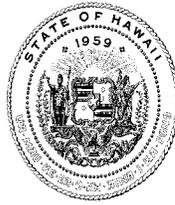


LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE HISTORIC PRESERVATION DIVISION

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MINUTES
O'AHU ISLAND BURIAL COUNCIL MEETING

DATE: WEDNESDAY, APRIL 8, 2009
TIME: 10:00 A.M.
PLACE: DEPARTMENT OF LAND AND NATURAL RESOURCES
1151 PUNCHBOWL STREET, ROOM 132
HONOLULU, HAWAII 96813

ATTENDANCE:

Members: Kehau Abad Cy Bridges Chuck Ehrhorn
Alice Greenwood Shad Kane Kehau Kruse
Aaron Mahi Kawika McKeague Jace McQuivey

Absent: Andy Keliikoa (excused) Leimaile Quiteves (excused)
Hinaleimoana Wong Falemei (excused)

Staff: Phyllis Coochie Cayan, History and Culture Branch Chief
Nancy McMahan, Deputy SHPO/State Archaeologist
Linda Chow, Deputy Attorney General

Guests: David Shideler, Cultural Surveys Hawaii, Inc.
Faith Miyamoto, Transit
Kaleo Patterson, Transit
Lawrence Spurgeon, Parson Brinkerhoff
Lani Ma'a Lapilio, Aukahi Inc
Rob Iopa, WCIT Architecture
Greg Dickens, Kyo-ya, LP
Randall Sakumoto, McCorriston Miller
Kekuewa Kikiloi, KSBE
Kealoha Kuhea, Ohana Kuhea
Jean Rasor, Kahu o Kahiko
Anthony Benzon, Ohana Kalam
Rick Dayag
Kanohowailuku Koko
Moses Haia, NHLC
Cathleen Mattoon, Punalu'u 'Ohana
Creighton Mattoon, Punalu'u 'Ohana

I. CALL TO ORDER

Quorum was established with nine (9) council members in attendance. The meeting was called to order at 10:35 a.m. by OIBC Chairman McQuivey. Council member Aaron Mahi offered an opening pule.

II. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF & ROLL CALL

All council members and the SHPD staff introduced themselves. Attendance was duly noted for the record.

III. OPENING REMARKS

Chairman McQuivey explained to the public the purpose of the meeting and the council's ground rules.

IV. APPROVAL OF MEETING MINUTES

The March, 2009 draft minutes corrections are as follows:

Page 3, in item 2. Correct word 'phase' to 'phased'

Global corrections to include diacritical marks for the following words = Kawaiaha'o, kahako over a in Na, in Kanaka Council, the first a in Hui Malama, in Makua, in Kane'ohe.

Page 8, insert the acronym NEPA in third sentence between words "...plan of ___ action..." to read "...plan of NEPA action..."

Motion by Aaron Mahi to accept the April minutes as corrected.

Seconded by Kehau Kruse.

Vote was unanimous. The motion to accept the April minutes as corrected passed.

V. BUSINESS

1. ACTION ITEMS FOR DETERMINATION

- A. Burial Treatment Plan for SIHP#50-80-06-6983, -6939 & -6947, Kamehameha Schools Punalu'u Beach Lots Project, Punalu'u Ahupua'a, Ko'olau Loa District, Island of O'ahu. [TMK: (1) 5-3-001:012,015,019]**
Information/Discussion/Recommendation/Determination: Discussion and recommendation for the burial treatment plan for the above subject project.

Abad recused herself as she is the council's landowner representative for this agenda item. Kekuewa Kikilo'i gave a brief overview of the project, the commitment by Kamehameha Schools to malama na iwi kupuna that is "in situ" and to work with the community. The Mattoons representing the Punalu'u 'Ohana gave their mahalo and appreciation to all who worked on this burial treatment plan. Mr. Kealoha Kuhea added his remarks that communications with his 'ohana should have been better as they were recognized claimants. Kuhea stated he agreed with the preservation in place for the burial treatment plan.

Mrs. Mattoon said there may have been an assumption that recognition had to be done again before the OIBC. Mattoon noted that the Punalu'u 'Ohana did meet and work with the landowner throughout which included a redesign by the landowner so the burials would not be disturbed. She apologized that Kuhea was not included due to intermittent communications. Mattoon noted that the close proximity of the Punalu'u 'Ohana also made a difference in communicating with all the recognized claimants on this project.

Council member Cy Bridges added that he supports the work of the Punalu'u 'Ohana and he also has genealogical connections to all of them too. Bridges added that good communication with the community is vital to the success of any burial treatment plan. Further, Bridges noted that we are all related, whether claimant or not-- when the family is there on the 'aina, then they become involved.

Kuhea added on page 9 of the burial treatment plan there is a list of awards in Punalu'u. He respects all the families there. Further, Kuhea stated that William Pitt is my 'ohana and that is his connection to those lands.

David Shidler added that the legal notices posted in the Ka Wai Ola and the Honolulu Advertiser newspapers did clarify the names associated with those parcels with reference to the William Pitt award being in close proximity of the LCA of Punalu'u. There was one response by Samuel Rowland who was recognized by the OIBC as a cultural descendant. The process is meant to be inclusive. Other families or individuals known to the landowner were also contacted including folks who worked with them for years.

Motion by Chuck Erhorn to approve the Burial Treatment Plan for Burial Treatment Plan for SIHP#50-80-06-6983, -6939 & -6947, Kamehameha Schools Punalu'u Beach Lots Project, Punalu'u Ahupua'a, Ko'olau Loa District, Island of O'ahu. [TMK: (1) 5-3-001:012,015,019]. The motion was seconded by Alice Greenwood. The vote was unanimous and the motion passed.

McQuivey asked Kekuewa Kikilo'i what remained to be done on this project. Kikilo'i said the surveyor will record the sites, there will be landscaping without any ground disturbance and it will be maintained by the landowner. There will be a ceremony in the near future and everyone will be invited. McQuivey noted that in this case the process was followed by the applicant and that the OIBC will clarify that recognized descendants should apply for each separate project. McQuivey thanked everyone for their good work.

**B. Recognition for Lineal /Cultural Descendants
Remains found at Ke'eumoku Wal-Mart Project, Makiki Ahupua'a, Kona District, Island of O'ahu. [TMK: 2-3-016:09 & 43]**
Information/Discussion/Determination: Staff recommendation for cultural descendant.

Deputy SHPO Nancy McMahan presented the claim for recognition as a cultural descendant of Ms. Julie Puaala Romero for the above project. Ms. Romero is a

first cousin to Ruby Keanaaina who has been previously recognized by the OIBC as a cultural descendant.

Kuhea stated he opposed this claim because of the existing lawsuits. McQuivey asked McMahon if Romero wants to be part of the lawsuits. McMahon stated no, that Ms. Romero wanted to support the reinterment efforts once the contested case is over. McMahon briefly stated that one lawsuit regarding lineal status has been settled. Currently, there is a contested case ongoing by DLNR regarding the osteology work that was done on the remains by the contract archaeology company.

Discussion on the following items for this case included:

1. Abad supports the link of the ho'aina to the ali'i as in the award received in portion to Kekaula. She notes that a life award ends when the person dies whereas a full award is significant if it is proven Kekaula is buried there.
2. Kuhea stated there was a claim given to the ili 'aina of Kewalo (Kamakee) with a church cemetery, then Mahoe translated that Kalakaua gave a life estate award to Kekaula and the cemetery is still there.
3. Greenwood said the claimant's time is over to be recognized and the lawsuit shows the mistake in the word "claimant." She said there are other recognized claimants. McMahon stated there are 84 recognized descendants for this project and there is no time limit to apply for descendency recognition. Also, AG Linda Chow noted what the rules allow for descendency recognition.

Motion by Erhorn to accept staff's recommendation of cultural descendency for Ms. Julie Puaala Romero to the remains found at Ke'eumoku Wal-Mart Project, Makiki Ahupua'a, Kona District, Island of O'ahu. [TMK: 2-3-016:09 & 43].

The motion was seconded by Kehau Kruse.

The vote was 8 ayes, 1 nay and none abstaining. [Greenwood voted no.]

The motion passed by a majority to accept the staff's recommendation of cultural descendency for Ms. Julie Puaala Romero to the remains found at the Ke'eumoku Wal-Mart Project.

Mahi noted after the vote that the Keaanaina's are already recognized for this project. McMahon confirmed that again.

McQuivey asked the Deputy AG Chow to update the OIBC at its next meeting the process of the above contested case. Chow will check with the attorneys on the process and if it goes back to a hearing. Abad wanted Chow to also check how the case will affect when the reburial can be done. Chow cautioned the OIBC that its role is only in doing the recognition and not as part of the case.

Moses Haia of NHLC stated he represents Paulette Kaleikini and that:

1. The OIBC is named as a defendant
2. There is an issue on appeal which has nothing to do with enforcement.
3. The enforcement issue is that DLNR believes there is a violation done by the consultant who is separate and apart from the original case.

NOTE: There was a five-minute recess. Council member Erhorn left the meeting.

2. INFORMATIONAL/RECOMMENDATION ITEMS

A. Informational Update on the Honolulu Rapid Transit Honouliuli, Ho'ae'ae, Waikele, Waipi'o, Waiawa, Manana, Waimano, Waiuu, Waimalu, Kalauao, 'Aiea, Halawa, Moanalua, Kahauiki, Kapalama, Nu'uuanu, Pauoa, Makiki, Manoa, and Waikiki Ahupua'a, 'Ewa and Kona Districts, Island of O'ahu. [TMK: Various]

Abad reported on the subcommittee meeting with the transit team as follows:

1. There will be a follow-up on a draft AIS plan for Phase I from Waiawa.
2. NAGPRA will apply to federal lands (Navy holdings) in areas near Radford Drive and Kamehameha Highway.
3. The area known as Banana Patch will have a lot of construction for the project. It is anticipated those parcels are to be condemned. Cultural Surveys Hawaii (CSH) will follow-up with any Royal Patent Grants, LCAs and any cultural activities including any reinterment/burial sites or possible archaeological sites.
4. More discussion on preserve-in-place when there is testing for the columns and how much room/time to allow any redesign, possibly shift a column location and reconfigure the station (not move the station) or elements that will lessen ground disturbance. Estimated 8 to 9 months before construction can begin.
5. Subcommittee's preference that a pro-active burial treatment plan is developed rather than wait to encounter a burial.

McQuivey asked what the procedure would be to do a pro-active burial treatment plan. AG Deputy Chow stated a generic plan may be highly likely for any finds during the AIS --- the issue is when and what to do. The subcommittee could work on a BTP and once the AIS are done you can plug in any burials and bring to the OIBC. The clock starts then. Abad agreed it would have standards in place.

The transit team introduced a new member, Kaleo Patterson who will handle environmental compliance and cultural sensitivity training for the project. Faith asked for meetings with the subcommittee each month to discuss the PA and/or MOA.

Comments were heard from the public on the subcommittee's recommendation. Jean Raser liked the pro-activeness. Kuhea had concerns that the heavy equipment may have impacts on any burials and there should be a BTP for each ahupua'a and not one plan for when the project ends. Kuhea doesn't want any na iwi waiting for reburial.

Note: At about 12:20 p.m., Chairman McQuivey stepped out and Vice-Chairman McKeague assumed the chairmanship of the meeting. McQuivey resumed the chair about 15 minutes later.

B. Kyo-ya Hotels and Resorts, LP for Princess Ka'iulani Renovation and Redevelopment Project and Diamond Head Tower Redevelopment Project, Waikiki Ahupua'a, Kona District, Island of O'ahu. [TMK: (1) 2-6-022: 001, 041; 2-6-01: 12,13]

Information/Discussion/Recommendation: Update presentation by Kyo-ya Hotels and Resorts, LP, Cultural Surveys Hawai'i, Inc., and Aukahi, on the proposed Princess Ka'iulani Renovation and Redevelopment Project and the Diamond Head Tower Redevelopment Project.

Abad disclosed to the council that Kyo-ya's attorney, Randall Sakamoto is her cousin. Chow said as there is no financial gain then Abad did not have to recuse herself.

Presenters for this item were: David Shidler, CSH; Lani Lapalio, Aukahi; Greg Dickson, Kyo-ya Hotels and Resorts, LP; Randall Sakamoto, attorney for Kyo-ya, and Rob Iopa, WCIT Architecture. A power point presentation by Iopa was done to show the project visually and included photos of the construction of the hotel (shows fill used in previously disturbed areas, huge dirt mounds, subsurface work of 10' depth or more) and a 1915 map with LCAs.

Shidler updated the council that the AIS is ongoing and testing included 19 trenches with 4 additional trenches and some analysis is done. The map shows there was an old Congregational church and a cemetery with a total of 39 burials recovered in 1916 and relocated to Kawaiahao Church on the Punchbowl side. The old church was located mauka on the Kalakaua Avenue corner of the Princess Ka'iulani hotel. Na iwi recently found are not primary or secondary and are disturbed fragments. Not all fragments have been recovered. In 1916, the church was sold as a "deaccession" cemetery and Kawaiahao Church took care of the burials. There is one in situ burial on the Ainahau lands in the project area. The SHPD has requested further investigative testing.

Lapalio reported there was a blessing at the site with the OIBC Kona representatives and meetings with the recognized Waikiki descendants. As well there are preliminary talks with Kawaiahao Church to take kuleana of any burials. All burials found are in situ until a burial treatment plan is developed with the descendants.

Comments on the presentation included the following:

1. Concern that the earlier construction had much ground disturbance and there are no records on how the burials were treated at that time.
2. All the finds to date were in disturbed context and little information where these fragments came from within the fill. All na iwi is in situ at the project area.
3. The protocol is for the families of the area to get involved and those who participate to reach out and work to do the right thing.
4. The general practice was not to have reburials near the water source. Testing was done and the sand context is low there as the land is close to the water table.

5. The concrete slabs are at two meters for the existing buildings. There is some jaucus sand distilled layers about one and half meter deep at the hotel's parking lot. Three trenches done with constant constraints (one truck per minute) in the asphalt area.
6. Request for more testing at area where kuleana indicated on map which presently the buildings are on.
7. The Cleghorn land has one in situ on it, unknown ethnicity as diverse folks probably employed at that time by the family. A notice is posted in the Ka Wai Ola newspaper for any potential claimants come forward with all LCAs listed.

C. Legislative Task Force. Information/Discussion/Recommendation: Council discussion and recommendation on SB1083, HB1662, SB1642, HB910, SB1004 and SB86.

McKeague updated the council on the following:

1. SB1083 seeks more inclusion of Native Hawaiian Organizations in the island burial council's process. It was deferred on April 7 to Finance Committee.
2. Makua Commission bill is more procedural to the OIBC.
3. HB 226 HD1 for OHA to convene working groups is going through the House at Hawaiian Affairs then to Senate's WLH.

D. Update on vacancies to the O'ahu Island Burials Council. Information/Discussion/Recommendation: Division update on members of the council whose terms are ending on June 30, 2009 and update on progress in submitting names to the Governor for two seats that will be vacated for representation in the large landowner/developer category.

Cayan reported that all names have been submitted to the legislature and there is an on-going effort to fill the two landowner/developer vacancies on the OIBC. This effort is also on-going for the rest of the island burial councils statewide. McQuivey added he will speak with Cayan on some ideas for the vacancies.

E. Status Update on Section 106/NAGPRA Correspondence. Information/Discussion/recommendation: Report from the council's designees established to screen the review of Section106/NAGPRA correspondence. Council updates, discussion and recommendations.

Greenwood reported on the following:

1. PARC Seawall project at Poka'i Bay, Army Rest Camp. There are many burials in the sandy beach area. Greenwood is corresponding with Laurie Lucking, Army archaeologist on this project.
2. All 106 reviews have a 30-day response deadline. It is difficult to respond to all letters and projects. McMahan described how the SHPD handles all 106 reviews.
3. All 106 correspondences is sent to subcommittee members (Greenwood, Erhorn, Quiteves). Note: McQuivey also receives many of the 106 letters too.

F. Marine Corp Base Hawaii Projects Update, Ahupua'a of Kane'ohe, Ko'olau Poko District, Island of O'ahu. Information/Discussion/Recommendation: Council discussion and recommendations.

There was no representative from the MCBH to do an update.

A letter was distributed to the OIBC from one 'ohana member, Ms. Donna Camvel that gives an update of the families progress working with the MCBH to do the reburials.

McQuivey said he did not send a letter requesting an update from the MCBH. Council urged McQuivey still write a letter and urge the MCBH to attend in May to do a report.

Greenwood said she had problems with the MCBH to do a site visit and went as far as having OHA write a letter and herself wrote to D.C. on the MCBH's non-cooperation.

VI. SHPD INADVERTENT DISCOVERY REPORT

A. Iroquois Point, 'Ewa District, Island of O'ahu.

Information/Discussion: Erosion from beach along shoreline fronting 5420 Edgewater Drive.

McMahon reported an inadvertent find of partial human skull worn by wave action was washed ashore. SHPD staff retrieved it and it is in the repository until disposition.

B. Kawaiaha'o Church Multipurpose Renovation Project, Honolulu Ahupua'a, Kona District, Island of O'ahu. Information/Discussion.

McMahon reported that there were a total of 67 inadvertent sets found mostly in the sewer trench work. The project has been shut down due to the heavy concentration of burials. SHPD requested Ground Penetration Radar (GPR) testing to be conducted in the project area. Some of the GPR analysis shows over 300 anomalies which may represent trash, parts of walls, other objects, etc. The guess estimate is perhaps 90 to 100 more burials in the project area. The issue is with the building footprint possibly having more burials despite the church's earlier relocation of burials before Likeke Hall was built.

A meeting is being set up regarding jurisdiction with the Attorney General, the Governor and the Department of Health (DOH). The building permit went through DOH who requires death certificates per burial in an active cemetery. SHPD has jurisdiction outside the building footprint. More discussion and clarity is necessary on each department's role on this project. Also, the church is having more discussions with its board of directors, the Na Iwi committee and concerned families/descendants.

VII. ADJOURNMENT

Meeting was adjourned by council's unanimous consensus at 2:08 pm.

Respectfully submitted by,

Phyllis Coochie Cayan