

LINDA LINGLE  
GOVERNOR OF HAWAII



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

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

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BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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**HAWAI'I ISLAND BURIAL COUNCIL  
MEETING MINUTES**

**DATE: THURSDAY, JUNE 19, 2008**  
**TIME: 10:30 A.M.**  
**PLACE: PU'UANAHULU COMMUNITY  
ASSOCIATION CENTER  
17-1536 HAWAI'I BELT ROAD  
KAILUA-KONA, HAWAI'I 96740**

**HIBC MEMBERS:** Charles Young, Chair  
Kaleo Kualii  
Kimo Lee  
Roy Helbush  
Leningrad Elarionoff  
Ronald Dela Cruz  
Cynthia Nazara

**Absent / Excused:** Ululani Keliikoa-Sherlock, Vice-Chair  
Ku Kahakalau  
Pele Hanoa  
Dutchie Saffrey

**SHPD Staff:** Morgan Davis, Hawai'i Island Assistant Archaeologist  
Theresa Donham, Hawai'i Island Lead Archaeologist  
Wendy Machado, Hawai'i Island Cultural Historian  
Nancy McMahan, Archaeology and Historic Preservation Manager  
Pamela Matsukawa, Deputy Attorney General

**Guests:** Alan E. Haun, Ph.D., Haun & Associates  
Byron Moku, V.P., Cultural Resources, Hokuli'a  
Ed Stevens, Kahu Ku Mauna  
Arthur Hoke, Kahu Ku Mauna  
Stephanie Nagata, Interim Director, Office of Mauna Kea Management  
Toni Mallow, Kahu Ku Mauna  
Tiffnie Kakalia, Kahu Ku Mauna  
Stephan D. Clark, B.S., Pacific Consulting Services, Inc.  
Sara L. Collins, Ph.D., Pacific Consulting Services, Inc.

## I. OPENING REMARKS

HIBC Chair Charles Young (Young) called the meeting to order.

Cynthia Nazara (Nazara) gave the *pule wehe*.

The HIBC members and the SHPD staff introduced themselves.

## II. APPROVAL OF THE MAY 15, 2008 HIBC MEETING MINUTES.

Leningrad Elarionoff (Elarionoff) said that on page 7 of the minutes, the meeting was held in Kona, not on Oahu.

**A motion was made to approve the May 15, 2008 HIBC minutes as amended.  
(Elarionoff / Helbush)**

**VOTE: ALL IN FAVOR**

## III. BUSINESS

### A. A BURIAL TREATMENT PLAN FOR SITE 21835, HOKULI‘A SUBDIVISION, LAND OF ONOULI, SOUTH KONA DISTRICT, ISLAND OF HAWAI‘I, TMK: (3) 8-1-029: 048, 049

**Information / Discussion / Recommendation:** Presentation and discussion by Alan E. Haun, Ph.D., Haun & Associates.

Kimo Lee (Lee) stated that he would like to recuse himself from this item.

Elarionoff asked if Lee had to recuse himself from voting.

Pamela Matsukawa (Matsukawa) said that if Lee is recusing himself, he has to recuse himself from everything, from the entire discussion.

Elarionoff asked if this was just a request for Lee to recuse himself.

Matsukawa said no because Lee feels that he has a conflict, that is why he is recusing himself. There is an actual conflict because of his past work at Hokuli‘a.

Lee asked if the conflict had to do with specific sites.

Matsukawa said that Lee has a conflict because he worked at Hokuli‘a and was involved with these burials as Director of Development. Lee had over site with those areas where burials were found. There is an actual conflict and Lee has been recusing himself in the past. There is no reason for Lee to change his position at this time.

Elarionoff asked for clarification of the conflict.

Matsukawa asked Lee as Director of Development, was he involved in the burials that were found.

Lee said yes, there were many burials. The level of involvement depended upon the situation. Some were just identified as burials, no plan developed. Other burials, plans were developed. For those, Lee said that he recuses himself.

Young asked if these were cases that occurred after Lee left, would there still be a possible conflict.

Matsukawa asked Lee if the burials were discovered after he left.

Lee said no, that they were all identified and known burials at that time.

Matsukawa said that according to the ethics code, Lee does not have any financial interests in the company but he does have a conflict. At one time working for Hokuli‘a and now Lee is sitting on the Council having to take action with regards to burials that he was involved with as Director of Development.

Ronald Dela Cruz (Dela Cruz) said that this situation does not apply to Lee’s judgment now because the Burial Council makes decisions based on BTPs. His judgment does not conflict with reviewing BTPs.

Matsukawa suggested to move to a non-Hokuli‘a item while she consulted with the Oahu office.

Kaleo Kualii (Kualii) said that in previous situations, as long as there was no action to be taken, no vote to be made, there was no conflict.

Young said that the Council will not be taking a vote, and that the agenda items are only for discussion / information purposes. Young did not feel this to be a conflict with Lee participating, (listening and asking questions) until the Council got to an actual vote. Young asked for clarity on this matter.

Matsukawa said either he can participate or he has to recuse himself. If he recuses himself, he cannot participate in the discussions.

Byron Moku (Moku) asked if the Hokuli‘a items were going to be deferred until next month.

Young said that the Council is waiting for an opinion about this matter and that Matsukawa will be consulting with Oahu.

Kualii read HRS 84.14 (1), (2) and said that Lee has no conflict of interest.

Matsukawa said that Lee does not have a financial conflict but he may have a conflict due to the subject matter.

**HIBC moved past agenda items III. A, B, C until AG receives an opinion from Oahu.**

**HIBC moved to agenda item III. D**

**D. CULTURAL RESOURCES MANAGEMENT PLAN FOR THE UNIVERSITY OF HAWAI'I MANAGEMENT AREAS ON MAUNA KEA, KA'OHE AHUPUA'A, HAMAKUA DISTRICT, ISLAND OF HAWAI'I, TMK: (3) 4-4-015:009, 012**

**Information / Discussion / Recommendation:** Informational presentation by the Office of Mauna Kea Management and Pacific Consulting Services, Inc. on Native Hawaiian burial sites and proposed management measures. The HIBC will be going into executive session due to a discussion involving the description and location of burial sites.

Sara Collins (Collins) an archaeologist with Pacific Consulting Services Inc. (PCSI), said that she works with the Office of Mauna Kea Management (OMKM), and members of Kahu Ku Mauna. Kahu Ku Mauna is a Native Hawaiian Advisory group that works closely with OMKM on the treatment and protection of historic and cultural sites in the UH management areas.

Stephanie Nagata (Nagata) said that she is the Interim Director of OMKM. The office was created in August 2000. OMKM is responsible for managing the summit and for preserving and protect the summit resources; in order to provide a world-class center for education and research. Kahu Ku Mauna advises OMKM on cultural issues. Nagata introduced members of Kahu Ku Mauna, Ed Stevens (Stevens), Arthur Hoke (Hoke), Toni Mallow (Mallow) and Tiffnie Kakalia (Kakalia).

Stevens thanked the Council and said that they are guardians of the mountain and they see Mauna Kea as their *kuleana* (responsibility). Kahu Ku Mauna wants to open up communication and work together with the HIBC to have a cooperative relationship with the concerns of Mauna Kea. Kahu Ku Mauna has nine members on its Council, dedicated to preserving the culture, the artifacts, and all that is dear. Stevens offered their services to the HIBC when discussions are needed.

*Collins asked the Council to refer to the two handouts that were in their packets.*

Collins said that the Cultural Resources Management Plan (CRMP) was developed in order for UH to fulfill its mandate to preserve and protect the cultural resources in the areas managed by OMKM. UH has to comply with the terms of its 1968 lease agreement, it has to comply with all applicable State and Federal Historic Preservation Laws and Regulations. The CRMP is a document being prepared under State law, 6E-8, not part of a Federal action. Another requirement is that CRMP has to comply with the conditions pertaining to the management of cultural resources, in the 1995 revised Management Plan for the UH management areas.

*Collins asked the Council to refer to a map that was on a laptop presentation, and not provided to SHPD.*

Collins mentioned three basic areas: Hale Pohaku, the Mauna Kea Access Road, and the Science Reserve. The Science Reserve is a little over eleven thousand acres. Within the Science Reserve is the Astronomy Precinct, is five hundred and twenty five acres including and around the telescopes. One of the requirements is to create a Management Plan that is acceptable to all the major stakeholders including DLNR, Native Hawaiian Practitioners, conservationists, and other groups. PSCI have been and are currently meeting with groups on the Big Island for consultation. The Natural Area Reserves will not be included in the CRMP. The plan is only for properties that are managed by OMKM. Kahu Ku Mauna has offered many comments and revisions that have been incorporated into the plan. As more comments and suggestions are received, they will be considered because the plan is not final. The plan is working towards guidelines for traditional cultural uses as well as modern uses. The recommended management action for access to cultural practices is that Kahu Ku Mauna Council will take the lead in making recommendations for any policies that are set regarding access and cultural practices to the UH Management areas of Mauna Kea. The Council will also be consulting with other representatives and native organizations. The plan so far is that Native Hawaiians shall not be restricted from visiting burial sites for cultural reasons. The rangers will be notified for security reasons. There were many burials found and recorded in the Inventory Survey, they are previously identified. None are within the Astronomy Precinct. Any burials found in the future will be treated as an inadvertent discovery.

*Collins asked the Council to refer to the second handout.*

Collins said that the handout is from the CRMP refers to the SHPD plan. The SHPD plan was part of the 2000 Master Plan that was developed by the UH for their management areas. It went to the Board of Land and Natural Resources so that is where the wording SHPD plan comes from. Many of the prior recommendations were useful.

Elarionoff asked who would have the expertise to determine if remains are fifty years or older.

Collins said SHPD staff.

Elarionoff asked for clarification on the action taken with burials being fifty years or older and burials determined to be less than fifty years old.

Collins said that when skeletal remains are found, the first determination made is, if it human. The second determination made, is this a historic burial remains or a police case. Any site that is fifty years or older is historic.

Elarionoff asked for clarification on the words used in the handout. One line said that the Council will determine, another line said that the SHPD will consider. First it says that the Burial Council makes the decision and then it says the SHPD makes the decision.

Collins said that the wording is referring to the plan not the decision making. The Burial Council decides to preserve in place or relocate, along with additional recommendations.

Elarionoff asked for clarification on who will review the plan periodically and revise appropriately.

Collins said it would be the OMKM, SHPD, and Kahu Ku Mauna and other stakeholder groups.

Elarionoff asked what is a non-development context.

Collins said that non-development context means remains exposed due to natural causes.

Dela Cruz asked if there were any large structures by the piko.

Collins said that there is or was a *lele* right by the summit. Modern day practitioners have erected it.

Dela Cruz said that the people who built the *lele* did so with the best intentions but, if our *kupuna* felt it proper to build structures by these sacred sites, they would have done so. By leaving it pristine as it is, is the sacredness within its self. Nothing visual needs to be put there to enhance the sacredness of this *piko*.

A member of Kahu Ku Mauna said that he agreed with Dela Cruz and that they are working on this concern.

Kualii said that some of the concerns are that people go to Mauna Kea and practice a culture that they developed on their own. Mauna Kea is very sacred to us, and the Council extends their welcome to share mana‘o on these issues.

Young asked about jurisdiction on Mauna Kea. How the land is being used and who is taking authority.

Nagata said that the land is leased to UH-Hilo and OMKM sublets the property to the observatories. The five hundred and twenty five acre Astronomy Precinct is the only area where future development can occur.

Young asked for public comment. There was none.

Collins introduced Steve Clark (Clark) of Pacific Consulting Services Inc. to the HIBC.

Young asked Matsukawa if he could consult with her regarding Lee’s possible conflict with Hokuli‘a.

Matsukawa said that Lee’s situation is not really clear. What is complicating this is, he was the Director of Development with over site of the burials. It is also our understanding that there were BTP that were developed while Lee was there and BTPs that may not have begun development while Lee was there. If those BTP before the Council today have not begun development while Lee was there, Lee may participate. However, if they have begun development while Lee was there, we would recommend

Lee to recuse himself. We also recommend that before the BTPs are voted on by the Council, that Lee clarifies the situation through SHPD.

Young and Kualii discussed with Moku the three Hokuli‘a items to be deferred. Young said that the next time the items are on the agenda, the process will be advanced.

Moku said that Hokuli‘a requested to be on the March agenda.

**A motion was made for the HIBC to enter into an executive session.  
(Elarionoff / Dela Cruz)**

**VOTE: ALL IN FAVOR**

**A motion was made to move to open.  
(Kualii / Helbush)**

**VOTE: ALL IN FAVOR**

**Lunch break 1:35 p.m. – 2:15 p.m.**

**A motion was made to defer items III. A, B, C, to the next HIBC meeting.  
(Young / Helbush)**

**VOTE: ALL IN FAVOR**

**E. HAWAI‘I ISLAND BURIAL COUNCIL’S REVIEW OF A MEMORANDUM OF AGREEMENT REGARDING THE INADVERTENT DISCOVERY OF HUMAN REMAINS DURING REPAIR AND REHABILITATION ACTIVITIES AT PU‘UKOHOLĀ HEIAU NATIONAL HISTORIC SITE.**

The purpose of the Memorandum of Agreement is to describe the procedures that will be followed by the National Park Service, Pu‘ukoholā Heiau National Historic Site, in the event there is an inadvertent discovery of human remains, funerary objects, sacred objects and objects of cultural patrimony during further repair/rehabilitation activities on Pu‘ukoholā Heiau and Mailekini Heiau.

Nancy McMahon (McMahon) said that this MOA was created as a result of the 2006 earthquake damage. During recent renovation, bone fragments were found. These were later determined to be animal bones. The Parks Service jurisdiction is under NAGPRA and the process is that the Council is involved while the SHPD is not. Usually the Council is notified under federal law Section 106 and the Parks Service cannot do anything for 30 days. Reviewing the proposed MOA, on page 3, item I, McMahon said that she does not like the idea of moving the remains without telling the Council. Also, the proposal as written in the MOA to cover the remains with “fill” was not acceptable.

Elarionoff said that on page 3, “their disputed” is the wrong term.

Kualii said that on page 3, item I. needs to be rephrased.

McMahon said that she will send back the MOA with comments from the Council, to be followed up with a second review.

**A motion was made to close agenda item III. E  
(Lee / Helbush)**

**VOTE: ALL IN FAVOR**

**HIBC moved to agenda item V.**

## **V. HAWAI'I ISLAND INADVERTENT DISCOVERIES**

### **A. Thomas Smith property, Honokohau 1 Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-4-008:047. Information.**

Machado said that on May 28, 2008 SHPD was notified of a second inadvertent discovered since the approval of the BTP, January 17, 2008. The human remains were discovered during data recovery excavations at site 24734, a house enclosure. The land owner's representative, Tom Smith agreed to preserve in place.

Young asked if the inadvertents were discovered during data recovery. Machado said yes.

Young said that he is uncomfortable with BTPs that come before the Council with no context to make a decision on. Large pieces of land, 200 acres or so with no development plans, no subdivision plans, nothing. The Council does not know what is going on with the property.

McMahon said that if they are being tested for being possible burials, then they are considered previously identified, not inadvertent.

Morgan Davis (Davis) said that the first inadvertent was discovered during testing of agricultural features. The second inadvertent, we did not receive additional information on.

McMahon said that if the inventory survey says probable or possible burials, then the burials are; previously known. The decision goes to the Council.

Young suggested that Machado check on the Inventory Survey. Machado agreed.

### **B. Manuka Natural Area Reserve. Information.**

Machado said that on May 23, 2008 SHPD was notified by DOCARE of an inadvertent discovery on Natural Area Reserve System (NARS) land. SHPD identified a minimum of two individuals. The remains were exposed due to cave collapse. SHPD will be scheduling archaeological recovery work to relocate the iwi to be reentered in the back of the cave. Staff will be consulting with Council members of the Ka'u and Kona district for support regarding this matter.

**A motion was made to close agenda item V.  
(Helbush / Kualii)**

**VOTE: ALL IN FAVOR**

Kualii proposed that the Hokuli‘a positions be placed on the next HIBC agenda, under case updates.

**HIBC moved to agenda item IV.**

#### **IV. CASE UPDATES**

Theresa Donham (Donham) said that SHPD is working on a Kona location.

**A motion was made to close agenda item IV.  
(Young / Dela Cruz)**

**VOTE: ALL IN FAVOR**

**HIBC moved to agenda item VI.**

#### **VI. DISCUSSION ON CORRESPONDENCE**

Young said that he received an email about the Kanupa Caves. There were funerary objects that the museum had not included in the first list. On the second list, there are additional objects. OHA will be taking the lead in this matter and the Council was asked for their support. Young responded to the email offering the Council’s support.

**HIBC moved to agenda item VII.**

#### **VII. ANNOUNCEMENTS**

McMahon said that DLNR took three progressive cuts with legislation for this fiscal year. Nine thousand dollars was deducted from the seventy thousand dollars initially requested for reinterment. State Parks took the biggest cuts in funding of all the DLNR Divisions. For funding assistance, SHPD was told to look into partnering for help with other departments, such as the Department of Defense. SHPD was also told to write for grant money.

**HIBC moved to agenda item VIII.**

#### **VIII. ADJOURNMENT**

**A motion was made to adjourn the meeting.  
(Kualii / Helbush)**

**VOTE: ALL IN FAVOR**