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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

MINUTES
OAHU ISLAND BURIAL COUNCIL MEETING

DATE: **WEDNESDAY, DECEMBER 13, 2006**
TIME: **10:00 A.M.**
PLACE: **DEPARTMENT OF LAND & NATURAL RESOURCES**
1151 PUNCHBOWL STREET, ROOM 132
HONOLULU, HAWAII 96813

ATTENDANCE:

Members:
Jace McQuivey, Chair
Kehau Abad
Alice Greenwood
Kehaulani Kruse
Linda Kaleo Paik
Mark Kawika McKeague, Vice-Chair
Cy Bridges
Analu Josephides
Aaron Mahi

Absent:
Charles "Chuck" Ehrhorn (excused)
Andrew Keliikoa (excused)
Kalei Kini (excused)

Staff:
Melanie Chinen, Administrator
Piilani Chang, Cultural Historian
Adam Johnson, Oahu Assistant Archaeologist
Vince Kanemoto, Deputy Attorney General
Susan Yanos, Secretary

Guests:
David Shideler, Cultural Surveys Hawaii
Hal Hammatt, Cultural Surveys Hawaii
Faith Miyamoto, Dept. of Transportation Services
Lawrence Spurgeon, Parsons Brinckerhoff
Ben Ortega, Fifield
Ralph Makaiau, Kuilima Resort
Joseph Kennedy, ACP
Sally Lee
Anela Josephides
Ka‘anohi Kaleikini
Lefty N. Alo
Agnes K. Alo
Dawn Chang, Kuiwalu
Peter Starn, Starn, O'Toole, et. al.
Kamana‘o Mills, DHHL
Kaulana Park, DHHL
Jocelynn Rasmussen

I. CALL TO ORDER & ROLL CALL

Chair Jace McQuivey called the meeting to order at 10:05 a.m. Yanos took roll call. The majority of the members were present and quorum was established.

II. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF

Council members and SHPD staff introduced themselves. Aaron Mahi said a pule.

III. OPENING REMARKS

Chair McQuivey thanked the public for attending the meeting and reminded them to sign in so proper documentation can be made in the records. McQuivey informed the public that these meetings are held for the council to receive information and make determinations. He requested that everyone display courtesy and respect towards one another. McQuivey also informed the public that the council has established a four-minute testimony policy, however, this policy does not apply to participants who are on the agenda.

IV. APPROVAL OF NOVEMBER 8, 2006 MEETING MINUTES

Correction by Kawika McKeague: Page 6, last paragraph, third sentence, change “McKeague stated that his understanding of the SMA process is that the evaluation is over $125,000 . . .” to “McKeague stated that his understanding of the SMA process is that if the proposed action is evaluated over $125,000, it will require the City and County’s SMA major use permit.”

Correction by McQuivey: Page 7, fifth paragraph, change "13-324(c)" to "HAR 13-300-24(c)".

Motion made to approve minutes as circulated. (Paik)

McQuivey asked Paik if she meant to approve minutes "as amended" as opposed to "as circulated". Paik said yes, withdrew her prior motion and stated a corrected motion.

Motion made and seconded to approve minutes as corrected. (Paik/Mahi)

VOTE: ALL IN FAVOR. Motion carries.

V. COUNCIL ACTIONS

A. Informational Presentation on the Honolulu High Capacity Transit Corridor Project
Information/Discussion/Recommendation: Informational presentation on the Honolulu High Capacity Transit Corridor Project by the City & County of Honolulu, Department of Transportation Services. Council discussion and recommendations on the project.

Faith Miyamoto, City & County of Honolulu, Department of Transportation Services, introduced herself and Lawrence Spurgeon, Parsons Brinckerhoff. They were invited to present information on the technical work that they have done so far on the Honolulu High Capacity Transit Corridor Project (aka Rail Project).

Mr. Spurgeon thanked the council for the opportunity to share some information about the project. Spurgeon admitted that he has not had much experience working on burial issues in Hawaii, but he stated that he worked with Tribal issues on the mainland and is familiar with some of the sensitivities of burial issues. He added that they are working with Kuiwalu on cultural resource issues and Cultural Surveys Hawaii on archaeological and burial issues on this project.

Spurgeon stated that the City is in the early stages of the project. They had been working on a study that looks at the range of possible options and alternatives for a transit system from Kapolei to UH-Manoa. He stated that in the last couple of months, the City presented to the City Council their recommendation of the best alternative, which is an elevated system throughout its entire length. Spurgeon said that part of the reason an elevated system was recommended over a tunnel system was because a tunnel system would require substantially more ground disturbance. With an elevated system, they would have to put pillars about every 120 to 150 feet, which would give them some flexibility in the event burials are disturbed.

Spurgeon said that after the City Council makes a decision, the City would begin work on the EIS and NEPA processes and the official Section 106 coordination. Spurgeon stated that they have met with SHPD and did a preliminary screening analysis of archaeological and burial sites and used those to help them with their recommendation to the City. Spurgeon stated that they expect to begin work on the Section 106 coordination and have a NEPA-scoping meeting early next year.

B. Informational Presentation on the Proposed Burial Treatment Plan for the Fifield Project Waikiki Ahupuaʻa, Kona District, Island of Oahu [TMK: (1) 2-6-13: 1, 3, 4, 7-9, 11 & 12]
Information/Discussion/Recommendation: Informational presentation by Kuʻiwalu on the proposed burial treatment plan for the Fifield Project. Council discussion and recommendations on the proposed burial treatment plan.

Dawn Chang of Ku`iwalu and Ben Ortega, Vice President of Fifield came to brief the council on the project and presented the proposed burial treatment plan. D. Chang gave a brief review of the project, which she presented to the council in two previous meetings. Her review included where the site is located, number of trenches they dug, burials and historic properties that were found.

D. Chang stated that they published notices in *The Honolulu Advertiser* and the November issue of *Ka Wai Ola* seeking out and encouraging families to register their claims to the burials. She informed the council that when they did a cultural impact assessment for the EA, they interviewed several families. One person interviewed was Ms. Paulette Kaleikini, whose family has a tie to the property.

D. Chang presented the proposed burial treatment plan. She stated that they are proposing to preserve in place Burial 1. She directed the council's attention to Attachment 4 and pointed out where Burial 1 was discovered, which is closest to Ena Road and Kalaukaua. Fifield is

proposing a burial preserve in that area, which will only be landscaped, to contain Burial 1 and any inadvertent burials which might be discovered during construction. She added that they would consult with families who have been recognized as lineal or cultural descendants to design an appropriate preserve area.

D. Chang stated that Burial 2 is located under the proposed parking structure and closer to the water table. She said that due to construction constraints, it might be difficult to preserve Burial 2 in place so they are proposing to relocate the remains. However, they are going to continue to work with engineers to explore the possibility of preserving in place.

D. Chang concluded by stating that they are waiting for confirmation from SHPD regarding claims for descendency and they are hoping to be back before the council in January for its decision on the proposed burial treatment plan.

McKeague asked if the parking structure meets or exceeds the City's parking requirement and asked what would happen if they omitted the parking structure altogether. D. Chang stated that the project probably has more parking than the City is requiring, but it was difficult to redesign or eliminate the parking structure. She added that because the Kaleikini Ohana expressed their preference to preserve in place and not have people drive and park over the burial, they are looking at several possibilities to preserve the burial in place but also permitting the structure to go above.

D. Chang asked the council's opinion about building something above the iwi because different councils have different opinions on this issue. Josephides expressed his opinion that nothing should be built over the iwi. He pointed out in Section 4 of the burial treatment plan, a whitened area next to the parking structure. Josephides asked if that was just a grassy area and asked how large that area is. D. Chang said it was an empty area and Ortega added that the area is about 9,000 square feet. Josephides pointed out other areas where they had open spaces, which could be used as options to redesign.

Josephides asked if Hui Malama was contacted and how Kai Markell of OHA was contacted. D. Chang stated that Hui Malama was contacted, but they have not received a response from that organization. She stated that they contacted Markell both by phone and by e-mail, and OHA responded by submitting a letter expressing their preference to preserve both burials in place.

Josephides asked D.Chang to reiterate what she stated earlier about the burial preserve for Burial 1 and their proposal to relocate future inadvertent discoveries in that burial preserve. D. Chang stated that they realize that each burial will be considered on a case-by-case basis, but their preference is to relocate future inadvertent discoveries there. Josephides asked that D. Chang entertain the thought of any inadvertent finds be treated as previously identified.

McKeague asked if there was an error in the site numbers in Subsection 3 of the Management Summary and D. Chang stated that this was their initial draft and those errors have been caught. McKeague also pointed out a phrase in #5 of the Management Summary, which starts "Preservation in place of 6875 would be difficult or impossible to engineer and would likely not be an appropriate form of burial treatment." McKeague expressed his objection to the use of the word "appropriate" in this context because from a cultural standpoint, preservation in place is culturally appropriate. He recommended that the phrase "an appropriate form" be changed to "a proposed project design".

Abad expressed her appreciation to D. Chang and Ortega for being present and keeping the council abreast of the project. Abad also expressed that she agreed with Josephides regarding the issue of building above burials. She explained that the council's role is very limited whereas it can only speak on the issue of preserving in place or relocating burials. She said the council has no statutory authority to demand buffers surrounding burials or demand the way in which iwi are to be reburied (i.e., vertically or horizontally). She stated that the council realizes that issue would need to be negotiated and other interests also need to be considered.

Abad added that kupuna have built structures and incorporated iwi within the structures purposefully. However, she stated that comes with an understanding of the relationship between those people who will be dwelling in that structure and the burials therein. Abad continued to say that caution needs to be taken when designing a structure that would contain iwi. Abad discussed the issue of educating the residents of the building about the burials there.

Paik stated that it is her hope that one day, all groundwork are done before a design for a building is planned because many times in the past, the council has to deal with what has already been planned.

Ortega stated that the burial on Ena Road will be a beautiful garden setting. He stated that they want to be good neighbors and set an example for other developers. He wants to share the design with the families before presenting it to the council and hopes to do that in January.

Paulette Kaleikini confirmed that she and her family were consulted by Ku`iwalu and was recently notified that the developer will try to redesign the parking structure to accommodate the iwi kupuna. Kaleikini stated that she appreciates the developers efforts and is confident that they will reach a new design. Kaleikini was asked by McQuivey if she was satisfied with the exchange between her ohana and the developer. Kaleikini stated that she was happy with the exchange. She added that the developer is proactive and is making honest attempts to redesign the structure.

C. Burial Treatment Plan for the Leeward Coast Emergency Homeless Shelter Project Waiʻanae Ahupuaʻa, Waiʻanae District, Island of Oahu [TMK: (1) 8-5-028:041]
Information/Discussion/Recommendation: Informational presentation by Cultural Surveys Hawaii, Inc., regarding the burial treatment plan prepared for the Leeward Coast Emergency Homeless Shelter Project. Council discussion and recommendations on the proposed measures in the burial treatment plan.

Hal Hammatt, Cultural Surveys Hawaii, and Kaulana Park, Dept. of Hawaiian Home Lands, came to present to the council some information about the project. Park stated that the project is going very smoothly. He informed the council that they are trying to solidify a provider to run the shelter. Park stated that one suggestion he kept hearing in speaking with area providers and the faith-based community was to emphasize the Hawaiian culture in that particular site – e.g., incorporate native plants into the landscape so the clientele can partake in it and have other cultural programs that the residents can get involved in. Park stated that the shelter is becoming a place that is more than someplace to be safe and secure – it is becoming a cultural place where the residents can identify and be a part of.

Hammatt stated that this project is located in Waianae on Farrington Highway. He gave a chronologic overview of the project, which began in August 2006 when they conducted an inventory survey. They excavated 18 trenches in the area, and they discovered iwi in the first

trench, which was located in the Mauka corner of the project. Hammatt stated that they placed burial notices in *The Honolulu Advertiser* on October 8, 2006, the October issue of *Ka Wai Ola*, and the *Westside Stories*. Hammatt stated that they submitted a request to SHPD to determine a recommendation for descendency claims, but he said he does not know the status of that request.

Hammatt directed the council's attention to the map on Page 37, which shows the trenches they dug. He pointed out where the burial was found (indicated by a red dot). Hammatt stated the character of the project is solid coral. He added that in some trenches they found very little loose soil; most of it was coral debris that was covering solid bedrock. Hammatt stated that he does not think there would be a great potential for other burials.

Hammatt said that Burial 1 was discovered in Trench 1, was in a "pocket" and was a single individual. They are proposing the burial be preserved in place. Hammatt said that their proposed measures of preservation of this burial are outlined on Page 45, which includes an 8-meter buffer zone and eventually will be surrounded by a stone wall and native plants.

McQuivey asked if there was an update on descendency claims for this project. P. Chang stated that she had received only one claim, which she is reviewing.

Josephides recommended that Hammatt not use the book, "Historic Waianae: A Place of Kings" (by McGrath, Brewer, and Krauss) as a primary source. The book should not be used as a source for census statistics determining the amount of people living in Waianae because the book was not designed for that purpose and suggested that Hammatt look at other documentation for this information. Josephides also suggested that Hammatt examine historical documents from the Archives, Bureau of Conveyances, and other institutions that hold historical records. Josephides also suggested that the history on Page 11 of the burial treatment plan be expanded because it seemed as though the history of Waianae from 1845 to present was condensed into one page. Josephides commended Cultural Surveys for proposing preservation in place for the burial on this project.

Josephides asked if the council's next step is to wait to hear from the lineal descendents and then make a decision on the burial treatment plan in January. Hammatt stated that they plan to come before the council in January for a determination. McQuivey encouraged the Department to review the descendency claims and have a recommendation for the council so the descendents can testify on this project if possible.

D. Informational Update on the Kuilima Project
Kahuku, Punalau, Ulupehupehu, ʻOiʻo 1 & 2, Hanakaʻoe, Kawela, and ʻOpana Ahupuaʻa, Koʻolauloa District, Island of Oahu
[TMK: (1) 5-6-003:041, 044; 5-7-001:001, 013, 016, 020, 022, 031, 033; 5-7-006:001, 002]
Information/Discussion/Recommendation: Informational update by the State Historic Preservation Division, Cultural Surveys Hawaii, Inc., and Kuilima Development Corporation regarding the Kuilima Project. Council discussion and recommendations on the Kuilima project.

McQuivey informed the council that there was a request from the developer to defer this matter. McQuivey stated that he would grant the request, but asked the council if they wanted to discuss this issue.

Motion was made and seconded to convene in Executive Session to discuss legal aspects of

this agenda item. (McKeague/Greenwood)

McQuivey asked SHPD staff and Kanemoto to remain and he asked the public to wait outside.

VOTE: ALL IN FAVOR. Motion carries.

Motion was made and seconded to adjourn the executive session. (Paik/McKeague)

VOTE: ALL IN FAVOR. Motion carries.

McQuivey called for a five-minute break at 11:50 a.m. Meeting resumed at 11:55 a.m.

Motion was made and seconded to reconvene the regular meeting. (Mahi/Paik)

Hearing no objections, motion carries.

McQuivey said to Mr. Peter Starn that the council understands that he is here representing the developer and they are requesting to defer this matter to a future time because of on-going legal discussions; Starn confirmed McQuivey's statement.

Motion was made and seconded to defer this agenda item until a future date but encourages the matter be brought back before the council as soon as possible. (Paik/Bridges)

Greenwood recommended that the motion include a specific date because this matter has been delayed over and over.

Motion was made and seconded to amend the motion on to ask for a specific date. (Greenwood/Mahi)

Abad stated that there were a number of requests to have this update and a number of requests from Kuilima for deferrals, and the council does not want this pattern to continue.

VOTE: ALL IN FAVOR. Motion carries.

McQuivey asked Starn and Chinen for a date when the parties would be able to come before the council to present a briefing on the project. Starn asked when the council's next meeting would be and was told by council members that January 10, 2007, is their next meeting.

McQuivey stated that the council's purpose is to get a general update on the project, and they are not interested in the legal issues that do not include the council.

Starn recommended that they return in February after the holidays. He felt comfortable that all the formal agreements should be final by then.

Abad suggested that the council word the final motion to state that February be the latest possible date but if the developer was ready in January then that could be a possibility. Paik objected to that suggestion because the council is asking for a specific date, which they have been given, but the council is now making a condition on the specific date. Abad withdrew her

suggestion.

McQuivey asked Chinen if the department had any objections to the February date. Chinen stated that she had no objections and added that whenever the council is ready to hear from the department, the department is prepared.

Motion was made and seconded to defer this agenda item to February 14, 2007. (Paik/Mahi)

VOTE: ALL IN FAVOR. Motion carries.

E. Informational Presentation regarding the inventory and identification of Native Hawaiian burial sites on the property located at TMK: (1) 5-4-01:44
Hauʻula Ahupuaʻa, Koʻolauloa District, Island of Oahu
Information/Discussion/Recommendation: Presentation by family member(s) to inventory and identify Native Hawaiian burials known to exist on the subject property and to seek recommendation for acknowledgement by the Council to further provide information to the Department.

Council member Cy Bridges recused himself from voting on this and the next agenda item and gave a history of this property, which once belonged to his family but was sold over and over in the past.

Bridges stated he had wanted his ohana to attend today's meeting so they can give their testimony to confirm that burials are located on the property. His aunty and cousin are in attendance today, but other family members could not attend. Bridges' family members signed a statement confirming the presence of burials at the property (original was submitted and made a part of the record). As Bridges and Joseph Kennedy both stated in a previous meeting, there was a church and cemetery on the property. However, someone bulldozed the property and cleared the land, and now no one is sure exactly where the cemetery and church was located.

As Bridges began to refer to the proposed burial treatment plan for this project, McQuivey asked Kanemoto whether it was appropriate to talk about the burial treatment plan, which is the next agenda item, during Bridges' presentation or does his remarks need to be limited to what he and his family knows about the property. Kanemoto stated that was up to the chair. McQuivey stated that since Bridges recused himself from voting on both agenda items, he was free to speak on both matters.

Bridges continued to give the history of the property. As Bridges mentioned before, his great-grandmother's brothers were buried on the property, but he stated that there are other individuals buried there also. Bridges asked the council to consider making a motion to recognize this property as a burial site based on the oral information he received from his family. He expressed to the council his interest to protect and take care of his iwi kupuna.

McQuivey read into the record the statement that Bridges' family members signed and acknowledged the list of names of known ohana interred at the Kahele family property, which Bridges also submitted.

Josephides stated that he would like to make the motion to recognize this property as a burial site, but asked if the council is authorized to do that. Kanemoto read to the council, HAR §13-300-31, burial site identification, and stated that the recommendation to the department be made using these guidelines.

McQuivey asked Chinen about Bridges' statement about former SHPD staff making a site visit to the property and asked if she knew of any records were made of the burials on the property. Chinen stated that she and P. Chang reviewed some of the previous reports done on the project. She understands from those reports and statements from Bridges that former staff did a site visit and Kai Markell delineated the boundaries of the cemetery. However, Chinen stated that she does not know how the boundaries were determined and does not have any more information about that site visit. P. Chang stated that Bridges submitted some records to her recently, but she was not able to find any previous records about this property either.

Kanemoto stated that in a discussion with Chinen, she pointed out that this is not a known actively-maintained and used cemetery, therefore, it would fall under the jurisdiction of the SHPD. Kanemoto added that if it is going to be recognized as a burial site, the boundaries of the burial site have to be determined.

McQuivey asked Joseph Kennedy, the private archaeologist working on this project, if he had anything he wanted to add. Kennedy approached the council along with Ms. Sally Lee, who introduced herself and stated that she is an owner of the property.

Kennedy again reviewed information he presented to the council in previous meetings.

Lee asked Bridges to point out his property on the map in the burial treatment plan. After trying to explain to Lee where his property was, Bridges invited her to the property so he can show her.

McQuivey pointed out that there may be a gap as to what was done by the department that seems to be a missing piece and he asked Kennedy if he might know what that piece might be. Kennedy pointed out in Figure 4 of the burial treatment, a line around Site 5449, which he stated was delineated by Kai Markell. Josephides asked for clarification as to what Markell defined this area to be and Kennedy did not know. Kennedy said that he thinks that the delineation was the boundary of the cemetery and he added that he thinks that was where the church was also. Kennedy also brought up the point that if that is the boundary of the cemetery, then there is no access to the property.

McQuivey redirected the council to the matter at hand and asked if the council was willing to make a recommendation to recognize this property. Kanemoto reminded the council that if they want to recommend to the department, based on the oral testimony of Bridges, to recognize a particular location as a burial site, the council needs to refer to the definition of a "burial site" in the law, which is the same as the definition in HAR §13-300-2.

There was additional discussion about the delineation around Site 5449. Bridges was asked if this is the area in which another set of iwi was discovered when Markell and Kapeliela made their site visit. Bridges stated that it might be but it was different looking at it on paper.

Paik asked Bridges if he is requesting the entire property—not just within the delineation of Site 5449—be recommended to include any findings to be previously identified. Paik added that

Bridges mentioned specific individuals who were buried in that cemetery, and the property is not that big so it could be a possible that the entire property be recognized as a burial site.

Kanemoto suggested that a site visit might be helpful to the council in determining what specific unmarked location to recommend to the department to recognize as a burial site.

Motion was made and seconded to defer this recommendation and encourage the landowner and family to meet on the property, and return to the council to report their determination and findings. (Mahi/McKeague)

McQuivey stated that if there is a specific area with iwi, that would help in determining what should be recognized as a burial site.

VOTE: ALL IN FAVOR. Bridges recused himself and did not vote. Motion carries.

F. Burial Treatment Plan for a Property Located at TMK: (1) 5-4-01:44
Hauʻula Ahupuaʻa, Koʻolauloa District, Island of Oahu
Information/Discussion/Recommendation/Determination: Council discussion and recommendations on the measures proposed in the burial treatment plan. Council determination to preserve in place or relocate the previously identified Native Hawaiian burials found on the subject property.

McQuivey asked, given what transpired in the previous agenda item, if a making determination on this matter was appropriate. McQuivey explained to Lee that the council has 45 days to make a determination and could defer to January. On behalf of the landowner, Kennedy withdrew their request for a determination on this item at this time to allow time for the landowner and Bridges' family to meet. Kennedy added that the meeting would help to better define the site boundaries.

G. Discussion on Council Direction, Goals and Objectives
Information/Discussion/Recommendation: Council discussion and recommendation of the council's direction, goals and objectives.

McQuivey asked for an update on the Stryker project. P. Chang stated that she made three requests for them to come. She stated that she was told that they needed to discuss it with their lawyers, but she has not heard from the Army since. Adam Johnson stated that they might not come before the council until the court proceedings have come to a resolution. P. Chang stated that a letter of invitation was extended by Greenwood and P. Chang extended two invitations (one via e-mail and one via phone call); Paik volunteered to write another letter.

H. Status update on Iwi Reinterment Task Force
Information/Discussion/Recommendation: Report from the council's designees established to develop a plan and facilitate the kanu of the State's collection of iwi.

McKeague reported that the task force met with Chinen and P. Chang. He stated that there is an inventory list that contains descriptive information of the iwi the department has in their curation facility. He reported that the department has taken some steps to identify the best opportunities for reinterrment. McKeague also reported that there are discussions for possible opportunities to reinter in Waikiki, Roundtop, Honolulu, and Punaluu. He encouraged the council members to work with their communities to identify land opportunities or land owner potential and have discussions if possible.

I. Status update on Section 106/NAGPRA Correspondence
Information/Discussion/Recommendation: Report from the council's designees established to screen the review of Section 106/NAGPRA Correspondence.

Greenwood reported that she has written to the Army to get an update on the Schofield project, but has not received a response. She will continue to write to them.

VI. SHPD INADVERTENT DISCOVERY REPORT

A. Inadvertent Discovery

Chang referred the members to the monthly summary report of inadvertent discoveries of human skeletal remains, which was previously provided to the members in their packets. She read into the record the contents of the December 7, 2006 memo to the council.

VII. ADJOURNMENT

McQuivey expressed his appreciation to the department for their support and the council's participation at today's meeting. McQuivey especially wanted to express his aloha to Piilani Chang, who is leaving the department. He stated that P. Chang has been a great asset to council and she will be missed. The council thanked P. Chang for all her hard work and wished her well in her future endeavors.

Motion was made and seconded to adjourn meeting. (Paik/McKeague)

Not hearing any objections from the council, Chair McQuivey adjourned the meeting at 1:43 p.m.

Respectfully submitted,

Susan P. Yanos, SHPD Secretary