

Maryland Historical Trust – Maryland Commission on Indian Affairs
Working Group on Native American Human Remains
Minutes of the Sixth Meeting
July 16, 2009

The Sixth Maryland Historical Trust (MHT) – Maryland Commission on Indian Affairs (MCIA) Working Group (Working Group) on Native American Human Remains Meeting was held at Attman-Glazer Building, 45 Calvert St., Annapolis, MD 21401, on July 16, 2009.

Working Group Members Present: Tom Bodor, Claude Bowen, Virginia Busby, Chief Sewell Fitzhugh, Bob Gajdys, Gina Hamlin, Richard Hughes, Maureen Kavanagh, Rico Newman, Bob Wall.

Staff Present: Charlie Hall (MHT, State Terrestrial Archeologist), Philip Deters (MHT, Assistant Attorney General).

Members of the Public Present: Kate Dinnel, Susan Driscoll, Carol A. Ebright, Guy Wells, Cornelius Allen Red Deer.

1. Call to order, Introductions, and Minutes of the Fifth Meeting.

Co-chair Virginia Busby called the meeting to order at 7:03 PM. Working Group members and meeting observers introduced themselves.

The minutes of the fifth meeting, held on June 25, 2009, were distributed to all Working Group members, and time was given for their consideration. Tom Bodor made a motion to accept the minutes. The motion was seconded by Claude Bowen, and was approved unanimously.

2. Review of procedures agreed to at last meeting to keep focused on topic.

Co-chair Maureen Kavanagh reminded the designees that the Working Group deliberations would be kept on track by ensuring that all comments were strictly relevant to the topic under discussion and were restricted to two minutes in length. Staff Charles Hall handed out additions for the designee's resource notebooks that included the agendas and approved minutes for all prior Working Group meetings, and a document entitled "What is consensus". Co-chair Kavanagh drew the attention of designees to the portion of that document that described how one could object without blocking consensus.

3. Discussion of protected lands, protection, access, legal mechanisms.

Co-chair Kavanagh reminded the Working Group of their June 25, 2009, discussion regarding protected lands. The designees had at that meeting desired that legal counsel be invited to attend the current meeting to clarify the mechanisms that could be used to protect lands used for reburial of human remains. Phil Deters, Assistant Attorney General with the Maryland Historical Trust, asked that the designees clarify for him what they meant by protection. Specifically, he asked what they desired protection "for" and "from". A brainstorming session resulted in the following lists:

Protection FOR	Protection FROM
Future dispositions (claims)	Destruction (vandalism)

Ceremonial access (religious)	Desecration
Respectful repose	Tampering/looting
Entrance in and out	Deterioration/erosion
Control (who? How much?)	Public Knowledge/disclosure
Study	Study
Allowing natural decomposition	Control (who, how much)
Native control of access and activities	Misuse/misappropriation
Future protection of the four sites	
Conflict/scheduling resolution (binding arbitration)	

Mr. Deters thanked the designees for clarifying their concerns. All of the articulated concerns, Mr. Deters noted, can be accommodated in any legal vehicle (easement, lease, etc.). He reviewed land rights in Maryland, noting that the Working Group is looking for four locations that will already be owned by somebody. The question, he suggested, was how to get use and control of property owned by another? Leases can transfer full use and control of property, and can be renewed. In an easement, an owner gives some (non-exclusive) or all (exclusive) rights to another. Mr. Deters suggested that the Working Group consider a vehicle like a “conservation easement” (defined by Maryland statute), which can be used to protect historic sites. Such an easement confers certain rights to the holder, taking some rights from the owner, and can be for a specified term or perpetual.

Ensuing discussion centered on the human remains two specific sites; Accokeek Creek and the Thomas Ossuary. The possibility of reburying the Accokeek Creek remains at Piscataway Park, a National Park Service property, and ensuring the types of protection specified during the brainstorming session was raised. Mr. Deters stated that a legal mechanism could be created that could protect control and custody. The issue of the Thomas Ossuary was raised. It was noted that the majority of the remains are buried at Wesley Chapel in Dorchester County, a private cemetery used by the Nause-Waiwash Band of Indians under a signed agreement between them and the church. Mr. Deters noted that the majority of the remains from the Thomas Ossuary were returned to the Maryland Commission on Indian Affairs (MCIA) under a 1989 Memorandum of Understanding (MOU) between the MCIA and the Maryland Historical Trust (MHT). Subsequent to the remains being delivered to the MCIA the landowners recovered additional human remains and turned them over to the MHT. These remains are listed in the MHT Native American Graves Protection and Repatriation Act (NAGPRA) inventory of 1995, and are currently at the Maryland Archeological Collections (MAC) facility at Jefferson Patterson Park and Museum in Calvert County. Mr. Deters noted that the as MOU predates NAGPRA and governing State Law, the MOU is the controlling document. As a result, Mr. Deters stated that he believed the Thomas site remains currently at the MAC facility can be treated as not part of the State’s collection, and can probably be

handled separately from the Appropriate Place of Repose discussions that are the subject of this Working Group.

The group considered the following statement:

We agree that the Thomas site remains listed on the NAGPRA inventory go the way the MOU intended: that their disposition be handled as stipulated in the 1980s MOU between MHT and MCIA.

There were no objections to the statement.

The members of the Working Group thanked Mr. Deters for his assistance in resolving their concerns regarding legal mechanisms to protect lands. Discussion turned to potential locations to be used for the reburial of the remains. Some members wanted to discuss particular sites, others wanted to poll the native peoples in each of the four cardinal directions for suggestions. It was noted that particular places had already been suggested for southern Maryland (Piscataway Park) and western Maryland (land associated with the Youghiogheny River Band of Shawnee Indians, Inc., offered by Chief Joseph Crow Neale at the November 16, 2008, meeting of the Working Group). Chief Sewell Winterhawk Fitzhugh suggested that the Chief's of the Eastern Shore tribes want the remains in the ground and that specific places aren't important.

After a break (8:34 – 8:39 PM), Co-chair Busby introduced Cornelius Allen Red Deer, a Commissioner with the MCIA. Red Deer offered a potential reburial site in the northern direction at Ft. Howard. This federal property in Baltimore County (near Dundalk) is administered by the Veterans Administration. Red Deer noted that he had been assured of access to the property for the purpose of burial of human remains.

It was decided that further discussion of potential reburial sites was premature. Additional information needs to be developed and other issues need to be addressed before sites are selected. A request was made for staff to develop a table that includes dates for each site from which the human remains under discussion were recovered, and to redistribute the map indicating the location of each site.

Next meeting will be August 6th, 7 PM, 45 Calvert St. All designees expect Tom Bodor indicated that they can attend.

Bob Gajdys moves to adjourn, Rico Newman seconds, and the motion carried unanimously.

The meeting is adjourned at 9:02 PM.