

State of Hawai'i
Office of Hawaiian Affairs
560 North Nimitz Hwy.
Honolulu, HI 96817

**Minutes of the Office of Hawaiian Affairs Board of Trustees Meeting
Thursday, December 15, 2016, 10:00 am**

I. CALL TO ORDER

Chair Rowena M. Akana called the Office of Hawaiian Affairs Board of Trustees Meeting to order at 10:05 am. Those present were as follows:

Attendance

Trustee Rowena M. Akana, Chair
Trustee Leina'ala Ahu Isa, Vice Chair
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Peter Apo

Trustee Robert K. Lindsey, Jr.
Trustee Carmen Hulu Lindsey
Trustee Colette Machado
Trustee John Waihe'e IV

Excused

-None-

Staff Present

Dr. Kamana'opono Crabbe, CEO
Robert G. Klein, Board Counsel
Lora Lee Contreras, Chief of Staff
Nathan Takeuchi, Board Secretary
Kay Watanabe
Imiola Gora-Aina
Jeremy Kama Hopkins
Kauikeaolani Wailehua
Claudine Calpito
Davis Price
Lady Garrett
U'ilani Tanigawa
Lehua Itokazu
Dayna Pa
Laurene Kaluau-Kealoha
Paul Harleman
Maria Calderon
Melissa Wennihan
Liana Pang

Makana Chai
Brutus La Benz
Deirdra Alo
Ernest Kimoto
Hawley Iona
Jerome Yasuhara
John Rosa
Jonathan Ching
Kai Markell
Kawika Riley
Keola Lindsey
Lance Mahi La Pierre
Lisa Victor
Lisa Watkins-Victorino
Mehana Hind
Miles Nishijima
Momilani Lazo
Raina Gushiken
Sterling Wong

Others Present

M. Healani Sonoda-Pale
Kaiulani Milham
Lilikalā K. Kame'eleihiwa
Haunani Apoliona
Rupert Rowe
Annelle Amaral

Leimomi Khan
William D. Palakiko
Keali'i Makekau
Reynold Freitas
Leatrice Mahihia Kauahi

II. NEW BUSINESS

Trustee Ahuna said Chair, I would like to make a parliamentary inquiry.

Chair Akana said excuse me, we're going to take the agenda out of order this morning and we only have two committee assignments and then, since we have a long list of beneficiaries, we don't want to keep them waiting for a long period of time. So, I'd like to begin the agenda by asking Trustee Lindsey to make the first motion.

Trustee Ahuna said Chair, can I make a parliamentary inquiry? Do you know what that is? Board Counsel, can I make a parliamentary inquiry?

Board Counsel Klein said that's an inquiry you can make at any time without a second, so yes.

Trustee Ahuna said may I please have the floor? Okay, Chair, I just would like to make this parliamentary inquiry. This is in regards to, will the Chair allow for the minutes to be recorded verbatim?

Chair Akana said yes.

Trustee Ahuna said yes, okay. Thank you and mahalo for that. So my question is, I want to rise to question a privilege affecting the assembly of this board and my question is to seek clarity on a matter that has implications for all Trustees given that the Chair has been found to have breached her fiduciary duty in an ongoing legal matter involving this board. I have concerns that the board may be at risk of breaching their fiduciary duty by conducting any business with her presiding. Counsel, how shall we proceed?

Board Counsel Klein said what you're asking for is legal advice which should not be discussed at the council table, but could be discussed in executive session if there are six votes to move into executive session, and the timing of that executive session if you have six votes would be up to the Chair.

Trustee Apo said Madame Chair, I would move to have an executive session on the point that was brought up, but following the meeting of the board. Not now.

Trustee Ahuna said second.

Chair Akana said so we will defer your request until after the meeting, after the agenda has been completed.

Trustee Ahuna said yeah, we can schedule that for a later time, if you want to listen to the community concerns.

Chair Akana said it will be discussed after the agenda is finished.

Trustee Ahuna said mahalo.

Trustee Apo said thank you Madame Chair.

Chair Akana said I want to make an announcement, also, that because I was warned that there might be some disruption in the meeting, the Sherriff's Office has been called and so anyone that doesn't respect

what the board is doing here will be ejected, including board members. So I ask for your patience and your kindness to each other and let's try to be respectful. We are being recorded and last week's recording has been shared all over the state and OHA does not look good with the tantrums that came out of this board room. So, for all of us, for the sake of this office and for all of us and no matter what your personal feelings are, we need to set them aside and be professional at this table. So I ask that you consider those things. Thank you very much and now, Trustee Hulu Lindsey?

Trustee Hulu Lindsey moved, and Vice Chair Ahu Isa seconded, that the Board accept and approve the Chair's appointment of Trustee Keli'i Akina as the Vice Chair of the Committee on Resource Management.

Chair Akana asked for a roll call vote.

CEO Crabbe said point of order, Chair. Usually you have discussion after the motion and second.

Chair Akana said if there's any discussion.

Trustee Apo said Madame Chair, you know it, all due respect Trustee Akina, long on record as essentially thwarting a lot of the actions and the movement of OHA and its commitment towards self-determination. His role as Vice Chair of a key committee that will be making recommendations on important resource allocations raises a concern for me since the Grassroot Institute, which he heads, has so far cost us \$867,000 in legal fees. Combined, and in all due respect Madame Chair, with your legal challenges to the board, add another \$750,000, \$250,000 of which was paid for by insurance. So here we have the Chairman of the Board and a Vice Chair of the Committee that will be jurisdiction over the budget, having cost us so far over \$1.5 million. There's nothing I can do about that, but I have to raise the issue. Both of you have, and again in all due respect to both of you, have consistently raised the issue of your concern about fiscal sustainability. Based on your actions, it's kind of like inviting the fox into the chicken coop dressed as a chicken. So I have some really, really strong concerns that, one, we're both in litigation with both of you. Which means that we're going to be running up a lot more legal fees. So I don't know. And that's a matter of public record. So I will let it go at that. I just wanted to raise my concern and I don't really need a response. Thank you.

Chair Akana said that I am advised by legal counsel that since one of those cases is still in arbitration, that we're not supposed to discuss it here at this time. And since you brought this up, may I, for the record, say that my case against this board was about Sunshine Law, that you folks were not following it and not bringing things to the table for discussion before voting on it in executive session. You had the opportunity as a board to go into discussions, but the board chose not to do that and the \$531,000 spent on it was spent by this board trying to keep me from going to court over Sunshine Law. So I didn't incur those costs.

Trustee Ahuna said point of order, are we discussing the selection of a Vice Chair?

Chair Akana said well, when you let the cat out of the bag, you've got to finish it.

Trustee Ahuna said point of order.

Chair Akana said I would like to go back to the motion and the second and we're at roll call vote.

Trustee Ahuna said I want to have a discussion. I raised my hand. I want to say some words.

Chair Akana said Trustee Ahuna.

Trustee Ahuna said thank you. Mahalo, Madame Chair. With all due respect, Trustee Akina, I am speaking in very strong opposition to the appointment of Trustee Akina to any committee position. While I understand that you won your election, Trustee, I have deep concerns about the people and organizations that you are affiliated with, what they represent, and what is their intent. I am willing to work with you closely in fact, but for one purpose only, and that is to further our mission. That mission is directly tied to our legal mandate to better the lives of the Native Hawaiian people. Furthermore, the state constitution and the statutory law also provides that we are entitled to a portion of the public land trust revenue. We have engaged in decades long negotiations over those revenues and we are still not receiving the share we are entitled to. These are all important issues give rise to my concerns about your seat at this table and especially about you being named to chair a committee and every Trustee should be equally concerned. At the very least, anyone who is given the elevated kuleana of committee chair should be able to show that they are committed to the basic principles of this organization. While you have yet to prove that you are committed to our mission and many of our most important principles, in fact your platform, all of your campaigns for this seat have actually stated the exact opposite of the mission. For example, here's some slogans from your campaign: Keli'i Akina - OHA for all. And some quotes from the campaign trail: OHA can solved the housing, employment, and educational needs of the Hawaiian people by fulfilling its mandate to serve the needs of all people. That is not in line with our legal mandate. Quote: "OHA belongs to, and must serve everyone in Hawaii. Hawaiians by blood, and Hawaiians at heart." Again, not in line with our mandate. Another quote: "A second reason I'm running is because this agency called the Office of Hawaiian Affairs needs to be held accountable to fulfill its mission of serving Hawaiians and all the people of Hawaii." That one is especially alarming because you actually went so far as to explicitly add everyone in Hawaii to our mission. But you see, the trend here right, you have shown over and over that you not only disavow our mission, but it seems you are dead set against it. I would compare your platform arguments to you taking a position in the Department of Transportation and saying you want to use the funds for education. You cannot do that according to law. We have a mandate to serve Native Hawaiians. That is what we do and that is what we are going to do. I'm also going to remind everyone that he is the Executive Director of Grassroot Institute, the organization that has led the charge to dismantle Hawaiian programs and institutions. Grassroot and its supporters have been involved in every single case challenging OHA, the Department of Hawaiian Homelands, and the Kamehameha Schools. He even referred to Kamehameha as, I want to quote this: "An evil empire dedicated to Native Hawaiian supremacy." Think about that for a moment. When twenty thousand people rallied and marched in 2005 for Kamehameha, this is why they did it, because of people like Mr. Akina and its supporters. People like Freddie Rice who probably contributed to Mr. Akina's campaign. Think about it. Moving on. Mr. Akina, you have said that you are going to conduct a forensic audit. Let me be very clear, I am not against audits. The state audits us every four years and this agency hires a third party accounting firm to audit our finances every year. Those audits are all available online on our website for everyone to inspect. They may include recommendations on how we can improve on some things as any audit should, but there has not been any findings of wrong doing or impropriety. There are also things that we can get better at, but I am confident that this agency has not committed any wrong doing otherwise those audits would have said so. Back to the forensic audit. Chair Akana, you made the deal with him to get his vote. Do you know what a forensic audit is?

Chair Akana said yes.

Trustee Ahuna said you don't have to answer that. Listen closely. A quick Google search will show you that a forensic audit is an audit that is conducted for the sole purpose of gaining evidence to be used in court to show wrong doing, thus implying wrong doing on each of your parts as Trustee. Again, let me make it very clear, I'm not against audits. Audit away. That is not my concern. My concern is your integrity Mr. Akina, your intent Mr. Akina, and lastly your decision making capacity Mr. Akina. Here is why. Were you aware that the new Chair was in the midst of a legal challenge with our board? Where

you aware that a court ruled her to have breached her fiduciary duty? Were you aware that this board removed her from a position of committee chair as a result of that court's finding. Were you aware that you too could be held in breach of your own fiduciary duty when you made the deal to vote for her as Chair. Were you aware that Chair "Akina" has the worst attendance record of all Trustees, have missed 61 votes in the last two years. You voted for her to be Chair. Do these facts support such a decision given your fiduciary duty? Not a great way to get off the blocks Mr. Akina given that your stated mission as Trustee is transparency and accountability and especially given that you followed last week's vote with a quote to the media that says you did your due diligence and combed through the past meeting minutes to come to your conclusion, something doesn't add up, sir, because if you did your due diligence, you surely would have had some concerns and mentioned those concerns. So Trustees, I'm frustrated. I'm baffled about the decisions that some of you have made. And I am most of all concerned about this agency, our people, and the work we do. All of you should share these same concerns. It is not too late to fix it. I am hopeful we can discuss these matters, especially the long-range implications of these very, very important decisions that we make. In the meantime, I am firmly opposed to Trustee Akina being named Vice Chair to any committee and I ask that any further business of this board be tabled until such time that we can discuss the legal implications of any future pending decisions. I hope each of you make these same considerations and I would like to thank all of you. Mahalo.

Chair Akana said Trustee Akina.

Trustee Akina said thank you Madame Chair for the opportunity to respond and if I may have your permission may I respond directly to Mistrs Apo and Ahuna?

Chair Akana said yes.

Trustee Akina said first of all, Trustees Apo and Ahuna, I want to thank you very much for your heart beat. You've served many, many years well for the Hawaiian people and I consider it a tremendous privilege to sit with you and with others. I see also that Trustee Haunani Apoliona is in the room and I want to thank her for her years of service and to state that I am humbled by the opportunity to stand in her shoes and hopefully to continue the legacy. So, I think we begin with our heartbeat for the Native Hawaiian people and that's very important. I'd like to respond because I respect what you've had to say to each of the points you made, but I'll be as concise as I can. Before I make that response I'd like to submit to the board two documents. The first is my official position statement on the Native Hawaiian issues. There have been some quotations made today and rather than take quotations out of context I think it's important to have the actual document that served as my platform during the campaign upon which the people of Hawaii voted for me to be in this office and I have a copy for each of the Trustees here and I'd like to distribute that if I may. Madame Chair, may I submit position statement on Native Hawaiian issues by Keli'i Akina to the board. The second document I'd like to submit to which I may refer is a response to a wonderful group of people here in the state, the Association of Hawaiian Civic Clubs. A letter came from Annelie C. Amaral, the President, indicating that there had been a resolution which raised questions about my role in two organizations, being a Trustee of the Office of Hawaiian Affairs and the head of a public policy think tank which is a nonprofit 501(c)3 organization, the Grassroot Institute. I would like to submit this to the board, which has my response to the Hawaii Civic Clubs as well as a statement from my attorney, former Attorney General Michael Lilly, who gives the rationale to why there is no conflict of interest and I'd like to make note simply for the record that my staff and I sat with the State Ethics Commission and discussed this matter and found that they considered that there was no conflict of interest so long as we do not use our influence to benefit my nonprofit. I submit this to the board as a record. Now with that said, I go back and I do want to thank Trustee Ahuna for his comments and I'd like to respond to them. First I'll start with Trustee Apo. You stated, Trustee Apo, that Akina thwarts the actions of OHA and its constituents to the self-detriment of this organization, but I would like to point out, and please understand my mana'o, my heart. When I became a plaintiff in Akina v State of

Hawaii, I did not do so to attack OHA, I did so to represent the people of Hawaii who had reached out to me. Other plaintiffs, the majority of which are Native Hawaiian beneficiaries of OHA felt that OHA had done some things that were unconstitutional and harmful to OHA and harmful to the people of Hawaii. If I had been a sitting Trustee at the time it would have been my fiduciary duty to take action if I believed that to be the case. Some of the plaintiffs on the board of plaintiffs for that suit included Keali'i Makekai, Mellissa Moniz, and the majority of which, as I mentioned, were Native Hawaiians. And our concern was this, it was actually to help Native Hawaiians and the Office of Hawaiian Affairs. You mention that \$867,000 in legal fees was spent because of this. I would actually like to see that documented now that it is a statement on the board. You don't need to do it now, but that's a very interesting figure. You blamed me for the expenditure, but in reality it was not my suit that cause the spending of that money. It was the need for OHA to defend itself from a position that it had taken that has been determined by the courts to be unconstitutional. That's very important. The United States Supreme Court found that actions of the Office of Hawaiian Affairs through Na'i Aupuni needed to be stopped by an injunction and that was part of the legal fees. What would have avoided the cost of the legal fees would have been not to be unconstitutional in the first place. Now let me say this. I have no opposition to the self-determinism of our Hawaiian people. And I want to commend you in particular, Trustee Apo, for the work you've done through the years and you and I have had many conversations about this. I support the self-determinism of the Hawaiian people, but I do believe that's a path that will get us into trouble is when we use our state agency, the Office of Hawaiian Affairs, and its funds in a way that is unconstitutional because that simply is counterproductive to the entire process. I would also like to say this, that had I been a Trustee at the time that I have filed my suit, I actually would have been acting in harmony with the people of Hawaii who are our beneficiaries, particularly Native Hawaiians. I'd like to cite the June 2015 and October 2015 editions of Ka Wai Ola, the voter guide in particular, and former-Chair Bob Lindsey made it very clear that OHA had done surveys of the Native Hawaiian people since 1978, and every one of the surveys, according Chair Bob Lindsey at the time, showed that the Hawaiian beneficiaries of OHA did not want OHA to be spending its money on governance and federal recognition but instead wanted OHA to be spending its money on four things: Housing; jobs; education; and health care. And so, my action to call OHA to a stop of a misuse of money was not only to keep OHA constitutional so it will serve the Hawaiian people better, it was also to be in compliance with the will of our beneficiaries. Chair Lindsey also pointed out the most recent survey that had been presented to the board here in January 2016, conducted through Stryker, Weiner, and Yokota and SMS research showed that the vast majority of Hawaiians beneficiaries want that monies spent on bread and butter issues: Housing, jobs, education, and health care and not on governance. And so the entire spirit of what I had tried to do has been to help the Native Hawaiian people. It has been to help build a strong OHA that is safe from constitutional problems. In my essay that I have submitted for all of you and I hope you'll read it, I affirm very strongly that I believe in the advancement of the Native Hawaiian peoples. That I defend, on the record, absolutely and everything that I have written says so, the primary entitlements of Native Hawaiians including the ceded lands trust, including the Hawaiian Home Lands. That's very important. In addition to that, I'm a proud graduate of Kamehameha Schools and my four children are alumni. So we actually uphold, very much so, the rights of private property owners such as the Ali'i Trusts to use their money according to the will of their benefactors. Now thank you, Mr. Apo. I would also like to respond to Mr. Ahuna.

Trustee Apo said Madame Chair, may I?

Chair Akana said he's not finished yet.

Trustee Akina said I want to say to Trustee Ahuna that I agree with your first statement, that we should be about the betterment of the Hawaiian people and I took an oath to commit myself to the betterment of Hawaiian people and that has been my entire purpose. You mention the public land trust and the negotiations for it. There is nothing on record which shows my opposition to the share and the growing

share deserved of the Hawaiian people to the public lands trust. I think that that's very important. In fact that's secured by law. The Admissions Act guarantees that and state law interprets that. That is something that I will defend and not only that, for the record, because it is part of law, I will work with all of my heart to see that the Native Hawaiians received everything they deserve from the public lands trust. My criticism of the public lands trust has not been that it is going to Native Hawaiians. My criticism is that leadership of the Native Hawaiians through government agencies has failed to be sufficiently aggressive and sufficiently concerned about this to make sure that we are getting everything that we deserve. You quoted some items in terms of my platform: OHA for all. Now again, that was taken out of context. My statement was "Aloha for all." At a time for which the reputation of OHA was being seen as fractured in the community, I said Aloha for all and the shortest way of saying that in a campaign is OHA for all. OHA for all means this, that as we serve the Native Hawaiians, we also serve everyone. As we build the Native Hawaiians, we build the population of the state. Everything done to reach out to Native Hawaiians and solve the problems of homelessness, solve the problem of the need for education, health care, jobs, is actually something that serves everyone. So you've got to understand the difference between rhetoric, which uses slogans, and actual statements. At the same time, and I feel sad Trustee Ahuna that you did not actually read four years of position papers in which I stated very clearly the meaning of this. Instead you simply presented a slogan without having done your research. Furthermore, you quoted me as saying that it is that by serving Hawaiians and serving all people that this you said was not in line with our mandate. I would disagree with you on two points. The first point I already made. When we serve Hawaiians, we serve all people, and OHA needs to make that case to the entire community. We need to let the broader community know that as we champion the rights and the needs of Hawaiians, we are doing something pono and good that benefits the economy and society of the entire state. Though, indeed serving Hawaiians serves everyone. But the other thing I need to say is this: There is a specific mandate. You are mistaken in your interpretation of law. There is a specific mandate that OHA Trustees have to serve every citizen in the State of Hawaii who is a voter. The voters have a vested interest in OHA. They elect us and I'm very pleased that all Trustees who did run for office this past election ultimately in their campaigns appealed to the general public, recognizing that not only do the general public vote us into office, we owe them something. We owe them our best performance. We owe them our fiduciary duty. OHA must serve not only Native Hawaiians, but it must serve all people. But let me close my response to Trustee Ahuna with this: The point more specific is that I have never advocated that assets be taken from Native Hawaiians and be given to non-Hawaiians. There is no statement I have written or pronounced that that be the case. Not at all. I have advocated we participate in a general way with economic development of regions such as the Waianae coast that might involve non-Hawaiians, but beyond that I have never advocated that our assets be taken from Hawaiians and given to non-Hawaiians. That's simply not the case. So in closing, I would like to encourage my fellow Trustees to actually read my position statement on Native Hawaiian issues, which has been published for over a year now and actually states where I stand and that's what I have submitted to the board as the formal record. And finally I say, just like you, I have taken an oath to uphold our mission for the betterment of Native Hawaiians. And I thank you very much. I'll be very happy to sit down in private and talk further with Trustee Apo and Trustee Ahuna.

Trustee Apo said Madame Chair?

Chair Akana said Trustee Apo. And then just be cognizant, both of you that we have a lot of people that want to testify so can we surmise and then finish the vote.

Trustee Ahuna said I'd just like a chance to respond.

Chair Akana said this is not a debate. This is a discussion and you've both made your points and I really would like to move...

Trustee Apo said Madame Chair we're speaking to the motion on the qualifications of a candidate.

Chair Akana said I agree.

Trustee Apo said and I would like to be able to respond.

Chair Akana said and you will get that opportunity. Let's try to surmise so we can move on with the agenda.

Trustee Ahuna said yes, and I would like to speak after him.

Trustee Apo said Trustee Akina, I say this without any rancor. You and I go back a long ways, to the 80's in Waianae, where you were a youth minister. So I have no doubt that you mean well. The concern I have is not what your concerns are, it's how you choose to address them. There are many, many processes. There are many venues and opportunities in which to communicate your concerns without going to court. I'm not sure how much reaching out you did over the years to either OHA Trustees or other people who were in a position to help you move your case forward. The worst thing we can do is to create public policy by case law. That is the colonizer approach. Colonizers do that. They hide behind U.S. law. In all the blank spaces that Hawaiians have been denied the opportunity to gather to meet the constitutional intent of the creation of OHA, which is a place holder until such time that there is a new governing entity. Whether it be through federal recognition or through independence. So whenever that movement is thwarted by filing lawsuits, that then creates a body of law that actually works against the constitutional intent. I have a problem with that. The doors are always open. Doors are still open. You have recently, or the Grassroot has recently in a another lawsuit wanting to pay the expenses of the past lawsuit. So it just keeps continuing, but it's the method by which you choose to address your concerns that really concerns me because it is divisive. We're trying to unify ourselves. When you end up in court you have a winner and a loser. This is not a ho'oponopono system where you try to work it out so that the concerns of both sides are addressed. And I'll rest my case there. Thank you.

Chair Akana said Dan, I'm going to recognize Lei Ahu Isa because she hasn't spoken and then followed by John and you will have the final word and then we're going to vote.

Trustee Machado said I would like to address the board after John Waihe'e.

Chair Akana said Trustee Ahu Isa.

Trustee Ahu Isa said I speak in support of the motion. I just feel at this time it is not proper or even pono to crucify a new elected official of this board, elected Trustee. We can do that in executive session. This is just to vote if we're going to have a Chair and a Vice Chair. I just feel it's almost analogous to President-elect Donald Trump and Chair Akana here. He has lawsuits filed against him, I mean tons of them, people attack him, media is against him. I'm kind of seeing the same thing here with Chair Akana. I mean, we are Hawaiians like Trustee Apo told me when I first got elected. You know, we're Hawaiians and we should not even think or vote like how, because I work for a big organization, we don't want to be like them. We're Hawaiians and we think here, with the heart. We're passionate about it. So before we go any further in this can we discuss this in executive session because the media is here and we're just voting on a motion before the floor. Thank you, Chair.

Chair Akana said Trustee John Waihe'e.

Trustee Waihe'e said Judge, sorry Keli'i but the courts never did rule that what we did was unconstitutional through Na'i Aupuni, correct?

Board Counsel Klein said correct.

Trustee Waihe'e said see, Keli'i, I mean Trustee, generally I like to support whomever the Chairperson of a committee chooses for their Vice Chair. It's my inclination to respect and support their choice. If Hulu wanted you as Vice Chair then, and the truth is the Chairman does set the agenda for that committee. I mean, I'm generally inclined to strongly support it, but when you say things like that, when you mischaracterize things at OHA that have happened here that are not true. I mean it's not prudent. We were never found to be unconstitutional. That was not the ruling and yet that's what you chose to say for whatever reason. And I keep seeing you do things like that and I don't know, maybe if I read your statement or I get to know you better I might understand you better and trust you more. But right now I just have a very hard time just trusting you as a prudent Trustee. And I came into this meeting willing to vote for you as Vice Chair but now I'm not sure.

Trustee Akina said Chair, may I make an immediate response?

Chair Akana said Trustee Machado.

Trustee Machado said this question is posed to you directly, Trustee Akina. In the event that Grassroot Institute makes a request by the courts to have OHA pay for your folks expenditures that you incurred during the litigation, how would you react as the Vice Chair of the Resource Management Committee?

Chair Akana said that's a fair question.

Trustee Akina said thank you, Trustee Machado. I appreciate your question and I'm certainly willing to respond to it. But out of concern for the board itself, I would think that such an answer would have to go into executive committee because it would be reflecting a pending suit. But I can tell you in general the principles on which I would act. Number one: When I was asked three and a half years ago to become the President/CEO of Grassroot Institute, I asked for a change of course on certain things and I received from their board of directors affirmation that we will stand and defend the Hawaiian people. They welcomed my new motto with the Hawaiian people which was "E Hana Kakou," let's work together rather than work in opposition. So we do stand for the defense of the primary entitlements of the Native Hawaiian people: the ceded lands; the Hawaiian Home Lands. We do stand for the defense of the Ali'i Trusts and their right to use their private property rights to defend the will of the beneficiaries. So in answer to your question, I'm going to stand for a strong OHA. I'm going to do everything in my power as a Trustee and outside of my role as a Trustee as I negotiate to see that OHA is strong and is not hurt, but if there are times when we do have to correct course as Trustee Apo referred to litigation, there were times when civil rights, women's rights, human rights in our country required some litigation, then of course we as Trustees have a fiduciary duty and we may not agree with each other in that case and will exercise that. So the only thing that I can say here is this, in my capacity as a Trustee, I will act to strengthen and protect the Office of Hawaiian Affairs under our beneficiaries and I will be very happy to give you a specific answer to that question regarding pending litigation in executive session.

Trustee Machado said Trustee Akina, as a fiduciary, the simply response would have been I would not engage in any discussion and I would declare on the front end that I have a conflict and could not render any kind of participation in the potential request from your organization. You still maintain your Executive Director status so you would have to declare that as a conflict. That was the simple answer.

Chair Akana said this is turning into a debate. I don't want it to be a debate. We're going to have to call for the question and vote on it.

Trustee Ahuna said you just gave me time to speak. So give me my time to speak.

Chair Akana said yes you are going to get the final word and that's what I said. You're going to have the final word and then we're going to vote.

Trustee Akina said Madame Chair, may I just have one response.

Chair Akana said just let him respond and we're going to vote. Trustee Ahuna.

Trustee Ahuna said I just want to respond to some of the comments. Again with all due respect, "E Hana Kakou," "ho'oponopono," "come into my office," I love all of you, but I have to disagree. The basis of your claim was not about OHA's spending, it was solely based on making claims that OHA and other Hawaiian programs are race-based programs. Do not be fooled by this. Trustee Akina, you are on record of undermining our PLT position. I quote: "The Office of Hawaiian Affairs and I don't think that this is totally appropriate. Is seeking to lay claim to a portion of the 1.8 million acres of ceded lands that are here in Hawaii. And if they get a hold of that or all of that could be huge wealth." And I got all my quotes from videos on the web. Would you like me to play it?

Chair Akana said no, just surmise.

Trustee Ahuna said thank you Madame Chair.

Trustee Apo said I want to move to table the motion until the community concerns are heard.

Chair Akana said no, we are having a roll call vote.

Trustee Machado said the question is what agenda are we following. She amended the agenda.

Chair Akana said a motion was made by Trustee Hulu Lindsey and seconded by Trustee Ahu Isa. When a motion and a second is made on the floor you have to take a vote. So I'm calling for a roll call vote.

Trustee Ahuna said Justice Klein, I would like to call on your response to Trustee Apo's motion.

Trustee Apo said the motion to table is out of order?

Board Counsel Klein said discussion is closed and it's time for a roll call vote. She took the item out of order.

Trustee Machado said so item number two is not going to be addressed? So we're on three now?

Board Counsel Klein said not at this time. Two will be after three.

Trustee Machado said okay, but how do we hear the voices of the [inaudible].

Chair Akana asked for a roll call vote:

Trustee Hulu Lindsey moved, and Vice Chair Ahu Isa seconded, that the Board accept and approve the Chair's appointment of Trustee Keli'i Akina as the Vice Chair of the Committee on Resource Management.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA		2	X			
TRUSTEE DAN AHUNA					X	
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO				X		
TRUSTEE HULU LINDSEY	1		X			
TRUSTEE ROBERT LINDSEY					X	
TRUSTEE COLETTE MACHADO				X		
TRUSTEE JOHN WAIHE'E				X		
CHAIR ROWENA AKANA			X			
TOTAL VOTE COUNT			4	3	2	0
MOTION: [] UNANIMOUS [] PASSED [] DEFERRED [X] FAILED						
Motion failed with four (4) YES votes, three (3) NO votes, two (2) abstentions, and no (0) excused.						

Chair Akana said the motion failed, so what we're going to do now is that I'm just going to announce that the committee on Beneficiary Advocacy and Empowerment will be a committee of the whole until we have a Chair that is willing to take on that responsibility. So that ends the business for today. And now we will begin with the testimony from beneficiaries.

III. BENEFICIARY COMMENTS

CEO Crabbe said Madame Chair, may we qualify before community testimony that we will be limiting to five minutes or three minutes upon your discretion.

Chair Akana said yes, thank you. So let's start with M. Healani Sonoda-Pale, and each speaker will have three minutes.

Trustee Ahuna said Trustee Akana, we have a former Trustee. Can we address her?

Chair Akana said Ms. Pale is the first speaker. Please take the chair.

M. Healani Sonoda-Pale with Protest Na'i Aupuni distributed a fact sheet and stated her organization is concerned with the divisive, financially wasteful and rushed "so-called" nation-building activities of OHA that leads Kānaka Maoli on a road towards federal recognition to form a "fake" Hawaiian nation with no lands except for Kaho'olawe and entitled to no restitution for the illegal overthrow of the Hawaiian Kingdom.

Trustee Akina said Chair, may I ask a quick question.

Chair Akana said no.

Trustee Akina said thank you.

Chair Akana said Rupert Rowe.

Trustee Ahuna said Madame Chair, will we be giving our former Chair time to speak too?

Chair Akana said of course.

Trustee Ahuna said okay.

Rupert Rowe stated that he respects three people at the Board table: CEO Crabbe; Trustee Ahuna; and Trustee Robert Lindsey. He yielded his turn to speak to Haunani Apoliona but did not yield his time and said he wanted to return to the table later.

Haunani Apoliona stated that past court decisions in the Akana v Machado, et al lawsuit disqualifies Trustee Akana to lead OHA. She also stated that Trustees Ahu Isa, Akina, Hulu Lindsey, and Waihe'e were derelict in their duty of care, loyalty and obedience by voting to elevate Trustee Akana to Chair of the OHA Board of Trustees.

Haunani Apoliona distributed and read written testimony submitted by Oswald Stender which stated that the court's decision Akana v Machado, et al lawsuit is clear that Trustee Akana breached her fiduciary duty as a trustee and asked all of the remaining trustees to sanction Trustee Akana and remove her as Chair of the Board of Trustees.

Chair Akana said thank you for your testimony. We appreciate it very much. Mahalo. Lilikalā.

Lilikalā K. Kame'eleihiwa asked, as a Hawaiian historian, that the Trustees not appoint Trustee Akina to any committees as Chair or Vice Chair because of his conflict of interest. She stated that Trustee Akina should either resign from OHA or resign from the Grassroot Institute as the Association of Hawaiian Civic Clubs has suggested. She also distributed a copy of the United Nations Declaration on the Rights of Indigenous Peoples and asked the Trustees to look at Articles 3, 4, 5, 8 (2a, 2b, 2c and 2e), 26, 33 and 39. She concluded that while what Trustee Akina has said today at the board table is different from what he had said in the press before, Trustees should give him a whole year trial before he is appointed to any committees just to make sure he has really changed his mind.

Chair Akana said I want to thank you very much for coming with a document that is helpful and you didn't come here to criticize Trustees, but you came and brought something very productive for us to use. Thank you very much. The next speaker is Kaiulani Milham.

Kaiulani Milham stated that she is concerned about the water and trash service for the Pu'uhonua o Wai'anae, the houseless Hawaiian camp in Wai'anae. OHA has been in some discussions. It has been there for about ten years and about 300 people live there. They do not have water service and she believes they have a right to water. They also do not have trash service.

CEO Crabbe said point of order, I just want to clarify. You're talking about the Pu'uhonua o Wai'anae at the entrance of Wai'anae harbor on the right hand side, makai.

Kaiulani Milham said yes.

CEO Crabbe said so just to clarify, Trustees, I've had discussion with Director Suzanne Case from DLNR and Deputy Director Kekoa Kaluhiwa about the possibility of some collaborative working relationships and the possibility of assisting, however because they are the land owner and hold the title, there will be more legal research necessary if OHA is to consider before we even bring it to the board for assistance of that whole area that you are referring to.

Kaiulani Milham said mahalo, I'd like to encourage that water service be provided. No one can live without water and also trash service. She also stated her concerns about the lack of media for Native Hawaiians in the state.

Chair Akana said thank you. Annelle Amaral.

Annelle Amaral, president of the Association of Hawaiian Civic Clubs, discussed a resolution that was passed at their 57th Annual Convention in Las Vegas, Nevada from November 13-20, 2016: Resolution 16-44 Expressing Concern over Office of Hawaiian Affairs Trustee-Elect Dr. Keli'i Akina's Conflict of Interest Given His Position as the President/CEO of the Grassroot Institute of Hawai'i. She stated that she appreciates the vote the Trustees have taken to not appoint Trustee Akina as the Vice Chair of the Resource Management Committee but asked the Trustees to continue to consider the Civic Club's concern. She distributed a copy of her written testimony, a copy of Resolution 16-44, and a December 9, 2016 letter from Trustee Akina to Annelle Amaral regarding the resolution with his position statement on Native Hawaiian Issues and a letter from his attorney attached.

Chair Akana said thank you Annelle. Leimomi Khan.

Leimomi Khan, President of the Hawaiian Affairs Caucus of the Democratic Party of Hawaii and President of the Kalihi Palama Hawaiian Civic Club, discussed rumors on the internet alleging plans to dismiss OHA CEO Crabbe and possibly other OHA staff members and also appoint Trustee Akina as Chair of a possible new committee. She stated that she supports CEO Crabbe's leadership of OHA and the OHA staff. She also stated that she has grave concerns about appointing Trustee Akina as Chair of a possible new committee due to his history as CEO of the Grassroot Institute.

Chair Akana said thank you Leimomi. Thank you very much. Alright Rupert.

Rupert Rowe stated that he believes to make everything straight and pono, OHA is not the avenue for freedom. It is an obstacle that is being manipulated by the process because the government of propaganda affects our vision on who Hawaiians are. He also stated that to unify the Hawaiian people, OHA must dissolve the blood quantum law, which he feels is a racist way to destroy one's identity. He also suggested that OHA pullout of nation-building.

Chair Akana said thank you Rupert. Mr. Palakiko.

William D. Palakiko stated that he has a work related illness that requires frequent visits to the doctor. He asked William J. Aila, Jr. of the Department of Hawaiian Home Lands for Hawaiian Home land and learned that they don't have land. He was also asked if he had 50% Hawaiian blood. He feels this was totally disrespectful and questioned why Hawaiians needed 50% to live on their own land after the illegal overthrow and 25% to pass the land on to their children. He stated that this is racist and biased. He offered to pick-up trash around the island if OHA would fund it. He stated that he came to OHA to ask for a loan without red tape and some land so he could start his own farm and be self-sufficient.

Chair Akana said Mr. Administrator, can you?

CEO Crabbe said we will follow-up with the Native Hawaiian Revolving Loan Fund, our Pou Nui and Hawley. We will follow-up and then see if we can work something out.

William D. Palakiko said alright. Aloha.

Chair Akana said thank you. There are no more speakers so those of you who wanted to go into executive session, it would take a vote to do that because it is not on the agenda.

CEO Crabbe said so Trustees, to reiterate what Chair Akana is saying, it was proposed earlier in the discussion to address some of the issues regarding her legal case and Trustee Apo had proposed for a matter of these issues to be discussed in executive session following the proceedings of this board.

Trustee Waihe'e said I just have a question. Like, we're allowed to go into executive session to consult with our lawyer.

CEO Crabbe said that's what I think we need to clarify.

Trustee Waihe'e said the lawyers are not present for those cases.

Trustee Apo said Madame Chair, I would withdraw the motion. I think many of the issues have been aired and discussed and I think at some future time we'll have an executive session. I would withdraw the motion.

Chair Akana said okay.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

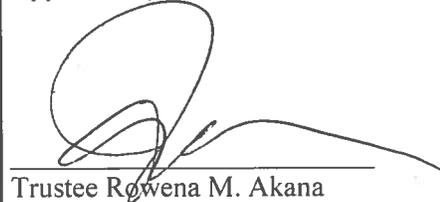
Having no further business, Chair Akana adjourned the meeting at 11:44 am.

Respectfully Submitted,



Nathan H. Takeuchi
Board Secretary

Approved by the Board of Trustees on January 12, 2017



Trustee Rowena M. Akana
Chair, Board of Trustees