

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

**DRAFT MINUTES, pending HIBC approval
HAWAII ISLAND BURIAL COUNCIL MEETING**

DATE: Thursday, November 16th, 2017
TIME: 9:42 AM
PLACE: West Hawaii Civic Center
Conference Room
74-5044 Ane Keohokalole Highway
Kailua-Kona, HI 96740

Attendance: Norman Kaimuloa, Vice Chair, Kona
Fred Cachola, Kohala
Scott Mahoney, Ka'u
M. Maxine Kahaulelio, Kona
Terri Napeahi, Hilo
J. Kea Calpito, Hilo
Keikialoha Kekipi, Chair, Hamakua

SHPD staff: Regina K. Hilo, Burial Sites Specialist
Sean Naleimaile, Archaeologist
Amy Rubingh, Archaeologist

Guests: Gale Kuulei Perez
Clarence Perez
Kelvin Kahoopii
Jojo Tanimoto

I. CALL TO ORDER

Meeting was called to order at 9:42 AM by Vice Chair Kaimuloa

II. ROLL CALL/PULE

*Members introduced themselves in the following order: Vice Chair Kaimuloa; Member Cachola; Member Mahoney; Member Kahaulelio; Member Napeahi; Member Calpito
Chair Kekipi arrived at 9:45
Recitation of The Lord's Prayer was led by Vice Chair Kaimuloa, first in Hawaiian then in English*

III. MINUTES

A. ~~Minutes from 08/17/2017~~

B. ~~Minutes from 10/19/2017~~

Deferred

IV. BUSINESS

A. Department's Recommendation to Deny Lineal Descendancy Recognition, But Instead to Recommend Cultural Descendancy Recognition, for Kelvin Kahoopii to Human Skeletal Remains Inadvertently Discovered on July 31, 2017, at Kohala High School, Honomaka'u Ahupua'a, North Kohala, Hawaii Island, TMK: [3] 5-4-007:014

Discussion/Determination: Discussion and determination on the Department's recommendation to deny lineal recognition, and recommendation to recognize as cultural descendant, of the applicant to unidentified human skeletal remains at the above location.

Chair read the above item onto the record

Member Cachola offered comments, summary below:

Honomakau is an unusual name; Kamehameha was raised in Kohala, at Awini, the high chief took Kamehameha as an infant to protect him shortly after his birth, and all place names in Kohala are associated with Kamehameha – Hoesa, Hawi, Honomakau, Kapaau, Makapala, Awini; these names are unlike any others in the Hawaiian language. Honomaka'u is where Kohala High School is now; where high chief Naeole and his entourage, when moving Kamehameha from Kokoiki to Awini, were stopped at Honomaka'u, where his (Naeole) warriors panicked that they might be caught and killed by Alapainui; when Naeole saw his warriors were panicked, he said, "Mai maka'u, do not be afraid. Hono maka'u, calm your fears." An unusual phrase, with hono as a prefix for 'calm'. Kohala's history is important. Member Cachola would like to take the members on a tour of Kohala so as to introduce the unique place names and history of the area to them. Member Cachola stated that, when he was growing up, the school was referred to as Honomaka'u School, not Kohala High School.

Member Cachola introduced Kelvin Kahoopii

Member Cachola stated he met Kelvin, his brothers Matthew, Albert, and his nieces and nephews; the family has been in Kohala a very long time. His lineage goes to Kamehameha the Third. When the bones were discovered, he and his family were there at Kohala High, and agreed that the bones shall be preserved in place. Because of his lineage to Kamehameha the Third, and because the land at Honomaka'u is reserved for Kamehameha the Third from whom he is descended, he has a cultural responsibility to the bones there. Kelvin and his brothers, along with Member Cachola, met in Honolulu with Regina, who explained the descendant process, including what cultural and lineal descendancy is. Lineal means, "I know that person." In this case, they don't really know that person, but feel an obligation to all the iwi on that property, and agreed to be cultural descendants rather than lineal. Distinct difference between cultural and lineal descendant. Kelvin Kahoopii

Born and raised in Kohala, on Kahua Ranch; Clarence Perez is also ohana from Kohala; knows only about Kohala, used to check the whole mountains of Kohala with his grandfather, from mauka to makai; family knows all the places in Kohala; respects the decisions that were made in Honolulu; direct lineage to Kamehameha the Third, through a list at Kawaihāo Church and how he connected to those individuals who attended the royal school: Kahekili [Jane] Loeau. Paki Lihilihi. Grandmother was Waipualani Paki from Maui, family ties from Maui to Kohala. Applicant has written documents, including the list of members who attended the Royal School; Kawaihāo changed the plaque

which listed the family names, then eventually removed it entirely; applicant can recite the genealogy because he knows those of his parents, grandparents, and tutus as well as where they came from. Information is registered with the State of Hawaii at the County level. Applicant was contacted by Hank Fergerstrom about the finding of iwi, went to the site; brother checked the final grade of the location, and preserve the iwi in place. Applicant suggested the concrete slab be marked with 'iwi'. Applicant commented about the removal of Jane Loeau's grave at Kawaihahao, and talked with the kahu, that no one from the Church had talked with the family about moving her grave. Applicant just wants to do the right thing.

Member Cachola thanked the Applicant for his testimony

Member Mahoney asked SHPD staff Hilo why the applicant was denied lineal recognition

Hilo stated that lineal descendancy is recognition to a specific set of human skeletal remains; the two sets of remains encountered were not identified, and their ethnicity is undetermined; for those two reasons, the SHPD cannot recommend lineal descendancy to any applicant. The remains have also be preserved in place, with an SIHP number indicating it is recorded in SHPD's database; the metes and bounds of the preservation area is recorded with the Bureau of Conveyances, which is carried with the title of the land

Applicant Kahoopii stated that, when the iwi were preserved in place, he suggested a plaque be made. He attended and graduated from the school. When he researched the ahupuaa of Kaahumanu, no one realized how large the ahupuaa was; 18-something map, Honomakau and Hawi falls inside the area. Kamehameha the Third reserved the rights to these lands for himself, his heirs, and his successors. Applicant asked the school if a plaque could be placed there because there are many alii families buried there. Lineage goes to Clarence and Kuulei

Member Mahoney asked if the applicant was contesting the denial of lineal, and asked if the applicant was happy with the measures to preserve the iwi in place

Applicant Kahoopii commented that, if this was done during the time of Kamehameha the Third, when Kamehameha had reserved the rights of these lands for himself and his heirs, what was discussed was that his heirs are at Hawi, which falls under Kamehameha the Fourth. Honomaka'u falls under the government.

Applicant Kahoopii: "So when you go research inside government land, you gonna see Honomaka'u as part of the government. Now, my question is to everybody, who's government? That's what I'm reserving, is that if my rights are taken away because of what was written for Kamehameha, and I'm an heir just asking simple questions about this, I just wanted to know if that was the right decision because it firmly says it's his own, personal ahupua'a. Pololu is another one. Iole is another one. If he owns all these difference places. Aamakao is another one. These are all his own reserved, personal ahupuaa for his own ohana. Now this own ohana, the list that I came across that Kamehameha did write, that Amos Starr went [and] put out, it's right there. It says everyone's family. It doesn't have Kuhio's name, it doesn't have all the other names that came after the fact, but they connected their names to that family. So I believe I have the right, as one descendant, to my grandma, to Loeau, to speak my mind on their behalf because that's my connection. That gives me the right to speak on behalf of my Tutu, and just to share. I went to a case in Hilo just a few weeks ago, and I stood up because they were offering a grant, and the grant will expire, and it's for Kanaka Lawai, and I stood up and told the judge, because they were asking for unknown heirs, so I stood up according to the title. Kaahumanu and Kamehameha the Fourth. So the judge told me, "Can you present your case and who you are?" I said, "My name is Kelvin Kahoopii, and I'm not standing on behalf of Kanaka Lawai, because his grant has been expired. So, I'm

standing on behalf of Kaahumanu and Kamehameha the Fourth, but first I'm representing Kauikeaouli." So, I don't think you can do that, but alright I can. I'm also in the house of Kauliki, that's my tutukane them. You yourself, I would say I'm in my own house. And he told me just like this, "Mr. Kahoopii, I'm sorry, can you go down and file your papers in the office?" And to this day, they still deciding what they going do with the case. But those are just facts of who we are. And if we waive the rights, then why exist? I never write 'em, my tutu went write all this. I'm just following, what, black and white, isn't that what law is all about? That's all. I'm not fighting, I respect everyone's decision. I'm just letting everyone know what my feelings are, not to hurt anybody or go above everybody. Respect everybody for who you are."

Member Kahualelio thanked the applicant for his testimony, and urged there was another descendant that needed to deliver testimony, after which a decision can be made; connected with the piko of Kamehameha, need to listed to the moolelo of the other ohana; feels that the whole island has been confiscated by greed, development, money; Kawaihae, Hawi, Mauna Kea is the piko; no one hoolohe us, now we have to prove to the system

Applicant shared another item about Kawaihae, in which he had a meeting with DHHL in which they presented a map from 1920; applicant had a map form 1830 with Pauahi's name; DHHL made the applicant and his brother wait for 6 hours because they took issue with the applicant's brother, who called DuPont; DuPont allegedly went onto the applicant's brother's property and took photos without asking for permission; Jobie asked if the applicant's brother intended to renew his contract; applicant asked if Jobie had received a lien from the applicant if trespassing continued; Jobie stated no. Applicant stated that the 1830 map documents the land is under Pauahi, who is ohana; 1830, 1920.

Chair Kekipi clarified that the HIBC is tasked with executing the rules, as Member Cachola described with making the positive, intimate identification; knowing the families that are and were there, on and in the ahupuaa, and their relation to the applicant, but the rules are specific

Applicant stated he understood

Member Cachola stated that, based on Member Kahualelio's comments, listening to Kuulei Perez' testimony would enable to Council to address both items following testimony of both applicants

Member Napeahi asked whether there was advice being provided or if the Department was relying on the decisions made by the Council

Vice Chair Kaimuloa stated the SHDP makes the recommendation, not the Council

Chair Kekipi agreed

Member Calpito stated that, for descendancy claims, the Council makes its determination based on the SHPD's recommendation, with the Council's determination being final

Chair Kekipi stated that he has always requested to see an applicant's genealogy

Applicant stated he had his genealogy with him if the Council wanted to see it

Member Napeahi stated that the applicant's genealogy had already been shared with the SHPD, on Oahu

Member Cachola stated he was present when the applicant presented his genealogy to the SHPD on Oahu; applicant and his family understood that they had a direct relation to the Crown lands, but could not identify who is in the grave; difference between cultural and lineal descendant; if you cannot identify who is in the grave, that is not lineal, according to the rules

Member Napeahi stated her question was addressing the process

Hilo stated that if the Council disagrees with a recommendation made by the SHPD, a contested case could be filed within 10 days of the meeting

Member Napeahi wanted to be aware of the process, especially regarding a decision that had already been made

Hilo objected that any decision had already been made, and stated a recommendation had been made based on the application and the information provided by the applicant; everything submitted for review is considered by the department in its evaluation of the information; if a Council seeks additional engagement with the applicant, the applicant should be present at the IBC meeting in which their application will be addressed; the applicant may also request an executive session to share intimate details of genealogy for the Council to consider in their determination

Member Cachola asked Hilo if an application is available

Hilo stated the application is available on the SHPD website

Member Cachola stated the applicant had submitted an application and met with the department, at which time the department stated the applicant's relationship to the area was clear; however, the applicant was unable to identify the individuals inadvertently discovered during the project at Kohala High School

Member Kahalelio commented on the in-depth nature of identification, considering the land was kanaka maoli and the land of our ancestors; when the rules of the SHPD are looked at and our ohana, both do not match, and it cannot go in their set of rules.

Member Kahalelio: "Rules are made to be broken. That's the detour of our Hawaiian life, that we head-butt all of these sections, and so-called 13-dash 00 six. That, to me, should sometimes, because we can only do two things: move, and stay. That's all we can do. Relocate and preserve in place, that is all our burial council can do. But now you have all this land that wants to be proven and if you look at all these books that we have, around our island of Hawaii nei, that is being destroyed one by one, how can we make that determination? Only if our ancestors come here and fill that application out. Why can't we have our own application, which is genealogy, and be paa pili? That is paa pili already. But still, we gotta go according to the rules of SHPD. According to the rules of the State of Hawaii. Which doesn't match, which does not match. That's why we get hard time. Now, before we make any decisions, I would like to have the Perez' come up. We can only do history if we moolo. And we hoolohe the families. I right now cannot make any decisions, and if I need to go into a contested case, then, I'm sorry. Let's bring them up because we gotta move on."

Vice Chair Kaimulua reminded the Council and guests there were a lot of items on the agenda and to make the best of the allotted time

Item B was taken next

Motion: defer

Moved by: Member Cachola

2nd: Member Kahalelio

VOTE: ALL IN FAVOR [YAY – 7 (Kekipi, Kaimulua, Mahoney, Cachola, Kahalelio, Napeahi, Caplito); NAY – 0; ABSTAINING - 0

B. Department's Recommendation to Deny Lineal Descendancy Recognition, But Instead to Recommend Cultural Descendancy Recognition, for Gale Kuulei Perez to Human Skeletal Remains Inadvertently Discovered on July 31, 2017, at Kohala High School, Honomaka'u Ahupua'a, North Kohala, Hawaii Island, TMK: [3] 5-4-007:014

Discussion/Determination: Discussion and determination on the Department's recommendation to deny lineal recognition, and recommendation to recognize as cultural descendant, of the applicant to unidentified human skeletal remains at the above location.

Kuulei Perez distributed materials to the Council which included her genealogy

Summary of applicant's testimony:

Applicant thanked Kelvin for recognizing Clarence, Kelvin's first cousin; one of each of their parents were siblings

Kuulei: "We know where we come from. We know our mookuauhau. I'm here, coming forward because I'm directly related to the Kapaona, who is buried there, and that is my tutu. If you look on the first page, it is the letter stating that I am lineal, direct, to that family. The first page, John Henry married Ellen, who is my great grandmother; she had Annie, that's my grandmother. The next page, Ellen now marries Michael; their daughter marries a Kapaona. It's Kapaona, not Kapa-ona. Their sibling, Phillip, is the son of Edward, that's the next page. Edward and his wife were born in that place, and they died and were buried in that place, Honomaka'u. This is Bond's survey book of all the people who were born and living in Honomaka'u, lots of people. My tutus was buried there; where's the cemetery? Where is the cemetery, can someone tell me?"

Member Kahalelio: "The school?"

Kuulei: "Yes. What happened through the years? I had family ask, "Where's the grave that was, where stay, under the school now? I have spiritual counsels that walk the school and say, the kupuna is not liking what is happening to them, they even telling their name to them. This is what we have gathered in Kohala. We have been in this burial council walk for many, many years. But Kohala is our home. Some of you I know, some of you I don't recognize you, you living there now but I don't know how you know so much. I married to family, but that is my family; we are related. So, that's my tutu buried right there. It's wrong, like you said. It's wrong for you to say that I'm cultural. I can accept cultural, I've accepted cultural, but when it comes to Kohala, that's our home.

Clarence: "That's our family."

Kuulei: "That's our family."

Clarence: "That's my uncle, Philip Kekaula Kapaona. He's first cousin to my grandma, Eliza Kalaukoa, who married Charles Perez. There's a map here of the property of Kapaona."

Chair Kekipi asked if the applicants wished to move into executive session

Member Kahalelio asked that the applicants be permitted to finish their testimony

Clarence: (shared a map) "This is the ahupuaa of Honomakau. On the top is the ili, Haleape; Kekaha, my tutu, kane, governor of Kohala. Come down, then you have Kapaona on the mauka side of the highway, it comes across and goes across the highway to the school. So what happened to the graveyard inside there, with all the families? There should be a graveyard there. They covered everything, hide everything, build a school. That's all I have to say."

Member Mahoney asked if the applicants knew when the school was built

Applicants stated sometime in the 1920's, the plantation came in

Kuulei: "As kupuna, you understand protocol, yeah? The first thing that should've been done when the grave was discovered was stop work, call the families. That was not done. Put a notice in the paper, calling the families. What we got was families coming to us, telling us what happened. So we have to move on it. Sad. And now they like say we cultural; I don't agree with their rules. You like know stories of Kohala? We can tell you the true stories, not the ones that some people tell. It's not true, and we spending our time now trying to correct this, trying to re-write history, because it's being told wrong. I know why.

Clarence: "There's a lot of things that has to come out, even the stories about Kamehameha and his parents. There's things out there, everything was changed. The books, everything. There's a lot of history lost, people don't know about. Our families

knows because our tutus was the ones involved in all this. [inaudible] they got rid of him because the truth was going come out about Kamehameha. Not because what the tell in the book. ..

Summary: what became told in history is not what happened

Kuulei: Kupuna council is coming together to record all the burials themselves so no one else can come there and remove them; kuleana; coming to the Council because the government has control of the lands, which she does not agree with; show the applicant how she is not telling the truth after she has shown her direct connection; the map says Kapaona, half brother to Kamehameha; genealogy to Kamehameha

Kuulei: “The white man wants to you to speak to Kamehameha because they went re-write history. That’s all I have to say.”

Clarence stated all the individuals provided in the documentation are related

Kuulei: “Forty years walking the mookuauhau for the family. We’ve learned a lot.”

Vice Chair Kaimulua: understands the applicant’s perspective; suggests the applicant pursue a contested case

Applicant stated she would follow ‘their rules’

Hilo clarified a contested case only applies in situations where a determination has been made in a board, commission, or council meeting that the applicant, or other injured party, disagreed with the determination

Chair Kekipi stated a recommendation was made, and the applicant provided additional documentation, including mookuauhau; case is similar to Mauna Laha, on Oahu, where all the individuals there are related to Kahekili, the chief of Maui, lineal families, kuleana; reminds the Council members they are sworn to the state, and when the rules come into question, the Council members come into question; the Council has recommendations; if the applicant decides to pursue a contested case, the Council is part of the contested case

Vice Chair Kaimulua stated a contested case had been handled previously by the HIBC, and it took 4 to 5 months for the descendant to be recognized as lineal; the good part is that the applicant didn’t give up, went through the process, filed again, and were recognized as lineal; recommended to the applicant that she not give up

Kuulei: “I never give up yet, but something gotta change like you said. It shouldn’t be like this.”

Vice Chair Kaimulua: “It can change. Go through the procedure and Regina can help you.”

Member Napeahi asked if the applicant can make that request of Hilo today

Member Calpito stated the applicant can only contest the HIBC’s decision; therefore, if a decision is made today, it would be for cultural descendency and documented in the minutes

Kuulei: “Ok. I’ll follow the yellow-brick road.”

Member Cachola asked if the Council could recommend the SHPD reconsider the recommendation

Hilo stated her recommendation would be that, if the Council needed more time to make its decision, the Council motion for deferral

Member Cachola stated that sounded ok

Member Kahalelio commented that the applicant has been before the Council previously, regarding NELHA when the meetings were in Kona; almost 8 years; nothing has been done, why? Why now?

Comments from other Council members

Member Kahalelio stated there was a big board of 11 people, and the applicant submitted applications with Mary Ann Lim, “all these things and we heard nothing. Nothing. And we kept badgering. Every meeting. Nothing. Well today it’s so sad. I don’t

want to happen, like Mary Ann Lim is not here anymore, she passed; we don't want that to happen. Heaven forbid, these people been here for years, years. It's not them, it's the state. It's SHPD that's not doing their job. E kala mai ia oe, but it's the truth."

Hilo: "My question would be, what, this is mostly for my benefit, what was being discussed 8 years ago that hasn't been resolved?"

Member Kahalelio: "Kupuna iwi."

Hilo: "Was it regarding a specific case? The location?"

Kuulei: "Well, we were living in Kona, so we were addressing, because my tutu's from Kona, too –"

Hilo: "So this is a Kona case, then?"

Kuulei: "We were discussing Kukaiau."

Kuulei: "All over. Trying to protect the iwis. When it came to Kohala, that's where our heart is. So we came back, six years ago, and we decided what we were going to do. We're gonna get those graves recorded from the families that telling us where their graves are, and make sure that this does not happen. But I knew about the graves at the school. I didn't think that was gonna happen because, in my mind, what happened, protocol, was discover the grave, stop the work, notify the families. That was not done."

Hilo: "What was done was work was stopped. And the council member who serves as the geographic representative was notified. We discussed that at the last meeting."

Kuulei: "Right."

Hilo: "So, I do have your contact information, and I did say that for future work in Kohala I would be contacting you. I don't know of anything else –"

Kuulei: "Well, right now, I'm happy there's an archaeologist, because they working, still, on the property, watching."

Hilo: "Yeah, that project is covered by archaeological monitoring."

Kuulei: "Which is good, because he knows what to do, right?"

Hilo: "Yes."

Kuulei: "That's what matters right now. But I, you know, I know that's my family there, so I need to be properly recognized as lineal. So I will try. But cultural? I'll live it, you know? Whatever they say."

Hilo: "I suppose my question to you would be, then, regarding the lineal descendancy, which is recognition to a specific set of human skeletal remains, and you can only speak on behalf of those, that set, or sets in this case. And those two sets of skeletal remains have already been preserved in place. There's already been a treatment determination."

Kuulei: "But we know that if they do more work in the areas that we know most of the graves were –"

Hilo: "So, like I mentioned earlier, there is an SIHP number and metes and bounds that recorded in the Bureau of Conveyances and will be carried with the land title, so if ever the land title does switch hands or ownership switches over to another entity, that information will be carried on the land deed. So, being recognized as a lineal descendant, basically at this point, means that you would only be able to speak on behalf of the treatment of those two sets of human skeletal remains. I'm just letting you know, that treatment has already been determined and carried out."

Kuulei: "Well, we have plans, too, to correct things at the school, because the kids are being affected by it, by these graves, ok? We have testimonies."

Hilo: "Ok."

Kuulei: "So that's what I care about –"

Hilo: "I understand –"

Kuulei: "– our families, our people."

Hilo: "I understand. I'm just letting you know that this process is limited to a very small scope of law, and a very small scope of work as well. Oia wale no. And regarding

Kelvin's comments earlier about the plaque, I think that would be a good way to move forward but that the State Historic Preservation Division does not allocate funds for that. That is something that would be determined with the Department of Education and the Department of Accounting and General Services."

Kuulei: "We also said that we would like to identify the area for the children, and we wanted to do a whole educational, we're not working for the state – "

Hilo: "Are you working directly with the Department of Education?"

Kuulei: "We're going to talk to the school. I was waiting for something to be done."

Hilo: "Done? Regarding?"

Kuulei: "We told them some of our plans. We talked to the kupunas."

Hilo: "So, you're conferring directly with the school?"

Kuulei: "We are."

Hilo: "I would recommend that, because SHPD does not get involved in that."

Kuulei: "Yeah."

Hilo: "Mahalo."

Member Mahoney asked about required signage

Hilo stated signage is not necessarily required, and must be coordinated with the landowner

Comments from Kelvin Kahoopii

Kuulei: "All I want is, what we want to do, is teach the children to malama, not to be afraid, and learn what to do. And that these are their ancestors. You know? Because when they don't understand, and things happen to them, they're fearful, and they don't understand how to respect the iwi, walk all over it, so, this is just where we're coming from. The plaque? I don't necessarily think there needs to be a plaque. But if there is, we'll do it. We're talking about it, kupunas are talking about it. I don't make the decision on my own."

Clarence: "I was thinking about something Regina said about the turning over of the property to another person, the inventory supposed to be turned over, all to the State. Because the State acquired the property from the Kapaona family, so the graves was there before. How come that lease wasn't turned over to the school so they know they graves was in that area? That's what I don't understand. The State."

Chair Kekipi: "Because at that time, it was Territory."

Kuulei: "We had people say they sat in class and could see the graves. What happened?"

Chair Kekipi commented, cultural descendant recognition has bearing on the site; lineal is designation as kahu

Member Napeahi commented that she wanted to process made clear; two families, related, requesting lineal descendant recognition; SHPD has already denied that because of lack of information

Chair Kekipi commented the SHPD made a recommendation, while the HIBC makes the determination

Member Napeahi commented the applicants, same as the Council members, are present to protect the iwi; working together for the iwi kupuna; commented about necessity for contested case; comments on registration with the Bureau of Conveyances and land title transfer into perpetuity; will family need to come back to the Council for recognition if additional finds are encountered then?

Member Kahalelio referred to a case near Kohala Hospital, property was sold to an owner who did not know a burial was on the property, came to the HIBC; HIBC wants to prevent that kind of activity, where property is sold and cemeteries are on it, and the new owner is not aware; recommendation would be contested case to save our lands

Motion: defer

Moved by: Member Cachola

2nd: Member Kahalelio

VOTE: ALL IN FAVOR [YAY – 7 (Kekipi, Kaimulua, Mahoney, Cachola, Kahalelio, Napeahi, Caplito); NAY – 0; ABSTAINING - 0

- C. **DRAFT Burial Treatment Plan for Burial Sites #50-10-68-26641 and #50-10-68-26642 Located on Lands of the Former Moa‘ula Plantation, Kopu Ahupua‘a, Ka‘ū District, Hawai‘i Island, Hawai‘i, TMK: [3] 9-6-003:022**
Information/Discussion: Information and discussion on the above burial treatment plan.

Testimony from Keoni Fox, recognized Cultural Descendant to the previously identified iwi addressed in the DRAFT BTP

- D. **DRAFT Burial Treatment Plan for Site #50-80-35-30572 Located on a Portion of a 18.57-acre parcel in Pu‘u‘eo Ahupua‘a, Hilo, South Hilo District, Hawai‘i Island, Hawai‘i, TMK: [3] 2-6-008:006**
Information/Discussion: Information and discussion on the above burial treatment plan.

Item was erroneously placed on the agenda, and was not addressed at the meeting

V. INADVERTENTS/COMMUNICATIONS

- A. **Inadvertent Discovery of Human Skeletal Remains on Oct. 25, 2017 at Hokukano Ranch, Ke‘eke‘e 1-2/Kanakau Ahupua‘a, Kona District, Hawai‘i Island, TMK: [3] 8-10-02:040**
Information/Discussion: Discussion on the above inadvertent discovery.

Chair read the above agenda item onto record

Hilo provided updates;

Amy Rubingh responded, Hilo was facilitating the Oahu Island Burial Council’s meeting that day

Amy confirmed the remains were human, disarticulated; created a buffer zone of 75 feet, with work completely stopped within that buffer area

- B. **Discussion on the Inadvertent Discovery of Human Skeletal Remains on July 31, 2017, at Kohala High School, Honomaka‘u Ahupua‘a, North Kohala, Hawai‘i, TMK: [3] 5-4-007:014**
Information/Discussion: Discussion on the above find.

Addressed under Business Items IV. A and IV. B

- C. **Aha Moku Island Council Presentation on the Aha Moku Island Council and its relationship to the Department of Land and Natural Resources Aha Moku Advisory Council**
Information/Discussion: Discussion on the above correspondence, Aha Moku Island Council presentation.

Chair Kekipi read the above agenda item onto record

Discussion presented by Jojo Tanimoto, summary below:

Hilo reminded Jojo of the protocols for public meetings and agenda postings, and directed her to SHPD's website, the Office of Information Practices website, and the information about the meeting agenda provided on the agenda itself following the adjournment section

Jojo stated she wished to invite the HIBC members to an Aha Moku meeting, and provided more information about the Aha Moku and its role

Established in 2006 as Aha Kiole, a series of meetings with all kupuna and traditional practitioners, meetings for NHO's and legislators; common issues were the deterioration of natural resources and how to address those

Aha Moku works with the Councils, Boards, and Commissions which fall under DLNR

Aha Moku became Aha Moku in 2013 under Act 288

Island Council – each island has an island council, selects a leader who goes to the Aha Moku Advisory Council, and advise the council of the concerns on the island

6 traditional moku; more than one representative for some moku

Advise the island council poo

Advise the DLNR

2014 – concerns about iwi, curation, not being reburied

The iwi is specifically for the Burial Council

Jojo: “So now, because the concern came up, what happened to the iwi, where is it, what is the state and Burial Council going to do about it? When is it going back in the land?

That is the project, the goal is to put them all back, hopefully in the same moku. Let's start talking about it. Otherwise, everyone is worried about the iwi. So I know you going ask me, ok, what's the priority issue? It has nothing to do with the Burial Council. It was fishing, the next was water. We want access to potable water. The other one I know they talking about is education. So, that kinda stuff is outside the purview of the Burial Council. So the Burial Council is, what we going do about the iwi? And I was hoping to get some kind of answer today, not last time, but today, so I can report back to the Council and to our contacts so that we can let them know that maybe we starting to talk, you know? I mean, set some direction that the Aha Moku and communities can start talking and working towards. That's what we wanted to do.”

Chair Kekipi stated that the office in which Sean works is a repository for records, and no iwi are kept there; Nalei and Kekipi was looking for records of inadvertents and if there were places where families could re-bury; Chair stated the Council could would with the Aha Moku on that.

Jojo: “One of the suggestions that was given is like Kohala; they using the land, the legacy land program which is under Department of Land and Natural Resources and is very successful. So perhaps don't have room, I don't know what the problem is, why it's not getting back in the ground, but perhaps with the legacy land in each moku, there may be a place provided. But you gotta talk with the families and what not, you know?”

Chair Kekipi: “Also, get the 2% fund, yeah?”

Jojo: “Yeah.”

Chair Kekipi: “By the County. [inaudible] real property tax.”

Jojo: “Well, that legacy land program's working good. And there's some money in that program to help, too. And there might be other alternatives, but the idea is we gotta get together and talk. But if you say no more iwi, then I can go report that to everybody. There's no iwi to be worried about, they all went back in the ground. The problem going be the other islands now. Because we have communication by the advisory council we going to let them know, “Eh, ours is pau already. We no more any.” They going, “What about us,” yeah? So, the Aha Moku advisory council is the whole state of Hawaii, represents eight

islands. Ok that's the advisory council. The island council represents this island. We cannot really say we represent anybody, but we can take their ideas and start working towards discussion, and finding ways. What is the island council going to do, what is the community going to do, the families' supposed to do, what's SHPD going to do, you know? You don't know, until you put them together. And that's what I'm asking.

Member Mahoney: "Seems like you asking what we going do about the iwi in storage, like you know we got iwi in storage. You guys know that?"

Jojo: "That is the report brought to the council meeting."

Member Mahoney: "By who?"

Jojo: "By people who, well, PTA, people at Pohakuloa, definitely. They still in the building up there."

Hilo: "Pohakuloa is a federal holding."

Jojo: "It's a what?"

Hilo: "NAGPRA. You're talking about the Native American Graves Protection and Repatriation Act. That's a different set of laws."

Jojo: "But it still gotta go back in the ground."

Hilo: "I agree with that. But the NAGPRA process is separate from the State process."

Jojo: "That's fine, that's the beginning."

Hilo: "No, I just want to let you know, you know? That you're aware the holdings at PTA currently is under the federal government, that follows a different process. Although I do agree they have to go back in the ground. But their consultation is completely different."

Chair Kekipi: "[directed to Jojo] You can work with them. Aha [Moku]."

Hilo: "Actually, do you guys have someone who talks regularly to the PTA?"

Jojo: "Well, so far I cannot say that South Kohala has anything like that because the Department of Defense, they don't like talk to us."

Hilo: "The Department of Defense doesn't even like to talk to us either, so I understand."

Jojo: "They fly over houses, but we not invited to their discussions."

Hilo: "We're not invited to their discussions, either."

Jojo: "That's not cooperating, right? [laughs]"

Chair Kekipi: "[directed to Jojo] Invite them to your discussions."

Jojo: "[laughs] so by then, hoopoli, Hilo [the Aha's Hilo representative, not SHPD's staff member Hilo] can't help us [laughs] get in the discussion because Hilo gets invited to their meetings. So that's Honokaa. So we gotta hit up the representative of Honokaa to help us at least when they get to the meeting, they can say, "Eh, invite these guys too, they get some problems that they talking." Like that, I mean that's what the island council tries to do, talk with all the moku."

Hilo: "Who are your Hilo and Honokaa representatives that are invited to the PTA meetings?"

Jojo: "At the PTA?"

Hilo: "Yeah. Who are the ones who are extended invitations?"

Jojo: "Well, I know, which is not listed in any website that I can send you to, I know Paul Neves from Royal Order of Kamehameha does get invited to that stuff. I do know there's some lady that gets invited from Honokaa and I can go find out later on."

Hilo: "Is there someone that I can get in touch with in the island council that I can talk to directly to get in touch with these two individuals?"

Jojo: "Well, like I said, South Kohala doesn't have one."

Hilo: "I mean the two individuals you saying are currently invited to the —"

Member Kahalelio: "Let me help you guys out. I'm invited to the meetings and Ku Ching is invited to the meetings. But every time, they seem to postpone it. In fact, I just have the email and I'm not sure her name is Shirley or something, but she's head of the Garrison, and we do get their emails."

Hilo: "Ok."

Member Kahalelio: "It's simply because Ku Ching and I are in the suit."

Hilo: "I know Uncle Ku."

Member Kahalelio: “We’re invited to the meetings. We went there a couple times. They usually had it at PTA. But they’ve never discussed any iwi, they never discussed anything about Hawaiians. And we, kinda like, they’ve got their own agendas. So, yeah. But I do have the email.”

Jojo: “A couple officers before that, let’s see they had Peterson, a guy before that.”

Member Kahalelio: “Yeah, it’s a woman.”

Jojo: “They used to invite us and we had a liaison with the Department of Defense. We no longer have that with this guy. So things are changing for the worse.”

Hilo: “Is that partially due to Aha Moku not currently having funding, or is that a position that kinda –”

Jojo: “It has nothing to do with what the State of Hawaii or anybody in the State has to do. It is a policy change with the PTA. They have an officer that is now taking care of the development that’s going to happen at PTA. So they do not, any longer, have authority at the harbor, or the transport going up the hill, coming down to Waimea, taking all Waimea’s water, that kind of stuff. So, it’s only for whatever is up there. And that is where the iwi is. When they did the surveys, before the put in the bunkers, they found the iwi up there.”

Chair Kekipi: “Where they stay, in one container? Where they keeping ‘em?”

Jojo: “In a Quonset hut that is scheduled to be bulldozed early next year.”

Chair Kekipi: “And then where they gonna keep ‘em?”

Jojo: “Well, there’s no plan, I don’t know, unless they told you guys the plan. So when that quonset hut goes down, some of the, I think there was three –”

Member Kahalelio: “ Yeah, three, or four or five. What Jojo is talking about is the plan for PTA right now. They’re going to take Mokapu or Schofield, which one I’m not sure. They’re gonna bring it up to PTA, they’re gonna bring it up to Pohakuloa. It’s gonna be a city within a city. They’re gonna move all the garrisons, all the people out from Mokapu, to Big Island, right now. If you look at the area, of Pohakuloa, it is really sad. Because we’re still in suit. Our judge still hasn’t made that damn thing after two years. We want them to clean up. But yes, she’s right. When they made the Saddle Road, Ku Ching, me, and some other people, when they opened the Saddle Road, they moved all the iwi and pushed it on the side. That’s what they did. That’s what they did. When we got there to do some research and huaka’i, we found fragments of bombs, we did. Took pictures and everything. But that meetings, what Jojo is talking about, is only by invitation. They do not extend that meeting to anybody. Because we’re in the suit, we can go. That’s why. But information is very, very limited.”

Jojo: “So, we already got Senator Brian Schatz, Mazie Hirono, all those guys up there on the lookout to get us in there even though it’s a NAGPRA law and stuff. But obviously, if we gonna get to the ka hula putting the iwi back in the ground somehow, it’s gonna be bigger than us.”

Chair Kekipi: “But where? It was from there, you gonna put it back in that moku, somebody gotta have –”

Member Kahalelio: “They have a heiau in the middle of Pohakuloa where they’re firing. It’s called The God of Umi, and we cannot find it. Ku tried to look for it, but we cannot find it. But where Umi’s supposed to be, The God of Umi, right next to it is where they’re bombing. Target practice.”

Jojo laughs

Member Kahalelio: “I’m very serious, please. I’m very serious, because we sat in that little park –”

Jojo: “Sorry about that.”

Member Kahalelio: “-watching them. Exactly bomb that place. Ku, me, Tammy, Paka Harp and another woman. We all sat there and watched them firing right next to The God of Umi, the heiau. But we can’t find it because why? We cannot enter. We cannot go in there. So that’s what it is. And Jojo is right, there is iwi in one of the quonset huts. And that belongs there. It’s hard to replace it because we don’t know where it’s going. How do we take our ancestors? Put it in Mauna Kea? Do we take it to the Mauna? Or do we take it up to Mauna Loa? Which? So, that’s a big question.”

Jojo: “Thank you. But to this point, I gotta say the island council has no knowledge of what a plan is for the iwi. And that’s the concern that was shared with the council, and the council wants to move along, to go check on the stuff, and the first step was to say hello. So now I’m glad I got the opportunity to make the testimony and welcome any help that we can get. And then our next meeting is probably going to be in December.”

Chair Kekipi: "When you guys meet? On the weekend?"

Member Kahalelio: "Yeah, Saturdays they meet."

Chair Kekipi: "Saturdays."

Hilo: "Is it like the third Saturday?"

Jojo: "Yeah, it's usually the third Saturday of the month, two o'clock in the afternoon so that the foragers can all meet together. Yeah."

Chair asked if there were any other questions or comments

Member Mahoney: "Getting back to that first question I gave you, that uh, if you come and tell us that they got iwi in a container right down this road, then I can see how the Burial Council can get involved. But right now you just talking about, I mean, you don't even know. That why I was asking, who told you all of this, so we can go and try and see, you know?"

Jojo: "I will bring that information back. But at least we have some report to give back to the council and see what we can get going. I'll find you somebody."

Member Mahoney: "Because that's federal. We've been on PTA too, already. I went up there about a month ago. We did a consultation, a visit with, it took us two hours just to get to the place. That's how big this place is. And two hours back out from the gate."

Jojo: "The report that we got was it's in the bunker, quonset hut."

Member Mahoney: "Yeah, I remember that."

Jojo: "In the quonset hut, that's the one that's going to get bulldozed at the beginner of next year, some time."

Member Mahoney: "I felt comfortable when I was there, because they had, like, eight or nine arch[aeologists] over there, and a lot of them were Hawaiians. So they were really into preserving sites and whatever was good to them."

Member Kahalelio: "Maika'i, good."

Member Mahoney: "So, I felt comfortable about that one part. You know, the military running around."

Chair Kekipi: "I don't know. We went to one site visit, and they had already obliterated the whole site. They bulldozed it already."

Jojo: "So that's the report we got. I'll find the answer for you. Thank you, I really appreciate it."

Chair Kekipi: "Mahalo."

Member Kahalelio: "The latest on that is they're taking the water from Mauna Kea. They have a drill that's going in, right in the middle. They're using that water for the military, they're taking the water from Mauna Kea, from Humu'ula, e kala mai. Thank you, Jojo."

Chair asked if there were any other concerns

Member Napeahi: "I have one. In regards to legislation regarding Burial Council procedures, processes, has the Council ever suggested any kind of legislative proposals for amendments, for additions they have?"

Hilo: "I'm sorry, I'm nodding because I can see where the concerns are coming out. I would have to go through the minutes and take a look, but what I usually do, this is peripherally related to that, is in December, compile all of the bills that will be considered, or all of the bills that we know about that affect historic preservation laws and potential amendments to our laws and statutes, and push that out to the Burial Councils for their consideration. Specifically regarding legislation and amendments to the Burial Council's rules and statutes, I don't think so. I don't think, at least not in a formalized setting or correspondence to legislators, I don't think that's ever been done."

Member Napeahi: "Interesting."

Vice Chair Kaimuloa: "Before closing this meeting, I'd just like to say that, I'm very happy to see we got a full Board here today. I never did see this since I became a member, and it's been about three years. I don't know about others, but this is the first time. I thank all you guys for coming, and I hope you guys all, all of us, full Board, every month. You know? It looks good, it looks real good. Thank you very much, everyone, for showing up."

Member Mahoney: "I have an administrative question. You know, when we go on a site visit, do you need a quorum?"

Chair Kekipi commented

Member Mahoney: "When, as a group, to make any kind of action? Because one guy cannot make the action, right? So, do you need quorum at the site visit?"

Hilo: "For a site visit? Only if there's an action that you anticipate voting on, at the site visit. Usually we don't have any actions for a site visit, it's more of like to go check out cultural sites or sites that will be affected by a burial treatment plan that is currently under consideration amongst the Council members. The motions and subsequent business would be handled in a formal meeting. For a site visit, if everybody does want to come, the site visit, although it's like a special meeting, it would have to be made public. I'll work with OIP to figure out whether site visits do need to be made available to the public, so we might have public at site visits. I don't remember."

Chair Kekipi: "I don't think we've had the public, but I do remember having those recognized as cultural descendants. But site visits weren't open to the public."

Hilo: "Ok."

Chair Kekipi: "Because it's a specific site, burial, location. Yeah."

Hilo commented

Member Mahoney: "One more question to Keoni. Is that a 4-wheel drive area?"

Chair Kekipi: "When you go, I like come with you."

Keoni Fox: "Yeah, it's about a 10 minute walk and we've got to do some crawling under Christmas berry and stuff. Not too bad."

Comments from Chair Kekipi, Members Mahoney and Kahalelio

Member Napeahi stated she wouldn't mind going

Hilo stated she would work to coordinate the site visit

VI. ANNOUNCEMENTS

A. Next meeting date is December 21st, 2017, location TBD.

Motion: to adjourn the meeting

Moved by: Member Napeahi

2nd: Member Mahoney

VOTE: ALL IN FAVOR [YAY – 7 (Kekipi, Kaimulua, Mahoney, Cachola, Kahalelio, Napeahi, Caplito); NAY – 0; ABSTAINING – 0]

Minutes respectfully prepared by Regina K. Hilo, Burial Sites Specialist, for Hawaii Island Burial Council consideration and approval.