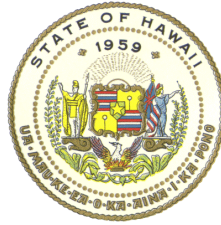


DAVID Y. IGE
GOVERNOR OF HAWAII



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COMMISSION ON WATER RESOURCE MANAGEMENT

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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, January 21, 2021
TIME: 9:30 AM – 1:30 PM
PLACE: Online via Zoom

Zoom Meeting Link:

<https://us02web.zoom.us/j/84957195785?pwd=ODI1WHpjSGV6VGdzMTFoMlVUZ1Rndz09>

Meeting ID: 849 5719 5785
Passcode: 6dHR11

***Audio Recording at <https://dlnr.hawaii.gov/shpd/about/branches/ibc/meetings/> ***

HIBC Members:

Present:

Vice-Chair Kalena Blakemore (Puna)
Member Norman Ka'imuloa (Kona)
Member Scott Mahoney (Ka'ū)
Member Waiola Higa (Hāmākua)
Member Desmon Haumea (Ka'ū)
Member Clifford Kapono (Hilo)

Absent:

Chair Nālei Pate-Kahakalau (Hāmākua)

SHPD Staff:

Kea Calpito, Burial Sites Specialist
Chris Omerod, Burial Sites Specialist
Hinano Rodrigues, History & Culture Branch Chief
Lesley Iaukea, Burial Sites Specialist
Ka'ahiki Solis, Cultural Historian
Tamara Luthy, Ethnographer
Cindy Young, Deputy Attorney General (Attorney General's Office)
Lauren Chun, Deputy Attorney General (Attorney General's Office)

Guests:

Ted Blake, KNIBC Member
Angela Neller
Jojo Tanimoto

I. CALL TO ORDER

Vice-Chair Blakemore call to order the meeting at 9:34 A.M.

II. ROLL CALL/PULE

Member Higa conducts pule.

Clifford Kaponu, Scott Mahoney, Desmon Haumea, Waiola Higa, Kalena Blakemore, Norman Ka'imulua

III. MINUTES

A. Approval of the Minutes for December 17, 2020.

Summary:

Recording: 03:20 – 20:00

- Member Kaponu (03:40, 5:25, 08:10)
- D.A.G. Young (04:25, 09:20)
- Kea (06:30)
- Member Mahoney (07:25, 11:25)
- Angela Neller (11:50)
- Lesley Iaukea (12:15)
- Ted Blake (13:10)
- Ka'ahiki Solis (14:05)
- Tamara Luthy (14:35)
- Hinano Rodrigues (15:10)
- Member Haumea (16:05, 18:45)
- D.A.G. Chun (16:35)
- Jojo Tanimoto (17:15)
- **Motion at 18:15**
- **Vote at 19:40**

- Format of audio recordings
- Liability of audio recordings
- Guest and extended staff introductions

- Requested Detailed Comments:
 - D.A.G. Young
 - *As I understand it, your question is whether you can approve the minutes by the recording of the meeting and not the written minutes, and if that is the question, then that is what is allowed under the sunshine law as long as there's those indications of when certain discussion begin which it does have. If your question is whether or not you're approving what the decisions of the previous meeting were, you're just approving the minutes, you're not necessarily agreeing with the decisions involved so if you voted no for example on a previous item, you're not approving that item now, you're just approving the minutes of that, this is what was reflected at the meeting. That's all you're approving; the minutes are a reflection of that meeting.*

- *The way that they have structured your minutes which is the recording, that is allowed by the Sunshine Law, so, that complies. So, the answer to your questions is that you comply with the Sunshine Law. What you're discussing and what you discussed in the past in terms of verbatim minutes versus summary minutes versus the recording with the timestamps showing what item was taken up when, that is a preference and that is something that you need to work with SHPD, with Jordan folks on, because I think there is that level of workload and such. Those are more policy issues, those are not decisions we make, but all of those different ways comply with the Sunshine Law, a sufficient summary, verbatim minutes, certainly the recording with the fullest representation of what was discussed, it's literally a recording of your entire discussion, so yes.*

MOTION: To approve the minutes
MOVED BY: Member Haumea
2ND BY: Member Higa
VOTE: Motion carried unanimously

IV. BUSINESS

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

The Council may elect to go into executive session pursuant to HRS §92-5(a)(4), to consult with the council's attorney on questions and issues pertaining to the council's powers, duties, privileges, immunities, and liabilities.

Summary:

Recording: 20:20 – 01:06:00

- Member Haumea (20:50, 24:40, 25:20, 25:55, 34:40)
 - Member Mahoney (21:00, 30:15, 41:40, 01:03:55)
 - D.AG. Young (21:55, 24:20, 24:45, 25:30, 26:10, 42:00)
 - Hinano Rodrigues (23:10, 31:00, 33:05, 38:40, 41:15, 46:25, 50:15)
 - Ted Blake (23:50, 32:30, 38:25, 43:25)
 - Member Higa (24:40, 45:45)
 - Member Kaponono (26:50, 37:00, 48:15, 01:01:30)
 - Member Ka'imuloa (51:20, 01:03:25)
 - Vice-Chair Blakemore (55:30)
-
- Meeting cancellations
 - Quorum
 - Member appointment process
 - Issues with Kaua'i/Ni'ihau Island Burial Council
 - Potential applicants
 - Audit
 - Burial council convention
-
- Requested Detailed Comments:

- D.AG. Young
 - *From a legal perspective, one of the reasons, well I'll put it this, you wouldn't need to cancel the meeting if you don't have quorum. Lack of quorum, though, means all you can do for the members who are present is to take testimony, there can be no discussion, and sometimes asking questions, there's a fine line between questions and starting to look like discussion, so, that's one of the things, you can't discuss the item because it's just merely to hear from the testifiers, it's very limited, so you can do that, but a lot of boards and commissions, to be efficient and not to have any confusion from the folks that attend that there might be a decision that's made, they make the decision to cancel the meeting. That is something that I believe Hinano can correct me if I'm wrong, but I think that is something that is generally the chair makes the decision on.*
 - *Without quorum you cannot discuss board matters*
 - *You can't discuss items, its not just merely a matter of you cant vote on a decision, you cannot discuss board business without a quorum, all you can do it take testimony and that is why most, from what I've seen, most chairs make the decision to cancel the meeting for that reason because all you can do is take testimony, so there is no discussion that can happen.*
 - *If it's not somebody testifying before the members that are present, anything other than that very limited purpose, you cannot do, executive session with your attorney, for example, you cannot do that without a quorum. The other reason why you couldn't have an executive session is that you need two-thirds, you need a majority of your members, and no less than two-thirds of the members present and so for that reason as well, you could not enter into executive session so there's multiple reason why that cannot happen in the scenario that we're discussing.*
 - *I can't speak to every single board and commission of the state, the ones that I'm familiar with, the boards and commissions do require, the members do require confirmation by the Senate, that is by statute I believe.*

- Hinano Rodrigues
 - *Because each burial council is autonomous of the other, each island runs their burial council the way they see fit provided they're within the law. Only the chair can cancel a meeting ahead of the meeting. The SHPD staff is the one who does the actual notification of the cancellation, but they do not at all make the decision to cancel the meeting. It is always the chair and if the chair is not available, would be the vice-chair.*
 - *Now that the legislature started, I'm working with the boards and commissions, we've had a series of telephone conversation on making the nominations for this session, that's a specific statement there, but generally speaking in an umbrella sense, we have always had problems finding nominees, its very difficult to find people who actually want to serve and that's where we tend to rely on you guys if you guys know anybody else. You guys tend to have more members consistently than any of the other islands and it really helps when the burial council members can help us find people to serve. It's a volunteer position, sometimes, the meetings go on for a long time and it's very difficult for people who do volunteer to give that kind of commitment and dedication.*
 - *So, this is how the process works. People are nominated, OHA has a legal right to nominate 20 percent of the members serving. So those names are sent over to the Boards and Commissions Office and the Boards and*

Commissions Office actually decides, it's the Governor's prerogative to decide who serves on his boards and commissions, so it goes to that office, they decide who they're going to send to the Senate. This is where it's a really tricky game, because if you send a name to the Senate and the Senate does not confirm that name by the time the Hawai'i State Legislature is over which is right about the second week of May, that nomination that has not been confirmed by the Senate can die and we don't want that to happen. So, we want to make sure that when names go to the Senate for confirmation and/or if people are named as interim members, that that's going to survive the process.

- *Normally, I tell my staff that they have to send an email to the chair and the chair needs to respond and then that way, we have evidence that it was the chair that cancelled the meeting and it wasn't SHPD. So, let's separate the process, the chair makes the decision to cancel but SHPD sends out the email to notify the cancellation. So those are two different decisions being made.*

V. ANNOUNCEMENTS

A. The Next HIBC Meeting is Thursday, February 18, 2021, 9:30 A.M. Location TBD.

Summary:

Recording: 01:07:00 – 01:31:15

- Member Haumea (01:07:05, 01:20:55)
- Lesley Iaukea (01:07:30)
- Jojo Tanimoto (01:11:30)
- Ka'ahiki Solis (01:15:05)
- Tamara Luthy (01:18:10)
- Member Ka'imuloa (01:22:50)
- Member Haumea (01:23:55, 01:28:25)
- Vice-Chair Blakemore (01:25:10)
- D.AG. Young (01:25:35)
- Ted Blake (01:27:30)
- Member Kaponu (01:29:00)

- Requested Detailed Comments:
 - D.AG. Young
 - *An open ended item like new business or old business without any clarification of what those items are, or free discussion or something like that, those have all been things that have actually been raised to the Office of Information Practices which is the state agency that interprets the Sunshine Law and that has that rule of providing that advice, they have come out and said that raw agenda items are not sufficient, it has to have some level of specificity. In order to let the reader of the agenda know what is going to be discussed with some level of specificity so that they know, and I think one way to think about it is that on the one hand, you have the folks that have concerns and that want things to be discussed, certain matters, but the other aspect of that is there's other folks that are*

interested in those matters that might not know you will be discussing those matter so the agenda gives them the opportunity to know that you are going to be discussing it and get prepared and know that they need to be at the meeting or be on the zoom meeting if they want to provide testimony or if they want to submit written testimony, they have the opportunity to do that.

VII: ADJOURNMENT

Meeting adjourns at 11:05 A.M.

*****THE ABOVE MINUTES WERE APPROVED AT THE 02/18/2021 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 located at 40 Po'okela St., Hilo, HI 96720. Individuals requiring special assistance or auxiliary aids or services (e.g., sign language interpreter, wheelchair accessibility, or parking designated for the disabled) at the HIBC meeting, please contact staff at least 72-hours prior to the meeting at (808) 933-7653 so that arrangements can be made.