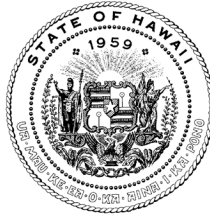


DAVID Y. IGE  
GOVERNOR OF  
HAWAII



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

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ENGINEERING  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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

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

**APPROVED MINUTES:  
OAHU ISLAND BURIAL COUNCIL MEETING**

**DATE:** Wednesday, September 12<sup>th</sup>, 2018  
**TIME:** 11:05 AM  
**PLACE:** Department of Land and Natural Resources  
Kalanimoku Building  
Board Room, #132  
1151 Punchbowl Street  
Honolulu, HI 96813

**Attendance**

**Members:** Hina Wong-Kalu, Chair; Kona Representative  
Beverly Amaral; Koolaupoko Representative  
Aulii Mitchell, Vice Chair; Waianae  
Kamana'o Mills, Large Landowner Representative  
Mana Caceres; Ewa Representative  
Chuck Ehrhorn, Large Landowner Representative  
**Absent:** Danna Holck, Large Landowner Representative; excused  
Lurline Naone-Salvador; Waialua Representative  
**SHPD staff:** Dr. Susan Lebo, Archaeology Branch Chief  
Sheleigh Kaahiki Solis, Cultural Historian, History and Culture branch  
**Guests:** Keiko Denbeau, Kawaiahao Church  
Bill Haole, Kawaiahao Church  
Daniel Akiyama, Cultural Surveys Hawaii  
Matt McDermott, Cultural Surveys Hawaii  
Lani Maa Lapilio, Aukahi LLC  
David Shideler, Cultural Surveys Hawaii  
Haunani Hendrix, Kawaiahao Church  
Kamuela Kala'i

**I. CALL TO ORDER**

*Meeting called to order at 11:05 AM*

**II. ROLE CALL/PULE**

*Chair Wong-Kalu thanked the Council and meeting attendees for their patience [in Hawaiian]  
Member Mills offered a pule, then an oli [in Hawaiian]*

*Chair Wong-Kalu asked the audience to help themselves to food, after which the meeting would begin*

*Chair introduced herself, represents Kona District; Vice Chair Mitchell introduced himself, Waianae District rep.; Member Amaral introduced herself, Koolaupoko rep.; Member Mills introduced himself, Large Landowner rep.; Member Caceres, Ewa rep.; Member Ehrhorn, Large Landowner rep.*

*Member Fermaniez absent today*

*Chair Wong-Kalu received an alert that Pali Highway was closed due to high winds and fallen trees; cautioned the audience to stay safe when getting around town and returning home today*

### III. APPROVAL OF MINUTES

*Deferred to the end of the meeting*

#### A. Minutes from 07/11/2018

**Motion: to approve the minutes**

**Moved by: Vice Chair Mitchell**

**2<sup>nd</sup>: Member Amaral**

**VOTE: 6 YAY [Mitchell, Amaral, Wong-Kalu, Caceres, Mills, Ehrhorn]**

#### B. Minutes from 08/08/2018

**Motion: to approve the minutes**

**Moved by: Vice Chair Mitchell**

**2<sup>nd</sup>: Member Amaral**

**VOTE: 6 YAY [Mitchell, Amaral, Wong-Kalu, Caceres, Mills, Ehrhorn]**

### IV. Business

#### A. Discussion on O‘ahu Island Burial Council membership, roles, and responsibilities

**Information/Discussion:** Discussion on the above items.

***Chair read the above item onto record***

Chair asked the Council to share their concerns

Member Ehrhorn: approaching legislative session, encourages IBC members to think about possible amendments to the current law;

- cites the Aluli case in Kailua
  - law needs to have some flexibility to address situations like hers
  - agrees with the concerns of having strangers having the right to come into her yard
    - may apply to commercial or industrial properties
    - this is a single-family homeowner
      - physical and legal impairment to the value of her land

Chair suggested that, since Ehrhorn is a long-standing OIBC member, to call OHA’s Kamaile Maldonado to draft some of these [amendments]

Member Ehrhorn says this is discussed every year, but things slide along and nothing gets done

Member Caceres prefers that this be made an agenda item; has concerns regarding changing laws to accommodate that; if one person on the OIBC is going to do that, then fine; but if the OIBC is going to support such an action, would like to have that action on the agenda as an agenda item

Member Ehrhorn agreed; recommendations to change the law should come from the OIBC

Chair asked what the specific concerns are

Member Caceres: the laws as they are are to protect iwi kupuna, separate from who owns the land

- the existence of the law and IBC is to protect the iwi kupuna
- concerned about changing laws with regards to landowner, whether a small landowner or a corporation
  - title of the land and land ownership can change
  - recognized descendants are forever
    - to sever that [access] is a slippery slope
    - Hawaiian landowner, therefore no need for recognized descendants
    - What if something happens to the landowner and her son sells the house?
      - Family who the OIBC thought would take care of the iwi didn't allow anyone else on the property
      - Role of the recognized descendants is an important one
        - Shouldn't set out to change anything that limits their participation
      - If the property is sold and new construction occurs, then the recognized descendants will not be able to go there and see and care for the iwi kupuna to which they are recognized

Member Ehrhorn: the assumption is that the landowners are pure in heart and mind

- Concerned that under the current real estate laws of Hawaii, that [the burial and its protections] go with the land
  - A big imposition to selling land, [which] also impacts the land value
  - If the landowner tries to sell it in the future, there will be a deed restriction that says people can come onto the land whenever they want to
  - Hears what Mana is saying and has a good point
  - thinks there's a solution in giving the homeowner more power
    - Landowner can define when others may access the property, rather than the landowners concern of allowing access to these people at any time

Member Amaral: property disclosure vows when land will be sold

- Everything must be disclosed
- When sold, everything must be in the deed
  - A burial was found
- Agrees with Chuck and Mana
  - Language has to be carefully worded

Member Caceres agreed that the language must be very precise

Member Ehrhorn shared that it's nice to have descendants who are concerned; have had descendants who are not concerned and have not participated; goes both ways

Kamuela Kala'i: "So, um, when it concerns our kupuna, our iwi kupuna, wherever they are found, whether you determine private property, whatever. Who's the real, who's the real, who really has the title to that? Who owns that land once the kupuna are buried in that land? That's a problem that we have with all of the land that we have, every time that they find kupuna. It's not about value of the land, financial value, financial profit, that's a problem. That's a pilikia that we have. Everywhere. So, if you find a burial on your property, hey, more blessings to you. It's a blessing to have the kupuna over there. It's not a detriment. It should never be a detriment. And if you have people that are coming forward and saying, "We want to come check on these kupuna every once in a while," why not? With the proper guidelines. You know, we don't want to intrude, I have a feeling they wouldn't intrude. If you're that serious about checking on kupuna, then you better be serious about respecting boundaries, yeah? You have a kuleana, yeah? So, that's the problem with what we're dealing with today. These laws, as much as they're made to protect our kupuna, many times,

our kupuna are not protected by the very laws that were created to protect them. So when we're looking at property, at value of property, ownership, all that, we always have to remember that we are nothing without our kupuna. Nothing. They're in the 'āina, they've been buried there for awhile, they hold the title to that land. Period. You don't need one palapala to tell you that. So, we are actually looking, we have an iwi kupuna committee at OHA, we have two 'ohana members right now, we have several members at OHA right now, sitting in to look at some of this stuff. And we're looking at the administrative rules, we're going to take them apart. We're gonna take them apart, we could use help. This does definitely segue with what you folks do, what everybody does when it comes to iwi kupuna. Because those laws need to be made pono. If they ever can be, because the laws that govern our iwi kupuna, for those of us who understand that these kupuna should never be disturbed, unless it's the decision of a family member who's moving that kupuna because there's no other choice, but not to move the kupuna because somebody came in and wants to build something. That's a whole different story. So, um, I'd like to take a look at the whole idea of inadvertent burials. What the hell is that? That is wrong. There's no such thing as an inadvertent burial. We know. We have kupuna buried here. Our kupuna have been here forever. Wherever you dig, wherever you walk, wherever you go, you probably gonna have kupuna there. So, what does that mean? Inadvertent? That means, the developer, that whole thing is a different set of rules. And that's our kupuna. That's how our kupuna are sacrificed, time and time and time again. So I wanna take a look at that law, there's no such thing as inadvertent. Either you in the ground or not in the ground. You inadvertent over here but previously identified over here? No."

Member Caceres: "Especially the way it's worded."

Kala'i: "Absolutely."

Member Ehrhorn: "Yeah."

Member Caceres: "We find them where we're not expecting to find them, but it's three feet away from the one that we know is there."

Kala'i: "That's the thing. Where we'd expect to find them."

Member Ehrhorn: "I agree with you, one-hundred percent, that inadvertent has actually been used to subvert the law. Circumvent the law."

Member Caceres: "Go around the process. Yeah."

Member Ehrhorn: "But again, I think that there are other, you used the word, having some kind of control. I think we're trying to say the same thing."

Kala'i: "Well, I really believe that everybody that comes to Hawai'i, is from Hawai'i, or whatever it is, if you want to build something, you come with the understanding that you might, probably will, come across iwi kupuna if you gonna dig in the ground. And you come with that thought. Beforehand. Not after the fact, that you dug them all up. Beforehand. So that's a notice that needs to go out to everyone, every single one, anybody that wants to develop anything. Private, public, government, doesn't matter. You come with that thought. Our kupuna are everywhere. They're in the 'āina, they are the 'āina, the 'āina is us, descendants. So you wanna make this pono, then the whole thinking has to change. Who came first? Who's been there for over a hundred years in the ground? Who's holding that land? So, that thinking has to change, and it has to somehow be incorporated into this western law that is designed to protect our kupuna to reflect that. Otherwise these meetings might be a little more tolerable. And we don't have to talk about kupuna being sacrificed, potentially. And we developers that are so conscientious that they come here beforehand. That's rare."

Chair: "My thought on that is that, unfortunately, when you boil it back down to the kanaka themselves, sometimes we have kanaka on both sides of the issue, and there's always a law that can be enacted to do something. A law is meant to provide a structural framework, it's meant to provide a check and/or a balance, or both. It is meant to do what we should already

be able to do. A kanaka looking across the table at another kanaka, on any topic. There are times when we should be able to exercise the kind of judgement between kanaka without having to legislate it that says, "I must respect the fact that that is your kuleana, this is my kuleana. Yes, we have this particular setup where this is the Burial Council, this is the burial laws, this is inadvertent finds, etcetera etcetera. But, between kanaka, if I went and asked any one of you, or you, to come look and you tell me, "'A'ole," ok. At that point in time, if the person over there was doing hewa, am I gonna be the one to bear it? Because I was the one who was told 'a'ole? You not coming on top my 'āina? No. The person over there gonna bear that. We, in good faith, try to address that. But that's not the case nowadays. We get plenty Hawaiians that are very far away from their cultural values. And likewise, the flipside of that coin is, if somebody was on top your 'āina, you knew about it, it was addressed, do I have to go? It would be nice if we can, but is that something that we as kanaka are supposed to go do? No. We supposed to be able to trust in each other that we understand the same thing. But our kanaka no longer understand the same things. There's not too much left to that term "common sense" as far as being kanaka. So, there's very valid points on both sides. Perhaps in the upcoming meeting, that can be discussed. And Chuck can speak more, and Mana if you have any concerns. At the point in time when something like that would come forward, we should actively discuss that in Council. And I would advocate that if, and that's a big if, if there are any kind of amendments or other efforts toward legislative action concerning the Council, the laws that govern us or the rules, that they need to come before the Council. We should have anybody who's drafting that, be it the division, here, or OHA, come before the Council and actually talk to us and get our thoughts on it.

Kala'i: "But, to your point, because there is such a huge disparity, the way we're beginning to think today, and maybe we're not quite ready to think about, it's a case-by-case basis. I think you gotta go [on a] case-by-case basis. If you're the property owner and I came to you and you said, "Oh, Kala'i, you cannot come," guess what? If that's my kuleana, I will find a way, either with you, or through you, to go take care of my kuleana. But it's a case-by-case basis, and you would hope that we would both rise to the occasion, for the sake of the kupuna. And be very clear about [inaudible]. There might be some families that are asked [inaudible]. But it's fine, it's a case-by-case basis. It's when the disagreement is so head-to-head, I don't think western laws can take care of it, not between kanaka. You gotta come to the understanding, either battle it out or come to some kind of agreement. So, I think it's so sensitive, every time kupuna are exposed. So sensitive. We have to always come with that sensitivity. I've been doing this for eight years and I still get angry just hearing about it. Wanting to throw up just hearing about it, I still have it. I don't know if I'll ever get over that. But some of us can. Some of us are still learning; I'm learning. I'm learning. So yeah, if I have to battle you to go visit my kupuna —"

Laughter from the Council

Kala'i: "- get ready. I hope it would never come to that. With anybody."

Chair thanked Kala'i for sharing her mana'o; asked if the Vice Chair had something to share  
Vice Chair: "Yes, I want to be clear. I've come here for the same reasons that you've come here, Kala'i, to malama iwi kupuna. So, when I come here, I come here first of all with aloha enjoined to me, personally. But, our job here is to also have respect and support lineal and cultural descendants on these projects. And I want to say it with aloha, that I don't appreciate your attitude this morning. It just ruined everything for me. But I will get over it. I want to be as open and honest as you are when you come here with everybody else. I appreciate your apology, but I have to get it out. That was not appreciated this morning. We try our best to be here on time. We're just waiting for her five minutes, so I say it with aloha and I just want to be clear, that I'm here for the same reasons that you're here. That's all. Mahalo."

Kala'i: "I want to respond to what you just said there. So, I come here with aloha, and sadness, I don't come here with joy. There's nothing joyful about this for me, at all. Just to be clear. This morning, I had to leave my moopuna home, begging to come with me to this meeting, I told her, "No, you cannot come." I had to leave her home with her daddy, get in my car, fight the rain, fight the traffic, fight all that. It's ok, I can do it, it's ok. But I'll tell you that, and this is nothing about Hina being late. The traffic, the rain was terrible. To respect people's time, to respect people's time when people are here and have made the effort to be here on time, if you have quorum, I don't see the problem with starting. Hina may be right in. If I made a bad call by asking for that, I can say it, "E kala mai." Um, I'll tell you, there's a lot of heavy things going on out there. Especially for me, ok? I don't mean to spill my guts on the table like that. I come here for that. I'm glad you're joyful, we need more joy in this world. But when I come to these meetings, there is only kaumaha. So thank you for sharing that with me –"

Vice Chair Mitchell: "Thank you for listening."

Kala'i: "And, um, that's it. Kala mai if I offended anybody with my comment. But I was pretty prickly this morning, as you can tell. Pretty prickly. So, e kala mai."

Vice Chair Mitchell: "Mahalo."

Chair: "And to address that, I appreciate that you all waited for me. I do have my kuleana, I malama my makua, after I left Halawa Valley, I went straight to go buy my mama lunch, drop it off to her, and come down. I am very cognizant of everybody who was here on time, and that, no matter what my reason might be, good, bad, or in between, it's a matter of respecting people's time that we be judicious about what we expedite at this meeting. And so, e hui kala mai ia'u, ke 'olu'olu. Our lives are full of all kinds of kuleana that we take care of. And so thank you for being cognizant of one another and having aloha for one another. Vice Chair, if ever I'm not here, and you're here and you have quorum, you take the helm and run the meeting. Mahalo ia 'oe for waiting for me. I anticipated that you would. If you need it to run, you would run with it, with the meeting."

Vice Chair Mitchell: "Mahalo."

Chair: "Council members, anything further to discuss? Anybody?"

Member Mills: "We should pule again. The kaumaha today."

Chair: "You want to pule again?"

Member Mills: "My pule never worked last time. Who's pule is better?"

Chair: "Don't say that, [that] your pule never work. 'A'ole pilikia."

Member Amaral: "It worked."

Vice Chair Mitchell: "It worked."

Chair: "It worked, because we had people who were able to address one another and we're fine now."

Member Caceres: "More better than stewing in it for the next couple of hours and leaving all hūhū."

Member Mills: "Ok, maika'i."

Chair: "Oh, the issue of our, um, what's the word, [in Hawaiian]?"

Member Mills: "Permitted Interaction Group."

Chair: "Permitted Interaction Group. We took a vote on this, did we not? About having a permitted interaction group?"

Member Mills: "I believe so."

Chair: "This would most likely be in the minutes of last month."

Member Mills: "No more."

Chair: "They're not in here? Then we didn't."

Member Mills: "Look at the July. Do we have all these?"

Member Ehrhorn: "We have the last four."

Member Mills commented

Chair: "Hold on, everyone."

Member Caceres: "It's a long one."

Comments about the August 2018 meeting date, which was August 8, 2018

Chair commented that the discussion at hand would be focused on Kawaiaha'o Church, and recalled that, at the Council's meeting on August 8, 2018, the Council took action and voted to have a permitted action group, or a standing committee; members commented that it was a permitted action group and standing committee that was discussed; Member Mills asked that the Council refer to page 15 of the August 8, 2018 draft minutes

Sheleigh Solis (Solis) asked if the comments were halfway down page 15

Member Mills: "Was it the permitted interaction group or the standing committee that wouldn't violate Sunshine Law?"

Chair: "We discussed this. So, I stand corrected. [20 second pause] I'd like to ask the Church about where the concern came from regarding --"

Member Caceres: "Three of us --"

Chair: "- yes, the three of us at the last meeting. Lani?"

Lani Maa: "I'm not sure who raised that question. I mean, if it's a legitimate question, we need to address it. I just wanted to make sure we're cognizant of the rules."

Chair: "Was there anybody, um, do you know who had brought the concern forward?"

Member Caceres: "Who was? Nah."

Bill Haole: "My recollection was, the only thing that it was stated after the meeting, yeah, that Kawaiaha'o Church didn't move quick enough after getting the support from the OIBC to move forward. Even though we did get the support of the OIBC, and we were grateful, there were still steps and measures that need to be done before we could get into there and do the work. And, such as scheduling, such as equipment, such as materials that we needed. So, um, the expectation level by some of our recognized cultural descendants was why didn't we do it immediately, like, the next day? That was the only issue that I was aware, that this question came up. Notwithstanding the fact that we are also in litigation, and while we appreciate OIBC's support, there are certain things that we've been ordered, by the court, to follow as well, and it's not as easy as just go to it and do it. We have to make sure that we're in compliance with the court orders as well. And all of those things may sound like excuses, but those are part of realities. Some of these responses were not acceptable to some recognized descendants, so that is probably where you might have gotten some questions on it."

Chair: "Thank you. And may I address that please. As the one who put the Council up to trying to take such action, and again that action was simply more extreme posturing as far as the Council goes, because this Council has no teeth as far as what is, what has legislated our existence and what rules guide our existence. If there's open, enough room, for us to say our thoughts, our inclinations, there's room for us to articulate how we can envision something taking place, and what we did that day was to step outside of our normal method of operation."

Bill: "So basically, which is the reason why, because we're in litigation, we have to be very careful of the steps we take."

Chair: "Right."

Bill: "And as I've said, the Church is very, very much appreciative for the support from the OIBC in making that statement. We realize there are certain limitations we are bounded to because of [the] litigation we're caught in. So, thank you."

Chair: "And knowing that, please don't hesitate. I don't know, I hope we don't have to engage at that level, really. But, if we say something and it's gonna conflict with the course of the journey that the Church would elect to take, please, no hesitation whatsoever to simply say, "Thank you very much, Council, the church is going to proceed. We hear you but we're going to proceed according to the litigation." That way, when we leave here, we're

going to know exactly where each other stand[s], I hear you. I understand that that is a reality. But, by posturing in the way we did, we were hoping to push ourselves outside of the reality given the circumstances, literally saying, “Just set them aside, they’re not running away.” But again, understood. And I won’t argue with that. I’d rather have somebody who would stand their ground in their choice as a leader or as a person who’s going to do it, whether I like it or anyone else likes it, you make a decision, you do it, and then that’s where the cards fall.”

Member Caceres: “Ae.”

Chair: “You know. If the leadership of this Council made a decision, and it was not to the favor of however many, you know, there’s things that you could do. Or you could just simply say, “Alright, well, you know, Hina made that decision, that’s gonna fall on her shoulders. So I can respect the fact that that is how you have chosen to go. But, my concern is now this. We needed to actually have this agendized because we need to have this assigned. Under our minutes today, can you [directed to Solis] have it reflect specifically that we would like Regina to agendize a Council action that is necessary. So, it cannot just read, “Information/Discussion,” it needs to be an action item. And that is, “To establish a permitted working group, a permitted interaction group.” And this group will be for the purpose of attending the meeting at Kawaiaha’o Church so that nobody could say anything and I believe that we conducted ourselves accordingly.”

Member Caceres: “We’re still in the clear, yeah?”

Chair: “Yes, if somebody really wanted to, and I’m just saying this for transparent discussion. If someone wanted to take the Burial Council to task, the three of us sitting at that meeting, because now I’m corrected: I thought we took action on it. I forgot that we were reminded that we need to agendize it, and then decide.”

Member Caceres: “Yeah.”

Chair: “All I remembered [was that] we talked about it. And, so somebody could easily say that we were in violation, and if someone wanted to pursue it, they can come and impose some kind of –“

Vice Chair Mitchell commented in Hawaiian

Chair: “Ok, Regina says she got this response today.

“”Dear Ms. Hilo,

The Office of Information Practices has received your email dated –“”

Chair: “Only today?”

Member Caceres: “Yesterday.”

Chair: “”Dated September 11, 2018. This response is being provided to you as part of the Office Information Practice’s Attorney of the Day service. The AOD service allows anyone to communicate with an OIP attorney about matters concerning the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes or the Sunshine Law. AOD advice is intended to be general, informal guidance to the public and to agency and board personnel and does not have the precedential value of OIP’s formal opinions. Novel, complicated, or controversial issues of fact or law, as well as reviews of agency and board decisions, are typically resolved after receipt by OIP of a written request for an opinion or assistance so as to give the agency or board an opportunity to respond to a complaint.

You asked whether the formation of either PIG or standing committee needs to be listed as a separate agenda item for the OIBC’s monthly meeting. While it is a good practice for boards to note on their agendas when they anticipate forming a PIG or standing committee, it is not a legal requirement. More importantly, the subject matter of what the PIG or standing committee could be formed for should be on the agenda.””

Solis: “Ok.”

Chair: “Does that make sense?”



Comments [delivered at the same time, inaudible on the recording]

Chair: "While it is good practice, you know, you can't always anticipate forming a PIG or standing committee. It's not a legal requirement. But then it says the subject matter of what the PIG or standing committee that could be formed should be on the agenda."

Solis: "Like, amending the laws, action item, discussion. Is that what they're saying?"

Member Mills: "I understand, but for instance, we have an agenda item, Kawaiaha'o Church Multipurpose Building, update on the above project. So it's on the agenda. For discussion."

Solis: "Yeah, yup."

Chair: "So we can assign –"

Member Mills: "So I think one of the clarifying questions to Regina has to be, because there's a permitted interaction group and a standing committee. Permitted interaction groups are more for a short-term project whereas a standing committee is more long term. Regina was supposed to talk to the deputy AGs to see –"

Chair: "There's a follow up, right here."

Member Mills: "- which one are we going to pick, the PIG or the standing committee."

Chair: "There's one here."

Member Mills: "Ok, e kala mai."

Solis: "Oh."

Chair: ""You also asked which group is more suited to OIBC's needs. That really depends on what the subgroup is being formed to do. A PIG would not be required to follow the Sunshine Law's notice, testimony, minutes, and other requirements. So, a PIG could be formed to attend church meetings for a period of time to gather information on what it is tasked to do, and then to report to the full board. If a standing committee is formed to attend church meetings, the committee will have to follow at the Sunshine Law's requirements at all times, including allowing testimony on all agenda items, and this might not be practicable at a church meeting.""

Chair: "Oh, I see. That's if it's a standing committee."

Solis: "Better to be a PIG."

Chair: ""Instead, the OIBC might want to think about the permitted interaction for informational meetings found at section 92-2.5, HRS. This law states:

Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought.""

Chair: "So, we can talk about things, we can attend the meeting, but we cannot determine over there that we're going to get back into Council and then go vote on something."

Member Caceres: "Yeah."

Chair: ""At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to official board business at the informational meeting or presentation.

Finally, you asked what the obligations are of both if the OIBC decides to take action and form either a PIG or standing committee. A PIG would be subject to the legal requirements in section [92-2.5\(b\)\(1\)](#), HRS. As mentioned above, a standing committee would be subject to all the provisions of the Sunshine Law.""

Chair: “Oh. This is helpful. So, backing it up, I believe the permitted interaction group, or PIG, haha. So if we form a PIG, then we’re not legally required to have announced this, so we could do this today –“

Member Caceres: “Yeah.”

Chair: “- when their agenda item comes up. We can decide that we need to have this permitted interaction group and we can move on from there. Ok, alright. Anybody have any questions?”

Kala’i: “I do. So that means you can attend [the] Church’s meetings as long as you fall under a certain number of Council members, for information only?”

Chair: “But we need five for quorum.”

Kala’i: “Right.”

Member Caceres: “So four is –“

Chair: “Up to four, up to four. We’re okay.”

Kala’i: “I think that’s a good idea, especially in this case because the communication broke down somehow and I think when we left that meeting, I was anticipating something, that emergency measures were going to be taken. And I assumed that they were being taken. Until the next hurricane came along, and I called to find out if anything had been done. And, auwe no ho’i e, nothing. So I go down there just to figure it out and thank goodness, it’s happening now, so it does take time. But that wasn’t communicated to us, so, for the ‘ohana, we’re not worried about litigation, we’re worried about kupuna. Period. Litigation is a whole different story. That is a concern, that’s not our concern. Our concern is, we don’t want any more iwi exposed. I understand more iwi have been exposed, so.”

Chair: “[We] can talk about that more when we get to there, that agenda item. As far as the permitted interaction group, then let us please take that up, also, on the Kawaihae agenda item. We are all clear. However just for the sake of saying it, if anyone who is a representative of the Church wants to take action against the burial council, so be it. For our, at the time of that meeting, we had yet to establish a permitted interaction group. It is my mistake that I had thought that we had already done so. I stand corrected. We were advised what we needed to do, and I overlooked that element. But I remember asking former chair, Kawika McKeague, about some advice on that, as he in the room. Um, if there’s nothing else on this, let us holomua.”

*Item IV. B was addressed next.*

**B. Cultural Descendancy Recognition of Sheila Kaoiwiokalani McKenzie Kurosu to SIHP 50-80-02-4488, -7288, and -7289, Ahupua’a of Oi’o, Ulupehupehu, Hanaka’oe, and Punalau Ahupua’a, Ko’olauloa District, Island of O’ahu, TMK: [1] 5-7-001:001, 013, 020, and 033**

Chair: “E holomua kakou i ke kuleana apono ana ia Sheila Kaoiwiokalani McKenzie Kurosu. Is Sheila here today? ‘A’ole?”

Deferred

*Item IV. C was addressed next*

**C. Cultural Descendancy Recognition of Ralph Kamaawe Makaiau Jr. to Unidentified Native Hawaiian Skeletal Remains located at Turtle Bay Mauka Lands, Ulupehupehu Ahupua’a, Ko’olauloa District, O’ahu, TMK: [1] 5-6-003:043**

Chair: “Ralph? Kamaawe Makaiau Jr.? ‘A’ole?”

Chair asked that the Council support her in deferring the recognition items [IV. B and C] until the applicants come before the Council.

The Council had no opposition to this.

Ehrhorn supported Chair's proposed action to defer the recognition items until the applicants come before the Council

**Motion: to defer descendant recognition until the applicants addressed under Items IV. B and IV.C come before the Council**

**Moved by: Member Ehrhorn**

**2<sup>nd</sup>: Vice Chair Mitchell**

**VOTE: 6 AYES [Mitchell, Ehrhorn, Amaral, Caceres, Mills, Wong-Kalu]; 0 NAY, 0 ABSTAINING**

**D. Ililani Project, Kaka'ako, Honolulu Ahupua'a, Honolulu (Kona) District, O'ahu, TMKs: [1]2-1-051:011 and 012**

**Information/Discussion:** Update on the above project.

Chair read the above project onto the record

Project presentd by Lani Maa, Aukahi; Matt McDermott, CSH.

Lani thanked the Council for attending the Ihilani's descendant meetings; comments were received from the SHPD, and the project proponents would like to hear the OIBC's mana'o

Matt provided project overview and updates:

Project has been before the OIBC several times

- Last update at OIBC was in May 2018
  - Development project in Kakaako
    - AIS under review at SHPD, resubmitted a DRAFT AIS to address SHPD comments
    - Iwi kupuna found
    - Archaeological monitoring recommended moving forward
    - Burial Treatment Plan
    - Met with cultural descendants in May 2018
      - Combination of preservation-in-place and relocation
      - Will meet with the cultural descendants
    - Have a BTP ready either in Oct. or Nov. 2018
      - Ask OIBC for determination
  - PowerPoint presentation
    - Intersection of Keawe and Halekauwila Streets
    - Mother Waldron Park across the street
    - Project area is L-shaped
      - Does not include the BMW area
    - Rail project provided a lot of information about the overall area
    - Project is a large workforce housing tower, parking structure 7 stories tall with a deck on top
      - Project proposed by Henry Chang and his group
      - Project funded by HHFDC and HCDA
      - Driveway access off of Halekauwila Street, where the iwi are
    - 1855 La Passe map
      - Fishponds and salt pans
    - 1885 Bishop Map

- A little mauka of the Kakaako Salt Pans area
  - Small pond in the LCA data
  - Salt pans, fishponds, habitation
- Mahele maps
  - Land use
  - Auwai-o-Paki
    - Located during the AIS
  - Loko Ahuwaiiki
- 1914
  - Fill deposits to reclaim area that was once low-lying marsh areas for Kakaako development
  - Houses, single-family dwellings were built on fill deposits
    - Previously were salt pans and fishponds
- 1950, 1956 Sanborn fire insurance maps
  - 1950
    - Industrial development off Keawe Street
      - Swift Meat Packing Co.
    - Single-family dwellings
  - 1956
    - Swift Meat Packing Co. no longer there
  - AIS was within and around those properties
- HART project
  - Recorded much of the area's historical land use
  - Iwi kupuna found during the HART project
- 1980's and 1990's
  - Lots of HCDA storm drain work
  - Covered by archaeological monitoring
    - Iwi kupuna encountered
- Project consultation has been ongoing since 2017
  - On site meetings
    - SHPD's Architecture, Archaeology branches
  - OIBC meetings
    - March 8 2017 to May 9, 2018
    - Caceres 'ohana recognized as cultural descendants to the iwi kupuna found during the project
- AIS
  - Two warehouses elevated above the surrounding grade and fill deposits
    - Excavation was done through the usual Kakaako fill and into and below the 4 ft. of fill under the footprint of the two warehouse buildings
    - Used an elaborate shoring box strategy
    - Standard test trenches
      - 17 in total
      - Focusing additional trenches in the vicinity of the iwi kupuna finds
    - Pre-dug footing excavations
      - 2<sup>nd</sup> phase of the AIS

- Thick layers of fill down to the infilled landsurface dated to 1914, then below that
  - A-horizon sandy strata with an associated SIHP number
    - From the HART rail project, extended the site boundaries to include this area
  - Jaucas sand below that
- The A-horizon is the context in which iwi kupuna were encountered
- 7 to 8 feet deep (from the existing land surface) is where the water table is
- 2 archaeological historic properties documented during the AIS
  - -5820 (?) site recorded as part of the rail project documentation, with historic artifacts, no of pre-contact artifacts recovered during this project
  - Foundation elements from the historic warehouses and other dwellings included in the Sanborn map
    - Tofu blocks (architectural)
    - Two warehouses
      - Consultation with SHPD's Architecture branch
      - Mason Architects did RLS survey on site
      - Not eligible for listing on the state or national register of historic places
      - Significant modifications have been done to the interiors
  - -5820 identified throughout the project area
  - Test excavations also found the more recent, post-1914 structural remnants and former surface
    - Tofu blocks, structural elements
- Iwi kupuna
  - AIS is under SHPD review
    - Effect with agreed upon mitigation
      - Archaeological monitoring
      - Burial Treatment Plan
  - Findings
    - Auwai ran along the Ewa/East boundary
      - Toe bone in the fill deposit
        - This is Burial 1, within historic auwai
    - Test excavation 13
      - Flexed individual, likely male
      - No coffin or grave goods
      - Traditional burial in sand deposits
    - Burial pit containing two individuals, an infant approx.. 1 year old and a flexed adult female
      - No coffin, no grave goods
      - Traditional burial
    - Along Halekauwila St.
      - Portions of a pelvis

- Previously disturbed
- All remains discovered during the AIS are previously identified
  - Over 50 years
  - Most likely Native Hawaiian
  - Preservation in place
    - In situ burials
  - Disturbed fragments – relocation to the areas where in situ burial will be preserved in place
    - Toe bone and disturbed pelvis along Halekauwila
  - Two preservation areas
- Driveway
  - 6 ft. by 6 ft. burial area
  - Grade beam, pile caps in area
  - Steel plates in place to protect iwi at the sides; will be installed before the grade beams
- Legal burial notification is published in the Star Advertiser
  - OHA will be published in Oct.
    - Will have more meetings with the recognized cultural descendants

Member Ehrhorn: “Why are we waiting so long for putting this notification in the paper? This is a project going on for two years now.”

Matt: “Sure. We wanted to wait until the AIS was approved, but eventually it took too long. Ideally we’d wait until the AIS was approved, we’d have an accepted AIS. But in this case, that didn’t really work out this time. So we’re putting it out there now. You are correct, it’s best to do it right away. Other questions? Concerns?”

Member Mills: “He ninau ka’u. I’m always going to ask the question even though I already know the answer. Did the architect give any consideration to perhaps moving the ramp off to the side of the burial? Because right now, the burial is right under the ramp.”

Matt: “Yup. That’s correct.”

Member Mills: “Were there any alternatives considered?”

Lani: “It’s a really tight space, it’s not even an acre, point .75 or something.”

Matt: “Yeah, point .73 acres.”

Lani: “So, I know that they thought about it.”

Member Ehrhorn: “Well, as a technical question, the ramp goes up. What’s the vertical distance between the ramp and the burial?”

Matt: “I think it will be fairly substantial, as far as the one that’s more substantial, with two individuals, that will be outside of the ramp. So there will be foundational elements close to there, whereas the ramp that comes up to the one that’s more mauka, there should be a significant space. I would guess, like, 7 feet, something like that.”

Member Ehrhorn: “Is that ramp going to have fill under it? Or is it going to be hollow?”

Matt: “It will probably be hollow, and may be a storage space or something like that, I’m not sure. If it’s high enough I would assume it would be a storage space or something.”

Chair Wong-Kalu: “So for the purpose of the council members, I’ve seen over the past nine, going on ten years. Here in moku o Kona, sometimes because of the context of, like in this case it’s a small area, we’ve seen projects that redesign and reorganize themselves. This one didn’t necessarily do that. But I have seen where descendants have advocated that, as long as the burial was not compromised, and it remained intact, in the soil, or the sand, and it continued on its journey, sometimes the descendants have expressed a desire to have that remain. Then they were ok with building directly above it, as long as that burial was not going to be compromised. If there was a potential for that, I’ve also seen, we’ve also seen,

that there have been protective measures that are in place above and around it. The bottom has been left to the 'āina itself so they can continue on their journey, how we've seen that scenario there. Perhaps on some islands, even much more effort is made to completely move a project, move a road, do something, but here in moku o Kona on this island, it's rather quite interesting depending on who's doing the advocating, who's at the table, we see all kinds. Some people will say, "No, we don't like a road over our iwi." Some people will say, "We're ok with the road going there as long as they're not disturbed." And especially in Honolulu, with roads and development everywhere, we probably driving over a whole lot more than we actually know. Thus, I'm assuming that's part of some of the guiding mana'o that has helped to determine how things have been handled here. So, that's just an FYI for our Council today."

Chair asked the Council if they had any additional questions

None were received

Chair asked if Lani and/or Matt had any additional comments or information to share

Lani: "Just a heads up that we will be having a consultation meeting to make sure we review all of the mana'o for the –"

Chair: "Do you have that date?"

Matt: "Soon."

Lani: "Not yet. Within a month or so."

Matt: "In a month."

Member Caceres: "Do you guys want to birth a PIG [Permitted Interaction Group] if more than two are going to go?"

Chair: "Because you're currently the only –"

Member Caceres: "Yeah."

Chair: "Chair will entertain a motion."

Member Ehrhorn: "A motion for –"

Chair: "Do we need a PIG for this? A Permitted Interaction Group, PIG? OIBC PIGs."

Comments among the Council members; two members are allowed to attend; Chair commented in Hawaiian

Chair asked Member Caceres his opinion, as he and his 'ohana regularly attend recognized cultural descendant consultation meetings; comments made in Hawaiian

Member Caceres shared the option was just in case

Lani commented that Member Amaral has attended the project consultation meetings before, and this project was one of the first such consultation meetings she attended as a Council

Member Amaral acknowledged her attendance, and commented the meeting was good

Lani commented that Member Caceres and Member Ehrhorn attended meetings before; that Member Mitchell had attended before; and that Chair Wong-Kalu attended before

Comments were made about the initial project meeting, which was held near on or Halloween

Member Ehrhorn asked if the meeting would be at the same place

Lani stated the last meeting was at the Saint Louis clubhouse

Chair shared that the Council would be ok without a permitted interaction group (PIG)

**E. Kawaiaha'o Church Multi-Purpose Building Renovation Project, Honolulu Ahupua'a, Kona District, Island of O'ahu, TMK: [1] 2-1-032:017**  
**Information/Discussion:** Update on the above project.

Chair Wong-Kalu read the above agenda item onto record

Project updates

Lani Maa Lapilio, Aukahi; David Shideler, CSH; William Ha'ole, Kawaiaha'o Church;  
Keiko D'Enbeau, Kawaiaha'o Church

Lani introduced the project team (listed above)

David Shideler introduced himself and stated for the record he was addressing item IV. E

- Repeated William Ha'ole's mahalo to the Council
  - Recent recommendations by the Council did result in moving things forward
  - Erosion stabilization measures in the MPC footprint in the makai side of the MPC has been moving forward
    - Worked there with a crew for 6 days
    - Proceeding to address the erosion measures
    - Slow process, moving forward with the SHPD-approved archaeological inventory survey plan
      - Moving from the center of the excavation to the perimeter
      - 100% screening using 1/8<sup>th</sup>-inch mesh
      - 90% of the effort has been away from the sidewalls and moving toward them, in strips
        - Trowel and dustpan
        - Management of the soil within the MPC footprint
    - More aware of the level of erosion within the MPC footprint
      - Loss of parking lot asphalt in some places
      - Asphalt adjacent to the sanctuary slopes makai
        - Water control mitigation undertaken
      - Consultation/site visit request made by the project proponents to SHPD's Archaeology and H&C branches
      - Iwi kupuna discovered on the floor of the excavation
        - Iwi have been displaced by the movement of water throughout the floor of the MPC excavation
        - Identified
        - Curate appropriately
        - 15 findspots
          - Widely dispersed in the area being worked in so far
          - AISP calls for the iwi to be placed in paper bags and within boxes weighed down by sandbags for temporary protection
          - All findspots are not where any human put them
            - Findspots are due to the displacement of sediment by water and erosion
          - Water has ponded on the excavation floor in the raised limestone reef
            - Sandbag on the excavation floor, box on top of the sandbag with a paper bag containing the iwi kupuna inside the box, and a sandbag on top of the box to weigh down the box
            - (testimony and comments in Hawaiian)



- Request made to the SHPD's History and Culture branch to consult, response from H&C was to request a field inspection, which the project proponents are waiting on
- Implementation of the erosion control measures to address the collapsed asphalt area

Chair Wong-Kalu called on Dr. Lebo regarding a timeline to address the Church's concerns

Dr. Lebo stated she is available for a site visit to the Church following conclusion of the OIBC meeting

Chair Wong-Kalu restated her comments and confirmation from Dr. Lebo in Hawaiian

Chair Wong-Kalu asked if there were any comments or questions from the OIBC

Vice Chair Mitchell asked if there were names for the kupuna found in the isolated findspots

Lani stated the iwi were in the area of Lot 15, Mary Adams, and there is a recognized lineal descendant of Mary Adams; would like the advice of the OIBC regarding contacting that individual

Chair Wong-Kalu stated, in Hawaiian, that the individual should be contacted as soon as possible  
 Bill Haole asked for clarity so that the Church understands what should be done in this situation because it involves an individual recognized by the OIBC as a lineal descendant, would it be appropriate to let SHPD, OIBC, and descendant know about the findings; seeking clarity from the OIBC

Chair Wong-Kalu stated that the Church should be clear and transparent in their approach, forthcoming about the finding, same as coming to the OIBC meeting where discussion may be amiable or confrontational

Bill Haole stated the lineal recognition granted by the OIBC was different from others done by the OIBC, and it is uncertain where the displaced and disarticulated remains originated from, though Lot 15 is the area the archaeological team is working in currently; normal kuleana would be providing a weekly report to the SHPD and OIBC, and include distribution to recognized descendants though in this case that was withheld because of the recognized lineal descendant; asking if OIBC is indicating the Church should carry on and the notification be provided to all parties

Member Mills stated that the process when he was part of the Burials Program at the SHPD was notification to the SHPD, who would then reach out to the recognized descendants; believes that honesty is the best policy and the project proponents should reach out to the lineal descendant, unless SHPD is the appropriate conduit to share and provide such information; not sure if the project proponents have Mr. Ayau's contact information

Chair Wong-Kalu said that many of these projects now provide the conduit to inform parties; when Chair first joined the Council, SHPD took the lead in outreach, but in Kona, the onus is on the project proponent and their liaison; productive in terms of knowing who needed to be contacted

Member Caceres encouraged the project proponents to reach out to Mr. Ayau

Vice Chair Mitchell said communicating with recognized lineal descendants is very important; asked if there was a map showing the area's location [relative to Lot 15]

Bill Haole said a map has been shared previously at every meeting

Chair Wong-Kalu commented that the dilemma arises from us not coming from the same culture anymore, even as kanaka, not the same cultural understanding or language; our kupuna did [come from the same culture]; has a family burial plot of about 75 'ohana in a small area, tightly packed; if iwi were found [in this tightly packed area], her family would be less interested in knowing who exactly the iwi comprised; suggests to the project proponents through which cultural lens

this will be viewed; the basis of challenge for the lineal descendancy was that you could not determine which exact individual it was in the location because there was more than one burial; has a different skew on it; if it were her family's burial plot, they would all be Ke Aloha; in this case, the OIBC opted the offer recognition, and the challenge was that one couldn't prove, "This is so-and-so, and this is so-and-so," but it's in the same area.

Bill Haole replied with two points:

1. that the Church relies on the expertise of Cultural Surveys Hawaii and the extent that they are able to verify;
2. consult with OIBC and recognized descendants.

Bill Haole replied that the Church's perspective might be different because they are Hawaiians and have assumed an additional identity as Christian Hawaiians; realizes that may be important to them [the Church] but are bound to the consultation process; lean heavily to OIBC and CSH, and Lani who works with the recognized descendants; the Church's culture is not a priority, but the expertise is with CSH and the OIBC

Chair Wong-Kalu politely challenged the Church as the Council wanted to go with a broader view addressing plot rather than individual(s); if this issue is to be revisited at the table, that the Chair is of the opinion that it doesn't matter which one [individual] if there are multiple burials in an area, all should be applicable to a family and to what the OIBC can do to empower those who come forward; asked if there were any OIBC members with concerns

Bill Haole stated, as in the map and lot assignments, all have been invited and included to participate; has been careful in sharing specific identities, but is open to sharing generally; agrees that anything in the general area would be afforded to the family that was assigned that plot; unsure what was done before Bill joined in 2009, as when he became involved and took over around 2011, that has been the Church's objective

Chair asked if there were any questions or comments from the OIBC members

Member Ehrhorn apologized for missing last month's meeting; in July 2018, lineal descendant was afforded to Halealoha, which was challenged by the Church

Bill Haole said there was no formal challenge from the Church

Chair stated there was discussion on the challenge: the SHPD recommendation was based on exact identity of an individual [in a burial plot] whereas the Council applied a broader one of area, no further action was taken to follow up on

Member Ehrhorn asked if these same burials are the subject of today's discussion

Lani stated the burials are originating from the same plot, the Adams' plot

Member Ehrhorn agreed with Hina, that a family plot contains family burials, that all individuals are related and there is no need to identify a specific individual; the issue can be over-thought; had talked with Regina Hilo a few weeks ago about having Halealoha present at the meeting for him to share and convey his thoughts directly

Member Mills agreed that Eddie should be informed as soon as possible; lineal descendant recognition has no timing, doesn't need to identify an exact individual but consider looking at the whole cemetery; with documentation, are those individuals really buried in the location(s) provided?

Vice Chair Mitchell stated that, in prioritizing issues at the last meeting in advance of the storm, the hundreds of burials from there are a priority; suggests that, in the future, the Church can speak to the bigger priority [instead of the peripheral issues]; asked about the current stratigraphy; when addressing the erosion mitigation, how will it be protected adequately?

Bill Haole stated the context in which priority was used was with regard to the erosion mitigation, that the Church prioritized the most critical areas and have not side-stepped the larger kuleana of reinterring the iwi kupuna that have been disturbed and are in temporary curation, but has been told repeatedly that the project proponents cannot get into that until the AIS is completed; frustration in the delays of the AIS prolong being able to address the iwi kupuna; apologizes if

there was any misunderstanding of ‘priority’, the reason being to get this done to be able to address the iwi kupuna and put them back

Vice Chair Mitchell asked how the erosion mitigation would work

David Shideler stated the erosion mitigation would be a combination of plywood sheeting and water barriers; plywood sheeting would be tilted

Member Caceres shared the reason for screening the sediment is to pack it behind the plywood

Bill Haole stated the project proponents are abiding by the court order which prevents them from using [mechanized] compaction

Member Caceres shared he and his ‘ohana are recognized cultural descendants, that in areas where there are lineal descendants those descendants have kuleana outside of what a cultural descendant’s kuleana is, and those lineal descendants should be notified [of discoveries]

Kamuela Kala’i: “I’m still in shock, learning that kupuna [inaudible]. Tombs are gone, headstones are gone, they’ve been trying to find out where they are. The Church has no [inaudible]. I have a feeling that somebody knows, I’m hoping that one or two people in this room knows what happened because they’re the ones that removed the bones. And I’m shocked, I’m shocked to know that. And they took pictures. They went to go visit their kupuna eleven years ago, took pictures, they took pictures. Clearly marked graves. Tombstones, headstones. They go back, gone. No more nothin’. Trying to ask the Church, “Where’s our kupuna? How can we take care of our kupuna if we don’t even know where they are?” To listen to this ‘ohana express their pain, and the Church has no answers. But I think the Church does have answers, and the Church does need to have an answer. Where are those kupuna, and where are their tombstones? Where are their grave markers? That’s number one. Number two: reading the notes from the previous consultation meeting I discovered that there were four million pounds of dirt, or two thousand tons of dirt, removed, during the excavation. Simple question: where is that lepo? I understand it was screened before it was trucked out, I remember watching trucks go out from Kawaiahao full of dirt. Now, I don’t care how hard you try, you cannot screen out the dust, the ashes of our kupuna that have been in the ground for over a hundred fifty years, you just can’t do it. It’s impossible. So, four million pounds, two thousand tons, of our kupuna, got trucked out of Kawaiaha’o and Kawaiaha’o has no idea where it is. How does that happen? I’m looking for answers: where is that dirt? Where is it today? There’s got to be a record. You don’t just truck four million pounds of dirt out of an area and not account for it. There’s got to be records. There’s kupuna in that dirt, I’ll never forget that. I was gonna leave it at that because you can hear the tone in my voice already. I don’t want it to get any louder, any angrier. And I gotta leave in a little while because I gotta watch my moopuna. So I’d appreciate a few answers to those questions, because I believe the Church knows. The Church doesn’t know, their hired contractors should know. Somebody should know. Gotta be multiple crimes that got committed on multiple levels. So I want those questions down on the record and I want those answers down on the record please. How does that happen? And I’d like it answered today.”

Chair: “I’d like to ask that, before the Church answer that, consider what your answer is going to be. I hope that you will be able to provide something that will address what she’s proposed. Um, I think to know today that the, um, the soil that is now slumped into the open area, you now have found the, clearly that this is a part of the Adams family plot. You asked what to do about connecting with the lineal descendant. Would you like some help with this? Would you like me to make a call?

[inaudible]

Chair Wong-Kalu: “If that were my family, I’d probably be in jail right now.”

*Recess called at 1:03 PM*

*Meeting resumed at 1:11 PM*

Chair Wong-Kalu: “Let us holomua. Mahalo nui for everyone’s patience [comments of the same in Hawaiian]. During the break, I stood with Lani Maa Lapilio and we placed a call to the recognized lineal descendant, left a message with him and hopefully he will call Lani back to

receive an update. So, on behalf of the Council, that was a little bit of support to extend ourselves into the reach out regarding this update today. Kawaiaha'o, do you have any response that you'd like to offer Kamuela Kala'i in what she has put forward to you today?"

Bill Haole: "I'm not prepared to respond to the question right now. I do want to take it under legal counsel because it is something that I need to do. And we'll prepare a response."

Chair: "Mahalo."

Bill: "But just to be sure, that the search is still continuing. I made a statement at the last kuka meeting, but I'm still not done following up. I know that my predecessor will be in town and I will be spending time with him, Frank Pestana, he is now in California. He'll be in town for a couple weeks and we have already arranged to meet."

Chair: "Mahalo. Anyone else from Kawaiaha'o, or is that the final response?"

Lani: "On the Makahilahila question on what happened to the burials, I contacted her brother, Alex Akau, that's been working with the Church for many years. And we plan to meet with her and her family to follow up."

Chair: "Mahalo."

Bill: "But for a matter of information, I don't know. This happened before I came on, I don't know if it was even related to the project regarding the Makahilahila gravestones, I don't know. But I do know that, in the past, we've had many stones that were either toppled over and crumbled or destroyed and it was just assumed, or left there and assumed to have been picked up by someone else. There's no escaping the fact that our grounds are open, and like any other gravesite, sometimes it is subject to desecration by outsiders who have access to it. And if we are able to, we try and contact as much as we can the family. There have been other stones not related to this family, [not related] to the project, that have been toppled over or [are in] disrepair that we've tried to contact those families as best as we could. But otherwise, I don't know what, in fact, that we might have done, in the way of caretaking in the cemetery, what have been done by our maintenance people to those. To my knowledge, nothing was done except to leave it there."

Keiko: "I want to assure you that once I find a person, I will walk the grounds with her or him and see where this supposedly happened. I don't know, I could not relate to it, so once we get the details we'll walk the grounds. This is our usual thing with any of our descendants. So, please be assured that we will follow through with this."

Chair: "Mahalo."

Member Amaral: "I have a question. Forgive me for being ignorant. So, you're buried at Kawaiaha'o, obviously you paid to be buried there. Am I correct?"

Bill: "Incorrect."

Member Amaral: "Ok. So, the maintenance of the grounds, and the headstones, are not the kuleana of the Church?"

Bill: "The kuleana of the Church is the general maintenance for the yard but never of the grave itself. Maintenance of the grave, such as putting to or removing flowers, and gravestone is the kuleana of the 'ohana. It is not the kuleana of the Church. We're not a regular cemetery, or mortuary/cemetery, we were never licensed as such, we just happen to be a Church with a large yard that added a cemetery that created that large yard into a cemetery which is not uncommon for a lot of Hawaiian churches or larger Hawaiian churches. But we have never, in our history, maintained, with the exception of, sometimes when you see dry flowers, we will take them away and we trim around it and we rake the yard and we make sure that it's kept clean and neat. But as far as actual maintenance of the grave, and you will see this such as an example at the Lunalilo tomb, we have the general care, but we don't have the overall care such as the planting and final setting, the plants or planting. That's the kuleana of the trust; and the maintenance of the mausoleum, that's a kuleana of the trust itself. And the same would be for any of our gravesites."

Member Amaral: "And you cannot get ahold of any of the families because a lot of those graves have been there for a while, a lot of those headstones are cracked, sunken, it's [inaudible]."

Vice Chair Mitchell: "Because Ka Wai Ola Church is my family's church. In Lahaina. We have what's called the Kia'i Komike, which is a committee to do such things like this. To raise money for gravestones, so it's different with every church is what I'm saying now. On the Church's cemetery, as you walk through, past Lunalilo, past the wedding building, right through where the work is on this side, to the 'Ewa side, there's a pile of gravestones there. I think, I'm sure it's still there. Do you know where I'm talking about?"

Bill: "I know where you're talking about. That's not really gravestones. What we have stored there which is what we are working on is a lot of the former slate, from up there, from up on the rooftops. And we also have, when the bus hit the Church wall, we took a lot of that debris and put it there. In the front entrance, there were three columns in order to widen the driveway so that cars and vans could get in, the center column was removed and the gate was removed and is stored [there]. That area is an excess of stuff that we have not made a decision on how to discard them. There are some coral stones that were found, but they are not necessarily gravestones. To my knowledge there are no gravestones under there. But I can't say for certain: I would have to go and inspect all of the rocks out there. Yes, I am familiar with Waiola Church and their committee and we've shared ideas. And I'm not sure what Kawaiaha'o Church did before. I know that they were more engaged with the cemetery, I don't know how far back, than we are. These would be the maps that were provided and the lists of descendants that were assigned these different lots that we have in our archives and our records. They also came up with a policy on how we work there, but we're in a new day and we're gathering as much information as we're able to find. That's a possibility to redevelop more, um, I don't know, I'd need to see with our Church about developing a more concentrated committee that their kuleana is to address these concerns. That's a great idea."

Vice Chair Mitchell: "Mahalo."

Chair: "Mahalo."

Kamuela: "Ok, I got two points. If anyone wants a determination on Kawaiaha'o Cemetery, history, research, it's all been done and is on Kumu Pono website. My cousin, Onaona Pomroy Maly did extensive research, any articles she could pull up, a map, a deed to the Church, it's all posted there for the public to view, for 'ohana to view, for informational purposes. Because her great-grandmother, Laielohelohe Kapukui Pomroy, is buried on Kawaiaha'o. She's buried there. My keiki, my moopuna, that's their great-great grandmother. So, she was a part of the discussions early on, and she made it her kuleana to research it. They're researchers, she and her husband, Kepa. [inaudible] She has posted all of that. If you want to know any of it, go to their website, it's there for the public to view. That's number one.

"Number two, I won't accept the Church's answers today. This is not like this is the first time they've ever been asked this question. It's been at least two weeks since it came up in a meeting. I believe there's at least one person in this room that could actually provide an answer, but I guess, just, the bigger picture, how is it even conceivable in today's world, marked burials are dug up without informing 'ohana? Literally, marked burials. Because according to this 'ohana, they were there eleven years ago, the burials were marked, they took pictures, they have pictures, 'kay? How can this happen in today's world? That was eleven years ago. The digging started just several years later if I'm not mistaken. So, who dug up all the kupuna? Who dug 'em all up? Who was contracted, who made money, who profited off of digging up all the kupuna? And while the Church maintains that they're not concerned with maintaining graves, they absolutely don't have any problem with digging them up. They've been doing it for a long time now. This isn't the first time the Church has dug up burials, it's the third or fourth time. And it was described as being a customary practice at the last consultation meeting. I need to correct that for the record. That was not a customary practice of our people. It may have been a customary practice of the Church, but it's not our customary practice. And another describer was, "Oh, some people may think that's ano e, but there was a Hawaiian kahu at the time," and blah, blah, blah. It's not ano e, it's hewa, it's criminal, it's an act of war against our kupuna. So, I would kindly and respectfully ask that

when those who were part of the desecration of over a thousand kupuna speak about those kupuna, they be very careful in how the words come out of their mouth. When they use words like, “We recovered the kupuna, and we malama them just like how I would malama my own grandmother,” if that doesn’t make me wanna puke, I don’t know what would. So the sensitivity to what ‘ohana is going through, I don’t just speak for myself, on a very high level. So if you don’t have enough sensitivity to speak gently and carefully, and watch your words, and how you describe it. This is not an experiment, or a scientific project, or an archaeological dig, this was desecration on the highest level. Period. And I probably have kupuna in there that I am lineally descended from. Just because I can’t prove it, so I go on as a cultural descendant because I have a tutu that is in a marked burial, thank God. So I’ve been through enough of this rigmarole to know that the time for like, can we just come clean, can we just be honest already? Can you just tell us what you want to do? What is the Church’s goal in the end, because that helps us decide what our role is? I know what my role is. For the kupuna. And I tell you what, if you just put them all back and cover them up then you don’t have to worry about iwi from the sidewalls falling out. It’s an easy answer, cover them all up and leave them alone! Pau! And whether you choose to answer questions today or not, at this point I don’t care because I gotta go. But they will be asked again, and again, and again, until I get answers. They’re officially sent to the committee, the Church, and the Board, and whomever meets and the Cultural Surveys people, in writing. Right, Lani? They were given the questions. So. I will wait, and try to be patient, at this point in time, I’m losing it, I’m outta here, you guys do what you gotta do, to make this pono. Because until that happens, until that happens, you’re gonna hear from me, until the fricken cows come home.”

Bill: “I need to be very clear, on the record, that we are co-defendants on this case. And all that the Church has been doing is trying to follow the guidance of the state agencies that are responsible, all the different state agencies that are responsible for giving us guidance on what to do. And that is what we all were, and still are, but as we have seen in this unique case, things have changed and continue to change. Therefore it puts the Church as well as the other co-defendants in a cautious mode to be very careful in how we respond. I’m sorry, but we cannot respond as expeditiously as some people demand us to, but we have to consult, as a Church, as also co-defendants, on how we respond so that we get the best, most accurate response, to you, as well as the cultural descendants, the recognized descendants. So, the Church has been quiet to all the allegations and suppositions that the Church is solely responsible for what took place. And I need to have that repeatedly corrected, that all the Church has been trying to do is follow the guidance and guidelines and statutes that dictate how we operate. And we continue to do that. Thank you.”

Chair: “Mahalo. That further illustrates what I mentioned earlier. This is the result of, too long being subject to foreigner ways and foreigner culture. My Niihau family was appalled when I told them about this situation. It would never happen. But thus the differences that is with Native Hawaiian speaking Hawaiian families versus English-speaking Hawaiians, the worldview is different. It’s almost impossible to reconcile today. And it’s not anybody’s fault at this table with where we are. We can simply only revert to that which we know is our default knowledge base and understanding. You are correct, I address you not as individuals but the body of proponents for the Kawaiaha’o project. Life could be very simple if the Church decided they were not going to pursue a multipurpose building, but for the various reasons you will. There is obviously a logic to that. On one hand, one could easily surmise that, “Ok, we’re just going to lay down and walk away from this. We’re going to go look at someplace else, do something else,” there’d be a lot of things that would go away. There would be a lot of these kinds of things that would go away. Put the iwi there, cover them up, create an area that is accessible for folks and be on the search for an alternative and other options. But I do know that continued down the road means that the Church and its intentions are clear. But as such, we can expect, as part and parcel of the journey, not only Kamuela Kala’i but anybody else who feels the way that they feel too. This is a very frustrating topic. Spiritually, I am of the belief that what it’s supposed to happen, going happen. If not

supposed to happen, sometimes we have to let the spiritual side of our existence address any and all of these things. Quite frankly, this topic is, um, rather beyond me. I'm trying to be patience because it's part of the kuleana that I accepted as being the Chair of this Council and being a member of it. I'm tired of it. [inaudible] But, doesn't mean I'm going to give up.

"Burial Council Chair, Hinaleimoana Wong-Kalu, I request that this Council be amiable to establishing a permitted interaction group. Chair will entertain a motion."

"Pursuant to HRS 92 - 2.5:

(b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:

(1) Investigate a matter relating to the official business of their board; provided that:

(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;

(B) All resulting findings and recommendations are presented to the board at a future meeting; and

(C) Deliberation and decisionmaking occurs at a board meeting.

"That said, I move to create a permitted interaction group. Ok I have to identify the scope of the investigation. The purpose is to investigate and attend Kawaiaha'o Group meetings and draft recommendations regarding the proper resting place of iwi kupuna that all descendants can agree to, and to discuss with lineal and cultural descendants long-term preservation measures for iwi kupuna. And that each of the members interview and hold discussions with lineal and cultural descendants and Church to find a recommendation regarding the iwi kupuna and the long term preservation."

**Moved by: Member Mills**

**2<sup>nd</sup>: Vice Chair Mitchell (?)**

**VOTE: 6 YAY (Wong-Kalu, Mitchell, Mills, Caceres, Amaral, Ehrhorn)**

**0 NAY**

**0 ABSTAINING**

Member Mills: "One clarification for DLNR, that the DLNR Attorney General review my motion and make sure I properly created it."

Chair Wong-Kalu: "Mahalo."

Keiko: "I just wanted clarification. When you said meetings, what specific meetings are we talking about?"

Chair Wong-Kalu: "These meetings shall include, but are not limited to, the periodically scheduled consultation meetings with descendants, both cultural and lineal. As the moku o Kona representative, I have been invited to meetings, but not limited to, Church representation, Church legal representation, Lani Maa Lapilio, consultant, Dr. Susan Lebo, State Historic Preservation Division, and as the Chair and Kona representative, I have been invited. That has been included in the meeting, but really the P-I-G is specifically to attend this meeting. I don't think it's necessarily most important to be strict as to what that is, unless the Church is specifically requesting us to further delay this, but this working group simply needs to occur so that we can go

about and can stand around, either three or four of us, at the meeting or someplace that has to do with the topic and we're not going to be in violation of the Sunshine Law. That's pretty much the basic understanding of this."

Member Mills: "Kala mai, Madam Chair, I made one mistake: I forgot to identify the members of the permitted interaction group."

Motion: "I move to assign to the permitted interaction group: Chair, Vice Chair, and Council Member Mana [Caceres]."

Chair: "Mahalo. And the other supporting members could include any one of the other members, any of our large landowners or moku reps providing that Chair, Vice Chair, and Council Member Caceres, we are the three immediate posts, and one other person, but no more."

Lani: "Just a question for Mana. [directed to Member Caceres] Is that comfortable for you since you're also a recognized cultural descendant, but you also want to be on the PIG as an OIBC member?"

Member Caceres: "I don't see a need for me to be on there, unless of course somebody on the outside is going to be like, "Whoa, how come he's at the meeting but he's not a part of the --"

Chair Wong-Kalu: "Logically, he's a part of it because he's wearing a dual hat, that's exactly --"

Member Caceres: "-because if I was the fifth person there, whether I'm on the PIG or not, we're still in violation. Because it's still quorum, it's quorum."

Bill: "Excuse my ignorance, because I would beg the question about dual roles here. As a cultural descendant, and also representing the OIBC, and how does that look as far as a conflict involved?"

Chair: "Well, the --"

Member Caceres: "My plan is that, when eventually this becomes an agendized item or an action to be taken and voted upon, I would recuse myself, sit over there and stand behind the document as a recognized descendant and not up here actually voting on that. So, my kuleana will be helping construct that document but not on this side as that vote. That's clear cut for me."

Bill: "Mahalo."

Member Mills: "Also, what I did is I asked DLNR to contact the AG's to review this motion that I made to be sure I did it correctly, and also, at the same time, review the membership as well."

Chair: "To speak to what we're doing, the whole reason why we engage in a PIG is to shelter this Council member who is fulfilling that side of kuleana. Because if it was only the two of us, then no problem. Former Vice Chair Jonathan Scheuer and I had great success in working together, in tandem, attending meeting after meeting, more, but the only reason we were going to engage in the PIG is because you do have to be a part of it, so that you're part of what's being permitted. Myself and one other person. Our quorum is five, that's why it's articulated there. I believe that's the context. I as Chair will expect that Member Caceres is in the know and he's well aware of the need to recuse himself from Council business and let that be a way to address conflict of interest. Unless the Church has any other sentiment towards that. And if you did, that would be fine. But let us know because it's something we can easily address."

Bill Haole commented that interaction the Church gets at OIBC meetings is beneficial; he would like to speak with the Church's legal counsel moving forward

Haunani Hendrix commented about OIBC quorum

Chair stated the PIG is more than two members but less than OIBC's quorum of 5; the membership would be Chair, Vice Chair, and Member Caceres, with one additional member who is currently on the Council, which could be one of the large landowners or a moku representative  
Haunani wanted to know who from the Church would be present at the meetings

Bill stated the Church already participates in the consultation meetings

Keiko commented that her question previously was meant to address asking what meetings the PIG was established for



Chair stated the PIG was created to attend the current and ongoing consultation meetings, and any other minor meetings like those between the Church and SHPD, but is primarily for the descendant consultation meetings

Bill Haole said this is a good thing; the Sunshine Law prohibits more than 2 OIBC members from being present at the descendant consultation meetings, more than 2 is a conflict; PIG allows at least 3

Chair stated that the OIBC has to operate in certain ways; was told that the OIBC violated Sunshine Law and insisted the OIBC hadn't, spoke with a former OIBC Chair present at an OIBC meeting, and at that time the OIBC had no guidance or AG opinion; guidance came from the Office of Information Practices; OIBC is now aware of the information and took a formal action at today's meeting; once again informed the Church proponents present that the OIBC was unaware of this when the purported violation occurred, are aware now, and have taken action to address it at today's meeting

Haunani asked that the Chair help the Church is expediting the process

Chair responded that there is no indication of what the Chair should or shouldn't do; Chair has to exercise leadership; articulated that, as long as she is the Chair, she would do her best to support positive engage, though it gets very difficult for her; her Niihau 'ohana would never have such a situation happen; Honokohau Valley 'ohana would never have such a thing happen; there would never be a church seeking to remove a hall, exhumed below; would be desired that somewhere else would be selected; struggles to articulate details on this situation because it's not something that makes logical sense [to her]; Americans would be up in arms about moving iwi out of Punchbowl, would probably want to shoot us

Member Caceres commented that they probably would

Chair said they probably would

Member Amaral said it's not Hawaiian

Chair shared that she understood

Haunani commented that she appreciated the Chair's support

Chair commented that the Council and Chair would get behind the descendants, some kind of unified sentiment or consensus which may be a challenge; doesn't agree with some people that have come forward, as some have far-reaching agendas; if the body of descendants, cultural and lineal, said, "No," then as the voice of the Council, would say, "I hear this." The BTP will come before the Council and the Council will have the descendants' sentiments to work with; steep challenge for the Church to work towards the building; cannot be the Council's will to say they should build the building; if it's meant to be, it's meant to be; saddest thing is the journey has strained relationships, created a divide, has ruined family and friends, has pit kanaka against kanaka, has evicted kupuna from their resting place; has done so many things

Motion to assign PIG membership [still open following the discussion]: Chair, Vice Chair, Member Caceres, one other rotating member from large landowners or moku representation

Moved by: Member Mills

2<sup>nd</sup>: Vice Chair Mitchell

NO VOTE WAS TAKEN

## **V. INADVERTENTS/COMMUNICATIONS**

### **A. Inadvertent discovery of human skeletal remains on August 2, 2018 at Malaekahana State Recreation Area, Lā'iewai Ahupua'a, Ko'olaupua District, O'ahu, TMK: [1] 5-6-001:004**

**Information/Discussion:** Discussion on the above inadvertent discovery.

No update

- B. Inadvertent discovery of human skeletal remains on August 16, 2018 at One'ula Beach Park, Honouliuli Ahupua'a, 'Ewa District, O'ahu, TMK: [1] 9-1-134:006**  
**Information/Discussion:** Discussion on the above inadvertent discovery.

No update

## **VI. ANNOUNCEMENTS**

- A. Next meeting date is scheduled for 11:00 AM on Wednesday, October 10th, 2018, at the Kalanimoku Building, Board Room #132.**

**Discussion on next month's meeting date, Oct. 10, 2018; Vice Chair available to lead the meeting if necessary**

**Member Ehrhorn will be out of town, harvesting cranberries, does it every year**  
**Chair thanked the OIBC members for their service and time on the Council**

**Motion: to adjourn**

**Moved by: Member Ehrhorn**

**2<sup>nd</sup>: Member Amaral**

**VOTE: 6 YAY [Wong-Kalu, Mitchell, Ehrhorn, Caceres, Mills, Amaral]**

**Meeting adjourned at 2:02 PM**

**APPROVED and RATIFIED by the Oahu Island Burial Council at their meeting on 2018-11-14.**  
**Respectfully prepared and submitted by Regina K. Hilo, Burial Sites Specialist, History and Culture branch, State Historic Preservation Division.**