



DAVID Y. IGE
GOVERNOR OF HAWAII



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

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

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD. STE 555
KAPOLEI, HAWAII 96707

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

DATE: Wednesday, January 20, 2016
TIME: 9:00 am to 10:02 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
Debra Ruiz, Waimea Representative
Wayne Palala Harada, Napali Representative
Barbara Say, Hanalei Representative
Leiana Robinson, Niihau Representative

ABSENT/EXCUSED: Nathan Kalama, Kawaihau Representative
Janet Kaeo Bradford, Lihue Representative

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

GUESTS: Kaliko Santos, Office of Hawaiian Affairs (OHA)-Kauai
Milton Ching, Descendant to Paliku Beach
Nancy McMahon, County of Kauai
Lenny Rapozo, County of Kauai
Puanani Rogers, Ho'okipa Network, Ahupua'a Council
Rupert Rowe, Hui Malama o Kanei'olo'uma, Puna Moku

I. OPEN REMARKS:

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

II. ROLL CALL/PULE:

Koloa Representative Mauna Kea Trask gave pule.

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

III. APPROVAL OF MINUTES

A. December 16, 2015

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

Chairman Yap opens the floor for discussion.

Motion approved unanimously.

IV. BUSINESS

- A. National Historic Preservation Act (NHPA), Section 106 and Hawaii Revised Statutes (HRS), Chapter 6E Consultation, Bridge No.7E Replacement, Project NO. HI STP SR50 (2), Koloa District, Koloa Ahupua'a, Kauai Island, TMK: (4) 2-7-002:001 (por.), and 2-7-001 Kaumu'ali'i Highway Right-of-Way.**
Information/Discussion/Recommendation. Presentation by the Department of Transportation.

Chairman Yap deferred item to the next meeting as no one is here to present.

- B. Burial Treatment Plan for Site 50-30-08-1899 at Paliku Beach (Donkey Beach), Kealia Ahupua'a, Kawaihau District, Kauai Island, TMK (4) 4-7-04:6.**
Update/Discussion/Recommendation. Presentation by the County of Kauai.

For the record Mauna Kea Trask recuse himself from the agenda item.

Nancy McMahon of the County of Kauai introduced herself describing the original burial treatment plan prepared by Cultural Surveys Hawaii. Lenny Rapozo of the County of Kauai also introduced himself. McMahon presents the approved burial treatment plan from 2002. The burial council recognized Milton Ching, whom is here today. He has been involved with what happened. I, Kauanoe, and Milton did a site visit. Upon the visit we attempted to locate the burials. They were to be marked by a short pipe sticking out of the ground. Cultural Surveys was able to locate the GPS points describing the location of the burials. When the bike path project came about, the county planning department would only be implementing the burial treatment plan. In 2005 public works along with Melanie and Sunny of SHPD whom amended the expansion the burials preserve. It now extends from the bike path to the ocean however the approved burial treatment plan of 2000 includes only half of the area protected today. For the interim we have lined the expanded burial preserve with caution tape to prevent further disturbance to the area.

Lenny Rapozo states we unintentionally disturbed the burial area. We were doing some bike path maintenance in cleaning the shoulders. The bobcat operator asked me if he could clear the old road for better access to the beach for emergency access. We have two visuals for you to observe. The first is a map from 1950 showing the old cane road that existed within the 2000 BTP burial preserve area. The second is the bike path map that includes the amended BTP burial preserve. We also attached Mary Jane's letter citing the violations but no boundary of the preserve. Along with a map of the area disturbed and the permits we should have got to do maintenance within that area. Also attached are emails between us and the OCCL. We have installed temporary demarcations to prevent access into the area.

Chairperson Yap opened the floor for discussion.

Chairman Yap asked if an MOU has been finalized and Rapozo answered no. Council member Barbara Say states in the past that place was used as a dump. People use to dump all their cars and waste in that area. Rapozo explains we have cleaned up all the hazardous waste and aim to maintain that area however we have had issues with squatters that leave trash as well.

Nani Rogers introduced herself and clarified the proper name use of Paliku Beach not Donkey Beach. That whole area is sensitive to burials. Regardless if there visible or not we need to respect that area as it is sacred. How would you measure the sacredness of the burial site? There is such a thing as cultural landscaping.

Milton Ching introduced himself as a recognized descendant to this project and described the BTP markers that were supposed to be in place. I did a site visit to see if I could locate the burial markers and I couldn't locate them. I do not see any violation by the county as the burial preserve boundaries are not described accurately. The naupaka is overgrown to over 3 feet tall. The firms that I currently work for supplied GPS points to locate the burials and I recommend you folks look for the burial. These points were recorded in the field workers notes. The signs are clearly marked along the bike path. One was near the bushes and almost non visible and a few discarded signs found on the short makai fence line. Someone needs to identify the burials as well as the preserve boundaries. If they find the burials then we can identify if the county grubbed burials or not. Establish better signage and implement maintenance, Mahalo everyone for allowing me to testify.

Chair Yap recommends that the burial preserve is restored and signage is set forth around the whole preserve to ensure campers and pedestrians do not enter the burial preserve. We need it clearly delineated so no path goes through the burial preserve however not preventing the beach goer's access. Councilmember Debra Ruiz asks for clarity regarding Mr. Ching's recommendations. Am I correct to ask that we don't know the boundaries of the burial preserve or know exactly where the burials are located? So we are planning on a pretense that they might be here or there. What are we protecting if we can't locate them, we can't make assumptions. With the GPS coordinates, whose action would that be to identify the burials and the preserve boundaries. Yap clarifies the heavily vegetative area may be the burial area and has slightly shifted as it's on a steep hill. We don't know if you actually grubbed the preserve area. Mary Jane Naone states she created the violation letter based on the 2000 burial treatment plan. Nancy McMahon states the county wanted to expand the burial preserve and install boulders and additional signs. There were supposed to be more fencing but I don't see it. In 2005 the BTP was implemented with an expanded preserve to accommodate the bike path. The steep area was a possible reinternment area and that's why the need of the burial preserve expansion was utilized during the bike path development. The county did not take over the parcel till after 2005. Ching explained if we observe the trenching done in the 90's based on the aerial photo looks to be in the hau bush and the third trench would be near the white makai fence. Burial four would be near the grubbed area and they all would be within the burial preserve. However the second trench is not even included in the burial preserve according to this map. Again as a recommendation the burials need to be identified. McMahon suggests the planning department requires permits if we need to dig for fencing. However no permits would be necessary if implementing boulders and the existing signage. The second question is do you folks require additional maintenance. Ruiz explains if overgrown what prevents people from using the bathroom in the highly vegetative area. Palala Harada also gave concern to the use of the highly vegetative area by the druggies and homeless people. Say suggested that a field trip may be necessary so we may familiarize ourselves with the area. Yap clarifies whatever is approved in the plan is what we want to implement.

Councilmember Palala Harada moved and Barbara Say seconded the motion to recommend to the County of Kauai to restore the burial preserve and implement burial treatment plan.

Motion approved unanimously.

V. SHPD INADVERTENT DISCOVERIES/OTHER CORRESPONDENCE

- A. Native American Graves Protection and Repatriation Act (NAGPRA) Summary from Marshall University of Ethnographic Collection of Native Hawaiian Origin.**
Information/Discussion/Recommendation. Presentation by State Historic Preservation Division.

Kauanoe Hoomanawanui introduces herself and explains the consultation listed and asks for deferment to the next meeting as the consultant did not respond if the collection came from Kauai or Niihau. Once clarification is made an update will be made.

VI. ANNOUNCEMENT

- A. Next meeting date is scheduled for Wednesday, February 17, 2016**

VII. ADJOURNMENT

Chairperson Yap entertained a motion for adjournment Say seconded, Chair adjourned the meeting at 10:02 am.

Respectfully Submitted,

Kauanoe Hoomanawanui