State of Hawai'i
Office of Hawaiian Affairs
560 North Nimitz Hwy.
Honolulu, HI 96817

Minutes of the Office of Hawaiian Affairs Board of Trustees Meeting
Thursday, November 19, 2015, 10:00 am

I. CALL TO ORDER

Chair Robert K. Lindsey, Jr. called the Office of Hawaiian Affairs Board of Trustees Meeting to order at 10:01 am. Those present were as follows:

Attendance

Trustee Robert K. Lindsey, Jr., Chair
Trustee Lei Ahu Isa (arrived 10:12 am)
Trustee Rowena Akana
Trustee S. Haunani Apoliona
Trustee Carmen Hulu Lindsey
Trustee Colette Machado
Trustee John Waihe'e IV

Excused

Trustee Dan Ahuna, Vice Chair
Trustee Peter Apo

Staff Present

Dr. Kamana'opono Crabbe, CEO
Lisa Cataldo, Acting Board Counsel
Harold Nedd, Chief of Staff
Capsun M. Poe, Board Secretary
Kauikeaolani Wailehua
Ani (Liana) Pang
Claudine Calpito
Davis Price
Lady Elizabeth Garrett
Lehua Itokazu
Melissa Wennihan
Alice Silbanuz
Anita Manzano
Derek Kauanoe
Ernest Kimoto
Garett Kamemoto
Imiola Gora-Aina
James Hall
Jerome Yasuhara
John Matsuzaki
John Rosa
Joseph Lewis
Kai Markell
Kawika Riley
Keala Nichols
Kehau Abad
Lisa Watkins-Victorino
Luci Meyer
Pili Wong
Ryan Gonzalez
Sarah Antone
Sterling Wong
Lindsey Kukona
David Green
Kanoe Stothers

Others Present

Ilima Long
Julie Warech
Nalani Balutski
Terrance W.
Nahealani Quirk

II. APPROVAL OF MINUTES

Chair Lindsey announced the draft minutes of October 8, October 22, and November 5, 2015 were distributed and asked if there were any changes.

Trustee Apoliona asked that a clarification on the minutes for October 22, 2015 be inserted on page 5. She wanted it noted that for the sake of information the Hawaii State Ethics cleared her of allegations by Trustee Akana. She asked that the minutes include a notation to that effect.

Trustee Akana objected to the amendment because Trustee Apoliona did not state that for the record.

Trustee Waihe'e asked how the remarks would be inserted. Chair Lindsey responded that he is inclined to let it in, but would ask the Board Secretary to review the audio and make any necessary changes.

Motion

At 10:02 am, Trustee Hulu Lindsey moved, seconded by Trustee Machado, to approve the minutes of October 8, 2015 and November 5, 2015.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA						X
TRUSTEE DAN AHUNA						X
TRUSTEE ROWENA AKANA					X	
TRUSTEE PETER APO						X
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE HULU LINDSEY	1		X			
TRUSTEE COLETTE MACHADO		2	X			
TRUSTEE JOHN WAIHE'E			X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			5	0	1	3

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

Motion passed with five (5) YES votes, no (0) NO votes, one (1) abstention, and three (3) excused.

III. COMMUNITY CONCERNS

There were no Community Concerns.

IV. UNFINISHED BUSINESS

A. Chair's Updates on Board Activities

Chair Lindsey reported that the quilt donated to OHA from Patricia Lei Murray is now displayed in the hallway outside of the Boardroom.

Trustee Hulu Lindsey reminded the Board that she is in possession of a paddle presented to the Board during is Maui Community Meeting and that should also be displayed.

Chair Lindsey also stated that details are being worked out on displaying the Kearney Cloak replica donated by the King Kamehameha Hawaiian Civic Club.

B. CEO's Update on Ho'oulu Lāhui Aloha and OHA Activities

Dr. Crabbe announced that discussions are ongoing with Te Papa Tongarewa on returning a cloak to Hawai'i.

Dr. Crabbe announced the Employee and Manager of the 3rd Quarter (July-September 2015):

- James Hall of Digital Media, Employee of the 3rd Quarter
  Mr. Hall expressed his thanks for the recognition, noting it was unexpected. He thanked his manager for giving him so much work to do every day. He also stated many others are deserving of the same recognition. He added that while awards like this are not necessary, they are very much appreciated.
- Keola Lindsey of Papahanaumokuakea, Manager of the 3rd Quarter
  Mr. Lindsey stated he was humbled for the recognition. He also stated that many others are deserving of the same recognition. With so many issues that need to be addressed, he comes in every day energized to do the work of our people.

V. NEW BUSINESS

Chair Lindsey noted that Trustee Waihe'e gave the following committee report at the Board's previous meeting and that copies were included for today's meeting, which have Action 2 and Action 3 for Second Reading:

The Honorable Robert K. Lindsey, Jr., Chair
Board of Trustees
Office of Hawaiian Affairs

Chair Robert Lindsey,

Your Committee on Beneficiary Advocacy and Empowerment, having met on October 21, 2015, after full-and-free discussion, and where all action item motions taken received 9-0 unanimous votes, recommends approval of the following three (3) actions to the Board of Trustees in this single committee report:

ACTION 1

To approve OHA's participation in the portion of the Nā Wai 'Ehā contested case hearing regarding the adjudication of surface water use permit applications, including the recognition and quantification of appurtenant rights claims, and to authorize the CEO to utilize OHA contract #2604, as amended, with Alston Hunt Floyd and Ing, Attorneys at Law, A Law Corporation, to cover legal services rendered to OHA for water use permit applications and appurtenant rights claims, contingent upon approval of sufficient funding, estimated at $300,000, to reside in Program Code 2300 - Corporate Counsel, Object Code 57115 - Legal Services, to cover legal fees and costs incurred for participation in the foregoing.

ACTION 2

To approve the adoption of an OHA Water Policy along with Attachment A: Water Backgrounder Appendix, where upon approval, both will be included in the Executive Board Policy Manual of the Board of Trustees, as fully stated in Action Item BAE 15-06.

ACTION 3

Adopt a Board of Trustee (BOT) policy to be included in the OHA Board of Trustees Executive Policy Manual as a new section numbered 2080 entitled "Iwi Kupuna" within the 2000 Series on Beneficiary Support and Services:

2080 Iwi Kupuna

Care, Management, and Protection of Iwi Kupuna

2.8. a. Consistent with its advocacy regarding the Hawaiian culture, OHA shall protect and promote the reverence and cultural importance of proper care, management, and protection of ancestral Native Hawaiian remains or iwi kupuna. Recognizing that iwi is culturally "considered the most cherished possession" as defined by Mary Kawena Pukui as well as oral and written historical accounts, OHA shall ensure that in all OHA efforts and initiatives, the proper care, management, and protection of iwi kupuna is of paramount consideration. OHA also recognizes that the care and disposition of iwi kupuna is primarily an 'ohana kuleana and shall promote the active involvement of descendants and 'ohana in matters regarding the treatment and disposition of iwi kupuna. In furtherance of this policy objective, OHA shall:

1. Formulate consistent responses in the planning, consultation, and decision making regarding the care, management, and protection of iwi kupuna; and

2. Ensure that all relevant OHA land management and planning documents, contractual agreements and grant agreements include an acknowledgment of a higher cultural standard of care regarding the care, management, and protection of iwi kupuna, which may exceed minimal requirements set forth in law and rule; and

3. Consult with the Native Hawaiian Historic Preservation Council for guidance on iwi issues when deemed necessary by the Chief Executive Officer.

A. BAE #15-06: Adoption of an OHA Water Policy and a Water Backgrounder Appendix to be included in the Board's Executive Policy Manual – Second Reading

Motion

At 10:23 am, Trustee Waihee moved, seconded by Trustee Apoliona, to approve the adoption of an OHA Water Policy along with Attachment A: Water Backgrounder Appendix, where upon approval, both will be included in the Executive Board Policy Manual of the Board of Trustees, as fully stated in Action Item BAE 15-06.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA						X
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO						X
TRUSTEE HAUNANI APOLIONA		2	X			
TRUSTEE HULU LINDSEY			X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E	1		X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			7	0	0	2
MOTION: [ ] UNANIMOUS [X] PASSED [ ] DEFERRED [ ] FAILED Motion passed with seven (7) YES votes, no (0) NO votes, no (0) abstentions, and two (2) excused.						

B. BAE #15-07: Adoption of an OHA Protecting Iwi Kupuna Policy to be included in the Board's Executive Policy Manual – Second Reading

Motion

At 10:25 am, Trustee Waihe'e moved, seconded by Trustee Apoliona, to approve the adoption of a Board of Trustees (BOT) policy to be included in the OHA Board of Trustees Executive Policy Manual as a new section numbered 2080 entitled "Iwi Kupuna" within the 2000 Series on Beneficiary Support and Services:

2080 Iwi Kupuna

Care, Management, and Protection of Iwi Kupuna

2.8. a. Consistent with its advocacy regarding the Hawaiian culture, OHA shall protect and promote the reverence and cultural importance of proper care, management, and protection of ancestral Native Hawaiian remains or iwi kupuna. Recognizing that iwi is culturally "considered the most cherished possession" as defined by Mary Kawena Pukui as well as oral and written historical accounts, OHA shall ensure that in all OHA efforts and initiatives, the proper care, management, and protection of iwi kupuna is of paramount consideration. OHA also recognizes that the care and disposition of iwi kupuna is primarily an 'ohana kuleana and shall promote the active involvement of descendants and 'ohana in matters regarding the treatment and disposition of iwi kupuna. In furtherance of this policy objective, OHA shall:

1. Formulate consistent responses in the planning, consultation, and decision making regarding the care, management, and protection of iwi kupuna; and

2. Ensure that all relevant OHA land management and planning documents, contractual agreements and grant agreements include an acknowledgment of a higher cultural standard of care regarding the care, management, and protection of iwi kupuna, which may exceed minimal requirements set forth in law and rule; and

3. Consult with the Native Hawaiian Historic Preservation Council for guidance on iwi issues when deemed necessary by the Chief Executive Officer.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI	AHU ISA			X			
TRUSTEE DAN	AHUNA						X
TRUSTEE ROWENA	AKANA			X			
TRUSTEE PETER	APO						X
TRUSTEE HAUNANI	APOLIONA		2	X			
TRUSTEE HULU	LINDSEY			X			
TRUSTEE COLETTE	MACHADO			X			
TRUSTEE JOHN	WAIHE'E	1		X			
CHAIR ROBERT	LINDSEY			X			

TOTAL VOTE COUNT			7	0	0	2
MOTION: [ ] UNANIMOUS [X] PASSED [ ] DEFERRED [ ] FAILED Motion passed with seven (7) YES votes, no (0) NO votes, no (0) abstentions, and two (2) excused.						

C. BOT #15-05: Office of Hawaiian Affairs Island Burial Council 2016 Nominations

Motion

At 10:26 am, Trustee Waihe'e moved, seconded by Trustee Machado, to approve the following candidates as OHA's 2016 nominees for appointment to the Island Burial Councils for transmittal to the Governor:

- Gail Mililani Makuakāne-Lundin, Nominee for Hilo or Puna regional representative on the Hawai'i Island Burial Council
- Solomon Church, Nominee for Hāna regional representative on the Maui/Lāna'i Island Burial Council
- Keao Nesmith, Nominee for Waimea/Nāpali, Kawaihau, or Hanalei regional representative on the Kaua'i/Ni'ihau Island Burial Council

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA						X
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO						X
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE HULU LINDSEY			X			
TRUSTEE COLETTE MACHADO		2	X			
TRUSTEE JOHN WAIHE'E	1		X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			7	0	0	2
MOTION: [ ] UNANIMOUS [X] PASSED [ ] DEFERRED [ ] FAILED Motion passed with seven (7) YES votes, no (0) NO votes, no (0) abstentions, and two (2) excused.						

VI. EXECUTIVE SESSION

Motion

At 10:27 am, Trustee Apoliona moved, seconded by Trustee Waihe'e, to go into Executive Session to consider the following:

VI. Executive Session

A. Approval of Executive Session Minutes
   1) March 12, 2015
   2) May 7, 2015
   3) May 21, 2015
   4) July 9, 2015
   5) July 23, 2015
   6) July 30, 2015
   7) October 8, 2015
   8) October 22, 2015

B. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding Mauna Kea. *Pursuant to HRS 92-5(a)(4).*

C. Consultation with OHA Corporate Counsel Ernest Kimoto, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding outstanding legal contracts. *Pursuant to HRS 92-5(a)(4).*

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI	AHU ISA			X			
TRUSTEE DAN	AHUNA						X
TRUSTEE ROWENA	AKANA			X			
TRUSTEE PETER	APO						X
TRUSTEE HAUNANI	APOLIONA	1		X			
TRUSTEE HULU	LINDSEY			X			
TRUSTEE COLETTE	MACHADO			X			
TRUSTEE JOHN	WAIHE'E		2	X			
CHAIR ROBERT	LINDSEY			X			
TOTAL VOTE COUNT				7	0	0	2

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

Motion passed with seven (7) YES votes, no (0) NO votes, no (0) abstentions, and two (2) excused.

The Board went into Executive Session at 10:28 am and exited Executive Session at 12:18 pm.

VII. BENEFICIARY COMMENTS

There were no Beneficiary Comments.

VIII. ANNOUNCEMENTS

Chair Lindsey announced the next BOT meeting will be on Thursday, December 3, 2015 at 10:00 am.

IX. ADJOURNMENT

Having no further business, Chair Lindsey adjourned the meeting at 12:20 pm.

Respectfully Submitted,

Capsun M. Poe
Board Secretary

Approved by the Board of Trustees on December 17, 2015:

Trustee Robert K. Lindsey, Jr.
Chair, Board of Trustees