

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

September 20, 2017 10:00 a.m.

ATTENDANCE:

Chairperson Robert K. Lindsey, Jr.
Vice-Chairperson Dan Ahuna (lv. 12:30 pm)
Trustee Rowena Akana
Trustee Keli'i Akina
Trustee Colette Machado
Trustee John Waihe'e, IV (arr.10:27 am)

EXCUSED:

Trustee Leina'ala Ahu Isa
Trustee Peter Apo
Trustee Carmen Hulu Lindsey

BOT STAFF:

Kama Hopkins
Lehua Itokazu
Claudine Calpito
Davis Price
Lopaka Baptiste
Melissa Wenninhan
Maria Calderon
Makana Chai
Liana Pang
Alvin Akee

ADMINISTRATION STAFF:

Lisa Victor, COO
Kawika Riley, CHIEF
David Laeha, CFO
Timmy Wailehua, NHRLF
Anuheia Patoc, PP
Albert Tiberi, CC
Deja Ostrowski, ADV
Jerome Yasuhara, COMP
Jim McMahon, ADV,
Jocelyn Doane, PUBL
Kai Markell, COMP
Kamaile Maldonado, PUBL
Kanoë Tjorvatjoglou, OUTF
Kika Bukowski, ADV
Monica Morris, PP
Sterling Wong, MEDIA
Wayne Tanaka, PUBL,
Zuri Aki, ADV

GUESTS:

Germaine Meyers

I. CALL TO ORDER

Chair Lindsey (CL) calls the Committee on Beneficiary Advocacy and Empowerment meeting to order for Wednesday, September 20, 2017 to order at **10:16 a.m.**

CL calls for a Roll Call. Below is the record of members **PRESENT**:

MEMBERS			AT CALL TO ORDER (10:16 am)	TIME ARRIVED
CHAIR	ROBERT	LINDSEY, JR.	X	
VICE-CHAIR	DAN	AHUNA	X	
TRUSTEE	LEI	AHU ISA		EXCUSED
TRUSTEE	ROWENA	AKANA	X	
TRUSTEE	KELI'I	AKINA	X	
TRUSTEE	PETER	APO		EXCUSED
TRUSTEE	HULU	LINDSEY		EXCUSED
TRUSTEE	COLETTE	MACHADO	X	
TRUSTEE	JOHN	WAIHE'E		10:27 am

At the Call to Order, **FIVE (5) Trustees are PRESENT**, thereby constituting a quorum.

CL requests a motion:

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

- II. Approval of Minutes
 - A. August 23, 2017

- IV. New Business
 - A. Briefing: OHA Washington, D.C. Bureau Update
 - B. 115th Congress Legislative Positioning – Matrix 1
 - C. 2017 Legislative Session Report
 - D. 2018 Legislative Package Concepts Workshop

Trustee Dan Ahuna (T. Ahuna) – moved
Trustee Colette Machado (T. Machado) - second

MEMBERS			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
TRUSTEE	LEI	AHU ISA							EXCUSED
VICE-CHAIR	DAN	AHUNA	X		X				

TRUSTEE	ROWENA	AKANA			X				
TRUSTEE	KELI'I	AKINA			X				
TRUSTEE	PETER	APO							EXCUSED
TRUSTEE	HULU	LINDSEY							EXCUSED
TRUSTEE	COLETTE	MACHADO		X	X				
TRUSTEE	JOHN	WAIHE'E							X
CHAIR	ROBERT	LINDSEY, JR.			X				

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

II. APPROVAL OF MINUTES

A. August 23, 2017

CL requests a motion to approve:

II. Approval of Minutes

A. August 23, 2017

T. Ahuna – moved

T. Machado – second

MEMBERS			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
TRUSTEE	LEI	AHU ISA							EXCUSED
VICE-CHAIR	DAN	AHUNA	X		X				
TRUSTEE	ROWENA	AKANA			X				
TRUSTEE	KELI'I	AKINA			X				
TRUSTEE	PETER	APO							EXCUSED
TRUSTEE	HULU	LINDSEY							EXCUSED
TRUSTEE	COLETTE	MACHADO		X	X				
TRUSTEE	JOHN	WAIHE'E							X
CHAIR	ROBERT	LINDSEY, JR.			X				

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

III. PUBLIC TESTIMONY*

CL asks if anyone has come to speak under PUBLIC TESTIMONY.

None.

CL moves on to item IV. A. and asks Trustees to stand by as the OHA Washington, D.C. Bureau is called. He recognizes Lisa Victor (LV) as OHA Administration's lead representative today.

IV. NEW BUSINESS

A. Briefing: OHA Washington, D.C. Bureau Update

CL calls on Coti Haia (CH) to share briefing.

CL shares a few issues Congress is taking up, but the item which should concern Hawai'i the most is the attempt to repeal the Affordable Care Act (Obamacare).

CH begins to share main briefing. ***[Congressional Legislative Matrix and PPT Briefing re: S. 1400/H.R. 3211 – Safeguard Tribal Objects of Patrimony – (STOP Act) is attached]***

CH requests the Trustees support H.R. 1169, the House version of the Esther Martinez Native America Languages Preservation Act. OHA Trustees previously supported the Senate version and this action would complete the support in both Houses of Congress.

CH asks if Trustees have any questions regarding H.R. 1169.

CL responds that there are no questions and to continue the presentation.

CH mentions the main points of the STOP Act.

- Enacted in 1990, the Native American Graves Protection and Repatriation Act, or NAGPRA, provides protection for human remains, funerary objects, and objects of cultural significance for Alaska Natives, American Indians, and Native Hawaiians.
- The Office of Hawaiian Affairs is included in the law as a Native Hawaiian Organization for the purpose of consultation and repatriation of Native Hawaiian items.
- NAGPRA protections have been successfully used by OHA and other Native Hawaiian Organizations for protection and repatriation of iwi kupuna
- Increases the maximum penalty for a second violation of NAGPRA from five years to ten years.
- Prohibits exporting or transporting out of the United States Native American items obtained in violation of NAGPRA, Native American archaeological resources obtained in violation of the Archaeological Resource Protection Act of 1979, and any Native American object of antiquity.

- Imposes fine and/or imprisonment for up to one year for a first violation, and a maximum of 10 years for a second violation.
- Allows the Secretaries of State and Interior to designate a liaison to assist private individuals wishing to voluntarily return tangible cultural heritage
- Creates a Tribal Working Group, which would include Native Hawaiian Organizations, to receive information and assistance from the Executive Branch to provide assistance in the return of tangible cultural heritage

CH mentions the status of the Bills.

Senate 6/21/2017: Bill introduced

House 7/12/2017: Bill introduced and later referred to committees

CH asks if Trustees have questions.

Trustee Machado (T. Machado) asks a few questions regarding Hui Malama, the sale of Hawaiian artifacts in France and the qualifications of Native Hawaiian Organizations under this Act.

CH explains general actions of NAGPRA laws and shares that Hui Malama is not considered active. She also mentions that she would need to talk with Kawika Riley (KR) and Kai Markell (KM) to see if NAGPRA laws were violated by Maui resident who attempted to sell Hawaiian artifacts in France. CH does mention that U.S. laws do not apply to actions in France done by a entity residing in France.

KR calls KM to the table to respond to T. Machado.

KM shares that now only OHA makes its claims and works with experts from Hui Malama to continue repatriation activities.

CH shares the qualifications for NHOs under NAGPRA.

- (A) serves and represents the interests of Native Hawaiians,
- (B) has as a primary and stated purpose the provision of services to Native Hawaiians, and
- (C) has expertise in Native Hawaiian Affairs, and shall include the Office of Hawaiian Affairs

IV. NEW BUSINESS

B. 115th Congress Legislative Positioning – Matrix 1

CL requests a motion to approve:

IV. New Business

B. 115th Congress Legislative Positioning – Matrix 1

Motion: **To approve Administration’s recommendations on NEW BILLS (OHA 1-H.R. 1169, OHA 4 – S. 1400 & H.R. 3211) on the 115th Congress Legislative Positioning Matrix dated September 20, 2017.**

T. Ahuna – moved
T. Machado – second

MEMBERS			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
TRUSTEE	LEI	AHU ISA							EXCUSED
VICE-CHAIR	DAN	AHUNA	X		X				
TRUSTEE	ROWENA	AKANA			X				
TRUSTEE	KELI'I	AKINA			X				
TRUSTEE	PETER	APO							EXCUSED
TRUSTEE	HULU	LINDSEY							EXCUSED
TRUSTEE	COLETTE	MACHADO		X	X				
TRUSTEE	JOHN	WAIHE'E			X				
CHAIR	ROBERT	LINDSEY, JR.			X				

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

CL moves on to item IV. C. He calls on KR for this item.

IV. NEW BUSINESS

C. 2017 Legislative Report

KR calls on Jocelyn Doane (JD) and Wayne Tanaka (WT) to come to the table to present items IV. C. and IV. D.

JD mentions that much of the briefing on the 2017 Legislative Report was covered in a previous wrap-up meeting at an earlier BAE Committee Meeting. This would basically be a refresher and another chance for Trustees to ask questions.

(2017 OHA Legislative Package, 2017 OHA Staff Legislative Report PPT and 2017 OHA Staff Legislative Report is attached)

Much discussion occurred during this review. Trustees asked general questions as to the status of the OHA package Bills and other legislative measures impacting Native Hawaiians and/or OHA. JD

and WT responded to the status of the different Bills. The statuses of the Bills are detailed in the 2017 OHA Staff Legislative Report. Trustees were most concerned with Bills potentially having negative effects on Native Hawaiians and/or OHA. They asked if those Bills would continue on in the 2018 session.

JD shared that it is typical that these Bills are held over to the next session in the Biennium. OHA Legislative Staff would need to again monitor these Bills and bring them to the Trustees to update them on the Bill's status.

Trustees spoke of fostering better relationships at the Legislature in order to push the needs and interests of Native Hawaiians and/or OHA.

CL asks JD and WT to continue on to item IV. D.

IV. NEW BUSINESS

D. 2018 Legislative Package Concepts Workshop

JD and WT continue on and share the 2018 Legislative Package Concepts. ***(2018 OHA Conceptual Legislative Package is attached)***

Much discussion occurred on this item. Trustees generally had comments related to the proposed Bill ideas being effective in assisting our beneficiaries in the areas of Housing and Economic Self-Sufficiency. Trustees also shared their enthusiasm and positive comments regarding caring for cultural and natural resources. A few comments/suggestions were offered regarding paying attention to financial implications and potential tax issues. There is some concern by Trustees that OHA supporting a tax increase may have a negative effect on our beneficiaries and that OHA may not be looked upon favorably in the 2018 Legislative Session.

Trustee Akina (T. Akina) did commend OHA Legislative Staff for their preparation of the 2018 Legislative Package and being mindful that Hawaiians are on both sides of different issues. Trustees look forward to additional discussion regarding the package.

CL thanks KR, JD and WT for their presentation. He allows KR, JD, Sterling Wong (SW) and WT to stay for Executive Session with those members of Administration already designated as participants in the Executive Session.

V. EXECUTIVE SESSION

- A. Consultation with OHA Counsel Everett Ohta, Esq. and Sherry Broder, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding public land trust revenues. Pursuant to HRS § 92-5(a)(4).

CL requests a motion to go into:

- V. Executive Session

- A. Consultation with OHA Counsel Everett Ohta, Esq. and Sherry Broder, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding public land trust revenues. Pursuant to HRS § 92-5(a)(4).

T. Ahuna – moved

Trustee John Waihe'e IV (T. Waihe'e) – second

MEMBERS			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
TRUSTEE	LEI	AHU ISA							EXCUSED
VICE-CHAIR	DAN	AHUNA	X		X				
TRUSTEE	ROWENA	AKANA							X
TRUSTEE	KELI'I	AKINA			X				
TRUSTEE	PETER	APO							EXCUSED
TRUSTEE	HULU	LINDSEY							EXCUSED
TRUSTEE	COLETTE	MACHADO			X				
TRUSTEE	JOHN	WAIHE'E		X	X				
CHAIR	ROBERT	LINDSEY, JR.			X				

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

CL announces that the Board of Trustees is again in Open Session.

VI. COMMUNITY CONCERNS*

CL asks if anyone has come to speak under COMMUNITY CONCERNS.

None

VII. ANNOUNCEMENTS

T. Machado shares that tomorrow, the BOT will convene at 10:00 a.m. and will act on these two items plus another from the RM Committee meeting this morning.

VIII. ADJOURNMENT

CL seeks a motion to adjourn the BAE meeting.

T. Waihe'e - moved
 Trustee Machado (T. Machado) – second

CL asks if there is any discussion. There is none.

CL asks if any members vote NO or ABSTAIN. There are no dissenting votes.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						X
VICE CHAIR DAN	AHUNA						Left at 12:30 pm
ROWENA	AKANA			X			
KELII	AKINA			X			
PETER	APO						X
CARMEN HULU	LINDSEY						X
COLETTE	MACHADO		X	X			
JOHN	WAIHE'E	X		X			
CHAIR ROBERT	LINDSEY			X			
TOTAL VOTE COUNT				5	0	0	

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

CL adjourns the BAE meeting at 1:09 PM

Respectfully submitted,



Jeremy K. Hopkins
Trustee Aide

Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on 12/6/17.



Trustee Robert K. Lindsey, Jr.
Chair

Committee on Beneficiary Advocacy and Empowerment

ATTACHMENT(s):

- Excused Absence Memo – Trustee Leina'ala Ahu Isa
- Excused Absence Memo – Trustee Peter Apo
- Excused Absence Memo – Trustee Carmen Hulu Lindsey
- 115th Congressional Legislative Matrix
- S. 1400/H.R. 3211 STOP Act PPT
- 2017 OHA Legislative Package
- 2017 OHA Staff Legislative Report PPT
- 2017 OHA Staff Legislative Report
- 2018 OHA Conceptual Legislative Package