

BOARD OF TRUSTEES

Colette Y. Machado, *Chairperson*
 Rowena Akana, Trustee At-Large
 Peter Apo, O'ahu Trustee
 S. Haunani Apoliona, Trustee At-Large
 Donald B. Cataluna, Kaua'i/Ni'ihau Trustee
 Robert K. Lindsey, Jr., Hawai'i Trustee
 Oswald K. Stender, Trustee At-Large
 John Waihe'e IV, Trustee At-Large
 Carmen K. Lindsey, Maui Trustee



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
 711 KAPI'OLANI BOULEVARD, SUITE 500
 HONOLULU, HAWAII 96813

LIEUTENANT GOVERNOR'S
 OFFICE

12 JAN 20 AIO:1

MEETING OF THE BOARD OF TRUSTEES

DATE: Wednesday, January 25, 2012

TIME: 10:00 a.m.

PLACE: O'ahu
 OHA Board Room, Suite 500
 711 Kapiolani Blvd.
 Honolulu, HI 96813

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. December 29, 2011
- III. Community Concerns*
- IV. Unfinished Business
 - A. Chief Executive Officer's Update on Ho'oulu Lāhui Aloha & OHA Activities.
 - B. Hi'ilei Aloha LLC Update -3rd Qtr. 2011
 - C. Ho'okele Pono LLC Update -3rd Qtr. 2011
- V. Executive Session
 - A. Attorney-Client legal advisory by Board Counsel Robert G. Klein, Esq. re: questions and issues regarding the Board's duties and responsibilities with respect to OHA Contract #1979, Kawaihae'o Church. *Pursuant to HRS 92-5(a)(3) and 92-5(a)(4)*
 - B. Attorney-Client legal advisory by Board counsel Robert G. Klein, Esq., and Corporate Counsel Ernest Kimoto Esq. on questions and issues pertaining to the Board's powers with respect to contracting for legislative consulting services. *Pursuant to HRS 92-5(a)(4).*
 - C. Attorney-Client legal advisory by Board Counsel Robert G. Klein, Esq., and Board Attorney William Meheula, Esq., re: questions and issues pertaining to the Board's powers, duties and liabilities as trustees and managers of the revenues derived from the public land trust under . *Pursuant to HRS 92-5(a)(4).*
 - D. Approval of Executive Session Minutes for December 29, 2011.
- VI. Beneficiary Comments*
- VII. Announcements
- VIII. Adjournment

*Notice: Persons wishing to provide testimony are requested to submit 10 copies of their testimony to the Chief Executive Officer at 711 Kapi'olani Blvd., Suite 500, Honolulu, HI, 96813 or fax to 594-1865, 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.** Notice: This portion of the meeting will be closed pursuant to HRS § 92-5. For further information, please call 594-1954.

Colette Y. Machado
 Trustee Colette Y. Machado
 Chairperson, Board of Trustees

01/19/12
 Date

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BLVD., 5TH FLOOR
HONOLULU, HI 96813

Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, January 25, 2012 10:00 a.m.

ATTENDANCE:

TRUSTEE ROWENA AKANA (10:15 AM)
TRUSTEE PETER APO
TRUSTEE HAUNANI APOLIONA
TRUSTEE C. HULU LINDSEY
TRUSTEE COLETTE Y. MACHADO
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN ESQ., BOT ATTORNEY

ADMINISTRATION STAFF:

RICHARD PEZZULO, Interim CEO
KAMANA'OPONO CRABBE RES
ERNIE KIMOTO, CORP COUNSEL
HAWLEY ALAMODINM CFO
JIM MCMAHON, PUBL
KAI MARKELL, ADV
JEROME YASUHARA, COMP
JERRY NORRIS,
BREANN NUUHIWA, ADV
MOMILANI LAZO, RES

EXCUSED:

TRUSTEE DONALD B. CATALUNA
TRUSTEE ROBERT K. LINDSEY JR.
TRUSTEE OSWALD STENDER

BOT STAFF:

CAROL HO'OMANAWANUI, COS
LEAH BURROWS-NU'UANU, BOT SEC
DAYNA PA, TRUSTEE AIDE
REYNOLD FREITAS, TRUSTEE AIDE
LEIANN DURANT, TRUSTEE AIDE
CRAYN AKINA, TRUSTEE AIDE
NATHAN TAKEUCHI, TRUSTEE AIDE
SHIRLEY NAKANISHI, TRUSTEE SEC.
MAKANA CHAI, TRUSTEE SEC.
SHELSEA APANA, TRUSTEE AIDE

GUESTS:

DANA HALL
CLAIRE STEELE
KAMUELA KALA'I

I. CALL TO ORDER

Chairperson Machado Calls the Board of Trustees meeting to order at 10:06 a.m. Roll call is taken; those present are Trustees Apo, Apoliona, H. Lindsey, Machado, and Waihee, constituting a quorum of five (5) trustees. Trustee Akana will be joining the meeting shortly.

She also advises Trustees that she will rearrange the agenda to take up item V.B. before V.A.

II. APPROVAL OF MINUTES

Chairperson Machado Entertains a motion to approve the minutes of December 29, 2011.

Trustee Apo Moves to approve the minutes of December 29, 2011.

Trustee Waihe'e Seconds the motion.

There was no discussion on the motion. Chairperson Machado asks for a roll call vote.

Trustee Apo Moves to approve the minutes of December 29, 2011.

Trustee Waihe'e Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA AKANA						Not Present
TRUSTEE PETER APO	X		X			
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE DONALD CATALUNA						Excused
TRUSTEE HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE OSWALD STENDER						Excused
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			5			4

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Motion passes with five (5) YES votes, three (3) EXCUSED and one (1) NOT PRESENT.

III. COMMUNITY CONCERNS

Chairperson Machado Notes there are no beneficiaries singed up to speak at this time.

IV. UNFINISHED BUSINESS

A. CHIEF EXECUTIVE OFFICER'S UPDATE ON HO'OULU LĀHUI ALOHA AND OHA ACTIVITIES

Chairperson Machado Recognizes Interim Chief Executive Officer Richard Pezzulo to present the update.

Interim CEO Pezzulo States that Trustees were asked to complete a survey for leadership training a few weeks prior. Training sessions have been scheduled with the Shilder School of Business from the University of Hawai'i. The training sessions will be scheduled on February 21 and 28, here at the OHA Boardroom, from 9am – 12pm.

He also announces that the Governor has approved the selection of the Salary Commission members. The meetings need to be completed within the next four (4) weeks and the report submitted to the Legislature.

Trustee Apoliona Asks for the names of the Commissioners.

Interim CEO Pezzulo States that OHA submitted a list of names from various Hawaiian organizations. The members are Dennis Fern, Mele Spencer, Diane Paloma, Ray Coth, Laura Lee, Edward Wendt and Katrina Oliveira.

Chairperson Machado Thanks Mr. Pezzulo for his update. The Trustees look forward to the report in a few weeks.

B. HI'ILEI ALOHA LLC UPDATE – 3RD QUARTER

Interim CEO Pezzulo Introduces Ms. Mona Bernardino, Executive Director of Hi'ilei Aloha LLC.

Ms. Bernardino States that she will be reviewing the Hi'ilei Aloha LLC report first. She reviews the summary pages. (The full report is attached to these minutes)

Internal Administration:

- Created, printed and distributed its First Annual Report, 2007 - 2010
- Filed Income Tax Return Form 990-T for 2010
- Reorganized and central-filed all formation and governing documents for each LLC
- Reviewed 2010 audit drafts
- Attended SHRM Hawaii Annual Statewide Conference
- Attended 8th Annual Nonprofit Organizations Seminar
- Renewed MAS90 Accounting Software plan

Assisted Subsidiaries:

Hi'ipoi LLC

- o Continued to aggressively promote Makaweli Poi and Taro Chunks
- o Put Makaweli logo on delivery van

Hi'ikualono LLC

- o Filed 2011 Business Annual Filing with DCCA

Ho'okahua Capacity-Building Program:

- Hired Capacity-Building Program Manager
- Developed Program Brochure, Referral Form, and Intake & Request for Services Form
- Attended Administration for Native Americans (ANA) Project Development Training Workshop

Statistical Report

Number of community outreach presentations made on Oahu: 15

Number of community outreach presentations made on Maui: 8

Number of capacity-building applications received: 10

- Number seeking to start up a business: 3
- Number seeking to start up a nonprofit: 7
- Number seeking business plan assistance: 3
- Number seeking funding development assistance: 3
- Number seeking grant writing assistance: 7
- Number seeking strategic planning assistance: 7

Number of clients counseled: 30 (businesses, nonprofits, and individuals seeking to form a business or nonprofit).

B. HO'OKELE PONO LLC UPDATE – 3RD QUARTER

Ho'okipaipai LLC accomplished:

Number of clients counseled: 235

Native Hawaiian Owned: 69

Number of new clients: 93

Native Hawaiian Owned: 16

Number of contracts awarded: 15 Dollars: \$1,554,469.00

Number of Native Hawaiian Owned contracts awarded: 5

Dollars: \$436,135.00

Eight procurement outreach conferences were held:

Sponsored:

31 August Ho'okipaipai co-hosted a presentation with Watts Contractors at Pearl Country Club

Attended:

12 July 9th Annual Department of Defense Hawaii Small Business Forum at Oahu Country Club
26 July SBA WOSB (Women-owned Small Business) Round Table at Restaurant Row offices
5 August 9th Annual SBA Forum at Japanese Cultural Center
17 August Honolulu Executive's Association event at Honolulu Community College
23-25 August 10th Annual Native Hawaiian Convention at Hawaii Convention Center

Sponsored by sub-recipient (MEO in Kahului):

26 July Doing Business with Government as a Subcontractor at Maui Mall
27 September Doing Business with the Government "10 Steps to Getting Started" at Maui County Business Resource Center

Trustee Waihe'e States that the numbers seem to benefit more non-Hawaiians than Hawaiians. Approximately 40% of the companies are Hawaiian, the rest are not.

Ms. Bernardino States that within the State of Hawai'i only 8% of businesses are owned by Native Hawaiians. The pool from which the PTAC program assists is very small.

Trustee Akana States that when the Board of Trustees decided to approve the PTAC program it was housed within OHA. She asks why it was moved over to the LLCs.

Interim CEO Pezzulo When the Strategic Plan was passed, part of the plan was to move OHA away from direct service delivery. The Trustees at the time wanted to focus more on research and advocacy.

Chairperson Machado States that in some point in the future programs like PTAC need to be evaluated to see if OHA's funds used in the match should be used elsewhere.

Trustee Apoliona Asks to be reminded what the acronym represents.

Interim CEO Pezzulo States that it means Hawai'i Procurement Technical Assistance Center.

Trustee Apo Asks if there are any projections on anticipated losses from the LLCs.

Interim CEO Pezzulo States that an assessment of Waimea Valley and Hi'ipoi is being done. The CFO of the LLC's anticipates breaking even in 2014, for Waimea. There has been some discussion about an exit strategy for Makaweli Poi. The way the business is set up, it is difficult to employ staff and move products to market for profit.

Trustee Apo Asks if there are any other projects being proposed for the LLCs. He is concerned about the liability issues related to the distancing of OHA from these projects. He doesn't understand the reasoning behind the LLC set up.

Ms. Bernardino States that perhaps a discussion with Ms. Nicholson about the LLC situation is warranted at this point.

Interim CEO Pezzulo States that it can be arranged to have Ms. Nicholson attend a Board meeting in the near future.

III. COMMUNITY CONCERS

Chairperson Machado Asks Trustees to be patient while she reverts back to agenda item III. She notes the arrival of several beneficiaries who have come to speak on the Kawaiaha'o Church matter. She recognizes Claire Steele to speak first.

Ms. Steele States that she has no additional information about the financial ability of the Church to complete the Multi-Service Center. From her apartment she is able to see the Church site and the removal of truckloads of earth from the site. She has recorded by video, the removal of truck load after truck load of dirt being taken away from the site. The dirt being removed isn't being sifted for iwi.

She also speaks about the protocol being used for the iwi that are found. They are placed in brown paper bags and wrapped in muslin. She understands that there are many culturally correct ways to handle the iwi, but feels disappointed with the way the Church has chosen to treat the iwi. She thanks the Trustees for being patient with those who have come before the OHA with issues about the Church and the iwi.

Chairperson Machado Recognizes Dana Naole Hall as the next speaker.

Ms. Hall States that as of November 4, 2011, in addition to the original 69 burials unearthed in 2009, there have been 36 more burials found. Three weeks later the burial count rose to 105, indicating that 18 more burials were excavated. This is a significant number because if the Church doesn't have one archaeologist per burial, then it is probably not being done properly. At first the permit from the State Historical Preservation Division (SHPD) indicated that only hand excavating of the site occur. They later amended the permit to allow the removal of fill material by careful excavation by mechanical means. They have been using an electric spade which is like a jackhammer. They have been seen using excavators and a backhoe, which has no doubt gone beyond the allowable 2 feet fill material layer.

There is a concern that unscreened sediment has been trucked away to an industrial park. There may be iwi in the soil being trucked away. She circulates photographs to Trustees around the table. Burial pits were found along the walls of the trenches and will probably go unattended to. Recently the site began to turn into a homeless camp.

The group is hoping that OHA will request the weekly cultural surveys being filed by the Church. These weekly reports after November 26th will be very important because they should include the numbers of burials uncovered since November 4th. The group was notified by inside sources that the burial count has risen since the last reports were made public. Those reports do not include the iwi uncovered when the water line trenches were being dug. These water lines will require a 4 foot wide trench. There will also be an electric and telecommunications line dug. The concern is that when these trenches are being opened, there will be many more burials unearthed.

One of the main conditions of the permit is to get consultation by lineal descendants and cultural advisors. Outreach efforts needed to be as broad as possible and cannot be limited to the congregation or the families of those buried in the cemetery. The Church was to provide the names of those consulted in these weekly reports to SHPD. In one of the last reports available to the public, the Church listed that they have only consulted with one family. The group thinks the Church should be held to the terms of the permit and seek consultation from a wider berth of stakeholders. OHA's help in requesting these reports is greatly appreciated.

Trustee Akana Asks who is entitled to receive those weekly reports.

Ms. Hall States that OHA is certainly entitled to those reports. She states that Kai Markell has asked for the reports and was told to fill out the UIPA forms.

Trustee Akana Asks why Ms. Hall's suit was dismissed.

Ms. Hall States that the Judge found that the burials of Kawaiaha'o are Christian burials and do not fall under the States burial laws Chapter 6E-43. No amount of argument dissuaded the Judge from that point of view. The interesting thing is that the original 69 burials unearthed were treated under Chapter 6E.

Trustee Akana Asks where the fill has been taken.

Ms. Hall States that the fill is being taken to an industrial site in Pearl City.

Trustee Apo Asks if Ms. Hall would help with the information on these request letters.

Ms. Hall States that she will be happy to help.

Kai Markell States that OHA has received many requests for information from beneficiaries concerned with the project. Ms. Pua Aiu of SHPD stated that the Department of Health is the enforcing agency for those reports. He called the Department of Health and was told that they information couldn't be given because the matter was being litigated.

He adds that he has personally witnessed the removal of tons of unsifted earth from the Church site. What happens to the earth when it gets to the industrial site is unknown. He hopes that the earth is not being resold to other construction sites.

He states that he has offered to kōkua the Church with the malama of the iwi in the basement. His offers have been rebuffed.

Ms. Hall Adds that this entire situation and project was based on one vote of the congregation where 46 members voted to move forward in 2003. There were approximately 20 members that voted against it. That single vote set into motion this hewa.

Ms. Steele States that part of it could be the way things are presented to the members that caring for the iwi is contrary to Christian beliefs.

Chairperson Machado Recognizes Ms. Kamuela Kala'i to the table to address the Trustees.

Ms. Kala'i Asks whether the Trustees plan to invite Kahu Kekuna and the members of the Church Board back to the OHA table. One year ago they promised to do certain things. They haven't been true to their word. She states that she would like to be present if they are ever invited back to OHA for an update. She asks that OHA remind the Church that the ho'oponopono process didn't work because they walked away from the table.

Chairperson Machado Thanks Ms. Steele, Ms. Hall and Ms. Kala'i for attending the meeting and states that the Board will discuss the findings of OHA contract #1979 in the next part of the agenda.

III. EXECUTIVE SESSION

A. ATTORNEY-CLIENT LEGAL ADVISORY BY BOARD COUNSEL ROBERT G. KLEIN, ESQ. RE: QUESTIONS AND ISSUES REGARDING THE BOARD'S DUTIES AND RESPONSIBILITIES WITH RESPECT TO OHA

CONTRACT #1979, KAWAIAHA'O CHURCH. PURSUANT TO HRS 92-5(A)(3) AND 92-5(A)(4)

- B. ATTORNEY-CLIENT LEGAL ADVISORY BY BOARD COUNSEL ROBERT G. KLEIN, ESQ., AND CORPORATE COUNSEL ERNEST KIMOTO ESQ. ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS WITH RESPECT TO CONTRACTING FOR LEGISLATIVE CONSULTING SERVICES. PURSUANT TO HRS 92-5(A)(4).**
- C. ATTORNEY-CLIENT LEGAL ADVISORY BY BOARD COUNSEL ROBERT G. KLEIN, ESQ., AND BOARD ATTORNEY WILLIAM MEHEULA, ESQ., RE: QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES AND LIABILITIES AS TRUSTEES AND MANAGERS OF THE REVENUES DERIVED FROM THE PUBLIC LAND TRUST UNDER . PURSUANT TO HRS 92-5(A)(4).**
- D. APPROVAL OF EXECUTIVE SESSION MINUTES FOR DECEMBER 29, 2011.**

Chairperson Machado Asks for a motion to resolve into Executive Session.

Trustee Waihe'e Moves to resolve into Executive Session to consult with the Board's attorneys on questions and issues pertaining to the Board's powers, duties and liabilities.

Trustee Apo Seconds the motion.

Hearing no discussion, Chairperson Machado asks for a roll call vote.

Trustee Waihe'e Moves to resolve into Executive Session to consult with the Board's attorneys on questions and issues pertaining to the Board's powers, duties and liabilities.

Trustee Apo Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO		X	X			
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE DONALD CATALUNA						Excused
TRUSTEE HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE OSWALD STENDER						Excused
TRUSTEE JOHN WAIHE'E	X		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6			3
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with six (6) YES votes, three (3) EXCUSED.						

The Board moved into Executive Session at 11:12 a.m.

The Board moved into Open Session at 12:14 p.m.

IX. BENEFICIARY COMMENTS ANNOUNCEMENTS

Chairperson Machado Announces that there are no beneficiaries sign up to speak.

X. ANNOUNCEMENTS

Chairperson Machado Announces the following

- February 2nd – BOT Meeting 10:00 am.
- February 9th – BOT Meeting 10:00 am

VII. ADJOURNMENT

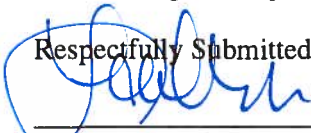
Trustee Apoliona Moves for adjournment.

Trustee Apo Seconds the motion.

There was no discussion and Chairperson Machado notes a unanimous consensus.

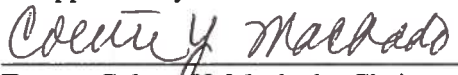
The meeting was adjourned at 12:14 P.M.

Respectfully Submitted,



Leah Burrows-Nu'uano,
Board Secretary

As approved by the Board of Trustees on February 9, 2012.



Trustee Colette Y. Machado, Chairperson
Board of Trustees

ATTACHMENTS:

1. January 25, 2012 BOT Community Sign in Sheet
2. Hiilei Aloha LLC 3rd Quarter Report
3. Hookele Pono LLC 3rd Quarter Report