

COUNTY OF KAUAI
KAUAI HISTORIC PRESERVATION REVIEW COMMISSION
Mo'ikeha Building, Meeting Room 2A/2B

MINUTES

A regular meeting of the Kauai Historic Preservation Review Commission (KHPRC) was held on February 21, 2019, in the Mo'ikeha Building, Meeting Room 2A/2B.

The following Commissioners were present: Chair Aubrey Summers, Vice Chair James Guerber, Gerald Ida, Deatri Nakea (*arrived at 3:01 p.m.*), Anne Schneider and Victoria Wichman (*recused herself at 3:54 p.m. and returned at 3:58 p.m.*).

The following Commissioner was excused: Althea Arinaga.

The following staff members were present: Planning Department: Myles Hironaka, Planning Director Ka'aina Hull, Leslie Tasaki and Alex Wong. First Deputy County Attorney Nicholas Courson. Office of Boards and Commissions: Commission Support Clerk Sandra Muragin.

A. CALL TO ORDER

The meeting was called to order at 3:00 p.m.

B. ROLL CALL

Planning Director Ka'aina Hull: First order of business is roll call. Commissioner Arinaga is excused. Commissioner Guerber.

Mr. Guerber: Here.

Mr. Hull: Commissioner Ida.

Mr. Ida: Here.

Mr. Hull: Commissioner Schneider.

Ms. Schneider: Here.

Mr. Hull: Commissioner Summers.

Chair Summers: Here.

Mr. Hull: Commissioner Wichman.

Ms. Wichman: Here.

Mr. Hull: I believe Commissioner Nakea is running late, but you have a quorum Madame Chair.

C. APPROVAL OF THE AGENDA

Mr. Hull: Next agenda item is the approval of the agenda. The Department would recommend amending the agenda so that agenda item I. New Business, the Faye Vacation House be taken out of order and be taken right after agenda item E. which is Hearings and Public Comment.

Chair Summers: Could I have a motion.

Mr. Guerber: Yes, I move that.

First Deputy County Attorney Nicholas Courson: Move to approve the agenda, as amended?

Mr. Guerber: Amended, yes.

Ms. Wichman: Second.

Chair Summers: Any comments. (Hearing none) All in favor. (Unanimous voice vote) Any opposed. (Hearing none) Motion carried 6:0

Mr. Hull: Motion passes Madame Chair.

D. APPROVAL OF THE JANUARY 17, 2018 MINUTES

Mr. Hull: Next agenda, we don't have the minutes for the January meeting.

E. HEARINGS AND PUBLIC COMMENT

Mr. Hull: The next agenda item is Hearings and Public Comment. Individuals may orally testify on items on any of the items on the agenda at this time or any members of the public would like to testify on any agenda items at this time? Seeing none.

I. NEW BUSINESS

- 1. Faye Vacation House (PMD Hanalei, LLC)
5204 Weke Road
TMK: 5-5-02:12
Hanalei, Kaua'i
Proposed Garage and Guest House.**

a. Director's Report pertaining to this matter.

Historic Planner Alex Wong: Aloha. Commissioners, for your perusal the applicant's designs are in the packet right before my director's report at the very end, I.1., the letter I.1.

Mr. Wong read portions of the Director's Report dated February 21, 2019, for the record.
(*Document on file*)

Mr. Wong: As a brief recap, although this property is not currently on any Register, it does qualify on Criteria A. Sorry, it does meet National Register Criteria A. It has the potential to meet National Criteria B, it does meet National Criteria C and most likely does not meet Criteria D. So, (it) will not yield important information, or history, or prehistory. So, as a side note there is a potential for this property to be nominated for the Register despite the fact that it's not currently on the Register.

Ms. Schneider: Alex, is it on our inventory?

Mr. Wong: It's on our County of Kaua'i inventory, yes. It is not on the State or National Register of Historic Places.

Mr. Wong read the remaining portions of the Director's Report dated February 21, 2019, for the record. (*Document on file*)

Ms. Schneider: So, is this going to go through other public hearings, other than this? Does it go through Special Management Area (SMA Permit)? Does...

Mr. Hull: So, the Regulatory Division is reviewing the application as to whether or not it constitutes (as) an accessory and/or maybe exempt under the public hearing scrutiny because of the cost. We haven't gotten the cost figured out. My apologies to the Committee. The Special Management Area (SMA) Permit that Commissioner Schneider is referring to...there are specific thresholds at which a Special Management Area that has to do with coastal review of projects, comes into the purview of the Planning Commission. And the Regulatory Division hasn't made a determination yet as to what type of SMA review is required. There are two processes, one is a public process and it required a Special Management Area major permit and one that is a minor process. And that minor process goes through minuscule review through the Department but there is no public hearing. So...

Ms. Schneider: Is that, based on cost?

Mr. Hull: That is, based primarily on cost. And the threshold is essentially \$500,000 worth of structure cost, (over) \$500,000 and then it gets bumped up to a public hearing process and with cost below that an SMA review is done; however, it's done minuscule. So that's still, being determined. I can say that I was just approached a few days ago in discussions with the Regulatory Division in the sense that there is some concern as to whether or not this actually would qualify as a guest house, but they're making that analysis right now. The application has

come into the Department and per the, review this is one of the reviewing bodies. So Alex and I felt it prudent that this body still give a historical analysis and ultimately recommendation. Or should, I say an action on the proposal, but...

Ms. Schneider: I can remember when the Faye family stayed in that house.

Mr. Hull: And the applicant is here if you guy's, have any questions for him as well.

Architect Mr. Jon Kagle: I am Jon Kagle. I am the Architect for the project. Yes, I can kind of share, some of my insights into the thought processes behind the design (because) we have tried to compliment, the existing beach house. I do, kind of disagree a little bit with some of the Departments comments on scale and massing, and it being a compliment or not to the existing house. I do feel like we have a very sensitive design in that regard. So that being said, you know, the existing beach house is rather large, you know, it does have a lot of mass to it. It's a big roof on a small house. I think some of our design cues were to take that from an architectural element, which is this steep roof (with) that kind of a big gable ends, as you know, as kind of our primary architectural element as well. But then by reducing that scale and massing by just kind of using that gable portion and not all that other roof that's part of the existing house. And then kind of conceptually in the way we were proposing to place the building on the lot. But yes there are two existing buildings, both of them dwellings.

They were hit by the tsunami in '57 and prior to that both houses were closer to the beach. They moved the one (house) back. It was originally on a cross base and this was a little verbal history that I got from Mike Faye, on it. So at that time they moved the house back they contemplated just demolishing it at that time, because it was in (a) fairly bad shape, after the tsunami. But they kept it, pushed it back, (and) put it on a slab rather than elevating it on a cross base. He said the plan, the overall floor plan, didn't change too much as they were doing those repairs; putting it on a new foundation. The second house on the property, the smaller one, kind of off to the side, originally was a two story house with a garage below it. And after the tsunami, they just got rid of the bottom story, cut it in half and set it on a post and pier. So taking those two buildings that are there (is) kind of where our concept for that whole front half of the property was going to go, was to kind of create, you know, the beach access side. The properties kind of the empty side, as far as kind of creating a courtyard around that entry. So that was kind of where, you know, we would (be) landscaping some site development, just kind of, just to make (it so that) when you come into that gate you're in this little suburban courtyard that's kind of defined by all three buildings. Then the other idea behind our proposed building was it was going to be kind of (a) little brother to the main house. So that's kind of some of the thoughts behind it, as far as from an architects perspective, anyway.

Chair Summers: Do you have any elevations from the street?

Mr. Kagle: I did take a few pictures that I can share with you. I think you have drawings of the...

Chair Summers: Of the actual, I was thinking maybe...

Mr. Kagle: Of the proposed building.

Chair Summers: The existing building to show that yours is a...

Ms. Schneider: Juxtaposition.

Mr. Kagle: And I also got some photos and some drawings of the existing house as well, that I can share with you. So from you know, with this two story concept, you know, the two story part, you know, it would be visible from the street, you know, where we got enough property. There's (a) very tall iron wood hedge along Weke Road and then the beach access side. Once you get kind of, pass our building area, there's some tall trees and stuff so you don't see the neighboring property at all. But probably right there at that corner, where you approach the beach access off of Weke (Road) the vegetation is a little bit lower along the beach access path. So you would definitely see this second story. As for our garage portion below, you know, we are picking up one of the...so the main house kind of has a split pitch roof design, so we're kind of mimicking the lower pitch of the main house on the lower story of our proposed building. And I believe the iron wood hedge would conceal, you know, 80% minimum, and possibly most all of the lower story from the street.

Mr. Guerber: Alex, is that the kind of landscaping you were talking about in your report? Just the iron wood hedge.

Mr. Wong: Shall I defer to the Planning Director for this one?

Mr. Hull: Yes, ultimately on Alex's report it does states that there is an anticipated Adverse Effect. Should it be, constructed as represented? However, the Department would be okay in approving a proposal should something be done to mitigate the massing and either shrinking the building or possibly removing of the building and/or landscaping so that at least from the public thorough fare there may not be that much impact upon the site. No, proposal has been given at this point, essentially, right. I think we're saying we can support it but from our position we would recommend that additional analysis be done to provide either the Department or Commission that ability to determine if its been mitigated.

Mr. Kagle: And we are in our proposal location for the building, you know, we are pushed right to our setback requirements, you know, we're not right at those minimums, you know, we're far enough back from Weke (Road) to allow us to plant, and that is the intention as well. Not only does the buildings got to be attractive in my opinion anyway, I think I added a very attractive building.

Mr. Hull: Yes, and the Department...

Mr. Kagle: Because you can see it from the street, it's like, it's going to be a nice thing to see. You know it's not going to be an eye sore by any means, but we do have, you know, it kind of the other way. You don't want to be sitting in the house looking down over people walking up and down the beach access path. So that is part of the intent, is to you know, pull it far enough

away from the access path that we do have room back there too provide landscaping and screening.

Mr. Hull: Yes and that's why we're looking at somewhat screening as a possibility. I am in agreement with the applicant that the design of the house is – I will say, aesthetically pleasing and in keeping with the form and function of what is, already existing there. But we have that Secretary of Interior Standards, right, that kind of point out that if there is a historic structure on the site, then any proposals near to or adjacent, or by it, should actually be distinctively different from that structure. I don't know if aesthetically I agree with that, but as former Commissioner Griffin would always point out, historic preservation isn't about aesthetic. So it's hard for us to balance and weight, but that's what Alex was including in the report to say. And I didn't mean it to be any comment on the architects work because I think it looks wonderful but it's just...

Ms. Schneider: So what do we need? A motion now?

Mr. Hull: It's really up to you folks. Essentially what our recommendation is, (is) that it can be approved contingent upon these provisional, and essentially you'd be seeding that authority to the Department to determine whether or not its been mitigated. The Department doesn't always necessarily ask for that authority, if you folks as a Commission are somewhat in agreement that perhaps it can be mitigated but you'd like to see more, than that request should be made from the applicant and they can perhaps come back. So it's really what you folks desire to do next.

Mr. Kagle: My client, you know, is open to suggestions. You know we're not rock solid, stubborn, you know, this is it or nothing kind of a approach here, you know. This is, you know there probably are a couple of features that are pushing the limit of what can be you know defined as garage and guest house of a building. So there are some things that we are very prepared to have dialogue and come to an agreement on.

Ms. Schneider: Can I make a motion that the applicant comes back to the Commission when they've made the revisions that have been suggested.

Mr. Hull: I don't think a motion necessarily, just a deferral request. I would say a motion to defer until...

Ms. Schneider: I would like to make a motion to defer so you come back to the Commission with the changes.

Mr. Kagle: Sure, do you guys have any like comments or stuff you would like to see me address further on...

Mr. Couson: Just for procedure sake, could we get a second to that motion and then discussion.

Mr. Guerber: I second that motion.

Mr. Couson: Thanks.

Ms. Wichman: Now we can ask questions.

Mr. Guerber: No, discussions.

Chair Summers: Any comments.

Ms. Wichman: Go ahead Gerald.

Mr. Ida: Do you see this thing going through State Historic Preservation Division (SHPD)?

Mr. Hull: It will go through SHPD. Whether or not we get a comment is...we haven't gotten a comment from the archaeological branch, if there is an archaeological branch. We'll be, rest assured we would get comments from them, if there's an archaeological impact here. The architectural branch, to be honest and I don't mean to be sully or make any bad comments, we haven't heard back from the architectural branch in over two years, quite honestly. So applications have been, forwarded. My last understanding was that if we do not hear back from them within 30 days, to take it as a no comment. And so it's definitely going to go with SHPD it's just – has it already gone to SHPD, Alex? It has been, submitted to SHPD.

Mr. Kagle: And that's a default thing you need when there's a building over 50 years old. It automatically goes to SHPD, doesn't it?

Mr. Hull: Technically not anymore, when it's just a residential. The State Law, was amended but this one has already been sent and that might be a consequence to the fact that the site is on our historical inventory.

Ms. Wichman: I have a question for Alex. You put this report together, recommendation. And on Criteria D, that it's likely to or you say it's not likely to, yield information about history or prehistory. And that's based from what? From other reports in the area? Or how would, you know that?

Mr. Wong: My comment was mostly based on my reading of the fact that – despite the fact that its over 50 years old. The building, as the applicant pointed out has been, substantially changed. Its been moved. So in terms of architectural history, they uncovered that has not been known. That's where I base that comment on.

Ms. Wichman: Okay, got it. And what about archeological history. What I am thinking about...

Mr. Wong: Below the ground...

Ms. Wichman: Because you're putting a full new structure in a different place on the property and has the area been tested? I mean...

Mr. Kagle: And we haven't done any archaeological survey.

Ms. Wichman: I would imagine...

Mr. Kagle: Often times that's part of the comments we get from historic, you know, their archeological department does come back with comments or recommendations and sometimes requirements for a survey...

Ms. Wichman: Right.

Mr. Kagle: If there are known artifacts, or sites nearby.

Ms. Wichman: Well I would imagine Hanalei Bay. I know where this house is. It's a very sensitive area, so I am just a little concerned about that.

Mr. Kagle: Yes, I've had, you know, in other projects in Hanalei that were, you know, that were involved going into archeological stuff from the State. That's the two other ones I've done up there, where both came back and said, well you know, keep an eye, if you find anything stop and call us.

Ms. Wichman: Of course.

Mr. Kagle: Then there's one of them (that) did want an archeologist on site while they were digging. So things like that, but nothing has been done prior to our digging, or you know, potential digging.

Ms. Wichman: So that could be a recommendation from SHPD.

Mr. Kagle: It very well could be, yes.

Mr. Hull: To that point Commissioner, it could be a recommendation from this body, as well.

Ms. Wichman: This body as well, I would agree.

Mr. Hull: So, and I think the point is well taken. And I think being that the motion is to defer. Should the deferral happen we'd probably look at amending our report to reflect something of that nature. And somewhat also to the Commissioners point, I think as we talked, sometimes as far as how the Department is evolving in its comments and what not and this report writing is we're looking for comments exactly like this. Alex is not a trained Historic Preservation, neither am I. This Commission has been particularly architecturally more focused and strong. We definitely appreciate criticism, constructive criticism from the Commission, where say our analysis may be lacking. Indeed, I think one of our weaker points is how to do an archeological analysis of a property. So the comments are well taken. If you guys have any more for us that you would like us to consider putting into our reports, we would welcome them.

Mr. Ida: Yes basically, that was my concern too, because I know the focus is always on the building, mutually, but you know, anytime you're going to disturb the ground you could...

Ms. Schneider: Going to find something...

Mr. Ida: Criteria D and I almost guarantee you SHPD is going to require you to do something. Just because of the area.

Mr. Kagle: Yes.

Ms. Schneider: I did several houses in that area and they always found something.

Mr. Hull: Yes, we'll definitely work to amend our report. And yes, like I said the focus has generally been architectural I know, and that's just because I think of the expertise that have served on this panel and...

Ms. Wichman: And that's why...

Mr. Hull: And now we have two. So we'd be really welcome in helping us beef up our archeological analysis.

Chair Summers: Any more comments. All in favor of deferring. (Unanimous voice vote) Any opposed. (Hearing none) Motion carried 6:0

Mr. Hull: Motion passes, Madame Chair. So essentially, it's an open ended deferral. So as soon as the information is provided to us, then we can get the applicant back on the agenda.

H. UNFINISHED BUSINESS

- 1. National Historic Preservation Act, Section 106 and Hawai'i Revised Statutes, Chapter 6E, Memorandum of Agreement Discussion Hanapēpē Bridge Replacement Project, Project No. HI STP SR50(1) Waimea District, Kaua'i Island, Kōloa Ahupuaa TMK: (4) 1-9-007: 001 Hanapēpē Canal, (4) 1-9-007-013, (4) 1-9-007:034, (4) 1-9-007 Kaumuali'i Highway Right-of-Way, (4) 1-9-010:015, (4) 1-9-010:046, (4) 1-9-010:050, (4) 1-9-010 Kaumuali'i Highway Right-of-Way.**
 - a. Final Memorandum of Agreement Among the Federal Highway Administration, The Hawai'i State Historic Preservation Officer, and Regarding the Hanapēpē Bridge Replacement Project.**
 - b. Appointment of investigative Committee members (Permitted Interaction Group) to Interact with the DOT on behalf of the KHPRC as a party to the Memorandum of Agreement for the Hanapēpē Bridge Replacement Project, Project No. HI STP SR50(1).**

Mr. Hull: At the last meeting, I gave a brief update as far as, why the PIG was established and ultimately, it was the Commissions desire to end participation in that PIG, not feeling it was necessary to participate. At the same time the applicant wasn't here to brief the Commission on

the final MOA and we put it back on the agenda because Myles (Hironaka) is a bit more familiar than I am. And he wasn't here as well to be able to brief you folks. So in abundance of caution we decided, with the Chairs approval, that we should bring it back so Myles could give you a brief briefing. If you still feel it's good to put it to bed, we're totally fine putting it to rest. But we just want to...

Ms. Schneider: I think I signed the MOA the last time, which was sometime in 2016.

Mr. Hull: So I'll turn it over, to Myles.

Myles Hironaka: Good afternoon Commissioners. I have to apologize for not being present at the last meeting in January. I just couldn't be here, but I've been working with Lisa Hamisat from the Federal Highway Administration on this for several months. So she's been in contact with our office. So maybe I can just go briefly, over what the Memorandum of Agreement is all about, and I think just for some background purposes. This was several years back the Department of Transportation and the Federal Highway Administration brought this matter before the KHPRC through, what is called, the Section 106 review process. And this is for the replacement of the Hanapēpē Bridge along the state highway. This is not the County Bridge. The County Bridge is the one that it was nominated, just recently nominated to the State Register.

So around that time, I think in 2016, what the Federal Highway Administration was invited the KHPRC to be what is called a concurring party in this Memorandum of Agreement. And what they also requested was if the Commission could designate either a member or members to be, I guess, designated to act in behalf of the KHPRC with respect to the requirements of this memorandum. I think what they had in mind was to see if they could meet collectively with all of the parties, concurring parties, and just for the Commissioners information the parties beside the KHPRC are State Historic Preservation Division, The Historic Hawai'i Foundation, The Department of Transportation as well as the Federal Highway Administration. So again, the intent they had was to try and see if they can collectively meet with the parties to discuss the various – well some of the milestones or requirements of the Memorandum of Agreement. And I think they were trying to do that either through maybe conference calls, if they couldn't collectively meet as a group, as well as through emails.

So, having said that, I guess if you had questions on what are the requirements of the Memorandum of Agreement through the concurring parties. If you, I think all of you have the Memorandum of Agreement in your packet. So if you were to refer to page two of the MOA and this is under stipulations. And if you look at roman numeral one E, this is under mitigated measures. What this stipulation does is the Federal Highway Administration is required to provide the parties with the opportunity to comment on the interpretive materials for the bridge. So this is a mitigated measure because the bridge is to be replaced, yes. So in essence what Lisa Hamisat from the Federal Highway Administration was doing was try to setup a meeting with the parties and she was trying to do this on February 6, and that obviously has come and gone. But she was trying to setup a meeting with the parties to discuss the interpretive materials for the bridge on the same day, the evening they also set up and had a public meeting in Hanapēpē and that put the public on this.

Ms. Schneider: Was in the newspaper.

Mr. Hironaka: Right, right. So that was the whole purpose of us bringing this matter to the KHPRC at the January meeting and basically it was to see, in fact, if the Commission wanted to establish a Permitted Interaction Group. To see if you wanted to interact with the other members of the concurring parties. And I believe the Commission elected not to establish a Permitted Interaction Group. And that's fine because the Federal Highway Administration will continue to work with the other members of the concurring parties and in fact I think at this stage they are looking at possibly creating a draft interpretive plan. The first draft plan sometime in March. So that's pretty much why we had this on the agenda. So it's not being amended or changed.

Ms. Schneider: Thanks Myles.

Ms. Wichman: I have a question Myles, please. I was one of the members on the PIG.

Mr. Hironaka: Correct.

Ms. Wichman: And we never heard anything. I would have went to the meeting if someone told me, but I never heard anything and then I noticed that the people in Hanapēpē, those ladies are really strong and they know what they're doing. So actually, I think they're probably going to do a really good job on their own, but we never heard anything and that's kind of why we moved to dismiss that.

Mr. Hironaka: And that's fine. This is really the first contact we've had from the Federal Highways Administration with respect to this Memorandum of Agreement and if you look at some of the stipulation I think it's primarily, it's on the interpretive plan.

Ms. Wichman: Yes.

Mr. Hironaka: Pretty much. There are some other task which would be more towards the as build drawings for the existing bridge, which I think is also another type of discussion that could happen with the concurring parties. But pretty much it's just really the interpretive plans.

Ms. Wichman: I have another question. To your knowledge, are they already working on interpretive in Hanapēpē on the massacresite? And there's other interpretation going on. That's what I got when we were at the meeting in Hanapēpē.

Mr. Hull: Yes. As far as this project, is the interpretive aspect of the bridge, and what's going to go on over there. There is a separate project going on with the Open Space Commission in looking at acquiring lands in close proximity to this bridge, that are known for the staging grounds for the Hanapēpē massacre and looking as a potential site to memorialize the massacre. They haven't come to any finality – well the acquisition hasn't even happened yet. So they're just looking primarily at the acquisition. Should the acquisition happen, what type of memorialization would happen there after, and should an interpretive aspect be included. So there's something going on, it's still very much in the making at this point, though.

Ms. Wichman: There's a lot of interpretive for Hanapēpē, it's a heavy place.

Mr. Hull: And the two ladies that you're referring too, right, like I don't know how involved they've been in this process but at least one of them I know is constantly, no, no, no, no our bridge is the other bridge.

Ms. Wichman: Yes. Thank you Myles.

Mr. Hull: So the agenda item was set up this way. And I just had a brief discussion with the attorney outside and he may want to update you but it was setup this way, in that if after giving Myle's brief update, if you guys still wanted to participate in some form or fashion with this review that you could do it through the PIG. I think Nick may have a different analysis than our previous attorney on whether or not – because our PIG has actually been disbanded so that was an action you guys formally took at the last meeting. I think the attorney's going to say that might not have been appropriate to form the PIG in the first place. I'll let him talk.

Mr. Courson: So, my read on the Sunshine laws of Permitted Interaction Group is for purposes of looking into something and then coming back and giving a recommendation to the whole body and then whole body takes action. So it's three steps. One is you figure out the scope – I mean you can delegate some level of authority in order to effectuate some things but really this body is always the decision making thing. And so I was just a little – when Myles was explaining, delegating some decision making power, I was thinking that's not really what a Permitted Interaction Group does. A Permitted Interaction Group looks into things and then comes back to the body. So if, you're wanting to delegate powers, which is always a bit of a chance thing when it comes to a Legislative, or group delegating powers, I would say to just delegate it to two. Any two of you can speak on any matter that's board business anyway there's an exception called the rule of two. But a Permitted Interaction Group really isn't any sort of fast tool to do that. A Permitted Interaction Group would be fine if you just wanted to assign people to monitor, talk to whoever and then come back to this body and give a presentation. But I always caution the Boards that I advise to in terms of time costly, because you need a meeting to set it up, which could be this one. And then you need a meeting where they present their findings and then you need a third meeting to actually act on those findings and the purpose of that is to give the public a chance to be privy to whatever information you're basing your decision on. So yes, I think in the past you've sometimes used Permitted Interaction Groups as kind of a way to get a decision done but I don't think that's proper. Like some small decisions to effectuate whatever their looking into. It's a gray area, so I am not condemning what was done in the past but I wouldn't do it the same way.

Ms. Wichman: So would it be better to call it an advisory committee, I mean a difference in the terminology.

Mr. Courson: No, the semantics. If it's board business, which this would be then you have to be concerned with Sunshine Law. And so, if it's going to be, if you're to deal, if any of you are going to deal with board business outside of a duly agenda meeting you have to be concerned with the Sunshine exception. So the Permitted Interaction Group is one, the rule of two is another, those would really be the only two avenues, I can think of.

Mr. Guerber: Explain the rule of two again.

Mr. Courson: The rule of two just allows any two of you to speak on any item of board business as long as no commitment to vote a particular way is either, sought. But what OIP doesn't like is if you two talk and then you talk with him about her about the same subject, they view that as a serial communication, which evades the point. So once you've paired up with your buddy on a certain subject that's your buddy. So that's, the rule of two. So any two of you can talk about this. So if the board, if the Commission wanted to delegate some level of power, I am not super familiar with the concept of delegating power to individual members but you know. Myself I would just be more comfortable if the thing just came back before the full Commission and you made the decision here.

Mr. Guerber: So it would be a review committee or sub-committee of the Commission, something like that.

Mr. Courson: A sub-committees fine, but a sub-committee would trigger the same requirements as a meeting. It would have to be. An agenda would have to be created, it would have to be posted six days in advance, (and) it would be a public forum. So sub-committees like Planning has a sub-committee that meets every time before the Planning Commission but its (on an) agenda. So in terms of the procedural requirements the sub-committee would be the same as this meeting, just smaller quorum.

Ms. Wichman: I understand. But this is interpretive and we don't usually have people bringing in interpretive panels or kiosk for us to approve, right. So I think what they're trying (is) to get people on, (get) historic minded people on this so we can figure out how to do the panels, right, to design them. But if we don't want to be involved in the design process then that's, you know our prerogative, right.

Mr. Courson: Yes, I mean if you're going to define (it) as not board business, then...

Mr. Guerber: We could meet individually.

Ms. Wichman: As an individual person, but separate from – we wouldn't be signing this agreement, then.

Ms. Schneider: Right.

Mr. Hull: Well no, I think that's what the attorney is getting at is essentially it's fine to participate in the MOU (sic) in so far as you're participating in it as a body. And so, indeed if it is an interpretive aspect and that is part of the Section 106 process is they are required to come before the various bodies of each municipalities when they are doing Section 106 review, to get your input. They seem to be going above-and-beyond what a lot of other Section 106 consultations will entail. And what they're saying is, we'd like to make you a full party to reviewing our proposals, which is a good thing, but then procedurally it can be a bit nightmarish because as Nick is pointing out you're going to have to meet as a whole body to review all the proposals. And so if they have an interpretive set of proposals and designs and signs that they

have them and you folks want to participate in that, I think we can continue to arrange that. And essentially, it would be (that) they would have to submit it to you folks for your review at your next meeting. You would review those interpretive signs as to whether or not they are appropriate or they should be changed or altered in some way.

Ms. Wichman: This has already been, written out a couple times, the memorandum, is it still possible to recommend other bodies that might participate instead of us? Like for instance the Kaua'i Historical Society since they're not on here? I mean can we make a recommendation for that, I mean...

Mr. Hull: There's not anything that would prevent this body from formalizing a recommendation to be sent.

Mr. Courson: One section of it literally...

Ms. Wichman: Especially Section 106 I understand that they have to do this because they're destroying, you know, the existing bridge, as a condition. And I've been on other 106 process community groups...there was one in Wailua, they did. And yes you're right, it is very difficult for people in government. They always have to take everything and then come back later. It's always another meeting and it really, the community, you know wants to move on it. So it might be better, since we are a County agency to have something more like a non-profit on there, I would think. I don't know how...

Mr. Courson: So there's a section in this MOU (sic) that's been executed. Section IV Amendments, "any signatory, invited signatory, or concurring party...", which I believe is what this body is a concurring party, "to this MOA may request it be amended, whereupon the parties shall consult in accordance with 36 CFR Part 800 to consider such amendment.", so you can certainly throw it out there for consideration.

Ms. Wichman: Okay.

Mr. Ida: Do these guys have a contractor working on these interpretive signage?

Mr. Hironaka: Sorry. To answer your question that I don't know. I can inquire with Lisa to see if she can give us that information.

Mr. Ida: I don't know. My personal opinion, I don't think we should be involved in designing this stuff or wording the sign. Just do it and we'll look at it and fine.

Mr. Guerber: I totally agree.

Ms. Wichman: I agree as well. I do. I would like to recommend that we invite the Historical Society to consider this memorandum, as well.

Mr. Guerber: So, we've already pulled out of this, is that right?

Mr. Courson: No, you dissolved your Permitted Interaction Group. You're still a signatory to the MOA.

Mr. Guerber: So, help me form a motion. Help us form a motion here that we include the Kaua'i Historic Society and we don't participate in designing the kiosk and the interpretive stuff ourselves.

Mr. Courson: I think you could move to request the Department...let's see what exactly does this language say.

Mr. Hull: I think if the motion made to the effect that the KHPRC recommends that Central Federal Lands include the Kaua'i Historical Society as a party to the Memorandum of Understanding or Agreement. Memorandum of Agreement and that, and that's it right. You would keep it at that.

Mr. Guerber: That's enough, isn't it?

Mr. Courson: And you might, also to be clear with these folks, just also ask them to say, you know, that so that they're clear on this body's intention. There won't be any feedback but they would appreciate seeing the final results. Come back. There won't be any feedback throughout the process but that they send the final for review that this body would appreciate that. I don't know if they can require it.

Ms. Wichman: Have we done that before?

Mr. Hull: What is that?

Ms. Wichman: Review interpretive.

Mr. Hull: Not that I recall.

Mr. Ida: I think I recall.

Mr. Hull: You do?

Ms. Schneider: Yes, I think so.

Mr. Ida: This is like in the...

Ms. Schneider: 80's or 90's, yes.

Mr. Hull: Yes and I think it's definitely within the purview of this body though, right...

Chair Summers: And wasn't that just the physical construction of the interpretive sign it was the actual verbiage...

Mr. Hull: The content.

Ms. Wichman: Yes, the content, right.

Mr. Courson: Yes, so there's two separate concepts there which you know could. You might want to take two separate motions.

Mr. Hull: Yes.

Ms. Wichman: But we have a motion on the floor right now, right.

Ms. Schneider: Refer to the Historic Society.

Mr. Guerber: Yes to include the Kaua'i Historic Society as a member of the MOA or just as a creator of the (inaudible)

Ms. Wichman: Recommended.

Mr. Hironaka: Concurring party.

Mr. Hull: Concurring party. So I think if because I don't do the second either, so I think if you made a motion to the effect that the KHPRC recommends to Central Federal Lands that the Kaua'i Historic Society be a concurring party to the MOA.

Mr. Guerber: That's exactly it. So just put that down and that's what I move.

Mr. Hull: Okay.

Chair Summers: Is there a second.

Ms. Schneider: I second it.

Chair Summers: All in favor. (Unanimous voice vote) Any opposed. (Hearing none) Motion carried 6:0. Sorry, do I need to repeat everything or is that okay?

Mr. Hull: If there's a desire to make a second motion, (make it) be something to the effect that, the Kaua'i Historical Preservation Review Commission will no longer provide feedback in the process of creating the interpretive signs for the Hanapēpē bridge. However, it would like to convey to the Central Federal Lands that the final product be provided for your review and comment.

Chair Summers: Would it be the final or semi-final, wouldn't we want to comment before?

Ms. Wichman: A final draft or...

Chair Summers: Yes, a final draft.

Mr. Hironaka: The MOA requires the Federal Highway Administration to provide the concurring party's with the 50% and 90% complete the plan...

Chair Summers: That's perfect.

Mr. Hull: The first motion, the first action should suffice. Madame Chair I apologize for clerking this agenda, (because) I skipped over approval of the January 17 minutes, stating that we didn't have them, but of course the packet does have them. So, if we could return to that agenda item to possibly entertain an action to approve those minutes.

D. APPROVAL OF THE JANUARY 17, 2018 MINUTES

Ms. Schneider: I make a motion that we approve the January 17, 2018 (sic) minutes.

Ms. Wichman: Second.

Chair Summers: Any comments. (Hearing none) All in favor. (Unanimous voice vote) Any opposed. (Hearing none) Motion carried 6:0.

H. UNFINISHED BUSINESS

- 1. National Historic Preservation Act (NHPA) Section 106 Consultation for Hawai'i State Parks Water Bottle Filling Station Project. Project to install 19 water bottle filling stations within 15 Hawai'i State Parks on the islands of Hawai'i, Kaua'i, Maui and O'ahu from August 2018 to July 2021.**

Mr. Hull: There was, a member of the public that wanted to address the Commission but...

Ms. Schneider: They got bored.

Mr. Hull: You might want to make the affirmative that you're recusing yourself.

Ms. Wichman: I am recusing myself, since I work for State Parks.

Ms. Wichman recused herself from the meeting at 3:54 p.m.

Ms. Schneider: Is there a presentation?

Mr. Hull: So the presentation, was given at the last meeting, but there was a lack of quorum for action. So you have the documents provided. I don't know...well I leave it to the body. Now you have quorum you can actually have discussion over this.

Ms. Schneider: I make a motion that we accept this application.

Mr. Guerber: And I second it.

Chair Summers: Any comments. (Hearing none) All in favor. (Unanimous voice vote) Any opposed. (Hearing none) Motion carried 6:0.

Mr. Hull: Motion passes, Madame Chair.

2. Hanakāpī'ai Bridge Project

State of Hawai'i, Division of State Parks

Proposal to construct an aluminum truss pedestrian bridge across Hanakāpī'ai Stream in Hanakāpī'ai Valley, Napali Coast State Wilderness Park.

Mr. Hull: This also was similar to the last application in that the applicant was here to present, there was not quorum, so while the presentation happened no further discussion could really occur on the agenda item. So it's presented also here for you folks with the documents, just as a light refresher. You know, much of the concern that was, brought up by the applicants themselves is that there are several archaeological sites in and around the area. The trail itself is a historical site and that the bridge, the newly proposed bridge could impact, the view plain of the area. So the packet proposal has a series of mitigation measures to accompany those and it is here for your discussion. What I also realized and forgive me, it has been a hectic month in our adjustment, is that I kind of put this under the same category of Section 106 proposals that I just kind of transmitted to this body ultimately for your cursor review to a certain extent. While other proposals that are going to actually be applying for Zoning Permits or permits from the County, we generally have put in practice of now doing a report for those projects. And we did not provide a report on this application, so I apologize for that. I am only realizing now that I kind of put it into a category that I shouldn't have. If you guys would like to take action today that is totally your prerogative, but also recognizing the new practice we have put in place, of doing reports for projects. If you'd like to defer this so that we can spin up a report for you guys to soundboard off of it, that is completely acceptable as well.

Ms. Schneider: No, they really need this bridge. They're always rescuing people, and people are always getting stuck there. I make a motion that we support the application.

Mr. Guerber: I second that. We don't need a report on this. This was very thorough. The report that we were given was very thorough. There's no sense in making Alex do any more work.

Chair Summers: Any comments. (Hearing none) All in favor. (Unanimous voice vote) Any opposed. (Hearing none) Motion carried 6:0.

Mr. Hull: Motion passes, Madame Chair.

J. COMMISSION EDUCATION COMMITTEE

K. KAUA'I HISTORIC RESOURCE INVENTORY UPDATE COMMITTEE

L. HISTORIC PRESERVATION PUBLICITY COMMITTEE

M. ANNOUNCEMENTS

N. SELECTION OF NEXT MEETING DATE AND AGENDA TOPICS (3/21/2019)

O. ADJOURNMENT

Ms. Wichman returned to the meeting at 3:58 p.m.

Mr. Hull: We have no further agenda item. The Department doesn't have any other announcements. Is there anything the Commissioners have concerning historic preservation that they'd like to announce?

Ms. Nakea: How are we doing with getting Commissioners?

Ms. Schneider: To take my spot.

Mr. Guerber: No, I don't want you to go.

Ms. Schneider: I've already done two terms, I can't.

Mr. Hull: Yes the holdover is until March, after that...it's been in the hands of Boards and Commissions we've hoped to be getting replacements but we are also understanding that you as volunteer Commissioner's that your holdover is just to the end of March. So we appreciate everything you have given and appreciate if you can do one more month with us, so that we can make quorum. And then...

Ms. Schneider: I am on until March.

Mr. Hull: But thank you so much for your commitment.

Chair Summers: Yes thank you.

Mr. Guerber: I've worked on Palmer Hafdahl and twisting an arm and maybe he's...

Ms. Schneider: How about Stephen Long? Has he been off a year?

Mr. Guerber: Stephen's now in California.

Ms. Nakea: I am trying to talk to a couple of people who have a lot of Hawaiian culture background...

Chair Summers: That would be great.

Ms. Nakea: We need that on this commission.

Mr. Hull: Yes, and I've had that conversation with Ellen Ching, who heads Boards and Commissions and I know she has some names on her radar as well. But I think quite honestly the more names, the more potential candidates, the merrier.

Mr. Guerber: Pat Griffin has not said absolutely, no.

Ms. Schneider: She would be terrific.

Mr. Guerber: She would come back.

Ms. Schneider: Particularly if you got the bridge thing.

Mr. Hull: But and to some of the Departments comments earlier in the session, is that I really truly appreciate the comments coming from the Chair, Commissioner Wichman and Ida today about the archeological, because to be honest we are looking for criticism in a good way of how we can beef up some of our analysis. Because we are still in a learning process. I know to a certain degree Commissioner Griffin would whip at us little bit more, which we're totally appreciative of because to a certain degree much of her urging (was) to have report writing done for the projects. (That's why) we do this. We recognize the value behind them but...

Chair Summers: I can't imagine not having it. Having only seen them with the reports and thank you for putting them together.

Ms. Schneider: Report, big help to have the report.

Mr. Guerber: Huge help, yes.

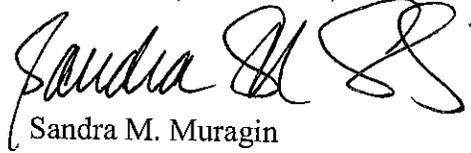
Mr. Hull: But and to my point as we continue progressing on and even with new commissioners, is not to hold back on us. If there are criticism, we welcome that because we feel it makes a much more not just robust but a better process. So thank you for the comments today and we'll be looking forward to them in the future.

Ms. Schneider: Yes, I think any place that's beachfront, that hasn't been excavated, you need to have the archaeology.

Chair Summers: Dismissed.

Chair Summers adjourned the meeting at 4:01 p.m.

Respectfully Submitted,



Sandra M. Muragin
Commission Support Clerk

- (X) Approved as circulated. 03/21/19
- () Approved with amendments. See minutes of meeting.