

BOARD OF TRUSTEES
 Colette Y. Machado, *Chairperson*
 Peter Apo, *Vice Chairperson*
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 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

DEPUTY GOVERNOR
 OFFICE

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MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, August 16, 2012
TIME: 9:00 a.m.
PLACE: University of Hawai'i, Maui Campus
 310 Kaahumanu Avenue
 Ka'a'ike Building 105 B, C, & D
 Kahului, Maui, Hawai'i 96732

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. August 2, 2012
- III. Community Concerns*
- IV. Unfinished Business
 - A. Ka Pouhana/CEO's Update on Ho'oulu Lahui Aloha & OHA activities.
- V. Beneficiary Comments*
- VI. Executive Session**
 - A. Attorney Client legal advisory by OHA Attorney Bill Yuen, Esq. re: questions and issues pertaining to the Board's powers, duties, and liabilities as trustees and managers of cultural and preservation real property to acquire certain property by donation. Pursuant to HRS § 92-5(a)(4).
 - B. Legal advisory and status update by Ka Pouhana, Administration consultants, OHA Board Counsel Robert G. Klein, 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).
 - C. 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 lawsuit filed by/to be filed by Attorney H. William Burgess, Esq. per his e-message of July 24, 2012 to Board Counsel.
 - D. Approval of Executive Session Minutes for August 2, 2012
- VII. Announcements/FYI
- 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.

Colette Y. Machado

Trustee Colette Y. Machado
 Chairperson, Board of Trustees

8/9/12

Date

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
UNIVERSITY OF HAWAII, MAUI CAMPUS
310 KAAHUMANU AVENUE
KA'A'IKE BUILDING 105 B, C, & D
KAHULUI, MAUI, HAWAII 96732

Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, August 16, 2012 9:00 a.m.

ATTENDANCE:

TRUSTEE ROWENA AKANA
TRUSTEE PETER APO
TRUSTEE HAUNANI APOLIONA
TRUSTEE C. HULU LINDSEY
TRUSTEE ROBERT K. LINDSEY JR
TRUSTEE COLETTE Y. MACHADO
TRUSTEE OSWALD STENDER
ROBERT G. KLEIN ESQ., BOT COUNSEL

ADMINISTRATION STAFF:

KAMANA'OPONO CRABBE, KA POUHANA
AEDWARD LOS BANOS, COO
BREANN NU'UHIWA, ADV
KEHAU ABAD, CED
HAWLEY ALAMODIN, CFO
KEOLA AKANA, CEM
HAROLD NEDD, MRM
ROY NEWTON, MAUI CRC
KOALANI KAULUKUKUI, LMP
KAIWINUI YOON, LMP
LUCI MEYER, OUTR

GUESTS:

DANA NAONE HALL KEA'AUMOKU KAPU
FOSTER AMPONG VARNA KAKIHEI
KULE NAKANELUA LUUKIA NAKANELUA

EXCUSED:

TRUSTEE DONALD B. CATALUNA
TRUSTEE JOHN WAIHE'E IV

BOT STAFF:

CAROL HO'OMANAWANUI, COS
LEAH BURROWS-NU'UANU, BOT SEC
DAYNA PA, TRUSTEE AIDE
LEIANN DURANT, TRUSTEE AIDE
NATHAN TAKEUCHI, TRUSTEE AIDE
CRAYN AKINA, TRUSTEE AIDE
CAPSUN POE, TRUSTEE AIDE
KAMA HOPKINS, TRUSTEE AIDE
ANI PANG, TRUSTEE AIDE
LEHUA ITOKAZU, TRUSTEE SEC
SHIRLEY NAKANISHI, TRUSTEE SEC

GUESTS:

KALEIKOA KAEO	KANILOA KAMAUNU
CLAIRE APANA	JOHANNA KAMAUNU
JOYCLYNN COSTA	LESLIE KULOLOIO
VICTORIA KALUNA-PALAFIX	
CLYDE SAKUMOTO	EVERETT DOWLING
MALIA DAVIDSON	KI'OPE RAYMOND
KAU'I KAHAIALI'I	BASIL OSHIRO
CLARE APANA	ADELINE RODRIGUES

I. CALL TO ORDER

Chairperson Machado Calls the Board of Trustees meeting to order at 9:05 a.m. Roll call is taken; those present are Trustees Akana, Apo, Apoliona, Hulu Lindsey, Robert Lindsey, Machado and Stender. constituting a quorum of seven (7) trustees. Trustees Cataluna and Waihe'e have submitted letters of excuse for today's meeting.

II. APPROVAL OF MINUTES

Chairperson Machado Asks for a motion to approve the minutes of August 2, 2012.

Trustee Hulu Lindsey Moves to approve the minutes of August 2, 2012

Trustee Apo Seconds the motion.

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

Trustee Hulu Lindsey Moves to approve the minutes of August 2, 2012.

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						X
TRUSTEE HULU LINDSEY	X		X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE OSWALD STENDER			X			
TRUSTEE JOHN WAIHE'E						X
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2

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

Motion passes with seven (7) YES votes and two (2) EXCUSED.

Chairperson Machado States that before she calls on the first community speaker, she wanted to introduce the Chancellor of the University of Hawai'i's Maui Campus, Mr. Clyde Sakumoto. She also introduces Mr. Ki'ope Raymond both were vital to the Palauea land collaboration.

Mr. Raymond Thanks Trustees for accepting oversight of the Palauea acreage from the Dowling Company on behalf of the University of Hawaii Maui Campus' Hawaiian Studies Program. The students are overjoyed with the opportunity that the school and Mr. Dowling has offered them.

Chancellor Sakumoto Welcomes the Office of Hawaiian Affairs to the UH Maui Campus. He thanks OHA for its willingness to collaborate with the Maui community over the years. He knows that whenever there is an opportunity to collaborate with different organizations for the betterment of the community, some effort should be made.

There are a number of things going on here on Maui that OHA may be aware of. They have one of 15 energy efficiency projects in the country supported by the Department of Energy and the only college campus to be chosen. They have been working on energy efficiency, conservation and generation and storage of energy. They hope for an increasingly vital partnership with OHA, in terms of making all of these kinds of possibilities more real and accessible.

Trustee Apoliona Asks for a timeframe on the Palauea community plan the college intends on taking to the public.

Chancellor Sakumoto States that it is difficult to determine an exact time frame. They've already touched bases with the families connected with the parcels so they would go back to them first. They would then go through all of the processes including cultural resource study and all of the steps the State Historic Preservation Divisions requires. He would like to see it done within this next academic year in terms of a plan coming together that would be supported by all of the communities that will be connected.

Trustee Apo Comments that Palauea is a parcel that will not be subjected to spreadsheet analysis in terms of revenue generating. In recent years OHA has been accumulating a group of legacy properties that will one day be transferred to the nation. There are other parcels not in OHA's holdings that are also being held for the nation. One of these is Kaho'olawe. He thinks it is wonderful that OHA is physically manifesting a nation that people can malama and it's tangible.

Trustee Hulu Lindsey States on behalf of the Board of Trustees she would like to thank Chancellor Sakumoto for calling her to get OHA's mana'o on this project. This is a blessing for the Hawaiian people. They are very anxious to start working the land. She is looking forward to the plan they will be developing. She expresses her appreciation for allowing OHA to be a part of this project.

Chancellor Sakumoto Thanks Trustee Hulu Lindsey for her leadership in getting OHA on board and for finding the common interests and common goals of both organization to make the collaboration a success.

Chairperson Machado Acknowledges that the Office of Hawaiian Affairs is committed to working on the management plan and assisting with the necessary steps to make it pono with the community. She asks Ka Pouhana to elaborate on OHA's follow through once the action is approved.

Ka Pouhana Crabbe Thanks Chancellor Sakumoto for the opportunity to work with the college and the Maui community on the Palauea project. As Trustee Apo shared OHA has accumulated several legacy lands and with the land came the need for management. OHA can assist with a cultural management plan for specific use and understands that it is a relationship between Hawaiian studies and integrating archaeological studies. For OHA to solidify agreements with the community's input would be OHA extending our resources to help shape the college's expectations but also those of the broader community and OHA.

Chancellor Sakumoto States that he will be happy and grateful to work with OHA on the management plan.

Chairperson Machado Asks Trustees if they have any final questions or comments for the Chancellor. Hearing none, she notes that she will take out of order Ka Pouhana's Updates and then begin with Community Concerns immediately afterward.

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 Crabbe Greets the community of Maui and Trustees. He provides the following update:

Last year OHA entered into negotiations with the States of Hawai'i for the transfer of Kaka'ako Makai lands. There were numerous community meetings throughout the islands to give the community the opportunity to give input on the land. He is happy to note that the State has recently signed the transfer and OHA is the proud manager of land in Kaka'ako Makai. OHA Administration is moving forward to plan for the management and use of the parcels. Trustees held a planning retreat in May and will be having a follow up retreat on August 20 and 21. We hope to flesh out from the Trustees, a vision on what they want to see happen in Kaka'ako Makai. Administration has moved forward with allocating resources and management for the parcels.

OHA has begun holding community meeting for kuleana land tax assistance. Lucy Meyer and Koa Kaulukukui have been educating the community about the tax law and how kuleana land owners can seek land tax designations. The team started their community meetings here on Maui. They've had meetings in Lahaina and Wailuku.

Another project OHA is involved with is the Native Hawaiian Criminal Justice Task Force. This is a task force which stems from research that showed the disparate treatment of Native Hawaiians in the correctional system. Last year the legislature approved the convening of a Native Hawaiian Criminal Justice Task Force, a nine member commission including himself as OHA's representative. OHA allocated money for community meetings to elicit feedback on problems of incarceration and recommended policy changes to be submitted to the legislature in December. A part of the Governor's plan to improve the prison system may also include returning the incarcerated on the continent to Hawaii. Public Policy Manager Sterling Wong and OHA's policy analysts are working to complete the report.

He introduces the administration staff present: Chief Operating Officer Aedward Los Banos, Chief Financial Officer Hawley Alamodin, Chief Advocate Breann Nu'uhiwa, Community Engagement Director Kehau Abad, Community Outreach Manager Keola Akana, Maui Community Resource Coordinators Thelma Shimaoka and Roy Newton, and Harold Nedd from Messaging and Media.

Finally, he acknowledges the Maui community on the landmark ruling of Na Wai 'Eha. This is a culmination of the efforts of so many people but most of all the Maui residents that came forward. OHA has put out an official statement about the ruling.

He thanks the community for coming out and spending their time with OHA today.

Chairperson Machado Asks if Trustees have any comments or questions for Ka Pouhana Crabbe. Hearing none, she proceeds to the next agenda item which is Beneficiary Concerns.

III. COMMUNITY CONCERNS

Chairperson Machado Calls on Ms. Dana Naone Hall as the first guest speaker.

Ms. Hall Reads her testimony into the record as follows:

Testimony of Dana Naone Hall
Office of Hawaiian Affairs Board of Trustees Meeting

Good Morning Chair Machado and Trustees:

Thank you for coming to Maui (saving me a trip to Honolulu and for the opportunity to follow-up on a letter that I sent to the Chair and administration two weeks ago concerning the disinterment at Kawaiaha'o). I know that I have only a few minutes so I will be as concise as possible.

Kawaiaha'o presents a moral, ethical, cultural and spiritual challenge to all of us. This controversy has been stewing since early 2009 when it was reported that 69 individuals had been excavated for a sewer line to serve a proposed Multi Purpose Center project or MPC on church property. I won't go into the jurisdictional issues - there are two lawsuits pending - since my purpose today extends beyond the limits of those actions.

The Multi Purpose Center building was projected to cost \$17.5M. As of the end of May 2012, \$10.35M has already been expended for the project with \$1.58M of that amount spent for archaeological and cultural services, primarily to facilitate the disinterment of burials. It would appear that the economic costs of the project are prohibitive especially since the burial

excavations have not been completed and further court action to decertify the MPC building area as a cemetery have not taken place - all of which must occur prior to any construction. At this point, it must be asked whether Kawaiaha'o can reasonably be expected to build the Multi Purpose Center or whether other alternatives and options should be explored.

I am here to request the participation of the Office of Hawaiian Affairs in reviewing and reassessing the current course of disinterments at Kawaiaha'o. Earlier in the controversy, OHA endeavored to help resolve the dispute through ho'oponopono. I am very grateful for that effort, which extended from late March to early December of 2011, even if we ultimately were unable to ho'opono the matter of the proper care of the iwi kupuna. That was and remains the primary issue: Ka malama 'ana o na iwi kupuna ma Kawaiaha'o.

While we were still engaged in ho'oponopono, the Church leadership decided to restart burial excavations. Upon resumption of digging, weekly reports filed by Cultural Surveys Hawaii (CSH) in July and August of last year noted the finding of coffin burials and disturbed human skeletal remains not associated with the coffin burials. Also noted were concentrations of artifacts and numerous faunal remains, including pig, dog and fish bones -- a potential indication of traditional burials and burial practices.

The last reference to a coffin burial in the CSH weekly reports that I can find occurs in early October of last year. Thereafter, references to coffin burials cease and no information is included on findings of artifacts or faunal bones. The reports contain only the bare information of increasing burial numbers and what the reports refer to as "isolated finds" even when hundreds of human bones and bone fragments are collected from the same specific area.

The MPC site, currently enclosed by a high security fence, encompasses approximately .56 acres or 24,500 square feet. By August 4, 2012, five-hundred and seventy-two (572) burials had been excavated. The number of burials rises as the digging continues, adding to an already staggering concentration in little more than half an acre. The actual number of individuals whose remains have been collected exceeds 572. For example, the total number of burials recovered during the week of January 23 to January 28, 2012 is reported as 19, representing a minimum number of 25 individuals. Another burial find consisted of eight crania (skulls) buried together.

To help put these figures into perspective, the minimum number of individuals recovered from the Honokahua Burial Site was 1,029. An estimated 1,000 individuals were left undisturbed in the dune burial site, which, based on archaeological testing, was determined to be 3.07 acres in size. The burial concentration at Kawaiaha'o is even denser than at Honokahua.

The finding of pre-contact, traditional burials as well as traditional artifacts by CSH in the late 1980's, during monitoring of Queen Street excavations immediately adjoining Kawaiaha'o cemetery, and more recently in 2002, CSH's recovery of a precontact burial near the intersection of King and Punchbowl Streets, adjacent to Kawaiaha'o Church property -- strongly indicate the potential for pre-contact burials at Kawaiaha'o. These modern findings support early historic missionary accounts of encountering native burials at Kawaiaha'o.

In the past seven and one-half months alone, from January 2012 to the present, the remains of nearly 350 individuals have been taken from the MPC site in addition to more than 4,000 bones and bone fragments. I strongly believe that some of the burials that have been encountered at Kawaiaha'o are precontact, traditional burials not subject to the Department of Health blanket disinterment permit.

The Honokahua Burial Site was excavated under a DOH blanket disinterment permit. Twenty-five years ago, I and others, sought OHA's assistance to prevent further digging at Honokahua. It is undisputed that any pre-contact burials encountered at Kawaiaha'o cannot be disinterred pursuant to the DOH permit. Once again, I ask OHA's help in reassessing the situation at Kawaiaha'o, specifically the issues of whether precontact burials have been found and, if so, whether the disinterments must now stop so that the kupuna can continue to rest in peace.

Chairperson Machado Thanks Ms. Hall for her testimony and asks if Trustees have any questions for Ms. Hall. She calls on Ka Pouhana Crabbe to offer comments.

Ka Pouhana Crabbe States that the issues surrounding whether the iwi being dug up at Kawaiaha'o Church are pre-contact burials has been ongoing for months and months. We all know that if they are designated as traditional burials then it becomes the kuleana of the State Historic Preservation Division (SHPD). Since the number of burials has gone beyond 500 the likelihood of it moving from one designation to the other has increased.

He recently met with DLNR Chair William Aila who is very familiar with the situation. He is waiting on documentation from SHPD to determine if the 106 laws will be enacted. He has stated that he will notify OHA as soon as they determine the course of action.

Chairperson Machado States that several months ago she attended a meeting at Senator Galuteria's office it was made clear that the Kawaiaha'o Church leadership was not coming back to the table to discuss this issue with us again. They made that quite clear.

Ms. Hall Asks Trustees to again ask for the reports of the excavations and see firsthand what is happening. (Much of Ms. Hall's comments at this point are indiscernible)

Ka Pouhana Crabbe Calls on Chief Advocate Breann Nu'uhiwa to comment on the status of their investigations.

CA Nu'uhiwa States that OHA's Compliance division has been monitoring the situation. She states that requests were made by OHA to get information or meet one on one with the department, but because of the pending legal action they were unwilling to meet to disclose information. OHA will certainly renew their request in light of the new information from Ms. Hall.

Trustee Apo States that there is definitely something wrong with SHPD, whether it be leadership or staffing or training. It needs to be fixed somehow.

Trustee Hulu Lindsey States that she has received a call from Ms. Kamuela Kalai from Hawai'i Island. She has also met with the SHPD staff person for Maui Mr. Hinano Rodrigues. She thinks that OHA should recommend to SHPD to bring Hinano over to O'ahu to help with this situation because he is one of the best in the state.

Trustee Akana Asks what OHA's role would be in terms of legal ramifications if this situation at Kawaiaha'o isn't fixed.

Ka Pouhana Crabbe Calls on Dr. Kehau Abad to offer comments because she is a professional archaeologist and her training is in archaeology.

Dr. Abad States that what OHA and DLNR Chair Aila are doing to gathering the facts to determine whether or not this is a traditional burial. Once that is established the permit granted under the State Department of Health is no longer valid. The issue would then fall under Chapter 106D. The jurisdiction

would then fall under the O'ahu Island Burial Council (OIBC). The OIBC will then determine if the burials should be removed or remain in place.

Trustee Akana Asks if it would be proper to request an injunction to stop the excavation until there is a determination.

Dr. Abad States that since the Church and its agent Culture Service Hawaii does not agree with the jurisdiction determined by the findings then yes there should be an injunction order sought.

Chairperson Machado States that she would like to move on and that the situation will not be resolved here. She appreciates Ms. Hall and all the work she is doing for iwi. She calls on Ms. Malia Davidson representing Liko A'e as the next speaker.

Ms. Davidson Thanks OHA Trustees for coming to Maui. She distributes Liko A'e's most recent highlights newsletter.

Hawai'i Island

Megan Ching
Doctorate of Pharmacy

Brycenson Tanaka
Doctorate of Pharmacy

Grace K Mamoali . ioakalani Bezilla
Masters Indigenous Teaching

Ka' ala Faye Camara
Masters Indigenous Education

Narrissa Pi' ilani Spies
Masters Interdisciplinary Studies

'Olelomoana Fielding-Cockett
Professional Certificate of Teaching

Tatum Keala Burke
Bachelors Hawaiian Studies

Katrina Ikenani Eloina Spinola
Bachelors in Biology

Ivana Mahealani Hall
Associates in Administration of Justice

Kaua'i

Stephanie Brown
Associates in Liberal Arts-Pre-Nursing

Jaselyn Ornellas
Professional Dental Assisting

Continental U.S.

Chanel Evalani Kealoha
Doctor of Psychology

Nicole Baumhofer
Masters Health Behavior & Health Education

Maui

Kameleonalani Cleveland
Masters Interdisciplinary Studies

Barbara Ornellas
Masters in Human Resource Management

Laulealana Gorbea
Associates in Liberal Arts

O'ahu

Jonathan Ching
Juris Doctorate

Randie Fong
Doctorate of Education

Shy Kauanoel Helm
Masters in Education

Sharlei Leihalaopuna Ibarra
Masters in Social Work

Matthew Koanui
Masters in Communication Sciences and Disorders

Karin Nani Pua Karpin
Bachelors Public Health

Justin Kepo ' ohunaikeaouli
Keli' ipa ' akaua
Associates Liberal Arts

Danielle Kauwila Tai
Associates Liberal Arts

Awards for 2012-13 Scholars

Total: 97

Associates: 37

Bachelors: 39

Doctoral: 6

Vocational: 4

Masters: 10

Professional: 1

Trustee Robert Lindsey Asks how many applicants were turned away because of funding limitations.

Ms. Davidson States that total applications were 597. They only had enough funding for 97 applicants so 500 were turned away.

Chairperson Machado Notes that in a recent event on O'ahu she recognized Lui Hokoana as the father of Liko A'e. Back then he was a student services person here at Maui Community College. She congratulates Ms. Davidson for her work in keeping the program going all these years.

Chairperson Machado Calls on Mr. Foster Ampong as the next speaker.

Mr. Ampong States that his concerns are related to the second phase of the Leiali'i development on the West side of Maui. Earlier this year the Aha Moku Council met with the members of the former Hawaii Housing Authority. During this discussion they stated that they would make available to the public 4,000 homes available to general public for leases at a dollar per year. Is this because it is ceded lands? There are many unresolved issues. It is the ahupua'a of Wahikuli. People are outraged because the homes will be made available to the general public. Wahikuli is his one hanau, there are many burials and iwi will be an issue when development starts. He does not want it to turn into another Kawaiaha'o.

Ka Pouhana Crabbe Calls on Chief Advocate Nu'uhiwa to update trustees on this issue.

CA Nu'uhiwa States that OHA met with the HHFDC and OHA offered comments on the ceded lands issue when their draft EIS was up for review. OHA prepared a memo and are closely monitoring the situation. OHA is doing our best to protect the ceded lands corpus but the issue is ongoing. Inventory and understanding projects that impact the lahui. OHA is dedicating a tremendous amount of resources toward the inventory and protection of the corpus. Any information the community can provide would be helpful.

Mr. Ampong States that regarding the intent to lease the lands in the manner of Hawaiian Homes. He believes that the important element in the dysfunction is the blood quantum. It is a very divisive mentality that hinders our progression forward. Regarding the Hawaiian Homes Act, it has been accused of being racist but the act was created in Congress by Caucasian people. It is an American law not a Hawaiian law.

CA Nu'uhiwa States that OHA is very aware of the blood quantum issue and have been trying to figure out a way to resolve the issue. It's a difficult topic.

Trustee Akana Asks if the land Mr. Ampong is speaking about is DHHL or Ceded Lands.

Mr. Ampong States that originally when Leiali'i was opened up for development the entire ahupua'a was ceded land. They first built Wahikuli Terrace and then Wahikuli homestead and then attempted to build Leiali'i. That's when the state got caught with its hand in the cookie jar and the law suit came forward. The state washed their hands of it and gave the land to Hawaiians. But the big picture was to develop the whole ahupua'a and this is the continuation of the mentality.

Chairperson Machado Calls on Mr. Ke'eumoku Kapu as the next speaker.

Mr. Kapu States that they too called on HHFDC to start developing homes for Hawaiians that don't qualify for Homestead leases. A lot of the kupuna that stood on the side of the roads in Lahaina have passed away but the question remains; how are we going to provide homes to the future generation, those who are less than 50%. At some point there will no longer be 50% Hawaiians. Lahaina is the catalyst of

the ceded lands case. He thinks everyone should come to the table to figure out how to resolve the situation. They have asked for OHA representation at their meetings.

Trustee Apo Asks what OHA's kuleana is with regard to ceded lands.

CA Nu'uhiwa Calls on Koa Kaulukukui to offer comments on the discussion. She adds that HHFDC asked OHA about possible remedies to alleviate OHA's concern about the ceded lands issue in the area. One suggestion by OHA was to give OHA a portion or percentage of the lands. They had concerns about that. Another suggestion was to divide up the housing opportunities but they were also concerned about that idea.

Ms. Kaulukukui States that there is still an opportunity to work with HHFDC and the community on coming up with something. Trustee Apo is correct that OHA is entitled to 20% of the revenue from those ceded Lands. 65 year lease is equivalent to a sale.

Trustee Hulu Lindsey Comments that the area was intended for development and sale by the Hawaii Housing Authority. After OHA made such a stink about it, they circumvented the issue by offering 65 year leases. It's the same thing; it means we will never getting it back. Legislative approval is necessary only for sale of ceded lands. This is why they are taking this route because leasing does not need Legislative approval.

Ms. Kaulukukui States that under Act 176 it does apply only to sale of land but a 65 year lease is equivalent to a sale.

Mr. Kapu Asks if OHA would ever entertain developing homes for 49% or less.

His next item relates to the large amounts of Federal Petitions. He reminds OHA that the states has to enforce these orders. Contentious issues over the past four years triggering section 106 consultation process. The State DLNR partnered up with Federal agencies and are minimizing rights of access and gathering. One of these orders relates to monk seals the other to spinner dolphins. There is a Coastal marine spatial plan being developed in Lahaina with NOAA to bring together specific stakeholders. Tour operations are taking over the shorelines. He asks who has jurisdiction of the waters.

Chairperson Machado Thanks Mr. Kapu for his testimony. The next speaker is Mr. Scott Seto who will speak on the upcoming 'Aha Kupuna.

Mr. Seto States that he works for the Department of Health Adult Community Services division. He offers Trustees a brochure with information on the upcoming 'Aha Kupuna. He thanks OHA for the grant he received. The 'aha focuses on the importance of our Hawaiian Kupuna. Abuse and neglect in Native Hawaiian community is a problem that needs to be addressed. Kupuna are important because they are the link to the past. They provide insight to where we are going. The conference is being held on October 13, 2012, at the Pilina Building Multipurpose conference room on the 2nd floor.

Chairperson Machado Asks if Trustees have any questions. Hearing none, she calls on the next speaker Mr. Leslie Kuloloio.

Mr. Kuloloio Greets Trustees and thanks OHA for its vision in connecting Hawaii. He asks for more vision and a stronger voice from OHA. He asks that OHA consider reorganizing its structure to redo any component in OHA that has not worked. OHA needs to build cooperation with the community of Maui and trust back to the people.

He asks OHA to establish component called the natural culture resources staff. This component would deal with land, shoreline, and natural resources. It is important to the survival of the Hawaiian culture. Each island is different and should be handled differently. He would like staff to handle ocean management plans, natural area reserves and federal, state and historic registries.

Another issue is that the Moku of Honuaua which is comprised of Molokini, Kaho'olawe, and Ahihikinau belongs together in a moku system. He asks why the whales have a reserve when there is no reserve for his manini.

He and his two children have applied for access to the natural area reserve of Honuaua. They will be granted the first access to the reserve.

Chairperson Machado Asks if Trustees have any questions for Mr. Kuloloio.

Trustee Akana Comments that she recalls a meeting where Mr. Kuloloio's mother sat at the front of the Trustee's table and reproached each one of them. She was a feisty lady and is missed.

Chairperson Machado Calls on Ms. Johanna Kamaunu as the next speaker.

Ms. Kamaunu States that she and her 'ohana live in Waihe'e valley. She asks for OHA's assistance in access to a law library. They have been involved in most of the issues affecting kuleana lands, water, access rights. They have a group that has worked diligently to educate themselves on Kingdom Law through the law library at the court. The mana'o they used to testify on many different cases came from the research from the law library. Recently there have been restrictions on the hours available to them. They don't need OHA to come in and fight their battles they want tools to fight their own battles.

Law Library access is limited to court hours and the group has been limited to four passes. Restrictions like using the plugs in the library for their laptops and phones have been enacted. The first forty volumes of the Hawaii Reporter have been taken off the shelf. They need to request to see the volumes from the staff. They need computer programs that shepardizing to make it easier to find information and are set up to follow the technicalities for court arguments and briefs. They don't want to give the privilege of fighting for their kuleana to an attorney.

A couple months ago they held vigil to remember kupuna. They've had limited success at burial council meetings and land board meetings so they decided to hold a 12 hour vigil.

Trustee Akana States that OHA should consider a Legal library within the UH Maui Campus.

Ka Pouhana Crabbe States that OHA is working with Ka Huli Ao at the Richardson School of Law. OHA has Punawai Ola database and the Hawaii Kingdom Legislative Laws. The Papakilo database is being developed and one of the things is that they want to make available these things to the community free of charge.

Chairperson Machado Calls on Mr. Kaniloa Kamaunu as the next speaker.

Mr. Kamaunu States that he currently resides in Waihe'e Valley. He wants to share with OHA his research relating to the 1898 bill of naturalization. He reads a Congressional debate conversation between Sen. Bacon and Sen. Cullom regarding annexation and the naturalization of Hawaiian people. Mr. Bacon is seeking an amendment to the 1898 bill of Naturalization:

Mr. BACON. I desire to ask the Senator - I probably knew, but have forgotten the provision of the constitution of Hawaii on the subject - as to the extent of citizenship under the republic.

Were all the inhabitants made citizens?

Mr. CULLOM. No, sir. There are a class of citizens existing under the republic who declined to take the oath of allegiance.

Mr. BACON. And they were in consequence not citizens?

Mr. CULLOM. They were in consequence not entitled to vote.

Mr. BACON. But were they citizens of the republic?

Mr. CULLOM. I suppose they might be regarded as citizens of the republic.

Mr. BACON. The Senator will see the pertinency of that inquiry when that part of the section is taken in connection with the amendment to which the conferees have agreed, because if they were not citizens of Hawaii on August 12, 1898 they are not now under this bill made either citizens of the United States or citizens of the Territory of Hawaii.

Mr. SPOONER. And they could not become citizens of the United States except by naturalization, and I do not know that they could by naturalization under the existing law.

Mr. BACON. Yes.

<http://libweb.hawaii.edu/digicoll/annexation/organic/oa1105.html>

Mr. Kamaunu Continues that the discussion means that Hawaiians never relinquished their sovereign status. Article 12 Section 7 of the constitution reaffirms that our rights are still intact. He continues that OHA prescribe to protect his sovereign rights. He basically states that Hawaiians have rights, we don't need the federal government to recognize us. It was reiterated in 1993 and again in the Akaka bill proposal. OHA needs to recognize the laws already in place that declare certain rights for the people and bring them to light. OHA needs to make the government aware that they are legally responsible to make sure that Hawaiians are taking care of. The resources the State uses is ours, we need to insert ourselves and reaffirm ourselves by these legal rights.

Chairperson Machado Suspends the Community Concerns portion of the agenda to go into Executive Session. She notes that she will lose quorum within the hour and would like to take action on Palaea in Executive Session first. The Community Concerns portion will continue as soon as the Executive Session portion is complete.

VI. EXECUTIVE SESSION

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

Trustee Hulu Lindsey 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 Apo Seconds the motion.

Trustee Hulu Lindsey 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	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						X
TRUSTEE HULU	LINDSEY	X		X			
TRUSTEE ROBERT	LINDSEY			X			
TRUSTEE OSWALD	STENDER			X			
TRUSTEE JOHN	WAIHETE						X
TRUSTEE COLETTE	MACHADO			X			
TOTAL VOTE COUNT				7			2
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED							
Motion passes with seven (7) YES votes and two (2) EXCUSED.							

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

The Board moved into Executive Session at 11:19 a.m.

- A. ATTORNEY CLIENT LEGAL ADVISORY BY OHA ATTORNEY BILL YUEN, ESQ. RE: QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, AND LIABILITIES AS TRUSTEES AND MANAGERS OF CULTURAL AND PRESERVATION REAL PROPERTY TO ACQUIRE CERTAIN PROPERTY BY DONATION. PURSUANT TO HRS § 92-5(A)(4).
- B. LEGAL ADVISORY AND STATUS UPDATE BY KA POUHANA, ADMINISTRATION CONSULTANTS, OHA BOARD COUNSEL ROBERT G. KLEIN, 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).
- C. 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 LAWSUIT FILED BY/TO BE FILED BY ATTORNEY H. WILLIAM BURGESS, ESQ. PER HIS E-MESSAGE OF JULY 24, 2012 TO BOARD COUNSEL.
- D. APPROVAL OF EXECUTIVE SESSION MINUTES FOR AUGUST 2, 2012

The Board moved into Open Session at 12:20 p.m.

Chairperson Machado Reports that the Office of Hawaiian Affairs authorized and accepted the transfer of land in Palauea. She notes that OHA will be working with the UH Maui Campus program called Ho'oulu Lahui Hawaiian Studies Program.

Note: Trustees Akana, Apo, and Robert Lindsey exit the meeting. Quorum is lost at this point. No further Board action will be taken. The meeting continues with Chairperson Machado, Trustee Apoliona, Trustee Hulu Lindsey and Trustee Stender. Also present are Ka Pouhana Crabbe and COO Los Banos. Chairperson Machado continues the meeting with Beneficiary Comments. The minutes of this portion of the meeting are transcribed herein.

Chairperson Machado Calls on Mr. Kaleikoa Kaeo as the next beneficiary speaker.

Mr. Kaeo States that 572 kupuna have been dug up at Kawaiaha'o from OHA's 1 million dollars. This is the largest desecration of iwi kupuna since Honokahua. If the number does not touch your na'au or make you mad, he kindly asks trustees to step down from their positions. This is a crime against humanity going on at a supposed Hawaiian church. The sad part is that a year ago they came before OHA to ask if the money OHA gave to the Church was used in this desecration. He also asked OHA to condemn the actions of the Church and to ask that they return the funds. A year later neither action has been done. No OHA public statement, no request for the funds to be returned. He is emotional because he does not

know how a Hawaiian who represents the people doesn't get mad. The number of iwi being dug up is still rising. How shameful it is that it is Hawaiians performing this dirty act. How can people come here and talk about protecting the culture when the culture is being dug up.

He comes today to ask if OHA has the courage, the cultural integrity to declare what is going on at Kawaiaha'o is wrong. He asks for the funds to be returned because OHA does not want to have anything to do with the desecration of iwi.

He begs OHA again to have the courage to say wrong is wrong. He understands that there are implications of lawsuits, but OHA can use its waha.

The second thing he wanted to bring up, he is not representing any other capacity except Kaleikoa Kaeo. He believes in the work of our kupuna and our people. He has hope for the future of Hawaiians. He is very concerned about what is going on. Hawaiians must stand together whether we agree or disagree. Hawaiian unity has to be the goal. Hawaiian and State of Hawai'i unity is never going to work. As long as Hawaiians are part of the State of Hawai'i, there will never be unity. The State of Hawai'i has never been a friend of Hawaiians. He challenges OHA to have faith in its people, not in the State of Hawai'i. Everything the Native Hawaiian Role Commission is doing can be done by the people. The State of Hawai'i is conflicted and has different interests than Hawaiians. Their job is to keep watering the golf courses, keep helping developmental schemes, and developing their tourism.

What's going on with Leiali'i about the leases versus selling, we know it is our land. If our lahui has to be organized by giving away t-shirts, paying people to hold events, what kind of lahui is that? Kulia i ka nu'u, not just get what you can. We will get what we need when we as a people decide to get what we need. He asks OHA to look deeply at the Native Hawaiian Role Commission and how it will hinder unification. You might get thousands of signatures but what kind of lahui is that?

He notes a saying: The master's tool will never destroy the master's house. He states that the Native Hawaiian Role Commission will fail. Fifty or Sixty thousand signatures will not take our people into the future. He invites any of the OHA trustees to a debate on the validity and value of the Role Commission.

Chairperson Machado Calls on Ms. Victoria Kaluna-Palafox.

Ms. Kaluna-Palafox Thanks Trustees for staying to listen to their concerns. She lives in Ukumehame in a kuleana owned by her grandparents. She lives there because she cannot afford to live anywhere else. The neighboring ahupua'a is Olowalu. She asks for help with their land and the iwi kupuna who are sleeping on those lands. Protect them before another shopping center is built upon them. If plaques can be made for those who fought in wars, we can make plaques for the kupuna of the ahupua'a.

She asks OHA to cease and desist developing on crown lands. Developing on a city of refuge is not pono. They want to put a gas station and a mall on this city of refuge. Where is the protection for our land? She disagrees with sewage treatment plants on the 'aina. She knows her kupuna had better ways of dealing with that waste without destroying the land.

She attended a gathering in Kawaihae, Hawai'i and is thankful for the continuation of this gathering. She asks if there is a department in OHA that can help identify if iwi are truly kanaka or malihini. She has sent palapala to DLNR to prove her lineal connection to the kuleana land. She lays her net in the kai and is thankful that the DLNR man did not take her fish. She needs her fish to feed her family.

She also asks for help with the law library so that they can continue their legal work. They conducted a vigil and will do another one to bring awareness to Hawaiians that the lessons of our kupuna will work for us today. We just need to have faith.

Chairperson Machado Calls on Joyclynn Costa as the next beneficiary speaker.

Ms. Costa States Trustees should stay for meetings that they schedule, it is only proper. People take time out of their lives to be here, the Trustees should schedule themselves accordingly. Trustees are here to listen to the people yet they leave before the people have spoken. This is not pono.

Trustee Apoliona States that Ms. Costa is not referring to those who are at the table.

Ms. Costa States that she hopes those remaining can express her concern to those who have left.

She is a member of the United Church of Christ. In 2009 she was invited to attend the General Senate. She asked Church Leadership, John Thomas was the president at the time, to help with the injustices against Hawaiian Land. She has a picture of Mr. Jonathan Black, the current president signing her resolution. She asks OHA to seek out Mr. Black and remind him of the resolution and how it relates to the removal of iwi at Kawaiaha'o Church. She is willing to provide a copy of her resolution and the picture.

She speaks of being in a meeting with those the Kahu of the Church who says it is okay to move the iwi. What message does that send to developers who dig up bones? A Hawaiian Church is doing it why can't they do it too.

What has OHA done to ensure the protection of cultural practices like gathering rights?

She is also a member of Hui Pono I ke Kanawai. She quit her job to study the law as it relates to Hawaiians not because she had to, but because it is her kuleana. She wants to kokua the families who are losing their land. On one case dealing with the Hale Mua development police officers harassed them for trying to practicing their cultural rights. She asks OHA to start helping people who are trying to protect their kuleana. No more money to the Roll Commission, no more money to Kawaiaha'o, no more money to development. We need to spend more money protecting the everyday battles going on over land and water.

She states that in 2007 she came to an OHA meeting with her father and her kids and grandkids. She brought a picture of her kupuna. Her father begged OHA to protect his rights. Trustee Apoliona told her dad "pau already." A few weeks ago he went fishing and was accosted by the Sheriffs. He told them he needed fish to feed his boys lunch. He made the net himself and told them that he was practicing his gathering rights. There needs to be more education for those who don't understand our gathering rights. He knows hisrights and he came here in 2007 and asked OHA to protect his rights.

She adds that the people are the employers and the Trustees are the employees. Trustees work for the people. People like her dad are the ones that need help. As an employer she would not give the Trustees a very high review.

The kupuna are suffering, the iwi is suffering, but what is OHA doing? There are crimes happening in the front of your faces, and you give the lei to a man who does the same thing. She was not here when the lei was given to Mr. Dowling, but he has bulldozed so much iwi it's not even funny. Good job though, give him the maile lei. It hurts. If you cannot do your job you should move over.

The Hawaii Revised Statutes that you rely on so much is actually Kingdom Law. The future is in our past. Get out of the box. Help the real Hawaiians, those who volunteer to do good things. She also asks for funds for scholarship money to students who want to attend classes on Kingdom Law.

Chairperson Machado Calls on Ms. Claire Apana as the next beneficiary speaker.

Ms. Apana Thanks the Trustees for coming. Her life's passion has been to preserve the sand dunes of Waikapu. She has watched the sand mining of the dunes near her house to do their development. The developer took out tons and tons of sand and found 11 iwi. She notified OHA that the Environmental Assessment of the project was approved by the planning department and OHA sent a letter. But there was no follow through. It's as if she needs to push very hard to get letters from OHA but that's it, no follow through.

She asked OHA for help on the Waiale Project. OHA wrote a letter asking the developer about several key issues relating to water and cultural plans etc. The developer wrote back and basically said that they disagree. That was it. No follow through on the next step. No follow up letter to the water commission. No letter to the Land Use Commission that the developer is wrong. OHA spent nine years to fight West Maui water situation and then OHA allows A&B to just use water from Na Wai Eha. The developers will keep going and if OHA doesn't follow through the developers will just wait you out.

This year the Waiale project was approved. One commissioner made it very clear that Hawaiian rights were being dismissed, but nothing came of it. There were no conditions made to protect the burials that are probably in there. They don't know because they didn't do a cultural study. The sand dunes are the only dunes left in the whole area. It has almost become just rhetoric and no teeth.

The last time she came to see the Trustees the excuse was that there was no recommendation from the Native Hawaiian Historic Council. The Council did agree with her and made the recommendation to move it to the next step. But again, there was no follow through. Apparently you have a Council but you don't listen to their recommendations. She is still waiting for the letter to push for the 106 process.

She asks for help from Trustees at this time to get help to get the 106 process started. OHA should be the ones to do this. Can something be done to help people like her who are trying to do these kinds of things on their own?

She also asks if OHA is finished developing and drafting the general guidelines and criteria for the treatment of iwi. She would like to get a copy of them as soon as possible.

Ka Pouhana Crabbe States that he is vaguely familiar with the Waiale project. OHA's Advocacy and Compliance Division has met with a number of staff at SHPD to intervene. OHA is looking to alter the process at a level higher than SHPD. He will have the Compliance Managers follow up on the letters Ms. Apana is waiting for.

With regard to the minimal requirements for the treatment of iwi he knows that for the Kawaihae's situation they formed a committee to come up with their own guidelines for the treatment of iwi.

Ms. Apana States that at the last meeting she attended at OHA the trustees discussed coming up with minimal requirements for treatment of iwi.

Ka Pouhana Crabbe States that at OHA staff is developing a policy on iwi for the Trustees to approve. The Island Burial Councils will have the best knowledge of the culture of each island and should be the ones to know what the customs of each island are.

Ms. Apana States that OHA should also consider asking for public input on the subject. It is one way to know what different people believe and where there can be a general understanding and guidelines.

Trustee Hulu Lindsey States that different 'ohana and different locations have different customs. There are many people who don't know anything about it at all. Having minimal guidelines is for those types of people who don't have familial preferences.

Chairperson Machado Thanks the beneficiaries who are present for attending. She thanks them for waiting and for providing their mana'o.

VII. ANNOUNCEMENTS

Chairperson Machado Announces the following Board Meetings:

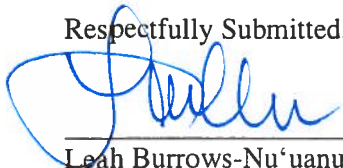
1. Board of Trustees Meeting - August 20, 2012, OHA Board Room
2. Board of Trustees Meeting - August 21, 2012, OHA Board Room
3. Board of Trustees Meeting - August 30, 2012, OHA Board Room

VIII. ADJOURNMENT

Chairperson Machado Notes that since there is no quorum the meeting is adjourned.

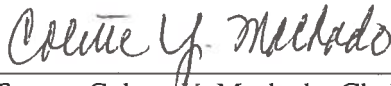
The meeting was lost quorum at 12:20 p.m. Community testimony ended at 1:52 p.m.

Respectfully Submitted,



Leah Burrows-Nu'uanu,
Board Secretary

As approved by the Board of Trustees on August 30, 2012.



Trustee Colette Y. Machado, Chairperson
Board of Trustees

ATTACHMENTS:

1. August 16, 2012 BOT Community Sign in Sheet
2. Excused Absence Memo from Trustees Cataluna and Waihe'e.