

**STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200**

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

February 19, 2020 1:00 p.m.

ATTENDANCE:

Chairperson John Waihe'e, IV
Vice-Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Brendon Kalei'aina Lee
Trustee C. Hulu Lindsey
Trustee Colette Machado

EXCUSED:

Trustee Robert Lindsey

BOT STAFF:

Alyssa-Marie Kau
Bethann Hihina Ahsing
Brandon Mitsuda
Carol Ho'omanawanui
Crayn Akina
Lei-Ann Durant
Maria Calderon
Melissa Wennihan
Nathan Takeuchi

ADMINISTRATION STAFF:

Sylvia Hussey, Ka Pouhana / CEO
Lisa Watkins-Victorino, Ka Pou Nui Kūikawā / Interim COO
Annie Kauhane, PP
Daniel Santos, IT
Davis Price, CO
Everett Ohta, CC
Jenifer Jenkins, PP
Jocelyn Doane, PP
Kai Markell, COMP
Keola Lindsey, ADV
Olan Fisher, PP
Raina Gushiken, CC
Wayne Tanaka, ADV

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, February 19, 2020 to order at **1:00 p.m.**

Chair Waihe'e notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (1:00 p.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI'ĀINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	COLETTE	MACHADO	PRESENT	

At the Call to Order, **EIGHT (8) Trustees are PRESENT**, thereby constituting a quorum.

EXCUSED from the BAE Meeting are:

MEMBERS			COMMENT
TRUSTEE	ROBERT	LINDSEY	MEMO – REQUESTING TO BE EXCUSED

Chair Waihe'e would like the record to show that some materials (IV. A. and V. A.) were received more recently than 72 hours ago, and that deadline per practice has been duly waived.

II. PUBLIC TESTIMONY*

None

III. APPROVAL OF MINUTES

None

IV. UNFINISHED BUSINESS

A. 2020 OHA Legislative Package Updates – Matrix 1†**

Chair Waihe'e turns it over to Ka Pouhana Sylvia Hussey.

Ka Pouhana Hussey calls on Public Policy Manager Jocelyn Doane to present.

Public Policy Manager Doane: Aloha Trustees, I'm just going to go over really, briefly the legislative calendar, as a reminder. So, we just passed a significant deadline last week Friday which was the deadline for any bills that have more than one Committee Referral. We have another deadline next week Friday. So, this week and next will be hearings for all the bills that the Legislators want to hear that have one committee left.

So how that relates to our package; OHA-1 The House bill died a really, slow, bad death. As Trustees know, sometimes we introduce bills because we think they're going to pass and sometimes we introduce bills to start a conversation. I think this is consistent with our advocacy; Hawaiians should have a seat at the table for decision making on our Lands and Resources. So, this is one sort of attempt to do that, and we will continue to urge on the non-compliant members of Boards and Counsels that don't attend our training course to do so.

The Senate version is still alive – we actually reached out to Senator Rhoads about three of our bills in order to move OHA-1, OHA-2 and OHA-5 in the Senate. They're trying to get through the double referral bills this week, but we are hopeful.

OHA-3, this is the one that died a slow death – I think Chair and other members have brought up concerns that we have related to Historic Preservation. Unfortunately, this bill didn't pass but we're continuing to have conversations about how to improve the current processes. In fact, there are Historic Preservation related provisions in the legislative leadership bills that are moving. We've been successful at getting some of our suggested amendments in and I'll talk a little bit more about that when we get to the next matrix.

OHA-4, is a resolution we have a lot of time for; it already moved out of Hawaiian Affairs in the Senate. We will continue to watch that and hopefully it moves in the House as well.

OHA-5, this is our Land Liability bill - the Senate version is still alive.

OHA-6, the water storage for Wahiawā; both bills are moving. The House version has a blank dollar amount. Hopefully WAM or FIN will be scheduling this hearing in the next week.

That's the update for our package.

Chair Waihe'e asks if there are any questions on the OHA Legislative Package.

There are none.

V. NEW BUSINESS

A. ACTION ITEM: BAE #20-01: Approval of Nominees for the O'ahu Island Burial Council, Kaua'i & Ni'ihau Island Burial Council, Maui & Lāna'i Island Burial Council, and Hawai'i Island Burial Council

Chair Waihe'e turns it back over to Ka Pouhana Sylvia Hussey.

Ka Pouhana Hussey calls on Chief Advocate Keola Lindsey to walk us through the Action Item.

Chief Advocate Lindsey: Aloha Chair and Vice Chair, Trustees of the Committee. We presented to you folks for review and consideration an action today. Our recommended candidates for appointment to Island Burial Councils across the State. Some of the candidates are being recommended for appointment for the first time, other candidates have gone through an appointment before and are recommended as reappointments.

The Governor appoints nominees to the Burial Council and must choose 20% of the final nominees from OHA's list. Over the years OHA has worked to address some of the operational issues related to the Councils to make sure they can function, that's still an ongoing effort for some of the councils. We believe the candidates we've presented to you for consideration are all qualified for the kuleana to serve on these Councils and will contribute to getting those councils functioning on the different islands.

Trustee Hulu Lindsey: I was curious - *what is the process that we go through to receive our nominations?*

Chief Advocate Lindsey: We request a resume, and a Statement of why someone wants to serve on a Burial Council.

Trustee Hulu Lindsey: *Are these volunteers?*

Chief Advocate Lindsey: Correct, they might get lunch or something while at the meetings.

Trustee Hulu Lindsey: I wondered how their names come forward to us.

Chief Advocate Lindsey: We send out on our Social Media platforms and website that we're seeking candidates. Some of it is word-of-mouth, encouraging people once those go out. Our Community Engagement paia has been helpful in getting the word out. We ask for information on why they want to serve, their experience with iwi kupuna specifically, community service overall and the connection to the regional area they would like to represent. We have an internal screening and review process and then recommendations come out from that internal process.

Trustee Hulu Lindsey: I'm grateful we have very responsible representatives from Maui. Thank you very much for their nominations.

Chief Advocate Lindsey: Mahalo.

Trustee Lee: To Trustee Hulu's point about good nominees from Maui; the candidate Walter Kalani Nakoa based on the bio was provided to us appears to live on Maui. I'm wondering why he's being nominated for the Kona region for the Hawai'i Island Burial Council.

Chief Advocate Lindsey: That was also something that I questioned during my review of the Action Item and I questioned our internal committee about that. Apparently, while Mr. Nakoa lived on Maui for a time and has specific Community experiences on Maui, he is clearly applying for the Kona regional representative and has family connections to that area. It just appears that he lived on Maui for some time and listed those experiences there in his letter of interest, but his family connections are to Kona and his desire is to serve on the Hawai'i Burial Council representing Kona.

Trustee Akaka: I see here in the discussion that OHA selects its nominees and annually transmits a list of these nominees to the Governor's office to fill current and pending vacancies. *What is the length of time that this position is for?*

Chief Advocate Lindsey: It's a 4-year term and folks can serve two terms consecutively, so eight years in a row. If they take a break (and I've heard varying lengths of time for a break) they can come back on again and serve additional terms after they have taken a break.

Trustee Machado: You know I'm not happy because you folks have not identified any Moloka'i Burial Council members; there are three vacancies currently. *Can you explain why no solicitation was done on island to inquire if there might be interest to serve?*

Chief Advocate Lindsey: The general way we pushed out opportunities for folks to be aware of the Burial Council process and to sign up failed on Moloka'i for this round. We're working on more specific ways that we can get into the Moloka'i community to not only let them know about the opportunity, but also to help folks learn more and apply.

We recognize that the way we tried to get the word out, didn't work for certain communities, including Moloka'i. We're going to be developing more specific and targeted outreach into Island Communities in other areas that are not represented to address that issue.

Trustee Machado: I feel terribly disappointed because we have an active Civic Club Association, I'm not sure why they weren't contacted. There's also an active Hawaiian Homes Association that could've been contacted to assist. To tell me that you folks failed, that makes me feel like my work was not being done as a representative and Trustee for the island. I'm beginning to wonder - *why did it fail?* Don't we have a full-time staff member that could've done some solicitation. She has a really, broad outreach contact list; or even contacting me and saying we have a deadline Chair - *can you help us?* There are some ways of coordinating. Over there we still operate by coconut wireless; bulletin boards still work for us. We don't always have to do electronic. I'm pissed that we could not get someone. Now they can't even hold a meeting because they won't have a quorum of members.

The next question I have relates to Mr. Nakoa; *isn't there a requirement that you have to live on the island that you represent?* Not because he lives on Maui and can show that he has genealogical ties to Kona and that he's not living there. I'm sure that the Community of Hawai'i Island may be perturbed with that arrangement where you didn't solicit somebody who actually lives on the 'āina. That's another screw up that took place. When you read his bio - it's all Maui, Maui, Maui. You've acknowledged that he's agreed and consented to serve for Hawai'i Island, because he's got connections. *How does that fit with people that live in Kona? Is that something OHA would like to be known for/as?*

On the reappointments that you have listed here in this category, you have Hina that's listed as a reappointment; *this is what term?* There are no descriptions - *is this her second term?*

Trustee Akaka: This is another one that says Kona region.

Trustee Hulu Lindsey: This is the same thing as the other one.

Trustee Lee: It says, Kona Region – Oahu Island.

Trustee Akaka: I see.

Trustee Machado: Let me focus on the reappointments - *so Norman Kaimulua is this his second term?* I would like you to give me an analysis of the reappointments on pages 5, 6 and 7. Let's begin with Hina, *is this her first or second term?*

Chief Advocate Lindsey: All of these folks are finishing their first term.

Public Policy Manager Doane: So, like other term limits, the term limit is consecutive. So, a councilperson for example could serve two terms, take a break and then serve again - this is the situation with Hina. She has maxed out in the past, but she's not maxed out currently. We confirmed eligibility. Normally we would confirm eligibility with the Governor's Boards and Commissions Office – Kamaile has been doing this now for six years. They don't keep track of anything, they don't respond timely, we do not get enough information from them. So, what we've been doing is working with Hinano from SHPD. Hinano confirmed the eligibility of all the re-nominations for us and their interest to continue to serve.

Trustee Machado: So if you look at Nalei Pate-Kahakalau; he served multiple terms in the 1990s and also served in the capacity as Chair during that time. So, we don't get a good picture of how many years he's truly served on the Burial Council. That's what I'm looking for - to get a sense of how long these people have served.

Public Policy Manager Doane: Right, so the problem is – the State's Governor's office doesn't keep those records properly and in fact the Lingle Burial Council Records were trashed so we don't even have that information available. As you can imagine, this is not necessarily a priority for the Governor's Boards and Commissions Office. We've struggled. At one point, we were trying to create a spreadsheet. So, we had all that information available, but the fact is that it's just not readily-and-easily available. Just to confirm though the law doesn't allow more than two consecutive terms. It allows more than two terms - it just doesn't allow more than two consecutive terms. Which is very similar to other Boards and Commissions and very similar to some term limited political positions, for example.

Trustee Machado: So, you bring up a good point about compliance on the reappointments; that's all I'm looking for. We want to make sure what we're doing is diligent and consistent with the time that they've served.

Public Policy Manager Doane: Absolutely. I think that's the really, important question that you've asked. We've really struggled over the years keeping track of that, because the Boards and Commissions Office have not responded to us. We've worked with Hinano from SHPD to confirm their eligibility.

Trustee Machado: Ok, now I know for the reappointment for Hina, there was a question raised about a possible conflict because she's now employed by OHA. So, I wanted to ask if Everett was in the room, to see whatever was communicated with the Ethics Commission.

Corporation Counsel Everett Ohta: Thank you. Based on an inquiry that was raised with our office yesterday afternoon - we did make an inquiry to the Ethics Commission Office. We then did receive confirmation that OHA is allowed - to provide the name of an OHA employee to the Burial Council.

Trustee Machado: So, *no conflict?*

Corporation Counsel Everett Ohta: There is no prohibition on OHA's nominee list, including an OHA employee.

Trustee Lee: Thank you Everett for looking into that. I'm glad that Ethics cleared that up. My concern is no one else asked this question until I asked it at 4:30 p.m. yesterday.

Public Policy Manager Doane: We've actually done this before. We nominated Onaona Maly when she was an employee on Lāna'i, as well as Pua Ishibashi – and they weren't serving for OHA, it was in their personal capacities. At the time we did Pua's in 2014, we did indeed contact the Ethics Commission, but we can't find the email because all our old emails were deleted. It's something we have specifically thought about. You're right, we did not reach out to counsel, but it is something that we've done before.

Trustee Lee: Thank you.

Chair Waihe'e: *Did they answer all of your concerns Trustee Machado?*

Trustee Machado: Yes, they did. Thank you for letting me vent.

Chair Waihe'e: The guy from Maui, they didn't respond to that completely.

Trustee Lee: *Did he move? Does he live on the Big Island, or does he still live on Maui?*

Chief Advocate Lindsey: For Mr. Nakoa, while he listed experience in the Community on Maui – he lists a P.O. Box in Kailua Kona and lists additional activities that he's involved with in Kona - where he is indicating a family connection to as well.

Chair Waihe'e: *Does he reside in Kona?*

Chief Advocate Lindsey: He has listed a P.O. Box, a business, and multiple other activities that he's involved with in Kailua Kona.

Trustee Machado: Thank you for letting me blow off some steam. If anything, if we don't get Mr. Nakoa resolved we need to bifurcate him out. I'm very uncomfortable in supporting his nomination. Having a P.O. Box isn't enough. The way to prove residency is an electric bill in the name or a land line, if he has it. It looks a little sketchy. He would be an OHA nominee and I want to make sure whoever we nominate, is compliant.

Trustee Akaka: *Can we discuss what the timeframe is here and if it's possible to see what our options are so Moloka'i is not left out?*

Public Policy Manager Doane: Yes, I would recommend that we vote on those that the Trustees feel comfortable with voting on today. The Governor has asked us to get names by a certain date which is why we're here now. With that said, we absolutely can do more outreach on Moloka'i specifically to recommend an interim appointment. Depending on how fast that goes, it could mean that a GM might not be submitted for them this session, but there are interim appointments and that has happened before. So, we absolutely have an opportunity to convince some of our 'ohana on Moloka'i to serve.

Trustee Akaka: *What's the latest date that we feel comfortable visiting this, to put it as an Action Item?*

Public Policy Manager Doane: There can be interim appointments, which means that the regular deadlines for GMs don't necessarily need to be met. I think if we have a meeting over the next couple days about an implementation plan, we can better assess whether-or-not they could sensibly make it. It's really, about whether-or-not the Governor is going to take our recommendations at this late time, and recommend a GM. Regardless, we could convince them to appoint someone for the interim. So, we may or may not meet the Session deadline, but we could still find an interim appointment.

Trustee Lee: Based on some comments, and a suggestion made before the meeting - that it's better to be right than fast;

I move that we defer this matter until all these many questions being brought to the table are addressed.

Chair Waihee: *Ok there's a motion to defer this matter, is there a second?*

Trustee Hulu Lindsey: **Second.**

Chair Waihee: It's been moved by Trustee Lee, seconded by Trustee Hulu Lindsey to defer this matter. *Any discussion on the motion members?*

Trustee Akaka: *Can we discuss our options here?* On one hand I think it's good to defer, but on the other hand I don't want us to hold up the process of those that we feel comfortable voting on.

Chair Waihee: Yes, we can. *Ka Pouhana?*

Ka Pouhana Hussey: I was going to offer a process option. To the point of those that are comfortable in moving forward, but that Administration comes back with a memo that outlines and addresses all the questions that were asked as to eligibility.

In the case of the recommendation in the Kona region on Hawai'i Island for example, if there are no other Kona applicants then that's a different context to consider that person. We could bring back all the information that we have as to: how many people are serving, we're adding so many people on, how many people are there already and their terms so that the trustees have a holistic context council-by-council about the decision that they're making to move forward.

We would try to bring that within the week to be able to have it approved in time. As much as it's a timing issue, I empathize with Public Policy's piece on the Boards and Commissions. That office has not been responsive to us, on numerous other occasions, for other appointments. I'd rather be right and fully vetted, because this is our representation of putting forward all of these pieces, and then the Governor selecting. Fortunately, BAE meets weekly, so we can try to resolve some of the issues by the end of the month.

Public Policy Manager Doane: I have a strong recommendation that we move forward the positions and recommendations that the Committee feels comfortable with. Firstly, many of these boards have quorum issues. So, it may result in them not being able to meet, which can have bad impacts on recommendations that the Burial Councils make.

I strongly urge the trustees to move forward on the nominees that you feel comfortable with. I want to point out which might not have been as articulated as well as it could've been – the reappointments have already been substantially vetted by this Board. On all the reappointments, we have had numerous meetings on in the past. These are people that the Board has already voted on. Of course, if there was something in the interim that we wanted to discuss, that would be relevant.

The reason why we came to the BAE Committee with this today, is because of the BOT meeting tomorrow, and there is no BOT meeting scheduled for next week. This means we wouldn't get Board approval for a couple more weeks, which would potentially cause issues for having the Governor take our recommendations. So, I just wanted to point out those specific processes and make that recommendation.

Trustee Hulu Lindsey: I will withdraw my second.

Trustee Lee: You don't have to. It was pointed out to me by Trustee Ahuna correctly, that I was Out of Order because there was no motion before this body for us to defer.

Chair Waihee: That's correct.

Trustee Lee: Before we get the motion, I'd like to point out that I agree with what Jocelyn is saying. It is important that we move forward with what we can today. What I am extremely not happy about, is that the Trustees are being put in this position of rushing this decision – it's not like this came up two days ago; somebody knew that these appointments were coming up. This should've come before this committee last month, not today in the eleventh hour where we're making this rushed decision.

Trustee Lee moves to approve the following candidates as nominees for immediate appointment to the O'ahu Island Burial Council, Kaua'i & Ni'ihau Island Burial Council, Maui & Lāna'i Island Burial Council, and Hawai'i Island Burial Council:

- **Kyle K. Nakanelua**, *Nominee for Hāna regional representative on the Maui/Lāna'i Island Burial Council*
- **Susan Talbot Herhold**, *Nominee for Kohala regional representative on the Hawai'i Island Burial Council*
- **Naki'a Nae'ole**, *Nominee for Ko'olaupua regional representative on the O'ahu Island Burial Council*
- **Tatiana Kalaniopua Young**, *Nominee for Wai'anae regional representative on the O'ahu Island Burial Council*
- **Hinaleimoana Wong-Kalu**, *Nominee for reappointment for Kona regional representative on the O'ahu Island Burial Council*
- **Norman Kaimulua**, *Nominee for reappointment for Kona regional representative on the Hawai'i Island Burial Council*
- **Scott Haili Mahoney**, *Nominee for reappointment for Ka'u regional representative on the Hawai'i Island Burial Council*
- **Nalei Pate-Kahakalau**, *Nominee for reappointment for Hāmākua regional representative on the Hawai'i Island Burial Council*
- **Sandra Quinsa**, *Nominee for reappointment for Kōloa regional representative on the Kaua'i/Ni'ihau Island Burial Council*
- **Kaheleonalani Dukelow**, *Nominee for reappointment for Honua'ula regional representative on the Maui/Lāna'i Island Burial Council*

Trustee Ahuna seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

							1:40 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
VICE-CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				8	0	0	1

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

V. NEW BUSINESS

B. 2020 OHA Legislative Positioning – Matrix 2†**

Chair Waihe'e turns it back over to Ka Pouhana Sylvia Hussey.

Ka Pouhana Hussey recalls on Public Policy Manager Jocelyn Doane and Senior Public Policy Advocate Wayne Tanaka to present.

Public Policy Manager Doane: Ok so, I have two recommended changes to the matrix, after some good discussions with the CEO and the Chair as well.

Page 3, Item 11 –SB43; this was a Short Form Bill. So, language was dropped into the bill Related to the Native Hawaiian Healing Practitioner Certification Process. We were originally recommending a position of Comment but I'm changing our recommendation to MONITOR. As a short recap; in 1998 the State of Hawai'i provided an exemption for Native Hawaiian Healers if they were certified and recognized by a panel convened by Papa Ola Lokahi from exercising their healing practices even though they're not necessarily fulfilling other related regulatory requirements. For example, if you practice medicine in the State of Hawai'i you have to be licensed to practice medicine.

What this specific exemption is – if a Healer is certified by a panel which is convened by Papa Ola Lokahi, they would have an exemption from that law. What Papa Ola Lokahi was required to do at that time was to convene panels of practitioners to recommend legislation for permanent implementation of a certification process for practitioners. Then the statute specifically allowed, however, interim certification by the Hawaiian Practitioner Community to recognize such healers through a panel that Papa Ola Lokahi brings forward together.

According to Papa Ola Lokahi, they've established kupuna councils over this time. Last year they convened an Ad-Hoc Committee of practitioners from multiple islands and disciplines to evaluate and codify policies and procedures. The bill itself would create an interim process which they're saying the law already allows them to do and that they've already initiated it. I think these issues are complicated and Native Hawaiian Practitioners have Constitutional Rights to exercise their rights, but of course are subject to reasonable regulations such as other regulatory requirements for certain practices.

Rather than getting involved directly, we wanted to watch what happens at the hearing and get some input about why the bill was introduced in the first place. Papa Ola Lokahi opposes this bill, so we are recommending MONITOR instead of Comment.

Ka Pouhana Hussey: Papa Ola Lokahi's specific opposition is because that's a process that should be determined by the Practitioner Community and not the Legislative process.

Public Policy Manager Doane: I wanted to bring back the Blue Ribbon Commission Resolutions; there are three of them. Page 52 & 55, Item 247 – HCR35, Item 248 – HCR37, and Item 261 – SCR37; we're recommending a position change from Comment to MONITOR on all three of these resolutions. Of course, we support the idea of reconciliation, we have a long history of that. There's been some controversial statements about what Community members thought that meant, which I don't necessarily think we need to get into the fray of at this point. We know that there are things that the Legislature and the State can do now to reconcile with Hawaiians on different issues. We wanted to get input from the trustees if you have any strong feelings toward it.

Trustee Hulu Lindsey: I haven't read these Concurrent Resolutions, but I think it's very critical on HCR37 as far as how the Governor appoints or who he appoints. I get the feel from our people – they should decide what reconciliation process we want and not just anybody from the Community. I think if we're going to say anything it should be in strong support to let our people decide.

Trustee Machado: *What has been the sentiment and response from the Community at-large?* I understand there has been tremendous opposition.

Public Policy Manager Doane: I didn't read all the testimony, but I went to the hearing – There was a lot of discussion about past attempts, that this is what OHA was created for, there's lots of things you could do now... I think Community members came and were super-skeptical about the intent of the resolution. Also, there was lots of conversation from the Community about: who gets to be on it, there's no trust, and do you just want a predetermined outcome from this coming together. The Governor and the AG were up there and cheering on the idea.

Moving on to the **New Significant Bills**. Page 4, Item 18 – SB2442; this bill was originally a bill related to Kauhale style projects – it's a big initiative of the Lieutenant Governor. We are recommending a position of OPPOSE on this because the latest draft included all the exemptions in the Governor's Proclamation. It would only be in the bill for a pilot-period, but I've been here long enough to know that pilot's turn into permanent exemptions. So, this is consistent with bill positions we've taken in the past.

Page 6, Item 25 – SB3099; Trustees may recall that in 2017 the Legislature established the Climate Change Mitigation and Adaptation Commission, we have a representative on that Commission. They submitted a report in December 2017 with recommendations; the report names OHA but doesn't assign kuleana in the report itself.

This seems to be an implementation of staff regarding those recommendations. It would implement the recommendations of the report and direct the agencies to fulfill certain kuleana. The bill would attempt to require OHA to establish a Coastal Lands and Water Adaptation Working Group to consult with Native Hawaiians to develop adaptation plans to access Coastal Lands and Water impacted by sea-level rise. It also includes specifically, lands and waters in Papahānaumokuākea.

As drafted the Commission would include: the OHA CEO or designee, the DHHL Chair or designee, the Aha Moku Committee Chair or designee, three practitioners appointed by the Speaker of the House, Senate President and Governor, and three people with Climate Change background.

We're recommending a position of **SUPPORT WITH AMENDMENTS**. First, to change the scope slightly to include some things that are currently assigned in the bill to SHPD. We would recommend that OHA establish a working group to develop adaptation plans. Specifically, for: impacts to sea-level rise on historic properties of traditional and cultural significance, iwi kūpuna and their associated moepū, accessing coastal lands for traditional and customary practices and any other identified cultural resources.

We may actually also make some recommendations on the membership as well. Right now, the only membership OHA gets to determine is ourselves. If we're going to go out and do the work, it may be best that we get to decide who gets to be on the Commission itself. There's also some confusion with the Aha Moku Committee, because I believe the old members have expired already so I don't think they're currently functioning. So those would be our suggested amendments.

Moving into the **BILL POSITION CHANGES** - Page 7, Item 32 – SB2005; we're catching some companion bills. We already talked about the companion bill in depth last week – so we're recommending **SUPPORT** instead of ~~Monitor~~ on this version as well.

Page 7, Item 33 – SB2368; unfortunately, this is a bill that has been introduced every year and has not moved every year. Originally, it would have required use of 'okina and kahakō in State Letterheads and formal State Documents, but now it's been changed to allow it. So, we're recommending changing our position to **MONITOR** from ~~Support with Amendments~~.

Page 7, Item 34 – SB2620; this is the bill that would have changed the jurisdiction of certain district boundary amendments from the Land Use Commission to the County. The Committee has changed it substantially so we're recommending **COMMENT** rather than ~~Oppose~~.

Page 8, Item 35 – SB2940; this is the Stadium Authority bill. Originally, it would exempt the land that the Stadium owns in fee from §171-2 which means that they would be able to come up with their own rules. We're not objectionable to it, in concept. They made one important change from our suggestion. They added the coordinating language from §171-64.7 – so if they decide to sell it there will be a process and we'll get advanced notice. As a reminder, about 98.5% of the land is not ceded lands, so that's why we're suggesting **MONITOR**.

Senior Public Policy Advocate Wayne Tanaka: Page 8, Item 36 – SB3019; this bill was introduced by Senator Kahele. Originally, it would've directed the DLNR to permit Traditional Farming in all subzones of the Conservation District. Our original recommendation was **Comment** because it was unclear what the bill specifically wanted to do. The bill was amended to direct DLNR to engage in rulemaking to allow for Traditional Farming explicitly in the subzones. So, we are now recommending a change to **SUPPORT** instead of ~~Comment~~.

Public Policy Manager Doane: Page 8, Item 37 – SB3104; this is the Leadership Housing Omnibus bill that we talked about. As a reminder, the four components that we had been weighing in on was: the Land Use Commission provision, the SHPD amendment provision, a shift of allowing HHFDC to do 99-year leases on lands that they don't own, and the last provision is related to the Affordable Housing definition. We're recommending COMMENT instead of ~~Oppose~~ because substantial changes were made. It has a hearing next Tuesday before WAM. So, if any other substantial changes are made, we'll be back.

Senior Public Policy Advocate Wayne Tanaka: Page 9, Item 38 – SB2417; this bill originally would've elevated the promotion of Game Mammals & Commercial Fishing. It also would've mandated all State agencies to update their rules and policies to reflect the same. We raised concerns in our testimony acknowledging that hunting is a critical part of our beneficiaries' subsistence lifestyles. However, at the same time the process involving watersheds and commercial fishing can be devastating for the resources that our beneficiaries rely upon. We suggested some amended language that would reflect a better balance in the considerations and the committee adopted that language. So, we are recommending changing our position from ~~Oppose~~ to COMMENT.

Public Policy Manager Doane: The last updates I wanted to give to the trustees are on the bills that **specifically name OHA** – some of them might not be on the matrix anymore. The Residential Kaka'ako Bill did not get a hearing, so it died.

The bill that would require all grants and contracts to be approved by the Board and have the PLT Negotiating Committee is also dead, so it's no longer on the matrix.

The bill that would allow removal of the Administrator by a majority of those present is still alive. We had good discussions with the Judiciary Chair. We have asked him to not hear the bill and/or if he did hear the bill to make some suggested amendments which include making clear that they meant 'the majority-of-the-entire Board', not those present.

We also suggested making what the amount is, consistent with the Board By-Laws. So that, if we wanted to change it to majority, the statute would allow us to do it, but not require us to do it. That's on Page 49, Item 234 – SB3178. So, it's still alive.

That is all for the OHA-specific updates that I wanted to bring to your attention, so that's all I have for today.

Thank you.

Chair Waihe'e: Thank you Jocelyn.

Trustee Ahuna moves to approve Administration's recommendations on:
NEW BILLS (Items 1 - 31) and BILL POSITIONS FOR RECONSIDERATION (Items 32 - 38),
 along with the following revisions:

CHANGE items:

- 11, SB43 from ~~Comment~~ to **MONITOR**; and
- 247, 248, and 261; HCR35, HCR37, and SCR37 respectively, from ~~Comment~~ to **MONITOR**

on the OHA Legislative Positioning Matrix dated February 19, 2020, as amended.

Bills that were discussed					
ITEM	BILL #	REPORT	DESCRIPTION	POSITION	IN BAE MEETING CHANGE
New Bills					
1	HB1132	RELATING TO PUBLIC MEETINGS.	Requires legislative bodies subject to sunshine laws to publish notice of the substantive content of any measure being heard or decided on. Changes the time to file a suit to void a final action taken in violation of sunshine laws from within ninety days to within one hundred eighty days of the action.	MONITOR	
2	HB1701	RELATING TO EQUAL PAY.	Conforms statutory prohibitions against wage discrimination with other prohibitions on employment discrimination. Clarifies allowable justifications for compensation differentials and remedies for pay disparity. Requires employers to disclose wage ranges to employees and prospective employees. Takes effect 1/1/2050. (HD1)	MONITOR	
3	HB2069	RELATING TO PROPERTY FORFEITURE.	Prohibits civil asset forfeiture unless the covered offense is a felony for which the property owner has been convicted. Excludes the forfeiture proceedings for an animal pending criminal charges. Requires the Attorney General to deposit the net proceeds of the forfeited property to the credit of the state general fund.	COMMENT	
4	HB2112	RELATING TO HOMELESSNESS.	Requires the office of the lieutenant governor to convene a working group to examine the feasibility of establishing and implementing a kauhale pilot program based on specified criteria to provide shelter and other services to homeless individuals in the State and to submit a report of the working group's findings and recommendations, including any proposed legislation, to the legislature prior to the regular session of 2021. Takes effect on December 31, 2059. (HD1)	MONITOR	
5	HB2124	RELATING TO THE CODE OF ETHICS.	Prohibits certain state officials and employees from representing certain interests before the State for 12 months after termination from their respective positions. Effective 1/1/2050. (HD1)	MONITOR	
6	HB2547	RELATING TO HOUSING.	Consolidates the administration of low- and moderate-income housing into a single program by authorizing the Hawai'i Housing Finance and Development Corporation to administer new reserved housing and workforce housing units in community development districts. Provides that the Hawai'i Housing Finance and Development Corporation may adopt rules to allow owners to obtain home equity lines of credit, refinance their units, or pay their shared equity. Effective 7/1/2025. (HD1)	MONITOR	

7	HB2720	RELATING TO GENDER EQUITY.	Requires publicly held domestic and foreign corporations to include certain numbers of females among their boards of directors. Authorizes administrative fines for noncompliance. Takes effect on January 1, 2050. (HD1)	MONITOR	
8	HB2749	RELATING TO PROSECUTORIAL TRANSPARENCY.	Requires the offices of the prosecuting attorney of the respective counties to collect and publish certain data relating to criminal defendants and prosecutorial decision-making. Requires governor to establish a prosecutorial transparency advisory board. Takes effect on 7/1/2050. (HD1)	COMMENT	
9	HB2750	RELATING TO MONETARY OBLIGATIONS.	Prohibits the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations. Does not affect driver's license suspensions related to excessive speeding, lack of motor vehicle insurance, or non-compliance with a child support order. Effective July 1, 2050. (HD1)	COMMENT	
10	SB4	PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO AMEND THE QUALIFYING AGE OF VOTERS FOR ANY STATE OR LOCAL ELECTION.	Proposes a constitutional amendment to lower the qualifying age of voters for any state or local election to sixteen years of age.	MONITOR	
11	SB43	RELATING TO HAWAIIAN AFFAIRS.	Creates a statewide supplementary certification board for the practitioners of traditional native Hawaiian healing arts, where practitioners may be certified to practice. (SD1)	COMMENT	Comment >>> MONITOR
12	SB2052	RELATING TO LOAN FORGIVENESS FOR EARLY CHILDHOOD EDUCATION PROFESSIONALS.	Adds early childhood education students to the Hawai'i educator loan program to allow the education loans of those individuals to be forgiven after five years teaching in early childhood education. Appropriates funds. (SD1)	MONITOR	
13	SB2055	RELATING TO GOVERNMENT.	Establishes a state government realignment commission to periodically review the state executive branch's departments, divisions, and agencies, including functions and services, and submit its findings and recommendations to the legislature.	MONITOR	
14	SB2060	RELATING TO COASTAL ZONE MANAGEMENT.	Amends coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. Requires the Climate Change Mitigation and Adaptation Commission to submit a proposal for a State of Hawai'i supplemental insurance program for properties within the State subject to climate change impacts to the Legislature prior to the Regular Session of 2021. (SD1)	MONITOR	
15	SB2073	RELATING TO EDUCATION.	Requires the Department of Education, in collaboration with the Department of Business, Economic Development, and Tourism, the Department of Labor and Industrial Relations, and the University of Hawai'i, to develop and implement a K-12 curriculum-to-career-pipeline initiative to ensure that the State's public school students are adequately trained and prepared to enter the State's workforce upon graduation from high school. Appropriates funds for the development and implementation of the program, including for (1.0) FTE Educational Specialist II staff position.	MONITOR	

16	SB2253	RELATING TO EQUAL PAY.	Conforms statutory prohibitions against wage discrimination with other prohibitions on employment discrimination. Clarifies allowable justifications for compensation differentials and remedies for pay disparity. Requires employers to disclose wage ranges to employees and prospective employees. (SD1)	MONITOR
17	SB2258	RELATING TO CRIMINAL DEFENSE.	Prohibits defendants from claiming that discovery, knowledge, or disclosure of a victim's gender, gender identity, gender expression, or sexual orientation resulted in extreme mental or emotional disturbance sufficient to reduce a charge of murder to a charge of manslaughter unless the other circumstances of a defendant's explanation exist and are sufficient to reasonably find extreme mental or emotional disturbance.	MONITOR
18	SB2442	RELATING TO HOMELESSNESS.	Establishes the kahale pilot program to provide shelter and certain services to homeless individuals. Appropriates funds for the kahale pilot program. Appropriates funds for two FTE employees for the Hawai'i Housing Finance and Development Corporation. (SD1)	OPPOSE
19	SB2491	RELATING TO FAMILY LEAVE.	Provides family leave insurance benefits and extends period of family leave to sixteen weeks for businesses that employs one or more employees who meet the hourly qualifications. Effective 7/1/2050. (SD1)	MONITOR
20	SB2630	RELATING TO MONETARY OBLIGATIONS.	Prohibits the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations. Does not affect driver's license suspensions related to excessive speeding, lack of motor vehicle insurance, or non-compliance with a child support order.	COMMENT
21	SB2652	RELATING TO HOUSING.	Amends section 201H-38 of the Hawai'i Revised Statutes to clarify that the section does not require income restrictions for projects that are built for Hawai'i residents, who will be owner-occupants in perpetuity, and who own no other property. (SD1)	COMMENT
22	SB2689	RELATING TO RURAL DISTRICTS.	Allows one dwelling per quarter-acre in rural districts.	MONITOR
23	SB2951	RELATING TO SHORT-TERM RENTAL ASSISTANCE.	Creates the short-term rental assistance fund; establishes the short-term rental assistance program.	MONITOR
24	SB2952	RELATING TO HOUSING.	Appropriates funds for the state rent supplement program. (SD1)	MONITOR
25	SB3099	RELATING TO CLIMATE CHANGE.	Implements the recommendations of the Hawai'i Sea Level Rise Vulnerability and Adaptation Report issued by the Hawai'i Climate Change Mitigation and Adaptation Commission. Makes appropriations. (SD1)	SUPPORT WITH AMENDMEN TS

26	SB3110	RELATING TO PROPERTY.	Prohibits nonresident aliens and businesses and trusts that are significantly controlled by nonresident aliens from acquiring certain residential property in the State, except as otherwise provided by law. Effective 12/31/50. (SD1)	MONITOR
27	SB3138	RELATING TO HOUSING.	Removes limit on costs eligible for exemption from general excise tax for development costs of affordable rental housing certified by the Hawai'i housing finance and development corporation. (SD1)	MONITOR
28	HR20		RECOGNIZING THE 15TH ANNIVERSARY OF THE LEGACY LAND CONSERVATION PROGRAM.	SUPPORT
29	HR24		COMMENDING DUANE DESOTO AND MALIA KA'AIHUE FOR THEIR COMMITMENT AND OUTSTANDING INVOLVEMENT IN THE NATIVE HAWAIIAN COMMUNITY.	MONITOR
30	HR26		RECOGNIZING THE IMPORTANCE OF RENEGOTIATING THE COMPACT OF FREE ASSOCIATION BETWEEN THE UNITED STATES AND THE FEDERATED STATES OF MICRONESIA AND POSSIBLE SECESSION OF THE ISLAND OF CHUUK AND ENTRY OF A CHINESE MILITARY BASE IN THE REGION.	MONITOR
31	GM550		Submitting for consideration and confirmation to the Land Use Commission, Gubernatorial Nominee, DAWN CHANG, for a term to expire 06-30-2023.	MONITOR

Bills that were discussed					
ITEM	BILL #	REPORT	DESCRIPTION	POSITION	IN BAE MEETING CHANGE
Bill Positions for Reconsideration					
32	SB2005	RELATING TO VOTING.	Requires that any person who is eligible to vote and applies for a new or renewal motor vehicle driver's license, provisional license, or instruction permit, or a new, renewal, or duplicate identification card be automatically registered to vote if that person is not already registered to vote unless the applicant affirmatively declines to be registered to vote. Authorizes access to and electronic transmission of databases maintained or operated by the counties or the department of transportation containing driver's license or identification card information to election officials and the statewide voter registration system. Effective 1/1/2021.	MONITOR >> SUPPORT	
33	SB2368	RELATING TO HAWAIIAN LANGUAGE.	Clarifies that native Hawaiians, as the indigenous people of Hawai'i, have the right to revitalize, use, develop, and transmit to future generations their histories, language, oral traditions, philosophies, writing systems, and literatures, and to designate and retain their own names for communities, places, and persons. (SD1)	SWA >> MONITOR	
34	SB2620	RELATING TO LAND USE.	Authorizes county land use decision-making authorities to amend district boundaries involving land areas greater than fifteen acres, except non important agricultural land or rural land areas greater than fifteen acres but no more than twenty-five acres if the land areas are proposed for reclassification to the urban district and at least sixty per cent of the land areas will be dedicated for the development of affordable housing. Effective 12/31/33. (SD1)	OPPOSE >> COMMENT	
35	SB2940	RELATING TO THE STADIUM DEVELOPMENT DISTRICT.	Establishes the stadium development special fund. Authorizes the Stadium Authority to acquire and hold title to real property. Transfers authority to issue leases of the lands within the Stadium Development District from the Hawai'i Community Development Authority to the Stadium Authority. Authorizes the Stadium Authority, with approval from the Governor, to delegate to other state agencies the implementation of capital improvement projects, under certain conditions. Repeals part IX of chapter 206E, Hawai'i Revised Statutes, relating to the Stadium Development District. Appropriates funds. (SD1)	COMMENT >> MONITOR	
36	SB3019	RELATING TO TRADITIONAL HAWAIIAN PRACTICES.	Requires the department of land and natural resources to develop administrative rules to allow for traditional Hawaiian farming systems and tiny homes in association with the farming systems on lands designated as conservation districts. (SD1)	COMMENT >> SUPPORT	
37	SB3104	RELATING TO LAND DEVELOPMENT.	Exempts from the definition of public lands, lands set aside by the governor or leased by any state department or agency to the Hawai'i housing finance and development corporation for a period not to exceed ninety-nine years, for the primary purposes of developing affordable housing. Requires the Hawai'i Housing Finance and Development Corporation to submit a report to the legislature that identifies all state lands that may be developed for multi-unit dwellings. Requires the Hawai'i Housing Finance and Development Corporation to submit a program to the Legislature by December 31, 2020, which addresses various housing concerns, including the steps necessary to end the State's housing shortage. Authorizes the issuance of \$200,000,000 in general obligation bonds, with the proceeds used for the establishment of infrastructure to support the development of housing on lands near the University of Hawai'i West O'ahu campus. Defective date 7/1/3000. (SD1)	OPPOSE >> COMMENT	

38	SB2417	RELATING TO SUSTAINABILITY.	Recognizes that game mammals and game birds can provide a sustainable food source when properly managed in appropriate areas that minimize their impacts to important watershed areas and functions as well as to native Hawaiian traditional and customary practices and the resources those practices rely upon, and that the State's unique relationship with the ocean requires a careful consideration and management of land and ocean activities that prioritize the public trust responsibilities of the State, including but not limited to the conservation of natural resources for future generations and the protection of native Hawaiian traditional and customary practices pursuant to article XI, section 1 and article XII, section 7, of the Hawai'i State Constitution. Requires each department, office, or agency of the state to update its rules and policies to integrate the local hunting and fishing industries into any food security or sustainability strategies that department, office, or agency employs. Requires reports to the Legislature. (SD1)	OPPOSE >> COMMENT	
Bills that were discussed					
ITEM	BILL #	REPORT	DESCRIPTION	POSITION	IN BAE MEETING CHANGE
2020 Legislative Session (Bill Positions Previously Approved)					
247	HCR35		REQUESTING THE GOVERNOR TO CONVENE A BLUE RIBBON COMMISSION TO EXAMINE AND FORMULATE A RECONCILIATION PROCESS RELATING TO ISSUES OF PAST, PRESENT, AND FUTURE IMPORTANCE TO THE NATIVE HAWAIIAN PEOPLE, STATE OF HAWAI'I, AND UNITED STATES OF AMERICA.	COMMENT	Comment >>> MONITOR
248	HCR37		REQUESTING THE GOVERNOR TO CONVENE A BLUE RIBBON RECONCILIATION COMMISSION TO EXAMINE AND FORMULATE A RECONCILIATION PROCESS RELATING TO ISSUES OF PAST, PRESENT, AND FUTURE IMPORTANCE TO THE NATIVE HAWAIIAN PEOPLE, THE STATE OF HAWAI'I, AND THE UNITED STATES OF AMERICA.	COMMENT	Comment >>> MONITOR
261	SCR37		REQUESTING THE GOVERNOR TO CONVENE A BLUE RIBBON COMMISSION TO EXAMINE AND FORMULATE A RECONCILIATION PROCESS RELATING TO ISSUES OF PAST, PRESENT, AND FUTURE IMPORTANCE TO THE NATIVE HAWAIIAN PEOPLE, STATE OF HAWAI'I, AND UNITED STATES OF AMERICA.	COMMENT	Comment >>> MONITOR

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

							2:09 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA	1		X			
VICE-CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				8	0	0	1

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

VI. COMMUNITY CONCERNS*

None

VII. ANNOUNCEMENTS

None

VIII. ADJOURNMENT

Trustee Hulu Lindsey moves to adjourn the BAE meeting.

Trustee Ahuna seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e asks if any members vote NO or ABSTAIN. There are no dissenting votes.

							2:12 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
VICE-CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				8	0	0	1

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

Chair Waihe'e adjourns the BAE meeting at 2:12 p.m.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Melissa Wennihan", is written over a horizontal line.

Melissa Wennihan

Trustee Aide

Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on September 23, 2020.

A handwritten signature in dark ink, appearing to read "John Waihe'e, IV", is written over a horizontal line.

Trustee John Waihe'e, IV

Chair

Committee on Beneficiary Advocacy and Empowerment