

Village of Mukwonago
Notice of Meeting and Grutzmacher Collection Committee Agenda

LIBRARY BOARD OF TRUSTEES MEETING
Thursday, December 1, 2022

Time: **4:00 pm**

Place: **Mukwonago Community Library, 511 Division Street, Mukwonago, WI 53149**

1. Call to Order

2. Roll Call and Introduction of Guests

3. Approval of Minutes

3.a Minutes from August 4, 2022

[Grutzmacher Collection Committee Minutes_unapproved 20220804.pdf](#)

4. Discussion/Action Items

4.a Overview of NAGPRA Consultation

Jan Bernstein of Bernstein & Associates NAGPRA Consultants will provide information on the consultation process as defined in NAGPRA.

[NAGPRA law 43 CFR 10.5_20221125.pdf](#)

4.b Grutzmacher Collection Loan Agreement

Discussion and possible action on reviewing the current loan agreement with the Mukwonago Historical and Museum Society for part of the Grutzmacher Collection to determine ability to comply with NAGPRA.

[Loan Agreement Mukwonago Red Brick Museum FINAL_approved 20220622_countersigned 20220711.pdf](#)

5. Referral Items

6. Confirm Next Meeting Date

7. Adjourn

It is possible that a quorum of, members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note, upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact the Municipal Clerk's Office, (262) 363-6420.

Village of Mukwonago
DRAFT Minutes of the Grutzmacher Collection Committee Meeting
LIBRARY BOARD OF TRUSTEES MEETING

Thursday, August 4, 2022

Time: **3:00 pm**

Place: **Village Hall, 440 River Crest Ct, Mukwonago, WI 53149**

1. Call to Order

Committee Chair H. Pringle called the meeting to order at 3:05pm.

2. Roll Call and Introduction of Guests

Library Board representatives:

H. Pringle
E. Brill
E. Pautz
D. Magolan

Mukwonago Historical and Museum Society (MHMS) Executive Board representatives:

H. Hecker
J. Vanevenhoven
R. Bartelt
J. Coley

Also present:

A. Armour, Library Director
J. Bernstein (via Zoom)

Absent and Excused:

C. Stienstra

3. Discussion/Action Items

3.a History and Introduction

Director Armour gave a brief overview of the packet appended to the agenda.
MHMS President Henry Hecker gave a brief overview of the Position Statement
MHMS had prepared.

3.b Explanation of NAGPRA

Jan Bernstein of Bernstein and Associates will explain the Native American Graves Protection and Repatriation Act (NAGPRA) and their role as a hired consultant.

Jan Bernstein, via electronic means, gave a brief overview of what NAGPRA is, who it applies to, and why it is important. H. Hecker asked J. Bernstein to describe the penalties for non-compliance. J. Bernstein described there are nine (9) ways to be out of compliance, and that anyone can notify the federal government of noncompliance by writing a letter to National NAGPRA and then

described the process. D. Magolan asked how the Tribes get notified. J. Bernstein described the process that an institution develop an Inventory in consultation with Tribes, submits to National NAGPRA and the Tribes, and publish notice in federal register or the organization can wait and offer disposition. The Summary process should be very comprehensive and essentially is an invitation to the Tribes to learn what an organization has and they can decide if it is culturally appropriate for them to repatriate it. D. Magolan asked what happens if multiple Tribes are identified as needing contact. Jan said they've done this in the past with MHMS, and NAGPRA outlines a process of identifying who to contact; Bernstein & Associates uses all of those contacts to mail and email letters. Jan suggests that often it might be prudent to contact all Tribes, especially when the Collection is as varied as the one under consideration. E. Pautz asked if there is a timeline between Summary and publishing. J. Bernstein explained that institutions that meet the two criteria that triggers NAGPRA compliance were supposed to have completed the Summary by 1993, so the sooner the Summary is published, the sooner the owning institution will be in compliance. H. Hecker asked about how long Tribes have to reach out to an owning institution. Tribes have no deadline to make claims. E. Brill asked if acceptance of federal dollars "trigger" this compliance. J. Bernstein said that it does; A. Armour explained that the Library accepted COVID-19 relief money from the CARES Act in 2020 and the Library's annual report states they are federal funds, so the Library clearly has met the two criteria for the need to comply with NAGPRA.

3.c Discussion About Potential Donation

Discussion between members of the Boards regarding questions and concerns each party has about the potential change in ownership of the Grutzmacher Collection.

The Library Board Grutzmacher Committee indicated that it was still interested in donating the collection to MHMS. MHMS Executive Board indicated that they were still interested in receiving the donation. J. Bernstein clarified the timeline of the Inventory and Summary process, advising that the ownership of the Collection be determined before any Tribes are contact for consultation or anything gets published so that it could be made clear to the Tribes who to contact. She noted that the NAGPRA process is a great way for institutions to build a rapport with Tribes and cautioned that, while there is nothing stopping an institution from changing the ownership of the collection or changing contact information, it can be confusing for Tribes and is inadvisable to start a relationship that way. MHMS noted their concern over how many artifacts might be identified as unassociated or associated funerary objects during the discovery process, indicating that this could be potentially time intensive for a volunteer organization if MHMS were to accept the donation. The Library brought up concerns about if MHMS could handle the future compliance with NAGPRA as they are interested in completely transferring the Collection with all its duties and responsibilities. MHMS shared that they have been in contact with local large museums and colleges who might be able to help. Ultimately, both parties agreed that a donation agreement could soon be reached so long as the agreement included the Library's right of first refusal and exploring options

to make it clear to future generations that MHMS has exclusive ownership and that the Library is not seeking the Collection back or dictating the curation of the Collection. Both parties will engage legal counsel to meet and craft an updated draft of the donation agreement for the Boards to consider.

3. Referral Items

4. Confirm Next Meeting Date

5. Adjourn

E. Pautz moved to adjourn the meeting. E. Brill seconded. Adjourned at 5:00pm.

Minutes submitted by A. Armour

DRAFT

This content is from the eCFR and is authoritative but unofficial.

Title 43 - Public Lands: Interior

Subtitle A - Office of the Secretary of the Interior

Part 10 - Native American Graves Protection and Repatriation Regulations

Subpart B - Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural

Patrimony From Federal or Tribal Lands

Authority: 16 U.S.C. 470dd; 25 U.S.C. 9, 3001 *et seq.*

Source: 60 FR 62158, Dec. 4, 1995, unless otherwise noted.

§ 10.5 Consultation.

Consultation as part of the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal lands must be conducted in accordance with the following requirements.

- (a) **Consulting parties.** Federal agency officials must consult with known lineal descendants and Indian tribe officials:
 - (1) From Indian tribes on whose aboriginal lands the planned activity will occur or where the inadvertent discovery has been made; and
 - (2) From Indian tribes and Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony; and
 - (3) From Indian tribes and Native Hawaiian organizations that have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony.
- (b) **Initiation of consultation.**
 - (1) Upon receiving notice of, or otherwise becoming aware of, an inadvertent discovery or planned activity that has resulted or may result in the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal lands, the responsible Federal agency official must, as part of the procedures described in §§ 10.3 and 10.4, take appropriate steps to identify the lineal descendant, Indian tribe, or Native Hawaiian organization entitled to custody of the human remains, funerary objects, sacred objects, or objects of cultural patrimony pursuant to § 10.6 and § 10.14. The Federal agency official shall notify in writing:
 - (i) Any known lineal descendants of the deceased Native American individual whose human remains and associated funerary objects have been or are likely to be excavated intentionally or discovered inadvertently; and
 - (ii) The Indian tribes or Native Hawaiian organizations that are likely to be culturally affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony that have been or are likely to be excavated intentionally or discovered inadvertently; and
 - (iii) The Indian tribes which aboriginally occupied the area in which the human remains, funerary objects, sacred objects, or objects of cultural patrimony have been or are likely to be excavated intentionally or discovered inadvertently; and

- (iv) The Indian tribes or Native Hawaiian organizations that have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony that have been or are likely to be excavated intentionally or discovered inadvertently.
 - (2) The notice must propose a time and place for meetings or consultation to further consider the intentional excavation or inadvertent discovery, the Federal agency's proposed treatment of the human remains, funerary objects, sacred objects, or objects of cultural patrimony that may be excavated, and the proposed disposition of any intentionally excavated or inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony.
 - (3) The consultation must seek to identify traditional religious leaders who should also be consulted and seek to identify, where applicable, lineal descendants and Indian tribes or Native Hawaiian organizations affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony.
- (c) **Provision of information.** During the consultation process, as appropriate, the Federal agency official must provide the following information in writing to the lineal descendants and the officials of Indian tribes or Native Hawaiian organizations that are or are likely to be affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands:
- (1) A list of all lineal descendants and Indian tribes or Native Hawaiian organizations that are being, or have been, consulted regarding the particular human remains, funerary objects, sacred objects, or objects of cultural patrimony;
 - (2) An indication that additional documentation used to identify affiliation will be supplied upon request.
- (d) **Requests for information.** During the consultation process, Federal agency officials must request, as appropriate, the following information from Indian tribes or Native Hawaiian organizations that are, or are likely to be, affiliated pursuant to § 10.6 (a) with intentionally excavated or inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony:
- (1) Name and address of the Indian tribe official to act as representative in consultations related to particular human remains, funerary objects, sacred objects, or objects of cultural patrimony;
 - (2) Names and appropriate methods to contact lineal descendants who should be contacted to participate in the consultation process;
 - (3) Recommendations on how the consultation process should be conducted; and
 - (4) Kinds of cultural items that the Indian tribe or Native Hawaiian organization considers likely to be unassociated funerary objects, sacred objects, or objects of cultural patrimony.
- (e) **Written plan of action.** Following consultation, the Federal agency official must prepare, approve, and sign a written plan of action. A copy of this plan of action must be provided to the lineal descendants, Indian tribes and Native Hawaiian organizations involved. Lineal descendants and Indian tribe official(s) may sign the written plan of action as appropriate. At a minimum, the plan of action must comply with § 10.3 (b)(1) and document the following:
- (1) The kinds of objects to be considered as cultural items as defined in § 10.2 (b);
 - (2) The specific information used to determine custody pursuant to § 10.6;

- (3) The planned treatment, care, and handling of human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered;
 - (4) The planned archeological recording of the human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered;
 - (5) The kinds of analysis planned for each kind of object;
 - (6) Any steps to be followed to contact Indian tribe officials at the time of intentional excavation or inadvertent discovery of specific human remains, funerary objects, sacred objects, or objects of cultural patrimony;
 - (7) The kind of traditional treatment, if any, to be afforded the human remains, funerary objects, sacred objects, or objects of cultural patrimony by members of the Indian tribe or Native Hawaiian organization;
 - (8) The nature of reports to be prepared; and
 - (9) The planned disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony following § 10.6.
- (f) **Comprehensive agreements.** Whenever possible, Federal Agencies should enter into comprehensive agreements with Indian tribes or Native Hawaiian organizations that are affiliated with human remains, funerary objects, sacred objects, or objects of cultural patrimony and have claimed, or are likely to claim, those human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands. These agreements should address all Federal agency land management activities that could result in the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Consultation should lead to the establishment of a process for effectively carrying out the requirements of these regulations regarding standard consultation procedures, the determination of custody consistent with procedures in this section and § 10.6, and the treatment and disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The signed agreements, or the correspondence related to the effort to reach agreements, must constitute proof of consultation as required by these regulations.
- (g) **Traditional religious leaders.** The Federal agency official must be cognizant that Indian tribe officials may need to confer with traditional religious leaders prior to making recommendations. Indian tribe officials are under no obligation to reveal the identity of traditional religious leaders.

[60 FR 62158, Dec. 4, 1995, as amended at 62 FR 41293, Aug. 1, 1997; 78 FR 27083, May 9, 2013]

CONDITIONS GOVERNING INCOMING LOAN

PRESERVATION, CONSERVATION, CARE, AND EXHIBITION

1. Mukwonago Historical and Museum Society, hereafter MHMS, will give borrowed items the same care as it does comparable property of its own. MHMS shall take reasonable precautions to protect items from fire, theft, loss, mishandling, dirt, insect, and extremes of light, temperature, and humidity while in MHSM possession.
2. MHMS retains the right to determine if, when, and how long borrowed items will be exhibited.
3. Either party may cancel this Agreement upon ninety (90) days' notice to the other party.
4. The term of this Agreement shall be one (1) year from the undersigned date. No later than thirty (30) days prior to the expiration of the Agreement's term, the Parties shall review the terms of this Agreement and shall undertake all reasonable, good faith efforts to enter into a new, successive loan or donation agreement, as the case may be, prior to or upon the expiration of this Agreement's term.
5. MHMS has the right to photograph and/or scan loaned items and use these images for exhibition, research, or promotional purposes. General public may take photographs using non-flash photography and video for non-commercial use. Lender will assist in obtaining copyright clearance, including payment of applicable fees, for use of proprietary material. Notwithstanding the foregoing, Lender shall not be liable for any fees related to copyright clearances obtained prior to the date of this Agreement.
6. The Lender may view the borrowed items upon request provided that MHMS is given ten (10) days' notice prior to any viewing and providing that a volunteer is available to be present to assist. Items cannot be removed from the museum premises without Lender's prior written permission, until the completion of the Loan Agreement.
7. The parties acknowledge long term exhibition of material can be damaging and, regular conservation assessment and treatments must occur to mitigate deterioration effects. MHMS, only with the prior written consent of Lender which shall not be unreasonably withheld, may engage the services of a professional conservator for conservation assessment and treatment purposes. Lender acknowledges that there was an appraisal of the loaned items in 2018. The Lender is responsible for the cost of conservation assessment and treatment of materials during the loan period. Notwithstanding the foregoing, Lender shall not be liable for any costs or fees associated with any work ordered by the MHMS, pursuant to this paragraph, prior to the date of this Agreement.
8. The parties acknowledge that MHMS has been in possession of the loaned items prior to the effective date of this Agreement. As such, the parties agree that the loaned items will remain in the possession of MHMS, per the terms of this Agreement, in an "as-is, where-is" condition.

9. Except as otherwise provided in this Agreement, the Lender retains all other rights with respect to the loaned items. MHMS shall take no action with respect to the items without the prior written consent of the Lender, unless otherwise authorized by this Agreement.

INSURANCE

1. Lender (Mukwonago Community Library Board of Trustees) shall obtain applicable insurance coverage for the loaned items in the amount determined by an appraisal of the loaned items.) An appraisal of the material must be conducted by a qualified appraiser in order to determine the fair market value of the loaned items. The appraisal shall be attached to this Agreement and fully incorporated herein. In order to maintain adequate

Insurance coverage, any appraisal incorporated in this Agreement must have been completed within ten (10) years of the date of this Agreement.

2. During the loan term, MHMS will ensure the applicable property, risk and liability insurance are secured and maintained related to any premises where the loaned items are stored or displayed. MHMS may work with the Village of Mukwonago to obtain the proper insurance at levels and coverages consistent with commercially prevalent standards.
3. Each party shall procure and provide a certificate of insurance, evidencing the policies and coverages required by this section, and provide the certificate of insurance to the other party. Each party agrees to require that the insurer list the other party as an Additional Insured and to provide adequate evidence of said status through the liability insurance endorsement.

RETURN OF LOAN

1. At the end of the loan period stated in this Agreement, all loaned items will be returned ~~to~~ HH to the Lender of record at the address of record. Upon receipt, the Lender shall review the condition of the returned items and either (1) sign a Receipt for Return of Loaned Materials (Incoming) or (2) provide MHSM written notice of damage to the returned items. The cost of packing and shipping the loaned items shall be the responsibility of Lender.
2. It is the responsibility of the Lender or his/her agent to notify MHMS in writing if there is a change in ownership or the item or change in address of the Lender. MHMS reserves the right to require proof of title if there is a change in ownership of said items. The Lender is responsible for paying the increased cost of delivery due to an address change. MHMS assumes no responsibility to search for Lender or owner who cannot be reached at the address of record.
3. If the efforts of MHMS to return borrowed items within a reasonable period following termination of the loan are unsuccessful, MHMS maintains the right to charge storage fees or to dispose of said items in any manner it may elect as allowed by applicable law. After seven years, said items are considered abandoned under 1993 Wisconsin Act 18, Section 171.32 and become the property of MHMS provided MHMS follows the procedures in s. 171.32 to obtain title.

We have read and agree to the above conditions and certify that we have full authority to enter into this Agreement.

Lender (Authorized Agent) Title: David Pingo Date: 6/22/22

Borrower (MHMS/Officer) Title: Amy Dechen Date: 7/11/22

7/11/2022