

LINDA LINGLE  
GOVERNOR OF HAWAII



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

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

**LAURA H. THIELEN**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEN C. KAWAHARA**  
DEPUTY DIRECTOR - WATER

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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**MINUTES  
HAWAII ISLAND BURIAL COUNCIL**

**DATE: OCTOBER 18, 2007**  
**TIME: 9:00 A.M.**  
**PLACE: KONA OUTDOOR CIRCLE**  
**76-6280 KUAKINI HIGHWAY**  
**KAILUA-KONA, HAWAII 96740**

**ATTENDANCE:**

**Members:** Charles Young, Chair  
Ronald Dela Cruz  
Leningrad Elarionoff  
Roy Helbush  
Ku Kahakalau  
Melvyn Kaleo Kualii  
Cynthia Nazara  
Kimo Lee

**Absent:** Winifred Pele Hanoa  
Dutchie Saffrey  
Ululani Keliikoa-Sherlock, Vice-Chair

**Staff:** Linda Kaleo Paik, Cultural Specialist  
Wendy Machado, Cultural Historian  
William Wynhoff, Deputy Attorney General

**Guest:** William Makanui  
Angela Neller  
Doug Genovia  
Tom M. Smith  
Art Litwak  
Charles Flaherty  
Byron Moku  
Paul H. Rosendahl  
Alan Haun  
Curtis Tyler

## **I. OPENING REMARKS:**

HIBC Chair, Charles Young (Young) called the meeting to order. HIBC members, SHPD staff and Deputy Attorney General introduced themselves.

## **II. APPROVAL OF THE AUGUST 16, 2007 AND SEPTEMBER 20, 2007 HIBC MEETING MINUTES.**

Members of the council made it very clear that they need to receive the minutes in a timely manner. In the past, there was a problem in getting the minutes. This delay, caused the council to approve minutes one year later. The council does not want to repeat the same situation again. All members agreed with Ku Kahakalau's (Kahakalau) concerns with the importance of having the minutes on time.

**A motion was made to defer approval of the August 16, 2007 and September 20, 2007 minutes.**

**VOTE: ALL IN FAVOR**

## **III. BUSINESS**

### **A. RETURN OF HOKULI`A IWI THAT WAS EXCAVATED PREVIOUSLY AND CURATED OFFSITE.**

**Information/Recommendation:** Discussion regarding iwi that was previously excavated and is now curated offsite.

Young expressed the Council's concerns that they have questions about the status of the iwi kept at Hokuli`a and some being curated offsite. Byron Moku (Moku) believes that no Hokuli`a iwi are being held offsite.

At last month's meeting the Council determined that Burial 21839, an infant, BTP be deferred until descendents complete their discussions. Moku said the iwi recovered from the bypass construction will be returned in an ahupua`a adjacent to where they were found.

Doug Genovia (Genovia) and Moku discussed the history and structure of the non-profit advisory board for Hokuli`a ("Park and Cultural Sites Association"). This group will be meeting quarterly beginning in 2008.

Kaleo Kualii (Kualii) asked how members are selected, and are they getting paid. It takes funding to have classes and educational programs.

Moku explained that members of the advisory board are not compensated. First Ocean Side will do the funding, then the Homeowners Association fees will cover the expenses.

Kualii asked about the composition of the advisory board.

Moku explained that the settlement agreement set the composition of the board. Their input is to share knowledge and to represent different perspectives of the community.

A Council member shared concerns about Hale Iwi.

Moku explained that SHPD and the HIBC has an open invitation to do periodic inspections at Hale Iwi, Two keys are needed to access Hale Iwi; SHPD holds one key and Hokuli`a holds the other. There are no burial goods at Hale Iwi.

A Council member wanted clarification about funding and the settlement agreement.

Moku explained that from the settlement agreement, Hokuli`a will fund two SHPD positions, while SHPD manages those positions.

Moku recommended that Wendy Machado (Machado) with Hokuli`a's Ocean Side, visit Hale Iwi and do a formal check. Machado agreed.

**A motion was made to form a task force, to visit Hale Iwi to gather facts.  
(Dela Cruz / Kahakalau)**

**VOTE: ALL IN FAVOR.**

**A motion was made to close the agenda item III. A  
(Kahakalau / Nazara)**

**VOTE: ALL IN FAVOR.**

**B. RECOGNITION OF CULTURAL / LINEAL DESCENDANTS  
BURIALS AT VILLAGES OF LA`I`OPUA**

**Information/Recommendation/Determination:** State Historic Preservation Division's recommendation for recognition of cultural descendants to burials at the Villages of La`i`opua Project. Council discussion and determination.

Young read the memorandum from Linda Kaleo Paik (Paik). Applicant was not available for comment. Young asked for Council's comment. Paik explained the substantiating documents submitted for SHPD's recommendation by applicant and family. A discussion followed, defining cultural and lineal descendants.

Ronald Dela Cruz (Dela Cruz) wanted AG response on the spirit of the law regarding cultural and lineal descendants.

Young suggested a discussion on the definition, to be placed on a future agenda.

**A motion was made to accept agenda item III. B  
(Kahakalau / Elarionoff)**

**VOTE: ALL IN FAVOR.**

**A motion was made to close agenda item III. B  
(Kahakalau / Elarionoff)**

**VOTE: ALL IN FAVOR.**

**C. BURIAL TREATMENT PLAN, SITES 13210-FEATURE A, 13252-FEATURE D-19-SAMPLE BLOCK D, 13253-A-Y, AND 16032-C, VILLAGES OF LA'ĪOPUA PROJECT, AHUPUA`A OF KEALAKEHE AND KEAHUOLU, NORTH KONA, DISTRICT, ISLAND OF HAWAII, (TMK: 3-7-04: POR. 12).**

**Information/Recommendation:** Discussion of a burial treatment plan.

William Makanui (Makanui) representing the DHHL, explained their projects history. A State agency called HHFDC, were the original developers. They did the survey report, and were in the process of doing the data recovery plan, BTP, as well as the preservation plan. Their work stopped when the Ceded Land issue came up. Around the mid-90's, they only worked on a few roads. When DHHL acquired some of the Villages, there was an overlap of who's responsibility it was to finish the data recovery plan, BTP, and the preservation plan. As DHHL acquired more parcels, DHHL notified SHPD that DHHL will complete the plans.

Makanui explained that they are presently working on Villages 4 and 5. DHHL, anticipates working on Village 1, where one burial is located, in about a year. Another burial is located in a 27 acre archaeology preserve. There has been some construction done on site 13252.

Young asked if they come across any burials since they started construction.

Makanui replied, no, they haven't encountered any.

Paul Rosendahl (Rosendahl) explained that they had difficulties receiving SHPD approval, with the change over from HHFDC to DHHL. The mitigation plan was approved and carried out.

Cynthia Nazara (Nazara) asked for more information.

Makanui explained that in Village 1, site 13252, they did tests, and put up buffers.

Young wanted to know if their data recovery indicated additional burials.

Rosendahl said yes, two inadvertents in the course of the data recovery work in 1995. The draft was completed in 1994, submitted to SHPD, received comments in 1996. The comments did not address the burial issues, but pertained to the draft data recovery report.

Kaleo Kualii (Kualii) questioned the mitigation plan.

Rosendahl explained that it was for interim protection measures and for data recovery.

Kualii expressed his concerns of the probability of finding additional burials, given that construction is occurring with no buffers around the known burials.

Rosendahl referred to page 10 of the BTP for clarification of the history of the project.

Young asked if Rosendahl believes the BTP is complete and ready for the Council to be making a decision on.

Rosendahl explained that the only way burials will show up is inadvertently during construction. They did different inventory surveys, data recovery, mitigation plan approved, they implemented the draft report, that was put on hold.....that deferred the BTP. Normally the BTP is written upon the completion and acceptance of the inventory survey.

Kimo Lee (Lee) asked about how many sites were tested.

Rosendahl explained, 16 different features were tested at 9 sites. 11 sites had possible burials, which are treated as potential burials.

Kahakalau had a concern about the correct TMK and recommended to make appropriate changes.

Young expressed that they will need much more information because there is too much room for mistakes with active work going on.

Kualii added his concern with no buffers around the burials.

Makanui explained that they did put a buffer around site 13210. The other sites are some distance away from where construction is going on.

Young reiterated that without buffers, it is too easy for mistakes to happen with heavy equipment. Young continued, that the project should be investigated for not following the States process. He suggested that they finish the BTP, do all the recommendations from 1996, and then present the BTP in phases so that the Council can understand what is going on.

Rosendahl explained that the map is an archaeological site location map. Not to show development.

Young said that they need detail to understand the project.

Rosendahl made it clear that the Council only needs to make a formal determination on 2 sites. The other 2 sites are inadvertent discoveries.

Kahakalau asked a question on page 17 that SHPD has not forwarded the list of descendants.

Rosendahl explained that his staff was told by the Division that the descendant list was confidential.

Kahakalau suggested a follow up on why the list is not being forwarded. Kahakalau expressed her concern that inadvertents should be a BC concern, not just a SHPD issue.

Makanui explained that when inadvertents come up, the contractor contacts SHPD, HIBC, DHHL.

Lee asked about buffers.

Makanui explained that 13210 has a buffer. 13252 has no buffer because it is in a 27 acre archaeological preserve.

Rosendahl suggested that they can provide a list of which possible burials tested turned out to be negative.

Young asked how they plan to proceed.

Makanui explained that Village 3 is pau, now they are on Village 4 and 5. They are working on the planning and designing stages of Villages 1 and 2.

Kualii asked them to come back with a map, with phases, delineated for clarity.

**Young called a brief recess. Young reconvened the meeting.**

Young asked for any more requests and stated that they already asked the AG to look into the legal process. Young suggested that they bring back a full development plan.

Makanui said that they can bring a master plan, with a bigger map.

Kahakalau suggested that buffers, descendant lists, TMK concerns that she had mentioned before, should be addressed.

Curtis Tyler (Tyler) said that based on the many concerns, this BTP is incomplete, and the clock should not start until everyone has the full picture.

**A motion was made to defer agenda item III. C  
(Kahakalau / Kualii)**

**VOTE: ALL IN FAVOR**

**D. BURIAL TREATMENT PLAN FOR THOMAS SMITH PROPERTY AT LAND OF HONOKOHAU 1, DISTRICT OF NORTH KONA, ISLAND OF HAWAII  
(TMK:7-4-08:POR 47)**

**Information/Recommendation:** Discussion of a burial treatment plan.

Alan Haun (Haun) discussed the BTP for 24 burials at 23 sites within a 277 acre portion of the TMK. The burials were identified during an inventory survey between 2004-2005. The burials are all likely Native Hawaiian ancestry based on the context of the remains. 8 were identified during test excavations in surface features primarily platforms and lava tubes. Historic documentary research identified 18 family names that were Mahele land commission awardees in Honokohau 1. Notices seeking potential descendants were listed 3 times in the West Hawaii Today and the Honolulu Advertiser. A copy of this plan was submitted to one individual who responded. Preservation in place is the treatment proposed for the burials. Long term in place preservation of the identified burial sites will be achieved by the establishment of the permanent preservation buffer of 20 feet surrounding the burial features on all sides. A setback of 10 feet surrounding the 20 foot buffers will be established within which no building will be constructed. The buffer boundaries for 8 sites and features with surface architecture would be delineated by a low stone wall approximately 3 feet in height, 2 feet in thickness. The remaining 16 sites, features consist of lava tube chambers. These sites, 20 foot buffers marked by a low stone wall will be established around the lava tube entrances. The walls will be built to resemble traditional Hawaiian structures using local stones from the ahupua`a. A narrow gated opening will provide access for recognized descendants. With the exception of appropriate cultural activities and periodic maintenance, no land modification or other activities of any type will be permitted to occur within the preservation buffers. The interior surface area of the buffers will be left in their natural state. During any construction, temporary buffers of 50 feet will be marked around the site perimeter. Responsibility for maintenance and security of the burial sites and features would be the land owner. Long term permanent in place preservation would be achieved by a restrictive covenant that would be incorporated into the deed of the property. It would include the appropriate requirements and restrictions relating to physical improvements, maintenance, security, and access by descendants. Access to the burial sites for appropriate cultural activities would be permitted to any lineal or cultural descendants recognized by HIBC.

Tom M. Smith (Smith) stated that the property is going to be up for sale. They had 29 lots above it and last year they sold 2.

Young asked about the zoning.

Smith answered 5 acre agriculture.

Kahakalau suggested, spelling changes on page 38 and wanted clarification on pages 39 and 40. Kahakalau recommended no building on and around the lava tube. Page 41, that they should consider notifying the BC when inadvertents are found.

Smith said Kahakalau's first concern is not a problem. The second concern, the developer will work with the BC on a volunteer basis, notify BC and discuss concerns at that point.

Leningrad Elarionoff (Elarionoff) asked for clarification on BTP.

Haun explained lava chambers, preservation sites, terminology used, and descriptive data for sites and burials. Haun said that when they do test excavations, part of it is the recovery of cultural remains that will be analyzed and used to interpret the sites. Once human remains are identified any artifacts are left in place and any archaeological feature is reconstructed. A total of 35 sites are recommended for preservation, including 23 sites that have burials.

Smith added that they have taken every effort to preserve sites that are not burials, with historic agriculture significance. The goal is to preserve in place these features.

Tyler asked the Council to tighten up on the language or standardize the language on CCRs as it relates to cultural resources.

**A motion was made to defer agenda item III. D  
(Kualii / Kahakalau)**

**VOTE: ALL IN FAVOR**

**Young called a brief recess. Young reconvened the meeting.**

**E. RECOGNITION OF CULTURAL / LINEAL DESCENDANTS BURIALS AT HOKULIA PROJECT**

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

In regards to descendants, a discussion followed that Hokuli`a refers to all of the ahupua`a with in the Hokuli`a Project.

Young asked if they shown direct connection to some people who have already been recognized as cultural descendants.

Paik said yes and explained that Hokuli`a as a project accepts cultural descendants for all of the ahupua`a within Hokuli`a. The applicants mother has already been recognized by HIBC as a cultural descendant.

**A motion was made to accept agenda item III. E  
(Kahakalau / Nazara)**

**VOTE: ALL IN FAVOR**

**A motion was made to close agenda item III. E  
(Kahakalau / Nazara)**

**VOTE: ALL IN FAVOR**

**F. RECOGNITION OF CULTURAL / LINEAL DESCENDANTS BURIALS AT HOKULIA ON THE LAND OF ONOULI**

**Information/Recommendation/Determination:** State Historic Preservation Division's recommendation for recognition of lineal descendant to a burial at Hokulia in the land of Onouli. Council discussion and determination.

A discussion followed of being recognized as a lineal descendant and also a cultural descendant for Hokuli`a.

**A motion was made to accept agenda item III. F  
(Kahakalau / Kualii)**

**VOTE: ALL IN FAVOR**

**A motion was made to close agenda item III. F  
(Kahakalau / Kualii)**

**VOTE: ALL IN FAVOR**

**G. LETTER IN SUPPORT OF WILLIAM AILA AND THOMAS DYE COMMENTARY  
OF AUGUST 12, 2007.**

**Information/Recommendation:** Discussion regarding a support letter by Kaleo Kualii`i.

Kualii read a letter addressed to Governor Lingle and a discussion followed.

Kualii felt strongly about sending the letter and proposed that the Council supports it.

Young explained that when it was written, they were without SHPD staff. The concerns are still valid but the letter needs to be adjusted.

Tyler added that the system is dysfunctional. All HIBC members are appointed by the Governor and confirmed by the Senate. Which means that the Council serves in their place and has an obligation to express concerns, individually or as a group.

Charles Flaherty (Flaherty) explained his experiences and knowledge on issues facing the Council. He was very disappointed that the system has not worked therefore everyone has suffered. He encouraged the Council to sign the letter.

Kahakalau suggested that Kualii and Young work on the letter with DLNR letterhead, mentioning the 2 positions of Hokuli`a being located in a Kona office,

William Wynhoff (Wynhoff) suggested that it is better to advise and discuss concerns rather than delegate.

Elarionoff wanted a one page letter being more specific with solutions or two separate letters. The first letter on the agenda item; the second letter discussing the Hokuli`a, Kona office issue.

**A motion was made for Young to draft the letter(s).  
(Elarionoff / Helbush)**

**VOTE: ALL IN FAVOR**

**A motion was made to close agenda item III. G  
(Elarionoff / Helbush)**

**VOTE: ALL IN FAVOR**

**H. LETTER TO THE EDITOR REGARDING HAWAII ISLAND BURIAL COUNCIL POSITION ON THE ALI'I PARKWAY.**

**Information/Recommendation:** Discussion regarding a letter to be drafted by the Chair referencing the Ali'i Parkway.

Kualii read a letter addressed to the Editor. Kualii said that he felt strongly about sending the letter. A discussion followed: the issue is mute, HIBC made the right decisions, correcting a wrong is important.

**A motion was made to amend agenda item III. H  
(Kualii / Elarionoff)**

**VOTE: 7, 1 NAY**

**A motion was made to close agenda item III. H  
(Kualii / Elarionoff)**

**VOTE: ALL IN FAVOR**

**I. KOHANAIKI PROJECT**

**Discussion:** Possible site visit, burial sites and descendant claims.

Young mentioned that we need a quorum to have a site visit.

After Kualii explained the itinerary for the site visit, a discussion followed that HIBC should meet prior to the November meeting.

**A motion was made for a site visit at Kohanaiki.**

**VOTE: ALL IN FAVOR**

**IV. HAWAII ISLAND INADVERTENT DISCOVERIES**

**A. Bolton Construction – dry well excavation (TMK: (3) 7-5-12:16)  
Auhaukeae Ahupua`a, Kona District, Island of Hawaii`i  
Information**

Iwi left in place, no determination of ethnicity, they are making a dry well, and have not touched it since. No descendants known at this time. No exploratory work done.

**B. Restoration of Hapaiali`i Heiau (TMK: (3) 7-8-13-43)**

**Kahalu`u Ahupua`a, Kona District, Island of Hawai`i  
Information**

Iwi kupuna found, restoration of site and Heiau.

**C. Puna Cave  
Puna District, Island of Hawai`i  
Information**

SHPD intends to reinter close to the cave.

**D. Near Hookena Beach Park (TMK: (3) 8-6-11)  
Kealia Ahupua`a, Kona District, Island of Hawai`i  
Information**

Swimmers found iwi, jaw bone and tooth SHPD collected iwi and want to reinter at pali.

**E. Near Ooma Beach (TMK: (3) 7-3)  
Ooma Ahupua`a, Kona District, Island of Hawai`i  
Information**

Beach erosion exposed iwi close to water. Pacific Legacy collected iwi, SHPD determining where to reinter.

**F. Hokuli`a Subdivision Project (TMK: (3) 8-1-32:22)  
Ahupua`a of Hokukano, District of South Kona, Island Hawai`i  
Information**

A site, no burial.

**G. Kuki`o Subdivision Lot 4A (TMK: 7-2-03:Por.1)  
Ahupua`a of Ka`upulehu, District of North Kona, Island of Hawai`i  
Information**

Utility workers kept iwi in place, they sealed the opening.

**IV. ADJOURNMENT**

**A motion was made to adjourn the meeting  
(Dela Cruz / Kualii)**

**VOTE: ALL IN FAVOR**

**Meeting adjourned at 3:30 p.m.**