

**STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817**

**Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, November 7, 2019
9:30 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE BRENDON KALEI'ĀINA LEE
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE KALEI AKAKA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

KURT W. KLEIN, ACTING BOARD COUNSEL

ADMINISTRATION STAFF:

SYLVIA HUSSEY, ICEO
LISA WATKINS-VICTORINO, ICOO
MILES NISHIJIMA, LPD
STERLING WONG, PRO

BOT STAFF:

LŌPAKA BAPTISTE
CLAUDINE CALPITO
LAURENE KALUAU-KEALOHA
ANUHEA PATOC
LEIANN DURANT
DAYNA PA
MARIA CALDERON
MELISSA WENNIHAN
ALYSSA-MARIE KAU
NATHAN TAKEUCHI
KAUIKEAOLANI WAILEHUA
CRAYN AKINA
BRANDON MITSUDA
PAUL HARLEMAN

GUESTS:

GERMAINE MEYERS

I. CALL TO ORDER

Trustee Colette Machado Calls the Board of Trustees meeting to order at 9:32 am. Roll call is taken; Trustees Ahu Isa, Ahuna, Akaka, Akina, Lee, Carmen Hulu Lindsey, Robert Lindsey and Machado are present, constituting a quorum. Trustee Waihee is expected to arrive shortly.

I'd like to read into record that the 72 Hour rule, pursuant to OHA BOT Operations Manual, section 49, shall be waived for the following items:

- II. Approval of Minutes
 - A. September 18, 2019 (Community Meeting)
- V. New Business
 - A. Action Item BOT #19-17: Approval of an OHA Board of Trustees' Resolution "honoring the life and contribution of Larry Kamakawiwo'ole to the Native Hawaiian community and other marginalized communities in Hawai'i.

With that said let's move to our agenda.

II. APPROVAL OF MINUTES

- A. September 18, 2019 (Community Meeting)
- B. September 19, 2019 – *Item deferred*
- C. September 19, 2019 (Site Visit) *item removed from agenda*

Chair Colette Machado – There is one item for approval of the minutes, which is September 18th the Community Meeting we had on the Big Island. We will defer the BOT September 19, as you recall there was tremendous testimony that day so Dayna is trying to complete that. We will remove the September 19th on the site visit, because it should only be a record there was no quorum for an official meeting. Could I please get a motion to approve the September 18th Community Meeting minutes?

9:33 am Trustee Waihee arrives to meeting

Trustee Carmen Hulu Lindsey moves to approve the Board of Trustees meeting minutes of September 18, 2019.

Trustee Ahuna seconds the motion.

Chair Colette Machado – Is there any discussion? Hearing none, roll call vote please.

Trustee Carmen Hulu Lindsey moves to approve the Board of Trustees meeting minutes of September 18, 2019. Trustee Dan Ahuna seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA		x	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'AINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passes with nine (9) yes votes.						

III. PUBLIC TESTIMONY

Chair Colette Machado – We are on public testimony. I'd like to call to the table Germaine Meyers.

Germaine Meyers – Aloha, good morning. My name is Germaine Meyers, and I am an OHA beneficiary for beneficiary advocacy and empowerment most of all. I am a Nanakuli Hawaiian Homestead Lessee. Today I would like to share my data, views and arguments regarding today's specifically agenda item. The first I would like to talk about is Executive Session item number VI. A. I want to emphasize on the State Auditor's request for confidential and Attorney Client Privileges. I would like to say about that is who is the Attorney and what is his responsibility and what is the client, who is the client. The client is all of the Trustees, but it is all of the beneficiaries. I am concerned that Attorney Client Privileges are being called to the table as far as holding back on documents and that why isn't it that the beneficiaries have a say in what documents are privileged or otherwise. Most of all what I want to emphasize is if you're saying that the 9 Trustees are the client then all 9 Trustees should have access to the documents that are being held form the State Auditor. Since we are talking about audit, yesterday it came up that another audit is also being, the forensic audit, and that there are documents that were not given.

My concern again is about the attorney client privilege and redaction etc. I want to know specifically as beneficiary what documents are being held from CLA and I want to know from the State Auditor. And I want to know that the Trustees are all having, if they are the client, it's not Chair Machado that is the client, it's not the RM Committee Chair that is the client, it's all 9 Trustees are the client if you are going to say the beneficiary is not the client. So, I expect to hear a report from all 9 of my Trustees saying, Germaine, kala mai I did receive all the 9 documents and it's important that we do not give it to the State Auditor or CLA. But if you're not going to give it to all 9 Trustees, then you cannot call Attorney Client Privilege on these documents. You cannot redact the documents. If my 9 Trustees are not going to get access to it. It is my concern as the beneficiary that I advocate for beneficiaries and that you, we elected you 9 Trustees, and I've seen what happens on this board over the last 2 years and it seems only the Chairs of the committees are the clients. I think that has to stop. That has to stop right here before we go to the next step. If I don't get a praise report from all 9 Trustees saying kala mai Germaine we did get that, we are the clients, all 9 of us are the clients and we did see the documents and its important the CLA or the State Auditor doesn't not receive those documents. Then I say hewa, that you guys are giving the power to one individual or two individuals on this board. We didn't just elect two individuals. We are coming up in an election season. Are going to be electing four of you. Four of you. Last year, we elected 5 of you. So, if you are the client then you need to behave like the client. You need to demand that these documents, that we were told yesterday are being given to CLA and you need to demand.

Trustee Brendon Kalei'āina Lee – Point of order Madam Chair.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'āina Lee – CLA Audit is not on our agenda.

Germaine Meyers – You are correct I will bring it up in Community Concerns then. I asked the Chair if I could put it all in one 5 minutes since some of you leave the board table when its community concerns. So, kala mai, you can take it off but I have voiced my concerns. I will emphasize on State Auditor that you are the client and that the State Auditor you need to see those documents that are being held from the State Auditor. I emphasize on that right now. Kala mai. Then later on in community concerns I will come back and emphasize on community concerns that it should be CLA as well.

Chair Colette Machado – Thank you Germaine.

Germaine Meyers – I am not done Chair.

Chair Colette Machado – It's just that you outlined that you are going to separate the CLA in community concerns. That is what I was thanking you for.

Germaine Meyers – I just want to say that all the new businesses are very important and I look forward to seeing them. I hope that I didn't offend any of you. I hope that when you hear my testimony that there is not this type of hewa, regarding my testimony. I've never had before interruption as far as saying that is parliamentary rules, etc. Because as a beneficiary when do we have time to come here. I work, I have to self-sustain so the little time I have to advocate for the beneficiaries I would hope that you would leave parliamentary rules because I don't abuse them. I don't come to this table often but when I do, I only speak to what is important to my heart. Because I live in Nanakuli, the highest concentration of native Hawaiians in the world. I think that I am one of the few people that come to this board often. Because everybody else is just working or they are in a state of oppression. I hope that you will see that I am advocating and that you are the clients and that I am the beneficiary so I am really the client. I really hope that you can see that and see me as a person and not as a parliamentary. E hana kākou.

Chair Colette Machado – Thank you Germaine.

Trustee Leina'ala Ahu Isa – I want to say I agree with Germaine.

Trustee Brendon Kalei‘āina Lee – So we all get to state our opinion since Trustee Leina‘ala Ahu Isa did.

Chair Colette Machado – No I don’t want that to occur right now. We already discussed this matter.

Trustee Brendon Kalei‘āina Lee – I understand Madame Chair, but a Trustees was allowed to give their opinion so I’m asking if the rest of us are going to be allowed to give our opinion.

Chair Colette Machado – I actually won’t allow that right now. We can debate that latter if it comes up under community concerns latter.

Kurt Klein, Esq. – I don’t think there should be any discussion on Public Testimony.

Chair Colette Machado – That is exactly what I want to say.

Kurt Klein, Esq. – There should be no discussion on public testimony, not in this portion of the agenda.

Chair Colette Machado – We will now move on to IV.

IV. UNFINISHED BUSINESS

A. Interim CEO’s 15-Minute Update on Ho‘oulu Lāhui Aloha and OHA Activities

Chair Colette Machado – I would like to call on our Interim CEO for any updates.

Sylvia Hussey – Good morning Trustees. Two events we want to make you aware of and you’re probably aware. The first is the Association of Hawaiian Civic Club Annual Convention will be next week on Maui. OHA is preparing to provide a workshop on water rights on Wednesday afternoon, on Thursday OHA will be there sharing the preview on Maunakea in terms of our positions of mismanagement and as well as we will also have concepts of the package. As you know we haven’t brought the package to you. But we have brought general concepts of the package. So those same concepts will be shared with the community on Thursday. On Saturday, Chair will be providing remarks on the plenary in the morning, then we will have our OHA informational booth through the entire week of the activities. So that is one of the announcements. The other is tonight at UH Maui College there is a panel discussion as well as a premiere of our new water rights film. Trustee Carmen Hulu Lindsey you will be there participating as well. Trustees received yesterday a link to a preview of the film. That particular link so you will be able to know what is going to be premiered tonight ahead of time. Those are the two announcements.

Chair Colette Machado – Thank you Sylvia. We are now under New Business.

V. NEW BUSINESS

A. Action Item BOT #19-17: Approval of an OHA Board of Trustees' Resolution "honoring the life and contributions of Larry Kamakawiwo‘ole to the Native Hawaiian community and other marginalized communities in Hawai ‘i.

Chair Colette Machado – I’d like to call to the table Dr. Davianna Pōmaika‘i McGregor and Sterling Wong. Members today we have a very special opportunity to honor a fallen comrade by the name of Larry Kamakawiwo‘ole. That is Ation Item BOT 19-17 I will call on Davianna to share about Larry’s earliest years at University and at the Ethnic Studies program. Followed by the reading of the resolution by Sterling and hopefully we can take a motion to approve.

Dr. Davianna Pōmaika‘i McGregor - Aloha kākou. Larry Kamakawiwo‘ole was actually the first director which was then called ethnic studies program. It is now the Department of Ethnic Studies which I am a

professor and I am also the director for the Center for Oral History. Larry was born and raised here in Kapālama and then later in lower 'Ālewa and went to Kamehameha Schools graduate and went to the University of Hawaii and got is undergraduate degree in Religion. He was able to go to the Pacific School of Religion at Berkley and he was there during the third world movement and got politicized and through his work through the churches there in Berkley which provided sanctuary to the civil rights leaders he met leaders of the Black Panther movement, he learned about how those movements, organized, served the people, programs and such of what they were doing at the time of organizing the African American Community in Oakland. When he completed his MA at Pacific School of Religion he came back and was a teaching assistant and latter instructor in the Department of Religion at UH at Manoa. While he was there the Kalama Valley movement was beginning. The residents had received their eviction notices and he was working with other ministers and the youth action group. He was asked to go to the Valley and meet with the residents and find out what kind of support they could be provided. They agreed to have him come and help them. He organized various other young students who have been educated in the US and been politicized at that time and they formed what they called Kokua Kalama Valley to help the residents there and work there and help prepared to hopefully stop the evictions. But as you know they were eventually evicted.

Through the work that Larry Kamakawiwo'ole did and others, and recently Larry headed up an oral history project with the Journalist Gary Kubota and they interviewed all the different leaders who came to Kalama Valley to support the residents. Moani Keala Akaka former Trustees, Teri Koolani, Kalani Ohelo, the Hayashis and Mary Choi, Soleil Niheu. They all got their start in the Hawaiian movement there in Kalama Valley which he was the organizer of. They were able to educate the community that after the 10 years of unprecedented growth we have seen where so many of our people were being dislocated to make way for high prices housing that by 1970s the survey said 80% of the people couldn't afford to own the homes that were being built. It was the first movement to protect the agriculture movement. Because there were farmers, some of them were previously farming in 'Āina Haina and they moved to Kalama Valley because they were evicted from 'Āina Haina as it got developed. This was sort of the last outpost of agriculture and local lifestyle on the East Coast of Oahu and now they were being dispersed. They went to Nānākuli and Wai'anae, Waiāhole and Waikāne. Kokua Kalama because there were these evictions happening to former plantation villages and they helped empower those people and stand up for their rights and challenge the development that was displacing native Hawaiian people and local people and the who local lifestyle.

After Kalama valley they formed Kokua Hawaii to enable them to do the work to the broader community. They also were instrumental, in our Department Ethnic Studies getting established, so Larry himself was the first director for our program. From 1970-1972, in 1972 there was an effort to actually disband the program so we had a big sit in and all the communities came that Kokua Hawaii had organized and we eventually prevailed and got the President to extend our program. We continued to evolve and grow into now a Degree granting Department. Latter Larry completed another MA in Education and then he went to get his Law Degree at Georgetown University in Washington DC and worked as a Deputy Prosecutor here at the City and County of Honolulu and also a Deputy Attorney General for the Department of Commerce and Consumer Affairs. He organized the Kokua Hawaii Oral History project that produced this book and it begins to connect this generation to our generation of activist. Get an appreciation of how the movements we are seeing today had its roots in Kalama Valley and the organizing that was led by Dr. Larry Kamakawiwo'ole.

Chair Colette Machado – I liked to move to approve Action item BOT 19-17.

Trustee Dan Ahuna moves that The OHA Board of Trustees approves “A Resolution of the Office of Hawaiian Affairs Honoring the Life and Contributions of Larry Kamakawiwo'ole to the Native Hawaiian Community and other marginalized communities in Hawai'i.”

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – With that said, Sterling please proceed to read the resolution.

Sterling Wong – Madame Chair, Aunty Davi pointed out two slight corrections, they are highlighted. I had initially put that he went to UC Berkeley. He actually went to Pacific School of Religion in Berkeley. There are two places where there is just replacing that word.

Trustee Brendon Kalei‘āina Lee moves to amend the resolution to reflect the corrections provided in the third Whereas and in the fifth Whereas.

Trustee John Waihe‘e IV seconds the motion.

Chair Colette Machado – It has been moved and seconded. Sterling when you are ready.

Sterling Wong reads the resolution:

**“A RESOLUTION OF THE OFFICE OF HAWAIIAN AFFAIRS
HONORING THE LIFE AND CONTRIBUTIONS OF LARRY KAMAKAWIWO‘OLE TO THE
NATIVE HAWAIIAN COMMUNITY AND OTHER MARGINALIZED COMMUNITIES IN
HAWAI‘I”**

WHEREAS, Lawrence “Larry” Kamakawiwo‘ole was born in May 1943 in Honolulu, O‘ahu, to William Kamakawiwo‘ole, a bus instructor and dispatcher for the Honolulu Rapid Transit Company, and Wenonah Kamakawiwo‘ole, a substitute elementary teacher; and

WHEREAS, Larry Kamakawiwo‘ole was raised in Pālama and ‘Ālewa, attending area public elementary schools before enrolling at Kamehameha Schools, where he graduated from high school in 1961; and

WHEREAS, Mr. Kamakawiwo‘ole earned an undergraduate degree from the University of Hawai‘i; master’s degrees from the Pacific School of Religion in Berkeley, and the University of Hawai‘i; and a law degree from the Georgetown University Law Center; and

WHEREAS, Mr. Kamakawiwo‘ole had a long and distinguished professional career, serving as the first full-time director of the Ethnic Studies Program at the University of Hawai‘i at Mānoa, a deputy prosecutor for the City and County of Honolulu, and a special deputy attorney general to the Department of Commerce and Consumer Affairs; and

WHEREAS, Mr. Kamakawiwo‘ole played an indispensable role in the Hawaiian Renaissance, an unprecedented political movement of environmental consciousness and appreciation for native culture and language; and

WHEREAS, upon returning from Berkeley in the 1970s, he employed the community organizing skills he learned in graduate school to protest Kamehameha Schools Bishop Estate’s evictions of residents and farmers in Kalama Valley, a seminal land struggle that would help to launch the Hawaiian Renaissance and spark two decades of Hawaiian political activism and cultural renewal; and

WHEREAS, he was a founding organizer and spokesperson for Kōkua Kalama Valley and later Kōkua Hawai‘i, which sought to keep special Hawaiian communities intact and uphold basic human rights in housing for the poor and disenfranchised; and

WHEREAS, he and the other leaders and organizers of Kōkua Hawai‘i broadened the conversation on human rights and housing to include the planned evictions of several other communities in Hawai‘i, such as Ota Camp, Waiāhole-Waikāne, He‘eia Kea, Waimānalo, Chinatown, Hālawa Housing and “Census Tract 57” in Kalihi; and

WHEREAS, these leaders established a legacy of peaceful protest and civil disobedience that reshaped Hawai‘i’s laws to recognize the rights of the disenfranchised, including Native Hawaiians, immigrants, and the poor; and

WHEREAS, Mr. Kamakawiwo‘ole’s tireless work also helped to lay the foundation for the 1978 Constitutional Convention, the state Office of Hawaiian Affairs, and the Native Hawaiian Legal Corporation, among other institutions, that continue to uphold his vision of social justice for Native Hawaiians; and

WHEREAS, with the recent passing on October 9, 2019, of Mr. Lawrence “Larry” Kamakawiwo‘ole, Hawai‘i has lost a leader and community advocate who helped to shape the future of Hawai‘i and the social fabric of our islands; now, therefore,

BE IT RESOLVED, that the OHA Board of Trustees expresses its appreciation for the lifelong leadership and advocacy of Lawrence “Larry” Kamakawiwo‘ole, the first full-time chair of Ethnic Studies at the University of Hawai‘i, and a native son of Hawai‘i who led the formation of Kōkua Hawai‘i and who embraced and dedicated himself to protecting the poor and disenfranchised; and

BE IT FURTHER RESOLVED, that the OHA Board of Trustees expresses its gratitude and sends its aloha to the late Mr. Kamakawiwo‘ole’s ‘ohana and other leaders and community organizers of Kōkua Hawai‘i and their associates for their pivotal work in nurturing mutual respect and collaboration between disenfranchised cultures and communities in Hawai‘i and the Pacific; and

BE IT FURTHER RESOLVED, that certified copies of this Resolution be transmitted to the ‘ohana of Larry Kamakawiwo‘ole; the Department of Ethnic Studies, College of Social Sciences, University of Hawai‘i at Mānoa; Hawai‘inuiākea School of Hawaiian Knowledge and the Pelekikena of the Association of Hawaiian Civic Clubs.

ADOPTED, this _____ day of November 2019, island of O‘ahu, State of Hawai‘i, by the Board of Trustees of the Office of Hawaiian Affairs in its regular meeting assembled.

Chair Colette Machado – Are we ready for the vote?

Trustee Brendon Kalei‘āina Lee – Madame Chair we have to vote on the amendment first.

Chair Colette Machado – Roll call of the amendments first.

Trustee Brendon Kalei'āina Lee moves to amend the resolution to reflect the corrections provided in the third Whereas and in the fifth Whereas.

Trustee John Waihe'e IV seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			

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

Motion passes unanimously with nine (9) yes votes.

Chair Colette Machado – Roll call vote on the main motion as amended.

Trustee Dan Ahuna moves that The OHA Board of Trustees approves “A Resolution of the Office of Hawaiian Affairs Honoring the Life and Contributions of Larry Kamakawiwo'ole to the Native Hawaiian Community and other marginalized communities in Hawai'i, as amended.

Trustee Robert Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			

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

Motion passes unanimously with nine (9) yes votes.

Chair Colette Machado – Thank you members we will be doing the presentation of the resolution, we need your cooperation to sign on the resolution. It will be at the next BOT on the 21st. We've invited his family, there will be 18 coming to celebrate with OHA on this resolution. I wanted to thank all of you for your aloha. Members we will now move on to V.B.

- B. Action Item BOT # 19-18: Extend the time for the Permitted Interaction Group, approved on May 30, 2019, to investigate the incorporation of completed and approved work products of the Board Governance Framework PIG, L - Lāhui Level Policies PIG, Board of**

Trustees By-Laws PIG, T-Level Trustee Level Policies PIG, and C-CEO Level Policies; and alignment and update of existing Board governance documents, from December 31, 2019 to no later than June 30, 2020.

Chair Colette Machado – I will call on Trustee Brendon Kalei‘āina Lee.

Trustee Brendon Kalei‘āina Lee moves to Extend the timeframe for the Permitted Interaction Group (PIG), approved on May 30, 2019, to investigate the incorporation of completed and approved work products of the Board Governance Framework PIG, L-Lāhui Level Policies PIG, Board of Trustees By-Laws PIG, T-Trustee Level Policies PIG, and C-CEO Level Policies; and alignment and update of existing Board governance documents from December 31, 2019 to no later than June 30, 2020.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Any discussion on the extension, hearing none roll call vote.

Trustee Brendon Kalei‘āina Lee moves to Extend the timeframe for the Permitted Interaction Group (PIG), approved on May 30, 2019, to investigate the incorporation of completed and approved work products of the Board Governance Framework PIG, L-Lāhui Level Policies PIG, Board of Trustees By-Laws PIG, T-Trustee Level Policies PIG, and C-CEO Level Policies; and alignment and update of existing Board governance documents from December 31, 2019 to no later than June 30, 2020.						
Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE BRENDON KALEI‘ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE‘E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED						
Motion passes unanimously with nine (9) yes votes.						

- C. Report of the Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decision, without discussion. Pursuant to HRS §92-2.5(b)(1)(B)**

Chair Colette Machado – We are now on item C. report of the Permitted Interaction Group to investigate complaints against a Trustee. I’ll call on Trustee Lee.

Trustee Brendon Kalei‘āina Lee – Thank you Madame Chair. The report of the PIG is being handed out to the members. The Board of Trustees have the report of the Permitted Interaction Group that was formed. The permitted interaction group met on September, this is just the reporting so there will be no discussion or questions until the following meeting. The permitted interaction group met on September 27, 2019. After

reviewing the complaint against Trustee Akina the PIG finds that Trustee Akina made misleading and untrue statements with regard to the CLA audit. Given that the BOT has no recourse for disciplinary action against a Trustee at this time the PIG considers this matter closed. Thank you, Madame Chair.

Chair Colette Machado – Thank you Trustee Lee. We will now move on to.

Trustee Keli‘i Akina – Madame Chair.

Chair Colette Machado – Trustee Akina.

Trustee Keli‘i Akina – I understand that there is no discussion of the content here, however a public statement has been made here that Trustee Akina made misleading and untrue statements. I want to point out that I have not been interviewed at all by this committee before coming to that conclusion. I was never invited to discuss it.

Chair Colette Machado – I have to call you out of order Trustee Akina.

Trustee Keli‘i Akina – May I move on to another point then?

Chair Colette Machado – It depend on what you will say I may have to call you out of order.

Trustee Keli‘i Akina – I would like to say I have every right to responds publicly here at this Board to the statement that has been made.

Chair Colette Machado – Not at this meeting but it will come back at the next board meeting on the 21st, you may have an opportunity to respond because that is the way the PIG works.

Trustee Keli‘i Akina –Thank you and I look forward to the opportunity.

Chair Colette Machado – Thank you.

VI. EXECUTIVE SESSION

Chair Colette Machado – With that said I’d to move on to Executive Session. Members the Chair would like to entertain a motion for recuse ourselves into Executive Session pursuant to HRS 92-5 (a)(2) and (4).

Trustee John Waihe‘e IV moves to recuse into executive session pursuant to HRS §92-5(a)(2) and (4).

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado – It has been moved and seconded. Roll call vote please.

Trustee John Waihe'e IV moves to recuse into executive session pursuant to HRS §92-5(a)(2) and (4).
Trustee Dan Ahuna seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA		x	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			

MOTION: UNANIMOUS PASSED DEFERRED FAILED
Motion unanimously passes with nine (9) yes.

Chair Colette Machado – Everyone will be excused from the room, except for Raina.

The Board resolved into Executive Session at 10:01 am

- A. Consultation with Acting Board Counsel Kurt W. Klein, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities relating to the State Auditor's request for confidential and Attorney-Client privileged materials and information in connection with the legislatively mandated audit per Act 37. Pursuant to HRS§92-5(a)(4).**
- B. Receive and take action on the Joint BAE/RM's recommendation of a candidate for the position of OHA Chief Executive Officer (CEO); and, consultation with Acting Board Counsel Kurt W. Klein, Esq. regarding the terms and conditions of employment to be offered to the presumptive CEO, Pursuant to HRS §92-5(a)(2), 92-5(a)(4).**

The Board reconvenes in open session at 11:06 am.

11:06 am Chair Colette Machado leaves the meeting.

VII. COMMUNITY CONCERNS

None

VIII. ANNOUNCEMENTS

None

IX. ADJOURNMENT

Vice Chair Brendon Kalei'āina Lee – Members seeing as we have no one signed up for Community Concerns and no one waiting out front or in the lobby the I would like to entertain and motion to adjourn the meeting.

Trustee Carmen Hulu Lindsey moves to adjourn the meeting.

Trustee Robert Lindsey seconds the motion.

Vice Chair Brendon Kalei'aina Lee – It has been moved and seconded. Roll call vote please.

Trustee Carmen Hulu Lindsey moves to adjourn the meeting Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'AINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO						X
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with eight (8) yes votes and one (1) excused.						

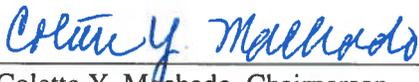
The meeting was adjourned at 11:08pm.

Respectfully submitted,



Dayna Pa, Board Secretary

As approved by the Board of Trustees on December 19, 2019.

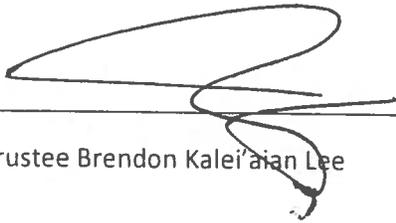


Colette Y. Machado, Chairperson
Board of Trustees

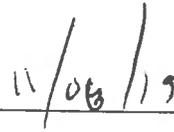
Attachments:

1. Report of the Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decision

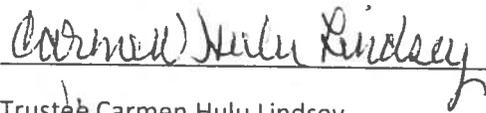
The Permitted Interaction Group met on September 27, 2019. After reviewing the complaint against Trustee Akina the PIG finds that Trustee Akina made misleading and untrue statements with regard to the CLA audit. Given that the BOT has no recourse for disciplinary action against a Trustee at this time the PIG considers this matter closed.



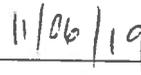
Trustee Brendon Kalei'ain Lee



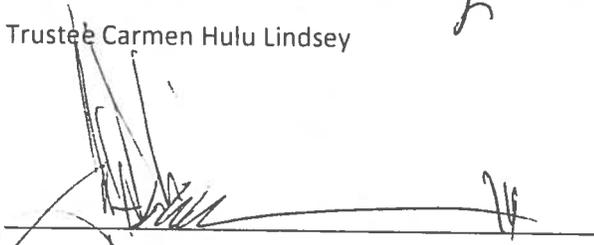
Date



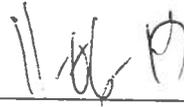
Trustee Carmen Hulu Lindsey



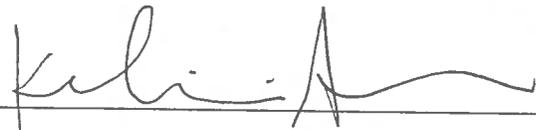
Date



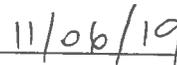
Trustee John Waihe'e IV



Date



Trustee Kalei Akaka



Date

Office of Hawaiian Affairs
560 N. Nimitz Hwy, Suite 200
Honolulu, HI 96817
Roll Call Vote Sheet

BOARD OF TRUSTEES MEETING

DATE: June 20, 2019

AGENDA ITEM:

V. New Business

C. Action Item BOT #19-09: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. Pursuant to HRS § 92-2.5(b)(1)(A).

Move to approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Permitted Interaction Group Scope /Purview:

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

Permitted Interaction Group Membership:

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey;
3. Trustee John Waihe'e IV; and
4. Trustee Kalei Akaka

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

Permitted Interaction Group Term/Duration:

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

As amended.

AMENDMENT:

MEANS OF FINANCING:

		1	2	'AE (YES)	A'OLE (NO)	KANALUA/ ABSTAIN	EXCUSED/ ABSENT
TRUSTEE LEINA'ALA	AHU ISA			X			
TRUSTEE DAN	AHUNA		x	X			

TRUSTEE KALEI	AKAKA			X			
TRUSTEE KEL'I	AKINA					X	(1 st voted no then advised by Counsel to abstain)
TRUSTEE BRENDON KALEI'ĀINA	LEE	x		X			
TRUSTEE CARMEN HULU	LINDSEY			X			
TRUSTEE ROBERT	LINDSEY					X	
TRUSTEE JOHN	WAIHEE			X			
TRUSTEE COLETTE	MACHADO			X			
TOTAL VOTE COUNT				7		2 abstention	

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

DISCUSSION:

OFFICE OF HAWAIIAN AFFAIRS
Action Item

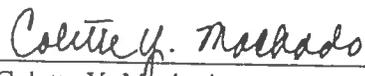
BOARD OF TRUSTEES
June 6, 2019

BOT #19-09

Action Item Title: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Prepared By:  06/05/2019
Carol Ho'omanawanui
Ke 'Aho Kele, Chief of Staff Date

Reviewed By:  06/05/2019
FOR Robert G. Klein
Pōhaku Kihi Nui, Board Counsel Date

Reviewed By:  06/05/2019
Colette Y. Machado
Ke Kauhuhu, Board of Trustees Chair Date

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I. ACTION ITEM

Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

II. ISSUE

Whether or not the OHA Board of Trustees should approve the formation of a Permitted Interaction Group, consistent with Hawai'i Revised Statutes §92-2.5(b)(1)(A), to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

III. DISCUSSION

A. Timeline of Complaints

A complaint against an OHA Trustee was transmitted to the Board of Trustees (BOT) Chair on April 17, 2019 alleging violations of policies covered under the Trustee Code of Conduct when public statements and comments were made by the OHA Trustee:

1. Duty of Care and Loyalty to OHA, Section 1030 of the OHA BOT Executive Policy Manual (February 2012); and
2. Duty of Loyalty and Duty of Obedience and Support for Board Decisions, Subpart 1A, Section A, Subsection 5 of the OHA BOT Code of Conduct and Sanctions for Violations of the Code of Conduct.

This complaint was distributed to the Trustees via a confidential memo from the Board Counsel dated April 30, 2019.

Another complaint against the same OHA Trustee identified in the first complaint was transmitted to the BOT Chair on May 8, 2019. This complaint alleged violations of policies covered under the Trustee Code of Conduct, similar to the first complaint, when public statements were made by the OHA Trustee:

1. Duties of Care, Obedience, and Loyalty as defined in the OHA BOT Executive Policy Manual (February 2012) and Subpart 1A, Section A of the OHA BOT Code of Conduct and Sanctions for Violations of the Code of Conduct.

The second complaint was distributed to the Trustees via a confidential memo from the Board Counsel dated May 14, 2019.

B. Applicable Law in Hawai'i Revised Statutes, Permitted Interaction Group

In accordance with HRS §92-2.5(b)(1)(A), this action item seeks the approval of the Board to create a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Hawai'i Revised Statutes (HRS), Chapter 92, Public Agency Meetings and Records, §92-2.5(b)(1) allows for two or more board members (Permitted Interaction Group), but less than the number of members which would constitute a quorum of the board, to investigate a matter relating to official business of the board:

- (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 decisionmaking 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.

C. Proposed Permitted Interaction Group (PIG)

The scope/purview, memberships, and term/duration of the Permitted Interaction Group are defined below.

Permitted Interaction Group Scope /Purview:

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

Permitted Interaction Group Membership:

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey; and
3. Trustee John Waihe'e IV

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

Permitted Interaction Group Term/Duration:

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

IV. TIMEFRAME

Immediate action is recommended.

V. FUNDING SOURCE

No additional funding is needed to form a new Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

VI. ALTERNATIVES

- A. Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.
- B. Do not approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.
- C. Take no action

VII. RECOMMENDATION

Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey; and
3. Trustee John Waihe'e IV

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

VIII. ATTACHMENT

None