

**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 3, 2015, 10:00 am**

**I. CALL TO ORDER**

Chair Robert K. Lindsey, Jr. called the Office of Hawaiian Affairs Board of Trustees Meeting to order at 10:03 am. Those present were as follows:

**Attendance**

Trustee Robert K. Lindsey, Jr., Chair  
Trustee Dan Ahuna, Vice Chair  
Trustee Rowena Akana  
Trustee Peter Apo

Trustee S. Haunani Apoliona  
Trustee Carmen Hulu Lindsey  
Trustee Colette Machado  
Trustee John Waihe'e IV

**Excused**

Trustee Lei Ahu Isa

**Staff Present**

Dr. Kamana'opono Crabbe, CEO  
Ernest Kimoto, Acting Board Counsel  
Harold Nedd, Chief of Staff  
Capsun M. Poe, Board Secretary  
Jeremy Kama Hopkins  
Kauikeaolani Wailehua  
U'ilani Tanigawa  
Claudine Calpito  
Lady Elizabeth Garrett  
Lehua Itokazu  
Louise Yee Hoy

Melissa Wennihan  
Reynold Freitas  
Derek Kauano  
Jim Patterson  
Jocelyn Doane  
Jonathan L. Ching  
Kawika Riley  
Momilani Lazo  
Sterling Wong  
Lindsay Kukona  
Matt Ka'aihue

**Others Present**

None

**II. APPROVAL OF MINUTES**

Chair Lindsey announced the draft minutes of October 22, 2015 were distributed and asked if there were any changes.

**Motion**

At 10:04 am, Trustee Ahuna moved, seconded by Trustee Apoliona, to approve the minutes of October 22, 2015.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA						X
TRUSTEE DAN AHUNA	1		X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO			X			
TRUSTEE HAUNANI APOLIONA		2	X			
TRUSTEE HULU LINDSEY			X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E			X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			8	0	0	1

MOTION:  UNANIMOUS  PASSED  DEFERRED  FAILED

Motion passed with eight (8) YES votes, no (0) NO votes, no (0) abstentions, and one (1) excused.

### III. COMMUNITY CONCERNS

There were no Community Concerns.

### IV. UNFINISHED BUSINESS

#### A. Chair's Updates on Board Activities

Chair Lindsey provided the following updates:

- The deadline for the Ad Hoc Committee on Bylaws Review has been extended to June 30, 2016.
- He thanked Vice Chair Ahuna for his work on the Ad Hoc Committee on Mauna Kea to get OHA ready for the mediation process which started last week.
- The next Board meeting will be on December 17, 2015 at Waimea Valley, with OHA's budget realignment expected for consideration.

#### B. CEO's Update on Ho'oulu Lāhui Aloha and OHA Activities

Dr. Crabbe reported the following:

- This month's *Ka Wai Ola* includes OHA's annual report.
- OHA's Service Awards will be held next week.
- Administration is continuing to monitor Na'i Aupuni's election and the stay issued by Justice Kennedy.
- Yesterday, Hawai'i's Supreme Court rejection of the permit for the TMT continues to be closely monitored by Public Policy staff. They will be paying attention to the process and OHA's historical comments.

Trustee Machado asked what the Mauna Kea stay includes. Dr. Crabbe responded it is related to the CDUP, but that nothing has been ruled on the emergency rules. Mr. Wong added that this was a case brought by Kalani Flores and Naiwi Wurdeman. He also noted that they are unsure how long the process of a contested case hearing will take and that one year would not be unexpected.

Trustee Apoliona believes the Trustees need to stay steadfast and focused on all of these issues as they come up, which she believes are narrow and sensitive.

Trustee Apo stated he believes the management and conversation issues need to be reviewed. He cautioned against OHA issuing a statement against the TMT. He believes there will be questioning of the cultural legitimacy of the claim of the sacredness of Mauna Kea.

## V. NEW BUSINESS

### A. BAE #15-08: 2016 OHA Legislative Package

Trustee Waihe'e gave the following committee report on behalf of the Committee on Beneficiary Advocacy and Empowerment:

November 18, 2015

The Honorable Robert K. Lindsey, Jr., Chair  
Board of Trustees  
Office of Hawaiian Affairs

Chair Robert Lindsey,

Your Committee on Beneficiary Advocacy and Empowerment, having met on November 18, 2015, and after full-and-free discussion, recommends approval of the following action to the Board of Trustees:

To support the following new legislative proposals and approve their inclusion in the 2016 OHA Legislative Package (See attachments for text of the proposals):

- OHA-8  
Mauna Kea Sublease Rules: Requires the University of Hawai'i to promulgate rules for the subleasing of Mauna Kea lands, which shall describe the method by which it will ensure a "fair rate of return" in establishing sublease rent. Provides for a public hearing process for the public and stakeholders to review and comment on proposed sublease terms and fees.
- OHA-9  
Posting Notice for Environmental Review at Project Sites: Requires agencies and applicants to post a "Notice of Preparation" of an environmental assessment or environmental impact statement for a site-specific action at the physical site or sites that may be directly impacted by the action.
- OHA-10  
Remnants Right of First Refusal: Provides OHA with a right of first refusal to purchase remnant parcels, prior to their disposal to any other entity.

### Motion

At 10:19 am, Trustee Waihe'e moved, seconded by Trustee Machado, to support the following new legislative proposals and approve their inclusion in the 2016 OHA Legislative Package (See attachments for text of the proposals):

- OHA-8  
Mauna Kea Sublease Rules: Requires the University of Hawai'i to promulgate rules for the subleasing of Mauna Kea lands, which shall describe the method by which it will ensure a "fair rate of return" in establishing sublease rent. Provides for a public hearing process for the public and stakeholders to review and comment on proposed sublease terms and fees.
- OHA-9  
Posting Notice for Environmental Review at Project Sites: Requires agencies and applicants to post a "Notice of Preparation" of an environmental assessment or environmental impact statement for a site-specific action at the physical site or sites that may be directly impacted by the action.
- OHA-10  
Remnants Right of First Refusal: Provides OHA with a right of first refusal to purchase remnant parcels, prior to their disposal to any other entity.

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

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

Motion passed with seven (7) YES votes, one (1) NO votes, no (0) abstentions, and one (1) excused.

B. BAE #15-09: OHA's proposed response to the Department of the Interior's proposed rule for Reestablishing a Formal Government-to-Government relationship with the Native Hawaiian Community

Trustee Waihe'e gave the following committee report on behalf of the Committee on Beneficiary Advocacy and Empowerment:

November 18, 2015

The Honorable Robert K. Lindsey, Jr., Chair  
Board of Trustees  
Office of Hawaiian Affairs

Chair Robert Lindsey,

Your Committee on Beneficiary Advocacy and Empowerment, having met on November 18, 2015, and after full-and-free discussion, recommends approval of the following action to the Board of Trustees:

The Office of Hawaiian Affairs' ("OHA") Board of Trustees directs its Ka Pouhana (Chief Executive Officer) to timely submit OHA's comment in strong support of the proposed rule with amendments, including comments explaining why the proposed amendments should be made, in response to the Department of the Interior's ("Interior") proposed rule for Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community.

Motion

At 10:20 am, Trustee Waihe'e moved, seconded by Trustee Apoliona, that the Office of Hawaiian Affairs' ("OHA") Board of Trustees directs its Ka Pouhana (Chief Executive Officer) to timely submit OHA's comment in strong support of the proposed rule with amendments, including comments explaining why the proposed amendments should be made, in response to the Department of the Interior's ("Interior") proposed rule for Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community.							
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI	AHU ISA						X
TRUSTEE DAN	AHUNA				X		
TRUSTEE ROWENA	AKANA			X			
TRUSTEE PETER	APO			X			
TRUSTEE HAUNANI	APOLIONA		2	X			
TRUSTEE HULU	LINDSEY				X		
TRUSTEE COLETTE	MACHADO			X			
TRUSTEE JOHN	WAIHE'E	1		X			
CHAIR ROBERT	LINDSEY			X			
TOTAL VOTE COUNT				6	2	0	1
MOTION: [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED							
Motion passed with six (6) YES votes, two (2) NO votes, no (0) abstentions, and one (1) excused.							

**VI. EXECUTIVE SESSION**

Motion

At 10:21 am, Trustee Hulu Lindsey moved, seconded by Trustee Ahuna, to go into Executive Session to consider the following:

VI. Executive Session

- A. Consultation with Paul Alston, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding Akana v. Machado et al., Civil No. ICC13-1-002485. Pursuant to HRS 92-5(a)(4).
- B. Approval of the Recommendation of the Ad Hoc Committee on Trustees' Responsibilities II

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA						X
TRUSTEE DAN AHUNA		2	X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE PETER APO			X			
TRUSTEE HAUNANI APOLIONA			X			
TRUSTEE HULU LINDSEY	1		X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E			X			
CHAIR ROBERT LINDSEY			X			
TOTAL VOTE COUNT			8	0	0	1

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

Motion passed with eight (8) YES votes, no (0) NO votes, no (0) abstentions, and one (1) excused.

The Board went into Executive Session at 10:21 and exited Executive Session at 11:35 am.

VII. BENEFICIARY COMMENTS

There were no Beneficiary Comments.


VIII. ANNOUNCEMENTS

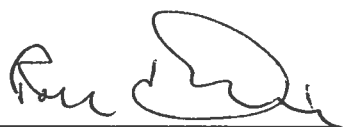
Chair Lindsey announced the next BOT meeting will be on Thursday, December 17, 2015 at 10:00 am at Waimea Valley.

IX. ADJOURNMENT

Having no further business, Chair Lindsey adjourned the meeting at 11:36 am.

Respectfully Submitted,

  
Capsun M. Poe  
Board Secretary

Approved by the Board of Trustees on December 17, 2015:  
  
Trustee Robert K. Lindsey, Jr.  
Chair, Board of Trustees