

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
APRIL 3, 2003**

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Planning Director Michael W. Foley at 9:10 a.m., Thursday, April 3, 2003, Planning Conference Room, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

(Please note: Due to recording difficulties, portions of the meeting were not able to be transcribed.)

B. INTRODUCTION OF NEW MEMBERS - JONAH KE`EAUMOKU KAPU and LON WHELCHEL

Mr. Foley: Good morning, members of the Maui County Cultural Resources Commission. The first thing that we want to do is introduce our two new members. And I think the easiest way perhaps to do that would be for all the members to introduce themselves so that the new members know a little bit about you, and you know a little bit about them. You don't need to do a whole biography, but if you would just say perhaps what your affiliation is, and what area you live in, and add anything else that you'd like to, that would probably be a good way to start. Lon, do you want to be the first victim?

Mr. Whelchel: First victim. I'm Lon Whelchel. I'm an architect. President of the American Institute of Architects. I live in Wailuku near Waiehu Beach Park and I'm just happy to be here.

Mr. Foley: Good. We hope that continues.

Mr. Erik Fredericksen: Good morning. Erik Fredericksen. I'm an archaeologist. Grew up on Maui. I live in Pukalani. I've been on the Commission four years.

Mr. Milton Pa: Aloha and good morning. I'm Milton Pa. I'm a retired educator and administrator from the Windward O`ahu District. And I am with OHA. I've been on the Council for about 20 years and I'm happy to be here.

Ms. Dawn Duensing: I'm Dawn Duensing and I'm happy to be here also. I've been on the Commission for four years now. Served as Vice-Chairman. I'm a historian. I do independent consulting on historical architecture and history here on the island. And I also teach part-time at Maui Community College. And have a lot of experience working as a historian with the National Park Service.

Mr. Solomon Kaopuiki: I'm Sol Kaopuiki on the Island of Lana'i. I'm retired. But I've been railroaded to do consulting work on history and archaeology. So now, I'm on here to broaden things that I've never known before. So I'm the new guy on the block. So you two guys follow me.

Ms. Lori Sablas: Aloha kakahiaka ka kou. I'm Lori Sablas. I was born and raised on Maui. And I've been more involved in the visitor industry. That's the number one economic pull here. But to realize there's a balance to loving this island yet knowing we need to have some economic growth, but still maintaining all that's so special about Hawai'i. And I'm so glad, Mr. Foley, the direction you're going. I try to serve on commissions like this because I like to make a difference. I work at the Ka'anapali Beach Hotel. Have been there for 14 years. And my responsibility there is to maintain our cultural program where we educate our employees of our various aspects of Hawaiian culture. All our employees get paid to learn about the culture. And it's a fun job to learn about your culture and get paid. I advocate that more businesses get involved with that. The bottom line is we're doing well, business-wise. We run among the highest occupancies. So I'm motivated to get more people to do what we do because it's a good thing, I think. Aloha.

Ms. Ku'ulei Haina: Aloha and good morning. I'm sorry I'm late. There was an accident so we got held up for almost two hours. That's why I'm late.

My name is Mary Ku'ulei Ku Haina. I was born and raised in Hana. And I love being Hawaiian. And I love being here on the Cultural Resources because I learned so, so much not only from the people here, but also the people from the public. And I'm single. I just love being here. Thank you.

Mr. Jonah Ke'eaumoku Kapu: I cannot beat that one. Good morning. My name is Jonah Ke'eaumoku Kapu. I've been living in Lahaina for about five years. Practically raised on O'ahu so I know how it is to live in a sprawl. I grew up there. And I'm glad to be sitting on this Commission so I can help out knowing the things that I left. So, mahalo.

Mr. Foley: Thank you, all. There is one item that I'd like to comment on briefly before your election of officers. I explained to Dawn that I'm also supposed to be at the Council Budget Hearing at nine o'clock this morning. And I'm very poor at being two places at the same time. So I'm going to make a couple of brief remarks and then I will unfortunately have to leave. And if the Budget meeting goes unnaturally quickly, I'll come back to this Commission. But you all probably understand that that's not very likely to happen. So I'll come back if I can. But if I can't, I wish you all good luck and aloha. The item I wanted to comment on briefly is item K on the bottom of the second page of your agenda.

K. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS.

Mr. Foley: I received a memo from Kimo Falconer written to me as the Chairman of the Cultural Resources Commission on one of his last days in office. And I'm sure that that was a memo that you all talked about. And I did write a response to Kimo, but I don't believe that's in your packet. Or is it? No? Okay. I thought Dawn had found it. When I go back up to my office in a minute, I will ask somebody to bring down copies of it so that when you get to item K, you can read it. But I want to paraphrase my response to Kimo.

My response was that the Planning Department very strongly supports the efforts of the Cultural Resources Commission. We feel that the work that you do is extremely important to the Island of Maui, and the Islands of Moloka'i and Lana'i as well. And we do our best to serve this Commission in addition to the eight other boards and commissions that we serve as staff, plus, of course, the Council.

We feel somewhat at a disadvantage in that we do not currently have a planner who is highly trained as a cultural resources specialist, and have not had such a person since Elizabeth Anderson left three years ago. We have repeatedly asked the Council to fund that position. We are asking that again this year. We had a long discussion about it a couple of days ago before the Council, and explained to them that it is a priority of ours to have a new cultural resources specialist, hire a planner trained in that field. And I encourage you all when you bump into a Council member at Costco, or Safeway, or anywhere on your travels in the next couple of months, especially, in the next month to further that same message to that Council member or other Council members. Informally or formally explain to them that it's very important to this Commission to have a cultural resources specialist. The planners we have have some training in this area. And we do our best, but we could use someone with even more specialized training. And we highly support that position.

The other issue that was addressed in the memo was enforcement, specifically, of the sign and zoning violations in Lahaina. And my response to Kimo was that we again support— Actually, I'm mixing up a couple of memos. I wrote a memo to Keoki Freeland saying that we support the enforcement of signs and zoning regulations in Lahaina. But unless we have additionally enforcement personnel, we aren't going to be able to increase our level of responsibilities. But that's relevant to your work as well because Lahaina is a historic district. We're very concerned about protecting it as a historic district. We're not only concerned about protecting the individual cultural resources of Lahaina and that region, but also the overall protection of the area as a historical site where thousands of visitors to visit in addition to those of us who are fortunate to live in that area. I moved to Maui because of Lahaina. And I live in that area and plan to always live in that area. And I feel very strongly about it. But we have limited resources. And as you know there's more competition this year for the Council's

financial resources than ever before. So our feeling about enforcement in Lahaina is that we need the cooperation of the Lahaina Restoration Foundation and the Lahaina Town Action Committee. And we will serve them to the best of our ability. But it needs to be a cooperative effort if we're to protect Lahaina. So that's kind of an accessory message. But the bottom line is, the Planning Department feels very strongly about this Commission. And we will do everything in our power to provide support. I've advised your two new members that they are welcome to ask us long, complicated, difficult questions, and we will do our best to answer them. And that they should also ask questions of the applicants and the consultants that appear before you. But we, the Planning Department, are here to serve you as are the rest of the employees of the County. And we consider your work very important. Are there any questions of me?

Mr. Fredericksen: Hi, Mike. I'd just like to, well, one, thank you for coming in here. Because I've been on this Commission for four years and I don't recall before the change of administration that the Planning Director was ever here. Certainly, he didn't talk at great length as you have. But I just want to thank you for your words of support.

Ms. Duensing: I think all the Commissioners will echo that because I feel the same way Erik does. And I can't remember that anybody ever took the time to come out, and say hello, and tell us how he feels about us. So thank you.

Mr. Foley: Thank you.

Ms. Sablas: I'm encouraged by what you were saying about having a cultural specialist because I was a member of the original Commission here when Elizabeth Anderson was here. And it really helped to have someone dedicated. We do have a lot of dedicated people, but when you have them spread too thin, sometimes they can't do the most effective job. Having had a person like Elizabeth so dedicated to the Cultural Resources Commission, I saw a lot of difference that we did. And it helped me as a Commissioner, the educational part of it, too, and the field trips. I've learned a lot about my Island of Maui through people like Elizabeth and Keoni Fairbanks when he was here back then. So I'm encouraged and good luck at your budget meeting this morning.

Mr. Foley: Thank you. Yeah, I just wanted to summarize that we sincerely appreciate the work that the Cultural Resources Commission does. We recognize the importance of historical preservation throughout the County. And it's not only in Lahaina that I'm concerned about our historic resources. It just happens to be where I drive through every morning and every evening. So I'm far more familiar with the West side of Maui than I am the rest.

Ironically, Elizabeth Anderson was one of the people who encouraged me to move to Maui. I met with her before I moved here. And she told me how wonderful Lahaina was and gave me a little speech about all its historic resources and its relationship to the

history of Hawai'i. And was very enthusiastic about me moving to Lahaina. And when I did so, not too many months later, she had left. But I met with her recently, and she's very interested in the possibility of coming back on a full-time basis. And if that's possible, we would love to make it possible. I don't want to give you false hope. But she is interested in coming back. We're interested in having her back. And maybe we'll be lucky enough to pull that off.

Mr. Fredericksen: Excuse me, Mike. Just real quick. Is there anything that we as a Commission could do to further encourage that path that you just mentioned?

Mr. Foley: Well, the most appropriate thing probably that you could do is to find a way to get the message to the Council members collectively or individually that you feel it's very important for the Commission to have a cultural resources planner that has specialized training not only for your Commission, but also to work on the update of the General Plan because those are the two primary functions of this position. One would be as the primary support of this Commission. But the other part would be to add a significant input in the update of the General Plan. And we are currently working on that, but we could certainly use that kind of help. And without that kind of help, we probably are going to have to some extent rely on the expertise of this Commission. But if any way you can diplomatically lobby the Council, it would be appreciated. I've been encouraged by the Mayor to speak out in favor of our desired additions, and this is one that's very important to us. So if you happen to run into a Council member at Costco, or Safeway, or wherever, be sure to remember this. If their response is that we should just assign one of the existing planners, you can say that the existing planners do provide staff support to you, but it would be more appropriate to have a specifically trained cultural resources planner like you've had in the past. And they probably all remember Elizabeth. It would just help us a lot as the staff to have that kind of expertise. The planners that we have come from a very wide variety of backgrounds, but this is one that we feel a little bit inadequate.

C. ELECTION OF OFFICERS FOR 2003-2004 YEAR - CHAIRPERSON and VICE-CHAIRPERSON

After nominations duly made and seconded, the following persons were elected:

Dawn Duensing to the office of Chair
Erik Fredericksen to the office of Vice-Chair

Mr. Clayton Yoshida: Good morning, Madame Chair and Commission. Again, before we get into the orientation workshop, we do have a paragraph at the top where you allow for public testimony at the start of the meeting on any agenda item to accommodate people who cannot be present at the meeting when the agenda item is

taken up.

Ms. Duensing: Do we have anybody that would like to testify on anything at this time? It appears everybody can wait, so we can move on to the orientation. Thank you, Clayton.

D. ORIENTATION WORKSHOP

- 1. Roles and Responsibilities**
- 2. Corporation Counsel Handbook for New Boards and Commissions**
- 3. The Sunshine Law**
- 4. Ethics**
- 5. Maui County Charter**
- 6. Chapter 2.88 Maui County Code**
- 7. County Historic Districts**
- 8. Lahaina Historic Landmark District**
- 9. 2003 Meeting Schedule**
- 10. Meeting Agenda**

Mr. Yoshida: At the start of the new Commission, we provide a brief orientation for the new members and a refresher for the old members.

The Maui County Cultural Resources Commission is about 12 years old. It was created by legislation passed in 1990 codified as Chapter 2.88 of the Maui County Code. Your predecessor was the Maui Historic Commission which dealt with buildings in the three County historic districts.

We have a map here showing Historic Districts in Lahaina numbers one and two. No. 1 encompasses more of the historic buildings: the Baldwin House, Old Lahaina Courthouse, Kamehameha III School, and the like. That was created in 1962. And then we have Historic District no. 2 that is more of a commercial area sort of infill between Historic District 1 and sort of along Front Street to Papalaua Street. And we have the uses in the historic district that are codified in Title 19 under Chapter 19.52. We also have Historic District no. 3: the area of Kaahumanu Church, the library, and the like. And the Commission also has jurisdiction there.

Prior to your existence, we had a Maui Historic Commission and they dealt with historic district applications. But from the formulation and increase in scope of this Commission, the Maui Historic Commission was dissolved and the CRC assumed their responsibilities to deal with historic district applications.

This is a nine-member board appointed by the Mayor approved by the Council. And it

has professionals with expertise and certain disciplines. Again we have an architect, Lon Whelchel; a historian, Ms. Duensing. We have two archaeologists: Mr. Fredericksen and Member Lisa Rotunno-Hazuka who is not present. We're also required to have a representative from each island. So we have Mr. Pa from the Island of Moloka'i, and Mr. Kaopuiki from the Island of Lana'i, as well as we have Ms. Haina from the Hana area. We just have to have one representative from each island who possesses the knowledge and interest in local area history. We also have Ms. Sablas who has a lot to do with cultural programs and has served on the Cultural Resources Commission in the early 1990s.

As far as powers and duties, they're listed in 2.88.060. They are fairly extensive. It lists from A through L noting that in item I, you assume the duties of the Historic Commission, but it's a lot broader. Your powers and duties are a lot broader than that of the former Maui Historic Commission.

Mr. Fredericksen: Excuse me, Clayton. When the Historic Commission came into being, they're the ones, it's my understanding that put together the Lahaina Historic Districts 1 and 2. Is that correct?

Mr. Yoshida: I believe that the County adopted the zoning areas.

Mr. Fredericksen: Excuse me. What my question is, who ultimately decided in '62 the Historic District 1 is "X," and then in '67 Historic District 2 is "Y?" Is that the former Commission?

Mr. Yoshida: I believe it was the Council through ordinance.

Ms. Colleen Suyama: Maybe I can clarify. Before the Historic Commission was created, there was a Lahaina Restoration Plan that was developed. And they had recommendations and one of the recommendations was to create a historic district. The other recommendation was to have a condition that we review that historic district. And based upon that Restoration Plan, the County initiated a Zoning Ordinance that actually created the zoning districts which identified Historic Districts 1 and 2. They also created in Title 19 the provision by which a historic district was going to be operated under. And when that was done, the County appointed a Historic Commission.

Mr. Fredericksen: Thank you. The reason I bring it up, for the Commission's information, is I personally think that the information that was gathered in the early 60s is at best dated. There was an awful less known about Lahaina than there is now. And I think if it's possible that we as a Commission might want to revisit this historic district, the way it was done because there's a lot more information available now. That's why I brought it up.

Ms. Duensing: We can defer that to talk about in our work plan for the upcoming year.

Mr. Yoshida: Again, one of the duties of the Commission is to hold public hearings on nominations to the Hawai'i or National Register of Historic Places that's transmitted from the State Historic Preservation Division. And that's codified in Section 2.88.070 of the code. And to forward its recommendations to the Mayor who will then make his recommendations to the State Historic Preservation Officer for action by the Historic Places Board. I believe the Commission has done this on occasion in the past. That's one of the duties of the Commission.

You have your rules of practice and procedure by which you operate. You also provide review of projects relative to cultural resources, historic resources, and the like. The Commission also because of its makeup, you do qualify as a certified local government. You are eligible for funding through the State Historic Preservation Office. Normally, the SHPD rotates between this Commission and the Kaua'i Historic Commission for funding.

In the past, the Commission has used the funding to attend various conferences: the National Trust for Historic Preservation Conference, Archaeological Conference, the Historic Hawai'i Foundation Conference, which is coming up next in Kaua'i. And I believe we've circulated the information to you and you're eligible to use the funds to attend the conference.

Ms. Duensing: Clayton, can you tell us how much that funding is?

Mr. Yoshida: It used to be \$30,000, but this iteration, it increased to \$45,000.

Ms. Duensing: And that's on an every other year basis?

Mr. Yoshida: Yes. We've also used the money in the past for different studies: the Ke`anae Cultural Landscape Study. That was funded through the certified local government money, as well as the Historic Structures Report for the Maui Jinsha Shrine in Paukukalo. That was also funded through the certified local government money.

Also, the Commission has various documents which is used as reference materials. We didn't bring them all. Some of them are of a limited printing. We have the Cultural Resources Management Plan for Maui County. That was developed in 1984. We have the Architectural Style Book for Lahaina. That was developed in 1969. It also references the Maui County General Plan which has a cultural resources section, as well as the various community plans, which are part of the General Plan, which the Cultural Resources Commission has commented on the cultural resources section of the community plan updates before it went through the Planning Commissions, and as it was transmitted to the Council. And the Council dealt with the community plan updates.

And there are various policies and implementing actions in these plans that went through Cultural Resources, such as, the Kihei-Makena Plan for the Project District 8, Palauea. That the developer implement a historic park and interpretive center at Palauea preserving the Palauea archaeological district. Because of its significant sites, the County Cultural Resources Commission shall review all plans for development because of high public interest and sensitive nature of the sites. So the Commission did review the plan for the Kihei-Makena Project District 8 at Palauea, as well as took a site visit last fall to the area.

Again, there are a lot of times – besides the historic permits section, we do have an advisory review section. Say a developer wants to have you review their plans relative to cultural resources, they would make a presentation to the Commission, and you would make recommendations such as the Kapalua Mauka Project.

Also, if your referrals, say for demolition permits, the State Historic Preservation Division may say that the applicant should consult with the Cultural Resources Commission for you to provide your input relative to the demolition of a historic structure. You would then make an advisory opinion unless the structure goes on the National or State Register.

We also have a Lahaina Historic Landmark District. It's more expansive than the County historic districts that was established in 1974. Basically it covers most of the town makai of the highway. And it does in certain sections go mauka of the Honoapiilani Highway. It also extends seaward of the shoreline. So for projects in this landmark area, it does trigger environmental assessment review under the State environmental impact statement law.

Are there any questions? Essentially, Wayne Boteilho, our Deputy Director is also our primary person to deal with the budget. And so he's at the Council Budget and Finance Committee right now. He appeared before them on Tuesday afternoon, but we weren't able to finish all of the reviews. So what was left was our review of the Zoning Division's budget. But Wayne would handle parliamentary procedures and the County policy against sexual harassment.

We've asked Corporation Counsel, Mr. Kobayashi, to provide a few comments relative to the Sunshine Law and ethics.

Mr. Blaine Kobayashi: Good morning again, Commission members. By way of introduction again, my name is Blaine Kobayashi. I'm with the Corporation Counsel's office. I'm normally not this Commission's attorney. Normally it's Mr. Moto; however, he had to be on O`ahu this morning, so I'm his alternate for this Commission. I'm happy to be here. I've been here a couple of times in the past. Now, I, too, am single but, Commissioner Haina, you live too far away from me. Now, that being said, as Mr.

Yoshida pointed out, I was asked to speak to you about two matters this morning: the Sunshine Law and ethics.

As far as the Sunshine Law is concerned, basically in a nutshell, the Sunshine Law is exactly what we're doing here today. The purpose of the Sunshine Law which is found in Chapter 92 of the Hawai'i Revised Statutes is to open up the business of government which includes the work of boards and commissions such as yourselves to the public. So all members of the public can see how government works. And again, this Commission is part of government.

Another essential purpose of the Sunshine Law is to allow members of the public to actually participate in government decision-making. And primarily, that is done by allowing interested members of the public to come in at your meeting and testify on any matter on your agenda. And to accomplish that purpose, the Sunshine Law also requires that the Commission post an agenda at least six days in advance of the meeting, listing all the items that will be discussed or decided at your Commission meeting. And again, the purpose of that is to allow a member of the public to look at the agenda, and decide for themselves if they should come into the meeting, and make comments on any matter that's before this Commission.

What are some of the significant points or highlights of the Sunshine Law? First of all, Commission members are prohibited under the Sunshine Law to engage in any type of discussion or communication which relates to reaching a decision on any item that is pending before you. Two members of the Commission can discuss with each other, for example, if Ms. Sablas misses a meeting, and she wants to ask Mr. Kapu who did attend the meeting, what happened at the meeting, that is entirely permissible under the Sunshine Law. A fine line is drawn, however, under the Sunshine Law in that you will not be entitled Mr. Kapu how you're going to vote on the matter, or what are you going to be recommending. That is prohibited under the Sunshine Law.

What happens if, for example, a matter wants to be added to the Commission's agenda? That's another interesting point under the Sunshine Law that comes up from time to time before commissions. Under the Sunshine Law, a matter can be added to the agenda if you have a vote of two-thirds of the Commission in favor. In other words, six members of this Commission would have to vote in favor of adding a matter to the agenda. There's a caveat to that, though. If it is a matter of reasonably major or significant importance and that a decision by this Commission will affect a significant number of people, then regardless of whether you have six votes or more, you cannot add that particular matter to the agenda. It would have to be for the next meeting and properly noticed to that effect.

I have handed out to the Commissioners a 17 or 18-page summary. I call it a summary, but it's been written by Professor John Van Dyke of the University of Hawai'i. He's a

noted expert in the Sunshine Law arena, so to speak. And I think it gives the Commission a real good understanding and grasp of the Sunshine Law. He addresses common questions that are raised. My suggestion is that in your free time, you review Professor Van Dyke's material. And if you have any questions, feel free to ask the Commission's attorney perhaps at the next meeting.

Does anybody have any questions concerning the Sunshine Law at this time?

Ms. Sablas: I had a question of clarification. A couple of occasions I've had people from the public get in touch with me on an agenda item and wanted to talk to me about it over the phone. And I've said that it should be discussed at a public meeting and I really don't divulge anything. We can't stop people from calling when they know you're a Commissioner. I guess for our new Commissioners, I guess that's what I'm been doing, I just don't engage in any discussion with the general public on agenda items.

Mr. Kobayashi: That's an interesting question that you raised. As a Commissioner, of course, you become identified by the public. That person is a Commissioner or Board member. Rather than completely throw up a roadblock with these people, there's nothing wrong with listening to what a person tells you. Again, the important thing is that you don't tell this person that wants a listening ear how you're going to be voting on something or anything along the lines of reaching a particular decision. Again, it's not wrong for you to just listen to what this person has to say. But again, my caution to that is you make sure that there's no indication by your part as far as how you are going to be voting or deciding on a particular matter that is coming up before you.

Ms. Sablas: I appreciate that clarification because I've been kind of like, you know, taking my duties seriously, and I don't want to discuss things like that.

Mr. Kobayashi: Again, you cannot prevent a person from talking to you. Often times, somebody just wants to come up to you and express concerns that they may have concerning a past item or upcoming item. But again, as long as you just listen and not give the impression or tell this person how you're going to be voting or recommending, then that's permissible. Anyone has any other questions concerning the Sunshine Law?

Okay, the next topic that I was asked to talk to you about is ethics. What is it? I told the previous board yesterday not that you folks weren't ethical before you came on this Commission, but now that you are Commissioners, and you are considered officers of the County, you are expected to exhibit nothing but the highest standards of ethical conduct in your actions as a Commission member. Why is that so? Because that ensures that the public will in turn have trust, have confidence in the integrity of government. And again, as Commission members, you are officers of the County so it's very important that you take that very seriously. And I each of the Commissioners do

take their role seriously on this Commission.

Under the Code of Ethics which is found in Article 10 of the County Charter, there are various examples of situations in which it is unethical for you to engage in unethical conduct or behavior. That's found again in Section 10-4, Subsection 1. And I'll just kind of briefly go over some of those prohibitions.

Subsection 1B states that no officer or employee of the County shall solicit, accept, or receive any gift directly or indirectly whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form under circumstances in which it can reasonably be inferred that the gift is intended to influence you in the performance of your duties, or is intended as a reward for any official action on the officer's or employee's part. That kind of explains to you in clear terms as far as what you can and can't do. You can't be out there asking people, for example, "Hey, take me and my family out to dinner and I'll give you a favorable recommendation." Or after you recommend in favor of a particular item that's before you accept some kind of gift from that person that had the matter before you. That kind of action is strictly prohibited under the Code of Ethics.

Subsection B talks about information that you will be obtaining as a Commission member. If that information is not available as a matter of law to members of the public, you cannot disclose that information. That's another important prohibition under the Code of Ethics.

Subsection 1C says that no officer or employee shall engage in any business transaction or activity, or have a financial interest direct or indirect which is incompatible with the proper discharge of your official duties, or which may tend to impair your independence of judgement in the performance of your official duties. Commissioner Fredericksen raised an interesting point that touched upon this particular section. As a professional, he may have a matter that he worked on or has a direct financial interest in. And as he properly indicated, in those types of situations where he has a direct financial interest in a matter that is pending before this Commission, he's indicated that he will be recusing himself from any type of decision-making. It should be the proper thing for him to do as well as any of the other Commissioners.

Subsection D talks about not using County property or personnel for other than public activities or purposes.

And Subsection F talks about prohibiting receiving compensation for any service rendered on behalf of any private interest after termination of service to or employment with the County in relation to any case, proceeding, or application with respect to which the officer or employee was directly concerned. Those are examples of prohibitions under the Code of Ethics.

I'd also like to point out that there is what is called a Board of Ethics created under the Charter. And the Board of Ethics' role is to render advisory opinions to Commissioners such as yourself, or if you have, for example, a question concerning, "Is it proper for me to act on this matter?" You can submit a request to the Board of Ethics. And under the Charter, they're required to render an advisory opinion to you within 45 days of the submittal of that request. If timing is an issue, my suggestion is that you consult with your Commission's attorney whether it's myself, or Mr. Moto, or whoever else is sitting here, and get some guidance in that regard. I've also passed out a two-page sheet concerning what I just covered and touched upon. If anybody has any questions, I'd be happy to answer.

Mr. Pa: Can you comment a bit on executive sessions? When is it proper to call for one?

Mr. Kobayashi: Okay. This Commissioner has referred to executive sessions, and that kind of goes back to the Sunshine Law. Under the Sunshine Law, there are certain exceptions where you can have a meeting which is closed to the open public. And that is found in Section 92-5 of the Hawai'i Revised Statutes. There are basically eight situations where this Commission can enter into an executive session. The most common exception which is used to go into an executive session is to discuss issues concerning this Commission's powers, duties, privileges, immunities, and liabilities. That is one of the most common exceptions which is used. So you can look at that section to see all the rest of exceptions in which you can go into an executive session.

Mr. Fredericksen: So there would be no going into an executive session to make a decision on a matter before the Board?

Mr. Kobayashi: That's an interesting question that you raised. There's a split of authority in that certain types of decision-making can occur in an executive session. But Professor Van Dyke, if you'll look through the material that I have provided to you, his suggestion is that any type of formal decision-making should be done in an open session. So you can have discussions on the matter in an executive session, but any vote that is taken on the matter should be in an open session.

If nobody has any other questions, again, I'd like to congratulate the two new members of this Commission. I'm sure you'll enjoy your time here as a Commission member. Thank you.

Mr. Yoshida: There was a Charter amendment in the past election in the powers and duties of the Planning Director. The Planning Director shall prepare, administer, and enforce a Cultural Resource Management Plan.

Also, in the Charter, the Board is entitled to nine members. To take any action, you

need an affirmative vote of at least five members. So if there's only five of you here, you need an affirmative vote of all five members to take an action. If there were seven of you here and the vote was four to three, then that's not an action because you need at least five affirmative votes to take an action.

Moving to the meeting schedule, we circulated the meeting schedule to the new members. They meet regularly on the first Thursday of every month at nine o'clock. The place may vary depending on the agenda items. If people are very interested in an item from Lahaina, we may go out to Lahaina, or South Maui, or Hana. There is on your agenda an item, Cultural Resources Commission Meetings in Other Locations. Sometimes we do make site inspections as a body which is duly noticed according to the Sunshine Law. And sometimes we take a site inspection before we have the meeting. So if the Commission wants to make a site inspection, if you could let us know so that we can plan for that. Sometimes it helps to see the area. We have to notice it to the public if we're going to do it as a body.

If you cannot make the meeting, then if you could call probably the most important person in the department: the Commission Support Clerk, Tremaine Balberdi, ahead of time if you are unable to make the meeting. We just want to ensure that we have a quorum because we have people traveling from Hana, Moloka'i, and Lana'i to conduct business.

We do have special meetings depending on what the Commission wants to do. As far as the agenda's concerned, typically we start out with permit reviews, historic district applications, followed by advisory reviews, and demolition permits. Then we move to unfinished business, discussion on preservation planning, new business, nominations to the Register of Historic Places. Typically, the Hana Belt Road Corridor has been an area of focus for the Commission at least for the past four years prior to the nomination to the National Register and since it's been placed on the State and National Register of Historic Places. So that's like a running agenda item for the Commission. Also, the Commission did spend a lot of time in 1999 and 2000 passing the amendments to the Sign Design Guidelines for the Lahaina Historic District. The sign enforcement program in the Lahaina Historic District is also a running agenda item. And then we have the Director's Report where we talk about Commission meetings in other locations. And then the Commission's correspondence, correspondence received from the State Historic Preservation Division, any department report of demolition permits that were issued administratively, as well as any historic district approvals that were issued by the Planning Director. Any questions?

Ms. Duensing: I just have one question, Clayton. Wayne Boteilho has been coming to our meetings. Will he continue to be the liaison to the Commission?

Mr. Yoshida: Yes, Wayne will continue to be the primary administrative person for the

department coming to your meetings. Here he is.

(Mr. Boteilho then entered the meeting at 10:15 a.m.)

Mr. Yoshida: And as typical, we will run a copy of the draft agenda by the Chairperson before it's finalized. Are there any questions?

Ms. Duensing: Thank you, Clayton.

Mr. Boteilho: Good morning, Chair, members. Wayne Boteilho, Deputy Planning Director. I'll start off with parliamentary procedures. This is more for the newer members so that they'll feel comfortable with it.

The fundamental principles of parliamentary procedures are: 1) justice and courtesy to all, 2) to do only one thing at a time, 3) that the majority rules, 4) the rights of the minority are respected, 5) that each main motion or debatable composition is entitled to a full and free debate, 6) there should be no partiality shown by the Chair. Parliamentary procedures are designed to expedite business, maintain order, and show justice and equality for all.

I'd like to say that the standards for parliamentary procedures are found in *Roberts' Rules of Order*. However, I've seen an evolution of the County's parliamentary procedures that we almost came up with these Maui parliamentary procedures which are much more informal, but I'd like to make this point: that is okay. *Roberts' Rules* are basically rules. What the body wants and what the body intends to do, that is your real rules.

The major point of parliamentary procedures is consensus. That is the strongest rule you have. If you have consensus, you can basically do about anything. For example, "If there are no objections, we are going to approve this project." And if there are no objections, then you don't have to even vote or put forth a motion. However, if even one person objects, then you have to go through the normal rules, and you have to have a motion, second, and a vote.

I'd like to go over motions. There are three types of motions. There's the main motion: "I move that we approve this project." There are also subsidiary motions which means "I'd like to amend the main motion." In a case like that, you would have to vote on the subsidiary motion first. And then you vote on the main motion as amended. The third type of motion is the incidental motion. Some of them are privileged motions. Basically, those types of motions are those like how you run the meeting not necessarily dealing with the main motion itself. For example would be motions to take a recess, motions to adjourn, asking for a point of information, that sort of thing. And obviously, if there is a main motion on the floor, and you have your privileged motion that says, "Madame

Chair, we'd like to take a recess," you'd move on the privileged motion first. That would take precedence over the main motion. However, when you come back from recess, the main motion still stands.

That's really all that I have about parliamentary procedures. Just as a closing thought, members should be encouraged to make motions. They should not feel that they are out of order because that really is everyone's right.

Now I'd like to brief you on the sexual harassment policies of the County. This is a required briefing by Federal law. Title 7 of Federal law prohibits discrimination in employment based on race, color, religion, sex or national origin. The courts have interpreted this discrimination based on sex to include sexual harassment.

The County of Maui's policy is that it is illegal and against County policy for any officer or employee to sexually harass or engage in the sexual harassment of any other officer, employee, the public, or individual under consideration for County employment. All employees have a legitimate right to expect the workplace devoid of sexual harassment. The County, its department and agencies, its management and supervisory personnel have a responsibility to prevent acts of sexual harassment. The County will not condone or tolerate sexual harassment in the workplace. Violations of sexual harassment policies by any officer or employee will result in disciplinary action up to and including termination.

What is sexual harassment? Basically it's conduct of a sexual nature in a workplace. For examples, any unwelcome sexual advances, or request for sexual favors, verbal and physical conduct of a sexual nature, and display of sexually explicit or suggestive materials.

This, I would like to stress: any officer, or employee, or person who feels subjected to sexual harassment should immediately make a complaint to his or her immediate supervisor. In such a case, conduct should be reported to the Equal Opportunity (EO) Officer. And that officer for the Department of Planning is me. However, I'm not the only person you can go to. You may also submit a grievance to any collective bargaining union. Also, you may file a complaint with the Hawaii Civil Rights Commission within 180 calendar days or you may also file a complaint with the Federal EO Commission within 300 calendar days.

All these complaints shall be kept confidential. However, some details may be revealed. And those are the following: details may be revealed to each other, any officer or employee investigating a complaint, the victim's or alleged offender's department head, the County's EO Officer, the Director of Personnel Services, any witnesses, and any other person whom revealing the names are necessary for a comprehensive investigation.

Just a little side thought is that basically I would like to encourage anyone if you experience or if you witness sexual harassment, go to someone immediately. Do not just keep it behind closed doors.

And now, specific to the boards and commissions. Each board and commission chairperson is responsible for supervising their respective members. Failure by a chairperson to control sexual harassment may be cause for disciplinary action against the chairperson. Chairpersons may be held to a higher standard of accountability as the Mayor's representative. Any board or commission member who feels subjected to sexual harassment should immediately make a complaint to his or her chairperson unless the chairperson is the individual committing the alleged harassment. If the chairperson is the alleged offender, such conduct should be reported directly to the County's EO Officer, in this case, me.

Board and commission members may request legal representation from the County's Department of the Corporation Counsel. The County's EO Officer will designate an investigator in the case of complaints filed by or against a board or commission member. The investigator shall promptly inform the County's EO Officer of the findings and recommend disciplinary action, if any. The EO Officer shall review the findings and shall approve or modify the recommended disciplinary action. Any modification shall be accompanied by a written explanation. The EO Office shall recommend action to the Mayor. And with that, I shall end unless there are any questions. Seeing none, thank you very much.

Ms. Duensing: Thank you.

E. APPROVAL OF THE MEETING MINUTES OF MARCH 6, 2003

Mr. Fredericksen asked for the following correction to page 7:

So does that mean that the existing concrete and rock buttresses, I guess you would call them, those will be retained?

Ms. Duensing asked for the following correction to page 15:

And on the other hand, you say we rely on tourism, well, part of the reasons that people go to Kipahulu is to enjoy Oheo Gulch.

She also asked for a correction to Scott Urada's name within the document. The proper spelling is Scot Urada.

It was then moved by Mr. Pa, seconded by Ms. Haina, then unanimously

VOTED: to approve the minutes of March 6, 2003 as corrected.

(A recess was then taken at 10:25 a.m. and reconvened at 10:35 a.m.)

F. PERMIT REVIEW

1. HISTORIC DISTRICT APPLICATIONS

- 1. MR. JOHN WESTERBERG of ISLAND DESIGN CENTER requesting a Historic District Approval of Renovations to the former Queen Theater Building for the Lahaina Galleries Store at 824 Front Street, TMK: 4-5-001: 012, Lahaina, Island of Maui (C. Suyama)**

Ms. Colleen Suyama introduced the project and provided an overview of the Planning Department's report.

Ms. Duensing: Okay, are there any questions for Colleen? I think she did a very thorough job of examining what the Style Book says and pointing out all the problems of this design to us, too. Very good, Colleen. Did the applicant wish to address the issues?

Mr. Westerberg: Sure. Thank you very much. I'm John Westerberg. Just quickly, when we first worked with Lahaina Galleries, one of the reasons that we started doing all the other work on the building itself is we wanted to improve the building. It was not looking correct. And we're delighted that both the landlord and the...(inaudible)...are liking that kind of change to the building itself.

Regarding the window mullion layout, we first started doing this because we've got fairly narrow gallery spaces. It's very difficult to deal with as you can see in this plan. There's very little storefront and very deep store. And the storefront itself is stepped back from the doors itself. It's hard to tell from this rendering. It looks flat, but you can see the storefront is stepped back so it's in shadow. It's back away from the street. We wanted to be able to get some sense of theme into the gallery. That's really the reason that we ended up doing a center window that was uncluttered with mullions at this point to get a better look in. If that's completely unacceptable, we certainly can change the mullion spacing to make that consistent.

We were proposing what's called a plate material for our paving because we were taking it not only at the entrance, but taking it into the gallery itself. One of the reasons is you can see some of the materials that we're going to use in the gallery, this...(inaudible)...which is the major material throughout. We have traditional

furnishings and lighting. Some examples of the art that is shown in there is that the Lahaina Galleries is going to be much more Hawaiiana in its theme as opposed to the other gallery that was designed for them. So we're trying to do that in some of the materials that we're choosing.

We've chosen these stains of wood essentially to make the storefront not quite so dull but very attractive, and to almost create a frame around the window, which is kind of going back to the fact that it's a gallery, and we're showing art work in there. I think Colleen did a very good job in explaining all of this. As she said, the one reason that we're proposing a sign light here, these six sign lights, the bracket-mounted lights, sign is because we understand from the landlord that the canopy is not in compliance. We don't want to get in there and start to mess with it. So we thought bracket lights would be cleaner to use. It could be appropriate. We certainly chose one that is concealing the light source. We're not trying to have an exposed light bulb out here. We're trying to respond to what's going on to have kind of a historic character.

The reason we were choosing six was actually that two of them, one on either side, were pointing down at the blade sign. The other two were pointing back at the sign on the building itself. So we didn't think that was an excessive amount of light because they're only a couple of feet away from the sign. One light can't catch the whole sign. Or it can only catch a small part of it because of the light cutoff. So actually two on here were for this side and two on here for this side. That's the reason we had chosen six.

We did opt to propose signature signs on the glass itself. Again, the lettering when you get down to six, four inches is less than three quarters of an inch. It's really invisible unless you're there standing. When you walk down the sidewalk, and you step up to the window to look in, you've lost now the sign that's up above you, and you don't know where you are. It was really meant just to identify the place of business. I think that's about it.

Ms. Duensing: The Commissioners have any questions?

Mr. Fredericksen: I've got a comment. I used to go to Queen Theater. I grew up in Lahaina. It was 25 cents to go see a play. And some of the things you guys are proposing are nice. I like the detail that shows Queen Theater, the sign, because it certainly has been around a long time. I guess what we do as a Commission, of course, is we do have – and this is something that is of great importance to us – there are guidelines because it is in the historic district and Lahaina does have a lot of history associated with it. And part of our thing is to try to ensure that projects do meet those requirements that we have. So some of the design elements – I'm certainly not an architect – but some of the design elements that you're proposing they just don't meet the guidelines. So that's something that we're going to have to discuss. I am pleased that the landlord is trying to renovate the theater. We just don't want to create

something – we want something that's reflective of what it was more than a trendy kind of creation that's not in character with Lahaina.

Mr. Westerberg: We are in agreement. We've been trying to do that. And rather than do something that's completely historic, we're trying to be within that nature so that you would look at it and it would not be so completely different that it would stand out.

Ms. Duensing: Is there any research on historic photos of the theater and what it originally looked like?

Mr. Westerberg: No, I don't believe there are any available. When I talked to the landlord, the property owner himself, he didn't have any available. I don't know historically what it was really looking like in the 30s. It's gone through a number of changes. It was built in the 30s. It's gone through a museum, and gift shops, and all types of uses before it got to this use.

Ms. Duensing: I think that by doing something so different it really radically changes the character of Lahaina. And for me, what's proposing to be done really gives a lot more ritz to our historic building that was never intended to look that way.

Ms. Sablas: I would have to agree with what Commissioner Duensing is saying because I grew up in Lahaina. I remember going to the theater. You go one week and it's a chapter. You have to wait a whole week to see the next chapter: a black and white, cowboy and Indian-type movie. So as a child having grown up there, it has a lot of nostalgic memories for me and value. But my concern is more and more as we're sitting on the Board, Lahaina is changing. And I understand where you're coming from and what you need to accomplish, but these guidelines are set for that very reason. I have to remind all of those that when you went in, you knew you bought into a historic district. You knew that we had guidelines. So you need to be able to follow them and not to change them. That's what guidelines are set forth. I see that there are many instances here that I was wondering, did you read the guidelines? Why do we have to point out these to you? And that's where I'm coming from. And again, I caution. I mean, it's like let the buyer beware as far as an historic district. So what we're trying to do is have you comply to what is established. So I think sometime after discussion what I would like us to do is go item-by-item, and try to resolve it, but as of now, we're just having an open discussion.

Mr. Westerberg: In response to that, our signage is in compliance with the exception of the decals. The decals, of course, in the sign book do not mention that they were meant for Visa, etc., etc. It only tells you a sign less than six square inches are exempt.

Ms. Sablas: And you would have no problem if we said no to that?

Mr. Westerberg: If you said no to that, that would be fine. But we didn't attempt to go beyond the guidelines. We were not aware – the guidelines do not state that that doesn't reflect names of a business.

Mr. Fredericksen: As a Commission member, I'm not trying to prevent something from occurring here, but as Lori pointed out, we do have these guidelines that do need to be followed. That's just where that's at.

Ms. Suyama: I forgot to do this.

Mr. Fredericksen: Just real quick. I think Dawn brought up a good point that for researching old photos of Queen Theater, Lahaina Restoration Foundation would be a very good starting point.

Mr. Westerberg: What we understand from the property owner is that the existing theater was all open very similar to what you see on this side where the other tenant is going. And we have indeed kept all the sliding doors, etc. The gallery itself does not exist. It's a completely open store. What the business is it needs to have a little more controlled environment. So we had to build something. We chose to build it behind that so we would keep the historic facade.

Ms. Suyama: What I forgot to mention is that because of all the concerns we had in our department's report to the Commission, they came up with a proposed alternative if this is not acceptable.

Mr. Westerberg: I think you can see in this case, we divided up the doors and the windows in a much more traditional method. We gained something in that the way that this is divided. The eye line of a person is not obstructed by a mullion or a muntin. And that certainly helps us and we have no problems with this kind of configuration if that is closest to where you would like to be.

We have eliminated in this case the stone face. That was done really for maintenance and kind of a way to end up doing things. If that's unacceptable, we're certainly reasonable enough to say, okay, we wouldn't do the face. We...(inaudible)...

We are still showing the decal signs because only because we didn't know it couldn't have the name of the business on that. We're certainly willing to take that off.

Ms. Duensing: Okay, I think what I would suggest we do at that this point is, as Lori suggested, take this issue-by-issue. But before we do that, I'd like to ask if there's any public testimony on this. Okay, there's no public testimony. So I think the best way to proceed is to go through this issue-by-issue starting with the multi paned windows. Colleen, are plate glass windows allowable in the Style Book?

Ms. Suyama: No, solid plate glass windows are not allowed. So that's why we came before the Commission because when we had discussed it with Mr. Westerberg, we had pointed out that there were certain things that were inconsistent. But the Commission basically, in these kinds of areas, have the final say. What we can do is point out what the guidelines say and where the inconsistencies are.

I did come up with a proposed recommendation since I did my report. Do you want me to go through our recommendations, first?

Ms. Duensing: Oh, yeah. We don't have that.

Ms. Suyama: I just prepared it today.

Ms. Suyama then presented the Planning Department's recommendation.

Ms. Suyama: The only thing that we had not made a recommendation on is the lighting for the signs. That's something, I think, the Commission needs to make a decision on.

Ms. Duensing: Thank you, Colleen.

Mr. Westerberg: May I make a comment? I'd like to comment that the coloration of the building down the fascia and up in here is not what we're coming to you for. We did that really to show to the property owners saying this is our recommendation, what we'd like you to improve the building. Our proposal really is limited to within this area, that area, and our sign. And that's what we're actually coming to you today for.

We do have an alternative stone. It's gray-slated. It's a more modern material, I should say. It's still in the gray tone because that's the coloration we're trying to do. We are trying to take it into the same time rather than just have the sidewalk stop at the front door.

Ms. Duensing: Thank you. I think now that we've got the recommendations, we can go through the recommendations point-by-point.

I do have one question, first, though. Was that building always stucco? Anybody? That looks to me like the original wood building and somebody plastered over it.

Ms. Suyama: This building is not actually the original building. It was reconstructed. What had happened is when the theater first came in, they were first talking about renovating the original...(inaudible)...of the building. And what happened is that during the construction, they had structurally damaged the rear portion of the building. This is the metal portion of the building. And based upon that, they actually had to demolish the whole rear. The front part is the original. It's the only part that's original except a

couple finished parts. The rest of it is all reconstructed.

Ms. Duensing: Okay. When was that done, Colleen? Do you remember?

Ms. Suyama: Somewhere in the 1990s.

Ms. Duensing: Okay, so recommendation no. 1:

A new storefront consisting of two single door entrances and two fixed multi paned display windows, new flooring, and signage and indirect lighting.

I think the windows are a big issue. Any comments from the Commissioners?

Mr. Whelchel: The second display is more pleasing. It fits within our guidelines a little better. The other one bothered me even as just a design. And this is more keeping with standard practices and our historic district. It's an improvement.

Ms. Duensing: My two cents on the windows, I know that plate glass windows are not in the guidelines' book, but I think that's a strong omission. And that would be my preference to go into that because if you look at other historic theaters that have been renovated, I know there's one in Honoka`a, and they used big plate glass windows to provide an opportunity to look into the theater. So I would think that that would be another option depending on what the Commission thought.

Mr. Fredericksen: I think it would be interesting to see earlier photos of what it used to look like.

Mr. Pa: My only concern about the plate glass windows is...(inaudible)... To me, we should follow the guidelines. We may be setting a precedence.

Ms. Duensing: All right, anybody else? What about the exterior tiles? We now have an alternate or we have the Planning Department's recommendation to follow again the historic designs which recommends brush coral aggregate concrete.

Mr. Whelchel: That looks like brush coral concrete to me. It looks like it's close enough to the entry as an alternate. It might look different in a big sample in reality but that looks pretty good to me.

Ms. Suyama: I don't think the department has any objections to that because I think that's close enough to the concrete sidewalk color. It might be a good transition between where the actual public sidewalk is and the building.

Mr. Westerberg: These are 4x4. That's about the size we're talking about. So it's not big scaled tiles we're talking about.

Ms. Duensing: But it will have the grout and whatnot in between which will differentiate it from the concrete sidewalk.

Ms. Sablas: Is this the size we're talking about?

Mr. Westerberg: It's about 4x4, yes. There's certainly larger sizes, but we're not proposing to use that. One, we wanted to bring it up a little bit. Also, that one is a slightly slipper material which is why we wanted...(inaudible)...

Mr. Fredericksen: I guess that's something we're going to need to think about is it is going to substantially different. I understand how it's grouted out.

Ms. Duensing: Right. If we're going to stick to the guidelines on the windows, we should stick to the guidelines on the concrete.

Mr. Westerberg: It's an eighth of an inch, max, is typically the way we would install it so it's a very thin grout line.

Mr. Fredericksen: I'm assuming that the grout would be the same color as the tile?

Mr. Westerberg: Yes. It's meant not to be a contrast. We're not trying to take all that break up. It's just meant to be a small colored fill.

Ms. Duensing: So how does the Commissioners feel?

Ms. Suyama: I think we would agree that the tiles should be larger to look more like pavers rather than tile.

Ms. Duensing: Because this is going to be outside of the building rather and onto the sidewalk, right?

Mr. Whelchel: Yeah, large outside, small inside.

Ms. Suyama: Yeah, if they wanted to do this inside the building, that's fine. But I think for the outside, it should have more of an appearance of a paver rather than a tile.

Mr. Westerberg: We have no problem with enlarging it.

Ms. Duensing: But again the question is, are you going to put the guidelines on one recommendation and not the other?

Mr. Pa: I'm curious what happened that the department came up with this recommendation to use brush coral concrete?

Ms. Suyama: What's happening is that the guidelines doesn't really talk about pavers, or pavement, or sidewalks. And traditional Lahaina Town you had board walks, you had dirt roads, originally. As a compromise the time they were doing the banyan courtyard, they came up with some – recommended for sidewalk detail in which they came up with the brush coral aggregate with the individual pavers on the side of the sidewalk. They're trying to use the cut stone as part of the curbing. Based upon that recommendation, we've been trying to reflect that to a lot of things that occur exterior-wise like sidewalks and pavement areas. The Commission has made deviations before. They used like those...(inaudible)...bars that you find in front of the Wharf project. They used certain types of tiles. When you look at the Pioneer Mill in the pavement, they've made some deviations. They've allowed brick to be used. Lahaina Marketplace, they're using brick pavers. So they've made these deviations on a case-by-case basis.

Mr. Pa: But these deviations were not outside of the scope of the guidelines were they?

Ms. Suyama: Those guidelines are really silent at this time on what kind of pavement material should be used. They just talk about materials in general. It's more for wood if you're talking about building construction.

Ms. Duensing: But also another point to be made is that when we made these deviations recently like when we were talking about the Lahaina Store, we tried to get that to work with pre-existing pavers or just concrete aggregate in other areas. So we need to keep that in mind as well.

Ms. Ann Cua: Yeah, they did use the brush coral aggregate, but they used the brick pavers as a border. And that was to be consistent with a pattern that was done to Front Street when Front Street got redone, the sidewalk pattern. So that's what they ended up doing.

Ms. Duensing: Thank you.

Ms. Cua: And just wanted to point out in the case of that building, historically, that old Lahaina building did have large plate windows. And that's why in that particular case, that was used yet the guidelines talked about muntins. But there were many cases where large plate windows were used. And that was one particular case. I just wanted to make sure you were aware of that. That has been approved in other buildings before, but it was historically documented that that's how the building was.

Ms. Duensing: Thank you, Ann. And large plate glass windows really were used in that era. That's why I put it as a possible suggestion because there are other historical

buildings in Hawai'i that did make use of plate glass windows. So we need to get back to this tile under item 1c.

Mr. Pa: Can we go back to "b" again?

Ms. Duensing: Can we finish up "c" while it's fresh in our heads and then we'll go back to "b?"

Mr. Pa: Well, "b," I wasn't aware of the fact that plate glass windows were used back then. And based on that, I have no objection to using plate glass windows.

Ms. Suyama: I think it depends on the building because if historically, you can document the use, we have no objections. But if you're going to make it where you're going to now approve plate glass windows, you may be setting the precedence for other people to come in because this is not necessarily going to be the only project that wants these large windows.

Ms. Duensing: But the problem is, Colleen, is that without any documentation and research of what the building was originally, we don't have anything to start with. So anything you do is a supposition in the redesign of a building.

Ms. Suyama: And generally when it's a redesign of the building, we usually recommend you stick with the guidelines.

Mr. Pa: What you were telling us is that this building was redesigned completely, is that true?

Ms. Suyama: I don't know how much alterations have been done to the building. All I know is that the false facade in the front is part of the original building. And the only part that's not original is everything behind that. It had three openings. That has been changed. As to what was the final details of those openings, I would suspect back in the old days they used these one by – those 12 inches wide plank, traditionally. And that's how they blocked the entrances and they opened it up during business hours. But that's what traditionally was used in Lahaina Town was those planks.

Ms. Duensing: So based on that, we'll stick with the guidelines. Does everybody agree on that? Item c, stick with the guidelines or allow the brush aggregate?

Mr. Kapu: I'll go for that.

Ms. Duensing: Okay, we'll stick with the guidelines. Okay, moving on to "d," "Signage for the storefront shall be limited to the wall and hanging sign not to exceed a total of 20 square feet." Does anybody have a problem with that? Okay. We worked very hard on

the sign design guidelines. Okay. And “e,” any discussion on that?

Mr. Fredericksen: It’s pretty straightforward.

Ms. Duensing: All right. And I think items three and four are pretty straightforward. The Planning Department will deal with that. Any comment on item five with these marquees? I think it will basically retain the character. So having gone through Colleen’s recommendations point-by-point, would somebody like to put forth a motion to accept?

Ms. Suyama: Excuse me, the light fixtures?

Ms. Duensing: Okay, sorry.

Mr. Fredericksen: Would that be no. 7?

Ms. Suyama: We should make a “1f.” Do you approve of the fixtures or you want them to do something else?

Ms. Duensing: Why don’t we take that from your original point no. 4 on page 7, “The use of the brass cylindrical spotlights are not identified as a recommended fixture for signs?”

Mr. Fredericksen: Would that be “1f?”

Ms. Duensing: Yeah.

Mr. Westerberg: I would point out that the guidelines only call for a recessed light within the existing canopy and that’s the area that we did not want to construct in to because it is noncompliant. That’s the only reason that we are presenting a bracket-mounted light. Personally I would say that a bracket-mounted light almost has a historic-looking character than a recessed light within a soffit. Is it the finish?

Ms. Duensing: Colleen, did you come up with a recommendation on that?

Ms. Suyama: Not at this time. In the design guidelines, there’s no recommended lighting. They mostly recommend recessed, period. The only one is the little spot light, but it’s real small. Is there a way you could find a way of concealing the lights?

Ms. Duensing: We got that small spotlight in there. That would be less obtrusive than what’s being proposed and you probably need fewer of them.

Ms. Suyama: Yeah, a small spot light would actually point towards a hanging sign.

Ms. Cua: One thing to remember is that the lighting that was identified in the design guidelines, and I speak up only because I was heavily involved, we went out and took photographs based on what was there, for the most part. And so, there wasn't a lot of instances where these types of fixtures were used to light signs. And so, maybe had we had available more options, there would've been more options to choose. I don't necessarily think they're precluded. And I think that's why our department didn't necessarily make a recommendation. We're not precluded from choosing something like that. And I sort of agree with what the applicant a little bit saying that, yeah, it does give you an appearance of being a little bit more historic than a recessed fixture, but brass is definitely not—

Ms. Duensing: Brass isn't historic. And I think one of Colleen's earlier comments was also that the number of lights were overwhelming. It is a problem. I think personally if I had to spotlight it, I would want a more unobtrusive spotlight like what we have in the design guidelines. Even though that's not historic either, it is less obtrusive. Perhaps we could use fewer of something like that and mount them in the right position so it wouldn't be so noticeable.

Mr. Westerberg: The lights that are in there are actually for building fascia signs and not for sign spotlighting.

Mr. Whelchel: The sign guidelines are for spot lights, recessed.

Mr. Westerberg: Yeah, but the only thing they're showing really as preferred lighting is recessed lights. (Inaudible)...very tiny little contemporary light fixture...(inaudible)...

Ms. Duensing: We don't have alternatives anyway in the sign design guidelines right now, but this item needs to be further researched for something that is appropriate and workable for that building, and brought back to us or to the planner at a later time. And I think we can agree on the rest of the recommendations which were well researched and go along with the guidelines.

Ms. Suyama: Right, so why don't we just leave the issue of the lights for the sign to be discussed and we can get together with the applicant?

Ms. Duensing: Perhaps if you can find some more lights that would suit your purpose, and not appear so contemporary, but at the same time, not as flamboyant like brass, which would not have been used in Lahaina during that building age.

Mr. Westerberg: We're not tied to the brass at all. If that fixture comes in other finishes, or if it can be painted, we're certainly willing to do that. We're not trying to highlight the light itself. We are trying to make it be inconspicuous.

Ms. Duensing: Yes, something less conspicuous and fewer in numbers would be the goal as well, as Colleen said earlier.

Ms. Suyama: We'll work with the applicant.

Ms. Duensing: Okay. So on that, could we have a motion in the recommendations that the applicant will come back and work with staff to address the lighting issues, but we would approve the rest of the recommendations?

Ms. Suyama: The only thing I need to clarify is if this is acceptable to the Commission as to meeting the guidelines. Okay.

Mr. Westerberg: And if I may? We're talking about the alternate stone at this point as opposed to the one that's on the board?

Ms. Duensing: We're talking about the recommendation to use the coral aggregate. We're going by the book on this one. Do I have a motion?

It was moved by Ms. Sablas, seconded by Mr. Pa, then unanimously

VOTED: to approve the Planning Department's recommendation as discussed.

2. ADVISORY REVIEW - None

3. DEMOLITION PERMITS

1. Planning Department requesting comments on the demolition permit by Lokahi Pacific for the 62 Market Street Building at TMK: 3-4-012: 022 (por.), Wailuku, Island of Maui. The demolition permit includes the partial demolition of an existing office building. (A. Cua)

Ms. Cua: Madame Chair, members of the Commission, the Planning Department is bringing this demolition request to you for comments. This project is located within the Wailuku redevelopment area and is adjacent to the Iao Theater. What you got in your agenda were some photographs. And I just sent you the original photographs that we got. I'm passing that around. But you can see, I think all of you can identify with that building.

The historic resources inventory form was prepared. And all of this information was sent over to the State Historic Preservation Division. The SHPD, as part of the

environmental assessment process of which the applicant went through, did a comment letter commenting on the archaeological inventory report that was prepared. And they issued a no effect letter, basically. However, the demolition of the building was not addressed in that letter. It was addressed separately. What they're doing is demolishing the majority of the building, but they're looking to retain the front facade.

Ms. Duensing: So an architect at SHPD has not seen this project yet?

Ms. Cua: No, they have.

Ms. Duensing: But we don't have a letter from them?

Ms. Cua: We don't have a letter from them yet. I spoke with Tonia this morning. They have the plans. They haven't issued a letter yet. In speaking with Tonia, they feel that overall this is a very good project in that it is helping to revitalize Wailuku Town. They appreciate the fact that the front facade is being retained. They did indicate that because Federal funding is being used for this project, it has to comply with Section 106 and that has not been done yet. They're in the process of doing that. The applicant is going to prepare a memorandum of agreement. In speaking with Tonia this morning, the CRC, I guess the Chair, would have to sign off on that memorandum of agreement. So she asked today when we discussed this project that you could indicate or maybe designate the Chair to sign this memorandum of agreement when it's completed by both parties.

So again it's not a requirement for them to come before you. As part of our report that we're preparing to the Maui Redevelopment Agency, I wanted to have some comments come from this body to include in my report. That item has not yet been scheduled for Maui Redevelopment Agency approval. It may go in April or it may go in May. So with that, we have the architect's representative here to address you.

Mr. Will McThewson: Good morning. I'm Will McThewson with Maui Architectural Group. I think this project was described adequately enough. So I'm making myself available for any questions that you may have.

Mr. Fredericksen: In terms of the existing building, is the footprint going to be changed or altered?

Mr. McThewson: Yes, it'll have a larger footprint.

Mr. Fredericksen: That's obviously because of the back end?

Mr. McThewson: Right. It ties into an overall plan. The County's putting in a parking lot to service the whole Market Street area. This actually was one property along with Iao

Theater that the County built a parking lot around that and...(inaudible)...

Mr. Fredericksen: Could you just let the Commission know what the building is going to be used for?

Mr. McThewson: Lokahi is a nonprofit organization. They have a long term lease from the County. The idea there is we have four HUD apartments, low-income housing. And the rest of it is...(inaudible)...businesses. They want to help people start cafes, start restaurants. And then research and find other kinds of businesses they can serve Maui County and provide employment. (Inaudible) So the basic idea is...(inaudible)...business.

Mr. Fredericksen: I'd just like to say as an individual that I really support the concept and what they're doing.

Ms. Duensing: Any other comments?

Mr. Fredericksen: I have a question. Regarding the facade, have you folks evaluated it? Is it structurally sound to keep it?

Mr. McThewson: I think that there's a little more evaluation to go along as we get into it. I went in and poked around myself. And I got several demolition contractors take a look at it and add their comments. We have a plastered facade with wood frame behind. The bottom is cast concrete and it appears to have reinforcing in it. So I think that by adding structure to it, it can be retained. I'm sure that the wood frame behind that upper plastered area needs to do what's called...(inaudible)...new construction up to it. And it really...(inaudible)... So the structural engineer is going to be asked to be a little inventive there also.

Ms. Duensing: What's going to happen is they're going to start the demolition and find out the facade is not structural enough to go along with it. Is that a possibility?

Mr. McThewson: I'm sure that the bottom half, the cast concrete, isn't going to be a problem. I think that if we need to add anything to a lateral...(inaudible)...it would be steel...(inaudible)...bolted into the back side.

Mr. Fredericksen: So it's doable?

Mr. McThewson: Yes.

Mr. Pa: (Inaudible) Do you know how long ago the operation took place?

Mr. McThewson: We have pretty limited history on the building. And it's unfortunate

because there's quite a rich history of the Lao Theater. (Inaudible)

Ms. Duensing: Are there any other comments to add to this project?

Mr. Fredericksen: I just want to say again that the goals of the project are very good.

Ms. Duensing: I agree with you, Erik, although I'm hesitant to support what architectural historians in the Mainland call a facade-ectomy in favor of a large development because this is what this is. And as a professional, I'm hesitant to support it because I don't want to see this happen to every other building on the streets of Wailuku. I like to see preservation and renovations going on rather than reconstruction because it's a nice little building and a lot of Wailuku's historic integrity has already been lost. And this is just one more step along the road.

And the other thing is, I wish we had something in writing from an SHPD architect. I feel kind of uncomfortable making a recommendation without at least having that in writing.

Mr. Fredericksen: I don't think we should make a recommendation until we get SHPD's response, but they're probably going to say come to the CRC.

Ms. Cua: Like I said, I did talk to Tonia this morning. And she did say that one of her comments would be that they come before the CRC. We anticipated that and we were just trying to move – because you only meet once a month, we knew the demolition permit was sent to them, but we cannot control when they comment. We just wanted to get it on the agenda to try and at least move the project along. But I did speak with Tonia, and she did indicate that overall, they do not have a problem with this. They are going to come out with a letter. In their letter, they are going to say that it should go to CRC to talk about the memorandum of agreement. And at today's meeting to make sure that the Commission is aware that this is forthcoming and that maybe you can designate the Chair to be the person to sign on that memorandum of agreement. So she did indicate what she planned to say in the letter.

Ms. Duensing: How do the other Commissioners feel about moving ahead on this without getting comments or guidance from SHPD?

Mr. Pa: I feel that we shouldn't take action until we get comments from SHPD.

Ms. Cua: Just a reminder, you're providing comments. You're not taking action, but you need to feel comfortable with the comments you provide. Tonia did not say when she anticipates getting those comments, but if the Commission desires to wait, then we would put it on the agenda next time.

Mr. Fredericksen: You mentioned a demolition permit. Where is that in all of this?

Ms. Cua: They requested a demolition permit, but the permit would not be issued until the Maui Redevelopment Agency approves this project first. We would want to get comments before we go to the Maui Redevelopment Agency. Us being here today is working towards trying to get this scheduled with the Maui Redevelopment Agency. We understand that the project is under some fiscal constraints and I don't know if Will would be able to go into that. But they've telling us that they need to get schedule this because the funds need to be encumbered.

Mr. McThewson: I don't know when they lose the funding, but there are some grant money that's lost if they don't get a permit to start some sort of construction activity. Apparently, that locks the money. So they've requested that we pursue our demolition permit prior to the construction permit just so they can keep the funding on track.

Mr. Fredericksen: What sort of grant?

Mr. McThewson: I don't even know.

Ms. Cua: Well, it says here under the publication form that funding for the project will be provided through grants from U.S. Department of Housing and Urban Development, U.S. Department of Commerce, Economic Development Administration, and private foundations, and others. And the estimated cost of the project is almost a million dollars.

Ms. Sablas: Were there any comments from the neighboring areas?

Ms. Cua: No, I have not gotten any comments.

Ms. Duensing: Do we have anybody that would like to give public testimony? All right, then is it the will of the Commission to defer this item pending the SHPD letter or come up with our own comments?

Ms. Sablas: I'm kind of like Erik because I'm familiar with the goals of this organization and they're community-oriented. And I certainly wouldn't want us to be holding back some of the grants. I'm comfortable with Ann's discussion which she had with SHPD. I was concerned if there were neighboring comments because this is another one of those old time buildings there, and I wondered if there were any comments from the neighbors, but we haven't heard any. So I guess what I'm saying again is that I wouldn't want to hold it back if they're going to lose grants.

Ms. Cua: The way SHPD's letter was written – they wrote two letters that was included in the environmental assessment: one was to the archaeologist and one was to the Department of Housing and Human Concerns. In one of the letters it says:

Based on the submitted draft environmental assessment, we understand that the proposed undertaking consists of the construction of a new two and three-story building on a 4,571 square foot lot to be located at 62 Market Street.

So in reading that, you know they had an understanding that there's going to be a new building there, but then the letter goes on to talk about the archaeological report. And in looking at the letter, I just felt that because they didn't really address the demolition, that's why I brought it here. And the applicant's position understandably is that the letter does say— They are aware. They've commented on this whole EA. So this is an issue that they've reviewed. I don't know if that helps your comfort level a little bit.

Ms. Duensing: Actually, Ann, that lessens it. I understand what you're saying, but what's happening in SHPD now is there are lots of buildings that are being reviewed by archaeologists. And we had this happen last month with the Hana Highway when there was an anticipated FONSI issued because there were no historic resources in the area because the archaeologist that reviewed the project didn't even know that the Hana Belt Road was listed on the National Register. And that's the concern is that the appropriate people in SHPD are not reviewing the projects and writing the letters.

Ms. Cua: And actually, in looking back, the staff person involved in these letters – one letter was from Melissa, and the other letter was Cathleen Dagher, but I am dealing with Tonia Moy on this demolition.

Ms. Duensing: I have been talking to Tonia about making sure that the appropriate person reviews these things because basically what happened last month was they said Hana Highway was not a historic resource. So we need to keep on top of SHPD on how they do things, too.

Mr. Pa: Is there a time line that you need to use the grants?

Mr. McThewson: I'm not sure when the funding cutoff is. It's probably a month from now.

Ms. Cua: Yeah, I think in some of the discussions that I had were that some of the monies were in jeopardy by June 30th.

Mr. Fredericksen: That's kind of a quick deadline if we're going to be deferring this. Unless some of the Commissioners have a strong disagreement, I would feel uncomfortable about kind of putting up a – it's not exactly a roadblock, but it's certainly a delay.

Ms. Duensing: So if we are to provide our comments, what should they be? I think

obviously the first one would be that we support the goals of this project by Lokahi Pacific because we all know the great work they do for our communities. On the other hand, I think we should encourage rehabilitation/renovation of historic buildings; not demolition/reconstruction of something that is going to look a fake of something historic. I'd rather have that point be made before, well, thanks for keeping the facade.

Mr. McThewson: I do agree. I like historic buildings also. One of our concerns there not only that the small size of it, but the construction of the building. If you were to restore that, it would be replaced anyway. So you would be putting something new back in place of what was there. Hollow clay tile, I don't think we can reinforce it in anyway. And it's downright scary and the building probably would be condemned if anybody from the Building Department went over there. But walking around in there is kind of scary. You think the floors are going to give way. So there's really no restoration behind the facade unless you were to rebuilt in-like kind of what's there.

Ms. Duensing: It's still an important point for this Commission to make, though, because I don't think we should be leading the Maui Redevelopment Agency into it's okay for this building, so we should be able to do this to other buildings along the street, too. So regardless of the condition that the building is in, it's still an important point, but thank you for your comments.

Mr. Kapu: Were there any comments from the State Historic Preservation pertaining to the demolition permit?

Ms. Cua: Not yet.

Ms. Duensing: I think that's what we were discussing was how comfortable we feel going along without SHPD's advice. And I think the majority of the Commission decided that we would go ahead and make our comments offering what we have.

Mr. Fredericksen: We could request that in the future if any buildings are involved in some sort of an archaeological inventory survey that the architectural branch of SHPD be brought into the loop sooner rather than later.

Ms. Duensing: Yeah, that might be a good idea to address in a separate letter to SHPD and point out this continuing problem.

Mr. Fredericksen: And I'm not trying to jump all over SHPD. I mean, they've got their hands full, too, but I think this isn't the only time that we've had this situation.

Ms. Cua: In this particular case, though, it would've just been circulation of the draft EA. I mean, the applicant did, technically, what they supposed to. They prepared an environmental assessment addressing the impacts indicating what the project is. We

got two letters from SHPD.

Ms. Duensing: The problem lies with SHPD. We understand that and we'd like to point that out to them. So I think at this point we have three comments on the project. I had another suggestion if the Commission would like to consider this is that because it is a complete reconstruction, it might be something nice to include in the final building, even though we don't have the exact history of the building, we know a whole lot about it, but some kind of a small display or a plaque saying that this building was reconstructed in 2003 using the original facade to make it clear to the public that this is not a historic building and they're not trying to fool anybody. So that might be a recommendation as well.

Mr. Fredericksen: And also insert information on approximately when the original building was constructed.

Ms. Duensing: Yeah, tell a little bit about what we know about the building, and its neighborhood, and what happened to this building in 2003.

Ms. Cua: So if I could summarize your four comments? One, you basically support the goals of Lokahi Pacific as an organization because we're familiar with the work that this organization has done for the community. Secondly, that the Market Street facade of the building be retained as was represented. And then, you want a statement about that the Commission encourages rehabilitation and restoration of a building versus demolition and reconstruction of buildings.

Mr. Fredericksen: How about if we reverse those so that the facade comes after the—? If it all possible, keep the building and renovate.

Ms. Cua: Okay. And then, your fourth comment that as part of the project's construction that there shall be included in the building a small display or plaque which would discuss the history of the building and it's 2003 construction.

Ms. Duensing: You could just put note the history of the building, the neighborhood, and the 2003 reconstruction.

Ms. Cua: Okay.

Ms. Duensing: Thank you.

G. UNFINISHED BUSINESS

1. MR. GILBERT COLOMA-AGARAN, Director of the DEPARTMENT OF

PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT requesting comments on the draft Memorandum of Agreement for the Waiohonu Bridge Replacement Project in order to retain the single lane design, the vertical balustrade-type railings and the concrete railing caps in the vicinity of Waiohonu Stream approximately 3.5 miles south of Hana Town at TMK: 1-4-012: 019, 1-4-012: 002, and 1-4-012: 016, Hana, Island of Maui. (SM1 2002/0025) (R. Loudermilk) (Deferred at the March meeting)

Ms. Duensing: Before we get started, Robyn, we have two new Commission members who were not here prior to this meeting.

Ms. Robyn Loudermilk: We can do a brief presentation. And I need to check to see what was submitted at the last meeting in terms of documentation.

Mr. Fredericksen: Just so they can see.

Ms. Loudermilk: We do have the project engineers and Public Works that can do a brief overview.

Mr. Fredericksen: Dawn, while they're looking at it, why don't you talk story about the Hana Belt Road, if you don't mind?

Ms. Duensing: Well, hopefully, you both know that the bridges on the Hana Highway, 13 of them are in the County's jurisdiction between Hana and Kipahulu. And about five years ago, the County came up with a proposal to start replacing these bridges with 30-foot wide bridges, the average Hana bridge being about 15 to 16 feet wide. And we've been working with the County over the last five years to try to come up with alternate proposals to keep the one-lane character of the bridges. And finally, last year the Federal Highway Administration agreed to support the replacement of Maui County bridges with funding that would allow us to replace them with 16-foot wide bridges so that we could replicate what was along the Hana Highway. We'd make them just slightly wider.

At this point, the Department of Public Works has come in and got small SMA permits for three bridges to replace. And this would be the fourth bridge to replace. Last month we sent a letter. Who did the letter go to? The Planning Commission?

Ms. Loudermilk: To the Director of Public Works.

Ms. Duensing: Okay. We discussed this issue last month. And the Commission continues to support the renovation rather than the reconstruction of bridges by

demolition and putting up new ones. And one of the items that we discussed at length last month was that if we continue to demolish the bridges, we will lose the historic integrity of the road even while we try to preserve the character of the road by building one-lane bridges. And one possibility is if we keep moving along this way, we will have to remove that section of the road from the National Register of Historic Places which this Commission worked very hard to get the road listed on the National Register, and that was just in 2001. So we are trying to work towards rehabilitation and keeping as many bridges as we can. And at this point, we're still being asked to sign another memorandum of agreement for the replacement of a bridge.

Ms. Loudermilk: Correct and that's where I step in. We did not discuss the MOA at length last month as we wanted some additional information from FHWA in terms of the role that the CRC plays in regards to the memorandum of agreement. I am pleased to have Ms. KaiNani Kraut from the Federal Highways Administration's Honolulu Office here today. And she'll do a brief presentation regarding the MOA process itself. And then from that, we'll go forward.

Ms. Kraut: Good morning or good afternoon. I'm really not prepared for this presentation because Robyn didn't tell me I was supposed to do it until I walked over to see her this morning. So this is off from what I know about 106.

Okay, so just briefly, because of the Federal action, and I heard you guys talking about the HUD and that money being used, whenever there's a Federal action, it becomes the Federal agency's responsibility to look at the effects of their action. In this case, any contacts with historical resources. So if anything's eligible or on the Historic Register, and if you were doing something, for instance, in this case, destroying it, that's an adverse effect. So there's all these different effects. There's a no effect if you are just painting it, say. The building or the bridge is still going to be there, that would be a no effect call. So it is a Federal agency's responsibility to make that call. We make the determination and then send that determination to SHPO. And then, SHPO concurs with that determination. And I heard the woman over here talking about a letter that came back that said no effect. So it's really the Federal's agency responsibility, this whole process.

In this instance, to get back to what's going on with this bridge, we are proposing to replace the bridge because of its structural integrity, the safety issues involved with this bridge, and because Hana Highway is a vital link to Hana without the bridges there. I was originally a structural engineer, so it was always like the bridges really connect the roadway, a very important part. So without this bridge, or something structurally happens because of the integrity of the bridge, we would be cutting off that community.

So the proposal right now is to replace the bridge in the historical context that it can be replaced, because that is an adverse effect because it's taking the bridge, it's the

Federal Highway's responsibility to enter into a memorandum of agreement. We notify the Advisory Council, which is in Lakewood, Colorado. And they have 15 days to respond to the request for participation in the memorandum of agreement. In most cases, they only participate in very controversial things or nationally-significant things. In this case, they probably will not participate. So it would be our responsibility to execute the MOA. We would be signatories along with the SHPO's office according to Section 106. Those are the two signatories.

And my comment on the MOA when I spoke with Robyn, I had wanted to make sure she had brought this to your attention that in the past, the CRC has been recognized as an invited signatory. When you look at the regulations and in my practice coming from Colorado and Illinois, only recognized tribes have been invited signatories. So in Hawai'i, the only invited signatory is OHA. All the other government entities which this is kind of a public government entity, they are concurring parties. So that was my one comment for the MOA. And I wanted to make sure you guys understood your role as a consulting party. The State and the County are considered consulting parties so they are not invited signatories. And I'm not sure what happened in the past. On Mokulele, we have the same situation. We're in the process of finishing up the MOA for that action. And on that, you will also be a concurring party. So that is a brief and quick review of 106.

The distinction between the two is Federal Highways has the responsibility to execute, amend, or terminate the MOA, as well as the other signatories which would be SHPO or the National Advisory Council. Invited parties are given that same power. Consulting parties are not. So an invited party could amend or terminate an MOA. And usually that occurs especially on Native American tribal land. Because there's a government to government relationship with Native Americans, they are given that status because on those lands, they are the ruling authority. So in those situations, they are invited signatories usually because they are in charge of the land. Here, with Native Hawaiian cultural resources, I haven't entered into one where that happened, OHA would be an invited signatory because that is their responsibility. They are the Native Hawaiian recognized tribe here. Because there is no, like, Navajo, there isn't a Native Hawaiian recognized tribe, OHA takes that role.

Mr. Pa: Would you define – I think you used the word “concurring” party?

Ms. Kraut: The consulting party. The consulting party basically has the rights of reviewing and you also have a signatory right. What goes along with that is very little. So there's a definition. It talks about concurrence by other official agency may invite all consulting parties to concur in the memorandum of agreement. Signatories may agree to invite other signatories. A refusal of any party invited to concur with the memorandum of agreement does not invalidate the memorandum of agreement.

Mr. Fredericksen: I just have a comment and I guess it would be a concern, too. It's kind of— This is the County of Maui and we're the County Cultural Resources Commission. And we're basically, it seems, excised from ultimately, the process, in terms of not being able to be thought of as a signatory party or whatever.

Ms. Kraut: You could be a consulting party which is the County Public Works is. Or like when we do a State DOT project, the State DOT is a consulting party. So you'll have the same status as the other local government entities. You don't have the same status as the Federal government. That's the difference.

Mr. Fredericksen: I understand that. Like I said, it's a comment. And maybe that's what it is because there's Federal money involved and that's how it's panned out. It's just a comment I have just sitting on the Commission.

Mr. Lloyd Lee: Lloyd Lee from Public Works. What it is basically is we become an advisory agency instead of a mandated agency. In other words, we review the MOA. We review the project. We make advisory recommendations to the MOA. And whether the signatory parties, like the Federal Highway Administration, accepts those recommendations or not, they have the final authority.

Ms. Kraut: It's really a technicality because we want your buy-off on this. And I know there's a lot of controversy with the Hana Highway and the bridges going on there. And that's one of the reasons I wanted to come to this meeting just to kind of see what your feel was. I've heard what it is. And I've seen it on different letters and comments. And I know they have the preservation plan, and I was under the assumption that you were involved with that, and that it was a bad assumption.

So this is one MOA that's happening. If there's a discussion on why this is all happening, or if I know that you have a lot of questions as far as the upcoming projects, I want to make sure that you know I'm a resource for you guys to come to, or invite to these meetings, if you need a clarification on anything. This, to me, this little signatory thing is kind of a technicality. I don't know. I would have to check to see what you are on the other MOAs that are going on. But as far as Federal Highways, in my past experience, you should be a consulting party.

Ms. Duensing: I'm going to be quite straightforward and blunt as I have been on this issue before. We have sent letters saying that we support rehabilitation over reconstruction. We understand the problems between maintenance of a 1926 road, and earlier bridges in many cases, and we are flying down the path to removing the majority of our County's 14 bridges in a small ten-mile area of the Hana Belt Road which is on the National Register.

I said last month that I think we need to slow down and see what happens with the three

bridges that are already underway. And we really need to get an action plan so we can protect the rest of the road and figure out some way to rehabilitate these. And by signing a memorandum of agreement, I feel like we send our letters to the Planning Commission, which goes out and gives the SMA permits to the County to go and tear down the bridges even though that's not what we want. It's like this is not what we want, but we'll sign it anyway. And we need to stop right dead in our tracks, and say, no, this isn't what we want. And I don't know how much stronger we have to say that we cannot just continue one-by-one to destroy all these bridges, and not have a historic district.

Ms. Kraut: Your main concern with the bridges is the National Register status?

Ms. Duensing: It's the historic integrity of the bridges because you can tear down the bridge and put up another 16-foot bridge. And it maintains the character of the road; not the historic integrity of the road.

Ms. Kraut: So you're not worried about the Register?

Ms. Duensing: Oh, sure, we're worried about the Register because eventually it's going to be taken off the Register if we continue along this path.

Ms. Kraut: I guess that was the clarification I needed.

Ms. Duensing: And the Register is just an honorary thing, but it does clarify and emphasize the importance of this road to America's history and heritage.

Ms. Kraut: I understand where you're coming from as far as that goes. And looking at the flip side of the safety issue, and it being a vital link, from the information I've gotten as far as this bridge, I wasn't involved in the other bridges, having the structural background, those bridges are ready to fall down. And rehab is really not an option for this bridge. Like I said, I've only looked at this bridge. So that's where it goes to, do we rehab something where you're not going to get a good solution, and you have ten bridges on – what is the mileage on the Hana Highway?

Mr. Lee: The County's portion is about ten miles.

Ms. Kraut: But it's the whole thing that's listed. And it's the whole thing that's the cultural integrity.

Mr. Lee: That is correct. You're looking at about 65 miles.

Ms. Kraut: So I guess I would like to take a look at the whole thing as a whole. And if the integrity of this highway – say the bridges fall down, or somebody dies out there

because half the bridges are going, or there's a huge flood where it overtops and that takes out the structure. So there's the two sides of it. And I understand you want to preserve it. And I think that's why it's important to preserve as much as possible. But every one of these bridges isn't going to be able to be preserved. And we're looking at the County. That's true. We don't know what's going on with the State side as far as I know. I don't know what they're planning to do with their bridges or what's going on. So I guess I would urge everyone involved to look at it as a whole. These ten bridges, even though they're one at a time being replaced are also very important to the continuity of the highway as well. And if you lose one of those because of a hurricane or a huge storm, have you also lost the integrity of the highway? So is it better to keep the highway connected and keep it going, rehabbing it, or replacing those bridges and the historical context the best way we can? Or we can— I really don't like those white guardrails. I would much rather see something else up there. So that's the bigger question.

Ms. Haina: KaiNani, as a member of the community born and raised in Hana, we don't believe in destroying things. We believe in rehabilitation. And I think if the people in the Planning Department would look at the situation and try to work out something. Living in Hana and living in the Mainland, the connection to the bridge from home is different from you. It's like breaking an arm. You tear it down and it's like losing an arm. Those are my feelings because I was born and raised there. It's really hard because it's the older people that we call "kupunas" that come by. Everything in Hana is beautiful to the kupunas that live there. They come down. They cross the bridge. And they also have memories from the old days. And I understand the situation of safety, but if we can try to look into trying to rehabilitate. If it cannot be done, then demolition is okay. But just to go there and break it down, you're going to start breaking all the bridges down without looking at what we can do. And on the Commission, I have learned a lot. I've only been on for a little while and I've learned a lot. And I ask that if you can figure it out. I know safety is an issue, but it needs to be looked into a little bit more.

Ms. Kraut: I agree with you. Not having been involved with a lot of other structures that have gone on there, and looking at the discussion that they had for the rehabilitation, I believe it was very poor. And so maybe what you know up to this point says that there may be other options. And I'm not saying in the future for the other bridges there wouldn't be options. I don't have the information for those bridges yet. For this bridge, I don't think there's an option. But because I am involved with this now, and hopefully will be a resource for you for future concerns, I am hoping to push the County more towards rehabilitation. The fiber wrap stuff is not an option. This bridge is just so far gone. And that's one of the reasons I come here once a month to get familiar with this stuff. And Hana is the only part I really need to go and look at. And I want to check out the bridges over there to make sure that we're getting a realistic view of what can be done out there. And we will look into that kind of stuff. But what I know about this bridge, it is not a realistic option.

Ms. Haina: If nothing can be done, then—

Ms. Kraut: Well, in the future EAs, I really want to have a discussion of the cumulative impacts because it seems like it's a huge concern from everyone that commented. Because this one was already done, I wasn't involved, on the next EA, there will be a better cumulative impact discussion not only with the County actions, but cumulative impacts should look at County, State, private, public, anything that goes on on a highway.

Ms. Duensing: We've been saying this for years because you get all these different impacts on these two portions, but it's one contiguous road.

Ms. Kraut: Right. And that is why the Federal government is responsible for doing a cumulative impact analysis because the private industry doesn't have to. The State really doesn't have to. So when the Federal comes in, it's our responsibility to look at the cumulative impacts on what's going on. So it's not just this one we're looking at.

Ms. Duensing: So will the FHWA be doing that, then, in the future? Can we expect that?

Ms. Kraut: I will. If it's not happening, call me.

Ms. Duensing: I will.

Mr. Fredericksen: I'm glad we have someone from the Feds here because to me it's kind of been this gray issue. One of the important issues that the County's grappling with is how to do it nuts and bolts. When Lloyd Lee last month was talking about funding, there's Federal funding that seems it favors demolishing something instead of trying to see if there is a workable solution. And maybe this bridge is not workable but there could be other bridges where it is workable. But if the County is getting 50 grand to work it, then it's not going to work. The County can't put out a million bucks or whatever it happens to be for the bridge. I'm not a Federal employee. I don't know all the ins and outs, but if you have any creative ideas on how the County – I'm sure there's instances where it could be workable, but how they could procure Federal funds and receive those. Because it seems like it's almost an incentive to demolish because otherwise, the County can't afford to do anything.

Ms. Kraut: We're looking into that right now. It's more of a Statewide issue. And it was actually amazing to me that the Hana Highway got the approval to do the one-lane because I noticed that in your response letter from the CRC on the SMA application it discussed wanting standards that were appropriate for historic districts or historic roads. And it's a shame because for what you have so much visually and historically that needs to be preserved that the State doesn't do it. There's a lot of legislation, a lot of

politics, a lot of lobbying that's involved in that larger issue. So we are in the process of working on that, but it's opening a huge can of worms that we're taking one at a time in trying to do something there because there's so much that can be done, has been done in other places, but there's liability issues that are here. If someone's driving drunk on a highway and hits a rail, the County's liable, the State's liable, because of this greater issue that's going on. So we are working on getting something, historically concepts, sensitive design kind of thing.

And as far as the rehabilitation part, I don't know where that discussion came from. We will participate if there's any...(inaudible)...rehab. If you're doing a super structure rehab because of the danger of falling down, and they're going to rehab this whole structure, and we are improving the state of the bridge, we're not just putting back something that's going to fall down, we're going to be putting something back that has integrity – well, the function is going to be limited by the one-lane anyway, but as long as we're putting something better, and we can show that it's good use of Federal funds, we can participate in that. So as far as the past argument that's gone on, like I said, I'm not sure. I wasn't here, but I'm here now and we would participate in things when you're redoing a super structure. And we may not on these bridges be able to save the whole thing. When you're talking rehab, you may be keeping 25% of it, but that may be the best we can do, and we'll definitely explore those options.

Mr. Fredericksen: That's encouraging to hear.

Ms. Duensing: Well, I'd like to be encouraged by working on the standards for historic roads, but we've had a lot of lip service to that in the last four years so I hope it really happens. There's other states that have done it and there's no reason why here we shouldn't.

Ms. Kraut: I know. The best thing you can do is get a policy through. It's got to be a legislative thing. It's got to be a lawmaking thing because everybody's scared to death...(inaudible)... And there are people screaming about it, but you need the important people that can the decisions, to change stuff, and your legislature can change things.

Mr. Lee: KaiNani, I guess the Chairperson had some concerns as far as replacing the bridges in its entirety or as a whole. In our discussions this morning, you mentioned you talked to Tonia from SHPO, because they control listing roadway systems in historic districts. Maybe you can comment to this Commission as far as what they said about the roadway.

Ms. Kraut: (Inaudible)...historical integrity or whatever because I saw a lot of those comments in the SMA application about the de-listing. I spoke with Tonia. I want to look into it more. And I definitely want to get a definitive answer for the next cumulative

impact analysis. But what she spoke of was that the SHPO is the one that goes into de-listing. And that they would not do that as long as the County is proceeding in accordance with the preservation plan. So as long as they're replacing the bridges within that historical context, the SHPO would not go after de-listing. She also made the analogy to a building. If you have a building and they're redoing the shingling on the building, or the facade of the building, but keeping the building intact that does not take away from the structural integrity or the historic context of that. This is one person I spoke to. I want to get the opinion of the Advisory Council in Lakewood as well as our historians in Washington. But that was just a conversation yesterday because I wanted to see if we could clarify that de-listing thing.

Ms. Duensing: And that's why I clarified that the historic integrity is more important than the listing. Listing is just an honor, but the integrity is something that cannot be replaced. But again, getting back to our original point is we're very concerned at the great speed this is all going. And one other point I might make is that I certainly don't – and I think a lot of the Commissioners agree with me – I don't think this is a preservation plan. It's a replacement plan. And we spoke out very strongly against that plan being accepted. And I think some of us feel very strongly that the SHPD went ahead and approved it anyway even though that's not what this Commission and that's not what the Maui community wanted.

Ms. Kraut: Well, maybe as we go into other projects, maybe it would be appropriate to sit down with SHPO to figure out if there is a consensus or a way to come to some solution so that everybody would be amicable about.

Mr. Kapu: I remember this same – well, it wasn't exactly this same project, but it was based on the fiber optic cable that was going on the bridges and stuff. And in that meeting it was about, gee, almost a year ago, the great concern was pertaining to when they started putting in those fiber cables to – be cautious about the bridges. Now, it sort of shocks me now today to find out that from that fiber optics installation now replacing...(inaudible)...on Hana Highway. I just want to know pertaining to – you said that the Office of Hawaiian Affairs was one of those that would be signing the MOA?

Ms. Kraut: If it's appropriate. In this case, it's not.

Mr. Kapu: So who basically would take the place of like you were saying in America, you have Native Indians that would be a part of this because it's on a national historic preservation? Who would basically be the ones to be a part of this MOA?

Ms. Kraut: The Section 106 process, I was talking about in general, so that anything that's historic or eligible for the National Register, it wouldn't have to be registered, but in this case you have something that is registered, if you had something say on a Navajo reservation that was registered, because it's on their land within their

jurisdiction, because Navajos have that government sovereignty, they would be the appropriate party. So in this case, because it's a highway, it's a historic highway, the only signatories would be the Federal Highways and SHPO, and everybody else would be considered a consulting party. OHA would not be involved because they don't really have jurisdiction over a highway or a bridge.

Mr. Lee: That determination what we call "standing" is you have to have standing to be a signatory. And OHA in this case does not have standing on the highway.

Mr. Kapu: I'm just getting back to it was mentioned that OHA might be a signatory.

Ms. Kraut: Yeah, and the only ones that would be in this case, invited signatories, would be OHA, if it was appropriate. And like I said, I haven't worked with any of those MOAs yet, so I'm not sure on the specifics.

Mr. Lee: For your information, KaiNani, basically where OHA would get involved is through Hawaiian Homelands. And we do send some highways through DHHL, so they would be the signatories for those types of actions. But right now, this is not considered Hawaiian Homelands so they're not invited to be a signatory.

Ms. Kraut: It's a very rare case when you have other people besides the governmental signatories to be invited.

Ms. Duensing: Do we have any public testimony on this?

Ms. Jo-Ann Ahuna: Aloha, Jo-Ann Ahuna. I have a question for you. I know you mentioned a lot about safety and the reason the bridges need to be safe. If safety is such a high issue or high concern, why don't we have enforcement on the weight limit of these bridges for prevention? If we continue to have those heavy trucks crossing over these bridges, then that takes away. So if this safety is the concern, then where is the enforcement?

Mr. Lee: Basically, that's an issue that was brought up years ago when we started to take action as far as the Hana bridges as far as weight control. Of course, the enforcement agency is the State Department. And they don't have people who stand by the bridge and check each truck. But the issue was with the previous Mayor Linda Lingle's time, and even before her whether the bridge's structural integrity was critical, and the County said, yes. And the recommendation from the Department of Transportation from their own structural bridge engineer was to close the road because the bridge is very critical. It was a decision by the Mayor to accept the risk and leave the road open as is. And what we did we did some preliminary analysis to post new signs which had weight limitations. Some of the bridges now are like a three-ton rating, but a car weighs three tons, and a bus exceeds that limit. There's practically no way

that we can really get out there as far as enforcing weight controls.

Ms. Ahuna: But if it's such a danger because you said somebody dies on the road, then why aren't we trying to prevent all these liabilities or safety issues? There's a prevention piece missing in all of this.

Mr. Lee: That is correct. We mentioned as far as maintenance and enforcement is a major issue. When you're talking about maintenance of the bridges, you're looking at additional staffing, additional money that the County has to generate to maintain the bridges which we don't have.

Ms. Ahuna: But then we're adding money to safety. We're adding money – we don't have money so safety is...(inaudible)...

Mr. Lee: This is why when we did the preservation plan, we knew the County's at risk as far as the safety. We inspect the bridges every year. It's deteriorated to a point where it becomes a safety hazard, and I hate to call it, but it is considered unsafe.

Ms. Ahuna: Then the County should then stop the heavy trucks out here in Huelo and not cross any of the bridges until you decide what you're going to do with the bridges instead of just replacing the bridges. I know that you say that from 28 to 16, but yet the budget this year that's going around got budget – got money in the budget to replace three more bridges.

Mr. Lee: That is correct.

Ms. Ahuna: So to me, if it's so dangerous, we need to get these trucks off the road because those trucks are coming in three, four times a day. There's 15, 20 trucks coming in and out of Hana. Those trucks can at least keep the road safe for regular traffic.

Mr. Lee: I think what you're talking about is the route from Huelo to Hana Town.

Ms. Ahuna: I'm talking about the route from...(inaudible)...to Kahikinui, those trucks. And now there's so many homes being built. There's so many resurfacing of the road. That traffic is in and out of there.

Mr. Lee: That is correct. So basically the County's choice was that we go ahead and like Dawn said, the County moved so fast to replace the bridges primarily because of the risk of the safety.

Ms. Ahuna: Then the County should move real fast and stop the trucks. They should move fast, stop the heavy trucks, keep the road safe for the regular traffic that travel the

road. So if you're from the Federal government, how can you help the enforcement because without enforcement, no matter what you do, it's going to...(inaudible)...?

Ms. Kraut: I understand what you're saying. We have no jurisdiction.

Ms. Duensing: Jo-Ann is right. There is something that the State can do because out on the Hanalei Road, they were sending out guys to check weight because their bridges are even worse than our bridges. And the other thing I found out is the last time I went out in Hana...(inaudible)...they had a tanker truck out there so they could refuel their planes. And that tanker truck took the Hana Highway. And I asked him, "Did you get a permit to do that?" "Oh, yeah, no problem. We get a permit from the State." They could've just told them no way and they could've gone to Kahului to refill. So in some ways, the State's enabling the overweight trucks. And you keep stopping at the State – well, if you do stop them at the State part of the road, they shouldn't get on to the County's portion of the road.

Ms. Ahuna: In Honolulu, they have weigh stations on their freeways to make sure that their trucks are not too heavy on the freeways. So why can't – aren't they same State – to have weigh stations here? Is there a way that the people can make accountable? Sue you guys for not protecting us as far as weigh stations because if they can have weigh stations on freeways, and we're in the same State the last I know, we could have weigh stations here. And if we get weigh stations, and it get's stopped at the State highway, it won't reach the County highway.

Ms. Kraut: These are great points. And I'm going to talk to the State. Federal Highways doesn't have jurisdiction, but I can promote and encourage. And we can start the discussions. Because I have seen another place where there are special decisions where traffic has to be rerouted. In this case, you don't have that option.

Ms. Ahuna: Yeah, but that would help the development to slow down.

Ms. Kraut: So that would be up to the State, or the government agency, or whatever to look into another option, or take on the responsibility that these trucks may push the limit over these bridges and actually cause the destruction of it. So they're taking on the risk with that decision, but unfortunately, there's no other route for them to take. I guess they could make them fly it over or whatever they need to do.

Ms. Ahuna: They could in on the ocean or the airplane. They have other options. It's going to cost them more money, but it won't cost the people dying because that's how these folks have done it.

Ms. Kraut: Right. Like I said, I will discuss it with the State people here on Maui.

Mr. Lee: There is a State law that governs weight of vehicles. Specific in Hana, the weight limitation on the bridge is covered under present law. So technically, if you look at what the law says, the individual vendors whoever is using the overweight truck is required by law to approach State DOT to pick up an overweight permit. A lot of these vendors now have an annual overweight permit that they use. A condition of the permit based on the loads that they permit vehicles is that when they cross over the bridge, they cannot exceed like three miles per hour as far as the travel speed, per se. That's only the condition they have. However, when you have this overweight vehicle something like you have construction equipment going in like dozers and stuff, the provisions of the law requires them to temporarily shore up some of the bridges so they can get their equipment over the bridge. Take, for instance, on our bridge project we're going to do, we have some prestressed girders that was designed that we're planning to haul into Hana over the State bridges. They rejected that proposal saying that they could not use the bridges to take our heavy girders over. So we had to redesign the project to do a post extension which is basically you're constructing your girders in Hana, per se, and then transport it to the areas where you're going to place the girders. So they have laws presently that governs overweight vehicles.

Ms. Ahuna: But the laws don't mean anything without enforcement.

Mr. Lee: That is correct.

Ms. Ahuna: And I drive on this road every day practically in the past three months. And there's two bridges they're replacing Huelo side. And those tractors or equipment that they use is bigger than the bridge. That's kind of scary.

Mr. Lee: I suggest that if you have this knowledge as far as violators, you can take their license number down, and report it to the State DOT, and they will in turn go after the vendors.

Ms. Ahuna: Yeah, that can happen, but what I'm saying is that you're presenting to the public on how bad these bridges are and you must replace it.

Mr. Lee: That's correct.

Ms. Ahuna: Well, as much as we're putting it out there into the public on how bad it's not safe, you should also put out there why it's not, why it's not helping out, the preventive part of it which is all these heavy trucks crossing, and that there's no enforcement. Put that information out, too, to the public. Sorry, public, we don't have enforcement so we cannot prevent the heavy trucks to go across. Let them go across.

Mr. Lee: There's a County ordinance also that handles overweight vehicles. When we post the sign like three tons, five tons, and the vehicles exceed that limit, they're

supposed to get a special permit from the County as well as the State. Now, as far as enforcement, if nobody reports them in as far as violators, we don't have a Police Department and monitor every bridge as far as overweight vehicles.

Ms. Duensing: Jo-Ann—

Ms. Ahuna: I gotta go. I know. I going take Auntie with me.

Ms. Duensing: I think we have the ear of the FHWA now. And these are issues that—

Ms. Ahuna: Thank you very much.

Ms. Duensing: Thank you.

Ms. Haina: Who is responsible for the asphalt on the bridge?

Mr. Lee: If it's a State bridge, State; County bridge, County.

Ms. Haina: Lloyd, are you familiar with Koukouai?

Mr. Lee: Yes.

Ms. Haina: Koukouai is less than a foot high.

Mr. Lee: That is correct.

Ms. Haina: When I was a little girl, I couldn't climb over it. And I was raised in Kipahulu. It was high and I couldn't climb over the side. Now, as I look, I look at all that asphalt that's on that bridge. And if that bridge is that thick, and I think it may have been — that bridge wall I think is about three or four feet, maybe three and a half feet high. Today, it's only one foot. You can imagine all that asphalt. Why do they have to cover the bridge with asphalt when they're resurfacing the road? That's what I would like to know. That also adds to the weight.

Mr. Blaine Kobayashi: Excuse me, Lloyd. I'd just like to direct the Commission's attention back to the business at hand. We have before us an item requesting comments on a draft memorandum of agreement, so I'd like to ask that the Commission please stick to the agenda and address this matter. If you want to take up additional discussion, then you can have that happen at the next meeting as an item on your agenda.

Ms. Duensing: Okay. Thank you.

Mr. Kapu: Is the Burial Council also being considered as part of the discussion? Because as I remember, the Burial Council was included when they started putting the fiber optic cables in about a year ago. When they went to propose the fiber optic cable, they went to the Burial Council also.

(Ms. Haina then left the meeting at 12:55 p.m.)

Mr. Lee: Just to expand on that, we did approach SHPO as far as looking at the preservation sites. And it was found out when they looked at our assessment survey – SHPO looked at it – they basically said “no effect” as far as burial sites. However, for this bridge, the determination they made was that they found a cultural site about 200 yards mauka of the bridge which at first they said we’re going to affect it by the construction. And I turned around and said, no, we’re not going to affect it. So they reversed their ruling and issued a “no effect” as far as cultural sites. And as far as burials, when you’re looking at a situation out in the field, for this particular bridge, the adjacent soil conditions is all blue rock. So the chances of being a burial there is very slim.

Mr. Kapu: The only reason I brought that up is because I remember about a year ago they presented something in front of the Burial Council. So that’s why I remembered. So maybe I thought something was tied into that. And now you’re doing these bridges, so maybe I thought it might have an effect or something.

Ms. Kraut: They might have done it with the fiber cable because there would be some risk in between the bridges. And usually, the conditions aren’t appropriate for burials, but I’m sure you guys went to the Burial Council to ask that.

Ms. Duensing: The archaeological aspects of the project were considered and we did have some discussions.

Mr. Lee: Just to let you know, the standards for fiber optic cables, there’s none on Hana Highway in this area.

Ms. Duensing: So getting back to the MOA, did you have anything you wanted to add on this, Robyn?

Ms. Loudermilk: Nothing to add.

Ms. Duensing: In reviewing this document myself, I just have two points to make. First of all, I wish that the County as well as the FHWA and the State would remember that we’re talking about a historic district, and we should be using the historic name of the road which would be the Hana Belt Road Historic District, not the Hana Highway Historic District.

And under the stipulations, one of the things that we had requested, and I think we put this in our letter that we sent out was that in addition to photo documentation, which is stipulation "1C," according to HAER/HAB standards, we asked for a HAER report to be done on the bridge, not just photographs. That's not enough.

Mr. Pa: May I ask a question? In light of what we heard, the CRC cannot be a signatory on the MOA? I'm looking at no. 4. That needs to be eliminated?

Mr. Kobayashi: If I'm not mistaken, if I recall correctly, that was one of the suggested comments or changes on the document at our last meeting.

Ms. Loudermilk: Yeah, and KaiNani, as Corporation Counsel indicated, that was part of the brief discussion regarding the MOA, this item no. 4. Yes, we have been consulted. And it came down to the invited signatory versus the consulted signatory and that is changed. And the other comment as Dawn has indicated for "1C" that a HAER/HABS report be completed. But at this point in time, no letter of comments have gone out because we were going to get a clarification on FHWA and we have that today. So there's several options: sign as a concurring, don't sign at all, just provide comments in general.

Ms. Duensing: Regarding "C," you can just put Historic American Engineering Record (HAER) because it would be a HAER report because HABS has nothing to do with it because it's an engineered structure.

How does the rest of the Commission feel about the MOA? Robyn, our letter went to the Department of Public Works, correct?

Ms. Loudermilk: Yes, the letter regarding comments for the special management area permit did go out to Public Works.

Mr. Lee: We got the comments. We haven't responded to it yet, but we're going to.

Ms. Loudermilk: Yeah, dated March 14th.

Ms. Duensing: Okay. Thank you.

Ms. Loudermilk: And then no letter went out for the MOA because we needed clarification on the role that this body plays in relation to the MOA itself.

Ms. Duensing: Regarding the MOA, since I've been kind of the lead person on Hana Belt Road issues for four years now, if we sign this, we just concur. It's just going along with everything, and saying it's okay to continue one-by-one taking down our bridges. And personally, after this long, I feel like we just need to take a really strong stand to the

Hana Advisory Committee, and the Maui Planning Commission, and the County in general that we need to put the brakes on things, and figure out a better way to do this, and standards to write for our road, and get some of these things in line working with the State, and the County, and with the FHWA. It's just keeps going one-by-one-by-one. And having read some of the comments from SHPD the last few times, I disagree with Tonia very strongly that the integrity of the road isn't going to be hurt that bad by just putting up a bunch of bridges. And looking what other states do, I just don't think that the County is being creative enough. And I know that rehabilitation is expensive. I know you won't get a bridge up to 2003 standards, but it just seems to me that we haven't been trying hard enough.

Mr. Kapu: I think this is kind of hitting me a little bit too fast. Just this morning I signed one paper taking one oath pertaining to trying to protect something that has a lot of cultural and value. And now this one here, I'm not too happy about it.

Mr. Whelchel: So the bridge certainly needs to be renovated if it stays. Is there another option? Is there an option of leaving the bridge, using it as a roadside exit, and build another bridge by it?

Mr. Lee: Yes, we have. If you notice, there are homes on that side mauka and makai of the roadway facility. Then it becomes if we leave the bridge in place, who's going to maintain it as far as integrity? So there is a cost involved either way. The State Historic Preservation Office, they wanted us to preserve the bridge in place. So basically the presentation was we'll build an adjacent bridge, and we'll turn the bridge over to the State so they can preserve it and maintain it. Of course, they had no money, no funds to do that. So we will not accept the liability of two bridges, per se. The County is in limbo as far as preserving or maintaining the bridges that we have today. So it wouldn't be appropriate for us to leave the existing bridge up. In this case, the Waiohonu one, however, there's no really – a parallel highway you can do and leave the old bridge in place.

But we have looked at various options. I kind of disagree with Dawn as far as we looking at alternatives. We've been looking for alternatives on this preservation plan from four years ago. I think the County has come a long way in the stance of what we started with and what we are today. We've gone to the Committee many times, the preservation plan, the individual bridge plans, and listened, and listened, and really made some major modifications to the design, and alternatives to see what we could or could not do.

And the liability as far as– My wife's family comes from Hana, too. We have schools over, Little League, and just looking at the bridge, I just hope that the bridge does not collapse, and a bus goes over, and some other people go over. And that's the thing that upsets me in a sense that we're trying to address the need as far as public safety.

The option was to close the road. And of course, the Mayor and the administration said no because it's a vital link. We need that bridge. So we're at risk. We lowered the ton loading on the bridge as far as ton loading: three tons, five tons. And hopefully, that serves that issue. Of course, enforcement is a major issue. But I think the amount of work that Public Works got involved in from four years to today, I think we've made a broad and great step of trying to address the needs as far as the public, the needs of the community, the CRC Commission, and the Burial Council in looking at issues. The public involvement to the County is very critical. If we don't have support, we can't get this bridge going. But public safety right now is to me the most important thing. It's critical. We're at risk. We're at a higher risk right now because of the condition of the bridge. Not only this bridge, but other bridges in Hana. And that's basically because of poor maintenance. We don't have maintenance to maintain these bridges. In 1910, we designed...(inaudible)...except for...(inaudible)... So here we are today. We're asking your concerns. And I know Dawn has been working with the Hana Belt Road for the last four years. And she's been critical on us. We've tried to address her concerns and also the Commission's concerns. And from my side, it's like, okay, what can we do? We can't really restore the bridge because functionally, it wouldn't work, and still, the public safety issue is a concern.

Ms. Duensing: I just want to comment that we have come a long way and I realize that it's just that we're coming from two different ends of the rope.

Mr. Lee: Just one more comment. I guess KaiNani mentioned about the rehab. And of course, with my discussions with her today, we are looking at to extend the funding for the rehab program so we can look at that as an option for us, and not block ourselves to replace. With KaiNani in there now, she is very supportive of us. So I'm asking her to see if we can get more funding for rehabbing instead of just replacing. So she assured me that she will be working towards that end.

Ms. Duensing: Thank you.

Mr. Whelchel: These bridges being in the condition they're in, if the stirrups were placed properly when they were built – it looked like they were placed too close to the...(inaudible)...and the concrete cover popped off. Is that—?

Mr. Lee: That's basically it. But if you look at the harsh environment, you got salt spray and everything else, no maintenance, the type of concrete, I mean, there's so much parameters if you look at what they should've done. There were no standards at that time.

Ms. Duensing: They were good bridges for their age.

Mr. Lee: Oh, yeah, Model-T cars, wagons, that's fine. Now, you got trucks. You got

semis, truck dumpers, and buses.

Ms. Duensing: Okay, what is the role of the Commission regarding the MOA? Do we want to be a concurring party?

Mr. Lee: Consulting party.

Mr. Pa: To me, I think we're already a consulting party.

Ms. Sablas: The Hana bridges are really one of the things that are so special about Hawai'i. Because you know how Hawaiians think seven generations back, seven generations forward? I'm afraid the direction we're leading is away from what's so special about our culture. And I think safety certainly is an issue, but there's got to be some structure engineering that's got to be able to deal with this. How did we build bridges back then without our ingenuity now? I mean, without our resources now? It survived all this time for years. So why can't we do something that doesn't look so – if I may be so blunt – ugly? I think it definitely deserves a lot more thought. It just has far-reaching impacts for generations. I could not feel comfortable if we signed this MOA. I mean, it's a signature, but are they going to listen? I don't think so, so why do we do it?

Mr. Kaopuiki: The deciding factor is whether to be a consulting signatory or – what's the other one?

Ms. Duensing: Not signing.

Mr. Kaopuiki: I believe we've got to make a decision somewhere. So I would say, hey, let's sign. Let's go from there and see what's happens. At least we're on the MOA.

Mr. Fredericksen: I'm really torn that there are all these issues. There's safety and then there's just the nuts and bolts. How does the County deal with it? How does the County afford it? I would feel a lot more comfortable signing this if there are some genuine opportunities to really pursue Federal funds for some of these other bridges that don't – if it's given the choice of okay, well, you get \$50,000 to demolish it, or a million dollars to put a bridge the same that looks about the same, I mean, I can understand why a public servant – I mean, that's your job, you want to try to do the best you can for the public – why that choice would be made. The County can't afford to do it all. It's just an unfortunate reality. And if that's a genuine option so there can be rehab money where it's significant rehab money, not just 5% and the County takes 95%, the County can't, I mean, I would feel a lot more comfortable for something like this. Is that something, KaiNani, that there are Federal funds?

Ms. Kraut: Yes. We will do everything in our power to make sure that happens. I think that because the State doesn't have their standards, it's hard for us to participate in

something below standards. Just having this discussion with Lloyd this morning, I have a lot of homework I need to do. I was talking to some people that have been involved in discussions with Lloyd and they don't remember where the discussion have come from. So from what I know about Federal funding, we would be able to participate in rehabilitation. So if it goes into we have to rehab the super structures, pave the sub structure, put fiber wrap around, whatever, and we do those kinds of things, it's doable. And there's actually a bridge program for innovative rehab that is available. And I know that our bridge person is looking into different options that would work for the appropriate situations Statewide, not just here. I know they were trying to find a bridge along Hana Highway that would work for this program. So there is money available. And so we're pushing down that road.

Ms. Duensing: Just a suggestion, there's a bridge available at Koukouai to try to attempt some kind of a creative rehabilitation.

Mr. Lee: Basically, we're looking at rehab on that bridge.

Ms. Kraut: Yeah, the arched bridge was slated for rehab anyway. Is that the one that was in the SMA application?

Mr. Lee: No, the Koukouai one has not come up in the stance of we're still doing investigation as far as a rehab option.

What KaiNani mentioned about the program for funding, we do have a bridge that we asked to be put on that funding: the Paihi Bridge. Part of the program we're looking at is installing...(inaudible)...rebars instead of normal rebars so we don't have that corrosion problem 50 years from now, but the cost of that rebar is very, very expensive. It's two times as much as far as the cost.

Ms. Loudermilk: As far as Federal funding for rehabilitation, was that something you want to see incorporated somehow into this MOA? Or did you want some sort of written verbal assurance from whomever in terms of future bridges?

Mr. Fredericksen: Cost is always a problem. And we've got a resource, if you will, that that's it. Once the resource is gone or enough of the resource is gone, then that resource is essentially lost. I've asked this question many times. That's why I said earlier I was very happy that someone from the Feds is here from the Highways Program. Because it's something that I think there's probably some money somewhere out there, but I have no idea where it is. But if it's at all possible, yes, funding so it's doable for the County.

Mr. Pa: I just thought I'd refresh myself on the purpose and intent of the CRC. Under 2.88.010, no. 2, it says, "Encouraging the restoration, rehabilitation, and continued

functional use of historic properties.” So I’m inclined in favor of we becoming a signatory to this MOA based on what I read into this purpose and intent of the CRC.

Mr. Whelchel: Being very unfamiliar about this project, I’m more inclined to do what like we did to the building on Market Street. Leave the essentials and put up something that’ll last forever. We have that option. Or we go into reconstruction. And I’d be willing to go with what–

Mr. Kapu: What are the dos and don’ts? I need to understand more. If we sign the agreement, we become a part of the process, or if we don’t be a part of this, we’re not included? That’s the bottom line, yeah? We’re not included, but at the same time we’ve got to look at, okay, we have to get involved or else we not going be included. Then we have to explain pertaining to why Hana all of a sudden changed in the next couple years. So I don’t know.

Ms. Loudermilk: I just have a question. What do you mean by being included in the process versus not being included in the process?

Mr. Kapu: That’s what I need more clarity on is we become a consulting party by being a part of the signature. But if we don’t sign, that means we have nothing to do with it? Or we will not be asked to be an advisory?

Ms. Kraut: No. Consulting parties still mean you’re part of the process. There’s a public process that the Federal government does. So that is your role in probably most of the things that go on. Whether you sign this or not, you still have that role.

Mr. Kapu: Thank you. Okay. That makes a lot more sense. I’m going to draw the question to the Chair about how she feels about this matter because if we sign or we don’t sign, we’re still part of the process, right?

Ms. Duensing: Yeah.

Mr. Kapu: Does the signature obligate us or anything?

Ms. Duensing: No.

Ms. Sablas: I guess what I’m understanding is that we’re not an invited signatory. We are consultants. So what’s the difference? Why are we signing it? Not signing it, we’re still consulting, right? So what is this whole thing about?

Ms. Duensing: I think it’s just something for the County, DOT, and the FHWA to say that we have been involved in Section 106.

Mr. Fredericksen: Either way we're going to be involved.

Ms. Sablas: What I'm afraid of is if they're going to make decisions, and we're not a part of it, I mean, if we're going to be signatories, the decision is not left at this body. So is it going to be a reflection of this body that we approve whatever goes on if we become a signatory of this agreement? That's my question. No? You're nodding no.

Ms. Kraut: No approval action. You're a consultant.

Ms. Sablas: So why are we signing it? I don't understand.

Ms. Duensing: As a courtesy, I guess.

Mr. Lee: The County of Maui is not a signatory to that document either. We just represent the Federal Highways Administration in producing this document and make sure we follow along this process of getting all the agencies involved. And even the State DOT is not a signatory to this process. You can be listed or not listed as far as a consulted party.

Ms. Duensing: So that's what we need to decide: do we want to be a party to it or not?

Mr. Kobayashi: Somebody can make a motion.

It was moved by Mr. Fredericksen, seconded by Mr. Pa, then unanimously

VOTED: To support the signing of the memorandum of agreement.

(Assenting: E. Fredericksen, M. Pa, L. Whelchel, and S. Kaopuiki. Dissenting: L. Sablas and J. Kapu.)

Motion failed.

Ms. Duensing: Just one other thing that I wanted to add: from what we see with the MOA is that we have requested that a complete HAER report be done. Is that going to happen?

Ms. Loudermilk: Would that be part of the comments that we send to the applicant? I can do a letter.

Ms. Duensing: Yeah, it's just absolutely essential: the 4x5 photos, historic documentation.

Ms. Loudermilk: Okay. So in terms of the letter to the applicant, as indicated as part of the consultation process, the Commission recommends amendment to "1C" to do the HAER report. And that the Commission recommended not to be a consulted party on the MOA. Any additional comments you'd like me to send to them regarding this matter?

Ms. Duensing: I think the Commission should probably state in its comments that we are very concerned with the rapid rate of this bridge replacement planned and undertaken. Something to that effect because that was one of the other things that we mentioned.

Ms. Loudermilk: Do we also want to say that we've also come a long way from four years ago?

Ms. Duensing: Sure. And we do recognize Mr. Lee, and the other public servants, and all the work they've put in. Nothing against Public Works. It's just that, again, we're coming from two different ends of the rope, and hopefully we can make even more progress than we already have.

Ms. Loudermilk: Okay.

(A recess was then taken at 1:34 p.m. and reconvened at 1:45 p.m.)

H. DISCUSSION ON PRESERVATION PLANNING

Ms. Duensing: The next item on our agenda is preservation planning. And I don't think we have anything to discuss, but I think we should all think about projects or goals that we might want to reach over the next year. And what we've been talking about for the last two meetings have been this issue of trying to work with our representatives, our legislators to try to get historic road standards passed, and I think we need to start. We've talked about in the past and this is something that we might want to have as one of our goals in the upcoming year to try to get some protection for our historic roads. So if there's any other goals, please bring it to the next meeting so we can kind of formulate a work plan for the upcoming year.

I. NEW BUSINESS - None

J. NOMINATIONS TO THE REGISTERS OF HISTORIC PLACES

1. Hana Belt Road

Ms. Duensing: The last time we talked about the Hana Belt Road, I had mentioned that

the State had a draft EA for a rockfall mitigation plan, and I had asked to defer that item so I would have time to review that since I've been the representative on Hana Highway issues. And I've been in touch with the State engineer who is the project manager for this and told him that we would be submitting our comments. He shared with me the comments that they had at meetings. They had a series of public meetings. Did you talk to him, Robyn?

Ms. Loudermilk: No, because when I called him – I left messages. He was on vacation. And if he called in the last two days, I haven't checked my messages.

Ms. Duensing: He said some of the public feedback regarding what they want to do – and I had passed out the handout that I had gotten from him on what they do. They want to create these rock walls, put up fences, and either cut the slopes back and drape mesh over them – there's a whole variety of other solutions to preventive action. And that generally seems to be the public reaction, too, is that most people said that the slope and the mesh was not too well received. It was also said that the rock catchment was ugly. People wanted the concrete barrier that holds back the rocks to be not a concrete barrier, but a rock faced wall. And people objected to the slope cutting. And most raised the question: is rock fall even a problem on the Hana Highway? Which was my first reaction when I saw this, too.

So anyway, I attended the first public meeting they had on this. And the draft environmental assessment does have some problems with it. First and foremost, there is no mention of the Hana Belt Road as being placed on the National Register of Historic Places even though they know that. Secondly, there's no Federal money involved in this project so they don't have to go through Section 106 and consult us. But they do have a list of consulting parties and I think it would be good for us to point out to the DOT and to Mr. Urada that we would like to be considered a consulting party on any projects that affect our road in the National Register.

Ms. Loudermilk: And is this regarding to the EA being processed?

Ms. Duensing: Not necessarily. It's just in general. We want to be kept up to date on further Hana Highway projects, including this one.

Ms. Loudermilk: So a consulting party?

Ms. Duensing: Right. Thirdly, the letter from the State Historic Preservation Division which I briefly mentioned the last time, was reviewed by an archaeologist and said that there was no effects of this project, and there are no historic properties present except that the whole area is a National Register District. So in light of this being a National Register District, I don't think that the anticipated signing a no significant impact is appropriate. So those were four points that I found in here. You keeping notes, Robyn?

Ms. Loudermilk: Yeah, but I missed number one.

Ms. Duensing: Number one was there was no mention that the road is on the National Register. And the next point is no where in this draft EA is there any illustration of what the visual impact of the construction project would be. And I know that Scot told me that he did a power point presentation and it would be nice if he could get the illustrations to us. He said he could e-mail them, but I think the file would be so big that it would be hard to do. But we should request that.

Mr. Fredericksen: How about having him come in?

Ms. Duensing: Yeah, that would be nice if he could come in. That's fine, too. So basically under the project description, they're proposing two different areas along the road to mitigate the inconveniences and hazards associated with rockfalls along the Hana Highway. And what they're going to do is they're going to realign the roadway. So basically they're going to move the roadway out onto a cantilevered concrete, a new stretch of road. And they're using that then to create a rock fall catchment area with various types of fencing or barriers, but they don't say what those various types of fencing or barriers will be. So because they are not very specific, that's why we want to ask for illustrations of how they're going to do this. And in regards to the concrete cantilevers, I have major concerns about the continued usage because they're building this all over the Hana Highway now. And what the cumulative impacts would be because one of the things about a historic road is maintaining its historic alignment. And by moving it over onto concrete cantilevers, we're starting to destroy that historic integrity. And I think Erik's idea of asking the State to come and talk to us about it would be a really good idea. But those are the major points I found in here. And if we could send a letter regarding this EA to the State to say that we have some concerns.

Ms. Loudermilk: We did send a general letter that we would be providing further comments.

Ms. Duensing: He had e-mailed me a couple of days ago asking if we were still planning on doing it and I told him that we would be meeting today.

Ms. Loudermilk: Just for the Commission's information, I did review the EA on behalf of the department. And basically the comments – first of all, we confirmed that the project was in the special management area. And it would require a major special management area permit for the project. We did note that this portion of Hana Highway was part of the Hana Belt Road National Historic District and the Hana Belt Road State Historic District. And that the EA should discuss the impact of the proposed project to this historic and cultural resource. Fourth, we indicated that based on the historic district designations at both State and National levels that the SMA permit will be reviewed by the Cultural Resources Commission. And then lastly, since it's in the

special management area, the discussion about objectives and policies of 205A, which is the Coastal Zone Management Law, what we've been finding is that a lot of the projects don't address the goals and objectives of the Coastal Zone Management Law. They just focus on the SMA. In this particular case because of the location of the highway as basically being mostly a coastal highway that the impacts of any activities on the shoreline really needs to be addressed outside the specific parameters of the special management area. So that's just for you information.

And for this letter coming from the Commission providing comments, I'll reiterate the National and State Register listing. Two, that you would want to be a consulting party. Three, we'd just like to make comment on the SHPD letter that because it is a State and National designation that we are dealing with historic properties. And fourthly, because of the State and National Register, the impacts, a FONSI should not be anticipated. I'll reword that, but essentially there cannot be a FONSI.

Regarding the power point and having Scot come, do you want to put that formally in a letter?

Mr. Fredericksen: I think it might be a good idea to pull them in.

Ms. Duensing: Actually, maybe the thing to do would be to ask Scot if either he or one of their consultants to come and make a presentation. They don't need to bring the whole gang in.

Ms. Loudermilk: A representative.

Ms. Duensing: Yeah, if we could just have one person come and talk to us and show us some illustrations.

Ms. Loudermilk: Okay.

Ms. Duensing: And maybe if that's not possible, just send the illustrations to us.

Ms. Loudermilk: Okay. So I'll incorporate those things in a letter. And then lastly, a general comment regarding the concern of the continued use of the concrete cantilevers along the highway.

Ms. Duensing: The cumulative impacts of building concrete cantilevers to realign the road. Okay?

Ms. Loudermilk: Yeah. And I'll fax a draft to you.

Ms. Duensing: E-mail is best. Thank you, Robyn. The next item is the Sign

Enforcement Program.

K. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS.

Mr. Wayne Boteilho: You had Director Foley's memo and that's about where we are. I'd like to add one thing, though. I'd like to recognize the work that the staff has done. We're asking for more people because it's not so much that they haven't done good work, it's just that we are understaffed.

Ms. Duensing: And I think we all realize that, too.

Mr. Fredericksen: I just want to thank you as well for being here and being responsive to the Commission's needs because there have been times in the past where some of the things that we were requesting just didn't happen. And the continued help from you would be greatly appreciated by us.

Mr. Boteilho: After budget is done, even better yet.

Ms. Sablas: I think the Director asked us if we would consider either individually send letters to the Council or as a group. I think I'd like to recommend that we do, as a Commission, give our support of that position, and make it formal. And then also to individually mail our own support because it's very important.

Ms. Duensing: Wayne, can you have somebody draft a letter to that effect getting the necessary staff?

Mr. Boteilho: Kimo Falconer already sent a letter on your behalf, but if you'd like a second one, we could have that drafted up.

Ms. Sablas: We're talking about having a cultural resource specialist within the Planning Department.

Mr. Boteilho: Okay.

L. DIRECTOR'S REPORT

- 1. Corporation Counsel's Memo on the "Three Strikes You're Out" Rule**
- 2. Corporation Counsel's Letter on Meeting Agendas**

Mr. Boteilho: For items one and two, I'd like to yield to my good friend, Mr. Corp. Counsel.

Mr. Kobayashi: As far as number one, that particular memorandum is not applicable to this Commission. This particular memo addressed – certain commissions had provisions within their rules which basically said if the board or commission was unable to either approve or deny an item after three meetings, then the matter can be considered to be denied. And the court basically said that you cannot have that kind of provision in your rules. This Commission doesn't have that rule, so that memo is not applicable to this Commission.

As far as the second item, I read that memo a while back. If I'm not mistaken, it's more towards making sure that the agenda is detailed enough so a member of the public can look at the agenda, and make a determination of what's going to happen at the next Commission meeting. It basically goes through what should be included in your agenda. So that leans more to, I guess, the Chair, the secretary to this Commission, and Clayton Yoshida because he does the agenda, from what I understand.

Mr. Pa: How often does the agenda get published?

Mr. Kobayashi: It's prepared and given to the County Clerk's office. It's also sent to the Mayor's office and–

Ms. Balberdi: There's a mailing list. It's also in the Internet, too.

Ms. Duensing: So when is the deadline for putting together an agenda?

Mr. Boteilho: We have to post six days ahead so the deadline would be seven to eight days ahead. And Clayton will probably be contacting you.

Mr. Fredericksen: Is it business days or calendrical days?

Mr. Boteilho: Six days, period.

3. Cultural Resources Commission Meetings in other locations - Lahaina, Moloka`i, Hana, etc.

Mr. Boteilho: Meetings in other locations, it looks like the next meeting's here.

4. Cultural Resources Commission Correspondence

The following were correspondences requested at this meeting:

- a. Letter to State Historic Preservation Division regarding historic structures to be reviewed by the State Historic**

Preservation Division's Architectural Branch.

- b. Letter to Scot Urada of the Department of Transportation transmitting comments of the environmental assessment of the Hana Belt Road's realignment/rockfall mitigation project.**
- c. Letter to the Maui County Council regarding the support of acquiring a cultural resource specialist position in the Planning Department.**

The following were correspondences requested at previous meetings:

- a. Letter to Abe Wong regarding the demolition of Pohakea Bridge.**
 - b. Letter to the Mayor and the Maui County Council requesting funding and maintenance for the bridges along Hana Highway.**
 - c. Letter to Abe Wong of the Department of Transportation requesting an update on the Department of Transportation's development of State standards for State roads. Copies to be sent to Pat Phoung of the Federal Highways Administration and to the Commission.**
 - d. Transmittal to the County Council regarding the plan review process within historic districts.**
- 5. Correspondence received from the State Historic Preservation Division**
 - 6. Administrative Permit Reports**
 - a. Demolition Permits - None**
 - b. Historic District Approvals Report**

Mr. Boteilho: As far as correspondence from SHPD and permit reports, they have been attached to your meeting agenda.

Ms. Duensing: There's something I wanted to ask about the correspondence that we got with our agendas and that was the letter from Councilmember Molina regarding the Makena Road. Did the other Commissioners read that letter? Can we put this on the next agenda, then, for discussion, this letter of March 7, 2003 because he thinks we haven't done anything about it?

Mr. Boteilho: Okay.

Mr. Fredericksen: Did the State Historic Preservation Division ever respond to our request for clarification on the Makena Road?

Mr. Boteilho: Not yet.

Ms. Duensing: Can we just put this on the next month's agenda, then, so we can provide an appropriate response to the Council?

Mr. Boteilho: Okay. If there's no other questions, I'll just leave it at that.

Mr. Pa: I'm looking at the handout of the preservation conference on Kaua'i. Is it possible for us to send somebody to this conference?

Mr. Boteilho: I had to find out whether the CLG funds were spent yet and I found out that it's not. So I can authorize two from this body to go.

Ms. Duensing: I can go. Anybody else can go?

Mr. Fredericksen: I would like to. I'm not sure if I can. When do you need a decision? Does anybody want to go that could definitely go?

Mr. Boteilho: Well, let Dawn know. Contact Clayton and ask him to help you.

Mr. Kapu: This looks kind of interesting. I'm pretty sure I can go.

Mr. Boteilho: If we can get a response by at least next week Friday, earlier if possible, because we have to do the purchase order.

Ms. Duensing: Okay me and one of you two.

Mr. Boteilho: And please contact Clayton and let him know. I'm so busy with the budget that I may forget.

Ms. Sablas: The correspondence regarding the family tomb at Lao Valley?

Ms. Duensing: We just got this today, right?

Mr. Boteilho: Yeah, I would say to defer until next meeting.

M. NEXT MEETING DATE: MAY 1, 2003

N. ADJOURNMENT

There being no further business to come before the Commission, the meeting adjourned at 2:04 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI
Commission Support Clerk

RECORD OF ATTENDANCE

Members Present:

Dawn Duensing, Chair
Erik Fredericksen, Vice-Chair
Ku`ulei Haina
Milton Pa
Solomon Kaopuiki
Lori Sablas
Lon Whelchel
J. Ke`eaumoku Kapu

Members Excused:

Lisa Rotunno-Hazuka

Others:

Michael W. Foley, Planning Director
Wayne Boteilho, Deputy Planning Director
Colleen Suyama, Planning Department
Ann Cua, Planning Department
Robyn Loudermilk, Planning Department
Blaine Kobayashi, Deputy Corporation Counsel