

**CULTURAL RESOURCES COMMISSION
REGULAR MINUTES
JUNE 1, 2017**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, Maui, Hawai'i.*

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Lori Sablas, at approximately 11:02 a.m., Thursday, June 1, 2017, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Commission was present (see Record of Attendance)

Chair Lori Sablas: Good morning, everyone. So the meeting of the Maui County Cultural Resources Commission of June 1st is called to order. And thank you to all of our Commissioners present today. So pleased to have the most we've ever had since I've been on, and I hope this trend continues, so thank you, especially from our Lanai boy coming over water. Mahalo. Okay, at this time, I'd like to open the meeting to public testimony. If anyone in the audience would like to testify on an agenda item, you may do so now and know that this would be your time and -- and that's it. So do I have anyone who would like to testify on an agenda -- if you have signed up? Do I have a sign-up sheet by the way? Today is the first day of hurricane season so I hope everybody is prepared.

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

Chair Sablas: Thank you, Annalise. So the first person who signed up is Walter Kana -- I'm sorry, Kanamu? So you would like to yield to Kai? Kai Markell. You're with OHA? Yes. So are you going to be here though afterwards or do you have to leave? Oh good. Okay. Would you like to testify now then or you wanna do it when the agenda item is presented? Up to you.

Mr. Walter Kanahu: ...(inaudible - not speaking into the microphone)...

Chair Sablas: It's up to you. You can wait? Okay. Okay then.

Mr. Kanahu: ...(inaudible - not speaking into the microphone)...

Chair Sablas: Yes. It's open to the public. So you have an opportunity now to do it if you have other commitments, or you can wait until it comes up. It's, you know, it's going to be the first, yeah, the first item on the agenda. Yeah, so you should be -- yeah.

Mr. Kanahu: ...(inaudible - not speaking into the microphone)...

Chair Sablas: Okay, and you can sign up after. You can just come up now and identify yourself. Come to the mike, you. Come. No, no, the wahine. Sorry. Both of you going to come? Walter, you already signed up. So you can come. Yes. Could you state your name and the item on the agenda that you'll be speaking on?

Ms. Annette Heu: I want to make sure the item is correct. The item --

Chair Sablas: Can you speak in the mike, please.

Ms. Heu: The item I would -- the item I would like to speak upon is in regards to the OHA language on the agenda today. My name is Annette Heu, and my testimony today is against the destruction of the sacred site of Kakanilua. My testimony is against the destruction of the sacred site of Kakanilua and sale and transport of sand to destinations unknown. Today, I charge all of you, the Commissioners, with the violation of the Palila Bird law and violation of the Federal law, Title 18, U.S.C, Code 4, ...(inaudible)... felony, and each of you will be fined \$500,000 and three years in prison for this illegal act. Each of you has been given a copy of these laws that spell out your illegal participation and violation of State and Federal law. In addition, your responsibilities as Commissioners are to protect the rights of beneficiaries of the State of Hawaii, see the Hawaii State Constitution. There are two beneficiaries, the Native Hawaiians and the general public, and Native Hawaiians qualify in both. The State is only a trustee and does not own any lands. Today, you the Commissioners, violate your own laws and will be held liable. I charge you all to cease and desist this hearing immediately as this is an illegal act regarding the taking of sand, selling and transporting it elsewhere, and more importantly, the destruction of the sacred site of Kakanilua. Thank you.

Chair Sablas: Thank you. Comments, questions, Commissioners? Thank you for testimony. Appreciate your time and your concern. Mahalo. Do we have any other public testimony at this time?

C. APPROVAL OF MINUTES OF THE MARCH 2, 2017 MEETING

Chair Sablas: If not, then I'd like to move on to the agenda and that's the approval of our minutes of March 2, 2017 meeting. Any corrections, additions, Commissioners? Seeing none, do I have a motion to approve?

Ms. Christy Kajiwara-Gusman: So moved.

Chair Sablas: So moved by Commissioner Kajiwarra-Gusman. Do I have a second?

Dr. Janet Six: Second.

Chair Sablas: Second by Commissioner Six, so minutes of the March 2, 2017 meeting has been approved. I'm sorry. Yes.

It has been moved by Commissioner Kajiwarra-Gusman, seconded by Commissioner Six, then

VOTED: to approve the minutes of the March 2, 2017 meeting.

(Assenting - C. Kajiwarra-Gusman; L. Kawaa; I. Lay; M. Ropa; J. Six; F. Skowronski)

(Excused - T. Bailey)

Chair Sablas: Thank you. That's why we need you. Thank you. Okay, item D. New Business, item 1.

Chair Sablas read the following agenda item into the record:

D. NEW BUSINESS

- 1. Review of the Office of Hawaiian Affairs Guidelines for the Consideration of Traditional Native Hawaiian Cultural Values in Historic Preservation Review, dated 1988, which is presently listed as one of the Commission's official guidance documents under Subsection 2.88.080.G of the Maui County Code (A. Kehler)**

The Commission may discuss, and possibly take action, on whether to recommend to the Maui County Council that this official guidance document should be removed or replaced pursuant to 2.88.060.M.2 of the Maui County Code

Chair Sablas: So the floor is open to discussion by Commission Members, comments, and -- okay, I'm sorry. We would like to have staff give an overview first.

Ms. Annalise Kehler: Yes. So, I just wanted to provide some additional information. The -- I did receive an email from Kai Markell, of the Office of Hawaiian Affairs, and he did inform me that they are planning on updating this document, and so the recommendation would be to keep this document in place until the new document is developed, and then we would replace the old document with the new document, and this item is coming before you because I'm going through the process of vetting all of the old guidelines of the CRC and this was the first on the list, and a lot of the CRC documents are over 29 years old,

in some cases they're 50 or more years old, and so this -- we'll, at future meetings, we'll be going through other documents, this was just the first of the list. And so, again, I'd like to reiterate that I think we should keep these in place until OHA updates, and then we'll replace with the new one.

Chair Sablas: Wonderful. In fact, I was wondering when a document should be removed, and I thought we should have put "updated."

Ms. Kajiwara-Gusman: Yeah.

Ms. Kehler: Right.

Chair Sablas: Yeah, and that would have been my recommendation.

Ms. Kehler: Yeah. Yeah.

Chair Sablas: So that's your recommendation that we update it and keep it until --

Ms. Kehler: Correct. And, actually, Kai Markell, with the Office of Hawaiian Affairs, is in attendance so we're very fortunate that he's here and he can talk a little bit more about OHA's plans with the document.

Chair Sablas: Okay, so maybe we should ask Kai to come up at this time then before we open for discussion is that okay, Commissioners? Okay, Kai, would you like to come and give -- share your manao? How's Aunty Thelma doing?

Mr. Kai Markell: Good. Thank you. Aloha, Chair and Members. ...(Hawaiian Language)... Thank you for this opportunity to provide some testimony on this agenda item. I actually had planned this trip weeks ago, for a two-day trip, and it was fortuitous that this ended up on the agenda and then I was present here today to offer some testimony. So my name is Kai Markell. I'm a Native Hawaiian Rights Attorney. I'm the current Compliance Enforcement Manager, at the Office of Hawaiian Affairs, former Director of Native Rights, Land and Culture, at the Office of Hawaiian Affairs, and previous to that, I was the Director of the Burial Sites Program, where I worked ten years for the State Historic Preservation Division.

I was taught that the number one Hawaiian value is humility, ha`aha`a, but sometimes I have to establish the basis of what -- what allows me to stand here to give testimony to you and other kanaka, and attorneys, and experts, but I have been qualified as an expert witness in many court cases in the First, Second, Third, and Fifth Circuits in Native Hawaiian burial practices, Native Hawaiian burial protection, and cultural impacts. So the document in question right here is this 1988 very antiquated guidelines, which I'm grateful they exist because it gives us a glimpse into the mindset of not only OHA, but the

Hawaiian community in 1988, and this was in direct response to what was happening in 1985, '86, '87 right here on Maui, at Kapalua and Honokahua, and this interment of over 1100 of our kupuna, men, women, and children, and infants systematically re-siting at the hotel, and I actually had family members who worked on that dig for Paul Rosendahl and they told me they got to the point where there were so much iwi coming out of sand, it was sand, that they just got the water hoses and they shot the iwi out of the sand in mass. They never thought they'd have to give them back to the Hawaiians, so when they found out that they had to give them back to the Hawaiians to kanu, they were in a panic, and all the iwi had to be put back together so they just matched up lung bones that looked the same size and put a po`o on it that matched. That's what they gave back to the Hawaiians to kanu. That's how things were done back then. But now we have -- a lot has happened since '88, and there's been court cases, there have been interpretations of Article 12, Section 7, of the Constitution, that allows our people to practice our culture for subsistence, for religious purposes, and it's nice to see that OHA, at least at that time, was trying to be responsive, but in 30 years, a lot has passed in even our own identity of our culture and our beliefs and our spirituality.

It's interesting that one of the first things I read when I was reviewing this again is that OHA was talking about Hawaiian religious practices, and not always having a physical structure, and if we think about our location right now, what's up the street, they specifically pointed out the cultural landscapes of valleys, of streams, of rocks 30 years ago, this isn't something we just kinda made up recently, and other natural features, which include sand and -- on all islands we have sand dunes. Most of the coastal dunes have iwi kupuna. Much of the sand has been mined for beach replenishment. Waikiki, one of the number one culprits of beach replenishment, has taken sand from Mokapu in Kaneohe where we have thousands of kupuna buried there, and we have over a thousand sitting in boxes waiting to come home. They've taken sand from Moomomi on Molokai and scattered it on Waikiki and iwi has come up, and there's a saying, "ku`u one hanau," "the sands of my birth." It's not just a metaphorical saying. There's great meaning and kauna in the one, the ku`u one, the sand, most of which is coral-based along the coast. And I believe even the inland dunes are highly coral-based but also comprised of other lithic. And our mo`o ku`auhau, our genealogy, in the kumulipo, as translated by our beloved Queen mo`i, Queen Liliuokalani, talks about the coral ... (inaudible)... as that first life form that brings us until Ke Akua creates man and blows that ha into him to bring life, that coral, that's ko`a, that's the sand that we've come full-circle. When we die, we're coming full circle back to our beginnings of the ko`a. Why is ko`a special? What is ko`a? Ko`a is also the alter, yeah, the ko`a that you honor Akua, and our na Akua and our kupuna. The ko`a. Coral. There's a famous story of Kekuhaupio and Kamehameha and Keawemauhili offering each other the black and white stone. You want war and death? You want life and forgiveness and negotiation? Today, we choose life. The stone was coral. Why was that significant to Kamehameha? Because it was white to the core. It represented him and Keawemauhili. Ko`a is the pu`uhonua. Ko`a is the branch coral where the small fish hide and the big fish cannot get them. So, in effect, we are the ko`a.

We are the pu`u honua. Pu`u honua isn't just a place of refuge. People were. Keopuolani was a pu`u honua herself that this is what symbolizes the ku`u one hanau, our birth, that's why it's so significant.

What has changed since 1988 really is a plethora of cases, court cases, from Hawaiian rights to burial cases, you know, involving Wal-Mart, General Growth, Ward Villages, the rail, Kawaihāo Church; of course a lot of these are on Oahu. We have the most intensive development happening in our kulaiwi. OHA commissioned the University of Hawaii...(Hawaiian language)... the enlightened, to make some primers. There's two primers, and it's found on your website, and I can send you the link, one has to do with iwi kupuna, and the laws and the court cases that's surrounded in the beliefs and the practices, and the other has to do with traditional cultural practices and the rights to practice your culture and religion. I think those are two awesome documents - primers - that you could use as reference to enlighten and learn about what's happened in the last 30 years.

When I look at -- now, sand mining is an issue, and that's why I was here, among other issues. Now it's potentially deemed a resource extraction and might need a special use permit. There's an important Supreme Court case, and it had to do with the Land Use Commission, and it's Ka Pa`akai O Ka`Aina, the source of the land, versus the LUC, and in that case, the Supreme Court said there's an affirmative duty for the State and the county, yeah, it expressed it to the county as well, to do this three-step process; the three-step process is before you give the special use permit to mine and extract the sand, you have a duty, and this isn't OHA saying guidelines what you should do, this is the Supreme Court, State of Hawaii, and they said you need to, one, identify the resources there...(inaudible)... What kind of Native Hawaiian resources are there? Is there wai, water? Are there palila birds? Are there iwi kupuna? Is there alaea pockets? Is there pa`akai making areas? You have to identify the resources and the practices that rely upon those resources. Yeah, we have family that goes down and still collects the alaea for their healing from this alaea that's in this area, and you have to identify that, and then you have to identify, if you grant this permit, whatever it is, a subdivision, water use, or resources extraction of sand, how's that going to impact the resources, and how's it going to impact the practices that are protected by the Constitution. And lastly, how can it reasonably be mitigated? What can we do? Can we alter the development? Can we amend the permit? Can we put requirements and conditions? Can we move them somewhere else over because this area is sacred? You know, those are the things that an agency like the LUC or the Planning Department of Maui will have to do before they say here's your permit.

And so you can imagine the hard part now is the agencies. Where do they get this information of what's there and what kind of practices, yeah? That's not very public usually. That's where you have to rely on other agencies, like OHA is always willing to help, State Historic Preservation Division, what records do they have? What do they know about this area? If you have expertise on your staff and you are the Cultural Resources Commission, I would think Planning will look to you and say: Can you help us

figure out what's here? And then that's where you have people come and they testify, and they say oh yeah, I just want to testify my family uses this; what do we know of this, or my family, yeah, our kupuna's buried in this area, we know there's burials here, and this is -- that's where you build that body of knowledge for Planning to make an important decision, you know, to give a permit or not, or what kind of conditions or not. So that's an exciting process because we're all part of it, and even the community. I really think that is lacking right now in this whole situation, the Ka Pa`akai requirement, and we really need to take a hard and fast look at that.

What's interesting is the Supreme Court, before they came out with Ka Pa`akai, you know, the official decision, which changed the landscape of Native Hawaiian law in Hawaii, that three-tier test of that duty to see what's there, what Hawaiian resources and practices, how is this permit going to impact them, and what can we do to mitigate it, they used that language -- 2000 was Ka Pa`akai, they used that language in 1998, two years before, on Oahu, in a case involving the land board, involving Ewa and Oneula, and Haseko was building a marina out there, and OHA sued, and other entities sued, and the Supreme Court came out in '98 with a memorandum of opinion, you know, which wasn't a formal published opinion, but they used that first time, that three-tier test that became Ka Pa`akai, and what's significant about that is that marina where they wanted to break through the beach at Oneula, the sand, Oneula, the blood sands, the royal sands, if you look on Google Map and you put a pin down of where that marine entrance was going to come down, guess who was found in the middle that marina entrance in that sand? It was a woman. An alii wahine found in June 2001. She had two large ...(inaudible)... kupee. She had beads, trade beads, bones, ceramic, so it was after contact. And she was found right in the middle of that beach where they wanted to come through for that marina. And through gifted friends, what Mary Kawena Pukui and Nana I Ke Kumu calls "Ike Papalua," the gift to see spirit and to hear spirit, what we work with all the time, this woman gave her story, and her story is she was the half-sister of Queen Kaahumanu, and her name was Kaomileikaahumanu, a name given to her after death, that causes the suffering of Kaahumanu, the lei that causes the suffering, and Kamehameha made her hapai, and she ended up hiding in a cave in Waimea with Keopuolani watching over her, and when she was ready to hanau with twins, she got to Kukaniloko, the birthing place of the alii, from the Nanaulu line, that Gods give the right to rule, right? Not Hawaii and Maui where you conquer and you put your chiefs in front of the people. This was the people recognize your right to rule from the Gods, and she made it there where she died giving birth to twins, and the girl, Laamea would die still born, she died of blood loss, and they buried her down at Oneula, and the boy died as well, but he was resurrected, and he was resurrected by Kapihe, the prophet, there in Kukaniloko, and he, according to her, is none other than Kauikeaouli, Kamehameha III, not born to Keopuolani on Hawaii Island, born to Kaomileikaahumanu at Kukaniloko, and this is her moolo, yeah. And we're not changing history, but you never know who you were finding in these sand dunes, and not that it matter, you can be the mother of Kauikeaouli, Kamehameha III, or you can be someone's mother. That's all. Just your mother. They deserve the utmost care and

aloha, and the sons, and the daughters, and the babies. They deserve that from us, yeah?

So much has changed. We have to untangle this hihia. We don't even know how iwi has been disturbed in the last 20 years in these dunes. There's no records of it. And I've worked at SHPD for 10 years so I know how hard it was to keep track of things.

Chair Sablas: E kala mai. What you're sharing I think it's important manao for us as Cultural Commissioners to learn from you, however, we do want to respect, you know, our item, our agenda items.

Mr. Markell: Yes.

Chair Sablas: And because this is public testimony, normally, we allow three minutes --

Mr. Markell: Oh, sorry.

Chair Sablas: And we've allowed you about 15 minutes, and I respect your position ... (inaudible)...

Mr. Markell: I can wrap up. No problem.

Chair Sablas: But if you could wrap up, and then after this, I would like to remind the public that I would open it to public testimony but it will be limited to three minutes on the specific agenda item, unfortunately, not on sand mining, but on this agenda item of the document.

Mr. Markell: Yes. Yes.

Chair Sablas: If you could wrap it up, please.

Mr. Markell: Certainly. Certainly.

Chair Sablas: Thank you. Appreciate it.

Mr. Markell: And I thank you for the time. So, shortly, I mean in sum, this document should not be discarded. It needs to be amended. We're willing to work with the County to update it. Secondly, and you can consult, you know, your Corp Counsel, I'm not your attorney advisor, I'm just saying OHA's position is that the Planning Department is subject to Ka Pa`akai and you have an important role to help them fulfill that Supreme Court duty, and, lastly, and forgive my emotion and forgive my spirit, but this is a time not of condemnation, it's not a time of pointing fingers of who didn't do what, it's a time to heal and to make pono, and it takes all of us sometimes to bear your naau, to say, yeah, I

screwed up. I'm sorry. Forgive me. But how do we make it right? And that's where we're coming from, yeah. So I want to aloha you and mahalo for the time ...(inaudible)...

Chair Sablas: Mahalo. Mahalo very much. Any comments, questions of the testifier, Commissioners? Commissioner Six?

Dr. Six: I just wanted to comment on you mentioned reviewing this document, and I had a chance to read through it, and I know we're not here about the Sandhills at all, but I did like the part where it talks about traditional and cultural values to a property that's symbolic of a group's identity or history, this is on page 11, and it talks about the Nuuanu Pali, and we all know about that battle, famous battle, and that would carry over to the battle of Kakanilua and the Alapa Warriors in this area that people are having some interest, so I'm very much supportive of keeping this document and then amending it to bringing it up to more modern standards, so I want to thank you for your testimony.

Mr. Markell: Thank you for that.

Chair Sablas: Anybody else? I have a question. What is the status of the inventory of the Native Hawaiian historic sites?

Mr. Markell: So OHA, over the years, has tried to create inventories of known sites --

Chair Sablas: Yes.

Mr. Markell: Some could be on the State Historic Register or the National Register's list. There's so many more sites that aren't on these official registers and lists. We've been working with the historic preservation office, SHPD, for ten years helping them with their GIS capabilities, funding positions. We now have a database called "Kipuka," which is accessible to the general public as well as agencies, and in there, we're trying to build a layered GIS system that will flag areas if there's significant sites or significant history to it. There's so much input that needs to be put into it to update it and keep it current, which takes a tremendous amount of resources, but we're committed, that's one of the reasons why I'm here is to work with SHPD, and to help coordinate OHA and our relationship and build that database up.

Chair Sablas: So my question is: Is there a time line to complete the inventory or to update it? Same thing with the updating of the document, is there any time line that we're looking at as to completion?

Mr. Markell: So it's up and running already. There will never be a completion. Never.

Chair Sablas: Okay. But at least the updated version.

Mr. Markell: We will never find all the sites to put in there.

Chair Sablas: Updated version.

Mr. Markell: Yes.

Chair Sablas: Okay. Yes.

Mr. Markell: It will never be final though.

Chair Sablas: Yeah.

Mr. Markell: There's sites coming up through the rest of my children and their children's lives that are going to be added to that database.

Chair Sablas: Yeah. So if that document is available, would you be providing it to --

Mr. Markell: There's actually a web link, Kipuka ...(inaudible)...

Chair Sablas: Yeah, that you had said. I wrote that down. So it is available then if the Commissioners want to --

Mr. Markell: ...(inaudible)... can access. Yeah.

Chair Sablas: Yeah. Okay. Thank you very much. Oh, Commissioner Kawaa?

Ms. Luana Kawaa: Aloha. Mahalo, Kai. Thank you for your testimony. I think there were two parts to the question. So, of course, the inventory is ongoing and the information that you currently or OHA has currently gathered is on the Kipuka website, correct?

Mr. Markell: Yes.

Ms. Kawaa: Okay. And then the second part would be this particular document that we've been -- that the CRC has been using as a resource, is there a time line for this to be updated?

Mr. Markell: I can say within six months we'll have an approved version.

Ms. Kawaa: Okay, great. Because I think that's critical. It is critical that we be able to use this document but then an updated version, so mahalo to OHA for taking on that responsibility.

Mr. Markell: Thank you. And I just want to reemphasize again that while this guidance document from OHA is great to help, there are laws and Supreme Court opinions that I believe should be more of a guidance document to this body than just OHA's ideas, so I appreciate that.

Chair Sablas: Thank you very very much for your time.

Mr. Markell: Thank you so much for giving me the time. I appreciate it.

Chair Sablas: Mahalo.

Mr. Markell: Okay, thank you. Mahalo.

Chair Sablas: Okay, I'd like to open up the public testimony to, again, item 1, review of the Office of Hawaiian Affairs Guidelines for the Consideration of Traditional Native Hawaiian Cultural Values and Historic Preservation Review, dated 1988. If there's any public testimony on this item, again, I'd like to have you come up and allow you three minutes to share your manao at this time.

Mr. Kaniloa Kamaunu: Aloha. My name is Kaniloa Kamaunu from Waihee Valley, and I guess, for me, there needs to be some amendments to even OHA's recommendation guide that they have due to the fact, and this has been my pet peeve for many years, is the use of "Native Hawaiian." According to Federal statutes that refer to health and education, referring to Native Hawaiians, it declares that Native Hawaiians are American citizens. When you look at this application when you have people that have been laid to rest or even the census of sites, the thing is, you have to look at the people in their original state, you cannot take them out of their original state and place them into a state that they don't belong. If they don't belong to the United States or they don't belong to the State of Hawaii, then they shouldn't be considered as Native Hawaiians because you change who they are. In fact, you extinguish the existence of a people. "Native Hawaiian" is an America term. For us, in the kanaka, as far as the kanawai, kanaka maoli is correct . . . is correct. Makainana is correct. These terminologies are used in the kanawai or the laws of Hawaii referring to the rights of those people which then separates them from what we have today and has been created and has become a myth which is saying that a Native Hawaiian exist. It doesn't exist. It's used for the basis of how America deals with the people, and the only way they can deal with the people is they have to change their status. And if you look at the 1900 Congressional Debate, it states clearly that the political departments, which consist of the President and Congress, have already decided that they were not going to claim the people or the kanaka of Hawaii Kingdom, and the reason for that because ...(inaudible)... when the petition was signed, brought to Congress, Congress accepted it on the floor when it appeared in 1898, it became a legal document that they had to deal with, so in their consideration, during their debate, they had to realize that these people did not want to become part of the system. Now whether

people feel comfortable with that or not, whether they're kanaka or not, it is a true fact. And so when making a consideration of this guidance or any other bills, you have to really take into perspective who these people are. To use or say "Native Hawaiian" is inappropriate, even for us that are living, according to the Federal statutes, according to the Federal documents that are out there describing who we are, even to the fact of the Department of the Interior and they wanting to make a government-to-government relationship with -- that means to question why they have to do that? But that is my manao. Mahalo.

Chair Sablas: Thank you very much. Questions? Comments? Did you share your manao, I mean obviously we have OHA representative here, but have you made -- did you make a formal or a letter sharing your manao about --

Mr. Kamaunu: I just actually realized that this came up in the last couple days --

Chair Sablas: Oh, okay.

Mr. Kamaunu: So I was looking at the ...(inaudible)...

Chair Sablas: But at least we have someone from OHA now and, hopefully, he heard your testimony, so thank you for your sharing.

Mr. Kamaunu: Mahalo.

Chair Sablas: Mahalo. Are you testifying on item no. 1? Okay. Could you please identify yourself, please, and remind you that we have a three minutes limit.

Ms. Amy Halas: Aloha mai kakou. Mahalo for this opportunity to comment upon the proposal to remove or replace the 1988 Office of Hawaiian Affairs Guidelines for the Consideration of Traditional Native Hawaiian Cultural Values in Historic Preservation Review. From my understanding, this is the only official Maui County Cultural Resources Commission guidance document that recognizes and acknowledges the unique cultural values, tradition, and perspective of kanaka maoli, the indigenous people of Hawaii, with regard to historic and cultural preservation, therefore, it is critical that these guidelines remain an official Maui County Cultural Resources Commission guidance document until such a time that they are updated and/or replaced with a truly comparable resource.

Although the document is rather dated, the ike, the knowledge, the insight, and manao, the beliefs conveyed in these guidelines, remain extremely relevant, compelling, and valuable today. For example, there is no question that Native Hawaiians historically shared a cultural system. What many governments implicitly deny or ignore is that Hawaiians continue to constitute a group united by particular spiritual views and beliefs about social organization, relationships with natural forces and resource use, and

continuing traditional practices and perspectives linked to particular properties; especially pertinent is Attachment 1, Respect for Native Hawaiian Burials and Remains in regards to the adverse and detrimental effects of recent sand mining within extreme proximity to Native Hawaiian burial sites. These historic properties contain iwi kupuna, ancestral skeletal remains which were interred centuries ago, in the sand dunes that are now situated in the present day Maui Lani Development. For over a decade, Hawaiian remains have been exhumed by heavy machinery and/or sorted by a massive industrial mechanized sifter and funneled into a sealed canister. Sadly, most of the topographical features of this wahipana, the Central Maui Puuone Sand Dunes Complex, have been forever obliterated and altered. The 2014 Maui County Grading Permit for Maui Lani Phase 9 is another area of concern, under critical areas, "no" is checked where it states, "Are there known burials, cemeteries, or other historic sites on the property?" In reality, Maui Lani Phase 9 is adjacent to a very large established burial preserve and countless human remains have been found in the immediate vicinity as well as throughout the entire Maui Lani Development. This is but one tragic example of negligence and disregard of Native Hawaiian historic properties and burials. Attachment 1 states, "The cultural imperative to bless and take care of the bones is a cultural obligation that if ignored or left unmet, is believed to have dire spiritual and even mental or physical health consequences. If Native Hawaiians do not malama the bones and the graves, no matter how careful the treatment or desecrated, those individuals who still ascribe traditional cultural values to the bones are spiritually vulnerable."

Therefore, in closing, I recommend, if not already, an established policy, the 1988 OHA Guidelines for the Consideration of Traditional Native Hawaiian Cultural Values in Historic Preservation be attached to every legal agreement held between the County of Maui and any developer who wishes to build in Maui County, and that all archaeological consultation firms hired by developers attend a mandatory cultural sensitivity and awareness training because the State Historic Preservation Department history and culture and burial specialists are already overextended. It would be wise to also provide copies of this OHA document to developers and to their archaeological consultants to inform them of their paramount and legally binding obligations and responsibilities to preserve the wahipana and iwi kupuna encountered during ground altering activities on the island. Please retain the 1988 OHA guidelines until such a time that it can be replaced or updated. Mahalo.

Chair Sablas: Mahalo.

Ms. Halas: I have a copy of the letter and I do have copies of the grading permit for everyone.

Chair Sablas: For the record, could you state your name, please?

Ms. Halas: My name is Amy Halas. I'm a resident of Maui Lani.

Chair Sablas: Thank you very much.

Ms. Halas: Mahalo.

Chair Sablas: Do we have any other testifiers, again, on item no. 1?

Ms. Johanna Kamaunu: Good morning. Aloha. My name is Johanna Kamaunu, and, currently, I sit on the Burial Council. When the item came up, I was really interested in what the document was about, and I appreciate the document, and I appreciate the fact that you folks have decided to review it. Basically, what you need is something to help you do your job, and though this document helps you right now, it doesn't go far enough. It needs a little bit more, however, to be too detailed makes it cumbersome to work, yeah, so I'm not saying that you need to be detailed in what needs to be put in there, but certainly you should be aware of some of the laws that could help you. Just recently, as a member of the council, I became aware of some of the founding documents in our organization and some of those laws that move us, and one is NAGPRA. Thank goodness they have something to go with it. But anyway, up until recently, we had not been aware, I had not, I should speak for myself, I had not been aware that we were subject to those laws in all of our meetings. We are. Because we are federally funded, we are subject to those laws. According to that law, we have not done our due diligence as a council, as an arm of SHPD, as far as I can see, and so I have lots of concerns, and this came about after the Burial Council had a discussion on sand mining. So how is this going to help you? There certainly is a lot more that you have within your power to accomplish, but I think because we don't know what all the laws are that can ...(inaudible)... here, we are not aware, and let me tell you how important that law is. If you don't know that you have a right to walk through that door, you will never walk through that door. And if out that door is the answers to what you need, then you will never find the answers that you're looking for. Unfortunately, we think that it requires years of dedication and college education to accomplish, but there are merely, I think, three things you need to realize; if there's a question, ask it. If there's no answer, find it. And then the third thing is do all that you can. You've heard some of the people here who testified on issues with sand mining. It continues to grow and, unfortunately, the sand continues to disappear. It is a resource. It is a cultural resource. And the last thing I wanted to leave with you was in our research, we found out that the battle of Kakanilua became very important to what we were understanding took place in the burial grounds in this area. First of all, I understood that someone came across those in the 1800s and that they had been laying open, exposed for over 50, 60 years. Nobody touched them. This was Lorrin Thurston and he records it in his book. Nobody touched them. And then that goes on for another 30 or 40 years. But somewhere between that time and today, we are touching them. We are disturbing them. We are moving them. We are getting rid of all of the history and culture that's there. I'm really disappointed. At the time, ten years ago, when we started to look at this, we kept thinking: What can we do? There didn't seem any answers. We didn't even

know there was a door for us to open. So here's an opportunity. Just know that in the system, the way this system works, construction doesn't necessarily have to come to you. This is just an avenue that they might need to go through to be compliant, which means they can tell you almost anything, and how are you going to know whether it's truthful or not? We're supposed to have archeological monitors, but it's been found by some of the people here that they are not always there, and I've seen those move hills of sand and not have a single monitor present. Thank you for your time. Aloha.

Chair Sabas: Mahalo, Johanna, for sharing. Questions, comments, Commissioners? Thank you very much. Any other public testimony on this item again?

Ms. Halas: ...(inaudible - not speaking into the microphone)...

Ms. Christy Kajiwarra-Gusman: Yeah, we have.

Chair Sablas: We have that. We have it on record.

Dr. Six: From Jennifer?

Chair Sablas: Yes, we have it. Thank you very much. Okay, would you like to testify now on that? Okay, come. Can I remind you again, on the item, which is the review of the document, three minutes, please, thank you.

Mr. Walter Kanahu: I think this is a hot topic that we're --

Chair Sablas: I know.

Mr. Kanahu: And it's very emotional for a lot of people that have spent years and years and decades of time - research and all that. For aunty, really hurt to see her like this, you know, because she takes it personal. I first - this is the first time I met Kai and, for me, in a dark room, I see a little bit of light, so I hope you guys will take the document, and if we can improve it, let's improve it, but let's not disregard it or get rid of it. You know what I mean? Let's use what we can and improve what we can because this is a very hot topic. When I was young, I used to walk to school, and on the way school, maybe there would be a dead dog on the road. Whoa, I look at the dog; I feel sorry for the dog; I pick'em up; I throw'em on the side of the road in the bushes. The next day I come home, the dog still there, but smell funny today, and I notice, whoa, the bloating. I notice flies and maggots and insects all around this animal. I go to school the next day, I pass the dog again, and I see the decomposition of this dog, and they talk about it today, forensics. Okay. It slowly decomposes until one month later I can't even find the dog. Thousands of warriors died at Kakanilua. They ask us, wow, where's all the bones? Where's all the weapons? Where's all the newa, the clubs? Where's everything? If one dog can decompose and disappear in a matter of months, one human can decompose and disappear in a decade.

It's been 230 years or more. Where does the sand end and where did the bones begin? It's -- they're all there. They're all the same thing. So let's keep this document, let's try to improve it, and let's save the whole area, not just because we find one guy sitting there. In the battle, they were all piled up, thousands of them, just piled there and left there to decompose. They're gone. You not going find them anymore. They're in the sand. They're part of the sand. What makes up sand? Before the uhu, yeah, all the Hawaiian, all the people in Hawaii know, the uhu, the fish, poops out 800 pounds sand a year, the big uhu. Wow. So you get five huge uhu, you talking about one ton of sand. And that sand all ...(inaudible)... but now, tons of human in that sand. You not going find them. They're still in the sand. They make up the same thing, you know. But save the document, work with the document, do what you can because all the people are still there. They not going look like people forever. They not going look like one skull and arms and bones and all that, but they're all in there. So I implore you guys to do what you can because this is a hot topic and we're going to do what we can to preserve the area. Mahalo.

Chair Sablas: Mahalo very much. Thank you. Questions? Comments? Okay, any other testimony from the public on this item again? If not, I'd like to close public testimony at this time. So are we ready to make a motion on this or would you like to have further discussion before we make a motion on this item?

Ms. Kajiwar-Gusman: Can we make recommendations to the OHA or whoever is going to be like reviewing or updating the document? Is that appropriate for now or is it just make a motion to --

Ms. Michele McLean: Chair, what's posted on the agenda is to discuss and possibly take action on whether to recommend that the document be removed or replaced, so it doesn't go beyond that in terms of commenting on the document itself.

Chair Sablas: So the answer is no? Okay then, remember, it doesn't say "updated." Can we make a motion that it be updated?

Ms. McLean: Again, that's not within the authority of the Cultural Resources Commission if it's an OHA document so --

Ms. Jennifer Oana: Maybe I would probably recommend to defer this to a later meeting to be agendized when OHA does provide the County an updated document for the Commission's review. So we can just defer this.

Ms. McLean: It could be deferred or the Commission could decide to retain the document.

Ms. Kajiwar-Gusman: For now.

Ms. McLean: For now and then when it is updated, then the Commission could consider replacing the current document with the updated document.

Chair Sablas: Okay.

Mr. Ivan Lay: Motion to follow your recommendation.

Ms. Kawaa: Before we make a motion, I just had something real quick about it. I think that the way that it's worded on the agenda probably needs to be relooked at as well so when we do have things on the agenda, that it's not so finite, but that, you know, we can have discussion and we can decide not to do anything with the document, keep it, but the way it's worded right here on the agenda, at this present time, I think is what is creating the uneasiness and the unsurety of how do we move forward. So I just wanted to add that manao. I think that's really important how it's listed.

Chair Sablas: Good. Thank you. Commissioner Skowronski?

Mr. Frank Skowronski: In support of that view, the "removed or replaced," narrowly defined, doesn't reflect my take on this. I mean I can understand if you can stretch the definition of "replace" to "updated," but if you strictly define "removed or replaced," it infers that the OHA document will be totally disregarded, and so I think that there's a mistake in the wording because "removed and replaced" means that we throw out the baby with the bath water, and that's not my sense of what we should be doing. We should be encouraging or at least considering the concept of the document being updated, but updated doesn't fit within "removed or replaced."

Chair Sablas: Good comments. And I take responsibility for not really reviewing the draft agenda and noticing that updated until it was after it was kinda like printed, and I had made a note that it should be "updated," so my bad on that, but we learn. I mean one of the process is that we come here and we learn to be better at what we do. So I think what our counsel is recommending, and we have a motion on the floor, that makes sense and that is to retain the document as is until such time as we have that updated version and then we'll take action on it. So we have a motion. Do we have a second?

Ms. Kajiwara-Gusman: Second.

Chair Sablas: Okay, it's been moved and seconded.

It has been moved by Commission Lay, seconded by Commissioner Kajiwara-Gusman, then

VOTED: ***to retain the document as is until an updated version is received at which time the Commission will take action on the updated version.***

(Assenting - C. Kajiwara-Gusman; L. Kawaa; I. Lay; M. Ropa; J. Six; F. Skowronski)

(Excused - T. Bailey)

Chair Sablas: Okay, motion carried. Mahalo. Thank you. Okay, let's move on to, again, item no. 2.

Chair Sablas read the following agenda item into the record:

2. Review and comment on the proposed County of Maui Historic Preservation Philosophy and County of Maui General Design Guidelines for Historic Properties

The Commission may recommend the adoption of new official guidance documents to the Maui County Council pursuant to Subsection 2.88.060.M.2 of the Maui County Code

Chair Sablas: So do we have staff presentation?

Ms. Kehler: I'm just going to read the staff report. It says: The Department of Planning is proposing to adopt new architectural design guidelines for the Cultural Resources Commission: The County of Maui Historic Preservation Philosophy, and the County of Maui General Design Guidelines of Historic Properties.

The Cultural Resources Commission's design guidelines for historic buildings have not be updated since the 1960s. Historic preservation practice and theory has changed quite a bit in the last 50 years, and the Cultural Resources Commission's guidelines need to respond to these changes.

The proposed guidelines adhere to the basic historic preservation principles promoted in the Secretary of the Interior Standards for Rehabilitation. The Standards for Rehabilitation are used nationwide by historic preservation commissions, including the Cultural Resources Commission, to facilitate the review of projects affecting historic buildings and districts.

The Department of Planning is requesting the Cultural Resources Commission's review and comment on these two documents. If the Cultural Resources Commission recommends the adoption of these two documents, the Department of Planning will propose amendments to formally adopt them in Section 2.88.080, of the Maui County

Code, and Section 12.531.17, of the Standards and Criteria Relating to the Duties and Authority of the County Cultural Resources Commission.

And so these two documents are very general, and the current design guidelines that we have in place for the Cultural Resources Commission, they're really specific, they're only for Lahaina, and they don't really provide much guidance or philosophy on what historic preservation is and what the ethic is behind it, and so, you know, if the Cultural Resources Commission finds these documents acceptable, then at a later date, we would recommend maybe replacing the older Lahaina-based documents with these general documents, and so the philosophy is just sort of like a summarized interpretation of the Secretary of the Interior Standards for Rehabilitation, and that's something that every historic preservation commission uses, and it just goes through the process of what you do in general when dealing with a historic building, and then the general design guidelines, they provide definitions architectural terms, and they also provide guidance for rehabilitating historic properties, for making additions to historic properties, and for new construction. And, again, the intent is to, because we don't only have Lahaina as a historic district, we have Wailuku too, and so the intent is to be a little bit more general than very specific.

And so I'm looking for your folks' comments on any part of the documents that you find acceptable or anything that you have problems with or questions about so that we can work on it, and then work towards adopting them.

Chair Sablas: Commission? Okay, I'm sorry. Thank you for your presentation. I would like to open public testimony for this item no. 2 if there's anyone who wishes to testify on item no. 2, under New Business, you can do so now. Seeing none, thank you very much. Public testimony is closed on this item. Open for discussion? Looking forward to our architect on the Commission for his manao.

Mr. Skowronski: I'm almost never going to be in support of guidelines, but, again, I think that it needs to be updated and it needs to be identified as to when it was first written and to use the history of the experience between the time it was written and the time we're looking at now. The previous agenda item was talking about 29 to 30 years of experience that affects the original document and I think that that response or that observation applies here also.

Chair Sablas: Any other comments from the Commissioners on this topic?

Ms. Kawaa: I just have a question. Is there anything in the current preservation philosophy or the guidelines that reflect traditional Hawaiian architecture or encourage that?

Ms. Kehler: That's a good question. Kind of. So there -- the Architectural Style Book for Lahaina, there's some drawings of traditional Hawaiian architecture, but that is an area that needs to be developed more and that might be something that could be done through like a book or something that talks about the types of traditional Hawaiian architecture or something. That could be like an interesting project that could come out of this.

Chair Sablas: Well, I recalled in past CRC commission that they had developed an indigenous architectural guideline and it was, you know, working with the UH, and talked about it, and there was a whole document, and I think you bring up a good point, Commissioner Kawaa, that that be included in that as far as guidelines to incorporate more of the traditional. If you recall at the last meeting, I had recommended that, you know, with the pier that they look at maybe some thatching, and realizing that the pili grass is not available, what is the conventional comparison, you know, that is available that could be used in the -- in some guidelines. I think that's a good point and I really would support that we kinda include -- make some note of that, especially in Lahaina, you know, when -- in all the historic background of that area. Yes, Commissioner Six?

Dr. Six: Just because we've been working on this back a couple years ago, before some of the Commissioners were on, I mean if those of you that are familiar with the Lahaina Guidelines, they were based on whaling --

Chair Sablas: Yes.

Dr. Six: So they definitely -- I do support the fact of getting more of a homogenous kind of a -- because we're dealing with an area like Wailuku and Lahaina, and, of course, the Hawaiian stuff is paramount, it needs to be in there as well. And I think wasn't it Senator English that worked on getting the, you know, hale legal with fire -- I mean I know there's some way that you can actually get permitted, so maybe we can review those documents.

Chair Sablas: Well, I do know, I mean, you know, at the Kaanapali Beach Hotel, we have those thatched, yes, and then, you know, it's passed the fire thing and, you know, so -- and others, I mean at ...(inaudible)... at Grand Wailea, look at the thatching that they have there so --

Dr. Six: ...(inaudible)... Francis Sinenci's doing all the hale so I know there's a precedent out there, there's places the tourists are using, so maybe we can incorporate some of those standards that already exist into the redoing of the antiquated 1960s laws that kind of oversaw Lahaina ...(inaudible)...

Chair Sablas: Good.

Ms. Kehler: Chair, I have a question that I want to pose to the Commission. In looking at the general design guidelines, right, these apply to post-contact structures, so would it

-- does the Commission feel like maybe it would work to do the same thing for traditional Hawaiian or indigenous architecture?

Chair Sablas: Or maybe you can get the document and make it as an Attachment 3 because it has -- I mean this Commission reviewed that --

Ms. Kehler: Yeah.

Chair Sablas: And we had some architects there who, you know, gave their manao, and we developed a policy, so that's my recommendation that it be attached to this.

Ms. Kehler: Okay.

Mr. Lay: Or if we could defer until we get all that information, we got it, and, you know, work it out then.

Ms. Kawaa: And I'd like to make a request to have the guidelines that you refer to, the indigenous architecture, if we could look at that or have copies of that available so that we can review it, and also Senator English's legislation that, I don't know how many years ago that was, that went into effect about the permitting, and being up to code, and those kinds of things, if we could have copies of that to review, I think that would be very helpful.

Chair Sablas: Very good. Yes, Frank?

Mr. Skowronski: Just from a practical standpoint, I'm hoping that we're talking about indigenous architecture as being the architecture pre-contact.

Chair Sablas: Yes.

Ms. Kawaa: Yeah.

Mr. Skowronski: Okay. It's difficult and expensive to bring post-contact architecture up to public health and safety standards, but it's possible. So you can replicate architecture from the whaling industry or the whaling era and the plantation era, and duplicate it, and get it to be compliant with current codes. The crisis and the problem is that pre-contact architecture has a traditional religious overtone to it as to how to specifically wrap specific pieces of materials together to make it structurally sound, to make it waterproof, to make it safe, and the accurate attention to that detail shouldn't be put into or has a difficult time being put into a guideline because it will -- it will never pass public health and safety codes so you now have the crisis or the hypocrisy, to a certain extent, of adjusting or faking traditional construction materials and practices with plastic that looks like reeds that isn't by interposing sprinkler systems, putting together connections that make it structurally sound, and then wrapping those connections in the ancient prescriptions of how to do it.

The loophole in the past has been usually if you can document or subscribe that the new indigenous architecture is for structures that are non-habitable, then the County and the codes are lax as to how you can construct it and how detailed you get to the traditional ways of construction, but as soon as you try to get the structure in a habitable situation, it's essentially impossible to go and pay particular attention to the exact traditional methods of construction that are highly documented and referred to many times. If you do it with a very strict eye as to how ancient Polynesians, not necessarily even Hawaiians, constructed things, those -- that attention to detail will -- is in direct contradiction to modern day building codes and will never get a building permit, never get an occupancy permit, and never be allowed for habitable occupancy. So you're stuck between a rock and a hard place to a certain extent in that you can do the traditional and pay a hundred percent attention to the traditional methods of Polynesian construction as long as you somehow document that it's not for habitation or not for public use, so it's a hale or it's a canoe hale or it's something that you don't actually live in, but the other extreme is to bring modern materials and modern construction technology to mimic the old technology to the point where the traditional methods are meaningless or nonsensical, so modern public health and safety is at one end of the spectrum, traditional construction technology and materials are at the other end of the spectrum, and the Development Services Administration and the building department is stuck between the two.

Chair Sablas: Good points. Commissioner Six?

Dr. Six: I totally hear what you're saying but I can just think of a quick example, the Hokulea. I'm told by many of my Hawaiian friends they can use materials that are now in their environment. I would speak to a seasoned hale builder, like Francis, that goes around, and has his students, and he teaches how they address -- he uses cement, he uses, you know, nylon cordage, and so -- but they do do a lot of traditional gathering which, you know, can be -- you can't go to Lowes and get the ohia, you can't go and get the pili grass, but, again, throwing the baby out with the bath water, we need to have a way to have people be safe and also reflect because even when we redo these historic buildings in Lahaina, we're discussing maybe using fake wood that's made from plastic, but it looks like wood, again because it has a longer -- when the 1960s signage was all it must be wood, must be this way, we found out how that did in the salt air, so I think we need to think about all these things and not give up on traditional Hawaiian architecture because I totally hear what you're saying and they're -- but how we can cross between the two and talk to those that may be already engaged in that or have been in seeing how we can maybe -- because it's really nice to see some of that traditional style reflected as opposed to always be post-contact European style, and as we know, many of those buildings in Lahaina now have different smoke alarms, different things they never would have never had when they were originally built.

Chair Sablas: You know, the Director of Anthropology, Dr. Betty Tatar, at the Bishop Museum, told me once, "Lori, you think the Hawaiians would continue using adz if they had a chainsaw available?"

Ms. Kajiwar-Gusman: Yeah.

Dr. Six: That's what I've been told by all my Hawaiian friends, you know, we use the PVC pipes because we can get them, you know, so --

Ms. Kajiwar-Gusman: Smart Hawaiians now days.

Dr. Six: I do hear and I do appreciate your statements.

Chair Sablas: Yes. Okay, are we -- can we wrap this up? Anymore discussion on this item? Okay, what is the recommendation, to adopt?

Ms. Kajiwar-Gusman: Defer.

Chair Sablas: Okay.

Dr. Six: And I believe Commissioner Kawaa is asking for pertinent documents that we could review that potentially would serve as attachments with regard to where we are on indigenous architecture.

Chair Sablas: Okay. So do I hear a motion?

Ms. Kajiwar-Gusman: So moved. Whatever. Let's do it.

Chair Sablas: Would you like to articulate your motion for the record?

Ms. Kajiwar-Gusman: Move to defer this matter until we can get pertinent documents and also attachments relating to indigenous architecture pre-contact whatever.

Chair Sablas: Guidelines.

Mr. Lay: Are we saying incorporated?

Ms. Kajiwar-Gusman: Incorporated with this document, yeah.

Mr. Lay: Yeah ...(inaudible)...

Dr. Six: After we review them though.

Ms. Kajiwar-Gusman: Yeah.

Mr. Lay: Yeah.

Chair Sablas: Okay. Do I have a second?

Mr. Kaleo Ropa: Second

Chair Sablas: Okay, Kaleo spoke up. Okay, it's been moved and seconded.

It has been moved by Commissioner Kajiwar-Gusman, seconded by Commissioner Ropa, then

VOTED: to defer this matter until pertinent documents is received, and pre-contact indigenous architecture guidelines are incorporated with this document.

(Assenting - C. Kajiwar-Gusman; L. Kawaa; I. Lay; K. Ropa; J. Six; F. Skowronski)
(Excused - T. Bailey)

Chair Sablas: Moving along. Motion carried. Thank you. We almost pau. I have another meeting to attend in Lahaina. Okay, Director's Report.

Chair Sablas read the following agenda item into the record:

E. DIRECTOR'S REPORT

- 1. Update to the Cultural Resources Commission from the Office of Hawaiian Affairs on the Palaeua Cultural Reserve, bounded *makai* by Old Makena Road and *mauka* by Wailea Alanui Drive, Makena, Hawaii, TMK (2) 2-1-023:034 (A. Kehler)**

Chair Sablas: Before I ask staff to comment on this, do we have any public testimony on this item? Seeing none, then public testimony is closed. Annalise?

Ms. Kehler: So this -- 'Olu Campbell, with the Office of Hawaiian Affairs, requested that I read this update to the Commission into the record, so I'm going to go ahead and do that. It says:

Thank you for the opportunity to provide this written update to the Maui County Cultural Resources on the status of the Palaeua Cultural Reserve in Palaeua, Maui. The following will provide the Commission with a thorough review of activities conducted this past year and upcoming activity at Palaeua.

Palaeua is OHA's only landholding on Maui at 20.8 acres. It is located in the ahupua`a of Palaeua, in the moku of Honuaula, mokupuni of Maui, Tax Map Key 2-1-023:034. OHA acquired title to the site in 2013. See OHA's 2016 update, dated February 24, 2016, for more in-depth background information.

In the past year, OHA has conducted a number of maintenance actions at Palaeua, beginning with the creation of an Interim Management Plan. The Interim Management Plan outlines how OHA intends to manage the property until a Comprehensive Management Plan can be developed. The Comprehensive Management Plan will be informed by a new Preservation Plan for the archaeological and cultural features. The Comprehensive Management Plan will be created once the Preservation Plan is complete.

OHA also installed new and additional signage, a new "Wahi Kapu" sign, indicating the cultural significance of the site and prohibited behaviors, has been installed fronting the primary access point of the property. Additional "No Trespassing" signs have also been installed around the perimeter of OHA's property to deter undesired access.

OHA recently begun procurement for several different contracts, including the creation of a new Preservation Plan; a drainage easement inspection and engineer's report; pest control; an arborist report and tree trimming; construction of a deer fence; and building maintenance. Of these procurements, only the Preservation Plan contract has been finalized thus far. OHA is proceeding to finalize the remaining contracts as is possible within our budget.

Finally, on June 20, 2016, OHA's extended Right-of-Entry with the University of Hawaii Maui Campus for their stewardship and educational use of the site expired. Since that time, UHMC has continued to use the site without OHA's permission, conducting a number of native plantings on the makai side of the property, and installing drip irrigation system to support such plantings. OHA is not opposed to this work but must reestablish a formal relationship with UHMC through a new agreement for this partnership to continue. At the beginning of 2016, OHA attempted to provide a gratis lease of the site to UHMC but this agreement was declined by UHMC's counsel. OHA then drafted a new Right-of-Entry agreement, which was sent to UHMC for review. Despite several attempts to receive a response regarding the new Right-of-Entry, we have not yet been successful in executing the agreement.

So the next steps are to execute a new maintenance contract and begin execution; begin preservation planning with OHA's selected contractor, Nohopapa Hawaii, LLC, estimated to be completed within 12-18 months from the contractor's start date; execute a new access stewardship agreement with UHMC and/or potential stewardship entities; and update the IMP in accordance with the new Preservation Plan to create the

Comprehensive Management Plan. The Comprehensive Management Plan should be completed within 8 to 12 months after the Preservation Plan is approved by the State Historic Preservation Division.

All funding for the Palauea Cultural Preserve continues to be through the Palauea Fund, which only receives deposits through a 0.5% distribution of the proceeds coming from the sale of any of the 17 house lots in Project District 8. The value of these house lots makes their sale infrequent. Thus, the Palauea Fund may run out as the planning and active management process proceeds. Another funding source will be required at that time to proceed with stewardship efforts. They do not have any anticipated revenue generation but it will be considered in the Preservation Plan.

Once again, the Office of Hawaiian Affairs would like to thank you for allowing us to submit this written update to the Maui County Cultural Resources Commission. If there are any questions resulting from this update, please direct them to the Natural Resource Management Specialist, `Olu Campbell.

Chair Sablas: Commissioner Six?

Dr. Six: I think when we requested this information, I think there was a concern about the amount of funds that they had for this 0.5% distribution. When I was involved with the college, I believe it was just under \$100,000.00, and this was back in 2011 or '12. The lots run between 2 million for an empty lot and up to 14 million for a developed house, so I just wasn't sure. I think when Owana was asking about this, Commissioner Salazar, we were interested in how much funding there was available and this letter doesn't really address that. It says that there are funds but they may go through them, so that's just one note, and they don't really talk about how much money I think was one of the questions of a previous Commissioner.

Chair Sablas: Is everybody familiar with this site that we're talking about in Makena? Yeah? Maybe not you, yeah, Kaleo? Yeah. Okay.

Dr. Six: I can try to give -- I can give a little background. Everett Dowling developed the area, there's known cultural sites, so he made a cultural preserve and had the archaeology done for the lots they planned on developing, and Theresa Donham was the archaeologist of record.

Chair Sablas: How is it --

Dr. Six: ...(inaudible)...

Chair Sablas: What is, you know, the connection being with the last project that we talked about, is it in that area?

Mr. Skowronski: Before that.

Ms. Kajiwara-Gusman: No.

Chair Sablas: No?

Mr. Skowronski: ...(inaudible)...

Chair Sablas: I wasn't quite clear.

Dr. Six: It was -- well, the original -- I mean it was obviously in Sites of Maui, but in 1969, Pat Kirsch did some research when he was an undergraduate with the Bishop Museum - I want to say Bailey House, Baldwin - Bishop Museum, it starts with a "B," and subsequently, the parcel was obtained by Everett Dowling. He was going to give it to UHMC. I was the special projects coordinator for the temp, so I worked extensively on this. The UH Board of Regents refused it because it had some line of site issues and some other issues, so OHA stepped in, I believe, in 2013 or '14, and took over the property, and it's kind of been -- it's kind of just been a nuisance in a way because there's homeless people living on there, it hasn't gone forward. The original Preservation Plan, I think, was designed in 2003. It's changed hands. And so I think Commissioner Salazar was interested in what's happening to the property, are there funds available, so that's why -- kind of where this query came from. But as you can see, the college has no longer its Right-of-Entry, and they're negotiating, and I'm not sure why corporate counsel for the college wouldn't -- so I don't know what -- I'm not working with the college anymore, so that's my background on spending ten years trying to get it conveyed to the college and we were unsuccessful.

Chair Sablas: Yeah.

Ms. Kawaa: Chair, I can share some information. I do want to disclose that I do currently work for the University of Hawaii Maui Campus, and as of right now, it's still with UHMC's attorneys. So there is, from what I understand, there is another or updated Right-of-Entry that has been given to the college and they're in negotiations.

Chair Sablas: So it's ongoing.

Dr. Six: I know the faculty was very excited to have it as a living classroom and it was very exciting --

Ms. Kawaa: Well, and it has been used for that, I mean, just as recent as I think it was March there was a community workday at Palauea that was sponsored by the Hawaiian Studies Department at UHMC, so I was rather shocked to see that there isn't a current

agreement and that it had expired in 2016 'cause I know that, since then, the college has done things on the property, so I'm just hopeful that, you know, there will be a resolution.

Chair Sablas: Good. Okay. So do we need to take any action?

Ms. Kehler: No.

Chair Sablas: No? Just for information.

F. NEXT MEETING DATE: July 6, 2017

G. ADJOURNMENT

Chair Sablas: So the next meeting is July 6, 2017, I hope we have full attendance again and if not, it's 12:20, and this meeting is officially adjourned. Mahalo.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENANCE:

Present:

Lori Sablas, Chairperson
Ivan Lay, Vice-Chairperson
Christy Kajiwara-Gusman
Luana Kawaa
Michael "Kaleo" Ropa
Dr. Janet Six
Frank Skowronski

Excused:

Timothy Bailey

Others:

Michele McLean, Deputy Planning Director
Annalise Kehler, Cultural Resources Planner
Jennifer Oana, Deputy Corporation Counsel
Leilani Ramoran-Quemado, Secretary to Boards & Commissions II