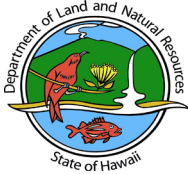


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GOVERNOR OF HAWAII



**HISTORIC PRESERVATION DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHO'OLAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**AGENDA
MAUI LĀNA'I ISLANDS BURIAL COUNCIL MEETING**

DATE: Wednesday, March 30, 2022

TIME: 9:00 AM

PLACE: Department of Land and Natural
Resources Maui District Office
Complex Conference Room
130 Mahalani Street
Wailuku, Maui, HI 96793

I. CALL TO ORDER/ PULE

[9:09 AM] Chair Kyle Nakanelua calls the meeting to order.

II. ROLL CALL

[1:42 in recording]

MLIBC members:

Chair Kyle Nakanelua

Vice Chair Kahele Dukelow

Scott Fisher

Iris Pe'elua

Everett Dowling

[2:22] SHPD

Kealana Phillips, Burial Sites Specialist

Ikaika Nakahashi, Cultural Historian

Andrew McAllister, Maui archaeologist

Guests:

Mikiala Pua'a-Freitas

Dane Maxwell - 'Ohana Maxwell

Jennifer Paet - 'Ohana Maxwell

Noelani Ahia

Kaniloa Kamaunu

Johanna Kamaunu

Fay McFarlane - 'Aha Moku O Maui Inc.

III. APPROVAL OF MINUTES

[2:41]

- A. September 30, 2020 – Closed Session [**deferred**]
- B. October 28, 2020 – Closed Session
- C. February 24, 2021 – Closed Session [**deferred**]
- D. October 20, 2021 – Closed Session
- E. February 23, 2022
- F. February 23, 2022 – Closed Session

[3:52] Everett makes a motion:

“I move to approve the minutes for October 28, 2020 closed session.”

Kahele seconds [3:57]; all in favor, none opposed [4:24], motion carries [4:29]

[4:47] Everett makes a motion:

“I move to approve the October 20, 2021, closed session minutes.”

Scott seconds [4:59], all in favor, none opposed [5:07], motion carries [5:11]

[5:27] Everett makes a motion:

“I move to approve the Feb 23, 2022 minutes.”

Scott seconds [5:30], all in favor, none opposed [5:40], none opposed, motions carries [5:44]

[6:00] Everett makes a motion:

“I move to approve the Feb. 23, 2022 closed session minutes”

Scott seconds [6:05], all in favor, none opposed [6:24], motion carries [6:28]

Agenda items “A. September 30, 2020 – Closed Session” and “C. February 24, 2021 – Closed Session” are both deferred

IV. BUSINESS

[7:01]

A. Training for Maui Lāna‘i Islands Burial Council on membership, roles, and responsibilities. Information/Discussion/Recommendation: Discussion on the above item. (BRING BLACK TRAINING BINDER) The Council may go into Executive Session pursuant to Hawai‘i Revised Statutes section §92-5(a)(4), in order to consult with its attorney on questions and issues pertaining to the Council’s powers, duties, privileges, immunities, and liabilities.

Chair Nakanelua wishes to go into executive session to discuss with the Attorney Generals Linda Chow Cindy Young

[7:49] Scott Fisher makes a motion:

“I motion to have council go into executive session with the deputy attorney general to discuss the duties and responsibilities for this newly evolving board.”

Everett Dowling seconds [8:09], all in favor, none opposed [8:19], none opposed [8:22]

[8:22] The Council moves into executive session

[31:20 minutes in the recording/9:40 AM] executive session closed; return to open session

V. INADVERTENT DISCOVERY OF HUMAN SKELETAL REMAINS

[32:55]

A. Inadvertent Discovery of Human Skeletal Remains at Kapuna Seaside Subdivision-Waihe'e, near Lot 7, reported to the Maui Office of the State Historic Preservation Division on January 31, 2022, Ahupua'a of Waihe'e, Moku of Wailuku/Pū'ali Komohana, Island of Maui, TMK(s): (2) 3-2-002:001 and (2) 3-2-002:043. Information/Discussion/Recommendation: Discussion about the above find.

[33:33] Chair Nakanelua: Ms. Lisa Hazuka provided an update but is not present. Consultation was conducted with probable cultural descendants. Ms. Lawaina Mali'ikapu, Kaohu Mali'ikapu, and Ms. Mikiala Pua'a-Freitas re: human skeletal remains at the above referenced project area. Descendancy claims are under review or not completed at this time. Formal recognition pending. All the probable descendants are descended from Mr. Moses Mali'i Kapu.

[33:45] Kealana: Mali'i Kapu and Mikiala Pualii Freitas. Both applications have been received but not yet reviewed by SHPD. They should be on next month's agenda.

[36:50] Chair Nakanelua opens public testimony

[37:37] Mikiala Freitas offers testimony. Her mother, grandmother, and great-grandmother were raised and lived there. It is the 'āina that raised her. Her family awarded 6.25 acres in the Māhele and the iwi were found on the boundary of these. Waihe'e dairy and ranch. All the land was theirs to cultivate. She lives in the lo'i in Waihe'e valley, but her mom, dad, and siblings still live on the property in question. The iwi should be left alone. Whatever they are trying to do should be moved not the iwi. She filed for cultural descendancy. She encouraged her mother to apply as well.

[42:13] Kahele – report by archaeologists states that two alternatives discussed for inadvertent. Waterway can be rerouted to the south and keep in place with redesign with 20 foot buffer. Or continue manual excavation in waterline trench to ascertain preservation or absence of in situ component with additional consultation. All consulted properties preferred alternative two. Then relocate to an established preservation area. Are you in support of option two?

[44:20] Mikiala - no I am not in support of option 2. She would rather the iwi stay in place. Guaranteed to find more iwi in the area. Moving it to the rock wall they will find more iwi.

[45:50] Scott – have you felt like the consultation that was done is sufficient?

[46:00] Mikiala - I never met Lisa

[46:15] Scott - We can include a motion to Archaeological Surveys Hawai'i to do more consultation

[46:35] Mikiala – they should sit down with her whole family.

[46:55] Kyle – Kau Freitas is her father? [Yes]. So you do not want any further disturbance of this iwi there but also there are probably more iwi in the area

[47:40] Mikala – definitely to the south

[48:00] Kyle – so you seek support from us in the form of a document and have them consult more. More meaningful consultation for this project?

[48:40] Everett – thank you for your testimony, assuming that they find more remains, would you want all the iwi together or separate?

[49:19] Mikiala – she wants them to stay where they are. The whole area was their land at one point.

[51:40] Kahele –from archaeological perspective to them they find iwi that are less significant than a whole burial. From the council's perspective, iwi should always be given the benefit of staying in place whatever it is.

[53:00] Mikiala – they lived in the bushes in a shack but cultivating that land, there is only so much space left.

[53:44] Scott– asks Andrew McAllister

[53:54] Andrew – He has not been to the site, wants to do a site visit eventually. A lot of permits reviewed for this project back to 2008. Have an outstanding preservation plan that has not been approved. Current is for utility work in the roadway. That is as far as they are authorized to work right now. If the county asks them to review additional parts of the project, but it seems to him they need to do more testing. Needs to assess if additional AIS needs to be done and see preservation plan be done. There was a previously identified burial site there so Council should see if there is an accepted BTP and how this burial is related to that burial.

[56:00] Kahele – she did not even know there was a previously identified skeleton in the area. Whenever we look at a development, we want to see the whole development and the whole surrounding area.

[57:25] Scott – can we get archaeologist to also include all known burials in a project area?

[59:00] Andrew – tis report is mostly the inadvertent. But there is also a SHPD review letter with all of this information. He will try to track down the report and provide to the burial council and disseminate out to whoever you like. Some discussion of the preservation plan which has not been approved. Revision requests. They will make sure descendants get a chance for more consultation in the next round of revisions.

[1:02] Noelani Ahia – she came to support Mikiala. She may actually be a lineal descendant. Going forward SHPD to require landowners with an inadvertent find to have a literature review of all the previous work on the land. They need to do meaningful, ongoing consultation.

[1:06] Dane Maxwell – He is here to support Mikiala. He wishes to see a more comprehensive assessment of a parcel. He mentions how some burial council members are sunseting. He would like to see an interim representative, so no lapses or gaps occur.

[1:09] Scott mentions that disarticulated iwi may be in their original location but disturbed

[1:09] Kaniloa Kamaunu – she supports Mikiala. Mali'i Kapu – their family is from that same area as well. They have a few burials on the Hawai'i Land Trust areas. He has concerns with the PI and the archaeologist in charge of the excavation, who is not the PI.

[1:13] Johanna Kamaunu – She has two concerns: one is about the context of the burial being different from Lawaina Kapu who went to the site. She has a concern fo what constitutes a burial

site. There was an active heiau in the site when the burial was put there. The heiau is not in use but the burial still is. The heiau should be included in the context of the burial site. She asks that the LCA information be included along with the TMK. She also has some information related to the iwi which she would like to discuss in closed session.

[1:17] Kahele – unsure if they would be able to use the information relayed by Johanna if she is not a descendant.

[1:19] Johanna – she learned this information when she was still a council member. The two aunties who told her felt this information was important for the council to know.

[1:20] Kyle requests that the individuals involved hui up and create a good presentation of this information, agendize it for a future meeting, and provide a way that they can act on the information which could be disclosed.

[1:21] Mikiala – someone from the worksite said that the iwi are still at the worksite? But it is unclear from the conversation provided here if the iwi had been moved.

[1:24 in the recording, 10:34 AM] Scott makes a motion:

“MLIBC requests Archaeological Services Hawai‘i, LLC, to conduct additional consultation with Ms. Mikiala Pua‘a Freitas and additional family members, lineal and cultural descendants as need for the burial at TS 4 Kapuna Seaside Subdivision-Waihe‘e at TMK: (2) 3-2-002:001 near lot 7, LCA 4405EE1, RP 6207.”

[1:25 on recording, 10:34 AM] Seconded by Kahele, all in favor, none opposed [10:34], motion carries [1:25 on recording, 10:34 AM]

[1:25] Kahele requests ASH to provide the preservation plan, Erik Frederickson’s AIS, and the mapping of all previously known burials and sites. What the state of work is in the area and the state of the iwi/burial as well. Also who touched it? She also wants this agendized on the next meeting.

[1:27] Ikaika – next meeting will be agendized for other burials associated with the project as well.

[1:27] Iris – are they moving on with the project?

[1:27] Ikaika – he is not aware. This is what the landowner/project proponent would need to answer.

[The MLIBC calls the archaeologist to ask about the status of work in the area of the TS4 burial and the situation of the burial whether it has been touched or moved, no answer]

[1:30] Kealana – they are supposed to notify them. They gave permission for them to collect

[1:31] Kahele – so when iwi is found, giving permission to move the iwi happens because it was not an entire burial? “Fragments” are given less consideration? How do we stop this from happening?

[1:32] Ikaika - MLIBC can give recommendations to SHPD for what to do if a burial is found. Additional testing to verify or not? Need to be re-agendized. Kealana or Hinano would need to give written approval.

[1:34] Kyle– so do we need to agendize this?

[1:34] Ikaika: Yes. 6E-43.6

[1:34] Kahele – like with Maui Lani and other places, if they see a scatter, they automatically make a delineating between a scatter and a whole person.

[1:38/10:48 AM] Scott writes a temporary motion for this agenda item until there is a Wailuku representative:

“The MLIBC requests burial council member Scott Fisher to serve as the burial council liaison for the Kapuna Seaside Subdivision-Waihe‘e TMK(s): (2) 3-2-002:001 near lot 7, LCA 4405EE1, RP 6207. This position will be temporary and will be suspended at such time that a Wailuku burial council representative is appointed.

[1:39/10:48 AM] Seconded by Everett, none opposed [1:42], motion carries [1:42]

[1:39] Scott – is there an intact/in situ component and are there more iwi in the area

[1:40] Kealana – from what she understands, she did collect the iwi

[1:40] Andrew can look at the testing strategy. It is a dirt road and probably a bit disturbed.

VI. ELECTION OF NEW MLIBC VICE-CHAIR

[1:43] Kahele – this is her last meeting.

[10:52 AM/1:43 in the recording] Kahele makes a motion:

“I nominate Scott Fisher to be the Vice Chair for the MLIBC.”

[1:43] Seconded by Everett, all in favor, none opposed [1:45], motion carries [1:46]

[1:44] Kyle opens public testimony

[1:44] Dane Maxwell – Dane supports Scott with his institutional knowledge as Vice Chair.

[1:45] Noelani Ahia – offers her full support

VII. ANNOUNCEMENTS

[1:47] Meeting adjourned

A. Next meeting is scheduled for Wednesday, April 20, 2022

Pursuant to Hawai‘i Revised Statutes (HRS) §92-3, all interested persons shall be afforded an opportunity to present oral testimony or written testimony on any agenda item. Additionally, pursuant to a policy adopted by the Maui Lāna‘i Islands Burial Council (MLIBC) at its August 25, 2005, meeting, oral testimony for items listed on the agenda is limited to THREE minutes per person per agenda item. Pursuant to HRS §92-4, §92-5(a)(8), and §6E-43.5, and upon compliance with the procedures set forth in HRS §92-4, the MLIBC may go into a closed meeting to consider information that involves the location or description of a burial site or to discuss confidential genealogy. Pursuant to HRS §92-2.5(d) HRS, if a meeting must be cancelled due to lack of quorum, the present MLIBC members may elect to continue to receive testimony and presentations on items on the agenda. A request to be placed on a MLIBC meeting agenda must be made in writing/email with the State Historic Preservation Division’s History and Culture Branch staff at least THREE 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. Interested persons can submit written testimony in advance of each meeting that will be distributed to the MLIBC prior to the meeting. Written testimony must be submitted no later than 24 hours prior to the meeting to ensure time for the MLIBC to review it. Late written testimony will be retained as part of the record, but we cannot assure the MLIBC will receive it with sufficient time for review prior to decision-making. Submit written testimony to andrew.k.phillips@hawaii.gov. Or via postal mail to the Maui/Lāna‘i Islands Burial Council c/ SHPD at 130 Mahalani Street, Wailuku, Hawai‘i 96793. Materials related to items on the agenda are available for review at the Maui State Historic Preservation Division located at 130 Mahalani Street, Wailuku, Maui, Hawai‘i 96793. Individuals requiring special assistance or auxiliary aids or services (e.g., sign language interpreter, wheelchair accessibility, or parking designated for the disabled) at the MLIBC meeting, please contact staff at least 72-hours prior to the meeting at (808) 243-1285 so that arrangements can be made.