Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai’i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

AGENDA

I. Call to Order

II. Public Testimony on Items Listed on the Agenda*

   (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline **will not** be accepted)

III. Approval of Minutes
    A. March 23, 2021
    B. March 30, 2021

IV. Unfinished Business
    None

V. New Business
    A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program
    B. ACTION ITEM RM #21-05: Amendment to the Executive Policy Manual Section, Budget Management Policy
    C. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

VI. Executive Session‡
    A. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes
       -- Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4).

VII. Announcements

VIII. 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. Meeting materials will be available to the public 72-hours prior to the meeting and posted to OHA’s website at: www.oha.org/rm.

†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.

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

Public Testimony must be limited to matters listed on the meeting agenda.

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

Persons wishing to provide written testimony on items listed on the agenda should submit testimony via email to BOTmeetings@oha.org at least 24 hours prior to the scheduled meeting. Any testimony received after this deadline will be considered ‘late’ testimony and distributed to the Board members after the scheduled meeting.

Due to COVID-19, please do not fax, mail, or hand-deliver written testimony.

Persons wishing to provide oral testimony online during the virtual meeting must register here first:
https://zoom.us/webinar/register/WN_uXM7RbuZRRyew1vnFaiBrg

The registration to provide oral testimony online will remain open until the Public Testimony section on the agenda has concluded. You will need to register prior to this time if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting and further instructions on how to provide oral testimony during the virtual meeting.

To provide oral testimony online, you will need:
(1) a computer or mobile device to connect to the virtual meeting;
(2) internet access; and
(3) a microphone to provide oral testimony.

Oral testimony online will be limited to five (5) minutes.

Oral testimony by telephone / landline will not be accepted at this time.

Once your oral testimony is completed, please disconnect from the meeting. If you do not log-off on your own, support staff will remove you from the Zoom meeting.

You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.
MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)
DATE: Tuesday, April 20, 2021
TIME: 1:30 p.m.
PLACE: Virtual Meeting
Viewable at www.oha.org/livestream OR
Listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

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II. Public Testimony on Items Listed on the Agenda*
   (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline will not be accepted)

III. Approval of Minutes
   A. March 23, 2021
   B. March 30, 2021

IV. Unfinished Business
   None

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   A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program
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      Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4).

VII. Announcements

VIII. Adjournment
I. CALL TO ORDER

Chair Waihe‘e calls the Committee on Resource Management meeting for Tuesday, March 23, 2021 to order at 1:30 p.m.

Chair Waihe‘e notes for the record that PRESENT are:

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<th>MEMBERS</th>
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At the Call to Order, EIGHT (8) Trustees are PRESENT, thereby constituting a quorum.

EXCUSED from the RM Meeting are:

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<td>TRUSTEE LEINA‘ALÀ AHU ISA</td>
<td>MEMO – REQUESTING TO BE EXCUSED</td>
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II. PUBLIC TESTIMONY on Items Listed on the Agenda*

Germaine Meyers: Mahalo. Aloha Chair Waihe’e, Vice Chair Alapa, Staff and Lāhui.

My name is Germaine Meyers; I am an OHA beneficiary for beneficiary advocacy and empowerment. I'm also a Nānākuli Hawaiian Homestead lessee. Today I'd like to provide public testimony regarding agenda item V. B, regarding the draft audit report.

Trustees, there is a letter from the CEO that is unaudited beginning on page 60. However, on page 70, there's the auditor's responsibilities listed and in it.

It states - **Our responsibility is to express opinions on these financial statements based on our audit. We did not audit the financial statements of Hi’ilei Aloha LLC, which is both a major fund and 99.9 percent, 100 percent and 98.3 percent, respectively, of the assets, net position, and revenues of the business-type activities. Those statements were audited by another auditor, whose report has been furnished to us, and our opinion insofar as it relates to the amounts included for Hi’ilei Aloha LLC is based solely on the report of the other auditor.**

So, my concern Trustees is that I have stated before of my concerns about the LLC - is that OHA has taken the assets out of the hands of the beneficiaries. What is really, important about accuracy and audits is that we're talking about an asset of OHA.

The LLC recently assigned new managers. I understand that OHA had decided to take it away from the managers being the CEO, CFO and COO of OHA. Those three positions are mandated by the state to follow conflict of interest, disclosures, procurement laws, etc. or procurement rules regarding state employees. Of course, I have stated in the past that the operating agreement did not honor these specific things that are required by state employees. I didn't see that the audit report brings these specific things to clarity.

What I'm concerned about is that when you put it under other managers; the operating agreement was not revised to ensure that there will not be embezzlement, that there will not be nepotism or conflicts of interest. You allowed the same operating agreement to continue and so I'm concerned - even though I had done a lot of research regarding these three specific individuals.

I'm concerned that nevertheless, they are public; they are not mandated by the State as far as employees. OHA has put themselves in a position where you've created a nonprofit organization to compete for Grant Monies with other nonprofit organizations that come to OHA, but they get an exclusive favorable lead when it comes to these grant monies.

Speaking about Grant Monies; in this audit report, Chapter 10 specifically states that there are directives regarding how Grant Monies are to be handled. So, I'm hoping that the trustees are looking into the fact that recently for example, CNHA didn't provide grant reports for the money that they received. Although monies have been redirected and reallocated away from CNHA, I'm concerned again - what audit reports are supposed to highlight is how monies were spent, etc.

I notice that my time is coming down. I just wanted a way to express to you trustees what this audit report is showing me and what it doesn't show me is some of the things that I mentioned to you about conflict of interest and following the law and protecting the assets of OHA. As far as the LLCs and the operating agreement.

I hope you agree with me that this needs to be further researched and looked into, and that we need to take the audit reports more seriously. Ke Akua Pū. Mahalo. Thank you, trustees.
III. APPROVAL OF MINUTES

A. February 16, 2021

Trustee Ahuna moves to approve the minutes of February 16, 2021.

Trustee Akaka seconds the motion.

Chair Waihe‘e asks if there is any discussion. There is none.

Chair Waihe‘e calls for a ROLL CALL VOTE.

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1:38 p.m.

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

Chair Waihe‘e notes for the record that all members present vote ‘AE (YES) and the MOTION CARRIES.

IV. UNFINISHED BUSINESS

None
V. NEW BUSINESS

A. ACTION ITEM RM #21-02: Approval to Close the Native Hawaiian Rights Fund
   (Special Fund S-331-z1)

Chair Waihe‘e turns it over to Ka Pouhana Sylvia Hussey.

**Pouhana Hussey:** Thank you Chair. Trustees the action item that's before you to close the fund; as the purposes of the fund have been inactive, so the purposes of the fund have not been realized, and so we want a formal approval by the trustees. The action item - although it's coded special funds and was picked up by recent legislation; these are specific trust funds that have been designated for a certain purpose.

They are not special funds in the sense of under the state's control. These are trust funds coded as special funds and because of the inactivity in the past several years, Administration is asking for formal approval to close this particular fund as the needs that originally created the fund are being addressed through existing contracts and services.

**Trustee Keola Lindsey:** When I was reviewing the action item, that was one thing I noted as the title of the fund implies - Native Hawaiian Rights are obviously significant to our beneficiaries. The policy details the purposes of the fund and it's footnoted in the action item, but I heard our CEO mention that support for those issues is coming from other areas and that's why this fund has not been used recently and we're taking this action. We're still applying the necessary resources to burials, water rights, traditional and customary practices, correct? Just not through this fund?

**Pouhana Hussey:** Thank you trustee for that clarification. That's correct; closing the fund doesn't mean we're closing the advocacy around the special rights. Contracts such as the Native Hawaiian Legal Corporation contract that cover native rights and as part of the legal provisos provide those continuing advocacy resources to that.

**Trustee Lee:** I had a similar concern that Trustee Keola Lindsey had and thank you for addressing that. I have one other question.

When those contracts come up –

- **Do we have policy in place to ensure that those types of services are going to be contracted out?**
- **or**
- **Do we solely rely on the fact that those issues meet up with our strategic plan?**

My concern is our strategic plan is 15 years. These issues are going to go on beyond 15 years, so without this line item in our budget I just want to ensure that 20 years down the line these things continue to get funded for our beneficiaries.

**Pouhana Hussey:** So, the mechanism is definitely in the contracting - in the legal proviso of the general funds, as an example; while other legal provisos are grant funded through Chapter 10-17.

With this particular proviso - we go through the contracting process. So, it's open to all when we put out the contracts and the RFPs for the legal services and then those who respond to it - the process.

The overall advocacy points about that – that is absolutely in the strategic plan and so we will always be advocating for those Traditional and Customary Rights, Water, and Iwi Kupuna. This is just the current mechanism. That doesn't preclude us from having other mechanisms to be able to advocate for those rights.
Chair Waihe‘e: Are there any other questions, members?

There are none.

Trustee Hulu Lindsey moves to approve the closure of the Native Hawaiian Rights Fund (Special Fund S-331-z1) account, including completing the necessary documentation with the Department of Accounting and General Services.

Trustee Keola Lindsey seconds the motion.

Chair Waihe‘e asks if there is any discussion. There is none.

Chair Waihe‘e calls for a ROLL CALL VOTE.

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

Chair Waihe‘e notes for the record that all members present vote ‘AE (YES) and the MOTION CARRIES.

V. NEW BUSINESS


Chair Waihe‘e turns it over to Ka Pouhana Sylvia Hussey.

Pouhana Hussey: Thank you Chair Waihee. Trustees just like the memo that was provided as part of the packet - we wanted to set context. Our new CFO who joined us back in October, this is her first audit she is going through and of course, midstream our beloved Controller Gloria’s transition. This is a regular audit if you will. As a reminder this is the audit that for the past 8 or 9 years, OHA has had clean opinions; meaning the financials are fairly stated.
There was a loss of audio; Ka Pouhana Hussey asks the Auditors to begin while she addresses the issues.

Audit Principal Dwayne Takeno:  Good afternoon Trustees. Thank you very much for having us here today. We're here to present the results of our recently completed audit; a brief overview of what we're going to be covering today.

We're just going to do a few introductions, go over some very high-level financial statement information, then the results of our audit, and lastly continue-on with any questions that you may have.

So, my name is Dwayne Takeno, I'm the Audit Principal on this engagement. I've been working at N&K for about six years now. I have been the audit principal on this engagement since we took over from the predecessor auditor in 2017. I'll have Charles and Lehua introduce themselves.

Audit Senior Manager Charles Goodin:  Good afternoon. I'm Charles Goodin and like Dwayne I've been working on this audit since 2017. I've been with N&K for over 10 years now and I really appreciate all the help that we've gotten throughout the course of this audit and all the audits that we've done previously.

Audit Senior Associate Lehua Gould:  Aloha everyone, my name is Lehua Gould. I have been with N&K for a little under three years. I'm an Audit Senior Associate and this is my second year working on OHA under both Charles and Dwayne.

Principal Takeno:  Charles is going to continue with the overview of the financial statements.

Senior Manager Goodin:  Thank you very much again; I am going to be covering the condensed Statement of Net Position and the condensed Statement of Activities. All of the amounts that are provided here are in thousands. As far as assets go Capital Assets make up 246 and 247 million in both 2020 and 2019, the slight difference from year to year is a result of current year editions of approximately 860,000 and current year depreciation expense of about 1.4 million. Other assets are 432,000,000 in 2020 and 443,000,000 in 2019.

The majority of other assets is comprised of the investments held by OHA, investments for 2020 were approximately 394,000,000 versus 406,000,000 in 2019. There is about an 11.7 million dollar decrease in the investment portfolio held by OHA during the year, this is primarily a result of the market downturn in March of 2020, resulting from COVID.
Senior Manager Goodin: Since then, the investment portfolio has definitely picked back up, but because our reporting period is as of June 30, 2020, the significant downturn during March negatively impacted the portfolio. Deferred outflows of resources include deferred outflows related to both pension and OPEB (Other Post-Employment Benefits). These amounts in 2020, where 7.4 million versus 8.2 million in 2019. Other liabilities is 6.9 million in 2020 versus 7.0 million in 2019. Long-term liabilities is 93,000,000 in both years, there is about a $440,000 difference from year to year.

Long-term liabilities are summarized in note L to the financial statements where we detailed the compensated absences, capital lease obligations, notes payable and lines of credit. Those long-term liabilities make up about 25,000,000 as of June 30, 2020. Also included in long term liabilities is the net pension liability of 34.4 million and the net OPEB liability of 33.6 million; the net pension and OPEB liability are further detailed in note M to the financial statements. Deferred inflows of resources are also related to the pension and OPEB and then total net position was 586,000,000 as of June 30, 2020 versus 597,000,000 as of June 30, 2019.

So, the decrease of net position of $10,000,000.00 is primarily a result of the poor performance of the investments, primarily because of COVID during March of 2020.

Does anyone have any questions related to the condensed statement of net position?

There are zero questions.

Senior Manager Goodin: As far as the condensed Statement of Activities, program revenues was about 15.7 million in 2020 versus 15.78 million in 2019. So very flat, only a reduction of about 20,000. General revenues - 20.7 million in 2020 versus 43.7 million in 2019. Included in general revenues is all of the investment related income, including interest and dividends realized and unrealized gains. Prior year, it included investment related income of nearly 25 million while this year there was only 1.4 million in investment related income. That's why the general revenues had such a significant decrease during 2020. Total revenue 36.4 million versus 59.5 million. Division expenses is 40 million in 2020 versus 41.2 million in 2019. Depreciation is 1 million versus 1.9 million in 2019 and then expenses related to Hi’ilei and Ho’okele are 6.5 million and $276,000 versus 6.2 million and $478,000. The expenses really didn't change much during the year, there was a slight reduction of approximately $2,000,000 in expenses during 2020. The change in that position is really, significantly impacted by the investments held by OHA.

Overall, there was a change in that position of negative 10.7 million in 2020 versus a positive 10.5 million in 2019; so, the overall change was approximately 21.2 million from year to year.

Are there any questions on this? If not, Dwayne will continue-on with our auditor’s results.
Principal Takeno: The next few slides is a summary of our auditor’s results and basically in connection with our audit we issue 3 reports; one on the Financial Statements, one on Internal Controls over Financial Reporting and one on Compliance.

The first report that we issue is in conjunction with the financial statements and management's responsibility for those financial statements is to prepare and fairly present these financial statements in accordance with U.S. gap. Our responsibility is to express an opinion on those financial statements.

As Sylvia mentioned, we have again this year, an unmodified opinion or unqualified opinion, so the financial statements are prepared in all material respects in accordance with U.S. gap. The second report that we issue is the report on internal control over financial reporting and that's in the smaller packet that is provided to you. The one that is titled Reported Independent Certified Public Accountants in accordance with government auditing standards and the uniform guidance.

In there we did note one significant deficiency as finding 2020-001 and we'll talk about that towards the end of this presentation. There were no material weaknesses noted in our audit.

The next slide talks about the report on compliance with Federal Awards; there were no material weaknesses or significant deficiencies noted. Our opinion on compliance was unmodified again and so this is another year that OHA has complied with all material respects with its major programs and there were no other findings to be reported.
**Principal Takeno:** The major program that we audit is CFDA number 93.612; The Native Hawaiian Revolving Loan Fund, and because that fund is such a big portion of the Federal Funding that OHA receives - we audit that every year. If you look at the finding, 2020-001 in that second packet on page 19 there is a description of the finding and then following that is management's Corrective Action Plan.

When we were auditing the fiscal year ended 2020, it was noticed that an adjusting journal entry that was recorded as of the prior year was not reflected in last year's audited financial statements. Because of this error, we needed to adjust the beginning balances of the 2020 Financial Statements, so Management has developed a Corrective Action Plan in response to the finding and that's on page 21, and 22. With that I guess I'll open it up to any questions that you guys may have on any other reports or the audit finding itself.

**Chair Waihe’e:** Are there any questions members?

**Trustee Ahuna:** So, when we go into like ‘corrective actions’ is it just a process that we go through? A whole new process or we just make the correction?

**Pouhana Hussey:** So corrective action means exactly that. We correct whatever error or identify and more importantly, as management what you want to do is look for the root cause. What caused that error to occur and then make sure that we don’t do it again in the case for this, that’s exactly what it was.

Our procedures found the error, our procedures corrected the error on the financial statements and in the process of transferring and reconciling the accounts we didn’t transfer the adjustment in the information that we gave the auditors. So, the bottom line is it's not going to happen again.

Management is responsible for ensuring that the calculations are correct, that the reconciliations are done correctly and so that's essentially what our letter says. We take responsibility for that and we have found the underlying condition. That's just being more careful when we book adjustments and when we transfer the information to auditors as well as reconcile our beginning and ending trial balances.

**Trustee Ahuna:** Thank you Sylvia for saying that - I just wanted to get that out on record. As a teacher, corrective action is a 3-year process for us (teachers). I was hoping that it wasn't the case here. Thank you so much for explaining that. Thank you.

**CFO Hinck:** I just want to clarify and to put it in perspective also - that the adjustment was $63,000.00.

**Trustee Ahuna:** Thank you guys, I don't want any misinformation to get out there. Thank you so much.
Pouhana Hussey: I just would like to let the Trustees know that now that this presentation has been made to the RM Committee - at the next RM Committee meeting we will bring an Action Item for the committee to move on.

Chair Waihe‘e: Ok.

Senior Manager Goodin: Chair, I would just like to acknowledge the OHA Staff and Management for all their help in completing their audit. This year was a little bit of a different year just because of COVID and with management's help we were still able to complete the audit before the deadline, which is the end of this month. So, thank you very much Sylvia, Ramona, and Ryan.

Chair Waihe‘e: Thank you. That's a great compliment and again thank YOU also for a good job.

Trustee Lee: I too, would like to commend Sylvia and her team and Ramona coming on - to finish up the audit. Although the Office of Hawaiian Affairs goes through this audit every year - notwithstanding this small discrepancy, which our Management found. Which is a very important thing to note, that we found it.

The fact that we go through the reporting of this audit and there's no significant questions is a testament to our Management and the way that they keep our books because we, as the Trustees who have the fiduciary responsibility to oversee this Trust see that our audit once again has come back clean.

There isn't a lot of discrepancy for us to sit here and discuss and hash over so thank you to our team; our CEO, our new CFO and everybody else in Administration. Especially as the Auditor’s team stated, to be able to get this work done with COVID, they can't come in like they normally do to our offices and sit there and have the documents provided to them. I'm sure that was a great challenge to them, so thank you everybody for your hard work.

Chair Waihe‘e: Thank you. OK, are there any other questions or discussion Members?

There are no further questions.

Principal Takeno: I just wanted to say thank you again and if it's OK with you Chair - we're going to log off.

Chair Waihe‘e: Yes, Thank you Dwayne, Charles, and Lehua.

VI. COMMUNITY CONCERNS**

Germaine Meyers: Aloha Chair Waihee, Vice Chair Alapa, Staff members and Lāhui. My name is Germaine Meyers; I am an OHA beneficiary for beneficiary advocacy and empowerment. I'm also a Nānākuli Hawaiian Homestead lessee. I would like to bring to you my community concerns. I'm very concerned that the Legislators have before them now in the House HCR 129 / HR 111. The convening of a workshop group to discuss the future development plans in Kaka‘ako Makai.

My concern is that this resolution is the result of two towers being requested to be built by OHA in Kaka‘ako. What I'm concerned about is there seems to be injustice when it relates to indigent and indigenous people of this land. The indigent and indigenous Native Hawaiians. My concern is that when it comes to our land, OHA’s land, DHHL’s land - the State continues to do statement-dated projects on our land.
For example, at the neighborhood board we are now battling with solar farms or renewable energy being built in Nānākuli, not for Native Hawaiians, but for other developments that are nearby. We, also on the West Oahu, must deal with the homeless; we must deal with landfill and wastewater.

OHA knows that we have our land in Kaka’ako, and OHA has been there to help the homeless population.

In the past, the city has come to OHA and asked to use our parcel of land in Kaka’ako for toilet water and wastewater. We have in West Oahu, Waimānalo Gulch; it’s the current landfill, and the only landfill for trash. It is in my backyard and recently we’ve been discussing the fact that the city out of all the properties that it researched to build another landfill to replace Waimānalo Gulch - guess where it’s ending up?

The proposal was - it should go to a land in the back of Waianae Valley. So, my concern is that we continue to have all of these injustices when it comes to Native Hawaiian lands; OHA lands, DHHL lands.

We’re asked; please assist us with trash, assist us with toilet water, assist us with the homeless, assist us with our renewable energy projects. But when we ask for two towers to be built so that Native Hawaiians can come participate, and live and thrive in downtown Honolulu - the doors are shut upon us.

Now they want to convene a workshop to discuss the future development on our lands. What I’m concerned about is and that I will share with you - I will email to all of you a list of the tallest buildings in Honolulu. It says here in this report that Honolulu is the capital of Hawai‘i - is a US city that currently contains over 470 high rises.

In 2011, it ranked 4th among US cities in the number of high-rise buildings after New York City, Chicago, and Los Angeles. Yes, our little island in the middle of the ocean out of all the cities across the United States, we ranked number 4.

Then it states in 2017, it ranked 6th; we dropped 2 spots having fallen behind Houston and Washington D.C. This little parcel of land in the middle of the ocean - downtown Honolulu, which includes Kaka’ako. The first high-rise exceeded 350 feet; the Ala Moana Hotel built in 1970.

But as OHA has requested for the Legislature to allow us to go above 400 feet. I want to share with you when we started to have 400 feet high rises. That would be in 1990, 31 years ago, two residential towers were created in Kaka’ako. It’s called One Waterfront Mauka Tower and One Waterfront Makai Tower, they’re each 400 feet and they each have 45 floors.

The highest in that area is 47 floors, which is the Ko‘olani that was built in 2006, just a mere 15 years ago. 15 years later we are asking to assist us to have two towers in Kaka’ako and the response to that is to convene a workshop group to discuss the future developments of Kaka’ako.

I think Kaka’ako has been already overly developed and our two will not make a deep impact. I think it’s all about putting the indigenous and indigent people out in the country with landfills and using our lands for wastewater and toilet water - that will service these towers. Trustees, I ask you please stand for us and organize us in a way that we can have these things in Honolulu. I see that my time has ended, Ke Akua Pū. Mahalo.

Chair Waihe’e: Thank you Germaine.
VII. ANNOUNCEMENTS

Chair Waihe‘e: We have a Beneficiary Advocacy and Empowerment Meeting tomorrow and we will be discussing all these various bills that affect us in greater detail at that meeting.

Chair Waihe‘e: Are there any other announcements?

There are zero announcements.

VIII. ADJOURNMENT

Trustee Hulu Lindsey moves to adjourn the RM meeting.

Trustee Akaka seconds the motion.

Chair Waihe‘e asks if there is any discussion. There is none.

Chair Waihe‘e asks if any members vote NO or ABSTAIN. There are no dissenting votes.

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Chair Waihe‘e adjourns the Committee on Resource Management (RM) meeting at 2:12 p.m.
Respectfully submitted,

____________________________
Melissa Wennihan
Trustee Aide
Committee on Resource Management

As approved by the Committee on Resource Management (RM) on April 20, 2021.

____________________________
Trustee John Waihe‘e, IV
Chair
Committee on Resource Management
MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)  

DATE: Tuesday, April 20, 2021  
TIME: 1:30 p.m.  
PLACE: Virtual Meeting  
Viewable at www.oha.org/livestream OR  
Listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai’i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.  
The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

AGENDA

I. Call to Order
II. Public Testimony on Items Listed on the Agenda*  
(Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline will not be accepted)

III. Approval of Minutes  
A. March 23, 2021  
B. March 30, 2021

IV. Unfinished Business  
None

V. New Business  
A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program  
B. ACTION ITEM RM #21-05: Amendment to the Executive Policy Manual Section, Budget Management Policy  
C. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

VI. Executive Session‡  
A. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes  
Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4).

VII. Announcements

VIII. Adjournment
STATE OF HAWAI‘I
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON RESOURCE MANAGEMENT
MINUTES
March 30, 2021   2:00 p.m.

ATTENDANCE:
Chairperson John Waihe‘e, IV
Trustee Leina’ala Ahu Isa
Trustee Kaleihikina Akaka
Trustee Dan Ahuna
Trustee Keli‘i Akina
Trustee Brendon Kalei‘aina Lee
Trustee C. Hulu Lindsey
Trustee Keola Lindsey

ABSENT:
Vice-Chairperson Luana Alapa

BOT STAFF:
Crayn Akina
Melissa Wennihan

ADMINISTRATION STAFF:
Sylvia Hussey, Administrator / Ka Pouhana / CEO
Casey Brown, Ka Pou Nui / COO
Erin Nakama, IT
Everett Ohta, Corporation Counsel
Kevin Chak, IT
Raina Gushiken, Corporation Counsel
Ramona Hinck, CFO
Ryan H. Lee, Interim Investment Manager

GUESTS:
Craig Chaikin, Segal Marco Advisors

I. CALL TO ORDER
Chair Waihe‘e calls the Committee on Resource Management meeting for Tuesday, March 30, 2021 to order at 2:10 p.m.

Chair Waihe‘e notes for the record that PRESENT are:

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

ABSENT from the RM Meeting are:

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DRAFT
For Approval on 04/20/2021
II. PUBLIC TESTIMONY on Items Listed on the Agenda*  
None

III. APPROVAL OF MINUTES  
None

IV. UNFINISHED BUSINESS  
None

V. NEW BUSINESS  


Chair Waihe‘e turns it over to Ka Pouhana Sylvia Hussey.

Pouhana Hussey: Thank you, Chair Waihe‘e. Trustees - this is the final financials that the RM committee reviewed in a workshop last week and Administration is presenting it as an Action Item. It is a different process; but Administration feels bringing the Audited Financials to the Board in an Action Item is an appropriate process to do. If there are any questions, we’re here to answer them.

Chair Waihe‘e: OK, I'll ask for a motion, before we discuss it. If I may - can I get a motion -

To approve the:
• OHA Financial Statements with Independent Auditor’s Report for the Year Ended June 30, 2020 at Attachment A; and
Trustee Akina moves -

To approve the:

- OHA Financial Statements with Independent Auditor’s Report for the Year Ended June 30, 2020 at Attachment A; and

Trustee Hulu Lindsey seconds the motion.

Chair Waihe’e asks if there is any discussion. There is none.

Chair Waihe’e calls for a ROLL CALL VOTE.

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Chair Waihe’e notes for the record that all members present vote ‘AE (YES) and the MOTION CARRIES.

V. NEW BUSINESS

B. Workshop / Training: Investment Fiduciary Education, Segal Marco Advisors – Craig Chaikin, CFA, Vice President

Chair Waihe’e turns it over to Ka Pouhana Sylvia Hussey.

Pouhana Hussey: Thank you Chair. Trustees, at the request of Chair Waihe’e and our Advisors - we have some Investment Training and Craig Chaikin is very familiar to you. You have the deck before you and we have here from Administration Ryan Lee, our Interim Investment Manager. Ryan and CFO Ramona Hinck have been working on investment related matters as well as the Audit, Cash Management, and all the policies as well. I’ll turn the time over to Craig and as it is a workshop, please feel free to ask questions and anything of Craig. Thank you, Chair.
Chair Waihe’e: Thank you, Sylvia.

Craig Chaikin: Thank you very much. It's good to see everybody again. We're going to be doing some just broad, high-level Fiduciary and Investment Education. I do realize that some of this might seem very basic to some of you, to others of you it might be, potentially something you're hearing for the first time.

I really would encourage you all to ask questions and make comments as we're going through this because it is supposed to be interactive, not me lecturing about investments for the next 15-20 minutes.

We're going to talk about what is a Fiduciary, in general, because a lot of times we do find that while people both know and understand that we might be fiduciaries as the Investment Advisor, there's not necessarily an understanding of who else is a fiduciary in terms of the plan.

Just a general idea of a Governance structure and Governance is really, how things work today and who has the ultimate responsibility for the plan.

Then we'll go through some broad investment topics 101 Asset Allocation; we'll talk through some of the different Asset classes, both Public markets and Private markets, and then briefly cover the need for Performance.

It's great if you've got a lot of good Investment Managers, but if you don't know how they're doing, you don't know how they're doing relative to anything else - you know, it's not a useful exercise.

Craig Chaikin: The question is, who is a Fiduciary, and you see right here in this first line. It's really anyone that exercises discretion or authority over management of plan or disposition of plan assets. That doesn't just mean your Investment Managers or those people that are directly managing them; it is the ones that are making the decisions on hiring, firing and the like.

Simply put - all of you, as Trustees are fiduciaries to the Assets of the plan. It is important to note you generally have to have discretionary authority to be a Fiduciary. Therefore, in general, custodians are often not fiduciaries because they are directed for the most part in their action. I know this doesn't pertain to you, but if you have a 401K plan or a 457 - your Record Keeper is not a Fiduciary because they are just executing actions that they are told to do. They are not making decisions on their own, so really that distinction is if you are making decisions, you are providing direct advice.

If we provide advice on Asset Allocation, on Manager Selection, that is us acting in a fiduciary capacity. By you all making decisions on those same topics as well - that places you under the fiduciary rules. So, there's a lot of different places that fiduciary responsibility shows up; you can see there. It's in the Constitution, Internal Revenue Code, Common Law, most States.
Craig Chaikin: Your State has language in statute about what it means to be a Fiduciary; I will say a lot of the fiduciary standards that people think about our tied to what is called ERISA, so that's the Employee Retirement Income Security Act, and it pertains to private sector plans. It has kind of become what I would call the gold standard for what programs try and follow. So, Public, Foundation, Endowment, and the like - in terms of how they manage and look at assets.

As I mentioned, all of you are fiduciaries and what that means is, first, you have a duty of loyalty and what that means is you should always be acting in the best interests of the plan for the ultimate benefit participants and beneficiaries. What that means is, you often wear a lot of hats in these roles. So, this is not necessarily your day job all the time, but the decisions you make here potentially have room to conflict with other responsibilities that you may have. The duty here is to the Trust and the goals and objectives of the Trust, and ultimately how you're allocating the money.

Trustee Lee, I see that you have a question.

Trustee Lee: Yeah, but it's not necessarily for you, Craig. Is Raina on?

Pouhana Hussey: Raina is on.

Trustee Lee: With regards to duty of loyalty, Raina. When it talks about fiduciary acts for the exclusive benefit of the members and beneficiaries. The Constitution says in Chapter 10 says that we advocate for the betterment of Native Hawaiians, but every single person in the State of Hawai'i votes for OHA. So, who's our beneficiaries, Native Hawaiians or everybody?

Senior Legal Counsel Raina Gushiken: Aloha Board; Trustee Lee to your question. Your fiduciary duty is to the beneficiaries that the trust serves.

Trustee Lee: So, Native Hawaiians.

Senior Legal Counsel Raina Gushiken: Yes.

Trustee Lee: Thanks Raina. Sorry Craig, thanks.

Craig Chaikin: No, you're good.

Trustee Ahu Isa: May I add to that?

Craig Chaikin: Yes ma'am. Yep.

Trustee Ahu Isa: I was going to ask the same question as Trustee Lee; because it's in the strictest sense like how you are describing it, defining it - fiduciary. Yet we're a semi-autonomous arm of the Government. So, a lot of time - fiduciary wise, I feel that we should do what is right, for the people that are beneficiaries. Yet the legislature; the government tells us we can't do it. They tie our hands so we're kind of a really - an anomaly. We talk about fiduciary - yet the strictest sense of the definition - of it literally. It's not true.

I mean, we can't really do it. I'm sorry, just sharing with you the Hawai'i politics Craig.

Craig Chaikin: So, I'll revise my definition I suppose. It's really doing what is in the best interests of the participants, in line with all legal and regulatory restrictions. It's not intended to say you always do what is best because it's what is best. You still have to work within the law and the rules that govern the plan. That is an important point. That doesn't necessarily mean you're not working towards the best interests, but fiduciaries do. You shouldn't be doing illegal things for the Trust.
Craig Chaikin: So, the next standard is called the Duty of Prudence. You all might be familiar with the Prudent Man Standard; you should try and behave as if a current individual would behave. This standard here is a little bit different, and it’s really to follow the prudent expert rule, and that’s an important distinction because experts in matters of the trust might be somebody different than in other matters.

Let’s say baking or construction, or something else; you should really be trying to follow what would be done prudently by an expert in investment management, asset allocation and the like. It is why you outsource some of those duties because you’re not all experts in all those things. It’s why you hire us. It’s why you have the investment managers who are implementing on the plan. So, you’re really fulfilling your duty there. I will remind you, at the end of the day, you all as a Committee and Board; do have control over the Trust and are the ultimate really ‘buck stops here’ for decisions. Before I move on, are there any additional questions?

There are zero questions.

Craig Chaikin: I will make one final point. I do think it is important - being a fiduciary is not a sliding scale. What that means is just because you didn’t know you were a fiduciary does not alleviate you of your responsibilities. So - as soon as you become a Trustee - all those responsibilities are yours. You don’t get ramp up time. Technically, you obviously have learning time, but you are still responsible for them day one.

I think it’s something important to consider and think about especially as there may be new individuals coming on board down the road.

Craig Chaikin: I’m going to skip down and talk about Governance Structure. As I talked about earlier, governance is really, outlining the processes for how things get done. Defining roles and responsibility, you can see here; lines of authority and then accountability standards.

I know I’ve hit on this a couple times, but at the end of the day, the fiduciary is really the oversight for everything. As I mentioned, the fiduciary generally doesn’t do everything, you can see here hiring professionals; Investment Consultants, Actuaries, and Benefits Experts.
Craig Chaikin: You have Internal Operations - Sylvia, Ryan, Ramona, and the like. Then there's certainly Legal and Compliance that comes into this. So, to Trustee Ahu Isa’s point, making sure you're doing things in line with the law is also meeting your standards.

At the beginning of this meeting, you all approved the audit, so you know that is another governance function to make sure that everything is done and being done correctly.

Under the Internal Operations as well, the investment managers and the custodian, the keeper of assets are involved in the day-to-day operation and implementation of the Trust goals. This chart is really intended to show that everything kind of feeds up. Things do work in conjunction together, but everything ultimately feeds up with a high, single level. There are multiple levels of oversight, but with a single decision maker at the end of the day. I’ll pause there before moving on, if there are any questions.

There are zero questions.

Craig Chaikin: Investment objectives. Over the last year, you all have been deeply involved in, talking about, refining, defining, what the objectives of the Trust will be. It's really what you're supposed to accomplish, you have certain legal obligations that you must meet, in terms of payout.

That is one of the outcomes, but in general and what this is intended to show is that objectives should be unambiguous, measurable, and reflective of what your risk tolerance is.

You see, down at the bottom, a bad objective is not incurring any negative investment performance at all. That's an unrealistic goal; even with the risk low return vehicles probably not achievable. This is certainly not a good goal.

On the other end of the spectrum - meeting an investment return in excess of the policy asset mix’s return over a five-year time period - meeting that 5% payout obligation is certainly a good objective.

When we get down into talking about incorporating things like this - it is in your investment policy now, but clearly defining what the objectives are in the investment policy statement - that is ultimately what dictates how you do things and what you're trying to achieve.
Craig Chaikin: It is something that gets reviewed on an ongoing basis. I know the last time we had done a relatively, in-depth review on it. Ray had brought an update to all which was approved in terms of how investment products and assets were sourced. I do know that Ryan and Ramona are in the process of reevaluating that. We’re working on that right now. We’re talking about some asset allocation things to bring to you all - at a later date. So, it is something that’s continually looked at, monitored, and updated because it really does guide a lot of the operations of the investment program and how things are done.

Asset Allocation - At the high level, it's really, how the investments are invested broadly; stocks, bonds, real estate, private equity, private credit - all those types of things.

Normally the goal for most programs is to get what we would call the best bang for your buck. So, either the highest return at a given level of risk, or the least risk for a given level of return.

What I mean by that is if you thought your portfolio is going to achieve 7% but was going to have, standard deviation, which is how the performance will move two-thirds of the time of let's say 10. You would rather have a portfolio that are in 7% and had a standard deviation of 8, because the road to get to that 7% would be less painful through the high hills and low troughs; so really maximizing that potential.

You see here diversification - we always say there's no such thing as a free lunch in investments. Generally, the higher the return you want, the more risk you need to take. In general, diversification has proven to be relatively risk free, so the more asset classes that you include, the less volatile overtime your portfolio tends to be.

What you see on that chart at the bottom is called Modern Portfolio Theory and this is the theory that we really adhere to. It's a sense that markets are more-or-less, a lot of them, are very efficient - but that asset allocation. So that broad mix of stocks, bonds, and I’ll say other stuff makes up over 90% of the return of your portfolio.

The reason that I emphasize that is because we as an industry, we as consultants, and I think sometimes as Boards spend a lot of time thinking about the underlying managers, the implementation of that asset allocation. Where you can see their security selection makes up 5%, how you’re moving and investing, at time market timing 2% and then just other factors 2%.

If you think about that though, just your basic mix of stocks, bonds and other stuff makes up 90% of your return and the remaining 9% of that is influenced by those other factors. So really settling on an asset allocation is going to be the primary driver of results over time.
Craig Chaikin: As I mentioned a second ago, generally as you want more return - you need to take more risk. We define risk, as I said, the volatility of performance returns. Potentially very high highs, but also potentially very low lows.

Asset allocation at a broad level - you obviously must implement on that, and there's really three things that you see here that you can do with your money. You can buy or sell it - things like buying stocks, buying direct real estate. You can loan it - which is essentially owning bonds or debt of companies, the government, and the like. Or you can spend it - so, the 5% payout for the benefit of Native Hawaiians is, obviously one of the things that you can do with your assets.

We're going to, go down and talk more about some portfolio construction stuff.

*Are there any questions here before moving on?*

There are zero questions.

Craig Chaikin: This is a pictorial look at why diversification makes sense. We don't know from year-to-year what the best performing asset classes are going to be. You can see what the distribution of returns looks like across various asset classes and this is why the diversification across the portfolio makes sense.

What this chart looks at as well is correlation. Sometimes you might hear people saying, oh, I diversify, I have, five large cap equity managers. That's not necessarily diversification. What correlations tell you is how individual securities, how asset classes move in relationship to one another. A correlation of one means that an asset moves in perfect tandem with another asset.

What you're looking at here in this upper left-hand corner is large cap equities. So large cap equities move exactly like large cap equities do. If the market's up 10% - large cap equity is going to go up 10%. If we go down here - core fixed income to large cap equities, core fixed income moves in the same direction or the same magnitude as large cap equities only 7% of the time. What that means is, because it has a low or a negative correlation to large cap equities it helps to smooth out the ride for the total portfolio and this is really where diversification becomes beneficial; in having asset classes with low correlations to each other.

In this chart, the green ones have relatively high correlations. As you get to yellow - they have lower correlations, and then as you're getting to orange and red they generally have even lower correlations than that.

Building a portfolio with relatively uncorrelated assets, lowers the overall risk of the entire portfolio. While an investment might be risky on its own, like emerging market equities as a standalone investment is relatively risky; but if you include that into a portfolio construction, it can actually and potentially help lower the overall risk of the total pool of assets.
This is demonstrated here. The yellow portfolio looks at a portfolio of 100% bonds. You can see over time it has a cumulative return of 128% annualized return of 5.4% and a standard deviation of 1.7.

The green one is just 100% stocks, 5.3 standard deviation, or the volatility 8.4.

You can see just a hedge fund portfolio in the orange; 5.1 percent, 3 1/2%. Those are stand-alone portfolios.

If you just do a very simple 50 / 50 stocks and bonds, that annualized return jumps to 5.8% with the standard deviation of 3.9%. This is really the effect and impact of uncorrelated asset classes, grouping them, and the benefits that you realize overtime.

What it does is - you might not win as much on the upside, but what it does is it helps to minimize drawdowns which are really, the biggest losers for portfolios.

That final portfolio on the right accounts for a third, third, third into stocks, bonds and hedge funds, it gets you to a return of 5/6 and 3 1/2%, but this is really the numerical demonstration of why diversification works.
Craig Chaikin: A lot of times when we do talk about risk, we talk about the volatility. We talk about the stock and bond allocation, but really, that's what we call a capital-weighted allocation.

One of the things that we find helpful to look at is the risk-weighted allocation. The example here shows you that this hypothetical portfolio has 50% equities, but almost 84% of the risk or volatility of the portfolio comes from that 50%. This comes down to ultimately - risk tolerance and goals; there's a lot of ways to get to 6 1/2 or 7% allocation.

So, looking at really what the risk drivers are - can be helpful, because if you are not comfortable as a group, with a portfolio where 84% of the volatility is going to come from stocks which are higher - a lot more volatile than alternatives and fixed income.

There needs to be other solutions to get there to maybe pull down some of that risk exposure. What that also means is 50% of your portfolio is driving a very large chunk of what you see from a return perspective. You've given the volatility there.

Craig Chaikin: We've talked a lot about portfolio construction, the drivers of that. Now we'll spend a few minutes chatting about asset classes, obviously you can slice and dice this a lot of different ways. The basic asset classes you could say are stocks, bonds and alternatives. We'll talk about stocks and bonds in a second, but alternatives for the purposes of this discussion are really anything that is not publicly traded. You can't go out and find a market value for anywhere. You see things that fall under that: private equity, tactical allocation funds, hedge funds, direct real estate, commodities, things like private credit would go into here, other opportunistic investments, and the like.
**Craig Chaikin:** Stocks and bonds - generally you look up on Yahoo or Google every day. Alternatives are much more complicated than your straight stocks and bonds. I think the picture at the bottom shows it well. Facebook, Apple, Netflix, Amazon, Google, names you're familiar with. You own the shares of a company, including any cash flow. So, if a company pays a dividend, and you are holding that share on the X date, you get dividend income as well as appreciation or depreciation.

Stocks have varying sizes, so you see in the chart large cap equities, very big companies. These names down here at the bottom, small cap - much smaller publicly traded company names that most of us have never even heard of and then you have mid cap - really in the middle.

You also have domestic U.S. companies, non-US developed things like Europe, Japan, UK, Australia, Canada and then non-US emerging markets. China makes up 40% of the index right now, India, Brazil, Argentina, and the like. If you can invest globally, there are definitely different risks that you can take depending on where you are investing. As technology has improved and changed, it's been much easier to invest globally than it used to be.

Looking down here at the bottom you see Value, Core and Growth, those are terms, we use as an industry to define what were viewed as really the prospects for different companies. So, value, you see they're undervalued companies generally. Generally, you see things in Energy, Space Financials tend to be a little bit more value oriented. Growth companies, things where you expect earnings to be faster and stronger than the overall market; Information technology falls into that category. Core is really a combination of growth and value, so in the core space, a portfolio or manager will have the ability or discretion to go growth or value as they are seeing opportunities out there.
Craig Chaikin: Bonds work a little bit differently than stocks. It's a contract between a borrower and a lender. So, as a bondholder, you're really blending in entity money. It can be government - so things like Treasury's tips and the like, government issued debt or corporate debt. This is a lot of times how companies raise money to finance projects and things like that.

There also were mortgage backed or asset backed securities, which are pooled vehicles that you collect a whole lot of assets together and then sell those to the market. Bonds are a little bit different because they have a finite life. They have five-year, seven-year, ten-year spans. They do pay a coupon on a regular basis. I'm not going to go through the examples at the bottom, but you do get a fair, consistent, guaranteed income stream from bonds.

Bonds do tend to have a floor, unlike equities where you can lose it all. You will generally get back par value or the face value of your bond. The way most people think about bonds in a portfolio is kind of a steady Eddie, to weather off some of the volatility you see on the equity side. A lot of times it's where you might make payments from in times of catastrophe. Bonds do tend to outperform what you see on the equity side, especially government debt. They tend to act as a fairly, decent counterbalance against straight equities.

Any questions on bonds?

There are none.

Craig Chaikin: In public markets there's a couple of different ways that you can invest; one we call passive - one, we call active. Passive investing is a vehicle that's designed to replicate in index, so in the ones that everybody is familiar with on the equity side, the S&P 500, maybe the Dow Jones.

On the fixed income side, the Barclays aggregate. What those portfolios look to do is they do look to replicate not only the holdings but also the factors of the index. There's no decision-making being done if the index adds a name, the fund adds a name. When they rebalance, the fund then re balances, they are very cheap, because there's no active decision-making being done.

On the other end of the spectrum, is active management. This is what you all would equate to what JP Morgan is doing for you, and this is where you hire an investment manager that looks at something like the S&P 500 and says hey, you know what Apple makes up a lot of the S&P. Apple hasn't done anything innovative on their iPhone in 15 years; we don't want to hold 8.5 - 10% with Apple; we're going to hold 5% with Apple. They make your stock specific decisions based on your generally fundamental quantitative analysis of the individual names.
Active management takes a lot of time, it's very hard. Fees are higher there than what you see on the passive side because there are more people involved in the process. You do also have the ability to outperform the general index, but on the flip side you also have the ability to underperform the index.

**Craig Chaikin:** As we've talked about broadly, alternatives are really kind of a big catch-all bucket for things that are not publicly traded. Most people are familiar with, I'll start down at the bottom with real estate. So, private real estate is a little bit different than REITs. Private real estate, for most investors is buying into a fund that holds underlying properties. That underlying fund might hold, 80 to 100 properties you as an investor - then own shares of that.

You tend to have quarterly evaluations, so there's less liquidity - you can't get in and out of it every day which does help with some portfolio volatility. The underlying buildings, it could be multifamily housing, it could be office space in New York City, there's a whole host of things that they invest in.

Quickly the differences - a REIT does own underlying properties, but REITs are traded on exchanges so REITS look, act, and feel a lot more like equities than direct real estate.

Infrastructure, you see there without a definition, but infrastructure is really buying things like railroads and tollways, and airports and things like that. It's direct investment in what it says: infrastructure properties, commodities, natural resources; there's a lot of different ways to access that. You can hold timber in a warehouse, or you can buy into timber funds, or generally broad commodities funds, and the like.

Certainly, if you're in a commodities fund, maybe that trades a little bit more, but owning direct timber assets is a lot less liquid. I know a couple of years ago, I'm forgetting the name now, but the coffee company that you all looked to invest in, that would be kind of an example of a commodity.

The top two you see private equity and private credit. This is really private companies that hopefully will be taken public at some point or will be sold to a bigger private company for more money. So, you can see here on that private equity side - there's a couple of different types. Venture capital getting in really on the ground floor, buyout mezzanine and then distressed debt. This is a way for investors to access companies that are not public. Yet, at the end of the day, there's potentially a little bit more risk associated with them because they're not public. Operations might be a little bit smaller. They might be controlled by somebody else; but it does offer the potential for some outsized returns. One of the things as well, is that it doesn't trade. You tend to have lock up periods of anywhere from ten to sometimes 15 years on your money, so you don't have an ability to get capital out once you've invested in these companies for growth.

**Interim Investment Manager Lee:** I'll just add a comment. Craig talked about the alternative investments you see here - private equity, private credit, hedge funds, global tax allocation, real estate. These investments are already in your portfolio with alternatives, so OHA has exposure to these investments.

**Craig Chaikin:** Yep, that's a great point, Ryan.

I would say the same thing about hedge funds and tactical allocation strategies. These are strategies, I'll call them go anywhere portfolios. So, they'll really look for opportunities and dislocations in the market to put your money to work and being outsized returns on that, generally - hopefully with less volatility. So, while they may invest in things that are public, the overall vehicles are not public, and they do have some lock ups to help protect capital overall.
Trustee Hulu Lindsey: I would like to ask Ryan if he can be a little bit more specific on what we already have going on the alternative investments. What’s on our books?

Investment Manager Lee: I’ll just add that you know - it’s very diversified alternatives portfolio. We have managers across the equity, buyout, and venture space. Direct real estate, hedge funds, commodity - so it's very diversified.

I think Craig is pulling up that list for you that's typically reported in the quarterly report to the Trustees. This here highlights the total front lines. What you see here, Pantheon for example, you have the same management, but you have different exposures to like European buyout, US buy out. You have different vintages as well, meaning that private equity tends to come back to market every 2-3 years. Once there are funds invested and harvested, they come back and raise new capital. So, what you see here, you have series of funds that come through, that they raise - that we are investing with.

Craig Chaikin: I’ll take a second to kind of talk about that. As Ryan said, the funds come every couple of years, maybe with a new fund because unlike public equities which can be bought and sold all the time. These funds are buying into opportunities.

Let's say in 2021, they're looking to realize through sale, growth, IPO in 5 to 7 years - some type of return on those investments. Once those opportunities have been sold, they must look for and source new opportunities. Which is why you do see the different vintage years - because they’re not continually, ongoing investments that they can continue to realize.

Trustee Hulu Lindsey: Thank you.

(This slide taken from Preliminary Analysis of Investment Performance – Period Ending December 31, 2020)
Trustee Ahu Isa: The United States government is putting a lot of money to climate control. Do you follow that as an investment manager for our over fund?

Investment Manager Lee: Currently we do not have a policy, but that is something that we can incorporate as we evaluate the investment policy. I would say today even the managers are thinking about ESD issues because it can impact future returns, going forward. Managers that we invest with are really thinking about how to factor that into their investment decisions.

Trustee Ahu Isa: The world is changing so super-fast. Thank you.

Investment Manager Lee: That’s correct. Sure.

Craig Chaikin: As we’ve been chatting, I think the one thing that I would want you to take away from the discussion on alternatives is they can act as a very good diversifier, but because of the nature of the product - they have less valuation frequency.

What we had talked about on the last call - it's pretty much been the sole driver of underperformance relative to your policy index overtime. We're just now starting to get you know 1231 valuations from, all those managers that you saw on your screen. Because of the valuation, because of the private nonpublic nature, there's less transparency than you do get in the public markets.

Any questions on any of this before we talk quickly about performance?

There are zero questions.

Craig Chaikin: At the end of the day, you have to pay attention to, look at, and monitor what your investments are doing. It's what you all are having us do now with our quarterly reports. Ideally it helps assist in the oversight of the program.

It helps with making changes and tweaks to overall asset allocation. It helps with manager selection, monitoring, and the like. It helps you make decisions, down the road on Manager scale; how they've done, or if you need to move in a different direction. I've talked a lot. I don't want to take up too much time talking about performance, but just leave you with that.

It is important to look at and evaluate how your managers are doing. I would say as an industry when you look at things like quarterly earnings - people talk long-term—long-term and then they help quarterly numbers. We do it as consultants as well. We talk long-term—long-term and then we come in and talk about one month or a couple weeks. Really, it's a good idea to measure results overtime, because there can be a lot of short-term dislocations that gives you a headache. If you're achieving your goals over time, that's really what the aim is.
Craig Chaikin: That will be it for me. I’m certainly happy to take any questions if there was anything we didn’t cover; happy to do that. As I mentioned at the beginning, this was intended to be kind of a higher level overview of things. If there are specific topics that you want to delve deeper into, like you want to do something more on private equity and talk in detail about venture capital, buyout, and the like we can certainly put together some presentations and do that as well.

Chair Waihe’e: OK. Thank you, Craig. Members do you have any questions for Craig or Ryan?

Trustee Hulu Lindsey: Chair, I just want to ask Craig if he has this PowerPoint in hard copy - may we have copies?

Craig Chaikin: I can send hard copies.

Trustee Lee: It’s included in our packet.

Trustee Ahu Isa: Hulu, we have it.

Trustee Hulu Lindsey: OK. I’ll call for it, thank you.

Chair Waihe’e: OK. Are there any other questions or comments Members?

There are zero questions or comments.

Chair Waihe’e: Thank you, Craig. Thank you Pouhana.

VI. ANNOUNCEMENTS

None
VII. ADJOURNMENT

Trustee Akaka moves to adjourn the RM meeting.

Trustee Hulu Lindsey seconds the motion.

Chair Waiheʻe asks if there is any discussion. There is none.

Chair Waiheʻe asks if any members vote NO or ABSTAIN. There are no dissenting votes.

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<td>CHAIR JOHN</td>
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Chair Waiheʻe adjourns the RM meeting at 3:04 p.m.
Respectfully submitted,

____________________________
Melissa Wennihan
Trustee Aide
Committee on Resource Management

As approved by the Committee on Resource Management (RM) on April 20, 2021.

____________________________
Trustee John Waihe’e, IV
Chair
Committee on Resource Management
MEETING OF THE COMMITTEE ON RESOURCE MANAGEMENT (RM)

DATE: Tuesday, April 20, 2021
TIME: 1:30 p.m.
PLACE: Virtual Meeting
Viewable at www.oha.org/livestream
OR Listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

AGENDA

I. Call to Order

II. Public Testimony on Items Listed on the Agenda*
(Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline will not be accepted)

III. Approval of Minutes
A. March 23, 2021
B. March 30, 2021

IV. Unfinished Business
None

V. New Business
A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program
B. ACTION ITEM RM #21-05: Amendment to the Executive Policy Manual Section, Budget Management Policy
C. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

VI. Executive Session‡
A. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes
Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4).

VII. Announcements
VIII. Adjournment
ACTION ITEM

COMMITTEE ON RESOURCE MANAGEMENT
April 20, 2021

Action Item Issue: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program

Prepared by: ________________________________
Kalani Fronda
Ka Pou Kihi Kanaloa ‘Āina, Land Assets Director

Reviewed by: ________________________________
Ramona G. Hinck
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by: ________________________________
Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Reviewed by: ________________________________
Raina Gushiken
Ka Paepae Puka, Senior Legal Counsel

Reviewed by: ________________________________
Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Reviewed by: ________________________________
Ke‘Kua, Trustee John D. Waihee, IV
Luna Ho‘omalu o ke Kōmike Resource Management
Chair of the Committee on Resource Management
I. Proposed Action

Approval of a third amendment to BOT #12-05 – Kaka‘ako Makai Policy, relating to the allocation of revenue from Kaka‘ako Makai properties to the Land Legacy Program at Attachment A, including ministerial edits.

II. Issue

Whether to approve a third policy amendment to the Kaka‘ako Makai Policy to:

A. Eliminate the allocation of the gross revenues from Kaka‘ako Makai (KM) to OHA’s Grants program;
B. Increase the allocation of the net revenues to OHA’s Legacy Land Program (LLP) from 50% to 60%;
C. Eliminate the review date of June 30, 2021; and
D. Address ministerial edits.

III. Discussion

A. Kaka‘ako Makai Policy Overview. Approved on September 20, 2012, the policy was amended on August 1, 2017 via RM #17-05, and further amended on August 21, 2019 via RM #19-10. Both amendments were to increase the revenue allocation to the grants and land legacy programs. As the current revenue policy provisions should be reviewed by (or ‘sunset’ on June 30, 2021), and through the work of the Land and Commercial Property Permitted Interaction Group\(^1\), it was recommended to address the revenue provisions without a sunset period, allocate 60% of the net revenues (estimated to be $1.8MM as of FY21) to the legacy land program, and reduce the grants program revenue allocation. As Kaka‘ako Makai revenues increase as a result of development or other activities, the policy can be revisited and updated as needed.

B. Grants Funding Update. Administration plans to address the overall grants strategy for FB22-23 to utilize the Public Land Trust revenues of $15.1MM for grants, the Kaka‘ako Makai revenue is recommended to be focused on the legacy land program. Administration anticipates the fiscal biennium (FB) 22-23 budget construction process to be brought forward for Board of Trustees (“BOT” or “Board”) approval consistent with Action Item RM #18-12: Move to update budget preparation, format and reporting requirements by approving amendments to EPM and BOT Operations Manual, excluding amendments on Fiscal Transparency 3.4.k through 3.4.l in Attach A and C, approved in September 2018.

C. Land Legacy Program Update. Refer to Attachment D which provides the information included in the June 2020 FY20/FY21 Budget Realignment #2 presentation and is expected to be updated in the FB 22-23 budget construction process.

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\(^1\) Authorized by Action Item BOT #21-01, dated January 28, 2021
D. Rationale for the Proposed Policy Edits. The rationale for the proposed policy amendments are detailed below:

1. Eliminate the allocation of the gross revenues from Kakaʻako Makai (KM) to OHA’s Grants program - refer to section B above Grants Funding Update;

2. Increase the allocation of the net revenues to OHA’s Legacy Land Program (LLP) from 50% to 60% - provide added support to the use of OHA’s core funds for projected legacy land management activities as the organization transitions from conceptual master planning phase to the master planning and related implementation phases, particularly for Kūkaniloko and Wao Kele o Puna; and reduce the impact on the core operating budget after FY21, during which the non-core funds for Wao Kele o Puna is projected to need core operating budget support.

3. Eliminate the review date of June 30, 2021 – as part of the overall organization’s policy framework, policy reviews will be routinized and does not need the review date to be specified; and

4. Address ministerial edits – a review of the document needed alignment of language to changes made in the strategic plan nomenclature (lāhuī vs nation), as an example.

IV. Funding Source

Not applicable, no dedicated funding needed to amend the Kakaʻako Makai policy. Budgetary implications of the application of the third amendment proposed herein will come to the BOT via the FB22-23 budget presentation and recommendation by Administration.

V. Alternative Actions to Approval of 3rd Amendment to Kakaʻako Makai Policy

A. Decline approval recommendation of the proposed policy amendment as stated in I. Action above; AND

   1. Suspend any further Kakaʻako Makai Policy action (e.g., continue grants allocation, no further revenues to the Land Legacy Program from Kakaʻako Makai); OR

   2. Extend the current revenue allocation methodology (i.e., 20% gross to Grants, 50% net to Legacy Property [land] management) to a specified period (e.g., two years, five years, in perpetuity);

B. Amend the revenue allocation methodology in the policy amendment (e.g., different %, different basis);

C. Amend the proposed net revenues designation in the policy amendment or net revenues from the Land Legacy Program to other designations (e.g., iwi kupuna, homestead, housing, disaster reserve, collaborations, economic development).
VI. **Recommended Action**

Approval of a third amendment to BOT #12-05 – Kaka‘ako Makai Policy, relating to the allocation of revenue from Kaka‘ako Makai properties to the Land Legacy Program at Attachment A, including ministerial edits. Such an amendment includes the following changes:

A. Eliminate the allocation of the gross revenues from Kaka‘ako Makai (KM) to OHA’s Grants program
B. Increase the allocation of the net revenues to OHA’s Legacy Land Program (LLP) from 50% to 60%;
C. Eliminate the review date of June 30, 2021; and
D. Address ministerial edits.

VII. **Timeframe**

This third policy amendment of the Kaka‘ako Makai policy becomes effective upon the second reading (and approval) by the Board of Trustees and is intended to be incorporated and applied in the construction of the FB22-23 biennium budget.

VIII. **Reference Documents**

The following documents are provided as references for this action item:

A. Action Item BOT #21-03: Accept the Report of the Land and Commercial Property Permitted Interaction Group, April 2021
B. Action Item RM #17-05: Approval of an OHA Board of Trustees Policy Amendment relating to an allocation of revenue from OHA’s Kaka‘ako Makai properties, May 2017
C. Action Item BOT #12-05 – Kaka‘ako Makai Policy, August 2012

IX. **Attachments**

A. Kaka‘ako Makai Policy – 3rd Amendment, Clean
B. Kaka‘ako Makai Policy – 3rd Amendment, Redlined
C. Kaka‘ako Makai Policy – AS IS, 1st and 2nd Amendments
D. Legacy Land Program Update, June 2020 Budget Realignment #2
OFFICE OF HAWAIIAN AFFAIRS

KAKA 'AKO MAKAI POLICY

3rd Amendment, April X, 2021
2nd Amendment, August 21, 2019
1st Amendment, August 1, 2017
First Reading: August 30, 2012
Second Reading: September 20, 2012
Kaka'ako Makai Policy of the
Office of Hawaiian Affairs

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Kaka'ako Makai Policy of the
Office of Hawaiian Affairs

PURPOSE

The purpose of this policy is to set forth guidelines for the management and development of its Office of Hawaiian Affairs' (OHA) Kaka'ako Makai parcels received through Act 15, Session Laws of Hawaii, consistent with the existing Real Estate Vision, Mission, and Strategy Policy. The Real Estate Vision, Mission and Strategy Policy currently provides for real estate best practices and world class caliber developments. Factors affecting management and development of the Kaka‘ako Makai parcels focus upon five objectives:

1) Relationship to OHA's vision and strategic priorities;
2) Design and use, including cultural values;
3) Revenue generation and proceeds;
4) Timetable and process; and
5) Governance and decision-making

The following set of policy guidelines reflects the objective of maximizing revenue and total returns to increase OHA's programmatic reach without compromising OHA's kuleana to perpetuate Hawaiian culture in OHA's management and development of the parcels.

POLICY GUIDELINES

1. Relationship to OHA's Vision and Strategic Priorities

   Create synergy between OHA's Kaka'ako Makai parcels and OHA's vision and strategic priorities.

   A. Commercial kuleana to maximize revenues while providing economic development opportunities for Native Hawaiians.

      1) Create a sustainable revenue stream to support OHA's strategic priorities
      2) Create opportunities for Native Hawaiian self-sufficiency
      3) Create programmatic opportunities for employment of Native Hawaiians

   B. Cultural kuleana to incorporate Native Hawaiian culture in both intrinsic and extrinsic design elements and purposes.
1) Proceed in a way that has in mind the transfer of the assets to the Nation

2) Raise an architectural landmark/signature that signifies Kaka'ako Makai as a Hawaiian place

3) Create a sense of Nation – acting boldly

2. Design and Use, including Cultural Values

Ensure that cultural and stewardship values drive/provide the base for design and use decisions.

A. Create a Hawaiian sense of place — a cohesive Hawaiian identity that creates a place in which the physical structures and environment are connected to the socio-psychological, cultural and spiritual aspects of living Hawaiian that reflects the past, present and future.

1) Understand that history can guide us — consider the trajectory of historical uses of the area

2) Incorporate cultural uses

3) Introduce Kaka 'ako Makai as a meeting place for Native indigenous leaders of the Western hemisphere and Pacific Islands

4) Encourage uses and activities that attract Hawaiians and locals to Kaka'ako Makai

5) Incorporate the cultural identity of the area - stories, names, guardians, wind and elements — as a guide for planning, design and use

6) Proceed with our cultural/kanaka footprint

B. Balance pono and commerce.

1) Encourage cohesiveness among parcels/projects

2) Establish priority for qualified Hawaiian businesses and professionals

3) Incorporate mixed uses

4) Use green (environmentally friendly) technology

5) Prioritize the use of indigenous plants
C. Collaborate with other Native Hawaiian organizations

1) Work with Kamehameha Schools on potential partnerships with KS's adjoining properties

2) Work with other Ali'i Trusts

3. Revenue Generation and Proceeds

Balance near-term revenue stream and/or long-term financial and strategic goals and decisions.

A. Near-term kuleana to balance near-term revenue generation for programmatic use with long-term vision.

1) Create a sustainable revenue stream for strategic priorities

2) Allocate 60% of net revenue for OHA’s Legacy Land Program (net revenue equals gross revenue minus direct operating expenses, excluding Kaka‘ako Makai planning and development-related costs)

3) Set leases and other contractual arrangements at market value; anything below market value should be exceptions, and will require Board approval

B. Long-term kuleana to balance revenue generation with OHA strategic goals.

1) Maximize revenue generation, consistent with design, use, and cultural values

2) Balance pono and commerce

4. Timetable and Process

Develop a timely, accountable process.

A. Key planning considerations

1) Have an overall conceptual plan before considering or initiating major proposals

2) Establish a timeline for tasks that need to be accomplished

B. Key execution considerations

1) Engage professionals — finance, real estate, marketing, development, etc.
2) Maintain the momentum, in keeping with fiduciary duties

3) Proceed in ways that grow, preserve, and protect the assets

C. Transparency and communication kuleana

1) Embrace community engagement — ensuring dialogue with the community and neighbors

2) Have a robust communications and information-sharing infrastructure

5. Governance and Decision-Making

Exercise appropriate leadership and management.

A. Vision for master planning and property management.

1) Implement knowledge-based decision-making

2) Establish efficient management

3) Act in ways that are consistent with Kaka’ako Makai being a flagship of actions, values and leadership

4) Retain policy direction at the level of the Trustees

B. Accountability

1) Lead with people who have financial, management, and development expertise

2) Complete an annual budget and a 5-year management and operating budget
UPDATE AND MAINTENANCE

The OHA Chief Executive Officer shall be responsible for the update and maintenance of these policies. A review shall be done at a minimum annually to insure that amendments or changes in the laws are duly incorporated or as requested by the Chairperson of the Board of Trustees or Chairperson of a Standing Committee.

STATUS / EFFECTIVE DATE

This document is effective as of September 20, 2012, 1st amendment and effective date August 1, 2017, 2nd amendment and effective date August 21, 2019 and 3rd amendment effective upon the second Board approval.
OFFICE OF HAWAIIAN AFFAIRS

KAKA 'AKO MAKAI POLICY

3rd Amendment, April X, 2021
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1) Relationship to OHA's vision and strategic priorities;
2) Design and use, including cultural values;
3) Revenue generation and proceeds;
4) Timetable and process; and
5) Governance and decision-making

The following set of policy guidelines reflects the objective of maximizing revenue and total returns to increase OHA's programmatic reach without compromising OHA's kuleana to perpetuate Hawaiian culture in OHA's management and development of the parcels.

POLICY GUIDELINES

1. Relationship to OHA's Vision and Strategic Priorities

Create synergy between OHA's Kaka'ako Makai parcels and OHA's vision and strategic priorities.

A. Commercial kuleana to maximize revenues while providing economic development opportunities for Native Hawaiians.

1) Create a sustainable revenue stream to support OHA's strategic priorities
2) Create opportunities for Native Hawaiian self-sufficiency
3) Create programmatic opportunities for employment of Native Hawaiians

B. Cultural kuleana to incorporate Native Hawaiian culture in both intrinsic and extrinsic design elements and purposes.
1) Proceed in a way that has in mind the transfer of the assets to the Nation

2) Raise an architectural landmark/signature that signifies Kaka'ako Makai as a Hawaiian place

3) Create a sense of Nation — acting boldly

2. Design and Use, including Cultural Values

Ensure that cultural and stewardship values drive/provide the base for design and use decisions.

A. Create a Hawaiian sense of place — a cohesive Hawaiian identity that creates a place in which the physical structures and environment are connected to the socio-psychological, cultural and spiritual aspects of living Hawaiian that reflects the past, present and future.

1) Understand that history can guide us — consider the trajectory of historical uses of the area

2) Incorporate cultural uses

3) Introduce Kaka'ako Makai as a meeting place for Native indigenous leaders of the Western hemisphere and Pacific Islands

4) Encourage uses and activities that attract Hawaiians and locals to Kaka'ako Makai

5) Incorporate the cultural identity of the area - stories, names, guardians, wind and elements — as a guide for planning, design and use

6) Proceed with our cultural/kanaka footprint

7) Create a signature architectural Hawaiian landmark

B. Balance pono and commerce.

1) Encourage cohesiveness among parcels/projects

2) Establish priority for qualified Hawaiian businesses and professionals

3) Incorporate mixed uses

4) Use green (environmentally friendly) technology
5) Prioritize the use of indigenous plants

C. Collaborate with other Native Hawaiian organizations

I) Work with Kamehameha Schools on potential partnerships with KS's adjoining properties

2) Work with other Ali'i Trusts

3. Revenue Generation and Proceeds

Balance near-term revenue stream and with long-term financial and strategic goals and decisions.

A. Near-term kuleana to balance near-term revenue generation for programmatic use with long-term vision.

1) Create a sustainable revenue stream for strategic priorities

2) Allocate 20% of gross revenue for grants and 65% of net revenue for OHA’s Legacy Land Program (net revenue equals gross revenue minus direct operating expenses, excluding Kaka‘ako Makai planning and development-related costs) (*The 50% allocation of net revenues to LLP shall be reviewed at the end of FY 2021)

3) Set leases and other contractual arrangements at market value; anything below market value should be exceptions, and will require Board approval

B. Long-term kuleana to balance revenue generation with OHA strategic goals.

1) Maximize revenue generation, consistent with design, use, and cultural values

2) Balance pono and commerce

4. Timetable and Process

Develop a timely, accountable process.

A. Key planning considerations

1) Have an overall conceptual plan before considering or initiating major proposals

2) Establish a timeline for tasks that need to be accomplished
B. Key execution considerations

1) Engage professionals — finance, real estate, marketing, development, etc.
2) Maintain the momentum, in keeping with fiduciary duties
3) Proceed in ways that grow, preserve, and protect the assets to the Nation

C. Transparency and communication kuleana

1) Embrace community engagement — ensuring dialogue with the community and neighbors
2) Have a robust communications and information-sharing infrastructure

5. Governance and Decision-Making

Exercise appropriate leadership and management.

A. Vision for master planning and property management.

1) Implement knowledge-based decision-making
2) Establish efficient management
3) Act in ways that are consistent with Kaka'ako Makai being a flagship of actions, values and leadership
4) Create a sense of nation — acting boldly
5) Retain policy direction at the level of the Trustees

B. Accountability

1) Lead with people who have financial, management, and development expertise
2) Complete an annual budget and a 5-year management and operating budget
UPDATE AND MAINTENANCE

The OHA Chief Executive Officer shall be responsible for the update and maintenance of these policies. A review shall be done at a minimum annually to insure that amendments or changes in the laws are duly incorporated or as requested by the Chairperson of the Board of Trustees or Chairperson of a Standing Committee.

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6) Proceed with our cultural/kanaka footprint

B. Balance pono and commerce.

1) Encourage cohesiveness among parcels/projects

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2) Allocate 20% of gross revenue for grants and 50% of net revenue for OHA’s Legacy Program (net revenue equals gross revenue minus direct operating expenses, excluding Kaka‘ako Makai planning and development-related costs) (*The 50% allocation of net revenues to LLP shall be reviewed at the end of FY 2021.)

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2) Balance pono and commerce

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STATUS / EFFECTIVE DATE

This document is effective as of September 20, 2012.
Legacy & Programmatic Lands
Update May 2019
Kūkanilokō

Birthing Stones of High Ranking Ali‘i

Located: Wahiawā, O‘ahu
Size: 511 Acres

Ownership: Fee Simple
Acquired: 2012

Purchase Price: $3 million

Zoning: Ag-1

Special Conditions: Conservation Easement

BOT Approved Purpose of Acquisition:

- Protect Kūkanilokō;
- Explore compatible agriculture;
- Contribute to Hawai‘i’s food sustainability.

Priority Projects

1. Finalize Conceptual Master Plan (Draft approved Sep 2018);
2. Finalize Soil Conservation Plan; Continue Veg Maint.
3. Transfer 5-acre property to OHA from DLNR (EO)
4. Design—Nursery & Greenhouse; Water Storage; Interpretive & welcome center; Cultural Nodes and Circulation Pathways.

Source: June 2020 Budget Realignment #2 Budget Book
Wao Kele O Puna
The last intact lowland rainforest

**Location:** Puna, Hawai‘i Island  **Size:** 25,856 Acres

**Ownership:** Fee simple  **Acquired:** 2006

**Purchase Price:** $3.65 M
- Trust for Public Land – Negotiates purchase with Campbell Estate
- USDA Forest Legacy Program contributed $3.35 M; and OHA contributed $300,000 to secure title

**Zoning:** Conservation District – Protective sub-zone

**Special Conditions:**
- Forest reserve and grant requirements
- Active lava threat

**BOT Approved Purpose of Acquisition:**
- Protect cultural resources and Native Hawaiian customary rights;
- Ensure lands will transfer to lāhui;
- Build lāhui land management capacity.

**Priority Projects:**
1. Community Engagement Education and Stewardship
2. Native Habitat Restoration
3. Invasive Species Control
Palauea Cultural Preserve

Remnants of a pre-contact Hawaiian fishing village

Location: Palauea, Maui  
Size: 20.7 Acres

Ownership: Fee Simple  
Acquired: 2012

Unique Features: Donated with funding mechanism, house structure (896 sq. ft.), and drainage easement.

Zoning: Preservation Zone

BOT Approved Purpose of Acquisition:
- Protect and preserve cultural sites
- Enable stewardship that integrate the Native Hawaiian community
- Work with UHMC to continue their long-term stewardship

Priority Projects:
- Preservation Plan
- Deer Fence; Viewing area/Makai Fence
- Education and Stewardship

Wiliwili Tree

Hale

Palauea Maintenance Cost

<table>
<thead>
<tr>
<th>FY14</th>
<th>FY15</th>
<th>FY16</th>
<th>FY17</th>
<th>FY18</th>
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</thead>
<tbody>
<tr>
<td>$66,788.07</td>
<td>$16,763.76</td>
<td>$7,486.19</td>
<td>$2,316.99</td>
<td>$19,200.00</td>
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</tbody>
</table>

Source: June 2020 Budget Realignment #2 Budget Book
Pahua Heiau

Intact Heiau Amongst Residential Development

Location: Maunalua, O‘ahu  Size: 1.15 Acres
Ownership: Fee Simple  Acquired: 1988
Purchase Price: Donated by KS
Zoning: R-5 Residential
Special Conditions: Historic Use Restriction

BOT Approved Purpose of Acquisition:

Educational/cultural opportunities for Native Hawaiians.

Priority Projects:
1. Landscape and Site Improvement plan
2. Barrier/Fence Construction

Pahua Maintenance Cost

<table>
<thead>
<tr>
<th>Year</th>
<th>Cost</th>
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<tbody>
<tr>
<td>FY14</td>
<td>$2,264.07</td>
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<tr>
<td>FY15</td>
<td>$11,360.34</td>
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<tr>
<td>FY16</td>
<td>$11,360.34</td>
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<tr>
<td>FY17</td>
<td>$31,260.54</td>
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<td>FY18</td>
<td>$38,555.31</td>
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Waialua Courthouse
On the State Historic Register Since 1979

Location: Waialua, O‘ahu
Size: 1.06 Acres


Unique Features: Single story building (~2,000 sq ft) with basement jail

Zoning: R-5 Residential District

Special Conditions: OHA responsible for operating and repair costs

BOT Approved Purpose of Acquisition:
Provide a base for beneficiary organizations to gather, meet, plan, practice and participate in Hawaiian culture.

Priority Projects
1. Asbestos Inspection/Refinish floors
2. Site drainage and parking lot paving
3. Secure 3rd party management

Waialua Courthouse Maintenance Cost

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<th></th>
<th>FY14</th>
<th>FY15</th>
<th>FY16</th>
<th>FY17</th>
<th>FY18</th>
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<tbody>
<tr>
<td>Maintenance</td>
<td>$19,386.39</td>
<td>$4,880.00</td>
<td>$17,600.68</td>
<td>$25,390.00</td>
<td>$103,354.67</td>
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</table>
Kekaha Armory

Located: Kekaha, Kauai  
Zoning: Industrial Mixed Use  
Size: 1.46 Acres w/14,000 sf structure  
Ownership: 65 yr lease from DLNR, OHA subleased to Ke Kula Niʻihau o Kekaha for 30 yrs  
Acquired in 1998  
BOT Approved Purpose of Acquisition  
• Hawaiian cultural and educational purposes  
Management: Ke Kula Niʻihau O Kekaha
Located: Wailua, Kauai  
Zoning: Open

Size: 0.8013 Acres w/7,500 sf structure for

Ownership: Leased from DLNR, OHA subleased to Ho‘omana

BOT Approved Purpose of Acquisition
• Educational purposes and community support
CONCEPTUAL MASTER PLAN FOR THE OFFICE OF HAWAIIAN AFFAIRS’ WAHIAWĀ LANDS

2020 EXECUTIVE SUMMARY
**KUKANILOKO**

**THE PIKO OF O'AHU**

The birthstones of Kukaniloko are one of the most sacred sites in Hawai'i. It is the piko (center) of O'ahu where the highest-ranking ali'i (royalty) were born. These stones and the surrounding areas were places of learning for kahuna (experts), lua (martial arts), kilo (observations), and other cultural practices.

**PURPOSE OF THE CONCEPTUAL MASTER PLAN**

To guide the development of 511 acres surrounding the Kukaniloko birthstones in a way that delivers meaningful social, ecological, and economic impacts that are culturally nuanced, regenerative, and align with OHA’s mission.

**WHY OHA CREATED THIS PLAN**

As one of the most sacred wahi pana (sacred places), Kukaniloko deserves the highest degree of response and planning rigor. Shaping its future will require a long-term vision guided by ancestral knowledge of this wahi pana as well as the Office of Hawaiian Affairs (OHA) engaged in a cultural and community-driven planning process to ensure a plan that was responsive to community as well as aligned with the purposes of acquisition, which were to protect the birthstones, explore cooperative agriculture, and contribute to Hawai'i’s food security.

The 511 acres surrounding the birthstones (OHA’s Wahiawa Lands) is currently overgrown with invasive species, and its soil is degraded as a result of decades of monoculture in pineapple. To restore and holistically manage these Wahiawa Lands, OHA worked closely with community members and subject matter experts to come up with a plan that would honor this wahi pana and its history.

**VALUES**

The values, ho'omana, ho'ona'auao, and ho'oulu 'aina were created in collaboration with the Hawaiian Civic Club of Wahiawa (HCCW), long-term stewards of the birthstones. These values served as a filter for the planning process and continue to be a foundation for further development and implementation of this plan. Bullet points refer to the overarching strategies associated with each value.

**HO'OMANA**

Protection/Sanctification
- Protecting the birthstones through stewardship training, security, implementation of a Preservation Plan, establishing site buffer zones;
- Enabling traditional and customary practices/protocol; and
- Managing access to the site.

**HO'ONA'AUAO**

Education/Connection
- Implementing kūpuna to keiki engagement through cultural and ecological education programs;
- Grow and regenerate resources through community-based stewardship; and
- Establish places for individuals to reconnect with 'āina and reinforce salei'āla'i,

**HO'OULU 'AINA**

Agriculture, Ecological Rehabilitation, & Soil Remediation
- "Eco-Cultural Ag" - culturally informed ecological and agricultural practices;
- Restore the soil in order to grow culturally appropriate agriculture;
- Remove invasive species to restore the native forest; and
- Contribute to Hawai'i’s food sovereignty through various methods (agroforestry to high-tech agriculture).

**KUKANILOKO TIMELINE**

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<td>It is generally accepted that Kukaniloko was established as a chiefly burial ground around 1702. Some of O'ahu's most celebrated chiefs and ali'iais were born at Kukaniloko, such as Kamehameha the Great, Kekuanaoa, Kaumualii, Kamehameha, and Kamehameha the Great.</td>
<td>Lands surrounding the birthstones were used for large-scale ranching to supply the whaling industry.</td>
<td>The surrounding cultural landscape of O'ahu dramatically changed to principally military uses, and the town of Wahiawa.</td>
<td>In 1883, George Delacour purchased the lands for ranching and decided to fence off the area where the birthstones are located.</td>
<td>In 1918, the Daughters of Hawai'i were asked to steward the sacred site, and did so from 1925 until 1950.</td>
<td>The Hawaiian Civic Club (HCC) was established and assumes duties to protect and maintain Kukaniloko.</td>
<td>The Department of Land and Natural Resources (DLNR) State Parks Division acquires the O'ahu parcel containing the Kukaniloko birthstones owned by Governor's Executive Order.</td>
<td>State Parks enters into a stewardship agreement with DLNR.</td>
<td>Department of Land and Natural Resources (DLNR) State Parks Division acquires the O'ahu parcel containing the Kukaniloko birthstones owned by Governor’s Executive Order.</td>
<td>State Park enters into agreement with HCCW for the 5-acre parcel containing the birthstones.</td>
<td>The OHA enters into a stewardship agreement with HCCW for the 5 acres parcel containing the birthstones.</td>
<td>The OHA acquires the 511 acres surrounding the birthstones and enters into agreement with DLNR for management of the 5 acres parcel containing the birthstones.</td>
<td>The OHA begins the Kukaniloko conceptual master planning process with the Wahiawa community and surrounding landowners.</td>
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COMMUNITY OUTREACH PROCESS

2.5-YEAR PLANNING PROCESS

The OHA recognized that the planning process required a thorough understanding of the place and the people who interact with it. The following represents the community outreach process that took place to explore the various visions the OHAs beneficiaries and community members have for the site.

PHASE 1: PRE-PLANNING
THOUGHT LEADER INTERVIEWS
- Hawaiian community leaders were consulted to include their visions and considerations for the conceptual master plan. The Thought Leaders provided comments on managing access, perpetuating culture, cultural education, and protecting the place for current and future generations.

PHASE 2: START OF CONCEPTUAL MASTER PLANNING
WORKING GROUP FORMED
- A working group comprised of people with expertise in cultural and natural resource management, agriculture, archaeology, business, and marketing, education, Hawaiian culture, environmental and property law, and the OHA-ImuaLandowner engagement. The group was invited to meet with the Working Group to share the conceptual master plan time frame and process, build relationships, and gather feedback.

PHASE 3: MID-PLANNING
PROGRAM DEVELOPMENT
- Brainstorming workshops were conducted on what kind of programming would take place on the property and what physical elements and infrastructure were needed. 4 major categories emerged: Cultural landscape, vegetation, education, and revenue generation. The working group further broke down the categories which became the priorities for the plan.

COMMUNITY MEETING #2
- The civic groups and larger community reconvened for a recap of the first round of community engagement and an update from the Working Group. The larger group broke into three stations to give their comments and feedback on the 4 major program categories developed by the Working Group.

PHASE 4: MASTER PLAN COMMUNITY MEETING #3
- The final opportunity for the community to review and comment on the OHAs Conceptual Master Plan recommendations before going to the plan would be presented to OHAs Board of Trustees. The comments and outcomes from this meeting helped to reinforce the process and direction developed by the Working Group.

VISION STATEMENT DEVELOPED
- The Working Group and community members produced a guiding charter for the site that was envisioned to be implemented over the next 100 years. The outcomes from this discussion are best represented by the vision statement:

Kūkāina Naʻiʻana ʻau is an ecosystem of connectivity between our ʻaina and people. The parks for the ʻaila and a wahi kapa to honor ʻAiʻa’s oral lineage, ʻAiʻa kūkāina will inspire and educate future ʻōiwi leaders to ʻi hoʻomana, hoʻonaʻauao, and hoʻoluʻulu ʻai na.

CONCEPTUAL GOAL DEVELOPMENT & IDENTIFICATION OF PHYSICAL NEEDS
- Goals were developed for each value (ʻAiʻa, ʻi hoʻomana, hoʻonaʻauao, and hoʻoluʻulu ʻai na) and infrastructural needs were also identified for each goal (e.g., outdoor classrooms, gardens, etc.).

PROGRAMMATIC OUTCOMES

The community outreach outcomes that rose to the top as priorities are best represented by the following guiding themes:

INTEGRATED PROGRAMMING

The types of programming that will take place at Kūkāina ʻAu can be categorized by ʻAiʻa marae reservations, program plans, access management, ʻAiʻa hula, ʻAiʻa engagement, community-based stewardship, cultural workshops, and ʻAiʻa ʻi hoʻomana. Agriculture, native forest restoration, and cultural leadership guided the planning process, as they work together to ensure the success of the project.

EDUCATION CONTINUUM

Like most indigenous cultures, Native Hawaiian understand that human life cycles are relatively short and information gained needs to be transmitted to future generations to understand lessons learned over time. This concept will be captured through educational and engagement programs at Kūkāina. Generationally integrated education supports a traditional model of reciprocal learning that will help grow people, place, food, environment, and natural cultural resources.

HUB & SPOKE

Kūkāina will become a hub to connect other efforts on ʻAiʻa and the ʻi hoʻomana. It will foster engagement with cultural, community, and educational resources, including: kaʻau nui, akua, and kaʻau keiki. It will provide educational and experiential programs.

VEGETATION CONTINUUM

The vegetation continuum considers the full spectrum of vegetation planting strategies, from native forest to higher-nutrient agriculture. By creating a diverse ecosystem, the water table will be restored through the restoration of native trees, which will help support, cool, and provide habitat for wildlife, birds, and other species that will serve the needs of the ʻAina and people.
WELINA ZONE
WELCOME PAVILION
The welcome pavilion aligns with the values holomana and hō'ōpūlau and is part of the access management strategies to protect the barking stones. As recommended by the working group, a home base for community stewards and security to operate from. At the welcome pavilion, visitors can be educated about the place and how to behave while visiting.

PIKO ZONE
INTERPRETIVE CENTER (& AMPITHEATER)
The interpretive center aligns with the values holomana and hō'ōpūlau and will be the gathering place for education, training and learning (sacralizing). It will also provide alternative experiences of the barking stones, which will enable continued and accurate interpretation of the site without visiting the stones.

KUPU ZONE
GREENHOUSE & NURSERY
The greenhouse aligns with the values hō'ōpūlau and will produce plants for the reforestation efforts that will take place on the property as part of the vegetation continuum. It will also serve as the “high tech” agriculture component of the continuum, which is the use of best science-agricultural methodologies available to date.

CULTURAL NODES
Along the walking and vehicle pathways one can connect further to Hawaiian culture, knowledge, and practices. These cultural nodes will serve multiple functions for educational purposes to enlighten the next generations of leaders.

VEGETATION CONTINUUM
The vegetation continuum is a spectrum of vegetation ranging from native flora, resource crops, food crops, and highly modified, technologically agricultural systems that will be established throughout the

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Source: June 2020 Budget Realignment #2 Budget Book
KŪKANILOKO WILL BECOME A PLACE WHERE...

» The legacy of the ali`i born and trained there is carried on by the next generation who will be educated to become leaders in their communities;

» Kūpuna, mākua, and keiki can come together to learn and perpetuate Hawaiian culture;

» Beneficiaries and community members can gather to celebrate the rich cultural history of their home; and

» Natural and cultural resources are restored and continue to flourish through a holistic regenerative system that is supported by community stewardship and the economic and social opportunities articulated in the plan.

SHARE YOUR MANA'O

Email us your thoughts at info@oha.org
MEETING OF THE

COMMITTEE ON RESOURCE MANAGEMENT (RM)

DATE: Tuesday, April 20, 2021
TIME: 1:30 p.m.
PLACE: Virtual Meeting
Viewable at www.oha.org/livestream OR
Listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

AGENDA

I. Call to Order
II. Public Testimony on Items Listed on the Agenda* (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline will not be accepted)
III. Approval of Minutes
   A. March 23, 2021
   B. March 30, 2021
IV. Unfinished Business
   None
V. New Business
   A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program
   B. ACTION ITEM RM #21-05: Amendment to the Executive Policy Manual Section, Budget Management Policy
   C. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes
VI. Executive Session‡
   A. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4).

VII. Announcements
VIII. Adjournment
ACTION ITEM

COMMITTEE ON RESOURCE MANAGEMENT
April 20, 2021

Action Item Issue: Amendment to Executive Policy Manual Section, Budget Management Policy

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

Reviewed by: Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Reviewed by: Raina Gushiken
Ka Paepae Puka, Senior Legal Counsel

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

Reviewed by: Ke Kua, Trustee John D. Waihee, IV
Luna Ho‘omaluhia Kōmikana Resource Management
Chair of the Committee on Resource Management

Apr 19, 2021
I. **Proposed Actions**

To expand the Executive Policy Manual (EPM) section described in Attachment A: (1) New section 3045 Budget Management; (2) New section 3046 Fiscal Stabilization Policy; (3) Relocate and renumber two sections currently located in section 3050 Fiscal to section 3040 Planning, Programming, Budget; and (4) Relocate and renumber five sections currently located in section 3040 Planning, Programming, Budget to new section 3045 Budget Management.

II. **Issue**

Whether or not the Board of Trustees (“BOT” or “Board”) should approve the following amendments in the Executive Policy Manual (“EPM”):

A. New section 3045 Budget Management;
B. New section 3046 Fiscal Stabilization Policy;
C. Relocation and renumbering of two sections currently located in section 3050 Fiscal to section 3040 Planning, Programming, Budget; and
D. Relocation and renumbering of five sections currently located in section 3040 Planning, Programming, Budget to new section 3045 Budget Management.

III. **Discussion**

A. **Budget Construction.** Via Action Item RM #18-12: Amendments to OHA’s Board of Trustees Executive Policy Manual (EPM) related to budget preparation, format and reporting requirements, September 26, 2018, the Board implemented changes to and renamed section 3040 to Planning, Programming, Budget (PPB) \(^1\) (“Section 3040”). In general, section 3040 describes the biennium budget construction process, including sufficient detail planning, programming and financing to support OHA’s Strategic Plan priorities, results, programs and operations. Understanding the business model, time horizon and activities, work plans, etc. are important to be able to budget effectively. In addition, the budget should be able to be shared in a multiple ways—non-core, programmatic, strategy, overhead, personnel, non-personnel; and to multiple audiences (e.g., Board, administration, management, legislators, beneficiaries). Section 3040 functions as the organization’s budget construction policy.

B. **Budget Management.** Once the biennium budget is constructed as outlined in Section 3040, implementation and execution of the budget take various forms such as management and monitoring of site operations and activities, payroll, purchase requisitions, purchase orders, disbursements and contracts. Each operational activity has related policies, processes and procedures. Observations, experiences and operations are supplemented with periodic (e.g., weekly, monthly) reports distributed to executives, directors and managers to monitor and manage strategic and tactical activities, purchase requisitions (representing commitments), purchase orders and contracts (representing encumbrances), budget variances (the difference between actual disbursements + commitments + encumbrances and budgets for the program, object code, contract).

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\(^1\) Section 3040 related to Bylaws Review was deleted and moved to Series 1000 which is related to BOT responsibilities (Source: Action Item ARM 10-06 and page 19)
Payroll is currently managed centrally and holistically by the Human Resources Division. Historically, the Controller and Chief Financial Officer have managed payroll without broader engagement of the Human Resources function and the related analyses. New section 3045 Budget Management (“Section 3045”) describes the various types of reports available for better budget management. This section coupled with the budget evaluation activities described below envisions a more collaborative budget management process between Resource Management and Human Resources functions for payroll and benefits.

C. **Budget Evaluation.** Reports provided and budget evaluation activities are intended to go hand in hand. Contract management is also part of budget monitoring and management. Evaluation activities consider questions such as:

- What is the dollar and percentage variance of each program?
- What is the nature of that variance—positive, negative, temporary, permanent?
- Should there be an adjustment to the process to spend (e.g., accelerate or slow the procurement process) or the actual spend itself (e.g., service contract or other disbursement vehicle)?
- Are the program plans on track? Do we need to adjust our plans in order to deliver timely and completely?
- Was the intended outcome, deliverable provided? Is there a contract, purchase order or other adjustment to be completed?
- How are the expenditures and disbursements aligned tactically or strategically?

New Section 3045 functions as the organization’s budget reporting, management and evaluation policy, collectively “Budget Management Policy”.

**D. Fiscal Stabilization Policy**

Refer to Attachment B for Action Item RM #19-16: Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy, September 4, 2019. While approved by the Board in 2019, the policy has not been formally incorporated into the EPM; therefore this action item proposes such incorporation as part of a budget management policy. Page 7 of Action Item RM #19-16 notes, “As a temporary measure, the fund could address many of OHA’s annual needs for budget stabilization and emergencies, while OHA considers permanent responses to the State Auditor’s concerns. We believe that OHA needs to analyze its current policies, especially those related to investment and withdrawals, so they are not contradictory, and work toward agreed-upon objectives. As recommended in the past, that effort needs to be based upon internal OHA discussions regarding organizational objectives and priorities.” The referenced policy analyses (i.e., Investment, Spending, Debt Management, Kaka’ako Makai and development of Endowment specific policies and related documents) was the work of the Board approved Permitted Interaction Group (PIG) reported out in October 2020; and continuing the work is recommended.

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2 Action Item BOT #20-05: Approve the formation of a Permitted Interaction Group to investigate the development of T-Level Trustee policies for OHA’s Board Governance Framework, September 10, 2020.
E. Executive Policy Manual Edits

In completing this budget policy related work and reviewing the various reference documents, the following edits are proposed: (3) Relocate and renumber two sections currently located in section 3050 Fiscal to section 3040 Planning, Programming, Budget; and (4) Relocate and renumber five sections currently located in section 3040 Planning, Programming, Budget to new section 3045 Budget Management. Refer to Attachment A for proposed movement and relocation of sections to better align to budget construction/preparation, management and evaluation activities (part III), noting that destination sections are identified with “x” to aid in final integration work; and Attachment A is also the clean summary (part I and II).

IV. Funding Source

Not applicable, no dedicated funding needed to amend the EPM for budget management policies. Budgetary implications of the application of proposed policies is intended to support budget realignments, reserves, designations.

V. Recommended Actions

To expand the Executive Policy Manual section described in Attachment A: (1) New section 3045 Budget Management; (2) New section 3046 Fiscal Stabilization Policy; (3) Relocate and renumber two sections currently located in section 3050 Fiscal to section 3040 Planning, Programming, Budget; and (4) Relocate and renumber five sections currently located in section 3040 Planning, Programming, Budget to new section 3045 Budget Management.

VI. Timeframe

The new budget management policies contained herein become effective upon the second reading (and approval) by the Board of Trustees and is intended to be fully incorporated and applied in the management of the FB22-23 biennium budget.

VII. Reference Documents

The following documents are provided as references for this action item:

A. Action Item RM #18-12: Amendments to OHA’s Board of Trustees Executive Policy Manual related to budget preparation, format and reporting requirements, September 26, 2018

B. Board of Trustees, Trustee-Level Fiscal Policies Permitted Interaction Group, October 2020, future policy work
Action Item RM #21-05: Amendment to Executive Policy Manual Section, Budget Management Policy

VIII. Attachments

A. Section 3040 Planning, Programming, Budget (PPB), Section 3045 Budget Management Policy, and Section 3046 Fiscal Stabilization Policy - Recommended Budget Management Policy Edits

B. Action Item RM #19-16: Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy, September 4, 2019

INTENTIONALLY LEFT BLANK
3045 BUDGET MANAGEMENT POLICY

The budget management policy builds on Section 3040 Planning, Programming, Budget (PPB) which general describes the biennium budget construction process, including sufficient detail planning, programming and financing to support OHA’s Strategic Plan, tactical and implementation plan, priorities, results, programs and operations. Understanding OHA’s business model, budget construction time horizon and activities, work plans, etc. are important to be able to budget effectively. In addition, the budget should be able to be shared in a multiple ways—core/non-core, programmatic, strategy, overhead, personnel, non-personnel; and to multiple audiences (e.g., Board, Administration, management, legislators, beneficiaries, regulatory agencies).

3.45.a. Budget Management. Budget management and monitoring activities should consider a breadth of activities from observations, site operations and activities, payroll, purchase requisitions, purchase orders, disbursements and contracts. Each activity has related policies, processes and procedures. Observations, experiences, operations should be supplemented with periodic (e.g., weekly, monthly) reports and distributed to executives, directors and managers to monitor and manage---strategic and tactical activities, purchase requisitions (representing commitments), purchase orders and contracts (representing encumbrances), budget variance (representing actual disbursements + commitments + encumbrances compared to budgets for the program, object code, contract).

3.45.b. Budget Evaluation. With the budget monitoring and management reports provided, budget evaluation activities as summarized in Figure 3 below, is intended for budget management and evaluation activities to go hand in hand. Evaluation activities asks questions such as: What is the dollar and percentage variance of each program? It is not enough to review the computed difference, but to also ask “Why?”; is it a temporary or permanent difference? Should there be an adjustment to the process to spend or the actual spend itself.

3.45.c. As the biennium budget is prepared and authorized only once every two years, in accordance with the State’s biennium, it may be necessary to update and make adjustments to the budget for various changes that may have occurred since the budget was approved. Significant changes to the budget are made through budget realignments. A budget realignment is generally a reforecasting of the total budget. Budget realignments are prepared by the CEO through the CFO and presented to the BOT for approval.

3.4.d. Changes to the biennium budget that are not comprehensive enough to require realignment are to be handled through budget adjustments. Management Administration is delegated the authority to approve budget adjustments that fall within the lesser of $100,000 or 5% between each program. Budget adjustments in and out of grant and sponsorships appropriations are prohibited.
3.4.d.1. A quarterly report of budget adjustments made pursuant to 3.4.d shall be regularly submitted to the BOT. Each report shall identify the expenditure category from which the funds were transferred, the total amount of funds transferred, the expenditure category that received the transferred funds, the total amount of budget adjustments made for each quarter and a justification that briefly explains the necessity of the adjustments.

3.4.e. An annual report of budget adjustments made pursuant to section 3.5.f. shall be submitted to the Board of Trustees no later than 60 days after the closing of each fiscal year. The Budget Adjustment Report shall identify the program from which funds were transferred, the total amount of funds transferred, the program that received the transferred funds, the total adjustments made for the fiscal year, and a justification that briefly explains the necessity of the adjustments.

3.4.f. OHA shall establish a budgetary monitoring process which ensures intra-office and program fiscal accountability. No later than 120 days after the closing of a fiscal year, the Administration shall submit to the Board of Trustees in an agenized meeting a Variance Report on program performance for the last completed fiscal year. In format, the Variance Report shall follow the same format as the Biennium Budget. The Variance Report shall include:

i. a comparison of the budgeted expenditures and actual expenditures for the last completed fiscal year;

ii. a comparison of the program size anticipated, and the size realized in the last completed fiscal year;

iii. a comparison of the level of effectiveness anticipated and the level attained in the last completed fiscal year; and

iv. a narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year.

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3.46 FISCAL STABILIZATION POLICY

SECTION I - PURPOSE AND INTENT

3.46.1. - Purpose and intent. Historically, OHA has required funds to address unexpected shortfalls in available funding that had a significant effect on budget, as well as emergencies. OHA currently uses “OHA’s Native Hawaiian Trust Fund Spending Policy’s Fiscal Reserve Management Guidelines” (the Guidelines) to address funding needs, but the guidelines have been viewed as overly broad and unclear. This policy supersedes the guidelines and establishes a Fiscal Stabilization Fund (FSF) and the rules for its governance and maintenance, to enable OHA to have funds available for budget stabilization and emergencies, but under stricter fiscal limitations. Definitions, concepts, criteria and other elements found in the Guidelines have been mapped to the Fiscal Stabilization Policy (FSP) contained herein.

3.46.2. - SECTION II – DEFINITIONS

Definitions. In this policy, if not inconsistent with the context:

1. “Action Item” refers to a draft of proposed policy or description or other action by the Board. An action item must comply with the form and content requirements set by the Board or the OHA organization.

2. “Annual Ceded Land or Public Land Trust Revenues” shall be the $15.1 million annual revenues received from the State of Hawaii as of fiscal year 2006-2007, or including any adjustments to annual ceded lands revenues in the future by the State of Hawaii.

3. “Appropriation” refers to funds allocated for the OHA organization, set aside by formal Board action for specific use or through normal and customary government funding mechanism. An appropriation allows money to be spent; and is not an expenditure record.

4. “Authorized Fund Uses” means the uses described in section IV of this policy.

5. “Beneficiary” means as defined in HRS section 10-2.

6. “Board” or “BOT” means the OHA Board of Trustees, as described in Article XII, section 5 of the State Constitution and HRS chapters 10 and 13D.

7. “Budget cycle” means the two-year, biennium term of budget activity.

8. “Budget process” includes the process of developing and approving an operating budget for the fiscal biennium, as described in the BOT Executive Policy Manual section 3050, Fiscal; subsections 3.5.C and 3.5.D.

9. “Budget Stabilization” refers to setting aside funds for times of unexpected revenue shortfall, budget deficit, or emergency.

10. “Chief Executive Officer” or “CEO” means the administrator of the Office of Hawaiian Affairs, appointed by the Board pursuant to HRS section 10-10.
11. “Chief Financial Officer” or “CFO” means the person appointed by the administrator to be the chief financial officer of OHA or an individual that carries out the function.

12. “Contingency” refers to an event or condition (such as an emergency) that may but is not certain to occur.

13. “Emergency” refers to a serious, unexpected, and often dangerous condition requiring immediate attention. Emergencies include threats to public health, welfare, or safety from a major natural disaster, infrastructure emergencies involving OHA’s real properties or legal fees and costs incurred by OHA for pending claims or litigation.

14. “Fiscal Biennium Total Operating Budget” means the formal document that reflects the authorized expenditures of OHA for the two fiscal years that constitute the applicable fiscal biennium.

15. “Fiscal Reserve Fund” means the fund prior to the establishment of the “Fiscal Stabilization Fund” under the Guidelines.

16. “Fiscal Stabilization Fund” means the fund established by this policy.

17. “General Fund Appropriations from the State” refers to appropriations determined by the State of Hawaii Legislature during each biennium and are spent for a specific purposes.

18. “Native Hawaiian Trust Fund” is defined as all Public Land Trust revenue emanating from 5(f) funds that is subject to OHA’s Native Hawaiian Trust Fund investment policy.

19. “NHTF Financial Assets Portfolio” means the Native Hawaiian Trust Fund plus any other financial asset subject to OHA’s Native Hawaiian Trust Fund investment policy.

20. “Non-recurring” refers to costs, charges, or expenses that occur one time only and are not likely to happen again.

21. “Originator” includes a person who first thinks of something and causes it to happen.

22. “Policy” means this Fiscal Stabilization Fund Policy.

23. “Quarterly Withdrawal Limitation” means the maximum quarterly withdrawals from the fund, as defined in section V(a) of this policy.

24. “Reserve” means something stored or kept available for future use or need, money or its equivalent kept on hand or set apart usually to meet liabilities.

25. “RM Committee” means the Resource Management Committee of the Board.

26. “Shortfall” refers to a deficit of something required or expected, such as revenues or budgeted funds.

27. “Trustee” means the members of the BOT, as described in Article XII, section 5 of the State Constitution and HRS chapters 10 and 13D.

28. “Variance” means the financial or quantitative difference between a budgeted amount and purpose for the actual amount and purpose.

29. “Unexpected” means not expected or unforeseen.
3.46.3 - SECTION III – ESTABLISHMENT

A. Establishment.

1. The Fiscal Stabilization Fund (FSF) is established by an initial, one-time appropriation of $1,500,000\(^1\) into a separate fund account\(^2\) outside the Native Hawaiian Trust Fund (NHTF) upon adoption of this policy. This appropriation shall be counted toward maximum withdrawal limitation in the BOT Spending Policy.

2. Deposits and withdrawals into the FSF shall follow the requirements of this policy. Upon adoption of this policy, “OHA’s Native Hawaiian Trust Fund Spending Policy’s Fiscal Reserve Management Guidelines” shall terminate.

3. At the discretion of the BOT, additional deposits of up to $3,000,000 may be made in each subsequent fiscal year from funds that were budgeted from the NHTF Financial Assets Portfolio that were unspent at the end of previous fiscal years. The audited financial statements and audited processes (i.e., lapsing of prior encumbered purchase orders) for each respective fiscal year shall be used as the sole basis to determine the eligible deposits into the FSF. Annual deposits shall be counted toward the maximum withdrawal limitations in the BOT Spending Policy.

4. The monies in the FSF may be carried over from year to year, provided that the total amount in the FSF shall not exceed $10,000,000. Funds above and beyond the $10,000,000 cap shall be redeposited into the NHTF.

5. Withdrawals from the FSF shall not be included in the maximum withdrawal limitations in the BOT Spending Policy for the fiscal year in which the withdrawal is made.

6. Temporarily idle moneys in the FSF may be invested as directed by the BOT, and the interest earned may be either transferred permanently into the NHTF or may remain in the FSF, at the discretion of the BOT. If the interest remains in the FSF, it may serve to increase the fund balance, but in no event shall the balance of the FSF be allowed to exceed the $10,000,000.

B. Reserves.

1. Once established, reserves for contingencies may be designated in the Fiscal Stabilization Fund to acknowledge and recognize the responsibilities of the OHA.

Such reserves for contingencies may include but not be limited to estimates for legal or other settlements, repatriation, budget stabilization needs and emergencies such as natural disasters.

3.46.4 - SECTION IV – AUTHORIZED FUND USES

Authorized fund uses. Funds from the Fiscal Stabilization Fund may be withdrawn and used as authorized by the BOT through an Action Item for the following purposes only:

1. **Budget stabilization.** The Fiscal Stabilization Fund may be used to address unexpected shortfalls in available funding that directly translate into a significant budget decrease. Shortfalls can be considered as any decrease in Annual Public Land Trust Revenues or General Fund Appropriations from the State, change in State

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\(^1\) The amount of the initial deposit will be dependent on the current size of the fiscal reserve fund.

\(^2\) Such fund should be a part of the OHA’s overall cash management policy.
assessments such as fringe rate, retirement or a significant financial market downturn.

2. **Emergencies.** The Fiscal Stabilization Fund may be used to address emergency expenditures directly incurred by the OHA or experienced by the OHA’s beneficiaries. To qualify as an authorized fund use, the expenditures (1) must directly result from an emergency; (2) must address events or situations that are non-recurring; (3) must not have been contemplated in the budget process; and (4) cannot wait to be included in the next budget cycle. Emergencies include threats to public health, welfare, or safety from a major natural disaster, infrastructure emergencies involving OHA’s real properties or legal fees and costs incurred by OHA for pending cases.

3. **Reserves.** The Fiscal Stabilization Fund may be used to activate previously designated reserves.

4. **Contingencies.** The Fiscal Stabilization Fund may be used to address contingencies either previously reserved or subsequently identified.

### 3.46.5. - SECTION V – MAXIMUM WITHDRAWALS

Limitations on the maximum FSF size and related withdrawals are identified below.

**Maximum withdrawals.** The maximum withdrawals from this fund are limited as follows:

1. The maximum withdrawals in any given fiscal year, for any combination of authorized uses in section IV, are limited to no more than $3,000,000 annually, and no more than $750,000 per quarter, regardless of the total balance of the fund. The funds that are withdrawn must be used during the current fiscal year, and do not carry over to subsequent fiscal years.

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<th>Spending Guidelines</th>
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<td>Minimum Balance</td>
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<td>Maximum Designations (Annual)</td>
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<td>Maximum Designations (Quarterly)</td>
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2. The fund balance cannot be negative after accounting for all authorized spending.
   a. Funds are subject to quarterly withdrawal limitations;
   b. The $3,000,000 limitation is based on the fiscal year in which the designation is made, regardless of the year of funding specified in the designation. For example, if a $2,000,000 designation is made in budget year one, to be funded in budget year two, the $2,000,000 will count towards the limit in budget year one, and only an additional $1,000,000 can be designated in budget year one. In budget year two, the maximum designation of $3,000,000 is still available.

### 3.46.6 - SECTION VI – REQUEST PROCEDURE
**Request Procedure.** Funding requests for the use of Fiscal Stabilization Fund must be submitted as an action item. To be considered, the action item must comply with Board requirements for action items, and include the following, at a minimum:

1. **Originator.** Identification of the originator of the initial request. If the originator is not a member of the BOT, the action item shall state that it is being made “By Request,” and include the identity of the originator, for example, “CEO” or “beneficiary.”

2. **Explanation.** Clear explanation of the reasons the request qualifies as an authorized fund use. The explanation must address all requirements of sections IV and V, including:
   a. The reasons the request cannot be accommodated with other available means of financing, or why it cannot be budgeted in the next Fiscal Biennium Total Operating Budget.
   b. An explanation of the urgency of the request and its impact on OHA or its beneficiaries if the request is denied or the decision is delayed.
   c. Certification by the CFO that the funds are available for the request, and that maximum withdrawal restrictions will not be violated if the request is granted.

3. **Supporting documentation.** All supporting documentation that justifies the funding request.

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**3.47.7. - SECTION VIII – DELEGATION OF RESPONSIBILITY**

**Delegation of Responsibility.**

1. The CEO shall be responsible for the initiation of the Action Item(s) requesting funding.

2. The CFO shall be responsible for reviewing the Action Item(s), the release of funds and any documentation in relation to disbursements. All documentation must be stored in accordance with OHA’s record retention policy.

3. Any Action Item that does not comply with the requirements of this policy shall not be considered by the Board. Any non-compliant action item approved by the Board shall be considered void.

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3.47.8 - SECTION IX – VOTING REQUIREMENTS

Voting requirements. The following defines the voting requirements for Board approval of funding requests.

(a) The Board of Trustees with six (6) affirmative votes may authorize expenditures from the Fiscal Stabilization Fund, up to the maximum designation allowable under section V, Maximum withdrawals.

(b) The Board of Trustees with eight (8) affirmative votes may approve in excess of the $3,000,000 withdrawal limit, provided that the amount withdrawn shall not result in the Fiscal Stabilization Fund balance falling below zero.

3.47.9 - SECTION X – REVIEW

Review. This Policy will be reviewed as recommended by the Chair of the RM Committee, but no less than every two (2) years. Any modification to this Policy shall require six (6) votes and two (2) readings at the Board of Trustees level with external review, consultation and advice being completed prior to any modifications.

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**Part III - Relocate and renumber two sections currently located in section 3050 Fiscal to section 3040 Planning, Programming, Budget**

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<th>Current EPM Section and Language</th>
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<tr>
<td><strong>3050 Fiscal, Biennium Budget Community Input</strong></td>
<td>Move from section labeled 3050 Fiscal to section labeled 3040 Planning, Programming, Budget (PPB); and renumber from 3.5.b to new sub-section 3.x.x. as the section pertains to budget preparation, construction activities.</td>
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<td>3.5.b. The BOT, pursuant to Chapter 10, Hawai‘i Revised Statutes, as amended, will provide opportunity for the public to comment on the Biennium Budget through a number of means which may include public meetings, publications and announcements in local media, and through the use of the Internet. A public input plan will be developed by the CEO in consultation with the BOT Chair, prior to each budget development cycle. The BOT shall take the public input gained from these various means into its budget preparation.</td>
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<td><strong>3050 Fiscal, Biennium Budget Preparation</strong></td>
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<td>3.5.c. It is the policy of OHA to develop a biennium budget in accordance with the OHA Native Hawaiian Trust Fund Spending Policy and State of Hawaii laws, rules, and regulations. The budget shall include all sources of funding and all categories of expenditures for the biennium. The CEO or designee shall prepare the OHA Biennium Budget for consideration and approval. Only those portions of the budget that includes State of Hawaii General Funds and the required Trust Fund match shall be submitted to the Legislature.</td>
<td>Move from section labeled 3050 Fiscal to section labeled 3040 Planning, Programming, Budget (PPB); and renumber from 3.5.b to new sub-section 3.x.x. as the section pertains to budget preparation, construction activities.</td>
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### Current EPM Section and Language

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<td><strong>3.4.g.</strong> As the biennium budget is prepared and authorized only once every two years, in accordance with the State’s biennium, it may be necessary to update and make adjustments to the budget for various changes that may have occurred since the budget was passed. Significant changes to the budget are made through budget realignments. A budget realignment is generally a reforecasting of the total budget. Budget realignments are prepared by the CEO through the CFO and presented to the BOT for approval.</td>
<td>Move from section labeled 3040 Planning, Programming, Budget (PPB) to new section 3045 Budget Management Policy; and renumber from 3.4.g. to 3.45.c.</td>
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<td><strong>3.4.h.</strong> Changes to the biennium budget that are not comprehensive enough to require realignment are to be handled through budget adjustments. Management Administration is delegated the authority to approve budget adjustments that fall within the lesser of $100,000 or 5% between each program. Budget adjustments in and out of grant and sponsorships appropriations are prohibited.</td>
<td>Move from section labeled 3040 Planning, Programming, Budget (PPB) to new section 3045 Budget Management Policy; and renumber from 3.4.g. to 3.45.d.</td>
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<td><strong>3.4.h.1.</strong> A quarterly report of budget adjustments made pursuant to 3.5.f. 3.4.h. shall be regularly submitted to the BOT. Each report shall identify the expenditure category from which the funds were transferred, the total amount of funds transferred, the expenditure category that received the transferred funds, the total amount of budget adjustments made for each quarter and a justification that briefly explains the necessity of the adjustments.</td>
<td>Move from section labeled 3040 Planning, Programming, Budget (PPB) to new section 3045 Budget Management Policy; and renumber from 3.4.g. to 3.45.d.1.</td>
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<td><strong>3.4.i.</strong> An annual report of budget adjustments made pursuant to section 3.5.f. shall be submitted to the Board of Trustees no later than 60 days after the closing of each fiscal year. The Budget Adjustment Report shall identify the program from which funds were transferred, the total amount of funds transferred, the program that received the transferred funds, the total adjustments made for the fiscal year, and a</td>
<td>Move from section labeled 3040 Planning, Programming, Budget (PPB) to new section 3045 Budget Management Policy; and renumber from 3.4.g. to 3.45.e.</td>
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**Current EPM Section and Language** | **Action**
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justification that briefly explains the necessity of the adjustments. | Move from section labeled 3040 Planning, Programming, Budget (PPB) to new section 3045 Budget Management Policy; and renumber from 3.4.g. to 3.45.f.

**3.4.j.** OHA shall establish a budgetary monitoring process which ensures intra-office and program fiscal accountability. No later than 120 days after the close of a fiscal year, the Administration shall submit to the Board of Trustees in an agenized meeting a Variance Report on program performance for the last completed fiscal year. In format, the Variance Report shall follow the same format as the Biennium Budget. The Variance Report shall include:

- v. a comparison of the budgeted expenditures and actual expenditures for the last completed fiscal year;
- vi. a comparison of the program size anticipated, and the size realized in the last completed fiscal year;
- vii. a comparison of the level of effectiveness anticipated and the level attained in the last completed fiscal year; and
- viii. a narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year.
OFFICE OF HAWAIIAN AFFAIRS

MEETING OF THE
COMMITTEE ON RESOURCE
MANAGEMENT

COMMITTEE REPORT

September 4, 2019

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

Madame Chair Machado,

The Committee on Resource Management, having met on September 4, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

Administration recommends the Board of Trustees (BOT): 1) Approve the new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A; and 2) Eliminate the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B.

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

1) Action Item RM#19-16
2) RMRoll Call Vote Sheet

Meeting of the Committee on Resource Management
Committee Report of
September 4, 2019 Page 1 of 2
Respectfully submitted:

Trustee Dan Ahuna, Chair

Trustee Kalei Akaka, Member

EXCLUDED
Trustee Leina'ala Ahu Isa, Member

Trustee Robert Lindsey, Jr., Member

Trustee Keli'i Akina, Member

Trustee Colette Machado, Member

Trustee Hulu Lindsey, Member

Trustee John Waihe'e, IV, Member

Trustee Brendon Lee, Member

Meeting of the Committee on Resource Management
Committee Report of
September 4, 2019 Page 1 of 2
AGENDA ITEM: III. NEW BUSINESS

B. Action Item RM #19-16: Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

MOTION: Administration recommends the Board of Trustees (BOT): 1) Approve the new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A; and 2) Eliminate the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B.

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DISCUSSION:
OFFICE OF HAWAIIAN AFFAIRS

Action Item
Committee on Resource Management
September 4, 2019

Action Item: Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

Prepared by: 8/28/19
Sylvia M. Hussey, Ed.D. Date
Ka Pouhana Kūikawā, Interim Chief Executive Officer

Reviewed by: 8/28/19
Gloria Li Date
Ka Pou Kihi Kanaloa Wai, Kūikawā, Interim Chief Financial Officer

Reviewed by: 8/28/19
Lisa Watkins-Victorino Date
Ka Pou Nui Kūikawā, Interim Chief Operating Officer

Reviewed by: 8/28/19
Sylvia M. Hussey, Ed.D. Date
Ka Pohuhana Kūikawā, Interim Chief Executive Officer

Reviewed by: 8/29/19
Ke Kua, Trustee Dan Ahuna Date
Luna Ho‘omaluhia Kīmike RM
Chair of the Committee on Resource Management
RM #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

I. Proposed Action

Administration recommends the Board of Trustees (BOT): 1) Approve the new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A; and 2) Eliminate the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B.

II. Issue

Whether or not a new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A should be approved; and/or 2) Should the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B be eliminated.

III. Background and Context

**Fiscal Reserve Withdrawal Guidelines.** The Fiscal Reserve Withdrawal Guidelines (FRWG) are embedded in the Native Hawaiian Trust Fund Spending Policy. The Office of Hawaiian Affairs two criteria for an effective Fiscal Reserve are the following: (1) the fund collects and dispense appropriate amounts of money at appropriate times; and (2) it is simple to operate.

The purpose of the FRWG is to describe the proposed operation of OHA’s fiscal reserve as established by OHA’s Spending Policy. These guidelines are not policy, rather it clarifies existing policy that exists and states, “...Any funds available but not spent in previous fiscal years (Fiscal Reserve) held within the Native Hawaiian Trust Fund.

The objective of the OHA’s fiscal reserve fund is designed to provide money in certain situations. Money can be authorized under any of the 3 (three) permissible purposes: budget stabilization, unpredicted one-time payments, and capital acquisitions.

The maximum designation is limited to no more than $3,000,000 annually. Special circumstances use requires a Board of Trustees (BOT) supermajority plus 2 votes (8 affirmative votes). Deposit calculations (into the Fiscal Reserve) “shall be subject to audited financial statements for the respective fiscal year¹. Estimated year-end budget surpluses based upon unaudited records are not permissible.” Operations of the fiscal reserve fund is subject to two (2)

¹ Latest audited financial statements for the OHA is as of and for the fiscal year ended June 30, 2018. In addition, fiscal year ended June 30, 2019 audited financial statements are not anticipated to be issued until February 2020 as audit field work is not scheduled until October/November 2019.
RM #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

restrictions: the fund’s balance cannot be negative after accounting for all designations; and there is no upper threshold or cap.

State Auditor, Report 18-03, February 2018. In February 2018, the State Auditor issued a report of an audit of the OHA based on the objectives at right.

The following findings were raised in Report 18-03 related to the Fiscal Reserve:

- OHA continues to lack a clear policy guiding the use of its Fiscal Reserve.
- The one-time payment provision allows for almost any Fiscal Reserve request to be approved.
- Nine out of the 10 action items for Fiscal Reserve funding we tested lacked required information.
- Trustees voted on action items based on factors outside of Fiscal Reserve guidelines.
- The Fiscal Reserve has been spent down rapidly.

As a result of Report 18-03 findings and recommendations, the Board approved a moratorium.

Moratorium. On February 21, 2018 and February 28, 2018, via Action Item #18-03 (Attachments C and D, respectively) the Resource Management Committee and subsequently the BOT approved a moratorium on the use of Fiscal Reserve funds until specific policy changes were approved by the Board of Trustees (BOT). As also noted in the Action Item #18-03,

"On March 29, 2017, the Board of Trustees approved the RM Committee’s recommendation to create the FSP Working and Implementation Advisory Committee (“FSP Advisory Committee”). Subsequently, RM Committee Chair, Trustee Hulu Lindsey, created collaborative FSP working groups comprised of Trustees, Administration, and subject matter experts to address the following priority areas: OHA’s
RM #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

Spending Policy, Real Estate Investments, Legal and Taxable Structure, OHA's Relationship with the Department of Hawaiian Homelands; and Pension Benefits. The FSP Spending Policy Working Group has met to discuss improvements to the spending policy and fiscal Reserve guidelines, analyzing the policies current implications and outlining the issues that need to be addressed. Additionally, the FSP Spending Policy and Real Estate Investments Working Groups have also met to discuss improvements to the Native Hawaiian Trust fund Investment Policy Statement and consideration of an investment policy statement that would apply to OHA's real estate investments. These efforts will put OHA on the path to better managing and maintaining the health of its financial resources and other assets so that the agency may continue to address both the present and future needs of Native Hawaiians. As the review, modification and/or creation, and adoption of revised fiscal and investment policy statements will take time and a concerted effort by the working groups, it is appropriate to impose a moratorium on the use of Fiscal Reserve funds until the Board of Trustees adopts the recommended changes to the Fiscal Reserve guidelines.”

IV. Policy Review and Analysis

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).

Policy Actions. In May 2019, via Action Item #19-07, the Board took action regarding Economic Development, Debt Management, Spending and Investment and Real Estate Policies, noting particularly the following: 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 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 #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

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

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

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**Policy Alignment.** The new Fiscal Stabilization Policy is aligned to the existing Native Hawaiian Trust Fund, Spending and Investment policies; and the withdrawal parameters from the existing guidelines have been reviewed and mapped to the new policy.
RM #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

V. Existing Status of the Fiscal Reserve

As of the end of the fiscal year ending June 30, 2018, the balance of the fiscal reserve was approximately $5.7MM.¹

VI. Reasons for Administration’s Recommendation for a new Fiscal Stabilization Policy⁴

SPIRE completed an analysis and suggested consideration of a different approach to the Fiscal Reserve Guidelines (“Guidelines”). This approach suggests OHA consider the creation of a Fiscal Stabilization Fund of discrete size and limited uses to address OHA’s historical needs for budget stabilization and respond to concerns by the State Auditor and other that the Guidelines require (1) more structure, (2) more rigor in the process of requesting and approving draws, and (3) more clarity about whether spending under the Guidelines is included in the maximum withdrawal limit in the OHA Spending Policy. The approach also considers this, and any other options, as interim steps toward a more comprehensive policy document that should consider how other relevant policies interact, respond and impact any new policies. It

¹ Also refer to the FB20-21 Biennium Budget Book, Attachment 3
⁴ Based on May 2019 Report and related deliverables
RM #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and
the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native
Hawaiian Trust Fund Spending Policy

recognizes that, while written as a stand-alone policy, it, and any other replacement policy options should
be reviewed for further amendments to track the evaluations of OHA’s spending, withdrawal, debt and
investment policies.

The option would replace the current Guidelines and Fiscal Reserve Fund with a new fund and fund
policies. As a temporary measure, the fund could address many of OHA’s annual needs for budget
stabilization and emergencies, while OHA considers permanent responses to the State Auditor’s concerns.
We believe that OHA needs to analyze its current policies, especially those related to investment and
withdrawals, so they are not contradictory, and work toward agreed-upon objectives. As recommended
in the past, that effort needs to be based upon internal OHA discussions regarding organizational
objectives and priorities.

Therefore, we need to emphasize that the adoption of the option is a temporary measure to address the
concerns of the State Auditor while OHA (the BOT and Administration) makes the numerous, necessary
decisions to shape and reconcile OHA’s objectives and policies. These include:

1) Identifying OHA policies that are based on conflicting objectives and reconcile how they must be
revised to align with each other under a uniform structure and logic.

2) Identifying the core and non-core functions of OHA and whether different funding and withdrawal
rules should apply to each.

3) Identifying whether OHA needs a reserve (rainy day) fund, and what kind of reserve fund is
needed.

Relevant to the last issue, it is important to re-emphasize that this option is not for a reserve (rainy day)
fund. A true reserve fund is meant to address economic volatility and disaster recovery and must be based
on a complete assessment of OHA’s future needs, investment outlook, and other factors that could affect
the level of the reserve fund needed. This assessment of reserve fund levels, structures, and withdrawal
policies is complex, as shown in the studies by the Pew Charitable Trusts. A reserve assessment is
consistent with the State Auditor’s recommendations that OHA should (1) clarify and clearly define the
purpose of the five percent spending limit, and determine whether it is necessary to establish a withdrawal
rate limit to ensure the health and sustainability of the Native Hawaiian Trust Fund and (2) work with the
Administration, including OHA’s Investment Management staff, to determine and obtain the financial
information necessary for the board to assess the short- and long-term impacts to the Native Hawaiian
Trust Fund when considering the use of the Fiscal Reserve.5

IV. Certification of Funding Availability

N/A – no funding required for this policy establishment action item.

5 Report 18-03, page.
RM #19-16 Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy

V. Recommended Action(s)

Administration recommends the Board of Trustees (BOT): 1) Approve the new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A; and 2) Eliminate the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B.

VI. Alternatives

A. Take no action, no new policy and Fiscal Reserve Withdrawal Guidelines exist as is (see Attachment D).

B. Take alternate action (e.g., create new policy, modify existing Fiscal Reserve Withdrawal Guidelines, amend Native Hawaiian Trust Fund Spending Policy).

VII. Time Frame

This action shall be retroactively applied to be effective at the beginning of the fiscal biennium or July 1, 2019.

VIII. Attachment(s)

A. Draft Fiscal Stabilization Policy

B. Native Hawaiian Trust Fund (NHTF) Spending Policy including Fiscal Reserve Withdrawal Guidelines

C. Action Item #18-03 February 27, 2018 –Board of Trustees approval of a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees

D. Action Item #18-03 February 21, 2018 –Resource Management Committee ("RM") recommendation to approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees

E. State Auditor Report 18-03 Report Summary
OFFICE OF HAWAIIAN AFFAIRS
FISCAL STABILIZATION POLICY

SECTION I - PURPOSE AND INTENT

Purpose and intent. Historically, OHA has required funds to address unexpected shortfalls in available funding that had a significant effect on budget, as well as emergencies. OHA currently uses “OHA’s Native Hawaiian Trust Fund Spending Policy’s Fiscal Reserve Management Guidelines” (the Guidelines) to address funding needs, but the guidelines have been viewed as overly broad and unclear. This policy supersedes the guidelines and establishes a Fiscal Stabilization Fund (FSF) and the rules for its governance and maintenance, to enable OHA to have funds available for budget stabilization and emergencies, but under stricter fiscal limitations. Definitions, concepts, criteria and other elements found in the Guidelines have been mapped to the Fiscal Stabilization Policy (FSP) contained herein.

SECTION II – DEFINITIONS

Definitions. In this policy, if not inconsistent with the context:

1. “Action Item” refers to a draft of proposed policy or description or other action by the Board. An action item must comply with the form and content requirements set by the Board or the OHA organization.

2. “Annual Ceded Land or Public Land Trust Revenues” shall be the $15.1 million annual revenues received from the State of Hawaii as of fiscal year 2006-2007, or including any adjustments to annual ceded lands revenues in the future by the State of Hawaii.

3. “Appropriation” refers to funds allocated for the OHA organization, set aside by formal Board action for specific use or through normal and customary government funding mechanism. An appropriation allows money to be spent; and is not an expenditure record.

4. “Authorized Fund Uses” means the uses described in section IV of this policy.

5. “Beneficiary” means as defined in HRS section 10-2.

6. “Board” or “BOT” means the OHA Board of Trustees, as described in Article XII, section 5 of the State Constitution and HRS chapters 10 and 13D.

7. “Budget cycle” means the two-year, biennium term of budget activity.

8. “Budget process” includes the process of developing and approving an operating budget for the fiscal biennium, as described in the BOT Executive Policy Manual section 3050, Fiscal; subsections 3.5.C and 3.5.D.

9. “Budget Stabilization” refers to setting aside funds for times of unexpected revenue shortfall, budget deficit, or emergency.

10. “Chief Executive Officer” or “CEO” means the administrator of the Office of Hawaiian Affairs, appointed by the Board pursuant to HRS section 10-10.

11. “Chief Financial Officer” or “CFO” means the person appointed by the administrator to be the chief financial officer of OHA or an individual that carries out the function.
12. “Contingency” refers to an event or condition (such as an emergency) that may but is not certain to occur.

13. “Emergency” refers to a serious, unexpected, and often dangerous condition requiring immediate attention. Emergencies include threats to public health, welfare, or safety from a major natural disaster, infrastructure emergencies involving OHA’s real properties or legal fees and costs incurred by OHA for pending claims or litigation.

14. “Fiscal Biennium Total Operating Budget” means the formal document that reflects the authorized expenditures of OHA for the two fiscal years that constitute the applicable fiscal biennium.

15. “Fiscal Reserve Fund” means the fund prior to the establishment of the “Fiscal Stabilization Fund” under the Guidelines.

16. “Fiscal Stabilization Fund” means the fund established by this policy.

17. “General Fund Appropriations from the State” refers to appropriations determined by the State of Hawaii Legislature during each biennium and are spent for a specific purposes.

18. “Native Hawaiian Trust Fund” is defined as all Public Land Trust revenue emanating from 5(f) funds that is subject to OHA’s Native Hawaiian Trust Fund investment policy.

19. “NHTF Financial Assets Portfolio” means the Native Hawaiian Trust Fund plus any other financial asset subject to OHA’s Native Hawaiian Trust Fund investment policy.

20. “Non-recurring” refers to costs, charges, or expenses that occur one time only and are not likely to happen again.

21. “Originator” includes a person who first thinks of something and causes it to happen.

22. “Policy” means this Fiscal Stabilization Fund Policy.

23. “Quarterly Withdrawal Limitation” means the maximum quarterly withdrawals from the fund, as defined in section V(a) of this policy.

24. “Reserve” means something stored or kept available for future use or need, money or its equivalent kept on hand or set apart usually to meet liabilities.

25. “RM Committee” means the Resource Management Committee of the Board.

26. “Shortfall” refers to a deficit of something required or expected, such as revenues or budgeted funds.

27. “Trustee” means the members of the BOT, as described in Article XII, section 5 of the State Constitution and HRS chapters 10 and 13D.

28. “Variance” means the financial or quantitative difference between a budgeted amount and purpose for the actual amount and purpose.

29. “Unexpected” means not expected or unforeseen.
SECTION III – ESTABLISHMENT

A. Establishment.

1. The Fiscal Stabilization Fund (FSF) is established by an initial, one-time appropriation of $1,500,000\(^1\) into a separate fund account\(^2\) outside the Native Hawaiian Trust Fund (NHTF) upon adoption of this policy. This appropriation shall be counted toward maximum withdrawal limitation in the BOT Spending Policy.

2. Deposits and withdrawals into the FSF shall follow the requirements of this policy. Upon adoption of this policy, “OHA’s Native Hawaiian Trust Fund Spending Policy’s Fiscal Reserve Management Guidelines” shall terminate.

3. At the discretion of the BOT, additional deposits of up to $3,000,000 may be made in each subsequent fiscal year from funds that were budgeted from the NHTF Financial Assets Portfolio that were unspent at the end of previous fiscal years. The audited financial statements and audited processes (i.e., lapping of prior encumbered purchase orders) for each respective fiscal year shall be used as the sole basis to determine the eligible deposits into the FSF. Annual deposits shall be counted toward the maximum withdrawal limitations in the BOT Spending Policy.

4. The monies in the FSF may be carried over from year to year, provided that the total amount in the FSF shall not exceed $10,000,000. Funds above and beyond the $10,000,000 cap shall be redeposited into the NHTF.

5. Withdrawals from the FSF shall not be included in the maximum withdrawal limitations in the BOT Spending Policy for the fiscal year in which the withdrawal is made.

6. Temporarily idle moneys in the FSF may be invested as directed by the BOT, and the interest earned may be either transferred permanently into the NHTF or may remain in the FSF, at the discretion of the BOT. If the interest remains in the FSF, it may serve to increase the fund balance, but in no event shall the balance of the FSF be allowed to exceed the $10,000,000.

B. Reserves.

1. Once established, reserves for contingencies may be designated in the Fiscal Stabilization Fund to acknowledge and recognize the responsibilities of the OHA.

2. Such reserves for contingencies may include but not be limited to estimates for legal or other settlements, repatriation, budget stabilization needs and emergencies such as natural disasters.

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\(^1\) The amount of the initial deposit will be dependent on the current size of the fiscal reserve fund.

\(^2\) Such fund should be a part of the OHA’s overall cash management policy.
SECTION IV – AUTHORIZED FUND USES

Authorized fund uses. Funds from the Fiscal Stabilization Fund may be withdrawn and used as authorized by the BOT through an Action Item for the following purposes only:

1. **Budget stabilization.** The Fiscal Stabilization Fund may be used to address unexpected shortfalls in available funding that directly translate into a significant budget decrease. Shortfalls can be considered any decrease in Annual Public Land Trust Revenues or General Fund Appropriations from the State, change in State assessments such as fringe rate, retirement or a significant financial market downturn.

2. **Emergencies.** The Fiscal Stabilization Fund may be used to address emergency expenditures directly incurred by the OHA or experienced by the OHA’s beneficiaries. To qualify as an authorized fund use, the expenditures (1) must directly result from an emergency; (2) must address events or situations that are non-recurring; (3) must not have been contemplated in the budget process; and (4) cannot wait to be included in the next budget cycle. Emergencies include threats to public health, welfare, or safety from a major natural disaster, infrastructure emergencies involving OHA’s real properties or legal fees and costs incurred by OHA for pending cases.

3. **Reserves.** The Fiscal Stabilization Fund may be used to activate previously designated reserves.

4. **Contingencies.** The Fiscal Stabilization Fund may be used to address contingencies either previously reserved or subsequently identified.

SECTION V – MAXIMUM WITHDRAWALS

Limitations on the maximum FSF size and related withdrawals are identified below.

Maximum withdrawals. The maximum withdrawals from this fund are limited as follows:

1. The maximum withdrawals in any given fiscal year, for any combination of authorized uses in section IV, are limited to no more than $3,000,000 annually, and no more than $750,000 per quarter, regardless of the total balance of the fund. The funds that are withdrawn must be used during the current fiscal year, and do not carry over to subsequent fiscal years.

<table>
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<tr>
<th>Spending Guidelines</th>
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<tr>
<td><strong>Minimum Balance</strong></td>
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<td><strong>Maximum Designations (Annual)</strong></td>
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<tr>
<td><strong>Maximum Designations (Quarterly)</strong></td>
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2. The fund balance cannot be negative after accounting for all authorized spending.
   a. Funds are subject to quarterly withdrawal limitations;
   b. The $3,000,000 limitation is based on the fiscal year in which the designation is made.
regardless of the year of funding specified in the designation. For example, if a $2,000,000 designation is made in budget year one, to be funded in budget year two, the $2,000,000 will count towards the limit in budget year one, and only an additional $1,000,000 can be designated in budget year one. In budget year two, the maximum designation of $3,000,000 is still available.

SECTION VI – REQUEST PROCEDURE

Request Procedure. Funding requests for the use of Fiscal Stabilization Fund must be submitted as an action item. To be considered, the action item must comply with Board requirements for action items, and include the following, at a minimum:

1 **Originator.** Identification of the originator of the initial request. If the originator is not a member of the BOT, the action item shall state that it is being made “By Request,” and include the identity of the originator, for example, “CEO” or “beneficiary.”

2 **Explanation.** Clear explanation of the reasons the request qualifies as an authorized fund use. The explanation must address all requirements of sections IV and V, including:
   a. The reasons the request cannot be accommodated with other available means of financing, or why it cannot be budgeted in the next Fiscal Biennium Total Operating Budget.
   b. An explanation of the urgency of the request and its impact on OHA or its beneficiaries if the request is denied or the decision is delayed.
   c. Certification by the CFO that the funds are available for the request, and that maximum withdrawal restrictions will not be violated if the request is granted.

3 **Supporting documentation.** All supporting documentation that justifies the funding request.

SECTION VIII – DELEGATION OF RESPONSIBILITY

Delegation of Responsibility.

1. The CEO shall be responsible for the initiation of the Action Item(s) requesting funding.

2. The CFO shall be responsible for reviewing the Action Item(s), the release of funds and any documentation in relation to disbursements. All documentation must be stored in accordance with OHA’s record retention policy.

3. Any Action Item that does not comply with the requirements of this policy shall not be considered by the Board. Any non-compliant action item approved by the Board shall be considered void.
SECTION IX – VOTING REQUIREMENTS

Voting requirements. The following defines the voting requirements for Board approval of funding requests.

(a) The Board of Trustees with six (6) affirmative votes may authorize expenditures from the Fiscal Stabilization Fund, up to the maximum designation allowable under section V, Maximum withdrawals.

(b) The Board of Trustees with eight (8) affirmative votes may approve in excess of the $3,000,000 withdrawal limit, provided that the amount withdrawn shall not result in the Fiscal Stabilization Fund balance falling below zero.

SECTION X – REVIEW

Review. This Policy will be reviewed as recommended by the Chair of the RM Committee, but no less than every two (2) years. Any modification to this Policy shall require six (6) votes and two (2) readings at the Board of Trustees level with external review, consultation and advice being completed prior to any modifications.
OFFICE OF HAWAIIAN AFFAIRS

NATIVE HAWAIIAN TRUST FUND SPENDING POLICY, AS AMENDED

Adopted by the Board of Trustees, September 15, 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 18, 2012
Amended and adopted by the Board of Trustees on February 27, 2014
OFFICE OF HAWAIIAN AFFAIRS
NATIVE HAWAIIAN TRUST FUND SPENDING POLICY

I. PURPOSE. The purpose of this policy is to ensure the continued viability of the Office of Hawaiian Affairs' (OHA) Native Hawaiian Trust Funds (NHTF) by providing specific guidelines to balance the objectives of maintaining principal and producing large, stable and predictable spending. Decisions affecting management of the NHTF focus upon four conflicting objectives:

A. Maximize long-term total return;

B. Maximize annual spending from the Trust;

C. Preserve the real value (purchasing power) of the Trust's principal and of its spending distributions over the long term;

D. Maximize the stability and predictability of spending distributions. In other words, minimize the spending shortfall risk.

II. OBJECTIVE. The following spending policy reflects the objective of distributing as much total return as is consistent with the overall defined investment objectives while protecting the value of the principal.

III. DEFINITIONS. To further clarify the spending policy, the following definitions are used:

A. Native Hawaiian Trust Fund defined as all Public Land Trust revenue emanating from 5(f) funds that is subject to OHA's Native Hawaiian Trust Fund investment policy.

B. Spending Rate is the percentage (%) applied to the average market value to determine the spend amount.

C. Annual Spending Withdrawals defined as the maximum amount authorized to be budgeted from the Native Hawaiian Trust Fund in one fiscal year.

D. Moving Average Rule – to spend a fixed percentage of the average Native Hawaiian Trust Fund's average market value (e.g., spend 5.0% of the average market value of the previous 20 quarters).
E. Annual Ceded Land Revenues – shall be the $15.1 million (fifteen million one hundred thousand dollars) annual revenues received from the state of Hawai‘i as of fiscal year 2006-2007, or including any adjustments to annual ceded lands revenues in the future by the state of Hawai‘i.

F. State of Hawai‘i General Fund appropriations are determined by the Legislature during each Biennium and are spent for a specific purpose.

G. To Spend is the result of multiplying the moving average rule (Moving Average) by the spending rate.

H. Spent is when actual disbursement or encumbrances of funds is made. Trustees should never appropriate funds beyond the Spending Policy calculated amount.

I. Average Market Value – shall be computed quarterly based upon the monthly statements received from OHA’s Custodian of Record, the average shall be computed from the most recent 20 quarter period ending as of March 31st, fifteen months prior to the start of the budget on July 1. If real estate is included in the Native Hawaiian Trust Fund then the real property market value shall be included to compute the average market value.

J. Public Land Trust Revenue – emanating from 5(f) funds that the State of Hawai‘i remits to the Office of Hawaiian Affairs.

K. Real Property Market Value – shall be based upon the latest real estate appraisal. Such an appraisal should be conducted every five (5) years or upon the sale of any respective real estate property, whichever comes first.

L. Investment – an acquisition for future income or benefit.

M. 5(f) Funds – refers to Section 5(f) of the State of Hawai‘i Admissions Act.

N. Total return is defined as the sum of earned interest and dividends and realized and unrealized gains or losses, less all investment management costs (e.g. investment consultant, custodian, money manager fees).

O. Native Hawaiian Self-Governance Spending Withdrawal defined as a maximum cumulative authorization not to exceed $3,000,000 to be budgeted from the...
Native Hawaiian Trust Fund for self-governing efforts of the Office of Hawaiian Affairs.

IV. POLICY/PROCEDURE. Consistent with the overall investment goals of the Native Hawaiian Trust Fund, the following spending rates and rules for distribution are set forward.

A. The formula for determining annual spending withdrawals and the mechanics of its implementation shall adopt the Moving Average Rule, whereby;

1. OHA will spend a fixed percentage of no more than five percent (5%) of the Native Hawaiian Trust Fund’s average market value,

   plus

2. Ceded Land Revenues received by OHA

   plus

3. State of Hawai‘i General Funds received by OHA

   plus

4. Any funds available but not spent in previous fiscal years (Fiscal Reserve), held within the Native Hawaiian Trust Fund.

B. Regardless of the performance of the Native Hawaiian Trust Fund, OHA’s spending policy will apply. The 5% spending rate shall be applied to investment portfolio and real property assets intended to be income or benefit producing.

C. Funds available from sources other than those defined in Section IV.A. of this policy are not limited by this annual spending withdrawal formula.

V. SPECIAL SPENDING WITHDRAWAL. Public Law 103-150 recognizes that the “...indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands...” and urges the President of the United States to “...support reconciliation efforts between the United States and the Native Hawaiian people.” Act 195 was signed into law on July 6, 2011 and recognized the Native Hawaiian people as the only indigenous, aboriginal, maoli people of Hawai‘i. Act 195 encourages OHA to “...continue to support the self-determination process by Native Hawaiians in the formation of their chosen governmental entity” and notes that the State has designated OHA “...as a trust vehicle

NHTF Spending Policy
Page 3
to act on behalf of Native Hawaiians until a Native Hawaiian governing entity could be reestablished...". Balancing the opportunity for the formation of a governmental entity that would empower Native Hawaiians to exercise their un-relinquished inherent sovereignty with the objectives of maintaining principal and producing large, stable and predictable spending, a special cumulative spending withdrawal of no more than $3,000,000 can be authorized to be budgeted from the Native Hawaiian Trust Fund for self-governing efforts of the Office of Hawaiian Affairs and will be known as a Native Hawaiian Self-Governance Spending Withdrawal. Authorizations of funds pursuant to Section V. will require a separate Action Item appropriation request pursuant to Section 1.4.b of OHA's Board of Trustees Executive Policy Manual. This Section V. specifically disallows transfer of funds or appropriations of any kind to the Native Hawaiian Roll Commission, as established by Act 195.

VI. REVIEW

A. The Spending Policy will be reviewed at least every two years or as recommended by the Chair of the ARM Committee.

B. Modifications to the Spending Policy must meet requirements as provided by the then current By-Laws. Any modification or exceptions to OHA's Spending Policy shall require six (6) votes and two (2) readings at the Board of Trustees level and require external due diligence to be conducted.

VII. EFFECTIVE DATE. "The effective date of this policy is February 27, 2014 and this policy shall be deemed to pre-exist funds disbursed to OHA by the State pursuant to Act 178, SLH 2006."

Adopted on the 27th day of February, 2014

OFFICE OF HAWAIIAN AFFAIRS BOARD OF TRUSTEES

Colette Y. Machado, Chairperson

First Reading 2/20/2014
Second Reading 2/27/2014
OHA’S NATIVE HAWAIIAN TRUST FUND SPENDING POLICY’S FISCAL RESERVE WITHDRAWAL GUIDELINES

I. INTRODUCTION. The Office of Hawaiian Affairs two criteria for an effective Fiscal Reserve are the following: (1) the fund collects and dispenses appropriate amounts of money at appropriate times; and (2) it is simple to operate. Of the various alternatives studied by Administration, the fiscal reserve fund proposed here comes closest to satisfying these criteria. The purpose of this section is to describe the proposed operation of OHA’s fiscal reserve as established by OHA’s Spending Policy, which was initially adopted on October 31, 2000 and subsequently amended in September 2004, July 2006, and May 2009, respectively. These guidelines are not policy, rather it clarifies existing policy that exists on page 3, section IV of OHA’s Native Hawaiian Trust Fund Spending Policy section entitled, “Policy/Procedure” and states “plus” A.3 “Any funds available but not spent in previous fiscal years, held within the Native Hawaiian Trust Fund.”

II. OHA’S NATIVE HAWAIIAN TRUST FUND SPENDING POLICY’S – FISCAL RESERVE. Following is a description of the fiscal reserve fund:

A. Objective. OHA’s fiscal reserve fund is designed to provide money in certain situations.

B. Authorized uses. Money can be authorized under any of the 3 (three) permissible purposes as follows:

1. Budget Stabilization – To address shortfalls in funding that directly translate into a significant spending decrease for a budget year. The shortfall can be the result of a downturn in the economy that negatively impacts the value of the NHTF investments, or can be the result of a reduction in general funding or ceded land revenue payments received from the state. Costs of programs can be funded through the fiscal reserve if it is determined that not providing the funding will have a severe negative impact on OHA’s beneficiaries. The amount that can be utilized under this category in any given fiscal year, cannot exceed the previous year’s spending limit subject to the limitations set forth in (E.) below. In other words, the budget stabilization can be used so that the fiscal reserve will supplement the current year budget to be at least equal to the prior year budget up to the limit set forth in (E.) below.

2. Unpredicted One-time Payments – to address events or opportunities that are non-recurring in nature, have not been contemplated in the

NHTF Spending Policy’s Fiscal Reserve Withdrawal Guidelines
Page 1
budget process, and cannot wait to be included in the next budget cycle. This category would also include any expenditures needed to address legal issues as well as to remedy an emergency condition (which means a situation that creates a threat to public health, welfare, or safety that may arise by reason of major natural disaster, epidemic, riot, fire, or other reason.) The maximum designation amount under this category is subject to the limitations set forth in item (E.) below.

3. Capital Acquisitions – Major purchases of non-investment land or other capital assets that either have not been contemplated during the time of budget preparation, or cannot be addressed within the confines of the budget, and cannot wait to be included in the next budget cycle. The maximum withdrawal amount under this category is subject to the limitations set forth in item (E.) below.

C. Maximum Designations. The maximum designations allowable to be made in any given fiscal year, using any combination of items B.1. through B.3. above, are limited to no more than $3,000,000 annually. The $3,000,000 limitation is based on the fiscal year in which the designation is made, regardless of the year of funding specified in the designation. For example, if a $2m designation is made in budget year 1, to be funded in budget year 2, the $2m will count towards the limit in budget year 1, and only an additional $1m can be designated in budget year 1. In budget year 2, the full $3m of designations is still available.

D. Special Circumstances – There may be special circumstances that will require the use of funds in excess of the categories noted above. For example, the imminence of the passage of a federal recognition bill may trigger events for which OHA will be required to spend monies not otherwise available. In these special circumstances, the criteria set forth above can be waived by the BOT with a vote of the super majority plus 2 (8 affirmative votes). Since the “fiscal reserve” is a part of OHA’s Native Hawaiian Trust Fund and not an account established separately, if and when the fiscal reserve is utilized, the funds identified will merely serve as an additional means of financing.

E. Deposit Calculations. The source of data required to calculate the amount to be “restricted” as an OHA NHTF Spending Policy Fiscal Reserve shall be subject to audited financial statements for the respective fiscal year. Estimated year-end budget surpluses based upon unaudited records are not permissible.
F. Restrictions. The operation of the fiscal reserve fund is subject to two (2) restrictions:

1. no more than the current balance of the fiscal reserve in any year will be designated from the fund (e.g., the fund’s balance cannot be negative after accounting for all designations; and
2. the total amount of money earmarked as a fiscal reserve does not have an upper threshold (cap) imposed upon it.

G. Operation

A. Pursuant to the OHA Spending Policy, Administration is tasked with calculating the spending policy limitation for the upcoming fiscal year utilizing a 20-quarter rolling average of the Native Hawaiian Trust Fund’s market value, ending as of March 31st, fifteen months prior to the start of the budget on July 1. The respective 20-quarter rolling average along with a Board of Trustees determined spending rate (up to 5%) eventually determines the upper threshold for the development of a biennium budget, which is revisited during the supplemental year to correct any upward or downward adjustments in accordance to the actual spending policy formula. Note: during the development of a biennium budget, only the first fiscal year can utilize actual figures with the second year requiring Administration to “estimate” the market value of the upcoming four quarters based upon financial analysis techniques.

B. Only upon the close of OHA’s fiscal year end financial records and the successful completion of a financial audit engagement can fiscal year “expenditure” figures be utilized, less any investment related expenses, and then deducted from OHA’s calculated spending policy ceiling. As a part of OHA’s adjusting fiscal year end journal entry, the difference is to be accumulated to any existing fund reserve account. Note: the funds are maintained within the Native Hawaiian Trust Fund, without the benefit of interest income and/or capital gains accrual, and are merely recognized as “reserved” funds within OHA’s financial statements.

III. PROCEDURE. The procedure to be followed when requesting money via these guidelines for Board consideration shall be in the form of an Action Item and must include, at a minimum, the following information:

1. Identify the originator of the request;
2. Cite specific “Authorized Use” being requested as:
   a. B.1. Budget Stabilization,
   b. B.2. Unpredicted One-time Payments, or
c. B.3. Capital Acquisitions

3. Cite D. Special Circumstances if applicable.
4. Explain why the request cannot be accommodated with funds from the current Core Operating Budget.
5. State the urgency of the request and its impact on OHA if the request is denied or the decision is delayed.
6. Attach a letter or proposal detailing the request in sufficient detail to reasonably draw a conclusion of merit.

IV. VOTING REQUIREMENTS.

A. The Board of Trustees with six (6) affirmative votes may authorize expenditures from the fiscal reserve up to the maximum designation allowable under Budget Stabilization, Unpredicted One-time Payments, and Capital Acquisitions categories as set forth in Section II. B.1., B.2. and B.3., respectively, above.

B. The Board of Trustees with eight (8) affirmative votes may authorize expenditures from the fiscal reserves above the maximum designation allowable under the Special Circumstances category as set forth in Section II.D. above.

Adopted on the 27th day of February, 2014

OFFICE OF HAWAIIAN AFFAIRS BOARD OF TRUSTEES

Colette Y. Machado, Chairperson

First Reading 2/20/2014
Second Reading 2/27/2014
Board of Trustees Meeting

Date: February 27, 2018

Agenda Item:

V. New Business

B. Committee on Resource Management

1. RM 18-03: Moratorium on Fiscal Reserve Spending

Motion:

Move to approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

Amendment:

Means of Financing:

| Name             | Vote | 1 (Yes) | 2 (No) | 'AE | A'Ole | Kanalu/A | Excused/Ab
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Total Vote Count: 9

Motion: [x] Unanimous [ ] Passed [ ] Deferred [ ] Failed

Discussion:
February 27, 2018

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

Madame Chair Machado,

Your Committee on Resource Management, having met on February 21, 2018 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

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

1) Action Item RM #18-03
2) RM Roll Call Vote Sheet(1)

Committee on Resource Management
Advisory Committee for February 21, 2018 Page 1 of 2
Respectfully submitted:

Trustee Carmen Hulu Lindsey, Chair

Trustee Leina’ala Ahu Isa, Member

excused
Trustee Peter Apo, Member

excused
Trustee Robert Lindsey, Member

excused
Trustee Colette Machado, Member

Trustee Rowena Akana, Member

excused

Trustee John Waihe’e, IV., Member

Trustee Keli‘i Akina, Member
OFFICE OF HAWAIIAN AFFAIRS
Action Item
Committee on Resource Management
February 21, 2018

RM# 18-03

Action Item Issue: Whether the Resource Management Committee ("RM") shall approve a recommendation to the Board of Trustees for a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

Prepared by: Max Mukai
Ke Kua Kāko'o, Trustee Aide

Reviewed by: Kamanaʻopono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Officer

Reviewed by: Colette Y. Machado
Ke Kauhuhu, Chair of Board of Trustees

Reviewed by: Hulu Lindsey
Hoʻomalu Komike RM, RM Chairperson

Date 2/16/2018
I. Action:

Approval of a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

II. Issue:

Whether the Resource Management Committee ("RM") shall approve a recommendation to the Board of Trustees for a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

III. Background:

On March 29, 2017, the Board of Trustees approved the RM Committee’s recommendation to create the FSP Working and Implementation Advisory Committee ("FSP Advisory Committee"). Subsequently, RM Committee Chair, Trustee Hulu Lindsey, created collaborative FSP working groups comprised of Trustees, Administration, and subject matter experts to address the following priority areas: OHA’s Spending Policy, Real Estate Investments, Legal and Taxable Structure, OHA’s Relationship with the Department of Hawaiian Homelands; and Pension Benefits. The FSP Spending Policy Working Group has met to discuss improvements to the spending policy and Fiscal Reserve guidelines, analyzing the policies current implications and outlining the issues that need to be addressed. Additionally, the FSP Spending Policy and Real Estate Investments Working Groups have also met to discuss improvements to the Native Hawaiian Trust Fund Investment Policy Statement and consideration of an investment policy statement that would apply to OHA’s real estate investments. These efforts will put OHA on the path to better managing and maintaining the health of its financial resources and other assets so that the agency may continue to address both the present and future needs of Native Hawaiians. As the review, modification and/or creation, and adoption of revised fiscal and investment policy statements will take time and a concerted effort by the working groups, it is appropriate to impose a moratorium on the use of Fiscal Reserve funds until the Board of Trustees adopts the recommended changes to the Fiscal Reserve guidelines.

IV. Alternative Actions:

A. Recommend approval of the moratorium, and transmit the recommendation to the Board of Trustees for consideration.

B. Decline approval of the moratorium and take no other action.

C. Take no action.

V. Recommended Action:

To approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.
VI. Timeframe:

The moratorium will take effect immediately upon approval by the Board of Trustees.

VII. Funding Source:

No funding required.

VIII. Attachment:

None.
Committee on Resource Management | DATE: February 21, 2018
Motion: Vote:

AGENDA ITEM: III. New Business

B. RM 18-03: Moratorium on Fiscal Reserve Spending

MOTION:

To approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

AMENDMENT:

MEANS OF FINANCING:

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

February 27, 2018

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

Madame Chair Machado,

Your Committee on Resource Management, having met on February 21, 2018 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

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

1) Action Item RM #18-03
2) RM Roll Call Vote Sheet(1)
Respectfully submitted:

Trustee Carmen Hulu Lindsey, Chair

Trustee Leina'ala Ahu Isa, Member

Trustee Dan Ahuna, Member

Trustee Rowena Akana, Member

Trustee Kell'i Akina, Member

excused
Trustee Peter Apo, Member

Trustee Robert Lindsey, Member

excused
Trustee Colette Machado, Member

excused
Trustee John Waihe'e, IV., Member

Committee on Resource Management
Advisory Committee (1 of 2) for February 21, 2018 Page 2 of 2
OFFICE OF HAWAIIAN AFFAIRS

Action Item

Committee on Resource Management

February 21, 2018

RM# 18-03

Action Item Issue: Whether the Resource Management Committee ("RM") shall approve a recommendation to the Board of Trustees for a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

Prepared by: _______________ 2/16/2018
Max Mukai
Ke Kua Kākoʻo, Trustee Aide

Reviewed by: _______________ 2/16/18
Kamanaʻopono M. Crabbe, Ph.D.
Ka Pōhana, Chief Executive Officer

Reviewed by: _______________ 2/16/18
Colette Y. Machado
Ke Kauhuhu, Chair of Board of Trustees

Reviewed by: _______________ 2/16/18
Hulu Lindsey
Hoʻomaluhia Komike RM, RM Chairperson
I. Action:

Approval of a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

II. Issue:

Whether the Resource Management Committee ("RM") shall approve a recommendation to the Board of Trustees for a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

III. Background:

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IV. Alternative Actions:

A. Recommend approval of the moratorium, and transmit the recommendation to the Board of Trustees for consideration.
B. Decline approval of the moratorium and take no other action.
C. Take no action.

V. Recommended Action:

To approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.
VI. Timeframe:

The moratorium will take effect immediately upon approval by the Board of Trustees.

VII. Funding Source:

No funding required.

VIII. Attachment:

None.
Committee on Resource Management | DATE: February 21, 2018
Motion:
Vote:

AGENDA ITEM: III. New Business

B. RM 18-03: Moratorium on Fiscal Reserve Spending

MOTION:

To approve a moratorium on the use of Fiscal Reserve funds until specific policy changes are approved by the Board of Trustees.

AMENDMENT:

MEANS OF FINANCING:

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Auditor’s Summary
Audit of the Office of Hawaiian Affairs

Report No. 18-03

IN REPORT NO. 18-03, *Audit of the Office of Hawaiian Affairs*, we found that the Office of Hawaiian Affairs (OHA) has created alternate funding processes that allow the agency to regularly direct money towards a multitude of programs, projects, and individuals. At first glance, these funding opportunities appear to be guided by policies, procedures, and guidelines designed to ensure that funds are distributed fairly and equitably. In reality, however, these expenditures and other forms of discretionary spending do not undergo the rigorous vetting, monitoring, and reporting requirements of OHA’s formal grant process. Some are approved by the OHA Administration without Board of Trustee vote or even knowledge.

**What we found**

In FY2015 and FY2016, OHA spent nearly double as much on discretionary disbursements ($14 million) as it did on planned, budgeted, and properly publicized, vetted, and monitored grants ($7.7 million). To fund these unplanned expenditures, OHA realigned its budget (by $8 million) and drew from its Fiscal Reserve ($6 million). We found that OHA has spent with little restraint, using Native Hawaiian Trust Fund moneys to pay for such things as the retirement benefits for a former trustee ($56,300), political donations, an international conservation convention ($500,000), as well as a beneficiary’s rent ($1,000), another beneficiary’s funeral-related clothing expenses ($1,000), and a trustee’s personal legal expenses ($1,500).

**Why did these problems occur?**

OHA’s vague rules guiding its discretionary spending are broadly interpreted, arbitrarily enforced, and at times, disregarded. For instance, we found several occasions in which OHA’s chief executive officer (CEO) ignored “do not fund” recommendations from Administration personnel and funded Sponsorships, contrary to written guidelines. We also found significant irregularities in and abuse of OHA’s Trustee Allowance process, which was originally established to cover incidental expenses for trustees to develop and maintain ongoing communication with beneficiaries and the general public, but has evolved to allow a broad range of expenditures. When we asked trustees, the CEO, and other officers about questionable expenditures, the consistent justification provided was that the money helps a Native Hawaiian or Hawaiian beneficiary, thus fulfilling OHA’s mission to improve the conditions and well-being of Native Hawaiians and Hawaiians.

**Why do these problems matter?**

The Fiscal Reserve, the source for much of OHA’s discretionary spending, has been spent down rapidly in recent years. From FY2011 to FY2016, the Fiscal Reserve balance fell from $15.1 million to a little more...
Spending on non-competitive versus competitive awards

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Source: Information provided by OHA’s Transitional Assistance Program.

than $2 million, as the board spent the maximum $3 million allowed under OHA policy each year. However, not only do OHA’s spending irregularities pose risks — both great and small — to the Native Hawaiian Trust Fund, they appear to violate the OHA trustees’ solemn fiduciary obligation to their beneficiaries that they will administer the trust fairly, equitably, and without self-interest. In other words, this form of behind-the-scenes giving is inherently inequitable to OHA’s many other beneficiaries who may be in need of financial assistance, but are unaware of who and how to ask for help.

We acknowledge that trustees have broad discretion in determining whether a particular expenditure better the conditions of Native Hawaiians and Hawaiians, but their desire to provide assistance to a few should be tempered by their fiduciary duties to all of the beneficiaries, both present and future. Doing so would not only benefit Native Hawaiians and Hawaiians in the long term, it would help ensure that they are treated more equitably in the short term.

Fiscal Reserve

Funds that were budgeted but remain unspent at the end of the fiscal year stay in the Native Hawaiian Trust Fund and are designated as Fiscal Reserve.

“If an organization is denied funding by the administration of OHA, they can come to a trustee to seek funding for their project. There’s something that can be self-defeating in having these two competing processes.”

— OHA trustee

Examples of Questionable Spending

Las Vegas Rodeo
On June 26, 2014, Trustee H circulated a memo to fellow board members, soliciting donations for the recipient to attend a Las Vegas rodeo competition. Trustee H donated $1,000. Two others, Trustee A and Trustee G, responded with donations of $500 and $400 respectively.

Trustee to Trustee’s Spouse
Trustee A donated $1,000 to Trustee B for Trustee B’s son’s medical expenses. According to OHA’s controller, it is possible that Trustee B was not aware that the funds were from OHA.

Spousal Support
Trustee B donated OHA funds to this community leadership program. Trustee B’s spouse had been a participant in the program just three months before, from September 2013 – June 2014.

Fund DNC
Political contributions to the Democratic National Committee and the League of Women Voters made by Trustee C were allowed because they pre-dated OHA’s March 4, 2014, policy statement.
MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)
DATE: Tuesday, April 20, 2021
TIME: 1:30 p.m.
PLACE: Virtual Meeting
Viewable at www.oha.org/livestream OR
Listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

AGENDA

I. Call to Order
II. Public Testimony on Items Listed on the Agenda*
   (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline will not be accepted)

III. Approval of Minutes
   A. March 23, 2021
   B. March 30, 2021

IV. Unfinished Business
   None

V. New Business
   A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program
   B. ACTION ITEM RM #21-05: Amendment to the Executive Policy Manual Section, Budget Management Policy

C. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

VI. Executive Session‡
   A. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes
      Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4).

VII. Announcements

VIII. Adjournment

Committee on Resource Management
Trustee John Waihe’e IV, At-Large - Chair
Trustee Luana Alapa, Moloka‘i / Lāna‘i - Vice Chair
Members
Trustee Lein‘a‘al Ahi Is, At-Large
Trustee Dan Ahuna, Kaua‘i / Ni‘ihau
Trustee Kaleihikina Akaka, O‘ahu
Trustee Keli‘i Akina, At-Large
Trustee Breond Kale‘aina Lee, At-Large
Trustee Carmen Hulu Lindsey, Maui
Trustee Keola Lindsey, Hawai‘i Island
Strategic Alignment
HRS §10-3 Hawai‘i Revised Statutes (HRS) Chapter 10 provides that OHA is meant to address the needs of the Native Hawaiian people, including:

1. The betterment of conditions of native Hawaiians;

2. The betterment of conditions of Hawaiians;

3. Serving as the principal public agency responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians; except that the Hawaiian Homes Commission Act, 1920, as amended, shall be administered by the Hawaiian homes commission;

4. Assessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians;

5. Applying for, receiving, and disbursing, grants and donations from all sources for native Hawaiian and Hawaiian programs and services; and

6. Serving as a receptacle for reparations. HRS §10-3; see also HRS §10-1
OHA needs an organizational structure that enables the implementation of strategies to achieve outcomes outlined in Strategic Plan 2020-2035.

- Defined Business Model
- Backwards map from Vision to Mission-Mandate to Strategies to Tactics to Functions & Roles to KASABs to Positions and Organization Charts

K = Knowledge; A = Aspirations; S=Skills; A=Attitudes; B = Behaviors
A business model is a high-level plan for profitably operating a business in a specific marketplace. A primary component of the business model is the value proposition. This is a description of the goods or services that a company offers and why they are desirable to customers or clients, ideally stated in a way that differentiates the product or service from its competitors.---
https://www.investopedia.com/terms/b/businessmodel.asp, retrieved 2/21/2021

The business model alignments:
* Profitability > Perpetuity
* Value Proposition > Mission Alignment, Fiduciary Responsibility
* Customers or Clients > Beneficiaries and Communities
* Goods or Services > Roles and Functions
Strategic Outcomes

- Strengthened and Integrated Community, Culture based Learning Systems (Educational Pathways)
- Strengthened ʻŌiwi (Cultural Identity), Eā (Self-Governance), ʻĀina Momona (Healthy Lands and People), Pilina (Relationships), Waiwai (Shared Wealth), Ke Akua Mana (Spirituality) (Health Outcomes)
- Strengthened Capability for Ïhāna to Meet Living Needs, including Housing; Strengthened Effective Implementation of the HHCA (Quality Housing and Economic Stability)

Mission & Mandate

- To MĀLAMA - Hawaiʻi’s people, environmental resources and trust assets; TOWARD – ensuring the perpetuation of the culture, enhancement of lifestyle and protection of NH entitlements; WHILE enabling the building of a strong and healthy Hawaiian people and Lāhui recognized nationally and internationally.

- Strengthened ‘Ohana, Mo‘omeheu, ʻĀina

Mission, Chapter 10: 1) The betterment of the conditions of native Hawaiians and Hawaiians; 2) Performance, development, coordination of programs and activities; 3) Assessing policies and practices and conducting advocacy; 4) Applying for, receiving and disbursing grants and donations; and 5) Serving as a receptacle for reparations

Vision

- Ho‘oulu Lāhui Aloha
- To raise a beloved lāhui (Future State, Inspirational, Aspirational)
- Abundant and Thriving Lāhui
Bloom’s taxonomy is a classification system used to define and distinguish different levels of human cognition—i.e., thinking, learning, and understanding. Educators have typically used Bloom’s taxonomy to inform or guide the development of assessments (tests and other evaluations of student learning), curriculum (units, lessons, projects, and other learning activities), and instructional methods such as questioning strategies.---

https://www.edglossary.org/blooms-taxonomy/, retrieved 2/21/2021
Human capital apply mission aligned knowledge, attitudes, skills, aspirations and behaviors; Integrated internal systems that strengthen organizational capacity.

Strategy 11. Strengthen human capital capacity to enable strategic outcomes
11.1. Human capital with mission aligned knowledge, attitudes, skills, aspirations and behaviors
11.2. Effective recruit, retain and reward human capital strategies

Strategy 12. Strengthen organizational capacity to enable strategic outcomes
12.1. Enabled technologies
12.2. Aligned internal policy, procedure and practice
12.3. Operating efficiencies
Enable Strategy Implementation of the Strategic Plan 2020-2035
3 x 4 x 8

Enable Strategy Implementation of the Strategic Plan 2020-2035
3 x 4 x 8

Enable Implementation of Endowment and Infrastructure Strategies

Implement Beneficiary & Community Centric Operations

Align with Board Governance Framework

Implement Policy Orientation Operations (Development, Implementation, Monitoring, Compliance, Evaluation)

Implement Process Efficiencies and Effectiveness via Locale, Technology

Enable a Variety of Implementation Tactics & Mechanisms
Verbs-Direct Service (Payroll), Grant, Procure, Develop, Loan, Borrow, Leverage, Collaborate, Manage

Strengthen Employee KASABs* Capacity

Realize Reduction in Labor Costs $, Mitigate Employer Risk, Compliant with Labor Laws

* K = Knowledge; A = Aspirations; S = Skills; A = Attitudes; B = Behaviors
Roles-Functions
Our Roles

**ADVOCATE**
As an advocate, OHA speaks, writes and acts in favor of changing laws, policies and practices that impact foundations and directions outlined in the organization's strategic plan. This includes garnering public support for causes through community outreach efforts, monitoring and identifying potentially harmful policies and laws, and supporting initiatives that improve the conditions for Native Hawaiians.

**ASSET MANAGER**
As an asset manager, OHA makes important investment decisions that help maximize the value of the organization's portfolio. These duties include managing commercial properties profitably and preserving legacy land holdings.

**RESEARCHER**
As a researcher, OHA serves by gathering and compiling data that identifies issues important to the Native Hawaiian community, informs the organization's advocacy efforts and ensures that the actions and initiatives undertaken by the agency are based on the best information possible.

**COMMUNITY ENGAGER**
As a community engager, OHA works collaboratively with the Native Hawaiian community and general public by sharing information through two-way communication channels that connect the organization with those audiences and support the betterment of our lāhui.
For reorganization purposes the terms “function” and “functional” are used both in its noun and verb definitions to describe purposes, operations, parts that contribute to the whole: https://www.merriam-webster.com/dictionary/function?src=search-dict-box, retrieved 3/4/2021.
Reorganization Implementation - Policy Related Activities
**REORGANIZATION IMPLEMENTATION PROCESS AND TIMELINE – POLICY RELATED - PROCESS**

1. **Administration**
   - Design Reorganization
   - Apply to Existing Organization
   - Project Change Impacts
   - Plan Implementation
   - Prepare Budget Management Policies
   - Seek Approval
   - Dec 2020-Apr 2021

2. **Trustees**
   - Review Reorganization Binder
   - Engage with Administration
   - Participate in Workshop(s) to Review
   - Review Budget Management Policies
   - Prepare for Action Item – FY21 Realignment #3
   - Apr 2021

3. **Administration**
   - Present Action Item for Budget Management Policies
   - Prepare and Present Action Item – FY21 Budget Realignment #3 for Reorganization
   - Apr 2021

4. **Administration**
   - Implement Reorganization
   - Apr 2021

5. **Administration**
   - Incorporate Reorganized Organization in FB22-23 Budget Construction
   - Apr 2021

6. **Trustees**
   - Participate in Workshop to Review FB22-23 Budget
   - May 2021

7. **Administration**
   - 10-14.5 – Beneficiaries
   - May 2021

8. **Trustees**
   - Participate in Workshop to Review FB22-23 Budget
   - June 2021

**Fiscal Biennium 22-23**
7/1/2021 to 6/30/23

**#familyfirst**
- Individual
- Unit
- Organization
- External
Function Organization Chart

Front of the House - Focus

COMMUNITY ENGAGEMENT

COMMERCIAL PROPERTY

LAND

Policy Development, Implementation

Policy Implementation

Policy Monitoring & Compliance

Advocates (Federal, State)

Advocates (County, Community)

Beneficiaries and Communities

Advocacy

Public Policy

Researchers

Policy Development

Policy Evaluation

Communication
Function Organization Chart
Back of the House - Focus

Application Management (31)
Oracle Fusion, MS-Excel, Word, PPT, Teams, Leg Tracker, HRP, Sharepoint

Function Management (13)
(E-mail & Distribution Lists, Security, Meetings, Active Directory)

Hardware Management (24)
(Laptops, Peripherals, Audio Visual)

Administrative & Clerical Support
(e.g. conference room, meetings, calendar, records)

Travel Services

Unit Fiscal Processes (e.g., PR, PO, Check Request, Payment on Contract)

Project, Event Coordination & Support

Risk & Safety Management
(e.g., Health and Safety Plan, Security, Training, Emergency)

Facilities Management
(as Tenant) (e.g., Cleaning, Office Configuration, Repair, Maintenance, Temperature)

Fleet (Auto) Management

Day to Day Operations
(e.g., Mailroom, Courier, Receiving, Inter-Site Coordination)

Strategy Implementation, Tactical and Operational Planning Alignment, Strategic Plan and Implementation Tracking & Reporting; Inter-Agency, Community Collaboration; Systems Evaluation; Portfolio Management; Waihona Management
kūkākūkā
discussion
MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)

DATE: Tuesday, April 20, 2021
TIME: 1:30 p.m.
PLACE: Virtual Meeting
Viewable at www.oha.org/livestream OR
Listen by phone: (213) 338-8477,
Webinar ID: 924 0367 3642

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Nineteenth Supplementary Proclamation dated April 9, 2021 that suspends parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 924 0367 3642

AGENDA

I. Call to Order
II. Public Testimony on Items Listed on the Agenda*
   (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by telephone / landline will not be accepted)

III. Approval of Minutes
   A. March 23, 2021
   B. March 30, 2021

IV. Unfinished Business
   None

V. New Business
   A. ACTION ITEM RM #21-04: Approval of a Third Amendment to BOT #12-05 – Kaka‘ako Makai Policy Relating to the Allocation of Revenue from Kaka‘ako Makai Properties to the Land Legacy Program
   B. ACTION ITEM RM #21-05: Amendment to the Executive Policy Manual Section, Budget Management Policy
   C. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

VI. Executive Session‡
   A. WORKSHOP: Reorganization Purposes, Design, Application and Projected Outcomes

Consultation with Board Counsel Robert G. Klein, Esq., Corporate Counsel Raina P.B. Gushiken, Esq. and OHA Attorney Anna Elento-Sneed, Esq. regarding questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities related to reorganization purposes, design, application and projected outcomes, pursuant to HRS § 92-5(a)(4). Material for this section will be distributed by Administration

VII. Announcements
VIII. Adjournment