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

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
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**HAWAI'I ISLAND BURIAL COUNCIL
MEETING MINUTES**

DATE: THURSDAY, FEBRUARY 21, 2008
TIME: 9:00 A.M.
PLACE: NATURAL ENERGY LABORATORY HAWAI'I AUTHORITY
73-4660 QUEEN KA'AHUMANU HIGHWAY
KAILUA-KONA, HAWAI'I

HIBC MEMBERS: Charles Young, Chair
Ululani Keliikoa-Sherlock, Vice-Chair
Roy Helbush
Leningrad Elarionoff
Cynthia Nazara
Pele Hanoa
Kaleo Kualii

Absent / Excused: Ku Kahakalau
Dutchie Saffrey
Ronald Dela Cruz
Kimo Lee

SHPD Staff: Morgan Davis, Hawai'i Assistant Archaeologist
Wendy Machado, Cultural Historian
Colin Lau, Attorney General

Guests: Paul H. Rosendahl, Ph.D., Paul H. Rosendahl, Inc. (PHRI)
William Makanui, Dept. of Hawaiian Home Lands (DHHL)
Brian Kang, Watanabe Inc.
Nani Langridge, 'Ohana
Kawika McKeague, Group70 International, Inc.
Terry Yasuko Ogawa, Group 70 International, Inc.
Theresa Perez, Malama Na Kahakai, Pao'ō
Tina Kauwe, Descendant, Pao'ō
Queenie Dowsett, Descendant, Pao'ō
Poomai Dowsett, Descendant, Pao'ō
David Kimo Frankel, Native Hawaiian Legal Corp.
Stephanie N. Nāihe Laxton, Maika'i Kamakani 'O Kohala Inc.
James R. Moore, B.S., Archaeological Consultants of the Pacific, Inc.(ACP)

Guests: Mike Isaacs, Maika'i Kamakani 'O Kohala Inc.
Curtis Tyler, OIWI
Bob Rechtman, Ph.D., Rechtman Consulting, LLC
Herbert Poepoe, Rechtman Consulting, LLC
Mary Anne Maigret, State Parks
Jim Medeiros Sr., Protect Kepuka 'Ohana, Nauana Council
Stephen Jiran, Ki'ilae Estates
Francis B. McClelland

I. OPENING REMARKS

HIBC Chair Charles Young (Young) called the meeting to order.

Pele Hanoa (Hanoa) gave the pule wehe.

The HIBC members, and the SHPD staff introduced themselves.

II. APPROVAL OF THE JANUARY 17, 2008 HIBC MEETING MINUTES.

Young asked for any comments on the body of the minutes: recommendations, changes, amendments.

Ululani Keliikoa-Sherlock (Keliikoa-Sherlock) suggested page numbers.

Leningrad Elarionoff (Elarionoff) suggested to list titles, out of respect for those testifying.

Wendy Machado (Machado) agreed to include page numbers and titles.

Kaleo Kualii (Kualii) suggested verbatim minutes.

Linda Kaleo Paik (Paik) said that a copy of the recording is available upon request from the Chair's Office. The positions of the Cultural Historians are not transcribers.

**A motion was made to approve the January 17, 2008 HIBC minutes.
(Keliikoa-Sherlock / Hanoa)**

VOTE: 6, 1 NAY.

III. BUSINESS

A. UPDATE OF NATURAL ENERGY LAB HAWAI'I AUTHORITY (NELHA) MASTER PLAN (TMK 373043: 004, 005, 041, 042, 051, 063, 066, 067, 068, 069, 070, 071; 373009: 023, 024, 033, 034, 035, 037, 038, 039, 040, 041, 043, 044, 045, 046, 047, 048, 050, 051, 052, 053, 054, 999; AHUPUA'A OF KALAOA 1-5 & 'O'OMA.

Information / Discussion / Recommendation: This is an informational presentation by Group 70 International, Inc., consultant working on behalf of NELHA authorities to update its Master Plan. Discussion and recommendation requested to identify key cultural issues or areas of concerns and opportunities for Master Plan update, specific to known cultural resources, including wahi kanu. The proposed Master Plan is to include provisions and recommendations

for current and future land use activities and management of environmental and cultural resources within NELHA parcels, including Ho‘ona Archaeological Preserve.

Kawika McKeague (McKeague) and Terry Yasuko Ogawa from Group 70 International, Inc., consultants working on behalf of NELHA distributed three handouts.

McKeague explained that there has been two Master Plans.

1. 1985, The Makai Portion, aquaculture.
2. 1989, The Host Park Area.

In NELHA’s 2006 Annual Report, as of 2007, NELHA will no longer receive general tax revenue from the State. They are a State entity under the Dept. of Economic Development and Tourism, but expected to operate as a private entity. Existing revenues are generated by tenant leases, as well as cost on the deep sea water used by the tenants.

The recommendations of the 2006 Annual Report was to do a Master Plan to evaluate unleased lands to serve as future, potential. The client’s vision is to focus on renewable energy and to create opportunities for business development.

NELHA has two known archaeological preserves, with iwi kupuna. A BTP is being prepared for the Ho‘ona Preserve Site.

Group 70 is working on a draft of potential land use and welcomes phone calls, emails, or hālāwai.

Elarionoff asked if their Mission Statement would be changed.

McKeague said that the update could, but they are operating under the current one.

Kualii asked about access for families.

McKeague wanted to know the appropriate protocol to create opportunities for discussion.

Cynthia Nazara (Nazara) suggested to find the names of family, kupuna from that ahupua‘a. Families do not understand why they have to fill out papers. It keeps them out. Families need to be included and there got to be communication.

McKeague explained that there are concerns to malama the resources, protection and security.

Kualii suggested to go beyond the two ahupua‘a, families are all connected.

McKeague said that Group 70 have been meeting with research academic, agency types. They need to do more with tenants and users to share thoughts.

Elarionoff asked about their Mission, #3. “NELHA.....protect / enhance,” is a contradiction.

McKeague said that enhance would be to allow access to practitioners, signage, interpretive to educate the public, but not to be maha‘oi in areas.

Young asked if there is a complete Archaeological Inventory Survey (AIS) on the whole property.

McKeague said only certain portions. Part of the Master Plan will not be conducting them, but making recommendations.

Young asked if the tenants will do AIS.

McKeague said maybe part of the lease agreements. It would have to be a modification of the existing lease agreement.

Young suggested oral histories and a permanent advisory group comprised of families.

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

VOTE: ALL IN FAVOR.

B. REVISED BURIAL TREATMENT PLAN, SITES 13210-FEATURE A, 13252-FEATURE D-19-SAMPLE BLOCK D, 13253-A-Y, AND 16032-C, VILLAGES OF LA'I'OPUA PROJECT, AHUPUA'A OF KEALAKEHE AND KEAHUOLU, NORTH KONA DISTRICT, ISLAND OF HAWAII, TMK: (3) 7-04-21: 12.

Information / Discussion / Recommendation: Presentation and discussion by Paul Rosendahl, Ph.D.

William Makanui (Makanui) requested an acceptance of the plan as they further develop La'i'opua with the Council's recommendations.

Paul Rosendahl said that Dept. of Hawaiian Home Lands (DHHL) wanted to go through the Council for a resolution that DHHL complies with the guidelines of 6E and Ch. 300.

Elarionoff asked if DHHL follows the Council's recommendations.

Rosendahl explained that in some ways, it is parallel to the relationship between the County and the State in dealing with County ordinance. The County asks the State, SHPD for review and recommendations. The State has no authority over County ordinance. The County generally accepts the States recommendations and make them their conditions. It is similar here. We ask for recommendations and HIBC is the approving authority. We have complied with your recommendations and incorporated them.

Nazara asked about Ronald Dela Cruz's **recommendation** for a monitor.

Makanui said that DHHL will include an archaeological monitor.

Rosendahl said that they will have a preconstruction meeting on how sites are delineated, and procedures to follow.

Kualii asked about initial grubbing and grading.

Rosendahl said that he **recommends** on site monitors during initial grubbing and grading and in high probability areas.

Kualii asked if DHHL will come back to the HIBC during different phases.

Makanui said that the BTP includes all phases.

Young **recommended** that for future inadvertents, DHHL consults with the HIBC.

A motion was made to accept the recommendation from the applicant to preserve in place. (Elarionoff / Kualii)

VOTE: ALL IN FAVOR.

A motion was made to close the agenda item III B. (Elarionoff / Nazara)

VOTE: ALL IN FAVOR.

C. A BURIAL TREATMENT PLAN FOR SIHP SITE 2383, LAND OF PAO‘O AHUPUA‘A, NORTH KOHALA DISTRICT, ISLAND OF HAWAI‘I, TMK: (3) 5-7-01: 005.

Information / Discussion / Determination: Presentation and discussion by Robert Rechtman, Ph.D.

Robert Rechtman (Rechtman) discussed the revisions, modifications of language and historical background, public notices were sent out. One response came back. An additional 10 ft. no build zone was added to the 20 ft. buffer zone. The applicant is proposing preservation in place.

Elarionoff explained about Hawaiian language draws pictures, it does not talk like English Language. On page 7, ali‘i ‘ai ahupua‘a or lesser chiefs, ali‘i = ruler, ‘ai = food, ahupua‘a. This guy is the overseer of the food section of the piece of property. In a sense, he is a lesser chief but he is responsible for the food. Maka‘āinana or commoner, maka = eyes, ‘āi = again is food, nana = is to be alert, pay attention, wake up, and watch what is going on.

Young asked if the applicant received his CDUA.

Rechtman said no, it is a contested case.

Colin Lau (Lau) asked the relevance to the BTP.

Young explained that the HIBC does not want to influence the contested case by a determination of the BTP.

Lau suggested to hear what the contested case is about, regarding relevance.

Brian Kang (Kang) explained that both sides requested a contested case before the DLNR. Issues are primarily related to whether Mr. Cohen has met the requirements for a CDUA which does permit a single family home. There are criteria within the administrative rules which the board needs to consider whether that permit is appropriate or not. The contested case involves those issues in respect to the administrative rules.

Rechtman said that he is at the HIBC to talk about the BTP, not any of those issues.

Rechtman explained the history of the property. The Inventory was completed by someone else, and approved by SHPD. Rechtman did the follow up work. The site was considered a possible burial or shrine. SHPD's decision was to preserve the site, addressed in an Archaeological Preservation Plan. The site became known as a burial site. The preservation status changed to a BTP.

David Kimo Frankel (Frankel) said that their issue is if it is appropriate to build a house so close to a burial site. Frankel gave many examples to discredit Rechtman and SHPD's. Frankel agreed with preservation in place and suggested a larger buffer zone of 150 ft.

Elarionoff asked Rechtman questions about Frankel's comments regarding Rechtman's quality of work. Elarionoff said that no one in the room would accept Frankel's comments.

Queenie Dowsett (Dowsett) agreed with preservation in place. No buildings on the property.

Poomai Dowsett (Dowsett) agreed with preservation in place. No buildings on the property. Dowsett said the Kauwe's have lost 6 acres on the title. Dowsett asked if Pao'o can be placed on the HIBC agenda one more time.

Break: 11:20 a.m. – 11:30 a.m.

Theresa Perez (Perez) and Tina Kauwe (Kauwe) asked for a copy of the BTP and to postpone a decision until after the hearing. They agreed with preservation in place and wanted no buildings on the property.

Stephanie Nāihe Laxton (Laxton) said that with preservation and protecting historic sites, she presents information to families, and if they want to pursue an issue, they come and see her. Laxton said that the Dowsett family and Fred Kauwe's family do not share the same koko.

Nazara asked about the meeting at Pao'o and the reference to the "so called Kauwe branch"

Kauwe said that they were referring to the Dowsett family. She respects them, but as for being blood, they are not.

Kualii suggested that the Kauwe's work with Machado to be recognized as descendants.

Young said that he would like the preservation in place to go through but defer the recommendation piece until it can be resolved with the family or legally through the hearing.

Frankel asked to defer the whole matter and asked for 150 ft. buffer.

Young said that buffers have always been a compromise. Before, the buffers were 10 ft. from the iwi, not even from the external zone. The buffer zones could be California and can be debated at nausea. HIBC makes the recommendations, the State makes the decision. The State has an obligation to burial sites as well as the developer's side. The Council's mandate is to preserve the burial and to ask to defer any recommendations on buffer zones. The Council is not advocating any building on the property until the hearing is done. We will make a recommendation at a later date.

Mike Isaacs (Isaacs) said that he wanted the Council to make a determination after the contested case is complete.

Young **recommended** a vote to preservation in place.

Kualii **recommended** a deferral on buffers.

A motion was made to accept the recommendation from the applicant to preservation in place. (Elarionoff / Hanoa)

VOTE: ALL IN FAVOR.

Rechtman said that there is no problem with the deferral. The 90 day clock starts today but did not know if that clock can be extended again.

Young said that buffers will be on a future agenda.

Lau said that it is best to defer both so that the 90 day clock does not start. When Preservation in place is determined, the process follows 13-300-38e and 13-300-33b 3a. Technically, the process starts.

A motion was made to defer the buffer recommendation for a later date. (Elarionoff / Hanoa)

VOTE: ALL IN FAVOR.

A motion was made to close the agenda item III C.

VOTE: ALL IN FAVOR.

D. HISTORIC PRESERVATION DIVISION DRAFT POLICY FOR CURATION OF HUMAN SKELETAL REMAINS.

Information / Discussion / Recommendation: Discussion and recommendation on Historic Preservation Division's Draft Policy for Curation of Human Skeletal Remains. Presentation by Linda Kaleo Paik, Cultural Specialist, SHPD.

Paik said that the National Park Service requested from SHPD a curation policy. For compliance with the grant, Paik drafted a curation policy. Paik asked for the Council's recommendations on the temporary curation policy.

Elarionoff **recommended** having iwi in sections according to ahupua'a, to avoid hakakā.

Young and Kualii **recommended** that artifacts found with iwi, stay with iwi.

Kualii **recommended** reinterment location and methods similar from where the iwi came from. Iwi from dirt, should be returned to dirt. Iwi from caves, should be returned to caves. Iwi from sand should be returned to sand.

A motion was made to close the agenda item III D. (Keliikoa-Sherlock / Hanoa)

VOTE: ALL IN FAVOR.

**E. A BURIAL TREATMENT PLAN FOR A PROPERTY LOCATED AT
TMK: (3) 7-1-005: 04, IN PU‘U NANA ESTATES SUBDIVISION, PU‘UANAHULU AHUPUA‘A,
NORTH KONA DISTRICT, ISLAND OF HAWAI‘I.**

Information / Discussion / Recommendation: Presentation and discussion by Archaeological Consultants Of The Pacific, Inc.

Young said that no BTPs were included in the packets for review.

James R. Moore (Moore) said that they were submitted to SHPD in April 24, 2007. ACP conducted an Inventory Survey in 2005, identified a small family grave yard. The 6.8 acre property was used for cattle. There is one structure on the property being occupied.

The site consists of 11 individual features. A terrace that supports a level area and ten small single line of stones. Some have depressions which look like coffin collapse. The applicant is proposing preservation in place, with a buffer zone of 30 ft. A temporary buffer of 60 ft. with monitoring for all other subsurface activities.

Young asked what the applicant is proposing for the property.

Moore said a subdivision.

Young asked to see the subdivision plans.

**A motion was made to close the agenda item III E.
(Nazara / Keliikoa-Sherlock)**

VOTE: ALL IN FAVOR.

**F. A BURIAL TREATMENT PLAN FOR A PROPERTY LOCATED AT
TMK: (3) 8-7-10: 09, KUKUIOPA‘E AHUPUA‘A, SOUTH KONA DISTRICT, ISLAND OF
HAWAI‘I.**

Information / Discussion / Recommendation: Presentation and discussion by Archaeological Consultants Of The Pacific, Inc.

Moore said that ACP conducted an Inventory Survey in 2004. They found 19 sites, with 23 component features, mostly habitation agricultural complexes. There are 3 marked burials; two with headstones, and one with concrete surface, raised platform. The applicant is proposing preservation in place for all 3 marked burials including the habitation structures that they are adjacent to.

Habitation structures are in a separate Preservation Plan. SHPD has done an initial review, and they have concerns if the sites are still there.

Young said that there is probably significant damage with no BTP.

Moore said that the last time ACP personnel were there was in February 2007. The land owners said that features have not been disturbed.

There was one inadvertent during Data Recovery and a subject of preservation in the Preservation Plan. A small shrine is also marked for preservation.

Machado explained the concerns of damage to sites, during a site visit with Morgan Davis, DOCARE, and a descendant.

**A motion was made to form a Task Force to go to Kukuioipa‘e to investigate conditions, to share mana‘o at the March HIBC meeting.
(Hanoa / Keliikoa-Sherlock)**

VOTE: ALL IN FAVOR.

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

VOTE: ALL IN FAVOR.

**G. RECOGNITION OF CULTURAL / LINEAL DESCENDANTS
BURIALS ON THE LAND OF KALAOA, TMK (3)7-3-010: 37.**

Information / Recommendation / Determination: State Historic Preservation Division’s recommendation for recognition of lineal descendants to a burial at the land of Kalaoa. Council discussion and determination. Presentation by Linda Kaleo Paik.

Paik explained that she fixed her typos.

Rechtman said that in the mid 1990’s, the site was discovered as an inadvertent with the name Kaukaliinea on it. The developer redesigned the whole subdivision.

**A motion was made to accept staff recommendation.
(Kualii / Helbush)**

VOTE: ALL IN FAVOR.

**A motion was made to close the agenda item III G.
(Kualii / Hanoa)**

VOTE: ALL IN FAVOR.

**H. RECOGNITION OF CULTURAL / LINEAL DESCENDANTS
BURIALS AT KI‘ILAE FARMS SUBDIVISION, KAULEOLI AND KI‘ILAE AHUPUA‘A, SOUTH KONA DISTRICT, ISLAND OF HAWAI‘I,
TMK: (3) 8-5-005: 019, 022, 026, 027, 030, AND 031.**

Information / Recommendation / Determination: State Historic Preservation Division’s recommendation for recognition of lineal descendants to burials at Ki’ilae Farms Subdivision. Council discussion and determination. Presentation by Linda Kaleo Paik.

Paik explained that Clarence Medeiros Jr. was recognized by the HIBC as a lineal descendant. He is asking that his children and grand children be recognized.

Rechtman said that the landowner would like to know which specific sites descendants are being recognized as lineal descendants to. There are five burial sites within Ki’ilae Farms Subdivision, none of those have recognized lineal descendants to them. There are sites outside of Ki’ilae Farms, in the National Park: sites 23-200, 201, 202, 203, which are covered by the BTP approved by the HIBC. The descendants are recognized as cultural.

Paik explained that since the HIBC already made a decision in 2004, she felt that all she had to prove was family relations. Paik said that if she has to go back further, then the HIBC may need to undo a recognition and she did not know if that was done before.

Kualii said that her memo does not say a specific site number.

Jimmy Medeiros, Sr. (Medeiros) said that they are lineal to the burial in the wall, which is part of the National Park. He said that he is cultural to the rest.

Young suggested to Paik, to find the original documents.

Kualii asked Machado to check if Jimmy is on the list.

Stephen Jiran (Jiran) said that Ki'ilae was granted final subdivision status. TMKs do not exist. The burial site numbers run with the land.

Paik said that she will do lineal to a site number next time.

**A motion was made to defer agenda item III H.
(Kualii / Helbush)**

VOTE: ALL IN FAVOR.

The HIBC agreed to defer other items on the agenda to discuss Hokukano.

IV. CASE UPDATES

B. Discussion of a single family dwelling in Hokukano, Ka'u CDUHA 3002-B, TMK: 9-5-016-036.

Hanoa said that the permit called for a single family dwelling. It has become an artists retreat.

Young said that Vince Kanemoto advised that there has to be a new issue. Commercial use violations, DLNR-OCCL should be notified.

Hanoa asked what action will the HIBC take and requested that Davis and Machado do a site visit.

Lau **recommended** an investigation. He said that there needs to be an investigation. A retreat, and business, is not a family residence.

**A motion was made to defer the remaining agenda items.
(Keliikoa-Sherlock / Kualii)**

VOTE: ALL IN FAVOR.

**A motion was made to adjourn the meeting.
(Keliikoa-Sherlock / Kualii)**

VOTE: ALL IN FAVOR.