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LAND
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STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION

APPROVED MINUTES OF THE O'AHU ISLAND BURIAL COUNCIL MEETING

DATE: WEDNESDAY, JUNE 10, 2009

TIME: 10:00 A.M.

PLACE: DEPARTMENT OF LAND AND NATURAL RESOURCES, 1151 PUNCHBOWL STREET, ROOM 132, HONOLULU, HAWAI'I 96813

I. CALL TO ORDER, ROLL CALL, AND INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF

Due to the excused absence of Chairman Jace McQuivey, the Vice-Chairman Kawika McKeague assumed the chairmanship and called the meeting to order at 10:10 a.m.

ROLL CALL

Present: Kehau Abad, Kehaulani Kruse, Shad Kane, Cy Bridges, Leimaile Quiteves, Aaron Mahi, Alice Greenwood, Hinaleimoana Falemei, Chuck Ehrhorn, Kawika McKeague

Excused: Jace McQuivey, Andy Keliikoa

Note: Quorum was established for the meeting to convene.

SHPD STAFF: Pua Aiu, SHPD Administrator
Phyllis Coochie Cayan, History & Culture Branch Chief
Linda Kaleo Paik, Cultural Specialist

DEPUTY AG: Randall Ishikawa

GUESTS SIGNED IN: Claire Steele, Jim Steele, Dutchie Kapu Saffery, Kaylia K. Ina, Anthony Bengon, David Shidler, Doug Borthwick, Kenneth Lai, Michael Yamasaki, Jack Kronen, Jean Rasor, Monica Guerra, Claire Hughes, Donna Ann K. Camvel, Keola Lindsey, Jason Jeremiah, Laakea Suganuma, Manu Suganuma, Hal Hammett, Thomas Shirai Jr., State Rep. Mele Carroll, Hilane Almar, Kekuewa Kikiloi, Kimo Guequerre, Amelia Gora.

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II. OPENING REMARKS

Mckeague noted that Chairman Jace McQuivey was absent and this would also be McQuivey's last meeting as he has served two full terms on the OIBC. Kudos and mahalo were articulated by the OIBC members to the absent McQuivey for his leadership and commitment to the OIBC.

III. APPROVAL OF MEETING MINUTES

The May 13, 2009 minutes were not available for review and comment.
Motion by Hinaleimoana Falemei to defer the May 13, 2009 minutes until its completion. Seconded by Cy Bridges. The motion passed unanimously to defer the minutes of May 13, 2009 until it is completed.

IV. BUSINESS

Motion by Leimaile Quiteves to take item 2 (A.) out of order on the agenda and be considered first on the agenda, seconded by Kehau Abad. Motion passed unanimously.

The item 2 (A.) was moved to the first item on the agenda for discussion.

INFORMATIONAL/RECOMMENDATION ITEMS

2. A. Update on vacancies to the O'ahu Island Burial Council.

At 10:20 a.m. the OIBC voted to go into executive session to consult with the Deputy AG on its role, responsibilities, composition, and how they carry out business as per HRS 6E-43.5 and HAR 13-300. Motion by Falemei to go into executive session; motion was seconded by Bridges. The motion passed by unanimous consent.

At 10:55a.m., the OIBC reconvened its regular meeting. There was no further discussion on Item 2 (A) nor was there any public comments. The SHPD continues to invite anyone to apply for the OIBC by seeing staff afterwards.

1. ACTION ITEMS FOR DETERMINATION

A. Burial Treatment Plan Pupukea Road Rockfall Mitigation Project, Pūpūkea Ahupua'a, Ko'olau Loa District, Island of O'ahu. [TMK: (1) 5-9-018: 025-032 por. and 038 por.].

Mike Yamasaki, Kenneth Lai and Jack Kronen (geologist) from the City & County of Honolulu spoke to the project area and how the work would commence to mitigate the potential rock fall area as well as the work to improve the extreme winding road up to Pupukea. The County also addressed the concerns for the burials and concur with the Burial Treatment Plan (BTP) submitted for the project by Cultural Surveys Hawaii (CSH). CSH spoke to the plans to preserve in place the burials as well as to seal any caves for long term protection. CSH notes that the project area is very dense with heavy vegetation, on a very steep hillside with little ledges that overhang the area and that the history of the general area is consistent with the history of the next valley (Waimea Valley) which has many significant places, sites, and features. Also, Mr.Kunani Nihipali of Pupukea did a site visit with CSH to mitigate protection of some burials in two caves that were under his group's kuleana. An easement of sorts will be created for maintenance but the area is too steep for any heavy equipment or excavation to be done in the project area. Safety is a huge concern for this project.

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The council comments included but are not limited to the following items:

- Cultural significance (if any) of boulders being removed for safety reasons.
- Concern that the 30 day deadline to respond to Section 106 matters which may deter concerned families as the letter is received with less time to respond.
- Abad felt it was a premature BTP as it only considers preservation in place. Abad said there may be other burials that emerge from the actual project work.
- City and County notes it has initiated dialogue with other landowners and wants to partner with them on the BTP. County counsel is reviewing the legal impacts.
- Recommendation that the County put out a notice for families or descendants to come forth and discuss this project and the care of the burials.
- County stated it will continue to work with its consultants and SHPD with the OIBC recommendations for the best care of the burials in the project area.

Mr. Kealoha Kuhia stated he put in a claim last month to SHPD to show his ancestors lived there and have kuleana to the burials at the project area.

There were no other comments from the public on this item.

B. NAGPRA notice of human remains from Hawai'i at the Warren Anatomical Museum, Harvard University, Boston MA.
Information/Discussion/Recommendation/Determination: Council to engage in consultation process for the repatriation of the remains at the museum in accordance with NAGPRA guidelines.

Discussion included but not limited to the following points:

- McKeague informed the OIBC that a letter from Eddie Ayau of Hui Malama I Na Kupuna O Hawaii Nei (HMNK) will be taking the lead in this repatriation effort.
- Greenwood is concerned that many of the letters (NAGPRA, Section 106) have deadlines that occur before the OIBC meets and makes it difficult to reply in a timely manner.
- The Federal Register posts as much information as it has in its notices. More research will have to be done to identify where on O'ahu on a volcanic mountain these remains were taken by J.H. Lyman or D.H. Stedman.
- Abad noted the OIBC had three options for these matters: 1) remain silent, 2) support the existing claim, or 3) acknowledge any competing claim in which then the museum will determine who the proper claimant is to finalize the repatriation.
- Mr. Keola Lindsey of the Office of Hawaiian Affairs (OHA) said that OHA has a joint claim with HMNK on this repatriation effort. OHA will support others for this claim and advises any 'ohana to come forward.

Motion by Quiteves to file a joint claim to kokua with OHA and HMNK on this NAGPRA repatriation from the Warren Anatomical Museum at Harvard University, Boston, MA.
Motion seconded by Chuck Ehrhorn.
Votes by show of hands = 9 ayes, 1 nay and no abstaining vote.
The motion passed by a majority vote to file a joint claim to kokua with OHA and HNMK on this NAGPRA repatriation from the Warren Anatomical Museum.

C. Election of Chair and Vice-Chair.
Nominations for a new OIBC chairman were:

- Chuck Ehrhorn
- Kawika McKeague

The OIBC voted by a show of hands: McKeague = 6 votes and Ehrhorn = 4 votes.
OUTCOME: Kawika McKeague was elected the new chairman for the OIBC.

Nomination for a new OIBC vice-chairman was:

- Chuck Ehrhorn

The nomination was closed by a motion from Mahi, seconded by Kruse.
OUTCOME: Chuck Ehrhorn was elected by consensus as the new OIBC vice-chairman.

Both commissioners assumed their new duties at this point in the meeting.

2. INFORMATIONAL/RECOMMENDATION ITEMS

B. Informational Update and Presentation of Draft Memorandum of Agreement on the Honolulu Rapid Transit Honouliuli, Hoʻaeʻae, Waikele, Waipiʻo, Waiawa, Mānana, Waimano, Waiau, Waimalu, Kalauao, ʻAiea, Hālawa, Moanalua, Kahauiki, Kapālama, Nuʻuanu, Pāuoa, Makiki, Mānoa, and Waikīkī Ahupuaʻa, ʻEwa and Kona Districts, Island of Oʻahu. [TMK: Various]

Transit Ad hoc Committee Chair Abad summarized the committee's last three meetings included a process issue on a draft Memorandum of Agreement (MOA) or a Programmatic Agreement (PA) being readied for discussion. It is unclear if the OIBC will be an invited signatory to the MOA or a PA. A letter from the ad hoc committee has been sent asking for the OIBC to be a signatory.

Faith Miyamoto, City & County, Dept. of Transportation's Transit team noted the draft Burial Treatment Plan (BTP) has been distributed and it is being reviewed further by the County due to its sensitive nature. They are open to the OIBC comments in Section 5 regarding previously identified burials and potential burial locations including consultation with SHPD and the OIBC. Miyamoto notes that Section 4 includes additional cultural resources and monitoring sensitive areas during construction. There have been comments regarding a raised rail or a lower design. Miyamoto notes that at grade the foundation will have heavier cars and deeper construction which will probably be greater impact on the land versus the pillars for a raised rail system. The utility relocation work for the project is another Section 106 process and it has its own complicated processes with separate agreements on state roadways. The county is doing another 106 review with an MOU on impacts to any burials when they begin construction.

A letter to the federal transportation agency from the county noted that the OIBC wants more discussions on the PA and any drafts being done now by other parties is also supported by the ad hoc committee.

Comments from Kealoha Kuhia and Alan Murakami of the Native Hawaiian Legal Corporation regarding protection of any na iwi kupuna before construction proceeds.

Note: Commissioner Alice Greenwood left the meeting at 12:50 p.m. Quorum was maintained.

C. Update on Status of Oahu SHPD Re-interments

SHPD Cultural Specialist Kaleo Paik reported that since her employment in 2007 and to date, that 50% of the O'ahu inventory has been reinterred. Further, more reinterment and/or transfer of na iwi kupuna for reinterment are scheduled through June with other recognized ʻohana and/or Native Hawaiian groups.

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The O'ahu inventory had about 600 na iwi kupuna (mostly fragments) since 2007. In the past two years, about 50% of the inventory have been reinterred. This work entailed finding a place to bury the bones with participation from the landowners or government agencies as well as with any 'ohana or recognized descendants. The current inventory includes human remains that have been stored since 1995 at the SHPD repository.

Also, Paik announced to the OIBC that her last day of employment with SHPD is 30 June. She expressed great concern that the na iwi kupuna will not be properly cared for when she leaves. The OIBC members thanked her individually and collectively with a mahalo chant.

SHPD assured the OIBC that the division is working with the recognized families for the rest of the Waikiki reinterment to the burial mound within the next month. Also, the division continues to work in partnership with other agencies, landowners/developers and recognized 'ohana to reinter all na iwi kupuna statewide. All of the cultural historians in SHPD are trained to malama na iwi kupuna in a culturally sensitive manner and all have done reinterments and associated rituals for reburial. Statewide the reburials are a priority for SHPD.

Comments on Paik's dedication to malama na iwi kupuna was echoed by the public including guests: Kimo Lequerre, Tom Shirai, Kealoha Kuhia, Claire Hughes, Donna Camvel, and Jean Rasor.

Comments from Rep. Mele Carroll who attended the OBIC meeting for the first time as she had received complaints about SHPD regarding protection and preservation of cultural resources, the process within the division and the dismissal of Ms. Linda Paik. Representative Carroll stated she found the meeting interesting and informative for her purposes as the chairman for the Hawaiian Caucus at the state legislature.

Comments from visiting Hawaii Island Burials Council commissioner Ms. Dutchie Kapu Saffrey on the department's budget concerns, impacts from new landowner's who do not care about Hawaiian burials, and other matters that impact Hawaiian culture.

Comments from OIBC members on the SHPD's support for the burials program:

- McKeague said this position is needed at SHPD and that Kaleo Paik is the epitome of that work; it should be a priority.
- Mahi suggested the OIBC write a letter with their concerns about the position and address the work –how will it be done.
- Deputy AG Ishikawa reminded the OIBC that state law provides for protection of burials and that the State does not take this responsibility or the work of the councils lightly. Further, this agenda item is not about personnel matters.
- Falemei stated the OIBC is aware of its kuleana and has a responsibility to handle reinterments and to do so when called. What we recommend [to SHPD] and what is the ability to do the work.
- Ehrhorn suggested a letter with a clear message that Paik's job to bring down the numbers and she has been doing that job. We want to hear how the inventory will be lessened and not increased in the future. Mahi offered a second to Ehrhorn's idea.
- Abad recommended the SHPD let Paik finish the work of complying with kanu of the entire O'ahu inventory. The intent is to complete all the reinterments with Paik's work so far. The AG cautioned the OIBC that they were going into personnel matters and the laws for sunshine and personnel are different.
- Abad wanted a recommendation to be made to the SHPD. Falemei felt a letter on the mitigation process may be one way to address how the kupuna will be cared for.

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MOTION: Abad moved the OIBC write a letter that expresses the need to care for na iwi kupuna, to hear what the department's plan is to care for na iwi kupuna, and that the OIBC recommends the department extend Kaleo Paik's position until all the work [to kanu na iwi kupuna] is pau.
The motion was seconded by Aaron Mahi. The vote was all ayes. The motion passed unanimously.
ACTION: Abad will write the letter.

D. Kawaiaha'o Church Multipurpose Building Renovation Project, Honolulu Ahupua'a, Kona District, Island of Oahu. [TMK: (1) 2-1-032:017]

2:35 p.m. Motion by Abad to go into executive session to discuss the OIBC duties, roles and responsibilities; seconded b y Kruse.
Votes: Ayes = 7 Nay = 1
Motion passed by majority vote.
*** The media present objected as to why the OIBC was going into executive session.
3:10 p.m. Motion by Mahi to come out of executive session, seconded by Abad.
Vote was unanimous. The motion passed unanimously.

- Mahi stated he made a request that this item be brought back on the agenda to clarify the OIBC's action at the February and/or March meetings regarding the work at the church. Those meetings had a discussion on the project work, the inadvertent finds, the new hall and some of the project difficulties and how revisions were made to the project. Mahi felt there was a need for the OIBC to make recommendation for some guidance. A motion was unanimously made at that point to continue closely work with the department and stay within the laws and regulations. Then a month ago in the media, there was focus on the large number of inadvertent and how to deal with such a large amount. They asked for advice. We were clear on the original motion. Our concern is we were given a breath of information by them and SHPD with maps of the burials. I have a 1912 map of the cemetery that shows lots of burials and that is a concern, all of those burials shown.

- The Kawaiahao Church Project (KCP) team of Donald Caindec, Dawn Chang and Frank Pestana shared that the 1912 map compared with today's cemetery and church have some changes. Caindec pointed out that not all the old walkways (paths) are visible today due to overgrowth. The 1940 Likeke Hall was built to the 1929 office over the existing cemetery. At that time, the plots were not described by metes & bounds. Families were assigned to plots. The plots were given, not purchased by church members. The practice in 1900 to 1920's allowed body burials (non-coffin) and these were done by the 'ohana as there were no mortuaries as today. The 'ohana would hire a gravedigger. Also, the placement of the body is not as we know today. We are not sure how they prepared and placed the burials. Vaults are shown on the map. There were no markers when Likeke Hall was built so we are not sure on the estimated burials. Some had markers. The 'ohana may have used other types of markers like a stone. The Old Boy's Club was there and torn down to build Likeke Hall. There were 117 burials disinterred and 12 urns. By 1920's, the church no longer accepted 'body burials.' The congregation was aware of the disinterment to build the hall and it was an active cemetery. We are not sure but there could have been burials in other unmarked parts.

- KCP team note that a line on the map demarcates cemetery and non-cemetery (mauka) shows the long wall behind Lunalilo Tomb. Part of wall was removed to build Likeke by Lot 1 to the backside near Lot 29. The 1920 map was updated and is not too different. A small pox epidemic with many burials between 1850 through 1920, 1930s.
- Records do not show burials for different things (i.e., epidemic). Some locations have multi-burials with five or seven on top. We don't know the reason for that practice. Maybe it was an 'ohana disaster or could be done in the dark of night - difficult to know what happened.

- The church contracted Nanette Napoleon some years ago to organize the burials records by the index cards which had little information. For example, one card had one name, a relative member, no death certificate. There's no information for the burials without the headstones. All were coffin burials and some with secondary burials. We don't know the exact 'line' where 'ohana are buried; not exactly their lot.

- Falemei commented that the harsh reality is that (1) the common 'ohana had no markers for multiple/clusters of burials, (2) on O'ahu the first contact in 1887-1893 decimated thousands of Hawaiians. I would expect a greater number at the cemetery.

- Mahi wanted to make certain that the motion he made recognized work the church is doing and working closely with the department. What is the status of the project? Pestana said all work has stopped and they are waiting for the State to define what the process is to follow for the cemetery project. Chang added that SHPD has been extremely helpful and that we seek additional guidance and continue to work and move forward.

- Mahi expressed his concern that the OIBC motion would be perceived as an approval to justify the project and that it was clearly based on work is being done prudently. Mahi added the OIBC voted with that intent and now there is concern about the direction of the project now. The OIBC knows that Kawaiahao is a cemetery and it is active. Our kuleana and frankly should not be - wondering if we made clear our action. Are thing going well? Pestana said hopefully with ke Akua the project done with approval of our congregation, our kupuna and at the same time make room for our mo'opuna.

- Pua Aiu, SHPD Administrator commented that the department is drafting a letter with guidance on the project and it is being reviewed by the Attorney General's office, the Department of Health and DLNR's chairman. The department is working with the church as there are issues of jurisdiction and issues of precedence.

- Abad and Falemei had concerns that the media and public are questioning whose kuleana. We trust you all are being vigilant as we all will maka'ala too.

- Pestana said the kupuna is our kuleana and the descendants who came forward. We belong to the church, when we build the church we dug deep and found na iwi there. All the remains are being cared for, these are our kupuna and we take care of them.

- Chang added that there is no intent to offend anyone and that the church has cared for all the burials found on the Queen Street project and the many burials that came back under the NAGPRA effort. The church working with SHPD on those projects and did in a respectful way.

- Abad reminded the OIBC that some 'ohana had conveyed to the OIBC chairman that the OIBC is also a voice and venue for anyone to come and raise their concerns. It is reassuring for the OIBC to hear that from the church.

- Mahi asked if all the 'ohana have been contacted. Some people testify and we are not sure if they are church members, however, we want to be certain to hear all the voices. But we also listen to kupuna voices (within) and kaumaha felt too for the large numbers that have come out.

The following public comment was addressed to the OIBC:

- Amelia Gora stated her genealogy to John Kapena and others associated with the area. She noted

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there was the pre-1823 church where the land belonged to the people and then in 1883 there was a question on the deed to the land. The building is founded on the land for the people. This is to warn you have stepped into problems and many issues. She added that the legal owners all on the property and was meant for those who participated until opportunists came and took the land.

- Wally Suganuma stated he had gone to talk to the Na Iwi Committee and all the 'ohana supports what they are doing. There are some who disagree. We don't know whom but if someone has a right to say 'mind your own business.' Kekaulike came forward and she's not a church member and she is asserting 'ohana to Kapiolani (grave).
- Chang added that before construction began there were two legal notices advertising for any 'ohana to come forward. There was a kahea to the church congregation that has a database of more than a hundred families. There are no lineal descendants except those with a marked plot nearby. This is an on-going effort to reach out to the descendants.
- Pestana reiterated that the design of the new hall is on the existing building footprint and that the church felt the previously relocated burials were taken care of at that time and there would be no more disturbances. No one wants to dig up any burials. The church believed all burials were relocated when Likeke Hall was built.
- Regarding plots – some had curbstones – now it is more grass and some plots disappear. The trenching work was in the road way when those burials were discovered. The church continues to do the right thing for all burials. Caindec added that the church assigned plots not sold them to the church members. There is no other area to put the hall and the existing footprint is the area with least disruption to the church and the cemetery.
- Amelia Gora added that in 1845 that area was Kamehameha III to the people to build a church. She asserts her 'Tutu' marker is no longer there. Also she had filed opposition to this project in 2005 and the church has failed to heed her words.

E. Status Update on Section 106/NAGPRA Correspondence

Greenwood updated the OIBC there were six items reviewed that were not burials-related. Most of the 106 projects are for improvements to roads, sewer systems, paved areas at the military installations. Greenwood notes that most are 'no problem' although the projects with ground disturbance activity is a 'cautionary should burials be found."

F. Kaena Point Advisory Group's Update.

Ms. Quiteves attended the last meeting with the group's focus to develop the Advisory Group's vision and mission. There will be another meeting next Monday. Quiteves commented that no one from the SHPD attended the meeting and there should be someone.

G. Marine Corp Base Hawaii Projects Update, Ahupua'a of Kāne'ohe, Ko'olau Poko District, Island of O'ahu.

This item was not addressed as there was no representative from the MCBH to do an update. However, one of the 'ohana members was present at the meeting. Ms. Donna Camvel is one of the spokespersons for the recognized families at Mokapu. She briefly updated the OIBC that the 'Ohana group has sent a letter informing the military that the families are ready to move and amend the existing EA to the agreed burial site. The military is doing a legal review. All of the claimants have come to consensus and are ready to reinter as soon as possible. Camvel also reported finding the Hina stone there on the base broken and reported it to the military cultural resources office. She is working towards a follow-up site visit to determine how the stone was broken and the protocols to restore it properly on site.

H. SHPD INADVERTENT DISCOVERY REPORT.

There were no inadvertent finds for May.

VI. ADJOURNMENT. The OIBC adjourned at 4:30 p.m.

Respectfully submitted: Phyllis Coochie Cayan, History and Culture Branch Chief Dated: August 5, 2009 #

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