

BOARD OF TRUSTEES

Carmen. Hulu Lindsey, *Chairperson*

Leina'ala Ahu Isa, *Vice Chairperson*

Dan Ahuna, Trustee Kaua'i & Ni'ihau

Kalei Akaka, Trustee O'ahu

Keli'i Akina, Trustee At-Large

Luana Alapa, Trustee Moloka'i & Lāna'i

Brendon Kalei'aina Lee, Trustee At-Large

Keola Lindsey, Trustee Hawai'i Island

John Waihe'e IV, Trustee At-Large



STATE OF HAWAII'
OFFICE OF HAWAIIAN AFFAIRS

MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, January 28, 2021

TIME: 10:00 am

PLACE: Virtual Meeting

Viewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 943 1366 0411

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Seventeenth Supplementary Proclamation dated December 16, 2020 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 943 1366 0411

AGENDA

- I. Call to Order
- II. Public Testimony on Items Listed on the Agenda* (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)
- III. Approval of Minutes
 - A. January 13, 2021
- IV. New Business
 - A. Action Item BOT #21-01: Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties.
- V. Community Concerns and Celebrations*(Please see pages 2 & 3 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)
- VI. Executive Session‡
 - A. Consultation with OHA's Procurement Unit and Board Counsel Robert G. Klein and Kurt W. Klein regarding the evaluation of qualifying offers to Request for Proposals (RFP) No. BOT 2020-30 for Performance Appraisal Consulting Services, and questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the evaluation process. Pursuant to HRS §92-5 (a)(4), (8); HRS §103D-105, -202, -303; and HAR 3-122-45.01(2)(C)(ii).
- VII. Announcements
- VIII. Adjournment

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If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email rainag@oha.org no later than three (3) business days prior to the date of the meeting.

Meeting Materials will be available to the public on Monday, January 25, 2021 and posted to OHA's website at: www.oha.org/bot

*Testimony during Public Testimony:

Public Testimony allows the public to provide testimony on matters only listed on the meeting agenda. Community Concerns allows the public to provide testimony on matters not listed on the meeting agenda. Hawai'i Revised Statutes (HRS), Chapter 92, Public Agency Meetings and Records, prohibits Board members from discussing or taking action on matters not listed on the meeting agenda.

Testimony for Public Testimony can be submitted to the OHA Board of Trustees either: (1) in writing emailed at least 24 hours prior to the scheduled meeting, or (2) as live, oral testimony online during the Public Testimony portion of the virtual meeting.

Please visit OHA's website for more detailed information on how to submit testimony at: <https://www.oha.org/how-to-submit-testimony-for-oha-bot-meetings/>

Persons wishing to provide **written testimony** should submit testimony via **email** to BOTmeetings@oha.org **at least 24 hours prior** to the scheduled meeting. Any testimony received after this deadline will be late testimony and distributed to the Board members after the scheduled meeting. **Due to COVID-19, please do not fax, mail, or hand-deliver written testimony.**

Persons wishing to provide **oral testimony online** during the virtual meeting must register here first: https://zoom.us/webinar/register/WN_95h5Gq67QpuoS39sXJjR4Q

The registration to provide oral testimony online will remain open until the Public Testimony section on the agenda has concluded. You will need to register prior to this time if you would like to orally testify. Once you have completed your registration; a confirmation email will be sent to you with a link to join the virtual meeting and further instructions on how to provide oral testimony during the virtual meeting. To provide oral testimony online, you will need (1) a computer or mobile device to connect to the internet, (2) internet access, and (3) a microphone to provide oral testimony. Oral testimony online will be limited to five (5) minutes. Oral testimony by phone will not be accepted at this time.

‡ Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

Trustee Carmen Hulu Lindsey
Chairperson, Board of Trustees

1/22/2021

Date

Office of Hawaiian Affairs
Meeting of the Board of Trustees
January 28, 2021
10:00 A.M.

III. Approval of Minutes

A. January 13, 2021

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

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Minutes of the Office of Hawaiian Affairs Board of Trustees Workshop
MINUTES
January 13, 2021

ATTENDANCE:

Chairperson Carmen Hulu Lindsey
Vice-Chairperson Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Kaleihikina Akaka
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'āina Lee
Trustee Keola Lindsey
Trustee John Waihe'e, IV

BOT STAFF:

Crayn Akina
Kanani Iaea
Lehua Itokazu
Amber Kalua
Colin Kippen
Melissa Wennihan

GUEST:

Gertrude Kamakaopiopiowiwo'ole Mahi Gunderson

ADMINISTRATION STAFF:

Sylvia Hussey, Ka Pouhana / CEO

CALL TO ORDER

Chair Hulu Lindsey Calls the Board of Trustees Workshop for Wednesday, January 13, 2021 to order at 10:15 am. Chair Hulu calls for a roll call.

MEMBERS			Present	TIME ARRIVED
TRUSTEE	LEINA‘ALA	AHU ISA	x	
TRUSTEE	DAN	AHUNA	x	
TRUSTEE	KALEIHIKINA	AKAKA	x	
TRUSTEE	KELI‘I	AKINA	x	
TRUSTEE	LUANA	ALAPA		Logs on at 10:30 am (due to technical difficulties)
TRUSTEE	BRENDON KALEI‘ĀINA	LEE	x	
TRUSTEE	CARMEN HULU	LINDSEY	x	
TRUSTEE	KEOLA	LINDSEY	x	
TRUSTEE	JOHN	WAIHE‘E, IV	x	

At the Call to Order, **EIGHT** (8) Trustees are PRESENT, thereby constituting a quorum.

Chairperson Hulu Lindsey Well, this morning we are gathered as trustees to experience and learn together to more effectively and confidently implement the Robert's Rules of Order (RROR) and to get our work done more efficiently. At this time, I would like to introduce Gertrude Kamakaopiopiowiwo‘ole Mahi Gunderson, we call her Kamaka.

Kamaka Gunderson Thank you very much for that, for that introduction. I wanted to make one correction I am not your parliamentarian. For today, I am your trainer. My former supervisor was the president of the National Association of parliamentarians. When I lived in Missouri, he felt it was very important that his executives be certified, licensed, etc. and so he took us through the rigor of becoming a licensed. The good thing about that is that I have used this in administrative duties in lab recently in Hawaii, but also throughout the continent. I was an administrator for a church, faith community and other pastors. We used Robert's Rules, as our default, but also our first line of meeting management everywhere from France and as far east as Novosibirsk, Russia. For today, thank you for allowing me to be here. And if there's any point that you have questions, then please feel free to ask. You should have, I believe, the books, either the 11th or the 12th edition. I really don't expect you to know everything in the book and as somebody told me a few minutes before the meeting, it's a little intimidating. Of course, it's intimidating. However, it can be a great tool efficiency. As your parliamentarian for the Association of Civic Clubs. My goal is that they really don't know who I am at the end of the meeting. The voices have been heard, we have been able to work through the agenda, the majority rules, the minority, minority voices heard, and that we have a template of how to move forward. Last week, we had two workshops with new committee chairs and their vice chairs. I heard everything from I got this and it's overwhelming. Your level of competency and comfort with Robert's Rules, wherever it is on the spectrum, know that it can be something that you can use as we move the OHA institution organization to fulfill its mission. And one of the first things I asked everybody was, what is the mission of OHA? Because that is the driving force. Robert's Rules is the tool that can be used. The purists of parliamentarians would probably say I should never have given you the cheat sheet. However, for a quick reference, I have distributed cheat sheets for people to review and to use as they are able to. We have the ability to go swiftly and smoothly through our agenda to get the business done.

If there is anything thing in the beginning that is essential for you to know, it's going to be chapter five, chapter six, chapter seven, and chapter eight. Secondary would be chapters nine and ten. Parliamentarians would say you need to know the entire book. Okay, I realized that I am in a session of adult learners, unlike my students, who just yell out answers without being recognized. I would like to ask for some kind of answer, so someone answer

me. O.k.? Thank you. So, you should have in front of you the regarding the main motion. What does that look like? How do you get to this? How do you get recognized on the floor?

Chairperson Hulu Lindsey you address the chair.

Kamaka Gunderson yes, usually you stand up and address the chair. Can you speak? When does somebody else's speaking?

Trustee Lee it depends.

Kamaka Gunderson yes, why does it depend? When does it depend? When can you interrupt?

Chairperson Hulu Lindsey when you want to say point of order.

Kamaka Gunderson point of order and what else? Personal privilege. Trustee Lee, you said it depends. Why?

Trustee Lee it depends for the purpose of which you are asking to be recognized. There are many, many instances in which you are allowed to interrupt the speaker.

Kamaka Gunderson What happens when you ask for a point of order? It must be taken care of. Is that correct? Or can I wait?

Trustee Lee no.

Chair Hulu Lindsey you take care of it.

Kamaka Gunderson you take care of it. Get it out. Okay. Let's say we're not doing a point of order. Somebody wants to make a motion. They rise, go to the microphone, or in your meetings. do you rise? Or do you just say stay where you are? Do does every trustee have a microphone?

Chairperson Hulu Lindsey yes, we have microphones.

Trustee Lee we are seated at one table.

Kamaka Gunderson are the trustees at one table like this?

Trustee Lee it is an oval table that we all sit around, and the chair is at the head of the table.

Kamaka Gunderson and only the voting members sit around the table?

Trustee Lee and the CEO

Kamaka Gunderson as a consideration the CEO and legal council should sit at a separate table. This is a clear demarcation on who votes and who doesn't vote.

Trustee Lee because of legal purposes, all votes of consequence are done by roll call. Even for adjournment, it's a roll call. This is our procedure. This way it is clearly recorded in the minutes who voted which way.

Kamaka Gunderson o.k. thank you.

Trustee Ahu Isa at the Board of Education we had our Attorney General sit at a side table and would only come forward when time to speak. There was a demarcation.

Kamaka Gunderson it should be what you are comfortable with and what your preference is. Some like a clear line. You may think, why should I even care? Sometimes people may talk and have little side meetings. This can influence what is being said. Let's continue with getting a main motion. This may be a review for some of you. Give me an example of what making a motion would look like.

Trustee Waihee I move to adjourn.

Trustee Lee I second.

Kamaka Gunderson Trustee Waihee did you state your name to the Chair when making your motion?

Trustee Waihee no I did not.

Kamaka Gunderson o.k. saying your name is for the record. Did I hear a second? Does the motion to adjourn need a second?

Chairperson Hulu Lindsey yes.

Kamaka Gunderson what if you look at your hierarchy of motions. The motion to adjourn is what is rather high, isn't it? And is it amendable?

Trustee Waihee no.

Kamaka Gunderson can you debate it?

Trustee Akina no.

Kamaka Gunderson do you need a majority, or two thirds vote?

Chairperson Hulu Lindsey you need a majority.

Kamaka Gunderson correct. Trustee Waihee, thank you for that that motion but we're not going to adjourn. Okay? I just wanted to have an example and thank you for volunteering. Now what happens after the second?

Chairperson Hulu Lindsey you call for the vote.

Kamaka Gunderson yes. Do you folks say aye, nay, and kanalua or abstain? Not all organizations do that but it's very important that that you do. This way it is not debatable. What happens if you don't want to adjourn? Or the majority does not want the motion?

Trustee Lee you're voted down.

Kamaka Gunderson yes, correct. This means you need to continue. You've adjourned and you are now at the next meeting. The motion is made, I will use the example from yesterday. \$50,000 was approved for Palama settlement. Who speaks first?

Trustee Ahu Isa the person who made the motion.

Kamaka Gunderson why?

Trustee Ahu Isa they must explain why they made the motion.

Kamaka Gunderson yes, because they made the motion and obviously, they are for the motion. Otherwise, they wouldn't have made the motion. And then who speaks next?

Trustee Waihee someone who opposes the motion

Kamaka Gunderson Exactly. Right. It's called the rule of alternate. It's to be fair, that you hear one side, then you hear the other side. And then you go back. In OHA's meetings, how long do you have to speak when testifying?

Chairperson Hulu Lindsey five minutes for public testifiers.

Kamaka Gunderson okay, five minutes for the public. What about the Trustees?

Trustee Lee there is not limit. We follow the Robert's Rules of ten minutes.

Kamaka Gunderson everyone should know how they can speak. Who keeps time?

Chairperson Hulu Lindsey our Board Secretary keeps time.

Board Secretary if we have a public testifier, we use an electronic countdown clock. I do not use a timer on the Trustees.

Kamaka Gunderson Trustees, do you know that you can be timed?

Chairperson Hulu Lindsey we did not know.

Trustee Ahu Isa in the House of Representatives because some of our members kept going on and on, we were limited to three to five minutes. Other members would stand up and state I yield the floor to use my five minutes.

Kamaka Gunderson I do not recall reading this in your By-laws, is this correct?

Trustee Lee that is correct.

Kamaka Gunderson ten minutes is a long time. If you're a trustee, you're a professional, you should be able to make your point under 10 minutes anyway. The same consideration of time for the secretary would be for you to take the timing for the trustees. They get 10 minutes and then what do you do when the time runs out? Do you just cut off their mic?

Board Secretary I would not feel comfortable cutting off a Trustee's mic unless it was written in our By-laws.

Kamaka Gunderson yes, especially when you are staff. If they have 10 minutes, they have 10 minutes and all trustees should know that. Trustees should know what to say in a very succinct manner, get your point across, and move on. One of Robert's Rules, a consideration regarding debate while it's going on, regarding the motions, is how you conduct yourselves. This is very important. I don't think Robert's Rules really says you need to do this, and this, and this. But as a side consideration when debating the motion, listen to what the other side has to say. Be polite and focus on the issue and not the personality. Or trying to question a testifiers motive. I have heard people speaking be interrupted by others stating they have a point of order. The point of order would be *I don't like what they're saying*, which makes that point of order invalid. A point of order has more to do with the rules of engagement or how you conduct the meeting. You can have a point of order, to say they are not speaking to the point. The chair immediately says your point is well taken. which makes that point of order invalid. There are times when it's an emotional resolution, an emotional subject that comes up that people will forget and may wonder off subject. That's where the chair needs to act. It's an emotional to be alert and to bring them back to the subject at hand. Can you withdraw a motion?

Chairperson Hulu Lindsey yes.

Kamaka Gunderson who does this?

Chairperson Hulu Lindsey the person that makes it.

Kamaka Gunderson yes, the Chair needs to listen and decide if it is not the right time, or not substantive enough as the person who made the motion. You can withdraw your motion. Is that enough, is that the end of it?

Chairperson Hulu Lindsey no, the person who seconds your motion should withdraw.

Kamaka Gunderson yes, that person needs to say yes. What happens if they do not? Do you proceed? You can take a vote, by majority if the motion will be taken off the table. What is the point of Point of order? We went over what it is, what it isn't. Why is a point of order so important?

Chairperson Hulu Lindsey I think it's because whatever is taking place at the time needs to be stopped.

Kamaka Gunderson yes, thank you. Sometimes, the point of order is used to be sure that the legal responsibility is being taken care of and not going outside of its rules. It allows everyone to stop, think, and proceed. Sometimes the point of order can be annoying but there is a reason for the point of order. What happens if the Chair rules that out of order? The person would appeal the ruling of the Chair. I have seen this happen. Is this debatable?

Chairperson Hulu Lindsey yes.

Kamaka Gunderson why is this debatable?

Trustee Lee if the consensus of the body is not to take up the objection than there is no point to take on the objection because the body has already spoken on how they will vote in such manner.

Trustee Akina another way of point of order can be made is when an attack on another person when speaking. You can arise to a point of order to defend yourself or point out an affront is being made to another speaker.

Kamaka Gunderson the moving of a resolution is not about a personality. The Chair can rule that person out of order before the point of order is even made. We try to keep everything objective.

Trustee Lee Robert's Rules (33):11-19, once the Chair states the question, it no longer belongs to the maker it belongs to the body. The maker cannot take it back. The Chair ask the maker to rescind the motion. If the maker does, *refers to (6):17-4*, the maker can object to the consider of the question.

Kamaka Gunderson which puts us in another place.

Trustee Lee That would be the steps of the maker. The maker wishes to withdraw their motion and the seconder refuses, the maker can consider of the question or move to lay on the table.

Kamaka Gunderson laying on the table is giving time to consider. When I was in Malawi at a meeting we had to take a subject off the agenda and not even consider the subject because it could have put people in jeopardy. These subjects are abortion or gay rights, sometimes you take off the table and for consideration outside of the meeting for the greater good. RROR tries to make it for the greater good. The majority rules and the minority is seconded. Things like this can come up very quickly and you need to be aware. It is always important to keep the issue in the front.

Chairperson Hulu Lindsey when I attended Civic Club meetings, I heard the term *lay it on the table*. I do not know what this term means. Can you explain this term?

Kamaka Gunderson sure, *lay it on the table* is when there is a motion being discussed and it becomes apparent more time is need for consideration because the best decision would not be made. The motion is made to lay it on the table. How long can it lay on the table or when do we have to take it off the table?

Trustee Lee when it's called for.

Kamaka Gunderson can we wait for the next meeting?

Trustee Lee unless there is a motion to lay on the table indefinitely, then the matter needs to be taken up before the adjournment of that meeting because it was on that agenda.

Kamaka Gunderson I think of lay it on the table as a time to breathe, consider, and step back a bit.

Trustee Akina how does the term *lay it on the table* compare to the term *table it*?

Trustee Lee the term *table it* does not exist, it is a misnomer. It is something over time as people have cheated on the way they say it. The proper way is to say *lay it on the table*.

Kamaka Gunderson yes, some people will say *table it*, to be more emphatic.

Trustee Lee people will also say move to postpone but none of these are the correct way.

Trustee Akina Thank you Trustee Lee.

Chairperson Hulu Lindsey when do you bring it back to the group, before the adjournment? How long do you think about the issue?

Kamaka Gunderson it will depend on the body.

Trustee Lee you will need to bring it back to the table before the meeting adjourns unless the motion at lay had a time specific. For example: I move to lay until the next Board meeting or until February 26th. If there is no time associated with that motion laying on the table than that matter must be taken up before the adjournment of that meeting.

Kamaka Gunderson someone can also call for a recess and after the recess someone could bring it back up. If you are laying something on the table, you must bring it back when you say you're bringing it back. You cannot leave it out there for perpetuity.

Trustee Lee you can, this is a way to protect a body from taking a vote. If I move to lay it on the table indefinitely, then until someone says to bring it back the matter is dead.

Kamaka Gunderson people will do that if they do not want to take up a subject.

Trustee Lee it's usually for political cover.

Trustee K. Lindsey can you speak on abstaining or recusing. Particularly, is there a point when a voter will state their reason for recusing or abstaining from a vote?

Kamaka Gunderson no, they do not have to state their reason

Trustee K. Lindsey can they state it for the record?

Kamaka Gunderson why would you?

Chairperson Hulu Lindsey because there might be a conflict of interest.

Kamaka Gunderson that can sometimes be in the record of recusing.

Trustee Lee that is not a part of RROR, that is a sunshine law. If you are going to recuse yourself because of a conflict of interest, then by law you must state your conflict. An example is my brother sits on the Loko ea Fishpond and Loko ea Fishpond was awarded a grant a year ago. When the grant came up for voting, I had to recuse myself because my brother sits on that board. So, I had to state that I was recusing myself because my brother sits on the Loko ea board, by Sunshine law I must state that.

Kamaka Gunderson I forgot that you have sunshine law.

Trustee Lee and State law.

Kamaka Gunderson does this answer your question Trustee Lindsey.

Trustee K. Lindsey yes, I was thinking of a simpler situation such as abstaining from voting on a motion regarding minutes if I wasn't at a meeting.

Kamaka Gunderson yes, abstaining is different from recusing.

Chairperson Hulu Lindsey does he have the right to not vote on minutes if he was not a part of that meeting? He is a new Trustee, so voting on minutes that he was not a part of would be a good reason.

Kamaka Gunderson this is outside of RROR.

Trustee Lee Chair Lindsey, I looked into this when I first got into office because my very first vote was going to be on minutes. The practice in Civic Clubs if you did not attend the meeting then you would *kanalua*. Because we are elected officials and by law we have to adopt minutes, it is conceivable that there will not be a quorum of a board because you have five sitting trustees. You can abstain if there is a quorum but if there is not a quorum you need to vote because the minutes will be approved and by law we have to approve the minutes.

Chairperson Hulu Lindsey and he has the obligation to read the minutes that are passed out to us.

Trustee Lee yes, he does. If five members have already voted in favor and the member who did not attend wants to *kanalua*, they are free to do that. If their purpose of *kanalua* is because they did not attend the meeting and there are not five trustees to make a quorum to pass the minutes than that trustee must vote because the minutes need to be adopted.

Kamaka Gunderson the way RROR becomes a part of this, would be that you do not have a quorum, you would not be able to pass your minutes, and you would not have minutes recorded legally. Trustee Lindsey, even if you were not at the meeting, you would have the minutes to read, and you would be aware of what took place. If not, every election you would have minutes not approved this would make it difficult to proceed.

I think you will see that there will be items outside the purview RROR but inside the scope of OHA as an organization. Robert's Rules does not take over OHA, Robert's Rules is the mechanism used to get the job done. For the new trustees - know chapters five through eight and know the duties of the Chair. At any point, any of you could be the Chair. Moving on, what happens when anyone wants to postpone a question? Can we postpone forever or have an indefinite time?

Trustee Lee both can be done.

Kamaka Gunderson it could be *I move to postpone this until after lunch* or *I move to postpone until the next meeting*. Does this need a second?

Chairperson Hulu Lindsey yes, isn't there a second to every motion?

Kamaka Gunderson no.

Chairperson Hulu Lindsey then we need to know what does not need a second.

Kamaka Gunderson that's when you use the cheat sheet. If you are a parliamentarian you would not use the cheat sheet. This sheet is used as only a reference.

How many times can you amend a motion?

Trustee Waihee twice.

Kamaka Gunderson o.k. yes, twice. You can only amend and amend to amend.

So, if someone makes the motion, then someone wants to amend the motion, and then they want to amend the amendment. When you amend the amendment, you cannot vote on the amendment until you taken care of the amendment to the amendment. Then you take care of the amendment – the motion as amended. And only after you take care of that, you move to the main motion. People get confused when they do not visually see what the amendment to the amended was, what the amendment looks like, and then what the amended motion now looks like. At meetings do you put up what the main motion looks like, so that everyone is clear?

Chairperson Hulu Lindsey yes.

Kamaka Gunderson depending on the motion does it require 2/3 vote or majority?

Chairperson Hulu Lindsey majority.

Kamaka Gunderson for the most part, it seems that most of you have a grasp on what's going on, it's just a matter on how we can implement this. For a meeting to run smoothly you need to come prepared. Read the agenda, read over the minutes, resolutions, any new business, and if there is an amendment, have it typed out. This way you eliminate all the distractions. Trustee Lee is a resource, but it is not his job to make sure everyone knows the rules. What are your other resources for? Let me give you an example: A kupuna comes from Waianae to testify to the board. She has a five-minute limit. She goes over her time and a point of order is made that her time has expired. How do you both, be objective and understanding? After, I thought about it, the meeting is not the place for Kupuna to tell their mo'olelo of life etc., it is to speak to a specific subject. The meeting starts before the meeting, if you know that kupuna is coming to speak, how can you help her to stay within the parameters of Robert's Rules? Or do we help her?

Chairperson Hulu Lindsey of course.

Kamaka Gunderson but we also help her to say what she needs to say concisely, emphatically, and within the time frame. The reason you want her to do this is because someone could say *give her more time*. If you do this, you set a precedence because every kupuna after that will want more time too. Without being insensitive we can educate our people on how to work within the framework of doing business within OHA.

Trustee Ahu Isa we are not only elected officials we are trustees. This takes us to another level. We have fiduciary duties. These are our beneficiaries; we are here because of them. If kupuna come in to speak on their iwi at Kawaiha'o then I want to learn and listen, Can the chair say *I give you five minutes*, or someone say *I yield you five minutes*.

Chairperson Hulu Lindsey I think the Chair has some priveledge.

Kamaka Gunderson you could but this could be dangerous if it isn't in the purview of OHA business. With Roberts Rules you could set a precedence.

Trustee Ahuna What is the difference between public testimony and beneficiary comments?

Trustee Lee that is not a Robert's Rules

Trustee Ahuna I bring this up because a lot of times we have people who want to give testimony and may want to speak on something not on the agenda. Then they are moved to another part of the agenda.

Kamaka Gunderson public testimony may not necessarily be your beneficiaries, correct?

Trustee Ahuna correct.

**Speaking in the background* inaudible.*

Trustee Lee point of order, I am not aware that this training is for staff. This is a trustee's workshop, why are aides on this call?

Chairperson Hulu Lindsey staff are invited in case they need to help their trustees.

Board Secretary the only staff invited was the Chair's office and support staff. Trustee Alapa was having technical difficulties so that may be the reason why her staff is there.

Trustee Lee yes, all of us at one point needed technical assistance. I did not receive a memo regarding staff attending this workshop and I just heard a staff member asking a question. If we are allowing staff members to ask questions, then I would move to a recess to allow my staff to get on the meeting. That is not fair.

Chairperson Hulu Lindsey so acknowledged Trustee Lee. At any given time, Trustee Alapa could become the acting Chair of the RM Committee, she should be the one asking the questions.

Kamaka Gunderson what we just experienced was something that in the purview of RROR and some that aren't. What is the difference between public testimony and community concerns, was this your question earlier Trustee Ahuna?

Trustee Ahuna yes, one of the concerns is how do we give the kupuna more time to speak? We don't want to give kupuna more time if we have more kupuna waiting to speak. What if we could move a person to another slot?

Kamaka Gunderson that would be in your collaborative efforts to find that place, as Trustees can discuss that. As far as Roberts Rules in testimony – once you alter the rules to allow people to speak longer this could change your meeting. I was once in a meeting that ended up being fourteen hours long. You want the voices to be heard?

Trustee Ahuna we have a unique situation where we are divided by islands. We have beneficiaries that fly from out of island. *Inaudible*

Kamaka Gunderson you have the broad reach of what your meeting parameters are. As a trustee, beneficiary, and public. Once you allow it or make it a part of your work than you are tied to it.

Trustee Ahu Isa we spoke about sergeant of arms. We have kupuna that come in and get emotional. Is it beneficial and more from the heart for the Chair to say let's take a recess? Someone would come and settle the kupuna and make sure they're alright.

Kamaka Gunderson yes, you can take a recess at any time.

Chairperson Hulu Lindsey our past practice by our last Chair was to use discretion. As Trustee Ahuna mentioned, if we have a beneficiary flying in from Kauai that is a large expense. We are elected officials; I am happy to listen to our beneficiaries.

Kamaka Gunderson I understand, and that works if everyone agrees.

Chairperson Hulu Lindsey don't you think that is up to the Chair?

Trustee Lee yes, it is the call of the Chair. It is in our By-Laws; the Chair has the discretion to allow more time.

Kamaka Gunderson o.k. so you can. You just need to be prepared.

Chairperson Hulu Lindsey I understand. Sometimes we have crowds of people, like 30-40 people and I would not consider letting each one speak over the five minutes. But if we have one person from Kaua'i or outer island and they go over the five minutes, maybe they speak for fifteen minutes, then I am fine with that. What's wrong with that? That is something we must consider.

Kamaka Gunderson any other items you would like to review or any other questions? My senses are you know what you need to do? And that there are things going on outside of Robert's Rules.

Chairperson Hulu Lindsey it's the sunshine law. Any other questions for Kamaka?

Kamaka Gunderson someone brought up sergeant of arms. I think you'll need to mull that over for a while, whether you think it is important or necessary. This will be something that you folks can discuss. At the Civics Club we have a sergeant of arms, but you never see them.

Trustee Lee the sergeant of arms is called upon at every convention. We have a division of the house on multiple issues.

Kamaka Gunderson is this worth bringing up for an item of consideration?

Trustee Lee I do not think so. The Board Secretary normally acts as that function. The Board Secretary disseminates the information to the members, handles the timing of testimony, and handles the mic for testifiers which are all functions of a sergeant of arms.

Chairperson Hulu Lindsey I learned a lot today from you, Kamaka.

Kamaka Gunderson you all contributed to it; all I did was facilitate. Thank you for the opportunity. It is my hope that you will not need to use me again.

Chairperson Hulu Lindsey you have been very helpful especially having the smaller sessions with committees.

Kamaka Gunderson I learn from Trustee Lee a lot. We do not always agree but it's working together.

Trustee Lee We always agree on the process.

Kamaka Gunderson thank you for your time and effort. Have a great week.

COMMUNITY CONCERNS

There are none.

Trustee Lee since we are on this item of the agenda, and we are learning the importance of language, page 2 of this agenda; the last sentence states *board members are not required to respond to matters not listed on the meeting agenda*. That infers that we have the choice, by sunshine law we are not allowed to respond to matters not listed on the agenda. This gives the public the idea that we can, and we are choosing not to. I respectfully request that the wording be changed on future agendas.

Chairperson Hulu Lindsey that is a good point Trustee Lee. Board Secretary will make the changes on the next agenda.

ANNOUNCEMENTS

Chair Hulu Lindsey we have a Board of Trustees meeting tomorrow at 10:00 am, January 26th we have our first Resource Management meeting, and on January 27th will be our first Beneficiary Advocacy and Empowerment meeting. I would like to ask for a motion to adjourn.

ADJOURNMENT

Trustee Akaka moves to adjourn the Board of Trustees Workshop.

Trustee K. Lindsey seconds the motion.

Chairperson Lindsey asks if there is any discussion. There is none

Chairperson Lindsey calls for a **ROLL CALL VOTE**.

							11:44 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						(logged off before vote was taken)
DAN	AHUNA			X			
KALEIHIKINA	AKAKA	1		X			
KELI'I	AKINA						(logged off before vote was taken)
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
KEOLA	LINDSEY		2	X			
JOHN	WAIHE'E						Left at 11:30 am
CHAIR CARMEN HULU	LINDSEY			X			
TOTAL VOTE COUNT				6		0	0

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

Chairperson Carmen Hulu Lindsey adjourns the BOT Workshop meeting at 11:44 a.m.

Respectfully submitted,

Lehua Itokazu
Board Secretary

As approved by the Board of Trustees on January 28, 2021.

Carmen Hulu Lindsey
Chairperson, Board of Trustees

Office of Hawaiian Affairs
Meeting of the Board of Trustees
January 28, 2021
10:00 A.M.

IV. New Business

- A. Action Item BOT #21-01: Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties.

OFFICE OF HAWAIIAN AFFAIRS
Action Item


BOARD OF TRUSTEES

January 28, 2021

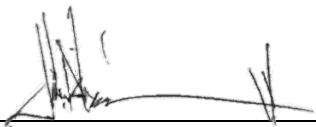
BOT #21-01

Action Item Issue: Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

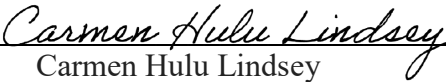
Prepared by:

 _____ Sylvia M. Hussey, Ed.D. Ka Pouhana, Chief Executive Officer	1/23/2021 Date
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Reviewed by:

 _____ John D. Waihe'e, IV Luna Ho'omalua o ke Kōmike Resources Management Chair, Committee on Resource Management	1/23/21 Date
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Reviewed by:

 _____ Carmen Hulu Lindsey Ke Kauhuhu o ke Kaupoku Chair, Board of Trustees	1/23/21 Date
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Action Item BOT #21-01

Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

I. Action Item:

Approve the formation of a Permitted Interaction Group to investigate the development of land and commercial property policies and strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties.

II. Issue:

Whether or not the Board of Trustees (BOT) will approve the formation of a Permitted Interaction Group (PIG), consistent with Hawai'i Revised Statutes §92-2.5(b)(1), to investigate the development of land and commercial property policies and strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties.

III. Discussion:

A. Applicable Law in Hawaii Revised Statutes, Permitted Interaction Groups In accordance with HRS, CHAPTER 92, PUBLIC AGENCY MEETINGS AND RECORDS §92-2.5 Permitted interactions of members: (b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to: (1) Investigate a matter relating to the official business of their board; provided that: (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board; (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and (C) Deliberation and decision making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board.

B. Setting Context for the Development of Commercial Property Policies and Strategies – Nā Lama Kukui



Figure 1. – Nā Lama Kukui, Nimitz Highway View

Action Item BOT #21-01

Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

Nā Lama Kukui (NLK), consists of 217,012 square feet (4.98 acres) and is zoned IMX-1 (mixed-use industrial). The maximum height limit for the property is 150 feet. The floor area ratio (FAR) is 2.5, but under the Transit Oriented Development (TOD) neighborhood plan, that would increase to 7.5 on the Iwilei side and 3.9 on the Nimitz side. The property was built in either 1927 or 1934. Due to its age and the unique architecture of its Iwilei Road frontage, this building is eligible for listing on the State Register of Historic Places.

Any building permit application involving a significant change to this frontage would require approval from the State Historic Preservation Division. The building on the NLK property is leased as well as used by OHA as administrative offices. Currently, OHA occupies 34.4 percent (46,802 square feet) of the total leasable area of the NLK building (136,062 square feet). The remainder of the building offers a unique choice of office, retail, warehouse and storage spaces. The NLK building has flexible floor plans with high ceilings and skylights on many spaces on the second floor, which create an open and inviting atmosphere. OHA believes that the property has potential beyond its current utilization and wishes to use the review to develop a real estate master plan for the property.

NOTE L - LONG-TERM LIABILITIES

On August 14, 2012, OHA entered into a \$21,370,000 long term note payable with a bank, to finance the purchase of Na Lama Kukui. The interest rate is fixed at 3.35%. The note is due in full on September 1, 2022 and is collateralized by a mortgage lien on the property, assignment of OHA's right, title and interest as landlord in and to any rents under tenant leases and rental agreements on Na Lama Kukui and security interest in all furniture, fixtures, and equipment. On July 26, 2013 the agreement was modified to increase the interest rate to 3.6% and include certain financial covenants. At June 30, 2019, OHA was in compliance with those covenants. In the event of default, OHA is liable for the immediate repayment of 53.2% of the outstanding principal balance of the loan, together with accrued interest and reimbursement of the fees and costs incurred by the bank in connection with the loan. The remaining 46.8% of the principal balance of the loan and all other obligations under the loan shall be enforced solely against the collateral.

As of June 30, 2019, future principal and interest payments from direct borrowings for the note payable are as follows:

<u>Fiscal Year ending June 30,</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2020	\$ 618,274	\$ 679,319	\$ 1,297,593
2021	640,903	656,691	1,297,594
2022	664,360	633,234	1,297,594
2023	<u>17,212,948</u>	<u>154,543</u>	<u>17,367,491</u>
	<u>\$ 19,136,485</u>	<u>\$ 2,123,787</u>	<u>\$ 21,260,272</u>

Figure 2. – Note L - Long Term Liabilities, Excerpt Financial Statements and Independent Auditor's Report, June 30, 2019

Action Item BOT #21-01

Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

Additional property information is as follows:

- Location: The property is located on a city block bound by N. Nimitz Highway to the south, Iwilei Road to the north, Sumner Street to the east, and Pacific Street to the west. The immediate surrounding properties feature a mixture of light industrial, retail and office buildings. Address: 560 North Nimitz Highway, Honolulu, Hawaii 96817.
- County Zoning: IMX-1, Industrial-Commercial Mixed-use District (150 –feet height limit)
- Tax Map Key Designation: Division 1, Zone 1, Section 5, Plat 10, Parcel 15
- Tenant Mix: Retail, warehouse, office, restaurant

C. Setting Context for the Development of Land Policies and Strategies – Kaka'ako Makai

Act 15, Session Laws of Hawai'i 2012 transferred 10 land parcels in Kaka'ako Makai (KM) to the Office of Hawaiian Affairs (OHA) to settle the past due portion of ceded land revenue claims. The 10 parcels conveyed, amounted to approximately 30 acres of underutilized commercial property with an estimated value of \$200 million. These parcels were substantively conveyed to OHA on July 1, 2012. Prior to this acquisition, OHA trust fund assets were primarily comprised of cash and investments. The settlement, by itself, created a substantial commercial real estate portfolio for

OHA, elevating the Native Hawaiian Trust Fund to new heights. To rise to the new challenges, the Board of Trustees participated in two rounds of workshops from May 22 to 25 and August 20 to 21 (2012) to establish guiding principles and policies for property management and development of Kaka'ako Makai (KM).

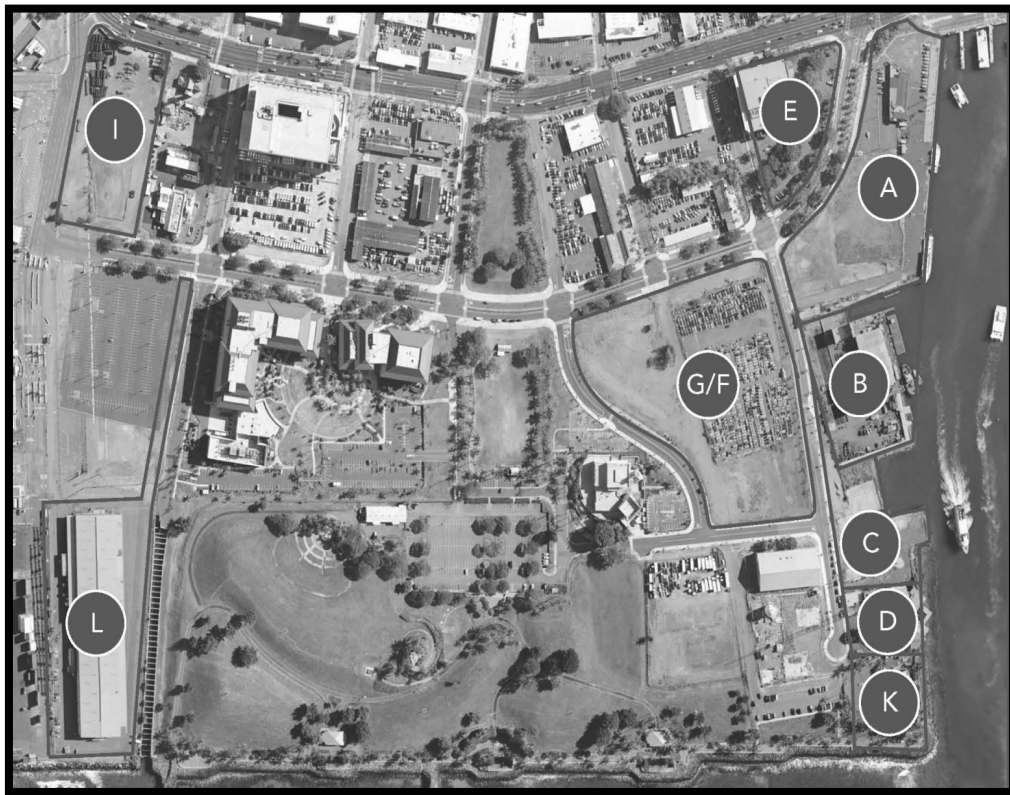


Figure 3. – Kaka'ako Makai, Aerial View

Action Item BOT #21-01

Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

The current policies related to KM include: (1) Real Estate Vision, Mission and Strategy Policy (2007); (2) Kaka`ako Makai Policy (2012, amended 2017 and 2019); and (3) Committee on Land and Property Policy Guidelines (2014). Activities from KM based on policy, impact the Grants and Legacy Land program budgets.

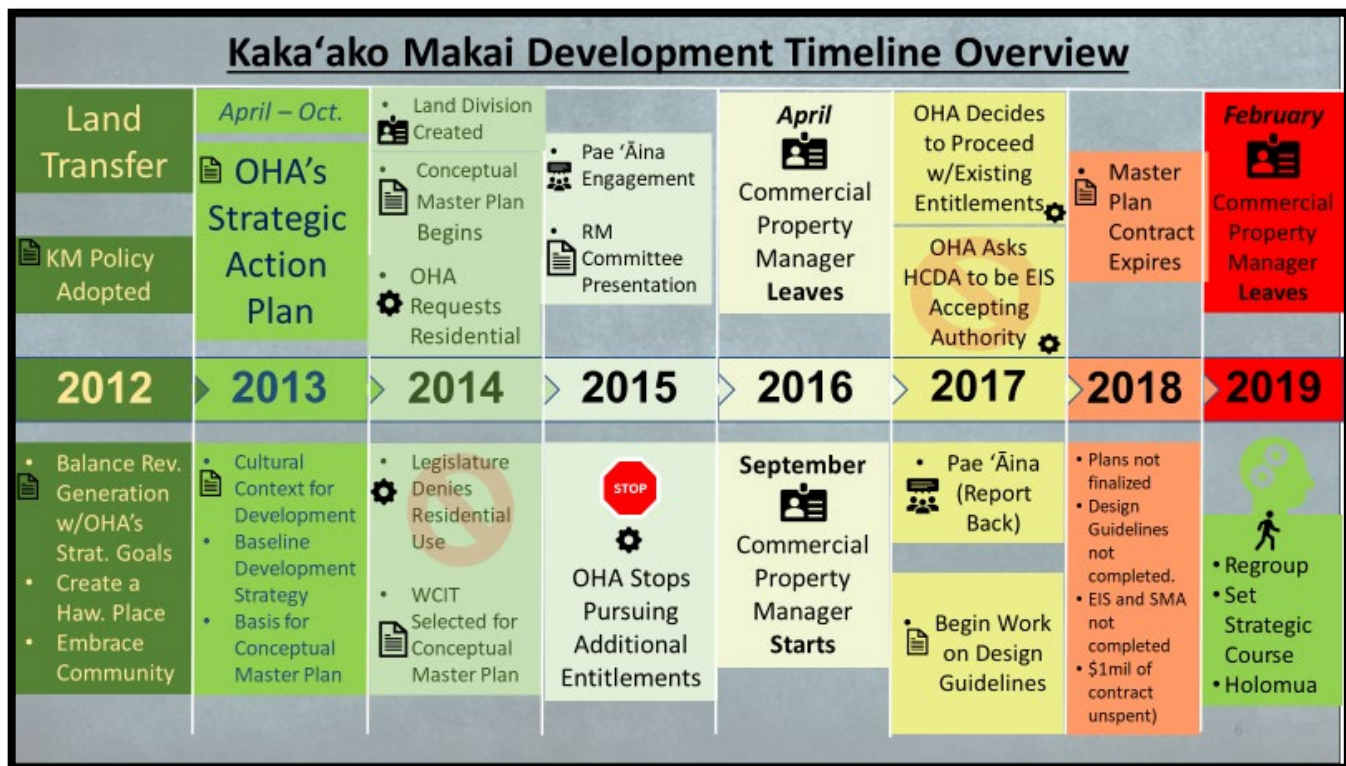


Figure 4. – Kaka`ako Makai Development Timeline Overview

Figure 4 provides an overview of the activities between 2012 and 2019. Due to COVID-19, the organization transitioned to (and continues in) telework since March 2020. With new Trustees elected in November 2020 and the Board reorganized in December 2020, KM is a priority of new Board leadership.

Note: While OHA has a legacy land portfolio of properties to steward (e.g., Wahiawā lands, Wao Kele O Puna, Pahua Heiau), legacy land policies and strategies are out of scope for the proposed PIG other than to note KM's gross and net revenue amounts fund grants and legacy land programs, respectively.

Action Item BOT #21-01

Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

IV. Permitted Interaction Group, Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kakaako Makai Properties:

- A. Permitted Interaction Group - Purview.** Via this Action Item, approval is sought to form a PIG to investigate the development of land and commercial property policies and strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties. The purview of the PIG is for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to investigate the:
- (1) Development, alignment, and updates related to land and commercial property policies and strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai;
 - (2) Implications of other fiscal policies' impact on land and commercial properties (e.g., investment, spending) relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties;
 - (3) Identification, articulation and formulation of strategies relating to the development of OHA's Nā Lama Kukui and Kakaako Makai properties; and
 - (4) Alignment of the formulated policies and strategies with the strategic plan 2020-2035 implementation.
- B. Permitted Interaction Group – Members.** The membership of the Permitted Interaction Group is as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina'ala Ahu Isa; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina'ala Ahu Isa will serve as its Vice Chair. Sylvia M. Hussey, Ka Pouhana, will function as the Project Manager.
- C. Permitted Interaction Group - Term/Duration.** The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than December 31, 2021.

V. Funding Source:

No dedicated funding is needed to authorize and form a PIG to investigate the development of land and commercial property policies and strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties. Any resources needed to carry out related activities will conform with existing budgetary, spending and procurement authorities, policies and procedures.

Action Item BOT #21-01

Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties.

VI. Recommended Action:

Approve the formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategie relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties with the following purview, members and term/duration:

Permitted Interaction Group – Purview. Via this Action Item, approval is sought to form a PIG to investigate the development of land and commercial property policies and strategies relating to the development of OHA's Nā Lama Kukui and Kakaako Makai properties. The purview of the PIG is for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to investigate the: (1) Development, alignment, and update land and commercial property policies relating to the development of OHA's Nā Lama Kukui and Kakaako Makai properties; (2) Implications of other fiscal policies' impact on land and commercial properties (e.g., investment, spending) relating to the development of OHA's Nā Lama Kukui and Kakaako Makai properties; (3) Identification, articulation and formulation of strategies relating to the development of OHA's Nā Lama Kukui and Kaka'ako Makai properties; and (4) Alignment of the formulated policies and strategies with the strategic plan 2020-2035 implementation.

Permitted Interaction Group – Members. The membership of the Permitted Interaction Group is as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina'ala Ahu Isa; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina'ala Ahu Isa will serve as its Vice Chair. Sylvia M. Hussey, Ka Pouhana, will function as the Project Manager.

Permitted Interaction Group - Term/Duration. The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than December 31, 2021.

VII. Attachment: None