

STATE OF HAWAI‘I
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Twenty First Supplementary Proclamation dated June 7, 2021 that suspend parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477

**Minutes of the Office of Hawaiian Affairs
Board of Trustees
MINUTES
July 1, 2021**

ATTENDANCE:

Chairperson Carmen Hulu Lindsey
Trustee Lei Ahu Isa
Trustee Dan Ahuna
Trustee Kaleihikina Akaka
Trustee Keli‘i Akina
Trustee Luana Alapa
Trustee Brendon Kalei‘āina Lee
Trustee Keola Lindsey
Trustee John Waihe‘e, IV

BOT STAFF:

Colin Kippen
Amber Kalua
Kanani Iaea
Lehua Itokazu

ADMINISTRATION STAFF:

Sylvia Hussey, Ka Pouhana / CEO
Casey Brown, Pou Nui / COO
Raina Gushiken, CC
Everett Ohta, CC
Ramona Hink, CFO
Kalani Fronda, Land Director
Alice Silabanuz
Kevin Chak, IT Support
Erin Nakama, IT Support
Robert Klein, Board Counsel

GUEST:

Germaine Meyers
Kaniloa Kamaunu

Call to Order

Chair Hulu Lindsey Calls the Board of Trustees Meeting to order for Thursday, July 1, 2021 at 10:01 a.m. Chair Hulu Lindsey calls for a roll call.

| MEMBERS | | | Present | TIME ARRIVED |
|-------------|--------------------|---------|---------|--------------|
| TRUSTEE | LEINA ‘ALA | AHU ISA | X | |
| TRUSTEE | DAN | AHUNA | X | |
| TRUSTEE | KALEI | AKAKA | X | |
| TRUSTEE | KELI‘I | AKINA | X | |
| TRUSTEE | LUANA | ALAPA | X | |
| TRUSTEE | BRENDON KALEI‘ĀINA | LEE | X | |
| TRUSTEE | KEOLA | LINDSEY | X | |
| TRUSTEE | JOHN | WAIHE‘E | X | |
| CHAIRPERSON | CARMEN HULU | LINDSEY | X | |
| | | | 9 | |

At the Call to Order, **nine (9)** Trustees are PRESENT, thereby constituting a quorum.

Chair Hulu Lindsey Joining the Trustees today is our Board Counsel – Judge Klein, CEO-Sylvia Hussey, Colin Kippen-COS, Lehua Itokazu-Board Secretary, and my Aides-Kanani Iaea and Amber Kalua. Sylvia, please announce who is joining us from your staff.

Sylvia Hussey, CEO Good morning Chair and good morning Trustees. We have COO-Casey Brown, CFO-Ramona Hink, Land Director-Kalani Fronda, Senior Legal Counsel-Raina Gushiken, Legal Counsel-Everett Ohta, and Alice Silabanuz – Interim Community Engagement Director, and our IT support – Kevin and Erin. Mahalo Chair.

Approval of Minutes

Trustee Ahu Isa Moves to approve the minutes for June 2, 2021.

Trustee Akina Seconds the motion.

Chair Hulu Lindsey Roll call vote.

| Minutes: June 2, 2021 | | | | | | |
|------------------------------|---|---|--------------|----------------|----------------------|---------|
| | 1 | 2 | ‘AE (YES) | ‘A‘OLE (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | X | | X | | | |
| TRUSTEE DAN AHUNA | | | X | | | |
| TRUSTEE KALEI AKAKA | | | X | | | |

| | | | | | | |
|---|----------------|--|---|----------|--|--|
| TRUSTEE KELI'I | AKINA | | X | X | | |
| TRUSTEE LUANA | ALAPA | | | X | | |
| TRUSTEE BRENDON | LEE | | | X | | |
| TRUSTEE KEOLA | LINDSEY | | | X | | |
| TRUSTEE JOHN | WAIHE'E | | | X | | |
| CHAIRPERSON HULU | LINDSEY | | | X | | |
| TOTAL VOTE COUNT | | | | 9 | | |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with nine (9) YES votes and zero () EXCUSED vote. | | | | | | |

Public Testimony and Community Concerns and Celebrations

Chair Hulu Lindsey Public testimony should be limited to matters listed on the meeting agenda and will occur during the public testimony portion of the agenda. Once the public testimony section on the agenda has concluded oral testimony online will no longer be accepted. Your name will be called and your microphone will be unmuted when it is your turn to testify. If you are not audible, you will be muted and the next testifier will be called. Your name will be called again before the conclusion of the public testimony section. State your name, organization if applicable, agenda items, you are testifying on, and your position on each of the agenda items. If you begin to address other issues not on the meeting agenda, I will call you out of order and direct you to limit your testimony to items listed on the agenda. Oral testimony online will be limited to 5 minutes, a timer will be on the screen to countdown the time. Your mic will automatically be muted once you have completed your oral testimony or if your allotted time for testimony expires, you will be asked to disconnect from the meeting unless you are also signed up for oral testimony during community concerns. 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 live stream. Also, any late testimony will be distributed after the BOT meeting. I will now call on staff to call on the list of Testifiers.

Germaine Meyers Aloha Chair Hulu, Vice Chair Ahu Isa, Trustees, Ka Pouhana, and Lāhui. My name is Germaine Meyers and I'm an OHA beneficiary for beneficiary advocacy and empowerment. I'm also a Hawaiian homestead Nanakuli lessee. Thank you for the opportunity today to speak about the agenda items. Trustees, yesterday I attended the RM Committee meeting. I was totally shocked to see that a trustee waited to the meeting to challenge the agenda item and motion that was already written in the packet. Knowing that without an approved budget, over 100 people would not be able to come to work today and for the next 6 days until a budget was approved. Native Hawaiians would not be served, everything would come to a complete halt. Challenging the motion instead of approaching the RM committee chair prior to yesterday to discuss his concerns so that progress would be made towards a solution instead of a confrontation but most of all the insistence that parliamentary rules, Robert's Rules of Order be followed and be honored. Why would a trustee insist on Robert's Rules of Order be followed at a meeting, but after receiving the CLA report 2 years ago, never insisted on rules and laws be followed when spending millions of OHA trust funds. Please allow me to share with you some of the things I read in the CLA report that caused me deep and unsettling concerns. I wonder why did it matter to some of you that read the report to take a stance of idleness instead of assertiveness? In the executive summary of contracts and disbursements highlights required signature were not always present on a procurement document. Required means shall, must that's what my public education taught

me. OHA was unable to produce some or all of the deliverables required by the contracts. My understanding of deliverable is receiving something you paid for. Would any of you with your own money order something on Amazon, pay for it with your debit card and if you didn't receive it in the mail, if it wasn't delivered, would you just let it go? Would you just tell your family I ordered it, I bought it, I paid for it, and just deal with it, it's not here? Under OHA contracts, it stated the following conflicts of interest. CLA observed several potential financial conflicts of interests. Then it goes on to note several contracts in the following amounts of \$150,000.00, \$500,000.00, \$150,000.00, \$2,598,000.00, and \$200,000.00. Several grantees did not have a complete grant application or a letter requesting funding. Grant applications are a specific requirement and this is a law. HRS means this is a law Hawaii Revised Statutes 10-17 (a). Several grant files did not contain sufficient evidence that OHA monitored or evaluated the grant activities which is a specific requirement of Hawaii Revised Statutes 10-17 (d). Separate grant files did not contain the BOT or ARM/BAE action item attached that indicated that the BOT or the RM/BAE was specifically approving the application and award amount. I see that my time is up and I honor your the system. Thank you chair. Thank you all for hearing me.

Kaniloa Kamaunu Mahalo for scheduling a meeting. I am sharing under community concerns. One of the items is water and what is happening on Maui. As far as our water rights is concerned, I think OHA needs to engage especially the kuleana rights. The big issue with East Maui is the contested case. They're making a statement that there was a settlement with water in the Na Wai 'Ehā area. I have a problem with that. They are only looking at one entity that seems to be representing all voices for the use of water with Mahi Pono and that is outweighing Na Wai 'Ehā. I think its inappropriate for myself. I represented myself in that case as kuleana heir to our property. We know Hui Na Wai 'Ehā's contention was not kuleana water rights. They were more into the science and what impact it would have upon aquatic life of the streams. As for me, it was more important on the impact that was actually being put upon by the kuleana. We have vested rights. We are recognized as having superior rights of water. That settlement was made after twenty years with Na Wai 'Ehā and they're only engaging with that party is inappropriate. Not all parties were involved. Not all parties that went into this contested case gave the approval for such settlement. Just because Na Wai 'Ehā have been going to their case much longer than Waihe'e and Wai'ehu doesn't diminish that we weren't part of it and that we fought for the kuleana rights and that we got recognized for kuleana. For us not to be in that discussion of what settlement are agreeing to. I would hope that OHA would help us investigate that. The voices that fought for the water rights of kuleana need to all be heard not just certain ones that are recognized in the news but those that actually fought for their water rights such as myself and my family. The other things is about the iwi. OHA needs to engage itself more into protection of our iwi. The contested case of Grand Wailea that we are in, it is a known fact that many of our iwi were taken from there. It is a known fact there are preservation sites and it's appalling to think that the County is going to allow construction and SHPD is going to allow construction to known burial site. Not just one burial but many burials that were desecrated. OHA needs to join in with us to discuss the matter with Pu'uone, Phase six. They went from finding four in the data recovery then coming out to almost 200 burials. Yet, SHPD doesn't want to recognize the site as a burial site. Even though we have a case coming up in November, the Judge has allowed these people to build without the case going through. Thank you.

Germain Meyers Aloha, it was upsetting and unsettling to read the CLA report and that some of you have said a lot of some things while not saying anything about the numerous items on the outline CLA report. It's clear to me that the grants department continues to not have a fair and comprehensive process. And it's clear to me that there's still some things that are broken. I'm looking forward to hearing the deliberations today regarding the agenda item as it concerns to the CLA report. Ke akua pū. God bless all of you. Have a beautiful weekend. Love on your family, keiki's and kupuna's matter to us. I don't look at them as a word, they're actually humans with heartbeats. They're my mother, my nieces, nephews, friends, families. Their futures matter to me and so I

will continue to come to OHA to express that their future and present lives matter to me. I thank all of you for embracing me and allowing me to share with you my mana‘o. Thank you Chair.

New Business

A. Approval of the Ad Hoc Committee on the CliftonLarsonAllen (CLA) Report entitled “OHA & LLCs Contract and Disbursement Review”

Chair Hulu Lindsey As the trustees know in our last budget from the Legislature we were given \$200,000.00 to update our CLA audit. And in its scope recommended the contract and disbursement review of the CLA audit report dated December 4, 2019, pursuant to section 11 of Act 29 of the Hawaii State Legislature and to provide a process to address and comply with those requirements. The Ad Hoc committee shall serve until their work is completed or until May of 2022 or as their time may be extended or shortened as I may direct. The scope of the Ad Hoc committee is to review 29 2021 provisions contained in Section 9 and Section 11; review Act 37 2021 provisions relating to conducting a financial and management audit of the OHA; review the findings of OHA’s December 4, 2019, CLA audit determine an appropriate scope of work given the time and budget constraints sent by the legislature in Section 11 of Act 29 2021; as well as OHA’s bylaws and personnel policies and relevant state and federal laws; and to propose a plan timeline, scope of services, and budget to hire an auditor or other 3rd party, business, or other professional as necessary to perform the defines scope of services in a timely and ethical fashion consistent with OHA’s existing Bylaws and personal policies; as well as with relevance State and Federal laws subject to approval and BOT. At this time I will name the Committee members:

Keli‘i Akina – Chair
Luana Alapa – Vice Chair
Casey Brown – COO
And
Colin Kippen – Board Chief of Staff

Trustee Ahu Isa Can I amend this or add someone on here? Pohai Ryan, Aide to Luana Alapa.

Chairperson Hulu Lindsey She can serve Trustee Alapa but this is the decision of the Chair to name these four people. But she can serve and Maria will serve Trustee Akina.

Trustee Ahu Isa I see Maria’s name and Amber’s name.

Chairperson Hulu Lindsey I did not name them. There are four members on this committee.

Trustee Ahu Isa Okay, so they are just listed?

Chairperson Hulu Lindsey Yes.

Trustee Ahu Isa I have a question. When I read Colin’s letter it says no guidance was provided with the legislation to OHA as to what scope of section line proposed \$200K follow up. Did we ever talk to the Legislature? Did we talk to the Senate to say what is supposed to be included in this? If we are going to create an Ad Hoc or a PIG without talking to them, I think Sterling would have or should have or maybe he did already and couldn't come up with any guidance and that’s why we are creating this PIG.

Chairperson Hulu Lindsey That’s right. They left the discretion up to OHA.

Trustee Ahu Isa Are we going to spend more money to hire a third party consultant if we can not do this?

Chairperson Hulu Lindsey Trustee, the Legislature gave us \$200K to do this. There shouldn't be any money coming out of OHA.

Trustee Ahu Isa I just heard you say that we might have to hire a consultant.

Chairperson Hulu Lindsey Yes, but the \$200K will pay the consultant.

Trustee Ahu Isa Oh okay. Thank you. I thought the charge was coming to OHA from our beneficiaries. I got it mixed up. Okay, thank you.

Trustee Keola Lindsey I just wanted to clarify and confirm that the action item before us today is just to form the PIG, define the scope, and identify the members. The time to discuss some of the issues we identify in the CLA will be once the PIG produces the reports under Trustee Akina's guidance? So, we have a limited agenda item and things we can focus on. Is that correct Madame Chair?

Chairperson Hulu Lindsey That's right. This committee will bring it to the board for recommendations.

Trustee Lee I want to clarify something for some of the trustees. There seems to be a little bit of confusion. This action item is not to form a Permitted Interaction Group this action item is to form an Ad Hoc committee. There is a big difference between the two. An Ad Hoc committee can report back to the board as many times as it wants, whereas the PIG can only report back to the board once. I'm following up on what Trustee Ahu Isa said, given that we received no guidance from the State Legislature and that they just want some sort of follow up report on the CLA have we offered the follow up report that was completed by administration? I mean that was a very comprehensive report. Have we offered that to the to the Legislature?

Chairperson Hulu Lindsey Not yet. We did not offer it to them yet but a few of the legislators that were responsible for passing this have read our CLA audit and they did not put it down in writing, but they specifically asked for investigation on the red flags.

Trustee Lee Sylvia correct me if I am wrong, I believe (*gets cut off*) I am not saying don't form the Ad Hoc committee but maybe present that report to the State Legislature and see if that satisfies their requirements for Act 29 Section 11. If they do accept it then that's \$200K of tax payer money we can give back to the legislature. I'm sure they can use it.

Chairperson Hulu Lindsey I can have the Ad Hoc committee review all those things because not all of us saw the answers to the to the legislature. Not all of us saw what administration did in response to the CLA audit. I haven't seen it.

Trustee Lee You haven't seen what administration has done in response to the CLA audit. That's not true Madam Chair, the report and the continuous follow up on that report done by administration was sent and reviewed by this Board since we received the CLA audit. You have it in your possession. Many follow ups from administration because it came to the BOT. Like I said, I am not against forming an Ad Hoc committee but maybe let's try the easy thing first and take the very extensive follow up report that administration did and give it to the legislature. In this report by administration, they look into the red flags, it also has administrations

corrections to those red flags. It shows what administration has done to address all of those issues from CLA. To me, it sounds like over and above what the legislature was asking for. That sounds like something that they would take as a report from us.

Trustee Akina While the administration did respond to the CLA report that was not an independent response. Neither was it a fraud investigation into the matters that the CLA determined were red flags. If you recall there were at least 32 items, which the CLA labeled as red flags, meaning that they were potentially the result of fraud, waste reviews. Those items totaled \$7.8 million and yes, the administration did respond to the board in terms of its interpretation of the CLA review. That did not constitute an independent follow through. So, I think what we would like to do is to make sure that we have an independent follow through that indeed does satisfy the intention of the Legislature. It's also an opportunity for us to exercise our own opportunity or us to exercise our own fiduciary duty to look into this matter as much as possible. One of the benefits would be if we do discover that there is some funding that could be recovered, that could be a benefit to the beneficiaries. In any case, I think it's an opportunity for us to really build our reputation back to the highest levels.

Trustee Lee Thank you for that clarification Trustee Akina I must have missed that part about independent. I missed that Act 29 Section 11 requires an independent review. Am I understanding that correctly, they're requiring an independent?

Chairperson Hulu Lindsey Yes.

Trustee Lee Okay, thank you for that clarification. I do have another question. If it's mandated by Act 29. Section 11 that we get an independent reviewer, and that independent reviewer took the report from administration and reviews it. Sorry, I am trying to think of the timeline.

Chairperson Hulu Lindsey yes you are correct.

Trustee Akina I do want to clarify that while I pointed out what the administration did is not an independent review. I am not familiar enough with Act 29. I don't have it in front of me from 2021 to say that it requires an independent review so I'm not making that claim. I was the Audit Advisory Committee chair when the CLA scope of the CLA work was crafted and that was to be an independent report so I mainly point this out to indicate that it would be of that value to have an independent audit, but I'm not making the claim as to what the law says. I just don't have it in front of me. I just wanted to clarify.

Trustee Lee Okay, so then that being said, Madam Chair, now that Trustee Akina has further clarified. Can someone inform the board does Act 29 Section 11 in fact say that this has to be an independent review?

Chairperson Hulu Lindsey The money is preceded upon an independent review. It was in my discussions with the Senate.

Trustee Lee Just because the legislature appropriates money to us for an independent review, doesn't necessarily mandate that we do an independent review. It could be they're appropriating the money for us if we choose to get an independent review. I don't know, I'm not saying that's what they did. I'm just asking a question. So, if it's not requiring us to do an independent review can we not submit the very comprehensive report done by administration along with all their follow ups addressing the red flags from the CLA audit and see if the legislature accepts that? If they do, then we get to return \$200K of taxpayer money to the legislature.

Chairperson Hulu Lindsey Trustee Lee, I happen to have the bill in front of me and it says, provided that of the general funds appropriated for beneficiary advocacy, OHA 175 the sum of \$200K for fiscal year 2021-2022 shall be expended to conduct or contract for a follow up contract and disbursement review of the CLA OHA and LLC's Contract and Disbursement Review Report dated December 4, 2019.

Trustee Lee At no point did I hear the word independent.

Chairperson Hulu Lindsey No, but it's a set contract. We don't contract each other within OHA.

Trustee Ahu Isa It's a married contract.

Trustee Lee That's correct Trustee Ahu Isa.

Trustee Ahu Isa I have another question. Say we find another fault or red flag, what if it's criminal? We are already being investigated by the FBI, the State Attorney General's office. What are we going to do about it? What happens? So, we'll go out and figure out our former CEO is guilty? What is the legislature going to do? Give us more money? Trustee Akina, it's taking us into another realm that we don't want to deal with. We've got other issues on our plate. In Collin's letter, I was thinking why not just talk to them? What is this forming a PIG or Ad Hoc? I've been in the Legislature, and you know what they do with those reports they give us? It's all filed and dumped away. They never read it. We read some of it, but not all of it. Maybe our staff reads it but let me tell you I've been in the last eight years, and we get all these minute detail reports come in and there is no way we're going to sit and read through everything. That's my humble opinion.

Trustee Lee The CLA audit was conducted by a former Federal Bureau of Investigative forensic auditor. He said it himself when he came and presented their report, that had actual fraud being found or laws being broken, he would have immediately halted the audit and informed the Board of Trustees. Even though he's no longer with the Federal Bureau of Investigations, as long as he is in his professional career be held to that standard and he could lose his license if he did not. I'm confident that had fraud or laws been broken, as he stated to the Board of Trustees, he would have halted the audit and brought it to the attention of the Board of Trustees, which never happened.

Chairperson Hulu Lindsey Okay, so we have nothing to worry about.

Trustee Lee I believe so.

Trustee Akaka Can we please have Corporation Counsel to clarify on this?

Chairperson Hulu Lindsey To clarify what?

Trustee Akaka With all the discussions back and forth, does it makes sense to move forward on this?

Chairperson Hulu Lindsey I don't think it's Corporation Counsel's prerogative, but I'll let Raina speak if she's on board.

Raina Gushiken, Sr. Legal Counsel The memo that was part of the board packet was prepared by the Chief of Staff, Colin Kippen, to inform the Board about the purpose of the Ad Hoc and the scope. As Chair Hulu has indicated, this is the prerogative of the board. So to the extent that Chief of Staff, Colin, can enlighten the board further, I defer to Chief of Staff.

Colin Kippen Good morning Trustees, I'm not sure what the question is that I'm being asked to answer.

Chairperson Hulu Lindsey Trustee Akaka, would you like to propose a question?

Trustee Akaka Yes, if we can just have more clarification to specify that it makes sense that we move forward on this.

Colin Kippen Okay, well, what happened is the Legislature in two sections of Act 29 Section 9 and Section 11 directed the Office of Hawaiian Affairs to accomplish certain things. In Section 9, you were supposed to tender the CLA report which you received in December of 2019. In Section 11, you were supposed to go and review what occurred and what that report did. You were appropriated \$200K to accomplish that work. If you look at the bill itself, it does not have any additional information in it other than what Chair Lindsey indicated to the board. The purpose of the Ad Hoc Committee was to try to flesh that out and what Chair provided you earlier was a list of the things that need to be looked at. The \$200K will be spent appropriately and so that the board knows what they're going to be getting for that \$200K. There is a series of specific things this Ad Hoc Committee needs to look at so, that they can inform the board as to how they need to proceed.

Trustee Akina At the heart of this discussion is the importance of following through on the CLA review. We invested and we produced. That was a great thing that was done. CLA gave us a report and there are two reasons why we need to follow through on it. The first reason we need to do it is that we are now required by law in Act 29 to follow through in whatever form that means. If what we have done already before they gave us \$200K was sufficient, if that constituted sufficient follow through, the Legislature would not have ordered us to follow through further. It would not have given us \$200K so no matter what we interpret that follow through to be we are under obligation by law to follow through on the CLA review and it is your committee that will determine what the best form of that follow through will be and report back to the board. That is the first reason. The second reason we should follow through is that it's what we should have done in the first place. The CLA leaders pointed out very clearly that the purpose of the CLA review was not to prove or indicate or determined that fraud, waste, and abuse had taken place and therefore they made it clear over and over in their report that what they were presenting was only red flags, only indicators. They drew a line between indicating red flags and actually determining fraud, waste, and abuse because the very purpose of the CLA review was not to go that far. It was really our responsibility after receiving the review to determine whether we would go forth and do further research into it. Whether we would assign it to a fraud investigative firm. Whether we would hand anything over to law enforcement; whether we would try to recruit money that were in the suggested red flags category. I think just to sum up what I'm saying we have a legal responsibility to follow through and whatever had been done prior to that is not sufficient to have satisfied this. Secondly, we have a moral obligation to take the work that was indicating potential fraud, waste, and abuse and determine whether there actually was the commission of this. This is a great opportunity.

Trustee Ahuna Thank you Chair and Trustees. Because of what Trustee Akina said, he is speaking outside of the scope and saying whatever he wants, I will be voting no. I don't like what I heard and I don't believe what he said. Thank you.

Trustee Akina Madam Chair, may I encourage Trustee Ahuna to read the minutes and try to understand what I said.

Trustee Lee Just for Trustee Ahuna. There is nothing before the board right now so there is nothing for us to vote on yet. I take exception Chair to what Trustee Akina just said that we have a legal obligation to follow

through. So is it Trustee Akina's claim that OHA has not followed through? I will point out again that Chair and I was just discussing there was a very comprehensive follow through not only of analysis of the red flags, but actions taken by administration to address those red flags so for him to claim that OHA has not done a follow through is a flat out lie. Then to say what we should have done, we have done it. To say the legislature is requiring us to do a further review of the review that we've already done. Then the legislature when they want something that specific, they say so. Nowhere in what I've heard read so far by yourself, Chair, and as explained by Chief of Staff, Colin Kippen, I have not heard the word further. I am not aware that the state leads you and correct me if I'm wrong Chair, I don't believe that Chair is aware if the legislature is aware of our follow through or has even seen it. Which is why I made the suggestion of us presenting it to them and see if that satisfies the information that the State legislature is looking for.

Trustee Ahuna To support my comments, he talked about follow through. He talked about in whatever form that is. He also mentioned no matter how we interpret those are too broad and I'm so sorry it doesn't make sense.

Trustee Ahu Isa Chair, with all due respect to my colleague Trustee Akina, the real reason the leg. is doing this is because Les Kondo, the State Auditor, refuses to do it. He said he's not going to do it, yet they're holding up \$3M so this is a way out, and I think Chair and Ka Pouhana went to see the Senators, then they came up with this \$200K for us to do it, so they can give us the money, the \$300M, so I don't know how we're delving back into the CLA audit again and bringing this up. You are going to find more things in there. I know Sylvia worked hard and she gave us all the recommendations that came out of this audit. I read it. I was shocked when I saw we were going to do a PIG and now its an Ad Hoc Committee. You are going to find stuff and we will have more lawsuits. You're going to present that report to us before we go to the legislature and the beneficiaries will get all involved. There are other factions that are against us and you can read my Ka Wai Ola article. They are going to use this CLA audit against us. That is why I am saying the Trustees have a fiduciary duty to protect our people. Trustee Akina, we have spent half a million on this CLA report already. Thank you Chair.

Trustee Akina With all due respect to my colleagues, Trustee Ahuna and Trustee Lee, I do think we have to get to the facts. The basic fact is stated very well by Colin Kippen in his memorandum to us. I'm going to read a couple of lines from it. Through Act 29 (2021) OHA budget bill for fiscal 2021-22 and 2022-23, the Hawaii Legislature addressed the completion of the audit requirement imposed by the 2019 Legislature through the terms of Act 37. In Section 9 of Act 29 OHA was directed to tender to the Legislature the audit completed for the OHA by the CLA on December 4th, 2019 to partially satisfy the earlier requirement that OHA complete an audit under the terms of Act 37. In Section 11 of Act 29, OHA has provided \$200K for fiscal year 2021 to 22 to do a follow up contract and disbursement review of the audit reported dated December 4, 2019. What I have just read to you is the fact that we are under legal obligation to do a follow up contract and disbursement review of the CLA audit report dated December 4, 2019. It will be the duty of the committee that has been appointed to recommend to the board the way in which that should be done. Thank you.

Chairperson Hulu Lindsey I just want to add that Ka Pouhana said the report that administration did was submitted to the legislature. It was after this report was given they asked for this follow up.

Trustee Lee Okay, thank you Madame Chair. I also want to clarify something that Trustee Akina just read. Thank you for pointing that out for us. Section 11 is not directing us by law to execute a contract. That is not what its saying. For other trustees to follow, it is on page 3 of the memorandum and it's in the third paragraph, this is where Trustee Akina was reading from. I won't read the entire paragraph it is quite long, but if you go to the last section of the paragraph where it disperses the money, after the comma, it says OHA was provided \$200K for fiscal year 2021-2022 to do a follow up contract and disbursement review. That's a review of

contracts and disbursements, that is not a follow up contract. If it was, the sentence would've read *to do a follow up contract to review disbursements*. It says a follow up contract and disbursement review. In other words, please go and review contracts and disbursements. If Ka Pouhana is saying that we did provide this to them and they're still asking for something, can we at the very least take the simple step of asking the legislature if OHA's follow up report suffice for ACT 11 or do you want us to do more? I don't think that's too much to ask Madame Chair because it cost everybody zero dollars to do that.

Chairperson Hulu Lindsey I would like to add that where Keli'i read from and where you read from is not exactly as the bill was written. The bill specifically said shall be expended to conduct or contract for a follow-up contract and disbursement review of the CLA OHA and LLCs contract.

Trustee Lee I'm sorry Madam Chair, if you would indulge me, could you please read that again? Sorry 'cause I don't have that in front of me.

Chairperson Hulu Lindsey Okay, it says the sum of \$200K for fiscal year 2021-2022 shall be expended to conduct or contract for a follow up contract and disbursement review of the CLA OHA and LLCs contract and disbursement review report dated December 4, 2019 so expended means spent we have to spend it.

Trustee Lee I won't argue the point anymore Chair. If we want to spend \$200K of taxpayer money for this then I won't be later this.

Chairperson Hulu Lindsey I'm only doing what I thought we were mandated to do so.

Trustee Lee And my opinion, who the hell am I right? I'm just another trustee I'm not an attorney or anything. In my opinion, I don't believe we need to but if it is the will of the Board to spend \$200K of taxpayer money when I don't believe we have to by asking a simple question. It seems since everyone else is silent we are not even willing to try so spend the money.

Trustee Akaka Madam Chair, In accordance with Article VIII, Section E. 1 of the Office of Hawaiian Affairs Board of Trustees By Laws, and HRS 92-2.5(b)(1), I move to approve Chair Hulu Lindsey appointment of "The Act 29 (2021) CLA Audit Review Ad Hoc Committee," which shall have as its members:

Trustee Keli'i Akina, Chair
Trustee Luana Alapa, Vice Chair
Casey Brown
Colin Kippen

Trustee Akina Seconds the motion.

Trustee Lee I will yield the floor to anyone who would like to discuss this before I bring up my point.

Trustee K. Lindsey Will the scope of that Ad Hoc committee be discussed to the subsequent motion or is there more to the motion or are we just appointing the members today with out defining the scope?

Chairperson Hulu Lindsey As Trustee Lee said, the Ad Hoc committee can come back to the board as many times as we want so if it is the Board's desire to discuss the scope, I'll be happy to direct the Ad Hoc Committee to come back to the board.

Trustee Lee Point of clarification Madame Chair, this is for Trustee Keola Lindsey's benefit. In the memorandum sent out by Chief of Staff Colin Kippen under item five which starts on page four and continues on to page five, it addresses the Ad Hoc committee scope of work. Although its not in the motion, the scope of work thats being laid out for the Ad Hoc committee has been provided fo the Trustees.

Trustee K. Lindsey Yes, I saw that but given the discussion thats gone back and forth, I don't know how much requirements are being placed on the committee to follow. If we are going to say follow the memo then that answers my question. I did not see us formalizing that in the motion.

Chairperson Hulu Lindsey I think when they get into discussions, they may deviate from this scope of work and they'll have to come before us and have that discussion.

Trustee Ahuna Chair, isn't the Ad Hoc's duty to propose a scope and a timeline, thats it?

Chairperson Hulu Lindsey Yes.

Trustee Ahuna Thank you.

Chairperson Hulu Lindsey Anything else? I am going to call for the question.

Trustee Lee Madame Chair, I would like to offer an amendment to the motion. I would like to amend the motion to add in *Ad Hoc committee scope of work*.

Chairperson Hulu Lindsey Is it the five I read earlier?

Trustee Lee Yes, it is so that is my amendment to add on to what the scope is and gives direction to the committee.

Chairperson Hulu Lindsey Okay, that sounds good.

Chairperson Hulu Lindsey calls for a five-minute recess. Everyone returns at 11:05 am

Chairperson Hulu Lindsey Trustee Lee would you read the amendment?

Trustee Lee Madame Chair, that is different then what I have in front of me. It is the last paragraph that is different. Well, it's pretty much the same so that's fine. I would be happy to.

I move to amend the main motion to now **To add The scope of the Ad Hoc Committee is to:**

- **Review Act 29's (2021) provisions contained in section 9 and section 11;**
- **Review Act 37's (2019) provisions relating to conducting a financial and management audit of the OHA;**
- **Review the findings of the OHA's December 4, 2019 CLA Audit;**
- **Determine an appropriate scope of work given the time and budget constraints set by the legislature in section 11 of Act 29 (2021) as well as by OHA's by laws and personnel policies and relevant State and Federal laws;**
- **Propose a plan, timeline, scope of services, and budget to hire an auditor or other third-party business or other professional as necessary to perform the defined scope of services in a timely and ethical fashion consistent with OHA's existing by laws and personnel policies as well as with relevant State and Federal laws, subject to approval by the BOT.**

Trustee Waihee Seconds the motion.

Trustee Akina I wanted to ask Colin to give us some input to the changes in that final paragraph.

Chair Hulu Lindsey It is Colin who wrote it.

Trustee Akina So Colin you wrote what's on the board now with intentional differences from your memorandum. I notice two in the first sentence, one was you're using the word proposed rather than established; the second is the first sentence doesn't have a method of procurement which you put in originally in the memorandum. It also looks shorter in the last sentence. The reported documents generated by the Ad Hoc Committee and Permitted Interaction Group will be reporting to the BOT for appropriate action and the BOT must sign and direct, that's missing.

Colin Kippen I only see 1-4 on my screen. Now I see them

Chairperson Hulu Lindsey Trustee Akina, are you reading from the screen?

Trustee Akina No, I am reading from the Colin's memorandum.

Chairperson Hulu Lindsey That is not the amendment. The amendment is what's on the screen.

Trustee Akina I thought the amendment was to carry over the scope of work from Colin's memorandum, so that's why I am asking Colin if he is satisfied with the changes that were made to the fifth item.

Colin Kippen Yes, I am satisfied with what's on the screen.

Trustee Akina Alright, thank you.

Trustee K. Lindsey To Trustee Akina's point, the last sentence in bullet five in the memo, the reporting documents generated will be reported to the Board of Trustees for appropriate action as the BOT may decide and direct. That's something that is important and I am wondering why all of that coming back to the board is now being dropped out of the scope.

Trustee Lee Trustee Keola Lindsey, to answer your question, it says fast and consistent with OHAs existing bylaws so in the bylaws, it directs Ad Hoc Committees to report to the board. So although we don't explicitly say it here, it does say we have to conform to our bylaws. Ad Hocs have to report to the board. They are formed by the board.

Trustee K. Lindsey I appreciate that clarification. We might know this but for those outside of OHA reviewing it they might not understand it. If that is what we are going to rely on, then okay. Thank you.

Sylvia Hussey, CEO Chair, I just want to point out for Trustees that ACT 37 is a 2019

Trustee Lee Madame Chair, I speak in favor of my motion at this time and I also would like to point out to the Trustees that the last bullet point number five, it says to hire an auditor or third party business or other professional as necessary. That term right there is extremely important. It does not say must or shall, it says as

necessary. I want the Trustees to be aware of that. I am not against us hiring one but I want us to hire one if its necessary not because we just want to. Thank you, Madame Chair.

Trustee Ahu Isa I want say I will vote kanalua. This has happen to me before with the CEO, grassroots. When I tried to say something and Hawaii Freepress denied me, that’s why I feel funny with him being Chair. It will make feel not to comfortable so I am going to vote kanalua.

Chairperson Hulu Lindsey Any other discussion? If not, we will vote on the amendment. Roll call vote

| | | | | | | | |
|--|----------------|---|---|--------------|--------------------|----------------------|----------|
| Trustee Lee moves | | | | | | | |
| I move to amend the main motion to now To add The scope of the Ad Hoc Committee is to: | | | | | | | |
| <ul style="list-style-type: none"> • Review Act 29’s (2021) provisions contained in section 9 and section 11; • Review Act 37’s (2019) provisions relating to conducting a financial and management audit of the OHA; • Review the findings of the OHA’s December 4, 2019 CLA Audit; • Determine an appropriate scope of work given the time and budget constraints set by the legislature in section 11 of Act 29 (2021) as well as by OHA’s by laws and personnel policies and relevant State and Federal laws; • Propose a plan, timeline, scope of services, and budget to hire an auditor or other third-party business or other professional as necessary to perform the defined scope of services in a timely and ethical fashion consistent with OHA’s existing by laws and personnel policies as well as with relevant State and Federal laws, subject to approval by the BOT. | | | | | | | |
| Trustee Waihe’e Seconds the motion. | | | | | | | |
| | | 1 | 2 | ‘AE (YES) | ‘A‘OL E (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI | AHU ISA | | | 2 - X | | 1 - Kanalua | |
| TRUSTEE DAN | AHUNA | | | X | | | |
| TRUSTEE KALEI | AKAKA | | | X | | | |
| TRUSTEE KELI‘I | AKINA | | | X | | | |
| TRUSTEE LUANA | ALAPA | | | X | | | |
| TRUSTEE BRENDON | LEE | X | | X | | | |
| TRUSTEE KEOLA | LINDSEY | | | X | | | |
| TRUSTEE JOHN | WAIHE‘E | | X | X | | | |
| CHAIRPERSON HULU | LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | | 9 | 0 | 0 | 0 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | | |
| Motion passes with nine (9) YES votes and one (0) EXCUSED vote. | | | | | | | |

Trustee Lee Chair, I would like to offer another amendment to the main motion.

I would like **To remove Trustee Akina as Ad Hoc Chair and add Trustee Keola Lindsey as the Chair of the Ad Hoc Committee.**

Trustee Ahu Isa Seconds the motion.

Chairperson Hulu Lindsey Any discussion?

Trustee Lee I understand that Trustee Akina was the Chair of the original audit committee. At that time, Trustee Akina had a certified CPA working for him. That was extremely valuable to the work that they did. Given that Trustee Keola Lindsey’s aide is Kama Hopkins and he was the contract manager at the completion of the CLA audit I think that knowledge and understanding of the CLA audit and that contract would be extremely valuable to this Ad Hoc Committee. For these reasons Madam Chair, I made the motion to put Trustee Keola Lindsey on as the Chair. I like the idea of having Trustee Luana Alapa on as the Vice Chair, not only does she bring business experience to the committee but her aide Pohai Ryan, a former Senator will bring valuable insight as this is addressing a legislative matter to the Ad Hoc committee. Thank you.

Chairperson Hulu Lindsey Any discussion? Roll call vote for the amendment.

| | | | | | | |
|--|---|---|--------------|--------------------|----------------------|---------|
| Trustee Lee moves | | | | | | |
| To remove Trustee Akina as Ad Hoc Chair and add Trustee Keola Lindsey as the Chair of the Ad Hoc Committee. | | | | | | |
| Trustee Ahu Isa Seconds the motion. | | | | | | |
| | 1 | 2 | ‘AE (YES) | ‘A‘OL E (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | X | X | | | |
| TRUSTEE DAN AHUNA | | | X | | | |
| TRUSTEE KALEI AKAKA | | | | X | | |
| TRUSTEE KELI‘I AKINA | | | | X | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | X | | X | | | |
| TRUSTEE KEOLA LINDSEY | | | X | | | |
| TRUSTEE JOHN WAIHE‘E | | | X | | | |
| CHAIRPERSON HULU LINDSEY | | | | X | | |
| TOTAL VOTE COUNT | | | 6 | 3 | | |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with six (6) YES votes and one (0) EXCUSED vote. | | | | | | |

Chairperson Hulu Lindsey I will now take a roll call vote on the main motion as amended.

Trustee Akaka I would just like to ask if Trustee Keola Lindsey feels comfortable. I voted in that manner because I was not sure if he would feel comfortable serving in that position. I understand he voted yes but perhaps at the spur of the moment he felt to do so. I just wanted to get his mana‘o on that.

Trustee K. Lindsey I voted yes because I am comfortable with serving in this position. I realize I do not have as much of a background as other Trustees do on this issue of the CLA audit but all requirements and critical issues I see as issues that need to be resolved and move forward on. As Trustee Lee mentions I will be relying heavily on my staff who does have extensive experience and familiarity on this topic. As a committee we can come back to you and the full board. The key for me is the report that the committee is going to produce to the board for further action. The scope of the committee is not to take any action or expend any monies or execute any contracts on their own. It's to provide that information back to the board for further discussion. I appreciate the confidence the board indicated. If the motion passes, I look forward to getting to work and getting that report back to you for our Board and beneficiaries.

Chairperson Hulu Lindsey Thank you Trustee Lindsey.

| Main Motion as Amended | | | | | | |
|--|----------|----------|--------------|--------------------|----------------------|---------|
| | 1 | 2 | ‘AE (YES) | ‘A‘OL E (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | | X | | | |
| TRUSTEE DAN AHUNA | | | X | | | |
| TRUSTEE KALEI AKAKA | X | | X | | | |
| TRUSTEE KELI‘I AKINA | | X | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | | | X | | | |
| TRUSTEE KEOLA LINDSEY | | | X | | | |
| TRUSTEE JOHN WAIHE‘E | | | X | | | |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 9 | | | |
| MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with nine (X) YES votes and one (0) EXCUSED vote. | | | | | | |

Trustee Lee Our agenda says that we are going into executive session to discuss privileges, immunities, and liabilities with respect to updates by administration regarding potential acquisition of commercial properties. Is that not going to happen?

Chair Hulu Lindsey No, that is not going to happen. Administration has no updates. I’m sorry I didn’t announce that. Any announcements?

Announcements

Chair Hulu Lindsey If there are none, Happy 4th of July.

Alice Silabanuz shares a short video about two upcoming films that OHA has produced and will be airing in the next couple days, Mana I Maui Ola film and Our Voices of Papahānaumokuākea film. The Mana I Maui Ola film in on our strategic plan. With this film, we are partnering up with our community partners. It is a

thirty minute film and the common theme throughout is the intergration of partnerships and the intention of partnering with other organizations to create positive change. The premiere for this film will be tomorrow following the Hula Kahiko Merrie Monarch night approximately at 10:30 pm. We will then have three more repeats of the show. The second film will be the one hour, Our Voices of Papahānaumokuākea, produced a couple years ago before the pandemic. This captures the stories of eight different Hawaiians involved in the establishment of Papahānaumokuākea, one of the largest protective areas in the world. Prior to the pandemic, we planned to share the film in the community by sharing mele and having speakers panels afterward. We've adjusted that plan just a little bit and we're doing a TV broadcast. Mele and Mana'o format is shared via this broadcast and people can tune in starting on July 10, we will have the very first premiere broadcast. We wanted to say mahalo to Chair Hulu who reported our two HI Now segments to talk about the two films. The HI Now segment on the Mana I Maui Ola film will air tomorrow morning so you're invited to tune in at on Friday, 7:38 is the approximate time it will air on KGMB and K5. In the following week, we'll get an airtime for the HI Now segment for the Voices of Papahānaumokuākea film and we'll be able to share that with you as well. Also, just want to extend and finally end my time here with you today by saying a big mahalo to our DPM staff and folks within the community engagement group and our partners for working together so diligently on these two major film productions for the organization that helped to tell the story of what OHA does. Mahalo nui for your time.

Chair Hulu Lindsey Thank you Alice. I would like to entertain a motion for adjournment.

Trustee Ahuna Moves to adjourn the meeting.

Trustee Akaka Seconds the motion.

| Adjournment | | | | | | | |
|-------------------------|---------|---|---|-----------|------------|-------------------|---------|
| TRUSTEE | | 1 | 2 | 'AE (YES) | A'OLE (NO) | KANALUA (ABSTAIN) | EXCUSED |
| LEINA'ALA | AHU ISA | | | X | | | |
| DAN | AHUNA | X | | X | | | |
| KALEIHIKINA | AKAKA | | X | X | | | |
| KELI'I | AKINA | | | X | | | |
| LUANA | ALAPA | | | X | | | |
| BRENDON KALEI'ĀINA | LEE | | | X | | | |
| KEOLA | LINDSEY | | | X | | | |
| JOHN | WAIHE'E | | | X | | | |
| CHAIR CARMEN HULU | LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | | 9 | | | |

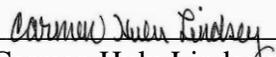
Chairperson Carmen Hulu Lindsey adjourns the Board of Trustees meeting at 11:29 a.m.

Respectfully submitted,



 Lehua Itokazu
 Board Secretary

As approved by the Board of Trustees on August 26, 2021.


Carmen Hulu Lindsey
Chairperson, Board of Trustees

Attachments: