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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MINUTES

Hawaii Island Burial Council Meeting

Date: Thursday, September 22, 2011
Time: 9:30 to 1:00 pm
Place: Natural Energy Laboratory of Hawaii Authority (NELHA)
73-44610 Queen Kaahumanu Hwy., Kailua-Kona, HI 96740

I. Opening Remarks/Opening Pule

Vice Chair recognized the new members of the Board (Kahaulelio, Miranda and Unger) and thanked them for their service. He acknowledged that the board had not met since January. Bucky Leslie said the Pule.

Call to Order/Roll Call and Introduction of SHPD Staff

The meeting was called to order at 9:37 am.

All burial council members and SHPD staff introduced themselves. The following people were present:

HIBC

Charles K.H. Young, Vice Chair (Acting Chair)
Leningrad Elarionoff
Keith Unger
Gene "Bucky" Leslie
Mary Maxine Kahaulelio
Edwin Miranda

SHPD

Pua Aiu, Administrator
Michael Vitousek, Archaeologist

PUBLIC (from sign-in)

Clarence & Gale K. Perez
Ange Merola
Wendy S. Botelho-Cortez
Hannah W. Reeves
Jennifer Rosse
Lori Mikkelson
Matt Clark
John Roberts
Puna Lerma
Charles Flaherty
JoJo Tanimoto
James P. Kalili
Jack Lee
Carly Liebhardt
Billy Palea
William Kaawa
David W. Shideler
Ruby McDonald

Ruby McDonald noted that the website said the January meeting was cancelled. Pua said she will check.

II. Current and/or New Business

- A. A Burial Treatment Plan for SIHP 25005 Feature E Located on TMK: (3) 5-6-001:108, Puakea Ahupua'a, North Kohala District, Island of Hawaii.

Bob Rechtman, from Rechtman Consulting presented an overview of the project. He noted that he had e-mailed all of the burial council members and updated version of the Burial Treatment Plan (BTP). Some member

acknowledged having received the updated version. In essence, there is a single family home being built on the parcel, which is partially in the Agricultural zone and partially in the conservation zone. The house is in the AG zone. A single bone (human metacarpal) was found in a modified lava blister are in the conservation zone. The modified blister is part of a larger site (25005) that will be preserved. The proposal is to preserve in place, with 100 foot buffers on the mauka side. The ocean is the buffer on the makai side. Reasonable vehicle access over the property between 9-5 with 48 hour notice will be provided to all recognized lineal and cultural descendants. Descendants will be allowed to park in a parking area near the house so they will not have to traverse the property on foot. The burial site is also accessible from the beach via public right of ways. There will be a boundary wall around the house. The burial treatment plan will be registered at the Bureau of Conveyances.

Miranda: Asked if there are plans to close the blister, if fishing would be affected, shared concern that people would leave trash at the site. He also asked what “preventive measures” would be undertaken and if any GPR had been done. He also asked if pesticides will be used in vegetation removal.

Rechtman responded that the descendants preferred to leave the blister alone so there were no plans to close the burial site, there is access for fishing from other areas, the site is not conspicuous, so trash should not be a problem. Preventive measures include clearing any vegetation that may impact the site. Grass will be left alone, pesticides will not be used. No GPR was done. However, there was a site that was data recovered where the house is now. No other burials or subsurface sites were found.

Bucky Leslie asked who is responsible for maintaining the site. He also noted that he would like more access for Hawaiians. He believes access is too restricted, especially as this is a gated community. He would like stronger access language that protects Hawaiians rights to access their burials. Mr. Rechtman responded the landowners are responsible for maintaining the site and the landowners are providing access through their lot rather than through public access along the beach in response to comments from the descendants.

Maxine Kahalelio noted that she is concerned about access to Mookini and ultimately access for Hawaiians to the entire area. Asked why the landowner decided to build on the ocean. She would like Hawaiians to be able to access in the middle of the night. She also shared her concerns about the language requiring respect on p. 18. She believes respect should go both ways.

Charlie Young noted that access through the landowner’s property is limited to cultural and lineal descendants. He also asked how far the conservation boundary is from the shoreline. He also noted other example where the landowner allowed access to their land in a gated community, but Native Hawaiians still had problems accessing the community itself because the codes or keys were changed. Rechtman noted that the burial is in the conservation district and in a larger preservation site. Also that the person who built the community lives in it and is aware of the BTP.

Leningrad Elarionoff asked for clarification on the scale for the maps (1 inch = 200 ft), the first paragraph on page 4. He also asked how and why invasive vegetation will be removed.

Rechtman responded that the scale is 1inch:200ft, the updated BTP has some clarification for page 4 and some discussion ensued. Invasive vegetation will be removed by hand if the landowner believes it will cause damage to the site. **Elarionoff asked that specifics on vegetation removal be included in the BTP.**

Keith Unger noted that 24/7 access is available via public access along the beach, but the easier access is through the landowners property, as detailed in the BTP.

PUBLIC TESTIMONY

Gail Perez testified that she had attended the site visit and was concerned because access was difficult. She believes that if access to traditional trails was allowed, access would not be so difficult. She noted that this was an area where healers grew plants on the terraces, so she asked if a plant study had been done. Her family believes that artifacts found on the property belong to them. She also noted that they did not receive the revised BTP. Rechtman noted that access had been changed in response to descendants concerns about the difficulty of the original access plan.

Clarence Perez testified as to his genealogy. His father worked for Parker Ranch and was familiar with all of the trails. He asked if the trails were recognized in the Highway act. He also pointed out that he had brought the trails to the attention of Theresa Donham, who said that the trails had been demolished for the roadway. No trails were recognized in the Archaeological Inventory Survey (AIS). He asked why the Richard Stephens map was not researched and believes that adequate research on the area was not done. For example Kamilo was the surf spot of Kaahumanu, and the place was known as a healing area. The terraces were for herbs. He also noted that the Kohala kupuna are dying, but they had warned not to build by the shore because of the iwi. He is stepping forward because the kupuna are getting old. He also asked if there was a second burial on the property, as mentioned by Mr. Thomas.

Rechtman stated only one burial had been found on the property.

Mr. Perez is opposed having to ask for access. He has not received the updated BTP, and did not receive notice of this meeting.

Kahaulelio noted that no one owns the land and gated communities go against Hawaiian practices.

Young noted that the council decides on whether to preserve in place or move a burial. He asked if preservation in place was okay for the descendants (who said yes, but they had other concerns). He also asked if access were granted on the old trail, would that be satisfactory (yes).

Hannah Reeves testified as to her genealogy, and her responsibility to take care of all Hawaiians. She went on the site visit and met the owner. She believes there are additional burials in the lava tubes. She is saddened by the development and asked that no heavy equipment be used near the burial area (including over any lava tubes).

Nicole Lui: Went on the site visit with Aunty Hannah. Noted that the trails need to be fixed and maintained, because access for kupuna was difficult. Would like to see stronger access language, but she is glad they are being allowed access through the property. She supports preservation in place.

Ed Miranda asked Ms. Lui if she thought the burial blister should be sealed. She said yes. Also Perez family would like to see it sealed. **The families and owners will work together on protocols for sealing the lava blister.**

Kahaulelio noted that she would like all documents in Hawaiian. She would like gates taken out and believes that access for Hawaiians will ultimately be taken away. She requested that all descendants be provided updated copies of the BTP.

Chuck Flaherty objected to the absence of the Attorney General. He suggested that final approval of the BTP be effective upon survey of the trails. He also suggested that approval of the burial treatment plan be contingent upon registration at the Bureau of Conveyances.

Elarionoff/Miranda : Move to defer decision making on A burial treatment plan for SIHP Site 25005 Feature E, Located on TMK (3) 5-6-001:108, Puakea Ahupua'a, North Kohala District, Island of Hawaii. Wayne and Linda Thomas, owners, Rechtman Consulting, LLL. Unanimous in support.

The Burial council requested that Mr. Rechtman address the following before the next council meeting:

- 1) An additional site visit
- 2) Spell out access and ease of access
- 3) Protocol for sealing the burial cave (or protocol for working this out between landowner and descendants)
- 4) Write down details of planting, access, maintenance of burials site (not just as discussed)
- 5) Perez family needs to include their own language in the history section.

III. B. Burial Treatment Plan, TMK (3) 1-4-028:023, Land of Wa'awa'a, Puna District, Island of Hawaii. Information, Discussion, Recommendation/Decision.

Jennifer Rosse and Lori Mikkelson presented a summary of the Burial Treatment Plan. They noted that there is 24/7 access because the site is 30 ft from a government beach road. Kanaka Council was

consulted and supports this burial treatment plan. Bucky Leslie, who is on the Kanaka Council concurred. Kanaka council had requested that the site be surrounded by ti, rather than a rock wall.

Leslie/Young moved to accept the Burial Treatment Plan for TMK (3) 1-4-028:023, Land of Wa'awa'a, Puna District, Island of Hawaii.

Elarionoff asked if they were sure that no infringement of the burial site would happen on a 2 acre site. He is concerned that there may be some infringement if big trucks carrying equipment hit the site because there are no plans for construction buffers. Also question some items in the report itself, but was told that those items were taken directly from the Haun AIS.

Kahalelio asked if All Aina had gone to the Bureau of Conveyances to search for descendants. All Aina noted that they did not have enough funds to go to Honolulu to access additional records. They did note that they had found a website in Hawaiian that had all the old Hawaiian newspapers, but since they didn't speak Hawaiian, couldn't access the information.

Leslie noted that his family is from this area and they had been warned not to go there. Even when he had done research connecting his family to this area, his mother denied knowledge of it.

Young asked if heavy equipment was anticipated. For example would a backhoe and ram be used for the septic system? All Aina responded that they did not believe that such equipment would be used.

Nicole Lui, who is a recognized cultural descendant to this area (Makuu) would like a site visit. Likes the use of ti, and recommended a certain kind with thick stalks (she will provide information to All Aina). She is comfortable working things out with All Aina and SHPD.

Vote: 5/1, Kahalelio opposed. Motion passed.

II. C. A Burial Treatment Plan for a Property Located at TMK: (3) 8-7-010:009 in Kukuioape Ahupuaa, South Kona District, Island of Hawaii. Information/Discussion/Recommendation/Decision.

Carly Liebhardt provided a summary and timeline for this Burial Treatment Plan.

In 2004 3 burials were found during an inventory survey. In 2007, during data recovery, one additional burial was found. Revisions to the BTP were done in August. Proposal is to preserve in place within the larger archaeological preserve sites. 100 foot interim buffers and 30 foot permanent buffers marked by ti. There will be two access easements. Access will be allowed from 1 hour after dawn until 1 hour after dusk. For access other times, advance notice should be given. Young noted that the HIBC did a site visit some years ago.

There was damage to 24281:7. Some rocks were knocked over during clearing. The landowner will replace the rocks. Young noted that the damage was done while the landowner was grading and grubbing without a permit.

Liebhardt noted that all permits have since been approved.

Young noted that there has been a lack of communication between the descendant families and the owner. He wanted to know if the work done before is going to be repeated. He also asked that maps be drawn to scale.

Elarionoff mentioned that there is a ku'ula stone on site.

Miranda questioned how anything could be done without impacting the burials or archaeological sites. Lots 1-3 are rather small. He would like up-to-date photo maps included with the BTP.

Public Testimony

William Kaawa testified that he came to the burial council but wasn't prepared to give extensive testimony. He requested a site visit for the family at Kukuioape. Liebhardt noted that documentation is going to Isaac Kaawa, who is in Honolulu. William asked if they could also get copies of the BTP and any correspondence. He noted that the

family has traditionally used lava tubes for burials, and believes more burials exist. However, he does not know where they are. He noted that his aunts Aurora and Lehua have provided input in the past, but they insisted that the younger generation attend this meeting.

Ange Merola noted that the family pays taxes on a lot makai of this one, and that they also have a claim to this land.

Unger asked what the relationship of the family is with the owners. Kaawa responded that he has no relationship with them. Some members of the family did a walk through with one of the owners. His aunt Lehua has more information.

Burial council members discussed doing a site visit where owners, family members, archaeologist and HIBC are all there so that outstanding issues can be addressed on site.

Leslie/Miranda moved for HIBC to do a site visit to TMK (3) 8-7-010:009, Kukuiopae Ahupuaa, South Kona District, Island of Hawaii. Charlie Young will work on a date and getting Puka'ana church for the HIBC meeting afterwards. He will ensure the agenda is small. Vote: Unanimous in support.

Chuck Flaherty said he is friends with some of the neighbors and there was a contested case against the subdivision. On July 22 there was tentative subdivision approval. He provided the council with the minutes of February 2008, April 17, 2008, and July 17, 2008 when this project was on the agenda. He also provided copies of Hawaii County Real Property records regarding the owner of the property that ultimately traces ownership to Shea Holdings, LLC, which has no standing according to the site. **Mr. Young asked SHPD staff to follow up with the AG on what this means and if the BTP should be agendized if there is an on-going contested case.**

Leslie/Elarionoff: Move to defer decision making on A Burial Treatment Plan for a property located at TMK (3) 8-7-010:009 in Kukuiopae Ahupuaa, South Kona District, Island of Hawaii. Revised August 2011. Unanimous in support.

The council clarified that Liebhardt needs to 1) set up the site visit (work with Mr. Young) and 2) check if anything in the report needs to change. They also noted that Charlie is waiting for comments from the descendants.

II. D. Burial Treatment Plan for a Single Human Femur Bone, SIHP #50-10-35-22080, Waiakea Ahupuaa, District of South Hilo, Island of Hawaii. TMK (3) 2-4-001:170. Information, Discussion, Recommendation, Decision.

Dave Shideler provided a synopsis of the burials treatment plan. Archaeological inventory for this property was originally carried out in 2000, for the USDA Pacific Basin Agricultural Research Center. A single femur was found in a burial cave. When the iwi was found, the Research Center was moved. In addition the portion of the property with the iwi was carved out into a separate TMK parcel and passive preservation was agreed to. At this time DAGS would like to build a radio tower on the property. They proposed passive preservation in place with 50 foot buffers. Access for cultural or lineal descendants would be on an ad-hoc basis by the landowner.

Leslie noted that the maps were so small as to be unreadable and requested larger maps.

Young noted that the burial was found 11 years ago, why a BTP now? Shideler responded that it is because DAGS would like to use a part of the property.

Public Testimony

Puna Lerma who responded to ads regarding this burial, is the only potential descendant at this time. He provided the HIBC with a history of Hawaiians using the bible, genetics and the dictionary to establish Hawaiian rights to the land. However, because of a loss of quorum, he was unable to finish. Unclear whether he supports or opposes the BTP. He requested reimbursement of travel costs.

Leslie/Kahaulelio moved to defer decision-making on a burial treatment plan for SIHP #50-10-35-22080, a Burial Cave, Waiakea, South Hilo, Hawaii Island. TMK (3) 2-4-001:170. Unanimous in support.

III. Inadvertent Updates

Michael Vitousek handed out a report on inadvertents. There was not time to address this item.

- IV. Announcements – this item was not addressed due to loss of quorum.
- V. Adjournment: Miranda/Unger moved to adjourn the meeting. Unanimous in support.
Meeting was adjourned at 2:20 pm.

Submitted by Pua Aiu