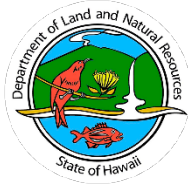


**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**DAWN N.S. CHANG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**LAURA H.E. KAAKUA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

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

**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA**

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD, STE 555  
KAPOLEI, HAWAII 96707

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

**DATE: Wednesday, February 15, 2023**  
**TIME: 9:00 AM**  
**PLACE: Department of Land and Natural Resources Maui  
District Office Complex, Conference Room, 130  
Mahalani Street Wailuku, Maui, HI 96793**

**I. CALL TO ORDER/PULE – Vice Chair Scott Fisher call meeting to order at 9:08AM**

**II. ROLL CALL –**

- Chair Scott Fisher present
- Councilmember Everett Dowling present
- Councilmember Michele Hoopii present
- Councilmember Iris Pe'elua present
- Vice Chair Vernon Kalanikau present
- Councilmember Diane Preza present

**SHPD: Kealana Phillips, Burial Sites Specialist  
Ikaika Nakahashi, Cultural Historian  
Andrew McCallister, Maui Lead Archaeologist**

**COMMUNITY: Mike Dega, SCS  
Tess Arriola, SCS  
Ian Bassford, SCS  
Kaonohi Lee  
Foster Ampong  
Namaka Puaa  
Lawaiana Maliikapu**

- The new Lāna'i District rep, Diane Preza, introduced herself.
- [9:11am] Vice Chair Kalanikau provide pule wehe.

### III. MEETING MINUTES

#### A. January 18, 2023

- [9:12am] Council takes three minutes to review draft meeting minutes
- **Motion on the table by Chair Scott Fisher to approve meeting minutes as written.**
- **Motion seconded by Councilmember Everett Dowling.**
- **Council Discussion – Vice Chair Vernon Kalanikau request recording of meeting be posted, accompany written minutes on SHPD website.**
- **SHPD agrees.**
- **All aye; no nay.**
- [9:19am] **Motion carries.**
- Chair Fisher Close Agenda item. Move to Item IV.

### IV. BUSINESS

#### A. **Descendancy Claim Application of Kaohulani Puaa and Kaohulani Kanehekili Puaa to Unidentified Human Skeletal Remains at 2644 Kahekili Hwy, Kapuna Seaside Subdivision, Ahupua‘a of Waihe‘e, Wailuku District, Island of Maui, TMK: (2) 2-3-002:041.**

**Information/Discussion/Determination:** Discussion and determination on the applicant’s descendancy recognition application to Native Hawaiian skeletal remains at the above location.

- SHPD Burial Sites Specialist Kealana Philips read aloud SHPD letter of recommendation re: the descendancy claim applications of Kaohulani Puaa and Kaohulani Kanehekili Puaa to Unidentified human skeletal remains at 2644 Kahekili Hwy, Kapuna Seaside Subdivision in Waihe‘e.
- Mr. Phillips stated that the applicants provided sufficient evidence that demonstrated their connection to an ancestor who once resided and or is buried in the ahupua‘a of Waihe‘e. Additionally explained Mr. Philips is the applicant’s mother and grandmother has been previously recognized as a cultural descendant to this very same unidentified human skeletal remains by the MLIBC at the May 2022 meeting. Thus, SHPD recommends that the MLIBC recognize the individuals as cultural descendants.
- Chair Fisher acknowledges that the applicants are not present. However, will open up public testimony to those that are in attendance that have signed up to testify on their behalf.
- Chair Fisher stated that in a perfect world, the applicants would be present in person. Definitely preference. However, understand people work, things come up etc.
- Lawaina Maliikapu, previously recognized descendant, and mother and grandmother to the applicants provide testimony. Ms. Maliikapu state genealogy. Provide history of area, sites. Historical value of area. Know the mo‘olelo of the whole place.
- Ms. Maliikapu stated she is recognized as a cultural descendant because she could not connect lineally to the tutu. (Iwi that was discovered did not consist of entire person).
- Ms. Maliikapu knows where all graves are. Not sure where tutu came from. Believes there’s more. Felt that was important to include son and grandson in process in case no longer around stated Ms. Maliikapu. Somebody needs to carry on work father shared. Support beneficiaries for future.
- Ms. Maliikapu testify in support.
- Namaka Puaa stated that she is here to support. Ditto.
- Most gratifying jobs as a council is to recognize descendancy claim, explained Chair Fisher.

- **[9:26am] Chair Fisher make a motion to recognize Kaohulani Puaa as a Cultural Descendant to Unidentified Human Skeletal Remains at 2644 Kahekili Hwy, Kapuna Seaside Subdivision, Waihe'e, Wailuku, Maui, TMK: (2) 2-3-2-002:041.**
- **Motion is seconded by Councilmember Dowling.**
- **No Council Discussion.**
- **All aye; No nay.**
- **[9:27am] Motion carries.**
- **[9:26am] Chair Fisher makes a second motion to recognize Kaohulani Kanehekili Puaa as a Cultural Descendant to Unidentified Human Skeletal Remains at 2644 Kahekili Hwy, Kapuna Seaside Subdivision, Waihe'e, Wailuku, Maui, TMK: (2) 2-3-2-002:041.**
- **Motion is seconded by Councilmember Dowling.**
- **No Council Discussion.**
- **All aye; No nay.**
- **[9:28am] Motion carries.**
- Council Chair Fisher stated that before moving on, would like to get an inventory of all the recognized cultural descendants to the iwi kupuna in question.
- The list includes Kaohulani Puaa, Kaohulani Kanehekili Puaa, Lawaina Maliikapu, Foster Ampong, Miki'ala Puaa-Freitas, Ursula Puaa-Freitas. 6 in total. Any consultation, as a priority, would need to take place with those six individuals, stated Chair Fisher.
- Chair Fisher Close Agenda item. Move to Item B.

**B. Previously Identified Human Skeletal Remains Found During an Archaeological Inventory Survey for the Makahakama Residence Lot 1, Ahupua'a of Honokahua, District of Kā'anapali, Island of Maui, TMK: (2) 4-2-004:001.**

**Information/Discussion/Recommendation:** Discussion about the above discovery.

- Michael Dega, Ian Bassford and Tess Arriola of Scientific Consultant Service, Inc. (SCS) address council. Tomaso Patolo (not present).
- **[9:30am] Dr. Dega, PI for SCS Archaeology, address council.** Dr. Dega thanked SHPD archaeologist Andrew McCallister for recently conducting the site visit.
- Dr. Dega introduced his team. Dr. Dega stated that Tomaso and Tess were working in the field when the human skeletal remains were discovered. Ms. Arriola will do the PowerPoint presentation. Ms. Arriola is an archaeologist and osteologist. Dr. Dega stated that this particular remains were found during an AIS. Purview of the burial council to decide on disposition and to recommend to the department to accept the treatment plan when that document is ready.
- Background info. Last slide busy, spend a little time on.
- **[9:33am] Tess Arriola begins power point presentation.** Hard copy of the presentation attached to back of meeting minutes.
- Dr. Dega explains in greater detail the last slide (Site map showing location of human remains). Map includes burial preservation area, sand/fill boundary, etc.
- Two bone fragments in proposed garage; in situ in proposed south wing. 2 feet deep in locations. Analyze soil; build on top. Won't bring in new fill. Construct plans at the moment. May change depending on council decisions re: disposition. Only areas of discovery. No artifacts, subsurface features, shells, etc. No nothing stated Dr. Dega. Completely sterile sand. Huge sand dunes (60 plus feet high).
- The likelihood of other burials is quite high asked Chair Fisher? 36 manual units, 10 trenches. Good coverage of location of proposed building.

- Councilmember Dowling asked if client open to changing the proposed building plan. Need to discuss with client.
- Gather info now. Will take info back to client.
- Council members ask questions to the presenters.
- State of AIS? Asked Chair Fisher. Recently completed field work (about 10 days ago). Need to write up AIS report and discuss burial treatment plan stated Dr. Dega.
- The Council Chair asked SHPD Archaeologist Andrew McCallister to share his thoughts as the SHPD archaeologist who conducted the site visit.
- **[9:45am]** Mr. McCallister stated that he could share some of his observations from field inspection.
- The site looks heavily disturbed. Neighboring property filled with retaining walls.
- Just wanted to clarify with arch team that when find remains, stop work immediately. No need to complete test excavations, stated Mr. McCallister. NO need further digging. If find remains during AIS, contact SHPD and can discuss at that point as to how to proceed.
- In situ burial, shared some concerns with SCS staff. Level of excavation that occurred. Prefer if see bone, stop immediately. No need to proceed further until discussion with SHPD. No burial pit (in situ) seemed a bit strange, explained Mr. McCallister. No burial pit (stain in sand around bones), sand dug up and put back to cover remains or the remains came from else where mentioned Mr. McCallister. Placed in location after decomposition.
- In situ flexed, asked Chair Fisher. Based on position of pelvis bone. The best estimation is full person flexed.
- Sand migrating sediment stated Dr. Dega. Burial could have moved over time; moved from original position. (Usually not articulated)
- Neighboring lot remains found during monitoring, not full individual. Honokahua 1200, Hawea point (land trust), at least one known, post contact burial. Probably others. Any other known burials in the area asked Chair Fisher. Mr. McCallister stated know of two in neighborhood. Would be confident there's more. Redesign. Depending on where you are going to move the building, it probably needs more testing, explained Mr. McCallister. 1 by 1 trenches on outskirts, without encroaching on preservation buffer. Nothing found.
- Chair Fisher asked if Councilmember Preza could hear, follow along. Councilmember Preza stated she is having a hard time. Unsure who is presenting. Cannot hear everything. Technical issues. SHPD will work to improve the set up to ensure Councilmember Preza can actively participate in meeting.
- Councilmember Hoopii referenced the map on the last page. Councilmember Hoopii asked about the testing units, particularly in the empty space on map. Ms. Arriola stated there's about 10 units. Map a bit misleading. Test trenches covered most of the 1+ acre property. If the redesign plan is implemented, there is a good chance that the redesign would be in an area previously tested.
- **[9:56am]** Chair call for recess.
- **[10:06am]** Chair call for meeting to resume.
- Chair Fisher open item up for Public Testimony.
- Foster Ampong address council. If tutu getting taken care of, no reason to get involved stated Mr. Ampong. Chair Fisher mentioned that people should get involved, be recognized because the iwi kupuna will need perpetual protection. That is what a recognized descendant is. Not someone who simply stops their kuleana once treatment plan drafted, iwi buried. It's a continuous kuleana, in perpetuity.
- **Chair Fisher makes a motion. The MLIBC recommends the following measures for the protection of previously identified human skeletal remains found during the Archaeological Inventory Survey for the Makahakama Residence Lot 1, Honokahua, Kā'anapali, Maui (2) 4-2-004:001. The following are the recommendations:**

- **Both sets of iwi kūpuna should be preserved in place. Buffer of appropriate size, likely 10 to 15 feet. The buffer should be a rock wall. Vegetation should consist of Lā‘au maoli (indigenous and endemic plants) and canoe plants as well, as appropriate. postpone completion of BTP to allow for descendancy recognition.**
- **Councilmember Dowling second motion.**
- **No Council discussion**
- **All aye; No nay**
- **[10:34am] Motion passes.**
- **Chair Fisher close agenda item. Move on to the next agenda item.**

## V. UPDATE

### A. Discussion re: Protective Steps for the Protection of Inadvertently Exposed Iwi Kūpuna around Coastal Areas.

**Information/Discussion/Recommendation:** Discussion about the above subject.

- **[10:35am]** Chair Fisher asks the council, audience. What steps can we take to protect iwi kupuna along the coast?
- May decide to form small committee, Permitted interaction groups (PIG). May take awhile to form.
- Chair Fisher open for public Testimony.
- Ka‘onohi Lee address council. Ms. Lee provided the council with a quick review of PIGs. Information attached to back of meeting minutes.
- That’s one option stated Chair Fisher.
- Councilmember Dowling asked if anyone knew the status of SB 734. Seems as though if SB 734 progresses through the leg, may not need to form PIG. Essentially the same thing stated Councilmember Dowling.
- Next thing want to do as a council, give guidance as to what to do when iwi kūpuna washes out explained Chair Fisher. Maybe hold off on forming PIG until get a resolution for SB 734.
- Perhaps the council can identify or recognize, collectively, areas of high coastal erosion where iwi kūpuna are being exposed, then can prioritize area.
- Areas on Maui include, but are not limited to Kaulahao (Tavares Bay), Hāmākuapoko Beach, Ho‘okipa, Mokaie Cove, Hāmoa, Honua‘ula (Big Beach/One Loa), Puamana Waiehu. Might be important since SHPD not always able to get to it in a timely manner. The council can identify areas and if receives inadvertent notification, can act appropriately. Moku reps in consultation with SHPD.
- Council Vice Chair Kalanikau stated that there are families out there already involved, helping SHPD. I.e., Hāmākuapoko ‘ohana, Pūlama Lāna‘i, Malama Kaulahao, etc.
- Councilmember mentioned that SB 734 will be passing 3<sup>rd</sup> reading today. Then will go over to the house. Looks like gonna pass. Perhaps a council member can volunteer to be part of the committee. Multi agencies involved.
- Councilmember Michele Hoopii volunteered to meet with elected officials re: SB 734. Reach out, give report to council.
- Councilmember Preza stated that areas along the northeast, and east side of island are more prone to exposure of iwi kūpuna via coastal erosion.
- Something to consider is signage explained Chair Fisher. Identify to protect/educate. Or by identifying your open area up for maha‘oi. Possible desecration. So, signage and Procedures is something the council can weigh in on. For instance, burial at sea.
- Public Testimony

- Foster Ampong address council.
- See issues with agenda item stated Mr. Ampong.
- All inadvertent, so jurisdiction lies with SHPD. If burial council form PIG, will take undermine SHPD authority, kuleana asked Mr. Ampong.
- Chair Fisher stated that it would simply recommend SHPD.
- How would PIG affect Recognized cultural/lineal descendants? Boundaries not crossed. Still following the law, rules, procedures, hierarchy, etc.
- Dr. Dega asked a question about the status of iwi kūpuna when eroded, discovered at Puamana.
- Chair Fisher stated that Ke‘eaumoku Kapu, Na aikane o Maui (Aha Moku Inc.), was recognized by the council as a repository. Can take care of iwi kūpuna in that area. As stewards. Need to work with SHPD, as SHPD is still the agency responsible for inadvertent.
- Chair Fisher close agenda item. Move on to the next item.

**B. E-mail dated January 31, 2023 from SHPD re: The Policy and Practices For The Maui/Lāna‘i Islands Burial Council Meetings.**

**Information/Discussion/Recommendation:** Discussion on the above item.

- [10:51] – Chair Fisher address council, audience. Chair Fisher states that the overall goal is to ensure the council is efficient and allow all an opportunity to participate.
- Main points. Creation of the agenda. Physical set up of meeting. Web cam for Councilmember Preza to actively participate in meeting.
- SHPD Cultural Historian Ikaika Nakahashi address council.
- Mr. Nakahashi explained that the furniture in the conference room is what we have to work with. Can adjust set up (where council sit, audience, etc.) Totally up to the council.
- Rearrange tables. Perhaps Chair sit in the middle/center of council members.
- Chair Fisher stated always available. Please don’t hesitate to reach out if needed.
- Chair Fisher asked who (councilmembers) would like to be involved in creating of agenda. Vice Chair Kalanikau involved. Historically, chair and vice chair. Sometimes just the chair. Anybody can submit a request to be on the agenda, but does anyone want to review the draft agenda before SHPD publishes it? Asked Chair Fisher.
- None interested. The only request made by councilmember Hoopii was that if there were items that got deferred on previous agenda, to list them first on the subsequent agenda.
- SHPD in constant communication with chair (vice chair) when putting together agenda.
- Agenda needs to be posted no later than 6 days prior to scheduled meeting (State Calendar).
- Mr. Nakahashi stated the earlier the better getting the draft agenda together so that SHPD has ample time to consult with AG, H&C branch chief, prior to posting. Three weeks before the scheduled meeting, requests to be on the agenda comes to SHPD. SHPD compiles all requests, send to chair. Two weeks before the meeting, the chair will send a draft agenda to SHPD. SHPD have a week to consult, then post. This is a suggestion.
- The good thing about doing it early is the flexibility if need to amend, change stated Mr. Nakahashi. Once within the 6 days, cannot change agenda, only cancel meeting.
- Chair Fisher also mentioned that there should be a hierarchy of things on the agenda. Priority to place on agenda. Descendancy recognition and disposition and acceptance of BTP. These are actionable items within the purview of the council. Everything else is recommendation and will/should be prioritized as such.
- The goal is to be finished by noon, stated Chair Fisher.
- The other questions asked Chair Fisher is the time allotted for testimony.

- Mr. Nakahashi explained that the biggest thing is to stay consistent. Fielded complaints from public that council give more time to certain individuals, allow some a rebuttal, not all. The utmost importance is to stay consistent with whatever policy is decided.
- 3 minutes testimony recommendation by council. Can always ask questions of testifiers.
- The hardest thing is to cut off, stop presenters, especially kūpuna. Use timer, provide warning that time is about to expire.
- Everyone that comes before the council is treated with respect. Goal of council.
- Another important issue is ensuring that those who show up to meeting is afforded time to testify. It's happened in the past where people show up and item gets deferred. The council ran out of time. If know people are in attendance to testify on certain items, can always move things, agenda items around.
- That's why we have the testifiers sign up sheet mentioned Chair Fisher.
- Possibly text/call people who are interested in testifying when item is close to being discussed. Good idea in principle. Not sure if SHPD capable of managing that on top of other kuleana at meeting.
- Council members discuss virtual meetings vs. in person. Meetings shall remain all in person. Case by case virtual. Cultural/lineal recognition, applicants should be in person.
- Councilmember Hoopii mentioned why applicants would need to be in person at the meeting. If SHPD is responsible for vetting application. And if everything is maika'i. SHPD provides a recommendation for the council to recognize, there should be no need for applicants to attend. Should be cognizant of people's time, schedule, work, especially if all meeting is to remain in person moving forward.
- Chair Fisher responded that there have been cases of those in the audience question, attack genealogy. If so, and applicants are not present, there is no way to defend.
- Councilmember Hoopii responded that if SHPD vetted and recommended, those that oppose (audience) shouldn't necessarily have a say. Or be able to persuade the council otherwise of what SHPD recommend.
- Councilmember Hoopii stated that attention should be requested, highly recommended. Nothing on application that states attendance mandatory.
- Case by case attendance of applicant.
- In theory, if an applicant is unable to be vetted by SHPD (No SHPD recommendation), item should not be placed on agenda. However, Mr. Nakahashi explained that in the past, individuals that SHPD were unable to provide recommendation, would request to be placed on the agenda regardless so that they may make a case directly to the council in hopes that the council will weigh in. Descendancy recognition purview of council.
- Councilmember Dowling wanted clarity on process and procedure re: request for a copy of the agenda by a community member. Does it need to be mailed, or e-mail suffice. Timeline??? Mr. Nakahashi responded that the requestor shall determine method of transmittal. If agenda not received by requestor (6 days), Sunshine law states that Chair shall cancel meeting. Who keeps track of that? At this point in time, Mr. Nakahashi is unaware of anyone requesting a copy of the agenda.
- Change rules. Anything in leg re: Sunshine Law asked councilmember Dowling. Change language to posted or e-mail. No need for physical mail. Would the council be ok with that?
- If the meeting is cancelled, the state calendar will reflect that. A note will be posted on the door notifying those who showed up that the meeting was cancelled.
- Quorum count prior to meeting. If there is no quorum prior to meeting, cannot have the meeting. If planning to have meeting with the expectation of quorum, can proceed. The council cannot discuss, make motions etc. Need to agendize items at the next meeting.
- Quorum check. Need response. No response, assume councilmember will not attend.
- If other procedural things come up, please don't hesitate to reach out stated Chair Fisher.

- Chair open item up for public testimony.
- Foster Ampong address council.
- Mr. Ampong implored the council to maintain consistency. That's the biggest thing. Double standard was evident. Other thing that had occurred in the past was testifiers speaking on a certain item that did not stick to the item and went on a totally different tangent. Cannot allow that. Need to keep order.
- People wander off track, then come back on explained Chair Fisher. Difficult to policy. Can always remind testifiers to stay on course.
- No personal attacks. Everyone respected. Not a good look stated Chair Fisher.

## **VI. INADVERTENT DISCOVERY OF HUMAN SKELETAL REMAINS**

### **A. Inadvertent Discovery of Human Skeletal Remains at Tavares Bay, Kaulahao, Reported to the Maui Office of the State Historic Preservation Division on January 31, 2023, Ahupua'a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-6-009:023.**

- SHPD Burial Sites Specialist address the council. Mr. Phillips stated that he was notified of the inadvertent discovery by Dr. Janet Six of the County of Maui. Dr. Six mentioned that she had also notified Leona Nomura and that Ms. Nomura would be conducting a site visit. SHPD was ok with that. SHPD would conduct a follow up site visit when time permits.

## **VII. Announcements – Meeting Adjourned at 11:36AM**