

HAWAIIAN HOMES COMMISSION
Minutes of June 15 and 16, 2015
Meeting Held in Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, the 664th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawai‘i, beginning at 9:43 a.m.

PRESENT Jobie M. K. Masagatani, Chair
 Doreen N. Canto, Commissioner, Maui
 Wallace A. Ishibashi, East Hawai‘i
 Michael P. Kahikina, Commissioner, O‘ahu
 William K. Richardson, Commissioner, O‘ahu
 Renwick V. I. Tassill, Commissioner, O‘ahu
 Kathleen P. Chin, Commissioner, Kaua‘i

EXCUSED Gene Ross K. Davis, Commissioner, Moloka‘i
 David B. Kaapu, Commissioner, West Hawai‘i

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
 Niniau Simmons, NAHASDA Manager, Office of the Chair
 Paula Aila, Hale Manager, Office of the Chair
 Hokulei Lindsey, Administrative Rules Officer, Office of the Chair
 Michelle Brown, Secretary to the Commission, Office of the Chair
 Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chair
 Norman Sakamoto, Development Officer, Land Development
 Linda Chinn, Administrator, Land Management Division
 Kahana Albinio, Acting Property Dev. Manager, Income Property Branch
 Kaleo Manuel, Acting Administrator, Planning Division
 Rodney Lau, Admin. Services Office
 Jenna Gray, Admin. Service Office
 Dean Oshiro, Acting Homestead Services Division Manager
 Ku‘uwehi Hiraishi, Info. Specialist, Information and Community Relations

AGENDA Chair Masagatani sought approval of an amendment to the order of the agenda. She noted the presence of a number of beneficiaries from the neighbor islands to testify on agenda item F-1. To accommodate those beneficiaries, the Commission will address item F-1 immediately following Public Testimony.

The minutes for the special meeting of November 2013 have been distributed for Commissioner’s review. Approval will be sought at the start of tomorrow’s meeting agenda.

Moved by Commissioner Chin, seconded by Commissioner Richardson, to approve the agenda, as amended, by Chair Masagatani. Motion carried unanimously.

A – PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item A-1, Kapualani McGurn, Waiehu Kou III Lessee, Re: J-6 Neighborhood Power

Kapualani McGurn is with Neighborhood Power on Maui. She will be speaking on the J- Agenda about helping lessees get solar energy for their homes. She is also a lessee at Waiehu Kou III and has benefitted from a solar system on her home. She thanked the Commission for the opportunity to speak further at tomorrow's meeting.

Item A-2, Michelle Kauhane, President & CEO - Council for Native Hawaiian Advancement (CNHA), Re: Item No. B-1, B-2, C-1, F-5, and G-1

CNHA has had a policy priority since 2012, about strengthening beneficiary consultation on Trust resources and budgetary processes. It is difficult to implement beneficiary requests into DHHL's Budget and to be supportive at the Legislature without having the information to comment on. The packets for this meeting contained no Budget for beneficiaries to look at and comment on. She asked the Commission to defer action on the Budget until beneficiaries have an opportunity to comment. Ms. Kauhane requests a report of budgetary items versus actual expenditures. The Commission passes a budget and no one every sees it again. The community doesn't know what happens; whether or not DHHL met its Budget, underspent or overspent. CNHA wants more transparency and communication about the Trust.

Item C-1 is a resolution to the Department of Interior (DOI) to consult with the DHHL. She urged the Commission to encourage the DOI to exercise its trust responsibility and consult with the beneficiaries of the Hawaiian Home Lands Trust, not the state agency DHHL. DHHL has its own opportunities to engage with the DOI. Beneficiary advocacy for a proposed rule change should be with the beneficiaries themselves. Hawaiian programs are implemented through a Trust relationship that is articulated in over 150 pieces of legislation where the federal government is acting on its trust responsibility to the Hawaiian people, not the state DHHL.

Item F-5 regarding the Waimea Farmer's Market; CNHA does not support a right of entry permit to someone other than the Waimea Homestead Association.

Finally, Item G-1 regarding Kalaupapa. Ms. Kauhane stated she had a conference call with Valerie Monson of Ka 'Ohana O Kalaupapa. The National Park Service (NPS) has been meeting with DHHL and other state agencies but not with the actual beneficiaries of the Trust. CNHA believed there should be a consultation with homesteaders from Moloka'i before deciding whether or not there should be homesteading on the peninsula.

The NPS commented that homesteaders on the peninsula would detract from the sacredness of the place. As a beneficiary it is difficult to read such a comment. The NPS has been hiring employees from Topside [Moloka'i] residents, but the highest paid jobs go to non-Hawaiians. DHHL should encourage the NPS to invest in the Hawaiian community through its employment of the Hawaiian community. The NPS has a 400 page report that barely mentioned Ka 'Ohana O Kalaupapa and their work. The biggest concern is that the NPS might try to include the North shore and Pelekunu Valley in its

oversight. None of the additional lands have been included in the discussion with the community. CNHA has done lots of advocacy to the DOI to help the 'Ohana erect a monument for the thousands of patients who called Kalaupapa home. The last step is to develop a design for the monument before the DOI will engage in a cooperative agreement. She encouraged DHHL to consider these issues as it prepares its comments on the NPS report.

Chair Masagatani stated with regard to item F5, the department is looking for a long-term disposition for that area. The license would be for the interim while due diligence study and other discussions are being conducted. The intent is to take this item back to the community in September.

Commissioner Tassill stated Kalaupapa should be a sanctuary instead of a museum. Hawaiian people need a sanctuary especially those who are incarcerated. He is disappointed with the NPS's plan to turn it into a tourist trap.

Commissioner Richardson asked M. Kauhane how the DHHL could include the community in the budgeting process.

M. Kauhane stated the Office of Hawaiian Affairs has done community workshops where they go over their budget line by line with the community. Knowing where the funds are used is a good start. The Budget wasn't included in the packets, the beneficiaries would have to literally be here at the meeting on the day of the meeting to see what is being decided upon. M. Kauhane requested a quarterly report that shows where DHHL stands in terms of budgeted spending.

Item A-3, Naomi Mitchell, Re: J-4 Lease Issue.

Naomi Kuulei Mitchell stated she was not aware that the J-Agenda was moved to the second day.

Chair Masagatani stated the agenda will need to be amended to take up J-4 today, but it will not be until after the decision making items are completed.

Moved by Commissioner Ishibashi, seconded by Commissioner Canto, to amend the agenda to take up agenda item J-4 after the decision making items of the current day's agenda. Motion carried unanimously.

Item A-4, Alan Murakami, Native Hawaiian Legal Corporation (NHLC), Re: Item No. B-1, B-2, G-2 and F-5.

Alan Murakami stated he is the NHLC's Director of Community Engagement. The goal of his new position is to engage in levels of communication that complement whatever issues arise before litigation starts. It is their attempt at instilling a first resort strategy instead of a last resort strategy, which is litigation. They hope to resolve problems before they occur.

Regarding right of entry permits, NHLC is advocating to get land that has been disposed to non-Hawaiian entities back into Hawaiian hands. The Aged Hawaiians Case started in 1987, and took 20 years to accomplish. NHLC has a list of beneficiaries in the same

situation, seeking the same resolution. Twenty-years is too long to wait for a pastoral lease when DHHL is giving some permittees thousands of acres for ranching. Eddie Taniguchi from Kaua'i is number one on the pastoral list and he's been waiting for years. The Commission needs to be more conscious of the amount of time that has passed. People died waiting on the list with direct consequences to their families. The lack of the opportunity for that person who dies is compounded when their successors can no longer receive the lease through their parents as successors. Not only does the potential lessee lose out on the opportunity, but so do their children and grandchildren. He believes the Commission should focus on solving this problem rather than the exercise of annual renewals. He highlighted three examples: Palekoki Ranch, Inc. for 7,600 acres, Native Hawaiian General Services for 5,000 acres, and Kahua Ranch for 1,720 acres. If the limit for pastoral leases is 1,000 acres, how are these permits being given? If these acres can be used as ranches, why aren't native Hawaiians being awarded pastoral leases? Some of these renewals have been going on for decades. He suggests including a date of inception for right of entry permits on the packet exhibits. Everyone should see how much land is being leased and how long it has been leased. It should be a wake-up call to everyone including the public that this kind of disposition should not have that type of lengthy period.

The Waimea Hawaiian Homestead Association issue is an example of how the focus of this program needs to be on benefiting beneficiaries. Two out of six board members being native Hawaiian is not a beneficiary controlled organization. The formula for a preference under Section 204, should be granted to the Waimea Hawaiian Homestead Association because that organization is beneficiary controlled. He commends the Hawaiian Homes Commission for moving toward Section 207 mercantile licenses. Those kinds of policy changes will eliminate these yearly renewals.

More effort is needed toward revamping the process of land dispositions so we're back in the business of benefiting native Hawaiians. The beneficiary public needs to know in advance how beneficiary priorities are being translated into the Budget. He asks that the Budget be posted online so the public can study it ahead of time. There should be an informed budget discussion in advance of an approval. He commends DHHL for increasing and expanding its Budget since the Nelson Case came out. NHLC would like to work with DHHL to ensure that the State is complying with their compact with the United States to become the State of Hawai'i. The only real promise the State made to get statehood was to take care of native Hawaiians under the Admissions Act. There are repeated examples of how the compact has not been upheld despite the fact that billions have been gained by the State of Hawai'i since statehood. Every public official from governor to commissioner took an oath of office to uphold the Constitution which contains the Hawaiian Homes Commission Act. The state has a duty to fund DHHL adequately.

He supports the adoption of the water plan to reserve water for DHHL beneficiaries in the future. NHLC and the DHHL were on the same side during the Kukui Moloka'i and Waiola Cases to protect the Ho'olehua Reservoir for homesteaders as a matter of priority. He would like the same working relationship with the BLNR case on Maui in terms of dispositions of the thirty percent revenue requirement that should be going to the Native Hawaiian Rehabilitation Fund (NHRF). The adequacy of that level is seriously in

question. They are only paying a \$.08 per 1000 gallons. It is incumbent upon the Commission to look at whether or not there has been waste committed because there is not enough funds coming into DHHL for the important funds like the NHRF.

The NHLC is submitting documents to Dr. Miike so he can make a presentation on what should be happening with the restoration of instream flows to 27 streams in East Maui, for which they have petitioned. The 27 streams are a fraction of the number of streams being diverted by Alexander & Baldwin through its East Maui Irrigation subsidiary. Those streams could have an impact on DHHL land in Wailuanui and Keanae where DHHL has holdings that are still vacant. The Waiohuli and Keokea homesteads are partially dependent upon surface flows from East Maui that are being used to supply water for that homestead. DHHL gets first rights to water even before the County and HC&S Plantations. He urged the Commission to pay close attention to protecting the rights of its beneficiaries.

Commissioner Richardson asked A. Murakami for his personal position on converting uninhabitable land to commercial activities for income production to sustain the operations of the homestead. A. Murakami stated the main purpose of the constitutional convention's particular amendment was to mandate sufficient funding to DHHL to relieve DHHL of having to general lease its land. It is the context in which he would answer the question and approach everything else. The convention delegates were specifically targeting this continual pattern of taking land away from Trust dispositions to beneficiaries which: 1) takes away land which native Hawaiians could homestead, and 2) forces DHHL to pay for its salaries, equipment, and supplies with land revenues through general leases and other things DHHL develops. The State of Hawai'i accepted this responsibility under a compact to obtain statehood. Commissioner Richardson stated he understands the law but the political will of the Legislature has failed to adequately fund DHHL. A. Murakami stated that until the day that the State of Hawaii can justify funding the Hawaii Tourism Authority at \$80 million per year with no constitutional mandate to fund it, he will not compromise. It is a slap in the face to all Hawaiians. DHHL has first rights not only to water, but to money as well. The State of Hawaii should be funding DHHL first and everyone else gets whatever is left. That is the design of the Constitution and what it is supposed to be doing.

A. Murakami stated the Moku O Keawe Homestead Alliance is having a meeting on June 27th to call in their island legislators as well as the Senate Hawaiian Affairs Committee Chair to come to the community to answer questions about why the constitutional mandate is not being fulfilled by the State of Hawai'i. It is one step that will hopefully build a relationship with and provide awareness to political leaders.

Commissioner Kahikina asked A. Murakami if NHLC has done an analysis on the \$600 million payment for the land that was taken. People think it was a settlement, but it wasn't. A. Murakami stated people do think of it as a global settlement but the \$600 million was just for the illegal taking of the land and past breaches. It had nothing to do with the Nelson Case or the other individual cases. He does question where the \$600 million was used, and that it is deserving of an audit. Based on the amount of homes built, versus the money spent, approximately \$200,000.00 was used per lot. The Hawai'i Housing Authority built affordable homes for \$50,000.00 per lot. Commissioner

Kahikina stated the intent of the Act was to rehabilitate native Hawaiians back to fish and poi.

Commissioner Tassill stated a few months ago there was a television program on the local PBS station which talked about the same things regarding politicians upholding the constitution. A. Murakami stated it is a message that must be repeated constantly.

A. Murakami stated one last issue regarding these long dispositions to non-Hawaiians comes up in multiple instances where people who have not received Homestead leases have had to go to the private sector to lease land for ranching. One beneficiary who has been on the waitlist for almost 20 years, is losing the private land he leases for his ranch. Mr. Costa has an established business and needs some land to continue his ranching. Chair Masagatani stated the Right of Entry Permit Program is a placeholder for the discontinued Revocable Permit (RP) Program, and has been poised for beneficiary consultation.

F – LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue License to Hawaiian Electric Light Company, Kalaoa, North Kona, Hawai'i.

RECOMMENDATION

Land Management Division Administrator Linda Chinn recommended the following action: That the Hawaiian Homes Commission (HHC) approve the issuance of a perpetual, non-exclusive License as easement to Hawai'i Electric Light Company, Inc. "HELCO" as LICENSEE for purposes to access, install, repair, operate and maintain an eighty (80)-foot wide corridor easement for overhead distribution lines, poles, guy wires, anchors and other equipment used to transmit electricity over, under and across portions of the southern boundary of that certain Hawaiian home lands parcel situated in the Kalaoa, North Kona, Island of Hawaii, identified more specifically by Tax Map Key Nos. (3)7-3-010:039(por.), :040(por.), and :045(por.) as presented at its regular monthly meeting held on May 18-19, 2015, under Item No. F-1. (See Exhibit "A")

MOTION

Moved by Commissioner Canto, seconded by Commissioner Chin, that motion be approved as stated.

Commissioner Ishibashi recused himself from the discussion and vote on this item, citing his current employment with the University of Hawai'i.

DISCUSSION

Land Management Division Administrator Linda Chinn stated the Hawaiian Homes Commission (HHC) deferred this item from its May 18, 2015 meeting, for further evaluation citing concerns about visual impacts and increased community benefits package.

Under submittal Item No. F-1, the license easement as proposed would provide benefits to the Trust in the following ways:

1. Installation of existing pole line at no cost to DHHL (estimated savings value of \$65,800) would be available for DHHL to use for future electrical utility services if and when the subject 127.0 acre property is developed.
2. Utility will service new West Hawaii Community College campus thereby providing native Hawaiian beneficiaries who reside in the greater West Hawaii Region an opportunity to consider attending another higher educational institution that is closer to home. Testimony submitted from Mrs. Noreen Yamane, Chancellor, Hawaii Community College,
3. Easement area is already set as a non-exclusive utility corridor. Issuance of a license easement to the Hawai'i Board of Water Supply was approved by the HHC at its November 2014 meeting for underground utility waterline purposes at a one-time consideration fee of \$16,200. Oceanic Cable is also looking at this corridor to service the campus and will be charged accordingly for this easement when request is submitted.
4. Consideration fee for the non-exclusive license easement as established at \$72,000 is derived by the calculation as follows:

TMK: 73010039 - County of Hawaii Real Property Tax Office

Assessment Information			Land Information	
Year	Property Class	Market Land Value	Acreage	Square Footage
2015	Residential	\$2,285,500	127.0	5,532,120

Land Use Information

Square Footage	Acreage
174,240/sf	4.0 ac

Fee Calculation

$\$2,285,500(\text{MLV})/127(\text{ac}) = 17996.06$ \$18,000.00/ac (rounded)

$\$18,000.00 \times 4.0 \text{ ac} = \$72,000.00$ **\$72,000.00**

Consideration Fee Calculation

L. Chinn added after further discussions, HELCO needs only 2.25 acres of land for this easement rather than the 4 acres previously discussed. HELCO is offering \$40,500 for the approximate 2.25 acres of easement required. Chair Masagatani noted the correction which changed the fee calculation from \$72,000 to \$40,000.

MOTION TO AMEND/ACTION

Commissioner Chin moved, Commissioner Kahikina seconded, that the motion be amended to change item 4. "Consideration fee for the non-exclusive license easement as established at \$40,500 for approximately 2.25 acres is derived by the calculation as follows:" Motion Carried as stated.

Commissioner Richardson asked for a quick executive session to clarify a question about his duties, rights and responsibilities. Chairperson Masagatani asked for a motion to recuse into executive session.

MOTION

Commissioner Canto moves, and Commissioner Ka'apu seconded, to recuse the Commission into Executive Session. Motion carried unanimously.

EXECUTIVE SESSION IN

10:40 AM

The Commission convened in executive session 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-stated matter.

EXECUTIVE SESSION OUT

11:01 AM

L. Chinn added Leila Beals from HELCO and Roger Harris from Palamanui Development are on hand to address the Commission. L. Beals clarified that HELCO installed the line with written permission from the Land Management Division as part of the right of entry permit granted in 2008. They asked to reduce the width of the easement. They asked for an 80 feet easement in anticipation of future development of that DHHL property, but have since decided to use the minimal amount needed which is 40 feet for an approximate 2.25 acres. L. Beals stated DHHL's land management division is recommending a certain price but she pointed out that the Department of Water Supply asked and received a 30% market value fee. HELCO is asking for a 50% discount of the \$40,500 because they are not taking ownership of the easement area. The easement serves the University of Hawaii Community College, but eventually it will only serve DHHL. If Palamanui develops the area, they will build their own substation to service their development. Energy to the College will be routed through the Palamanui substation as well. Therefore, the poles in the easement would only serve DHHL. That is why they are asking for 50% discount.

If DHHL wanted service for those parcels, the cost for wiring the lines underground will be around \$880,000. There is already an existing overhead transmission line mauka of DHHL's property. She provided a map to Commissioners and points out red dots indicating the location of existing poles. If they were to go around the DHHL property and remove the line it would be a significant loss to DHHL because the lines are valued at \$60,000. At the last meeting Commissioners asked who the easement would benefit. HELCO's response is that it would benefit the college students attending in the area. Right now the lines only service the West Hawaii Community College. Commissioners expressed concern about the line servicing the Palamanui development, but it would not. She also read testimony from Chancellor Yamane of the West Hawaii Community College which asked for support of the easement.

R. Harris stated Palamanui entered into a MOU with the UH West Hawaii Community College back in 2002. They agreed to work together to get the college built. Palamanui put in \$22 million of infrastructure and the section of energy lines going through DHHL property is a small part of the big picture. The other part significant to DHHL is the water lines that Palamanui put in years ago. It will be a huge benefit to DHHL's holdings someday. To him it is a neighbor to neighbor thing to do and part of being good neighbors. The community college is a huge benefit for everybody in North Kona.

Chair Masagatani asked R. Harris to elaborate on what he was saying about eventually going underground with the power lines. R. Harris indicated the line is meant to connect the substation near Palamanui, to the college. In the corridor goes from the substation across DHHL land because of the water easement. It seemed logical to use the existing easement. L. Beals stated they just wanted to use the same footprint as the water department. HELCO assumed the easement provided for the water could be provided for power to the college. There are some outs for the water should DHHL ever develop, and it goes hand-in-hand that you would need power. Right now the seven poles on DHHL land are just servicing the college, but once the substation is installed, the power would not go through those poles. Chairperson Masagatani clarified that if the lines were underground it would be more expensive to connect to them. L. Beals confirmed it would be more expensive to connect to underground lines than overhead lines. If there were still a condition imposed to go underground, what would HELCO do? L. Beals stated for discussion purposes HELCO would probably charge Palamanui to remove the lines that are currently there, or go around. Either way there would be additional costs.

Chair Masagatani stated the main difference between water lines and power lines is that no one can see the water lines because they are underground. She also noted that although HELCO is asking for 50% discount on the market value of the lease, the cost would be passed on to Palamanui rather than absorbed by HELCO. L. Beals stated it would most likely be passed on. But the reason they are asking for the discount is because they are not taking ownership of the land. DHHL is still able to use the land. They are trying to come to a compromise on the easement fee. Chairperson Masagatani respectfully disagrees.

Commissioner Chin confirmed the fee was calculated based on a residential disposition even though the island plan says the area will be changed to commercial. She asked L. Chinn if the water easement was calculated at the same residential fee. L. Chinn confirms the residential fee calculation was used for the water easement.

Chairperson Masagatani summarized the motion was amended to change the size of the easement from 4 acres to 2.25 acres which establishes a fee of \$40,500.00. She noted the recusal of Commissioners Ishibashi and Richardson.

MAIN MOTION AS AMENDED

Previously Moved by Commissioner Canto, seconded by Commissioner Chin. Amended item #4 now reads: "Consideration fee for the non-exclusive license easement as established at \$40,500 for approximately 2.25 acres is derived by the calculation as follows:" Motion carried as amended.

B – WORKSHOP PRESENTATIONS

ITEM B-1 Workshop on Fiscal Year 2016 Operating and Loan Program Budget (relative to H-1, H-2)

Administrative Services Officer Rodney Lau provides an overview of the DHHL Operating Budget and Loan Program Budget for Fiscal Year 2016. He reviewed the

funding structure outlining where the money comes from and where it is spent. He reviewed the budget process DHHL went through for the 2016-2017 Fiscal Budget. The Commission approved the Budget in September 2014. The Governor reviewed the Budget and included it in his Executive Budget Request to the Legislature. The Legislature approved the Budget via House Bill 500. This is the Budget that is being presented. He reviewed the Budget from the different cost centers in terms of what was increased and what was decreased. A summary by object codes followed by a review of cash, and plans for proceeding with the next fiscal year. Commissioners follow along as the details of the funds are read through.

Budget and Funding Sources

Internal Funding Sources

- 2 Special Funds
 - Hawaiian Home Administration Account
 - DHHL Revenue Bond Special Fund
- 5 Trust Funds
 - Hawaiian Home Lands Trust Fund (Act 14, SpSLH 1995)
 - Hawaiian Home Operating Fund (Act 27, SLH 1998)
 - Operating Portion
 - Development Portion
 - Native Hawaiian Rehabilitation Fund (Act 27, SLH 1998)
 - Hawaiian Home Trust Fund (Act 27, SLH 1998)
 - Hawaiian Home Receipts Fund (Act 27, SLH 1998)
- 2 Revolving Funds
 - Hawaiian Home Loan Fund
 - Hawaiian Home General Loan Fund

External Funding Sources

- General Fund
- General Obligation Bonds
- Revenue Bonds
- Federal Funds

Commissioner Tassill if asked all the money from the \$30 million dollar DHHL Land Claims Settlement Act has been used. R. Lau stated that DHHL is trying to create a revolving fund to get the most value from the money rather than putting all of the money into to ground.

Commissioner Canto asked for more information on the Grants in Aid. R. Lau explained at the end of the year, DHHL is notified of which grants it will be identified as being the spending agency. DHHL notifies the grantees that they have been awarded and work with them to provide the required documents to get the money released.

R. Lau asked Commissioners to follow his narrative via the spreadsheet titled *Budget Analysis by Fund*. This spreadsheet is divided into four parts:

1. Hawaiian Homes Commission approved budget request from September 2014
2. The Governor's Budget. Included in the governor's executive budget to the legislature.
3. The budget approved by the legislature May 2015
4. The budget that is being presented to the Commission.

Background: DHHL Sufficient Fund Biennium Budget- FY 2015-17

Article XII, Section 1 of the State Constitution states "The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands "

On October 19, 2007, several beneficiaries filed a lawsuit against the State and the Hawaiian Homes Commission claiming that the State violated its constitutional duty to sufficiently fund the Department of Hawaiian Home Lands.

On March 9, 2012, the Supreme Court affirmed the Intermediate Court of Appeals judgment in part that the courts can determine what constitutes "sufficient sums" for the DHHL's administrative and operating expenses to carry out the purposes of the Hawaiian Homes Commissions Act, 1920, as amended.

The Supreme Court also determined that "sufficient sums" for (1) development of lots, (2) loans, and (3) rehabilitation projects are political in nature and could not be judicially determined.

R. Lau stated the first Budget was developed by determining the actual amount of spending over a 5-year period. The baseline came out to approximately \$18 million. DHHL then asked itself how much money it would take to run at normal operating capacity. This revealed the need for an additional 64 positions including costs related to those positions. That is how the \$28 million Operating Budget was derived. Additionally, repair and maintenance projects were being paid from the Trust Fund. Providing energy power to the streetlights, repairing the sidewalks and managing 50 miles of roads in the West Hawaii area takes a lot of money. Properly maintaining those types of assets is a major concern. These assets were categorized under "deferred maintenance" and because there was no maintenance budget, it became a CIP issue. This is how the \$40 million in repairs and maintenance of existing infrastructure figure was derived. The total request to the Governor and Budget and Finance Committee was \$68 million.

The Governor's office determined that DHHL's funding should be \$9.6 million, as it was in 2014 and 2015. In the previous budget bill there is a proviso that said that this is a one-time appropriation, and in 2016 DHHL would have to start from scratch. DHHL also requested money for lot development, loans, and rehabilitation projects. These items were included in the request to the Governor. Chair Masagatani clarified that the information

was provided not only to the Governor but to the Legislature, as well. DHHL's testimony was consistent with what the Commission approved, regardless of what the Governor's Budget looked like when it was submitted to the Legislature. R. Lau stated a synopsis of the DHHL's request is found on page 12 of the submittal. Chair Masagatani added that DHHL responds to the Legislature about the Governor's budgetary request of our department, but that's not what we are asking.

R. Lau continued that the Legislature approved \$9.6 million in General Funds, \$13 million in Special Funds, and \$11 million for Operating Funds. They kept the Governor's budget request intact. In response to an earlier question from Commissioner Kahikina, Chair Masagatani responded that under general obligation bonds for land development DHHL requested \$54.8 million. The Governor offered \$5 million in his budget, but the Legislature approved only \$815,000, most of which is grants in aid.

R. Lau continued that operating costs is \$8.732 million and fee for services came out to \$899,000 for general funds, or purpose #4. DHHL considers repairs and maintenance of existing structures as part of purpose #4.

R. Lau explained page 16 of the handout titled Operating Budget by Cost Center and Fund. The breakdown, by cost centers, where all of the expenses that were either encumbrances or expenditures as of June 9, 2015. He noted an increase of \$2,925,000.00 for the 2016 Budget. He explained the increase as follows:

- \$1,200,000 increase to pay off debt service to Na Kupaa
- \$1,175,000 increase for 5 of 40 year commitment to U.S. Fish and Wildlife
- \$500,000 increase for Legal Services to cover the Nelson Case
- \$50,000 increase to replace aging vehicles

Chairperson Masagatani asked Acting Planning Program Manager Kaleo Manuel to explain the U.S. Fish and Wildlife expenditure. K. Manuel stated the expenditure was negotiated as part of the MOU DHHL has in place which is specific to our land in Kealahou and La'i 'Opuu. DHHL, along with other large land owners throughout the state, talked about how to get the "critical habitat" designation removed from its lands. DHHL uses a lot of federal money, which triggers the review of other federal statutes including the Endangered Species Act. In order to get the designation lifted from DHHL land to be able to develop homesteads effectively and efficient, DHHL negotiated a Conservation Agreement. The Endangered Species Act is triggered through a Section 7 consultation, and in that process they negotiate with Organizations to protect and mitigate against any impact of endangered species. DHHL negotiated the MOU on the front end to identify a finite amount of funding and acreage set aside for the protection of endangered species. This will allow DHHL to develop homestead properties in those areas without having to go back to the US Fish and Wildlife Service. The MOU extends for 40 year period of commitment, and a funding amount of \$3.2 million, for which DHHL will dedicate 95 acres. The \$1.175 million is for the first 5 years of the implementation of the MOU. DHHL needs to improve area fencing to keep ungulates out and protect endangered species in the area. Commissioner Kahikina asked if any of the money is going toward the US Fish and Wildlife Service. K. Manuel stated that all of the money is

being used for DHHL property, mostly for fencing. A part of it is for consulting for a permitted specialist that can do out planting of these endangered species. All of the money is used on DHHL land.

Commissioner Chin asked if the MOU was site specific or statewide. K. Manuel stated the MOU is site specific but when it comes down to the amount invested per lot of homestead development, it will end up being around \$20 over the 40 year period. I looks like a big chunk of money, but it will be worth it in the long run.

Chairperson Masagatani asked R. Lau if it would be correct to characterize it more as a set aside of an amount that we would spend from in the next 5 years. It pays for services that we have committed to under this MOU. R. Lau agreed.

R. Lau also explained that under Personnel Costs there is a \$767,693 increase which the department has no control over relating to collective bargaining and union contracts. Those are not additional positions. He also highlighted the Administrative Services Office Budget increase of \$1,490,666 which is actually debt service repayments and reimbursement of the payroll. The first proposal was to fund personnel costs through a general fund appropriation, but they refused it. If it had occurred, then fringe benefits would have been paid from the general fund as well. Chairperson Masagatani clarified the total Budget of 26.3 million includes the \$9.6 million that eventually gets reimbursed to the Trust Special Funds with General Funds. DHHL needs authorization from the Commission in order to make the expenditure in the year, but it is paid back. R. Lau stated the money from general funds go into the Trusts Special Fund when the DHHL gets reimbursed. It increases DHHL's cash balances. Chairperson Masagatani wanted to clarify that the total costs include a double counting of the \$9.6 million because of the way the Legislature provides the funds.

Commissioner Richardson asked what an ideal Operating Budget would look like. Chairperson Masagatani stated the big spreadsheet shows the Commission's requested Budget of \$68.648 million. That is the amount DHHL needs to run and operate at its most efficient.

R. Lau concluded by recapping Fee for Services analysis, Loan Budget for Fiscal Year 2016, which remained the same as last year at \$7,400,000, and the Cash Projection for 2016.

Department of Hawaiian Home Lands
Financial Cash Projection - DHHL Special, Trust, and Revolving Funds
For the Period July 1, 2015 to June 30, 2016

(\$000) in Thousand Dollars					
	Cash 7/1/2015	Add: Estimated Revenues	Add: Estimated Transfers	Less: Budget	Cash 6/30/2016
Loan Funds					
Home Loan Fund	2,500	170	0	2,000	670
General Loan Fund	15,700	3,500	3,000	5,100	17,100
Total Loan Funds	18,200	3,670	3,000	7,100	17,770
Other Funds					
HH Trust Fund	12,000	0	0	300	11,700
Operating Fund	17,000	400	7,000	(B) 14,943	9,457
Receipts Fund	600	2,400	(600)	(A) 0	0
			(2,400)	(A-1)	
Native Hawaiian Rehabilitation Fund Administration Account	4,500	250	0	1,051	3,699
DHHL Revenue Bond Special Fund	9,600	3,100		3,200	9,500
RHL Trust Fund (Act 14, SpSLH 1995)	5,700				5,700
Total Other Funds	243,700	21,150	(1,000)	11,596	230,254
Total Loan and Other Funds	261,900	24,820	0	18,696	248,024

Notes:

(A) Request 4th quarter transfer from the HH Receipts Fund (\$500K) to the HH General Loan Fund (\$500K); 6/16/15, HHC Item H-3

(A-1) Estimated transfers from the HH Receipts Fund (\$2.4M) to the HH General Loan Fund (\$2.4M)

(B) Estimated transfer from the Administration Account to the HH Operating Fund (\$7M), HHC Item H-1

(C) DHHL Development Budget will be submitted in July 2015

Chairperson Masagatani noted decision making on the Budget will occur at tomorrow's meeting. Staff will be available this evening at the Community Meeting if Commissioners have questions.

Chair Masagatani asked for consideration of the best time to start the budgetary discussion with beneficiaries. From the time the Legislature approves the Budget in May, it is a mad scramble to get the Operating Budget put together. She also noted the Sufficient Funds Budget is the basis for all of the other budgets. R. Lau states it is hard to develop a budget when one legislative bills says \$6.4 million and another says \$4 million, but they end up giving DHHL \$9.6 million. As the bills were going through the Legislature, staff was trying to figure out how DHHL would pay for some of the current programs. Chairperson Masagatani stated staff can start putting together the Sufficient Funds Budget as early as July to start the conversation with the beneficiaries. DHHL needs to figure out when the best time is to engage with the beneficiaries.

Commissioner Richardson asked M. Kauhane if she is asking for a separate Commission meeting to go over the Budget or more access to the budget documents. M. Kauhane stated the beneficiaries want to support DHHL's Budget at the Legislature, but in order to do that they have to the full depth and breadth of what makes up the budget. The request at the Legislature would be more powerful if there were hundreds of beneficiaries there to support it.

Chairperson Masagatani thanked R. Lau for his presentation and asked that he be available to Commissioners for additional questions.

RECESS

12:33 PM

RECONVENED

12:44 PM

ITEM B-2 Water Policy Plan Implementation Report for FY 2015 and Proposed Implementation Program for FY 2016 (relative to G-2)

Chairperson Masagatani called Acting Planning Program Manager Kaleo Manuel to present Item B-2. K. Manuel introduces consultant Jonathan Likeke Scheuer who is assisting with implementation of the department's water policy plan. The reason for today's workshop is to discuss the proposed plan and budget for the Implementation Program for 2016.

Overview

1. WPP Development
2. WPP Priority Goals
3. Implementation Program 2015-16
4. Methodology for Calculating Water Needs for Reservations

History of the Water Policy Plan (WPP)

- Data Gathering & Analysis: (2012)
- Beneficiary issue identification: (2012- 2013)
- Draft Water Policy Plan (WPP): (Feb. 19, 2014)
- Beneficiary consultation: (Feb.-May 2014)
- Adoption (July 22, 2014)

- Vision
- Mission
- Values
- Policies
- Goals (four priority)
- Delegation of Authorities and Reporting; and
- Legal Authorities, Related Plans and Policies, References, and Definitions.

WPP Priority Goals

- Goal 1: Affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis
- a) Develop communication tool(s) to communicate with beneficiaries and stakeholders on key water issues;
 - b) Develop a DHHL Water issues Frequently Asked Questions (FAQ) database for DHHL and Beneficiary use;
 - c) Conduct annual outreach on DHHL water implementation plans and performance.
- Goal 2: Aggressively, proactively, consistently, and comprehensively advocate for the kuleana of the beneficiaries, the DHHL, and the HHC to water before all relevant agencies and entities
- a) Advocate for funds due to the Native Hawaiian Rehabilitation Fund (NHRF);
 - b) Secure water reservations under HRS §174C;
 - c) Track and comment on regulatory compliance and permitting actions;
 - d) Participate in state and county water plan update processes.

Goal 3: Develop and manage a Water Assets Inventory (WAI)

- a) Catalogue contents and uses of a Water Assets Inventory (WAI);
- b) Continued updating of existing WAI information;
- c) Continued review of existing sources listing DHHL water assets.

Goal 4: Support watershed protection and restoration on DHHL lands and source areas for DHHL water.

- a) Identify existing watershed lands that touch on DHHL lands or beneficiary communities;
- b) Report watershed protection efforts to beneficiaries using Water FAQ / beneficiary communication tools;

WPP IP Other Goals

- a. Revise DHHL's submittal template to the HHC for water related decisions;
- b. Staff and organize DHHL in a way consistent with importance of water to the Trust;
- c. Continue pursuit of agricultural water systems development;
- d. Pursue resolution of Moloka'i Irrigation System management & repair issues.

K. Manuel turned over the next part of the presentation to J. Scheuer.

What are Reservations?

Reservations by CWRM

- Designated areas (HRS 174C-49(d))
- Non-designated areas (HRS 174C-101(a)) Reservations by BLNR
- In award of water licenses (HRS 171-58(g))

Reservations of Meters by County BWS

- Varies by County ordinance and rule Focus here is on methodology for first two

Seeking CWRM reservations through the SWPP

State Water Projects Plan

- Part of the Hawai'i Water Plan (HRS 174C Part III)
- Update for DHHL began 2012
- Update for remaining agencies began 2015
- Twenty year time horizon
- Basis for islandwide reservations by CWRM

SWPP Water Demand Methodology

1. What plans are there for each tract?
 - Island Plan Land Use Designation
 - Other projects in development
2. What is the Development Timeline?
3. What water demand standards are applicable?
 - County Standards
 - Kalo, pastoral
4. What possible sources are there?
 - Existing water credits / use
 - Ground and surface sources

Water System Standards

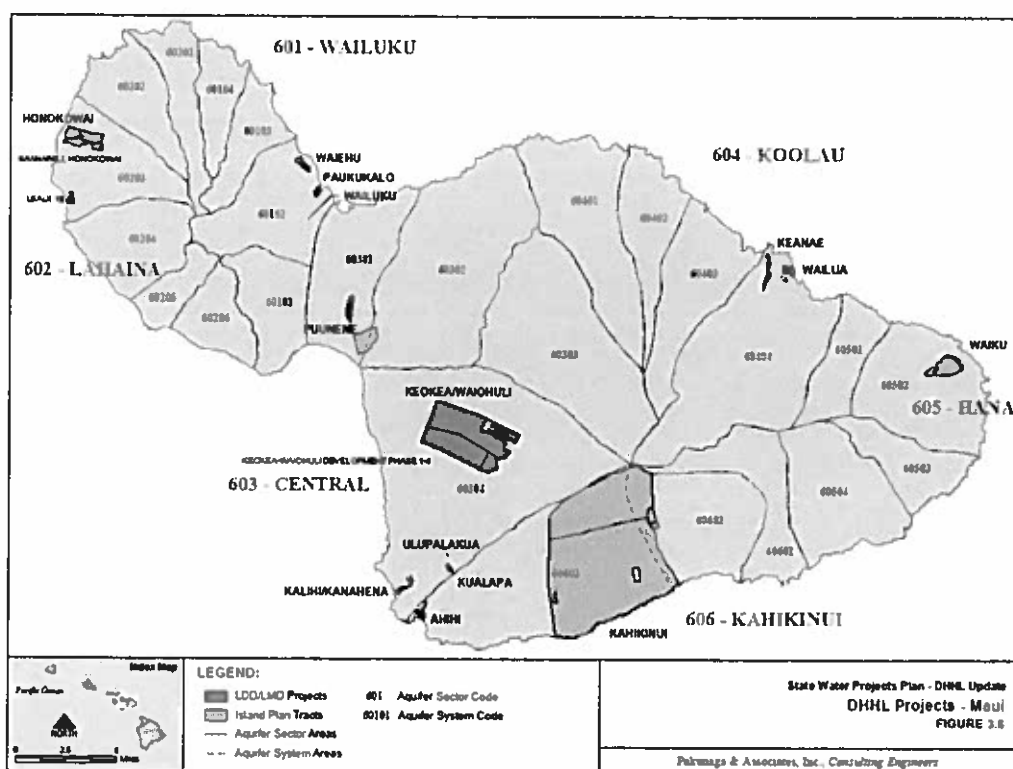
- Counties identify their own standards for broad categories of land use
- Methods used by private and government developers for broad estimates of water demand

SWPP Water Demand Methodology

Table 100-18 - DOMESTIC CONSUMPTION GUIDELINES				
AVERAGE DAILY DEMAND*				
ZONING DESIGNATION	HAWAII	KAUAI	MAUI	OAHU
RESIDENTIAL:				
Single Family or Duplex	400 gals/unit	500 gals/unit	600 gals/unit or 3000 gals/acre	500 gals/unit or 2500 gals/acre
Multi-Family Low Rise	400 gals/unit	350 gals/unit	560 gals/unit or 5000 gals/acre	400 gals/unit or 4000 gals/acre
Multi-Family High Rise	400 gals/unit	350 gals/unit	560 gals/unit	300 gals/unit
COMMERCIAL:				
Commercial Only	3000 gals/acre	3000 gals/acre	6000 gals/acre	3000 gals/acre
Commercial/Industrial Mix	--	5000 gals/acre	140 gals/1000 sq. ft.	100 gals/1000 sq. ft.
Commercial/Residential Mix	--	3000 gals/acre	140 gals/1000 sq. ft.	120 gals/1000 sq. ft.
RESORT (To include hotel for Maui only)	400 gals/unit (1)	350 gals/unit	350 gals/unit or 17000 gals/acre	350 gals/unit or 4000 gals/acre
LIGHT INDUSTRY:	4000 gals/acre	4000 gals/acre	6000 gals/acre	4000 gals/acre
SCHOOLS, PARKS:	4000 gals/acre or 60 gals/student	4000 gals/acre or 60 gals/student	1700 gals/acre or 60 gals/student	4000 gals/acre or 60 gals/student
AGRICULTURE:		2,500 gals/acre	5000 gals/acre	4000 gals/acre

Example: Keokea / Waiohuli

- Existing Plans
 - Island Plan: Residential, Subsistence & Community Use Designations
 - 321-unit Kula Unit 1, 44-unit Hikina infill use 0.219 MGD
 - Keokea Phase 1-4 project: 320 Residential, 66 Sub Ag, 69 acres
- Community Use - potable demand is 0.3489 MGD
 - Additional 768 proposed Residential units and approximately 40 acres of Community Use
- Standards
 - Maui County WSS
 - .5 MGD Credit agreement w Maui DWS
 - Non-potable demands for subsistence ag lots
- Sources
 - Possible sources are upcountry ag system, new well(s), existing credits



Calculation of Demands for Keokea / Waiohuli

Water Development Strategy		Cumulative Average Day Demand (mgd) – Medium Projection							
		Short-Term						Long-Term	
		2012	2013	2014	2015	2016	2021	2026	2031
COUNTY-CREDIT	Keokea/Waiohuli Phase 1-4	0	0	0	0	0.0960	0.2810	0.2810	0.2810
NEWSWS – Keokea/Waiohuli	Keokea/Waiohuli Ph. 1-4	0	0	0	0	0	0.0679	0.0679	0.0679
	Remainder of Tract	0	0	0	0	0	0	0.4808	0.4808
	Subtotal	0	0	0	0	0	0.0679	0.5287	0.5287
Total Potable		0	0	0	0	0.0960	0.3489	0.8097	0.8097
EXSWS – Upcountry Maui Irrigation Sys.		0	0	0	0	0	0.5780	0.5780	0.5780
Total Non-Potable		0	0	0	0	0	0.5780	0.5780	0.5780

Chairperson Masagatani stated several beneficiaries have asked for a process to resurrect wells that are on their property. She asked if the process was part of the Water Policy Plan. J. Scheuer stated it is not a part of the Water Plan because it did not come up as a priority of one of the four goals. It is something they can add to the list of projects. It is a way to get cheaper water on agriculture land. K. Manuel stated they have been working with the AG's office regarding the required permits and a possible exemption from the process. Any well on state land has to go through an environmental assessment and other requirements. This process can cost beneficiaries \$30,000 - \$40,000. The legal review process is taking some time. Commissioner Kahikina asked if the process applies to private land owners. J. Scheuer stated it only applies to state land. DHHL is considered State land. Private land owners still have reporting requirements to the Commission on Water Resource Management for chlorines and salt percentages.

Commissioner Tassill asked if land use zoning dictates the cost of water usage. J. Scheuer stated it is more of who the purveyor is and where the water is coming from.

Different rates are associated with different counties and the type of water meter a beneficiary has.

Commissioner Kahikina asked if diverting surface water requires a permit. J. Scheuer responded that a permit to divert water is required depending on the type of stream or irrigation ditch the water is coming from.

Note: Commissioners amended the agenda to take Item J-4 on Monday.

J – GENERAL AGENDA

Item J-4, Request to Address the Commission – NAOMI MITCHELL, Lease Issue

Kuulei Naomi Mitchell requested assistance for her sisters who are homeless and family members who are also in need of land. She provided Commissioners with a history of the struggles her family went through including the eviction of her family from DHHL land in Lualualei. They were given permission by K. Mitchell's brother Mauiloa to use the land. They petitioned DHHL to remain on the land but eventually the family was evicted and became homeless for a period of time. She mentioned the land in Lualualei remained vacant since the family was evicted. DHHL caused her family pain and suffering for land they never ended up using. After being homeless for a number of years, a Washington newspaper writer wrote an article about her mother's homeless situation and how DHHL wasn't helping Hawaiians.

K. Mitchell stated her mother was the founder of the Office of Hawaiian Affairs and originally applied for a homestead in 1953. DHHL told them that the records were destroyed in a fire. In 1974, she reapplied along with the rest of K. Mitchell's siblings. Her mother was asked by someone in DHHL to apply yet again, in 2000. She has documentation that shows that her mother was #1 on the waitlist for more than 30 years. She wondered how DHHL kept passing her mother by, when lots were being awarded. DHHL said they had no contact information for her, but her P.O. Box was the same for her entire life.

Carolyn Kiaha is her sister who is homeless for decades. She too has been on the waitlist since 1974. K. Mitchell asked the Commission to give her sister vacant land in Waiahole Valley or Waianae Valley. Her sister has been ticketed in Waikiki a number of times even though the land she sleeps on used to belong to their great-great-grandfather. K. Mitchell tried to address the situation with different people here at DHHL, but her efforts always fell on deaf ears.

Leilani Kane, half-sister of K. Mitchell joined her at the table to tell her story. At age 5, she and her siblings became wards of the State of Hawai'i. She added to K. Mitchell's request for land for their sister.

K. Mitchell stated she is also on the Ag Wait list and wants to pass her residential lease to her daughter. She asked that DHHL do something to right the wrongs against her mother and family by providing land for her sisters now. They just need a little piece of land to get off the street. She wants to see a map of available lots on the island to choose from.

Chairperson Masagatani thanked K. Mitchell and L. Kane for attending. She explained that the Commission is not able to take action and the next step is to work with the staff on these types of matters. Chairperson Masagatani assigns deputy to work with K. Mitchell. K. Mitchell stated she could bring her sister to DHHL so that the Commission can give her some land.

C - OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Resolution No. 283, Urging the United States Department of Interior to consult with the Department of Hawaiian Home Lands regarding proposed rules 43 C.F.R. parts 47 & 48.

RECOMMENDATION

Administrative Rules Officer Hokulei Lindsey, recommended approval of Resolution No. 283, as stated.

MOTION

Moved by Commissioner Canto, and seconded by Commissioner Richardson.

DISCUSSION

Administrative Rules Officer Hokulei Lindsey stated the resolution is the DHHL's effort to focus major issues of the proposed rule changes into manageable sections. The first provides history about the Hawaiian Homes Commission Act and statehood. Page two talks about the Hawaiian Home Lands Recovery Act (HHLRA) of 1995, which sets forth procedures for land exchanges and approval of amendments to the Hawaiian Homes Commission Act (HHCA). It invests some authority with the secretary of the Department of Interior (DOI) to review proposed amendments to the HHCA, as well as land exchanges that involve DHHL. The resolution says that DHHL is asking for consultation because it proposed rules are expanding the authority of the Secretary beyond what was authorized in the HHRLA. The proposed rules provide decision factors to the Secretary in considering whether or not amendments or land exchanges should be approved. The HHRLA is very specific in what it requires. Land exchanges require only a determination of whether the land exchange is fair between the parties. The HHRLA focuses on the parties to the transaction, DHHL and whoever the other party is.

For approval of amendments to the HHCA, the process is laid out in the Admissions Act. It is fairly clear the areas which Congress wanted to maintain oversight. The proposed rules seem to expand beyond what was required by the Admissions Act into a deeper inquiry about whether or not there are benefits to the beneficiaries. This is important, but the Commission is the deciding body in that regard. The oversight of the Secretary should be limited to whether or not the deal is fair. Is the Commission maintaining the trust responsibility with regard to the assets of the Trust?

Chair Masagatani stated that a Resolution would be an effective way of articulating the policy position of the Commission. There are specific logistical comments that will be included in the letter, but from a policy position staff wanted to something for the Commission to chew on.

Commissioner Canto asked H. Lindsey to elaborate on the first whereas on page 2. H Lindsey stated the HHLRA sets forth sufficient detail for land exchanges. Section 205 of the HHLRA provides a process. The first step is notice to the Secretary from the Chairman of the Commission. The notice requires a description of the acreage, fair market value, surveys and appraisals prepared by DHHL. The notice must also identify the benefits to the parties of the proposed exchange. With the documentary requirements part B calls for an approval or disapproval within 120 days. The HHLRA is already focused on the land exchange itself and is not appointing the secretary to determine the benefits and detriment of the exchange to the beneficiaries. That analysis is left to the Commission and DHHL.

The proposed rules involve factors go beyond the question of whether or not it is a fair deal in two the realm of the Commission's authority. Some questions include whether land exchange protects cultural resources and watersheds. Those questions are less about accurate evaluation of the land being exchanged and more into matters that have to do with the substance of the Trust. The proposed rules are silent about how the Secretary will reach these conclusions.

Commissioner Richardson agreed with H. Lindsey's analysis and asked if she considered a complaint about administrative burden because some of these things are outrageous. It seemed to him like the DOI is trying to regulate by administration. It will make land exchanges very difficult. H. Lindsey stated one of the things that will make land exchange even more difficult is that there is no differential between the types of land being exchanged. It could be the size of an office to an entire valley, but the paper work would be the same.

Chair Masagatani asked if there is disconnect between what Congress intended with the HHLRA and the proposed rules in terms of the expansion of oversight by the Secretary. H. Lindsey stated she believes so. Chair Masagatani asked hypothetically if there is any recourse against an action or lack of action, from an anti-native Secretary. H. Lindsey stated the proposed rules do not spell out any recourse for DHHL or beneficiaries for anything whether it be a disagreement with a decision, or a lapse of the 120 day response period.

Commissioner Kahikina stated the Commission should encourage access to the beneficiaries. H. Lindsey stated the beneficiaries are looking to DHHL to provide answers about what the rule means and what DHHL's position is. Commissioner Kahikina stated he wants to allow the beneficiaries the chance to talk. They have been waiting for 95 years. He does not support the Resolution as it is.

Chair Masagatani stated the beneficiaries have been asking DHHL for its position. This is the Commission's first opportunity to express its opinion. The challenge is that there is a deadline for comments to be submitted by July 13th. DHHL wrote a letter asking for an extension of the deadline to allow more time for beneficiaries to respond. She suggested an amendment to the first Now Therefore Be it resolved to urge the DOI to consult with the DHHL and its beneficiaries regarding proposed rules. Commissioner Kahikina stated

DHHL should be pointing the feds to the beneficiaries. If the Resolution includes language to that effect, he will support it.

Note: Chair Masagatani and Commissioners discuss and make language changes to the Resolution.

Commissioner Kahikina asked if he could ask Michelle Kauhane and Alan Murakami their thoughts on the amendments being discussed. M. Kauhane agreed the Hawaiian Homes Commission is the governing body of the Trust. The Commission can say in its comments that you support the language already listed in the Hawaiian Homes Lands Recovery Act. The DOI is consulting to say before they publish a rule change, here is the questions we are answering in this rule. The Commission should be carefully answering those questions. If DHHL doesn't like the answer to the question in the proposed rule, say why DHHL doesn't like it and what you think the change should be.

There are simple things DHHL can do to quiet the fears beneficiaries are having. The consultation by the DOI last time was about big n and small n, it included everyone. This time it's specific to the beneficiaries of the Trust. DHHL may not be comfortable with the authority of the DOI, but she reminds the Commission that they too will go at the end of their terms. It was a Commission ten years ago that took away preference and beneficiaries are tired of it. It isn't personal, but the political body will change. In the past, this body has violated its own State Constitution and done horrific things, yet Hawaiians are still here. DHHL can consult with the DOI at any time, the beneficiaries don't always have that opportunity. All of the Hawaiian programs are at risk, you want them to solidify that trust relationship so that the programs are not at risk. The uneasiness about who has the authority to do what is a double edged sword. This body has had the authority and some pretty horrific things have happened. Rather than a Resolution, the Commission should just come out and say what you want and don't want. We need guidelines and policies because there are none. There needs to be clarification.

Homelani Schaedel made a few non substantive changes, and in general agrees with the comments made by Michelle Kauhane.

Verlie Ann Malina-Wright, Chairperson of Hawai'i Maoli stated the Hawai'i Congressional delegation put forth many pieces of legislation for native people because the DOI did not take care of the natives. Budgets have been redirected from native peoples by political appointees. Hawaiians should never ask someone else about our kuleana, we have responsibility and we need to take care. She encourages the Commission to rewrite the Resolution so that it is clear and distinct.

Alan Murakami stated he would like clarity of the process specifically if some decisions made by the legislature needed to be approved by Congress, or not. The addition of the Purpose Clause to the Hawaiian Homes Commission Act in 1990 and the Self-Determination Act, have language that says, "subject to the approval of Congress." He is not so sure Congressional approval was needed but without clarity, decisions can be left at the whims of politicians. The uncertainty has been unresolved for decades and should be resolved. Terms, time constraints and conditions of land exchanges should be clarified.

Chair Masagatani spoke in favor of the amendments as they have been discussed. Commissioner Chin stated she would prefer if the resolution was more clear and straight to the point. It is very pretty language but if she were reading it, she would go straight to the end. She would take out most of the “whereas” sections. Chair Masagatani suggests deferring approval until tomorrow in order to give Commissioner Chin and H. Lindsey time to make changes to the Resolution. They will work on another draft before the evening community meeting begins.

Note: Commissioner Tassill leaves the room at 3:25 pm.

D – HOMESTEAD SERVICES DIVISION

ITEM D-2 Approval of Consent to Mortgage (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the following consents to mortgage for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (HUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

DISCUSSION

Commissioner Chin requested more information in the future about the type of mortgage being requested. D. Oshiro stated beginning in July, the submittals will include the additional information.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto. Motion carried unanimously. Commissioner Tassill not present during the vote.

ITEM D-3 Approval of Streamline Refinance of Loans (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin. Motion carried unanimously. Commissioner Tassill not present during the vote.

ITEM D-4 Approval to Schedule Loan Delinquency Contested Case Hearings (see Exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To authorize the scheduling of the following loan delinquency contested case hearings as shown below.

DISCUSSION

Chair Masagatani asked for an explanation of the City and County Buyback program. D. Oshiro stated DHHL entered into an agreement with the City and County of Honolulu to do repair loans. DHHL was the guarantor of the loans and those listed are in default and the City and County is demanding repayment.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin. Motion carried unanimously. Commissioner Tassill not present during the vote.

ITEM D-5 Approval of Homestead Application Transfers/Cancellations (see Exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the transfers and cancellation of application from the Applications Waiting Lists for reasons described.

DISCUSSION

Commissioner Richardson asked for an explanation. D. Oshiro stated these are applicants who are asking for transfers from one island to another. One of these was removed up the priority list because the applicant succeeded to his brother's application date.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin. Motion carried unanimously, as submitted. Commissioner Tassill not present during the vote.

ITEM D-6 Commission Designation of Successors to Application Rights – Public Notice 2011, 2012 (see Exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To designate the following individuals a successors to the application rights of deceased applicants who failed to designate a successor.

Note: Commissioner Tassill returns – 3:31 pm.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Richardson. Motion carried unanimously as submitted.

**ITEM D-7 Cancellation of Deceased Applicants from Waiting list – Public Notice 2012
(see exhibit)**

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To cancel the following applications of deceased applicants pursuant to Section 10-3-8(c) and (d) of the department's Administrative Rules.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Richardson. Motion carried unanimously as submitted.

**ITEM D-8 Ratification of Designation of Successors to Leasehold Interest and
Designation of Persons to Receive the Net Proceeds. (see exhibit)**

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To ratify the approval of the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto.

DISCUSSION

Commissioner Chin asked if progress was being made on a rule amendment for these types of transactions. Chair Masagatani stated it is a little more complicated and will take more discussion with the AG's.

ACTION

Motion carried unanimously, as stated.

ITEM D-9 Approval of Assignment of Leasehold Interest. (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the assignment of the leasehold interest, pursuant to section 208, Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

DISCUSSION

Commissioner Chin stated this is the section she would like to see rule amendments for. The lessee makes a huge profit for something that was given to them with no improvements. She has an issue with it because there are people on the waitlist who cannot afford to jump the list. Chair Masagatani stated this is the priority rule amendment and staff has looked at several options for Commissioners.

Chair Masagatani asked for a motion to recuse into executive session.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi, to recuse into Executive Session. Motion carried unanimously.

EXECUTIVE SESSION IN

3:36 PM

The Commission convened in executive session 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-stated matter.

EXECUTIVE SESSION OUT

4:04 PM

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin. Chair Masagatani asked for a roll call vote.

Commissioner Kahikina moved to approve the assignment of the leasehold interest, pursuant to section 208, Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.						
Commissioner Chin seconded the motion.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto			X			
Commissioner Chin		X	WR			
Commissioner Davis						X
Commissioner Ishibashi			X			
Commissioner Ka'apu						X
Commissioner Kahikina	X		WR			
Commissioner Richardson			X			
Commissioner Tassill			WR			
Chair Masagatani			WR			
TOTAL VOTE COUNT			7	0		2
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
WR: Yes - With Reservations regarding items 29,37,40,42						
Motion passes with seven (7) Yes, (4 –WR) votes.						

ITEM D-10 Approval of Amendment of Leasehold Interest (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the amendment of the leasehold interest listed.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto. Motion carried unanimously, as stated.

ITEM D-11 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees. (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate service related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees. The non-exclusive license is necessary as the Lessee can not issue his/her own licenses.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin. Motion carried unanimously, as stated.

ITEM D-12 Commission Designation of Successor – YVONNE A. A. BENEVEDES, Lease No. 8189, Lot No. 29, Waimānalo, O‘ahu

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

1. To approve the designation of David Kealoha Benevedes (David), as successor to Residential Lease No. 8189, Lot No.29, Waimanalo, Oahu, for the remaining term of the lease, subject to payment to the Department within 90 days from the execution of the lease for the appraised value of \$231,000.00; and
2. To approve the payment of the net proceeds, in the amount of the appraised value of the improvements less any outstanding debts attached to the Lease, to the two sons, Brian Frank Benevedes, Jr. (Brian), and Stuart James Benevedes (Stuart), subject to David's execution of the transfer through successorship lease document

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin. Motion carried unanimously, as stated.

ITEM D-13 Commission Designation of Successor – CHARLES A. KAHALEAUKI, SR., Lease No. 10092, Lot No. 80, Wai‘ehu Kou III, Maui

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

1. To approve the designation of Merton Kekiwi, Jr. (Merton), as successor to Residential Lease No. 10092, Lot No. 80, Waiehu Kou III, Maui, for the

remaining term of the lease, subject to payment to the Department within 90 days from the execution of the lease for the appraised value of \$127,000.00.

2. To approve the payment of the net proceeds, in the amount of the appraised value of the improvements less any outstanding debts attached to the Lease, to the wife, Sheila Rogers-Kahaleauki, subject to Merton's execution of the transfer through successorship lease document.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto. Motion carried unanimously, as stated.

ITEM D-14 Commission Designation of Successor – ELAINE K. MEDEIROS, Lease No. 11559, Lot No. UNDV016, Kapolei, O‘ahu

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the designation of Hi‘ilani Georgie Ann Asinsin (Hi‘ilani) and Kapi‘olani Primrose Louise Sam Fong (Kapi‘olani), as successors to Residential Lease No. 11559, Undivided Interest, Kapolei, Oahu, for the remaining term of the lease.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto. Motion carried unanimously, as stated.

ITEM D-15 Request Approval to Write-Off Improvement Purchases (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the write-off of eight (8) Improvement Purchase totaling \$175,035.46 charged to Improvement Purchase Account in the Hawaiian Home Loan Fund (S-302) and the Hawaiian Home General Loan Fund (S-323).

DISCUSSION

Commissioner Canto asked how the write-off amount was derived item number seven. D. Oshiro stated it is the difference of what the department paid.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Chin. Motion carried unanimously, as stated.

ITEM D-16 Request for Partial Advancement of Net Proceeds to BERNARD R. SHIMOJO from BERNADETTE N.H. SHIMOJO – Kula Residential Lease No. 7497, Lot No. 47, Wai‘ohuli, Maui

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: 1. Commission consideration and authorization of a partial advance payment

of net proceeds in the amount of \$300,000, or a portion thereof, from the General Home Loan Fund as the Commission deems prudent.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously, as stated.

ITEM D-17 Request to Schedule Contested Case Hearing – Lease Violation – NEWTON K. MILLER, Lease No. 11305, Lot No. 4-A, Kaumana, Hawai‘i and HANAIEI M. TERLEP, Lease No. 12166, Lot No. 1-F, Kaumana, Hawai‘i

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the scheduling of a contested case hearing for the lessees listed.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously, as stated.

E - LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Lease Award – Genai U. Keli‘ikuli

RECOMMENDATION

Acting Land Development Administrator Norman Sakamoto recommended the following: Approve the award of Department of Hawaiian Home Lands Residence Lot Lease to the applicant listed below for 99 years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously, as stated.

ITEM E-2 Rescission of Homestead Lease Award and Reinstatement of Application – Lynn K. Elia, Keaukaha, Hilo, Hawai‘i.

RECOMMENDATION

Acting Land Development Administrator Norman Sakamoto recommended the following:

1. To approve the rescission of one (1) residential lease award.
2. To reinstate one (1) residential lease application to the appropriate Residential Lease Waiting list according to the original date of application.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Canto. Motion carried unanimously, as stated.

F - LAND MANAGEMENT DIVISION

ITEM F-2 Approval to Amend License No. 642, Hawai'i Maoli and Chaminade University, East Kapolei

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:

That the Hawaiian Homes Commission ("HHC") grants its approval to amend License No. 642, subject to the following conditions:

- 1) Remove and release Chaminade University of Honolulu ("CUH"), a Hawaii non-profit educational organization as joint-licensee, pursuant to its December 29, 2014 request letter attached as Exhibit "A";
- 2) Authorize and recognize as a joint-licensee the Association of Hawaiian Civic Clubs ("AHCC");
- 3) Maintain the existing status of Hawaii Maoli ("HM"), a Hawaii non-profit 501(c)(3) organization as joint-licensee;
- 4) All other terms and conditions of License No. 642 shall continue and remain in full force and effect; and
- 5) The Chairman of the Hawaiian Homes Commission is authorized to set forth any additional terms and conditions which shall ensure and promote the purposes of the demised premises;

MOTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina.

DISCUSSION

The intent of License No. 642 was to provide the joint licensees as Hawaii -non-profit organizations with the ability to construct, manage, and operate a multi-purpose facility on Hawaiian Home Lands which would serve as an educational and cultural resource center providing access to computers, a video center, and classroom/meeting space for educational and cultural for trust beneficiaries and the greater community. In addition, the facility would also serve as the administrative office, archive and library for the Association of Hawaiian Civic Clubs.

Verlie Ann Malina-Wright stated Hawai'i Maoli is the seed of the Hawaiian Civic Club and their goal is to empower Hawaiian Civic clubs by building by socio-enterprise real estate. Hawaiians have to develop our own wealth so we can purchase and be responsible for their own businesses. They will be co-owners of the license but the building belongs to the Association of Hawaiian Civic Clubs. The facility is worth \$2 million and they are debt free thanks to new market credits. Commissioner Richardson asked if they have an allocation for maintenance. V. Malina-Wright stated the operations of the building cost \$26,000 per year which includes all utilities and repairs and maintenance.

ACTION

Motion carried unanimously, as stated.

ITEM F-3 Approval to Issue License to Mauna Kea Watershed Alliance Waipāhoehoe Management Unit Fencing, Humu‘ula, Hawai‘i

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:

That the Hawaiian Homes Commission to approve the issuance of a ten (10) year license, with an option to renew an additional five (5) years, to the Mauna Kea Watershed Alliance (MKWA) to fence the Waipahoehoe Management Unit and assist the Department of Hawaiian Home Lands (DHHL) in the restoration of the Unit's native forest, Aina Mauna R-3, Humu'ula, Island of Hawai'i.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Chin.

DISCUSSION

Mike Robinson, Property Development Agent stated this item was presented to the Commissioners at the last meeting. As presented, "the Aina Mauna Legacy Program's intent is to restore and preserve sensitive trust resources that exist in the Humuula/Piihonua region of Hawaii Island... while ensuring that a long term management strategy plan... will sustain the revitalization of the region and provide benefits to existing and future applicants/lessees of the Hawaiian Home Lands Trust".

The vision for WAIMAU I is within ten to fifteen years the area will be fenced from feral ungulates, invasive species will be well controlled and under management, and the native forest normally found in that area will be recovering. Trust costs will be minimized, beneficiary involvement will be significant, and the inherent values of this area will be well known.

Commissioner Canto asked what will happen if license is termination before the agreed upon term of 10 years. M. Robinson stated the license will be very specific in terms of what is expected of both parties. The license could be cancelled at any time by either party giving 30-days' notice. He believes strongly that the program will work. There will be annual reports to the Commission.

Chair Masagatani suggests including the conditions articulated on page 6 into the actual motion. She asked if there is a fee for the license. M. Robinson stated there is no fee.

Cheyenne Perry, Coordinator of the Mauna Kea Watershed Alliance stated there is something to be said about involving the community. Schools have been the most inclusive way of allowing beneficiaries a sense of place and kuleana.

Chair Masagatani asked for a motion to amend the motion language to include "subject to the conditions outlined on page 6 of this submittal" immediately following the word "license" in the first sentence.

MOTION TO AMEND/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Richardson to amend the motion language to include "subject to the conditions outlined on page 6 of this submittal" immediately following the word "license" in the first sentence. Motion to amend carried.

Chair Masagatani stated she would like to add an additional item because this is such a long term, that #7 be added to the list of conditions that says: 7. The Fee for the license will be gratis as long as DHHL is a member of the Mauna Kea Watershed Alliance, If DHHL ceases to be a member of the alliance, the license will come back to the commission for consideration as to the appropriate fee.

MOTION TO AMEND/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Richardson to amend the motion language to include "7. The Fee for the license will be gratis as long as DHHL is a member of the Mauna Kea Watershed Alliance, If DHHL ceases to be a member of the alliance; the license will come back to the Commission for consideration as to the appropriate fee." Motion to amend carried.

MAIN MOTION AS AMENDED

That the Hawaiian Homes Commission to approve the issuance of a ten (10) year license, subject to the conditions outlined on page 6 of this submittal, with an option to renew an additional five (5) years, to the Mauna Kea Watershed Alliance (MKWA) to fence the Waipahoehoe Management Unit and assist the Department of Hawaiian Home Lands (DHHL) in the restoration of the Unit's native forest, Aina Mauna R-3, Humu'ula, Island of Hawai'i.

ACTION

Motion carried unanimously, as amended.

ITEM F-4 Annual Renewal of Right of Entry Permits, Statewide

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:

That the Hawaiian Homes Commission (HHC) approves the following actions:

1. The continuation of Right of Entry Permits listed on Exhibit "A" at the recommended rentals, effective July 1, 2015.
2. Extend all Right of Entry Permits that are in compliance and issued by July 1, 2015, on a month-to-month basis, for up to twelve (12) months, but no longer than June 30, 2016.
3. Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto.

DISCUSSION

Commissioner Chin asked if the list of recommendations has been screened for compliance. The land is being used as intended and there are no illegal dwellings on any of these parcels. L. Chinn stated her staff has reviewed the list for compliance before recommending them for renewal. Commissioner Chin asked how the rents are calculated. L. Chinn stated it depends on when the Revocable Permits were issued. The rates were never changed.

Chair Masagatani asked for a motion to resolve into executive session.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto, to recuse into Executive Session. Motion carried unanimously.

EXECUTIVE SESSION IN

4:36 PM

The Commission convened in executive session 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-stated matter.

EXECUTIVE SESSION OUT

4:48 PM

Chair Masagatani suggested an amendment to the motion to include language in #1 adding "at no less than the rentals" so that it reads: 1.The continuation of Right of Entry Permits "at no less than the rentals" listed on Exhibit "A" at the recommended rentals, effective July 1, 2015.

The second amendment is to include language in #3 adding "including rent" so that it reads: 3. Authorize the Chairman to negotiate and set forth other terms and conditions "including the rent" that may be deemed to be appropriate and necessary.

MOTION TO AMEND/ACTION

Moved by Commissioner Canto, seconded by Commissioner Richardson to amend the motion language to include adding "at no less than the rentals" to #1, so that it reads: 1.The continuation of Right of Entry Permits at no less than the rentals listed on Exhibit "A" at the recommended rentals, effective July 1, 2015, and add "including rent" to #3 so that it reads: 3. Authorize the Chairman to negotiate and set forth other terms and conditions including the rent that may be deemed to be appropriate and necessary. Motion to amend carried unanimously.

MOTION TO AMEND/ACTION

Moved by Commissioner Chin, seconded by Commissioner Canto, to amend the motion further by removing ROE #555- Reginald D. Manaku, from the list. Motion to amend carried unanimously.

Commissioner Chin asked that the initial date of these leases be added to the matrix

MAIN MOTION AS AMENDED

That the Hawaiian Homes Commission (HHC) approves the following actions:

1. The continuation of Right of Entry Permits at no less than the rentals listed on Exhibit "A" at the recommended rentals, effective July 1, 2015.
2. Extend all Right of Entry Permits that are in compliance and issued by July 1, 2015, on a month-to-month basis, for up to twelve (12) months, but no longer than June 30, 2016.
3. Authorize the Chairman to negotiate and set forth other terms and conditions including the rent that may be deemed to be appropriate and necessary.

ACTION

Motion carried unanimously, as amended.

ITEM F-5 Approval for Month to Month Renewal of Right of Entry No. 463 to Waimea Homestead Farmers Market, Inc., Waimea, Hawai'i

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission (HHC) authorizes approval for month-to-month renewal of Right of Entry Permit No. 463 to WAIMEA HOMESTEAD FARMERS MARKET, INC., "WHFM."

This approval is subject, but not limited to the following conditions:

1. The term for this ROE shall be renewed on a month-to-month basis, effective as of July 1, 2015. This ROE may be cancelled by PERMITTOR, at PERMITTOR'S sole discretion and for any reason whatsoever, at any time during the month-to-month term, upon thirty 30 days advance notice in writing to PERMITTEE;
2. The monthly fee for this ROE shall be re-established at \$202.00 (\$2,424.00 per annum);
3. All other terms and conditions of Right-of-Entry No. 463 shall continue and remain in full force and effect; and
4. The ROE shall be subject to other terms and conditions deemed prudent and necessary by the Chairman of the Hawaiian Homes the Hawaiian Homes Commission.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Tassill.

DISCUSSION

Commissioner Richardson asked if there was any way to get both parties to work together. He is fine with renewing the month-to-month permit, he wishes the parties were more cooperative with each other. Chair Masagatani stated staff's intent with this ROE is just as a placeholder until the Commission returns to Hawai'i Island in September.

Commissioner Ishibashi stated he will be voting against this permit because the Waimea Homestead Association is ready to go. Commissioner Chin asked what will happen to the current farmer's market if this permit is not granted. L. Chinn stated the farmer's market will cease to exist. The Waimea Homestead Association who is currently on the patio area will move to the lawn area.

Chair Masagatani asked for a roll call vote.

Commissioner Canto Moved that the Hawaiian Homes Commission (HHC) authorizes approval for month-to-month renewal of Right of Entry Permit No. 463 to WAIMEA HOMESTEAD FARMERS MARKET, INC., "WHFM."						
Commissioner Tassill Seconded the motion.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto	X			X		
Commissioner Chin				X		
Commissioner Davis						X
Commissioner Ishibashi				X		
Commissioner Ka'apu						X
Commissioner Kahikina						Left at 4:40
Commissioner Richardson			X			
Commissioner Tassill		X		X		
Chair Masagatani			X			
TOTAL VOTE COUNT			2	4		3
MOTION: [] UNANIMOUS [] PASSED [] DEFERRED [X] FAILED						
Motion fails with four (4) NO votes and two (2) YES votes.						

ITEM F-7 Approval of Use and Occupancy Agreement between Department of Hawaiian Home Lands and Department of Transportation for use of DOT property located at TMK (1) 9-1-016:031 (por.), for access to Kamakana Ali'i Project, O'ahu

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission authorize the Chair to execute a Use and Occupancy Agreement between Department of Hawaiian Home Lands (DHHL) and Department of Transportation (DOT) for use of DOT's Property located along Roosevelt Avenue and further identified by TMK No. (1) 9-1-016:031 (por.) to allow for access to the Ka Makana Ali'i Project, subject to the representations and conditions set forth below, and the final review and approval of the Attorney General's office. A copy of the Draft Use and Occupancy Agreement is attached herewith as Exhibit "A."

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi.

DISCUSSION

Ka Makana Ali'i, a commercial mixed use project, is being developed by Kapolei Hawaii Property Company, LLC (KHPC), under General Lease No. 276 on the parcel of DHHL land located in East Kapolei consisting of an area of 67.270 acres, and further identified as a portion of Tax Map Key No. 1-9-1-016:142 (See Exhibit "B").

Currently, the only legal access to the 67-acre parcel is off of Kapolei Parkway on the Mauka boundary of the property. DHHL and KHPC are working to provide access to

Roosevelt Avenue the nearest public highway on the Makai-side of the Project. To reach Roosevelt Avenue, the driveway from the Project must cross two parcels of land: (1) a 7.63 acre parcel owned by DOT ("DO parcel"); then (2) a 4.068 acre parcel owned by Campbell Estate, which is being conveyed to DHHL in fee simple ("Campbell strip") (See Exhibit "C")

Counsel Iha stated something like this normally doesn't come to the Commission. DOT doesn't want a U&O with a contingency of Commission approval hanging out there. They understand DHHL is looking for compensation for use of the land.

ACTION

Motion unanimously carried, as stated.

G - PLANNING OFFICE

ITEM G-2 Approval of Water Policy Plan Implementation Program and Budget for FY 2016

RECOMMENDATION

Action Planning Program Manager Kaleo Manuel recommended the following:
That the Hawaiian Homes Commission (HHC) approve the Water Policy Plan (WPP) Implementation Program (IP) and Budget for FY 2016.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Richardson.

DISCUSSION

Chair Masagatani asked if the amount of the budget was confirmed. K. Manuel confirmed there are no amendments to the budget for the Water Policy Plan.

ACTION

Motion unanimously carried, as stated.

ITEMS FOR INFORMATION

G – OFFICE OF THE CHAIRMAN

ITEM G-1 FOR INFORMATION ONLY – Kalaupapa Beneficiary Consultation

MOTION/ACTION

None; for Information only.

DISCUSSION

Acting Planning Program Manager Kaleo Manuel presented the submittal. At the request of the Hansen's disease patients there, Kalaupapa was established as a National Historic Park (NHP) in 1980. The National Park Service initiated a planning process to develop a General Management Plan (GMP) for Kalaupapa NHP in 2009, with a public scoping phase. The GMP describes the general path that the

National Park Service intends to follow in managing Kalaupapa over the next 15-20 years. The DHHL Planning Office engaged with the National Park service early on in the planning process, and a Beneficiary Consultation on the NPS Preliminary Alternatives was conducted in late June 2011. An informational workshop for the HHC was held during its regularly scheduled meeting on August 15, 2011. All comments were compiled and analyzed, and a formal comment letter from DHHL on the Preliminary Alternatives and other issues related to the GMP and DHHL and the beneficiaries' relationship with NPS was submitted to the National Park Service on September 27, 2011.

After some delay and the appointment of a new Park Superintendent, the NPS' planning process resumed in April 2015 with issuance of the Draft GMP, which describes the Preferred Alternative for management, Alternative C. This status report provides an update to the HHC on the Planning Office's continued efforts to consult with beneficiaries on the Draft GMP and the NPS' timeline for its planning process moving forward. A formal Beneficiary Consultation report is in preparation and will be submitted to the HHC for acceptance in the near future.

BENEFICIARY CONSULTATION

STEP 1. THE PROPOSED ACTION IS DESCRIBED:

In this case, the Beneficiary Consultation (BC) is intended to elicit comments on the actions of another agency (NPS), which has a long term lease for Hawaiian Home Lands on the Kalaupapa Peninsula as well as for a small area at the top of the cliff in Pala'au, the Kalaupapa Overlook area, totaling 1,247 acres. Two consultation meetings were held on "topside" Moloka'i on May 26 and May 27, 2015. A slide presentation was prepared to describe the NPS' proposed action and the comments and concerns of beneficiaries that had been expressed to date. Handouts were also provided at the meetings that provided more detailed information, including copies of DHHL's lease with NPS.

STEP 2. BENEFICIARIES WERE NOTIFIED OF OPPORTUNITIES TO CONSULT (See Exhibit B):

A letter inviting Moloka'i beneficiaries to attend the May 26 and 27, 2015 BC meetings in Ho'olehua and Kalama'ula, Moloka'i was mailed out on May 12, 2015. A total of 1,618 letters were mailed to both applicants and lessees.

STEP 3 PRESENTATION MATERIALS FOR ALL MEETINGS ARE AVAILABLE FOR FEEDBACK (See Exhibit C):

Presentation materials in the form of a PowerPoint handout and a copy of the Sept. 27, 2011 DHHL letter to NPS were available at the BC meetings and have been posted to the DHHL Beneficiary Consultation website. A link to the NPS Kalaupapa Draft GMP webpage has also been provided.

STEP 4: COMMENTS ARE COMPILED INTO MEETING REPORTS:

A formal Beneficiary Consultation report is in preparation and will be submitted to the HHC and posted on the DHHL website for the July HHC meeting.

CONCLUSION AND NEXT STEPS

The National Park Service has made some effort to consider and respond to comments from beneficiaries and DHHL in the Draft GMP. However, there still are some significant comments that have not yet been clearly addressed or responded to. The NPS has graciously allowed DHHL to have additional time to conduct Beneficiary Consultation on the Draft GMP and will accept comments from DHHL until July 8, 2015. A formal comment letter will be drafted and submitted to NPS by that date.

Chair Masagatani noted the budgetary items will be taken up first thing in the morning after executive session. H-1, H-2, H-3, and F-6 will be before the recess for contested cases. The Executive Session for Kalawahine will be taken up on Tuesday as well.

RECESS

5:47 p.m.

HAWAIIAN HOMES COMMISSION
Minutes of June 15 and 16, 2015
Meeting Held in Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, the 664th Regular Meeting of the Hawaiian Homes Commission was continued at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawai‘i, beginning at 9:13 a.m.

PRESENT Jobie M. K. Masagatani, Chair
 Doreen N. Canto, Commissioner, Maui
 Wallace A. Ishibashi, East Hawai‘i
 William K. Richardson, Commissioner, O‘ahu
 Renwick V. I. Tassill, Commissioner, O‘ahu (departed at 12:00 pm)
 Kathleen P. Chin, Commissioner, Kaua‘i

EXCUSED Gene Ross K. Davis, Commissioner, Moloka‘i
 David B. Kaapu, Commissioner, West Hawai‘i
 Michael P. Kahikina, Commissioner, O‘ahu

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
 Niniau Simmons, NAHASDA Manager, Office of the Chair
 Paula Aila, Hale Manager, Office of the Chair
 Hokulei Lindsey, Administrative Rules Officer, Office of the Chair
 Michelle Brown, Secretary to the Commission, Office of the Chair
 Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chair
 Norman Sakamoto, Development Officer, Land Development
 Linda Chinn, Administrator, Land Management Division
 Kahana Albinio, Acting Property Dev. Manager, Income Property Branch
 Kaleo Manuel, Acting Administrator, Planning Division
 Rodney Lau, Admin. Services Office
 Jenna Gray, Admin. Service Office
 Dean Oshiro, Acting Homestead Services Division Manager
 Ku‘uwehi Hiraishi, Info. Specialist, Information and Community Relations

NOTE: The Commission was unable to complete all of the items listed on the agenda for Monday, June 15th items H-1, H-2, H-3, and C-1 were carried forward. The Commission reconvened at 9:13 AM on Tuesday, June 16, 2015, and immediately resolved into Executive Session as per the agenda. The Commission recessed from 10:23 a.m. to 11:45 p.m., to hear contested cases.

Chair Masagatani asked for a motion to resolve into executive session.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Richardson, to recuse into Executive Session. Motion carried unanimously.

EXECUTIVE SESSION IN

9:13 AM

The Commission convened in executive session 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-stated matter.

EXECUTIVE SESSION OUT

10:21 AM

H – ADMINISTRATIVE SERVICES DIVISION

ITEM H-1 Approval of Fiscal Year 2016 Operating Budget for the Department of Hawaiian Home Lands.

RECOMMENDATION

Administration Services Officer Rodney Lau recommended the following:

1. That the Commission approve Fiscal Year 2016 Operating Budget for the Department of Hawaiian Home Lands and authorize the Chairman to shift funding of expenditures between cost elements and funds as warranted but not to exceed the total budget.
2. That the Commission approve the transfer of \$7,000,000 from the Hawaiian Home Administration Account to the Hawaiian Home Operating Fund.

MOTION

Moved by Commissioner Ishibashi, seconded by Commissioner Richardson.

DISCUSSION

Commissioner Chin asked that a quarterly variance report be provided to the Commission to show the progression of budgeting activities. R. Lau stated quarterly reports will be provided to Commissioners.

ACTION

Motion unanimously carried, as stated.

ITEM H-2 Approval of Fiscal Year 2016 Loan Program Budget for the Department of Hawaiian Home Lands.

RECOMMENDATION

Administration Services Officer Rodney Lau recommended the following:
That the Commission approve Fiscal Year 2016 Loan Program Budget for the Department of Hawaiian Home Lands and authorize the Chairman to shift funding of expenditures between cost elements and funds as warranted but not to exceed the total loan budget

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi.

Commissioner Chin asked to be notified whenever significant funds are shifted from one account to another. R. Lau stated there is an approval process which requires the approval of the Chair. Chair Masagatani stated she will notify Commissioners when a request to transfer funds is approved.

Motion unanimously carried, as stated.

ITEM H-3 Transfer of Hawaiian Home Receipts Money at the End of the Fourth Quarter, FY 2015

RECOMMENDATION

Administration Services Officer Rodney Lau recommended the following:
That the Commission approve the transfer of the entire receipts deposited in the
Hawaiian Home Receipts Fund as of June 30, 2015 to the Hawaiian Home General
Loan Fund.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Ishibashi. Motion unanimously carried, as stated.

Note: The Commission recessed to conduct contested case hearings.

RECESS 10:23 AM

RECONVENE 11:45 AM

APPROVAL OF MINUTES

Chair Masagatani asked for a motion to approve the meeting minutes from the Special Meeting November 2013.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi, to approve the meeting minutes from the Special Meeting November 2013. Motion carried unanimously.

C - OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Resolution No. 283, Urging the United States Department of Interior to consult with the Department of Hawaiian Home Lands regarding proposed rules 43 C.F.R. parts 47 & 48.

RECOMMENDATION

Administrative Rules Officer Hokulei Lindsey, recommended the following:

Approval of Resolution No. 283, Urging the United States Department of Interior to consult with the Department of Hawaiian Home Lands regarding proposed rules 43 C.F.R. parts 47 & 48, as presented.

DISCUSSION

Administrative Rules Officer Hokulei Lindsey stated the resolution was amended to be more succinct and to the point. A new draft was distributed and reviewed. She reviewed all of the changes which included the Department of the Interior should consult with the beneficiaries to fulfill its trust responsibilities. In clear language it states the Secretary's oversight on the Rules should remain as they are described in the Admissions Act. The purpose of this Resolution is a policy statement to attach to DHHL's detailed comment letter to the Department on Interior on the proposed rules. Chair Masagatani stated the letter will be much more detailed in terms of specific operational and administrative issues.

Commissioner Chin stated she wants to be sure the revised resolution is reviewed by Counsel. Chair stated the approval can be done subject to the review of the Attorney General's office.

Chair Masagatani suggests the following:

Motion to Approve Resolution No. 283, Urging the United States Department of Interior to consult with the Department of Hawaiian Home Lands regarding proposed rules 43 C.F.R. parts 47 & 48, subject to the review of Counsel for necessary amendments without compromising its intent.

MOTION

Moved by Commissioner Canto, and seconded by Commissioner Ishibashi. Motion carried unanimously, as stated.

Note: Commissioner Tassill asked to be excused for the rest of the meeting, he departed at 12:00 PM.

A – PUBLIC TESTIMONY ON AGENDIZED ITEMS

Chair Masagatani noted all beneficiaries signed up to speak are commenting on Item B-3, therefore she will take all testifiers after the presentation on the item is concluded.

B - WORKSHOP PRESENTATIONS

ITEM B-3 Presentation by Hawai'i Housing Finance and Development Corporation on Tax Map Key No.: (1) 9-1-016:88 (por.). (9 acre parcel adjacent to Kaupe'a)

Chair Masagatani called on Craig Hirai and Rick Praylor from the Hawai'i Housing Finance & Development Corporation (HHFDC).

R. Praylor, Development Branch Chief, provides chronological background of the Master Plan of the Villages of Kapolei using several maps which are on display before the Commission and audience. The state started getting involved in these big development projects back in the late 1980s, when the Waihee Administration became frustrated with

the growing gap between market housing and affordable housing. In 1989, the purchase 890 acres of land in the Campbell estate through condemnation. The intent was to create the community that you see now. The intent was to build a multi-purpose housing community with schools, parks, and some commercial areas. Over time there were multiple master plans developed for the community. The HHFDC acted as the master developer for Kapolei and participated in several developments indicated on the map. They put the various villages out to bid and the individual developers came in and made decisions on internal road networks, what they would include to sell their community.

Kumu Iki was the first Village done by Castle & Cook in 1990. They decided there would be no parks and almost no landscape strips. Ailua, developers decided to put in a 1.5 acre park and some landscape strips. The developer for Malanai chose not to do any parks, instead they did some landscape strips and view corridors to the golf course. Kekuiani developers chose to have a large 1.9 acre park in the middle of the housing along with a pavilion. The point is that the different developers made their own decisions on whether their projects would include or not.

HHFDC sold a portion of Village 6 to DHHL, who did not include a park or landscape strips and simply made the choice to give beneficiaries as much land as possible. In 1996, HHFDC awarded everything below Kapolei Parkway to Makai Village Partners. They only managed to build the Kapolei Kai Community and turned over most of the property back to HHFDC. In 2004, a larger transfer package was negotiated between HHFDC and DHHL. It included the Villages of La'i'ōpua on Hawai'i Island and 1A Leialii, 1B of Leialii, and initially the entire balance of Village 8 in Kapolei.

In the summer of 2004, there were representations made that DHHL was looking for funding to build the park and the 2nd community center because those were all planned items that had been in the Makai Village Partners' proposal. In September 2004, DHHL made a presentation to the Villages of Kapolei Association and again represented that they were going to build the 326 homes plus that they were looking for funding for the park and the community center. However, in November 2004 those items had dropped off of DHHL's wish list and so the deal was done with HHFDC retaining a 9-acre parcel and DHHL buying the rest and developing the Kaupe'a subdivision.

In the transfer agreement, there is no representation that HHFDC would build the park or the community center. Two things have happened since then, in October 2006, the village of Kapolei Association met and decided to request that what was originally going to be a second community center, that it be transferred up to the village center parcel. It will be across the street from the current recreation center and it will add more meeting space for community use. Also, by April 2011, HHFDC had a park credit balance of 2,092,250 ft.² it works out to enough land to build another 5977 homes and not be required by the city to add more parks.

The memorandum of understanding between HHFDC and DHHL included five main points.

1. DHHL grant HFDC access to the remnant parcel. When HHFDC started negotiations with DHHL on the sale of the Village 8/Kaupe'a parcel, the park was located across the street from the middle school and it has

frontage on the portion of the road that HHFDC built. There were no access issues. During the negotiations DHHL suggested that HHFDC moved its lot to the other side. He does not think HHFDC understood at the time there would be a road access issue. The roads DHHL built are in a different category than the roads that HHFDC built.

2. HHFDC needs access from Puainako to their parcel. The city may or may not allow a right
3. HHFDC will be solely responsible for the improvements required by the development of the parcel on Puainako Street, and further if there is any widening required, HHFDC or its developer will pay for it.
4. DHHL will ultimately be responsible for paying for the traffic signal at the intersection of Puainako Kapolei Parkway. There are specific paragraphs stating that DHHL is going to put in the traffic signal. When Kaupe'a was developed Kapolei Parkway was a dead-end road, so the city approved plans that did not include a traffic signal.
5. HHFDC and DHHL and negotiate in good faith for whatever maintenance agreement is required for Puainako Street.

In summary, they have paused the Village 8 RFP and went back to all respondents and asked for their estimates for park construction with the parameter of a passive park which includes grading, landscaping and irrigation. All respondents came back and stated they could do an acre of passive park. HHFDC will not have to pay additional money for the passive park, but will forfeit additional money for the affordable housing that would otherwise be built there. However the park is dealt with, there will still be the need for someone to maintain the park. There is no provision for maintaining parks long term. They have talked with the City and they don't want small parks, they only want big parks. HHFDC's mission is to create and retain affordable housing for Hawaii's people, not build and maintain parks. They still face a \$50 million dollar cost to dedicate the infrastructure at the Villages. HHFDC's exit from the Villages of Kapolei is when the City finally accepts the roads, sewer, portions of the drainage etc. They will continue to work with the community to find a resolution to this, given the things that he has presented today.

Chair Masagatani asked if the Villages of Kapolei would be willing to take on the maintenance of the park. Mr. Praylor stated that both the General Manager and President of the Board of the Village of Kapolei Association are in the audience and can speak to it more, but the sense he has is that they are willing to manage a park around the size of 20,000 square feet.

Chair Masagatani asked what HHFDC plans to do with the remaining areas and what the anticipated timeframe is. Mr. Praylor stated an RFP is out, but currently on hold till this issue is worked out, to develop 400 single family units as well as more commercial space fronting the roadway. They will do what they can to help without having to spend more money to do it.

Chair Masagatani thanked Mr. Praylor and Mr. Hirai for attending and ask that they be available for questions during the community testimony portion. She calls on the first testifier, Homeland Schaedel.

H. Schaedel thanked Commissioners for attending the Community Meeting the night prior. She thanked them for revising the Resolution to include an emphasis on beneficiary testimony.

She is the President of the Malu'ōhai Residents Association. During Malu'ōhai orientation meeting in 2000 and 2001, potential lessees were told that there would be a park in the parcel adjacent to Kapolei High School which would be dedicated to the City. In 2007, the same information was provided to potential residents of Kaupe'a during their orientation meetings. Both Malu'ōhai and Kaupe'a are a part of the Master Association of Kapolei. She does not believe trust funds were used to buy Malu'ōhai and Kaupe'a, they were part of the settlement.

She concluded that Malu'ōhai Residents Association supports the park being in the lot adjacent to Kapolei High School.

Chair Masagatani calls on Mr. Walter Walker as the next testifier.

W. Walker stated the park was promised to the community. He references a document that says a 6 acre park and 3 acre recreation center is planned for the parcel next to the high school. For the past six-months the community has been trying to work with DHHL to compromise for a 3 acre park, but it has been going nowhere. Things changed and there were land swaps and whatnot, but he feels it is up to the Commission to fix the problem. He stated when he purchased his home it included the 9 acre park. There were 500 people at the Neil Blaisdell Center to hear that promise.

He mentions receiving a flyer from VOKA that stated they would maintain a park up to 3 acres without additional fees. He would be willing to pay an additional \$5 fee to maintain the park if that is what it will take. It is not about money, it is about doing the right thing and making good on a promise. There are more than 300 families in the association, they don't need a passive park with trees to walk through, and they need playgrounds. The stop light is a big issue as well. He feels strongly that DHHL sold them their homes with the park included. He will keep fighting for it because it is the right thing.

Chair Masagatani thanked Mr. Walker for his testimony. The next testifier is Mr. Sonny Gaye.

S. Gaye stated he is a retired fire fighter and proud resident of the Villages of Kapolei. He is from Nānākuli where his grandparents received a homestead in 1938. He is a graduate of the first class of Nanaikapono in 1948 where they were taught the Hawaiian Homestead Act. Every morning he sits on his street for two hours watching and reporting the activities on his street. He lives on the lot facing the potential park site. They have a drug problem in the area and he has taken it upon himself to be active in making his street

a safe place for his grandchildren. He was concerned about the type of park being built and what kinds of people it will invite to there. He has worked with young adults for a long time and wonders if it will draw unwanted after hour activities. He is not against a park, but wants to know what size DHHL is thinking of building. He doesn't want a park where drug use may occur right next to the school.

Chair Masagatani thanked Mr. Gaye for his testimony. The next testifier is Ms. Kanani Wand.

K. Wand stated she will be speaking on behalf of herself and her family and not as a member of the Board or the Association. She is a resident of Kaupe'a. Recently VOKA put out a post card to try to get a sense of what the community was thinking in terms of a park. The verbiage used mentioned a passive park, but the community is not interested in a passive park. The community wants a functional park with a playground and picnic tables. The flyer may have inferred that a park would increase the homeowners dues, but it would be a state owned park and an increase in dues is not a guarantee.

By rescinding the MOU with HHFDC, DHHL would be able to explore more options like the high school next to Kaupe'a. She wondered if all of the options have been explored. With regard to potential drug activity in the park no one can predict what will happen so no one should be discouraged about having a park in that location. She believes the park will happen and that the parties are willing to work out a solution.

Chair Masagatani thanked Ms. Wand for her testimony. The next testifier is Ms. Michelle Kauhane. Joining her is three young men from the community who have been helping pass out flyers. They introduced themselves as Saunders Taka, Keola Chan-Fruition, and Kauila Pernicle. They live in Kaupe'a in unison they stated they want a park.

M. Kauhane stated the young men moved in to Kaupe'a eight years ago and they sometimes play in the area where they hope will someday become a park. She is testifying in her capacity as the President of the Kaupe'a Homestead Association. The best part about all of this is having the community engaged in what is happening with the 9 acre parcel because they care. It has been a catalyst in getting everyone together. Their position is simple, they want DHHL to reverse the MOU. There are too many uncertainties. According to the county laws there is enough green space to allow them to build 5000 more units, but these boys are still playing in the streets. The people are telling DHHL that there is not a single green area they can access on this side of Kapolei Parkway. She provided the Commission with a copy the efforts of the families of Kaupe'a. 207 of the 326 households have written to say they want DHHL to reverse the MOU. 265 signatures representing the families of Kaupe'a want the park.

She understands that things changed, the road changed and there were land swaps. With or without the MOU the community needs the traffic light and a marked cross walk. It's the right thing to do. The community appreciated the efforts of HHFDC and VOKA but they stand firm in asking the Commission to reverse the MOU. DHHL signed the MOU saying it will pay for the crosswalk if HHFDC builds affordable homes there, but the

Kaupe'a homes are there now and the crosswalk is needed. People are still crossing that street to get to the elementary school with or without a crosswalk or light.

Chair Masagatani stated she understands the need for the park and the need for playgrounds but wanted to understand the priority of the community in terms of green space verses potentially nothing happening on that lot and or possibly something that the community would have no influence on if the MOU is withdrawn. M. Kauhane stated DHHL has tried to acquire this parcel in the past and that should still be a consideration. Oahu has the longest waitlist and the lease amount of land. Nine acres would go a long way in terms of reducing the waitlist. If it turns out that nothing gets built there, maybe nothing is better than a development. They don't want a passive park, the one currently in the area is known as the fighting park. You Tube videos attest to the parks use as a place to fight before and after school. They understand the risk and they are willing to take it.

Commissioner Ishibashi stated he drove around the community last night and saw the kids in the streets with no place to play. He also recognized the need for the traffic light and crosswalk. M. Kauhane stated there is a 9 acre parcel and they community wants to negotiate at least a 3 acre park. She is not sure they can get to that point, so they're asking to reverse the MOU. Chair Masagatani asked if VOKA is willing to maintain a 3 acre park. M. Kauhane stated nothing formal has been decided and that the cards may be a part of their due diligence.

Commissioner Richardson asked for specific details about what kind of park the community wants. W. Walker stated they want a playground, gated basketball courts and picnic areas. Commissioner Richardson asked who would pay for the park. W. Walker stated the developer would. M. Kauhane stated they don't have all of the answers now, but if DHHL tells the community it can have a 3-acre park, they will take the next step and start planning. They can even help find funding. Commissioner Richardson stated all three parties are together at this meeting, does it have to be a drastic step of reversing the MOU or can there be some compromise. M. Kauhane stated she believes if a 20,000 sq. ft. park is what is being offered, it will be the community is not agreeable. Chair Masagatani asked if the community would consider a 1 acre park. M. Kauhane stated she cannot speak for the community, but at the last community they result is they want a reversal of the MOU or a 3 acre park.

Chair Masagatani thanked M. Kauhane for her testimony. The next testifier is Ms. Kalei Kamakahi.

K. Kamakahi stated she lives in Kaupe'a and moved in 2 years ago. She purchased her home with a household of 9. There is nowhere for the children to go to play. The kids play football and other things on the streets fronting the homes. A 3 acre park would be wonderful. It would be a good place to hang out aside from the streets.

Chair Masagatani thanked Ms. Kamakahi for her testimony. She asked R. Praylor which parks are maintained by the city. R. Praylor stated only the 12 acre community park is maintained by the City.

RECESS

1:13 PM

RECONVENE

1:23 PM

ITEMS FOR INFORMATION

F – LAND MANAGEMENT DIVISION

ITEM F-6 FOR INFORMATION ONLY – FOR INFORMATION ONLY – ‘Āina Mauna Project Updates; Demonstration Game Management and Koa Restoration.

MOTION/ACTION

351

None; for Information only.

DISCUSSION

Mike Robinson, Property Development Agent, Land Management Division presented the following information:

The ‘Āina Mauna Legacy Program's intent is to restore and preserve sensitive trust resources that exist in the Humu‘ula/Pi‘ihonua region of Hawaii Island while ensuring that a long term management strategy plan will sustain the revitalization of the region and provide benefits to existing and future applicants/lessees of the Hawaiian Home Lands Trust".

1. Restoration and enhancement of DHHL trust property
2. Provide opportunities for DHHL applicants/lessees
3. Preserve natural and cultural resources
4. Reforestation and restoration of the ecosystem
5. Removal of invasive species - fireweed, etc.
6. Develop revenue and reinvest to sustain activities
7. Provide educational opportunities
8. Identify and secure partners
9. Identify alternative/renewable energy projects
10. Be a lead and/or model for others to engage in restoration in a culturally sensitive manner partnerships to develop a self-sustaining model ecosystem based on partnerships to develop a self-sustaining model

M. Robinson presented information on two new projects.

1. Demonstration Game Management Project
2. Koa Forest Restoration Research Project

Demonstration Game Management Project

The demonstration game management project is planned for approximately 1,556 acres of Hawaiian home lands situated on the Northeast slopes of Mauna Kea, North Hila, Island of Hawai‘i.

M. Robinson described how on two separate occasions where volunteers were used to trap some of the 1,000 animals in the sheet herd of the area. Unfortunately, the first

attempt was unsuccessful in the number of sheep trapped. Although 17 volunteers signed up and assisted in this initial effort, only three ewes and nine lambs were caught. On the second attempt there were 25 volunteers but only one ram and two lambs were caught. M. Robinson stated although the trappings were not a complete success more people learned about the long term goals of the project and participating in it. One of the volunteers commented that he felt blessed that he could participate and include his son. These expressions of family involvement and perpetuating the culture of retaining a food source on the land are consistent with the project's original intentions and those heard during the Beneficiary Consultation meetings held in 2013.

Note: A power point presentation showed pictures of the wing trap and pens used for the management project.

Koa Forest Restoration Research Project

"Koa is one of the predominant tree species found naturally in the 'Aina Mauna. It is presently the highest value timber crop in Hawai'i. It grows easily and well in this area, if introduced ungulates are removed. Restoring portions of the 'Aina Mauna lands to koa through carefully planned and managed reforestation is its highest and most compatible economic use."

"A restored sustainable koa forest provides several opportunities and options for future decision-making by DHHL. A sustainable koa forest will provide jobs and generate income to the DHHL trust."

DHHL had already implemented a koa salvage program at Humu'ula to evaluate the feasibility of managing Trust lands for commercial koa. From 2003 to 2012, approximately 317 acres of koa trees were salvaged from three licensed sales. These sales created five full time jobs, supplied enough koa wood to meet the annual needs of at least 6 woodworkers, and generated an average of \$4,147 per acre per year in trust revenues, or a total of over \$1,314,600.

To date there have been four (4) koa seed orchards installed at 'Aina Mauna. The first was installed in 2003 and was successful enough to generate support for installing three more in 2015. All are currently protected by fences.

Establishing a seed orchard requires superior "mother" trees from the area to be located and seed collected from them. Seedlings are then grown while keeping careful track of their parentage and then planted in research specific replicated plots to evaluate their growth, form, and other desirable characteristics. When the trees reach maturity to produce seed on their own, the orchard is "rogued", where less desirable trees are removed and only the best are retained. An appropriate number of families from the original mother trees are retained to ensure minimal genetic loss while still removing families that do not perform well within the orchard.

Seed is then collected from this second generation of preferred trees and the process is repeated elsewhere. This third generation of trees from the original mother trees has a very high probability that they will exhibit all or most of the most favorable, desirable

characteristics, e.g. fast growth, straight form, minimal branching, and/or wood color and grain.

Trust lands at Humu'ula and Pi'ihonua Mauka are limited, and thus when restoring resources such as a koa forest it is important to simultaneously maximize its potential value. Research has shown that native birds prefer, and sometimes require, larger koa trees to nest in. Woodworkers prefer longer, straighter boards with curly, dark grain that larger trees can provide. Canoe builders also require larger trees with straight trunks. Thus creating a resource that can meet any or all of these objectives is the intent of doing koa research now.

To regenerate over 15,000 acres of koa forest will require a lot of seed, thus the timing and intensity of this seed orchard project is appropriate and necessary.

Chair Masagatani thanked M. Robinson for this presentation and hard work in managing

J – GENERAL AGENDA

Item J-1, Request to Address the Commission – KAHILIHWA KIPAPA, Kula Lessee

Ms. Kahilihiwa Kipapa stated she is from Maui and resides on 79 Kauluwehi Place. Also with her are her niece Malia Kipapa and nephew Kurt Kipapa. Malia Kipapa stated Kahilihiwa Kipapa was granted and approved as a sole lessee on August 15, 1989. On October 17, 2011 she signed into a joint tenancy agreement with my grandnephew so he could be a successor on the lease. Her intention was to keep the lease within the Kipapa Ohana if anything were to happen to her. My grandnephew Joseph Kamua Toko Kamekona Kipapa agreed to help with responsibilities on the lease as well as contribute to the mortgage and hasn't shown any effort or follow-through with verbal agreements made between them. Therefore, she would like to ensure her interests in the joint tenancy lease by requesting to convert this joint lease into a tenancy in common lease agreement. After establishing a tenancy in common lease she would like to designate her nephew George Kurt Kipapa as her successor for her share an interest on the lease.

M. Kipapa stated a copy of the lease is provided to the Commissioners. She thanks William Aila Jr. for his help taking care of this problem.

Chair Masagatani asked Dean Oshiro, Acting Homestead Services Division Administrator, if the process includes the need for Commission approval. D. Oshiro stated the conversion from a joint tenancy lease to a tenancy in common lease will need to be approved by the Commission. A request will be presented to the Commission at the next meeting.

Item J-2, Request to Address the Commission – JOHN KONG KEE, Lessee

Mr. John Kong Kee stated he holds lease 7547. The lease went to his mother first and then to his son and then last January it was transferred to him. The lease he obtained was a subdivided lot and the other part of the lot already has a house on it. The problem is that the utilities for the lot with the house on it, runs underground through his lot. He

reviewed the handouts provided to Commissioners and its relevance to the issue. He references a lease document, specifically item #27 "Quiet Enjoyment. The Lessor hereby covenants and agrees with the Lessee that upon payment of said rent at the times and in the manner aforesaid and the observance and performance of the covenants, terms and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold possessed and enjoy the demised premises for the term hereby demised, without hindrance or interruption by the lessor or any other person or persons lawfully claiming by, through and under it.

If something were to happen to the utilities of the back house, it would interfere with his right to quite enjoyment. He would like DHHL to take the utilities out of the ground from his lot and move it.

His mother signed 7547 in 2002, in 2004 she was sick and passed away. 83 years old. Beneficiary was his son, they had to move because his granddaughter needed a transplant from Stanford.

Dean Oshiro Acting Homestead Services Division Administrator clarified that the lot was originally returned to DHHL after a lease cancellation. The lot was so big, that DHHL decided to make it into two lots. Mr. Kong Kee's son was on Maui at the time and sought a relocation to O'ahu because for medical needs.

Commissioner Richardson asked if everyone knew about the underground utilities or if it was an oversight by DHHL.

Mark Yim, Homestead Lease Coordinator, stated that in order to get approval for the subdivision DHHL had a list of requirements which included street access and sewage. At that point it has already cost DHHL \$80,000 to do the subdivision. Removing the existing underground utility lines was not required. He also stated the utility lines are in a setback where the lease wouldn't be able to build anything anyway. J. Kong Kee agreed the lines are in a setback. Still, if anything were to happen to the utility lines going to the back property, it would cause disruption to him.

J. Kong Kee reviewed a letter sent to him on October 2014, from DHHL, stating that it would cost \$14,000 or more to move the lines and that DHHL is not willing to pay for it.

Chair Masagatani asked if Mr. Kong Kee was aware of the setback when he signed the lease transfer. M. Yim stated that the lease he signed stated "as is". J. Kong Kee agreed that the lease does state such. The lease should have said something about the buried easement.

Commissioner Chin asked if Mr. Kong Kee would be able to tie into the underground utility. J. Kong Kee stated he called the electric company and was told the line can only provide enough power for the house it already services. Commissioner Chin asked Mr. Kong Kee what is preventing him from building his house. J. Kong Kee stated he wants the underground lines removed before he builds his home.

Chair Masagatani stated if DHHL is still unwilling to move the lines the options available are either to return the lot or to build with the easement. It could also be a matter of amending the lease to note the easement so that the liability is not on Mr. Kong Kee.

Counsel Iha stated the Department cannot indemnify a lease. He suggests the discussion be taken into Executive Session. Commissioner Richardson stated another option could be to reduce the size of the lot. Counsel Iha stated DHHL has the right to take back the lease for any reason.

J. Kong Kee stated he is willing to work the DHHL and share a portion of the cost of removing the underground lines.

Chair Masagatani stated the Commission understands Mr. Kong Kee's concerns and will discuss it further in executive session at the end of the meeting. The Commission will discuss options and being a closure to this issue so that everyone can move on. She noted the Commission's perspective is if it does something like this for one person, can it do it for every person.

J. Kong Kee reiterated that he wants to keep the lot and wants to move forward. He would like the Commission to consider a shared cost. Eventually the lot will be transferred to one of his great grandchildren and he wants to make sure he takes care of this for them.

Item J-5, Request to Address the Commission – HANS WEDEMEYER, CEO Hokulua Inc.

Mr. Hans Wedemeyer distributed a packet containing handouts relevant to his three concerns.

1. Solar Farm

Attached is a proposal from Energy Research Systems for a 30 megawatt solar farm on a DHHL owned 1000 acre site in Kawaihae.

This is an opportunity for DHHL to earn \$100,000/year for a 100+ acre site that you own and currently are leasing out for \$2700/year for right of entry (or so I have been told). A 30 megawatt solar installation will provide 30 jobs during the construction phase and 12 full time jobs thereafter.

He has been working with Energy Research Systems for several years, they are establishing a 14 acre solar farm on one of my properties. I have found the company to be experienced and forthright.

2. Potable Water Well

10 years or more ago, he started discussions with DHHL regarding a tradeoff for the water well which is currently producing 135,000 gallons of potable water a day. The well is situated at 825 foot elevation and abuts DHHL's development in Kawaihae, overlooking your reservoir tank.

Approximately 5 years ago, at a meeting in Kawaihae, Micah Kane directed a department head to work with me on this project. I am still waiting to hear from that person. He hopes the current Commission will follow up and take this opportunity to supply water to DHHL beneficiaries at a much better rate than that currently being paid.

3. Lease Extensions

It has now been 5 years since the bill became law. The Interest rates are starting to climb and my lender is losing interest and confidence in DHHL's ability to perform. What is the current situation?

Chair Masagatani stated when amendments are made to the HHC Act the AG's office has to review the amendment and then it gets sent to the Department of Interior to determine if the amendment requires consent of Congress. The determination has not been made by the DOI. She has a telephone conference scheduled for Friday and this is one of the issues on the agenda for discussion. She does understand the significant amount of money involved. She will hear on Friday what the status is. Everything that can be done at the State level has already been done. H. Wedemeyer asked that DHHL provide a letter to his lender to let them know that it is still going to happen. He asks that DHHL work with him and his lender to maintain the interest rate.

H. Wedemeyer asked to be allowed to lease the property next to his in Kawaihae. It is difficult for him to lease his property and have the run down warehouse right next door. He is willing to rebuild the warehouse to make it profitable for everyone. It has been sitting idle for the last five years.

Chair Masagatani thanked Mr. Wedemeyer for coming.

**Item J-6 Request to Address the Commission – KAPUALANI MCGURN,
Neighborhood Power**

Ms. Kapualani McGurn stated she represents Neighborhood Power on Maui. They help lessees get solar power for their homes. They wanted to thank the Commission for the non-licensing agreement it has been very helpful to them in getting solar energy for beneficiaries. She requests assistance with expediting the length of time it takes to process the approvals. Currently the beneficiary has to wait for approval from Maui Electric Company and then start the process for the license with DHHL. They are asking if the both processes can be done simultaneously to help the beneficiary get their energy savings started quicker.

Chair Masagatani stated DHHL can look at the process to see if any portions can be run parallel.

Commissioner Richardson asked if Ms. McGurn is aware of any MECO applications being denied. K. McGurn stated she knows of no lessees being denied a solar system.

Commissioner Chin asked what type of system is being sold to the beneficiaries. K. McGurn stated the size of the system a beneficiary will get depends on the amount of

energy they've used over the past year. So far Moloka'i is the only island where the grid has been unable to accommodate any more solar systems. Commissioner Chin stated on Kaua'i homeowners are being sold systems that are too large for their homes in hopes of selling energy back to the power company. K. McGurn stated Neighborhood Power sizes the systems according to the past year's usage, almost down to the exact dollar.

Chair Masagatani asked if something were to happen to Neighborhood Power, would the company be obligated to remove the solar panels from the beneficiaries roof. K. McGurn stated she would need to check on that and get back to the Commissioners.

Chair Masagatani thanked Ms. McGurn for being patient and sticking with the Commission to the end. Staff will look into the possibility of processing the license approvals parallel to the MECO approvals, and get back to Ms. McGurn.

Commissioner Chin cautioned that waiting for the approval from MECO might be best because if they do not approve the system, they are not obligated to purchase the energy.

K. McGurn thanked the Commissioners for the opportunity to speak with them and she looks forward to working with DHHL on the new process. If there is anything they can do to assist DHHL, please call on them.

EXECUTIVE SESSION IN 3:04 PM

The Commission convened in executive session 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-stated matter.

EXECUTIVE SESSION OUT 3:24 PM

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING The next regular meeting will be held at Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, July 20 & 21, 2015.

ANNOUNCEMENT The next community meeting will be held on July 20, 2015, at Kapolei High School.

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi, to adjourn the meeting. Motion carried unanimously.

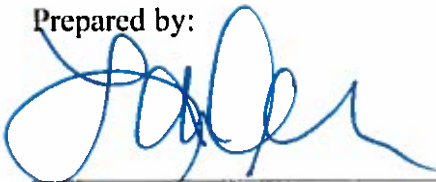
ADJOURNED 3:25 PM

Respectfully submitted:



Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

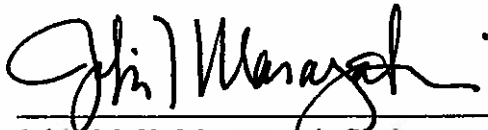
Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On
Tuesday, October 20, 2015



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission