

1 BEFORE THE CULTURAL RESOURCES COMMISSION

2 COUNTY OF MAUI

3 STATE OF HAWAII

4

5

6

7

8

9 TRANSCRIPT OF PROCEEDINGS

10 REGULAR MEETING

11

12

13

14

15

16

17 Held at the at the Planning Conference Room, Kalana

18 Pakui Building, 1st Floor, 250 S. High Street, Wailuku,

19 Maui, Hawaii, at 9:00 a.m. on Thursday, July 3, 2008.

20

21

22

23

24

25 REPORTED BY: KATHERINE EISMANN, CRR/RDR/CSR #439

1 ATTENDANCE

2 COMMISSIONERS PRESENT:

3

4 SAM KALALAU III, CHAIR

5 ERIK FREDERICKSEN, VICE-CHAIR

6 PERRY ARTATES

7 VERONICA MARQUEZ

8 NANI WATANABE

9 LEE KALEI MOIKEHA

10 RAYMOND HUTAFF

11

12 STAFF PRESENT:

13 JAMES GIROUX, DEPUTY CORPORATION COUNSEL

14 JEFFREY HUNT, PLANNING DIRECTOR

15 STANLEY SOLAMILLO, LIVIT CALLENTINE,

16 SUZETTE ESMERALDA, ANN CUA

17

18

19

20

21

22

23

24

25

1 (Thursday, July 3, 2008, 9:00 a.m.)

2 * * *

3 CHAIRPERSON KALALAU: Okay. Will the Maui
4 Cultural Resource Commission meeting of July 3rd please
5 come to order. First on our agenda, I would like to do
6 our minutes approval, Commissioners.

7 COMMISSIONER HUTAFF: I move that the
8 meeting minutes for April 3rd be approved.

9 COMMISSIONER WATANABE: Second.

10 CHAIRPERSON KALALAU: Moved and second. Any
11 discussion on the minutes? Corrections or adding?
12 Being that there is none, all in favor say aye.

13 (Chorus of ayes.)

14 Motion passed. We also -- do we have to do
15 the May 1st minutes?

16 MR. SOLAMILLO: Yes.

17 COMMISSIONER MARQUEZ: I move to accept the
18 May 1st minutes as document.

19 CHAIRPERSON KALALAU: Okay. Do I hear a
20 second?

21 COMMISSIONER HUTAFF: I second.

22 CHAIRPERSON KALALAU: Moved and second. Any
23 discussion on the minutes? I see that we have no
24 discussion. All in favor say aye.

25 (Chorus of ayes.)

1 Motion passed.

2 Okay. Commissioners, this morning what we
3 are going to do is make a change on our agenda. We are
4 going to move item D-1 to this moment before item C. We
5 need to -- someone make a --

6 COMMISSIONER ARTATES: So move, Mr. Chair.

7 VICE-CHAIRPERSON FREDERICKSEN: Second.

8 CHAIRPERSON KALALAU: Okay. Moved and
9 second that the item be moved, D-1 be moved right below
10 B. All in favor.

11 (Chorus of ayes.)

12 No opposed?

13 (Silence.)

14 Okay. Stan, can you --

15 MR. SOLAMILLO: Just under Communication
16 Items, Ms. Holly McEldowney of the State Historic
17 Preservation Division of the Hawaii State Department of
18 Land and Natural Resources presenting a workshop on the
19 Cultural Resource Plan for Hawaii.

20 MS. McELDOWNEY: Should I sit down or stand
21 up?

22 MR. SOLAMILLO: You can stand up.

23 MS. McELDOWNEY: And you will change the
24 slide?

25 MR. SOLAMILLO: I can.

1 MS. McELDOWNEY: I'm Holly McEldowney of the
2 Division of State Parks, and Chairperson Laura Thielen
3 asked that I help the Historic Preservation Division to
4 help develop their Comprehensive Statewide Historic
5 Preservation Plan.

6 So, I'm here today to let you know that we
7 are beginning the process of preparing this plan. You
8 are obviously a very important constituent group for the
9 State Historic Preservation Office, particularly in its
10 Federal role, and we are asking for help.

11 So, we need help in various areas, and I
12 hope I will go through the area -- the different plan
13 components where I think you could be particularly
14 valuable. But, of course, we would welcome help in any
15 way you can.

16 The next slide. The Statewide Historic
17 Preservation Plans are a requirement of the National
18 Historic Preservation Act which established the State
19 Historic Preservation Offices as well as the certified
20 local government program that you are. And when the
21 program was established under State law, preparing this
22 plan is also a mandate of the State law.

23 Okay. Next slide. The timeframe, the last
24 statewide plan, which I think was distributed to you,
25 was prepared in 2001. They are called updates. And

1 most updates are done in five year cycles. So, the
2 National Park Service -- we are a little behind, but the
3 National Park Service has given us to September 30th,
4 2009, to complete the plan. So, we really are in the
5 initial stages of developing the plan.

6 I think I also distributed to you, there are
7 six major mandated components of all plans, and every
8 state that has a Historic Preservation Office has to
9 prepare these plans, too. And I put the covers in just
10 for some graphic interest. You will see the different
11 covers that the plans have in the United States.

12 The plan has to be tailored to the specific
13 circumstances of those states, it has to be based on
14 public and professional involvement in developing the
15 plan, and it has to take into consideration issues
16 affecting the broad spectrum of different historic
17 property types. So, it can't just be about buildings or
18 archaeological sites. It has to look at all historic
19 property types that you have in your state.

20 And all the plans are supposed to be based
21 on a collection and analysis of data of various sorts,
22 both on what the users need in the State, people that
23 care about historic preservation, as well as information
24 about the historic properties themselves, like, you
25 know, how many archaeological sites, how many permits

1 have been reviewed.

2 It also encouraging the historic
3 preservation be integrated with the local and State
4 laws. And actually, Hawaii has a very strong level of
5 integration. I think a lot of people don't realize
6 that, but our State laws are actually very strong.

7 And then the plan is supposed to be
8 implemented by the Historic Preservation Office. But
9 ideally, the plan should be such that the entire
10 community and all the constituent groups that
11 participate in historic preservation are helping to
12 implement the plan.

13 These are five areas that I have identified
14 where help would be most wanted. So, I've just listed
15 them here, and we can go on to the next screen. Trying
16 to make sure that we get good input into the plan from
17 both the public and from the professional community that
18 deals with historic preservation.

19 We are starting to compile lists of
20 individuals, organizations, government agencies, that we
21 will be talking to. And we are also trying to frame the
22 different formats in which these discussions will occur,
23 so that we get the most out of the discussions. We will
24 have public hearings, probably in the beginning of 2009,
25 at some point, but we all know that you can get a lot --

1 different kinds of information out of having focus
2 groups or maybe even having individual interviews with
3 people where they feel comfortable talking about what
4 they care about or concerns they have.

5 And probably there will be a questionnaire
6 or survey forms sent out to people, too, but we are
7 still in the process of developing that. So, if any of
8 you have expertise on developing questionnaires and
9 forms, or things you think work or don't work, we'd be
10 delighted to hear that.

11 Okay. We also need to summarize all the
12 different historic property types, and at least the
13 really good plans I have seen -- and actually, all the
14 State plans are on the National Park Service website.
15 You can look at them all. The really good plans have a
16 strong component where they sort of give you a status of
17 what we know about all the different historic property
18 types in the different states, and whether it's
19 archaeological, architectural, whether there are sites
20 that are really important to Native Hawaiians,
21 landscapes, and districts.

22 And it should be -- as it's a plan update,
23 it should be saying what have we learned about this in
24 the last eight years. Are our perspectives changing on
25 how we view these site types or how we evaluate

1 significance.

2 So, okay. Next one. And this is the data
3 part where you are supposed to define different trends
4 that have affected historic preservation, either your
5 ability to do positive things or to stop negative
6 things, or just different trends, societal trends as
7 well as trends within the different disciplines.

8 So, for -- one really important thing I'd
9 like to see in it is a good documentation of the number
10 of permits and land use applications that would infer
11 ground alteration or the alteration of buildings, to see
12 the statistics from the different counties, and I will
13 be writing to the counties and specifically asking for
14 their help or how we can work with them to come up with
15 a good portrayal of the trends; how the development
16 trends varied over the last eight years.

17 Hawaiian governance and cultural awareness
18 issues, we know basically the Hawaiian, so-called
19 renaissance, has been around for 30 years. And,
20 obviously, it has evolved greatly. And about everybody,
21 I think, knows and agrees that it's really important
22 that Native Hawaiians be involved in decision making
23 about their sites. So, somehow to capture that.

24 It's going to be 50 years since statehood,
25 and that's not -- statehood isn't just sort of a

1 superficial benchmark in terms of development in Hawaii.
2 There was definitely a building boom after statehood, so
3 there's also dramatic impact on properties after
4 statehood. But there are also buildings that are now
5 going to start to be 50 years old, and there should
6 probably be a coherent plan for which of our more modern
7 buildings do we want to preserve and take care of.

8 One trend that I think has been really
9 exciting is the Hawaiian language documents and land
10 records that are now available on line, and I think it
11 would be really important if the Historic Preservation
12 as a whole could help, I guess, support that effort in
13 addition just to supporting the Hawaii language revival,
14 is basically what it is in many ways, but also the
15 archival capabilities we -- the archival search
16 capabilities we have now are absolutely terrific.

17 And then there's climate change. The sea
18 level is going to be rising, supposedly, and also
19 there's been a big push at the national level to make
20 sure -- with the energy efficiency, to make sure that
21 the historic buildings can be either retrofitted, to be
22 cost-effective -- a lot of them were built to be energy
23 efficient to begin with, but to make sure you don't lose
24 that or you don't destroy a building by, you know,
25 retrofitting it for energy efficiency.

1 Of course the heart of the plan are going to
2 be the different goals and objectives that we come up
3 with, and they are supposed to be based on the research
4 you did on the historic properties types and the trends,
5 but it also -- it's really important for them to be
6 realistic, in that there are -- it would be really nice
7 to dream of wonderful accomplishments, but I think it
8 would be most useful to have them be realistic in that
9 you can see some progress in five years.

10 And even though it is -- the Historic
11 Preservation Office should be the one that implements
12 the plan, it is really important for everybody who's
13 involved and cares about historic preservation to be --
14 you know, to help implement it collectively.

15 And I'm afraid we are going to have to have
16 a plan that is not dependent on increases in funding or
17 staffing, because it doesn't look like it's getting any
18 better. It's actually gotten worse since I first
19 prepared the Power Point.

20 I passed out the past plan. These were just
21 the major goals. Many of the things that are in the
22 current plan are very compelling. They still are
23 compelling needs, and they are still important, but we
24 sort of have to try to, I guess, repackage them, in a
25 sense, so that we can really implement them and find

1 which ones are more important to actually come to terms
2 with it and set some priorities.

3 The next two screens are just issues that I
4 know have -- I hear them frequently, so I put up two
5 screens of issues that I think are going to come up in
6 public discussions and in discussions with the
7 professionals, and they will probably be worked into the
8 questionnaire in some ways.

9 I know everybody or many people would like
10 to improve the effectiveness of the current laws and the
11 administrative rules. As I said, we have strong ones,
12 but we have a ways to go to make them actually more
13 effective for all the participants in the process. It's
14 important to get Native Hawaiians involved in the
15 project review process in a more effective manner.

16 We have historic preservation rules, which
17 we didn't have when the first plan went into effect.
18 They probably need some revision, so we should be
19 thinking now of what kinds of revisions would make them
20 clearer or easier to implement. The timely and
21 appropriate treatment of human remains will probably
22 always be a goal on the plan, probably the next plan and
23 the plan after that because it's important.

24 Mitigation, enforcing mitigation
25 commitments. I'm sure you have all been through the

1 project review process where there are strong
2 commitments made, but we have to make sure those
3 commitments are fulfilled and the mechanisms to do that
4 better. Adaptive reuse of historic structures, because
5 that's the only way, in many cases, you are actually
6 going to be able to save historic buildings. They can't
7 just be passively left aside like you can an
8 archaeological site.

9 Landscape preservation has been discussed
10 for years, but it's difficult to come to terms with
11 because it covers so much area, and sometimes you have
12 to keep the economic factors that made that landscape --
13 you have to keep that alive, and that's a difficult
14 thing to do.

15 A comprehensive scheme for preservation
16 incentives. I mean, you can have all the laws and
17 regulations, but, obviously, it would be more useful if
18 you had incentives for people, so that they would want
19 to set things aside, that they would want to reuse
20 historic buildings and restore them.

21 Heritage tourism, people have always wanted
22 to try to use the money, the attention that comes with
23 tourism, try to channel it in a way that it benefits
24 preservation.

25 And there's been a big push, both at UH

1 Manoa and at UH Hilo, to try to develop programs for
2 undergraduates with graduate levels that we can start
3 producing people locally that can participate in the
4 historic preservation process, even State agencies or in
5 private consultancies. So, they see this as a very
6 important push for the next five years.

7 The curation of archaeological materials is
8 almost at a critical point. Most of the archaeological
9 materials that have been collected over the years are
10 sitting in individual consultant's store rooms, and we
11 are not even sure where all of them are. Some people do
12 take very good care of them, but there is a point we all
13 have to get together and figure out a -- probably a
14 single repository.

15 It's very expensive to do this, but we've
16 said all along that we are collecting this information
17 from archaeological sites, because it includes
18 information that we want to preserve and keep. So, we
19 better preserve and keep it coherently.

20 Records management, the technology now is
21 advancing so rapidly, we are now able to access
22 information and store it much better than we were. If
23 we can set out some plan to make sure we are doing that
24 coherently for the next five years, that would be good.

25 And several people have suggested that we

1 come up with an advisory committee to track progress on
2 the plan. Just because we come up with a plan, there's
3 been nobody there saying, well, how are you doing? You
4 know, do you need help? How come you haven't done this?
5 I mean, not necessarily in a punitive way, but just
6 somebody to keep track. As I say, I don't want the plan
7 to sit on the shelf again.

8 Okay. Many of plans I looked at that were
9 effective plans. They have a solid series of
10 appendices, so if you have any ideas of what you would
11 like to see on the appendices. I think maybe some of
12 the data that we collect in examining trends would be
13 good for that.

14 My own personal effort, I wanted to do a
15 history of the Historic Preservation Law in Hawaii, and
16 just have a real solid time line, so we know which
17 issues were important to people at what time, and how
18 far we have come, and maybe what some of the options
19 are.

20 And the other thing that many of plans have,
21 they had little sidebars scattered throughout the plans,
22 some of them are in the appendices, but they focus on
23 success stories. So, like a curator group that maybe
24 has done a really good job, have a little blurb on them
25 and some photographs, restoration projects that worked.

1 Advocacy actions, if someone has come
2 forward, and they have actually done a good job at being
3 able to preserve a site that might have, you know, been
4 destroyed otherwise, that they should be given credit,
5 and especially how they went about it. That would be
6 important.

7 And educational initiatives, if, you know,
8 school children or maybe Hawaiian language, had that
9 highlighted scattered throughout the plan. So, if you
10 have any examples of things that you think would be good
11 for that, that would be really useful.

12 And that's our contact information. So, if
13 there's anything, you can contact any of us, and I
14 hoped -- actually, I had hoped that we would be further
15 ahead on the plan than we are now. But, at some point,
16 I would like to come back and then give you an update on
17 how we've progressed, especially if we have gotten to
18 the point where we have really talked to lot of people
19 and give you some preliminary results on our
20 discussions. Okay. Any questions?

21 CHAIRPERSON KALALAU: Questions anyone?
22 Commissioners? Thank you, Holly. But I will open this
23 portion of the floor for anyone in the audience that
24 want to comment or have anything to say on this agenda
25 item, please come forward and state your name.

1 Okay. See that we have no one. I have just
2 some few questions for you.

3 MS. McELDOWNEY: Okay.

4 CHAIRPERSON KALALAU: The State Planners
5 Conference is coming up pretty soon this year, and I'm
6 wondering if this is part of an item that could be on
7 that agenda, because, you know, we are talking about
8 planning.

9 MS. McELDOWNEY: That would be great. Yeah.

10 CHAIRPERSON KALALAU: And also, you know, I
11 know a lot of these things wouldn't work if we don't
12 have a good enforcement program. But some of the
13 violations are done by State government and County
14 government. You know, how do we catch those crooks that
15 go above the law and, you know, just do what they want
16 to do? Anyway --

17 MS. McELDOWNEY: We have a lot of State
18 buildings, too. A lot of the schools and the -- a lot
19 of beautiful old buildings are public buildings.

20 CHAIRPERSON KALALAU: Yeah, and you are
21 right about what you said, too, about, you know, it
22 hasn't got any better. Maybe we'll hear more this year
23 on how this planning process can be improved.

24 Also, the relationship with the State and
25 the Federal government, you know, the National Park,

1 they seems to really only support what they want to
2 support. You know, as you know, they have a big problem
3 down in Kipahulu at the Oheo thing where nobody wants to
4 take Lindberg's house now.

5 But that's why I believe, you know, with
6 this kind of planning, if we can really have this
7 preservation plans put in place, that, you know, people
8 would plan more ahead of time to try to preserve
9 something like that.

10 You know, there's other little things down
11 in Hana that is like that, too, that, you know, the
12 government just going to go do whatever they want to do
13 without even sending people out there to check out the
14 historical value of buildings in Hana.

15 It's kind of sad that people kind of just,
16 you know, turn away from dealing with the real issues
17 and just creating something that we might lose forever.
18 I've been to one of the National Historical Preservation
19 Conferences, and I believe that was in Oregon. You
20 know, they have a unique plan, too. Most states have
21 good plans, but, you know, they all face the same
22 problems, too.

23 MS. McELDOWNEY: There's a great deal of
24 similarity, variations of similarities.

25 CHAIRPERSON KALALAU: Anyway. Any more

1 questions for Miss McEldowney?

2 COMMISSIONER MARQUEZ: So, you are seeking
3 help from this Commission. So, my question is, whose
4 kuleana is to actually facilitate this process?

5 MS. McELDOWNEY: The plan itself?

6 COMMISSIONER MARQUEZ: Yes.

7 MS. McELDOWNEY: I'm supposed to be the lead
8 of a steering committee.

9 COMMISSIONER MARQUEZ: Oh.

10 MS. McELDOWNEY: For the State Historic
11 Preservation Office.

12 COMMISSIONER MARQUEZ: Okay. Thank you.

13 MS. McELDOWNEY: Yeah.

14 CHAIRPERSON KALALAU: Nani.

15 COMMISSIONER WATANABE: I used to work for
16 the Cultural and Heritage Center on Lana'i, but I would
17 suggest that you check into the Lanai Cultural &
18 Heritage Center there. And Kepa Maly has actually --
19 they have a web page, and he has done excellent work in
20 collecting a lot of the data and history about the
21 island. Because one of the goals there is to actually
22 preserve our plantation island, and so check out his web
23 page.

24 MS. McELDOWNEY: He's been extremely
25 generous with all his interviews over the years and

1 making himself available to whomever wants it in
2 electronic form.

3 COMMISSIONER WATANABE: And one of the goals
4 is to actually have a new Cultural and Heritage Center,
5 but also to include in that Heritage Center is a library
6 where people could come and actually look up resources
7 that they would like. So, there's a wonderful plan for
8 that Heritage Center.

9 MS. McELDOWNNEY: Okay. When is that
10 Planning commence? Is it here? Going to be on Maui?

11 MS. CALLENTINE: September 10th.

12 CHAIRPERSON KALALAU: September 10th.

13 MS. CALLENTINE: September 10 through 12 in
14 South Maui.

15 CHAIRPERSON KALALAU: Any more questions?

16 VICE-CHAIRPERSON FREDERICKSEN: I have got
17 one. Holly, thanks for the presentation. It was really
18 interesting. I'm not sure how to frame it, but this is
19 just something to think about when you are putting this
20 all together.

21 I think it would be really interesting to
22 get a statistic, see what the statistics are on -- you
23 had a bullet up there about the amount of development
24 that's occurring and trying to, you know, peg it maybe
25 to land altering permits that are generated, et cetera.

1 And it would be really interesting to get
2 information on how many sites have been identified in a
3 given year and what percentage of those have been
4 preserved. Because I -- I'm kind of a little disturbed
5 with a trend. I don't know if it's a trend. I hope
6 it's not, but it seems like some of the larger
7 developments are -- especially in some parts of West
8 Maui are preserving fewer and fewer sites.

9 MS. McELDOWNNEY: Without a strong rationale
10 for why.

11 VICE-CHAIRPERSON FREDERICKSEN: Well, it
12 would be --

13 MS. McELDOWNNEY: It might be a little hard
14 to find those numbers, but that is certainly --

15 VICE-CHAIRPERSON FREDERICKSEN: Yeah, it's
16 something --

17 MS. McELDOWNNEY: It would be very valuable,
18 even if we only did it in certain areas. It might be
19 difficult to pull that data out across the board.

20 VICE-CHAIRPERSON FREDERICKSEN: I'm sure.
21 I'm sure.

22 MS. McELDOWNNEY: But maybe we could select
23 certain areas and say a part of Kona, a part of Hawaii,
24 a part of Oahu, maybe samples from each island.

25 VICE-CHAIRPERSON FREDERICKSEN: Especially

1 agricultural sites. Those are the ones, I think, from
2 what I have seen, that tend to kind of get -- I mean,
3 for lack of a better term -- discounted. Traditional
4 agricultural sites, but even early post-contact
5 agricultural sites, too.

6 MS. McELDOWNEY: There have been concerns
7 for years that little tiny pockets of sites are saved as
8 opposed to larger complexes and preserve the entire
9 context of --

10 VICE-CHAIRPERSON FREDERICKSEN: Yeah, I
11 mean, some of that's -- you know, in a perfect world,
12 that would be great. But I -- you know, developers need
13 to have some -- some way of developing their properties.
14 But I really think that it's possible to preserve at
15 least representative samples of sites. If they are
16 unique, then it's like -- then the whole thing should be
17 preserved, of course.

18 MS. McELDOWNEY: That could be worked into
19 the plan if we could help identify which of those
20 representative sites are not being preserved and not --
21 maybe we have too much. It's hard to believe there
22 would be, but it might be too much of one kind, or they
23 are just -- say, look, we have very few of these left in
24 these areas. They should be given special
25 consideration. And then when people go out to do

1 surveys, they will know that.

2 VICE-CHAIRPERSON FREDERICKSEN: Yeah,
3 because, you know, this goes back to the whole criterion
4 D thing, you know, if it's only significant for
5 information content. A lot of times, I see -- we always
6 encourage landowners to try to preserve as much of those
7 sites as possible. But I have seen, in a lot of
8 instances, where -- in reports where they have just
9 basically been, no, no further work. Nothing, nothing
10 happens except they get bulldozed.

11 MS. McELDOWNEY: I'm also hoping that we can
12 sit down and talk to real estate people. I don't know,
13 because when they sell properties, the disclosure, there
14 have been mitigation commitments and preservation
15 commitments --

16 VICE-CHAIRPERSON FREDERICKSEN: See that
17 they are followed through with.

18 MS. McELDOWNEY: -- made by -- make sure --
19 and also if they could help promote historic houses.
20 You know, like portray this as not as something you want
21 to tear down and replace it. This is something of
22 value.

23 VICE-CHAIRPERSON FREDERICKSEN: We as a
24 Commission had -- with the one over in Makawao, great
25 example of the landowner, the property owner trying to,

1 you know -- well, she has been reusing, adaptive reuse,
2 using it as a guest house. But because she was -- I
3 can't remember what category, but it didn't fall into
4 the vacation rental thing, but so it was excluded, I
5 think, from the ordinance.

6 And to me, it would be so much better to
7 make it easier for folks to -- if they do want to reuse
8 these historic buildings, to make it so it's just not
9 such a big pain in the okole.

10 MS. McELDOWNNEY: Yeah, that's where the
11 incentives are really important. And there are many
12 examples. Just try to find one -- where do we put it?
13 Do we put it in the County ordinances? Is there
14 someplace in the State system that it could function
15 there?

16 CHAIRPERSON KALALAU: Perry.

17 COMMISSIONER ARTATES: How would you
18 separate a development from infrastructure? If there is
19 going to be some type of infrastructure work that you
20 encounter where a highway is going to go, and now you
21 realign it, I mean, how you going separate from one
22 development, where you have infrastructure, even though
23 it's a hospital, it's a police station, it's a school,
24 to say what kind of inventory you are going to take?

25 You know, whether it's an inventory because

1 you are going to have one road being placed, where your
2 findings now come that there are possible terraces or
3 even one school in a dune area where there's a possible
4 burial. I don't know where you can draw the line of
5 what can be inventory and what can be sustained as a
6 site when you are doing --

7 VICE-CHAIRPERSON FREDERICKSEN: Well,
8 typically, typically -- I am sure Holly will answer
9 this, but just typically, Perry, what would happen is,
10 you know, for the permit, there would have to be an
11 inventory survey carried out. But let's let Holly
12 answer it with additional detail.

13 MS. McELDOWNEY: Well, just hopefully we can
14 improve our ability to predict where things are going to
15 be, so that we know ahead of time. Because we have done
16 a tremendous amount of work, but everyone is usually so
17 frantic doing the work or reviewing the work, we haven't
18 had time to sit back and say, okay, we know we've had 28
19 projects done in this area. This is what we've found.

20 I mean, people do do background, but we
21 don't have the kind of syntheses that we really need to
22 be able to say, okay, we have done all this stuff. We
23 know this is here. We know this doesn't seem to be much
24 here, so before you plan your hospital or your road,
25 maybe it would be safer, if you have any options or

1 choices, try put it here as opposed to there.

2 Does that answer your question? Is that

3 kind of --

4 COMMISSIONER ARTATES: Sort of, because it's

5 hard to predict anything if you don't have some type of

6 future designated area as far as the development. You

7 cannot really look at to a developer, or a State agency,

8 or a County agency doing a project there, and predict

9 that there might be something there.

10 So, what I'm trying to get at is if we don't

11 have these different entities do a project, then we

12 wouldn't know if it's there or not.

13 VICE-CHAIRPERSON FREDERICKSEN: Yeah, it's

14 development driven for the most part.

15 CHAIRPERSON KALALAU: That's right.

16 COMMISSIONER MOIKEHA: So then as you talk

17 about laws, is this what you are talking about? We

18 create the law that you make them move? Is this what we

19 are talking about?

20 MS. McELDOWNEY: We are talking about

21 looking at the laws and seeing what people think is

22 reasonable. What can be strengthened. Should we have

23 new laws? Maybe we don't need new laws. Maybe we just

24 need to implement the ones we have better than we are

25 doing. Maybe some rules amendment would help, maybe

1 not.

2 I mean, that's basically it. It's like a
3 status check. Where are we, you know? And it might be
4 nice, because often sometimes they amend the law based
5 on some recent incident or crisis, which is important,
6 but then maybe it starts getting out of balance somehow.
7 So, if you can try to look at it without the pressure of
8 a crisis or an emotional responses to things, that's
9 valuable, too.

10 COMMISSIONER MOIKEHA: So, would you know
11 then if there is an existing law, in answer to Perry's
12 question? Is there existing laws now that would
13 preserve such sites as to what he's talking about?

14 MS. McELDOWNEY: There's the process under
15 Chapter 6E. So, if it's on private land, it's going to
16 be under Chapter 6E.42, which only recommends to the
17 County, right. That's -- the landowner still has a
18 great deal of say in what does or does not happen,
19 but -- or the County, or if it's a State permit, the
20 State would, too. If it's State land, then the powers
21 are stronger under 6E.8. And that would include most of
22 your roadways and --

23 VICE-CHAIRPERSON FREDERICKSEN: Yeah.

24 CHAIRPERSON KALALAU: -- and State --

25 COMMISSIONER ARTATES: A good example is

1 what happened in Kauai. This landowner tried to develop
2 his project, and when he came out, and a call was made
3 by the police chief that there were violations of the
4 laws as far as desecrating the burials.

5 VICE-CHAIRPERSON FREDERICKSEN: Which they
6 were.

7 COMMISSIONER MOIKEHA: Incentives.

8 COMMISSIONER HUTAFF: One thing that may
9 help is identifying and putting into inventory potential
10 historical sites, so that if some developer came in,
11 regardless of what his intentions were, it then could be
12 said, well, we have determined that this is a potential
13 historical site, or burial site, or whatever.

14 So, before things go any further, we need to
15 really look at that. I think the more that you
16 inventory, okay, then the more the developers will have
17 information to say, well, let's -- it's going to cost
18 us. Let's go in there and maybe redo the survey or help
19 pay for the survey to determine what kind of site it
20 actually is rather than, okay, we began it. We got the
21 permits for it. We did this, and all of a sudden,
22 whoops, you know, we now find -- to me, I think that the
23 plan that you have, and, obviously, the efforts that you
24 are putting forth with this is really good.

25 But I think a great priority needs to be

1 immediately starting to identify historical sites, and
2 maybe even people within the community could write down
3 like, hey, brah, I think this over here you got to --
4 you know, you got to take a look at. Hana is a good
5 example. There's so many historical sites out there
6 that's all taken over by Java Plumb that it looks like
7 it's rubbish, but it's really, really, really strong
8 ties to the cultural community out there.

9 So, maybe making that a little bit more of a
10 priority. Let's quickly now start to identify
11 historical sites. Let's get the input. So, when
12 something starts to happen, we just say, well, let's see
13 what got? What kind of input? Okay. I think that
14 should be very important. Do you agree?

15 MS. McELDOWNEY: Oh, definitely. I mean,
16 this has always been sort of the ideal, but we are so
17 busy dealing with --

18 COMMISSIONER HUTAFF: The rules that you
19 forget the purpose, which is to identify the historical
20 sites and then protect them.

21 MS. McELDOWNEY: It's putting out fires
22 though. We have all these fires. The development is
23 starting. We have to deal with this.

24 COMMISSIONER HUTAFF: Been there, done that.

25 MS. McELDOWNEY: So, you have to decide are

1 you going to let the fire burn or -- no, that would
2 be -- that's valuable. And I think often the Federal
3 government, in their lands, they will have what they
4 call sensitivity areas. Is that what you are suggesting
5 also? This is higher, but lower priority for various
6 types of properties.

7 COMMISSIONER HUTAFF: I believe when they
8 say it's a sensitive area, they already have knowledge.
9 What I am talking about is the lack of knowledge. Okay.
10 The lack of something in write.

11 There's a lot of people in Hana, Wailuku,
12 who -- Lahaina who know that there are specific areas,
13 or that there are areas or they have been told stories,
14 but they have never documented that potential and given
15 it to any kind of Commission to say, okay, look.
16 There's something going on here. We realize you don't
17 have the money. We don't have the full story.

18 But if something starts to come up in there,
19 then we really should address it, not just as a
20 potentially sensitive area, but treat it as a sensitive
21 area and discount it or prove it and get it all down.

22 Each time you identify the historical site
23 or potential for one, more information can be gathered
24 in as time goes on. More people can be interviewed to
25 say, hey, is this really true? Was it really right at

1 this spot, or was it 25 feet over there, to where you
2 can get more information. That should be part of the --

3 CHAIRPERSON KALALAU: Plan.

4 COMMISSIONER HUTAFF: -- the historic plan.

5 MS. McELDOWNEY: So, developing an inventory
6 that isn't development driven basically.

7 COMMISSIONER HUTAFF: Yeah, and begin, begin
8 with knowledge, yeah.

9 VICE-CHAIRPERSON FREDERICKSEN: I like your
10 point, Ray. Just to -- as a sidebar, the CRC -- it
11 wasn't only the CRC. The County was, at one point,
12 looking at having some cultural overlays through -- with
13 the Cultural Resources Commission was talking about it,
14 I mean for Maui County.

15 And it never -- it never really came to
16 fruition. I think there were some permit -- permitting
17 concerns, et cetera, et cetera, like how -- how would
18 one implement it? But it was -- it was a way of trying
19 to identify, well, these are sensitive areas, and then
20 from there, trying to also expand on -- you know, trying
21 to get information from folks, because basic -- the
22 folks that have connections are, or most of them, are
23 slowly -- they are passing away.

24 COMMISSIONER HUTAFF: Yeah.

25 VICE-CHAIRPERSON FREDERICKSEN: That

1 knowledge is disappearing.

2 COMMISSIONER HUTAFF: Yes.

3 VICE-CHAIRPERSON FREDERICKSEN: And I don't

4 know. Maybe that's something we as a Commission can

5 think about again is revisiting this cultural overlay,

6 not issue, but idea.

7 The State Historic Preservation Division,

8 you know, it varies by island, but some of the folks

9 that work in the office kind of have an idea of, oh,

10 yeah, this area is not -- you know, there's a lot of

11 sand. There's a good chance that there are burials.

12 So, they kind of have a de facto sensitivity index, if

13 you will.

14 But it varies, of course, by island, by

15 office even, by amount of experience somebody's had.

16 And as Holly said, I mean, the SHPD's -- you know, it's

17 the classic thing. Penny-wise, pound foolish with the

18 State administration. Not enough funding. And the

19 State Historic Preservation Division ends up being one

20 of the critical review agencies in the State.

21 And for the -- you know, for the State

22 government not to adequately fund the Department, I

23 think there are some changes that are now finally being

24 made, but it was long time coming.

25 But the cultural overlay idea, that's a real

1 valid one and hard -- I think hard to put in -- put into
2 effect, but it's something that, as development
3 continues, I think that idea can have more and more
4 merit.

5 CHAIRPERSON KALALAU: Okay. We have the
6 floor open right now. So, is there anyone in the public
7 that wants to comment on this agenda item? Like I said,
8 come forward and state your name. Thank you, Holly.

9 MS. McELDOWNEY: Okay. Thank you.

10 VICE-CHAIRPERSON FREDERICKSEN: Yeah, thank
11 you.

12 MR. KAPU: Good morning. Ke'eaumoku Kapu
13 from Lahaina. It's kind of interesting having the
14 opportunity to sit back over there and listen based upon
15 what Hawaii's historic preservation is going to be for
16 2010.

17 I think really some mana'o needs to be given
18 based upon the rules that was implemented from '88, '87,
19 '83, '67. All those rules that were implemented to
20 protect Hawaii's precious resources, historic resources,
21 this stuff is old already to the point where developers
22 use this because they know how cut corners.

23 I think the Section 6E bill needs to be
24 revisited. I think the County's Cultural Resources
25 Commission's mandates and responsibilities should be

1 revisited. I think everything in this County and State
2 needs to be revisited. I mean, bills, Section 6E, for
3 instance, which is a part of you guys' responsibilities
4 to address when it comes to historic properties and
5 things like that, yeah?

6 Another thing that needs to be done is to
7 boost up the enforcement issue based upon all these
8 so-called private corporations that are being hired by
9 developers to do data recovery in so-called areas, and
10 every data recovery or every cultural inventory
11 assessment I have reviewed only talk about the bad
12 history, sugar cane, pineapple.

13 They never get down into the nitty gritty
14 based upon looking at the Land Commission awards. And I
15 like one of those comment that was given to look at the
16 Land Commission award and testimonies and things like
17 that. There was a book that was just done by Kepa Maly,
18 over 600 pages. And he didn't write the story. All he
19 did was implement what came off of every TMK, the
20 foreign testimony, Native Hawaiian testimony in Hawaiian
21 and English.

22 So, when I look at these topographical maps
23 based upon what going to be degraded tomorrow, I go
24 dig down deep into the books based upon these titles
25 that were recovered and look at who the people was

1 living in the area, what was their practice at that
2 time. Who was their relationship of the neighbors next
3 door. What was the mahele at that time on everybody's
4 responsibility to take care of one place which made
5 these places sacred to them.

6 So, the only thing I can basically come up
7 with is to help assist is, you know, I always hear this.
8 You got to go to the Native Hawaiian community. We the
9 minority. They will never come to us, because they
10 don't like our tactics. They think our tactics is too
11 foreign for them because of our island concept is being
12 degraded based on economy. It's all based on economy.
13 It's about money.

14 What would happen to us that now we got to
15 scrape and gravel the very grounds that our ancestors
16 provided for us? What will happen to us? Now, all of a
17 sudden, we got to listen to Miss McEldowney over here
18 saying that we need help. The State need help.

19 I am to the point where I am fed up and sick
20 and tired of this damn politics based upon somebody
21 worried about losing their job next year. So, all of a
22 sudden, we got to find ways of boosting the economy.
23 Boosting the economy, so the politicians get tapped on
24 shoulder just so they become a part of the higher raise
25 point of perspective when people looking at the ballot.

1 They want to be elected again. They are going to lose
2 their job.

3 If their head get taken off, everybody in
4 this Department will go down, too. So we compromise to
5 sell ourselves short based upon our cultural,
6 preservation, and protection of our makamae.

7 I am fed up already. What will happen to
8 us, that made us compromise to lose everything that our
9 kupuna had left behind for us? What?

10 Now, it saddens me even more to sit here and
11 listen to this mana'o based upon some steering committee
12 going to be formed to read up and look at all these
13 plans that was created to protect the identity and
14 character of the people of this place boils down to
15 what? Money. How much this going cost? How long this
16 going take?

17 We dying out there on OS. And I pretty sure
18 everybody else going through the same problems, too.
19 Nobody will ever come to us, because they don't like our
20 point of views. But it's the truth. So, everybody use
21 these Section 6Es and all these ordinances over here
22 just to cut around the corner, and put on paper brevity
23 of data, send it to State Historic Preservations, yeah,
24 then they give their recommendations and reviews based
25 upon what needs to be done. And it's always the

1 criteria D.

2 I always see that on every memorandum that I
3 get. I sit on the State Native Hawaiian Historic
4 Preservation Council for OHA. I see all these things.
5 I sit on the State Burial Council as well. I see all
6 this mess. I sat on this Commission for five years
7 hoping that this Commission had teeth.

8 But then all of a sudden, get steered into a
9 different direction because the Planning Department
10 already got you guys so-called preliminary approvals
11 based upon what you guys need to address and stick to
12 the mana'o now. They using you guys as robots. Stick
13 to the books. And if you going stick to the books, read
14 it.

15 There's a lot of information inside there
16 that gives you guys outright authority based upon what
17 needs to be protected in this town, in this state. They
18 are to the point where the State has failed us. The
19 County has failed us. And my five years sitting on this
20 Commission was for nothing. When I left, I didn't even
21 feel good about myself.

22 Now I got to come back as a public
23 constituent to vent my personal feelings based upon what
24 this Commission can provide for the community. Now I
25 not talking about the majority. I talking about us,

1 because we the ones dying. And I hoped that when I got
2 involved in the Cultural Resources Commission, I could
3 make a difference.

4 But when I look at this mess, it made me
5 even more confused to know that I cannot make a decision
6 because of ethics, Sunshine Law violations. Stick to
7 the books. This has nothing to do with protecting any
8 of us in this room. It's all about money.

9 Our land issues change. Yesterday I read
10 the newspaper. Oh, mahalo for the package, yeah, to
11 exempt bed and breakfasts that are on agricultural
12 lands, where the majority finding all our makamae and
13 our sites. This is enough better information or better
14 da kine palapala for me when I file with the State Land
15 Use Commission again. Mahalo.

16 But you know what? Be very stringent in
17 your decisions, because we the guys you guys protecting.
18 The developers and everybody else, a'ole. We the ones
19 that have a lot at stake. Mahalo to you

20 CHAIRPERSON KALALAU: Ke'eaumoku, thank you.
21 Questions?

22 VICE-CHAIRPERSON FREDERICKSEN: May I have?
23 Thanks. Thanks for being bluntly honest. You brought
24 up a really interesting point about the statewide plan.
25 How can it be -- I think the steering committee needs to

1 be more inclusive.

2 I just glanced at it, but it seemed to me --

3 and Holly can correct me if I am wrong. But from

4 what -- I just looked at it real quick. It appeared

5 that it was comprised of, well, state employees.

6 And there need to be state employees from

7 these, you know, from the -- from the historic

8 preservation agencies, if you will, involved, but there

9 also needs to be -- in the steering committee, I

10 believe, there needs to be some public, if you will,

11 input.

12 And where you are on OHA, I think it

13 would -- I don't -- you know, you folks have to, of

14 course, make that decision. But I think it certainly

15 would be appropriate to say, hey, you know, there needs

16 to be more -- this steering committee needs to have a

17 little bit more -- you know, because the more input, I

18 think, the better it's going to be anyway.

19 Because everybody does the best they can,

20 you know, but some people have certain -- you know,

21 their interests, or expertise, or knowledge, or

22 whatever.

23 MR. KAPU: Just for da kine, and I guess

24 public mana'o, based upon my position, yeah, I

25 representing Kuleana Ku'ikahi, LLC. As pertaining to

1 OHA's so-called mandate on why I sit on that Commission,
2 they have problems over there, too. You got problems
3 all over the place.

4 VICE-CHAIRPERSON FREDERICKSEN: Sure.

5 MR. KAPU: And the reason why I brought up
6 the 6E, you know, I going through da kine. I guess you
7 guys books, you guys got every one. The County provides
8 you with these so-called policies, and Chapter 530,
9 Chapter 531, County General Plan, Office of Hawaiian
10 Affairs, you get, you know, all these things.

11 Do we have time enough to address the
12 situation with the uprising development and all these
13 kinds of things, especially events and stuff like this,
14 do we have the time to really stringently look in the
15 book based upon what your fiduciary duties are? Do we?

16 I don't know whether or not I want to answer
17 your question, but it's confusing to a point, yeah, of
18 what basically needs to be done, and whether or not we
19 can provide a venue to the so-called steering committee.

20 It's getting to the point where it's boiling
21 over where our kupuna no even like sit at the table to
22 discuss these kind of things, because they being used.
23 All the mana'o being used. And if I had an opportunity
24 to sit on this steering committee, of course I would get
25 involved. But is it going to be open to the public

1 community, for the Native Hawaiian community.

2 What is the so-called -- how would you put
3 it? Whether or not we got take one oath to protect and
4 defend the United States Constitution based upon looking
5 at Hawaii's Charters. It depends what kind double edge
6 blade I going to be playing with inside here, whether or
7 not I going be sitting on another commission for five
8 years wasting my time. If there's an opportunity, of
9 course, I will get involved. Sign me up.

10 CHAIRPERSON KALALAU: Ronnie.

11 MR. KAPU: Mahalo.

12 COMMISSIONER MARQUEZ: Kalamai, kalamai.
13 (Speaking Hawaiian.) Your mana'o on these people, State
14 people, governmental people not wanting to come to --
15 and I am Native Hawaiian -- to the Native Hawaiians or
16 the so-call experts and consultants, okay, so the mana'o
17 is -- so, that's your mana'o saying that these people
18 don't want come any more talk story with you folks.

19 What I am thinking is what is the reason why
20 the governmental po'a no like, doesn't want to come?
21 And I'm going to put this very gently, which is hard for
22 me. Is it because when they -- when people try to
23 kukakuka, come together talk story, maybe the approaches
24 either side take could be a barrier. I mean, I want to
25 hear your mana'o on why you think these people don't

1 want to come talk story anymore.

2 MR. KAPU: It's the process. It's basically
3 the process. I mean, where do you find these kind of
4 things unless you come to one community meeting? And
5 all of a sudden, you see one slide show presentation,
6 and these are the kind of things that are going to be
7 done.

8 How much of the majority of the minority
9 community of Native Hawaiians know that this steering
10 committee is even talked about at this moment, and where
11 is the venue for them? And they said, oh, you can pull
12 them up on the e-mail or website.

13 Half of our Native Hawaiian community don't
14 even know how use one cellphone today still yet. So,
15 how we going to get the information out for get
16 everybody involved. You know how we got involved? All
17 these complaints that we filed and sent to State
18 Historic Preservation still never been addressed yet.

19 But you think they going to invite us after
20 we send all these so-called complaints to them? They
21 want to better the situation, and they don't need
22 letters coming from us about these so-called
23 developments never follow certain criterias, or burials
24 that are misplaced, that were taken someplace else, or
25 informing the Native Hawaiian community, as well as the

1 lineal descendents, where the burials went.

2 When we send these kind of letters to them,
3 do you think it excites them to really get anxious and
4 call us up and say, hey, would you like to sit on a
5 steering committee with us? I don't think so, because
6 they just don't like our approach.

7 They don't know how compassionate we are in
8 the protection of our makamae and our resources. If we
9 had an opportunity to try to create a bridge, no more
10 works, because our values are different. It's not based
11 on money. It's based on our future generations.

12 COMMISSIONER MARQUEZ: Mahalo.

13 MR. KAPU: Mahalo.

14 CHAIRPERSON KALALAU: Ray, you have a
15 question?

16 COMMISSIONER HUTAFF: Yeah. I'm almost
17 afraid to ask it. I mean absolutely no disrespect
18 whatsoever, because I hear and feel your passion, and I
19 certainly understand it, and I can always agree with it
20 also. You have definitely brought up some concerns and
21 some problems, but in a world of perfectness, what would
22 be your solution?

23 MR. KAPU: You know, the commissions was
24 placed for a reason. They always try to back you guys
25 up against the wall. And this only one small little

1 maybe solution.

2 I mean, they get the recommendations down
3 for you guys every time you guys come to one meeting.
4 You guys got to look past those recommendations and see
5 how it's going to benefit the minority of the community
6 that are concerned and not make a decision based upon
7 the majority and how they feel, where it's like 40 to
8 one.

9 If it's 40 to one, then that one person,
10 that screaming like the mouse in the valley, has
11 something important to say. But nobody listening,
12 because the majority is saying I got to fill my pockets
13 because of this mess that you guys got me in to. I got
14 more bills I got to pay.

15 That's one way. We can take this island
16 back. Be stringent on your decisions on anything that
17 comes forward, in spite of what the recommendations are
18 coming from the County. They ask us, do you have any
19 recommendations for this so-called year's event? And if
20 we give them the recommendations, and they try to water
21 it down to address our recommendations and not look at
22 the problem based upon protecting sacred historic
23 properties. So, our recommendations are no
24 recommendations, just to make sure we don't give them
25 the heads up based upon addressing our recommendations

1 before we come in front of you. And that's why we here.

2 Another possible way I see in changing these
3 things, we got to get down and dirty already. And if it
4 boils down to the point of stopping life on Maui for
5 maybe two hours, let people sweat it out on the freeway,
6 give them a reality check. But that's not positive, but
7 we down to the point where we have no other opportunity
8 to take it to the streets.

9 This venue here, State, County, they
10 supposed to make life for us safe, happy, harmonious.
11 You look at our town, our people no even come out on the
12 streets anymore because the town is for somebody else.
13 So, are we providing a safe, happy, harmonious place for
14 our people as well?

15 No, because I see them in their homes. I
16 know how they feel. Positives? Very few, unless we
17 really start enacting our kuleana based upon what was
18 provided. And if we don't like it, then I guess we got
19 to look at changing the bills. What body going do that,
20 brah? This one? You? Who? Maybe we got talk Con Con.
21 They talking about it now, but from the State's level,
22 a'ole.

23 Should be from the community-based level of
24 all of us included to create a constitutional convention
25 to make changes. And it needs to happen now, before

1 it's too late. Five years I see from now, from the five
2 years I started, from now to five years later, if we no
3 make one change, this island no longer going to be ours.

4 Thank you.

5 CHAIRPERSON KALALAU: Thank you. Okay.

6 Ronnie.

7 COMMISSIONER MARQUEZ: Kalamai. (Speaking
8 Hawaiian.)

9 MR. KAPU: Yeah.

10 COMMISSIONER MARQUEZ: You know, you talk
11 Commission, because you were with us, and I am sure you
12 are still with us. But, you know, Commission, and then
13 I am looking at the next mana'o coming up, which we all
14 know. We all can read.

15 What you going to do when they have
16 something like number 10? If the Commission denies the
17 request, it's going to happen anyway. So, you know, the
18 Commission does the best we can, and you were here, you,
19 too. But then it goes beyond the control. Then what
20 happens?

21 MR. KAPU: I think it boils down to law,
22 doesn't it?

23 COMMISSIONER MARQUEZ: Yeah.

24 MR. KAPU: That's the law. You guys are law
25 enforcement officers as well. Once you say a'ole,

1 that's a'ole. Now that goes to another Department.

2 COMMISSIONER MARQUEZ: Ah.

3 MR. KAPU: Yeah? It's not for you guys.

4 Now, kalamai, (Speaking Hawaiian). Your kuleana is to
5 protect historic properties, and it has nothing to do
6 with the safety of our towns. It has nothing to do with
7 any of that.

8 And something, or somebody, or someplace
9 needs to really put the hammer down on here to create a
10 shock wave around the State as well as the nation to let
11 people know that we tired already being pushed around
12 and lose more and more and more every year.

13 We are done for. What do we do if all of a
14 sudden, a'ole. We go home. We pule. Maybe that will
15 be the prime time to really take our kids out and really
16 do some true, true deceitful tricker treating in the
17 neighborhood. I would love to do that, but cannot,
18 because the kids no like go house to house, or they want
19 to, but the parents like do something else. But that's
20 not the issue. We jumping the agenda over here.

21 CHAIRPERSON KALALAU: That's right.

22 MR. KAPU: The issue is Historic
23 Preservation Plan.

24 CHAIRPERSON KALALAU: Update.

25 MR. KAPU: Mahalo.

1 CHAIRPERSON KALALAU: Very good. Thank you.

2 Okay. We have one person. Are you going to come
3 forward and speak to the State Historical Plan? State
4 your name, sir.

5 MR. KA'AI: Sam Ka'ai. I served for a time
6 with the original Historical Commission, and partially,
7 at that time, as the chair. So, we should look to that
8 issue. There was great pain then. It was called an
9 economic pain.

10 Half of Lahaina was closed. Several flaws
11 were found then, and that's why they asked for that.
12 Whaling Spree was an attempt to make right economically.
13 You have a problem of being a capital democracy. The
14 key is capital. There are other kinds of democracies in
15 the world, but the capital democracy only wants to deal
16 with capital.

17 Now, Hawaiian have a word for family. It's
18 call aina. It means feeding place. Historically, when
19 the Europeans start to be issued land, he did not want
20 the responsibility of feeding anyone. It is a
21 commodity. Land is something to sell. It's a basic
22 flaw in what we look as law. Law is a club to make
23 right something wrong.

24 So, what's the particular wrong? I don't
25 want to get into that. I want to get into this thing

1 called historical site. You point out specific little,
2 little jewels on an area. Lahaina never was a town.
3 There is no structure to incorporate a town, which would
4 give a town council, make the sidewalks, or whatever.

5 The Historical Commission tried to form that
6 up. Lahaina is always a village. Okay? Don't get into
7 this town, because then you get into the town folks
8 against the other folks.

9 Now, at that time, we looked at the
10 historical value of that site. The people called
11 Piilani showed up in the 8th Century, about the same
12 time the Pele showed up, the Kamapua'a. These are the
13 ancient clans. Wonder why we using the word sacred?
14 You know, you talk about righteous. First you have to
15 be right, so you have to get your information right.

16 Those people did not have political sway
17 until the late 1500s and the 1600s. They called the
18 Piilanis. Piilani means the pinnacle of heaven. If you
19 were burying bodies of the 2nd World War veterans in
20 that park, it would be automatically sacred like Punch
21 Bowl. Remember, it's called Punch Bowl? Okay. Other
22 kind of spirits come out of Punch Bowl than you think of
23 it today.

24 The idea is that what was historical? Do
25 you know the field called Mala? Mala Wharf. That field

1 is sacred, because it's a sweet potato field that kings
2 of the highest grade bend down before Haloa and prayed
3 for new life. That's why that place is sacred.

4 The other sacred place is three lo'i.
5 That's the library, the Pioneer Inn, and the Banyan Tree
6 Court. This is where a highest person in the land, like
7 the governor, gets completely undressed, naked, bows
8 down to the living plant that's going to feed people.
9 That's the meaning for aina, feeding place. Those are
10 the three sacred sites.

11 Front Street's ancient trail, we are not
12 talking about da kine. It is call a Alanui, meaning the
13 high road or the high path of life. Is all from Mala
14 all the way to the street known now as Shaw, which is
15 called Alanui O Mamo, the people's way, and goes all the
16 way up to Lunaville.

17 From Mala to that corner is the first line,
18 not Front Street USA, when plantation wanting to get rid
19 of nigger-jibber. Hurt to hear some of this stuff. We
20 wanted to purge the Hawaiian language. The ladies from
21 the Outdoor Circle, not Hawaiians, picked up that cause,
22 and in the '30s changed that all new streets in Hawaii
23 would have a Hawaii name because of the confusion in
24 Honolulu. They gave us why all your streets are still
25 Hawaiian, because it was believed that the Hawaiian race

1 would disappear from the face of the earth.

2 Now, Front Street is call Alanui O Ali'i,
3 the Kings Way. Shaw Street, Alanui O Mamo, the people's
4 way, and Luakini means the sacred way, Luakini, the
5 entire street. That street started someplace in Mala
6 where the sacred bodies of Kamehameha, II, were brought
7 back by the ship Blonde and delivered to that park and
8 that little island.

9 Historical District said that everything in
10 that district should eventually be removed and turned
11 into a park, starting with closing off of Front Street
12 and turning it into a mall. These are all in your
13 plans. I am not pulling something out of the hat.

14 So, you have Luakini. Now what is Luakini?
15 I grew up living by a temple called Pu'u Kini. Kini
16 means unmeasurable value. The mound of radiating grace.
17 Luakini means the place where you take leftover
18 offerings, and you put it in a pit, and the pit itself
19 then has its own kind of life force and radiation.
20 That's Luakini Street.

21 Everything within that zone was to
22 eventually remove the Hale Piula be put back. That's
23 where the grass house for the canoe is. That's the
24 attempt to hold. The next property to that is the
25 Princess's place, sold to the plantation, and homes as

1 retail, to be removed. The school and the library to be
2 removed. The library taken up to Lahainaluna.

3 That school to be turned into a clear park.

4 The only compromise made was Pioneer Inn. Everything
5 else was to be historical. And then 501 Front Street
6 was the first County decision that capital ruled.

7 Okay? So, you have had -- now, above the
8 street, that's all the area that was the Kodak's place,
9 a pond system that connect with the Canal Street that
10 goes right through that drive in there, River King,
11 whatever it is. That whole area has a sacred pond.
12 Where the Medical Center is hallowed ground. Don't tell
13 me, because you didn't find a bone, the dog didn't leave
14 it there. I'm the dog eater.

15 The thing about it is we are looking now for
16 archaeologists. Archeologists have a problem. They say
17 preserve, preserve. Only I can interpret. You won't
18 tolerate anybody else. So, kupuna have no standing in
19 your society. They are just old people grumbling.

20 Evidence of pulling something out, because
21 it has an intellectual value, putting it in a library,
22 and maybe 15 generations from now, somebody will have
23 reference to it is not a solution. It is a way to
24 mitigate to get on with capital democracy.

25 So, the problem here is that is not a

1 solution. And the Bone Commission cannot be the only
2 shield. That's to placate the hurt that it goes on.

3 That is a sacred site. All of it is sacred.

4 All portions of it. And all private ownership there got
5 to cease and go back to that unit. That is what was
6 found in that unit as recommended by the original
7 architect.

8 Now, I see Mr. Fredericksen here. His
9 father did the original dig on the corner of what was
10 named Black Jack or the first Cornwell stone building
11 built in Lahaina. When they exposed the corner, the
12 first thing is one kid said, hey, Bruddah, my town. And
13 he rode his car across that and crushed that site.

14 You have had your kind of two sides of the
15 problem, much with emotion. We had Whaling Spree, and
16 we are going to make the new Mardi Gras. Okay. Whaling
17 Spree we supported in the beginning, and then Jimmy
18 Gregg, and Emma Sharp, and several people say, no, we
19 don't live in Lahaina. We live in Kahana, because
20 Lahaina was turning into "that place." So, we helped
21 kill it.

22 I'm the guy that lit the harbor. I'm the
23 guy that turned the fire off on the harbor. The thing
24 about it is you've had your trials of commercialism.
25 Everything along that side now slowly encroaching the

1 park, because that park is going to be restored. So, if
2 I can get my retail shop really close there, I will be
3 in the peak area. For what? For my share.

4 Okay. This is -- Lahaina has already formed
5 that district, and the compromises that were supposed to
6 be made was how you add Mary Nanakila Church to that
7 creation. How you -- Dickinson Street, what is the name
8 of Dickinson Street, and who the heck is Dickinson?

9 Okay. Dickinson Street is the old
10 Lahainaluna. That's the road. There was a river there
11 that came underneath the Furtado Estate, and that road
12 goes up to Lunaville, and because you did it by horses
13 and walk on your feet, you went up on a slight up to
14 Lahainaluna. The plantation then builds in paved road,
15 and it jumped. That's history. Current history.

16 So, that's Luakini. It was also called
17 David Malo Street, and it was called Mary Nanakila.
18 What is Mary Nanakila? That's the only church given a
19 Hawaiian name at its consecration. Why? Well,
20 everybody spoke Hawaiian. After that we had Saint
21 Somebody from someplace else. You understand?

22 It's still like people claim to be
23 Christian, but they have a hard time with the Hebraic
24 persuasion, yet that book is about what you base your
25 philosophy on.

1 Skipping. Today, at the National Park, at
2 Puukohola, we have a skateboard ramp. They hired an
3 architect to mitigate. They went to a public hearing
4 for the design. The design is a Bauhaus design.
5 Bauhaus was thrown out of Germany in 1933, because they
6 didn't meet the standards of Hitler.

7 It came to the Chicago Institute of Art and
8 became one a major things. Danish Modern falls in that
9 category, and there the guy puts a building with this
10 kind of a roof and says it blends into the hill. Ask
11 any 12 year old, and he says it blends into the hill as
12 a cave. They went through all the legal processes and
13 came up with this conclusion that looks more like the
14 place you should lay your head, so they can put their
15 foot on it.

16 We work with them for seven years. Herb
17 Kane gave them a sacred site. Why is it sacred?
18 Because there are only three places operated by Western
19 law that you can fly the Hawaiian flag by itself.
20 That's a new one, yeah, the burial site, the palace, and
21 Puukohola. And yet somehow, no one could grasp that it
22 was a sacred site and should be Hawaiian.

23 So, stop saying welcome to Hawaii. Call it
24 the Sandwich Islands where you come and get your little
25 lunch. The problem is really that Lahaina already chose

1 the area, and then the fringe areas to be considered
2 were the portions that would be outside and above
3 Luakini Street, and now we are talking about inside.

4 You know the parking lot in Front of 501?
5 That was going to be a center for that unit. That whole
6 area would be reflooded, because plantation didn't need
7 the water. We don't know where the water is going, but
8 we know it's not the pond anymore. These were all your
9 plans in the original form.

10 The only thing won in Lahaina under that
11 Historical Commission is two-story construction. New
12 England-type signs were supposed to be used there that
13 had two words, Emporium, The Bar. You understand? For
14 people who read at a different kind of level, because
15 that's what you were talking about in the Whaling Spree
16 days.

17 Now the biggest first fight that the County
18 didn't want to fight. The County attorney refused the
19 public is the thick signs that had to be to the bulkhead
20 and do it this way. Now, there's so many of those
21 things screaming, you can't see.

22 What is a sign in a tourist district? A
23 place where your things get delivered. If you have
24 somebody on the island for four days, he spends so much
25 at the beach, so much at the restaurant, so much there,

1 he's going to take one walk through town. And if your
2 glass window doesn't attract them, you have lost them.

3 So, that was the logic put by an architect
4 hired by the County. And all of that somehow just kind
5 of just -- you see, that's why I saying taking bones,
6 putting it in a book, and then put it in a library has
7 no more value to the living.

8 I give you a Hawaiian point of view. My
9 children -- or I am a child of the mo'o kuauhau, endless
10 lines of geology, and that is where the emotional value.
11 By the way, the Bible is an endless line of genealogy.

12 Today, you are on a canoe. You know all
13 those canoes you paddled around? It's not the gunnels.
14 It's the mo'o. And in front of you are your
15 grandchildren, and they are called moki auau.
16 Mokouauhau, mo'okola and mo'opuna. That is what we are
17 talking about.

18 If you want to know what the shape of heaven
19 is, look at the Milky Way. It is called the Mo'o O
20 Kalani. The great white dragon of the heaven. Every
21 star is a campfire of somebody's ancestor. A different
22 way of perceiving the things you put value.

23 You write laws by certain kind of skill
24 levels. They are called lawyers. Then lawyers, knowing
25 the law, modify the law, and your tax system has gone up

1 and down by generation. We spend more money in one
2 state trying to get elected over a two year period.
3 Europeans think we are absolutely hilarious, because the
4 budget of one state's advertising might be the national
5 budget of an entire country in Europe.

6 Yet if you tell an American that that is
7 kind of a wasteful point of view, absolutely misses
8 their mind. You got two parties that are almost even in
9 thought, locked in place, and we knew about this gas
10 problem in '93? When did we last have Beemer write a
11 song about the dog doing the poop in the back while we
12 sat in the gas line. These things reoccur.

13 When this president that is still in office
14 got into office, he said things like we can't really
15 prove it's warming. Kilimanjaro in the life and memory
16 of the human race has always had a glacier. It is not
17 there now. There are certain things that are obvious,
18 and then we go through this a little bit here and a
19 little bit there.

20 What the (inaudible) is talking about is
21 Lahaina's Historical Commission was at the time of
22 greatest pain to be if you wanted to preserve that, and
23 somehow the County said yes, and then we back up on
24 arguing about law.

25 So, spiritual things are very, very hard to

1 kill. The only way you can stop that or modify that is
2 you have to kill the body that has that spiritual favor.
3 Pearl Harbor was stolen by a gun boat. And Pearl Harbor
4 did not become sacred until a blood sacrifice was made.
5 Today, it is the most visited place in the state, yet
6 there was never a treaty with the United States for the
7 use of Pearl Harbor.

8 After Hawaii was stolen by pirates, the
9 pirates voted to retain what they took, and then made a
10 treaty. Your conflict is between historical fact of a
11 base people, which by the way is less than 17 percent of
12 your population. They do not represent a voting factor
13 at all. So, you can massage them with any law called
14 any -- this is a -- a ka la'au literally means -- ka is
15 to swing a stick. Law is that stick. It's the staff of
16 the knowledge or the staff of pain.

17 So, having a little bit of this, little bit
18 of that, he's right. You have had this meeting. It
19 used to be for the Historical Commission, because it was
20 the shield between this County Planning Office and the
21 pain was in Lahaina. Now it's back in your lap again.

22 Enough time has passed that some common
23 sense might occur. The trouble is you only can answer
24 this question, not by the intellect, not by the measured
25 law, but by prayer. And the first prayer, does it make

1 sense?

2 You cannot say I would like to preserve but
3 not for me. I need the forward motion. We had an
4 economic bust with the savings and loan companies. They
5 did things that were wrong. Lawyers knew that. The
6 Senate knew that. The House knew that and this
7 government knew that. And then we asked them to bail
8 out the people who got hurt, but no one executed a
9 savings and loan officer.

10 The Chinese have a couple of buildings fall
11 down over an earthquake, and the guy is dead already.
12 Every contractor is running out of that country. They
13 put a stick in your back, and they chop your head off.

14 The thing about it is there is no penalty
15 for (inaudible) law and no penalty for law because the
16 only thing you pay is more money. So, there is a
17 penalty for people who have no money. They starve.

18 Land is called aina. It means family.
19 Feeding place. It doesn't mean -- dirt is lepo. You
20 don't -- we are not talking -- aina is not the pali.
21 Aina is not the kahakai. Aina is not some divot. And
22 one of the greatest misnomers here, which is the sign of
23 Hawaii, is to call that place down there Kihei.
24 Haleakala has a kihei coming up from it. It's called a
25 shawl. That's the clouds.

1 The land that that place is being called is
2 called Kula Makai. Kula means dry land less than
3 15 inches of rain, and if you had common sense, you make
4 it illegal to have a flush toilet, or a swimming pool,
5 or anything that consumes water, because it never had
6 water in the first place. It was not that resource.

7 On this side of island, you are now making
8 people do things. Like you have to have a fire fighting
9 thing, because you are off the line. It's getting so
10 baroque. Water on that side of the island on the Koolau
11 is from here. It falls out of the sky. On that side,
12 it has to be piped in. You have already taken more of
13 this aquifer.

14 Why am I talking about aquifer? There used
15 to be all these new age people who talked about an ocean
16 being between the Great Lakes and the Gulf of Mexico.
17 There's a place under there call the Olalla watershed.
18 Starts up in Illinois. It goes all the way down to
19 Texas. And now we have scientific people who are doing
20 computer studies that tell you that will turn into a big
21 sink hole and an ocean.

22 So now the whispers of spirit are now
23 starting to look very physical. Like every glacier in
24 the tropics is melting. Hawaii has that same kind of
25 thing.

1 Traffic patterns are enormous, but we still
2 can squeeze one more little shop in the place, and we
3 never bought one to stop. My suggestion to you, no more
4 building permits between Luakini, Shaw, and Front
5 Street. And everything below Front Street, tell OHA,
6 which is an appendix of the State, tell the State
7 constitution, tell any governor, first thing you do is
8 make two percent for buying all that land or condemn all
9 that land, then you are on that plan that you produced
10 how many years ago?

11 VICE-CHAIRPERSON FREDERICKSEN: A long time
12 ago, Sam.

13 MR. KA'AI: Quite a few years ago, 20 some
14 odd years ago. So, rehashing this thing. We look at
15 you and say, au'we. Either pupule, ihepa. That is
16 undignified. You are human beings with a sense of
17 heart, and face, and value.

18 And to ask you to go and relive the little
19 (inaudible) is painful. We talking past each other, not
20 to each other, and we all live on Maui. Someplace got
21 to be saved. Right? You can build a shopping center in
22 a nonhistorical area anywhere. You only can put history
23 where history is.

24 That is what we want to leave you with.
25 It's not about taking it up with a lot of message. It's

1 about sitting down, not reviewing the plans again, but
2 believing that what you reviewing is the Biblica, the
3 book, the Bible of that historical site, or all
4 massaging in that site are the kepalu, trying to make
5 logic and gold out of soil. Mahalo.

6 CHAIRPERSON KALALAU: Thank you, Sam Ka'ai.

7 We are going to close this portion, and then go into the
8 next agenda item.

9 And Sam, I thank you very much. We are
10 going to take a short five-minute break, and then when
11 we come back, we will start on agenda Item C.

12 (Recess, 10:42 a.m. Resumed, 10:55 a.m.)

13 CHAIRPERSON KALALAU: Commissioners. Are we
14 all back? Okay. Let us reconvene this meeting.

15 First of all, we are going to have some
16 house rules here. We need to have a time limit on
17 everybody's testimony, and then if you have more
18 testimony to share, you can come up after everybody has
19 testified. So, we are going to limit everybody to three
20 minutes to make your testimony.

21 MR. SOLAMILLO: Under Historic District
22 Applications, Miss Rina Sampson on behalf of LahainaTown
23 Action Committee requesting Historic District approval
24 for facilities associated with the annual Halloween
25 event to take place October 31st, 2008, within Historic

1 District No. 1 in Banyan Tree Park and Tax Map Key (2)
2 4-6-001:009 in Lahaina, Maui, Hawaii. The planner is
3 Livit Callentine.

4 DIRECTOR HUNT: And, hi. I'm not Livit, but
5 I'm Jeff Hunt. I'm the Planning Director, and I thought
6 I'd just make a few comments to put things in
7 perspective. These comments are intended to help you
8 folks.

9 There's a lot of strong opinions regarding
10 Halloween, and I anticipate a lot of strong comments
11 today. And that's legitimate. That's what this forum
12 is about. But I think it's important to remember that
13 today's agenda item is not about the Halloween event.

14 What's before this Board is a permit for
15 only stages and commercial sales, which definitely are
16 associated with the Halloween event. But I don't want a
17 false expectation that you guys are voting on the
18 Halloween event or not to hold the Halloween event.
19 Because if you have a false expectation, then that leads
20 to disappointment in the long run.

21 Again, the issue of whether the County
22 should or should not close or shut down or support the
23 Halloween event, that is a huge, huge decision. And
24 that will be made or it should be made with the
25 involvement of many entities.

1 This Board, I would think, would be involved
2 with that, but also a lot of departments, the police,
3 the fire, Public Works, the Mayor's Office, perhaps even
4 Council.

5 The decision regarding the permit before you
6 today is based on they want to -- they are asking to
7 construct some stages and allow commercial sales. And
8 those things are under your purview. The law gives you
9 that authority to review those uses.

10 I would ask that you review those uses based
11 on the law, and the law says you should review those
12 based on impacts to the resources. And these proposals
13 are temporary in nature. It's just a stage for a day,
14 commercial sales. We allow them in other events.

15 They are not asking for any permanent
16 structure. They are not asking for any ground-altering
17 materials. Those are usually big deals in terms of
18 cultural resource impacts. These are just temporary
19 uses associated with a very controversial event.

20 But again, this is a permit for stages and
21 commercial sales. If you deny it -- first, let me go
22 back. I would suggest that you seek conditions of
23 approval. If you believe there are impacts, try and
24 condition it to address those impacts.

25 We have been trying to -- the Planning

1 Department has been trying to address the concerns of
2 the Native Hawaiians. We met with them. We drove all
3 the way out to Lahaina. We had a meeting where we hired
4 an attorney, and we had big posters on the wall, and we
5 went through some kind of informal mediation for lack of
6 a better term.

7 We have honestly been trying to address
8 those concerns. We believe those concerns are best
9 addressed through conditions of approval rather than
10 trying to shut down the whole event. But, if we go down
11 that road, that's a decision for someone else.

12 If you decide to deny this permit, and you
13 have that authority, and we would respect that, if you
14 go there, try and explain or present reasons. The
15 impacts are based on this. The concerns are based on
16 that, and if you can't mitigate that, then you have the
17 ability and the authority to deny this permit.

18 But again, you won't be denying Halloween.
19 That's a bigger discussion. And I don't mean to be
20 disrespectful when I say that. I just want you folks to
21 be clear with what your authority is.

22 We believe, in summary again, that it's
23 better to try and address these concerns. And here's
24 some examples of where we believe we have been
25 successful. There's been a change of music venues in

1 the past, where there was some concerns about a salsa
2 band perhaps wasn't the right atmosphere, was sending
3 the wrong message, and so they came back with an Air
4 Force band, military uniforms, and ties, and buttons out
5 to the collar.

6 There was also concerns about advertising it
7 as the Mardi Gras of the West, and we talked to the
8 applicants and said this is conveying the wrong image.
9 And so there has been some -- based on conditions, there
10 has been some improvements, we believe.

11 We also believe these stages are actually a
12 positive thing. Some of the concerns that we have heard
13 is that we don't want Halloween to be just a drunken
14 fest. And these stages do allow an alternative. The
15 alternative would be, well, there's a costume stage, a
16 contest where the creativity of the costumes are focused
17 on rather than drunken, lude behavior.

18 The other idea of an alternative is they
19 provide music, so there's an alternative, rather than
20 just having a bar hopping scene at Halloween. So, we
21 would actually suggest that these are good alternatives,
22 and that they do try and mitigate some of the concerns
23 that have been brought to our attention.

24 And with that, I will entertain any
25 questions, or just turn it over to the project planner.

1 CHAIRPERSON KALALAU: Just, Commissioners,
2 have any questions for Jeff?

3 COMMISSIONER HUTAFF: Yeah, I kind of do. I
4 realize that you've contained this down to just
5 approving this Banyan Tree and not much of anything
6 else. I also was kind of concerned when you made the
7 statement just to be a drunken fest, that almost says
8 that you are okay with that part of it.

9 It's good to have more than just being a
10 drunken fest, but I kind of read you saying, and also
11 the bar hopping part of it, that kind of concerns me a
12 little bit. It's like, okay, well, you know, if I went
13 out as an individual and had -- and got drunk publicly,
14 I could be jailed.

15 DIRECTOR HUNT: Let me be real quick and say
16 I am not supporting drunkenness. What I was trying to
17 say, and I will apologize --

18 COMMISSIONER HUTAFF: But you did say it.

19 DIRECTOR HUNT: We believe that stages offer
20 an alternative to that, and that's something that we
21 should try and pursue is alternatives to that.

22 COMMISSIONER HUTAFF: So, just to be a
23 drunken fest was a mistaken statement. You don't really
24 condone that. You don't even believe that that's going
25 to be part of Halloween, right?

1 DIRECTOR HUNT: From my experience, it has
2 been part of Halloween, and I would anticipate that
3 there is some of that behavior. That permit is not
4 before you today.

5 COMMISSIONER HUTAFF: So you have made it
6 clear. Thank you.

7 CHAIRPERSON KALALAU: Questions.

8 COMMISSIONER MOIKEHA: Hi, Jeff. So then
9 the past meetings that we had, we had two meetings in
10 2007, one at the beginning of this year. Was that
11 per -- was that pertaining to the permit system or on
12 this item also? And are we going to go through a permit
13 system where granting that Halloween will go?

14 DIRECTOR HUNT: The past meetings, I
15 believe, were based on, again, previous meetings going
16 back years, there was a concern that the permit came in
17 so late, we couldn't address it with conditions.

18 COMMISSIONER MOIKEHA: Right, right.

19 DIRECTOR HUNT: So, one of the suggestions
20 was have the permits come in sooner, so then we can
21 start working on conditions. So, that's what those past
22 meetings were about.

23 COMMISSIONER MOIKEHA: Okay. So, actually,
24 we are off the mark then.

25 DIRECTOR HUNT: In what way?

1 COMMISSIONER MOIKEHA: The past three -- oh,
2 we didn't talk about the permits. We are just basically
3 talking about Halloween, whether or not it should go or
4 not. We didn't even talk about whether or not people --
5 you know, to actually set up a stage under there. That
6 was, you know, as you clarified at this moment. So, it
7 seems like we are entirely off the mark the past three
8 meetings that we have had.

9 DIRECTOR HUNT: I would say the past
10 meetings were constructive, in the sense that it gives
11 you an opportunity to talk to the applicant. The
12 applicant is saying in addition to these things which
13 are under your purview, we are going to do these other
14 items, for instance, put in porta-potties or something
15 like that, extra security.

16 But they don't need a permit to do extra
17 security. And so what happened in the past is it got
18 lumped together. Everything got lumped together. Even
19 the road closure, I believe, in past applications has
20 kind of been mentioned as part of the application before
21 this Board.

22 I don't think it's good to give you guys the
23 idea that if you deny this, the road can't be closed.
24 That's a Police Department issue. So, you see the
25 difference?

1 COMMISSIONER MOIKEHA: Oh, no. I learned
2 all that in the past couple meetings. You know, those
3 are the questions I asked. I asked that we move up and
4 be able to talk about this at the first of January, and
5 I have January's notes here, so that we don't fall upon
6 this at a very late moment.

7 I don't know. It's just I thought we would
8 be talking about something else.

9 COMMISSIONER MARQUEZ: Okay. So, I see it
10 in black and white. Today's mana'o is focusing on the
11 use of Banyan Tree Park only. It's right in here.

12 DIRECTOR HUNT: Well, and I believe the
13 staff report should be amended, and Livit will probably
14 address it. There is also a proposal for a stage at the
15 Library, which would also be under your purview.

16 COMMISSIONER MARQUEZ: Okay. So, my
17 question is what our next step efforts after today?

18 DIRECTOR HUNT: Next step regarding what?

19 COMMISSIONER MARQUEZ: Regarding Halloween,
20 regarding this mana'o.

21 DIRECTOR HUNT: Let me interpret your
22 remark. What is the next step in shutting it down, or
23 expressing concerns regarding it or --

24 COMMISSIONER MARQUEZ: Okay. What's the --
25 okay. Should we approve or deny? What's the next step?

1 Maybe --

2 DIRECTOR HUNT: You have the ability to

3 either approve the permit with conditions --

4 COMMISSIONER MARQUEZ: Right.

5 DIRECTOR HUNT: -- or deny the permit. And

6 then I believe there's a lot of concern with the

7 Halloween event in the community. We are hearing that.

8 We are not ignoring that.

9 COMMISSIONER MARQUEZ: So, our next --

10 DIRECTOR HUNT: There could be conversations

11 regarding that, but that is not a permit that comes

12 before you. There could be conversations. There

13 probably should be dialog regarding this event. And I

14 would think this Board would be involved to some extent.

15 But it is not a formal application of --

16 it's not a legal application where we come before you

17 with a Halloween permit.

18 COMMISSIONER MARQUEZ: Oh.

19 DIRECTOR HUNT: I'm not saying that dialog

20 shouldn't go on. We just have to be very clear in our

21 processes. And you have your own attorney here, so he

22 can correct me if I'm wrong.

23 COMMISSIONER MARQUEZ: So technical, today's

24 mana'o, when we are pau, we are pau. And if we get

25 invited to discuss other aspects of the mana'o, then we

1 do. But this is -- this our kuleana today.

2 DIRECTOR HUNT: The issue before you today
3 is a permit for stages and use -- use of those historic
4 sites.

5 COMMISSIONER MARQUEZ: Okay. Thank you.

6 DIRECTOR HUNT: If there's nothing else,
7 Chair, I will turn it over to Livit.

8 CHAIRPERSON KALALAU: One more question.
9 Just one scenario. Say this construction stage,
10 commercial use, and historical use of the area get
11 approved, and then when the final Halloween parade
12 permit comes through and gets denied, how would this --
13 this construction permit -- or can they hold something
14 that doesn't need the Cultural Resources' permission to
15 go ahead and put the commercial use and use of historic
16 or construction -- or construct any stage for commercial
17 use?

18 DIRECTOR HUNT: If you deny the permit, then
19 they wouldn't have the authority to put up those stages.
20 They wouldn't have the stage for the music. They
21 wouldn't have the stage for the costume contest. So,
22 those would, in all likelihood -- unless they break the
23 law, and we would enforce against it -- those would not
24 occur.

25 CHAIRPERSON KALALAU: Okay.

1 DIRECTOR HUNT: But that doesn't mean that
2 people aren't going to show up to Lahaina and walk up
3 and down Front Street. That doesn't mean the police
4 isn't going to close Front Street, at least this year.

5 VICE-CHAIRPERSON FREDERICKSEN: Sam.

6 CHAIRPERSON KALALAU: Commissioner
7 Fredericksen.

8 VICE-CHAIRPERSON FREDERICKSEN: I have a
9 comment, and Sam Ka'ai touched on it when he was giving
10 testimony earlier. And I believe when -- that's when he
11 was on the Planning Commission. I can't remember what,
12 but it's basically what the CRC evolved out of it.

13 And there was an economic event, the Whaling
14 Spree. I went to it as a kid a few times, and it --
15 quite frankly, there were a lot of parallels with this
16 Halloween mess.

17 And I am kind of disturbed by what has
18 happened with this permit application from what -- Kalei
19 just touched on it earlier -- what we as a Commission
20 were looking at. And when I was on the -- when I came
21 back on the Commission last year, I believe the first
22 meeting was for this permit application last year. And
23 that had a lot more in it than this one does.

24 It seems like there's been an effort to kind
25 of sanitize, if you will, this. And I -- you know, we

1 are the Cultural Resources Commission. You know, this
2 isn't, to me, just about two stages or whatever. This
3 is about an event that's taking place in a historically
4 significant area that may or may not be that
5 appropriate. But that's something we, as a Commission,
6 got to think about.

7 But anyway, I am kind of -- like I said, I
8 am a little bit disturbed by this. And I -- you know,
9 it's a real tough one, and I understand the Planning
10 Department's under a lot of pressure on it, and just
11 trying to figure out, well, what the heck to do about
12 it.

13 DIRECTOR HUNT: I have worked in several
14 jurisdictions. Basically, my whole career has been in
15 resort communities or tourist communities --
16 tourist-influenced communities. Several of those have
17 shut down similar events. And your reference to the
18 previous Whaler's Days --

19 VICE-CHAIRPERSON FREDERICKSEN: Whaling
20 Spree.

21 DIRECTOR HUNT: Whaling Spree -- I wasn't
22 here then -- that's another example. And I am not
23 saying that the County cannot shut this down. I'm just
24 saying this, today, is not that decision. I don't want
25 a false expectation that if you guys deny this permit,

1 you are all going to go home and go, okay, Halloween is
2 not going to occur. And then it shows up, and you say,
3 well, what happened? I thought we denied it.

4 VICE-CHAIRPERSON FREDERICKSEN: No, I
5 appreciate what you are saying. I guess, from my point
6 of view, while you are still up here, where I sit on the
7 Commission, if it were the Commission's desire to try to
8 get this activity shut down, because it is -- I mean,
9 this is a Historic District. I mean, it's a lot
10 different than most resort communities. Most of those
11 are like Kaanapali. That's a different -- that's a
12 different -- you know, it's apples and oranges.

13 But Lahaina -- the Lahaina Historic
14 District, it's a national landmark. I mean, it's a very
15 unique -- there are several unique circumstances that
16 come together with Lahaina.

17 If, as a Commission, we wanted to pursue
18 getting this event -- like what happened with the
19 Whaling Spree, it's like, hey, you know, what? Too out
20 of hand. Aloha. How could that come to pass? Because
21 I don't -- you know, this is not what we have been
22 seeing before.

23 DIRECTOR HUNT: Let me explain why you
24 haven't been seeing it before. I think the staff
25 reports, frankly, weren't as precise as they should have

1 been. There was kind of this idea of, okay, there's a
2 permit that's needed, and so this permit is associated
3 with these other activities, so they just lumped it all
4 together.

5 VICE-CHAIRPERSON FREDERICKSEN: Okay.

6 Well --

7 DIRECTOR HUNT: So, we are cleaning up the
8 process. The next step is if this Board wishes to
9 express a desire to review the event as a totality and
10 whether the County should support the event or try and
11 shut it down, I would ask that you go through your legal
12 counsel, and perhaps you can either pass a resolution or
13 something to that effect.

14 It would have to be an agenda item, and that
15 would be a separate agenda item where we would discuss
16 the Halloween event in a totality. And you would merely
17 express the Board's opinion through resolution. I
18 believe -- and James may correct me. Maybe that's a
19 wrong tool.

20 VICE-CHAIRPERSON FREDERICKSEN: James --

21 DIRECTOR HUNT: But there's got to be some
22 tool where you could do that. And don't get me wrong.
23 I am not saying you guys shouldn't do that. Let's be
24 precise in our procedures.

25 CHAIRPERSON KALALAU: Counsel.

1 DEPUTY CORPORATION COUNSEL: Thanks, Chair.

2 Yeah, I think the Planning Department is trying to
3 delineate, because this -- this Commission does have --
4 it has broad purview, but has limited powers in certain
5 situations.

6 I advise a lot of boards that kind of have
7 that. The Urban Design Review Board has the same thing.
8 It has a broad purview of looking at architecture. But,
9 in certain instances, it does merely recommendations.
10 And yet in its code, the County Code, it actually has
11 final authority over signs.

12 So, you see that in your purview of the
13 Cultural Resource Commission. You have a broad mandate,
14 but then you have to look back into to your rules and
15 say, well, what do we have final authority of, what do
16 we have review of, and what do we have recommendation
17 authority of?

18 VICE-CHAIRPERSON FREDERICKSEN: I have a
19 question. What is our authority in Lahaina?

20 DEPUTY CORPORATION COUNSEL: That's broad
21 one, because we -- what we are doing is it's a little
22 reactionary. And first of all, we are kind of trying to
23 deal with the impetus of people trying to get
24 applications. So, we have to deal with that.

25 We have to find out, okay, first, what are

1 they applying for? Now that they are applying for it,
2 what is our authority to that application?
3 And what the Planning Department is saying
4 is somebody has come forward and said they want to put a
5 stage at the Banyan Tree. Now, our authority is, one,
6 if they are going to get a building permit from the
7 County and its in a Historic District, you have final
8 authority over that. You are going to say yes or no if
9 that person gets approval. And then if the person
10 doesn't get approval, they cannot get a building permit
11 through the County. Okay?

12 The other one is use, whether or not they
13 can buy or sell underneath the Banyan Tree. Because
14 it's a government property, the County Code mandates
15 that they have to come before you to get approval. If
16 they don't get approval, the Parks Department will not
17 issue them the license or the permit to do that activity
18 in a public place.

19 So, that's what the Planning Department is
20 saying. That's what we have on the table. Now, outside
21 of that, to address your question, is what other
22 authority do we have?

23 Well, if you look at 2.88.060, it delineates
24 a lot of powers that this Commission does have. And
25 some of them are not final authority, but it does give

1 you the ability to comment and to try to influence
2 policy within the County, which means that you can --
3 you know, you can discuss amongst yourselves, you can
4 vote, and you can send out a letter or pass a resolution
5 or something and have that forwarded to the different
6 departments within the County that might have final
7 authority over an event that you may not, in and of
8 itself, have the final authority over.

9 So, I want to point you to Section L in the
10 section that I just quoted. It delineates that it's
11 kind of a broad stroke. And it says that you may take
12 any other actions or activities necessary into your
13 mandate, and your mandate is to preserve and protect
14 historical places and structures.

15 And then it says you can recommend new
16 ordinances to establish special treatment districts and
17 archaeological districts. You can review and recommend
18 amendments to current policies and laws on the
19 enforcement of existing codes relating to historic
20 sites. You can continually reevaluate building code
21 requirements and enact amendments that are more
22 sympathetic to preservation or provide exemptions for
23 historic properties.

24 And you can encourage the County, State and
25 Federal governments and the private sector to implement

1 appropriate management strategies, curatorships, and
2 meaningful interpretation programs at significant
3 historic and archaeological structures, sites, and
4 districts.

5 And that part is part of the mandate of you
6 can assist in programs of historic preservation
7 including presentations, films, exhibits, conferences,
8 publications, and other educational means which increase
9 public awareness and participation in preserving the
10 past.

11 So, those are all options that this Board
12 actually does have. I think the Director is correct. I
13 think if you wanted to take up one of those avenues, the
14 most proper procedure would probably be put it on the
15 agenda and then go from there and discuss how -- what
16 other things can you do.

17 Are there ordinances that you can look at?
18 Are there policies that you would like to address, you
19 know, through getting a consensus or a motion to send to
20 a department that has authority, or actually setting up
21 programs of curatorship, you know, trying to encourage
22 the County to have or expend monies in actually, you
23 know, protecting these sites during specific events.
24 That's another option.

25 So, those are all -- when I say that you

1 have a broad, you know, mandate and specific duties, I
2 think that they are all within that purview of
3 discussion, and I think that in our agenda building,
4 that those are legitimate concerns that can be brought
5 up, discussed, and put into action.

6 VICE-CHAIRPERSON FREDERICKSEN: Thanks,
7 James. So, in order -- if the Commission were of a mind
8 to directly address the Halloween event, that would
9 be -- that would have to be an agenda item? Is that
10 what you are saying?

11 DEPUTY CORPORATION COUNSEL: I would suggest
12 that -- I mean, because I think there's broader options
13 that you have that are outside of this one permit
14 application.

15 CHAIRPERSON KALALAU: Okay. Kalei.

16 COMMISSIONER MOIKEHA: So, someone who would
17 like to hold -- what makes the Halloween event legal?
18 Did somebody apply for something, or did they just say
19 one go under the tree, one put up the stage, so I can
20 invite 30,000 people to come?

21 I mean, what makes it legal to have -- I
22 mean, shall I have Surfer's Paradise? I want to come
23 in. I want to set up a stage and invite 30,000 people.
24 What makes that legal?

25 I mean, I think we are all here under the

1 assumption that we are going to talk about this event,
2 not about setting up stages. You know, that's not what
3 we are going to talk about. I was under that assumption
4 all the way through.

5 I mean, we went through two long meetings
6 last year. We had to defer and move on, and all of a
7 sudden we coming to this. This throws me for a loop.
8 You know, because if people want to use the Banyan Tree
9 and set up two stages, hey, no problem. A lot of people
10 do that. You can't deny one and say to the other, you
11 know, you can.

12 What makes Aloha Week possible that you can
13 have the parade? People applied for something. So, how
14 does -- what's the difference? What makes this work?
15 What doesn't?

16 DEPUTY CORPORATION COUNSEL: I think our
17 testifier, Sam, really brought it to light. It all
18 comes down to money. If money is involved, then
19 somebody needs to go get an application to justify their
20 collection of monies. If somebody just puts in the
21 newspaper, come down and party. I am going to be down
22 in Front Street, it's very hard to shut that guy down,
23 because, first of all, he's not going to be collecting
24 any monies, and he's going to be kind of just cruising
25 down at Front Street, not interrupting traffic or, you

1 know, not disrupting anybody.

2 And by the way, if anybody -- no, just
3 kidding. But what you got to understand is that when
4 you are in a public place, and you are not organizing,
5 you don't need an application. You know, you get a van
6 full of people, and you want to cruise down to Front
7 Street, and you walk around for a while, on any given
8 day, you don't go to the County and ask for an
9 application.

10 The thing is, is that once you start wanting
11 to build stages, once you are wanting to -- you want to
12 collect money, and you want to expend money on
13 advertising, and those types of things, then the County
14 gets involved and says, wait. You can't do that on our
15 property without a permit.

16 I think one of the reasons this kind of got
17 morphed and kind of got really gray was that the Police
18 Department had to address the issue of public safety at
19 one point. At one point, you have to realize that
20 nobody had -- nobody had a permit. Nobody was building
21 stages. Nobody was do anything.

22 But the police couldn't get their police
23 vehicles through Front Street. People were standing in
24 the streets, you know. And so as a public safety issue,
25 the police did try to address that issue, and the way

1 they did it was by closing down this Front Street to
2 traffic.

3 The confusion, I think, comes where we do
4 see events that are associated with some minor
5 structures and a road closure. I think we have seen
6 like marathons. We see parades. And once you see those
7 types of things, the police actually are asked by an
8 applicant to close down the street.

9 Now, if it's in a Historic District, then
10 they do come to us. I think we reviewed The Run, The
11 Run. And they -- basically, they weren't going to build
12 anything, but they were going to ask that Front Street
13 be closed for an hour or two, and they -- then that
14 triggered their need to come to us, because it was going
15 to be a use in a Historic District.

16 And they were going to be asking for money.
17 People had to pay to participate. You know, these
18 monies were going to be collected. There was some form
19 of legitimization.

20 Where you have people just gathering -- you
21 know, we have stuff -- you know, the full moons at
22 Makena. You know, hey, nobody is asking for money. You
23 want to grab a drum, you want to howl at the moon, hey,
24 you can go down there. There is no permit, but you got
25 to get off the beach at 7:00 o'clock. You know what I

1 mean? It's State property. You don't need a permit for
2 that, but you got to follow the established laws of the
3 area.

4 So, that's where the police stepped in.

5 Okay. We got a bunch of people in Front Street. What
6 do we do about it? And they stepped in, you know,
7 without being asked for a permit.

8 So, you see where your broad authority is,
9 where people may want to do stuff, they will come to you
10 to get approval. When things just happen and they are
11 not commercially regulated, then the public sector,
12 public health, safety, and welfare has to step in, Fire,
13 Police, Public Works, Department of Health.

14 All of these people understand that with or
15 without a permit, if the people of the Hawaiian Islands
16 decide to gather in one place at one time, for no
17 specific reason besides a high tide, or a celestial moon
18 alignment, or nice Kona winds, we got to realize that
19 that's what the government is there for, is to make sure
20 that those types of things don't disrupt health, safety,
21 and welfare.

22 COMMISSIONER MARQUEZ: Okay.

23 CHAIRPERSON KALALAU: Thank you, James.
24 Veronica.

25 COMMISSIONER MARQUEZ: This is for counsel.

1 I understand what you are saying. What bothers me is I
2 am sure you all read this palapala, right? Good. Page
3 nine, number 10, and 11, if the Commission denies -- and
4 I am going to summarize this -- it's going to happen
5 anyway. And I understand that.

6 However, when you get to 11, it seems like
7 this implies we are going to lose that because of the
8 Commission's denial. We are the barriers to safety,
9 health, and all these things.

10 Now, you just said there that, you know, we
11 don't -- our thing is for the construction of the stages
12 and whatnot. So, to me, it's almost like saying, hey,
13 Commission, because you guys denied it, you folks are
14 almost like barriers to the health and safety.

15 I think this is very unacceptable. I think
16 this should be reworded, because we know the authorities
17 are sitting out there in blue, black -- blue. And, you
18 know, they are there. That's the reason.

19 However, this mana'o should imply that as
20 opposed to almost blame. I mean, that's my perception.

21 DIRECTOR HUNT: And speaking for the
22 Department, we can soften that report or backtrack on
23 that one issue. We just wanted to make it clear that if
24 the -- if the Commission denies the applicant the
25 application, there were certain positives that came

1 along with that application that the County would then
2 have to take up.

3 COMMISSIONER MARQUEZ: Right.

4 DIRECTOR HUNT: And so --

5 COMMISSIONER MARQUEZ: Okay.

6 DIRECTOR HUNT: I think that was the point,
7 and maybe it wasn't expressed as well as it should have
8 been.

9 COMMISSIONER MARQUEZ: So you folks could
10 try to make it more positive.

11 DIRECTOR HUNT: We are here to help you.

12 COMMISSIONER MARQUEZ: Thank you.

13 COMMISSIONER HUTAFF: Oh, boy. Okay.

14 CHAIRPERSON KALALAU: Ray.

15 COMMISSIONER HUTAFF: Yeah. I see exactly
16 what you are saying, and now that I kind of read this
17 over a little bit, I understand exactly what you are
18 saying.

19 Okay. This is an application for Historic
20 District use. Okay. Unfortunately, this particular
21 Historic District has a birth date, okay, all the way up
22 till today.

23 We were probably all under the impression
24 that the birth date of Lahaina, because we are the
25 Cultural Resource Commission, kind of went way far back

1 prior to that. So, I can understand how everybody is
2 little bit confused about that, and since this is what's
3 before us, this is what we have today.

4 My hope is that we can put this on the
5 agenda for next meeting, all right, where we start to
6 address the cultural, prehistoric. Prehistoric Lahaina.
7 Okay? To bring that to the public, to bring that to the
8 Commission to where we can finally begin to respect the
9 sacredness of Lahaina.

10 It may not happen -- it won't happen this --
11 today. Okay. But I think it's really important that we
12 maybe give a birth date to the historical district at
13 about 4,000 years. Okay? So that we can actually
14 address the sacredness of -- personally, I have nothing
15 against Halloween. Okay? I would just not have
16 Halloween in certain parts of the world. Okay?

17 If I had room at my house for 30,000 people,
18 boy, I'd be happy as all heck. If I could get a permit
19 for two bucks a head, I would be even more happy. Okay.
20 So, but this is a sacred area. And as the Cultural
21 Resource Commission, where does -- we are mandated to
22 protect those issues and to protect those things.

23 And part of that is by educating the public
24 with everyone's mana'o here, or Sam Kaai's, or somebody
25 else's mana'o. So, really, at some point in this

1 meeting, I would really like to put it on our next
2 agenda, okay, and that we bring light to Lahaina, okay,
3 not light to Halloween.

4 I have no problem with Halloween. I don't
5 like the drunks and all that kind of stuff, so I don't
6 go, and that's a choice. And people should have the
7 choice to dress up and look funny. Sorry for the
8 Halloween. I drive my car that way.

9 CHAIRPERSON KALALAU: So, what you are
10 trying to say is that this permit right now, this
11 application of permit should be put together when the
12 original application for the parade comes and is
13 submitted to the County, or you want it on the next
14 agenda, or --

15 COMMISSIONER HUTAFF: Well, I would love not
16 to have to make a decision and not slow anything down at
17 the same time, but the two of them don't seem to go
18 together. Sometimes the wheels move slowly.

19 I mean, you know, we have been dealing with
20 this for a hundred years now, and 18 or 19 years with
21 Lahaina. But I would like to see it on the agenda where
22 we address more than just the Historical District part
23 of Lahaina or the cultural, and the sovereignty of that
24 area, and the sacredness of that area, so that we can
25 maybe increase -- or do what we thought we were going to

1 do today, okay, which was really bring light to the
2 sacredness of that area.

3 Sam Ka'ai pointed out a lot of things I
4 didn't know about. It's more sacred than I knew. I
5 don't want to drive my car down there now. I will take
6 my shoes off and go walk. But obviously, we have to
7 only address the historical district part of it today.
8 Maybe the next agenda we can add some teeth.

9 CHAIRPERSON KALALAU: And I think what's on
10 the application is they are looking at Banyan Park,
11 Banyan Tree Park, I guess the library grounds, and
12 anyways past the Banyan Tree going towards Moku'ula.

13 COMMISSIONER HUTAFF: I think we can address
14 that within the testimony and the people, because there
15 are some things that aren't right within the Historic
16 District that comes within our point of -- what we are
17 supposed to be doing today.

18 There's definitely a lot less than we
19 thought, but I don't think that we should back away from
20 our responsibilities for the Historic District, and make
21 the best decision that we can for everybody. But also,
22 at the same time, take this Commission and bring to
23 light the sacredness of Lahaina, and maybe that itself
24 can create its own solution in the future. I don't know
25 if I am making sense. I am Portagee. You got to

1 forgive.

2 CHAIRPERSON KALALAU: No, it does make
3 sense, but like Jeff was saying what's before us. You
4 know, I, too, when I looked at the agenda, and it says
5 for facilities associated with the Annual Halloween
6 Event. I think they don't say nothing about the permit
7 for the Halloween parade and stuff, and, you know, I
8 debated a while on that.

9 MS. CUA: If I could just make a quick
10 comment. The Chair is mentioning the permit for the
11 Halloween parade. And you approved that at a previous
12 meeting, the children's parade.

13 And if you recall, when we initially came to
14 you in January, because you had asked for a report from
15 Halloween last year, one of the directions that you gave
16 the Department was that you wanted to make sure that the
17 children's parade was separate from the adult portion of
18 the event. So, we brought that to you separately.

19 CHAIRPERSON KALALAU: Yes.

20 MS. CUA: So, the permit that you need to
21 approve for a parade -- for the street parade on Front
22 Street, the children's parade is done.

23 What is before you today is the use -- the
24 exchanging of money under the Banyan Tree, the
25 structures that are associated with these County park

1 sites. And I think a comment that the attorney was
2 trying to make is -- and where we are trying to
3 distinguish between what you are required to approve and
4 not to approve, on any given day, in the Historic
5 District, for people to come to the Historic District,
6 you don't need to approve a permit for people to come.
7 Whether it's a hundred people, a thousand people, or
8 30,000 people.

9 What Corp Counsel was saying, when there's
10 an organized event, Celebration of Canoes, Chinese New
11 Year, 4th of July, that uses any historic site or
12 setting up -- setting up, let's say, maybe structures on
13 the sidewalk in the Historic District, structures under
14 Banyan Tree Park, those things, they need a permit, a
15 building permit, and they need a Historic District
16 approval.

17 And so, you know, what we are saying -- what
18 Jeff is trying to say, also, is if you deny the
19 permit -- and that's what the report says. It wasn't
20 meant to -- it was basically just factual, 10 and 11.
21 It's just saying that if the Commission denies the stage
22 and booths or whatever is proposed, and so there's not
23 an organized part of this event by an entity, people
24 will still come.

25 That's not being said to offend anybody. We

1 are just saying that that is what we anticipate. People
2 will still come. And again, we don't have the ability
3 to regulate people coming in and out of anywhere on the
4 island.

5 So, what number 11 is talking about is if
6 there is no permitted organized part of this Halloween,
7 and the people still come, all this is saying is that
8 the County would be forced to respond exactly what
9 counsel was talking about. We have to make sure that
10 people are managed. That they have access. There's,
11 you know, clear access. The ability to have fire,
12 police response if needed.

13 That's all that 10 and 11 is saying. So, I
14 think that's very factual, and that's all it was
15 intended to do. I just want to clarify.

16 CHAIRPERSON KALALAU: Thank you, Ann. Jeff.

17 DIRECTOR HUNT: I would suggest that you
18 look at this as two separate issues or two separate
19 steps. One is to deal with the application before you,
20 and you can approve it or deny, and that's up to you.
21 The second one is to deal with the Halloween event in
22 its totality, and schedule that as a separate agenda
23 item. You can hold a discussion.

24 You have got staff that can outline your
25 options and your tools that you have in which you can

1 hold that discussion, and you have legal counsel that
2 can help you out. So, we are not saying that discussion
3 shouldn't occur. We are just saying it's separate from
4 this permit before you.

5 CHAIRPERSON KALALAU: Perry.

6 COMMISSIONER ARTATES: Okay. But how would
7 it -- when it says for facilities associated with the
8 Annual Halloween Event, how would you not -- how can you
9 defer that that is not tied to this Halloween event?

10 DIRECTOR HUNT: Again, going back to James'
11 analogy, you can deny the stage and the sales booths,
12 but the closure of the street would be a police
13 decision. And so -- and the police works for the
14 County, and the County would be open to a discussion
15 regarding the whole Halloween event.

16 As I said, I've worked in other areas where
17 they have shut these down, but that takes a concerted
18 effort. It takes -- the whole County has to say, okay,
19 this is what we are going to do. And we could shut down
20 the Halloween event, but you guys aren't going to do
21 that today, just to be honest with you.

22 COMMISSIONER HUTAFF: I'm not sure everybody
23 wants to.

24 CHAIRPERSON KALALAU: Commissioners. Okay.
25 Thank you, Jeff.

1 DIRECTOR HUNT: Thank you.

2 CHAIRPERSON KALALAU: Kalei.

3 COMMISSIONER MOIKEHA: Chair, the thing that
4 gets me upset about this whole thing is that this could
5 have been made real crystal clear last year. But it
6 seems like that we are allowed to go with the flow and
7 talk about the whole thing, and -- if all we are talking
8 about is permits for somebody for usage under the Banyan
9 Tree, that's an entirely different topic to me.

10 But I was under the assumption, and I don't
11 have my old notes and things like that, that, you know,
12 that we were going to discuss about Halloween itself and
13 the permit. But I realize, you know, the right to
14 gather and all those things, and we really have no say.
15 But it just seems like we spun our wheels for nothing.

16 And today it's real simple. This
17 application for uses under the tree, that's all we are
18 going to talk about.

19 CHAIRPERSON KALALAU: What we got to
20 understand, too, you know, for all the other
21 organizations that use underneath there, and build
22 stages, and put up tents and tables and stuff like
23 that --

24 COMMISSIONER MOIKEHA: It's like I said.
25 You can't deny one, and you say to the other people

1 sorry. I understand that. So, doesn't matter,
2 Halloween, how many people are going to come. If one
3 person comes, you know, that's fine. But it's
4 application for under the tree. That's all that it is.

5 CHAIRPERSON KALALAU: Okay. I think we
6 should -- is anyone else from staff going to talk on
7 this or the applicant?

8 MS. CALLENTINE: Yes, yes. Mr. Chair, I can
9 do that now. Okay. So, review today for you is -- I'm
10 Livit Callentine, Staff Planner today.

11 So, the request before you is for Historic
12 District approval for use of the Banyan Tree Park and
13 the Library Lawn in conjunction with the Annual
14 Halloween Event in Lahaina to be held on October 31st,
15 2008.

16 MRS. McCARTY: Read the slide. The slide
17 says you are approving the Annual Halloween Event.

18 MS. CALLENTINE: The Historic District -- it
19 is for activities that are associated with Halloween,
20 and I think the distinction that the Director was
21 making, I'd like to just, if I could, say a few words on
22 that.

23 I believe that what he was saying was you
24 are looking at today this approval of uses that will
25 occur or are proposed to occur on Halloween, and they

1 are the Halloween event or a Halloween event. I don't
2 think he was trying to say they weren't.

3 But then what you could -- but then the
4 other part of it is to look at -- he said Halloween as a
5 whole at another time on a separate agenda item. And I
6 see it as that what you probably want to think about is
7 reviewing uses in the Historic District, which include
8 Halloween, not just Halloween. Like how is the whole
9 Historic District being used?

10 So, that's just -- that was just my kind of
11 wanting to try to make that a little more clear. I
12 don't know if that did, but -- so, as the Director
13 stated, you may deny or approve the request.

14 And there are other activities that are
15 associated with the request, and some of them are not
16 under the purview of the Commission in terms of having
17 the authority to deny or approve, like the closure of
18 Front Street.

19 National Historic Landmark District you are
20 all familiar with. Today I handed out to you a little
21 packet of handouts which include Police Department
22 comments dated June 24th of this year, Fire Department
23 comments, which were dated March 27th of this year,
24 Department of Emergency -- sorry -- of Environmental
25 Management, dated 6/18, also a copy of a printout of the

1 record of approved Historic District permits related to
2 this event dating back to --

3 COMMISSIONER HUTAFF: I didn't get those.

4 MS. CALLENTINE: Oh, well, excuse me. I
5 will just get you one.

6 COMMISSIONER HUTAFF: Did you get those?

7 CHAIRPERSON KALALAU: On the firemen we
8 have, yeah. Small paper, Ray.

9 MS. CALLENTINE: I apologize. One of my
10 colleagues did attempt to pass them out to everyone.
11 You had it. Here.

12 COMMISSIONER HUTAFF: Oh, okay. Yeah, this
13 part I saw. Sorry about that.

14 MS. CALLENTINE: Okay. That's okay. So,
15 then handout number four is a history of approved
16 Historic District permits. That was printed out on
17 June 16th of this year.

18 And then the fifth handout is just a flyer I
19 wanted for your information. I didn't know if it had --
20 I wasn't sure whether it had been included in last
21 year's review, so this is just for your information.
22 This was a flyer advertising an organizing meeting and
23 information-sharing meeting between the merchants in
24 Lahaina and the agencies.

25 So, Police was there, Fire was there, to

1 inform the -- to inform the merchants of what they were
2 going to need to do in conjunction with this event.

3 So, we have been talking quite a bit about
4 applicable regulations. And that's 2.88, 19.48, 50, and
5 52, and then your rules and practice of procedures and
6 duties, and authority is in Chapter 30 and 31 -- 530 and
7 531. Excuse me.

8 So, in 19.48, it says in order to promote
9 the economic, cultural, and general welfare of the
10 people of the County and to insure the harmonious,
11 orderly, and efficient growth and development of the
12 County, it is deemed essential, by the County Council,
13 that the qualities relating to the history and culture
14 of the County be preserved, thereby creating attractions
15 for visitors and residents alike.

16 And in 19.50, which establishes your
17 Historic District, Historic District No. 1 is -- the
18 purpose is to preserve historic structures and sites
19 within the district and to enable the State and the
20 County to make plans for the restoration of historic
21 structures and sites.

22 And then District No. 2 is -- the purpose of
23 this district is to preserve the charm of Lahaina by
24 preserving the architectural styles unique to Lahaina.
25 There are no historic structures or sites within this

1 district to be preserved or restored.

2 And then 19.52, your regulations on
3 buildings and uses says the Commission shall have the
4 power to approve all plans, and the superintendent of
5 building inspection of the County shall not issue a
6 building permit until a certificate of approval has been
7 issued by the Historic Commission.

8 And then I don't have a slide on this, but
9 the two sections that -- in 19.52, 19.52.020A, this is
10 concerning review of plans. Within any Historic
11 District established in this article, the Commission
12 shall have the power to approve all plans, and the
13 superintendent of building inspection shall not
14 inspect -- shall not issue a building permit until a
15 certificate of approval has been issued by the Historic
16 Commission. I apologize. I seem to have repeated that
17 unintentionally.

18 And then Section 52.090E is in relation to
19 selling in public places. And I just wanted to make it
20 clear that the rules that have been established by the
21 Parks Department for use under the Banyan Tree Park
22 prohibit any cash sales, so cash sales don't occur under
23 the park. They go into the courthouse, and get scripts,
24 and come back out and purchase food and beverages and
25 whatever other items may be for sale.

1 So, in going back to the history of the
2 event, we have records back to 1992, as you saw in
3 that -- one of your handouts. In 1993 is when I'm first
4 aware that LahainaTown, actually, Committee became the
5 sponsor of the event, because it was apparently at that
6 time -- I wasn't here then -- but apparently it was
7 really disorderly and was not good.

8 Trash was not being picked up, and there was
9 no place for people to use the restroom, and LahainaTown
10 Action Committee stepped in to sponsor it. That's my
11 understanding of what happened.

12 And in 1996 to 2005, the Department has no
13 record of any written comments or concerns, and the
14 annual requests were possessed administratively.
15 However, in 2004, the official event logo depicted what
16 appeared to be a headless Native Hawaiian on a horse
17 holding a pineapple head in his outstretched hand, and
18 this image catalyzed, I think, a protest amongst Native
19 Hawaiians. And the event -- merchandise displaying this
20 event was removed from display by the LahainaTown Action
21 Committee after -- after demands that it be removed or
22 requests that it be removed.

23 In 2006, the Department received letters of
24 concern from members of Na Kupuna O Maui, Kuleana
25 Ku'ikahi, and Hui O Wa'a Kaulua, and requested that the

1 County of Maui deny their request. Because that
2 request, the event was -- sorry. Because the event was
3 substantially the same as it had been for the past 10
4 years, and the event was to occur within a few weeks of
5 these letters, the Department determined that an
6 administrative review was appropriate. But due to the
7 concerns raised, we did bring the project back to the
8 Commission in 2007.

9 And in 2007, the CRC reviewed and approved
10 the event after quite a bit of discussion. During
11 meetings with Department, our planners and community
12 groups, prior to Commission hearings, the initial
13 concerns were expressed that the event had nothing to do
14 with promoting the history of Lahaina, that attendees
15 were disrespectful of the Hawaiian culture, that there
16 was nudity, use of illegal drugs, and overconsumption of
17 alcohol, which led to littering, fighting, and theft.

18 Later on, seven central issues were
19 identified, and mitigation members (sic) were proposed
20 by the Department, by the applicant, by the participants
21 in a meeting that we held. And the specific issues,
22 which I enumerated earlier, are shown up here on this
23 slide, and the mitigation which was provided at the time
24 is shown in your right-hand column on that screen.

25 So, there was -- there has been a continual

1 effort on the part of the applicant to lessen any
2 impacts that it might have, negative impacts. And, you
3 know, that's something that we just have to recognize.

4 I think one of the terms that was expressed
5 here earlier was the Mardi Gras of the Pacific. And I
6 remember when I first heard that, I thought that seemed
7 really inappropriate to me. And I asked, at that time,
8 for the Director of LahainaTown Action Committee to
9 cease using that as a reference point, and they did.
10 And they aren't using it anymore. People keep using it,
11 but it's not the applicant that is using that reference
12 any longer.

13 Then a review of the 2007 event was
14 conducted by the Commission on January 3rd, 2008. So,
15 that's the review you were referring to, Kalei. During
16 this hearing, this Department staff presented reports,
17 which included a field account of the 2007 event and a
18 preliminary -- a preliminary cultural impact assessment
19 for the annual Halloween in Lahaina Event in the Lahaina
20 National Historic Landmark District. And that report
21 was prepared for you by Stanley Solamillo.

22 And that report drew the following
23 conclusions. That in Lahaina there exists a cultural
24 and economic world view conflict about Halloween. In
25 that while the event brings several million dollars to

1 the area, at the same time, it reinforces a
2 misperception that the history of Lahaina began during
3 the Whaling Spree, when, in fact -- which, in fact,
4 represents a comparatively short segment of Lahaina's
5 history.

6 Two, that Halloween revelers of modern times
7 are, for the most part, ignorant of the cultural and
8 historical significance of pre-Whaling Spree Lahaina,
9 and some may unintentionally behave in ways that are
10 disrespectful to the host culture versus the view that
11 Native Hawaiians -- of Native Hawaiians who said in
12 testimony we don't want Lahaina remembered this way.

13 Three, that growing interest, since the
14 1970s, among Native Hawaiians to reclaim their history
15 is incompatible with the economy based merchant culture.

16 And four, that the forthcoming restoration
17 of Moku'ula represents a unique opportunity to bring the
18 two world views into accord, by acknowledging Lahaina as
19 a sacred and important place through the careful
20 planning and practice of ethno or cultural tourism,
21 which educates visitors about the true history of the
22 place and of the peoples.

23 So, the current event -- I apologize. We
24 made a change. The staff report has not been amended,
25 so I am amending it on the floor here today. It omitted

1 the description of the Lahaina Library Lawn. The
2 applicant is actually willing to forego that stage area
3 on the Library Lawn if that seems like that's a
4 direction that you would like to take today.

5 The Planning Department, perhaps in error,
6 we determined that -- and I was there last year. I went
7 from 3:00 o'clock to 1:00 a.m. And, you know, I walked
8 up and down that street, and I saw everything and
9 everybody.

10 And I don't know -- I don't know how many of
11 you were actually there all that time, but I saw things
12 I didn't mind, I thought were fun and creative, and I
13 saw things I didn't like at all. And I don't really
14 want to go back again.

15 But, what I did see was that where there was
16 some kind of focused place for people to focus on, they
17 were more -- they were less obnoxious. And when
18 there -- when there was nothing there, and they were
19 just milling back and forth, it was -- they were
20 obnoxious.

21 So, in our judgment, it was better to have
22 that second stage to provide -- to provide a focus, so
23 that people wouldn't just be wandering around aimlessly.
24 So, this request does include the Library Lawn, but
25 that's certainly debatable.

1 Other activities are associated with the
2 permit, as I mentioned, including the temporary closure
3 of portions of Front Street, and that would be from
4 Baker to Prison Street, from 3:30, which is actually for
5 the keiki parade, and then it would be reopened at
6 approximately midnight.

7 And Campbell Park and the Baldwin House Lawn
8 will also be utilized, and the approvals have been
9 received for those by the applicant. So, the current
10 request will have stages for live music -- excuse me --
11 and a sponsored costume contest, themed artisan and
12 noncommercial food booths, and the selling of souvenir
13 event shirts.

14 VICE-CHAIRPERSON FREDERICKSEN: Excuse me.
15 You mentioned the -- what is it, Campbell Park and then
16 the Lahaina Restoration Foundation?

17 MS. CALLENTINE: The Baldwin House Lawn.

18 VICE-CHAIRPERSON FREDERICKSEN: The Baldwin.

19 MS. CALLENTINE: Yeah.

20 VICE-CHAIRPERSON FREDERICKSEN: Yeah. What
21 is going there?

22 MS. CALLENTINE: Actually, let me -- let me
23 ask the applicant to clarify that, if I could, because
24 I'm -- it may be that that's a police substation. Rina,
25 could you come forward and correct me if I'm wrong?

1 COMMISSIONER HUTAFF: Yes, police.

2 MS. CALLENTINE: This was part of previous
3 years' applications, and I was under the impression that
4 this was also part of this years' application, so thank
5 you for letting the applicant come up.

6 MS. SAMPSON: Aloha. Rina Sampson.
7 Campbell Park is used. We have a retail table there
8 selling the souvenir T-shirts, and the Waiola Church
9 group has a food booth there as well. So, it's part of
10 what they do for Halloween as well.

11 VICE-CHAIRPERSON FREDERICKSEN: And then
12 what's on Baldwin, the Baldwin house lot?

13 MS. SAMPSON: We had used that in the past
14 for a police substation, and I'm not sure if we are
15 going to -- if they are going to continue doing that.
16 They used a different location last year, so I think
17 Lawrence will be able to answer that, and that's --

18 VICE-CHAIRPERSON FREDERICKSEN: Later.

19 MS. SAMPSON: -- information from Lahaina
20 Restoration.

21 MS. CALLENTINE: Thank you. So, with music
22 and entertainment, the live music and entertainment
23 performances will be similar in scope to last year. The
24 two stages will be provided, one at Banyan Tree Park and
25 the other at the Library Lawn.

1 And Banyan Tree Park, the Air Force Band of
2 the Pacific will perform from 5:00 to 7:00 p.m. And
3 from 7:00 to 9:00 p.m., there will be a costume contest,
4 and the costume contest will -- the winners of the
5 contest will be announced by 10:00 p.m.

6 And we anticipate that there will be no more
7 sponsored activities going on in Banyan Tree Park by
8 11:00 a.m. (sic). And then in the Library Lawn, should
9 you approve this one, it would be from 5:30 to 11:00. I
10 don't have the exact bands, but bands such as Hector
11 Serrano's or Marty Dread's band will perform there. And
12 then the -- in Campbell Park, there's, from 4:00 to
13 11:00, an event merchandise booth.

14 And the Department did explore moving the
15 event to Papalaua Street. Actually, this is like moving
16 it. I know that was one of the things you guys talked
17 about. We actually just explored moving the event
18 totally out of Historic District No. 1, and the Police
19 Department, who I think Lawrence will be able to speak
20 to this, had concerns. And that is actually your
21 handout number -- it's one of your handouts today. You
22 can read what the police said about -- it's actually
23 number one.

24 They had concerns about doing that and
25 recommended against closing Papalaua. So, we didn't

1 pursue trying to move it to another location.

2 Okay. Just going on with the arts and
3 crafts or the arts and food, these booths will include
4 up to 12 fortune tellers, face painters, mystics, other
5 artisans and food vendors situated in separate
6 100-square-foot tents, with overhead lighting, spread
7 throughout Banyan Tree Park.

8 The community organizations that actually
9 benefit from this -- from these booths are Lahaina Pop
10 Warner, Lahaina High School Band, Kukulu Kumuhan,
11 Santiago Association, Raenette Akima, and Maui Surf
12 Groms. They run the food booths, and the event is one
13 of their main fund raisers of the year.

14 And these booths are scheduled to be open
15 from 5:00 to 11:00 p.m. All art work must be made by
16 hand by the artist or his or her immediate family in the
17 County of Maui. And in the food booths, there won't be
18 any cooking or open flames taking place. And there are
19 souvenirs, event souvenirs that will be sold in both
20 Banyan Tree Park and Campbell Park.

21 And as far as event housekeeping, the event
22 is proposed to be set up earlier than the day of. And I
23 thought it was going to be Sunday, October 26th, but it
24 actually may not be until Wednesday that you are going
25 to set up?

1 MS. SAMPSON: If we get approved for the big
2 stage, it will have to be on the Sunday.

3 MS. CALLENTINE: So, I was correct. The big
4 stage in Lahaina -- sorry -- in Banyan Tree Park will be
5 set up on Sunday, October 26th. Breakdown will be
6 completed on Saturday, November 1st, and the Kanaha
7 (sic) Canoe Club assists in setup and breakdown. Tava
8 Nui provides cleanup.

9 And the following equipment will be in
10 place. The applicant proposes to provide and maintain
11 up to 10 portable toilets to be located throughout the
12 area at all major intersections, from Papalaua, in front
13 of the Bank of Hawaii, to Prison Street. The applicant
14 will coordinate with the Police Department regarding
15 placement of the portable toilets, and lighting will be
16 provided for each group of toilets.

17 And these were -- these last two items, the
18 location of the portable toilets and the lighting, were
19 strongly recommended by Police and Fire last year, and
20 so we have taken that into account.

21 And the applicant is increasing the number
22 of light towers provided from four to seven this year,
23 and they will be spaced out along Front Street at
24 various different locations such as Papalaua,
25 Lahainaluna, Wharf Street, Dickinson Street, Hotel

1 Street, Market Street, Wharf and Canal Streets. And
2 this additional lighting we anticipate will provide
3 increased safety for event participants.

4 Additionally, we anticipate that the Police
5 Department will provide a light tower next to portable
6 toilets that will be located in the County parking on
7 Luakini Street. And one dumpster is proposed and will
8 be located on the makai side of Wharf Street between the
9 Court House and the public harbor restrooms.

10 And there will be access on both ends of the
11 closure for security and emergency vehicles, and there
12 will be trash and recycling containers and complete
13 event cleanup.

14 The agencies who commented, and are either
15 in your handout or in your report, are Public Works,
16 Department of Parks & Recreation, the Police Department,
17 and Department of Fire and Public Safety, and Department
18 of Environmental Management.

19 And essentially, Public Works, Parks &
20 Recreation, and Fire and Public Safety had no comments.
21 The Police Department said they should not close
22 Papalaua Street, and Department of Environmental
23 Management recommended providing the recycling
24 containers.

25 Actually, there was one e-mail that I just

1 received at the start of this meeting which was in favor
2 of the event, and I believe that was distributed to you
3 separate from the handout that I distributed.

4 So, getting to the analysis, so, the
5 Department looked at the overall impacts of this event,
6 and we made some conclusions. I won't go through every
7 single one of them. I won't say the ones like the event
8 is proposed to take place on Wednesday, October 31st,
9 and so forth. I will say the ones I think you would
10 want to be aware of, but you have them all in front of
11 you in your report.

12 And so, about your report, I just want to
13 say, in response to the comment that this seems to be a
14 scaled down version of earlier reports, that's true. It
15 is. And it's not to try to make it look like a
16 different event. It's because you know what this event
17 is already, and you have previous reports, and you could
18 incorporate those reports into your review of this
19 year's event. I just wanted to make that clear.

20 VICE-CHAIRPERSON FREDERICKSEN: I have a
21 question.

22 MS. CALLENTINE: The --

23 VICE-CHAIRPERSON FREDERICKSEN: Excuse me.
24 Hello.

25 CHAIRPERSON KALALAU: Yes, yes.

1 MS. CALLENTINE: Sorry, Eric.

2 VICE-CHAIRPERSON FREDERICKSEN: I have a
3 question on under analysis, number three. It says the
4 parade organizers are aware that they must obtain
5 approval from the Police Department, Department of
6 Parks & Recreation, Department of Public Works,
7 Department of Health, Waiola Church prior to the event.

8 MS. CALLENTINE: Uh-huh.

9 VICE-CHAIRPERSON FREDERICKSEN: What -- how
10 does this parade tie into the permit for the stuff under
11 Banyan Tree and the Library?

12 MS. CALLENTINE: You know what? That's
13 actually, the word -- excuse me. The word parade should
14 be stricken. That's an oversight on my part. This is
15 not a parade. Thank you for pointing that out.

16 VICE-CHAIRPERSON FREDERICKSEN: So, what,
17 what -- so, what would we have there in its place?

18 MS. CALLENTINE: You would just -- the
19 organizers or the applicant, that's who it is. Was
20 there anything else? Okay. So, nothing else?

21 CHAIRPERSON KALALAU: Veronica.

22 COMMISSIONER MARQUEZ: I have a question. I
23 think it's for Corporation Counsel. At what point in
24 this meeting can someone on this Board defer this item,
25 this agenda item? Just being honest.

1 DEPUTY CORPORATION COUNSEL: I guess
2 whenever the Chair wants to receive motions, but I think
3 since it is on the agenda item, you should at least take
4 public hearing and get to discussion.

5 COMMISSIONER MARQUEZ: Oh, then, then.

6 DEPUTY CORPORATION COUNSEL: And at
7 discussion, you can probably raise motions.

8 COMMISSIONER MARQUEZ: Thank you. Okay.

9 CHAIRPERSON KALALAU: Okay. Any more
10 questions, Commissioners?

11 COMMISSIONER HUTAFF: Are you done with your
12 presentation?

13 MS. CALLENTINE: I haven't completed the
14 analysis.

15 COMMISSIONER HUTAFF: I will wait then.

16 MS. CALLENTINE: But it's up to you if you
17 don't want to hear it.

18 COMMISSIONER HUTAFF: No, no. Actually, I
19 think we have to hear it. We have to hear it.

20 CHAIRPERSON KALALAU: Yes.

21 MS. CALLENTINE: Okay. The applicant --
22 just to go back to number three, the applicant is aware
23 that they must obtain approval from the Police
24 Department, the Department of Parks & Recreation, the
25 Department of Public Works, Department of Health, and

1 Waiola Church prior to the event.

2 The property is located in the Special
3 Management Area and will -- and concurrent applications
4 for Special Management Area and Historic District
5 approval have been filed with the Department. Pursuant
6 to Chapter 343, Hawaii Revised Statutes, the uses
7 proposed qualify as construction or placement of minor
8 structures accessory to existing facilities and, as
9 such, qualify as an exempt class of action and does not
10 require an environmental assessment.

11 A comparably scoped event has been operated
12 successfully and without major incident since 1989, is
13 what some say, but our records only go back to 1992.

14 The event has become a major attraction for
15 residents and visitors alike, some of whom plan years in
16 advance to attend.

17 The event does draw an estimated crowd of 20
18 to 30,000, and business owners in Lahaina claim the
19 event brings a high volume of revenue into the local
20 economy.

21 The original idea to close off Front Street
22 was based on Police Department concerns about public
23 safety. The Police Department felt that a large crowd
24 of people intermingling with vehicle traffic was a
25 safety issue, so the closure of the street is under the

1 purview of the Police Department not subject to the
2 approval of the Commission.

3 The Department explored moving the event to
4 Papalaua. Police were concerned and recommended against
5 this, and you saw the reasons in your description.

6 For the 2007 event, the applicant attempted
7 to address or mitigate the concerns that were expressed,
8 and further mitigation will be attempted in the future.

9 The Department of Planning believes this is a better
10 approach rather than trying to shut down the entire
11 event.

12 The requested permit is only for use of
13 Banyan Tree Park and Library Lawn, and the proposed uses
14 at the Park and the Library provide a creative and
15 healthy activity for the public.

16 And 11, it is highly probable that events
17 (sic) will arrive in Lahaina and carry on the
18 celebration regardless of the lack of permitted uses.
19 The applicant provides many services, including
20 security, first aid, portable restrooms, and cleanup of
21 the litter. Such services are necessary due to the
22 large number of people that are expected to participate.

23 If these services are not provided by the
24 applicant, the County will be forced to assume
25 responsibility for maintaining public safety and

1 sanitation standards at considerable cost to the County.
2 The people who directly benefit from the increased
3 economic activity will not bear the cost of providing
4 such services.

5 And the following courses of action are
6 available to you: That you can approve it, either as
7 proposed or with changes; you can defer a decision; or
8 you can deny the application.

9 And generally, the Department holds off on
10 its full list of recommended conditions until you have
11 held a public hearing, and you have discussed it, but
12 it's up to you, Mr. Chair. If you would direct me, I
13 would follow the direction.

14 CHAIRPERSON KALALAU: I think the
15 Commissioners feel that I believe we have enough
16 information from the analysis, and because this
17 information we had in the last meeting, too, that we
18 move on with the -- with the meeting.

19 And are we having the applicant come up, or
20 are we going to open the floor now for the general
21 public? Who wants to testify on this agenda item?

22 MS. CALLENTINE: I think that is your -- at
23 your discretion. I believe the applicant is here and is
24 prepared to speak, I believe. Yes. She would like
25 that.

1 CHAIRPERSON KALALAU: All right. Thank you.

2 We can have the applicant come forward, please.

3 MS. SAMPSON: Aloha again. Rina Sampson.

4 CHAIRPERSON KALALAU: Any questions for

5 Rina?

6 MS. SAMPSON: Just to clarify then the

7 application that was put forth, LahainaTown Action

8 Committee's event is pretty much contained to the Banyan

9 Tree and has been over the years.

10 What we saw was a need to help organize the

11 rest of Front Street, and that's where the application

12 for the street closure came in was to assist with

13 keeping that vehicle traffic and foot traffic separate

14 for a number of hours that night while people were

15 visiting Front Street Lahaina Town, and then again the

16 need to organize cleanup after the event.

17 So, that's really what we have been helping

18 with in the past is having our event under the Banyan

19 Tree, which is something that we do with all our other

20 events, and this being Halloween, the T-shirt booth we

21 have at Campbell Park is permission from Campbell Park.

22 And they, as well, have a food booth there for that

23 night as well.

24 But the application that you see before you

25 today is really for us to be able to have our event

1 under the Banyan Tree that we have been -- that really
2 is the event that's contained to that part of Front
3 Street.

4 CHAIRPERSON KALALAU: Thank you. Eric.

5 VICE-CHAIRPERSON FREDERICKSEN: What -- so,
6 is LahainaTown Action Committee proposing to use the
7 Library Lawn or is -- what is that venue being sought
8 for?

9 MS. SAMPSON: Last year we had a stage there
10 as well as portable potties, and that was -- that was a
11 sensitive issue last year, so we removed the portable
12 potties. They did not need to be there.

13 Again, if that is another concern, then the
14 stage can be removed as well. That would be left up to
15 you. That second stage just provided music for people
16 that are --

17 VICE-CHAIRPERSON FREDERICKSEN: Which side
18 of the lawn?

19 MS. SAMPSON: It's on the Front Street side.

20 VICE-CHAIRPERSON FREDERICKSEN: Thank you.

21 COMMISSIONER HUTAFF: Okay. Porta-potties,
22 you mentioned 12 in your plans. I count six.

23 MS. SAMPSON: There were six at the County
24 parking lot on the block behind Front Street, and they
25 were spread out. Because they were removed from Library

1 Lawn, they were put on Papalaua, and another four was
2 moved to a different location.

3 What we think will work better this year is
4 we spread them out even more, and not have them just in
5 two locations, but under the direction and advisement of
6 the Police Department that we have maybe two on every
7 street that feeds Front Street just so there would be
8 more available.

9 COMMISSIONER HUTAFF: Yeah, true, because
10 from being down there before, the back of the Library
11 and Market Street was a very popular place for the
12 gentlemen. Did I say gentlemen? Okay.

13 CHAIRPERSON KALALAU: Any more questions?
14 If not, thank you very much.

15 We will now open the floor for people in the
16 public that wants to testify on this agenda item. And
17 please remember to state your name, and we will have
18 each one of you on a three-minute time limit. I have
19 got to get the list.

20 Okay. The first person on the sign up list
21 is Uilani Kapu, followed by Ke'eaumoku Kapu, and
22 followed by Kaipo Kekona.

23 MRS. KAPU: Can I go at the end while I --
24 thank you.

25 CHAIRPERSON KALALAU: Ke'eaumoku. I just

1 want to remind the Commissioners and everybody else that
2 this, you know, is the permit before this Commission on
3 stages and construction of stages within the Historical
4 District area.

5 MR. KAPU: Aloha kakou. Ke'eaumoku Kapu,
6 Lahaina. I just like to retract on da kine, the last
7 agenda item on the comments that I made based upon what
8 your duties were and how the County always persists to
9 take teeth from this Commission even more. That that
10 comment be restated again.

11 I mean, now we are looking at what? What we
12 actually looking at? Permit for what? The first thing
13 comes to mind for me is promotions. You guys going to
14 help promote something. What is it by allowing this
15 so-called thing?

16 I hear comments saying that you guys might
17 want to take up deferring this. You always have an
18 opportunity come back. Deny the application. Then
19 whatever comes up in the Lahaina festivities, if they
20 give you the jurisdiction to even adjudicate, yeah, that
21 should be first.

22 Couple months ago, maybe three months ago,
23 when the keiki parade came in front, you guys approved
24 that. Oh, yeah, we was in favor of that. But is this
25 the same stage we talking about or is it a different

1 stage? Is it for the Kamalii or is it for the revilers?

2 The stage is already implemented. It's set
3 in place. So kind of funny how you guys going to be
4 doing something, creating the wheel all over again. The
5 wheel in this Commission and County is square. It's not
6 round.

7 I'm appalled. This is very discriminate,
8 and I definitely feel sorry for all of you behind the
9 Commission. Sort of wake up in the next morning and
10 look at the clock based upon what you guys going to be
11 doing the next day.

12 I hope you guys sort of really think about
13 it every time when you come to this Commission now to
14 know that what I stated from the beginning, based upon
15 you being machines. You can thank the County for that.
16 And despite how they want to twist and tangle this
17 so-call thing, talking about so this is not a part of
18 this, and this body is not a part of that, kala mai ia'u
19 my words, but I said it before. Bullshit.

20 This whole process, County Planning, County
21 Resource, State, where they come in? I think you guys
22 should be more afraid of whether or not Bruddah over
23 there, Corporate Counsel, on anything that is said in
24 this room right now can defend you guys if all of a
25 sudden somebody wanted to file one lawsuit or something

1 on this Commission, because you guys went overlook
2 something based upon protecting sacred areas, which they
3 claim is your fiduciary duty or your job to address.

4 But then they try not tell you that all you
5 have on the agenda is the application for to set up a
6 stage, a stage inside Kamehameha, the Library Lawn,
7 that's apuakehau. Sam talked about it. Where that
8 ali'i would strip his clothes and would bend down. That
9 is a sacred area as well.

10 The military band that going to be playing
11 in Banyan Tree Park next to the so-called infamous
12 courthouse, guess what that reality check? That ain't a
13 courthouse anymore. They took all those things about
14 two, three years ago, and nobody knows where it went.
15 That is genocided from our town, and I still waiting for
16 clarity based upon where all the stuff went that went
17 into the courthouse, and they changed it into a museum.

18 Our history went erased just like that
19 before our eyes. My kupuna was trialed in that
20 courthouse. Now the courthouse, all it has to offer is
21 education on Hawaii's post-contact history.

22 What's happening, guys? I will say it again
23 in my ending comment. What is happening to us where we
24 no longer are allowed to give common courtesy and mana'o
25 that comes from here. What went happen?

1 Be stringent. Take heed. Grab the
2 jurisdiction by the horns. No comply. Because they
3 already went turn your heads to look at something else
4 that has nothing to do, nothing to do with the
5 protection and preservation of what your job description
6 is supposed to be.

7 Now you looking at something totally
8 different. If this ever does happen, who you got to go
9 to? Who is putting on this event? The County? Is the
10 County promoting Halloween in Lahaina? Because they
11 strip you guys of your authority.

12 So, I like know who doing this event?
13 Health Department, Police Department, Fire Department,
14 County Planning, they are the ones putting on this event
15 without public comment. It's a done deal.

16 My recommendations, deny this application.
17 They have another chance. Listen to the other mess
18 coming first before you even allow this so-called
19 staging, toilets on Papalaua, and this band in the
20 sacred patch of apuakehau.

21 Then let's also do an analysis on all these
22 other sites. You guys like do some heavy
23 recommendations? Every site in Lahaina, 60 of them,
24 yeah, two monitors per site through the duration of the
25 festival. Two monitors comes to what? 120 monitors

1 that night for what, eight hours. And make sure the
2 monitors know what they protecting. Deny the
3 application. Mahalo.

4 CHAIRPERSON KALALAU: Thank you. One
5 question. I know you sat on this Commission for five
6 years. You know, this is my feeling. If you approve or
7 deny one group from the other group, we still going to
8 have this problem. You know, everybody else --

9 MR. KAPU: Depends.

10 CHAIRPERSON KALALAU: Everybody else is
11 still going to come forward and push the -- and push the
12 issue about now we need stages. Now we need this. You
13 know, I mean, there might be a historical Hawaiian event
14 that might get 50,000 people down there, and then what
15 then? We deny the people from --

16 UNIDENTIFIED MAN: No more 30,000 drunks.

17 CHAIRPERSON KALALAU: I mean, you know, I
18 start to consider.

19 MR. KAPU: I think the dynamics is totally
20 different here pertaining to a cultural festival. You
21 know, I was here last year sitting on the seat, and I
22 had to bite my tongue when this so-call person, a
23 representative LahainaTown Action Committee, comes in
24 front and says I seen more naked people at the Festival
25 of Canoes than I do at the Lahaina Mardi Gras.

1 That's total -- two total different things
2 that is going on, is the preservation and perpetuation
3 of our culture, language, protocol, versus something
4 that is totally invasive to our aina.

5 The recommendation, whatever the logistics
6 is to protect a national registered area. You guys even
7 shoved up against the wall to even making any decision
8 based upon that. The County already gave you guys
9 walking little track of where you can go, where you
10 cannot go.

11 So, what's the sense of the Cultural
12 Resources Commission if you guys don't have any teeth to
13 address the real core issue based upon who going to be
14 discriminated upon. 2004, the headless horseman, yeah?
15 The headless Hawaiian quoted by a County official, on
16 record today, when was the review of the Lahaina
17 Festival ever implemented from the creation of the
18 Lahaina Halloween.

19 Took them eight, nine years. The County
20 just rubber stamp 'em year after year, year after year,
21 until 2004. The headless kanaka comes up, boom. Now
22 everybody thinking we the guys. We the bad guys, me, my
23 wife, our kupuna. We the bad guys, because we stopping
24 economics, and progress, and a possible election, when I
25 see all these people going to be running for office

1 wearing their costumes, passing out they so-called
2 flyers are running for mayor, running for County
3 Council, running for Senate.

4 I see 'em all over there. That's the
5 perfect opportunity for publicity, yeah, and promoting
6 and getting people to be elected. Your question, that's
7 one hard question, but it depends on the venue, and this
8 venue not for this town. Mahalo.

9 CHAIRPERSON KALALAU: Thank you. Yeah, it's
10 surprising that they are all down there doing Halloween,
11 but they are not down there doing Canoe Festival or the
12 other activities promoting it.

13 COMMISSIONER HUTAFF: Actually, they were,
14 which was rather rude.

15 CHAIRPERSON KALALAU: Was rude.

16 COMMISSIONER HUTAFF: Yeah, I thought it was
17 rude. They are having a cultural event, and they are
18 passing out flyers elect me, reelect me, and buy my
19 products for my hair.

20 CHAIRPERSON KALALAU: Maybe we should ban
21 that from the historical.

22 COMMISSIONER HUTAFF: I thought it was.
23 Your comment about teeth. Okay. It's a very good
24 comment. It's actually very truthful. The problem is,
25 is that like all of us on this Board never have teeth,

1 but we can grow teeth actually. Just a comment.

2 MR. KAPU: Well, after five years, I lost
3 about four teeth sitting on this Commission. And that's
4 from me sitting behind the Chair grinding my teeth is
5 the reason why I lost 'em.

6 CHAIRPERSON KALALAU: Okay. Kalei.

7 COMMISSIONER MOIKEHA: I have a question for
8 Corp Counsel.

9 MR. KAPU: Okay. Mahalo.

10 COMMISSIONER KAPU: Are we liable if we deny
11 this and somebody else comes forward and says, you know
12 what? I mean, can we be sued?

13 DEPUTY CORPORATION COUNSEL: This is a
14 permitting process. I think that when you ask about
15 liability, you got to think about what theory -- under
16 what theory you are going to be sued and the like.

17 But, if you want, we can go into executive
18 session and discuss it, or I can talk to you about just
19 the generalities of this -- the nature of these types of
20 permits is that you are being asked to review this under
21 a cultural precept. And that means that you are being
22 asked is this an appropriate cultural event or
23 inappropriate for the venue. And I think that's been
24 brought up already.

25 And so when somebody asks for a permit, it's

1 not necessarily an entitlement. They have to prove that
2 there's a property interest in that permit. Once you
3 give somebody a permit though, and they -- you know,
4 they structure their activities around it, they promote
5 it, they do it, you know, they invest money into it, and
6 you incrementally take it away, then you incur -- I
7 would be more concerned about incurring liability at
8 that point, because then they have already gotten what
9 they call a vested interest.

10 But in the decision making, I think you
11 really need -- as long as you are following the mandates
12 of the creation of your position, which is that you are
13 looking at the cultural aspect, cultural protection,
14 cultural protection of sites, and you are taking that
15 all into consideration in your decision making, that the
16 County would indemnify you, if sued.

17 I mean, I am not saying you are not going to
18 get sued, but the County would indemnify you, because
19 you are acting within the purview of your job
20 description.

21 The final arbiter of whether or not you
22 would get an attorney or not would be the County
23 Council. You know, we would have to go and ask for
24 indemnification and the like. But, in the sense that
25 this is the nature of your job, you have been

1 commissioned to do this, I would see it highly unlikely.

2 I don't think it's a matter of granting or
3 denying. It's a matter of looking at whether or not you
4 are working within the scope of your duties. And your
5 duties are clearly laid out in the County Code and your
6 rules.

7 You have got a lot of resources that are --
8 that you can fall back on as far as, you know, you have
9 got a litany of guidelines. 2.88.080 has one, two,
10 three, four, five, six, seven, eight -- over 10
11 different reports, plans, guidelines, resources, you
12 know. And one of them is the Office of Hawaiian Affairs
13 guidelines for consideration of traditional Native
14 Hawaiian values in historic preservation review dated
15 1988.

16 And you also have in your possession the
17 preliminary cultural impact assessment from the
18 Halloween in Lahaina, the Lahaina National Historic
19 Landmark. So, these are all -- if you are making your
20 decisions based on these facts or these guidelines or
21 precepts, you are within the purview of your decision
22 making. So, that's all I think I want to state in the
23 public venue.

24 COMMISSIONER MOIKEHA: And based on what has
25 been said, it doesn't only pertain to a permit system

1 asking for stages. You got to incur the whole event,
2 you know. And basically it comes back to the things we
3 are talking about, and it has really no cultural
4 significance for the Hawaiians.

5 CHAIRPERSON KALALAU: Any more questions?

6 If not, let's continue. Kaipo.

7 MR. KEKONA: Aloha. My name is Kaipo
8 Kekona. I live in Lahaina, born and raised. I sit on
9 the General Plan Advisory Committee, but I come to you
10 today as a regular kanaka maoli.

11 I, too, feel sorry for you guys, because I
12 kinda see it more and more now. I like to get involved,
13 but I see how the system get fucked around, and you end
14 up looking at one small little thing when you first set
15 to look at one big thing. So, it gets really
16 frustrating for me at times.

17 I guess I don't understand it as much as I
18 thought I did. But if we can only focus on the
19 situation at hand, as far as stages -- and it's not just
20 the library and all of that, because now they stretch
21 themselves all the way across town and put porta-potties
22 all the way at Hard Rock Cafe like.

23 So, it's kind of already telling you that
24 they control the whole area, but they not closing the
25 streets. The Police Department is. You know, like kind

1 of like they are working in hand.

2 But, to me, you know your job, and the
3 specific areas where they like put up stages is all
4 highly significant. Sam Ka'ai had already -- you know,
5 like before he came up, my heart was racing. I was
6 boiling. I wanted to throw stuff around. But when he
7 talk, he settle me down a little bit.

8 But that should be enough for you guys. You
9 guys no need anymore. I mean, Luakini, you can still
10 find, you know, little remnants along the road from what
11 that was before it became a paved road. That kind stuff
12 is like we get the biggest jewel in the whole state, and
13 instead, we decide for throw one Halloween fiesta.

14 I mean, we could -- we have so much more to
15 offer. We can make Mala Ulu O Lele there. We go plant
16 ulu trees all over town or something. We named after
17 that, and we don't get one day for that.

18 It's like frustrating, brah. This lady over
19 here, if she was made out of wood, her nose would grow
20 12 feet. Every time she talk, she was lying. Every
21 time she go, oh, I better retract that, or that was a
22 misprint.

23 They knew what was coming in front of you
24 guys, and only for the stages, and only that. It's not
25 about the event. She said the event word 117 times.

1 The event this, the event that, the event this.
2 Everything about the event, but she only here for the
3 stage and the porta-potties.

4 Something wrong about it. That kind stuff
5 is right in front your face. You guys just got to put
6 'em in check. I wish I could be able for do that. I
7 just got -- I sharpening my spear. Pretty soon I'm
8 going to start being on patrol.

9 MR. SOLAMILLO: Three minutes.

10 MR. KEKONA: And I remember the last time
11 that you guys was here. So, with my closing, right on,
12 Bruddah. I remember you. Some other people, you
13 guys -- you guys know who you are.

14 When ballots down to just couple of you
15 braddahs and sistahs, and the thing went the other way.
16 I hope this time maybe you can stand firmly a little bit
17 more and make me feel proud about my people again,
18 because one bruddah made me smile for the rest of the
19 day, even though I was mad as hell. Thank you.

20 CHAIRPERSON KALALAU: Thank you. Follow
21 Kaipo is Patty, and after Patty is Palani Wright. Oh,
22 Uilani.

23 MS. NISHIYAMA: Aloha. My name is Patricia
24 Nishiyama, aka Auntie Patty Nishiyama, born and raised
25 in Puu Koli'i, the ahupua'a of Hanako'o. Now we are

1 very tired, very, very tired. We come here every time
2 to testify about this issue. It's very tiring. I am
3 telling you, we are very tired.

4 And we have been with Uncle Sam Ka'ai for
5 four days. We kukakuka about this whole thing about
6 Lahaina, the cultural, culture and everything else, and
7 it was a beautiful four days that we had with him. We
8 slept together. We talk until 1:00 o'clock in the
9 morning, get up at 6:00 o'clock, continue to talk about
10 the culture of Lahaina. It was just beautiful.

11 And I leave it with you that what he has
12 said today is our culture, you know. And that we
13 leave -- leave this kuleana in your hands to make sure
14 that this culture moves forward with our future
15 generation.

16 Not the Mardi Gras of the Pacific. We want
17 to make sure that the history books of Hawaii and kanaka
18 maoli, it will be the culture of Piilani and all the
19 ali'is that was born and raised and was there in
20 Lahaina.

21 We don't want to see in the history book --
22 probably I am not going to be here by that time, but my
23 grandchildren will be there, and they are probably going
24 to witness Lahaina Town, the Mardi Gras of the Pacific.
25 That cannot be. I don't want that for my mo'opunas. I

1 have 15. And I can be a great-grandmother pretty soon,
2 too.

3 But I want our rich history to continue, not
4 the Mardi Gras of the Pacific. And if it goes for the
5 keiki parade or the Halloween, just the keiki parade,
6 that's fine, because it presents the keiki. Not the
7 adults running around like Play Boy. And last -- two
8 nights ago, again I saw in the television, Akaku, people
9 holding false penis in their hands again. What is going
10 on? Oh, my goodness.

11 But anyway, this kuleana is in your hands.
12 You know what is right. And you need to keep our
13 history for the future generation of our mo'opunas, not
14 Play Boy magazine.

15 Anyway, mahalo, and God bless you. Thank
16 you so much. And we are tired. Okay? Mahalo.

17 CHAIRPERSON KALALAU: Thank you. Palani,
18 can we have Uilani come up, because she's way up on the
19 list. Ui, you can come up now and then followed by
20 Palani.

21 MRS. KAPU: Mahalo nui aloha. Uilani Kapu,
22 Kuleana Kui Kahi. I was just looking at the slide, and
23 it's surprising what they left up, recommending
24 approval.

25 What's before you folks is to obtain

1 Historical District's approval. I have one question
2 right now. When we had the keiki parade before us, was
3 the stage approved or not for the keiki parade?

4 MS. CALLENTINE: Yes, the stage was included
5 in that application.

6 MRS. KAPU: So, the keiki parade would be
7 the ones setting up that stage?

8 MS. CALLENTINE: That's correct.

9 MRS. KAPU: So, you folks don't have to
10 approve a stage.

11 The next one, historical significance, and
12 District 1 is a common -- it's plain and simple. What
13 your folks' job is to protect historical sites in the
14 areas. You folks know it. You folks heard it. You
15 folks cultural resources management.

16 You folks have everything in front of you
17 folks. I don't have -- I mean, I brought all of this,
18 because I wasn't going to come before you folks with all
19 my past letters, with all my past -- other past minutes,
20 meetings that we have had, because you folks have all of
21 that.

22 I was going to come before you folks today
23 reminding you folks of who you are, Cultural Resources
24 Commission, and protecting our cultural sites and
25 significance of what Lahaina is all about. You folks

1 know the history and the purity of Lahaina. You folks
2 don't need to be told that, but I was just going to come
3 to remind you folks of that.

4 Because everything we said since 2006 is all
5 recorded, but we have never come before you folks really
6 to stress the cultural significance, and the purity of
7 Lahaina, and what we, as residents kanaka maoli
8 residents of Lahaina are trying to bring back to that
9 area.

10 We have worked hard to have a traditional
11 hale in Kamehameha Iki Park. That Hui O Wa'a Kaulua has
12 tried since 1997 to change that park to its purest of
13 history. Moku'ula has been there for years and has
14 tried for years and has finally gotten somewhere to get
15 approvals through the County so they can move on on just
16 their phase one.

17 I'm sorry that you folks had to be brought
18 down to a level of just approval on the facilities only,
19 because everybody came here for the whole thing. That
20 was our whole full mentality.

21 I am here to deny because of its historical
22 district, and I just want to say mahalo. And Kuleana
23 Ku'ikahi has always been there to protect, preserve,
24 perpetuate what is our history. Mahalo.

25 CHAIRPERSON KALALAU: Thank you. Palani.

1 MR. WRIGHT: Aloha kakou. Palani Kou Inoa
2 (speaking Hawaiian) Lahaina. I just want to just keep
3 on the same point in brief. I know there's a lot of
4 things that have been said. But I just want to said
5 that I hope you guys deny the application for that.

6 Like Auntie said, not going to tell you guys
7 so much about Lahaina, because you guys already know and
8 stuff, but what culture is Halloween? I don't even
9 know, but that don't mean nothing to me compared to how
10 much Lahaina mean to me and my family that come from
11 that place, that have stories of that place of so much
12 significance, and even the generations that have come
13 way before me and my ohana.

14 And everything moving away too fast. It
15 changes it. Even that Lahaina, this Halloween event,
16 even though it's just one night, but the wave of change
17 is so big that everything is just -- it moves twice as
18 fast every year. And I 22 years old, and I really don't
19 like the way things is going in Lahaina.

20 And on the comment to you, Chair, Chairman,
21 if we had 50,000 Hawaiians down in Lahaina, we could do
22 so much to that place, so much positive, so much. And
23 like Uncle Sam Ka'ai said aina. Lahaina could feed so
24 much people, it's not even funny. So, I just hope you
25 guys deny the application. Thank you.

1 CHAIRPERSON KALALAU: Thank you. James
2 McCarthy followed by Vicki and followed by John.

3 MR. McCARTHY: Aloha. Good afternoon. Yes,
4 I'd like to offer some comments I think hopefully will
5 be helpful to you.

6 First of all, I was present at one of your
7 meetings where somebody wanted to have a car show under
8 the Banyan Tree, and that was denied because the car
9 show has nothing to do with the culture of the history
10 of the town of Lahaina or that spot.

11 So, there is a precedent for you to find
12 that if something is not culturally significant, you can
13 deny the application, and you have a precedent to go by.
14 So, please don't worry about that. You are safe and
15 sound and secure.

16 Secondly, this meeting has some legal
17 aspects to it, and I notice that a letter was sent out
18 to all -- most of us here, including you folks, and it
19 said the description of the meeting is review of the
20 culture impacts of the Annual Halloween in Lahaina Event
21 on the Lahaina National Historic Landmark District and
22 County Historic District No. 1 at Banyan Tree Park, the
23 Library Lawn, Baldwin House, Campbell Park, and along
24 Front Street from Baker to Prison Streets.

25 We were invited to a party where that's what

1 was going to happen. And there's been some finagling by
2 people who are supposed to be helping all of us make the
3 right decision here today.

4 VICE-CHAIRPERSON FREDERICKSEN: Excuse me.

5 MR. McCARTHY: Yes.

6 VICE-CHAIRPERSON FREDERICKSEN: What letter
7 are you talking about? I don't seem to have it.

8 MR. McCARTHY: It's a May 30th, 2008, letter
9 from Mrs. Callentine before Jeffrey Hunt to all of us.
10 And if I could, I'd hand it to you. I believe that's
11 it.

12 VICE-CHAIRPERSON FREDERICKSEN: I do have
13 it. Thank you though.

14 MR. McCARTHY: So, for somebody to show up
15 here today and say we are cutting this way back to just
16 whether or not these guys can build a stage or not, I
17 want to tell you why they did that.

18 They are playing games with whether or not
19 there should be an EIS or an EA for this application.
20 And in the past, they have given an exemption under the
21 guise -- and I want you to hear the word guise -- that
22 this is just an application for a permit to build a
23 temporary building. That's baloney.

24 And none of us should, in the abstract, be
25 asked to decide whether or not somebody can put up some

1 boards for a stage without saying what are you going to
2 do there? You know, and it's your job to say if things
3 are going to be done with respect to that stage or in
4 conjunction with it that are not appropriate culturally
5 or historically, then, no, you can't build your stage.

6 What if I came in here and said on the 4th
7 of July I wanted to go build a stage and sell swastikas?
8 What would you say to me? Get out of here. Because
9 first of all, it's insensitive. And secondly, it has
10 nothing to do with the cultural aspects of that park.

11 And they are asking you to build this stage
12 on Halloween, and it's silly to say it has nothing to do
13 with Halloween, but we want to build it on that day. If
14 that isn't important, say, fine, build it November 7th
15 and have your band then.

16 So, we are all being led into some kind of a
17 game unfairly by people who are supposed to be helping
18 us. And I just wanted to put that on the record.

19 Secondly, I have had the honor and the
20 privilege of getting to be close and befriended by a lot
21 of the kupuna in the Lahaina area, and that's one of my
22 ultimate treasures in my life.

23 First of all, the County in materials we
24 were given said that --

25 MR. SOLAMILLO: Three minutes.

1 MR. McCARTHY: -- various community
2 representatives and groups were shared with a copy of
3 the application. Na Kupuna O Maui didn't receive any of
4 that, nor were the other groups that are on this list of
5 people who were invited to the party.

6 Those kupuna say that we don't feel right in
7 our home when our home is being used for these kinds of
8 things. And I was thinking, well, what if -- it's just
9 one day. What if I threw a party at my house, people
10 were drinking and using drunks and naked, what would my
11 neighbor remember me for? Who I am the other days of
12 the year? No. I have projected myself with that kind
13 of a personality, and I have ruined the reputation of my
14 home, my family, and those that are dear to me by doing
15 that.

16 And they are just saying please don't let
17 this happen in this area that is so privileged and so
18 sensitive and so important to us. And so if this
19 happens, we continue to let the reputation of Lahaina
20 and the home of these good people be disparaged. So,
21 please deny this permit and thank you for your
22 attention.

23 CHAIRPERSON KALALAU: Thank you. Followed
24 by Vicki McCarthy.

25 COMMISSIONER MOIKEHA: Mr. Chair, I have a

1 question.

2 CHAIRPERSON KALALAU: Okay.

3 COMMISSIONER MOIKEHA: Just a quick comment.

4 You know I got to go. But just if I can just say some

5 things to my fellow Commissioners.

6 This prior obligation I have to go to, but

7 if I can influence you, I mean, this event really has

8 nothing to do with any cultural significance of the host

9 culture. And if -- you know, I would deny. I mean

10 that's -- I am in favor of doing that, and so I just

11 share that with you as I depart.

12 (12:55 p.m. Commissioner Moikeha left the

13 hearing.)

14 CHAIRPERSON KALALAU: Thank you. Okay.

15 Vicki.

16 MRS. McCARTY: Aloha, my name is Vicki

17 McCarty. With the Chair's permission, I would like

18 to -- in addition to my testimony, I would like to

19 address some of the comments that were made by Mr. Hunt

20 and Miss Callentine on the mediation process.

21 I have spoken to you about it before, but I

22 think it's important that for those of you that are new

23 on the Commission, that you are aware of this.

24 They did, in fact, set up a mediation, but

25 they let the LahainaTown Action Committee dictate how

1 many people could come. There were only five people
2 allowed to come that the kupuna could choose and send.

3 I was -- I was one of those people.

4 Reluctantly, I was one of those people. I don't have
5 the wisdom and the knowledge to sit in the chair and
6 represent the kupuna, and yet I was asked to attend, so
7 I did.

8 When the meeting started, there were two
9 kupuna that were refused entrance to the room. And when
10 they graciously said, okay, we will sit outside, and we
11 will listen through the door, one of the members of the
12 LahainaTown Action Committee got up and slammed the door
13 so they could not hear.

14 Mr. Hunt referred to an attorney that was
15 there to mediate. Throughout the mediation -- and in
16 all fairness to Mr. Hunt, he had a prior appointment and
17 he left early, so he may not remember these events or
18 may not have been told about these events.

19 There was an attorney there to mitigate, and
20 halfway through the mitigation, he threw up his hands
21 and was frustrated, because we were willing to give in
22 on several points, and the other side was not. The
23 other side said, no, no, no, no, no. This is our event.
24 We will have it the way we want it. That's almost a
25 direct quote.

1 The other thing I'd like to comment on is
2 when Miss Callentine spoke to you this morning, she very
3 skillfully left out some things that she tried to talk
4 to you about two sessions ago when we were all here.

5 She talked about her description of the
6 event. And I just happened to bring my notes that I
7 made while she was speaking. She said one percent of
8 the people there were inappropriately dressed. Five
9 percent of the people there she could tell were on drugs
10 of some sort, and 10 percent of the people there were
11 intoxicated.

12 We are talking about 30,000 people.
13 10 percent of 30,000 people that are intoxicated in
14 Lahaina is 3,000 people. That's a lot of drunks on the
15 street of a Historic District.

16 When the kupuna first came to you and told
17 you that this was inappropriate, they did not want their
18 grandchildren to witness these events. They do not want
19 this happening in their place.

20 I have been very -- I have been very
21 fortunate in my life to have teachers that have shown me
22 the ways of the kanaka, many, many teachers from many
23 places. But the one thing that they have all had in
24 common was their belief and their treatment of the
25 kupuna.

1 MR. SOLAMILLO: Three minutes.

2 MRS. McCARTY: They are referred to as
3 precious feathers. They have not been treated as such
4 in this proceeding, in any of these proceedings. They
5 have been ignored. They have been laughed at. They
6 have been ridiculed. That is not the way of the kanaka.

7 What can you do? You can deny this
8 particular petition. If it comes back before you in a
9 truthful manner, then you can address it then. But I
10 ask you to please deny this.

11 I have been shown the books of the
12 petitioned signatures against the annexation, and when I
13 have been shown those signatures, it has been with great
14 pride that those families stood up in the face of the
15 force that was before them, and they said, no.

16 Not for themselves, because they knew it was
17 moot issue, but they stood up for their families and for
18 history. I beg you to do that. Say no. Thank you.

19 CHAIRPERSON KALALAU: Thank you. John
20 London.

21 MR. LONDON: Hi, I'm John London. I live in
22 Lahaina. I'd like to present a different religious
23 point of view.

24 I was raised Roman Catholic with an Irish
25 Italian family, and Halloween is the day before

1 November 1st. In the Catholic religion November 1st is
2 All Souls Day, and this is the day that Catholics pray
3 for all their loved ones who have died in the last year
4 to go to heaven.

5 Over the centuries, Halloween was developed
6 as the day before All Souls Day, and this is the day
7 that Catholics dressed up in costumes as goblins and
8 ghouls. And the concept is to frighten away evil
9 spirits, so our loved ones can go to heaven on
10 November 1st, which is All Souls Day.

11 So, Halloween is a cultural religious
12 tradition. Over the centuries, yeah, I bet 80 percent
13 of the people who show up in Lahaina have no concept
14 that Halloween is part of a cultural Catholic religious
15 tradition. It's not Hawaiian, but this is America, and
16 we respect all religions in America. All religions have
17 equal rights --

18 CHAIRPERSON KALALAU: Excuse me. Excuse me.
19 People, can you guys just give him a time to speak? He
20 sat back there patiently while you guys spoke.

21 MR. LONDON: Okay. In America, we respect
22 all religions. I respect your religion and your
23 Hawaiian religion.

24 COMMISSIONER ARTATES: Mr. Chair. You have
25 to address the Commission.

1 MR. LONDON: Okay. I respect Hawaiian
2 religion, and equally we have to respect all religions,
3 Chinese -- all different groups need to be respected.
4 So, Halloween is a religious tradition to Catholics.
5 Thank you.

6 VICE-CHAIRPERSON FREDERICKSEN: I have one
7 question.

8 MR. LONDON: Yes.

9 VICE-CHAIRPERSON FREDERICKSEN: Halloween,
10 in its present form as practiced in Lahaina, do you
11 consider that religious the way it's practiced?

12 MR. LONDON: When I go to Front Street on
13 Halloween, I am practicing it as a Catholic.

14 VICE-CHAIRPERSON FREDERICKSEN: Okay. Well,
15 you are, but --

16 MR. LONDON: Yes.

17 VICE-CHAIRPERSON FREDERICKSEN: -- in your
18 opinion, do you think that's the mindset of people that
19 are there?

20 MR. LONDON: I think the mindset of people
21 who are partying on Halloween, the whole concept of
22 Halloween in the Catholic religion is to scare away
23 goblins and ghouls.

24 VICE-CHAIRPERSON FREDERICKSEN: No, I
25 appreciate you saying that.

1 MR. LONDON: You do that in a very energetic
2 and emotional way, and people are symbolizing that kind
3 of expression.

4 VICE-CHAIRPERSON FREDERICKSEN: In your
5 opinion.

6 MR. LONDON: Yes.

7 VICE-CHAIRPERSON FREDERICKSEN: Thank you.

8 CHAIRPERSON KALALAU: With alcohol and drugs
9 and all that? It's all part of the belief?

10 MR. LONDON: Those are issues the police
11 would have to deal with. But we are dealing with the
12 issue is Halloween a cultural tradition, and in the
13 Catholic religion, Halloween is part of All Souls Day,
14 which is the day after.

15 And it's celebrated all over the world. And
16 I don't know anywhere else in the world where a County
17 committee would be talking about outlawing a cultural
18 celebration.

19 CHAIRPERSON KALALAU: I'm Catholic.

20 MR. LONDON: So am I.

21 CHAIRPERSON KALALAU: And we didn't practice
22 that in Hawaii.

23 MR. LONDON: Catholics all over the world
24 celebrate Halloween.

25 CHAIRPERSON KALALAU: Not here.

1 MR. LONDON: Because it was the day
2 before -- well, this is part of America, and there's
3 something called freedom of speech and expression.

4 CHAIRPERSON KALALAU: You are right. You
5 are right. But don't mix up -- I know Catholics. I
6 don't know. I grew up here all my life. I never see
7 Catholics celebrate All Souls Day like that.

8 MR. LONDON: All over the world Catholics
9 celebrate Halloween and All Souls Day.

10 CHAIRPERSON KALALAU: What we did in Hawaii
11 is go take care of our kupunas' graves on those days,
12 put flowers, go clean 'em, put water for the flowers.
13 That's what we did. We didn't go act up in the streets.
14 You know what I mean?

15 MR. LONDON: Well, it symbolizes scaring
16 away evil spirits. So, the next day, which is a very
17 solemn day, November 1st, which you are supposed to go
18 to church on. I don't know if you go to church on that
19 day.

20 CHAIRPERSON KALALAU: Every day.

21 MR. LONDON: You are supposed to -- it's a
22 solemn day. The day before, you dress up in costumes of
23 ghouls and goblins to scare away evil spirits, and
24 that's what the celebration of Halloween is.

25 CHAIRPERSON KALALAU: Right, but I am

1 telling you, I haven't seen it practiced in Hawaii the
2 way you are saying it's been.

3 MR. LONDON: But you still have to respect
4 other people's tradition, even if they are not yours,
5 right?

6 CHAIRPERSON KALALAU: Right, but I just want
7 you to be clear that we did not celebrate it the way it
8 is.

9 MR. LONDON: But Catholics all over the
10 world do, and we are in Lahaina, and there are -- you
11 know, out of the 30,000 people that will be there,
12 probably 20,000 -- how many will be Catholics? Are you
13 going to say Catholics have no expression on Halloween?

14 CHAIRPERSON KALALAU: Maybe, maybe two
15 percent.

16 MR. LONDON: So, you are going to
17 discriminate against those two percent?

18 CHAIRPERSON KALALAU: No, I am not
19 discriminating against nobody, but you are making
20 comparison.

21 Okay? I am not making comparison. I am
22 just telling you that being born and raised here, we
23 didn't celebrate Halloween like that. And I am telling
24 you what we did.

25 Okay. We went to the graves and took care

1 of our ancestors' graves, put fresh flowers, cut all the
2 grass, make 'em look beautiful, so that the spirit can
3 go to heaven.

4 MR. LONDON: Yes, I respect that, but you
5 should also respect my way of celebrating Halloween and
6 All Souls Day.

7 VICE-CHAIRPERSON FREDERICKSEN: You know, I
8 am sorry. I am going to break in.

9 MR. LONDON: Sure.

10 VICE-CHAIRPERSON FREDERICKSEN: You have
11 your right to do whatever, but this is the National
12 Historic Landmark District, and we, as the Cultural
13 Resources Commission, are charged with looking at the
14 cultural significance of Lahaina. And that's what we as
15 a Commission are.

16 So, thanks for your testimony, and --

17 MR. LONDON: Okay. I'd just like to respond
18 to that. You can't discriminate against another
19 people's religious expression to prevent -- preserve
20 another person's cultural ideas. It's discrimination.
21 It's religious discrimination.

22 COMMISSIONER HUTAFF: I think that if I saw
23 you down there in Lahaina, and you were doing what you
24 were doing because you believed in what you were doing,
25 okay, I'd stand next to you.

1 VICE-CHAIRPERSON FREDERICKSEN: That's fine.

2 COMMISSIONER HUTAFF: And I'd support you.

3 Okay? So, I think we do support culture, and I do think

4 we respect religion, more than most cultures do. Maybe

5 even a little more than you do. Okay?

6 But I don't think that the issues that we

7 are talking about are relative to your religion.

8 MR. LONDON: I think they are relevant.

9 COMMISSIONER HUTAFF: I don't think the

10 issues are.

11 MR. LONDON: If you outlaw Halloween, you

12 are outlawing that part of the religious celebration.

13 COMMISSIONER HUTAFF: Who says we want to

14 outlaw Halloween?

15 CHAIRPERSON KALALAU: Who says we are?

16 MR. LONDON: They do. They want to outlaw

17 Halloween.

18 COMMISSIONER HUTAFF: That's right. They

19 have their opinion.

20 CHAIRPERSON KALALAU: This is a Commission.

21 We are not discriminating against nothing. We are

22 giving all you guys a fair chance to come before us and

23 to voice your concerns and your comments. And you know,

24 we are not basing our decisions based on racial

25 discrimination or --

1 MR. LONDON: Well, I am the first one to
2 bring up that part of Halloween. People don't -- in
3 Hawaii don't understand the cultural significance of
4 Halloween. All in Europe, North America, South America,
5 Central America, Halloween is a very important ethnic --

6 UNIDENTIFIED MAN: Bruddah, pau, pau.

7 CHAIRPERSON KALALAU: Okay.

8 UNIDENTIFIED MAN: Go sit down. We don't
9 need you in --

10 UNIDENTIFIED MAN: Move to Europe.

11 CHAIRPERSON KALALAU: Any more questions?

12 Thank you. That was the last person to testify.

13 Does the staff have anything more to say
14 before -- oh, is there anyone else in the crowd that
15 haven't signed up that wants to testify on this agenda
16 item?

17 MR. WAIOHU: Aloha, mai. (Speaking
18 Hawaiian.) Waiohu, William. (Speaking Hawaiian.)

19 One end to the other end, my Tutu Waena come
20 from Honokohau. So, I stay one end, and my Tutu Waena
21 one end, so I know the whole history about Lahaina.

22 Now, from Ukumehame all the way to Kaanapali
23 to almost, they had the canoe, many canoe over there.

24 All poe. (Speaking Hawaiian.)

25 At this time today, we never had Halloween.

1 Never. If we had Halloween, we go people house, house
2 to house we go. (Speaking Hawaiian.)

3 Hawaiians say pala niho, the ripe worm.

4 That's what it is. All bullshit. But, you know,

5 there's aloha. My kumukanawai still here today.

6 Kumukanawai is what? My constitution. My right. This

7 is mine, not America. Hawaii is not America. Hawaii is

8 Hawaii.

9 MR. LONDON: No.

10 MR. WAIOHU: (Speaking Hawaiian) America.

11 CHAIRPERSON KALALAU: Okay.

12 COMMISSIONER ARTATES: Pau.

13 VICE-CHAIRPERSON FREDERICKSEN: Not so hard.

14 Not so hard.

15 COMMISSIONER HUTAFF: Relax, relax.

16 VICE-CHAIRPERSON FREDERICKSEN: One breath.

17 Two breaths. Not so hard, Willie. Not so hard.

18 MR. WAIOHU: Yeah, you know, I kind of leave

19 huhu inside, because every time (speaking Hawaiian.)

20 Hawaii America a'ole. A'ole America.

21 We had this trouble from way back. In this

22 book, Kamehameha, III, you go to the store. You go

23 (speaking Hawaiian) this book, and you read all this all

24 in Hawaiian. Not in English.

25 That's why I got plenty respect for

1 Kamehameha, III, because he thought about the law.
2 (Speaking Hawaiian.) Come say my piece. This is
3 (speaking Hawaiian) paradise. This is paradise.
4 Paradise for you, for you, for you, for you, for you,
5 and for all of you, and for me. So, I no come go
6 discriminate anybody, but they like to discriminate you
7 and I.

8 (Speaking Hawaiian.) I am 66 years old. I
9 going be 67 this month on the 11th.

10 VICE-CHAIRPERSON FREDERICKSEN: Yea-ha.

11 MR. WAIOHU: I going be happy. My boy, he
12 ha'ule last year, but I stayed here. I get -- I get
13 nine mo'opuna. Eight leave. One ha'ule. Great. I get
14 five great mo'opuna. I happy. That's all my ohana.

15 I make 'em come stay with me. I no make 'em
16 pay rent, because why? That's my duty. I got to take
17 care. I malama them. That's why I am here today, to
18 deny this thing. No more referral. Denial. That's it.
19 Pau. I am strong about this Halloween thing. I don't
20 like Halloween. (Speaking Hawaiian.) Aloha no.

21 CHAIRPERSON KALALAU: Thank you. Questions,
22 Commissioners? Anyone else in the public? Seeing that
23 we have none, we will now close the floor.

24 Do you guys -- the Commissioners we have, do
25 you have any more questions, if you want staff, to get

1 questions for staff or --

2 VICE-CHAIRPERSON FREDERICKSEN: I have some
3 comments.

4 COMMISSIONER MARQUEZ: Comment. So, our
5 purpose is for that stage mana'o. I heard everything
6 else. I understand. So, help me understand. Maybe you
7 folks all understand, but I surely don't.

8 If we deny this, you tell me what impact
9 that will have on our cultural mana'o. If we approve
10 this, you tell me what impact is in relationship to the
11 cultural historical mana'o.

12 Either way you look at it, I mean, in my
13 brain, we are tired, too. Kupuna, I understand
14 (Speaking Hawaiian.) So, maybe it's my brain.

15 So, any of you Commissioner, or corporate
16 counsel, or staff can help me understand, I don't
17 understand. Anybody?

18 CHAIRPERSON KALALAU: Okay. What we have
19 before us today is that we need to vote on this agenda
20 item, which is basically for facilities associated with
21 the annual event, which is the stages, and I guess where
22 the porta-potties are going to go, and the use of
23 commercial use.

24 You heard the people. You heard everybody
25 speak. You heard the staff give their presentation.

1 There was some legal comments answered. Okay. Nani.

2 COMMISSIONER WATANABE: I just have a
3 comment, and I wanted to share. You know, before this
4 meeting was coming up, I have my aunt, and she's 92
5 years old. And she is right now the oldest Native
6 Hawaiian from the Island of Lana'i.

7 But, you know, first I told her to pray for
8 us, you know, and she really shared a lot with me. And
9 as a Hawaiian, I have really, you know, got -- she was
10 my Hawaiian History 104, and today with Sam Ka'ai, he
11 became Hawaiian History 110 or something. And I -- it
12 was like it really connected to what she was sharing and
13 what he was sharing.

14 And when I look at all of this, we talk
15 about Historic District, and then you always have --
16 there's Kamehameha Iki, and she talked about our Ali'i
17 and where Ali'i really walked the land in Lahaina.

18 And one of the things that set in my heart,
19 and also Sam Ka'ai, is the history. The history about
20 our ali'is that, you know, walked Lahaina. And when it
21 comes to culture, it's very -- it's a very sensitive
22 issue, and I have learned so much today.

23 But especially listening to the kupuna and
24 applying what they are saying is not just talking but
25 they are truthful. They feel it, and I -- you know, I

1 start to feel it. And I had to listen.

2 Last month, I was in New Orleans at -- I was
3 on Bourbon Street, and I really got to learn about what
4 festival is there. And it's a free fall pretty much.
5 And when we were walking down the street, we were
6 actually there to promote Maui Nui, which is Maui,
7 Lana'i, Moloka'i, and Kaho'olawe.

8 And a lot of us said if you really want to
9 go out, go for the gusto, go to New Orleans, because
10 they offer it there. I mean, it's -- I mean, some of
11 the Hawaiian guys with us was like, gosh, we can't
12 believe this is happening. And one of the things we all
13 said is we don't ever want to see this happen to
14 especially Maui or Hawaii Nei.

15 But the other sad part is people don't know
16 Lahaina as the Historic District or a place to come and
17 see the history, which is our -- about our culture.
18 They know Lahaina for the Mardi Gras in Lahaina, because
19 I hear it from them. They say, oh, you know what? We
20 are going to be there in October, because we are coming
21 to your big -- biggest event there, which is -- which is
22 Lahaina Halloween, the Halloween that happens in
23 Lahaina.

24 And it's really -- to me, it's sad, because
25 they are not coming to support our culture, but they are

1 supporting a culture that is not part of us. And so
2 this really -- and I really have to look at the
3 significance -- like Commissioner Fredericksen said,
4 that it is our responsibility, you know, as
5 Commissioners, to look at the historic part of all of
6 this.

7 And that is making sure that, like former
8 Commissioner Pyle said, we are the voice for the aina,
9 and that is important. Mahalo.

10 CHAIRPERSON KALALAU: Thank you. Any more?

11 COMMISSIONER HUTAFF: Yeah. You know, we
12 all thought we were going to come here for a different
13 agenda. Okay. Everything up on that blue screen, all
14 the 38 pages of it, tells me that the Planning
15 Commission also thought we were going to have a bigger
16 agenda. Events, Halloween, parade, were all up there.

17 The bottom of this thing says Halloween in
18 Lahaina. It doesn't say part usage. Okay. I think
19 that we have been kind of led astray, and so have the
20 public been led astray, hopefully, just by accident. I
21 really don't want to believe that it was done purposely.
22 I believe it's been done by accident.

23 We all got led on a path, and here we are.
24 Being led on a path, an important thing to understand is
25 that this Lahaina Halloween has been a path that's been

1 followed for an awfully long time. And sometimes the
2 path leads us in the wrong direction.

3 Once we realize we are going in the wrong
4 direction, do we continue on the path because we have
5 been doing it for so long or do we change the direction.
6 And so it really bothers me that we are not allowed, as
7 a Cultural Resource Commission, to really comment.

8 I'm personally not against Halloween. Okay.
9 I am not even against Halloween in Lahaina. I'm against
10 allowing the activities that Lahaina -- it being an
11 event, okay, has grown into. That I'm against.

12 Okay. I don't think that that's proper
13 coming from the Cultural Resource Committee. Ray, me as
14 an individual, I got a different opinion. We have a
15 role here, and I don't think our Department, who put
16 this all together, the Planning Department has really
17 helped us. I think they have really made it difficult
18 for us to go and make good decisions and to come here
19 with plans to listen to everyone, and to see if there's
20 a nice way to do things.

21 Okay. We are not going to stop Halloween.
22 Okay. We could say no permits. We could say don't
23 close the road, and we are going to have a bunch of
24 drunks in cars and on motorcycles and walking the
25 streets, and there's going to be some real problems.

1 Okay. I'd like to kind of re -- not going
2 off track, but it was something that was written down
3 and given to us from Yvonne Jayne. And I think this
4 really says what the problem is. I will just go down to
5 the last paragraph.

6 The Halloween Festival has been a tradition
7 in Lahaina for many years. And then the last sentence
8 says, this boils down to letting one group, with its own
9 interests, determine what is historical, while denying
10 expression to others who have just a strong foothold in
11 the history of Lahaina.

12 Do you understand what I just read? Okay.
13 It really shows that as a culture, okay, we have not
14 stood up and said this is who we are. We have been
15 kind. Generous to a fault. Okay. And so things are
16 allowed to come to a head to where it's very, very
17 problematic.

18 And now we have realized we are on the wrong
19 path, and we need to change direction. Part of that
20 change in direction needs to be to educate the public,
21 okay, that history did not start with the building of
22 the Pioneer Inn, and the Plantation Inn on Front Street.
23 It didn't start there. History started a long time ago.

24 And you know what? It's a very interesting.
25 It's a very powerful culture. It's a very powerful

1 piece of information to know what was on there. And I
2 think that a lot of people, if they were to take the
3 time, which I know they won't, to educate themselves
4 would have a different view of how Halloween is done in
5 Lahaina. Maybe how even they would participate.

6 We have been given alternatives, and we have
7 been limited to four. Okay. I believe this is a path
8 that they are trying to lead us down. I believe that
9 there's a fifth one, okay, and I would like the
10 Commission to think about this fifth one.

11 Defer any decision whatsoever until, okay,
12 the Planning Commission gives the Cultural Resource
13 Committee the right to comment on all of Halloween. In
14 other words, no decision until we are given the right,
15 and we demand, as a Commission -- I am not speaking for
16 you. I am suggesting this, so don't misinterpret that
17 it's the Commission. This is Ray, okay, the Portagee
18 guy.

19 Okay. That we just say, no, we were misled,
20 and we want to go back, and we want to have our voice.
21 Not necessarily stop Halloween, but we want to have our
22 voice. We want to have our voice. I think we talked
23 about the minority not being asked.

24 Well, I think that we are part of that
25 minority, and that we want to speak. Now, this is again

1 my suggestion to the Commission, if you can sort that
2 out.

3 COMMISSIONER ARTATES: Mr. Chair.

4 CHAIRPERSON KALALAU: Yes.

5 COMMISSIONER ARTATES: My path has already
6 been taken from last year, and I would stay with that
7 path, to deny. We wouldn't be sitting right here going
8 through the whole process if we didn't stand up and vote
9 accordingly for the last meeting we had.

10 So, my position, Chair, is to deny the
11 application completely, because what I am seeing through
12 this is only going to be a domino effect, from this
13 small stage, what I heard the testimony, to all the way
14 from point A to point B.

15 If I count the testimonies here today, and
16 this is a public testimony, there were more in denial
17 than support. And, you know, that's what happens when
18 we get into one confrontation regarding culture. It
19 happened the last time in Lahaina that we got into a
20 mess. It almost started again, because things like this
21 trigger our Native Hawaiian culture.

22 So, again, Mr. Chair, as far as I'm
23 concerned, I set my standard to deny the application.

24 CHAIRPERSON KALALAU: Is this Commission
25 ready to make a motion?

1 VICE-CHAIRPERSON FREDERICKSEN: I just
2 wanted to make a comment. In reading over the various
3 materials we have gotten, I mean, I can't, in good
4 conscious, go, oh, you know what? We are -- we can only
5 look at this as a permit for the Banyan Tree, and, I
6 guess, the Library Lawn, which obviously is totally
7 inappropriate to begin with.

8 But it's -- the Halloween event is
9 completely -- you can't just separate a little piece of
10 this out, and that's -- this letter that was sent out
11 May 30th, it just says in here, description, review the
12 cultural impacts of the annual Halloween in Lahaina, in
13 quotes, event on the National land, okay, in the Lahaina
14 National Historic Landmark District and County Historic
15 District No. 1, at Banyan Tree Park, Library Lawn, and
16 Baldwin House, Campbell Park, and along Front Street
17 from Baker to Prison Streets.

18 And that was -- canceling one meeting, that
19 was what was, you know, was going to be on there.
20 That's what we all assumed was going to be on this time,
21 and the public did, too, I'm sure.

22 COMMISSIONER ARTATES: Just one more thing,
23 Mr. Chair. Excuse me.

24 VICE-CHAIRPERSON FREDERICKSEN: No, that's
25 fine.

1 COMMISSIONER ARTATES: Myself sitting here
2 as a Commissioner, I have a fiduciary responsibility
3 under this Commission, the Cultural Resource Commission,
4 which is to protect and preserve. There is no in
5 between except protect and preserve. So, that's why I
6 stand by my denial of the application.

7 VICE-CHAIRPERSON FREDERICKSEN: I have one
8 more comment. For us as a Commission, looking at this,
9 okay, there is this -- you know, this permit request.
10 But again, we can, as a Commission, decide if that is an
11 appropriate activity or not, that one aspect of it.

12 CHAIRPERSON KALALAU: Okay. Did you have a
13 question?

14 DIRECTOR HUNT: I just wanted to comment, if
15 that's all right.

16 CHAIRPERSON KALALAU: Yes.

17 DIRECTOR HUNT: I appreciate the comments
18 that you feel the staff didn't give you appropriate help
19 regarding this, and we acknowledge that. It wasn't
20 intentional.

21 The situation has grown. It's evolved, and
22 as it has evolved, it's changed. And I think part of it
23 is based on that. And so what we are here to do to tell
24 you today is you do have a permit in front of you. You
25 can deny that permit. You have that authority.

1 I just don't want you walking away from that
2 thinking that, okay, Halloween is not going to happen.
3 You can also talk about Halloween today. I think that's
4 appropriate. And you can express your concerns, and you
5 can express those concerns today, perhaps even in your
6 decision.

7 And then the third option would be to -- as
8 James suggested, we schedule it as a separate agenda
9 item and have a thorough open discussion about the
10 Halloween event. I don't want to make that sound like
11 that would be an approval or a denial of the event. It
12 would merely be a discussion.

13 And from there we could take that
14 discussion. We could explore tools. We could explore
15 options. James went down a number of them. You could
16 express your concerns to the County, et cetera.

17 So, I agree there's some legitimate
18 criticism about the Department's reports to you. We
19 will accept that, and we will try and do better in the
20 future. We are not here to stifle the discussion on
21 Halloween. We are here to focus it in appropriate
22 procedures.

23 CHAIRPERSON KALALAU: Nani.

24 COMMISSIONER WATANABE: I just have a
25 comment, Mr. Chair. I guess I know that the keiki

1 Halloween is totally separate from this, but I, too,
2 is -- you know, I had thought that a lot of it was for
3 the keikis, and then it seems like there were -- you
4 know, the keikis were approved, but then they were just
5 pushed on the side.

6 I mean, they are our keikis, and everything
7 is always -- there was nothing else to support the
8 keikis, but then it jumps to this. So, it's really -- I
9 really feel sorry for keikis. I mean, you know, they
10 are going to have their thing, but it's like we should
11 be instilling something positive for the keikis, and I
12 really think this is not a good example for the keikis
13 at all.

14 CHAIRPERSON KALALAU: Meaning what?

15 COMMISSIONER WATANABE: Everything. I mean,
16 I know this is -- this is separate, but even with the
17 stage and approving for the stage and all of that, it's
18 not going to benefit the keiki. Am I right?

19 UNIDENTIFIED WOMAN: The keiki have their
20 own stage.

21 CHAIRPERSON KALALAU: Yeah, they have their
22 own stage. They already approved all that.

23 UNIDENTIFIED WOMAN: Yeah, they have their
24 own stage.

25 CHAIRPERSON KALALAU: So, this a very

1 individual item. Veronica.

2 COMMISSIONER MARQUEZ: Comment. I cannot
3 understand separating a permit for stage, et cetera,
4 from the whole essence and mana'o about Halloween. So,
5 I want to listening to all. Maybe hear the mana'o, the
6 Halloween mana'o in relationship to the cultural
7 aspects, you know, we do preserve and protect.

8 We need that mana'o. We need that set,
9 because today I cannot see how you can detach one from
10 the other and make a decision, because I keep going
11 back. You say yes. What? You say no. What?

12 So, I would like to defer this decision in
13 hopes that another agenda item would be set up to bring
14 up this mana'o about is Halloween part of our host
15 culture mana'o.

16 And I -- I can just hear it. I'm speaking
17 on behalf of me. Thank you.

18 CHAIRPERSON KALALAU: Okay. You have heard
19 a lot of the people testify here today that it's not
20 part of our culture in that historical area. Okay.
21 Talking about only Lahaina, the National Historical
22 area. It's not a culture in that area, Halloween.

23 MS. CUA: Mr. Chair.

24 CHAIRPERSON KALALAU: Yes. This is why it's
25 difficult. Yes, Ann.

1 MS. CUA: I'm not sure if, Commissioner, you
2 were here when Stanley Solamillo of our office did
3 provide, as requested by the Commission, a cultural
4 assessment of the Halloween event in Lahaina. That was
5 a direct request to our Department and a presentation
6 was made.

7 There was a meeting where that -- that whole
8 topic was discussed, and there was public testimony. If
9 you have additional questions, like the Director said,
10 there's nothing that precludes you from discussing any
11 of that today to be able to make your decision.

12 My point is, I don't think you necessarily
13 need another meeting to discuss the cultural impacts,
14 because you had -- we talked about that in January, and
15 you had comments from the public. It's all been
16 discussed already.

17 So, I think it's at the point where you are
18 able to make a decision. All the information has been
19 given you. We have done analysis. The community has
20 come forward and given their comments saying what they
21 would like. What they do not like.

22 You've given lots of sharing amongst
23 yourself in terms of just your general feelings. So, I
24 think -- I think you do have all the information that
25 everyone could provide to you in terms of the Department

1 and the community.

2 COMMISSIONER HUTAFF: You guys said the same
3 thing. Okay. Mr. Hunt, thank you so much for
4 reassuring me that it wasn't done on purpose.

5 Okay. To address your comments, that would
6 have been something really good to say in the first five
7 minutes of this meeting rather than the last, hopefully,
8 10 minutes of the meeting.

9 You know, the people are going to dress up,
10 and they are going to come down to Front Street
11 regardless of what we do. Okay? Regardless of what --
12 of what we do.

13 When I talked about following a path and
14 realize you are going the wrong way, when you turn
15 around, you don't automatically go back to square one.
16 It's journey back. It's a journey back. So, it's
17 little steps. The same steps maybe a little quicker now
18 that we have known that we are going on the wrong path.

19 And I think that we really need to start to
20 educate the public and the people that go to Lahaina
21 that there's a lot going on in Lahaina besides, you
22 know, Halloween. That's a good fun night, you know,
23 provided that you are not watching someone throw up on
24 your shoes, or urinate in your back pocket, or walk
25 around half naked or fully naked, although I like that

1 sometimes.

2 But I think as a Commission, from the
3 cultural standpoint, you know, we have an obligation to
4 the culture. Okay. And today, really, right off the
5 bat, okay, that was taken away from us. And whatever we
6 do, is it going to stop people from coming down on
7 October 31st?

8 Only if October 31st doesn't arrive. It's
9 not going to change anything. Any of our decisions that
10 we make today, based upon this permit, unfortunately, is
11 not going to make much of a change. It will send a
12 signal on how we feel.

13 VICE-CHAIRPERSON FREDERICKSEN: Yep.

14 COMMISSIONER HUTAFF: Okay. But that's
15 about it. It's not going to stop. And I still think we
16 should have another agenda to address the culture in
17 Lahaina.

18 I have only been to three meetings, but I
19 have read two years' worth of your meeting notes, okay.
20 And believe it or not, culture has never got past the
21 1900s in any of your meetings what we discussed Lahaina.

22 Okay. And I think, personally, I am not
23 going to grind my teeth for five years. Okay. I would
24 like to do something, and I believe that the Commission
25 would like to do something about it. And so I really

1 think that our best action -- I am going to say it one
2 more time -- is to defer any decision until we can take
3 it on as a whole.

4 So, in other words, no decision, and that
5 can be our signal, is that what our decision really is
6 is that we want to have more say about the culture in
7 Lahaina. And, therefore, we can't vote on this, because
8 it doesn't include that. That's my point, and that's
9 all. I am not going to say no more, maybe.

10 CHAIRPERSON KALALAU: Ann.

11 MS. CUA: I believe Mahina Martin from the
12 Mayor's office is here.

13 MS. MARTIN: Aloha kakou. Mahina Martin.
14 I'm the Mayor's Community Relations and Communications
15 Director and the County's Public Information Officer.

16 I just want to speak to one point, because
17 it's about the issue of people will come anyway. And of
18 interest to you may be that should you deny the permit
19 before you today, then the County would begin to work
20 its darnedest to get the word out that the event, as
21 promoted by an entity, is not there -- going to be
22 there.

23 If it is not denied, then -- or if it's
24 approved, outside of the deferral, then it would allow
25 the entity or the organization to promote it, that it is

1 on.

2 So, yes, you are correct. The people would
3 come. The County expects that anyway. It would, at
4 some point of a decision, come to who begins to get the
5 word out that the event is on or that the event, as
6 organized, is off. And the County would make its
7 responses accordingly, if that helps a little bit in
8 terms of people coming in, you know, despite.

9 VICE-CHAIRPERSON FREDERICKSEN: Mahina, so,
10 from the County's point of view, I'm assuming some -- if
11 the CRC can come to some sort of a decision today, this
12 would -- that would be better. So, whichever way it
13 goes, the County, if they needed to, could take some
14 other steps.

15 MS. MARTIN: Yes. I concur with your
16 Planning Department staff that you have a tremendous
17 amount of information provided to you, more than I
18 myself have had, quite honestly, but that's a good
19 thing, because you are the ones that need to make the
20 decision.

21 The deferral, from what I've been gathering,
22 would allow you to weigh in on the effect of events in
23 the Historic District, whether it's Halloween or not,
24 because it could be something else. So, that would, you
25 know, give you the opportunity to look at what would be

1 appropriate by definition of cultural and historic
2 preservation, unless you want to narrow that discussion
3 to Halloween.

4 But I would imagine, within the Historic
5 District, it would be interesting to have that
6 discussion and dialog about what is in the interests of
7 Lahaina, and I gather that you do.

8 COMMISSIONER MARQUEZ: Okay. I looked at
9 the written text, and I am hearing you, and let's say
10 it's denied. And then the mana'o is the County -- well,
11 it's worded in there -- is forced to, whatever, protect
12 and serve. To me, that's their job.

13 MS. MARTIN: Uh-huh.

14 COMMISSIONER MARQUEZ: So, you know, whether
15 deny or not, I mean, hey, go do your job.

16 MS. MARTIN: Correct.

17 COMMISSIONER MARQUEZ: So, again, I looked
18 in here and said that they are forced to? Maybe that's
19 another change that should be -- error in there. But
20 sounds like if we deny, then, oh, wow, the County got to
21 work extra now, but because you folks, they got to
22 really work hard now. Well, well, then work hard.

23 MS. MARTIN: Right. Commissioner, I
24 appreciate those frank comments. The Planning staff did
25 state, if I recall correctly, that that was intended to

1 be more factual than to draw -- point to that, and
2 probably a poor choice of words in the writing. So, I
3 will agree with you on that point.

4 It is the County's interest to look out for
5 the safety and welfare and health of the public. To
6 that end, it is also, you know, our -- while that is our
7 kuleana, we also understand what you will -- you have
8 said what is your responsibility and your scope of what
9 your duties and what you have been asked to do, and that
10 is a balance of government and community.

11 COMMISSIONER HUTAFF: If we don't approve
12 this, then there will be no permit? Is that what both
13 of you are saying?

14 MS. MARTIN: Yes.

15 MS. CUA: There will be no permit for an
16 organized event.

17 CHAIRPERSON KALALAU: No, no, no, no, no.
18 Let me take that back. There won't be a permit for
19 construction of stages.

20 MS. MARTIN: For the permitted requests. I
21 mean for the --

22 COMMISSIONER HUTAFF: Or porta-potties, or
23 this or that, or all things that the permittee is
24 promising to give to the County unless the County does
25 that at its own expense.

1 MS. MARTIN: The County would begin to look
2 at our response to whatever action you take. Should
3 that be a denial, for example, then the County would
4 begin to look at what its kuleana is, which is the
5 public safety, the health and the welfare.

6 And as Director Hunt has said, any denial by
7 the Commission doesn't mean that no one will come or
8 that the County would not be forced to take necessary
9 actions on its own. What that may be is premature for
10 me to speculate today.

11 But, you know, we all know what Lahaina
12 looks like. We all know how wide the sidewalks are. We
13 know what kind of people get attracted. Whether
14 attendance is waned will depend a lot on how much --
15 what the headlines say. If the headlines to say Lahaina
16 to have keiki parade only will catch a lot of attention.

17 COMMISSIONER HUTAFF: I trust it's not going
18 to say it like that.

19 MS. MARTIN: I know you have the Advertiser
20 staff here today. We can only hope.

21 COMMISSIONER HUTAFF: Yeah, the other thing,
22 too, that if we -- if we denied the permits for this, it
23 would also mean that some of the nonprofit school
24 organizations would also not be able to participate
25 under the Banyan Tree, or could that be a separate

1 issue? Could that be a separate permit? Do we have
2 enough time to have a separate person?

3 MS. CUA: That's correct. That is correct.

4 COMMISSIONER HUTAFF: So, they could apply
5 for a separate permit to have an activity under the
6 Banyan Tree, or are we too late?

7 MS. CUA: You had asked -- you had asked
8 everyone that wanted to do any kind of Halloween
9 activity to apply by March 31st. And that -- I believe
10 a press release had gone out to that effect.

11 CHAIRPERSON KALALAU: Right. This is so
12 that the Parks Department can put all the activities on
13 the Lahaina calendar, the activity calendar.

14 COMMISSIONER HUTAFF: So, we would be
15 denying them, too, without them having any kind of
16 recourse.

17 CHAIRPERSON KALALAU: See, this is why I
18 brought 'em up earlier. This is why I asked Ke'eaumoku
19 that question, too.

20 MS. MARTIN: You know, anyone could apply.
21 Whether or not they meet a deadline, or they meet your
22 requirements or your needs, that would be part of their
23 discussion and justification.

24 You know, over the years we do have
25 community organizations that benefit from large scale

1 events, anywhere from Hana to all the other islands and
2 including Lahaina. The groups understand, you know,
3 much of what's involved, and it would be unfortunate,
4 and just as it's been fortunate for them to be part of
5 any organized event. But they can come before you. If
6 they have missed that window, then I quite honestly
7 don't know what to tell you on that.

8 COMMISSIONER HUTAFF: Also, too, if they did
9 apply and somehow it all worked out they wouldn't have
10 the expertise, if you will, of the LahainaTown Action
11 Committee in their management of that number of people
12 on a very particular day.

13 MS. MARTIN: Sure. Some may. I wouldn't
14 want to speculate on the organization's capacity.

15 COMMISSIONER HUTAFF: Probably going to
16 sidestep a little bit. I apologize to the Commission,
17 but -- and I apologize to some of the people in the
18 audience, because I am going to sidestep.

19 I recommend we approve it. Okay? And that
20 we take up, in the future, strong words to make our
21 situation known. It is going to happen. Okay. And if
22 we deny it, we will be the ones that are looked at as
23 denying it, and we won't really have a strong voice in
24 the future when we want to make some changes.

25 Remember, the path back is still the slow

1 path. We can't go back to square one. The only reason
2 I would recommend it is so that we have the opportunity
3 to be heard in the future. Okay. Because if we don't
4 apply -- say yes today, then nobody will apply later on,
5 but the event will continue, and it will continue
6 without organization.

7 UNIDENTIFIED WOMAN: There have been
8 applications as late as November, and things have been
9 approved.

10 CHAIRPERSON KALALAU: It will still be
11 heard, you know, regardless of what the decision is
12 today. It really throw everybody off today, because,
13 you know, it was just a simple permit for stages, and
14 portable toilets, and use of, you know, commercial
15 space.

16 But it's -- but because it's tied into the
17 bigger picture, you know, we are adding in the bigger
18 picture into the little picture. Whether you deny it or
19 whether you approve it, the bigger picture is still
20 going to come in, too, before us.

21 COMMISSIONER HUTAFF: I agree.

22 CHAIRPERSON KALALAU: You know. So --

23 COMMISSIONER HUTAFF: I just want to have a
24 positive pass if deferred. It's not an easy choice.
25 Deferring it makes more sense.

1 CHAIRPERSON KALALAU: Basically, it's not a
2 difficult task, too. I mean, were we presented with the
3 proper information that we needed to support this agenda
4 item?

5 COMMISSIONER HUTAFF: No, absolutely not. I
6 think I made that comment. But then if that's the case,
7 then we can't make a decision, because it's not even the
8 proper agenda.

9 CHAIRPERSON KALALAU: It is the proper
10 agenda. We are going to make a decision on --

11 COMMISSIONER HUTAFF: That one thing.

12 VICE-CHAIRPERSON FREDERICKSEN: We, as a
13 Commission, can also, regardless of what happens with
14 this -- whatever this one agenda item, we as a
15 Commission can, you know, request, demand, however one
16 wants to term -- you know, phrase it, that the Halloween
17 event be placed on the agenda soon, just because this is
18 something that is going to take a long time to grapple
19 with.

20 And it's not -- you know, regardless of what
21 we decide for the -- you know, this particular permit,
22 which, by the way I'm -- I in favor of denying. But
23 regardless of what we decide about that, I mean, we
24 still have this Halloween mess to deal with.

25 And that's something we as a Commission are

1 going to have to grapple with, and it's not going to --
2 it's certainly not going to get figured out before the
3 Halloween happens. I mean, that's -- that's evolved.
4 It's taken on its own kind of life, if you will, and
5 that's something that's going to take time to try to
6 figure out how to deal with it. But we can send a
7 signal that, hey, you know, the time started and go from
8 there.

9 MS. MARTIN: Thank you, Commissioners.

10 CHAIRPERSON KALALAU: Thank you, Martina.

11 VICE-CHAIRPERSON FREDERICKSEN: Mahina.

12 CHAIRPERSON KALALAU: Mahina.

13 MS. MARTIN: Close enough.

14 CHAIRPERSON KALALAU: We have been sending
15 messages and signals for a long, long time. You know,
16 this is -- this is the second meeting that, you know, I
17 need to apologize for, because we had another meeting
18 that people got very upset, and a lot of hurt feelings,
19 because it's been on the table too long.

20 You know, even Sam Ka'ai talked about it
21 when he was the -- on the Historical Preservation
22 Committee. And, you know, my question to him was, you
23 know, why you guys let it go this far? Now it's in our
24 lap. You know, it needs to come to a point to where,
25 hey, we are going to draw the line. Are we strong

1 enough, smart enough to draw the line?

2 COMMISSIONER HUTAFF: Go to a vote.

3 COMMISSIONER MARQUEZ: Just --

4 CHAIRPERSON KALALAU: Veronica.

5 COMMISSIONER MARQUEZ: Question. I think

6 it's for Corporate Counsel. If a Commissioner abstains

7 from the vote, what does that mean?

8 DEPUTY CORPORATION COUNSEL: According to

9 your rules, a abstention without any purpose related to

10 conflict of interests or ethical violation is going to

11 be seen as an affirmative vote.

12 COMMISSIONER MARQUEZ: Affirmative. That's

13 what I thought. Thank you.

14 CHAIRPERSON KALALAU: Any more questions,

15 comments?

16 COMMISSIONER HUTAFF: Need someone to make a

17 motion. I move we deny the application.

18 VICE-CHAIRPERSON FREDERICKSEN: Second.

19 CHAIRPERSON KALALAU: It's been moved and

20 second. Any more discussion? We going to take a vote.

21 All in favor raise your right hand.

22 (All Commissioners raised their hands.)

23 All opposed.

24 (Silence.)

25 Motion passed. Thank you very much,

1 Commissioners.

2 VICE-CHAIRPERSON FREDERICKSEN: Sam.

3 CHAIRPERSON KALALAU: Yes, Eric.

4 VICE-CHAIRPERSON FREDERICKSEN: I'd like to
5 make a motion that we have the Halloween event placed on
6 an agenda in the very near future, so we can put this to
7 rest and get back to our other tasks that we have. And
8 maybe this -- the Halloween event as well as -- let's
9 stick with the Halloween event.

10 CHAIRPERSON KALALAU: Let's make a motion
11 for that, because it's very important that we give
12 everybody time to sit down and, you know, talk about
13 that event, that major event. And it will give us more
14 time to at least go over what other information we have.
15 This would be more fair for everybody --

16 VICE-CHAIRPERSON FREDERICKSEN: Okay. Yeah,
17 I agree.

18 CHAIRPERSON KALALAU: -- that we do have it
19 come before this Commission again real soon. So, can we
20 make a motion for that we do have the Halloween parade
21 event in its entirety presented to this Commission?

22 COMMISSIONER ARTATES: Eric, you made the
23 motion.

24 VICE-CHAIRPERSON FREDERICKSEN: Yeah.

25 COMMISSIONER ARTATES: So move, so we can

1 get the discussion.

2 COMMISSIONER MARQUEZ: Discussion. So, help
3 me understand that even when we have -- not if, but when
4 we have this mana'o presented and on the agenda, it
5 still remains that the body has no power to approve or
6 disapprove the event. Am I correct?

7 CHAIRPERSON KALALAU: We do, because it's in
8 our National Historic landmark.

9 COMMISSIONER MARQUEZ: See, that's why I am
10 confused.

11 COMMISSIONER HUTAFF: If it's an official
12 event and somebody applies for a permit. Right now, the
13 permit is only about utilizing the thing. The police
14 are going to close the road off because of the safety
15 issues. Someone dressing up -- 30,000 individuals
16 dressing up and going into Lahaina and hitting the
17 bars --

18 VICE-CHAIRPERSON FREDERICKSEN: That's
19 still --

20 COMMISSIONER HUTAFF: -- okay, is not
21 permitted. Am I correct, Corporate Counsel?

22 COMMISSIONER MARQUEZ: Okay. So, you are
23 helping me to understand that when and not if we have
24 this mana'o, we, this Commission, have the power to say
25 yeah or nay to the event entirety, yes or no?

1 CHAIRPERSON KALALAU: Yes.

2 COMMISSIONER MARQUEZ: Thank you for helping
3 me understand.

4 DEPUTY CORPORATION COUNSEL: Depends if you
5 look at it as an event or not. I guess we should
6 clarify that.

7 COMMISSIONER MARQUEZ: Yeah.

8 DEPUTY CORPORATION COUNSEL: This is why
9 everybody hates lawyers. If you call it an event, the
10 thing is is that if it happens spontaneously, it may not
11 be an event, you know. And that's -- that's the rub is
12 that you are trying to regulate people gathering,
13 dressing up, walking. That's not something that this
14 body regulates.

15 It's when this activity is organized to the
16 extent that people are collecting moneys and they are
17 doing organized functions, you know, or they are
18 occupying or using government facilities, now they get
19 into the crux of we have to permit this.

20 The County is not going to let you use the
21 Banyan Tree Park to do what you want to do. Well, now
22 we got to go to the County and get a permit. Now it
23 becomes an event. But walking down Front Street with a
24 banana on your head --

25 VICE-CHAIRPERSON FREDERICKSEN: Yeah, that's

1 whatever.

2 DEPUTY CORPORATION COUNSEL: -- is not a
3 permit event.

4 VICE-CHAIRPERSON FREDERICKSEN: Here is
5 my -- can I ask?

6 COMMISSIONER MARQUEZ: Yes.

7 VICE-CHAIRPERSON FREDERICKSEN: I have a
8 question. Okay. If establishments are, you know,
9 promoting like, hey, come to Lahaina for Halloween. I
10 mean, is that -- is that something that the Cultural
11 Resources Commission -- is there any way to address
12 something like that?

13 DEPUTY CORPORATION COUNSEL: Probably in the
14 venue if they are setting up signs in the County
15 right-of-ways.

16 VICE-CHAIRPERSON FREDERICKSEN: I mean, it's
17 a Historic District. I mean, design guidelines.

18 DEPUTY CORPORATION COUNSEL: Right. There's
19 already laws in place. I mean, if people are blocking
20 the street, okay, the police come in, and you can't --
21 you can't walk in the street. You know, you can get
22 arrested for that, jaywalking. There's laws that are in
23 place that regulate human activity, outside of cultural,
24 you know, activity.

25 There's sign ordinances in Lahaina. You

1 can't have signs a certain size. You can't place them
2 in certain places. You can't -- so, if they just so
3 happen to say Halloween on them, and they violate some
4 other law, then that's for enforcement also. You know,
5 the Planning Department has people who look out for
6 infractions of your sign violations.

7 But like I think for your example, where you
8 are saying, well, what if a bar has pamphlets --

9 VICE-CHAIRPERSON FREDERICKSEN: Or an
10 airline, et cetera, et cetera, et cetera.

11 DEPUTY CORPORATION COUNSEL: Yeah, I mean,
12 it's difficult to -- you know, where do you draw the
13 line? Where do you -- you know. And I think it's
14 just -- I mean, the discussion earlier was that you can
15 put something on your agenda to try to strategize these
16 types of -- right. I mean, if you want to look at your
17 options, you know, put it on the table and then have the
18 Planning Department, legal counsel, and direct them in
19 the way that you want to go. Come up with a -- not a
20 policy, but a foundation of where do you want to take
21 this?

22 Because it's in your purview of your rules.
23 You know, you can come up with certain type of
24 recommendations that affect policy. So, that's where
25 you have to take it from there, over and above granting

1 or denying permits.

2 VICE-CHAIRPERSON FREDERICKSEN: I was just
3 kind of concerned, as a Commission, I hope we don't end
4 up spending too much time on this just because we got a
5 lot of other stuff that we need to do, too. And maybe
6 if we can look at, you know, the context of Lahaina,
7 because that wraps in with a lot of other things going
8 on.

9 COMMISSIONER HUTAFF: That was kind of my
10 point is to use this as a jumping off -- jumping up
11 point. Not cool. I already did that earlier.

12 MR. SOLAMILLO: If it please the Commission,
13 we are right now resurveying Lahaina. And at the end of
14 that process -- and at the same time, there's a photo
15 assessment of the entire district being conducted. This
16 information is going to be gathered together, and we
17 will do an assessment on Lahaina.

18 Okay. That means from architectural,
19 archaeological, signage, all those kinds of things,
20 uses. And we are going to -- this report ends up going
21 to the National Park Service, because they want to know
22 what's happening in Lahaina.

23 And being that it is an NHL, it's at the
24 highest tier. As Ms. Pyle would tell us, it is the
25 highest tier of significant sites in the country, okay,

1 akin to the Lincoln Memorial.

2 At that point, it probably would behoove us
3 all to really look at what we have on the books, because
4 we have got an awful lot of things that happen in
5 Lahaina, and buildings seem to sometimes just change
6 overnight from contributing to noncontributing, and it's
7 an ongoing thing.

8 So, it might be, at that point, where we
9 visit the things that might be perceived as threats to
10 what remains of Lahaina as well as its culture, how do
11 we preserve that long term as far as policy
12 recommendations. So, it's all going to come back to
13 you, you know, whether you like it and probably sooner
14 than later, so --

15 VICE-CHAIRPERSON FREDERICKSEN: Stan, do you
16 think there's a need to have it an agenda -- agendized,
17 or whatever, however it's pronounced --

18 MR. SOLAMILLO: If it's the wish of the
19 Commission.

20 VICE-CHAIRPERSON FREDERICKSEN: Agendized.

21 MR. SOLAMILLO: Agenda-ed. If it's the will
22 of the Commission to come back as an individual event,
23 it's, I believe, the largest event. It probably draws
24 the most people --

25 VICE-CHAIRPERSON FREDERICKSEN: Yeah.

1 MR. SOLAMILLO: -- you can, or you can look
2 at -- you can place it under a consideration of cultural
3 events, right?

4 VICE-CHAIRPERSON FREDERICKSEN: Look at the
5 big picture.

6 MR. SOLAMILLO: And those are events which
7 promote the culture or the history of Lahaina. You
8 know, I have often wanted to say let's have a whale
9 killing festival. They used to do that, and let's let
10 everybody experience what that was like.

11 So, you get 400 boats and all boiling pots
12 out in the harbor, and it's all floating. And, you
13 know, let's eat parts of the whale, and, you know. But
14 I mean, these are all really extreme.

15 But all I am just saying is there are parts
16 of our culture that, yeah, they happened. You know, do
17 we want to remember them? Do we want to promote them?
18 You know, and this falls under your purview.

19 COMMISSIONER HUTAFF: I think we need to go
20 back about 700 years.

21 MR. SOLAMILLO: There you go. So, anyway,
22 we might -- it's up to you. If you want to handle it as
23 a separate event, that's fine. I will remind the
24 Commission we have got --

25 VICE-CHAIRPERSON FREDERICKSEN: Other things

1 to do.

2 MR. SOLAMILLO: We have Lana'i we have to
3 return to. We have a lot of things that have been put
4 on hold.

5 VICE-CHAIRPERSON FREDERICKSEN: But this
6 will be -- we would be able to take it back up.

7 MR. SOLAMILLO: Yes.

8 VICE-CHAIRPERSON FREDERICKSEN: The
9 Halloween in that context.

10 MR. SOLAMILLO: It would be cultural events
11 that are promoted in the NHL.

12 VICE-CHAIRPERSON FREDERICKSEN: Uh-huh.

13 MR. SOLAMILLO: As well as Historic
14 Districts 1 and 2.

15 VICE-CHAIRPERSON FREDERICKSEN: I just want
16 to make sure we don't lose an opportunity. Like if we
17 don't say something today, that it doesn't -- we are not
18 going to be able to revisit this issue. That's all.

19 MR. SOLAMILLO: I think we said something
20 already today.

21 VICE-CHAIRPERSON FREDERICKSEN: Without a
22 formal motion or anything. That's fine.

23 MR. SOLAMILLO: It's up to you. I mean, I
24 believe it's going to come back, because I believe that
25 this Commission needs to help the County and staff deal

1 with kind of a run away train that has been occurring in
2 the NHL.

3 And it may mean -- you have already
4 revisited design guidelines. Those still have to go to
5 the Planning Commission, but it may come to other issues
6 to -- especially as it relates to Hawaiian issues,
7 language, cultures, and sovereignty. But I commend the
8 Commission today.

9 CHAIRPERSON KALALAU: We need to make a
10 motion to recess for lunch, and after lunch we will come
11 back and convene.

12 VICE-CHAIRPERSON FREDERICKSEN: I make a
13 motion that we take a lunch break.

14 COMMISSIONER MARQUEZ: Second.

15 CHAIRPERSON KALALAU: Moved and second.

16 COMMISSIONER WATANABE: Third.

17 CHAIRPERSON KALALAU: All in favor.

18 (Chorus of ayes.)

19 I want to thank everyone for coming here and
20 giving your testimonies.

21 (Recess, 2:05 p.m. Resumed, 2:53 p.m.)

22 CHAIRPERSON KALALAU: Okay. Commissioners.

23 The meeting is now back in session.

24 MR. SOLAMILLO: Under Item E,
25 correspondence, nothing is being brought before this

1 Commission at this time, except for the ACHP policy
2 statement, which I will read under Director's report.

3 On unfinished business, there is nothing
4 being brought, nor are there any items being brought for
5 new business.

6 CHAIRPERSON KALALAU: Okay.

7 MR. SOLAMILLO: Under H, Director's report,
8 the August 7th CRC meeting agenda, we may, if you would
9 like, go back to Lana'i. We still have to go to
10 Moloka'i. We haven't gone there yet. That's really up
11 to this Commission.

12 CHAIRPERSON KALALAU: We got to go Hana.

13 MR. SOLAMILLO: If you want to go Hana, we
14 can go to Hana.

15 COMMISSIONER HUTAFF: I will drive. We have
16 got vans.

17 CHAIRPERSON KALALAU: In Hana, we had a
18 major problem with this administration.

19 COMMISSIONER MARQUEZ: If you choose
20 Moloka'i for August, I will not be.

21 MR. SOLAMILLO: You won't be. Okay. So, we
22 got to wait.

23 COMMISSIONER MARQUEZ: Okay. So, Lana'i,
24 Hana.

25 COMMISSIONER HUTAFF: You guys have done

1 this longer. I will do what you guys want to do. I am
2 along. I will follow you guys anywhere.

3 MR. SOLAMILLO: The only reason I am holding
4 off a little while on Lana'i is because there's some
5 negotiations that have to take place. We did get some
6 reports that we had asked for from the company, and we
7 did survey the BCT, which was a -- the whole quadrangle
8 downtown.

9 VICE-CHAIRPERSON FREDERICKSEN: Reports,
10 what did I miss?

11 MR. SOLAMILLO: Reports.

12 VICE-CHAIRPERSON FREDERICKSEN: Okay. Never
13 mind.

14 MR. SOLAMILLO: I am sorry. I went French
15 for a minute.

16 VICE-CHAIRPERSON FREDERICKSEN: No, I
17 actually speak some French, but it didn't even -- didn't
18 even come across that way.

19 MR. SOLAMILLO: All right.

20 COMMISSIONER HUTAFF: If you want to go to
21 Hana, I will volunteer a van. And if anybody is brave
22 enough to drive with me, I will be happy to drive out
23 there. I am going to drive up there any way, either in
24 my truck or in the van.

25 MR. SOLAMILLO: I think the importance of

1 Hana really is it's one of the few intact cultural
2 landscapes. And my concern is about on the peninsula,
3 all our valleys, Waiehu, Waihee, is that we have got
4 these nascent -- or in the cases of East Maui, we have
5 got fully intact, you know, lo'i traditions that have
6 continue down for generations.

7 In these other valleys around the islands,
8 we have got lo'i restoration going on. And, you know, I
9 ran across -- I was very blessed to be able to move to
10 Waihee in the back of the valley, and we have got, you
11 know, kids that are out there every weekend, you know,
12 clearing and planting kalo. And it's spectacular. It's
13 wonderful to see. We have ka wai that still flow and
14 stuff like that.

15 But we have water issues, because the stream
16 is dry and only flows twice a month when they flush out
17 the silt. So, from 11:30 in the evening till like
18 2:00 a.m., we got a rush of water. And I think I'm
19 concerned, and this is an opportunity for these
20 Commissioners to probably make some sort of statement
21 about these being as important as they are to our
22 island's history.

23 And it also directly ties to an economic
24 impact, and you would know that better than I. And it
25 would give us an opportunity to see what's happening,

1 because I am hearing all these scary stories about lo'i
2 walls cracking, and so it's up to you if the Commission
3 would want to go there. How about you, Suzie? No? No
4 like? Your call. You can vote. You don't have to go
5 anywhere.

6 VICE-CHAIRPERSON FREDERICKSEN: That's not
7 fair.

8 CHAIRPERSON KALALAU: No, we are going to
9 have to tour, site visits.

10 COMMISSIONER HUTAFF: You will probably have
11 to come to Keanae, yeah, and I can show them some stuff.
12 One of the biggest issues out there is not just the
13 water, but the fact that it's conservation land. And
14 conservation land is a legitimate excuse for neglect.
15 If I could take you to Wailua, all mango trees all the
16 way down to the ocean. And you can't get a permit to go
17 and take down the mango trees, because it's conservation
18 land. And trying to get the water to the lo'is and
19 trying to restore the lo'is is -- I mean, you don't. If
20 you go walk down an area, I have.

21 CHAIRPERSON KALALAU: All the roots of the
22 trees.

23 COMMISSIONER HUTAFF: Yeah, you can see all
24 the way down to the ocean, maybe 1500, 2000 of them.
25 So, it's not just the fact that there's no water. You

1 know, there is true neglect, and neglect is -- there's
2 people who want to work the lo'is, you know, free grow
3 the taro? Sure, why not? But legislature or defense,
4 which is even worse, you need an act of Congress to work
5 on conservation land. They can't get through to
6 anybody.

7 There's no direct path. Put the permit in
8 here, and we will look at it tomorrow. You have to go
9 to Congress, and say, hey, we want to get rid of the
10 Java plums at Waianapanapa. We want to get rid of the
11 mango trees down in Wailua, and we want to get back some
12 of these cultural sites. And it can't be done. So,
13 that's really -- boy, that would be powerful.

14 CHAIRPERSON KALALAU: And a lot these areas
15 gets out of the County jurisdiction, and it falls in
16 State and conservation. The majority of the watershed
17 areas are in conservation.

18 VICE-CHAIRPERSON FREDERICKSEN: State, yeah,
19 conservation.

20 COMMISSIONER HUTAFF: You can't even cut the
21 bamboo. It's an invasive pieces. You get arrested by
22 the Department of Land and Natural Resources for cutting
23 it.

24 MR. SOLAMILLO: So, to access, do we have to
25 have permission?

1 COMMISSIONER HUTAFF: No.

2 MR. SOLAMILLO: No?

3 COMMISSIONER HUTAFF: You can see all that
4 from the road. That's one thing about the Hana Highway,
5 a lot of stuff you can see right from the road.

6 COMMISSIONER ARTATES: Would we be
7 exercising Hawaiian gathering rights?

8 CHAIRPERSON KALALAU: I think Hawaiians need
9 some kind of support to do that. Getting less and less
10 and less. That's -- I mean, that's the key thing. That
11 is why they are doing all the surveys on this, because
12 still get native species and wildlife, I mean, inside
13 those streams and stuff like that.

14 That's what actually is kind of protecting
15 them for get water flow and stuff. But like Ray was
16 saying, the key thing is you got to go upkeep. Keep the
17 thing flowing and clean and stuff. It's just overgrown.
18 It's just over wild, and then, you know, how you going
19 to do that? You going to cut down a thousand mango
20 trees?

21 VICE-CHAIRPERSON FREDERICKSEN: How do you
22 get them out without damaging --

23 CHAIRPERSON KALALAU: The banks and all that
24 stuff.

25 COMMISSIONER HUTAFF: Mango, actually, you

1 can cut it. Mango has a positive to it, is when you cut
2 it, it rots. Okay. So, it can actually become
3 foundation for the lo'i. So, you actually wouldn't
4 waste anything.

5 VICE-CHAIRPERSON FREDERICKSEN: So, it would
6 be a couple year project. You cut and then let it
7 biodegrade for a bit, or you could probably grow stuff
8 around it.

9 MR. SOLAMILLO: You can mulch it right there
10 on the spot, right?

11 COMMISSIONER HUTAFF: Yeah, but you wouldn't
12 have to. You cut it down, and it's moist enough out
13 there, let it get soft and pick it up in pieces.

14 COMMISSIONER ARTATES: You guys did a good
15 job. Okay.

16 CHAIRPERSON KALALAU: Okay.

17 (3:04 p.m. Commissioner Artates left the
18 meeting.)

19 COMMISSIONER HUTAFF: But, yeah, that's
20 actually what we should be discussing when we go out
21 there, because then you can actually see it. Do we
22 have -- is there an outcome to that action?

23 MR. SOLAMILLO: Of going out and having a
24 meeting there?

25 COMMISSIONER HUTAFF: Yeah. I mean, is

1 there something that -- you know, I mean today I kind of
2 learned like a really sad lesson. You know, I mean what
3 is it that we actually get to accomplish is we just make
4 recommendations. Do we -- do we have -- are we going to
5 be listened to if we come with a motion and say, you
6 know, the State should listen to us?

7 MR. SOLAMILLO: Right now, we are in a -- we
8 are beginning a Cultural Resource survey of all of Maui
9 County. Parts of Hana gets surveyed. What I'm most
10 interested is in locating -- because it ties into part
11 of the general plan.

12 What I am most interested in locating is
13 instances where we have intact view sheds, or
14 cultural -- traditional cultural properties, or
15 traditional -- or places where traditional lifestyles
16 were being practiced, and those become a high priority.
17 Because they are one-of-the-kind places that may be
18 under threat that absolutely have to be preserved,
19 because it's living culture, and it affects generations.

20 VICE-CHAIRPERSON FREDERICKSEN: We are done
21 with the meeting, I guess.

22 COMMISSIONER MARQUEZ: I'm sorry.

23 CHAIRPERSON KALALAU: We lost everybody.

24 (3:05 p.m. Commissioners Marques and
25 Watanabe left the hearing.)

0203

1 MR. SOLAMILLO: So, that's one of the
2 things, and we need Hana people to tell us what that is,
3 because if you have recommendations to -- the other
4 thing is what are the specific problems which are
5 endemic to the area which we are talking about now, and
6 what --

7 DEPUTY CORPORATION COUNSEL: We have got to
8 stop.

9 CHAIRPERSON KALALAU: We have got to stop.

10 MR. SOLAMILLO: I got to shut up, but
11 anyway. Read this.

12 CHAIRPERSON KALALAU: Thank you guys for
13 coming.

14 (Adjourned 3:06 p.m.)

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATION

2 I, KATHERINE EISMANN, CSR 439 in and for the
3 State of Hawaii, do hereby certify:

4 That the proceedings were taken by me in
5 machine shorthand and were thereafter reduced to print
6 under my supervision by means of computer-assisted
7 transcription; that the foregoing represents, to the
8 best of my ability, a true and correct transcript of the
9 proceedings had in the foregoing matter.

10 I further certify that I am not an attorney
11 for any of the parties hereto, nor in any way interested
12 in the outcome of the cause named in the caption.

13

14 Dated: _____

15

16 _____

17 Katherine Eismann, CSR 439

18

19

20

21

22

23

24

25