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

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
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**MAUI / LĀNAʻI ISLANDS BURIAL COUNCIL
MEETING MINUTES**

DATE: June 20, 2018
TIME: 9:00 AM
PLACE: County of Maui, Planning Commission
Conference Room
Kalana Pakuʻi Building, 1st Floor
250 S. High Street
Wailuku, Maui, HI 96793

I. CALL TO ORDER

The Burial Council Vice-Chair Dane Maxwell called the meeting to order at 9:04 AM

II. ATTENDANCE:

Members: Kapulani Antonio - Chairperson
Dane Maxwell – Vice Chairperson
Kaheleonalani Dukelow
Scott Fisher
Johanna Kamaunu

SHPD Staff: Kealana Phillips, Maui Burial Site Specialist
Ikaika Nakahashi, Cultural Historian
Barker Fariss, SHPD Lead Archaeologist

Excused: Kalani Ho-Nikaido
Leiane Paci

Guests: Alfredo Villas Boas – Aumakua O Ke Kai
Dana Opupele
Debbie Arakaki
Kristi Ono – COM-DPW
Garrett Tokuoka – Austin, Tsutsumi & Assoc.

Viola Cashman - Hāna
Ed Cashman – Hāna
Dawn Chang – Kuiwalu – Hāmoa
Trevor Yucha – Cultural Surveys Hawaii
R.N. Fuentes – Atlas Archaeology
Lisa Hazuka – ASH
John O’Hara – Mokaē, Hana
Kaniloa Kamaunu
Amy Halas – Pu ‘uone “Maui Lani”
Clare Apana
Noelani Ahia

III. APPROVAL OF MINUTES

A. May 16, 2018

- Council member Kahele Dukelow make a motion to accept minutes
- Council member Johanna Kamaunu second motion
- All aye; no nay
- Motion is carried to accept minutes as written

IV. BUSINESS

A. Training for Maui/Lāna‘i Islands Burial Council on membership, roles, and responsibilities.

Information/Discussion: Discussion on the above item.
(BRING BLACK TRAINING BINDER)

Item was deferred/moved to the end of the MLIBC meeting

B. Draft Burial Treatment Plan for Site 50-50-03-8497 and Site 50-50-03-8498, Kelaweā Ahupua‘a, Lāhainā District, Island of Maui, TMK: (2) 4-5-026:055 pors.

Information/Discussion/Recommendation/Determination: Discussion and determination whether to preserve-in-place or relocate unidentified human skeletal remains at the above location. Council discussion and recommendation to SHPD whether to accept the proposed burial treatment plan.

- Lisa Rotunno-Hazuka and Nico Fuentes address the council re: this agenda item.
- AIS conducted; tested 16 different area. 4 areas thought may be burial sites; of 4 areas, two contained historic burials. -8497, -8498.
- September MLIBC meeting (2016), Dana Opupele, recognized Lineal Descendant spoke as to what he’d like have happen with burials.
- Both burials coffin burials; -8497 Mr. Joseph Opupele Sr. -8498. Late 1800’s. Don’t know who person is. While testing individual, did not find skeletal

remains until get to bottom of excavations. Tucked into bottom of platform, found skeletal remains. Stopped excavations; did not proceed any further.

- 8497 in lot 1; -8498, end of access road (driveway). Other sites found on property, ag activity. Domestic refuse, like bottles and also a dog burial.
- Council member Kahele Dukelow asked with respect to -8498, how deep was burial?
- approximately 4 ft. deep 1.2 m – 1.5 m, replied Ms. Hazuka
- Council Vice Chair Maxwell asked if all in place. Ms. Hazuka replied yes.
- -8497 appears to be completely intact. -8498, some of person missing because of decomposition
- Councilmember Fisher asked if same time period. Ms. Hazuka replied that -8498 looks like it's from late 1800's (1890's). Joseph Opupele Sr. from 1920's.
- Based on background research, around time period 1840's-1890's, person named Lui was awarded property (LCA), according to Ms. Hazuka.
- -8498 location of proposed driveway; flag lot.
- Dana Opupele owned the property; lineal descendant to Joseph Opupele Sr. No longer own property. Current landowners are Mr. Todd Boyd and Ms. Debbie Arakaki.
- Proposal is to disinter remains and relocate to Maui Memorial Park where Mr. Opupele has three other family members buried there.
- Council Chair Antonio advised council to look at page 23, proposed burial treatment. Talks about -8497; lineal connection there. Page 24, Mr. Dana Opupele believes burials on property are his 'ohana and respectfully request relocation -8498 to Maui Memorial Park as well.
- No more excavation; except for disinterment.
- With respect to Opupele, there was a reference that Kaniu Opupele was also buried on property. Conducted testing in area; did not find. Kaniu Opupele would have been Sr. wife.
- Area of find will have construction; plan is to fill area.
- Councilmember Dukelow asked who would be doing the disinterment for -8497; who would be there? Ms. Hazuka replied that normally done by archaeologist. If family wants to be there, they're there. SHPD typically not present during disinterment.
- Burial notice placed in Newspaper. No one responded.
- Councilmember Fisher asked if all members of Opupele are in agreement with relocating to Maui Memorial? As far as understand, yes replied Ms. Hazuka.
- -8498, 4 feet from top of platform. Proposed to fill lot. When come in thru driveway from Kalena Street, property drops. Fill in property, potentially at driveway as well. At the very least, 4-foot buffer under driveway.
- Council Chair Antonio open up agenda item for public testimony.
- Dana Opupele testify on agenda item
- Mr. Opupele requesting relocation of family burials. Property transferred to Mr. Opupele after father passed in 2002. Growing up, didn't know grandfather; neither did dad. Dad and other family members talked of family burials on property. 2005, property subdivided, 1922 deed from great grandfather, Joseph Sr., mention cemetery. No use for property; property tax expensive. Sold it. Let new landowner know that Mr. Opupele unsure if family burials on property, but if so, would requested they be relocated to Maui Memorial.
- Two burials found, great grandfather Joseph Sr. and another grave that appears to predate Joseph Sr. Mr. Opupele believes that this burial (unknown) is his 'ohana and his kuleana. Mr. Opupele request burials be relocated to Maui

- Memorial Park where grandfather, dad and mom buried. Will be protected and cared for in peaceful setting. Make it easier for Mr. Opupele and family to visit.
- Vice Chair Maxwell asked if Kaniu Opupele is found, at a later date, would Mr. Opupele be comfortable if bathroom of house built there. Mr. Opupele responded that he would like burial relocated if found.
 - Councilmember Kamaunu asked about Data Recovery? Document burial site. Councilmember Kamaunu asked about protocols, etc. used during disinterment. It's up to the family. Mr. Opupele ok with process/procedures of archaeologist.
 - Potential of burials deeper? In location of burials found, bed rock. Percentage of finding more in area...0%
 - Councilmember Dukelow asked if decision to relocate was discussed with other members of family? Family member aware; did not vocalize disagreement; all on board.
 - Council Chair Kapulani close public testimony.
 - Councilmember Dukelow agreed that council should respect wishes of recognized Lineal descendant and relocate -8497. However, Ms. Dukelow believes that -8498 should remain in place because 1) part of individual has gone back to earth. 2) 4 feet vertical buffer acceptable. Weighing odds of what's more appropriate: removing some of him (rest disintegrated) vs. 4-foot vertical buffer below road (driveway). Human gesture to keep entire of person there. If more remains found; no recognize descendant, push towards PIP.
 - Council Vice Chair Maxwell mention that he feels burials are connected, should request Dana wishes. However, Mr. Maxwell understands the idea of separating individual parts of body. Close proximity of two burials; must be related.
 - Opupele hasn't established connection to Lui, assuming individual -8498 is Lui.
 - Opupele 'ohana unable to establish connection to the time period of Lui to the 'āina. Might change decision to related/PIP if so.
 - -8498 will separate iwi from iwi, per Councilmember Fisher. Not in condition to allow for complete extraction. Will be partial extraction. Evidence of lineal connection between Opupele and -8498.
 - Mr. Opupele could requested for Cultural Descendancy. Mr. Maxwell what would council decide if Mr. Opupele were to apply (be recognized) as cultural descendant.
 - Original recipient of land was Lui. No evidence that Lui related to Mr. Opupele.
 - Does not show up in family genealogy, per Mr. Opupele
 - Councilmember Fisher stated that separation of kino is a big deal. No genealogical connection; proximity of burials is only evidence of relation.
 - Mr. Opupele stated that in the 1922 deed, his Joseph Sr. mentioned Cemeteries, plural with an "s", so the assumption is there are multiple people buried on property.
 - Burial items found with person per Councilmember Dukelow, inquire status of them. Ms. Hazuka replied items will go with the individuals.
 - Any items found with unidentified individual per Ms. Hazuka, glass beads, clay pipe, piece of leather, 1844 British shilling, ivory tusk, pendant.
 - Problem per Councilmember Dukelow, 'ohana never establish connection to Lui.
 - Councilmember Kamaunu reference 13-300-36.
 - Preservation in Place always first decision.

- Council discuss decision on -8498.
- Council wanted confirmation previous use of lot. Mostly agriculture according to Ms. Hazuka. Figure out who -8498???
- Kaniu Opupele, listed as being buried at Luakona Cemetery. Stated in report, location unknown. Council Chair Antonio wanted clarity. Ms. Hazuka explained historically project area called Luakona. No Luakona cemetery as known. Could be anywhere in area.
- Family cemetery or a regular cemetery asked Councilmember Kamaunu? Language used in the deed references to it as a “family” cemetery; family graves. Ms. Hazuka read aloud, Cemetery on/in Apana 2, Royal Patent 1165, reserved family use for burials (BTP page 30). Don’t know exact location of particular cemetery per Ms. Hazuka.
- Great grandfather passed away in 1923, grandfather passed away 6 months later (1923). Did not talk about property, graves in family.
- **Council Chair Kapulani Antonio call for recess at 9:55 AM**
- **Council Chair Kapulani Antonio call for meeting to resume at 10 AM**
- Decision hinges on relationship between Lui and Mr. Opupele family. Other issues, decomp, etc. Best for iwi. Can construction/development sufficiently protect iwi, per Councilmember Fisher.
- Opupele acquire land from deed 1912, per Councilmember Dukelow. Two/three decades after, assumed timeframe of burial -8498. 1895-1912. Property owned by Haramoto.
- Councilmember Fisher asked if burial -8498 left in place, how would Mr. Opupele feel. Not good replied. Council Chair stated understand Mr. Opupele feelings. Council in a predicament. Not want to set precedent by removing burial at a request of someone who cannot confirm Descendancy. Struggling with decision of unknown burial (council).
- **MLIBC makes a motion to support request by Recognized Lineal Descendant Mr. Dana Opupele to relocate burial -8497 Mr. Joseph Opupele Sr. to Maui Memorial Park.**
- **MLIBC recommends the revision of the Burial Treatment Plan (BTP) for Site 50-50-03-8497 and Site 50-50-03-8498 to reflect the council’s recommendation to Preserve In-Place Site -8498. Council requests BTP to be bifurcated to reflect decision. Council accepts BTP for Site -8797 and requests BTP for Site -8498 be re-agendize at the next MLIBC meeting.**
- **Councilmember Kahele Dukelow make motion**
- **Councilmember Scott Fisher second motion**
- **All in Favor; No Opposed**
- **Motion Passes**

V. SHPD/INADVERTENT DISCOVERIES/CORRESPONDENCE

- A. **Letter Dated May 15, 2018 from The County of Maui Department of Public Works Engineering Division re: the National Historic Preservation Act, Section 106 Consultation Kaupakalua Road Pavement Reconstruction, Phase 2, East Kuiaha Road to Hana Highway, District of Makawao, Maui Island, Hāmākualoa, East Kaupakulua, Ulumalu, ‘Opana, and Pe‘ahi Ahupua‘a. Federal-Aid Project No.: STP-0365(11), Tax Map Key(s): (2) 2-7-012: POR. ROAD, (2) 2-8-002: POR. ROAD, (2) 2-8-005: POR. Road, (2) 2-8-006: POR. ROAD, (2) 2-8-009: POR. ROAD**

Information/Discussion/Recommendation: Discussion about the above letter

- Kristi Ono, COM-DPW address the council
- Ms. Ono provide overview of project.
- Section 106 Consultation for proposed project from Kaupakalua Road from East Kuiaha Road to Hana Highway. Federally Funded, oversight by Federal Highway Administration (FDHWA), and State DOT. Since Federal Action, Undertaking, requires compliance with NHPA.
- Proposed project involves removal of existing pavement down to the gravel subbase within road right of way and installation of a new asphalt concrete pavement section with reinforcing geogrid. The scope of work also includes installation of new pavement striping and markers, adjusting manhole/valves frames and covers where needed, removal/replacement of dented guardrails and removal/replacement of signage and posts. The project area includes Kaupakalua Road, which is situated along the north side of Maui, in Makawao. It consists of a total of approximately 16,100 linear feet of roadway. The project area includes the width and length of the above roadway right of way and extends approximately 20 inches below the surface. No historic properties have been recorded in previous arch studies within proposed project boundaries. 106 Consultation letters have been mailed to Aha Moku O Maui, Hāmākualoa rep, Chair of the Maui County Cultural Resource Commission, OHA, Historic Hawaii Foundation, DLNR.
- Notice of Consultation published in Maui News on Thursday June 7, 2018 and Sunday June 10, 2018 requesting any NHO's or Descendants to come forward.
- No road widening.
- Councilmember Fisher asked if Archaeological Monitor be present during work. Not provided for one in current plan, per Ms. Ono.
- Unknown when last resurfaced. If any work done recently, only top two inches.
- Council suggest because of large scope of project to have archaeological monitors present during work.
- Ms. Ono state that County has not received any responses from anyone who received the 106 Consultation letters. More than happy to meet with individuals/NHO's express interest.
- Council Chair Antonio open the item up for public testimony
- Clare Apana address the council.
- Ms. Apana asked whether there will be time in meeting to talk about items not listed on agenda. Inter-government communication. Letter written by OHA to SHPD position on Phase 9. Questions from Public Works, not answered by SHPD. Council provide recommendations to SHPD, not sure if recommendations get related to other governmental departments.
- Ms. Apana requests old agenda items be re-agendize, if items are deferred, not talked about, not finished being talked about, etc.
- Viola Cashman address council on agenda item. Ms. Cashman interested in item because pertains to Hana Hwy. Two day's notices in newspaper. Question what is the length of time public given to notices to respond?
- Ms. Cashman asked what happens when the 30-period is nearing its end and County receives a barrage of responses, what happens?
- Proponent of mālama iwi kupuna. Work need to be monitored.
- Noelani Ahia address council

- Ms. Ahia follow up with Claire Apana testimony about inter-departmental communication. Ms. Ahia mentioned recent court case Malama Kakanilua vs. DPW re: reissuance of permit. Motion to dismiss by DPW, they stated reached out to SHPD and they did not receive a response. Question if SHPD responded, if not, why not. Ms. Ahia asked why communications from MLIBC not relayed to DPW.
- Ms. Ahia wanted to touch on old business. Last meeting, spoke after lost quorum, talked about MLP VI. Expected to be on current agenda. Request whole project from ML be on agenda until community get an accurate count of burials found. Ms. Ahia request info come from PI Jeff Pantaleo and not Ms. Hazuka.
- Kristi Ono responded to question about timeline of responses from community re: consultation. Ms. Ono stated standard language is 30 calendar days. If someone would bring forth cultural knowledge, whether end of 30 days or beyond, County take everything into account.
- Councilmember Kamaunu asked why no public meeting; just consultation letters. Ms. Ono stated that public meeting scheduled, in these types of projects, when project is put on federal aid schedule. Not only open up to public project specific, but for all projects in district. In design phase right now. Would not be effective to have public meeting; not able to provide specifics or answer any questions at this point in project (planning). When it gets closer to construction, then public meeting scheduled.
- Kaniloa Kamaunu address council re: this agenda item.
- Compliance of 106 Consultation includes public meetings. If meetings took place, when, where, what was said?
- Public meetings afford opportunity for community, outside of those individuals/NHO's who received 106 consultation letters, to actively be involved.
- Ms. Ono clarify Mr. Kamaunu concerns. Initial meeting described part of Maui MPO's scope. Body formed to handle list of Federal Aid projects that happens on Maui. Unsure when meeting occurred; project goes over all projects. Meeting Ms. Ono referring is when full design, construction plan set. Ms. Ono stated that if Aha Moku, Hāmākualoa rep, or anybody that wants to meet with County to talk about project, not opposed to it.
- SHPD, Lead Archaeologist Barker Fariss. Request concurrence for area of potential effect. Very beginning phase of project. Not only 106 apply to project, but 6E as well. Not effect determination yet. Having a public meeting at this stage for historic properties would be pointless per Mr. Fariss.

B. Maintenance of the 3 Burial Preserves Located on Ku'ukama Street and Huluhulu Place, Ahupua'a of Wailuku, District of Wailuku, TMK(s): 2-3-8-083: 038, 003, 008, and 009.

Information/Discussion/Recommendation: Discussion about the above topic.

- Council Chair Antonio open item up to public testimony.
- Noelani Ahia address council re: agenda item
- Ms. Ahia understand complication of issue. Not want to put signs to attract attention, however, further discussions should be had re: protecting these sites. Burials (preserves) are all over Maui Lani. Not know answer, issue need to discussed re: students walking across burial preserve. Ms. Ahia suggests sometime of security. Public awareness.

- Councilmember Fisher asked if students walking on iwi, around? Anything demarcating? Consolidated one spot? Spread all over the place?
- Complete security would be fence per Mr. Maxwell. Deter people from access area, including cultural practitioners.
- In general, if people/animals, need to stop people. If accidental, educate should stop people. Issue is what is desecration? Parameters of preservation site?
- Councilmember Dukelow stated does not consider people walking over iwi desecration. However, bigger picture for Maui Lani, what is collective plan for all preserves. Developer or SHPD, lets relook at ML and see where all places (burials) are. Symptom is kids walking thru preserve, but should take a look at ML and see where preserves are and look at effects. Focused discussion on what MLIBC can do.
- Councilmember Fisher mentioned locked fences.
- Ms. Ahia mention about other new developments. Councilmember Dukelow stated that by looking at preserves and having a discussion, could help in future when/if iwi is found in future development.
- Council request on site meetings.
- If meetings on site, should have developers, landowners, arch, public present.
- Councilmember Dukelow asked SHPD for a burial count on all burials in Maui Lani. Understand SHPD have that info in piecemeal. Imagine that SHPD has requested that info from arch. Status? How to proceed with info?
- SHPD Burial Specialist Phillips mentioned that at last meeting, request made for burial count by Mr. Fariss to ASH for MLP VI. Request was made for data points to be given to SHPD and Mr. Fariss would compile info. At this time, Burial Specialist Phillips has not seen nor can confirm receipt of request.
- Councilmember Dukelow request correspondence with ASH to remind them of council's desire to have burial count.
- Councilmember Kamaunu stated that if firms are not following thru with council's request, then council should not listen to firms until they oblige.
- What leverage council has? Defer, disapprove.
- Development in Maui Lani not compliant per Ms. Kamaunu
- Council request additional onsite MLIBC meetings with arch firms and developers to discuss Ku'ukama Preserves along with other burial preserves in district to address issues that have come up post plan to see what usage of area, how people have been interacting with preserves and how to improve protection/treatment of areas. Next MLIBC scheduled for July 18, 2018. Site visit before next scheduled meeting. Council agree on site meeting scheduled for Wednesday July 11, 2018.
- **Council Chair Kapulani Antonio call for recess at 11 AM**
- **Council Chair Kapulani Antonio call for meeting to resume at 11:10 AM**
- Clare Apana address council.
- Ms. Apana stated three lots (corner double lot) dedicated to burials. Some came from golf course. Strange stuff occurs on that street, at that school, field. Filipino community center, right around corner, had some significant burials there. Traversing on spirits in that area.
- Ms. Apana said she did a blessing at school; staff said things settled down after. Blessing recommended every 5 years. Ms. Apana recommends council look at totality of area. What things have gone. Maui Lani known for paranormal activities. Concentration of burials in three block area. Principal interested in having community group come in and talk to students about history of area. Educate.

- Kaniloa Kamaunu address the council. Many years mention area is special. Speaking with staff; strange things going on in school. Why mystery cannot define whole are as burial ground. Area is entire sand dune, burial ground per Mr. Kamaunu. Mr. Kamaunu mention that Pomaika'i Elementary staff asked to do blessing. Mr. Kamaunu had a problem with that b/c staff wanted Mr. Kamaunu to get kupuna out. Fight going on with kupuna being chased out. Got to make peace with them and live among them per Mr. Kamaunu.
- Council Chair Antonio closed public testimony

C. Discussion About Adequate Protections of Burials Exposed at Hāmākuapoko Beach, Ahupuaʻa of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: [2] 2-5-004:024, 025.
Information/Discussion/Recommendation: Discussion on the above topic.

- Alfredo Villas-Boas address the council on agenda item at the request of Leona Nomura
- Mr. Villas-Boas mentioned that he was a lifeguard, stationed at tower at Hoʻokipa for a period.
- Nakalele Point/Hoʻokipa used to have piles of cars, surfers, chaos. Early 90's, blessing of area. About 11 burials. Multi agency situation. Signs erected. Signs in place, x amount of years everything calm. Guard rail erected. Mr. Villas-Boas retired lifeguard. Last year promoters for surf contest, aggressively take over area (burial ground). Currently, no signs. Mr. Villas-Boas saved one of the old signs that broke. Mr. Villas-Boas would like to see the burial ground area protected. Not allow people to set up tents, hang out in area. No issuance of permits by county/state.
- Cultural Historian Ikaika Nakahashi provide background to agenda items. Mr. Nakahashi explain that Leona Nomura from Aha Moku contacted Mr. Nakahashi to inform him that on busy days at Hoʻokipa, surfers, wind surfers, etc. stage equipment and set up on the burial ground.
- State Lead Archaeologist Barker Fariss added that SHPD does not deal with permitting issues.
- Council recommend letter be drafted outlining sensitive areas on Hāmākuā coast. Remind agencies of proper treatment, signage, etc.
- Council Chair Antonio stated she wouldn't mind scheduling a site visit to area.

D. Update on Inadvertent Discovery of Human Skeletal Remains at Hāmoa Beach/Mokae Cove, reported to the Maui Office of the State Historic Preservation Division on November 14, November 15, and November 20, 2017, Ahupuaʻa of Mokae, District of Hāna, Island of Maui, TMK: [2] 1-4-010:001
Information/Discussion/Recommendation: Discussion about the above find.

- Dawn Chang, representing Travaasa address council on agenda item.
- Ms. Chang provide background of project (finds found AIS thru Monitoring)
- Ed Cashman address council
- John O'Hara address council
- Viola Cashman address council
- Please see the attached Document.

Meeting adjourned at 12:22 PM

Minutes by Kealana Phillips. SHPD Burial Site Specialist