

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

Due to COVID-19, the OHA Board of Trustees and its standing committees will hold virtual meetings until further notice. Pursuant to Governor Ige's January 26, 2022 Emergency Proclamation Related to COVID-19 (Omicron Variant), there will be no in-person location for this meeting that is open to the general public. The virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or can be listened to by phone via the phone number and Webinar ID listed at the beginning of this agenda.

Minutes of the Office of Hawaiian Affairs
Board of Trustees
MINUTES
March 10, 2022

ATTENDANCE:

Chairperson Carmen Hulu Lindsey
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Kaleihikina Akaka
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'āina Lee
Trustee Mililani Trask
Trustee John Waihe'e, IV

ADMINISTRATION:

Sylvia Hussey, CEO
Casey Brown, COO
Ramona Hinck, CFO
Robert Klein, Board Counsel
Everett Ohta, Interim General Counsel
Nietzsche Ozawa, Interim Sr. Legal Counsel
Arlene Aguinaldo - IT Support
Erin Nakama-IT Support

BOT STAFF:

Amber Kalua, Trustee Aide
Kanani Iaea, Trustee Aide
Lehua Itokazu, Board Secretary
Claudine Calpito, Trustee Aide
Anuheia Diamond, Trustee Aide
Kauikeaolani Wailehua, Trustee Aide
Brandon Mitsuda, Trustee Aide
Nathan Takeuchi, Trustee Aide
Ewalani Canto, Trustee Aide
Maria Calderon, Trustee Aide

GUEST:

Kevin Chang
Scott Crawford
Mac Poepoe
Uilani Naipo
Tweetie Lind
Keoni Alvarez

Call to Order

Chair Hulu Lindsey Calls the Board of Trustees Meeting to order for Thursday, March 10, 2022, at 10:01 a.m. Board Secretary, please do 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	MILILANI	TRASK	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 The Board of Trustees and standing committees will hold virtual meetings until further notice pursuant to Governor Ige’s January 26, 2022 Emergency Proclamation related to COVID-19 (Omicron Variant), there will be no in-person location for this meetings that is open to the general public. The virtual meeting can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream

Before we begin, let me note that items V.A.1 and V.B. 2 and 5 were received under the 72 hour deadline. Let me go over some quick announcements, please mute your mics when you are not speaking. We are recording today’s meeting for the sole purpose of producing written minutes, which will become the official record of this meeting.

Joining the Trustees today is my Aides-Kanani Iaea and Amber Kalua, and our Board Secretary-Lehua Itokazu. Also with us today is Robert Klein, our Board Counsel, and Sylvia Hussey, our CEO. I will now call on Sylvia, our Pouhana, to announce our Administration staff who is joining us today.

Sylvia Hussey, CEO Thank you Chair and good morning Trustees, a particular good morning to Trustee Trask. We have our COO-Casey Brown, CFO-Ramona Hinck, Interim General Counsel-Everett Ohta, Interim Senior Legal Counsel Nietzsche Ozawa. We are staffed today by Arlene and Erin in our IT, and our entire IT staff in on property to support the Trustee meeting today. Thank you Chair.

Public Testimony

Chair Hulu Lindsey In order to allow time for everyone to testify, you will be given 5 minutes to share your mana‘o. 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. Before the end of public testimony, any testifiers that were unavailable when their names were called or those who were inaudible will be called on again to offer public testimony. Please call our first speaker.

Kevin Chang Aloha Chair and Trustees, my name is Kevin Chang and I am the Executive Director of Kua‘āina Ulu ‘Auamo which means grassroots, growing through shared responsibility. I just wanted to thank you today, I already provided my testimony at the BAE meeting concerning the Kīpahulu CBSFA resolution. I was trying to think of another good point to make, I just want to mahalo you for supporting Kīpahulu and Miloli‘i before that along with Mo‘omomi and Hā‘ena. This example of activity through the CBSFA is an example of democracy and bringing power back to the ground, the ability to the Hawaiian communities in their places to practice mālama ‘āina. Mahalo.

Scott Crawford Aloha Chair and Trustees, my name is Scott Crawford and I am the Executive Director for the Kīpahulu ‘Ohana. Thank you for the opportunity to testify today in support of the Kīpahulu CBSFA resolution. Like Kevin, I also testified at your BAE meeting and gave some detail there. I just want to say mahalo on behalf of the Kīpahulu ‘Ohana, Uncle John and Auntie Tweetie Lind, Mike Minn, our Board of Directors, and all of our community members that have been working on this process for many years, from getting input from many resources to come up with our rules package and management plan that we submitted to the Division of Aquatic Resources. We’re looking forward to moving forward soon and into the formal administration rule making process and we are very thankful for having OHA’s support to be able to advocate for us as the process moves forward. Once again, we appreciate your support for all the communities who are implementing cultural based and traditional practices to manage our resources for future generations. Mahalo.

Uilani Naipo Aloha mai kākou, I am U‘ilani Naipo. Mahalo nui for allowing me to provide testimony this morning. I provide testimony in support to your adoption of the resolution supporting Kīpahulu CBSFA. Kīpahulu, like Miloli‘i, has and continues to put alot of effort, above and beyond doing the necessary work to mālama ‘āina. It is very costly, costly in time, money, sweat, and the diversity of skills. Project management and resilience to *inaudible* these are the reasons why we only have one CBSFA established with rules in place, twenty eight years in the making. I want to mahalo you and encourgae you to support communities like Kīpahulu, like Ka‘ena, like Miloli‘i, Ho‘okena, and all to follow. The community of Kīpahulu is unfied in their commitment to their CBSFA proposed rules. They are also supported by other communities such as ourselves, Miloli‘i, and it is from that network that we have mentored each other. Your position of support is critical, this resolution is a supportig pillar to all of our work we take on, cultural identity, health and wellbeing with our ‘āina. Mahalo nui.

Tweetie Lind Good morning from Kīpahulu, we are happy to be home right now because Uncle John is on chemotherapy. We are just happy to be home so that I can relay our message in support of the CBSFA. Many people do not realize that we are not being selfish, we are just being protective of our area. *Inaudible* Half of the people who come here, you really don’t know who they are *Inaudible*. CBSFA is one of the most important things for us to do because it is a way certain things can be done. You have surveys, support from the community, from the government agencies, and from the National Park, the main thing is our Native Hawaiian *Inaudible*. I thank you OHA for listening to us, aloha.

Mac Poepoe Aloha Board members, I am in support of this resolution for Kīpahulu, like all the other communities looking to secure our food, this is it. They are trying to protect their food and their resources that a lot of communities don’t have. Rather than then trying to change the way of the people, they can continue to live the way they live forever and ever and rely on their resources, rather than rely on a barge to come in. I think this is what is precious of this resolution, it protects our land. There are steps that have to be taken after this and I hope this is something the State can look at very seriously and allow the people to be a part of the decision-making body, that we should all be a part of. I don’t want to take up too much of your time, but that is my support for this resolution. Aloha to you guys.

Community Concerns

Keone Alvarez Aloha, my name is Keoni Kealoha Alvarez and I am speaking from Hawai'i Island. I just wanted to share with everyone that I have been working on a large project, this has been over twenty years in the making. I am a film maker and also an author. The reason I am approaching OHA is because I wanted to ask for your support on this project, protecting our iwi kūpuna burials. Part of the effort I was involved in was saving a burial cave on the Big Island; not only that, but I did a resource for our people during my research by creating a documentary film that will be coming out this year. I also did a resource online at hawaiianburials.com. Our people can go to a resource to learn about our burial sites and traditional practices and methods about our iwi kūpuna. I have traveled to all of our outer islands to gain this knowledge; with this knowledge, I wrote four books as well. The reason I am coming to OHA is because I am asking for your support to purchase my books. One of the books I've written and illustrated is a children's book and it is available on Amazon. I wanted OHA to purchase my book and distribute it to all the keiki, to the Charter schools, donate it to them so that they can learn about our iwi kūpuna. The book is called The Boy and his Hawaiian Cave. There is another parcel near our family burial cave that I would like to protect the integrity of this area so that in the future, we will have sacred wahi pana for future generations. That is my testimony, I am hoping you can provide the help to protect our iwi kūpuna and share this throughout the islands for our keiki, kūpuna, and everybody. Thank you.

Approval of Minutes

A. February 10, 2022

Chair Hulu Lindsey Moving on to approval of minutes, can I get a motion to approve the minutes?

Trustee Akaka Moves to approve the February 10, 2022 minutes.

Trustee Waihe'e Seconds the motion.

MINUTES: A. February 10, 2022						
	1	2	'AE (YES)	'A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE			X			
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE'E		X	X			
CHAIRPERSON HULU LINDSEY			X			

TOTAL VOTE COUNT			9			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED						
Motion passes with nine (9) YES votes, one () ABSTENSION and one () EXCUSED vote.						

New Business

V.A. Committee on Resource Management

- 1. Action Item RM#22-03: Reappointment of Leilani Kūpahu-Marino Kaho‘āno as Non-OHA LLC Manager for Hi‘ilei Aloha LLC for a 3-Year Term (2023, 2024, 2025)**

Chair Hulu Lindsey Next up under new business, the RM Committee, Trustee Waihe‘e.

Trustee Waihe‘e Thank you Madame Chair, on behalf of your Committee on Resource Management, having met on March 8, 2022, and after full and free discussion, recommends approval of the following action to the Board of Trustees:

Action:

Approve the reappointment of Leilani Kūpahu-Marino Kaho‘āno for a three year term and service period, beginning April 1, 2022 and ending March 31, 2025, as a non-OHA limited liability company manager for Hi‘ilei Aloha LLC.

Trustee Ahuna Seconds the motion.

Trustee Ahu Isa I wanted to speak in favor of this motion. I know her personally and she is such a dedicated servant to our people especially with Waimea; she is tied culturally to that ahupua‘a, so I speak in strong support.

Chair Hulu Lindsey Thank you Trustee Ahu Isa. Roll call vote.

Trustee Waihe‘e Moves						
Approve the reappointment of Leilani Kūpahu-Marino Kaho‘āno for a threeyear term and service period, beginning April 1, 2022 and ending March 31, 2025, as a non-OHA limited liability company manager for Hi‘ilei Aloha LLC.						
Trustee Ahuna Seconds the motion.						
	1	2	‘AE (YES)	‘A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA		X	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE LUANA ALAPA			X			

TRUSTEE BRENDON LEE					X	
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE'E	X		X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			8		1	
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with eight (8) Yes votes, Zero (0) No votes and One (1) Abstention vote.						

Chair Hulu Lindsey Thank you Trustees, moving on to Item B. I will call on Trustee Akaka

V.B. Committee on Beneficiary Advocacy and Empowerment

1. Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai‘i

4. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 4 ☞, March 1, 2022

Trustee Akaka Mahalo Madame Chair, your Committee on Beneficiary Advocacy and Empowerment, having met on February 22, 2022 and after full and free discussion, recommends approval of the following motion to

Motion 1:

Move to approve Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai‘i

Trustee Waihe‘e Seconds the motion.

Trustee Akaka Moves						
Move to approve Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai‘i						
Trustee Waihe‘e Seconds the motion.						
	1	2	‘AE (YES)	‘A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI‘I AKINA			X			

TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE			X			
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE'E		X	X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			9			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED						
Motion passes with nine (9) Yes votes, Zero (0) No votes and Zero (0) Abstention vote.						

Trustee Akaka Madame Chair I

Motion 2:

Move that we change OHA's position on Matrix 4 for the following bills:

- HB 1961, change from MONITOR to SUPPORT;
- SB 2828, change from MONITOR to SUPPORT

Trustee Waihe'e Seconds the motion.

Trustee Lee Are we taking the agenda out of order? That is not what I have next on the agenda.

Chair Hulu Lindsey Yes and no, she has items one and three and has them together because they are from the same meeting.

Trustee Lee So, we are not approving Makale'a?

Chair Hulu Lindsey We will go back to that.

Trustee Lee Oaky, Thank you madame Chair.

Trustee Akaka Moves						
Move that we change OHA's position on Matrix 4 for the following bills: • HB 1961, change from MONITOR to SUPPORT; • SB 2828, change from MONITOR to SUPPORT						
Trustee Waihe'e Seconds the motion.						
	1	2	'AE (YES)	'A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA			X			

TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE					X	
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE'E		X	X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			8		1	
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with eight (8) Yes votes, Zero (0) No votes and One (1) Abstention vote.						

Board Secretary Announces for clarification that the next item on the board will be item 4 from the agenda. They will be in order by the dates of the Committee Reports, next item is number 4.

Trustee Lee Point of clarification, on the screen I see V.B.2 not 4. Are we taking up item 4?

Board Secretary Correct, and then after that will be item V.B. 2 and 5.

Trustee Akaka If it pleases the Trustees and it will be helpful, instead of going by Committee Report order, we can go by the agenda item.

Chair Hulu Lindsey We will take up item V.B.4 now.

Trustee Akaka Your Committee on Beneficiary Advocacy and Empowerment, having met on March 1, 2022 and after full and free discussion, recommends approval of the following motion to the Board of Trustees:

Motion 1:

Move to approve Administration's recommendations on: NEW BILLS (Items 63 - 72) as listed on Matrix 3 -- Measures Affecting Native Hawaiians – dated March 1, 2022, along with the following revisions: BILL POSITION CHANGES:

- **HB2311 from COMMENT to SUPPORT**
- **SB2770 from COMMENT to SUPPORT**

Trustee Waihe'e Seconds the motion

Trustee Akaka Moves Move to approve Administration's recommendations on: NEW BILLS (Items 63 - 72) as listed on Matrix 3 -- Measures Affecting Native Hawaiians – dated March 1, 2022, along with the following revisions: BILL POSITION CHANGES: • HB2311 from COMMENT to SUPPORT • SB2770 from COMMENT to SUPPORT Trustee Waihe'e Seconds the motion.						
	1	2	‘AE (YES)	‘A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA					X	
TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE					X	
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE‘E		X	X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			7		2	
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with seven (7) Yes votes, Zero (0) No votes and two (2) Abstention vote.						

Chair Hulu Lindsey Thank you Trustees, moving on to item B.2, Trustee Akaka.

Trustee Akaka Mahalo Madame Chair, Your Committee on Beneficiary Advocacy and Empowerment, having met on March 8, 2022 and after full and free discussion, recommends approval of the following motion to the Board of Trustees:

Motion 1:

Motion to approve Keith Makale‘a Gutierrez as the Office of Hawaiian Affairs Representative for the Native Hawaiian Revolving Loan Fund, Board of Directors

Trustee Waihe'e Seconds the motion.

Trustee Akaka Moves						
Motion to approve Keith Makale‘a Gutierrez as the Office of Hawaiian Affairs Representative for the Native Hawaiian Revolving Loan Fund, Board of Directors						
Trustee Waihe‘e Seconds the motion.						
	1	2	‘AE (YES)	‘A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE			X			
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE‘E		X	X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			9			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED						
Motion passes with nine (9) Yes votes, Zero (0) No votes and two () Abstention vote.						

Chair Hulu Lindsey Thank you, moving on to item B.5.

Trustee Akaka Madame Chair, the next motion

Motion 2:

Move to approve Administration’s recommendations on: NEW BILLS (Items 73 - 83) as listed on Matrix 3 – Measures Affecting Native Hawaiians – dated March 8, 2022, along with the following revisions: BILL POSITION CHANGES:

- **HB1986 from SUPPORT to SUPPORT with Amendments**
- **SB2172 from COMMENT to SUPPORT**
- **SB2600 from COMMENT to SUPPORT**

Trustee Waihe‘e Seconds the motion.

Trustee Akaka Moves						
Move to approve Administration's recommendations on: NEW BILLS (Items 73 - 83) as listed on Matrix 3 -- Measures Affecting Native Hawaiians – dated March 8, 2022, along with the following revisions: BILL POSITION CHANGES: · HB1986 from SUPPORT to SUPPORT with Amendments · SB2172 from COMMENT to SUPPORT · SB2600 from COMMENT to SUPPORT						
Trustee Waihe'e Seconds the motion.						
	1	2	‘AE (YES)	‘A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA				X		
TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE					X	
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE‘E		X	X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			7	1	1	
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with seven (7) Yes votes, One (1) No votes and One (1) Abstention vote.						

V.C. Action Item BOT#22-04: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate the Activation of Kaka‘ako Makai Site E, 919 Ala Moana Blvd

Chair Hulu Lindsey We will now move on to item C, Trustee Waihe‘e.

Trustee Waihe‘e Madame Chair I would like to move to

Approve the formation of a Permitted Interaction Group (PIG) to investigate the activation of Kaka‘ako Makai Site E, 919 Ala Moana Blvd, including the following purview, members, and term/duration:

Purview: The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration staff to work together to investigate the plan for activation of site E, 919 Ala Moana Blvd., in Kaka‘ako Makai.

Members: The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina‘ala Ahu Isa; (c) Trustee John Waihe‘e, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina‘ala Ahu Isa will serve as its Vice Chair. Casey K. Brown, Ka Pou Nui, will function as the Project Manager.

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

Trustee Ahu Isa Seconds the motion.

Trustee Lee I wish to speak against this motion at this time. I will reiterate my objections from the previous meeting. This is a matter that needs to be taken by our Bylaws, by the RM Committee. This matter has not been waived by the Committee to go directly to the Board. I know it was stated before that it was believed that State law trumps our Bylaws; after consultation with OIP, OIP agreed that their purpose for the Sunshine Law is only to make sure there is transparency in all meetings that are held; that the Permitted Interaction Group or PIG is an allowable way to have more than less than quorum to meet in private. However, Sunshine Law does not speak to what is the correct “quote on quote” board to take up an action, that is up to the individual organization’s Bylaws. Our Bylaws, clearly state that these matters are to be taken up by the RM Committee and this has not been waived by the Committee directly to the Board of Trustees. I will be voting against this motion, Madame Chair, thank you.

Chair Hulu Lindsey Thank you Trustee Lee. In the last meeting when you questioned this, I did ask Board Counsel his opinion and I would like to read that opinion to the board at this time.

I have reviewed the August 30, 2018 Bylaws, especially Article VIII A. 1. (a) through (o), collectively the powers of the RM Committee. Not one “power” assigned to the RM Committee covers investigating anything. On the other hand, HRS Sec. 92-2.5 (b) (1) states:

(b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:

(1) Investigate a matter relating to the official business of their board; provided that:

(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;

(B) All resulting findings and recommendations are presented to the board at a meeting of the board; and

(C) Deliberation and decision making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board;

Obviously, in Trustee Lee’s recitation of the “facts” to OIP, he failed to mention that the Bylaws do not provide specific authority for the RM Committee to launch investigations. The RM Committee would have no authority to “waive” to the BOT any purported investigation into the activation of OHA KM site A as specified on the BOT agenda yesterday. The RM Committee cannot waive to the BOT use of power it does

not have. The clear path for investigation is the establishment of an investigatory PIG as set forth under HRS 92-2.5 (b)(1) above. That is exactly what the Trustees approved yesterday. Mahalo, Judge Klein.

If you have any questions, Judge is here.

Trustee Lee So based on that clarification that is does not specifically say investigatory powers, then is it the Board's understanding that the findings of an investigatory PIG by the Board of Trustees that has to do with land and development will only be used as a reference to be given to the RM Committee? And not action taken by the investigatory because, if we are going to go by specifics of what the Bylaws say, then I will yield because it does not say that they can investigate. I believed that was assumed that anything that had to do with land and development would fall under the RM Committee, but if we are going to go by the specifics of what it says, then I will yield that point. I just want to make sure that we are of the understanding, the findings of this investigatory PIG, there will be no action taken on it until it is referred to the RM Committee because it does say specifically that. You are the Chair of the Permitted Interaction Group, I am asking that whatever the findings of this PIG investigation, as well as the one that came out prior to this, that those findings will be referred to the RM Committee for action and not action taken by that investigation by this Board. Is that my understanding Chair, based on the specifics of what the Bylaws say?

Chair Hulu Lindsey Judge Klein, I will refer that to you.

Robert Klein, Board Counsel We are talking about the purview of the RM Committee. As I read this, it's for investigation that is not a power that is vested by the Bylaws in the RM Committee. As my opinion states, it is appropriate to create a PIG because a PIG, specifically by statute, has the power to investigate. Where that investigation goes, what the recommendation of the report of the PIG Committee may end up being is not something that we know or can foresee at this time. You need to create the PIG that has the statutory authority to conduct investigations. The results of the investigation shouldn't be predicted at this time nor should we create a path that anything the PIG reports to this body has to go back to the RM Committee for approval as a process. I don't think members should commit to establishing a pathway until we have a PIG report, thank you.

Trustee Lee Thank you, then I will yield that point at this time, Madame Chair, noting that the last Permitted Interaction Group, there was action that was asked of this Board so, that's the reason why I made the comment about action, but I will yield that point that we do not know the findings of this PIG will be. I am grateful that I was able to state for the record that if action is going to be asked of this body by the Permitted Interaction Group that at the very least, this Trustee will be asking to make sure that it is referred to the RM Committee, thank you Madame Chair.

Chair Hulu Lindsey Thank you Trustee. Any other discussion? Call for the Vote.

Trustee Waihe'e Moves

Approve the formation of a Permitted Interaction Group (PIG) to investigate the activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd, including the following purview, members, and term/ duration:

Purview: The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration staff to work together to investigate the plan for activation of site E, 919 Ala Moana Blvd., in Kaka'ako Makai.

Members: The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina‘ala Ahu Isa; (c) Trustee John Waihe‘e, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina‘ala Ahu Isa will serve as its Vice Chair. Casey K. Brown, Ka Pou Nui, will function as the Project Manager.

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

Trustee Ahu IsaSeconds the motion.

	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			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE				X		
TRUSTEE MILILANI TRASK			X			
TRUSTEE JOHN WAIHE‘E	X		X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			7	2		
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with seven (7) Yes votes, Two (2) No votes and One () Abstention vote.						

Announcements

Chair Hulu Lindsey Our next BOT meeting will be on Thursday, March 24, 2022 at 10 am.

Adjournment

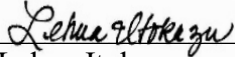
Trustee Ahu Isa Moves to adjourn the meeting.

Trustee Akaka Seconds the motion.

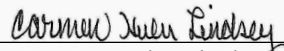
Adjournment							
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	X		X			
DAN	AHUNA			X			
KALEIHIKINA	AKAKA		X	X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
MILILANI	TRASK			X			
JOHN	WAIHE'E			X			
CHAIR CARMEN HULU	LINDSEY			X			
TOTAL VOTE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

Chairperson Carmen Hulu Lindsey Adjourns the Board of Trustees meeting at 10:53 a.m.

Respectfully submitted,


 Lehua Itokazu
 Board Secretary

As approved by the Board of Trustees on April 7, 2022.


 Carmen Hulu Lindsey
 Chairperson, Board of Trustees

Attachments:

1. Action Item BOT #22-04: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate The Activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd





OFFICE OF HAWAIIAN AFFAIRS
Action Item

BOARD OF TRUSTEES

March 10, 2022

BOT #22-04

Action Item Issue: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate the Activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd

Co-Prepared by:		Feb 28, 2022
	_____ R. Kalani Fronda Ka Pou Kihi Kanaloa 'Āina, Land Director	_____ Date
Co-Prepared by:		Feb 28, 2022
	_____ Casey K. Brown Ka Pou Nui, Chief Operating Officer	_____ Date
Reviewed by:		Feb 28, 2022
	_____ Sylvia M. Hussey, Ed.D. Ka Pouhana, Chief Executive Officer	_____ Date
Reviewed by:		3/4/2022
	_____ Carmen Hulu Lindsey Ke Kauhuhu o ke Kaupoku Chair, Board of Trustees	_____ Date

Action Item BOT #22-04: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate the Activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd

I. Proposed Action

Approve the formation of a Permitted Interaction Group (PIG) to investigate the activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd, including the following purview, members and term/duration:

Purview. The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration staff to work together to investigate the plan for activation of site E, 919 Ala Moana Blvd., in Kaka'ako Makai.

Members. The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina'ala Ahu Isa; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina'ala Ahu Isa will serve as its Vice Chair. Casey K. Brown, Ka Pou Nui, will function as the Project Manager.

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

II. Issue

Whether or not the Board of Trustees (BOT) will approve the formation of a Permitted Interaction Group, consistent with Hawai'i Revised Statutes §92-2.5(b)(1), to investigate the activation of site E in Kaka'ako Makai, 919 Ala Moana Blvd.

III. Background and Discussion

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

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

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Action Item BOT #22-04: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate the Activation of Kaka’ako Makai Site E, 919 Ala Moana Blvd

B. Setting Context for the Formation of a Fifth Permitted Interaction Group

This action proposes the fifth Land and Commercial Property (LCP) PIG following the formation of the fourth LCP PIG on January 13, 2022 via Action Item BOT #22-01; delivery of the PIG report to the Trustees on February 3, 2022, without any discussion; and the acceptance and implementation of the PIG report via Action Item BOT #22-02 on February 10, 2022 to activate Site A, 1101 Ala Moana Blvd, including considerations of repair and maintenance, food vending, and pop-up events with a focus of increasing foot traffic and awareness of OHA and our story.

This fifth PIG will focus on activation of Site E through the launch of a proof of concept, Hawaiian Cultural Center and Marketplace at 919 Ala Moana Blvd. A business plan and budget has been produced by OHA’s In-House Development Consultant for the activation of site E. The scope of work for this PIG will be to assess the business plan and associated budget.

IV. Funding Source

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

V. Recommended Action

Administration recommends the formation of a Permitted Interaction Group (PIG) to investigate the activation of Kaka’ako Makai Site E, 919 Ala Moana Blvd, including the following purview, members and term/duration:

Purview. The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration staff to work together to investigate the plan for activation of site E, 919 Ala Moana Blvd., in Kaka’ako Makai.

Members. The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina’ala Ahu Isa; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina’ala Ahu Isa will serve as its Vice Chair. Casey K. Brown, Ka Pou Nui, will function as the Project Manager.

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

Action Item BOT #22-04: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate the Activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd

VI. References

The following action item references are provided for context:

- A. **LCP #4 – Report, Action Item BOT #22-02:** Accept and Implement the Report of the Permitted Interaction Group to Investigate the Activation of Kaka'ako Makai Site A, 1101 Ala Moana Blvd, February 10, 2022
- B. **LCP #4 – Formation Action Item BOT #22-01:** Approve the Formation of a Permitted Interaction Group to Investigate the Activation of Kaka'ako Makai Site A, January 13, 2022
- C. **LCP #3 – Report Action Item BOT #21-15:** Accept and Implement the Report of the Permitted Interaction Group re: to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka'ako Makai, November 4, 2021
- D. **LCP #3 – Formation Action Item BOT #21-14:** Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka'ako Makai, October 26, 2021
- E. **LCP #2 – Report Action Item BOT #21-07:** Accept the Report of the Permitted Interaction Group re: to Investigate and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, June 24, 2021
- F. **LCP #2 – Formation - Action Item BOT #21-05:** Approve the Formation of a Permitted Interaction Group to Investigate: and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, April 15, 2021
- G. **LCP #1 – Report - Action Item BOT #21-03:** Accept the Report of the Land and Commercial Property Permitted Interaction Group, April 15, 2021
- H. **LCP #1 – Formation - Action Item BOT #21-01:** Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties, January 28, 2021

VII. Attachment - None