saw the agenda item and I just wanted to -- it triggered very poignant historical occurrence that happened at this place, and the church is commonly known as part of Kahekili's compound. Is that true? In Wailuku. And in the historical recounting of the Battle of Kakanilua, the battle that went across the sand dunes starting from Maalaea, at the mudflats, and the army of Kalaniopuu, his royal guards, the Alapa and Piipii, were sent to go ahead and go to Wailuku and drink of the waters of Wailuku and vanquish Kahekili,

and so they set out across the sand dunes, but as they are coming in about Waikapu, the plan for Kahekili is to bring them down into the sand dunes, and they do that. They turn them in. And, of course, these are the finest fighters in all of Hawaii. And they're just trouncing the Maui warriors, and they come down and make the turn by Waikapu, cross the Waikapu River, and then all of a sudden, they're in the sand dunes. They have not reached Wailuku by going on a flat road, they are now in sand dunes, and part of the interesting history of this battle is that they're wearing feather capes, which are really a military insignia, the length of the cape, these are all chiefs and their sons, most of them the Keawe line. And they go into the sand dunes and there they are met with more forces from Maui and 2,000 warriors from Oahu closed behind them.

Chair Sablas: Excuse me?

Ms. Apana: And so --

Chair Sablas: Excuse me, are you addressing the agenda item?

Ms. Apana: Yes, I am. Okay, so this story ends on the first day with all but two of the Hawaii Island warriors being killed. They come back the next day and decide to fight again. And in this second day, things are not going well for them and Kalaniopuu decides to send his son, Kiwalao, to ask his uncle to let them go, and he is carried across the sand and as he walks across -- as he goes across the sand, the battle stops because he is such a high lineage. When he reaches the compound, which we are talking about, that area, when he reaches the compound, Kahekili allows him to come in, and they talk, and they laugh, they cry, and Kahekili lets them go. This is a story of love, forgiveness, and a battle that was ended with compassion and grace, you know, and very little is known of this battle, and very little is known that this is Kahekili's compound. And so as you're doing -- looking at the historical reference of this place, I just hope that you will also be recounting that this was the place where a great battle, probably the bloodiest, biggest battle ever among the Hawaiian tribes was resolved in this compound. And that's all I have to say.

Chair Sablas: Mahalo. Thank you for sharing.

Ms. Apana: Thank you.

Chair Sablas: Thank you.

Ms. Kehler: So --

Chair Sablas: Thank you.

Ms. Kehler: This item --

Chair Sablas: Any other testimony?

Ms. Kehler: Oh, I'm sorry, excuse me.

Mr. Parker Ferris: I just wanted to introduce myself. I'm Parker Ferris. I'm the new lead Maui Archaeologist. Some of you I've met. I wanted to say that Dr. Alan Downer has given us a directive to assist in this effort for incentives for the historic properties incentive program, so please feel free to reach out to me, I know we don't have architecture people on the island, but my branch is prepared to help and I can talk to Kaiwi about issues, but the State Historic Preservation Division is looking very much forward to helping out with this initiative. And I think Ikaika also wanted to --

Mr. Ikaika Nakahashi: And aloha. I just wanted to say hello. My name is Ikaika Nakahashi, I'm with the State Historic Preservation Division, the History and Culture Program, and we're ready and able to help, on standby. Our office is at Maalaea. We'll be there for about two more years so come on down if we can help. Aloha.

Chair Sablas: Mahalo. Thank you for coming. Wonderful. So, Annalise? I'm sorry, is there any other --

Ms. Rosetta Hiranaga: Hello. This is Kahu Wayne, of the Kaahumanu Church, and I'm Rosetta Hiranaga, who helped with the pew restoration, and we work together for -- from February to November or December of last year, and our purpose, I work through the Daughters of the American Revolution, which I'm not sure if Kahu Wayne was really up with that, but we worked together and most of it was from my neighborhood, the Villas at Kehalani. We have 12 people come, and we restored 15 pews, right alongside the Kahu, who helped us, and every Thursday morning, we came with supplies, and we put it together, and it got kinda hard at times, right, 'cause it down on the floor, and under, and we were finding gum and all sorts of things on the pews. But as we started to work in the pews, we began to get a love for this church, and I knew how historic it was because the DAR, Daughters of the American Revolution, that's what we like to do is work on historical properties and help them restore and whatever. So I started looking into different things about the church, historically, what -- how meaningful it was to the community and how - - why I had gotten so far behind and why it was crumbling, and we started to look at finding some grants for it. In fact, for a while, it looked like we were going to have a grant, and I was going to stay long enough to see through that, but as we got farther along, I began to worry that perhaps there were too many elements that I didn't know about that maybe -- we didn't have enough money 'cause there's like a 2.5 million dollar price tag on the church getting completely restored. I know that it's crumbling 'cause I've seen it on the walls and I know -- and someone told me if there's a big earthquake, it'll just take it to

the ground, and that everybody will be like, oh, what happened to our church? So what I'd like to -- and Kahu Wayne, I want him to talk about how important it is to keep this church going, and whatever it takes, what it takes, if we're going to do the grant in aid from the state, that's fine too. My nephew is Lieutenant Governor Shan Tsutsui and he's told me as long he's there, he'll help me get that grant. So I think it's timely.

I think we should go for some things and work this out, and how do we get money to do that? The first thing we're going to do is make a -- get sign, I think, right? And the first he said I don't want a sign. We have a sign out front and we have the Kamehameha sign, but this is a really neat sign, like in Lahaina, they have the really nice restoration signs, and it tells the story, like your story, those are the kinds of things we want on these interpretive signs that are in front of the church, maybe one, and really make it purposeful so the community is -- I think the community is really behind this. Now I'm going let him talk for a little while. This is the way it went every Thursday.

Kahu Wayne: Aloha mai oukou. Yeah, we're here. I found out about this meeting yesterday, found out we're on the agenda, been hearing we were going be on this agenda from January, so, yeah, not real prepared, but any questions? Watch out if you ask questions 'cause I might go with long answers. Mahalo, Aunty Claire, for the little bit more history than I can put into the file over here. Yeah, Kahekili's compound, but it's not just the church property, it extends back up into the Bailey House Museum area, Pundy's area, this whole are up here in Wailuku is part of that compound, and so the history of Kaahumanu Church, and I remind everybody that as we move forward with this project, it's not the church across the street that we're restoring, but it's that historical building across the street that we want to restore. It is a functioning church. Over the years, because of the small membership, you know, I've had people go, oh, I know that building. I thought was one museum. It's historical like one museum, but it is an actual functioning church, small membership, most of us don't know, I'm not one for come to these meetings, but we learn as we move forward. We do have a grant writer that's going to be helping us. We do have a couple of architects from here on Maui, Jim Niess, David Lundquist, who are helping us. In fact, they actually sat me down and after about a year, actually made go -- they went, Kahu, write down your wish list, not just for the church, but for the entire property. So I went, you know, I envision a lot of stuff over here. So I did put that all together, so we're working on that, so the chunk going be probably more than what Rosetta said because I've been told that we gotta go for the entire project, and as we move forward with the entire project, you know, the church is there, and I remind everybody that the priority is to restore this hale pule. You know, all the other stuff is terrific. In the meantime, it's going be my job to restore that congregation to carry on that stuff later on. But along with what Aunty Claire says, the history goes further back than just the missionaries. It was Kahekili's compound. It's said that the pohaku from the heiau was used in building the church, not this one, but even the building prior to, and when that building prior to was torn down to build the new one, half of that pohaku went

into the hale pule, the building. The other half of those pohaku went along the wall along High Street over here, so that also goes along with the historical value of the church. It is said that a couple of kanaka Thomas Hopu and John Honelii are also buried on the property in unmarked graves, so we don't know. I'm still seeking actual documentation that says they were there besides the sign in the cemetery. For those who don't know, when the first missionaries came, they came back with four Hawaiians, two of those Hawaiians were Thomas Hopu and John Honelii. Also buried in that cemetery is Bartimeus Puaaiki, blind preacher of Maui, who was born in Waikapu, and who preached throughout Hawaii Nei, especially on the Big Island, came back to Maui. So that's just some of the stuff there, and, of course, the clock, steeple, building. We also host Punanaleo O Maui up there on the property, it's a Hawaiian immersion program. Any questions.

Chair Sablas: Thank you, Kahu. Questions, comments, Commissioners? Yes?

Dr. Six: Unfortunately, Commissioner Skowronski isn't here because he was the one that really brought this forward and he was very concerned that the steeple is starting to be at an angle and that you have the preschool and active congregation, Punanaleo, and he was really concerned for safety, so I'm really sorry he couldn't be here because he was really the impetus for wanting to do this. It's great that you help with the pews. That's awesome. But he had some concern that the church was being stabilized without kind of the correct historic -- but understanding that you're trying to keep it from collapsing. So it's good you're going forward. I guess that's my comment. I'm glad that --

Kahu Wayne: We can all see the lean.

Dr. Six: Yeah.

Kahu Wayne: To be honest, the lean has been there since 1976, okay, and the last time they restored or did restoration work there about the early '90s, later '80s, when they completed, they actually hung a plumb bob up in the steeple, and they marked an X at the bottom of the plumb bob, and if you look at it, the shift is like -- so it's stable. What is the issue with the steeple is the wood and the shakes that are no good, so, basically, when it rains, that come up on top, if you're up there in the bell tower, all this water comes down. If you remember the year before last, had that big puka in the steeple, since then, the steeple has been patched. It hasn't been repaired. But surprisingly, even after this last rain, last weekend, that constant, I expected to go in there on Sunday and see the floor all flooded. Guess what? Little bit water on the back pews. And even when had the puka, during that time when still had that puka in the steeple, and the rain we had because, funny, all of sudden it was that rainy season, but nothing came down to the bottom. Up in the steeple, if you're upstairs, you can hear the water, you can feel the water, you can see the water, but it hasn't been making it down into the sanctuary. And,

yeah, as far as stability, presently, the steeple is stable, structurally anyway; just all the rest of the stuff needs to be fixed so that it's nice, and the rain no come in, and if you ever lived in a house with leaky roof, we all know that feeling every time it rains. I live in Kihei, and whenever Kihei rains, they say the whole island rain. I collect rainwater for do blessings because when it rains in Kihei, to me it's a blessing. But then to come Sunday morning after a weekend like this past weekend and wonder what's going to be there when I open those doors, so that's what's on my mind.

Ms. Hiranaga: And thank Dr. Downer, who came to meet with us when we were doing with the pews, and encouraged us to move on with historic preservation because he said, you know, if you can pull this off by restoring the pews, and then people get excited about this, that's wonderful, he said, but, you know, it's going to take a lot of work from somebody to restore this church. It's so historic though. It's the iconic thing, I think, on Maui, and I just can't understand why -- it seems like all the money goes to Lahaina, and I'm going, we gotta do something for Wailuku, you know. It's gotta be fixed, I think, so -- yeah. That's it.

Chair Sablas: Commissioner Six?

Dr. Six: And I also just wanted to thank Claire Apana for adding that layer of history. We often forget, when we have these iconic post-contact buildings, which are important, absolutely, but it's also important to remember these battles, remember ...(inaudible)... importance of lao Valley and the whole larger complex, and this also ties into some of the sand stuff that's going on and knowing about those battles and what's going on in Sandhills.

Kahu Wayne: 'Cause it's the aina below that all this mana --

Dr. Six: But it is interesting this ...(inaudible)...

Kahu Wayne: You wouldn't be able to do some of those things, like use the pohaku from a heiau to a building now days. But for me, I think back, and I can just see them going to our people then and saying we want to build a place of worship. We want to build a place so we can be closer to Akua, a place that is sacred, and I can just see our people saying build 'em there. We worship over there for hundreds of years. You know, so again, the history goes further back than just that building, but the building is our main concern at this point.

Chair Sablas: Mahalo, Kahu.

Kahu Wayne: Mahalo.

Chair Sablas: Thank you. Okay, any other testimony from the floor? Otherwise, Annalise, can you --

Ms. Kehler: I would like to have someone from the audience come up and speak a little bit about a project that he's doing out in Kaupo or he's been working with Kaupo Community Association on, it's -- it involves the restoration of a building on the National Register, it's the Kaupo School, and so I would just like for him to come and share a little bit about how he has been raising funds and doing some community building 'cause, really, projects of these nature take a community to get behind and to help out with various aspects, and so I'd like to have Jonathan Starr come and talk for a little bit.

Chair Sablas: Aloha, Jonathan.

Mr. Jonathan Starr: Aloha and mahalo, Commissioners, for letting me speak a little bit and share. I've been involved with Kaupo for many decades, we live there, and have for a quite a long time, my wife and I. We worked to reorganize the Kaupo Community Association a number of years ago, and when we started doing that, we would get four or five people come together and everyone had a different idea or a different feeling, and the community was a little bit divisive and there was a lot of problems, and we started asking people what they wanted to see in the community, and over time, people seemed to crystalize on one idea, which was to rebuild the old school, which was a 1923 beautiful classroom and teachers' cottage buildings, but it had fallen into disrepair, it was falling down, and wanted us to restore that and make to a community resource structure, you know, a center, and also to have a theme of trying of trying to bring families that had once been in Kaupo and still had kuleana lands and history there to make the place inviting for them to come back. And it really brought the community together. And I've been surprised how much so so that when we have a meeting, now we have 70, 80 people, and everyone speaks with one voice. We had a meeting recently on the restoration of the school, and we had a panel, and people were at attention and at the end, Historic Hawaii Foundation, who had given us a very sizable grant, the Executive Director suggested, well, let's try and experiment and see if we can get the community to express their feelings, and we will write poem, and it's like, whoa, you know, the Kaupo community writing a poem at a community association meeting, and everyone had to write one line of the poem, every row did one stanza, and we came out of it with this inspiring and wonderful ode to how much people loved the place and, you know about how people went to school there in 1930 and 1960, and the beauty of the Kaupo Gap. Just the process itself, to my mind, is even more important than the building. But one couldn't happen without the other. You know, when we figured out that what we wanted to do was restore the school, then we had a lot of people who were really interested, we started doing planning and studies, and we thought it would take us ten years to raise the money, we know we needed probably a million and a half dollars, and we spoke with our legislators and we were -- we worked really hard and submitted a grant in aid application, and it was

well supported by a lot of the legislators. We received a \$975,000 grant, which was enough to fix up the buildings. I think that was the largest community-based GIA every awarded by the state, and we're well on our way to doing it, and it's a wonderful process. And, you know, the community resource center is going to be really empowering to the community and will help us 'cause the road always gets cut off, like it was last week, on both sides, and that's where we can shelter people and be ready, but also have kupuna programs, youth programs, educational programs, cultural programs, all of that kind of stuff, so it's really working out well, and I invite anyone who wants to come and help us with this or participate or even learn from the process and to join us.

I know -- I'm also a board member of the Wailuku Community Association, and we were approached by a couple of people who are concerned about the beautiful steeple here, and the church, and Wailuku, which really is one of the -- really the heart of our town and when a lot of people visualize Wailuku, they visualize that steeple, and the church, and the history behind it, you know, so we looked at perhaps helping to be a resource for that, which, you know, as a 501(c)(3) and, you know, with some people who have been successful in business and have been successful in other projects were happy to do and I did sit down with Pastor Wayne and really, you know, would love to see what the vision for doing it is, but I feel like it's going to need a larger community to come together and share the vision and define a narrow scope of project to start. I know that restoring the steeple will probably cost a million dollars. I believe it'll cost seven and some odd thousand dollars just to scaffold it before any work is done and it is necessary to do that. I'd mentioned it to a couple of our legislators just to see what their feelings were and what they said is, well, you know, some organization that can be fiduciary responsible for it should put in for a grant in aid for fixing the steeple, and the next year they would be willing to look at it, but there is the issue about separation of church and state, so I went to Hugh Jones, who's the Deputy Attorney General for the State for nonprofits and 501(c)(3)s and community organizations, and just asked him if there was feeling in the AG's office about being able to do that, and he spoke with the Deputy AG, who's response for grants in aid, and came back with a negative response. I mean it is possible that they could reconsider that and, you know, it isn't anything formal, but that's definitely a roadblock from being able to do that. Historic Hawaii Foundation really wants to help. They have resources. They gave us a \$70,000 grant for part of our restoration, and they have connections with a national group that restores some historic churches. So I do think it's possible, but I just encourage to create a process of making the community very interested and active, and I think that would also be good for the church and for the community as well because it'll bring a lot of people in and help create so -- something strong, so if we can be helpful, we would love to, but, you know, we don't want to butt into something that it seems that Pastor Wayne and his group have some good resources and a good plan and we just want to support,

Chair Sablas: Commissioner Six?

Dr. Six: I was just wondering if you, I guess I'm not sure if you were involved, but it you knew about the restoration of Palapala Hoomau, was that privately funded or?

Mr. Starr: Yeah, that was privately funded, and I was more involved with the Huialoha Church at Mokulau, which was recently done, and those were privately funded, both in Kipahulu and Kaupo areas, but they were much simpler projects. We're trying to get involved in planning St. Joseph's Church, the Catholic Church in Kaupo.

Chair Sablas: Thank you. Thank you, Mr. Starr. Okay, Annalise?

Ms. Kehler: So there are, just to follow up with some of what Jonathan said, there are some funding options and sometimes with projects like this, you kind of have to piece together little amounts from all over, wherever you can get them, and so there are funds available from the National Trust for Historic Preservation, the National Fund for Sacred Spaces; to a more limited extent, there are Federal Historic Preservation Funds available, but that would be more for like architectural drawings or something like that because the amount wouldn't be very high, and then there are several private grants that are offered through Historic Hawaii Foundation. And as Jonathan said, they went with the state grant in aid for Kaupo School and that may or may not be an option for the church, but there are other avenues, and it is really important to have a community behind doing a project like this and Kaupo Community Association is a great model for how to come together to accomplish something this big. And so I wanted to bring Jonathan so that he could share his experiences and perhaps introduce him to Rosetta, who spoke earlier, so that, you know, we can start building a group of strong, you know, folks to take care of -- take the lead on this.

Chair Sablas: So, Annalise, would there be any group that's in existence in Wailuku that you think would be probably a key to move this process along?

Ms. Kehler: So there is a Wailuku Community Association, and I think that they already have the nonprofit designation, the 501(c)(3), which is very helpful when seeking search in grants, and I think that that would be a good central group maybe to help.

Chair Sablas: It's like anything else, you need to have a driving force behind to get it moving, and I think we had the driving force in Kaupo, as exemplified by Jonathan Starr, so if we can have a champion for the project here, I mean as a board member of the Lahaina Restoration Foundation, I mean we restored that stack that was thought that nobody could do it but we did it as a community effort, a brick paver at a time, and I think, you know, I agree with everybody here, the sentiment, it's such an iconic part of our history here. I mean what can we do to move it along and to give some kind of kokua or direction to the members so they can feel at least there's light at the end of the tunnel?

Dr. Six: And just for clarification because I know in the case of Kaupo School, clearly not a church, in the case of the restoration of the stack, clearly not a church, so we have a church, we have the State Historic Preservation Division head coming and saying that they can help in anyway, but is that an in-kind donation? Maybe -- oh, you're back. But maybe Dr. Ferris could explain because we're saying that the state can't in church and state ...(inaudible)...

Ms. Kehler: So for federal funding from the Federal National Preservation Fund, I believe it was 2006, President Bush changed the law and he allowed those funds to be used for bricks and mortar, capital improvement projects for churches or religious buildings. That's the only type of resources listed on the National Register that can receive capital improvement funds from that particular grant, but they're so -- they're not that big, the dollar amount isn't that big, so it would be more wise to use for architectural rendering or engineering services or something like that. Yeah.

Dr. Six: Thank you. So that's good advice.

Ms. Hiranaga: Dr. Downer talked to us too and he said --

Chair Sablas: Wait, wait. I'm sorry. Could you come up to the podium?

Ms. Hiranaga: When Dr. Downer talked to us, he said that the first step was to change the charter for that it's a religious organization to it's a historical one, and so we've been -- I've been talking to Kahu Wayne about that earlier, but there was a bunch of other steps, but that seem to be -- he said that's the very first thing you have to do for, you know, when you get grants and stuff, you know, it's going to go to that that it's going to be religious, but I've heard other ways to do it too, and it sounds like you have too, Annalise, but, you know, creating an easement, you know, I've read that in Arizona, I talked to a lawyer there, he said they created an easement for the church so that they could actually get historical funds for it and just that part of it was historical and not -- and then the other part was religious, so there's different ways to do it, but I was pleased when Dr. Downer said that that's the first step, you know.

Chair Sablas: Could you state your name for the record?

Ms. Hiranaga: Yes, Rosetta Hiranaga.

Chair Sablas: Thank you.

Ms. Hiranaga: Yeah.

Dr. Six: Thank you. Okay.

Mr. Ferris: And just to follow up, my name's Parker Ferris, and just to follow up on that comment. I was speaking generally, not just for the church, so part of our mandate or mission, as the Historic Preservation Division, is to help all organizations, so we could consult on and then help find ways to make these things happen for the church and other projects.

Dr. Six: Thank you very much for the clarification.

Chair Sablas: Thank you. Anything further on this matter, Annalise? 'Cause if not, I'd like to recommend I mean that you, this is such an important part of our cultural resource that is to kind of keep it mind and not just in the back, maybe in the future, if you think there's some progress, just kinda update the Members --

Ms. Kehler: Of course.

Chair Sablas: As to what's done and maybe how further we can help or whatever. Is that all okay?

Ms. Kehler: Of course.

Chair Sablas: Okay. Thank you then. Thank you everybody for your participation. Good to see you, Jonathan. Take care. Okay, I'd like to take a five-minute break.

(A recess was called at 12:02 p.m, and the meeting reconvened at 12:10 p.m)

Chair Sablas: I'd like to call the meeting back to order, please, and, Annalise, we'll work -- walk us through item F, Annual Commission Training -- Annual Commissioner Training, pardon.

F. ANNUAL COMMISSIONER TRAINING

1. Maui County Code Chapter 2.88 – Cultural Resources Commission (A.Kehler)

Dr. Six: I get trained finally? Thank goodness 'cause I've been waiting for this.

Ms. Kehler: So I'm just going to go through the framework that you guys operate under, so the laws. We operate under state law, and Richelle's going to talk about this a little bit more, but there's two chapters in the Hawaii Revised Statutes that we conduct our

business according to, and that's Chapter 91, which is the Administrative Procedure rule, and then Chapter 92, and that's the Sunshine Law.

Okay, and then in the county, like at the county level, we have the Maui County Code. We have Chapter 2.88, and then we have three chapters in the zoning code that relate to the County Historic Districts, and the County Historic Districts are the districts that you folks have purview over. And then we have Cultural Resources Commission rules and standards. We have the Rules of Practice and Procedure, and then the Standards and Criteria.

So Chapter 2.88, of the Maui County Code, establishes the purpose, powers, professional makeup and guidelines of the Cultural Resources Commission. And County Council, and before that, the Board of Supervisors established the Cultural Resources Commission to protect and preserve historic properties, encourage historic rehabilitation, encourage the identification of historic properties, and encourage the designation of historic properties, and also to develop county-wide preservation policies and plans. So in Chapter 2.88 also is where you will find the complete list of your responsibilities and duties, and the main one is that you administer the provisions of the zoning code, the three chapters of the zoning code that deal with historic districts.

But historic properties, so there's five types of historic properties: there's sites, which include archaeological complexes; structures, which are like bridges; buildings, you have houses, commercial buildings; then you have districts, which is a concentration of historic properties, it's usually a concentration of historic buildings; and then you have objects, which are statutes, they're not moveable objects generally, but they're more like statutes, fountains, those types of things.

2. Maui County Code Chapters 19.48, 19.50, 19.52 – Maui County Historic Districts (A. Kehler)

Okay, so moving into the zoning code of the county, we have Chapter 19.48, and this just allows for the modification of existing historic districts, and then also the creation of new historic districts, so that's where we get the power to have the historic districts that we have now, and we can also make new ones.

We have 19.50, and that just describes the boundaries of the three existing County Historic Districts. So this is a map of the two County Historic Districts in Lahaina. Historic District 1 is shown in green, and then District 2 is shown in that yellowish goldish color. These are sites, buildings that are typical of Historic District No. 1. The picture on the bottom-left, that's Moku`ula and Waiola Church prior to the pond being filled and the church being rebuilt. And then this is Historic District No. 2, and it kinda jogs out north along Front Street, and those are some of the buildings that along Front Street that you

would find in Historic District No. 2. And then Historic District No. 3 is in Wailuku, and that encompasses Kaahumanu Church, Alexander House, Bailey House, and then also the I believe it's now known as Yokouchi House, which is up at the top of the hill.

So, and then the last chapter in the zoning code that deals with historic districts is 19.52, and what that does is it establishes construction and use regulations within the County Historic Districts, and also within the Lahaina National Historic Landmark, and what it does is it requires either Cultural Resources Commission or Planning Director approval before a building can be modified, altered, built, or demolished. So in the County Historic Districts, that's for all buildings. In the Lahaina National Historic Landmark District, it's only for buildings that are considered historically significant, and we define those in the code as being 50 years old more and determined by the State Historic Preservation Division to be eligible to be on the National Register. Does everyone know what the National Register is? Okay.

3. Chapter 12-530 – Rules of Practice and Procedure for the Maui County Cultural Resources Commission (A. Kehler)

So Chapter 530, that's your Rules of Practice and Procedure. It basically just explains, you know, the processes for conducting your meetings, or interventions, the contested cases, and then also your rule-making process, and Richelle's going to talk about this a little bit more, but you do use Robert's Rules of Order, which is like across the board, everybody uses it, and I will, at the next meeting, I'll give you guys this little cheat sheet for Robert's Rules. It's really helpful. It kinda gives you like some language that helps remember the order of a meeting, and it's a little bit more user-friendly than Chapter 530. And so, basically, Chapter 530, it reinstates what order to do in state law, in Chapters 91 and 92. We have to have open meetings, and the public has to be able to testify. We conduct meetings according to Robert's Rules or Order. We hold meetings at least once a month. Again, we allow people to submit testimony. We comply with Sunshine Law. And also, a quorum. So quorum is like the minimum number of members that can be a meeting for it to conduct business. Since we have nine members, our quorum is five. And then it also states that the CRC can enter into executive session, which is a private meeting with your attorney to discuss your legal rights.

Chapter 12-531 – Standards and Criteria Relating to the Duties and Authority of the Cultural Resources Commission (A. Kehler)

So Chapter 531 just elaborates on your powers and duties established in Chapter 2.88, of the Maui County Code, and it also explains how the CRC reviews projects and carries out its other duties, and so it outlines what kind of guidelines we use. The primary guidelines that we use to review projects in the historic districts are -- there are a national set of standards, they're the Secretary of the Interior Standards for Rehabilitation, and

that's primarily what I would be referencing in all of my staff reports when we're reviewing projects affecting historic buildings in the historic districts. And that is it. And now it is Richelle's turn, and I will pull up her presentation. Does anyone have any questions? Did I use any words or terms that are unclear? No? Okay.

Dr. Six: The only thing I would comment, it's just interesting that a site like the Piilani Hale is considered historic, prehistoric and continues on into the ...(inaudible)... can be a little sketchy.

Ms. Kehler: Right. Right. Yeah, I mean it's just how the National Historic Preservation Act defines it terms of the National Register Criteria.

Chair Sablas: Okay, Michele would like to make a comment.

Ms. McLean: Thank you, Chair. Annalise does a very good job in posting the agenda and then in her staff reports and in her presentations of referencing the code sections and what your criteria are for making decisions, so even though, you know, we'd encourage you to read these, they're not very long, they're not super technical, to be familiar with them, that's also part of the reason that we're here is to answer questions and to help guide you when you review and have to make decisions on projects, and similarly, Richelle does the same thing during the course of the meetings with the items that she's going to be going over with you now. So even though it's important that you're familiar with these things you don't have to know them intuitively because we're always here to walk you through and respond to questions if you have them.

4. Legal Issues

- a. Hawaii Revised Statutes Chapter 92 – “Sunshine Law”**
- b. Hawaii Revised Statutes Chapter 91 – “Administrative Procedure”**
- c. Maui County Charter/Code of Ethics**
- d. Policy Against Discrimination (R. Thomson)**

Ms. Thomson: Okay, now it's my turn. So what I'm going to go over, and I won't elaborate in great excruciating detail because, like the Deputy Director said, we're here all the time so as you go through your matters, we'll answer questions and help you make good decisions that are not going to be overturned by court, which is why I'm here, primarily, I'll go through, briefly, HRS Chapter 92 is the Sunshine Law, Chapter 91 is the Administrative Procedures Act, that's where you get the bulk of your practice and procedures, so when you look in your CRC rules of practice and procedure, most of those are taken out of HRS 91, or the Sunshine Law. I'll go over the County's Charter, its Code of Ethics, and then the County's Policy Against Discrimination.

So when the CRC has -- conducts two types of meetings and two types of procedures, one is a regular Sunshine Law open meeting, the other would be a hearing, and you have two types of hearings, you have a public hearing, and that would be, by law, a hearing that's required to be published in the newspaper, so those are called "public hearings," that a little bit of a different formality that's required so that the public has the opportunity to weigh in on very important issues. You also have hearings, such as the issue that you had today regarding the Lahaina -- the pier restoration project and those improvements, that was a contested case procedure, so you're required under the county code to hold a meeting that's actually a contested case hearing, and you're hearing that matter, you're making a decision on it, and that decision, if a party was unhappy with it, your decision could be appealed directly to circuit court. That's kind of the shorthand way of how you tell what type of procedure you're having. If you're the decision-maker, the final decision-maker and your decision can be appealed to circuit court, that's a contested case.

The other types of meetings that you have are Sunshine Law matters, so the comments you made on the Water Use and Development Plan, that would be a Sunshine Law matter. You're not making a final decision on it, on an application, but you're providing your comments under County Code 2.88, so that's when you kind of default over to the Sunshine Law. It's Hawaii's open meetings law. It requires that the public have the opportunity to testify and weigh in, and you have to conduct your deliberations in public unless you're consulting, you know, with your attorney on legal rights, things like that.

If you're interested in more information on the Sunshine Law, I would refer to the State Office of Information Practices, and they have a ton of information on the Sunshine Law, opinions, it goes into great -- a lot of depth, you know, lots of subject material.

So what's a Sunshine Law meeting? It's, this is from HRS 92: It's the convening of the board to make or deliberate toward a decision upon a matter over which the board has or is likely to have supervision, control, jurisdiction, or advisory power. The reason it's important to know if you're having a meeting or not, if you're meeting on a subject that you have no authority over, it's not really a Sunshine Law issue, it's kind of a random meeting, and those are usually -- they need to be held in a different forum, so sometimes there's going to be things that commissioners will want to discuss, they may or may not have anything to do with your powers and authority, so sometimes staff or I will say that's not really a subject for this Commission so it needs to be brought up in a different venue.

Kind of the parameters for Sunshine Law, things to do and not do. More than two members of the board should not gather outside of a regular meeting to discuss board business. What I usually tell my board members is just don't talk about board business with each other. You can talk about board business with staff, with me. If you have questions before or after a meeting and you just want clarification or want to talk about the

substance of something that happened or may happen at a meeting, talk to staff or talk to your attorney.

There are certain types of Sunshine Law permitted interactions, and you can setup, it would be an action by this body, you setup a temporary investigative group, so it's more than two but less than quorum, so between two and four members could be assigned to go and investigate on some topic, some piece of board business that's before you, and then come back and you report to the board. You can also, between two and four members, can also attend and participate in other board's meetings, such as the County Council or other commissions, and that can be, you know, related to a subject matter that's going to come before you or is before you, you come back, you tell the other members who weren't there what happened, what was discussed. From time to time, we have meetings that are canceled that's usually due to the lack of quorum, so the members who are here, it's not a meeting technically because you don't have quorum, but you can receive testimony and presentations, and that's as a courtesy to those people who did, you know, show up to either testify or to present, and there's some formality, we take kind of an abbreviated minutes, and then the members who were here have to let the other members, at a subsequent meeting, know what happened and things like that.

Executive meetings. Primarily those are to consult with the board's attorney on legal issues that you don't want to do in public because you might be weighing, you know, do we have the power to impose this kind of condition, or what does this mean, you know, what's the legal ramifications of taking one action or another; that might be a reason we would go into executive session.

And what happens if you violate the Sunshine Law? Your decision could be voided, the court could issue an injunction, you could be found guilty of a misdemeanor, or you could be removed from office.

So contested cases. Those are going to be primarily your -- the primary contested case procedure that you're going have here would be plan review and approval, just like you did today. Your rules have a pretty formal contested case procedure, those we use if there's intervention, multiple parties are very complicated issues, sometimes we'll have a more formal process than today, it was fairly informal, you know, the applicant presented, questions, testimony, and it's still is a contested case, it's just not a formal procedure. These are the contested case requirements. This comes directly out of the state statute.

What I always tell the boards too is don't do your own investigations. We all come with, you know, our own set of history and our expertise, and that you definitely bring to the table, but let's say that you're -- you know that there's going to be a certain type of application that's before, say a sign in Lahaina, rather than going out and doing your own investigation, you know, and looking at it and taking pictures of it and having your own

investigation, you'd want to do that as a body, or you'd want to establish a temporary investigative group to go and do that activity and report back. The reason for that is that you want to preserve your decision and you don't want the court to be able to say that decision was made, you know, without all of the commissioners having the same information. So you try to preserve your record and make the tightest record that you can not subject to appeal.

The laws and guiding principles. So the staff reports, those are a resource for you. They usually go through the law, apply the law to the facts of the application, but everything that you do here has its own legal standards and we can help you stay within the lines on those or help you figure out which way to go on them.

This is judicial review of a contested case, and like I mentioned, if a person is unhappy with a decision that you've made here in a contested case, they can appeal it to court. The court could affirm your decision after reviewing the record here, affirm it; they could remand it and send it back here with instructions; or they could reverse or modify the decision if they decide that the board's findings or conclusions were either in violation of the law, they're made in error, or they were erroneous, or otherwise arbitrary, capricious, or characterized by an abuse of discretion, if you've strayed too far outside of the bounds of the law and your authority.

Robert's Rules of Order. So, as Annalise said, those are the -- there's the rules of parliamentary procedure and all of our boards and commissions follows those rules, and it allows for an orderly flow of a meeting. So, Members, when you're conducting yourselves in a meeting, you normally look to the chair and obtain the chair's permission to speak or debate. That's to allow the chair to control the meeting and also to give all the other commissioners a chance to speak on a topic, you know, rather than maybe one or two commissioners kind of controlling the floor. When you're ready to vote, silence or a refusal to vote, unless you have a conflict of interest that's been, you know, put onto the record, qualifies as a vote in the affirmative, so, basically, you have to vote unless you have a conflict; if you have a conflict, you'll want to state that on the record ahead of time.

I put this slide in here because there's a lot of confusion over amendments or friendly amendments. When a motion is made and seconded, it no longer belongs to the person who originally made that motion. It belongs to the body as whole. You can make an amendment to that motion, so the original maker can make an amendment, anybody else can make an amendment to the motion, the amendment would be seconded, then again, that amendment belongs to the body, you vote on the amendment first, up or down, and then you go back to the main motion either as amended or as not amended.

So just a couple more things and then we're done. Try to ready your materials before you get to the meeting. This really helps. Just be prepared and you'll have question.

You might have things that you wanna check on ahead of time. You know, feel free to call me or staff, or email us. Don't talk to each other about anything until you get to the meeting.

Public testimony is -- it's really the time to hear from the public, it's not the time to start board discussion, so when you're hearing somebody testify, and you need clarification or you want to ask them, well, what did you mean by that, you know, feel free to question the testifiers on their testimony, but try to save your own opinions or your own discussion or enlarging the testimony until it's board discussion time. That does two things, it helps keep the record very clear as far as, you know, what's board action versus what's public testimony, so it's important to keep those segments of the meeting separated.

Okay, ethics. As a board member, stay away from accepting gifts or money from any applicants. Just don't do it. If you have a business transaction, or activity, or a financial interest, that could be -- impact your ability to be able to make a fair decision, talk to, you now, give me a call and we can talk about it ahead of time, and then what you would do, so say there's an application and you currently work for the applicant, that's a really pretty clear conflict of interest because it could be said that you're beholden to make only an affirmative decision, right, so you'd want to disclose that on the record and refrain from voting, and you'd be excused because you have a conflict of interest. Your vote wouldn't count. There are some conflicts of interest that are of little bit more nuanced, you know, a former employer, or you spouse's employer, or your kid's employer, or your next door neighbor, you know, there's all sorts of things that could potentially be a conflict. What you'd want to do is disclose it on the record, and what you do is disclose it on the record, you, as a commissioner, you decide whether to proceed or not. You can, you know, abstain from discussion or voting depending on, you know, whether it arises to a level of a conflict. You could request that the item be deferred so you have the opportunity to go to the Board of Ethics and get an advisory opinion, and when the Board of Ethics gives you that advisory opinion, if you act in accordance with what they've said, then you're not held liable for violating the Code of Ethics.

If someone feels that you have violated the Code of Ethics, anyone really can be, can file a complaint with the Board of Ethics, and they conduct their own procedure to look into the complaint and decide whether it's valid or not valid.

And my last slide, the County's Policy Against Discrimination. It's very broad and really what it's telling you is when you're making your decisions, don't make them on the basis of race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry, national origin, disability, genetic information, marital or civil union status, pregnancy, arrest and court record, assignment of child support, National Guard participation, domestic or sexual violence, victim status, or any other basis covered by state or federal law. You want to refrain from making statements, you know, that might

show bias in one way or another, you know, you want to try to be as impartial as you can and judge every applicant and every application using the same standards. That's basically it. And any questions? Thank you.

Chair Sablas: Okay, we are duly trained, right?

H. NEXT MEETING DATE: June 1, 2017

Dr. Six: I don't know. I just wanted to -- I was talking to Claire Apana, she gave me a call yesterday, and I know she wanted to have the sand mining put on the next agenda. Claire just contact you?

Ms. Kehler: Well --

Ms. McLean: She could contact Annalise or she could contact the Planning Director.

Dr. Six: I think she forgot 'cause she said she was going to come and was going to ask and then she took off.

Ms. McLean: It's not clear to me what the CRC's authority would be over that issue but she can call and ask and we can figure out if it's appropriate to put that on.

Dr. Six: I think that's why she was talking a lot about the battle and so -- anyways, thank you.

I. ADJOURNMENT

Chair Sablas: So nothing else to discuss? Meeting is adjourned. Mahalo. So our next meeting is June 1st, always the first Thursday so thank you. Good to see you.

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

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE:

Present:

Lori Sablas, Chairperson
Ivan Lay, Vice-Chairperson
Timothy Bailey
Luana Kawaa
Michael Kaleo Ropa

Absent (A)/Excused (E):

Whitney Apo (E)
Christy Kajiwara-Gusman (A)
Frank Skowronski (E)

Others:

Michele McLean, Deputy Planning Director
Annalise Kehler, Cultural Resources Planner
Erin Wade, Staff Planner
Richelle Thomson, Deputy Corporation Counsel