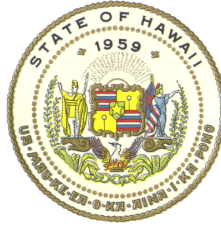


DAVID Y. IGE
GOVERNOR OF HAWAII



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
KAHO'OLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

**MINUTES
HAWAI'I ISLAND BURIAL COUNCIL MEETING**

DATE: Thursday, June 20th, 2019
TIME: 9:30 AM – 1:30 PM
PLACE: West Hawai'i Civic Center
Conference Room
74-5044 Ane Keohokālole Hwy.
Kailua-Kona, HI 96740

ATTENDANCE:

HIBC Members: **Present:**
Vice-Chair Kalena Blakemore (Puna)
Member Waiola Higa (Hāmākua)
Member Norman Ka'imuloa (Kona)
Member Clifford Kapono (Hilo)
Member Scott Mahoney (Ka'ū)
Member Maxine Kahā'ulelio (Kona)

Absent:
Chair Nālei Pate-Kahakalau (Hāmākua)

SHPD Staff: J. Kea Calpito, Burial Sites Specialist

I. CALL TO ORDER

Vice-Chair Blakemore calls to order the meeting at 9:37 AM.

II. ROLL CALL/PULE

Member Kahā'ulelio conducts pule.

Scott Mahoney, Maxine Kahā'ulelio, Clifford Kapono, Waiola Higa, Norman Ka'imuloa, Kalena Blakemore.

III. MINUTES

A. Request for Approval of the Minutes for May 16, 2019.

Summary:

- Kea requested to have his statement removed from page three, bullet seven.
- Vice-Chair Blakemore requested to have page numbers added to the minutes.

MOTION: To approve the minutes with amendments
MOVED BY: Member Ka'imuloa
2ND BY: Member Higa
VOTE: Motion carried unanimously

IV. BUSINESS

**A. DRAFT Burial Treatment Plan for Burial Site #50-10-57-30593 Located in Hōlualoa 1st Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-6-021:017.
Information/Discussion: Information and discussion on the above Draft BTP.**

Summary:

- Glenn Escott provided background on the project and informed the council that Curtis Tyler and Nicole Lui, cultural descendants, were present to provide testimony.
 - The property has been used as cattle pasture for a really long time and that SCS did the AIS for the property with 22 sites, one of which is a lava tube with iwi inside;
 - There are two entrances with sediment in the tube and that the iwi are not articulated due to drainage through the tube;
 - Tyler and Lui had come down and helped a lot with adding information;
 - There will be a 20 ft permanent preservation easement with a low rock wall with a 30 ft no build zone; the interim preservation will be orange fencing placed 30 ft from the site and it will be inspected prior to any work;
 - Lui worked with the property owner and requested that three lauhala mats be placed over the iwi to protect them and located a capstone to cap the makai entrance and the mauka entrance will be filled with rock and clean fill to look natural and to not disturb the tube from the makai to mauka entrance;
 - The rest of the tube system has no cultural material in it and the main portion of the tube will not be impacted;
 - Right now there is no development but the plan is to have houses built there;
- Member Ka'imuloa asked what they were going to with the makai entrance. Escott replied that a large rock will be used to seal the makai entrance and the mauka entrance will be covered with fill and made to look natural. He mentioned that the makai entrance is fairly small and where the iwi are and the mauka entrance is deep and jagged with a lot of grass and cracks. Member Ka'imuloa asked how big the rock was. Lui replied the rock is pretty big and she went looking for a rock that would serve the purpose of covering the makai entrance and looked down and found the rock.
- Lui mentioned that she spoke with the landowner to ask if it was possible that the whole tube be preserved in place and have some kind of protection on top of the iwi during work in case the remnants from the roof of the cave and crushes the iwi. She stated that they agreed. Lui continued by introducing herself and background in working with iwi and cultural protocol.
- Member Higa asked about the mauka entrance and if someone went inside, would they have access to the makai side, that if the roof collapsed, would the area of tube with the iwi become accessible.
- Member Kaponu asked, "is there an audit provision to ensure compliance?" Escott replied that what's in there right now is that there will be no permits issued until the preservation measures are in place. Member Kaponu replied, "I'm asking for an audit

provision so after everything is in place 10 years from now there's still accountability.” Escott stated that something can be added in, as they've done in the past such as making it a yearly thing.

- Member Kapono stated, “And so that the lineal descendants understand that the burial plan is a mitigation plan, when you accept that plan you forsake the other dispute resolution options. As a matter of record, I want to mention, on June 17, Judge Cardoza, Maui District Court, invalidated the license for Archaeological Services Hawai'i so as a matter of record and testimony given by any agent or those associated with this agency, they're not legally valid at this time until that case can be adjudicated and this is the case at Sandhill and the iwi found on Maui, including SHPD, Archaeological Services, and the plaintiffs that I believe is Clare Apana.”
- Member Mahoney asked if the mauka cave was vertical or horizontal. Escott said that its horizontal, but it goes upslope. Member Mahoney asked why there was no buffer around the bigger, mauka cave. Escott replied because there are no cultural material or burial on that side. Member Ka'imuloa asked if a provision could be placed in the BTP where no construction will be allowed on the tube and Escott said that the idea is that the landowners wanted to be able to grade in the area of the mauka entrance outside of the preservation area. Member Ka'imuloa asked if that would be by hand or heavy equipment and Escott replied outside of the preservation area would be most likely heavy equipment. Member Kapono stated “that's why we need this audit provision because you can't stipulate the type of construction equipment used in the job but you can stress protecting the integrity of the site, so we're not infringing upon any type of development, any transfer of property title to new owners, were only speaking to preserving the integrity of that area which the kupuna iwi have been defined and classified as a site and by determination of the lineal and cultural descendants the sacredness and the cultural impact and to ensure that there is continuance so that once were all pau now the next guy and oh we don't know and all that kind of crazy stuff we want to have that within the contract going in so any violation of that, the descendants have an appellate process of suit, so you understand this is a mitigation plan, you still have the opportunity to litigate, keep that in your mind, so once this is down you accept this so you want to have conditions in here that are strong enough so if you have to appeal this process, what allows you to do that and who verifies that this can happen, so don't be misled by thinking that oh they said or I thought there was, suddenly jam up so want everything up front in writing and held accountable and you want this audit provision plan so every six months, twice a year, every quarter someone's 'gotta go out there and make sure that they're in compliance and if they're not then they're in violation of this contract and the deal is off and now they've 'gotta compensate you for that and the only thing the court can do is give you money, they can't bring back the iwi they can't bring back nothing, just give you the money, it's enough on the developer and the agencies who are advising you to hold them liable to that, you want to make sure this isn't just wala'au action.”
- Lui mentioned to Escott that she thought the long-term preservation was going around the two entrances and that she had expressed that to the landowner and to him.
- Member Kahā'ulelio asked about the acreage. Escott replied that the AIS was on five acres, but the entire parcel is 30.901 acres. Tyler mentioned that they also owned the property adjacent to that one with a total of about 70 acres and that the other parcel is phase three of Kona Vistas.
- Member Mahoney stated that his main concern is the buffer zone since caves can cave in from the top.
- Member Kapono asked “Is this the same owner with all these different parcels?” Tyler replied three owners under Kona Three LLC. Member Kapono stated, “As a council member, our job in my opinion is to ensure that the integrity of the people is protected

and it's not a continuum of the same violation making an argument of precedent that would allow them to exclude that from revisiting this case.”

- Tyler introduced himself and stated that the buffer and audit provision are very important, that the audit provision is long overdue and is critical. He mentioned that with Hōkūli‘a, a lot of legal ground was broken there and that Leon Sterling taught him about cultural landscape and that's what's being discussed right now. Tyler also stated that the access is very far away. He said that access needs to be closer, and to remember that every single tube became a burial in Hōkūli‘a, not just where the iwi were, but the whole tube and feels very strongly that the entire tube should be protected and have a 20 ft buffer from the edge of the tube.
- Vice-Chair Blakemore agreed that the whole tube should be within the buffer and that the audit provision is an excellent idea to be reworked within the legislature. She mentioned that she likes the accountability in perpetuity and also requested to have the hala mats that are going to be used to cover the iwi be done by practitioners in Hawai‘i and not commercially purchased.
- Lui discussed access and that in the past, she's had problems when she would call the owner to visit the site and sometimes they're not home or have changed their number and now she can't visit. She stated that she wants something permanent so if the owner changes, then the descendants will be notified and remain updated for access to the burial site. Member Kaponō said, “You want open access.” Member Higa asked if this kind of condition, for easement and access, can be recorded in the Bureau of Conveyance. Escott replied, yes. Lui stated that she's worried long-term, if the landowner changes.

B. Lineal Descendancy Recognition of Nathan Suganuma, Kanoe Wilson, Kalaninui Wilson, Lono Wilson, Palikapu Wilson, Aoloa Santos, Diana Suganuma, and Chris Nakagawa Ladd to the Skeletal Remains of Elizabeth Bartels, Interred at the Bartels Family Grave Site, Lanihau 2nd Ahupua‘a, North Kona District, Island of Hawai‘i, TMK: (3) 7-5-001:015.

Discussion/Determination: Discussion and determination to recognize the applicant(s) as a lineal descendant of Elizabeth Bartels, whose remains are interred at the above location.

The Council may elect to go into executive session pursuant to HAR §13-300-25(d). The Council may close a meeting whenever location or description of a Native Hawaiian Burial site is under consideration. The chairperson, by concurrence of a majority of members present at the meeting, shall be authorized to require the public to leave the meeting while the confidential matter is being discussed and reopen the meeting once the confidential matter is no longer being considered.

Summary:

- Vice-Chair Blakemore recommended to have the cultural descendants grouped as one agenda item and the descendants and council agreed.
- Nathan Suganuma introduced himself and his ‘ohana and explained to the council, their genealogy.
 - That they were not told about an Elizabeth Bartels, which is who the remains were identified as, but it would be his grandfather's younger sister based on the timeline given;
 - He and his ‘ohana had a meeting in Hilo to discuss treatment and some of the family members wanted the remains to be preserved in place while other wanted it to be relocated;
 - The family took a vote but tabled a final decision;

- They did a site visit and was sad and quiet because it was right next to the driveway and wasn't being cared for, that his grandaunt, this child wasn't taken cared of;
- The landowners had told them that in the past, family used to visit the site, but it never made it down to his generation;
- He feels the child had reached out to them after all this time and would like to see that the iwi is with her mother, Tūtū Hattie, on O'ahu, which would be a fitting final resting place.
- Vice-Chair Blakemore reminded the 'ohana that for now, the council will recognize the descendants and in the next agenda item, the family can go further into what they would like to see regarding the treatment of the remains.
- Kanoe Wilson introduced herself and explained to the council that her keiki, Kalaninui, Lono, and Palikapu couldn't be there with her today because they are in school but wanted to petition the council to recognize them as lineal descendants, so we can see that there are three generation of descendants.
- Diana Sukanuma introduced herself. She stated that she is a descendant of Emma Bartels, who is listed here, as Elizabeth Bartels.
 - In the early to mid-1980s, her grandfather would come and visit, and he mentioned his sister Emma who was scalded with hot liquid and died as an infant and her name was Emma;
 - She wanted to state for the record, that the remains is not Elizabeth, but is Emma and will not refer to her as Elizabeth because her 'ohana does not recognize an Elizabeth.
- Aoloa Santos introduced herself and relation to Sukanuma(N) and Wilson.
- Chris Nakagawa Ladd introduced herself and her genealogy.
- Vice-Chair Blakemore stated that she doesn't have a problem recognizing Wilson's children as lineal descendants, who are in school.
- Member Ka'imuloa stated that when they applied, the name Elizabeth came up, but today the name Emma came up, but the business here says Elizabeth, so if it's Emma, then they need to go through the process again. Member Kaponu replied, "No, on the motion that were going to vote on which becomes a matter of record, we can recognize that, we can recognize that and what were voting on, is were voting on Elizabeth, AKA Emma, so we include the Emma in this so it's not a deletion of anything, its an enrichment of our understanding to better understand of what we're speaking too." Vice-Chair Blakemore concurred with Member Kaponu and that this is oral history that they are receiving right now, so there might be reasons as to why the name may have changed.
- Member Kaponu makes a motion "that the claim to lineal descendant, Elizabeth Bartels, that the skeletal remains of Elizabeth Bartels AKA Emma Bartels in conjunction with those petitioning as lineal descendants at this meeting today by example of our agenda "B" through "T" be accepted by this council, may it be recognized."

MOTION: To recognize those petitioning as lineal descendants
MOVED BY: Member Kaponu
2ND BY: Member Higa
VOTE: Motion carried unanimously

C. DRAFT Burial Treatment Plan for a Bartels Family Grave Site SIHP# 50-10-74-29699, Lanihau 2nd Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-5-001:015. Information/Discussion: Information and discussion on the above Draft BTP.

Summary:

- Lokelani Brandt of ASM Affiliates provided the council with a background on the project and discussed how they got the name Elizabeth Bartels.
 - Haun and Associates completed the AIS in 2011 and that for this project a road needs to be designed to accommodate a large drill rig to go up;
 - Haun and Associates had heard from the landowners, the Ota family, that the platform was the burial site of Elizabeth Bartels;
 - Frederick Bartels acquired the property around 1894 and did coffee and sold the parcel around 1920s to the Nakamura family, who then sold to the Ota family in the 1930s;
 - The current owner is the granddaughter of the Ota who had heard from the Bartels that this was Elizabeth and she had also recalled being told that this was the burial of Elizabeth Bartels;
 - Explained that there are family members who represent both sides (relocate and preservation in place) and that's why she's here, to get some guidance and kōkua to determine where to go.
- Member Kaponō stated "That road would have to be shifted." Brandt replied that there are existing houses that are built right around these old dirt driveways and that there isn't too much wiggle room.
- Member Ka'imuloa asked if there was any possibility, if they decided to disinter, to move the iwi 20 to 30 feet because where the iwi was buried, it's where the home is. He mentioned that if you can just move it over, then the iwi would still be there where it was originally buried.
- Suganuma(N) explained that he felt the child was calling to him when he went there and that she was forgotten and had been left behind and would like to see her reunited with her mother and brothers and other family members.
- Suganuma(D) stated that she wasn't able to attend the family meeting, but they did hold a vote, which was seven to preserve in place and nine to disinter and relocate to a location to be determined, at that time, but now wants her relocated with her mom.
 - Asked if the council had a chance to do a site visit;
 - Having a hard time because how do you preserve a burial in an environment like this, with structures in close proximity;
 - Did not go to site but understands that it might be cumbersome to redesign road;
 - Have a kuleana to the current landowners since the 'ohana will need to be the ones who maintain the site;
 - If the remains are left there, it's a burden for the future landowners and there will be harm to the remains. Concludes that it's not in the best interest of her aunty to continue to remain there.
 - If her tūtū man, her brother, was here he would say please let her go with my mom, send her back to our 'ohana to have further discussion and closure.
- Member Mahoney stated that moving bones is also Hawaiian, that they moved them to special places, such as 'Iao Valley and Mauna Ala, and the important part is where the iwi ends up.
- Nakagawa Ladd stated that she's in agreement with her cousins and has three reasons why she would like to see the remains with her family.
 - Her gravesite has been long forgotten by the 'ohana and no one has passed the information down to the current generation. She mentioned that she lives in Oregon but when she saw the picture on the front of the BTP, she remembered the site from when she was about nine years old. She would come with her grandfather to Hawai'i every year and one year she went to this site and he told her it was his sister Emma and she remembered that because she wondered why there was a burial on the side of the road. She said that she has been there and that is who her grandfather told her it belonged to.

- Access, as long as the iwi remains on the property, access is restricted. According to the BTP, they need to give a 48 hour notice and that's difficult, though in a cemetery, all 'ohana will have access to her;
- Future property owners, the current family has been caring as best they can however future property owners do not have any obligation to mālama this site;
- She is reaching out to them. The 'ohana sold this property and severed the ties to this land and moved on; she does not belong here but with her 'ohana.
- Wilson stated that this situation comes at a time where her family is starting to know more about their history.
 - When iwi are in the 'āina, they're part of the 'āina and that's where their mana is and once we remove that sanctity of that iwi kupuna, it seems we wipe away that kuleana;
 - Part of the reason she put her children here is because she wants them to know they have that kuleana to mālama;
 - She is part of the group that wants to preserve in place because there is a tie, a piko here to connect to this 'āina and one day, her mo'opuna can say this is a place they can connect to;
 - Access can be written into the plan but once she is removed, do we move her to an 'āina where she has no pilina and by moving her, they now disturb two grave sites;
 - When they went to the site visit, they felt good knowing she was in a good place but what could they do to protect her more to protect the integrity of this site;
 - The mana of them is in there on that 'āina making it fertile and they don't know the spiritual implications of her being removed, who's to say she's not the blessing for this 'ohana;
 - They need to keep her there to show future generations that this 'āina was once part of their 'ohana.
- Santos stated that it's hard because she has 'ohana, a sister and a father, who's on both sides of the argument. She mentioned that she has pule'd a lot and the main thing she gets from this is that she doesn't want to be forgotten. Santos explained that she doesn't think her kupuna cares where her iwi is, she just doesn't want to be forgotten and that whatever the outcome, she just wants to honor her.
- Member Kakā'ulelio stated that we cannot be divided, the 'ohana has to be one. Santos replied that we honor our elders and kupuna and that's why she doesn't want to make a decision but wants her father to speak on behalf of her 'ohana because she respects her father and that traditionally, he is a generation above to decide and she honors her father's request. Member Higa stated that it makes him think a lot more seriously to see the two sides and that there is a lot of love and respect here with her 'ohana.
- Member Kaponu stated, "I'm here to serve you. I'm not here to make a decision for you, but to serve you."
- Member Ka'imuloa mentioned that it's a difficult situation when there are two sides in the family, but he sees plenty of aloha to do the right thing.
- Vice-Chair Blakemore stated she felt honored to be here, to, as Member Kaponu said, serve them. She mentioned that issues regarding access can be addressed in the BTP and that future owners should always know their responsibility.
- Member Higa clarified that this is a preliminary BTP, so what is their purpose here. Brandt replied to aid in the consultation. Member Higa asked if they were fulfilling that here and Brandt said yes.
- Wilson asked for a cultural monitor onsite so that during the fencing off and when the equipment operators come past, they will know that they cannot encroach on this area.

- Suganuma(D) stated that from the pictures, they can see that care wasn't given and the property owners knew it was a burial site. She added that her hope is that the HIBC will send it back to her family for disposition.
- Member Higa asked since the family vote was so close, were they hoping that the HIBC would make the decision whether to relocate or preserve in place for them and Suganuma(N) replied that he was. Member Ka'imuloa stated that it's not in their scope to tell them they can take the bones and that they need to tell them what they want after they decide. Member Higa added that they are in a similar position, that if the HIBC voted, it would not be unanimous.

D. Discussion on Hawai'i Island Burial Council Membership, Roles, and Responsibilities.
Information/Discussion: Discussion on the above item.

Summary:

- Vice-Chair Blakemore updated the council on her communication with Kai Markell from OHA.

V. INADVERTENTS/COMMUNICATIONS

A. Inadvertent Discovery of Unidentified Human Skeletal Remains Encountered on June 10, 2019, During Monitored Excavation Activity for the Lono Kona Sewer Improvement Project, Honua'ula and Keopu Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-5-022:058.

Information/Discussion: Information and discussion on the above inadvertent discovery.

Summary:

- Kea informed the council about the above inadvertent discovery. He mentioned that this project was the same as the one from last month but different remains. He explained that the excavator breached the top of the lava tube and when the archaeologist went down, they discovered four sets of remains in one of the connecting chambers, most likely in-situ, but that the side of tube where the remains were, were across the street from the area that they were currently working on. Kea said that he had asked the project manager if they would be working on that side of the street and they said no. He informed the council that he made the determination to preserve in place the remains.

B. Letter from the County of Hawai'i, Department of Environmental Management, dated June 06, 2019, RE: National Historic Preservation Act (NHPA) Request to Initiate Section 106 Consultation and Request for Concurrence with Area of Potential Effect Kealakehe Wastewater Treatment Plan R-1 Upgrade Project Clean Water State Revolving Fund Project No. C150080-35 Kaloko, Honokōhau, Kealakehe, and Keahuolū Ahupua'a, North Kona District, Island of Hawai'i, Hawai'i, Tax Map Keys: (3) 7-3-009:027; 7-4-008:002, 058, 073; 7-4-020:007, 019, 021, 022; 7-5-005:007.

Notification/Discussion: Notification and discussion on the above correspondence.

Summary:

- Kea informed the council about the letter provided in the council's packet and that they can respond by using the provided contact information found within the content.

VI. ANNOUNCEMENTS

A. The Next HIBC Meeting is Scheduled for Thursday, July 18, 2019, 9:30 AM at the Division of Forestry and Wildlife Conference Room, 19 E. Kāwili St., Hilo, HI 96720

VII. ADJOURNMENT

Meeting adjourns at 1:03 PM.

*****THE ABOVE MINUTES WERE APPROVED AT THE 07/18/2019 HIBC MEETING*****

Pursuant to §92-3 Hawai'i Revised Statutes (HRS), all interested persons shall be afforded an opportunity to present oral testimony or submit data, views, or arguments, in writing on any agenda item. Additionally, pursuant to a policy adopted by the Hawai'i Island Burial Council at its November 17, 2005 meeting, oral testimony for items listed on the agenda is limited to three minutes per person, per agenda item.

Pursuant to sections §92-4, §92-5(a)(8), and §6E-43.5 HRS, and upon compliance with the procedures set forth in §92-4, HRS, the council may go into a closed meeting to consider information that involves the location or description of a burial site.

A request to be placed on a burial council meeting agenda must be made with the Burial Sites Program 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 State Historic Preservation Division in room 555 of the Kākuhihewa Building located at 601 Kamokila Boulevard, Kapolei, Hawai'i 96707. Persons with disabilities requiring special assistance should contact the division in advance at (808) 692-8015.