

**CULTURAL RESOURCES COMMISSION
REGULAR MINUTES
DECEMBER 7, 2017**

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

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission was called to order by Chairperson Lori Sablas at approximately 11:00 a.m., Thursday, December 7, 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 Lori Sablas: Good morning everyone and welcome to the Maui County Cultural Resources Commission meeting of December 7, a significant part of our history, today, thank you for all members for being present, and staff members, and the community. Thank you for being here. I'd like to call the meeting to order. Okay, the first item on the agenda is our public testimony, and I think those of you in the audience do have a copy of the agenda, if not, it's available at the front, so I'd like to open the meeting with public testimony. Seeing that there's not that many people here, you know, I don't think I'll be limiting it, but I was prepared, I brought my kahili 'cause we don't have those yellow light so I thought, well, if we had a large crowd, I would at least give everybody this kahili designation, but seeing we have a small group of concerned citizens and we appreciate you being here, you know, I will allow you time to testify and if it does get to be long, then the kahili will go up, okay? Again, you can testify on any of the items individually or if you have other pressing business for the day and you wanna do all three, it's your call. So I don't have the testimony sheet here with me but I think --

Ms. Annalise Kehler: It's up there.

Chair Sablas: It's up there? Okay. Well, it's up there. We just have a little so, at this time, I open the floor to public testimony. If you could come up to the podium and identify yourself and what item you'll be speaking on, I would appreciate that. Okay, first -- first testifier is Rose Marie Duey.

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. Rose Marie Duey: Good morning, Chairperson and Commissioners, or committee. My name is Rose Marie Duey. I was born on this island in the town of Lahaina. I also lived -- I also live in Lao Valley for 48 years. My kupuna, my grandmother on my father's side was born and raised in Lao Valley. I would like to speak to you on your proposed

document intended to guide the CRC in its review of archaeological and cultural reports titled "Cultural Resources Commission's Archaeological and Cultural Philosophy." Since this is draft, is that what I am said to understand, since this is a draft, the very first line where it says, "Archaeological is a study of past cultures," we're still present. We are Hawaiians. This is our aina. We are still here. We are not past. So pick a more appropriate word for that. It is not a past culture. When you -- based on physical evidence, supported research, we're still here so please consult with us. In general section, I would like to speak to significant archaeological and cultural sites should be preserved in place to the extent feasible - by whom? Feasible by whom? Government? Developers? We, Hawaiians, would like for you, or kanaka maolis, would like for you to take into consideration that it may be something we would like to have left in place. In your item below that, development projects should be designed to minimize the impact on significant archaeological and cultural resources. One of the resources that has been forgotten here, or two, has been our kahawai o wai, the water from the mountain, mauka -- mauka to makai, and the ocean. Your recreation in the ocean to the sense -- a sense of pollution that affects our lifestyle, our culture. I'd like -- I like that -- that but the development should be -- I'm sorry. I missed a spot. To minimize the impact on significant archaeological and cultural resources. Now, I like that but I don't think we pay attention to that statement. As you should know, we have a problem today. We were at a water meeting over on the West Side last night, my husband and I. Why are we are in this predicament? No one was paying attention to that resource. In the next statement, you say, "Archaeological and cultural resource preservation should start during," I have a problem with that word "during," "the early stages of project planning and design," because so often when we come before you as kanaka maoli and say something, you have already done your planning, and you've decided this is what is going to happen. Too late, you tell us. Too late. Too much money has been spent. We want you to stop that mentality. Change the word "during" and say "before a project is planned," you do these things, those things to protect our archaeological and cultural resources. In cases where it is not feasible to preserve archaeological and cultural resources, full archaeological documentation should be done. I don't understand that statement. I want you to leave our archaeological sites and preserve whatever you find in place. I would not go disturb your yard and take those things away. We, for too long, we, kanaka maolis, have been putting up with this and I don't understand why, but I was told last night by the mighty dollar. Kanaka maoli have an interest in the protection, management, and interpretation of their archaeological and cultural sites, you betcha. We do have that, and we've been yelling about that for ages. No one listens. We should be the first on the list. Last night, we found out we were part of the public. At the West Maui water hearing, they had a whole list of people they had consulted with, but there were no kanaka maoli on that list. This is our aina. We were born and raised here, our kupuna were born and raised here. We want to protect those things that we want you to help us protect. So we should be first on the list, not the last, and that's all I have to say. Thank you very much.

Chair Sablas: Comments from the Commissioners, clarification? Thank you, Rose Marie. I just wanna add -- oh, you do have? No, go ahead.

Dr. Six: I just -- I just wanted to say, as the archaeologist that sits on this board, I agree with you 100% that it's not the study of past cultures, that's something that we teach that we --

Ms. Duey: We are still here.

Dr. Six: We don't -- yeah. The Maya are still around. All the people are. So I agree with you 100% on all the points you've made. I just wanna thank you for bringing that to light because we need to have that, those kind of language changed that puts everybody in the past.

Ms. Duey: Thank you so very much.

Dr. Six: No, thank you.

Ms. Duey: Yeah, you know my husband always says I speak over people because I wanna get mine said so I thought you were questioning why I said "past." Thank you so very much.

Dr. Six: You're absolutely a hundred percent right.

Chair Sablas: Thank you. I just wanted to add, Rose Marie, again, thank you. Thank you very much for -- for sharing --

Ms. Duey: I was starting to get a little bit emotional, Lori, so --

Chair Sablas: And I know.

Ms. Duey: Because we've been doing this for a number of years trying to get attention to the fact that we should be the first, not the last on the list.

Chair Sablas: Yes.

Ms. Duey: And last night we found we were part of -- part of the public. They went to the developers, they went to the water companies that were operating, they went to the -- the stream uses for the developments, but they never came to us. Last night I heard a lot of our Hawaiian people saying that they walked out there and ask them what -- what they were doing. Why weren't those people, those families that live in there also informed? Yeah. They -- if you -- you're using water off of the stream as a family member, a kanaka maoli doing your traditional customary practices, you should have been informed about

the or asked about your opinion of the water uses, not just the big companies. Thank you.

Chair Sablas: Thank you. But I wanted to share with you, you know, when I had the opportunity to be in China, I think I shared it earlier with Commissioner Janet Six, what I was impressed with the Tiananmen in Xian is that, you know, they have that ongoing archaeological study of all the Terracotta warriors, thousands of them, and I asked my guide, the local guide there, this is such an opportunity for study for the country to have other students of archaeology come and have that opportunity, why is that not done? The response I got, which really stood in my mind, he said, "This is our culture. We want our people to uncover our culture. As long as it takes, it's going to be our culture." That really stood out in my mind as something that we could learn. And the other thing you said about having archaeological things in place, I also had the opportunity to visit the village of Banpo, and again, here again, everything was in situ in place, so they just covered it and as tourists, you know, we got to go and just visit. I know maybe Hawaii is past that, but I was so impressed with how they preserve their -- I mean their sites in China, and so you're kinda like on the right track, but maybe we should done that back centuries, so thank you very much.

Ms. Duey: Can -- can I make one more comment? Now, this is not to this --

Chair Sablas: Yes.

Ms. Duey: But I was, you know, you remember Savers?

Chair Sablas: Yes. Of course.

Ms. Duey: I was at Savers and I saw an old Maui Extension from the college cookbook, so I picked up the cookbook and the individual wrote in the back of the cookbook what she did during -- she gave this cookbook to someone and she wrote in the back of the cookbook what she was doing as a young child when she got out of school. You remember that, John? She was playing in the sand dunes in the cave, the burial caves that we are plowing up today that Claire Apana is fighting that task, but she was playing in those caves and they were taking bones out of it. That's what she wrote in there. So in her adult life, she was concerned about what she did when she was little and, not only her, but that was their playground that's what she said. Now that -- I'm sure you're getting this as third information, but if you would like to see the cookbook, I will bring it to you.

Chair Sablas: Thank you.

Ms. Duey: Thank you again.

Chair Sablas: Any other members of the public would like to testify on any of the agenda items? The floor is open. If not, public testimony is closed for now. If I could have staff report on the agenda. Annalise?

Ms. Kehler: So the first agenda item is C.1., under New Business:

Ms. Kehler read the following agenda item into the record:

C. NEW BUSINESS

- 1. Review of Resolution 17-140 referring a bill titled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO RESOURCE EXTRACTION OR PROCESSING" to the Maui, Lanai, and Molokai Planning Commissions (A. Kehler)**

The Commission may provide comments on the proposed bill pursuant to 2.88.060.M.2, Maui County Code

Ms. Kehler: So there is a staff report in your packets. The request before the Commission today is to provide comments on that proposed bill that's in Resolution 17-140, and the reso -- a copy of that resolution and the bill is in -- it's provided in Attachment 1 of the staff report, and then I've also attached, and I do this in every staff report, the section of the County Code that the CRC is operating under, and I did notice that there was one piece of written testimony that was received, so I wanted to clarify that attachment no. 2 is not part of Resolution 17-140, it is just informational, to be transparent to let you know what part of the code you're operating under, it's not part of the Council's Resolution.

So Council adopted Resolution 17-140 to seek comments from the various Planning Commissions, and the Charter requires Council to receive comments from the appropriate Planning Commissions before taking action on any bill that will be amending the zoning ordinance, which is Title 19.

So the purpose of the resolution, as stated in the resolution, is to revise the definition of "resource extraction" to preserve, protect, and regulate the use of the County's finite natural resources by clarifying the definition of "extraction." So although CRC's comments are not required by the Charter, the Department is asking for your comments, and there's a couple of other agencies that we have sent request for comments out to as well, and I'm going to have our Administrative Planning Officer, David Raatz, kind of explain all of the various agencies that we've sent out request for comments to and tell you about which ones we've received comment back from thus far.

Mr. David Raatz: Thank you, Annalise, and thank you, Madam Chair. For the record, I'm David Raatz, Administrative Planning Officer, with the Department of Planning. And, first,

I want to thank you very much for scheduling this matter. You're not legally obligated to take it up. This has been submitted to us as part of the Charter-mandated process to go to the Planning Commissions before the Council can enact land use ordinances, as Annalise mentioned, but before we go to the Planning Commissions next month, we are soliciting comments from agencies and entities that might have an interest in this proposed legislation, so we've received comments from the Department of Public Works and our own Zoning Administration and Enforcement Division so far, we're also waiting comments from the Natural Resources Conservation Service of the United States Department of Agriculture, the Office of Hawaiian Affairs, the State Historic Preservation Division, and the Maui County Department of the Corporation Counsel.

This resolution was adopted back on October 6 by the County Council, and the Commissions have 120 days to report back with their comments, and then the Council will be able to take action. We felt that these departments that I just referenced or these agencies or entities might be able to provide some insight to the Commissions before they make their recommendation. Unfortunately, we don't have a Council committee report to provide some guidance. Typically, when we get a proposal like this, we will have the benefit of a formally adopted committee report from the relevant Council committee, and that would give us a little bit of background and insight on the legislation. This particular resolution proposing the ordinance and referring it to the Commissions was adopted on the floor of that Council meeting on October 6, so we do have some meeting minutes, they're relatively sparse, we don't have a committee report, or other official correspondence to guide us, so I do apologize for that. We don't have a lot of content to guide you, but, you know, we're here to solicit your comments, if any, again you're not obligated, but we would welcome what you have to say, and the posture would be providing comments to the Planning Department, and they will convey those to the Planning Commissions to help them make their recommendations. So I'd be happy to answer any questions.

Dr. Janet Six: I have a question. I'm just looking at the matrix you have with the X's and the blanks, and I see the term "cemetery," and do we have a definition? Does that include known burial grounds or is that just more modern historic cemeteries?

Mr. Raatz: I'm sorry. Could you refer me to the page you're referencing?

Dr. Six: I'm sorry. Page 3. I just was wondering about a definition of "cemetery."

Mr. Raatz: Oh, okay.

Dr. Six: You know, is that a historic cemetery or would that include a burial ground or pre-contact known burial ground?

Mr. Raatz: Okay. I think that is defined, and I would just point out, if we wanna start taking a look at the bill, the material that is not underlined or not bracketed is material that's already in the code and is not being proposed for a change.

Dr. Six: Okay.

Mr. Raatz: Underlined content is being proposed to be added to the code, and bracketed material is being proposed for deletion.

Ms. Richelle Thomson: Chair, can I add something?

Chair Sablas: Sure.

Ms. Thomson: I just wanted to add, I was involved with Council Member Guzman and the Department of Public Works in drafting this proposed bill so I have some familiarity with the topic, so if you have questions for me on that, I can, you know, give you some insight. The charts, toward the back, really the purpose of including those charts is the "resource extraction" was defined but it was listed in different ways in those sections, so for consistency sake, we wanted to call it the same thing so that there's no ambiguity in what we're allowing or not allowing in all of those districts, so the changes are not adding resource extraction to any district, but just clarifying where that activity can occur or where it's a special use. Thank you, Chair.

Dr. Six: So, to get this right, resource extraction will only refer to these underlined three additional -- we're not talking about gathering limu any other kind of resource extraction. We're specifically eliminating that term to mining and --

Ms. Thomson: Correct.

Dr. Six: In this case?

Ms. Thomson: Right. Exactly.

Dr. Six: Thank you.

Ms. Thomson: Yeah, so it's extraction of rock, minerals, gravel; those kinds of resources only.

Mr. Frank Skowronski: I have a question. What about the other resources? Are there any proposals or are there any guidelines existing that refers to koa, or sandalwood, or coral, or any of the other resources?

Ms. Thomson: Michele, do you know that?

Ms. Michele McLean: The proposed bill seeks to change the existing definition of "resource extraction" and that existing definition is narrowed down to what we can call "terrestrial resources" of rock, gravel, sand, and topsoil. That's an existing definition in the code that the Council is proposing to change in the way that bill indicates. I don't recall, David sat in I think all of the meetings that led to this, and Richelle might have been in all of them as well or at least many of them, I don't recall, at any time, them discussing any other kind of resource other than -- than earth.

Mr. Skowronski: Okay. Well, my question actually is is there any other extraction definition that have -- that addresses other resources that we could use as a guideline to see how you're talking about "terrestrial resources?" Is there anything else that is in the code or in the statutes that addresses non-terrestrial resources that we could use as a guideline in this?

Ms. McLean: Just off the top of my head, I believe the term that is used in other places is "harvesting" where it's, to some extent, a renewable resource and whether it's crop or limu or forestry, that, the term "harvesting," is used more than extraction.

Mr. Skowronski: Okay, so somewhere, someplace there's a definition or there's a delineation between the difference of harvesting and extraction?

Ms. McLean: All that I'm saying is that if we're talking about trees or limu, that the term that I'm familiar with is "harvesting," I don't know if that's defined, and if it is, how it's defined, but it's a different -- it has a different connotation than extraction does.

Mr. Skowronski: The -- in item no. 1, they're referring to the extraction of these terrestrial resources that would be taken off site for commercial use but it's not referring to extraction of resources that would remain on the site and used for construction purposes or on the site. Is that correct?

Ms. McLean: That's correct.

Mr. Skowronski: Is that the intention?

Ms. McLean: And I don't know when David or Richelle want to jump in here because they were more involved in these committee meetings than I was, but part of the challenge with what has been going on in Central Maui is trying to differentiate between grading --

Mr. Skowronski: Right.

Ms. McLean: For the development of a site whether it's a single property or a large development, and what is truly resource extraction for a purpose other than just

developing those properties, and so this definition was an attempt to further define what extraction is versus --

Mr. Skowronski: Okay.

Ms. McLean: Just the land work needed to develop a property.

Mr. Skowronski: So, in fact, if there's a large hotel site or a large parcel on the ocean that has a sand dune, you can harvest that or extract that sand as long as it's used in the construction of an improvement on that site?

Mr. Raatz: I don't know. Richelle? I'm sorry, you're referring to under the existing code or what being proposed?

Mr. Skowronski: What you have proposed here. It says, "directly related to the preparation of the land for onsite construction."

Mr. Raatz: Just to interject real quick, Richelle, before you answer that, if you don't mind. The division chief for the Zoning Administration and Enforcement Division has actually, in response to our request for comments, suggested that that part of the bill be deleted.

Mr. Skowronski: Which part? The whole no. 1?

Mr. Raatz: No. The part, actually, after the word "topsoil," where it says, "from their natural subsurface location primarily for purposes other than those directly related to preparation of the land for onsite construction." He says that language, in his estimation, is overly broad and would be difficult, if not impossible, to enforce.

Mr. Skowronski: Exactly. So you're suggesting that item no. 1 actually the wording after "topsoil" would be deleted? Is that what we're reviewing or --

Mr. Raatz: Well, what we have before you is the bill as was proposed with that underlined content being suggested by the Council to be added into the County Code, and I wouldn't want you to be unduly influenced by comments from another agency, but just for context --

Mr. Skowronski: Okay.

Mr. Raatz: I'm explaining what our division chief had to offer on that point.

Ms. Thomson: And my thoughts on that, just, you know, for what they're worth, if you ended that sentence after, so third line down, if you ended that right after "from their natural subsurface location," if you ended it there, what that would mean would be that

any disturbance or removal of those kinds of material would be considered resource extraction, so, you know, then you're really tightening it up.

Mr. Skowronski: Well, my question isn't to change the wording, asking if in fact the scenario I proposed that you're using existing resources on a site for the improvement of that site, would that be allowed in this bill as it's written?

Mr. Raatz: I think so. Yeah, that's our understanding.

Mr. Skowronski: Okay. Alright. My next question is, item no. 2, "Processing, preparation, cleaning, or other treatment of minerals," etcetera, "in excess of 100,000 cubic yards," is that implied that if we harvested 99,000 cubic yards, that would be okay?

Ms. Thomson: I think the -- the intent of that section when we were discussing those quantities and the kind of time limit with Public Works is that you're looking at when does grading turn into mining, basically. There's currently a gray area, you know, in our feeling in the code. It doesn't completely describe when an activity will crossover into such an intense activity that it's actually mining, you know, versus grading, so those quantities and that time frame are meant to kind of give an indication that if you're conducting that extensive of an operation, you'd be presumed to be conducting resource extraction.

Mr. Skowronski: Well, my concern isn't the 18 months. My concern is the 100,000 cubic yards. Again, as I'm reading this, if it's 99,000 cubic yards, then this ordinance does not impact that activity? Is that -- am I reading that correctly? I'm not making a judgment here, I'm just trying to understand the words.

Mr. Raatz: Yes, that's my understanding.

Mr. Skowronski: Okay. Do we have an understanding of what 100,000 cubic yards is? I mean just for the sake of the discussion, do we know, do we have a handle on what 100,000 cubic yards is?

Mr. Raatz: I don't. I don't know, Richelle, if you do?

Mr. Skowronski: 100,000 cubic yards is a football field five stories high, so the amount of improvement or the amount of activity you're describing fills a football stadium, and you're, as I read this, you're saying that any activity or movement of resources under the size of a full occupied football stadium is okay, but anything over that is not okay? Am I reading that correctly?

Ms. Thomson: One of the things I want to point out is paragraph no. 2, you're dealing with material that's already been removed out of the ground and you're processing it, preparing it, cleaning it, or treating it, because that's kind of the second phase of mining,

as we understood it; the first phase is you take it out of the ground; the second phase is you have to process it in order to be able to sell it or transform it into its new, you know, what you intend to use it for.

Dr. Six: I have a question. Sorry. Go ahead. Finish your point.

Mr. Skowronski: Well, if item no. 1 says that you cannot extract it, isn't item no. 2 contradicting that by addressing a certain quantity that does allow its extraction and processing? Is not no. 1 and no. 2 contradictory to each other?

Ms. Thomson: In my opinion, they're not. No. 1 deals with the actual removal of those materials from the ground. No. 2 deals with what you do to those materials to prepare them in that kind of traditional mining sense. So, to me, it's easier to think about it in terms of like a rock quarry, so the first stage is that you're, you know, blasting and excavating and digging down deep and you get a lot of raw material out; from then, you run it through machines to make it a certain size, so you're processing and preparing it for a different type of use, if that helps. No. 2 is intended to show that if you're conducting this kind of large scale processing, that you're presumed to be conducting a mining activity.

Mr. Skowronski: So the concept of the -- or the target figure of the 100,000 cubic yards is an attempt to define an industrial use of resources as opposed to just the construction processing of materials?

Ms. Thomson: Correct.

Ms. McLean: If I could add, I think it's also an attempt that if you are doing a large scale grading where truly all you are doing is grading, you may end up with a lot of material that you need to do something with, you're not extracting sand to sell, you're simply grading, but you end up with all of this material, and so if you have someplace where you can just spread that material out, then that wouldn't trigger no. 2, but if you're processing it because it's a commodity, that might tie into why you were extracting it in the first place. So it's one thing to say, oh, we're just grading and we end up with this material and we just need to get rid of it versus, oh, we're going to do this grading and that's good stuff, what can we do with it, and process it and sell it. So it's a pretty large quantity, as you've pointed out, it's 7 to 10,000 dump trucks --

Mr. Skowronski: Right.

Ms. McLean: Full.

Mr. Skowronski: I'm trying to imagine the last project that occurred on this rock --

Ms. McLean: And that's a significant amount of material.

Mr. Skowronski: That needed 100,000 cubic yards moved around. That's a pretty --

Ms. McLean: So I think that's trying -- you know, on the one hand, it's trying to make the distinction between legitimate grading and resource extraction, and then to further distinguish that extraction as well. If you need to process that material to make it a commodity, then it's extraction.

Mr. Skowronski: Well, let's go back to what you brought up before about background. It appears to me that the ordinance is targeting quantities and not quality, as it were; in other words, I can understand what's going on in the landfill, that's actually a good extraction of natural resources because it's double-duty and it's enhancing and reusing natural resources to their best capacity, but what I'm getting at is that that extraction or that use doesn't have, to my knowledge, any cultural impact, whereas sand or dunes or activities or resources closer to the ocean has a cultural component, and the law that's proposed here is targeting the mechanics and the sizes and it's not making any reference whatsoever to its cultural impact, or sensitive areas that are far less than 100,000 cubic yards or far less than whether or not they're going to be used onsite or offsite, for profit, for charitable uses, or whatever. There's no component in here whatsoever that says you can dig there but you can't dig there, and without that sort of guideline, don't these figures ring hollow?

Mr. Raatz: That's a fair comment. I'm not here to pass judgment on the legislation because it was proposed by the Council.

Mr. Skowronski: Okay, well, you brought up the concept of the background. Okay, I read with interest the comments from the County Council, and they made reference to some either judgment ruling or request from Judge Cardoza that is pushing this legislation, and can you give us any background of what Judge Cardoza said, implied, or referred to that is starting this process or behind this process?

Mr. Raatz: Sure, and if I may, Madam Chair, just briefly to go back a little bit. Michele referenced meetings that I've sat in on and Richelle sat in on, that's under the auspices of the Council's Infrastructure and Environmental Management Committee, which dating back to about February has held 10 or 11 meetings on the subject of sand mining, is how they've labeled it, and at various points, the Committee has looked at amending Title 19 in similar ways to the bill you have before you, but, ultimately, they decided on a proposal to amend Title 20, and some of this has been written in the press, some of you may have seen some of this, to propose a sand mining moratorium for Central Maui, and there's been a couple meetings where that -- that bill, which doesn't need to go to the Planning Commissions because it doesn't amend Title 19, has been deliberated on and I understand it's next going to be considered by the Council at its meeting on December

15, a week from tomorrow. So -- and over the course of the summer, if I'm recalling correctly, there was a separately lawsuit relating to the issue of sand or sand mining or resource extraction in Central Maui. The County was not a party to that lawsuit. I, personally, haven't seen the judge's order or anything like that. I've only read press accounts about it. But it arises from or includes some of the same parties that have been testifying to the Council and the IEM Committee, residents, and landowners that are concerned primarily regarding the Maui Lani area in Central Maui, and really the issue dates back to last winter, I believe it was, when there were media accounts of sand being taken from that area to Oahu to facilitate construction projects on that island, and our Department investigated and responded by issuing a notice of warning. We determined, in our estimation, that there was resource extraction taking place on the property that didn't comply with the applicable zoning. So that was kind of the fact pattern that got all of these various issues, including multiple pieces of legislation and a court case, started, and I can see it's not easy to figure out how they all correlate with each other, and you're correct that what you have before you today doesn't directly address cultural issues, but we're here, but we decided to ask for the CRC's input because the cultural issues were brought up by members of the public and members of the Council in the various discussions that have taken place this year with the issue of iwi kupuna in the Maui Lani area.

Mr. Skowronski: But my question more importantly is do you have any information, are you aware of any information that's coming from Judge Cardoza that is pushing this legislation because as I read the County Council minutes, it appears that they're reacting to something he said and I'd be interested in knowing, as a background to couch my comments, as to what Judge Cardoza said?

Mr. Raatz: I would defer to the Department of the Corporation Counsel on that.

Ms. Thomson: I can probably give you a bit of insight on that. The -- what Judge Cardoza has ordered is a preliminary injunction on Maui Lani Partners to cease the activities of grading in the sand dunes at Maui Lani unless they follow certain pretty strict protocols.

Mr. Skowronski: Okay.

Ms. Thomson: And kind of the nature of that order comes from HRS 6E, so from historic preservation, and the allegation that's being addressed is that Maui Lani Partners was grading without an archaeological monitor present during earth moving activity and that was required by their archaeological monitoring plan, so Judge Cardoza's order is addressing more of the 6E cultural preservation issues but not as the Planning Department has issued a notice of warning, that's -- it's the same type of activity but it's under two different types of regulations, and theirs is more about conducting resource extraction.

Mr. Skowronski: But that injunction is just for Maui Lani?

Ms. Thomson: Yes.

Chair Sablas: I know Commissioner Six has something to say, but before we go there, I really appreciate your comments, Commissioner Skowronski. If you were to recommend wording to address your issues, what would that be, you know, for that 100,000 cubic yards? What would you recommend?

Mr. Skowronski: There's a comment from Leinaala Vedder --

Chair Sablas: Yes.

Mr. Skowronski: And I was struck by the last paragraph in which she says, "Will rules, regulations, and stipulations be part of defining our culture?" And I think that -- that this ordinance, from its very beginning, is trying to do that. Its focus -- it appears that the ordinance's focus and has been written to define sizes, to define the meaning of extraction, and not defining resource for valuable resources, so I deal with restrictions, ordinances, and regulations on a daily basis and we're usually hired to evade them, and so the rules, regulations, and stipulations have more impact on obscuring what we're trying to do than actually enhancing what we're trying to do. I think that the ordinance should be written with a tone that defines the value and the cultural aspects of extraction or resources and pays less attention to definitions of size or time frames, etcetera. If in fact there is a small piece of property that wants to enclose or enlarge their garage, and they're in an area and do an excavation that has cultural impact, that should be stopped, period, and not have somebody hire a design professional to come back in and say, well, if you keep it under this size or if you keep it under this height, or if you keep it under this time frame, we can do something to it. We can make the project improvement and not have to deal with its implications. And that's not -- that's not in here.

Chair Sablas: Thank you.

Ms. Thomson: So just for clarification on some of those issues. So HRS 6E, and then the administrative rules for historic preservation, those go into very, very great detail on specifically what you're identifying. If there are cultural resources present on a site and historic properties present on a site, how you have to conduct yourself, and also if you have inadvertent discovery of, say, a burial, what specifically you have to do in that case. So -- and we discussed this a lot up at the committee level too, kind of the crossover between established State law and then what options the County might have to compliment it, so that's -- it's been a struggle for the committee members as well is what I'm suggesting, but this ordinance that you're looking at today is in the zoning code, and the zoning code talks about uses within each specific zone, resource extraction or mining, you know, traditional mining is only outright allowed in two zones, restricted industrial and

open space, only on Lanai under -- it's a very small circumstance, it's a special use, you have to get a special use permit, public hearing, you know, a pretty intensive process, and that's only in heavy industrial zone and then the agriculture zone, but like I said, you need a special use permit, so Ameron Quarry and the other quarries, quite a lot of them are located in ag and they all have special use permits, and what the Planning Department is basing their notice of warning on is that Maui Lani Partners was conducting resource extraction without a special use permit or a conditional permit, I don't know what zone -- what zone they're in, but I believe that they would have had to have a conditional use permit for what they were doing in the Planning Department's view.

Chair Sablas: Thank you. I'd like to open the floor to other comments from Commissioners.

Mr. Timothy Bailey: I got one quick --

Chair Sablas: Wait, I'd like to address -- you go first? Okay.

Mr. Bailey: So this is probably more direct toward the corporate counsel, looking at this amendment and listening to what Commissioner Frank had mentioned, to me, it makes - - you already have rules in place, you already have to get a special permit, you have to do all these things for mining, why leave an option of somebody even potentially mining any little bit, I mean like with this quantum? Just take the quantum out of it and have it end that it says, you know, any topsoil that makes such material suitable for commercial, industrial, or offsite construction use. Don't have any quantity on it because then that's when it comes in, you know, if you look at it and it looks like the person is appearing to do that, you have a way of enforcing it, and then they have to go through a process if they're going to do it anyways, and it sounds like the rules are there, so my recommendation would be to take the quantum out of there and just say if it looks like they're mining it and taking it off site, you go over there and determine it for yourself.

Dr. Six: I'd like to expound on both the Commissioners. I saw the original grubbing and grading permit for Maui Lani, and it's open-ended. It doesn't say how much they can take. It doesn't give any kind of boundaries. It also checked the box that said no known burials. They're also in violation of the 6E because they had an archaeological monitoring plan, and some developers hire archaeologists to subvert the codes. I'm not one of them. I don't get a lot of work. Feel sorry for me. So I just worked behind Safeway for a lovely Filipino family that bought a lot, 4,000 square feet. Their whole subdivision was done in 2005. They only found five burials even though Hawaiians came out, plenty, Claire Apana, everybody saying there's lots of burials here. I was sick to my stomach the entire time I was there, when we were putting in the foundation trenches 'cause there were five known burials already interred in an ahu on that property. Around immediately were 15. It's a burial ground. And that's what my question is when is a cemetery not a burial ground? Or when is a burial ground considered a cemetery? So for me, personally, and

not to disparage the people that bought that in good faith, the archeological inventory survey was substandard. They found five burials; since then, hundreds. Maui Lani, hundreds, if not up to a thousand. So you can hire an archaeologist that will do the job that you want and that needs to change. We need to be held accountable. They say they can't go on private property; 6E regulations need to be looked at. Also, this quantifying 100,000 on how many acres? There's no acreage here. There's no defining -- and I agree. The reason they're doing this is because at grubbing and grading, and people were -- and I'm on the Sierra Club Executive Committee and people -- and so is Claire Apana, and they talked about when is it mining? When is it resource extraction? So I think the language is just an attempt to put something in to stop what's been happening under grubbing and grading permits. This is just my understanding, and I'm certainly not a lawyer or on the Planning Commission. It's also non-renewable, which goes back to the harvesting of aquarium fish, which they've slowed down, or limu that can grow back. These sand dunes, millions and millions of years, they're not coming back. They're known battle fields. And so archeology can be complimentary, it can be supplementary, it can be contradictory. Sometimes it shows exactly what Hawaiians said. Complimentary. Sometimes it gives you additional information. Supplementary. And sometimes it shows that maybe that didn't happen. But for people to say that the battle of Kakanilua and Alapa Warriors didn't happen, why are all those bodies there? Was there a catastrophic Pompeian kind of incident that happened there? Or do we have to go with Thurston and Kamukau and all the different historians, pre and post-contact, that said there was a battle there. And then we have the quantifiable remains. We can count them. If you have 500 right thumbs, you got 500 bodies, even if you don't find the rest of them. It's called a minimum number of individual. That's how we can count 'cause everybody get one right thumb, hopefully, unless you lost your hand. So we know what's there, and they call them "inadvertent," which makes me sick to my stomach, 'cause they can't be inadvertent if someone told you what you're going to find. We saw what happened at Ritz-Carlton. They told them, and they found it. So I'm -- I'm just wondering 'cause, you know, very obviously very passionate about this myself, but I wanted to speak to what Commissioner Frank said about you can hire people to subvert these rules. We need to have these rules have more teeth. I think this is an attempt to define what it is with resource extraction. I agree. You should not be able to take five, you know, stacked football fields before it's mining or processing, but at least it's an attempt to go forward with some definitions so we can say no, you're not grubbing and grading. You are extracting resources. And Johanna and Kaniloa Kamaunu, Johanna was a student of mine, and I love when Kaniloa says, "Where do bodies end and sand begin?" And that speaks to Frank's, you know, if it's a cultural resource, you know there's burials. Go to Target parking lot, there's a little thing there, here's where the iwi kupuna are put, Safeway same, same stuff I see, I'm not Hawaiian, but it makes me very, very sad to see we're going down that road. So, for me, while this is not a perfect attempt, it is an attempt to at least to give some teeth to you're not grubbing and grading. You're extracting and you're selling.

Chair Sablas: All good comments, but keep in mind that we are, again, to recommend so --

Dr. Six: I recommend -- I like the fact that Commissioner Frank pointed out that these seem to contradict themselves, and I like the idea of the change in language, but I do support that they make some kind of changes in the planning to define when you are actually mining. I lived on the Big Island, on Red Road, and they mind the cinder cones there. So there's some places that are less culturally sensitive than the sand dunes here. So I think to just say that no one can mine anywhere is going to be problematic, and while we know this language is specifically being drafted to address an issue that is ongoing here, and I think I support the changing and addition of the language, but I do agree that it needs some tweaking, and I think that, you know, maybe like Commissioner Bailey said, not having this 100,000 cubic yards as a trigger, that there's some other trigger.

Chair Sablas: Comments from Corp. Counsel on our recommendations so far?

Ms. Thomson: Well, I did write down to remove the quantity and time provision there in no. 2, but I wasn't sure -- I wasn't really hearing what the Commission was kind of thinking for no. 1.

Chair Sablas: Commissioner Lay?

Mr. Ivan Lay: Okay, for me on this, they're working on a guideline, something to base it where they can work with. If you take out the numbers, somebody moving a -- somebody comes and grades my yard, he tells me I'll take this, you know, I'll take all this stuff for free, you give me the material in a way bartering and you're using it as a, you know, commodity, if you say no matter what, that means that person has to go -- come before the committee or somebody to approve, somebody taking topsoil or taking your soil from your property 'cause there's no numbers on there, so I think numbers are important to have some start. If you say "everything," you're stopping any truck moving on the road, which would be crazy.

Ms. McLean: What the bill doesn't cover, and I don't know that it should cover it, is getting into State Historic Preservation Law, which it doesn't matter what quantity you put in here, if there are archaeological or cultural remains, it can be one cubic yard or a million cubic yards, those have protections under State law. Now, granted, those protections have fallen well short, but that's not what needs to be defined here because those exist no matter the quantity, and, yeah, it's true that, you know, the example you were giving or the property that you were working on, it can be a teeny little amount, you want to put in a fence post, that might be a problem, or you want to do this mass grading and it may not be a problem at all, so I don't think that needs to be addressed in here, but that may be a comment that you want to include that to the Commission that, you know, if you just

address the gist of what's here, you may still want to say and that's with the understanding that any quantity is subject to 6E.

Chair Sablas: Comments? Are you getting all of this, Annalise?

Ms. Kehler: I'm trying.

Mr. Skowronski: It appears to me that the legislation that has to occur because of the background is trying to make the distinction between mining, which is -- which I would consider a commercial activity, particularly a commercial activity that's occurring offsite, and how to distinguish "mining" from common clearing, grading, and grubbing, and how to get those two separate. The overlay of having a cultural component or an archaeological component would apply to no matter what the sizes are, and there's statutes in place now to address an archaeological concern whether it's bones, or whether it's the King's Trail, or whether it's a heiau, or whether it's clearing, it doesn't have to be bones, okay, so once the archaeological trigger is pulled, then this bill's no longer in play because you have other vehicles to enforce whatever quantities or sizes. But, right now, with the archaeological and the cultural aspect taken off, it would appear to me that in the interest of sustainability, you want to be able to commercially mine certain resources in this county, and as long as there's no cultural component to it, you should be allowed to do that by means of special use, conditional use, etcetera. It's just that the language right now, to me, even as a professional, is I'm trying to make the distinction between extraction, processing, etcetera, and once these distinctions start coming into the reviewing process, it's just fertile area for abuse. So I'm -- I think that the cultural and archaeological component in this, those are safeguards that already exist. It's just, right now, the commercial activity, the opportunity that someone's going to make money off of digging up a resource that they have a permit to do something else but now they're going to take the composted area, or they're going to take the sand, or they're going to take the illi'ili, or they're going to take something and over and above the improvement, the permitted improvement on the property, they're now going to sell that on the side, and I think that barring a cultural component of that, that should not be allowed without a conditional use or special use, and the legislation, as it exist now, or the proposal that exist now I think makes that distinction more confusing than it does clarification.

Ms. Thomson: And, you know, one of the comments that if you, as a group, wanted to make it, if you look at the very beginning, that's what the code says right now, ""Resource extraction" means activities engaged in the exploration, mining, and processing of natural deposits of rock, gravel, sand, and topsoil." So that's -- that's it. Right now that's what the code says. The problem occurred, as we conveyed, there's a point in-between when usually mass grading, or what occurred at Maui Lani, mass grading may turn into mining. There's also, you know, when we talked about putting together this legislation, that you have a commercial purpose, you know, so you excavate, you know, a lot of soil because you're doing some kind of project and you either sell it or trade it, you know, or give it

away, that might be considered commercial and it might be really difficult to enforce that, so, you know, there are a lot of -- it looks like a discreet bit of legislation but it is pretty difficult, so I understand your comments.

Chair Sablas: Commissioner Lay.

Mr. Lay: Okay, so, to me, a lot of this is addressing things that are taken off the island, the sand, so maybe we can have some kind of a bigger teeth on watching what's being taken off of the island, having it more scrutinized and watched over, so I mean, to me, that's the big issue where it's being taken off the island and going somewhere else.

Mr. Skowronski: But, to that, what about somebody like -- if Maui Lani sold the sand to a project in Wailea, or sold it to a project in Kaanapali? It doesn't matter whether it's going off island or whatever, the idea is that you've got a building permit to do X, and now you're taking that natural resource and using it for an activity that's not permitted, and, again, barring cultural concerns, doing another activity, you're doing a side activity. Everybody's involved with projects that involve demolition, and one of the time-honored aspects of demolition is that you bring in somebody and say I want to build a house here and I want you to take down the existing house and use it for whatever purposes you want and I'll pay you with the materials that you take; well, I don't see any problem with that. That happens all the time, somebody comes in and gets rid of an existing structure for the fee of taking that material or moving it, or getting somebody to move it off site, that's an economic exchange and perfectly understandable as long as you're not moving Iolani Palace, you know, I don't think there's any problem with that.

Mr. Bailey: Chair?

Chair Sablas: Yes.

Mr. Bailey: So, again, looking at these two amendments or these two underscored, when you look at it, the first one talks about the activities that are related to mining or extraction of the minerals, okay, so it's defining it, and it includes all what we're talking about, from their natural subsurface location primarily for the purpose other than those directly related to prepare the land for onsite construction, so that's defined in there. All its saying now is whatever they're doing, if they process it, prepare it, clean it, or attempt to treat the minerals or anything like that, if you have 100,000, which is a concern here, why even just allow them to get away with 99,000? That's the whole point. That's why I'm clarifying that. I don't think by removing the quantity you're going to be stuck in a boat of having people not being able to just take dirt away from a place to backfill on another house or whatever 'cause that's prepping. When you're just prepping, grading, and you're throwing it either filling it on your own property for a wall that's going to go up, or you're throwing it in the back of my dump truck and I'm taking it to my property, it hasn't been processed. It hasn't been prepared. It's the grubbing. It's the cleaning. It's that -- this defines that. I

honestly believe that the concern is why let a duration of somebody getting away with it for 12 months and then stop, but why let them get 99,000 cubic feet? If you were to take out those quantities and you stick to the definition, somebody can come in and say, hey, look, it looks like they've been mining for the last 6 months or maybe 3 months, and we've been noticing 40 dump trucks coming out of there, but they're also having a wash station, they're having all these things; that's obvious a time that you call for enforcement. But prior to that, I think the two here define it and the realistic case for all our cultural sensitivity and everything that we have is that quantity is what allows people to kinda just push their limits, and like we said, 1 cubic foot is, with a iwi in it, is not acceptable, period. So I think it defines it on what we're doing, we're just getting ahead of ourselves, and I really believe that it's the quantity that's giving us our confusion here.

Mr. Skowronski: Is it possible that the 100,000 cubic yards is a typo and they meant 100,000 cubic feet?

Ms. Thomson: No, that's what was discussed but --

Mr. Skowronski: Okay.

Ms. Thomson: That's a -- you know, if the consensus is to make that comment, you know, that's --

Dr. Six: I know we're talking about terrestrial, but to address Mrs. Duey's comment, would resource extraction -- will this -- 'cause this is only talking about mining, it wouldn't apply to water?

Ms. Thomson: It wouldn't apply to water.

Dr. Six: Because I'm saying, the term "resource extraction" is quite broad and so it doesn't really -- so I know we're talking specifically about soil and minerals so okay.

Mr. Skowronski: Well, can we make that comment too? Can we add the word "terrestrial" or something like that so that we don't start triggering impacts on other resources, like the forest or the coral or anything like that? I mean we're --

Ms. Thomson: If you feel it's necessary, we can make that comment, you know.

Mr. Skowronski: Well, again, it appears that the focus is on the word "extraction," and there's very little focus on the word "resource."

Ms. Thomson: The resources that they're talking about are minerals, ores, soils and other solid matter, and then they have examples, right, so --

Mr. Skowronski: Okay.

Ms. Thomson: But if you feel it's necessary, we can probably add in "terrestrial."

Mr. Bailey: Usually that's -- usually in any resolution or act or whatever they define all the -- you can use the same terms and they're just defined, like you just said. I mean you have to look at the actual act or the bill itself and look at what that resource definition is referring to, like it says here, so I think as a total separate entity, if you're talking about harvesting koa, like we said earlier, it's a different -- I think you just have look at what this bill is. For example, we put in a U.S. code that define what a Native Hawaiian was and it was only pertaining to this act and it would only be in that act, it wouldn't bounce into all other things, so I think we're okay by calling that. If you want to add "terrestrial" or "subterranean" or whatever you want, that's fine too, but I think it defines it right there.

Dr. Six: I just wanted to be sure because it does say the county's finite natural resource by clarifying resource extraction, so --

Mr. Bailey: Right.

Dr. Six: I just want to make sure that we don't get a blanket resource extraction, so thank you for clarifying that for me.

Chair Sablas: So the comments that we're saying, I mean unless, you know, I mean she's -- it's going to be, again, recommendation from our body, unless I hear somebody really oppose something, we're going to take it as that's comments that we're referring, right, Annalise? I have a question. I know that there's been hours and hours of public testimony on this subject, and I think my question would be to staff and to you, Richelle, who's sat through most of them, in coming up with this ordinance, how did you I mean take into consideration the hours of public testimony and could you cite an example of what has been incorporated because of the public input?

Ms. Thomson: So the sand mining moratorium, it's a change -- well, it's actually an entire new ordinance in Title 20 so -- and it's a -- currently, it's a six-month moratorium on an activity called "sand mining," and that term's defined in that ordinance, and one of the purposes of the moratorium is to re -- kind of strengthen the definition of "resource extraction," which this ordinance before you is just one component of what the moratorium was designed to achieve; the other purpose of a moratorium is to update, there's a 2006 Inland Sand Study done here on Maui, obviously, inland sand, and to update that study so that the Council knows how much of that resource remains and where it's located. So that's -- it was -- this bill has not been through committee, it only went to the Full Council and was directly referred out to the Planning Commissions for their review, so what will happen is once the Planning Commissions' review is completed, all of those -- the comments that have been made will be transmitted back to Council and I'm assuming

that Council will then refer this bill to committee for consideration; that's typically the way it would happen.

Chair Sablas: Anymore discussion on this item, Members? Staff?

Ms. Kehler: Can I read to you the comments?

Chair Sablas: Yes, please.

Ms. Kehler: So there was a lot of discussion but I tried to kinda summarize it into a few main points, and so what I was hearing is that the quantity and time provisions on no. 2, under Section 2, of the proposed bill is problematic and that looking into that and possibly removing the quantity and time would be good because the quantity -- putting numbers on things allows people to kind of push boundaries and evade regulation; the other thing that I was hearing is that --

Chair Sablas: Wait, wait. Before you go on, are we okay with that because, you know, I'm glad that you are kind of giving rationale for recommendations so that they know why we're making this recommendation, so thank you. And the other thing?

Ms. Kehler: Okay, and then the other part of the conversation was that historic preservation review under Hawaii Revised Statute 6E is an existing protection, and it's not always perfect, but regardless of the amount of resource extraction or grubbing and grading, as long as it requires a permit, it triggers that review under 6E. I also heard -- sorry, so is that an accurate -- was that point accurate?

Chair Sablas: Members, you okay with that? Okay.

Ms. Kehler: I also heard possibly adding the word "terrestrial" before "resource" to clarify that we're speaking about land resources and not other resources such as coral or things in the water or things in the forest, like koa. Is that accurate?

Chair Sablas: Well, I heard yes and no, so let me clarify. How many, raise of hand, just so that we know that it's going to represent our body, how many of you agree with that statement, by showing your hands, that she just made, the adding the "terrestrial?" This is what you recommended.

Dr. Six: I thought it would be a good idea to separate it out but then, as Commissioner Bailey pointed out, if it's within a specific and that's the term that we're identifying, so it couldn't hurt to have it and to clarify for those that might not be as familiar with documents, but I, personally, am fine either way now that I understand how the term is specifically being used in this particular bill so --

Mr. Bailey: You know, or we can maybe just suggest they can leave it but we can also put a suggestion on that and let the final --

Mr. Skowronski: Right. It's just they're asking for comments.

Mr. Bailey: Right.

Chair Sablas: Yeah.

Mr. Skowronski: They're not asking for ...(inaudible)...

Chair Sablas: Okay. Okay.

Ms. Kehler: I'll put, you know, consider it. There might be a -- I mean I would -- generally, water is under the jurisdiction of State and this is a land use code so -- but I will -- I'll include the comment.

Chair Sablas: As comments.

Ms. Kehler: Yeah.

Chair Sablas: Okay.

Ms. Kehler: And that really -- I'm not sure if I'm missing anything else, but those were kind of the main themes that I was hearing, so let me know if I missed anybody else's comment.

Chair Sablas: Well, I think, Commissioner Six, you mentioned that you agreed with all the comments made by the first testifier, Rose Marie Duey. Would you like to include that?

Dr. Six: Well, that's why I brought up the water is because it was making the mauka-makai connection and when I was thinking about resources, I was thinking of, you know, water.

Ms. Kehler: Chair, if I may. I think she was testifying on item --

Chair Sablas: The second item.

Ms. Kehler: Item C.2., not item C.1.

Chair Sablas: You're correct.

Ms. Kehler: Yeah.

Chair Sablas: My -- thank you. Okay.

Mr. Bailey: So the only other thing was -- I mean I don't know if it -- since we're just talking about comments, if you notice no. 1, as we said, that's the activity that's related to the onsite, and no. 2 is the processing of the material based on the activity that occurred, and I'm just wondering if we should have, at the end, "suitable for commercial, industrial, or offsite construction use," to define it versus -- 'cause one says "onsite" and other one just says "construction use," but we should --

Chair Sablas: Good idea.

Ms. Thomson: Well, one of the -- one of the reasons for that no. 2 also is that it doesn't have to be the same material, so you could be processing, you could, you know, you can have the rock quarry by one entity, and then trucked over and processed someplace else, so you don't -- it doesn't necessarily have to be the same entity doing the same --

Mr. Bailey: Right.

Ms. Thomson: Process.

Ms. Kehler: Can I hear your recommendation one more time, the verbatim, from Commissioner Bailey, please? Oh.

Ms. McLean: Here it is.

Chair Sablas: So did you get that, Annalise? We're okay?

Ms. Kehler: Yeah, so under Section 2, no. 2, it's one, two, three, four, five lines down, so as to make such material suitable for commercial, industrial, or offsite construction use.

Chair Sablas: Okay then are we okay with the first item on the agenda? Should we move on to the second item? Okay, under New Business, Section C, no. 2.:

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

- 2. Review of a proposed document intended to guide the Commission in its review of archaeological and cultural reports, titled "Cultural Resources Commission's Archaeological and Cultural Philosophy" (A. Kehler)**

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

Chair Sablas: Do I have any new public testimony on this item? Hui? Okay, hearing none, public testimony is closed. Mahalo. Annalise?

Ms. Kehler: So, today, the Department is requesting your comments on this proposed document. Earlier in the year, we talked about having a historic preservation philosophy, and so this is my first attempt at developing a cultural philosophy for the Commission intended to help us when we review archaeological reports that have been submitted to us by the Planning Director or the State Historic Preservation Division for additional comments, and this is by no means intended to be the final draft, this is very much a -- a living document and I really wanted to get your feedback, and I appreciate the testimony that we got 'cause I think that those are very good comments and they're very helpful to us. And another issue that we're going to need to tackle is sort of a philosophy on the treatment of Native Hawaiian burials, that is not yet addressed in this document, I've been reading this legal primer from OHA on burials, and so I might have something in the future or if we have some points that we'd like to discuss today, we can add those to the list. Let's see. So, you know, really what I did was I based a lot of this philosophy on the International Council on Monuments and Sites Charter for the Protection and Management of the Archaeological Heritage, sort of like this broad-base document that's intended to help nations across the world to help them manage and treat cultural and archaeological properties. So I'm pretty much done explaining what it is and ready to get into the conversation and get some comments.

Chair Sablas: Well, thank you for doing this. Thank you very much, Annalise. Okay, open for comments by Commissioners. Commissioner Lay.

Mr. Lay: All what Mrs. Duey said earlier, on the archaeology -- archaeology is a study of past, instead of using "past," can we use "historic or pre-historic" cultures? Just a comment.

Ms. Kehler: Chair, if I may. How about just deleting "past" and saying "cultures?"

Dr. Six: Only because, if I could comment?

Chair Sablas: Yes.

Dr. Six: We do anthropological archaeology; in some cases, you're actually dealing with like when I did my PhD on plantation studies, I was interviewing the people that used to live in the building so you -- you'd want their actions in the past, but when you -- when you say the term "past," it makes them like they're not there. Yeah.

Mr. Lay: Wouldn't it fall under "historic?"

Dr. Six: Well, historic would be anything post -- post Captain Cook because the definition of "historic" is once you have written history, which doesn't do justice to oral history because the two civilizations that never possessed -- possessed writing were Hawaiians and the Inca but they were great civilizations, so history is a western term, so pre-contact is a term we use, and post-contact as opposed to pre-historic 'cause it kinda makes like cave people when you say "pre-historic," like Neanderthal, not to disparage Neanderthal, so that's just from an anthropological perspective.

Chair Sablas: So what wording would you recommend?

Dr. Six: Pre-contact and post-contact activities.

Chair Sablas: I'm okay with that.

Dr. Six: I mean because that -- that doesn't prioritize writing, you know. It's pre -- we consider that pre-European contact because there is some evidence that the Chinese and Japanese got here, not on roundtrips, and the Spanish, but we use post-contact.

Chair Sablas: This is, basically, past and present.

Dr. Six: Yeah. Well, it's just 'cause, unfortunately, we often prioritize writing because if it's written down, it must be true, it's not, but the idea is that's why a lot of times they don't listen to oral histories because it wasn't written down, which is why it's important when David Malo and other Hawaiian scholars began to actually write their histories down, it became something that the west could understand.

Chair Sablas: Okay, so, Commissioner, you okay with that?

Mr. Lay: Yeah.

Chair Sablas: You okay? Any other comments?

Dr. Six: But I -- I do like that it says, "written," yeah, "records and oral history" because that definitely is an important part here in Hawaii.

Chair Sablas: Yes.

Dr. Six: Can I add one more comment? In the American Anthropological Association, one of the first tenets is to do no harm because we often, as anthropologists, deal with living cultures, and so that's one of our tenets and is easily accessible on their website, the American Anthropological Association, 'cause I think that needs to be -- people need

to think about the harm they're doing to some -- some groups, you know, some people they really are inflicting a lot of harm on those individuals.

Chair Sablas: Wow, this group is easy. I mean nothing else? I think you did a good job then, huh, Annalise? Are we okay pretty much?

Mr. Skowronski: Yes.

Dr. Six: I would support the comments that Mrs. Duey made, like to take out "during" and changing it to "prior" or "before." And then there were some maybe needing for definition on "full archaeological documentation" because that can be -- we have different phases, phase one, phase two, so maybe explaining what some of those -- how we -- how archaeologists document sites 'cause we don't always see them above ground, they're not all pyramids that we can see, so we have different subsurface testing, we have non-invasive techniques, like ground penetrating radar, different ways of looking under the ground, and then we have different types of testing, and what I'm finding is that oftentimes there's very little subsurface testing in an area because they give it the all clear and then the backhoes will start breaking on all kinds of things, so a full archaeological documentation would be phase one, phase two, and phase three, if necessary, just depends on the site. But I think Annalise did a very good job.

Ms. Kehler: Chair, if I may? I have a question for Commissioner Six. So I sent -- I've sent this document to a couple of other people for comments, and one comment that I got about the full archaeological documentation, so at the State level, what that means when a site can't be preserved is that it's data recovery --

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

Ms. Kehler: Yeah, data recovery, which means, basically, that they're digging up all the information that they can and preparing a site for destruction, so this is --

Dr. Six: Well, in the case of Mokuula, it would be for restoration --

Ms. Kehler: Right.

Dr. Six: It's like if there's -- there needs to be some distinction between if you're doing it for restoration, like they did at Hoonau -- I can't even say it.

Chair Sablas: Hoonau.

Dr. Six: Yeah. Yeah, thank you. Puuhonua, Hoonau -- anyway, when they did it there, when they did archaeology specifically to restore or what they were attempting to do at

Mokuula whether they succeeded or not versus to do it at Makena Landing where it's going to be for construction of homes.

Ms. Kehler: Yeah, I need to -- I need to look at this one because there is -- I know -- I know data recovery is a -- is a sensitive subject and so I'm going to need to come maybe, you know, say like that's not -- obviously, that's not the preferred route but --

Dr. Six: Well, and then under the preservation or avoidance of archaeological and cultural resources, it says: Archaeological and cultural resources found to be significant should be preserved in place through preservation, avoidance, or capping. But is there some way we could insert language working with lineal descendants to decide, you know, what's best, do they want them left under the parking lot, do they prefer to have them relocated because, obviously, avoidance would be the best, but that is not always possible.

Chair Sablas: That's a good point. Did you get that? Yeah.

Ms. Kehler: Yeah. So depending on consultation with lineal --

Dr. Six: If there are lineal descendants that have -- have a preference.

Chair Sablas: Good.

Dr. Six: Because when I see those cement caps over known burials with the F18 written in them in cement, it's just is heartbreaking.

Chair Sablas: Yeah.

Dr. Six: And it's a limited protection, it's not going to last.

Chair Sablas: Yes, Commissioner Bailey?

Mr. Bailey: One -- one more from our testimony. In general, the third sentence, there's a concern with the significant archaeological and cultural sites should be preserved in place to the extent feasible, and that question arrived was who and how do you extend it? So, you know, I mean for the extent. So you know me, I'm magically the delete button. I would just say end it at "should be preserved in place," just end it there.

Dr. Six: 'Cause it says "should," so it's conditional. I mean they might not be able to, but they should be, definitely.

Mr. Bailey: Right. But just take away --

Dr. Six: Yeah.

Mr. Bailey: "To the extent feasible."

Dr. Six: Yeah.

Mr. Bailey: Just delete it. Just end it at -- and then it'll -- you'll figure out prior or after.

Mr. Skowronski: I have a question. There are a number of archaeological, I don't want to use that word, there are a number of abandoned sites of -- of Hawaiians having built villages or structures after contact, and built it in this western style, are we jeopardizing that preservation by putting the concept of pre-contact and post-contact on -- on our definitions?

Ms. Kehler: Chair, if I may? No, because we're changing the first sentence, archaeology is a study of pre- and post-contact activities, so that would encompass --

Mr. Skowronski: Encompass the --

Ms. Kehler: Yes.

Mr. Skowronski: Latest constructions.

Dr. Six: Well, Mokuula is a prime example. It was a pre-contact site that later was modified post-contact, but it was occupied, according to Bishop Museum carbon 14 dates for about a thousand years, so it's a ...(inaudible)... palimpsest, just layers of occupation and now it's a baseball field, and so that's a post-contact, so even the baseball field, which was redone in 1954, it's considered to be historic, you know, and the soda bottles that you dig up from when they backfilled it from the harbor, I mean it's -- it's a -- and then you get into --

Chair Sablas: Different layers.

Dr. Six: Yeah. So it's a -- it's a -- it's a -- that's the thing with living culture, it's not static, they're not gone, but I understand what you're thinking. Iao Valley is another example.

Chair Sablas: Commissioner Bailey.

Mr. Bailey: One more thing under General, the first sentence, it says: Archaeological and cultural sites are fragile and non-renewable resources. Can Corporate Counsel or maybe Annalise explain what they mean by they're non-renewable resources?

Ms. Kehler: Yeah, that just means that once they're gone, you can't replace them. They're gone. You can never recreate that.

Mr. Bailey: Okay, I'm just concerned that we brought up lao and other areas like, you know, I've opened up lo'i that's been here pre-contact, and I just want to make sure that, you know, we still can use some of our archaeological resources today and I didn't want that to be like a contradictory thing to that so --

Dr. Six: Building on that I think maybe the word "fragile," maybe "unique?" Because there are Goleta stone, and they're not necessarily fragile, but they are, in a sense is, Annalise, is if you're doing data recovery, you're going to basically destroy the site, so that's what I think by the non-renewable, but in the case of restoring a lo'i, again, that's the definition, like I was thinking of Mokuula, sometimes you're doing it for restoration purposes, not to build a parking lot on top of it, so all archaeological sites are not equal, and opening up lo'i is a perfectly good example that I'm glad Commissioner Bailey brought up 'cause working up there Kawewehi Pundyke on lo'i loa, we didn't destroy anything, we mapped and we did a few test units, and then he restored working with his crew, so we worked in concert with his efforts, so I think that we want to be careful that we no one can tough an archaeological resource, you know, I think that -- and the more fragile is --

Chair Sablas: What would, yeah, what would you -- how would you rephrase --

Mr. Bailey: Well I --

Chair Sablas: Phrase that?

Mr. Bailey: Well, she defined it so I'm okay with that, but I think on the bottom then, this would reflect the kanaka maoli have an interest in the protection, management, and interpretation, but also the use --

Dr. Six: Yeah.

Mr. Bailey: Of archaeological and cultural sites --

Chair Sablas: Good.

Mr. Bailey: Because it limits us to not being the interpreters, we are living and still ...(inaudible)...

Chair Sablas: Very good.

Dr. Six: And increasingly what you see going on with, you know, all the lo`i being opened up with some -- something that's going forward and I think most archaeologists would support.

Chair Sablas: Very good. Okay, so are we okay to move on? We're pau with this subject? This item? Staff, we're okay?

Ms. Kehler: Yeah. I appreciate Commissioner Bailey's comment because I -- maybe this is something that we can address in here too about -- we might add a paragraph about using such sites because I mean, you know, restore a lo`i, we want to encourage people to use it, or restoring a fishpond, you know, we want to encourage that use, so we don't want to prohibit it and turn it into a museum.

Mr. Bailey: Well, and it's also the water resource that we're talking about --

Ms. Kehler: Yeah.

Mr. Bailey: That lead to the auwais --

Ms. Kehler: Yeah.

Mr. Bailey: The original auwais that --

Dr. Six: And also --

Mr. Bailey: ...(inaudible)... that it makes.

Dr. Six: Well, and also sometimes you think the sites abandoned and you'll find a hookupu there, so just because to my western eyes it looks no ones there, oftentimes, I'm surprised that people are still using areas that I consider to be abandoned from my western perspective, so we have to be careful about talking about abandoned sites as well.

Chair Sablas: Okay. Thank you. So are we ready to move on to item 3?

Dr. Six: Can we have a bathroom break?

Chair Sablas: Oh, I'm sorry. Yes.

Dr. Six: Just five minutes?

Chair Sablas: Five minutes bathroom break.

Dr. Six: Thank you.

(A recess was called at approximately 12:35 p.m., and the meeting reconvened at approximately 12:42 p.m.)

Chair Sablas: Okay.

Ms. McLean: Chair and Commissioners, I wanted to introduce you to Garrett Smith, who is the new Supervising Planner, in the Long-Range Division, so he works closely everyday with Annalise, and from time to time, he and I will trade off in this seat. When we have pretty controversial or complex items, I might come and still continue to work with you, but there'll probably be times that Garrett will come in to also provide some staff support, so we'll have him come in and take the -- the last item.

Chair Sablas: Thank you, Michele.

Ms. McLean: Okay. Thank you.

Chair Sablas: No. You gotta come here. I always wanna have my right hand and my left hand. Yes. Thank you. Okay, moving on to New Business, item no. 3:

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

3. Review of the draft procedures and criteria for designating local historic districts (A. Kehler)

The Commission may provide comments on the proposed procedures and criteria pursuant to 2.88.060.M.2, Maui County Code

Chair Sablas: I don't see anyone in the audience, so I would just assume no public testimony, and, Annalise, if you could do your report please?

Ms. Kehler: So, as the Commission may or may not know, there is a provision in the County Code that allows for the creation of County-designated historic districts, so that's how this provision, it's 19.48.020, it's been around for a long time, that's how we got Historic Districts No. 1, 2, and 3. The problem with that section of the code is that it's very, very vague, and it doesn't really give the public any information about, you know, what are the procedures and the criteria to establish these districts that are allowed in this part of the code, so what I've done is I've attempted to create procedures and criteria to designate local historic districts, and we can -- we can review them today and address any comments or issues, and, you know, if there aren't any significant problems, then what I can do is I can start translating these procedures and criteria into administrative rules, and we can adopt them through the formal rule-making process at a public hearing.

Has everybody had a chance to kinda go through the -- the draft procedures and criteria? I've developed procedures for, basically, two different types of resources, architectural resources and archaeological resources. The procedures are somewhat similar but, you know, we need different information for nominating architectural versus archaeological properties. We, yeah, so we would need, you know, an archaeological inventory survey or another type of archaeological documentation or an existing National Register Nomination that would help us establish an archaeological district. And then the criteria, or, yeah, the eligibility criteria is just the same as the National Register, I just wrote it in a different way, hopefully, it's a little bit more understandable. And I do envision using an application process that is -- at first, I thought, you know, maybe we can use the National Register Nomination 'cause a lot of municipalities just do it that way, but then I looked at the National Register Nomination and it's quite technical and I -- I don't want to make it so onerous and burdensome that people won't want to establish historic districts.

Dr. Six: I -- I think this is an important distinction because the historic districts that we have right now often focus on architecture and a lots been focused on post-contact architecture.

Ms. Kehler: Correct.

Dr. Six: We tend to preserve the Bailey House, the Baldwin House, different areas, but working in Lahaina, and moving here in '78 having no idea that Mokuula was underneath the baseball field, that you need to have some criteria specifically for archaeological resources, but I'm also thinking Sand Hills, which doesn't have a lot of post-contact architecture on it but it has -- still has a value, so I want to commend you for breaking it apart event they're -- they're not necessarily mutually exclusive.

Ms. Kehler: Yeah, and that is another thing is even though we our existing local historic districts are architectural based, there is the -- there is an ability to designate predominantly archaeological resources.

Dr. Six: Well, I'm just thinking again Mokuhinia and Mokuula --

Ms. Kehler: Correct.

Dr. Six: Within the Historic District of Lahaina, but that had a very important pre-contact -- a longer -- a longer history or prehistory than the post-contact Lahaina.

Chair Sablas: You know, Annalise, under Integrity, you don't have the page, but item one: The district contains documented historic architectural, archaeological, or natural resources. You know, being from Lahaina, I've noticed that we've had a lot of really wonderful trees, mango trees especially, Lahaina is known for the mango trees that have

been just cut without any -- any oversight. How can we protect those, you know, natural resources?

Ms. Kehler: Sure. So --

Mr. Skowronski: Resource extraction.

Ms. Kehler: To -- in Historic District 3, there is a provision that requires CRC approval to remove what's called, I forgot the term, but it's some kind of like exceptional tree or large tree, and there's a circumference like you gotta go out and measure the thing to make sure that it's not -- it doesn't exceed that size. If it exceeds that size, you have to come to the CRC to get the approval to remove it. In Lahaina, I don't believe that protection exist.

Dr. Six: Didn't we make the -- wasn't the Plantation Inn going to be demolishing a building and they promised to do grafts of the mango? Wasn't -- there was a -- some kind of a -- it was a while ago.

Ms. Kehler: I think that was a recommendation.

Dr. Six: Just a recommendation.

Ms. Kehler: Yeah, for -- for mitigation for the loss of the tree. I'll have to -- let me check the code and I'll get back to you on that just to make sure though what I'm saying is correct.

Dr. Six: The mango tree is definitely going to be a culture resource because it's not naturally from here, you know. The mango came from South America and was planted by plantation descendants, and so that definitely, to me, when I did my PhD, we had to quantify the type and amount of mangoes in the camp and then we also then found out, from the different ethnic groups, who used to covet and hoard the mangoes and not let other people have the mango, so they'd have come up with subterfuge to get the mango, so that made it much more cultural than just a tree, so I learned along the way that these trees have a history and they tie to, you know, obviously post-contact times. But I agree with you, a lot of the ulu trees are gone and mango trees.

Chair Sablas: Yeah. Yeah. The mango, ulu, and all the other trees that need protection.

Ms. Kehler: Yeah so --

Dr. Six: But I would say they would fall under cultural resource.

Ms. Kehler: So one way in designating a new district, you know, when you're writing out the application, you can make sure to note that these trees are special character defining features, and that's -- that's why, so when you're drawing the boundaries of a district, you wanna make sure that you include the items that surround it that contribute to that district's history, so you mentioned trees, you know, the tree in front of blah, blah, blah is a significant feature, and so you just list it out and make sure that it's clear, and then when you're writing the ordinance, you can say you must get CRC approval to do X, Y, and Z.

Chair Sablas: You know, at the West Maui community meeting on Tuesday night, one of the comments was made for the Historic Districts is perhaps setting up a code of conduct of what can happen in each district. Is that covered?

Ms. Kehler: It's not covered in these procedures or criteria, but that is certainly something that could be addressed once a district is established. If the community group feels like there's, you know, hey, we wanna set up these rules for when you're entering our district so you know how to conduct yourself, I think that's totally an acceptable initiative that the community could take on.

Chair Sablas: Good. Any other comments? Any comments, Garrett?

Mr. Smith: Actually, if I may, for those of you that were not aware, on Tuesday night, there was a cultural and historic resources held in Lahaina, basically, it's part of our West Maui Community Plan Update process, so we had a lot of comments that were provided and including, again, maybe a code of conduct recommendation that we could look at, this part is a part of that plan, to be specific, the various areas, you know, you come into a -- a sensitive area, we shouldn't allow everything under sun if it's not -- it's not culturally appropriate. So, again, just some background information that, again, it may not go into this specific criteria, but as far as our plan and the planning process moving forward for West Maui and eventually, you know, maybe the Maui Island Plan itself including some type of comments and direction to have those special places identified for appropriate behavior.

Dr. Six: I'm just thinking of the recent two gentlemen that exposed their buttocks at the temple. Did you see that? I think it's in -- was it in Thailand they're being held? They thought it'd be funny to take a selfie mooning a temple, an American, but I mean the idea that when you have people coming from all over, to have something in place, and I'm thinking of Halloween was a big issue a few years back and probably still is because of the sensitive nature of Lahaina being the -- or Lele being the Kingdom of Hawaii prior to post-contact.

Mr. Skowronski: I have a question. Annalise, if this passes, if this draft proceeds as accepted, and you're armed with this, what areas do you think you would expand the historic district?

Ms. Kehler: So let me just backup a little bit. So right now, this is written kind of like in pros, it's not -- I still have to convert it into technical rules.

Mr. Skowronski: Right. Right.

Ms. Kehler: I would use this as like a sheet to explain to the general public how you do this, but this I still -- we have to still go through the rule-making process --

Mr. Skowronski: Right.

Ms. Kehler: And then to get to your question, you know, I -- really it can be up to the community, it can be a community-driven process where they feel like I have a neighborhood that I have a lot of pride in, or I have this site on my property that I have a lot of pride in, I want to dedicate it as a County historic district; it can totally be a community-initiated process. I don't have any particular areas in -- I mean I have neighborhoods in my mind that I know are probably eligible for this, but I don't -- it's not my agenda to designate them. I want this really to come from the community. It can also come from the County Council. It can be anyone can initiate this process.

Mr. Skowronski: Can this Commission then?

Ms. Kehler: Absolutely.

Dr. Six: Well, I -- and I think this comes from the fact that we're always -- when we were looking before it was seemed to be based on architectural characteristics and it always seemed to be favoring post-contact areas, so I think the idea of opening up to archaeological was to consider an area like Sand Hills, not that that going to be one, but to consider could that be considered because there's no real architecture on it, but because of the historic nature of the place, could a place be designated historic without being attached to post-contact and having a lot of, you know, architectural -- 'cause it seemed, when we were looking at the rules, it was all architecture and what did the architecture add, well, there's no architecture at Mokuula at the moment --

Ms. Kehler: Right.

Dr. Six: But later there was and there is subterranean and there's still some parts intact.

Mr. Skowronski: Well, the reason I'm bringing it up is as per the last meeting when you were showing us the Lahaina -- excuse me, the Lanai Historic Districts, and it was sort of a hodge-podge of the downtown area there or the built-up area there, which, to me, is a vehicle or an opportunity for abuse because people now, developers or interested parties can come in and grab or develop areas that are within the greater confines of the built-up

area but for whatever reasons are left out of that historic district and not have to abide by rules. Lahaina is also of that ilk and I would think that sort of consolidating the boundaries makes for a more homogeneous application of the rules and easier to enforce and less opportunity for abuse.

Ms. Kehler: Yeah, that is definitely an opportunity that could be taken in consultation with the landowners to see if they're interested in becoming a historic district and that would really address a lot of the community's concern, I mean -- we can ask Commissioner Ropa, but from what I gathered in the community planning process on Lanai is that they felt, the community felt very strongly that the business country town district guidelines should apply to the larger area of Lanai City because the business country town designation is very small and it's, well, what about all those historic buildings outside of it, so that could be something that we could definitely look at.

Mr. Lay: I have a quick question. What happens with the opposite where we designate an area historical, and you got a landowner who says I really don't want to be designated that because it's going to fall under all these rules that have to be followed and I don't think I can follow it?

Ms. Kehler: Sure, so that's a good question. I don't think that we would want to force anybody. If there's enough opposition, then, you know, it is what it is. They oppose it. But so the criteria for listing on the National Register as a district is that you have to have I think 51% of the owners in a district have to support the nomination for it to go forward, otherwise, the National Park Service will not nominate it. The State Register though, I think they don't require property owners' support. The County, we don't have a requirement for property owners' support, but I would suggest that, as this Commission, we would work with the property owners to educate and go over concerns, and come up with an ordinance for that historic district that makes sense for all the property owners.

Mr. Skowronski: As the law exist now, if a property that is presently in the country town district or the historic district changes ownership, can the new owner petition for that property to be taken out of those districts?

Ms. Kehler: Let's see. I don't think individual property owners can, but there is a provision that you can modify boundaries of an existing historic district. Corporation Counsel might have one.

Ms. Thomson: I don't think there's a provision to specifically what you're talking about when a change in ownership, you know, could they opt of --

Mr. Skowronski: Right.

Ms. Thomson: Of a historic district.

Mr. Skowronski: A change in zoning.

Ms. Thomson: Yeah, they would have to go in for a change in zoning or they could request a variance, there's basically a variance procedure too, or perhaps what they wanna do with their property doesn't trigger, you know, application of some of the more restrictive provisions, you know, if they had already a nonconforming property.

D. NEXT MEETING DATE: January 4, 2018

Chair Sablas: Good. So I think we got -- did you get enough comments? So that brings us to item D, which is next meeting, January 4, 2018, and then item E is Adjournment, but before I adjourn, I wanna wish one and all -- but first thank you very much, Commissioners, for your professional and heartfelt mana'o and sharing, and thank you staff, Annalise, especially for all the prep work you did. I think we're moving forward and I think we're making things better. Yes?

Dr. Six: Can I just give an update on the -- on our working group about the ha'les?

Chair Sablas: Sure. Yeah. I mean that's -- yeah, good.

Dr. Six: I'm sorry, just 'cause I've been trying to get Frances, Kumu Sinenci and Senator English on the same page, and I spoke to both and got them, hooked them up, got them with Annalise, so the people on the committee, we should be getting a meeting time, hopefully, in the next -- probably after the holidays that we'll have a meeting about the ha'les and the building codes. That was all. Just a little update on that.

Mr. Lay: I have another quick comment too on I know that now days we're not going to be approving the minutes and stuff but, to me, it's kinda difficult because I'm a part of it, you know, so we won't be getting documentation on the minutes in the future, and, for me, if somebody ask me a question on what I said a week ago, I probably won't remember, but if I have the paperwork, I can go look it up, so I'm just --

Ms. Kehler: Chair, if I may? Suzie, we're still posting minutes online, right? Okay, so that's not going to -- that practice won't change, it's just the practice of approving the minutes. It's been something that we've done in the past, the Planning Department has done, but it's not a legal requirement, and so it can kind of roadblock us from getting minutes out to the public faster, so in order to speed the public transparency process up, we're just going to put them online and not go through the approval process.

Mr. Lay: Okay.

Ms. Kehler: So if you go Google Cultural Resources Commission, and then you go to agendas and meeting minutes, they'll still be up there.

Mr. Lay: 'Cause last month -- last month's one was a condensed version, right?

Ms. Kehler: Oh, that just summary, yeah? Yeah.

Chair Sablas: Okay?

Mr. Lay: Okay.

E. ADJOURNMENT

Chair Sablas: We're all pau? Well, Mele Kalikimaka, Hauoli Makahiki Hou to everyone. And the meeting is adjourned.

The meeting was adjourned at approximately 1:03 p.m.

Submitted by,

SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present:

Lori Sablas, Chairperson
Ivan Lay, Vice-Chairperson
Timothy Bailey
Michael "Kaleo" Ropa
Dr. Janet Six
Frank Skowronski

Absent(A)/Excused(E):

Christy Kajiwara-Gusman (E)
Luana Kawaa (A)
Cheney-Ann Lima (E)

Others:

Michele McLean, Deputy Corporation Counsel
Annalise Kehler, Cultural Resources Planner, Long-Range Division
Richelle Thomson, Deputy Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions II