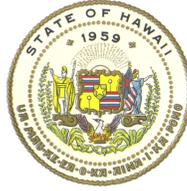


DAVID Y. IGE
GOVERNOR OF HAWAII



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

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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: October 16, 2019
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 9:02 AM

II. INTRODUCTION OF NEW MEMBERS

- Iris Pe'elua introductions
- Kyle Nakanelua introductions

III. ATTENDANCE:

Members: Kapulani Antonio – Chairperson
Dane Maxwell – Vice Chairperson
Kaheleonalani Dukelow
Scott Fisher
Johanna Kamaunu
Kyle Nakanelua
Iris Pe'elua

SHPD Staff: Kealana Phillips, Burial Sites Specialist
Ikaika Nakahashi, Cultural Historian

Guests: Lynn Awai-Tavares – Edmond Greg Awai (Maliko)
M Pualani Basbas – Kamaunu Ohana
Lianne Maddela – Kalawai'a (Maliko)
Mike Carroll - Towne
Travis Kodani

Clifford Nae'ole
Brenda Ohlheiser – Towne
Marcus Ohlheiser – Towne
Noelani Ahia
Foster Ampong
Susan Vickery – Malama Kakanilua
Leina'ala Vedder
Daniel H. Awai III – Father Daniel H. Awai Jr.
Genese Brown – Kalawai'a Cemetery
Lawaina Maliikapu – Ohana Maliikapu
Kaniloa Kamaunu – Kuleana / Aha Moku
Linda Schatz
Trevor Yucha – CSH
Josie Yucha – CSH
Annette L. Heu – Ulili Wailuku
Darren Unemori - Engineer
Scott Rollins – County
Nick Molinari – AES Solar

IV. APPROVAL OF MINUTES

A. March 6, 2019

- Councilmember Kahele Dukelow move to accept minutes
- Councilmember Kyle Nakanelua second motion
- Councilmember Fisher – “aye”
- Council Vice Chair Maxwell – “aye”
- Council Chair Antonio – “aye”
- Councilmember Dukelow – “aye”
- Councilmember Kamaunu – “aye”
- Councilmember Pe'elua – “aye”
- Councilmember Nakanelua – “aye”
- No “nay”
- Minutes accepted

B. March 6, 2019 – Executive Session

- Councilmember Kahele Dukelow move to accept Executive Session Minutes
- Councilmember Kyle Nakanelua second motion
- Councilmember Fisher – “aye”
- Council Vice Chair Maxwell – “aye”
- Council Chair Antonio – “aye”
- Councilmember Dukelow – “aye”
- Councilmember Kamaunu – “aye”
- Councilmember Pe'elua – “aye”
- Councilmember Nakanelua – “aye”
- No “nay”
- Minutes accepted

C. April 17, 2019

- Councilmember Kahele Dukelow move to accept minutes
- Councilmember Kyle Nakanelua second motion
- Councilmember Fisher – “aye”
- Council Vice Chair Maxwell – “aye”
- Council Chair Antonio – “aye”
- Councilmember Dukelow – “aye”
- Councilmember Kamaunu – “aye”
- Councilmember Pe‘elua – “aye”
- Councilmember Nakanelua – “aye”
- No “nay”
- Minutes accepted

April 17, 2019 – Executive Session

- Councilmember Kahele Dukelow move to accept Executive Session Minutes
- Councilmember Kyle Nakanelua second motion
- Councilmember Fisher – “aye”
- Council Vice Chair Maxwell – “aye”
- Council Chair Antonio – “aye”
- Councilmember Dukelow – “aye”
- Councilmember Kamaunu – “aye”
- Councilmember Pe‘elua – “aye”
- Councilmember Nakanelua – “aye”
- No “nay”
- Minutes accepted

D. May 15, 2019

- Councilmember Dukelow question the department as to the format of the minutes. Ms. Dukelow stated typically in past minutes, almost verbatim. May 15, 2019 draft minutes, just list discussion. Doesn’t list some points.
- SHPD Culture Historian Ikaika Nakahashi replied that Sunshine Law recently changed. Able to submit audio recording in conjunction with summary of the meeting. Mr. Nakahashi stated that way, it’s exactly as it was said. Mr. Nakahashi stated that the time stamp listed next to item on the summary, matches up with the audio recording. Per the law stated Mr. Nakahashi, time stamp placed at start of agenda item, when/if motion made, voting and decision. In compliance with the Sunshine Law.
- Going to follow this method going forward based on the updated Sunshine Law stated Mr. Nakahashi. Recording of the meeting is on SHPD website.
- Councilmember Dukelow wanted to confirm that all info discussed at meeting, specifically discussions re: descendancy recognition approval, is captured in recording/summary. Yes replied Mr. Nakahashi.
- Councilmember Kamaunu question the lack of time marker on the recording. Understand time stamp in summary, unable to follow via recording if no time marker. Mr. Nakahashi acknowledge that this may be some of challenges in implementing this new format. Mr. Nakahashi mentioned perhaps software used to playback recording may have something to do with it. Mr. Nakahashi stated that he used Windows Media Player for playback. Uploading of recordings can only be certain sizes. May meeting (6 hours) broken up into six segments. Each should be about an hour long. Each segment should start from 0.

- Councilmember Kahele Dukelow move to accept minutes
- Councilmember Scott Fisher second motion
- Councilmember Fisher – “aye”
- Council Vice Chair Maxwell – “aye”
- Council Chair Antonio – “aye”
- Councilmember Dukelow – “aye”
- Councilmember Kamaunu – “aye”
- Councilmember Pe‘elua – “aye”
- Councilmember Nakanelua – “aye”
- No “nay”
- Minutes accepted

V. BUSINESS

- A. **Maui Lani Subdivision Phase VI, Ahupua‘a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8-099: pors.**
Information/Discussion/Recommendation: Update on the above project.

- Councilmember Iris Pe‘elua Recuse herself.
- Mike Carroll, one of the attorney’s that represent Towne Development address the council.
- Mr. Carroll provide update on project. Recently completed GPR analysis of the remaining phase of project (increment 4). Submitted it to SHPD as well as plaintiff in lawsuit, Noelani (Ahia). Currently awaiting direction from court to proceed forward. Hearing on Friday to discuss proceeding forward and what the next steps are. Under the injunction order, required to evaluate and assess all anomalies that have been identified in the GPR report per Mr. Carroll.
- Council Vice Chair asked to Mr. Carroll to please explain evaluate each anomaly. What does that look like? Order said need to ground truth each anomaly answered Mr. Carroll. How many anomalies? GPR consultant, expert in room? Yes. Replied Mr. Carroll. Mr. Trevor Yucha is here. Mr. Yucha is not prepared to testify today; will be more than happy to provide presentation.
- 307 anomalies. Just so commissioners aware, anomalies do not equate to burial. Sensors in GPR couldn’t tell; some type of irregularity explained Mr. Carroll. Vice Chair Maxwell asked the deepest depth of anomalies. Ground truth; have to shore back sides for safety. Open hole wide; potential for more disturbance, desecration.
- Councilmember Kahele Dukelow questioned how large the property area is.
- Trevor Yucha, CSH, address council. Mr. Yucha stated the overall area studied, 100% survey was a little over 4 acres of property, non-contiguous. Was focused on lot frontage and areas proposed for deeper ground disturbance.
- Some GPR testing. Just so everyone clear, doesn’t mean have 300 iwi in the ground exclaimed Council Vice Chair Maxwell. Want to have an idea of what run into when ground truth previous sites stated Vice Chair Maxwell. Mr. Yucha stated at the very beginning of use of this machine, particularly in this sand dune environment. Presentation (later in MLIBC meeting) about an area that has already been ground truth; area located further down-hill toward Mā‘alaea. Easiest way to present GPR info, using lots of graphics on screen. More than happy to go before council once presentation ready stated Mr. Yucha.

- Council Vice Chair Maxwell asked who will be present during the ground truthing process. Just archaeologist? Will recognized descendants be there as well? Mr. Yucha answered that for CSH, firm was only contracted to do the GPR. Beyond that, don't know who will be doing the ground truthing or who will be involved.
- Mr. Carrol stated that under order with the court, Noelani (Ahia) does have the right to observe any of the testing. Do believe if regional rep on the MLIBC wants to attend, that would be okay too. Not adverse to the idea if suggestion to have that stated Mr. Carroll.
- Timeline to do the ground truthing asked Vice Chair Maxwell. Mr. Carroll said he does not know. Court hearing on Friday. Decided by court best way to proceed.
- Councilmember Dukelow request a presentation by Trevor Yucha on the GPR results and the process used to ground truth at the next MLIBC meeting.
- Council Chair Kapulani Antonio open item up for public testimony.
- Noelani Ahia address council.
- Plaintiff in this case, Maui Lani Phase VI, increment 4. Just wanted to clarify for council. Can't do anything until judge lifts permits. Need permits lifted to do ground truthing. Not in favor of ground truthing per Ms. Ahia. GPR report hasn't been approved by judge yet. Until that happens, cannot move forward with anything. Work appear very good; some deficiencies. Only 4 of 11 acres in ML VI, increment 4 that was GPR. Still a lot of work that needs to be done. We'll see what judge says on Friday; Will keep council updated.
- Foster Ampong address council.
- Mr. Ampong stated he has a couple concerns. Mr. Ampong acknowledged that he has been briefed on the process by Trevor Yucha. Conducted site visit; explained process, including the programs that will be used. GPR picks up anomalies, does not tell you what they are. For that to occur, need to be ground truthing per Mr. Ampong. Issue with that. Means got to dig to ascertain what the anomaly is stated Mr. Ampong. That in itself is desecration, if in fact the anomaly is iwi kupuna. Not in favor. Glad effort to identify anomalies.
- Mr. Ampong explained that his main objective is to ensure iwi kupuna has greatest protection. Mr. Ampong stated that he submitted a letter of complaint to the burial council. Yet to receive response; understand it's a process. In light of this current discussion (a burial council member recused herself) Mr. Ampong feels strongly that councilmember Johanna Kamaunu should be recused from all matters concerning Maui Lani. Mr. Ampong stated that he has done his homework; provided evidence, facts to back up request. Outline reasoning in letter of complaint. Did not make public. Address letter to chair/vice chair.
- Constructive, objective, unbiased discussion. Council can regain integrity. Council compromised. Inappropriateness what took place with Johnna Kamaunu and Foster re: Maui Lani. Understand in process of addressing letter, but for today's discussions, recommend Ms. Kamaunu recuse herself.
- Kaniloa Kamaunu address the council.
- Mr. Kamaunu object to Mr. Ampong allegations. Council been compromised for years. Leiane Paci sat there for years; voted on all this stuff per Mr. Kamaunu. Mr. Kamaunu stated that councilmember Kamaunu never got involved with Malama Kakanilua as a council member. Never did. Walked away for the main purpose of not wanting to be accused of being inappropriate. Ms. Kamaunu association with Mr. Kamaunu should not taint the work she does on the council explained Mr. Kamaunu. Ms. Kamaunu attends functions. Not included in any of the legal things that Malama Kakanilua does/goes through.

- Again, if ask Ms. Kamaunu to recuse herself, need to go back through all previous agenda items that certain council members participated in (approved motions, recommendations, etc.) and address that. Otherwise, unfair and prejudicial.
- Anything to deal with Maui Lani is ridiculous. These are burial sites. All projects in Maui Lani has encountered iwi kupuna. Sad part, this body has allowed them to continue to do this. Appropriate action was not done 1) recuse Leiane Paci 2) Question the credentials of archaeologist. Issue was brought before council 10 years ago. Item was brushed to the side; never challenged per Mr. Kamaunu. Ongoing desecration of iwi kupuna is the fault of the inactions of the MLIBC stated Mr. Kamaunu. Central Plains??? Never Central Plains. Mountains/pu'u. 12 miles long, all the way from Mā'alaea to Kapuna.
- Clare Apana address council.
- Mr. Apana reconfirm what Mr. Kamaunu shared.
- Sorely missed Johanna Kamaunu presence with group. Thank her for keeping herself in a place where she can be neutral to make decisions. Reaffirm that that is true. For Wailuku not to have a representative on burial council in this important, ground-breaking process. Really remiss. As Mr. Among stated, believe that all want to see that iwi kupuna protected explained Ms. Apana. Greatest hopes that everyone can come together and protect iwi kupuna. Work it out in amicable and cooperative manner. Give greatest protective to iwi kupuna.
- Amy Halas address council.
- Ms. Halas state a few concerns. No archaeologist at SHPD. Last September (2018) Dr. Fariss left SHPD. Dr. Susan Lebo covering Mauna Kea, Waimanalo, Hanapepe and probably everywhere in between per Ms. Halas. Severe shortage of archaeologist. More money to be made private sector.
- Other concern is the history of Maui Lani has gone from Jeff Pantaleo to Lisa Rotunno-Hazuka to Nico Fuentes and now Trevor Yucha who is doing GPR. Ms. Halas stated that last meeting in May, Ms. Hazuka stated that both she and Jeff (Pantaleo) ready to move on. Ms. Halas encourage council to see what can do to preserve the docs of iwi. 1000 acres of Maui Lani Project development. Since sand miming (early 90's). Neller preserve (80's) in golf course. Please, before archaeologist depart, provide collective documentation of everything that's been found.
- No archaeologist at SHPD, who supervising the developers contracted archaeologist? DOCARE not certified archaeologist. Staff at History & Culture not certified archaeologist. Question SHPD approving activities if no qualified arch is SHPD Maui Office. Ms. Halas encourage council to conduct site visit. Land ripped open, orange fences. Blatant desecration. Now is the time to preserve Wahi Pana for future generations.
- Annette Heu address the council.
- Ms. Heu recommends everyone google (maps) this place. What you'll see is known burials that have been desecrated in area for years. Blue tarps; iwi kupuna desecration. If walk area, it is as though feral pigs have rooted that area. Very bothered by what has been said today by woman on council with integrity and class and love of Hawai'i than many people. Begged, cried on floor for recognition of iwi kupuna at Maui Lani. Recognition of Kakanilua explained Ms. Heu. Sat there for years; watched it unfold. Asked Mr. Among why involved now?
- Ms. Heu stated she has filed for descendancy under the name Ulili; 3 notations to Ulili in Wailuku; speak for Ulili in Wailuku. Ms. Heu thanked Johanna.
- Mr. Among address Chair Antonio. Can decision be made re: Johanna Kamaunu needing to recuse herself?

- Council Chair Antonio replied that this will need to be discussed in executive session with the AG.
- Councilmember Dukelow wanted to clarify that item on agenda is update on Maui Lani Phase VI, increment 4. Not the issue of Ms. Kamaunu recusal. Continue with agenda and seek clarification from AG at the end of meeting.
- Discussions ensued among council of whether to go into executive session to discuss with AG or place item on future MLIBC agenda and discuss then.
- Chair Antonio close public testimony.

VI. CORRESPONDENCE

A. **Email Correspondence by Clifford Naeole on June 25, 2019 re: The Proposed Honokahua Pine Tree Modifications Project at the Ritz-Carlton, Kapalua, Ahupua‘a of Honokahua, District of Kā‘anapali, Island of Maui, TMK(s): [2] 4-2-004:021, and 014.**

Information/Discussion: Discussion about the above e-mail.

- Clifford Nae‘ole address council.
- Mr. Nae‘ole wanted to clarify that despite what it says on the docket that he is there representing the Ritz-Carlton, Kapalua, Mr. Nae‘ole is here on behalf of the Kia‘i of the Honokahua preservation site (for the past 28 years).
- Concerns and intent that want to take care of before leave. Relationship with place of all years; sat on burial council. Mr. Nae‘ole here, not at bequest of hotel, originally request by hotel to trim trees. Mr. Nae‘ole stated that he said no. This was years ago. New ownership, managers, etc. After walking property, Mr. Nae‘ole stated there is a clear and present danger to the public from these trees that have grown over 100 ft tall. With the winds of Kapalua, trees have started to topple onto the public areas (beach and burial site).
- Unaccomplished business, would like to have the permission to top trees down as much allowable, not to uproot any trees. Plan in place to clear all pine needles from sand dune that goes down to the beach. Replant the colors of the DNA; Pohuehue, Kauna‘oa, Pau o Hi‘iaka, Naupaka. Want this to be on the sand dune rather than the destructive pine needles.
- Would like to get permission. If need site visit, that’s fine stated Mr. Nae‘ole. Trees at this point in time, per Mr. Nae‘ole a danger to the public/burial site. When these trees topple, tend to uproot. When take the top (weight) off of them, trees will still grow explained Mr. Nae‘ole.
- Mr. Nae‘ole stated that Mr. Travis Kodani is accompanying him at this meeting. Mr. Kodani is a certified arborist and can testify to the condition of the trees and answer any questions.
- Councilmember Dukelow stated that she remembers issue coming before council a while ago. Councilmember Dukelow Mahalo Mr. Nae‘ole for coming before council. Ms. Dukelow stated that it shouldn’t be council kuleana to give permission to cut tree or any maintenance for that matter. Refence Honokahua Burial Site Agreement, section V. Site Management. *A management committee shall be set up and maintenance standards shall be established.*
- Mr. Nae‘ole replied yes. For all these years, it has just been himself. Come before council for guidance. If forming a committee is the answer, please provide suggestions as to who and how to do this. Mr. Nae‘ole stated his time here is nearing its end, maybe another year or so. Would like to see to it that these things get done.

- Original agreement formalized in 1989. Committee hasn't been formed; problematic explained Councilmember Dukelow. That is something that needs to happen.
- It will happen stated Mr. Nae'ole. Next step to figure out the provisions in the agreement. All parties involved when agreement made; unsure if some of the parties still around, in business explained Council Vice Chair Maxwell. Sounds like a pressing issue. Would like council updated on progress.
- Travis Kodani address council.
- Part of the initial cleanup of the Honokahua site. Mr. Kodani works for Haiku maintenance who is in charge of the ongoing maintenance within the burial ground. One of the things Mr. Kodani has been speaking to Mr. Nae'ole about is creating a long-term preservation plan to mitigate future natural disasters, being that it's on the shoreline. The issue with the current landscaping, is with this species of plant currently growing, which was introduced to Hawai'i as means of wind break and soil erosion prevention, is that it creates a monoculture. It works well, until it doesn't per Mr. Kodani. Leaf litter chokes out and has poison in pine needles that doesn't allow germination; inhibits any type of plant diversity. Long term erosion control, best to have diverse plant material per Mr. Kodani. Long term preservation plan. Introduce native species to protect area.
- Council Chair Antonio open item up for public testimony.
- Leina'ala Vedder address council.
- Ms. Vedder does support the efforts of Mr. Nae'ole before he leaves onto his next journey. Very aware of the MOA that was signed. 4 agencies that signed the MOA. Ms. Vedder is part of one of the NHO's. The NHO continues to do cultural work. Ms. Vedder states that perhaps she can work with Mr. Nae'ole at some point in time.
- One of the concerns is removal. Top it off. Need to be sure removal doesn't cause any type of massive disturbance. Accepted burial treatment/preservation plan. Items that were discussed previously. To keep preservation as is; preserve in natural context. Signage; encourage maha'oi. Safety of burials/peoples.
- Council Chair Antonio close public testimony.

B. Kalawai'a 'Ohana Dilemma on The Sinking of Family Graves, Kalawai'a Cemetery, Site 4969, located at Maliko Point, 2175 Hana Hwy, Ahupua'a of Ha'ikū, District of Hāmākualoa, Island of Maui, TMK: [2] 2-7-004:028.

Information/Discussion: Discussion about the above item.

- Recognized Lineal Descendant Lianne Maddela address council.
- Ms. Maddela stated that nearly 20 years ago, grandma stood at same podium. Different council; same problems.
- Worked for state for 10 years. Understand all get rules, laws, by-law need to follow. All get kuleana
- Ms. Maddela said she's been caring for area for over 2 decades. Maliko has over 29 different unidentified burials/features. 2 burials that are marked with headstones. It's been sold twice. Someone just died back in June. Gone for a year, taking care of 'ohana. 2018, went to cemetery to find it covered in 8 feet of grass, haole koa and call kinds of stuff per Ms. Maddela. Holes behind headstones, holes with PVC pipe sticking out of ground. Pohaku misplaced. Been making calls to all kinds of agencies seeking help. Reached out to SHPD Burial Specialist Kealana Phillips. Didn't meet up until last month. Pohaku, bank of Maliko falling apart. Spoke to Representatives of the estate. They said they won't help per Ms. Maddela. Site was never recorded. So, they don't have to help explained Ms. Maddela. Never recorded 20 years ago; no body made sure of it. In October, sent Kealana an e-mail to let him know. Don't know what to do. Ms.

Maddela question whether iwi is there or not. Come before council so not to allow 20 more years of inaction to go by. Family has kuleana to iwi, so does council as well as department.

- Ms. Maddela states that they work hard. Sometimes, abandon vehicles block access. Argue with people partying. Been stressing gates, signage.

- Ms. Maddela states that need burial preserve to be recorded. Home is currently in foreclosure now. Bank in control. No access for kupuna. Ms. Maddela explained that she had to cut new stairs. Still using those stairs today. Stairs provided by landowner was included in the original, approved preservation/burial treatment plan (1990). Landowners need to be held accountable if they are not abiding by provisions in the accepted plan.

- Past archaeological work was good. Redwood coffin, unidentified next to Maliko burials. Unfair that 20 years later (current generation) need to go before council and plead for help. Kupuna unable to access burials.

- Council Chair Antonio reference the measures listed in the Archaeological Preservation Plan and Burial Treatment Plan. Council Chair Antonio asked because site was not registered, does that mean current landowners do not need to follow provisions? Iwi suffer; landowners get away with it because no regulations.

- Council Chair Antonio seek update from the Department.

- SHPD Burial Specialist Phillips explained that the plan Dana Hall (Isaac) offered to assist with the recordation process with the Bureau of Conveyances. At this point, working on setting up a meeting with the 'ohana, department and Aunty Dana and Isaac to discuss process moving forward.

- Ms. Maddela said that she spoke to Aunty Dana. Went to her seeking guidance on how to proceed. Day after meeting with Aunty Dana, Ms. Maddela said she received email from Kealana seeking a meeting.

- Ms. Maddela said it was saddening it took Aunty Dana intervening for her to get a response from SHPD.

- If everyone did their jobs, would not be in current situation.

- Ms. Maddela is here before council requesting something be done. Gate?

- Council Chair Antonio asked about gate. Where would that be? Ms. Maddela replied at the entrance to road. (remnant old Hana belt road). That is how family gain access to preserve. Council Chair Antonio asked who owns the road? Ms. Maddela replied that she recently met with Daniel Ornellas, head of DLNR State Land Management Division. It's a tricky situation. A&B / State.

- Council Chair doesn't know council's prevue when it comes to the road. However, Chair Antonio is happy Ms. Maddela come before council so that council is aware of situation and can kokua.

- Councilmember Kamaunu mentioned that part of the problem is the landowner didn't sign the document. Because landowner didn't sign document, state couldn't follow through with recordation. So much has transpired. Council agreed to burial treatment plan (approved it). Despite land having changed hands a couple of times. Agreement is still standing for the burial council. Falls under those laws where landowner not maintaining. Damaging the cemetery. Responsibility that needs to be addressed. Possible penalties stated Ms. Kamaunu.

- Ms. Maddela reminded council that landowner passed away. Working with trustees of his estate (representation expires Jan 2021). Home in foreclosure.

- Council Vice Chair Maxwell stated he is curious to hear about mitigation. If make motion, what happens? Burial treatment in place; stronger than motion. What can be done to remedy this situation for 'ohana moving forward.

- Trustees of estate in Arizona. Property management company, real estate agent was residing in home for the past three years per Ms. Maddela. No brokers license. Ms. Maddela filed complaint with Elite Pacific Properties; moved her out of house.
- Council seek clarity as to what is recorded. Ms. Maddela stated that when you register burial, it should be listed as an Encumbrance when you do a title search.
- Council Vice Chair Maxwell asked what SHPD has done re: enforcement of burial treatment plan.
- Burial Specialist Phillips stated that a motion, a request coming from the council would be a good idea. Mr. Phillips explained that any inaction by the department was not intentional. On my end, stated Mr. Phillips, just didn't know what to do; how to proceed. Mr. Phillips stated that he sought help from DOCARE. It was more of fact finding. Mr. Phillips explained he wanted the officer to get statements from both parties involved. Mr. Phillips recently found out that the DOCARE officer that was in charge of investigating no longer works for DOCARE; did not get any follow up info from him. Requested report from DOCARE. Outside of that, working with Aunty Dana and Isaac to record the plans with the BOC. That's where we are at right now stated Mr. Phillips. Mr. Phillips did mention stairs. It's listed as a measure in the plan (landowner would make stairs for family to access site). That's something that should be immediately be looked into per Mr. Phillips. Signage was also a concern by the 'ohana. Example of signage (verbiage, language) in plans. Wanted to talk to Aunty Dana about that explained Mr. Phillips. Mr. Phillips referenced signage at Kaulahao. Perhaps can do something similar.
- Any contact with landowner/trustee of estate asked Chair Maxwell. Mr. Phillips replied that his last communication (via email) was back in February. Mr. Phillips stated he recently sent another email seeking an update on status of property; no response as of today.
- Emergency situation warranted. Dry grass (fire hazard). Fire requirement for large properties stated Councilmember Kamaunu. Push for something to happen sooner than later.
- Councilmember Dukelow asked 1) who enforces the implementation of preservation plans 2) what is penalty for not following.
- SHPD, Cultural Historian Ikaika Nakahashi replied that it is his understanding that enforcement is the responsibility of SHPD, in conjunction with DOCARE. DOCARE is the official investigative, enforcement branch within the state. DOCARE could give them citation? Yes.
- Councilmember Dukelow stated possible ideas for motion. Important to keep landowner held accountable. Send something to DOCARE to investigate immediately. Issue some kind of decision, regarding care of place. Once investigation underway, DOCARE do report, send to SHPD. SHPD evaluate and decide on penalty. Investigation will center around non-compliance with BTP/Arch Preservation Plan.
- It's a historical site. Site is registered. Site # 50-50-4969. Law says 30-60 days to respond to become compliant per Ms. Kamaunu. Can register despite no signature by landowner?
- Council discuss motion.
- Councilmember Kamaunu question sinking of graves. Irrigation, old county waterline. Private well. Dug up preservation area to put in sprinklers. Ms. Maddela asked landowners to turn off water. Cemetery went dry.
- **Councilmember Scott Fisher make motion: The Maui / Lānaʻi Islands Burial Council requests that the following, for the Kalawaiʻa Cemetery located at Maliko Point, 2175 Hana Hwy, Ahupuaʻa of Haʻikū, District of Hāmākualoa, Island of Maui, TMK: [2] 2-7-004:028 be implemented:**

1) The Burial Treatment Plan and Archaeological Preservation Plan are recorded with the State of Hawai'i Bureau of Conveyances.

2) Immediate adherence to the Preservation Plan, including access for lineal and cultural descendants, removal of accumulated trash, and reduction of fire fuel load.

3) Non-compliance is investigated by DOCARE to determine past violations to historic sites on property.

4) Request presence of lineal and cultural descendants and Homeowner or it's representatives at the November 2019 MLIBC meeting in order to provide update on progress of motion.

- Councilmember Kahele Dukelow second motion.

- Councilmember Fisher – “aye”

- Council Vice Chair Maxwell – “aye”

- Council Chair Antonio – “aye”

- Councilmember Dukelow – “aye”

- Councilmember Kamaunu – “aye”

- Councilmember Pe'elua – “aye”

- Councilmember Nakanelua – “aye”

- No “nay”

- Motion Carries

- Councilmember Kamaunu wanted to make sure 1 month enough time for family to attend next meeting. Confirmed that U.S National Bank holds the forfeiture.

Council Chair Antonio open item up for public testimony.

-Leina'ala Vedder address the council.

- Ms. Vedder stated she is in support of Kalawai'a 'ohana. Discussion good to ensure preservation plan followed; easement in place to allow access for family. To take care.

- Ms. Vedder 'ohana from area. Ms. Vedder implore department to assist with registering of cemetery; part of deed (go along with deed). Regulations/buffers in place to protect. Important to go along with deed stated Ms. Vedder. Property has changed hands a number of times in the past two years. Need to protect sites; trails, access for lawai'a. County and Planning Commission assistance.

- Daniel H. Awai III address council.

- Mr. Awai III explained that his grandparents occupied property below on Paia side (early 30's). Father took over late 60's. Mr. Awai III lived there from 1988-2011, when lease was up. Mr. Awai III stated that there are graves on that side of the point (Paia side of Maliko Bay). Mention to A&B. Mr. Awai III stated he wants to make sure graves documented. A lot of family ashes in the bay itself per Mr. Awai III.

- Vice Chair Maxwell asked if any burials registered with SHPD. Mr. Awai III answered he is not sure. Just heard about MLIBC meeting; first time attending. Wanted to share; last one to live there. Sympathize with family. Mr. Awai III stated he has had his own problems as well.

- Councilmember Nakanelua asked how does one register a burial. SHPD Cultural Historian Nakahashi replied that the applicant would fill out the paperwork (registration). SHPD will confirm and register. Mr. Nakahashi stated that anyone can register. If property is owned by someone other than applicant, would need permission from landowner to access property and verify burial. Once burial verified, registered, SIHP number given.

- Council Chair close agenda item.

C. E-mail Correspondence by Councilmember Kahele Dukelow on June 10, 2019 re: Status of The Implementation of Motions made at the May 2019 MLIBC meeting

and a Status report of Previous MLIBC Motions, Maui Lani Subdivision Phase VI, Ahupua‘a of Wailuku, District of Wailuku, TMK: (2) 3-8-099: pors.

Information/Discussion: Discussion about the above e-mail.

- Councilmember Kahele Dukelow address council regarding agenda item
- Councilmember Dukelow stated reasoning for requesting item on agenda. A way for council to ensure motions documented, communicated and see if adhered to/followed by landowner.
- Councilmember Dukelow read aloud 7 motions that were passed at previous council meetings; council wants update:
- May 16, 2018 – MLIBC recommends the Maui Lani Landowner conduct consultation with the Maui Lani Community (Lineal and Cultural Descendants, Malama Kakanilua, and Aha Moku) to discuss the expansion of buffers and other related issues, in order to provide appropriate protection and to protect integrity of iwi kupuna in the Maui Lani Phase 6, increment 4 work area.
- Mike Carroll, attorney for Towne Realty address council
- With respect to issue. Halted in work. No work proceeded forward on project (court stoppage). Date of that asked councilmember Dukelow. TRO - April 2019. At this point, agreeable to meeting with lineal and cultural descendants, Malama Kakanilua and Aha Moku. Per Mr. Carroll, it is his understanding that Noelani (Ahia) recognized and at previous council meeting, more cultural descendants were recognized. Yes.
- Happy to consult with Noelani and others as requested by council stated Mr. Carroll.
- Councilmember Dukelow wanted it noted that the motion was passed in May 2018 (year before judge issue TRO).
- October 17, 2018 – MLIBC challenges SHPD designation of the finds in Phase 6 as inadvertent; Should be designated as Previously Identified. MLIBC recommends any finds at Maui Lani Phase 6 moving forward be designated as Previously Identified (not inadvertent).
- With respect to this item, this issue was address by court case and preliminary injunction. Provided copy of court’s ruling at last council meeting explained Mr. Carroll. Paragraph 54-62. Mr. Carroll stated, in brief, iwi kupuna discovered after AIS and during construction and associated archaeological monitoring, classified as inadvertent; jurisdiction SHPD. Procedure involves once find discovered, reported to SHPD. SHPD undertake process to evaluate discovery and to decide to preserve in place or relocate HAR 13-300-31.
- Mr. Carroll also stated that he believes Attorney General provided opinion to the council re: this issue as well.
- Councilmember Dukelow stated council understands what the law is. What council asking of Mr. Carroll’s client (Towne) is to voluntarily change classification to allow a different process to occur.
- Mr. Carroll stated he doesn’t know if practical at this point. Have reached out to Noelani to see if there’s some way to resolve the case. Interested in talking to her to find some sort of resolution to make everyone relatively happy with process. Open to discussions that involve more input from council and more authority from council. Don’t know if this proper venue to discuss. Mr. Carroll stated happy to work with Noelani (and others) to see if some sort of resolution can be reached. Realized great disagreement stated Mr. Carroll.
- Councilmember Kamaunu question council prevue with respect to how to treat remains when found. Definitions ??? stated Councilmember Kamaunu. Sit on council to look after our cultural rights explained councilmember Kamaunu.
- Councilmember Dukelow stated Inadvertent vs Previously Known.

- October 17, 2018 – MLIBC requests Towne Realty provide following information 1) comprehensive, up to date map of iwi kupuna found in Maui Lani Phase 6 and 2) accounting of the number of iwi kupuna found at Maui Lani Phase 6.
- Mr. Carroll stated currently TS 185 iwi kupuna, or partial remains that have been found, documented on map. Currently at 186. Recent discovery of scattered remains (June 22, 2019)
- Based on these numbers, councilmember Dukelow wanted Mr. Carroll to understand why council requested Towne to consider voluntarily changing designation, which would ultimately change jurisdiction and process.
- Broaden boundary of burial reserve. Heavy concentration; connected to other heavy concentrations near-by. At some point has to stop!! 186 enough? More? Stated Councilmember Dukelow. Burial Concentration. Burial Site. Huge issue in community. Trying to fit more lots in area, is it worth it? How many more lots needs to be fit into area? Or can just do humane thing, let's broaden our protection and give up some lots asked councilmember Dukelow.
- Mike Carroll responded that majority of burials located within preservation boundaries. Preservation areas have been expanded, as more iwi has been located. Preservation area can be expanded even further if more iwi found through the process per Mr. Carroll. Towne interest is to work with community and protect iwi that is on site. Mr. Carroll referenced map. Majority iwi located within designated burial preserve area. Few located in roadway; will need to be addressed.
- Sewage Corridor. Only way build rest of subdivision, need to get it in. Every time they dug, no matter what technique used, they discovered iwi near the pu'u per council vice chair Maxwell.
- Councilmember Dukelow understands where the landowner stands; wants landowner to understand where council is at. Time to cut loses???
- Council vice chair Maxwell referenced Q & A between MLIBC and deputy AG: Can we get a written response regarding whether the entire Maui Lani Phase 6 can be declared a burial site? The first line of the response reads vice chair Maxwell is that based on the information provided regarding Maui Lani Phase 6, it does not appear that all of Phase 6 can be designated a burial site.
- Vice chair Maxwell stated that the desire for the council was to designate not all of Phase 6; only increment 4 where the majority of the burials are located. The word "all" in the AG response is also interesting per Mr. Maxwell.
- March 6, 2019. MLIBC request the attendance of the landowner of phase 6, increment of the Maui Lani Development to appear at the next burial council meeting to answer questions related to this project. Mahalo nui stated councilmember Dukelow. You have come.
- March 6, 2019 MLIBC recommends the cessation of all earth moving work at Maui Lani Phase 6, increment 4, pending further archaeological investigation and exploration and determination of an adequate burial preserve area. Councilmember Dukelow that that has already been done. Done because of the lawsuit and not this motion.
- **Councilmember Scott Fisher Excused from meeting at 12:03PM**
- Councilmember Dukelow requested for council to be kept apprised re: any communication/consultation with the recognized cultural descendants, Malama Kakanilua and Aha Moku. Expansion of buffers in Phase 6, increment 4. Possibly including all of increment 4. Burial Preserve. 3 homes being built in increment 4. On hold now.
- Mr. Carroll stated that vertical construction done. Only thing needs to be done is driveway and utilities leading to property.

- Burial ground designation asked councilmember Kamaunu. Who designates things to be burial grounds asked councilmember Nakanelua? Tried already stated council.
- Councilmember Dukelow read Q & A between council and deputy AG. Per the deputy AG, the designation of a burial preserve area occurs when the burial treatment plan is approved, not at this stage in the process, since it is the burial treatment plan that proposes treatment of burial sites and the creation of burial preserve areas (definition of burial treatment plan - HAR section 13-300-2.)
- Council Chair Antonio open item up for public testimony.
- Noelani Ahia address council.
- Ms. Ahia asked for clarity re: Q & A between council and deputy AG. Specifically question re: designation of remainder of Maui Lani Phase 6, increment 4 as a burial preserve area.
- Councilmember Dukelow stated he had just read response from AG.
- Ms. Ahia stated the problem is that was posed as a question to the AG. Motion council made, the way 13-300-31 works as explained to Ms. Ahia is that burial council take testimony from community about burials in area. Then burial council make determination whether or not it's a known burial area. Then burial council forward to SHPD; they make final decision.
- Not council question. Question that came from SHPD stated councilmember Dukelow.
- Ms. Ahia asked if SHPD made a response to the motion made at the May 2019 meeting to either confirm or deny that Maui Lani Phase 6, increment 4 is a burial site based on the testimony that was given by the public and received and approved by burial council?
- Really good question; not aware of answer at this time explained SHPD. Just to clarify and put on record, motion that MLIBC made at the May 2019 meeting asking either SHPD/DLNR to confirm or deny based on 13-300-31, was ignored by SHPD, still left unanswered.
- Response from AG stated council. Not a response to the motion; wanted to get that point stated on record explained Ms. Ahia. No follow thru by SHPD.
- Second motion wanted to be discussed by Ms. Ahia from March 6 re: remainder (increment 4) to be in preservation; boundaries determined by Wailuku rep and descendants. Ms. Ahia wanted council to know that it was supported by OHA. Meeting already occurred; councilmember Kamaunu and Ms. Ahia made boundary to include, as was suggested by Dr. Fariss, to look at whole thing in context.
- Kaniloa Kamaunu address council.
- Mr. Kamaunu wanted clarity re: the number of burials. Question accuracy of numbers. No reports filed according to court case. Only 1 submitted per Mr. Kamaunu (info came from Ms. Rotunno thru court case). Motion should be made to see it as a whole (site). It was once; unique. Only Maui had it (dunes) per Mr. Kamaunu. No remnants. Everything flattened. More reporting should be done explained Mr. Kamaunu. Form filled out for transparency.
- Councilmember Dukelow asked the department to clarify the process of when human skeletal remains are found (inadvertent).
- Burial Specialist Phillips reference HAR 13-300-40- inadvertent discovery of human remains.
- Burial Specialist Phillips confirms that SHPD fills out an internal form (inadvertent discovery form). A tally of all burials discovered is kept.
- Asking for comprehensive overview of burials in area for years stated Mr. Kamaunu. Haven't received anything. From SHPD or Arch. Nothing.
- Mr. Kamaunu stated that no guidelines for archaeology in Hawaii.
- Councilmember Nakanelua wanted to confirm that SHPD has info re: all burials found. Yes. That's correct replied SHPD. Public record asked councilmember Nakanelua.

- Cultural Historian Nakahashi explained that it is his understanding that only the burial council can deem a burial sensitive, thus redacting it from public record. Outside of that, anyone can request for that info by filling out a freedom of information form/request. Go through process.
- Councilmember Nakanelua asked that on behalf of the hui Malama Kakanilua, they could fill out form requesting docs and would receive it? Yes, that is our understanding replied SHPD.
- First time that ever heard could fill out form and receive info stated Mr. Kamaunu. Never got that info from past staff.
- How to access form asked councilmember Nakanelua. Office of Information Practices (OIP) website answered SHPD.
- Ms. Ahia stated that through court hearing, came to light, SHPD did not fill out forms for all finds (violation). SHPD concern that arch firms not submitting reports in timely manner. Ms. Ahia continue read letter. When SHPD recommend AIS, monitoring, SHPD doesn't often know when permit given, project development initiated. SHPD no resources to follow up. SHPD working with less than complete information.
- **Councilmember Kahele Dukelow Excused from meeting at 12:19PM**
- Annette Heu address council.
- Ms. Heu stated that in regard to Towne Realty, when parcel bought, were known burials recorded on transfer of property? Same with Maliko.
- 3 houses already built in increment. New homeowners given google maps photos. Families known when find bone, not a dog bone. Homeowners deserve consideration of knowing of cemetery there. Maybe Towne didn't know. Google Earth map, good place to start now per Ms. Heu. Deceptive practices by landowner/developers. Didn't ask for this. Path of life lead Ms. Heu here. Here to speak for children. Will not retreat until people recognize; given place of peace. Please Google Earth maps. Maui Lani Parkway, Towne Realty.
- Amy Halas address council.
- Ms. Halas point out a few things. AIS and assessments done on adjacent properties, all reference battle of Kakanilua. Curious, 1k acres acquired by MLP, no reference to battle. Adjacent A&B lands do. Trevor mentioned 300 anomalies stated Ms. Halas, what's not to say fragments, families, etc.? Disarticulated remains as significant as in situ stated Ms. Halas.
- Hoping new members do site visit. A lot of orange fencing, open pits. Deer in area. Unsure status of digging. Vulnerable iwi kupuna.
- Ms. Halas reference HAR – 13-300-33 request for council determination to preserve or relocate Native Hawaiian burial sites. Specifically, section of consulting with public. Hasn't been done by landowner/developers. Wants to see it done better going forward per Ms. Halas. Notices placed in newspaper (major publication).
- Can Recuse; no effect on quorum.

D. Letter Dated May 28, 2019 from Damon, Key, Leong, Kupchak, Hastert, A Law Corporation re: Maui Lani Partner's appeal and demand for contested case concerning Jennifer Ahia. Maui Lani Phase IX, Ahupua'a of Wailuku, Moku of Wailuku, Island of Maui, TMK [2] 3-8-004:153.

Information/Discussion: Discussion about the above letter.

- Councilmember Iris Pe'elua Reuse herself.

- Unsure how to proceed with this and the next couple letters per Chair Antonio.
- Councilmember Kamaunu explained that council made decision to recognize Noelani (Ahia) and others. Council challenged; legal right to make that decision. Noe's attorney

gave them explanation; responded to them. Ball back in our (council) court per councilmember Kamaunu.

- Towne has interest in iwi, as to what happens. Councilmember Kamaunu contends, as well as Native Hawaiian Legal Corp (NHLC), that they don't. Corporation; non-Hawaiian. No law allowing HBT, MLP to challenge council re: descendancy recognition, decisions stands explained councilmember Kamaunu. That's her understanding.

- Burial Specialist Phillips explained that these next 4 items are on the agenda for info and discussions purposes only. Not for a decision to be made. Mr. Phillips explained that he has received the opinion/response from AG to the letters by HBT and MLP requesting contested case. Will agendize for next MLIBC meeting. AG can advise council on how to proceed with petitions. AG on standby if council need to confer right now. Executive Session.

- **Council Vice Chair Maxwell make a motion to go into Executive Session to confer with legal-council.**

- **Councilmember Johanna Kamaunu second motion.**

- Councilmember Fisher – “Excused”

- Council Vice Chair Maxwell – “aye”

- Council Chair Antonio – “aye”

- Councilmember Dukelow – “Excused”

- Councilmember Kamaunu – “aye”

- Councilmember Pe'elua – “Recused”

- Councilmember Nakanelua – “aye”

- No “nay”

- Motion Carries.

- Executive Session starts at 12:33PM

- **Council Vice Chair Maxwell make a motion to end Executive Session.**

- **Councilmember Johanna Kamaunu second motion.**

- Councilmember Fisher – “Excused”

- Council Vice Chair Maxwell – “aye”

- Council Chair Antonio – “aye”

- Councilmember Dukelow – “Excused”

- Councilmember Kamaunu – “aye”

- Councilmember Pe'elua – “Recused”

- Councilmember Nakanelua – “aye”

- No “nay”

- Motion Carries.

- Executive Session end at 12:53PM

- **Chair Antonio open item up for public testimony.**

- Noelani Ahia address council.

- Ms. Ahia stated no problem if being challenged. Presents dangerous precedence. Foreign developer who going to determine kanaka maoli who they say they are. Big problem. Hope can of worms don't get opened.

- Ms. Ahia stated she would like clarity re: agenda items. Different developers/landowners represented by different law firms. Petitions for contested case hearings are being sought for descendancy claims that have been recognized for iwi in two different projects. Ms. Ahia just wants to ensure language in agenda items are correct.

- Kaniloa Kamaunu address council.

- Mr. Kamaunu mentioned the laws that are in place that benefits the landowners (non kanaka). However, kanaka have to jump through hoops to prove who they are. All

related if look far back enough. Island. Through history, married, fighting, all related. How can this be determined by state entity? Motivated by money. Money first; kanaka last. Last to take into consideration.

- Mr. Kamaunu referenced testimony from congressional hearing in 2009 for the Akaka Bill. Then, senator Abercrombie statement stated that transactions of lands in Hawaii 1.8 million acres turned over to U.S. in exchange. 2.2 million acres in Hawaii (private). More lands that weren't given. Concern, where is 1.8 million acres? How state and county regulating (4 million acres)? How is all of this happening without consultation? U.S. only have authority on 1.8 million acres. How are they doing all of this asked Mr. Kamaunu.

E. Letter Dated June 27, 2019 from Damon, Key, Leong, Kupchak, Hastert, A Law Corporation re: Maui Lani Partner's Written Petition for a Contested Case Hearing and Appeal from Burial Council Decision Recognizing Cameron Mahealani Ahia, Laura Gail Johnson, Lanwood Johnathan Aperto, Kahala Irving Andrew Johnson, Keahinuinakeakua Kari-Ann Keaka Johnson, and Noelani Paresa as Cultural Descendants to Unidentified Human Skeletal Remains at Maui Lani Subdivision, Maui Lani Phase IX, TMK: (2) 3-8-007:153

Information/Discussion: Discussion about the above letter.

- Council stated that this letter is similar to previous agenda item.
- Councilmember Nakanelua asked what are the attorneys asking the council to do?
- Chair Antonio stated that they are requesting the council to initiate a contested case hearing with respect to the descendancy claim applications that was approved by the MLIBC for iwi located at the Maui Lani Subdivision IX
- They want to contest the decision by the council explained Vice Chair Maxwell of cultural recognition to the iwi.
- Chair Antonio open item up for public testimony.
- Noelani Ahia address council.
- Ms. Ahia stated that these individuals can't be here. Gave Ms. Ahia permission to speak on their behalf. Issue is contested case hearing. Ms. Ahia stated it's the council that decide that (whether to have hearing or not). Make a point about this. The reason these descendancies are being questioned, is at the May meeting, SHPD did not provide recommendation to council. Ms. Ahia referenced definition of cultural descendant – Someone who has ancestor buried in the same ahupua'a or district as the remains. So, those who were claiming Waiehu or Waihe'e asserted that they should be allowed to claim with that genealogy of Wailuku ahupua'a. Definition says ahupua'a or district. Disagreement of definition of district. AG confirmed, ahupua'a and district means same thing (in definition), unable to use same genealogy. Asked specifically for that communication by AG, never given per Ms. Ahia.
- SHPD website. Definitions. Page 2 of document. Under definition of district, it says the moku the historic property is on. Answered whole question. The thing that they will contest in contested case, should they be granted it, is irrelevant.
- Kaniloa Kamaunu address council.
- Mr. Kamaunu stated that power of council is to recognize lineal and cultural descendants.
- SHPD, simply provide recommendation. Council make decision. Power of recognition lies with council. Council doesn't have much power. Mostly recommendation. Recognition of descendancy is within council prevue stated Mr. Kamaunu.
- Recognition is important. Hopefully they will take on the kuleana of mālama iwi kupuna. Empower community. Recognized. Become players in the game. Mr.

Kamaunu stated he does not fight to be recognized. Knows who he is. Mr. Kamaunu also stated that there was no opposition by SHPD re: genealogy of applicants. Believe genealogy was accepted; issue was appropriate district/ahupua'a.

- Not everyone that came forward is listed on the contested case. Should be all.

- Leina'ala Kuloloio Vedder provided written testimony (from May MLIBC) to council. Unsure if new members received it. Kākou a pau from Kumulipo. All 'ohana. Ms. Vedder stated her concern is, are these 'ohana equipped spiritually, physically, emotionally, mentally to be part of it? These past months, throughout nation, a lot of people have stepped up. What do you do with that? How to continue? Maika'i to take kuleana; all should. Maika'i to teach that to our children and to ourselves. Also, maika'i to see the ways we come forward and take kuleana. Back in May, those were my feelings. Now, as having had conversations, hearing others, as we continue, need to be mindful of discord between people, conversations. Don't want to be dragging down others all going forward to achieve same goal. How do we move forward asked Ms. Vedder? Ms. Vedder stated that that is her testimony for this 'ohana whose coming forward.

Chair Antonio close public testimony.

F. Letter Dated May 28, 2019 from Bays, Lung, Rose, Holma Attorneys at Law re: Written Petition for a Contested Case Hearing of Cultural Descendant Recognition of Jennifer Noelani Ahia to Unidentified Human Skeletal Remains at Maui Lani Subdivision, Phase VI, Increment 4, and Maui Lani Phase IX, Ahupua'a of Wailuku, Moku of Wailuku, Island of Maui, TMK [2] 3-8-099:999 pors, and TMK [2] 3-8-007:153.

Information/Discussion: Discussion about the above letter.

- Amend notice. These lawyers only for phase 6, not 9 explained Ms. Ahia

- Councilmember Kamaunu asked who provides the written notice on decision? Burial council or SHPD?

- Burial Sites Specialist Phillips stated that it is his understanding that the Deputy AG will provide their recommendation to the council and the council would be the one to issue the notice. However, Mr. Phillips stated he is not positive. Will look to clarify.

- Vice Chair Maxwell stated council already granted Descendancy, issue is whether or not petitioners allowed to challenge council's decision via a contested case hearing.

- Going to be a year. Does that mean make a motion/decision asked councilmember Kamaunu. Unsure; need to wait for the opinion by legal counsel. When will it be ready asked councilmember Kamaunu? Should be ready by next month stated Mr. Phillips.

- Close agenda item.

G. Letter Dated June 21, 2019 from Bays, Lung, Rose, Holma, Attorneys at Law re: Written Petition for a Contested Case Hearing of Cultural Descendant Recognition of Cameron Mahealani Ahia, Laura Gail Johnson, Lanwood Johnathan Aperto, Kalaha Irving Andrew Johnson, Keahinuinakeakua Kari-Ann Keaka Johnson, and Noelani Paresa to Unidentified Human Skeletal Remains at Maui Lani Subdivision, Phase VI, Increment 4, and Maui Lani Phase IX, Ahupua'a of Wailuku, Moku of Wailuku, Island of Maui, TMK [2] 3-8-099:999 pors., and TMK [2] 3-8-007:153.

Information/Discussion: Discussion about the above letter.

- Chair Antonio open item up for public testimony.

- Never got letters from SHPD acknowledging descendancy per Ms. Ahia. Was told by SHPD that they needed to confer with AG re: language in letter since descendancy was given by council without recommendation by SHPD. However, SHPD did state that

applicants are recognized, regardless if a letter is drafted/given or not. Doesn't change decision.

- Would like to receive written confirmation for record keeping.
 - Kaniloa Kamaunu address council.
 - Mr. Kamaunu referenced section re: recognition HAR - 13-300-24 (g). If SHPD failed to provide letter of recommendation (assessment), shouldn't stop council from making decision based on info they have at the time.
 - Ms. Ahia make official request to receive descendancy confirmation letter from SHPD
- Close Public Testimony

H. Letter Dated September 19, 2019 from the County of Maui Department of Environmental Management re: Request for a State Historic Preservation Division Letter of Determination (Pursuant to [HAR] §13-275-3), Lower Main Street Sewer Line Improvements Project, Wailuku Ahupua'a, Wailuku District, Maui Island, TMK: [2] 3-4 (Lower Main Street Right-Of-Way)
Information/Discussion: Discussion about the above letter.

- Trevor Yucha address council on agenda item.
- Joined by project engineer and representative from County (Scott Rollins). Linda Schatz was present; had to leave.
- County project planning to be completed down the right of way of lower main street to increase compacity for sewer line in connection with construction projects in Wailuku. Prosed project will include approximately 1.950 linear feet of excavation within active right of way of Lower Main Street in order to install new 15-inch gravity sewer line adjacent to the existing sewer line in place (pretty old 1940's ???). Ground disturbance will include entire excavation to a depth of approximately 6 to 11 feet below the existing road surface.
- Provide archaeological info re: area. Know it's a sensitive area per Mr. Yucha.
- Mr. Yucha reference handouts provided to council that include maps showing previous archaeological studies in area. Second page, location of findings of the studies. Third page, soil types in area. Fourth, 1880 map (one of the earlier maps) of area.
- No previously arch studies conducted in portion of right of way per Mr. Yucha. Page 2, findings, have been numerous iwi finds in area, as well as associated cultural layers. When compare location of iwi finds to soils map, see that finds occurring in pu'u one sand deposits, as expected. According to soils survey, proposed project area is within Iao cobbly silty clay. Arch records suggest elevated dune sand area, adjacent to project area is more sensitive environment. Historical records show alignment of Lower Main Street was in continuous use as travel route along base of sand hills. 1880 map, alignment more or less unchanged. Historical record, alignment of Lower Main Street more associated with access and transportation compared to the adjacent dune sand environment.
- With this info and knowing area arch sensitive, also this project within active county roadway, project proponents seeking support for recommendation of on-site arch monitoring for this project. On site monitoring common approach to excavation in active roadways and during previous work on other portions of current sewer project. Have started work on CIA specific for project. Welcome council and community to participate in study.
- Vice Chair asked about compaction below 11 feet?
- Civil Engineer Darren Unemori address question. Idea is trench down middle of paved roadway. Trench cut, material laid under pipe, pipe put into place and back fill. Will be compaction in trench that's cut, but not below per Mr. Unemori.

- Vice Chair Maxwell asked about depth of disturbance below road. Mr. Yucha replied has drawings of area. Existing sewer line. Project crosses through area of previous line. Number of laterals that come off old line into adjacent properties. Areas of past disturbance; no monitoring.
- Councilmember Kamaunu asked why hasn't a more recent study conducted? Most recent 1999. Certainly, a lot has changed stated councilmember Kamaunu. Mr. Yucha replied that studies are project specific. Hasn't been a project in portion of right of way that required arch study, at least that's what the records indicate.
- Councilmember Kamaunu asked for clarity re: project location. Mr. Yucha replied from Mill Street, almost to Waena Street.
- Capacity project. Increasing capacity of existing line; not replacing. Add addition. Wouldn't be in same alignment as existing. Same depth; very close to it.
- Propose onsite monitoring. Typical way to address projects in active roadways. Sensitive area.
- Any additional work to project asked councilmember Kamaunu. Mr. Unemori replied that this project connects two ends of line that intended to provide additional capacity. Line brought up from Waiehu Beach Rd side. Ended at Waena street (2000). Another section of line from Kehalani side, down Lower Main Street to Mill Street side. This project closes last gap between two finished projects.
- Council asked if something found, ability to deviate from proposed path? Section of Lower Main Street very narrow. Really old section between last two traffic signals along Lower Main. Right of way as narrow as 30 feet. 2 lanes. Within that, sewer line, and a couple of existing water mains. Whole area crisscross by sewer laterals. Some room to play with exclaimed Mr. Unemori, but not very much. Unable to use properties on either side of road (developed), only usable area between pipes within road.
- GPR penetrate asphalt or concrete. Results would be skewed because of the existing utilities. Affected by metal objects. Distort area around it, below it.
- Chair Antonio open item up for public testimony.
- Kaniloa Kamaunu address council
- Mr. Kamaunu stated that take into context whole of Lower Main. Look at what here. Concentration goes throughout area. Some of burials found in road when built. Moved to side. Mr. Kamaunu question material. Backfill? Sand dunes when Mr. Kamaunu was growing up. Kiawe trees. Cattle. Current location of Wailuku industrial, used to be cane field. How much backfill in area compared to original soil. Similar to Waiehu. Will discover. If get one, will have more. What are ramifications? Nobody being fined, cited. Mr. Kamaunu cited 1860 Law. From conception to desecration/dis-internment, everyone responsible. All part of act; not excused. All should be fined. Due diligence to do right thing. Intrusion of rights given thru kingdom of Hawaii. Never naturalized as people. If we weren't naturalized, our kupuna were not. Rights given to these people still apply. If not fair process, disturbance should be criminalized.
- Jocelyn Costa address council.
- Ms. Costa stated a lot of businesses there. Going to want to expand. Language going to be really important. Good to know what is public vs. what is private. Show areas already been studied. When was road built? Any requirement of study there? Does that trigger process? Talking about kupuna that might be impacted for toilets. Considering dealing with iwi kupuna, should take it to highest level. Ms. Costa stated if showing map from 1880, where Kuleana names? Not a well-known used county road, it's an Alanui. Can't turn back hands of time. Road there; understand. Progress; increase of toilets. How then to proceed? That's where council come in. Find the kuleana. That way, when the iwi is found, will know who to call. Process of take care of iwi.

- Councilmember Pe'elua wanted clarity re: 15-inch gravity sewer line. Excavate a trench, place line within trench. Backfill on top. Open trenching stated Mr. Yucha. There are other methods of horizontal trenching. However, this project will consist of open trenching.
- Existing line. What's going to happen to it asked councilmember Kamaunu. It will still be used. This new line will just increase capacity stated Mr. Yucha.
- Mr. Unemori stated existing sewer line will remain in service. New 15 in. line will basically supplement the capacity. These lines will take wastewater from Wailuku town to Kahului treatment plant. Lines in service as long as necessary. Down Lower Main. Pump station near Waihata. Force Main that pumps, pressure line around harbor to Kahului Treatment plant.
- Treatment plant expanding asked councilmember Kamaunu. Not as a result of this line replied Mr. Unemori. Enough capacity at plant to continue servicing community. This particular case, clearing bottle neck. Upstream of line, downstream of line enough capacity to serve community. Choke point at this point. Clear chokepoint and even out capacity at this point.
- How much space before sewer line not sufficient? A lot more residential plans in the works stated councilmember Kamaunu. If haven't prepared for that, project useless.
- Scott Rollins, Acting Chief, Wastewater Reclamation Division Department of Environmental Management address council. Mr. Rollins stated that been studying area for some time. Project on capital improvement list for 10 years. A lot of homes coming up in area that line will serve. Line put in now will be adequate for the next 20 years. Plus, looking at building an additional treatment plant somewhere away from ocean. That some of the flow away from Wailuku. Don't anticipate doing any more improvements down Lower Main after this.
- With all development proposed, should be enough to carry load. Yes.
- Councilmember Nakanelua existing line is 12 inch. Going to put a 15-inch parallel to existing line. Currently, 15-inch line both upstream and downstream of area. Going to tie those two together. Right now, 12 and 15 that tie together.
- Closes known burial to proposed project asked council. Very close stated Mr. Yucha. Referenced map. Pattern, all iwi found on the dune side.
- HRS 6E Submittal form. Is this standard form? Yes. Councilmember Kamaunu question 5.8 criterion re: known historic property. If historic property found within project area, list it and provide assessment/more info on it. In this case, none found in project area; near-by. What know now about area.

I. E-mail from Trevor Yucha of Cultural Surveys Hawai'i, dated September 25, 2019 re: Archaeological Inventory Survey Plan for the AES Kuihelani Solar Plus Storage Project, Waikapū Ahupua'a, Wailuku District, Maui, TMKs: [2] 3-8-005:002 por. And [2] 3-8-006:003 por.

Information/Discussion: Discussion about the above e-mail.

- Trevor Yucha address council.
- Nick Molinari from AES address council re: project.
- Mr. Molinari stated that came before council in May introducing project. At the time did first round of GPR testing on small area. Wanted to come back and provide update on status of property, including results of ground truthing of GPR. Plan for broader testing strategy. Answer any questions and get any feedback before moving forward. Project still in early stages of developments. Haven't submitted for any permits yet. Finishing site studies stated Mr. Molinari. Starting design and engineering process. Consultation with community members and council early and often so that when moving forward,

ensure feedback being incorporated into design. Been a couple months, new councilmembers, Mr. Molinari stated he'd like to give a brief overview of project.

- Project 60 mega-watts AC. Part of competitive solicitation that Hawaiian Electric Company put out in 2018. One of 7 projects that were selected. Part of state's overall goal to reach 100% renewable by 2045. AES signed contract, 25-year agreement in December of 2018, reviewed and approved by PUC in March 2019. One of lowest cost power purchase in state. Significantly lower than current cost of fossil fuels. One advantage of renewable energy is fixed price. Old system, sun come out, power go into grid. Systems now being integrated with battery systems. That's what this project is. Gives system level of flexibility; power can be generated and stored during day, dispatched at night when high demand. Batteries enable more efficient use of power. Energy system will produce enough for 27k Maui homes, off set almost 2million barrels of fuel (imported). Power will be generated and consumed on Maui. Project area, former farmland owned by A&B, recently sold to Mahi Pono. Big fire in July burned 75% of cane/vegetation. Ag land. Soil code D and E. Better soils in vicinity. Max acres 500. Current design use as little as possible.
- Advantage to system, not much grading. Panels on trackers held by steel "I" beams. Beams pounded into ground. No heavy-duty excavation. Topography flat. Very little major grading operations. Minimal disturbance. Bigger electrical equipment sits on concrete pads. Excavated to depth of maybe 3 feet. Trenching for conduit and wires (3-4 feet). Looking into system keep wiring above grade. Eliminate trenching. Minimal impact re: earth disturbance. System 25 years agreement with power company. End of 25 years, decommission. Part of advantage of minimal disturbance. Deconstructed, removed at end of 25 years. Existing transmission line runs through site. Tie in point proposed to be on existing line. Hopefully no major upgrade. Will pay if there is.
- 200k solar panels. As design updated, keep updating rendering. Get farther along in process, will look into vegetative buffer along highway to minimize visual impacts (community concern).
- Panels, max height 13/14 feet. Battery containers 10 feet tall, sit on concrete pads spread throughout site.
- Trevor Yucha address council.
- Last update at May meeting. Talked about background research. Recon inspection. Provided brief on ongoing community consultation. Preliminary GPR survey. Since May meeting, done other aspects of project. Initiated consultation with SHPD. Working on CIA. Ground truth GPR anomalies. Observed Geo Tech borings to get better sense of soil types and changes. 100% coverage of pedestrian inspection. In process of finalizing draft AIS plan. Next steps submit plan. Move forward with fieldwork (historic properties buried beneath surface). All wrapped up in AIS report reviewed by SHPD. From that, mitigation (data recovery/preservation plans). Burial treatment final step in process; monitoring plans.
- Preliminary GPR survey (4 areas) within project area, little over half acre. 100% surveyed by GPR, 404 total transects. 6.4 miles of transects. Went back and ground truth anomalies. No discovery of human skeletal remains. Area 1, northern most area. Anomalies aligned with field rows. Assumed before ground truthing anomaly had something to do with prior ag use of area. Controlled excavation of anomaly; discovered PVC pipe.
- Councilmember Nakanelua asked if have ever seen an anomaly which turned out to be skeletal remains. Iwi itself blends in with soil. Unsure if clear signature of iwi. However, if iwi placed there, some type of disturbance. The burial pit. That's what will show in the GPR signature. Do have examples of that.

- Area 2, central area. Used for seedling rows for cane. That's what shown on 1977. Also used for settling ponds. Dug area out. Settle mill wash water in area. Assumed area pretty disturbed. GPR picked up linear anomaly. When excavated, was not sand. Mostly clay. Lens of sand in material. That's what was picked up in GPR. Area 3, central just north of Waikapu stream channel, sand deposits and other things. Complicated stratigraphy. Different types of stratigraphy. 2 anomalies. Ground truth, stratigraphy complex. Layers of plow zone, layers of charcoal. Mixed sand strata possibly buried original surface layers. Base of excavation, water worn cobbles found. Anomalies related to voids, changes in the cobbles. Confusion for GPR. Plan to do more work in area because of sand deposits. Better understand. Area 4, south of Waikapu stream. Picked up long linear anomaly extending through area. Tested in a few locations. Underneath plow zone, layer of sand. Under that, sloped layer alluvial sediment. 1953 HC&S map. Looks like some sort of flood event shown on map. Channel at some point. Channel subsequently filled into possibly to expand commercial ag. No finds. However, in each case, GPR did pick up something that is of interest archaeologically. GPR used to ID all historic properties.
- Geo tech boring thru project area. Process pretty common for project throughout state. 2-inch diameter hole in ground, soils observed and tested. Geo tech company will prepare report on findings.
- After fire, do pedestrian survey. 100%. Confident nothing on surface was missed. Nothing found.
- Done all different phases of work. Culminated into sampling of area. SHPD typically expects AIS include some type of subsurface testing.
- AIS plan. Done GPR, done geo tech. Plan is to do 250 test excavations. Looking for anything below surface. 20 long GPR transection (5 miles of GPR survey). Focus on areas of proposed ground disturbance. Plan designed more trenches on west side of project area. Across highway, burial finds. Increase number of trenches along Waikapu stream. Area used. Potential for buried culture. Increase number of trenches in sandy soil area.
- Mr. Yucha referenced maps. Controlled test excavation proposed areas. Team of archaeologist. Backhoe will remove plow zone under observance of arch. Test by hand. Controlled. Really controlled, not the same as construction monitoring.
- AIS. Any finds considered previously ID. Any finds reported to SHPD and MLIBC rep. Preserve in place until MLIBC make official determination. Done thru BTP process. Will keep updating MLIBC with or without finds. If encounter burial, add more trenches to identify if clusters, cemetery, etc. More trenches, but important to know boundaries, especially in the planning portion of project. Use of GPR, non-invasive method of identifying boundaries.
- Is there a classification that would lead you to believe family graveyard, community graveyard, burial site, burial ground. Yes replied Mr. Yucha. Normally, when encounter burial, arch work is done. Report to SHPD/council. Decision is then there's to make. However, do have staff with expertise in doing more research.
- How far from East Waiko road is site asked council. Waiko road is right across street.
- Alluvial site. Anything to do with Waihe'e canal? Yes. Have documented that. It's separate.
- Chair Antonio open item up for public testimony.
- Noelani Ahia address council.
- Ms. Ahia asked the MLIBC if the council could see if Mr. Yucha has any info pertaining to the number of burials found in the Maui Lani district via background research done for this proposed project. Any reports missing and if so, why?

- Related to project. Similar district. Info shared with community in initial consultation meeting. Info pertinent because it gives context into what may or may not find in this project. Cultural descendant of area concerned about area.
- Mr. Yucha replied that they do map all historic properties that are presented to SHPD. Do have a record. Unsure what numbers. Don't have all reports. Only info have is what has been turned in and accepted by SHPD.
- Foster Ampong address council.
- Recently completed editing summary for CIA for project. Contiguous land area and burials Maui Lani and pu'u one complex. County is also looking in same direction. Trying to get big picture for context for whole area. Not only for solar project. Announce construction of 4400 affordable homes in Waikapu area. Working on getting whole picture of burials together (Trevor, Mayor Victorino and Foster).

J. Update on the Inadvertent Discovery of Human Skeletal Remains at 32 Akumu Way, reported to the Maui Office of the State Historic Preservation Division on April 20, 2019, Ahupua'a of Waihe'e, District of Wailuku, TMK: (2) 3-2-010:017 Information/Discussion: Discussion about the above find.

- **Item moved up to be discussed following Item V. B.**
- SHPD Cultural Historian Nakahashi provided council with 2 written testimony by community members to be included in the meeting minutes.
- Nico Fuentes address council.
- Mr. Fuentes provide council with chronology of events.
- April 20, 2019, discovery of human skeletal remains by construction crew. Within first week, site visited by MPD, SHPD, and archaeologist. Based on MPD visit, determined iwi no forensic value; jurisdiction SHPD.
- SHPD required property owner to hire archaeologist to investigate site and recover iwi. Burial was to be investigated to ascertain the presence of any *in situ* components and to collect all clearly displaced human skeletal remains. per Mr. Fuentes. Recovering occurred between April 29-July 29. Multiple site visits have occurred with landowner, SHPD, contracted archaeologist. Item has gone before council May 15, 2019 MLIBC agenda.
- Completed recovery and investigation (91% of individual recovered). Official request for determination given to SHPD. SHPD drafted letter of determination, dated September 19, 2019 to relocate the human skeletal remains. As of September 26, notification sent to SHPD of construction commencing; active for the past two weeks.
- Councilmember Fisher commented that a previous AIS conducted on property. Mr. Fuentes replied yes. In 1990 by Cultural Surveys Hawai'i. At that time, no iwi kupuna found on property. Found in adjacent properties according to Mr. Fuentes. 3 lots to east. Known cemeteries within 100 meters of area. Only 1 burial discovered in AIS; located 3 lots over from lot in question.
- AIS done by previous owner asked Councilmember Kamaunu. Only AIS done on property was in 1990 stated Mr. Fuentes. No 2005 or 2015 study asked Ms. Kamaunu. No.
- Original Location unknown stated Mr. Fuentes. Any monitoring asked Council Chair Maxwell. No monitoring required per issuance of permit per Mr. Fuentes.
- Councilmember Kamaunu question percentage of discovered remains of individual. Mr. Fuentes replied that initial discovery by construction crew (few remains). Through initial investigation 80% of individual discovered. Upon completion of screening the stockpile, another 11% was found. Total of 91% of individual recovered to date.

- A number of disturbances have occurred on the lot over the years according to Mr. Fuentes. 3 levels of disturbance to this single individual. 2005 activity happen on lot; undocumented. No record of it. Interviews with surrounding neighbors. Current dune was 10 feet higher. Mass X occurred disturbing top. Fast forward to 2019, excavation happens (stockpile). Next skid steer picks up elements within pile and begins to spread.
- Recovered majority stated Council Vice Chair Maxwell. 3 months of meticulous screening replied Mr. Fuentes.
- Finds confined to area as large of table in conference room. How got there, different to ascertain explained Mr. Fuentes. Appears as if dune was pushed in a massive way based on what observed according to Mr. Fuentes. 2005, current landowner instructed to re-stabilize dune (Activity wasn't recorded either). Current day, men digging in area, stockpiled remains of person. Above grade.
- What are chances find 91% of person in small area; unable to determine where came from asked Ms. Kamaunu. Difficult to say, given size of lot. Extent pushed no longer than screen in room. Not unfeasible to have been pushed massively, covered up, subsequent to having re-build dune, flatten area and vacate. Someone else comes in to area, picks up remains, spread into pile. Then, hits it with a skid steer, takes pile and spreads it.
- Councilmember Kamaunu stated she believe iwi was always there, rather than moved, pushed from somewhere else.
- One piece of evidence found during screening. Went through screen pile into current grade. Identified area of disturbance went down 2 feet. Unless person interred in fill material, person pushed to that location.
- Councilmember Dukelow wanted to clarify the issues. Councilmember Dukelow question why no monitoring required. No iwi found in past AIS? Even though iwi discovered in vicinity. Sand dune. If burials near-by, especially in sand dune, should have monitor. How does that work with respect to permitting and requiring monitoring asked councilmember Dukelow?
- SHPD Cultural Historian replied that, it is his understanding that current project permit did come to SHPD. Routed to archaeology division. Person reviewing permit said no further archaeological work required (until something found), notifying county to issue permit without any stipulations, requirements. Thus, no monitoring plan; no monitor.
- Council Vice Chair Maxwell asked if there is a monitoring plan now. Mr. Fuentes referenced HAR 13-279-4c. Requires monitoring in reaction to inadvertent discovery. However, don't required archaeological monitoring plan.
- Council Chair Antonio read aloud written testimony 1 by 'O Waihe'e Ma, Jlorra Pualani Savala (attached)
- Council Chair Antonio read aloud written testimony 2 by Basbas 'Ohana, Segis Mundo Basbas, Jr. (attached)
- Council Chair Antonio open item up for public testimony.
- Noelani Ahia address council.
- Ms. Ahia share how things unfolded. March 2018, letter from Susan Lebo to County stating that records indicate no archaeological inventory survey conducted, no archaeological historic properties identified within subject parcel or near-by. How can you determine there is no historical properties unless an AIS was done asked Ms. Ahia? Red flag #1. Initials on log, archaeologist from O'ahu who wrote letter. Not someone from Maui. After iwi desecrated in April, did research SHPD library, found a lot of docs. Original AIS. Letter dated July 2005 from SHPD to Planning Director, stating qualified archaeological monitor must be present for all ground altering activity. Issue, parcels split up later; same TMK.

- Ms. Ahia stated she sent a letter to the governor. SHPD replied. Letter from SHPD stated that letter referring to not found during staff file search. Had it been found, SHPD might have made a different determination. At this point, inadvertent discovered. Unfortunate, however, AIS/Monitoring doesn't guarantee this would not have occurred per Ms. Ahia. Why have AIS, AMP? Ms. Ahia exclaimed this is ridiculous; unacceptable. Iwi kupuna desecrated because of faulty work at SHPD. Don't know where went wrong; not okay. Iwi desecrated. Determination (Ms. Ahia as a recognized descendant) has a problem with. Should not touch iwi kupuna. Giant preservation surrounding it. No one should be building houses in sand dunes anywhere stated Ms. Ahia.
- Kaniloa Kamaunu address council.
- Mr. Kamaunu stated his family related to area through Ka'iwi. Grandmother is Ka'iwi; Raised by Tutu who was a Kahalekai. LCA belongs to Imaiwa'a. On those sand dunes, cemetery talking about, family cemetery. Areas constructed by couple churches (LDS). Mr. Kamaunu testify on behalf of sister. Reason why, technicality, allow landowner to (get permit) build is because of the 4 months that council did not meet. Other problem, SHPD did not send archaeologist on site. No archaeologist Maui Office. Scary because a couple years ago Dr. Downer testified in County Council, because of shortage staff, money, don't send people out to check. Just signs off. How can give permits? According to 6E, archaeologist not only person to be there. Supposed to have ME to assist from County side. Both present to do analysis, determination.
- Councilmember Dukelow wanted to clarify the written testimony submitted by Mr. Kamaunu brother in law (Segis), is he alleging that the individual recently disturbed is that of Uncle Eugene Morton? Close vicinity. Possibly. Unsure if marked. First time sister mention this per Mr. Kamaunu. Councilmember Dukelow asked about timeframe of Mr. Morton. Older one.
- Mortons connection because of grandfather (from Ulupalakua) stated Mr. Kamaunu. Part of Cockett family, buried Ulupalakua. Grandmother met; from Nahiku. Came to this side because of Tutu. Grandmother born 1800's. Mother born 1921 clarified Mr. Kamaunu.
- Councilmember Kamaunu mentioned that the fencing separating project and cemetery, site of family graves; Right up against fencing on the other side. Since family can't locate him, assuming, possibility that he is the burial that has been moved/disturbed.
- Mr. Kamaunu mentioned that sister will be issuing a cease and desist letter.
- Mr. Kamaunu stated he is a lineal descendant of area. Family burials there. Never talked to/consulted with family. Question the determination of inadvertent. If know you're pushing around a burial, how is that inadvertent asked Mr. Kamaunu? No monitoring. That's the problem.
- Mr. Kamaunu spoke to Leslie Otani, went to specific lot 20 years ago. Someone excavating, no permits. Past disturbance. Inaccurate reports. Talk to neighbors. They all get iwi per Mr. Kamaunu. This is not the only disturbance explained Mr. Kamaunu, just the latest to be talked about.
- **Council Chair Antonio call for recess at 11:08AM**
- **Council Chair Antonio resume meeting at 11:20AM**
- Foster Ampong address council to clarify first name of Mr. Morton. Eugene or Edgar? Council clarified Eugene. Okay. Nothing further stated Mr. Ampong.
- Councilmember Dukelow discuss possible motion to be made.
- Council Vice Chair Maxwell stated that current predicament was caused by SHPD. Would like to have AIS done retroactively. Monitoring plan drafted retroactively in light of the failure of SHPD. Should be council prevue (previously ID) if proper

steps/procedures were followed by SHPD. Formulate some kind of motion to incorporate that encouraged Vice Chair Maxwell.

- Councilmember Fisher reminded council that in letter drafted by family, it's asked that the council not take any action at this moment. Council discuss Interpretation.
- Any action happening right now that family referring to asked Councilmember Dukelow to Councilmember Kamaunu? Unsure. Only made aware this morning. Move forward. Can only help; not hurt.
- Foster Among discuss Morton family with council.
- Councilmember Dukelow question Mr. Kamaunu re: letter. Clarification received by Mr. Kamaunu (from sister) is request intervention from council.
- Discussion ensued amongst council members re: motion
- Mr. Fuentes seek clarity from council re: motion
- **Councilmember Scott Fisher make motion: The Maui / Lānaʻi Islands Burial Council requests the completion of an Archaeological Inventory Survey at 32 Akumu Way, TMK: (2)-3-2-010:017, by a neutral archaeological firm (neutral party) using non-invasive methods and techniques for archaeological investigations. Work at the site ought to include an investigation (statistical analysis) of adjacent properties.**
- **Councilmember Kahele Dukelow second motion.**
- **Councilmember Fisher – “aye”**
- **Council Vice Chair Maxwell – “aye”**
- **Council Chair Antonio – “aye”**
- **Councilmember Dukelow – “aye”**
- **Councilmember Kamaunu – “aye”**
- **Councilmember Peʻelua – “aye”**
- **Councilmember Nakanelua – “aye”**
- **No “nay”**
- **Motion Carries**

- K. Training for Maui/Lānaʻi Islands Burial Council on membership, roles, and responsibilities.**
Information/Discussion: Discussion on the above item.
(BRING BLACK TRAINING BINDER)

- **Item Deferred**

Meeting adjourned at 2:21 PM