

**ALASKA MENTAL HEALTH TRUST AUTHORITY**

**AUDIT & RISK COMMITTEE MEETING**

**January 6, 2023**

**8:30 a.m.**

**WebEx Videoconference/Teleconference**

**Originating at:**

**3745 Community Park Loop, Suite 200**

**Anchorage, Alaska**

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**Trustees Present:**

Kevin Fimon, Chair

Anita Halterman

Rhonda Boyles

Verne' Boerner

Agnes Moran

John Sturgeon

**Trust Staff Present:**

Steve Williams

Katie Baldwin-Johnson

Carol Howarth

Michael Baldwin

Eric Boyer

Alison Biastock

Kat Roch

Kelda Barstad

**Trust Land Office Staff Present**

Jusdi Warner

Jeff Green

**Also participating:**

Diane Fielden; Erin O'Boyle; Bev Schoonover; Maranda Hamme; Mary David; Patrick Reinhardt; Eugene Hickey.

## PROCEEDINGS

### CALL TO ORDER

CHAIR FIMON called the meeting to order and began with a roll call. He stated that Trustee Fisher was excused. He asked for any announcements. There being none, he moved to the agenda.

### APPROVAL OF THE AGENDA

**MOTION:** A motion to approve the agenda was made by TRUSTEE STURGEON; seconded by TRUSTEE HALTERMAN.

*After the roll-call vote, the MOTION was APPROVED. (Trustee Boerner, yes; Trustee Moran, yes; Trustee Halterman, yes; Trustee Sturgeon, yes; Trustee Boyles, yes; Chair Fimon, yes.)*

CHAIR FIMON asked for any ethics disclosures. There being none, he moved to the minutes of October 19, 2022.

### APPROVAL OF THE MINUTES

**MOTION:** A motion to approve the minutes of October 19, 2022, was made by TRUSTEE STURGEON; seconded by TRUSTEE HALTERMAN.

*After the roll-call vote, the MOTION was APPROVED. (Trustee Halterman, yes; Trustee Sturgeon, yes; Trustee Boyles, yes; Trustee Boerner, yes; Trustee Moran, yes; Chair Fimon, yes).*

### AMPS REVIEW-INVESTMENTS

CHAIR FIMON recognized CFO Carol Howarth to talk about risk and how the investments tie to the Asset Management Policy Statement.

CFO HOWARTH stated that the rolling review of the elements of the Trust's risk management plan was in compliance with the Trust's audit and risk charter. She added that today they would look at financial risk. She stated that the trustees manage financial risk through several tools; a major one being the Trust Asset Management Policy Statement. The Trust has had an Asset Management Policy Statement since early in its existence, with Callan providing guidance on asset allocation and spending policy since 1997. The most recent update to the AMPS was in August of 2019. She emphasized that the AMPS contained the Board policy, and it was established by the trustees with the guidance Callan and staff. The purpose of the AMPS is to provide clarity to all of the stakeholders, internally and externally, on the who, the what, and the why of the management of the financial assets of the Trust. She stated that statutes define the responsibility for the management of the financial assets. The Permanent Fund has responsibility for the Mental Health Trust Fund, and that is the principal or the corpus of the Trust. The Board of Trustees has responsibility for the income settlement account. Trustees have, to varying degrees, delegated responsibility for the management of the spendable income. She talked about risk and the degree of potential fluctuation from the expected financial return. She explained that statistics were used by the asset managers when determining the expected variability, the

deviation from that expected return, and the probability of what the loss would be. The Department of Revenue and the Permanent Fund use that as a tool. She talked about the five investment categories in the AMPS and explained them in detail. She stated that the statute has a lot of flexibility regarding the use of funds, principal, for the improvement of land that has traditionally been used. In 2019, trustees decided that they preferred to have only spendable income used to make land improvements. Any investment being done is now using budget reserves. That clarified any uncertainty out of the outgrowth of the 2018 Legislative Audit. That gave the trustees fiduciary responsibility for the investment because it was spendable income. She continued that financial assets were either in the corpus or income settlement account, which is spendable income.

TRUSTEE MORAN asked for clarification on where lease payments from the Sitka folks would go.

CEO WILLIAMS replied that the lease payments from the Sitka Homeless Coalition would be made to the Trust Land Office and would come through as spendable income, as described.

CFO HOWARTH distinguished that the investments talked about where an allocation of funding was being made. She explained this more fully. She continued that the AMPS also defined the controls in place for the investments, and that is where the Board or Board committees have a stated review. They are divided into two categories: liquid and nonliquid assets. She explained this fully and concluded this presentation.

### **TRUSTEE TRAINING/ROLE OF FIDUCIARY**

CHAIR FIMON asked Ms. Howarth to introduce Gene Hickey.

CFO HOWARTH stated that Mr. Hickey is the Trust's legal advisor.

MR. HICKEY thanked all for the opportunity to present the training, which is a very important role for the trustees of the Alaska Mental Health Trust Authority. The purpose of this training is that the trustees have tremendous assets and expertise at their disposal to fulfill their roles and obligations. That expertise is one of the ways to fulfill those obligations. He stated that the objective was to define the trustees' role from a fiduciary standpoint. It was also important for the trustees to know that they are also required to comply with the Executive Branch Ethics Act. A fiduciary is one who transacts business and handles money and property for the benefit of someone else. It implies and necessitates great confidence and trust and a high degree of good faith. There is no self-interest from the perspective of the fiduciary. With regard to the Alaska Mental Health Trust Authority, there are a lot of different sources of where these fiduciary duties arise, and the obligations are imposed on the trustees themselves. He explained the Enabling Act from the Federal Government and then the State statute, Title 44, and the Weiss Settlement. That was a result of litigation that certain beneficiaries took action against the State for what they believed to be violations of the Enabling Act. He added, then, that there was some common law that applies because when passing these Acts, the Legislature cannot envision every possible scenario or situation that may arise. He explained the Uniform Prudent Investor Act that is applied to the AMHTA and the APFC. He continued to the Enabling Act which set about the land provided and determined to be a public trust for Alaska mental health. He moved to the purposes of the partnership with the Department of Health and the purposes of the statute and law that developed as a result of that. He added that the purpose of this seminar was to get into

the fiduciary obligations.

TRUSTEE BOYLES asked about the Office of the Long-Term Care Ombudsman.

CEO WILLIAMS replied that the Long-Term Care Ombudsman is officed at the TAO, and Stephanie Wheeler is the executive director. The reason this was included in the Trust statutes is because a conflict of interest between the roles and mission of the Department. The LTCO's purpose is for investigating and pursuing complaints from individuals that live in long-term-care settings. The Alaska Mental Health Trust serves the LTCO purely to provide any oversight and administrative support.

MR. HICKEY stated that when getting into Trust principles, private trust principles also apply with respect to the trustees' fiduciary obligations. When statutes do not give the answer, nor prior lawsuits rendered, there is a whole other body of law of private trust law cases to hone in on to figure out the proper course. He moved to the use of the Trust Settlement Income Account and stated that the trustees are authorized to utilize the funds to assist the beneficiaries. The Executive Branch Budget Act authorizes the utilization of funds for the purposes of meeting administrative expenses.

TRUSTEE BOYLES noted that the purpose of the Trust was not only for the present beneficiaries, but for the future beneficiaries.

MR. HICKEY moved to Titles 37 and 44, which provide a different mechanism for the administration and trustees' roles and duties. Title 44 also contains a provision of use of money from the Trust Settlement Income account. He pointed out that that statute generally defined the beneficiary groups, but will never be able to encompass all of them. Because of the passage of time, advancements in medicine, and things along those lines, the Legislature, with a law that had been enacted over 20 years ago, would never be able to keep up with the actual working and phrasing of who encompasses those beneficiary groups.

TRUSTEE MORAN asked how much latitude does the Legislature have in redefining a beneficiary.

MR. HICKEY replied that the Legislature was the final word until litigation and a court had to make a determination. With the Weiss Settlement, the Legislature did something by redesignating those lands as general lands into the General Fund, and they got called on it. In identifying services, the Legislature will rely on the professionals and the trustees in determining how to prepare and identify those particular issues. He added that the Legislature is not all-ending; there are checks and balances that identify and determine within the industry. He moved to the trustees and their responsibilities, which are laid out in statute. He then talked about trustee qualifications. He continued through his presentation and stated that if anyone had any questions, to please call.

CHAIR FIMON thanked Mr. Hickey, and asked for a motion to adjourn.

**MOTION:** A motion to adjourn the meeting was made by TRUSTEE HALTERMAN;  
seconded by TRUSTEE MORAN.

*After the roll-call vote, the MOTION was APPROVED. (Trustee Halterman, yes; Trustee Moran, yes; Trustee Boyles, yes; Trustee Sturgeon, yes; Trustee Boerner, yes; Chair Fimon, yes.)*

(Audit & Risk Committee meeting adjourned at 10:13 a.m.)