

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, October 17th, 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:

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)
Member Clifford Kapono (Hilo)

SHPD Staff:

J. Kea Calpito, Burial Sites Specialist
Chris Omerod, Burial Sites Specialist
Tiare Elizares, Office Assistant III

Guests:

Lokelani Brandt, ASM Affiliates, Inc.
Aoloa Santos, Lineal Descendant (IV.A.)
Mara Mulrooney, Pacific Legacy, Inc.
Mana Purdy, Queen Lili'uokalani Trust
Mike Shibata, Queen Lili'uokalani Trust
Nicole Lui, Cultural Descendant (IV.B.)
Mike Vitousek
La Crivello

I. CALL TO ORDER

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

II. ROLL CALL/PULE

Member Higa conducts pule.

Waiola Higa, Kalena Blakemore, Norman Ka'imuloa, Nālei Kahakalau, Scott Mahoney, Clifford Kaponu.

III. MINUTES

A. Approval of the Minutes for September 19, 2019.

MOTION: To approve the minutes
MOVED BY: Member Ka'imuloa
2ND BY: Vice-Chair Blakemore
VOTE: Motion carried unanimously

IV. BUSINESS

A. DRAFT Burial Treatment Plan for SIHP Site #50-10-74-29699, Lanihau 2nd Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-5-001:015.

Information/Discussion/Determination/Recommendation: Discussion and determination on whether to preserve in place or relocate human skeletal remains at the above location.

Recommendation to the State Historic Preservation Division whether to accept or not accept the above DRAFT Burial Treatment Plan.

Summary:

- Lokelani Brandt updated the council on the what was decided by the family. She explained that one member of the family that did not agree with relocation wrote a letter that detailed her thoughts on the relocation of the burial and explained that out of respect, she will consent to the relocation. Member Kaponu asked, "Were the issue of safety as a concern because of the presence of the road relative to burial site?" Brandt replied yes. Member Kaponu asked, "Is this is a private road or a County road?" Brandt replied that she is not sure off hand. Member Kaponu said, "Whoever has jurisdiction of the road has created a hazardous condition and the responsibility is on the owner or whoever has jurisdiction of that road to ensure that the means of transportation, the means of forward progresses in everyday extends safely according the whatever rules or law that governance says. Did you guys get a chance to explore that, and if there was no condition of harm then would the 'ohana have considered to leave them?" Brandt explained that the family has talked about other options and they are set on relocation. Member Mahoney said that no one has verified if this platform has any iwi in it. Brandt explained that these are some of the things that she had discussed with the family and being a burial platform was based on oral history of the land owner and the family, so they are positive that there is iwi in there, but they don't know what the condition is.
- Member Ka'imuloa asked what will happen if the burial is opened and they find more iwi. Brandt replied that if they do find remains other than that of Elizabeth Bartels the remains will be treated as an inadvertent. Member Ka'imuloa points out on page 20, a second child that had passed in the same year as Elizabeth. He explained that if there are other remains that are found they need to be taken care of too. Brandt added that the dismantling of the burial platform will be done by hand and they are working with Dodo Mortuary to coordinate the movement of the iwi after disinterment to relocate to O'ahu Cemetery. Member Kaponu asked, "As you do the disinterment, are you going to have someone there that is not an 'ohana that objectively can speak to whatever those findings

might be, maybe someone with the authority, either an archaeologist or someone from SHPD that could be there as a witness so that any further testimony wouldn't be subjective?" Brandt said she has not requested formal support from SHPD, but it is a great idea. Member Kaponu stated, "In writing, not the wala'au action paper trail." Brandt agreed that she can include this into this part of the process.

- Member Kaponu stated, "This part of the testimony will serve as the foundation that will be followed up by the paperwork. A short letter, doesn't have to be long just something where you requested, so any liability after the fact doesn't fall on you guys." Brandt explained that the family wants the site to be taken down completely. Member Ka'imuloa stated that at the last meeting, Wilson wanted to continue to visit the site even if the remains were relocated, has that decision changed. Brandt explained that it was very emotional for Wilson and she has not talked to anyone but has submitted a written testimony.
- Vice-Chair Blakemore suggested that keeping a pōhaku would be a good idea as a reminder of the site. She added that a ceremony at the beginning and the end would bring closure for the iwi. Member Kaponu stated, "Whoever the property owner is, there's got to be some type of agreement that they recognize the current condition and then the post condition because of whatever sequence of events that happened. Within those sequence of events, it should be note din there that this person who still has an identification like that be allowed to return and there shouldn't be any hinderance to that, and it will be a part of the agreement, a part of the contract. So that sometime in the future she may change her mind later, so she's not fixed into it, so, all those conditions shouldn't be hard and fast they should be open ended." Brandt agreed that something like this should be added in and that she thinks Wilson would be happy with this to not feel like she is completely cut out from this.
- Member Mahoney asked if they are prepared to take responsibility for all iwi that is found in that burial since they are dismantling the ahu and that if found they should all be treated as family since they are found in one burial, he suggested that the ahu be rebuilt in another location rather than be dismantled because the pōhaku have mana and history. Vice-Chair Blakemore agreed with Member Mahoney on rebuilding the ahu in another location. Members Ka'imuloa, Higa, and Haumea agreed that the ahu should be rebuilt. Member Haumea said that there may be other iwi sub-surface and spoke on the conflict, "you cannot wehe and this conflict continues, it has to come to place whether its hui kūkākūkā or ho'oponopono. If that's not established, I suggest that you don't do anything and leave it alone. I know it's a hard process, but everyone has to be pono with it." Chair Kahakalau said that disinterment is a mea nui and that his main concern is that we know Emma is somewhere on that property and the speculated presumption is that she is in this ahu, but he is concerned of the possibility that it may not be her. He added that this is a big kuleana to carry, to disinter iwi and when the council makes a decision, they also take on that kuleana. Chair Kahakalau stated that his main priority is to mālama the iwi, so any decision that is made is not personal. Member Haumea requested to pule before continuing.
- Member Kaponu stated, "The motion is ambiguous, it should be specific, but it should give them a provision pending upon discovery what the further action might be, so that they're not hammered down to this one rule should things change." Chair Kahakalau asked if Member Kaponu had a suggestion. Member Kaponu stated, "This motion should include the opportunity to revisit the condition."
- Member Mahoney asked what will be done with any other iwi that is found. Brandt said that if other remains are found, they would be treated as inadvertent. Member Ka'imuloa said that if other remains are found then it should be treated as family. Member Mahoney said his concern is opening the burial and leaving it for another process that must be gone

through. Brandt agreed that this is the language that is going to be changed. Kea added clarification that the language should be previously identified because previously identified by definition includes data recovery of possible burial sites.

MOTION (1): To relocate (the family has an opportunity to reinter the iwi if family members are found inside)

MOVED BY: Member Haumea

2ND BY: Vice-Chair Blakemore

VOTE: Motion carried by majority [YAY: 6 (Higa, Blakemore Ka'imuloa, Mahoney, Haumea, Kaponu); NAY: 1 (Kahakalau)]

MOTION (2): To recommend that SHPD accept the BTP

MOVED BY: Vice-Chair Blakemore

2ND BY: Member Ka'imuloa

VOTE: Motion carried by majority [YAY: 6 (Higa, Blakemore Ka'imuloa, Mahoney, Haumea, Kaponu); NAY: 1 (Kahakalau)]

B. DRAFT Burial Treatment Plan for Site #50-10-27-18511, Lili'uokalani Trust Lands in Keahuolū Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-4-025:015.

Information/Discussion/Determination/Recommendation: Discussion and determination on whether to preserve in place or relocate human skeletal remains at the above location.

Recommendation to the State Historic Preservation Division whether to accept or not accept the above DRAFT Burial Treatment Plan.

Summary:

- Mara Mulrooney of Pacific Legacy, Mana Purdy and Mike Shibata from Lili'uokalani Trust, and Nicole Lui present to speak on this item. Mulrooney updated the council of changes made to the BTP based on the recommendations of the HIBC:
 - Protective fencing extended to include the entire pu'u;
 - Enclosing wall be built prior to construction activities;
 - Site access within the buffer site will be provided to cultural descendants and other individuals wishing to visit the burial for cultural purposes with permission from cultural descendants upon request of the Lili'uokalani Trust.
- Chair Kahakalau asked Nicole Lui if she has anything to add. Lui thanks the Lili'uokalani Trust for what they are doing. She explained that she requested the sign be made bilingual with Hawaiian/English and asked the council if they are okay with the signage. Chair Kahakalau as Lui if she is okay with the overall BTP. Lui replied that the 'ohana feels good with the changes made. Member Ka'imuloa asked if the lava tube can be closed as soon as possible because they won't start until a few years. Vice-Chair Blakemore asked if the rock wall can also be built as soon as possible.
- Mulrooney explained that the wall and sealing will be completed prior to any construction activity. Vice-Chair Blakemore said that the orange fencing has been there for over 10 years and the suggestion last meeting was that the wall be built now and that will avoid having that garish orange fencing that tells everyone that a burial is there. Mulrooney explained that the wording is in the long-term protection but they changed the wording to reflect the previous discussion that it will be prior to the commencement of any activity. Vice-Chair Blakemore asked if two or 4 more years go by, we will still have orange fencing marking that burial site. Mulrooney replied, I certainly hope not. Mike Shibata explained that they are working with the county about the overall grading of the

area to help provide further context for when they are ready to build the wall. Chair Kahakalau asked if there was a timeline for this. Shibata said that they are looking at a 2-year timeline. Member Haumea expressed his concern about the timeframe of building the rock wall. He explains that a rock wall needs to be built for the sign to be placed and the cave needs to be sealed. He stated that it takes extra work but that's what needs to be done. Vice-Chair Blakemore asked where in the document was this stated. Mulrooney replied that it is on page 44. Mike Shibata asked what an appropriate timeline would be, given the context of the area. The council agreed that ASAP is best.

- Member Kaponu asked, "When is this going to start?" Shibata asked if 90 days would be enough for the council and Member Kaponu replied, "Thirty-day commitment to begin the project." Chair Kahakalau asked if that was enough time. Purdy said that they can do that. Member Mahoney said that priority is to seal the cave and they agreed.

MOTION (1): To preserve in place
MOVED BY: Vice-Chair Blakemore
2ND BY: Member Ka'imulua
VOTE: Motion carried unanimously

MOTION (2): To recommend that SHPD accept the BTP
MOVED BY: Member Higa
2ND BY: Vice-Chair Blakemore
VOTE: Motion carried unanimously

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

Summary:

- Member Kaponu stated, "I think this council needs to be aware of what the other councils doing on the other islands because it's a reflection of us in a total." He added, "What's going on Maui is almost criminal where they found something like 300 bones in place and they're still continuing along with that parkway construction. We should have a position here on the big island that we will not tolerate that that we don't accept the practice of SHPD or DLNR and the delinquency of their negligence. So that the people here on this island know that they have at least recourse and they have someone that's going to represent their interest."
- Member Ka'imulua said that in the minutes a few months back the Attorney General addressed the question of HIBC getting involved in burial issues happening on Maui and he agrees with that response. Member Kaponu stated, "When we talk about cultural and lineal descendants, we apply. I'll tell you point in fact, my family is not from this motu. 'O ko'u Pi'ilani. So, I am a descendant of those iwi that are on Maui, so, whatever case would rule as the AG, that's relative to the States condition and the question of their jurisdiction what is yet to be proven, as a matter of fact. Her testimony, her allegations are not applicable to the burial council where we have nā kānaka sitting on this council. We speak to our own condition, we speak to our own issues. That's what I am led to believe and that's why I am here. Anything other than that I am not interested in." Member Mahoney said he agrees with Member Ka'imulua and that the HIBC has their own kuleana. He added that he understands the intentions of Member Kaponu and the concern for all iwi, that the only way this can be discussed with the other councils is by having a statewide convention. Member Mahoney stated that the HIBC shouldn't go to the other islands and say how they should do things. Member Kaponu stated "I'm not

advocating we tell them anything. All I'm advocating is that we support the people, the 'ohana that's looking for some type of resolution through the burial council and not getting it." Member Mahoney asked how he propose it be done. Member Kaponu stated, "As long as they know, the Big Island, they're not going to get screwed here. That's my intention. The people here on this island know that what's happening on Maui and O'ahu, sorry about that but, be grateful that they are here on Moku o Keawe and the council here is going to do everything possible for their best interest." Chair Kahakalau stated that this council has historically been known for not moving iwi. He mentioned that in all his years on the council this is only the second time they had to deal with the concern of disinterment. Member Ka'imulua said that this council makes good decisions. Member Haumea said that he sat on the board for AHEC and this has been happening for years, that the more they dig the more iwi they will find sub-surface. Member Higa said that he knows where everyone is coming from and he feels for that but it's not the council's business, the council's business is right here. He continued that if the council does their business, somebody else will notice, and to just practice what is preached and somebody will notice. Vice-Chair Blakemore concurred with Member Higa and said that it is not productive for the council to tell others that they are doing a bad job because she doesn't know what they are doing. She stated that they wouldn't like that either, and that they do what they can and they do their best.

V. ANNOUNCEMENTS

- A. **The Next HIBC Meeting is Scheduled for Thursday, November 21, 2019, 9:30 AM at the Division of Forestry and Wildlife Conference Room, 19 E. Kāwili St., Hilo, HI 96720.**

VI. ADJOURNMENT

Meeting adjourns at 11:30 A.M.

*****THE ABOVE MINUTES WERE APPROVED AT THE 11/21/2019 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 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.