STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817

Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, May 30, 2019
9:30 am

ATTENDANCE:
TRUSTEE COLETTE MACHADO
TRUSTEE BRENDON KALEI'ĀINA LEE
TRUSTEE LEINAALA AHU ISA
TRUSTEE KALEI AKAKA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, ESQ., BOARD COUNSEL

EXCUSED:
TRUSTEE DAN AHUNA

ADMINISTRATION STAFF:
KAMANAOPONO CRABBE, CEO
SYLVIA HUSSEY, COO
MILES NISHIJIMA, LPD
RAINA GUSHIKEN, CC
LISA WATKINS-VICTORINO
EVERETT OHTA, CC
MEHANA HIND, CE
STERLING WONG, PRO
WAHINE TONG, LCH
IKAIKA HUSSEY, DPM

BOT STAFF:
CAROL HO'OMANAWANUI
LŌPAKA BAPTISTE
DAYNA PA
LAURENE KALUAU-KEALOHA
NATHAN TAKEUCHI
KAMA HOPKINS
PRICILLA NAKAMA
LEHUA ITOKAZU
MARIA CALDERON
ALYSSA-MARIE KAU
LEIANN DURANT
MELISSA WENNIHAN
PAUL HARLEMAN

GUESTS:
CLYDE AIKAU
CLAYTON GOHIER
MOSES HAIA, ESQ.
KAWIKA PATTERSON

I. CALL TO ORDER

Trustee Colette Machado Calls the Board of Trustees meeting to order at 9:31 am. Roll call is taken; Trustees Ahu Isa, Akaka, Akina, Lee, Carmen Hulu Lindsey, Robert Lindsey, Waihe'e and Machado are present, constituting a quorum. An excused absence was received from Trustee Dan Ahuna.

We will move on to public testimony. We have two members who have signed up.

II. PUBLIC TESTIMONY

Chair Colette Machado – I'd like to recognize Clyde Aikau representing the Waikiki Beach boys. Just for your information, each person is limited to 5 minutes to present public testimony.

Mr. Clyde Aikau – Thank you so much. I am honored to be here.

Chair Colette Machado – Next to you we have Clayton Gohier, both of you are with the Beach boys.

Mr. Aikau – I am here to make a 5 minute presentation on bringing back the Waikiki Beach to Waikiki Beach. In 1990 George Downing and I created law, which was passed that created a location on Waikiki Beach for the Waikiki Beach Boy so as he could do his cultural heritage of surf boy riding, canoeing, sharing that with Hawaii's people and all of our visitors from all over the world. We had created a law that permitted a location on Waikiki Beach on a non-bid basis. The City and County of Honolulu carried that law, put it into their City Rules and Regulations, and actually provided the location in 1990. We had worked there for over 10 years and for some miss understanding George Downing and I were removed from the nonprofit beach concession. That all of the proceeds would go for the dental care and health care of the beach boy which he never had in the last 100 years. S this beach concession was to provide the health care and the needed dentals care that the beach boy needed.

George Downing and I were removed and voted out, and that was a long story. But another nonprofit came in and took over for the next 10 years. So fast forward today, this location was at Duke Statue Kuhio Beach. 10 years later the nonprofit was relocated to the current site today. Kapahulu groin, better known as walls. We all know for the last 60-70 years they cultural surfing is not prohibited there. Canoeing is prohibited. Is prohibited at Kapahulu Groin, Walls. So for the last 5-6 years the City has relocated us from Kuhio Beach to Kapahulu Groin where we cannot conduct our rightful cultural heritage. Which is 100 percent Beach Boys, teaching surfing, and canoeing, riding waves is what we do. The income that would have been drawn has been lost for the last 5-6 years. The Beach Boy had never had dental, there is no money created, the beach boy had no health care because no money was created. What we are looking at, we are not looking at changing any law or even City Rules. We are looking at one thing, relocation. Relocation back to where the Beach Boys were originally in 1990 George Downing and I at Kuhio Beach, Duke's statue. We have a right to be relocated, because at the current location we cannot do the surfing and the outrigger riding. That could draw the income that can take care of our Beach Boys. That's it for me. Mahalo nui. I have a special gift for the Board of Trustees that I will go down and bring and leave back here for you latter. This is from the Eddie Aikau Foundation. We mahalo you for your support for the Aikau 'Ohana and Eddie Aikau Big Wave Surfing Event. Mahalo. This is Clay Gohier and he going say.

Clayton Gohier – I am a Captain on Waikiki Beach and I've been there all my life. From about 8 years old, I am almost 80. I'd like to see it get back to where it belongs before I leave this planet. That is all I want to say to you folks today. Clyde said a whole mouth full. So I'd like to leave you with that. Thank you very much. If you can help us that would be much appreciated.

Trustee Carmen Hulu Lindsey – Aloha, I'm the Maui Trustee. I just wanted to know how do you think OHA can help you.

Mr. Aikau – Anybody knows the 101% support from OHA when I've been making my rounds I talked to Ikaika Anderson, dozens of Senators, we've had the privilege of talking to Trustee Waihee, everybody knows that the support of Office of Hawaiian Affairs and we are hoping a 101% support means something as we continue our journey talking to the Mayor, the parks people, talking to more Senators. It can only help us to have your support. That is what we are looking for, just your support. And if you don't agree on what I have presented please tell me now. I know you have to think about it but if there anyone here don't believe that we have a right to be back on Waikiki Beach by law, please let me know. Thank you so much.

Trustee Leina'ala Ahu Isa – I think he is talking about like a neighborhood board, which they don't have on Maui. But we have on Oahu, all our neighborhood boards when we have any projects start, we go to the neighborhood board and ask for support, we ask for a letter of support to the Mayor or whomever is involved. That is what I think.

Chair Colette Machado – I think it's a little bit more than that. Do we feel as the lead Native Hawaiian entity it's a Government organization whether or not we want Hawaiians on the beach to represent our culture I think that is basically it. We have that sticker that says, no aloha no Hawaiians, right.

Mr. Aikau – Yes.

Chair Colette Machado – It's been going.

Mr. Aikau – Let me make it clear, it's not a matter of recognizing what you are saying, because the law in 1990 does recognize that. The City ordinance does recognize that the Beach Boy have a cultural heritage right be on Waikiki Beach. The only issue is the relocation.

Trustee John Waiheʻe IV – I can't go into much detail, because it's not agendized. But we have been, my committee and some of the Advocacy Staff have been working on ideas. I haven't been able to get in touch with you. But I will try to call you sometime this week.

Chair Colette Machado – I have his contact information.

Mr. Aikau – I will end with this. Legally there are two ways that the relocation can happen almost immediately. One is by the decision of the Parks Director, Nakota, she can make that decision without talking to Council or Mayor. The other way that this relocation can happen is through the City Council. We have 101% support of Ikaika Anderson and a number of Council Members at this point. We feel confident that we will have the votes for the relocation. But to walk in there and say we have the support of Hawaiians and this Office of Hawaiian Affairs is somebody in this town. To go in there and say we have your support means everything. Mahalo.

III. UNFINISHED BUSINESS

A. CEO's 15-Minute Update on Hoʻoulu Lāhui Aloha and OHA Activities

Chair Colette Machado –I would like to Sylvia to the table sit in for Kamanaʻopono for the next presentation. We are on III. There are some activities and updates.

Sylvia Hussey – Mehana is going to provide an update. We've been out in the community with our Strategic Planning as well as our Biennium Budget places. Mehana has been virtually at all of them.

Mehana Hind – Aloha mai kakou Trustees, Chair. Just a quick update, next week we still have Kona on Monday, Hauula on Tuesday, on Wednesday its Kauai and then on Thursday we are on Molokai. So far so good, we have over 600 responses to our survey. And we're planning, every day we just more and more survey information in. From the meetings thus far, we have had about 150 participants from the sites that we've already gone to. We are engaging; people are asking questions and are very interested in what we are doing. I also make another presentation at the Nānākuli Neighborhood Board. All kinds of questions arose from there. A lot of compliments on just the opportunity to participate and how it is that we move forward. We also have people who want us to engage more, every community wants us to go into it with small families have asked if we could come to their family reunions. We haven't been able to accommodate everyone face to face but we are drawing people to the website, telling people to access and provide input.

Sylvia Hussey – Thank you Trustees, many of you have been attending all of the sessions to which the community really appreciates seeing Trustees there, engaging so thank you for your time that you've given.

Chair Colette Machado – Thank you anything else? Before we proceed to new business, the Chair would like to ready for the record.

The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for the following items:

IV. New Business
- B. Committee on Resource Management
  - 2. Action Item RM #19-08: Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description relating to Hiʻilei Aloha LLC and Hoʻokele Pono LLC.
- C. Joint Committees on Beneficiary Advocacy and Empowerment and Resource Management

2. Action Item BAE/RM #19-05: To approve the Scope of Work and Qualification Requirements as defined in the proposed RFQ in selecting a professional executive search and consulting firm to assist the Joint BAE-RM Committees for the recruitment and selection of a Chief Executive Officer.
3. Action Item BAE/RM #19-06: To approve and authorize the disbursement of $40,500 from the fiscal year 2020 Core operating budget (Object code 56530) and $40,500 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund Ahupua'a O Moloka'i.

With that said we will move on to IV. New Business.

IV. NEW BUSINESS

A. Native Hawaiian Legal Corporation: Introduction of its Board members and presentation of its current programs and projects

Chair Colette Machado – I would like to introduce Mr. Moses Haia with the Native Hawaiian Legal Corporation. He has something to distribute to us at this time.

(Please find attached to the minutes handout from the Native Hawaiian Legal Corporation.)

Mr. Moses Haia – Aloha Chair Machado and Mahalo for this opportunity we really appreciate it. The first thing I want to do, I am the current Executive Director of the Native Hawaiian Legal Corporation. I wanted to introduce some of our current Board Members to the Trustees. We have present our President of the Board, Kawika Patterson, Angela Correa- Pei, Kevin Cockett, Robert Merce and John Matsuoka.

Chair Colette Machado – I am sorry; we are going to address Mr. Aikau.

Mr. Aikau – This is for the Board of Trustees. Aloha no from the Aikau Family. *(The board is presented with a framed lei hulu)*

Chair Colette Machado – Sorry for the interruption.

Mr. Haia, Esq. – I just wanted to also say on behalf of the Board members who were unable to make it, they apologize and wish they could be there. I will provide you with their names, we have Malia Kaaihue, who is the current Vice President. Kawena Suganuma-Beaupre who is our Treasury, Roy Catalani, Michael Hodson form the Big Island. Gina Lobaco from Kauai, Kealii Lopez, Kealii Reichel from Maui and Sunshine Topping. We have 13 board members currently.

What I plan to do is do a little presentation then I am going to hand it off to our president. He would like to make a presentation also. We've handed out to you a brief description, when I say brief I use my understanding of brief, which is probably about 6 pages. It provides the Trustees with a view of our History and what we've done as a non profit public interest law firm. We see and thank OHA for being a part of that for supporting us throughout the years. We couldn't have done the work that we have done without you. As you, all may know we were formed, as originally in 1974 as a referral service the four original members of Native Hawaiian Legal Corporation would take calls and then try and get attorneys to take the cases that these people were calling us about. In 1978, I think we were able to get some Federal funding. In 1980, we were given funding from the Office of Hawaiian Affairs for quite title actions, it was a time where a lot of entities were filing quite title actions and the majority of the defendants in those actions were native Hawaiians. A little latter we also received funding from Office of Hawaiian Affairs to do Native Hawaiian rights cases. Our history is your history and we thank you for that.

What I've provided is just a brief description of our cases. Maui currently on going, the East Maui case where we have a case before both the Commission on Water Resource Management and the Department of Land and Natural Resources which sought to have water returned to streams that were taken away over 140 year ago without the

proper procedures being followed. Thankfully, we've been able to get water back into the streams and provide the opportunity for the current descendants of the original residents of East Maui to re-engaged in those traditional and customary practices. Like taro cultivation, getting into the streams and valleys for picking items that help with health and other things like that. On Molokai, one of the significant cases that impacts till today the quite title actions that we still engage is, is previously the plaintiff in a quite title action only needed to go and put a notice in the paper to any and all defendant they were engaged in a lawsuit and you may lose your interest in the property if you don't respond. We took this case, which is from Molokai, to the appellant courts and ultimately were provided with a decision, which requires plaintiffs in quite title actions to do provide due diligence and look at records and other informational pamphlets that would provide the plaintiff with the ability to provide notice, personal notice to these defendants. That was a significant case in quite title actions.

Bush v. Watson was also a Molokai case. It was about the sub-letting of Hawaiian Homeland Agricultural land to others, non-Hawaiians. On behalf of a couple of Hawaiian Homesteaders, we were able to stop the approval of those subleases. We have a Wai Ola o Molokai case that dealt with water. As you can see Justice Steven Levinson summed that case all up by saying, "The absence of evidence that the proposed use would affect native Hawaiian's rights was insufficient to meet the burden imposed upon [the permit applicant] by the public trust doctrine, the Hawaii Constitution and the Code." Those were a couple of cases from Molokai. We have cases from Kauai, Oahu, Molokai, Lanai and Maui. The Nelson case which impacts all Hawaiian Homelands, in its requirement that the State provides sufficient funding to the Department of Hawaiian Homelands for its operational purposes. The Aged Hawaiians case, people on the waiting list for forever until they pass away, and the Hawaii Supreme Court ordered DHHL to consider applications of people that have been on the wait list since 1952. One of the representatives of the Aged Hawaiians is no longer with us, Jimmy Akiona. He called the decision a miracle, up till now everything seemed to go against us. Now I know how justice feels. One more case from Hawaii Island is Napeahi v. Paty. This is a case where ceded lands were being used by a hotel without any payment of revenues or a lease. We were able to get a decision that required it to obtain compensation for the use of those lands. Also on Hawaii island is Kelly v. Oceanside. This was a 9 ahupuaʻa case where there was a development that would did in fact heavily impact native Hawaiian burials, it also had an impact on access to the area. There's a trail known as a the ala loa that was being taken apart we were able to stop that and require the developer to put it back in place. Ultimately, while there is still this development they have not been able to go any further with the development because the developer went bankrupt. One of the things that I bring that up, is because there are people, entities, that look at us as trouble makers and impacting development and the economy here. All I really have to say to that is that, all that we are here for is battles, we are here to ensure that the very essence of this place, the reason these developers want to come here and develop is not lost as a result of development. There is a balance. You can see it in our laws, the constitution and the balance is to ensure that what is sacred and what really makes us grateful to be Hawaiian and here, isn't lost to over development.

So there is Pele Defense fund, I won't go into that. One of the latest cases we had is dealing with Pōhakuloa and the State's lease of lands to the US Army for the Army's use. The lease required that the State ensure that the Army was cleaning up after each of its practices. It was never happening so we got another decision from the court which now have mālama ʻāina as a principle of the State taking care of. We've also taken cases that we wouldn't have been able to take cases. But for our given up of Federal Grants, Federal money because they prevented anyone that took that money from doing those kinds of prisoner cases. We took the case that was a class action, that attempted to have Native Hawaiian religious practices treated as a right in the case of those that were incarcerated. We have successfully established that Native Hawaiian religious beliefs are entitle to protection. Then finally, our Historic Preservation, iwi kupuna in Kaleikini v. Thielen case, ultimately it's another case we impacted development. The reason that we impacted development is because laws weren't being followed. Those laws needed to be followed for us to be able to engage in the proper balancing of interests. Again, I want to thank the members of this board and OHA generally for being with us on these cases for the support that you've provided. Again, just please know that our history is really your history. Mahalo for that. At this point in time I will call up our current President Kawika Patterson.

Mr. Kawika Patterson – Aloha. Thank you for allowing us for being here today. *(conversation indiscernible)* A decade of renaissance the Native Hawaiian Legal Corporation was born. Born in the time of a generation who

sought answers. One that created something to help us. Native Hawaiian Legal Corporation is needed. Our Attorneys and staff the board that comes from the community and represents many of the Hawaiians and leaders of the community is the shaft. Here is the tip of the spear. Here is created the warrior was born. Together Native Hawaiian Legal Corporation and OHA, turn of the Century almost 45 years later. I am here to tell you that we have been through many battles separately and together. *(conversation indiscernible)* We wanted to come and present ourselves to you and remind you that we are still active. There is a symbiotic relationship between us. If we move forward our board right now is talking about will the ihe still be here for the next 50 years how will we survive. The spear cannot exist without the warrior. The warrior cannot be as effective as it can be without the spear. The spear is made for battle. It is ineffective by itself without a warrior to wield it. That is why I am here to remind you that we need, we ask you to maintain warrior mentality with the crisis that we have been going through. To exist together as organizations. I don't need to be here to tell you those things. I just want to share and remind us that it is a symbiotic relationship as we move forward. Planning session, that the battle field has changed, they can change a law that would overturn the Native Hawaiian Legal Corporation victory. How do we change or battle tactics? How do we use the Native Hawaiian Legal Corporation for strategic planning I want to remember that we are here. Maybe to utilize us differently than in the past, and how do you use us in the future. That being said I hope I haven't offended anybody. I am very humble in this approach and I thank you for this time and allowing us to present.

Mr. Haia, Esq. – That is pretty much our presentation. I am more than willing to answer questions anyone might have. But we really here for is if we can build up a deeper relationship, a better understanding and know that the Native Hawaiian Legal Corporation existence, you guys have played a huge role in that, so mahalo for that.

Trustee Robert Lindsey – I want to thank you Moses and Kaleo and your board who are here today and those that are not here today for all the good work that you have done for our people across these years. And Kaleo is right we are in a symbiotic relationship. The warrior and spear go together. We have many battles to continue to fight in the future. We have miles to go before we sleep. I want to thank you for all that you have done on the Big Island, you don't have to apologize or be gentle or soft about Oceanside 1250, the developer was a jerk and they got what they deserved. When it comes to Kanak Napeahi and Paty at Waikoloa resort, indeed the developer got away with paying the piper. Thanks to you folks that matter was rectified. From me to you mahalo nui.

Mr. Haia – Mahalo Trustee. Mahalo everyone.

Chair Colette Machado – Thank you Moses for your time, your presentation and the summary of your cases.

V. EXECUTIVE SESSION

Chair Colette Machado - With that said members. I would like to acknowledge before we recuse ourselves into Executive Session that item V. E. will be removed from the Executive Session. I consulted with Everett and he felt there was sufficient discussion in the committee yesterday that this was not necessary for additional questions. How about C, would you folks be willing, because we passed an action with one amended. Whether or not we need to discuss that in Executive Session. So I'll actually remove that from Executive Session.

Trustee Carmen Hulu Lindsey - *(conversation indiscernible)*

Chair Colette Machado – It will be in open. It is listed as a referral in open session. This was placed here as a place holder in case we had additional discussion with our Attorneys. So C and E is removed. Not D. Unless others think we can removed D. This is the scope and work, qualification and requirements for RFQ in selecting a professional search and consulting firm.

Trustee Carmen Hulu Lindsey – *(conversation indiscernible)*

Trustee Brendon Kalei'āina Lee – Which didn't come before the body at that time. It was the scope of work and qualification for the search company not the position itself.

Chair Colette Machado – Right.

Trustee Brendon Kalei'āina Lee – I don't think we have anything else to discussion because the matter was passed out of committee.

Trustee Carmen Hulu Lindsey – It was incorporated in that *(conversation indiscernible)*

Trustee Brendon Kalei'āina Lee – It wasn't attached, it was handed out to us after the fact. So leave it on.

Chair Colette Machado – Members with that said I would like to entertain a motion to recuse ourselves into Executive Session pursuant to 92-5 (a)(2), (4) to consult with our attorneys questions and issues pertaining to board's powers, duties, and liabilities.

Trustee Brendon Kalei'āina Lee moves to recuse into Executive Session pursuant to §92-5 (a)(2),(4).

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Roll call please.

Trustee Brendon Kalei'āina Lee moves to recuse into Executive Session pursuant to §92-5 (a)(2),(4). Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with eight (8) yes votes and one (1) excused.						

Chair Colette Machado – On this particular item everyone will be excused because it's a personnel matter. Is Ms. Kumabe here?

The Board resolved into Executive Session at 10:08 am.

A. **Consultation with Board Counsel Robert G. Klein, Esq. and Kumabe HR LLC re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding the Board's obligations and responsibilities to conduct its performance appraisal of OHA's CEO in accordance with Section III of Contract 3147.** ***Pursuant to HRS §92-5(a)(2),(4).***
B. **Consultation with Board Counsel Robert G. Klein re: questions and issues affecting OHA's duties, liabilities, privileges, and immunities in transitioning to an interim CEO after the expiration of Contract Number 3147.** ***Pursuant to HRS §92-5 (a)(2),(4).***
C. **Consultation with OHA attorneys William Yuen, Esq., Judy Tanaka, Esq., and Board Counsel Robert G. Klein, Esq., re: questions and issues pertaining to the Board's powers,**

duties, privileges, immunities, and liabilities regarding OHA's role as a member of Hi'ilei Aloha LLC and Ho'okele Pono LLC and Action Item RM #19-08: Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description relating to Hi'ilei Aloha LLC and Ho'okele Pono LLC. ***Pursuant to HRS §92-5(a)(4).***

D. **Consultation with Board Counsel Robert G. Klein, Esq., re: questions and issues pertaining to the board's duties, liabilities, privileges, and immunities regarding Action Item BAE-RM #19-05: to approve the Scope of Work and Qualifications and Requirements defined in the proposed RFQ in selecting a professional executive search and consulting firm to assist the Joint BAE-RM Committees for the recruitment and selection of a Chief Executive Officer.** ***Pursuant to HRS §92-5(a)(2),(4).***

E. **Consultation with OHA attorney Everett Ohta, Esq. and Board Counsel Robert G. Klein, Esq, re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding H. B. 172 HD1 SD2 CD1 (2019), relating to the budget of the Office of Hawaiian Affairs.** ***Pursuant to HRS §92-5(a)(4).***

F. **Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, and liabilities concerning processing complaints alleging violations of the Trustee Code of Conduct policy.** ***Pursuant to HRS §92-5(a)(2),(4).***

The Board reconvenes in open session at 11:58 am.

IV. NEW BUSINES

Chair Colette Machado – Good afternoon, this is a continuation of the Office of Hawaiian Affairs Board of Trustees agenda. We are on IV. B. under new business continuing under the Committee on Resource Management. We have item listed Action item RM #19-07 this is the first reading regarding economic development, debt management, spending and investment and real estate policies. I'd like to call on Trustee Robert Lindsey.

B. Committee on Resource Management

1. Action Item RM #19-07: Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies, 1st Reading

Trustee Robert Lindsey moves to:

A. **Approve the Economic Development Policy, noting that Administration will return with the implementation procedures for Board action;**
B. **Approve the Debt Management Policy, noting that Administration will return with the implementation procedures for Board action;**
C. **Acknowledge the Spending Policy language and the existing Native Hawaiian Trust Fund (NHTF) Spending policy, as Amended, noting Administration will return with consolidated policy document for Board action; and**
D. **Acknowledge the Investment and Real Estate Policy language and the existing NHTF Investment and Real Estate Vision, Mission, and Strategy policies, noting Administration will return with consolidated policy document(s) for Board action.**

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – Members any discussion on this item? Hearing none, roll call vote.

Trustee Robert Lindsey moves to:

A. Approve the Economic Development Policy, noting that Administration will return with the implementation procedures for Board action;
B. Approve the Debt Management Policy, noting that Administration will return with the implementation procedures for Board action;
C. Acknowledge the Spending Policy language and the existing Native Hawaiian Trust Fund (NHTF) Spending policy, as Amended, noting Administration will return with consolidated policy document for Board action; and
D. Acknowledge the Investment and Real Estate Policy language and the existing NHTF Investment and Real Estate Vision, Mission, and Strategy policies, noting Administration will return with consolidated policy document(s) for Board action.

Trustee John Waiheʻe IV seconds the motion.

TRUSTEE	1	2	ʻAE (YES)	AʻOLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINAʻALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELIʻI AKINA			X			
TRUSTEE BRENDON KALEIʻĀINA LEE					X	
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY	x		X			
TRUSTEE JOHN WAIHEʻE		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7		1 abstention	1

MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED
Motion passes with seven (7) yes votes, one (1) abstention and one(1) excused.

2. Action Item RM #19-08: Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description relating to Hiʻilei Aloha LLC and Hoʻokele Pono LLC.

Chair Colette Machado – Trustee Robert Lindsey on item 2. Action item RM #19-08 approval of the resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description relating to Hiʻilei Aloha LLC and Hoʻokele Pono LLC.

Trustee Robert Lindsey moves to approve, adopt, and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hiʻilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hiʻilei Aloha LLC and Hoʻokele Pono LLC, with the following amendment to both Hiʻilei's and Hiʻipaka's operating agreements in article 4 section 4.03a to now read:

"acquire or lease any real or personal property from any Person, pursuant to the conflict of interest policy".

Trustee John Waiheʻe IV seconds the motion.

Chair Colette Machado – Members, any discussion.

Trustee Keliʻi Akina – I will abstain for reasons given at the RM meeting.

Chair Colette Machado – With that said roll call vote.

Trustee Robert Lindsey moves to approve, adopt, and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC, with the following amendment to both Hi'ilei's and Hi'ipaka's operating agreements in article 4 section 4.03a to now read: "acquire or lease any real or personal property from any Person, pursuant to the conflict of interest policy". Trustee John Waihe'e IV seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA					X	
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY					X – 1st Kanalua X – 2nd Kanalua	
TRUSTEE ROBERT LINDSEY	X		X			
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6		2 - abstentions	
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with six(6) yes votes, two(2) abstentions and one(1) excused.						

C. Joint Committees on Beneficiary Advocacy and Empowerment and Resource Management

1. Administration's presentation and recommendation to the JOINT BAE/RM Committee to review and approve action item BAE/RM #19-04; related to Community Grant recommendations.

Chair Colette Machado – Members we are now on item C. Joint Committee on Beneficiary Advocacy and Empowerment and Resource Management. I'll call on Trustee John Waihe'e IV.

Trustee John Waihe'e IV moves to approve and authorize the disbursement of $2,829,500 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and $2,829,500 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund twenty-two (22) Fiscal Biennium 2020-2021 Community Grant recommendations listed on Attachment A - OHA FB 2020-21 Community Grant Recommendations Matrix, except for the following two (2) grant(s):

1. **Waipa Foundation withdrew their application on Friday, May 17, 2019; and,**
2. **The Kohala Center, Inc., due to a conflict of interest for Trustee Robert Lindsey who serves as a current Board member of the organization.**

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Roll call.

Trustee John Waihe'e IV moves to approve and authorize the disbursement of $2,829,500 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and $2,829,500 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund twenty-two (22) Fiscal Biennium 2020-2021 Community Grant recommendations listed on Attachment A - OHA FB 2020-21 Community Grant Recommendations Matrix, except for the following two (2) grant(s): 1. Waipa Foundation withdrew their application on Friday, May 17, 2019; and, 2. The Kohala Center, Inc., due to a conflict of interest for Trustee Robert Lindsey who serves as a current Board member of the organization. Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE					x- abstain	
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7		1	1
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven(7) yes votes, one(1) abstention and one (1) excused.						

Trustee John Waihe'e IV moves to approve and authorize the disbursement of $130,000 from the Fiscal Year 2020 Core Operating budget (Object Code 56530) and $130,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund The Kohala Center, Inc.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – It's been moved and seconded, no discussion, roll call vote.

Trustee John Waihe'e IV moves to approve and authorize the disbursement of $130,000 from the Fiscal Year 2020 Core Operating budget (Object Code 56530) and $130,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund The Kohala Center, Inc. Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE					x- abstain	
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY					x-abstain	
TRUSTEE JOHN WAIHE'E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6		2	1
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with six(6) yes votes, two(2) abstention and one (1) excused.						

2. **Action Item BAE/RM #19-05: To approve the Scope of Work and Qualification Requirements as defined in the proposed RFQ in selecting a professional executive search and consulting firm to assist the Joint BAE-RM Committees for the recruitment and selection of a Chief Executive Officer.**

Chair Colette Machado – Trustee John Waiheʻe IV

Trustee John Waiheʻe IV moves to approve the Scope of Work and Qualification and Requirements as defined in
the proposed RFQ in selecting a professional executive search and consulting firm to assist the Committees on Beneficiary Advocacy and Empowerment (BAE) and Resource Management (RM) for the recruitment and selection of a Chief Executive Officer; along with the following two revisions to Action Item BAE-RM #19-05:

a) Scope of Work; Item 8 now reads as;

8. Prepare a written summary of five (5) candidates with the most promising qualifications for the position.

b) Qualifications and Requirements; Item 4 is fully stricken from the document.

Trustee Carmen Hulu Lindsey seconds the motion.

Trustee John Waiheʻe IV moves to approve the Scope of Work and Qualification and Requirements as defined in the proposed RFQ in selecting a professional executive search and consulting firm to assist the Committees on Beneficiary Advocacy and Empowerment (BAE) and Resource Management (RM) for the recruitment and selection of a Chief Executive Officer; along with the following two revisions to Action Item BAE-RM #19-05:

a) Scope of Work; Item 8 now reads as;

8. Prepare a written summary of five (5) candidates with the most promising qualifications for the position.

b) Qualifications and Requirements; Item 4 is fully stricken from the document.

Trustee Carmen Hulu Lindsey seconds the motion.

TRUSTEE	1	2	ʻAE (YES)	AʻOLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINAʻALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELIʻI AKINA			X			
TRUSTEE BRENDON KALEIʻĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY		X	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHEʻE	X		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			

MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED
Motion passes with eight (8) yes votes and one (1) excused.

3. **Action Item BAE/RM #19-06: To approve and authorize the disbursement of $40,500 from the fiscal year 2020 Core operating budget (Object code 56530) and $40,500 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund Ahupuaʻa O Molokaʻi.**

Chair Colette Machado – Trustee John Waiheʻe IV.

Trustee John Waihe'e IV moves to approve and authorize the disbursement of $40,500 from the fiscal Year 2020 Core Operating Budget (Object Code 56530) and $40,500 from the fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund Ahupua'a o Moloka'i; a fiscal Biennium 2020-2021 Community Grant recommendation.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – It has been moved and seconded, if there is no further discussion roll call vote.

Trustee John Waihe'e IV moves to approve and authorize the disbursement of $40,500 from the fiscal Year 2020 Core Operating Budget (Object Code 56530) and $40,500 from the fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund Ahupua'a o Moloka'i; a fiscal Biennium 2020-2021 Community Grant recommendation. Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE					x-abstain	
TRUSTEE CARMEN HULU LINDSEY		X	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E	X		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7		1	1
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven(7) yes votes, one(1) abstention and one(1) excused.						

D. Deliberation and decision making on the Report by the Permitted Interaction Group on the Development of L-Lahui policies of its findings and recommendations. ***Pursuant to HRS §92-2.5(b)(1)(C)***

Chair Colette Machado – This is to allow for the findings and any kind of discussion that the Board would like to have at this time relating to the Permitted Interaction Group on the development of L – Lahui policies of its findings and recommendations. We are back to the open discussion before we take action on item 19-06, 19-07 and 19-08. I know transfer the Chair to the Vice Chair to lead item D.E.F.G.

Trustee Brendon Kalei'āina Lee – We've had two weeks now to review the report from the permitted interaction group on Lahui Level Policies. The Vice Chair is prepared to answer any questions that the Board may have. Having none, I hand the Chair back over to Chair Machado for action.

E. Action Item BOT #19-06: Approve the L-Lahui Level Policies

Chair Colette Machado – We will do Action item BOT 19-06.

Trustee Brendon Kalei'āina Lee move to approve the L-Lahui Policies:
1. E Malama (to protect)
2. E Ho'omau (to perpetuate)
3. E Pupukahi i Holomua (to unite in order to progress)
4. E 'Imi 'Ike (to seek knowledge)

5. E Hoʻoulu Lahui (to grow the Nation)

Trustee John Waiheʻe IV seconds the motion.

Chair Colette Machado – Any discussion, hearing none, roll call please.

Trustee Brendon Kaleiʻāina Lee move to approve the L-Lahui Policies: 1. E Malama (to protect) 2. E Hoʻomau (to perpetuate) 3. E Pupukahi i Holomua (to unite in order to progress) 4. E ʻImi ʻIke (to seek knowledge) 5. E Hoʻoulu Lahui (to grow the Nation) Trustee John Waiheʻe IV seconds the motion.						
TRUSTEE	1	2	ʻAE (YES)	AʻOLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINAʻALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELIʻI AKINA			X			
TRUSTEE BRENDON KALEIʻĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHEʻE		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with eight (8) yes votes and one (1) excused.						

F. Action Item BOT #19-07: Approve the formation of a Permitted Interaction Group to investigate the Board of Trustees By-Laws.

Chair Colette Machado – Trustee Brendon Kaleiʻāina Lee 19-07.

Trustee Brendon Kaleiʻāina Lee moves to approve the formation of a Permitted Interaction Group to investigate the alignment and update of the existing Board of Trustees By-Laws for OHA's Board Governance Framework.

Permitted Interaction Group - Purview. Via this Action Item, approval is sought to form a new PIG to continue the implementation of the Board Governance Framework elements. The purview of the new PIG is for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to: (1) Investigate the alignment and update of existing BOT By-laws and related documents; (2) Establish consistent format, review and update parameters, mechanisms and processes; and (3) Integrate the developed BOT By-Laws and related documents into the Board Governance Framework.

Permitted Interaction Group — Members. The membership of the Permitted Interaction Group is as follows:
1. Trustee Colette Machado, BOT Chairperson
2. Trustee Brendon Kaleiʻāina Lee, BOT Vice Chairperson
3. Trustee Robert K. Lindsey, Jr, Resource Management Vice Chairperson
4. Trustee Carmen Hulu Lindsey
5. Kamanaʼopono M. Crabbe, Ka Pouhana
6. Sylvia M. Hussey, Ka Pou Nui

Trustee Lee will serve as the Chair of the Permitted Interaction Group and Trustee Machado will serve as its Vice Chair.

Permitted Interaction Group - Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than July 31, 2019.

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – If there is no discussion, roll call vote please.

Trustee Brendon Kalei'āina Lee moves to approve the formation of a Permitted Interaction Group to investigate the alignment and update of the existing Board of Trustees By-Laws for OHA's Board Governance Framework.
Permitted Interaction Group - Purview. Via this Action Item, approval is sought to form a new PIG to continue the implementation of the Board Governance Framework elements. The purview of the new PIG is for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to: (1) Investigate the alignment and update of existing BOT By-laws and related documents; (2) Establish consistent format, review and update parameters, mechanisms and processes; and (3) Integrate the developed BOT By-Laws and related documents into the Board Governance Framework.
Permitted Interaction Group — Members. The membership of the Permitted Interaction Group is as follows:
1. Trustee Colette Machado, BOT Chairperson
2. Trustee Brendon Kalei'āina Lee, BOT Vice Chairperson
3. Trustee Robert K. Lindsey, Jr, Resource Management Vice Chairperson
4. Trustee Carmen Hulu Lindsey
5. Kamana'opono M. Crabbe, Ka Pouhana
6. Sylvia M. Hussey, Ka Pou Nui

Trustee Lee will serve as the Chair of the Permitted Interaction Group and Trustee Machado will serve as its Vice Chair.
Permitted Interaction Group - Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than July 31, 2019.
Trustee John Waihe'e IV seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			

MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED
Motion passes with eight (8) yes votes and one (1) excused.

G. **Action Item BOT #19-08: Approve the formation of a Permitted Interaction Group (PIG) to investigate the incorporation of completed and approved work products of the Board Governance Framework PIG, L-Lahui Policies PIG, Board of Trustees By-Laws PIG, T-Level Policies PIG, and C-CEO Level Policies; and alignment and update of existing Board governance documents.**

Chair Colette Machado –Trustee Lee.

Trustee Brendon Kalei'āina Lee moves to approve the formation of a Permitted Interaction Group (PIG) to investigate the incorporation of completed and approved work products of the Board Governance Framework PIG, L-Lahui Level Policies PIG, Board of Trustees By-Laws PIG, T-Trustee Level Policies PIG, and C-CEO Level Policies; and alignment and update of existing Board governance documents.

As the implementation of the Board Governance Framework progresses, it is necessary to incorporate the completed and approved work products from each of the PIGs.

Permitted Interaction Group - Purview. Via this Action Item, approval is sought to form a second new PIG to continue the implementation of the Board Governance Framework elements. The purview of the new PIG is for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to:

(1) Establish consistent format, review and update parameters, mechanisms and processes for each of the completed and approved work products of the Board Governance Framework from the Board Governance Framework PIG, L-Lahui Level Policies PIG, Board of Trustees By-Laws PIG, T-Trustee Level Policies PIG, and C-CEO Level Policies PIG;
(2) Maintain the Board Governance Framework elements and integrate each final approved work product;
(3) Create and define on going Board Governance framework maintenance roles and responsibilities; and
(4) Align and update related Board governance documents (e.g., policies, procedures, handbooks, manuals).

Permitted Interaction Group — Members. The membership of the Permitted Interaction Group is as follows:
1. Trustee Colette Machado, BOT Chairperson
2. Trustee Brendon Kalei'āina Lee, BOT Vice Chairperson
3. Trustee Robert K. Lindsey, Jr, Resource Management Vice Chairperson
4. Trustee Carmen Hulu Lindsey
5. Kamana'opono M. Crabbe, Ka Pouhana
6. Sylvia M. Hussey, Ka Pou Nui

Trustee Lee will serve as the Chair of the Permitted Interaction Group and Trustee Machado will serve as its Vice Chair.

Permitted Interaction Group - Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than December 3 1, 2019.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Any further discussion, hearing none, roll call vote please.

Trustee Brendon Kalei'āina Lee moves to approve the formation of a Permitted Interaction Group (PIG) to investigate the incorporation of completed and approved work products of the Board Governance Framework PIG, L-Lahui Level Policies PIG, Board of Trustees By-Laws PIG, T-Trustee Level Policies PIG, and C-CEO Level Policies; and alignment and update of existing Board governance documents.

As the implementation of the Board Governance Framework progresses, it is necessary to incorporate the completed and approved work products from each of the PIGs.

Permitted Interaction Group - Purview. Via this Action Item, approval is sought to form a second new PIG to continue the implementation of the Board Governance Framework elements. The purview of the new PIG is for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to:

(1) Establish consistent format, review and update parameters, mechanisms and processes for each of the completed and approved work products of the Board Governance Framework from the Board Governance Framework PIG, L-Lahui Level Policies PIG, Board of Trustees By-Laws PIG, T-Trustee Level Policies PIG, and C-CEO Level Policies PIG;

(2) Maintain the Board Governance Framework elements and integrate each final approved work product;

(3) Create and define on going Board Governance framework maintenance roles and responsibilities; and

(4) Align and update related Board governance documents (e.g., policies, procedures, handbooks, manuals).

Permitted Interaction Group — Members. The membership of the Permitted Interaction Group is as follows:

1. Trustee Colette Machado, BOT Chairperson
2. Trustee Brendon Kalei'āina Lee, BOT Vice Chairperson
3. Trustee Robert K. Lindsey, Jr, Resource Management Vice Chairperson
4. Trustee Carmen Hulu Lindsey
5. Kamana'opono M. Crabbe, Ka Pouhana
6. Sylvia M. Hussey, Ka Pou Nui

Trustee Lee will serve as the Chair of the Permitted Interaction Group and Trustee Machado will serve as its Vice Chair.

Permitted Interaction Group - Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than December 3 1, 2019.

Trustee Carmen Hulu Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			

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

Motion passes with eight (8) yes votes and one (1) excused.

Chair Colette Machado – Congratulations Trustees. Mahalo nui for your cooperation and your patience. We have one more item under Community Concern.

VI. COMMUNITY CONCERNS

Chair Colette Machado – We have one individual that has signed up. I'd like to call Michael Lee to the table.

Mr. Michael Lee – Aloha, Chair Machado and Board of Trustees I am here to let you know, and I got to thank you all for 30 years in fighting against Haseko Hawaii Inc. You have always been in there for the right thing. Our iwi kupuna and our natural resources, limu and the reefs and what is good for Hawaii. I am here to register a complaint against SHPD Dr. Downer and especially Hinano Rodrigues. For 12 years they have blocked my rights under article 12 section 7 by not agreeing to follow through and not following through. What is at risk is my iwi kupuna, my family in Haseko property, where I said it was and with your help I went right up to the State Supreme Court to tell them that the marina entrance channel is where my family was buried. And the Tutu that was found there was part of a family burial and I gave a map to Kai in 2009 and we GPS it.

In the brief all the way to the Supreme Court we said the locations it was in. Last year in October, Haseko doing grubbing in the area, the entrance marina channel found 4 iwi kupuna that were related to my Tutu Alii 40 feet in the channel. She had glass beads from China dated 1790's and the iwi kupuna that were found had the same glass beads. Tom Dye their archeologist said he could go to court and swear that they are from the same time period with the same funerary objects. Two men, 6 foot 6 in their adult, one wahine and one baby. The meaning of this is Kaomileikahumanu which we were recognized for and their language was lineal for our Alii Nui, my 5th great grandmother and they recognized my genealogy to the Royal family that Kaomileikahumanu was from, which was the Kauai and Maui genealogy. It's in their resolution April 14, 2010 written out.

They fought me on it and they didn't even give me the certificate that OIBC voted 9 to 0 in favor of a recognition and she is named, it is not identified, it is now identified by all of our documents and everything. With this new burial. They said it was inadvertent. I have 5 inches of documents from 2 Chairs of BLNR bringing this up on the record, three newspaper, the ledger of record, the briefs for 8 years up to the Supreme Court and numerous other documents showing going to OHA, Kai Markell helping me out in letter and OHA corresponding with the developer Haseko Ewa, Inc. I said to Hinano Rodrigues, under Section 6e, inadvertent is we didn't know. But under known it says if there is written documents saying that the iwi are there, then it's not inadvertent but known. So I challenged that and Regina Hilo said we can't change that. I said, what about 6e 3007. It states I gave all the documents to you and it doesn't say who, when gives you the documents. What are the documents. I did all of that last year in October and put all the laws why it is known and I wanted it changed. Because the reason is under inadvertent, it's all under SHPD for 30 years to control the process. It doesn't go to us dependents. But if its known we have to burial council and be part of everything. Which is rightful. So when I wrote to him specifically with the laws and everything I needed to do, 6 months later he hasn't done anything.

I called him up on May 5th and said what is going on. Let's resolve this because the law backs what I am saying and I gave you the law. 7 months latter nothing. So I'm not the only one who has had this. You fought the good fight for 30 years and are still in it. We are trying to exercise our rights and funerary rights to mihi, because the grubbing that they did with a bulldozer broke one of the iwi and scattered the pieces for 14 feet. So I said, are you going to dig down to put it back. They said no because there are tons of iwi down there. I said I told you that. This is the reason why I didn't want you going through this whole thing. I am being blocked in exercising my rights. Mr. Downer has done the same thing. He promised to give me a letter. I am recognized as a cultural decedent for Hunt development and their exchanged of the property at Barbers Point. I went to him and I said I need, Hunt is blocking me. I am a lineal, I have cultural decedent, and they won't allow me to enter into the consultation. He said, Downer, he said he would write a letter to them.

That was 3 years ago and every time 6 months it came to him, he said, oh I am sorry I had Jon Bon nest to me and we taped the conversation. The last time he said, I really forgot I am sorry for the last two times and I will do it today. Never did it to this day. So this is just community concern. I am not the only one. It's just my putting it out there that I feel the remedy that they've done this to me for 12 years now. It took one year when I asked to be put on the agenda for burial council; Coochie Cayan took one year before she admitted it. It should

take one month. So this has been a process, and this is not the first time with Hinano Rodrigues. I am not the only one. Glen Kila, Claire Apana, many kanaka have had this shut down on their article 12 section 7 rights. So I sent an email to everyone, Kamana'o said, eh Kai what is going on. Kai backed me up because he was there as usually representing OHA from the beginning 2006 when we put in the contested case. I mahalo and mālama you guys for being our stewards. Without you guys none of our lawsuits and success to save the environment would work. That is a fact. So just a messenger but you guys were the anchor and the harbor. I am just putting it out there, because this is community concerns, it's not an agenda item for you to think about. This has been going on for 30 years and I believe in my opinion and its time for a class action suit to protect our people. Especially their iwi kupuna that are family. When we got our ali'i to be relocated and buried we cleaned the iwi up at the old OHA, we put all her two niho palaoa and all her glass beads together. We wrapped it. I pick her up and held her all the way down to Haseko's foundation and I chanted her all the way into her crypt with four men carrying kahili 12 o'clock at night. Then we put the sand where she was buried and ti leaf and lauae and chanted her into the vault. It was the most meaningful thing in my life. If I die tomorrow I am happy, because my Tutu who I never met got to have proper burial from 'Ohana. Since then we go every year as 'ohana to put puolu, to chant and to do hula and sit there to be with her. That was a 10-year battle to get her out of a box and to protect her. Now it's happening again. This has happened to many kanaka families. The injustice that only you guys can rectify as the guardians of our rights. I mahalo you for all your efficient work.

The other thing I want to bring up is the quick over view of the pueo. Because you guys were the only agency that supported us to save the pueo. Since then over the two years, we put in three bills and one reso. We got shot down all the time, they wouldn't even hear it in committee and this last reso, all we said was we put it in the gulch where there is no stopping development in the gulch where they live. From Palehua all the way down to Westloch. They can do everything there with buffers and we take away from nobodies land because you can't build in the gulch flood plain. My big kaumaha, puiwa, DLNR breaks the law all the time. They are mandated under the endangered species act to protect our Hawaiian endangered species like the pueo, which actually represents the Hawaiian people as a spiritual aumakua and priest to come back to check up on us, how we doing. 1975 the law on take permits, 600-7 states that from 1975 the only way you can take, which is killed an endangered species if they go against the health and safety of human beings not wind farms or businesses. So if a bird had bird flu and is a pueo or plover it has to go quick before it spreads and we get sick. That is not the case. Or the airport where they could get stuck in the engines. So for 20 years one company can do 300 take permits to kill bats, pueo, seabirds every year 30 deaths and they are supposed to protect them and its only for the birds that are endangering human life which hasn't been the case and no one has challenged them. They are wiping out our endangered species. We have to do a notice to them or a lawsuit. I never want to go through a lawsuit. I always want to work it out before we get there. So please, we are going to put in another bill next year, the community is in favor. Thank you.

Chair Colette Machado – Mahalo, we trust that Kai will keep us informed through our administration. Thank you Kai for all the years that you committed to our iwi kupuna.

VII. ANNOUNCEMENTS

None

VIII. ADJOURNMENT

Trustee Carmen Hulu Lindsey moves to adjourn.

Trustee Brendon Kalei'āina Lee seconds the motion.

Chair Colette Machado – Roll call vote please.

Trustee Carmen Hulu Lindsey moves to adjourn. Trustee Brendon Kalei'āina Lee seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE		x	X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			
MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED Motion passes with eight (8) yes votes and one (1) excused.						

The meeting was adjourned at 12:40 pm.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on July 25, 2019.

Colette Y. Machado, Chairperson
Board of Trustees

Attachment:

1. Excused Absence Memo – Trustee Dan Ahuna
2. Native Hawaiian Legal Corporation Handout

OFFICE OF
HAWAIIAN AFFAIRS
STATE OF HAWAI'I
RECEIVED-BOT

2019 MAY 28 A 11: 00

OFFICE OF HAWAIIAN AFFAIRS
Interoffice Memorandum

DATE: May 28, 2019

TO: Chair Colette Machado

FROM: Trustee Dan Ahuna

RE: Excused Absence for BOT meeting on May 30, 2019

Aloha,

Please excuse my absence for the upcoming Board of Trustees meeting that is scheduled for Thursday, May 30, 2019. Should you have any questions or concerns, please feel free to contact my office staff.

Mahalo nui,

Dan Ahuna

Native Hawaiian
LEGAL CORPORATION

1164 Bishop Street, Suite 1205 • Honolulu, Hawai'i 96813 • www.nhlchi.org
Phone (808) 521-2302 • Fax (808) 537-4268

Serving Hawai'i Since 1974

THE NATIVE HAWAIIAN LEGAL CORPORATION

Aloha mai kākou. My name is Moses K. N. Haia III and I currently serve as the executive director of the Native Hawaiian Legal Corporation ("NHLC"). We are a non-profit, public interest law firm with the following mission, "to perpetuate, through legal and other advocacy, the rights, customs and practices that strengthen Native Hawaiian identity and culture." Our vision, "a just Hawai'i, guided by Hawaiian values, customs and ways of knowing", informs our work and our outreach. We strive to ensure that the legacy of our ancestors lives on and flourishes. Our work, as such, is focused on and encompasses quiet title to land, natural resource protection, traditional and customary practices for subsistence, cultural and religious purposes, public trust land entitlements and the need to strike a proper balance between progress and culture.

History of the Organization

NHLC was founded by grassroots individuals in response to community needs and operated as an attorney referral service staffed by volunteers during the first six years of its existence. The founders wisely selected a board that included grassroots community representatives as well as members of the law school and private bar sectors, including former Governor John D. Waihe'e III and the late U.H. Constitutional Law Professor Jon Van Dyke. A mix of community and attorney representation on NHLC's board continues.

Over the years, NHLC has been at the forefront of many cases which have defined and confirmed the rights of Native Hawaiians.

MAUI: Na Moku Aupuni o Ko'olau Hui v. State of Hawai'i

In 1876, construction of the system of ditches and tunnels that diverts on average 160 million gallons of water per day ("mgd") from East Maui streams was commenced. Construction of this ditch system was conditioned upon non-interference with the water and other rights of East Maui landowners, which included the kuleana owning ancestors of our clients. East Maui Irrigation ("EMI"), a subsidiary of Alexander & Baldwin ("A&B"), now operates this system consisting of at least four parallel levels of water ditches that run from east to west across the East Maui mountain range intersecting streams within the area and diverting stream flow to Central Maui.

Although the current average daily water delivery through this system is 160 mgd, it is capable of capturing and, during storm events, captures as much as 445 mgd. To place this volume into perspective, all domestic water uses on O'ahu total about 160 mgd. In any given year, this system diverts approximately 60 billion gallons of East Maui Stream water. While some of the water diverted goes to domestic and other uses, the vast majority irrigates sugar cane in fields in Central Maui owned by Hawai'i Commercial and Sugar ("HC&S"), another A&B subsidiary.

In 2003 and purportedly pursuant to HRS 171-58(c), the BLNR stood poised to issue a lease to A&B/EMI to continue these diversions for an additional thirty years. More specifically, in contested case proceedings initiated by our clients, the BLNR determined that it could enter into this lease as long as it complied with HRS Chapter 171, remained subject to the instream flow standards set by the Water Commission at some future date, and to any future judgment of a court of competent jurisdiction establishing appurtenant or riparian rights in favor of downstream users. It also determined that since there would be no change in use an environmental assessment was not required and that, should the Water Commission fail to act to establish instream flow standards, the BLNR, prior to issuing a lease, had no duty to perform its own parallel investigation with regard to the minimum, instream flow standards necessary to protect appurtenant rights or, to the extent feasible, the traditional and customary practices of Native Hawaiians.

Na Moku appealed this BLNR decision to the First Circuit Court. The First Circuit Court ruled that, with respect to the application of HRS 171-58(c), the BLNR cannot decide whether it is in the best interest of the state to lease whatever is excess without knowing what is "excess." Accordingly, the BLNR could not enter into a lease pursuant to HRS 171-58(c) unless and until instream flows were established and superior rights to such water were identified.

Second, the court noted that it was erroneous for the BLNR to conclude that it could begin the process to put out to lease the water that could affect these rights without first making a determination as to whether it would be in the state's best interest in light of the lack of knowledge or information of what the Water Commission will ultimately determine in the future and that, in the process of determining whether there is any surplus water which would be in the best interest of the state to lease for 30 years, the BLNR is entitled to rely on and use any determination of the Water Commission to establish instream flow standards.

Finally, the court found that, at minimum, an environmental assessment was required for the proposed 30 year lease of any or all excess water that may exist after a final determination is made which identifies all appurtenant, riparian and native Hawaiian rights to the said water from 33,000 acres of state ceded land, since the proposed action could not be said to have a minimal or no significant effect on the environment.

MOLOKA'I: Hustace v. Kapuni

In this case, NHLC represented a Native Hawaiian challenging a court decision awarding title to her family lands on Molokai to another party. When this case began, notice was provided primarily by way of a newspaper ad. Those who did not respond to the newspaper ad were defaulted. NHLC argued that this was wrong and due diligence to identify all persons who had an interest in the land was absolutely required so those individuals could be personally served with notice of the lawsuit.

NHLC obtained this ruling articulating the due process rights of Native Hawaiian defendants in quiet title lawsuits. When a quiet title action is filed, the plaintiff must do an extensive search for those persons who might have a claim to the property and cannot provide notice of the lawsuit by publishing an ad in the newspaper without first reviewing various publicly available records. The court decision sets forth a detailed list of those records. This ensures that Native Hawaiians receive notice of lawsuits that will affect their ancestral lands.

"The consequences of quiet title actions are so severe that to have one's interest in land summarily taken away without an opportunity to respond is in violation of due process requirements and our sense of fairness and justice." Judge Walter Meheula Heen

Bush v. Watson

Non-Hawaiian farmers, with Hawaiian Homes Commission approval, subleased 495 acres of Hawaiian homeland to conduct large scale agribusiness on Molokai. This arrangement allowed these non-Hawaiian farmers to sharpen their competitive edge to the detriment of Hawaiian farmers. The Hawai'i Supreme Court invalidated these agreements. NHLC represented Moloka'i Hawaiian homestead farmers Leiff Bush and Martin Kahae with their successful effort to stop the Hawaiian Homes Commission from approving such subleases.

In the Matter of Contested Case Hearing Waiola o Molokai, Inc.

To develop light industry and small-scale tourism on Molokai, a ranch applied for a permit to extract over a million gallons of groundwater a day. Pumping this groundwater would negatively affect the nearshore ocean environment in which limu and certain fish thrived. Native Hawaiians depend on these marine resources for subsistence purposes. Granting this permit would also have reduced the amount of water available to homesteaders on Hawaiian homelands.

The permit was nonetheless approved.

In reversing the decision granting this permit, the Hawai'i Supreme Court ruled that the Commission on Water Resource Management, the agency that granted the permit, failed to discharge its public trust duty to protect Native Hawaiian traditional and customary practices and that the permit applicant bore the burden of demonstrating that the proposed well would not affect Native Hawaiian practices.

The Hawai'i Supreme Court also ruled that a reservation of water by the Department of Hawaiian Homelands for future homestead uses is protected by Hawai'i's Constitution.

"[T]he absence of evidence that the proposed use would affect native Hawaiians' rights was insufficient to meet the burden imposed upon [the permit applicant] by the public trust doctrine, the Hawai'i Constitution, and the Code." Justice Steven Levinson

KAUA'I, OAHU, MOLOKA'I, LĀNA'I, MAUI, HAWAI'I ISLAND:

Nelson v. Hawaiian Homes Commission

Here, adequate funding for the Department of Hawaiian Homelands (DHHL) was at issue. Without adequate funding, the DHHL is unable to fulfill its purpose: to return Native Hawaiians to the land.

Native Hawaiian Legal Corporation, on behalf of Native Hawaiian beneficiaries, sued the State of Hawai'i over its failure to sufficiently fund the DHHL, and the DHHL for its failure to seek sufficient funding from the State. Their lawsuit was dismissed by the trial court judge who ruled that the lawsuit presented "political questions" that could not be resolved by a court. This decision was appealed and, on May 9, 2012, Hawai'i Supreme Court held that the State of Hawai'i must provide general funds to DHHL for its administrative & operating expenses.

Aged Hawaiians v. Hawaiian Homes Commission

Here, Native Hawaiian beneficiaries, who dreamed of establishing commercial ranching or farming operations to support their families, applied for homestead lots large enough to support these activities. They were placed on a waiting list in 1952. After waiting decades for action on their applications, many were in or nearing their 70s when they came to NHLC seeking help. On appeal, the Hawai'i Supreme Court ordered the DHHL to consider their applications. NHLC attorneys obtained a favorable, precedent-setting ruling that Native Hawaiians have a private right to sue to enforce obligations under the Hawaiian Homes Commission Act. DHHL must now provide its beneficiaries with an opportunity to apply for a homestead lot large enough to support commercially-viable lots.

This decision was a "miracle. Up to now, everything seemed to go against us. Now I know how justice feels." Jimmy Akiona, Aged Hawaiians member.

HAWAI'I ISLAND: Napeahi v. Paty

This case involved the adequacy of revenues from lands set aside for the betterment of Native Hawaiians. In this instance, the State allowed a luxury hotel to use ceded lands without compensation. NHLC represented Melvin Napeahi, who argued that these lands were part of the

public trust and thus, the State was obligated to charge rent, reflecting the fair market value of the land. NHLC obtained a Ninth Circuit Court of Appeal ruling establishing that these lands were part of the ceded lands trust and the State was required to obtain just compensation for their use. A portion of the revenue from ceded lands must be used to better the conditions of Native Hawaiians. When those revenues are diminished, the level of support for Native Hawaiian programs is likewise lessened. The Supreme Court's Napeahi decision requires the State to be vigilant in ensuring that it obtains just compensation for the use of ceded lands.

HAWAI'I: Kelly v. Oceanside

A developer of a resort and luxury-home subdivision development in Kona grossly mishandled Native Hawaiian bones uncovered during construction. The development also threatened a burial mound where Native Hawaiian royalty were interred. Construction activities also impacted a traditional trail known as the Alaloa and Native Hawaiian traditions and customs related thereto. Finally, the developer failed to prevent run-off that polluted the nearshore ocean area and deposited mud onto reefs.

Before the lower court, NHLC represented Protect Keopuka 'Ohana and obtained several key rulings that protected burials. On appeal of one of those rulings, the Hawai'i Supreme Court ruled that both the County and the State of Hawai'i have duties, under the public trust doctrine, to protect coastal waters.

As such, the counties of this State, as political subdivisions of the State, have the same duty imposed upon the State to preserve resources held in trust for the public. Imposing this duty ensures greater protection for coastal waters, which are essential to the continuance of many Native Hawaiian traditional and customary practices.

PASH v. Hawai'i County Planning Commission

In this case, commonly referred to as PASH, Native Hawaiians gathered shrimp from several ponds contained within the footprint of a major resort development planned for the Kona Coast. They asked for a trial-type hearing to challenge the county permit for the project by showing that their gathering practices were threatened by the project. This request was denied by the county.

NHLC filed an amicus brief in this Hawai'i Supreme Court case addressing the rights of Native Hawaiians to put on evidence of traditional and cultural practices threatened by permitted development.

The Hawai'i Supreme Court affirmed the rights of Native Hawaiians to gain access to privately-owned lands to exercise traditional and customary rights. Moreover, it ruled that the county was required to protect these rights by allowing Native Hawaiians to participate in a trial-type hearing to put on evidence of their traditional and customary practices.

PASH promises to lift the stigma which some have associated with Hawaiian traditional and cultural practices. Many Hawaiians face the threat of a trespassing claim for picking limu, throwing net, or gathering items as their ancestors once did. By ruling that traditional and customary practices of Native Hawaiians must be considered before development is permitted, PASH confirms that the values and interests of Native Hawaiians are entitled to the same protections given to private property owners.

Pele Defense Fund v. Paty

In this case, the cultural importance of Wao Kele 'O Puna, a rainforest of cultural and spiritual importance to Hawaiians, was threatened by an effort to harness geothermal energy. Located on Kileauea volcano, this rainforest was traditionally used by Native Hawaiians for hunting and gathering. The proposed geothermal development which was viewed as an affront to the Hawaiian goddess Pele would have prohibited Native Hawaiians from continuing these practices. The land underlying this forest was "ceded land", and thus held in trust by the State for the betterment of Hawaiians, was given by the State to a private estate for geothermal energy development as part of a land exchange.

NHLC represented the Pele Defense Fund (PDF), a group of Native Hawaiians whose purpose was to perpetuate Native Hawaiian religion and culture, in this case against the State and the estate.

Although the land exchange was permitted to stand, the Hawai'i Supreme Court ruled that the Pele Defense Fund was entitled to a trial to establish that their use of the forest was for customary and traditional rights and that the private estate could not bar them from entering to engage in those practices.

In this case, PDF successfully established that they were entitled to use the forest for traditional and customary practices and that their place of residence did not necessarily preclude that.

Ching v. Aila, Pōhakuloa

This case involves the lease of ceded lands for military training. At trial, the court agreed with our clients and ruled that the State of Hawai'i breached its duty to "mālama 'āina " in failing to effectively monitor its lease of Pōhakuloa to the military. State Defendants appealed the decision to the Intermediate Court of Appeals. NHLC then sought transfer of this case to the Hawai'i Supreme Court. The Court accepted the transfer, agreeing that the case involved issues of great public importance and/or novel issues of law. Oral argument was held at Ali'iolani Hale on Thursday, May 16, 2019 at 10:00 a.m. We await the Court's decision.

Native Hawaiian Prisoners Right To Practice Their Religion: Davis v. Abercrombie

Native Hawaiians are imprisoned at a higher rate than any other ethnicity in Hawai'i. They are also sent to private prisons on the continental United States by the State of Hawai'i. Their right to practice the Native Hawaiian religion in these private prisons is at issue in this case. On these prisoners' behalf, NHLC sued the corporation that owns these prisons and the State of Hawai'i to guarantee these rights.

Through this case, NHLC successfully established that such truly held Native Hawaiian religious beliefs are entitled to protection.

Historic Preservation/Iwi Kupuna: Kaleikini v. Thielen

In this case, NHLC represented a Native Hawaiian cultural practitioner in her suit against the State challenging the removal of Native Hawaiian burials discovered on a commercial development.

Our client's request for a trial-type hearing to present her objections to the removal of these burials was denied. NHLC successfully appealed this denial and established that Native Hawaiians have the right to challenge, through an administrative hearing, a developer's plans for the treatment of Native Hawaiian burials.

Construction activities in Hawai'i will continue to unearth Native Hawaiian burials. Although a process exists to address the proper treatment of these burials, this process often fails to guarantee that Hawaiian burials are afforded equal protection under the law. The Kaleikini decision ensures that individual Native Hawaiians have a voice in that process.

"The issue presented here -- the availability of judicial review of decisions relating to the removal of Native Hawaiian burial sites -- is of great public importance....The public has a vital interest in the proper disposition of the bodies of its deceased persons, which is in the nature a sacred trust for the benefit of all." Chief Justice Ronald Moon