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GOVERNOR OF HAWAII



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COMMISSION ON WATER RESOURCE MANAGEMENT

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M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

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KAHO'OLAWA 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, September 19<sup>th</sup>, 2019  
**TIME:** 9:30 AM  
**PLACE:** Division of Forestry and Wildlife  
Conference Room  
19 E. Kāwili St.  
Hilo, HI 96720

**ATTENDANCE:**

**HIBC Members:** **Present:**  
Chair Nālei Pate-Kahakalau (Hāmākua)  
Vice-Chair Kalena Blakemore (Puna)  
Member Waiola Higa (Hāmākua)  
Member Norman Ka'imuloa (Kona)  
Member Scott Mahoney (Ka'ū)  
Member Desmon Haumea (Ka'ū)

**Absent:**  
Member Clifford Kaponu (Hilo)

**SHPD Staff:** J. Kea Calpito, Burial Sites Specialist  
Chris Omerod, Burial Sites Specialist

**I. CALL TO ORDER**

*Chair Kahakalau calls to order the meeting at 9:34 A.M.*

**II. ROLL CALL/PULE**

*Member Higa conducts pule.*

*Scott Mahoney, Desmon Haumea, Waiola Higa, Norman Ka'imuloa, Nālei Kahakalau, Kalena Blakemore.*

**III. MINUTES**

**A. Approval of the Minutes for August 15, 2019.**

**MOTION:** To approve the minutes with spelling corrections  
**MOVED BY:** Vice-Chair Blakemore  
**2<sup>ND</sup> BY:** Member Mahoney  
**VOTE:** Motion carried unanimously

#### IV. BUSINESS

- A. Discussion on Hawai‘i Island Burial Council Membership, Roles, and Responsibilities.**  
**Information/Discussion:** Discussion on the above item. Request by Vice-Chair Blakemore to discuss orderly conduct of meetings.

##### **Summary:**

- Vice-Chair Blakemore informed the council that she wanted to talk about conducting orderly meetings.
  - Introduced principles of kapu aloha and that it is working in other places.
  - Robert’s Rules are useful to use as a tool to manage meetings when they get out of hand, but that the council can’t use them formally because if they could, they could suppress members and remove them.
  - They need to bring this into the council to remind them why they’re here and that she wants to be here to serve our iwi kūpuna and it shouldn’t have to be harder than what it is.
- Member Haumea talked about being here for the iwi and that they don’t need Roberts Rules or Western stuff. He said
  - It’s sad to hear what’s going on and it’s either you live in kapu aloha or you don’t. The board needs to find a foundation. Emotions run wild because of agendas, there should be a reminder of who we are and where we’re going.
  - You live kapu aloha or you don’t and if you don’t understand that ‘ike, you have no position on this board. There’s no way to protect the kupuna and their iwi until they fix what’s going on here.
  - When you walk into the presence of kupuna, the only tool we have is our na‘au.
  - Use ho‘oponopono with the board or individual members as an effective way to address the issue because this needs to be solved. The council cannot do their work correctly with this pilikia.
  - In kapu aloha, it’s defined what should be done. The councils kuleana is plain and simple and that the kupuna has set the pathway. If a meeting escalates, it’s really bad.
- Member Mahoney stated that there’s a lot of turmoil and that the issues are ongoing things. He said that the council can work out what they can and hopefully Hinano can sit down to assist with that process. Vice-Chair Blakemore thanked Member Mahoney for the last meeting when he interrupted a moment and said that she felt that somebody had her back. Member Higa told the council that he used to work with rocks and that female rocks are laid flat which makes it more stable whereas kāne rocks stand up and though they’re stronger, they fall hard. He mentioned that he read in Native American tribes, their discussions seem slow because no one responds right away and there’s always a long pause because they “respond,” not react, so the pause between people speaking is a form of etiquette. In Native American culture, it’s a slow conversation and after a pause, someone else speaks.
- Member Ka‘imuloa stated that the council should talk about the orderly conduct of meetings because they all can use some sort of guidance because a lot of times in

meetings, people just jump right in and cut others off and they should be talking about this. He said that it's more of an etiquette than anything else and that the council needs better etiquette. He talked about how using a ball to allow people to speak can be an effective method and asked if the council should have a time limit to speak. Member Mahoney asked if he meant for council members or the public. Member Ka'imuloa replied, the council. Member Mahoney said that if a council member has something relevant to discuss and are on focus, then they shouldn't be limited on their time and that it's up to the Chair and Vice-Chair to keep the discussions in line.

- Member Mahoney discussed the iwi in Ka'ū. Kea said he wrote the determination letter and the process can move forward soon. Member Mahoney said that he wanted to go see where the reinterment should take place. Kea explained the project area and where it might be appropriate, but where they decide should be OK. Member Mahoney informed the council that this issue was brought up because of HPD taking the iwi and the problem it creates when they get involved when there's no protocol with SHPD to work together. Member Haumea asked if the council has authority to stop the police. Kea explained that archaeologist make the determination as to whether the remains fall within SHPD's jurisdiction and that according to the law, the discovery is then reported to the department, medical examiner, and local police and that the police would have original jurisdiction. He said there are exceptions as to why the police department doesn't always take jurisdiction using the example of "Old A's," a common area where iwi kūpuna surface due to erosion. Member Haumea said that the HIBC should have the ability to supersede the HPD. Member Kaimuloa talked about the 50-year rule. Kea replied that remains from 1969 would be 50 years old and they're not necessarily considered iwi kūpuna so sometimes, HPD will take an interest in the case even though they might be more than 50 years old.
- Chair Kahakalau discussed being in a Western system trying to deal with a Hawaiian practice and that it's challenging.
  - He doesn't feel this is the place for Robert's Rules.
  - A council is a body that comes together with the same one goal one destiny and we move forward together as a collective group.
  - He cannot tell a kupuna or a kanaka that they have three minutes because of the valuable knowledge and insight they may have.
  - That the council should go down the line from one end to the other stating their mana'o and do another round and that's it.
- Vice-Chair Blakemore said she agrees with Member Haumea regarding ho'oponopono for the council to heal and asked for other indigenous methods for conducting and facilitating meetings. Chair Kahakalau replied to respect each other's space and place and relations are important.
- Kea replied to the council with regards to the agenda, his role, and a response he received from the AG Office.
  - Boards can only discuss matters included on the board's agenda; they have a limited ability to add items with a two-thirds vote of membership, but major items cannot be added.
  - Carrying out the meetings and adopting their own internal policy as long as it does not conflict with any State law or rules. The HIBC is a State board and they are subject to HRS Chapter 92. A member of the public can file a lawsuit against the board if they violate the Sunshine Law.
  - The HIBC meeting is the council's meeting by means of the Chair, so it should be the Chair to preside over and interrupt, if necessary, any discussions.
  - Per request of the council at the previous meeting to inquire with the AG Office regarding the performance bond, received a response from a Deputy AG,

- “We understand the question on the HIBC’s vote as being a two-part inquiry: 1) Can the burial council require a ‘performance bond’ in an amount equivalent to the value of the real property for which the burial treatment plan is being sought in order to pay for litigation, if any, that may be brought by the recognized descendants to burials located at the subject property; 2) If the burial council can require a ‘performance bond’, the burial council is requesting information regarding on performance bonds.”
- “The short answer is that the burial council cannot require the bond described in your email for the burial treatment plan. The role of the council is to make a determination on whether the burial should be preserved in place or relocated. The purpose of the burial treatment plan is to provide information, required in HAR section 13-300-33(b), which the burial council may use to make its decision. Nothing in the rules (or HRS Chapter 6E) authorizes DLNR or the burial council to condition approval of the burial treatment plan or the decision to preserve in place or relocate the burial on the posting of a bond related to litigation costs. The second question is therefore moot.” Vice-Chair Blakemore stated that she would recommend the response be put in the minutes. Chair Kahakalau and Member Haumea agreed.
  - Member Higa asked if they needed approval for what they put on the agenda and who he would need to ask. Kea explained that in general, the Chair or Vice-Chair approve what’s on the agenda but that the agendaing process also goes through the AG Office so items would need to be relevant.

**V. ANNOUNCEMENTS**

**A. The Next HIBC Meeting is Thursday, October 17, 2019, 9:30 AM at the West Hawai‘i Civic Center Conference Room, 74-5044 Ane Keohokālole St., Kailua-Kona, HI 96740.**

**VII. ADJOURNMENT**

*Meeting adjourns at 11:02 A.M.*

**\*\*\*THE ABOVE MINUTES WERE APPROVED AT THE 10/17/2019 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 §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.

Pursuant to §92-2.5(d) HRS, if a meeting must be cancelled due to lack of quorum, the present council members may elect to continue to receive testimony and presentations on items on the agenda.

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 Kakuhihewa 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.**