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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

MINUTES
HAWAI'I ISLAND BURIAL COUNCIL MEETING

DATE: Thursday, May 16th, 2019
TIME: 9:30 AM
PLACE: Division of Forestry and Wildlife
Conference Room
19 E. Kāwili St.
Hilo, HI 96720

ATTENDANCE:

HIBC Members:

Present:

Chair Nālei Pate-Kahakalau (Hāmākua)
Vice-Chair Kalena Blakemore (Puna)
Member Waiola Higa (Hāmākua)
Member Norman Ka'imulua (Kona)
Member Clifford Kaponu (Hilo)
Member Scott Mahoney (Ka'ū)

Absent:

Member Maxine Kahā'ulelio (Kona)

SHPD Staff:

J. Kea Calpito, Burial Sites Specialist

I. CALL TO ORDER

Vice-Chair Blakemore calls to order the meeting at 9:51 AM.

II. ROLL CALL/PULE

Member Higa conducts pule.

Clifford Kaponu, Kalena Blakemore, Norman Ka'imulua, Waiola Higa, Scott Mahoney.

(Chair Kahakalau)

III. MINUTES

A. Approval of the Minutes for April 18, 2019.

Summary:

- Vice-Chair Blakemore stated to change “how to level the standards of the AIS” to “how to elevate standards and make them uniform standards/methodology for AIS.” Member Kaponu clarified the statement, “that the AIS would incorporate the highest recognized professional standard for evaluation,” and Vice-Chair Blakemore agreed to the wording.

MOTION: **To approve the minutes with amendments**
MOVED BY: **Member Ka‘imulua**
2ND BY: **Member Higa**
VOTE: **Motion carried unanimously**

IV. BUSINESS

A. Discussion on Hawai‘i Island Burial Council Membership, Roles, and Responsibilities. **Information/Discussion:** Discussion on the above item.

Summary:

- Member Ka‘imulua informed the council that he found black polo shirts for the HIBC and that it would still need to be designed.
- Member Kaponu asked, “What is the status of the AG...did they reply why they’re not sending representation?”
- Vice-Chair Blakemore updated the council on her communication with Kai Markell from OHA. She read/shared her most recent email correspondence to the council.
 - Can training be two days? (yes, two days would be productive);
 - Do you have a training curriculum? (I do in my head, I would have to write it out and make PPT slides);
 - Can OHA have open recruitment in the Ka Wai Ola publication to fill the current vacancies? (we will continue to work with Kamaile and policy outreach, always a good idea to have an open ad);
 - How many council members make a quorum – due to the vacancies, making quorum can be difficult? (the quorum requirements were lessened but still majority of council members appointed need to be present);
 - Member Kaponu stated, “the number of council appointed...I read through that statute and as it reads the first thing is that, talks about whoever shows up and the second part speaks to the number of allocations for council members so what’s happened in the interpretation of that, they’ve ruled that, well unless if you’re allotted 20 seats and you don’t have the majority of those then it can’t be true...that’s what the interpretation of what the law says...that’s not how I read it cause the first portion of it speaks to whoever is present forms that commission.” “Two things to remember is how its written and the spirit, why is it written, so if to say that they give us 20 guys to have a majority in order to rule anything, that’s a built-in obstruction so in the spirit of what its intended to do violates that so now they’re in violation of procedure.”
 - Member Mahoney clarified if it was members “appointed.” So right now, there’s seven appointed. He asked who Kai Markell was and Vice-Chair Blakemore replied that Kai used to be burial sites specialist for SHPD in the past and now works for OHA compliance.
 - Scope of work needs to be defined or regulated (burial councils have a broad mandate that isn’t fully explored due to staffing issues, resources, lack of training, etc., we can focus on high priority kuleana);

- What is the criteria of large landowners (it still is 100 acres and one can chose someone to represent their interest even if not employed);
 - Member Higa added that just because were approved by the legislature doesn't mean were experts so I fall back on SHPD for advice and counseling and the book, but the point is with you make a motion, push it, and make changes but I feel like because I'm appointed doesn't make me an expert.
 - Member Ka'imuloa agreed that Member Kaponu has a good point and that maybe he should take the lead in writing down the changes and presenting it to the council to vote on and Vice-Chair Blakemore agreed. Member Kaponu asked, "how do we make it better cause keep doing what we've been doing expecting something different to happen, that's not gonna happen."
 - Member Kaponu stated, "the first thing would be like the quorum issue, how we see the quorum." Vice-Chair Blakemore stated that she liked the quorum the way it is right now. Member Kaponu stated, "we speak to the issues of what constitutes a quorum and by Big Island Burial Council definition, what defines a quorum is a majority of those present." Member Ka'imuloa added that he thinks [their] quorum of five is pretty good.
 - Member Kaponu made a motion "that the definition for quorum by the Big Island Burial Council reflect the majority of those in attendance, the majority of council members in attendance, so if there's only three council members and two guys vote, that become the majority, that carries." Member Mahoney seconds.
 - Member Mahoney stated that the quorum should be the majority of the appointees, as right now there's nine allotted seats but only seven appointed members, thus the quorum should be four. Member Higa said he thinks how it is now is good and Vice-Chair Blakemore added she also liked it the way it was right now. Member Ka'imuloa agreed that he thinks it's fine where it is. Member Mahoney said the still felt the quorum should be based on the "appointed" seats. Member Kaponu amended his motion, "the quorum, by definition of the Big Island Burial Council, is the majority of those council members appointed."
 - *Members vote and motion is carried by majority (see below)*
 - Member Ka'imuloa asked if now it goes to the legislature or OHA. Kea informed that he was going to put it in the minutes. He added that the quorum definition is not established by SHPD but by Chapter 92, Sunshine Law." Member Kaponu stated "we are the board and we are the commission, and this is what we rule." Kea replied that the legislature made the law. Member Kaponu stated "we're exercising our first amendment rights freedom of speech and expression, we spoke it and we expressed in this action, if there's a counter to that, then the AG should be here to bring their opposition."
 - Chair Kahakalau stated that he supported the motion because the scope is quite broad and that the AG needs to be present at the meetings.
- How can we make changes to the Hawai'i Administrative Rules – request that AIS documents be included with BTPs to make better BTP decisions, request inadvertent burials be recognized as previously discovered so they are included in the preservation plan, request to elevate the standards and archaeological methods and practice for AIS and BTPs, annual accountability in BTPs (you can make a motion after properly agendaing the burial rules for discussion and

recommendations for a meeting to urge the SHPD to do housekeeping on Chapter 13-300 HAR since no changes were made since September 1996 and recommend changes in that motion or another. The SHPD would have to go through public meetings on all islands);

- How many members can we have on HIBC (I remember the HIBC had a high of 15 at one point but then it was lowered because of the quorum);
- How many iwi do we have in the SHPD repository (that is always an ongoing issue as remains come and go and each island struggles with this, SHPD may have a precise number in their facilities and any remains held by archaeological consultants);
 - Vice-Chair Blakemore stated that she assumed this is a question that goes to SHPD. Member Ka'imuloa asked if there's a facility here. Kea informed that there was a storage in Kona that had Hōkūlia stuff but they had been reinterred.
 - Member Kapono stated, "on Maui, they found this iwi and nobody was claiming it...and the Maui braddahs was telling me, that's not Maui iwi, that's Moku O Keawe...so why isn't Big Island Burial Council going to Maui to make that claim, and I've mentioned that several times." Chair Kahakalau stated that he supports bring them home if they are. Member Mahoney added that it's a big kuleana to just move iwi because if they are "buried," they're probably Maui bones because those who were slaughtered during battle would just have been left to rot and not have been properly buried. Member Higa added that he didn't know for sure if they were from the Big Island but if he did know for sure, he would like to bring them back.
- Projected dates for the training
 - Vice-Chair Blakemore proposed to have the training the day after the meeting on July 18 so that Kai could attend the meeting and then conduct training.

MOTION: That the quorum, by definition of the Big Island Burial Council, is the majority of those council members appointed

MOVED BY: Member Kapono

2ND BY: Member Mahoney

VOTE: Motion carried by majority [YAY: 4 (Mahoney, Kahakalau, Ka'imuloa, Blakemore); NAY: 1 (Higa)]

V. INADVERTENTS/COMMUNICATIONS

A. Inadvertent Discovery of Unidentified Human Skeletal Remains Encountered on April 17, 2019 During Archaeological Monitoring in Kāhilipali Nui Ahupua'a, Ka'ū District, Hawai'i Island, TMK: (3) 9-5-008:001 (por.).

Information/Discussion: Discussion on the above inadvertent discovery.

Summary:

- Kea informed the council about an inadvertent discovery that occurred at the above location. He stated that the iwi was found in a non-tradition context and that he was advised to have the firm (ASM Affiliates) notify HPD because of it's out of context nature. He added that the rules say to notify SHPD as well as the County medical examiner and the respective police department, thought most times when iwi are found in a traditional context, HPD wouldn't be notified. He said that the firm informed him that

HPD retrieved the iwi to do an analysis and that he didn't know if there might be an active case open so he still doesn't know who has jurisdiction yet.

- Member Mahoney asked how much iwi there were. Kea replied that the firm believed one individual but didn't know for sure because the bones were fragmented since it was discovered when it was dragged by the bulldozer. He added that the bones were found because there was an archaeological monitor present. Member Kaponu asked, "who evaluates the monitors findings for accuracy?"

B. Inadvertent Discovery of Unidentified Human Skeletal Remains Encountered on April 24, 2019, During Archaeological Monitoring in Honua'ula and Keopu Ahupua'a, North Kona District, Hawai'i Island, TMK: (3) 7-5-022:999 (por.); (3) 7-5-022:147, 148.
Information/Discussion: Discussion on the above inadvertent discovery.

Summary:

- Kea informed the council about an inadvertent discover that occurred at the above location during archeological monitoring. He stated that the excavator, while digging, punctured through the roof of a cave and the monitor went down and found a single fragment in the tube. He continued that when he went for the site visit, he saw the archaeologists come out with respirators and when he asked why they were using those, they told him that the cesspools were draining down into the tube and that it was toxic down there. Kea added that he was told the County plans on filling the cave and adjoining pockets with concrete to stabilize the area. He said he told the archaeological consultant to retrieve the iwi until which time he can find a suitable site in the cave system where the iwi can be reinterred. He said the rest of the remains may have been washed away throughout the years from the sewage.

VI. ANNOUNCEMENTS

A. The Next HIBC Meeting is Thursday, June 20, 2019, 9:30 AM at the West Hawai'i Civic Center Conference Room, 74-5044 Ane Keohokālole St., Kailua-Kona, HI 96740.

Vice-Chair Blakemore reads the information for the next HIBC meeting.

VII. ADJOURNMENT

Meeting adjourns at 11:27 AM.

*****THE ABOVE MINUTES WERE APPROVED AT THE 06/20/2019 HIBC MEETING*****

Pursuant to §92-3 Hawai'i Revised Statutes (HRS), all interested persons shall be afforded an opportunity to present oral testimony or submit data, views, or arguments, in writing on any agenda item. Additionally, pursuant to a policy adopted by the Hawai'i Island Burial Council at its November 17, 2005 meeting, oral testimony for items listed on the agenda is limited to three minutes per person, per agenda item.

Pursuant to §92-4, §92-5(a)(8), and §6E-43.5 HRS, and upon compliance with the procedures set forth in §92-4, HRS, the council may go into a closed meeting to consider information that involves the location or description of a burial site.

A request to be placed on a burial council meeting agenda must be made with the Burial Sites Program staff at least two weeks preceding the scheduled meeting date. In addition, the request must be accompanied by all related documents. Failure to comply with this procedure will delay the item to the following month's agenda.

Materials related to items on the agenda are available for review at the State Historic Preservation Division in room 555 of the Kākuhihewa Building located at 601 Kamokila Boulevard, Kapolei, Hawai'i 96707. Persons with disabilities requiring special assistance should contact the division in advance at (808) 692-8015.