

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

March 2, 2016 10:00 a.m.

ATTENDANCE:

Chairperson John Waihe'e, IV
Vice-Chairperson Peter Apo
Trustee Haunani Apoliona
Trustee Hulu Lindsey
Trustee Robert Lindsey
Trustee Colette Machado

EXCUSED:

Trustee Lei Ahu Isa
Trustee Dan Ahuna
Trustee Rowena Akana

BOT STAFF:

Alvin Akee
Crayn Akina
Dayna Pa
Lady Elizabeth Garrett
Lehua Itokazu
Liana Pang
Louise Yee Hoy
Melissa Wennihan
Reynold Freitas

ADMINISTRATION STAFF:

Kamana'opono Crabbe, Ph.D., Pouhana / CEO
Lisa Victor, Pou Nui / COO
Anuheia Patoc, PUBL
Deja Ostrowski, PUBL
Jacob Aki, PUBL
Jessica Freedman, PUBL
Jim McMahon, ADV
Jocelyn Doane, PUBL
Jonathan L. Ching, PUBL
Kamaile Maldonado, PUBL
Kawika Riley, ADV
Monica Morris, ADV
Nina Ki, PUBL
Sterling Wong, PUBL
Wayne Tanaka, ADV

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Beneficiary Advocacy and Empowerment for Wednesday, March 2, 2016 to order at **10:07 a.m.**

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

MEMBERS			AT CALL TO ORDER (10:07 a.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	PETER	APO	PRESENT	
TRUSTEE	HAUNANI	APOLIONA	PRESENT	
TRUSTEE	CARMEN "HULU"	LINDSEY	PRESENT	
TRUSTEE	ROBERT	LINDSEY	PRESENT	
TRUSTEE	COLETTE	MACHADO	PRESENT	

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

EXCUSED from the BAE Meeting are:

MEMBERS			COMMENT
TRUSTEE	LEI	AHU ISA	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	DAN	AHUNA	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	ROWENA	AKANA	MEMO – REQUESTING TO BE EXCUSED

Waiver of the OHA 72-hours prior to a meeting materials distribution policy

Chair Waihe’e seeks a MOTION:

To waive the OHA Board of Trustees Operations Manual practice at which materials will be reviewed, discussed, or acted upon at least 72-hours prior to the meeting regarding items:

- IV. New Business**
 - A. 2016 OHA Legislative Positioning – Matrix1** ; and**
- V. Unfinished Business**
 - A. 2016 OHA Legislative Package Updates – Matrix 2****

Trustee Hulu Lindsey moves.

Trustee Apoliona 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.

							10:08 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO			X			
HAUNANI	APOLIONA		2	X			
CARMEN HULU	LINDSEY	1		X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO			X			
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.

II. APPROVAL OF MINUTES

A. February 10, 2016

Trustee Hulu Lindsey moves to approve the minutes of February 10, 2016.

Trustee Machado 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.

							10:09 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO			X			
HAUNANI	APOLIONA			X			
CARMEN HULU	LINDSEY	1		X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO		2	X			
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. NEW BUSINESS

A. 2016 OHA Legislative Positioning – Matrix 1**

Chair Waihe'e turns it over to Ka Pouhana Kamana'opono Crabbe.

Pouhana Crabbe: Aloha Kakahiaka, Mahalo Chair Waihe'e and Good Morning Trustees. I'll call upon Public Policy Manager Sterling Wong and Senior Public Policy Advocate Jocelyn Doane to present the Positioning Matrix.

Senior Public Policy Advocate Doane: Aloha Trustees. The matrix is still thick, but it should be substantially smaller next week, because we're dealing with the Crossover deadline this week. Then the deadline for Resolutions is March 11th; so we may have a bunch of Resolutions for approval next week.

There are a couple of **NEW BILLS** that I wanted to go over. Item #1, HB1581; Relating to Judicial Proceedings - this is kind of a complicated bill, but basically what it would do is, it would allow for certain Appeals from a Contested Case to go directly to the Supreme Court. The reason that this is a positive thing is that, as we know, the judicial process is very lengthy. So for things that are getting developed for example, if you're going to appeal a contested case, sometimes it will be years-and-years that go by, before the Supreme Court finally hears it. This bill specifically targets Land Use laws, Conservation District Use laws and HCDA laws, and contested cases that arise from those statutes. The PUC and Water Commission have similar ability to appeal directly to the Supreme Court. We are recommending MONITOR. While we can see that it would be positive for some situations, removing the Supreme Courts discretion to choose which cases they hear, may burden the Supreme Court. So when we need decisions that are in front of the Supreme Court to move, if they have additional responsibilities, it could burden them.

Item #7, HCR43; Related to the Charter School Commission - this would request that the Charter School Commission convene a working group to evaluate the feasibility of establishing a High School Diploma Program for adult learners. They're distinguishing between a high school diploma and a GED with the idea that high school diploma holders earn more than those with a GED. However, legislation passed in 2010 prevents adult learners over the age of 20 from attending and enrolling in a public high school. It's not clear how this legislation would get around that; so our recommendation is to MONITOR.

Moving on to our one **BILL POSITION FOR RECONSIDERATION**; Item #11, SB2946; Relating to Indigenous Hawaiian Architecture - the bill as currently drafted would require the Counties to authorize the use of Hawaiian Architectural practices on agricultural lands. However, in the past, the legislature had already required the counties to adopt building codes to allow for traditional hale methods on all zoning classifications. The problem is that the building codes for Honolulu, Maui, and Kaua'i County require that if a traditional hale is going to be used for sleeping purposes, then, there has to be another primary residence on the property already. We are recommending changing our position from ~~Comment~~ to SUPPORT WITH AMENDMENTS. We are working with Senator Shimabukuro and have drafted some suggested language for her. The two options that we drafted are first, to allow an additional farm dwelling or employee housing or basically a traditional hale as

long as it's done by traditional methods regardless if its connected to agriculture and regardless if there's another residence. The other option is to require the counties to adopt ordinances that authorize the primary residence on agricultural land to be built using traditional methods. In other words, even if they're only allowed *one* (residence), that *one* could be the traditional hale instead of a primary residence.

Moving on to OHA IMPACTED BILLS:

Regarding Item #36, HB665; Relating to Collective Bargaining - we do have one good piece of information today; it looks like this bill will not get a hearing.

The next measure is Item #194, HB2200; Relating to Native Hawaiian Resources - this is the KIRC Public Land Trust bill; it did pass this weekend. So we will try our best to make sure it's not heard in the Senate.

Public Policy Manager Wong: We could also try to amend it, to exclude OHA Public Land Trust (PLT) Revenues, but we'll see what happens.

Senior Public Policy Advocate Doane: We're not going to advocate for BLNR lands to be taken away for KIRC.

Public Policy Manager Wong: Absolutely.

Trustee Apo: *Has anyone asked them what the plan is; the projection; the predictability?* This is a multi-million-dollar expenditure and no one is asking these questions.

Public Policy Manager Wong: There have been some critical questions being asked of KIRC about their plan. What they have told their committee and as I understand it, in past years, they have had a 3 million dollar operating expense to keep the island open. My further understanding is that because they haven't been getting the funds they need, they've been cutting back a lot. So staff have been furloughed or laid off. They've been going on with bare-bones budgeting and planning where they have little money going forward.

Trustee Apo: *What is the end goal?*

Trustee Hulu Lindsey: Since I sit on the commission and attend all the meetings, the end goal is to have the federal government give us the money to continue with the clean-up efforts. In the meantime, we have many volunteers that are willing to continue the planting in the areas that are safe. This shortage of money is very real for them.

Senior Public Policy Advocate Doane: Item #254, HB2750; Relating to Native Hawaiians - this is the one that would place a Native Hawaiian Housing Task Force within OHA. This bill just had a hearing yesterday. Again, we have been working with the author of the measure to get them information. It looks like DHHL opposes the bill and the AG has raised a bunch of concerns about the preamble. So it's possible that it winds up not going anywhere when it gets to the Senate, but it did just pass Finance yesterday and is still moving.

Senior Public Policy Advocate Doane: We'll go over a few bills that we have identified as **SIGNIFICANT** for the trustees. The first one is Item 140, HB1932; Relating to the Department of Hawaiian Home Lands - this is the 28 million dollar request for their budget. It looks like both the Senate and the House bills are dead; they did not get hearings. Of course there's still the possibility of amendments to the budget bills to get them (DHHL) additional funding as this was an additional appropriation measure.

Item #215, HB2407; Relating to Land Dispositions - there were two Department of Transportation (DOT) bills introduced this session. One would have allowed them to continue to directly negotiate for their leases which we could appreciate the rationale for, but it would have prevented oversight for the BLNR. So because the DOT does not have an open board, we were Opposing that measure. It looks like it was deferred.

Item #221, HB2501; Relating to Water Rights is one of the East Maui Irrigation (EMI) bills. As you know, this bill would allow HC&S (Hawai'i Cane and Sugar) to continue to hold revocable permits. The Senate bill was deferred. The House version moved out of Finance yesterday. We think the reason it moved is because it was amended to sunset in five years, which we know is a really long time considering how long our people in East Maui have been waiting. So we recommend that we continue to OPPOSE.

Item #487, SB2868; Relating to the Qualification of Successors to Lessees under the Hawaiian Homes Commission Act, 1920, as amended - this is the DHHL blood quantum bill. It does not look like this bill is moving as it needs to get a hearing by tomorrow in WAM. It's very unfortunate and we're not certain what the rationale is, in not moving this measure.

Item #508, SB2994; Relating to Hawaiian Homes - this is the measure that would allow them to seek independent legal counsel. This bill also needs to get a hearing by tomorrow in WAM, and we have not seen notification yet.

Senior Public Policy Advocate Doane: Those are all the bills that we wanted to highlight for the Trustees this week.

Trustee Apoliona moves to approve Administration’s recommendations on NEW BILLS (Items 1 – 10) and BILL POSITIONS FOR RECONSIDERATION (Item 11), on the OHA Legislative Positioning Matrix dated March 2, 2016, as amended.

Trustee Machado seconds the motion.

Highlight = Bills that were discussed				Peach = In BAE Meeting Change	
ITEM #	BILL #	REPORT	DESCRIPTION	POSITION	IN BAE MEETING CHANGE
New Bills					
1	HB1581	RELATING TO JUDICIAL PROCEEDINGS.	Requires contested case hearings of the land use commission, Hawaii community development authority, and those involving conservation districts to be appealed directly to the supreme court. (HD1)	MONITOR	
2	HB2622	RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.	Makes an appropriation for the appointment of an administrative monitor in the Office of the Auditor to assess the Department of Hawaiian Home Lands' progress in meeting its constitutional and legal duties.	MONITOR	
3	HB2678	RELATING TO URBAN RENEWAL.	Authorizes the director of finance to issue GO bonds to the counties for infrastructure construction related to urban renewal projects. Amends allowable number, name, and membership requirements for local redevelopment agencies. Designates agency redevelopment projects as public works. (HB2678 HD1)	MONITOR	
4	SB2559	RELATING TO HOMELESSNESS.	Establishes minimum requirements for emergency shelters. Prohibits an emergency shelter from establishing or enforcing a maximum period of stay for homeless families or individuals. Requires homeless shelter stipends to be paid for achievement of performance measures. Repeals the automatic annual adjustment of homeless shelter stipend amounts. Revises existing provisions on the establishment and collection of shelter and service payments from homeless families and individuals. Requires homeless service provider agencies to submit a financial audit to the department of human services at least annually. Establishes 2.0 FTE positions to assist in the procurement and monitoring of homeless shelter contracts. Appropriates funds.	MONITOR	
5	SB3100	RELATING TO URBAN RENEWAL.	Authorizes the director of finance to issue GO bonds to the counties for infrastructure construction related to urban renewal projects. Allows each county to have more than one local redevelopment agency. Repeals the specific naming requirement for local redevelopment agencies. Requires all five members of the local redevelopment agency to reside within the boundaries of an area defined by the county via resolution. States that redevelopment projects carried out by the local redevelopment agency are public works. Effective July 1, 2050. (SD1)	MONITOR	

6	HCR42		REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONVENE A TASK FORCE TO DOCUMENT AND COLLECT DATA IDENTIFYING ECONOMIC, ENVIRONMENTAL, AND REGULATORY CONSEQUENCES OF CROP DEGRADATION CAUSED BY INVASIVE AND ENDANGERED SPECIES IN HAWAII.	MONITOR	
7	HCR43		REQUESTING THE STATE PUBLIC CHARTER SCHOOL COMMISSION TO CONVENE A WORKING GROUP TO EVALUATE THE FEASIBILITY OF ESTABLISHING A HIGH SCHOOL DIPLOMA GRANTING PUBLIC CHARTER SCHOOL PROGRAM FOR ADULT LEARNERS.	MONITOR	
8	SCR38		REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONVENE A TASK FORCE TO DOCUMENT AND COLLECT DATA IDENTIFYING ECONOMIC, ENVIRONMENTAL, AND REGULATORY CONSEQUENCES OF CROP DEGRADATION CAUSED BY INVASIVE AND ENDANGERED SPECIES IN HAWAII.	MONITOR	
9	SCR43		REQUESTING THE STATE PUBLIC CHARTER SCHOOL COMMISSION TO CONVENE A WORKING GROUP TO EVALUATE THE FEASIBILITY OF ESTABLISHING A HIGH SCHOOL DIPLOMA GRANTING PUBLIC CHARTER SCHOOL PROGRAM FOR ADULT LEARNERS.	MONITOR	
10	HR11		REQUESTING THE STATE PUBLIC CHARTER SCHOOL COMMISSION TO CONVENE A WORKING GROUP TO EVALUATE THE FEASIBILITY OF ESTABLISHING A HIGH SCHOOL DIPLOMA GRANTING PUBLIC CHARTER SCHOOL PROGRAM FOR ADULT LEARNERS.	MONITOR	
			Bill Positions for Reconsideration		
11	SB2946	RELATING TO INDIGENOUS HAWAIIAN ARCHITECTURE.	Requires each county to adopt ordinances to authorize indigenous native Hawaiian architectural practices and materials in the county's building code for agricultural lands that are to be used for farming operations, including farm worker housing. (SD1)	COMMENT > SUPPORT WITH AMENDMENTS	

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

Chair Waihe'e calls for a Roll Call Vote.

						10:36 a.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI AHU ISA						EXCUSED
DAN AHUNA						EXCUSED
ROWENA AKANA						EXCUSED
VICE-CHAIR PETER APO			X			
HAUNANI APOLIONA	1		X			
CARMEN HULU LINDSEY			X			
ROBERT LINDSEY			X			
COLETTE MACHADO		2	X			
CHAIR JOHN WAIHE'E			X			
TOTAL VOTE COUNT			6	0	0	3

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

V. UNFINISHED BUSINESS

A. 2016 OHA Legislative Package Updates – Matrix 2**

Public Policy Manager Wong: Now for the really bad news; for the first time in Advocacy's existence, not only are we not getting any bills passed this year, we're not getting any bills pass Crossover. All of our bills in our Legislative Package are dead. I'll just skip to our main bill, OHA-11; our Public Land Trust bill. Neither House Finance nor the Senate Ways and Means committees put our bills on any agendas to get hearings.

Senior Public Policy Advocate Doane: Interestingly, DHHL's bills are not passing either.

Public Policy Manager Wong: We have not yet been able to talk to House Finance. We have a meeting with them tomorrow where we hope to get a better idea of what was the holdup. We've tried to get a meeting with the WAM Chair, but have not been successful. We did have discussions with the Senate Majority Leader and other Senators; so we kind of got a feel about what happened in the Senate. There are some legitimate legal concerns about the first two aspects of our bill relating to the lifting of the cap in the interim and the transferal of the overage monies that are in the account. We propose to hold an Executive Session at our next BAE Committee Meeting to discuss the legal issues with our Outside Counsel Sherry Broder. The one aspect that does seem to have traction is the Negotiating Committee, but not through a bill as the vehicle. So they're proposing a Resolution to create the group. We have drafted a Resolution and circulated them to the trustees; it's very simple. It's basically the preamble of the bill with some Resolution clauses that urge the creation of the Committee. The deadline for introduction for Resolutions is March 11 and they've asked to receive them from us by this afternoon. So we'd like to get a sense of whether or not this BAE Committee is

ok with this strategy. If the BAE Committee needs more time to review, then we can try to discuss an extension of the deadline with the legislature.

Pouhana Crabbe: So Trustees if you want the opportunity to review this and bring it back to the next meeting that is an option.

Trustee Machado: We have nothing. This is the only option that we have to hold them accountable to OHA; this four member committee.

Pouhana Crabbe: Correct.

Trustee Machado: So this is something that we need to be strongly in support of because we have nothing after this.

Public Policy Counsel Jim McMahon: You may take a motion today to adopt this resolution, because you're discussing the OHA Legislative Package and this resolution could become a part of this package. We can look at this resolution as a substitute to our PLT bill.

Trustee Machado moves to include House and Senate concurrent resolutions entitled "Requesting the Establishment of a Public Land Trust Revenues Negotiating Committee" to the OHA 2016 Legislative Package.

Trustee Hulu Lindsey seconds the motion.

Chair Waihe'e asks if there is any further discussion.

Trustee Robert Lindsey: We definitely do need this resolution to keep the conversation relating to the PLT revenues alive. Also, something to think about in the future is to work with a lobbyist on both the House and Senate sides.

Public Policy Manager Wong: To be clear, if the BAE Committee does approve this, we will be submitting the Resolution this afternoon to the House Majority Leader, the Senate Majority Leader, and the Hawaiian Affairs Committee Chairs in both the House and the Senate.

Trustee Apo: I think it's a very good step.

Pouhana Crabbe: Yes it is.

Trustee Apo: There's not much alternative.

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: 11:00 a.m.
LEI	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO			X			
HAUNANI	APOLIONA			X			
CARMEN HULU	LINDSEY		2	X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO	1		X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

VI. BENEFICIARY COMMENTS*

None

VII. ANNOUNCEMENTS

None

VIII. ADJOURNMENT

Trustee Machado moves to adjourn the BAE meeting.

Trustee Apoliona 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.

							11:02 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO			X			
HAUNANI	APOLIONA		2	X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO	1		X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

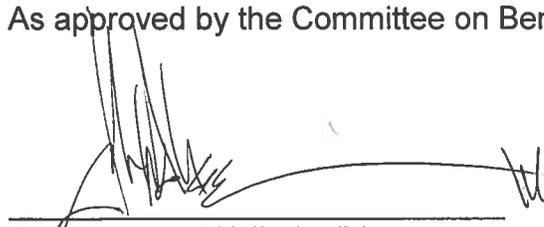
Chair Waihe'e adjourns the BAE meeting at 11:02 a.m.

Respectfully submitted,



Melissa Wennihan
Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on March 23, 2016.



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

ATTACHMENT(s):

- Notice of Excused Absence (3)