

1 CULTURAL RESOURCES COMMISSION  
2 COUNTY OF MAUI  
3 THURSDAY, OCTOBER 4, 2007

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8 REGULAR MEETING

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11 Held at the Kalana Pakui Conference Room, First  
12 Floor, 250 South High Street, Wailuku, Maui, Hawaii,  
13 commencing at 9:05 a.m., on Thursday, October 4, 2007.

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17 REPORTED BY: CAMMIE GILLETT, RPR, CSR #438

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ATTENDANCE

COMMISSION MEMBERS PRESENT:

- Samuel Kalalau III, Chairperson
- Dorothy Pyle, Vice-Chairperson
- Erik Fredericksen, Commissioner
- Lon Welchel, Commissioner
- Nani Watanabe, Commissioner

STAFF PRESENT:

- Stanley Solamillo, Maui Planning Department
- James A.Q. Giroux, Deputy Corporation Counsel
- Suzette Esmeralda, Board Secretary

1 THURSDAY, OCTOBER 4, 2007.

2 CHAIRPERSON KALALAU: Okay. Good morning,  
3 everybody. Will the meeting of the Maui County Cultural  
4 Resources Commission for the month of October 2007 please  
5 come to order.

6 First thing on our agenda is we need to go over our  
7 minutes. And would someone make a motion.

8 COMMISSIONER WELCHEL: I'd like to make a motion  
9 that we approve the minutes for the month of September.

10 COMMISSIONER FREDERICKSEN: Second.

11 COMMISSIONER WATANABE: Second.

12 CHAIRPERSON KALALAU: Is there any discussion?

13 (No response.)

14 CHAIRPERSON KALALAU: No discussion. All in favor  
15 say aye.

16 (Round of ayes.)

17 CHAIRPERSON KALALAU: We will now go into the  
18 preview section of our agenda. Stan, could you --

19 MR. SOLAMILLO: Good morning, Commissioner. If  
20 someone could hit the lights, please.

21 (PowerPoint presentation shown.)

22 Under Historic District Applications: Father Gary  
23 Colton, Pastor, on behalf of Maria Lanakila Church,  
24 requesting approval for a metal fence replacing sections  
25 that were destroyed or damaged by traffic accidents, located

1 on the cemetery adjacent to 712 Wainee Street,  
2 TMK(2)4-6-010:001, in Historic District One, Lahaina, Maui.  
3 The CRC may approve or deny the request and provide  
4 recommendations. Public testimony will be accepted.

5 The Maria Lanakila Cemetery and also the Seamen's  
6 Protestant Cemetery -- which is located on a parcel, if you  
7 look at the map, which is kind of a flag-lot, on the  
8 left-hand side of the site -- are located on the north side  
9 of Maria Lanakila Catholic Church, which is addressed as 712  
10 Wainee. Both cemeteries and the church are located in  
11 Historical District Number One. And they are located in the  
12 Lahaina National Historical Landmark District. The Seamen's  
13 Cemetery is the final resting place for Anglo- and  
14 Euro-American sailors who died in Lahaina during the 1800s.

15 While Maria Lanakila Cemetery contains the burials  
16 of Anglo-American, Hawaiian, Chinese, Filipino, German and  
17 Portuguese parishioners who died in Lahaina during the  
18 1900s, many of the latter were Pioneer Mill Company or their  
19 children. The two sites are maintained by the Lahaina  
20 Restoration Foundation and Maria Lanakila Catholic Church,  
21 respectively. And the grounds fronting Wainee Street are  
22 enclosed by a 210-foot chain-link fence that appears to have  
23 been installed in the 1960s and painted.

24 These two slides show essentially Maria Lanakila  
25 Cemetery. One view at the top is looking north from Wainee

1 Street; and the second is looking northeast inside the  
2 fenceline.

3 In the first half of 2007, two traffic accidents on  
4 Wainee Street resulted in severe damage to two sections of  
5 the fence. One section with an access gate had to be  
6 removed and another section was bent. The pastor of the  
7 church is requested a chain-link fence be replaced in its  
8 entirety by a decorative metal fence.

9 Now, the photo at the top right-hand side is a view  
10 of the damaged fence section looking north along Wainee  
11 Street. And the photo below is the missing fence section  
12 and the damaged gate, looking northwest along that street.  
13 These are two additional views. And looking back at a  
14 missing fence section, this fence had to be removed  
15 following a traffic accident.

16 The CRC is being asked by the Planning Department  
17 to review and approve one of the two designs, which have  
18 been selected by the church, for the proposed replacement  
19 metal fence. They include S-9 Storrs and Specrail S-1  
20 Bennington.

21 The Storrs design probably is a more modern  
22 representation. And the Bennington actually has some  
23 illusions to an earlier design that might be more compatible  
24 with a lot the grave stones that are located in the  
25 cemetery.

1 At this point, we can hear from the applicant,  
2 followed by public testimony.

3 PASTOR COLTON: Father Gary from Lahaina.  
4 Delighted to be here. I think I feel more comfortable in  
5 church with 250 people. Sorry.

6 VICE-CHAIRPERSON PYLE: We're easy.

7 PASTOR COLTON: It is embarrassing to have this  
8 fence next to the cemetery that we want to honor our kupuna  
9 and our elders. And it's just ugly. So we come before you  
10 seeking to replace it. And I hope the choice that we made  
11 can fit your approval. And we await your decision. Thank  
12 you very much.

13 CHAIRPERSON KALALAU: Anyone got questions for  
14 father?

15 (No response.)

16 CHAIRPERSON KALALAU: I've got a question. On the  
17 two models or designs that was shown there, what one are you  
18 guys planning to --

19 VICE-CHAIRPERSON PYLE: Which is your choice?

20 CHAIRPERSON KALALAU: Yeah, which is your choice?

21 PASTOR COLTON: The one on the bottom is one. It  
22 blends in. There's some posts around the grave sites. It  
23 blends in with those a little more than the other one, which  
24 is just kind of bland.

25 CHAIRPERSON KALALAU: Any more questions?

1 PASTOR COLTON: Sir.

2 COMMISSIONER WELCHEL: In the brochure, you have  
3 your second choice as the Berkshire and the Essex, but you  
4 don't have the Essex up here. Is that not an option?

5 VICE-CHAIRPERSON PYLE: It says second choice over  
6 Bennington.

7 COMMISSIONER WELCHEL: It's circled all the way  
8 around.

9 MR. SOLAMILLO: Yeah, but it was the Bennington.

10 PASTOR COLTON: I'm sorry. It's just that choice.

11 COMMISSIONER WELCHEL: Thank you.

12 CHAIRPERSON KALALAU: Okay. Any more questions,  
13 Commissioners?

14 (No response.)

15 CHAIRPERSON KALALAU: I see there's no more  
16 questions.

17 Thank you, Father. We will now open this portion  
18 of the meeting to anyone in the public who wants to testify  
19 on this agenda item, please come forward and state your  
20 name.

21 MR. FREELAND: Keoki Freeland, Lahaina Restoration  
22 Foundation. The chain-link fence is really not applicable.  
23 Instead of just repairing the chain link-fence -- it would  
24 be an easy thing to do -- they're willing to go ahead and do  
25 something that's really worthwhile. So I certainly

1 encourage you to approve their request. Any questions?

2 CHAIRPERSON KALALAU: Thank you, Keoki.

3 Anyone else from the public?

4 (No response.)

5 CHAIRPERSON KALALAU: No one from the public. The  
6 floor is now closed for testimony.

7 MR. SOLAMILLO: The Planning Department is  
8 recommending the use of the Bennington -- which is the  
9 bottom design -- for the fence, and supports the replacement  
10 of the chain-link fence with this design.

11 CHAIRPERSON KALALAU: Do we have a time frame on  
12 it?

13 PASTOR COLTON: The company indicated that it would  
14 take a couple weeks for the material. And then another week  
15 to schedule the installation. So about a month.

16 CHAIRPERSON KALALAU: Stan, who's working on their  
17 permit and stuff?

18 MR. SOLAMILLO: Probably I will be working on their  
19 permit.

20 CHAIRPERSON KALALAU: Okay. Thank you.

21 Any more questions for Stan?

22 VICE-CHAIRPERSON PYLE: It actually isn't a  
23 question. I just really would like to commend the church  
24 and its leaders, or whoever is in charge of doing it, and  
25 bringing this to us; for doing it in a timely manner and

1 actually following the regulations in Lahaina, which doesn't  
2 happen very often. So I'm just really commending you and  
3 thanking you for doing this. And I think it will be a great  
4 addition to changing the fence. Thank you.

5 CHAIRPERSON KALALAU: Any more comments?

6 Questions?

7 (No response.)

8 CHAIRPERSON KALALAU: Commissioners, we are here

9 to --

10 VICE-CHAIRPERSON PYLE: Approve.

11 CHAIRPERSON KALALAU: -- make a motion.

12 COMMISSIONER FREDERICKSEN: I'll make a motion to

13 approve the request to use the Bennington fence to replace

14 the existing chain-link fence.

15 COMMISSIONER WATANABE: Second.

16 CHAIRPERSON KALALAU: That's been moved and

17 seconded. Any more discussions? All in favor say aye.

18 (Round of ayes.)

19 CHAIRPERSON KALALAU: All opposed.

20 (No response.)

21 CHAIRPERSON KALALAU: Motion passed.

22 VICE-CHAIRPERSON PYLE: Thank you, sir. Long trip

23 for a short meeting.

24 PASTOR COLTON: David Taylor came with me from the

25 parish. So thank you very much.

1 CHAIRPERSON KALALAU: We wanted to make a slight  
2 agenda change -- okay, we'll do them after Item B.

3 MR. SOLAMILLO: Item B. The second item under  
4 Historic District Applications is Item B.

5 Joanie King, on behalf of Surf Line Hawaii/Jams  
6 World, requesting approval for a fundraising event  
7 benefiting the Friends of Lahaina Library and Surfing  
8 Heritage Foundation, to be located in the public  
9 right-of-way on the west or makai side of Lahaina Public  
10 Library, 680 Wharf Street, TMK (2)4-6-001:04, in the  
11 Historic District Number One, Lahaina, Maui. The CRC may  
12 approve or deny the request and provide recommendations.  
13 Public testimony will be accepted.

14 This application came in at the ninth hour and  
15 caused all sorts of ripples in our agenda and packet  
16 production, but it was done in concert with the Maui County  
17 Film Office and the Friends of Lahaina Library.

18 Surf Line Hawaii/Jams World was started as a family  
19 business in 1964, and has grown to become a leading  
20 wholesaler to some of the finest stores in Hawaii and across  
21 the United States. In March 2007, the company opened its  
22 Lahaina store on Dickenson Street called Jams World. In  
23 that store, the company exhibits the history of its early  
24 beginnings from the 1960s through the Jams World of the  
25 2000s.

1 Surf Line Hawaii/Jams World is requesting CRC  
2 approval for a fundraising event benefiting the Friends of  
3 Lahaina Library and the Surfing Heritage Foundation. The  
4 proposed event is planned to occur in the public  
5 right-of-way on the west or makai side of the Lahaina  
6 Library. It has been scheduled for October 27, 2007. The  
7 times of the event starting at 6:00 p.m., and running  
8 through 9:00 p.m.

9 The reason why this particular case is identified  
10 as a public right-of-way, I'm going to get into in a minute.  
11 Because we're dealing with a parcel of land that's divided  
12 in ownership between State of Hawaii and County of Maui.

13 Hit the lights, please.

14 (Power Point presentation shown.)

15 This colored square within the aerial photograph is  
16 the location of both Pioneer Mill -- or Pioneer Inn, as well  
17 as the Lahaina Library. On the TMK map, the arrowed parcel  
18 is the site that is State owned and also the site of the  
19 library. The parcel above it is County owned. The Market  
20 Street right-of-way and Hotel Street, whose names have been  
21 changed, are County right-of-way.

22 So if you look at the right-hand side, you can see  
23 how the street lays out, as well as the location and  
24 configuration of the State-owned parcels.

25 This is a very important place. It also features

1 the royal lo'i of Kamehameha I, located on the makai side of  
2 the Lahaina library site. This is a view -- it's a  
3 depression that's located within the lawn. Then to the  
4 south of that, you have most of the lawn. And what is shown  
5 on the TMK maps as right-of-way is actually not paved. The  
6 paving ends at the library building. And I probably should  
7 get up there and show you.

8 Paving will end at the library building, which is  
9 about here, and then it ends here. There's a little paved  
10 strip along the seawall, and everything else is turf.

11 The photograph at the right-hand side of the upper  
12 portion of the slide shows a paved area adjacent to the  
13 seawall. And then if you walk down towards Front Street,  
14 you can see there's just turf at that location. The event  
15 map for this program is included on the right-hand side.  
16 And I'm going to go through a brief description of the  
17 event.

18 The event feature is the public showing of two  
19 films: "Faces of the Bay," a beautiful film tracing the  
20 early history of surfers and beach goers at Honolua Bay,  
21 which has never been showed in Hawaii. It's 47 minutes in  
22 length, and a Billabong surf film not yet released called  
23 "Trilogy."

24 Since the event proceeds benefit the Friends of  
25 Lahaina Library and the Surfing Heritage Foundation, an

1 admission fee will be charged of \$7 for adults and \$3 for  
2 children. There will be one police officer needed for  
3 security. Refreshment will include popcorn and juice.  
4 Garbage will be picked up by library volunteers and  
5 collected in trash bags. A portable fence will be used to  
6 secure the parcel. A large 10-by-15 screen will be erected  
7 for showing the movie. And the estimated attendance it to  
8 be 150 people.

9       The lo'i that we just saw in some of the slides is  
10 identified as an archeological feature. And it's to be  
11 roped off as well with a portable fence.

12       There's a location of portable restrooms which are  
13 adjacent to the seawall on the north side of the site. And  
14 my question probably for Commissioners who are more familiar  
15 with Lahaina than I am is, is this appropriate because of  
16 the archeological features located on the side, or should  
17 those portapotties be moved?

18       CHAIRPERSON KALALAU: Stan, what are the circles?

19       MR. SOLAMILLO: The circles are trees.

20       CHAIRPERSON KALALAU: Oh, the trees.

21       MR. SOLAMILLO: Yes.

22       CHAIRPERSON KALALAU: Do you have a diagram of the  
23 seating arrangements and --

24       MR. SOLAMILLO: No, I do not.

25       COMMISSIONER FREDERICKSEN: Let's see. Stan, the

1 site that you're talking about, that rectangular site,  
2 that's actually Kamehameha's Palace.

3 MR. SOLAMILLO: Oh, it is?

4 COMMISSIONER FREDERICKSEN: Yeah, what was termed  
5 Brick Palace. But there are certainly other cultural  
6 resources on this part of the parcel -- or I guess they're  
7 two separate parcels. That parcel and then the one that has  
8 the library itself on it.

9 MR. SOLAMILLO: Okay.

10 COMMISSIONER FREDERICKSEN: My mom and dad,  
11 actually, did the work on that, what's been termed the Brick  
12 Palace, in the middle '60s.

13 So what this project is proposing is to -- that  
14 area will be roped off?

15 MR. SOLAMILLO: Yeah.

16 COMMISSIONER FREDERICKSEN: This rectangular area?

17 MR. SOLAMILLO: Yeah, that is supposed to be roped  
18 off so that no one can sit on it or walk on it.

19 COMMISSIONER FREDERICKSEN: Is Market Street going  
20 to be used? Is that just like an access; you know, ingress  
21 and, whatever, egress?

22 MR. SOLAMILLO: Probably.

23 VICE-CHAIRPERSON PYLE: It says exit.

24 MR. SOLAMILLO: As far as parking vehicles that are  
25 servicing this event, it probably will be used to park those

1 as far as any kind of -- points of use is probably access  
2 and egress. Dorothy.

3 VICE-CHAIRPERSON PYLE: Stan, I don't know where  
4 you got the information. I'm sure, from the applicant. It  
5 just seems to me that anytime anyone is going to be showing  
6 surf films on the shore in Lahaina, I can't imagine that the  
7 number of people is going to be 150. That just seems like a  
8 really low number to me, especially if there's any  
9 advertising done at all. And without -- are people just  
10 going to sit on the grass.

11 MR. SOLAMILLO: You'll probably have to defer those  
12 questions to the applicant.

13 VICE-CHAIRPERSON PYLE: I'm just kind of gun shy of  
14 the number.

15 MR. SOLAMILLO: Right.

16 CHAIRPERSON KALALAU: Okay.

17 MR. SOLAMILLO: Probably we should let the  
18 applicant address some of the questions that you might have  
19 because she knows more about it than I do.

20 MS. KING: Good morning. Thank you for having us  
21 here. I'm Joanie King with Surf Line/Jams World Hawaii.  
22 And Pua really wants to do this function for the library for  
23 the love of the library. He's born and raised in Hawaii and  
24 went to Maui to surf growing up. And when he opened up this  
25 store and Maui, he would sit on the grass at the library and

1 have his lunch. And I would really love to give some love  
2 back to the community. And what a perfect place to do it  
3 would be the library.

4       So the whole idea of doing a fundraiser for the  
5 library is that so that he can improve the library, which he  
6 wants to paint the inside of the library. He wants to put  
7 storm windows on it in case anything happens. He wants to  
8 do book readings with the Famous Amos for the kids. He  
9 wants to have Andy Irons come and do an autograph signing  
10 for the kids. He is going to have surf books and different  
11 books donated to the library.

12       And so this event is all leading up so that he can  
13 do those things for the library and help the library out,  
14 which Madelynn, who is in charge of the library there, is  
15 really, really excited. So this would be the first  
16 function. It would be the two movies, which are actually  
17 really, really good movies.

18       As far as the advertising of it, we were just going  
19 to do it very low key. We weren't going to make it a whole  
20 island advertising. We were just going to do maybe posters  
21 in Lahaina and in conjunction with some of the stores that  
22 we work with. Have them invite people. That type of thing.  
23 So the amount, the 150, was an estimation. We weren't going  
24 to do any large advertising for it so it wouldn't get out of  
25 control. Because that was a concern for us as well. And

1 that's why we are having a police officer and having other  
2 security there.

3 The other question I heard was about the seating  
4 arrangement. And we were thinking that it would be on the  
5 grass. If they wanted to bring their own chairs, lawn  
6 chairs, we were thinking -- if that's okay, they would do  
7 that as well.

8 Any other questions?

9 CHAIRPERSON KALALAU: You know, on the diagram  
10 right there, are the food booths going to be put up, or are  
11 they there now?

12 MS. KING: They will put up.

13 CHAIRPERSON KALALAU: So it will be put up?

14 MS. KING: Yeah.

15 CHAIRPERSON KALALAU: Like the popcorn stand and  
16 the food and drinks? Is the screen a portable --

17 MS. KING: Yeah. We had an event at our store on  
18 Dickenson Street, we kind of did the same scenario. And it  
19 worked out really well. They're these black screens that go  
20 around, and they're easy to put up and take down.

21 COMMISSIONER FREDERICKSEN: Excuse me. How does  
22 the screen -- how is it supported?

23 MS. KING: Well, as far as I know, it's like the  
24 metal stands. You know, like have you been to Oahu and seen  
25 the screen they use on the beach there?

1           COMMISSIONER FREDERICKSEN: They have them down in  
2 Wailea, too.

3           MS. KING: I mean, not that large of a screen. The  
4 lady who is going to be running it, the film herself,  
5 putting it -- running the -- she does these types of movies,  
6 Keeki. She will be running the film itself. She comes from  
7 the Surfing Heritage out of California. And she does all  
8 these special films.

9           And so we were not only going to do this one, but  
10 we were hoping to do additional ones, like later on when the  
11 whale season comes up. She has a whole whale series. So we  
12 kind of want to do some type of educational type of  
13 entertainment films besides this one. So we're hoping if  
14 this one goes well, we can continue to do more and raise  
15 more money for the library and other causes in Lahaina.

16          COMMISSIONER FREDERICKSEN: I guess one of the  
17 concerns I have is they're -- in Lahaina, there's some  
18 places, like this area and at King Kamehameha III Elementary  
19 School, you literally have an archeological site that's  
20 maybe six inches below the existing surface. And I just get  
21 a little nervous when see stuff like screens and -- the  
22 portable fence, that doesn't really need to be anchored,  
23 does it? The screen. Are there large stakes that hold it  
24 in place?

25          MS. KING: No. I believe it would just sit on the

1 grass.

2 COMMISSIONER FREDERICKSEN: Uh-huh.

3 MS. KING: If that's a concern, I'm sure we can

4 look into making sure that, you know, it wouldn't --

5 COMMISSIONER FREDERICKSEN: The foundation of the

6 Brick Palace, you know, it was pretty darn close to the

7 surface. I mean, some of it's been dug out and everything,

8 the way it ended up finally getting preserved.

9 But this property hasn't been -- there's been no

10 work --

11 VICE-CHAIRPERSON PYLE: Since the '60s.

12 COMMISSIONER FREDERICKSEN: Yeah, done since then.

13 So that's where I'm coming from. I'm just kind of cautious

14 about what gets done there and also how it gets done there.

15 MS. KING: Right.

16 COMMISSIONER FREDERICKSEN: So if the foot print --

17 whatever you want to call it -- is very soft, that would,

18 from an archeological point of view anyway, kind of be some

19 of the concerns.

20 There's also some cultural concerns. And again,

21 with the portapotties and stuff.

22 VICE-CHAIRPERSON PYLE: There.

23 COMMISSIONER FREDERICKSEN: Yeah. Is there an

24 alternate spot that those could be put?

25 VICE-CHAIRPERSON PYLE: Can they use the library?

1 MS. KING: That's what we were thinking, too, is  
2 use the library. They said it was okay.

3 COMMISSIONER FREDERICKSEN: That probably would be  
4 the best --

5 MS. KING: Yeah. They said we can use the library  
6 restrooms.

7 VICE-CHAIRPERSON PYLE: Well, how many restrooms  
8 are in the library? I don't know. How many are needed for  
9 a crowd of people that would be 150? Is the library  
10 restrooms adequate?

11 MS. KING: There's also the bathhouse, the new  
12 restrooms. That's close by.

13 VICE-CHAIRPERSON PYLE: Right down on harbor.

14 MS. KING: Right. We were thinking we could use  
15 those as well.

16 COMMISSIONER FREDERICKSEN: Down on the corner --

17 COMMISSIONER WATANABE: The new one?

18 MS. KING: There's new ones that were just built on  
19 the harbor side. We really weren't planning to put  
20 portapotties down. If we had to, we would. So we were  
21 thinking alternative ways to do it. But if we have to, then  
22 we can. You know, we're willing to work with the County.

23 CHAIRPERSON KALALAU: What if you relocate by the  
24 exit and by the entrance.

25 COMMISSIONER FREDERICKSEN: Yeah. If you are going

1 to have portapotties, have them by the exit and the entrance  
2 maybe, so it's just not as much --

3 MS. KING: Would it be okay if we didn't have the  
4 portapotties and used the library and the bathhouse?

5 VICE-CHAIRPERSON PYLE: That's going to depend on  
6 the County regulations, by a head count of people attending.

7 MS. KING: Oh, okay.

8 COMMISSIONER FREDERICKSEN: It's one of these  
9 chicken-and-egg things.

10 Stan, what's the count based on? If you say you  
11 estimate there's 150 folks coming, and it ends up being 300  
12 or 50? I mean, you can't really --

13 MR. SOLAMILLO: I mean, we can only project based  
14 on what the event sponsors are planning to account for.

15 VICE-CHAIRPERSON PYLE: May I raise a point on  
16 that. Perhaps one of the things we can say is that this  
17 permit is contingent on the fact that there will be no more  
18 than 150 people there. And once 150 tickets, adults and  
19 children, have been sold, the gate will be closed. Since  
20 you got a gate, you can close it.

21 And, you know, that way you're a little bit more in  
22 control of what the circumstances of the whole event will be  
23 if it's limited to a certain number of people.

24 CHAIRPERSON KALALAU: Maybe just hold some of the  
25 questions. And when we open it up for public comments, you

1 know, I hope we have somebody who will represent the library  
2 and some of the other surrounding businesses in the area who  
3 can comment on some of the questions that we do have.

4 MS. KING: Okay.

5 CHAIRPERSON KALALAU: Any more --

6 VICE-CHAIRPERSON PYLE: We may ask you back again.

7 Thank you.

8 MS. KING: Okay, thank you.

9 COMMISSIONER FREDERICKSEN: Thanks.

10 CHAIRPERSON KALALAU: We will now open this  
11 portion up for public testimony on this agenda item. Anyone  
12 wants to speak, come forward and state your name.

13 MR. FREELAND: Keoki Freeland, Lahaina Restoration  
14 Foundation. If they have to put the portapotties, I would  
15 suggest that they put it on the road.

16 Let me just point where I'm -- this is the roadway  
17 here. You could put them right here, right on the road.  
18 Don't have this fence here, but you can still have the gate,  
19 and put the portapotties on the road over there.

20 Relative to grass. In front of the screen, there's  
21 a lot of dirt. But I guess you can put your mat down if you  
22 want to do that. I just want to point out that area is not  
23 that much grass over there.

24 The other question -- I kind of have a question is  
25 that this area has always been a problem in the past, who is

1 going to issue the permit. The State says they don't own it  
2 and the County says they don't own it. So I think that  
3 needs to be --

4 VICE-CHAIRPERSON PYLE: Clarified?

5 MR. FREELAND: That's always been a problem that  
6 I've seen in the past, that people always go around and  
7 around about. And a lot of times when the event happens,  
8 they don't have a permit, they just do it. But it would be  
9 nice if that would be clarified, if the County is going to  
10 issue the permits from here on out in the future. That  
11 would be great. I'm all for that. Versus the big go-around  
12 that's been happening in the past.

13 Yes, this is a very historical site. There has  
14 been problems in the past. If it is going to be used for an  
15 event like this, some of the conditions that I would  
16 recommend would be no vehicles be allowed to be driven on  
17 there, you know, for putting on the supplies or whatever.  
18 But that's been a problem in the past.

19 Their fencing, I guess, is just a rope fence, or  
20 what not. It's kind of like a minimal barrier. I don't  
21 have any objection to that. But that's about it.

22 Any questions?

23 CHAIRPERSON KALALAU: You know, do you know the  
24 number of bathrooms in the library?

25 MR. FREELAND: I think there's only two; one

1 wahine, one kane.

2 CHAIRPERSON KALALAU: And I think -- what are the  
3 operating hours? They're not open until 9:00?

4 MR. FREELAND: I don't know.

5 MR. SOLAMILLO: Saturday they close at 4:00.

6 COMMISSIONER WATANABE: What about the new public  
7 restroom, is that closed after certain hours?

8 MR. FREELAND: I'm not positive, but I think it's  
9 open until about 10:00 at night. The harbor -- it's only  
10 been open now, what, a little over a week. So they're  
11 working out a schedule, and what not. I'm not positive, but  
12 I think the harbor has assigned some boat people that do  
13 work down there, the job of opening and closing the gates to  
14 the new restaurants. Yes, Dorothy.

15 VICE-CHAIRPERSON PYLE: Just in your guesstimate,  
16 is 150 a logical guesstimate for an event like that?

17 MR. FREELAND: I totally agree with you. I think  
18 that's low. But if you can control it by the number of  
19 tickets, that's fine.

20 VICE-CHAIRPERSON PYLE: Yeah, I think it's low.

21 MR. FREELAND: Thank you.

22 CHAIRPERSON KALALAU: Okay. Anyone else from the  
23 public? Okay, Stan, we got someone else coming up.

24 MS. MORRISON: Hi. My name is Theo Morrison. And  
25 I was the executive director for the Lahaina Town Action

1 Committee for 15 years. But today I'm just testifying as an  
2 individual based on my past experience.

3 First of all, I'd like to commend them for coming  
4 in for a permit. This park is used by many, many groups  
5 without a permit. They mostly -- based on what Keoki said,  
6 that it's the land owner itself seems to be nonexistent, or  
7 no one seems to be willing to say. I have done -- we had a  
8 Festival of Canoes concert there, and we did a Kamehameha  
9 Day event there many years ago.

10 In regards to the fence. I think if you just put a  
11 rope up, you would have problems. I also think you'd end up  
12 staking it. So I suggest that they talk with the harbor.  
13 And if it's not a boat day, you can use their free-standing  
14 metal fences. That would be no impact.

15 Also, I don't see any provision for scrip.  
16 Everything in the historical district needs scrip. And I  
17 totally agree with the restrooms, they can't be there.  
18 You'd have to move them.

19 Also, how you fence off the Brick Palace. Again --  
20 well, you can use stanchions on that. Actually, we've done  
21 that in the past. They can barrow those new stanchions.  
22 But the perimeter, if they have any paid admission, they  
23 would have to do something more substantial than a rope.

24 And I agree, 150 is a low number for a -- in  
25 Hawaii. If you want 150, you'd have to limit it.

1 MS. KING: It was an estimate, the 150.

2 VICE-CHAIRPERSON PYLE: Theo, as far as -- I don't  
3 know. I know you don't know. But from your experiences  
4 with events in this area, is -- I'm just guessing. Is 150  
5 people a reasonable number of people to be sitting in this  
6 area, even if it's on the dirt and not impacting the Brick  
7 Palace area?

8 MS. MORRISON: Yeah, that's a reasonable number of  
9 people. I question whether they can make it much of a  
10 fundraiser, unless they're going to sell a lot of popcorn.  
11 That's what I don't understand. Yeah, 150 people would not  
12 seriously impact the area.

13 CHAIRPERSON KALALAU: Theo, also can we experience  
14 security to have one police officer?

15 MS. MORRISON: It's not enough. You'd have to have  
16 one at -- you have money. So you'd have to have one at the  
17 front and one at the exit. It's night. It's Lahaina. And  
18 you got money.

19 CHAIRPERSON KALALAU: Any more questions?

20 Thank you, Theo.

21 Anyone else from the public who wants to come  
22 forward on the subject? I see that we have none.

23 Stan, can you --

24 MR. SOLAMILLO: Okay. The County is recommending  
25 approval of this event for the use of County-owned land

1 contingent upon receipt of approval to use State-owned land  
2 from the State of Hawaii, which means either the library or  
3 the Department of Public Works, which is on the deed.

4 Because we can't give approval for the use of someone else's  
5 land. So that's why this item was agendaed the way it was.

6 CHAIRPERSON KALALAU: So they're saying the library  
7 part is State and the nonlibrary part is County?

8 MR. SOLAMILLO: Well, as I outlined to you in the  
9 diagrams, it's the way that the parcels and TMKs show -- you  
10 can't have the event without permission from the State, who  
11 owns the land upon which you want to put your screen. And  
12 we can put people out in the right-of-way and put the drink  
13 and food booths in the right-of-way, but you still have a  
14 large parcel of land.

15 So the library said they would work in getting an  
16 approval letter to do just that. Because I spoke with the  
17 head librarian yesterday.

18 CHAIRPERSON KALALAU: Okay. So they're trying to  
19 get an approval letter from the State?

20 MR. SOLAMILLO: Yes.

21 CHAIRPERSON KALALAU: And that letter will be sent  
22 also to the applicant?

23 MR. SOLAMILLO: It will be sent to the applicant  
24 and also to the County.

25 VICE-CHAIRPERSON PYLE: So the way I understand

1 this is, we're discussing this today, we will yes or no our  
2 approval. If ours is a no, then nothing happens. If we are  
3 a yes, there still has to be an approval letter from the  
4 State that will come sometime between now and October 27th,  
5 that we will not even know about because it's not going to  
6 come to our Commission again. If there is a letter from the  
7 State that says no, who's going to be sure they enforce it  
8 if we've already said yes?

9 MR. SOLAMILLO: Well, they wouldn't get a permit.

10 VICE-CHAIRPERSON PYLE: So you have to get the  
11 letter?

12 MR. SOLAMILLO: I have to get the letter. And it's  
13 still somewhat foggy whether they have to get a permit from  
14 the parks or whether they have to get a permit from the  
15 Planning Department. The reason they came here is it's a  
16 historic district, and they've got a time crunch.

17 VICE-CHAIRPERSON PYLE: I was going to say, October  
18 27 is a really short time.

19 MR. SOLAMILLO: Right. So to get them at least  
20 approval within the historic district, contingent upon  
21 approval of the property owners.

22 VICE-CHAIRPERSON PYLE: I have a question. The  
23 indication was that this was the first of the series. And  
24 if we are saying -- if we say yes to this, is that going to  
25 mean that we are automatically going to be saying yes every

1 single time they want to do this, and their events may get  
2 bigger and bigger? And that is troublesome to me.

3 MR. SOLAMILLO: This was only for a one-time event.

4 VICE-CHAIRPERSON PYLE: But her indication was that  
5 they intend to do this again. If we set a precedent, then  
6 we will have a problem with saying no the next time.

7 MR. SOLAMILLO: Again, the application came in for  
8 a single event. And at the time that the application came  
9 in, I was not under the impression there was going to be a  
10 series.

11 VICE-CHAIRPERSON PYLE: I'm not saying that you  
12 knew anything, but I'm just concerned.

13 CHAIRPERSON KALALAU: Okay. But if we do put some  
14 recommendation in there that if it comes forward again, that  
15 they needs to reapply --

16 COMMISSIONER FREDERICKSEN: Case-by-case.

17 CHAIRPERSON KALALAU: Or event-by-event.

18 VICE-CHAIRPERSON PYLE: But you know what I'm  
19 saying?

20 CHAIRPERSON KALALAU: I know what you're saying.

21 VICE-CHAIRPERSON PYLE: "If you said yes the last  
22 time, why won't you say yes this time?"

23 CHAIRPERSON KALALAU: Okay, Stan.

24 MR. SOLAMILLO: Okay. Condition number two, which  
25 has been indicated by members of this Commission was that

1 the number of people present at this event be limited to  
2 150. Condition three, no stakes or anchors shall be driven  
3 into the site for the securing of the screen of stands or  
4 for any type of shelters used for vending.

5 VICE-CHAIRPERSON PYLE: Or the fence around the  
6 palace.

7 MR. SOLAMILLO: Condition four, that portapotties  
8 be moved off the site and located on the paved roadway;  
9 either two at the entrance and exit, or two at the public  
10 right-of-way outside of the fence, closest to the  
11 lighthouse.

12 Condition five, that mats be used underneath the  
13 screens -- or this screen. Condition six, that no vehicles  
14 be driven on the site for the unloading or loading of event  
15 equipment or paraphernalia. Condition seven, that all  
16 fences be free-standing, and that fences used around the  
17 archeological -- help me here.

18 COMMISSIONER FREDERICKSEN: Site.

19 MR. SOLAMILLO: Site, thank you, or feature -- that  
20 was the word I was looking for -- be stanchions,  
21 free-standing, and are no way anchored into the ground  
22 and/or paving. That's the last of the conditions.

23 CHAIRPERSON KALALAU: I think eight was --

24 MR. SOLAMILLO: Scrip, excuse me.

25 VICE-CHAIRPERSON PYLE: And security.

1 CHAIRPERSON KALALAU: And security.

2 MR. SOLAMILLO: That's right, security. Eight  
3 would be scrip used in lieu of cash. And the provisions for  
4 giving change and scrip be made.

5 Nine, that security be increased to two police  
6 officers at a minimum; one located at the front near the  
7 cash, and one located near the exit.

8 CHAIRPERSON KALALAU: Any more recommendations,  
9 Commissioners?

10 MR. SOLAMILLO: I think I've got one more. The  
11 standard insurance clause indemnifying the County in the  
12 amount of \$1 million.

13 CHAIRPERSON KALALAU: I mean, it should be like all  
14 other events, too, you know, they follow the same kind of  
15 criteria with the insurance. And this is a Saturday.

16 Just one question on that. How would 150 people  
17 put an impact on the parking areas in there? Do they have  
18 any handicap parking close in the vicinity? Is the  
19 applicant going to make sure that some of these handicap  
20 spots are going to be available for people attending the  
21 function at the --

22 MS. KING: We can.

23 CHAIRPERSON KALALAU: They can be able to have  
24 parking stalls for handicap people?

25 MS. KING: That was a consideration, something that

1 we had thought of as well, to make sure that there was  
2 handicapped parking.

3 CHAIRPERSON KALALAU: Okay.

4 MS. KING: Does that answer --

5 CHAIRPERSON KALALAU: The total movie time would be  
6 how many hours?

7 MS. KING: 6:00 to 9:00.

8 CHAIRPERSON KALALAU: Three hours.

9 VICE-CHAIRPERSON PYLE: Yeah. It says two hours,  
10 but the movie is 47 minutes and 50 minutes. So you can  
11 approximate the two hours of movie. By the time people come  
12 in and -- so three hours.

13 CHAIRPERSON KALALAU: Any more questions?

14 COMMISSIONER FREDERICKSEN: I just have a comment.

15 I'm just thinking about, you know, a fundraising and stuff.

16 Two police officers, portapotties, you've got 150 people at  
17 seven bucks maximum, and some are going to be \$3.

18 How much is an off-duty police officer, 45 bucks an  
19 hour?

20 COMMISSIONER WATANABE: \$30 to \$35 an hour.

21 MS. KING: Not to interrupt. But we are getting  
22 donations from supporters. We have our company. We have  
23 Billabong USA, Honolua Surf Company, Soleo Skin Elements,  
24 Lahaina Town Action Committee, and the Film Office of  
25 Economic Development on Maui, and the Surfing Heritage

1 Foundation. So all these people are definitely contributing  
2 to the event as well.

3 COMMISSIONER FREDERICKSEN: Okay. Good.

4 MS. KING: Yeah. You know, the 150 is an estimate.  
5 I guess the thing is, we would probably need to know how  
6 many people would be a reasonable amount that we could  
7 actually have in the area; up to 300, or up to 150, to make  
8 it worth everyone's while, I guess.

9 VICE-CHAIRPERSON PYLE: That's why I tried to ask  
10 Theo if she thought that was a reasonable amount. I'm not  
11 sure if she or Keoki or either of them are willing to say  
12 that more is okay. I just don't know. I can't estimate  
13 myself.

14 MS. KING: Right. I mean, that would be good for  
15 us to know because then we could limit the ticket amount,  
16 the ticket sales amount. Because that's something we can do  
17 ourselves. And we would only make that many tickets to be  
18 sold and keep track of them. And we can do that from our  
19 store that's on Dickenson Street. We can sell them from  
20 there.

21 And some of the stores that we work with could sell  
22 them, as well as keep track of them and collect them at the  
23 door, like you had mentioned. We had planned on that. That  
24 was part of the scheme of the whole thing, to make sure --

25 VICE-CHAIRPERSON PYLE: I just don't know. I just

1 think 150 sounds like a very low number of people that would  
2 want to come. And if there isn't some kind of a limit  
3 placed on it, then we have no idea how many people will  
4 really show up there. And it could become many more than  
5 you might want to have there, and certainly many more than  
6 would be appropriate to have in that particular location.

7 But I have no experience, so I cannot say that 100  
8 is too many, 200 is too many, 500 is too many. I just have  
9 no idea.

10 MS. KING: We'll definitely check on that.

11 VICE-CHAIRPERSON PYLE: Well, I think we're going  
12 to have to make some kind of limitation for you before this  
13 is done. We're not just going to say fine, you figure it  
14 out. That's not going to happen. I don't know what it's  
15 going to be.

16 COMMISSIONER WATANABE: I just have a comment. I  
17 think -- knowing that if there is nothing else going on in  
18 Lahaina at that time, I think they're got going to get  
19 pretty much all of the people. Because surfing is a big  
20 thing in Hawaii. I really think you're probably going to  
21 get more people coming.

22 VICE-CHAIRPERSON PYLE: There already may people in  
23 town there for Halloween. So that's another thing to  
24 consider, this is the weekend right before Halloween.

25 MS. KING: Maybe they'll save themselves for

1 Halloween. No, I'm just joking.

2 But that's the reason for this is, you know, for  
3 the local people to give them something unusual and  
4 different that they haven't been able to see. And also, it  
5 goes right back to raising the money for the library.  
6 That's what it's really all about. To get the money to help  
7 the library, the love of the library.

8 VICE-CHAIRPERSON PYLE: Well, actually, I was going  
9 to ask you a question about that. It says that this is  
10 fundraising event benefiting the Friends of Lahaina Library  
11 and the Surfing Heritage Foundation. Have you got a  
12 breakdown? Is it fifty-fifty?

13 MS. KING: The Surfing Foundation said the most  
14 they would take would be ten percent, but they don't even  
15 need to take the ten percent.

16 VICE-CHAIRPERSON PYLE: You've got that in writing  
17 someplace?

18 MS. KING: Yes. The Surfing Heritage of Hawaii is  
19 owned by Dick Metz, who actually started Surfline Hawaii  
20 back in the '60s. So he's a very good friend of the family.  
21 So it's all about helping each other out in the surfing  
22 community, and that sort of thing.

23 VICE-CHAIRPERSON PYLE: I know it all sounds  
24 wonderful when you say it. But the reality of it when it  
25 comes down to counting out the money, sometimes things can

1 be quite different. I'm just wondering what the Friends of  
2 the Library are really going to get out of this?

3 MS. KING: Oh, they are going to get -- trust me.

4 They will get the money from this. And it is in  
5 black-and-white writing.

6 CHAIRPERSON KALALAU: Okay. Any more comments,  
7 questions?

8 COMMISSIONER FREDERICKSEN: I'm wondering if we  
9 should reexamine the cutoff; 150, 200?

10 VICE-CHAIRPERSON PYLE: Like I said, I have nothing  
11 to say. I really don't.

12 COMMISSIONER FREDERICKSEN: Yeah, it would just  
13 be -- if it's a fundraiser, it would be nice not to chop it  
14 down too low. I mean, keep it so it's manageable to a  
15 degree.

16 COMMISSIONER WELCHEL: That's the way they do it in  
17 theaters, letting so many in. They only have so many seats,  
18 then they shut the door.

19 VICE-CHAIRPERSON PYLE: But what is that number?

20 COMMISSIONER WATANABE: On Lanai, it's 150. That's  
21 all the kids in the city.

22 VICE-CHAIRPERSON PYLE: Are you making the  
23 recommendation, Erik?

24 COMMISSIONER FREDERICKSEN: I'm just sitting here  
25 listening and kind of going --

1 VICE-CHAIRPERSON PYLE: Can we ask if anybody here,  
2 our public, has any additional information about anything  
3 particular?

4 CHAIRPERSON KALALAU: Okay. Thank you. We just  
5 want to open this question now to anyone in the public that  
6 wants to comment on the final recommendations or any more  
7 comments or suggestions that you guys can give, I guess.

8 VICE-CHAIRPERSON PYLE: We're looking for some kind  
9 of assistance in the number of people that are appropriate  
10 for this. And if anyone has any ideas, we would appreciate  
11 your --

12 CHAIRPERSON KALALAU: Okay, Theo.

13 MS. MORRISON: My name is Theo Morrison. 150 is  
14 very low. That's why she said it was an estimate, I'm sure.  
15 So if -- but personally, if I was trying to raise money, I  
16 would not do it at that site with a -- I mean, I understand  
17 why she wants to do it at the library, with the ocean, and  
18 all that. But if your real goal was to raise money, I'd  
19 go someplace where I could accommodate a lot more people so  
20 I could raise a lot of money for the library.

21 You could go 200, 250. I mean, it's a benign  
22 activity. They're coming in. They're sitting down,  
23 basically. As long as you have enough restrooms, it's not  
24 destructive. They're not dancing. There's not music.  
25 They're basically sitting. So I think --

1 VICE-CHAIRPERSON PYLE: The space is large enough  
2 to accommodate up to 250 people, you would think?

3 MS. MORRISON: Yeah, I think so.

4 The one other question that wasn't addressed is  
5 where the electricity is coming from for the sound system.  
6 And then lighting is also a problem. There are electric  
7 lights. I mean, there are like park lights in there, but  
8 it's kind of a dark space also.

9 VICE-CHAIRPERSON PYLE: Thank you very much.

10 CHAIRPERSON KALALAU: Anyone else?

11 MR. ASHFIELD: Steve Ashfield for the parks.

12 Basically, there's a couple of things you've got to  
13 look at also. Is there a ship that they will be cutting off  
14 in that area, if there's a ship leaving that night of people  
15 coming in and out?

16 If I was holding this, I'd hold it at the  
17 amphitheater. I wouldn't hold it in town. I mean, it's  
18 nice to be right there and that will be open.  
19 Unfortunately, that night we have the Air Force band playing  
20 at the amphitheater on the 27th of October. And so there is  
21 something else going on, but we don't get too many people  
22 for that. But I would look at holding it away. You want to  
23 be on Front Street maybe because of surfing. But if you  
24 want to hold it in a large place with some parking around it  
25 with 300 people, you've got no problem at the amphitheater

1 at some point.

2 CHAIRPERSON KALALAU: Very good. Thank you.

3 Anyone else? Any more comments, concerns, Commissioners?

4 COMMISSIONER WATANABE: I know there's been a lot

5 of ships coming in. Because they're coming in by two's now.

6 This past few days, we had ships. And it was very, very

7 congested. So I think it's wise to find out if there is a

8 ship coming in.

9 CHAIRPERSON KALALAU: Stan, do you have any

10 schedules on the ships coming in?

11 MR. SOLAMILLO: No, I'm sorry.

12 VICE-CHAIRPERSON PYLE: You don't know that?

13 MR. SOLAMILLO: I didn't bring my cruise ship

14 schedule.

15 VICE-CHAIRPERSON PYLE: But you're right. You

16 know, I've actually gotten off a cruise ship in Lahaina

17 once, it's crazy.

18 CHAIRPERSON KALALAU: Stan, you know if we take any

19 kind of action today on this thing, do we still have to go

20 to the parks to be approved by the Parks Department?

21 MR. SOLAMILLO: Steve said no.

22 MR. ASHFIELD: We never gave out a permit for the

23 library ever yet.

24 COMMISSIONER WATANABE: Why not?

25 MR. ASHFIELD: It isn't ours. We don't take care

1 of it.

2 CHAIRPERSON KALALAU: Ownership.

3 MR. SOLAMILLO: It's the ownership question.

4 Hence, the requirement that we must have a letter from the

5 State of Hawaii, and that we're claiming jurisdiction in

6 order to have the event.

7 VICE-CHAIRPERSON PYLE: The library is in which

8 department, the State?

9 COMMISSIONER WATANABE: Is it private?

10 MR. SOLAMILLO: No, it's State. State of Hawaii.

11 COMMISSIONER WATANABE: But the land is --

12 MR. SOLAMILLO: State of Hawaii.

13 MS. WATANABE: Kamehameha.

14 VICE-CHAIRPERSON PYLE: I just -- yeah, I have no

15 idea. It's October -- what is today?

16 MR. SOLAMILLO: The 4th.

17 VICE-CHAIRPERSON PYLE: Today is October 4th.

18 MR. SOLAMILLO: Yeah, 23 days.

19 VICE-CHAIRPERSON PYLE: And has the application

20 gone into the State?

21 MR. SOLAMILLO: (Nodding in the affirmative.)

22 VICE-CHAIRPERSON PYLE: It did go. But I don't

23 know what department it is. I don't think the library is a

24 free-standing department?

25 MS. KING: It's the State of Hawaii. We put in an

1 application to Hawaii State Public Library System, Office of  
2 the State librarian, Joanne Chindler, State librarian.

3 VICE-CHAIRPERSON PYLE: I'd be surprised -- well.

4 CHAIRPERSON KALALAU: You know, I know,  
5 Commissioners. I think it's a very difficult decision.  
6 We're doing something based on, I guess, the County Planning  
7 Department. And what's going to protect us from making a  
8 decision that if the State says no next week -- or if we say  
9 no today, and they say yes next week --

10 VICE-CHAIRPERSON PYLE: That's the way it is.

11 CHAIRPERSON KALALAU: I was just kind of laughing  
12 with James because just two weeks ago, I was talking with  
13 the people from the local Hawaiian Government. And they  
14 kind of threatened me about you cannot make decisions down  
15 there in that park because find the ownership of those  
16 properties. Who is the legal owners of those properties  
17 down there? You know, but that's their belief.

18 If we look at it from the terms that we live by  
19 today, somebody is going to have to make that decision. And  
20 I guess it's us.

21 COMMISSIONER WELCHEL: If they held this event  
22 without a permit, who would they be violating?

23 COMMISSIONER WATANABE: One, two, three --

24 CHAIRPERSON KALALAU: Stan.

25 MR. SOLAMILLO: What's the verdict, corp. counsel?

1 MR. GIROUX: I think what Stan's saying is there  
2 are properties around this area that they have to use, and  
3 that they're going to have access -- egress and ingress --  
4 that we know is County. So for that purpose, we'd like you  
5 guys to look at the event as a whole, put conditions that  
6 you feel will be reasonable to the impacts of the County  
7 property.

8 So your permit is not going to be the ultimate  
9 trump card. What it's saying is if the event goes on, the  
10 County would like some kind of control to see that the  
11 County lands are not negatively impacted. Also, take into  
12 account the whole area of a culturally sensitive area. So  
13 your permit is just an approval.

14 Just like when the banyan tree comes through, you,  
15 by County ordinance, it's just an approval. We still have  
16 to look to parks. And parks can administrate that part.  
17 For this piece of property, we don't know who is  
18 administrating that property.

19 So what we're saying is as a culturally sensitive  
20 area, we want you guys to look at that. Put your conditions  
21 that would preserve that sensitivity to that area. And  
22 also, look at the impact of the County property leading up  
23 to this property that will be used during the event. So if  
24 the State comes in and says no, nobody is using this. Then  
25 if the State says they own it, then they own it.

1 But this is just a layer of protection for the  
2 County to say we are doing our best to preserve the  
3 integrity of cultural sites in the historic area.

4 COMMISSIONER WELCHEL: Mr. Chairman, I'd like to  
5 make a motion. Are we ready?

6 I'd make a motion that we approve the fundraising  
7 event, located in the public right-of-way on the west side  
8 of the Lahaina Public Library, with Stan's recommendations.

9 CHAIRPERSON KALALAU: And how many recommendations  
10 is that, Stan, about nine?

11 MR. SOLAMILLO: Twelve.

12 CHAIRPERSON KALALAU: Twelve.

13 COMMISSIONER WELCHEL: Twelve recommendations.

14 VICE-CHAIRPERSON PYLE: Do you want to say  
15 something? He's got 150 as the limit. Do you want to  
16 change that?

17 COMMISSIONER WELCHEL: They selected 150 people.

18 CHAIRPERSON KALALAU: Okay. Do I hear a second?

19 COMMISSIONER FREDERICKSEN: I'll second.

20 CHAIRPERSON KALALAU: Moved and second.

21 Discussions?

22 COMMISSIONER FREDERICKSEN: I'm still a little hung  
23 up on the number.

24 CHAIRPERSON KALALAU: Questions?

25 COMMISSIONER FREDERICKSEN: I just -- I still think

1 150 just sounds real low.

2 CHAIRPERSON KALALAU: For a fundraiser, the numbers  
3 are really small.

4 COMMISSIONER FREDERICKSEN: Yeah.

5 VICE-CHAIRPERSON PYLE: But the applicant indicated  
6 that there were other sponsorships and donators.

7 CHAIRPERSON KALALAU: Yeah, sponsorships.

8 Okay. There is a motion on the floor. It's been  
9 seconded. Ready for go? All in favor say aye.

10 (Round of ayes.)

11 CHAIRPERSON KALALAU: All opposed?

12 VICE-CHAIRPERSON PYLE: Nay.

13 CHAIRPERSON KALALAU: One nay. We need five.

14 VICE-CHAIRPERSON PYLE: Sorry.

15 CHAIRPERSON KALALAU: Due to the lack of five  
16 votes, we need to do another motion, whether we're going to  
17 defer it or -- because it's -- whether we vote yes or no,  
18 it's not going to happen here. So the only thing that we  
19 can possibly do is vote for someone make a motion to defer  
20 this application.

21 VICE-CHAIRPERSON PYLE: And then it's after the  
22 date that they want to have it.

23 CHAIRPERSON KALALAU: Or they can go ahead and have  
24 them, because nobody knows who owns the property.

25 VICE-CHAIRPERSON PYLE: Don't say that too loudly.

1 It still should go on record that our Commission  
2 did not approve this, irregardless.

3 COMMISSIONER FREDERICKSEN: If we defer, it's not  
4 going to -- it cannot, because it's -- our next meeting is  
5 in November.

6 COMMISSIONER WELCHEL: It won't happen on paper.

7 CHAIRPERSON KALALAU: It just won't happen on  
8 paper. So --

9 VICE-CHAIRPERSON PYLE: Sorry.

10 CHAIRPERSON KALALAU: No, it's okay. We ended up  
11 with a nonaction situation here. You know, there's no  
12 approval or disapproval. We just have no action.

13 MR. GIROUX: In order for there to be a  
14 disapproval, there has to be five affirmative votes also.  
15 Nonaction is nonaction.

16 CHAIRPERSON KALALAU: So when it's a nonaction, I  
17 guess we go to the next agenda item.

18 VICE-CHAIRPERSON PYLE: Can I just say something.

19 CHAIRPERSON KALALAU: Yes.

20 VICE-CHAIRPERSON PYLE: Since I'm the one who  
21 raised my hand and said no, I think everybody should  
22 probably understand a little bit about that.

23 I think we did not have enough information. We  
24 didn't know about cruise ships. We didn't know about  
25 fencing. We didn't know about screens. We didn't know

1 about numbers. We didn't know about a lot of things. While  
2 I personally think the idea is a wonderful idea, I have no  
3 problems with the idea. The library needs help. The  
4 Surfing Foundation does wonderful things, and I know that.

5 But I think that it's too close to the time. And I  
6 know you probably didn't know you needed all these permits,  
7 and so on. But it's too close to the time for a lot of the  
8 issues that we brought up to have a satisfactory answer, and  
9 perhaps for them to even be rectified at this point in time.

10 I certainly would encourage you to come back again  
11 with a little bit more information that we might be able to  
12 make a better judgment about. Or I could, anyway. I just  
13 feel like I was just left hanging too much.

14 And this is -- certainly, I knew Erik's parents  
15 very, very well. And in the '60s, they were over there at  
16 the same time we were doing the excavation and the work in  
17 the front of the library. And I understand what a sensitive  
18 place this is. And if we keep allowing things to happen in  
19 places that we know are very special, then we're really not  
20 doing our job. So anyway, that's my reason.

21 CHAIRPERSON KALALAU: Thank you, Dorothy.

22 Let's take a short recess right now.

23 (At which time, a recess was taken.)

24 CHAIRPERSON KALALAU: Okay. We're back in session.

25 We're going to make a change to the agenda.

1 VICE-CHAIRPERSON PYLE: I would like to make a  
2 motion for the Commission.

3 I move that we accept public testimony on items  
4 2(a), which deals with the Lahaina Historic District  
5 Guidelines. And then move directly to item D 2(b), which is  
6 cultural resource issues on Maui County, so that we can get  
7 the testimony from the people who are sitting here before we  
8 lose our quorum.

9 COMMISSIONER FREDERICKSEN: Second.

10 CHAIRPERSON KALALAU: All in favor?

11 (Round of ayes.)

12 CHAIRPERSON KALALAU: Do we need Stan for this? Is  
13 he going to start the --

14 VICE-CHAIRPERSON PYLE: Do we need him for this, or  
15 can we go directly to testimonies?

16 CHAIRPERSON KALALAU: All right. Stan is not here  
17 right now. But we're going to open the floor for the public  
18 testimony on the Lahaina --

19 COMMISSIONER FREDERICKSEN: Here he is.

20 CHAIRPERSON KALALAU: Okay, Stan.

21 VICE-CHAIRPERSON PYLE: Stan, do you need to say  
22 anything in preparation for the public testimony on the  
23 Lahaina Design Guidelines?

24 MR. SOLAMILLO: No.

25 VICE-CHAIRPERSON PYLE: Okay.

1 CHAIRPERSON KALALAU: Okay. We will now open the  
2 floor for public testimony on the Lahaina Design Guidelines.  
3 Anyone from the public willing and wanting to testify,  
4 please come forward and state your name.

5 MS. MORRISON: My name is Theo Morrison. I was the  
6 executive director for Lahaina Town Action Committee from  
7 1991 to 2005. And I am here actually representing them  
8 today, even though I no longer work for them, just because I  
9 have a lot of experience with this.

10 This is fantastic, that the guidelines are -- these  
11 guidelines have been presented. Keoki and I and several  
12 other people actually met several times with the Winters  
13 guy, who put these together.

14 One of my biggest issues over all the time I was  
15 with Lahaina Town Action Committee was trying to explain to  
16 merchants the value and the importance and the reasons why  
17 they can't just bust out their window and put it some big  
18 plate glass window. And I never really had anything very  
19 definitive, as definitive as this is, in explaining the  
20 reasons why -- the first part of it is all about the history  
21 of Lahaina and the district in the different periods and the  
22 different architectural styles.

23 So I think it's really good. It will really help  
24 anybody, including the Planning Department, as they work  
25 with people on their changes that they want to make or fixes

1 that they want to make on their buildings.

2 I also thought it was very -- the other problem I  
3 had over those years was that the different degrees of  
4 strictness that the Planning Department or the CRC enforced.  
5 And so I think it's very important to have this guideline  
6 which really stresses the need for adaptability. While  
7 retaining the important aspects, but recognizing that some  
8 new businesses move in and things do change.

9 Like, for example, there was the Old Lahaina Store.  
10 And right now, it's a restaurant on the second floor. And I  
11 remember this did come before the CRC. And Hans Riecke  
12 agreed with the applicant that it would be a good idea to  
13 put windows in this whole blank wall they had that was just  
14 facing the alley, even though this was a change to the  
15 historic structure. However, it enabled the restaurant to  
16 be up there. It enabled the building to be used. It didn't  
17 change the front of the building. So in order for a  
18 Historic District to survive and thrive, some of those  
19 adaptations need to happen. And he recognizes that in this  
20 guideline.

21 So overall, I thought it was very comprehensive,  
22 very easy to read. It was well organized. Where if you  
23 were just -- if you just had a cornice, or whatever you were  
24 working on, you could go to that chapter and read on it. I  
25 think it should be adapted it would really help the

1 situation in Lahaina.

2 CHAIRPERSON KALALAU: Questions, Commissioners?

3 VICE-CHAIRPERSON PYLE: No.

4 CHAIRPERSON KALALAU: You know, like you said,

5 these guidelines are very good. It's kind of well put

6 together. A lot of times, we have a lot of these good

7 guidelines and designs put together. But as you know, too,

8 a lot of times, people don't comply. And I think that is

9 where the biggest problem is, trying to enforce excellent

10 guidelines.

11 Do you have any kind of comments or concerns about

12 how we can do that?

13 MS. MORRISON: Well, I think one of the key issues

14 is education. And years ago, back in 1991, 1992, the

15 Planning Department used to come out to Lahaina and hold

16 workshops. And actually, people came to those workshops.

17 They did slide shows back then -- all we had was slide

18 shows -- on why it's important to have historic education,

19 and the economic value. I mean, the merchants are looking

20 to make money.

21 They will not make more money if they put plate

22 glass windows in front of every store, but they don't know

23 that. So if you can show that through examples, that is

24 key. Once people understand the economic value of a

25 historic district, then they'll start to comply.

1           And again, we need this historic district officer,  
2   which Keoki and I have lobbied for, for 15 years. Somebody  
3   to actually be in Lahaina, walking up and down of the  
4   streets, and actually do a lot of that education process and  
5   enforcement. So right now, there's a lot of changes  
6   happening, just because people are ignorant and they don't  
7   know.

8           There should be a lot more emphasis on that this is  
9   a historic district, about what it means when a new business  
10  comes in. But enforcement is the key. Strict enforcement.  
11  And that's -- you know, we've been lobbying and lobbying.  
12  And we just can't get a particular person from the County.  
13  It has to be someone specialized in historic districts and  
14  has that rapport with the merchants.

15          CHAIRPERSON KALALAU: Thank you. Any more  
16  questions?

17          VICE-CHAIRPERSON PYLE: No, not really a question.  
18  But Theo and I have known each other for a long time.  
19  Because this is my second go around in this Commission. And  
20  in the 1990s, the Cultural Resources Commission did come to  
21  Lahaina more often than it does now.

22          MS. MORRISON: Yes.

23          VICE-CHAIRPERSON PYLE: We did go there on a  
24  regular basis for meetings. And there was actually a  
25  Lahaina Task Force, at one point during that period of time,

1 to discuss various issues that included the merchants and  
2 the business people, that we all work together to try to  
3 improve things.

4 I think perhaps -- I think it's a great idea that  
5 this become an ordinance, these Lahaina Guidelines. But  
6 that perhaps part of the ordinance -- the support for the  
7 ordinance needs to be more enforcement and a greater  
8 education on the part of this Commission also.

9 MS. MORRISON: It would be great. That was another  
10 one of my victories, I don't know how many years ago, where  
11 the CRC actually agreed to come to Lahaina at least three  
12 times a year. So it would be wonderful.

13 CHAIRPERSON KALALAU: Okay. Thank you. Anyone  
14 else from the public?

15 MR. FREELAND: Keoki Freeland, Lahaina Restoration  
16 Foundation. I concur with everything that Theo has said.  
17 These guidelines -- sure, there may be some little faults in  
18 them here and there, but it's so much better than what we  
19 presently have.

20 The topic of education is very critical if you're  
21 going to try and enforce some rules and regulations. You  
22 need a good set of guidelines to follow. And I think from  
23 what I've read from what was submitted -- and this, of  
24 course, was submitted back in 2003, when it was sitting  
25 there, accumulating dust.

1 But another point that I'd like to share with you,  
2 which interested me here was, of course, preservation of  
3 what you have is the ultimate. But if you have problems --  
4 maybe the building is deteriorated to the extent that you  
5 cannot continue to replace it as it is, these guidelines  
6 give you some alternatives of what you can do versus tearing  
7 down the building and building something completely out  
8 of -- that really shouldn't be there.

9 It gives you alternatives of what you can do, which  
10 will help you folks in making your decision when somebody  
11 comes in and says I want to do this or that. And it says,  
12 well, if you do this -- like Theo pointed out about the  
13 windows on the Lahaina store. The windows that were put in  
14 there are very similar to what is already in -- it's not out  
15 of place. So even though the building itself didn't have  
16 the upstairs windows to begin with and they're there now --  
17 it's not out of place from what is already there in Lahaina.  
18 And that's what I like a lot about these guidelines, is that  
19 it does give you alternatives when you're in a real pickle  
20 and you really can't put it back. Okay, what can you do.

21 I really would like to see these guidelines be made  
22 an ordinance. So whatever you can do to speed that up, this  
23 would be greatly appreciated. From there, of course, we've  
24 got to keep on working on enforcement. But you can't  
25 enforce much of your guidelines if they're not very clear.

1 And I think this clears it up pretty good.

2 Any questions?

3 CHAIRPERSON KALALAU: You know, in these  
4 guidelines, is there an area where -- like you're saying,  
5 that if a home is totally deteriorated, is there a  
6 percentage of the deterioration factor where a person would  
7 be better off building a new home or trying to restore his  
8 home?

9 MR. FREELAND: No, I don't think it gives a  
10 percentage figure per se. But, let's say, you have a  
11 particular type of architectural design on the outside of  
12 the building, and normally you want to fix it up -- sand it  
13 down, paint, it whatever -- but, say, it's all termite-eaten  
14 out. So it tells you to try and redo the same thing and put  
15 it back.

16 But let's say everything else around it is all  
17 falling down, okay. You got to tear everything else down  
18 around it, around that. And it says you have these  
19 different things that could possibly replace it, which would  
20 not be out of the architecture for that type of building.

21 Now, it doesn't say, you know, if you got a certain  
22 percent, you've got to tear it down. No, I don't think it  
23 says that.

24 CHAIRPERSON KALALAU: An example was, I think the  
25 Whitehead buildings, the way they went with -- when they

1 went to vinyl. If this guideline was in action, would you  
2 think that it would have helped the Whitehead people  
3 understand more about --

4 MR. FREELAND: Probably. Yes, sure. Of course, I  
5 can't speak for him per se, but I would say probably.

6 VICE-CHAIRPERSON PYLE: If it's handed to you, you  
7 should understand it.

8 CHAIRPERSON KALALAU: Okay. Good, good. Thank  
9 you. Any more questions?

10 Okay. Thank you, Keoki.

11 Anyone else? I see that we have no one else that  
12 wants to come forward and testify on this Lahaina Design  
13 Guidelines. The floor is now closed.

14 MR. SOLAMILLO: Okay. There was mention of an  
15 agenda change.

16 VICE-CHAIRPERSON PYLE: Yes.

17 CHAIRPERSON KALALAU: We wanted to change item D,  
18 go to 2(b). And then move up item H, Number 1.  
19 Commissioners agree with that?

20 Are we done with the advisory on -- do we have to  
21 make any kind of recommendation or motion on the Lahaina  
22 Design Guidelines?

23 MR. SOLAMILLO: Right now, because we've got an  
24 agenda change that comes out of a need to maintain quorum  
25 for public testimony, I'm probably going to defer action on

1 the guidelines today.

2 And I'll ask corp. counsel, do I need a motion to  
3 do that, to defer action on -- to take public testimony, but  
4 defer action on the Lahaina Design Guidelines?

5 MR. GIROUX: If it's on the agenda again, you'd  
6 probably be -- want to take public testimony again. But you  
7 should do a motion to defer.

8 CHAIRPERSON KALALAU: Do we have a time frame?  
9 Because we want to introduce this into -- as an exhibit.  
10 Because we want to make sure it's in the Maui County  
11 Planning general plan.

12 MR. SOLAMILLO: Not per se, that I'm aware of right  
13 now. But what I'm going to do is -- I want to get on it on  
14 the next meeting, which is November, which means that we  
15 absolutely have to have action on it. We're only doing this  
16 change because of a possibility that we -- or the certainty  
17 that we're going to lose quorum shortly, and we need to get  
18 testimony in.

19 The only comment I will make is I want to thank  
20 Keoki Freeland and Theo Morrison for making sure that this  
21 got on the agenda today, and it will return on the agenda  
22 for the November meeting for action.

23 We have several time-sensitive issues that are  
24 contingent upon maintaining quorum. And the first one is  
25 going to be Steven Ashfield, with a report from the Parks

1 Department for confirmed users for 2008. His item is time  
2 sensitive because it has to be approved prior to November 1.

3 MR. ASHFIELD: Hi. Steve Ashfield, Parks  
4 Department.

5 What I have -- all I need from you is the okay of  
6 who is going to be allowed to use the banyan tree. Right  
7 now, we have the Naku Puna, which is -- their nonprofit is  
8 called Aloha First. Also, we have Lahaina Arts Society as  
9 the only two people approved by the CRC to go under the  
10 banyan tree.

11 This is my schedule for next year, there's 94  
12 dates. And Lahaina Town Action Committee will be getting  
13 some of those dates for their special events that the other  
14 two groups don't want to do; such as the Lighting of the  
15 Banyan Tree; the Festival of Canoes; the Banyan Tree  
16 Birthday. And these are also on the schedule here.

17 Lahaina Town Action Committee, on the last page,  
18 came with a list of their things. And I also took off some  
19 because they were asking for more than they had the other  
20 years. So I said you'll have to go with my scribbling on  
21 it. That's the way I figured it out, that they couldn't  
22 have those dates because it would lessen the amount of  
23 people that you have okayed.

24 So all I'm here for today is to say who do you  
25 approve to go underneath the banyan tree? And if it's still

1 the same two people, then we're done. And we'll take care  
2 of it after that permit-wise.

3 VICE-CHAIRPERSON PYLE: All right. Let me make  
4 sure I'm right.

5 CHAIRPERSON KALALAU: Yes.

6 VICE-CHAIRPERSON PYLE: Naku Puna and the Lahaina  
7 Arts Society have approval for events under the banyan tree  
8 that will be scheduled into these dates that you have? The  
9 Lahaina Town Action Committee will be coming for permits for  
10 different dates, but they are not generally approved for the  
11 open dates that you have?

12 MR. ASHFIELD: They're not approved by you to be  
13 underneath the banyan tree, per se, the way -- when the  
14 break-up was last year.

15 But these special dates, the other people really  
16 don't want to do them. And it's important we light the  
17 tree, I guess, and important that it's has its birthday so  
18 we can put flames underneath it, I guess. But when it comes  
19 down to those -- and the other two people are okay with  
20 this.

21 Also, Aloha Festivals. There is one problem with  
22 Aloha Festivals. We don't get a date for them until real  
23 late. I'm doing the schedule already, and we don't have a  
24 date from them. We know it's sometime in October. So what  
25 I'm going to tell the two people is the one weekend it's

1 closed in October -- because I have closed weekends. If you  
2 look, it isn't every weekend -- I will give them back the  
3 one day on that one closed Saturday. Because we don't know  
4 what day it's going to be. And it isn't fair if it's always  
5 the same person losing it.

6 This year, the Naku Puna lost October 13, which is  
7 going to be happen to be Aloha Festival Day. I don't know  
8 and they don't know the dates. So unfortunately, that time  
9 will only be closed for one day on that month. But I figure  
10 that was the only fair way to do it.

11 COMMISSIONER WATANABE: I know that -- I think the  
12 problem here is, you know, whoever is island manager for  
13 Aloha Festivals -- and I know they've been going through a  
14 lot of changes and managers. But I'm sure that whoever is  
15 in charge of Aloha Festivals will be able to actually get  
16 their dates ahead of time. It's just that whoever is the  
17 island manager has to make that call.

18 Because as island manager chair, I'm able to secure  
19 my dates where I know it's available for me on Lanai. So I  
20 would recommend that actually just have them -- you know,  
21 give them your guideline, or whatever, to pick the dates.

22 MR. ASHFIELD: Well, I have to know by the -- in  
23 the next three or four days. And I don't think they're  
24 going to have the 2008 by then.

25 COMMISSIONER WATANABE: Yes. Because they don't

1 know who is going to chair it the next year.

2 MR. ASHFIELD: Yeah. That's the only way I could  
3 do to it make it fair to both Lahaina Town Action Committee  
4 and Aloha First; to say, okay, whatever day you lose, we're  
5 going to give you that Saturday in October, the other one is  
6 closed.

7 CHAIRPERSON KALALAU: And this scheduled is based  
8 mostly on the people that have been using the park?

9 MR. ASHFIELD: The one on the back that they asked  
10 for Lahaina Town Action Committee, yes. The one I made,  
11 this is the schedule of the dates with the weekend off and  
12 the holidays. Holidays and weekends can open. But one  
13 weekend a month, it's closed. I just cherry picked them.

14 This schedule might change because they might say  
15 the ship is coming in this week and I want to move this  
16 weekend. I can do that. The thing I can't change is have  
17 it open every weekend in that month. It will be closed.  
18 And it will not be open any other days than what's on here.

19 CHAIRPERSON KALALAU: I see. It's basically a  
20 scheduling of dates. It's not a reference where it's a  
21 nonprofit or a profit organization?

22 VICE-CHAIRPERSON PYLE: It's those two groups.  
23 They're the only two that can be scheduled in those days.

24 MR. ASHFIELD: It's the only groups that you okay,  
25 and those are the only two groups. And that's all I have to

1 know. If it's still okay, I'm done.

2 CHAIRPERSON KALALAU: Good. Okay, Dorothy.

3 VICE-CHAIRPERSON PYLE: Can I make a motion?

4 CHAIRPERSON KALALAU: Yes.

5 VICE-CHAIRPERSON PYLE: I move that we approve the

6 scheduled as presented, understanding that there will be one

7 weekend a month as possible left open; and that there will

8 occasionally be a change in the dates that are listed on

9 this schedule. That gives you the leeway to make the

10 changes. And that the two organizations, the Naku Puna

11 organization and the Lahaina Arts Society are the two

12 approved groups that can use these open dates.

13 COMMISSIONER FREDERICKSEN: Second.

14 CHAIRPERSON KALALAU: That being moved and second,

15 any more discussions or questions?

16 (No response.)

17 CHAIRPERSON KALALAU: No discussions. No

18 questions. Okay, let's vote. All in favor.

19 (Round of ayes.)

20 CHAIRPERSON KALALAU: All opposed.

21 (No response.)

22 CHAIRPERSON KALALAU: Motion passed.

23 Thank you, Steve.

24 MR. SOLAMILLO: The next item is a communication

25 item. At the request of this Commission, Melissa Kirkendall

1 is here to speak with you about cultural resource issues in  
2 Maui County.

3 MS. KIRKENDALL: Hi. Melissa Kirkendall, Pacific  
4 Legacy, Inc. is my current employer. I gather you all have  
5 some specific questions. And I'd like to address before  
6 your questions a couple of things that I have seen just in  
7 the last few months.

8 I think, first of all, cultural resource management  
9 in Maui County has overall in the past been pretty  
10 successful. We have a proactive community. We have the  
11 CRC. We have a County that has always worked well regarding  
12 cultural resource management issues and has always been  
13 willing to work with the State Historic Preservation  
14 Division, for whom I formerly worked. There have been some  
15 priority shifts that I have seen. Some I've seen during the  
16 end of my tenure with SHPD. Some of those shifts have me a  
17 little bit concerned about this. Under the current  
18 administration, these shifts have occurred.

19 Now, speaking as a private sector employee right  
20 now, requests for proposals for archeological work and  
21 cultural work are still going out. Some of those well in  
22 advance of any County permit applications, which suggests to  
23 me that at least some of the developers and private planning  
24 firms are being proactive in this. And I think that's a  
25 plus. I have no way of judging whether all developers are

1 being proactive in this or are waiting for communication  
2 from the County.

3 One question I have for you all. When I was  
4 working with the State, we cc'd the CRC on just about every  
5 piece of communication. Are you all still getting that  
6 communication from the County -- from SHPD?

7 COMMISSIONER FREDERICKSEN: Yeah.

8 MS. KIRKENDALL: Is it too late? Okay. I think it  
9 was always too late. And there has been a letter --  
10 Stanley, you might assist me on this.

11 There was a letter, I understand, that the State  
12 Historic Preservation Division requested the various  
13 counties to indicate what types of permits they wanted the  
14 State to review. I haven't seen that list that the County  
15 responded with. That concerns me a little bit.

16 VICE-CHAIRPERSON PYLE: Did we ever see it?

17 MR. SOLAMILLO: Yes. But it's coming to the  
18 Commission. It was sent out on the 2nd, after the agenda  
19 had gone out. So it will be on the next meeting's  
20 itinerary.

21 MS. KIRKENDALL: So what I suggest is when you all  
22 receive that letter, I think you should look at it really  
23 closely. There's certain issues that I think the current  
24 SHPD administration might not see as priority for review.  
25 One of those is change in zoning.

1           And there was a point in time when I thought, well,  
2 maybe SHPD doesn't need to review those. But given the  
3 historic preservation districts that we have, certainly SHPD  
4 does need to review change in zoning. Yes, it's a paper  
5 action. Yes, there's no ground altering. So from an  
6 archeological perspective, it's really benign. But it has  
7 consequences down the road.

8           So I think when you get that letter, the CRC really  
9 needs to look at that closely and see if there's a way to  
10 get the CRC to be more proactive, so that if -- and that  
11 doesn't mean you aren't already. Because we appreciate you.  
12 But I think if SHPD is going to relinquish the opportunity  
13 to review some of these things, there's got to be another  
14 entity that steps up to the plate.

15           And certainly from a historic perspective, the  
16 CRC -- we have historic foundations that also are proactive  
17 in that. The archeological ones are the ones that have me  
18 greatly concerned. Because we have Stanley at the County  
19 level that looks at historic things. We don't really have  
20 archeological expertise at the County level yet. But we  
21 have it on the CRC. So certainly, you're a venue that needs  
22 to look at these issues very closely.

23           I think the CRC might start coming up with ways  
24 that you could be more involved in the review process  
25 yourselves if SHPD is, in fact, going to relinquish some of

1 this.

2 Okay, now I'm open for questions. Because you  
3 probably have some specifics that I didn't even touch on.

4 CHAIRPERSON KALALAU: Questions? Dorothy.

5 VICE-CHAIRPERSON PYLE: Melissa, did you have a  
6 chance to review -- or have you been part in any way of the  
7 GPAC process?

8 MS. KIRKENDALL: No, I have not.

9 VICE-CHAIRPERSON PYLE: And so I'm -- do you think  
10 that SHPD in any way has had any input or any comment about  
11 what's going on? I know it's a State and County issue. But  
12 nonetheless, if we are trying to create a document that is  
13 going to be in effect for quite some time, it would help if  
14 we really had everyone's input as to what our actual  
15 policies are in the County.

16 So I'm just asking that question. I don't know  
17 where it can go or anything else, but it is interesting.

18 MS. KIRKENDALL: As an SHPD employee, no, I had no  
19 involvement. I think it would be very important to have  
20 SHPD involved in that. And I think also any other entities  
21 within the larger community.

22 VICE-CHAIRPERSON PYLE: Because then at least  
23 there's a recognition of anything. I don't know whether  
24 that can be done or not. I just brought that up. I guess  
25 I'm the one whose been making the most fuss about this, and

1 I guess I should probably explain a little bit why.

2 It seems to me that over the years, the number of  
3 actions that have to be taken by SHPD concerning  
4 developments, any kind of changes, has just multiplied to  
5 the point where it's almost impossible to keep track. And  
6 while we are the recipients of all the letters and the  
7 communications that go back and forth, it is completely  
8 after the fact. And as an after-the-fact recipient, I --  
9 you know, sometimes the stack that we get every month --

10 And I thank you, Stan, for giving them to us,  
11 because I -- thank you, Suzi, or whoever does it. It is a  
12 huge amount. But none of those things are ever put on our  
13 agenda beforehand. And I page through them -- I don't know  
14 whether anybody else pages through them. I'm sure that Nani  
15 looks for anything that says Lanai.

16 And I'm not that knowledgeable. But I can read  
17 where it says 605 acres of land. And then I'll read down  
18 through it, and it will say that this was property that was  
19 given by Kamehameha to John Young, or something. And I  
20 think what is going on here.

21 So is there way that for -- and I don't know who  
22 the judge is here. Who makes the decision where something  
23 needs to come to the County before it's signed off on by the  
24 State?

25 MS. KIRKENDALL: Okay. There's two things I think

1 I hear you saying.

2       Number one, you're looking at letters that are  
3 probably preliminary plat reviews for a large parcel on  
4 which some form of development's proposed. And when SHPD  
5 writes the letter, they do indicate the history as much as  
6 they are aware of at that point in time regarding ownership.  
7 That also occurs after an inventory survey has been  
8 completed. But at the point of review of a preliminary  
9 plat, the recommendation is usually for an inventory survey,  
10 which is then conducted.

11       Now, according to State law, there's no  
12 consultation process for something that occurs on private  
13 land. If this were a Federal project, then certainly you  
14 all would have the opportunity to request to be a consulting  
15 party in any action that either includes Federal funding or  
16 on Federal land. I would suggest that you also have that  
17 opportunity to request that for other actions that occur  
18 that SHPD reviews. So in other words, you would be  
19 operating as a sister agency to SHPD.

20       So what you might do is draft a letter to SHPD and  
21 indicate that you would like to be a consulting party on X,  
22 Y and Z, on certain kinds of actions. Given the volume of  
23 letters that you've received, you know, that you probably  
24 don't want to be consulting parties on all of them. But  
25 there may be some that are especially crucial that you

1 should weigh in on, or you should have the opportunity to  
2 weigh in on.

3 Does that answer your question?

4 VICE-CHAIRPERSON PYLE: Well, it kind of does. In  
5 the past -- this would have been in the 1990s -- the chair  
6 of the CRC had the opportunity, when the agenda was being  
7 set -- and I know that things have changed since then -- to  
8 review a lot of these letters beforehand when they were just  
9 coming in, and to place some of these items on our agenda  
10 for discussion by the CRC. And even though the State may  
11 have taken a preliminary action, it was possible for the CRC  
12 to comment, as an inventory was being done, or something  
13 like that, and ask for additional information.

14 There were quite a number of very large projects  
15 that were carried on in Maui on the Ukumehame/Olowalu area  
16 side, where this is exactly what happened. Because there  
17 are tremendous archeological resources there, the CRC was  
18 very involved in the ultimate plans that were done by the  
19 land owners. But these days, it would all be done before we  
20 would even know it was happening. And that's my concern, is  
21 I don't know how to get into the process.

22 You're idea of writing a letter and asking is one  
23 thing, but what if they don't respond?

24 MS. KIRKENDALL: Well, that's always the problem.  
25 And I understand that is a problem right now, getting a

1 response out of SHPD. I don't know that firsthand.

2 I think that weeding through the letters when you  
3 receive them, at such point where SHPD has actually said we  
4 want an archeological inventory survey, I think you need to  
5 weigh into that immediately.

6 There's the lag time. You all meet once a month.  
7 SHPD, of course, continues to write letters. But that would  
8 be one opportunity at which you could do that. And you  
9 could have a standard letter format so you would not have to  
10 reinvent the wheel every time. You get a letter, you get  
11 cc'd on a letter that says archeological inventory survey,  
12 you respond and say we want to be a consulting party on  
13 this.

14 Theoretically, as a responsible State agency, you  
15 should get a response.

16 VICE-CHAIRPERSON PYLE: Yeah, I know.

17 MS. KIRKENDALL: And should you not, then you ought  
18 to complain very vocally. And I think that's something that  
19 hasn't happened.

20 VICE-CHAIRPERSON PYLE: That's right.

21 MS. KIRKENDALL: I recall during my tenure of a  
22 situation where there was a -- there was a private property  
23 action. There was preservation being recommended for a  
24 particular site. And somebody that lived nearby wrote to us  
25 and said to us we want to be a consulting party. The

1 response is, "Okay, please provide us in writing with your  
2 comments."

3       So what it may just do is buy you time. You draft  
4 the letter saying you want to be a consulting party. Then  
5 you follow up with information that you might have or  
6 concerns that you might have. You could also, at that  
7 point, request the opportunity to review the inventory  
8 survey report at such time it is submitted, and request that  
9 the copy be submitted to the CRC.

10       VICE-CHAIRPERSON PYLE: Yeah. That, I think that  
11 is really essential. Because we need to have a better  
12 library of resources in the County about things.

13       MS. KIRKENDALL: Yes.

14       VICE-CHAIRPERSON PYLE: And I don't know whether  
15 they need to be kept necessarily.

16       The other question that is the same sort of thing  
17 is the SHPD office uses the information that they currently  
18 have. And certainly they have great files and pieces of  
19 information, and so on. They don't have everything. And so  
20 even though a letter is sent asking for permission or  
21 permits or whatever to do something, the SHPD office may say  
22 no action is necessary, no inventory is necessary, nothing  
23 is necessary because of the information that they have or  
24 don't have.

25       Sometimes they miss something, or a lot, and then

1 we're really stuck. They've said nothing, you don't need to  
2 do anything. Then what do we do?

3 MS. KIRKENDALL: Well, that's always going to be a  
4 problem. Things are always going to get missed. That is  
5 the reality.

6 When I was working in SHPD and I knew that was  
7 happening, the only consolation that I had was that in  
8 Hawaii, the State laws allow us to review actions on private  
9 property. In any other states, that is not the case. In  
10 other states, the SHPD counterpart reviews only projects  
11 that are on public land or involve public funding.

12 And so if somebody wants to build a subdivision on  
13 600 acres of land, they can go do it. And my consolation  
14 was we catch more here than anywhere else. And it's a small  
15 consolation. But I think if everybody is collectively on  
16 top of it, that's the only way that's going to happen. SHPD  
17 is not going improve on its ability to track things. They  
18 are still under-staffed and, from what I've heard, not too  
19 responsive.

20 When I was in there, I did receive 20 to 30 phone  
21 calls a day. I made the best effort to return those. That  
22 doesn't mean somebody didn't slip through the cracks.  
23 You're five pages back on my phone log, sorry, I lost you.  
24 And now it's worse.

25 I think there needs to be a considerable movement

1 to make sure that the CRC is providing oversight for SHPD as  
2 well, in terms of call them. Call them. See how much  
3 response you get.

4 COMMISSIONER WATANABE: I have to say that I did  
5 quite a few phone calls to SHPD, and they -- a lot of people  
6 don't know which department to call. And then they don't  
7 get a response. I sit on another council which involves  
8 SHPD. And you're right. You have to call. You have to  
9 track them down. Because we don't get a response. We ask  
10 for a representative, and they never show.

11 So, you know, we're really lost out there. And  
12 then when I get a response from the phone call, they said  
13 oh, yeah, we should have been there; we need to hold  
14 meetings; we haven't been on Lanai for a while. Hey, let me  
15 know. You know what I mean? Let me know. I'm willing to  
16 come over and do a meeting. Unless you do it --

17 MS. KIRKENDALL: I'll tell you one thing that  
18 happened to me towards the end when I was handling the Big  
19 Island as well. There was one particular person who had  
20 been trying to reach me, and he repeatedly fell to the back,  
21 not intentional. And he placed a call to the ombudsman.  
22 And I got two calls from the ombudsman saying, "Why haven't  
23 you returned this call?" And I jumped.

24 So if you don't get a return call, you call the  
25 ombudsman, "I have called SHPD repeatedly and have not

1 received a response." Call the ombudsman. Unfortunately,  
2 you have to force the issue.

3 I was very embarrassed to have the ombudsman call  
4 me and say, "Why didn't you call this guy?" I said, "You  
5 know what, I processed this permit once. I'll call him  
6 again." And, of course, it was a letter that had gotten  
7 lost in --

8 VICE-CHAIRPERSON PYLE: Never, never land.

9 MS. KIRKENDALL: Yeah, it had gotten lost in space.

10 I rewrote the letter. I called the guy and  
11 apologized. But sometimes inaction forces a push. And I  
12 think you need to use all the agencies available. And if it  
13 means to call the ombudsman and say you're not getting a  
14 response from SHPD, do it.

15 But I definitely would go through that stack of  
16 letters and anything that calls for an inventory survey that  
17 hasn't been conducted. Get on the stick to SHPD and say we  
18 want to be a consulting party, we want a copy of this  
19 inventory survey for review.

20 In the past -- well, gosh, Erik. It was way back.  
21 We used to always provide copies of every report to the  
22 public library, too. So when an inventory survey report was  
23 done, it went to the libraries as well as SHPD.

24 VICE-CHAIRPERSON PYLE: Not anymore?

25 MS. KIRKENDALL: No. No, it doesn't. Yes, there's

1 a cost factor. But you have to build that into your  
2 estimate. Oops, you got to make an extra copy for a couple  
3 of libraries.

4 VICE-CHAIRPERSON PYLE: Is that a requirement?

5 MS. KIRKENDALL: It's not a requirement. It was  
6 something that was done. It was just a practice before the  
7 rules were signed into effect. And now that the rules are  
8 signed into effect, I urge you to become very familiar with  
9 them as well because they were signed in 2003, December  
10 22nd, 2003.

11 So now you actually have something to use as a --  
12 other than a guideline, you know. And if you want to be a  
13 party, a consulting party, make that heard.

14 COMMISSIONER FREDERICKSEN: I just -- my comment  
15 about all of this is that SHPD is pretty messed up right  
16 now. And it falls directly on to lack of staffing. And I  
17 don't know how long it takes to fill positions. But it's  
18 the duty of the SHPD -- or the administrator to make sure  
19 you have adequate staff.

20 VICE-CHAIRPERSON PYLE: Well, I understand that  
21 completely.

22 COMMISSIONER FREDERICKSEN: There needs to be  
23 adequate staff.

24 VICE-CHAIRPERSON PYLE: I do think that some of the  
25 issues that I see happening between SHPD and the County have

1 been kind of growing. I think they've changed considerably  
2 in the last 10 to 12 years. And maybe it is because of the  
3 huge upsurge in the amount of work that's been going on,  
4 with no increase -- or even a decrease in staff. So it  
5 makes it more impossible for both sides to actually  
6 communicate as well as they should.

7 MS. KIRKENDALL: I think it does. You know, I have  
8 to say that when I was working with SHPD, I did ask for an  
9 awful lot of things out of the County. And it did result in  
10 a lot more permit reviews than were formerly being sent to  
11 us. And the County was extremely accommodating and sent  
12 those to us, in spite of the fact that we never reviewed  
13 them timely or rarely.

14 Basically, when a permit comes to SHPD, they have  
15 30 days to review that. It rarely, if ever, happened.  
16 We have 45 days for reports, and that rarely happened. And  
17 that is directly related to staffing. I do know there have  
18 been at least three extremely qualified applicants that have  
19 applied.

20 VICE-CHAIRPERSON PYLE: For the position in Maui  
21 County?

22 MS. KIRKENDALL: One for a branch chief, one for  
23 Maui County, and one for the Big Island.

24 COMMISSIONER FREDERICKSEN: None of them were  
25 hired?

1 MS. KIRKENDALL: None of them were hired. And they  
2 were extremely qualified. They would have been well-suited.  
3 And I was just keeping my fingers crossed. So currently, we  
4 have assistants only.

5 VICE-CHAIRPERSON PYLE: I don't even want to ask  
6 why they weren't hired.

7 MS. KIRKENDALL: I don't think we want to get into  
8 that in this venue.

9 Any other questions?

10 VICE-CHAIRPERSON PYLE: Do you have any other  
11 recommendations? I know I wrote down the letters, and so on  
12 and so forth. Any other ideas that you might have that we  
13 can become more active in that area?

14 MS. KIRKENDALL: Let me give that some more  
15 thought, and I will try to come up with some more strategies  
16 for you. Because I do think you are all going to be playing  
17 a more important role in this process, whether temporarily  
18 or not. But right now, at least, while SHPD is under  
19 staffed, I think you all need to play a very important role.

20 VICE-CHAIRPERSON PYLE: Is it ever a -- and I know  
21 it's probably not the State's prerogative or decision. But  
22 is there ever any encouragement on the part of SHPD for  
23 counties to actually have archeological staffing?

24 MS. KIRKENDALL: You mean has the SHPD ever  
25 supported the County having an archeological review person?

1 VICE-CHAIRPERSON PYLE: Yes.

2 MS. KIRKENDALL: No. Although, I think that's a  
3 definite step in the right direction.

4 VICE-CHAIRPERSON PYLE: Me, too. Okay.

5 MS. KIRKENDALL: Thanks for having me. I'll give  
6 it more thought for you, okay.

7 CHAIRPERSON KALALAU: Okay. Thank you very much.

8 MR. SOLAMILLO: Thank you, Melissa.

9 CHAIRPERSON KALALAU: Okay, Stan.

10 VICE-CHAIRPERSON PYLE: What do we need the quorum  
11 for?

12 MR. SOLAMILLO: One of the applicants walked off  
13 with my agenda.

14 Okay. Under presentations. I think I told you  
15 that Tom Fairbanks on transient vacation rentals in historic  
16 districts has been deferred to November 1st. Under  
17 unfinished business, we have no items to discuss. The same  
18 goes for new business. The same will be for sign  
19 enforcement programs in the Lahaina Historic Districts.

20 Banyan Tree Park has been moved up on the agenda.

21 The next meeting is November 1st. And probably  
22 concurring with what was just said, I received a report  
23 about Moku'ula on my desk two days ago from the feds. And a  
24 response time for my comments is November 10th -- is it  
25 November 10th or October 10th? It's October 10th. Yes,

1 October 10th.

2 And the transmittal was dated September 2007. And,  
3 you know, no real date on that. It just says you have this  
4 amount of time to respond. So what I'm going to do -- this  
5 will be on your agenda for the next meeting. And I'm  
6 sending them a letter saying CRC must be party to anything  
7 that happens in Moku'ula. In this case, it's a review of an  
8 environmental report for the site.

9 COMMISSIONER FREDERICKSEN: Is that the Army -- the  
10 soils engineering, Army Corps.

11 MR. SOLAMILLO: Yeah, Army Corps, yeah. So it  
12 happens.

13 I had something good that I wanted to share with  
14 you. We had some repeated calls from Kyushu University in  
15 Japan. And this was the second round. And they began,  
16 actually, resurveying the Lahaina Historic Districts as a  
17 pilot project, right. So their data will come in. It's  
18 usability, I'll determine when it gets here. But at least,  
19 there is a third party outside of the contractors who will  
20 be contracted to actually conduct a survey next year of our  
21 national registered historic districts.

22 As part of the larger county-wide survey, this work  
23 has already been initiated. So we did some orientation  
24 meetings. We provided them with lots of material that we  
25 had. And I'm going to comment offhandedly on that.

1           When I first took this position, I was really  
2 surprised at how little records we had. Down to national  
3 register nominations, or to the NHL context documents for  
4 Lahaina. Everything has had to be kind of reconstructed,  
5 and it's been extremely frustrating.

6           But we're amassing a library. I think over time --  
7 I think two to three years down the road, we'll have a  
8 library that has much more documentation than it ever has  
9 had before. We'll have a library dedicated to archeology  
10 and one dedicated to architecture. And things coming  
11 together finally. And that accessibility will probably be  
12 both hard copy and online. So that's the end game for that.

13           Are there any items that the Commissioners would  
14 like on the next agenda? Okay.

15           VICE-CHAIRPERSON PYLE: Once again, the question is  
16 are we ever going to leave Wailuku?

17           MR. SOLAMILLO: Well, this year I think we'll have  
18 four meetings in Lahaina. Because at the next meeting --  
19 actually, not the next meeting. But December's meeting, you  
20 may return to Lahaina if you wish for the post Lahaina  
21 Halloween event meeting. So that will bring -- let's see,  
22 at least four meetings that we've had. We've had two --  
23 three meetings that we will have had in Lahaina.

24           VICE-CHAIRPERSON PYLE: Lanai? Molokai?

25           MR. SOLAMILLO: Those will have to be scheduled for

1 next year.

2 VICE-CHAIRPERSON PYLE: Yeah. We'll, we're getting  
3 to next year real soon.

4 MR. SOLAMILLO: I know. If you want to go there in  
5 January or February, whatever would be easiest.

6 VICE-CHAIRPERSON PYLE: Well, January is probably  
7 not a good one.

8 MR. SOLAMILLO: Right. So February 1st. February,  
9 March.

10 VICE-CHAIRPERSON PYLE: February, March.

11 MR. SOLAMILLO: Okay.

12 VICE-CHAIRPERSON PYLE: March is the last meeting  
13 of this particular Commission. And then April, it changes.

14 CHAIRPERSON KALALAU: Yes.

15 MR. SOLAMILLO: Okay. Then we have to do it  
16 February and March.

17 VICE-CHAIRPERSON PYLE: That would be good. And I  
18 really do have to go.

19 MR. SOLAMILLO: All right. We're going to lose  
20 quorum.

21 VICE-CHAIRPERSON PYLE: You don't have anything to  
22 vote on?

23 MR. SOLAMILLO: Nothing else. No action items.

24 VICE-CHAIRPERSON PYLE: Sorry.

25 MR. SOLAMILLO: Are there any other items that

1 Commission members would like to suggest or have discussed?

2 CHAIRPERSON KALALAU: Do we have anyone going to  
3 the nationals? Stan, you should go.

4 MR. SOLAMILLO: No.

5 CHAIRPERSON KALALAU: So we don't have a quorum  
6 right now. I just wanted to know if anybody is going to the  
7 nationals.

8 (No response.)

9 CHAIRPERSON KALALAU: So I guess not, okay.

10 MR. SOLAMILLO: I guess next meeting date is  
11 November 1st, 2007.

12 CHAIRPERSON KALALAU: We cannot even make a motion  
13 to adjourn. So we just -- so we're all in agreement that  
14 the meeting is -- do you have anything else?

15 MR. SOLAMILLO: That's it for today.

16 CHAIRPERSON KALALAU: Okay. This meeting is  
17 officially finished.

18 (Meeting adjourned at 11:15 a.m.)

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CERTIFICATE

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County of Maui )  
 ) ss.  
State of Hawaii )

I, CAMMIE GILLETT, a Certified Shorthand Reporter  
in and for the State of Hawaii, do hereby certify that the  
foregoing pages comprise a full, true and correct transcript  
of the proceedings had in connection with the above-entitled  
hearing.

Dated this 22nd day of October 2007.

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CAMMIE GILLETT, RPR, CSR No. 438