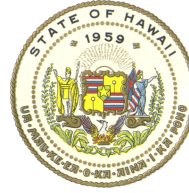


DAVID Y. IGE
GOVERNOR OF HAWAII



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

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M. KALEO MANUEL
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

**MAUI / LĀNA'I ISLANDS BURIAL COUNCIL
DRAFT MEETING MINUTES**

MLIBC 02/24/2021

[2:34] I. CALL TO ORDER 9:03 AM

Wednesday Feb 24, 2021 at 9

[3:06] II. ROLL CALL

Dane Maxwell

Kahele Dukelow

Scott Fisher

Iris Peelua

Johanna Kamaunu

Kyle Nakanelua Joins 9:18 AM/17:00 minutes of recording

[3:35] Dane: Housekeeping rules and updates: Ikaika will be taking any comments when it comes to signing up for agenda so direct chat to him and he will notify us if you would like to testify.

Three minutes is the allotted time for testimony. Please keep it concise and on topic to the agenda item. We will not be having much dialogue today but if you would like to set up a meeting with district rep or Dane for a more in depth discussion or to go over things not on the agenda, either through SHPD or their contact info. Three minutes stay on topic, if conversation goes on longer, we have to mute and ask to contact us outside to continue the discussion. We highly recommend everyone submit written testimony in respect to old business, old agenda items which have not been reviewed. We are very appreciative of those who show up time and time again and we would like to respect everybody's commitment and time to come to meetings.

[5:16] III. APPROVAL OF MINUTES

Dane: We have approval of minutes. We just received the packets to approve minutes. Deferred to March – will have to review the minutes, either 6 or 8 that need approval, but we haven't had a chance to review them. We will defer them till March, we have the potential for two meetings in

March, council members I will let you know the dates soon so we can stay up to date and not have such long meetings. These go all the way back to May 20, 2020 please review minutes for the next meeting.

[5:59] Kahele: please rename yourselves

Dane: please go ahead and rename who you are when it comes to participants – right click name or long press android and choose option to rename and use your name. Mahalo

A. May 20, 2020

B. September 30, 2020

C. September 30, 2020 – Executive Session

D. October 8, 2020

E. October 8, 2020 – Executive Session

F. October 28, 2020 G. October 28, 2020 – Executive Session

H. November 18, 2020

I. November 18, 2020 – Executive Session

J. February 3, 2021

K. February 3, 2021 – Executive Session

[6:28] IV. BUSINESS

[6:28] 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.

Dane: Today we are addressing a specific thing – we have been in council for a long time, the majority of us, so if you have any specific questions you like training on. I am looking for a standardized training protocol for reach member who joins – in the works with SHPD and the AG. Possibly in the future. Today in training we want to cover certain things. I am going to ask either Ikaika or Kealana. Who will give us today’s training?

[7:43] Kealana – Aloha Chair Maxwell council. I do believe Deputy AG Cindy Young is available for this first hour of the meeting

Dane: We will be covering today ethics complaints against boards and commissions and how to address them as council members and public. I am looking for Kealana or Cindy to give us indication of how to address this related to recent events. Who do we have for this type of training? What is the proper process for this, whose kuleana to stay on top of these things, and if you want an update who do you go for as a complainant and as council or complainant/defendant can you find status yourself? Cindy Ikaika Kealana?

[9:00] Cindy – I will take a stab at some of it. Good morning, Cindy Young from the AG’s office. So, there’s a lot of things we can’t really answer as we are not part of the ethics office – their procedures and protocols would be best answered by them. She can’t tell you that. She can answer what authority burial council has in addressing or in handling ethics complaints. Ethics complaints go to the ethics office and ultimately the ethics commission and their office will determine whether they investigate it fully or if they can make determination based on complaint itself with additional info from complainant. Ethics office must respond with what level of information. As far as advising members of public who want to make complaints or have made complaints, we can’t advise members of public and with regards to if or how the ethics office or commission has closed a complaint or investigate a complaint, it is up to them. It is her understanding with respect to Mr. Ampong’s complaint, that matter is no longer being reviewed by the ethics office and has been closed. What their decision is, we are not privy to. If Mr. Ampong wanted to know more information about the resolution of his complaint, he would need to talk to the ethics office directly for specifics. One more thing – as you mentioned before, we are working with SHPD to coordinate the training including ethics. We are thinking that maybe ethics may be the better office to provide the training, so we are working with SHPD and reaching out to ethics office to coordinate and they have a great website with training materials off of Boards and Commissions, they have a training workbook and video and a lot of materials there.

Dane – can you send the council members get a link for this website?

Cindy - she will send a link to Kealana and ask if he can forward that to members

Dane: Mahalo for bringing Mr. Ampong his complaint to our attention. For the past two years this has been kicked along in a circle and we want to know what the proper process and kuleana is. We wanted the public and council members to know what the process is and whose kuleana is it to review and mālama things such as that. Thank you, any discussion

[13:12] Scott Fisher - In 2005 we did day long training on all aspects of burial council training and there was a half a day on ethics training. It’s been a while and we need to do this again

Dane: Yes, we do need to redo it and there have been talks with Cindy and in the past two weeks he received an email from Ethics that they are willing to conduct training. We might break it into three modules, probably three independent meetings separate from normally scheduled MLIBC. A bunch of us resubmitted applications as burial council members, might be the best time to do this. Big time commitment. What was the ethics training, maybe two hours?

Scott: yeah, two hours, maybe half a day, two to three hours

Dane: Perfect it’s in the works might be something new. We are working on it

[14:25] Johanna: So, if I am to understand Cindy correctly, burial council doesn’t have purview for those questions of an ethics nature? Ethics commission makes the decision and if merit to the complaint they will see it through, and if there is none the complaint ends? Once it ends there it also ends of the burial council as well is that correct?

Cindy: I am not sure what the burial council would do, because it is not really part of your jurisdiction. Burial council has limited jurisdiction primarily under HRS Section 6E 43.45 you have certain duties and responsibilities. Those responsibilities would not include ethics, it is clear from Chapter 76 on ethics entitled “standards of conduct,” any violations or alleged violations would go to the ethics office and ultimately ethics commission. And ultimately in terms of disciplining the members, broader context, the suspension or removal of a member – really this is broader than just ethical violations – would be the governor, not just the burial council. That is set out in the rules also and consistent with the statutes, but it is not the burial council who removes members

[16:28] Kahele – and it just wouldn't make sense for us to investigate ourselves for any kind of ethics complaint

Dane – we are not doing an investigation and we don't know all the facts and as the defendants we shouldn't be doing investigation or making a ruling on the complaint. Let's move on, aloha mai Kyle

[17:00] Kyle Nakanelua Joins 9:18 AM

[17:12] Johanna – so that means we don't agendize any ethics questions, matters, complaints?
Dane: try to keep things burial related cuz we can comment on any Hawaiian burial issues

[17:33] Kahele – if there was one, we seek guidance from the AG or Ethics on what we should do and how to agendize

Dane – It's been going on so long we wanted an update but hopefully with clarity we can move that forward and take care of it. I would like to move on to next section. Mahalo Cindy and Kealana. This meeting is a catch up from October and November and Maui Lani wasn't supposed to be on the agenda but because it's been on the agenda for so long, I didn't even see it. So, I plan to defer it today and it will be agendize in March, there are things we need to discuss, but we need to have respect for the rest of the agenda items we haven't been able to review yet.

Moving on to correspondence from the last meeting. We didn't get to speak to it enough. Go ahead and read correspondence Agenda Item A.

Kahele – [in Hawaiian, reminds Dane to take testimony on Training A]

Dane: I did forget to take testimony for Training A. We are gonna have to take testimony for A. [19:45] **Public Testimony**

[19:57] Ikaika – Jay Konohia asking to testify on updates for the business and the Keeaumoku requesting to testify pertaining to business training and Auntie Joyclynn requesting to testify for training

[21:00] Auntie Joyclynn - Quick question. If there was specific topic for training, will there be training as to parameters of the law. How do you determine whether or not – she is coming forward with claims to do with what you folks are fulfilling which is 6E and [unclear] she is not of legal counsel and if you could be better equipped to, maybe not make a legal determination, but to know what is and isn't lawful. That is her testimony for today for her training

Dane: Mahalo. Yes, we will do more training if you have anything more specific please send an email and we will see if we need to focus on it.

[22:55] Ok testimony closed mahalo. If anyone reaches out to you and what they suggest for training is helpful, please let me know and I will pass it along to SHPD or the AG or Ethics.

[18:14] V. UPDATES

Maui Lani wasn't meant to be agendize and we plan to defer it today and it will be agendize again in March not removed completely but we need to have respect for the rest of agenda items we have not been able to review yet

A. Maui Lani Subdivision Phase VI, Ahupua'a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8-099: pors. Information/Discussion/Recommendation: Update on the above project.

[23:20] VI. CORRESPONDENCE

A. Letter Submitted October 30, 2021 from Mr. Ke‘eaumoku Kapu & Kapu ‘Ohana, re: Complaint of Burial Treatment and Preservation Plans for Burials Identified in the Area Around the Project Site for the West Maui Land Company’s Waterline Project, Ahupua‘a of Paunau, District of Lāhainā, Island of Maui, TMK: (2) 4-6-015:001.

Information/Discussion/Recommendation: Discussion on the above item.

Dane: Forgot to take testimony for Agenda item A so we will go back to that

[24:00]: Ikaika do we have a presentation for this?

[24:16] Kahele [in Hawaiian]

[24:24] Keeaumoku Kapu – Aloha kākou. Keeaumoku Kapu from Lahaina moku. Background pertaining to who he is and what he is doing. He was part of MLIBC, four of those years he was chair, and he is also the CEO of Aha Moku Maui Inc. Reason why here is mahalo for bringing forward letter he submitted to MLIBC. Not just one adjusted [?] burial but all burials in area of subject property of pipeline by West Maui Construction/Waine‘e Village LLC. He has multiple great concerns and hope from conclusion of his report can make some recommendations to MLIBC. It is important to burial council. He would like to forward some sort of recommendations – the complaint extends a lot of things that have been done within project area starting a few months ago on the laying pipeline that was exempt from any type of public review from any agency, county, and state and took no regard for any historic properties of Waine‘e Village. Burial Council received numerous info of what came about, especially letter submitted on behalf of burial council [unclear]. The reason he is really upset is that he has been also given recognition as cultural descendant for the three adjusted burials within Waine‘e Village project and he is appalled this company basically hired an outside contractor that doesn’t even live here on Maui to go and do whatever they need to do. The state basically said they had no jurisdiction if landowner decides he wants to do whatever they need to do in that area. But if it is on the burial council’s agenda then it is still the burial council’s responsibility on how these burials are supposed to be treated. He is really upset this company; this person went forward to build a wall and one of the request he asks for is immediately burial council do site visit of second adjoining parcel and first adjoining parcel especially wall being built. He is a descendant to these adjusted burials but there was no contact, they did not even take time to contact him on methodology of how they would go forward on the preservation and protection of iwi kupuna. If there were parameters in the past to make sure the burials weren’t impacted, [unclear] the burials have been impacted. State has no purview to do anything lawfully, claiming they don’t have anything they can do to stricken this lewd type of historic protection which he doesn’t call protection, he calls it where so called private contractor who doesn’t even live in Lahaina is allowed to go onto the property and do whatever as paid contractor. The way these thing was done and disregard for Aha Moku system we created to make sure we have an advisory for these types of issues. Aha Moku recognized by the state legislative body and they advise DLNR and his letter states what it says to make sure can rectify these possible [unclear].

[29:52] Johanna – what kind of recommendations he is looking for from us?

[30:04] Keeaumoku – He is requesting burial council, maybe the district representative, do a site visit on second site and also information that was gathered from first site they have done, and he has some concerns on how all these things went forward and for himself being totally ousted after being given recognition for those burials, that there wasn’t any correspondence or any type of where he was given any type of recommendation on how things would go forward. Why have these applications for recognition and what is the outcome of that? If that state has process for us to be complacent, to be involved in some type of protection plan, and he fulfilled every obligation he needed to get recognition and yet at the same time he is being slapped in the face and put to the side

and not even being given correspondence on how protection and preservation of burials is to go forward. That's we he is asking the district rep do site visit with himself to go on these properties as recognized descendant to look at properties to see what has been done and how to rectify the matter and how to be more open on the process of the protection of iwi kupuna in spite of developer's contractor [unclear] he was totally ousted, and he wants remedy for that

[32:11] Dane let's take testimony

[32:18] Kahele – Should we ask SHPD for update on the process?

Dane – Keeaumoku I believe we are talking about 5050035396473 and 7102 yeah. And 5238 and 5289 – those are previously identified, so these are under jurisdiction of burial council as previously identified and Keeaumoku is a cultural descendant recognized to these sets of remains. I will ask Kealana or Ikaika for updates then take testimony

Andrew or Ikaika as to where we are on this particular...Because we did a site visit with both Ikaika and Andrew McAllister. Is Andrew in attendance right now?

[33:41] Ikaika: just to clarify we are speaking about open pit that was recently closed and only that one? Dane: Keeaumoku said it was site on and site 2?

Ikaika: Keeaumoku in the letter it said what to address? Kala mai if you could clarify Keeaumoku – It addresses all three

Ikaika – Ok so as long as it addresses all three then we can discuss all three. Long story short try to be concise and factual, x amount of years ago under Kaanapali Land Development, they were gonna do project on property, they went for permit, SHPD asked for an AIS, Kaanapali Land Dev wanna say over 10 years ago, initiated an AIS with archaeological firm and at some point burials were identified, I wanna say at least two previously identified so they are the jurisdiction of the burial council, and for some reason pits were not closed and at some point the project, I don't know if they land owner walked away, but basically the process stopped, so there is no accepted AIS for those burials. I have heard of some talks of BTP in draft form, but his understanding is that there is no accepted BTP. Fast forward. We received Keeaumoku's letter alleging at least two burial pits open, and we received a complaint that a rock wall was being constructed in the vicinity and heavy equipment in the vicinity. SHPD did fact finding site visit coordinated with landowner and DOCARE and at the time only visited one of the sites and what he saw the rock wall did not appear to be impacting or damaging the burial, and from what he saw, the heavy equipment did not appear to be impacting or damaging the burial but the official investigation from SHPD and DLNR will be from DOCARE. So only DOCARE, at conclusion of DOCARE investigation, will come to SHPD and will be routed with chain either to SHPD admin or all the way up to the BLNR. It just depends on the situation at that point only that body whether BLNR or SHPD Administrator can determine if there is a violation or not. Not sure of the status of the investigation, would have to follow up with DOCARE if the status of the investigation is ongoing or concluded but typically if there is an active investigation, they will not comment on the investigation

Kahele – Has SHPD approved any interim measures to protect the site?

Ikaika: It's a historic burial, it's previously identified, it is completely the jurisdiction of the burial council to approve interim or long term. His understanding is that for the one burial pit that was recently closed, SHPD not in opposition of closing the pit. Our understanding is that if you refer to AIS laws, it does say that during the AIS process when burial site is found, the pit shall be closed. SHPD did not oppose the pit being closed in accordance with the law that says when a burial site is found, it shall be closed

[37:52] Dane – I did a site visit to site one, there was not an interim protection measures and it was backfilled in collaboration and consideration and consultation with certain parties in the area

including Keeaumoku with cultural protocol. I just want to say that Site 2 – two really big issues glaring here. One is not having the participation of recognized cultural descendants be a part of the process and it's very - lots of things happened that day that led up to the kanu of that kupuna that we can discuss outside of this forum but that is one problem he would have wanted to have everyone on site or at least talk about it. He didn't go there with the intention of doing a reinternment that day. The second thing – we need to look at this - a pit or two pits – two kupuna were left exposed for over 10 years and those are two things that are glaring, and it really upsets him. He doesn't know if it was its archaeologist or landowner or SHPD who may be responsible for this, but we can talk about this and maybe agendize this later. Andrew was on site too if you want any archaeology questions answered for the council.

Keeaumoku – I am asking for clarity, when those things happen when private land company pulls out and tells archaeology firm that they are no longer needed, what is process of state when these things are submitted? I know that's a broad question, but we need to know what occurred in the beginning that led to these sites being abandoned.

Dane – We are working on finding that answer. We need to move on to take testimony and we will come back to that at the end of this discussion. He is chair but also Lahaina District Rep so please feel free to reach out to him, he is always open for a Zoom meeting or in person we can do that as well.

[40:28] Moves on to taking testimony

Ikaika: Kahi and Noelani signed up

[41:20] Kahi – She has a presentation for the landowner, and she wants to speak for herself as well. Will you allow her presentation for the landowner?

Dane – It's not necessarily agendize that way but we can have one, but you have to testify and if you want presentation, they will agendize it as such if it's related to burials but for now were are just taking testimony not presentation

Kahi: Ok because the landowner contacted Jan 29 to present Feb. 3 which didn't happen Dane: hold on let me ask, Ikaika or Kealana were you guys contacted to present on this agenda item?

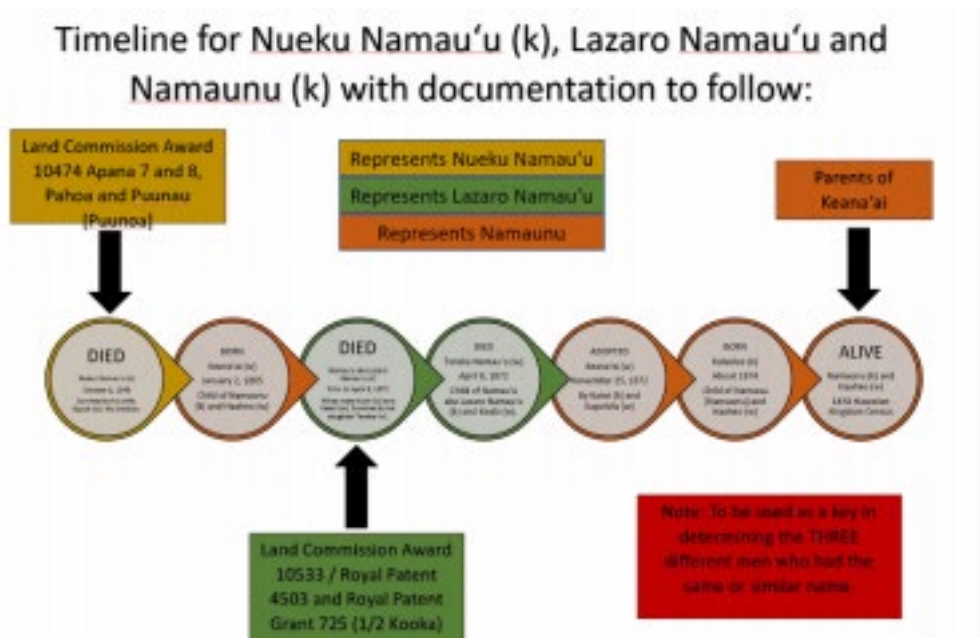
Ikaika – yes for Feb 3 we asked landowner to be available to present updates, but we didn't get to that agenda item. I didn't coordinate anything for today

Dane: ok I didn't know that. I will allow for 5 for presentation and 3 for testimony. And if you could please forward that presentation to SHPD afterwards mahalo.

[42:44] shares screen

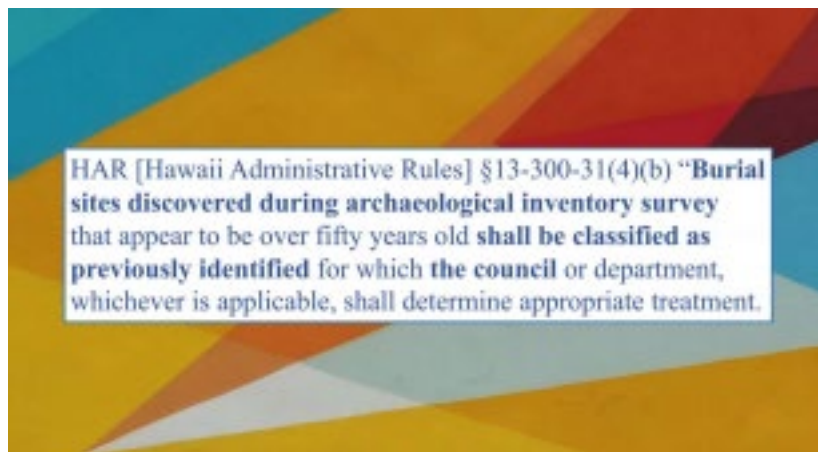
Kahi: Ok so the landowner was not contacted until Jan. 29th that this letter even existed, it was missed by a lot of people even though it was an agenda item for Nov. 18th. We've had some discussion with SHPD and arch that the previously identified remains do fall under the burial council. [shows Hawaii revied statues]. That the burial councils are for previously identified native Hawaiian burials. So, on Jan. 13th when Ikaika and Dane came out to 6473, Dane told us he knew from oct. 19th the walk through he did with landowner and Janet Six and archaeologist, that he knew there were was an open kupuna 6473. [shows letter] Complaint was for Nov. 18th. Mr. Kapu neglected to put in his letter that he was aware of 6473 since 2007. He did not seek to get recognition then for it, she doesn't know why. [shows meeting minutes in draft form] In their testimony, she doesn't know how she missed this, but Nov. 18th meeting minute she said there was exposed kupuna and Kaipō Kekona also said there was exposed kupuna. And we missed it. So, for

6473 she sent an email Oct. 17 to landowner saying ilina in area of the water line. On Jan. 7 with community involvement – they weren't touching the burial site they put up a triangle wall along the entire parcel. They knew there was a burial site in that are, but they were going well around it because they didn't want to touch anything. Jan. 8, they found the open trench. Landowner did not know about it, they did not know about it, SHPD apparently did not know about it. They thought it had been filled. Jan. 10 Eric Frederickson confirmed it was an open burial trench so from Oct. 19th to January 13th, 85 days burial council SHPD no one contacted the landowner to let them know there was an open kupuna sitting out there. Shows that 6473 didn't even make it onto the agenda so it didn't have chance to have community input or descendants to come forward to claim it. She is drafting a letter because if this was a graveyard in mahele time – what they say is a cemetery today, that's for the triangle. 45239. Andrew McAllister sent an email to the landowner asking for an update to 45239. Eric Frederickson – this is also open. Jan 20th confirms this is also open. Jan. 27 archaeologist for the landowner said clear it we will get it ready like 6473. Feb. 4th cleared the area to make way for a preservation plan. 129 days still no contact from SHPD or burial council except visit in Ja. 13. #5239 made it to burial council but it wasn't revisited. Didn't know who owned the land, it was between county flood project, so initially decided not to put any structures just interim protection measures. Why wasn't landowner notified about the burial trenches? And this kupuna, 18 years, 5 months, 21 days. #7102 past Saturday Tanya Lee Greig came out with the landowner and showed everyone where it was at. Two fires in the area. Two kupuna went through two fires. For all three sites as soon as we discovered Jan. 8 that there was an open burial trench landowner has done nothing but try to remedy the situation. A BTP and preservation plan can't be accepted or completed until there is a finalized AIS accepted by SHPD. So, 2007 the abandoned AIS will be revied by SCS, and once accepted and approved by SHPD a BTP and preservation plan will be completed. Site 6473 was closed in 5 days. [shows pictures before and after]. She is submitting an appeal to have the cultural recognition done for the three burial sites of Keeaumoku Kapu. This will be submitted today. He is not a descendant of Namau'u. She has a formal letter going to SHPD OHA DLNR to take back cultural recognition. Till it's been heard by these three entities, she does not feel that Keeaumoku Kapu should have any say on what happens to burial sites until this can be confirmed because this research shows that Namau'u died well before Ke'eaumoku family came into the line.

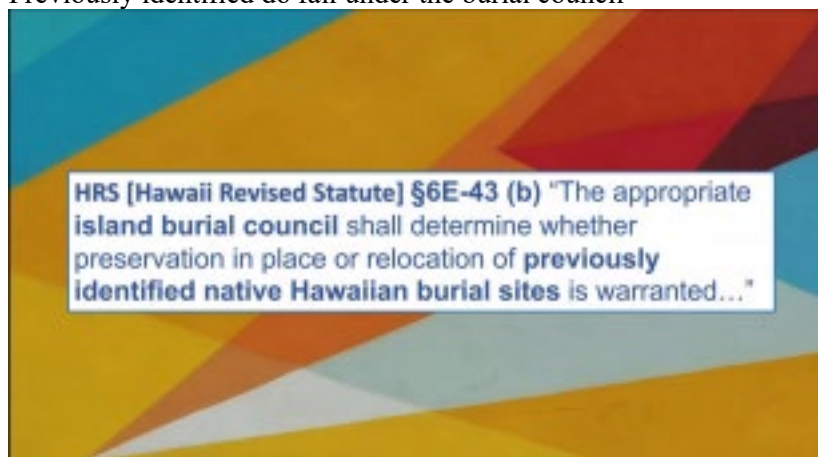


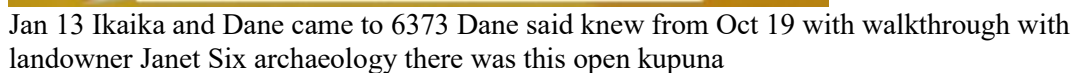


landowner not contacted till January



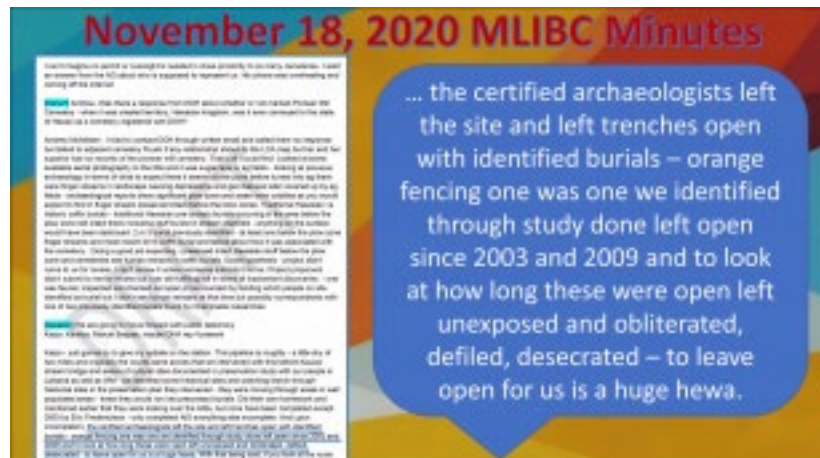
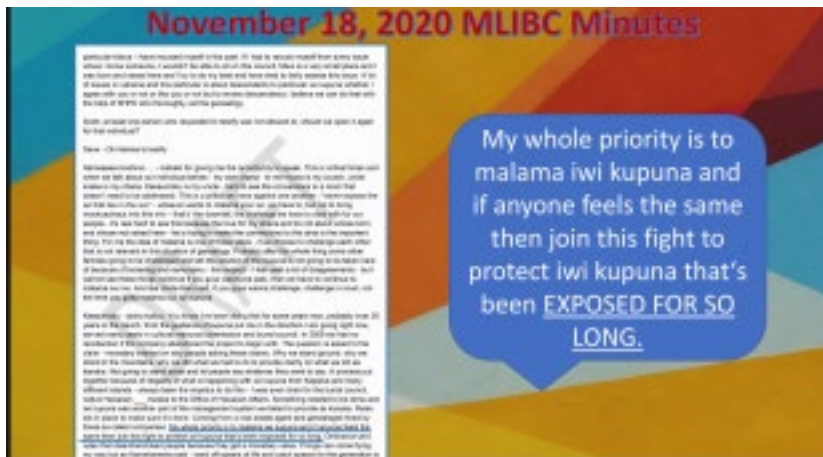
Previously identified do fall under the burial council



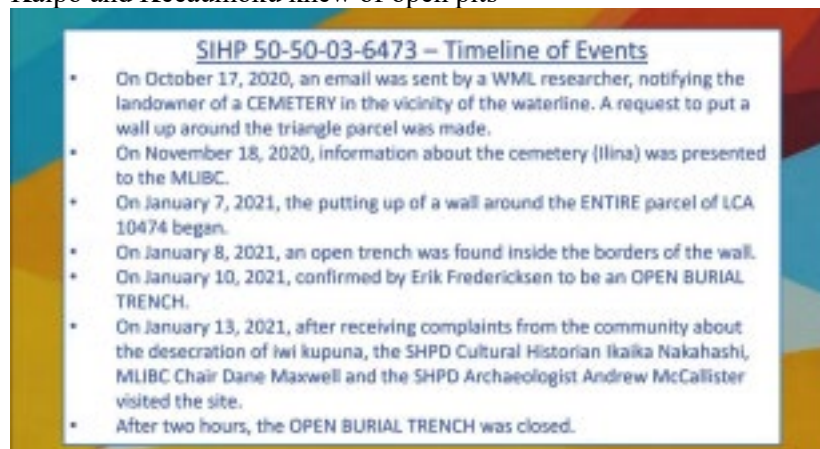


Mr. Kapu didn't say he was aware of 6473 since 2007 and didn't apply for descendency at that

time



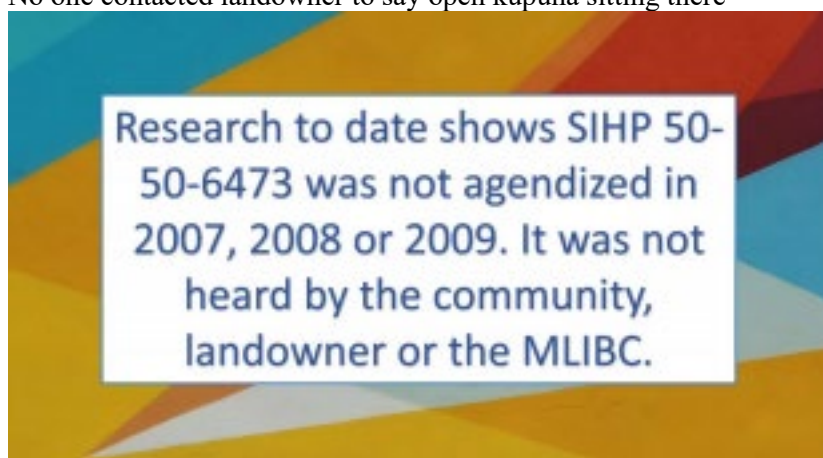
Kaipo and Keeaumoku knew of open pits



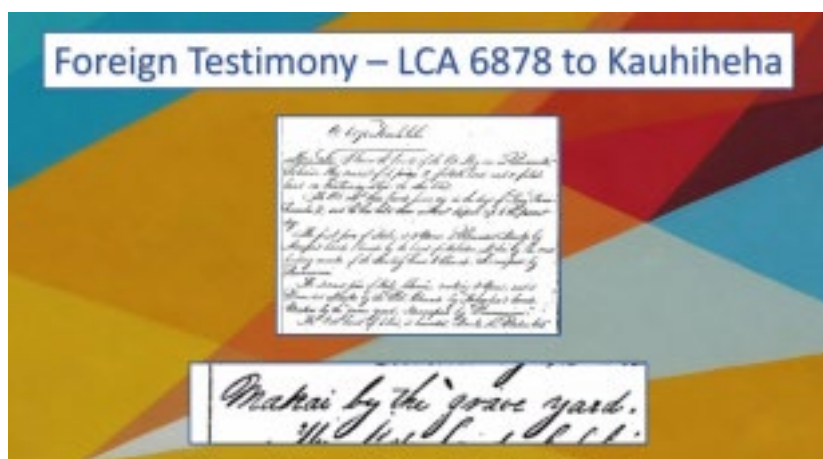
They were putting triangle wall around entire parcel knew there was a burial site but went well around it to not touch anything. Jan 8 found open trench landowner SHPD, and they didn't know about it

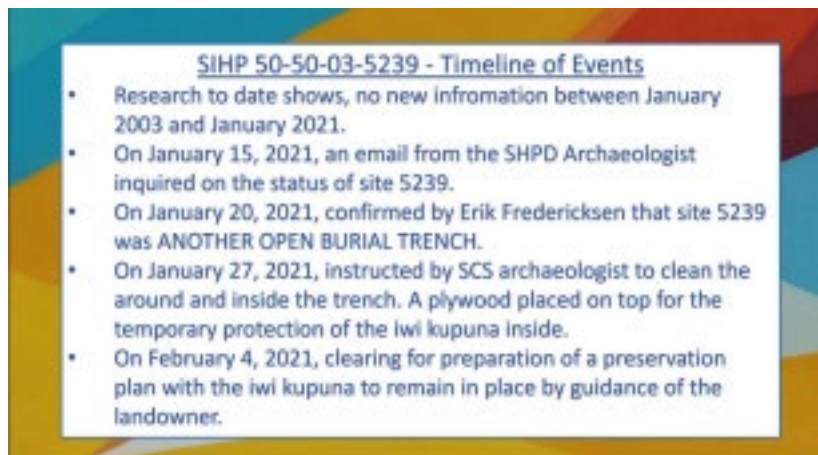


No one contacted landowner to say open kupuna sitting there



6473 never came to burial council for complainants. drafting letter to SHPD if this was known as cemetery in Mahele time





Convo with Erik Frederickson – 5239 was open. Confirms Jan 20, Jan 27 archaeology for landowner said go ahead clear it, get it ready
Feb 4 cleared area for preservation plan which still hasn't been done



No contact SHPD or Burial Council
Didn't know who owned the land – why wasn't landowner notified of burial

trenches

Two fires in the area – two kupuna went through the area. All three sites, as soon as Jan 8 discovered open burial trench landowner has tried to remedy to situation
Submitting to have appeal for the cultural recognition of Keeaumoku Kapu. He is not a descendant of Namau'u. Formal letter SHPD OHA DLNR and until heard by all three entities Ke'eumoku Kapu should have no say on burial sites till this can be confirmed. Namau'u died before his family
[50:57] Kyle – I don't have a question but a comment and its within purview as burial council. Here is a distinctive difference between a cultural descendant and a lineal descendant. Ke'eumoku Kapu was recommend by council as a cultural representative for the area not a lineal descendant so you need to review the definition of the two and bring clarity to it.

Dane: any other questions by the council?

[51:45] Kahele – I don't have a question directly for Kahi, but I do have a comment maybe SHPD can elaborate. Idea that who the onus is on to notify landowners regarding burials. That's why we have process in place for the landowner to do the research before they start projects. So maybe SHPD can clarify what that process is after we take testimony.

Dane – From what I understand, it is not limited to just this instance but something I want clarity on how they are proactively hopefully remedying this situation

Kahele: Keeaumoku Kahi Noelani Kaniloa want to testify.

[53:18] Kahi testimony – All these allegations, she wasn't hired to do anything with burial sites, her intention was to go out there to put up a wall that was originally there and been confirmed it is there because of Niho stones they found that created original wall. We went three feet out not even on parcel where ilina is. We all volunteered our time. West Maui Paid two workers, and they gave them the rocks/gravel and over time they are learning to build rock walls. This wasn't done with intention to do preservation plans or burial treatment plans but to protect the whole parcel, so nothing touches it ever. Don't know how often you folks have – she has never dealt with this type of burial. When she found burial on Jan. 8, she found an open burial and Jan. 13 no one told them 500 feet away was another kupuna open. She had to make phone calls and talk to other people other people had already talked to get info so everyone keeps saying landowner has to communicate with the community, but door should come right back, no one in community contacted landowner to say two open kupuna in 18 years. They have had so much supernatural stuff happened to them, the ones who found two burials. It's not fair to them. They went out there to put up wall and no one came to help. Everybody was maha'oi, what are they doing? No one lent hands to help them and to find the second one - she cannot even begin to tell you the amount of feeling that has – and all these people who knew and did nothing. You guys didn't do anything. Didn't start anything, no meetings with landowner. She wasn't aware. Not till Jan. 8 and Jan 15 about 5239.

Dane – I just wanna ask something of Kahi, keep it brief. Were you wanting to get recognized to these specific SIHP #s and kupuna to mālama this issue? If you are representing landowner?

Kahi: As far as burial sites, she thinks she is

Dane: Did SHPD notify the landowner of a cultural descendant of these SIHP #s/burials? We like to empower our community because we don't claim to be connected to all of these kupuna, but we know the people who are and now we find more. We recognized Keeaumoku Kapu and when we recognized their cultural descendancy we would like them to notify the landowner. Was the landowner made aware of Keeaumoku Kapu recognized as a cultural descendant? Then they may have been made aware of these open pits. If you do know that he was made aware of when Keeaumoku Kapu was recognized as a cultural descendant. SHPD did you notify him? If he wasn't, then there is a breakdown in communication. There is a process usually we follow when it comes to previously identified remains when it comes through burial council. This is the process we were going through. Burial council doesn't contact landowner directly, it usually goes from us through SHPD.

Kahele – make comment. If there is in any case a cultural descendant, they have to work in concert with landowner, they don't have kuleana to move forward with any kind of action on land they don't own, so that's a process that has to open too.

Dane – And that process is initiated by notifying landowner of cultural descendant that the burial council would like them to consult with.

[1:00:00] Noelani Ahia – To anybody who is involved with anything to do with iwi it is very emotional and opens up a lot of connections to past and she wants to honor that folks feel this way. The iwi is the most important thing in our cultural and protecting them is the most important thing.

And one of the ways we protect them is by doing an AIS before a project is done, before trenching is done for a water line, regardless of whether or not it is required. It is the pono thing to do to research the surrounding areas and find out what is there before you put a trench that's 4 feet wide and 8 feet deep that can potentially disturb burials. Now one of these burials we know that West Maui Construction knew about because they fenced it off. Once this water line went through, they started doing their own research and we found out about the three burials and they spoke to Eric Frederickson and Tanya Lee Greig back in October and Tanya came for a site visit and Eric told them he told SHPD when project was called off, he filed for an SIHP number, he told SHPD pits these were open and needed to be filled. SHPD failed in fiduciary duties to protect these burials. One AIS is complete, one is in draft form. Tanya told us her company was supposed to do BTP for all three and they only found out about one of the burials because one of the workers fell in the pit. These were open for a very long time and its very kaumaha. But had West Maui Construction and West Maui Land and its researchers thought to hire an archaeologist, somebody who does this professionally, before the waterline, we would have known of all three of these and people could have applied for descendantcy and we could have taken care of them. As soon as we found these three burials uncle applied for descendantcy, they staked them out, did caution tape, and waited for their turn to come before the burial council and talk as community about how to mālama these iwi kupuna. Didn't want to take it upon themselves without consultation with proper bodies. Had there been a proper AIS from the beginning burials would have been identified in AIS along with probably other burials because yes this is a burial ground, so you don't go digging trenches through this.

[103:03:30] Kaniloa Kamaunu of Waihee – He goes back to 13-283-1 “policy and purposes.” “Burial sites of human skeletal remains have cultural significance as sensitive historic properties significant to the descendants and relevant cultural groups. Burials are quite different from other historic properties. Human remains under American common law cannot be owned rather the burials are held in trust for their descendants. Treatment of burials must be treated with the utmost sensitivity.” So, we can see throughout this project since the time of Pioneer Mill till now they have no care for the sensitivity of the cultural group and the descendants. We see that battle happening right now in Kauaū where all these burials are being found. This is a burial site – according to 13-283-2 it clarifies means “specific unmarked location where prehistoric or historic human skeletal remains and their associated burial goods if any are interred and its immediate surroundings archaeological context.” It is a known burial site and there is a modern cemetery there too. Yet the treatment of this area hasn't been upheld. It is a well-known burial site for years and this info was there. According to the Mauna Kea case and even our contested case we have ownership, we have property rights. Even if we don't connect as descendant of area, by right and according to this law we have property rights. Kēeāumoku has been leading this fight for years. And now a lot of our people following suit to protect. If Kahi wants to play victim – we know we are victims, we have been victims for years we have been fighting this. She is a new player, and he doesn't see her credentials. You wanna accuse somebody then you better have some credentials because otherwise all you are speaking is words and I don't see her company coming forward to vet her either. So, he has some questions.

[1:06:46] Kaipo Kekona – In the area of what we are discussing, some of the things we need to consider – he appreciates scope of work that has been done, it is large in reference to a normal internment and preservations being put forward, but to say it was an existing wall, we need to clarify who determined that. Niho stones this whole place was cane field, we know the whole process and history and how you develop a cane field. He can't imagine any wall would still be present after years and years of cane haul, cane agricultural process. He would question that scope and perspective. Still, he appreciates it and as far as us being involved and supporting or helping in that area – we can't go to that without knowing we are pono with participating with individuals. Some of the individuals who are involved in there have separated our community and chastised our generational family. There are fractions that have occurred that need to be addressed before we could ever even consider taking on

that type of work together. Being involved in internments in his short time around iwi kupuna even now still he gets shaken up and he tries to keep his aggression back in that scope because it is not pono to come out that way. People need to understand that it's not that we don't wanna be there or choosing to stay away but we cannot and it's not for us to even try and approach those situations without knowing body kino uhane are pono with that and we wanna work and mālama these iwi as has been stated by testimonies along the way but some of the problems they deal with, they cannot work hand and hand with those situations we are dealing with. We have informed this construction company in the laying of this pipe, we informed them of this process prior to them even hitting this area. Whether it was an AIS that would have revealed all this stuff or simply proper investigation in purchasing the property and buyer beware, those kinds of clauses that come up when you buy land, it should have come up already when buying property to let you know what is currently identified when you buy property. You can purchase a TMK, but it doesn't mean you own everything within it. So, you gotta understand that as a land buyer. We have been discussing this in legal disputes numerous times. For anyone to try dummy up now is not even acceptable. We have shown them maps of burials in the area and they decided to move forward anyway knowing there are burials in the area. Not just these 3-4 but many other ones in this area as well and they decided to run their line right through one of the cemeteries identified on mapping and they stuck really shallow in laying their line to avoid digging those up – but that doesn't make any difference, that is still desecration, running a pipeline through a cemetery is unacceptable. And they continue to do it anyway after we tried to reach out to them and share our concerns within phone call, text, emails, as well as confrontations prior to getting this scope of lands where they turned all this stuff they did recently. Mahalo.

[1:11:15] Foster Ampong –He wants to share his testimony. At the end of the day, whether it is SHPD or the burial council, whoever that entity that has the kuleana to ensure that the care of iwi kupuna is being carried out – at the last meeting, Council Member Dukelow said something he agrees with. Whether it was in wā kahiko or today, burials and genealogy were used politically. The testimony thus far and his experiences he is going through with his family is that quite a bit of this whole thing is being politized and used. To the burial council – he would like to see that whoever it is that is really responsible for making sure burials are not disturbed or desecrated, he wants to see that carried out responsibly. He would like to see the appropriate entities step forward and take responsibility for thus particular burial. He has a lot more to say but that's it.

[1:13:27] Ginny Block, she resides in Lahaina. Forgive her, she is very emotional. She gave helping hands to that ilina because it was a call to duty. She hears intention across the board is that protection of iwi kupuna. While she was out there, she is learning Hawaiian, she is learning her culture, she is learning her history. When she heard that trench was found, it was almost 13.5 years, she was appalled. What if that was her iwi, her ohana in hole that left neglected. Then to find another one close by. She understands that there are adversaries and people wanna fight and they have personal agendas, but if intention is to protect and get clarity, that's what she thought out there. I know you don't like Kahi. She doesn't make judgement, but what she saw was Kahi collecting stones with her bare hands, digging weeds with her bare hands, so things like this don't happen. I know you think she has a big voice, but she doesn't. She fights the land company as well to make them listen that this is important. And she's getting through to them and she is doing something about it. If we are all working towards a common goal, isn't that what we should be focused on? We should have a clear agenda of who is responsible it is. Should somebody be given cultural rights to something that was opened under their watch on the burial council? She lives here and she is afraid to be attacked for saying that because she lives here but that's something she lives with. She understands both sides, but this is wrong what happened out there and what is being moved forward is right whether you agree with it or not. There was a kahea put out for anyone to come and mālama, to come help with stone and no one came, only one person came out. He stood at edge of fence and videoed them. If you are so strong in what you believe then back it up thank you

[1:16:48] La‘akea Low – [gives Hawaiian language testimony about ties to the land and his name/family] he wants to testify on the process and what we saw with the rock wall they made. If a kahea went out for everybody whoever like participate, that’s not the correct way. There is a way to do it yeah. Not any kine guys can do what they like and not consult even with the cultural descendants. All kine volunteers invite but the cultural descendants were not even notified. To him that’s not the way to do things. Can’t just do thing on your own without consulting community and descendants and start pick up any kine rocks and doing what you like with them – it’s all sacred kine stuff that requires certain protocols and detailed attention. He hopes in the future people aren’t allowed to just do what they like in reference to iwi kupuna. Certain protocols must be followed, and, in this case, he doesn’t think they were. Mahalo

[1:18:31] Kahele – No questions but I do have a comment. Before we took testimony, I asked SHPD to clarify the process. Some people addressed this in their testimony because the landowner made a particular choice when they started their construction. They chose not to do an AIS. There are processes in place that trigger notification of various departments and triggers process to happen in the burial council. Because the landowner made a particular choice about the way they went through, they weren’t required to do an AIS, so they did not – that’s the only reason that they didn’t know what was there. That was a choice that they made. They are pitting the community against each other. If they made the right choice in the beginning, done an AIS, they would have been notified, it would have been brought to burial council, the cultural descendants would have been notified. Everyone is right, the ultimate thing is to protect kupuna, but we are all people trying to exist in this bureaucracy. What is clear to me is that because it did not go through the process, the landowner was able to pick and choose who they wanted to allow to protect. Given all of that, they bear a lot of this. They could have chosen even at any point to bring it forward and open up the process in a way that would allow more people to participate, and they did not, and I think that was intentional. What they are doing is intentional because they are not about protecting iwi. I believe everyone who testified today is about protecting iwi, to some extent. They are not about protecting iwi; they are about building a water line for their houses and we should keep that perspective. So, I am never going to say, “the poor developer,” because the developer is just that, a developer. Even if they might be nice and throw us a few pennies and stones here. Their ultimate goal is to develop.

Dane – That is a good point Kahele and the thing is that this instance, this issue is not just limited to this place. This can happen in multiple locations. I have heard county is trying to look at loopholes that allows for development to not have to trigger the permit requirements needed. That is scary, that is problematic.

Ultimately, we all want to, we are here to mālama iwi kupuna. There is a process in place we want to follow, and that is to have the collaboration between the landowner and cultural descendants recognized here under our purview to work together to find the best protection measures for our iwi kupuna and in this instance we did recognize one, whether disputed or not, they are the cultural descendants recognized to these iwi kupuna. I want my question to be answered by anyone from SHPD if notification of cultural descendant was conveyed to the landowner, can anyone from SHPD tell me that now, because that is critical. If the landowner was not made aware that there is a cultural descendant to consult with then there is a breakdown here. And if any clarification from SHPD as to how a kupuna is exposed to sun for about 12.5 years, to the sun for this long, that would be great too. What obligations of current landowner have to that, without completed AIS and BTP? Does the current landowner have any obligations to that? And yes, if you cared about the iwi kupuna on site, as a developer you would have hired an archaeologist if that was your intent not necessarily a genealogist or land specialist, to find these things. There are other people who are equipped to best mālama or identify iwi kupuna. Any more discussion by burial council members?

[1:24:01] Johanna – She appreciates what Kahele and she holds that true, said but her question right now is for La‘akea. Is he a generational resident of Lahaina?

La‘akea – Mahalo Member Kamaunu. Not that he knows of through his mo‘okūauhau, but all kanaka has kuleana to Lahaina, as it was the seat of power in Wā Kahiko, so to him and all Hawaiians, the capitol was in Lahaina. He may have genealogical ties, but he has more research to do in that regard.

Johanna – If he is a generational resident, he could be considered a descendant and if he has not [unclear] he could apply for descendency. She heard his testimony, and she heard his concern – she didn’t hear his ‘eha, she didn’t hear his anger, and she appreciates when you share opposing views and be kind in doing it. She wanted to acknowledge that. Thank you.

[1:25:55] Andrew – He speaks on behalf of archaeology. This is a unique situation that he has to deal with, what archaeologist did before he started working at SHPD where these two burial sites were left open. He is trying to navigate how to deal with this. The one that was recently closed didn’t have an accepted AIS or BTP so the decision to not oppose the backfilling was based on two things- the AIS rules saying that the burial site should be backfilled, and the decision came from the Administrator himself. The other burial site does have an Accepted AIS, and I believe burial council maybe back in the early 2000s voted to not accept the BTP for that particular burial, just trying to give recommendations to move forward and solve these issues – maybe prepare an BTP for that burial that has an accepted AIS. He will commit to reviewing and ultimately accepting the AIS for the unaccepted AIS and the recently closed burial site so that way the land owner can propose a burial treatment plan and we can go through those steps and do the consultation with cultural descendants and as for the Tanya Lee Greig inventory survey that was also not accepted, because it had revisions requested, we worked with CSH, they are reviewing the revisions requests they asked for back when it was first submitted, they will come back to us and give us a list of revisions that they are willing to do. They aren’t getting paid for any of this and a lot of it was just editorial stuff. They just need to get it to an acceptable point so that way the landowner as well can create a BTP to go through the process as well and tie up those ends. That’s where we are at with this. He doesn’t know what the procedures were or how they handled SHPD archaeology stuff back when this happened but he if he may make a recommendation, the rules are pretty vague – it says, if you find burial site, the trench shall be filled. In past we’ve been allowing the trenches to stay open with the idea that eventually a BTP will be prepared and accepted and backfilled and I think that may be the situation where we are today with these burials left open. Maybe we can get some sort of recommendation from the council on how to address these finds – is it best practice to just immediately have the archaeologists backfill and cover up so we aren’t in this situation or cover with tarp and backfill soil, so it is protected? There needs to be some sort of understanding how to move forward instead of just leaving things open thinking eventually at some point will come forward and finalize the BTP

Dane – I have a comment. The burials were never intended to be impacted that way. And if they were to be reinterred or covered up, it should be by the descendants. The problem is how is it that the ball dropped, to where if a BTP or project is dropped the archaeological firm, or the landowner doesn’t have to fulfill the requirement by law to backfill it? We shouldn’t force closure on site immediately after finding it because cultural descendants don’t have any input or say and not being culturally sensitive or Hawaiian cultural practice of how it was interred in the first place. How we allow it to not be closed, I don’t think we shouldn’t force backfill immediately, from a cultural perspective that’s a bad idea, because that leaves it up to the archeologist, and in most situations, archaeologists don’t have background to even comprehend how that should be done in my experience.

[1:31:42] – Kyle Nakanelua - He wants to kāko‘o what Dane is saying. Not to split hairs too much but rhetoric is important. The Olelo has life and death in it. Backfill is unacceptable. He cannot get behind “backfill.” His father was in construction for over 40 years and he knows backfill is and he knows what it looks like and that is not how we should handle the reinternment process. The

protection of this unintentional mistake that has occurred is more along the lines that is more pleasing to him. So, there is an AIS in this area?

Dane – For one of them, there is an accepted AIS for one of them but not an accepted BTP. Kyle or Kahele if you want to meet with Andrew to try and address this because this is a big conversation to have

Andrew – yeah absolutely

Dane – SHPD can you give me an answer, and if not, I want to ask for a **motion** requesting that the landowner is gonna be notified. If SHPD is not going to tell me if they did or didn't do it right now, we are notifying the landowner that there is a recognized cultural descendant for SIHP numbers listed in Ke'eumoku's complaint and that we are urging that they consult with him for any interim or long term protection measures and during the BTP and anything before that. We recognize that as a council and that is our expectation of our recognition of a cultural descendant. Was that a motion? I don't remember what I said.

Kahele – That the landowner to consult with ---

Dane - And we name Keeaumoku

Kahele: and I don't know if there are any others

Johanna - they are doing a revision of the AIS right? That's kinda a new thought – not sure you could even revise an AIS. If they are doing a revision, the revision should include comments and consultation with cultural and lineal descendants, all descendants

Dane: just saying we need this motion now because we have to move on. We might be able to address some of these issues

[1:35:15] Ikaika: Janet Six wants to testify. And I want to clarify that I have not communicated to landowner of any of the cultural or lineal descendants for these burials but that is something if you would like that we definitely can go forward.

Dane – but the cultural recognition of Keeaumoku, maybe Kealana, could speak to this. This should be conveyed to the landowner, ae?

[1:35:43] Kealana – Hey Chair Maxwell it's Kealana Phillips. Typically, what happens after motions are accepted at any burial council meeting, we would extract those motions from the minutes and send that out to all parties. I think each burial council members may have been included on some of those emails in the past as it is directed to each moku in a variety of areas. With respect to Keeaumoku Kapu's descendant recognition – he is not sure if he sent anything out to the landowner. He is looking through his documents now and doesn't see a document with motions he pulled from that meeting. However, he does want to reference Nov. 18 draft meeting minutes and there is about 8 pages of worth of testimony from that meeting of Ke'eumoku's descendant application and a lot of the testimony that was included in the in draft meeting minutes involved either the landowner or landowner representative. I can't say for sure if SHPD notified them directly of Mr. Keeaumoku Kapu's descendant recognition acceptance by the burial council, but he imagines they would have known about it just from taking part in that agenda item in the Nov. 18 meeting.

Dane – Thank you Kealana that helps. We are gonna notify them for logistics of this and making it very clear and would like them to be aware – are you working on that?

[1:37:35] Scott – I wrote a motion, but I want to make sure we are capturing everything [proceeds with submitting a first draft of motion for discussion of council which is subsequently amended] – update to AIS identifying cultural and lineal descendants?

Kahele: They are obviously moving forward with burial protection and if there are identified cultural descendants, they should be working with them

Dane – this same treatment would be for any other cultural descendant that isn't being included Scott – this is a nudge to the landowner

Dane – if they haven't been officially notified, they will be now that there is a cultural descendant and that we are urging them to consult with during all phases of any process that would impact the burials

Kahele – agree we should notify them now but also emphasize the fact that they are responsible for finding out these things, we are not here to facilitate their development, they are responsible for following laws and finding these things out but of course we will right now send that message to them. I want to make that clear. Developer is not a victim here, they failed to do their due diligence even if they weren't required by law they are working in our communities and because of their negligence a lot of what is going on now is happening.

Dane – It is this word “knowingly” that appears in 6E quite a lot and whether or not it applies in this instance, I want to make sure official correspondence takes place and we cannot avoid the word “knowingly” – Dr. Six we gonna make it really brief, Ikaika if you can do this, then we have to scoot along.

[1:40:04] Janet Six – I wanna address four things that were brought up. First of all, county is absolutely working right now on changing codes and updating with office of planning and public works to get rid of some of these exemptions. Two – the property owner knew of these because they were in the meeting with me after the field visit and so was Hinano and they provided me with Eric's AIS and including a table with 3 burials including a historic coffin burial. The pipeline actually zigs zags to avoid these. The AIS was never submitted because the project was abandoned after these burials were hit and then the property changes hands. Andrew's suggestion of backfilling, it sounds bad, the word is not correct – but I think what he is saying is that we have an exposed iwi in situ, in place, but maybe sand just to cover it till determination is made, maybe the term “backfill” isn't the best but some way to put kapa down and maybe sand to protect it while process goes on. And last one for Johanna. All AIS go for review and comment – SHPD almost always asks for revisions to AIS. We are not talking about revision to an accepted AIS. CSH's AIS was submitted, SHPD wanted revisions, Tanya left CHS for her own company, and those revisions were never addressed.

Dane – Mahalo for that, maybe you can join us for the backfill meeting with Andrew as well.

Janet Six – I would be happy to because I think Andrew is – this should not have been in the sun for 12.5 years, but someone knew about them and the property owner at that time, I believe it was A&B, decided not to submit that to SHPD so SHPD wouldn't be aware of them unless its submitted to them and then they would then have a record of them

Dane – Mahalo, I also think there are violations here – he hates setting examples, he doesn't want to pick one instance and set an example, but maybe this could be highlight in some way. I don't want any archaeologist to be doing backfill on Hawaiian iwi kupuna. We can find better way to protect them.

Kahele - Also can't leave them exposed. [states in Hawaiian that iwi should never be left exposed to the sun]. That is the ultimate desecration of iwi.

Janet – I am not saying archaeologists should do it, maybe it's SHPD, maybe the burial treatment expert, just while everything is going on before BTP and before the AIS can be approved, which may take some time, just that there is some interim protection of that iwi that is handled by you folks and lineal and cultural descendants. Not saying archaeologists should do it.

Dane – I just wanted to say that clearly for the public. We will have a meeting and add it to the agenda and broader discussion. Scott

Scott Fisher – ae, so here is the motion I drafted we can revise as needed:

[1:43:24]

[discussion of exact wording commences; clarify that we mean recognized lineal and cultural descendants before the burial council; the part about the AIS should continue AIS revisions requested - previous council requested update and required revisions to the two outstanding AISs; 1:44:00]

Andrew McAllister – So we have three AISs, one of them is accepted, two are not. We have a CSH report that is not accepted, a Chaminade AIS report not accepted which the landowner speaking through Kahi has committed to revising and accepting, and one accepted but the BTP was not accepted by burial council, it was denied back in early 2000s – which that burial pit was left open for all these years and never readdressed because they didn't know who landowner was at the time from reading through the minutes. The revisions are requested by SHPD archaeology branch by the office, and we requested revisions by CSH report. The Chaminade report didn't come in for review so I don't think any revisions were requested. I think CSH is going to voluntarily revise it and submit it for acceptance at which point we could ask for additional revisions. The BTP [for the accepted AIS] was not accepted by the burial council because we were unaware of who the landowner was at that time. We have the meeting minutes for that you can review those if you guys were interested. It was Jan. 30, 2003.

Dane – you need a landowner to submit the BTP and accept the BTP so I understand who you cannot accept a BTP if you don't know who they are. Now we do have a landowner, maybe this BTP can be revisited and brought back to the council now that we know who they are. Mahalo Andrew, that helps. [Dane briefly discusses housekeeping, end time, quick break]

[1:49:00] Scott makes an updated motion:

The MLIBC request an update and revisions required by the SHPD to the two AIS at West Maui Land Company's Waterline Project, Ahupua'a of Paunau, District of Lāhainā, Island of Maui, TMK: (2) 4-6-015:001 in order to consult with MLIBC recognized lineal and cultural descendants of the ahupua'a during all phases of the work that may impact burials.

[1:49:29] Johanna seconds the motion, [1:49:54] motions carry none oppose motion carries. Dane: SHPD please convey this motion directly to the landowner

[1:50:13] quick recess 10:51 AM – 10:57

[1:56:45] Dane requests council member return to Zoom

During recess:

Dane – Kealana I am having trouble opening some of the docs.

Kealana – you are having issues with supporting docs?

Dane: Some correspondence items unable to be opened in current pdf form –

Kahele: last two pdfs in that file

Kealana – I don't know why it was like that. I was having that problem too. I think [its original format] was Word

Dane – if you could drop it into the file in its native format, because it will convert to a Google doc Kealana – I was trying to save emails to google docs and it was giving me plenty problems

[1:57:50] Kealana – Chair Maxwell, the documents you are referring to on Google drive: One is email from Council Kamaunu which is Item B on the agenda, then the second document is an email thread between SHPD and the current landowner Mr. Kevin Collins, and this is dated Sept. 13th. I will work on getting it but in the interest of this agenda item I will defer it to Council Member Kamaunu

Dane: ok we will get on with that and refer back to you especially for the correspondence part if there is any information relevant to the discussion

B. Email dated November 6, 2020 from Councilmember Johanna Kamaunu re: Update MLIBC of Preservation Status and All Activity in Compliance with Burial Treatment Plan and AIS at 901 Lower Main Street, Ahupua'a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8- 037:047. Information/Discussion/Recommendation: Discussion on the above item.

[1:58:35] Johanna – I know that public works and Dr. Six over last year and a half, now 2 years, have looked at this site. It started at least 2 years ago, since that time, Mr. Collins, it appears the entire property has been graded so to me there is no question that the iwi has been disturbed. That's why this letter. He hasn't responded to any personal contacts and I have not heard anything more from public works, Janet Six and I believe even Andrew McAllister was notified about this. Basically, looking to see what kind of updates there are

Dane: I will start with Kealana from SHPD, then Andrew, then Janet Six for any updates, then open it up for public testimony.

[1:59:54] Kealana – I don't have any updates of new activity, but I can quickly highlight what was said in the email dated Sept. 13 email 2020 – in that email originated from the landowner, Mr. Collis, [who] outlined short term protection measures for burials on property and SHPD replied saying whatever he listed in this email is sufficient. SHPD also stated if there was any further work to occur on his property, that if any new permitted work were to occur - (I think maybe the previous work on his property maybe didn't need to a permit?) - SHPD mentioned anything in the future that would need a permit he would have to create and then finalize a BTP and go before council for acceptance prior to any permit issuance and/or ground disturbance. I think this case is similar to what we discussed previously, where either an AIS was started and/or not completed or project itself was abandoned and possibly pits were left open or unaccounted for. I will work on getting you guys this email sent to you guys. I will just email it before

Dane – what did you say about any ground disturbance? Was that only triggered if you needed a permit or BTP or any ground disturbance?

Kealana – from what I understand of what the landowner Mr. Collins was doing, I don't know exactly what he was doing, but I don't think he was doing anything that warranted a permit from what I understand. But yeah, I did notify him that any work that would require a permit from the county moving forward, prior to that being issued, would need a burial treatment plan to be finalized

Johanna – He did share with me an AIS, I am trying to remember who did it, but it was done in 2012 and it was done at behest of Habitat, per Habitat's attorney they made it perfectly clear to Mr. Collins that there was iwi there and they expected him to be responsible for it. In 2018 it may have been the first time she visited site and spoke to him and at that time area right next to the iwi was the only area

that was disturbed and in the last year he has pretty much disturbed the rest of the property. There is grading on the rest of the property

Dane – Mahalo Johanna I kinda wanna see if Andrew has any update or Dr. Six

[2:03:14] Andrew McAllister – I don't have an update at this time but if need to again accept an old AIS and go through those issues we will go through that procedure. I imagine there will be a lot of those sorts of things happening.

[2:03:40] Janet – So I believe I talked to you Johanna or Kahi [perhaps she meant Kahele??] and did you do a request for services and send somebody out on this?

Johanna - Yes - Rowena went out there herself and was starting this investigation and I haven't heard back since then

Janet - so what I found out from her and she wants to ask Kealana, but this is under acre, it doesn't trigger a permit, so this is one of those things we want to tighten up, especially in those sand hills, especially adjacent to iwi. Could you just orally tell this person that he needed a permit, or did you flag that in kiva or let Rowena know so that if anyone goes in there you can know it needs to go to SHPD for review? because if you just tell him not sure if how much teeth that will have. If there is anything, I can do to follow up with the county

Johanna – Just last year I spoke with Rowena and she had been aware of what was going on she saw the site she is sending someone to it and she also told her she had heard from your office already and need to follow up about that

Janet – I can follow through but I really wanna make sure that we get something with teeth in case these machines start up again within a permit because if SHPD has a violation, maybe Kealana, you may have sent me an email but if you could send something like that to Rowena and I so if we see activity down there we can notify him from county that he will need review of any future ground altering activities and we would ask for a permit to be reviewed under 6E?

Dane – should we do an external meeting? Or a private meeting initially and flush through these and bring back to the council in case there is anything we need to work on

Johanna – I do, I think we need to look at the AIS with public works and Janet to come to a resolution

Dane: Kealana, can we coordinate a meeting? Johanna do you want me there? Dane, Johanna, Janet Six Rowena head of public works, [Ian Bassford?]

Janet Six – Rowena from Public Works and Myself

Dane – do we want Andrew there?

[2:06:40] Andrew McAllister – I would like to join. I think I would maybe have accepted AIS, maybe it might be the case that burial pits were left open which we know might have been the case in a lot of areas in the past. So, seems like you in which case you would need to do a BTP, come to burial council to get it accepted, and backfill them or come up with way to cover up iwi. Sorry to keep using backfill. It's the language in the AIS rules

Dane: no, I understand I am not holding it against you I think it is important that the state arch also be available too. We will go ahead and coordinate that and if we come back to the council it will come back to the BTP.

Johanna – yes perfect

[2:07:35] Testimony

[2:08:10] Ian Bassford – With SCS. While he is not intimately familiar with this project, he does know some background with coconut wireless. He wants to let everyone know that he is currently in negotiations with Mr. Collins to create a BTP for those individuals on this property. I hope at least that

gives a little bit of somewhat minor closure to the issue and we are currently in the process of starting to being work on that for those individuals. That's all he can attest to at this point in time

Dane: Mahalo Johanna, would you like Ian to be there?

Johanna – That would be good, I would also like the next property over, [Homemade Bakery??] we have descendants in that area should be part of your plan if you could

Dane: let's have that initial meeting and we will have Ian be a part of that and we will make recommendations within that meeting. Hope maybe that helps you in some way Ian. Kealana did you get that that we want Ian from SCS to be a part of that meeting?

Kealana - yep

[2:10] C. Email from Ms. Joyclynn Costa, dated January 23, 2021 re: Complaint of the Public Display of Humans Skeletal Remains at Kū'au Cove, Ahupua'a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-5-004:085.

Information/Discussion/Recommendation: Discussion on the above item.

[2:10:26] Dane: was everyone able to open Ms. Costa's correspondence in google drive? **[2:10:38]** Scott – I could not

[2:10:40] Kealana: I apologize. The formatting issues. I think what I was trying to upload was simply the email by Ms. Costa requesting investigation, I will go ahead and forward you guys that email

Dane – has an investigation been initiated?

[2:12:37] Auntie Joyclynn – Yes. [bandwidth issues; turns off video] I have testimony I want to read but start with – I can't find words, but our iwi and our time are as in Isaiah 26:19 when the bones, they do rise, they do not a little but in groves on the land, is that the only place you find them? No, even in the sand, report your findings there are laws to protect, but if we can't prove our connections, we have no effect, decisions are made despite our prayers, with the rules and regulations we can't dig out from the layers, the problems we have speaking of bones that we hold dear, is the fact that we are not from away, but from right here, the language is written by those not related, the problems we have are what they have created. We are not allowed to be who we are, unless they determine we are of that exact star. Name them identify them exactly where they rest – so we subject ourselves to see if it's enough our best. What do you think as iwi lay in state? Not lovingly but in paper bags and cardboard crates. I try hard to follow your rules and regulations and laws, but when I come forward you defer and take a pause, fact findings are clear according to what the law wrote, but when you recite statutes to you, you stand on our throat. My existence is not allowed in Hawaii nei, all will be used against you if you are brave enough to say. That is my kupuna who spoke to me in a dream, I knew where he was lying because of moon and its beam. But because it's not of your books and understanding you are charged with denial and what you decide is our branding. Ohana kanaka kupuna hānai – is the law's lack on knowing and the decision to deny. Please listen to all points of view – when you are hearing our prayers, the eyes and the ears are in [failure?] of the heart for one who cares – ha ina ia mai ana kapuana – please focus on our iwi and not on the ka la. So begins my testimony. Kūlia i ka nu'u. The literal translation of nu'u is summit or highest place – kulia is to strive – however kulia i ka nu'u is not just description of how queen Kapiolani was described in

her lifetime but it was widely known as her motto. They were her favorite words she would say often to explain her own belief and to encourage her people to strive constantly and reach high to act with spiritual righteousness of action. So why do I do what I do for the iwi kupuna? What does the iwi kupuna mean to me? Who can tell me I can only care or feel for those who may be identified to me? As I wrote this, I couldn't even keep my eyes open. I wanted to fall into deep sleep and what they told me was they were speaking to me. In the book provided by OHA, Ho'i Hou I Ka Iwi Kuamo'o, it quotes- "Iwi are the surviving repository of the uhane – the cultural responsibility to protect from desecration is firmly in the hands of the living kanaka maoli." Further reading in this book shows that even English and American common law do not look upon the dead as property but instead hallowed. Today we seem to be grossly focused on the language of the law that we miss the intent. If it was merely to address burials, bones, I am sure the department of health has a manual about that. Just treat them as a thing. Instead, SHPD and MLIBC function to speak beyond all other departments, agencies and other governmental bodies that cannot. What I am speaking of is our culture, traditional and spiritual things, and existence. Native Hawaiian historical preservation council commented in NAGPRA "embodied the essence of our culture. Other objects and items are spiritually valued what I am saying is I am describing to you what desecration means there is no real desecration in a corporate manner. The real desecration the desecration that is happening is deeper it is of a people of its existence of its spirit. It can come in many shapes and sizes like grave robbing. Unearthing is harmful. The very thought of coveting an area known to contain iwi is disturbing. Another is capturing the essence – spiritual being known as mana. How do you cross the line and commit desecration in this form? Even in today's society they are a culture that believe when you take a photo, when you take an image of the dead, you take their spirit. In the act of capturing their essence they become restless disturbed and trespassed upon. Feb 21 –

Dane – we've gotta wrap it up unfortunately. You can submit its beautiful and I hate to interrupt this because I don't want to, but can you submit the rest? I do want to hear more about the complaint if that is ok.

Joyclynn - I did submit – surprisingly enough when I notified the chair that I felt a violation has been again committed, DOCARE took it upon themselves to come visit and they brought me a form to fill out for the complaint. So, I have cited HRS 7-11-1107 desecration and also the act of imagery on our kupuna through public display by the media as well as social media it was on KITV 4news and Facebook is where I found it and that is where I am right now, and I am also in contact with Office of Hawaiian Affairs and trying to get some support there but I am in communication and Officer Resentez [?] has submitted formal complaint to DOCARE.

Dane: Mahalo Aunty. Any question for Ms. Costa? Gonna ask SHPD a few things. Kealana in the past we have had this issue not necessarily with media but with individuals posting online and in the past communications its mentioned in the law that there are two instances it is mentioned that they are protected and that they should not be displayed. 13-300- subchapter 1 section 1. Mentioned once in reference to archaeology and once in general that iwi kupuna should not be captured or likeness should not be captured via photography. Kealana are you folks taking any measures? I know there is a DOCARE investigation. But in the past how have we dealt with this and are we doing anything to educate these news outlets of this law

[2:21:25] Kealana – I know something like his has happened in the past. What we did - I reached out directly to individuals via Facebook and recited the law and asked them to please remove the post. In the past I don't know if got DOCARE involved but in this instance DOCARE is investigating them. I wasn't at last month's meeting where I believe this issue may have been discussed a little. I did hear internally with SHPD that we or DLNR are working on an educational memo or something so that something that can be sent to media outlets so if it comes up down the road in the future, they are aware of what can and can't be done with respect to posting pictures.

Dane – Yes, because this DOCARE investigation will be limited to this one person who is the defendant. The broader education. There is a media channel in DLNR to do this. I want to stay on top of it so that sooner rather than later, part of something else I want to agendize media and tourist education. There are three initiatives when I took chair: shoreline erosion, sand dunes, inventory and also this might be the next one, educating public on the importance of leaving iwi kupuna in place and it is happening more and more where tourists go. I was considering having HTA be a part of that meeting. When our agenda allows for something like that to happen, within next few months may put together with agenda with training. Any discussion?

[2:24:10] Kyle – Chair, just for you since you are trying to compose all this stuff and line it up altogether - would SHPD consider doing a commercial that they can use perhaps burial council members to advise public notice of the sensitivities of the traditions and the customs of how we regard iwi kupuna?

Dane – I thought of this too and trying to approach them to see if they would conduct a video, but because he does media himself, he was gonna seek a grant to get funding to produce video in collab with HTA too because I want it to go to malihini – I see it being as a dual purpose to also provide training to media outlets on Hawaiian burial sensitivity. That’s a good suggestion, I just don’t know how long it would take if try to make the request to SHPD and would probably be better if we take into our own hands to take on this kuleana of educating the public. Do you mind helping me with that that would be good?

[2:25:45] Testimony

[2:26:07] Dr Six – I just wanted to address what the county is trying to do, and we are working with both Keeaumoku and Puamana and also at Nakalele point putting up signage not saying there’s iwi here, but I think it is a great idea to make some kind of short video that you could put on tourist channel. She is grant writer and she’s made several documentaries so you can tap here to help. There is a Pikake Grant with Hawaii Tourism Authority. The county currently working with Keeaumoku’s group for coming up with verbiage for signage for Puamana

[2:28:26] VII. INADVERTENT

A. Inadvertent Discovery of Human Skeletal Remains at West Maui Waterline Project, reported to the Maui Office of the State Historic Preservation Division on October 23, 2020, Ahupua‘a of Paunau, District of Lāhainā, Island of Maui, TMK: (2) 4-6-015:001.

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

[2:29:30] Kealana – I think that document was drafted by Mr. McAllister SHPD archaeologist with respect to the inadvertent find and the subsequent site visit that occurred– I have no update at this point, I know we haven’t been asked for an official determination quite yet [on the iwi] so we are on stand-by for that. Not too sure it maybe Ikaika or Andrew may have update

[2:30:00] Dane - Can’t open the doc by the way. Is this the one I [unclear??]

Kealana: My apologies. I will work on it.

Dane: Ikaika or Andrew do we have any updates? I just want to know if this is the one in the base yard. Does anybody know?

[2:30:33] Ikaika –correct yes

[2:30:40] Andrew McAllister – I can give you my involvement. We went out and did the ID and we make a recommendation of a buffer zone and no archaeological testing and no exploratory work until we can

get determination from History and Culture and at some point, Ian or SCS formalized a buffer zone and I believe they reinforced or partially “backfilled” the trench – I only say that because this is the wording in the rules, it specifically says “backfill” – they partially backfilled the trench that was collapsing due to weather and looking at since October, it’s been open since October so that’s the reason why I bring up -

Dane – the portion of trench backfilled was not in immediate proximity to the burial? I don’t know what immediate proximity would be but it’s not backfilling the burial itself right?

Andrew: I believe the burial is still open and backfilled. SCS can further explain but they needed to stabilize because it was in danger of collapsing

[2:32:30] Johanna – are there any other iwi in that [unclear] area?

Dane – I don’t think so, but we are only agendize for this particular iwi kupuna. I don’t know what you would consider the same project but in that base yard as of right now I don’t think they have discovered any others. Kealana or Ikaika this is considered inadvertent again yeah? I think I heard it from Andrew because there is no AIS for this base yard

Andrew – We didn’t get a request for review for this project, if you remember, they proceeded with the project under what they were calling “voluntary monitoring,” after the point where they identified these human remains, we recommended archaeological monitoring going forward and at which point they will have to do an archaeological monitoring report for the project. I am not sure if it is the same project, but we also requested an AIS for a waterline in an adjacent property there

[2:33:58] – Auntie Joc: What is the buffer zone that they --

Andrew – I have to look through my notes I think we might have Ian on the line maybe he can give us the exact information without me having to dig too much

[2:34:45] Testimony

[2:34:52] Keeaumoku Kapu – Moku of Lahaina. I would like to inform this council that I am going to be putting in for cultural descendancy for this area and want to inform this body that there was an individual who came forward who is a lineal descendant to the Land Commission Award 11216, parcel 17-1, Royal Patent 83-89. That individual Maelani Lee consented to give him stewardship permission to do whatever needs to be done in the area and he will file cultural descendancy claim and he is requesting that the burial be preserved in place with a 60-foot buffer

Dane – Is Maelani able to claim lineal descendancy under 6E?

Ke‘eaumoku - Yes and she sent him documents on Jan. 2 and giving him stewardship permission on what needs to be done to her relationship to that area. She will also file lineal descendancy claim as well

Dane: we look forward to seeing both applications

[2:37:00] Noe – This burial hit really hard. This was Oct. 23 and many of us were there on site when it happened. We were just outside of the base yard where it happened and she would be remiss if didn’t point out that had there been an AIS, this burial should have been located in AIS and because we don’t have an AIS we don’t know if other burials are adjacent to burial. They tried to suggest that this burial was in fill and not in original context, but we don’t know if that’s true. Thankfully they decided not to do further testing because this kupuna doesn’t need to be disturbed any more. This kupuna needs to be preserved in place with 60-foot buffer like Uncle asked and the cultural and lineal descendants need to do

the reinternment. This one is really hard. Because we were fighting so hard to protect them. Didn't go in and jump in pit but wishes she had, because maybe they could have stopped this kupuna from having its skull cracked open, cracked upon by West Maui land Company, West Maui Construction, who chose not

to do any kind of archaeological study in advance. She wants to make sure that this kupuna is protected and she hopes that we can get a burial treatment plan done quickly so we can put this kupuna completely to rest. We did do ceremony already on multiple occasions for this kupuna, but it is time to move BTP along quickly so can go back to po for good.

Dane – Would love to hear from Maelani Lee on behalf of kupuna at some point. Great to hear lineal descendants speak on behalf of kupuna in future. I understand she is granting stewardship but would love to hear a lineal descendant speak in the future.

[2:40:03] Ian Bassford SCS – Answer to question is SHPD requested 10 meter buffer and radius around the center point of the find and that is exactly what I established with his crew. Fencing up, entrance on one side and entrance on the other. In regards to stabilization methods – when he went on site several weeks ago that side walls of trench were cracking severely, matter of dire consequences if collapse happened, so emailed pertinent parties to establish stabilization measures – got a few pieces of ¾ inch plywood on sidewalls of trench, hammered 2x4 and runners horizontally across to stabilize walls from tarp so plywood was not putting pressure on individual themselves – prior to that he noticed the way the grade of base yard was going, water flowed concentrated into trench, so he filled up sand bags (15 or 16 of them) and laid perpendicular to trench to keep water out so it didn't flow into where the individual is. After got wall stabilized had a machine come inside not into preserve to push and get in there and to pack it in to further stabilize walls, all with SHPD permission. He did show Ui and Keeaumoku shown what was done, they were informed, he did best he could to make sure individual safe and sound for time being.

Dane – I hope other cultural descendants apply soon because the BTP needs to happen sooner rather than later, hope get more descendants soon, because it's not shored right?

Ian –What I did is considered interim shoring, I am not sure it would be considered OSHA standards but in trenches in areas without blades or shoring boxes or anything like that, he can't lift steel plate he would rather do by hand to manage himself

[2:43:20] Johanna – Andrew asked for 10-foot buffer, because of the shoring situation – you might wanna have a larger buffer around the iwi

Dane – I think the buffer was a 10-meter request of orange fencing, I think trenching stopped at discovery

Ian – The buffer requested by SHPD is 10 m, that is 30 feet from center point various stabilization methods, during stabilization which he received permission from the temporarily took fence down to get machine to backfill and stabilize trench and then once the area was backfilled the machine taken out and fence set right back up to exactly where it was taken down in the first place - 30 foot buffer in entire perimeter of the find

Dane: Any more discussion by the council? That is the last of our testimony. Maelani – please apply for cultural or lineal descendency and we will get a time to talk.

[2:45:30] B. Inadvertent Discovery of Human Skeletal Remains at Kaulahao Beach, reported to the Maui Office of the State Historic Preservation Division on October 27, 2020 and December 12, 2020, Ahupua'a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-6- 009:023. Information/Discussion/Recommendation: Discussion about the above find.

Dane: anyone having any luck with opening this document

[2:46:05] Kealana – This was not included in google drive. My apologies. I can provide a quick update on these two inadvertent finds. What had occurred was community members or beach goers had called MPD and MPD then called DOCARE and DOCARE reached out to SHPD – SHPD staff went on site in both instances. In both instances’ iwi noticed on shoreline, erosion had occurred, SHPD staff collected iwi visible on shoreline and loose and iwi currently being curated in SHPD facility. SHPD is in the process of inventorying all iwi in the storage, hopefully getting this iwi back in the ground sometime this year if possible. I know Auntie Joc had submitted a Burial Treatment Agreement, a BTP, to SHPD a little while ago last year and SHPD is working with the county for Puamana, and we also talked a little about the agreement and treatment plan submitted for iwi from Hamakuapoko. In the works, we haven’t talked about it in a while, I am happy to sit down and talk about it. [2:47:56]

[2:48:00] Dane – can we have district rep with county public works, Kyle is that ok with you? **Testimony**

[2:48:38] Janet Six – If it’s on private property it’s not public works. The stuff we are working with Kealana guys on is Public parks, Carla Peters, for the county. But for private property she is not sure of public works has a role if iwi is eroding out

Dane – with that whole coastline we have Kaulahau, Ho‘okipa, Nakalele point – we are gonna get back to shoreline erosion discussion within burial council in the future, so it will come back to this sometime in the future

[2:49:34] Jocelyn Costa – [very unclear connection, breaking up] for iwi kupuna, it’s a hard thing for them to do, to expose themselves naked to the world like that [breaking up]

Dane – would you be willing to sit down with us for a more in-depth discussion Ms. Costa, with you, me and Kyle? Cannot hear

[2:51:17] C. Inadvertent Discovery of Human Skeletal Remains at Hawai‘i Island Land Trust Property, reported to the Maui Office of the State Historic Preservation Division on October 29, 2020, Ahupua‘a of Waihe‘e, District of Wailuku, Island of Maui, TMK: (2)-3-2-013:010. Information/Discussion/Recommendation: Discussion about the above find.

[2:51:48] Scott Fisher – I can give an update. On October 26, Tanya Lee Greig who was doing archaeological work on Inaudible **heiau**?? – staff saw exposed iwi kupuna in the area of Inaudible?? down at the Muliwai of Kalepa which people generally refer to as “round table,” so on Oct. 29, I checked it out immediately called Andrew, he met on 29 October and long and short is there was small amount of iwi kupuna that had collapsed and fallen under shoreline and under his guidance and supervision I collected those. This small amount is being curated on property. We don’t ever take iwi off site as there is an approved BTP. The goal is to once the iwi kupuna will be collected, what we can, what is not clear is how much remains, but we have a repatriation site on property 150 yards away and we will contact all lineal and cultural descendants from the area. We want to have them participate. We have done 17 repatriations in last 14 years and we have a protocol we want to make sure gets out.

[25:53:46] Dane – Mahalo. For those who are new this is a long standing thing. Just like the rest of the north shore coastline, this happens. Did you see any acceleration with sea level rise?

Scott: Major acceleration that we’ve seen was after the tsunami of 2011 which ended up exposing quite a bit, this could possibly be related to that, and maybe after effect weakens as it weakened the whole coastline. Now it’s gone back to baseline which is about 1 exposure every few years on whole coastline. We monitor frequently to make sure and have people who are notify them if they don’t catch it.

Dane – So the tsunami destabilized the sand dune. Any questions for Scott? You have to file a new BTP each time?

Scott – no Theresa Donham drafted specific procedures – always from shoreline does not work process and also just submitted OHA grant to allow them to take more proactive steps like drape naupaka over bank to absorb shock. The fact it happened in October is not a surprise, that's when we get more storms and inadvertent come between October and March.

Dane: biggest difference is you are a land trust owns large portion shoreline and BTP submitted by trust itself, so thanks for auamo'ing that responsibility.

Scott: Our big concern is leaving them exposed mai kala'i nā iwi kala – not exposing them. **[2:56:45] Testimony**

[2:56:54] Kaniloa Kamaunu – Waihe'e - It's kinda disconcerting because I didn't receive any notification, we have already participated in one reinternment and we he has known kuleana over there, recognized as County Council as kuleana by the county there. It's not that he is not known. He fought in the Hawaiian case. CWRM, county council. I know that there are other factions down there, but they are not kuleana, but they are participating with the land trust. He is upset he was never notified and find on agenda and not being included in consultation. Also being one of the chairs of Aha Moku - again we are part of DLNR there is an act 212 and people disregarded them but by right they must be consulted by the law. This body needs to be made aware of the laws. He is advocate for rights of his kupuna. Our kupuna are not US citizens neither are we, and in whereas 29 – never gave up sovereignty, we still sovereign. We have the 1978 state constitution, customary rights, article 12, 6-7, and still belittled by not being consulted and kupuna have kingdom rights. He will advocate for this all the time. It is not being looked at. If not, US citizens they have that right. Their kingdom gave them that right, we are still recognized as a people so why is this law not being appealed to? Unless you have this authority, you cannot disinter, you do anything. It's under State preservation, act 13-283– supposed to be sensitive and obligated under trust to protect the people and we are not being protected. He loves Scott, no take this personally, but he is upset because you came before me before and why is he not in the conversation and why isn't his family? He fights all the time for Waihee. He grew up here, if anyone represents Waihee it is him. Its where he is from there is where he kanu. Nobody is protecting us. Our rights are being [unclear] under this bureaucracy and we are not being listened to. Our kupuna get rights and I demand that their rights have afforded them and be protected as constituted by state and federal govt time and time again. If not, then the laws are being broken.

Scott – Kaniloa I really apologize you weren't contacted. I just wanna make sure - Johanna did you get my email I sent that day on 29 Oct and also to Waihee Community Assoc and O Waihee Ma? Did you ever get that? If you didn't get that I apologize maybe I sent it on a bad email?

[3:01:10] Johanna – can't see if I did or not, but in her mind, she saw there was a notice. She just assumed would go to the proper channels and to the right people, but we didn't get to talk about it, but I do believe Rochelle [?] mentioned she got something about that and Kaniloa's name wasn't on there – I'm sorry about that, we didn't get to touch bases.

Scott – Kaniloa, I am sorry that you didn't get the notices, but I will include you
Kaniloa – It's nothing personal, Mahalo

Dane – mahalo Kaniloa. It is also shoreline erosion issue and it is unfortunately considered inadvertent, but it was not dug up in any malicious way or anything. In personal note, can he also be – in his inaudible??? and Hashimoto ohana being from Waihee - doesn't want to be maha'oi – but his ohana is buried really close and he is terming out next year and he wants to mālama what is possibly ohana. If he could be included in that

[3:02:40] – Ikaika – Just as a FYI, SHPD typically immediately when we are aware of inadvertent, we notify the geographic reps and the MLIBC, so I encourage the MLIBC to work with their networks and community members to reach out to geographic reps on notification side

Dane – Ikaika, maybe you don't know this answer, but I am going to ask anyway. When it goes to geo rep and also supposed to go to OHA?

Ikaika – yes, it goes to geographic rep and also OHA

Dane - Does OHA push back to Aha Moku perhaps?

Ikaika – I don't know OHA's policy, but they are notified

Dane – that is another avenue to explore they can also communicate to Aha Moku maybe. If you miss one channel maybe there is redundancy built in

[3:03:50] Noelani – First of all thanks Scott and Auntie Johanna and just want to follow up on Uncle Kani's question, I am still not sure – when kupuna are found, is it the responsibility of SHPD, landowner, or geographic representative to notify descendants? Because she also has claim to Waihee. She doesn't need to be a part of everything but wondering what process is supposed to be, Auntie Pua Basbas was notified as chair of the Iwi Kupuna committee of Aha Moku. To make sure we get communication good

Scott – I notified her on the 29th officially these iwi was on state land, we work collaboratively with SHPD to make sure word gets out and they are curated properly in a dry locked up contained no one has access to and he doesn't even let people know what it is

Dane – I don't want to allow questions asked of council but since you are the person representing the land trust

Noe – just want to get clarification because sometimes we do see things come up on the agenda that we don't know about till it comes on agenda and so she is not really sure if we all have agreement about whose kuleana it is see whose kuleana it is to notify recognized descendants

[3:05:30] Kahele – I have a clarification to make. Where it is clear there are cultural descendants it's one thing, that's not always the case. Here we have a BTP so there is an agreement for the general area. But I want to make two clarifications: 1) Aha Moku is Advisory to DLNR and it comes up often that someone should have notified Aha Moku – I wanna make it clear who should that be? It's not the burial council, maybe its SHPD something in their procedures or bylaws? Who is supposed to and at what level? Maybe to clarify you have to be approved as a cultural or lineal descendant to each burial find. I want to make that clear

Dane - They have a BTP which is not necessarily limited – this is Puamana related as there needs to be a new BTP per each iwi kupuna that comes up. But in this instance, there has been a way that Theresa

Donham has made it - it might hurt land trust's ability to do this process, and they might have to file a BTP over and over again? Whatever the law is, the law is, and that's what has to be followed, maybe some type of agreement with the state, but in the BTP that is used for future burials, does it name identified individuals and NHOs?

Scott – Yes it does, it has an entire list of people who asked to be notified and unfortunately after 15 years many have passed away and others come in and are now recognized so its constant effort to update. Tricky situation – it's kinda of like classified info – we can't just broadcast widely but we

need to know that the right people are being informed. That's why Johanna, O Waihee Ma, and Waihee Community Assoc. and individuals – the head of Waihee Community Association is a recognized cultural descendant. I apologize if right people did not get it, he is trying to be a little bit restrictive.

Kahele – When it is agendaize, that is also a notification of some sort in case people are missed

Dane - So there is a BTP, these are all inadvertent. Was this BTP reviewed and approved by the burial council at some point?

Scott – It was approved by the burial council. It was while your grandfather was still on

Dane – So was public and people had the ability to comment on their interest in it. It is a living document, a living BTP, and my recommendation to the public listening today, is to reach out to district rep. on the council to express interest to be included as identified individual or NHO

Scott – Absolutely, we just applied for OHA grant for that specific reason. We have a new employee Kia'i Collier living at Waihee and his kuleana will be to help us maintain this list

Dane: Johanna, is that ok to you?

Johanna – I would love to share my kuleana with anybody else on the council!

Dane: [laughs] I will help to express that and spread the kuleana a little bit

Public Testimony

[3:11:20] Ikaika – If I could clarify please chair. Part of putting inadvertent on the MLIBC agenda is public notification and so I know that many people would like to be notified ahead of time of meetings but consider it on MLIBC sunshine law public notification. I encourage anyone interested to reach out to SHPD to request to be contacted, reach out to OHA to request to be contacted, and also MLIBC district rep. There are multiple avenues to request to be contacted inadvertent.

Dane: This fulfills SHPD's public notification to have it on our agenda yeah?

Ikaika: Inadvertent we have no legal obligation to notify the public, but we have been doing it as a courtesy for inadvertent based on the chair asking for it to be on the agenda. The chair has requested, and we consistently try to put it on as a public notice.

Johanna - We appreciate being notified of burials as soon as it is reported to SHPD because agenda notification doesn't give anyone enough time to respond properly.

Dane: Ikaika, you guys are notifying the district rep?

Ikaika – Yes, the law states we shall notify MLIBC geographic rep, OHA, MPD and the coroner, so we do that as best as we can

[3:13:20] D. Inadvertent Discovery of Human Skeletal Remains at the Lot 1-A Condominium Site Improvements Project, reported to the Maui Office of the State Historic Preservation Division on December 22, 2020, January 13, 2021, and February 5, 2021 Ahupua'a of Waikapū, District of Wailuku, Island of Maui, TMK: (2) 3-8-007:105.

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

[3:13:45] Trevor Yucha CSH, project manager, Cultural Surveys. [shares screen, screenshots of presentation below]. The project area includes 8.5 acres on Waiko road uphill from Nobriga's cattle lot and near existing light industrial subdivision. Clarify that this project includes construction of access roads and utility connections only. The parcel zoned for light industrial use. Former location of Apana scrapyard. Near its end 2003, scrapyard included thousands of tons of vehicles and

abandoned materials place on sand of the area and partially mixed with the soils. 2004 – Department of Health issued a cease and desist order along with a large fine and requirement to develop a site assessment and sampling plan. During this time former owner sold property and passed cleanup effort onto the next owner. So, the property was purchased by ABC development co. which took on multi-million dollar clean up and development effort. The first stage involved removing all of the surface scrap metal and separating metal from inter-mixed soil. [shows large trammel machine to complete process] Once the surface scrap was removed, landowner commissioned an AIS and CIA for the project. [shows test excavations and stratigraphy – stream deposits and loose and lithified sand]. No cultural properties or cultural impacts identified by these studies. The next step in the process involved remediation of contaminated soils. Process observed by arch with no findings. Care taken to avoid damage to the existing Kihei Makena water main that runs through parcel on eastern boundary, resulting in a narrow strip of land on eastern boundary that is less disturbed. Without showing specific locations of iwi, recent discoveries we will discuss during monitoring were found in less disturbed area along the eastern boundary. [Overview photos of soil remediation] some areas extended to depths of 15 feet or more. Shows previous ground disturbance on majority of parcel. Over the last fifteen years current landowners did cleanup, remediation, and permitting and last December began process of constructing access and utility connections in the parcel. Project was reviewed by SHPD three times – once for inventory survey, once for grading permit and for the monitoring plan and acceptance and review letters shown. Discovery and notification process that led to the identification of two in situ burials and one femur isolated portion during project related ground disturbance. July 2019 the project's monitoring plan was accepted by SHPD, in accordance with plan held pre-construction meeting Nov. of last year and written notification on start of monitoring to SHPD early Dec. last year. Ground disturbance began Dec. 14 and monitor identified intact finding while grubbing on the surface of the parcel on Dec. 22. In accordance with state rules all work was stopped in the area, the find was confirmed to be human by our osteologist and PI, and SHPD police dept. and coroner's office all promptly notified. Both an NPD officer and DOCARE officer responded to the site within an hour and assisted to establish and adequate temporary fence around each find. Same process followed for 2nd and 3rd discovery which also included site visits of Andrew McAllister of SHPD. SHPD has made determination of preservation in place for all three finds and at present project coordinating with SHPD and the County of Maui on redesign of project to include permanent preservation of the iwi. There is a small amount of excavation needed to complete this project. The majority of the remaining excavation will be less than 24 inches deep and will occur on the west side of the 18 inch water main in this area shown in green which is where we had documented lots of past mass excavation.

Construction access roads utilities only light industrial use

Former owner moved to sell property and

No historic properties or cultural impacts identified by earlier studies

Process observed archaeologist with no findings – Kihei Makena watermain runs through parcel
Eastern boundary – narrow strip eastern boundary less disturbed. Recent discoveries of iwi during monitoring were in less disturbed area in eastern boundary during monitoring

Wants to point out project reviewed SHPD 3 times – inventory survey grading permit monitoring plan [shows SHPD letters but slide flashed too quickly to do screen capture]

Preservation in place for all three finds

[3:20:24] – Mahalo Trevor. One thing – there is preservation in place. Did the owner agree to preservation in place? The descendants and those consulted want that.

Trevor - yes, the owner agreed to preservation in place for all three finds

Dane – What buffer was agreed upon with consulted individuals?

Trevor - Still working on final buffer for each find, but we are constrained on the eastern boundary area. Because we can't extend the preserve onto the adjacent property owner and we are also

confined by the Board of Water Supply existing 18-inch mainline on the property. We wouldn't extend preserve over top of that major utility

Dane – are these disarticulated?

Trevor – Two are in situ burials that are largely undisturbed that remain intact in the ground and one is a single isolated femur portion

Dane: What type of buffers were discussed? Nothing is being built on top and we are just talking radius buffers right now correct?

Trevor – correct, for one in situ burial and the femur portion, we are looking at if there are separate preserves it would be greater than 20 feet in all directions, and again constrained on two sides because of property boundary and Board of Water Supply line. For the third find, in consultation with SHPD, the burial preserve is a bit of a rectangle, somewhere around 24 feet by 42 feet

Dane – How close are these in proximity to one another? The femur and one in situ – are these relatively close that they can be included in one buffer area or are they spread out pretty far?

Trevor – The first two finds are about 95 feet apart, but it is something we are looking at to combine two in one preserve. The third is more like 140 feet away and would have to be a separate preserve

Dane – When you finalize everything can you come back and give us an update on what was decided Trevor – sure

[3:24:01] Testimony

[3:24:11] Noelani – thanks Trevor. I did two site visits to this location and agree with preservation in place. With the other area that is still yet to be disturbed, I am concerned about more burials and I talked to Trevor about this and there is Lidar that Dr. Six became aware of because of the **County Realty Tax** [?] flying plane over for real estate purposes and they have really high quality Lidar that went over the Central Maui area, also over Lahaina and where Wailea 67 is and a bunch of other places. Want to ask Trevor if he would reach out to Dr. Six to get that data and maybe see if anything informative about the rest of the area still needs to be disturbed to be as certain as possible that we won't disturb more iwi kupuna

Dane: Trevor seems like you are already in correspondence and maybe Johanna if you wanna be part of that discussion

[3:25:45] Kaniloa – They were invited by Trevor as Malama Kakanilua and his concern is trying to explain process – for him it comes down to, the area is known burial site, all those areas that the first industrial area ran into iwi, the AIS done for light industrial showed there would be finds or suspicion of having finds and they did. When we were brought in to consult with them, the place they found them is place they were concerned with at Malama ka Kakanilua. On site of Briggers towards the back is a preservation site, A&B has a preservation site further in. Really, this 13-283 not even being used. As you can see with data collection, it didn't work. Whatever method they were using, didn't show which is typical of all permits getting submitted. Nothing, nothing, nothing, but then when work begins something, something, something. Why isn't that being applied, why isn't SHPD applying that? The HAR is there to provide guidance of what should be done. It's a burial site. It only claims skeletal remains – when I looked up the legal definition, it means pieces of one skeleton. With a find of one femur, should have already said that this is one burial site – If a person comes in with 20 acres, 2000 acres, when they find a burial site, when they make initial findings and they find one bone and come forward it is a burial site. It is no longer inadvertent, it is very improper way, it is a

guise for the developer to move on without being cited or being fined in relation to permits to do archaeological work.

[3:29:20] E. Inadvertent Discovery of Human Skeletal Remains near Lōpā Beach, reported to the Maui Office of the State Historic Preservation Division on January 4, 2021, Ahupua‘a of Kaohai, Island of Lāna‘i, TMK: (2) 4-9-002:001. Information/Discussion/Recommendation: Discussion about the above find.

[3:29:48] Ikaika – I am happy to give the update. On Jan. 4, 2021 on Lāna‘i near Lōpā beach, community member was in the ocean and saw part of a jawbone or part of skull in water. Eventually a few days later the jawbone was reinterred immediately adjacent to where it was found inland, pretty much on the coast, taken out of the water and reburied, and that is the update for that inadvertent

Dane – Do we have anyone to speak on this? SHPD is aware of this and where it was reinterred? Ikaika: Correct

Dane: Any questions? Any testifiers?

[3:30:54] Johanna – do we have procedures in place if no district or regional rep is in place? Evidently no one tried to contact people in the area that might have ---? Did anyone contact descendants?

Dane – There might be a broader story to this. Maybe Ikaika can fill you in

Ikaika – Johanna, send me an email and let’s set up a time to talk and I can give you the details for that find

[3:31:45] F. Inadvertent Discovery of Human Skeletal Remains at County of Maui Puamana Park, reported to the Maui Office of the State Historic Preservation Division on January 13, 2021, Ahupua‘a of Polanui, District of Lāhainā, Island of Maui, TMK: (2) 4-6-033:001. Information/Discussion/Recommendation: Discussion about the above find.

[3:32:15] Ikaika – I will give the update. On Jan. 13, 2021, SHPD became aware from Dr. Six, County, police, and DOCARE, that community members walking the coast saw exposed iwi at Puamana Beach Park from waves or erosion. SHPD did a site visit that day. We observed at least 4 different individuals partially sticking out of sand and dirt in Puamana Beach Park. It is unclear how much was washed into ocean. SHPD gently and as respectfully as possible put sand on the bones to stabilize them. They are still

there; we haven’t come to a decision whether the rest of individuals will be completely disinterred or allow nature to take its course. That’s where we are at today, we are looking to get feedback on how to proceed.

[3:32:25] Dane – I know we have had conversations with Keeaumoku and some of the initiatives put forth, one agendize by us in the past. I also know that the media, Maui news put pictures of iwi on television. Trying There are two things that relate to this inadvertent that are a major focus. So, I was able to participate in a meeting with SHPD and Keeaumoku I think last Thursday trying to figure out BTPs and long-term protective measures for these iwi kupuna. Any questions to SHPD and mahalo to Keeaumoku for possible internment site. Any recommendations on how the short-term protections or how you would like to see kupuna addressed? For me, I would like them to remain on site whether they are curated or go let to go out to sea, this is less for the council and more for cultural lineal descendants to discuss

[3:34:44] Johanna – There is very little left to that park. Has the county had discussion come up to make the park open or to close it to be a preserve or memorial for the iwi already there? It will continue to erode

Dane – It came up in our meeting. Ke‘eumoku and county may have answer. These are also topics that will hopefully come up in shoreline erosion – something concrete we can establish and contribute to as the burial council

[3:35:35] Testimony

[3:35:45] Ke‘eumoku Kapu – I want to inform council we had meeting with Mayor Victorino and requested to shut down Puamana park till we figure out a remedy but having discussion with County Planning and Parks director Carla Peters, we have been working on signage for the park and a 5-point code of conduct, eventually requesting park to be shut down indefinitely because a lot of iwi kupuna. I have family go to park on a daily basis, especially when waves hit South swells coming in, that’s when erosion starts to occur. Right up to highway, we basically requested some kind of Pohaku revetement in the area – but that will be really mild and temporary and eventually wouldn’t work. We are requesting for to turn whole park into some kind of monument, that goes along with the signs, we already forwarded to parks department who are working on signs. Kinda immediate. What we are getting from SHPD is that there is a lot of iwi kupuna in their custody as well as ones they were given stewardship in our curation in our building, and we are hoping to finalize plan to build a crypt in an area most suitable for kupuna that we have, and the state has in their internment and try to get them home to put them to rest. It’s gonna be really ongoing on how we gonna solve solution. The question was put on us, how do we feel if iwi just went back to Kanaloa? In the days of old that was possible, but in the last incident that happened a tourist that was frequenting the area just took a poo back to the hotel and mahalo SHPD for giving me the heads up on that, that it was returned to the police department. The issues pertaining to allowing it to go back to Kanaloa – I dunno. If the place can be turned into mausoleum or something to limit the population that goes in there because the parking is falling into the ocean already. Some suggestions or recommendations we have on how to go forward but immediate – what he has, what the state has, putting crypt like what they put into their BTA/BTP, with help of our people in office [Fay MacFarlane?] also did additional information to help steer the process on the right things we need to do

[3:39:53] Kyle – I have a quick comment on return of iwi to Moana nui – I think that is an idea that can be pondered but it can’t be just left right there. It’s gotta go way out to Keala Kahiki. A boat would have to take them out and drop them off because they will just roll around.

Keeaumoku – If I could make one last comment. We have already for years put together a simple management plan on our burial committee, we have a burial committee and it consists of 20, 21 reps and lineal desc of Lahaina, and we are trying to incorporate a code of conduct but this is an Aha Moku initiative and it’s been a long time Aha Moku initiative that we send compliances to DLNR and SHPD and that we have a process set in place and a BTP that for a long time we have been putting together language to be somewhat accepted by SHPD and I don’t know what is happening between the county and SHPD for the final sign off and but I anxiously anticipate the outcome and we also requested for time of internment and when we met with burial council, when we could actually meet physically, was participation of burial council members

[3:42:20] G. Inadvertent Discovery of Human Skeletal Remains at Kū‘au Cove, reported to the Maui Office of the State Historic Preservation Division on January 14, 2021, Ahupua‘a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-5-004:085. Information/Discussion/Recommendation: Discussion about the above find.

[3:42:42] Ikaika - This burial was found by a malihini who reported it to the police, DOCARE called SHPD, and Andrew McAllister did a site visit before History and Culture did. At some point somebody filmed this and did the KITV interview. But when Andrew got there, he secured area and covered bones with sand to get them out of the public view. Ikaika went there last week but there has been some big surf. Ikaika isn't sure of the status otherwise. This was the same one discussed earlier with Ms. Costa's letter

Dane: Maybe if any updates come back on this if we can get updates at our next meeting please [3:43:56] Kyle Nakanelua – I was made aware of this

[3:44:05] H. Inadvertent Discovery of Human Skeletal Remains at Maui Bay Villas, reported to the Maui Office of the State Historic Preservation Division on February 12, 2021, Ahupua'a of Ka'ono'ulu, District of Kula, Island of Maui, TMK: (2) 3-9-001:083.

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

[3:44:37] Ian: At approximately 9:45 AM I got a call from my boy saying they cracked somebody. We locked the scene down, work stopped, the machine was parked. Went to the phone tree and currently going through recovery measures right now. I don't really have too much information to provide except that unfortunately we hit an individual during footing excavations. As I said I am still in the process of going through recovery measures, so I don't really have a full backstory on what we are looking at, etc.

Dane: So, you can't say if it was a fragment or –

Ian: Oh no, it's an individual for sure, unfortunately it looks grim very unfortunately like potential complete removal.

[3:45:45] Dane – Kahele either you or I need to meet and discuss this further. Ian, is it ok with you if we meet and do a site visit?

Ian: Absolutely. If it means anything, I did notify both Ferdinand Foster as they have been consulted in the overall project for the last several years and there were individuals notified within an hour of everything going down

Testimony

[3:46:41] Andrew McAllister – We did site visit, I met up with SCS, and unfortunately this project was given a determination of “no historic properties affected” initially by a staff member no longer working with SHPD and the inland portion of the property has had some historic properties identified previously and I believe Dr. Lebo did a site visit and requested monitoring – but this portion was across the road

seaward from what I understand was not monitored when the excavation happened and on site it looked like without getting into details of what I saw there were at least two events where the skeletal remains were moved by a machine, two backfill piles and at least a portion still in the trench. After consulting with the burial site's specialist, they we allowed SCS to collect the exposed remains outside of the trench and I requested they leave the remains inside the trench and no further excavation or exploratory work

happen and cover it till they can get a determination from History and Culture Branch and burial council representative out to inspect and give their recommendation. We also recommended a buffer zone to extend what was already in place at that time.

Dane: Mahalo Andrew. I just want to say back when they were clearing the sand, clearing the shoulder area, back in my grandpa's time, he told me where the first remains came the first identified kupuna across the street. And I told them. And I am hoping, because I haven't done a site visit yet, and I am praying that this is not where I told him it was, because one of our kuleana to SHPD is to

help identify burial grounds and burials. I thought that was part of what I was doing when I was on site. But I digress. I am going to put up and go back to testimony.

[3:49:40] – [Aunty Joyclynn tries to testify but reception remains poor, and we can't hear much of what she has to say] “We are being harmed”

[3:50:41] Vernon Kalanikau – When he first got the call almost two Fridays ago – Hilton did good in their process. When he first got their call, especially on makai side of the parcel – we both share same feelings, mana‘o. And now it is what it is, but he would like to reiterate what Noelani mentioned often

today, the AIS – this is 20, 21-year-old AIS. Recommendation made, signed off, so fast forward, here we have the new owner, adopting the previous owner’s conditions and they are moving forward and its about 2 years now and then we have this incident on the makai side of the property. Unfortunate, it’s very significant, its bigger than what we know on the mauka side with the fishing wall and what we found next to the fishing wall. His question is for Andrew McAllister – the dig site is open right now and there is a section being covered from their instructions. So, it’s left open. Foster Amongst did request through him maybe should be covered because last week was supposed to rain hard. So, it’s been covered, but my question to Andrew is, it’s on hold right for any work to be done in this parcel. All the work is being done in the pile by Ian and his crew and they are hand sifting through the pile. When we do work in the hole, in the puka? When does that happen?

Dane – when I do a site visit and I am gonna ask Ian what he does when he is pau, if he covers the work at the end of day. Would you like to join site visit with us?

Vernon – Oh yes

[3:53:58] Noelani – Mahalo Vernon and Foster for going out to mālama that kupuna. Back in 2019 I think it was, the Wailuku Moku when out to hold signs with **Inaudible** and Uncle Vernon to make it known we didn’t appreciate the project which didn’t have a monitor yet. She wrote a letter to governor talking about this project along with Phase Six and Waihee and issues with AIS. This project had a 1999 AIS and in 2015 SHPD wrote a letter to the landowner saying these is new information that we didn’t have, this report is outdated, you need a new AIS – then a year later Alan Downer sent a new letter to the landowner saying no, the original AIS is fine. This is why the Phase 6 lawsuit is important as well. It’s the same issue where SHPD allows an old outdated AIS and incomplete to inform a project – so this project actually didn’t require monitoring and developer did decide to do voluntary monitoring. So here we are now, and we have this kupuna. But you know what’s really upsetting for me for this, I am sorry Ian, but I heard you just say, “you got a call from your boy that we cracked somebody.” I am sorry but this kind of language in the burial council with kanaka who are descendants of this person, she personally does not appreciate as a kanaka hearing someone say, “we cracked somebody.” That’s number 1. And number 2 is I just heard Andrew McAllister say there was no monitor. There was no monitor. This kupuna has been completely desecrated and that is not ok. I don’t know how - you can’t rectify this, this is irreparable. I don’t know what kind of machines were allowed to be in there, but maybe it’s like Waiko when they used a D9 dozer, and they wiped out a whole burial but it’s the same company. And this is not ok, and I hope that SHPD or the Burial Council or the descendants who file for these burials will – do something so this doesn’t happen again on this property. This is totally unacceptable.

Dane – Ian, in regard to the question by Vernon, I wanna know that too. When you are done with work at the end of the day, how are you guys protecting the burials? Are these burials left open?

Ian – As far as Jennifer’s comment, if I hurt your feelings I deeply apologize. It was not my intent. He is just trying to deal with situation as unfortunate as it is. At the request of Vernon and Foster, we got several tarps, and we have the backfill piles tarped when we are not working on them. As far as the portion of the trench remaining open, he was instructed by SHPD archaeologist McAllister to tarp

it and leave it as is and he is awaiting the go to get into that trench to determine if the portion of in situ remaining and at this point in time all of our work is focusing on trying to clean everything up

Dane – I have my own problems with voluntary monitoring. Why wasn't anyone on site for this one? Andrew's guys, because they had found burials across the street, had asked for more specific types of monitoring.

Ian – I can clarify, I can't justify it. So, this project has been ongoing since May 2019 and there's been clear open communication throughout the entire process. Over the course of last several weeks there's been spot work [unclear] has not been conducting any excavation work, they were pouring concrete, stuff like that. We did get the request several days prior to have someone present, he had his tech be down there, he was twiddling his thumbs for almost 2.5 days. I like everyone else try to be proactive and multitask and he made the decisions because there was no excavation currently going on, he made the decisions to go into town to hook up another coworker with some paperwork. On his way back to the job site, because they were not doing any work, he received a call from the foreman saying, "we are gonna begin digging the footing excavation, where are you?" and he said, "I am 15 minutes away, I will be right there." and 5 minutes later he got a call with the outcome. Now I am not very happy about it. I am happy to take the onus on it. It was under my watch, I feel responsible. I take this very seriously which is why I do this job. Not everyone wants to deal with this kind of drama, but I will take it on because --

Dane – Thank Ian. Andrew what were you requiring of them if you can answer that? Because, if the project management knows this that they need a monitor on site, then they should have waited for you, regardless. They knew you were not on site because they called Ian's worker, but they continued regardless. That is the problem. Andrew, we don't have any more time, we are gonna have this conversation outside, but just say what your parameters were for this really quick

Andrew – This came from Susan, so I don't have the emails for this, but I have been talking to her, she requested archaeological monitoring based on the inadvertent discovery. And then talking to Ian, I understand that they are building more in that area so my intentions is to follow up with county so we can request to review any permits from grading or building that haven't been issued already so that we can have the opportunity to comment and request for an AIS for that work

Dane – Mahalo Andrew, I might re-agendize along with the inadvertent. I want to adjourn this meeting and mahalo to council members, SHPD staff, AG and mahalo for community doing their part to mālama iwi kupuna. It is you folks that are what lift us up and you are the foundation for us.

1:02 PM [4:01:10] Meeting adjourns

VIII. ANNOUNCEMENTS

A. Next meeting is scheduled for Wednesday, March 17, 2021 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 at its August 25, 2005 meeting, oral testimony for items listed on the agenda is limited to three minutes per person per agenda item. Interested persons can submit written testimony in advance of each meeting that will be distributed to Council Members prior to the meeting. Written testimony must be submitted no later than 24 hours prior to the meeting to ensure time for Council Members to review it. Late written testimony will be retained as part of the record, but we cannot assure Board Members will receive it with sufficient time for review prior to decision-making. Submit written testimony to andrew.k.phillips@hawaii.gov. 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 Council may go into a closed meeting to consider information that involves the location or description of a burial site or to discuss confidential genealogy. A request to be placed on a Council meeting agenda

must be made in writing with the SHPD History and Culture Branch 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 Maui State Historic Preservation Division located at 130 Mahalani Street, Wailuku, Maui, Hawai'i 96793.