

**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, October 20, 2016, 9:30 am**

I. CALL TO ORDER

Chair Robert K. Lindsey, Jr. called the Office of Hawaiian Affairs Board of Trustees Meeting to order at 9:33 am. Those present were as follows:

Attendance

Trustee Robert K. Lindsey, Jr., Chair	Trustee S. Haunani Apoliona
Trustee Dan Ahuna, Vice Chair (arrived 9:34 am)	Trustee Carmen Hulu Lindsey
Trustee Lei Ahu Isa (arrived 9:39 am)	Trustee Colette Machado
Trustee Rowena Akana	Trustee John Waihe'e IV (arrived 9:34 am)
Trustee Peter Apo	

Excused

-None-

Staff Present

Dr. Kamana'opono Crabbe, CEO	Melissa Wennihan
Robert G. Klein, Board Counsel	Liana Pang
Harold Nedd, Chief of Staff	Makana Chai
Capsun M. Poe, Board Secretary	Brutus La Benz
Jeremy Kama Hopkins	Francine Murray
Kauikeaolani Wailehua	Hawley Iona
Claudine Calpito	Kai Markell
Davis Price	Kawika Riley
Lady Garrett	Lisa Victor
U'ilani Tanigawa	Mehana Hind
Lehua Itokazu	Miles Nishijima
Dayna Pa	Olu Campbell
Louise Yee Hoy	Tiger Li
Reynold Freitas	Keith Gutierrez

Others Present

Harold Han	Leslie Uyehara
Suzy Tam	Jennifer Tehotu
Steve Paul	Gary Park
Ryan Medeiros	Andre Betito
Jerry Coffee	Rosie McKenna
Reid Ogata	Rick Barbosa
Charles Among	Mariah Kuai
Blaise Atabay	Kealii Makekau
Keola Kekaulike	

II. APPROVAL OF MINUTES

Motion

At 9:34 am, Trustee Hulu Lindsey moved, seconded by Trustee Akana, to waive OHA's 72-hour materials distribution policy for Items V. C., V. D., and V. E.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA						X
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA		2	X			
TRUSTEE PETER APO			X			
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE HULU LINDSEY	1		X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E			X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			8	0	0	1

MOTION: ☐ UNANIMOUS ☒ PASSED ☐ DEFERRED ☐ FAILED

Motion passed with eight (8) YES votes, no (0) NO votes, no (0) abstentions, and one (1) excused.

Chair Lindsey noted the draft minutes of October 6, 2016 were distributed and asked if there were any changes.

Motion

At 9:36 am, Trustee Machado moved, seconded by Trustee Ahuna, to approve the minutes of October 6, 2016.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA						X
TRUSTEE DAN AHUNA		2	X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO			X			
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE HULU LINDSEY			X			
TRUSTEE COLETTE MACHADO	1		X			
TRUSTEE JOHN WAIHE'E			X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			8	0	0	1

MOTION: ☐ UNANIMOUS ☒ PASSED ☐ DEFERRED ☐ FAILED

Motion passed with eight (8) YES votes, no (0) NO votes, no (0) abstentions, and one (1) excused.

III. COMMUNITY CONCERNS

Mr. Kaukauhu Wahilani of Hui Ku Like Kākou stated the Hawaiian people never got into hearsay. He advocated transparency. He is also tired of listening to Ehu Kekahu Cardwell's videos. He requested OHA Trustees clarify their opinions on the DOI rule by holding hearings and meetings. OHA Trustees need to do a better job representing the under-represented voices in the community. The next 'Aha Aloha 'Āina will be held in Wai'anae on November 6. He also noted his support of Standing Rock. He asked which Trustees are for Federal Recognition and who are for independence. He added that he is frustrated and looks to the Trustees for leadership.

Chair Lindsey stated that the Board's position since 2001 has been to support Federal Recognition.

Trustee Apo stated he supports Hawaiians expressing their voices, but no one wants to have a vote. Whenever issues are taken to the Hawaiian people, instead of the Trustees, there is no vote. He sees the current Na'i Aupuni ratification vote as an opportunity for Hawaiians to have that voice.

Trustee Akana stated OHA was pushed into supporting Federal Recognition because of the *Rice v. Cayetano* case and the ensuing lawsuits.

Trustee Ahu Isa stated she has supported repealing Act 195 and even submitted a bill to the Legislature, but no hearings were scheduled.

Trustee Apoliona stated that opportunities for Hawaiians are few and far between. She stated she advocates for opportunities for Hawaiians at all levels. She added that when Hawaiians are attacked with non-truths and non-facts, they are responsible for that. She believed the Trustees should focus on their kuleana at the Board table. It is clear that certain people want certain things to happen. In her opinion, some of the opponents want to undo OHA. She added that her support of Federal Recognition has been about preserving resources for Native Hawaiians.

V. NEW BUSINESS

Chair Lindsey took the resolution presentation out of order.

A. Presentation of an OHA Resolution Recognizing and Thanking all Service Providers, Contractors, and other OHA Partners who graciously assisted the Office of Hawaiian Affairs in its illegal camping enforcement action in Wahiawā

Dr. Crabbe stated that the enforcement action was a year and a half in planning between private and government agencies. He conveyed his thanks on behalf of the Board and OHA. Mr. Brutus La Benz introduced each of the groups present to accept their resolutions.

Recess

Chair Lindsey called a recess at 10:10 am and reconvened the meeting at 10:23 am.

III. COMMUNITY CONCERNS

Ms. Healani Sonoda-Pale submitted written comments stating the DOI rule is not something Kanaka Maoli want.

Ms. Kalamaokaaina Niheu acknowledged that everyone has their own perspective on what is right for the Hawaiian people. However, she questioned the process because OHA has a clear goal, but is saying the process is neutral. She questioned the millions of dollars OHA has spent on Federal Recognition. She also stated they will have a meeting on November 19 to educate people.

Trustee Akana asked what the education effort entails. Ms. Niheu responded that they plan to have a side-by-side presentation that will be held at Windward Community College.

Trustee Apoliona stated it can be very confusing from one Trustee to another on their individual opinions, but Federal Recognition is a policy of the Board as a whole.

Trustee Ahu Isa stated that the policy was in effect in 2001, but she stated that it cannot be focused on the past. Leaders must bear in mind that some will rise with the tide, but some will fall. She stated it may be time to change OHA's policy on Federal Recognition.

Trustee Akana stated that she was Chair of the Board when the policy was first adopted. She stated that going forward, OHA needs to look at how to include people and not leave them out. In the end, Hawaiians are one people, held together by spirituality.

Trustee Apo stated that the premise of the Constitutional Convention was that OHA would work for Federal Recognition. At the time, the Congressional Delegation, the Legislature, and the people were on board. Since then, things have changed and new sentiments arose. What is absent from the discussion is how independence helps address the real things Hawaiians want, like home ownership and quality education. Federal Recognition was the fastest route to achieving this. There are some alternatives to Federal Recognition: independence or status quo. He also noted that OHA's own polling shows Hawaiians do not care about Federal Recognition because they are too busy raising families. He advocated bettering the lives of Hawaiians on a real-time basis. The data is not there. He welcomes a dialog that comes forward with ways to help Hawaiians with real needs.

Ms. Niheu stated she would like to see a full accounting of what OHA has spent on Federal Recognition. She would also like to see more meetings with Hawaiians about OHA's work. She agreed that Hawaiians are drowning with the demands of life.

Ms. Kilikima Kekumano stated that full disclosure is a good thing. She showed samples of Kingdom of Hawai'i money that was circulated. She stated that this is part of the pain Hawaiians have in their hearts but cannot express. She stated OHA's charter originally had no salaries for Trustees who served as volunteers, but now there are salaries and expenditures. She stated beneficiary money is now being used to partner with FEMA. She stated she is confused how OHA can, under Federal Recognition, take her from being part of Ko Hawai'i Pae 'Āina to now being an Indian.

Trustee Ahu Isa said her own research confirms what Ms. Kekumano shared. She is embarrassed that it is so hard to explain Hawaiian history. She stated this history should be taught in schools and also to legislators.

Trustee Apoliona stated OHA is governed by Article XII in the State Constitution and Chapter 10 HRS.

Ms. Kekumano stated beneficiaries have not been compensated and there are beneficiaries starving in Wai'anae.

Recess

Chair Lindsey called a recess at 11:04 am and reconvened the meeting at 11:11 am.

Kaiulani Milham spoke on issues relating to the new Native Hawaiian Constitution. She also spoke of her efforts to correct the process going on at that time. She added that they hoped OHA would support, with funding, those who want to come up with a plan.

Mr. Liko Martin stated that going back to Kaho'olawe and that Hawaiians have not lost anything. He stated that Patsy Mink stated that the Hawaiians need time to discuss things amongst themselves. He stated his assertion that there was no annexation. He stated Hawaiians are refugees in their own country. Currently, Hawaiians are dealing with institutional racism, coercion, and wanton neglect. He also sang a song that captured his feelings. Going forward means revisiting the same history prior to Kamehameha. He stated his belief that Hawaiians already have their own recognition.

Kupono Ana of Hui Aloha 'Āina stated he is wondering if OHA will still file a lawsuit against the *de facto* State of Hawai'i and the University of Hawai'i, and Office of Mauna Kea Management on the mismanagement of Mauna Kea. He also asked if OHA will give money for the anti-Federal Recognition efforts since millions of dollars have been given to pro-Federal Recognition groups.

Chair Lindsey stated OHA is now in mediation, a process that has taken several months.

Mr. Ana expressed a desire that OHA speed up the mediation process.

Ms. Clare Apana and Ms. Zena Abalero spoke on their Kū'ē Petitions Continues program, remembering the work of the Kū'ē Petition signers, a report of progress, and concerns over DOI rules. They have had activities on islands except Ni'ihau although they have signatures from Ni'ihau. They have also started their first Kū'ē Petition group on the continent, which has started in Southern California.

Ms. Routh Bolomet spoke on options available in addition to nation to nation domestic options offered by DOI. She recently returned from a UN conference on human rights. She stated Hawai'i was never included in the State Constitution. She also stated that OHA is part of a state government that does not exist. She invited Trustees to watch the movie, "Who Do We Invade Next?"

Ms. Kapua Keliikoa-Kamai stated five minutes is not enough time to hear from individuals. She added that they appreciate receiving responses. She stated the Board's position on Federal Recognition was taken 15 years ago and she believed that there should be another vote to re-affirm that position. She also invited the Trustees to attend a candidate forum in Wai'anae. She asked Trustees who supported Federal Recognition; Trustees Akana, Waihe'e, Robert Lindsey, Machado, and Apoliona indicated they previously supported Federal Recognition when it came before the BOT.

Trustee Akana asked what event is on November 6. Ms. Keliikoa stated it is a meeting from 1-5 pm to have an open discussion on the kino of Aloha 'Āina.

Mr. Kealii Makekau stated his concern that the efforts to promote the DOI proposed rule is confusing Hawaiians who support independence because the information disseminated makes it seem like the DOI rule would be the first step to independence.

Mr. Joshua Noga stated his support for 'Aha Aloha 'Āina Wai'anae. He stated 'Aha Aloha 'Āina is a coalition of those who are steadfast in support for Hawai'i's independence. He believes the DOI rule is terrible. 'Aha Aloha 'Āina has had 25 meetings throughout Hawai'i, with a few on the continental US. The meetings have reached over 2,500 people. Their model recognizes everyone's role and that true self-determination starts with the people. He asked the Trustees to fund something like South Africa's Truth and Reconciliation, which was started at the end of Apartheid to help heal wounds.

Ms. Laulani Teale stated that peace cannot happen without some degree of unity. She asked for the Trustees to consider an accurate representation and articulation of the whole of the lāhui. Even if the Board has a position for Federal Recognition, it does not preclude them from representing the lāhui and giving an accurate picture as to where the lāhui stands. She noted she is not working against the system, but working at all levels inside and out, and in a pono way.

VI. EXECUTIVE SESSION

Motion

At 12:20 pm, Trustee Hulu Lindsey moved, seconded by Trustee Ahuna, to go into Executive Session to consider the following:

VI. Executive Session**

A. Approval of Executive Session Minutes

1) October 6, 2016

**B. Consultation with Robert G. Klein, Esq. and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding ongoing legal and personnel matters.
*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		2	X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO			X			
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE HULU LINDSEY	1		X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E						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 12:22 pm and exited Executive Session at 1:32 pm.

VII. UNFINISHED BUSINESS

Chair's Update

Chair Lindsey had no updates.

CEO's Updates

Dr. Crabbe reported the following:

VIII. NEW BUSINESS

RM #16-08: Adoption of OHA's Fiscal Sustainability Planning Model and Approval of the Statement of Commitment Relating to OHA's Fiscal Sustainability Implementation Plan C. BAE 16-03: 2017 OHA Legislative Package

Motion

At 1:24 pm, Trustee Machado moved, seconded by Trustee Apoliona, to :

1. Adopt the use of the Office of Hawaiian Affairs' ("OHA") FISCAL SUSTAINABILITY PLANNING MODEL and
2. Approve the STATEMENT OF COMMITMENT relating to OHA's FISCAL SUSTAINABILITY IMPLEMENTATION PLAN as follows:

The Office of Hawaiian Affairs is committed to ensuring services and programs are consistently available and delivered to our *lāhui* through fiscally responsible and sustainable spending. The Office will:

- o Adopt and implement a FISCAL SUSTAINABILITY IMPLEMENTATION PLAN to be effective beginning July 1, 2017
- o Provide in it a FINANCIAL STRUCTURE that will establish fiscal objectives and result in increases to (1) the value of OHA's assets and endowments and to (2) OHA's capacity to deliver on its vision and mission
- o Incorporate in it specific SUCCESS INDICATORS and report on its progress at 1 year, 3 years, and 5 years post-implementation
- o Incorporate in it a CODE OF ETHICS applicable to OHA Trustees, Officers, and Employees

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	1		X			
TRUSTEE JOHN WAIHE'E			X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			9	0	0	0

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

Motion passed with nine (9) YES votes, no (0) NO votes, no (0) abstentions, and none (0) excused.

Chair Lindsey stated the greatest obligation of the Board is to ensure that OHA's finances remains sound. For him, the plan puts OHA on a path to fulfilling its greatest obligation to future generations of Hawaiians. Specifically, the plan would ensure OHA remains solvent for at least the next half century. From his perspective, the action today demonstrates a commitment to being responsible stewards of the Hawaiian people's trust.

BAE #16-03: 2017 OHA Legislative Package

Motion

At 1:26 pm, Trustee Waihe'e moved, seconded by Trustee Ahuna, to support the following new legislative proposals and approve their inclusion in the 2017 OHA Legislative Package:

- OHA-1 OHA Budget:
Provides for OHA's General Fund Biennium Budget FY2017-2018/FY2018-2019.
- OHA-2 Per-Pupil Funding System Study For Public Charter Schools:
Requires the Legislative Reference Bureau to conduct a study, with the support of the Department of Education, Department of Budget and Finance, the Hawai'i State Public Charter School Commission, and other stakeholder agencies, to determine whether the non-facility general fund per-pupil funding system for public charter schools ensures equal operational per-pupil funding between Department of Education schools and public charter schools, as required under statute.
- OHA-3 Konohiki Fishing Rights Resolution:
Recognizes the historic success of the traditional, ahupua'a-based konohiki fishing rights system, which used communities' intimate knowledge of and connection to their nearshore area to ensure abundant resources and sustain a thriving Hawaiian population and culture prior to documented Western contact; chronicles the erosion and eventual abolishment of the konohiki fishing rights system and laws, as well as the resulting impacts to nearshore fisheries and the associated cultural lifestyles, traditions, and values of ahupua'a tenants; and urges the Department of Land and Natural Resources to support culturally-grounded and community-driven fisheries management proposals, to enable kīpuka communities to once again steward, restore, and perpetuate their nearshore resources and to protect and maintain the cultural traditions and values that rely upon them.

The motion passed via voice vote, with all Trustees present voting "aye".

BAE #16-04: Approval of Nominee(s) for the Native Hawaiian Revolving Loan Fund (NHRLF) Board of Directors

Motion

At 1:27 pm, Trustee Waihe'e moved, seconded by Trustee Ahuna, to approve Mr. Scott Kaulukukui to serve a second and final term on the Native Hawaiian Revolving Loan Fund (NHRLF) Board of Directors.

The motion passed via voice vote, with all Trustees present voting "aye".

BAE #16-05: Approval of a Resolution supporting the Standing Rock Sioux Tribe in its efforts to protect its sacred sites and natural and cultural resources

Motion

At 1:37 pm, Trustee Waihe'e moved, seconded by Trustee Ahuna, to approve a Resolution supporting the Standing Rock Sioux Tribe in its efforts to protect its sacred sites and natural and cultural resources.

The motion passed via voice vote, with all Trustees present voting "aye".

BOT #16-03: The Office of Hawaiian Affairs' Island Burial Council 2017 Nominations

Motion

At 1:38 pm, Trustee Ahuna moved, seconded by Trustee Apoliona, to approve the following candidates as OHA's 2017 nominees for appointment to the Island Burial Councils for transmittal to the Governor:

- Scott Haili Mahoney, Nominee for Ka'u or Kohala regional representative on the Hawai'i Island Burial Council
- Hinaleimoana Wong-Kalu, Nominee for Kona regional representative on the O'ahu Island Burial Council
- Carol Lovell, Nominee for Kawaihau regional representative on the Kaua'i/Ni'ihau Island Burial Council

The motion passed via voice vote, with all Trustees present voting "aye".

Trustee Machado asked how someone in Kona can serve on O'ahu. Dr. Crabbe responded that it is for Kona, Oahu.

IX. BENEFICIARY COMMENTS

There were no Beneficiary Comments.

X. ANNOUNCEMENTS

Chair Lindsey stated that Administration wants to do an update on Part 50. He stated a special Board meeting would need to be scheduled. Trustee Hulu Lindsey stated if a new meeting is held she would want financial support for Maui beneficiaries impacted by storms considered.

XI. ADJOURNMENT

Having no further business, Chair Lindsey adjourned the meeting at 1:41 pm.

Respectfully Submitted,

for Nathan Tokunishi
Capsun M. Poe
Board Secretary

Approved by the Board of Trustees on January 12, 2017

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