

**MAUI COUNTY CULTURAL RESOURCES COMMISSION
REGULAR MINUTES
NOVEMBER 2, 2017**

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission was called to order by Chairperson Lori Sablas at approximately 11:00 a.m., Thursday, November 2, 2017, Planning Conference Room, 250 S. High Street, Wailuku, Island of Maui 96793.

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

Chair Sablas: Aloha kakahiaka. Mahalo for being here. I see we have a quorum, it's 10:00, and I'd like to call to order the meeting of the Maui County Cultural Resources Commission of November 2, 2017. Item B is Public Testimony, so if there's any in the audience who would like to testify on any agenda item, you may do so at this time. I might also add that we are going to be adjusting the agenda a little bit because I see there's a lot of people here with Banyan Tree, and so in consideration of your time, we will be going to item number 2, and then go into item number 1 on the Lanai plan. So at this time, if there's anyone in the audience who would like to come and testify on any of the agenda items, you are welcome to do so. I'd like to please remind you if you could keep your testimony to three minutes, we would all appreciate it. Mahalo. Please come up, identify your name, please.

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. Goo: Aloha. Good morning, Commissioners. I have a big mouth so I probably don't need a microphone. First off, I would like to thank you for this opportunity to come before you and voice what needs to be voiced. My name is Evelyn Goo. I have worked with nonprofits on Maui for more than 25 years to support their goals and their fundraising efforts. In addition to providing an alternative art and craft fair location, I've donated my time, I've volunteered on behalf of nonprofits, provided silent auction items whenever possible to help with fundraising efforts. Throughout the years, many changes have occurred and it's become increasingly difficult to find venues where arts and craft fairs are permitted. With the Lahaina Civic Center site now unavailable due to renovations, and the Banyan Tree off limits, I've worked to open a site adjacent to the Banyan Tree. My agreement with the adjacent property management allowed me to provide opportunities to the community and nonprofits for fundraising, however, this past week, I was advised -- this past week, I was advised that my agreement needed to be amended when a Banyan Tree participant insisted that they be included in this arrangement. I was told by the facility that they could not discriminate as they had been sued before on this issue. To add insult to injury, vendors were observed participate -- that were observed

participating in my first event that was adjacent to the Banyan Tree were told if they -- if they chose to participate in my event, they would be prohibited to show their wares under the Banyan Tree. These tactics by one of your Banyan Tree participants has resulted in severely negative outcome for other nonprofit organizations. Many vendors are now afraid to come forward and corroborate these threats due to the loss of the Banyan -- Banyan Tree venue. My questions to you are as follows: How can the Banyan Tree be restricted to serve only a select few special interest groups? How is that possible? Isn't the County of Maui required to follow non-discrimination policies? Were rules for the Banyan Tree operations developed with public participation? Was it an open public process? Is there an open process that allows other nonprofits an opportunity to apply for the use of the Banyan Tree? Why should one of your exclusive Banyan Tree participants be allowed to encroach on other venues when they already have the use of a County site? How can you approve a calendar that grants exclusive rights to any participants who now have an alternative venue? They have come after my venue. Shouldn't your rules prohibit intimidation and threats to vendors who may wish to participate in other craft fairs and events? Perhaps you need to examine participant rules to make certain that you are not using -- that they are not using such tactics to reward and punish vendors. You know, public perception has always been the Banyan Tree was owned and operated the Lahaina Art Society, however, over the past couple of days, I have found out this not to be true. So based on this new information, I come before you today and I request to be added to this calendar on behalf of the nonprofits that I represent. I would like equal access to the Banyan Tree. I intend to -- to pursue the permitting process and follow any guidelines or rules that needed to be followed. I'm asking you, please, in light of all of this information that I am bringing to you today, please do not approve that calendar until these issues are resolved. Once again, I thank you so very much for allowing me to come forward and voice what is happening out there and it should also -- you know, it's a Banyan Tree. I understand you folks and the cultural aspect, my children are Hawaiian, their grandmother is 100 percent Hawaiian, I totally respect the Hawaiian culture from every aspect, and I also know how to implement it in arts and crafts fair.

Chair Sablas: Mahalo. If you could please wrap up. I've allowed you more than your three minutes. Yes.

Ms. Goo: I'm sorry. I'm sorry I'm over my three minutes. I will wrap up now. I just would like to, once again, extend and tell you thank you so very much for allowing me to come forward in this forum.

Chair Sablas: Thank you, Ms. Goo. Wait. Are there any questions? Yes?

Ms. Kajiwara-Gusman: Yes. So you run a nonprofit adjacent -- on an adjacent property to the Banyan Tree. Is that what --

Ms. Goo: Yes.

Ms. Kajiwara-Gusman: Yeah. You pay a lease or -- or rent for that property as well?

Ms. Goo: We not only pay a lease, but we have set up programs to where we donate additional money for things like children who can't afford slippers, who can't afford lunch, who -- whatever the children's needs may be, we have -- they have actually set up and we are donating money on top of the lease. Yes.

Ms. Kajiwara-Gusman: Okay. Thank you.

Ms. Goo: You're welcome.

Chair Sablas: Thank you very much.

Ms. Goo: Thank you.

Ms. MacPherson: Good morning. My name is Margie MacPherson. I'm here in support to request that the CRC allow the 2018 Banyan Tree Calendar be amended to allow other qualifying applicants to get on the calendar. I'm an artist. I've been doing shows all over this island for about six years now, so I'm a hand crafter, I don't get my stuff from China or the Philippines. I make everything myself from beginning to end, which means making it, transporting it, presenting it, and selling it, so I do it as a supplement to my income, recoup my expenses, and I like the people like my artwork. Some years ago, I applied directly to the people under the tree about the requirements about selling my art there and was referred to the society, the Lahaina Art Society, and told I needed a -- to be a member, so I inquired with the society and was referred to the membership requirements. With me being a free agent, I did not feel that I needed to join or pay a membership fee, pay a percentage of my sales, do all the labor, all the transporting, setting up, breaking down on top of volunteering man hours to their organization, so my thought is if I have to pay all these fees and all these commissions, then they should do the work, not me. So I decided that was not my way to go. So over the years, at all these craft fairs, you tend to see the same people, the same artists participating, and conversations always do come up about the holy grail of craft shows, which is the Lahaina Banyan Tree, and how impossible to get in there because it's privately owned. That is the perception and that was what we've been told. Banyan Tree is off-limits 'cause it's -- it's a private organization. So until this week, it was discovered that it's not private. This is a County park in a historic town. The CRC commission that manages preservation and historic town values and appearances, everything that goes in it. So that's what I understand. I was completely unaware that this was a public process until now; that this is not a private issue with whoever is under the tree; that so many people share what I understood to be true only to find out that it is not, it's actually quite shocking; that other nonprofit organizations have not been afforded the opportunity to apply for usage is even more

unfair. Why is this calendar such a private issue? I mean it's -- it's almost like a secret society; in order to get there, you have to follow the rules of who's already under there, and it's not public. Shouldn't the process follow other protocols for other County park usage processes? It appears that the park is being monopolized primarily by one or -- or two groups and the perceived private ownership is perpetuated to prevent others from applying for this park's usage. For me, I've never heard otherwise and it wasn't that -- that it wasn't privately owned, so I'm not dumb, I'm not stupid, but now that I know that it's not private, it's a game changer.

Chair Sablas: Thank you. Could you please wrap up?

Ms. MacPherson: Okay. So I'm just asking that you please reconsider the 2018 Banyan Tree Calendar in its current form to allow amendments so that other qualified applicants may fairly apply for usage.

Chair Sablas: Mahalo.

Ms. MacPherson: Thank you.

Chair Sablas: Comments, clarifications?

Ms. Kajiwara-Gusman: Margie, hi.

Ms. MacPherson: Yes? Hi.

Ms. Kajiwara-Gusman: Thank you for coming. So you're a freelance artist.

Ms. MacPherson: Correct.

Ms. Kajiwara-Gusman: And do you remember approximately the amount of fees and stuff that they wanted to charge to become a member of the association?

Ms. MacPherson: Hundred dollars.

Ms. Kajiwara-Gusman: Thank you.

Ms. MacPherson: Thank you.

Chair Sablas: I'm sorry. Follow-up question. Is that hundred dollars annually or is it --

Ms. MacPherson: Ah, yes, annually. Hundred-dollar annual membership fee, and then you volunteer shift work --

Chair Sablas: Okay.

Ms. MacPherson: At their society in order to get under the tree.

Chair Sablas: Mahalo. Thank you.

Ms. Honey: Aloha, members and Cultural Resources Commission. My name is Avelina Honey. I am artist of having a Maui craft -- I do craft. I do tapa cloth. I pound the tapa and I demonstrate those tapa thing. So what I'm asking is I am here to ask that the 2018 Banyan Tree, if you could add me into the calendar. I think organizing to fairly apply for the park uses for as long as it -- I can remember I was under the impression that the park was privately owned and operated. I just recently found -- found out that is not true and is a County park. The CRC make its final decision on who can and cannot operate it in this park. All I ask is if you can add me to the calendar 'cause I'm one of the, you know, crafter. I do tapa, and I demonstrate tapa cloth, so that's what I do, so that's all I ask for.

Chair Sablas: Mahalo.

Mr. DeMaria: Good morning. My name is Eric DeMaria. I'm the president of the Lahaina Art Society. There are several groups, including us, that do use the tree. The Lahaina Town Action Committee --

Chair Sablas: I'm sorry. Could you please speak up in the mike, please?

Mr. DeMaria: Sure. Aunty Patty's HEUI group. The whole reason for us being a group and operating the way we do is because of the process of using the park. It requires permits from Parks and Rec, approval from the Fire Department, insurance, it's very, very complicated, so we do it as a group. Our purpose -- and we are a nonprofit. We're a starting point for artists. We're open membership to anybody. All they have to do is bring in their work. They can join us under the Banyan Tree. Like she said, it's a hundred dollars a year. That's our only fee. There's a percentage that's taken out to cover the insurance, and the credit card fees, and all the other that sort of thing underneath the Banyan Tree. We're limited to 25 spots, but we do share. We never turn people away. The calendar is agreed upon by all the groups every year. When we get together, you know, we get ahead months at a time and work out who gets what day based on cruise ships and sort of thing like that. So, like I said, anybody is welcome.

Chair Sablas: Any questions, clarifications? Commissioner Lay.

Mr. Lay: Good morning. Thank you for coming. Of the 25 spots, is it filled every week, and you said you do double up on that, how does that work out?

Mr. DeMaria: The Parks and Rec has a -- some very strict rules that we have to follow. We're only required to have a ten-by-ten, so if we get more than 25, we share a five-by-ten and limit what we bring to stay within those spots. It has to do with Banyan Tree and taking care of the tree roots and that sort of thing. They don't want too many people. I guess, at some point years ago, they would have 70 or 80 people and it got to be too much for the park.

Mr. Lay: Well, of your vendors, do they -- do they donate their proceeds to you, a portion of it?

Mr. DeMaria: Oh, absolutely. We're also joined by the Lahaina Art Association, they live with us in the courthouse building, and they're the folks that provide free art classes to the -- to students. All the schools, when they cut their budget, the first thing that goes is art, so we support them. We donate to them. We give to several other nonprofits too. We don't make any money on it. Our purpose is to mentor, to advertise to help new artists get started. We take people that have never shown at a gallery. There's no quota. We help each other. We're a family. We're an ohana.

Chair Sablas: Commissioner?

Mr. Skowronski: You -- you said that you're allocated 25 spots.

Mr. DeMaria: Correct.

Mr. Skowronski: How many other spots are available?

Mr. DeMaria: That's -- Parks and Rec limits us to just that.

Mr. Skowronski: But how many other spots are available that you don't have?

Mr. DeMaria: Oh, I see what you're saying. Well, it's mapped out so it's pretty tight. There really isn't much room for -- if we take our ten-by-tens, you'll -- if you walk along the pathways, there might be three, four, five more spots.

Mr. Skowronski: I'm not familiar with the process --

Mr. DeMaria: Sure.

Mr. Skowronski: Or the location. Of the 25 spots that you have, would you estimate that that's 50 percent of the available area, 75 of the available area, 90 percent?

Mr. DeMaria: Probably -- probably 75 percent of the available area. The whole reason is because of the -- the arborist for the County says we can only take up so much space on the park based on the -- the health of the tree.

Mr. Skowronski: Okay. Well, let's go under the premise that -- that you have secured the proper approvals and insurance, etcetera, for say 75 percent of the area available.

Mr. DeMaria: Right.

Mr. Skowronski: Who's operating on the other 25 percent?

Mr. DeMaria: Nobody.

Mr. Skowronski: It's vacant? There's no --

Mr. DeMaria: Yes.

Mr. Skowronski: It's wide open? There's no vendors there at all?

Mr. DeMaria: Correct. The whole -- the whole purpose of that, like I said, is the arborist. They have limited us to those ten-by-ten, 25 spots. They say anything more could damage the tree.

Mr. Skowronski: If -- if another vendor were to come in or another organization were to come in and ask for a portion of the other 25 percent, would they have to secure insurance?

Mr. DeMaria: Oh, absolutely.

Mr. Skowronski: Would they have to secure approval from the fire board?

Mr. DeMaria: Yup. The whole works.

Mr. Skowronski: And Parks and Rec?

Mr. DeMaria: Parks and Rec.

Mr. Skowronski: Okay. Can you give us an overview of how long that process takes, how expense that process is?

Mr. DeMaria: It usually takes us -- we used to do a quarterly permit and it would take several weeks to put it all together 'cause you had to visit all the different agencies, acquire the insurance, get approval from the Fire Department in terms of exits, Parks and

Rec is -- it's a bit of a process. There's a stack of paperwork of probably six or eight different sheets of different kinds of approvals and signatures that are required.

Mr. Skowronski: Of all the times that you've been operating at this location, have you noticed anyone else that comes in without the proper paperwork or without permission to come in and sort of "squat" on the other open area?

Mr. DeMaria: No. I've seen one or two people that like handmade little things that go out on the sidewalk, but they know they're not -- it's because of the liability. You're required to have liability insurance by Parks and Rec to cover people that might trip on a root, you know, that sort of thing.

Mr. Skowronski: Is there a method or is there any policing going on for the other 25 percent of the vacant area that's not being used?

Mr. DeMaria: Yes.

Mr. Skowronski: By who?

Mr. DeMaria: We take care of ourselves. If people come in and they would like to setup, we'd have to tell them, hey look, you gotta have insurance to do this. I've only seen that happen once or twice ...(inaudible)...

Mr. Skowronski: And so -- so when your event is going on and someone that is not part of your society sort of shows up and opens up their wares, you do the policing?

Mr. DeMaria: Yes. We tell them that you have to follow the Parks and Rec rules. And if they don't have permits and insurance and all the other stuff that goes along with it, they're really, technically, not allowed to be there.

Mr. Skowronski: Okay. And if they don't leave?

Mr. DeMaria: Never had a problem. I would assume by, at that point, we'd call Parks and Rec and have them send a park ranger I would assume. We've never run into that problem. Usually when people come by and they say they would like to participate, we welcome them in as a member, take them through our process, and then they can come join us legally.

Mr. Skowronski: Thank you.

Mr. DeMaria: Sure.

Chair Sablas: More questions.

Ms. Kajiwara-Gusman: Thank you for coming again. So in order for someone to participate as a vendor in one of your or the 25 slots, they have to be a member of your society?

Mr. DeMaria: Correct.

Ms. Kajiwara-Gusman: Okay. And then I was looking at the calendar in -- I understand that other groups as well have the option to apply but you folks pretty much have the calendar every Saturday and Sunday of the whole year.

Mr. DeMaria: Well, the arborist allows us three weekends per month --

Ms. Kajiwara-Gusman: Yeah.

Mr. DeMaria: And then a rest weekend for the tree.

Ms. Kajiwara-Gusman: Okay, and that is according to the County guidelines or?

Mr. DeMaria: The Parks and Rec.

Ms. Kajiwara-Gusman: Parks and Rec. Okay.

Mr. DeMaria: Yeah, technically Lahaina Art Society is out there three days a month.

Ms. Kajiwara-Gusman: Okay.

Mr. DeMaria: Give or take.

Mr. Lay: So in securing these weekends, is it first come first serve? How does it work I mean as far as ...(inaudible)...

Mr. DeMaria: We get together as a group with the other groups that also participate and work out who gets what day.

Mr. Lay: Is this put out publicly ...(inaudible)...

Mr. DeMaria: Sure. Oh, you bet. The Lahaina Town Action Committee publishes it.

Chair Sablas: So have you denied participation? When and why?

Mr. DeMaria: No. We have not denied.

Ms. Kajiwar-Gusman: One more. So the vendors that come in or the people that apply for a spot, are they required to carry their own general liability insurance or do they fall under your umbrella?

Mr. DeMaria: No. Each group has their own insurance permit process. We're --

Ms. Kajiwar-Gusman: No, I mean the individual people, the individual vendors, like the other two ladies who --

Mr. DeMaria: Oh, it's a blanket. We cover -- we cover those 25 spots.

Ms. Kajiwar-Gusman: So you cover them?

Mr. DeMaria: That's the whole purpose.

Ms. Kajiwar-Gusman: Okay.

Mr. DeMaria: Yeah.

Ms. Kajiwar-Gusman: Okay.

Mr. DeMaria: It's one big insurance policy.

Ms. Kajiwar-Gusman: Okay.

Mr. Lay: One more for me.

Mr. DeMaria: Sure.

Mr. Lay: Okay, so besides the hundred dollars enrollment for people in the Art Society, what is your weekly what the vendor would pay? I know it depends on how much the sales like that, but there must be a starting point of how they're going to pay just to be there, right, I mean is there a rate that you give to these vendors?

Mr. DeMaria: Yes. The vendor keeps 73 percent of what they sell. The other 28 percent goes to funding the courthouse, we pay rent, we pay maintenance fees, covers the insurance, the cost of the permit process, staffing inside the gallery. The County rules say we're not allowed to do any cash transactions under the tree, so everything has to go into the courthouse and go through our computer --

Ms. Kajiwar-Gusman: Okay.

Mr. DeMaria: So all those credit card fees and all the -- I'm sure you guys understand. That's what covers it, that 27 percent.

Chair Sablas: Seeing no other clarifications, thank you very much for being here.

Ms. Kajiwara-Gusman: Thank you.

Mr. DeMaria: Thank you.

Ms. Roberts: Hello. My name's Toby Roberts. I've been handcrafting my jewelry for 25 years on the island. It's a family business. My father passed away in '09, but I'm still carrying on the tradition. I have been denied at the Lahaina Art Society when I filled out my application. I'm not sure why. It was about ten years ago. And, also, giving almost 30 percent of the money I make, I would not be able to make any money unless I raised all my prices. I would like an opportunity to be able to be under the Banyan Tree, like everybody else with the stuff I make and not have to compete with China, and so I'm just here to state that. Thank you.

Chair Sablas: Well, thank you for coming and testifying. Wait. Wait. Are there any -- yes?

Mr. Lay: So besides these days that are taken, would you be willing to grab another day, I mean schedule for, you know, you and other fellow artists that would be interested in participating knowing that you gotta pay your permits fee, you have to do all these different things also as far as --

Ms. Roberts: Within reason, not 30 percent. I wouldn't be willing to -- to do that. I don't think that's fair but, otherwise, of course, you know, I'd open to whatever. It's my livelihood trying to make a living.

Mr. Lay: If you formed your own nonprofit, similar to what they're doing, and not charge that 30 percent but make sure everybody takes care of insurance and that kinda thing, you might be able to ...(inaudible)...

Ms. Roberts: You know, Evelyn Goo, the one that spoke first, she has been very fair. She donates a lot. I've been doing her craft shows because they're not -- I have a difficult time when there's politics involved, you know, I don't want to be involved in any of that. I just want to make my jewelry and be able to sell it, and she's very fair, she's fair to everybody, and so if she has a show, I'm onboard, whether it's the civic or whatever, besides that, it's a little more challenging for me, I do little markets in Makawao and this and that, but I would trust her to be able to -- to do that and be fair about it.

Mr. Lay: Thank you.

Ms. Miller: Aloha. I'm Michelle Miller, and I've been on Maui 40 years. I've been a crafter. With Evelyn Goo, who I've been with for about 20 years, we don't pay anything except a fee to be there, and it's extremely low, lower than any other promoter. She allows us to move out in space if there's no one there to make the room look decent to give our best performance as vendors. We're a community of people. I know people who sell at the Banyan Tree. I also was in the Art Society. I disagree with a lot of what was said. Charging someone a fee is one thing, and that's what Evelyn does, and it's a fair fee, and that is all she charges. She pays the insurance. She cleans it up. She makes sure that we follow the rules. Her very favorite saying is: You either follow the rules or you're out. So we rather suspect that maybe we should be in the Banyan Tree exploring some of the wonderful things the vendors have to offer, like the tapa lady that just spoke, the jewelry that the young lady just did with her father's business, my business. We deserve to have an equal opportunity, and I believe the Banyan Tree would want us to do that only because it's an aloha tree for the island. Everybody knows it. It's promoted. It's like Haleakala. I'm not going to bore you with anymore details 'cause everyone wants to talk, but I do believe the agenda should be stopped. We should have an opportunity to do what needs to be done to participate. Evelyn already has insurance. She already has connections to do whatever the County wants done because she's worked with the County for 20 years. So if someone has already got all that process involved, just slow it down a little bit and give us that opportunity to talk to you again and to resubmit. Let us just do our job. Thank you.

Chair Sablas: Mahalo.

Mr. Ugfali: Hi. How you guys doing today? My name is Paul Ugfali. I'm an entrepreneur, unlike these people, they actually make their jewelry, I currently help local artists with little stuff, like pottery, so I currently learning how for make pottery, but when local artists like sell their things, I go in and I come and I help sell them for them, yeah, so with that being said, I'm here to ask for the Banyan Tree calendar to be amended to allow other profit organizations to fairly apply for the park usage, you know. I grew up here. I was born and raised here on Maui, moved away when I was 18, but with this lady right here, I grew up with her as a little kid, so she's really fair with her prices and everything, like they were just saying earlier, and she knows what needs to be done as far as licensing, as far as insurance and everything, so I would just like the opportunity for be underneath that Banyan Tree as well. And that's it.

Chair Sablas: Mahalo. Clarifications anyone? Thank you.

Ms. McLean: Can we hold on for one second? We're going to switch microphones. We don't need to recess.

Ms. Sullivan: Hello.

Chair Sablas: Much better.

Ms. Sullivan: Hi. My name is Alicia Sullivan. I own Maui Rose Soaps. I have for about 15 years. I did my very first craft fair with Evelyn Goo 15 years ago. Again, she has insurance. We -- most of the vendors have our personal liability insurance as well, it doesn't cover the tripping over the roots at the Banyan Tree, but we are pretty much all covered. The civic center requires it. A lot of our venues require it. Evelyn clearly has enough connections with the Police Department and the Fire Department to get whatever permits are required to operate under the Banyan Tree. I've never applied at the Art Society because of the exorbitant fees that they charge. It -- it would -- I would have to raise my prices, and I'm not here to raise my prices and rip off the tourists, I'm here to sell them a quality handmade product from Maui. I've done it for 15 years. I have pretty much kept my prices the same. It is my livelihood. I support myself, both my children. I'm a widowed mother of two. I also go to college and that's how I pay for my college. You know, we would just like the opportunity to work under the Banyan Tree as well. In the two weeks that we've been adjacent to the Banyan Tree, they've been a little bit less than friendly last week with us, which is kind of ridiculous. I don't -- I don't know why. But I think that everybody should have the opportunity to work under there and it shouldn't be restricted to just those groups that are like, okay, we'll -- we'll decide who's going to be here. It should be open to everyone particularly with the closure of the civic center where about I would say 75 of us have nowhere to sell on Sundays now because of -- because of the civic center closing. So thank you. Thank you for your time.

Chair Sablas: Any questions, clarifications? When you say "adjacent site," where adjacent?

Ms. Sullivan: The Pioneer Inn, harbor, Banyan Tree, and then kam third. We're actually at kam -- kam third, the elementary school right there next to the Banyan Tree. There's a large grassy area that's on the outside edge that faces the Banyan Tree, so we're across the road. So if you're pulling around the harbor like this, we're on the last.

Chair Sablas: Okay.

Ms. Sullivan: Yeah.

Chair Sablas: Thank you.

Ms. Sullivan: Okay.

Mr. Gray: Good morning.

Chair Sablas: Good morning.

Mr. Gray: My name is Charles Gray, and my company is Nalu Koa. We are makers, manufacturers of personal product - soaps, lotion, cream, reef safe sunscreens, etcetera - and I'm here to support Evelyn Goo and our little hui of crafters that is asking you to place us on the -- on your calendar for this year to just evaluate what we bring to the island of Maui, and not isolate certain groups that are been long-standing under the Banyan Tree. We just want the same opportunity, and we all make our living, we don't have other jobs, we do this for a living, and we ask for just equal rights. I'm Hawaiian. I'm from Oahu. I love Maui. I like stay on Maui. And I'm here to support, again, my hui, Evelyn Goo, who does everything by -- by the book, and we all have our own liability. We provide for our families with this type of work. Soap-making in my family goes back about 50 years. So I just ask you for the opportunity to consider us to have the same rights as the other groups under the Banyan Tree.

Chair Sablas: Mahalo.

Mr. Gray: Make it short.

Chair Sablas: Thank you.

Ms. Wells: Hi. My name is Kimberly Wells, and I'm Michelle Miller's daughter. She's been doing the craft fair for about 30 years, and I grew up doing it with her. I think that, in all fairness, I would ask that you consider us and add us to the calendar also, and I'd also like to bring up the fact that, last week, I observed some hostility from the Banyan Tree folks and -- and understood that they did call the police also, so they do take matters into their own hands. I didn't witness that, but that was rumor that I had heard. And, to my knowledge, it's just such a beautiful area, the visitors loved it, and I think that everybody could just work together in peace and harmony. Thank you.

Chair Sablas: Thank you.

Ms. Gray: Hi. Good morning. My name is Stephanie Gray, and Charles is my husband, so I just want to reiterate everything that he did say. We are a small business company. This is our livelihood. I don't want to -- he's going to be 70 years old, and I'm 65, and we love what we do. We love meeting people. We love meeting the tourists. And we've had a great rapport with everyone. This is our hui, like he said. He's had some major surgeries. These people were with us. They're part of our lives. And we just want the opportunity, excuse me, to be a part of that Banyan Tree and -- and be able to be there and vend and just spread all the aloha that we can, so we just are asking for an opportunity to be there and to put us on your calendar dates also. Mahalo.

Chair Sablas: Mahalo. Oh --

Mr. Lay: I got a question.

Chair Sablas: Oh wait. Oh, oh, sorry.

Ms. Gray: Sorry.

Ms. Kajiwara-Gusman: Oh no, go ahead.

Ms. Gray: Oh.

Mr. Ropa: So you say you're with Ms. Goo, yeah --

Ms. Gray: Yes.

Mr. Ropa: On -- adjacent to the property?

Ms. Gray: Yes.

Mr. Ropa: All of you?

Ms. Gray: Yes.

Mr. Ropa: On one side?

Ms. Gray: Yes. She gave us the opportunity. When the civic center was no longer available to us, we were out of a -- a place to be, and there was a lot of us that were looking for a Sunday show because we -- we need to work, and Ms. Goo was able to find the location, get it all together within, you know, she's -- she's a magician. She was able to get this all done. Her fees are the same as it's always been. She just requires us to - - to just malama the area, and we just are out there supporting ourselves and supporting the people because, for us, we do have biodegradable sunscreens, reef safe, you know, we're helping people that are sunburned out there, we've got products that are, you know, helping people too so --

Mr. Ropa: Thank you.

Ms. Kajiwara-Gusman: What are the fees that's charged on -- on if -- I don't know if that's even --

Ms. Gray: She charges us \$60.00.

Ms. Kajiwara-Gusman: Sixty dollars. And then do you folks collect -- 'cause, you know, I understand that, at the Banyan Tree, they -- the association, they're not allowed to do

cash transactions, so everything has to be through credit card, and then it goes through a processing company, and then comes back.

Ms. Gray: Right.

Ms. Kajiwara-Gusman: Are you guys allowed to do cash transactions?

Ms. Gray: Yes. And we all have our sales GET. We all --

Ms. Kajiwara-Gusman: Yeah.

Ms. Gray: We have all of that.

Ms. Kajiwara-Gusman: Yeah. What I'm saying is -- is when somebody buys something, it's going to, if I'm correct, it goes to a -- it's not where you collect the money yourself. This --

Ms. Gray: With us --

Ms. Kajiwara-Gusman: They don't do cash transactions on the other site.

Ms. Gray: Right.

Ms. Kajiwara-Gusman: They're not allowed to under the permit.

Ms. Gray: Right. Okay.

Ms. Kajiwara-Gusman: Okay. And that's -- I mean 'cause that's part of their fee that they have to do it. It's an administration fee. So if you folks were allowed to go to the Banyan Tree --

Ms. Gray: Yes.

Ms. Kajiwara-Gusman: You would be held by -- accountable by that same rule --

Ms. Gray: Correct.

Ms. Kajiwara-Gusman: Where your hui would not be able to do cash transactions. You're going to have to find a -- a third-party, or whatever, credit agency --

Ms. Gray: Sure.

Ms. Kajiwara-Gusman: To collect the credit card transactions and then -- so your fee is probably not going to stay at \$60.00. It is going to go up.

Ms. Gray: That's fine. We just want to -- we just want to be -- have the opportunity to be there.

Ms. Kajiwara-Gusman: Okay. That's cool. Thank you.

Ms. Gray: Thank you.

Chair Sablas: Thank you.

Ms. Goo: Can I answer that?

Chair Sablas: Wait.

Ms. Jensen: Aloha, members of the Cultural Resources Commission. Thank you for your time. My name is Moana Jensen, and I handcraft jewelry. My jewelry company is called "Sweet Metal Candy." I am born and raised here on Maui. I actually make my living selling my handcrafted work at craft fairs all over the island. The last two days I was informed that the Banyan Tree is a County park, not privately owned. I also found out that anyone can apply for permitted park usage within the guidelines. For as many years as I can remember, it was common knowledge that the park was owned by a private organization. My mom, who, today, five years ago passed away from cancer, was an artist in Lahaina Art Society for about over 30 years ago, of all days. I spent a lot of my childhood under the Banyan Tree and in that gallery, you know, every weekend, bringing down her paintings and stuff, and until two days ago, I thought it was privately owned, so that was a big shock for me. I, about two years ago, did apply to go, you know, be a part of the Banyan Tree. A friend of mine does it. I asked her who to contact, emailed, and it was a very unfriendly response and even stating, you know, I've been there for years with, you know, my mother, she had been there for years, and I just thought thinking I had zero chance. I would never sell under the Banyan Tree. Jewelry is competitive. There's a lot of people who make jewelry, and I think if my impression was that they already had enough jewelers, so as long as they have enough, they don't consider anybody else, which sucks. So the reason I'm here to testify today, of all days, on the passing of my mother, is to ask that the 2018 Banyan Tree Calendar not be approved in its current -- in its current form and allow it to be amended to allow us, and all these wonderful people, to give us a chance. We -- I have liability insurance. I take credit cards. Whatever, you know, guidelines are needed, we can do it, you know. I mean we've all come this far. We're not going to stop at that. It might be hard, you know, the first time to get everything all together, but we can get through that. So I just, again, ask please reconsider approving it in its current form and allow it to include other applicants if other groups want to come

as well, not just us, 'cause I think a lot of people didn't know it was a public park. Thank you all so much for your time and consideration.

Chair Sablas: Thank you.

Mr. Neal: Good morning. My name is Bryant Neal, and I am the curator and owner of the Story of Hawaii Museum, and I was a partner with Lahaina Print Sellers in Lahaina for 25 years before going out and branching out on my own. It boils down to I have been doing shows and various sorts and forms with Evelyn, with a number of different other vendors at hotels, at public facilities, the opportunity to sell your wares on Front Street, location, location, location whether it's a private vendor, whether it's a retail operation, that's what the opportunity turns into. If you're making anything, then able to opt to sell your stuff there provides you with an opportunity to be exposed to probably more traffic than any other particular location, so all of these groups want to be able to do that. So the question at hand is: How do you make that determination? That one group of people that's comprised of the same group of people; if that man had all of his people there, they'd be the same people. We're all citizens of Maui. We're all paying taxes. We all want an opportunity to be able to have the same access to the same things. So this idea with some of the other ones I know the County runs, there's a lottery system, you know, not everybody can just have a show, but to be fair, they come up with some kind of a system for being able to do that. If this process is opened up to other groups, and adhering the rules is not a problem, basically, everybody that runs this show has to follow rules, there's no wild come in free, as long as they're set and they're in a written format and put in forth and can be enforced, so if we know the rules, they'll be adhered to. So thank you for the time. But just being open to the process and transparency and making this a fair and equitable process for all involved is basically what we're all here standing for. Mahalo.

Chair Sablas: Mahalo. Any clarification? Thank you.

Ms. Johnson-Winer: Aloha. My name is JoAnn Johnson-Winer. Dear Commission Members, as a former County Council Member and Parks Committee Chair, I am familiar with the history surrounding the Banyan Tree events and participating entities. My long-time friend and supporter of our West Maui Hospital project, Evelyn Goo, recently secured an area, which you've already heard, is at the school for art and craft vendors adjacent to the Banyan Tree. By securing this particular site, Evelyn did intend to provide opportunities to others that they might not otherwise have. With the current loss of the civic center site and also the restrictions that do exist at the Banyan Tree, nonprofits, such as our West Maui Hospital, have limited opportunities to raise funds. As a board member of the West Maui Hospital Foundation, I was working with Evelyn to secure funds for our nonprofit, she's been very generous and donated money out of the proceeds from many of these shows to us. This project has been critical for our West Maui community, and we're doing the best we can to make the West Maui Hospital a reality. That funding

possibility has, however, been snatched away due to the actions of one of the Banyan Tree participants. Armed with the threat of discrimination, this participant -- this participant approached the adjacent property management at the school and successfully secured equal access to their site at the expense of entities, such as our nonprofit. While I realize you can't control the actions of this particular participant or their affiliates with regard to the adjacent property, you can recommend that the Parks Department restrict access to the Banyan Tree for participants that are already authorized to operate at the adjacent site. We often call this "double-dipping" at the County. If you support both sites being utilized by this single participant and their hui at the expense of other nonprofits, such as ours, then just go ahead approve the calendar. But if you believe that the restrictions should be imposed, and I believe that they should, to create a level-playing field, then please defer the calendar approval. It's always been my experience that the County of Maui supports the use of sites and facilities under their control on a fair and equitable basis. There's nothing fair or equitable, in my view, with any entity that has secured two adjacent sites at the expense of nonprofits that have no other options. Please consider the impact that your decision will have on nonprofits, such as our West Maui Hospital. If you fail to approve a calendar or if you approve a calendar that fails to take the actions of a -- one Banyan Tree participant into consideration, and this is not the Art Society that's doing it. So thank you very much.

Chair Sablas: Thank you. Any clarifications? Good to see you, JoAnn.

Ms. Johnson-Winer: Thank you.

Chair Sablas: Any other testifiers?

Ms. Prats: Hi. I'm Patricia Prats, and I'm just here, just as a citizen, a concerned citizen, and supporting Evelyn Goo as well. She's just asking for fairness, you know, fairness and equality for everybody, it's not okay with, you know, things just getting manipulated and controlled by just a few parties. It's about all of us having a chance. And that's all. Mahalo.

Chair Sablas: Thank you.

Ms. Moharmady: Hi. Hi. My name is Sophie Moharmady. I'm a clothing designer. I've been selling my own creation for six years at the craft fair and all over the island. I'm here to support Evelyn to ask for fairness too that -- like -- where everybody can be equal placed in this situation and hope you guys will be fair with your decision too. Thank you.

Chair Sablas: Mahalo. Thank you. Are there anyone out there? Okay, thank you. Thank -- are you coming up? Did you come up before? No? Aloha.

Ms. Thorlakson: Aloha. I'm Stacie Thorlakson, and I am the new Lahaina Art Society Executive Director, and I am -- this is my first testimony here with this group as well as listening to all of you and Evelyn. In my past, I've always been very supportive of small business as well as working with groups, and so, hopefully, we'll all have an opportunity to work together, but I just want preference Lahaina Art Society is coming on November 9th on 50 years of their anniversary birthday celebration, and that holds a lot in the west side community as well as with artists that brought the art and the community to Lahaina as well as we do give back, we are partnered with Lahaina Arts Association, the fees are fairly minimal compared to the cost of doing business, as we all know, small business, there's a lot of bills and other tacked on costs, so a hundred dollars isn't that bad, but I would like to preference that this group that a lot of people are stressing upon, I would like you not to confuse the negativity with Lahaina Art Society.

Chair Sablas: Excuse me? Could you address the Commission Members?

Ms. Thorlakson: Sorry.

Chair Sablas: Thank you.

Ms. Thorlakson: I'm just trying to --

Chair Sablas: Well, it's --

Ms. Thorlakson: Sorry. My apologies. I just would like to preference that Lahaina Art Society, we mean very well, we are an ohana, and so I just would like to clarify that some of the groups that are focused, it isn't Lahaina Art Society so --

Chair Sablas: Thank you. Clarification? Yes?

Mr. Lay: Approximately, let's say -- you are a vendor there?

Ms. Thorlakson: No. I'm the executive director.

Mr. Lay: Okay, so, approximately, you would have an overall view of everything going on, how much does a tent bring in, a medium, on a Saturday?

Ms. Thorlakson: Well, it varies, you know, on a day and what's going on.

Mr. Lay: Right. A happy medium on that?

Ms. Thorlakson: Yeah, and, recently, I've only been in there for two weeks so I'm still, you know, like next week, if I could get back to you, next week I would understand that question better unless I can --

Mr. Lay: Thank you.

Ms. Thorlakson: Okay.

Chair Sablas: Christy, did you have --

Ms. Kajiwara-Gusman: Oh no.

Chair Sablas: No?

Ms. Kajiwara-Gusman: Thank you.

Ms. Thorlakson: Okay.

Chair Sablas: Thank you very much.

Ms. Thorlakson: Thanks.

Mr. Jensen: Aloha. My name's Martin Jensen. I'm a -- a long-term resident, and my wife was a member of the Art Society from 1982 and until, you know, for many, many years, I'm the father of one of the speakers. I'd like to say a couple things. One is we fractured from there because of alleged discrimination. She was a native fiber weaver, there were other people doing that, and she was kinda moved out, and what my daughter said about jewelers, there's been, you know, if there's 25 stalls, that's it. The one point is that regardless of who gets the permit, everyone's entitled to be a vendor. If they're members of the Art Society, they're entitled as well as anyone else. It's everyone's available. I just wanted to make that point. Thank you.

Chair Sablas: Thank you very much. Now Ms. Goo is wanting to speak, Commissioners, are you okay? Yes?

Mr. Skowronski: I have another -- I have a series of questions for Evelyn Goo.

Chair Sablas: Okay. Okay, we'd like to bring you back, Ms. Goo.

Ms. Kajiwara-Gusman: Thank you.

Ms. Goo: Thank you once again. Thank you very much.

Mr. Skowronski: Has your organization ever approached Parks and Rec to get the necessary permits to operate under the Banyan Tree?

Ms. Goo: It has never been a public open process. We have never been aware how to go through the process in order to be able to become under that tree. I do deal with Department of Parks and Rec. I have operated for over an excess of 20-something years at Lahaina Civic Center, which do require the park permits, which do require fire permits, which do require insurance, which all of which I have in place. I operate for different nonprofits. The way the Lahaina Civic Center operates, the -- they hold a lottery once a year. People go to that lottery. If they are drawn, they get a date. You put in your name, they give you a number. If your number is called, you get a date. There are different promoters that promote up there. I have raised funds for so many different nonprofits. I remember my first one was Make-a-Wish Foundation and Ronald McDonald's House, and then we went more local. We just are open to everyone to raise funds for them because that's what I'm about. I -- I guess simple and short; that's what I'm about.

Mr. Skowronski: So -- so Lahaina Civic Center is a lottery situation?

Ms. Goo: Yes, sir.

Mr. Skowronski: What's the situation under the Banyan Tree?

Ms. Goo: I -- I still, to this day, do not know that. I am learning a lot sitting in this meeting listening to the Art Society speak, so now I know which avenue I do need to go. I have - - I have inquired in the past, over the years, what the process was and I was always led to believe you had to go through Lahaina Town Action Committee. Lahaina Art Society had the tree wrapped up. It was off-limits, unavailable. And, as I said, in my prior testimony, two days prior to this meeting, honestly, I wouldn't be here today had we not been harassed so badly last week at King Kamehameha School by the Banyan Tree people. We were -- the police were called upon us. Vendors were told if you do the -- if you go do her event, which some of the vendors do do my event, I've been doing this 20 -- in excess of 20-something years, they were told they can no longer sell under the Banyan Tree, so they're scared. This is their livelihoods. You cannot use a public place as a threatening tool.

Mr. Skowronski: The adjacent quote -- "adjacent site" which is kam three?

Ms. Goo: Yes, sir.

Mr. Skowronski: Do you need Parks and Rec's approval to operate there?

Ms. Goo: It's a State property.

Mr. Skowronski: State property.

Ms. Goo: Yes, sir.

Mr. Skowronski: Is there -- is there a process of getting permission from the State to operate there?

Ms. Goo: Yes, sir.

Mr. Skowronski: What's that process?

Ms. Goo: You have to obtain a permit, and you have to carry insurance, and you have to go through the same process as you do under any circumstance to do an event on County or State property.

Mr. Skowronski: So -- so when you go through the State - that applies to kam three - is that process -- well, you're -- you're saying that you don't know the process for County of Maui Parks and Rec, but you do know the process for the State.

Ms. Goo: I did not know the process. I approached the school, and because my vendors had nowhere to go after the civic center closed, I was trying to find a place for them to go, I approached the school, they said that they would love to have us there, that no one from anywhere has ever helped them, donated anything to them because I was coming forward telling them, look, we can generate funds, maybe we can get your teachers a parking lot, maybe, you know, they've put in place now where they are like giving the money to children who need slippers, that type of thing, but that's for them to allocate where the money goes, not for me.

Mr. Skowronski: The process and the requirements from the State at kam three, do you have a feeling or do you have an estimate of how much or what percentage of your gross has to go toward the State's approval process, or insurance, permission from the Fire Department, etcetera, etcetera?

Ms. Goo: I have obtained all of above. The -- on the State property, we have a lease with the State; on top of that because, in all honesty, I feel that fee is too low, so we are donating money on top of it to other programs for the school. We obtained a permit. Your fire code is simple as six feet aisles. I mean it's simple. At Lahaina Civic Center, we draw maps and have the Fire Chief approve. I have my own insurance. I've been doing this 25 years, so none of this is new. My point here is that in all these years, anytime I ever brought up the Banyan Tree, I was told it was owned by the Art Society.

Ms. Kajiwara-Gusman: Okay.

Ms. Goo: So it was never made public how to get that Banyan Tree. I was always thrown blocks, and I was, mind you, doing my own thing at the civic center, you know, creating

funds up there until it shutdown, so now I have time to dig deeper and find out what's really going on and what I really found out was they don't own the tree.

Mr. Skowronski: Other -- other than the Banyan Tree and kam three, are there any other sites adjacent to those properties that other vendors can operate or have operated in the past?

Ms. Goo: In the Banyan Tree area?

Mr. Skowronski: Right.

Ms. Goo: There was never -- the school was built in the 1920s, there was never, ever, ever a craft fair or ever anyone donate money to that school until I came along. We have been on that property for two weeks. So the only options in that area would be the Banyan Tree and kam school, which I was the one who pioneered that I guess because no one else had ever put a craft fair on there, no one else have ever asked permission, and I did only out of desperation for my nonprofits and for my vendors.

Chair Sablas: Thank you.

Mr. Lay: Okay, when you were applying for your permit, you got your permit, I know you don't restrict anybody that comes that wants to join on, but can you? Because you're the one obtaining the permit, do you have the ability to say no, I have my group here, and you're not part of the group, so you'd have to get your own permit, is that how it would be or is it ...(inaudible)...

Ms. Goo: I would -- I'm sorry to interrupt you. I would never be that way. I know none of you know me, but that's not how I roll. I look at it, these people, we all have our own businesses. We're all trying to operate and survive on this island. We all know this is -- this is a very expensive place to live, our children are born and raised here, my, personal, children are Hawaiian, as I said earlier, I mean we're all just trying to survive and that's where I look at everything, and that's why, you know, I was very touched by some of my vendors, they made me cry today, because I'm portraying what I am, I am very fair, and I -- we're just asking for a fair playing field.

Mr. Lay: Let me give you an example of that. So you have your -- your events going on, you're at kam three; across the street, you got an event going on at the Banyan Tree; there's a vendor there who has a booth at the Banyan Tree; can he come to your side and setup another half booth there?

Ms. Goo: Absolutely. I had some of the Banyan Tree people at my first show. They were told if they came back, they would not be able to vend under the Banyan Tree.

Mr. Lay: So it works for you, but not for them?

Ms. Goo: Correct.

Ms. Kajiwara-Gusman: I have a question. So you have an email address, you have a computer, you know how to use a computer?

Ms. Goo: Absolutely.

Ms. Kajiwara-Gusman: You Google Lahaina Banyan Tree, and you click on the website, it goes automatically to the County of Maui that tells you that this property is owned by the County, and you stated that you, all these years, you didn't know that it was owned by the County, so if it's under Parks and Rec, you could call Parks and Rec and find out what the permit process is for obtaining either a lease or a permit or -- I mean I'm just asking this because I cannot see how -- how people can keep saying they didn't know or they were not aware and nobody thought to even look up, you can go on property tax and see who owns the property, that's -- I mean I'm not against --

Ms. Goo: If you know --

Ms. Kajiwara-Gusman: I'm not against what you're --

Ms. Goo: Right.

Ms. Kajiwara-Gusman: What you're saying or what the people have testified to not being able to get involved, but I just found it in two seconds and --

Ms. Goo: And how many things on there --

Ms. Kajiwara-Gusman: It tells you that it is a Maui County park, and it also tells you that it is a public park. The other --

Ms. Goo: I was just given -- I was just given a paper that was Googled Lahaina Banyan Tree and everything refers back to the Art Society.

Ms. Kajiwara-Gusman: Not on this page. It tells you who the Director is, who the permits clerk is --

Ms. Goo: I would be more than happy to share this with you.

Ms. Kajiwara-Gusman: Who the recreation leader is, who the maintenance supervisor is. It gives you all their phone numbers. The other point that I'd like to make is I'm also a farmer and rancher and we pay a significant -- a hundred dollar fee to the Maui County

Farm Bureau whenever there's events, such as the Made in Maui Festival that's coming up this weekend, which I'm sure probably many of you will be there, we also pay a fee to attend that event as well, and that's a very substantial fee 'cause that's a really big event. As a farmer and a business person, there are fees that I think are way more than the 27 percent for attending these events, and I understand this is an ongoing thing, the -- the Made in Maui Festival is a once a year thing, but there are fees associated with doing that, and I also do credit card processing, it's different when the credit card processing comes directly to you as an individual vendor whether -- you know, whereas, with what they do, they have to actually hire some kind of accounting firm or somebody else to collect all the money and then distribute it separately to each vendor and because of the County guidelines where they say no cash, you know, no cash accepted, and I understand that you guys are -- are in agreement to comply with whatever needs to be done.

Ms. Goo: Correct.

Ms. Kajiwara-Gusman: I think that now that you know the process maybe you guys should get together and put in an application with the County for that -- that location if that's what you folks intend to do. With that being said, there's also dates on the calendar, Saturdays and Sundays, I know it's maybe only once a month for now, but it is a start, get something in there so we can -- we can get you guys at least on the calendar, we're not against, you know, sharing -- I'm not against -- you know, I want them to share, I want everybody to be able to sell their products, but there is a procedure in place and just saying that I didn't know when it's kind of plain is -- is kinda, I mean --

Ms. Goo: Not plain to us. It may be plain to you because you understand how all this works, we don't. I don't, personally.

Ms. Kajiwara-Gusman: You've been doing the civic center for how many years.

Ms. Goo: I have.

Ms. Kajiwara-Gusman: It's the process.

Ms. Goo: And I have asked Alvin, who is sitting here, about the Lahaina tree and he has told me I have to go through the Art Society. They have control of it.

Ms. Kajiwara-Gusman: Well --

Ms. Goo: So when you get answers direct like that when you're asking them, why should I sit down and go to a computer and Google it and look it up when I already know I've been told over and over again?

Ms. Kajiwar-Gusman: Just out of curiosity. I mean I would do it. I don't know. That's just the way -- I'd go until I find that answer.

Chair Sablas: Okay. Okay. Okay. Let's -- if we could just move on. Yes. Any other clarification? Thank you very much, Ms. Goo.

Ms. Goo: Thank you. So just, lastly, we are asking that you'll amend the calendar to allow us our due process. We will get our permits. Now that I've learned all this, I know where it is that I need to begin the process. If you do this and you approve this calendar today, you give that tree to two sole groups for another entire year. I'm asking that you postpone this, let us get our due process in.

Chair Sablas: Thank you very much.

Ms. Goo: Thank you.

Chair Sablas: Thank you. Did we hear from everyone?

Mr. Kametani: Okay, my name is Alvin Kametani, I'm the Recreation Leader III for the West Parks District. When I took over the job about five years ago, this process was already ongoing. The four groups, 'cause we have to allow for the special events, we need approval -- we were told we need approval from this organization to run the events and the art fairs. So I can see how people think that certain groups have total control of it. So we put the calendar together in conjunction with the three groups we've always been working with, allowing for the rest day, allowing for public access during the fairs, I think that's why they put the cap on 25 vendors, there can be no cash transactions so I think everything is done with scripts and little tickets, and everything is run through the courthouse. Under the -- I'm assuming they're using the Lahaina Art Society credit card machines, so there are fees involved for that. The Lahaina Civic Center is operated under the arts and craft fair rules for the County of Maui for Parks and Recreation. The Banyan Tree, because of the historic designation, was handled a little differently. That's why you have that little -- that's why there's a little different process for both. As far as the four vendors, I believe that was kind of a -- decided with the then commission back in about 2005 or 6, so between HEUI, Lahaina Art, Lahaina Town Action, and I think Lahaina Restoration was part of all that discussion, and we haven't revisited any of that since then.

Ms. Kajiwar-Gusman: So if somebody, like Mrs. Goo, called your office and asked you to be on the calendar, what would your response be?

Mr. Kametani: My response would be that because of what had happened in the past, we were only allowing the four vendors access to the park.

Ms. Kajiwar-Gusman: Is there some kind of a lease agreement or something with those four vendors?

Mr. Kametani: No. It's done on a -- the event by event permit and they, basically, follow the Parks rules on permits.

Mr. Skowronski: Who were the four vendors?

Mr. Kametani: HEUI, Lahaina Art, Lahaina Town Action, and Lahaina Restoration.

Mr. Skowronski: And so if you're not going through any of those four, there's no opportunity to get to the park?

Mr. Kametani: Correct. Past that it would be like if you were a specific vendor, you would have to approach one of the -- the art fairs are run under the HEUI and Lahaina Art. Lahaina Town Action does all of our special events, like the Emma Sharpe, Prince Kuhio Celebrations, and that sort of thing.

Mr. Skowronski: Why -- why those four? Why do they have a priority?

Mr. Kametani: They were -- it was back in 2004 or 5 there was some -- reading the minutes of the meetings back then, there was some discussions, people trying to get in, people not thinking that it was fair, but between Parks and the commission, those four were the three -- I'm sorry, the four that was decided upon, and like I said, since then, nobody's revisited, nobody's asked or, yeah, nobody's really asked to be added.

Ms. Kajiwar-Gusman: ...(inaudible)...

Mr. Skowronski: Let me -- let me ask another question. This -- this calendar that is before us to approve, who makes up the calendar?

Mr. Kametani: The three -- the three groups that are involved make up the calendar, they work on it, and then we look at it, and we approve it, then we come before you to get the calendar approved from the Commission.

Mr. Skowronski: So the process is you make a recommendation to the calendar, then we review the calendar and approve it?

Mr. Kametani: Yes.

Mr. Skowronski: Okay, as to appropriateness. The gentleman that testified earlier from Lahaina Art Society was saying that, on any given day or any given event, that there's only about 75 percent of the available --

Mr. Kametani: Correct.

Mr. Skowronski: Venue or square footage that's in play.

Mr. Kametani: We only -- the 25 vendor cap was placed on by the department based on recommendations from the Arborist Committee and then our own department wanting to keep the area open for people to use.

Mr. Skowronski: Well, I -- I understand the concept that there's a certain limited finite square footage and you don't wanna over densify that square footage, but right now, is that square footage, is that availability completely under Lahaina Art Society?

Mr. Kametani: It would depend who the permit holder is for that event.

Mr. Skowronski: So of the four that are eligible, if one comes in and applies for -- they could apply for a hundred percent capacity of that location that you would approve?

Mr. Kametani: For an art fair, no. We would tell them that they have a 25 vendor cap. If it's for a special event, like the Emma Sharpe thing, and if they needed more space, then we would -- that one would be a case-by-case 'cause that would be considered a special event and that would run through our special event process.

Mr. Skowronski: So of the four permitted vendors, can any one of those vendors come in and say we need 75 percent or 80 percent and if the other three vendors don't compete, can they -- can they take over larger than their 25%?

Mr. Kametani: You mean put in a second vendor?

Mr. Skowronski: Yeah.

Mr. Kametani: No.

Mr. Skowronski: So of the four vendors, they're only entitled to 25 percent?

Mr. Kametani: Well, they're only -- they're only allowed to setup for the 20 vendors -- or 25 vendors, excuse me.

Mr. Skowronski: Okay. Thank you.

Chair Sablas: Commissioner Lay, did you have more questions?

Mr. Lay: Okay, the minutes that you're talking about, what commission was that that you're quoting the minutes where they set only four?

Mr. Kametani: It was the Cultural Resources, whoever the members were back in that -- that -- during that tenure.

Mr. Lay: Okay, I know you got your four vendors, they get to choose your calendar days like that, who prioritizes who gets what day? How does that work to?

Mr. Kametani: If it comes down to a priority, the department, Parks and Rec would be the one to prioritize.

Mr. Lay: Is it done in all fairness where it's they take turns or is it you've been here the longest, you get the first choice or the first dibs on it?

Mr. Kametani: We -- they slot in their special events, which I think there's like the Lighting of the Banyan and all that stuff, and then the rest of the dates it gets set -- gets evenly distributed between HEUI and Lahaina Art Society and also allowing for the mandated rest weekend every month.

Mr. Lay: Okay, one more. What's the difference between the swap meet and they -- all the vendors handling their own money and everything and at the Banyan Tree having to go into the courthouse, I know, as far as the Art Society, they have their credit card machine, I understand that so they -- they exclusively have to go through there, but with other groups, why do they have to have that same scenario when at the swap meet it's open?

Mr. Kametani: We were told that there was some issues because it's considered historic district about the exchanging of money, and then there are some Parks rules about exchanging money in parks so --

Chair Sablas: Okay. Thank you.

Mr. Lay: Is the swap meet area a park? The Kahului one?

Ms. Kajiwara-Gusman: That's State. It's the college land you talking about.

Mr. Kametani: It's not ours.

Ms. Kajiwara-Gusman: Yeah. It's not County.

Mr. Kametani: The one down at MCC?

Ms. Kajiwar-Gusman: Yeah.

Mr. Kametani: That's part of the State.

Chair Sablas: I was a member of that CRC when this whole thing came up and I mean, if I look back, we had hours, JoAnn remembers that, hours and hours of deliberation, so I think, you know, like anything else, it's time to take a look again. If the past policies need to be tweaked for more equality, then, you know, let's go for it and do it. Refresh my memory -- thank you. Why is it limited just to, I should know, but just the weekend?

Mr. Kametani: The whole idea was to maintain as much open space for public access.

Chair Sablas: Well, my question is because there are a lot of cruise ship days that are - - that are vacant and -- and the idea, I, for one, have been very supportive of crafters and the mom and pop businesses so I applaud you, all of you, out there for doing what you're doing, I mean that's one of the first things I did at KBH and, back then, I invited vendors for free and fed them lunch so they thought I was great, so I support what you do because the connectivity. I think if you travel a lot, the engagement of the visitors to a person who makes their craft, you know, is so important I think as part of the experience of being here, so I mean there are many cruise ship days that seems to be open and maybe we can dialogue and see if there's a possibility to open up because, you know, to be able to be more fair to those out there who really depend on their crafts to, and these are cottage industry, and they're supporting, you know, our community so, again, I should remember, but I don't remember why we just had Saturday and Sunday and all those other days 'cause it doesn't make sense to me when you have the cruise ships in and there's no vendors under there and maybe that's something we can take a look at.

Mr. Skowronski: Do you recall what were the qualifications or what were the guidelines for awarding these four vendors exclusively at the Banyan Tree?

Mr. Kametani: No. I started working in the district 2013, I think. A lot of this happened ten years before I got there.

Mr. Skowronski: Thank you.

Chair Sablas: My recollection, I think, these four entities were the one who came forward and pitched for them at that time, and they were taken under consideration, so if we can move on because I'd like to be able to have staff, I mean are we okay with all the questions and do we have any other testifiers? If not, are you going to be around when we have staff present?

Mr. Kametani: Yeah. I'm --

Chair Sablas: We would like to have someone in your capacity to be in the audience please.

Mr. Kametani: Okay.

Chair Sablas: Thank you.

Mr. Kametani: Yeah, I plan to be here till the end.

Chair Sablas: Okay. Could I close --

Ms. Sullivan: I just wanted -- you had a question before about --

Chair Sablas: Sorry --

Unidentified Speaker: I already ...(inaudible)...

Ms. Sullivan: You had a question about how much --

Chair Sablas: Could you again identify yourself?

Ms. Sullivan: Alicia Sullivan, Maui Rare Soaps. About how much money gets taken in on average, I don't know what their average is because their products are higher prices, you know, the one thing I looked at was fabulous, it was \$5800.00, most of us, I have my average sale is 20 bucks each -- each sale, so the point is is if we have less than a \$300 day, it's not worth being there. I run around, on average, depending on the time of year, between 5 and 700, I'm pretty low, so I would say the average sales for a crafter for craft is around 750 to a thousand, so you have 25 or 30 of those, and you're taking 28 percent, you can do the math. Does that help?

Chair Sablas: Thank you. Thank you.

Mr. DeMaria: I'm sorry. Eric, from the Lahaina Art Society again, an average day for us is 15,000, not 25.

Chair Sablas: I'm sorry?

Mr. DeMaria: Fifteen thousand is an average day under the Banyan Tree for the Lahaina Art Society, and three-quarters of that goes back to the artist.

Chair Sablas: Thank you. From staff, Annalise?

Ms. Kehler: Chair, have we closed public testimony and moved on to item, let's see, item C.2.?

Chair Sablas: Okay. Thank you. I'd like to close public testimony, and thank you all for coming. Thank you very much. Bye, JoAnn. I think I need to have approval from the rest of the commissioners to move the agenda item.

Ms. Kajiwara-Gusman: ...(inaudible)... number two, yeah. I make a motion to change the agenda and have the banyan park schedule be first.

Chair Sablas: Second?

Mr. Skowronski: Second.

Chair Sablas: Okay, it's been moved and approved, so staff?

It was moved by Commissioner Kajiwara-Gusman, seconded by Commissioner Skowronski, to change the agenda and have agenda item D. moved ahead of agenda item C. There being no objection, the agenda was amended.

C. NEW BUSINESS

2. **Department of Parks & Recreation requesting approval of the 2018 Banyan Tree Event Schedule for Banyan Court Park located in County Historic District No. 1, Lāhainā, Maui, Hawai'i, TMK (2) 4-6-001:009 (A. Kehler)**

The Commission may approve or deny the event schedule pursuant to Subsection 19.52.090.E, Maui County Code

Ms. Kehler: Sure. So given the information that the Department has received today about the Parks Department's permitting policies, the recommendation would maybe to approve the first three months, and then, during that three-month period, Parks Department and the Planning Department can get together and work and examine their policies and figure out how the tree can accommodate these other individuals and organizations.

Ms. McLean: Chair, if I can just elaborate a little bit more. Because the department, the Parks Department is trying to set the calendar for the entire year, those entities and organizations need to plan their events and know what they have coming, and we're not certain we'll be able to come back in December with are revised calendar that accommodates what you've heard today or that makes any changes, and so rather than leave those entities in a lurch, we discussed with the Parks Department how much time they might need to come up with a revised calendar and they need a little bit more time,

so the suggestion was for the Commission to just consider approving a couple of months of the calendar and then we could come back with potentially a revised calendar for the rest of 2018, so that's what the thinking was. We're not ready to make those changes today. We can't just, you know, redo the calendar today, and we're not certain that we would have that opportunity ready for your December meeting, and so rather than leave these organizations up in the air with no approvals for January, February, that was the suggestion to just go forward with a couple of months and then we'd work on it in the meantime.

Chair Sablas: Comment?

Mr. Lay: Okay, with that calendar, we're going to give this three months limit to start so they can reorganize it after that? Within that three months, if there are openings, are we going to -- leave it open to the public that they might be able to come in?

Ms. McLean: Well, that's something that we can ask the Parks Department if, you know, let's just say, for example, you decided to approve the first three months of 2018 as presented today, we'd also have to ask the Parks Department if they would plug in other organizations on available days and then that could be part of your approval today as well if -- if Parks could do that and if that's what the Commission chooses.

Mr. Skowronski: If we don't approve this calendar today, what happens on the weekends? There's no events? No events are allowed at all?

Ms. McLean: There would not be any events at all. Alvin, you need to come and speak into a microphone please.

Mr. Kametani: Sorry. I'm kinda used to shouting across gym courts. Yeah, we use the calendar as a guide to plan for the events. The calendar is approved by the Commission and without the approval, the Commission's approval, we don't -- we don't add anything, we might do a couple changes 'cause of rainouts but, other than that, we don't add things on our own.

Ms. Kajiwar-Gusman: What needs to be changed or what -- is there a rule or some kind of a law, what needs to be changed in order to allow -- I'm looking at this calendar and I see here January that there are two weekends consecutive that HEUI has the area for their art fair, my thinking is to defer so that we can change the rules or have something change, but in the meantime also allow the public, Mrs. Goo or Ms. Goo and her group to also apply and make it fair because you can't have a group that has, you know, two Saturdays and Sundays in a row, or just to allow -- we can keep this schedule but if she can get her people together in time, in December to submit an application with all the requirements that the County Parks, I don't see why we can't share this thing and put them on the schedule. I mean what's the rule? Why can't I -- can't we recommend that

Planning allow, I mean not just her, if there's somebody else with a nonprofit, give them a shot. There's so many cruise ship days in here I mean it's ridiculous not to have them but --

Chair Sablas: Corp Counsel.

Ms. Thomson: Thanks. I just wanted to add so, basically, to approve sales in the Banyan Tree Park it requires both the Parks Department's approval and CRC's approval, so one of the things that we would run up against, as Deputy Director McLean said, is timing. So it might be a good idea, because we're -- we're looking at redoing an entire process and for whatever reason it's been working for the last, you know, 12, 15 years or so, my math is not right, it's about 10, but then, at any rate, I think that we need to buy ourselves a couple of months to look at this because it may be a little more complicated.

Ms. Kajiwara-Gusman: In essence, the process is the same, it's just another name on the list if she can come up with the paperwork.

Ms. Thomson: Well, they have to -- they have to jump through the hurdle so they have to apply for the Parks permit, they have to, you know, provide all the insurance, all of that stuff, we could not approve them today because Parks has not approved them.

Ms. Kajiwara-Gusman: Well, we're not talking about today, but if in December to -- to be on the January calendar or something. I mean --

Mr. Thomson: It's a suggestion.

Mr. Skowronski: I'm not that interested in who gets there or what -- who the vendors are. The key issues is that the public property, that public asset underneath the Banyan Tree is now restricted to four entities and it's closed to all other entities. If that's the case, then I don't want to approve anything on the calendar until that's changed. Now, if it takes two months to change that or three months to change that, or apply any timeframe you like, then I'd be willing to say we'll give you a temporary approval for the calendar now, but when you come back in three months, we don't care whether Ms. Goo gets her permission or not, we want the restriction of the four vendors lifted. That's unfair. Look, the Fed has done this already with the bikers at Haleakala. They realized that they have a certain carrying capacity and they can't let everybody come up there so they issued a process in which they bid on who is going to be allowed to bike down the area, that was a fair and open, and it got to the two, three, or four vendors that are now part of that process. So I'm interested in Parks and Recreation changing their process to allow a competitive access to this County asset and not keep the four vendor restriction now. So it's not just give you two, three, four months so you can fit Ms. Goo in or somebody else in, I'm interested in you have to stop with this four vendor restriction.

Mr. Lay: And I have a follow up to that. So with these vendors and this calendar, they have all their permits for the whole next year, fire permits, and everything already in place?

Mr. Kametani: Not yet. They'll start working on it when the calendar gets approved.

Mr. Lay: Wouldn't that be same if Mrs. Goo and her ...(inaudible)...

Ms. Kajiwara-Gusman: Yeah. Exactly. She still has to put in an application

Mr. Lay: And we're approving theirs, the calendar.

Ms. Thomson: Maybe I can offer a partial solution here. Why don't we defer this matter so you can, you know, your choice, either approve one month, you know, or two months, if you think that that's going to be rational or -- or you don't have to approve anything. The departments -- so Parks and Planning and our department can get together and take a look at what the current process is, and then come back and schedule a follow-up meeting because it's going to take both Parks and CRC and then also, of course, probably Finance, it could be Finance Department and Corp Counsel, so there's a lot of entities kind of involved in things like this, but we'd like the opportunity to probably come back to you with some more information.

Mr. Skowronski: What's a reasonable time frame?

Ms. Thomson: I would -- I would say, I don't know, probably a month or two, you know, 'cause we have other things going on too.

Ms. McLean: The additional concern is, as you folks know, is that we have had attendance problems with the CRC, we're down to bare quorum today, and that's why I think we suggested approving a couple of months ahead of time because even if we could get everything resolved for the next meeting, we might not have quorum for the next meeting, so we don't want to -- we just don't want to leave the -- the timing too tight for anybody so that's why we had recommended a couple of months approval, but I should say let's say your approve two or three months of the calendar, and we do come back with a new proposal in December that includes everything you want, and we have quorum, and you approve that, well then that would take effect, that would override the temporary approval for the couple of months, so that's sort of the safety net, if you will, that something is approved until we can bring forward a modified calendar that addresses what you want.

Mr. Skowronski: Well, yeah, I would -- I would support staff's suggestion of, let's say, something just for negotiation, for three months, okay, with the understanding that at that three-month period, Parks and Recreation comes back with a new system of awarding

vendors, we're not just going to approve the number of dates and who gets those dates, we need -- we need a new process so that if you want to restrict it to four vendors or three, or whatever number you feel comfortable with so that the density level and carrying capacity of that site is -- is to your liking with -- with all the restrictions and all the impacts that is necessary, that's fine, but the idea that it was somehow sort of arbitrarily awarded to four people right now, we would like to see that process opened.

Mr. Lay: For me, two months is great. That's starting on January ...(inaudible)...

Ms. Kajiwara-Gusman: January.

Mr. Lay: That'll work out not too long. What's going on now with whatever is locked in already till the end of the year, I can't see stopping it because it's a big thing for tourists and everybody who shows up on the weekend, so it's an ongoing thing, and whatever -- if you guys can do it quick, by next month, that'll be wonderful and especially vendors and things that are going to happen, and, also, opening up those cruise ship days would be great if we can -- that's all up to you guys and I don't think you can limit the vendors, it's just who gets what when -- I mean dates.

Mr. Kametani: Okay, my recollection was the cruise ship days, and I think JoAnn kind of clarified it, that the local vendors on the Front Street were against having those cruise ship days taken by the craft fair.

Mr. Lay: How do they get priority? Everybody's trying to make money here.

Chair Sablas: But again, if we could allow staff to due diligence and make a recommendation to this body, I think, you know, it's -- I know from having been -- this was a really, really -- it wasn't an easy process that we went through and I mean I should go back as it was a lot of discussion on -- on this item so do I hear then two months I mean to give staff -- allow them time --

Ms. Kajiwara-Gusman: I'd like to -- I'd like to suggest the two months, to January, but being that no other organization has even applied, I would like to add a conditional that, you know, for the January calendar, if another organization were to come forward, that they'd be given a chance to get on the calendar as well.

Mr. Lay: Given they get their permits.

Ms. Kajiwara-Gusman: Given they get their permits and their applications in on time.

Chair Sablas: Is that allowable I mean under the conditions that we have? I'm looking at staff.

Ms. Kehler: Can we -- can we -- can I just get -- can I hear that on more time? Sorry.

Ms. Kajiwara-Gusman: So, according to Alvin, there -- none of these organizations have turned in applications for the County, they're waiting for us to approve it before they go and apply for whatever they need, so if another organization, whoever it may be, turn in an application along with these three or four, that they be allowed to be placed, and, like I said, the cruise ship thing is just crazy, I mean I don't know why we can't have them there on a cruise ship day, but that they be given a fair shot at being placed on this calendar because nobody's applied for their permits anyway, I mean so it's not holding up anybody's process except for that, I mean they don't even have permits to do this and they're asking us to approve the calendar.

Ms. Kehler: Chair? Alvin, is -- they don't -- they haven't submitted any permits to Parks whatsoever?

Mr. Kametani: We --

Ms. Kehler: It's just a calendar at this point?

Mr. Kametani: At this present -- at this present time, we wait for the Commission to say yes --

Ms. Kehler: Oh, okay.

Mr. Kametani: And we start to -- then we start the process. Once -- Once it's passed, then we start the process.

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

Ms. Goo: May I say something? We have never had our due diligence.

Ms. Thomson: She has to be on the mike.

Chair Sablas: Yeah, you have to be on the mike. We're trying to give everybody fair due process but, you know, we need to --

Ms. Goo: Correct.

Chair Sablas: I cannot have everybody talk forever and ever so if you could --

Ms. Goo: I only stood up and --

Chair Sablas: Okay.

Ms. Goo: I have no respect because of the actions of --

Chair Sablas: If you could just be brief on your point, please.

Ms. Goo: My point is no one has turned in permits at this point.

Chair Sablas: Okay. And that's --

Ms. Goo: How can you approve a calendar when there are no permits? And he says the permits are in place. Okay, I haven't turned mine in. I just found out. I was -- I could turn one in. So why should I be excluded from being put on that calendar? That's -- that's all I'm saying is fairness, equality. That's all I'm saying.

Chair Sablas: We'll take all of this into consideration.

Ms. Goo: Thank you.

Chair Sablas: Mahalo. Thank you. Okay.

Mr. Lay: Okay, great point too, we might be opening a can of worms right here too, you know, with these available days. There might be other organizations when seeing this on television and everything where -- so I don't know.

Chair Sablas: Which is why I said let us really leave it up to the experts, with staff, and to look at all, you know, that's their job, and to -- to recommend to us I mean what we're doing. I think the point is I mean it's been really clear that we wanna be open and fair to our community, and if that's what the direction -- recommendation that staff can give us, you know, to -- to make it more equitable and fair is what we've heard. I think all of our commissioners and staff members can, you know, agree on that that we have a process that is more fair to everyone. So do we need a motion? 'Cause there was several, you know, recommendation, one or two months. Does anyone want to make a motion?

Ms. Kajiwar-Gusman: I move to have the calendar approved for the month of January until the Department can get back to us on a new way to either have a lottery or an auction or whatever the process may be to be open to the public at least for -- for the month of January, and then defer the rest of this until, the rest of the calendar until our next meeting or until the Department has -- I don't know. Is that how to say it?

Chair Sablas: Is there a second? Is there an amendment? Is there a new motion? If there's no second, the motion dies. Okay, motion dies. Are you going to make a motion?

Mr. Skowronski: I'll second. I'll second.

Chair Sablas: Oh, you'll second. But --

Mr. Skowronski: Please be specific as to you said "January"

Ms. Kajiwara-Gusman: The month of -- approve just the month -- give them, give staff until -- so the next meeting is February, so the month of January can be temporarily approved.

Chair Sablas: So we're looking at this, this is November, December just two months.

Ms. Kajiwara-Gusman: Well, November, December, January - that's three months.

Ms. McLean: A year ago, the Commission approved the calendar for 2017, so November and December are in place. Those were approved a year ago. So what we're talking about today is for 2018 forward.

Mr. Skowronski: Okay, so the motion is for one month.

Ms. Kajiwara-Gusman: For one month then. Yeah. Because --

Mr. Skowronski: But -- but it actually the fact though allows Parks and Rec to have three months to come up with a new system.

Ms. Kajiwara-Gusman: To come up with the system. Yeah.

Mr. Skowronski: Okay. So even if someone else applies for a spot at the banyan, they can't get it because the calendar's been approved till the end of the year. Is that correct?

Ms. Kajiwara-Gusman: They can't get it through December.

Mr. Skowronski: They can't get it through December.

Ms. McLean: The Commission would have to approve that activity and so if another entity came forward and Parks wanted to approve that permit, at the next meeting in December, the Commission could approve an amended calendar for December to put in that entity.

Mr. Skowronski: Okay.

Ms. McLean: Or for January. I don't know that they'll be ready by then.

Mr. Skowronski: But that's not at our discretion, we've already made a commitment to the end of the year. This calendar is for January onward.

Mr. Lay: But you can add on.

Ms. McLean: Right. But the Commission could amend the existing approval, could amend the calendar for December --

Mr. Skowronski: Geez, I don't want to get ...(inaudible)...

Ms. McLean: But -- but I --

Mr. Lay: Opening an amendment to your -- to your motion where we -- next month when we get together, if entities that want to come in, and they have all the I guess they'd have to --

Mr. Kajiwarra-Gusman: They're paperwork?

Mr. Lay: The paperwork that we'd allow it?

Ms. McLean: Theoretically, yes. It would depend on if the Parks Department is able to accept those and process those and, again, if we have quorum and have a meeting.

Mr. Lay: Okay, I have a question on that too. Okay, so prior to the CRC approved where we had the four vendors, right, do we have to change that before that happens?

Ms. McLean: Do we have to change what before that happens?

Mr. Lay: What, that we only have the four vendor choices 'cause we, the CRC decided that only four vendors can be using that Banyan Tree, right?

Mr. Skowronski: But that's not ...(inaudible)...

Ms. McLean: The -- the --

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

Mr. Lay: Oh, okay.

Ms. McLean: It's a -- the activities in Banyan Tree are -- have to be approved by this Commission and Parks together, so if one doesn't approve, then that activity can't happen, and so for a new entity, let's say to wanna do -- to be able to do activities in December, they would have to go through Parks and would have to get approval of the Commission.

Ms. Kajiwara-Gusman: So we're recommending that they change that procedure, and if there is a new vendor, that they be taken into consideration.

Ms. McLean: The Commission would have to approve that as well though; that would have to come to the Commission for them to be added.

Ms. Kajiwara-Gusman: Oh yeah. Yeah. They would have to be placed on our agenda too.

Chair Sablas: Could you restate your motion and make it clearer?

Ms. Kajiwara-Gusman: ...(inaudible)... restate that. So --

Mr. Skowronski: Better write 'em down.

Ms. Kajiwara-Gusman: I would like to make a motion to approve the calendar until the end of January, temporarily, with the understanding that the Parks Department is going to look at the procedure for selecting vendors to make it a more open and fair process, and in the meantime, if there are any other vendors who would like to put in an application, that they come forward, and if their due diligence is done, that we allow them to be placed onto the -- or consideration for the calendar for the months ahead.

Mr. Skowronski: Okay, I will second.

Ms. Kajiwara-Gusman: Something like that.

Ms. Thomson: I -- I think that maybe, you know, we can -- we can do it like that but it may be a little bit unworkable because I don't think we know -- we don't have the information as -- as a Commission as far as what the internal rules or policies of the Parks Department are, you know, so you can amend the calendar at any point, I don't think you have to like imbed that into a motion, and I think the Department's already said that they will, you know, take a look at their process and see if they can come back with some different options for you, so, at any rate, you can -- you can make that all into one motion, but you may not need to.

Ms. Kajiwara-Gusman: Get 'um. So moved.

Chair Sablas: There's a motion. Is there a second?

Mr. Skowronski: I second.

Chair Sablas: With amendment or --

Mr. Skowronski: No. With just that she said it is fine. Now -- now for the discussion.

Chair Sablas: Discussion. Okay. Open for discussion.

Mr. Lay: I think the change we're doing are great. It opens it up to the public. It makes it all fairness to all the vendors that want to come out here. The challenge is going to be who gets what and what weekend so you know that will have to be worked out because, you know, we got a lot of things to work next month I guess and the following months, but I'm happy with the changes and I'm sure there's a lot of people out there in the industry who do things here on the islands have an opportunity to sell their product at the Banyan Tree.

Chair Sablas: Okay.

Mr. Skowronski: Our -- our apologies for Parks and Recreation that we've handed them a political football here.

Ms. Kajiwara-Gusman: I know yeah. Mr. Buenconsejo and I are -- are pretty good friends and we're going to put you guys to work. I know that Christmas is coming around the corner and as a business person, farmer myself, I know that's a huge time of the year, so I hope everybody comes to work, but thank you.

Mr. Kametani: Just for the Commission, all the permits for the Banyan Tree are completed and approved till the end of this year, so it would be --

Ms. Kajiwara-Gusman: Yeah.

Mr. Kametani: In addition.

Ms. Kajiwara-Gusman: Addition ...(inaudible)...

Mr. Kametani: And then we're going to follow our -- about to the end of the year, the arborist having the open weekends, and then we'll look at it from January and see what -

Chair Sablas: So, Alvin, I mean can I ask you is that one month enough time for Parks?

Mr. Kametani: I don't believe so, but we'll try. I would like to see it three months to give us the first quarter to present something starting from April, in the early part of the year, if anything.

Chair Sablas: I don't know about the other commissioners but, you know, theoretically, the first quarter is really a booming time for the visitor industry with -- for the vendors so, you know, maybe we can compromise two months, you wanted three, you wanted one.

Ms. Kajiwarra-Gusman: I mean if you look at it, if they start working on a procedure now and get it to us by January, that is three months because if we're giving them -- that's going to be five months and I mean I don't want to talk bad about State or County but, you know, it doesn't take five people to change the light bulb in reality, that's what it is.

Mr. Skowronski: Okay, if -- if they can't do it by January, they come back and --

Ms. Kajiwarra-Gusman: If they can't, then we just gotta come back and do it again.

Mr. Skowronski: Come back and ask for an extension.

Chair Sablas: Okay so are we ready for the vote? We've an hour and almost two hours of discussion and whatever, so all in favor of the motion that's proposed, say aye? Opposed? Hearing none, motion is passed. Thank you everyone.

It was moved by Commissioner Kajiwarra-Gusman, seconded by Commissioner Skowronski, then

VOTED: to approve the 2018 Banyan Tree Event Calendar until the end of January 2018, temporarily, with the understanding that the Department of Parks & Recreation will look at the procedure for selecting vendors to make it a more open and fair process, and in the meantime, if there are any other vendors who would like to put in an application, that they come forward, and their due diligence is done, and to allow them consideration for the calendar for the months ahead.

(Assenting - C. Kajiwarra-Gusman; I. Lay; M. Ropa; L. Sablas; F. Skowronski)
(Absent/Excused) - T. Bailey; L. Kawaa; C. Lima)

Chair Sablas: Can we just have a short, yeah, short break.

(A recess was called at approximately 12:45 p.m., and the meeting reconvened at approximately 12:50 p.m.)

Chair Sablas: ...(inaudible)... to order, and on to item number C.1.

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

- 1. Department of Planning requesting review and comment on the proposed Lanai City Country Town Business District Design Guidelines and Standards, dated 2011 (A. Kehler)**

The Commission may provide its recommendations on the proposed document pursuant to 2.88.060.M.2, Maui County Code

Chair Sablas: Annalise?

Ms. McLean: Chair, if I may, I asked Annalise if she could give a general overview and then just highlight the substantive changes 'cause a lot of them are just corrections, putting in updated maps, and updated code references, things like that rather than go through this whole memo line-by-line, I asked Annalise if she could just if she could just first give an introduction and then just highlight the substantive changes if -- if that suits the Commission.

Chair Sablas: Sounds good. Sure.

Ms. Kehler: So the business country town, or BCT, is a zoning district in a number of the County's small towns. It's a commercial zoning that allows for several different commercial-related uses. This document -- so the existing guidelines were from 1997, and they're still in place today. The document that is before you today was introduced by County Council in 2011, it went through a review process with the CRC, the UDRB, Lanai Planning Commission, and the Lanai community in 2012, and based on the testimony and comments received during that process, the Department decided that it would be best to hold off on adopting this document until the Lanai Community Plan was updated, so we adopted the -- or we didn't, County Council adopted the updated community plan in 2016 and so that's why we're recirculating this document to the various boards and commissions once again so that we can, hopefully, get this adopted, and the recommendations that are provided to you in the staff report take into consideration relevant sections of the new community plan as well as comments and concerns that were raised during the previous period.

I would say the most substantive changes or recommendations to change this document would be to change the Architectural Design Guideline section; it would be to leave the text alone but to add a new section giving more explicit direction on making additions to historic place properties, rehabilitating historic properties, and making or doing new construction. So that's the biggest change for that section. And then the other noteworthy change would be the Parking section. We are recommending that we exempt the Lanai BCT from complying with the County's parking ordinance because the parking ordinance is not really intended for a small town like this and it makes it difficult for folks when they come in for permits to comply. I think really that -- the rest of it is just little housekeeping items.

Chair Sablas: Okay. That's staff's -- oh, you know, I forgot to ask if there's any public testimony. Sorry.

Ms. McCrory: Thank you, Commissioners. I'm Lynn McCrory, with Pulama Lanai, and I'm the Senior Vice-President of Government Affairs, so working with what these design guidelines cover is what I do every single day, so I can't even thank Annalise enough to say for the parking changes because we, on a regular basis for the BCT, have issues every time we turn around. We don't have sidewalks. We don't have curbs. We don't have gutters. We don't even have real -- real lot sizes that match things. But what we have is a plantation town, and a very historic plantation town, and we want to keep that. To us, that's just very, very critically important. When I first came on and I saw these design guidelines, I was excited because here's something that actually laid it out so that we could follow it, so as we're looking at new areas in the city, we're going ahead with the same concept, we don't want streets that have curbs and gutters. We're going to -- we're going to lay them out the same way so that when you come to that Lanai City, you'll have the experience of what it once was. So we're fully in support of all the changes in here. I've gone through them. And, again, I can't thank Annalise enough for making the parking so that it actually will work, and this is only for a little area, but we'll go forward, our next step will be overall design guidelines, which will follow this course. So thank you.

Chair Sablas: Thank you, Lynn. I remember Christopher Hart make the remark that of all the cities in the State, Lanai City is probably the best example of a well-planned city because it's walkable.

Ms. McCrory: It's all walkable.

Chair Sablas: You can live and walk to everything that you need around and, you know, I like the idea.

Ms. McCrory.

Chair Sablas: While I understand the need for curbs and gutters, it sure drives up cost, and it's working on your island.

Ms. McCrory: It does. It does work, and, you know, we just -- it's a little more grading to get the drainage to grow -- go the way it needs to go, you don't have to have it run along concrete, it does work.

Chair Sablas: I grew up in a plantation camp. When the rain rain, it just went downhill.

Ms. McCrory: It went downhill. Yeah. Well, we're still going downhill on Lanai, let me tell you.

Chair Sablas: Thank you.

Ms. McCrory: Thank you.

Chair Sablas: And comments from the commissioners?

Ms. Kajiwara-Gusman: I like this plan.

Chair Sablas: Yeah.

Mr. Lay: I have a quick question. Okay, it talks about when buildings aren't suitable as far as the foundation and that sort of thing, what about when you talking about abatement, stuff with asbestos or lead paint, is that being -- how do you guys handle that and how is it taken cared of?

Ms. McCrory: That has to be remediated.

Ms. Kehler: Yeah.

Ms. McCrory: That there's not a change -- oh, I'm sorry, Annalise.

Ms. Kehler: Sorry. I was interrupting you with ...(inaudible)...

Ms. McCrory: Your turn. I'll stop.

Ms. Kehler: No. We don't get into that level of specificity in here, but it is something that people need to be mindful of when they're working with historic buildings.

Ms. Kajiwara-Gusman: It is a condition on the permit for when you go to apply for your permits or planning, they have it on there. If the building is built before 1973, or whatever, then they have to get a -- so it's in -- it's actually in the permitting.

Mr. Skowronski: I have a couple of questions on, of course, the Architectural Design Guidelines. Can we go to page 38?

Mr. Lay: Did we close public testimony?

Chair Sablas: Oh, I'm sorry. Yes. Thank you, Lynn. Public testimony is closed and now we can have --

Mr. Skowronski: But don't go anywhere.

Chair Sablas: But don't go. Yes. Commissioner Skowronski.

Mr. Skowronski: The bottom of the page, siding and finished materials. The Architectural Design Guidelines, especially in their overall description, have a bad history of being used by reviewers specifically to go over design issues, so on the bottom of the page, you have exterior wall finishes may be board and batten, tongue and groove, vertical shiplap or rough sawn plywood with applied battens at 12 inches on center. Where'd you get the 12 inches?

Ms. Kehler: I -- I know, traditionally, boards, when board and battens was used, the boards were 12 inches, so every 12 inches, you'd have a batten. And then when tongue and groove came in, it was 6 inches and there was no need -- it eliminated the need for a batten. So I think that's where the author got that number from.

Mr. Skowronski: So you're going to enforce that someone comes in and comes up with a new design that they have to have the battens at 12 inches on center as opposed to 16 inches as opposed 24 inches? Is that -- is that the intent? How 'bout somebody comes in and says I want battens at 8 inches on center or 9-3/4? What's the difference?

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

Mr. Skowronski: How about just with applied battens, period, and strike the last phrase?

Ms. Kehler: Do you think it's -- it's problematic for someone to comply with that if it's a historic -- if it's a -- it's the way that a building looked historically, do you think it would be problematic?

Mr. Skowronski: Well, I think that when someone comes and puts in an addition on an existing structure whether that structure is board and batten or horizontal siding or whatever, that they should be given a chance at the review process to put the battens on anyway they - anyway they like.

Ms. Kehler: Right.

Mr. Skowronski: Right now, you're asking them to -- anytime I see a guideline that has a dimension on it, most designers are just going to go through the roof.

Ms. Thomson: You know, the way -- the way I read it, actually, is that's the 12 inches on center is if you're using rough sawn plywood, right, so it's board and batten, tongue and groove, vertical shiplap or rough sawn plywood with applied battens at 12 inches on center. Right? So if you're using rough sawn plywood, then it's at 12 inches.

Mr. Skowronski: Why can't it be 16?

Ms. Kehler: If you would like to make a recommendation to remove the 12 inches.

Mr. Skowronski: That -- that would be one recommendation. The other recommendation is, at the top of the page, the plantation style is generally described by deep groove overhangs, sloped metal hip roofs, I object to hip because there's plenty of examples in Lanai where there's shed roofs and gabled roofs and Dutch gabled roofs, not everything in Lanai is a full hip roof.

Ms. Kehler: Let's see --

Mr. Skowronski: I'm not nitpicking here because this is a -- this a very good document, but it can be misused. I don't want to come in and have an addition contract and then be told by someone that I have to use a hip roof as opposed to a Dutch gable roof, as opposed to a shed roof, as opposed to plenty of examples of full gabled roofs throughout -- throughout the project.

Ms. Kehler: Well, okay, that's a good point, so it looks like we could amend this section to reflect the actual characteristics of the BCT because I'm looking at the -- the photo inventory here and I'm seeing gable on hip, I'm seeing hipped, I'm seeing --

Mr. Skowronski: That's shed roofs.

Ms. Kehler: I don't see a shed roof. Where's the shed?

Mr. Lay: ...(inaudible - not speaking into microphone)...

Ms. Kehler: Right, but that -- are those properties zoned BCT though? So I'm seeing --

Mr. Skowronski: Look on page 15. Look on page 15, at the bottom of the page, someone added a porch and they added a shed roof on top of the sloped roof.

Ms. Kehler: Okay, that's an addition though, that's not the primary roof form, but if you want to say that shed is a --

Mr. Skowronski: Well, I think that -- that the reviewing process and the expertise of the Planning Department in reviewing architectural guidelines is adequately -- adequately empowered by just saying sloped metal roofs and get rid of the word "hip."

Ms. Kehler: I think that this paragraph though is describing the characteristics, this paragraph under Architectural Design Guidelines is being general in its description of what the architectural characteristics of the town are, it's not saying that a roof needs to be hipped, it's just describing what's there. Now if you wanna put under roof, under the Roofs section, I don't -- I don't see any requirement for a shape under the roof section.

Ms. McLean: If I could point out the second sentence that follows that first sentence: Most buildings are symmetrical in appearance, yet employ a variety of additions and shed roofed spaces.

Mr. Skowronski: Alright, so shed and hip are contradictory to each other.

Ms. McLean: Well, the first sentence is a general description.

Mr. Skowronski: Right. But my point is is that general description is inaccurate. There are plenty of gables, there are plenty of sheds, there are plenty of Dutch gables throughout Lanai City and that that saying sloped metal hip roofs, the word "hip" is inappropriate in that phrase. We don't want flat low sloped roofs with huge overhangs in an international style or the modernistic, that's what we're -- that's what we're trying to do here and I think that sloped metal roofs adequately empowers the reviewing process to keep that off. I have experience with people coming back and reviewing our work and other people's work and having it hung up on a specific word like "hip."

Chair Sablas: Anything else?

Mr. Skowronski: Well, those are -- those are the only two comments. The rest of the document should be used as a guideline for other towns --

Ms. Kajiwara-Gusman: Yeah.

Chair Sablas: Yes. Yeah.

Mr. Skowronski: In the County.

Chair Sablas: Thank you for your expertise in this area, Commissioner. Are we okay with his recommendations then, the two small changes? Okay, so we may -- we've provided recommendations. That's all we needed to do? Commissioner Ropa, this is your island. Any mana`o on this document? Good?

Mr. Ropa: Well, some of the stuff that we didn't cover was kinda accurate. The rest pretty good.

Chair Sablas: What's some of the things?

Mr. Ropa: Erosion, wind, but he talking about architecture in the business district so it's pretty much something else.

Mr. Skowronski: I had a question about the historic district. Is there any -- is there any impetus to consolidate it into a uniform covering the larger town? Right now, there's

blotches of it spread all over the -- all over the city map. Is there any push to enlarge that into a cohesive shape? Do you want to?

Ms. McLean: We have talked about that relating to a number of our small towns where these design guidelines apply just to the BCT parcels --

Mr. Skowronski: Right. Right.

Ms. McLean: But there could be public/quasi-public, like a bank or a library, or there could be -- or on Lanai, the Senior Center, or there could be residences that are free to build to whatever design they wish because these are subject to -- because they're not subject to these guidelines, but it's -- it's -- we would have to define a geographic boundary that is subject to design guidelines and that gets -- that can get a little bit tricky. We have talked about it, Annalise would love to do it probably more than anything else she'd like to do here, but it's -- it's not as simple as it might seem because it affects a whole variety of zoning districts and we'd also have to define a geographic boundary that, you know, puts an additional requirement on those property owners, so it's -- it's multi-layered.

Mr. Skowronski: Are the -- are the individual property owners resistant to that?

Ms. McLean: In some cases, yeah, I wouldn't say on Lanai at the moment, but in other towns yes.

Chair Sablas: Okay then if we've done all of our recommendations, let's move on to item D, Director's Report.

Ms. McLean: Oh, Chair, I don't know if you've made a motion.

Chair Sablas: Oh, do we have to make a motion if we approve? Okay. Do I hear a motion?

Mr. Lay: Motion to accept the Department's recommendation with changes that were talked about.

Chair Sablas: Second?

Ms. Kajiwara-Gusman: Second.

Chair Sablas: It's been moved and seconded. All in favor, say aye? Motion passed. Mahalo.

It was moved by Commissioner Lay, seconded by Commissioner Kajiwara-Gusman, then

VOTED: to accept the Department's recommendations with changes as discussed.

(Assenting - C. Kajiwar-Gusman; I. Lay; M. Ropa; L. Sablas; F. Skowronski)
(Absent/Excused) - T. Bailey; L. Kawaa; C. Lima)

Chair Sablas: Thank you, Lynn.

Ms. McCrory: Thank you very much.

D. DIRECTOR'S REPORT

1. Call for cultural and historic preservation and stewardship efforts on the islands of Lanai and Molokai for discussion on future agendas (A. Kehler)

Ms. Kehler: So I wanted to start a new thing where we talk about sort of efforts in the community to steward and maintain, preserve archaeological and historic properties. Oh, yeah, and I wanted to begin by asking our Molokai and Lanai commissioners to, at a future meeting, talk about efforts that are happening on their islands 'cause we often don't get a chance to talk about things that happen over there, and so I wanted to give them an opportunity to share, I know one example on Lanai is the -- the Lahaina Guide website and app, which is really, really exciting and interesting, and maybe we can talk about it at a future meeting, but, basically, it's sort of a guide to help visitors and residents enjoy cultural sites and learn about them, so I think that that's a really awesome thing and I'd like to talk about it more at a future meeting.

Chair Sablas: Cool.

Ms. Kajiwar-Gusman: We should have a meeting over there.

Mr. Ropa: We can go after they put up the wellness center.

2. Discussion on architectural concerns in the Lahaina Historic Districts, including the potential need to develop guidelines for color choices and lighting (A. Kehler)

Ms. Kehler: So, okay, and then the last item under Director's Report, discussion on architectural concerns in the Lahaina Historic Districts and the need to develop guidelines for color choices and lighting, I made a powerpoint for it, but I'm not going to do it today.

Chair Sablas: Thank you.

Ms. Kehler: But, basically, I've done some research. I surveyed six other historic district ordinances. One of the six regulates paint color, and it's the French Corridor in New Orleans, and so the way that they deal with it though is because they have so many architectural styles, they can't just say blanket you do all, you know, here's the colors, it has to -- they have to research all of the architectural styles and figure out which color combinations were appropriate to those styles. And so that can be done for Lahaina, but my -- my suggestion is that we don't make it regulatory that we just use it as information and say if you're doing a restoration of a neo-classical building, here's the appropriate paint colors, or if you're, you know, doing a restoration of a plantation so on and so forth. That's my personal recommendation but if the Commission feels differently, I'm open to that too.

Chair Sablas: I, for one, would actually like to have, if they want, do the number two.

Ms. Kehler: Okay.

Chair Sablas: To require. I think Lahaina is such a special place and if we don't have some guidelines on color selections, you know, we're going to have the purple, the yellows and --

Ms. Kehler: Yeah.

Chair Sablas: That we have now so I would strongly recommend that we really do come up with guidelines for color.

Ms. Kehler: Okay. We can do that. I think I'll have to do a study, I've got the plantation colors down, some of the others I'm not too sure about, but -- well, and, obviously, you know, the Master's Reading House is unpainted and Baldwin House is painted white, so I can work on a kind of a breakdown of styles that you find in Lahaina and then the colors that go with it.

And then for lighting, lighting is often when an applicant in a historic district and many other municipalities come in for a certificate of appropriateness, lighting is one of the things that is examined. Lighting is an important factor, and I think also we should do a lighting study in Lahaina because the fixtures are a little funky, you have carriage lighting on plantation buildings and it's just kind of a hodge-podge, and I think that we would benefit from guidance on making appropriate lighting choices, I don't want to get into color rendering and all that, I think that's a little bit too much, too technical, but I do think it would, you know, it would be good to get a plan together especially for future lighting installations by Public Works and things like that. I think it would help to have a unified goal for lighting in the historic district. And that's pretty much all I wanted to say.

Chair Sablas: Well, I thank you for your work, your hard work on this, Annalise. You know, I'm born and raised in Lahaina and so I've seen the changes and Lahaina is, again, you know, it's such an important historic port for our state, and if not this body, then who's going to be really looking after, I mean besides Lahaina Restoration Foundation of course, but CRC plays a really major role in maintaining the integrity of the historic district, so I applaud for all your hard work to update us. Thank you.

E. NEXT MEETING DATE: December 7, 2017

Okay, our next meeting is December 7th, the December meeting, gee, we've been having some absent commissioners and if staff could on maybe giving them or reaching out and seeing what's, you know, if there's anything that needs to be adjusted because, again, like Michele mentioned, we have barely have a quorum and we didn't have this quorum today to look at what we covered, it just puts a lot of things -- it's not fair to the community that we serve, so I would urge staff to maybe do a little probing about, you know, why members can't come if there's, you know, my goal is in my year at least I'd like to have one meeting with all nine of us are here so --

Mr. Skowronski: You can start buying lunch.

Chair Sablas: That might work.

F. ADJOURNMENT

So if not -- no other business, meeting is adjourned. Mahalo everyone.

The meeting was adjourned at approximately 1:20 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commission II

RECORD OF ATTENDANCE:

Present:

Lori Sablas, Chairperson
Ivan Lay, Vice-Chairperson
Christy Kajiwara-Gusman
Michael Kaleo Ropa
Frank Skowronski

Absent(A)/Excused(E):

Timothy Bailey (E)
Cheney-Ann Pulama Lima (E)
Luana Kawaa (A)
Dr. Janet Six (E)

Others:

Michele McLean, Deputy Planning Director
Annalise Kehler, Cultural Resources Planner
Richelle Thomson, Deputy Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions II