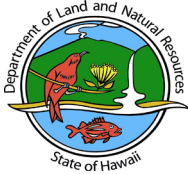


DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

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
MEETING MINUTES

DATE: December 12, 2018
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 9:00 AM

II. ATTENDANCE:

Members: Kapulani Antonio - Chairperson
Dane Maxwell – Vice Chairperson
Scott Fisher
Kalani Ho-Nikaido
Leiane Paci
Johanna Kamaunu

Excused: Kaheleonalani Dukelow

SHPD Staff: Kealana Phillips, Burial Sites Specialist
Ellen DePonte, Administrative Assistant
Dr. Susan Lebo, Archaeology Branch Chief

Guests: Reynaldo Fuentes – Atlas Arch
PrincesLehuanani Kumaewakainakaleo Momona
PrinceArchikins Aiaiekapahalalupauole
Foster Ampong, Waiokama
Ivy Ladera
Nettie Kuwamura
Mavis Oliveira-Medeiros, Hamoa Village / Mokae, Hana
Lucienne DeNaie
Ke'eaumoku Kapu

Kaniloa Kamaunu
Lisa Rotunno-Hazuka, ASH
Dana Hall

III. APPROVAL OF MINUTES

A. September 19, 2018

- Councilmember Kalani Ho-Nikaido make a motion to defer approval of minutes; to use as supplement to October Minutes
- Councilmember Scott Fisher second motion
- All aye; no nay
- Motion accepted

B. October 17, 2018

- SHPD Burial Sites Specialist apologized to council. Draft meeting minutes not ready; will have it complete and ready for council review at next MLIBC meeting per Mr. Phillips

IV. BUSINESS

A. Draft Burial Treatment Plan for Site 50-50-03-8498, Kelawea Ahupua'a, Lāhainā District, Island of Maui, TMK: (2) 4-5-026:055 pors.

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

- Nico Fuentes, Atlas Archaeology address council.
- Mr. Fuentes stated draft BTP same as last draft that came before council, except for page 23.
- Brief background provided by Mr. Fuentes. Residential lot. Slated for house. 2 historic burials on property. For one of the burials, there was a recognized lineal descendant (great grandson of Opupele Sr.) who was interred on property in 1922. Subsequent to AIS, additional historic burial found in flag lot, roughly 60 feet from other burial. Unable to connect the two burials to one another. Judgement of council to treat them separately per Mr. Fuentes.
- Site -8497 will be eventually disinterred and relocated to Maui Memorial Cemetery.
- Other burial, currently unknown, slated to be preserved in place.
- Mr. Fuentes stated that two discussions previously occurred (1 with quorum / 1 without) re: draft BTP for Site 8498. Mr. Fuentes mentioned that the issue the council had at the last meeting was regarding the preservation above surface.
- According to Mr. Fuentes, preservation below surface remains the same, roughly have 10 feet horizontal buffer to nearest utility (water). Vertical buffers remain same also, 5 feet to top of grade of driveway. Had the burial location surveyed. Preservation area will be 10 ft. x 10 ft. on surface that will encompass entire burial area, including chamber, coffin, etc. Will be a two-foot wall, 1 foot thick, made of stone. Signage, landscape and filled in with dirt per Mr. Fuentes.

- Mr. Fuentes referred to map on page 23 and explained that one question council had a previous meeting was regarding the turning radius. As per map, turning radius entering property, pass burial will be 16 feet. Another issue raised by council was the internment process. Mr. Fuentes stated that for the most part, individual decomposed in hole for the most part. Not collected. Human skeletal remains present, top of cranium. Grave goods discovered will be wrapped and interred. Mr. Fuentes said he was spoken to Mr. Kealana Phillips, Burial Sites Specialist re: preparation of remains/burial goods for reinternment. Mr. Fuentes has also spoken to recognized lineal descendant Opupele (no religious affiliation). Mr. Opupele just wants to be present. Signage the same.
- Mr. Fuentes stated he is here to get plan approved so that they may proceed.
- Council suggestion is to work with Keeaumoku Kapu first. If that does not work out, SHPD re: reinternment.
- Councilmember Paci confirmed with Mr. Fuentes that he consulted with Mr. Opupele (lineal descendant for -8497) re: -8798. Mr. Fuentes replied yes. It was recommendation made by the council to consult with Mr. Opupele.
- Mr. Fuentes explained that in the 1922 deed, it was indicated that Opupele Sr. would be buried on property, the property being listed as a family cemetery. Perhaps people buried on property sooner per Mr. Fuentes. Because of that, Mr. Opupele believed that the individual (-8498), buried in what is referred to on deed as “family cemetery,” may in fact his family. Not able to confirm. Likely both burials may be related; unable to confirm clarified councilmember Paci.
- Another reason for council decision to preserve in place was that burial 8498 is almost completely decomposed. Did not want to relocate what is able to recover, while the remainder of person in ground.
- Chair Kapulani Antonio open item up for Public Testimony.
- Council request Ke‘eaumoku Kapu to podium so they may question Mr. Kapu.
- Council Vice Chair Maxwell explained to Mr. Kapu that in discussions re: acceptance of draft BTP, the council recommended Mr. Fuentes reach out to Mr. Kapu re: assistance with the reinternment process and conducting appropriate protocols for the unknown burial -8498.
- Mr. Kapu confirmed that he had received an email, although was unable to take a look at it and respond. Mr. Kapu stated that he will review draft BTP.
- Chair Antonio close public testimony.
- Councilmember Fisher stated that the updated plan addresses the concerns that the council previous had which was the possibly of vehicles driving over burial and that the appropriate people being consulted with. No more concerns by councilmember Fisher.
- **Councilmember Scott Fisher make a motion to approve the Draft Burial Treatment Plan for Site 50-50-03-8498, Kelawea Ahupua‘a, Lāhainā District, Island of Maui, TMK: (2) 4-5-026:055 pors.**
- **Councilmember Leiane Paci second motion.**
- **All aye; no nay**
- **Motion carries**

B. Cultural Descendancy Recognition of Foster Among to Unidentified Human Skeletal Remains, at the Loko O Mokuhinia, Ahupua‘a of Waiokama and Lower Waine‘e, Moku of Lāhainā, Island of Maui, TMK: (2) 4-6-007:001, 002 and 036-038

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.
- Council Chair Antonio open item for public testimony.
- Princess Lehuanani address council.
- Ke'eaumoku Kapu address council.
- Mr. Kapu stated he would like to support the intent of the cultural descendancy claim of Mr. Foster Ampong. Mr. Kapu stated that Foster 'ohana been in area for many generations. Mr. Kapu believes need to take advantage of recognition of iwi kupuna. Mr. Kapu believes that is the reason most families come forward, wanting to be recognized.
- Mr. Kapu understands that the project has fallen under the full discretion of the County. Important that whatever happens in the future, have people that are recognized to iwi kupuna in area be able to be consulted with.
- Council Chair Antonio close public testimony.
- Council discussed lineal vs cultural recognition.
- Councilmember Fisher asked for clarity with respect to both lineal and cultural descendancy. Lineal, direct familial connection to iwi kupuna. Cultural, connection to (iwi) within the ahupua'a. More of a regional, geographical connection, asked councilmember Fisher.
- Councilmember Paci stated it is her understanding of the law that cultural recognition, similar to lineal is to a specific set of remains.
- Council asked if another iwi is found in area (ahupua'a), is applicant automatically recognized or would he need to submit app and go through process again.
- The answer is yes. If applicant is already recognized to other iwi within the same ahupua'a where new find discovered, applicant would have to go through process again. Applicant will be recognized based on the previous recognition.
- Applicant Foster Ampong address council.
- Mr. Foster acknowledge that councilmember Fisher brought up a really important issue re: the ahupua'a and how it relates to iwi kupuna that are inadvertently discovered. Family has 200 years of history in Lahaina. Waiokama one of the ahupua'a within genealogy that family descends from per Mr. Ampong. Been doing family research for years.
- First learning of genealogy through oral family teachings; substantiated through court docs from Kingdom time explained Mr. Ampong. As other scholars and academics within University level, provided more docs. Genealogy expands at least 500 years, lineal, talking to iwi of certain kupuna. Knowledge and facts of each ahupua'a and where generation comes from.
- Mr. Ampong stated that his family comes from the ahupua'a of Waiokama. He does have lineal relatives buried there. Know names, years, time frame etc. explained Mr. Ampong. Mr. Ampong mentioned that when archaeologist Tanya Greg did work there made the discovery, no idea who specific kupuna is. Cannot claim lineal descendancy.
- Mr. Ampong stated that if there are more iwi found within the ahupua'a of Waiokama he will come forward for recognition. Mr. Ampong stated he is here, cannot walk away now.
- **Councilmember Scott Fisher make a motion that The MLIBC recognizes Foster Ampong as Cultural Descendant to Unidentified Human Skeletal Remains, at the Loko O Mokuhinia, Ahupua'a of Waiokama and Lower Waive'e, Moku of Lāhainā, Island of Maui, TMK: (2) 4-6-007:001, 002 and 036-038**
- **Council Vice Chair Dane Maxwell second motion**
- **All aye; no nay**
- **Motion passed**

C. Cultural Descendancy Recognition of Princess Lehuanani to Unidentified Human Skeletal Remains, at the Loko O Mokuhinia, Ahupua‘a of Waiokama and Lower Waine‘e, Moku of Lāhainā, Island of Maui, TMK: (2) 4-6-007:001, 002 and 036-038

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.
- Princess Lehuanani address council.
- Princess Lehuanani perform cultural protocol.
- Princess Lehuanani referenced the packet that was submitted to SHPD for review, which the council has in front of them. Princess Lehuanani explained that within that packet tells everything about applicant.
- Princess Lehuanani explained her family history. Applicant stated she created a power point presentation. Unable to play power point presentation at this time, apologized SHPD.
- Princess Lehuanani explained that she connects lineal to the area, dating back all the way to Queen Keopuolani. Born and raised stated Princess Lehuanani. Today is history in the making explained applicant. Been doing this for 30 years. Finally have a say; Mahalo ke Akua. Applicant pray that she is able to work with those that have been previously recognized, those that have been involved. 1992, came and took bodies, dug out removed iwi per applicant. Applicant said at this point, land should not be developed, not used. It is a sacred land.
- Applicant stated that she was required to provide thorough documentation to be considered for recognition. Wants to ensure that all applicants are treated similarly. Important to have appropriate people that have ties to area involved in the process stated applicant.
- Nettie Kuwamura address council.
- Ms. Kuwamura explained that Princess Lehuanani speaks through emotion. Ms. Kuwamura stated that she is the caretaker of Queen Keopuolani tomb (3 years).
- Ms. Kuwamura stated that she is here to support her sister (applicant) seeking recognition. Wish is that all those who have ancestry rights to ahupua‘a, work together.
- Princearchikins address council in support of applicant.
- Princearchikins explained that he is descendant of King Kaumuali‘i, who is buried in the tomb with Queen Keopuolani.
- Princearchikins stressed the fact that everyone should work together to achieve the goal.
- Ivy Ladera address council in support of applicant.
- Ke‘eaumoku Kapu address the council.
- Mr. Kapu stated that he really appreciates people stepping up to the plate pertaining to their connection to the Wahi Pana. Need to caution everybody. Mr. Kapu been involved in project, back in 2000 when Akoni was alive. Saw project blossom and die many times due to disagreements. To assure, ‘ohana has lineal descendancy to place, may you be recognized for your true intentions are coming in front of MLIBC.
- Friends of Moku‘ula no longer exists per Mr. Kapu. Got shut down. Biggest problem is now County and Core of Engineers take full responsibility of project. No medium between families as a mouthpiece, to deal with County and

Core. Mr. Kapu is totally against Core and County taking on project. Reason why, it's at the point now that it going to be a rubber stamp all the way. No medium there, Important to have acknowledged, recognized descendants to ensure they're at the forefront. Mr. Kapu recommend SHPD expedite a process to ensure transparency within county and government agencies to make sure first priority deal with descendants that are recognized. Make sure every stone turned. Due process.

- Past 20 years involved; County had bigger dreams of turning that whole park into parking lot per Mr. Kapu. See why really important Friends of Moku'ula involved in project every step of way. If County allowed to do whatever they wanted to do in area, fulfills mandate of County responsibility to provide more parking for tourists and residents.

- Strong advocate sitting on the side and watching things transpire. Mr. Kapu stated he did not sit on the board, instead choose to be a mouthpiece on the side to ensure things are done pono.

- Everybody intentions and wishes came true, Friends of Moku'ula no longer take full responsibility of park, at the same time, bigger issue follow with County and State. Mr. Kapu hope that the recognition of cultural descendancy today, families step up to the plate and make sure County is held liable for all liabilities that will occur in park, especially the Federal agency known as the Core of Engineers.

- Foster Among address council.

- Mr. Among stated he would never challenge anyone's genealogy. If someone steps forward and claims of that ahupua'a or related to person, need to give benefit of doubt without criticism. Mr. Among wanted to reassure council that kuleana here is to take care of inadvertent iwi that was disturbed. Whatever hurt that is flying out there, whether it for Mr. Among or other members in community, very important to stay focus on taking care, appropriately and respectfully, iwi kupuna. No drama, no politics, no crap. Just mālama the iwi per Mr. Among.

- Mr. Among stated he is willing to work with anyone to care for the iwi kupuna.

- Princess Lehuanani mentioned that iwi kupuna, artifacts relocated to Bishop Museum. Princess requests that those that gave permission for iwi to be relocated assist with bringing them home.

- Council Vice Chair Maxwell asked what is Princess intent? Bring back and put a memorial, Heiau replied Princess Lehuanani.

- Willing to work all recognized descendants exclaimed Princess Lehuanani.

- Councilmember Scott Fisher make a motion that The MLIBC recognizes Princess Lehuanani as Cultural Descendant to Unidentified Human Skeletal Remains, at the Loko O Mokuhinia, Ahupua'a of Waiokama and Lower Waine'e, Moku of Lāhainā, Island of Maui, TMK: (2) 4-6-007:001, 002 and 036-038

- Council Leiane Paci second motion

- All aye; no nay

- Motion passed

- D. Cultural Descendancy Recognition of Mavis Oliveira-Medeiros to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua'a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors**

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.
- Mavis Oliveira-Medeiros address council.
- Ms. Oliveria-Medeiros explained that the 'ohana has been working with all parties (hotel, SHPD, archaeologist) for the past few months and have finally agreed on how to rebury/reinter the iwi kupuna that was found there. Ms. Oliveira-Medeiros mentioned that it's been a year since hotel dug it up. Needs to go back; it's time. Just haven't reintered iwi kupuna. That's coming up real soon. Just finished covering leech field where iwi kupuna was found. They also recently covered up an area where two iwi kupuna was found. Holes have been dug to kanu iwi. Families just need to get it done.
- It was confirmed that SHPD has, in its possession, other iwi previously discovered from area. Intention of the recognized descendants, per Ms. Oliveira-Medeiros is for all iwi that came from Hamoa Beach/Mokae to be returned during this upcoming reinternment.
- Ms. Oliveria-Medeiros mentioned that she is at meeting representing all four applicants seeking cultural descendancy. The other three applicants are her children and were unable to attend.
 - Council Chair Antonio open item up for public testimony
 - Ke'eumoku Kapu address council.
 - Mr. Kapu stressed one of the most important things that this council responsibilities fall upon is the importance of recognizing a lot of people that is willing to step to plate. Mr. Kapu explained that it is a horrendous process, created by State agency to be recognized as cultural, lineal descendancy status. Good to see a lot of families stepping up to plate to make sure they are ones considered to do the reinternment when it comes to iwi kupuna. Mr. Kapu explained that in the Moku of Lāhainā, established burial committee. Never felt need to claim descendancy thru State because know responsibilities of what needs to be done in Moku when it comes to taking care of iwi kupuna.
 - Mr. Kapu liked to really stress to council when there's families stepping up for descendancy recognition, knowing that they are the ones that will be advised when it comes to reinternment, it's a priority. Things that are occurring in Lāhainā, similar to what occurring in Hamoa. Mr. Kapu would like to give 100% support for applicants seeking descendancy.
- Council Vice Chair Maxwell asked SHPD for information re: Iwi from Hamoa currently in facility.
- Burial Specialist Phillips replied that SHPD has one set of iwi kupuna, that according to information Mr. Phillips was able to gather, was taken from the corner of the pavilion at Hamoa Bay/Mokae Cove. SHPD also has four sets up iwi kupuna that was removed from the coastline of Koholaiki (Kolaiki), which is located right next to Hamoa Bay/Mokae Cove on the Kipahulu side. After discussions with the community, it was decided (by community) that only the iwi kupuna taken from Hamoa/Mokae Cove will be reinternment at this time. The community will work to reinter other iwi at a later date.
- Shouldn't be too long for iwi to be returned asked Council Vice Chair Maxwell. Mr. Phillips replied that that is a question for the community as it is his understanding that area has been restored and is ready for iwi to go back home.
- Council Chair Antonio mentioned that Mr. Kai Prais also provided written testimony in support of recognizing the four applicants.

- Councilmember Scott Fisher make a motion that The MLIBC recognizes Mavis Oliveira-Medeiros as Cultural Descendant to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors
- Council Vice Chair Dane Maxwell second motion
- All aye; no nay
- Motion passed

E. Cultural Descendancy Recognition of Megan Medeiros to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.
- Councilmember Scott Fisher make a motion that The MLIBC recognizes Megan Medeiros as Cultural Descendant to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors
- Council Vice Chair Dane Maxwell second motion
- All aye; no nay
- Motion passed

F. Cultural Descendancy Recognition of Earl Kuikahi Medeiros, Jr. to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.
- Councilmember Scott Fisher make a motion that The MLIBC recognizes Earl Kuikahi Medeiros, Jr. as Cultural Descendant to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors
- Council Vice Chair Dane Maxwell second motion
- All aye; no nay
- Motion passed

G. Cultural Descendancy Recognition of John Bull Palani English to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3,

and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.

- **Councilmember Scott Fisher make a motion that The MLIBC recognizes John Bull Palani English as Cultural Descendant to Unidentified Human Skeletal Remains, Site 50-50-04-1795, Features 1, 2, 3, and Site 50-50-13-8507, Features 1, 2, 3, 4, located at Hāmoa Beach Park Wastewater Project, Hāmoa Ahupua‘a, Hāna District, Island of Maui, TMK: (2) 1-4-010:001 pors**

- **Council Vice Chair Dane Maxwell second motion**

- **All aye; no nay**

- **Motion passed**

- Councilmember Johanna Kamaunu explained to the descendants that council truly appreciates all families coming forward to seek recognition. It is because the families coming forward and providing council/department with information, it has allowed council/department to act on how to properly care iwi.

H. Cultural Descendancy Recognition of Carol-Marie Kaonohiokala Lee to Unidentified Human Skeletal Remains, found at ATC Makena N Golf LLC, 0 Makena Alanui Rd, Papa‘anui Ahupua‘a, Honua‘ula District, Island of Maui, TMK (2) 2-1-008:100,

Discussion/Determination: Discussion and determination whether to recognize the above individual as a cultural descendant to unidentified human skeletal remains at the above location.

- SHPD Burial Site Specialist Kealana Phillips read aloud SHPD letter of recommendation to the council.

- Councilmember Scott Fisher recused himself citing that he is currently working with ATC Makena to find a Cultural Manager. Council will still maintain quorum.

- Tanya Lee-Greig address council in support of applicants claim.

- Ms. Lee-Greig stated that applicant is her mother. Ms. Lee-Greig stated she is also a recognized cultural descendant to iwi kupuna in the Papa‘anui Ahupua‘a. Ms. Lee-Greig is here to answer council may have re: applicants claim.

- Ke‘eumoku Kapu address council.

- Mr. Kapu in support of applicant descendancy application claim.

- Mr. Kapu stated that applicant is Aha Moku representative for that area. Been working with community to establish committees. Hoping this recognition will give applicant more to consider when talking about protection and preservation of iwi kupuna per Mr. Kapu.

- Dana Naone Hall address council in support of applicants descendancy application claim.

- **Council Vice Chair Dane Maxwell make a motion that The MLIBC approve recognition of Carol-Marie Kaonohiokala Lee as Cultural Descendant to Unidentified Human Skeletal Remains, found at ATC Makena N Golf LLC, 0 Makena Alanui Rd, Papa‘anui Ahupua‘a, Honua‘ula District, Island of Maui, TMK (2) 2-1-008:100,**

- Councilmember Leiane Paci second motion
- All aye; no nay
- Motion passed

V. SHPD/INADVERTENT DISCOVERIES/CORRESPONDENCE

A. **Inadvertent Discovery of Human Skeletal Remains at Maui Lani Subdivision Phase VI, increment 4, reported to the Maui Office of the State Historic Preservation Division on October 18, 2018 and October 24, 2018, Ahupua‘a of Wailuku, District of Wailuku, TMK: (2) 3-5-099:225** **Information/Discussion/Recommendation:** Discussion about the above find.

- Nico Fuentes, Atlas Archaeology address council.
- Mr. Fuentes explained that monitoring continued during trenching of the sewer line within Road A. Per the accepted AMP, all excavations within 100 ft of a cluster of known burials are under controlled excavation. On October 18, 2019, a few skeletal elements of an adult cranium and long bone were exposed in Road A approximately 3 ft. below surface and designated TS180. Mr. Fuentes stated that all excavations halted, SHPD, MPD, DOCARE notified and location of the HSR recorded and caution tape and orange protective fencing was installed around the burial pit. TS 180 located western edge of utility corridor and in proximity to TS179, a small scatter of displaced adult cranial material.
- Initial inspection of trench walls, per Mr. Fuentes, exhibited predominately fill deposits, although excavations may be approaching the transition between previously disturbed and original sand dune deposits. Based on stratigraphic profile, the skeletal remains may be in a primary context explained Mr. Fuentes. Additional documentation will be performed to minimally ascertain the context of TS180 and to determine if the skeletal elements from TS179 belong to TS180.
- Mr. Fuentes stated that on Tuesday, October 23, the archaeological monitor observed Human Skeletal Remains (TS 181) in the proposed utility corridor and excavation of Lot 143. Construction halted, SHPD, MPD, DOCARE contacted. Both MPD and DLNR officers expressed that they did not believe it was a crime scene and therefore gave the authority to SHPD per Mr. Fuentes. Through mapping and investigation, no portion of the individual could be observed in situ. Total of 15-20% of the individual was recovered. Within the interim buffer that was erected around TS181, during manual investigation on October 24, another potential burial was observed per Mr. Fuentes. This recent find designated TS182 was determined to be a primary, in situ burial.
- Mr. Fuentes stated that in light of these recent finds, general contractor demobilized (no more digging) pending utilization of other archaeological methods (GPR).
- Perform GPR in remaining utility corridors. Just completed that in early December. Produced quite a bit of data; Gone through enhancing phase giving a visual idea of what might be subsurface. Variation in the things that seeing currently, of slight use explained Mr. Fuentes.
- GPR functions as a machine that's going to look for stratigraphy, undulation, variations in density of material. Not looking for grave; looking for anomalies. Anomalies came back; came back in huge gametes. Some 25 ft by 10 ft., some smaller like root casts or stones. Trying to correlate visual result of GPR with known result in earth is difficult. Need to ground truth. At some point, need to investigate what's seen on machine with what is there. Need to do that; haven't done so yet per Mr. Fuentes.

- GPR went across proposed areas of excavation in future with intent that if anomalies in particular concentration, area would be avoided. End Result showed that anomalies were everywhere, some large, some small. Some where in there, probably more graves. Without ground truthing, impossible to know where they are within the anomalies.
- Council verified that even with use of GPR, still need to be digging?
- Mr. Fuentes replied yes. The idea would be wouldn't dig up all anomalies. Find correlation between particular looking anomaly and particular result. For example, test big huge anomaly, maybe that's what stratigraphy variation looks like. If that's the case, if encounter that same looking anomaly again, won't need to test per Mr. Fuentes
- Dune lithification show up as an anomaly asked councilmember Fisher. Mr. Fuentes replied that there are various kinds of lithification. Some of the imagery from GRP, lithification is observable, can see striations. Kind of trickier in softer sands, kind of mucky. Fill material, compaction over years, imported material, hard to tell.
- Council Vice Chair Maxwell asked about the depth. Max efficiency replied Mr. Fuentes is 12 feet. Pretty deep. Below installation of utilities for the most part.
- GPR proposed utility corridor. If anomalies show up, GPR outside of that as well. Looking for areas of no anomalies.
- Council Vice Chair Maxwell asked if there have been other GPR testing done in sand dune areas for comparative analysis? Contractor that was used has experience using GPR only in traditional graveyards per Mr. Fuentes.
- Wished it was used previously; not just in this last sand dune area of Maui Lani stated Council Vice Chair Maxwell. Not truth each one. If similar, will test only one. Not trying to intrude, hence decision to use GPR per Mr. Fuentes. Anomalies range from 3-8 feet. Some anomalies are subsurface (at surface). No excavation has occurred yet per Mr. Fuentes.
- Mr. Fuentes mention trenchless excavation.
- horizontal drilling would occur 18 feet below surface; 50 feet in length. Council Vice Chair Maxwell asked if pipe were to break what would happen. Mr. Fuentes replied that it is his understanding that pipe would be installed within a sleeve of denser material. If pipe were to break, excavate in known areas on either side, remove pipe and reinstall another one. It's all close quarters exclaimed Mr. Fuentes.
- When start augering, need to clear area on either side; area is cleared. But, it is surrounded by graves. Tight quarters; high concentration of iwi.
- One thing to keep in mind, per Mr. Fuentes, one burial found at Maui Lani subdivision 16 feet below surface. Digging 18 feet close to that outlier. Just because haven't found anything that deep, doesn't mean they aren't there. Potential of augering into iwi. Yes. Been hesitation of previous councils when discussing possibility of horizontal trenching. Council Vice Chair Maxwell reiterated previous council concerns as being the same and current council.
- Councilmember Kamaunu asked for clarity re: map given to council
- Lisa Rotunno Hazuka (ASH) address council.
- Ms. Hazuka mention the request from councilmember Kamaunu re: meeting to discuss community members access to preservation area. Wanted to bring before council; get council mana'o. Ms. Hazuka's understanding was that councilmember Kamaunu wanted Towne Realty to meet with community members to discuss access to site to conduct protocols/ceremonies. Normally access would be discussed during the drafting of preservation plan per Ms. Hazuka.
- Councilmember Kamaunu explained that she was approached by people in community re: access to exercise protocol. Councilmember Kamaunu proposed

questions to Burial Specialist Kealana Phillips. Mr. Phillips requested a list of names who councilmember Kamaunu would want from community to meet with representative from Towne. Upon receipt of names, Burial Specialist Phillips forwarded names to Iris Pe'elua of Towne Realty. At that point, per councilmember Kamaunu, awaiting response from Towne.

- Is intent to access site right away or when preservation plan being drafted asked Ms. Hazuka. Should Towne meet primarily with community members or open discussions to MLIBC as well.

- Point of discussing item right now, exclaimed Ms. Hazuka, is that Towne did not want to meet only with community and exclude MLIBC from discussions.

- Mainly for procedure, something that future groups can follow. Councilmember Kamaunu mentioned she was hoping it would stay only in Burial Specialist Phillips hands.

- Ms. Hazuka provided council with summary from beginning of construction till present day.

- Ms. Hazuka reference handouts: Figure 1, original design of ML VI. ML Parkway Roadway bounds entire subdivision. Figure 2, 3 locations of burial finds during AIS. Also, inadvertent find -5718, close to Maui Lani Parkway. Once burials identified during AIS, redesign subdivision to preserve burials in place. Buffer zones within linear green way. Due to location of 5718, could not preserve in place with current alignment of ML Parkway. Figure 3, redesign of ML Parkway in order to preserve Site 5718 in place. Goal is to always preserve burials in place. Figure 4, When in construction, preservation area in green, also had two proposed retaining walls on either end that bound the preserve and have roadways on either side. When southern retaining wall being created, found more burials and went into redesign. Pulled road back further south and created new alignment. Going through to look at new corridor, found new burials in road way as well as lot on other side (burial pits). Figure 5, preservation area expanded again to include 2 more lots, one on the north and one on the south of the current preserve. Burial Site location map given to council. Map shows where all in situ, possible burial pit, relocated, recent discoveries, and previously identified burials discovered at ML VI, 4. Northern end, where median, tough situation with roadway and concentration of burials. Towne looking at moving median, capture all burials so all is preserved in place and routing road around.

- Council Vice Chair asked if any testing, or monitoring done in area where proposed re-routing of road. Ms. Hazuka said not yet. Area has only been graded to proposed grade at this point.

- Ms. Hazuka explained when council discuss trenchless, thought was it would be further south because that's where lithification (sand stone), thick ledge located. If get below that ledge, shouldn't be any burials below lithified sand stone.

- Lot 139-A, in preservation as well as 143-A. Tough situation. Trying to redesign as much as possible to preserve burials in place per Ms. Hazuka.

- Council Vice Chair Maxwell wanted clarity re: proposed location for trenchless augering. Mr. Maxwell also wanted to know location of the burial discovered at 16 feet. Site 6675 as well as the burials near Lot 209-A were found deep (15-16 feet deep). One thing to consider explained Mr. Fuentes is that elevation see today is not the same as in the past. Burial found at 16 feet current depth. Burial essentially wouldn't have been dug that deep. Occupational surface identified. Nobody would be digging 18 feet through lithified sand.

- Council and archaeologist discuss location of proposed horizontal augering as well as old occupational layer in relation to deepest burial found to date in area. Burials in median, shallow on surface. Move toward golf course, looks like lithified sand making a valley. Thought was if stayed in lithification, further towards the south, then that's where try to do the trenchless. That's where GPR

done. One anomaly found; Still need to analyze. Can't determine what anomaly is unless ground truth.

- Biggest concern, when did lithification layer occur? Were kupuna residing there before? Even though identify lithification layer as possibly someplace no burials below. May not be the case. If auger, no way to test because not going to trench. Can't be certain in saying to iwi below lithification layer stated Council Vice Chair Maxwell.

- Always been concern stated Ms. Hazuka. In lieu of not relocating any burials, to put in pipe, top down. This is only alternative. Or not have a sewer line stated Council Vice Chair Maxwell. Perhaps when more info re: results of GPR, talk more about this. GPR, always been controversial. Best environment for GPR, dry sand per Ms. Hazuka.

- Ask council for permission to check anomalies. 17 anomalies identified thru GPR. Broken down into three groups: low, medium, high probability.

- Councilmember Paci explained that it is her opinion that council cannot not recommend exploratory testing of anomalies because it was the council that sent them down this route.

- First time discussing the need to ground truth. Ms. Hazuka explained can't consider all anomalies possible burials. A lot of people have not had success with GPR re: identifying possible burials, especially in certain soils. Hope is, test high probability anomalies.

- How fit into law asked councilmember Paci. Don't know if it's a burial until it's found. If see anomaly, doesn't mean it is a burial. That's why ground truth per Ms. Hazuka.

- If corridor had a bunch of anomalies, interpretation is may be burials, would select separate location, abandon idea of utilizing corridor.

- Council Vice Chair Maxwell asked about testing the already known in situ and burial pits to use as control/base line. Mr. Fuentes explained that he has done so. Sand dunes system, 3 different types of pits, lithified (hard), fill (soft), soft inside of soft. People that didn't have pits (laid on surface, sand piled on top). Anomaly footprint small. Results of two different pits....half the time you get a result. Technology little "iffy", but got merit stated Ms. Hazuka.

- Council Vice Chair Maxwell stated that he would like to see minimal ground truthing. If can use other tests as controls, that would be ideal. Minimal disturbance for all testing.

- Councilmember Kamaunu asked what causes the anomaly. Density of material answered Mr. Fuentes. GPR works by machine sending down beam into earth, it's getting a ping back. However fast it comes back, tells operator that there is either something there or not.

- Anomalies show up, cannot tell what it is. Change in natural layers, cultural manifestation (somebody dug by hand).

- At current depth, graded off past fill layers, down to virgin strata, much better chance getting accurate results (versus AIS).

- Following ridge, although at different elevations (from 172 ft. to 196 ft. elevation).

- All buried at same depth? Social stratification? Cannot predict. Not all pits created equal.

- Council Chair Antonio call meeting to recess at 10:55AM

- Meeting resume at 11:05AM

- Council Chair open item up for public testimony

- Kaniloa Kamaunu address council.

- Mr. Kamaunu stated he is concerned re: councilmember Leiane Paci participation on subject matter because of relationship with archaeologist,

business relationship with Towne Realty; should recuse herself per Mr. Kamaunu.

- Mr. Kamaunu wanted to clarify comment about no cultural practices being done prior to construction is false. Mr. Kamaunu mention Clare Apana (2006). Mr. Kamaunu mentioned the topography of area and cultural history of land. Battles that occurred, which never acknowledged by landowner cultural specialist until recently. Can't have foreign influence, dictating what history and past was per Mr. Kamaunu. Knowledge, info passed down through generations; came from Kupuna. Relationship between archaeologist and developer unacceptable per Mr. Kamaunu. Developer pay archaeologist findings that they want. Legislation have to change. State need to be in control of archaeologist. License, qualified, etc. Mr. Kamaunu referenced burial count. Status as inadvertent. When get justice? Coming to meetings for over decade. Being erased. People separated from land. Losing kupuna, language. When will this stop? Even in death can't find justice exclaimed Mr. Kamaunu.

- Clare Apana address council.

- Ms. Apana thanked council for efforts made throughout year to improve the way things are being done. Acknowledged long way to go. Ms. Apana explained tried to get another meeting with SHPD. Initial meeting with Dr. Downer, gave 3 letters addressing concerns at ML VI. Ms. Apana asked if could reconfigure room in a way that testifiers back not facing community. Community more involved in meeting requested Ms. Apana. Ms. Apana request more notification from department/council re: when agenda finalized or when any info pertaining to ML gets drafted/submitted. That she be included. Why 2006/2007, project proposed, first AMP. Letter from SHPD to Jeff Pantaleo, 3 Acre burial preserve -2797 (Neller). Burial preserve that went with phase 6, ML. If stuck with 3 acre, would burials have had more protection? Council has ability to make decisions, despite kuleana being greatly diminished per Ms. Apana. Ms. Apana thanked Mr. Kai Markell for conducting site visit to meet with developer, archaeologist, OHA. Ms. Apana also mentioned that the idea for landowner to meet with community members was proposed by Mr. Markell as well. Haven't heard anything about it. Ms. Apana asked if recognized cultural practitioners (Clare, Kaniloa, Noelani) can get info re: all burials at ML VI.

- Councilmember Paci stated that Site -2797 located in golf course; not part of phase 6. Site -2797 in preservation, fenced in.

- Councilmember Fisher asked how large is the preservation area in phase 6? It's around two acres answered Ms. Hazuka. Smaller than originally planned? Ms. Hazuka clarified by reiterating what councilmember Paci said about site -2797 being located in golf course. Ms. Hazuka stated that, that site is 3 acres, created around Neller burial finds 1984. Ms. Hazuka mentioned that both herself and Mr. Pantaleo there in 1990, 1992, and 1996. Burial council reinterred 5 individuals into -2797 around 1997 per Ms. Hazuka.

- Lucienne de Naie address council on agenda item.

- Ms. de Naie stated she has worked with Ms. Apana and other cultural practitioners of area for over a decade. Watched attempt to try to put things right on lands, spiritual side of things. Bringing in folks to mitigate wrongs. Ms. de Naie stated that cultural practitioners are sincere, do not get paid. Motivated by feelings of connections to kupuna. Maps confusing per Ms. De Naie. Things change over time (TMK), hard for community to keep track. Ms. De Naie stated that earlier maps, dating back to 2000 and earlier, shows Site -2797 not in golf course, but what became ML VI. Try piece everything together. Looks like when landowners know concentration of burials, move it into something else, lot lines, so not have to deal with. May not be happening; that's what it appears to public. Very confusing per Ms. De Naie. Original recommendation 3 acres, not

sure how it became 2 acres. Should be in notes/minutes per Ms. De Naie. Terrible to heritage being ignored; designated as inadvertent finds. Ms. De Naie implored council to use powers to declare area traditional burial ground and treat it as such.

- Dana Hall address council on agenda item.

- Ms. Hall stated original 2-acre preservation, unsure when designated. At that time, phase 6 not on anyone's mind. Phase 6 nothing to do with designation per Ms. Hall. Landowners have always been forthcoming with council; still happening today per Ms. Hall.

- Remainder of Ms. Hall testimony inaudible.

B. Letter Dated October 30, 2018 from the County of Maui Department of Public Works Engineering Division re: National Historic Preservation Act, Section 106 Consultation Kea Street Pavement Reconstruction South Papa Avenue to South Wakea Avenue, District of Wailuku, Island of Maui, Ahupua'a of Wailuku Federal Aid Project No.: STP-0900(093) Tax Map Keys(s): (2) 3-8-27, 29, 30-32

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

- Discussion ensued by council re: this project.

- Councilmember Fisher asked if County stated that there will be an archaeological monitor? Mr. Fisher mention he did not see it specified in letter.

- Letter is simply a request to be consulting party. Council mentioned that the area in question is all sand.

- Council chair Antonio asked if council would like chair to respond to letter on behalf of council?

- Councilmember Fisher mentioned main suggestion to County is to have an archaeological monitor present during process of repaving due to its location.

C. Letter Dated October 31, 2018 from The County Council, County of Maui re: Maui County Legislative Package (2019 Maui County Legislative package)

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

- Burial Specialist Phillips explained that the legislative package was rescinded. Mr. Phillips stated that it was H & C Branch Chief Hinano Rodrigues that spoke to directly to County Councilmember Yuki Lei Sugimura and received confirmation of package being withdrawn.

- Council Chair asked if council would like to discuss? Question proposed is it likely to come back up?

- Councilmember Paci stated that it is unlikely based on the impending change in County Council.

- Discussion ensued amongst council. Worth a read, particularly if passed, burial council would fall under commerce and consumer affairs or may not even exist for that matter.

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

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

- Dr. Susan Lebo, Archaeology Branch Chief available to answer council questions.
- Councilmember Kamaunu asked when does the state archaeologist get a burial to review?
- Dr. Lebo explained that within archaeology branch, work on arch project AIS, data recovery project, etc. Individual wouldn't approach arch branch re: burial unless AIS being done, aware of particular cultural resource (cave, burial, etc.). Applicant would not come to arch branch for recognition per Dr. Lebo. Dr. Lebo explained that the way rules set up, any project that comes to SHPD for review, anybody from public has opportunity to consult. Unlike, 106, agency go out and consult. Under 6E (state process), incumbent on interested party to come forward and request to be consulted with. SHPD required to post on website, every Friday, every project come to SHPD during week that has been logged. Or every project for which a determination has been made.
- One place in rules re: AIS where firms need to reach out and consult is when historic properties identified within project area that may be considered potentially significant under criterion e (significant to particular ethnic group). Rules explicitly state firm need to reach out to OHA, (required party). Not OHA only per Dr. Lebo. Consultation include input of whether or not historic property significant under e and what appropriate mitigation.
- Not archaeologist role to be whole decision maker. Must reach out; consult. Must take consultation into consideration. Need to be included in report. Indicate consultation parties and what was recommended, how addressed. Clear not always occurred in past per Dr. Lebo. People that are of culture vs people that are not of culture. Somebody not of culture, may not always recognize cultural importance of something. Rule set up so that people of the culture can help make decision per Dr. Lebo.
- Traditionally in Hawai'i, no body question burials, heiau, shrine, ahu significant under e. Whole range of other aspects (Hawaiian culture) cultural evidence on landscape, that is not always recognized by everyone under e. That is why really critical, build into rule for people to have ability to say this is significant, considered under e. That's where archaeologist deal most likely with burials.
- Dr. Lebo mention that it's clear there is often confusion with how rules set up with respect to what counts as previously discovered burial and an inadvertent find. Dr. Lebo stated in both cases, they are burials, under the burial rules. Special kind of historic property. That is why burials have their own set of rules 13-30 (deal specifically with burials). If burial found during AIS, for the decision-making process, treated as Previously ID. After AIS, during construction, monitoring, considered inadvertent find. From Dr. Lebo prospective, main reason division created, when during AIS, have ability, because it's before construction starts, to go through long consultation process. Whereas, if in construction, idea behind rule, not to stop construction and spend however many months take to go through process. To make a decision in a more-timely manner per Dr. Lebo.
- Burials found during construction/monitoring called inadvertent. No less of a burial then those that are found during AIS per Dr. Lebo.
- Term causes lot of hostility and animosity explained councilmember Fisher. Perception inadvertent, not supposed to be there, didn't know there. In most cases, found one, likely to find more.
- Dr. Lebo explained that how boundary defined for a site, critical with respect to what happens going forward after that. Future finds considered inadvertent vs previously identified based on if finds occur within defined boundary of site or outside. AIS, important to be part of process with respect to deciding what is

significant, and what might be appropriate boundaries for site. Tighter draw boundaries, more potential to exclude what's outside per Dr. Lebo.

- Rules incumbent on interested parties to come forward to consult, not archaeologist.

- Councilmember Kamaunu asked if already know that burials in area, aren't they all considered previously known?

- Dr. Lebo stated it's a good question; extremely difficult to answer. Generally, it's known that burials are in sand. Need someone to come forward and say, this particular area, there's burials. In that case, would be considered previously id. Cannot just say because of a particular matrix (sand) used for burials, that every burial going forward found in sand will be previous id. That's the difficulty.

- Certainly, want to preserve site, albeit difficult to do so if do not have info (if community hesitant to share) explained Dr. Lebo.

- Councilmember Kamaunu asked what is the appropriate boundary that gets drawn around a burial site. Dr. Lebo replied that it's usually determined in consultation with SHPD. No set amount. Can be 10 feet, 20 feet. Depend on location, whose involved in consultation per Dr. Lebo. Small in urban area; larger in rural. Site or placed based. Contingent on decision of how boundary be established. Wall, fence, planting. All happen through consultation. Case by case basis.

- Council Vice Chair Maxwell asked about if come across insufficient AIS, how to proceed? Ask for AIS. Variable. Depends on status of project stated Dr. Lebo. Can ask for new one, particularly if previous AIS was old. No set date. Look at when done, what previous AIS was done for. Determine if request new AIS.

- Dr. Lebo stated that once AIS accepted, construction start, cannot think of an example of where SHPD request new AIS at that point. Part of reason is SHPD does not have authority to stop project. Only authority when project submitted to SHPD. Not all projects submitted to SHPD. Go to county first, or other state agency. Only if project brought to SHPD, ability to comment, make recommendation. Don't issue permits (SHPD), cannot put stipulation on permit. Can tell county, request certain things, but the county (if county permit) has ability to not send to us or not to take our recommendation.

- If violation, possibly not compliance, ask county to put stipulation on permit. Once project permitted by county, SHPD does not have ability to stop project and go back and do AIS. Can say based on findings, re-assessment of project, request voluntarily arch monitoring.

- Only time can request county issue a stop work order if when not in compliance. Up to county. Sometimes they comply, sometimes they don't. Sometimes confusion among counties as to who has authority to issue stop work order.

Meeting adjourned at 11:54AM

Minutes by Kealana Phillips. SHPD Burial Site Specialist