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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

MINUTES OF THE O'AHU ISLAND BURIAL COUNCIL

DATE: December 8, 2010  
TIME: 10:00 a.m. to 2:00 p.m.  
PLACE: DLNR Board Room, 1151 Punchbowl Street, Room 132, Honolulu, HI 96813

I. Call to Order/Roll Call/Opening Pule.

Chairman Kawika McKeague called the meeting to order at 10:25 a.m. Quorum was established with six council members (McKeague, Mahi, Greenwood, Kane, Quiteves, Kalu). Councilmember Aaron Mahi offered a pule wehe.

II. Introduction of Council Members & SHPD Staff.

OIBC members present: Kawika McKeague Hinalaimoana Kalu  
Alice Greenwood Shad Kane Leimaile Quiteves Aaron Mahi

OIBC members excused: Cy Bridges Steve Hoag Andrew Keliikoa

SHPD staff: Michael Vitousek, O'ahu Archaeologist  
Phyllis Coochie Cayan, History & Culture Branch Chief

Deputy Attorney General: Linda Chow

GUESTS: Michael K. Lee Kahu Manu Matt McDermott  
Pono Kealoha Dawn Chang Alika Silva Robert Oliveira, Jr.  
Paulette Kaleikini Kala Keliinoi Hal Hammett Faith Miyamoto  
Kaleo Patterson Tom Shirai Tom Lenchanko  
Hanale Hopfe Fred Mullins Lani Lapalio Matthew G. Howard  
Shawn Moseley Summer Nemeth Laulani Teale  
Kaipo Kukahiko Kauhane Lee David Shideler

III. Opening Remarks

Chairman McKeague gave an overview of the OIBC's kuleana as established by HRS6E and the administrative rules regarding the OIBC purpose, to acquire information on burial sites and treatment as well as additional information on the care of burials, on descendancy claims. The OIBC will focus on these agenda items for input and discussion, then hear any public testimony which is limited to four minutes per person. McKeague apologized for the late start and asked folks to direct their statements and/or questions to himself as chairman and not to each other. McKeague asked that everyone respect others by speaking one at a time. He reminded folks that the meeting is being tape recorded and not audible should more than one person speak at a time.

IV. Approval of Meeting Minutes

A. OIBC Draft Minutes of November 10, 2010. This item was deferred to the January meeting as the draft minutes of November 10, 2010 were not completed for review.

## V. Current Business

- A. Ward Villages Shops Project, Honolulu Ahupua'a, Kona District, Island of O'ahu.  
TMK: 2-3-5:013-017, 022, 023.

Update from Kuiwalu, Inc regarding the consultation process for the Archaeological Preservation Plan (APP) presented by Dawn Chang with archaeologist Matt McDermott of Cultural Surveys Hawaii (CSH). The consultations have continued with a summary submitted to SHPD and Ms. Hall (copy distributed). There were five meetings after the OIBC recommended more consultations be done. On November 3, there were three major concerns addressed:

- In APP #1 included the walkway stalls around the perimeter, hedges and native plants. Since then the walkway has been removed from design, a more permanent fence rather than a hedge. Nine parking stalls remain. There is sufficient open space around the preservation area. The revised APP was distributed to the OIBC and others present.
- SHPD's archaeologist Mike Vitousek attended four of the five APP meetings to hear concerns before approval of the APP. Chang read a letter attached to the APP to SHPD.
- Other letters state support from Manny Kuloloio and Van Diamond for the changes. Keala and Kepoo Norman do not support the revisions. Dana Hall stands by her 11/10/10 email regarding the preservation plan.

### PUBLIC TESTIMONY

1. Dana Hall was grateful for some of the changes and distributed her written comments. Hall refers to the consultations and recognized claimants. Hall submitted a formal application in September for this project. Hall commented on the APP with her suggestions including to refer to this area as a Cultural Preserve as it has both burials and archaeological features; increase the fence height as 4" is not sufficient; the reburial agreement should include a map of the area to be filed at the bureau of conveyance; did not agree with 12 pages of the consultation results with descendants; not necessary have two agreements as the preservation area should be treated as a whole and the agreements should be submitted in 60 days and in place upon approval of the APP. Hall stated there should be signage which is important for preservation and to memorialize the area so folks do not think it is just a lovely landscaped area.

For the record Dana Hall's written statement is as follows:

"The burial administrative rules do not provide for reports of the kind under discussion here being driven by the opinions of cultural descendants. Of course anyone may submit written or verbal comments but it is not a matter of how many cultural descendants support a particular option as opposed to how many support an alternative option. This would be elevating cultural descendants to the level of lineal descendants. Nor do the cultural descendants need to be "managed." I am concerned that in the WalMart, Ward Villages and Kawaiaha'o cases that paid cultural consultants have played a far too prominent role in the proceedings and that in my estimation, cultural consultants have created a role for themselves without necessarily benefiting the issues at hand."

2. Paulette Kaleikini testified with thanks for Ms. Hall's mana'o as Kaleikini raised concerns to eliminate the walkway and wants the entire area enclosed. Kaleikini wants the nine parking stalls removed adjacent to the site. Kaleikini did not see the revised APP yet. A copy was given to her by Ms. Chang.

There was no other public testimony on this agenda item.

NOTE: Councilmember Kehau Abad arrived at 10:45 a.m.

Discussion with the OIBC continued with the following:

1. Dawn Chang added that General Growth Partners (GGP) developer of the Ward Villages wants folks to be flexible that perhaps in 5-10 years the aesthetics and the fence will be permanent, no changes in the design, just keep doing maintenance (i.e. grass, fence repairs) without any digging activities.
2. Matt McDermott of CSH said it is possible to change the fence to look better aesthetically in the future. Discussion by OIBC members on what kind of fence - appropriate materials (not link).
3. Vice Chairman Hina Kalu had a concern with the level of Hawaiian context in the preservation area i.e., that the burials are Hawaiian in context and folks will know what is there. Kalu noted that a Hawaiian context would be similar to Mauna Ala and/or the Kamehameha Schools chapel where there is a traditional feel to the modern as well as address the property values. Kalu likes the stone wall as generate a sense of permanence there.
4. Dawn Chang clarified that the landowner is Victoria Ward Ltd. and not GGP as was written in her letter. Chang stated 31 cultural descendants were notified of the changes. Some 'ohana (Kuloloio Kaleikini, Hall, Diamond, Kuhia, Normans, Keohokalole) are more active in the consultations than others and also that not everyone agrees with the revisions. Chang is working with all 'ohana to ensure there is clarity in the consultations.
5. Council member Quiteves said some of the people were active long ago and now there are latecomers who want to malama na iwi which is why the consultation is that they are beholden to malama na iwi and that no one is cut out even if they do not agree with the OIBC. Chang agreed that there is no intent to cut out anyone as the APP reflect a collective mana'o nor does it diminish Ms. Hall's role in the process. Councilman Shad Kane noted that sometimes cultural descendants can be misconstrued as 'lineal' by the statements made and he stressed that when the OIBC votes it is 'cultural' affiliation – it is not a blanket for lineal. Councilmember Abad said that the final determination of recognition in one case (i.e. ahupua'a) that the person should be automatically recognized and not go through the whole process again. Chairman McKeague noted that the OIBC allows participation by ahupua'a and that SHPD works the process with the previously recognized descendants. Abad said some are 'closer' but the rules/law not say that – it is an opportunity for cultural participants.
6. Dawn Chang will get clarity on what defines maintenance, the APP will be recorded with the reburial agreement (copies will be mailed to the OIBC chairman and vice-chairman).
7. Vice-chairman Kalu addressed the OIBC that this has happened before, it is an absurd discussion that they will do more in the future and culturally apply and recognize them. This is not a process designed by us. They should apply again. Abad stated that the OIBC asserts that the criteria is met then 'blanket' okay as cultural descendants. Abad looked at the AG or staff to answer the question.

8. Deputy AG Chow said she will discuss this item with SHPD Administrator Aiu and speak with Chairman McKeague after the meeting.

- B. Updates from the City's Transit Team regarding the Programmatic Agreement (PA) Honolulu Rail Transit Project for the areas of Honouliuli, Ho'ae'ae, Waikele, Waipi'o, Waiawa, Manana, Waimano, Waiau, Waimalu, Kalauao, 'Aiea, Halawa, Moanalua, Kahauiki, Kapalama, Nu'uuanu, Pauoa, Makiki, Manoa and Waikiki Ahupua'a, 'Ewa and Kona Districts. TMK: Various.

Presenters were Faith Miyamoto and Kaleo Patterson (City & County) with Matt McDermott (CSH). Miyamoto said the latest draft of the Programmatic Agreement (PA) has a December 3 deadline for comments by the signatories and will be compiled then forwarded to the Federal Highways Authority (FHA). The PA was emailed by Miyamoto for comments to the OIBC. Chairman McKeague did respond that the OIBC wants the inadvertent burials process defined and that phasing the work is not acceptable.

McDermott reported that the work is now up to the Banana Patch area in Pearl City with archaeological monitoring and no inadvertent burials have been found. CHS has just started the Archaeological Inventory Survey for Phase II at Pearl Ridges and working with Department of Transportation (DOT) for the columns along Kamehameha Highway.

Chairman McKeague asked if there will be any changes in the schedule with a new governor. Miyamoto said the Environmental Impact Statement (EIS) has not been accepted by the governor's office yet to sign off. The PA has to be executed first for the record under NEPA. The transit project was passed by the City to execute form (November 5 version) to all parties. The City okay with current issued permits. Abad stated the lack of an AIS before the project is still a concern for the OIBC. Vice-chairman Kalu supports Abad's statement and repeated that the phase work approach will impact once it reaches the Kona District. Kalu is aware that the OIBC does not take any position against jobs, the economy, stimulus funds etc nor does the OIBC wants to be blamed as being against development.

NOTE: Meeting break from 11:35 a.m. to 11:45 a.m.

- C. Kawaiaha'o Church Multi-purpose Building Renovation Project, Honolulu Ahupua'a, Kona District, Island of O'ahu. TMK: (1)2-1-032:017. Regarding the Office of the Attorney General's response to the OIBC letter dated 10 August 2009.

Deputy Attorney General Linda Chow noted this matter was confidential information between client and attorney. All copies of the letter is confidential for the OIBC only.

Motion by Abad, seconded by Alice Greenwood to go into executive session. The motion passed by unanimous vote of all ayes to go into an executive session.

NOTE: The OIBC went into executive session at 11:46 a.m.

NOTE: The OIBC came out of executive session at 12:26 p.m.

NOTE: Council member Greenwood left the meeting at about 12:28 p.m.

Chairman McKeague summarized the executive session to the public. The OIBC has now received a response from the AG office to the OIBC letter of August 2009. The OIBC has been advised by the AG that they do not have jurisdiction over Kawaiaha'o.

However, this does not preclude the OIBC from the Kawaiaha'o Church discussion. Furthermore, the OIBC agreed that they do not concur with the AG's advice.

**PUBLIC TESTIMONY:**

1. Dana Hall stated she is not an AG, but she can see that the OIBC has a stake in the Kawaiaha'o Church matter. Hall updated the OIBC that she has a lawsuit against Kawaiaha'o Church and that SHPD's Pua Aiu and Alvin Onaka of the Department of Health (DOH) have a preliminary injunction this week and folks can attend if they are not witnesses.

D. Recognition of Michael Kumukauoha Lee as a Cultural Descendant to Unidentified Native Hawaiian burials in the ahupua'a of Honouliuli, Ewa District, Island of O'ahu. TMK: (1) 9-1-011 thru 007, 9-1-012:008, 009, 011, 012,013, 016, 017.

**THIS PORTION SUPERCEDED BY ADDENDUM TO MINUTES ACCEPTED ON NOVEMBER 9, 2011.**

E. Kaena Point Ecosystem Restoration Project. Kaena Ahupua'a, O'ahu. TMK: (1) 6-9-1:30, 6-9-24,9,13 and 8-1-1:6 and 22.

Ms. Emma Yuen from the DLNR, Division of Forestry presented information on this project.

Council member Quiteves said this project was not given enough time despite older reports and a good recommendation by McEldowney for an AIS while SHPD's McMahan .

F. OIBC Composition for 2011.

**VI. Committee Reports**

- A. OIBC Legislative Committee.
- B. OIBC Section 106 Committee.
- C. OIBC Task Force on Environmental Reviews.

VII. Inadvertent Report for the Month of November, 2010. Update on inadvertent burials at the Coconut Island Waterline Project.

VIII. Adjournment.