



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

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD. STE 555  
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**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Kaua'i Ni'ihau Island Burial Council**  
**Meeting Minutes**

**DATE:** Wednesday, December 16, 2015  
**TIME:** 9:00 am to 10:50 am  
**PLACE:** Department of Transportation  
Conference Room  
1720 Haleukana Street  
Lihue, Hawaii 96766

**KNIBC MEMBERS:** Keith Yap, Landowner/Developer Representative  
Mauna Kea Trask, Koloa Representative  
Janet Kaeo Bradford, Lihue Representative  
Wayne Palala Harada, Napali Representative  
Barbara Say, Hanalei Representative  
Leiana Robinson, Niihau Representative

**ABSENT/EXCUSED:** Nathan Kalama, Kawaihau Representative  
Debra Ruiz, Waimea Representative

**SHPD STAFF:** Kauanoe Hoomanawanui, Kauai Island Burial Sites Specialists  
Mary Naone, Kauai Archaeologist

**GUESTS:** Mike Dega, Scientific Consultants Solutions (SCS)  
Kaliko Santos, Office of Hawaiian Affairs (OHA)-Kauai  
Aulii Mitchell, Cultural Surveys Hawaii (CSH)  
Jim Powell, Scientific Consultants Solutions (SCS)

**I. OPEN REMARKS:**

Keith Yap, KNIBC Chair called the meeting to order at 9:10am.

**II. ROLL CALL/PULE:**

Lihue Representative Janet Kaeo Bradford gave pule.

Chairman Yap, KNIBC members and the SHPD staff introduced themselves.

**III. APPROVAL OF MINUTES**

**A. July 15, 2015**

**B. September 16, 2015**

**C. November 18, 2015**

**Mauna Kea Trask moved and Barbara Say seconded motion to approve minutes.**

Chairman Yap opens the floor for discussion.

Kaliko Santos of Office of Hawaiian Affairs explains corrections for September 16, 2015 minutes on page 2 to include DHHL as a state agency and not a federal agency. In addition, page 2 on the July 15, 2015 correct the spelling from Kalauea to Kalalea.

**Motion approved unanimously with corrections.**

**IV. BUSINESS**

- A. Discussion on the KNIBC’s power under HRS 6E-43.5 (g) (2) to, “assist the department in the inventory and identification of native Hawaiian burial sites.”**  
**Update/Discussion:** Discussion of the above.
- B. Discussion on the KNIBC’s power under HAR 13-300-24 (b) to “assist the department in the inventory and identification of native Hawaiian burial sites by providing information obtained by families and other sources.”**  
**Update/Discussion:** Discussion of the above.
- C. Discussion on the KNIBC’s power under HAR 13-300-24 (h) and SHPD’s interpretation of the same given that the council, “shall be authorized to take any other appropriate actions in furtherance of this chapter [; and that,] nothing in this section shall be construed to limit the authority of the council as to matters provided in chapter 6E, HRS.”**  
**Update/Discussion:** Discussion of the above.
- D. Discussion regarding SHPD’s actions to the KNIBC’s efforts to identify and inventory previously identified burial sites.**  
**Update/Discussion:** Discussion of the above.
- E. Discussion on the KNIBC’s power under HRS 6E-43.5 (g)(3) to, “make recommendations regarding appropriate management, treatment, and protection of native Hawaiian burial sites, and on any other matters relating to native Hawaiian burial sites.”**  
**Update/Discussion:** Discussion of the above.

Mauna Kea Trask, Koloa representative suggests including items A-E in one discussion. Trask continues to explain, I sent these questions to the department to understand our fruits of our efforts have been or will be. I don’t want to speak for the rest of the members but for me it’s getting frustrating. With the idea to help, triggered by the Brescia case in how I can assist the council in prosecuting our job. Implementing our very important task by reaching out to the community and making motions to recognize areas or assist department in recording these things. I would like to draft a response in a nice tone and bring to the council for discussion and approval. For instance item A. we have done that and what is the next step. Barbara Say suggests if we don’t here from the agencies we do it and then notify the department. Trask adds it doesn’t go on the record only we would know. The state department still wouldn’t be recognizing it. Say continues to explain it takes

so long and for years we have iwi that isn't put back. Trask clarifies SHPD will always be understaffed and overburdened and we hope they aren't rebuffing us.

Chairman Yap suggests trying to move the state through policy is something extremely difficult whether they can control it or not. I do believe we have gotten to a point the akamai developers are coming in early and getting our input early on. This island the developers are consulting early on before any plans are being completed. That is what the intent of what the law meant. It's better now than it ever was. I understand the different standpoints having a bite and not only a bark. Unless the will of the people and legislature change the policy we will have more authority. Land rights versus cultural rights are coming to a head and in some ways I like where we are at today. I would like to see how we can maneuver to get more teeth. The community as well as the development community understand us and will be better off coming in early to us. Administrative penalties are appropriate. Trasks agrees we have to work together and move forward.

**Mauna Kea Trask moved and Barbara Say seconded the motion to receive the AG response.**

Chairperson Yap opened the floor for discussion.

**Motion approved unanimously.**

## **V. SHPD INADVERTENT DISCOVERIES/OTHER CORRESPONDENCE**

### **A. Inadvertent Discovery of Human Skeletal Remains at Kauai Shores, South Oloheua Ahupua'a, Puna District, Island of Kaua'i, TMK: (4) 4-3-002:012.**

**Update/Discussion/Recommendation:** Discussion and recommendation the above find.

James Powell and Mike Dega of Scientific Consultants Services (SCS) introduced themselves and explained the recent inadvertent discoveries at Kauai Shores in the Waipouli area. We have 5 burials inadvertently discovered. Some are called burials but are only fragments. They have completed 85% of their below ground infrastructure. We are working with the last pipe installation and have data recovery required by SHPD as we should find it before the machines do. They are all stored on site. The building was an airplane hangar and the roof is very steep and when it rains the water is piped into the gutters than the ground. They wanted to drain the water into a drywell through large pipes. One was not on the original plane for permit and the other one is on the original plan. They plan to install the one that was in the original plan. The other one has been removed and they will be letting the water flow naturally. In order to avoid going to planning and permitting they will probably come back and address it later. Chairman Yap asks if they are still being cooperative and Powell answers yes they have been cooperative. We are still sifting sand from the back pile but have changed the screen size to speed it up as they have found most of the remains. We have talked to Mary about the seating arrangements on the sand. However being construction guys they need help. They have a six inch fill they would like to put in at least 3 inches of sifted sand and then sand brought in from elsewhere. The sand is screened and there is less of a chance in finding iwi. Say offers grass, Powell answers the concept is to service the tourist in keeping their feet in the sand during their dining experience. They would like to use the sifted sand as base coarse and softer sand for the surface. They have a ton of sand that needs to go somewhere and cant remove it from the property. Hoomanawanui asks why they need KNIBC guidance in where the sand goes. Mary answers it's an archaeological call, I found using sand that contained human burials didn't seem appropriate to me. I would like to hear what the burial council thinks. Say asks aren't they going to grass the area, Powell answers they would like to offer dining in the sand. Chairman Yap clarifies first and foremost the sand should not be removed from the property. They can use it for some landscaping areas around the property.

Chairperson Yap opens the floor for discussion.

Aulii Mitchell from Moku of Keawe explains the burial practices of his ancestors as a native Hawaiian. All our islands are connected from the aina and this is heavy to hear. As malahini is expected to fit their feet in the sand, the sand from which the iwi came from. Our papa Hanau Moku and the cycle of the mana continue even after the burials are moved. We are always serving the malahini and that does not settle well. I can only speak from my Ohana. There are times certain iwi pieces were kept and some were buried. Mahalo nui these are just my thoughts. Dega clarifies what can we do with the sand, do you want the sand on the surface or all buried in trenches? Chairman Yap states it's okay in a landscape situation and not sticking your toes in the sand. The trenches are already full and there will be a lot of excess sand. Bradford would like to make comment as certain individuals were held by their families. They did hold onto certain bones and are later buried with those pieces. The bones would be separated. Dega asks which bones would be taken. Mitchell answers the long bones and that could answer why they are commonly missing. Bradford clarifies children especially and Say adds human hair as well.

## **VI. ANNOUNCEMENT**

**A. Next meeting date is scheduled for Wednesday, January 20, 2016**

## **VII. ADJOURNMENT**

**Chairperson Yap entertained a motion for adjournment Bradford seconded, Chair adjourned the meeting at 10:40 am.**

Respectfully Submitted,

Kauanoë Hoomanawanui