

**CULTURAL RESOURCES COMMISSION  
REGULAR MEETING  
JANUARY 6, 2005**

**A. CALL TO ORDER**

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chair Lori Sablas at 9:10 a.m., Thursday, January 6, 2005, Planning Conference Room, Kalana Pakui Building, 1<sup>st</sup> Floor, 250 South High Street, Wailuku, Maui, Hawai'i.

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

Ms. Lori Sablas: ...(inaudible)... and that you for being here at our first Cultural Resources Commission meeting for the year 2005. Imua Maui nui. Okay, after calling the meeting to order, well, I'll just on approval of minutes first cause we have two set of minutes to discuss.

**B. APPROVAL OF THE MINUTES OF THE NOVEMBER 4, 2004 AND DECEMBER 2, 2004 MEETINGS**

Ms. Barbara Long: I just have one funny thing. Starting on Page 79 --

Ms. Sablas: I'm sorry, are we gonna -- what? November?

Ms. Long: Okay, minutes of November 4, beginning on Page 79, you have given Sam Kalalau another syllable. He's kalalalua or something. Well, down here at the bottom of 79, it's kalalalua and then couple other times, so I thought that was cute. Outside of that, nothing substantive, so I'll move to approve with that correction. Oh, question, excuse me. On Page 31, Dawn, you refer to a toe-tongue, t-o-e - t-o-n-g-u-e, toe-tongue roof of green. And then it's repeated again by the chair. What is that?

Ms. Sablas: A corrugated, yeah?

Ms. Dawn Duensing: Yeah, toe-tongue is a traditional corrugated roof.

Ms. Long: Toe-tongue?

Ms. Sablas: It's a Japanese word.

Ms. Duensing: Yeah. Yeah, that's what the --

Ms. Long: How do you spell it?

Ms. Duensing: I'm not sure. Is it toe-tongue like that?

Ms. Lisa Rotunno-Hazuka: You would think so.

Mr. Lon Welchel: Close enough.

Ms. Sablas: No, no, no. It's not that way.

Ms. Duensing: I don't think it is. I'll find out.

Ms. Long: I've never heard that.

Ms. Duensing: No, toe-tongue is what the old-time architects called it. Do we have an architect in the house?

Ms. Sablas: How is spelled?

Unidentified Speaker: Corrugated metal.

Ms. Sablas: How do you spell it?

Ms. Duensing: Right, but how do we spell it?

Ms. Long: Yeah, but how's the Japanese word?

Ms. Rotunno-Hazuka: ...(inaudible)... spelled toe and tongue like --

Unidentified Speaker: ...(inaudible)...

Ms. Duensing: Like little toe and -- toe and tongue.

Mr. Welchel: Correct.

Ms. Long: Really?

Ms. Duensing: Yeah, and Suzie did ask me but I don't know. Okay, we're going to spell toe-tongue and it's a traditional corrugated roof rather than, if you continue in the same sentence it say, "but not a standing seem," it should be standing "seam," s-e-a-m roof.

Ms. Long: Yeah, seam, yeah. S-e-a-m. Could we, just for future people who may come to read this put corrugated in parenthesis or something?

Ms. Duensing: If that's the Commission's desire.

Mr. Whelchel: If you can spell corrugated.

Ms. Sablas: So noted.

Ms. Long: Whatever. I was totally stymied by that one.

Ms. Duensing: But nobody asked when I said it.

Ms. Long: I didn't hear you say it. If I had, I would have asked.

Ms. Rotunno-Hazuka: Okay.

Ms. Long: Okay.

Ms. Sablas: A motion's on the table to approve the minutes of November 4.

Mr. Sam Kalalau: Second.

Ms. Sablas: Moved and seconded.

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

**It has been moved by Ms. Long, seconded by Mr. Kalalau, then unanimously**

**VOTED: to approve the minutes of the November 4, 2004 meeting as corrected.**

Ms. Sablas: Motion carried. Discussion? Okay, let's move on to the December minutes please.

Ms. Long: Okay, got one there.

Mr. Keeaumoku Kapu: I get one on Page 58 and Page 59.

Ms. Long: What do you got?

Mr. Kapu: And that's the -- right on the last line, Ms. Duensing, because of NANCRA --

Ms. Long: NANCRA?

Ms. Rotunno-Hazuka: Oh yeah.

Mr. Kapu: And Page 59 right on the top, NANCRA, also, fifth line, first paragraph.

Ms. Sablas: It's supposed to be?

Mr. Kapu: NAGPRA.

Ms. Long: What's that stand for?

Mr. Kalalau: With a "P."

Ms. Duensing: Native American Graves ...(inaudible)...

Ms. Long: Okay, and I have one on Page 48, in the middle, where there's a Ms. Sablas here starting, "Yeah, what I would help them with . . ." That was Ms. Duensing who said that. Was it not?

Ms. Duensing: Which page, I'm sorry, Barbara?

Ms. Long: 48.

Ms. Duensing: Page 48?

Ms. Long: Yeah. Had to do with the Mantokuji Mission submittal for --

Ms. Sablas: Yes.

Ms. Long: The register and that was you responding.

Ms. Duensing: Oh, yeah, right here, yeah.

Ms. Sablas: Good eyes. Motion to accept?

Ms. Long: Move to approve except with the corrections.

Ms. Sablas: Second?

Ms. Rotunno-Hazuka: Second.

Ms. Sablas: It's been moved and seconded that we approve the minutes of December 2 meeting.

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

**It has been moved by Ms. Long, seconded by Ms. Rotunno-Hazuka, then unanimously**

**VOTED: to approve the minutes of the December 2, 2004 meeting as corrected.**

#### **D. COMMUNICATIONS**

- 1. LAHAINA COURTHOUSE. Commissioners will discuss the removal of the courtroom furnishings from the historic Lahaina Courthouse. Please refer to 12/10/04 letter from Michael Foley to Theo Morrison, LahainaTown Action Committee.**

Ms. Sablas: Okay, motion carried. Mahalo. Okay, to open the public testimony today, we have on the agenda Item D, under Communications, 1. Lahaina Courthouse, commissioners will discuss the removal of the courtroom furnishings from the historic Lahaina Courthouse. We have received a letter from Theo Morrison that she has been summoned to jury duty today and requested that we defer this item until our next February meeting, so I'd like to have a motion on this request.

Ms. Rotunno-Hazuka: That's fine. Is there anyone in the audience though that wants to --

Ms. Sablas: I'll address that.

Ms. Rotunno-Hazuka: I'm fine with that.

Ms. Sablas: So, are you making the motion then to defer this item to the February meeting?

Ms. Rotunno-Hazuka: Yeah, I'll make a motion to defer the item till the February meeting.

Ms. Sablas: Okay, we have a second?

Mr. Whelchel: Second.

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

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

**VOTED: to defer Item D.1. Lahaina Courthouse to the February meeting.**

Ms. Sablas: Okay, motion made, okay, motion carried. Discussion? So for the public who are in attendance this morning who was planning to testify on this, we would like to recommend that you wait until our February meeting; however, if you'd like to and insist in the spirit of laulima, we will entertain your testimony on this item keeping in mind that we will be receiving it for information only; that we will have no discussion or no action taken. So having said it, do I have any members in the audience today who would like to speak up on any public item or any item on the agenda including Item D? Hearing none, okay. Then that matter is resolved. Thank you everyone. So let's move on to historic applications, none. Item 2, Advisory Review.

## **2. ADVISORY REVIEW**

- a. **MR. PETER YOUNG, DLNR, LAHAINA SMALL BOAT HARBOR IMPROVEMENTS. The DLNR is requesting CRC review of the Draft Environmental Assessment for the proposed comfort station at the Lahaina Small Boat Harbor. CRC members may advise and make recommendations. The CRC will not be taking action on any permits at this time. Public testimony will be accepted. (D. Duensing)**

Ms. Sablas: Do we have any public testimony on this subject at this time? Okay, hearing none. Then I'll have staff report.

Ms. Duensing: Okay, thank you, Madam Chair. We last reviewed this small boat harbor comfort station improvements on our September agenda. We have submitted several comment letters to the DLNR, who is in charge of this project. This project uses Federal funding, therefore, it is subject to Section 106 provisions. It is located in the Lahaina National Historic Landmark District and the County Historic District No. 1, so you have the authority over approving the design for the new comfort station under a historic district commission permit approval. You will not be taking any action at this time, but they have submitted to you, for your review, a Draft Environmental Assessment. What you will be doing is listening to what the consultant has to say regarding this. You should be advising them as to whether there's anything you are concerned with in that Draft Environmental

Assessment so that can be taken into consideration for the completion of the Final Environmental Assessment. So, with that, I would like to turn it over to the project applicant who is represented by Munekiyo and Hiraga, Mr. Mich Hirano.

Mr. Mich Hirano: Thank you, Dawn, and good morning, cultural commissioners. Kivette, are you going to do a presentation on this? You wanted us to do it? Okay. What we would like to do is just, I guess, receive comments that the commissioners may have on the Draft Environmental Assessment of the comfort station and, as Dawn had mentioned, we had presented the concept to you many times in, I guess, the last was in November, and the draft report now has been published and we would just, at this time, receive comments and if there's anything that you would like to have further explained or detailed, we are available to provide that information.

Ms. Sablas: Okay.

Mr. Hirano: Yes?

Ms. Long: Okay, Mich, have you settled on a roof material?

Mr. Hirano: I would ask Steve Wong, who's the project architect to just discuss that.

Mr. Steve Wong: Yeah, we ...(inaudible)...

Ms. Duensing: Please make sure everybody speaks into the microphone and state your name.

Mr. Wong: Steve Wong. I'm an architect with Mitsunaga and Associates. We're the project designers architecturally and structurally and civil. Our original scheme did show a corrugated metal and it seemed to be not in keeping with the Lahaina Design Guidelines so we've been working with the, one of my architects, Rodney Lee, has been working with Dawn and the roof material is now a wood shingle, a natural wood shingle roof. And the exterior finishes are all natural wood. What we would like a consideration on, and some of our structural lumber we've been using on a lot of the pier jobs, is the composite wood, the structural composite wood. It's like a polymer. It holds up better than a -- but so that would be one request. Some of the interior structural lumber is we would want to use is what they call composite lumber.

Ms. Long: Are they exposed?

Mr. Wong: Well, maybe like these structural columns -- natural wood, huh? Okay.

Ms. Duensing: It's very important that they adhere to the design guidelines and they --

Mr. Wong: Actually, what it does is, we can give you a sample, and it looks -- you can't tell the difference, so the answer is no, okay, everything's --

Ms. Duensing: Well, the CRC could approve that but it does not follow design guidelines.

Mr. Wong: So any questions on that? We will be doing a color palette and for approval but the color you see here is what we were thinking about. The interior -- interior finish will probably be a coating on the floor rather than, you know, for maintenance, concrete floor, and the project also includes accessible parking, landscaping, accessible ramp, and we'll probably redo this area here for access with landscaping, so that's the comfort station.

Mr. Lon Whelchel: What is your exterior siding material made of?

Mr. Wong: It's a one by six tongue and groove wood siding.

Ms. Long: Vertical?

Mr. Wong: Vertical, yeah.

Ms. Long: Is Planning Department happy with all this?

Ms. Duensing: As for the design elements itself, I know that we had a lot of discussion on the roof materials. I believe you started with the standing seam roof in the initial proposal.

Mr. Wong: Yeah, right.

Ms. Duensing: And I don't know if there was some misunderstanding as to what the appropriate materials would be but I think there was also one time, somewhere along the way, that was stated here that shake roofs are more traditionally used in residential architecture and the toe-tongue corrugated roof is more appropriate for the commercial districts. If you look at the commercial buildings, most of those have corrugated, the toe-tongue traditional type, or they've been replaced with asphalt shingles but many of those aren't visible, so I would -- my suggestion is to go with corrugated and I think I made that before and there was some discussion with SHPD architects and, just to let the Commission know what my preference would be, is I think corrugated metal in the traditional style of the commercial district is appropriate. But you guys have the authority to choose the roof; that's your decision.

Ms. Long: That's what I thought we had -- I was trying to find it in the minutes that that's where this whole toe-tongue thing came up, and, yeah, I thought that that was the consensus that we preferred --

Mr. Wong: Corrugated metal.

Ms. Long: Corrugated metal in the plantation rib, the commercial deep corrugation old fashion style; that was -- I'm trying to find the page.

Mr. Wong: That's fine with me, I mean, yeah.

Ms. Duensing: I can understand where it would be confusing because the roof materials have been discussed so many different times.

Mr. Hirano: Okay, well, just to confirm, we will modify the plans and provide the corrugated roof. I think the color -- what was the color that was preferred? And I recall last time there was discussion of matching it with either the Pioneer Inn or the school.

Ms. Duensing: Yeah, Page 31, and this is what Ms. Long brought up earlier, and I'm referring to the site visit that we had with Mr. Lee and the SHPD architects, there was a lot of discussion on the roof and somebody mentioned green. We also talked about the longevity of shake roofs because they're not always so good; they're not fire resistant in all cases and one of the options would have been toe-tongue roof of green but not a standing seam roof because that would not comply with design guidelines. And then further on Ms. Long states that shake is not compatible with the design guidelines. It is in the residential area, but not in the commercial area, and I agree with her on that, and this is from the November 4 meeting.

Mr. Hirano: And the color?

Ms. Sablas: Green.

Ms. Duensing: I think green or a plantation, you know, the plantation style would have been green or even red.

Mr. Hirano: The plantation style.

Ms. Sablas: Either green or red.

Ms. Duensing: Or red, yeah.

Ms. Long: Yeah, either one.

Mr. Hirano: Okay.

Ms. Duensing: Or you could just let it sit up there and rust and make it look truly historic.

Mr. Hirano: Green. Green.

Ms. Duensing: And I think red would also be good because that's the color of the Pioneer Inn.

Mr. Hirano: Yeah, so --

Ms. Duensing: Yeah, so that can be considered in the final design with the color schemes.

Ms. Long: Yeah, please have --

Mr. Hirano: Okay, we'll come back and that decision will be made --

Ms. Long: Dawn approve the color, you know, cause there are reds and there are reds, if you go in that direction.

Mr. Hirano: Pardon?

Ms. Long: I just want to make sure that Planning approves the final roof color.

Mr. Hirano: Okay. And we will have that -- we will incorporate this discussion again in the final EA and, as well, when we come before the Commission for the Historic District Permit, then we will finalize the color and that will be done in consultation with the staff planner.

Ms. Duensing: But the Commission will have the final authority over the colors and that will be during the permit process ...(inaudible)...

Ms. Long: That'll be ...(inaudible)... that's cool.

Mr. Hirano: Okay.

Ms. Long: I have a question about Section 106 review on this particular thing.

Mr. Hirano: Yes?

Ms. Long: Has it been done?

Mr. Hirano: There is a letter that we received on the -- yes, it has, through SHPD, a copy was sent to the Cultural Resources Commission although we just received this letter ourselves so I'm not sure if you have it in your file. I would just like to perhaps read a portion of it. This was dated January 3 and it's from -- it's addressed to Michael Munekiyo and it's regarding the National Historic Preservation Act, Section 106 compliance, for the

Draft Environmental Assessment for the proposed Lahaina Small Boat Harbor comfort station improvements. It says:

Thank you for the opportunity to comment on the Draft EA for the proposed improvements to the comfort station at Lahaina Small Boat Harbor. We received the subject Draft EA on December 29, 2004, and provide the following comments. Our review is based on historic maps, aerial photographs, records and reports maintained by the State Historic Preservation Division. In addition, Nathan Napoka, Historic and Cultural Branch; Thomas Lim and Susan Tasaki, Architectural Branch; and Melissa Kirkendall, Archeology Branch have all conducted field inspections in connection with the proposed undertaking.

The proposed undertaking includes the demolition and reconstruction of the existing comfort station located at Lahaina Small Boat Harbor. The reconstruction will expand the facility from 375 square feet to about 1,200 square feet in size to accommodate both compliance with the Americans with Disabilities Act and increase public use. There will be concomitant changes in storage and parking as well.

An archeological inventory survey has been conducted with the proposed Area of Potential Effect, identifying two historic sites; a subsurface cultural fill deposit dating primarily to the 19<sup>th</sup> century A.D., and the seawall. Archeological Inventory Survey and Cultural Impact Assessment for the Comfort Station Replacement During the Lahaina Pier Improvement Project, Lahaina, Maui. The cultural fill deposit has been determined significant under Criterion D, and the seawall may be significant under multiple criteria. While we have requested a few minor revisions to this report, we anticipate accepting it as adequate and final once the revised report is submitted. The archeological consultant has recommended onsite archeological monitoring during any ground disturbance connected with the proposed improvements and we concur with this recommendation.

Staff of our Architecture and History and Cultural Branches have reviewed the subject undertaking and believe that no historic properties will be affected by this proposed improvements to the existing comfort station. Staff of our Archeology Branch believe that the proposed undertaking may have an adverse effect on archeological properties but that a finding of no adverse effect may be provided -- may be made provided onsite archeological monitoring occurs during any ground disturbance associated with the action.

Should you have any questions about archeological matters, please contact Melissa Kirkendall on Maui. Should you have any questions about architectural matters, please contact Thomas Lim on Oahu. Should you have any questions about burial or cultural matters, please contact Nathan Napoka, Branch Chief, History and Cultural Branch on Oahu, and that's Melanie Chinen.

A copy of this letter was sent to Carol Braegelmann, Environmental Protection Specialist, Office of Human & Natural Environment, Federal Transit Administration; Gilbert Coloma-Agaran, Director of Public Works; Michael Foley, Department of Planning; Eric Hirano, Administrator, Engineering Division; Lee Keatinge, The President's Advisory Council on Historic Preservation; Thomas Lim, Branch Chief, Architecture Branch, Maui Section; Maui Cultural Resources Commission; and Nathan Napoka, Branch Chief.

This was just signed on Monday and so your copy probably has not been received yet. We will --

Ms. Long: Could we please have copies of that? Is it possible to do them now? I got a big concern here with the State office. There's one sentence that deals with the affect on historic sites and there's nothing in there about the fact that the view plain, the Landmark extends out into the ocean, into what's called Lahaina Roadway, and granted I'm not excited about the size of the roof and that kinda thing, I don't think it's a deterrent to doing this, but I would have hoped they would at least have mentioned what this would do to the historic views of the shoreline from the ocean, which are an important part of the whole Landmark designation, and that's not your kuleana; that's theirs.

Mr. Hirano: But it was assessed during the site visit with the State Historic Preservation Architecture Branch. Thomas Lim had, again, we were onsite with him at that time and we went out to the breakwater and looked back and I think that's why Thomas was quite insistent that the banyan tree that is growing on the seawall be maintained and retained --

Ms. Long: I was going to deal with that, yeah.

Mr. Hirano: Because he felt that it was from the shoreline, from the water looking onto the shore, that it was screened behind the banyan tree and --

Ms. Long: But, and we know how invasive the roots of banyan trees are and that's already an issue with the historic 1920 seawall --

Mr. Hirano: Yes.

Ms. Long: If that tree has to come out, that thing is, especially with a reddish roof, or, well, till the new tree, whatever, gets planted grows up, that's going to be an enormous impact on the visual historic shoreline, and I cannot believe that they didn't consider that.

Mr. Hirano: Well, I think he considered that in the context of the tree being there.

Ms. Long: Being there. Yeah, but we can't, and that's another thing, I don't know if we've investigated whether those roots are impacting the wall.

Ms. Duensing: My recollection is that this Commission requested that that be addressed --

Ms. Long: Yeah.

Ms. Duensing: And to determine whether or not the banyan tree was undermining a historic wall.

Ms. Rotunno-Hazuka: And if it'll stay. And if the tree will stay.

Ms. Duensing: I know Thomas and I discussed that at the site visit and we disagreed on that.

Ms. Long: Yeah. And the seawall, looking at it from the seawall is one thing; the other thing is looking at it from further out than the seawall because that boundary goes how far out?

Mr. Hirano: It goes out a mile.

Ms. Duensing: One kilometer.

Ms. Long: A mile, so you gotta assume that that is significant. So I think what I'm saying here is that if it is found that that banyan tree needs to be removed in order to save the wall, that it be replaced with a tree of similar size and canopy with root barriers to protect the wall so that the screening will not be removed cause if they based their comments on the fact that the canopy of the tree screens the thing, then fine, we gotta keep a canopy there.

Ms. Rotunno-Hazuka: Also, Barbara, you gotta think that they got this on December 29 and they already turned around a letter on the 3<sup>rd</sup>, I mean that's --

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: That doesn't happen so, obviously, it was quickly written.

Ms. Long: Yeah, I was kind of -- noone's ever gotten them back that fast. How'd you do it?

Ms. Rotunno-Hazuka: I have some comments and questions on the archeology.

Mr. Hirano: They've been involved in the process quite early though because Eric has been coordination with the SHPD branch and they have been both on -- out on the site, you

know, the Architecture Branch anyways, have both been on the site since our last meeting in November but --

Ms. Rotunno-Hazuka: Yeah, Melissa came out there, right?

Mr. Hirano: Yes, and so they're quite familiar with the project. Eric would like to just make a comment.

Mr. Eric Yuasa: Hi, my name is Eric Yuasa and I'm the project engineer for the project. Barbara, I just wanted to point out, I cannot really speak out -- speak for Thomas Lim, but I did speak to him about the visual impacts and one of the things that he mentioned was that if you look at the plan closely, the courthouse is a lot bigger than the proposed comfort station so when you look from the ocean, I mean the courthouse would stand out more so than the comfort station even if the tree was removed; also, if you look to the right, you see the Expedition ferry, and the Expedition ferry, if the boat, right now the boat that occupies this slip isn't there, and then if another boat similar size were ...(inaudible)...

Ms. Rotunno-Hazuka: So it has to stay parked.

Ms. Long: Give me a break.

Mr. Yuasa: Also, if you look at along the wharf area, people have built booths to sell I guess their tour packages, so he's thinking already that the shoreline has been impacted by the harbor and he didn't feel that it was significant, but I think, Dawn, you can talk to him more about it.

Ms. Long: I'll have a chat with Thomas.

Ms. Duensing: Well, I mean one of the deficiencies in the EA as well is that when you consider the historic sites, you guys have got the fort listed as a historic site, that is not a historic site, but the small boat harbor itself is a historic site and that's a major oversight in the EA is not listing that because it was constructed in 1950, therefore, it is potentially a historic site; you can't ignore that. I mean the boats in the harbor are all part of that, not historic boats I mean, but, you know, that harbor area should be considered for its historic value as well and that is not in this EA.

Ms. Long: Good point. May I ask --

Mr. Hirano: We will make that correction then in the -- and we took the historic sites from the archeological report, yeah, the archeological report that was done.

Ms. Duensing: Yeah, but if the historian looked at that rather than archeologist look at stuff prior to contact, historians look at stuff post-contact, that fort is a Hollywood make over of what they think was there and that doesn't qualify.

Ms. Long: What is the usual Section 106 review? What -- where is it specified how that happens and what it consist of and who's involved in it?

Ms. Duensing: You're asking me?

Ms. Long: I'm asking Dawn.

Ms. Duensing: Section 106 review is to be -- the best place for you to get as much information as you want, I will answer your question --

Ms. Long: Yeah.

Ms. Duensing: But if you go to the Advisory Council on Historic Preservation's website, they have on their website an excellent brochure called *The Citizen's Guide to Section 106 Review* and that will tell you just about everything you need to know. What Section 106 is is consultation with Federal monies, I think you all know that. The FTA is the administering government agency; they're the ones giving out the money; they are to be involved in this process; they should be initiating Section 106 review. That's one of the most important features because the person ultimately responsible for whether Section 106 has been properly done is the administrator of the FTA, not the DLNR director or, you know, the Cultural Resources Commission. It's supposed to come from the top. That Federal officer is the one ultimately responsible. So that's one important thing about Section 106. The process needs to identify any potential impacts to historic resources that can be done in this environmental assessment. You are now pointing out some of the potential impacts whereas the SHPD is saying, according to Ms. Long and according to Lisa, is that there may be some things that haven't been properly done, haven't been looked at enough. Their letter indicates that there are, I don't know, impacts to historic sites or mitigations or whatever, so you have the authority to point that out if you like; that's part of the process. Okay, I also believe, and Keeaumoku can speak more about this, that the native Hawaiians in Lahaina are part of Section 106 review too. But one of my concerns and -- is, you know, where is the FTA in all of this as far as process goes because, my understanding of the law from a two-day workshop done by one of the senior staff members of the ACHP is that they should be very involved in this process. The other thing that is part of this process is because we're dealing with a National Historic Landmark District is that the National Park Service, Secretary of the Interior, and the ACHP should be involved in this. It's not just any historic site, it's a National Historic Landmark, and the folks in Washington should be involved. They need to review this as well. Does that answer your question?

Ms. Long: You bet.

Ms. Rotunno-Hazuka: So, Mich, did those particular people that Dawn is talking about get the EA? Are they -- do they receive an EA?

Mr. Hirano: We've been consulting with Federal Transit Authority or Federal Transit Administration on this EA. They were received and a copy of the, well, this is for the Environmental Impact Statement for the ferry terminal, but we've been in touch with the Park Service but most of our coordination has gone through the Federal Transit Administration on this, and the State Historic Preservation officer is also involved in the coordination with the Section 106.

Ms. Duensing: Well, one of the things I, and I don't know how -- one of things I get on my desk on occasion is a letter from, for instance, U.S. Geological Survey informing the Planning Director of the Section 106 process, blah, blah, blah; we've never seen anything that, like that, from the FTA, and because Section 106 is involved, you know, there's no comment letters from the Secretary of the Interior or ACHP on this, and they do need to be consulted because it's in a Landmark District. Were there letters in there? I, maybe I'm wrong and I don't remember.

Ms. Long: I didn't see any.

Mr. Hirano: Copies of the Draft Environmental Assessment were sent to USDA, U.S. Department of Agriculture; U.S. Fish and Wildlife Service; so those were the Federal agencies that were directly contacted on the Environmental Assessment.

Ms. Long: Not the National Park Service?

Mr. Hirano: No, we didn't send one to the National Park Service. This is the Draft Environmental Assessment under the Chapter 343 and that's who we are doing our reference for. The Federal Environmental Assessment is going to be carried out under a categorical exclusion and that application will be submitted to FTA and that is where, if there are any Federal consultation, it would be under the National Environmental Protection Act 1966.

Ms. Long: However, it seems to me that the comfort station is part of the Lahaina Pier Improvement Project and that incrementalizing an SMA application or an environmental statement is counterproductive to the historic preservation process and to the issues that we've been talking about. And I do want to say I am not categorically opposed to the comfort station, I know we need it, it looks like a good design, I would love to be able to say go ahead and build the darn thing tomorrow, but there is a process that needs to be

followed and this is a Federal process. Lahaina is only one of what? Thirteen National Historic Landmarks in the country?

Ms. Duensing: Oh, no, there's many more than that.

Ms. Long: Many more now? Used to be fewer, but whatever. You must know that the National Park Service administers these things and that they should be reviewing anything that's going to impact the Historic District, yeah. So, at the very least, I would expect your EA to include letters from all of the agencies that Dawn has mentioned: National Park Service, ACHP, whoever else she recommends, Secretary of the Interior --

Ms. Duensing: But that's part of the National Park Service.

Ms. Long: Yeah.

Ms. Duensing: Yeah, that's the same agency.

Ms. Long: But, okay, but to do, to fulfill the total requirements of an appropriate Section 106 review.

Mr. Hirano: Okay, there were a number of questions in that statement so I'd like to just go back and try and provide the history, as I know it, about this particular project. When it was first proposed, it was part of the pier project and the comfort station project. During the stakeholders meeting that was held last year, in the spring, sometime in April I believe, it came to the attention of DLNR and the, I guess, the other -- the agency involved in the project that the comfort station was not as significant an issue as the pier, in terms of concern, and that the comfort station was seen as a necessary project and it was, at that time, determined to separate out the comfort station, allow it to proceed on its own track, in terms of its Environmental Assessment and permitting, and do the full Environmental Impact Statement analysis for the Lahaina Pier proposal. At that time, then the comfort station went on its own track on a Environmental Assessment.

In terms of its processing, the -- when we do an Environmental Assessment, under the National Environmental Policy Act, we dual track them, sometimes the EA acts as both the assessment for the Federal purposes and for the State Historic Preservation -- or State Section 343, Environmental Laws. In this particular case, it was DLNR's determination that the comfort station improvements fall under a categorical exclusion under the Federal Transit Administration Code of Federal Regulations and so we have drafted and are preparing a categorical exclusion application for the comfort station under the Federal EA requirements so that we do not do the Federal EA in this particular case. And, for that reason, those other parties, the Federal agencies, weren't consulted as part of this Environmental Assessment. This Environmental Assessment was tracked through the

Chapter 343 State laws and that's why you have the particular circulation and the reference for that. In the Environmental Impact Statement, we mention that we are processing this under NEPA to ensure that it meets the criteria and regulations of NEPA and -- which is the National Environmental Policy Act. But that is going through the categorical exclusion cause it meets the criteria for categorical exclusions for Federal Environmental Assessment in that you are allowed to do improvements to existing facilities under Federal properties, which exempts them from Federal assessment.

Ms. Long: The exemption is based on the fact that you're improving an existing structure?

Mr. Hirano: We're making the structure compliant with the American with Disabilities Act; that was primarily one of the reasons why these improvements were carried out. Secondly, it's also going to meet demand that is required in terms of the level of use of the facility; however, you're allowed to make improvements to comfort stations and rest areas under the Federal Code of Regulations Exclusion Criteria if these do not have significant impacts and that's why they're being sought for categorical exclusion.

Ms. Rotunno-Hazuka: So, in other words, you're saying one of the criteria in excluding it is because it doesn't have impacts?

Mr. Hirano: Yes. Yes.

Ms. Rotunno-Hazuka: Okay.

Mr. Hirano: And that it's a replacement of an existing facility.

Ms. Rotunno-Hazuka: But it's not a replacement in-kind and that doesn't matter?

Mr. Hirano: It's an expansion. It's an expansion.

Ms. Rotunno-Hazuka: Okay. Okay. I have questions on the archeology.

Mr. Hirano: But I think in terms of the significant impact and that's why I think this letter is important and the Archeological Inventory Survey was carried out was that mitigation has been identified through onsite monitoring, and so I guess in the impact side of the assessment, impacts can be mitigated, in this particular case, through archeological monitoring during ground disturbances. So although there may be a slight increase or an expansion of the area, it's within -- it's on the existing property and that mitigation has been identified as an action that can be carried out during the course of construction. So I hope that that explains a bit of the process.

Ms. Long: Yeah.

Ms. Duensing: Can I just ask for one clarification just to make sure I understand that NEPA thing is that it's with NEPA you're filing the categorical exclusion?

Mr. Hirano: It's, yes, it's under the Federal, like every Federal Government, just like every State level has that.

Ms. Duensing: I -- just like at the State Chapter 343?

Mr. Hirano: Yes.

Ms. Duensing: I just wanted to make sure I understand that correctly and that is what you said?

Mr. Hirano: Yes.

Ms. Duensing: Okay, thank you.

Ms. Rotunno-Hazuka: Should I ask you questions about archeology?

Mr. Hirano: Yeah, we can try or Eric could answer it.

Ms. Rotunno-Hazuka: Okay, well, first of all, I'm glad that you said everything would be monitored because the report states that only the northern part of the comfort station was recommended for monitoring and I disagree with that because you have a potential for subsurface features anywhere on that property so everything, even during demolition, pulling up sidewalks, all that, should be monitored. I was curious on why there was only --

Mr. Hirano: I think, just to clarify that, commissioner, this monitoring occurs during any ground disturbance associated with the action so --

Ms. Rotunno-Hazuka: Right, so that's great. There's only two test units and I was curious why that is, and I tried to talk to Melissa but she went out of town.

Mr. Hirano: I can't answer precisely why that was determined but I know that Melissa Kirkendall had met with the archeologist and they went out and looked at the site, and it was also based on a preliminary as well. There was an archeological assessment that was carried out on the site. After Melissa Kirkendall was at the site visit, she thought that certain areas looked as though they should have subsurface investigation. I think it was determined at the site visit where it was determined what localities will be required for subsurface testing and then she met with the archeologist and they determined where the testing should be, and then an Archeological Inventory Survey and subsurface testing was carried out. So I think it was a two-step process in this particular case. There was first an

assessment. The County archeologist went on a site visit and then determined that perhaps subsurface testing should be carried out and that was done.

Ms. Rotunno-Hazuka: Okay, my comments would be that I think more testing should have been done and because even if you're going to test, let's say the APE, the Area of Potential Effect, these test units don't even test where the expansion is going to go. I would always test around the building, particularly in what we know across the street with the school site with all the burials. Maybe you can't pull up sidewalks at this point because of the traffic or whatever, and that's understandable, but that's why you would monitor all ground disturbing activities. During an inventory survey, you are supposed to try to determine the extent of a site. The test unit one supposedly has a site. They say, "cultural fill," which I'm not exactly sure what that is. Is it a cultural layer or -- it kinda seems like they're not exactly sure if it is a cultural layer, but when you do have a subsurface feature in a test unit, you're supposed to determine the extent of that feature and, therefore, you have to extend your units and you have to determine, oh, the site's this big or the site's this big, and their mitigation is to monitor only in that area and, therefore, determine the extent during monitoring, which generally that's not how it's done. The wall, which is 1920's, definitely has to have a site number. It was never said in this report that they would give the 1920's wall a site number.

Mr. Hirano: I think that was --

Ms. Rotunno-Hazuka: But Melissa -- they did say your letter that they're going --

Mr. Hirano: In the letter that it was --

Ms. Rotunno-Hazuka: So that might be a revision.

Mr. Hirano: Yeah, I think so and that was a revision that we requested, yes.

Ms. Rotunno-Hazuka: Right, so I mean I would -- I would like to see more testing but, again, that's Melissa's call, not my call, and, again, cause you're trying to get an idea of what's there and even if there's some fill deposits, which we find a lot, we do find intact features under the fill deposits, we also find human remains in the fill deposits, so that's, again, why I'm glad we're going to be monitoring or they're going to monitor everything because you always have the potential for artifacts, human remains, items in the cultural fill because, you know, 20 years ago, we didn't monitor. And so, again, I wish -- I would think that there should be more testing; I definitely think a hundred percent monitoring; the seawall should have a site number; the cultural layer or cultural fill should have a site number, which I think they're going to do; even the palm trees, if you're relocating palm trees, that that needs to be monitored; sometimes landscaping gets lost so --

Mr. Hirano: Yes, as I said, monitoring on all ground disturbances, so any disturbance to the ground with removal of trees, and I can't, commissioner, I can't comment on the determination of the number of holes, the number of test sites, but I think perhaps a -- as we were onsite, I think they wanted to, as well, minimize the disturbance of that area too so it was kind of a balance on that.

Ms. Rotunno-Hazuka: It's -- that's not, I understand that, but, again, when you go and you're doing trenching, you can do trenches here, those can be backfilled in one day, it's just that you're trying to get the best view of what's under the ground before you get into construction so you don't have any delays also so -- I think that's my major comments on there. And then, again, I guess there's -- I would like to see a little smaller building but I guess that's -- I don't know if that's going to happen but --

Ms. Sablas: Any other comments from other commissioners?

Mr. Kapu: What's going to happen to the trees? That's existing palms that's supposed to be removed and relocated? Where they're going to relocate it?

Mr. Hirano: I'm not sure. It won't be on the site, and it was brought up at the meeting, onsite meeting, that if possible the palm if it can be relocated, every attempt will be made to relocate them and find a donor site, but I'm not sure where that site will be.

Mr. Kapu: No, I just have some small concern because that whole area was once, you know, cluttered with a lot of indigenous plants and I think that's royal loulou palms, huh? Is it?

Ms. Rotunno-Hazuka: I thought that's what it turned out before.

Mr. Kapu: Loulu?

Ms. Long: Summer loulou.

Mr. Kalalau: No, I don't think so. Those aren't native.

Ms. Rotunno-Hazuka: Those aren't?

Mr. Hirano: No, they weren't native.

Mr. Kapu: It's not native?

Mr. Hirano: Non-native and they will be, the landscaping will be replaced with native plants as well; that's part of the landscaping too.

Mr. Wong: They're coconut palms.

Mr. Hirano: Those are coconut palms.

Mr. Wong: And loulou palms will be ...(inaudible)...

Mr. Hirano: So they'll be replaced -- the coconut palms will be removed from the site and replaced; they'll be loulou palms in the landscaping.

Ms. Long: When there are artifacts and things found, who gets them?

Ms. Rotunno-Hazuka: Landowner.

Ms. Sablas: Who?

Ms. Rotunno-Hazuka: The landowner.

Ms. Long: I'd like to make a request, and I'm not sure, not for me personally, I'm not sure whether they'd be appropriate to go to the Lahaina Town Action Committee or whatever, but I would like to suggest that the Maui Historical Society be considered as the recipient of whatever is found there. It could be an interesting collection.

Ms. Rotunno-Hazuka: Oh yeah.

Mr. Hirano: The State owns the land so they can make that determination.

Ms. Sablas: That's a good recommendation to just put in.

Mr. Kapu: You got a time frame on the project?

Mr. Hirano: The time frame I think was discussed at the -- an earlier meeting that probably the permitting and design will take eight months to a year, and then construction another year or so; late 2006 was the completion date.

Ms. Rotunno-Hazuka: That brought up one question is where do they plan on staging for construction and how do they plan on -- has that been thought of?

Mr. Hirano: That hasn't been worked out yet; that's more in terms of after-detail design, but staging -- do you have any comments on that? Staging where equipment will be stored? Yeah, they have to determine that during design.

Ms. Rotunno-Hazuka: Okay, yeah cause lots of times --

Mr. Hirano: And the traffic control ...(inaudible)...

Ms. Rotunno-Hazuka: Items are impacted during the staging and stuff.

Mr. Hirano: And that's always a part of the requirement for the SMA permit is approval of the staging plan by the Department and so that will be probably a SMA requirement and condition.

Ms. Sablas: I'd like to make a comment, Mich, that I appreciate, you know, that what you've been doing and, like Commissioner Long and our Mayor had all said earlier, that we really want to see this project go forward but couple of things I just wanted, you know, I wanted to bring to all of your attention and in your impact statement here and that's on page, it goes way in the back, Page 47, on the Appendix, Page 47, way back on the Appendix, I think --

Mr. Hirano: Which Appendix is that, Chairperson Sablas?

Ms. Sablas: That's in the National Survey of Historic Sites and Buildings Supplementary Sheets, at way at the end of the report.

Mr. Hirano: Of the Archeological Inventory Survey?

Ms. Sablas: National Survey of Historic Sites. It's way, way back.

Ms. Rotunno-Hazuka: Yeah, it is part of the report.

Ms. Sablas: Yeah. And I think if we all kinda focus on this is something like we as CRC are concerned about and this report was done in 1962, 32 years ago.

Ms. Duensing: We have a 1974 update as well.

Ms. Sablas: But I wanted to go back to this particular time period, 32 years ago, because it opens up the report by saying the significance of this Lahaina area and it reads, "Perhaps no island town so well preserves the atmosphere of a mid-nineteenth century Hawaiian seaport as does Lahaina," and we, I think, this is where we're from, there's no other place like Lahaina, and it goes on to say, if you read that, I found that very interesting reading but I'd like to, you know, that something to pound on -- to ponder on, and on Page 54, under the Item 7, Importance and Description of the Site, it goes on to say about the condition of the site, "Lahaina today," now this was 32 years ago, "is a quiet plantation town which is beginning to stir with new life, " this was my era when I was in Lahaina that's why it's -- and I see Keoki back there as, again, "Lahaina today is a quiet plantation town which is beginning to stir with new life as recent harbor developments bring additional recreational

and commercial boating activity and as nearby newly built resorts increase tourist visits. Despite the fact that surviving historic structures are relatively few, the town preserves much of the atmosphere of a Hawaiian native village and of a mid-nineteenth century island port. The magnificent natural setting with its backdrop of purple mountains and foreground of blue sea remains unspoiled, and palms and other, "it's kinda hard to read, "other trees shade the streets and homes as they did in missionary days, however," however, I emphasize, "paved streets, curbs, new buildings in contemporary architectural styles and other developments are cumulatively making their effects felt and causing the historic scene to fade." And I think this is what we are concerned about and this was, again, written by someone 32 years ago and that's what makes this town so special, and we don't mean to delay your project, but I think I wanted to really emphasize the sensitivity of this project that you have, Mich, and if we seem to be a little picky about things like this, it's because we know that that is a treasure and that spirit, I think, is what this discussion is all about.

Mr. Hirano: I totally agree with that statement and your concerns. I do not see this as a imposition. It's really details that need to be looked at so, you know, I really appreciate your comments.

Ms. Duensing: And to add to Commissioner Sablas's comment, Ms. Long had asked me earlier about Section 106, and this is an important part of Section 106 process too is that you do consider all the cumulative long-term impacts of a project to a historic site, not just the immediate impacts that are very obvious and notable so Commissioner Sablas, in pointing this out, is well within the area of Section 106 consultation right here.

Ms. Sablas: Okay. Barbara, did you remember what you wanted to talk about?

Ms. Long: No, I didn't, but I -- is it appropriate to go a little further in the Final EA about the banyan tree and the seawall? Should that -- I mean the issue there is screening with the tree canopy. Have you -- have you looked at that?

Mr. Hirano: Yes. No, we'll definitely include that comment, your comment on that.

Ms. Long: Yeah, is it impacting -- yeah, is it impacting the wall? Can you tell or would you need an arborist?

Mr. Hirano: I think you would need an arborist and -- but the potential is definitely there because it's growing right in the seawall so --

Ms. Long: Yeah, I know how they do stuff. Could we say then that if it does come out, and obviously divulging many archeological treasures as it does, could -- do we wanna have a choice of tree to replace it? Do we care? Could we have some suggestions from an

arborist on the type of tree that would replace it and the appropriate size so that we'd make sure that the screening would continue?

Mr. Hirano: We can ask the landscape architect to perhaps suggest and we can bring it back --

Ms. Long: Okay.

Mr. Hirano: When we finalize it but --

Ms. Long: At the permitting phase or something.

Mr. Hirano: I think the decision was through the Architecture Branch of State Historic Preservation that that tree remain so there was no plans to take the tree out, with this particular project, but --

Ms. Long: They -- I know that Thomas Lim is from the East Coast and has no experience with the roots of banyan trees and I think that it would be fool-hearted to just say we'll leave the tree there without investigating what it's doing and what it's potential is.

Ms. Rotunno-Hazuka: But couldn't you leave it there and just put in some protective, you know, barriers even though it's --

Ms. Duensing: But it's still -- it's still undermining the wall though.

Ms. Long: If you need, yeah, if you need to cut the roots that are undermining the wall, you expose the tree to the possibility of --

Ms. Rotunno-Hazuka: Of falling over.

Ms. Long: Tumbling over.

Ms. Rotunno-Hazuka: Yeah.

Mr. Hirano: Again, we'll have -- I just asked Eric Yuasa, the project manager from DLNR, if it would be possible to do that, sort of look at it, so, yeah, and we'll have an arborist come and look at it --

Ms. Rotunno-Hazuka: Great.

Mr. Hirano: During that -- during the next few months before we come back to the Commission.

Ms. Long: Do we know anything about that wall seeing that it, obviously, is a historic site?

Mr. Hirano: Time wise? You mean when it was built?

Ms. Sablas: Why it was built.

Mr. Hirano: Wasn't it 1920?

Ms. Long: It was built prior to the harbor. Was the sea actually up to that wall?

Ms. Duensing: Well, the Lahaina seawall was constructed in 1922, I believe I saw superintendent public works report on one of my visits to the State Archives, and I would assume that that is in the general time frame of that, so it would qualify as a historic wall. It's older than the harbor.

Ms. Rotunno-Hazuka: And it's a seawall meaning?

Ms. Duensing: I believe it is but I'm not a wall expert; that's just what I've seen in, you know, stuff I look through.

Ms. Rotunno-Hazuka: Okay.

Ms. Long: If so, it's just as important an asset as some of the other things that are mentioned and I'd really like to see that go a tad further.

Mr. Hirano: In order to protect that rather than and preserve it rather than leave it intact or leave it as is.

Ms. Long: Yeah, maybe an interpretive something if would be called for.

Ms. Duensing: And I'm looking 48, Page 48 of our draft minutes from the November 4 meeting and we did request this and mention this as a concern at that time. And just as an additional note, the Commission also went on to emphasize that lighting as well as signs in the vicinity should comply with design guidelines, so that should --

Mr. Hirano: Yes.

Ms. Duensing: Just a reminder for the design phase of the project.

Ms. Long: And with that said --

Ms. Sablas: Okay. Any other recommendations or discussion at this time? Or are we ready to move on to the next item? Okay, Dawn will just go over some of the concerns maybe just as a recap so that we can -- and, again, some of these we talked about it, we have a letter, you know, we've written to you, I see, in November 5 and we're talking about it again so these are things that are very important to us, the roots, the landscaping. Okay.

Ms. Long: Oh, here's one. In, I knew there was something weird, Page 9 in the Archeological Inventory Survey where it deals with the Carthaginian, it says, "The Carthaginian sunk offshore of Kihei." And we all know that's not true.

Ms. Sablas: Where is that?

Ms. Long: Page 9.

Ms. Sablas: On the front portion?

Ms. Long: Way in the back. It's the Archeological --

Ms. Rotunno-Hazuka: You're saying the original. Is that still not true?

Ms. Long: It's Appendix A.

Ms. Rotunno-Hazuka: It says the original --

Ms. Long: No. No. In fact it was --

Ms. Rotunno-Hazuka: And then the Carthaginian II was chosen to replace. That's totally --

Ms. Long: The original Carth sank on the reef, right in the -- in the mouth of the harbor Easter time, whatever year it was, and there's a picture to prove it that Keoki has.

Ms. Rotunno-Hazuka: Okay. Good one.

Ms. Long: I was there.

Ms. Duensing: Okay, do you wanna review the comments and make sure I have everything?

Ms. Rotunno-Hazuka: Yep.

Ms. Long: Yeah.

Ms. Duensing: Okay, number one, the roof color or the roofing should be toe-tongue corrugated metal with the color of green or red, one-by-six inch tongue and groove vertical siding should be used, composite materials shall not be used in this building; number two, we acknowledge the receipt of the January 3 letter from the Historic Preservation Division; number three, nothing in the EA about the historic views of the shoreline ocean, banyan tree must be assessed for its impact on the historic seawall by a certified arborist, it should be removed if it's damaging the historic seawall, and an appropriate tree for replacing and screening of the new building should be included in the landscaping plan; number five, the fort is not a historic site, the small boat harbor should be noted as a potential historic site, and, with this, we can note the Carthaginian as well, that's all part of the history of this report, included in this report; number six, or five, we understand that NEPA is a categorical exclusion, the other point made was please inform the FTA, the ACHP, and the National Park Service of the Final Environmental Assessment and ask for them to review this project as part of Section 106, archeological concern that all work should be monitored that is any ground disturbance, we are concerned that only two test units were done, and I will probably call Lisa and ask her to assist me with the wording in noting the archeological concerns. Lisa also, well, I don't know if you want this in, she had noted that she would like a smaller building --

Ms. Rotunno-Hazuka: Yeah, I want that in.

Ms. Duensing: Commissioner Kapu pointed out that the new landscaping should use indigenous species, incorporate loulu. Commissioner Long noted that or requested that in the event that cultural deposits or artifacts were located as part of this project that the DLNR consider putting them on loan or donating them to the Maui Historical Society. There were also concerns noted about construction staging so that we will remind the applicant to please consider that historic resources may also be impacted by the staging of the construction. We will also note those paragraphs from the Appendix, on Page 47 and Page 54, about Lahaina's small town atmosphere, etcetera. And then another reminder that lighting and sign shall also comply with the Historic District Design Guidelines. Did I miss anything?

Ms. Sablas: The stonewall.

Ms. Duensing: The stonewall.

Ms. Sablas: And would be considered as part of the historic part.

Ms. Long: Yeah, it needs to be historic ...(inaudible)...

Ms. Duensing: Yeah. Yeah. We'll -- I guess I was just considering that as part of the small boat harbor. We will note it as separately and that's a good point.

Ms. Rotunno-Hazuka: What about we had a comment at the last -- at the first presentation where we were concerned that the receiving authority was the same one conducting -- we were talking, remember we talking about DLNR and the Mayor had no problem with us, you know, with it being switched to -- I forget what that was.

Ms. Duensing: Yeah, the discussion was on the accepting authority for the Final EA.

Ms. Rotunno-Hazuka: Right.

Ms. Long: They're following the law.

Ms. Rotunno-Hazuka: That they accept their own report.

Ms. Long: That's the way the law is, believe it or not.

Ms. Duensing: Yeah, I don't think there's anything you can -- I mean you can ask but, yeah, they're in compliance with the law on that one, Barbara's right.

Ms. Rotunno-Hazuka: Okay.

Ms. Long: I questioned that conflict; apparently, they're fine with it so --

Ms. Rotunno-Hazuka: I thought he said we could change it though, if that we were concerned about it that they would change that. I could have sworn that's what he said. Well --

Ms. Long: It's really not ...(inaudible)...

Ms. Rotunno-Hazuka: Okay.

Ms. Sablas: I also would like to add as far as the appropriate plants, besides loulu, to consider ulu; that used to be very much a part of Lahaina, it could be appropriate as a shade buffer.

Ms. Duensing: And that was mentioned in your last comments as well.

Ms. Sablas: Yes. Actually, a lot of recommendations so they'll be sent to them in a letter, right?

Ms. Duensing: Yeah, I will get on this letter as soon as possible because the comment period is ending.

Ms. Sablas: Yeah, so --

Ms. Long: Oh, that was my question. When is the comment period over?

Ms. Duensing: That's just kinda the way it's been going on this project, the way they've been filing it.

Ms. Long: When's the 30 days up?

Ms. Duensing: It's pretty -- isn't it tomorrow or something?

Mr. Hirano: Yes, it was published on the 8<sup>th</sup>, so it's tomorrow on the 7<sup>th</sup>.

Ms. Sablas: This is the last time then we can comment? Yeah.

Mr. Hirano: The 7<sup>th</sup>, yeah, the 7<sup>th</sup>; that's for the Draft EA.

Ms. Duensing: So you will wait till you get the signed letter, correct?

Mr. Hirano: Yes.

Ms. Sablas: Yeah.

Ms. Duensing: I thought so.

Ms. Long: That's cutting it close.

Ms. Duensing: That's just the way the filing went on this one.

Ms. Sablas: Remember we wanted it to be done in our lifetime. Okay, so thank you everybody and thank you.

Ms. Rotunno-Hazuka: Thank you.

Ms. Sablas: Okay, are we ready move on to the next item on the agenda?

- b. MR. PETER YOUNG, DLNR, LAHAINA SMALL BOAT HARBOR IMPROVEMENTS. The DLNR is requesting CRC review of the Environment Impact Statement Preparation Notice (EISPAN) for the proposed Ferry Pier improvements at the Lahaina Small Boat Harbor. CRC members may advise and make recommendations.**

**The CRC will not be taking action on any permits at this time.  
Public testimony will be accepted. (D. Duensing)**

Ms. Sablas: So the floor is open, at this time, for any public testimony on Item C.2.b. Okay, hearing none, staff?

Ms. Duensing: Thank you, Madam Chair. Again, this is the Environmental Impact Statement Preparation Notice (EISPN). We have discussed this project at earlier meetings. This is for the proposed ferry pier in the Lahaina Small Boat Harbor. You'll remember that this would be used for inter-island ferry service; that is the intention. The FTA, the Federal Transit Authority is also providing money for this project, which makes it subject to Section 106 provisions and that's what this Commission is concerned with because that is the cultural resources aspect of this, and Munekiyo and Hiraga, Mich Hirano, is handling this project for them as well.

Ms. Kivette Caigoy: Madam Chair, sorry, can I interrupt? My name's Kivette Caigoy. I'm an Environmental Planner with the Department, and I just wanted to make a few notes about this project as compared to the EA you just reviewed. This is the Environmental Impact Statement process, which is a more detailed and comprehensive document. They're in the beginning stages of drafting this document, so it's basically a summary of what the Final EIS will entail. It doesn't have a lot of detail cause they're still in the process of conducting further studies. So, basically, you know, this is preliminary in nature and just they're requesting comments from the Commission to be addressed in the Draft EIS as well as in the Final EIS. As far as specifics to the project, actually I'd like to ask Mich to go over that with you, if you prefer, or we can just go ahead and open up for comments.

Mr. Hirano: Thank you, Kivette, and good morning, Madam Chair and commissioners. I think we would like to just perhaps present some of the concepts that were put forward for the project so that it would refresh your memories and bring you up to date with respect to the proposed project, if you don't mind. We'll be brief in our presentation.

A scoping meeting was held, as well, in early December at the Lahainaluna Intermediate School and, again, at that particular meeting, we received comments about the preparation of the Environmental Impact Statement from the public and so we would like to just briefly summarize some of the concepts that and alternatives that are -- that have been assessed and, as a result of that scoping meeting, a new, I guess, design feature has -- modification has been as well incorporated for consideration. So I would just like to ask Steve Wong and Eric Yuasa to just go over quickly the earlier concepts, what has been proposed, where we are with the project in terms of its present design aspect.

As they're setting up, I'd just like to as well follow up on what Kivette Caigoy had mentioned that unlike the comfort station, this particular project will be undergoing an Environmental

Impact Statement and it will, as well, be coordinated with the National Environmental Policy Act and through the NEPA Environmental Review and so we will be dual-tracking this particular proposal through that process, so I'll just turn it over to Eric and to Steve.

Mr. Wong: Okay, this scheme that you're looking at would be actually the original two-story scheme for the pier and the -- the pier with gathering area on the bottom and the offices and concessions, restrooms on the top, and I don't think I need to go, unless you have questions, there was a lot of comments against this theme --

Ms. Long: I'm surprised you haven't burned that already.

Mr. Wong: So we'll throw that away. So this was the downsized scheme. It consisted of a 116-foot long smaller pier, 35 feet wide, there was no impacts to the land, it was connected to the existing pier by a 16-foot walkway, and we actually had a dashed-in open structure, it really wasn't designed. There were three comments made at the last December 8 meeting and there was the one comment on the roof, for the roof of the open structure to give it a little more -- break up the roof a little more. There was one comment on the -- somebody asked if that was all concrete, and that's not, and we changed that color too, it's actually the grass area. And the third thing we changed, and I'll show you on the final, this next scheme, which is the -- we changed the sheet pile system to a kinda concrete -- sheet pile system, for your information, is how the existing pier is built, you know, with a lot of backfill and -- but the new scheme, I mean, well, this proposed scheme now is a regular concrete pile system where the water flows through the pier. The roof kinda is a broken up kinda roof; little different roof forms. We can discuss -- we can discuss roof materials, you can ask me, it's something for discussion, it's not really selected yet so-- and that's, basically, the proposed scheme now.

Ms. Long: Can you help me out a little cause I can't -- what you're talking about with the pier then is that this is not a solid backfilled lump of pier there?

Mr. Wong: Right, it's sitting on posts.

Ms. Long: On posts?

Mr. Wong: Right.

Ms. Long: Made of poured concrete --

Mr. Wong: Correct.

Ms. Long: To go into the bedrock kind of thing.

Mr. Wong: Correct.

Ms. Long: Does that involve blasting?

Ms. Duensing: Pile drivers.

Ms. Long: Pile drivers.

Mr. Yuasa: Pile drivers ...(inaudible)...

Ms. Long: How deep does it go into the subsurface?

Mr. Yuasa: That's to be determined ...(inaudible)...

Ms. Long: Give me a ballpark.

Ms. Rotunno-Hazuka: Twenty-four feet.

Ms. Long: And how many of those pukas are you going to have to drill or excavate in order to do that?

Mr. Wong: How many pukas?

Ms. Long: Well, yeah. And they're on both sides of the pier or how does it --

Mr. Wong: Maybe about two dozen.

Ms. Long: Two dozen --

Mr. Wong: Piles.

Ms. Long: So they'd circle --

Mr. Wong: Right.

Ms. Long: The exterior of the pier?

Mr. Wong: That's correct and then there's also a bunch of piles for that walkway.

Ms. Long: The -- yeah, that's shorter walkway. And then how far above the surface of the water is the bottom of the horizontal pier?

Mr. Wong: Actually, what it -- what the pier --

Ms. Long: It looks like it's right -- no, bottom level, yeah.

Mr. Wong: About two or three feet.

Ms. Long: So it's two or three feet below?

Mr. Wong: Yeah.

Ms. Long: At low tide?

Ms. Sablas: It's gotta be high tide, hopefully.

Ms. Long: Yeah, you're never going to get in there at low tide, are you? You're going to drench --

Mr. Wong: Well if the level, the top of the -- the top level is designed for the boat, right, to walk right in. Actually, if you go to the existing pier, that's the level, same level.

Ms. Long: Okay, so it'll be that level, okay. And then there's dredging in order to accommodate the boats along side?

Mr. Wong: They're going -- they're going to dredge a little further out, yeah.

Ms. Long: But where that, where you show that white ship on the north side, yeah, is there dredging to accommodate that? There will be dredging there? Okay, and that's -- the pier is 30 feet from the existing seawall?

Mr. Wong: Thirty-one feet.

Ms. Long: Thirty-one feet. So you're dredging up to 30 or 31 feet close to the seawall there?

Mr. Wong: Correct. Yes.

Ms. Long: Carefully. Where are you going to dump the stuff you dredged?

Mr. Wong: Where are you going to dump the stuff?

Ms. Caigoy: Excuse me, ma'am.

Ms. Duensing: Can you remember that this is for preliminary comments. They don't have this project designed. If you -- what we should be doing is pointing out that these are your concerns, not doing full-blown discussions on them.

Ms. Long: Okay, that's a concern.

Ms. Caigoy: And may I further note that this project will be subject to compliance with U.S. Army Corps of Engineer requirements and they'll take a look at that.

Ms. Duensing: Well, your overall concerns are cultural issues and, you're right, just because it's subject to a U.S. Army Corps of Engineer permit, doesn't cover all the cultural resources issues, but please remember to focus your concerns on why the Cultural Resources Commission is here.

Mr. Kapu: Okay, I get one. Alternative site. Is there any alternative sites besides here?

Mr. Hirano: What we'll be doing is a Section 4F Assessment as part of this process which will look at alternative sites and look at sites outside the Historic District, so that'll be -- there'll be an assessment of that as well, yes.

Mr. Kalalau: Mich, will that pier accommodate something like the double-haul canoe Hokulea?

Mr. Hirano: I believe it will as long as it -- I believe it will, yes. It's designed to accommodate the ferries which are 110 feet or so -- 60 feet so -- and the draft probably not a real deep sort of vessel, three or four, yeah, so I think it would accommodate that, yes.

Ms. Sablas: I am very concerned, I mean in your -- in this report you had a lot about the surfing, that area is know for surfing and I would like to really see you address what kinda adverse impact it would have on -- to have another pier there because it's historically, again, you know, you covered that in this other report but just make sure that that is, you know, extensively covered about the surfing issue because that is very much a part of historic Lahaina, the whole area, from Lahaina to the pali almost, it's known for the long waves and, I'm not an engineer, but I would think there would be some kind of impact by adding another pier there and the dredging and, you know, if any damage to any reef or anything like that.

Mr. Hirano: Yes, there will be a study done on coastal processes and impacts on coastal processes by structures and by dredging.

Mr. James Giroux: Mich, I just wanna add, I don't know if it's part of the process, but with the increased traffic of the ferry coming in, could you take into account that when the ferry

comes in it crosses, it makes a cross wave into that surf site along as they're coming in, if there can be observation or study because I remember as a kid sitting out there and as a boat went by, it would ruin the best wave of the set and if you're sitting there for four hours and every time a set comes in, a boat goes by, it pretty much, in essence, ruins the surf spot, I mean if you're out there for four hours and can't get a good set, so can there be comment or study on that?

Mr. Hirano: We'll ask the coastal engineer about that.

Ms. Rotunno-Hazuka: That's a good point because, just like Maalaea, what they through with expanding that harbor so --

Mr. Hirano: I think, as well, that should be taken into context how proposed alternation of the shoreline or the reef, you know, could affect that because these boats are coming in now so I think we'll be looking at potential change to that, to existing conditions.

Mr. Giroux: Yeah, if the route changes closer to the surf break.

Ms. Duensing: I have one comment for this document, in my review of it, a couple of it. On Page 18, there's a paragraph noting that historic sites within the proximity of the project area include the following, that is completely wrong, this is not in the proximity of a historic site, this whole area is a historic site with individual features and sites within it and, again, the fort is not a historic site, the royal surf, however, would be a historic site and there's many others in the area, so this history, much more then the Environmental Assessment of the other project, this needs to be completely thoroughly researched by a professional historian. An archeologist is not good enough to do an analysis of the architectural features and post-contact features of this because this whole area is a historic site and it's a very important one. It needs to be thoroughly analyzed. Again, the small boat harbor itself, being more then 50 years old, is a potential historic site and it needs to be looked at in that context as well. This is -- the level of this project is so great that this will impact the entire area, again, it's -- the entire is a historic site and it needs to be looked at in that context.

Mr. Hirano: Okay.

Ms. Sablas: Oh, I meant to bring up, cause I was reading on Page 31, impacts to public services, and you have a sentence that says, "Existing recreational and educational facilities will not be adversely impacted by the proposed project," and recreational is what I wanted to emphasize that I think it will impact the surfing area, so that's a wrong statement.

Mr. Hirano: Yeah, we'll clarify that because I think we do go into a section about surfing as well.

Ms. Sablas: I tried to find it in this --

Ms. Long: There's not a lot about surfing.

Ms. Sablas: I didn't see it. It didn't have about that here. It definitely is part of the history of the whole area.

Ms. Long: I think it deserves more -- it deserves more study and coverage. On Page 28, Mich, under topography and land form, you mention land base improvements. What would those be?

Mr. Hirano: Excuse me, page?

Ms. Long: Page 28, Number 2.

Mr. Hirano: Okay, I was trying to get the recreational one because I think we do discuss surfing as well, specifically. But, Page 28, Commissioner Long?

Ms. Long: Yeah, under Number 2, topography and land form, the proposed project's land base improvements.

Mr. Hirano: I think we say that because we don't anticipate a lot of land base improvements in this particular part of the project.

Ms. Long: A lot of or none or what?

Mr. Hirano: Well, we haven't, at this point, we're still looking at the design details but in terms of scoping it, are there any?

Ms. Long: Any that you know of now?

Mr. Yuasa: Okay, based on the scoping meeting that we had, some people suggested that we include a sewer pump.

Ms. Long: A what?

Mr. Yuasa: Sewer pump out facility. A sewer pump out facility --

Ms. Long: Sewer pump out.

Mr. Yuasa: For the boats. Instead of dumping the sewer in the ocean --

Ms. Long: Yeah.

Mr. Yuasa: They prefer that it be pumped out and treated at a County treatment facility, so they suggested that we also include a sewer pump out. Right now there's one sewer pump out on the existing pier, but because the pier is so heavily used, people cannot really get access to the sewer pump out, so they suggested that we include another sewer pump out.

Ms. Long: And that goes directly into a County sewer line?

Mr. Yuasa: Yeah, it would go into a County sewer line but that'll require some land site sewer improvements.

Ms. Long: Oh, it will indeed.

Mr. Yuasa: And also the other concern was about the, I guess, traffic congestion and people drop off and they wanted like maybe a passenger drop off area for the ferry so we might do some land site improvements to accommodate those concerns. But, right now, because we're still early in the process, we haven't really determined the extent of the land site improvements yet.

Mr. Hirano: Yes, I think that statement was made that as it was proposed, there were no land site improvements, but, as you go through the process, as Eric said, certain things come up so --

Ms. Long: Okay.

Ms. Rotunno-Hazuka: I just wanted comment again about the surfing and that -- that it's not a theoretical, I guess, study but that they actually do a field study and perhaps have the boats go through the route to see the affect, you know. I don't how they would analyze it but, to me, that's the best way to do it instead of, you know, predicting how they think it'll affect.

Mr. Giroux: And, Mich, you gotta take into account the tides too, like extreme low or extreme high --

Ms. Rotunno-Hazuka: Different times.

Mr. Giroux: That also checks, you know, the flow of that wake into that area.

Mr. Hirano: Okay, and just to clarify then in -- I could ask the ferry operators that question and, as well, the coastal engineers, but it would only be as the new, maybe if there is a new

alignment into the harbor, how that would be impacted. Does that what you would like to see?

Ms. Rotunno-Hazuka: Yeah, I mean what I -- what I'm thinking is is that you do an actual study different times of the day, have them take that route, and see what the actually affect is.

Mr. Hirano: Yeah. I'll ask and try to incorporate that and it may not be technically, it may not be possible if there is dredging for the new channel to actually do that because they can't make that pass, but we'll see what we can do. We'll come back during the Draft EIS and discuss that further.

Ms. Rotunno-Hazuka: Okay.

Ms. Sablas: In your meeting in early December that was held for the public, can you share with us some of the -- what was discussed maybe some major concerns that were voiced by the community?

Mr. Hirano: There were some comments regarding the open space visual impact. Right now, I think people who use the library, one particular individual had comment that that, you know, anything in front of the library would be an impact, so she was concerned about the project in that light, the rest area. A lot of the attendees, as well, had discussed cultural issues during that, comment that they would like to see no further development in Lahaina, that it would provide more congestion, more people, you know, just they wanted things to be just as they are. I think the other comment was there was concern that any improvements, I mean I'm talking about the negative comments that were discussed cause there were a lot of positive supportive comments as well, and I'll get to those, but there was also concern with respect to any further improvements and the impact of the cruise ships on Lahaina, and so I think there was also a comment from a person who was on the Mayor's Cruise Ship Task Force that they're looking at trying to limit and set a number, you know, like how many cruise ships can come in or to kind of contain -- contain that, and so that was a bit of a concern in terms of how this project relates to the cruise ships and does this mean that there will be more traffic into Lahaina as a result of this particular project.

Some of the positive comments that came out was that improvements need to be done. The harbor is very congested. It's -- there's also a safety concern with respect to the harbor and that docking and fuel facilities are very limited and if additional capacity could be available through these improvements to those facilities, in terms of loading, in terms of fuel dispensing, and, as well, just extra capacity in terms of using and off-loading and loading on the pier, which is everyone seems to have cooperated so far but they felt that, you know, it was disruptive to their operations. So there were comments about the users

of the facility in that regard, but having more or having better facilities for their services and for their businesses.

Ms. Sablas: Did you have surfers at this meeting?

Mr. Hirano: Yes. There was a few surfers at that meeting as well and they asked about the backwash of a sheet pile structure that, you know, as it comes in; also concern about -- concern about impact of the pier, the boats onto the existing wall, so those comments as well were discussed; concern of the hauola stone, distance from that, making sure there was enough distance from that. I think we also had heard that had to be careful about how the tidal movements within the harbor itself may be affected because there was some circulation within this, Keoki had mentioned things like that as well. So these were items that were brought to our attention that we should be looking at during the EIS preparation in terms of the processes, coastal processes, resources, and considerations in terms of if additional facilities could be brought in, as Eric had mentioned, a pump out station for the ferry, a fuel dispensing station on the pier, so if the ferry -- when the ferries are in, they could fuel up and not put extra load and extra demands on the existing facility, so that would free that up.

Ms. Long: I'm really concerned, I'm a property owner on Front Street in Lahaina, and for 30 some years have seen pedestrian traffic increase, vehicular traffic increase, and we all know that there is inadequate parking at the harbor for the needs of the harbor patrons, customers, whatever, and now you've got the ferry situation where people may be coming to town, parking, getting on the ferry, and I would love to see you do a study of the carrying capacity of the existing pedestrian areas and walkways and the roads. You're not going to do a traffic impact study, I imagine, are you?

Mr. Hirano: It came up. Concern had been raised about just traffic congestion in the area so I think we have to deal with that in the Environmental Impact Statement. I don't know if it'll be a full-blown traffic impact assessment, but there will be options that I think that will be looked at in terms of shuttle, in terms of perhaps more public transit that can be integrated with proposed improvements.

Ms. Long: Well there, you know, there's talk of a drop-off site; there are certainly taxis; we all know that the buses go down there and park; I'd like to see you address the fact that additional parking, there's a nexus between what you're doing here and the need for additional parking, and the use of the Federal monies, which I think is a logical extension of the use from building a pier, to developing existing parking, possibly, in the prison, back of Prison Street, something like that.

Mr. Hirano: I think that's a very good point, Commissioner Long, and we're hoping, probably, to be able to just take that tact, and I would like to, Kyle Ginoza, the Director of

Transportation has been involved in the process as well and maybe could add some comment to that.

Mr. Kyle Ginoza: Good morning. I'm Kyle Ginoza, the Director of Transportation for Maui County. I've been talking with the State DOT, in particular the FTA Grants Administrator for the State DOT, about the possibility of using some of the money for a parking structure and a trolley system because that was in the original grant application, I don't know if you have the grant application in front of you, but it was proposed to have the pier improvements as well as, like I said, a parking structure and trolley system accessing the parking structure and the harbor. And it's very difficult to get land with Federal money and so they -- he recommended that we look at something that is County owned and then possibly build there. So on, I guess it was Tuesday I think, I met with Don Couch and Kalbert Young, the Finance Director, to look at what properties we have within that general vicinity for a parking lot and, you know, obviously there's the Prison Street parking and then the one off of Luakini, behind the Wharf Cinema Center, but, you know, the narrowness of the road and the compactness of that existing facility kind of doesn't make that a ideal candidate, so we've been looking at potential other sites but we don't currently have a very, like an ideal candidate, but that's something that the State said is a possibility, and, in fact, before I came to this meeting, I was drafting an email to the State because they were -- he's going to ask the FTA to see what kind of -- what kind of scope there could be for the traffic situation because -- I mean, basically, the parking structure plan was, well, intent was in there as well as to buy trolleys for, you know, because this is capital money, but to see, you know, like, for instance, how far away we could do it, like say, originally the site, I think, was going to be the -- where the West Maui Resource Center is currently, you know, behind the pool, but, you know, because the West Maui Resource Center use that location, that's currently not available, but to run a system that you basically would go from like a trolley system from the harbor up to that center or, I mean, to that parking facility and then that way you can reduce the traffic congestion of individuals driving to the harbor itself, and then the potential of as we develop a public bus transit system, to connect there and allow people to easier access, like Kaanapali or the central Maui areas, because it's so difficult to bring a bus or, you know, we don't want to add to the congestion of bringing a public bus to the harbor, but that's kind of some things we're looking at. It's still kind of in the preliminary stages because we don't have a good candidate location for a parking structure or just a parking lot at this time.

Ms. Long: Do you have an idea of how many stalls you're talking about?

Mr. Ginoza: No, that's something that we're going to do in the planning stage because, you know, there's like the planning stage and the design construction stage, we still need to do that kind of needs assessment to see what -- what size and so we don't have an idea of like, okay, we need 50 stalls or 150 stalls or so forth.

Ms. Long: Does it seem logical that that analysis be part of the EIS?

Mr. Ginoza: I'm not familiar with what they put in the EIS but that's something that we're intending to put as a grant amendment to try to put some money in for the land site traffic and vehicular traffic study.

Mr. Hirano: I mean there is a relationship between that connection in terms of use and circulation, pedestrian as well as vehicular, so that will be incorporated in the EIS, but I don't know to what detail we could have a design of and a study of a public system that would go in, but I think that those will be discussed in the EIS and it's conceptual nature at least in terms of what -- what will be required as ancillary support of services.

Ms. Long: That -- that would be crucial, I believe, is a really good analysis of the needs.

Mr. Hirano: Yeah.

Ms. Long: And then find a way between the EIS and the County and whatever.

Mr. Hirano: I think it's -- it's a part of the -- it certainly is a connected aspect of any improvements to the pier and what the needs may be to improve circulation in that area, but that, in itself, the details of the public transportation system may be even a study on its own as well.

Ms. Long: In your consideration of alternate sites, and I know they say Mala won't work, but there are advances in technology now. It would seem to me that if you're considering circulation, congestion, parking at the Lahaina Harbor, you should also consider the advantages of locating this facility somewhere away from the core of the Historic District where the congestion is already pretty awful.

Mr. Hirano: Eric, do you want to comment on the -- I don't want to leave that question but I wanted maybe just if Eric has more comment on the public transit cause Eric is as well holding some of the scope of the studies.

Mr. Yuasa: Okay, to make a comment on the traffic and congestion problem, we do realize that Lahaina is congested right now, but what we also are limited to is we need to look at what kind of impact this new structure will have on the traffic and people congestion problem. So we are going to request that we do a needs assessment for traffic and pedestrian loading that's attributed to this new pier. But one thing that we wanna point out is that we really don't have any plans to expand the harbor as far as the number of vessels that we allow to dock in the harbor, and, right now, we basically need this new pier to accommodate existing demands cause right now the -- right now the single pier that we have is totally overloaded cause right now there's a fish hoist on the south side, two fuel

dispensers, the sewer pump out, and it's used by the cruise ship tenders, two ferry boats, recreational and commercial boaters. So, right now, the Harbor Master, well, Hal Silva is in the audience, I mean they have a hard time coordinating the docking and unloading of people because they only have one pier, so this new pier would help them by spreading out the loading. And I think what we did was we -- we mentioned that the ferry pier is being paid by FTA funds for ferry system improvements and the ferries will have priority to use the new pier, so when the ferries are not using the pier, the other boats can use the pier.

Ms. Long: Well it's also intended to serve the cruise ship tenders, right?

Mr. Yuasa: Right now the cruise ship tenders use the north base, the existing pier, and because of security requirements, I'm not really sure if they can use the new pier.

Ms. Duensing: May I point something out though is under the terms of Section 106, it's kind of a moot point at this level of discussion because that needs to be addressed in the future planning of this project because Section 106 says that all long-term impacts should be a part of this process, so what you could do in your comment letter is just point that out and point out the few long-term impacts that they might want to consider in their study.

Ms. Long: Yeah, I -- I've heard the Department of Transportation say, oh, we're going to widen this two-lane highway to four lanes but it won't increase traffic; it'll just have the same number of cars. Well, it doesn't work that way. You build it and they will come. And when you have this beautiful nice new 100 and something foot pier out there, I don't see that there's anyway that you can limit that only to the ferries, and when cruise ships see that this lovely pier is there and their passengers will feel safer, it may well serve to increase cruise ship traffic to Lahaina because it's made that ship to shore process easier and safer. So let's be realistic about accumulative impacts and look down the line at what is probably going to happen. You build it and they will come.

Mr. Yuasa: Okay.

Mr. Kalalau: You know, like you said, there's a Harbor Master there. A lot of the harbors, the traffic is controlled. I can understand what you mean that when there's no traffic in that areas, the congested area in Lahaina Harbor, some of the guys can go over there and use it before the ferries come back or before the ferries depart and stuff like that. I kinda feel like Dawn here is that it's kind of difficult for us to be -- what we, basically, can do is just give some advice and make some comments because of the stage that this whole thing is in. I mean we could be discussing this pier right here and it might not even end up being there or the whole picture might even be changed, so, basically, I think we should just try kinda focus our comments on what's going to bring back the 106 Section of our responsibilities here. But it's very good information that you guys are sharing with us; it'll help us make better discussions.

Mr. Kapu: I get one question. Has there ever been any type of public review based upon utilizing Mala Wharf as an alternative? Cause I'm hearing that you guys had a lot of problems with somebody or, basically, the people that doesn't want any infrastructure change over there, but Mala, get some repercussions that is happening now that the private industries are taking over Mala so now the public community and those longtime fishermen even losing that place too, now that they already lost Lahaina Small Boat Harbor, so if there was a way to -- I mean if this is Federal funds and the Federal funds is going to be utilized to provide for the public harbors, I think that, as an option, maybe we could look into what's going to the community based on finding out whether or not something can be done in that area.

Mr. Yuasa: Actually, back in, I believe it was the mid-'70's, they did consider alternative site for the Lahaina Boat Harbor expansion and Mala was considered but, for some reason, I haven't seen the document, the full document, but the Corps of Engineers chose not to pursue any harbor expansion.

Ms. Duensing: I did review the 1970's document and what they were going to do is build just directly north of the harbor, they weren't going to go all the way up to Mala.

Mr. Yuasa: No, I think that -- that got shot down.

Ms. Duensing: Yeah, by the community.

Mr. Yuasa: Yeah, and then that's why it forced the Corps to look at alternative sites and I believe Mala was one of the sites that they did consider but that too was also not pursued but I'm not sure why it wasn't pursued. We'll look into that.

Ms. Duensing: I can get the commissioners a copy of the 1970 study. I have it sitting on my desk.

Mr. Kapu: So because of something that happened in the 1970's then, basically, you know, that's it. We feel that it's not worth looking into now today because you're looking at changes that's going to adversely affect one small boat harbor right in the middle of the Historic District. I mean this one is like, I mean I live there. I see the impacts. Either that or get the buses out of there. The buses create a problem. Once you get ten buses or five buses in there and ten taxi cabs, that's it, you're gridlocked. So alternative site over here, a'ole.

Mr. Welchel: Couldn't Sugar Beach be an alternative site to not only have this comfort station but to be a kick-off for a small boat marina if they need another small boat marina?

Ms. Long: Sugar Beach where?

Ms. Duensing: Where's Sugar Beach?

Mr. Whelchel: Just as you get to north Kihei ...(inaudible)...

Ms. Rotunno-Hazuka: Between Maalaea and Kihei.

Ms. Sablas: Yeah. Yeah.

Mr. Whelchel: Some place away from Lahaina to stop the congestion.

Mr. Yuasa: I'm not real sure where Sugar Beach is and --

Mr. Kapu: There was another place that was utilized way in the past and that was near the Sheraton Hotel.

Ms. Sablas: That old pier?

Mr. Kapu: The old pier. I think that was one used by the sugar company and the pineapple company; that one is, basically, run down, I don't know, but it's a deep sea harbor area where it was utilized for that purpose; that's another option. What I getting is the bottom line is Federal money that's coming in, I don't know how much but maybe 20 million dollars, if you don't use it, you lose it, right?

Mr. Yuasa: That's correct.

Mr. Kapu: Well, we're only looking at utilizing the funds but we're not looking at the crucial impacts of how this is going to affect this small boat harbor, especially in Lahaina, but we all know for sure how it's going to affect in the future. So we're so focusing on this one little place over here, I think we should start focusing on other areas as an alternative.

Mr. Yuasa: Okay, can I make a comment? We are looking at Maalaea as being a secondary ferry port for Maui, and Steve Knight, from Expeditions, has expressed interest in writing that he would like to run his ferry between Maalaea and Manele because the Maalaea one has some advantage because it's closer to central Maui for people that come for shopping or government business, so that -- that will probably, if it does become real popular, take away some of the congestion from Lahaina. And, also, we are doing -- we're not only looking at Lahaina to make improvements with the Federal Transit Administration money, we're doing about 5 million dollars improvements at Manele and that project is further along, it's actually in the design stage, and we have a consultant on board for the Manele project, and we're looking at starting construction probably early 2006, and it'll be major improvements. And also we're looking at making improvements at Kaunakakai for the Molokai Ferry, and that one is a little bit behind the Manele project, but that's about a

3.3 million dollar project. And, like I said, the Maalaea we're looking at reconstructing that old Sea Flight building and that will serve as the new ferry terminal for the Lanai-Maui ferry. So we are looking at spreading out the impacts and we are looking at spending this Federal money that lapse on other harbors as well as Lahaina. And, right now, we want to make real clear that this ferry project is really in the early stages. We do not have -- it's in the planning phase, we do not have any design money for the -- or construction money, and even when we go the Legislature this year, the only money that we'll be seeking is for money for the comfort station, and we're not even going to the Legislature for the ferry pier yet cause we do realize that it is a slow process and we do want to make sure that we can mitigate whatever impacts that are deemed significant by the community, and we will consider alternative sites.

Ms. Rotunno-Hazuka: Yeah, I mean that -- I think that's the point that everyone's trying to make is that instead of just focusing on this place and trying to get the money for this place, can't you spend money to look at alternative sites. I think that's where we're going.

Ms. Long: In Section 6, the alternatives to the proposed action that you have here, B is the Deferred Action Alternative, and because the County of Maui has kind of jumped on the directed growth band wagon and the Mayor, when he came down to our meeting last time, was asked about what about long-range planning for the area, and I'm talking about deferral here, I would like to see more discussion of deferring this until, what we've talked about for years, Kam III School gets moved, and I know that it could be a difficult site, archeologically, I know there are burials there, but that has always been talked about as a long-range thing to happen in Lahaina, so could you please discuss that in the context of B, Deferred Action, and how that might be a better location, I don't know if it would, but I'd like to hear about it. And then under C, Development Plan Alternatives, all you talk about here, basically, is space needs, missions, functions, area requirements, surfer access, blah, blah, blah, you do not really discuss in this the need to find alternatives that will not have the potential for negative impact on the very important historic cultural sites that are going to be 30 feet away from motorized vehicles, and I'm a little concerned, if you all saw the movie *Airport* and the airplane comes crashing into the terminal, and a ferry, a hundred-foot long ferry comes up to dock and the brakes don't work and it goes kaboom. It could happen. And I wanna see some discussion of alternatives that are out of the scope of the National Historic Landmark and these important sites and I want to see thorough discussion. And just out of curiosity, what kind of parking are you guys providing at Manele and at Kaunakakai? Are you providing additional parking over there?

Mr. Yuasa: Okay, right now for Manele, there's a big open parking lot that's dirt, it's unpaved and it's pretty rough terrain, it's rocky, and we propose to put in a 100-stall parking lot.

Ms. Long: We would like the same.

Ms. Duensing: This is not an agenda item though.

Ms. Long: I know. I'm just saying. Discuss this please in the context of your alternative locations and how the needed parking might be accommodated.

Mr. Yuasa: And for the Kaunakakai project, we're going to rely on the existing parking. We feel that the parking over there is adequate.

Ms. Long: I wanna see it in writing.

Mr. Hirano: So we will, just to confirm, we will be looking at those alternatives.

Ms. Sablas: Thank you. So, are we ready for summation by staff on our recommendations so we can move along?

Ms. Duensing: The major -- the major summary here is your recommendation to identify alternative sites outside of the Historic District for this project and its funding. Please address the impact on surfing. Surfing is part of historic Lahaina. The requested field study. Number three, the entire area is a historic site and that should be thoroughly discussed for potential impacts, including the small boat harbor, the historic seawall, blah, blah, blah. On Page 28, there was a request to please discuss and determine the extent of any -- of any land based improvements, what they will be, and how they might impact the Historic District. Number five, please discuss the carrying capacity of the existing sidewalks, traffic, parking, etcetera; analyze the needs of the Historic District that will arise from increasing number of visitors and cars. And I, as your staff member, would also insert a reminder to -- that because it's Federal money from transportation, we need to have Section 4F as part of this. And Section 4F, for your information, is for them to address all impacts on historical resources, cultural resources, scenic recreation, and, basically, what they need to determine is that there is no prudent or feasible alternative to this action, and we would make the same comments about Section 106 as we do in the Draft EA.

Ms. Long: Yeah, cause I note here on Page 67, the parties to be consulted, that it does not include the National Park Service and the others that we mentioned, so they need to be included there. What is Section 4F?

Ms. Duensing: Section 4F is part of the National Transportation Act, and what it means is that if any Federal money is used, you need to discuss all impacts to scenic, cultural, recreational, historical sites. There's a whole long list, a whole long list in the paragraph that is, essentially, 4F, and what you need to determine is that there is no prudent or feasible alternative to the action, and Mich mentioned that before; that's what he was talking about.

Ms. Long: Can I suggest that if there are any meetings or hearings or public whatever involved in Section 4F and 106, that the Cultural Resources Commissioners be notified of these meetings and that for sure they'd be held in Lahaina or here, not in Honolulu.

Mr. Hirano: Just in terms of the coordination with the Federal agencies, we did send the Environmental Impact Statement Preparation Notice to the National Marine Fishery Service, as well as to Mr. David Luke, Deputy Lead Cultural Resources of the National Park Service.

Ms. Sablas: Okay, any further comments to our recommendation? If not, are we all okay with the comments, recommendations on this project? Thank you very much. So, at this time, I would like to just call a ten-minute break, and reconvene, and thank you very much, Mich.

Mr. Hirano: Thank you very much, commissioners.

(A recess was called at 11:20 a.m., and reconvened at 11:45 a.m.)

### **3. DEMOLITION PERMITS - none**

#### **E. UNFINISHED BUSINESS**

Ms. Sablas: So we are under Item C.3., Demolition Permits, none. Communications, we deferred that. Item E, Unfinished Business. Anything to discuss here on Unfinished Business?

Ms. Duensing: Can I interrupt one minute though? I wanna make sure that all the CRC members got the letter from Mike Foley to Theo regarding the courthouse. You did receive that, right?

Mr. Kalalau: Yeah. Yeah.

Ms. Duensing: Okay, so that'll be the deferred item. Okay, thank you.

Ms. Sablas: No Unfinished Business? Under New Business, after-the-fact Historic District permits and penalties. At the Commission's request, this item is on the agenda for discussion, which is what we had asked. Are we ready to discuss this? You're going to give us, Dawn --

#### **F. NEW BUSINESS**

**1. After-the-fact Historic District permits and penalties. At the Commission's request, this item is on the agenda for discussion.**

Ms. Duensing: Okay, you wanted -- you requested it be on the agenda for discussion so I really don't have anything prepared for this. It's --

Ms. Sablas: I guess we need to review, you know, like what's in place.

Ms. Duensing: Well, what's in place, you are in the Historic District, just about anything exterior or interior done to a building has to have an SMA approval; if it's in the SMA zone, it needs to be assessed whether or not it needs a minor permit and that's just about for anything. Since I've been here, I've processed SMA applications for re-roofing projects in the district; interior alterations, if one business moves out and another business wants to come in and, you know, move walls and put in new carpeting and all that, that's under the SMA; they also get Historic District applications and Historic District Approvals for that; that's the way it should be in the Lahaina Historic District. The same thing goes for signs. You come and you put in the application for a sign that follows the design guidelines first rather than putting up the sign and then saying, oh, I didn't know I needed a sign permit, which is what I hear, you know, every other day, so --

Ms. Long: I believe it.

Ms. Duensing: Yep.

Mr. Kalalau: So, you know on that, do the County submit all these policies to the new owners, to the new, you know, buyers of businesses down there?

Ms. Duensing: No. It's your responsibility, as a property owner, to determine whether or not you need a building permit, for instance, I own my house, I wanted to build a garage or an addition on my house, so I call and find out what kind of permits I need before I start work.

Mr. Kalalau: Okay, okay, but, you know, you mentioned about floor changes, like carpets and tile and, you know, I mean --

Ms. Long: How would you --

Mr. Kalalau: Yeah, how would you --

Ms. Duensing: Well, that's what the SMA assessment is for because the Special Management Area, which includes the whole area of Lahaina that is the makai side of

Honoapiilani Highway, what the SMA assessment is for is you fill in this, the planner looks at that application and assesses whether this needs a permit or not.

Mr. Kalalau: Okay, now do you know on that permit, does it have a value amount?

Ms. Duensing: Yes.

Mr. Kalalau: Before you get -- before you need to apply for a permit?

Ms. Long: Oh.

Ms. Duensing: No.

Ms. Long: No.

Ms. Duensing: The assessment, that's what I'm saying, you apply for an assessment of your work to determine whether you need a permit so, for instance --

Mr. Kalalau: Oh, okay, okay. No, I thought maybe the County had a set amount --

Ms. Duensing: No.

Mr. Kalalau: That, you know, if you're only doing this job that it's less than --

Ms. Duensing: No, if you're gonna --

Ms. Long: The building permit, out of the SMA, they do.

Ms. Duensing: Yeah, we're talking -- we don't have anything to do with building permits, Barbara.

Mr. Kalalau: Right. Right.

Ms. Duensing: We're talking about Special Management Area assessments for a Special Management Area Permit.

Mr. Kalalau: Right. Right.

Ms. Duensing: Okay, if you're going to buy a store or get a lease on a store, you fill in this application, you tell the Planning Department what all the work is, whether it's replacing all the carpets, doing tile, moving the wall, painting, and putting in all your display cases and new wiring for interior signs, and we would assess that and, in most cases, the planner

would look at it and say, "Well, it's a \$35,000 project and it goes under interior improvements and we would exempt you from needing a minor permit," okay? But, at the same time, you need a Historic District Permit, okay, and all the business owners operating in the Lahaina Historic District need a Historic District Permit Approval whether it's from this Commission or we can do it administratively; all that's laid out in the rules.

Mr. Kalalau: Okay, okay.

Mr. Kapu: I get one question. So out of the majority of the after-the-fact permits, when they come in, all we can do is basically allow it or is there a process that kicks in that they still have to be compliant to in despite of the after-the-fact because what I see what we have is like last month's incident, one came forward and we all said, okay, let's grant it?

Ms. Duensing: Yeah, okay, generally, the way we find out about after-the-fact permits is, you know, you go out, you look, and you say, "Wow, where did that come from?" Or Joe Blow calls in and says, "The guy next to me is, you know, gutting his store and he doesn't have a permit posted in the window or whatever," so there's two things we can do, generally, and if I know who it is, I'll usually just call them up and say, "Hey, do you have a permit? I don't find a permit on file in the tracking data base we have," and, "oh, no, no, no, so we gotta apply for a permit, they come in, and their permit fees are doubled. In the really blatant cases, I mean and a permit fee being doubled is no big deal because they might be a hundred dollars, yeah, so don't get, you know, don't get all excited that they got permit fees doubled, you know, it's not a big deal. A lot of times it's just easier to do it that way. I think that's what most people -- that's why they do it. In other cases --

Ms. Long: Excuse me, Dawn, no, that's the SMA permit fee.

Ms. Duensing: But that's -- it doesn't matter if they come in for a Historic District Application and they've already done the work, it's the same thing with that.

Ms. Long: Okay, so what I'm thinking is why isn't there a Historic District fee?

Ms. Duensing: What I -- can I please just -- I want to please finish Keeaumoku's question, please.

Ms. Long: I'm sorry.

Ms. Duensing: Okay, so you could come in and you get assessed double the permit fees. The other thing that happens, and this is what I was going to say, is in blatant cases, like you'll remember certain people running flea markets in Lahaina, you know, they'll just put -- there was one down near Kamehameha Iki Park and one day all these booths appeared

and there were racks of clothes out in the front and, you know, the garage was opened up and we had an instant flea market, this is true, I'm not making this up.

Mr. Kapu: I've seen them.

Ms. Duensing: Yeah, you seen them. So, you know, I get a whole bunch of calls from concerned citizens and sometimes from the Planning Director because he lives in Lahaina and he drives by this stuff and he says, "Hey, what goes on? Did you give those guys a permit to do that?" And I'm like, "No, I never heard of this." So I'll go out and take a look and, in that case, you know, I put in a request for services and send a zoning inspector out and, generally, the zoning inspector will work with them to shut them down; they get a notice of violation; if they don't cooperate, then the administrators, you know, the zoning administrator would have the authority to impose fines. Can you think of anything I'm missing there, James, or don't you know?

Mr. Giroux: No, that sounds what I've been learning about.

Ms. Duensing: Yeah, okay. Yeah, cause James and I, you know, we're both here with our year or six month experience here.

Mr. Kapu: But then when it comes to us, is what I'm trying to say.

Ms. Duensing: Yeah, so when it comes to you, and it's an after-the-fact Historic District Permit, you, I mean, you guys as a Commission could say, no, we don't want to give you a permit. Take it down. I mean that's a Planning Director's authority too. One thing I'm working on that's outside the Historic District was done without a permit and, you know, I've requested that Mike take action to see this thing removed. I mean you have that authority to say, no, we're not going to give it to you; take it down. You have the authority to ask the -- ask for a request for services and ask the zoning inspectors to go out and take additional action too. One case you might remember is about a year or so ago, I think it was while I was on the Commission so it's probably been a little bit more than a year, that building on Market Street that they were going to tear down and save the facade and that whole building came down one weekend, right?

Ms. Long: Oh, the Blue Hawaii.

Ms. Duensing: Right, I was going to say 44 Market Street but that's -- one of the building, 32 Market Street I think it is.

Ms. Long: Next to the Iao Theater.

Ms. Duensing: Yeah, next to the Lao Theater, and, in that case, there were fines levied against the, you know, project applicant for not having an appropriate permit and then, of course, once fines are leveled, then can always go in and appeal that and get it removed and, you know, etcetera.

Ms. Long: Could we not though do something because of the Historic District Permit that's required that would be separate from the SMA but would give us an option of doing nothing or saying take it away and we could say, well, we can fine you or we can something?

Mr. Giroux: But that would still go back to zoning.

Ms. Duensing: Yeah.

Mr. Giroux: I mean it would have to go back to ZAED.

Ms. Rotunno-Hazuka: And where would that go? What's the point?

Ms. Long: Yeah, but it would be a different category of infraction.

Ms. Duensing: I think if you're going to do that, you would need to write rules or that's probably under County ordinance too.

Mr. Giroux: Then we'd have to have procedures for appeal --

Ms. Long: Never mind.

Mr. Giroux: And then we'd have to figure if they're going to go to BVA or come to us for an appeal. Right now, ZAED has the most comprehensive procedure and it's easier for the commissions to say, you know, this is in violation, ZAED Administrator will take care of it.

Ms. Duensing: Yeah, and it's probably --

Mr. Giroux: And they're the ones who actually are active in that so it's not a real burden for them; that's part of their setup.

Ms. Duensing: And that's a good point that James is making too because it's probably more effective for you guys to be very upset by a after-the-fact Historic District Permit that you don't wanna give and you guys write a letter for -- and do a request for services then just Dawn going over and putting in the request for services.

Mr. Kalalau: But, Dawn, you know, being that it's a National Historic Landmark, doesn't the Federal Government has their own kinda fines to it?

Ms. Duensing: No.

Mr. Kalalau: So it's been handled down here on the local ...(inaudible)...

Ms. Duensing: Yeah, we're handling it at the local level. What the National Historic Landmark status is merely a -- it's an honor that shows the significance of the area, but the Feds really don't -- they don't have anything to do with the permits and stuff like that.

Ms. Rotunno-Hazuka: So did that answer your question, Keeaumoku?

Ms. Duensing: Probably not what you wanted to hear.

Mr. Kalalau: But, you know, but if you commit the crime in a National Park, it becomes a Federal crime.

Ms. Duensing: But that's a National Park that's under the national Federal jurisdiction. It is public property under Federal authority --

Mr. Kalalau: I see. I see. I see. I was just ...(inaudible)...

Ms. Duensing: With Federal Law Enforcement Officers, right?

Mr. Kalalau: Right. Right. Right.

Ms. Duensing: What you got a Landmark District is it's an honorary designation that's been recognized and it's full of private property owners that the Federal Government doesn't have control over unless, you know, they're dealing drugs or not paying their taxes to the IRS.

Mr. Kalalau: I see.

Ms. Rotunno-Hazuka: We can always research that.

Mr. Kapu: It clarifies one point for me that if an after-the-fact permit basically does come through us or try to come through us, I think we should be firm, I mean really firm because too much already, yeah? I mean I know you can tell us that we have a lot of them still out there.

Ms. Duensing: Yeah, you're going to probably have one coming up next month. I'm working with Kimo Kinimaka, I think is his name, on his surf shop because apparently somebody complained about the structure that he put in and everything, and his signs, I find he doesn't have a permit and, you know, everything's fine and I have no problem with

it. I've been working with him to bring him into compliance, but he will probably come before the Commission for a few of his things. So, yeah, that's going to be one case you're -- I thought it was going to be this month, it'll probably be next month, that'll be on your agenda.

Ms. Long: What is then the timeliness of their paying the double fee?

Ms. Duensing: Oh, when they file for the application. For instance, when Kimo put in his application, to use him as an example, you know, he's being very cooperative, you know, when he came in and requested help with his application, we put on after-the-fact and, you know, he paid his double fee and he walked out. In another case, somebody came in and they submitted it and I wrote them back a letter and said, "Well you've already done all the work so, therefore, your fees are doubled," and so the clerical will have to collect that but, again, it's, you know, for the guy who didn't pay, it's 150 bucks ...(inaudible)...

Ms. Rotunno-Hazuka: They need to make that larger so that it prevents --

Ms. Duensing: Yeah, but I don't think you, as a Commission, can do that.

Ms. Rotunno-Hazuka: No, I know.

Ms. Long: Can we -- is that a rule? What is the -- how is that established?

Ms. Rotunno-Hazuka: The money?

Mr. Giroux: I think that's through our codes, our zoning codes, I believe, and you can make suggestions to the Council to increase that. Part of your powers is you have the right to suggest higher --

Ms. Long: That's what I'm thinking that if it's within the Historic District that it's tripled or it's something and Dawn gets a cut.

Ms. Duensing: But still -- but the thing is is I, you know, some people they don't care how much it is, they're still going to pay it.

Ms. Long: Yeah.

Mr. Kalalau: Right. Right.

Ms. Duensing: I think Keeaumoku saying, "I'm going to deny your permit," is much more effective because if you guys start denying permits, word is going to get around Lahaina

that CRC is not going to give us an after-the-fact permit so I'm going to come in and do it before.

Ms. Long: And then they'll just appeal.

Ms. Rotunno-Hazuka: But, okay, so let's go with that, so you come in, it's after-the-fact, all the work is done, you're saying they cannot conduct business until they have that permit?

Ms. Duensing: No, that's not what I'm saying.

Ms. Rotunno-Hazuka: Okay, so how do you --

Ms. Duensing: What I'm saying is that, in your request for services, you would say this -- this work was done without a permit, it needs to be removed.

Ms. Rotunno-Hazuka: Sure.

Ms. Duensing: For instance, another thing was is I did a sign permit about four months ago --

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: And I'm walking down Lahaina, two weeks later, and this again was an after-the-fact permit, the guy put up the sign, I go down the street and he's got four signs up instead of two.

Ms. Rotunno-Hazuka: Doesn't care.

Ms. Duensing: So I call him, oh, I'm going to take them down tomorrow; I'm like, yeah, right, so I put in the request for services, zoning went out and, you know, about three months later they finally did take them down, but part of the problem is that I see the need to, and this is what your request for a Historic District officer is about, I see a need that when we give a permit, whether it's after-the-fact or done properly, when the guy goes out and just does what he wants with his permit, you gotta get right on it right away, and the zoning people say, "You know, we got bigger problems than four signs in the Historic District rather than two," and that's true to a certain extent, but if you don't get after them right away and threaten them with a fine or something else, you know, everybody's going to have four signs.

Ms. Long: Do every jurisdiction, do any jurisdictions have a thing where if you see work or sign, you have this large sticky thing that says "Historic District permit violation" and you slap it on there?

Ms. Rotunno-Hazuka: Yeah, cover up their sign and they don't ...(inaudible)...

Ms. Long: Can you do that? I can't see you climbing a ladder to do it.

Ms. Duensing: I climb pretty good. You should have seen me under Koukou`ai Bridge the other.

Mr. Kalalau: I know. I seen the photos, I went, "these guys did some climbing under there."

Ms. Duensing: Isn't that impressive?

Ms. Long: Well, I'd like to be able to --

Ms. Duensing: Well, there's a Mainland method. In my hometown they publish violations in the local newspaper.

Ms. Rotunno-Hazuka: Like when you get a DUI or something?

Ms. Duensing: Yeah. Yeah. Or when you haven't paid your property taxes or sanitary violations, yeah.

Ms. Rotunno-Hazuka: That's a good one.

Ms. Sablas: I bet the *Lahaina News* would love to have that as an addition. Yeah, I like that suggestion. I think this was brought up too because in light of the fact that we are lobbying for a Historic District officer, we need to be able to know and give this person the tools and guidelines.

Ms. Rotunno-Hazuka: Yeah, justify even further what their scope of work and --

Ms. Sablas: Cause I think, from what I understand, there is some misunderstanding out there as to what they can and cannot do, so what are we doing to --

Ms. Duensing: Well --

Ms. Rotunno-Hazuka: I mean I would have never thought interior ...(inaudible)... never in my wildest dreams and I'm sitting here.

Ms. Long: You're not ...(inaudible)...

Ms. Duensing: Yeah, but you're not working in the -- you're not working in the Historic District and in the Special Management Area.

Ms. Long: Well that SMA is new.

Ms. Duensing: But, you know, one thing you can do -- one thing you can do, and this I know Theo has stuff that she sends out on an annual basis, is, you know, you can ask LahainaTown Action Committee to put this stuff out in their paperwork or their newsletter or whatever, you know, a little box, just a reminder to all new property owners, or when they join the LahainaTown Action Committee, we could put together some kind of flyer that new members get or something like that.

Ms. Rotunno-Hazuka: Yeah, a checklist.

Ms. Long: We had a really booklet.

Ms. Duensing: Yeah, I know, that's why I suggest it cause she's got that --

Ms. Long: Yeah.

Ms. Duensing: And I think she's still giving it out.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: So that's one possibility you might want to consider. But, you know, the whole thing is it's the burden of the property owner or the tenant to find out what permits you need before you start swinging a hammer. I mean, you know, my sister works for my hometown building department, she gets these phone calls, you know, "Do I need a building permit?" And she says, "You swinging a hammer? Okay, you need a building permit." You know, but it's your responsibility to call and ask the questions. But we could work -- try to work with Theo to get the word out to the businessmen that they need these.

Ms. Rotunno-Hazuka: But, again, if they know the fine's not that much, they don't care; they'd rather do the work and then pay the fine, and they're still that much further ahead.

Ms. Duensing: Yeah. Yeah. That's another problem. Yeah, the after-the-fact is another problem. But, you know, I think for most of those people, the money doesn't make any difference.

Ms. Rotunno-Hazuka: No. It's gotta be big.

Ms. Duensing: As long as it keeps coming in the front door, that's all they're concerned with.

Ms. Rotunno-Hazuka: Okay.

Ms. Long: Lori, what's that paper called? The West Maui News?

Ms. Sablas: The *Lahaina News*.

Ms. Long: The *Lahaina News*.

Ms. Rotunno-Hazuka: What's that paper called.

Ms. Duensing: You guys could start writing letters to the editor.

Ms. Long: No, I'm thinking that there's no reason why they couldn't do a little historic thing every week.

Ms. Rotunno-Hazuka: Yeah. Opening a business.

Ms. Long: And that that -- let me talk to somebody over there.

Ms. Sablas: It's Joan. She's the owner.

Ms. Long: Joan's still --

Ms. Sablas: She's the owner.

Ms. Long: Who's the editor?

Ms. Sablas: Mark Vieth, V-I-E-T-H.

Ms. Long: Okay, I'll call Joan cause she'll think it's a great idea and, yeah, I mean here I am, I want to re-roof a building with exactly what's on it, I took the initial thing up to Mac, he says, "Oh, no, you need photographs, you need plot plans, you need --," so I had to give him the tax map key thing with the yellow line, had to go and get the photograph copied, had to give them a check for \$100 even though it's going to be ruled exempt because --

Ms. Duensing: But everybody has to do that.

Ms. Long: But everybody has to --

Ms. Duensing: That's not just the Historic District either, that's --

Ms. Rotunno-Hazuka: That's administrative.

Ms. Duensing: Yeah.

Ms. Long: That's SMA.

Ms. Duensing: Right. That's the rules.

Ms. Long: And that's new and I think --

Ms. Duensing: You gotta talk to the Planning Commission if you don't like that.

Ms. Long: I hate it. I think it's ridiculous.

Ms. Duensing: But you don't have any control over that; that's the Planning Commission.

Ms. Long: Yeah, I know. I know. I did it. I didn't smile, but I did it.

Ms. Sablas: But I think this is good discussion because then it'd be ready for -- I mean make us, as commissioners, more ready for our next month's agenda.

Ms. Duensing: But I think you need to consider what Keeaumoku said --

Ms. Sablas: About?

Ms. Duensing: Because the money doesn't, I'm with him, the money doesn't matter --

Mr. Kalalau: Really. Yeah. Yeah. It doesn't matter.

Ms. Duensing: But the permit does. You gotta take down the \$10,000 wall you built on your property cause you didn't get a permit.

Ms. Long: They will immediately go --

Ms. Duensing: This is not funny cause that's what one guy is doing, yeah.

Mr. Kapu: Oh, I see them all the time.

Mr. Kalalau: I mean, yeah, even houses ...(inaudible)...

Ms. Long: So what's the process for appeal?

Ms. Duensing: The process for appeal in your rules is that you can go to judicial review, now this is what's contradictory too and we, you know, I looked at this and discussed it with James, is that in the ordinance it says you can appeal to Council, but the ordinance is so out of date because your rules say you go through judicial review.

Ms. Long: Which means what?

Ms. Duensing: I'm not sure.

Mr. Giroux: That's the Second Circuit you would appeal. That State v. Gantry that came out it said that if we, in our administrative rules, don't have another level of administrative review, meaning if we didn't send it over to BVA, then they --

Ms. Long: It goes right to court.

Mr. Giroux: Yeah, the redress would be then to appeal in circuit court so then they would just -- it would be an appeal in the Second Circuit so --

Ms. Long: And no lawyer's going to take that because obviously they didn't get the permit so they're going to lose, right?

Mr. Giroux: You would probably have a pro se applicant up in circuit court.

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: Yeah, but you gotta get them where it matters.

Ms. Duensing: Well, my recommendation would be to move on to your next agenda item, for the time being, no, no, and there's -- I mean this is, it's Lori's meeting, but, you know, your Historic District officer is your opening to start with making, you know, if you can get that, you can work to getting compliance and getting permits prior to installation rather than after-the-fact; that's what your next agenda item is about too.

Mr. Kalalau: Okay, and so is it going to come onboard 2005?

Ms. Duensing: You gotta get a -- get the Council to put it in the budget first, that's --

Ms. Rotunno-Hazuka: Oh, okay.

**G. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS**

**1. MAYOR ARAKAWA'S letter to Chair Sablas regarding budget request for a historic district officer in Lahaina.**

Ms. Sablas: So that's our next agenda item. We're going to segway right into that and that's Mayor's letter that you all had a copy of and, basically, he's saying it is -- it has to be in the budget and it's community driven, they have hearings at every community, and I think we were -- I asked at one time that if we were placed -- to place ourselves or someone in all of the public -- budget hearings and then testify in favor of this, that we would have --

Ms. Long: Especially the Lahaina side.

Ms. Sablas: Yeah, the Lahaina side people to -- and to put it in as a budget item.

Ms. Long: Isn't the process that the Mayor has a budget and sends that to the Council and that the Mayor can put it in the budget and then from there it gets the recommendations from his administration for the various departments? Isn't that how it works? And then the Council goes out, and they have hearings, and they decide how they're going to change the Mayor's budget?

Ms. Duensing: Well, what the context of --

Ms. Sablas: That's why he's saying that our request will be taken into --

Ms. Duensing: The purpose for your letter was to ask the Mayor to keep the Planning Department's request in his budget.

Ms. Long: Right.

Mr. Kalalau: Right. Right.

Ms. Duensing: Right, so that's being acknowledged --

Ms. Long: Kind of.

Ms. Sablas: Kind of, yeah.

Ms. Long: It doesn't say it's ...(inaudible)...

Ms. Sablas: Yeah. Yeah, I don't see any action in that bunch of words.

Ms. Long: He didn't say I agree with you and we're going to make it happen.

Mr. Kalalau: Yeah, that's right.

Ms. Duensing: Well, you know, you sent him a letter.

Ms. Rotunno-Hazuka: Send another one?

Ms. Duensing: He believes that participation in the budget process is good, so you either have to get a meeting with him before the budget process or before, and go to the budget meetings.

Ms. Long: Well, I'm pretty sure it'll be in his budget as part of the Planning Department's budget for the next fiscal year but then we have to support that so that the Council doesn't delete it and --

Mr. Kalalau: So we gotta send letters to our Council members.

Ms. Long: So when does the schedule of community hearings come out? When will we know that so that we can assign ourselves to go to that?

Mr. Kalalau: Well, usually before the new fiscal year, right?

Ms. Long: Well, they gotta adopt it.

Ms. Rotunno-Hazuka: It's way before, right?

Ms. Long: Yeah, they start in February, I think, with their -- with their hearings. I could be wrong.

Ms. Duensing: I was just looking at the clock because the only way I think we can find all that information out is from Wayne Boteilho, he handles that, and is the budget wizard for the Department.

Mr. Kalalau: Right. Right.

Ms. Duensing: But he's probably out to lunch right now I suppose.

Ms. Long: Okay, so let me just go on record here, could we have that list at our next meeting or if time is of the essence and they're going to start like real soon, could you send that to each of us once you get your hands on it if we can't get it now, today, and so that we can sort of make sure we cover that?

Ms. Duensing: Suzie, can you call and see if Wayne's in office, please?

Ms. Sablas: And usually it comes out in paper but just in case not all of us get it in the paper.

Ms. Duensing: Yeah.

Ms. Long: And then of course they have the hearings up in the Council Chambers too so --

Ms. Sablas: Yeah, and I think personal testimonies, email also work.

Ms. Long: Oh yeah. Dain Kane is the Budget Committee Chair this year?

Ms. Sablas: And we, Barb, you know as a follow up a long time ago that you, a committee of two, I guess Barbara and I, and then Keoki Freeland and Dawn, we have been having several meetings on this subject and we have a meeting scheduled next Wednesday with Don Couch, who the Mayor has personally assigned this project, we understand, so we've had meetings with Riki Hokama, who, at that time, the Budget Chair, we've had meetings with the finance people, and so I think we've had about two or three meetings, Barb, and this would be, you know, we're moving along that end and --

Ms. Duensing: Another suggestion might be is if you're worried about the budget process and everything, which agenda item are we on anyway?

Ms. Sablas: We're still on the Mayor's, yeah, and she has had a long night though.

Ms. Duensing: Yeah, a long couple days.

Ms. Sablas: Yes.

Ms. Duensing: My suggestion might be that you appoint a member to follow that budget process and, you know, find out when the dates are and when you guys need to get your letters submitted and when it needs to be on the agenda because your Cultural Resources Planner really has a lot of other things to do as well.

Ms. Sablas: I think this kinda like stands in what we're doing anyway, right? No?

Ms. Long: Kind of. Yeah, I could find that out easily.

Ms. Duensing: Here's Mr. Boteilho. Thank you, Suzie.

Mr. Wayne Boteilho: Nice to be back and happy new year.

Ms. Sablas: Happy new year and thank you for coming down. We are just on a agenda item that we're looking at. We received a response from Mayor about our request to have fund a Historic District officer in Lahaina and he's saying that we -- it is a community driven process, so we need to know the budget, community budget hearings that are scheduled.

Mr. Boteilho: Yeah, well first all, yeah, we have requested that in our budget and, as far as I know, it's been approved in the Mayor's budget. As far as the Council schedule, that's set by the Council, it's in April at some time. They schedule every department on -- like on one day so what we'll do is, as soon as we know, and then we'll let you know.

Ms. Rotunno-Hazuka: Okay.

Ms. Sablas: And that's going to be evening type of public hearings?

Mr. Boteilho: No, usually it's daytime.

Ms. Sablas: Daytime.

Mr. Boteilho: Either morning or afternoon.

Ms. Sablas: Oh, okay.

Ms. Long: So when the Planning Department's budget is on their budget agenda --

Mr. Boteilho: Yeah.

Ms. Long: Is when we should do this?

Mr. Boteilho: Yeah, so the Budget Committee will basically tell us show up on April whatever.

Ms. Long: Okay, and the other option would be testifying when they go out to the community, especially Lahaina side.

Mr. Boteilho: Yes. Yeah.

Ms. Long: How do we find out when that's going to be?

Mr. Boteilho: We'll let you know about that too. They haven't set that yet.

Ms. Sablas: But usually it's about when? After April?

Mr. Boteilho: That usually, no, well, that usually is about --

Ms. Sablas: March?

Mr. Boteilho: Late March, early April.

Ms. Sablas: Yeah, before they go into, yeah.

Ms. Long: And those are evening.

Ms. Sablas: Yeah, and those are the evening meetings, right, in the communities?

Mr. Kalalau: Yeah.

Mr. Boteilho: Yeah.

Ms. Sablas: Okay.

Mr. Boteilho: Okay.

Ms. Sablas: Thank you very much for coming down. Okay, let's -- we're okay with that item? Can we move on to Director's Report?

Ms. Rotunno-Hazuka: Please.

## **H. DIRECTOR'S REPORT**

### **1. Report on Bridge Preservation education/workshops.**

Ms. Duensing: First on the Director's Report is the report on the bridge preservation education and workshops that I've been working on for the last four days and I've been very busy so I have no written report.

Mr. Kalalau: She was ...(inaudible)... all over the place.

Ms. Duensing: We've been everywhere. Just to briefly let you know what has transpired over the last few days, Mr. Frank Nelson came in from the Oregon Department of Transportation, he is their Bridge Preservation Managing Engineer for the Bridge Section of ODOT. He came in on Sunday afternoon, so I met with him then. Monday, we went out to Hana, spent the whole day along the Hana Highway climbing under Waikani Bridges and Koukou`ai Bridges. The main focus of this whole project was that the last time I saw him at the Historic American Roads Conference when I did my paper on Hana and he did his

paper on Oregon, I thought, looking at the bridges, I says we got these in Hana and we got the same problems, so we kinda targeted Waikani and Koukou`ai because they`re arch bridges and they have technology to repair these, and Waikani, because it`s got really bad problems with the bridge wall, and he`s working on that too. So we crawled around under the bridges for a while and he thinks our bridges are in excellent shape. Some of you came to the special meeting we had Tuesday night and heard him say, "I wish my bridges in Oregon were in such good condition because I wouldn`t be working so hard." So he was very pleased. He`s really impressed with the design of both of these bridges too and they really are pretty cool structures, so that was really nice to hear that some of us who have been saying these are really nice bridges, we should work to make them look good and, you know, last another hundred years, you know, he agreed with that.

So that was Monday`s activities. We also went to the Hana Library and did a public presentation, unfortunately, only two people showed up. I don`t know whether it was too close to the holidays, a lot of people weren`t around, because the last time I did a presentation out in Hana it was standing room only, so I don`t know, maybe they just thought it was somebody from outside, but John Blumer-Buell and Carl Lindquist came and asked a lot of questions, it was a really good discussion, we had a couple hours to spend with them, and they too were very pleased at what he had to say about Maui bridges.

Tuesday, we met with the district DOT engineers here on Maui, as well as our Maui DPW engineers and Milton Arakawa, the Deputy Director, also showed up at the workshop we had for engineers. And the discussion was a lot of curiosity from the engineers, I was really pleased about that, they asked a lot of good questions, and the Federal Highways engineer also came over from Oahu to participate, so that was really good cause he`s really interested in this as well and he kinda helps funnel money around so he`s an important person. So that discussion went on for six hours, non-stop, didn`t even break for lunch, so it was pretty impressive.

Wednesday, we went over to Oahu and met with the State bridge engineers and a bunch of the consultants, one of which was Lloyd Lee.

Mr. Kalalau: Oh yeah? He went back again?

Ms. Duensing: And that -- that whole workshop was the exact opposite tone from the --

Mr. Kalalau: Maui?

Ms. Duensing: Tuesday workshops here on Maui. There was nothing but excuses why we can`t do this, and we can`t do that.

Ms. Rotunno-Hazuka: They can`t think outside the box.

Ms. Duensing: No, we can't think outside the box and the main reason is because the attorneys that run the State Legislature and the Attorney General's office won't let you do anything unless it complies to the Federal Highways book.

Ms. Sablas: It's the story we've always heard.

Ms. Duensing: Yeah, which is the same story we always heard, so I -- there's a couple follow-up things that I wanna do on this. First of all, Frank will be writing a letter to us telling us about his observations and, hopefully, this letter we can attach to the work we need to do to try to make a bridge rehabilitation program work for Maui. I think the -- several things that I need to do is go up and speak to Milton about what we did on Tuesday and find out, you know, how interested is the DPW in this. I had lunch with Domingo Galicinao, the Federal Highways Bridge Engineer, and had a long discussion with him and I think the second thing we need to do is to go back to square one with working with our representatives on getting a real highway standards bill passed and signed in the Legislative Session instead of vetoed like it was a couple years ago, so we need to resurrect that. I will be calling Mina Morita. The cool thing that happened is, on December 15, I went over to DOT in Kapolei to look at their bridge plans and I ran into Sol Kahoohalahala, he says, "What are you doing?" And I told him, and I said, "So as long as I'm telling you what I'm doing, we need to, you know, get this to the Legislature," and he says, "Oh, yeah, yeah, so we'll do that." And I saw him on the way back so I sat with him on the plane on the way back and he says, "And I need to tell you that I talked to Congressman Case today, when I saw him, and I told him we need money for East Maui bridges," so I'm all stoked only to come back from Christmas break to see that Sol resigns. So, you know, okay, so what to do? But I -- Congressman Case's representative was here Tuesday night, and since Mele Carroll was mentioned as a possible replacement for Sol, you know, I called her and said, "Can you please come?" And she was here Tuesday night too and I spoke to her, she had to leave to go to the affordable housing meeting, I think that's where everybody was Tuesday, but she was really stoked and she just thought this was all really cool, so she asked me would I find time in my schedule to meet with her soon and, yes, I will.

Ms. Long: Oh, great.

Ms. Duensing: So I'll be working with Mele, I'll be talking to Mina Morita, we need to talk to Kalani, probably then too, and whoever is following up after Sol, and I think that Sol will keep interested and, you know, try to transition this to his successor. Yeah, so, you know, a lot happened in the last couple weeks and, you know, I was really getting optimistic until I went to Oahu yesterday and then it's like, oh God, we're back to square one. But one thing I think is that, and I might get shot by somebody for saying this if it gets into the public record but I'm going to say it anyway, is I think we were had on our other bridges because of the need to replace them, you know.

Ms. Rotunno-Hazuka: I agree.

Ms. Duensing: You know --

Mr. Kalalau: And so -- and so what you're saying now is that piece legislation is the most important thing that we have to push right now?

Ms. Duensing: I think so, yeah. Yeah.

Ms. Rotunno-Hazuka: We get that and then we re-look at the scope and --

Ms. Duensing: Yeah. So I think what we need to do and, again, Mina Morita, who used to represent the Hana District, is the person who introduced that, and I met her a couple of years ago at a preservation conference because I did work on Kauai's road, getting it on the register, and she said that she thinks one of the reasons why it failed was because it's a neighbor island issue and neighbor island issues, you know, we don't need to worry about those, right? So Kauai has a lot of -- it's got a rural road on a historic district now too so we need to work with those folks, I know them very well, we need to get folks from the Big Island involved, and we need to get folks from Maui involved, and that means all these people that were screaming and yelling about bridges four or five years ago need to get off their duffs and start coming back to public meetings. I don't know where they've all disappeared to, but I know there's still people in Hana, like John and Carl, that would write letters and lobby if we needed them to, but I'd like to put this on as an agenda item for next month and report back to you on my communications with Ms. Morita and a few other people and see where it goes. But in sum, you know, Frank was just -- he is just so thrilled with the Hana Highway. It was really kind of funny because he's been out to Maui two times and he's never driven that road. He says, "I never wanted to go cause I just thought it was just another tourist attraction," and he says, "that was a big mistake," so that was kinda funny.

Ms. Rotunno-Hazuka: What is the act or whatever called exactly?

Ms. Duensing: Well, what the bill is basically to do is that the Federal Highways Administration allow States to write their own road standards and they approve it, but we have the right to write road standards, that is approved by them, and then that would allow us to get the focus off of all this stupid liability because, now, what we're doing is we're designing road -- we're designing the road and the bridges to meet 2004 standards of a 55 mile-an-hour freeway, and that's stupid, you know, it's a 15 to 20 mile-an-hour road that was built and completed in 1926. So by doing these standards for rural roads, if we can get the Legislature to approve that and the Governor to sign it, we can then force our DOT to write these standards and give us some leeway and some creativity in how we're going to continue with designing and maintaining and keeping the Hana Highway. One of the

suggestions, I had lunch with Domingo and a few other people from the State DOT, Federal Highways, and we were thinking, and this is what I'll talk to Ms. Morita about, is let's try to this time just say, "We want these standards for the National Historic Districts in Hana and Kauai." You know, maybe focusing it real narrow to see if we can get some kind of a protection and flexibility for those two roads at least to start with.

Ms. Long: You would think they'd want to do it because it would limit their liability and --

Ms. Duensing: But they're lawyers.

Ms. Long: Cause right now they're liable.

Ms. Duensing: They make their money on it.

Ms. Long: Because -- they're liable because the roads don't meet Federal standards and somebody's going to sue you because of that. If we have the standards that they comply with, then that limits the government's liability.

Ms. Duensing: Well, yeah, I agree with you but I think they look at it as another way is they're protecting the interest of all their buddies who are in the lawsuits and make a lot of money; that's the way I see it.

Ms. Long: Oh.

Ms. Rotunno-Hazuka: What's realistic about these standards? I mean who exactly rewrites it and is it something we could get from Oregon, like what they did, or -- and is it going to take forever while bridges are destroyed?

Ms. Duensing: Actually, that's a good point. I don't know about the bridges being destroyed but I have a couple ideas about that too because I'm not satisfied that they actually, and again I'll probably get fired for this, but I'm not satisfied that they really followed the Section 4F requirements when they did all that work. They did Section 106 but not Section 4F.

Ms. Rotunno-Hazuka: Yeah.

Ms. Duensing: So there's a technicality there and getting back to like Oregon, Vermont has it's own set of standards, they're available online; Oregon actually doesn't though, Oregon goes a different route and so does the state of New Jersey and Kansas because what those states say is they've got a sovereign immunity so they use that instead of writing rural road standards, but if we could get the road standards bill passed, then the Legislature would have to force the DOT to probably, you know, put out a contract because DOT has

hardly any people working in it, everything's done by contract, to write these standards and get them passed, get them approved by the FHWA, I would suppose they would, you know, have to run it by the Legislature, I don't know about that part of it, and then we would have the ability to let say one of the things that Frank pointed out, and you guys have heard this from me for five years, is, you know, that attachments to all the bridges are just terrible, you know, the big ugly steel rails and all that, and if we had some flexibility, we could design nice lava rock walls like they used to that were, you know, very strong and would do the right thing and keep the cars on the road instead of falling off the cliff or running into the end of bridges, and that's what that would allow us to do.

Ms. Sablas: There were other commissioners at the Monday meeting, you wanna just share some of things you learned cause it was very enlightening for me?

Ms. Rotunno-Hazuka: Yeah. I mean basically --

Ms. Sablas: Tuesday meeting rather.

Ms. Rotunno-Hazuka: Right, the Tuesday -- first of all, I thought that everything that he told us was very inspiring and I know we can do this and it was, I think, exactly opposite of what we've been told all along, and I -- every time we've had these meetings, I couldn't figure out why these engineers couldn't look at the bridge and, you know, make it a challenge, okay, how can I save this bridge, and I always thought it was about money, and it seems like we can get a lot of funding; now maybe because we have to pay 20 percent, which is what he brought up to me and I didn't think about that, that maybe that's where they're saying it's too expensive, okay.

Ms. Duensing: What it is is that the way the Federal funding works is the State basically tells us how we can use it cause that money is for reconstruction and rehabilitation. In the State of Hawaii, because of all these stupid lawsuits that have found them negligent, even if they're drunk drivers, what they're saying is we will not rehabilitate because we cannot bring them up to Federal standards for 2004 so what we'll do is we'll tear them down and replace them, and that's again why we need to --

Ms. Sablas: Have the guidelines and standards.

Ms. Duensing: Force these standards and the guidelines so that the State can say, "Okay, fix your bridge instead of replace it."

Ms. Rotunno-Hazuka: Yeah, and that -- so I -- I'm really worried about what the original survey or whatever was done originally, I mean I think if somebody that had some perspective like Frank could reassess the bridges, I think we'd get a total different picture and --

Ms. Duensing: He has. He said there's nothing wrong with Koukou`ai.

Ms. Rotunno-Hazuka: Yeah. But are they going to take that, are they just going to snub it and so -- but it was great, I mean I really -- what we kept thinking, I think all along in the back of our minds, is we know we can do it, you know, how do we do it, so --

Ms. Sablas: He said it's more expensive to rebuilt than to rehab --

Ms. Rotunno-Hazuka: Right.

Ms. Sablas: Because of the heavy equipment that you would need to demolish and to dispose of all of that and it's interesting, in Oregon, they have an environmental law that all things that they -- all the -- if they do any construction, nothing can go into the ocean.

Ms. Duensing: You'd face that here too.

Ms. Sablas: Yeah, but, I mean I don't see that happening here, you know, when you build something, I see a lot of things that, you know ...(inaudible)...

Ms. Rotunno-Hazuka: Yeah, slide down into the gulches and stream.

Ms. Sablas: Slide into the ocean, and it was interesting the other thing about too is that continuing layer upon layer of asphalt to cover up the potholes and now that, at one time, you know, the bridge height was maybe to your chin, now it's down to your waist because they keep adding and that question was asked, and they discussed it at length, and they don't need to do that, you know.

Ms. Duensing: But you know what? This Commission discussed that five years ago cause I can remember one of the engineers, we asked him how much a cubic yard of asphalt weighed, and I had the bridge dimensions from Koukou`ai, and I calculated it, and, you know, you can look back in the minutes somewhere, that bridge is carrying probably 70,000 pounds of asphalt. No wonder it can't carry a big truck.

Ms. Sablas: So they're adding to that problem.

Ms. Duensing: Yeah.

Ms. Rotunno-Hazuka: Yeah, and that was really --

Ms. Duensing: We've told ...(inaudible)...

Ms. Sablas: It was so enlightening.

Ms. Rotunno-Hazuka: I know.

Ms. Sablas: Instead of scraping it down, he said he wanted to see what would the base be. He feels that, I mean he really did commend the engineers of that time period who have constructed the bridges and what he'd like to do is actually scrape down to the bottom and really see what that base is constructed of because he feels it's sturdy, and it was so enlightening to be able to hear someone say things that we kind of believed but we had no basis, so here comes a professional that confirms a lot of what Dawn has been talking about and --

Ms. Duensing: And that's the -- that's the important thing is all the engineers heard it from me, but I'm not an engineer so what do I know, you know, now they're going to hear it from Frank but, well, they'll find another excuse.

Ms. Rotunno-Hazuka: Yeah, they'll find -- that's true. That's why I said, well, how do you get them to get the vision because it's true.

Ms. Duensing: Yeah, and the other thing we can do is there's one more thing that I learned in the last four days that we can put on a priority list is that the State, all states throughout the union maintain what's called a STIP, which is a list of projects, and what we need to do is, Koukou`ai is on the STIP list --

Mr. Kalalau: Right.

Ms. Duensing: And we need to get the State to re-prioritize that to move it up the list and then I think --

Ms. Rotunno-Hazuka: So when you say, "we," that's going to be?

Ms. Duensing: I think that's where the Mayor's office and the County Council can be really effective in helping us. I would hope so anyway cause, basically, what it would mean is if there's another Maui project higher on the STIP list, you know, why can't we put off, you know, fixing a --

Ms. Rotunno-Hazuka: Ferry.

Ms. Duensing: A 1980 bridge in Lahaina and take care of Koukou`ai first.

Ms. Sablas: So how would the Mayor get note of what's been happening and what is his part and what we're asking him to do? Is that -- would that require a letter just to let him know what happened and --

Ms. Rotunno-Hazuka: This is what we've learned; this is our contradictions; everything.

Ms. Sablas: And these are our maybe recommendations?

Mr. Kalalau: Our priority list.

Ms. Sablas: ...(inaudible)... but, you know, this is something you've worked hard on --

Ms. Duensing: Oh yeah, at this point.

Ms. Sablas: And it'll be good to take it to the next level and, you know, so --

Ms. Duensing: Yeah, and it'll be good to send this letter to Bob Carroll too and I was kinda disappointed cause he didn't come and --

Ms. Sablas: But he was at the affordable housing or something.

Ms. Duensing: Yeah, yeah, but, you know, in the last three years, I think, this Commission has written a number of letters to him that have gone completely unanswered so let's just write it to the Mayor and to the County, the Finance Chairman, I guess.

Mr. Kalalau: Yeah. Yeah.

Ms. Long: And whoever the new Council Committee Chair is for Public Works. I don't know who that is.

Ms. Duensing: Yeah. I'll find out.

Ms. Long: Was the STIP list -- DOT's got their own inscrutable way of dealing with that STIP list, but if we can have some pressure on them from the County Administration or something.

Ms. Duensing: And I think also that because we got a good feedback and good response from our Maui engineers too, I think that's a good reason to do the STIP list. I'd rather, you know, see -- get them to ...(inaudible)... on Koukou`ai and forget about everything except for Kaholopo`o and maybe we can get them to fix the other ones, you know, rather than --

Mr. Kalalau: Well, but I mean if you drive around Maui and you look at bridges, you know, that Koukou`ai Bridge and the Waikani Bridge is two of its kind on this island.

Ms. Duensing: Well, we've only got five concrete arch bridges; that's it: Kuhiwa, Hanawi, Koukou`ai, Oheo, and Waikani; that's it.

Mr. Kalalau: Waikani, yeah.

Ms. Duensing: And they were really well ahead of their time when you -- I mean, could you imagine how remote Kipahulu was in 1911.

Ms. Rotunno-Hazuka: I know. It's incredible what they've done.

Ms. Sablas: Mister ...(inaudible)... I have to get together with his granddaughter.

Mr. Kalalau: You know, there's some -- there's some archive photos from Nick Soon on that Koukou`ai Bridge when it was made out of wood log, you know --

Ms. Duensing: Yeah. Well, that was the whole idea, 1911 to pretty much 1930, they just started replacing all the old wood bridges --

Mr. Kalalau: Right.

Ms. Duensing: And some of them were even steel suspension bridges.

Mr. Kalalau: Yeah.

Ms. Duensing: You know, just like little ones you could get your horse or your --

Mr. Kalalau: Buggy.

Ms. Duensing: Not even a -- it wasn't even a buggy --

Mr. Kalalau: The trails ones. The trail ones. Yeah, the trail ones.

Ms. Duensing: Yeah, the trail ones, yeah.

Ms. Sablas: I think he used the terminology about our bridges easily repairable --

Ms. Rotunno-Hazuka: Yes.

Ms. Sablas: Which I found like -- from an expert.

Mr. Kalalau: Yeah, because it's way smaller than the ones that they have that's why, you know.

Ms. Duensing: Yeah.

Mr. Kalalau: The job going take less as much time as the ones they do there.

Ms. Duensing: He said we could go through and fix every single one of those bridges for nothing compared to what they spend on one Oregon bridge.

Mr. Kalalau: Yeah. Yeah.

Ms. Duensing: He didn't say that at any meetings; he just said that while we were on the road.

Mr. Kalalau: You know, the thing about the overlaying of asphalt on the bridges is, you know, it really depends on the contract. When the contractors go out and bid for the resurfacing thing, if it calls for scraping it off, they do it and, you know; but if it doesn't call for that, they'll just pave right over the whole thing and just keep on going.

Ms. Duensing: Yep.

Ms. Sablas: And, well, that's why we need to correct that and that's why it's good they met with our County engineers that they know that that's what the contract should be instead of repaving; that it should be scraped off.

Mr. Kalalau: Yeah, because on the State side of the highway, they did that, actually, from, oh, but they have new bridge by Twin Falls, but they did actually from out there all the way to, I think, Kaeleku, almost --

Ms. Sablas: They actually scraped?

Mr. Kalalau: Where they scraped all the old asphalt off and then laid the new surface.

Ms. Duensing: Yeah but by the time you get to Keanae --

Mr. Kalalau: Right.

Ms. Duensing: That -- you know which bridge I'm talking about? The one that goes around the real sharp curve and there's like this much --

Mr. Kalalau: On top.

Ms. Duensing: Left on the one side and that much on the other side cause they've also super elevated the curb. These engineers.

Mr. Kalalau: Right.

Ms. Long: Cause you're driving so fast.

Ms. Duensing: Yeah, and they do rip through there. It makes people drive faster.

Ms. Long: Oh yeah.

Ms. Duensing: You should have done that National Register Nomination and had to take like a thousand photographs standing out in the middle of the road ...(inaudible)...

Ms. Long: Your life's in danger.

Ms. Duensing: Yeah.

Ms. Sablas: But I really wanna acknowledge Dawn for all the hard work she's done on the bridges, I mean, you know --

Ms. Long: Thanks to you.

Ms. Rotunno-Hazuka: I agree. Thank you so much.

Ms. Sablas: Okay, can we move on then to the Item 2, Banyan Tree Holiday Festival permit.

## **2. Banyan Tree Holiday Festival permit.**

Ms. Duensing: This is in response to another request you made from me. I did pull that permit and that was -- Commissioner Long was concerned with the giant shave ice.

Mr. Kalalau: Right. Or snowman or shave ice or whatever.

Ms. Duensing: Yeah, and now I don't think we should go into a whole lot of discussion on this because Theo's not here, if you wanna put it on a future agenda for discussion --

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: But she asked me what this was about.

Ms. Sablas: Let's just put it on. Is that okay with everybody?

Ms. Rotunno-Hazuka: Yeah.

Mr. Kalalau: Okay.

Ms. Duensing: But I can just tell you that it was permitted and that the planner that did the permit, what they did is LahainaTown Action Committee submitted the permit request saying, "We're doing the same thing we've always done. Administrative review is appropriate." And one of the planners got the permit, he saw that, well, you know, it's just like last year, it apparently didn't look like -- look through the records to find out it wasn't just like last year, and they got their permit.

Ms. Sablas: So it was an internal?

Ms. Duensing: Yeah. But LahainaTown Action Committee should not be submitting letters saying, "We're doing everything the same way we did at the previous year," cause they know darn well that when they change things it has to go to Commission.

Ms. Rotunno-Hazuka: Yeah.

Ms. Duensing: So if you'd like, we can just put this on next month's agenda.

Ms. Long: Please.

Ms. Rotunno-Hazuka: Yeah.

Ms. Long: That's deceptive, to use a fairly kind word.

Ms. Sablas: CLG project status update.

- 3. CLG project status update.**
- 4. February 3, 2005 meeting agenda.**
- 5. Administrative Permit Reports**
  - a. Demolition Permits**
  - b. Historic District Approvals Report**

Ms. Duensing: Okay, well, we got one of our CLG programs done with this bridge thing. We're still waiting for the contract to be sent over by the State and so we may even need to make some modifications because now we've lost so much time on what we have to do for the rest of the year. One of the things I did do is I contacted Tonia Moi cause I want to do the Secretary of the Interior's Standards Program for your guys and she's busy now teaching at U.H. on top of her regular job so she can't do it until June, which is kinda disappointing cause if we had the contract, we could have done it two or three months ago, but I'll be working on seeing what other programs I can get started and implemented as part of that grant.

As for the February 3 meeting agenda, we'll put the Banyan Tree Holiday Festival permit item on there.

Mr. Kalalau: And the Lahaina Courthouse.

Ms. Duensing: The Lahaina Courthouse we will put on there again, and I expect we might have this after-the-fact sign approval.

Ms. Rotunno-Hazuka: And didn't you say the bridges again?

Ms. Duensing: And I will put the bridge follow-up on calls I've made. I think that's all for now yeah.

Ms. Sablas: That's it? Okay.

Ms. Duensing: And then Administration Permit Reports, Demolition and HDA approvals should be in your packets.

Ms. Sablas: So, Commissioner's Announcements?

## **I. COMMISSIONER'S ANNOUNCEMENTS**

### **1. Barbara Long, upcoming Historic Hawaii Preservation Awards program.**

Ms. Long: Yes, please. Last year and another time prior to that, I was asked by the Statewide Preservation Organization Historic Hawaii Foundation to be a member of their elite committee that designates their historic honor awards for the year, and in the past, it's been, and I've discussed this with them, their executive director has resigned so I don't know who's going to be taking over, it was David Scott, but I did talk to Lisa in the office and she sent me some applications and also some membership things. In the past, they pretty much focused on these multi-million dollar restorations of government buildings, hotels, like the Moana, the Federal Building, the Iolani Palace, and, you know, very expensive kinds of things, and I kept saying, "We need to recognize homeowners. We need to recognize community groups for their part because, basically, you need to encourage grassroots preservation." So they started doing that last year. One of the categories that they've added is publications, which is nice. They -- in their list of who's received awards since 1977, all the counties are pretty well represented except that Maui County, from 1991 to 1998, only had one nomination and then there was one in '98, and then the *Exploring Historic Wailuku* book got it in 2000 and the D.T. Fleming Arboretum, which was kind of different, so, anyhow, I'm here today for two things. They're going to need someone else to serve on the committee, and they generally meet twice and they send you an airplane ticket, and you fly over there, and you go and they show you slides

of all the proposed projects, and you discuss them, and decide yes or no, and how that works, and the other thing is to come up some things to make us proud of serving on the Cultural Resources Commission because surely there are projects out there that should be recognized, and the date for nominations is March 14, and they have some specific requirements as far as slides and photographs and a 500-word description. The nice thing is that if, and I'm thinking, well, here's Bailey House and they've spent an awful lot of money improving their archive and collections room, and that fits one of these categories of preservation, these guys have never given an award for actual preservation of archival materials and wouldn't that be nice to encourage people to do that. And you can self-submit so that if you know a museum or a family that preserved a ranch or a house or a site or something, they can submit it themselves; it doesn't have to be someone else. So, you know, if anybody wants these, I've got them. Call me if you want them and --

Ms. Sablas: I'm already a member.

Ms. Long: You're already a member? Good. Well, then you can go over and be on the committee. First thing she asked me is, "Gotta be a member?" Gotta be a member of Historic Hawaii --

Mr. Kalalau: Members only, yeah?

Ms. Sablas: Stakeholder.

Ms. Long: Yeah, stakeholder, there you go.

Ms. Sablas: I paid my dues.

Ms. Long: Yeah, so it's -- it's something that brings notice to the issues that we are concerned about. There might be in Lahaina or in one of the Historic Districts a property owner who's done it right and we might wanna say, okay, thanks a lot for doing that and please nominate yourself.

Ms. Sablas: Does it -- they're just building cause I see you have the Maui Nei brochure there, is that something that could be considered?

Ms. Long: The Maui -- this kind?

Ms. Sablas: Yeah.

Ms. Long: I thought this might qualify. It was a collaboration of Lahaina Restoration -- don't give me that --

Ms. Duensing: ...(inaudible)... problem.

Ms. Long: Well, but the end result with this is informing visitors and residents alike about the historic and cultural aspects of where they live and this is, you know, it's easy, you can do a walking tour, and I love the little plaques on the buildings, and something like that is -- could have been done better maybe, could have been done differently maybe, but somebody did it and I would like to recognize that, so I'm just bringing it up, you got two months --

Mr. Kalalau: So, Barbara, you get information on how often they give this award or it's just one award a year or one on each island?

Ms. Long: No, no, they give -- they give a number of awards and actually there are various categories that -- I'll read you some of the eligibility things, and, last year, I think they gave about a dozen awards, and Dawn received one --

Ms. Duensing: Thanks to Barbara's submission.

Ms. Long: For her submittal of the register nomination, okay: Student; volunteers; preservation activists; staff and professionals in preservation or related fields with historical or cultural organizations; writers; photographers; researchers; and government agencies. So I thought -- did the County of Maui get an award for the bridge thing or for the one bridge rehab that they did? I don't think so.

Ms. Duensing: Bridge rehab?

Ms. Long: Didn't they do one bridge decently? No?

Ms. Duensing: I'm not familiar with any report, no.

Ms. Long: I don't -- okay. Whatever. A candidate need not be informed. Any aspect of preservation, restoration, rehabilitation, redevelopment, or interpretation, which this would fall under, of our cultural heritage that is exemplary, and it's the committee that decides if it's exemplary, and we did not give an award to one project because we didn't feel it was exemplary, so that, you know, you submit this thing and you take your chances, but most of them are worthy. This may include one of the following or a combination thereof: acquisition; adaptive reuse; advocacy; archeology; education; film; publication; legislation, which would be interesting; ordinances; photography; planning; preservation protection, stabilization, technology, reconstruction, blah, blah, blah, blah. The 2003-2004 honor awards and this is what the thing looks like. You fill out a very basic form, you write 500 words about the project, you submit photographs that show what it is, and then slides, which is what they use to advise the committee. And their award categories are

preservation awards; preservation commendation for an organization, okay, preservation award is for a building, site, project, or structure; preservation commendation is for an organization or government agency; and a preservation certificate is for an individual. So there's also a project that comes out of Maui Community College that has to do with video oral histories, and they've done almost a hundred of them, and they're archived, and they're at Kahului Library, and there are old-timers sitting and talking about the old days, and I don't think anything like that has ever been submitted for an award here, but those are the kinds of nonelitist non-multimillion dollar projects that, to me, show community involvement and grassroots kind of stuff so --

Ms. Duensing: There's also too oral history projects here produced on Maui with Paia and the Nisei Veterans.

Ms. Long: Oh, right, and that book, the Rita Goldman book too. I was thinking --

Ms. Duensing: Well, I was thinking they did a Military Intelligence Service oral history book.

Ms. Long: Well, I would not mind if you'll tell who needs to be notified, I would just call them and make sure that if they're interested, they get copies of these things. And is there anyone here who would like to be, Lori, would you like to be on that committee?

Ms. Sablas: No. I have a lot on my plate. Thank you though.

Ms. Long: Yeah, it's like two days out of your life is what it is. Yeah, cause you gotta go over there and deal with it. Yeah. I would do it if they did on Maui ...(inaudible)... okay, I do know someone who is willing to do it.

Ms. Sablas: Okay, thanks, Barbara.

Ms. Long: Okay, thank you all for listening and --

Ms. Rotunno-Hazuka: Thank you.

Mr. Kalalau: Thank you.

Ms. Sablas: It's good work. I think before we adjourn, and that's the next meeting, I just needed to ask, it's not on the agenda, but the status of our Molokai commissioner.

Ms. Duensing: I haven't heard anything.

Ms. Sablas: Okay.

Ms. Duensing: I'll Mr. DeLeon and ask.

Ms. Long: Oh, he'll bite your head off.

Mr. Kalalau: Just one thing, Dawn, just one follow-up. How are the Paia Hongwanji Mission people doing with their application?

Ms. Duensing: I need to contact them, yeah. I haven't talked to them cause the last month was very, very busy. Oh, you know what?

Ms. Rotunno-Hazuka: What were those?

Ms. Duensing: Yeah, one more agenda item, we can adjourn but I'll just tell you this. This is going to be on next ...(inaudible)...

Ms. Sablas: Okay, meeting is adjourned.

**J. NEXT MEETING DATE: February 3, 2005**

**K. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 12:50 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions I

**RECORD OF ATTENDANCE**

**Present**

Lori Sablas, Chairperson  
Keeaumoku Kapu, Vice-Chairperson  
Lon Whelchel  
Barbara Long  
Solomon Kaopuiki  
Perry Artates

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Samuel Kalalau, III  
Lisa Rotunno-Hazuka

**Others**

Dawn Duensing, Planning Staff  
James Giroux, Deputy Corporation Counsel