



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

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

LIEUTENANT GOVERNOR'S  
 OFFICE

'12 JUN 29 10:29

**MEETING OF THE BOARD OF TRUSTEES**

**DATE:** Thursday, July 5, 2012

**TIME:** 9:00 a.m.

**PLACE:** O'ahu\*

OHA Board Room, Suite 500  
 711 Kapiolani Blvd.  
 Honolulu, HI 96813

Kaua'i - ICSD Video Conference\*

Lihu'e State Office Building  
 3060 Eiwa Street, Basement  
 Lihu'e, HI 96766

**AGENDA**

- I. Call to Order
- II. Approval of Minutes
  - A. May 22, 24, & 25, 2012
  - B. June 7, 2012
- III. Community Concerns\*
- IV. Unfinished Business
  - A. Ka Pouhana/CEO's Update on Ho'oulu Lahui Aloha & OHA activities.
- V. New Business
  - A. Committee on Asset and Resource Management
    1. ARM 12-07: FY 2013 Native Hawaiian Roll Commission Operating Budget
- VI. Executive Session\*\*
  - A. Attorney-Client legal advisory by OHA Board Counsel Robert G. Klein, Esq. and OHA Board Attorney Kannon Shanmugam, Esq. re: questions and issues pertaining to the certiorari petition in *Corboy v. Louie*, USSCt. No. 11-336. *Pursuant to HRS 92-5 (a)(4)*. Telephonic Conference at 9:30 a.m. (HST)
  - B. Attorney-Client legal advisory by OHA Board Counsel Robert G. Klein, Esq., and OHA Attorney Randall Sakumoto 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. *Pursuant to HRS 92-5(a)(4)*.
  - C. Legal advisory and status update by Ka Pouhana, Administration consultants, Corporation Counsel Ernie Kimoto, Esq., OHA Board Counsel Robert G. Klein, Esq., and OHA Counsel Sheryl Nicholson, Esq. on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding the acquisition of certain public property. *Pursuant to HRS 92-5(a)(3) and 92-5(a)(4)*.
  - D. Attorney-Client legal advisory by OHA Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties and liabilities with respect to the demand letter received from Attorney H. William Burgess, Esq. on June 18, 2011.
  - E. Approval of Executive Session Minutes for May 22, 24 & 25, 2012; June 7, 2012.
- VII. Beneficiary Comments\*
- VIII. Announcements
- IX. Adjournment

\*Notice: The public may attend the meeting at either of the specified locations. \*\*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

*6/29/12*  
 Date

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

Minutes of the Office of Hawaiian Affairs Board of Trustees  
Thursday, July 5, 2012 9:00 a.m.

**ATTENDANCE:**

TRUSTEE PETER APO (ARRIVED 9:51 AM)  
TRUSTEE HAUNANI APOLIONA  
TRUSTEE COLETTE Y. MACHADO  
TRUSTEE C. HULU LINDSEY  
TRUSTEE ROBERT K. LINDSEY JR  
TRUSTEE OSWALD STENDER  
TRUSTEE JOHN WAIHE'E IV (ARRIVED 9:06 AM)

ROBERT G. KLEIN ESQ., BOT COUNSEL

**ADMINISTRATION STAFF:**

KAMANA'OPONO CRABBE, KA POUHANA  
AEDWARD LOS BANOS, COO  
BREANN NU'UHIWA, ADV  
ERNIE KIMOTO, CORP COUNSEL  
KEHAU ABAD, CED  
HAWLEY ALAMODIN CFO  
JIM MCMAHON, ADV  
KAIPO MORALES, IT  
CONNIE CHENG, CIO  
KAIWINUI YOON, LM

**EXCUSED:**

TRUSTEE ROWENA AKANA  
TRUSTEE DONALD B. CATALUNA

**BOT STAFF:**

CAROL HO'OMANAWANUI, COS  
LEAH BURROWS-NU'UANU, BOT SEC  
DAYNA PA, TRUSTEE AIDE  
LEIANN DURANT, TRUSTEE AIDE  
ANI PANG, TRUSTEE AIDE  
REYNOLD FREITAS, TRUSTEE AIDE  
KAMA HOPKINS, TRUSTEE AIDE  
NATHAN TAKEUCHI, TRUSTEE AIDE  
SHELSEA APANA, TRUSTEE AIDE  
LEHUA ITOKAZU, TRUSTEE SEC

**GUESTS:**

RANDALL SAKUMOTO, ESQ.  
SHERYL NICHOLSON, ESQ.  
WILLIAM YUEN, ESQ.  
JAMES HOLSTROM  
FERNANDO BENEVENTES  
HIRAM PAJO  
RANDY HAROLD  
SVEN LINDSTROM

**I. CALL TO ORDER**

Chairperson Machado Calls the Board of Trustees meeting to order at 9:02 a.m. Roll call is taken; those present are Trustees Apoliona, H. Lindsey, R. Lindsey, Machado and Stender constituting a quorum of five (5) trustees. Trustees Akana and Cataluna have submitted letters of excuse for today's meeting. Trustees Waihe'e and Apo should be arriving shortly.

She notes that the meeting is also live at the Kaua'i State Office Building via video-conference. The video-conference was scheduled to allow for Trustee Cataluna's participation. Unfortunately Trustee Cataluna is not feeling well today. The Kaua'i site will remain open and available to our beneficiaries on Kaua'i.

Chairperson Machado Calls on Trustee Stender to make a motion to approve the 72-Hour Waiver.

Trustee Stender Moves to approve a 72-Hour Waiver for agenda items:

V. New Business

A. Committee on Asset and Resource Management

1. ARM 12-07: FY 2013 Native Hawaiian Roll Commission Operating Budget

Trustee Robert Lindsey Seconds the motion.

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

**Trustee Stender** Moves to approve a 72-Hour Waiver for agenda items:

V. New Business

A. Committee on Asset and Resource Management

1. ARM 12-07: FY 2013 Native Hawaiian Roll Commission Operating Budget

**Trustee Robert Lindsey** Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA AKANA						X
TRUSTEE PETER APO						Not Present
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE DONALD CATALUNA						X
TRUSTEE HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY	X		X			
TRUSTEE OSWALD STENDER		X	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
<b>TOTAL VOTE COUNT</b>			6			1/2

**MOTION:** ☒ UNANIMOUS ☐ PASSED ☐ DEFERRED ☐ FAILED

**Motion passes with six (6) YES votes one (1) NOT PRESENT and two (2) EXCUSED.**

## **II. APPROVAL OF MINUTES**

**Chairperson Machado** Asks for a motion to approve the minutes of May 22, 24 & 25, 2012; June 7, 2012.

**Trustee Robert Lindsey** Moves to approve the minutes of May 22, 24 & 25, 2012; June 7, 2012.

**Trustee Stender** Seconds the motion.

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

**Trustee Robert Lindsey** Moves to approve the minutes of May 22, 24 & 25, 2012; June 7, 2012.

**Trustee Stender** Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA AKANA						X
TRUSTEE PETER APO						Not Present
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE DONALD CATALUNA						X
TRUSTEE HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		X	X			
TRUSTEE OSWALD STENDER	X		X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
<b>TOTAL VOTE COUNT</b>			6			1/2
<b>MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED</b>						
<b>Motion passes with six (6) YES votes one (1) NOT PRESENT and two (2) EXCUSED.</b>						

### **III. COMMUNITY CONCERNS**

**Chairperson Machado** States that there are no beneficiaries signed up to speak today. She checks with the Kaua'i site and confirms that no one has signed up to speak on Kaua'i.

### **IV. UNFINISHED BUSINESS**

#### **A. KA POUHANA/CEO'S UPDATE ON HO'OULU LAHUI ALOHA & OHA ACTIVITIES.**

**Chairperson Machado** Calls on Ka Pouhana Crabbe to provide his update on OHA activities.

**Ka Pouhana** States that over the next couple of months Administration will be realigning the budget. They are also revising the work plan processes to be implemented by the end of August.

They are moving forward with hiring program management positions. There are some changes in the Community Engagement contractors. They are evaluating the OHA website for effectiveness. Changes are being made over the next couple of months. They hope to have a better communication approach with the community.

He calls on Chief Advocate Breann Nu'uhiwa to update Trustees on the Washington D.C. Bureau and governance updates.

**Chief Advocate Nu'uhiwa** States that she recently returned from Washington D.C. It is administration's hope to expand the D.C. office to include not only a bureau chief and administrative assistant, but to also include a policy analyst. The position would entail similar duties to the analysts we have on staff here in the Honolulu office. Administration is also implementing a fellowship program for one year terms. The first fellow is an attorney from Hawai'i who recently graduated from Richardson School of Law at the University of Hawaii. This person will be relocating to Washington D.C. to fill this position.

They will also initiate an intern program through the Washington D.C. office. The interns will not be physically housed in the OHA D.C. Office, but rather placed within federal agencies and legislative committees to help us keep up with Advocacy opportunities in those areas. They will work for the agencies and committees gaining experience and reporting back to us.

There are many agencies interested in having an intern. OHA currently has a summer intern named Evan working at the Department of Energy researching geothermal issues. He is an undergraduate at Oregon and is a Na Pua No'eau alumnus.

**Trustee Apoliona** Asks if the three positions at the Washington D.C. office will be required to be residents of Hawai'i.

**Ka Pouhana Crabbe** Confirms that they will need to be residents of Hawai'i.

**Trustee Apoliona** Asks if the sponsorship of interns will have major budgetary implications.

**CA Nu'uhiwa** States that in order to keep the internship program closely aligned with the strategic plan and priority results they will have interns be subject matter interns to be sponsored by the various initiative budgets.

**Trustee Stender** Asks if the expansion will cause a need to move locations in Washington D.C.

**CA Nu'uhiwa** States that there may come a time when the office will need to be relocated. OHA is not there yet.

**Trustee Apoliona** Asks for an update on the Washington D.C. visits.

**Ka Pouhana Crabbe** States that the meeting with Congresswoman Hanabusa was introductory. There was a brief discussion on federal recognition. The climate in Washington D.C. is not the best for moving the Akaka bill but she stated her support of Native Hawaiian issues. She did state that she is working to give Native Hawaiians parity with other indigenous groups.

The meeting with Senator Akaka was much more informal. OHA presented him with a plaque that recognized his dedication to Native Hawaiians and Hawai'i.

**Chairperson Machado** States that Ka Pouhana offered a oli which made the presentation meaningful and special. Trustees were happy to be there and to be a part of the program.

**Ka Pouhana Crabbe** States that in the meeting with Senator Inouye he was able to update the Senator on OHA's new direction. He reassured us with his commitment for federal recognition.

**Trustee Hulu Lindsey** States that in the meeting at the Senator's office it seemed like the effort was being focused primarily on the fifty-percent Hawaiians. Trustee Akana felt the same way after leaving the office.

**Trustee Apoliona** States that in prior conversations with the Senator it has come up. It is concerning since OHA represents all Hawaiians.

**Chairperson Machado** States that Ka Pouhana has a meeting with members of the Senator's staff next Tuesday. Perhaps we can ask for clarification.

**Trustee Robert Lindsey** States that OHA should remind everyone of Prince Kuhio Kalaniana'ole's intent to have more than fifty-percent Hawaiians on the homesteads. He wanted to include those with 1/32.

**Chairperson Machado** Asks Ka Pouhana to comment about his discussions with the Civic Clubs.

**Ka Pouhana Crabbe** States discussions were based on OHA's direction and aligning with the strategic plan. Both organizations can support each other in advocacy. They discussed a Memorandum Of Understanding to clearly define the role and responsibilities of each organization. What OHA's goals are and how we can support the mainland civic clubs.

## V. NEW BUSINESS

### A. COMMITTEE ON ASSET AND RESOURCE MANAGEMENT

#### 1. ARM 12-07: FY 2013 NATIVE HAWAIIAN ROLL COMMISSION OPERATING BUDGET

**Chairperson Machado** Calls on Trustee Stender to offer a motion for the Native Hawaiian Roll Commission's Operating Budget.

**Trustee Stender** Moves to approve and authorize the disbursement of \$2,108,850 from the FY 2013 Fiscal Reserve Designation Amount for the FY 2013 Native Hawaiian Roll Commission Operating Budget as outlined in Attachment 1, subject to a six-month review.

**Trustee Robert Lindsey** Seconds the motion.

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

**Trustee Stender** Moves to approve and authorize the disbursement of \$2,108,850 from the FY 2013 Fiscal Reserve Designation Amount for the FY 2013 Native Hawaiian Roll Commission Operating Budget as outlined in Attachment 1, subject to a six-month review.

**Trustee Robert Lindsey** Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA AKANA						X
TRUSTEE PETER APO						Not Present
TRUSTEE HAUNANI APOLIONA	X		X			
TRUSTEE DONALD CATALUNA						X
TRUSTEE HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE OSWALD STENDER			X			
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
<b>TOTAL VOTE COUNT</b>			6			1/2
<b>MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED</b>						
<b>Motion passes with six (6) YES votes one (1) NOT PRESENT and two (2) EXCUSED.</b>						

## **VI. EXECUTIVE SESSION**

**Chairperson Machado** Asks for a motion to move into Executive Session.

**Trustee Apoliona** 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. *Pursuant to HRS 92-5(a)(4).*

**Trustee Waihe'e** Seconds the motion.

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

**Trustee Apoliona** 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. *Pursuant to HRS 92-5(a)(4).*

**Trustee Waihe'e** Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA AKANA						X
TRUSTEE PETER APO						Not Present
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE DONALD CATALINA						X
TRUSTEE HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		X	X			
TRUSTEE OSWALD STENDER	X		X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6			1/2
MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED						
Motion passes with six (6) YES votes one (1) NOT PRESENT and two (2) EXCUSED.						

**The Board moved into Executive Session at 9:29 a.m.**

- A. ATTORNEY-CLIENT LEGAL ADVISORY BY OHA BOARD COUNSEL ROBERT G. KLEIN, ESQ. AND OHA BOARD ATTORNEY KANNON SHANMUGAM, ESQ. RE: QUESTIONS AND ISSUES PERTAINING TO THE CERTIORARI PETITION IN CORBOY V. LOUIE, USSCT. NO. 11-336. *PURSUANT TO HRS 92-5 (A)(4).* TELEPHONIC CONFERENCE AT 9:30 A.M. (HST)
- B. ATTORNEY-CLIENT LEGAL ADVISORY BY OHA BOARD COUNSEL ROBERT G. KLEIN, ESQ., AND OHA ATTORNEY RANDALL SAKUMOTO 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. *PURSUANT TO HRS 92-5(A)(4).*
- C. LEGAL ADVISORY AND STATUS UPDATE BY KA POUHANA, ADMINISTRATION CONSULTANTS, CORPORATION COUNSEL ERNIE KIMOTO, ESQ., OHA BOARD COUNSEL ROBERT G. KLEIN, ESQ., AND OHA COUNSEL SHERYL NICHOLSON, ESQ. ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES REGARDING THE ACQUISITION OF CERTAIN PUBLIC PROPERTY. *PURSUANT TO HRS 92-5(A)(3) AND 92-5 (A)(4).*
- D. ATTORNEY-CLIENT LEGAL ADVISORY BY OHA BOARD COUNSEL ROBERT G. KLEIN, ESQ. RE: QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S

**POWERS, DUTIES AND LIABILITIES WITH RESPECT TO THE DEMAND  
LETTER RECEIVED FROM ATTORNEY H. WILLIAM BURGESS, ESQ. ON JUNE  
18, 2011.**

**E. APPROVAL OF EXECUTIVE SESSION MINUTES FOR MAY 22, 24& 25, 2012;  
JUNE 7, 2012.**

**The Board moved into Open Session at 11:49 a.m.**

**X. ANNOUNCEMENTS**

Chairperson Machado Announces the following Board Meetings:

1. OHA Lana'i Community Meeting - July 18, 2012, Lana'i High School Cafeteria
2. Board of Trustees Meeting – July 19, 2012, Ko'ele Lodge Library
3. Board of Trustees Meeting – August 2, 2012, OHA Board Room

**VII. ADJOURNMENT**

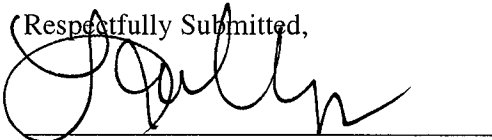
Trustee Apoliona Moves for adjournment.

Trustee Stender Seconds the motion.

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

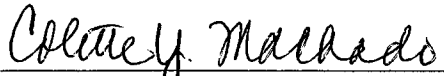
The meeting was adjourned at 12:01 P.M.

Respectfully Submitted,



Leah Burrows-Nu'uano,  
Board Secretary

As approved by the Board of Trustees on July 19, 2012.



Trustee Colette Y. Machado, Chairperson  
Board of Trustees

**ATTACHMENTS:**

1. July 5, 2012 BOT Community Sign in Sheet
2. Excused Absence Memo from Trustees Akana and Cataluna