

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

January 7, 2015 10:00 a.m.

ATTENDANCE:

Chairperson John Waihe'e, IV
Vice-Chairperson Peter Apo
Trustee Lei Ahu Isa
Trustee Dan Ahuna
Trustee Haunani Apoliona
Trustee Hulu Lindsey
Trustee Robert Lindsey

BOT STAFF:

Alvin Akee
Bethann AhSing
Capsun Poe
Claudine Calpito
Crayn Akina
Davis Price
Dayna Pa
Harold Nedd
Kama Hopkins
Kanani Souza
Kathy Owara-Takeo
Kauikealani Wailehua
Lehua Itokazu
Liana Pang
Louise Yee Hoy
Melissa Wennihan
Nathan Takeuchi
Reynold Freitas

ADMINISTRATION STAFF:

Kamana'opono Crabbe, Ph.D.,
Pouhana / CEO
Kāwika Burgess, Pou Nui / COO
Deja Ostrowski, PUBL
Derek Kauano, ADV-GOV
Ernest Kimoto, CC
Hawley Iona, CFO
Jerry Norris, COMP
Jessica Freedman, PUBL
Jim McMahon, ADV
Jocelyn Doane, PUBL
Jon Ching, PUBL
Kamaile Maldonado, PUBL
Kawika Riley, ADV
Kealoha Fox, DEMO
Koalani Kaulukukui, LPM
Lisa Watkins-Victorino, RES
Momilani Lazo, CEO
Monica Morris, ADV
Sterling Wong, PUBL

EXCUSED:

Trustee Rowena Akana
Trustee Colette Machado

GUESTS:

Louis "Buzzy" Agard
Keali'i Makekau

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Beneficiary Advocacy and Empowerment for Wednesday, January 7, 2015 to order at **10:00 a.m.**

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

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	PETER	APO	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	HAUNANI	APOLIONA	PRESENT	
TRUSTEE	CARMEN "HULU"	LINDSEY	PRESENT	
TRUSTEE	ROBERT	LINDSEY	PRESENT	
TRUSTEE	LEI	AHU ISA	PRESENT	Arrived at 10:03 a.m.

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

EXCUSED from the BAE Meeting are:

MEMBERS			COMMENT
TRUSTEE	ROWENA	AKANA	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	COLETTE	MACHADO	MEMO – REQUESTING TO BE EXCUSED

II. APPROVAL OF MINUTES

A. October 15, 2014

Trustee Apoliona moves to approve the minutes of October 15, 2014.

Vice-Chair Apo seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e asks if anyone votes NO or ABSTAINS. There are no replies.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	10:00 a.m. EXCUSED
LEI	AHU ISA						Arrived at 10:03 a.m.
DAN	AHUNA			X			
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO		2	X			
HAUNANI	APOLIONA	1		X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

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

III. COMMUNITY CONCERNS*

None

IV. UNFINISHED BUSINESS

None

Chair Waihe'e states that he will take item **VI. Executive Session, Item A.** out of order and hear it now. **Item VI. A.** is related to **Item V. New Business A. BAE 15-01: Revisions to the 2015 OHA Legislative Package.** The discussion generated will help to better-inform members and aid in their decision-making on the proposed action of **V.A.**

He asks for a consensus of agreement on the change. Zero members present voice objections to the change. A consensus of agreement is achieved on changing the agenda order.

VI. EXECUTIVE SESSION**

- A. Attorney-Client legal advisory by John James McMahon, Esq., OHA Counsel for Policy and Compliance Services, and Attorney Sherry P. Broder, Esq., Re: Questions and issues pertaining to Board of Trustees' powers, duties, privileges, immunities, and liabilities with respect to the public land trust. Pursuant to HRS § 92-4 and HRS § 92-5(a)(4).**

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

Trustee Apoliona moves to resolve into Executive Session.

Vice-Chair Apo seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e asks if anyone votes NO or ABSTAINS. There are no replies.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	10:01 a.m.
LEI	AHU ISA						EXCUSED
DAN	AHUNA			X			Arrived at 10:03 a.m.
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO		2	X			
HAUNANI	APOLIONA	1		X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

The committee resolved into Executive Session at 10:01 a.m. to discuss:

VI. EXECUTIVE SESSION**

- A. Attorney-Client legal advisory by John James McMahon, Esq., OHA Counsel for Policy and Compliance Services, and Attorney Sherry P. Broder, Esq., Re: Questions and issues pertaining to Board of Trustees' powers, duties, privileges, immunities, and liabilities with respect to the public land trust. Pursuant to HRS § 92-4 and HRS § 92-5(a)(4).**

The committee returned to Open Session at 10:58 a.m.

V. NEW BUSINESS

- A. BAE 15-01: Revisions to the 2015 OHA Legislative Package**

Trustee Apoliona moves to approve the following revisions to the 2015 OHA Legislative Package:

- **Replace the contents of OHA-6, which is a short form bill relating to incarcerated parents and their children, with new language.**
- **Replace OHA-7, which is a short form bill relating to public land trust revenues, with a resolution relating to the same.**
- **Amend the provisions of OHA-1, which is a bill relating to the budget of the Office of Hawaiian Affairs.**
- **Amend the provisions of OHA-5, which is a bill relating to Hawaiian plants in public landscaping.**

Trustee Hulu Lindsey seconds the motion.

Chair Waihe'e calls for DISCUSSION.

Chair Waihe'e: I'll turn it over to Pouhana Kamana'opono Crabbe.

Pouhana Crabbe: I bring forth Chief Advocate Kawika Riley, Public Policy Manager Sterling Wong, and Senior Public Policy Advocate Jocelyn Doane to present them to you.

Chief Advocate Riley: Aloha Mai Kākou Chair and Members. Sterling and Jocelyn will be providing the bulk of this presentation; I just wanted to thank the committee for its time and for indulging us on the Executive Session portion of the meeting. As you'll recall in October 2014, the committee as well as the full board pre-approved the 2015 OHA Legislative Package. What we're doing now is coming back with the technical changes that we've made. What the team will describe are the technical changes to four of the bills in our package. Two are the short forms that were approved this past October and two are technical changes to the long form bills that were approved. With that, I'll turn it over to Sterling and Jocelyn.

Public Policy Manager Wong: Aloha mai kākou and Hau'oli Makahiki Hou. Just to give a little bit of background of our time table, the legislative session starts on January 21st. It's always the third Wednesday of January. In talking with the House Speaker's office and the Senate President's office they want our package to be submitted to them for introduction and formatting by this Friday, January 9, 2015. So with the BAE Committee's approval today and the full Board's approval tomorrow, we will submit what is approved to the Speaker's office and to the President's office. As Kawika mentioned, in October 2014 the BAE Committee and BOT approved seven bills; two were short forms. At the time, we knew there were concerns brought to our attention by the community and our stakeholders. Due to the expedited time table that the election created, we weren't able to vet and flesh out actual language but we're coming back now with precise bill language to replace those two short form bills.

The first one is **OHA-6 – related to Incarcerated Parents**. This is a huge issue that our legislature has taken up a few times in the mid-2000s. Children of incarcerated parents in pa'ahao face unique trauma issues, and there's national data that describes their trauma. Locally, however, data is lacking about what this population of children looks like, or what the population of parents look like. Without that data it's very hard to create policies and programs to address the issue at a programmatic level. What has happened over the years is that there are programs created that address this issue, but in a piecemealed fashion. Additionally, many of the programs that were created in the mid- 2000s have faded away without continued funding. What is needed is real, hard-and-fast data to show how big the issue is to attract the funding.

This bill requires that all of the Department of Public Safety intake centers collect or coordinate the collection of data on the number of incarcerated parents and their number of minor children and any other data the department deems necessary. This is a critical first step in addressing this issue. We did meet with the former Public Safety Director (PSD) Ted Sakai and he was very supportive of this. Unfortunately, he is no longer there and we have not yet had the opportunity to meet the new PSD who is a former Hālawa warden. We do have a meeting with a staffer who is the point person on this issue going-forward. Yesterday, Public Policy Advocate Kamaile Maldonado met with Keiki o ka 'Āina who has a grant to look at this specific issue. One of things that we've learned about this issue is that in the mid-2000s there were a number of programs that were really successful but are now operating with little-to-no-funding. A lot of the programs that do still address this issue are funded by faith-based organizations because they don't really need the data to support what they're doing. However, if we really want to address this issue, we're going to need other organizations to support and supplement what the faith-based organizations are doing. They're going to need data to really justify and attract additional monies.

Public Policy Advocate Maldonado: Aloha Chair and Trustees. When we're talking about intake centers we're talking about the intake centers for the prisons and jails. There are a lot of different models that have been tried as ways to get to this specific population; the children of incarcerated parents. They're very invisible in our population. It's difficult to find them and it's often difficult to collect information about them. This may be because frequently their parents who are incarcerated may not have a lot of contact with them and thus may not know a lot about them. Additionally, on the children's side, there is a lot of stigma with having a parent who's incarcerated. It may be a case that their caregivers or they themselves loathe identifying themselves. This is a way of collecting more information about this population; who they are, where they are, and what their needs are. The data can help service providers identify this segment, in order to be able to offer them services; that really is the goal here. It's just one method or approach. We see Public Safety as having the best access to this information. So if we could ask them a few questions about their families and children as they're coming in then we're hoping that can be expanded to collect more information down the road. The data can help identify their needs as parents while they're in prison and also the children's needs while their parents are in prison.

Pouhana Crabbe: For clarification, we assume that we are going to collect data now at the intake centers. *Is there another methodology or process to collect data from those who are currently incarcerated?*

Public Policy Manager Wong: There have been a number of different attempts to sort of capture this data. We had a meeting with Keiki o ka 'Āina and met with DOE. The thought there was to try and get into the schools and then capture the data that way. I think the bottom line is that there is no perfect solution and this is sort of low-hanging fruit to get the initial data. We'll definitely be looking with our stakeholders to try to find other ways to capture that data through a survey of the inmates or something like that. There are a lot of different ways to do it, but this is certainly our first step in trying to get the data.

The next bill we'll be looking at is the replacement for **OHA-7 - related to Public Land Trust Revenues**. We are requesting the Executive Branch to provide accurate and complete Act 178 reports going forward. The real goal of this is to of course get accurate data to help us get a better idea of what's out there and what's being generated. I look at it as an educational tool. It's been 9 years since Act 178 was created. Last year, the legislature had only 23 members who were in the legislature in 2006; so there's been a huge turnover and we're looking at a lot of new legislators who have no idea about this issue. Therefore, we're really going to need to approach this session delicately and see this as an opportunity to educate legislators while constantly campaigning to discuss this with the legislators.

The next two bills are amendments to the bills that the OHA Board had already approved. **OHA-1; this is the FY16 - FY17 OHA Biennium Budget**. We're proposing three amendments; two major ones; and the remaining one involves just technical amendments because we found some dates that were wrong.

The first is to remove reference to educational scholarships and the educational proviso. In talking to our financial team, they found other money for it.

The second amendment is to amend the language for the social service proviso to make it broader, clearer, and to differentiate it between the income and housing provisos as well. The wording of those appeared to have an overlap so we wanted to make it clear that the social services proviso is focusing on emergency situations and trying to address those issues. The housing and income provisos are meant to look at our strategic results, from a programmatic standpoint.

OHA-5; the Hawaiian Plants in Landscaping bill - I have to give a lot of credit to Public Policy Advocate Jessica Freedman, she's done a tremendous amount of outreach on this. If you recall with this bill, there is currently a law on the books in the procurement code that requires all new public landscaping to include native plants with the clause *whenever and wherever feasible*; which is a loophole. About two or three years ago, some of our stakeholders tried to come in and close that loophole to give real meaning to the statute and actually get more native plants in public landscaping projects. We've taken this issue up and have done a great deal of outreach, particularly with the landscape industry to get their feedback.

In talking with them, they had a couple of concerns. They're generally supportive of the bill, but they have concerns and recommended amendments to help with the implementation of the bill. The amendments we're proposing come largely from our stakeholder outreach. This helps to make sure we have a bill that has a higher likelihood of passing with broader support. The first change is moving back the *phasing in* of the requirement by a couple of years; adjusting the percentages there. The idea here was the landscaping industry wanted to make sure they could actually provide enough plants and were ready for these deadlines.

The second issue was to push back the effective date of the law to make sure that existing public landscaping projects that are already being negotiated and planned aren't affected by this law because those current plans are not considering this new law. We didn't want to affect those, so that is just clarification of the language and technical amendments.

The third point is providing the counties with the ability to create some exemptions for themselves, to give themselves more flexibility to implement the law. We foresee amendments to how that exemption will work.

Trustee Hulu Lindsey: *When is the deadline to submit bills? Is it still possible for us to put together a new bill?*

Public Policy Manager Wong: The House Speaker and Senate President's offices have asked for everyone's packages to be in by this Friday, January 9, 2015. Legislators have 10 days after session starts to introduce bills and depending on your position, you get more bills allotted.

Trustee Hulu Lindsey: *Remember I suggested that we introduce or be part of a bill equalizing the charter schools with the DOE schools? I think this is a good time to introduce such a bill.*

Public Policy Manager Wong: We've been working with our stakeholders of charter schools regarding related issues; particularly facilities-funding and other issues like that where there is an inequity. The main idea that's come forth that is backed by a bunch of the charter schools is the idea for a *Hawaiian Authorizer* and Taffi Wise has floated a bill to us. Right now the Hawai'i State Public Charter School Commission is the only entity that can authorize the creation of *Charter School Authorizers*. The statute provides for the Board of Education to create other authorizers. We've looked at the bill and we're committed to working with Taffi and others. The law already provides for the Board of Education to have this authority. So what we're looking at instead of a bill is to deal with it administratively; to use the existing statutory authority that the law provides and to go through an administrative route. We are working with Taffi's group to develop administrative rules to create a new authorizer. If this doesn't work at the administrative level then we can go to the legislature and let them know that we've tried it this way, and it didn't work. This is what we try to do with most of our bills.

Public Policy Advocate Monica Morris: Aloha Mai Kākou. We've been working very closely with Taffi and others in the Nā Lei Na'auao alliance, which is made-up of 17 Hawaiian-focused Charter Schools. Several things have been identified as real needs. The perceived disparity between federal funds that go to the DOE schools and the Charter Schools has been identified by the beneficiary stakeholders as a real disparity. We haven't been able to confirm that. We are working with our D.C. Bureau Office for them to look at the federal funding process and provide us information. With respect to state funds, the law is very clear that the funding for Charter Schools and DOE students are the same.

Trustee Apo: *Does the law require that the pro-rata share of facilities funding also be extended to Charter Schools?*

Public Policy Advocate Morris: Excellent question; there is a real difference. The DOE comes with facilities, but the charter schools have to use their per-pupil money to pay for facilities; meaning they have to be really creative. So to clarify, the money that comes from the State to DOE and Charter School students is equal. However, the charter schools need to use that bucket of money to pay for their facilities, whereas DOE schools don't have that added expense. Last year, there was a bill that was passed. Act 99 intends to help relieve some of the charter schools of their previous burdens.

Public Policy Manager Wong: Just one note, we've been working closely with the Department of Education and our Hawaiian language community stakeholders on our assessment bill. We're not proposing any changes now, but I wanted to let the Committee and Board know that there will be changes to the bill, probably at the first hearing. We will be updating the committee on that at a later time.

OHA 2015 LEGISLATIVE PACKAGE AMENDMENTS



BAE Committee January 7, 2015

OHA-6 (Attachment A)

■ Incarcerated Parents

- Requires public safety intake centers to:
 - Collect or coordinate the collection of data on the number of incarcerated parents, the number of minor children with incarcerated parents, and other information about children with incarcerated parents the department deems useful to facilitate provision of services to incarcerated parents and their children.

OHA-7 (Attachment B)

■ Public Land Trust Revenue

- A resolution requesting that the executive branch provide accurate and complete Act 178 reports.

OHA-1 (Attachment C)

■ OHA Budget Bill

- Remove the reference to educational scholarships
- Amend the language of the social services proviso for better clarity.

OHA-5 (Attachment D)

■ Hawaiian Plants in Landscaping

- Push back the implementation deadlines indicating when and what percentage of future landscaping project footprints must incorporate Hawaiian plants;
- Push back the effective date so as to not to affect projects already planned;

OHA-5 (Attachment D)

■ Hawaiian Plants in Landscaping

- Provide the counties the authority to make additional exemptions; and
- Make minor amendments for clarity and consistency.

Pau

Trustee Apoliona moves to approve the following revisions to the 2015 OHA Legislative Package:

- Replace the contents of OHA-6, which is a short form bill relating to incarcerated parents and their children, with new language.
- Replace OHA-7, which is a short form bill relating to public land trust revenues, with a resolution relating to the same.
- Amend the provisions of OHA-1, which is a bill relating to the budget of the Office of Hawaiian Affairs.
- Amend the provisions of OHA-5, which is a bill relating to Hawaiian plants in public landscaping.

Trustee Hulu Lindsey seconds the motion.

Chair Waihe'e asks if there is any further discussion. There is none.

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

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	Motion: 10:59 a.m. Vote: 11:46 a.m.
LEI	AHU ISA			X			EXCUSED
DAN	AHUNA			X			
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO			X			
HAUNANI	APOLIONA	1		X			
CARMEN HULU	LINDSEY		2	X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				7	0	0	2

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

Chair Waihe'e notes for the record that the **MOTION PASSES**.

VI. EXECUTIVE SESSION**

None

VII. BENEFICIARY COMMENTS*

None

VIII. ANNOUNCEMENTS

None

IX. ADJOURNMENT

Trustee Apoliona moves to adjourn the BAE meeting.

Vice-Chair Apo seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e asks if any members vote NO or ABSTAIN. There are no dissenting votes.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	11:47 a.m. EXCUSED
LEI	AHU ISA			X			
DAN	AHUNA			X			
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO		2	X			
HAUNANI	APOLIONA	1		X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				7	0	0	2

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

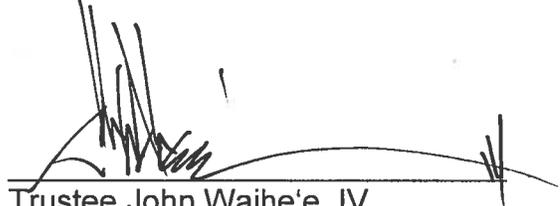
Chair Waihe'e adjourns the BAE meeting at 11:47 a.m.

Respectfully submitted,



Melissa Wennihan
Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on February 4, 2015.



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

ATTACHMENT(s):

- Notice of Excused Absence (2)