

**MAUI COUNTY CULTURAL RESOURCES COMMISSION
REGULAR MINUTES
FEBRUARY 7, 2019**

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Ivan Lay at approximately 11:05 a.m., Thursday, February 7, 2019, 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 Lay: The Cultural Resources Commission has now come to order. It's 11:05, February 7th, all our Commissioners are here, I thank for coming today. We have -- I'm going to ask for public testimony at this time if anyone wishes to testify before we begin. You can testify on today's agenda items. You'll be give three minutes or you can wait till the agenda item comes before us. Does anyone wish to testify at this time? Seeing no one, we're going to start off. Oh, we have a testifier. Okay, please identify yourself and you have three minutes to testify.

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.

Ms. Valerie Monson: Aloha, Chairman Lay and Members of the Maui County Cultural Resources Commission. Good morning and thank you for reviewing the General Management Plan and Environmental Assessment for Kalaupapa National Historical Park. I appreciate the opportunity to comment. My name is Valerie Monson. I have been interviewing the residents of Kalaupapa and writing about them since 1989, mostly for The Maui News. I am currently Executive Director of Ka Ohana O Kalaupapa, a nonprofit organization established in 2003 by Kalaupapa residents, family members and friends of the community.

For the past 15 years, our Ohana has helped hundreds of descendants learn about their Kalaupapa ancestors, produced traveling exhibits that have been displayed in schools, libraries, and public places across Hawaii, published a book and educational materials, and have helped many families visit Kalaupapa to visit graves and learn the history. We are also progressing with our plans to establish The Kalaupapa Memorial, which will list the names of everyone who was forcibly isolated there because of government policies regarding leprosy.

Kalaupapa is one of the most precious and significant communities in all of Hawaii. Its multi-faceted history and many of Kalaupapa's people are known around the world. The word "sacred" is often used to describe the original settlement of Kalawao.

Chair Lay: Ms. Monson?

Ms. Monson: Yes?

Chair Lay: One second, okay. Commissioners, she did a pretty good job on this so I'm going to give her more than three minutes so you don't have to go so fast so --

Ms. Monson: Oh, I'm sorry. Okay.

Chair Lay: Take your time alright.

Ms. Monson: I am going to summarize. I'm not going to read the whole thing.

Chair Lay: I appreciate you coming, and I don't want to rush you through this, so go ahead.

Ms. Monson: Okay. Okay. Ka Ohana O Kalaupapa is most supportive of a General Management Plan for Kalaupapa. It was the Ohana who began inquiring if the NPS had a GMP in 2005. It did not. We believe we played a strong role in influencing the NPS to begin this process.

Our Ohana has been an active participant in the GMP for the past ten years. We have attended nearly every public hearing, most Section 106 phone call meetings, and have spent countless hours reading every draft of the GMP and providing comments and recommendations.

The latest version of the GMP contains a lot of admirable ideas but, unfortunately, there do not appear to be plans to support how each project will come to be - there are no priorities, no budgets, no funding sources, and no estimate of needed staff to carry out each project.

The progression of the GMP has been extremely hard to follow since 2009 because for each round of public hearings, information has been presented in a different format. There's no tracking of changes from one document to the next, so it's very hard to figure out what changes have been made, what new information has been added, or what has been left out.

For nearly the entire ten years, this GMP has been presented as an Environmental Impact Statement. Since Kalaupapa is a vast cultural landscape with numerous cultural resources and historic properties, we felt the MPS was taking the appropriate steps in preparing any -- an EIS.

The last draft of the GMP EIS was issued in April 2015, and comments were due in June 2015. We heard nothing about the GMP for three-and-a-half years until November 8, 2018, when we were told the GMP would be released a week later on the Thursday before Thanksgiving, and we would be given 30 days to comment. This was the first time that we learned that the NPS was changing the process from an EIS to an Environmental Assessment. As you know, EAs generally review individual projects. We believe this to be a significant change.

We were told by the NPS that an EIS was no longer necessary due to the removal of specific guidance for the historic buildings in Kalaupapa settlement, which they said would be addressed separately through ongoing operations.

We do not understand how you can consider a GMP for Kalaupapa without including plans for the historic buildings. The buildings are an essential and integral component of the cultural landscape and of telling the history of Kalaupapa. Kalaupapa is a community where the historic buildings are individual homes, group homes, community centers, places of worship, businesses, pavilions, and more. They are all places of life.

It appears that the NPS is trying to segment this process of removing all the historic structures from the GMP so they no longer have to complete a more thorough EIS and can issue the GMP as an EA.

How do we even know what the future of Kalaupapa will look like if we don't know which of these historic properties will be preserved and for what purposes they will be used? Who determines the fate of these buildings? Ka Ohana O Kalaupapa developed a short list of houses that we would like to see preserved so family members and visitors can see how people lived at Kalaupapa. In the future, when the people of Kalaupapa are no longer living, being able to get a feel for how they lived and learning about them in their own houses will help keep their spirits alive and enable those who never knew them personally to feel a closeness to them.

There are some other concerns related to cultural and historic properties in the GMP EA. I have written them in more detail in my handout. In short, we have concerns about the maintenance of the cemeteries, roads, and viewsheds when all of these resources are in poor condition now. We have concerns about the management of visitors in the future, the number and costs of the studies and plans that the NPS says must be completed before the preferred alternative of the GMP can be implemented, correctly identifying The

Kalaupapa Memorial as a project of Ka Ohana O Kalaupapa, and the unresolved issue of homesteading at Kalaupapa.

Finally, the NPS states that the implementation of either of the alternatives proposed in the GMP would continue to have cumulative adverse effects on cultural landscapes and historic properties, but the very next sentence states that the Section 106 determination of effect would be no adverse effect on the cultural landscapes and historic structures. These are conflicting statements.

At this time, we cannot support a finding of no significant impact for this GMP EA. These comments are not easy for me to make. We have many friends who work for Kalaupapa National Historical Park. They are good people and they do the best that they can, and I'm glad they're there doing their jobs. We support the National Park Service at Kalaupapa, but we believe this GMP EA leaves too many questions and does not assure us that Kalaupapa will be preserved and maintained in the future as the residents of Kalaupapa want their history and lives to be remembered.

I'm grateful that you folks are reviewing this document and I hope you will follow up with a site visit to Kalaupapa and a meeting on Molokai. So thank you.

Chair Lay: Thank you. Commissioners, any questions for our testifier? Seeing none, thank you again for coming.

Ms. Monson: Thanks.

Chair Lay: Does anyone wish to testify at this time? Please state your name. We're going to leave the testimony time open today.

Mr. Degray Vanderbilt: Aloha, Chairman Lay and Members of the Commission. My name is Degray Vanderbilt. I'm a founding member of Ka Ohana O Kalaupapa and a current board member, but my comments today are being made as an individual. I -- I put together this handout that says: Handout Cultural Resources Commission meeting, February 7, Responding to -- and it's -- and, basically, I put this together because I think it will illustrate to you, when you read through it, how responses to public comments can be made based on NPS's own rules that will leave people not frustrated, like Val had mentioned, with no idea of the comments over the last ten years of review, which were put in, which were not put into the plan, and, hopefully, the National Park system will try to emulate this example, which was based on a project on the Big Island, Ala Kahakai Historic Trail, and it was very well done, and then people will sort of get an idea of what's happening. I see you have a handout from the Historic Foundation -- Historic Hawaii Foundation, and theirs is a very extensive letter, and their conclusion is that there's not

sufficient information in order to consider a FONSI for this project at this time, and they -
- they hit a lot of good reasons.

Just to go over this real quickly, and there's a little preamble in here that talks about some of the history that Val mentioned and -- but it deals with the fact that most of our comments were not answered, and there were some wonderful comments, I mean there's gotta be 200 that came in and not one of them was answered with a thorough response from NPS, which is a requirement under their policies, I don't know what the reason for that was but, hopefully, that'll change now that they're doing a new GMP EA. And so, basically, I took some excerpt from Ala Kahakai Trail Final Comprehensive Management Plan, and they divided their -- their -- what they do is you have a draft general management plan, EIS or EA, and then everybody comments, and then you look at the comments, and you say this is good, this is good, we'll put this, we'll amend everything, and you come out with what is called a "abbreviated final general management plan" and that shows where all -- what comments came in, where they were placed in the final plan, and gives an explanation also of some substantial comments that may not go into the final plan, and then they give a reason why, and it makes the public feel very good. And so I've just gone through and looked at some of the sections and they -- page 8 was how the public comments are factored into, this is on page 2, that tells how they -- they explain very clearly how they factored the public comments into the final plan. And then on -- and I gave some examples. And then moving on - let's see - for instance, on page 3, it talks about the issue of priorities, and I think that's one of things that Val mentioned, there's all these wishes and promises and there's no financial figures, there's no -- there's no really priorities, and I -- I think one of the points that Historic Hawaii Foundation made was, on the last page, they said without listing and identified properties and prioritized program for implementation of the GMP, Historic Hawaii Foundation believes that there is not enough information to justify a FONSI. So I don't know where we go from here. Everybody's -- we got an extension till March 7, and people are going to be making their comments. The Ohana is going to have a -- quite a few more comments and -- which we will share with this Commission. And I don't know if the Commission is going to go to Molokai, but you certainly could have some information to -- if you do go.

Department of Hawaiian Home Lands, I don't know if they have time to have a beneficiary meeting, they usually need 30 days advance notice, and March 7 is the deadline for their comment unless they write in that they want an extension, and with the Hawaii Historic Foundation letter saying they can't support a FONSI, I think there's gotta be some more -- a lot more time to look at this.

And nobody has really gotten an explanation of why after ten years, since 2009, of reviewing and doing all this work, the community, individuals from topside Statewide, all of sudden they change and they want to rush this new plan through, so we're going to be following up on that and -- but if you read through this, you'll just see how public comments

could be acknowledged and -- and dealt with in a very easy to explain way, I'm not going to go through the whole thing, but, hopefully, that'll be helpful. And I think they have a handbook, and I'll -- I'll send -- send a copy of the link to the handbook on how you solicit and deal with public comments, and that's put out by NPS, but one of things that it says is as far as -- with respect to public comments, NPS wants to do more than meet the minimum legal requirements of public involvement in our decisions and activities, and it commits NPS to really do a lot of work to acknowledge the public comments.

So with that, I'll say aloha, and I've been -- I just wanna say I've been involved with Kalaupapa for, I don't know, 20, 30 years, I've been Santa Clause down there for the last 25 years at the Kalaupapa Lion's Club Christmas Party, and all my friends down there, there's only eight remaining residents at Kalaupapa, there's 12 residents that have the right to live there, and the youngest guy is my age, 77, Boogie Kahilihiwa, and he's the President of the Ohana, and we wanna see this memorial completed before -- while there's still some residents alive ... (inaudible)... and I, too, support NPS, and I think what needs to be recognized is there's so many people that have aloha for Kalaupapa and they have -- they have just really gotten involved with this general plan in order to make it a good general plan so that the legacy of Kalaupapa can continue, and -- and, hopefully, that'll -- will come out of this process moving forward, so thank you very much.

Chair Lay: Thank you, Mr. Vanderbilt. Commissioners, any questions? Commissioner Sablas.

Ms. Sablas: I don't have a question but I have comment. I mean just as -- as a disclosure, after our last meeting, we got this information really at the last minute and really didn't have the chance to really look at the document, so I've known Valerie for a long time, maybe 30 years back, and so I knew of her passion with Kalaupapa, so I did reach out to her and, you know, I said I think you need to help us, help educate us or update us. And why I value both Degray and Valerie is that while the Park does the -- all the governmental type of things in a report, they represent the people. And as a cultural resource, in my opinion, the people that make Kalaupapa what it is is really the most important resource, and so I would like to ask, with the approval of the rest of the Members and Chair and Corp. Counsel, if we could ask them to stay as we deliberate and we may have sine questions, if they could, you know, help us maybe clarify some of the questions that come up that maybe we're not aware of, I'm not sure what the end result would be, you know, I know we -- we are here to give our recommendations, but I'd like to make sure that we do the best, I mean and we just don't take this as, you know, don't take this lightly because, definitely, Kalaupapa is a very, very special place in Hawaiian history, and I think for us, as a board, as a member of this Commission, we need to take this kuleana, you know, very, very seriously, and so I want us to be prepared to do that, so if that's okay, if we ask them if they could be here as -- as resource representing the people who have come before us and are still there 'cause that's really, to me, is one of the key, I

mean historic buildings, other things we'll talk about, but I really wanna be able to make sure that the spirit of the people are going to be represented in this General Management Plan.

Chair Lay: Corp. Counsel, is there any problems with them as a resource?

Ms. Desjardins: So the rules only provide that you shall allow public testimony, and it shall be a minimum of three minutes, so you can -- you don't have to put a cap on it, so you can do that.

Chair Lay: So they can be recalled?

Ms. Desjardins: That's ...(inaudible)...

Chair Lay: Okay. Commissioners, any objection to that? All those in favor, aye? Those opposed? None? Okay. If that's alright with you too also.

Mr. Vanderbilt: Mr. Chairman, I would just like to -- the comment period is March 7th, so we will continue to supply things, and one of the important things is you've gotten some comments from other agencies, and if you read through those and they make sense, as part of your public comment, it would be helpful to support their -- their public comment if you feel it's appropriate.

Chair Lay: Okay. Thank you, Mr. Vanderbilt. Commissioner Frank.

Mr. Skowronski: I have a question. I -- I have not read the entire GPS so -- but -- General Management Plan, GMP, but there is an Appendix G, which states a Draft GMP, EIS, public review summary, public concerns, and MPS responses.

Mr. Vanderbilt: Right.

Mr. Skowronski: And there's 48 pages here in which they identify comments that have been made and responses to every one of the comments. Is -- is this what you're referring to as lacking in the -- in the plan?

Mr. Vanderbilt: Well, what it doesn't do, like with, well, the Haleakala General Management Plan, other general management, they attach the comments and they say where those comments came from, there's no identification in there of who made the comments and -- and that's very important of who made the comments especially with Kalaupapa, and I think this summary I put together will sort of give you what Appendix G could have been like that would have really made people feel like they understood where the comments came from, why they were put in, why they were not put in, and so --

Mr. Skowronski: Well, in the preamble to this appendix, they -- they actually refer to the idea that they purposely did not put the person's name in or do any direct quotes, but they -- they coordinated the concerns in certain areas and they purposely left the people's names out.

Ms. Kehler: Chair?

Mr. Skowronski: Is that common? Is that uncommon?

Ms. Kehler: Just -- just a little bit of background. I went on the website for this project and although it's not included in this plan, there is several -- there is several documents where they scanned comments from individuals, and they included them online, they're not in this report. I think Appendix G is a result of them sifting through --

Mr. Skowronski: Right.

Ms. Kehler: All of those comments and then responding to what they consider substantive comments, and substantive comments are some criteria that the Park Service sets that warrant response. So to -- just to -- to add to your body of knowledge, there --

Mr. Skowronski: But these -- these expanded comments, are they readily available to the public?

Ms. Kehler: The expanded -- by expanded, do you mean the comments --

Mr. Skowronski: The original ones that they triaged down to these 48 pages.

Ms. Kehler: To my knowledge, those are the ones that are online that are on this project's website.

Mr. Skowronski: Right.

Ms. Kehler: The General Management Plan's website.

Mr. Skowronski: But I guess my question is your testimony is or your suggestion is is that Appendix G should be expanded, enhanced?

Mr. Vanderbilt: Well, I think, and I can get you a summary of their own handbook, but it says that NPS is required to respond to substantive comments submitted during the public comment periods for EAs and EISs, and the standard practice is to response to substantive comments that are submitted during the public review period for EAs with --

with a letter, and so if you write a comment in, you're supposed to get a -- a letter back, like we did a EA for the memorial, and everybody that wrote a comment, we wrote back and responded to the various points in the comment, and none of that was done, and so there were some terrific comments that were -- there was from Hawaiian Homes, from other things that -- that were not really covered in Appendix G, and it's hard for people to know where -- it really makes a difference if it's something from Hawaiian Homes, or if it's coming from OHA, or if it's coming from an environmental group on topside Molokai, or if it's coming from a resident of Kalaupapa, and they just sort of short-cuttet the thing, and I -- so, anyway, I will get back the handbook and -- and plus I know that a lot of our comments were -- were not addressed in that Appendix G, and there were some substantive ones there too. So it's really tough for people to follow up, and I think that -- that's the main thing.

Mr. Skowronski: So your request would be that the National Park Service actually send a letter to each one of the people who --

Mr. Vanderbilt: Well, that's what their own handbook says their ...(inaudible)...

Mr. Skowronski: They're supposed to do. So everyone -- everyone who made a comments needs to -- everyone who made a comment on this --

Mr. Vanderbilt: Well, substantive comment, and they even -- they even define what a --

Mr. Skowronski: What a substantive comment is.

Mr. Vanderbilt: Yeah. They say responding to -- this is in their handbook, responding to substantive comments, in many cases, mean more than just providing a written response and can include making factual corrections, supplementing, improving, and modifying alternatives, developing and evaluating new alternatives, explaining why the comments do not warrant further response by citing sources, authorities, and reasons in support of NPS's position. So this is from their own handbook, and I -- they did -- they did what they feel they had to do and I'm just saying that I think the public deserves a little more thorough explanation for that, and I think it just helps the general plan in -- in being a document the decision maker is going to look at and feel comfortable with and be in a better position to make a decision for the future of Kalaupapa. And one of the other things that was left out of here was the financial information that was in the earlier plan. NPS hired consultants to do financial figures, which are in -- I looked up 15 or 20 other general management plans that are EAs or EISs and all of them had financial information, and on the one-time cost to implement the plan, if there's any deferred maintenance associated with the park, and right now, NPS has a deferred maintenance backlog of 26 million dollars, which is up from 9.6 million in 2012, and the GMP EIS is being replaced. They had a financial page in there that was done by the consultant that showed a one-time cost of implementing the

plan at 39 million, and then on this, their operating cost are about 6 to 7 million a year, and I can empathize with NPS because their budgets are getting cut, they have no fee income, and it's -- it just seems that when Congress appropriates money, it goes to the big parks, the high profile parks, and so funding is a critical information to have in there even though it might have to be updated in the future, if you're a decision maker, you gotta know about this 39 million, the 26 million in deferred maintenance that could go on in each year, how -- how is that going to be addressed, and -- and that subject is in many other EAs and EISs. And so, anyway, we just want to try to help out and -- and that's why that plan that was replaced had so much good information in it because the public was involved over nine years, and it was developed, so we're not -- we're not quite sure why the sudden change to the GMP EA, why not just finish wrap up the GMP EIS, and so anyway --

Chair Lay: Okay. Again, we thank you for your time and if we have any further questions, oh, Commissioner Sablas?

Ms. Sablas: I have a question for you, Degray. You mentioned funding, right, about with National Parks to maintain sustainability, you do need funding, and a lot of the funding comes from entry fees at most of our National Parks. I recall reading in the report that a recommendation is not to collect entry fee to the park. Can you explain the position of the Ohana on this or --

Mr. Vanderbilt: Well, NPS has decided that and they --

Ms. Sablas: Yeah but -- yeah, that's their decision, but I just wanted to know what the --

Mr. Vanderbilt: Well, I think that they get -- they average about 25 people a day down there visiting.

Ms. Sablas: ...(inaudible)... yeah.

Mr. Vanderbilt: I mean it's not going to be a big fee anyway and it's so expensive to get there right now, it's about \$200.00 roundtrip whether from Maui or Oahu, and so it's pretty expensive, and -- but the funding is -- is a big challenge. And they have a lease with DHHL for a third, and that's when the other two-thirds, they have a cooperative agreement for 20 years with DLNR, the State ceded land, and under both those agreements, it says we're going to -- we promise to do all of this, we promise to do all this, but after each one of those, it says subject to funding from Congressional appropriations or other funding, so, you know, it's just something no -- it's like the elephant in the room, nobody really wants to address it, but something really needs to address it then we can all see what we can do to try to resolve it in partnership with NPS.

Ms. Sablas: Thank you.

Chair Lay: Thank you. Commissioners, any more questions of the testifier? If not, thank you very much. Okay, moving on, review and comment of the General Management Plan and Environmental Assessment of Kalaupapa.

Ms. Kehler: Chair?

Chair Lay: Oh, excuse me. Another testifier. Excuse me. Go ahead. Identify yourself.

Ms. Lopez: Aloha. Good morning --

Chair Lay: Good morning.

Ms. Lopez: Commission. I am Sybil Lopez. I am the Molokai Planner for the County of Maui Planning Department, but I am speaking on my own behalf, I took time off of my own schedule to make time for you because I felt this matter was very important, not only for me, born and raised there on Molokai, but as for the people of Molokai, and these are why. So I feel that the NPS has already been a disservice to our island people in these ways. For one, I know that they've been going through a shutdown, and it's -- and it's hard when you're going through a shutdown and then you -- you propose a GMP, and there's no one that we can talk to, and there was no one that can answer the questions that the people have, so that's hard, whether it's imposed by NPS or it's imposed by the Federal Government. The disservice is also for the commenting period that for those who did comment, to me, it's discriminatory because it doesn't address the value of the commenting and the comments that the commenter that puts in their time to comment on this -- this matter because it's very important. The disservice also comes for those who did not comment, and who -- who never heard about it, who heard about it but has no avenue or roadway to actually comment, for those, the people on Molokai, especially for our kupuna, they are not computer literate, not much of them are computer literate, and so they don't have these type of mechanism to communicate or to comment on this very important matter, and for the Molokai people, especially for our kupuna community, they're more one-on-one. It's like you have to come and talk to them about this subject matter and then they'll tell you the rich history that is behind this. This is wahi pana for us. It's a very sacred place. This whole area that we're speaking of is Kalaupapa. And so NPS has -- this GMP is -- this commenting period, for those who did not comment, it's a disservice to those that cannot and have no means of commenting on this very sacred place, this wahi pana, and the only request that I have right now for -- for this Commission, 'cause this is the only avenue so far other than going online to comment is the only avenue I see that the Molokai people have a voice in it. Trying to read through some of these letters, I -- I support the two testimonies that came before you, and I also support the Historic Hawaii Foundation's commenting. They're an agency of one of the highest of,

you know, looking at our cultural preservations and especially the NHPS Section 106 consultation process, and if, you know, NPS is not reaching out because of a shutdown, or NPS is not reaching out for other reasons, and the GMP is not capturing that, that value of listening to the people, and this is the only body that I know of that could provide that support to the Molokai community, the ask and the request is that you guys go to Molokai and that you guys present this and hear from these kupuna, hear from the people, hear from those that -- that has a vested interest in this place. And I just wanna, in my closing, to kinda reiterate that we just approved our Molokai Island Community Plan on December of 2018, and part of the 2018 plan -- Community Plan states that reference no. 144 says that when items before the Maui County Cultural Resources Commission pertains to Molokai, the meetings may be held on Molokai, and so I just offer that as a -- as an avenue to allow the Molokai people to share with you guys their thoughts of this GMP. Thank you.

Chair Lay: Thank you. Commissioners, any questions for the testifier? Commissioner Sablas.

Ms. Sablas: Well, I just wanna say thank you very much for taking the time and the initiative to come here to be a keiki o ka aina of Molokai and to talk to us and would you be able to stay as we deliberate or you have time schedule?

Ms. Lopez: I do have a crunch time schedule --

Ms. Sablas: Okay. Okay.

Ms. Lopez: 'Cause I'm only here and then I go back to Molokai this afternoon, so I'm only here for a while, I mean if there's any questions --

Ms. Sablas: Well, our deliberation will, you know after the staff report, comments, you know, it's, I think, for me, it's important that our Commissioners hear from those who have been involved in preserving Kalaupapa. I mean while we are here to give advice, you know, I don't have the background that you have as testifiers and I think it would, for me, be very valuable to have your manao shared as we deliberate to see what best can this Commission come up with, so if you could just --

Ms. Lopez: Yeah. Yeah.

Ms. Sablas: I just want to say thank you very much.

Ms. Lopez: Thank you, Commissioner. I really appreciate it. I'll stay as long as I can. Thank you.

Chair Lay: If no further questions, thank you. Does anyone else wish to testify at this time? Seeing no one, we're closing testimony, public testimony. Moving on. Okay, our first agenda is the:

Chair Lay read the following agenda item description into the record:

C. UNFINISHED BUSINESS

- 1. Review and comment on the General Management Plan and Environmental Assessment for Kalaupapa National Historical Park (Deferred from the January 3, 2019 meeting. Commissioners: Please bring your documents.) (A. Kehler)**

The Commission may comment on the General Management Plan and Environmental Assessment, and advise the National Park Service in carrying out its historic preservation responsibilities, pursuant to Subsection 2.88.060.A., Maui County Code

Chair Lay: Annalise?

Ms. Kehler: Thank you, Chair. So just a little bit of background. We began reviewing this plan at last month's meeting. We developed an initial list of comments and questions. And since last month's meeting, I've had a little bit more time to read more thoroughly through this plan, and so before we get into, you know, comments and questions about the plan, I just wanna kinda summarize the main points of the plan.

So as you've heard in testimony this morning, the -- this plan has been evolving since about 2009 and that's when they began -- that's when the public -- the National Park Service began their public outreach for developing alternatives related to the management of Kalaupapa. And then, in 2015, they released an Environmental Impact Statement/General Management Plan, and then they revised that document again, demoted it to an EA, and released it in November 2018. And so, initially, there was a really tight turnaround for comments, they've extended it once, and then they extended it again, and so, currently, the commenting period closes on March 7th. We wanted the Park Service to -- we asked the Park Service if they would be holding a public meeting on Molokai to go over this, and they said no. And then we asked them if they would send someone to participate in one of us -- in one of the Cultural Resources Commission meetings if we held one on Molokai, and they said no. So, basically, they're really resting on the public process that had happened already, and they said if people have comments or questions, they can put them in writing and send them to the Park Service. So I'm not sure what kind of political pressures are happening, I don't know, but I think they're done

with their kind of public appearances, and so they're just saying send us -- send us whatever you got and we'll see if we'll -- we'll respond to you.

And so the -- aside from the process to develop the plan, the purpose or the need for the plan is the fact that there will be changes in management at Kalaupapa when the patient community ceases to exist, and at that time, there will be a transition of management at the settlement area from Department of Health to Park Service, so the Park Service will take over management of the entire area, and so the Park Service said we'll develop this General Management Plan to kind of outline how -- how we'll handle the change in management once the patient community ceases to exist. And so, in the plan, they've identified two alternatives. Alternative A-1 is to do nothing, which means they'll keep in place the current management practices that the Department of Health has established, so that means the hundred person per day cap, they have -- the visitors have to be sponsored, and children cannot visit. And so Alternative 2, which is the Park Service's preferred alternative, proposes changes to the visitation policy, so they're looking at removing the hundred person per day cap, and allowing children, and they're also obviously going to get rid of the sponsorship program.

So as part of the plan, they've proposed four different management zones, and so each management zone corresponds to certain areas of the park, and the management zones have different rules about unescorted and escorted visitation, and the testimony that you saw from Historic Hawaii Foundation, it kinda summarizes the management zones, and what they mean, and what kind of resources are in each management zone. In addition to their testimony, page 75, or Appendix A of the plan, is where the detailed information about management zones is, okay. So according to the Park Service, their alternative, they -- they feel that Alternative 2, their preferred alternative, has no significant impact on the park, so if you go through - let's see - impacts, Alternative 2 impacts, so Chapter 4, which is the environmental consequences chapter, that is where they go over all of these different elements of the plan and of the park and say no adverse effect on ethnographic resources, no adverse effect on archaeological resources, and so on. And the testimony that's from Historic Hawaii Foundation is saying that, basically, there's not information in this plan for them to support a finding of no significant impact. Their problem is that there's not an inventory provided in the plan of historic and cultural properties, and that if we're not knowing what we're -- what we're impacting, how do we know that there's an impact.

And then, to summarize, so that's -- that's the plan. And then to summarize some of the discussion that we had from the previous meeting, the concerns were raised about what were to -- what would happen if there's a government shutdown, you know, and that's not addressed in this plan. There's no contingency plan in this plan. There's nothing raised about what were to happen, how would the park be managed, how would it be protected if there was another shutdown, so that's something that stands out to me as being a concern that has not yet been addressed that you might consider using as one of your

comments. Okay. There was another question about military involvement at Kalaupapa, and that is addressed on page 175 of the plan, it's in Appendix G, and, basically, it says that the Park Service signed some sort of agreement, I don't remember the technical term, but they signed some sort of agreement with the Marine Corp to not increase existing helicopter training activities at the park. And then - let's see, what else did we have - oh, we had questions about why it was not an EIS anymore, and as Degray pointed out, it -- the Park Service's answer for that is that they removed specific guidance on buildings so it's been -- it qualifies now as an EA versus an EIS, so that's their response, whether or not that's an adequate response, I don't know, but that's -- that's what they're saying. Let's see what else. Sorry, just a second. I'm trying to make sure I'm not missing anything that was from last -- last month. And then I think, you know, the general feeling was that we do need more time and that we shouldn't rush this process. I mean this is a really -- even though they said that they've collapsed this document into a -- a smaller document, there's still a lot there. It's a really dense document. And I've read it twice, and there's still things that I'm like, wait. Is that covered? Is it not? I'm not sure. So it -- yeah, it does seem a little bit rushed even to have a comment by March 7.

And let's see. So I don't know if the Commission wants to get into their own deliberations, I have a few things that I could suggest to the Commission, I'm not sure if you're interested in hearing that or not, so just let me know how you'd like to proceed.

Chair Lay: I'm interested in hearing your suggestions. Commissioners, is that alright with everyone? Go ahead.

Ms. Kehler: So I do concur that a finding of no significant impact is premature. I'm not sure how to remedy that. Perhaps they refrain from making a determination in this document and make that determination when they get into their more detailed planning documents. I don't know. It just seems like very premature to make a blanket statement about no significant impact. A few other things that I wanted to point out is in one of the testimony pieces from Ka Ohana, attached is a letter from the State Historic Preservation Division from 2015, and so that was in regards to the previous document, which was an EIS, so what I did was I went through that letter and I looked for things that were not -- that were still not addressed in this revised document, and so one of those things is related to cemetery preservation. I'm going to read directly from the letter, "SHPD has repeatedly requested additional information regarding cemetery and gravestone maintenance at Kalaupapa Park. SHPD had previously asked the Park to address to resolve the adverse effect of using heavy equipment to remove vegetation at Kahaloko Cemetery." So although they -- although NPS, in their report, they say we'll deal with cemetery preservation via a cultural landscape report, they didn't address what's happening now in their management of cemeteries, so we don't know what kind of methods they're using currently to preserve cemeteries or to maintain cemeteries, and so they probably need to talk about that because it sounds like they may be doing some

things that could potentially harm gravestones by using heavy equipment. I don't know what they means. Perhaps they're using weed wackers, which can definitely harm gravestones. So that would be one thing.

Another issue that is not addressed in this plan is on the subject of archaeology. So the plan says that yes, we'll engage in stewardship of known archaeological properties and we'll deal with that in a different plan, but what it doesn't do, and this is SHPD's recommendation, is we recommend development of a survey plan to address identification and recording of previously unidentified sites. So they talk about, yeah, we know we have some sites, but they don't talk about how we'll deal with unidentified sites, and so that -- that's an important part. We would want to make sure that they're -- they're talking about how they intend to identify unidentified sites.

And another issue is the park orientation. There's several sections in this plan that talk about visitors being required to have an orientation where they would learn about proper behavior, and about where they're supposed to go, where they're not supposed to go, and so the State Historic Preservation Division has requested to further consult on orientation programming associated with communicating proper behavior, rules, and regulations within the park to ensure that historic properties and sensitive sites are treated and experienced by visitors appropriately. So I would agree that there needs to be a lot more consultation on the orientation materials. That's a pretty important part of their program that they're proposing.

And then the last subject matter is the age limit and the cap on visitors per day. So what SHPD is saying is lifting the age limit and cap on the number of visitors per day who visit Kalaupapa National Historic Park may affect the integrity of the site's feeling and directly impact the historic properties within the site adversely through increased use. So that right there is in conflict with what they're saying of no significant impact, and they do say, you know, we'll mitigate it, we'll mitigate it through orientation or whatever, but SHPD, again, says there needs to be more in-depth consultation about -- about this item.

And so those are -- those are pretty much the main concerns that I found, there's probably more, I just haven't had a chance to really, I mean like I've looked at this a lot, but as I read it, there's more things that I see that jump out at me, but that's pretty much it for now.

Chair Lay: Commissioners, any questions or comments for Annalise? Commissioner Frank.

Mr. Skowronski: I have -- I have a question. Throughout this report, from what I've read, this GMP is constantly referred to as a programmatic plan, not a project specific plan, so it's essentially saying what the Federal Parks can or will do. It's -- it's an agenda for work to be done, okay. And throughout the -- throughout the -- this document, they identify at

least ten different stakeholders that will have to be coordinated with in order to achieve any specific projects, so they're offering this GMP as a plan to handle the transition once the Department of Health relinquishes their responsibilities and someone else takes over, so throughout the GMP, they're identifying the other stakeholders that they will have to coordinate with in order to do these specific plans. So the idea that they haven't identified which structures will need to be preserved, though that documentation as to what structures are to be preserved, or how to preserve the cemetery, or how to do a visitor count will have to be coordinated with the stakeholders, so there's -- there's no way to tell what buildings are going to be preserved until you interact with the different stakeholders, and right now, this GMP is only identifying the Federal Park's actions, and those actions are to be coordinated with the stakeholders, so there can't be a financial document or a financial target as to what things are going to cost until they interact with these other ten stakeholders at least to find out and identify which buildings are going to be used or -- or rehabilitated. I'm assuming, correct me if I'm wrong, that this document is not specific, it's identifying an agenda, but it's not saying what to be -- what's to be done. There are -- there can't be any specific, there can't be an identification of the number of houses or which houses or which structures are to be preserved until they interact with the stakeholders, and those stakeholders interaction happens after the transition. So I'm wondering why are we asking for this GMP to be as specific as you're suggesting or the other testifiers are presenting when that's, as I read it, not the intent of this GMP.

Ms. Kehler: That's a good question. And so my -- my problem with this being so general is that how can they say that it's a finding of no significant impact? How -- how would they determine that without having done all of the other reports? That's -- that's where I'm coming from is --

Mr. Skowronski: Well, I thought about that also. The idea that there's no significant impact, if you don't do anything, nature will destabilize the existing structures, so you have a finding of significant impact if you don't do anything. You need a GMP of some kind to save these structures, to save the cemetery, to figure out how the visitors are -- how many visitors, how many visitors is going to be dependent on the capacity of the structures on the peninsula to handle visitors. All these things are interrelated and -- and in no -- no place that I've read in this GMP has the Fed expressed unilateral action to solve these programs. They're offering to interact with the stakeholders during this transition period. Is -- is it in -- expected? Is it expected from the other stakeholders that they be more specific now for this transition? I mean how could they? How could you possibly put a price on what it's going to cost until you talk with the stakeholders? And it appears, during these -- during these could hundred pages that they're offering to deal with the stakeholders. What are your expectations for this GMP?

Ms. Kehler: For me, the expectation would be that they don't come in and say no adverse effect. That's a -- that's a strong statement for all of these items. How do you support --

how do you support that without having -- without having done the work? I understand what you're saying and maybe that's a comment is that you -- you understand the fact that this is a General Management Plan and that there's much more work to be done in the specific plans.

Chair Lay: Commissioner Greig.

Ms. Lee-Greig: Just a quick question. So in archaeology, we have these documents called "cultural resource management plans," right, and so the military often puts these cultural resource management plans together, they're not called a "cultural resource management plan EA," or it's not called a "cultural resource management plan EIS," and so -- so in these resource management plans, it lays out kinda similarly to what this general management -- how it's kind of structured - okay, here's our problematic areas, and here's our areas of high density, and this is how we are proposing to manage them, but in those CRMPs, there is no finding of -- there's no request or no -- no avenue to say, you know, have a -- have an effect, like is there a finding of effect, this is our management plan, so I guess my question is why is this an EA or EIS? Why are we looking at all these alternatives and as a result of that, we're making the -- the NPS is making these statements of no effect on specific alternatives? Why isn't it just a General Management Plan where they lay it all out and do EAs for sections as they come up, like a programmatic EIS where you have this overarching EIS and subsequent EISs after that? So that's -- that's just kind of what I'm trying to understand from -- from this point of view. I understand where you're coming from with this General Management Plan is a programmatic thing, but I also understand where Annalise is coming from and these presentation of -- presentations of these alternatives, and then having to make a determination on whether or not these alternatives have an effect on very generalized ideas presented in this management plan, so that is -- that is a -- I'm just trying to understand that space with regard to Alternative 2 having no effect. One of the key issues with Alternative 2 is, one, like you say, to remove the visitor cap; two, to eliminate the age cap. So I have one question and one statement. One is who instituted -- or two questions, who instituted the age limit and why? Does anybody know?

Ms. Kehler: It was -- I believe it was the Department of Health, and it was something --

Mr. Skowronski: It's was not. It was the residents council that said that -- made comments to effect that since they could not leave their offspring at the colony, it would be disrespectful to have younger children come in, so it was the Department of Health that's -- that issued the limits and the age limit based on the residents advisory committee; that's -- that's where that came from. But again, there's -- there's so many different stakeholders and so many different influences on the peninsula that would have meaningful suggestions as to the number of visitors, the age of the visitors, the time of stay of the visitors, where they're going to stay that really isn't part of a programmatic plan, that's a

project specific plan, and that's going to trigger whether or not there's a finding of no significant impact. So I agree with you that the finding of no significant impact is premature on a programmatic plan, but it's going to be very important when you get into the project specific plans whether you're addressing visitor count, age of visitor count, the cemeteries, the archaeological stewardship, all those are specific -- project specific items that the stakeholders have to participate in, and then those will foster whether or not there's a finding of significant or non-significant impact. But right now, I think we're holding the GMP to a standard or to an expectation that they have no intention -- that's not why it's there. That's not -- that's not the intention of the GMP. They don't want to address the -- they know that the cemetery issue or the visitor issue or -- or all the other issues have to be resolved, but this is not the avenue to resolve them, as I read it.

Ms. Desjardins: So just as a matter of clarification, and I -- I hear what you're saying, Commissioner, an EA, if a finding of no significant impact is made at the -- in an EA, that means they don't have to do an EIS, and a finding of no significant impact can be challenged in Circuit Court. This general plan is not an EA, is my understanding. This is like a preliminary -- but I'm thinking that one of our testifiers, probably Ms. Monson, I think she may have mentioned this in her testimony, I don't know whether she has more information about the history of whether an EA has been completed, but that might be something you might wanna ask if she knows, I don't have the answer to that, but I do know a finding of no significant impact will have an impact on how this project moves forward, so one thing that could be a concern to this Commission is that if a finding of no significant impact is made at this preliminary of a stage, that might set the tone for that finding to go forward, and I don't have the answer to, legally, whether that's true or not, but I do know it has quite a impact on whether an EIS needs to be done.

Ms. Lee-Greig: And so the title of the document is "General Management Plan and Environmental Assessment," so what -- what space does that occupy?

Ms. Desjardins: So I'm -- I guess you would argue then that they are considering this an EA, and they're making a FONSI, and that could be a concern then as to whether they're going to go forward and do an EIS or not if that FONSI is upheld, but, again, that could be a very significant legal challenge to this document down the road.

Chair Lay: Ms. Monson, do you have any information on the EA if there was one previously done, or if you know or if not? Mr. Vanderbilt.

Mr. Vanderbilt: I think -- I think the question on the EA and the FONSI and the EIS are good concerns, but if you look, the community didn't suggest they do a GMP EIS or a GMP EA; that was the decision of the National Park Service. And if you look at ever National Park, they have a GMP and it's either a GMP EA or it's a GMP EIS. Every one. So why they make 'em an EA or an EIS, that's something that's -- NPS initiates, and so I

agree. Normally, I was chairman of the Molokai Planning Commission and, at one time, and we did a lot of EAs and it was always an EA, do the EA, and then there's a decision, either a FONSI or you have to go to an EIS. Here, they start it with the EIS, then they changed it after nine years to an EA in November, and if there's no FONSI, does that mean they have to go back to an EIS? So it's hard for the public to understand this, but every park in the country has an EA or an EIS, General Management Plan, and all those EAs and EISs have financial information in them, and even though it's gone because if you're looking as a decision maker how do we go forward, you've got to say, well, here were some figures developed by some consultant, they hire consultants to go through and look at what building, they've had a cultural resource management plan in effect since 1984 that has a complete inventory of all the buildings, which ones should be demolished, which ones -- and the priority for which ones should be preserved, but nothing's getting done, and that's the problem, and, as mentioned, if you just don't do anything, nature takes over and that's why that deferred maintenance has jumped from 9.6 million in 2012 to 26 million in 2017, and that's on the national -- NPS website. So there's a lot of good concerns that you all have brought up and the public is sitting here asking a lot of the same questions, and so, anyway, I hope that helps.

Chair Lay: Thank you.

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

Chair Lay: Is there further information on that?

Ms. Lopez: Yeah, sorry, 'cause I gotta leave, so I think the one that you're referring to, what Ms. Monson was talking about, that wasn't initiated by the National Park Services, that was actually initiated by the Ka Ohana O Kalaupapa, if I'm trying to answer your question correctly, 'cause they were -- they're requesting to build a memorial so that's separate from the EA that is before you, so that has nothing to do with the National Park Services. But I just wanted to comment before I leave that you're absolutely right, Commissioner, about the ten other agencies that are involved, I'm also the President of Kalamaula Mauka Homestead Association and is a beneficiary of the Department of Hawaiian Home Lands, and the Department of Hawaiian Home Lands is just an administered State department oriented agency, and the owners are truly the beneficiaries so -- and we -- and back in 2015 when it was an EIS, the Department of Hawaiian Home Lands did come for beneficiary consultation during that time as the EIS, so we were -- we vetted through the EIS through the beneficiary consultation process in the July of 2015, DHHL represented the beneficiaries, and put in the report, and had many concerns, and so that is not reflected in the EA because NPS did not come to this -- the agency, DHHL, to properly go through their vetted process through beneficiary consultation, that is why you do not see any beneficiary consultation process that DHHL did within this EA, this GMP, and I really -- I agree with all of the comments that you guys

making here and thank you for really vetting it out, and it is -- it is programmatic, but if you look at the first paragraph and how they explain it in their GMP that it provides guidance for resource management, visitor use and access, and operational shift from co-management with the State of Hawaii to primary management by the National Park Service, so please take that into account because even though it's a programmatic, this is what they're looking at as guidance, and if certain agencies that already -- that are noted that cannot support a FONSI, please, please kinda really make that a consideration, and I would suggest that maybe an environmental impact statement and having the ten of the agencies be -- be able to comment during this -- this process. Thank you, and thank you for your time, and I gotta leave.

Chair Lay: Thank you, Ms. Lopez. Commissioners, any more questions or concerns? Annalise?

Mr. Skowronski: I had just one more. The -- the property ownership is Department of Hawaiian Home Lands, DLNR, there's a small section of privately owned, there's 23 acres around the lighthouse that's Federally owned, okay, and then they make the comment some place that -- that the houses are owned by the Department of Health. So the land is owned by one or more State agencies but the houses are owned by the Department of Health. When the Department of Health leaves, what happens to the ownership of the houses?

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

Chair Lay: Oh, please step up to the mike. Yeah, come up to the mike so we can get everything documented. Thank you. Just repeat your name, Mr. Vanderbilt.

Mr. Vanderbilt: Degray Vanderbilt. And Val can correct me if I'm wrong, but they go to the Department of Hawaiian Home Lands.

Mr. Skowronski: The ownership?

Mr. Vanderbilt: All. Yeah, because their improvements --

Mr. Skowronski: The landowner?

Mr. Vanderbilt: Yeah, they were improvements made on DHHL land.

Mr. Skowronski: Okay.

Mr. Vanderbilt: And it's just like on the State land, any improve -- like the Kalaupapa Memorial, or at the end of the 65-year lease, that would revert to the State, and the same

with any improvements made on DLNR land, and under NPS's lease with DHHL, any improvements they make become the property of DHHL at the expiration of the lease.

Mr. Skowronski: Is the Department of Health going to want compensation for the improvements to the land that these houses represent?

Mr. Vanderbilt: I don't -- I haven't been part of that. They have a group that's sort of talking about the transition, so I'm not sure, but I would suspect that DOH just wants to get out and they're not going to play a hard bargain.

Chair Lay: Thank you. Commissioner Sablas.

Ms. Sablas: I have a question for Annalise. When you approached the National Historic Park, you know, for -- if they would -- someone would come here to the meeting or if we have a meeting on Molokai, would that person come, is that the superintendent that you're referencing to?

Ms. Kehler: So, actually, it was Michele, my Director, who reached out and I was cc'd on all the communication, so we started with the -- the superintendent, she's like a temporary superintendent 'cause the main one is on maternity leave, so we started with her.

Ms. Sablas: Is that Rhonda?

Ms. Kehler: Yeah. So we started with her and she said, you know, I think that you should just go on with your meeting without any Park Service people present, and then we got the name of her supervisor, I can't remember what her exact position is, but she's like in California or something and --

Ms. Sablas: It's the regional?

Ms. Kehler: Yeah, and Michele reached out to her and asked her if they would be open to having a public meeting or to sending one of their representatives to our meeting to answer questions, and she said no, and then she pointed to the -- to the consultation process that's outlined in Chapter 5, of the plan, and said that was our process. You can submit written comments if you want.

Ms. Sablas: Could it be because of the present shutdown and the uncertainty that's what's happening on the government level that maybe they can't come? Because a lot of the questions we're asking really pertains to, and again, I have to say, I'm a really -- I love our National Parks and I support our parks, but -- and this place is very, very special and, you know, having said that, you know, the comment, can -- is it possible to extend the comment period because of the -- you know, again, the rationale would be the

government shutdown, we heard testimony that it was inaccessible, the comment period, and I can understand from the Park Services, they have a lot more things to handle at the level just to maintain what's going on now on national challenges, so maybe the timing is not right, I mean we've worked on this for years, so why rush it now?

Ms. Kehler: I think that that is the general feeling that I'm getting from folks is why are you rushing it? I don't know why they are. It's -- it would be really helpful for our discussion to have someone from the Park Service here, but I don't think we're going to get that.

Ms. Sablas: So what are -- what are our options as the CRC? I mean can we -- I mean what options do we have? Can we ask for an extension? I mean can we really ask that they would, you know, to move it up and that we could have dialogue with someone from the National Park? And I understand that because I can understand from the National -- they have their -- there's all -- I mean they're established hundreds of years so they have their policy, but I mean this special place, it's -- you have to have local input and where does that come in?

Ms. Kehler: Yeah.

Ms. Lee-Greig: Is it -- is it a matter of just issuing a letter that says if it's supported by this body, that the Resource Commission cannot support a FONSI because of the unanswered questions with regards to their preferred alternative? In looking, I mean, you know, I didn't read it word-for-word, and I did just kind of glance through it before and then during, they have their management zones, and in their management zones they said they're going to take these specific actions and that's one of the reasons why they're proposing a no -- a no effect because they have these management zones, they're going to do these later studies, but it's like -- I think we all agree that that FONSI finding is premature because they -- we don't really know, you know. We don't have specific information on what are the -- what are the historic properties, what are the sensitive natural resources that people go to to gather or perpetuate in these different zones, these different management zones, and how are you proposing to manage the traffic through those zones, what is the density going to be like, the visitor density in each of those zones, what are you anticipating, and until you know that, how do you know that you won't have a significant impact by increasing the number of folks coming into the park and raising that age limit. Kalaupapa is, I mean I've only looked at it from topside and on the airplane, but, you know, it is -- it is rugged, and it is remote, and there are -- I know that there are plant species there that are very sensitive to exposure, human exposure, and use and pressures, and to not know exactly and have these more specified studies at this point to say that there's no significant impact for the preferred alternative is difficult to support.

Chair Lay: Even the matter of invasive species bringing in -- brought in by different people is hard to combat.

Ms. Kehler: Yeah, I mean there's like a sentence in there where they say, well, we'll make them just sanitize their shoes. I don't know if that's like a plan, and I don't know if that's good enough.

Mr. Skowronski: Well --

Chair Lay: Commissioner Frank.

Mr. Skowronski: Again, I think that the reason that they're saying is that there's no -- there's no significant impact is because this GMP does not call for anything to be done. There's -- this is saying it will work with stakeholders to address the specific issues, but this GMP does not address those issues so, therefore, there's no significant impact because they're not doing anything.

Ms. Lee-Greig: They're promoting Alternative 2, which is increasing --

Mr. Skowronski: Their alternatives are we will work with these stakeholders and these agencies to get a project going, and that project will then qualify for significant impact or no significant impact, but the GMP, as written right now, does not entail any unilateral action or anything without -- within the -- within the Federal purview, they're management, and they're going to work with the different agencies to generate specific projects that will then qualify for significant impact or no significant impact, but this document, as presently written, has no significant impact because they're not promoting anything, there's no specific project that they're addressing, so I think that's where they're hanging their hat. Now whether we agree with that or not is a different issue, but the significant impact comes in when you say we're going to do this to the buildings, or we're going to do this to the cemetery, or we're going to restrict the visitor, etcetera, etcetera, they're not doing that right now. They're saying that they're offering to participate with other stakeholders in the transition, then that will qualify for significant or not significant impact, but as written, they're not doing anything. They're providing guidance. They're identifying an agenda. But they're not asking for any specific project or any specific action that would trigger impact or no impact.

Chair Lay: Corp. Counsel.

Ms. Desjardins: Just I want to make one quick comment. The General Management Plan apparently is a beast of the National Park Service, but as you pointed out, this is -- they're considering this an Environmental Assessment, so if they're making a finding of no significant impact in an Environmental Assessment, then the bottom line is they feel

they don't have to do an EIS if that passes muster, so that's going to be challenged, so while I appreciate what you're saying and I think they think that, by labeling it an Environmental Assessment, and thank you for pointing that out to me, this is their Environmental Assessment, so I think, as a matter of law, if they make a FONSI, they're going to move forward. They're not going to do an EIS.

Chair Lay: So listening to our Commissioners here come to the conclusion that this isn't a FONSI, right? So what do we do now?

Ms. Kehler: Okay, so, Mimi, correct me if I'm wrong, but I guess we -- we sort of had a motion from Commissioner Greig, and what is the parliamentary procedures? So you guys can take a vote on it 'cause it doesn't sound like everybody agrees with that motion so, Mimi, what's the next step for them?

Ms. Desjardins: So I'm sorry I missed that. What was the motion?

Ms. Kehler: So, well, she asked could the -- could -- actually, let me back up. She asked -- so the CRC's role would be to send a letter, and then could the letter state that the CRC can't support a FONSI because we don't have that specific information needed to determine whether or not there are significant impacts.

Ms. Desjardins: So can I make a suggestion. The 2.88.060.A says that this Commission has the power and duty to advise and assist Federal agencies in carrying out historic preservation responsibilities. My suggestion is to gather all of your comments if you folks can agree to what your general comments are going to be; if you limit it and just say we don't think a FONSI is appropriate or we would like an extension, you're going to not have an opportunity perhaps to put some of your other concerns in your letter, so what I would do, as a body, I think you folks should get together and decide, in your motion, what are the comments that you would like to make at this point, and they could include, but not be limited to, FONSI, we want an extension, we don't think that, you know, these other stakeholders have addressed enough of what our concerns are. I would just be more broad because this may be -- if they don't extend the deadline, this may be your only opportunity to say anything so --

Chair Lay: So before we run through everything, Annalise, do you have any comments that we already said, that's already down, so we can move on from there?

Ms. Kehler: I'm sorry. Can you repeat that?

Chair Lay: So we've -- we've had a lot of comments lately about why not the FONSI, why, you know, why it isn't a FONSI. I don't know if you have that information. If not, we can

run through everybody's idea on why this shouldn't be a FONSI, and we can add that and make a list, or if you have started one, we can go from there.

Ms. Kehler: So let me -- let me kinda try to pull everybody's comments together. So one comment was we suggest that the National Park Service extend their deadline.

Ms. Sablas: So should we -- Chair, as she said, just by consensus or ...(inaudible)... move it along?

Chair Lay: Should we break it down then too?

Ms. Desjardins: Can I suggest that you just go through your list but could you, in extending the deadline, perhaps the body would wanna put in there because there was a government shutdown during this process, there was not enough -- I mean this is from your testimony, this was -- there was nobody to collect information or to discuss this during that period of time.

Chair Lay: From the Parks Department ...(inaudible)...

Ms. Desjardins: Right.

Ms. Sablas: As a reason for our asking for the extension. But my thought was, Chair, as she brings it up, is it okay, unless anybody opposes, that we're going to -- your silence means you're okay with it so we can move it along?

Chair Lay: Yeah. Just a matter if we're getting it -- it all down before we start overrunning her.

Mr. Skowronski: In regards to the extension, if you're going to make a comment that because there was a government shutdown, we're asking for the extension, can we also say because of the non-cooperation of the National Park Service to send a representative, and that also enters into the reason we're asking for an extension, their non-cooperation is duly noted?

Ms. Desjardins: And so then your next comment might be along the lines that other testifiers were saying that they felt this was rushed because the Park Service could come back and say, well, that's our protocol. I think that was the response they got. So add the reasons that you received as testimony here, which was people felt rushed in -- in being able to comment on this.

Chair Lay: ...(inaudible)... go ahead.

Ms. Lee-Greig: That and also I think there was a comment that it came out during -- during the holiday season and that's a difficult time. I mean anything coming out this important during the holiday season is -- is a little bit rough to -- to abide by.

Mr. Bassford: Strategic.

Ms. Lee-Greig: Well, I don't wanna -- I just would like to not point fingers but just say that it's -- it's not --

Mr. Bassford: Well, this is do as I say, not as I do.

Chair Lay: And I remember there was something about our kupuna that they're unable to testify on Molokai because they don't have the resources to put in their input on this, kupuna and public over there on Molokai.

Ms. Kehler: Maybe I'll add testifier noted that it's difficult for kupuna to access --

Chair Lay: Was there -- was there intentions to have a meeting on Molokai 'cause that might be a part of it too because of the time -- the time restraints we had, we're unable to have a meeting there?

Ms. Kehler: I think -- I think we were predicating that visit on the availability of the Park Service to come to answer questions because I really think that we're going to get a lot of questions that we don't have answers to because we weren't the drafter of the document --

Chair Lay: Right.

Ms. Kehler: And I think it would be most helpful to have someone that represents their agency there 'cause I would -- as much as I would love to offer these folks information, I just don't -- I can't give you the details 'cause I didn't write it. Okay, so just to summarize the -- the request for extending the deadline, there are several reasons that support this request, one being the government shutdown during this process. No one was there to answer questions or receive comments. Another reason would be non-cooperation by the Park Service to send a representative to our meeting. Other testifiers felt this process was rushed and that the report was released during the holiday season. Another testifier noted it's difficult for Molokai's kupuna to participate in the current commenting process; one, because it doesn't really work them, they prefer to be one-on-one, and, two, because of no internet access. Okay, so does that -- does that capture the reasons why you would like to request an extension? Okay. So --

Ms. Sablas: Do we need to specify like the length, timing? What do you think? A month, two, months or I mean, or does it make --

Ms. Kehler: That's a good question and you might wanna ask the Commission that, if they feel that there's a time period that might be more appropriate.

Chair Lay: It's up to our President, huh?

Ms. Sablas: My term expires in March so, selfish reason, I'd like to be able to be part of this discussion before my term expires because I have a lot of interest in Kalaupapa. I have ohana there too.

Chair Lay: And if you guys -- anything else you could add to this, the more we have, the more issues we have, the greater value for this not -- going against the FONSI so please.

Mr. Bassford: I have a little bit more of a snide comment, but keep it open until they come to Molokai.

Ms. Kehler: Okay.

Chair Lay: And our two resources, do you have anything that might -- that might be able to help?

Ms. Monson: I just wanted to talk about the extension.

Chair Lay: Please identify yourself.

Ms. Monson: Oh, sorry. Valerie Monson. The extension period. When we received, we felt the same thing, the releasing it during the holidays, we haven't heard anything in three-and-a-half years, and so we asked them to extend the comment -- 30-day comment period deadline from December 15th, we had originally asked for March 7th, but they said February 1st, and we made this request I think on December 6th, and then the shutdown happened, and so then we asked if -- I think we asked this at the end of January, right, shortly before February 1st if, because the websites were all down, nobody was available, to have an extension for each day of the shutdown to extend the comment period one day, and so that's how the comment period was extended from -- so from December 15th to February 1st, and now until March 7th, so they did take into account the shutdown, however, their websites were not up until I think February 4th so --

Chair Lay: Okay.

Ms. Monson: And also, one other thing that you might consider is, you know, the Acting Superintendent, Rhonda Loh, she only came onboard like ten days before the shutdown, and then the shutdown happened, and then she's -- so she really has been -- she's got her hands full, I think she's doing as good a job as she can do, but the Superintendent who's on maternity leave, I think she's scheduled to get back in April so -- and she's the one who has been, you know, with this recent part of the -- the process, I think she came onboard as Superintendent in 2014.

Ms. Sablas: Is that Erica?

Ms. Monson: Yes.

Ms. Sablas: And she's -- she's more familiar with the whole --

Ms. Monson: I think she would and certainly more than Rhonda.

Ms. Sablas: Yes.

Ms. Monson: Yeah.

Chair Lay: Commissioners, anymore comments or anything to add to that? You wanna run through it again or we're good?

Ms. Kehler: Okay, well, so are we in agreement or are you in agreement in -- as it relates to extending the deadline that -- with Commissioner Bassford's addition of keeping the comment period open until the Park Service has a public meeting on Molokai? Is -- are we in agreement? Okay. Okay. Okay, so I think we're good on the public commenting extension. Now, let's see, what other issues are there? Okay, there's the issue of the FONSI. Are -- is the Commission in agreement that you folks can't support a finding of no significant impact because we don't have the specific information necessary to make that determination? Do we have anything else that we'd like to add to the FONSI issue?

Ms. Lee-Greig: Can you read back what --

Ms. Kehler: The Commission can't support the finding of no significant impacts because there is not sufficient information in the General Management Plan to -- to make that determination. Do you want to reword it for me?

Ms. Lee-Greig: I was -- I was just trying to -- there's so much packed into their preferred alternative --

Ms. Kehler: Yeah.

Ms. Lee-Greig: That, you know, I mean I would like to be specific about where we would need more information to make such a determination. I would maybe wanna specify that a -- a FONSI, with reference to their proposed Alternative 2, cannot be supported because there's insufficient information to make that determination. I just kinda wanna put that out, like to illustrate that this is more than just a management plan, they're making a decision on -- on what -- what the park is going to look like and how many visitors and what they're going to do. There's just not enough information about how they're gonna - - what their orientation is going to be to control where people go, what that looks like. There haven't been enough studies as to impact.

Mr. Bassford: It's lacking specifics.

Ms. Lee-Greig: Yeah, it lacks the specifics needed to make that determination.

Ms. Kehler: So, specifically with the FONSI and Alternative 2, then the visitor -- the visitor aspect and how that might impact resources is not sufficiently explored.

Ms. Lee-Greig: Right.

Mr. Skowronski: Are these going to be separate motions?

Chair Lay: I think we can adopt what -- but this is all for the FONSI, yeah.

Mr. Skowronski: The request for an extension could be a separate motion than the --

Chair Lay: I guess it would be.

Mr. Skowronski: Aspects of FONSI?

Ms. Desjardins: My understanding is there would be a proposed motion to adopt --

Ms. Kehler: The recommendations.

Ms. Desjardins: As indicated by what you folks are doing to wrap up with one motion to adopt these recommendations to give to them at which point then you could have a discussion about pulling individual -- if you disagree or you could have that discussion now, but I don't know that you wanna have like six separate motion.

Ms. Kehler: No.

Mr. Skowronski: I'm -- I'm suggesting that there be a motion for the extension, we discuss that, vote on that; then there'll be a motion for addressing the FONSI concerns, and we discuss and vote on that. The two are separate from each other.

Ms. Desjardins: That's, as a matter of law, it doesn't matter. You folks can determine how you wanna do it with like one big motion or separate motions.

Ms. Sablas: I would prefer one big motion.

Chair Lay: Who would like to make that motion?

Ms. Sablas: Well, I mean I think, yeah, I would like to move that the Commissioners deliberate on our -- our comments and -- to staff, and that at the end, that we make a motion to approve, disapprove, or more discussion, but to take the comments as a whole to move it along.

Chair Lay: I need a second that also if someone would second? So actually we have a motion on the floor and a second. Any comments on the motion?

Mr. Skowronski: The comment on the motion is that I can't -- my position, my observation is that since the GMP does not promote any action, then it's just a guidance, it's just identifying an agenda, it's not asking for any action to be taken, therefore, there's no need for a finding of significant or insignificant impact because there's no action proposed. So that's why I'll vote for the extension, for the reasons given, but I can't support the FONSI aspect of the motion because I don't think it's necessary.

Ms. Celiz: I mean I understand your position on that, and it's kind of saying, you know, you're saying it's just a guidance so there's no need for findings, so why did they have to make that statement of FONSI in the first place? So I mean is there way that we can suggest that -- I mean you're saying that we don't support the FONSI for the Alternative 2, which is, you know, it kind of details the different zones and all of that action, so is there a way where can suggest to NPS that they shouldn't make any statement of findings in the GMP until, like what you were saying, they work with the stakeholders? And if there's a way where we can suggest that they have a detailed timeline to work with the stakeholders on specific projects before implementing their different zones, like before they implement the no -- the no cap on the visitor -- the visitor cap or the age limit that that's when -- like for -- like you were saying, for specific projects, so is there a way we can tell them, you know, we can't support a FONSI on this general no -- I mean this general Alternative 2 but, you know, that we have a detailed timeline that they should work with stakeholders to work on specific projects before implementing the different zones and different actions that they wanna take specifically, and but then I know it's still kind of a general plan, but I don't know if there's something that we can include or suggest

to them to leave it open because, again, if we do -- if they put the FONSI on there, it sets the tone, so if there's a way where we can make sure they just take out the FONSI until further investigation or further deliberation and coordination with the stakeholders.

Ms. Lee-Greig: They would have to take out a discussion of alternatives and remove the "Environmental Assessment" from the title, right, and then just have it be a plan. Unfortunately, we're in this position where there are alternatives proposed, which is a project, and it's titled an "Environmental Assessment." Can we make the -- like, hey, so how about you take this part out, and just do this, and keep the management plan, and then I could get behind that. Sure. But, at the end of the day, it's an Environmental Assessment mixed in, cobbled into this management plan, and that's just my position.

Chair Lay: Corp. Counsel.

Ms. Desjardins: So what's on the floor right now is a motion to have a discussion of a mass list of recommendations that you folks are going to provide as your authority or whether that motion should be broken down into different parts. If you choose to do it as a mass recommendation, council -- or Commission Members can move for friendly amendments amongst those little things when you get to the FONSI discussion, to adopt or change what Annalise has said, but, right now, what you wanna decide is how do you want to procedurally go forward on putting these recommendations together.

Chair Lay: So a possible friendly amendment would be the discussion on the FONSI and we separate it from the time -- the time frame as far as an extension that the maker of the motion would be -- you're for that ...(inaudible)...

Ms. Sablas: I can amend it for that. I mean I understand, you know --

Chair Lay: Okay.

Ms. Sablas: Commissioner's position and I respect that, but, you know, let's see what the rest of the Commissioners feel.

Chair Lay: Okay. So since we have split that in two parts, let's take on one part at a time, okay? So let's have some discussion on the time extension. Is there any -- any comments or any concerns with the time extension as far as putting a time extension on that?

Ms. Kehler: Chair?

Chair Lay: Yes?

Ms. Kehler: Is there still a motion on the floor?

Ms. Desjardins: Yeah.

Ms. Kehler: Okay.

Ms. Desjardins: So just -- you just need to move on whether you're going to do it -- what's on the table right now is are you just going to have one big discussion about recommendations in general or not, so there was a motion to do that, there was a second, there's been discussion, so maybe you just wanna take a vote on whether you wanna procedurally go in that -- go that way or not. If you choose to do that, you can then continue your discussion with Annalise and see if you folks -- then, at the end, move to adopt the recommendations that you guys are having your discussion about.

Chair Lay: You guys got that? So what happen now, if there's no more discussion, we vote on that -- on that motion on the floor, yes or no, and then we work from there. Anymore discussion?

Mr. Bassford: Can you repeat what you just said? Sorry. Sorry.

Chair Lay: Right now what's on the floor is we're going to -- the motion is that we would take in everything that said into consideration, and we'll talk about that, and then if we vote yes on that, then we'd have to work on that, and break it down, and we'd add our comments and everything to that. If we say no that motion, we can make -- that motion will die, and we'll make another motion saying that we wanna split it into, you know, two parts, one would be on the time extension and the other would be on the FONSI, and then we'd have discussion on that, and then we'd vote on that. Okay, so at this point, I guess we're going to vote, right, on the motion on the floor, which is we're going to have a discussion or, you know, we're okay with everything that was put out there, then we're going to discuss on that, or we're going to kill it, and start all over, and break it into two parts.

Ms. Sablas: Or it could be more.

Chair Lay: Or more. It could be more.

Ms. Desjardins: Yeah, or many ...(inaudible)...

Chair Lay: It could be more.

Ms. Sablas: It could be more -- more than two parts. I mean now we're just talking about those two, but we could have five and are we going to vote on every -- every recommendation.

Ms. Celiz: I think we should keep it all on one.

Chair Lay: That's true too, but if we take one part, and we can pass that through if everybody agrees with it.

Ms. Lee-Greig: Yes.

Chair Lay: And then that's -- that's put on the side. And then the things that we have issues about, we can work on more, you know, we can detail it. Okay, so, Commissioner Ian?

Mr. Bassford: Can I make -- can I make a motion that I --

Chair Lay: There's already a motion on the floor. Yeah. Okay, so right now we're going to vote on the motion on the floor. All those in favor of the motion, say aye? All those against it, raise your hand? Okay. All in favor and against it. Okay, so now there's no motions on the floor and we can start again. Do we have a new motion, can be a singular one or however you guys wanna do it.

Ms. Esmeralda: Can you take that vote again, please? Can you take that vote again, please?

Chair Lay: Oh, all those in favor, raise your hand? All those who wanna kill that motion, raise your hand? Yeah. Four. Four-two.

Ms. Desjardins: One, two -- four people.

Chair Lay: Do I have to vote? I don't have to vote.

Ms. Desjardins: Well, if you don't vote, it's affirmative too. You're voting in favor of the motion if you don't vote.

Chair Lay: No. Okay.

Ms. Desjardins: So all those in favor, aye, to have one big motion? And you're voting aye, correct?

Ms. Celiz: I'll vote aye for it.

Ms. Desjardins: Okay. And all those opposed to voting in -- or to have one large recommendation, raise your hand? So we have two ayes. One, two, three -- five noes.

Ms. Sablas: Motion fails.

Ms. Desjardins: So the motion fails.

It was moved by Commissioner Lori Sablas, seconded by Commissioner Ian Bassford, then

VOTED: that the Commission deliberate on its recommendations to staff and at the end of deliberation, the Commission would vote to approve or disapprove the recommendations.

(Assenting: Y. Celiz; L. Sablas)
(Dissenting: I. Bassford; I. Lay; T. Lee-Greig; M. Ropa; F. Skowronski)
(Excused: L. Albino)

MOTION FAILED

Chair Lay: Now we can do a new motion.

Mr. Skowronski: I'll offer up a motion that we ask for an extension, a comment extension for the reasons that were, what, four or five reasons, Annalise, for asking for an extension.

Ms. Sablas: And I second.

Chair Lay: Okay. A motion on the floor and it has been seconded. Any comments or anything you wanna add to that motion? Seeing none, we're going right to voting. You guys ready? All those in favor of the motion, raise your hand? All in favor. That motion passed.

It was moved by Commissioner Frank Skowronski, seconded by Commissioner Lori Sablas, then

VOTED: that the Commission request for a time extension to provide comments for the reasons as discussed.

(Assenting: Y. Celiz; L. Sablas; I. Bassford; T. Lee-Greig; M. Ropa; F. Skowronski)
(Excused: L. Albino)

Chair Lay: Any more motions on the floor?

Ms. Kehler: Do we wanna finish the FONSI discussion now before we take a --

Ms. Desjardins: Or you can put a motion out there and then have ...(inaudible)...

Ms. Kehler: Okay.

Mr. Skowronski: Let me offer a motion that this -- this Commission would, based on its -
- on its testimony and based on the reading before us, would consider a finding of no
significant impact premature with no reasons ascribed to it or no examples of why.

Chair Lay: Do we have a second on the motion?

Ms. Sablas: I'll second.

Chair Lay: Okay. Discussion on the motion on the floor.

Ms. Lee-Greig: Can we do that?

Ms. Desjardins: Can you do what? Have a discussion?

Ms. Lee-Greig: No.

Ms. Celiz: No supporting reasons ---

Ms. Lee-Greig: Have no supporting reasons, and I'm thinking back to like our Lahaina
discussion where we said no we do not approve this permit, and we had to give reasons
why, so in this case, we're saying we find the FONSI to be premature, do we need to give
reasons why or can we just state it as that? I just want to make sure that we're okay.

Ms. Desjardins: So -- so for this particular discussion, you don't have the power to grant
or deny a permit. You only have the power to comment. So you can say whatever your
comments are. So the proposal is we don't have enough information, the document lacks
enough information to make a FONSI. That's what's on the floor, and there's a second
for that. You folks can now discuss whether or not you agree with that or whether you
want to amend the motion to add others reasons why a FONSI might not be appropriate.

Ms. Celiz: I would like to have stronger language to include like we can say that, you
know, based on all the testimony that we find it to be premature but I also think we should
include that we don't support the FONSI.

Ms. Desjardins: So you're making a motion to amend the motion --

Ms. Celiz: Yeah.

Ms. Desjardins: To include not only what this member has said, but what you're including as well?

Ms. Celiz: Right.

Chair Lay: So it goes back --

Ms. Desjardins: So that should be voted on now.

Chair Lay: So we have to go back to the maker of a motion to ...(inaudible)...

Ms. Desjardins: Or you guys can discuss why you ...(inaudible)...

Mr. Skowronski: Well, the reason I'm offering this is based on your suggestion that there was no reason for the GMP --

Ms. Celiz: To even state it.

Mr. Skowronski: To ever have said that there was no significant impact, so they caused the problem by including it, so that's why I'm -- I'll go along with the idea that it was premature because they should have never mention it, but the idea that it was required is something I can't support because there is no, as far as I can see in the GMP, there's no action that would require it, so that -- that's the only reason I'd -- I'd go for it's premature or unnecessary or whatever your word or adjective you wanna use, but I'm against the idea of saying it's premature because it hasn't addressed the cemetery, or it hasn't addressed the visitor count, or it hasn't addressed any of the specific issues because the GMP does not address those, and there's no reason for the GMP to address those.

Ms. Celiz: So instead of saying that we don't support or can't support it, could we say that we don't think it should be included in the GMP or that statement shouldn't be --

Mr. Skowronski: That the finding of no significant impact does not need to be -- does not need to be included in the GMP.

Ms. Lee-Greig: But this is an EA and so they're going to make that statement regardless. It's not just a GMP, it's an EA, and -- and they have to, or they can have a finding of significant impact and they would have to go to EIS. The very fact that it is presented and published as an EA, there has to be a determination, right? Am I correct?

Ms. Desjardins: Right, so you may wanna say, as a matter of law, there is -- the document does not support a FONSI, period, and that -- because that way you're letting them know that this -- you recognize this as an Environmental Assessment, it's not just a GMP, which

is a Parks creature, but this is also an EA, and EAs make FONSI or they don't, and this, as a matter of law, if you believe it's not supported, it's not supported, period.

Ms. Lee-Greig: That. Add that.

Chair Lay: So, at this point, we'd have to go back to the motion that's on the floor, then we'd have to vote on the motion again, and if it passes, it passes; if it doesn't pass, then we have to make a new motion that was suggested or to be suggested. Any more comments?

Ms. Sablas: If I -- with the motion that you're making, does it include the reasons why we don't support it, like the cemetery preservation, I mean things that Annalise had mentioned or is it going to be another discussion?

Chair Lay: This motion wouldn't shut it down, huh?

Ms. Sablas: I'm sorry?

Chair Lay: This motion wouldn't do what we want to do.

Ms. Desjardins: So you can make amendments to the motion that Frank made, which is that he's -- his is is that it's premature and that it doesn't - I'm sorry, I don't want to put words in your mouth - premature and what was the other reason you had to --

Ms. Kehler: Without giving reasons, right? That was his motion.

Ms. Desjardins: Right.

Ms. Kehler: Yeah.

Ms. Desjardins: That because the GMP doesn't need to make one; that was, I think, what the motion was, and I'm sorry if I'm not paraphrasing it correctly.

Mr. Skowronski: Well, if you want -- if we wanna put in the trigger that this is not just a GMP but it's also an Environmental Assessment, perhaps the motion should be amended that the finding of no significant impact is premature because the GMP includes an Environmental Assessment?

Ms. Desjardins: Yes.

Ms. Sablas: Yeah.

Mr. Skowronski: I'm just against the idea of going through and listing all the things that have to be done that aren't being addressed by this because it'll -- it'll go for pages.

Ms. Lee-Greig: As an EIS.

Mr. Bassford: And that's what the process is. I mean ...(inaudible)...

Ms. Lee-Greig: That's the problem.

Mr. Skowronski: That's what the process is.

Mr. Bassford: That's the purpose.

Mr. Skowronski: That's the problem. Okay. So shall I rephrase the motion?

Ms. Desjardins: You can -- you can move to amend your motion.

Mr. Skowronski: Okay, so a finding of not significant impact is premature because the General Management Plan includes an Environmental Assessment.

Ms. Desjardins: And may I suggest and, as a matter of law --

Mr. Skowronski: As a matter of law.

Ms. Desjardins: A FONSI is not supported by the Environmental Assessment.

Mr. Skowronski: Okay.

Ms. Sablas: Okay, I second the amendment.

Mr. Skowronski: Have you got that down?

Ms. Kehler: No. Give me a second.

Chair Lay: ...(inaudible)... off of you now.

Ms. Kehler: A FONSI is premature because the GMP includes an EA as a matter of law?

Ms. Desjardins: No. So a FONSI is premature because the GMP is not -- doesn't have enough detail, that's what I think your -- your complaint was, because the other stakeholders -- you know, you're saying this is just a general plan, but in addition to that, if you're looking at it as an Environmental Assessment, which it says it is, as a matter of

law, there's -- the document does not support a FONSI for those -- for the reasons that were stated. That's what I -- I'm hearing you guys say.

Chair Lay: The deciphered version. Okay, it has been -- there's a motion on the floor, it's been seconded, Annalise is writing down that motion. Any more discussion on --

Ms. Kehler: If I may just -- can I repeat it to make sure I got it right?

Chair Lay: Okay.

Ms. Kehler: A FONSI is premature because the General Management Plan doesn't have enough detail, but if you look at it as a matter -- as an EA, the document doesn't support a FONSI.

Chair Lay: As a law --

Mr. Skowronski: That's confusing. Why don't we say something to the effect because the existing GMP includes an EA, as a matter of law, a FONSI is premature.

Ms. Lee-Greig: Unsupported.

Mr. Skowronski: Does that cover it?

Ms. Desjardins: A FONSI -- if you don't believe a FONSI is supported by this document, I would suggest saying more strongly it's -- there is -- a FONSI is not supported, as a matter of law, in this document, not that it's premature. They're thinking that this document supports a FONSI. They're giving you this document saying we've given you enough information for us to make a finding of no significant impact, and, as I believe Ms. Greig pointed out, it -- that Alternative No. 2, about increasing visitors and, you know, your issues about plants, those things aren't addressed. They're just saying there's -- there's no finding of significant impact. We just want to increase visitors, or there's no addressing all the other things that you guys talked about today. Does that make sense?

Mr. Skowronski: But they're not -- they're not asking to increase visitors.

Ms. Lee-Greig: That's Alternative 2.

Ms. Desjardins: The one they're asking you to support.

Mr. Skowronski: Alternative 2 is to -- is to work with the stakeholders to find out what a visitor count and visitor capacity should be because the visitor count is based on the capacity of the facilities there to handle them and that has -- that has to be addressed

with the stakeholders, so they're not coming in and saying you're going to increase the visitor count to 110 or 105. They wanna adjust, they want to change the visitor -- the visitor county, it may go down; it may go up. So all I'm suggesting is that I don't want to hang -- I don't want to hang our -- my question or my concept is I don't want to address, I don't want to bring up the issue of cemeteries, I don't want to bring up the issue of visitor count, I don't want to bring up any of that because that has yet to be determined. I'm suggesting that because the Fed made the mistake of bringing up FONSI, they should have never done that, that because the GMP includes an Environmental Assessment, as a matter of law, the finding of FONSI is premature as the document is presently written. Does that -- that cover?

Ms. Lee-Greig: May I? May I? Alternative 2 states that visitation by the general public would be supported and integrated into park management, which, okay. They go on to say the 100 person per day visitor cap would be removed and that the park would use new management strategies to control this vision. What these management strategies look like is not detailed in this EA. I'm just going to call it that right now, like an EA. A day use entry pass system would be instituted as a free option for visiting the park. Now when you have free options like that, if you don't have a visitor cap, or any idea of what your visitor cap might be at the outset, how are you going to control for that and how are you going to implement that; that's all a part of Alternative 2. It also goes to say that allowing independent access to select areas for personal reflection and learning. There's no delineation about where that -- that free access for personal reflection and learning is going to be and how that's going to be facilitated. That's all a part -- that's language in Alternative 2, which is a project. They also go on to eliminate the age cap in Alternative 2. So there are very specific actions that are a part of Alternative 2 and that this EA states, say or indicates that there is no significant impact by the adoption of this Alternative 2, and that's what I take issue with with the lack of detail in this EA and why a FONSI is not supported. So it is stated in this Environmental Assessment and it's not a - - I do not believe this to be a mistake by the Federal Government because it's an EA and it's -- it's what they do, it's what these types of documents are for, and that's -- I'll just leave it at that.

Mr. Skowronski: But keep in mind that eliminating the cap doesn't mean that you could have as many visitors as you want. All they're saying is that the existing cap that's imposed by the Department of Health, once that Department of Health no longer controls it, they're going to change that cap, and that cap can go up or that cap can go down, the age limit can go up or the age limit can come down. They're saying that -- that, as I read it, that the restrictions, all the restrictions in place by means of the Department of Health will now have to transitionally be changed to new caps and new restrictions and new guidelines based on discussions with the stakeholders. That's all that says. They're not asking for all the rules to be thrown away and it's a free for all in Dodge City, they're saying

that all these things have to be changed and they're going to be changed in consultation with the community.

Ms. Lee-Greig: I appreciate that standpoint. My other issue with this is that there's not enough detail to say what -- what this is going to look like. It may go up; it may go down. In an -- in this EA, if they're going to make a suggestion of no significant impact, you need to put numbers to that or they should put numbers to that as an Environmental Assessment.

Chair Lay: Commissioner Yvette.

Ms. Celiz: So -- so from what I'm hearing we're having two different ways of wording; one is since the GMP includes an EA, as a matter of law, the FONSI is premature, and then we have since the GMP includes an EA, as a matter of law, the document doesn't support a FONSI. So those are the two options but the current motion is for "premature." Is that --

Chair Lay: Yes. So right now what we can do, we've had discussion on the floor, we can vote on the motion, and again, if we pass the motion or if it doesn't pass, we can make another motion on the floor, and we just go back and forth until we --

Mr. Skowronski: Well, if we wanna change the phrase "premature" to "does not support," I'm fine with changing the motion to that.

Ms. Sablas: I like that better.

Mr. Skowronski: Without -- without going through any examples of why, I don't want to mention cemetery, I don't want to mention visitor count, you know. It made a mistake and, therefore, it does not support -- I'll change the motion to it does not support a finding of FONSI.

Chair Lay: Okay.

Ms. Celiz: Okay.

Mr. Skowronski: Annalise, do you wanna read that back to make sure that that phrasing is correct?

Ms. Kehler: As a matter of law, the document does not support a FONSI.

Mr. Skowronski: Because the GMP and -- includes an Environmental Assessment, as a matter of law. Because the GMP includes an Environmental Assessment, as a matter of law, the finding for FONSI is -- the finding does not support the finding of not significant impact.

Chair Lay: You're going to repeat that, Annalise?

Ms. Kehler: I guess I'm a little confused about this second part of that motion. I understood the first part, the first part was very clear to me. The second part, not clear to me.

Ms. Desjardins: So, I mean I don't wanna try to interject too much into this conversation, but let me just make one more legal clarification about EAs. An Environmental Assessment that makes a FONSI goes out for comment. You folks make comments. They can determine whether or not to accept those comments and then do an EIS. Or they make a FONSI, like they've done in an EA here, and they are not satisfied that the comment support an EIS and so they don't do an EIS, and then it gets challenged in court if somebody didn't like that. So this is your opportunity to state on the record why you do not feel that a FONSI, as a matter of law, should be, you know -- they either -- either there is a finding of no -- there's a finding of significant impact, and then move on and tell you right off we're going to do an EIS 'cause it's obvious. There's going to be significant impact. What they're telling you in this document is here's all the information we're giving you, and based on this information, we're going to -- we are going to say there's no significant impact. So your job is to determine whether you're satisfied that this document supports a finding of no significant impact, and I believe that you folks are in agreement that that's, for whatever reason, that's not what should be in this, you know, that you wanna comment on that. So you just have to work out how you wanna comment on it, but I hope that explanation helps. This is a matter of law of what a FONSI is versus, you know, making a finding that, yeah, we gotta do an EIS. This is -- and I think your struggle, Commissioner, is that you feel like this document is so general in its scope that it's not even meant to make that finding is what I'm hearing, I mean that there's other stakeholders who haven't even chimed in, but that's all I got to say. Sorry.

Chair Lay: Okay, let's go back to the motion on the floor. Annalise, if you can possibly give us a --

Ms. Sablas: Again, the hundredth version.

Ms. Kehler: I'm sorry?

Chair Lay: Any changes to the motion going to have to be done with our maker of the motion or we have to either vote it down or approval so --

Ms. Kehler: Okay, so you want the whole --

Chair Lay: Well, just what we have right now, what the motion on the floor is, and then we can go from there.

Ms. Kehler: Okay, so the part that I understood was as a matter of law, this document does not support a finding of no significance; that is the part that I understood.

Chair Lay: Okay.

Mr. Skowronski: The idea of including the phrase "as a matter of law" needs to be flushed out that this is not just a General Management Plan but also an Environmental Assessment. If, in fact, they didn't include the word "Environmental Assessment," then FONSI would not have any impact on what they're proposing. But because they used the "Environmental Assessment," the finding of FONSI now trips other legal requirements, so that's why I'm trying to explain that because the GMP includes an Environmental Assessment, as a matter of law, the finding for FONSI is not supported at this time.

Chair Lay: That's good. Second that?

Ms. Sablas: Yes.

Chair Lay: Okay.

Ms. Celiz: Call for the motion. Call for the vote.

Mr. Skowronski: Any more discussion?

Chair Lay: Do we need to repeat that or, Annalise, you have it?

Ms. Kehler: No. I don't have it. Because the General Management Plan includes an EA, as a matter of law, the document doesn't support the FONSI.

Chair Lay: Yeah. That works. Any discussion on the floor? Any further discussion on the floor? Okay, at this time I'm going to call for a vote. All those in favor, aye? Any opposed? All in favor.

It was moved by Commissioner Frank Skowronski, seconded by Commissioner Lori Sablas, then

VOTED: that because the General Management Plan includes an Environmental Assessment, as a matter of law, the document does not support a Finding of No Significant Impact (FONSI).

(Assenting: Y. Celiz; L. Sablas; I. Bassford; T. Lee-Greig; M. Ropa; F. Skowronski)
(Excused: L. Albino)

Chair Lay: We're moving on. Okay.

Mr. Skowronski: Can we make a note that it carried unanimously?

Chair Lay: Yes. The vote was unanimous. Everybody voted. She has the record there. Okay, did that cover all Unfinished Business under no. 1?

Ms. Kehler: Are we done with this item?

Ms. Lee-Greig: Is there additional concerns?

Ms. Kehler: No?

Chair Lay: That was it, right? The time extension we had that one covered, we passed it, right?

Mr. Skowronski: Right.

Chair Lay: And then all --

Ms. Desjardins: I believe Commissioner Bassford had a comment that you wanted to include which was to -- somebody -- you wanted the period to be open, was that under the period comment? Sorry. Okay. Never mind. I'm going to be quiet.

Chair Lay: Okay, I'm unsure about Unfinished Finished, the part 2 of number 1 if we had covered that already.

Ms. Kehler: Hang on.

Chair Lay: The Commission may comment on the General Management Plan and Environmental Assessment, and advise the National Park Service in carrying out historic preservation responsibilities pursuant to subsection 2.88.060.A, Maui County Code. Did we cover that already? Okay, moving on to no. 2.

2. Discussion on effort to update the Cultural Resources Management Plan for Maui County from 1984. (Discussion began at the September 6, 2018 meeting.) (A. Kehler)

The Commission may discuss the effort to update the Plan pursuant to Subsection 2.88.060.A, Maui County Code

Ms. Kehler: Okay, so since our last meeting, I just wanted to share with you that I -- we had workshops, community workshops related to updating this plan, so we had one in Hana, one in Lahaina, one on Lanai, and on one Molokai, and in a second, I'm going to hand out materials that were given at the workshop, so it's a questionnaire, a frequently asked question sheet, and a -- a little card that has the project website on it, so if you -- so Commissioner Ropa and Commissioner Albino, they both came to -- Commissioner Ropa came to the Lanai workshop, and Commissioner Albino came to the Molokai workshop, so I think they've already done their questionnaires, but I encourage you guys to do the questionnaires. If you don't want to do them on a piece paper, you can do them online. And then if you wanna encourage anybody else in the community to take one who hasn't taken on, please do. The consultant is working on a community engagement summary right now that talks about what we heard at the workshops, and we'll also be doing a summary of what we get from the questionnaires, and we'll also post all of the information that was presented at the workshops on the project website. So the community engagement summary, I'm trying to figure out if we're going to issue it now or we're going to wait until -- 'cause we're still having people take the questionnaire so we'll probably continue allowing that to happen for a while, and then once we shut that down, we'll put up the community engagement summary. So let's see, I'll go ahead and pass that stuff out to you right now.

Okay, so now that I've passed that out, that's -- those are the handouts that people received, that they got to walk away from the process with, and like I said, we'll post everything online that includes like, so at the workshops, we had an activity that isn't shown in the handouts and that activity identified preservation actions, and then it asked people to prioritize which actions are most important to them, so there was like cultural landscape preservation, and environmental preservation, there was one for heritage tourism, which is like a sub-sect of tourism that -- that seeks out like historic -- you go and look at historic properties, basically, and there was one that supported programs for housing rehabilitation and neighborhood rehabilitation, and there was a few others, and that'll be summarized in the -- on the website, so just -- you can stay up to date by looking at the website, it's a little sparse right now, but we're going to start populating that with stuff pretty soon, and I think we're going to have the existing conditions report, which will summarize everything, so that'll summarize all of the document review, all of the community engagement; that'll probably be sometime in March, the end of March maybe, and then if all goes right and we get the budget item approved, then we can start phase

two, which is the actual plan drafting phase, and that will begin in June, and that will be way more like involvement, we'll probably have a steering committee and all this other stuff for the plan, so fingers cross that we get that budget item approved. Are there any questions? I also wanna thank our Commissioner from Lanai for is hospitality. He took - he took us out to kinda like the east side I guess it's considered on Lanai.

Mr. Ropa: Yeah, part of the east.

Ms. Kehler: Yeah, and we had the consultants with us and we got to see lots of awesome stuff, so thank you for that. That was really awesome.

D. NEXT MEETING DATE: March 7, 2019

E. ADJOURNMENT

Chair Lay: That's all we have? Thank you very much, and thanks for your participation everyone. And once again, thanking everyone here. Your contribution to this committee -- this Commission is invaluable, the comments, and everything, including our gallery, thank you very much for bringing some knowledge to us from Molokai. I appreciate that. Thank you guys very much and we'll see you guys on March 7th.

The meeting was adjourned at approximately 1:30 p.m.

Submitted by,

SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present:

Ivan Lay, Chairperson
Ian Bassford
Yvette Celiz
Tanya Lee-Greig
Michael Kaleo Ropa
Lori Sablas
Frank Skowronski

Excused:

Louella Albino

Others:

Jennifer Maydan, Planner VI, Long-Range Division, Dept. of Planning
Annalise Kehler, Cultural Resources Planner, Long-Range Division, Dept. of Planning
Mimi Desjardins, Deputy Corporation Counsel, Dept. of the Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions II, Current Div., Dept. of Planning