HAWAIIAN HOMES COMMISSION
Minutes of November 18 and 19, 2013
Meeting Held in Hilo, Hawaii

Pursuant to proper call, the 645th Regular Meeting of the Hawaiian Homes Commission was held at East Hawaii District Office, 160 Baker Avenue, Hilo, Hawaii beginning at 10:00 a.m. on November 18, 2013.

PRESENT Jobie M. K. Masagatani, Chairman
Leimana DaMate, Commissioner, West Hawaii
Gene Ross Davis, Commissioner, Molokai
J. Kama Hopkins, Commissioner, Oahu
Wallace A. Ishibashi, Commissioner, East Hawaii
Michael P. Kahikina, Commissioner, Oahu (ar: 11:20 a.m.)
Patricia W. Sheehan, Commissioner, Kauai
Renwick V. I. Tassill, Commissioner, Oahu

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman
Niniau Simmons, Manager, NAHASDA, Office of the Chair
Linda Chinn, Administrator, Land Management Division
Kahana Albinio, Property Development Supervisor, Land Management Division
Francis Apoliona, Compliance Officer
Dean Oshiro, Acting Administrator, Homestead Services Division
John Peiper, Enforcement Officer
Kip Akana, Compliance Officer Assistant
Mike Robinson, Land Agent, Land Management Division, East Hawaii Office
Louis Hao, Acting District Superintendent, East Hawaii District Office
Jim DuPont, District Superintendent, West Hawaii District Office
Sandy Pfund, Administrator, Land Development Division
Jeffery Fujimoto, Engineer, Land Development Division
Puni Chee, Manager, Information and Community Relations Officer
Elaine Searle, Secretary to the Commission

AGENDA Moved by Commissioner Hopkins and seconded by Commissioner DaMate, to approve the agenda. Motion carried unanimously.

MINUTES Moved by Commissioner Hopkins and seconded by Commissioner Ishibashi, to defer approval of minutes until tomorrow's agenda. Motion carried unanimously.

ITEM NO: A-1
SUBJECT: Loan Portfolio Update, Part B

In response to a recent audit report, Deputy to the Chair Darrell Young updated the commission on the department's loan portfolio program. Some of the items include:

1. better tracking of loan delinquencies;
2. developing a risk management plan;
3. establishing benchmarks to evaluate progress;
4. reviewing loan policies and procedures;
5. providing greater internal controls; and
6. improved reporting to the commission.

The department advanced its contested case tracking system, which was presented earlier at a commission meeting in Kona and followed up with a contested case process in October, said D. Young. In addition, the department developed a new risk assessment template, presented at last month's commission meeting, which was a snapshot of potential loss and exposure at any given time to the department. The loss was based on the total balance owed to the department, less the estimated appraised value. A new template is being reviewed by the department's loan staff for applicability for loan processing where the information will be incorporated into the monthly delinquency report.

With regard to the review of loan policy and procedures and to improve consistency and clarity, the department presented a streamlined refinance reduction workshop in July. The commission approved the program in August, and several loans have already been implemented, articulated D. Young. In terms of loss mitigation efforts, Hale Mahaolu, a non-profit located in Maui, won a grant from HHFDC (Hawaii Housing Finance and Development Corporation) and HUD (U.S. Department of Housing and Urban Development) to supplement loss mitigation services to Maui beneficiaries. Loss mitigation information is provided on the department's website for all beneficiaries. In addition, various entities, funded by the National Mortgage Settlement (NMS) monies, provide counseling on foreclosure prevention, credit reports, and legal matters to anyone facing hardship. NAHASDA (Native American Housing Assistance and Self-Determination Act) Manager, Niniau Simmons, met with the five loss-mitigation entities to review what and how these settlement monies may be utilized to assist beneficiaries.

The department is in the final stages of publishing an update of its loan procedures and policy manual. In addition, NeighborWorks America provided training for 20 individuals that focused on loss mitigation and foreclosure-prevention strategies. The department is devising new ideas and products to assist the most vulnerable beneficiaries. CNHA (Council for Native Hawaiian Advancement) was invited to a meeting, to incorporate ideas into the department's manual. One of the things addressed was an annual review of the department's loan portfolio. Material was submitted to be made a part of these minutes as Exhibit A for Item A-1.

ITEM NO: A-2
SUBJECT: Interim Water Rates for the Puukapu Hybrid Water System

Land Development Administrator Sandra Pfund and DHHL Engineer Jeff Fujimoto presented a powerpoint on the Puukapu Pastoral Lots Hybrid Water System. J. Fujimoto conveyed that the Puukapu Subdivision's water system is a non-potable water system servicing 184 pastoral lots in the Puukapu subdivision that includes two storage tanks, fire-fighting tank reservoirs, booster pumps, and transmission mains within the roadways. Construction is nearly complete with a cost estimate nearing $3.2 million. DHHL conducted a survey of Puukapu homesteaders and the majority favored the non-potable water system. A spigot will be available for potable usage at the beginning of the system. Department of Water Supply (DWS) will be installing a 4-inch master meter with the final connection to the DWS water system by the end-of-the-month. A payment of $849,000 was made to obtain service for 184 lots and 14 water-service credits for livestock. A contractor will install individual meters and back-flow preventers which all lessees will be required to pay. DHHL will issue a lease addendum to document water service requirements. Monthly cost for a 4-inch master meter service is at $255. An estimated cost to DHHL for maintenance and operation is estimated at $6,000 per month, which is based on the combined 184 lots. The estimated monthly cost to DHHL, to provide water for this project, is estimated at $8,763.99 per month.

When Land Development Division (LDD) looked at this project in its planning stages, it was estimated that costs would be roughly $20 million for a potable system built to a standard that the county would take over and operate. With a hybrid water system, it could cost roughly $3 million. S. Pfund said a rate approval for one year will be requested for the first year. No rates are charged for the first month, in order to allow for the meter to be tested. The usage limit is 600 gpd (gallons per day) and an additional usage fee of $30 a month will be charged for 1,000 gpd, and $45 a month, if usage is up to 1,500 gpd. A community meeting will be held to propose the minimum water rates and to update the community on the Puukapu Road Repair project, added J. Fujimoto. Both Commissioners DaMate and Hopkins expressed disappointment at the incurred cost to the lessees. According to S. Pfund, the terrain was too difficult to accommodate placing the water tanks at a higher elevation, and the ideal placement for a water tank would have been on Parker Ranch lands. She suggested a one-year test period, to determine the appropriate water rates.

ITEM NO: A-3
SUBJECT: West Maui R-1, Water Settlement Discussion

Deputy to the Chair Darrell Young and Land Management Administrator Linda Chinn presented an informational workshop relating to discussions on a West Maui R-1 Water Settlement matter and a potential partnership with Maui County for water, wastewater, and agricultural homesteading. Deputy Young said that discussions revolved around the Honokowai/Leialii Region on:

1. Potable Water Tank Site; ¾ acre;
2. R-1 Tank Sites, 2 acre (partially treated wastewater tank);
3. Recharge Honokowai ag lands for future homestead awards;

4. Development of 180 units at Leialii, Phase 1B;
5. Future development of 50 acres for commercial industrial usage;
6. DHHL construction of Mahinahina Well;
7. Real Property Tax delinquencies; and
8. Access to landlocked DHHL lands.

*Note: Commissioner Kahikina arrived at meeting.

Deputy Young noted that each component will be brought before the commission for consideration in the coming months.

> Component 1 – R-1 Consent Decree settlement with Maui County will come before the commission at next month's meeting.
>
> Component 2 – Potable water allocation for Leialii Phase 1B and Honokowai commercial industrial development of 50 acres.
>
> Component 3 – Settlement of Real Property Tax delinquencies and beneficiary benefits.

Deputy Young conveyed that 700 acres of Honokowai land was acquired as part of the Act 14 land settlement. The department needs to document the water and wastewater systems that were transferred to the department. Prior to issuing lands to homesteaders, the department needs to remediate the soil due to pineapple and sugarcane ag usage. Dust control and watering are needed to control air pollution, and the land needs to be utilized to prevent soil run-off into the ocean.

With regard to the R-1 issues, Deputy Young said that Maui County has been discharging partially-treated sewage into injection wells at the Lahaina Wastewater Treatment Plant (LWTP) for the past 30 years. In September 2011, the EPA (Environmental Protection Agency) required Maui County to disinfect all of the wastewater pumped into the injection wells by the end of the year. Community groups filed a lawsuit in April 2012 under the Clean Water Act (CWA) to stop Maui County from discharging wastewater into the ocean from the LWTP which they claim was killing the coral. Earthjustice also filed a complaint in federal district court on behalf of several organizations after years of unresolved efforts to settle the matter out of court. Earthjustice contends that Maui County should be treating and reusing the millions of gallons of wastewater for irrigation for golf courses, resorts, etc.

On September 2008, the department approved a license to Maui County, Department of Environmental Management, for use of a two-acre site, situated at a 200-foot level in Honokowai for installation of a one (1) million gallon tank for recycled water. This was to supply recycled water to West Maui and DHHL's 50-acre commercial/industrial site on Parcel 018. The Maui County is just now under the design phase of the project.

The department, in the meantime, intends to provide potable water allocations for Leialii Phase1B and Honokowai commercial/industrial development, said Deputy Young. Exploratory

wells have been developed south of the Honokowai Gulch, providing one million gpd (gallons per day). A consultant was secured to conduct water assessments and prepare a water master plan. A recommendation was made for transmission of water to Honokowai lands, and Maui County's Department of Water Supply is agreeable to connecting to the county system to provide transmission to Leialii 1B. The department also intends to partner with Maui County to develop an exploratory well in Mahinahina. The cost would be nearly $8 million in construction funds earmarked within the budget allocation from the legislature.

Deputy Young met with Maui Corporation Counsel, and other water and environmental department staff in June 2013. Maui County recommended the department's use of a county water line and its existing water system. Maui County is still testing its well to determine yield. Discussions continue on a partnership on a water tank site by the Mahinahina facility. For future development of Leialii 1B, 180-unit water credits are needed, as well as water credits for the commercial and industrial area. The department needs to complete documentation on the R-1 tank and all of the lines that go there. Discussions also continue for a potential second R-1 tank for the upper lands. Deputy Young is hopeful that the department can utilize the R-1 water, identified in the consent decree with Earthjustice, to irrigate up to 1,500 acres and to remediate and recharge department lands, due to stripping of nutrients caused by pineapple and sugar cane growth. Maui County, along with another outside group, will grow crops beneficial in the remediation and recharge of the lands. In exchange, Maui County would provide access to the department's 300 acres which are land locked.

Deputy Young said that the department meets every six weeks with Maui County, and it would be beneficial for them to reach an agreement with the department, in order to reach a settlement with Earthjustice. In exchange, the department wants to address the benefits to the communities, the past licenses, work on in-kind fees via water credits or credits for real property tax, and address land swaps, to facilitate access to the land-locked lands.

Administrator Chinn conveyed that the land-locked area is located behind a sewer-treatment facility and would provide ingress and egress for homesteaders. Commissioner Hopkins asked if there are plans to mitigate dust control and if it is a costly venture. The hope is to have the department reach some type of agreement with Maui County, then the group they are working with can begin to plant something that will help with dust control and soil run-off, noted L. Chinn. Deputy Young said that sorghum grass will help to mitigate toxicity of the soil. Commissioner Hopkins acknowledged the difficulty for staff to overcome these obstacles.

Commissioner DaMate deemed Waimea area as a priority and proposed that the $8 million, earmarked for the future development of Leialii and Honokowai, be diverted to Waimea for its Puukapu water needs. The Chair clarified that the $8 million for the Honokowai well was originally from CIP (Capital Improvement Project) funding of obligation bonds and the legislature appropriated these funds out of the department's Trust resources. Administrator Sandra Pfund concurred that the legislature stipulated in a proviso that $8 million of the $30 million settlement funding should go to the Honokowai well. She added that the department may seek a cancellation of that proviso to trade-off some other funding. Deputy Young empathized with Commissioner DaMate's concerns and added that the department is seeking to

establish a more cooperative partnership with all of the Counties. Commissioner DaMate said she meant no disrespect to Maui but requested the $8 million for Waimea, Hawaii, as they are in dire need of help. Commissioner Kahikina queried if Maui County cleaned up the soil toxicity to which Deputy Young confirmed that they did complete the disinfectant stage and are now in the process of dispersing the water. Maui County will work with a contractor to grow and remediate the soil on department lands. The hope is to re-award a portion of these lands in five years. What is troubling is that the last planting of crops were left to die, and the acidity from the pineapple seeped into the soil.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

B-1, John McBride, Keaukaha Lessee, Re: Item A-2, J. McBride shared his thoughts on the water system in Puukapu and recommended individual well-drilling would allow a person to become self-sufficient, which would deem that person as being responsible. A County system may only provide a portion of what the lessee requires. Living in the upper areas will limit water capabilities and spending Trust funds may not satisfy everyone's needs. If the system is not going to work, then justice has not been served. In Panaewa where he lives, a well provides water to three tanks that supply everyone living at the bottom. He recommended pumping the water to a reservoir at the higher peak, thus allowing for gravity to supply water to everyone. Water is essential and he is not sure whether the department is utilizing its funds to providing the best system to the lessees in Puukapu.

B-2, Jojo Tanimoto, Kawaihae Lessee, Re: Item A-2, J. Tanimoto thanked the commission for sending notice of the beneficiary consultation meetings regarding the department's water policy. She anticipated more information would be forthcoming to address each community's current status on future water plans. What the beneficiary consultation did ask is "What do you think?" She deemed it difficult to provide an answer when one does not know the direction the department is headed. She considered the meeting meaningless and hopes more information will be available to help her make better decisions. She sits on the Hawaii County Community Development Program (CDP) in the South Kohala District and wants to share with them what the department is proposing to aid beneficiaries. The CDP in Waimea has a problem where the connection to supply water to Puukapu is limited. Kawaihae water comes from Waimea and Waimea is unable to expand its water resources further, according to the Department of Water Supply (DWS).

RECESS 11:55 a.m.

RECONVENE 12:05 p.m.

ITEM NO: C-1
SUBJECT: Approval of the Hawaiian Homes Commission Calendar for 2014

MOTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina.

DISCUSSION

Commissioner DaMate inquired as to whether the commission intends to schedule another meeting in Kau. The Chair noted that the matter will be addressed the following year.

ACTION

Motion carried unanimously.

ITEM NO: C-2
SUBJECT: Approval of Pilot Program to Develop Lease Cancellation Prevention Products for the Severely Delinquent East Hawaii Loans

RECOMMENDATION

NAHASDA Manager Niniau Simmons recommended approval of a pilot program to develop lease cancellation prevention products utilizing native Hawaiian Housing Block Grant (NHHBG) funds for the severely delinquent East Hawaii loans.

MOTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina.

DISCUSSION

NAHASDA Manager Niniau Simmons presented a powerpoint to address the demographics of the loan delinquency portfolio for East Hawaii as defined by the legislative auditor in her audit report to the department. N. Simmons acknowledged Louis Hao and Maddie Kaeo of the East Hawaii District Office, Acting Homestead Services Division Administrator Dean Oshiro, and the loan team, Wayne Takahashi, Fiscal Office; Warren Kasashima, NAHASDA accountant; Keaukaha and Panaewa community leaders Patrick Kahawaiolaa and Bill Brown, respectively, who all had a hand in developing today's submittal.

N. Simmons removed the loan names and loan numbers of lessees and expanded sections to include loan balances, which displayed the total overall balance due to the Trust that are direct Trust loans, a sample of the past due terms of 120 plus days, and the total delinquency amount for 30, 60, and 90 days. As part of the risk assessment strategy, the property tax assessed value for each of the loans was included. Items in Red – East Hawaii loans assistant attempted to make collection on this portfolio; they did not reply. Items in Gray – lessees already are a part of the contested case process. Items in White – 53 responded to an interim repayment plan.

N. Simmons reported that the direct loan portfolio was $6.6 million; the 120 days past due amount was $1.6 million, and the total property tax assessed value is $9.5 million. According to the State Auditor, these loans were severely delinquent and over six months. The true risk to the Trust portfolio is limited, however, due to the fact that there is a lot of equity in the homes that are associated with these loans. Included in the 53 accounts under the repayment plan column are seven kupuna that are delinquent with a total loan balance of $348,000 and a total tax assessed value of $744,000. The total portfolio balance for the 53 lessees was $4.3 million and the assessed value for property tax assessment was valued at $6.6 million. For those who did not reply, the total portfolio was at $1.4 million with the assessed value at $2.2 million. For those facing cancellation, $860,000 was the total loan balance and $918,000 in property tax assessed value. In determining equity, the department would minus out the total loan amount due from the property tax value to see if there was a positive or negative figure.

N. Simmons indicated that the average loan amount was $82,000 with an average property tax assessed at $125,000 and average delinquency amount of $20,000. In understanding the demographics of this particular portfolio, as highlighted by the State Auditor, the department came up with loss mitigation products to utilize NAHASDA (Native American Housing Assistance and Self-Determination Act) funding. The eligibility criteria included: 80% area median income as defined by the US Department of Housing and Urban Development (HUD); a beneficiary, as determined by the Hawaiian Homes Commission Act (Act); having a direct loan (never refinanced before); lessee of record who is residing on homestead in East Hawaii; enrollment in and successful completion of financial literacy education; and total outstanding balance less than assessed or appraised value, whichever is higher. The following was the optional eligibility criteria: and/or kupuna on fixed income; and/or disabled receiving disability benefits; and/or experiencing hardships due to loss of income of primary income earners, divorce, death of a spouse, family member, or illness.

N. Simmons said there are three loss mitigation products being considered:

1. NAHASDA-funded payment of past due amounts for DHHL direct loan where total delinquency amount does not exceed $15,000;
2. Refinance of a DHHL direct loan utilizing NHHBG at 1% above US Department of Agriculture Rural Development rate;
3. 75/25 split of modified deferred sales price refinance with 25% of direct loan deferred for the term of loan.

Commissioner Kahikina said we are heading in the right direction but questioned why we are unable to complete it without loss mitigation efforts as others have the capability to re-finance on their loans. According to N. Simmons, HSD brought forward the streamline option of a 4.5% interest rate, which have qualified some lessees to receive lower interest rates.

East Hawaii Delinquent Loans Collections Assistant Maddie Kaeo conveyed her attempts to contact delinquent lessees through phone calls, letters, and driving to some homesteads to make collections. Commissioner Hopkins asked if personal contact was made with lessees that do not live at the homestead. She indicated attempts were made to contact everyone.

ITEM NO: D-1
SUBJECT: HSD Status Reports

Exhibits:
A – Homestead Lease and Application Totals and Monthly Activity Reports
B – Delinquency Report

MOTION/ACTION

None; for information only.

ITEM NO: D-2
SUBJECT: Ratification of Loan Approvals (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Davis, to adjourn to executive session, to consult with counsel on Item D-2 loan approvals. Motion carried unanimously.

RECESS 12:38 p.m.

EXECUTIVE SESSION

The commission convened in executive meeting pursuant to Section 92-5 (a)(4)HRS, to consult with its legal counsel on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to reconvene to regular meeting. Motion carried unanimously.

RECONVENE 1:00 p.m.

ITEM NO: D-3
SUBJECT: Approval of Consent to Mortgage (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-4
SUBJECT: Approval of Streamline Refinance of Loans

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-5
SUBJECT: **Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)**

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-6
SUBJECT: Approval of Homestead Application Transfers/Cancellations (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-7
SUBJECT: **Commission Designation of Successors to Application Rights – Public Notice 2012 (see exhibit)**

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-8
SUBJECT: Cancellation of Deceased Applicants from Waiting List – Public Notice 2003, 2012 (see exhibit)

DISCUSSION

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-9
SUBJECT: Reinstatement of Deferred Applications (see exhibit)

MOTION/ACTION

Moved by Commissioner Kahikina, and seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-10
SUBJECT: Ratification of Designation of Successors to Leasehold Interest and Designation of Person to Receive Net Proceeds (see exhibit)

MOTION/ACTION

Moved by Commissioner Kahikina, and seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-11
SUBJECT: Approval of Assignment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-12
SUBJECT: Approval of Amendment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner Kahikina, and seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-13
SUBJECT: Commission Designation of Successor – Amy K. Waipa, Lease No. 3978, Waimanalo, Oahu

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-14
SUBJECT: Request to Approve Third Party Agreement – Benjamin K. Lindsey, Lease No. 4762, Puukapu, Hawaii

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-15
SUBJECT: Request to Schedule Contested Case Hearing – Denise Rosehill-Mahi, Lease No. 1891, Waiakea, Hawaii

RECOMMENDATION

Acting Administrator Dean Oshiro, Homestead Services Division, recommended denying a request for a contested case hearing by Robin Anuhea Victorino for the above-stated lease.

MOTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina.

DISCUSSION

East Hawaii Acting District Manager Louis Hao provided information on the events leading up to today's submittal. He conveyed that Robin (Anuhea) Victorino does not qualify as a 50% blood quantum, native Hawaiian. However, he spoke with Robin's mother, Anuhea Nahalea, explaining that the only way Robin would receive the lease would be for her (Nahalea) to surrender her lease, obtain the lease from Denise Mahi, then transfer to daughter Robin Victorino, who would then qualify as a 25% qualified successor. Since Anuhea Nahalea was not assured that her lease in Keaukaha would be returned to her, she decided against it. According to L. Hao, this is a long-standing issue which has not been rectified since 1984. At one point, Denise Mahi considered transferring the lease to Anuhea Victorino, however, it was never filed in court. Today, Denise Mahi is seeking to return the lease to the department with an opportunity to be compensated from the sale of the home.

Commissioner Hopkins noted that the decedent Damien Kuamoo filled out a request to transfer the lease to his sister Miriam, although it was never finalized. Robin Victorino maintained that there was a sale; however, the department cannot validate it. These types of money exchanges do not fall under the purview of the commission and should be designated a civil matter. He agreed with the department to deny the request. Commissioner Kahikina said he sees the inconsistencies as it relates to another similar situation on Oahu.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to adjourn to executive session to consult further with counsel on this matter. Motion carried unanimously.

ACTION

Motion carried unanimously.

RECESS 1:23 p.m.

EXECUTIVE SESSION

The Commission convened in executive meeting pursuant to Section 92-5 (a)(4) HRS, to consult with its legal counsel on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

RECONVENE 1:51 p.m.

AMENDED MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to continue the regular meeting and to defer Item No. D-15 until December 2013. Motion carried unanimously.

F – LAND MANAGEMENT DIVISION

ITEM NO: F-1
SUBJECT: Approval to Issue License to Panaewa Hawaiian Home Lands Community Association, Panaewa, Hawaii

RECOMMENDATION

Income Property Branch Manager Kahana Albinio recommended approval to issuance of a 30-year license to Panaewa Hawaiian Home Lands Community Association (PHHLCA), in Panaewa, Hawaii. K. Albinio noted that License No. 365 was cancelled in September due to it being a co-licensee where one of the parties, Hoala, Inc., fell to the wayside and was no longer in operation. In establishing the Kamoleau Laulima Resource Community Center (Kamoleau) project, PHHLCA expressed a desire to re-acquire the license. The NAHASDA (Native American Housing Assistance and Self-Determination Act) team was able to assist in acquiring funds for this resource center and Kamoleau expressed a desire to continue the project and its partnership with the University of Hawaii Hilo.

MOTION

Moved by Commissioner Ishibashi and seconded by Commissioner Kahikina.

DISCUSSION

PHHLCA President, Bill Brown, expressed his thoughts and he is hopeful that this will prove to be a good relationship between PHHLCA and the department. He is pleased that the project will continue on the same, designated 12-acre parcel.

ACTION

Motion carried unanimously.

ITEM NO: F-2
SUBJECT: Status Update – Anahola Solar Project, Anahola, Kauai

MOTION/ACTION

None; for information only.

Administrator Linda Chinn said that in October 2011, License No. 765 was issued to Homestead Community Development Corporation (HCDC) and Kauai Island Utility Cooperative (KIUC) for a two-year license with option to convert to a long-term general lease for the operation and maintenance of 60 acres of the Anahola Solar Project in Anahola, Kauai. The commission adopted the Findings of No Significant Impact (FONSI) in September 2013 and on September 26, 2013, KIUC requested for the license to be converted to a general lease; HCDC also made a similar request. These written requests were submitted pursuant to Paragraph 2(e) Special Conditions – Conversion to Lease Agreement (as stated in the submittal) in compliance with HRS Chapter 343. Since the issuance of the FONSI, all requisites have been met.

Subsequently, the department issued a letter to both KIUC and HCDC on November 15, 2013, indicating that DHHL cannot approve a request for a non-competitive lease without an express, specific legal authorization. The letter said that KIUC, being a utility company, can receive a general lease, however, HCDC did not meet the qualifications to be issued a non-competitive lease in this circumstance. If they disagreed with the conclusion, they could submit additional information to DHHL by November 30, 2013. Before coming for an approval, the department needed to work with KIUC, or KIUC jointly with HCDC, to finalize the lease terms. The department needs to complete its due diligence that the lease terms were a fair return to the Trust and then an informational meeting needs to be completed in Anahola, to get feedback from the community.

DISCUSSION

Commissioner Sheehan asked if there is a timeframe for this project. The Chair noted that their Exhibit "C" on the project financing indicates an end-of-year timeframe. Discussions with KIUC are pending. The department's practice is to provide an informational briefing on island. We would likely need to prepare in December for action in January, noted the Chair. Commissioner Sheehan deems this project as monumental and the commission should continue to do its due diligence in a timely manner and not rush it. Commissioner Kahikina noted that this project is driven by the community working together to establish a unique plan without funding from the department. Commissioner Hopkins asked what happens if this is not a fair return to the Trust. Negotiations will need to be pursued, noted L. Chinn. Deputy AG Iha recommended to adjourn to executive session to discuss the issues further.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Hopkins, to adjourn to executive session to consult with counsel on the above matter. Motion carried unanimously.

RECESS 2:07 p.m.

EXECUTIVE SESSION

The commission convened in executive meeting pursuant to Section 92-5(a)(4)HRS, to consult with its legal counsel on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

RECONVENE 2:43 p.m.

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: F-3
SUBJECT: For Information Only – Update on Native Hawaiian General Services, South Point, Kau, Hawaii

MOTION/ACTION

None; for information only.

DISCUSSION

Property Income Supervisor Kahana Albinio said that a presentation was made on Revocable Permits (RP) last month and this (RP) tenant was not listed as one who received a notice of violation. On September 30, 2013 a site inspection was conducted with tenant Jackie Kaluau. Joining K. Albinio on this site visit was Commissioner Ishibashi and J. Kaluau. K. Albinio noted that upon inspection, nothing appeared amiss. Subsequent to the inspection, the only issues of concern were for requests for long-term dispositions. The department will continue to speak to each of the 12 tenants and K. Albinio met with three tenants and spoke to another tenant. Their one concern was as to when a longer term lease would be available to them.

Commissioner DaMate inquired if the permittee was notified before the site visit to which K. Albinio confirmed that he contacted the permittee the day prior. Commissioner Davis inquired about the program and how it works. Administrator L. Chinn said that the permit was issued in 2004 for 5,000 acres. Prior to that, L. Chinn received calls each year of fires burning the dry grass. Part of the arrangements with NHGS (Native Hawaiian General Services) is to allow pastoral lot applicants to build up their herds, so that when they did receive an award, they would have the knowledge and animals to go along with the homestead. Under this agreement, the permittee is allowed twelve waitlisted families to have an opportunity to get a portion of 200 to 300 acres to begin ranching. It is an unusual circumstance and all 12 applicants are identified on

the map of where they are. Because of the limited supply of water, NHGS provides the water via meters which they all share. Commissioner Davis noted that homesteaders on Molokai are able to receive subsistence for fencing their lands, whereas, Kau pastoral beneficiaries lack that opportunity. L. Chinn said this is an unusual RP but is the only one opportunity available to beneficiaries on the waitlist in Kau.

Commissioner DaMate said that in 2011, the people of Naalehu and Kamaoa-Puueo felt they were being shafted on these permits. She discovered that the program was begun by Darryl Kaluau and turned over to his cousin Jackie Kaluau. She learned that existing names were replaced by other names and new sub-permits were issued; one new sub-permittee was recently added near the corral. She held a public community meeting in Kau and one of the main complaints received was that Jackie Kaluau was allowing non-native ranchers, Egami and De Luz, to run their cattle on the ranch lands and Egami was paying the water bill. Commissioner DaMate attempted to meet with Jackie Kaluau three times without avail. What is being portrayed is not a true picture of what is happening there, expressed Commissioner DaMate. It is her belief that NHGS should not be given the Right-of-Entry (ROE) due to complaints over the past five years.

John P. "Jackie" Kaluau appeared before the commission to answer any concerns expressed by Commissioner DaMate. He inquired whether he is doing any illegal activity. The Chair asked whether Jackie Kaluau was in violation with this RP. L. Chinn said there was no violation issued to Jackie Kaluau. She also noted that the department conducted more site visits to this RP than any other RP within the system. They plan to re-visit and speak further with the sub-tenants. Commissioner DaMate recommended that staff meet with Mr. Egami and Mr. De Luz and inquire about recent water bills and to also meet with Lester Uyeda who has a different map from the one the department has. J. Kaluau said that the department has the map that contains the list of sub-tenants while the map that Commissioner DaMate referred to is his own personal map showing what he received through Palm Service Agent for perimeter fencing. Commissioner Ishibashi questioned about NHGS By-laws. J. Kaluau said they follow the department's by-laws. He noted that the complaints are being lodged from people who did not attend meetings. He has no problem expanding for additional pastoral lands, but one major problem that exists is providing an adequate water supply. Commissioner DaMate said she will hold her comments until staff has completed its due diligence.

J. Kaluau spoke about confronting a family that was renting out land to Mr. Egami and he cautioned them that they could stand the risk of being kicked off the property if continuing to do rentals. He questioned them that if there was cattle being sold, he would like to see a bill of sale. The Chair inquired if all of the beneficiaries are the original permittees. J. Kaluau said 90% of the original permittees are still there now. K. Albinio confirmed that he spoke with Garry Kaawa, Pernell Hanoa, Ralph Kaapana, and Gene Beck if there were any infractions, but there were none.

There are 12 pastoral ranchers who are limited to 5,000 gpd (gallons per day) of water. This is not much water, noted J. Kaluau. To nourish 20 to 30 head, one cow would require 20 gpd. There were no issues until ecotourism came about. Now, he finds himself being accused of

various illegal activities. He said if the department finds fault with him, he would like to see the paperwork. If not, let him continue with his work. L. Chinn said that there is a Kau Regional Plan and an association that was formed there. The department wishes to continue working with the community in finding solutions to any issues, if necessary.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina to recess the meeting until noon tomorrow.

RECESS 3:19 p.m.

HAWAIIAN HOMES COMMISSION
Minutes of November 19, 2013
Meeting Held in Hilo, Hawaii

The regular monthly meeting was reconvened at the Department of Hawaiian Home Lands' East Hawaii District Office, 160 Baker Avenue, Hilo, Hawaii at 12:08 p.m.

PRESENT Jobie M. K. Masagatani, Chairman
Gene Ross Davis, Commissioner, Molokai
Patricia W. Sheehan, Commissioner, Kauai
Wallace A. Ishibashi, Commissioner, East Hawaii
J. Kama Hopkins, Commissioner, Oahu

EXCUSED Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oahu
Leimana DaMate, Commissioner, West Hawaii

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chair
Niniau Simmons, Manager, NAHASDA, Office of the Chair
Linda Chinn, Administrator, Land Management Division
Francis Apoliona, Compliance Officer
John Peiper, Enforcement Officer
Mike Robinson, Land Agent, Land Management Division, East Hawaii Office
Louis Hao, Acting District Superintendent, East Hawaii District Office
Jim DuPont, District Superintendent, West Hawaii District Office
Elaine Searle, Secretary to the Commission

APPROVAL OF MINUTES

Moved by Commissioner Hopkins, seconded by Commissioner Sheehan, to approve the minutes of December 2012. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Hopkins and seconded by Commissioner Sheehan, to adjourn to executive session to consult with counsel on Item No. J-4. Motion carried unanimously.

RECESS 12:09 p.m.

EXECUTIVE SESSION

The Commission convened in executive meeting pursuant to Section 92-5(a)(4) HRS, to consult with its legal counsel on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

MOTION/ACTION

Moved by Commissioner Hopkins and seconded by Commissioner Sheehan, to reconvene to the regular meeting. Motion carried unanimously.

RECONVENE 12:28 p.m.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item No. B-1 John McBride, Lessee, Re: J-3,
Mr. McBride said he is a mechanic and a tour bus driver. He is concerned that Green Sands in South Point is being considered for a National Park status. His family owned acreage in Kau which was taken over by the federal government and finally turned into a national park and now he pays a fee to visit the site. He is hopeful that the department will come to the aid of the beneficiaries.

Item No. B-2 George Grace, III, Permittee, Save Our Race Tracks, Re: J-6,
George Grace said he has been frustrated with DHHL over the past six years. He said he addressed the commission two months ago, in Kona, regarding resolutions to some of his issues. The Chair asked G. Grace to limit his comments to Item J-6, to afford Hilo lessees time to be heard, as the commission comes to Hilo only once a year; whereas, the commission meets several times on Oahu and he has ample time to address his concerns in December, January, or February.

G. Grace conveyed that the department is squeezing out his neighbor, Don Pascual, by restraining him (Grace) from developing his revocable permit property. G. Grace said that Don Pascual was the person that came to his aid, at no cost to him. He questioned why DHHL needs to be involved in their business.

J – GENERAL AGENDA

ITEM NO: J-2
SUBJECT: Request to Address the Commission – Kelii W. Ioane, Jr.

MOTION/ACTION

None; for information only

DISCUSSION

Kelii (Skippy) Ioane, King's Landing Village, Hilo, is disgruntled at the disparity of a non-Hawaiian entity, such as Walmart, being treated with dignity while the homeless Hawaiians of King's Landing are being disrespected. He wants to negotiate for better opportunities to build a village within the confines of King's Landing, and incorporate ways to improve King's Landing Village for a month-to-month permit usage. King's Landing is a very unique place on Hawaiian home lands, expressed the Chair, and it permits families to reside on the land. S. Ioane said there are approximately 15 families living at King's Landing. The Chair suggested that S. Ioane arrange to meet with Land Management Division Administrator Linda Chinn regarding his concerns.

ITEM NO.: J-3
SUBJECT: Request to Address the Commission – Daryl Kaluau

MOTION/ACTION

None; for information only.

DISCUSSION

Daryl Kaluau said he represents the Kamaoa-Puueo Homestead Association (KPHA) in Kalae, South Point, which is made up of revocable permit (RP) tenants who are tasked with building a cultural center and a community center in Kalae, South Point. He said he developed the Native Hawaiian General Service (NHGS) which operated a commercial entity that was eventually turned over to Jackie Kaluau, to manage the non-profit portion of the business. D. Kaluau said that he submitted a plan to develop an ecotourism project, to generate revenue, create jobs, and to complete the task of putting in water lines, a community center, and to maintain the historical sites at South Point. This venture would likely support his group in becoming self-reliant, and relieve the department from the burden of having to manage South Point. D. Kaluau noted that he applied for a 501(c)(4) exemption, to generate revenue for KPHA.

Water has been a big issue for the people of Kau, expressed D. Kaluau. He pumps water from one of five (5) county meters. He recommended that a water tank be built and a water line added, diverting water from Discovery Harbour, to supply water to 24 lessees that currently lease 25-acre lots. NHGS is tasked with collecting and paying the insurance for all of the RP tenants; however, D. Kaluau deems that each permittee should be afforded individual permits, so they can be accountable for their own insurance. That way KPHA would qualify for federal funding through the NRCS (Natural Resources Conservation Service). Commissioner Davis shared that Hoolehua Cattle Association, on Molokai, has a similar system. Commissioner Sheehan asked about the manner of ecotourism being conducted at South Point. D. Kaluau explained that illegal tours are being conducted at Green Sands, whereby ATV's are needed to transport visitors over treacherous roads. D. Kaluau said that if KPHA secures the area, makes road improvements, and provides insurance coverage, this could aid their cause in creating jobs, preserving the historical

sites, and ensuring safe passage for visitors. D. Kaluau expressed that he would like to secure the area at the corral, currently run by NHGS, and use it as its beginning point to conduct tours and to utilize the roads leading to Green Sands Beach. The Chair said there are still many unanswered questions and a number of issues that need to be addressed. She noted that the department needs to figure out how to procure for such services, seek authority to proceed on such matters, as well as to address trespassing issues. A management plan will need to be launched in order to move forward. It should include all Kau beneficiaries in such endeavors. Kamehameha Schools owns lands adjacent to the department, and partnering with them may address some of the outstanding issues, noted the Chair. D. Kaluau conveyed he has been dealing with the same conditions over a number of years and he would like resolution, to afford the Kau community an opportunity to generate its own revenue, and build its own community center, similar to the Panaewa and Keaukaha communities. The Chair expressed that the department will move forward with a management plan.

ITEM NO: J-4
SUBJECT: Request to Address the Commission – Hercules E. Freitas

MOTION/ACTION

None; for information only.

Attorney Paul Hamano represented Hercules Freitas, a Hawaiian Homes residential lessee. P. Hamano explained that this issue began in 2006, regarding reasonable access to H. Freitas' property. P. Hamano displayed a map showing 2 corresponding flag lots; Lot 4, H. Freitas' and Lot 6, Perez's. Lining the middle of the roadway are 4-foot steel poles. From the beginning of Lot 6, there is a chain-link fence and utility poles for Lot 6, and poles for Lot 4 encumber the middle of the roadway. Mr. Freitas is requesting relief of these impediments which were placed there, upon approval and action taken by DHHL, noted P. Hamano.

When H. Freitas first constructed his home, there were no obstructions in the roadway. When Lot 6 was built, the neighbors constructed 4-foot steel poles that lined the middle of the roadway, and constructed a fence at the end of the steel poles that further created an impediment to the roadway. These improvements were made without DHHL approval and Administrative Rules. As stated in Section 12 of residential leases, "no improvements can be made, including fences and walls without having written approval of the Commission." In HAR (Hawaii Administrative Rules), Section 10-3-34, no improvements can be made without written approval by the commission. "Improvements shall meet building and zoning codes and other ordinances and regulations of the respective counties." Inevitably, the owners of Lot 6 requested approval, whereby retroactive approval was granted. Although approval may have been granted, P. Hamano reiterated that the impediments were deemed unacceptable by Hawaii County Fire Code requirements. P. Hamano believes there was no justification in allowing these improvements. When the fence and steel poles were placed there, it was understood that this was an exclusive easement for utility poles. P. Hamano added that there is no justification in allowing discretionary approval by staff, as only the commission has the authority to approve it. In 2000,

when H. Freitas requested for utility poles to be placed in the easement area, he was refused. In 2006, his neighbor requested to place 4-foot steel poles and fencing in the same area and it was approved. P. Hamano said that he has documents to verify it, including a DHHL investigative report which stated that;

1) fencing was placed within a utility easement;
2) approval for improvement given after the fact;
3) fencing should not be placed in a utility easement;
4) five property pins were destroyed due to placement of fencing.

Through an investigation by H. Freitas, it was determined that DLNR (Department of Land and Natural Resources) owns the utility easement to both properties; thus, DLNR noticed all the parties, including DHHL and the County of Hawaii (COH) to remove both steel posts and fencing, noted P. Hamano. The department (DHHL) was unresponsive, and it continued to be a problem for H. Freitas. P. Hamano featured a diagram of the area, and displayed the difficulty of maneuvering in H. Freitas' property. Even a sewer truck cannot maneuver onto the property, causing him to remove sewage manually every few weeks. According to P. Hamano, H. Freitas is entitled to have reasonable access to his property.

The Chair conveyed that the department is here to listen to the lessee, to learn about his concerns, to help the department understand whether it has jurisdiction, and/or to determine if this is a matter between two lessees.

Mr. Freitas attempted to remedy the situation by removing his electrical pole and placing it in the easement area; however, DHHL suggested extinguishing the easement and relocating the easement to the outer portions of the driveway, along with utility lines, said P. Hamano. This never materialized. Instead, the neighbor's poles were allowed in the easement area which was contrary to statements made by DLNR, expressed P. Hamano. He contends that DHHL allowed the neighbor to place poles in the middle of the driveway, thus preventing H. Freitas from making improvements to his home.

H. Freitas explained that he filed a complaint in 2006 and it took a year before staff investigated it. He is frustrated at the lack of implementation, deems his civil rights have been violated, and he wants resolution. A fence exists in the easement area, which prevents a pumping truck from entering and disposing of waste from his septic tank – the same exists for an emergency vehicle. H. Freitas said he is getting older and feels limitations will prevent him from continuing to care for his family. He is frustrated that it took several DHHL administrations before this matter was addressed. The commission has a fiduciary responsibility to correct the problem, and he believes the situation is biased against him. He expressed that DHHL should have received letters from Hawaii County Council members and a senator on the issue.

Despite a request from the Hawaii County Fire Department, DHHL is not demanding for either party to remove these impediments, said P. Hamano, adding that it could be a violation under Hawaii County Code. Should a crisis occur where an emergency vehicle is impeded from getting to H. Freitas' property, he perceives it as a liability for DHHL. The neighbor continues

to maintain the steel poles in the middle of the roadway and make it difficult for H. Freitas to enter/exit his home. He contends that this matter should be handled civilly between the parties and the commission has the power to make that happen. H. Freitas said the driveway is 350 feet to his home while his neighbor is 120 feet. He inquired as to what will happen if there is a fire. The Chair queried whether there is a lease violation as the letter by the Hawaii County Fire Department recommended removal of the poles, rather than committing to say that it is a violation. The Chair asked if there is subsequent correspondence to the June 2012 complaint. She clarified that there are two driveways as opposed to one road. She inquired whether the commission is being asked to take action against a fellow lessee when there appears to be no lease violation. If there is documentation other than June 2012, then she requested to see it as it pertains to this investigation. P. Hamano confirmed that the June 2012 documentation is the latest regarding the fire code issue. The Chair thanked H. Freitas and P. Hamano for their time and attention.

ITEM NO: J-1
SUBJECT: Request to Address the Commission – Geoff Walker

MOTION/ACTION

None; for information only.

On behalf of Ray Shirakawa, a third generation Kau resident, Geoff Walker brought forth concerns of erosion and unsafe conditions of a boat ramp situated at Kalae, South Point He requested assistance from the commission to improve the boat ramp for the fishermen that want to fish. He emphasized that improvements to the boat ramp will complement the ecotourism efforts that were brought up in an earlier discussion. Commissioner Ishibashi inquired about the specific needs of the boat ramp. G. Walker noted that security is a big issue. Cars have been broken into, batteries removed, trailers taken, and tires flattened. The road to the area needs major renovation. There is no area to launch a boat, and two serious accidents involved a drowning, which took an emergency vehicle several hours to respond. The next closest boat ramp is 45 miles away. The Chair said that the department would need to determine whether the ramp is on Hawaiian home lands. The department would then need to determine whether this is a matter that needs to be moved forward. She added that because the area has open access, utilizing Trust funds would be highly unlikely. If beneficiaries are in favor of the project, the department would need to seek funding from the legislature. The Chair thanked G. Walker for bringing forth awareness of the situation.

ITEM NO: J-5
SUBJECT: Request to Address the Commission – Elizabethanne Masaoka

MOTION/ACTION

None; for Information Only.

DISCUSSION

Elizabethanne Masaoka said she and her family have resided at the Panaewa farm lot residence since 1999. She addressed an uncomfortable situation of a trailer parked in her neighbor's lot with a stranger residing in it. They spoke to the neighbor who agreed to move the trailer to another location. The Masaokas also apprised DHHL Hilo District Manager Louis Hao and Enforcement Officer Ellery Batino of the situation. The Masaokas were informed by their neighbor that a stranger was permitted to reside on his property, to protect his lychee fruit. In the interim, E. Masaoka documented dates, occurrences, and pictures of cameras facing her property. Hawaii County Planning Division inspected the property and found that the trailer intruded on the Masaoka property, and the neighbor was informed of the violation. Ms. Masaoka said her husband was concerned with her peace of mind, as the situation had escalated to civil court, property damages, and police reports. A Temporary Restraining Order (TRO) was placed against the male living in the trailer as well as the lessee's father. TRO's were also filed against the Masaokas by the next door family members that were later dismissed. E. Masaoka said that Enforcement Officer Francis Apoliona viewed the property and noticed other illegal structures on site, one being the trailer, which was used as a residence. She thanked Commissioner Ishibashi for visiting her property. She is concerned that it has taken fifteen months to bring this matter before the commission. Ms. Masaoka submitted material to be made a part of these minutes as Exhibits A to F for Item J-5.

ITEM NO: J-6
SUBJECT: Request to Address the Commission – Don Pascual

MOTION/ACTION

None; for information only.

Don Pascual said that his Hawaii Explosives & Pyrotechnics, Inc. (HEPI) Revocable Permit (RP) began in 2003, the same time as George Grace's SORT (Save Our Race Track), in Kalaeloa. In 2010, a non-payment agreement was reached between the two parties, allowing G. Grace to utilize D. Pascual's unused portion of land. D. Pascual said that former DHHL Land Agent Noel Akamu was apprised of the verbal agreement. D. Pascual expressed that he would be amenable to continuing this arrangement, as he has good rapport with everyone in Kalaeloa.

In July 2013, the department began converting all RP's into Right-of-Entry (ROE) permits, ensuring that each tenant be compliant with its original intent, noted Land Management Administrator Linda Chinn. In this particular instance, there was neither a record on file, nor a subleasing agreement for this arrangement. A letter was sent to HEPI, informing them of non-compliance for storage of fireworks and related equipment. D. Pascual is appealing to the commission, to continue with this arrangement with SORT and he apologized for any misunderstanding of the arrangement between him and George Grace.

In reference to animals that are running loose, he suggested that he and his neighbors construct a fence to contain them. George Grace said that the department visited the property on occasion and there was never an issue then. If the department chooses to cancel HEPI's permit, G. Grace is also amenable to relinquishing his agreement with HEPI. G. Grace explained that HEPI has been instrumental in assisting SORT with the opening of its racetrack as well as assisting with with some of the programs. Commissioner Ishibashi pointed out that although there is no written agreement, both entities fall into a trap of liability and sub-leasing issues. Commissioner Ishibashi requested clarification on the sub-leasing matter and how to proceed with D. Pascual's proposal, as D. Pascual is open to ideas for a cordial resolution.

An appeal was made to the department to enforce all of the rules that are associated with all RP's across the board, noted the Chair. The Chair instructed staff to work with D. Pascual and address any outstanding violations and to seek possible solutions. L. Chinn expressed that the questionable boundary issue could be resolved.

D. Pascual requested that the compliance period be extended until after the holidays for safety considerations, as HEPI is entering into one of its busiest periods. He also inquired as to what are the plans for the area in the future. From a business standpoint, the Chair said that a month-to-month disposition is difficult. The department would like to pursue long-term leases for income producing purposes. However, in moving forward, there are some limitations to consider with the infrastructure in the area, conveyed the Chair.

Note: Commissioner Hopkins is excused from the meeting.

ITEM NO: J-7
SUBJECT: Request to Address the Commission – Kuilua Mortensen

Kuilua Mortensen, a high school student at Ke Kula O Nawahi O Kalaniopuu, addressed the commission and he along with his parents, Hans and LaRae Mortensen, are seeking approval to construct a pavilion at Puhi Bay. The success in achieving this project will earn him the status of Eagle Scout in his Boys Scouts of America program, said K. Mortensen. This project will demonstrate his commitment to serve a community, develop leadership skills, and assume responsibility. K. Mortensen said that the pavilion will replace an existing E-Z Corner Tent that was constructed by the Puhi Bay Gang that socializes there. The structure will be a 20 by 30-foot permanent open beam structure built on a concrete slab at Keaukaha Beach Park. According to K. Mortensen, the project needs to be completed prior to his turning 18 years old in October 2015. He intends to begin his project in November 2014 and complete it in February 2015. He listed several individuals and businesses that are assisting him with this venture. Both the Boy Scouts of America and the Keaukaha Community Association have sanctioned this project and are seeking support from DHHL.

The Chair applauded K. Mortensen on his initiative and his diligence in making this project come to fruition. Keaukaha Community leader Patrick Kahawaiolaa said he is lending his support to the proposed project, and it comes with the community's blessing. He said that this is

a phenomenal accomplishment for someone as young as K. Mortensen to have given such serious thought to this venture. The Chair expressed appreciation to the Keaukaha community for its support to the project. Hans Mortensen said they are in the planning stages and would appreciate DHHL's assistance to expedite its progress. The Chair noted that she will confer with the Land Development Division (LDD) for guidance. P. Kahawaiolaa added that this project will nurture one of the community's future goals, which will aid in expanding the development of a Hawaiian village site. The Chair pointed out that a similar community project exists on Molokai with its Kalamaula Homestead Association (KHA). DHHL Planner Kaleo Manuel is assigned to work with East Hawaii beneficiaries on the project and he plans to coordinate with LDD as well. Commissioner Ishibashi said that many changes are coming to Keaukaha, and he applauds K. Mortensen's vision, aspiration, and his fine upbringing, as he, himself, served many years as a member of the Boy Scouts of America.

B – PUBLIC TESTIMONY (cont.)

Item No. B-3, Gerald Mauhili, Lessee, Re: J-3, G. Mauhili provided Kau beneficiary Anna Cariaga an opportunity to listen to today's proceedings via cell phone. She expressed her support for the Kau lessees who want to initiate an ecotourism project in Kau. She requested for the department to visit Kau, to be "pono" with the project. She thanked Commissioner Ishibashi for taking the time to address the needs of Kau and for his invaluable contributions. Gerald Mauhili expressed his thoughts on the Revocable Permits (RP), and what it means to the people that testified in today's meeting. He is seeking support from DHHL for these individuals to "malama" (care for) and "hoomalimali" (persuade) them. He sang a song about Keaukaha, in commemoration of the day's events.

Item No. B-4, Herman Costa, King's Landing, Re: Item J-2, Herman Costa, a former King's Landing president, has resided there since 1979. He related similar issues of unrest with the RP's (Revocable Permit) back then and the future of King's Landing. He observed that people were losing interest to work the land because they felt, in time, that someone could "yank the rug" from under them. Serving as president of King's Landing took up much of his time and energy. He noted that little has changed over the years, and he is the wiser for it. He shared similar sentiments as Skippy Ioane, that the current ROE (Right-of-Entry) is a non-guarantee status which creates too much uncertainty. He would like to see a more positive growth, such as improved water lines and roads. All of the people residing in King's Landing are displaced families who are poor. If not for King's Landing, there would be no alternate place for them to live. However, he is pleased that the ROE will allow for them to continue living at King's Landing where an individual can earn enough to sustain his family.

Item No. B-5, Elswood Noeau, Panaewa Lessee, Re: J-6, Elswood Noeau said he is the neighbor who Elizabethanne Masaoka spoke against earlier. He explained that the individual occupying the trailer on his Panaewa lot lives in Kapoho and occasionally occupied the trailer, to provide security for his Panaewa lot. They are friends and both are employed as tour bus operators. Some attempts were made to remedy complaints made by his neighbor, E. Masaoka; however, he felt constant pressure at being dubbed the "bad guy." He is being sued for damages

to a fence while his property was being bulldozed for future plantings. He also conveyed that he grows mangoes, lychee, avocadoes, and other desirable fruits which are part of his livelihood. With security primed, he discovered that his neighbors were stealing from him. To quell some of the complaints about having someone living on his lot, E. Noeau assured the DHHL Enforcement Team and the East Hawaii District Officer that he would remedy the infractions levied against him for any illegal structure. He was disturbed by comments made to his son that his lease was being taken away. He also shared that his neighbors entered onto his property, left the water on, created a $400 water bill, sabotaged his tractor, and caused problems for the individual keeping watch over his lot. Unkind words were spoken, but not escalated to a point of a threat. He surmised that his violation is for a permit infraction. His family was upset that they were forced to clear the area next to the Masaokas' property, to ensure that no potential damage would befall an existing fence line. He conveyed that he may not be aware of all the rules in place, but he is willing to make adjustments to any violation. Everyone in Keaukaha knows of him; he has matured over the years, and he trusts in God. E. Noeau apologized for his earlier outburst and thanked the commission for allowing him time to share his frustrations.

ADJOURNMENT 4:17 p.m.

The meeting was adjourned without a quorum.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING Kapolei, Hawaii, December 16, 2013

ANNOUNCEMENTS Next community meeting will be held on December 16, 2013, at Ka Waihona O Ka Naauao Charter School, 89-195 Farrington Highway, Waianae, Hawaii.

ADJOURNMENT 4:17 p. m.

Respectfully submitted:

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

for Elaine G. Searle, Secretary
Hawaiian Homes Commission

APPROVED BY:
The Hawaiian Homes Commission
At Its Regular Monthly Meeting On

_____

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission