

DAVID Y. IGE
GOVERNOR OF HAWAII



**HISTORIC PRESERVATION DIVISIC
DEPARTMENT OF LAND AND NATURAL RESOI**

601 Kamokila Boulevard, Suite 555
Kapolei, HI 96806

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

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MAUI / LĀNA'I ISLANDS BURIAL COUNCIL
DRAFT MEETING MINUTES

I. CALL TO ORDER

Reconvening of May meeting today is Wednesday June 3, 2020. Let's start with roll call.

II. ROLL CALL

Scott Fisher
Kaheleonolani Dukelow
Kyle Nakanelua
Iris Pe'elua
Johanna Kamaunu
Dane Maxwell

[5:55] SHPD staff

[1:12] Chris Ikaika Nakahashi, Cultural Historian
Andrew Kealana Phillips, Burial Site Specialist
Susan Lebo, Archaeology Branch Chief
Iolani Kauhane, Archaeologist assigned to Maui
Susan Lebo
Tamara Luthy, Ethnographer
Hinano Rodrigues, History and Culture Branch Chief

[2:33] Scott – Susan lebo indicated that she is present in group chat

[2:43] Kealana – Hinano will be on and off

[2:54] Dane - mahalo to SHPD staff for being present at the reconvening of this meeting. I just wanted to, before we get started, I get these question a lot about doing pule or protocol prior to starting. But there's a reason why I have chosen myself not to impose my beliefs within this council. When I come, before I come, I do my own protocol before I enter this space but that's limited to me. When we have this kuleana as this council and all the ohana in here have this kuleana to speak on behalf of these many different kupuna. Out of respect I choose not to impose my beliefs on others. I am sure there

are a diverse number of beliefs and how we prep ourselves to get ready and observe moment of silence. [6:22 moment of silence ends]

III. APPROVAL OF MINUTES

[4:45] We don't have minutes yet.

- A. January 15, 2020
- B. March 4, 2020
- C. May 20, 2020

[6:47] Kealana – Ikaika on the phone with DOCARE

[7:09] – Dane – supposed to have DOCARE to comment on Updates Item A but they are not here today. Dane wants update from investigation

IV. BUSINESS

A. Update on 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. Presentation by Archaeologist Nico Fuentes of Atlas Archaeology

[8:20]

[8:51] Kahele - I see Nico here

[9:07] Andrew Chianese for HBT – He is on. Nico too

[9:24] Dane – moves testimony to beginning of agenda item

[10:39] Noelani Ahia – Phase 6. Project is halting ground truthing to look for anomalies found in GPR study. Her lawyer said will go back in front of judge. For record she has concerns about GPR and methods. New technology. Points out anomalies where actual site had nothing there and pohaku and tree roots and other things should have been flagged by machine that weren't. Could be issues with accuracy of GPR ground truthing.

[12:50] Andrew – in response to Noelani, he is not aware of any such letter to court or Mr. Copper. Not to say there is no such letter he is just not aware. Also is not aware that ground truthing stopped.

[13:32] Nico – True they received notification from HBT to halt investigation. He let SHPD know but a few days later they said continue. Not sure why. Hiatus for a week or so. Work slowed down generally. About halfway mark. Findings consistent. GPR is an experiment. Discussion of anomalies: in lots of cases found inclusions and in others transitions in densities in soil. They report findings but don't know everything. Accuracy: we eliminated this as an error a while ago but continue to check on it. It is not very useful because the chemical constituents of bone matter are very similar to calcium

carbonate. Haven't come across any human skeletal remains. GPR isn't very effective for finding burials.

[16:38] Dane – Troubling to call this an experiment at this site with 96 potential burials. Not sure this is the site or technology to prove this technology in significant sand dune. Component of ground truthing didn't come up too often when it was first floated to burial council even though court ordered

[17:40] Kaheleonolani Dukelow – original hope was this technology would avoid anomalies. Judge place requirement on project not the council. She wants archaeologists to move forward and develop a more effective technology or practice to produce results, so you don't have to disturb potential iwi.

[19:00] Dane - Up until the court case, they never knew ground truthing was the standard practice. Had hoped this technology would give better decision making power. Is this data useful
If we continue with GPR will we get to point with valuable data to make better decisions to impact

[19:54] Nico - we discuss this regularly amongst professionals. Truthfully variability in data from GPR. Gets complicated. Data can represent one thing in one area and look completely different based on soil matrix in different area. Graves in one spot look different than graves in another spot. Type of soil inclusions inside and saturation of soil and interference – lots of things go into what data looks like

[21:10] Dane – what application would you use GPR for

[21:28] Nico – subsurface structure with very distinctive composition

[21:40] – Dane – would you use it as reliable means to find iwi

[21:51] Nico – only reference is he worked with Dr Robert Mann, University of Kapolei and Chaminade who ran JPAC to find missing in action guys and he was adamant for how it wouldn't work for finding human skeletal remains

[22:28] Johanna – problem she is having with experiment is message it is sending, and she will have to deal with. Does this mean once they use GPR that it may not have iwi there and does that clear them? Will we accept this as final? Are they ok to continue development and earth moving?

[23:25] Dane – Noe asked earlier some things didn't present on GPR. Did you see that Nico? Too many nonrecorded anomalies

[23:55] Nico – this goes back to in medicine double blind and blind. This is a blind test. Archaeologists are presented with something not what it is where it is or what it looks like just a range and as far as actual thing itself the parameters on that are blind. In some cases, it is pretty obvious in substrate. In one area you might see only one inclusion a very obvious root. In an area with lots of roots it could be any one of the anomalies, but it might just pick up difference from some other inclusion. Might ask why it didn't pick up roots over here? Guy interpreting data might be trying to differentiate between two different material types. He sees roots maybe he is looking for something that is not a root, in others looking for a root

[25:22] Dane so there is room for error, you can't definitively say whether o

[25:27] Nico - that is why I wouldn't recommend this machine at all but application for it is most useful in subsurface structural component for something large, massive dense and distinguished from material around it. For human skeletal remains you are looking for something hydroxy apstate - mimics calcium carbonate which is what sand dunes are made of. Two material types are almost identical. So, what are you looking for?

[26:21] Kahele - Nico your characterization is that we are looking for grave s- we are trying to find a way to avoid digging up graves. This was recommended as something may be useful. We are trying to get archaeologists to utilize technology that will modernize what you do so you don't have to dig up to identify anomalies beforehand. Continue to strive to find other ways to do their work. Has to be other ways than hit them and dig them up. We're hoping to identify anomalies and avoid them, not for you to dig up every anomaly.

[28:12] Nico - I agree. Let's not ignore that burial council said we want to avoid all anomalies because we think they are graves. But none of them were graves.

[28:58] Dane - we want sand dunes avoided where we know we have iwi because we have found more than enough to know anomalies could be iwi. And component of ground truthing didn't come up too often when floated to us. Didn't know we had to ground truth every anomaly and if we had known we wouldn't have recommended as strongly as we did. There is context because iwi surrounding. Idea anomalies could be iwi makes total sense but technology not far enough along. Up until court case that was the first time, he heard this

[31:15] Kyle - it isn't working in the favor of the Maui Island Burial Council. Isn't in favor of the council of protection to iwi. How to inform the judge since he imposed this? Not working appropriately.

[32:02] Dane said he doesn't know, question for AG. The AG should be at the meeting. Asks Ikaika and Kealana if AG is in the room.

[32:24] Nico - it might be very important that we finish it. What if we do find one? We need to continue sampling because it would be abandoning at 59-60%. They haven't found any iwi.

[33:25] Dane asks what happens if we continue and find iwi, what will we have learned?

[33:34] Nico says that GPR data analyst would be a better person to ask. Have some sort of correlation. In zone where graves will be somewhere

[34:02] Dane feels like testing and experiment is done at the expense of kupuna.

[34:13] Kaheleonolani - hoping analysis with technology would be done without digging/ground truthing. She doesn't understand what is making it so hard to identify iwi - is it soil matrix, the machine, we don't know exactly because it's hard to tease out with the technology.

[35:36] Nico – these questions you are bringing up are things that are going in archaeologists minds all the time. Is it the machine the interpretation soil matrix is it the goal and would it even show up? So many pieces of info.

[36:10] Dane says what about a site with known kupuna and get the data there, not sure if he wants to image kupuna in ground, have many sand dunes on Maui. like “inaudible”, but he’s on the fence

[36:40] Nico says this was done three times with a GPR analyst in the field in Maui Lani, presumption that would be the control. They did it in areas with inadvertent as a control, but the variability is really crazy

[37:15] Dane - need enough samples and data to have better accuracy - is it worth the ground truthing that is coming along with it

[37:43] Scott Fisher - everybody agrees we don’t want to disturb iwi kupuna, and only certain way is to not develop in sand dune matrices. If development is going to proceed, then with the GPR you have a false negative possibility - it picked nothing up. May also get a false positive - anomaly found, looks like iwi kupuna. Alternatives are test unit or trenching. Trenching can be destructive because by then iwi is almost always disturbed. He says it comes down to, do we want test units and trenching or use this imperfect technology that at least offers a different route that isn’t totally.

[39:49] Dane - we would have to change the law to rely on GPR findings without the ground truthing

[40:07] Nico - what is an accurate way to test the efficacy of GPR? He says when you have a false negative it brings efficacy up. False positives are null, neutral. What you don’t want is a false negative. Trenching and testing – you need a set goal for testing methodology. This establishes type of properties and distribution. At Maui Lani we know we have burials, and they seem to be clustered on giant dune. You get no additional information from random test units beyond what we already know. We want to know what’s in imminent harm which is why are doing the GPR.

[42:22] Scott - rocks don’t move up sand dunes unless it’s in former riverbed, do we assume that a rock with a cap stone, can we assume that pohaku is a capstone or other feature associated with a burial. Can we assume if we find this type of thing that it is a burial?

[43:02] Nico – Great, but how many burials with capstones with basalt? It’s a small percent, 1-3%. A large igneous stone other than calcium carbonate, it’s a lower frequency than you would presume. He isn’t sure why, but in this part of the island, in the field, they don’t see pohaku used in high frequency in this area of the site. Typically, three types of pits - soft, which unconsolidated material in aeolian [something], soft material in partially lithified aeolianite sandstone type stuff, and then there is something hard to prove, which is some people are placed on ground and sand accumulated on top, they didn’t get a pit. This wouldn’t have the shape or quality of the pit. Rarely they find a pohaku. But that area has previous construction and activity - people still go by on dirt bikes. Golfers. All kinds of things in last 10-50 years that can introduce contamination.

[45:35] Scott Fisher - at Waihee - when they see a stone, they assume it’s a burial, even though lots of disturbances at Waihee Refuge in the dunes were high up above 50 feet where river wasn’t running. There was also disturbance with the dairy.

[46:33] Noelani Ahia, a cultural descendant - she appreciates this discussion and wants to clarify. Bigger issue is we shouldn't be in the sand dunes at all because this is where the burials were. The case hasn't started yet so a long way to go. The judge decided on the GPR and she doesn't agree with ground truthing and it will go back to court. Bigger issue is the project needs a new AIS. Barker and stats - how do we figure out the context of the place? Current archaeological technologies - we need to think how to do this better. But bigger issue is we shouldn't be there in the first place. Only 4 of the 11 acres are to be GPR'd, the areas supposed to be trenched for utility lines. Even if no iwi were found, other seven acres in the development may have iwi in them and houses may go on top which is not okay, may be iwi there. They are in transition between Judge Cardoza and a new judge who hasn't seen this court to date. She is disturbed that they were informed work was gonna stop but no one informed them that work was starting back up. Nico proved her point which is when you go back into the 'aina, we become the 'aina when mo'opuna kanu us, we become the mana that uplifts the next generations. Several 'olelo no'eau about that. Two materials that are almost identical - our bones mirror the dunes. Our bones are the 'aina and we have a kuleana to respect that.

[50:53] Kahele – Oct 18, 2017 – MLIBC recommends GPR and redesign to identify negative corridors for sewer line - limited

[51:31] Nico – In a way it is a way to talk to each other. It is very hard. Easiest way to go around is to go around but to find boundary of a site that is not really bound is difficult, the easiest way to go around it is to actually go around it.

[52:18] Dane - what is the cost of progress to our culture

[52:28] Kaheleolani – its not cultural it's who has the political power to say what happens. We don't have political power to say don't build on the sand dunes. It's not a cultural issues, it's an issue of political power. The context of what we are doing - we don't start with cultural protocol because this context should not be honored with any kind of cultural protocol as we fight to keep our kupuna in the ground, it's not a cultural thing, it's something else.

[53:23] Dane - Everyone wishes they don't have to be in this position

[53:36] Kyle Nakanelua - knowing this is all burial areas with regard to political might, what entity or person is the one to say that this is obvious to me there are burials in this kind of areas, there will be no more building on sand dunes. Who would that be? Who can make that call?

[54:37] Johanna Kamaunu - she says it would be the state, the governor. But she believes that that authority doesn't go further than the kanaka. It is disturbing just to sit here and speak of the remains of the iwi kupuna. She appreciates the work archaeology tries to do but we have a body or entity trying to remove the iwi and identity from the sand and from this place. They aren't trying to help with the iwi. It is for us to say - in reviewing 6E there is not mention of burial protection of the intent of 6E, does not mention burial sites or iwi kupuna. And this is disturbing and when it comes to enforcement of the law, they have been trying to figure out who is supposed to do that. We are told DOCARE is to do that but there is nothing of 6E that includes DOCARE in the process. DOCARES responsibility is not to the protection of iwi or the burial council. Do they even know how to investigate a burial site? According to Susan Lebo, no that's why you need archaeology. But how has

Jocelyn's complaint progressed? DOCARE hasn't worked with archaeology, try to turn everything back to Hinano. DOCARE told her she can't do that investigation and turn to Hinano. She appreciates that archaeologists come to meetings and try to explain the dilemma, but our job is to protect iwi. If they disturb iwi, they break the law. The council's job is preventing the disturbance of iwi. They were still finding iwi in explorations in Maui Lani till they stopped it. In trenching they aren't finding any. That's a good thing when there are no more where they are looking. But will the trenching be different in the future? What is the impact? The burial council should return back to the original mandate - problem with identifying iwi. We want to protect that's our job, but they want to clear the land. That's not our job, that's their job. Thanks for archaeology 101, but she needs more on protecting iwi 101.

B. Discussion re: Proposed Construction of a Single-Family Residence at 4492 Makena Road, Ahupua'a of Palauea, District of Honua'ula, Island of Maui, TMK: (2) 2-1- 011:015. Information/Discussion/Recommendation: Discussion on the above project. Presentation by Dean Frampton of Frampton and Ward, LLC. And Contracted Archaeologist Erik Frederickson of Xamanek Researches.

[59:37]

[1:00:45] Lucienne de Naie – Lot 15 Palauea beach lot. Tracked this lot for a long time. Inadequate review – she made comments in 2012 archaeological review inadequate. Burial remains theorized to have come from adjoining lot of moved during WWII. Very little recently done to determine what was there and where it originated. She wants to hear Mr. Frederickson's report - this is a very sensitive area. There were (unclear) soils - Theresa Donham comments since was in low lying area so maybe a muliwai where Palauea stream came out, or estuary. Only 2 lots were awarded at the beach during Mahele, still 6 individuals claimed lots in ahupua'a of Palauea on the makai part. Very likely other individual families on the shoreline there and their remains that may be encountered. Now they are all vacation rentals bug mansions breaks her heart. She hopes there to have been better archaeological review to remember the past and how it connects to Palauea Preserve and up Palauea Mauka some people call Wailea 670.

[1:03:48] Claire Apana - she has questions that maybe she can get answers to. What happened to the stream? She see no flowing water. Have other lineal descendants from the area have they been contacted? She knows a few and she wants to know what they had to say, if it was part of their study. Thank you, Lucienne, for the nice report.

[1:05:19] Dean Frampton - they will report back to Mr. Frederickson, but Dean will walk through presentation from last time. They submitted info to council a few handouts back in March. 4492 Makena Road. Mr. Moshe Silagi (?) purchased property in 2018. He proposes single family residence with usual improvements. It's in the shoreline so they have to get an SMA permit so planner has brought up sea level rise. As projected by County, maybe 3.2 feet in next 50 years. Accepting elevating building pad 4.5 feet to accommodate sea level change. This eliminates most on site excavation. Foundation and utility lines above existing grade. Immediately along roadway will be excavation about 4 feet for leach field. Will be a little more excavation in the area where the proposed swimming pool is of about 4-5 feet. Rest of the property has excavation eliminated. Projects archaeological timeline -previously Doug Leoni was with long a protracted lawsuit with county of

Maui from early 2000s. Archaeological Services did an AIS but never completed the write up. During the field work previously disturbed remains - 25% of an adult individual. Maybe WWII bunker from makai portion of the property. Also, WWII era trash in addition to the iwi. AIS not completed when field work completed, 2011-2012 county planning to complete the write up. AIS accepted by SHPD with understand that moving forward with construction maybe additional trenching and excavation. they have initiated consultation with lineal descendants, but they have gone through archaeologists haven't talked to anyone directly. Sea level rise presents difficult challenges. Want to look to council for direction

[11:11:46] Dane - partial burial 60 feet from shoreline. Does the client have any idea on if they are trying to shore up the beach? Do get in touch with lineal descendants - different burial processes. Would they like it relocated or should it go back into the ocean? We very much need their input at this stage of the process.

[1:12:52] Dean - The client does not have any intention of armoring the shoreline - in preliminary stages, have discussed with planning department a sand dune restoration process. Not naupaka but more naturally occurring species out there. Fallback is elevation of the site to the point where it would be outside of the reaches of the rising sea level

[1:13:40] Dane: Lucienne said the AIS was inadequate. What type of addition would council like to see?

[1:14:13] Scott Fisher - 25% burial - was that articulated or was it in situ? Was it previously moved?

[1:14:32] Dean says he's out of his league but it looked like it was previously disturbed or relocated according to the AIS. Mr. Fredrickson will be here; he wants council and lineal descendants on how to move forward with previously identified and during the SMA process ensure appropriate archaeological work is done to proceed. Need to complete BTP and monitoring plan and acceptance of AIS requires additional excavation – work with SHPD MLIBC and descendants for appropriate work

[1:15:56] Kahele - previous to 2018 when the new land owner purchased the property there were some plans for reinterment she remembers Lisa and Uncle Les were contacted at that time and they were preparing on reinterment. Never occurred. Plans previous to owner. Near shoreline is a county lot near the Makena beach and people access through that particular parcel. Any plan to have public access here on this parcel some way between the two houses or on the other side? Any discussion for that?

[1:17:25] Dean – spoke with planner Jim Boeko. Desire to have some improvements on the tow beach lots to channel the pedestrians to preserve the sand dunes. Wants to channelize access points. Maybe a trek supported walkway to protect the sand dunes, asked client to assist and client offered to pay for it. Access on the lot no, willingness to pay for permit if community desires treks walkway over sand dune and gravel parking if it makes sense and community consultation is good

[1:19:19] Kahele - are we disconnecting cultural preserve from access to the ocean, if no public access when this lot is developed it building a wall between mauka makai cultural preserve

[1:20:25] Dean - is it fair to assume that need to continue consultation with lineal and cultural descendants or is there anything else recommended?

[1:20:52] Scott - speak with lineal and cultural descendants and preserve in place (they didn't make a motion) and for access, consider cultural or lineal Descendancy access provision

[1:21:34] Dane agrees, wants to see folks back once lineal and cultural descendants are consulted with and hopefully they participate with the council

C. Discussion re: Proposed Construction of a Single Family Dwelling and Accessory Dwelling, Haneo'o Ahupua'a, Hana District, Maui Island TMK: (2) 1-4-008:001.
Information/Discussion/Recommendation: Discussion on the above project. Presentation by Archaeologist Tanya Lee-Greig of 'Ā'ina Archaeology

[1:22:00 takes 5 min break; 1:28:37 reconvene]

[1:30:02] Kealana -Mistakenly put Tanya Leigh Greg of 'Ā'ina Archaeology - CSH did the monitoring plan when Tanya was with CSH but Kealana said he mistakenly put her as a presenter. OHA and possibly the landowner and SHPD archaeologists were invited to this meeting.

[1:30:53] Kamakana Ferreira OHA - he is just doing verbal and he thinks the descendants Leo Gizmo are on the call. If anyone wants to testify. This project has been going on for 20 years.

[1:32:19] Leo - Aloha kākou and mahalo for time to speak today. Leo here with his ohana - there are four in total who will be testifying for the same account. Leo Caires - has mother Patricia, Aunty Sharon and Uncle Patrick. A little coordination and logistics. They came from Hana to be here at his ohana's place to speak. They are all lineal descendants and also provide documentation extended to us to support that assertion. Leo starts. In context – Haneo'o history. It's been a long project that has continued to evolve, when his ohana asked him to apply skillsets to the project, so many variations of the project its hard to sort out what is really happening over time. Issues and concerns of his ohana being steered into accepting recommendations on burial preservation when Haneo'o has a history, long standing history, of situations where the Hawaiian people of Haneo'o not knowing and finding instances of disenfranchisement from not having access and inclusion into the project. The ohana has continued to engage in the process in good faith and they have discovered a lack of reciprocal engagement with good faith with respect to earlier burial council engagement. One of the big struggles is using mechanism of archaeology to fragment the cultural religious traditional practices of this area. Such an old area, really old soul – Haneo'o means this. They have a number of witness accounts from lack of respect for compliance, disrespect for burial grounds, not implementing requirements set forth. Another critical components – Hoku'ula fish pond, 11 acre kuapa fishpond and "inaudible" fishpond on Mr. Stice's property. Hammond declared it as Haneo'o Hana fishpond complex encompassing a broad spectrum of land. Very clever attempts to change the definition of a complex. He uses a baseball complex as an example, where the dugout and bases etc. are all part of the complex. But here they say just fragmented gravesites and folks who married into his ohana's family trying to rest in peace - trying to say this is not a whole complex but a bunch of small locations to justify building cottages between the grave sites so people can walk and have celebrations. They have witnessed Gringle's Trail turning a heiau into a Mardi Gras, Las Vegas - people used the restroom on the graves in the

dark. It was so difficult for their family to see that. Some of these legal requirements have been neglected and an attempt to fragment the people of Haneo'o against themselves. It goes through relevant mo'olelo today about Ku'ula and his family in Hoku'ula and an io from another place and started taking the fish from the fishpond. The people killed the io and a person who knew of this io, this person came and told the chief in this moku that the people in the fishpond were out to hurt the chief to get the family killed and burned. The io is a metaphor - the effort and negative attempt to influence people who are peaceful to pit people against people because of economics and cultural importance. They have photos that have never been revealed from their grandma's aunty that shows clearly that from aerial, side, lateral that the complex was a living breathing entity not just potholes but a living cultural complex. They want the whole area in the complex to be protected because it doesn't seem pono and ok to have sidewalks between headstones in the cemetery. Lack of compliance - the applicant has not complied with DLNR requirement to subdivide the property. That's a condition of Mr. Stice from 2000. A number of attempts to put forward misleading reports to state and county bodies and disagreed with the existence of the boundary lines. He talked about how the project has evolved. Lots of things of the plans have moved over the years. In meetings where that was relevant, the documents and site plans were missing these critical components of the project. Before he turns it over to his mom he briefly spoke with. Not to throw people under the bus - no clear justification with why the ethnographic study was never conducted. Tamara and Ikaika - interesting discussion but left them without answers. They called for supervisors to be available to speak to the relevant archaeological information. They were told reasons why that wasn't happening. Archaeology - how it can be leveraged to be a disadvantage to the Hawaiian people. His ohana is constantly struggling - they have to constantly prove themselves, as if the four god Ku and Kanaloa have just gone away. The tradition and culture are everything. Sometimes it's a clever way to separate and take away the position of the people of Haneo'o. Doctoral research was on literacy of Hawaiian people. He wants to advocate for people who don't have this professional expertise and it struggle he is seeing over and over again. This is enough. There is too much misleading information, lack of compliance, lack of good faith.

[1:47:25] Patricia Keonaona - born and raised in Hana, adjoining parcel to grave site in Haneo'o. What saddens her is she gave Leo permission to go in depth and find the history and culture. They grew up in Hana, very down to earth people. They don't like clashing. They are a peaceful ohana. She thanks God that Leo is so knowledgeable, and he is teaching the family what is happening at Haneo'o and the land. What perturbs her and bothers her - the changes - there are some things they cannot put a stop to. Try to emphasize the fact that they are descendants, and they want to keep that. They went camping with Leo and the grandkids, walking the land and seeing the burial site and around 6:30 people were zooming through past the gravesite not from Hana. It was disturbing because they were camping and having a good time and all these people on trucks and in cars. Loud music, people around the graves, very upsetting they want to place peaceful and the culture going. They want to visit the gravesite without people coming around. Her worst fear is for something to happen to the gravesite. They sat on the graves and they dig around. She wants to keep it in the ohana

[1:15:17] Sharon Christian - She was the one from the family that went to the gravesite so they could take the walkway to heaven. She saw a big pure white mo'o on the grave. Today as she does research, she is the one that gave her allowance to clean the grave. Nine graves total. Before the tidal wave that hit in 1946, she lost 3 brothers, cousins and grandma. She sees five graves, now you only see two. People say there are only two, but she will tell people exactly what is going on. People from their family on their land. She has seen white birds come down and drop white feathers down and she puts

them on the graves. She hears music like a drum when she's at the graves. Someone is speaking to her. They Gray (?) family. She thinks probably the chiefs are there too, maybe Julia Apai'i, who moved to Haneo'o - August 2, 1849. She came behind 100 years later August 2, 1949. (Kauwakahoku) heiau. When she is there, her ancestor is there. She is not mad at us, mad at the people driving their cars, throwing beer. They don't know this is a sacred land. Everyone had their gods to take care of. Her Hawaiian gods are here. Why are foreign people taking their beautiful things from god? Because their places have the view of beauty. All these lands are collapsing now - come back down to the ocean. They destroyed the ocean. What is money to do? People take their land and putting names on signs. Taking land from them. A sign with a rich man's name that shouldn't be here. What about King Kamehameha and the Queen Liliuokalani who went to Hana - her great aunty Lili was named after the Queen. She feels connection in the Bishop Museum and had a vision of a blue dress and smells she recognized. There is connection. Someone in Hana she doesn't like she said go back where you were born and raised and take care of your own family. The beach is only for women and they have tourists who are men at - they have no right to put a building up to make money. Right where she saw the big "inaudible" came up - what gives him the ability to put a dirty pilau place with food from "inaudible", they must learn to straighten themselves. Someone wants to be called moi. God is our moi, he should shut his mouth and respect her family. She feels her kupunas over there. When she went to the burial council in 2005, a few of them came up and asked to walk the property in Haneo'o. They were there and he asked if she wanted to go in, she said no and, but he felt the spirits on the ground. At her son's wedding, he began crying because there at the grave he counted 21 warriors all dressed as Hawaiians right in front of the gravesite - she saw nothing. He saw one man, one lady and three boys - her brothers, mom and dad, her family that had been lost in the tidal wave. And her great tutu. One grave cracking already. Ku'ula stone forming a white thing in front of the spot 9-10 years ago. Someone in Hana has that video.

[2:01:10] Leo - The feather is relevant to the place because of Ke aka manu - the shadow of the bird. These things are real. These kinds of event do occur in this area. The area Mr. Stice has such an artistic pure rich backdrop - don't make burial sites a commodity and talking point to create allure for investment. Everyone should come and visit and see the place for yourself.

[2:02:20] Sharon - 3 days before the burial council meeting - they went to the land and she couldn't see anything, she knelt down and said look I will be back tomorrow I'm going to the burial council, but Tutu show me where the house was. The next day she saw four square red rocks, a fisherman on the right side, and he saw what she was doing. She came up and said whatever happens I pray the burial meeting will not pass anything today and it did not pass anything. She sat in the meeting and was feeling weird and saw her granddaughter and told her needed to go outside and talk to somebody. Then she saw her great tutu and she told her tutu what was happening with the and land and when she sat down there was a funny noise running on the room above us. A burial council member said lets cancel the meeting and have it next Thursday. They were not going to have the right thing to do with the land.

[1:04:32] Dane - Want to help. In 1998 - acceptance of BTP. The scope of work has changed dramatically. Because the BTP was accepted he wants to ball back into the burial council court so they can say the BTP is inadequate because the BTP no longer conforms to the current project plans. SHPD has a current summary. Dane wants hold on SMA permit.

[2:06:42] Kamakana - first heard 2 years ago with the SMA permit application - proximity to the septic tank and the burials. Consultation. A lot of very valid burial concerns as well. The BTP was from 1998. Changed from single house to multiple dwellings. Septic tank has moved away from fishpond towards the burials. In discussions with the ohana even the existing protections from 1998 BTP has not been carried out. Stice told descendants it's their responsibility to ensure the protections happen so the burial council can weigh in on that. Septic system so close to the burials.

[2:08:34] Dane - doesn't have new plans and could really use those documents. The big revisions happened over the course of 20 years. Site planes evolved - shows straight from SMA permit application.

[2:98:47] Kamakana mentioned yes, its squeezing square peg in round hole. Leo states that over the course of 20 years changes have occurred. Layout of project evolved straight from SMA application. Its going to impact either the burials or the fishpond because of the nature of the complex. They didn't know their rights and remedies to push back from the consultants. Kamakana is lead compliance specialist and advocacy

[2:22:50] Scott - we need to look at the extent of the changes and perhaps a request for a new BTP that reflects changes to scope extent of impact to the burials.

[2:12:38] Susan Lebo from SHPD - SHPD doesn't approve the permit, the county does - she agrees that it is important to know whether or not the project in its current iteration is indeed what was submitted to the county for the permit for the SMA and if they don't match then that's an issue that needs to be addressed. The most recent iteration that was done with respect to Andrew, he was looking at whether or not a preservation plan was needed for the fishpond. That's what they were addressing but that component which is a requirement. We still believe that there are things that need to be done - more field inspection to identify historic properties missed by previous investigations or may be impacted that were not previously identified. We also expressed concerns that the interim protection measures specified in the BTP have not been installed and they need to be done before they move forward with the permit and the project? At this time, we are not saying that the permitting process should move forward. SHPD archaeology branch has not sent off the permit application - Kealana please forward over the SMA permit reviews.

[2:16:01] Dane asks for Hinano – did history and culture comment on BTP. Has archaeology branch sign off on it?

[2:17:34] Ikaika - I haven't reviewed anything for SMA permit

[2:18:13] Kamakana - the BTP needs to be revisited - no compliance with the existing BTP regulations

[2:19:14] Dane – any word from the council.

[2:19:48] Susan - will reach out to the DLNR land division and ask for a copy of the original permit application for SMA and also for the current copy and for them to identify for them what changes may have occurred between the original submittal and changes to now

[20:20:23] Dane - can you forward to the council?

[2:20:35] Susan says yes

[2:20:48] Dane - Council - are you thinking of a motion but better to come from someone other than the chair

[2:21:00] Scott - "considering the changes in the scope of the work, a burial treatment plan may be redrafted" but he doesn't know when the last burial plan was approved.

[2:21:37] When was the BTP accepted? March 1998

[2:21:48] Kamakana 1998

[2:22:00] Scott makes a preliminary motion-

"The MLIBC requests nullification of the BTP completed 1998 in favor of a new updated and revised BTP that reflects changes in the scope extent and potential impacts to burials on the Haneo'o property."

[2:22:20] Leo - is that in consultation with lineal and collateral descendants for the property

[2:22:28] Scott - yeah can specify that is the process typically but can include

2:22:43 Leo yes that would be helpful

[2:23:00] Scott makes a motion-

"The MLIBC requests nullification of the BTP completed 1998 in favor of a new updated and revised BTP that reflects changes in the scope extent and potential impacts to burials on the Haneo'o property. This BTP should be conducted in consultation with lineal and cultural descendants of the property."

[2:23:30] - Leo word nullification how is that defined

[2:23:38] Scott - it is no longer applicable back to ground zero

[2:24:05] Dane - preemptive some motions not always heard. Would like to recommend SHPD History and Culture to say BTP not valid - but they haven't reviewed impacts of the BTP. He wants History and Culture to review if the impact of the new scope of work has any impact on the current BTP. He does not want SHPD to sign off on this SMA without due process

[2:25:40] Iris Pe'elua - put that in the motion that SHPD not sign off until BTP updated or whatever. Would this stop the owner from any work moving forward?

[2:26:06] Scott - brought to attention we probabl should not remove all protection measures but without BTP in front can't specify what is prootective and what is permissive. SHPD refrain from permitting future work. They can't approve BTP

[2:27:56] Dane- there is already an approved BTP. Can we reopen BTP?

[2:29:00] Tamara – I have a copy of the BTP

Is that in consultation of the lineal and cultural descendants on the property?

It's a process and if it's helpful Scott can include that in the language

Scott's motion - Maui lanai island burial council request the BTP approved in 1998 be reopened for review for the scope extent and potential of burials on the Haneo'o Property and that this decision should take into consideration

[2:31:20] Susan - Has the BTP been recorded with the Bureau of Conveyances

[2:31:31] Dane – don't know

[2:31:40] Kamakana – I asked and they don't see records for the public document for the Hana advisory committee

[2:32:49] Johanna – Hard to follow. We don't know the scope of work and don't have paperwork in front to review information. Can't see BTP

[2:33:35] Scott has monitoring plan and BTP is an appendix. Hana Beach Front Associates. No new scope of work here. 22 years old

[2:34:39] Leo – original was for a subdivision but needs SMA for project not subdivision

[2:35:33] Scott – was approved Dec 10, 1998 by MLIBC

[council discusses documents they have and how to do fact finding, not enough info to decide; purpose was Loko Nui subdivision; Leo notes Hana Beach Front Associates easement said applicant requirements was subdivision at applicant's own costs; scope of work unknown and therefore can't make decision]

[2:38:45] Iris – some protection with BTP but they are violating because doing something else different scope of work maybe motion to revise BTP but still have protection for family

[2:39:30] Scott - Need to review BTP and ask approval of permits suspended till opportunity to review

Council discusses drafting of two motions

[2:41:50] Scott makes a motion: "The MLIBC requests the burial treatment plan for the Haneo'o project to be reopened for review in consideration of changes to scope extent of work proposed for

Haneo'o property additional revision should take into account the input of lineal and cultural descendants of the Haneo'o Property"

Kahele seconds the first motion at [2:53:36]; all in favor, none opposed, motion carries [2:53:57]

[3:02:19] Scott - "The MLIBC requires consultation with the State Historic Preservation Division prior to making any recommendations that would lead to permit approval on the Haneo'o property

[3:02:33] Johanna seconds, all in favor, none opposed, motion carries [3:02:44]

Discussion takes place of motions

[2:44:18] Gary Stice – this was last minute. No time to get things together. Being pushed through without proper review and discussion. We had this BTP recorded as requested by SHPD and the talk about this being for subdivision is irrelevant because subdivision applied for was denied because road was not adequate and downsized project to just one house and secondary ohana. But that's irrelevant its the same thing. They have done everythign required of them. This is 20 years old because county put through so may hoops and all approvals required have been done plannign department approved project. Had long discussions in 1998. Had a year of meetings. Not fair to go back through again. Criteria may have changed some but fulfilled requirements at that time. Where authority comes in to undo something already done and approved

[2:47:00] Dane – not approved because of revisions. Not same BTP as previous project

[2:47:25] Leo – this does not reflect record of what evolved over time. Been presented to hana advisory committee and no action took place. Fair to ask BTP to be reopened. Not same thing

[2:48:47] Gary – still contest. At time applied buildings located in subdivision only difference is didn't draw line to separate property. Made several changes to accomodate request and family. Down to one home and one accessory home, minimum impact on property

[2:49:28] Dane – agree it was rushed. Can you provide with new scope of work to help them. We don't have enough info to make determination to say yes no. Due process is kuleana.

[2:50:36] Gary - last minute not really right and you need info they will provide it. Already approved for doing the scope of work doing

[2:51:25] Kamakana – can you show position of septic tank chaged over time in scope of work

[2:53:00] Leo does motion capture non compliance

[2:53:15] Scott more things introduced in motion more complex then basic request gets pushed to side

1st motion: Kahele seconds the first motion at [2:53:36]; all in favor none opposed motion carries [2:53:57]

2nd motion: discussion on wording

[2:55:57] Susan - we wanted verification of the interim protection measures in accordance with BTP and wanted field inspection done before providing further recommendations. Could request to have opportunity to consult on the implementation of the burial treatment plan and field inspection. But you want to consult with SHPD before SHPD providing future recommendations to county or to DLNR Land Division regarding the permit.

[2:56:50] Dane – would put require consultation

[2:57:50] Janet – just took position 3 days ago but lived in Haneo‘o for four years and she knows this property. She hasn’t spoken with Dr. Lebo yet, but she is available if the site inspection is needed. Familiar with sites and history. She wants to take another look at the archaeology done a while ago and changes to project area. Copy on correspondence. She doesn’t know where she comes in for SMA approvals.

[2:59:56] Susan - Andrew McAllister will be on island next week but will be in quarantine

[3:02:33] Johanna seconds, all in favor, none opposed, motion carries [3:02:44]

V. UPDATE

A. Kalawai‘a ‘Ohana 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/Recommendation: Discussion on the above item.

[3:03:14] Dane – still no DOCARE, no SHPD update

[3:03:50] Johanna requests people put video on during testimony

[3:04:36] Ikaika – Kealana sent email about supporting docs and DOCARE gave response in supporting docs. Email from Howard

[3:06:00] Ikaika – in a nutshell – for Kalawaia burials, in 2000 a BTP was approved and archaeological preservation plan approved 2000. Original land owner is no longer involved. Property changed ownership many times and community members stewarding land and expressed concerns BTP inadequate and not being followed and want SHPD and DOCARE involved to investigate. Investigation opened in archaeological or burial sites were damaged but still pending

[3:07:28] Johanna – no one from DOCARE to comment?

[3:07:57] Kahele – can they send update on investigation?

[3:08:08] Ikaika – SHPD not sure of timeline, they are busy saving resources

[3:09:06] Johanna – can DOCARE explain what they are supposed to be doing in investigation and why not moving quicker

[3:09:58] Susan – part of the process is investigation is joint with DOCARE and SHPD but because of covid could not go into the field and our office is closed including travel. No one to send in field with officer. By next meeting she will have more info

[3:11:11] Kahele has investigation begin?

[3:11:38] Susan - No site visit but discussions have begun

[3:12:08] Lucianne– president Haiku community association. Things decided 20 years ago are not a good fit for today and need to update BTP and archaeological preservation plans reflect current conditions. Need maui county to have ordinance to not develop natural dune areas.

[3:15:15] Annette Kekona - any update identifying who holds title or who is in charge?

[3:17:26] Ikaika – maui county TMK ownership map – Morrison family trust. He has tried to get in contact but they would not answer the door when he went to their house

[3:18:50] Kahele opens testimony

[3:20:50] Lianne Modela - She is a lineal descendant of Kalawaia and she wants to update folks. A week ago, she contacted DOT state of Hawaii to see if they were going to remove the trash that she called about several times. They finally did - she had communications in regard to bringing up barriers - they did put a barrier and one of them currently is blocking the access to the remnant of the road. She emailed Joe Cruer??? again and had a conversation to grant her a special permit for that area. Jason Koga B&B - found out they sold the whole coastline parcel including the point to “inaudible” Ranch - she didn’t have time to contact family, so she contacted Joe Cruger?? to acquire access to the abandoned remnant to secure the only access her family has before they sell em with the coastline. She got a permit to secure access to the remnant. Working on provisions. Open hours. Amy worked with Hall to register burials and historic sites. In the process of getting that recorded as we speak. Want to make a few - they refer to burials as a cemetery but it’s not a cemetery. As far as who is responsible for what, if it’s a cemetery it’s the county.

[3:27:49] Amy Hanaialii Gilliom - Kalawainui and Kalawaia lineal descendant. Came to help her cousin Liane. Met with Isaac Hall, in process of registering iwi. Contacting Rhonda Sanchez to contact Ferrings descendants of last owners now living on the mainland. Need to present that to us before you sell the property. Are they going to do it? It’s a hot mess out there, waiting to see if they actually are going to do it. The Kalawaia - lineal descendants of Kamohoali’i, Victoria Kamamalu - does anything hold with it being a ceremonial place? Two ceremonial pits. Does that weigh in historically with the iwi being there. Does that hold any additional weight with protecting that area?

[3:30:04] Dane did a site visit but it’s not his moku. Seeing the burial ground’s location elevation direction there is some cultural significance. It a large area.

[3:30:55] Kyle - Lance Collins, HRS 205.a2b(2) - historic resources - protect preserve where desirable manmade natural prehistoric resources...significant in Hawaiian and American culture. Gives weight to preservation of area and determining collective cultural resource. He doesn't know the legal process that one would need to go through. But it's there. Uncle Isaac is utilizing original BTP. it might need to come by the burial council again for the BTP if anyone wants revisions to the BTP.

[3:33:00] Scott – afraid of using pa ilina if it gets interpreted as cemetery does that change anything? Since btp approved by burial council it would fall under our kuleana?

[3:34:42] Unknown speaker – what is royal masoleum registered under? Two mano heiau and way rocks are formed in a circle must have been significant at the gravesite.

[3:36:24] Annette Kekona Kalawai? – mo'olelo told to her by kupuna who passed on. Two twin mano that she would suckle on her breast - maybe an aumakua. Tut Nakiiaha going to ocean and feeding two mano.

[3:37:30] Johanna Kamaunu loves the stories - would be wonderful if they wrote the stories and asked the council to acknowledge it as a way of protecting the iwi. Bring to light what is already there and make it known. If families gathered the stories about this particular site, then the council can acknowledge the history of the site. Identify the practice to the greater community everywhere

[3:38:30] Dane - Stay just in the ears of the council and the meeting - maybe go into executive session for sensitive mo'olelo - some don't want to share that information. If it's in a BTP even better

[3:39:19] Amy –Kalawaianui album took her on an incredible journey all around Hawaii with the Kalawaianui properties. 1) Make sure the bones are registered. 2) go back to the chants and find any significance of that area

[3:41:52] Kaniloa Kamaunu- check into cases on customary practices and conditions about cultural practice. Article 12 section 7 compels the departments such as SHPD to take action. He says we have failed to take action as part of 6E that there are fines and stipulations. These recognitions give validity to the power of the person and body of the kanaka people. The Mauna Kea case and contested case with Ash. The Burial Council should institute these procedures for findings to adjust the powers that you have. There are cases there already and have been adjudicated.

[3:46:37] Scott wants a motion of support and recognition - is it necessary at this point? “The MLIBC recognizes the historical and cultural significance of Maliko and supports the Kalawai'a ohana in their pursuit to gain access to their ancestral burials at the Pa ilina at Maliko Point 2175 Hana Highway.” Reiterating support and recognition. BTP approved. No barrier to access.

[3:47:40] Johanna – protect by being involved in planning or grading permit process of Maui county to review applications. Maui county motion to include MLIBC in planning and grading permit. Two places already included in but in inconsequential ways

[3:50:05] Dane – better if we give this specific agenda item

[3:50:30] Scott agendaize at next meeting and work through process

[3:52:31] Kyle – Wants to think about it. Likes to dedicate space and time by agendaizing.

[3:53:13] Johanna - There was supposed to be a discussion today about looking at Wailuku complex in a bigger picture not just on a project by project basis

[3:53:51] Iris Pe'eula - SHPD already in the process of reviewing all grading permits.

[3:54:23] Dane It might be a courtesy because they are short staffed, and we get all grading permits. Iris says they could be a part of that process.

[3:56:06] Scott rereads motion: "MLIBC recognizes the historical and cultural significance of Maliko and supports the Kalawaia ohana in their pursuit to gain access to the burial sites at pa ilina at Maliko Point, 2175 Hana Highway, TMK: [2] 2-7-004:028."

[3:56:33] Kyle seconded by all in favor none opposed motion carries [2:56:45]

B. Notice of Violation submitted to the Maui Office of the State Historic Preservation Division by Joyclynn Costa re: Inadvertent Discovery in Waihe'e, District of Wailuku, Island of Maui. TMK: (2) 3-2-010:017. Information/Discussion/Recommendation: Discussion on the above item.

[2:57:00]

[3:57:25] Kealana - SHPD received no report from DOCARE. Will work with Ikaika to get a timeline for report to SHPD. They are not privy to that report typically. Goes to branch chiefs or Dr. Downer.

[3:58:40] Joyclynn Costa – March 16 forwarded her complaint to Kealana and DOCARE. Till then they did not know complaint was filed. SHPD was supposed to notify them she says but she wanted to also do it herself. Kyle and Johanna should have copies. Joyclynn wanted to do the investigation and she had two DOCARE officers come to work about the investigation. Officer first name was Hubert and John Yamamoto. Their investigation led them to speak to Nico. Kealana said he had a police report. Her complaint was process was not followed. Has anyone received police report for iwi found in Waihe'e project? Confirmed one for April but has anyone found the police report for December? Nico confirmed one for April but according to DOCARE there was not one for December. Confirm with Kealana that there was a police report? Did Nico reinter without ohana? Asks for executive session

[4:01:40] Kealana has for April but he needs to search his files for December. No police report, no coroner report, no authorization of transfer of iwi because it's still considered a crime scene. She asked if the police were called yes or no - if it's not done it's a violation according to 6E. As far as they know, no coroner's report. As far as they know there is no police report. Took testimony of Nico and Hinano. Nico explained in April found high percentage burial missing a few percentage. Believed second find in December was from first one so didn't have to call police. Hinano said Nico followed standard procedure and was it ok. They said they needed to find out from attorney general and Susan Lebo if proper procedure took place.

Commented [LTH1]:

[4:06:30] Ikaika prepares breakout room. At 2 PM loses quorum

[4:08:04] Scott makes motion that we go into executive session

Burial council SHPD Aunty Joc Leilani Miranda for breakout room

Breakout room happened – return to main session [4:15:17]

[4:15:17] Joyclynn - she has a final complaint - she wants the communication from SHPD the date they contacted DOCARE. DOCARE said they haven't heard from SHPD.

[4:17:31] Kaniloa - He is from Waihee and listening to the discussion of this area, they are lineal descendants of this area and the kuleana which is not even 5 minutes away from where the sites are. He knows his mo'okuauhau and its unfair the state won't recognize him because of his procedures when traditional customary practices are recognized by the state. He knows the oral stories, he grew up here, he traversed the whole area, he knows what is. If he doesn't put in his lineal descendancy there is a reason, and same as you don't tell everyone your customary practice. Nico's telling of what he's found is kinda misleading because first he said the bones, he found were moved from somewhere else which is what also is told by Leslie Otani in Public Works. Then he said not the same person, different find, then again before the pandemic Nico says it is the same person because he failed to do his procedure which is get Maui police department involved. Of course, he will say the bones are the same scatter because he would get fined. Unfair that he can change his story. Already he should be put on notice because it comes out to what Jocelyn was saying because he didn't do so he covers it up and says the same scatter even though they aren't in the same proximity. Can't understand why he isn't being fined. He should be professional; he doesn't have his paperwork. There hasn't been a project where there haven't been iwi kupuna so when will these areas be off limits because they are burial sites. How is this allowed. State continues to violate them as a people by desecrating burials and then privilege the developers. Burial council needs to ask these questions.

[4:24:05] Noelani Ahia - last year when the iwi was first discovered, and he chose not to file descendancy so she decided to ask if she could file so there is some accountability in the Western system. She says people who aren't ohana or even kanaka placing their hands on iwi kupuna as archaeologists - she was never informed as a descendant that internment was happening. If they were re-entered without proper protocol and their family, there then that is very disturbing. Nico said the iwi were not re-interred.

[3:26:05] Nico asks if they should go in executive session. Iwi were not re-interred

Nico said he is going to let the information to come to fruition. He is not going to contribute to hear say.

[4:27:35] Claire Apana has been trying to testify on the last three. Last time Joyclynn brought this up it disappeared for 2 years and - SHPD needs to take responsibility and say they can't release bones to be removed until the coroner says they can. It is a process question, and everyone should be clear on this. Law passed in 2017 and in 2019 signed in chapter 19 planning which allows other county agencies agents to go on private property to do necessary investigation - permitting zoning to make

sure people like SHPD can go on property. We should get on board make things clear and start doing the job to make our job easier.

[4:30:37] Johanna has a question for Claire - why are police and coroner are included in the process?

[4:30:53] Claire - Kai Markel said its to be sure that it's not a crime scene, that these are actually ancient. It's a legal way to not absolve SHPD and the property owners not to absolve them of the burden of maybe disrupting a crime scene. Also, so police take control of site and preserve what's there since SHPD doesn't have law enforcement ability. She doesn't see police securing the place and make sure there are protections in place before sending to SHPD. May have to make county fed up a little bit about the procedures

[4:51:42] reconvenes from 10 minute break

[4:53:43] Dane any motions on this item?

[4:54:10] Scott

[4:54:37] Johanna - Item C or motion?

[4:54:47] Dane - Still Waihee on Item B

[4:55:20] Kyle

[5:55:28] Scott - I having nothing because not sure on legal process

[4:56:00] Dane - Interpretation of DOCARE based on SHPD. SHPD can you provide more info?

[4:56:44] Either Aunty Claire (?) or Aunty Joyclynn? - DOCARE is not relying on them for conclusion. They are investigating and collecting information on them. Basic knowledge. DOCARE officer relayed info on "hearsay"

[4:58:12] close

C. Waiko Light Industrial Project in Waiko, Waikapu Ahupua'a, Wailuku District, Island of Maui, TMK: (2) 3-8-007:102. Information/Discussion/Recommendation: Update on the above project.

[4:58:30] Dane opens agenda Item C

[4:59:20] Leilani Pulmano - Waiko industrial investment. Update on project - offsite work. Since May 20, construction have been away from main site where burials are located. East Waiko Road and Lot 21 current work. Future work focused on the water system also off site, work on main site is removing rubbish and grub material being hauled off. Continuing consultation with recognized cultural descendants and look forward to consulting with council on burial treatment plan.

[5:00:03] Dane – Are graded materials - were roots checked for iwi? All piles hauled offsite checked.

[5:01:19] Leilani – Most of rubbish is old scrap metal on the construction base yard. Kiawe posts. Mostly rubbish from old base yard, grub material was mainly cut up kiawe wood

[5:02:33] Noelani – Phase 6 – HBT did not inform her stopping work. She wanted to clarify SHPD told her they were stopping work not HPD. Unrelated to this agenda item. For this agenda item. To clarify, since the May 20 burial council meeting, Rowenna told by SHPD said there were violations with the AMP. Thursday the developer and archaeologist in the project weighed in on the following Tuesday. Received letter from Pacific Rim May 25th. SHPD has not sent a letter to county that there is a violation of the AMP and permit should be pulled. Her attorneys at Native Hawaiian Legal Corps wrote a letter which said a failure to inquire in the AMP. Specific county issues it addresses. Ms. Ahia asked SHPD revoke permit. They want to reopen historic review process and have SHPD revoke the permit. Consultation is a two-way process.

[5:07:00]: Lucienne has been on this land with Claire Apana and begged them not to disturb the dune area. They pointed out the dunes. Meet with Leilani and folks from Goodfellow several years ago and begged not to disturb the dune areas. Places pointed out are where they started finding iwi because they are dunes. Dunes had many iwi. This isn't locating some iwi and avoiding them. This is protecting an innate system with its own worth. AIS was done that did no testing on 1/3 of the 30 some acre parcel. Not even tested. Piles of rubbish and active feed lot Mr. Nobriga had. No testing done. Never any requirement. Now inadvertent found in areas never tested. Work ceased in that area but not plans. Found 10 burials. What will happen to iwi? Please support lineal descendants who want this made pono. This is a predictable outcome. Consultation needs to mean something. Means we changed plans because we talked to you.

[5:10:44] Dane steps away for 2 minutes; Scott takes over

[5:11:10] Kaniloa Kamaunu – Waihee. Claire and Joc and Johanna Michael Lee who passed on Lucienne. Been in dunes for last 15 years. Time and time again they found iwi. All places they went to protest. It's a burial site. Look at 6E. one burial found considered burial site. We are the ones who get punished. Iwi get destroyed, evidence of mo'olelo destroyed by foreigners who have only monetary value attached to our burials. We have to go to these meetings and fight for what is left. All stuff destroyed in front of our eyes. We forewarned people about burials but burials continue to be desecrated. We haven't been wrong yet but we are the ones being punished. Majority of work done grubbing and grading they are free to go about without repercussions. We cannot regain these things back. How do you restore the things taken? Maybe not precious to foreigners but they are precious to us. Our history our identity. If continue to be destroyed then what are we, we are nothing. Can no longer connect to our past and our aina which is our ancestor. All things we hold dear in Kumulipo and Mo'olelo's is gone. Looking at little remnants of what once was. Where do we get justice?

[5:17:45] Dane returns

[5:18:00] Claire wants to be involved in the 6E rules revisions - iwi are regarded as public trust in the state. They are under the thumb of what the developers want. SHPD people involved in rules revisions haven't answered emails. Get the facts, make SHPD say what they will do. Be part of the process.

Avoid sand dunes and burials. There is a place in the law for NHOs to be consulted and noticed. She thinks Malama Kakanilua in sand dunes and other local NHOs must be consulted in a meaningful way. It's not a secret where the burials are. When the local kanaka people are consulted in a meaningful way then there will have been progress. They are trying to get the courts to recognize that kanaka have property interest in the iwi kupuna.

[5:25:15] Dane – what is update on the letter. Susan or Iolani?

[5:25:55] Susan – person in SHPD who has authority to issue letter is the SHPO or Deputy SHPO and at this time they have no completed a letter. No hold up that you can help. Native Hawaiian Legal Corps submitted letter and we will respond to that. But neither Iolani nor Andrew nor Susan have authority to speak on behalf of SHPD on determination that will be made.

[5:27:25] Johanna Who is SHPO

[5:27:30] SHPO Suzanne Case and Deputy SHPO is Dr. Downer

[5:28:00] Johanna – letter. Why is SHPO also the DLNR chair?

[5:29:17] Susan - DLNR is under the governor and SHPD is under DLNR a division within DLNR. Governor appoints the SHPO and then the Deputy SHPO is appointed by the SHPO. Section 76 allows for the appointment of the state historic preservation officer who is appointed by the governor

[5:30:27] Johanna – section waived in Section 76. Suspect 76 is description of qualifications for SHPO. If governor waived requirements makes me wonder

[5:30:42] Susan – I can't answer that question

[5:32:00] Johanna – in most states SHPD separate from DLNR. Needs to be agendized. Proper consultation needed. Haven't had consultation since Dec. 27. SHPD informed Ian Bassford had to consult but did not occur. Kealana has been in touch but hasn't talked to Hinano

[5:32:30]

[5:35:35] Johanna – stop work order

[5:36:00] Scott don't know what to do either

[5:36:12] Claire – ultimatum

[5:36:35] Janet – will make site visit. No inadvertent if known burial ground. If you find one that should be it. Anthropology code of ethics: do no harm. But there is a lot of harm. SHPD understaffed, not pointing fingers. Large complex. Lots of history. Need to stop

[5:40:13] Dane – curious to see your jurisdiction and authority. Sometimes it is defeating

[5:42:35] Johanna – desecration law. 7-11-1107. Dunes are wahi pana and sacred in their own right. Why have law if law doesn't work. Judge Cardoza said violation of iwi – no remedy no price you can pay to fix it. Grateful for Kaniloa. Need to sue and take to court. Making us complicit in crime.

[5:47:06] Kyle – So do we as burial council sue the director of DLNR? Is this what we have to do? Do we have that ability to sue?

[5:47:48] Dane – I believe we do and asked AG if difference of opinion with SHPD and can they counsel us separately from SHPD.

[5:48:12] Scott – I do remember, want further clarification

[5:48:40] Dane – should agendaize and call in AG in the future

VI. CORRESPONDENCE

A. Letter Dated March 9, 2020 from Malama Kakanilua to the County of Maui in Regard to a Moratorium on Any Disturbance of Sand Dunes or Burials.
Information/Discussion/Recommendation: Discussion on the above letter.

[5:50:05]

[5:50:39] Noelani - it took a long while for the letter to go through. March 2019. Malama Kakanilua wrote to UN council elimination on racial discrimination. In complaint was for early warning urgent measure committee. They received a response - committee on elimination of racial discrimination - US is a treaty partner so every govt organization falls under that treaty including the county. Central Maui - Malama Kakanilua - stipulations outlined in the March 9 letter. Utilize the letter as the motion and support the letter. Info received indicates Pu'uone sand dune is traditional burial area. No free prior informed consent. Traumatic and psychological distress. Lack of protection of burial sites. Will you write motion to support Malama Kakanilua? County moratorium on sand dunes and burials till laws protect sand dunes. County council subcommittee. Require smore complicated claims for cultural and lineal descendancy than other groups to claim descendancy from a burial.

[5:54:31] Dane – questions?

Scott [5:54:35] – may not need to be a motion

[5:55:00] Noelani – just something on the record showing MLIBC has something to say

5:55:10 Dane – do motion

Johanna 5:55:40 utilize letter as motion and support letter

[5:56] Scott makes a motion – “In light of the UN Committee on elimination of Racial Discrimination Response, the MLIBC supports the March 9th letter from Malama Kakanilua to the County of Maui”

[5:56:20] Johanna – have to be more specific identify what you are doing

Discusses motion Scott Johanna Noelani

Asked county Grateful to Joshua Cooper who took time to come over and help us.

[5:57:36] Lucienne – in support of burial council writing letter of support. Rereading burial council item. Asking dunes be regarded as wahipana and sacred in its own right. Letter good first step. Make money from dunes – not good

[6:01:11] Kaniloa – Laws there already. SHPD not doing fiduciary duties with historic properties - kanakas are taxed for SHPD employees and SHPD isn't doing fiduciary duties. Laws not being followed everything being desecrated. It's their 'aina but they get discriminated against. Ancestors treated as an everyday business decision of whether to keep it or not. They are at the mercy of these people who have no problems displacing the iwi.

[6:08:48] Joyclynn - This is spiritual and cultural trauma; this is how historical trauma is made.

[6:09:22] Scott makes a motion: “The MLIBC supports Malama Kakanilua’s March 29th letter written to the County of Maui in response to the UN’s Committee on Elimination of Racial Discrimination in its attempt to place a moratorium on development in the Wailuku moku sand dunes and to stop the disturbance and desecration of iwi kupuna in this extensive dune system.”

[6:10:40] Kyle – I second

[6:11:00] Noelani – she put in chat. More specific to letter

[6:13:13] Claire – president Malama Kakanilua. Thanks, you for listening to motion. Alert to sometimes public works does not support preservation of sand dune if it is considered a secondary sand dune. “Including area and previously disturbed sand dunes”

Discussion continues

[6:20:20] Johanna makes a motion – I move to “The MLIBC supports Malama Kakanilua’s March 29th letter written to the County of Maui in response to the UN’s Committee on Elimination of Racial Discrimination in its attempt to place a moratorium on development in the Wailuku moku sand dunes and to stop the disturbance and desecration of iwi kupuna in this extensive dune system.”

[6:21:03] Scott seconds Iris recuses [6:21:17], all in favor [6:22:04] motion passes

B. Letter dated February 18, 2020 from the County of Maui Department of Public Works Engineering Division re: National Historic Preservation Act, Section 106 Consultation With Native Hawaiian Organizations and Potential Consulting Parties Iolani Street, Loha Street, Liholani Street, and Makani Road Pavement Reconstruction, Pukalani, Mahaehu, and Aapueo Ahupua‘a, District of Makawao, Island of Maui, Federal-Aid Project No. STEP-0900(099), Tax

Map Keys: Portions of Plats (2) 2-3-008, 009, 011, 017, 024, 033, 041, 042, 043, 045, 048, 049, 054, 0555, 056, 057, 061, And 067. Information/Discussion/Recommendation: Discussion on the above letter.

[6:22:47]

[6:23:36] Kealana – county not available for this. Wendy said at end of 30 day comment period received no comments. Submitted no historic properties affected determination

[6:24:13] Dane so no intention of presenting

[6:24:40] Scott – should have had monitoring

[6:24:45] Kealana different project

[6:25:45] Kealana history and culture not consulted

[6:26:30] Johanna – ones we let get by us are the ones that come back and bite us

C. Discussion re: Paeahu Solar Project, Paeahu Ahupua'a, Makawao (Honua'ula) District, Maui, TMK: [2] 2-1-008:001; [2] 2-1-008-056 por.; and [2] 2-1-008-057 por
Information/Discussion/Recommendation: Discussion on the above project.

[6:28:00]

[6:28:59] Paul Cleghorn with Pacific Legacy and Julia Mancineli?? from INERGEX. Presentation to present AIS for Paeahu Solar. Portion of Honua'ula/Wailea 670 project area. Ulupalakua Ranch Lands, SE of Maui Meadows subdivision. Kihei – visits Aha Moku Sierra Club consultation. AIS. No iwi found on adjacent parcels through AIS research. Pacific legacy 100% pedestrian survey. Potential burial mound found.

'Aina Archaeology is doing the CIA for the Pacific Legacy project – some areas had numerous ethnobotanically important plant species. Recommending monitoring for all ground disturbing activities

[6:36:36] – Dane

[6:36:48] Johanna – for pedestrian survey I suspect during the day. Did they do any kilokilo by the night sky to find features with archeoastronomy.

[6:37:13] Paul – not for this project no

[6:37:20] Johanna - Wailea 670 a lot of features found after celestial survey was done

[6:38:40] Dane – how many features found temporary habitation seawall

[6:40:00] Paul – two areas had highest concentrations of features and engineers designed solar arrays to avoid these two areas so they will be preserved. One permanent habitation enclosure

[6:40:34] Dane – was the burial by the habitation site?

[6:40:40] Paul – not sure, don't think so

[6:40:50] Dane –concerned with whole area but especially habitation site and practice of loved ones buried very near to us

[6:41:19] Paul – habitation site far into preserve area

[6:41:35] Dane - can we get a copy

[6:42:38] Paul - Yes. We did a complete surface survey test excavation cultural impact assessment 'Aina Archaeology is doing the CIA for the Pacific Legacy project – some areas had numerous ethnobotanically important plant species. Recommending monitoring for all ground disturbing activities. Will continue consultation primarily with Aha Moku

6:24:24 Johanna – analysis of info – what can you tell me about this area? Tell me anything describes what was going on in area

[6:42:45] Paul – good idea. Most features agricultural features with temporary habitation only one permanent habitation

[6:43:20] Dane adjacent rivers?

[6:43:23] Paul a couple dry intermittent streambeds no permanent water ways

[6:43:35] Dane – how much acreage disturbed by ranching

[6:43:53] Paul there were areas with considerable ground disturbance from ranching activities.

[6:42:24] Dane - how much ground disturbance?

[6:24:45] Paul - wish Julia was here. Trying to minimize ground disturbance but what he calls minimal may differ than engineer's minimal

[6:46:30] Johanna – you mind if she came to see you?

[6:46:39] Paul – would be happy to talk to you

Solar Farm plan - no iwi as of now – Honua'ula is right below. Is it the same as the cultural preserve area - not completed 106 process in Honoa'ula - Wailea 670 - not completed 106 yet? Solar farm project doesn't have much mitigation - in Makena they are making affordable homes for descendants getting first choice. Wailea 670 has pristine lands and no burials but it's a lot of lava rock - Grand Wailea right below it - there was never a complete ethnographic study that happened. Needs to happen

for this very important place*****email Paul Cleghorn about this project and the CIA by 'Aina Archaeology. Kum Michael lee did archeoastronomy and predicted the road area may have burials from walking the land.

Pu'uone.

[6:47:22] Claire – this is right by Honua'ula. How many ahupua'a or just Paeahu? Same as cultural preserve. Have not completed Wailea 670/Honua'ula Section 106 project. Soar doesn't seem to have much mitigation going back to land and people. In Makena affordable homes for descendants who get first choice. Wailea 670 200 acres of preserve these are pristine lands. No burials found but it is a lot of lava rock, so no one broken into the caves and what is below. This is an entirely different kind of thing going on – Grand Wailea right below. Have not done complete ethnographic study. See it happens for important place. Have not put history back together. Everything still there. Road through Wailea 670 along the road is where Kumu Michael Lee suspected there would be burials from archeoastronomy. Could map whole village based on star configuration

6:52:09 Paul – the area around Grand Wailea where numerous iwi found right next to the coast. We are much further inland from the coast and it I rocky land. Professional opinion is that this is not the prime area for burials

6:53:20 Dane this is not 106

[6:53:30] Dane any lidar? Connectivity with adjacent properties?

[6:54:01] Paul this would be beneficial. Some lidar was flown

[6:54:30] Paul Aina Archaeology is doing the CIA

[6:54:50] Dane – was coral found or other cultural material

[6:55:00] Paul don't recall coral on surface or excavation but would have to check

[6:55:40] Lucienne - has spent hundreds of hours here like Claire - the AIS shouldn't be used for the basis of adjoining sites - don't dismiss as ag sites or temporary habitations. Not based in fact. This project looking at an AIS that has been discredited. Mischaracterized and mislocated hundreds of sites - coming to light through federal Section 106 process. It is not written up yet so these guys can't know that yet. But the maps for this project show an access going through Wailea 670 with a handful of sites. But not clear from AIS exactly where road is. How big is the final road going to be? Sites on Wailea 670 maps aren't necessarily in the right place. Many sites are mislocated on old AIS. Claire is right – Michael Lee and others in Paeahu area in vicinity of access road typical of burial sites but not testing and written off by state historic. Burials found in lava flows and areas below Wailea 670 but only 10 test units done on 500 acres. Cultural practitioners like Mr. Ke'eumoku Kapu said very likely burial sites on Wailea 670 and should do site visit with the public - very special place. Trashed by Wailea Resort - last chance to tell authentic history. Tested 18 sites

6:59:53 Dane square acreage

Paul 6:59:52 200 acres

7:00:06 Dane how many tests

7:00:11 Paul - recorded 52 sites and tested 18 of them. Access road through 670 – it's a good point. Site locations in 670 are terrible. Done before GPS was refined. We surveyed that area and those sites we plotted on map are ones we located. Pretty confident those are sites near access road

7:01:16 Lucienne – she was saying Wailea 670 did only 10 test units. She walked with them they took GPS points, but they did a lousy job of finding site around the recorded sites.

[7:01:59] Paul – don't recall how many weeks in the field but it was pretty extensive and surveyed to the best of the ability. Did work a while ago for the wind farm – found 10-15 additional features during drought depending on vegetation.

[7:02:42] Lucienne – vegetation really makes a difference and went back and found more and were very truthful. Less concerned on your methodology than assuming what was

[7:03:08] Paul points well taken thank you

[7:03:50] Janet Six – reinforce Lucienne and Claire. Heiau Ainalani by Pat Kirch archaeoastronomy - agricultural fields often have shrines and ahus within them. Not how field systems work. White coral was found in comments. burials and ahu within them - white coral was placed in sacred sites starting in the 14th century. 10 different ways Terry Hunt Hawaiians are interred. Lots of sites wiped off landscape. Consider remote sensing or Lidar to look through vegetation. Even thorough pedestrian survey can miss sites. Pacific Legacy does nice work but need to use best practices. Can't assume lava fields have no burials. Interconnected Wailea Makena Complex and adjacent parcels. Need to use remote sensing.

[7:06:48] Carol Kamekona – calling with Clare. Agree with Dr. Six, whole Wailea and Makena cannot be piecemealed. The whole southern area is a TCP you can see the whole connection of the whole southern area. Updated AIS and site visit needs to include lineal descendants to understand more of what history is- need to all be considered interconnected with each other. Whether or not burials found at one site. Need to redo the AIS and consider the cultural context more.

[7:08:48] Leilani Miranda - She resides Pauwela but her family is from there. Please go through the protocols of getting lineal and cultural descendants of the area and reach out. She wasn't informed about this. Not like they don't exist anymore because things don't exist anymore. The things still exist, and she won't take the AIS very lightly. When she went to 670, she heard no inadvertent but she found terraces galore in 2 minutes. All connected. She wants to come to the meetings and be notified. Oversee they actually reach out to people

[7:10:41] Paul - Innergex handled public notice but Tanya with 'Aina archaeology has been contacting people and doing the CIA

[7:11:15] Dane wants to do site visit with Kahele

[7:11:37] Lance Collins – Attorney represented group intervened in public utilities commission case but testifying on his own behalf. Not directly Mr. Cleghorn's work. By winning RFP Inergex was required to do cultural impact work immediately but they didn't do that till several months after the public commented on the public utilities case. And after the community group intervened in the proceedings and brought up archaeological and native plants issues that they contacted Sierra Club. Caution this council to be careful in securitizing Energex information and limitations they put on their consultants to ensure you folks are getting all the info you need. During contested case hearing, one of the concerns had to do with several native plants in the area in the project site. Inergex representative placed no value on native plants and no issue clearing land of native species and planting with nonnatives if it works with their business model. At present no burials identified but that's their philosophy. Be critical and aware of how they present their information to make sure the cultural and burial sites are properly protected. they filed it as a closed document and didn't want it to be unsealed. Didn't meet the standards - no private info regarding burials so no reason to be confidential. No regard for the local community or anything that is native. Haven't contacted lineal descendants of this area or just doing it now when its 1.5 years later and POC process is almost done.

[7:17:32] Dane - Paul are you being censored

[7:17:36] Paul - Absolutely not

[7:18:04] Dane – We need to talk to the developer Inergex

[7:18:20] Lance sent link. Also has botanical and community benefit study - Lance Collins sent it to the group. P 74 f pdf is archaeology

[7:18:48] Johanna – problems running into we try to protect. Unless we know who, iwi are or where they are struggle to protect. Have you seen any other groups more successful in protection of iwi?

[7:19:26] Lance – not without a lot of struggle. Not criticizing anyone personally. One of the statutory powers of the council is to make recommendations for appropriate management and treatment of native Hawaiian burial sites. When an AIS performed – council should be notified so descendants can be informed early intervening coalition has 1000 members. Received a series of anonymous notes coming from a cultural descendant maybe – concern with people too open or vocal of what they knew was on the land. Shadow stuff going on. Supposed to do cultural and archaeological stuff in 2018 but didn't till 2019. Over 60% of the new shrines located by Kirch and Tuggle align with the Pleiades Makali'i - lineal and cultural descendants need to be informed early that this has begun. Need to set a deadline as to when the project proponent must inform the lineal and cultural descendants and have penalties for not doing so. They must be forced to notify council at the beginning of the project and also

Council wants to see representation from Energex - we need the developer in the house. What type of ground disturbance will take place and how much of acreage will be impacted? Is testing adequate for the impact

[7:23:40] Dane – Paul we want to see you and the developer in house

[7:24:20] Paul will convey to Inergex

[2:25:00] Johanna – for next meeting we denied someone’s application because we felt they were not Hawaiian but in our laws, we can acknowledge cultural and non-cultural descendency. How to recognize someone who is not Hawaiian for the area

[7:26:23] Kealana - Next meeting June 17

[7:27:23] Mahalo everyone. Adjourn

VII. INADVERTENT/TRAINING

A. Training for Maui/Lāna‘i Islands Burial Council on membership, roles, and responsibilities.

Information/Discussion/Recommendation: Discussion on the above item. (BRING BLACK TRAINING BINDER) The Maui/Lāna‘i Islands Burial Council may go into Executive Session pursuant to Section 92-5(a) (4), Hawai‘i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities.

VIII. ANNOUNCEMENTS

A. Next meeting is scheduled for Wednesday, June 17, 2020

Next meeting June 17th. He will be making meeting minutes.