

Committee on Beneficiary Advocacy and Empowerment
Trustee John Waihe'e IV, *Chair*
Trustee Kaleihikina Akaka, *Vice Chair*
Members



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS

Trustee Leina'ala Ahu Isa, At-Large
Trustee Dan Ahuna, Kaua'i / Ni'ihau
Trustee Keli'i Akina, At-Large
Trustee Brendon Kalei'aina Lee, At-Large
Trustee Carmen Hulu Lindsey, Maui
Trustee Robert K. Lindsey, Jr., Hawai'i Island
Trustee Colette Y. Machado. Moloka'i / Lāna'i

**MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

DATE: Wednesday, January 22, 2020
TIME: 1:00 p.m.
PLACE: Maui Ola Boardroom
Nā Lama Kukui
560 N. Nimitz Highway
Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Public Testimony*
- III. Approval of Minutes
 - A. November 27, 2019
- IV. Unfinished Business
 - A. 2020 OHA Legislative Package Updates - Matrix 1**†
- V. New Business
 - A. Kaka'ako Makai - Discussion on Land Use Entitlements and Possible Legislation
- VI. Executive Session***
 - A. Approval of Executive Session Minutes for March 16, 2016
 - B. Approval of Executive Session Minutes for November 27, 2019
 - C. Consultation with OHA Corporate Counsel attorney Everett Ohta, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, and liabilities related to Kaka'ako Makai Land Use Entitlements and Possible Legislation, pursuant to HRS § 92-5(a)(4).
- VII. Community Concerns*
- VIII. Announcements
- IX. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email at: rainag@oha.org no later than three (3) business days prior to the date of the meeting.

* Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz, Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

** Notice: Trustees may establish or revise an OHA position on ANY proposed bill / resolution / executive message currently moving through the state legislature or other relative elected body. The Matrices, which are available for public review in the meeting room at this stated meeting, provide a brief description of each bill, the bill's number, the bill's title, the bill's intent, and the proposed and specific OHA position on each measure, current through 01/21/20. However, the Trustees both in committee and as the Board of Trustees (BOT) reserve the right to discuss any and all bills on the Matrices, as well as those that time does not permit to be placed on the Matrices, in order to discharge their fiduciary obligations as Trustees of the Office of Hawaiian Affairs.

*** Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

† Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

Trustee John Waihe'e IV, Chair
Committee on Beneficiary Advocacy and Empowerment

Date

Committee on Beneficiary Advocacy and Empowerment
Trustee John Waihe'e IV, *Chair*
Trustee Kaleihikina Akaka, *Vice Chair*
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Trustee John Waihe'e IV, Chair
Committee on Beneficiary Advocacy and Empowerment

81-15-2020
Date

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

November 27, 2019 1:30 p.m.

ATTENDANCE:

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

BOT STAFF (cont.):

Laurene Kaluau-Kealoha
Lehua Itokazu
Lei-Ann Durant
Maria Calderon
Melissa Wennihan
Nathan Takeuchi

EXCUSED:

Trustee Leina'ala Ahu Isa
Trustee Robert Lindsey
Trustee Colette Machado

ADMINISTRATION STAFF:

Sylvia Hussey, Ed.D., Ka Pouhana
Jenifer Jenkins, PP
Jim McMahon, ADV
Jocelyn Doane, PP
Kamakana Ferreira, COMP
Keola Lindsey, ADV
Monica Morris, PP
Wayne Tanaka, PP

BOARD COUNSEL:

Robert K. Klein, Esq.

BOT STAFF:

Alyssa-Marie Kau
Anuheia Patoc
Brandon Mitsuda
Crayn Akina
Kama Hopkins
Kauikeaolani Wailehua

GUESTS:

Leimomi Kahn

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, November 27, 2019 to order at **1:30 p.m.**

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

MEMBERS			AT CALL TO ORDER (1:30 p.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	

At the Call to Order, **SIX (6) Trustees are PRESENT**, thereby constituting a quorum.

EXCUSED from the BAE Meeting are:

MEMBERS			COMMENT
TRUSTEE	LEINA'ALA	AHU ISA	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	ROBERT	LINDSEY	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	COLETTE	MACHADO	MEMO – REQUESTING TO BE EXCUSED

Chair Waihe'e would like the record to show that some materials (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

Trustee Hulu Lindsey moves to approve the minutes of October 16, 2019.

Trustee Dan Ahuna seconds the motion.

Chair Waihe'e asks if there is any discussion or corrections.

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

							1:31 p.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)		EXCUSED
LEINA'ALA							EXCUSED
DAN		2	X				
VICE-CHAIR KALEIHIKINA			X				
KELI'I			X				
BRENDON KALEI'AINA			X				
CARMEN HULU	1		X				
ROBERT							EXCUSED
COLETTE							EXCUSED
CHAIR JOHN			X				
TOTAL VOTE COUNT			6	0	0		3

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

IV. UNFINISHED BUSINESS

None

V. NEW BUSINESS

A. ACTION ITEM: BAE #19-02: Approval of 2020 OHA Legislative Package†**

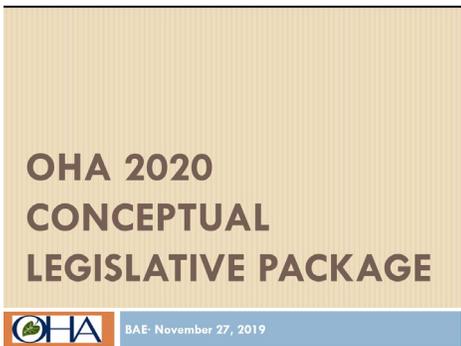
Chair Waihe'e turns it over to Ka Pouhana Sylvia Hussey.

Ka Pouhana Hussey: Good afternoon Trustees, I will call on our Public Policy Manager Jocelyn Doane, Chief Advocate Keola Lindsey and Senior Public Policy Advocate Wayne Tanaka to come to the table. Before we get into the details, we also wanted to *Aloha* Monica Morris; today is her last day with us as she is retiring.

Public Policy Manager Doane: Aloha yes, Monica has been with us for about 8 years and has been a staunch advocate for Education and has done so much work for the lāhui even before coming to OHA. I wanted to give her an opportunity to give her aloha as well.

Public Policy Advocate Morris: Aloha, it's been an honor working here. Working under Jocelyn has been phenomenal; she has been such a leader and strong advocate for our lāhui. What she loves to share is *Kūlia i ka nu'u, not the pu'u – to strive for the summit, not the hill*; so I will just take the strong mana'o that she shared with me. It's been a pleasure to work with her and Wayne and an honor coming to the BAE Committee during legislative session and I feel very proud that we can help to keep the trustees posted about what's happening at the legislature and at the same time I know that trustees do their due diligence and I'm going to miss that. It's been my honor, Mahalo nui loa.

Public Policy Manager Doane: Mahalo Monica. Trustees I know you've had a long-day so we'll get right into it. There are six measures in your packet today, so we'll get started. The legislative schedule has been updated since the last time we were here. We need to submit the legislative package a little earlier than usual this year; it's due by the 27th of December and session will open on January 15th.



Public Policy Manager Doane: There are six different measures in your packet; you have the actual language in them as well. The motion that we're going to entertain later would allow staff to make non-substantive edits, and edits to the preamble. So, we'll take any sort of mana'o that we get today and make changes between now and the time we submit them.

The very first measure is related to restoring Native Hawaiian expertise in Land Use and Resource Management. The goal here is incorporation of Hawaiian perspectives and expertise and recognition of Native Hawaiian rights in Land Use and Resource Management decisions. As the trustees know, many Board and Commission members of the State are required to attend a Native Hawaiian Law Training course that OHA puts on through our contractor Ka Huli Ao at the UH Law School; we do that twice a year. Each of these members that are required to attend are supposed to attend within a year of their appointment. We've noted that not all of them comply and in-particular the person who sits in the seat that OHA helped create on the Board of Land and Natural Resources (BLNR) for an expertise on Native Hawaiian Resource Management, has not complied, for example.

The first part of the bill will be to address the compliance with the Native Hawaiian law training course requiring an annual report that OHA and DLNR would work on together that would identify individuals that have not complied. It would prohibit those individuals from serving on a permitted interaction group or voting on matters, until they attend the course. It would require reconfirmation following the year of their deadline, if they still haven't attended a course. It would allow the votes of those individuals to be challenged and subject to nullification.

The second part of the bill is related to adjusting the Land Use Commission (LUC) and the BLNR composition so that almost half of the LUC and BLNR members would have to be appointed from a list of nominees submitted by OHA. This would be similar-to-the-way that the burial councils are currently selected. So, we would have an actual say as to who gets to be on these boards and commissions.

OHA-1 (Attachment A)

Restoring NH Expertise in Land Use & Resource Management

- **Goal:** Greater recognition and incorporation of Hawaiian perspectives, expertise, and rights in land use and resource management decision-making.
- **Issues:**
 - Certain board and commission members (BLNR, CWRM, LUC) must attend a NH Law and Public Trust training course w/in 1 year, but not all comply.
 - Although BLNR & LUC have 1 dedicated seat for a member with NH expertise, decisions do not consistently reflect an appropriate consideration of NH knowledge, concerns, and rights – which has contributed to substantial conflict, distrust, and legal action.

OHA-1 (Attachment A)

Restoring NH Expertise in Land Use & Resource Management(cont'd)

- For training course compliance:
 - Require an **annual report** by OHA & DLNR of all individuals who fail to meet the one-year training deadline under the law;
 - **Prohibit** individuals who fail to meet training requirement from **servng on a PIG or voting on matters** until they attend a training course; and
 - Require reconfirmation of untrained individuals from board/commission at the end of the regular legislative session following their deadline to attend a training;
 - Allow individual votes of untrained individual votes to be challenged and subject to nullification following a contested case
- For more meaningful NH perspectives
 - ~ **half** of LUC & BLNR must be appointed from list of nominees submitted by OHA

Public Policy Manager Doane: The next measure is related to helping to reduce barriers of employment for formerly incarcerated or formerly convicted individuals to facilitate reentry. As we can all imagine it's very difficult for the formerly incarcerated and the formerly convicted to find stable, legitimate employment to support their families and reintegrate into society. This oftentimes leads to potentially illegitimate employment and different ways of generating revenue; and possibly recidivism. National studies have shown that criminal records have significant impact on employment opportunities even for minor and old convictions. The State of Hawai'i has been really progressive on this issue and was the very first jurisdiction to pass a law to limit what employers can inquire into and use with regards to criminal records.

Right now, employers can inquire into and use criminal convictions for up to ten years to discriminate against and make employment decisions. Ten years is a really, long time, and recidivism is most likely to occur in the first two-years after release. We're proposing to change the once progressive law to be a little more progressive to help facilitate reentry by modifying the law to allow employers looking at criminal convictions to only access five years of convictions for felonies, and three years for misdemeanors.

This however, doesn't alter the existing statutory authority that certain employers possess in looking into criminal histories. There are many exceptions for certain types of jobs – the two that come to mind are related to public safety jobs and jobs related to employment at public and private schools. This change wouldn't affect those authorities, those are particularly heightened and sensitive safety jobs. So, I want to make sure that you're all clear that we're not attempting to change those authorities. This is just for other employers like retail and restaurants, etc.

Public Policy Manager Doane: The third measure is related to Historic Preservation review. Historic Preservation laws provide processes by which the county, when they're issuing grading and construction related permits, can be vetted for potential impacts to iwi kupuna historical sites. The counties have a process; they look at certain triggers when they get these applications and then they forward the ones that they think should be forwarded over to SHPD. So, they can figure out whether there should be a negation or if there are potential impacts to iwi kupuna.

These processes include opportunities to attach conditions and other mitigation requirements. However, some landowners and/or contractors ignore these permitting requirements and begin construction before applying, and what that means is there's no opportunity for historic preservation review. So, there are no conditions or mitigation measures put into place. SHPD has stated numerous times in writing that they don't clearly investigate impacts to iwi kupuna or historic sites if the work has started before applying for a permit because I guess the idea in large part is that a lot of the evidence will be destroyed. This was the situation that came up on Moloka'i with the Dudoit 'Ohana. What this means is that landowners and contractors have a financial incentive to build and start construction first, then apply for the permit later, because SHPD has already said in writing that they're not going to investigate after the fact.

OHA-2 (Attachment B)

Addressing Employment Discrimination Against Former Pa'ahao

- **Goal:** Reduce barriers to employment for former pa'ahao and facilitate re-entry
- **Issue:**
 - It is difficult for former pa'ahao to find stable legitimate employment to support their families and reintegrate into society, which may lead to recidivism
 - Incarceration particularly burdens the NH community
 - National studies show criminal records have a significant impact on employment opportunities even for relatively minor and old conviction
 - The law currently allows employers to access and use 10-year criminal records to discriminate against former pa'ahao for employment decisions, which may be unreasonable
- **Legislation:** Limiting convictions that may be used in employment decisions
 - from 10 years to five years for felonies, and
 - from 10 years to three years for misdemeanors, except where employers are expressly permitted to inquire into criminal history (e.g. DOE – suitability to work with children, DPS – risks to dept, inmates, public).

OHA-3 (Attachment C)

Preventing Evasion of Historic Preservation Review & Other Violations

- Historic preservation laws provide a process by which county grading- and construction-related permit applications can be vetted for potential impacts to iwi kupuna and historical sites;
 - process includes opportunity to attach permit conditions & other mitigation measures
- **Goal:** Better protect iwi kupuna and historic/archaeological sites.
- **Issue:**
 - Some landowners and contractors ignore county permitting requirements before beginning construction
 - No permits means no HP review, no conditions or other mitigation measures
 - SHPD has stated in writing – they do not investigate impacts to iwi kupuna/historic sites for unpermitted grading or construction activities after-the-fact (e.g. destroyed evidence)
 - Admitted lack of enforcement – creates financial incentive to build first, apply for permits later

Public Policy Manager Doane: Our recommended solution to that is to increase maximum fines to disincentivize violations, including; unpermitted grading or construction activities that would otherwise trigger HP review, prohibit work or permit issuance for our property, unless and until SHPD does a site inspection. It would empower SHPD to do a Stop Work Order, which they don't have the explicit authority to do now.

It would hold the contractors and landowners jointly-liable for assessments and mitigation. It would establish a citizen complaint process and it would require posting of notice at worksites and finally it would expressly affirm that the existing historic preservation fund money can be used for enforcement activities. This is significant because SHPD has the most expertise in the area - if they're able to do the stop work order, it will make a world of difference.

Public Policy Manager Doane: We have two historic preservation measures in our package this year; the next one is a resolution. The goal here is to ensure that Historic Preservation rules amendments that SHPD is starting now address some of the longstanding issues that we oftentimes see when we're reviewing projects and, when our beneficiaries bring them to our attention. Currently, there are inconsistent and inadequate protection for iwi kupuna burial sites and historic sites and we're wanting to make sure that the rules SHPD starts do-in-fact address these issues. So, our attempted solution to do that is to try to get a statement from the legislature about what they want to see in the rules.

OHA-3 (Attachment C)

Preventing Evasion of Historic Preservation Review & Other Violations (cont'd)

Legislation:

- Increased maximum fines to disincentivize violations, incl unpermitted grading or construction activities that would otherwise trigger HP review;
- Prohibit, subject to significant fines, any further work or permit issuance for the subject property, unless and until a SHPD site inspection is done to look for evidence of potential impacts to iwi kupuna or historic sites, paid for by landowner;
- Hold landowners and contractors jointly liable for all assessment and mitigation costs associated with unpermitted activities;
- Establish a citizen complaint process and informational resources for citizens to document/report (anonymously, if necessary) impacts to iwi kupuna or historic sites;
- Require the posting of notice at worksites regarding iwi kupuna and historic preservation laws, and informing workers and the public of the citizen complaint process; and
- Expressly affirm that Historic Preservation Special Fund monies can be used for enforcement activities.

OHA-4 (Attachment D)

Protecting our Ancestors via SHPD Rulemaking (Resolution)

- **Goal:** Ensure long-awaited rule amendments address concerns relating to iwi and archaeological site protection
- **Issue:**
 - inconsistent and inadequate protection for iwi kupuna, burial sites, and historic sites
 - SHPD starting rule amendment process for the first time in two decades; however, uncertainty exists as to whether longstanding iwi and archaeological site protection issues will be addressed.

Public Policy Manager Doane: Basically, this is just one step in the process. We're going to have to be vigilant advocates during the actual development of the rules. Then we would be commenting on the rules and playing defense when the larger landowners or developers urge SHPD to go the opposite way.

Some of the ideas that we want to see addressed in the rules are specifically articulated in the resolution draft; including improving accountability for archaeologists, standardizing archaeological inventory, survey sampling and reporting, and creating a process to reclassify inadvertently discovered burials. Unless a burial is discovered through an AIS; burials that are found in the process of either exploratory testing or development, are considered inadvertently discovered even if they're really close to a large concentration of iwi that we already knew existed. Which means that those two sets of burials are treated differently, which doesn't make a lot of sense. Right now, there isn't a process to treat inadvertently discovered iwi the same; unless voluntarily.

The key difference is that previously identified burials/burial plans are determined by the burial councils, as opposed to SHPD. The resolution would also provide stronger and periodic-training to the Island Burial Councils. We would also recommend amending assessment requirements to reduce the likelihood of inadvertently discovered burials, so that there's more likelihood that we figure out where the burials are sooner. It would improve requirements for consistent consultations and require metes and bounds for recordation of preservation sites and create a process to document and address rule violations.

Public Policy Manager Doane: OHA-5 is related to Facilitating Practitioner Access on Private Lands; so, making it more likely that private and government landowners will grant access to practitioners who are asking permission. I'll let Wayne describe it in more detail.

Senior Public Policy Advocate Tanaka: As we've described before, practitioners have the right in Hawai'i to access less than fully-developed lands to engage in Traditional and Customary Native Hawaiian practices. The problem is landowners are hesitant to accommodate that kind of access because they're worried about being sued. What this bill would do is address that concern and take away that excuse by saying that landowners who allow practitioners to access their lands to engage in Traditional and Customary Practices will enjoy the same liability protections as landowners who allow recreation users onto their lands. It's based-off of existing statutes that provide that kind of liability protections for landowners and it would extend that to government landowners where the lands are not open to the general public.

OHA-4 (Attachment D)

Protecting our Ancestors via SHPD Rulemaking (Resolution)

- **Legislation:** Resolution urging SHPD rule amendments including, but not limited to, provisions that:
 - Improve accountability for archaeologists surveying development sites;
 - Standardizing AIS sampling and reporting;
 - Creating process to reclassify "inadvertently discovered" burials as "previously identified" burials (e.g. concentrations, exploratory testing vs AIS)
 - Providing stronger and periodic training to Island Burial Councils;
 - Amend assessment requirements to reduce the likelihood of "inadvertently discovered" burial sites during construction activities;
 - Improve requirements for consistent consultation with descendants and knowledgeable individuals throughout the historic preservation review process;
 - Require the metes and bounds recordation of preservation sites at the Bureau of Conveyances; and
 - Create a process to document and address rule violations by cultural resource contractors.

OHA-5 (Attachment E)

Facilitating Practitioner Access On Private Lands

- **Goal:** Encourage private landowner accommodation of cultural practitioners and facilitate the perpetuation of Native Hawaiian traditional and customary practices.
- **Issue:** Landowners are reluctant to provide access to cultural practitioners due to liability concerns; practitioners must risk conflict or citation/arrest to exercise their right to perpetuate their practices.
- **Legislation:**
 - Provide liability protection to landowners who expressly permit practitioners to access their lands, from legal claims arising from such access.

Public Policy Manager Doane: The final measure is a recommendation coming out of the Land Division. The WAM Chair was previously with the City Council and at that time he was very supportive of OHA to obtain funds to acquire Kūkaniloko. It's in Senator Dela Cruz's district and he's been really, supportive throughout this time. He's encouraged us over the years to apply for Capital Improvement Projects to get things going there and it looks like we're now ready to start getting some construction of facilities going.

OHA-6 (Attachment F)

Capital Improvement Project Budget Request for OHA's Wahiawā Lands

- **Goal:** Construction of a water storage and distribution system on OHA's 511-acre property in Wahiawā.
- **Issue:**
 - Water is integral to OHA's plans for Wahiawā while OHA has secured water from ADC, need to build storage and delivery infrastructure (est. cost of \$3 million).
 - To accommodate Conceptual Master Plan's commercial elements, OHA needs to demonstrate agricultural uses and amend Honolulu county held conservation easement
- **Legislation:** CIP Request for \$3 million (raised through general obligation bonds) for construction of water storage and distribution system.
 - Note: OHA has committed funding in FY 20 (\$200k) and 21 (\$300k) for the planning and permitting of the system and is starting the procurement process.

2020 Legislative Session Context

- CLA Audit
- 2019 Budget Bill (Act 37) Audit
- Financial Audits
- New Strategic Plan
- Kakaako Makai

Coordinated Advocacy

Sentencing Reform

- **Goal:** Address inhumane and costly overcrowding in our detention facilities and mitigate the disproportionate impacts caused by four decades of "tough-on-crime" sentencing policies (including mandatory minimum and enhanced sentencing laws).
- **Legislation under consideration:**
 - Reducing the length and severity of custodial sentences by **redefining or reclassifying crimes, or repealing mandatory minimum sentences;**
 - **Reducing or eliminating sentencing enhancements for repeat offenders in certain classes of offenses** (seeking support of/coordination with Senate Public Safety Committee staff);
 - Shortening lengths of incarceration by **expanding opportunities to earn sentence credits** (which shave off time in custody and advance parole eligibility timelines);
- **Notes:**
 - An ad-hoc group of judges, lawyers, community advocates, etc. will lead; OHA staff has been supporting and recommends further coordinated advocacy to support their work.
 - HCRBS Task Force explored best practices in effective incarceration, and this measure is consistent with recommendations related to transformation of Hawaii's system from a punitive correctional model to a rehabilitative one. Primary recommendation - reduce mass incarceration & impacts on NHs.
 - Native Hawaiian Justice Task Force also noted the impacts of inequitable sentencing and the need for comprehensive examination to address inequities.

2020 Legislative Schedule

- **Aug./Sept.** – Internal/External Outreach
- **Aug. 21** – 2019 Legislative Overview with BAE*
- **Oct. 16** – Legislative Package Concepts Workshop with BAE
- **Oct. 17** – Legislative Package Concepts Workshop with BOT
- **Nov. 27** – Legislative Package Final Language Approval with BAE
- **Dec. 5** – Legislative Package Final Language Approval with BOT
- **Dec 27** – Deadline to submit OHA Legislative Package
- **Jan. 3** – Deadline to submit OHA Annual Report
- **Jan. 15** – Opening of 2020 Legislative Session*

* Pending confirmation and approval

Pau

VI. EXECUTIVE SESSION

Chair Waihe'e asks for a motion to resolve into Executive Session pursuant to *HRS § 92-5(a)(4)*.

Trustee Lee moves to resolve into Executive Session.

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**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	2:10 p.m. EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
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						EXCUSED
BAE CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

BAE Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.

The committee resolved into Executive Session at 2:10 p.m. to discuss:

VI. EXECUTIVE SESSION***

- A. Approval of Executive Session Minutes for March 16, 2016
- B. Consultation with OHA Corporate Counsel attorney Everett Ohta, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, and liabilities related to a 2006 Memorandum of Agreement between the Kaua'i Island Utility Cooperative and the Office of Hawaiian Affairs. *HRS § 92-5(a)(4)*.
- C. Consultation with Board Counsel Robert G. Klein, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, and liabilities with respect to legal issues pertaining to sovereign immunity. *HRS § 92-5(a)(4)*.

The committee returned to Open Session at 2:41 p.m.

VII. COMMUNITY CONCERNS

None

VIII. ANNOUNCEMENTS

None

IX. ADJOURNMENT

Vice-Chair Akaka 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.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	2:52 p.m. EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA		2	X			
VICE-CHAIR KALEIHIKINA	AKAKA	1		X			
	AKINA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

Chair Waihe'e adjourns the BAE meeting at 2:52 p.m.

Respectfully submitted,

Melissa Wennihan
Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on January 22, 2020.

Trustee John Waihe'e, IV
Chair
Committee on Beneficiary Advocacy and Empowerment

ATTACHMENT(s):

None

Committee on Beneficiary Advocacy and Empowerment
Trustee John Waihe'e IV, *Chair*
Trustee Kaleihikina Akaka, *Vice Chair*
Members



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Trustee Colette Y. Machado. Moloka'i / Lāna'i

**MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

DATE: Wednesday, January 22, 2020
TIME: 1:00 p.m.
PLACE: Maui Ola Boardroom
Nā Lama Kukui
560 N. Nimitz Highway
Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Public Testimony*
- III. Approval of Minutes
 - A. November 27, 2019
- IV. Unfinished Business**
 - A. 2020 OHA Legislative Package Updates - Matrix 1**†**
- V. New Business
 - A. Kaka'ako Makai - Discussion on Land Use Entitlements and Possible Legislation
- VI. Executive Session***
 - A. Approval of Executive Session Minutes for March 16, 2016
 - B. Approval of Executive Session Minutes for November 27, 2019
 - C. Consultation with OHA Corporate Counsel attorney Everett Ohta, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, and liabilities related to Kaka'ako Makai Land Use Entitlements and Possible Legislation, pursuant to HRS § 92-5(a)(4).
- VII. Community Concerns*
- VIII. Announcements
- IX. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email at: rainag@oha.org no later than three (3) business days prior to the date of the meeting.

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Trustee John Waihe'e IV, Chair
Committee on Beneficiary Advocacy and Empowerment

81-15-2020
Date

2020 OHA LEGISLATIVE PACKAGE

OHA NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	STATUS	REFERRAL
OHA 1	HB1781	RELATING TO HAWAIIAN EXPERTISE IN LAND USE AND RESOURCE MANAGEMENT.	Prohibits council, board, and commission members from serving if the member has not completed, within the requisite time, the required training course related to native Hawaiian and Hawaiian traditional and customary rights, native Hawaiian and Hawaiian natural resource protection and access rights, and the public trust, including the State's trust responsibility. Requires that at least 4 members of each the board of land and natural resources and the state land use commission be appointed from a list submitted by the office of Hawaiian affairs.	H 1/17/2020: Introduced and Pass First Reading.	TBA
OHA 1	SB2192	RELATING TO HAWAIIAN EXPERTISE IN LAND USE AND RESOURCE MANAGEMENT.	Prohibits council, board, and commission members from serving if the member has not completed, within the requisite time, the required training course related to native Hawaiian and Hawaiian traditional and customary rights, native Hawaiian and Hawaiian natural resource protection and access rights, and the public trust, including the State's trust responsibility. Requires that at least 4 members of each the board of land and natural resources and the state land use commission be appointed from a list submitted by the office of Hawaiian affairs.	S 1/17/2020: Passed First Reading.	TBA
OHA 2	HB1782	RELATING TO EMPLOYMENT DISCRIMINATION.	Limits the convictions that may be used in employment decisions from all convictions in the most recent ten years to felony convictions that occurred in the most recent five years and misdemeanor convictions that occurred in the most recent three years.	H 1/17/2020: Introduced and Pass First Reading.	TBA
OHA 2	SB2193	RELATING TO EMPLOYMENT DISCRIMINATION.	Limits the convictions that may be used in employment decisions from all convictions in the most recent ten years to felony convictions that occurred in the most recent five years and misdemeanor convictions that occurred in the most recent three years.	S 1/17/2020: Passed First Reading.	TBA

2020 OHA LEGISLATIVE PACKAGE

OHA NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	STATUS	REFERRAL
OHA 3	HB1783	RELATING TO HISTORIC PRESERVATION.	Requires the Department of Land and Natural Resources to establish a citizen complaint intake process and prepare related informational material for dissemination and posting. Clarifies that failure to comply with certain advisement or approval processes shall constitute a violation of chapter 6E, Hawaii Revised Statutes. Authorizes the State Historic Preservation Division to issue an order to stop work immediately in the event of a failure to comply with certain advisement or approval processes.	H 1/17/2020: Introduced and Pass First Reading.	TBA
OHA 3	SB2194	RELATING TO HISTORIC PRESERVATION.	Requires the Department of Land and Natural Resources to establish a citizen complaint intake process and prepare related informational material for dissemination and posting. Clarifies that failure to comply with certain advisement or approval processes shall constitute a violation of chapter 6E, Hawaii Revised Statutes. Authorizes the State Historic Preservation Division to issue an order to stop work immediately in the event of a failure to comply with certain advisement or approval processes.	S 1/17/2020: Passed First Reading.	TBA
OHA 4	HCR5	REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ADOPT ADMINISTRATIVE RULES THAT BETTER PROTECT IWI KUPUNA AND NATIVE HAWAIIAN CULTURAL AND HISTORIC RESOURCES.		H 1/17/2020: Offered	TBA

2020 OHA LEGISLATIVE PACKAGE

OHA NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	STATUS	REFERRAL
OHA 4	SCR3	REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ADOPT ADMINISTRATIVE RULES THAT BETTER PROTECT IWI KUPUNA AND NATIVE HAWAIIAN CULTURAL AND HISTORIC RESOURCES.		S 1/17/2020: Offered.	TBA
OHA 5	HB1784	RELATING TO LANDOWNER LIABILITY.	Provides liability protections for public and private landowners who expressly allow access and use of their land to practitioners of Native Hawaiian traditional and customary practices.	H 1/17/2020: Introduced and Pass First Reading.	TBA
OHA 5	SB2195	RELATING TO LANDOWNER LIABILITY.	Provides liability protections for public and private landowners who expressly allow access and use of their land to practitioners of Native Hawaiian traditional and customary practices.	S 1/17/2020: Passed First Reading.	TBA
OHA 6	HB1780	RELATING TO A WATER STORAGE AND DISTRIBUTION SYSTEM FOR CERTAIN AGRICULTURAL LAND IN WAHIAWA, OAHU.	Authorizes the issuance of general obligation bonds for the purpose of funding construction costs of a water storage and distribution system on agricultural lands owned by the Office of Hawaiian Affairs in Wahiawa, Oahu surrounding the Kukaniloko Birthing Stones site.	H 1/17/2020: Introduced and Pass First Reading.	TBA

2020 OHA LEGISLATIVE PACKAGE

OHA NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	STATUS	REFERRAL
OHA 6	SB2191	RELATING TO A WATER STORAGE AND DISTRIBUTION SYSTEM FOR CERTAIN AGRICULTURAL LAND IN WAHIAWA, OAHU.	Authorizes the issuance of general obligation bonds for the purpose of funding construction costs of a water storage and distribution system on agricultural lands owned by the Office of Hawaiian Affairs in Wahiawa, Oahu surrounding the Kukaniloko Birthing Stones site.	S 1/17/2020: Passed First Reading.	TBA

PHONE (808) 594-1888

FAX (808) 594-1868

Committee on Beneficiary Advocacy and Empowerment
Trustee John Waihe'e IV, *Chair*
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**MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

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AGENDA

- I. Call to Order
- II. Public Testimony*
- III. Approval of Minutes
 - A. November 27, 2019
- IV. Unfinished Business
 - A. 2020 OHA Legislative Package Updates - Matrix 1**†
- V. **New Business**
 - A. **Kaka'ako Makai - Discussion on Land Use Entitlements and Possible Legislation**
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 - A. Approval of Executive Session Minutes for March 16, 2016
 - B. Approval of Executive Session Minutes for November 27, 2019
 - C. Consultation with OHA Corporate Counsel attorney Everett Ohta, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, and liabilities related to Kaka'ako Makai Land Use Entitlements and Possible Legislation, pursuant to HRS § 92-5(a)(4).
- VII. Community Concerns*
- VIII. Announcements
- IX. Adjournment

Materials, if any,
will be distributed
when received

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Trustee John Waihe'e IV, Chair
Committee on Beneficiary Advocacy and Empowerment

Date

Committee on Beneficiary Advocacy and Empowerment
Trustee John Waihe'e IV, *Chair*
Trustee Kaleihikina Akaka, *Vice Chair*
Members



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Materials will be distributed in the closed meeting - Executive Session

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Date