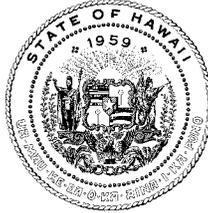


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GOVERNOR OF HAWAII



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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

**MINUTES
OAHU ISLAND BURIAL COUNCIL MEETING**

DATE: WEDNESDAY, OCTOBER 10, 2007
TIME: 10:00 A.M.
PLACE: DEPARTMENT OF LAND AND NATURAL RESOURCES
1151 PUNCHBOWL STREET, ROOM 132
HONOLULU, HAWAII 96813

ATTENDANCE:

Members: Cy Bridges Alice Greenwood
T. Kehaulani Kruse Aaron Mahi
Mark Kawika McKeague Jace McQuivey

Absent: Carolyn Kehau Abad (excused)
Charles Ehrhorn (unexcused)
Angela Leimaile Ehia-Quitevis (unexcused)
Analu Josephides (excused)
Andrew Keliikoa (excused)

Staff: Teresa Davan, Oahu Archaeologist
Vince Kanemoto, Deputy Attorney General
Lauren Morawski, Oahu Archaeologist
Linda Kaleo Paik, Cultural Specialist
Susan Yanos, Secretary

Guests: Kimo Steinwascler, Kaneohe Ranch
Bob Nakata, Defend Oahu Coalition
Lawrence Spurgeon, Honolulu Transit Project
Faith Miyamoto, City and County of Honolulu
Department of Transportation Services
Susan Robbins, InfraConsult
Matt McDermott, Cultural Surveys Hawaii
David Shideler, Cultural Surveys Hawaii
Hal Hammatt, Cultural Surveys Hawaii
Len Lorenzo, Native Hawaiian Legal Corp.

Ululia Woodside, Kamehameha Schools
Kekuewa Kikiloi, Kamehameha Schools
John Toguchi, Kamehameha Schools
Wayne Panoke, `Ilio`ulaokalani Coalition
Dawn K. Wasson
Jerome Yasuhara, OHA
Jason Jeremiah, OHA
Sally Lee

Kalei Kini
Kai Markell, OHA
Pua Aiu, CommPac

I. CALL TO ORDER

Quorum was established and Chair Jace McQuivey called the meeting to order at 10:15 a.m. Cy Bridges offered a pule.

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

While the council members introduced themselves, Susan Yanos recorded those members present. SHPD staff also introduced themselves. McQuivey asked staff if Deputy Attorney General Vince Kanemoto would be attending the meeting, Lauren Morawski stated that he would be late.

III. OPENING REMARKS

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

McQuivey reminded the council that at the last meeting, he stated that he and Vice Chair Kawika McKeague would try to meet monthly with SHPD Administrator Melanie Chinen one week before the council meetings. McQuivey informed the council that he met with Chinen last week. McQuivey stated that Chinen informed him that the staffing for Oahu is almost complete, with the Cultural Historian position still vacant. McQuivey expressed to Chinen his wish to have a meeting with the chairs of the other island burial councils, and Chinen stated that she would be willing to sponsor a meeting. McQuivey informed the council that he began contacting the other chairs and hopefully they will be able to meet sometime in February.

IV. APPROVAL OF SEPTEMBER 12, 2007 MEETING MINUTES

Change by McKeague: Under Agenda number V-A, change "o iwi" to "oiwi" in two places in that paragraph.

Motion made and seconded to approve the minutes as amended. (Mahi/McKeague)

VOTE: ALL IN FAVOR. Motion carries.

McQuivey acknowledged Yanos' thorough manner in which she completes the minutes and thanked her for her work.

V. COUNCIL ACTIONS

A. Informational Update on the Honolulu Rapid Transit

Honouliuli, Ho'ae'ae, Waikele, Waipio, Waiawa, Manana, Waimano, Waiuu, Waimalu, Kaluaao, Aiea, Halawa, Moanalua, Kahauiki, Kapalama, Nuuanu, Pauoa, Makiki, Manoa, and Waikiki Ahupua'a, 'Ewa and Kona Districts, Island of Oahu [TMK: Various]

Information/Discussion/Recommendation: Informational update to be presented by Cultural Surveys Hawaii and Parsons Brinkerhoff. Council discussion and recommendations on the project.

Faith Miyamoto, Lawrence Spurgeon and Matt McDermott updated the council on the status of the Honolulu High Capacity Corridor Project (aka Rapid Transit Rail Project) since they last appeared before the council about a year ago. Spurgeon informed the council of the various options that they were considering, but their recommendation to the City Council was for a fully elevated, fixed guide way transit system.

Spurgeon stated that the long-range plan for the system is for the entire route to run from Kapolei to both Waikiki and UH Manoa. The first phase running from UH-West Oahu to Ala Moana Shopping Center. Spurgeon explained that during their environmental impact statement study, they would look at two alternative alignments (one route running through Salt Lake Boulevard, and the other going to the airport).

Spurgeon informed the council that they are looking at construction methods that will have the least ground disturbance. They are going to look at using "drilled-shaft" foundations wherever it could be done in the corridor. Spurgeon explained the difference between pile-driven foundations and drilled-shaft foundation.

Spurgeon stated that they are trying to maximize the spacing between columns that will support the system. They are looking at spacing the columns 130-180 feet apart. He stated that when the exact type of transit system is selected, they would be able to better define the spacing of the columns. Spurgeon stated that one of the advantages of this type of construction is that they would be able to relocate columns within the route should there be an area with known burial sites. Spurgeon expressed their wish to minimize the effects and ground disturbances.

McDermott of Cultural Surveys added that this is a large federally funded project so they will be consulting with the council under Section 106. Spurgeon stated that they hope to get all their environmental documentation done in 2009 and that construction will begin in that year at the Ewa-most portion of the route. Spurgeon gave a brief

description of their construction schedule and stated that the construction will be broken into several construction contracts.

McDermott stated that because this is a large project, it is difficult to do the archaeological inventory survey up front. Since they do not know the engineering aspect of the project yet, they do not know where the columns will be. He explained that if they did the archaeological inventory survey now, there's a chance they might disturb something that might not necessarily be disturbed by the project. They would like to consult with the council and other native Hawaiian groups for their input and have them agree to postpone the archaeological inventory survey. They would like to come up with a very strict memorandum of agreement (MOA) that would govern how this could be done between the interim period between the conclusion of the Section 106 process and the actual construction.

Spurgeon stated that they are going to do the sampling in consultation with the council and other native Hawaiian groups. In the areas of the corridor that are most sensitive, they are willing to sample every column location. He emphasized that they can write into the MOA that sampling will be done substantially before construction begins. This will allow them to modify the design should they find something in a given location. McDermott added that the MOA could generally state that they would follow state law although the Section 106 process has been completed, so that would give them time to do the inventory survey. When they find a burial, it would be considered a previously-identified burial and come before the council for determination. McKeague asked Miyamoto if the City & County was in support of this position and Miyamoto stated that they are.

Mahi asked what the timeline would be for determining the type of vehicle that would be used in the system. Spurgeon stated that they hope that selection will be done in the first half of 2008.

The subject of using ground penetrating radar (GPR) was discussed and McDermott stated that this is a great opportunity to use GPR because they will be digging in a lot of areas with differing stratigraphic and soil types.

McQuivey asked if the City plans to meet individually with the council and other native Hawaiian groups for consultation prior to getting all the signatures for an MOA. Spurgeon stated that they are going to the various interested parties separately, but he acknowledged that it would be beneficial to hold a group meeting and stated that they would be willing to host that meeting.

McKeague stated that in the event that the project should hit an unexpected sensitive area, the cost factor for realignment would become an issue. Spurgeon stated that they are not looking at true realignment as an option, but he explained that they would be able to relocate columns linearly within the system to avoid a find.

McQuivey stated that it is good to have early and frequent communication. He stated that it is not necessary for the council to be included in a consultation meeting with all the interested parties, he would be satisfied if the City met with the council and other parties individually. McQuivey would like the council to be informed of any large meeting that the City plans to hold. He added that once the City has identified a strategy on how to proceed with Section 106, he would like the City to update the council again at that time.

B. Status Update on Wal-Mart Contested Case

Kalia, Makiki Ahupua'a, Kona District [TMK: (1) 2-3-16:9, 19]

Information/Discussion/Recommendation: Update on the status of the contested case and discussion on the reinterment of iwi. Council discussion and recommendation on the reinterment of the iwi.

McQuivey stated that because there is pending litigation on this issue, the council had been advised not to discuss the specifics of this case. However, at the last meeting, the council wanted to make a recommendation to the department, but that was not agendaized so they would like to do that at today's meeting.

McQuivey reminded the council that they wanted to recommend to the department that the iwi that were not being used as evidence in the case be released for reburial. He stated that an oral recommendation had been made to SHPD Administrator Melanie Chinen. However, at the last meeting the council had expressed a desire to put the request in writing.

**Motion was made and seconded to recommend to the department in writing to reinter as soon as possible all the iwi that are not used as evidence.
(Greenwood/Kruse)**

VOTE: ALL IN FAVOR. Motion carries.

McQuivey stated that he would write the letter to the department.

C. Kahuku Village Re-Development Project

Kahuku Ahupua'a, Ko'olauloa District, Island of Oahu [TMK: (1) 5-6-02]

Information/Discussion/Recommendation: Informational update on the Kahuku Re-Development Project by Continental Pacific. Council discussion and recommendation on the project.

David Shideler of Cultural Surveys Hawaii presented some information on this project at the request of R.M. Towill Corporation and Continental Pacific. Shideler distributed some informational material regarding this project and stated that this project will create 18 one-acre shoreline lots. He stated that he cannot speak in detail about the nature of the project, but Shideler stated he has concerns about cultural resources that may be present in the project area. Shideler stated that Cultural Surveys Hawaii's role in this project is to conduct an archaeological inventory survey plan and a cultural impact assessment. They are seeking information from kupuna and kama'aina about the project area.

Greenwood stated that she had heard that a lot of iwi were found during the construction of the golf course and that more would be found on the upper side.

Although McQuivey was not expecting a presentation today from anyone on this project, he thanked Shideler for coming. He informed the council that he spoke to Eric Morriset of Continental Pacific. Morriset was travelling, therefore, he was unable to attend today's meeting. Morriset informed McQuivey that they were just beginning the process and that Cultural Surveys would be seeking information about the project area. Morriset also informed McQuivey that after the report is complete, he would be willing to come before the council to discuss what was found.

Kai Markell of the Office of Hawaiian Affairs' (OHA) Native Rights Land and Culture offered some information on the area. He testified that there were some kupuna found on the Hauula side of the golf course. He also testified that there were kupuna found on the Waimea side of the golf course by the Japanese cemetery. He pointed out the areas on the map where kupuna were found. McQuivey stated for the record that Markell pointed to the northern portion of the project, the southern ocean side of the project, and an inland cemetery that is on the right side of the second fairway.

Markell also stated that it would be difficult to test in the sand dunes, but he believes there are burials there. McQuivey asked Markell if there are any records of the information that he offered, and Markell replied that records such as memos and police reports (police responded to the inadvertents on the Hauula side) should be at SHPD. He added that these finds occurred during the mid- to late-1990s.

Wayne Panoke stated that the `Ilio`ulaokalani Coalition continues to oppose any development on the shoreline.

Dawn Wasson, kupuna of the Koolauloa district, stated that grew up in Kahuku and expressed her concern that the development will impact the kanaka of the area socially, economically, and politically. She also believes that there are iwi in the project area and asked the council members to listen to the voice of the people and do the right thing.

Markell informed the council that the police officer that responded to the inadvertents was Officer Unga.

Markell stated that Article 12, Section 7, of the Constitution protects traditional customary practices of Native Hawaiian people and those practices inherently rely on the resources, whether it is fish, plants, or iwi kupuna. He stated that although the council is limited to burials under 6E, the council could make recommendations on any and all matters relating to the kupuna. He added that although DLNR carries the responsibility to give the approvals to allow this project to go forward, the council is

also one of the approvals in the state scheme and the council has to identify, protect and mitigate the impacts on the Hawaiian traditional practices. He suggested that the council put its recommendations on the record to the department.

(Deputy Attorney General Vince Kanemoto arrived at 11:25 a.m.)

McKeague would like to further discuss the issue that Markell brought up and recommended that this issue be put on future agenda. McQuivey agreed that the council should continue this discussion and stated that this is an issue that the other burial councils have struggled with.

D. Recognition of Cultural Descendant

Burial at the Hekili Street Project [TMK: (1) 4-2-038:009 and 010]

Information/Discussion/Recommendation/Determination: State Historic Preservation Division's recommendation for the recognition of cultural descendants to burials at the Hekili Street Project. Council discussion and determination.

Kaleo Paik referred to her memo to the council dated October 4, 2007, and recommended that the council recognize the six individuals listed in her memo as cultural descendants to this project.

The council heard from a couple of the applicants. Mr. Kihei de Silva stated that he, his wife, Mapuana, and their two daughters, Kahikina and Kapalai`ula, are four of the six applicants listed in the recommendation for cultural descendants. Mr. de Silva testified that his wife and daughters are four generation residents in the Kailua area, and he is a second or third generation resident of the Kailua area. He gave a brief description of his genealogy and documents, which he submitted for verification.

Ms. Melody McKenzie also appeared before the council and stated that her grandmother has been living in Kailua for at least five generations.

Motion made and seconded to accept the names listed by means of Doc No. 0710KP03 that puts forth the following applicants be recognized as cultural descendants which include Kihei Clark de Silva, Mapuana de Silva, Kahikina de Silva, Kapalai`ula de Silva, Louis Mahoe, and Melody Kapilialoha McKenzie. (McKeague/Mahi)

VOTE: ALL IN FAVOR. Motion carries

E. Informational Update on the Hekili Street Property

Kailua Ahupua`a, Ko`olaupoko District, Island of Oahu

[TMK: (1)4-2-038:009 and 010]

Information/Discussion/Recommendation/Determination: Informational update to be presented by Cultural Surveys Hawaii. Council discussion and recommendations on the project.

Alani Apio stated that he is representing Kaneohe Ranch and the descendant working group, and he will also explain the archaeology activity on the project. Apio gave a brief overview of the project, which he presented to the council in a previous meeting.

He stated that after the burials were found during the initial testing, SHPD required a thorough archaeological inventory survey of the property. He stated that the report has been completed, submitted to SHPD and they are awaiting approval. He stated that there were no other burials found, but Hal Hammatt, Cultural Surveys Hawaii, reported that there was a weakly expressed cultural layer in one of the site numbers on the property.

Apio updated the council on the working group that Kaneohe Ranch has been working with on this project. The working group, which is composed of descendants, is growing in number as people are finding out about it. He informed the council that the group decided to create a working committee, which calls themselves Kailua, Kauahooilo. The committee and Kaneohe Ranch are recommending that the burials found at the Hekili Street project to be preserved in place.

Apio also briefly reviewed the group's recommendations to the burial treatment plan and described some of the features of the burial treatment. Apio stated that a draft burial treatment plan would be submitted to SHPD, but he is asking that the council now affirm the group's recommendation to preserve in place the two burials found at the Hekili Street project.

Kanemoto stated that although "Determination" is in the heading, the agenda does not specify that the council is to make a determination on the disposition of the previously identified remains for this project. Therefore, he stated that the council could not make a determination at this meeting.

Apio asked if the council could make a recommendation to preserve in place the two burials on this project. McQuivey stated that procedurally the council could do that. Kanemoto agreed, but he stated that it would not have an effect without a determination. Apio explained that if the council is ready to make a recommendation to the developer to preserve in place, and the developer has a clear understanding of the council's intention, then the developer could move ahead. Kanemoto stated that based on the information that the council has now and the composition of the council at this meeting, the council could make a recommendation. However, he stated that it should be made clear that with other members of the council present, other discussions that might occur or other information that might be presented in the future, that recommendation may not apply.

Kimo Steinwascler, Vice President of Kaneohe Ranch, asked if a determination could be made at the November meeting and McQuivey stated that it could.

McKeague asked if additional subsurface testing would be done in the area of the existing building. Hammatt stated that the area that was the building would now

become the parking lot and vice versa. So the project is now .7-acre and the area of impact is half of that and they were able to test half of that. Hammatt explained that in .35 acre, they did 15 trenches. He felt confident that they addressed the nature of the findings.

McQuivey directed SHPD staff to list this item for determination on next month's agenda. However, McQuivey questioned whether that could be done prior to approval of the burial treatment plan. Apio stated that SHPD Administrator Chinen told them that they could do that. The council discussed the procedures for approval of the burial treatment plan and McQuivey cited HAR 13-300-38.

McQuivey reaffirmed that determination for this project will be put on next month's agenda. Apio stated that in the meantime, he would work with SHPD staff to confirm that they are meeting all the requirements and send the burial treatment plan to the council prior to the next meeting for review and determination.

Kihe de Silva stated that the descendants are enjoying the remarkable situation that Kaneohe Ranch is proactive in the Kailua area and that they are able to do things in a manner that is dignified to everyone involved.

Markell offered his comments on procedures stating that in order for the department to accept the burial treatment plan, certain elements must be included in the report. Once the department accepts the burial treatment plan, then it can be put on the council's agenda for determination.

Markell stated that one of the components that make a burial treatment plan complete is statements from identified cultural or lineal descendants on the proposed treatment. He stated that the council has on its agenda today recognition of descendants and determination, and he felt that could not happen in the same meeting, because the council would want the comments from descendants. McQuivey stated that Markell brought up a good point, but reminded him that the descendants of this project are actively participating in the consultation process.

Paik informed the council that there are three applicants whose documents have yet to be verified and other applicants that might come forward to be recognized for this project and other Kaneohe Ranch projects.

Apio described the consultation process with the descendants. He stated that the working group has made it clear from the beginning that this is an open process and whoever feels that they have a kuleana is welcomed to be a part of the process.

Apio informed the council that the cultural descendants that were recognized today are members of their working group.

Jerome Yasuhara, OHA, expressed his concern about the applicants whose documents have yet to be verified and stated that going into the determination phase at this point

might open up an avenue for defect in the process. McQuivey recognized that this is a challenge the council will always face, but stated that the department has to make a determination at some point.

**F. Informational Presentation on Punalu'u Beach Lot Reconstruction Project
Punalu'u Ahupua'a, Ko'olaupoko District, Island of Oahu
[TMK: (1)5-3-001:001, 012, 015, 017, 019, 020, 021, 027, 028]**

Information/Discussion/Recommendation: Informational presentation by Kamehameha Schools and Cultural Surveys Hawaii. Council discussion and recommendations on the project.

Ululia Woodside and Kekuewa Kikiloi of Kamehameha Schools, John Toguchi, and David Shideler of Cultural Surveys Hawaii briefed the council on the reconstruction of some of Kamehameha Schools' beach lots in Punalu'u. The team's report consisted of an overview of the project; information on their consultation thus far with SHPD and the Punalu'u ohana (cultural descendants); information on the house design and impact; and archaeological inventory survey and monitoring, which described two scenarios of how they would handle burials that they encounter on the properties. Their report was summarized in a handout, which Kamehameha Schools distributed to the council.

McKeague asked what was the existing method of treatment of the wastewater for the old houses; Woodside replied that cesspool is the current method.

McQuivey asked how the homes are used and Woodside stated that they are used as rentals and will remain as rentals after the reconstruction. McQuivey also asked how soon they plan to move forward with this project. Woodside stated that they plan to move forward with demolition as soon as possible because the houses are now vacant and they have problems with vagrancy and vandalism.

McQuivey thanked Kamehameha Schools for coming early and asking for the council's manao.

G. Recognition of Cultural/Lineal Descendant

Burial Treatment Plan for a Property Located at Hau'ula

Hau'ula Ahupua'a, Ko'olaupoko District, Island of Oahu [TMK: (1)5-4-001:044]

Information/Discussion/Recommendation/Determination: State Historic Preservation Division's recommendation for the recognition of cultural/lineal descendants to five burials located at SIHP No. 50-80-05-5449. Council discussion and determination.

Paik informed the council that there is only one applicant for cultural descendancy on this property and stated that the individual is council member Cy Bridges. However, Bridges must recuse himself from this agenda item and the council would lose quorum. Therefore, this agenda item was deferred to the next meeting.

H. Burial Treatment Plan for a Property Located at Hau'ula

Hau'ula Ahupua'a, Ko'olaupoko District, Island of Oahu [TMK: (1)5-4-001:044]

Information/Discussion/Recommendation/Determination: Informational presentation by Archaeological Consultants of the Pacific, Inc. Council discussion and recommendations on the

proposed measures in the burial treatment plan. Council determination to preserve in place or relocate the previously identified burials located on the property.

Paik informed the council that although Archaeological Consultants of the Pacific (ACP) requested that this item be on the agenda, SHPD staff failed to confirm with ACP that they were on the agenda. Sally Lee, owner of the property, stated that they found out they were on the agenda the day before the meeting. Paik stated that Joe Kennedy of ACP asked that the item be on the agenda for the November meeting instead.

McQuivey answered Lee's questions regarding the process for the burial treatment plan. Since Bridges needed to recuse himself from this agenda item as well, this matter was not heard.

- I. Status Update on the Programmatic Agreement Among the United States of America, Department of the Navy, Marine Corps Base Hawaii, Hawaii State Historic Preservation Officer, and the Advisory Council on Historic Preservation for the Hawaii Public Private Venture Phase IV (Privatization of a Portion of the MCMH Family Housing on Oahu) TMK: [(1) 4-4-08:001]**
Information/Discussion/Recommendation: Status update by the State Historic Preservation Division (SHPD). Council discussion and recommendations.

McQuivey reminded the council that at the last meeting, council member Kehau Abad volunteered to write a letter stating that the council had concerns about this project. McQuivey informed the council that he has a copy of the letter Abad drafted. McQuivey stated that the letter is late, but the council's concerns would be on record. McQuivey asked the council if they would like some time to review the letter. Council members stated that they have confidence in Abad's letter-writing ability and agreed to move on.

McQuivey stated that he was supposed to invite June Cleghorn to brief the council on this matter, but he was unable to do so. If the council would like to discuss this issue at the next meeting, McQuivey asked that the council let him know.

- J. Status Update on Section 106/NAGPRA Correspondence**
Information/Discussion/Recommendation: Report from the council's designees established to screen the review of Section 106/ NAGPRA Correspondence. Council discussion and recommendations.

McQuivey informed the council that he received in his packet a letter from the Department of Interior regarding a property in Vancouver, Washington. Alice Greenwood stated that she had addressed that so McQuivey gave her the letter.

Greenwood informed the council that on programmatic agreements with the military, the council should sign them even though they have reservations. She stated that if the council does not sign the agreements, it could take the council out of the consultation process.

Greenwood reported that she received correspondence on training and mobilization, which she had not reviewed yet. Greenwood stated that whenever she calls Laurie Lucking, she does not get a response until weeks later. She will report on this at a later time.

VI. SHPD INADVERTENT DISCOVERY REPORT

Morawski briefed the council on the inadvertent discoveries reported to SHPD during the period covering August and September 2007 as reported to the council members in Chinen's memo dated October 4, 2007.

VII. ADJOURNMENT

Motion made and seconded to adjourn meeting. (McKeague/Bridges)

Not hearing any objections, McQuivey adjourned the meeting at 12:57 p.m.

Respectfully submitted,

Susan P. Yanos
SHPD Secretary