

CULTURAL RESOURCES COMMISSION
REGULAR MEETING
JUNE 3, 2004

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Lori Sablas, at 9:10 a.m., Thursday, June 3, 2004, Planning Conference Room, Kalana Pakui Building, 1st Floor, 250 S. High Street, Wailuku, Maui, Hawaii.

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

Ms. Sablas: Call the meeting to order. Good morning everyone. Happy June. Okay, I call the meeting to order. First item on the agenda, Item B, Resolution for Outgoing Commission Member Milton Pa.

B. RESOLUTION FOR OUTGOING COMMISSION MEMBER - MILTON PA

Mr. Boteilho read the Resolution into the record (see attached).

Ms. Sablas: Thank you. To the members of the public, are there anyone here who would like to testify on items that are on the agenda at this time? To accommodate you, you're welcome to do so at this point, on items that are on the agenda. If you have to leave now and you want to testify, this is your opportunity. If you could wait until we bring this up, that's also fine. Okay, so let's move on then, thank you. Item C is approval of minutes of the meeting of May 6. Any corrections from members? Additions? Yes, Commissioner Long?

C. APPROVAL OF THE MINUTES OF THE MAY 6, 2004 MEETING

Ms. Long: Getting better all the time, Suzie. Just one, on Page 1, actually, Page 2, the bottom paragraph, second line, "... a popular event that takes place every year," instead of "very" year. I think you put those things in just to make sure we read them, that and the "bouku" we have discussed. Outside of that, it looked perfect.

Ms. Sablas: Motion to approve?

Mr. Kaopuiki: I have a question. Page 59, that "bouku" system or what? Is that money? What kind of money ...(inaudible)...

Ms. Long: Beaucoup? That just means very much.

Ms. Rotunno-Hazuka: In French.

Ms. Long: French word.

Mr. Kaopuiki: I look in Webster, it's not listed; the Hawaiian dictionary, it's not listed.

Ms. Long: Not the way it's spelled in here, Uncle, but we'll try to stick to English in the future. I'll move to accept as corrected.

Mr. Whelchel: Second.

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

It has been moved by Ms. Barbara Long, seconded by Mr. Lon Whelchel, then unanimously

VOTED: to Accept the Minutes of the May 6, 2004 Meeting as Corrected.

Ms. Sablas: Motion carried.

Mr. Boteilho: Yeah, yeah, I guess, Madam Chair, staff would like to request, if there's -- if there's no objections, if we could move up, for a short while, for a short discussion, I know there's people waiting, but if we could move up, under Director's Report, Item 1, Commissioner Long's May 5 Memo to Dudley Akama regarding procedures of the Cultural Resources Commission.

Ms. Sablas: We want to move it up to?

Mr. Boteilho: To now.

Ms. Sablas: Now. Okay.

Ms. Long: Any particular reason why?

Mr. Boteilho: Well, one, because Dawn is not here at this time because she's over at the Council so I'm here taking her place. I think it might be a little more efficient if I could take it up now. I was intending to leave. However, if the discussion, if the members feel that it might be that you need more time to discuss this, you can leave it for later on. I can come back.

Ms. Sablas: Commissioner Long, as you had, you know, this is a memo from you, do you feel that you would like to have discussion now or wait until Dawn is here or Wayne is here? What's your pleasure?

Ms. Long: I'd like to wait till Dawn is here, if you don't mind, because some of it involves her involvement in our procedures and I think it would be beneficial if she were here, and, Lisa, if you didn't get my memo, I have an extra one. Meet you halfway.

Ms. Sablas: Any comments from other commissioners on this issue?

Mr. Kaopuiki: I have to --

Ms. Sablas: Commissioner Long?

Mr. Kaopuiki: Yeah, if we could wait because there's some details you don't go into that's so important that Dawn is ...(inaudible)...

Ms. Sablas: Okay.

Mr. Boteilho: Okay.

Ms. Long: Yeah, and I'm expecting to hear from Dudley too. I see he's got some scribbles so --

Ms. Sablas: So noted.

Ms. Long: Yeah, that would be great. Thank you. I appreciate that.

Ms. Sablas: Okay.

Mr. Boteilho: Okay, thank you, Madam Chair. Next up on the agenda we have Permit Review, under Historic District Applications.

D. PERMIT REVIEW

1. HISTORIC DISTRICT APPLICATIONS

- a. THEO MORRISON of LAHAINATOWN ACTION COMMITTEE requesting approval of a Classic Car Show to be held on one Sunday quarterly, beginning June 27, 2004, using 39 parking stalls on Wharf, Hotel, and Canal Streets adjacent to Banyan Tree Park, in Lahaina, Island of Maui. (HDC 2004/0005) (S. Bosco)**

Ms. Bosco: Thank you. Good morning, members of the Commission and Madam Chairperson. The application before you is for a Historic District Permit to hold the Classic

Car show four times a year, for four hours, on a Sunday; the first show to begin on June 27, from 11 to 3 p.m., and the hours, my understanding, will stay the same for each show that occurs. The applicant is proposing to use 39 stalls on -- in the public right-of-way around Banyan Tree Park and, as Mr. Boteilho mentioned, the streets proposed to be used would be Wharf Street, Hotel Street, and Canal Street. The applicant has spoken to some of the merchants in the town, which have indicated their support for the event, as well the applicant has been working with the Police Department and the Police Department has submitted comments of their support with several recommendations. One of the recommendations they made was that the applicant hire an off-duty police officer to help cone off the stalls in the morning and that way the stalls would be held open and then the 39 cars could be -- could use those designated stalls.

The event is, basically, open to the public; there's no admission. I know that the applicant has been coordinating with a car club on the island, I think it's the Maui Hot Rodders Car Club, and they have their own internal way of coordinating between their members; however, the way the event will work is the cars will be placed around the Banyan Tree Park, the owners will be nearby the car and would be free to discuss the cars to the public. So it brings interest into Lahaina; it's a -- it draws people into the center of town; it creates interest for the pedestrians, the visitors, and the residents, and, primarily for that reason, the department is supporting the event. I might add that this event already took place once and the applicant can describe how that first time event occurred and if you have any questions for her, she's available.

We did receive this morning a letter or, actually, an email of testimony, public testimony from Vicki McCarty from Napili and I'm going to read it to you, it's dated 6/3, and it was sent at 7:00 in the morning:

Please accept this email as my public testimony. I'm asking you to vote "no" and not allow the car show to be held at the Banyan Tree in Lahaina. This is a culturally sensitive area and also a historic district and it is not appropriate to allow such activities. To do so will only degrade the area even further. There are other areas where this might be appropriate but certainly not in this area. Please vote "no." Mahalo. Vicki McCarty.

And what can I add? Anything I can add? I think that pretty much sums it up. I did do some analysis which is noted within the report and, before I forget, there are several corrections I need to make to the report. I'm just going to note the significant one cause there's a couple of typos here and there, but the most significant one is that on Page 3, under No. 4, the last words should have been "National Historic Landmark District," not "National Landmark District," so I just wanted to correct that. I do want to note that the recommendation that we are proposing does -- does have a caveat that, basically, if the parking situation in Lahaina can't support this event, if it's exacerbated by this event, then we're going to request that this item be revisited and changes be made and that could be

anywhere from, you know, reconsideration to be brought back to you; it could be an amendment to the plans; it could be even rescinding the permit, okay, so that's part of the recommendation, and I did want to say that there is a parking problem in Lahaina, everybody knows there is, we're aware of that, but to really assess the situation, we're going to need to do a lot more research; there's a lot of existing non-conforming buildings that don't have a requirement for parking and so it's a pretty extensive survey that we have to do so, at this point, I can't speak to that issue, and that's it. I'll have the applicant come up. We do have one person that is here to testify in person and I don't know if there's others so that concludes my report.

Ms. Sablas: Thank you. So should we entertain the person who's testifying first or would the applicant want to come up at this point?

Ms. Bosco: Maybe the applicant would be -- it would probably be a good time for the applicant to come forward.

Ms. Sablas: Okay.

Ms. Theo Morrison: Good morning, my name is Theo Morrison, LahainaTown Action Committee. This event is a really simple event. It's -- one of the purposes is to bring the local community back into Lahaina. We were approached by the car clubs as -- to do this event and they're really enthusiastic about it, this event. These are people that grew up in Maui that seldom come to Lahaina. Most of them are from West Maui, actually, this particular car club, and they really welcome the chance to come back down, and we did this, I think it was in April, just to try it with the Police Department, they helped us, and it was great. Each car came with about four people: three of those people went shopping or walking around town, whatever, and the other, the driver, usually sat, got out his little beach chair, sat by his car, popped his hood; people came by and talked to him, I mean it was real small town; it was real great to see the local community coming to the heart of Lahaina to talk about their cars. I mean I'm not a car person, but it was -- it was really great. Totally low impact. They're just parking in parking stalls. The merchants surrounding that area, including Lahaina Arts Society, Pioneer Inn, and The Wharf Cinema Center all support this event. I don't think the parking issue is a problem. We're actually drawing attention to the area, bringing people in to come see those cars. It was great. It was real simple, real low impact, and, most importantly, bringing the local community back into town.

Ms. Sablas: Thank you. Questions? Comments?

Ms. Rotunno-Hazuka: What about the vendors that are at the Banyan Tree? How does it affect them?

Ms. Morrison: Well, they -- the hours of this event are 11 to 3.

Ms. Rotunno-Hazuka: Okay.

Ms. Morrison: So, when they're loading and unloading, it doesn't affect them at all. This first event, because we were trying to get it -- get it up and going, is on the day that the Lahaina Arts Society has their -- their event under the tree, but every other one will be on the day that the He U`i Cultural Arts Festival has their event cause they would appreciate something like this.

Ms. Rotunno-Hazuka: And was there any other venue, any other like a parking lot that was thought of to have this?

Ms. Morrison: No, it's really our intention to bring the local community back into Lahaina, to the central core of Lahaina.

Ms. Sablas: If I could add to that, there are areas like the Lahaina Center, Theo, that has ample parking, and there's, you know, under that there's some shady areas, has that area been considered? I know the focal point is in around the Banyan Tree but it is a historic site as was commended, as the letter came in from the community, so, again, my question was that considered like in the Lahaina Center area?

Ms. Morrison: Well that's private property and all those -- I don't know. We didn't ask them, but those are designated parking stalls. When you have a parking lot, I mean when you have a shopping center and you provide parking, each of those stalls is for each of the different buildings, usually, so I don't know if they're available for parking.

Ms. Sablas: Of the 39 spaces that you're proposing to take, what is the space available in the perimeters of the Banyan Tree, in other words, is that 50 percent of the inventory? Ten percent?

Ms. Morrison: I think -- you should have a map there. It's --

Ms. Long: Looks like everything but Front Street.

Ms. Morrison: Canal Street, Wharf Street, and one-half of Hotel Street.

Ms. Sablas: So the X's mark -- are all the 39 spaces that you're proposing to block out for the cars?

Ms. Morrison: Correct.

Ms. Sablas: So, for the public, where would they be parking?

Ms. Morrison: The public that comes to see?

Ms. Sablas: Yes.

Ms. Morrison: In all the other parking lots; other areas.

Ms. Long: Theo, in order to reserve those spaces, how early are they coned?

Ms. Morrison: I don't know. I think there's a sign that probably, like what we do when we do a parade or something, the sign goes up in the morning and says from 11, I think that's how it was done last time, from 11 to 3 the, you know, this is a reserved parking stall so --

Ms. Long: Yeah, but if visitors don't see that are they're going to get towed away?

Ms. Morrison: No.

Ms. Long: No.

Ms. Morrison: No, we won't tow them away. We can make it very visible. We had cones on it last time and I'm pretty sure it said 11 to 3 so if you're there at 9, you could -- it's only 3-hour parking anyway so if you were there at 9, you could stay till 11, not a problem.

Ms. Long: How was the first time accomplished? How many cars were there? Did you have police permission? How did you do it without coming to CRC?

Ms. Morrison: Yeah, we did have police permission and they provided an officer who helped us set up the cones and monitored the whole thing, and I believe his report is in here, and he said it was very successful; it was very nice; that's why I came -- we just wanted to try to see if it'd work, and I had someone else actually coordinating it for me. I was very impressed with it, myself. It's the kind of thing I think Lahaina needs. You need to tell the local community this is your town; this is where you can come; this is where you can be. This is a Sunday afternoon in a small town and people bring their old cars and sit at a park, and it's just very small town, very -- very much community and then, of course, visitors like it too, anybody that likes cars, I mean it's interesting for that kind of person. It's just very small town and I think we have to remember that that's what Lahaina is, it's not just a tourist destination, it's a small town, community, small town.

Ms. Sablas: Any more questions? Comments? Thank you. So, at this point, we'll take testimony from members of the public, and, applicant, I mean, Theo? Uncle, you have a comment?

Mr. Kaopuiki: Yes, I was gonna ask, are you considering that -- have you ever seen the three boats that would park out -- the boats that were parked out in Lahaina last week or the other week and all these people are up on the shore, and I was sitting down the wharf waiting to catch the Expeditions back, I hear a lot of remarks that I haven't heard before about all these people coming up. When you have three ships out there, those cruises, and if you're going to conduct this whatever, that classic stuff you're going to do, you're going to do it when those cruises are out there or when they're not?

Ms. Morrison: No, we get the ship schedule faxed to us every week, and we will not be doing it. The police will not allow us to do it, and we will not do it when the cruise ship's in port.

Mr. Kaopuiki: Okay, that's my question.

Ms. Sablas: Thank you. Theo, I'm sorry, one other question. Are there any members of the classic car here to speak in support of this? Anybody here who's part of that organization?

Ms. Morrison: No, I didn't invite them. I didn't ...(inaudible)...

Ms. Sablas: Okay. So, at this point, we'll entertain public testimony on this issue.

Mr. Kenny Hultquist: Good morning, CRC members. My name's Kenny Hultquist; I'm an artist; I live in Lahaina. I was on the board of the Lahaina Arts Society, oh, I should say I do not speak in any way, shape, or form for the Lahaina Arts Society. I'm just a citizen speaking. But I was on the board of the Lahaina Arts Society back in 1998 when Theo Morrison came and complained to us, it was during the renovation of the courthouse and we were over in the Old Lahaina Center, and she came down and complained that we were parking, taking up too many parking spaces around the tree and she wanted us to stop, and also that she didn't want us to use the bathrooms in The Wharf Cinema Center or in the Pioneer Inn, and also we were told that we shouldn't be using the bathrooms at the harbor because that was for people using the harbor. We never did address the bathroom issue but we did address the parking issue. We formed a committee, but we didn't do -- it took us a couple of months to get going on the issue, we had a lot of discussion about it, and, during that time, we received a letter from Theo at the Lahaina Town Action Committee saying that, well, I'll just read part of it, "The lack of visibly accessible parking is a major problem in Lahaina. It's come to our attention that during the weekend of art ...(inaudible)... under the Banyan Tree the artists from the Lahaina Arts Society park in the stalls around the tree all day Saturday and Sunday." This is June 20, 1998. "Let's assume that a parking stall occupied by an artist would turn over every two hours throughout the day and that the visitors occupying the parking stall, usually two-plus per car, would spend an average of \$20 in that two hours, not unreasonable. Over the course of the 9 hours of

stalls occupied by an artist, from 8 to 5, there's a loss of \$80 daily out of the coffers of the 100 small businesses located in the South Lahaina area. Needless to say, those visitors could also be spending their \$20 at the art fair." Thirty-nine spots, according to this formula, would cost the merchants \$3,120 for the time that these cars are parked there, according to Theo Morrison's formula. And then she goes on to say that over the course of the year, I think we're going to -- each car was costing the merchants \$9,120 for each spot. We did a parking survey. I drew a map of the tree, of the whole area and, at that time, there was 54 parking stalls. Since then, actually, after walking around the whole area yesterday, I discovered that there's -- that 7 stalls, I hadn't really noticed it before, there used to be 7 parking stalls, 2 handicap and 5 public, right directly in front of the courthouse steps, and those 7 are now gone, and so I recounted, at this particular point, I walked around, I counted as many as I could fit in, I haven't seen this other map yet, but as far as I could see, there's only 36, not counting Front Street. The 54 spaces that I had counted Front Street so every half-hour we would go around and write down license plate numbers, right, and try to figure out who these cars were and how long they were there. Some of them were there all day; some of them did come and go; but that was a whole other report. So yesterday I went around and there's 36, I don't even see where the 39 is going to go, but I heard you guys asking questions about where people are going to park. You know, the LahainaTown Action Committee is constantly saying that there's a big parking problem in Lahaina, but it's going to be really hard for people to come in and park with all those cars there, and there are other places that they can go, and I'm a car buff myself. When I was in high school, I had a '57 Chevy that I used to race and go to car shows with, so I like the cars. And, the other -- my other question is why is it on the day that we're there? And I understand that, I just found out, from what Theo said, that three of the days that are proposed are on He U'i days and only this one is on ours, but still I have reservations. And, once again, I'm just a private citizen, I'm not speaking for the Lahaina Arts Society, okay.

Ms. Sablas: Thank you. Okay, any -- no other comments from commissioners? Yes?

Ms. Long: Just one question. Kenny, what would your suggestions be for other places where this could be held in Lahaina?

Mr. Hultquist: I know that they've been going over in front of where Long's is. They're there a lot of times, like all the motorcycle clubs come by, and the car clubs come by --

Ms. Long: That's the Cannery?

Ms. Rotunno-Hazuka: The Cannery.

Mr. Hultquist: And they park in that way -- right up by the front so people driving by on the highway see them, and they pull in, and they go to look at them, and like they're all there

to talk story, they got their hoods popped up, you know, and they put lawn chairs out and umbrellas and hang out; that's the only place I know of. The motorcycle clubs, when they come in, sometimes they drive right up onto the park, that grassy area on the northeast corner, they'll just park like 20 bikes there, or sometimes over on the other side. They come fairly regularly, the cars and the bikes both.

Ms. Long: Thank you.

Ms. Sablas: Ready for staff recommendation? Yes?

Ms. Long: One question.

Ms. Sablas: Okay, sorry. Keeaumoku?

Mr. Kapu: Public.

Ms. Sablas: Oh, I'm sorry. We're still entertaining public testimony.

Mr. Richard McCarty: Good morning, Mrs. Chairperson and the members of the committee. My name is Richard McCarty and I speak on my own behalf here today. We're fortunate to have this Cultural Resources Commission to make sure that certain aspects of Maui are protected and I haven't heard anything yet today that tells us how this event will protect a historical area, promote the historic qualities or value of an area, or be consistent with things that are important with respect to culture and history on Maui and particularly in Lahaina. I, myself, had a '57 Chevy, and like the old cars, and looking at one brings back a lot of fond memories to me too, but I can go look at them at other places where they have car shows. This event, if allowed to occur, will open the door for all kinds of non-historic type of events which will detract from the real quality of this particular site. Next thing you know, people will want to have boat shows and surround the area. What if I came in and said I want to put on a craft fair and tie up all those parking spaces all day? And there would be no end to this type of thing there. Anybody who has been to Lahaina knows that the parking situation is terrible and this will just exacerbate that problem for this particular day. So I think that you should put on, we should all put on our cultural resources hats and say, "What's this have to do with the cultural resource in the Historic District?" The thought that people will, local people will come into town on that particular day, as you've noted, they could easily have this car show somewhere else and come into town if they're not already in town, and so I think that this will unnecessarily impact this area, add nothing to the area itself as far as what we're trying to protect there, and create an opportunity for others to come in and ask for similar type of events that are -- and you just don't know where it's going to end, and if I were in here today saying I wanted to have a boat show, what would be the first thing I'd say? You let those guys have that car show, and there would be no excuse not to let me do it so the end result will be that you'd possibly will have

those areas tied up every Saturday or Sunday for similar type of events. So I'd like you to think that we need to get back to maintaining the quality of the historic value of that area with events only that promote that thought and if we don't do that, we're going to have things slip away from us, you know, the arguments about, well, are those crafts really from Hawaii or not. Let's bring it back to what that place really is, and I don't know if any of you have ever been down there when nothing's going on, but it's a beautiful spot, it's a good place to rest your soul, and sit your body down and let your soul catch up with your body because you've been running too fast, and we don't just need to terrorize that area with events every day to maintain civilization or for any other reason. So I ask you to seriously consider that this is a bad idea, that there's been positive idea given to you for why it should happen other than the fact that some people want to come there, and they can easily go to the places they traditionally used in Lahaina, which is the Cannery Mall. Thank you for your attention and your thoughts.

Ms. Sablas: Thank you very much. Any other public testimony? Okay, staff?

Ms. Bosco: Thank you. The Planning Department had recommended approval of this request subject to the following conditions: that no more than 39 stalls should be used for the event in accordance with the site plan received; that a plan showing the final placement of the traffic cones be submitted to the Police Department for review and approval and the approved plan kept on file with the Planning Department; that the applicant shall obtain parking permits from the Police Department for each event date; No. 4, this is the hold harmless clause; No. 5, the applicant shall coordinate the event with the Maui Police Department and implement appropriate traffic controls as required by the Police Department; that all, 6, that all parking cones and show cars shall be removed by the close of the event; 7, that this approval may be reconsidered for amendment or rescission if additional information regarding parking conditions in Lahaina is received that warrant a reconsideration of this approval; 8, that authorization for the use of the public streets be obtained for the event from the Department of Public Works and Environmental Management for each annual period; 9, that the owner of each classic car shall be available near their car to respond to the public's interest regarding each car; 10, this is the full compliance clause; and I'd like to add that no umbrellas shall be placed within the Historic District for this event; and it sounds like there should be discussion on this matter.

Ms. Sablas: Yes. Discussion from commissioners?

Mr. Whelchel: I think that old vehicles are more of a personal venture rather than a historic community exercise, like our historic buildings and other items, and anytime we have an event that's taking away parking at this site, it should be avoided.

Ms. Sablas: Commissioner Kapu?

Mr. Kapu: I'll go last.

Ms. Sablas: You'll go last? Okay, whatever last will be. Okay, who's going to be second to the last then? Okay.

Ms. Long: Thank you. I was surprised that the Planning Department is supporting this. I'm sorry that Dawn is not here to express her feelings, but since we speak for historic sites, I also want to raise the issue of the community plan objectives and policies under cultural resources to protect and -- preserve and protect significant archeological, historical, and cultural resources that are unique in the State of Hawaii and the island of Maui, and I share Lon's feeling that -- we had a '51 Ford pick-up and, yeah, I love old cars, but I don't think that an event such as this preserves and protects the history and culture of Lahaina. I have a concern about the cost to evaluate the impacts of this event. Who will bear that cost? Someone's gotta be out there four times a year, or whatever, to see what impact the parking and the -- the whole situation has. I agree that it will set a precedent for events that are not historic or cultural in nature especially at this very historic site. And for the parking considerations, it's an awful situation in town, and to lose 39 or however many stalls for that many hours is going to have an impact, so I would be opposed.

Ms. Sablas: I guess you're up.

Mr. Kapu: Okay. The only reason why I wanted to go last is because I came in late, sorry about that, and this is kinda little bit new to me. The past couple weeks we've been busy with the Festival of Canoes, yeah, and, at the same time, you know, trying to take care of the personal responsibilities and, at the same time, look at these venues under the Banyan Tree even closer to the point as being there all the time, basically, as much as can. I'm sort of -- I feel sort of the same as pertaining to everybody else as, you know, it boils down to the point as what does the car show has to do with the history of Lahaina and that's the bottom line, basically, is, you know, this may turn into something that we won't want later on in the future, so I feel mutual to the other commissioners as pertaining to not allowing this at the Banyan Tree, especially a historic area. One of my questions is, being that the Planning Department seems like, you know, the condition of the application is fulfilled, what is the power of the recommendations from the Cultural Resources Commission that if we vote on not allowing this happen, what is the final say?

Ms. Bosco: It won't ...(inaudible)...

Mr. Kapu: Cause we're only recommendation that's why.

Ms. Long: No. No.

Ms. Rotunno-Hazuka: No, no, no.

Mr. Kapu: Oh yeah?

Ms. Long: No, no, this is --

Mr. Kapu: Okay, a`ole then.

Ms. Sablas: Okay, thank you. So are members ready to make a motion and take action? You had enough discussion? Okay.

Ms. Bosco: Should we allow the applicant to --

Ms. Sablas: To address any of the concerns posed? Thank you very much. Applicant, if you could -- you have the opportunity now to address some of the concerns raised.

Ms. Morrison: Okay, in regards to the lack of -- the loss of parking stalls, I have to emphasize that this project or this event is supported by The Wharf Cinema Center, which has 50 stores; by the Pioneer Inn, which has 30 stores; by the Lahaina Arts Society, which has two galleries there. They see it as an economic plus as drawing people into town, so the whole -- Kenny's quote from my letter was based on those people losing those parking stalls but, in this case, they say it's worth it because it would bring those people into town, so that's the answer to that.

And, again, I just go back to the community and I think lots of times cultural resources doesn't look at people as a cultural resource, and I see people as a cultural resource, and I see the community of Lahaina as a cultural resource, and I don't see those people in town, and I'd love to see those people come to town and that's where -- and that's one of the reasons of this event. And as far as going to another place, again, it was The Wharf Cinema Center and the Pioneer Inn that really wanted this event there to bring those same people into town.

Ms. Sablas: Thank you. Okay, are we ready for action?

Ms. Rotunno-Hazuka: Yep.

Ms. Sablas: Okay, who's going to be the brave soul to make a motion?

Mr. Whelchel: I make a motion that we not approve the request to hold a classic car show on Wharf and Canal.

Ms. Sablas: Okay, motion made.

Ms. Rotunno-Hazuka: Second.

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

It has been moved by Mr. Lon Whelchel, seconded by Ms. Lisa Rotunno-Hazuka, then unanimously

VOTED: to Not Approve the Request to hold a Classic Car Show on Wharf and Canal.

MOTION CARRIED

Ms. Sablas: Sorry, Theo.

Ms. Bosco: Okay, thank you very much, members.

2. ADVISORY REVIEW

- a. MUNEKIYO & HIRAGA requesting advisory review of the preservation plan for the Kualoa Subdivision in Pukalani, Island of Maui. (K. Caigoy)**

Ms. Cua: Okay, Madam Chair and members of the Commission, I wanted to give you just a little bit of a background on this project and the reason why it's before you today. First of all, this project is located in Pukalani, and if you look at this location map, I just wanted to orient you. This is the Pukalani Bypass here; Makawao Avenue; Haleakala Highway, and this is the project site here. The site is a 28.695-acre parcel. The applicant is proposing to do a 49-lot single-family subdivision. The lots will range in size from approximately 18,000 square feet to 26,000 square feet. The project is in the State Agricultural District, it is Community Plan for single family use, and it is already zoned R-3 Residential District; R-3 Residential District permits lots with a minimum lot size of 10,000 square feet. So the Community Plan designates this for residential, the zoning is for residential; however, the State Land Use Classification is for agriculture. We do need to note that this property originally did receive a District Boundary Amendment to put it in the Urban District; however, in 1987, the property was redistricted back to the Agricultural District due to non-compliance with conditions that were established by the Land Use Commission. So this project was already or previously redistricted.

The Planning Department is reviewing a draft environmental assessment on this project. We did send the environmental assessment to Dawn, our cultural specialist, for review. She recommended that the preservation plan come before this body. Just to orient you with the site again, this is Haleakala Highway; the project site, as we pointed out. There has been some changes to the plan in terms of how it initially came into the department.

This is an existing heiau site. The applicant proposes a 100-foot buffer zone around the heiau site. They also are proposing a wall around the site, and this is the detail of the wall, I believe it's a four-foot high wall. Initially, they were proposing to do a retention basin within the buffer area, and you do have a letter from the State Historic Preservation Division indicating that they did have -- they did have concern with that. Their letter is dated April 6, 2004. However, in the -- in the preservation plan that you have, which was done after the April 6 letter from State Historic Preservation Division, they have a Figure 2, which is in the plan that shows the retention basin outside of the buffer area, so this is the retention basin as it is now.

I believe Dawn also -- oh, I need to point out, what I passed out to you is Page 7 of this preservation plan, which, as I understand, was left out of your transmittal, so now you have the complete preservation plan. Also, I believe you have a letter from Erik Fredericksen, I guess Dawn requested that he review this plan, and, in his letter, he basically recognizes that the heiau will be placed within the 100-foot buffer area and the retention basin will be located adjacent to and southeast of the 100-foot buffer zone outside of the proposed site buffer area. So, in his opinion, there do not appear to be any preservation issues of concern and that's in his letter dated June 2, 2004 to Dawn, which I believe you have a copy of. That concludes my presentation. You have any questions?

Ms. Long: It's at Land Use Commission? What's the stage it's at there?

Ms. Cua: It hasn't been scheduled yet. We're going through the environmental assessment process that has to be completed before this --

Ms. Long: And is the LUC involved in --

Ms. Cua: Yes.

Ms. Long: Reviewing that?

Ms. Cua: Yeah, because it's, yeah, because it's over 15 acres --

Ms. Long: Yeah.

Ms. Cua: They are the authority on the Land Use District Boundary Amendment.

Ms. Caigoy: They're the -- Kivette Caigoy with the department. The Land Use Commission is the approving agency for the EA document as well so they're the authority that accepts the document and will issue a determination.

Ms. Long: Okay, so that given what the State Historic Preservation Division has said, and that's their response, what's -- do you think this can progress further without an acceptance from SHPD of the mitigation plan or the preservation plan?

Ms. Cua: Okay, my understanding is that this preservation plan was just recently accepted, and maybe Lisa can -- Dawn just talked to me this morning so we don't have anything in writing. We just have the letter April 6 that you have. We know that the retention basin is located outside, but Dawn spoke briefly with me this morning, so I don't if Lisa or the applicant can comment further.

Ms. Rotunno-Hazuka: I'll just let you know that the preservation plan has been sent to SHPD. They have not reviewed this plan that takes into consideration their comments. The letter you'll get today is finally approving revisions to the inventory survey.

Mr. Glen Tadaki: Good morning Chairperson Sablas, members of the Maui County Cultural Resources Commission. My name is Glen Tadaki, with Munekiyo and Hiraga, representing Hanohano LLC who's proposing this 49-lot single-family residential subdivision known as the Kualono Subdivision. Just to clarify, the request for District Boundary Amendment from the State Agricultural to Urban District was filed with the State Land Use Commission on February 4, 2004. The draft environmental assessment was prepared in support of the petition for this reclassification because of some proposed off-site improvements within the State and County roadway rights-of-way; primarily, these off-site improvements involve the installation of waterlines and the creation of a left-turn pocket on Old Haleakala Highway leading into the subdivision.

At this time, I'd like to handout copies of the SHPD letter approving the revised archeological inventory survey that was prepared by Archeological Services Hawaii. Basically, the letter concurs with the mitigative measure of preservation for Site 2701, which is the heiau located along the southwest boundary of the parcel. And as Lisa mentioned, a preservation plan has been prepared. I would like to apologize for the inadvertent omission of Page 7 of the preservation plan. I would also, at this time, like to point out several corrections which need to be made to the preservation plan that you have in your hands. First correction is on Page 1, it's on the third paragraph, at the end of the fourth line, the word "kupuna" should be inserted after the word "and" which follows "State Historic Preservation Division." Also, on the third paragraph, third sentence from the end, beginning with the sentence that starts "Permitted uses . . .," the words "an access road to the heiau and retention basin" should be deleted.

Ms. Long: Why am I confused? Excuse me, what am I looking at?

Mr. Tadaki: Page 1.

Ms. Long: Yeah. Okay.

Ms. Sablas: I missed the first part, the reference to kupuna, sorry.

Mr. Kapu: Historic district.

Ms. Rotunno-Hazuka: Fourth line.

Ms. Sablas: Fourth line.

Mr. Tadaki: At the very end of the fourth line --

Ms. Sablas: Okay.

Mr. Tadaki: After the word "and," the word "kupuna" should be inserted.

Ms. Sablas: Okay.

Mr. Tadaki: Let's see, on the third paragraph, second sentence from the end, instead of the word "buffers" in the section that says, "The grass lined retention basin shall abut the perimeter of the buffers . . ." the word "s" at the end of "buffers" should be deleted. Also, the last sentence of that paragraph, it's been clarified to indicate that the provisions of the preservation plan are not applicable to adjoining lots beyond the limits of the subdivision because those lots are privately owned parcels and are not within the control of the applicant. On Page 6, the second paragraph, second sentence, with the sentence that starts, "Permitted uses . . ." the words "an access road to the heiau, and" should be deleted.

Ms. Long: Say that again, please.

Mr. Tadaki: Okay, Page 6, second paragraph, second sentence --

Ms. Long: Second, oh ...(inaudible)...

Mr. Tadaki: The sentence should correctly read, "Permitted uses within the 100 ft. buffer would be a four ft. high rock wall which delineates the 60 ft. boundary." Yeah.

Ms. Long: So you're deleting the "access road" --

Mr. Tadaki: "To the heiau." And the word "buffer" should be inserted after 100 ft. The last correction is on Page 7, the very top of the page, with the sentence starting with the words, "Permitted uses," the words "an access road to the heiau and" should be deleted. So, as

corrected, the sentence will read, "Permitted uses within this swath shall be a rock wall which delineates the 60 ft. boundary line."

The heiau, which is also known as Site 2701, was originally recorded by archeological consultants in 1990. Archeological Services Hawaii conducted an inventory survey of property in 2003, which involved subsurface testing in the form of excavating 26 trenches in various locations on the property. No historic sites, other than the heiau, were located by the inventory survey. The inventory survey recommended preservation of the heiau. If you refer to Figure 3 in the preservation plan, the heiau is described as being oval in shape with component features consisting of four depressions, three rock platforms, a soil rock depression on the north, a rectangular depression bordered by a faced alignment to the south, and a possible entrance with deteriorated rock stairs. Archeological testing within the heiau involved the excavation of five test trenches. Upon completion of the test excavations, it was determined that Site 2701 was a pre-contact native Hawaiian religious structure or heiau. And as noted in the letter from the State Historic Preservation Division, which was just handed out, the SHPD concurred with the mitigative measure for preservation of the site and accepted the revised archeological inventory survey.

So far as the archeological preservation plan for the site is concerned, preservation of the heiau site will be through conservation that is through avoidance and protection. The preservation plan was prepared in consultation with Charles Kauluwehi Maxwell Sr., who was the Chair of the Maui/Lanai Islands Burial Council, and also a Senior Board Member of Hui Malama I Na Kupuna O Hawaii. Stewardship opportunities for the protection and preservation of the heiau will be provided to local native Hawaiian groups. Stewards of the heiau will be selected after consultation with the State Historic Preservation Division as well as kupuna knowledgeable about preservation matters.

During all construction activities, the heiau will be protected by orange perimeter construction fencing. The perimeter fencing will be placed 100 feet from the heiau except along the rear boundary of the subdivision where the fencing will follow the property line. The consulting archeologist will monitor and document the installation of the fencing to ensure that the placement and integrity of the fencing is maintained. The archeologist will also notify SHPD once the installation of the fencing is complete. No alterations to the fencing will be allowed without authorization from the archeologist. In addition, no mechanical clearing or grubbing will be allowed within the 60-foot radius of the heiau.

As Ann mentioned, the heiau will be protected by a 100-foot wide buffer except along the rear property boundary where the buffer will follow the boundary line. A four-foot high hand-built dry stack rock wall will be constructed 60 feet from the heiau except along its rear boundary where the wall will follow the property line. Within the 60-foot wide interior portion of the buffer, only native Hawaiian plants: grasses, groundcover, trees, and bushes will be planted. Persons with knowledge about pre-contact environments and traditional

landscaping around heiaus will be consulted in order to formulate a landscaping plan for this area. The planting and maintenance of the native Hawaiian landscaping will be the responsibility of the native Hawaiian group which is selected to be stewards of the heiau. The heiau and the area within the 60-foot wide interior buffer will be used for traditional religious purposes deemed appropriate by the State Historic Preservation Division and native Hawaiian groups.

The 40-foot wide exterior buffer, which is the area between the rock wall, which delineates the limits of the 60-foot interior buffer, and the outer limits of the 100-foot wide buffer, will be planted with grass and is envisioned to be kept as open space for the subdivision. The open space within this 40-foot area is not intended to fulfill any County park dedication requirements. It is provided purely as an open space area for the subdivision. No construction will be allowed within the 100-foot wide buffer except for the construction of the wall delineating the limits of the 60-foot wide interior buffer. Access within this 60-foot wide interior buffer will be limited to individuals deemed appropriate by the SHPD and native Hawaiian group that's selected as steward for the heiau.

A total of three 18-inch by 18-inch bronze plaques are proposed around the perimeter of the 100-foot wide buffer. The plaques may read, "Access is permitted to this open space which surrounds a native Hawaiian religious structure. SIHP 50-50-50-05-2701. Please respect this area." In addition, two 18-inch by 18-inch bronze plaques are also proposed around the perimeter of the 60-foot wide interior buffer; one of the signs or plaques will be posted at an entrance in the rock wall by the turnaround near the heiau, while the other plaque will be posted along the rear boundary of the subdivision. The plaques may read, "Native Hawaiian Religious Site 50-50-05-2701, Please Respect This Area-KAPU-Do Not Enter-Access is Controlled Call Native Hawaiian Group for Permission." It is hoped that native Hawaiian groups or knowledgeable researches and archeologists may one day restore the heiau; however, funding for the heiau restoration will not be imposed upon or tasked upon the residents of the subdivision.

That, basically, is our presentation. At this time, we're free to entertain any comments and questions that the Commission may have. With us today is Charlie Maxwell, who is our cultural resources consultant, and Lisa Rotunno-Hazuka, with Archeological Services Hawaii, who conducted the inventory survey as well as prepared the preservation plan in consultation with Mr. Maxwell.

Ms. Sablas: Thank you for your presentation, Mr. Tadaki. Questions, comments from commissioners?

Mr. Kapu: I get one. Pertaining to the site plan, I see on the north, south -- what is that? The west side? That's the boundary line? Is there also a buffer and is that -- cause I see this as like a subdivision, yeah? On the back side of the heiau, who's jurisdiction is that?

Because there's no site preservation on the other side. You were saying something about you're going to have signs on the other side, on the back side of the heiau.

Mr. Tadaki: Right, there will be one KAPU sign posted along or on the rear boundary of the heiau.

Mr. Kapu: Yeah, what is the distance of the preservation on the back side?

Mr. Tadaki: The distance between the heiau and the rear boundary line is approximately 15 feet.

Mr. Kapu: Fifteen feet.

Mr. Tadaki: Yeah.

Mr. Kapu: So that's not your jurisdiction; that's somebody else's?

Mr. Tadaki: Well, see we cannot impose the -- a boundary or buffer on properties that are not owned by the applicant.

Mr. Kapu: Yeah, yeah.

Ms. Rotunno-Hazuka: Yeah, what we hope is that SHPD, when they review actions for that parcel, they'll try to imply or impose what we proposed on the opposite side and that's the - - there's going to be a rock wall there on that 15-foot boundary, and then the sign there was to at least tell people, cause it's open fields there now, if they're walking through, then they can -- they know what's on the other side. A lot of people know that this is a heiau up in this area, but several years ago, there were some people that were claiming it was a rock mound and that their grandfather had created this rock mound so --

Mr. Kapu: Is any families present still today that have any type of responsibility to the area? Was there sort of like a public notice every been put out there to look for families who was compassionate to the area is what I'm saying?

Ms. Rotunno-Hazuka: I think, well, the one families before were the families that said their grandfather created it and it was a rock mound. Now, whether there's or if you're asking if there's people out there that take care of the site as a steward --

Mr. Kapu: Yeah.

Ms. Rotunno-Hazuka: We haven't gotten that far yet.

Mr. Tadaki: Well, perhaps, Charlie Maxwell may have, you know, some insight to that. But, also, I'd like point out that Mr. Maxwell had corrected me in terms of the landscaping or native Hawaiian type plants that are proposed within the 60-foot interior buffer, there will be no trees planted within that buffer area.

Mr. Charlie Maxwell: Good morning, Madam Chair and members of the Commission. My name is Kahu Charles Kauluwehi Maxwell, Sr., and my company CKM Cultural Resources LLC did the cultural assessment for this area. Briefly, I'd like to give you a little background on the heiau. Twenty-five years ago, Mr. Kalani, who lives right next to this project, Wailuku side of the project, told me that when he was a little boy, and he was about 73 years old then when I spoke to him, he said that his parents always told him, and they own 11 acres right next to this project, that this was a heiau. So, as a member of the Upcountry CAC, I inspired our commission then to place this under a historical site but the Malama Company that owned the land was going to make it into a whole subdivision and I employed them to hire an archeologist who, in fact, found it was a bonafide heiau. Prior to that, they have testimony from the Philips family and Boteilho family that said that it was stackings from their grandparents clearing of the land but the Portuguese people did not stack rocks like it was here. Papakalakea, several years ago, and that's why they named the subdivision Kualono which is in the back, the ridge back, that looks down upon everything, said that because of the depression in this heiau, that this was a luakini, a sacrificial heiau, and this whole area is very cultural. The gulch right in front of it is Kalialianui and it contains the best petroglyphs on Maui and it was where the hokulea took their rubbings for the sails, and also there are numerous burial caves, and it's been a constant fight because the new highway was going to coming through their and we had to fight that out, and the only images, wooden images on Maui was found either in this gulch or the gulch adjacent to Kamehameha School, Kalialianui, and so this place is very significant. It's very possible that this heiau housed the ki'i, the images that was found in the gulches. About ten years ago, Malama hired me to try to find the name of the heiau and that was almost totally impossible, except the location was documented in ...(inaudible)... way back in 1982, but, other than that, you know, the name is -- there's no name and also the retention basin is 13 feet below the heiau so no matter what kind rain that comes by, it'll never affect the heiau, and I plan to, the back area of the heiau, which is 15 feet, we plan to inform, have the Historic Preservation Division inform the landowner that he is adjacent to a historical site. So if there's any questions at this point, I'll be happy to answer. Yes?

Ms. Long: Uncle Charlie, nice to see you.

Mr. Maxwell: Thank you, Barbara.

Ms. Long: There's something in the report about maintaining the views to Haleakala.

Mr. Maxwell: Thank you for reminding me. Can I answer that?

Ms. Long: Please. I wanna know how important that is.

Mr. Maxwell: Okay, a heiau is very important for view planes. There is a view planes of Haleakala that no matter how much people can build, actually about four-story, but it's way to the Makawao side and that is protected, the heiau; to Kahoolawe, the view plane is protected; and then, of course, to lower the valley isle from Lanai, Molokai can be seen, and this is an important factor for any ancient historical site, the view plane.

Ms. Long: Okay, my concerns are with Lots 30 and 31 here. Would -- are there any restrictions, or on any of the lots, as far as landscaping or height of structures?

Mr. Maxwell: I would have to let -- have the -- Glen? He'll have to answer that cause I --

Ms. Long: Have you recommended that?

Mr. Maxwell: I did. I did recommend that that they make sure that if there's any building, that that particular lot would not obstruct the view plane.

Ms. Long: Okay, so I wanna know about that. Thank you.

Mr. Maxwell: Thank you.

Mr. Don Fujimoto: Madam Chair, members of the Commission, Don Fujimoto representing Hanohano LLC. In response to your question, Ms. Long, yeah, we plan to put a view easement restriction on that lot once we can determine where exactly that view would be from the heiau. We've been working with both Lisa and Uncle Charlie.

Ms. Long: Okay, so that would have to do with placement of structures and landscaping?

Mr. Fujimoto: Right. Right. And that'll be addressed during the subdivision period.

Ms. Long: Okay, I'm sure that Uncle Charlie will keep track.

Mr. Fujimoto: Yeah.

Ms. Sablas: Don, at this point, are the plans for two-story then? Is that what I'm -- it's not all single-story? They may be two-story?

Mr. Fujimoto: I believe the height limitation would be 35 feet, yeah, so it would be like two stories.

Mr. Kapu: I get one question. Does the heiau sit below the development or up high?

Mr. Fujimoto: Actually, it slopes down this way, yeah.

Mr. Kapu: Okay.

Mr. Fujimoto: Yeah, so, this side will be higher than the heiau; that's the existing condition.

Mr. Kapu: Okay, so water runoff and potential things like that?

Mr. Fujimoto: The water runoff and all would be directed into the retention basin outside of the 100-foot buffer.

Ms. Long: Are you going to have pukas in that back wall, the A Type, well, whichever the one is in the back, so that water won't be trapped in there?

Ms. Rotunno-Hazuka: Which? The wall on the boundary line?

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: Well, it's dry stacked.

Mr. Fujimoto: Yeah, so it can seep through.

Ms. Long: Oh, it's just dry stacked.

Ms. Rotunno-Hazuka: It was dry stacked.

Ms. Long: Okay, so -- okay, that one doesn't -- okay that's Type A, but it has a core.

Ms. Rotunno-Hazuka: Oh, did they specify?

Ms. Long: It has a core.

Mr. Fujimoto: Yeah, the lower wall is, basically, the perimeter wall around the retention basin.

Ms. Long: That's dry stacked?

Mr. Fujimoto: Yeah. No, the dry stack is around the 60-foot buffer.

Ms. Long: Okay.

Mr. Fujimoto: The one with the core is around the retention basin to retain the --

Ms. Rotunno-Hazuka: More structural.

Mr. Fujimoto: Yeah.

Ms. Long: Type B, Type --

Ms. Rotunno-Hazuka: Oh, so on the back side maybe it's --

Ms. Long: What is the back side? Type A or Type B?

Ms. Rotunno-Hazuka: Type B.

Ms. Long: It is B, okay. Okay, oh, irrigation within the swath and the buffer?

Mr. Fujimoto: To tell you the truth, I haven't talked to -- I'm not --

Ms. Rotunno-Hazuka: Well --

Mr. Fujimoto: Will irrigation be allowed in the 60-foot area?

Mr. Maxwell: Within the 60-foot area to the heiau, they'll be all endemic Hawaiian plants.

Ms. Long: No water.

Mr. Maxwell: No water at all. Outside in the grass area, I would see them watering that area for maintenance.

Ms. Sablas: Uncle Charlie, while you're up there, I just wanted to ask you if you're comfortable with the access plan because you mentioned the petroglyphs there and you know what happened to Olowalu once it was, you know, people knew about it? So there's, I know they had mentioned native Hawaiian group, but how comfortable are you with the monitoring of this area now that people will be populated close to this sensitive site?

Mr. Maxwell: Well, the people cannot go down to Kalialianui, it's actually far away, maybe three, four-hundred yards away, and it's inaccessible. It's all fenced. It belongs to Kamehameha School and other private properties before they come to this subdivision, so that's not a problem.

Ms. Sablas: Oh, good. Thank you.

Mr. Tadaki: Are there any further questions or comments that the Commission has?

Ms. Sablas: Well my comment is I'd like to, again, commend you for involving the local community, for involving the cultural specialist to treat the sensitive area, and to, you know, get again consensus for the surrounding areas, so thank you for doing that.

Mr. Tadaki: Thank you very much, Chairperson Sablas. We'd also like to note that an archeological monitoring plan will be prepared for all work within the vicinity of the heiau. In its review of the inventory survey, SHPD had indicated that they felt monitoring for the whole parcel was not necessary; however, it suggested that monitoring should be undertaken for any construction activities within proximity of the heiau, so we will be preparing a monitoring plan for submittal to SHPD for their review and approval.

Ms. Sablas: So noted. Thank you. Okay, no other comments? Ready for staff?

Ms. Cua: Basically, what you're asked to do today is to provide comments on the draft environmental assessment and, as you were having your discussion, I was trying to jot some comments to help you and maybe if you're okay with that, we could start with that rather than --

Ms. Sablas: Yeah.

Ms. Cua: Okay, so if you could help me on this, and these comments assume that you concur with the comments of SHPD, and if not, we can make corrections as noted. The first comment that I've listed is that you recognize that the heiau site is inappropriate for a retention basin; second comment, that an appropriate buffer zone should be determined in cooperation with the State Historic Preservation Division and that no construction will occur within the buffer area, you know, we're saying 100 feet, you know, there's 15 feet to the back, but I think rather than just use that number we'll just, you know, and, again, you can correct it if you'd like it to be changed, but just that an appropriate buffer zone should be determined; three, is that we've heard today that the preservation plan has been submitted to the State Historic Preservation Division so, possibly, your third comment could read that an acceptable preservation plan should be reviewed and approved by SHPD and in place prior to construction; we talked and we heard information about some of the plaques that are being proposed and so I would propose a general comment that could read that you support the plaques that identify the site as well as access to the heiau site; the fifth comment that I've listed dealt with your discussion on the view plane issue, and I propose a comment, possibly, that a view easement restriction dealing with landscaping and buildings should be placed on lots that may impact the view planes from the heiau site.

Ms. Long: Beautiful.

Ms. Cua: And the final --

Ms. Sablas: I'm sorry, who would determine those lots? Would be?

Ms. Cua: I guess it would be --

Ms. Sablas: If you'd work with the --

Ms. Long: Uncle Charlie.

Ms. Cua: Yeah, Uncle Charlie.

Ms. Sablas: Okay, good.

Ms. Cua: And the final comment that I got from your discussion dealt with this 60-foot area and 40-foot area making up this 100-foot buffer zone that no irrigation should be provided within the 60-foot buffer area and that irrigation is appropriate for maintenance purposes within the 40-foot area. So that's what I've got so far. I don't know if I've missed anything or if you want to add, amend; we'll just start with that.

Mr. Kapu: I get one question. Was there a cultural inventory assessment done for the whole entire area?

Ms. Cua: There was a cultural assessment done, which Uncle Charlie did, and then there was an archeological inventory survey that was done, which was accepted by SHPD.

Mr. Kapu: I just feel that that's important because any kind of history that is compiled is definitely beneficial to the area.

Ms. Cua: And I think some of the comments that Uncle Charlie gave you was from the cultural assessment.

Ms. Rotunno-Hazuka: I just wanted to point out too to the commissioners that this has been in pineapple so all the way up to the heiau, right now, has been graded and there's pineapple paper and there's, you know, pushed mounds, so it's nice for this buffer to be imposed and to now protect the area around the heiau.

Ms. Long: Madam Chair, I would like to make a comment and -- because Lisa is involved in this project, if it had been something that required action from us or even getting an objective or another point of view, I was glad to see that Dawn had asked Erik for an opinion, but I think this is not going to be the only time this happens and I just want to raise the issue now that maybe the chair and staff could work on a plan for when we have to

consider things where our one archeologist must recuse herself that we have something, a process that allows us to, you know, cause Erik couldn't come in, and I certainly trust him, and I believe him, and this is fine, it's nice to have the communication, but there will be other times when it's more contentious and maybe you could think about that for the future.

Ms. Rotunno-Hazuka: And that was actually when I was interviewed by the County Council and they said, "Well, why do you think you should be on the Commission when Erik is on there?" And I said, "Well, because his clients, half the time, aren't my clients and my clients aren't his clients," so --

Mr. Boteilho: And, Madam Chair, just in general, yeah, staff was aware that Lisa would have to recuse herself on this matter. In general, if you have to recuse yourself, you still can participate, but you should not advocate, so the discussion brought up by Lisa really was clarifications points so that's okay,

Ms. Sablas: But I think the point made is that if we could have an unbiased archeological opinion also in matters like this.

Ms. Long: In more complicated discussions.

Ms. Cua: And we can, you know, we can try. We have that situation with, you know, like the Urban Design Review Board where we have, you know, one landscape architect and so we're always -- we're always faced with this decision. I think the problem would then become, you know, these are professional people that have their businesses and to be able to get them here on a time certain that we have set aside might be the challenge and it would be them volunteering their time, so that's the only -- the only thing.

Ms. Long: What about the State Historic Preservation Division's Melissa Kirkendall?

Ms. Cua: Oh, Melissa?

Ms. Long: Yeah. Would that be logical? I mean I'm not that familiar with archeology and I would really like, not in this particular matter, this is pretty cut and dry, but, eventually, just having someone with her kind of background to provide more information.

Ms. Rotunno-Hazuka: I mean I know in the past when this Commission was first created I think they were on the board. I mean it's definitely a different opinion and it's supposed to be unbiased so --

Ms. Sablas: Well, we usually would get our agenda in advance --

Ms. Cua: Right.

Ms. Sablas: But, I mean, at that time we would like to, I guess, request from staff to give us a heads up that issues like this are coming and that gives us the opportunity to consider having an outside -- yeah.

Ms. Long: Or just come up with a policy and do it.

Ms. Sablas: Yes.

Ms. Cua: Well that's something we can always look at on a case-by-case basis cause I know staffing wise they're swamp --

Ms. Long: Oh yeah.

Ms. Cua: And so I know to have them here, at every meeting, is definitely not practical, and I don't think that's what you're asking.

Ms. Long: No, no.

Ms. Cua: I think you're asking in a unique situation where, you know, we do have issues --

Ms. Long: Yeah.

Ms. Cua: To bring someone in, although, with SHPD, we normally at least have their letters, so I guess she would be speaking to the position that they have already put forth in a letter.

Ms. Long: Okay, thanks, just want to consider it.

Ms. Cua: So are those comments okay or would you like to add anymore or can we just put that in a letter?

Ms. Long: They sound fine to me.

Ms. Cua: So we'll have you take a vote on that maybe.

Ms. Sablas: Okay, we're all comfortable with the six items mentioned by staff? Uncle, you're okay? So, in this case --

Ms. Long: Does the applicant have any need for guidance?

Mr. Tadaki: I would just like to note that the -- so far as the draft environmental assessment review, the availability of the draft EA was published in the OEQC's Environmental Notice

on March 8 of this year. The 30-day public comment period expired on April 7. We are looking at going before the State Land Use Commission on June 24-25 for the final EA review by the Land Use Commission. Our intent here today was to provide you with an overview of the preservation plan as well as to solicit any comments that the Commission has on the preservation plan so that we can, you know, implement or take into consideration the Commission's comments so that we can improve upon the preservation plan.

Ms. Sablas: And thank you for that opportunity. Okay, who's ready to make the motion?

Ms. Long: Do we need to vote?

Ms. Sablas: Well, it's advisory.

Mr. Boteilho: Madam Chair? Madam Chair, you seem to have consensus on the recommendations of staff so we'll just move forward on it.

Ms. Sablas: Okay.

Ms. Long: It's going to be a letter?

Mr. Boteilho: Yes.

Ms. Sablas: The letter. Okay, so thank you everybody, good luck on your project, thank you. So thank you, Mr. Tadaki.

Mr. Tadaki: Thank you very much.

Ms. Sablas: I see Dawn's back. Can we take a short five?

(A recess was called at 10:35 a.m., and reconvened at 10:45 a.m.)

3. DEMOLITION PERMITS

- a. **MS. HOLLY MCELLOWNEY, Administrator, STATE HISTORIC PRESERVATION DIVISION, requesting comments on the permit for demolition requested by MR. DEREK HEAFEY for A & B Inc., to demolish the abandoned Puunene Sugar Mill Smokestack #2, built in 1954, at the Puunene Sugar Mill, Puunene Avenue and Mokulele Highway, TMK 3-8-006:001, Puunene, Island of Maui. (BT2004/0549) (D. Duensing)**

Ms. Cua: Madam Chair, members of the Commission, I hope you bear with me as I'm taking Dawn's place on these issues so she did prepare some notes for me, but if I can't answer all your questions, that's cause I was not involved from the beginning on all of this, so here we go. You have, as I understand, the engineering report and the photos of the smokestack that was attached to your agenda; also, a letter from HC&S to SHPD, and the synopsis of the history of the smokestack. Some of you may be aware that HC&S came to the CRC in November for advisory review on a demolition permit for a smokestack that was built in 1899. The smokestack was demolished in March or April of this year, so that smokestack is gone. HC&S is now coming before you proposing to demolish another smokestack; this one constructed in 1954. SHPD was initially concerned that this is the second of two smokestacks to be demolished and they requested assurance from HC&S that this would be the last as they feel the smokestacks are a significant contributing feature to the historic Puunene Mill, probably Lahaina Mill, I think her comment is wrong here. Anyway, you have a letter from SHPD; another letter was passed out dated May 28, 2004 from SHPD where they indicate that HC&S does not plan for the demolition or dismantling of three other smokestacks that are newer and are in better condition because they did get the letter from HC&S. They recognize that while two of the smokestacks are fully operational, the third is being used as a cell phone transmission site. They do acknowledge the receipt of black and white photographs, construction drawings, and the Puunene Building Preservation Program History document as partially completing their records; however, they wanted comments from this body, so that is why this application is before you today. That's it. Any comments?

Ms. Rotunno-Hazuka: I have a question though. In the paper today, they had one of the smokestacks with the -- it says, "Pioneer Mill" and the date, is that --

Ms. Cua: I didn't, I'm sorry, I didn't see that article.

Ms. Long: That's different.

Ms. Rotunno-Hazuka: That's completely different than this?

Ms. Long: That's in Lahaina.

Ms. Rotunno-Hazuka: Oh we're doing -- I thought you said we were doing -- are we doing Puunene or Lahaina?

Ms. Sablas: No, Puunene.

Ms. Cua: Sorry, Puunene. It isn't Lahaina, Puunene.

Ms. Rotunno-Hazuka: Okay.

Ms. Cua: Sorry, wrong one.

Ms. Long: Yeah, totally different.

Ms. Cua: Puunene Sugar Mill.

Ms. Rotunno-Hazuka: Okay.

Mr. Derek Heafey: ...(inaudible)...

Ms. Rotunno-Hazuka: Oh, okay.

Ms. Cua: Oh, okay.

Ms. Rotunno-Hazuka: Are there any of the stacks at Puunene that have anything written on them like they do in --

Mr. Boteilho: Madam Chair, maybe if we could, finish up with Ann first and then we'll bring the applicant --

Ms. Cua: The only other thing I wanted to mention was regarding the first smokestack that was demolished, this demolition did include four-by-five black and white photographs of the mill and the smokestack, copies of the as-built construction plans, and a history of HC&S, and the engineer structure evaluation and report dated December 2003. In addition to what has previously been collected, we're going to be recommending that mitigation measures for the second demolition should include four-by-five black and white negatives and eight-by-ten photographs of the smokestack that show its construction features, and I asked Dawn the difference between the requirements for the first one and this second one and she indicated that the requirements of the four-by-five negatives and the eight-by-ten photographs are actually more acceptable in terms of documentation rather than just having four-by-five photographs. One other comment she had was that it would be nice to get the blueprints of the smokestack as well, if they're available, and maybe we can have the applicant comment on that.

Ms. Long: Do we have those recommendations, Ann?

Ms. Cua: No, Dawn just jotted down some notes for me to point out to the Commission.

Ms. Long: Would someone please explain to me why black and white is preferable to color in this day in age.

Mr. Boteilho: I heard it last a lot longer, like 50 years longer. Color tends to fade and you lose the resolutions.

Ms. Long: I don't know. Technology, I think, has improved these days. I don't know.

Ms. Cua: I can't answer that. I know that, in working with SHPD, they've always asked us for black and white.

Ms. Long: I know. I know.

Ms. Cua: The reason behind that? I couldn't say, maybe Dawn could, but --

Ms. Rotunno-Hazuka: Cause they're back in the times.

Ms. Cua: I don't know.

Mr. Kapu: It's hard getting the pictures ...(inaudible)...

Ms. Rotunno-Hazuka: Okay.

Ms. Long: Cause I drive through here all the time and color, in 50 years, when people -- the other thing is does HC&S have an archive, and is this going to be in their archive, and will it be accessible to researchers and the public?

Mr. Heafey: We do we have ...(inaudible)...

Ms. Sablas: Can you please identify yourself?

Mr. Heafey: My name is Derek Heafey. I work for HC&S. HC&S does have blueprints. We generally supply the Sugar Museum with lots of information. They've, you know, they've got all kinds of photos, all kinds of history over there. We're more than happy to provide the blueprints that we do have or at least copies of those to whoever wants them.

Ms. Long: I don't want them. What would I do with them?

Ms. Rotunno-Hazuka: I have a question. Is it these two stacks here?

Mr. Heafey: Yeah, the red and white one there, yeah.

Ms. Long: The black and white one, Lisa.

Ms. Rotunno-Hazuka: Yeah, the black and white one.

Ms. Long: That's why I say color.

Mr. Heafey: The other one is an active; that's a wet scrubber.

Ms. Rotunno-Hazuka: That's active, so this is the one for demolition?

Mr. Heafey: Right.

Ms. Rotunno-Hazuka: And in this report, they talk about the demolition being two-hundred thousand dollars to demolish.

Mr. Heafey: Right.

Ms. Rotunno-Hazuka: And -- but it would be two-hundred and forty to repair.

Mr. Heafey: Right.

Ms. Rotunno-Hazuka: But in the two-hundred thousand dollar quote, they say you have to get rid of all the debris and so that would probably bring it up pretty high, wouldn't it? After you have to take all that to a landfill and hire trucks and -- or you're going to use your own or --

Ms. Long: Helicopter.

Mr. Heafey: Yeah, but it would be inexpensive, but not ...(inaudible)...

Ms. Rotunno-Hazuka: Not forty? And what is -- is this stack here constructed the same way as this one?

Mr. Boteilho: Excuse me, maybe we could, I mean, yeah, if we could share with the rest of the Commission, maybe you could point it out, I mean just point the paper to the rest of the Commission and, yeah, we just have to get it on the record. Thank you very much.

Mr. Heafey: The far stack is the wet scrubber for Boilers 1 and 2; the black and white striped one is the chimney that we want to demolish; there are two others off of the picture, another red and white one, and another wet scrubber for Boiler No. 3.

Ms. Rotunno-Hazuka: On the other ones that are left, are those as old as this one?

Mr. Heafey: The other inactive one, the one that's a cell phone site, that was built in 1973 or 4. The other wet scrubber was built in '92, I believe.

Ms. Rotunno-Hazuka: So what would be representative of the era? The one that's going to be demolished?

Mr. Heafey: The one in -- that was built in '72 is almost identical to the one that's --

Ms. Rotunno-Hazuka: Okay, and that's got the cell stuff on it?

Mr. Heafey: Right.

Ms. Long: Just out of curiosity, when it gets taken down, where do the parts go?

Mr. Heafey: The casing is metal, basically, scrap metal; it's in very bad condition.

Ms. Long: Right, so --

Mr. Heafey: The brick, they'll be taken to the C&D Landfill.

Ms. Long: No way to recycle any of that?

Mr. Heafey: If anybody wants some bricks.

Ms. Long: Are they fire bricks?

Mr. Heafey: They are fire bricks.

Ms. Long: Oh, yeah.

Ms. Rotunno-Hazuka: I want them.

Ms. Long: Put me on the list. Yes, I want them.

Ms. Rotunno-Hazuka: Yeah ...(inaudible)...

Ms. Long: They're wonderful. We'll go get them, Lisa. Well, if you gotta do it, you gotta do it.

Mr. Heafey: It is a safety hazard. It's in an area where there's a lot of worker traffic directly above a transformer yard so there is a real -- a real danger there.

Ms. Cua: If I could ask a question. Are there any blueprints of the smokestack?

Mr. Heafey: I have some drawings, the old Bechtel drawings, those are -- I could get copies of those for whoever wants them.

Ms. Cua: Yeah, we -- I think we'd want a copy.

Ms. Rotunno-Hazuka: Well, I guess if it's a safety issue; maybe in the future though the cell site can be changed back to, they probably make money off of leasing the cell site or somebody does, but maybe that stack can always stay with the intent of restoring it down the line to what it was.

Mr. Heafey: Well, it is in much better condition ...(inaudible)...

Ms. Rotunno-Hazuka: Okay.

Ms. Cua: So if I could sum up, the two things that we would ask them to provide would be the four-by-five black and white negatives as well as the eight-by-ten photographs of the smokestack that show its construction features, and also we ask that they submit whatever blueprints they have of the smokestack, and another comment may be that the Commission may want, in their letter to the applicant, to have a statement that you hope that this would be the last of the smokestacks to be demolished, as they have represented, as you feel the Puunene Mill is an important part of Maui's history.

Ms. Sablas: And maybe to put out a public notice to anybody who's interested in the fire bricks so it doesn't go to the -- I mean it doesn't go to the dump.

Ms. Long: Oh, yeah.

Ms. Sablas: And then people can utilize it.

Ms. Long: Give them my phone number.

Mr. Kapu: I get one question, sort of totally out of proportion here, but what do you see the history of the mill as of today because, you know, this is like the second stack that's going down? Is the mill still in operation?

Ms. Long: Oh yeah.

Mr. Kapu: Or is it slowly -- cause once the next stack goes, what's going to happen after that? I'm looking at the ongoing generation as pertaining to the business of the sugar mill.

Mr. Heafey: Well, hopefully, we'll go on into the future. There's no plans to shut down; we're operating at full capacity.

Mr. Kapu: Yeah, you're basically, probably, maybe the last of the last, especially on this island, and that's even a bigger concern as pertaining to the historic of Puunene Sugar Mill. If the other stack, basically, comes to the point where it needs to be torn down too, what's going to happen to the business? Is it necessary that the stacks exist in your corporation?

Mr. Heafey: It is necessary for the wet scrubbers, yeah, we have to have two of the stacks to run the boilers; we just can't get by without them. The third stack is, well, it's a cell phone site now so it brings in a little extra income; that one is not essential to the operation, but the other two are.

Mr. Kapu: Well, let's just hope that it's ongoing. I wish you luck.

Ms. Rotunno-Hazuka: Yeah.

Ms. Sablas: While I have you there, I pass there quite often, so what's the difference between the black smoke and the white smoke?

Mr. Heafey: The white smoke is steam; there shouldn't be much black smoke, but it could be --

Ms. Sablas: But I have noticed some black smoke sometimes.

Mr. Heafey: Generally, those are boiler upsets, it's from wet bagasse, and they try to get on those very quickly and kinda clean them up --

Ms. Sablas: Okay, thank you, just curious.

Mr. Heafey: But the white smoke is just steam.

Ms. Rotunno-Hazuka: Ann, do you think we could clarify maybe the use of the cell site, in the future, something to that effect, that if they find another tower or another use for the cell, that that stack remain and be -- cause that's the one that's old like the one that's being demolished - something to that effect?

Ms. Cua: Is that the wish of the Commission?

Ms. Long: You're saying not put cell antennas on the third stack? Remove them?

Ms. Rotunno-Hazuka: Well, I'm saying the one that has it now --

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: In the future, I mean that was actually pretty smart cause those cell companies they come to them to use that, but, in the future, maybe they will find another tower or another site and they can take the equipment off and let that be restored.

Ms. Long: Keep the original --

Ms. Rotunno-Hazuka: Yeah, keep the original intent.

Ms. Long: Appearance, yeah. Yeah. I think that's --

Ms. Sablas: It's part of the preservation.

Ms. Rotunno-Hazuka: Right.

Ms. Long: That's a worthwhile question. And I would like to request just a couple of color photos so that you can tell it's red and white, and the building is green and rusty. It's beautiful.

Ms. Rotunno-Hazuka: Do we need to take a vote or anything?

Ms. Cua: No, I --

Ms. Rotunno-Hazuka: You've got it?

Ms. Cua: I don't know. What was the name of those bricks again?

Ms. Long: Fire bricks.

Ms. Cua: Oh, just fire. I thought it was -- I heard something else.

Ms. Long: Are they rectangular or do they have a wonderful shape?

Mr. Heafey: Actually, they have a curve. The ends are ...(inaudible)...

Ms. Sablas: They're treasures, yeah.

Ms. Long: Yeah.

Ms. Sablas: I know of several people who would be interested in that.

Ms. Long: You should auction them. You could make some --

Ms. Rotunno-Hazuka: Remember, we're volunteers here.

Ms. Long: Exactly. We're going to be there with our pick-up trucks.

Ms. Cua: Okay, so the comments that we have, again, are about the negatives and the photographs; the blueprints; public notice about the fire bricks; relative to the cell stack that, in the future, it should be restored to its original appearance? Or not necessarily, it's the use, right?

Ms. Rotunno-Hazuka: Original appearance more than use.

Ms. Cua: Appearance because not use.

Ms. Long: Yeah.

Ms. Cua: And then, if possible, if we could get some colored photographs of the -- just the stacks itself? Or the stacks and the mill site?

Ms. Long: The whole -- to replicate the --

Ms. Rotunno-Hazuka: The industry.

Ms. Long: Well, the building.

Ms. Sablas: Cause once it's gone, it's gone, just get that for the records, yeah.

Ms. Long: Yeah.

Ms. Cua: So the mill site and the stacks?

Ms. Sablas: Yeah.

Ms. Long: I saw someone shooting it yesterday. Hope it was in color.

Ms. Cua: Okay.

Ms. Rotunno-Hazuka: Thank you very much.

Ms. Sablas: Thank you very much.

Mr. Heafey: Thank you very much.

Ms. Long: Thank you.

- b. MS. HOLLY MCELLOWNEY, Administrator, STATE HISTORIC PRESERVATION DIVISION, requesting comments on the permit for demolition requested by Benjamin and Jenny Silva, to demolish a house built circa 1947, at 117 Uhiwai Place, Wailuku, Island of Maui. (BT 2004/0607) (D. Duensing)**

Ms. Cua: Okay, this next request is before you because we received a letter from State Historic Preservation Division, dated May 21, 2004, asking that this application be reviewed by this body. You do have a copy of the letter from SHPD, also you do have some photo copies that, some reduced copy -- photographs of the structure that was in your agenda; what I passed out to you are some eight-by-ten photos of the structure which Dawn asked the applicant to submit, and they just recently was able to get those back and submitted those to us.

Ms. Long: Where is this street, Ann?

Ms. Cua: This is in Wailuku.

Ms. Long: In Wailuku but -- I looked it up and I forget where it was.

Ms. Cua: Uhiwai Street. Is it Uhiwai Street? It's close -- off of Vineyard.

Ms. Long: Oh, it's at the top of Vineyard? Okay. Is this house visible from Vineyard Street?

Ms. Cua: I'm not sure. We can call Mr. Silva. I don't know.

Mr. Benjamin Silva: Good morning, my name is Ben Silva, and it is visible from Vineyard Street. It's the second home in.

Ms. Long: Vineyard Street used to be a wonderful streetscape, but now it looks like -- I don't know. It's a shame. It's lost a lot of the significant older houses. It's still -- it's still real cool. What's going to replace this?

Mr. Silva: A single-story home.

Ms. Long: Oh good.

Mr. Silva: I built a two-story in the front already.

Ms. Long: You've been up there for --

Ms. Cua: So from the department's standpoint, you know, in addition to the historic resources inventory survey that we have, the only additional thing we had been waiting for were the eight-by-ten prints, which we have in place right now.

Ms. Rotunno-Hazuka: Can this structure be moved?

Mr. Silva: It's really termite eaten.

Ms. Rotunno-Hazuka: Okay, so it would be tough to --

Mr. Silva: Yeah, and if you know what Uhiwai Place, it's a --

Ms. Rotunno-Hazuka: Real narrow?

Ms. Long: It's really narrow.

Mr. Silva: Real narrow. You can barely get a truck in there.

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: Okay.

Ms. Long: Did Dawn have any comments about any unique qualities of this structure? I'm wondering why we required this to happen when there are drawers full of photographs of similar structures.

Ms. Cua: When you required what to happen?

Ms. Long: The photographs and the site plan and the -- it's a small burden on the property owner, but it's a burden nevertheless.

Ms. Cua: Yeah, I believe it's because the comments that we got back from SHPD asked for it.

Ms. Rotunno-Hazuka: So this -- this structure has been renovated, obviously --

Ms. Cua: Yeah.

Ms. Rotunno-Hazuka: And so it doesn't have it's original --

Ms. Cua: Yeah, Dawn didn't, you know, point out anything in particular that she felt needed preserving. I think her --

Ms. Rotunno-Hazuka: Okay, she would --

Ms. Cua: She was comfortable with the fact that we did have the eight-by-ten photographs.

Ms. Rotunno-Hazuka: Okay.

Ms. Cua: And she has the negatives.

Ms. Long: I wish Dawn was here. She's talked about changing this procedure or am I wrong about it coming here first and if, locally, it's decided that it's important, then it goes to SHPD or --

Ms. Cua: I know she is working to change the process because, as it is now, we, well, I don't know about now as today, but the past practice has been, you know, everything that comes in that's over 50 years, we send it to SHPD. If they come back and like they would, when I was doing it, they would give us a call and say, "We don't have any problems with this one," then they would -- then we'd just sign off on it. But if they came back and they said, you know, "We feel that this staircase should be preserved, or maybe the house should be moved, or we want the CRC to take a look at it," anything like that, we put it on the agenda.

Mr. Silva: Could I second that?

Ms. Long: Yeah.

Mr. Silva: I submitted in March 16. I have plans drawn; I ordered windows, doors --

Ms. Long: I know.

Mr. Silva: And I am frustrated.

Ms. Long: Yeah, this seems to be very counterproductive and in view of the fact that they don't say, "Oh, it's a marvelous example of such and such, and the fret work, and muntens, and the roof line, whatever," yeah, sorry.

Mr. Silva: The picture taking is the funniest part. They don't tell you what kind of film, I mean I did it twice, my cousin did it three time, you know, so I mean I think it can be fixed, you know,

Ms. Long: Yeah, we're aware and we're working on it.

Ms. Sablas: You have anything of the interior? You have anything of the interior?

Mr. Silva: No.

Ms. Sablas: You have anything that's original?

Mr. Silva: Actually what I did is I pre-finish paneled the entire house for my mom when she was still living there, and they put on vinyl siding, and I'm actually cheating because I have friends coming up and they're taking stuff out of the house already. They took all the pre-finished panels, I gave away all of the appliances before I knew I had to go through this thing.

Ms. Sablas: So what you're saying is there are very little of the interior, original interior?

Mr. Silva: Yeah, and the rest is pretty well -- otherwise they would have took it. It's just very termite eaten.

Ms. Long: The only thing I see is the two-over-one, I guess they're two-over-one windows with a horizontal muntin, I assume, on just the top.

Mr. Silva: Yeah, they're double-hung.

Ms. Long: Yeah, but just the top one has that, which is a little unusual.

Mr. Kapu: It's not the windows that have the weight balance inside, huh?

Mr. Silva: Yeah, my friends already took the weights.

Mr. Kapu: Oh, for lay net.

Mr. Silva: That's for they lay net, yeah.

Ms. Long: Bunch of cockroaches. And the door knobs?

Mr. Silva: That went a long time ago.

Ms. Rotunno-Hazuka: We want everything.

Mr. Kapu: I'd like to make one comment. We had one house exactly like this in Kailua. The only thing that was holding it up was the vinyl siding because the termites ate the

inside. The roof, especially, looks like they got about maybe five or six layers of roll roofing on top here which creates a hazard too, so it brings back some memories for me, some scary memories at the same time.

Ms. Sablas: Homes like these are fast disappearing from our landscape so, I know probably this is not our jurisdiction, but I was just curious what type of replacement you're going to have, is it an ultra modern type or have you made any effort to replicate any -- some of the features of this nice old home that, again, my concern is that we demolish these beautiful homes that are part of our landscape and then replace it with entirely different --

Mr. Silva: It's, basically, a rectangular shaped home, 38 by 50, T1-11, 8-inch groove, pretty similar to what I have built in the front, 5-12 pitch roof, and, you know, I understand where you're coming from, but see I got into fights with a lot of people already, you know, trying to get my permits, and I'm the person that has the history in that home, you know, and it's something that's going to be very difficult for me to do to break it down.

Ms. Long: If it was a historic overlay district, we'd have a chance. It's something that we might think about doing in the future.

Ms. Sablas: Okay.

Ms. Long: Well, so what are we supposed to do here?

Mr. Boteilho: Again, there's no vote necessary on this. I think the comments are loud and clear.

Ms. Cua: Right.

Ms. Rotunno-Hazuka: Thank you.

Ms. Sablas: Thank you, Mr. Silva.

Ms. Long: Go for it.

E. NEW BUSINESS

J. DIRECTOR'S REPORT

1. Commissioner Long's 5/5/04 Memo to Dudley Akama (W. Boteilho)

Mr. Boteilho: Okay, Madam Chair, well, we finished the decision, well, decision ...(inaudible)... items for today so now we're moving on to the -- to the part where we, basically, do reports and the discussion of procedures. I think, you know, well, I'd like to suggest that maybe if we could take up the Commissioner Long's memo and the reason for that is, well, one, you know, we did not expect Dawn would be gone until now, but maybe she'll show up later, and on the other items, she would probably be the best person to do the reports and updates on. Also, I'd like to propose a certain procedure in response to Commissioner Long's letter and, really, I can brief Dawn on what's happening afterwards, really, she's asked for my help, really, on this matter.

Ms. Long: May I, Mr. Boteilho, could we, since we're at New Business, could we just acknowledge receipt of Keeaumoku's report? Would that be New Business, or Unfinished, or something?

Mr. Boteilho: Oh, okay, yeah. Oh, in fact, yeah, okay, I --

Ms. Long: And I really wanted to thank him very much for a very good and inclusive report and, hopefully, when we get down to the right time in the agenda, we can get this back on our radar screen because -- before all the people involved in this are too old and gray, so I just wanted to mention that.

And as far as my memo, I would like to comment, commissioners, I hope you had a chance to look at it. I had some problems. I was lucky enough to run into Wayne earlier and we shared the same concerns about the way the agenda is put together and designated, but this memo was directed at Dudley because of his references at the April 1 meeting to the Sunshine Law and, Dudley, will you be commenting as well on this?

Ms. Akama: Yes, as it is appropriate. Yes, I will, to the extent that these are -- these address legal issues. I have to say that most of these do not ask for legal opinion, but I will defer to Mr. Boteilho, and if there are other issues, I'll be happy to comment, yes.

Ms. Long: What I'd also like to say is that in previous instances when I have addressed memos to Deputy Corporation Counsel or whoever when I served on other commissions, we always got a written response, and I realize that that takes longer, but it is easier because then we have something in our hands to refer to in the future, and because that is lacking today, I'm going to request that both our counsel and the deputy director put their comments in writing for us and -- so that it can be distributed to us; it may be just that it's excerpted from the minutes or something like that, but the procedures that we have here are very important as far as the Sunshine Law, as far as our being able to conduct business in a logical manner, and that's, you know, and, obviously, there have been some questions and some problems, so let's listen to what Wayne has to say and then I'll see if I have further questions or comments.

Mr. Boteilho: Okay, yeah, thank you. In fact, yeah, Dudley and I had discussed this and I had asked if I could take the lead on this matter. You know, I had wanted to do something for awhile and just kept on putting it off, and I'd like to use the CRC agenda as a pilot program for this proposal, and this proposal is I'd like to do the agenda more in County Council style. Now it's not going to be a radical change. And let me explain maybe a few specifics. I'd like to have, under each application, we would put a short narrative of what the Commission -- what types of actions that the Commission could do. Now this would help to serve the public, to give them better notification on what could happen, but it also would give the Commission more notice and direction of what items can be discussed and what items should be discussed as oppose to generic items. Also, I'd like to have maybe less categories on your agenda. Maybe instead of saying Nominations to the National and State Registers of Historic Places, Discussion on Preservation Planning, Sign Enforcement Program, we should have one category called Communications, and we should place items under Communications and, under each item, we will say what is the possible outcomes or the possible actions; that way, again, better notice, and better notice to the Commission on what type of discussion or possible action can be taken. That, you know, it's extra work for us but I think that, as a pilot project, you know, it's something that we can try and -- but one caveat, I have to -- I have not talked to my director about this and I have not gotten comments from other members of the department, so this will be an ongoing thing.

The intent was to take out the nebulousness of the agenda to make it clear so that the Commission can get straight to discussing the matters that they need to discuss. For example, one of the nebulousness things that we've taken out under Director's Report is that item that was correspondence relating to the State Historic Preservation Division, we had taken that out; that was just -- that was just to nebulous. I think we should put more on the agenda items for discussion specifically. Let me, well, okay, let me end there and maybe if we can have some comments on my proposal.

Ms. Long: Okay, and I would invite Dudley to jump in here. The thing that raised the issue was that there was an item on the agenda that said Correspondence Received from State Historic Preservation Division and there was a letter there. What happened at that meeting, I believe, was inappropriate since we had that letter and I think that if we -- okay, and that's a whole other issue because, in the minutes that I read of the last meeting, Dawn talked about all the State Historic Preservation Division letters that come in used to come here and, months ago, it was agreed that they weren't going to come here anymore but that staff would talk to the chair and/or the vice-chair, and I ask you Madam Chair, has that happened?

Ms. Sablas: No.

Ms. Long: No, so that we are virtually out of the loop as far as communications from the State Historic Preservation Division, and I think because, if you look at Maui Ordinance

2.88, our job is to review those things, to deal with those things, and not for someone unilaterally to decide, well, they're not going to look at this because it's routine. Someone here, someone of our nine members, may have a particular interest in one of those letters that the staff, or even the staff and the chair if it happens, may not think is appropriate. I don't know how many letters there are. The concern was that trees were being chopped down in order to provide us copies of those letters. I say it's our job to review those letters and that if they need to be on our agenda as a generic correspondence received to allow the commissioners to comment on things that they individually think are important, that needs to happen, and if that allows public testimony on those things, so be it, as long as we do not take action on the item until it is properly agendized, and I would like to know if that's appropriate.

Mr. Boteilho: If I may comment, Madam Chair?

Ms. Long: I'd like to hear from Dudley, if you don't mind, because he was the one who made the decision on April 1.

Mr. Boteilho: Well, this deals with Director's Report so perhaps I could go first and lay the background.

Ms. Long: Well, I don't know if needs to be Director's Report.

Mr. Boteilho: Well, okay, okay, let me try and explain. Yes, well, basically, under Director's Report, the intent of that is to report, we're going to report to you that certain things have happened, and there can be discussion for clarification, but you should not deliberate towards some action. What should be done is, during the Director's Report, there should be a request, and this is another thing that I'm going to, oh, I'm glad Dawn's here, I'm going to talk to Dawn about that, yeah, a request should be made to the chair that we would like to discuss this in more detail --

Ms. Long: Right.

Mr. Boteilho: And then it be placed on the agenda or any appropriate agenda under Communications, so that's number one.

Ms. Long: But my question with regard to that, and you're talking about removing the nebulosness, does having a letter in front of us with a category that says Correspondence Received from SHPD entitle the public to have its three minutes of testimony on that matter?

Ms. Rotunno-Hazuka: How would the public know it's there? We never specifically list the letters that we get from SHPD.

Ms. Long: That's another issue.

Mr. Boteilho: And just quickly, and that's why we should place it under Communication so the public would know that we're going to discuss this and possible action.

Ms. Rotunno-Hazuka: That means you're going to have to explicitly list each letter, which is a lot.

Mr. Boteilho: If it's requested. No, if it's requested.

Ms. Rotunno-Hazuka: But how -- like at the last one --

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: That letter came, we had all read it, but then somebody from the public somehow found out we had the letter cause --

Ms. Long: There was a thing in the *Maui News* that said that letter was here.

Ms. Boteilho: Okay, now we're getting into the legal part.

Ms. Rotunno-Hazuka: Oh, okay.

Ms. Boteilho: I shall turn it over to Dudley.

Mr. Akama: Well, precisely the point Lisa made, that letter was listed as a letter from SHPD, period. There was no reference made to the subject matter of the letter. The public was not notified that Makena would be a subject for discussion on the agenda so it was not appropriate to take any testimony regarding the contents of that letter. It was just listed as a matter on the Director's Report as correspondence from Holly McEldowney. In the future, as Wayne has proposed, if the Commission reviews correspondence, and that's an internal matter, that's up to staff whether or not you will want this Commission to review all correspondence from SHPD or from whatever agency, and then the commissioner request that this matter be placed on the agenda, then it will have to be placed with sufficient specificity to notify the public that this concerns Makena or whatever the subject matter is; then, in that event, yes, it will be appropriate. However, to take testimony on a line item that says Letter from Holly McEldowney is not appropriate and I still contend that it is not.

Ms. Michelle Anderson: Excuse, Madam Chair, point of order.

Ms. Sablas: Yes, you're going to be talking on this subject that we're talking about now?

Ms. Anderson: I believe you should ask for public testimony when you come to an agenda item to see if there's any member of the public that wants to give you testimony before you begin your discussion.

Ms. Sablas: Which we have earlier and I think you weren't there, but we have asked, I had asked for public testimony.

Ms. Anderson: You're now on an agenda and I would like to testify on it.

Ms. Sablas: Okay.

Ms. Anderson: Thank you.

Ms. Sablas: And we have three minutes.

Ms. Anderson: My name is Michelle Anderson, I am an Executive Assistant to Councilmember Wayne Nishiki, and I'm testifying on my own behalf today. I don't think that I will be able to finish this in three minutes so if I could come back after other testifiers to finish, I'd appreciate it. I'm passing you a printed copy of my testimony. I will apologize that there are some typos I didn't have a chance to go back and correct, and I am trying to keep my testimony on the topics of Commissioner Long's letter.

Her first topic regarded -- is regarding Correspondence received from State Historic Preservation Office. The open meeting section of the Sunshine Law, section HRS 92-3, requires boards to afford all interested persons an opportunity to present oral testimony on any agenda item. The item Correspondence received from State Historic Preservation Office was listed on your agenda. The March 15 letter from State Historic Preservation Division was received by the clerk of the Commission on March 17; it was distributed to commissioners on the morning of April 1. It had become public record on March 18 when it was distributed to the Council's Planning and Land Use Committee meeting. It was the subject of a front-page article in the *Maui News* on March 19 and also was the subject of an editorial review point titled *Cultural Resources Commission Should Have Say in Makena* on March 31. Staff member Duensing reported it as correspondence received under Director's Report at the April 1 meeting. Nobody asked for a hearing on Makena Resort as staff and counsel kept insisting was necessary in order to allow public testimony on the matter. All we were asking for was an opportunity to testify on a letter received from SHPD. What harm could have been done by allowing three people three minutes each to testify? Instead, you spent over 30 minutes discussing why you shouldn't allow testimony. Then, after refusing testimony, in violation of the Sunshine Law, the board continued to discuss the matter among yourselves for over an hour. Makena Resort had the same notification that members of the public had. I find it strange that no representative of Makena Resort

was at the April 1 meeting. Did they have assurances that the SHPD letter would not be allowed to be discussed at this meeting?

Section 92-1, HRS, that the Sunshine Law states the provisions requiring open meetings shall be liberally construed. By not allowing public testimony on a matter that you then spent considerable time discussing, violated the principle tenant of the Sunshine Law, and I quote, "In a democracy, the people are vested with the ultimate decision making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental process to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest."

Two, are the generic items listed on your agenda in compliance with HRS 92? Section 92-7, Notice, requires that an agenda list all of the items to be considered at the forthcoming meeting. The Attorney General issued an opinion on this section of the Sunshine Law in February '85 specifically addressing general or generic agenda items. It states, in part, "That all matters to be considered under general categories such as Unfinished Business and New Business should be listed on the agendas and made a part of the written public notice of the commission meeting in order to give interested members of the public reasonably fair notice of what the commission proposes to consider." Section 12-30-18 of your own rules states that the clerk of the commission shall be directly responsible to, "forward at once to the proper parties all communications." It does not provide for selective determination of what communications shall be forwarded at once. All communications to this board are public matters and should be noticed on your agenda in order to allow commissioners the opportunity to discuss any concerns or questions they may have regarding the communication and also to allow interested members of the public the opportunity to bring concerns to your attention. This is the function of this Commission. As the public stewards of our cultural resources to provide a public forum to address cultural resource concerns. It doesn't matter if much of the communications received are, "run of the mill stuff," as characterized by your staff. This is a judgement call that staff has no authority to make. Again, all communications to this board are required to be forwarded to the board, that doesn't mean that every report received must be duplicated for every member, but it does mean that the cover letter communicating to you about the report should be brought to your attention. Then any member of this Commission or any member of the public has the opportunity to know that the report exist and can bring any concerns to the attention of the Commission.

I reviewed your September 3, 2003 minutes. This was the meeting that was -- that this Commission supposedly decided that all correspondence received from SHPD didn't have to come to the Commission. That is not what happened. It was suggested by then Chair Duensing that instead of forwarding all correspondence, that just listing the letters received would be better than, "sending out a pound of paper every month." It was briefly discussed but no motion was made to adopt this procedure and no vote was taken. Since then,

correspondence hasn't even been listed. This violates your own rules. Section 12-30-20(a) states, "Except as otherwise provided by law, all matters shall be determined by an affirmative vote of a majority of the membership." All State Historic Preservation Division letters sent to this Commission should be reviewed by the Commission and put into the public record by being listed on the next agenda after they are received. Selective inclusion or exclusion and generic agenda items gives the Commission and the public only a select view of the historic preservation matters taking place in Maui County.

Number three, staff refusal to allow Makena Resort matter to be placed on the next agenda despite a request from several commissioners to do so. Planning Department staff advised you that it was against protocol to allow a body to discuss a matter that was under deliberation by another body. There is no basis in your rules of procedure to support this, "management decision." It is arbitrary and unreasonable given your responsible as an advisory body to other decision makers. This Commission has regularly reviewed and commented on matters that are being deliberated by other decision-making bodies. Just a couple come immediately to mind. You discussed the renaming of Makena Road twice while it was being deliberated at the Council's Planning -- the Council's Public Works Committee. You also reviewed and commented repeatedly on items being discussed by the Council's Planning Committee for community plan updates. To now say you can't get involved in a matter being deliberated by another body is disingenuous to say the least and it negates your very value and purpose as an advisory body. This body is the authority over this Commission and is free to set its own agenda on items it wishes to discuss. Your agenda should not be controlled by Planning Department employees who's function is to carry out all clerical duties assigned by this Commission.

The letter sent to the Council's Planning and Land Use Committee. This letter was sent -- this letter sent by this board was an action taken by the board without the required motion and vote pursuant to your own rules. Again, Section 12-30-20 of your rules requires that, "all matters be determined by an affirmative vote of a majority of the membership." There is no provision under duties of the chairperson, Section 12-30-18(a) to allow the chairperson to act on behalf of the Commission, by herself, as was advised by the deputy director. The letter that staff prepared for the chairperson did not reflect what this Commission discussed should be the content of the letter. Several commissioners stated that they wanted to ask for an opportunity to advise the Council on the Makena Resort matter. Commissioner Long ended the discussion with, "I would hope though that we would ask the Council in this letter for an opportunity to advise them in this matter." Chairperson Sablas answered, "Yes, done." The letter did not reflect this request. All matters decided by this Commission must be clearly stated in a motion and voted on so that the intention of the body is precisely carried out by your staff.

Actions by your staff at this meeting reflected desire to control the actions of this public body even to the extent of violating the Sunshine Law. It is clear that both your staff and

this board need to be properly advised on the requirements of the Sunshine Law. It's very disturbing to note that just last year this County agreed to initiate a Sunshine Law training program for all boards and commissions with specific compliance criteria prepared by Law Professor John VanDyke to satisfy a court order stemming from a consent decree over Sunshine Law violations by this County. Equally disturbing is the fact that at this very same meeting, you were given an orientation on the Sunshine Law by your counsel, which consisted of the following, "Okay, Sunshine Law. As we go along, questions will come up and you can ask me or the chair will ask, okay, so, basically, I think as long as you're aware and you're aware that notice is essential, it must be placed on the agenda before we can take public testimony if it is of reasonably major importance and will affect a significant number of people, those are the buzz words, very few things I think should be added to the agenda period. I'm a proponent of the Sunshine Law. I think that anything that comes before this Commission should be notified, it should be noticed properly so that everyone can weigh in on all sides of the issue, and that is the beauty of a board and commission that involve people like you who are giving of your time, who have committed to the issues at hand, and it gives the general public an opportunity to give their input also." This does not qualify as an orientation of the Sunshine Law. This body and its staff should undergo the court ordered training program immediately to prevent any further violations by this body of the State Sunshine Law.

Mr. Boteilho: Madam Chair, if I may comment briefly. First of all –

Ms. Anderson: Excuse me, but maybe the chair would like to ask if anybody -- any of the commissioners has a question of the testifier before you intervene.

Mr. Boteilho: Excuse me. Excuse me, the chair has not objected to my giving a comment. I just wanted to comment briefly, basically --

Ms. Anderson: Am I going to stand here while he comments? Or should I sit down? Does anybody have any questions?

Mr. Boteilho: You can stand or sit if you want.

Ms. Sablas: Michelle, we've always allowed staff to -- this is an open -- just as how we've gotten you the opportunity to speak I think.

Mr. Boteilho: First of all, Madam Chair, no, okay, and I just want to do it briefly. First of all, I stand behind everything I said at the April 1 meeting. My intent was not to control and staff's intent was not to control but, in fact, to uphold the Sunshine Law and if one reads the minutes carefully, I believe that will prove us out. Now, I can go on and respond and we can get into more detail, but I just wanted to put out right now that I stand behind everything

I said. I had the best intentions, and I apologize to Michelle, you know, let's try to work this out.

Ms. Sablas: And I did take the opportunity to read, you know, Hawaii's Sunshine Law and Chapter 92, and one of the things that stood out is this sentence that says, "Courts have repeatedly said that the Sunshine Law is the liberal -- is to be liberally construed and doubts are to be resolved in favor of greater openness." And, in that light, you know, again, greater openness. I understand and then, again, I'm not akamai of all the things, all the issues here, but I think the intent is greater openness about the Sunshine Law and as we move along, I'd like us to be respectful of each other's opinion, and I have to be mindful of the Corp. Counsel's guidance, that's why he's here, and so -- and we are in, again, comments from public testimony if there are others there.

Ms. Lucienne de Naie: May I?

Ms. Sablas: On this issues. If you may come up and identify yourself, please.

Ms. Rotunno-Hazuka: I have questions too for Michelle.

Ms. Denay: Thank you, Madam Chair and members of the Commission. My name is Lucienne de Naie, I'm the Vice-President of Maui Tomorrow, and we're one of the citizen groups that actually sort of initiated the original letter that has created all this huhu. I would like to say that I think that Commission Long's letter really expresses an intent for clarification, that's how I would read it, that serves the public interest, and that public perception is, for better or for worst, that many things that are important and have ramifications in our communities are kind of conveniently buried under bureaucracy and, whether that's true or not, I don't think it's intentional for the County or boards or commissions but it certainly does happen a lot, so the idea that correspondence from SHPD or other agencies, you know, is just a sort of pro-forma, doesn't need to be reviewed. I think that I agree with Commissioner Long that, you know, the devil's in the details and that's where a lot of things -- one commissioner might pick up on something that's very important and bring it to the attention of others.

I also feel that the CRC really needs to consider whether their comments would matter more when items are in the zoning phase because it may be that the kind of zoning that's being proposed, when viewed in the light of the cultural importance of the area, is entirely inappropriate and it might be that the Council might hear that from the public but if they hear from the CRC, that's a very different matter, so to wait after that's all finished, I don't know, it doesn't make sense to me as a member of the public that would want more scrutiny. Also, it seem to me that, I wasn't at the original meeting, I had hoped to come but I wasn't able to attend that day, but it seem to me that what people were asking for was just to comment on the fact that the SHPD letter was received and ask if the item could be put

on the agenda, not a lengthily discourse on the merits or dismerits of the Makena issue, and it doesn't seem like, you know, that was going to be so controversial that you would have -- expect hundreds of people if you noticed it.

Also, the SHPD letter was really a very, very important clarification that was needed to help the community fulfill its mandated mission of preserving our historic culture. Quite often, when there are very large projects proposed, the amount of scrutiny that goes into them is so disjointed, you know, over years that no one really gets the big picture and the CRC, I'm actually surprised, I've read through probably 15 archeological reports on this project already, and I know that SHPD, who I've just spent two days at their office, is swamped by this kind of thing, they really depend on the CRC to provide the level of on-the-ground participation that they cannot provide, so I would really hope that this would spur this committee to look at ways that they could participate rather than just accept the idea that their participation should be limited to a certain time, a certain place, a certain procedure, you know, with all due respect that we much follow those procedures, I think we need to keep asking ourselves, "How will the public trust, and the public interest be served by manipulation of these review opportunities?" I don't see that that really serves the public trust and the trend seems to be that, you know, everything has to be just a certain way, well, I think that needs to be respected but we need to look for the practical way to implement that and perhaps Director Boteilho is trying to get to that here but I think we still have further to go. People need to be encourage to participate more rather than discouraged from public participation because, oh, I'm sorry, you came the wrong day, it wasn't on the notice, you can't say -- you can't even say that this is a good idea that you guys should go forward, I mean this is kinda sad to me, you know.

I wanna close by saying that a few years back, Maui Tomorrow was literally forced to actually file an intervention with the County over a Sunshine Law violation at the water board and it cost us a lot of money, it cost the County a lot of money, it really isn't the way anybody wants to go, and it could have all been resolved if the chairperson of that group would have listened to the public on the day of the meeting and members of his own board who brought up and said, "You know, you shouldn't really do this this way. It's limiting people's ability to feel that they have any say in this matter." So, I'll just close with that.

Ms. Sablas: Thank you very much.

Ms. de Naie: I commend the job you're doing, and please take Commissioner Long's suggestions under deep consideration, thank you.

Ms. Sablas: Thank you very much. And, you know, again this is your letter, Commissioner Long, and I really would like, I mean it's on the agenda for you to have the opportunity again to pose the questions that you have here and to get the answers. I think this is what we're discussing and is the issue.

Ms. Long: Yeah, thanks, Lori. I don't think that we need to spend a great deal of time now discussing this. I appreciate what Lucien has just said about, first of all, public access and public comment, and also our ability to help -- and I know that Dawn is working to put, in some instances, our comments, if not first, then at least concurrently with the State Historic Preservation Division in a number of matters including demolition permits and things like that, but as far as specificity and as far as listing the correspondence, I mean I share your concern that reams of paper are used, but I fully believe that our job is not only to have an opportunity to see those letters, or at least see the headings of them and the topics of them, and then perhaps take them up later if we feel it's necessary, but our job is to hear from the public no matter how long it takes, and I can tell you many times the Planning Commission would stay till 8:00 at night listening to testimony of the same stuff; that can be somehow controlled by limiting discussion through what is placed on the agenda as a discussion item, and Wayne has alluded to that, that you take the nebulousness out of it, you put the goals into there that what our job, what our action will be, what our -- what we are supposed to be doing in order to not have testimony not to the point, which doesn't do us any good either. I really don't want to rehash whether what happened at the whatever it was meeting --

Ms. Sablas: April 1 meeting.

Mr. Boteilho: April Fool's Day.

Ms. Long: April Fool's Day, whether it was appropriate or not. I do not believe we needed to amend our agenda to hear testimony. I thought that I had asked Dudley or someone to get an opinion either from Corporation Counsel, or from Attorney General, or somebody, I still would like to see something in writing. I want to know whether we -- okay, there was a comment from Wayne that we shouldn't have written a letter because it wasn't on our agenda. I want to know if that's correct or not. I want an opinion, in writing, on whether we can send a letter, and, obviously, we know, and it is not in our rules, that the chair can speak for us because we are supposed to come up with consensus or a vote about what is supposed to be in the letter, but if something is not on the agenda, I want to know what controls whether a letter can be sent. I wanna know --

Ms. Sablas: Could we address that so that we don't get confused, and can you respond to that question, and then take a question at a time, otherwise, we might get confused with all the different questions?

Ms. Long: Okay, okay. I don't know if the occasion will ever arise again.

Ms. Sablas: I think what we're trying to do is to get some clarification here for all of us and so, counsel, if you could just get -- give us clarification.

Mr. Akama: If she could repeat the question. I'm just not certain what she's asking here.

Ms. Long: Okay, may a letter be written coming from the Cultural Resources Commission and/or the chair, as it was in this occasion, to the Planning and Land Use Committee on the Makena Resort conditions? Can a letter be written if there is no specific agenda item, and whether there was an agenda item on that particular thing is also up for grabs here, but is there some kind of a thing that governs what we can send letters about?

Mr. Akama: Well sending a letter is an action by this Commission --

Ms. Long: It's an action item.

Mr. Akama: And it is an action by this Commission and, to take any action, the matter needs to be placed on the agenda. Now as regards to that April 1 meeting and the letter which was generated out of the conversation, the discussion concerning this Makena matter, the letter was sent notwithstanding and I think that, in the future, what Wayne is proposing is that in the event we are to take any action on even a listed correspondence matter that it will be listed with certain specificity so not only can we discuss this without concern as to whether this is an agenda item or not, but also then we can invite public testimony.

Ms. Sablas: Did you get your answer?

Ms. Long: Not really.

Ms. Sablas: Was it yes or no?

Ms. Long: Yes or no. Yes or no, I don't know. I'd like some rule or something cited as far as if a letter constitutes an action item.

Mr. Akama: There is no such rule, Commissioner Long, as far as I know. I mean if we're looking at 92-7, 92-7 says that -- defines an agenda and what is to appear on an agenda and I can read that to you, if you wish, it says that --

Ms. Long: Okay, excuse me one moment, let me give you a for instance, something comes up as an urgent matter, we've -- something happens that -- that a -- that's not on the agenda, Lisa comes in and says, "We had a preservation plan for this archeological site but the developer has rammed a bulldozer into it and we want to write a letter."

Ms. Rotunno-Hazuka: Then can't you redo the agenda to include that?

Ms. Sablas: If we have consensus or a two-third vote.

Ms. Long: You need to amend the agenda in order to send a letter? What is the procedure?

Mr. Akama: Yes, the agenda would need to be amended.

Ms. Long: Okay, so sending a letter is an action item in order to do it; if it's not, you'd have to take a vote --

Ms. Rotunno-Hazuka: Amend the agenda.

Ms. Long: Two-thirds vote to do that and, unfortunately, if we don't have that number of people, we can't do it, okay.

Mr. Boteilho: Oh, just a fast comment because it's going back to what I had said, you know, at that meeting.

Ms. Long: And that was your idea to send the letter.

Mr. Boteilho: Yeah, yeah, okay, yeah, no, no, okay, let me explain, and at that meeting, Corp. Counsel had ruled that this was a -- see one thing about the Sunshine Law is that you can amend the agenda and you discuss things that's not on the agenda except for things that are significant to the public.

Ms. Long: Right.

Mr. Boteilho: Having Corp. Counsel rule that this was a significant matter that should have been noticed, I -- your -- so I had said, yeah, okay, so your discussion started off as should we add it to the agenda? But then, as I noticed, you seem to be deliberating -- you seem to be deliberating toward an action in sending a letter, so I had -- so trying to protect you, I had said maybe instead of, I didn't want on the record you taking an action when you were advised by Corp. Counsel not to, so I suggested that the chair can do certain things on your behalf. She does things like cancel meetings or, you know, things like that, you know, review letters, so trying to protect you, I suggested maybe the chair, on her own, could send that letter.

Ms. Long: Well, okay, that I think we can decide that that is not an option, is it, Dudley?

Mr. Akama: What Wayne suggested is not an option, is that what you're asking?

Ms. Long: That the chair could send unilaterally? I would hope it's not an option.

Mr. Boteilho: Well, okay, let's say that she wanted to send a letter, it was some kind of late thing and we wanted to invite somebody to your meeting, you know --

Ms. Long: That's different; that's --

Mr. Boteilho: Trying to, well, I'm saying that she can send letters but what I'm saying is that, under the circumstances, I'd use that type of tool, under the circumstances, rather than have you actually take an action, I thought it better to throw it to the chair, under that circumstances.

Ms. Long: But you're acknowledging that that is not an option that is -- that can be used? I mean it would be like if we don't have a two-thirds vote to change the agenda and then somebody says, "Well, go ahead, Lori, if you want to write a letter, write a letter." That's certainly abdicating our authority and I don't think Lori would do that.

Mr. Boteilho: Okay, let me try explain what --

Ms. Long: Lori felt she had consensus on that letter, unfortunately though, that letter did not contain the issues that Lisa, and I, and Keeaumoku, and some of the others had brought up. Okay, let's move on cause really this is not getting us anywhere.

Ms. Duensing: Madam Chair, can I make one statement please?

Ms. Sablas: Sure.

Ms. Long: Sure.

Ms. Duensing: Since people are talking about the content of the letter, which I wrote. I wrote that with Lori and wrote that with the instruction that was to be from her and that doesn't necessarily mean that everything that was discussed was included.

Ms. Long: Obviously.

Ms. Duensing: Right?

Ms. Long: Yeah.

Ms. Duensing: Okay, so I believe that I did as instructed.

Ms. Long: Oh, you -- okay, so you're saying that by designating Lori as the letter writer meant that the things that we discussed --

Ms. Duensing: Because it was not an --

Ms. Long: Were not necessarily included?

Ms. Duensing: Yeah, cause it wasn't an agenda item.

Ms. Long: Okay, all I'm saying is, in the future, this -- this, hopefully, will not happen again and in order that it won't, I would like to request that all correspondence from the State Historic Preservation Division get somehow either listed or distributed, and that New Business, where is our agenda, the items that are mentioned in our present agenda get looked at, scrutinized by Dawn, Wayne, Dudley, Lori, Keeaumoku, and anybody else, and figure out a way that we can have an agenda that makes the public aware of everything that we need to be talking about and give us an opportunity whether it's New Business, I'm not clear on what New Business means; I'm not clear, really, on what Unfinished Business means; I would like to add something, at some place, and please make a note of this, I would like to have an item on the agenda that says, "Discussion of next month's agenda," which would be a time for commissioners to add items, and I've got half-a-dozen of them, but there is nothing clear on our agenda, as it stands, where that's going to happen. And these things that have been carried over, I agree with Wayne, it's not obvious what we're supposed to be doing with them, and I understand why they're carried over, but would you guys please get together and make this a public friendly document, and if it means we sit here for an extra hour or two and listen to testimony, so be it, because that is our job.

Ms. Sablas: Cause I did want, you know, to add to the agenda items, and it's recorded in the minutes, couple of things that we had on the April 1 when Ann Cua said I'll come back after the, whatever the meeting is final and I'll report back to you, and when I asked why wasn't it placed on the agenda, I think the comment was that, from staff, that it wasn't -- there wasn't really anything to report, and these are the kind of things that I think we've talked about and I think if we said we're going to be putting it on the agenda, it should be put on the agenda and not become an in-staff member because we discussed it as a Commission. And the other thing that in reviewing the minutes too of the last meeting is one of our commissioners brought up the topic of the Lahaina Harbor potential and, again, staff said, "I'll put it in next month's agenda," and, again, it wasn't on next month's -- this month's agenda, and I did talk to Dawn about it and her reply was that it's not, you know, but, again, my point is that I don't think it's staff's responsibility to counter what the Commission has decided in our meetings that we want it on the agenda and to arbitrarily make that decision on their own, and I think this is what we're talking about, we're all here serving as public servants, we want to do what's pono, we want to do -- we are stewards of our community and we need to help you, we need to have you help us do our job, not stifle us, and I don't mean that in a negative way, to get our job done, and now I'm speaking and Commissioner Long has spoken to this subject, I think, in due respect, I really would like to hear from the rest of the commissioners who are here because this is not, you know,

one or two, I'd like this to be a consensus and if we're off track, speak up now to the rest of the commissioners. So I'll start with you, Commissioner Kapu, if you could, you know, talk about it, and down to Lisa.

Mr. Kapu: Okay, well, it sort of always bothered me too, all the correspondence that basically came in because there's a lot of correspondence that came from the Lahaina District also. Trying to go back from the time in April when that issue came abroad, I know I voted on my part as to find some kind of consensus on the matter, and didn't quite understand the whole legalities as pertaining to whether or not we can because it's not part of the agenda also, so I'm in the, right now, for myself, is still trying to find clarity as pertaining to what our whole judiciary duties are, our responsibilities are, and I really want some clarity also, and, you know, like how Ms. Long says that if these things are, basically, on behalf of the public's eyes that we should definitely open ourselves and be compassionate to every issue even if it's a correspondence or anything that we need to be the one's to be responsible of taking on those responsibilities to open a forum, to open up discussions and have the public be definitely involved in all the matters. I'm sort of little bit confused as pertaining to this matter now because remembering that time that we fell short on a vote too that we didn't have full body, we fell short by somehow, so still searching for clarity for myself as pertaining to what are we going to do about this.

Ms. Sablas: Thank you, and that's what we all really do, I think, out there is to, you know, again, get some clarity so that, you know, as we move along and advise and take some action as we're supposed to do, that we're doing it, again, from, you know, from clarity. Commissioner Lon?

Mr. Whelchel: I felt like we were making a lot of headway, making progress, and we were doing the best we could, and then we're criticized by the public and I thought, what if we're all that bad? What if we're doing so much wrong? And then I heard some more input and I was impressed by the Wailea person who was talking about -- that did the Wailea letter, that was very courteous, and I appreciated that, and I got a lot from that and each of you have made -- have had discussion and we're kinda going in many directions and I don't know who's responsibility is -- that is to get us headed in the right direction but I'd like to see that and whether it's the County, the representatives can come up with a solution, or are we going to have to twist the rope? I hope we don't have to do that. I would like to see the County step forward and resolve this, and I think Lori's doing a fantastic job, not even under the circumstances, under any circumstances, and I appreciate your actions.

Ms. Sablas: Thank you. Uncle, your manao on this issue?

Mr. Kaopuiki: Well, as Lon just said, I'm here trying to do the best I can to take all the problems that they give and on that basis, I'm going through that knowing that I don't violate any of the rules; that's all.

Ms. Sablas: Lisa?

Ms. Rotunno-Hazuka: First of all, with the SHPD correspondence, the way I remember it was that Dawn and Erik were going to review the material and if they saw something they thought we needed to look at, they would let us know, and I trust their judgement implicitly. Now that they're not there and I'm the archeologist, I do want to see the correspondence. That is the way I remember it because I know that they would let us know, even if it was Erik's project, he would say, "Oh, yeah, you guys gotta look at this," so I didn't see anything wrong with what we did before with the correspondence, but now with the change, I can see that we may need a change there. With the Makena Resort, I definitely wanted to be involved in discussions. Whether that meant concurrently, I actually thought it would be better if we were consulted prior to all the deliberations at the Council; it didn't turn out that way; and when that person came up and wanted to testify, it seemed to me it was such a huge issue, even if he says it wasn't going to be huge issue or the people did they testify that it was just going to be a comment, the issue itself was so huge, I could see it getting into a much larger issue and that's why I thought we shouldn't discuss it then, but I definitely felt we needed to be involved, and I'm glad Michelle brought up the point about we have discussed things concurrently and she's right, we did, so I don't know about that matter. Is that a true law that two bodies shouldn't be discussing; it's just something that's practiced.

Mr. Akama: It's not a law; it's not rule; it's policy of the Planning Department.

Ms. Duensing: May I comment on the thing with the Makena Road thing is that the Council asked us for our opinion on that is the way I remember it. We got a letter from the Committee Chairman, Mike Molina, asking for the CRC's input on that.

Mr. Boteilho: And, Madam Chair, yeah, just to clarify my statements on that day, I didn't meant to say because of protocol you could not discuss Makena, what I had said was I had decided not to put it on the agenda because of protocol, so I was just explaining my reason why it was not on the agenda, I did not mean you could not put it on the agenda.

Ms. Cua: If I could comment further, just real quickly because I -- I can't remember at what meeting but at some meeting I happen to be called down here and asked about this project and I indicated to you that that there were conditions that the Council had -- the Council's Planning Committee had put forth but those conditions were being looked at by the Council's staff, the attorneys, and our department, and up to last week, we were making changes, not changes in content, but changes in wording to make it -- to make it clearer and, right now as we speak, the Council staff is working with the Parks Department on couple of conditions, and so what I had reported to you is that once the conditions are in a format that it's acceptable by the attorneys and it gets -- it gets to be sent to the Full Council that we would give you a copy of that in that format and we felt that, at that time,

it would be better to discuss it rather than before all these, you know, minor changes were being made and that's the only -- so not that we intended you not to take a look at it until after the Council was done reviewing it, we just said -- we just wanted to wait until the conditions in its final draft form, and we're almost there, like I said, we met last week and I understand Council Services is meeting now with the Parks Department on a couple of the conditions.

Ms. Long: Madam Chair, may I -- excuse me, Lisa. I have -- the conditions are on the Web and I was given them. There are two conditions that pertain to the CRC and we have effectively been denied, because it is not on our agenda this time, an opportunity to comment on No. 15, and it would have been very helpful to have given Corp. Counsel, Planning, whatever, our opinion on 14, which has to do with human burials in historic sites, and No. 15, which has to do with the cultural resources management plan being prepared by Makena Resort, because there is nothing in here that says when it's supposed to be prepared and there's nothing in here that says whether the CRC gets to review this before, during, concurrently with or after the State office, and we might have wanted to think about that, and we were left out of the loop.

Ms. Cua: And, again, I just -- I don't see you as being left out of the loop and that's maybe just a difference of opinion. You know our Corp. Counsel has told us that we cannot change or the content of these conditions cannot be changed because they're not our conditions, they're the Council's conditions at this point in time. Any comments that you make are going to go directly to the Council for them to consider, not for, you know, the attorney and for Planning Department to consider. You know, now what we're looking at is not content changes, really, you know, we're taking out words like B.E., you know, things like that, things that I hear you talking about --

Ms. Long: I understand that, Ann.

Ms. Cua: Are going to be content related that the Council, I'm sure, is going to get information from you on that.

Ms. Long: I don't know if the timing's going to allow that.

Mr. Akama: Well recall that this matter still has to go to first and second reading.

Ms. Cua: Correct.

Mr. Akama: I mean this is not etched in stone.

Ms. Long: Right, I understand that, but then there's some doubt about if we're going to meet July, there's some doubt about when the Council will take it up, and all I'm saying is

that this protocol that has given us no opportunity to participate in an advisory capacity, which is our job, needs to be taken off the table. It's not serving the public, Wayne, and I hope you guys in Planning will understand that.

Mr. Boteilho: Yeah, maybe if I could suggest, yeah, you know, if any member wants to discuss something, you don't have to wait till the meeting to announce, I would say send something in writing and request that it be placed on the agenda.

Ms. Long: Here we go again.

Mr. Boteilho: No, no, no, and then -- and we'll place it -- and then we'll place it on the agenda, I mean and then it can be discussed because two things: one, we'll have notice and then you can have testimony, and, two, then all the members can see what you're proposing and then everybody can discuss, but feel free, if you want to discuss something, send in a letter.

Ms. Sablas: And this is what you're suggesting in the beginning is to look at the agenda again and be specific is what you're proposing to begin with. There's been a lot of discussion. Where do we go from here? And I think the issue is about the agenda, how it's done, what gets to be put on. I've heard couple of good suggestions was that as we, as a body, have input for next month's agenda so that it doesn't become an agenda that, you know, we receive a week before the meeting and that, you know, we, as commissioners, really didn't have any -- too much input and are going to be able to come here and talk about issues. I think what we're trying to say is we would like to be involved and we've said things and sometimes it doesn't appear in the agenda, so I think the suggestion that Commissioner Long said that we give a time that we all have the opportunity now to comment on the next month's agenda. Are we okay with that? Is that proposal --

Ms. Rotunno-Hazuka: What?

Ms. Sablas: One of the --

Ms. Long: Have an agenda item that says agenda items for next meeting.

Ms. Sablas: Next, yeah --

Ms. Rotunno-Hazuka: That's fine.

Ms. Sablas: So that it gives us, as commissioners, an opportunity to be able to put something on the agenda that --

Ms. Rotunno-Hazuka: That concerns us.

Ms. Sablas: Yes.

Ms. Rotunno-Hazuka: That's fine.

Ms. Sablas: And then we're not left out, I mean, is that what we're going toward?

Ms. Long: Right, and --

Ms. Sablas: This might, you know, again, in the long run, help us avoid something that had happened on April 1 because we were caught unaware.

Ms. Long: And can I clarify maybe what Wayne just said that if after a meeting we think of something we'd like on the next agenda, we fax you. It has to be you? Or Dawn?

Mr. Boteilho: No, to the department actually.

Ms. Long: Okay, to the department.

Mr. Boteilho: It'll get routed. If you want it faster, either me or Dawn.

Ms. Long: Okay, what is the cut-off date for that prior to the meeting? Is it ten working days or what?

Mr. Boteilho: It is six working days.

Ms. Sablas: No, the notice is --

Ms. Duensing: It's earlier than that, Wayne, because otherwise Suzie doesn't have the time and we don't have the time to do the agenda.

Mr. Boteilho: Legally, it's six working days. We would request maybe --

Ms. Sablas: Ten days at least so it's noticed prior to.

Mr. Boteilho: Two weeks, yeah, maybe twelve days or something, yeah.

Ms. Sablas: So that --

Ms. Long: Okay so kinda two weeks before. If something comes up, we see something in the paper, we become aware of something, we -- who makes the decision then when one of us writes you and says, "We would like to place this on the agenda?"

Mr. Boteilho: We will try the best we can to put it on the agenda but, under the Charter, the Planning Director is the administrative head of this department and he, basically, makes the decisions on, and not only he decides, but he prepares reports and that is his duty under the Charter.

Ms. Rotunno-Hazuka: So what happens if he doesn't think something's important and we do?

Ms. Long: I just saw Dudley make a face.

Ms. Rotunno-Hazuka: We'll keep pushing for it?

Ms. Sablas: Yeah.

Mr. Boteilho: Yeah, basically, just keep on pushing for it.

Ms. Rotunno-Hazuka: Okay, I wanted to finish too.

Ms. Long: Can I hear from our counsel on that?

Mr. Akama: I have no comment. You already said I made a face. It wasn't a legal question I was asked.

Ms. Long: Okay is -- the question then would be does anyone in the Planning Department Administration, whatever, have the power or authority to put items on or remove them from consideration for our agenda?

Ms. Sablas: I think he answered. He said the Planning Director.

Ms. Long: I want a --

Ms. Sablas: From counsel, okay.

Mr. Akama: Well, if the Planning Director is the administrative head of the department and one of the considerations in planning a meeting agenda is timing, now I don't think it's feasible that if we have 15 request for agenda items that you want to schedule a three-day meeting so I think to that extent, the Planning Director has the administrative authority to determine whether an agenda item should be placed on an agenda or not. As far as

whether he has the authority, as Lisa suggested, to feel that it's not important enough to be placed on the agenda, I don't have the legal authority, but I don't think that he has that discretion to decide that certain things should not be placed on an agenda. Now but I think that there should be some more orderly process, I think, by rules we can probably -- I don't think it would be appropriate nor fair to the staff for every member of this Commission to be able to fax in whatever matter should be placed, so then, again, I'm sorry, but if it's something that's totally unrelated to anything to do with CRC, then certainly he has the discretion to say, "No, I don't think this is appropriate." So I don't think there is any hard and fast rule. I think that as Wayne has stated under the Charter that the director and, really, we're talking about Wayne and we're talking Dawn here who have the authority and I don't think, in all honesty, that they would preclude any legitimate item from being placed on an agenda other than for scheduling reasons.

Ms. Long: Is there some way that the chair could be involved in those decisions?

Mr. Akama: You're asking me?

Ms. Long: Yeah.

Mr. Akama: Certainly.

Ms. Long: Okay, so could we -- and I don't foresee any occasion when we'd either overload an agenda or, you know, it has to be a logical outgrowth of our work, our correspondence, the applications, whatever; but, yeah, if there is a problem, I would hope that it would not be unilaterally decided by the director or deputy director but that the chair, and this puts a burden on our chair as far as being involved in all this, but, yeah, I --

Mr. Boteilho: Yes, we will do that.

Ms. Long: I would hope that you would do that. Thank you.

Ms. Sablas: Okay, then -- yes?

Ms. Rotunno-Hazuka: I wanted to finish from before. Getting to the issue last time that we did not want to hear about the Makena Resort, my understanding also was that there was no way the public would have been notified, and I know Michelle says in her letter that Makena Resort had the same notification, but I don't know how they were notified, I don't -- I don't even know who Joe Bertram knew we got this letter so, at that point, that's why I was concerned about discussing something that I didn't think had public notice, so maybe we do need to understand more about if the letter's explicitly stated and that notice goes out then we can talk about each letter and what have you.

Ms. Sablas: Well, I hope that will be a learning experience for all of us commissioners here, including myself especially, but, again, our point is that I think I hear from our commissioners that we really want to be more involved in what is placed on the agenda and that especially if we talk about something and we, you know, staff mentions that they'll follow up that they do indeed follow up and get back, even if it's nothing to report, but it's an agenda item. Are we all in consensus with that?

Ms. Long: Oh, yeah.

Ms. Sablas: Okay.

Ms. Cua: Madam Chair, if I could, again, one quick comment and I think we talked about this briefly on the recess is that, you know, now that we have Dawn as our cultural specialist, you know, things like environmental assessments, like you had before you today, they were sent to her, there was a heiau on site, it was sent to her, she recommended that it come before you and it did, you know, the environmental assessment is the very earliest part of the process of a project and so, you know, we totally intend to involve you. It was never not intended to involve you only at a particular point in time, and so you have been in the past involved in change in zonings, other environmental assessments that came before you, so now we have this, you know, Dawn as a resource where we can, you know, have it go to her as well as State Historic Preservation Division and she helps the staff to recommend which ones should come before you.

Ms. Sablas: I understand that and I think -- thank you, that would help greatly, but part of our concern on the April 1 meeting, if I can -- if I remember correctly, was that, you know, we wanted to be able to have the opportunity to comment and I think that's basically what started this whole discussion is that we just wanted to be able to comment on it and --

Ms. Long: And we still do.

Ms. Sablas: And we still do so, you know, I think it was also mentioned that some of us are not going to be around here, you know how things take long time and that, you know, we may not be here next year when becomes -- when it comes before our new commission and people maybe are not so familiar with so while we're here, we wanted to be able to do it and not lose that window of opportunity. In summation, I think, basically, is really what we wanted to be able to do as commissioners.

Mr. Boteilho: Madam Chair, if I could comment about staff, you know, I have, as long as I've been here, I have been telling anybody who's willing to listen, including the Mayor and the Council, that this department is grossly understaffed, we have not kept up with the growing amount of permits and work that we have. I can tell you right now, every single staff member is barely keeping their head above water. Now the Council has been very

good to us, they understand, and they've given us 16 positions, which we're trying to incorporate now, so things are going to get better, but, you know, I can see how staff can maybe misunderstand, perhaps, or just plain ole' be busy and because, even for myself, I so busy, one day I went doctor and they said, "Eh, your doctor appointment was last week," you know, so those things happen but I just wanted to defend staff.

Ms. Sablas: Comes with age. Comes with age.

Mr. Boteilho: Yeah, maybe with age too, but the staff works very hard and, you know, mistakes happen and, you know, but we do the very best we can, we are professionals.

Ms. Sablas: Okay, move on. Are we okay because I think we talked a lot about this subject and it was important so --

Mr. Keeaumoku: Yeah.

Ms. Long: We can move on.

Ms. Sablas: Thank you.

Ms. Duensing: Can we talk about the correspondence and figure out how we're going to do this because that was not decided.

Ms. Rotunno-Hazuka: The SHPD correspondence?

Ms. Duensing: The SHPD correspondence and I am concerned about this because this is something that I, as a former chair, brought up in September because we got nearly a ream of SHPD letters, and I kid you not, 98 percent of them are for SMA monitoring plans in place for swimming pool constructions in Kihei or some other relatively, well, in my opinion, extremely unimportant matter that is not worth a ream of paper and five dollars worth of postage and that's why I suggested, at that time, making a list with topic, you know, we could do a topical thing so that we, you know, don't, I mean it's not just the trees, it's all Suzie's time that she has to do to compile all that too, and now that you do have a full-time member, it's no different then, you know, me getting it at the end of the month, and after the Makena letter, you know, I try to get it from Suzie on a more regular basis and not let it stay until the end of the month because, you know, so I would like to come up with a procedure and I'm willing to continue to look at that every Friday or whatever or, you know, pass along certain ones to the chair or make a list, whatever we need to do, but it needs to be decided how we're going to do it, and I, personally, still thinks that it's sad to waste a ream of paper on silly letters about monitoring plans for swimming pools in Kihei.

Mr. Boteilho: And, if I could add, Madam Chair, just to finish up what she said, yeah, I was going to suggest that I would have to work with Dawn to look at how we're going to do this. I'm not sure how. It would -- I'm not against it, but I have to look how much work is involved and how much system change will be needed; it may take a while, you know. What I'm saying, I don't know, so we'll look at it and see what we can do.

Ms. Rotunno-Hazuka: Well, I think one thing can be if SHPD has recommended monitoring for a specific project, why would we have a comment? There's been a lot of times when SHPD has not required monitoring and I think that's when we would want to comment. But if they're requiring monitoring as a mitigative measure to take care of historic sites, why would we need to read that piece of paper? We probably wouldn't. But I think if we can maybe quantify, like I said, if they're saying no monitoring needed, well, we may have other ideas about that or may want to comment. I know they also comment on -- they have a little checklist that they use for Molokai and they also say, "No effect. No effect." Those ones we may want to look at but --

Ms. Duensing: But we're still at a professional deficiency on who can make those decisions here because you're the only archeologist and you really know all the plots on Molokai and Lanai and Maui to be able to make those decisions without the data that SHPD has too, and I don't feel qualified to do that because I'm not an archeologist.

Ms. Rotunno-Hazuka: No, but I mean as far as filtering through the letters, if you, for one, I would think you could get rid of the letters that say, "agree to monitor."

Ms. Duensing: Right, "that's already been taken care of," I agree with you completely.

Ms. Rotunno-Hazuka: "This is fine." I do have a problem with them always saying Molokai doesn't need to be monitored cause I think it's purely a logistical reason and I think it needs to be monitored, but that's my opinion so --

Ms. Sablas: Can I make a suggestion and I don't know if it's okay? Instead of sending copies of the report to all of the members, maybe just to you as our archeologist, and you can also give us an opinion and so we don't waste that many trees and that --

Ms. Rotunno-Hazuka: Maybe we chose two people, myself and someone else, and then, you know, that would be another, you know, in case it's my project or something that I may appear -- have a different opinion about, or whatever, biased, however you want to look at it, then the other person could have a view.

Mr. Kapu: I'd like to -- I'd like to review.

Ms. Sablas: Okay.

Ms. Duensing: Okay, may I make one more suggestion based on Lisa's input to this, we would just pull out the letters for which there are no monitoring plans or mitigation measures in place because if they have already put that mitigation in place, we don't really need to know about it because, like I said, it's just -- I mean a lot of times it's not even for a subdivision development, I am not exaggerating when I said it's for a swimming pool in Kihei because it is.

Ms. Rotunno-Hazuka: I know; I'm writing ...(inaudible)...

Ms. Sablas: Are you okay with that suggestion with the two of you and Dawn?

Ms. Rotunno-Hazuka: Sure.

Ms. Sablas: To just send the copies to Lisa and to our vice-chair. Okay, so are we okay with that now? We have a resolution on that issue?

Ms. Rotunno-Hazuka: Oh, but you need to --

Mr. Boteilho: Madam Chair, yeah, I still have to look at it because what I'm -- okay, just for example, I mean, you know, as of right now, we're going to do it, but I'm concerned about if we have a certain project that is not ready to be discussed and we send the SHPD letter and then now it gets posted and we're discussing the project but we didn't get enough other agency comments, you know, that's the kind of thing I want to look at but --

Ms. Rotunno-Hazuka: Oh, you mean like if it's where they send it out for review and SHPD's the only one that's commented?

Mr. Boteilho: Yeah, yeah, they were the first one, you know, but we'll see.

Ms. Long: That's a little bleak.

Mr. Boteilho: But, okay, we'll see.

Ms. Rotunno-Hazuka: I see what you're saying.

Mr. Boteilho: Planning Department agrees with the direction.

Ms. Duensing: I think what we can say is, for the run-of-the-mill correspondence, I guess I shouldn't use that word, but, you know, the swimming pool in Kihei correspondence, I think what --

Ms. Long: Minor.

Ms. Duensing: I will look for is, as Lisa suggested, these things that say, basically, no effect on historic properties and those are the ones that the resources commission should look more closely at and that's the terminology we should look for.

Ms. Long: Okay, it works for me. Let's see how it works.

Ms. Sablas: Are we going to go on with the Director's Report then?

Ms. Long: Well we kinda skipped E, and F, and G.

Ms. Sablas: We skipped, yeah, New Business, we talked about Commissioner Kapu's letter. Unfinished Business?

Mr. Boteilho: Well, where are we now? I'm sorry.

Ms. Long: We're on --

Ms. Sablas: Unfinished Business, I think, we were on.

Mr. Boteilho: Okay, yeah, I'd like to turn it over to Dawn then now.

Ms. Duensing: Okay.

Mr. Boteilho: Okay.

Ms. Sablas: There's been a request for us to amend the agenda to entertain Item I, Sign Enforcement Program in the Lahaina Historic District, but he's not here yet. He's coming down.

Ms. Long: Aaron? In that case I need a break.

Ms. Sablas: Okay, why don't we just take a short break then, she's already going anyway.

(A recess was called at 12:30 p.m., then reconvened at 12:35 p.m.)

I. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICT

1. Update

Ms. Sablas: Reconvene on the -- okay, we are very fortunate to have someone to talk to us about the Sign Enforcement Program in the Lahaina Historic District. Aloha, Aaron.

Mr. Shinmoto: Hi. Aaron Shinmoto, I'm with the Zoning Administration and Enforcement Division. Just to bring you up to date, we had -- we have in the past had three inspectors for the County. We recently received authorization to -- for two more positions. We have hired one of that position, it's a trainee position, so that person is still in training, so to speak, it's only been like several months. Unfortunately, because of staffing shortages in the department itself, although we have four inspectors, one additional, we had to pull one of those inspectors out of the field to assist in office matters, plan reviews, processing permits, so we're back to three again. As for the fifth position, that is, I believe, it's been advertised and I don't know if we have applicants for that. We were having problems finding people mainly because of the -- the pay, it's not the best pay you can have being an inspector or the job itself. So there's nothing really new to report other than we started with three inspectors, we hired one, we back to three until we can fill the other planner positions.

Ms. Sablas: So any progress on the enforcement in Lahaina though? At one point I asked the question, you know, how many are in conformance? What percentage of the signs are in conformance at this point?

Mr. Shinmoto: Yeah, we haven't really gone any further in our means to increase that enforcement mainly because of staffing, again, the inspectors we have in the field now are just two experienced inspectors plus one trainee. Our ultimate plan, once all five get on board, is to make the inspection area smaller, in other words, like for instance the Lahaina inspector handles Lahaina, Waikapu, Wailuku Heights, all the way into Wailuku Town, Waiehu, Paukukalo, into Maui Lani, so by the time they drive out they do Lahaina, they gotta be heading back otherwise they'll never cover the rest of the area. With all five on board, we hope to have just one inspector just handle Lahaina itself and the other to handle the rest of the way in here, basically, split that district into two with two inspectors, but right now we cannot do that, again, because of staffing, we only have two experienced people out there, T W O, two, and one trainee.

Ms. Rotunno-Hazuka: What type of inspectors are we talking about?

Ms. Sablas: The sign enforcement in --

Ms. Rotunno-Hazuka: Oh, so there's people even Wailuku that go around and look at --

Mr. Shinmoto: These are zoning inspectors, they're not really sign inspectors by themselves, they do other things other than sign inspections.

Ms. Rotunno-Hazuka: Like what?

Mr. Shinmoto: They check for when they issue permits, Special Management Area Permits, Conditional Permits, they have to make sure the conditions are there; they check --

Ms. Rotunno-Hazuka: Oh, like if fencing's up or like -- okay.

Mr. Shinmoto: Paint color, parking, landscaping, on, and on, and on.

Ms. Sablas: I think the major issue was that we, as the Commission prior, they had spent a lot time in revising the sign enforcement, I mean the sign design in Lahaina guidelines and our concern is that now that's all in place, a lot has been done, you've gotten approval to hire, you know, what's happening? Because the -- I mean the Planning Director was here, he said by next April he can report to us and he's going to make, you know, big progress and so this is half of the year already gone and what you're telling me you haven't made any progress is what I understand.

Mr. Shinmoto: Again, basically, there's nobody out there who wants this job, even the trainee for -- we had two, let me back up again, we had three permanent employees, two trainee expansion positions given to us; we hired one of them, we filled one position; the other position there were no applicants really so we've upgraded that to a regular inspector position, but even at that, I do not know if we have any applicants.

Ms. Long: What's the pay you're offering?

Mr. Shinmoto: I'm guessing, it's like maybe 2,000 a month, maybe less.

Ms. Duensing: It's a little bit more than that, I think.

Ms. Long: Okay.

Mr. Shinmoto: The training position I'm thinking of.

Ms. Long: Why can't we acknowledge that we have a sign problem in Lahaina and, for a year, hire someone at 2,000 a month just to do signs?

Mr. Shinmoto: There's nobody who wants the job. We cannot get -- we do not have applicants.

Ms. Long: You haven't put it out there just for signs?

Mr. Shinmoto: We don't, well, we cannot -- we don't have the luxury of having one person just do signs, this is a big island, I mean there's other things they need to do.

Ms. Long: Yeah, but maybe you'd be able to find somebody and get part of the problem done.

Mr. Shinmoto: It's not that simple as just, you know, because it's a personnel thing, there's job descriptions to redo, we gotta look at job classifications; it's not just like a private firm, I can just go out and hire somebody for this. When you deviate from the job description, you have to change titles, the SR -- the pay rating may have to change because I'm just doing signs, the pay may be even lower, and the worst case --

Ms. Long: You know, I thought that when Mike was here and you were here, he acknowledged the fact that the sign situation in Lahaina is pretty horrendous and it's an important asset to this community for -- to the County for a number of reasons. It would seem to me, if you get real, focus on the signs, you could get it done in under a year, and then, you know, it could be a temporary job, it could be contract job but, for Heaven's sake, it just doesn't sound like you guys are thinking outside the box when it comes to dealing with the problem.

Mr. Shinmoto: I don't think Mike committed to having an inspector just for signs. I didn't hear that and I will not commit to having only one inspector just to do signs either.

Ms. Long: If it was a person on a contract for a year to go over there to produce a handout, to monitor the signs, to cite the illegal signs, and if that was done, the people in Lahaina would then have a very good understanding of what they were allowed to do and not allow to do and then you guys wouldn't have this problem.

Mr. Shinmoto: Well, yeah --

Ms. Long: Would you please put it to him that way?

Mr. Shinmoto: I'll talk to Mike about it but, again, you know, I don't, with the positions we have now, I don't -- I do not believe we're going to commit to having one inspector just to do signs; we cannot do that.

Mr. Kapu: I get one question for maybe Dawn. Is these inspectors, this sign enforcement only limited to certain areas? Historic Districts mainly? Or you're talking about the whole island?

Ms. Duensing: That's what Aaron is saying is he's got three inspectors that do all of Maui County, I think, not just Maui.

Mr. Kapu: Oh, not just the signs?

Ms. Duensing: And they do everything, like he says, they go out and inspect for, you know, permit violations, all kinds of stuff, for instance, I can give you one case where there was a guy down on I think it's Auhana Road in Kihei and he was supposed to be having an archeological monitor, and Aaron did send somebody out there to do it, and we did get that kind of fix, we're still waiting for him to be in compliance, but at least he's not doing anything more than he wasn't already supposed to be doing.

Mr. Shinmoto: And this is for Maui County; we got three islands so, you know, we three inspectors for three islands.

Ms. Sablas: You know, but --

Ms. Rotunno-Hazuka: You know what's amazing is the unemployment, there's so much unemployment and nobody wants a job.

Ms. Sablas: Well, I guess we're looking to you for a solution. To come and say that we don't have people, that's not solution. I am in the business and, for us, in my job, it's not acceptable. When we have a challenge, we have to come up with a solution and not reasons why the job is not done.

Mr. Shinmoto: No, I don't mean to say we're not going to do signs or we don't have -- I'm saying with the people we have now, we are not going to concentrate on signs. When get the five on board, we'll come up with a solution, but even with five on board, I will not promise that one will be strictly for signs; I cannot do that.

Ms. Duensing: And, Madam Chair, to answer Commissioner Long's question, I recall that Mike Foley said that when we had enough people to cover, that he would like to send somebody at least a day or two per week out to Lahaina, in general, for enforcement, not just for one person to do signs in Lahaina; that's my recollection of what he said.

Mr. Shinmoto: As a matter of fact, once we get everybody on board, we'll have not only few days a week, we'll have somebody there every day of the week, but, again, not only for sign enforcement.

Ms. Sablas: I guess my concern is, again, maybe the lack of sense of urgency because I go back to the timeless work that was put in and if we don't start doing enforcement, the businesses in Lahaina are not going to take the County serious. It's like they went through all of that, you know what, nothing's being done; I'm being blatant; I'm breaking the law, and nothing's happening. So why did we spend all the time revising the guidelines if we don't have the support now from the County to enforce it?

Mr. Shinmoto: No, we understand that. I mean the inspectors feel, we feel the same way, I mean they're out there everyday and they have to enforce it, they enforce something, the next day, it's right back again so they have to keep going back, so there's some frustration on their part too, it's not that we're forgetting, it's there, we gotta do the job, but, you know, there's other things we also need to do other than signs; that's all I'm saying. We're not going forget signs, many of our complaints are from signs, but, you know, we'll get to it, but we cannot do it right now.

Mr. Kapu: Is there any way where say maybe an association of some type could probably be recognized as, you know, from the County for their abilities to do something like that? The non-profit --

Ms. Sablas: You know, like Commissioner Long mentioned out of the box thinking, perhaps you get a community group and you give them guidelines so you have minimum staff involved but have a community group, I don't know if that's possible, but what I'm trying to say is come through with some kind of solution to the problem that we're having.

Ms. Duensing: But, Lori, we did do that and LahainaTown Action Committee quit doing that.

Mr. Shinmoto: Yeah, we were working -- well, they were working with us --

Ms. Sablas: But they were totally volunteer but what I'm saying if there's monies, maybe, you know, give it to a group, like Keeaumoku's group, maybe they can do it in Lahaina, you know, to enforce and then donate it to that group. I'm thinking out of the box thinking. I have to do that a lot at my job of doing solutions, coming in, and you don't accept you cannot do.

Mr. Shinmoto: No, I'm not saying that. I'm just saying we cannot do it right now. I cannot do it. I'm telling you I cannot do it with the staff I have; I only have, again, two inspectors out there and one as a trainee.

Ms. Sablas: But what I heard is that people are not applying because of the pay, so is that going to go away? I don't think so.

Mr. Shinmoto: This is what they're telling us; I don't know if that's true overall.

Ms. Sablas: Yeah, okay.

Mr. Shinmoto: The first round -- go around, we did offer the job to the first two people; both declined because of the pay. We did get one position -- one person on board and, again,

I don't know how this second go around is going to come out, I know the exams -- it was advertised, I know it's been closed, but I don't know if they got any qualified applicants.

Ms. Long: How qualified do you have to be?

Mr. Whelchel: I suspect that your inspectors go out and they have a choice of signs, or setbacks, or some other violations, and they're going to do signs last because they get a lot flack. If they have -- if they confront someone who has a sign that's wrong, people that's have signs for a long time, and it's sort of grandfathered, and they're up -- they're going to appeal and battle that, so I would think they would oppose trying to enforce sign regulations.

Mr. Shinmoto: No, that's not true. Everything is treated the same unless it's a health and safety thing where the building, let's say, is ready to fall in the ocean, they'll do that first, of course, but the others are not, like you say, just because it's a sign or setback, they're equal.

Mr. Whelchel: In the last 90 days, how many violations have they reported on signs?

Mr. Shinmoto: I don't recall. I don't recall those numbers.

Ms. Long: Lon, you are right. I was told by a sign inspector who called me on the phone because, as an Outdoor Circle member, we were making complaints about signs, not just in Lahaina, that he had more important things to do than to follow up on sign violations, and I can tell you, after the meeting, who that was, and he still works for the County.

Mr. Shinmoto: Please do.

Ms. Rotunno-Hazuka: Well, I could see, being in construction, how sign versus setbacks versus, you know, putting in the landscaping, putting in the silt, fences, that's going to come first; we're in a huge boom here --

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: And I know those inspectors and they are just -- so --

Ms. Long: And it should come first. It should come first. Unless the sign is going to fall off and kill somebody, those things should come first, which is why I'm saying get some high school graduate, for 2,000 a month, with the sign ordinance in Lahaina and just go there.

Mr. Shinmoto: All I'm saying is this is not a private company, you cannot just go out and hire somebody like that, this is the County, we have civil service rules that we have to adhere to.

Ms. Long: Yeah, but you guys are creative ...(inaudible)...

Mr. Shinmoto: Well, we cannot be creative enough to break the rules.

Mr. Kapu: Should a letter of recommendation come from the Cultural Resources Commission --

Ms. Long: There you go.

Mr. Kapu: On looking for other venues as pertaining to fixing this situation of the sign enforcement? Like --

Ms. Duensing: May I make a suggestion? I do have some ideas in the back of my head and I would like maybe some time, I don't think I can get back to you next month, but maybe in a couple months, I'd like to sit down with Ann and Colleen and some of the more experienced planners because I think, first and foremost, we need to get a grip on which -- we all have in our heads the idea of where the problems are and everything, but somehow we need to come up with an inventory to start from, which is what the LahainaTown Action Committee pulled out from doing earlier and I'd like to redo that so that when we do get the inspectors, we're ready to go. I don't know how much out of the box we're going to be able to do because you still gotta have a County authority within -- some kind of authority to make a citation because without citations, there's no leverage to get people to comply. So, you know, that would be my recommendation because, you know, I think that the idea of putting money towards a contract with a local group to go out and look at the signs like LahainaTown Action Committee started doing and then didn't finish, I think we need to resurrect that first so that when we get enforcement, then, you know, Aaron can send his inspectors out to do their job.

Ms. Sablas: That makes sense.

Mr. Kapu: Why does it have to be a citation? Why don't it just be like maybe a reminder first, then the next -- the citation would come from the company, I mean the County, following the reminder, which is coming from --

Ms. Duensing: Well, there's -- you know which businesses have been reminded they're in violation cause you and I stood on a Front Street street corner --

Mr. Kapu: Like an official reminder, you know. Sort of an official capacity with, you know, because if you're only looking on the County's behalf, then you know how that's going to work out.

Ms. Duensing: Okay, but can we -- can I work with some of the planners to try to come up with something like this and I'll talk to them about, you know, can we have, you know, some kind of an unofficial citation, like you say, or a reminder, or whatever that these community groups could give to the, you know, chartreuse sign with bright pink neon letters saying that, hey, this doesn't comply. Okay, but please give me a couple months to do it because certain agenda items don't always get on the agenda because I'm not willing to work much more than 20 hours a week overtime right now.

Ms. Long: September? Let's shoot for September.

Ms. Duensing: Yeah, let's shoot for September.

Mr. Whelchel: I think 20 percent of the sign violations would adjust if you gave them a reminder that said -- if they knew someone was looking at them.

Ms. Long: You're an optimist.

Mr. Whelchel: And that's the beginning; that's a start.

Ms. Long: You're an optimist.

Ms. Duensing: But, Aaron, don't think it would be better to have a handle which signs -- I mean we need some kind of record for where the problems are first.

Ms. Sablas: Then it'd be easier.

Ms. Long: Oh, yeah, way easier.

Mr. Shinmoto: I think that's what the LahainaTown Action Committee was attempting to do and somehow it never came to --

Ms. Duensing: Yeah, and -- but I'd like to find out if we can work with them again or, you know, work with another group that might be interested in doing that cause, you know, this is something the community wants, the community needs to help too, you can't always rely only on government and that's part of thinking outside of the box too.

Ms. Sablas: Yeah, which is what we're suggesting. Okay, then so we're all in consensus that Dawn is going to be working with Planning and then at least keep us, you know, keep this update.

Ms. Long: Tell Theo if she wants another permit ...(inaudible)...

Ms. Sablas: Anymore comments, questions for Aaron?

Ms. Rotunno-Hazuka: Thank you though.

Ms. Sablas: Thank you very much, Aaron. I hope we didn't interrupt your lunch.

Mr. Shinmoto: I haven't had it yet so there's no interruption.

Ms. Sablas: Okay. Okay.

Mr. Shinmoto: And if Barbara can give me that name, I'll be glad to talk to that inspector.

Ms. Long: I'll be in touch with you.

Mr. Shinmoto: Thank you.

F. UNFINISHED BUSINESS

1. Report on Historic Hawaii Foundation Preservation conference

Ms. Sablas: Thank you. Okay, did we, again, Unfinished Business, if we can kind of move along, Report on Historic Hawaii Foundation Preservation conference that we both went to. I thought it was great, and she got recognized, and Dudley was there too, and I think of the eight awardees, two were from Maui.

Ms. Long: Yep.

Ms. Sablas: So -- yeah.

Ms. Long: I assume ...(inaudible)...

Ms. Sablas: Yes, yes, it was good.

Ms. Long: Next year, Dawn, can you stick this in your file --

Ms. Duensing: Can you let me finish my notes first?

Ms. Long: I'm sorry, I'm trying to remember when they asked for nominations. This is, what month is this? This is June, May was the thing, April, so maybe February 2005, we should be reminded that they're going to ask for nominations and we should each come up with one or two cause it's shameful that --

Ms. Rotunno-Hazuka: For?

Ms. Long: For Maui. For the Historic Hawaii Foundation's annual preservation award, and I've already got two of them in mind, so, yeah, and there's a lot of stuff going on that nobody really knows about and it's helpful to get that information.

Ms. Duensing: I'll --

Ms. Long: So February just remind us.

Ms. Duensing: I'll put that on the February agenda.

Ms. Long: Yeah.

Ms. Sablas: Thank you.

Ms. Long: Great.

Ms. Sablas: Did you want to report further on that item?

Ms. Duensing: No.

Ms. Sablas: That's all? Okay.

Ms. Duensing: I was very honored and really please and, again, Commissioner Long deserves a lot of the credit for coming up with the idea for the Hana Highway to be recognized as a substantial achievement, so thank you, Barbara.

Ms. Long: You're welcome.

Ms. Sablas: Okay, we want to move on to the next item of the agenda, oh, I'm sorry, under Unfinished Business, from the last meeting, Dawn, you're supposed to be at least contacting Commissioner Pa about his recommendation, has that been done?

Ms. Duensing: Yes, I did.

Ms. Sablas: Okay.

Ms. Duensing: I sent him an email and he's rather tough to get in contact with. I'll try to follow up with a phone call.

Ms. Long: I asked Wayne about it earlier today and my understanding is that a name has been sent to the Mayor.

Ms. Duensing: Okay.

Ms. Sablas: Okay.

Ms. Duensing: I did follow up on that though.

Ms. Sablas: Okay, thank you. Item G, Nominations to the National and State Registers of Historic Places, Naniloa Drive Overpass, I think we had a handout.

G. NOMINATIONS TO THE NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

- 1. Naniloa Drive Overpass (Bridge)**
- 2. 1921 Maui High School being prepared**

Ms. Duensing: Okay, yeah, I do want to inform the Commission that, regarding the Naniloa Drive Overpass Bridge, whatever you wanna call it, I did write a letter to Holly McEldowney from Mike Foley asking that that bridge be listed as eligible for the National Register so that if this ADA compliance and other things might come up to impact that bridge, that at least it has some measure of protection, and I spoke to Holly about that the Historic Hawaii Foundation Conference so, hopefully, that will be listed as eligible.

And, secondly, I wanted to inform the commissioners that the 1921 Maui High School Building out at Hamakuapoko has a draft nomination in the process and they will be submitting that in the future too and, again, that's just for informational purposes, I wanted to make you aware of that.

Ms. Sablas: Thank you.

Ms. Long: You have that for me or shall we do it some other time? Okay.

Ms. Sablas: Item, H, Discussion on Preservation Planning, CLG funding.

H. DISCUSSION ON PRESERVATION PLANNING

1. CLG Funding Request and Work Plan

Ms. Duensing: Suzie, do you have an extra copy of that? I gave Ann all my stuff.

Ms. Rotunno-Hazuka: Is that something in our packet?

Ms. Sablas: No, I didn't see anything in the packet.

Ms. Duensing: Okay, you should have had this, this was handed out this morning. It just went out a couple of days ago and, commissioners, if you go through this, you will notice that there's some adjustments to what we talked about last month. There's a letter to Peter Young from Mike Foley regarding Federal Historic Preservation Grant Funds and that's the item that we're talking about now.

Ms. Sablas: Dated June 1.

Ms. Duensing: Okay, when I worked on this --

Ms. Sablas: Can you find it? This is what it looks like. All on the same page? You found yours?

Mr. Kapu: No.

Ms. Duensing: Everybody should have one.

Ms. Rotunno-Hazuka: We got it this morning.

Ms. Duensing: You got it this morning, right.

Ms. Long: It's stapled together; it's three pages. Oh, maybe Keeaumoku didn't get it because he came in late and there wasn't a pile of stuff on his desk.

Ms. Rotunno-Hazuka: At least you didn't go to Lahaina for the meeting.

Ms. Duensing: Okay, regarding this, you'll notice that the scope of work was, basically, divided into three categories, so I tried to come up with a logical way to budget the money. Number one, training, education and outreach for the Cultural Resources Commission, planner, blah, blah, blah. And then if you go to Page 2, I detail how the money will be spent, and on the budget, which is on top of Page 4, we have the items that we discussed last month on our agenda, which were registration, travel for National Trust Conference, which is in Louisville, Kentucky, 2004; registration and travel for the Historic Hawaii Conference, which will be probably next May or June 2005; I also put in money for a

meeting on Molokai because we have not been there for a couple years so it'd be good to go there again and touch base with the community, find out what's going on over there, and how we can be of service to them; we had earlier talked about a workshop on that Secretary of the Interior Standards, I spoke to Tonia Moi and she is speaking to her employer to find out whether she would be allowed to come over and present that to us once again and if she can't, I'll work on getting somebody else; I mentioned the National Trust Advisors Meetings and this is something that I'm working with the western regional office on my own, and it's beneficial because there's going to be -- there already has been some preservation funding allocated to Hawaii and it gives me a chance to network with the these people, and maybe I can put that on as a future agenda item for, you know, trust money that might be available for preservation; another thing is subscriptions and books, for instance, you know, I got a catalog and I saw, oh, these are some good books that would be good for our library; and then another item that I pulled in from the last CLG grant cycle that did not get finished, which is no surprise cause a lot of CLG funding didn't get finished, is, some years ago, probably three years ago, the Architecture Branch at SHPD, which at that time was Tonia and Carol Ogata, suggested that we do a brochure, how to rehabilitate your historic house because a lot of Lanai --

Ms. Long: Like Kauai did.

Ms. Duensing: Yeah, like Kauai did, right.

Ms. Long: Beautiful. Yeah.

Ms. Duensing: So they suggested we do it for Lanai and I brought this to, you know, I asked for it to be put on an agenda and nothing ever happens so I'm kind of resurrecting this cause you guys know I have a whole list of things that we wanted to do that never got done.

Ms. Long: Oh that's a great project.

Ms. Duensing: Yeah, so I would like to not make it just for Lanai though, for make it the whole County wide.

Ms. Long: Across -- Countywide, yeah. You've seen the Kauai brochure?

Ms. Duensing: Yeah, and that's basically --

Ms. Long: Similar.

Ms. Duensing: We don't want to reinvent the wheel --

Ms. Long: Yeah.

Ms. Duensing: We wanna just go with that and --

Ms. Sablas: Benchmark, in other words.

Ms. Duensing: Yeah, because they copied our brochure on financial incentives for historic preservation so now we'll copy theirs.

Ms. Long: Okay, that's great. I like that.

Ms. Duensing: Okay, so the second item, back to the scope of work, is Hana Belt Road Historic District preservation and education, and I'm really, really, really excited about this. I called Domingo Galicinao, who is the Bridge Engineer for the Federal Highways Administration, and told him about my desire to bring Frank Nelson here for site visits and he says, "That's a great idea. Who's coming up with this?" And I said, "We wanted to do it as a -- the Planning Department and Cultural Resources Commission," so he supported it without reservation, which was really nice. He called the State DOT Engineer who said, "Yeah, that's a good idea," so --

Ms. Long: Franky?

Ms. Duensing: No, the bridge engineer who's in Honolulu.

Ms. Long: Oh, bridge engineer.

Ms. Duensing: Right. So I'm also going to be sending a memo to Gil Agaran as our Public Works Director and asking -- I've already talked to several of them asking of their interest; some of them are, some of them were lukewarm, but, anyway, we will try to bring Mr. Nelson over here and I will be issuing a formal letter to him as soon as I can as well. Domingo Galicinao at FHWA said, "Let's take it a step further and have a statewide engineer preservation kind of presentation that you saw so everybody can see that," and of course we would make that available to CRC and SHPD and everybody else too. So that's looking really positive. Hopefully, \$3000 will be enough for that and if it's not, I think FHWA is willing to kick in some money and co-sponsor this with us and I think that's really the way to go because if we don't have their support, the engineers are going to hear our Cultural Resources Commissioners wanted to do it and say, "Nah, we don't want to do that."

Ms. Long: No, that's great.

Ms. Duensing: Okay, and then I also got a price for Hana Belt Road Historic District signs of \$5,000 each, which I thought, "wow, that's really high," but this isn't --

Ms. Long: What are they made of?

Ms. Duensing: Well they're going to be made to look somewhat historic. It'll be similar to what we see coming in and out of our small towns instead of the steel road signs.

Ms. Long: That's \$5,000?

Ms. Rotunno-Hazuka: That can't be five grand?

Ms. Long: Oh, don't --

Ms. Rotunno-Hazuka: Made out of wood?

Ms. Duensing: We think though, let me go on here --

Ms. Rotunno-Hazuka: Oh, sorry.

Ms. Duensing: I think we can save some money though --

Ms. Long: We're in the wrong business.

Ms. Duensing: Yeah, right, well signs are expensive, I've done exhibits so -- yeah, but I'm hoping that we can work with people and probably save some money for that and do more useful things.

Ms. Sablas: Maybe Mr. Nelson would have recommendations.

Ms. Duensing: No, he does bridges, not signs.

Ms. Sablas: Oh, but I mean bridges, he might know of signage.

Ms. Duensing: Anyway --

Ms. Long: We're talking a ground sign or on a post --

Ms. Duensing: Yeah.

Ms. Long: That's hanging there?

Ms. Duensing: Yeah.

Ms. Long: Five thousand dollars?

Ms. Rotunno-Hazuka: And it describes the Hana Road?

Ms. Duensing: No, no, no, it's -- okay, you guys, when you come in under the bridge into Wailuku, you go to Makawao Town, you've all seen those signs, those are costing \$5,000 but, you know, you guys this is a budget, we're going to try to work with it --

Ms. Rotunno-Hazuka: Yeah.

Ms. Duensing: If we can save money, we will, but I'd rather, you know, we need to get something up on the road. We've been wanting to do this, as a Commission, for five years, let's see how we can do it.

Ms. Long: Let's try to cut this price down.

Ms. Duensing: But, you know, they have them painted on both sides and whatnot; we only need a one-directional sign so that'll save some money.

Ms. Long: Yeah, we only need one. You don't want one that says *You Are Now Leaving Hana Belt Road*?

Ms. Duensing: No, they'll all turn around and come back. Okay, third on our scope of work, and this is a deviation from what came up last month with you, but this is something that I took the initiative to do based on some trouble I'm having in processing Historic District Applications this last month, and I talked to Holly McEldowney about this and she agreed that it was a really good idea, if you turn to Page 4, Lahaina Historic District Documentation. What I am proposing to do is the Planning Department has some pictures that were taken by Chris Hart and other people, you know, 20 or 25, 30 years ago, documenting what Lahaina looked like in the late '60's, so one of the things that the Commission should have done, but there was no time to do when we were trying to spend that money so quickly the last round of CLG funding, was we got design guidelines but usually when you do design guidelines, you take the pictures first and then do the design guidelines, so we're kinda doing things in reverse action, but what I'd like to do is spend -- I've got \$6,000 here to do that as a contract for, you know, somebody who can go out and update the pictures, you know, it's a good idea for historic districts to be updated with photo inventory every 20 years or so, okay. And then the other thing is the --

Ms. Long: Black and white.

Ms. Duensing: Right, these will be black and white photos, yeah, cause otherwise they --

Ms. Rotunno-Hazuka: ...(inaudible)...

Ms. Duensing: Yeah, you won't -- they won't be any good in 20 years.

Ms. Sablas: You are aware of the books that they have on Lahaina, and Wailuku? Miyahira's girl did that.

Ms. Long: Oh, yeah.

Ms. Rotunno-Hazuka: Yeah.

Ms. Sablas: Those are wonderful pictures --

Ms. Long: I love 'em.

Ms. Sablas: Because that was my era growing up in Lahaina and all of the old places.

Ms. Long: I own some of those pictures. I'll share.

Ms. Sablas: Yeah, so that's a good resource to start from.

Ms. Duensing: Okay, well the other part of this project --

Ms. Sablas: Who's the, I'm sorry, who's the author of the book again? I should know --

Ms. Duensing: They're all done by somebody different.

Ms. Long: Yeah, but the -- I worked with the publisher because I have photographs --

Ms. Sablas: ...(inaudible)... that's who I was thinking of, yeah, George --

Ms. Long: Yeah ...(inaudible)...

Ms. Duensing: Okay, well the other half of this is because I know that there are some collections at the State Archives from the '60's era, which would have been before a lot of these buildings changed.

Ms. Long: That was what I have ...(inaudible)...

Ms. Duensing: I want to go over there and, you know, if you're willing, we can reproduce some of your photographs and we can also do that at the State Archives, you know, put this all into a collection so we have --

Ms. Long: Sure. Oh, yeah.

Ms. Duensing: It's a documentation to use this so I want to make that part of my project and then we'll out source the, you know, current photos.

Ms. Long: That's a huge project.

Ms. Duensing: No, cause they're all basically in the same collection. I already know where they are, yeah.

Ms. Long: Okay.

Ms. Duensing: Okay, and then the last \$5,000 of that is to redo the Lahaina Historic District Design Guidelines for reproduction. We haven't had those printed yet. And in the upcoming months, one of the things on our agenda is to go through all these design guidelines. I found out that they were presented as a final publication and State Historic Preservation Division never reviewed those, so all of it's still yet to be done, so that's another story though. Okay, so this is what was submitted to the State and, hopefully, soon we'll hear about whether it's approved or if we need to make any amendments.

Mr. Whelchel: Dawn, I'd like to make a comment on your photographs. They now have scanners so that you can scan slides ...(inaudible)... slides, negatives, photographs, and they burn them all on CD's, DVD's, you put it in a little DVD player and have a little thin monitor, thin screen and they could -- it would be a slide show and have it up in sort of a small area you would have a slide show instead of a large photograph display and those colored scanned photographs and slides would be colorful forever.

Ms. Duensing: Yeah.

Ms. Long: Rather than hard --

Ms. Duensing: If the technology doesn't change too much so that we can't use them. For instance, my Master's thesis is on a diskette that I can't use because --

Ms. Rotunno-Hazuka: You don't have your old computer.

Ms. Duensing; The software doesn't match.

Mr. Whelchel: That was a hundred years ago.

Ms. Duensing: No, two hundred.

Ms. Long: Yeah, it'd be nice if you could do it both ways.

Ms. Duensing: Yeah, that might be -- yeah, we'll -- I was going to say that might be nice to take it one step further at a later date, yeah, but I think at this point, you know, and the Archives will let you bring in, you know, portable scanners, but it's labor intensive and time consuming, I'd rather just have a photographer make the duplicates and then maybe sometime somebody else on another project with other funding could do the technology and do that.

Ms. Long: How much of Lahaina are you going to do?

Ms. Duensing: I think just go up and down Front Street to start with.

Ms. Long: Just Front Street?

Ms. Duensing: We'll see how much we can do with the money budgeted.

J. DIRECTOR'S REPORT

- 2. Indigenous Hawaiian Architecture Bill**
- 3. Plan Review Waiver**
- 4. Cultural Resources Commission Correspondence & Handouts**
- 5. July CRC meeting**
- 6. Administrative Permit Reports**
 - a. Demolition Permits**
 - b. Historic District Approvals Report**

Ms. Sablas: Okay, we already talked about Item I; on Director's Report, we talked on 1, No. 2, Indigenous Hawaiian Architecture Bill.

Ms. Duensing: And, again, this is a -- on the agenda for the commissioner's information. The Indigenous Hawaiian Architecture Bill that we worked on with the Public Works Department for several years. Hans Riecke, a former commissioner, was very heavily involved in this. It finally got passed and you should have the rules in front of you for your information.

Item 3 is the Plan Review Waiver, and that why I was up at Council this morning, and I realized that I think I'm the only person left from the Commission when this item came up, so what it was is that there's an ordinance that says that if your architect or engineer certifies that everything's going to be done according to code, you only have to have your building plans reviewed and they give you a building permit. Well, two years ago, were you on the Commission at that time, Lori? I don't think you were. I think it was just before you got on. Anyway, two years ago, some poor Lahaina resident came in and his architect had gotten a plan review waiver --

Ms. Sablas: Oh, I remember that.

Ms. Duensing: And did a nice little kind of A-framed house and it was -- no design guidelines or anything and so, to make a long story short, the guy had to redo his house, significant expense, the architect was long gone because he upped and moved to someplace else on the Mainland, and the Commission voted to amend the plan review ordinance to make it inapplicable to Historic Districts, which I thought would be a very simple little thing.

Ms. Long: Yeah.

Ms. Duensing: Well, this was two years ago. Planning Department never sent it up to the Mayor's office and I resurrected that when I started working for the department. Well, I went up there this morning and, you know, answered all their questions and, to make a really long story short, it's not as simple as one would think because you can't do it if the property abuts the shoreline so I thought, well, I'll just say the cultural resources deserves the same protection in historic districts, right? So they're going to send us a letter to Planning and then it'll come to CRC and, basically, I will assemble all the information you guys need to bring you up to speed on what this is all about at another date because the Council's Sub-Committee wants us to look at different ways that we can do this if there are any, so I thought that they were going to say, "Recommended to pass on to Full Council," and then it didn't happen so --

Ms. Long: It's never easy.

Ms. Duensing: Nope. But I'd like to, you know, be able to get you the minutes of the meetings and, you know, all my letters so everybody is on the same page and familiar with that because I guess now Lori and I are the only ones that recall this situation.

Ms. Sablas: Yeah, I remember that. Thank you for keeping ...(inaudible)...

Ms. Long: Interesting situation.

Ms. Sablas: So, Item 5, the July CRC meeting.

Ms. Duensing: Okay, in Cultural Resources Commission Correspondence & Handouts, you know, you got your stuff today and there was no correspondence other than contacting Commissioner Pa for last month and that was the reason this is usually on there.

The July CRC meeting, we are having some scheduling conflicts for three reasons, basically, I will not be here July 1, Suzie goes on vacation July 9, and, in the interim, there's hardly a place to have a meeting because we thought we were going to meet in Lahaina for the Pioneer Mill demolition. The civic center is booked nearly solid for the month because of graduations and stuff, so that they will be on the August agenda now. So for the July CRC meeting, I talked to Clayton about it, I'll be gone the 1st getting back on the 7th, so there's a possibility we could meet on the 8th. I'm going to leave it up to Clayton's discretion if there's a -- I mean if there's nothing to talk about, we could just defer the meeting until August. If there are items for the agenda, you know, he can do it but he's gotta find a meeting place because this room's not available on that date either.

Ms. Long: Dawn, I know you and I spoke about the Banyan Tree Park situation, and there was going to be a meeting of the Arborist Committee to talk about the annual events that are proposed under the tree because they had only dealt with the weekend ones or something, I don't know, but I'm saying it might be a good opportunity to talk to LahainaTown Action Committee's kupunas, whatever they call themselves, they were supposed to come up with new parameters, ways of self-policing, and then we have Keeaumoku's recommendations, and I don't want to let that go too long, and then if we have time for the Arborist to consider this before then --

Ms. Duensing: July.

Ms. Long: July, probably not.

Ms. Duensing: The problem with July though is if we need to meet in Lahaina, there's not meeting place available.

Ms. Sablas: We could check Waiola Church.

Ms. Rotunno-Hazuka: The Hyatt.

Ms. Duensing: The church, we have to pay for that.

Ms. Long: We do?

Ms. Duensing: Yeah, they -- that's --

Ms. Long: They don't let us use that church?

Ms. Duensing: I think that --

Ms. Long: What about the reading room at the Baldwin home?

Ms. Duensing: That's not big enough.

Ms. Long: Not big enough?

Ms. Duensing: No, cause I've had a -- no it doesn't need to --

Ms. Long: Doesn't anymore.

Ms. Duensing: Remember the County Charter changed that last time around. But the biggest problem with the July meeting is that, I mean the civic center had a couple Tuesday's available and that was --

Ms. Long: How about the school? We've held meetings up the hill at whatever that -- is it an elementary or an intermediate school below Lahainaluna?

Ms. Duensing: Yeah.

Ms. Long: I've been to commission meetings there.

Ms. Duensing: The intermediate school, yeah.

Ms. Long: It's not the most comfortable thing but there's plenty of space.

Ms. Duensing: Yeah, because we really have to have it on the 8th because, like I said, I'm getting it back the day before and Suzie leaves two work days after that.

Ms. Rotunno-Hazuka: Is the demolition --

Ms. Duensing: Yeah, and the school's also have summer programs but --

Ms. Long: Well, yeah.

Ms. Rotunno-Hazuka: Before the demolition now is in August so --

Ms. Duensing: August, right.

Ms. Rotunno-Hazuka: If we have a meeting in August in Lahaina, will we need to be there prior to? Or is that -- was that the point before?

Ms. Duensing: Yeah, the point is that for the August meeting, since I felt we could not find an appropriate meeting place, I asked the Pioneer Mill people if the August meeting would be okay because they have a lot of work to do anyway before we can even, you know, they can even consider demolishing that because it's going to be, the mitigation for that is not going to be take a roll of pictures. Okay, so they agreed to that so, you know, we can plan on either --

Ms. Long: ...(inaudible)... keeping it.

Ms. Duensing: Just the smokestack.

Ms. Long: Yeah.

Ms. Duensing: What's the, well, we don't want to get off the --

Ms. Long: Alright, never mind.

Ms. Sablas: So we're talking about the July meeting.

Ms. Duensing: Yeah.

Ms. Rotunno-Hazuka: So what you're saying is if we negate it, fine, because we can still catch the rest of the stuff in August?

Ms. Sablas: In August.

Ms. Duensing: Right. Right, because, I mean, the whole thing on the Banyan Tree thing is, yeah, we could put it on the agenda, but we still have to have staff reports --

Ms. Long: And Arborist probably ...(inaudible)...

Ms. Duensing: The Arborist still haven't done anything and I don't think I have the time to do a staff report before July on that and I --

Ms. Long: So can we do the Banyan Tree in August as well?

Ms. Duensing: We can try.

Ms. Sablas: Make it all Lahaina issues.

Ms. Rotunno-Hazuka: That's be great if we're over there.

Ms. Duensing: I mean, and let me emphasize we can try because, you know, there's two pretty big issues to put on the same agenda, so --

Ms. Sablas: Well, if we could keep it with that and then, you know, again we're in Lahaina community.

Ms. Duensing: Yeah, but, I mean but just consider that you know it's --

Ms. Rotunno-Hazuka: ...(inaudible)... do those two then.

Ms. Sablas: Spend the day.

Ms. Long: Yeah.

Ms. Duensing: Order lunch and dinner if you're going to do that.

Ms. Long: One in the morning; one in the afternoon. But that -- that -- really, we need to see their parameters ahead of time so we have time to think about it.

Ms. Duensing: Yeah, I'll ask Simone to follow up on that.

Ms. Sablas: If we don't have a July meeting, then we're going to have like a double meeting in August.

Ms. Duensing: But, again, the July meeting I'm going to leave that to Clayton's discretion because I'm going to be gone the week before when that agenda would have been prepared so --

Ms. Long: Which means that we will not have an opportunity to hear from Ann Cua about the Makena Resort rezoning.

Ms. Duensing: If you guys want a meeting, then we'll just, you know, we'll have to work on finding a place in Wailuku and I'll tell Clayton that he needs to put the agenda together and I will be here the day after I get back from my vacation, if that's what the Commission wants to do.

Ms. Long: Well, the other thing we can do is just get the conditions off the website and go up as individuals when it gets to Council and testify as individuals, which is not a perfect solution.

Ms. Rotunno-Hazuka: Well, it would be nice to have at least something to be reviewing. I guess we can go to the website by ourselves; that's not a biggy.

Ms. Long: Yeah, that's no biggy. I mean there's a --

Ms. Duensing: I mean, you know, the conditions there if -- I guess there's two things that I would say about that is that there's not a whole lot to comment on because the State Historic Preservation Division letter says that all this new work has to be done, all the old work is so out of date, okay, that's point number one; and point number two is the conditions, No. 15, takes into consideration most of what SHPD said in their letter.

Ms. Long: Okay, you've compared the two? Cause I haven't sat down with their letter --

Ms. Duensing: Just from my recollection

Ms. Long: And this thing. Yeah, I just want to make sure.

Ms. Duensing: But 15, basically, incorporates what SHPD's letter said.

Ms. Long: Okay, my only concern with No. 15 was the order or the process in which it gets reviewed by SHPD and the CRC and whether there is a time constraint on this thing. You tell someone to come up with a cultural resources management plan, they can do it in five years, they can do it from one year, it's too open-ended.

Ms. Sablas: So your point is -- your point is you're encouraging a meeting in July to address this issue?

Ms. Long: No, I'm just saying and, I don't think that's going to happen, that if -- what's your take on it?

Ms. Rotunno-Hazuka: Well, are you saying that maybe you would like to review the cultural resources management plan before SHPD accepts it?

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: So I don't know --

Ms. Long: And that's not in the condition right now. The only way we can effect that is at the Council, not now.

Ms. Duensing: One other thing that -- yeah, okay. And I wanna --

Ms. Rotunno-Hazuka: Do we know if SHPD has this, the cultural resource management plan right now? If they do --

Ms. Duensing: No, because that's what they're asking for, isn't it, Lisa?

Ms. Rotunno-Hazuka: I don't know anything about it. I mean all I know --

Ms. Long: It says, "currently being prepared."

Ms. Rotunno-Hazuka: I thought it was being prepared.

Ms. Duensing: Oh, okay, then that wasn't -- okay.

Ms. Rotunno-Hazuka: I think -- I don't know what we could do but I think you have to ask Makena Resort if we can be a -- if they would come to us before it's sent to SHPD.

Ms. Long: That would be lovely.

Ms. Rotunno-Hazuka: Send a letter to them and just ask if --

Ms. Long: Yeah.

Ms. Duensing: Then you guys want this put on as an agenda item and you should meet in July because we cannot talk about it now cause we're not going to discuss a letter now.

Ms. Long: Right.

Ms. Duensing: When do you want to discuss a letter? You want the July agenda prepared for the 8th, then we have to find a place to meeting.

Ms. Long: No, no, this is just a staff letter. Can we not get the staff to -- no?

Ms. Rotunno-Hazuka: Cause it's not on the agenda.

Ms. Duensing: Barbara --

Mr. Akama: No, you can't ask staff to comment on this Makena condition right because it's not on the agenda.

Ms. Long: Not the comment, to invite them to be on the agenda when they have prepared this.

Mr. Akama: You want to write a letter to staff saying that --

Ms. Long: No, no, we want staff to communicate with the Makena Resort Company to ask them, as with any developer who is doing a cultural resources management plan, to ask them to present it to the Cultural Resources Commission when they're done preparing it. It would seem to me that that's something we could ask staff to do. They can always say no.

Mr. Akama: It's an action item, Commissioner Long.

Ms. Long: It's an action item.

Mr. Akama: Yeah, see, you'll be asking the staff to prepare a letter to the developer and so we'll have to put that on the agenda before we --

Ms. Long: Is that something --

Mr. Akama: And vote on it before we -- although it appears to be -- there appears to be consensus now that this is what the Commission would like to do.

Ms. Rotunno-Hazuka: Would it be rude to try to amend the agenda?

Ms. Duensing: No, don't do that.

Ms. Long: Don't do that?

Ms. Duensing: No, don't even go there, I'm serious, because that's how the meetings got to where they were the last two months.

Mr. Akama: And we shouldn't continue this discussion much further --

Ms. Rotunno-Hazuka: Oh, okay.

Ms. Duensing: Exactly.

Mr. Akama: Cause people -- people do review our agenda and I was going to stop you right at the start but I think that if you want to ask --

Ms. Long: So what do we do with this?

Mr. Akama: That this be placed on the July meeting agenda, if there is a July meeting, that would be appropriate.

Ms. Duensing: That's what I said.

Mr. Akama: And then, at that point in time, we can discuss it, decide on what the contents of letter is, take a vote, and then proceed that way.

Ms. Duensing: And there should be no more discussion today on the item. If you want to discuss the item, and you want to discuss it in July, I'll prepare an agenda, I will leave it with Clayton, and it will get --

Ms. Long: Yes.

Ms. Rotunno-Hazuka: I want to ask one question.

Ms. Duensing: Somebody will find a room first to meet in on July 8.

Ms. Rotunno-Hazuka: Would I be allowed, because of my sources with Makena Resort, be able to ask them if they ever planned on coming to us? Am I allowed to do that?

Mr. Akama: If the developers --

Ms. Rotunno-Hazuka: Yeah.

Mr. Akama: Plan on coming to you?

Ms. Rotunno-Hazuka: To talk to us. Am I allowed, in my capacity -- I know they were talking about it, but am I allowed to ask them, "Are you guys going to come? And we want you to come," and say that to them?

Mr. Akama: But you'd be appearing, I mean you'd be going to them as a member of the CRC.

Ms. Rotunno-Hazuka: That's what I'm saying, so I couldn't.

Ms. Duensing: Wouldn't it be more appropriate is the consultant doing her job as a cultural resources consultant suggesting, yes, you should take this to the CRC, that's the way to do that.

Mr. Akama: Yes, so -- are you on contract with them to do this?

Ms. Rotunno-Hazuka: Well, I've done a lot of work in Makena. My --

Mr. Akama: Oh, then that's entirely, yeah, up to you if you're doing this privately. I wasn't aware of that. I thought you --

Ms. Rotunno-Hazuka: No, no, well, my Associate Aki is doing -- is representing them, but we've done a lot of work together in Makena, but I'm not part of anything they've been doing lately but I, because of my association with him, I thought he said, at one of the Council meetings, that they were planning to visit this body but I didn't know specifically when and I just didn't know if I could ask him and --

Mr. Akama: Yeah, that's entirely your decision in a private capacity.

Ms. Rotunno-Hazuka: Okay.

Ms. Sablas: Okay.

Ms. Long: Whatever works.

Ms. Sablas: So, we are going to be looking at having a July 8 meeting and Wayne is going to be working with an agenda with Dawn and also a place to meet. Sir?

Mr. Whelchel: Madam Chairman, this agenda, Item L, says Next Meeting Date: August 5th, are you going to change this agenda?

Mr. Kaopuiki: Where's July?

Ms. Long: We need a place to meet in Lahaina.

Mr. Whelchel: I'm talking about changing the agenda since it's already established here.

Ms. Duensing: Right, but -- I don't see that as problem. Do you, Dudley?

Mr. Akama: Provided we give them proper notice if there is a July meeting. I know this is an agenda item but --

Ms. Long: It's on here under 5, so we're cool.

Mr. Akama: Yeah, we're talking -- we're talking about whether or not it's feasible to have a meeting in July, so that's okay, and I understand what you're saying, commissioner, is that --

Mr. Whelchel: We're talking about a problem changing the agenda and don't do it at all and this has to be changed.

Mr. Akama: Well, then if there is going to be a -- if there will be another meeting, there are notice requirements that we can comply with, such as if we decide to have a special meeting, and that's what it'll be, it won't be scheduled on the date because of what staff has said, so it will have to be a special meeting of July 8, and as to the venue, the place, then that can be subject to proper notice.

Mr. Whelchel: Alright.

Ms. Sablas: Can we have a motion to adjourn.

There being no further business brought before the Commission:

It was moved by Ms. Lisa Rotunno-Hazuka, seconded by Ms. Barbara Long, then unanimously

VOTED: to Adjourn the Meeting at 1:30 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Commission Support Clerk

RECORD OF ATTENDANCE

Present

Lori Sablas, Chairperson
Keeaumoku Kapu, Vice-Chairperson (Arrived at 9:15 a.m.)
Barbara Long
Solomon Kaopuiki
Lisa Rotunno-Hazuka
Lon Whelchel

Excused

Perry Artates
Samuel Kalalau, III

Others

Wayne Boteilho, Deputy Planning Director
Simone Bosco, Planning Staff
Ann Cua, Planning Staff
Dawn Duensing, Planning Staff
Dudley Akama, Deputy Corporation Counsel