

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MINUTES
OAHU ISLAND BURIAL COUNCIL MEETING

DATE: Wednesday, April 10, 2013
TIME: 10:00am
PLACE: Department of Land and Natural Resources
Kalanimoku Building-Board Room
1151 Punchbowl Street
Honolulu, Hawaii 96813

ATTENDANCE:

Members:

Hinaleimoana Wong-Kalu, Chair
Jonathan Scheuer, Vice-Chair
Steve Hoag
Aaron Mahi
Chuck Ehrhorn
Danna Holck

Staff:

Kawika Farm, Burial Sites Specialist

Absent:

Shad Kane Excused
Pokii Magallanes Excused
Kali Fermantez

Guest:

Lopaka Asam	Len Lorenzo
Lana Lorenzo	Kalani Asam
Tom Dye	Kawika McKeague
Kevin Miyamura	Donna Makaiwi
Kaanohi Kaleikini	JR Keonekapu William
Mana Caceres	Kekaimalino Kaopio
Bryan Nakamura	Gary Omori
Lani Lapilio	Haaheo Guanson
Kaleo Patterson	Matt McDermott
Lily Felton	Kamaile Maldonado
Jerome Yasuhara	Vicky Takamine Holt
Faith Miyamoto	

I. CALL TO ORDER/PULE

The Oahu Island Burial Council (OIBC) chair, Hinaleimoana Wong-Kalu called the meeting to order at 10:14am.

II. ROLL CALL/PULE

Wong-Kalu gave the *pule wehe*. OIBC members; Wong-Kalu, Jonathan Scheuer, Chuck Ehrhorn, Steve Hoag and Danna Holck introduced themselves. From the State Historic Preservation Division (SHPD), Kawika Farm introduced himself.

Scheuer informed the audience that the OIBC would move through the agenda as quickly as possible due to members needing to leave which would leave the council without quorum.

III. MINUTES

Wong-Kalu asked that approval of the minutes be deferred.

IV. BUSINESS

Scheuer informed the audience that those individuals up for recognition before the OIBC had the right to request their item be discussed in executive session.

A. Department's Recommendation to Recognize Justin Kepoohunaikauoli Keliipaakaua as a Cultural Descendant to Unidentified Human Skeletal Remains Found in Phase IV City Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001.

Discussion/Determination: Discussion and determination to recognize above individual as a cultural descendant to unidentified human skeletal remains at above project.

Scheuer moved and Ehrhorn seconded, "that the burial council accept the recommendation by the department to recognize Justin Kepoohunaikauoli Keliipaakaua (Scheuer clarified the last name is one name and not separated) as a cultural descendant to unidentified human skeletal remains found in Phase IV City Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001."

Kaanohi Kaleikini supported the recognition of the named individual as he is her sister's grandson.

VOTE: ALL IN FAVOR. Motion carried.

B. Department's Recommendation to Recognize Bruce Yoshio Keaulani as a Cultural Descendant to Unidentified Human Skeletal Remains Found in Phase IV City Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001.

Discussion/Determination: Discussion and determination to recognize above individual as a cultural descendant to unidentified human skeletal remains at above project.

Scheuer moved and Holck seconded, "that we [the burial council] accept the department's recommendation to recognize Bruce Yoshio Keaulani as a cultural descendant to unidentified human skeletal remains found in Phase IV City Center for

Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001.”

Kaleikini wanted to know what process the genealogist hired by Honolulu Authority for Rapid Transportation (HART) followed and if the genealogist followed the same rules as SHPD. Kaleikini wanted assurance the genealogist was not rushing applications through the process and did not want anyone to think that cultural recognition should be taken lightly. Kaleikini did not object to claimants coming forward seeking cultural recognition as descendants if they wanted to *malama* the *iwi* of their *kupuna*, she was concerned that some claimants were coming forward with other intentions that were not *pono*. Kaleikini wanted the council to scrutinize every claimant seeking cultural recognition to ascertain the merit of their request.

Lopaka Asam felt all *kanaka maoli* had the right to come forward as cultural descendants.

Farm said SHPD had a backlog of applications from claimants seeking cultural recognition. To address the matter, SHPD initiated discussion with representatives of HART about the possibility of HART hiring their own genealogist to conduct a preliminary review of potential applicants following Hawaii Administrative Rules (HAR). SHPD would then review the applications of those claimants the genealogist felt met the standards of a cultural descendant and draft a recommendation to the OIBC for determination. Farm said the OIBC is the deciding body regarding recognition of descendants and that the OIBC could always move into executive session to cross examine claimants if the OIBC felt SHPD had erred in its recommendation.

Lenneth Lorenzo said he is the genealogist hired by HART. Lorenzo said he reviewed a claimant's application and submitted a report to SHPD. Lorenzo said he was not a decision maker in the process and that he was simply assisting potential claimants. Lorenzo acknowledged that recognition could only be granted by the OIBC.

Scheuer wanted to know if claimants had the option of having only SHPD review their application to which Farm answered yes. Scheuer wanted to know how the process that HART's genealogist followed differed from the process utilized by SHPD. Farm said the process was the same except that HART's genealogist had more time to dedicate specifically to review applications submitted by claimants. Scheuer wanted to know what SHPD did with the reports the genealogist submitted to SHPD. Farm said SHPD would meet with the genealogist to go over each report and address any concerns or discrepancies and reminded the council that SHPD ultimately drafts the recommendation to the council on whether a claimant should be recognized as a descendant.

Wong-Kalu said she was part of the selection process of hiring HART's genealogist.

Farm said SHPD has been seeking clarification from the attorney general's (AG) office regarding the standards of a cultural descendant. Farm said HAR did not contain language which specifically addressed the time period a claimant needed to established genealogical connections to and that previous guidance from the AG's office interpreted the rules very loosely. Farm said the rules simply stated that a cultural descendant must establish genealogical connections to someone that once resided, is buried or both in an ahupuaa and was told that a change in HAR may be warranted. Farm disagreed with loosely interpreting HAR as suggested by the AG's office.

Asam preferred someone from the AG's office weigh in on the issue. Wong-Kalu said the AGs are not cultural resources and wanted to hear from Farm as SHPD's representative from the history and culture branch.

Farm said cultural recognition was created for those claimants seeking recognition as a lineal descendant but could not positively identify who the encountered burial was. Farm said historically, Hawaiians that lived in a particular area more than likely were related and that if claimants failed to prove who the burial was but established a genealogical connection to someone from that particular area, then the claimant should be afforded cultural recognition. Farm did not think HAR meant to recognize claimants as cultural descendants who could only establish a genealogical connection one or two generations ago. Farm said HART's genealogist had the discretion to push claimants to establish genealogical connections much further than SHPD. Farm said SHPD was still clarifying the matter with the AG's office. Farm said SHPD's recommendation to the OIBC is based on its review of everything submitted by a claimant. Farm said the council could always question claimants directly if the council disagreed with SHPD's recommendation as the council had the final say on recognition.

Wong-Kalu felt a cultural perspective was very important and did not think the AG's office necessarily understood the cultural aspect or implications of HAR.

Kaleikini said she challenged the lineal recognition afforded to claimants by the council in another matter and successfully had the claimants stripped of their lineal recognition. Kaleikini said the rules are very important and agreed with prior a comment made that the AG's office needed to weigh in on the matter for clarification. Kaleikini did not want cultural recognition taken lightly because she was not sure if claimants coming forward would actually *malama* the *iwi*. Kaleikini suggested all recognition be deferred until the AG's office addressed the concerns raised. Kaleikini felt SHPD and the AG's office both needed to agree on the interpretation of cultural recognition.

Farm suggested the council move into executive session and question each claimant to their satisfaction prior to making a determination on whether the claimant should be afforded cultural recognition.

Kaleikini disagreed with Farm's suggestion and wanted the matter clarified with the AG's office. Kaleikini reiterated her request to defer all recognition until the matter has been addressed with and by the AG's office.

Scheuer moved and Ehrhorn seconded to move into executive session

Scheuer moved and Ehrhorn seconded to move out of executive session.

Scheuer withdrew his motion and Holck withdrew her seconding of that motion.

Scheuer said recognition was afforded to the individual in the previous agenda item because that individual had already been previously recognized to the Honolulu ahupuaa for other burials and projects.

Scheuer moved and Ehrhorn seconded to defer action on agenda items IV A, B, C, D and E and request the presence of an attorney general at the next OIBC meeting to discuss the standards applied when granting cultural recognition as well as issues pertaining to the use of an outside genealogist in support of SHPD's recommendation to the council.

VOTE: ALL IN FAVOR. Motion carried.

C. Department's Recommendation to Recognize Euel Ray Kaleihau Kamaau as a Cultural Descendant to Unidentified Human Skeletal Remains Found in Phase IV City

Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001.

Discussion/Determination: Discussion and determination to recognize above individual as a cultural descendant to unidentified human skeletal remains at above project.

Item was deferred.

D. Department's Recommendation to Recognize Baldo Alfred Kaleo Patterson, Jordan Patterson and Josiah Patterson as Cultural Descendants to Unidentified Human Skeletal Remains Found in Phase IV City Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001.

Discussion/Determination: Discussion and determination to recognize above individuals as cultural descendants to unidentified human skeletal remains at above project.

Item was deferred.

E. Department's Recommendation to Recognize Dixie Kuulei Afoa Kalamau as a Cultural Descendant to Unidentified Human Skeletal Remains Found in Phase IV City Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 1-7-002:026, 2-1-051, 2-1-050:067 & 2-3-002:001.

Discussion/Determination: Discussion and determination to recognize above individual as a cultural descendant to unidentified human skeletal remains at above project.

Item was deferred.

F. Ola Ka Ilima Project, Waikiki Ahupuaa, Kona District, Island of Oahu, TMK: 2-3-03:040.

Information/Discussion/Recommendations: Update and discussion of above project and creative art space/cultural center.

Kawika McKeague of PAI introduced Vicky Holt Takamine also of PAI, Tom Dye the project's archaeologist and Kevin Miyamura the project's architect. McKeague said the project was an affordable housing development geared towards artists. McKeague said PAI was partnered with Art Space and that the project was located in Kewalo. McKeague said they were before the council to present the conceptual design on what the project would look like which would guide the archaeological work that needed to occur.

Miyamura went over a PowerPoint presentation and said the project would have 80 units over two floors of parking. Miyamura said the project tried to reduce proposed construction to minimize the potential impact on *iwi* that may be present.

Dye said the project conducted soil boring which were monitored by an archaeologist. Monitoring revealed the presence of a sand layer throughout the property which potentially contains *iwi kupuna*. Dye said an archaeological inventory survey (AIS) would be conducted for the entire project area that will be impacted by construction. Test trenches would be placed throughout the entire foundation of the proposed project.

Ehrhorn wanted to know how the project proposed to handle the possible encounter of skeletal fragments within the fill layer throughout the project. Dye was not concerned about skeletal fragments within the fill layers as he thought the probability of such encounter was relatively low. Dye thought the matter would need to be addressed on a case by case basis. McKeague said the project would do what makes sense and is *pono*.

Aaron Mahi enters the meeting at 11:33am.

Miyamura said the project completed approximately 33% of its design.

Wong-Kalu informed the audience of McKeague's contact info and encouraged interested parties to consult with the project's representatives.

G. Update on Legislative Bills and Measures.

Information/Discussion/Recommendation: Update on bills and measures that relate to burial councils.

Kamaile Maldonado from the Office of Hawaiian Affairs (OHA) went over her handout of bills that relate to burial councils. Maldonado covered Senate Bill 407 which sought to clarify statutory provisions relating to composition and quorum of island burial councils. Maldonado said the language of SB407 was still being worked out. Maldonado handed the council OHA's most updated draft of SB407 and went over the changes made. Maldonado said SB1171 which would permit the phased review of certain projects by SHPD passed third reading before the House and would now be transmitted to the Senate.

Scheuer informed the audience that General Measure 729 which involved the confirmation of Wong-Kalu to a second term on the OIBC would be heard later in the afternoon.

H. Archaeological Inventory Survey work of Phase IV City Center for Honolulu Authority for Rapid Transportation Project, Honolulu Ahupuaa, Kona District, Island of Oahu.

Update/Information/Discussion/Recommendation: Update and discussion of human skeletal remains identified within trench 227 A and trench 226 C.

Kaleo Patterson, Lani Maa Lapilio, Faith Miyamoto and Matt McDermott came before the council to discuss the subject agenda item. McDermott of Cultural Surveys Hawaii (CSH) said SHPD submitted comments for the AIS which covered the airport area and CSH was currently working on the requested revisions. McDermott said the AIS report for Phase IV City Center was submitted to SHPD on April 8 for review. McDermott said the report was posted on HART's webpage and was approximately 4500 pages. McDermott said the public could download the AIS report from HART's webpage and recommended focusing on volume I.

Miyamoto the chief planner for HART said a misunderstanding occurred at HART's most recent consultation meeting and asked Lapilio to clarify the matter.

Lapilio of Aukahi said HART held six consultation meetings, five open meetings for all interested parties and one meeting for recognized descendants which was convened and cancelled. Lapilio said HART would continue to have open meetings, but would also have closed meetings for recognized descendants only. The meeting for recognized descendants would focus on specific treatment for the *iwi* encountered during the AIS. The project aimed to hold two meetings a month, one open and one closed in addition to coming before the OIBC offering multiple opportunities for consultation. Lapilio said the most recent meeting for recognized descendants was cancelled because there were other individuals that showed up for the meeting that were not recognized as cultural descendants and refused to leave.

Kaleikini reiterated concern about HART's hiring of a genealogist and did not want the review of applications expedited. Kaleikini felt it was important that all reviews are done thoroughly and in a *pono* manner. Kaleikini did not think all the claimants coming forward should be recognized as cultural descendants.

Kalani Asam (K Asam) said he continues to learn about the process but asked that other Hawaiians be mindful of others that want to participate in the consultation process.

Patterson agreed the process was very important and appreciated the work HART's genealogist and SHPD did.

Asam also felt all Hawaiians had the responsibility to care for their ancestors and would advocate for the best interest of all *iwi* that is Native Hawaiian. Asam did not like when Hawaiians fought amongst themselves.

Kaleikini hoped Asam would reiterate his comments if and when *iwi* are encountered and proposed for relocation. Kaleikini said in historic times not anyone could *malama* the *iwi* and that those that cared for the *iwi* were chosen. Kaleikini felt only family should care for the bones of their ancestors. Kaleikini felt the recognition process was extremely important and felt SHPD and the OIBC had a very important role. Kaleikini questioned whether all the claimants seeking recognition as cultural descendants fully understood the *kuleana* associated with their recognition. Kaleikini expects all recognized descendants to follow through with their *kuleana* to *malama* the *iwi* of their *kupuna*. Kaleikini felt many of the claimants seeking recognition as cultural descendants were only coming forward to pursue the financial benefit of becoming a cultural monitor. Kaleikini said many of the cultural descendants already recognized don't even participate with *kanu* ceremonies. Kaleikini said very few recognized descendants actually come out to fulfill their *kuleana* as cultural descendants. Kaleikini pleaded with the council to be very careful with who is afforded recognition as a cultural descendant.

Asam reiterated his comments that Hawaiians are responsible for caring for the bones of their ancestors and did not want any Hawaiian skeletal remains cared for by non-Hawaiians.

Wong-Kalu said it was okay for Hawaiians to disagree as long as the issue was kept in perspective. Wong-Kalu said the process of submitting genealogical information to SHPD and coming before the burial council for recognition as a cultural descendant was the law and rules that must currently be followed. Wong-Kalu reminded everyone why they were at the meeting which is to *malama* the *iwi* of their *kupuna* and felt that should be a claimant's purpose. Wong-Kalu agreed that individuals, whose purpose was not for the care of their ancestors, should not come forward as a cultural descendant.

I. Kawaiahao Church Multi-Purpose Building Renovation Project, Honolulu Ahupuaa, Kona District, Island of Oahu, TMK: 2-1-032:017.

Update/Information/Discussion/Recommendation: Update and discussion of above project.

Scheuer said the OIBC passed four motions at their previous meeting regarding Kawaiahao Church. The first pertained to the OIBC mediating with the church to resolve the situation outside of the court system. The second enabled the OIBC to respond should any of the parties appeal the intermediate court of appeals ruling. The third sought to secure legal council separate from the AG's office. The fourth delegated authority to the chair and vice-chair to act on behalf of the OIBC and manage the issues involving Kawaiahao. Scheuer said he and the chair have been actively pursuing each motion previously made by the council at a prior meeting. Scheuer said they reached a road block regarding whether the OIBC could seek outside legal council. Scheuer said a worst case scenario would involve either he or the chair or both to respond to the court system as individuals and not members of the OIBC.

V. INADVERTENT DISCOVERIES

A. Hale Mohall II Development Project, Waimano Ahupuaa, Ewa District, Island of Oahu, TMK: 9-7-019:035.

Update/Information/Discussion/Recommendation: Update and discussion of above project and disturbance of area slated for preservation.

McDermott of CSH said the most recent finds involved two individuals. One individual appeared supine and the other appeared flexed. The current finds are approximately 50-60 feet from a designated preservation site and was encountered during trenching for a sewer line. The project on its own decided to reroute the sewer line so that the burial at least had the option of being preserved in place. The burials could also be relocated to the established preservation area and the project was awaiting SHPD's determination.

Scheuer wanted to know what was being constructed to which McDermott answered elderly and low affordable housing units.

McDermott said the burials were found in a hard clay layer. Scheuer informed the audience that these finds were proof that burials are found in other stratigraphy and not just jaucus sand layers.

VI. ANNOUNCEMENTS

- A. Next meeting date is scheduled for Wednesday, May 8, 2013.**
- B. Submittal and confirmation of GM729 for Hinaleimoana Wong-Kalu.**

Scheuer reminded the audience of Wong-Kalu's confirmation at 2:45 in room 224 at the State Capitol and encouraged people to attend in support for Wong-Kalu.

VII. ADJOURNMENT

Scheuer moved and Mahi seconded to adjourn the meeting at 12:50pm.