

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

Mililani Trask, 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:** Tuesday, October 25, 2022**TIME:** 9:00 am**PLACE:** Virtual MeetingViewable at www.oha.org/livestream

Listen by phone: (213) 338-8477, Webinar ID: 881 3585 6297

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened by phone: (213) 338-8477, Webinar ID: 881 3585 6297. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

- I. Call to Order
- II. New Business
 - A. Action Item BOT #22-16: Approval of an OHA Board of Trustees' Honorary Resolution Honoring the Contributions of James "Uncle Jimmy" Moehao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i*
 - B. Action BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation*
 - C. A Report of the Permitted Interaction Group to Investigate a Master Plan of Kaka'ako Makai, *no discussion*. HRS§92-2.5(b)(1)(B)*
- III. Community Concerns and Celebrations** (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will not be accepted)
- IV. Executive Session‡
 - A. Consultation with Board Counsel Robert G. Klein, Esq. and Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation Pursuant to HRS § 92-5(a)(4)*
- V. Announcements
- VI. Adjournment

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number (808) 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials will be available to the public at least 48-hours prior to the meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website <https://www.oha.org/bot>.

In the event that the livestream public broadcast is interrupted and cannot be restored, the meeting may continue as audio-only through the phone number and Webinar ID provided at the beginning of this agenda. Meeting recordings

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are available upon request to BOTmeetings@oha.org until the written meeting minutes are posted to OHA's website.

† **Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.**

* **Public Testimony will be called for each agenda item and must be limited to matters listed on the meeting agenda.**

** **Community Concerns and Celebrations is not limited to matters listed on the meeting agenda.**

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

Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Board members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the OHA Board of Trustees either as: (1) **written testimony emailed** at least 24 hours prior to the scheduled meeting, (2) **written testimony mailed** and received at least two business days prior to the scheduled meeting, or (3) live, **oral testimony online or at the physical meeting location** during the virtual meeting.

(1) Persons wishing to provide **written testimony** on items listed on the agenda should submit testimony via **email** to BOTmeetings@oha.org at least **24 hours prior** to the scheduled meeting or via **postal mail** to Office of Hawaiian Affairs, Attn: Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817 **to be received at least two business days prior** to the scheduled meeting. Any testimony received after these deadlines will be late testimony and will be distributed to the Board members after the scheduled meeting.

(2) Persons wishing to provide **oral testimony online** during the virtual meeting must first register at: https://us06web.zoom.us/webinar/register/WN_A3yWzXJXTgSMVGQqTdNNbw

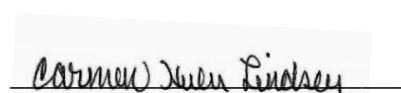
You need to register if you would like to orally testify online. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide oral testimony during the virtual meeting.

To provide oral testimony online, you will need:

- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony by telephone/landline **will not** be accepted at this time. Once your oral testimony is completed, you will be asked to disconnect from the meeting. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

(3) Persons wishing to provide **oral testimony at the physical meeting location** can sign up the day-of the meeting at the physical meeting location. Oral testimony online or at a physical meeting location will be limited to five (5) minutes.


 Trustee Carmen Hulu Lindsey
 Chairperson, Board of Trustees

10/19/2022

Date

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 25, 2022
9:00 A.M.

III. New Business

**A.Action Item BOT #22-16: Approval of an OHA Board
of Trustees' Honorary Resolution Honoring the
Contributions of James "Uncle Jimmy" Moehao Duvachelle Sr.
to the Native Hawaiian Community, the Island of Moloka'i
and the State of Hawai'i***



ACTION ITEM
Board of Trustees
October 25, 2022

BOT #22-16

Action Item Issue: **Approval of an OHA Board of Trustees' Honorary Resolution Honoring the Contributions of James "Uncle Jimmy" Moe hao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i**

Prepared by:

A handwritten signature in black ink, appearing to read 'Sylvia M. Hussey'.

Oct 19, 2022

Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'Carmen Hulu Lindsey'.

Oct 20, 2022

Trustee Carmen Hulu Lindsey
Ke Kauhuhu o ke Kaupoku, Chairperson, Board of Trustee

Date

Action Item BOT #22-16: Approval of an OHA Board of Trustees' Honorary Resolution Honoring the Contributions of James "Uncle Jimmy" Moehao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i

I. Proposed Action

The Office of Hawaiian Affairs, Board of Trustees, to approve an honorary resolution honoring the contributions of James "Uncle Jimmy" Moehao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i, as attached.

II. Issue

Whether (or not) the Office of Hawaiian Affairs ("OHA"), Board of Trustees ("BOT") should approve the attached honorary resolution.

III. Discussion

James Moehao Duvachelle Sr. ("Uncle Jimmy") was born in Kalamaula, Moloka'i, on February 8, 1944, raised in the homestead of Ho'olehua; is a fourth generation paniolo at Moloka'i Ranch, his lineage dating back to his maternal great grandfather Antone Rodrigues, who worked as a paniolo for Moloka'i Ranch in the late 1800s and early 1900s; and, after the death of his father when he was just four years old, was raised by his uncles who worked for Moloka'i Ranch as na paniolo.

Uncle Jimmy graduated from Moloka'i High School in 1962, and began working for Moloka'i Ranch in 1966 as "professional cowboy," working on the pastures of Moloka'i from sunup to sundown each day; and, due to his exceptional ability with handling horses, herding, roping cattle and leading men, was named pipi luna, or foreman, of Moloka'i Ranch in 1973. Uncle Jimmy would go on to a long and successful career with Moloka'i Ranch, being named a supervisor in 1985, a manager in 1990 and retiring from the ranch as a livestock division manager in 2008 after 42 years of service. Uncle Jimmy continued to ranch independently for eight years after retiring from Moloka'i Ranch, officially retiring as a paniolo in 2016 while marking some 50 years spent on the pastures of Moloka'i.

In the late 1980s, Uncle Jimmy organized the first Moloka'i Paniolo Heritage Rodeo in the to spread awareness about the rich and sometimes forgotten history behind the paniolo culture in Hawai'i; and thanks to him, the Moloka'i Paniolo Heritage Rodeo has become an annual event held during the Kamehameha Day weekend to celebrate the holiday, honor the paniolo culture and showcase the cowboys of Moloka'i who come together and demonstrate their talent.

Uncle Jimmy was inducted into the Hawai'i Cattlemen Association's Paniolo Hall of Fame ("Hall of Fame") in 2000. The Hall of Fame recognizes the paniolo of yesterday and today statewide who have contributed to keeping Hawai'i's paniolo heritage alive, and to honor those who made the paniolo culture legenday. Uncle Jimmy spent years educating the populace of the storied and honorable history of the paniolo in Hawai'i, which began with Kamehameha III bringing Mexican Spanish vaquero to the islands in 1832 to teach Hawaiians horse handling and cattle roping skills.

Action Item BOT #22-16: Approval of an OHA Board of Trustees' Honorary Resolution Honoring the Contributions of James "Uncle Jimmy" Moehao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i

IV. Recommendation

To approve an honorary resolution honoring the contributions of James "Uncle Jimmy" Moehao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i, as attached.

V. Alternative Actions

- A.** To not approve Administration's recommended honorary resolution
- B.** To approve an amended version of Administration's recommended honorary resolution

VI. Funding

No funding is required.

VII. Timeframe

Immediate action is recommended.

**VIII. Attachment – A RESOLUTION OF THE OFFICE OF HAWAIIAN AFFAIRS
HONORING THE CONTRIBUTIONS OF JAMES "UNCLE JIMMY"
MOEHAO DUVACHELLE SR. TO THE NATIVE HAWAIIAN
COMMUNITY, THE ISLAND OF MOLOKA'I AND THE STATE OF
HAWAI'I**

**A RESOLUTION OF THE OFFICE OF HAWAIIAN AFFAIRS
HONORING THE CONTRIBUTIONS OF JAMES "UNCLE JIMMY" MOEHAO
DUVACHELLE SR. TO THE NATIVE HAWAIIAN COMMUNITY, THE ISLAND OF
MOLOKA'I AND THE STATE OF HAWAI'I**

WHEREAS, James Moehao Duvachelle Sr. was born in Kalamaula, Moloka'i, on February 8, 1944, and was raised in the homestead of Ho'olehua; and,

WHEREAS, James Moehao Duvachelle Sr. is a fourth generation paniolo at Moloka'i Ranch, his lineage dating back to his maternal great grandfather Antone Rodrigues, who worked as a paniolo for Moloka'i Ranch in the late 1800s and early 1900s; and,

WHEREAS, after the death of his father when he was just four years old, James Moehao Duvachelle Sr. was raised by his uncles who worked for Moloka'i Ranch as na paniolo; and,

WHEREAS, James Moehao Duvachelle Sr. graduated from Moloka'i High School in 1962, and began working for Moloka'i Ranch in 1966 as "professional cowboy," working on the pastures of Moloka'i from sunup to sundown each day; and,

WHEREAS, due to his exceptional ability with handling horses, herding, roping cattle and leading men, James Moehao Duvachelle Sr. was named pipi luna, or foreman, of Moloka'i Ranch in 1973; and,

WHEREAS, James Moehao Duvachelle Sr. would go on to a long and successful career with Moloka'i Ranch, being named a supervisor in 1985, a manager in 1990 and retiring from the ranch as a livestock division manager in 2008 after 42 years of service; and,

WHEREAS, James Moehao Duvachelle Sr. continued to ranch independently for eight years after retiring from Moloka'i Ranch, officially retiring as a paniolo in 2016 while marking some 50 years spent on the pastures of Moloka'i; and,

WHEREAS, James Moehao Duvachelle Sr. organized the first Moloka'i Paniolo Heritage Rodeo in the late 1980s to spread awareness about the rich and sometimes forgotten history behind the paniolo culture in Hawai'i; and,

Action Item BOT #22-16: Approval of an OHA Board of Trustees' Honorary Resolution Honoring the Contributions of James "Uncle Jimmy" Moehao Duvachelle Sr. to the Native Hawaiian Community, the Island of Moloka'i and the State of Hawai'i **ATTACHMENT**

WHEREAS, thanks to James Moehao Duvachelle Sr., the Moloka'i Paniolo Heritage Rodeo has become an annual event held during the Kamehameha Day weekend to celebrate the holiday, honor the paniolo culture and showcase the cowboys of Moloka'i who come together and demonstrate their talent; and,

WHEREAS, James Moehao Duvachelle Sr. was inducted into the Hawai'i Cattlemen Association's Paniolo Hall of Fame in 2000. The Hall of Fame recognizes the paniolo of yesterday and today statewide who have contributed to keeping Hawai'i's paniolo heritage alive, and to honor those who made the paniolo culture legendary; and,

WHEREAS, James Moehao Duvachelle Sr. has spent years educating the populace of the storied and honorable history of the paniolo in Hawai'i, which began with Kamehameha III bringing Mexican Spanish vaquero to the islands in 1832 to teach Hawaiians horse handling and cattle roping skills; and

WHEREAS, the Office of Hawaiian Affairs salutes, acknowledges and much appreciates the lifetime efforts of James Moehao Duvachelle Sr. to keep the spirit of the legendary Hawaiian paniolo alive in our hearts forever; and,

WHEREAS, James Moehao Duvachelle Sr., affectionately known to the people of Moloka'i as "Uncle Jimmy," has spent a lifetime representing, embodying, epitomizing, preserving and promoting the renowned history of the Hawaiian paniolo; and

NOW, THEREFORE, BE IT RESOLVED, the undersigned duly recognized as the board chair and trustees of the Office of Hawaiian Affairs, on the 25TH day of October 2022, do set forth their hand to recognize, honor and memorialize the life of James Moehao Duvachelle Sr.; and

ADOPTED, this 25th day of October 2022, island of O'ahu, State of Hawai'i, by the Board of Trustees of the Office of Hawaiian Affairs in its regular meeting assembled.

##pau##

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 25, 2022
9:00 A.M.

III. New Business

**B. Action BOT #22-17: Changes in Board of Trustees' Staff
Positions, Position Classifications and Budgetary
Impacts of Compensation Policy Implementation***



ACTION ITEM

BOARD OF TRUSTEES

October 25, 2022

BOT #22-17

Action Item Issue: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

Co-Prepared
by:

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Kai Mana Peres-David
Ka Hoakake'a, Human Resources Director

10/20/2022
Date

Reviewed by:

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Everett Ohta
Ka Paepae Puka Kūikawā, Interim General Counsel

10/20/2022
Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'Ramona G. Hinck'.

Ramona G. Hinck
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

10/20/2022
Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'Casey K. Brown'.

Casey K. Brown
Ka Pou Nui, Chief Operating Officer

10/20/2022
Date

Co-Prepared &
Reviewed by:

A handwritten signature in black ink, appearing to read 'Sylvia M. Hussey'.

Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

10/20/2022
Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'Carmen Hulu Lindsey'.

Trustee Carmen Hulu Lindsey
Ke Kauhuhu o ke Kaupoku
Chairperson of the Board of Trustees

10/20/2022
Date

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

I. PROPOSED ACTIONS

A. Motion #1 re: Board Staff Positions & Exempt Classification

Approve the following Board of Trustees staff positions: Chief of Staff; Board Secretary; and Trustee Aide; currently classified as Exempt, consistent with the Fair Labor Standards Act of 1938, as amended, in accordance with 29 C.F.R. § 553.11.

B. Motion #2 re: Transition of Existing Trustee Secretary and Trustee Aide Positions to New Trustee Aide Position

Approve the transition of existing staff, currently classified as Trustee Secretary, Trustee Aide – SR 22 or Trustee Aide – SR24 to the Trustee Aide position.

C. Motion #3 re: Board of Trustees Staff Position Eliminations

Approve the elimination of the following three Board of Trustees staff positions: Trustee Secretary; Trustee Aide – SR22; and Trustee Aide – SR24.

D. Motion #4 re: Implementation of Compensation Policy for Board Staff

Approve the budgetary implications of the following actions, to be implemented by Administration, for the following Board Staff compensation changes, consistent with Administration changes:

1. Reference the work of the Commission on Salaries, established as a result of a constitutional amendment of Article XVI of the Constitution of the State of Hawai'i, approved in November 2006; and Section 26-56, Commission on salaries, Hawai'i Revised Statutes, latest dated March 13, 2019;
2. Approve the Board of Trustees Staff Salary Schedule at Attachment K, including:
 - a. Temporary assignment compensation % of Trustee Aide(s) of a Standing Committee Chair of 10% plus factor on base pay for the time of service;
 - b. Temporary assignment compensation % of Trustee Aide(s) of the Board Chair of 15% plus factor on base pay for the time of service; and
 - c. Transition of existing Board staff to the new Board of Trustees Staff Salary Schedule including applicable temporary assignment % retroactive to 7/1/2022.

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

II. ISSUES

Whether or not the Board of Trustees will approve the proposed changes in Board of Trustees' ("BOT" or "Board") staff position, position classifications and budgetary impacts of compensation policy implementation as proposed in the four motions in Section I.

III. HISTORY and BACKGROUND

- A. **History and Background.** In March 2013, via Action Item ARM/BAE 13-01, the Board of Trustees approved BOT Bylaws Amendment and corresponding and confirming changes to the BOT Executive Policy Manual relating to options for staff for each Board of Trustee office. The BOT Bylaw Amendment and corresponding BOT Executive Policy Amendment allowed the Trustees to have up to two full-time positions in the following staffing configurations: (a) one aide and one secretary, (b) two aides, (c) two secretaries, (d) one aide, or (e) one secretary.
- B. **Trustee Aide SR24 and SR22.** In approving Action Item ARM/BAE 13-01, the Board of Trustees approved two-levels of Trustee Aide: Trustee Aide SR24 and Trustee Aide SR22:
1. The Position Description ("PD") for Trustee Aide SR24 (Attachment I) included minimum qualifications requiring advance educational attainment and more executive experience. A Trustee Aide SR24 was expected to conduct necessary research, data collection and analysis, and develop complete recommendations for projects assigned by the Trustee. The position of Trustee Aide SR24 was classified as exempt under the Fair Labor Standards Act ("FLSA") as it is regarded as a staff position of an elected official. In other words, a patronage position. Therefore, the term of employment of the Trustee Aide SR24 is contingent on the term of the Trustee. As a patronage position and exempt from FLSA, the position of Trustee Aide SR 24 would not be subject to overtime pay and this Aide's term of employment would normally end upon the departure of the trustee by whom the Aide was selected. The position description ("PD") for Trustee Aide SR24 is attached as Attachment H. The Trustee Aide SR24 serves at the pleasure of the Trustee.
 2. The PD for Trustee Aide SR22 includes minimum qualifications requiring graduation from high school with six years of secretarial experience and three years of experience working independently. The position of Trustee Aide SR22 serves at the pleasure of the Trustee and is currently classified as non-exempt. The PD for Trustee Aide SR22 is attached as Attachment I.
- C. **Trustee Secretary.** At the time the Board approved Action Item ARM/BAE #13-01, the position of Trustee Secretary was in existence. The PD of the Trustee Secretary has minimum qualifications and requires graduation from high school with three years specialized and six months of general work experience. This position serves as secretary to an elected Trustee and is currently classified as non-exempt. The PD for Trustee Secretary is attached as Attachment G.
- D. **Board Secretary.** At the time the Board approved Action Item ARM/BAE #13-01, the position of Board Secretary was in existence. The PD of Board Secretary has minimum qualifications and requires specialized clerical and secretarial experience. This position serves as personal and confidential assistant to the Chair of the Board of Trustees of the Office of Hawaiian Affairs and performs highly complex clerical work. The position of Board Secretary is currently classified as non-exempt. The PD for Board Secretary is attached as Attachment F.

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

IV. REORGANIZATION, COMPENSATION POLICY, BOARD STAFF

- A. Reorganization.** On June 30, 2021, via Action Item RM #21-08A, OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY 22) and 2022-2023 (FY 23), the BOT approved the reorganization actions that were reflected in the fiscal biennium periods. Reorganization activities focused on Administration and no changes were proposed for the Board of Trustees' staff. Administration activities included, but not limited to: separation activities; new organization function and position charts; new position descriptions; updated recruitment policies, processes and practices; and updated compensation policies, processes and practices. OHA organization separation activities were completed by December 30, 2021, for all of the impacted Administration positions.
- B. Salary Commission.** Trustee salaries are not within the scope of this action item as the process is governed by §10-9.5 Salary commission; established as illustrated below:

Image 1: Excerpt from Chapter 10

§ 10-9.5. Salary commission; established.

(a) There is established a salary commission for the members of the board of trustees for the office of Hawaiian affairs. The salary commission shall consist of seven members appointed by the governor on or before August 31, 1999, and every four years thereafter. The members of the salary commission shall be selected from nominations submitted by native Hawaiian organizations as defined in section 673-2(c). The members shall serve without compensation, but shall be entitled to reimbursement for necessary expenses while in the discharge of their duties and responsibilities.

(b) Before the twentieth legislative day of the regular session of 2000 and every four years thereafter, the salary commission shall study and make recommendations for the salary of the members of the board of trustees for the office of Hawaiian affairs, and then shall be dissolved. The recommended salary shall be effective as of the date of the recommendations unless the legislature disapproves the recommendation by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the recommendation is submitted.

In July 2019 (for the 2020 Legislature) and July 2021 (for the 2022 Legislature), Administration sent names to the Governor's Office, to effect the naming of the OHA Salary Commission members from the community, in accordance with §10-9.5 of Chapter 10 to complete the work. No response from the Governor's office despite repeated letters, e-mails and discussion with the Governor's office staff. The provision of "every four years thereafter." sequences the work for the 2020, then 2024 Legislature—hence work in 2023. While Trustee compensation is not within the scope of this action item, it is a matter for the Board and Administration to address in 2023.

- C. Current Administration Compensation Policy.** The current OHA Compensation Policy is found on page 17 of the HR Employee Handbook and articulates:

It is OHA's policy to pay each employee in accordance with the knowledge, skills, abilities, education and experience they bring to the job, the performance of the job and the overall economic health of OHA. OHA monitors pay rates within state and local governments and secondarily, within the community and strives for competitive pay rates and benefits for its employees.

Wages are not the only form of compensation each OHA employee receives. The benefits OHA provides its employees form a significant part of your "true" compensation package. Please review the Benefits section for more information about the numerous benefits that OHA offers. Eligible employees receive medical

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

insurance benefits as well as benefits which help meet basic needs for financial security in case of inability to work, job loss, illness and injury and retirement.

D. Reorganization Compensation Philosophy. For purposes of the Administration reorganization, the following points crosswalk compensation philosophy elements used in the Administration work and is applied in the Board staff compensation work for consistency. **Compensation** (in no order of priority):

1. Recognizes the value of knowledge, skills, abilities and performance to Ho'oulu Lāhui Aloha—raise a beloved Lāhui;
2. Recognizes the value of knowledge, skills, abilities and performance to advance the purposes of the OHA including to better the conditions of Native Hawaiians;
3. Recognizes the value of knowledge, skills, abilities and performance that contribute to its roles as: Advocate, Researcher, Community Engager and Resource Manager;
4. Aligns with the OHA business model: Perpetuity, Mission Alignment, Fiduciary Responsibility, Beneficiaries, Communities (e.g., beneficiary and community centric); and strategic directions—‘Ohana, Mo’omeheu, ‘Āina;
5. Management, is not just wage and salary amounts, it includes fringe benefits; it is comprised of salary and/or wages, including authorized overtime¹, at this time;
6. Recognizes that while the OHA is a quasi-state agency it has the autonomy from the executive, legislative and judicial branches of the state government; for example the compensation practices of state government are reflective of bargaining unit (e.g., UPW, HGEA, HSTA) agreements and related influences;
7. Should be reflective of a “living wage”;
8. Recognizes that the OHA operates across the State of Hawaii, with offices and staff on the islands of Kauai, O’ahu, Maui, Moloka’i and Hawaii Island on both sides---Hilo and Kona and in Washington, D.C.;
9. Recognizes the knowledge, skills, abilities and use of technology for mission aligned work as distributed in communities;
10. Recognizes the knowledge, skills, abilities to navigate policy work—development, implementation, monitoring and evaluation---in island communities;
11. Can be funded by a number of sources (e.g., general, trust, special, federal funds); and
12. In the form of variable pay (e.g., bonuses, spot awards, incentives) can be considered in the future.

¹ Variable compensation (i.e., bonuses), within a state entity context, is not planned as yet, due to the need to have clear goals, performance metrics, consistent evaluation and professional growth and development practices

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

V. PROPOSED CHANGES

- A. **Exempt Classification.** Non-civil service employees of OHA who serve as immediate advisors and/or personal staff to an OHA Trustee, who is elected to state public office, are exempt from the provisions of the Fair Labor Standards Act of 1938, as amended, in accordance with 29 C.F.R. § 553.11., including the following definitions:
1. “Personal staff” include secretaries, aides, and any other person who is appointed by an OHA Trustee and serve at the pleasure or discretion, and under the direct supervision of such OHA Trustee. *See* 29 C.F.R. § 553.11(b).²
 2. “Immediate advisors” include any staff who advise on matters concerning legal or Constitutional matters. *See* 29 C.F.R. § 553.11(d).³
 3. OHA employees are non-civil service employees of the State.⁴ The position descriptions for Chief of Staff, Board Secretary and Trustee Aide include the following: “serve at the pleasure of the Trustee (or Chair)”.
 4. Pursuant to procedure and practice, when an OHA Trustee departs OHA (e.g., retires, not re-elected), the staff who were appointed by the Trustee and who serve at the discretion of the Trustee, also depart OHA. The term of employment for the Trustee staff ends contemporaneous with the departure of the OHA Trustee, unless extended by Administration, to address various transition activities. OHA Human Resources provides for an exit process for all separating employees, including Trustee staff.
 5. Consistent with the provisions of the Fair Labor Standards Act of 1938, as amended, in accordance with 29 C.F.R. § 553.11, the position of Chief of Staff, Board Secretary and Trustee Aide should be classified as exempt where they serve at the pleasure or discretion of the publicly elected OHA Trustee by whom they were appointed. Exempt staff are not subject to overtime pay and the term of employment will end upon the departure of the Trustee by whom the staff was selected, unless extended by Administration.
- B. **Elimination of Positions.** Since March 2013, the BOT Bylaw Amendment and corresponding BOT Executive Policy Amendment allowed the Trustees to have up to two full-time positions in the following staffing configurations: (a) one aide and one secretary, (b) two aides, (c) two secretaries, (d) one aide, or (e) one secretary. However, almost a decade later, differentiations in staffing configurations are less discernable as currently, in practice, both hires function as Aides, differentiated only by years of service and experiences of the Trustee (e.g., Board/Committee Chair, Board/Committee Vice Chair). In addition, differentiations in Trustee Aide SR24 and SR22 and the Trustee Secretary positions, in practice were also becoming less and less discernable. SR references, referenced a salary range and schedule from the Department of Human

² 29 C.F.R. § 553.11(b) (“The statutory term ‘member of personal staff’ generally includes only persons who are under the direct supervision of the selecting elected official and have regular contact with such official. The term typically does not include individuals who are directly supervised by someone other than the elected official even though they may have been selected by the official. For example, the term might include the elected official’s personal secretary, but would not include the secretary to an assistant.”).

³ 29 C.F.R. § 553.11(d) (“The exclusion for ‘immediate adviser’ to elected officials is limited to staff who serve as advisers on constitutional or legal matters, and who are not subject to the civil service rules of their employing agency”).

⁴ Haw. Rev. Stat. § 10-12 (“Such officers and employees may be hired without regard to chapter 76. . .”).

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Resources, not currently used by OHA; and the Secretary reference has been replaced by the professional term of Administrative Assistant or Administrative Professional.

Administration recommends the Board eliminate the Trustee Secretary (Attachment G); Trustee Aide – SR22 (Attachment H); and Trustee Aide – SR24 (Attachment I) positions, replacing all positions with the one Trustee Aide position (Attachment C) discussed below.

- C. **New Position.** The newly drafted position description, provided for information only, for Trustee Aide (Attachment C) details the new position and is responsible for providing day-to-day assigned technical executive and administrative support to an assigned Trustee of the Office of Hawaiian Affairs, with minimal supervision. The Trustee Aide must regularly and collaboratively, work within organizational policies, processes and procedures to enable the assigned Trustee to perform their fiduciary and statutory responsibilities. The Trustee Aide is also expected to communicate, collaborate and conduct necessary research, data collection and analysis, and develop complete recommendations for projects assigned by the Trustee, including beneficiary and community engagement.

Administration recommends the Board eliminate the Trustee Secretary (Attachment G); Trustee Aide – SR22 (Attachment H); and Trustee Aide – SR24 (Attachment I) positions, replacing all positions with the one Trustee Aide position (Attachment C) discussed below.

- D. **Position Description Changes.** Red-lined position description changes for Chief of Staff (Attachment D) and Board Secretary (Attachment E) are made to clarify roles, responsibilities and align the positions with the newly drafted Trustee Aide position (Attachment C) and are provided for information only purposes.
- E. **Complementary Organizational Document Changes.** Any edits to organization documents, such as Board By-Laws, Operations Manual, etc. that need to be made as a result of this action, will be brought forward to the Board via a future action item.
- F. **Complementary Compensation Changes.** Attachment J (which will be distributed in Executive Session) aligns the:
1. Chief of Staff position with Administration's ranges for Director level position;
 2. Board Secretary with Administration's ranges for Manager level positions; and
 3. Board of Trustees Staff Salary Schedule at Attachment J, including temporary compensation proposals.

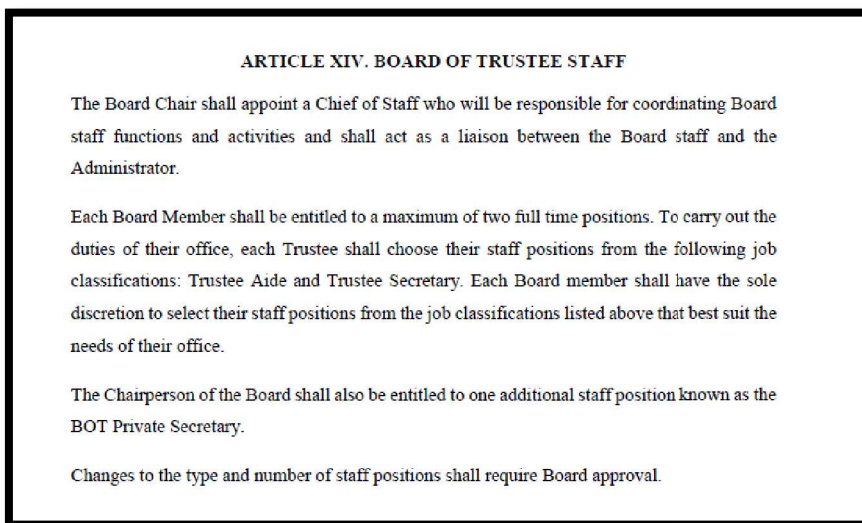
Administration further recommends that a temporary assignment compensation % of Trustee Aide(s) of a Standing Committee Chair of 10% plus factor on base pay for the time of service; temporary assignment compensation % of Trustee Aide(s) of the Board Chair of 15% plus factor on base pay for the time of service; and transition of existing Board staff to the new Board of Trustees Staff Salary Schedule including applicable temporary assignment % retroactive to 7/1/2022.

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

VI. BOARD OF TRUSTEES BY-LAWS, ARTICLE XIV. BOARD OF TRUSTEE STAFF

ARTICLE XIV. BOARD OF TRUSTEE STAFF of the BOT By-Laws in Image 2 below reference recommended changes contained herein. Once the Board takes action on the recommendations contained herein, a future action item will be brought forward to align the BOT By-Laws with the actions of the Board.

Image 2: Article XIV. Board of Trustee Staff Excerpt from BOT By-Laws



VII. RECOMMENDED ACTIONS

Based on the discussion above, Administration recommends the following actions:

A. Motion #1 re: Board Staff Positions & Exempt Classification

Approve the following Board of Trustees staff positions: Chief of Staff; Board Secretary; and Trustee Aide; currently classified as Exempt, consistent with the Fair Labor Standards Act of 1938, as amended, in accordance with 29 C.F.R. § 553.11.

B. Motion #2 re: Transition of Existing Trustee Secretary and Trustee Aide Positions to New Trustee Aide Position

Approve the transition of existing staff, currently classified as Trustee Secretary, Trustee Aide – SR 22 or Trustee Aide – SR24 to the Trustee Aide position.

C. Motion #3 re: Board of Trustees Staff Position Eliminations

Approve the elimination of the following three Board of Trustees staff positions: Trustee Secretary; Trustee Aide – SR22; and Trustee Aide – SR24.

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Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

D. Motion #4 re: Implementation of Compensation Policy for Board Staff

Approve the budgetary implications of the following actions, to be implemented by Administration, for the following Board Staff compensation changes, consistent with Administration changes:

1. Reference the work of the Commission on Salaries, established as a result of a constitutional amendment of Article XVI of the Constitution of the State of Hawai'i, approved in November 2006; and Section 26-56, Commission on salaries, Hawai'i Revised Statutes, latest dated March 13, 2019;
2. Approve the Board of Trustees Staff Salary Schedule at Attachment K, including:
 - a. Temporary assignment compensation % of Trustee Aide(s) of a Standing Committee Chair of 10% plus factor on base pay for the time of service;
 - d. Temporary assignment compensation % of Trustee Aide(s) of the Board Chair of 15% plus factor on base pay for the time of service; and
 - e. Transition of existing Board staff to the new Board of Trustees Staff Salary Schedule including applicable temporary assignment % retroactive to 7/1/2022.

VII. ALTERNATIVE ACTIONS

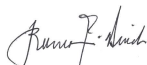
- A. Decline to approve the elimination of positions, new salary schedule and exempt status of Chief of Staff, Board Secretary and Trustee Aide positions, consistent with the Fair Labor Standards Act of 1938, as amended, in accordance with 29 C.F.R. § 553.11 and retain current schedule; and/or
- B. Approve other positions, and/or
- C. Change compensation actions, including temporary assignment %.

XI. FUNDING

The annual incremental amount of the position and compensation implementation including retroactive impact to 7/1/2022 is approximately \$60,000 for the fiscal year ended 6/30/2023.

X. CHIEF FINANCIAL OFFICER CERTIFICATION

The following is the certification by the Chief Financial Officer that the funds are available to effect the Board of Trustees staff changes, including the budgetary impact contained herein:



Ramona G Hinck,
Chief Financial Officer
Date: 10/20/2022

Action Item BOT #22-17: Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation

VIII. TIMEFRAME

Impacts to Board Staff as a result of the proposed (and if approved) changes is recommended to be retroactively computed and effected on July 1, 2022.

IX. ATTACHMENTS - FOR INFORMATION ONLY

- A. Position Description (Clean): Chief of Staff
- B. Position Description (Clean): Board Secretary
- C. Position Description (New): Trustee Aide
- D. Position Description (Redlined): Chief of Staff
- E. Position Description (Redlined): Board Secretary
- F. Position Description (AS IS): Board Secretary
- G. Position Description (AS IS): Trustee Secretary
- H. Position Description (AS IS): Trustee Aide SR-22
- I. Position Description (AS IS): Trustee Secretary SR-24
- J. Position Description (AS IS): Chief of Staff
- K. Board of Trustees Staff - Compensation Pay Bands - Based on Specific Service Time in Seat and Role + Temporary Assignment % (to be distributed in Executive Session)

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 25, 2022
9:00 A.M.

III. New Business

**C. A Report of the Permitted Interaction Group to Investigate
a Master Plan of Kaka’ako Makai, *no discussion.*
HRS§92-2.5(b)(1)(B)***

- *Report will be emailed directly to Trustees
on the day of the meeting due to sensitive material.*

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 25, 2022
9:00 A.M.

IV. Executive Session‡

A. Consultation with Board Counsel Robert G. Klein, Esq. and Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to Changes in Board of Trustees' Staff Positions, Position Classifications and Budgetary Impacts of Compensation Policy Implementation Pursuant to HRS § 92-5(a)(4)*