

BOARD OF TRUSTEES

Carmen. Hulu Lindsey, *Chairperson*Leina'ala Ahu Isa, *Vice Chairperson*

Dan Ahuna, Trustee Kaua'i & Ni'ihau

Kalei Akaka, Trustee O'ahu

Keli'i Akina, Trustee At-Large

Luana Alapa, Trustee Moloka'i & Lāna'i

Brendon Kalei'aina Lee, Trustee At-Large

Mililani Trask, Trustee Hawai'i Island

John Waihe'e IV, Trustee At-Large



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS

MEETING OF THE BOARD OF TRUSTEES**DATE:** Thursday, April 14, 2022**TIME:** 10:00 am**PLACE:** Virtual MeetingViewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 822 0867 1791

Due to COVID-19, the OHA Board of Trustees and its standing committees will hold virtual meetings until further notice. The virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened by phone: (213) 338-8477, Webinar ID: 822 0867 1791. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA**I. Call to Order****II. Public Testimony*** on Items Listed on the Agenda* (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)**III. Community Concerns and Celebrations****(Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)**IV. New Business****A. Committee on Resource Management**

1. Action Item RM #22-05: Kaka'ako Makai Site A, 1101 Ala Moana Blvd, Activation of Business Plan and Nā Lama Kukui Debt Service, Non-Core Operating Budget for the Fiscal Biennium Periods 2021-2022 (FY 22) and 2022-2023 (FY 23) †
2. Action Item RM #22-06: Budget Management Policy Updates re: Carryover Provisions†(1st reading)
3. Action Item RM #22-07: Core Personnel, Non-Core Budget Adjustments for 2020-2021 (FY21), 2021-2022 (FY22) and 2022-2023 (FY23) †

B. Committee on Beneficiary Advocacy and Empowerment

1. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474, SB2121/HB1473, coordinated advocacy - Matrix 1†☞, April 12, 2022
2. 2022 OHA State Legislature Bill Positions Related to Measures Naming OHA – Matrix 2†☞, April 12, 2022
3. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3†☞, April 12, 2022
4. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4†☞, April 12, 2022
5. 2022 OHA Legislature Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – Matrix 5†☞, April 12, 2022

C. Action Item BOT #22-05: Approve the Formation of a Permitted Interaction Group (PIG) to investigate and engage with federal agencies and international and indigenous entities, on Native Hawaiians' legal claims, land inventories, and financial accounting related to the Public Land Trust.

BOARD OF TRUSTEES

Carmen. Hulu Lindsey, *Chairperson*Leina'ala Ahu Isa, *Vice Chairperson*

Dan Ahuna, Trustee Kaua'i & Ni'ihau

Kalei Akaka, Trustee O'ahu

Keli'i Akina, Trustee At-Large

Luana Alapa, Trustee Moloka'i & Lāna'i

Brendon Kalei'āina Lee, Trustee At-Large

Mililani Trask, Trustee Hawai'i Island

John Waihe'e IV, Trustee At-Large



STATE OF HAWAII OFFICE OF HAWAIIAN AFFAIRS

V. Executive Session†

- A. Consultation with Board Counsel Robert Klein, Sherry P. Broder, Esq and Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

VI. Announcements

VII. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email everetto@oha.org no later than three (3) business days prior to the date of the meeting. Meeting Materials will be available to the public 72 hours prior to the meeting and posted to OHA's website at: www.oha.org/bot

In the event that the livestream or the audiovisual connection is interrupted and cannot be restored, the meeting may continue as an audio-only meeting through the phone and Webinar ID listed at the beginning of this agenda. Meeting recordings are available upon request to BOTmeetings@oha.org until the written meeting minutes are posted to OHA's website.

†Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

* Public Testimony on Items Listed on the Agenda must be limited to matters listed on the meeting agenda.

** Community Concerns and Celebrations is not limited to matters listed on the meeting agenda.

☞ Trustees may establish or revise an OHA position on ANY proposed bill/resolution for submission to the state legislature. The Trustees, both in Committee and as the Board of Trustees, may discuss any and all bills or resolutions before the state legislature in order to discharge their statutory and fiduciary obligations to conduct advocacy efforts for Native Hawaiians as Trustees of the Office of Hawaiian Affairs.

‡ Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Board members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the OHA Board of Trustees either as: (1) *written testimony emailed* at least 24 hours prior to the scheduled meeting, (2) *written testimony mailed* and received at least two business days prior to the scheduled meeting, or (3) live, oral testimony online or at the physical meeting location during the virtual meeting.

- (1) Persons wishing to provide *written testimony* on items listed on the agenda should submit testimony via email to BOTmeetings@oha.org at least **24 hours prior** to the scheduled meeting or via postal mail to Office of Hawaiian Affairs, Attn: Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817 **to be received at least two business days prior** to the scheduled meeting. Any testimony received after these deadlines will be late testimony and will be distributed to the Board members after the scheduled meeting. **Due to COVID-19 office closure and limited in-office staffing, please do not fax or hand-deliver written testimony.**
- (2) Persons wishing to provide *oral testimony online* during the virtual meeting must first register at: https://us06web.zoom.us/webinar/register/WN_nmgeZvZYTwmElfs6RN-vuA

You need to register if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide oral testimony during the virtual meeting. The registration page will close once the Public Testimony or Community Concerns agenda items have concluded.



BOARD OF TRUSTEES
Carmen. Hulu Lindsey, *Chairperson*
Leina'ala Ahu Isa, *Vice Chairperson*
Dan Ahuna, Trustee Kaua'i & Ni'ihau
Kalei Akaka, Trustee O'ahu
Keli'i Akina, Trustee At-Large
Luana Alapa, Trustee Moloka'i & Lāna'i
Brendon Kalei'āina Lee, Trustee At-Large
Mililani Trask, Trustee Hawai'i Island
John Waihe'e IV, Trustee At-Large

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS

To provide oral testimony online, you will need:

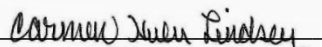
- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony online or at a physical meeting location will be limited to five (5) minutes.

Oral testimony by telephone/landline **will not** be accepted at this time.

Once your oral testimony is completed, you will be asked to disconnect from the meeting. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

Please visit OHA's website for more detailed information on how to submit Public Testimony OR Community Concerns at: <https://www.oha.org/how-to-submit-testimony-for-oha-bot-meetings/>



Trustee Carmen Hulu Lindsey
Chairperson, Board of Trustees

04/08/2022

Date

Office of Hawaiian Affairs
Meeting of the Board of Trustees
April 14, 2022
10:00 A.M.

IV. New Business

A. Committee on Resource Management

- 1. Action Item RM #22-05: Kaka‘ako Makai Site A, 1101 Ala Moana Blvd, Activation of Business Plan and Nā Lama Kukui Debt Service, Non-Core Operating Budget for the Fiscal Biennium Periods 2021-2022 (FY 22) and 2022-2023 (FY 23) †**
- 2. Action Item RM #22-06: Budget Management Policy Updates re: Carryover Provisions†(1st reading)**
- 3. Action Item RM #22-07: Core Personnel, Non-Core Budget Adjustments for 2020-2021 (FY21), 2021-2022 (FY22) and 2022-2023 (FY23) †**

**** The Committee Report will be distributed as soon as they become available from the Committee**

Office of Hawaiian Affairs
Meeting of the Board of Trustees
April 14, 2022
10:00 A.M.

IV. New Business

B. Committee on Beneficiary Advocacy and Empowerment

- 1. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474, SB2121/HB1473, coordinated advocacy - Matrix 1†☼, April 12, 2022**
- 2. 2022 OHA State Legislature Bill Positions Related to Measures Naming OHA – Matrix 2†☼, April 12, 2022**
- 3. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3†☼, April 12, 2022**
- 4. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4†☼, April 12, 2022**
- 5. 2022 OHA Legislature Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – Matrix 5†☼, April 12, 2022**

**** The Committee Report will be distributed as soon as they become available from the Committee**

Office of Hawaiian Affairs
Meeting of the Board of Trustees
April 14, 2022
10:00 A.M.

IV. New Business

C. Item BOT #22-05: Approve the Formation of a Permitted Interaction Group (PIG) to investigate and engage with federal agencies and international and indigenous entities, on Native Hawaiians' legal claims, land inventories, and financial accounting related to the Public Land Trust.



ACTION ITEM

BOARD OF TRUSTEES

April 14, 2022

BOT #22-05

Action Item Issue: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate and Engage with Federal Agencies and International and Indigenous Entities on Native Hawaiians' Legal Claims, Land Inventories, and Financial Accounting Related to the Public Land Trust

Prepared by:

A handwritten signature in black ink, appearing to be 'Sylvia M. Hussey'.

Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Apr 9, 2022

Date

Reviewed by:

A handwritten signature in black ink, appearing to be 'Casey K. Brown'.

Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Apr 9, 2022

Date

Reviewed by:

A handwritten signature in black ink, appearing to be 'Everett Ohta'.

Everett Ohta
Ka Paepae Puka Kūikawā, Interim General Counsel

Apr 10, 2022

Date

Reviewed by:

A handwritten signature in black ink, appearing to be 'Carmen Hulu Lindsey'.

Carmen Hulu Lindsey
Ke Kahuhuhu o ke Kaupoku
Chair, Board of Trustees

Apr 11, 2022

Date

Action Item BOT #22-05: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate and Engage with Federal Agencies and International and Indigenous Entities on Native Hawaiians' Legal Claims, Land Inventories, and Financial Accounting Related to the Public Land Trust

I. Proposed Action

Approve the formation of a Permitted Interaction Group (PIG) with the purview, members, term/duration detailed below:

Purview. The purview of the PIG is for the Board of Trustees (“BOT” or “Board”), BOT staff and OHA Administration staff to work together to investigate and engage with federal agencies and international and indigenous entities on Native Hawaiians’ legal claims, land inventories, and financial accounting related to the Public Land Trust on behalf of the BOT; provided that the PIG will report back to the BOT and seek its approval prior to initiating any formal administrative complaint or process. The purview of the PIG does not include state or county legislation or engaging directly with state or county agencies.

Members. The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Mililani Trask; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Mililani Trask will serve as its Vice Chair. Sylvia Hussey, Ka Pouhana, will function as the Project Manager and coordinate Administration staff participants (e.g., Chief Advocate, General Counsel) and contractors.

Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than October 31, 2022.

II. Issue

Whether or not the Board of Trustees (“BOT”) will approve the formation of a Permitted Interaction Group, consistent with Hawai‘i Revised Statutes §92-2.5(b)(1), to investigate and engage with federal agencies and international and indigenous entities on Native Hawaiians’ legal claims, land inventories, and financial accounting related to the Public Land Trust on behalf of the BOT.

III. Background and Discussion

A. Applicable Law in Hawaii Revised Statutes, Permitted Interaction Groups

In accordance with HRS, CHAPTER 92, PUBLIC AGENCY MEETINGS AND

RECORDS §92-2.5 Permitted interactions of members: (b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to: (1) Investigate a matter relating to the official business of their board; provided that: (A) The scope of the investigation and the scope of each member’s authority are defined at a meeting of the board; (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and (C) Deliberation and decision making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board.


Action Item BOT #22-05: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate and Engage with Federal Agencies and International and Indigenous Entities on Native Hawaiians' Legal Claims, Land Inventories, and Financial Accounting Related to the Public Land Trust

B. Setting Context for the Public Land Trust

Admission Act Section 5(f)
Public Land Trust

The public land trust land together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by the State as a public trust for five purposes:

- (1) Public education
- (2) **The betterment of the conditions of native Hawaiians**
- (3) The development of farm and home ownership
- (4) Public improvements, and
- (5) For public use



IV. Funding Source

No dedicated funding is needed to authorize and form a PIG. Any resources needed to carry out PIG related activities will conform with existing budgetary (e.g., realignment), spending and procurement authorities, policies and procedures.

V. Recommended Action

Approve the formation of a Permitted Interaction Group (PIG) with the purview, members, term/duration detailed below:

Purview. The purview of the PIG is for the Board of Trustees (“BOT” or “Board”), BOT staff and OHA Administration staff to work together to investigate and engage with federal agencies and international and indigenous entities on Native Hawaiians’ legal claims, land inventories, and financial accounting related to the Public Land Trust on behalf of the BOT; provided that the PIG will report back to the BOT and seek its approval prior to initiating any formal administrative complaint or process. The purview of the PIG does not include state or county legislation or engaging directly with state or county agencies.

Members. The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Mililani Trask; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Mililani Trask will serve as its Vice Chair. Sylvia Hussey, Ka Pouhana, will function as the Project Manager and coordinate Administration staff participants (e.g., Chief Advocate, General Counsel) and contractors.

Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than October 31, 2022.

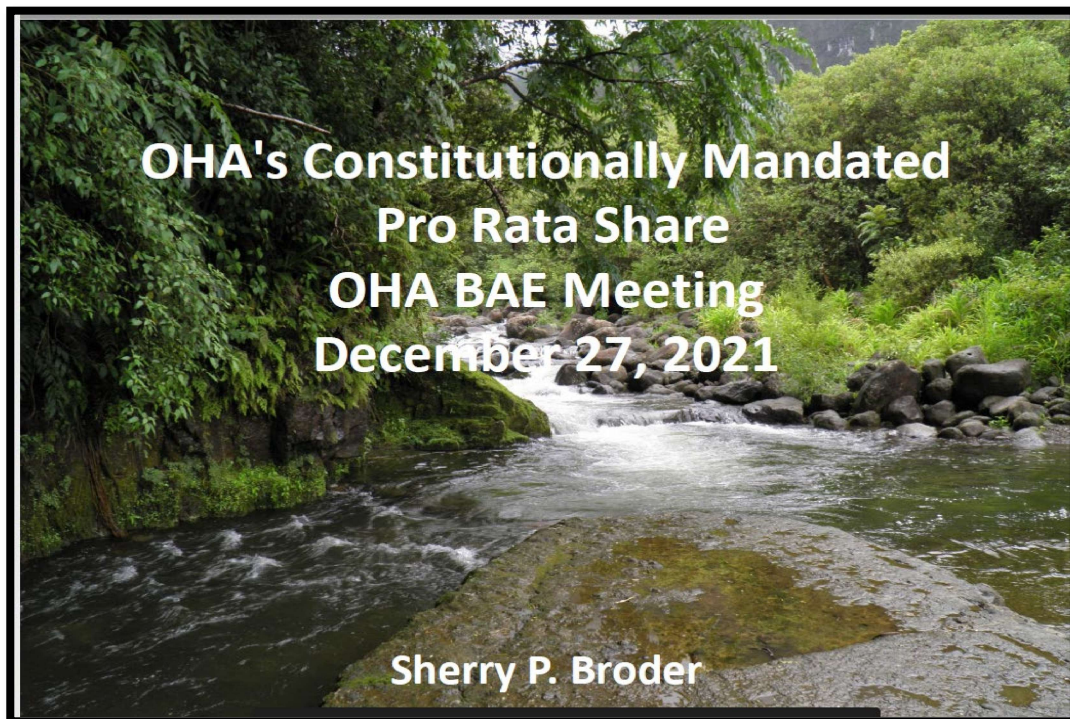
Action Item BOT #22-05: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate and Engage with Federal Agencies and International and Indigenous Entities on Native Hawaiians' Legal Claims, Land Inventories, and Financial Accounting Related to the Public Land Trust

VI. References

A. 2022 OHA Public Land Trust Bill Presentation, December 27, 2021



B. OHA's Constitutionally Mandated Pro Rata Share OHA BAE Meeting, December 27, 2021



VII. Attachments - None

Office of Hawaiian Affairs
Meeting of the Board of Trustees
April 14, 2022
10:00 A.M.

VI. Executive Session

**A. Consultation with Board Counsel Robert Klein,
Sherry P. Broder, Esq and Interim General Counsel
Everett Ohta re: questions and issues pertaining to the
Board's powers, duties, privileges, immunities, and
liabilities with respect to the Public Land Trust and
associated legislation, pursuant to HRS§92-5(a)(4).**