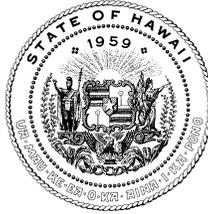


DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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CONSERVATION AND COASTAL LANDS
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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MAUI / LĀNA'I ISLANDS BURIAL COUNCIL
DRAFT MEETING MINUTES

DATE: September 21, 2016
TIME: 9:00 AM
PLACE: County of Maui, Planning Commission
Conference Room
Kalana Paku'i Building, 1st Floor
250 S. High Street
Wailuku, Maui, HI 96793

I. CALL TO ORDER

The Burial Council Chair Kapulani Antonio called the meeting to order at 9:05 AM

II. ATTENDANCE:

Members: Kapulani Antonio - Chairperson
Dane Maxwell – Vice Chairperson
Kaheleonalani Dukelow
Johanna Kamaunu
Kalani Ho-Nikaido
Sol Church

SHPD Staff: Kealana Phillips, Maui Burial Site Specialist
Hinano Rodrigues, History and Culture Branch Chief
Ikaika Nakahashi, Cultural Historian
Jenny Pickett, SHPD Archaeologist

Excused: Leiane Paci
Nani Watanabe

Guests: Trevor Yucha – Cultural Surveys
Josie Yucha – Cultural Surveys
Debbie Arakaki – County Wastewater
Tanya Lee-Greig – Property Owner, Lahaina
Dana Opupele – Property Owner, Lahaina

Todd Boyd – Property Owner, Lahaina
Lisa Rotunno-Hazuka – Archaeological Services Hawai‘i
Joyclynn Costa – Aha Moku NHWG
Ke‘eaumoku Kapu – Aha Moku o Maui Inc.
Thelma Shimaoka - OHA

III. APPROVAL OF MINUTES

A. July 20, 2016

- Council member Kahele Dukelow motion to approve as presented
- Council member Kalani Ho-Nikaido second
- Motion is carried to accept minutes as presented

IV. BUSINESS

- A. Draft Burial Treatment Plan for SIHP NO. 50-50-14-7054, Papa‘anui Ahupua‘a, Makawao District, Island of Maui, Hawai‘i [TMK: (2) 2-1-008:100] Information/Discussion/Recommendation:** Discussion and determination whether to preserve-in-place or relocate unidentified human skeletal remains at the above location. Council discussion and recommendation to SHPD whether to accept the proposed burial treatment plan.

Item was removed/withdrawn from the agenda and not discussed due to item being submitted to SHPD incomplete

- B. Previously Identified Human Skeletal Remains discovered during AIS at [2] 4-5-026:055, Ahupua‘a of Paunau, Moku of Lahaina, Island of Maui. Reported to the Maui Office of the State Historic Preservation Division on July 23, 2016. Information on the above find.**

- Lisa Rotunno-Hazuka with Archaeological Services Hawai‘i address the council.
- Presently conducting an AIS in Lahaina, designated Lot 50B, just off Lahainaluna Rd. During AIS, found two skeletal remains in coffins. Both burial features in low rock platform and believed to be historic.
 - Burial 1 – rock platform measured 4 ft. by 2 ft. Artifacts glass jars, domestic items that are part of the fill.
 - Burial 2 – rock platform measured 10 ft. by 6 ft. wide. Items, Chinese beads, old razor from 1920, brass and ivory pipe, British schilling 1844, and a portion of a Lei Niho Palaoa.
 - Still in beginning stages of AIS. Still trying to piece together history of the area. The two people believed to be buried on property members of the Opupele family, Joseph Sr. and wife.

Council member Johanna Kamaunu asked when did Joseph had title to the property. Archaeologist Rotunno-Hazuka responded 1922. He purchased property to establish family cemetery; passed away in 1923. Council member Kamaunu asked if there is LCA for that area, Rotunno-Hazuka responded it may be within a grant. Will look at later. Known location of 5 family members; 2 buried at Maria Lanakila; 3 buried at Maui Memorial Park. 2 great grand-parents believed to be buried on Lahaina

property. Grandfather, daughter (infant) buried at Maria Lanakila and grandmother and Dana Opupele (former land owner) parents buried at Maui Memorial Park.

Council member Kahele Dukelow asked if the burial items were found in vicinity of skeletal remains. Rotunno-Hazuka responded that, specifically, for burial 2, grave goods buried with the person. Coffin for grave 2 coffin disintegrated; coffin for burial 1 in better shape.

Council vice-chair Dane Maxwell asked if the survey is complete. Rotunno-Hazuka responded No. Council member Maxwell asked if any information of other burials on site. Rotunno-Hazuka responded No. Grandfather passed away 6 months after Great-grand father. Not much communications between family members that were passed down.

Council member Kamaunu asked if there was any attempt to located any other family members in that area. Rotunno-Hazuka mentioned that Dana knows most of the family members that are left and a notice will be put in the paper. Still in the beginning stages, what's known is that the place name of that area is Luakona and the family member names.

Council member Dukelow asked as process continues, how much more disturbance is expected in the two areas. Rotunno-Hazuka responded no more testing needs to be done on burials. Features needing to be tested are agricultural.

Dana Opupele address the council. Wish to relocate remains to a cemetery so remains will be safe and properly cared for. Great grandfather remains will be placed in same cemetery as his grandson (Dana dad) which will make it easier for family to visit and pay respect to them.

V. COMMUNICATIONS

- A. Letter Dated July 8, 2016 from Fukunaga & Associates, INC. re: The Archaeological Field Inspection & Background Study Draft Environmental Assessment, South Maui Recycled Water System Expansion Project 2nd 1.0 MG Tank and Pipeline Improvements, TMK 2-2-024:010 & 2-2-002:075, Kihei, Maui:**
Information/Discussion/Recommendation: Discussion on the above letter.

History and Culture Branch Chief announced that no one is here representing the project because item was presented at an earlier MLIBC meeting in July and they didn't feel that they needed to come back. However, if council has questions, they will be willing to come back.

Recommendation from council to reagendaize item for next month MLIBC meeting and ask if a representative from the project can attend meeting to answer any questions and/or concerns that council may have.

Council Chair Kapulani Antonio opened up for public testimony:

Joyclynn Costa address the council. Ms. Costa asked the council where exactly is the location of the project? Ms. Costa stated that the reason she wants to know the exact location is that particular areas within the Kihei landscape has several pockets with archaeological sites that have not been discovered. For example, when Wailea

670 was first thought up, 27 sites were identified initially with each sites having a number of features. In total, projections of features identified was in the hundreds. However, when the time came for the assessment to be done, it was actually 500 sites were identified with over thousands of features identified (just in the south section). Ms. Costa would caution and ask for better assessment of the area prior to work being done. Sites have been many; reports have been few.

Council member Kamaunu asked how were they able to find 500 more features when the original archaeologist only found 27? Ms. Costa responded Native Hawaiian Tenant Rights native Hawaiians decided that they were going to exercise their rights and access the property by foot. Council member Kamaunu asked is there a particular way of looking at it that opened up the sites to them. Ms. Costa replied that being from the place, you have a better understanding of the importance of what each item means to the overall context of the area. Ms. Costa stated that it is so important for commissions such as the MLIBC because they represent and give a voice for the native Hawaiians with regards to potential developments/projects.

Ke'eaumoku Kapu address the council. Mr. Kapu recommended that the council lay heavy on the archaeological firms to make sure all pertinent information is provided in the Draft reports so that it may be discussed at the MLIBC meetings.

Council Chair Antonio closed public testimony for this subject.

- B. Letter Dated July 22, 2016 from Scientific Consultant Services, INC. re: Consultation for Cultural Impact Assessments (CIA) for two proposed residential developments in Kīhei. The affordable housing Welakahao Multi-Family Development on 20 acres of undeveloped land in Kīhei, Kēōkea Ahupua‘a, Wailuku District, Maui [TMK: (2) 3-9-002:14] and the Welakahao Single-Family Development located on adjacent land in Kīhei, Kēōkea Ahupua‘a, Wailuku District, Maui [TMK: (2) 3-9-002:116, 150, 151]: Information/Discussion/Recommendation:** Discussion on the above letter.

Item was removed/withdrawn from the agenda and not discussed due to the two projects being temporarily on hold.

Because item was withdrawn, no discussion was allowed on the topic. However, Council member Dukelow stated that in her opinion, the approach that the firm is taking to solicit information in preparing a Cultural Impact Assessment is disingenuous. Council member Kamaunu agreed.

Branch Chief Rodrigues briefly outlined the purpose of CIA:

- Determine whether there were past cultural practices in area
- Determine if cultural practices are ongoing
- Whether this project will affect future cultural practices

Topic will be discussed further once/if project resumes and a copy of the CIA guidelines and a couple examples of CIA will be distributed to council members.

- C. Draft Environmental Assessment received by SHPD on July 25, 2016 re: the proposed Polarized Light from Atmospheres of Nearby Extra-Terrestrial Systems (PLANETS) Telescope Facility, located within the Haleakalā High Altitude Observatory Site (HO), near the summit of Haleakalā in Waiakoa, Makawao District, on the island of Maui.**

Information/Discussion/Recommendation: Discussion on the above Draft EA.

Council member Dukelow stated that her greatest issue is when facilities are slated as recommission/decommission, it is a way of them avoiding having to get approval for a new telescope. Council member Dukelow also stated that it is wrong to say that there is no additional impact just because they are staying in the same footprint as the decommissioned facility. If it is decommissioned, telescope should be dismantled and removed from the Mauna.

Council Vice Chair Maxwell stated that while the actual building of the telescope is concerning, it is important that the council keep in mind the potential impact of the construction itself with regards to the layout of the area being affected from the amount of proposed machinery and vehicles that will be coming and going daily. Another concern from Vice Chair Maxwell is where will the backfill material come from? Cannot introduce certain new material into certain areas and not allowed to remove soil.

Council member Kamaunu also stated that even though they are using the same footprint, they do expand. Vice Chair Maxwell added that in that location of expansion (roll off for telescope), it is only asphalt. Maxwell asked what type of ground disturbance? How deep? For the hold supports. Consensus from the council is to decommission and dismantle facility. Council member Kamaunu also questioned the lack of consultation/comments by the Native Hawaiian Working Group and Kilakila o Haleakala, (2 most involved NHO's) in the Draft EA.

At this time, Chair Antonio opens PLANETS project for public testimony:

Joyclynn Costa address the council. Ms. Costa referenced an August 26, 2016 Maui News Article re: struggles up at Haleakala. The issue is "They don't know where they are." It's not right to assume no harm done by recommissioning a decommissioned facility. There is a master lease in place? How/if it is legal to change master lease? Recommend to council to look at long range plan, Programmatic agreement for DKIST. To date, all what was promised for sacrifices that the native Hawaiians has given for that mountain has never come to fruition. Ms. Costa is not asking council to stop development, but would like the project to follow the letter of the law. If they're not following the law, do not give them permission to do what they want to do.

Ke'eaumoku Kapu address the council. Mr. Kapu states that whatever conditions that was determined in the master lease regarding the use of the area is long done. Do not allow them the opportunity to continue use of area. Make sure they follow the law. Don't be accountable for somebody else evil ways. Mr. Kapu questioned why the project is in front of the council. Is it burial related?

Council member Dukelow reiterated what Mr. Kapu said in regards to the council being taken advantage by firms looking for consultation. Council member Dukelow stated the importance of making comments otherwise be part of the "created facade of legality."

Kaniloa Kamaunu address the council. Mr. Kamaunu told a story of questioning authority over having to pay for parking at a park on Hawai'i Island. It was a Federal park, part of national park system. They were following the rules by encompassing native Hawaiians with Indian law; Indians right to exercise religious

practices in the area, which they have legality over. They have no jurisdiction over the native Hawaiian culture. Why aren't they doing it? Feds following tribal laws of the indigenous people of America, which we don't fall under. Trying to encompass us under through the Dept. of the Interior. No jurisdiction/supervision over cultural things. Hawaii was never taken of under the Dept. of Interior; Was taken under the Dept. of Agriculture. Hawai'i culture and practices is something they do not take in to account because not binding to them. Under federal law, which protects rights of indigenous people, we are not at this time. What law are they following is something that needs to be asked. National parks follow law they are encompass by, which we are not.

Council Vice Chair Maxwell wanted to clarify that HO site is not in the National park; University of Hawaii owns it.

VI. INADVERTENTS

- A. Inadvertent Discovery of Human Skeletal Remains at Kaulahao, reported to the Maui Office of the State Historic Preservation Division on July 17, 2016 and August 1, 2016, Ahupua'a of Hāmākuapoko, Moku of Hāmākuapoko, Island of Maui, TMK: [2] 2-6-009:024
Information on the above find.**

SHPD Burial Site Specialist Kealana Phillips addressed the council.

- B. Inadvertent Discovery of Human Skeletal Remains at Maui Lani Phase IX, reported to the Maui Office of the State Historic Preservation Division on July 29, 2016, Ahupua'a of Wailuku, Moku of Wailuku, Island of Maui, TMK: [2] 3-8-007:153
Information on the above find.**

Archaeologist Lisa Rotunno-Hazuka from Archaeological Services Hawai'i addressed the council.

- D. Inadvertent Discovery of Human Skeletal Remains at Ho'okipa Beach Park, reported to the Maui Office of the State Historic Preservation Division on August 11, 2016, Ahupua'a of Hāmākuapoko, Moku of Hāmākuapoko, Island of Maui, TMK: 2-2-5-004:025
Information on the above find.**

SHPD Burial Site Specialist Kealana Phillips addressed the council.

Burial Site Specialist Kealana Phillips and History and Culture Branch Chief Hinano Rodrigues introduce Trevor Yucha, archaeologist and Josie Yucha, archaeologist/osteologist from Cultural Surveys Hawai'i. State contracted CSH to provide us with determination upon inadvertent 'iwi discovery (50+ and human).

Burial Council Chair Antonio opened up public testimony:

Kaniloa Kamaunu address the council over concerns of the use of the word "inadvertent" being used so loosely. Mr. Kamaunu question how Inventory Surveys are done so inadequately that in a proven and documented area, such as Maui Lani, 'iwi is not found through an Inventory Survey and thus is

discovered/disturbed during construction and be considered inadvertent (determination made by Department). AIS process is inadequate/incompetent and it's not justifiable. No justice; just broken hearts and tears. Process should be challenged.

Council member Dukelow question the law that the council is bound by and the process that council needs to follow. Trying to do what needs to be done, within the confines of the law. Moral vs a Legal issue. Law is not always there to do the right things; to do the legal thing.

Council member Ho-Nikaido proposes to re-look at Maui Lani from a holistic level; global level. Council member Ho-Nikaido recommend/request that Maui Lani landowners/engineers come in and address council with a presentation as to what they are doing/planning on doing with the new project, Maui Lani Phase IX. Council member Kamaunu suggest at the meeting with Maui Lani representatives, council invite either Clare Apana, Lucienne De Naie who did the study, compiled previous projects to show where burials located.

Branch Chief Rodrigues discussed briefly the difference between the archaeology vs. burial Laws. Burial laws enacted to look at skeletal remains from a cultural perspective. The tone in the laws is drastically different from a cultural perspective vs. archeology. How History and Culture interpret burial laws, is once we discover 'iwi, we determine if it is native Hawaiian, 50 years and older, there is no reason to test more. Hawai'i Revised Statutes 13-300, burial laws. Branch Chief Rodrigues recommend having council trained in the AIS process as well as the burial rules in order to understand/blend them to see how things should be working. Approach to determination is to preserve in place, unless it can be proved as to why need to relocate.

Council member Kamaunu referenced 6E-43.5 Section C allows for Councils to meet with the Dept. and other NHO's to adopt rules pursuant to chapter 91. Council member Kamaunu asked how can we move into that phase if haven't had opportunity to do it with this council yet. What point can we do that? Suggest we do that.

Branch Chief Rodrigues responded that we can do that. Branch Chief Rodrigues wanted clarification as to what council member Kamaunu was requesting. Amend the rules? Rules changed to reflect what council think it should be. Mr. Rodrigues explains that how things work is that you pass statues, which are the HRS. Once statues are passed, then you pass the rules HAR (Hawai'i Administrative Rules) so that you can do the statues. Mr. Rodrigues stated to the council that you cannot, as one burial council, change the rules. If all burial councils come to an agreement, that would be the route to take. Keep in mind, rules are mandated and restricted by the statues. If there are issues, it would be wise to change the statues, which will by default change the rules.

Burial Site Specialist Phillips asked the council in regards to lengthy reports, such as Draft EA what would council prefer in terms of digital copy or printed. Consensus from council appears to be provide both printed and digital copy. However, each individual on council has a specific preference; Mr. Phillips will work with each member to get report to them as they wish.

Cultural Historian Ikaika Nakahashi reminded council to please be mindful of everyone's schedule by confirming attendance no later than the Friday prior to the meeting to ensure we have quorum.

Meeting adjourned at 11:24 AM

Minutes by Kealana Phillips. SHPD Burial Site Specialist