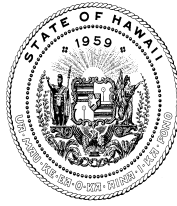


LINDA LINGLE  
GOVERNOR OF HAWAII



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

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CHAIRPERSON  
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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, MARCH 11, 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                 Shad Kane  
              Kehau Kruse                     Aaron Mahi  
              Kawika McKeague             Jace McQuivey

Absent:     Andy Keliikoa (excused)  
              Leimaile Quiteves (excused)  
              Hinaleimoana Falemei (excused)  
              Alice Greenwood (excused)

Staff:       Linda Kaleo Paik, Cultural Specialist  
              Phyllis Coochie Cayan, History and Culture Branch Chief  
              Colin Lau, Deputy Attorney General

Guests:     David Shideler, Cultural Surveys Hawaii, Inc.  
              Hal Hammatt, Cultural Surveys Hawaii, Inc.  
              Nalani Dahl, RTD  
              Faith Miyamoto, Transit  
              Lawrence Spurgeon, Parson Brinkerhoff  
              Gary Omori, HRT Public Involvement Team  
              Lani Maa Lapilio, Aukahi  
              Kekuewa Kikiloi, KSBE  
              Hilarie Alomar, KSBE  
              Kauai Burgess, KSBE  
              Kealoha Kuhia, Ohana Kuhia

Jean Rasor, Kahu o Kahiko  
Manu Sukanuma  
Anthony Benzon, Ohana Kalam  
June Cleghorn, Cultural Resource Management MCBH  
Coral Rasmussen, Cultural Resource Management MCBH  
Tin Hu Young, Kawaiahao Church  
Don Caindec, Kawaiahao Church  
Dawn Chang, Kuiwalu  
Raphael Renteria  
Julian Aguon

## **I. CALL TO ORDER**

Quorum was established. Meeting was called to order at 10:20 am and Kane offered a pule.

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

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

## **III. OPENING REMARKS**

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

## **IV. APPROVAL OF MEETING MINUTES**

January Minutes: corrections were page 3, para 3 change spelling of Kapiliela to Kapeliela; use macrons for Hawaiian words such as Waikiki and Kupuna.

Ehrhorn/McKeague: Motion to accept January minutes as corrected.

Vote: unanimous

Mahi/Ehrhorn: Motion to accept February minutes as circulated.

Vote: unanimous

## **V. COUNCIL ACTIONS**

### **A. Informational Update on the Honolulu Rapid Transit Honouliuli, Ho‘ae‘ae, Waikele, Waipi‘o, Waiawa, Mānana, Waimano, Waiuu, Waimalu, Kalauao, ‘Aiea, Hālawā, Moanalua, Kahauiki, Kapālama, Nu‘uanu, Pāuoa, Makiki, Mānoa, and Waikīkī Ahupua‘a, ‘Ewa and Kona Districts,**

**Island of O‘ahu**

**[TMK: Various]**

**Information/Discussion/Recommendation:** Council discussion and recommendations on the project.

Abad gave a brief report on the Task Force Committee meeting that took place just prior to the Council meeting. Much of the Council's recommendations have been incorporated in the report. The focus of the meeting was on the sampling methods for the Archaeological Inventory Survey (AIS). There will be an overlap of AIS sections for opportunity to catch things early. The following were areas of discussion:

1. More testing in the Honouliuli area, which is different from the initial approach of very little testing for the area
2. Testing will be in a phased approach and will be adjusted as needed
3. Area of potential cultural resources would be tested at a higher degree and should cultural materials be discovered, a wider area of the trenching would be conducted.
4. Need to see the Mitigation Plans as soon as possible and make those plans a part of the Programmatic Agreement (PA). Hopefully these plans would be available at the next meeting scheduled for April 8, 2009.
5. Identification of re-interment sites and Council as a whole asked to assist in finding sites

The project is still in the discussion phase only and if the Council has any concerns to let the Task Force know.

Miyamoto and Spurgeon did not have any other comments at this time.

McQuivey asked the Task Force and Miyamoto if the process is working and beneficial to both parties. Miyamoto replied that the process is working very well. The Task Force has been providing valuable input.

Abad had some caution moving forward. The project's actual timeline expands a long period of time and though measures and recommendations are being expressed at this juncture, not all of the information has been gathered at this point. The Council must be diligent as the project proceeds to make sure as information is made available the Council acts upon any concerns that arise from the new information early enough to mitigate for the best possible resolution. She hoped that the PA will be a functional mechanism to guide and clarify issues as it arises.

McQuivey advised the rest of the Council that though the committee is tasked to streamline the process, all Council members must be diligent throughout the process and not lay the responsibility solely on the Task Force committee.

Miyamoto heard the concerns of the Task Force and will incorporate the concerns in the plans.

Kuhia had the following concerns:

1. On the map that was distributed, some parcels have Land Commission Awards and others not. All parcels should have some sort of identification so that families can come forward and enter into discussion with the project about possible inadvertent discoveries in the area. If there were any Royal Patents, Konohiki or Government lands for the areas, those should be included as another means of identifying families from the area.

2. His family would like to see reburial happen after each district has completed construction and not wait for the entire project to be completed before reburial takes place. Abad addressed this concern by stating that historically the OIBC has advocated for burials to occur as soon as possible and maybe this suggestion be made part of the Burial Treatment Plan.

Raser viewed the re-interment plan as a blanket template for reburial. Reburials cannot be planned ahead. The plan as described sounds good but in reality, the 'Ohana in consultation with SHPD will make the determination. The idea of "one size fits all" should not be the thinking of the Council.

Ehrhorn looked at the list of possible re-interment sites and suggested that a possible re-interment site for the Honouliuli area could be the re-interment site at West Loch. Cultural Surveys Hawaii will look into the possibility.

**B. Kaka'ako Master Plan for Kamehameha Schools Property, Kaka'ako Ahupua'a, Kona District, Island of O'ahu**

[TMK: 2-1-30:01; 2-1-53: 4, 5, 27; 2-1-54: 1, 25, 27, 28, 32; 2-1-55: 1-3, 6, 9, 17, 18, 21, 26, 32-35, 38; 2-1-56: 2-3, 7, 8]

**Information/Discussion/Recommendation:** Presentation by Kamehameha Schools and Aukahi, on the proposed master plan for the Kamehameha Schools property in the Kaka'ako Hawaii Community Development Authority.

Abad excused herself for this item. Lau gave his opinion that the Council can still hear the presentation without quorum as it is information only. Kuhia voiced his opinion in regards to Abad's recusal and asked that she remain on the Council for the discussion. He felt that her expertise is valuable to the discussion and should he have a question, he would like to have her response. Lau suggested that Abad still could answer questions as part of the public. Abad decided to recuse herself.

Maa-Lapilio introduced the KSBE team for the presentation. Handouts were presented to the Council to follow along the power point presentation. Consultation is ongoing and a meeting with families occurred recently. This same presentation and information was given to the families at that time.

Alomar gave an update on the Master Plan application to HCDA. The plan is still being worked on and after the final submittal to HCDA there will be a 200 day comment period for the public to respond and a public hearing. There still is no date for the final submittal.

Kikilo'i gave an update on the Draft Archaeological Inventory Plan (AIP). The power point presentation commenced at this point. At earlier discussions, the plan was to look at the entire project. The plan will now be done in three phases.

1. CompUSA lot
2. Keawe Street
3. The rest of the project

Maps were used to give historical information for the first phase. The following maps were used:

1. 1817-1855 old maps but were hard to use because of the geographical changes to present conditions.
2. 1884- salt pans on the lower area, fish ponds and house lots
3. 1887- immigration area and a battery nearby
4. 1883- salt pans
5. 1892- squatters village, closer to Ala Moana
6. 1919- transformation to industrial area
7. 1927 and on- very industrial and land fill makai is extending the land outwards to the ocean
8. 1900-1956- fire insurance maps were useful in showing detail of usage of the area

Boring logs were used from previous archaeological work but not much information could be ascertained for the project area. CompUSA is mostly secondary deposits.

Previous archaeological work was not done on any of the parcels in the project. The closest burials were on the Restaurant Row property.

Preliminary work on the CompUSA parcel was the digging of five trenches to the water table (2-2.5 meters deep). Four trenches came up with only fill. Trench five had a little bit of sand. At the last meeting, the Council was told that 75% was open and 25% under the building. That needs to be amended to 65% open and 35% under the building. KSBE is proposing to do more trenches in the open area, 9 more for a total of 14. Under the building will be problematic as the structure may have to be used and not torn down. The integrity of the structure may be compromised in doing exploratory testing. Several options have been explored for testing under the building.

1. GPR- however not reliable due to the moisture being so close to sea level and cannot read well what is under the subsurface
2. Slant drilling- doesn't bring up the deposits intact and therefore cannot see the stratigraphy of the area
3. Electro resistivity- using sound waves to identify possible anomalies but this wouldn't work because of the moisture
4. Trenching- would be the best method however, there are only so many trenches that the structure could take before the integrity of the structure is compromised and the building not safe.
5. Coring- to get samples to determine the stratigraphy

KSBE is proposing the coring method. There will be 15-20 cores in the building foundation. If sand deposits are found, then a decision will be made to do more testing, redesign the proposed building or use the existing building. If the coring and the additional 9 trenches come up as fill, that would satisfy the archaeological requirements for this area.

The proposed plan for the area is mixed use with residential/retail, the retail to wrap around a residential tower. KSBE would like to keep the existing building to produce revenue until the project is ready to be constructed. The existing building is built on a post-tension foundation. That is the reason for caution in doing any kind of disturbance on the foundation.

McKeague applauded both KSBE and Cultural Surveys Hawaii for their efforts on this project and to look at options in methodology.

The OIBC is comfortable in proceeding in this manner on this project. KSBE will be updating the Council each month.

Raser inquired whether sterile soil was hit. Hammatt answered that it was not. The next question was in regards to the water table. Historically, the shoreline was much closer to the project than the shoreline today. Would the water table be considered a sterile area or not since the water table is in a different area and the fill areas are different.

Hammatt said the water table has been consistent and the massive amount of fill that has been added to the entire Kaka'ako area does not seem to have affected the water table from late pre-contact to present. This is based on the fact that no cultural material has been found with the exception of a single find.

Kuhia agreed with the process for the project. However, WalMart and GGP there was a water table problem with the high tide. Kelly had done an archaeological research on Waikīkī which included burials. This report should be made available to the OIBC as a reference. In addition, there needs to be a re-interment site identified for the KSBE Kaka'ako Mater Plan Project in anticipation of possible burials.

Kekuewa clarified that the trenches discussed went down to the coral shelf and not just to the water table as earlier stated.

**C. Legislative Task Force**

**Information/Discussion/Recommendation:** Council discussion and recommendation update on possible items for the 2009 legislative packet.

Abad returned to her seat on the Council.

McKeague updated the Council on the legislative bills. Two bills are still active.

SB1083 amends 6E to add other Hawaiian organizations to the list, such as Kānaka Council, benevolent societies and royal orders, Association of Hawaiian Civic Clubs, Council for Native Hawaiian Advancement and Alu Like. This bill has passed three readings and has crossed over to the House. There still is time to give recommendations.

SB86 sets up a Mākua Valley Reserve Commission. The context of the bill would give responsibility of burials in this reserve to the commission and not to the burial council. This bill has passed three readings and will cross over to the House.

The Task Force will update the Council next month on the two bills.

**D. Update on vacancies to the Oahu Island Burial 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

Paik gave a brief update on her progress in contacting potential candidates for the open landowner/developer seats. She contacted Castle & Cook, Kāneʻohe Ranch and the City but has not heard back. She has not heard from the military and believes they may not be able to commit at this time. John Morgan, Kualoa Ranch, has expressed interest in serving but no definitive response as yet. Eric Enos was contacted but he is too busy right now to commit.

Paik urged anyone from either the public or the Council to contact her if they had any interested individuals. She explained that since the legislature is winding down, the time for confirmation may have passed and therefore the Governor can place an individual in an interim position until the next legislative session when the individual can be confirmed. The ratio is in question and if the seats are not filled, the OIBC will not be able to meet. Also, the parameters for the seat is that the individual must be employed or have interest in land totaling at least 100 acres.

Suggestions from the Council were:

QLCC – declined

Actus Land Lease - has not gotten back and may not be able because of the reorganization of the company

Queen Emma

Moanalua Foundation

Nature Conservancy

Nettie Tiffany

Cayan informed the Council that management has written letters to the Government agencies and the community for these open seats.

**E. Status Update on Section 106/NAGPRA Correspondence**

**Informational/Discussion/Recommendation:** Report from the council's designees established to screen the review of Section 106/NAGPRA Correspondence. Council updates, discussion and recommendations.

No update at this time.

**F. Marine Corp Base Hawaii Projects Update**

**Information/Discussion:** MCBH Cultural Resource Management staff to discuss projects on the Kāneʻohe Marine Corp Base with potential impact to burials. Council discussion and recommendations.

Cleghorn updated the Council on two notifications that went out to descendants. One was an inadvertent discovery in the Heleloa officer's housing project and the other was in the Waikulu NCO row in the middle of the base. Section 106 requirements have been met in regards to these inadvertent finds. The plan of NEPA action for the Kūpuna was disinterment and curation at Cleghorn's office. Both Kūpuna are believed to be secondary finds which can be assumed came from the sand dunes at Mōkapu. All disturbances were archaeologically monitored and a Burial Treatment Plan initiated. The remains will be re-interred with the rest of the Mōkapu Kūpuna. The plan of action consists listing all discoveries for each week, then the next week send out the notice to the consulting parties.

Kruse asked if the plan of action for the base was only for the newest finds or does it include those still at Bishop Museum. She inquired what the holdup was in the reburial process and if it was the consensus of the descendants as the problem for as she understood the number is in the thousands waiting for reburial.

Cleghorn explained that the plan of action is specific for each find or neighborhood project and does not include the reburial of the other Kūpuna from Mōkapu.

Mahi stated that he spoke with Ms. Camvel, a descendant, and was told that there is a place designated for the reburial and he could not understand what the holdup is at this point.

Cleghorn explained the Marine Corp has stipulated that in order to initiate the execution of the reburials, a letter must be written and signed by all claimants. There is a consensus for the new burial site but the letter has not been done to date. Verbally the descendants have gotten consensus.

Mahi said he will stress with Ko'olau Poko Hawaiian Civic Club to kokua the Mōkapu descendants in getting the reburial done.

McQuivey asked if the new site has been approved by the Marine Corp.

Cleghorn explained that the new site has not been approved to date because of the process. The site that was approved was for the cave on Pu'u Hawai'i Loa. The new proposed site would require NIPA action and an amended Environmental Assessment for the new site before approval can be given.

McQuivey asked how the OIBC can assist the process.

Cleghorn answered that having the Civic Club or other groups encouraging the descendants to write the letter would be helpful as the Marine Corp needs in writing the

proposal and intended actions before they can move forward. The quickest way to proceed would be to use Hawai'i Loa since that location has been approved.

Abad asked about the status of the PA.

Cleghorn said that a draft PA will be presented to the OIBC at the April meeting. She asked the Council for assistance in letting the Marine Corp know what kinds of actions would require a PA.

Abad asked if the descendant's letter to the Marine Corp should be reviewed by the OIBC as a consulting party.

Cleghorn agreed that the letter should be reviewed by the Council and asked the Council to be in contact with Ms. Camvel directly. There are 16 active claimants for the reburial.

McQuivey will write a letter to Command.

Kuhia has given his claim to Cleghorn and has been granted cultural descendancy under the Pratt Ohana. He had one concern on right of possession. He believes that the next of kin should have the possession of the Kūpuna according to federal law. Also in federal law under NAGPRA, the landowner on the surface has control of the artifacts and remains found beneath their property. This was the case in the Forbes cave issue where Hawaiian Home Lands stopped Hui Mālama from entering the cave. He cautioned the Council that federal law may be applied in this case as well. According to this law, the Pratt Ohana will seek the right of possession for the Mōkapu Kūpuna and in so doing rebury the Kūpuna as quickly as possible and not wait for another 20 years.

Aguon asked how many and how long have the Kūpuna been out and not reburied.

Cleghorn answered that there are approximately 1600 of the original find and since there have been isolated finds. The jurisdiction has been handed over to the descendants in 1998 so the Marine Corp does not have jurisdiction over the 1600. The Marine Corp has approximately 100 in their vault.

**G. Kawaiaha'o Church Multipurpose Building Renovation Project, Honolulu  
Ahupua'a, Kona District, Island of O'ahu**

**[TMK: (1) 2-1-032:017]**

**Information/Discussion:** Presentation by Kuiwalu and Kawaiaha'o Church. Informational update on the inadvertent discoveries on the subject project.

Chang gave a brief update on the recent discoveries and clarification on issues from the last meeting. A handout was given to the Council. There were constraints involving the utility lines and therefore two trenches are required. Cultural Surveys Hawaii (CSH) is using GPR to find anomalies as an indicator of remains. The trenches are being done by controlled excavation and hand excavation. However, there are some areas where hand trenching could not be done according to OSHA rules. She once again reiterated that this is a cemetery and though proactive measures to find all possible burial sites such as

researching old maps, burial records, and calls to families whose plots would be affected still could not predict the actual number of inadvertent discoveries. There was a small pox epidemic in 1860 and these individuals were predominately buried in the pauper

cemetery behind the Fire Station property however, a lot of Hawaiian died during this time and some may have been buried in family plots. Another reason for the stacking could be attributed to request being granted to family members to be buried with their loved ones. All discoveries are being considered inadvertent and consultation is continuing with families. The Nā Iwi Committee has advocated for disinterment and reburial on property at another site. All Kūpuna are now stored in a secure facility on site.

McQuivey thanked Chang, Kawaiaha'o and CSH for coming to the Council each month with the updates. He realized the sensitivity involved in this issue and asks that if there are new updates to please inform the Council.

Ehrhorn asked if micro-tunneling was discussed as an option. Chang answered that the methodology was considered but was deemed unacceptable. CSH has done a 3D GPR to identify anomalies for the foundation of the building.

Cayan explained that SHPD has stopped any further excavation until a meeting occurs to discuss the findings of the GPR and possible options moving forward.

Abad asked how much of the ground disturbance involving the construction has been done.

Caindec replied that a total of 30% has been done. He clarified that only the area with Kūpuna has been halted. Construction is continuing in other areas not affected by the discoveries. There will be trenching done in the front part of the Church for fire hydrant and waterline lines and GPR has found no anomalies. The construction will begin in that area.

Abad asked of the sensitive areas, how much of the work is complete. Zane answered that the sewer trench is almost complete. The utility line will be hand dug as it is a much shallower trench and that needs to be done. Caindec said that the previous cemetery which was under Likeke Hall is about 10-15% complete.

Chang applauded SHPD for their cooperation regarding this matter and their timely response.

Young told the Council that he has a list of all families that are buried at the church from 1850-1860. This list will be used as a reference in contacting families.

Raser commented that the focus seems to be on the process but there needs to be a focus on the responsibility of the church and the fact that Kawaiaha'o is a church and should be concerned about the iwi. There should be only one concern and that is the iwi. He is divided on this issue as he has close ties to the church. He would like to see the term inadvertent not used for any of the iwi. At certain points in time do we balance where we are on what has to be done to move forward in the future but at the same time do we forget where we came from in the first place and these are the people from where we came from.

Kuhia commented that before the church was built there were Kūpuna there.

Mahi reiterated his manao to continue the motion as established in February's meeting to continue the work that the church and committee is doing knowing that there will be Kūpuna found. He did not believe that the Council as a group has changed their stand.

Abad wished to caution that the process was not ideal in this situation and input not given on the front end before decisions were made. This is the point she is trying to make in regards to this project and to make sure that future projects follow a process that allows for front end informational gathering before decisions are made.

Chang explained that no AIS done at the front end of the project. As a result the project is trying at this point to go back to what should have been done to minimize more discoveries. As a result, the utility trench has been redesigned as well as lateral lines, connection points, foundation depths and realignments to minimize impact.

Suganuma voiced his concern about the term inadvertent as it is a cemetery and someone consciously, at some point in time, buried the individual. Another is where are the disinterred Kūpuna housed down stairs and what is happening with them. The Kūpuna chose to be buried in a sacred place for a reason and in honor of their worship and religion. These people chose to be close to their place of worship and the very organization with whom they are there to support and to be close to are the ones taking them out of the ground. He did not see family members in attendance at this meeting and felt they should be there for the Council to hear their manao other than just by the people doing the work. As a church, where does moving forward and honoring the values of their foundation, where are the priorities. He saw this project as a continuation of a policy to place development and progress first and deal with iwi later. This he feels is unacceptable to Hawaiians, society and institutions such as churches to unbury their dead for progress. The question he had was the disinterment of those Kūpuna that have come out worth it and balance the moral cost to progress cost.

Caindec added a historic perspective to the project. The new building will be on the footprint of the old building. He also gave a chronological order of the pastors. The decision for the location of the new facility was in large part due to the sensitivity of making the least amount of disturbance as possible.

Young said that the families have expressed their desire to see the project continue knowing that more Kūpuna will be found. The families are included in all decisions concerning the Kūpuna. Maa-Lapilio added that she is thankful to Caindec and Young for their work on this project. Notifying the families started three years ago. There are about 300 families in total that have been notified. There are about a dozen burial plots in the project area.

McQuivey asked that families attend the next meeting. The resolution as approved from February meeting still stand in regards to the OIBC position for this matter. In addition that Cayan invite the Kona representatives to the next meeting with SHPD.

## **VI. SHPD INADVERTENT DISCOVERY REPORT**

**A. Kawaiaha'o Church Multipurpose Renovation Project, Honolulu Ahupua'a, Kona District, Island of O'ahu**

**Information/Discussion:** this item will be addressed in the Kawaiaha'o Church update.

Already discussed in item V.G Kawaiaha'o Church Update.

**B. Received via mail remains sent from the mainland possibly originating from the Kalaeloa area**

**Information/Discussion**

Paik explained that a box was shipped to SHPD from the mainland containing 2 skulls. The letter accompanying the Kūpuna explained that during WWII, the sender's father-in-law was stationed in Hawai'i at Barber's Point (Kalaeloa). He was a dentist and the skulls were given to him for study. He since has passed and his daughter wished to return the Kūpuna for proper burial. The Kūpuna are now in the repository and will be included in the re-interment of the other 'Ewa Kūpuna.

**VII. ADJOURNMENT**

Meeting was adjourned at 1:00 pm.

McKeague/Kane

Vote: unanimous

Respectfully submitted by,

Linda Kaleo Paik