

PHONE (808) 594-1888
BOARD OF TRUSTEES
Colette Y. Machado, *Chairperson*
Brendon Kalei'aina Lee, *Vice Chairperson*
Leina'ala Ahu Isa, *At-Large*
Dan Ahuna, *Kaua'i & Ni'ihau*
Kalei Akaka, *O'ahu*
Keli'i Akina, *At-Large*
Carmen Hulu Lindsey, *Maui*
Robert K. Lindsey, Jr., *Hawai'i Island*
John Waihe'e IV, *At-Large*



FAX (808) 594-1868

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, June 6, 2019
TIME: 10:00 am
PLACE: OHA Board Room, Nā Lama Kukui
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. May 2, 2019[†]
- III. Public Testimony^{*}
- IV. Unfinished Business
 - A. CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities
- V. New Business
 - A. Committee on Resource Management
 1. Action Item RM #19-07: Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies, 2nd Reading[†]
 - B. Action Item BOT #19-09: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. *Pursuant to HRS § 92-2.5(b)(1)(A).* [†]
- VI. Executive Session[‡]
 - A. Consultation with attorney Kurt W. Klein, Esq. and Kumabe HR LLC re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding the Board's obligations and responsibilities to conduct its performance appraisal of OHA's CEO in accordance with Section III of Contract 3147. *Pursuant to HRS §92-5(a)(2),(4).*
 - B. Consultation with attorney Kurt W. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, and liabilities concerning complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. *Pursuant to HRS §92-5(a)(2),(4).*
 - C. Approval of Minutes
 1. April 11, 2019
- VII. Community Concerns^{*}
- VIII. Announcements
- IX. Adjournment

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

^{*}Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz, Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

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

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

Colette Y. Machado
Trustee Colette Y. Machado
Chairperson, Board of Trustees

5/31/19
Date

Office of Hawaiian Affairs
Board of Trustee Meeting
June 6, 2019
10:00 am

II. Approval of Minutes
A. May 2, 2019

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817**

**Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, May 2, 2019
10:00 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE BRENDON KALEI'ĀINA LEE
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE KALEI AKAKA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, ESQ., BOARD COUNSEL
WILLIAM YUEN, ESQ.
JUDY TANAKA, ESQ.

EXCUSED:

TRUSTEE ROBERT LINDSEY

ADMINISTRATION STAFF:

KAMANA'OPONO CRABBE, CEO
SYLVIA HUSSEY, COO
MILES NISHIJIMA, LPD
RAINA GUSHIKEN, CC
EVERETT OHTA, CC
STERLING WONG, PRO
KAHEALANI PELERAS, CE
KAI MARKELL, COMP
LISA VICTOR, CTO
MEHANA HIND, CE
WAYNE TANAKA, PP

BOT STAFF:

CAROL HO'OMANAWANUI
LŌPAKA BAPTISTE
LAURENE KALUAU-KEALOHA
DAYNA PA
CRAYN KAUHAI AKINA
KAUIKEAOLANI WAILEHUA
PRICILLA NAKAMA
CLAUDINE CALPITO
LEHUA ITOKAZU
MARIA CALDERON
LEIANN DURANT
PAUL HARLEMAN
ALYSSA-MARIE KAU
ZURI AKI

GUESTS:

KALANIAKEA WILSON
MARIE KUMABE

I. CALL TO ORDER

Trustee Colette Machado Calls the Board of Trustees meeting to order at 10:01 am. Roll call is taken; Trustees Ahu Isa, Ahuna, Akaka, Akina, Lee, Carmen Hulu Lindsey, and Machado are present, constituting a quorum. And excused absence has been received from Trustee Robert Lindsey. Trustee John Waihe'e IV will arrive shortly.

10:02 am Trustee John Waihe'e IV arrives.

Members on our agenda I will be taking out of order the item identified as Community Concerns I will move it up to accommodate our beneficiary that flew in from the Big Island that has a flight to catch to go back to the Big Island. That will follow after public testimony. We will be removing item V.D. under New Business and we will have this consultation in Executive Session.

Before we move on I like to add these comments to the record.

The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for the following items:

V. New Business

A. Committee on Beneficiary Advocacy and Empowerment

1. 2019 OHA Legislative Positioning – Matrix 2^{***†}, May 2, 2019

B. Committee on Resource Management

2. Action Item RM #19-05: Approval of FY19 Commercial Property Budget Realignment #1
3. Action Item RM #19-06: Approval of \$35,000 for Emergency Disaster Relief for Kaua‘ula Maui

With that said I’d like to move on to the approval of minutes.

II. APPROVAL OF MINUTES

A. March 7, 2019

B. March 21, 2019

C. March 28, 2019

Trustee Brendon Kalei‘āina Lee moves to approve the Board of Trustees Minutes of March 7, 2019, March 21, 2019 and March 28, 2019.

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado it has been moved and seconded to approve the minutes for March 7, March 21 and March 28. Any discussion, roll call vote please.

Trustee Brendon Kalei‘āina Lee moves to approve the Board of Trustees Minutes of March 7, 2019, March 21, 2019 and March 28, 2019.						
Trustee Dan Ahuna seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA		x	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI‘ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE'E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passed eight (8) yes votes and one (1) excused.						

III. PUBLIC TESTIMONY

Chair Colette Machado – Do we have anyone signed up for public testimony? Hearing none, we will move on to what we call Community Concerns identified as VII. To accommodate Kalaniakea Wilson with the Beneficiary Trust Council.

Trustee Brendon Kalei‘āina Lee – Point of order Madame Chair.

Chair Colette Machado – Yes Trustee.

Trustee Brendon Kalei‘āina Lee – I would ask that if any other beneficiaries show up for community concerns, since it is published.

Chair Colette Machado – We will go back.

Trustee Brendon Kalei‘āina Lee – Thank you.

Chair Colette Machado – We are just moving one person out of order.

Mr. Kalaniakea Wilson – Aloha, everyone should have a copy of the United Nations letter dated February 25, 2018. As far as governance goes which is one of your focus areas this should be really considered and discussed. I am not sure how you will take it. I said I would at least mention it and submit it. But that is not what I am here for. *(Copy of letter is attached to the minutes)*

Chair Colette Machado – What we would normally do is take this and refer it to our Beneficiary Advocacy and Empowerment, which Trustee John Waihe‘e IV is the Chair and the Vice Chair is Trustee Kalei Akaka and we can do more deliberation at that time for consideration and have staff review it. He has been meeting every week during our legislative session. That would be one approach to review this so we can take an official position.

Mr. Wilson – Mahalo. I’m here representing 30,000 waitlisters. That have been on the wait list and dying daily. So when we had our meeting with Lt. Governor Josh Green and because of his status of a professional medical doctor we asked him what happens when a prescription to an injury is withheld? The prescription is the 1921 Hawaiian Homes Commission Act. The Department that is withholding the prescription is the Department of Hawaiian Home Lands. Its going to be 100 years next year, family members are dying. DHHL doesn’t even know who died on the list, there is no closure for those families at all. That cannot continue.

(Please see attached PowerPoint presentation)

Beneficiary Trust Council with the Hawaiian Homestead Associations together and decided to put in process to rehabilitate our Hawaiian Community. That is how we were formed. You guys signed on to this, all in the back is all the organizations, which is called the Āina Mauna Legacy which we worked within the framework of the Āina Mauna Legacy. On October 6th, 2014 Punana Leo Kona and the families go to Mauna Kea. April 2, 2014 UH Students on Mauna Kea. That is the part of our group, the students were arrested from Moku O Keawe. Getting violated for protecting our cultural and traditional rights and practices on Mauna Kea. Some of the students felt suicidal because they didn’t know why they were being arrested for protecting their cultural and traditional practices that have been happening for thousands of years. There was no body to help them through the psychological pain of getting arrested, being looked at as a criminal when all they were trying to do was protect our cultural and traditional rights.

Some of the others things we did were two draft resolutions. La Kū‘oko‘a la ho‘i ho‘i ea, we went to every island every county council, got it approved and this year it was in the legislature La Kū‘oko‘a to become a paid State Holiday. Took about three years to go through all the island and all of the communities, and still it was denied being a paid State Holiday. This year which the communities on Moku O Keawe are looking at. Out group also re-landscaped four UH System campuses by placing ahu and inverted hae Hawaii in relation to the United Nation flag and the national symbol of distress. So these are international students from around the World gathering in support of Hawaiians and Hawaiian Students. Kauai, UH Hilo, HCC, UH, Hawaii Community College. Everything we do is first done spiritually and culturally. We ask our kupuna for a sign. It is done on special moon nights.

November 28th, La Kū‘o‘ko‘a, akua moon night we decided to erect an ahu of pōhaku of families who died on the list at Humuula right across the Humuula Sheep station to bring some closure to those families and to give them benefits. So there are a lot wild cows there that we can access. But DHHL always denies us access and gives other people the permits to access the meat, not even from the Big Island. Plenty guys from Oahu. The latest RFP we heard is one drug dealer. And beneficiaries are left out. These are the BTC we put up an ahu, we asked for the communities to finally award those who died on the list, award them an interest in the community pastoral. In the

‘āina Mauna legacy there is a pastoral 1 and a commercial 1 so that’s where we offer the beneficiaries who passed away and interest in the community pastoral lot that is in the ‘āina Mauna legacy.

Chair Colette Machado – I am sorry to interrupt you but you are going to have to start timing you. We will give you 5 minutes and we can extend it if need be.

Mr. Wilson – So January 13, 2018 we all felt like we were going to die, the ballistic missile threat for those 20 minutes, we all going die. Our lives have ended, I not going see my wife, I not going to see my children ever again. We really thought it was a serious threat and we think it still is a serious threat. If you watch the Olympics North and South Korean shook hands why are we still in between North and South Korea coming together. I don’t think we should be there. This is what made us act. Because we are going to die, we had nothing else to loose. I been on the wait list for 20 years I want my rehabilitation, I want my prescription from the 1921 Hawaiian Homes Commission Act, I don’t want it to beheld any more give us an opportunity. We are never ever given an opportunity the beneficiaries to work how we work on our island together united.

March 17, 2017 was a DHHL meeting at the Sheep Station Humuula, all presidents of all Homestead Associations went to this meeting. DHHL recorded it, there was a vote taken and the vote was Gorse Security Number 3 accelerated homestead. So DHHL is only focusing on the Gorse, we decided we had to focus on the security and accelerating the homestead. So on March 26, Prince Kuhio’s birthday we put up Hale O Kuhio to start monitoring the traffic. We heard all these people say all kinds of numbers where are all wrong. Because they are not up there 24/7. So we was able to gather over a 1,000 volunteers to work 24/7 for an entire year to monitor and we have the data. UH tried to strong-arm us for our data, we said no, we wasn’t ready to share it yet. We still kind of skeptical because there is so much corruption and fraud happening. We are going to meet with DHHL May 20th when they come up to our island. But there is an FBI investigation on them. It’s in the news, Lions Associates. They said there is criminals taking bribes. Who on DHHL is not a criminal? I don’t know who is a not a criminal. Nobody turned themselves in. The FBI is not naming anyone. I don’t want to work with criminal. That is a real concern for us. It has been in the news for how long, they have to name the criminals already. I don’t want to work with criminals.

These are some of the volunteers from keiki all the way to kupuna. Moku o Keawe over a 1,000 volunteers on the island from all 6 districts. We get all kinds of people and we share all kinds of things. In summary Mauna Kea access road data collection for an entire year, no one funded us. Everything was volunteer work and the community coming together to do good work on Mauna Kea. It seems the UH just dismisses us, we hope that OHA can support us by signing our rehabilitation resolution so we can continue our community work of volunteer monitoring on Mauna Kea. With all of the people that come up, there is a lot of people speed. Tourist just speed right up, they don’t know where they are going, the hit the turkeys, the hit the wild geese. We need to share the education and cultural significance of Mauna Kea before they go up any higher.

Pōhakuloa, since being up there 24/7 we notices some different types of weapons. It’s not normal. There is even an increase number of weapons and bombing and development on Pōhakuloa that we were able to monitor. We also stopped theft of DHHL resources and fencing. Because they are not there all the time. Ranchers were coming in and taking all the new fencing and leaving. We learned that ‘āina need kanaka and kanaka needs ‘āina. This is based on a program from aboriginal Australians that we implemented kanaka ranger training of how best kanaka’s indigenous people can take care of their lands. Kalapana Mauna Kea Church we had a meeting of all of the Civic Associations to pray for spiritual guidance to move forward united for a ‘Ohana Hawaii block vote that we are working on this summer. To elect our officials from Moku o Keawe united.

So April 15 I sent emails to all the OHA Trustees and here are some of the responses. Kala mai please provide a mailing address I will sign and mail to you. Mahalo Trustee for signing our rehabilitation resolution and sending it back. I believe every OHA Trustee would agree that it has taken way too long to award Hawaiians that have been waiting years to receive a lot. Most of you wrote this, I am forwarding your email to Trustee Collette Machado our BOT Chair, so mahalo thanks again. The one I couldn’t figure out the most was this one, While I whole heartedly support your cause I look forward to hear more from the beneficiary Trust council. I think the resolution would be more powerful if it offered practical solutions and workable partnerships. The community on Moku O Keawe

developed the practical solution and the workable partnerships. Rather than signing on the proposed resolution, I will continue to work through channels so please work through all of the channels that you can but we would appreciate if you guys sign our rehabilitation resolution of Moku O Keawe. Aloha Mahalo. *(A copy of the Beneficiary Trust Council Rehabilitation Resolution is attached to the minutes.)*

Chair Colette Machado – I just want to acknowledge that I will refer through communication both of your documents to the BAE Chair in that committee we will be able to have full and free discussion and make a determination on how we position ourselves.

Kamana‘opono Crabbe – I want to clarify, the document that you included the Beneficiary Trust Council Rehabilitation Resolution, that is what you would want the Board to consider signing off on.

Mr. Wilson – Yes.

Kamana‘opono Crabbe – We will be giving it to Trustee John Waihe‘e IV for the BAE Committee.

Chair Colette Machado – I will send the communication since we received the documents to his committee.

Trustee Dan Ahuna – Can you talk about the Āina Mauna Legacy and what is it?

Mr. Wilson – The Āina Mauna Legacy was created in 2009 by over 300 organizations in Hawaii. They put together a plan of how we are supposed to follow this plan and move forward all entities. It’s just really been sitting dormant since 2009. No one did anything till we stepped forward on Prince Kuhio’s birthday 10 years later. Really, this is the document that we follow, that we frame all of our work and initiatives through. We don’t outside of what was already approved by OHA, Kamehameha School, and Civic clubs and Royal orders. This is pretty much our bible and guiding document for all of the work that we do. It is nothing out of the scope of what is supposed to be done already.

Chair Colette Machado – Isn’t that logo a DHHL?

Mr. Wilson – DHHL, Chairman Kaulana Park at the time facilitated the meetings to put all of the info and planning in to a concise document that lays out everything that should be happening but nobody is doing anything. So the beneficiaries on the wait list, we don’t want die on the list, we would rather die on the land. So we want to eventually get homesteads on the land but we can’t jump to that without doing the other priorities that are laid out in here to do, for DHHL and they don’t want to fund us. Nobody like support us. We are all volunteering to take care of our Mauna.

Trustee Carmen Hulu Lindsey - Is that just for the Mauna or for all Hawaiian Home lands.

Mr. Wilson – Actually this is specifically for DHHL lands on Mauna Kea. This was created for the Humuula Hawaiian Home Lands, DHHL Lands.

Trustee Carmen Hulu Lindsey – So the new rules came out on Sunday for the Mauna.

Kamana‘opono Crabbe – That is true it doesn’t include the DHHL land but it will be relevant because you have to go through the DHHL Access where the ‘āina is before you get up to Hale Pōhaku and above Mauna Kea.

Mr. Wilson – Where we are is right at the entrance of where the DHHL Lands.

Trustee Keli‘i Akina – I wanted to say Mahalo for all that you are doing. It is a worthy cause, I know many of us if not all of us absolutely stand behind clearing that waiting list and getting kanaka on the land. Mahalo.

Chair Colette Machado – Thank you so much for your time. Members we are moving on to item IV.

IV. UNFINISHED BUSINESS**A. CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities**

Chair Colette Machado –I would like to call on our Ka Pouhana, CEO for any unfinished business and updates.

Kamana'opono Crabbe – Good morning Trustees, I like to call up Mehana Hind to give an update on I Mana Kalahui workshops statewide per island. As we enter summer usually we travel to each island I thought it would be a good idea for her to share what community outreach, community engagement is doing in the communities.

Mehana Hind – Aloha Trustees. Since we are going to Maui first I am going to start on Maui. We are hosting, we've been working over the last two months or so with the group of people, community members and also professionals in the field around water and iwi kupuna to host a workshop or a summit, we are still building that one together. That's an actively ongoing and Trustee Carmen Hulu Lindsey has been involved with both of those with both the water side and the iwi side. For the iwi one there is going to be a recognition of the 30 years a ceremony of the 30 years since the reinternment of the iwi kupuna at Honokahua, which is more popularly known as the Ritz Carlton Hotel today. The mass graves that were unearthed in 1987 and then in 1989 they were reinterned. It was over 1,100 kupuna that were disturbed and were able to lay them back to rest. On that anniversary date in May which will follow our Board meeting, it will be the evening of the Board meeting at Honokahua. The next day will be a full day of talks and support for the community to gain more traction in their advocacy for iwi kupuna issues, especially on the island of Maui. Because there is a lot of stuff happening on the island of Maui, both iwi and water. That's occurring during this month. The water one will still be built out and will probably happen latter on.

I don't have anything right now for the island of Lanai, which will be our next board meeting. We do, it's happening right now Hinalaimoana and Anthony are working with the schoolchildren to prepare them for their May Day. Infusing culture teaching chant and songs and lei making workshop for the kids the school kids on Lanai.

On Kauai, we've been actively involved in a program that is both government, private, nonprofit, partnerships around suicide. Safe talk suicide prevention workshops and this is a partnership with Hawaii Community Foundation, the Kauai Resiliency Project also the County of Kauai is involved and then our staff on Kauai. To help address the drastic rates of suicide. It's actually happening across the paeaina, its happening everywhere. Kauai has stepped up to try and organize.

Trustee Dan Ahuna – I would like to personally thank you for that. Suicide is big. One of my friends, something happened to Sunny I am praying for him. Kauai it is bad. Your workshops are so relevant right now at this time. I like how you guys worked with our City and Hawaii Community Foundation and maximized on it. Actually reaching out to the entire island and I just want to thank you guys for that. I also want to thank you guys for the letter you guys wrote. I found out that Wayne Tanaka, for the opening of the roads you guys have been doing so much. I just want to thank you guys so much for all of that stuff.

Mehana Hind – Mahalo to the communities on everyone's island. They are mobilizing around these things and its lucky that our staff are able to intervene and jump in hands open, and start working actively with the community. Some of these are tuff issues. Mahalo, and mahalo to Kaliko on Kauai for doing that.

On Molokai, we have a Maolipreneurship small business development training series that is happening right now. It's a five workshop series, we are on the second workshop right now. We have 25 participants currently registered and it's a partnership with the Kohala Center, DHHL, CNHA and Hiamana. That is ongoing. It started in April it will go all the way through June and taking kanaka from the beginning stages of their trail on entrepreneurship and take them closer and closer to the point they can build some success.

In Hilo we are doing an ag entrepreneurship program in collaboration with Kohala Center, the Department of Agriculture, CTHAR, and of course OHA. We are working specifically on DHHL and KS these lessees to help

them build capacity for their businesses they are conducting on those spaces on Hawaii Island. There is a lot of square miles on Hawaii Island that are falls right under DHHL and Kamehameha Schools. We are able to have good engagement without kanaka out there to help move them. Many of the KS lessees we know from last year when the eruptions started to happen were affected by the eruptions, not necessarily that the eruptions were happening on their lands but a lot of the fall out was spreading out to their land. Whether it was toxic gases and or pele's hair that was coming down and affecting their crops. It's a good time right now to re-engage and help those farmers, most of them are farmers out on that island.

Here on Oahu last night we just celebrated May Day at the Bishop Museum. Mahalo Trustee Carmen Hulu Lindsey for coming and showing your support to all those wonderful music makers that showed up last night. They were all thankful for you in the audience. We had Trustee Carmen Hulu Lindsey and Merrie Monarch winner from this past year Chinky Mahoe right in the front, cheering everyone on. Majority of them were younger musicians. The reason why we partnered with the event yesterday was because they offered tickets for free. It was a May Day concert that offered tickets to the general public for free, you could pay for a VIP section in the front and stuff like that. If you wanted to go there was no barrier for you to be there so we had a lot of families, who families, kids running around everywhere and it was beautiful to see. When Uncle Walter Ritter coming from Molokai and do the games. He was in charge of all the kids' games. We had the kids paying and the Museum was open for free. It was a good time, we had an estimated attendance of over 3,000 people. They stayed all the way till Kapena played at the last hour. We'd like to do more of those kinds of things that OHA participation allows our community to come in and engage for free without barrier and build community. We also were able to sign up over 700+ Ka Wai Ola subscriptions. It was a nice night.

Trustee Leina'ala Ahu Isa – I wanted to know Kauai, what's the update now, the State extended the opening of the highway.

Mehana Hind – The State said they were going to open it May 1, and the community got together and created a statement that they presented and a petition to send to the Governor, to say maybe not now, not yet. The bridges are still not complete. The major concern was that the bridges were not shored up so there would still be some access issues and safety concerns that were going to happen down there. Also over the last year the Kauai Community has been very active in deciding what they want Haena and Haleilea to look like now. They are still in that phase of building that capacity, negotiating with the State Park and also the community members and the County and the State for the roads and so forth. Trying to find a great space for everyone to try and come to an agreement on, on what the access would look like for not only visitors but for kamaaina and how that movement will happen. What are the details of how people will move in and out of Haena. It stayed for a little while more. I don't have a date to when they expect it to be open but I think OHA signed on right before it got sent to the Governor that letter from the community explaining what their desires would be. It was a good thing. The Kauai people are happy about that and have been actively sharing with us, mahalo for our support of their community.

Trustee Dan Ahuna – Yes, I had to hear it, they are finishing up the roads but they didn't test anything, they didn't finish the shuttle buses and how they were going to work. All the things they said they were going to do, people still don't know how it's going to work. What was impactful was that letter, I see people from the community and they are so thankful. I think that letter that OHA wrote was very impactful in helping our people.

Kamana'opono Crabbe – Real quickly, I just wanted to give a shout out for Ho'olau Kānaka 'Āina Summit 2018-19 report. It's the first 'āina summit with over 80 community groups, government, non-government, cultural practitioners, policy makers, elected officials had come. It's a collaboration with OHA, Department of Land and Natural Resources and Kamehameha Schools. They came up with 6 things but they actually relate to policy and implementation to on the ground kind of stewardship and program. Just list real quick, Culturally grounded governance and policy making, protection of ancestral lands, enhancing collaborative management, economic sustainability for land stewardship, best practices for stewardship and management, climate change and resiliency. Some of the other groups or organization that were involved is the Trust for Public Land, Hika'alani, Hawaii Island Land Trust, Kua'āina Ulu 'Auamo, The Nature Conservancy of Hawaii, County of Honolulu, Ka Huliiau Center for Excellence in Native Hawaiian Law, Protect Kahoolawe 'Ohana, Hui 'Āina Momona, Department of Ethnic Studies and Center for Oral History. The collaboration with DLNR and Kamehameha Schools was a

community driven initiative. We stood back we did not take the lead, however you want us to kokua we could. So they asked if we could help with the report so we release the press release last week. The report should have gone to you in an email. We produced a video based on what they had asked. The reason why I share that is that DLNR would like to adopt some of these actionable measures to work not just with OHA but all the community groups that have participated to hopefully look at redesigning some of their stewardship lands, cultural lands, agricultural collaborations and so forth. I did want to acknowledge Kealoha Fox who completed the report, Community Engagement DPM team, social media, video and lay out of the report, Community Outreach staff Misti, Mehana and Kahea to help with the summit, public policy Jocely and Leona.

(Short video is played regarding the Aina Summit found on the OHA Website)

Chair Colette Machado – Mahalo Kamana‘o and stuff for the updates. We are now on V. A.

V. NEW BUSINESS

Chair Colette Machado – I will call on Trustee John Waihe‘e IV.

A. Committee on Beneficiary Advocacy and Empowerment

1. 2019 OHA Legislative Positioning – Matrix 2^{†}, May 1, 2019**

Trustee John Waihe‘e IV moves to approve Administration’s recommendations on NEWBILLS; Items 1 and 2, both as MONITOR, and Item 55, HB1586 as COMMENT on the OHA Legislative Positioning Matrix dated May 1, 2019, as amended.

Trustee Kalei Akaka seconds the motion.

Chair Colette Machado – Any further discussion if not, roll call vote.

Trustee John Waihe‘e IV moves to approve Administration’s recommendations on NEWBILLS; Items 1 and 2, both as MONITOR, and Item 55, HB1586 as COMMENT on the OHA Legislative Positioning Matrix dated May 1, 2019, as amended. Trustee Kalei Akaka second the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA		x	X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE BRENDON KALEI‘ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						x
TRUSTEE JOHN WAIHE‘E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with eight (8) yes votes and one (1) excused.						

B. Committee on Resource Management

1. Action Item RM #19-03: Approval of BOT executive policy amendments relating to a Trustee Protocol Allowance to cover expenses incurred in the course of a trustee’s duties and responsibilities, 2nd Reading.

Chair Colette Machado – Members we are on V.B. and this is relating to our second reading on Action item

19-03 which is identified as our Trustee Protocol Allowance. I would like to call on the RM Chair Trustee Dan Ahuna.

Trustee Dan Ahuna moves to approve BOT executive policy amendments relating to a Trustee Protocol Allowance to cover expenses incurred in the course of a Trustee's duties and responsibilities as shown in Attachment "A" and Corresponding and Conforming Changes to BOT Operations Manual as shown in Attachment "B."

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – It has been moved and seconded for second reading roll call vote please

Trustee Dan Ahuna moves to approve BOT executive policy amendments relating to a Trustee Protocol Allowance to cover expenses incurred in the course of a Trustee's duties and responsibilities as shown in Attachment "A" and Corresponding and Conforming Changes to BOT Operations Manual as shown in Attachment "B."						
Trustee John Waihe'e IV seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						x
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passed with eight (8) yes votes and one (1) excused.						

2. Action Item RM #19-05: Approval of FY19 Commercial Property Budget Realignment #1

Chair Colette Machado – We are now of V.B.2. Action item 19-05, I'd like to call on the RM Chair Trustee Dan Ahuna.

Trustee Dan Ahuna moves to approve and recommend approval to the Board of Trustees of the FY19 Commercial Property Budget Realignment for:

- 1. Kaka'ako Makai revenue of \$2,234,275 (increase);**
- 2. Na Lama Kukui revenue of \$691,996 (increase);**
- 3. Na Lama Kukui expenses of \$150,040 (increase); and**
- 4. Kaka'ako Makai reclassification of \$394,375 in expenses from the 'equipment' to 'program' line item classification.**

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – Its been moved and seconded, if there is no further discussion roll call vote please.

Trustee Dan Ahuna moves to approve and recommend approval to the Board of Trustees of the FY19 Commercial Property Budget Realignment for:

1. Kaka'ako Makai revenue of \$2,234,275 (increase);
2. Na Lama Kukui revenue of \$691,996 (increase);
3. Na Lama Kukui expenses of \$150,040 (increase); and
4. Kaka'ako Makai reclassification of \$394,375 in expenses from the 'equipment' to 'program' line item classification.

Trustee John Waihe'e IV seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						x
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passed with eight (8) yes votes and one (1) excused.						

3. Action Item RM #19-06: Approval of \$35,000 for Emergency Disaster Relief for Kaua'ula Maui

Chair Colette Machado – Members we are now of action item RM 19-06 this is the emergency disaster relief for Kaua'ula Maui. I'd like to call on the Chair of the RM Committee Trustee Dan Ahuna.

Trustee Dan Ahuna moves to approve \$35,000 for Emergency Disaster Relief for Kaua'ula Maui, subject to statutory disbursement requirements; and to authorize and approve the transfer and use of funds available in OHA's FY19 Core Operating Budget from Program 1100-Board of Trustees, Object Code 57280-Trustee Allowance to Program 3800-Grants, Object Code 56530-Grants in Aid, as amended.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Members this vote will take 6 affirmative because it is an unbudgeted item. If there is not further discussion on this amended motion, roll call vote please.

Trustee Dan Ahuna moves to approve \$35,000 for Emergency Disaster Relief for Kaua‘ula Maui, subject to statutory disbursement requirements; and to authorize and approve the transfer and use of funds available in OHA’s FY19 Core Operating Budget from Program 1100-Board of Trustees, Object Code 57280-Trustee Allowance to Program 3800-Grants, Object Code 56530-Grants in Aid, as amended.

Trustee Carmen Hulu Lindsey seconds the motion.

TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE BRENDON KALEI‘AINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY						x
TRUSTEE JOHN WAIHE‘E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1

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

Motion passed with eight (8) yes votes and one (1) excused.

C. Joint Committees on Beneficiary Advocacy and Empowerment and Resource Management

1. Action Item BAE/RM #19-03: Consideration of a Process for the Selection of a Successor Chief Executive Officer

Chair Colette Machado – Members we are now on V.C. relating to action item BAE/RM 19-03, the Chair will now call on the Joint Committee Chair Trustee Dan Ahuna.

Trustee Dan Ahuna moves to authorize and approve the use of a professional executive search and consulting firm to assist the Committees on BAE and RM for the recruitment and selection of a Chief Executive Officer and to authorize and approve a budget reallocation to move \$50,000 from OHA’s FY 19 Core Operating Budget, program code 1100-Board of Trustees, object code 57280-Trustee Allowance, to object code 57110—Services on a fee Basis.

Trustee John Waihe‘e IV seconds the motion.

Chair Colette Machado – Any further discussion, hearing none, roll call vote.

Trustee Dan Ahuna moves to authorize and approve the use of a professional executive search and consulting firm to assist the Committees on BAE and RM for the recruitment and selection of a Chief Executive Officer and to authorize and approve a budget reallocation to move \$50,000 from OHA's FY 19 Core Operating Budget, program code 1100-Board of Trustees, object code 57280-Trustee Allowance, to object code 57110—Services on a fee Basis.

Trustee John Waihe'e IV seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						x
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1

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

Motion passed with eight (8) yes votes and one (1) excused.

- D. Consultation with Kumabe HR LLC to assist the Board in conducting its performance appraisal of OHA's CEO pursuant to Section III of Contract 3147 (if necessary, the Board will recuse into Executive Session to consult with Board Counsel Robert G. Klein, Esq., Pursuant to HRS §92-5(a)(2) and (4)).**

(Item removed and discussion held in executive session because of the subject matter)

VI. EXECUTIVE SESSION

Chair Colette Machado – We are now on item VI. Executive session. I would like to entertain a motion to recuse ourselves into executive session pursuant to HRS §92-5(a)(2) and (4).

Trustee Dan Ahuna moves to recuse into executive session pursuant to HRS §92-5(a)(2) and (4).

Trustee Brendon Kalei'āina Lee seconds the motion.

Chair Colette Machado – Roll call vote please.

Trustee Dan Ahuna moves to recuse into executive session pursuant to HRS §92-5(a)(2) and (4).
Trustee Brendon Kalei'āina Lee seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE		x	X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passed with eight (8) yes votes and one (1) excused vote.						

Chair Colette Machado – We will ask everyone to leave. Kamana'opono Crabbe will you have some of your staff to stay.

Kamana'opono Crabbe – Sylvia and Raina.

The Board resolved into Executive Session at 10:54 pm.

- A. Consultation with attorneys William Yuen, Esq., Judy Tanaka, Esq., and Robert G. Klein, Esq., re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding OHA's role as a member of Hi'ilei Aloha LLC and Ho'okele Pono LLC. *Pursuant to HRS §92-5(a)(4).*
- B. Consultation with Board Counsel, Robert G. Klein, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding Action Item RM #19-04 for reimbursement of limited liability corporation legal fees. *Pursuant to HRS §92-5(a)(4).*†
- C. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect OHA Contract #3147. *Pursuant to HRS §92-5(a)(4).*
- D. Consultation with Board Counsel Robert G. Klein, Esq. and Kumabe HR LLC re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding the Board's obligations and responsibilities to conduct its performance appraisal of OHA's CEO in accordance with Section III of Contract 3147. *Pursuant to HRS §92-5(a)(2) and (4).*
- E. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, and liabilities concerning processing a complaint alleging violations of the Trustee Code of Conduct policy. *Pursuant to HRS §92-5(a)(2) and (4).*
- F. Approval of Minutes
 1. March 28, 2019

The Board reconvenes in open session at 12:50pm.

VII. COMMUNITY CONCERNS

Chair Colette Machado – Is there anyone for community concerns? Hearing none. I would like to entertain a motion to adjourn.

VIII. ANNOUNCEMENTS

None

IX. ADJOURNMENT

Chair Colette Machado –I would like to entertain a motion to adjourn.

Trustee Brendon Kalei‘āina Lee moves to adjourn the meeting.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – It has been moved and seconded. Roll call vote please.

Trustee Brendon Kalei‘āina Lee moves to adjourn the meeting. Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE BRENDON KALEI‘ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE‘E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with seven (7) yes votes and two (2) excused.						

The meeting was adjourned at 12:52 am.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on _____.

Colette Y. Machado, Chairperson
Board of Trustees

Attachment:

1. Excuse Memo from Trustee Robert Lindsey.
2. United Nations letter dated February 25, 2018 presented during Mr. Kalaniakea Wilson’s presentation.
3. Powerpoint presentation from Mr. Kalaniakea Wilson.
4. Beneficiary Trust Council Rehabilitation Resolution presented during Mr. Kalaniakea Wilson’s presentation.



OFFICE OF
HAWAIIAN AFFAIRS
STATE OF HAWAII
RECEIVED-BOT

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
737 IWILEI ROAD, SUITE 200
HONOLULU, HAWAII 96817

2019 APR 29 A 10:08

April 29, 2019

TO: Trustee Colette Machado
Chairperson
Board of Trustees Committee

Trustee Brendon Kalei'āina Lee
Vice Chairperson
Board of Trustees Committee


FROM: Trustee Robert K. Lindsey, Jr.

SUBJECT: Excused Absence

Aloha Chairperson Machado:

I regret to inform you that I am unable to attend the Board of Trustees Committee meeting on Thursday, May 2, 2019 at 10:00 am. Please extend my apologies to the Board of Trustees.

With sincere aloha,


Trustee Robert K. Lindsey, Jr. Hawai'i Island



Office of the High Commissioner for Human Rights
Palais des Nations, CH-1211 Geneva 10, Switzerland

MEMORANDUM

Date: 25 February 2018

From: Dr. Alfred M. deZayas
United Nations Independent Expert
Office of the High Commissioner for Human Rights

To: Honorable Gary W. B. Chang, and
Honorable Jeannette H. Castagnetti, and
Members of the Judiciary for the State of Hawaii

Re: The case of Mme Routh Bolomet

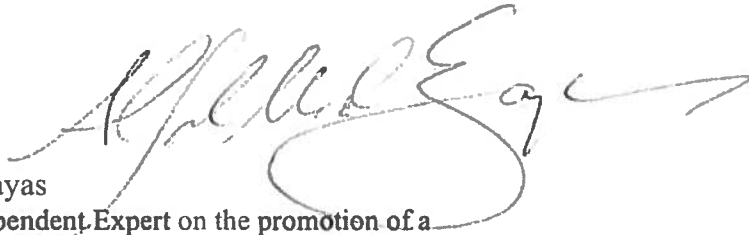
As a professor of international law, the former Secretary of the UN Human Rights Committee, co-author of book, *The United Nations Human Rights Committee Case Law 1977-2008*, and currently serving as the UN Independent Expert on the promotion of a democratic and equitable international order, I have come to understand that the lawful political status of the Hawaiian Islands is that of a sovereign nation-state in continuity; but a nation-state that is under a strange form of occupation by the United States resulting from an illegal military occupation and a fraudulent annexation. As such, international laws (the Hague and Geneva Conventions) require that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by the application of the laws of the occupied state (in this case, the Hawaiian Kingdom), not the domestic laws of the occupier (the United States).

Based on that understanding, in paragraph 69(n) of my 2013 report (A/68/284) to the United Nations General Assembly I recommended that the people of the Hawaiian Islands — and other peoples and nations in similar situations — be provided access to UN procedures and mechanisms in order to exercise their rights protected under international law. The adjudication of land transactions in the Hawaiian Islands would likewise be a matter of Hawaiian Kingdom law and international law, not domestic U.S. law.

I have reviewed the complaint submitted in 2017 by Mme Routh Bolomet to the United Nations Office of the High Commissioner for Human Rights, pointing out historical and ongoing plundering of the Hawaiians' lands, particularly of those heirs and descendants with land titles that originate from the distributions of lands under the authority of the Hawaiian Kingdom. Pursuant to the U.S. Supreme Court judgment in the *Paquete Habana* Case (1900),

U.S. courts have to take international law and customary international law into account in property disputes. The state of Hawaii courts should not lend themselves to a flagrant violation of the rights of the land title holders and in consequence of pertinent international norms. Therefore, the courts of the State of Hawaii must not enable or collude in the wrongful taking of private lands, bearing in mind that the right to property is recognized not only in U.S. law but also in Article 17 of the Universal Declaration of Human Rights, adopted under the leadership of Eleanor Roosevelt.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Alfred M. deZayas', with a long horizontal stroke extending to the right.

Dr. Alfred M. deZayas
United Nations ~~Independent Expert~~ on the promotion of a
democratic and equitable international order
Office of the High Commissioner for Human Rights
Palais des Nations, CH-1211 Geneva 10, Switzerland



Office of the High Commissioner for Human Rights
Palais des Nations, CH-1211 Geneva 10, Switzerland

MEMORANDUM

Date: 25 February 2018

From: Dr. Alfred M. deZayas
United Nations Independent Expert
Office of the High Commissioner for Human Rights

To: Honorable Gary W. B. Chang, and
Honorable Jeannette H. Castagnetti, and
Members of the Judiciary for the State of Hawaii

Re: The case of Mme Routh Bolomet

I have come to understand that the lawful political status of the Hawaiian Islands is that of a sovereign nation-state in continuity; but a nation-state that is under a strange form of occupation but the United States resulting from an illegal military occupation and a fraudulent annexation.

30,000 + wait listers

30,000 + wait listers

Aina Mauna Legacy
BTC Rehabilitation Resolution

October 6, 2014

Punana Leo o Kona La Makua

April 2, 2015

UH students arrested on Maunakea

COUNTY OF HAWAII



STATE OF HAWAII

RESOLUTION NO. 185 15
(DRAFT 2)

A RESOLUTION REQUESTING THE HAWAII STATE LEGISLATURE TO DESIGNATE JULY 31 AS "LĀ HO'ĪHO'Ī EA," WHICH TRANSLATES TO RESTORATION DAY.

WHEREAS, Lā Ho'īho'ī Ea translates to Restoration Day, which marks the day that independence was restored to the Hawaiian Kingdom on July 31, 1843, after being seized and forcefully taken by Lord George Paulet, a captain of the British Royal Navy's HMS Carysfort; and

WHEREAS, July 31 commemorates the day that Admiral Richard Darton Thomas of the British Royal Navy ordered the Union Jack (Union Flag) to be removed and replaced with the Hawaiian flag, ending over five months of unauthorized military occupation; and

Dated at Kona, Hawaii'i, this 16th day of June, 2015.

INTRODUCED BY:

[Signature]
COUNCIL MEMBER, COUNTY OF HAWAII

COUNTY COUNCIL
County of Hawaii'i
Hilo, Hawaii'i

I hereby certify that the foregoing RESOLUTION was by
the vote indicated to the right hereof adopted by the COUNCIL of the
County of Hawaii'i on June 16, 2015

ATTEST:

[Signature] [Signature]
COUNTY CLERK CHAIRPERSON & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	ABS	EX
CHUNG	X			
DAVID	X			
EOFF	X			
ILAGAN	X			
KANUIHA	X			
ONISHI	X			
PALEKA	X			
POINDEXTER	X			
WILLE	X			
	9	0	0	0

Reference: C-292.6/GREDC-1

RESOLUTION NO. 185 15
(DRAFT 2)

COUNTY OF HAWAII



STATE OF HAWAII

RESOLUTION NO. 285 15

**A RESOLUTION REQUESTING THE HAWAII STATE LEGISLATURE TO
RECOGNIZE NOVEMBER 28 AS "LĀ KŪ'OKO'A" IN HONOR OF HAWAII'S
INDEPENDENCE DAY.**

WHEREAS, the chiefdoms of the Hawaiian Islands were unified as the Kingdom of
Hawaii'i in 1810 under Kamehameha I; and

WHEREAS, throughout the early 19th century, during the reigns of Kamehameha I,
Kamehameha II and Kamehameha III, the Kingdom of Hawaii'i was not recognized by the
empires of the day, resulting in increasing levels of foreign influence and unwanted coercion;
and

COUNTY COUNCIL
County of Hawai'i
Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by
the vote indicated to the right hereof adopted by the COUNCIL of the
County of Hawai'i on October 7, 2015

ATTEST:



COUNTY CLERK



CHAIRPERSON & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	A
CHUNG	X		
DAVID	X		
EOFF	X		
ILAGAN	X		
KANUIHA	X		
ONISHI	X		
PALEKA			
POINDEXTER	X		
WILLE	X		
	8	0	

Reference: C-474/GREDC -

RESOLUTION NO. **285 15**



UH Hilo ahu



UH Hilo ahu



UH Manoa ahu





November 28, 2016

La Kuokoa

Hawaiian Independence Day Holiday



January 13, 2018

Hawaii Ballistic Missile Threat
We all died!!!

March 17, 2017

DHHL meeting sheep station Humuula all Homestead
associations voted Gorse, Security, Accelerate Homestead

March 26, 2018







Summary

- Maunakea Access Road Data Collection
- 24/7 volunteer security monitoring
- Safety Sharing (Directions, Speeding, Weather, Gas, Education, Cultural exchange, Babies, etc.)
- Pohakuloa Bombing New Weapons
- Stopped Theft of DHHL Fencing, Rogue Tours



Kanaka Ranger Training

Kalapana Maunakea Church

March 24, 2019



April 15, 2019

Sent email to OHA Trustees and 4 elected officials

65 emails

- “Kala Mai...Please provide a mailing address. I will sign & mail to you. Mahalo, Trustee ??????????”
- “I believe every OHA Trustee would agree that it has taken way too long to award Hawaiians that have been waiting years to receive a lot.”
- “I am forwarding your email to Trustee Colette Machado, our BOT Chair.”
- “While I wholeheartedly support your cause and look forward to hearing more from the Beneficiary Trust Council, I think the resolution would be more powerful if it offered practical solutions and workable partnerships to address the many reasons why there are still 27,000 Hawaiians on the waitlist. Rather than signing on the proposed resolution, I will continue to work through channels available to me as trustee of OHA to resolve the problems Hawaiians face in obtaining homestead land”

Aloha Mahalo

Beneficiary Trust Council
Rehabilitation Resolution

WHEREAS, 2020 is the 100th anniversary of the Kuhio Kalanianaʻole led 1920 Hawaiian Homes Commission Act approved in Congress that became law to begin rehabilitation for the Hawaiian people because of the United States' role in the overthrow of the Hawaiian Kingdom on January 17, 1893; and

WHEREAS, the policy of the 1920 Hawaiian Homes Commission Act, "is to enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of native Hawaiians in the administration of this Act, and the preservation of the values, traditions, and culture of native Hawaiians.

WHEREAS, section 101 (1) "Establish a permanent land base for the benefit and use of native Hawaiians, upon which they may live, farm, ranch, and otherwise engage in commercial or industrial or any other activities as authorized in this Act;"; and

WHEREAS, section 101 (2) "Placing native Hawaiians on the lands set aside under this Act in a prompt and efficient manner and assuring long-term tenancy to beneficiaries of this Act and their successors;"; and

WHEREAS, the 1959 State of Hawaii Constitution article VII section 1 (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; and

WHEREAS, the 1978 State of Hawaii Constitutional Convention recognized native Hawaiian rights and created the Office of Hawaiian Affairs to benefit native Hawaiians and Hawaiian language as an official state language; and

WHEREAS, in 2014 the Beneficiary Trust Council comprised of native Hawaiians, Koa Kiai and Department of Hawaiian Homeland's waitlisters began volunteering to manage natural resources on Maunakea aligned to Hawaiian rehabilitation efforts through educational, political, social and cultural processes to improve the general welfare and conditions of native Hawaiians; and

WHEREAS, on November 28, 2016, recognized as La Kuokoa the Beneficiary Trust Council erected an ahu as a memorial to bring closure for the Hawaiian families whose family died waiting for their rehabilitation housing from an unfulfilled obligation of the State of Hawaii to rehabilitate native Hawaiians in a prompt and efficient manner; and

WHEREAS, the ahu serves as a social and cultural rehabilitation interest in the community pastoral lot P1 in the Aina Mauna solution for access to feed the successors of the deceased native Hawaiians whom died on the waitlist; and

WHEREAS, in 2017 the Department of Hawaiian Homelands and all Moku o Keawe Hawaiian Homestead associations voted and approved to decrease gorse, provide security presence on Maunakea and accelerate aina hoopulapula; and

WHEREAS, on March 26, 2018, the Beneficiary Trust Council, Homestead Associations, Royal Orders, Hawaiian Civic Clubs, Department of Hawaiian Homestead waitlisters, Koa Kiai and Kanaka Rangers from Moku o Keawe erected Hale o Kuhio to commemorate Prince Kuhio's spirit, legacy and 98th anniversary of establishing the 1920 Hawaiian Homes Commission Act to begin security, monitoring and recording traffic to and from Maunakea to malama twenty-four hours a day C1 and P1; and

WHEREAS, on March 26, 2019, Hale o Kuhio celebrated one-year volunteer twenty-four hour management by native Hawaiian waitlisters on Humuula Homestead lands to commemorate the 99th anniversary of the 1920 Hawaiian Homes Commission Act and voted to initiate phase II and implement Hale o Kuhio toll booth to become economically sustainable to accelerate housing for waitlisters; and

WHEREAS, on March 26, 2020, one hundred year commemoration of the 1920 Hawaiian Homes Commission Act the Beneficiary Trust Council would like to begin accelerating housing for the 30,000 plus Department of Hawaiian Homeland waitlisters on Moku o Keawe before they die on the waitlist; and

NOW, THEREFORE, BE IT RESOLVED,

_____ recognizes the Beneficiary Trust Council's leadership and management of Hale o Kuhio toll booth to Malama C1 and P1 as prescribed in the Hawaiian Homes Commission Act and Aina Mauna legacy to fulfill the Hawaiian Homes Commission Act to place the 30,000 plus waitlisters into homes and homesteads immediately before they die without being able to access the Congressionally approved and supported rehabilitation prescribed in the Hawaiian Homes Commission Act that continues as an unfulfilled obligation embedded in the 1959 State of Hawaii constitution.

Office of Hawaiian Affairs
Board of Trustee Meeting
June 6, 2019
10:00 am

V. New Business

A. Committee on Resource Management

- 1. Action Item RM #19-07: Action
regarding Economic Development,
Debt Management, Spending and
Investment and Real Estate Policies,
2nd Reading***

** - Please insert your committee report for Action Item RM #19-07
from the May 30, 2019 Board of Trustees Meeting folder.*

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT
COMMITTEE REPORT**

May 22, 2019

The Honorable Colette Machado,
Chairperson Board of Trustees
Office of Hawaiian Affairs

Madame Chair Machado,

Your Joint Committees on Resource Management and Beneficiary Advocacy and Empowerment, having met on May 22, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

- A. Approve the Economic Development Policy, noting that Administration will return with the implementation procedures for Board action;
- B. Approve the Debt Management Policy, noting that Administration will return with the implementation procedures for Board action;
- C. Acknowledge the Spending Policy language and the existing Native Hawaiian Trust Fund (NHTF) Spending policy, as Amended, noting Administration will return with consolidated policy document for Board action; and
- D. Acknowledge the Investment and Real Estate Policy language and the existing NHTF Investment and Real Estate Vision, Mission, and Strategy policies, noting Administration will return with consolidated policy document(s) for Board action.

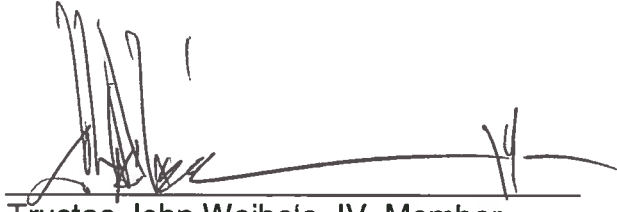
Relevant attachments are included for your information and reference. Attachment(s):

- 1) Action Item RM #19-07
- 2) RM #19-07 Roll Call Sheet

Respectfully submitted:



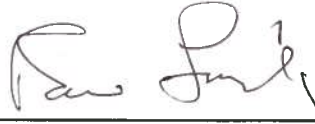
Trustee, Chair Dan Ahuna



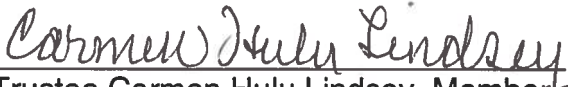
Trustee John Waihe'e, IV, Member

Excused

Trustee Leina'ala Ahu Isa, Member



Trustee Robert Lindsey, Member



Trustee Carmen Hulu Lindsey, Member



Trustee Colette Machado, Member

Excused

Trustee Brenden Lee, Member



Trustee Kalei Akaka, Member



Trustee Keli'i Akina, Member

RESOURCE MANAGEMENT COMMITTEE
Dan Ahuna, Chairperson
Robert K. Lindsey, Jr., Vice Chairperson
Leina'ala Ahu Isa, At-Large
Kalei Akaka, O'ahu
Keli'i Akina, At-Large
Brendon Kalei'aina Lee, At-Large
Carmen Hulu Lindsey, Maui
Colette Y. Machado, Moloka'i/Lāna'i
John Waihe'e IV, At-Large



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

MEETING OF THE COMMITTEE ON RESOURCE MANAGEMENT

DATE: Wednesday May 22, 2019
TIME: 10:00 am
PLACE: OHA Board Room, Nā Lama Kukui
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Public Testimony*
- III. New Business
 - A. RM #19-07: Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies
- IV. Adjournment

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

*Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz, Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

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

A handwritten signature in black ink that reads "Dan Ahuna".

Trustee Dan Ahuna
Chairperson, Committee on Resource Management

A handwritten date in black ink that reads "05/15/19".

Date

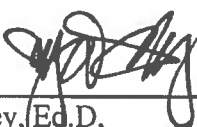
OFFICE OF HAWAIIAN AFFAIRS

Action Item
Committee on Resource Management
May 22, 2019

RM #19-07

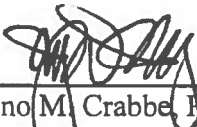
Action Item: Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

Prepared by:

 5/16/19


Sylvia Hussey, Ed.D., Date
Ka Pou Nui, Chief Operating Officer

Reviewed by:

 5/16/19

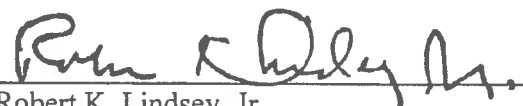
Kamana'opono M. Crabbe, Ph.D. Date
Ka Pouhana, Chief Executive Officer

Reviewed by:

 5/17/19

Dan Ahuna Date
Committee on Resource Management, Chair

Reviewed by:

 5/17/19

Robert K. Lindsey, Jr. Date
Committee on Resource Management, Vice Chair

RM #19-07

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

I. Proposed Action

Administration recommends the Board of Trustees (BOT):

- A. Approve the **Economic Development Policy**, noting that Administration will return with the implementation procedures for Board action;
- B. Approve the **Debt Management Policy**, noting that Administration will return with the implementation procedures for Board action;
- C. Acknowledge the **Spending Policy** language and the existing Native Hawaiian Trust Fund (NHTF) Spending Policy, as Amended, noting Administration will return with a consolidated policy document for Board action; and
- D. Acknowledge the **Investment and Real Estate Policy** language and the existing NHTF Investment and Real Estate Vision, Mission, and Strategy policies, noting Administration will return with consolidated policy document(s) for Board action.

II. Issue

Whether the BOT should take action on the four policies associated with the Fiscal Sustainability Plan (FSP): Economic Development, Debt Management, Spending and Investment and Real Estate.

III. Background¹ and Context

Overview. In 2016 OHA understood the need to become fiscally sustainable. Fiscal sustainability was defined as the ability of a government or government agency to sustain its current rate of spending, revenue and other policies in the long run. To do this, OHA needed to change the way it operated and therefore began implementing the Fiscal Sustainability Plan ("FSP"). To propel OHA's progress in these efforts, the Committee formed five work groups representing the BOT, OHA Administration, and staff experts to address five main areas that may pose risks to OHA's fiscal sustainability. The five areas were: spending policy, pension benefits, legal and taxable structure, Department of Hawaiian Home Lands, and real estate investment.

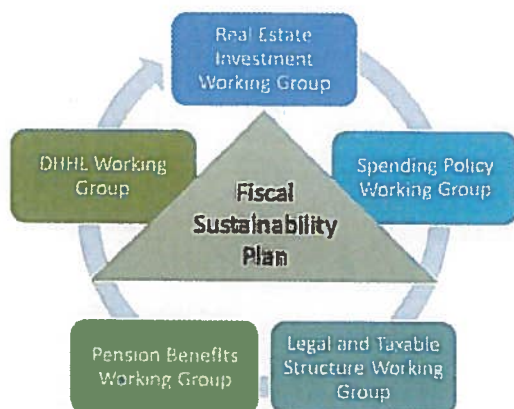
¹ Source: Fiscal Year 2018-2019 Summary, Next Steps Checklist, May 2019, transmitted via letter dated May 15, 2019 .

Disclaimer

The information contained in this report is confidential to the Office of Hawaiian Affairs ("OHA") and may not be disclosed without the express written consent of OHA Board of Trustee ("BOT") Chair, Resource Management ("RM") Committee Chair, OHA executive management, and Spire Hawai'i LLP ("Spire"). This information is intended solely for the use of OHA and is not intended to be, and should not be, used by anyone other than OHA. This report should not be used for any other purposes or reproduced in any form that is inconsistent with its intent or is not authorized. If you are not authorized, please note that the use, further transmission, or disclosure of the contents of this report is strictly prohibited. Under the standards promulgated by the American Institute of Certified Public Accountants ("AICPA"), Spire considers all material confidential. However, we defer to OHA counsel on the issue of whether any material is subject to disclosure under State law.

RM #19-07

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies



Each group started by conducting a risk assessment, and analyzing the risks that may prevent OHA from achieving its objectives in each area. The work groups developed suggested action steps to implement the changes in OHA operations, organization, and management reporting needed to address these risks, and discussed the pros and cons of each suggestion. The working groups were

precedent-setting, and marked the first time the Board and the Administrative engaged in intensive collaboration. The participants overwhelmingly endorsed the working group effort as innovative and satisfying. Due to resource constraints the work groups had their last meetings in December 2017, however, it is important to note the important tasks identified by the groups that have not been completed.

In response to the State Auditor, OHA stated that it would “[h]ave the FSP Working Groups continue to: (a) develop and narrow down possible solutions, (b) meet with key stakeholders for input, (3) develop long- and short- terms plans that identify the monetary sources and staffing needs for implementation, and assess the risks of potential challenges and how to address them. More specifically, the Spending policy working group will recommend clearer definitions, purposes, and procedures; specifics for periodic policy review; alignment with budget planning; a maximum cap; and appropriate spending rate. The Spending Policy and Real Estate working groups will discuss improvements to the IPS and consideration of an investment policy that would apply to real estate investments.”

Even if the working groups are currently inactive, it is essential that the tasks they identified be completed to fulfill this commitment to the Auditor. Given the prospective audit schedule, it is important that significant progress be made within the next six to 12 months. (Note: The Audit Analysis consists of estimates for the timing of potential audits in the future, summaries of the State Auditor’s findings, summaries of the State Auditor’s recommendations for action by the Board and the Administration and OHA’s commitments for action, as stated in the Auditee Response.)

Working Groups. The following section describes the objectives of each working group, the short- and long-term tasks identified by each group, the support provided by Spire to the group and what needs to be done (next steps) in order to address the working group tasks. the next steps are presented in table form. Each table has “objectives” that are relatively broad, and specific “items” within the scope of the objective. The tables enable each item to be checked off as it is

RM #19-07

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

completed. There is also an “objective” check off that can be marked once all items have been completed. (Note: This is not intended as an exhaustive checklist, as other items that need to be completed may be identified during implementation.)

Real Estate Investment Working Group. Objective of the working group: To (1) establish a robust real estate management and investment plan, (2) create optimal organizational structures and real estate system and (3) formulate recommendations for proactive action, if necessary.

Short- and long-term tasks identified by the working group:

Short-term: Hold workshop for trustees re: alternative business forms for real property development

Long-term: Develop policies that support real estate investment

Work completed by the working group: The group discussed the current state of OHA’s asset management. It also discussed the need for a board workshop to (1) provide the status of current development projects, (2) explain the present and potential obstacles to development, (3) obtain board input about critical issues, such as timeline and governance (use of LLCs, board involvement in project execution).

Spending Policy Working Group. Objective of the working group: The purpose of this work group was to review OHA’s Spending Policy (including the Fiscal Reserve Guidelines) and other OHA fiscal policies to identify changes that need to be made to address present and future needs.

Short- and long-term tasks identified by the working group:

Short-term:

1. Revise spending policy and fiscal reserve guidelines to address audit findings
2. Determine appropriate spending rate formula to serve OHA objectives

Long-term:

1. Revise IPS and HDAP to accommodate present and future investment strategies, present to BOT for adoption
2. Develop spending and debt policies applicable to real estate investments and OHA operations

Work completed by working group: The group researched and discussed policy and legal issues to be considered by OHA, so that it can operate within the State structure while it retains its autonomy, ability to form entities, and manages its funds. These discussions included:

- Potential legislative changes that could be made to provide OHA greater autonomy, based on statutory autonomy and exemptions enjoyed by other semi-autonomous agencies of the State (UH, HCDA, HTDC).
- Methodology for separating the core and non-core functions of OHA and discussion about whether different funding and withdrawal rules should apply to each.

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Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

- Analysis of the fiscal reserve the State Auditor's findings concerning it, and how it could be revised to address the audit findings.

Legal and Taxable Structure Working Group. Objective of the working group: The objective of the working group was to identify the optimal legal and reporting structure of OHA's business development functions.

Short- and long-term tasks identified by the working group:

Short-term: Refine Decision Matrix and Decision Tree with the assistance of legal counsel, present to the RM Committee/BOT for adoption as decision making tools

Long-term: Develop guidance regarding OHA's role (funder v. intermediary v. direct services) to guide strategic planning and OHA operations (such as for budgeting and spending)

Work completed by the working group: The group discussed OHA's future needs for LLCs or other business forms, defined foundational principles OHA should consider when using business forms, drafted a decision tree and matrix and drafted subsidiary plan guidelines.

Pension Benefits Working Group. Objectives of the working group: The purposes of this working group were to verify the accuracy of OHA's pension liability and conduct discussions with Budget and Finance (B&F) and Employee Retirement System (ERS) to adjust any discrepancies and determine if OHA can moderate the pace of future increases.

Short- and long-term tasks identified by the working group:

Short-term: Formulate legislative proposals for 2018

Long-term: Analyze pension and benefit costs, develop recommendations (as appropriate), present recommendations to Administration and RM Committee/BOT (as appropriate)

Work completed by the working group: The group discussed legislative strategy, provided assessments on the EUTF's ability/inability to quantify OHA obligations and developed initial information requests that were sent to the EUTF.

DHHL Working Group. Objectives of the working group: The purposes of this working group were to identify the likely solutions to resolve issues in the Department of Hawaiian Home Lands (DHHL) Memorandum of Agreement (MOA), identify the likely scenarios to refinance the annual cash payment obligation and formulate recommendations for proactive action, if any.

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Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

Short- and long-term tasks identified by the working group:

Short-term: Identify deliverables with DHHL, implement recommendations for improved oversight

Long-term: Develop debt policy and standards for incurring long-term obligations

Work completed by working group: Discussed the status of the DHHL and OHA MOA. Since the OHA internal legal opinion stated that nothing could be done regarding the MOU, the working group terminated further discussion. However, the group recommended consideration of a debt policy to prevent future agreements like the MOA.

IV. Policy Review and Analysis²

Overview. During this fiscal year, Spire developed policies concerning the following subjects in response to needs identified by OHA as necessary in mission-critical areas and conducted workshops and other training regarding the policies. The policies were:

- Spending
- Debt Management
- Investment and Commercial Real Estate
- Economic Development
- Fiscal Stabilization

These policy revisions have the following long-term objective of proposing a distinct potential direction for OHA as an organization as it relates to who it is:

- A primary State agency that provides services and programs to Native Hawaiians (HRS Chapter 10-3)
- A semi-autonomous State agency which relies on self-funding (Legislative opinion)
- A State agency to assist Native Hawaiians in the pursuit of sovereignty and self-governance (Act 195).

Copies of the policies, with the exception of Fiscal Stabilization, are found at Attachments 1 to 4.

² Source: Fiscal Year 2018-2019 Summary, Next Steps Checklist, May 2019, transmitted via letter dated May 15, 2019 .

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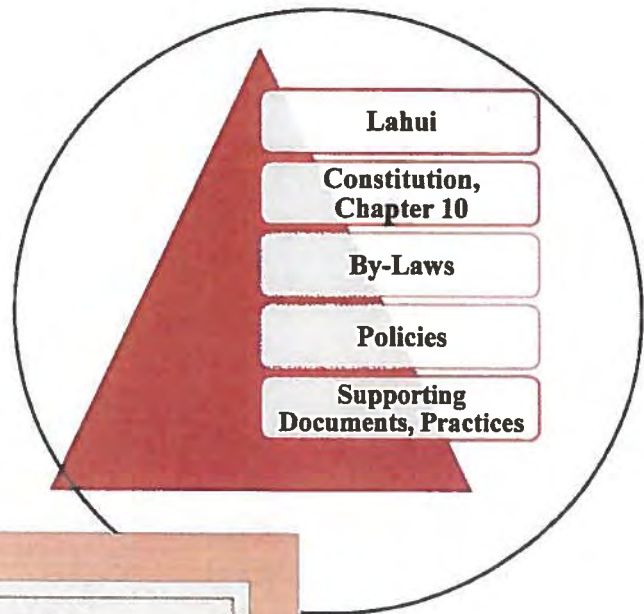
RM #19-07

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

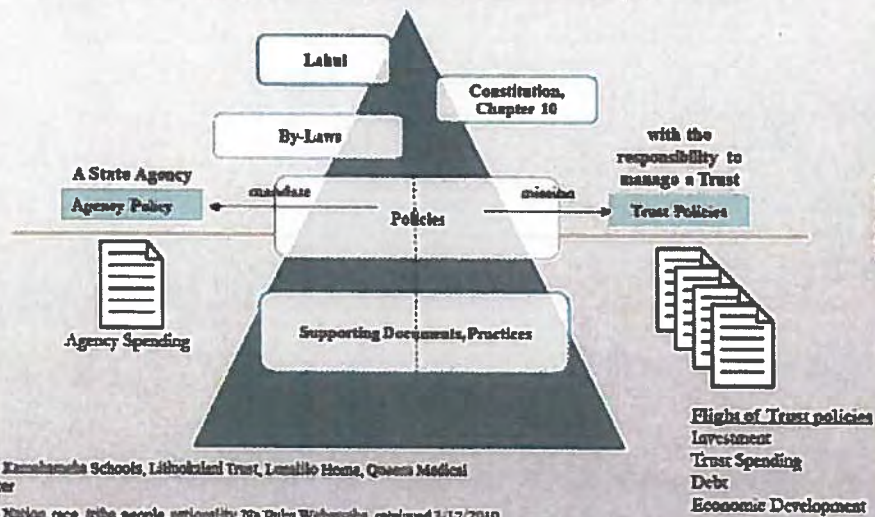
As of February 2018, the BOT placed a moratorium on the use of the Fiscal Reserve³

Board Governance Framework. In January 2019, the Board approved the formation of a permitted interaction group (PIG) to: Investigate various elements of governance frameworks and models, including but not limited to cultural, indigenous, native, national and international contexts. In April 2019, the Board approved the PIG's recommendation to approve the five elements of OHA's Board Governance Framework: 1) Identity; 2) Values and Mana; 3) Statutory Basis; 4) Policies; and 5) Supporting Documents and Practices (Operations).

Element 1) Identity is expanded below and illustrates the dual nature of identity and the related impact to policies.



Element 1: Identity. Ho'oulu Lahui Aloha – To Raise a Beloved Lahui. A State Agency with the responsibility to manage a Trust, that identifies and operates more similarly to Ali'i Trusts [1] with a laumi mindset in improving the well-being of our Lahui [2]. Such an identity is rooted in the 'ōlelo no'ea, *E 'ōpi ali'i*, have the heart of a chief, have the kindness, generosity, and even temper of a chief. 'ōlelo no'ea 369 [3]. OHA's identity is also place based, that OHA's *haleano* is to this place of Hawaii.



[1] - Kamehameha Schools, Lihoukani Trust, Lunalilo Home, Queen Medical Center

[2] - Nation, race, tribe, people, nationality, *Na Puka Wehewehe*, retrieved 3/17/2019

[3] Puka, 'ōlelo no'ea, Hawaiian Proverbs & Poetical Sayings, p. 45

³ Moratorium on Fiscal Reserve Spending, RM 18-03 AI.pdf, February 2018

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Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

Economic Development Policy. The purpose of this Economic Development Policy ("Policy") is to ensure that revenue enhancement and other economic development projects undertaken by the Office of Hawaiian Affairs ("OHA") are conducted in a manner consistent with best practices and aligned with OHA's long-term strategies and current conditions.

Economic Development Policy



- Requires Administration to develop policies for analyzing and selecting economic development projects
- Requires Administration to develop performance standards for staff and consultants, and define permissible and impermissible projects
- Requires the Administration to develop criteria for selecting operating structures (such as LLCs and partnership)

- Requires Administration to develop policies for analyzing and selecting economic development projects
- Requires Administration to develop performance standards for staff and consultants, and define permissible and impermissible projects
- Requires the Administration to develop criteria for selecting operating structures (such as LLCs and partnership)

It is the policy of the Board to ensure the development of procedures for selecting economic development projects and the operating structures for the projects that reflect cultural priorities and current economic conditions. The Board believes that documented procedures are important to ensure consistency within OHA regarding the use of land, cultural assets and other resources, and OHA's expectations for business conduct. Additionally, the principles reflected in the procedures can be incorporated in development and other economic development agreements, enabling projects that are developed will be consistent with OHA's needs and priorities.

A lack of due diligence, a lack of standards and a lack of criteria result may occur when there is no clear policy.

Because this is a new policy, implementation procedures are provided to effect this policy's launch.

Debt Management Policy.

OHA shall not incur debt that is more than necessary to fund the OHA project or purpose for which the issuance was approved and any associated financing costs. Debt proceeds should be secured as close to the date of expenditure as

Debt Management Policy



- Defines purpose for debt – Section III
- Defines debt – Section II
- Does not allow debt that is more than needed, and requires the debt to be secured as close to the date of expenditure as possible
- Requires debt to improve net worth or generate value, including cultural value
- Prohibits debt without a repayment solution, requires debt to be taken against an asset only for financial gain, requires due diligence prior to issuing debt
- Requires debt study every two years
- Requires administration to develop procedures to implement policy

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Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

Revisions to Spending Policy



- Requires the Administration to develop procedures to identify and prioritizing projects and programs as core and non-core
- Differentiates spending from withdrawal
- Requires the Administration to implement cost center budgeting

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possible, unless there are practical reasons to issue sooner, in which cases such reasons should be documented and approved by the Board.

- Defines purpose for debt
- Defines debt
- Does not allow debt that is more than needed, and requires the debt to be secured as close to the date of expenditure as possible
- Requires debt to improve net worth or generate value, including cultural value
- Prohibits debt without a repayment solution, requires debt to be taken against

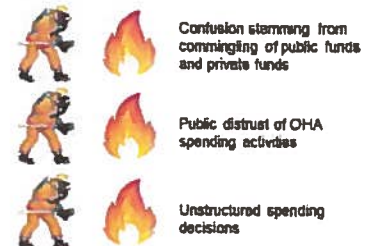
an asset only for financial gain, requires due diligence prior to issuing debt

- Requires debt study every two years
- Requires administration to develop procedures to implement policy
- OHA should not issue debt that it cannot repay or that causes it to incur undue financial risk. OHA should not take on debt without a repayment solution that is consistent with its spending and withdrawal policies and its budget.
- Debt should be taken against an asset only for a financial gain. Prior to incurring debt, OHA must consider financial alternatives where its assets and portfolio are not totally at risk. OHA should leverage its assets wisely by using debt strategically and prudently.
- A rigorous due diligence analysis should be conducted prior to issuance of debt, including impact of future budgets, sufficiency of revenues dedicated to debt service or operating costs of capital assets, and impact on ability to provide future services.

Revisions to the Spending Policy

It is the policy of the Board that, in order to prioritize and manage its own spending, OHA must differentiate spending for core functions (required by law) from spending for non-core functions (not required by law, but related to OHA's mission of improving and servicing beneficiaries). OHA's Spending Policy revisions are required because the two types of functions require different priorities and funding sources.

Further, OHA should implement cost center reporting to identify the costs incurred at the service and activity level, for better management of financial resources, budgeting and reporting.



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A lack of repayment plans and dedication of funds, use of debt to cover operational costs and lack of diligence required to assume debt may occur when there is no clear policy.

Because this is a new policy, implementation procedures are provided to effect this policy's launch.

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

- Separates management of commercial real estate from financial securities
- Requires development of a blended rate and regular updating of the rate
- Establishes a real estate advisory committee (HOIP committee)
- Requires the Administration to develop a robust real estate policy
- Requires the Administration to develop criteria for equity investments

Investment and Real Estate Policy. The purposes of this policy are to (1) ensure that real estate assets and equity interests of the Office of Hawaiian Affairs (“OHA”) are managed differently from its financial security assets, (2) establish a process for setting an appropriate and achievable blended return goal for financial security assets, real estate assets, and other assets, (3) establish a real estate advisory committee to provide real estate expertise, and (4) direct Ka Pouhana to propose robust policies and procedures to manage the real estate and equity interest portfolio with the assistance of the real estate advisory committee and other experts. The rationale for each purpose is summarized below.



OFFICE OF HAWAIIAN AFFAIRS

The existing Native Hawaiian Trust Fund Spending Policy, as amended, will need to be combined, aligned, harmonized and edited to produce a new document for Board action.



OFFICE OF HAWAIIAN AFFAIRS

**NATIVE HAWAIIAN TRUST FUND
SPENDING POLICY, AS AMENDED**

Adopted by the Board of Trustees, September 13, 2004
Amended and adopted by the Board of Trustees on July 6, 2006
Amended and adopted by the Board of Trustees on May 21, 2009
Reviewed with no modifications by the Board of Trustees on April 16, 2012
Amended and adopted by the Board of Trustees on February 27, 2014

RM #19-07

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

It is the policy of the Board that OHA's investment policy be modified to include the following attributes:




- Separates management of commercial real estate from financial securities;
- Requires development of a blended rate and regular updating of the rate;
- Establishes a real estate advisory committee (HDIP committee);
- Requires the Administration to develop a robust real estate policy; and
- Requires the Administration to develop criteria for equity investments.

Without the proposed changes to established policy, applying the same investment strategy to all types of assets, reliance on financial asset performance on building value and making decisions without the correct level of experience poses challenges to the implementation of existing policy.

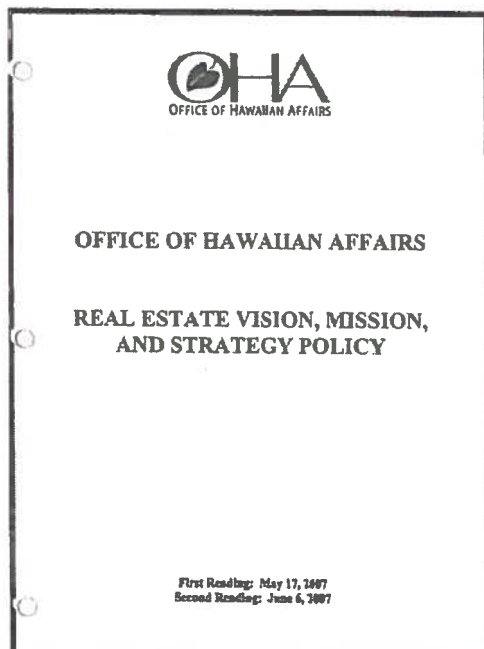
Investment Policy Changes and Real Estate Policy

The purposes of this policy are to (1) ensure that real estate assets and equity interests of the Office of Hawaiian Affairs ("OHA") are managed differently from its financial security assets, (2) establish a process for setting an appropriate and achievable blended return goal for financial security assets, real estate assets, and other assets, (3) establish a real estate advisory committee to provide real estate expertise, and (4) direct Ka Pouhema to propose robust policies and procedures to manage the real estate and equity interest portfolio with the assistance of the real estate advisory committee and other experts. The rationale for each purpose is summarized below.

It is the policy of the Board that OHA's investment policy be modified to include the following attributes:

- | | | |
|---|---|--|
| A. Separate management of the real estate assets and equity interests from the financial security assets |  | Applying the same investment strategy to all types of assets |
| B. Maintain an appropriate and achievable blended return goal for financial security assets, real estate assets, and other assets |  | Reliance on financial asset performance on building value |
| C. Consult with an expert real estate advisory committee |  | Making decisions without the correct level of experience |
| D. Develop a robust real estate plan | | |

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P.O. Box 10800, Honolulu, HI 96860-0800



The existing Real Estate Vision, Mission and Strategy Policy, will need to be combined, aligned, harmonized and edited to produce a new document for Board action.

The existing Native Hawaiian Trust Fund Investment Policy Statement will need to be combined, aligned, harmonized and edited to produce a new document for Board action.



OFFICE OF HAWAIIAN AFFAIRS

**NATIVE HAWAIIAN TRUST FUND
INVESTMENT POLICY STATEMENT**

Adopted by the Board of Trustees, August 24, 2017
Effective October 1, 2017

IV. Certification of Funding Availability

N/A – no funding required for action item.

V. Recommended Action(s)

Administration recommends the Board of Trustees (BOT):

- A. Approve the **Economic Development Policy**, noting that Administration will return with the implementation procedures for Board action;
- B. Approve the **Debt Management Policy**, noting that Administration will return with the implementation procedures for Board action;
- C. Acknowledge the **Spending Policy** language and the existing Native Hawaiian Trust Fund (NHTF) Spending Policy, as Amended, noting Administration will return with a consolidated policy document for Board action; and
- D. Acknowledge the **Investment and Real Estate Policy** language and the existing NHTF Investment and Real Estate Vision, Mission, and Strategy policies, noting Administration will return with consolidated policy document(s) for Board action.

RM #19-07

Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

VI. Alternatives

Take no action.

VII. Time Frame

This action shall be effective immediately upon approval by the BOT.

VIII. Attachments

1. Economic Development Policy
2. Debt Management Policy
3. Spending Policy
4. Investment and Real Estate Policy

ECONOMIC DEVELOPMENT POLICY

I. PURPOSE

The purpose of this Economic Development Policy ("Policy") is to ensure that revenue enhancement and other economic development projects undertaken by the Office of Hawaiian Affairs ("OHA") are conducted in a manner consistent with best practices and aligned with OHA's long-term strategies and current conditions.

II. POLICY

It is the policy of the Board to ensure the development of procedures for selecting economic development projects and the operating structures for the projects that reflect cultural priorities and current economic conditions. The Board believes that documented procedures are important to ensure consistency within OHA regarding the use of land, cultural assets and other resources, and OHA's expectations for business conduct. Additionally, the principles reflected in the procedures can be incorporated in development and other economic development agreements, enabling projects that are developed will be consistent with OHA's needs and priorities.

III. SCOPE & AUTHORITY

The projects covered by this Policy are all projects intended to increase the value of OHA assets, generate additional revenues, or achieve cultural and socio-economic priorities. Ka Pouhana is delegated the authority to develop the procedures necessary to implement this Policy. Nothing in this delegation is intended to diminish the approval authority of the Board as stated in the State Constitution, State law, or other OHA policies and procedures.

IV. PROCEDURES TO IMPLEMENT THE POLICY

Ka Pouhana shall develop, for approval by the Board, procedures regarding economic development projects which shall be congruent with this Policy. The procedures shall model best practices and must address, at a minimum:

1. Procedures for analyzing and selecting economic development projects, including the requirements for the due diligence analysis and process prior to selecting the projects, the process for requesting approval by the Board, and reporting requirements to the Board.
2. Performance standards for OHA staff and external consultants, managers, or advisors.
3. Permissible/impermissible projects, if any.
4. Criteria for assessing different operating structures for the projects, including the evaluation criteria for selecting structures (such as LLCs and partnerships) so that diverse factors such as risk to OHA, control by OHA, and revenue potential can be weighed to achieve a structure that best fits OHA's needs.

The procedures shall detail how the policy principles will be implemented - what will be done, what resources will be used and what results will be expected.

V. EXCEPTIONS TO THE POLICY

While adherence to this Policy is required in applicable circumstances, changes in the capital markets, programs and other unforeseen circumstances may produce situations that are not covered by the Policy or require modifications or exceptions to achieve Policy goals. In these cases, the Board may consider and approve exceptions to provisions within this Policy. When a request for exception is made to the Board, a memo detailing the rationale for any exception to the Policy must be submitted to the Board.

DEBT MANAGEMENT POLICY

I. PURPOSE

The purpose of this Debt Management Policy ("Policy") is to ensure that all debt issuances undertaken by the Office of Hawaiian Affairs ("OHA") are completed in an efficient manner and in accordance with best practices.

II. POLICY

It is the policy of the Board to adhere to prudent financial management practices and commit to long-term capital and financial planning. This Policy will enable OHA to foster consistency and optimize the use of its limited resources to meet its long-term capital needs.

OHA believes that debt is an equitable means of financing projects and represents an important means of meeting fiscal responsibilities. Adherence to a policy is essential to ensure that OHA maintains a sound debt position and protects the credit quality of its obligations.

OHA intends to use debt efficiently to maximize the delivery of projects within acceptable levels of risk, balancing obtaining the best possible credit ratings, minimizing interest costs, and optimizing future flexibility.

A. Purpose of Debt

OHA shall not incur debt that is more than necessary to fund the OHA project or purpose for which the issuance was approved and any associated financing costs. Debt proceeds should be secured as close to the date of expenditure as possible, unless there are practical reasons to issue sooner, in which cases such reasons should be documented and approved by the Board.

Debt should improve OHA's net worth or help to generate value, including cultural value. Additionally:

1. OHA should not issue debt that it cannot repay or that causes it to incur undue financial risk. OHA should not take on debt without a repayment solution that is consistent with its spending and withdrawal policies and its budget.
2. Debt should be taken against an asset only for a financial gain. Prior to incurring debt, OHA must consider financial alternatives where its assets and portfolio are not totally at risk. OHA should leverage its assets wisely by using debt strategically and prudently.
3. A rigorous due diligence analysis should be conducted prior to issuance of debt, including impact of future budgets, sufficiency of revenues dedicated to debt service or operating costs of capital assets, and impact on ability to provide future services.

B. Financial and Credit Limitations

In addition to legal limitations, financial and credit limitations must also be considered, such as target coverage levels and credit ratings goals, before issuing new debt. In conjunction with this Policy, OHA will undertake a Debt Affordability Study ("Study") every two years to optimize the use of limited debt capacity while meeting public spending goals and to ensure the prudent use of debt and to preserve enough future debt capacity. The Study analyzes the OHA's debt profiles and presents relevant financial metrics to assess debt affordability. Before the issuance of any new

debt, the analysis and recommendations of the most recent Study should be considered. The financial and credit impact of new debt must be evaluated, in order that OHA will not issue debt that it cannot repay or that causes it to incur undue financial risk.

III. SCOPE & AUTHORITY

The debt covered by this Policy is as defined in GASB Statement 88, namely: “[F]or this purpose, debt is defined as a liability that arises from a contractual obligation to pay cash (or other assets that may be used in lieu of cash) in one or more payments to settle an amount that is fixed at the date the contractual obligation is established.” Debt includes, but is not limited to, issuances under Hawai‘i Revised Statutes (“HRS”) sections 10-22 and 10-23.

Nothing in this Policy is intended to supersede the requirements of State or federal law, including Article VII, sections 12 and 13 of the State Constitution, HRS sections 13(2) and 10-36, and HRS chapter 10, part II.

All debt is to be issued pursuant to the provisions, restrictions and limitations of the State Constitution, the HRS, the applicable provisions of the State of Hawai‘i Debt Management Policy, applicable federal law, and other mandatory requirements.

IV. PROCEDURES TO IMPLEMENT THE POLICY

Ka Pouhana shall develop, for review by the Board, procedures regarding debt which shall be congruent with this Policy. The procedures shall model best practices for issuing debt. The procedures must address, at a minimum

1. Procedures for incurring and managing debt, including the requirements for the due diligence analysis and process prior to incurring debt, the process for requesting approval by the Board, and reporting requirements to the Board
2. Performance standards for OHA staff and external consultants, managers, or advisors
3. Permissible/impermissible forms of debt

The procedures shall detail how the policy principles will be implemented - what will be done, what resources will be used and what results will be expected.

V. EXCEPTIONS TO THE POLICY

While adherence to this Policy is required in applicable circumstances, changes in the capital markets, programs and other unforeseen circumstances may produce situations that are not covered by the Policy or require modifications or exceptions to achieve Policy goals. In these cases, the Board may consider and approve exceptions to provisions within this Policy. A memo detailing the rationale for any exception to the Policy must be submitted to the Board.

SPENDING POLICY

I. PURPOSE

The purpose of this policy is to direct changes to the OHA Spending Policy ("Policy") to effect the directives in Hawai'i Revised Statutes ("HRS") sections 10-1(b) and 10-3(3) and (4) and improve its financial management processes.

II. POLICY

It is the policy of the Board that, in order to prioritize and manage its own spending, OHA must differentiate spending for core functions (required by law) from spending for non-core functions (not required by law, but related to OHA's mission of improving and servicing beneficiaries). OHA's Spending Policy revisions are required because the two types of functions require different priorities and funding sources.

Further, OHA should implement cost center reporting to identify the costs incurred at the service and activity level, for better management of financial resources, budgeting and reporting.

III. AUTHORITY

Ka Pouhana is delegated the authority to develop the proposed Spending Policy revisions and the procedures necessary to implement the Spending Policy revisions. Nothing in this delegation is intended to diminish the approval authority of the Board as stated in the State Constitution, State law, or other OHA policies and procedures.

IV. PROCEDURES TO IMPLEMENT THE POLICY

Ka Pouhana shall develop, for approval by the Board, proposals to amend the Spending Policy to accomplish the purposes of this policy. The policies and procedures shall model best practices and must address, at a minimum:

1. Procedures for defining whether programs and projects are core and non-core programs.
2. Procedures for prioritizing programs and projects based on their classification of core and non-core.
3. Procedures for implementing and prioritizing programs and projects based on their classification of core and non-core.
4. Procedures for implementing cost center budgeting and reporting.

The procedures shall detail how the policy principles will be implemented - what will be done, what resources will be used and what results will be expected.

INVESTMENT AND REAL ESTATE POLICY

I. PURPOSE

The purposes of this policy are to (1) ensure that real estate assets and equity interests of the Office of Hawaiian Affairs (“OHA”) are managed differently from its financial security assets, (2) establish a process for setting an appropriate and achievable blended return goal for financial security assets, real estate assets, and other assets, (3) establish a real estate advisory committee to provide real estate expertise, and (4) direct Ka Pouhana to propose robust policies and procedures to manage the real estate and equity interest portfolio with the assistance of the real estate advisory committee and other experts. The rationale for each purpose is summarized below.

II. POLICY

It is the policy of the Board that OHA’s investment policy be modified to include the following attributes:

A. Separate management of the real estate assets and equity interests from the financial security assets

The Board’s first directive is to separate the management of real property and equity interest assets of the Native Hawaiian Trust Fund (“NHTF”) from the financial securities assets in the NHTF. Currently, OHA has only one investment policy that covers all assets, while best practices promote individual consideration of asset classes to manage investment risk. The management of real estate assets is governed by the Hawai‘i Direct Investment Policy (“HDIP”), which is a policy that resides within the Native Hawaiian Trust Fund Investment Policy Statement (“NHTFIPS”). However, as noted by the State Auditor, the HDIP is not a robust real estate policy. It is also out-of-date, as it refers to the prospective acquisition of OHA headquarters, which has already occurred with the acquisition of Nā Lama Kukui. The transfer of all real property and equity interest assets into a discrete portfolio with the appropriate policies will result in more effective and efficient management of these assets. The separation of real estate (including equity interests) from securities, is consistent with best practices and the Kamehameha Schools’ structure for asset investment management, which separates real estate from other financial assets.

B. Maintain an appropriate and achievable blended return goal for financial security assets, real estate assets, and other assets

The Board’s second directive is to ensure the OHA return benchmarks are appropriate, are regularly reviewed, and are realistic. This purpose addresses the current deficiency that there is no requirement to regularly update return targets, and that targets are set for assets that have little potential to generate such returns, like legacy and programmatic lands.

C. Consult with an expert real estate advisory committee

The Board’s third directive is to establish a real estate advisory committee to provide OHA expertise in real estate matters. The advantages of adding a real estate committee are to provide OHA with expert real estate guidance, assist the BOT in meeting its fiduciary duties to

beneficiaries, and improve the quality of analyses when making decisions. The establishment of a separate committee acknowledges that real estate and financial securities assets are not alike and need to be managed using different expertise.

D. Develop a robust real estate plan

The State Auditor has noted that OHA requires a robust real estate plan. The fourth directive is for OHA to require the development of a real estate plan, including guidelines to manage OHA's real property portfolio based on best practices, which consider value, purpose, and utilization.

It is contemplated that revisions to the NHTFIPS and the HDIP should be developed as part of the ongoing review of these policies by the Administration and its attorneys and investment advisors.

III. SCOPE & AUTHORITY

Ka Pouhana is delegated the authority to develop the procedures necessary to implement this Policy. Nothing in this delegation is intended to diminish the approval authority of the Board as stated in the State Constitution, State law, or other OHA policies and procedures.

IV. DRAFT POLICIES AND PROCEDURES TO IMPLEMENT THE POLICIES

- A. Ka Pouhana, with the assistance of OHA's attorneys and investment advisors, shall develop revisions to the NHTFIPS for consideration by the Board to establish: (1) an index-based blended expected return and (2) a routine procedure to set up to revisit and update the short-term and long-term return targets and (3) a plan to separate Legacy and Programmatic Lands from Commercial Lands.
- B. Ka Pouhana, with the assistance of OHA's attorneys and investment advisors, shall develop for consideration by the Board: (1) other changes in the NHTFIPS or procedures, if any are required by this action item, and (2) policies and procedures to manage the real estate and equity assets.
- C. The policies and procedures for management of OHA's real estate investments shall be congruent with OHA's Real Estate Vision, Mission and Strategy ("VM&S"), which state that OHA's Board and staff shall model best practices in the stewardship of OHA's real estate involvements.
- D. Ka Pouhana shall develop an updated VM&S for the Board's consideration, which should be consistent with OHA's mission, values, objectives, and resources, and a HDIP Strategic Plan to guide the implementation of the HDIP's real estate strategy regarding the acquisition, development, management, and disposition of OHA's properties.
- E. Ka Pouhana shall develop a real estate implementation plan for BOT approval. Together, the policy and the plan should describe a robust real estate management program. The policy and plan must address, at a minimum:
 - 1. Debt and spending policies.
 - 2. Investment objectives and priorities.
 - 3. Economic and cultural objectives, including methods for balancing these objectives.
 - 4. Performance standards for OHA staff and external consultants, managers, or advisors.

5. Asset allocation guidelines and portfolio composition targets, if appropriate.
 6. Liquidity pool and capital budget.
 7. Real estate standards and valuation criteria.
 8. Permissible/impermissible forms of ownership.
 9. Permissible investments.
 10. Prohibited investments.
 11. Return expectations and leverage guidelines, if any.
 12. Portfolio reporting requirements to the BOT.
 13. Approval process and standards for implementing real estate involvements.
 14. Acquisition standards.
 15. Confidentiality.
 16. Details on how the policy principles will be implemented - what will be done, what resources will be used and what results are expected.
- F. Following BOT approval of the strategic and implementation plan described in D. and E., the Ka Pouhana and OHA Land Assets Paia shall create a Procedures Manual that further defines the processes and practices utilized by the OHA Staff and Advisors to manage the HDIP consistent with the policy and program.
- G. Ka Pouhana shall develop a plan, structure and procedures for an independent HDIP Investment Advisory Committee ("IAC"), which shall review the HDIP Strategic Plan and the business plans for each property, and develop recommendations to the BOT. The Ka Pouhana shall also propose to the Board the names of members who might serve on the HDIP IAC, for Board consideration. The proposed HDIP IAC members should (a) share the values of and are committed to OHA's strategic objectives; (b) understand the OHA Real Estate Vision, Mission and Strategy and agree with the Strategy and associated policies; (c) can participate confidentially and impartially in discussions independently of their active real estate involvements; and (d) have experience in real estate management, investing, and capital budgeting.
- H. Ka Pouhana, with the assistance of OHA's attorneys and investment advisors, shall develop policies for OHA's equity investments in Hawai'i businesses ("mission-related investments" or "MRI") for consideration by the BOT, and procedures to implement the equity investment policy. The policies and procedures should address, at a minimum:
- i. Purpose/objectives of the investments. The purposes and objectives should be consistent with the following OHA goals: to further OHA's strategic plan by making investments with the potential to create sustainable economic activity for Native Hawaiians and, secondarily, to produce a return that meets or exceeds the designated benchmark return while maintaining appropriate risk parameters.
 - ii. The scope of permissible investments, including geographic and other limitations.
 - iii. Qualifications for MRI, including the type of businesses.
 - iv. Limitations on the amounts available for investment.
 - v. Standards.

Office of Hawaiian Affairs
560 N Nimitz Hwy. Ste. 200
Honolulu, HI 96817

Action Item Vote

**COMMITTEE ON
RESOURCE MANAGEMENT (RM)**

**DATE: May 22, 2019
Time of Motion: Passed at 11:01am**

AGENDA ITEM: New Business

A. RM # 19-07: Action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies

MOTIONS:

- A. Approve the Economic Development Policy, noting that Administration will return with the implementation procedures for Board action;**
- B. Approve the Debt Management Policy, , noting that Administration will return with the implementation procedures for Board action;**
- C. Acknowledge the Spending Policy language and the existing Native Hawaiian Trust Fund (NHTF) Spending policy, as Amended, noting Administration will return with consolidated policy document for Board action; and**
- D. Acknowledge the Investment and Real Estate Policy language and the existing NHTF Investment and Real Estate Vision, Mission, and Strategy polciies, noting Administration will return with consolidated policy document(s) for Board action.**

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						X
KALEI	AKAKA			X			
KELI'I	AKINA			X			
BRENDON KALEIAINA	LEE						X
HULU	LINDSEY			X			
ROBERT	LINDSEY, JR.			X			
COLETTE	MACHADO			X			
JOHN	WAIHEE			X			
CHAIR DAN	AHUNA			X			

TOTAL VOTE COUNT			7			2
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MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

DISCUSSION:

Office of Hawaiian Affairs
Board of Trustee Meeting
June 6, 2019
10:00 am

V. New Business

B. Action Item BOT #19-09: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. *Pursuant to HRS § 92-2.5(b)(1)(A).**

** - Action Item was not received at the time of folder distribution. Once it is received, it will be distributed.*

OFFICE OF HAWAIIAN AFFAIRS
Action Item

BOARD OF TRUSTEES
June 6, 2019

BOT #19-09

Action Item Title: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Prepared By: Carol A. Ho'omanawanui 06/05/2019
Carol Ho'omanawanui Date
Ke 'Aho Kele, Chief of Staff

Reviewed By: Robert G. Klein 06/05/2019
FOR Robert G. Klein Date
Pōhaku Kihī Nui, Board Counsel

Reviewed By: Colette Y. Machado 06/05/2019
Colette Y. Machado Date
Ke Kauhuhu, Board of Trustees Chair

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I. ACTION ITEM

Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

II. ISSUE

Whether or not the OHA Board of Trustees should approve the formation of a Permitted Interaction Group, consistent with Hawai'i Revised Statutes §92-2.5(b)(1)(A), to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

III. DISCUSSION

A. Timeline of Complaints

A complaint against an OHA Trustee was transmitted to the Board of Trustees (BOT) Chair on April 17, 2019 alleging violations of policies covered under the Trustee Code of Conduct when public statements and comments were made by the OHA Trustee:

1. Duty of Care and Loyalty to OHA, Section 1030 of the OHA BOT Executive Policy Manual (February 2012); and
2. Duty of Loyalty and Duty of Obedience and Support for Board Decisions, Subpart 1A, Section A, Subsection 5 of the OHA BOT Code of Conduct and Sanctions for Violations of the Code of Conduct.

This complaint was distributed to the Trustees via a confidential memo from the Board Counsel dated April 30, 2019.

Another complaint against the same OHA Trustee identified in the first complaint was transmitted to the BOT Chair on May 8, 2019. This complaint alleged violations of policies covered under the Trustee Code of Conduct, similar to the first complaint, when public statements were made by the OHA Trustee:

1. Duties of Care, Obedience, and Loyalty as defined in the OHA BOT Executive Policy Manual (February 2012) and Subpart 1A, Section A of the OHA BOT Code of Conduct and Sanctions for Violations of the Code of Conduct.

The second complaint was distributed to the Trustees via a confidential memo from the Board Counsel dated May 14, 2019.

B. Applicable Law in Hawai'i Revised Statutes, Permitted Interaction Group

In accordance with HRS §92-2.5(b)(1)(A), this action item seeks the approval of the Board to create a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Hawai'i Revised Statutes (HRS), Chapter 92, Public Agency Meetings and Records, §92-2.5(b)(1) allows for two or more board members (Permitted Interaction Group), but less than the number of members which would constitute a quorum of the board, to investigate a matter relating to official business of the board:

(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 decisionmaking 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.

C. Proposed Permitted Interaction Group (PIG)

The scope/purview, memberships, and term/duration of the Permitted Interaction Group are defined below.

Permitted Interaction Group Scope /Purview:

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

Permitted Interaction Group Membership:

The membership of the PIG is as follows:

1. Trustee Brendon Kalei‘āina Lee;
2. Trustee Carmen Hulu Lindsey; and
3. Trustee John Waihe‘e IV

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

Permitted Interaction Group Term/Duration:

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

IV. TIMEFRAME

Immediate action is recommended.

V. FUNDING SOURCE

No additional funding is needed to form a new Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions.

VI. ALTERNATIVES

- A. Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions.
- B. Do not approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions.
- C. Take no action

VII. RECOMMENDATION

Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board’s decisions.

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey; and
3. Trustee John Waihe'e IV

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

VIII. ATTACHMENT

None

**Office of Hawaiian Affairs
Board of Trustee Meeting
June 6, 2019
10:00 am**

VI. Executive Session[‡]

- A. Consultation with attorney Kurt W. Klein, Esq. and Kumabe HR LLC re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding the Board's obligations and responsibilities to conduct its performance appraisal of OHA's CEO in accordance with Section III of Contract 3147. *Pursuant to HRS §92-5(a)(2),(4).***
- B. Consultation with attorney Kurt W. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, and liabilities concerning complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. *Pursuant to HRS §92-5(a)(2),(4).***
- C. Approval of Minutes**
 - 1. April 11, 2019**

[‡]- *Any material that is relevant to this section will be distributed at the table during Executive Session.*