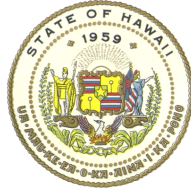
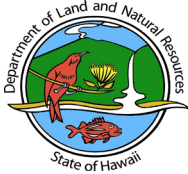


DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**MAUI / LĀNA'I ISLANDS BURIAL COUNCIL
MEETING MINUTES**

DATE: Wednesday, September 15, 2021
TIME: 9 AM
LOCATION: Online Via Zoom

Zoom Meeting Link:

<https://hawaii.zoom.us/j/93430367384>

Meeting ID: 934 3036 7384
Passcode: 131767

I. CALL TO ORDER

[9:01 AM] Dane Maxwell calls meeting to order

II. ROLL CALL

Dane Maxwell
Kahele Dukelow
Johanna Kamaunu
Iris Pe'elua
Scott Fisher
Kyle Nakanelua
Everett Dowling

[9:03 AM]
SHPD Staff

Andrew Kealana Phillips, Burial Sites Specialist
Chris Ikaika Nakahashi, Cultural Historian
Tamara Luthy, Ethnographer
Andrew McAllister, Lead Archaeologist Maui
Iolani Kauhane, Maui Archaeologist
Ka'ahiki Solis, Cultural Historian

Public

Tanya Lee Greig
Janet Six Maui County Archaeologist
Nico Fuentes
Leilani Pulmano
Foster Ampong
Cheryl Hotta
Ian B
Darene Matsuoka
Noelani Ahia
Cody
Sharon Paris, Esq.
William J. Brennan, Esq.
Fay M
K. Hirata
Carol Lee Kamekona
Kirra Downing
Angela Neller
Marcus Olheiser
Maurirani Niles-Cant
Jacelyn Konohia
Keeamoku Kapu
Cody
Basbas
097273269
Vernon Kalanikau
Josie Yucha
Kaiani Kiahi
Etan Krupnick
Ulili
Scott Miller
Noelani Hessler
K51
Michael Dega
Consuelo Apolo-Gonsalves
Suzette
Jeh Konohia

III. APPROVAL OF MINUTES

[9:05 AM]

Dane opens minutes

[9:05] Kealana – we have 8 draft meeting minutes ready for council review

A. January 15, 2020 **B. June 3, 2020** C. June 17, 2020 D. July 15, 2020 E. August 26, 2020 F. September 30, 2020 – Executive Session G. October 8, 2020 – Executive Session H. October 28, 2020 – Executive Session I. **February 24, 2021** J. February 24, 2021 – Executive Session K. April 21, 2021 L. May 19, 2021 M. May 19, 2021 – Executive Session N. **June 30, 2021** O. **June 30, 2021 – Executive Session** P. **July 14, 2021** Q. **July 14, 2021 – Executive Session** R. July 28, 2021 S. July 28, 2021 – Executive Session T. **August 25, 2021** U. **August 25, 2021 – Executive Session**

[9:06] Scott –says folder empty

[9:06] Dane - MLIBC drive -then date that link takes you to last month’s meeting. Dane did not review all of them. We can maybe do a few now in next 20 min.

[9:07] Johanna – will go ahead with a few of them. She went through two of them

[9:09] Dane – defer till the 29th since they are long

[9:09] Everett

[9:09] Kealana – draft meeting minutes are on the SHPD website and are available

[9:10] Dane - everything we see ready to be approved and voted on

[9:10] Kealana correct

IV. BUSINESS

[9:10]

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

[9:10] Dane - Official training 29th of September. Any questions to forward to the AG?

[9:11] Kahele – not sure if archy practice but when they discover something and know it has been disturbed want to continue to dig more in the area to know what they are dealing with. She would prefer not to further disturb. Background on this practice.

[9:13] Dane – can ask Andrew. Also ask: if found in backfill then no longer can preserve in place?

[9:14] Andrew – in cases on monitoring, they are supposed to stop as soon as they identify human skeletal remains, notify appropriate people and follow up for next steps. Burial laws – further investigation or analysis is dependent on whether there is enough info to determine ethnicity. That’s the only time he would come into play is additional archaeological testing

methodology. But doesn't happen often. Often go to History and Culture and requests permission. He would say preserve in place, interim protection and go to H&C to see how to proceed. May not need invasive testing to determine ethnicity, Hawaiian burial practices distinct. Coral artifacts etc.

[9:18] Kahele -fragments then they allow remainign iwi to be collected. Seems to be common practice

[9:18] Andrew – if displaced, pile outside of trench. Collect and inventory what they have. Happens in consultation with history and culture. Also consultation with descendants on recovery or testing but he doesn't see those plans. That is not his call to make

[9:20] Kealana – bring up with the AG to discuss and elaborate on training. When scattered remains found, provide archaeologist with info to elect to protect and allow them to collect iwi as best way to protect displaced or scattered iwi. Second part is whether anything is interred – look at definition of burial site. 13-300-2 definitions of burial site. Archaeologist would be given permission to determine if anything else with the scatter. But based on definition a scatter is not considered a burial site so the developer may be able to continue work in the area of the scatter if no in situ or primary burial associated with the scatter found with investigation. Community and council question this.

[9:23] Kahele – choice to look at individual find instead of the context of where they are like Maui Lani. Do you really need further investigation to know if it is part of a burial site in places like Maui Lani?

[9:24] Dane – when given ok to disinter rest of the in situ component usually not request for preservation in place or relocation. Opportunity to comment on this specifically.

[9:25] Kahele – created a document for adding questions

[9:25] Johanna – when iwi found sometimes they collect and remove from the site. Is that really necessary, can't we just leave it there? We are reinterring a lot of iwi from previous years. Criteria for allowing to remove from the site.

[9:26] Kealana right now we try not to remove iwi from the site (we are talking about scatter or isolated finds). We collect to protect to ensure no further desecration. We leave in place if we are confident it will be safe there. Erosion – example may not feel safe leaving it and will curate at SHPD.

[9:28] Johanna – sifting and looking for more fragments. How much to sift?

[9:29] Dane and Kahele open public testimony

[9:29] Janet Six – question – do we have a definition of burial ground or burial complex? Unable to find that

[9:30] Kealana – I do not believe that that shows up in the burial rules. Maybe archaeological rules?

[9:30] Andrew – I highly doubt there is a definition. In practice though, lumpers and splitters in archaeology. During an inventory or identification phase should be looked at as such. If historically ethnographically it is an area used as burial grounds should be identified as such during ID phase then what are the contributing features? If customarily used as a burial ground, should be able to logically delineate an area with spatial assortment and define the whole area as TCP or burial ground but all should be looked at as a complex in the past looked at things as burial sites which complicates things. He challenges archaeologists to look at things as a complex. Burial site has a specific definition – but doesn't mean we can't identify a larger area as a traditional Hawaiian property and identify features and assess significances that way

[9:33] Johanna – can definition be done during burial council or just AIS?

[9:33] Andrew - will send archaeologist to burial council and that is there time to identify something. Supposed to take this info and identify historic properties based on consultation. You have a role in identifying complex but need to talk to History and Culture

[9:34] Noelani Ahia – due to sand mining and construction lots of disarticulated iwi but they may still be part of a larger burial complex. But they get moved often without consultation. Somewhere like 50 disarticulated iwi even without inadvertent find forms filled out for them. This says the iwi don't matter anymore and this is 'aole pono. Still has DNA of 40,000 ancestors. Waiko and Maui Lani they are allowed to remove them. With all the definitions – if it is not in situ and can't be preserved in place and want to relocate, this site needs to be protected till consultation happens. If removed and construction continues a house or road will be on top and too late.

[9:38] Kahele closed public testimony

B. 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.

[9:39] Dane opens this agenda item

[9:39] Iris Pe'elua recuses

[9:39] Sharon Paris and William Brennan – HBT. She must leave at 10 AM. General update – submitted response to motion, request to respond to prior motions. Submitted response day before last schedule meeting. Since previous meeting one in person site visit. Nico can speak to this and also the determination and preservation status. Litigation onong. Trial scheduled for Nov. 1. Construction ongoing. Can answer any questions

[9:41] Joahna – earth moving activity?

[9:41] Sharon – not that shes knows of, 48 hr notice for earth moving. She thinks last one was in July

[9:42] Marcus Ohlheiser – there is ongoing activity out there, preparing road B for curb and gutter and side walk.

[9:42] Johanna – is this all going on before next meeting?

[9:42] Marcus – would have to ask but if any more work is planned proper notices will be sent out

[9:43] Nico – any specific updates? Last meeting discussed the TS187 and TS 188 – completed. Preparing demographic background of these individuals and will be submitted to SHPD probably this week

[9:43] Kahele – these were collected. Found iwi investigated found more and all collected

[9:44] Nico – found during houselot 144, established remains we are seeing were previously disturbed. Scattered prior to current excavation

[9:45] Kahele – this is exact situation. Previously disturbed so iwi get less consideration. Hope someday we all think same way – Maui Lani and hundreds of burials to build houses and roads. Still not considered burial context in spite of the context. Not a surprise. Try to minimize find by saying a scatter. When will we get to the point where we stop.

[9:47] Nico – the remains of people who lived and died in the territory are important to us. You can disregard that but the people doing the investigation know. Trying to determine if any part of this person is still in the original burial context. You need to know this info. If you leave it there, someone on the surface might throw trash or the rest of their body nearby.

[9:49] Kahele – further desecration is further desecration

[9:49] Nico – state's perspective is to protect. Desecration is from a position of not knowing. Lots of things happening in the absence of archaeology which is desecration. [more is said which is not recorded here as a matter of cultural sensitivity]

[9:50] Kahele - You are trying to tell me as a Hawaiian what desecration is?

[9:50] William Brennan - Nico is not in a position to tell HBT whether or not to stop development

[9:51] Dane - we will take a 5 minute break

[9:57] Dane reconvenes. Please keep to updates and be respectful of the sensitivity of this issue.

[9:59] Noelani – Very upset. Settlers need to figure their kulana and kuleana. When you are in our house you play by our rules. Racism in archaeology. Mahaoi to go into burial grounds to

discover what is there. Development – have to have archaeologists on site so no further development. This is sacred to us. Do not develop there in the first place. Any settler in Hawai‘i is accountable to us. Part of cultural genocide of our people. Bulldozed in our death and bulldozed in our life. Site visit in late August. 187 and 188 – Noelani and herself both upset, consultation in Zoom. Wanted them reinterred in place they were found. Areas not protected, still construction. She thinks Nico’s work is better than Lisa’s. Can appreciate work effort but arrogance is disturbing and further traumatizing. Extremely emotional. Keiki and mo‘opuna in all directions trying to reclaim ea. Challenge everyone to look inside yourself and do homework. You all have a role and a responsibility and a kulana, a rank, not to decide what desecration is and isn’t.

[10:06] Ke‘eaumoku Kapu – archaeologist is compensated for what they are doing. Consider illegalities. Same rhetoric. Encourage Chair – take heed when you hear remarks from hired hands. Don’t let them continually circumvent.

[10:10] Dane – Maui Lan has been on the agenda. Countless motions as a council in attempts to protect iwi kupuna. Burial site working group created by legislation later this year. Make comments heard there as well and taken to the legislature. What is problematic in the protection, what is providing people best protections. Please provide testimony there.

[10:11] Johanna – how much consideration given to descendants in consultation? Blurring lines and including them all the time. Concerns are more serious. What is allowed for descendants to ask for in consultation. How descendants can participate in this consultation process and what expectations are they allowed to have

[10:14] William Brennan - has not participated in any of the site visits or consultations. Can’t discuss how these interactions go. Statutes require consultation with cultural descendants and that they be allowed to observe. How the people on the ground incorporate comments and feedback. Would have to defer to Nico as person on the ground.

[10:17] Dane – do you have the authority to create buffer zone without checking with project manager?

[10:17] Nico – very touchy subject. Apologize to Kahele and council. Get consultation with Zoom, emails, lawyers. That is at consideration of HBT. Meaningful consultation – collaboration of ideas to be incorporated. Development side is not gonna be able to facilitate. Depends on the comment. Better to have a good relationship but it is really difficult and very emotional.

[10:19] Johanna - how much consideration given to descendants requests

[10:20] Nico – depends on comment and the feasibility. This is broadly for consultation generally. For inadvertent discoveries. They pulled it down to put more sand back in the dune for TS 187. 188 is still up and has been up since that day. Interim protection measures. Archaeological site, burial site, isolated find – it was a unique situation. Recovery has scattered remains – are had nothing to protect. Went ahead and put up a fence that day. They had consultation.

[10:22] Kahele – process forces us to get pulled into little details. We were having a fruitful discussion then it brings it back down to timeline, little details, important things. 18 motions in the past few years about Maui Lani Phase 6. Begging to be heard and respected. Begging for you to see that area what that is. Hundreds of burials in the area. Having discussion about one single burial. You come and make us listen and try to make us ok with what is going on. We want you to stop. What has been found in the whole context, to always bring us back into the details and rules and regulations. Also have to continue to have the broader discussion. We don't want your sewer next to our burials. But you continue. Tried to stop continued desecration but you do not.

[10:26] Scott – we made so many motions. Stop developing in areas with iwi.

[10:26] Dane - We are at an impasse. What is the definition of a pa ilina, burial complex. Sewage line – before the courts, this was a major concern. Want to see an update for this.

[10:28] Nico – moving parts. He is referred to as the one instigating this situation. Sewage line has not been determined yet.

[10:28] Dane – before action is taken on the sewer line, requesting MLIBC – he has major concern about sewage line and wants an update before the council

[10:29] Everett Dowling – how many homes planned for this property

[10:30] Nico – somewhere around 50. Pits that were never investigated and in situ. In increment 4, 60 in situ and 43 pits.

[10:30] Everett – 103?

[10:30] Nico – pits may not be burials, that is why distinction made in the law

[10:31] Everett – how many now planned

[10:31] Nico – not sure Can't go beyond the current plan. Increment 4 – somewhere around 9 built

[10:31] Everett – on average 5 burials per acre about

[10:32] Nico – spatially they occur within the dunes not between. Not a certain amount of burials per home – not appropriate way to think of it. Some areas concentrated some not Most burials occur within two lots spatially.

[10:33] Johanna – real concern with sewer line. Entrenching in this area. As wailuku rep she has not been consulted on this

[10:34] Dane – consult with Wailuku rep. Fencing – what is the plan

[10:34] Nico - 187 188 fence will go back up

[10:36] Andrew – Nico is doing work with a methodology for testing but they are not seeing results or interpretation. Nico question – do you interpret totality of burial sites as a complex of burial sites in terms of archaeology. Going straight to history and culture without archaeology branch. May be inadvertent discovery of a feature associated with larger archaeological site

[10:37] Nico – increment 4 burials are for one site those burial features part of this site. Delicate nature of burials – determining the edge is difficult. Hard to tell where one ends and the next begins. More holes in the ground between burials but this is not prudent

[10:38] Andrew – in field of archaeology we identify what Nico is talking about is recording physical features. This info informed by ethnographic record – identifying discreet features and doing consultation and cultural practitioners say features of larger archaeological site with spatial dispersal of burials, should inform significance of overall archaeological site

[10:39] William Brennan – a lot of confusion and dispute is around burial complex and archaeological definition as Kealana said, it has no statutory or legal definition. A lot of conflicting viewpoints and frustration centers around HBT is committed to complying with law and law does not define this term. Archaeological and cultural definitions but those are not the law. Keep that in mind. Participate in the making of these laws. There is a gray area with room for conflicting viewpoints resulting in frustration. Working to comply with the law as it is written. All HBT can do at this time.

[10:41] Kahele – you are hiding behind the law. Lecture on law – the law does not protect our burials. Allows you and your company to continue doing what you are doing

[10:42] Scott – come back to this so many times and obfuscates everything. A hundred 188 burials and burial features. Distinction irrelevant. He has a motion ready to go

[10:43] Dane go to Kyle

[10:43] Kyle – appreciates the law and whatnot and work to get to this point, political realities and financial realities, but still there is a social responsibility we are obliged to carry out as humans in this portion of earth in this space and time. All companies business etc obliged to address these social responsibilities. Those in it for financial gain and captured by that same desire.

[10:45] Foster Ampong – suggestion. As chair you will sit in on the OHA thing Dane? He suggests that when you go to the meeting as the MLIBC rep, ask OHA and all the kanakas in the lahui and agencies with alphabetical capital letters to pursue designating land of Maui Lani and Waiko as a legacy land. It is very emotional and stressful.

[10:48] Dane - Central Maui Pu'uone Complex one of his main concerns

[10:49] Johanna - Historic district for the Moku of Wailuku at the County of Maui CRC.

[10:50] Scott makes a preliminary motion:

“In light of the high number of burials found in the Maui Lani Phase 6 project area (a total of 188 burials and related burial features as of September, 2021; cf. past MLIBC motions), the MLIBC requests the cessation of all ground disturbing activities at the Maui Lani Phase 6 until a designated burial area can be identified in collaboration with cultural descendants, The ‘Aha Moku Council, the SHPD and the Burial Council.”

[10:50] William J Brennan - Under HRS 92-7 HBT objects to this motion as it was not on the agenda

[10:51] Dane steps away, assigns it to Kahele to run the meeting until **[10:56]**

[discussion on the wording continues; MLIBC contest the objection of HBT to the motion]

[11:00] Janet Six – public works or planning in Maui County are the only ones who can pull a permit. Andrew laid out a TCP or burial. Nico has context and numbers. Is this a burial ground? County supposed to be neutral unless someone requests something. You can define a burial ground spatially, there are ways to determine the edge. There are clusters. Patterns in anomalies. Spatial analysis and determination of what might be a TCP in the form of a burial ground.

[11:03] Scott - Nissei Veterans Memorial Center provide example of taking extreme caution not to disturb burials. There are precedents and examples drawn upon to address this situation and generally can work for everyone

[Council discusses if this is agendized appropriately to make a motion or if they should re-agendize for the next meeting; asking and challenging them to reconsider their assessment of a burial site]

[11:08] Scott makes a final motion:

“In light of the high number of burials found in the Maui Lani Phase 6 project area (a total of 188 burials and related burial features as of September, 2021; cf. past MLIBC motions), the MLIBC strongly recommends the cessation of all ground disturbing activities at the Maui Lani Phase 6 project until a designated burial area can be identified in collaboration with cultural descendants, Malama Kakanilua, The ‘Aha Moku Council, the SHPD and the Burial Council. This burial council requests this cessation of work begins as of October, 2021 until January of 2022, and discussions begin with a sense of urgency.”

[11:08] Seconded by Kyle, all in favor Iris Pe‘elua recused, motion passes **[11:08]**

[11:09] HRS Section 92-7A – HBT objects and 92-7D renews their objection. Argues stop work order is an item of reasonably major importance and was not on the agenda

[11:09] Scott and Kahele - not appealing on legal ground but on humanitarian grounds

[11:10] 5 minute break, reconvene at **[11:18]**

C. A. Shoreline Erosion. Discussion to include: • Shoreline inadvertent discoveries along the coastlines of Lāhainā and Hāmākuapoko Information/Discussion/Recommendation: Discussion about the above item.

[11:18] Dane opens, asks for presentations

[11:19] Kealana - no presenters

[11:20] Kyle – provides input for Hamakuapoko. On the east coast east northeast district, his chair is Hana but includes Hamakuapoko to Kahikinui. Problematic is Hamakua district and Hana. Hamakuapoko an area called Kaulahao – Kuaunau. Thos iwi coming out through wind soil erosion and impacted by high tides and high waves. “Mamma’s fishhouse” beach/Kuau and “H-poko beach point” from planation days – Ho‘okipa beach park as you look makai. All areas including Hamoa. All areas have small collection of people who want to address this area and have areas to curate by appropriate peoples. These discussion go on.

[11:24] Scott – land trust will have a free workshop on plants to outplant to restore the coastline. Particularly naupaka. Avoid trees too close as roots reach out on the bluffs. Anyone who wants to attend – can split into groups. Will announce when dates finalized. La‘au maoli. How to stabilize soils with shrub tree grass

[11:26] Dane - Hamakuapoko challenges and cliff sides

[11:26] Scott – some strategies to make a green belt

[11:27] Dane – people of Lahaina know which areas have iwi presenting themselves on the coastline sbut similar- king tides or sea level rise

[11:28] Kahele opens public testimony

[11:29] Fay McFarlane – asks about anyone from mayor’s office

[11:29] Noelani Ahia – potential seasonal kapu to put on certain area based on shoreline trends and tides. Aha Moku o Wailuku iwi committee discussed this and signage and community to monitor and make sure iwi protected not taken by tourists.

[11:30] Janet – Puamana – meeting Downer Hinano Ikaika Sandy Bos and Carla from parks – reinternment at Puamana. SHPD will write the BTP. Please relay to Aha Moku. Corporate council as well. SHPD will write BTP and county facilitate reinternment

[11:31] Fay McFarlane – mentioned who initiated the plans [missed who]

[11:32] Andrew McAllister – brief comment. Two sided problem. Dealing with inadvertent iscoveries due to shoreline erosion then long term planning. Property owners’ agencies need to do long term planning of how – restoration protection cultural use – no matter what long term planning needed.

[11:33] Kahele closes public testimony

[11:34] Kyle – need a meeting with council SHPD and county. How will everyone participate

[11:35] Dane – subcommittee

[11:35] Kyle – working with Andrew and reinternment working group

[11:35] Kahele – Scott what is the format of workshop? What type proactive action we can take? Implement here on this place this day and move

[11:36] Scott – total of 4, 1 is legal dimensions of iwi with Malia Akutagawa, others how to sign up people [Waihe‘e] descendants of the Waihe‘e refuge and kapa making – erosion prevention thing somewhere else he is happy to do so

[11:37] Dane - Google drive shoreline ID document – identify which significant to identify the land owners

[11:38] Kahele volunteers

V. INADVERTENT

[11:39]

A. Inadvertent Discovery of Human Skeletal Remains at Kaulahao, County of Maui Kū‘au Bay Beach Park, reported to the Maui Office of the State Historic Preservation Division on August 26, 2021, Hāmākuapoko Ahupua‘a, Hāmākuapoko District, TMK: (2) 2-6-009: 023. Information/Discussion/Redocumentation: Discussion about the above find.

[11:39] Kealana – agenda item misspelled. Enough time was allowed for viewing of the public

[11:41] Ikaika – community members on coastline found exposed iwi. DOCARE involved. Significant number locations – some on top of hill, side of hill, bottom of hill.. SHPD covered respectfully with sand, documented, and left in place. Nothing recovered.

[11:42] Scott – is this Malama Kaulahao land?

[11:42] Ikaika County parks property

[11:42] Scott - old flamethrower training area 4th marine division WWII. They bulldozed the berm line in a U shape. Found square platform where flamethrower operator would stand. That area has had iwi washing out, accelerated after April 1, 1946 tsunami with shoreline configuration. Malama Kaulahao – they have an easement. He has been working with them. Plant species to contain sediment erosion. Activities go back almost 80 years

[11:44] Everett – is area fenced out? Are iwi protected

[11:44] Dane – no, limited signage. The iwi fall onto state shoreline

[11:45] Kyle – cliff, 25-35 feet bare to oncoming waves. No way to put fence, coming out of the sides. Supports kapu. Who wants to sunbathe below iwi? In old days common sense plantation folks would not allow the children to play in the areas where bones come out. Humanity

[11:47] Kahele opens public testimony; closes due to no raised hands

B. Inadvertent Discovery of Human Skeletal Remains at the Waiko Light Industrial Project in Waiko, reported to the Maui Office of the State Historic Preservation Division on August 30, 2021, September 1, 2021 and September 2, 2021, Waikapū Ahupua‘a, Wailuku District, Island of Maui, TMK: (2) 3-8-007: 102.

Information/Discussion/Redocumentation: Discussion about the above finds.

[11:48] Kealana – Google docs uploaded info from contracted archaeologist on the finds.

[11:49] Leilani Pulmano – SHPD asked them to first provide status of project since they restarted work and also consult on cleanup of pushpile A for screening methodology. Substantially modified development plan and restarted August 30 to do Road A and pushpiles. Redesigned around anomalies based off of the GPR. Excavation for drainage – inadvertently discovered 2 burials. Drain line. Both GPR areas and drain line component colored yellow on construction map. Map corrected to provide visual reference for GPR area. Interim buffer established. 2nd find located excavation drain line in area GPRd and no anomalies. Iwi covered interim buffer established. 3 isolated bones while cleanign pushpile A. These isolated finds at three different times and locations and collected and curated and stored in the trailer. Grubbed and graded material from imported fill stockpiled onsite. Stockpile of buried cowbones. Throughout project continued to consult with cultural descendants. For each find SCS notified required agencies and Wailuku rep and recognize cultural descendants. Offered for cultural descendants to monitor. Currently at this time pausing work on drain and regrouping with design team to further reduce scope of excavation. Like to do cleanup of pushpiles by removing pushpile portion fo stockpile – ground and sand dune will remain. 6 inch lifts at slow pace, monitored ad screened with mechanical screener. Ian and Mike here for questions

[11:53] Dane – maps and can we see in executive session?

[11:54] Everett motions to go into executive session

[11:54] Seconded Kahele, all in favor, none opposed, motion carries [11:54]

Leilani wants SCS and Tanya Lee Greig and Doreen Matsuoka

[11:59] Breakout Room; [12:16] move back to main session

[12:16] Kyle– how many finds?

[12:16] Leilani - 1 burial pit, 5 isolated finds, 9 in situ burials. Total 15 burials in 22 acres if math is right

[12:17] Dane – asked for determination? Preserve in place or relocate?

[12:17] Leilani – no

[12:17] Dane – current temperature of land owner? Attempt redesign?

[12:17] Leilani – we are looking at that, big task, road redesign. Iwi currently covered with orange fencing of 25 feet for both finds. Recognized cultural descendants – have 4 a part of recognized cultural descendants

[12:19] Kahele comment – the idea that they are developing this area, then sell it, then people will buy lots and construct utility lines. To zoom out

[12:20] Dane – to preemptively avoid this, for lots slated to be sold, before selling will you do GPR to inform those who will purchase

[12:21] Leilani – we haven't thought about that but placing laterals for utilities in locations where the excavation for any work in the future by lot owners will be minimized. Mass graded the site. Not leaving ungraded. Most people purchasing lots will utilizing existing grad to build from to minimize excavation

[12:22] Johanna – the future, need to inform future buyers. How much help will this be? Notify the future of great potential for more iwi at only 18 inches depth.

[12:23] Dane – Johanna work with Leilani folks?

[12:23] Kyle – construction question. Assume he buys and puts up steel warehouse building. Beams and footing need to be put in, concrete block to hold and house steel beams. How deep the footing has to be and how wide concrete block for 60 by 60 steel building

[12:24] Everett – would guess 3-4 feet

[12:25] Kahele – what kind of ammendments or restrictions are we allowed to place on those lots? Can we place restrictions?

[12:25] Everett can recommend development suggest or require GPR for individual lot buyers

[12:26] Johanna can recommend whatever feasible. CCR?

[12:26] Dane – any lots with iwi located on them

[12:26] Leilani – preservation areas part of the lot, an easement over the lot. Discussion with panning no exemption to create separate lots for preservation areas. No exception in light industrial zoning

[12:27] Everett – easement on lots serve as notice to buyer

[12:27] Dane – that is for iwi discovered but also a BTP – biggets concern are unanticipated ones. How to navigate? GPR?

[12:27] Janet Six – had discussions with SHPD about this. When first decided to reduce bays from 20 to 7, discussed lots with pushpiles, county can flag in Kiva so someone can see you need an AIS for a parcel, adjacent to significance. Cultural features. Dr. Lebo gave this recommendation. Can flag for the county. Likely to be requirements if you want to build there.

[12:29] Andrew – original agreement, agreed to redesign and focus on roadway and with additional development more AIS testing. Draw distinction between Waiko and Maui Lani – one allowing oversight and redesign and nothing personal against Leilani, appreciates willingness to do this, but dissapinted worked iut of GPR area as agreed upon. Haven't had a chance to analyze data for burial site in GPR area.

[12:30] Dane – archaeology didn't look at data?

[12:30] Andrew – still compiling info and agreed to stop working on road till provide data

[12:30] Leilani – surveryor compiling data of GPR overlaid with locations is not in town right now he is off island so can't compile data. Did not come up as anomaly

[12:31] Dane – Leilani so pushpile and orignal sand dune – will that be graded?

[12:31] Leilani - original sand dune will not be graded, just previous elevation, and there will be monitoring and screening. Working with field crew.



1) Thoroughly recover iwi as respectfully as we can 2) minimize harm to iwi while conducting recovery 3) make sure ground personnel including monitors
Pushpile A with isolated find s- small boulders rubbish soil sand cow bone

1) Prior to using screen, crew pick out as many large boulders as they see push to new stockpile. Only push 6 inch lifts. 3 pieces of equipment we use – consultation has occurred here. Box screener requires loader to drop load of pushpile 8-10 feet high into box screener. Uses grity to push through ¼ inch screen



2) Vibrating Box screener -

Smaller goes through ¼ inch screen, larger material caught on screen and taken from loader to be spread out and inspected for any iwi present

3) Mechanical screener



Excavator to load material into hopper and phase material onto vibrating screen depths and finer material separated from larger material then transferred to second conveyor belt

[12:38] Dane – what is the yardage

[12:38] Leilani - 3600 cubic yards, 180 semi trucks

[12:38] Dane - Oscillating vibrating mechanical screening – fragility of iwi in that type of shaker. Loader – being dropped also problematic for him. He does not support mechanical screening even with lots of yardage. Kihei large pushpile has to be done by hand

[12:40] Kyle – supports Dane’s ‘olelo in not in favor of mechanical screening. Brutal and undignified process. Would you send your grandparents’ bones through something like that or risk potential for bones going through that experience if those were yours?

[12:41] Kahele opens public testimony

[12:41] Noelani Ahia – difficult situation. Recommends developer put everything in preservation and reforest. Adjacent parcel to this Waiko light industrial light. Always a possibility. Road to go over potential burials. In situ burials – likelihood anomalies. Why didn’t monitor know the area wasn’t GPRd? Pacific rim – written to head of archaeological firm to complain about the monitor. Doesn’t trust this individual.

[12:48] Foster Ampong addresses the council

[12:48] Kahele closes public testimony

[12:48] Everett – appreciated developer’s openness to suggestions. Easement reflected on CCNR and title report of individual lots. GPR to be required for lots

[12:49] Kahele – issues investigating violation. GPR incomplete as Andrew commented couldn't review info and analysis.

[12:52] Leilani - working in areas they know they have to excavate. First day was an honest mistake with the GPR. Takes a lot of work to prep the GPR itself and requires excavation to get ground into appropriate area so GPR can be as most effective as it can

[12:53] Dane in areas found were you planning to do GPR

[12:53] Leilani yes

[12:53] Dane are project managers telling where you should or should not be or the archaeologists

[12:53] Leilani – totally my responsibility

[12:54] Noelani – as descendant does not support any more work or work in pushpiles. As descendant supports no more movement or screening or taking down to grade. Burial sites component has not been accepted for SHPD for burials by the road and went ahead with construction with burials next to the road. AG training question. Practice of SHPD to wait till project done to accept BTP and then its too late with Phase 6.

[12:56] Foster – GPR – did site visit and Leilani talked about what transpired, for site number 13, they had actually GPRd the area and tagged anomalies that GPR radar detected. Leilani explained went ahead with redesign as proactive measure and moved drainage to left and site 13 discovered whole area scanned by GPR and picked up no anomalies and started to excavate and disturbed burial. GPR did not pick up burial and that is something he thinks is critical in moving forward to figure out. When looked where burials located he is seeing a pattern. Counties want to develop in the future.

[12:59] Dane Sept 29 next meeting training by AG

[12:59] Scott motion if we want to consider or can reauthorize

[1:00] Kahele - stopped at their own will so what measures you will take before continuing construction

[1:00] Leilani – paused on drain line agreed county and SHPD to come back before we start work on roadway and drain line. Pushpiles – would like to continue these. B had no isolated finds and use a screener on. Will need to internally discuss the type of screener

[1:01] Dane wish to do a site visit. Leilani agrees

[1:02] Johanna – wait on Scott's motion

[1:02] Dane adjourns meeting

VI. ANNOUNCEMENTS

A. Next meeting is scheduled for Wednesday, October 20, 2021

Pursuant to Hawai'i Revised Statutes (HRS) §92-3, all interested persons shall be afforded an opportunity to present oral testimony or written testimony on any agenda item. Additionally, pursuant to a policy adopted by the Maui Lāna'i Islands Burial Council at its August 25, 2005 meeting, oral testimony for items listed on the agenda is limited to three minutes per person per agenda item.

Interested persons can submit written testimony in advance of each meeting that will be distributed to Council Members prior to the meeting. Written testimony must be submitted no later than 24 hours prior to the meeting to ensure time for Council Members to review it. Late written testimony will be retained as part of the record, but we cannot assure Council Members will receive it with sufficient time for review prior to decision-making. Submit written testimony to andrew.k.phillips@hawaii.gov.

Pursuant to HRS §92-4, §92-5(a)(8), and §6E-43.5, and upon compliance with the procedures set forth in HRS §92-4, the Council may go into a closed meeting to consider information that involves the location or description of a burial site or to discuss confidential genealogy.

A request to be placed on a Council meeting agenda must be made in writing with the SHPD History and Culture Branch 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 Maui State Historic Preservation Division located at 130 Mahalani Street, Wailuku, Maui, Hawai'i 96793.

INDIVIDUALS REQUIRING SPECIAL ASSISTANCE OR AUXILIARY AIDS OR SERVICES (E.G., SIGN LANGUAGE INTERPRETER), PLEASE CONTACT STAFF AT LEAST 72-HOURS PRIOR TO THE MEETING AT (808) 243-1285 SO THAT ARRANGEMENTS CAN BE MADE.