

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

Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, June 20, 2019
10:00 am

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE BRENDON KALEI'ĀINA LEE
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE KALEI AKAKA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

KURT W. KLEIN, ESQ., BOARD COUNSEL

ADMINISTRATION STAFF:

SYLVIA HUSSEY, COO
MILES NISHIJIMA, LPD
RAINA GUSHIKEN, CC
STERLING WONG, PRO
KAHEALANI PELERAS, CE

BOT STAFF:

CAROL HO'OMANAWANUI
LŌPAKA BAPTISTE
LAURENE KALUAU- KEALOHA
PRISCILLA NAKAMA
DAYNA PA
LEIANN DURANT
KAUIKEAOLANI WAILEHUA
MELISSA WENNIHAN
NATHAN TAKEUCHI
MARIA CALDERON
PAUL HARLEMAN
LEHUA ITOKAZU
ALYSSA-MARIE KAU

GUESTS:

LEILEHUA KANE

I. CALL TO ORDER

Trustee Colette Machado Calls the Board of Trustees meeting to order at 10:04 am. Roll call is taken; Trustees Ahu Isa, Ahuna, Akaka, Akina, Lee, Carmen Hulu Lindsey, Robert Lindsey, and Machado are present, constituting a quorum. Trustee John Waihe'e IV is expected to arrive shortly.

We will now move on to item II. Approval of Minutes

II. PUBLIC TESTIMONY

Chair Colette Machado – Members I'd like to shift now to public testimony. If we have anyone present for public testimony. Hearing none, we move quickly to unfinished business.

III. UNFINISHED BUSINESS

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

Chair Colette Machado – I'd like call upon our Chief Operating Officer who is filling in for the CEO, Sylvia Hussey, please.

Sylvia Hussey – Thank you Chair, good morning Trustees. Just one update and that was also shared at Lanai Community meeting. The aggregation of all the community statewide workshops and community input for the

Strategic Plan is being aggregated by our contractor. It will be brought forward to the Trustees late July early August for further discussion and action. Just those updates.

IV. EXECUTIVE SESSION

Chair Colette Machado – Members the Chair would like to entertain a motion for recuse ourselves into Executive Session pursuant to HRS 92-5 (a)(4).

Trustee Brendon Kalei'āina Lee moves to recuse into executive session pursuant to HRS §92-5(a)(4).

Trustee Robert Lindsey seconds the motion.

Trustee Keli'i Akina – May I speak to the motion.

Chair Colette Machado – Sure, please go ahead.

Trustee Keli'i Akina – Thank you very much. In particular I am referencing item IV. C. on our agenda referring to the complaints against the Trustee for alleged violations of the Trustee Code of Conduct involving allegations of that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. Before we vote on this matter, I do want to encourage us to think in terms of our beneficiaries and the rights of Trustees. Sunshine Law HRS 92-5 (a)(2) gives an employee or officer who is having charges brought against him or her or is being disciplined to request an open meeting that is given to them as a right. Therefore, Madame Chair, I request to postpone the matter as to item IV. C. until board counsel has addressed the right of the Trustee in question in item IV. C. to request that the item IV. C. discussion take place at an open meeting Madame Chair.

Trustee Brendon Kalei'āina Lee – Point of clarification Madame Chair.

Chair Colette Machado – Yes.

Trustee Brendon Kalei'āina Lee – I do not see on our agenda an item for discipline.

Chair Colette Machado – That is correct.

Trustee Brendon Kalei'āina Lee – Although I agree wholeheartedly with the Trustee that should a Trustee be facing any disciplinary action that, that must be held in open session. I don't see in our agenda anywhere that this disciplinary action is being taken.

Trustee Keli'i Akina – Madame Chair.

Chair Colette Machado – Trustee Keli'i Akina.

Trustee Keli'i Akina – That Trustee in question has through his lawyer submitted a request that this discussion be held in open session and it has not been responded to. I would recommend that we postpone this until Counsel of the Board....

Chair Colette Machado – The purpose of the executive session is to review with the Trustees your attorney's response to this matter and in addition to that, our Board Attorney has reviewed and is making certain recommendations for our consideration that I feel is not public yet.

Trustee Keli'i Akina – Madame Chair I would assert that recommendations as to the policy regarding the disciplinary process on the code of conduct be dealt with in public session and certainly dealt with all Trustees none excluding.

Trustee Brendon Kalei‘āina Lee – Point of order Madame Chair.

Chair Colette Machado – I think in due time it will end up in open session. But right now because your attorney preempted the discussions by Trustees at the table by requiring a legal memo.

Trustee Brendon Kalei‘āina Lee – Point of order Madame Chair.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei‘āina Lee – First, there is nothing on our agenda about any of our procedures or disciplinary procedures. Second, I do not believe that it is proper for the Chair to be discussing the attorney’s letter in open session.

Chair Colette Machado – I am not discussing the details but we did receive a letter on behalf of Trustee Akina’s attorney that is all am mentioning. That is why I had to list it so we all could have the discussion. Are you still in opposition of the motion to recuse ourselves into Executive Session to discuss IV. A. B. and C.

Trustee Keli‘i Akina – I would like us to postpone item C. and in response to Trustee Lee’s statement, appropriate inferences can be made from the fact that there is an action item listed in item V. Action Item BOT #19-09 which has to deal with the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support...

Trustee Leina‘ala Ahu Isa – Chair, point of personal privilege.

Chair Colette Machado – Trustee Leina‘ala Ahu Isa.

Trustee Leina‘ala Ahu Isa – Personal privilege overrides everything. I just questions, previous to this I remember the parties involved were exclude from Executive Session so everyone stays in for this or are the parties involved excluded.

Chair Colette Machado – They will be dismissed after we go into executive session.

Trustee Leina‘ala Ahu Isa – Mahalo.

Chair Colette Machado – When this motion is approved, we will recuse ourselves into executive session. They will be asked to dismiss themselves.

Trustee Keli‘i Akina – The recusal of at least one Trustee from this discussion, along with the agenda item V. C. give a clear inference that a process of discipline will be discussed therefore I return to my original request that we postpone this discussion.

Chair Colette Machado – I think you are causing so much greyness on this issue on the disciplinary action. There is not disciplinary action. As you are aware the PIG, when you structure a PIG, it’s for investigation and to develop more clarity on how to proceed. In this case, we are looking at reviewing our current guidelines under the Trustee Code. You are making it worse then, you are appearing to circumvent our process to bring about, an indication to review this thoroughly with the PIG establishment. It doesn’t describe any aspect of disciplinary action upon the Trustee. You are misrepresenting the intent of this table.

Trustee Keli‘i Akina – Madame Chair, please know that it is not my intention to make any misrepresentation. What the Board does is already in writing on the agenda. My heart is that we have beneficiaries and future Trustees who need to be well served by the protection of their first amendment right. That is why I am taking this position.

Chair Colette Machado – The incorporation of a PIG that is being recommended would provide for that. You pointed it out in several discussions that we needed to review the Trustee Code because some of it is inaccurate and that it crosses over to Constitutional violation. In the first executive session, I am looking at V. C. It's not intended to look at specifically this disciplinary issues that you are raising. It is to create a positive approach on how you review any future complaints and to review the Trustee standards that we have of duty and care, that's what this is all about. You are preventing this from moving forward so we can have a more open and free discussion at the table.

Trustee Keli'i Akina – If it is the case that this is positive discussion of policy development then all Trustees should be able to participate and there is no one Trustee should be recused from this. That give a suggestion that a Trustee is being talked about.

Chair Colette Machado – I think you set yourself out to not participate.

Kurt Klein, Esq. – Trustee Akina the stated purpose of this meeting is to discuss the Board's legal liabilities, privileges and immunities regarding this agenda item. As you stated in open session your attorney has submitted a legal letter to the board. Board's legal obligations and rights needs to be discussed. Be it that letter you are adverse so we are asking you to recuse yourself from that executive discussion for the purpose of me to advise the board on what their legal rights and remedies are.

Trustee Keli'i Akina – Have all board members been given a copy of the letter from my Attorney. Although that was distributed to the last Executive Session. So the Trustee were not provided that information although they were given more than enough time.

Chair Colette Machado – It was subject to the review of our Board attorney and that is what we have done. We have a cover memo along with your attorney's letter to me that will be distributed in Executive Session.
Trustee Keli'i Akina – It is certainly not my intention to obstruct the flow of action today. I will conclude my remarks by simply summarizing.

Chair Colette Machado – We will proceed with the roll call vote then.

Trustee Keli'i Akina – I have stated my objections.

Chair Colette Machado – You have stated it very well your objections.

Trustee Keli'i Akina – Executive Session and they stand.

10:14 am Trustee John Waihe'e IV arrives

Chair Colette Machado – And you are on the record with those comments. Roll call vote.

Trustee Brendon Kalei‘āina Lee moves to recuse into executive session pursuant to HRS §92-5(a)(4). Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA					xx	
TRUSTEE DAN AHUNA			X			
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			x	
TRUSTEE JOHN WAIHE‘E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			x	1	2 abstention	
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passes with six (6) yes votes, one (1) no and two (2) abstentions.						

Chair Colette Machado – We will go into Executive Session. We will ask that Trustee Keli‘i Akina and Trustee Robert Lindsey be recused.

Trustee Brendon Kalei‘āina Lee – Not yet, not till C.

Chair Colette Machado – I stand corrected. We will take A. B. then C. Thank you for keeping me on my toes.

The Board resolved into Executive Session at 10:15 am.

- A. Consultation with attorney Kurt W. Klein, Esq. re: questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities regarding the Board’s obligations and responsibilities under Contract Number 3147. Pursuant to HRS §92-5(a)(4)
- B. Consultation with attorney Kurt W. Klein, Esq. re: questions and issues affecting OHA’s duties, liabilities, privileges, and immunities in transitioning to Sylvia Hussey, Ed.D., as interim CEO after the expiration of Contract Number 3147. Pursuant to HRS §92-5(a)(2),(4).
- C. Consultation with attorney Kurt W. Klein, Esq. re: questions and issues pertaining to the Board’s powers, duties, and liabilities concerning complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions. Pursuant to HRS §92-5(a)(4).

The Board reconvenes in open session at 11:55 am.

12:00 pm Trustee Keli‘i Akina and Trustee Robert Lindsey return to meeting.

V. NEW BUSINESS

- A. Committee on Resource Management
 - 1. Action Item RM #19-09: OHA Biennium Budget for the Fiscal Biennium Periods 2019-2020 (FY20) and 2020-2021 (FY21)

Chair Colette Machado – We are now under New Business V. A I’d like to call on Trustee Dan Ahuna.

Trustee Dan Ahuna moves to approve:

- A. The total Operating Budget for the Fiscal Biennium Periods 2019-2020 (FY 20) and 2020-2021 (FY21) as outlined in Attachment #1 to include,
- B. The extension of the Kaka'ako Makai Revenue allocation policy provision of thirty (30) percent of net revenues (as defined in current policy, see page 11) for OHA's Legacy Property management until further edits to the Kaka'ako Makai policy is presented, reviewed and decided upon by the Board of Trustees, but in no event later than September 30, 2019; and,
- C. The approval of 2% across-the-board pay increase of salaries and fringe (see page 17) for FY20 and FY 21 for OHA employees, excluding trustees, based on individual satisfactory performance evaluation.

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – It has been moved and seconded. Any discussion, hearing none, roll call vote.

Trustee Dan Ahuna moves to approve:						
A. The total Operating Budget for the Fiscal Biennium Periods 2019-2020 (FY 20) and 2020-2021 (FY21) as outlined in Attachment #1 to include,						
B. The extension of the Kaka'ako Makai Revenue allocation policy provision of thirty (30) percent of net revenues (as defined in current policy, see page 11) for OHA's Legacy Property management until further edits to the Kaka'ako Makai policy is presented, reviewed and decided upon by the Board of Trustees, but in no event later than September 30, 2019; and,						
C. The approval of 2% across-the-board pay increase of salaries and fringe (see page 17) for FY20 and FY 21 for OHA employees, excluding trustees, based on individual satisfactory performance evaluation.						
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	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'AINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED						
Motion unanimously passes with nine (9) yes votes.						

Chair Colette Machado – Congratulations Trustee for passing the total operating budget for the Office of Hawaiian Affairs.

Trustee Brendon Kalei'aina Lee – The performance evaluation, I just went on Kii on performance evaluation there is nothing there.

Sylvia Hussey – We will provide that to the Trustees as well as instructions and guidance on that.

- B. Action Item BOT #19-10: Approval of the appointment of Sylvia Hussey, Ed.D., to serve as interim Chief Executive Officer (CEO).

Chair Colette Machado – Trustee Waihee, please item V.B.

Trustee John Waihe'e IV moves to approve the appointment of Sylvia Hussey, Ed.D., the current OHA Chief Operating Officer (COO), to serve as the interim Chief Executive Officer (CEO) effective July 1, 2019 until such time as a permanent CEO is under contract with the OHA Board of Trustees (BOT) and officially starts.

Trustee Leina'ala Ahu Isa seconds the motion.

Chair Colette Machado – It has been moved and seconded, any discussion. Roll call vote please.

Trustee John Waihe'e IV moves to approve the appointment of Sylvia Hussey, Ed.D., the current OHA Chief Operating Officer (COO), to serve as the interim Chief Executive Officer (CEO) effective July 1, 2019 until such time as a permanent CEO is under contract with the OHA Board of Trustees (BOT) and officially starts. Trustee Leina'ala Ahu Isa seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA		x	X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'AINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion unanimously passes with nine (9) yes votes.						

Chair Colette Machado – Congratulations

C. Action Item BOT #19-09: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. Pursuant to HRS § 92-2.5(b)(1)(A).

Chair Colette Machado – Trustee Lee, Action item BOT 19-09.

Trustee Brendon Kalei'aina Lee moves to approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Permitted Interaction Group Scope /Purview:

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;

2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

Permitted Interaction Group Membership:

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey;
3. Trustee John Waihe'e IV; and

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

Permitted Interaction Group Term/Duration:

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

Aş amended.

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado – Chair recognizes Trustee Keli'i Akina.

Trustee Keli'i Akina – I'd like to speak to this motion with all my heart my fellow colleagues. It is a very sad day that OHA for our beneficiaries, for the public and for future Trustees, with respect to the 1st Amendment. I respectfully reject to this action item that you are proposing. Because it proposes a course of action requiring an amendment to the Trustee code of conduct policy.

Trustee Brendon Kalei'āina Lee – Point of order Madame Chair.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'āina Lee – By law and OIP guidance, Permitted Interaction Groups have to follow a very specific and narrow purview and the purview speaks, at no point, toward amending either our by-laws or our policies or procedures or any other governing documents. The Permitted Interaction Group purview is specific and very narrow and is investigative only.

Trustee Leina'ala Ahu Isa – Another point of clarification. My understanding is that it was Trustee against Trustee. But not its not, its and HR matter and its employees against Trustees. That is why I will look at voting for it, before I was against it and was going to ask it to be held at the table. But now it's totally different. It's not Trustee to Trustee.

Trustee Keli'i Akina – It's very clear that the entire Board will be acting, targeting a single Trustee. I have further concerns about this.

Trustee Brendon Kalei'āina Lee – Point of order.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'āina Lee – And I'd like to get an official ruling from the Chair. My point of order is that nowhere in here does it say that the Board of Trustees will be taking any action against another Trustee. Again, per OIP and State Law Permitted Interaction Group purview is very narrow. The Permitted Interaction Group that is being proposed is strictly investigative.

Chair Colette Machado – That is correct.

Trustee Brendon Kalei'āina Lee – I would like a ruling Chair, is Trustee out of order or not.

Chair Colette Machado – Trustee Akina, I am sorry, you are out of order.

Trustee Keli'i Akina – Madame Chair, as I continue to another point. I object to the appointment to one of the members of the PIG, the secret group the Permitted interaction group.

Trustee Brendon Kalei'āina Lee – Point of Order.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'āina Lee – Trustee just used the term secret group; by OIP and State Law, permitted interaction groups are not secret. They are open and they have to be reported back in open session to this body.

Trustee Keli'i Akina – For the sake of being able to continue my statement, I will refrain from my characterization as to what I believe it is and use the technical language that Trustee Lee has said permitted interaction group.

One of the members have already disclosed as you shared with me Madame Chair, May 1st memorandum that he has taken a position that the statements that I made were erroneous. Therefore, he has already taken a position on complaints and for him to be appointed the Chair of this PIG would make him impartial in being able to conduct an impartial investigation. For these reasons, I want to encourage Board members to have some courage. We all need to speak out when we are in disagreement with the Board. It's an important quality of freedom. It's the first amendment, if we curtail that our beneficiaries suffer, we are elected officials, our public suffers and ultimately our mission suffers. Therefore I am going to encourage you to note no on this formation of this group.

Chair Colette Machado - Trustee Akina, in respect to the Trustee that will be serving as the Chair who responded to what is required by our current executive policy. This is separate from his request he filed to be part of. This is to establish the investigation of a so-called multiple concerns individuals working at OHA, not necessarily from Trustee but from staff members. Individual staff members, which we are not, permitted to announce their names. I would have to say your comments for the record are inappropriate and not relevant.

Trustee Keli'i Akina – I have tried to be appropriate and relevant as possible. I think that while we technically are forming a structure that may have recognition by us an organization. We do have to deal with the laws of the land. Which is the First Amendment and the rights of all Trustees to be able to speak out even when they disagree with others. Let me make this clear, I use this right because I love OHA, I love its beneficiaries, and I am here to serve to fulfillment of my fiduciary duty. Therefore, I urge you fellow Trustees if you would rise up with courage and defeat this item when we go around and vote. Thank you.

Trustee Brendon Kalei'āina Lee – Point of clarification.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'āina Lee – I've heard Trustee Akina talk about his First Amendment right, which of course we are all entitled to. Is it the wish of Trustee Akina to amend this to broaden the purview of the permitted interaction group beyond Trustee Code of Conduct, which has to do with duty of care and loyalty to OHA and duty to obey and support board decisions to also investigate, Federal Crimes of breach of constitutional rights? Is that the wish of Trustee?

Trustee Keli'i Akina – I think I've made it clear that the action item being put before us to form this Permitted Interaction Group is flawed. All I am asking today is that we vote no on the proposal before us.

Trustee Brendon Kalei'āina Lee – Is that a no, Chair, that the Trustee is not asking to expand the purview.

Chair Colette Machado – He is not being clear about that. Is that a no Trustee?

Trustee Keli'i Akina – All I am asking today is we defeat this item. I don't need to respond to that specific question there. I think there are values...

Trustee Brendon Kalei'āina Lee – Point of order.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'āina Lee – He does have to respond.

Trustee Keli'i Akina – I have responded and my response is that, the question that you asked is one that is not pertinent to what I am saying. What I am saying.

Trustee Brendon Kalei'āina Lee – Madame Chair, that is his opinion, and as for the Chair to rule on yes, or no.

Chair Colette Machado – Hang on. Trustee Akina is that your final statement that you are not going to respond. If so, I am going to call on Trustee Leina'ala Ahu Isa.

Trustee Keli'i Akina – I defer to Trustee Leina'ala Ahu Isa.

Trustee Leina'ala Ahu Isa – Can we amend because I don't agree with the members of the PIG? I want to replace one with Kalei Akaka.

Chair Colette Machado – You want to replace the membership right now.

Trustee Leina'ala Ahu Isa – Yes. If we vote yes.

Chair Colette Machado – We can add her on. You can have 4 Trustees.

Trustee Leina'ala Ahu Isa – I want to remove one because there is a conflict of interest.

Chair Colette Machado – As the Chair, disagree with you. There is no conflict. We can add her on if you choose because you can have 4.

Trustee Leina'ala Ahu Isa – I thought the conflict. I can't vote for that if it stays.

Trustee Brendon Kalei'āina Lee – Make your amendment Trustee. There is amendment to the table.

Chair Colette Machado – Is there a second to her amendment to replace Trustee Brendon Kalei'āina Lee to the PIG? And to be replaced with Trustee Kalei Akaka. Is there is second to the motion? Going once, twice, three times. There is no second motion dies.

Trustee Carmen Hulu Lindsey – I'd like to suggest that Trustee Kalei Akaka be put on with us, added on.

Chair Colette Machado – That is another amendment to add Trustee Kalei Akaka to the PIG.

Trustee Carmen Hulu Lindsey moves to amend the motion and add Trustee Kalei Akaka to the membership of the PIG.

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – It has been moved and seconded to amend the original motion to add another member to the PIG membership. Which is Trustee Kalei Akaka. Roll call vote.

Trustee Carmen Hulu Lindsey moves to amend the motion and add Trustee Kalei Akaka to the membership of the PIG.						
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			X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA					x	
TRUSTEE BRENDON KALEI'AINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY					x	
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7		2	
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with seven (7) yes votes and two (2) abstentions.						

Chair Colette Machado – Lets got to the main motion now for the approval.

Trustee Brendon Kalei'aina Lee – Are we still in discussion?

Chair Colette Machado – Not on the amendment.

Trustee Brendon Kalei'aina Lee – The main motion. I would like to remind the Trustees at the table, should the motion pass as the Chair of the PIG, the Chair does not have a vote. I just want to remind the Board that Chair does not have a vote unless there is tie. Given there are now 4 Trustees there won't be a tie there will be three votes cast.

Trustee Keli'i Akina – Just to follow up on that statement. As you share with me, personally, the code of conduct investigative process does not go forward unless there is a second from a Trustee to actually affirm the charges and that it go forward. Trustee Lee has provided that second and you gave me that letter from May 1st from which he did so. Therefore, I contend, with respect, although he does not have a vote on that committee but as Chair he has influence and he has already without a vote used that influence and this process is going forward.

Trustee Brendon Kalei'aina Lee – Point of clarification Madame Chair.

Chair Colette Machado – Trustee Lee.

Trustee Brendon Kalei'aina Lee – All that was required of Trustee Lee was a letter of support. That the investigation would proceed. That clarification that I provided a letter that I believed or in way endorsed or said that the allegations were made were factual is completely false.

Chair Colette Machado – That is correct. This is not part of this process that we are engaging in.

Trustee Keli'i Akina – Madame Chair.

Chair Colette Machado – Trustee we’ve been ringing this out, you will have another shot at it. I am going to move forward with the vote.

Trustee Keli’i Akina – Can I circulate the letter from Lee?

Chair Colette Machado – Yes, that is not a problem. We are going to take a roll call vote if there are no objections for approval of the main motion.

Trustee Brendon Kalei’āina Lee moves to approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions.

Permitted Interaction Group Scope /Purview:
The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

Permitted Interaction Group Membership:
The membership of the PIG is as follows:

1. Trustee Brendon Kalei’āina Lee;
2. Trustee Carmen Hulu Lindsey;
3. Trustee John Waihe’e IV; and
4. Trustee Kalei Akaka

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

Permitted Interaction Group Term/Duration:
The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.
As amended.
Trustee Dan Ahuna seconds the motion.

TRUSTEE	1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA’ALA AHU ISA			X			
TRUSTEE DAN AHUNA		x	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI’I AKINA					X	(1 st voted no then advised by Counsel to abstain)
TRUSTEE BRENDON KALEI’ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY					X	
TRUSTEE JOHN WAIHE’E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7		2 abstention	

MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED
Motion passes with six (6) yes votes, one (1) no and two (2) abstentions.

Trustee Keli'i Akina – If this item is not targeting one Trustee why is it that I am directed to abstain from voting on it.

Kurt Klein, Esq. – You were instructed to abstain because it concerns the formation of Permitted interaction group to investigate complaints against an unnamed Trustee. I think you revealed who that Trustee maybe in the course and conduct of this meeting and even in the past meeting it was agendized.

Trustee Keli'i Akina – Thank you.

IV. EXECUTIVE SESSION

Chair Colette Machado – We will now seek a motion to recuse ourselves into Executive Session.

Trustee Dan Ahuna moves to recuse into executive session pursuant to HRS §92-5(a)(4).

Trustee John Waihe'e IV seconds the motion.

Trustee Dan Ahuna moves to recuse into executive session pursuant to HRS §92-5(a)(4). 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	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passes unanimously with nine (9) yes votes.						

Chair Colette Machado – Sylvia you can stay as well as Raina.

The Board resolved into Executive Session at 12:20 pm.

- B. Consultation with attorney Kurt W. Klein, Esq. re: questions and issues affecting OHA's duties, liabilities, privileges, and immunities in transitioning to Sylvia Hussey, Ed.D., as interim CEO after the expiration of Contract Number 3147. Pursuant to HRS §92-5(a)(2),(4).**

The Board reconvenes in open session at 12:27 pm.

VII. ANNOUNCEMENTS

Chair Colette Machado – We are back in open session member of the Board of Trustees. We are VI. Community Concerns. Before we call Leilehualani Katherine Kane I would like an announcement to take place regarding the visitation of the Administration of Native Americans, they will be here next week for their panel review.

Sylvia Hussey – The Administration for Native Americans who administers the Native American Programs at the Federal level, Commissioner Jeannie Hovland will be here on her Pacific Tour of Hawaii as well as Guam and other Pacific Islands to understand the scope and programming. There are four round tables scheduled for two on Thursday the 27th and two on Friday the 28th. The topic are Native Languages, Human Trafficking, Missing/Murdered Indigenous Women, Economic Development, and Community and Family Strengthening. So each of the round tables is by invite only. Federal Partners traveling with Commissioner Hovland, as well as program staff from the Senate Indian Affairs committee will be here as well. The objective really is to have the Federal folks as well as programming hear from on the ground, not only Federal Agencies, but also programs, beneficiaries of the ANA programs to her from them and understand the concerns on these four topics. Of course, our Native Hawaiian Revolving Loan Fund continues to be demonstration program. 25 years later with the ANA it will also be a good time to have those conversations with the ANA and Commissioner Hovland and our Native Hawaiian Revolving Loan Fund. That will be the activity in the building next week. A memo was sent out by Ka Pouhana two week ago about that and inviting the Trustees who will be in the building and want sit in and listen to the round table discussions. You are more than welcome to.

Chair Colette Machado – Thank you Sylvia.

VI. COMMUNITY CONCERNS

Chair Colette Machado – The Chair would like to call to the table Ms. Leilehualani Katherine Kane under community concerns. I wanted to mention that this portion of the meeting is compliant to sunshine law. Each individual that testifies before the Board of Trustees will have 5 minutes and we will be monitoring you with the 5 minutes.

Ms. Leilehualani Katherine Kane - Mahalo. Aloha. Just to become a little familiar with the names. I hear a lot of names being called. I don't know anyone here personally. But I do know your forefathers names. My real name is Leilehualani Kathrine Esther Loa Prince Kane. I married Kane. I am here because I moved with my younger sister. She came to testify on the foundation of long years. I am 66, I am the people, of the people who the State of Hawaii gave their oath that, and I was born before Statehood. I was taken along with my other siblings by the Territory of Hawaii. You can say they adopted me and I became a ward of their American way of life.

My mother who was pure Hawaiian and she gave us everything, including this office, of her breath of her forefathers, where she originated from. She lived a life, she wasn't perfect but she was hard to beat. That is why my sister was here, she was here to address individuals of the foundation of OHA. That is her kuleana. She never broke title with my mother. When the State took us, the older siblings, including my brother Maui Loa, who addresses the Native American Acts of that people who took him at 4 years old. When you become a slave, when you are taken, you can imagine every detestable thing, everything happens to children as well as adults, trafficking or whatever. These address should be taken care in privacy, that is why I am here.

I am here to preserve my sister and brother from the humiliations, the embarrassment; they didn't come into the new covenant like my mother. Like my mother, she wasn't in the new covenant. Which is this book call the Holy Scriptures, which we come from. We come from out of the house of Israel we are half-bloods. We come from the tribe of Joseph, the Mormons came with our genealogy, we became subject to their teachings and all of the things they spoke of we say ai. The name Hawa is a sacred name it is Hebrew, it means he causes to become. So the deed that we stand on is named after the creator himself the God of Israel. That is our evidence.

This is the translation of these Holy Scriptures it is in the holy writings, in Hawaiian. These are the books that people claim that the represent here in Hawaii. From England, from Israel, you name it. They sit on the lands, Nu‘uanu you take a ride you see from the tip of the mountain all the way to the sea. So we are educated people today we are not ignorant. But to exercise to apply that is a different story. That is where I come from, I come from an ancient, a kahuna class, my Tutu man, my mother’s father was David Kaluioikalani, King Kalaukaua’s Kahuna Pule, his wife was Hiaa Kauai she was Hula of the Iolani. So we are heirs, my grandmother died 1958, she opened her up in Wake Island, announced her dead, they pulled the deed 1959 with the State. So blood was spilt on the ‘āina.

I am here because of the genocide. My children, my grandchildren and my great grandchildren. The great grandchildren coming up have cerebral palsy like my two brothers that were taken into Waimanu Home for 21 years. The history is there, talk about the Federal Government. So we’ve been there done that, there is not nothing that you study that we hadn’t gone to first. We are the first peoples of the ‘āina. So we suffered. All we asking for now and I think that is what my sister is here for is called restitution. When you take a seal and you duplicate that seal it better fit the mold or else you will be charged. There is laws. Hollywood announced it on every video there is, you cannot duplicate or imitate a person’s identity or use it for your own benefits. It has to be going to the original seal. That is what my sister is about, she lived the life with my mother. She testified.

What I am here for also is to compassionately ask the Board of the Office of Hawaiian Affairs, I am a native Hawaiian with small “n”, the government used capital “N”, so they can take the Federal Funding and Recognitions which is against the laws. For the natives, Kuhio in his day, all of these ones that did their homework came forward before the earth of Governments, of Nations and presented themselves for the benefit and preservation of their people.

Chair Colette Machado – Are you able to summarize? You have already gone over the time.

Ms. Kane – Yes, the genocide was brought out in the commission the book my sister read from. I am witnessing it, there is the drug trafficking coming right out of the 45 footers that go into the store, what’s the name of that store you can drive right up and order your drugs. It’s a famous drugstore, 45 footers pull up every week and distribute that drug amongst the communities, like it or not, it may be legal but it’s still drugs. It alters the thinking. It cannot put you in the future it can only take you back into your memory patterns of your forefathers. Wo to he the 3rd and 4th generation because he will suffer the malediction of his forefather, etc., etc. to that individual. It is written, insight on the Holy Scripture. These books are the testimonies, they were written for our benefit, the people of the earth. Doesn’t matter Japanese, Filipino, Korean, Samoan, Hawaiian, it’s for the people that is the language. If we are not speaking out of these books, we are missing the moku. We missing the benefit of loving our neighbor which is the law of the land, the first law is to love thy God with all our heart, mind and strength. The second law is to love your neighbor as yourself. Do unto others, as you would have them do unto you. Simple, we are simple people. We are spiritual people, if we don’t become those people we are in for destruction. The sentence of destruction is soon. So my summary is, those that are fourth generation living in Hawaii who are not captial “N”, of Hawaii Nei, generations that have been practicing genocide to stop. There is no need. Because the creator sees all and knows all. And when we pronounces the kamakani to be let loose upon the Earth no one will be standing except the righteous. Ke ia i loko o makua o Kalani. Go inside and search for him while you still can. The seal that you carry with the State of Hawaii as your agent, is Ua Mau ke Ea o ka ‘Āina i ka Pono, in righteousness perpetuate the ‘āina. If you miss that understanding the seal that binds the people with the laws of the second law of the State of the peoples then the first has to come forward which is a privilege.

Chair Colette Machado – I have extended almost 8-9 minutes. Are you done?

Ms. Kane – I am pau.

Chair Colette Machado – Mahalo nui.

Ms. Kane - Aloha nui loa.

VIII. ADJOURNMENT

Chair Colette Machado – Members this concludes our agenda. I would like to entertain a motion to adjourn the meeting.

Trustee John Waihe'e IV moves to adjourn the meeting.

Trustee Kalei Akaka seconds the motion.

Chair Colette Machado – It has been moved and seconded. Roll call vote please.

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

The meeting was adjourned at 12:43 pm.

Respectfully submitted,


Dayna Pa, Board Secretary

As approved by the Board of Trustees on August 8, 2019.


Colette Y. Machado, Chairperson
Board of Trustees