

HAWAIIAN HOMES COMMISSION
Minutes of April 23, 2012
Meeting Held in Kalama`ula, Moloka`i, Hawai`i

Pursuant to proper call, the 626th Regular Meeting of the Hawaiian Homes Commission was held at the Kulana `Oiwī Conference Room, 600 Maunaloa Hwy, Kalama`ula, Moloka`i Hawai`i, beginning at 11:00 a.m.

PRESENT Mr. Albert "Alapaki" Nahale-a, Chairman
 Mr. Imaikalani Aiu, Commissioner, Kaua`i
 Mr. Perry O. Artates, Commissioner, Maui
 Ms. Leimana DaMate, Commissioner, West Hawai`i
 Mr. J. Kama Hopkins, Commissioner, O`ahu
 Mr. Michael P. Kahikina, Commissioner, O`ahu
 Mr. Ian B. Lee Loy, Commissioner, East Hawai`i
 Mr. Henry K. Tancayo, Commissioner, Moloka`i
 Mr. Renwick V.I. Tassill, Commissioner, O`ahu

COUNSEL Deputy Attorney General Scott Kalani Bush

STAFF Michelle Ka`uhane Deputy to the Chairman
 Linda Chinn, Administrator, Land Management Division
 Darrell Yagodich, Administrator, Planning Office
 Dean Oshiro, Acting Administrator, Homestead Services Division
 Kaleo Manuel, Planner, Planning Division
 Bob Freitas, Planner, Planning Office
 Halealoha Ayau, Acting Superintendent, Molokai District Office
 Crystal Kua, Administrator, Information and Community Relations
 Donald Aweau, Assistant to the Chairman
 Paul AhYat, Enforcement Officer
 Ku`uwehi Hiraishi, Information Specialist, ICRO
 Zelda Moleta, Secretary, Office of the Chairman
 Elaine Searle Secretary to the Commission

PULE/MELE Commissioner Kama Hopkins

AGENDA Commissioner P. Artates, seconded by Commissioner K. Hopkins, to approve the agenda. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner I. Lee Loy to amend the agenda to include a Resolution honoring Hawaiian Homes Commission Chairman Alapaki Nahale-a for his contributions as Director and Chairman of the Department of Hawaiian Home Lands. Motion carried unanimously.

Commissioner I. Lee Loy read Resolution 264 honoring retiring Chairman Albert "Alapaki" Nahale-a for his years of service to the native Hawaiian community and his outstanding tenure as Chairman of the Hawaiian Homes Commission and Director of the Department of Hawaiian Home Lands. Commissioner Lee Loy expounded on Chairman Nahale-a's experiences in many charter school initiatives. He further noted Chairman's accomplishment in placing Hawaiian beneficiaries first, completing a five-year strategic plan and creating the Kauhale pilot project as well as completion of the Kaupuni village project during his service as Chairman, to convey awareness while advocating transparency and community interaction between staff and beneficiaries.

MOTION/ACTION

Commissioner K. Hopkins asked for a recess to offer congratulatory messages to Chairman Nahale-a from his constituents.

RECESS: 11:05 A.M.

RECONVENE: 11:10 A.M.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate to reconvene to regular meeting. Motion carried unanimously.

COMMENT

Commissioner R. Tassill pointed out how Chairman Nahale-a was instrumental in establishing Ad Hoc committees to better serve the native communities. Chairman Nahale-a thanked everyone for sacrifices made and in recognizing him as a contributor to the betterment of the Hawaiian community.

MINUTES Commissioner Kama Hopkins moved, seconded by Commissioner P. Artates, to approve the minutes of March 19, 2012 as circulated. Motion carried unanimously.

A - WORKSHOP PRESENTATIONS

A-1 - Homestead Agricultural Education Program – Presented by Jennifer Hawkins

Planning Administrator Darrell Yagodich introduced University of Hawaii College of Tropical Agriculture and Human Resources (CTAHR) Extension Agents Alton Arakaki, Island Manager, Glenn Teves, Sr. Land Agent and Jennifer Hawkins, Homestead Cooperative Extension agent who provide services to farmers and pastoral lessees to become successful farmers and ranchers on Hawaiian homelands.

Jennifer Hawkins worked extensively with University of Arkansas in livestock and forages, vegetables and other crop over the past 15 years and now works with Moloka`i farmers to transition to resource friendly farming to reducing water usage.

Over 7800 acres were set aside in the 1920's to focus on agriculture on Moloka`i. Less than 5 % of these lands are being utilized for agriculture and 66% of the water source is dedicated to the agriculture lots; water is being under utilized due to cost and lack of leaders in the homesteads, said Ms. Hawkins. The community is committed to agriculture on the island where approximately 85% of the island's food supply comes from off island. Ms. Hawkins is hoping to change that through educational workshops. The workshops provide four objectives:

1) education and leadership in agriculture production; 2) training for agricultural knowledge in management; 3) programs from crop management to native plant production; 4) programs to increase value of homestead farming enterprise. Ms. Hawkins has endeared herself to the homestead communities and has designed workshops to assist agricultural farmers to take charge and organize themselves by being productive and better planners on their aina. Homesteaders are engaged and workshop classes are full to capacity. Ms. Hawkins submitted brochures to be made a part of these minutes as Exhibits "A" & "B".

Lamb and venison are the newest commodities being added for inspection besides beef and pork. A beekeeping class was initiated which yielded 11 graduates, thus far. Composting and small farm classes address the needs of homestead farmers where its popularity continues to grow. A variety of taro has been introduced and interest continually expands with the recent introduction of a new technician who assists in the educational portion of this project.

The biggest challenge homesteaders face are the gas, equipment and fertilizer requirements. The average fill of 2.3 tons of lime @ \$77 per ton for a 35 acre lot, costs roughly \$6,000 to invest before farming. By investing in this position, one is investing in the future of agriculture, food security and healthy living. The target is to create twenty (20) new commercial farmers to double the amount of homesteaders on the farms. Mentoring has become a big plus for this program and maintaining its usage will bring continued growth, added Ms. Hawkins.

Funding has been reduced for this program but CTAHR agents continually look for other resources by continuing to partner to increase the number of producers on the homesteads.

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

- 1) Re: Item F-3 - Issuance of License Agreement to HCDC, Kekaha, Island of Kaua`i
Testifier: Phoebe Eng of Kaua`i

Ms. Eng read a letter from Gilroy Yorkman, a Kekaha beneficiary, who wants assurance that permits have been issued to satisfy the permitting conditions to build a community facility on this parcel known as Lot No. 51, Kekaha, Kaua`i. In his letter, Mr. Yorkman claims this project is being federally funded by HUD and requests the department not circumvent the necessary permitting requirements.

- 2) Re: Item D-2 – Approval of Various Lease Awards, Testifier: George Matthews

George Matthews is preparing to become a lessee and is researching various lending institutions for a competitive mortgage rate. He finds DHHL's interest rate of 6% far exceeds the current rate of 4%. He is requesting DHHL mortgage rates be lowered to compete with other commercial lending firms.

- 3) Re: Items C-3: HHC Ad Hoc Administrative Rules Committee Report, C-4: Policy Development for Amendments to HAR Title 10-Treatment of Previous Lessees and C-5: Policy Development for Amendments to HAR Title 10 – Sale of Homestead Leases – Testifier: Blossom Feiteira, Association of Hawaiians for Homestead Lands

Ms. Feiteira is opposed to limiting the rights of beneficiaries on the lease lands. She feels some of the potential amendments to the rules display a lack of insight to what's happening to beneficiary on the waitlist. She believes waitlisted beneficiaries have just as much vested time as homestead lessees.

- 4) Re: Item F-3 (repeat) Testifier: Robin Danner, Pres., Hawaiian Community Development Corporation (HCDC)

Ms. Danner asserted HCDC has been involved with the Kekaha community center project over the past five years and are in the final stages of a \$400,000 grant. She affirms building permits are in order and she is awaiting approval for a license.

- 5) Re: Item C-4 & C-5 (repeat) Testified: Robert Danner, HCDC

Ms. Danner recommends Item C-4 policy amendment should not be passed due to the treatment of previous lessees on homestead leases. She cautioned the commission on rule changes that restrict the ability of self-help beneficiaries to receive market value on the sale of their home. She suggests this commission reassess this amendment.

Re: Item C-8 - Resolution No. 260 - Non-Homesteading Leasing of Trust Lands

Ms. Danner expressed how this is a pro progressive movement forward with beneficiary working shoulder to shoulder with DHHL.

Re: Item C-9 – Bank of America’s Commitment to Native Hawaiians

Robin Danner supports Bank of America’s commitment to native Hawaiians.

Re: Item F-2 – Approval of MOU, Right of Entry and Subsequent Issuance of License Agreement to Auwahi Wind Energy LLC, Kahikinui, Island of Maui, Testifier: Robin Danner

Ms. Danner congratulated Maui homesteaders for negotiating a one million dollar road to be constructed by a wind farm company in Kahikinui, Maui. She asked Chairman Nahale-a and Commissioner Artates mandate signs to be posted on the 800 acre site. She suggested the homestead community negotiate with the wind farm company to pay 1% of gross energy to their homestead association, and if not, to the Trust. She offered to present comparables for the chairman to review on monies these wind farms generate.

6) Re: Items C-4 and C-5 – Testifier – Lorraine Rapozo, President, AHHA

Ms. Rapozo suggested those beneficiaries who sell their leases submit resolutions before the commission. She believes anyone who qualifies to purchase a lease should be given an opportunity to do so whether an applicant (preferable) or not.

7) Re: Items C-4 & C-5 - Testifier – Kammy Purdy, President, Ahupua`a O Moloka`i

Kammy Purdy believes the best kind of consultation is meeting "face to face" as opposed to emails. She prefers sending out consultation notices, schedule workshops where lessees can engage in conversation and then make collective decisions.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate to convene with Item C-9. Motion carried unanimously.

ITEM NO: C-9

SUBJECT: Bank of America's (BOA) Commitment to Native Hawaiians

RECOMMENDATION

DHHL is recommending Hawaiian Homes Commission authorize Chairman to sign a letter of support for Hawai'i Fair Lending Coalition (HFLC) to engage with Bank of America (BOA) to raise a long standing issue of BOA's commitment to native Hawaiian communities based on the historical timeline that was provided to DHHL.

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate.

DISCUSSION

In working with homesteaders on the waitlist, Hawai`i Fair Lending Coalition (HFLC) took this initiative many years ago when BOA was leaving the State of Hawai`i (SOH) while merging to purchase another bank. Part of the purchase agreement involving HFLC did have assurances from BOA it would continue its \$150 million lending commitment. HFLC is saying the department, who was not a member or party to the suit, freed BOA from its commitment through a letter from then Deputy at the time that the debt of \$150 million was fulfilled. They received approximately \$3 to \$4 on every dollar to clear the debt which allowed the merger to then take place, articulated Deputy. Ka`uhane.

Attorney General's office has filed suit against BOA to which Hawai`i will be a recipient of those funds. HFLC will also work with BOA in determining how BOA freed itself from fulfilling that commitment. Chairman Nahale-a expressed "mahalo" for working in partnership with HFLC to service those beneficiaries.

More facts and information will be needed to establish how we move forward, expressed Deputy Attorney General Bush. One of the reasons in allowing the Chairman to submit a letter is due to a timeline on the federal level. The department has no control of the timelines. There is no doubt further research will be needed once the report comes back to this commission for action.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commission I. Lee Loy, seconded by Commissioner K. Hopkins to convene with Item No. F-2. Motion carried unanimously.

ITEM NO: F-2

SUBJECT: Approval of Memorandum of Understanding (MOU), Right of Entry and Subsequent Issuance of License Agreement to Auwahi Wind Energy, LLC, Kahikinui, Island of Maui

RECOMMENDATION

Land Management Administrator Linda Chinn read a three-part motion of the Memorandum of Understanding (MOU):

- a) Approval of MOU between DHHL, Ka `Ohana o Kahikinui and Auwahi Wind Energy, LLC (Auwahi Wind) for the purpose of planning, constructing and managing certain projects within Kahikinui;
- b) Issue a 12-month construction Right-of-Entry (ROE) permit to Auwahi Wind for the planning and construction of road improvements to portions of an existing main road within the Kahikinui homestead area;
- c) Issuance of non-exclusive, non-benefit license to Auwahi Wind to implement, manage and monitor a petrel colony, also known as "U`au" on Hawaiian home lands, in Kahikinui forest reserve area as mandated by U.S. Fish and Wildlife Service.

Approval of these requests subject to conditions listed on page 2 & 3 of the submittal.

MOTION

Moved by Commissioner P. Artates, seconded by Commissioner L. DaMate.

DISCUSSION

Auwahi Wind is completing a 21 megawatt project on Ulupalakua Ranch abutting Hawaiian home lands in Kahikinui which requires them to mitigate efforts in preserving the petrel birds (U`au) in the area over the next 25 years. Auwahi Wind has been in conversation with Kahikinui homesteaders for the past year in offering benefits to the community as this wind project will impact the Hawaiian home lands. An MOU was established to build a road for the community which will include 6100 lineal feet of road as determined by the community which needs to be completed by December, 2012.

Commission I. Aiu deems the idea of the 1% payback as money making opportunities. However, he would defer to the community's decision in this matter. Kahikinui's Aimoku Pali expressed that the conditions of the MOU are satisfactory to his community. They will look perhaps to future opportunities that may arise from this agreement.

Lei Pulmano, Program Manager of Munekiyo and Hiraga and representative for Sempra and Auwahi Wind responded that the homesteader's primary goal was have provisions for a road. Mitch Dmohowski, Project Developer of Sempra, claims that the 1% compensation to Kahikinui homestead is not economical for their company as this is only a 20 megawatt wind project which he estimates to yield around 10% revenue. He suggests a longer term opportunity may develop should there be an opportunity for Auwahi Wind to build a 200 - 300 megawatt wind project makai of Pi'ilani Hwy which could potentially yield a revenue stream of 4%.

Ms. Chinn conveyed this project is not on Hawaiian home lands and this road is very important to the Kahikinui community. Aimoku Pali concurs this road is a lifeline to its community. Homesteaders can travel daily to and from work. He claims once the road is built, people who have land there will relocate there. Commissioner K. Hopkins requested an expenditure sheet on

the cost of the road and what the monies are being utilized for. He further recommended Item #18 (to extend terms of this ROE permit) and Item #21 (terms and conditions) be authorized from its Hawaiian Homes Commission rather than the chairman.

Commissioner P. Artates met with Sempra prior to the Kahikinui project to encourage more projects on Maui and to solicit work for native Hawaiians who are in the industry. In their discussions regarding Kahikinui there were choices on whether to address water, road or power for its residents. The road was favored due to hazardous driving conditions. He would welcome the idea of a 1% payback if it were not for the fact this project is on Ulupalakua Ranch lands. He supports Aimoku Pali's agreement with Auwahi Wind, and believes there may be future advantages for the department.

Blossom Feiteira claims she helped facilitate a master plan for Kahikinui in 1992. During that time, DHHL committed to building a road for Kahikinui residents which never materialized. She encourages this commission to set aside the need to derive revenue from this project and to allow Kahikinui homesteaders have their "say". Commissioner Lee Loy inquired about the condition of the road. Dan Hyatt, Project Engineer of Sempra meets weekly with Kahikinui leadership on design and plans. They address swales and construction of the road as well as selection of the contractor. Road standards are based on a licensed engineer. Kahikinui residents have agreed to maintain the road. Sempra is allocating \$1,000,000 for this project and has committed to construct 6,100 lineal feet of road. The plan is to complete the project for the length as agreed upon even if costs may run higher. Sempra will absorb costs on engineering and permitting. If funds remain, additional roadway will be built.

AMENDED MOTION/ACTION

Commissioner K. Hopkins recommended in Item #18 that "Chairman" be changed to Hawaiian Homes Commission, seconded by Commissioner I. Lee Loy. Motion carried unanimously.

DISCUSSION

Robin Danner strongly recommends Sempra provide the road, place signage on the entire property, have a Kahikinui advisory committee on the "petrels," meet once a year with Kahikinui.`Ohana.

Deputy M. Ka`uhane recognizes the importance this road represents to Kahikinui `Ohana. Her one concern is once the road is built, the State and Sempra could easily walk away leaving the workload for Kahikinui `Ohana to maintain. She wants assurances for a continued commitment to maintain the road. LMD Administrator L. Chinn pointed out there appears to be funds set aside for road repairs. The Commission agrees the maintenance of the road should not rest solely on Kahikinui residents. Long time Moloka`i resident Beverly Pau`ole shared similar experiences on Moloka`i. She recommends deferral to reassess and establish partnerships to defray maintenance costs. Commissioner Aiu will refrain from challenging the wishes of the community but feels it necessary to protect the Trust. He encourages other communities to

consider long-term liability protection on their subsequent projects. Commission R. Tassill conveyed we set a precedent to help Hawaiians benefit and learn how to share the profits.

Aimoku Pali expressed his Mahalo to “Tito” and DHHL Land Agent Todd Gray for their tremendous input on this project and to many others who contributed in part to this project. Many changes were endured to get to this point, and he welcomes the commission’s blessing on this project.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina to convene with Item No. F-3. Motion carried unanimously.

ITEM NO: F-3

SUBJECT: Issuance of License Agreement to Hawai`i Community Development Corporation, Kekaha, Island of Kaua`i

RECOMMENDATION

To grant final approval for a license to Homestead Community Development Corporation (HCDC) to use approximately 2.6 acres of Hawaiian home lands parcel at Kekaha, Kaua`i to develop the Kekaha Community Enterprise Center, subject to the conditions listed on pages 1 and 2 with a term of 30 years.

MOTION

Moved by Commissioner M. Kahikina, seconded by Commissioner I. Aiu.

DISCUSSION

A preliminary approval was granted to HCDC at the April 19, 2011 commission meeting subject to certain conditions HCDC needed to comply with. An archaeological assessment and an environmental assessment were completed with the community's support in addition to water, sewer and Department of Health permits.

AMENDED MOTION/ACTION

Commissioner K. Hopkins proposed an amendment to Item #10 to strike the word "Chairman" and replace it with Hawaiian Homes Commission, seconded by Commissioner I. Aiu. Motion carried unanimously.

ACTION ON ORIGINAL MOTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to convene with "D" Items on the agenda. Motion carried unanimously.

ITEM NO: D-1

SUBJECT: HSD Status Reports

MOTION/ACTION

None, for information only.

ITEM NO: D-2

SUBJECT: Approval of Various Lease Awards

RECOMMENDATION

Homestead Administrator Dean Oshiro is requesting removal of Kani`ohale Pre-Owned Homes award for Lynne Suber due to a misunderstanding in determining who the lessee would be.

AMENDED MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to amend as requested. Motion carried unanimously.

ITEM NO: D-3

SUBJECT: Deferred Sales Price Loans Program

TWO- PART RECOMMENDATION

- 1) Authorize establishment of the Deferred Sales Price loan program utilizing NAHASDA funds;
- 2) Authorize DHHL to capitalize the loan fund using NAHASDA funds

MOTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins.

DISCUSSION

The portion of a loan that a family can qualify up front allows the department to defer a portion of the sales price until the end of the term. Commissioner K. Hopkins asked what happens if someone cannot qualify, and if there's an opportunity to offer 100% financing. Because it is NAHASDA dollars there may be an option for it to be forgiven; however, it would be at the discretion of the commission to determine this, voiced Deputy Ka`uhane. In addition, capital would need to be raised to provide the 100% financing. The department always encourages outside lending sources to leverage the department's trust dollars. Trust dollars are then committed for 30 years, she added. The department's FHA portfolio is over \$300,000,000 dollars and far from providing the kind of lending capital it needs in granting all loans. The department reserves the right to grant loans to lessees unable to qualify for outside loans.

ACTION

Motion carried unanimously.

ITEM NO: D-4

**SUBJECT: Rescission of Homestead Lease Award and Reinstatement of Application –
East Kapolei I, Undivided Interest**

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-5

**SUBJECT: Rescission of Homestead Lease Award and Reinstatement of Application –
East Kapolei II B & C, Undivided Interest**

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner I. Lee Loy. Motion carried unanimously.

ITEM NO: D-6

SUBJECT: Ratification of Loan Approval

AMENDED RECOMMENDATION

To ratify approval of loans previously approved by Chairman with the exception of Lynn Suber's loan which was based on a request by Homestead Administrator Dean Oshiro.

MOTION

Moved by Commissioner K. Hopkins to approve the original recommendation, seconded by Commissioner M. Kahikina.

AMENDED MOTION/ACTION

Moved by Commissioner P. Artates to approve the amended recommendation, seconded by Commissioner I. Aiu. Motion carried unanimously.

ACTION

Motion carried unanimously.

COMMENT

George Matthews reiterated his earlier comment that Hawaiian Home Lands offer affordable housing for single habitation. He suggested condos and lofts be considered as one the options.

ITEM NO: D-7

SUBJECT: Approval of Consent to Mortgage

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner H. Tancayo. Motion carried unanimously.

ITEM NO: D-8

SUBJECT: Schedule of Loan Delinquency Contested Case Hearings

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

ITEM NO: D-9

SUBJECT: Homestead Application Transfers / Cancellations

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates. Motion carried unanimously.

ITEM NO: D-10

SUBJECT: Reinstatement of Deferred Applications

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

ITEM NO: D-11

SUBJECT: Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

ITEM NO: D-12

SUBJECT: Approval of Assignment of Leasehold Interest

MOTION

Moved by Commissioner I. Lee Loy, seconded by Commissioner P. Artates.

DISCUSSION

Homestead Administrator Dean Oshiro informed Hawaiian Homes Commission that Rose K. Kahalewai wishes to transfer her lease to her sister, a former lessee, who has a previous outstanding obligation to the Trust. After consulting with the Attorney General's office, there is nothing that prohibits this transfer from happening. Consequently, the department is requesting conditions be imposed on this loan to have the transferee, Ms. Valerie Best, make this Trust whole by clearing her debt.

AMENDED MOTION

Moved by Commissioner M. Kahikina, seconded by Commissioner I. Aiu.

MOTION/ACTION

Moved by Commissioner K. Hopkins to adjourn to Executive Session to discuss this matter with its attorney, seconded by Commissioner I. Aiu. Motion carried unanimously.

RECESS: 1:45 P.M.

RECONVENE: 1:55 P.M.

MOTION/ACTION

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

2ND AMENDED MOTION/ACTION

Moved by Commissioner K. Hopkins to remove Rose Kahalewai's transfer to Valerie C.K. Best, (Item No. 6, Page 3), until staff has an opportunity to consult with the Attorney General's office, seconded by Commissioner M. Kahikina. Motion carried unanimously.

DISCUSSION

Acting Homestead Administrator Dean Oshiro is requesting to remove Item #31, page 11 - Denise H. Ventura. This is the first encounter where a judge has authorized a Trustee in Bankruptcy to transfer a lease in Bankruptcy Court.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commission I. Aiu to adjourn to Executive Session to discuss the matter with its attorney. Motion carried unanimously.

RECESS: 2:00 P.M.

RECONVENE: 2:15 P.M.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to reconvene in regular session. Motion carried unanimously.

DISCUSSION

Chairman Nahale-a recommends amendment to defer Items #30 & #31.

3RD AMENDED MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to defer Items #30 and #31. Motion carried unanimously.

ACTION ON ORIGINAL MOTION

Motion carried unanimously.

ITEM NO: D-13

SUBJECT: Approval of Amendment of Leasehold Interest

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner I. Aiu. Motion carried unanimously.

ITEM NO: D-14

SUBJECT: Request to Schedule Contested Case Hearing

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-15

SUBJECT: Designation of Successor – Patricia K. Roxberg

MOTION/ACTION

Moved by Commissioner H. Tancayo, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-16

SUBJECT: Designation of Successor – Dolores M. Oishi

MOTION/ACTION

Moved by Commissioner R. Tassill, seconded by Commissioner K. Hopkins. Motion carried unanimously.

ITEM NO: C-1

SUBJECT: Nanakuli Housing Corporation – Holomua I Na`au`ao Self-Help Home Repair NAHASDA 2011 Grant Cycle

MOTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins.

DISCUSSION

Nanakuli Housing Corporation (NHC) had an existing open grant for a similar project with other families. Deputy Ka`uhane is requesting to not initiate a next grant cycle until the department evaluates the success of the first program and to not duplicate funding for the same project or entity, simultaneously. Commissioner M. Kahikina declared NHC's intent was to assist the Nanakuli homesteading community and would welcome an update of its progress. Deputy Ka`uhane will initiate an invite to Nanakuli Housing to present details of its prior funding.

ITEM NO: C-2

SUBJECT: Strategic Plan Update

MOTION/ACTION

None. For Information Only.

DISCUSSION

A handout of the department's Strategic Plan Status was presented by Deputy Ka`uhane to be made a part of these minutes. Under "Provide Excellent Service", page 1, Deputy Ka`uhane elaborated on the importance of improving beneficiary communication. She addressed three

items that were deliverables: 1) Lot selection for Kanehili 7 on April 21, 2012; 2) Letters to Waitlist applicants for the Kauhale Project; 3) Groundbreaking at Kakaina subdivision, Waimanalo. Deputy Ka`uhane mentioned the upcoming Kamehameha School's (KS) "Ka Pua" joint project with Department of Hawaiian Home Lands which is to develop a learning center and homestead expansion in Waianae.

ITEM NO: C-3

SUBJECT: HHC Ad Hoc Administrative Rules Committee Report

MOTION/ACTION

None. For Information Only.

ITEM NO: C-4

SUBJECT: Policy Development for Amendments to HAR Title 10 – Treatment of Previous Lessees

RECOMMENDATION

Policy and Program Analyst Dre Kalili introduced policy recommendations from the Commission's Ad Hoc committee on Administrative Rules:

- 1) to establish a priority system for applicants who have been previous lessees - to clarify and improve implementation of HAR 10-3-23;
- 2) to clarify that an applicant who succeeded to a deceased family member's application not be treated as a previous lessee

MOTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins.

DISCUSSION

Commissioner Aiu affirmed beneficiaries have shared their mana`o via the DHHL website, its official portal of communication. He articulated this process is not to supplant any beneficiary consultation. The full rules package will be processed through a beneficiary consultation and a public hearing. Chairman Nahale-a concurs this as a viable method routing information to beneficiaries and congratulated Commissioner Aiu and the Ad Hoc Rules Committee for embracing the tedious work involved. He noted there still appears to be criticism on its process.

With regard to policy recommendation, it was previously noted that anyone succeeding to a lease be treated as a previous lessee and that any deviation would be approved by this body. It has since been amended: A person succeeding to a deceased lessee's application should not be

treated as a previous lessee because it was important to honor that applicant's wish, articulated Commissioner Aiu.

Commissioner Tassill commented the committee is transparent which creates more visibility. He welcomes interaction of the beneficiary whether "for" or "against." Commissioner DaMate asked whether those who lacked computers could provide information via non-committee commissioners. Chair Nahale-a cautioned non-committee members about having interaction with Ad Hoc committee members.

One of the most frustrating challenges is when the rule doesn't implement the Act, noted Deputy Ka`uhane. If a rule is going to change what the Act says, then "we need to address it in Congress such as the qualification of an eligible beneficiary". Commissioner Kahikina urges the Ad Hoc committees to keep up the synergism by involving themselves in avid discussions. He claims the goals are to promulgate policies and procedures which enhance the Homestead Act - to rehabilitate native Hawaiians and native Hawaiian organizations. The portal is a process of gathering information, formalizing recommendations and then consulting as a community, to make changes to rules as needed, signified Commissioner Lee Loy.

Chairman Nahale-a prefers "chunking" these policies together, putting them aside, then proceeding with the next set of policy changes. The staff can then draft language, return it for vetting before the commission before further beneficiary consultation, then further review and final approval. The recommendations by the Ad Hoc committee should be "agreed" or "not agreed" by this Commission, not rehashed, emphasized Chairman Nahale-a.

Taking a position means we are establishing a priority system for applicants who have been previous lessees, articulated Deputy Ka`uhane. If there is support for this position, then the team will be given the consent to draft rules with language that supports this. Commissioner Aiu noted these rule changes will afford access to those applicants who are down the line.

The intent of HAR 10-3-23 is to provide clarity and facilitate the implementation of the rule, added Dre Kalili. An analysis presented to the Ad Hoc committee for reconsideration was based on the implementation and ability of staff to follow the rules consistently and not the intent of the rule making revised in 1998.

Homestead leader Kammy Purdy suggested getting the mana`o of the homesteaders before drafting changes to the rules. Commissioner Hopkins stated beneficiary consultation was already provided.

Commissioner Lee Loy says a good faith effort has been put forth and is willing to embrace these rules and move forth for the next batch of rules. Commissioner DaMate expressed her na`au and is not comfortable what is being presented. She would prefer to get the mana`o of the beneficiaries in her area. Chairman Nahale-a perceives divisiveness and recommends deferral.

MOTION TO DEFER

Moved by Commissioner L. DaMate, seconded by Commissioner K. Hopkins to defer this item.

DISCUSSION

Commissioner Aiu is seeking direction from this commission on what he should apply his efforts on next. One of the recommendations is to have commissioners provide amendments to these policies. CNHA submitted material to be made a part of these minutes as Exhibit "A".

ACTION

"AYE" votes = 5, NO votes = 4

Aye: DaMate, Hopkins, Kahikina, Nahale-a, Tancayo

No: Aiu, Artates, Lee Loy & Tassill

Motion deferred.

ITEM NO: C-5

SUBJECT: Policy Development for Amendments to HAR Title 10-Transfer of Homestead Leases for Compensation

RECOMMENDATION

Set policy on a recommendation by Hawaiian Homes Commission Ad Hoc Committee on Administrative Rules to:

- 1) Establish a price limit a homestead lease may be transferred for compensation;
- 2) Prohibit transfer for compensation of undivided interest leases and vacant lot leases;
- 3) Establish restrictions on transfer for compensation of homes built under the self-help program

MOTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins.

AMENDED MOTION

Commissioner I Aiu rescinded his motion to instead defer this matter based on the results of the previous item discussed, seconded by Commissioner K. Hopkins.

ACTION

Motion deferred.

ITEM NO. C-6

SUBJECT: Resolution No. 262 in Support of a Partnership with the University of Hawai`i School of Architecture

MOTION

Moved by Commissioner I. Aiu, seconded by Commissioner M. Kahikina.

RECOMMENDATION

DHHL has been in partnership with Hawaii Community College in Hilo where students build one home a year. University of Hawai`i has spent much time and energy focusing on this project in-house and prefers a more formidable agreement. This resolution is to acknowledge the commitment by this Commission to honor this partnership.

ACTION

Motion carried unanimously.

ITEM NO: C-7

SUBJECT: Resolution No. 263 in Support of a Partnership with the University of Hawai`i College of Engineering

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates. Motion carried unanimously.

ITEM NO: C-8

SUBJECT: Non Homesteading Leasing of Trust Lands

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina.

DISCUSSION

A revised Resolution 260 was submitted upon recommendation by the Attorney General's office, Items No. 9 and 11 have been reworded to address these changes. Commissioner DaMate noted those changes made and would request further discussion. Deputy Attorney General K. Bush suggested commission convene in Executive Session to discuss this matter.

MOTION/ACTION

Moved by Commissioner L. DaMate, seconded by Commissioner K. Hopkins, to adjourn in Executive Session to discuss with the matter with its attorney. Motion carried unanimously

RECESS: 3:25 P.M.

RECONVENE: 3:30 P.M.

MOTION/ACTION

Moved by Commissioner L. DaMate to reconvene in regular meeting, seconded by Commissioner K. Hopkins. Motion carried unanimously.

ITEM NO: C-8 (cont)

SUBJECT: Non Homesteading Leasing of Trust Lands

AMENDED MOTION

Moved by Commission K. Hopkins to change in Item #5, page 2: "and such other information determined by the **Commission**", seconded by Commissioner L. Lee Loy.

DISCUSSION

Commissioner Lee Loy feels the resolution lacks teeth and may lack consequences should there be no compliance. Chairman Nahale-a is hopeful staff and community will make it work and the commission modifies an adequate working policy. If not, then an amendment can be added to the project if necessary.

AMENDED MOTION/ACTION

Moved by Commissioner K. Hopkins to add a sentence after Item #13 -"**Now, therefore, be it here resolved, the Hawaiian Homes Commission directs DHHL to implement the following as of May 1, 2012,**" seconded by Commissioner L. DaMate. Motion carried unanimously.

ACTION

Motion carried unanimously.

COMMENT

Chairman Nahale-a expressed Mahalo to staff and CNHA's Robin Danner and everyone who Had a hand in formulating this resolution. Land Management Administrator Linda Chinn is Willing to implement Resolution 260 and should there be roadblocks ahead, would request it be Brought again before the commission for amendments.

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner P. Artates to reconvene with Item No. F-4. Motion carried unanimously.

ITEM NO: F-4

SUBJECT: Authorization to General Lease, 820 Isenberg Street, Honolulu, Hawai`i

RECOMMENDATION

Land Management Administrator Linda Chinn presented a four-part recommendation on the Bowl-A-Dome property on Isenberg Street:

- 1) To advertise and conduct a land disposition for two parcels of land in Isenberg;
- 2) To set terms and conditions to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, HRS as amended;
- 3) To expend budgeted funds for the purpose of conducting an appraisal and environmental assessment, if necessary;
- 4) To retain counsel, if necessary, for the purpose of lease negotiations to establish the final terms and conditions of the general lease agreement

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina.

DISCUSSION

Chairman Nahale-a stated that the Bowl-O-Dome site is one of the most promising sites for vertical development. Cost of developing the site, capacity and non-use issues are some of the major concerns. Vandalism and homelessness complaints have also created some apprehension. Securing a revenue stream will likely keep the parcel from being run down, noted Ms. Chinn.

AMENDED MOTION/ACTION

Motion by Commissioner K. Hopkins to change Item No. 2. “to set all appropriate terms and conditions to be approved by the **Hawaiian Homes Commission** in accordance with requirements..., seconded by Commissioner I. Aiu. Motion carried unanimously.

COMMENTS

Commissioner M. Kahikina noted Nanakuli Housing CEO Kali Watson and OHA Chairman Colette Machado have expressed an interest in this property as well as others. Linda Chinn noted there is a process which needs to be implemented to prepare this parcel for general leasing. One of the requirements is an appraisal and subsequently issuing an RFP. This parcel could be for housing, commercial or BMX (business mixed use). Several administrations have attempted to move this parcel added Chairman Nahale-a.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commission M. Kahikina to convene with “J” Agenda items.

J - GENERAL AGENDA

ITEM NO: J-2

SUBJECT: Request to Address the Commission – Lawrence Lasua

MOTION/ACTION

None, for information only.

DISCUSSION

Lawrence Lasua submitted material to be made a part of these minutes as Exhibit “A” regarding the completion of a subdivision on his lot on Moloka`i. Mr. Lasua is seeking DHHL’s assistance to authorize a surveyor permission to proceed. He has some concerns with the issues on the agricultural moratorium. He needs direction from DHHL to help move his project forward.

ITEM NO: J-2

SUBJECT: Request to Address the Commission – Tracy Hao and Cora Schnackenberg

Tracy Hao appeared before the commission to address the selling of a 30 acre parcel to Cora Schnackenberg two years ago. Ms. Hao claims she received 2, 30-acre parcels from her father,

Louis Hao. Ms. Hao claims to have submitted paperwork on various occasions to obtain a transfer request, however, in December, 2011 the department notified her she was unable to subdivide the parcels. Ms. Schnackenberg purchased a 30 acre pastoral parcel from Ms. Hao and is utilizing it for agriculture use. She lives on the property and has ample electrical and potable water services for her home and the farm. Ms. Schnackenberg said she participates as a student in the CTAHR extension program. She claims DHHL staff ensured her things would be fine which led her to make a financial commitment to the parcel. Ms. Schnackenberg is seeking resolution to this matter and request a response in 30 days to rectify the matter.

DISCUSSION

Due to time restraints and the information provided in Items F-1, F-5 and G-1 are “for information purposes”, a decision was made to dispense with discussion these remaining items to include Executive Session.

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner K. Hopkins to adjourn the meeting to allow time for a site visit to the water systems. Motion carried unanimously.

ADJOURNMENT: 4:00 P.M.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING May 14, 2012, Lihue, Kaua`i, Hawai`i

ANNOUNCEMENTS Next community meeting will be held at Chiefess Kamakahelei Middle School, 4431 Nuhou St., Lihue, Kaua`i at 6:00 p.m.
School

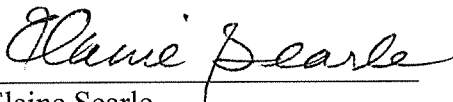
ADJOURNMENT 4:00 p.m.

Respectfully submitted:



 Albert P. Nahale-a, Chairman
Hawaiian Homes Commission


Prepared by:



Elaine Searle
Secretary to the Commission

APPROVED BY:
The Hawaiian Homes Commission
At Its Regular Monthly Meeting of
June 18, 2012



 Jobie M.K. Masagatani, Chair Designate