

**HAWAIIAN HOMES COMMISSION**  
**Minutes of October 16 & 17, 2017**  
**Meetings held at East Hawai'i District Office, Keaukaha, Hilo, Hawaii**

Pursuant to proper call, the 692<sup>nd</sup> Regular Meeting of the Hawaiian Homes Commission was held at the East Hawai'i District Office, Keaukaha, Hilo, Hawaii, beginning at 9:31 a.m.

**PRESENT**      Jobie M. K. Masagatani, Chairman  
Randy K. Awo, Commissioner, Maui  
Kathleen P. Chin, Commissioner Kaua'i  
Wallace A. Ishibashi, Commissioner, East Hawaii  
David B. Ka'apu, Commissioner, West Hawaii  
Michael P. Kahikina, Commissioner, Oahu (left at 3:30 pm)  
William Richardson, Commissioner, O'ahu (left at 5:30 pm)  
Wren Wescoatt, Commissioner, O'ahu (left at 5:30 pm)

**EXCUSED**      Molokai Seat, Vacant

**COUNSEL**      Craig Iha, Deputy Attorney General

**STAFF**          William Aila Jr., Deputy to the Chairman, Office of the Chair  
Paula Aila, Hale Manager  
Rodney Lau, Administrative Services Officer  
Kahana Albinio, Acting Administrator, Land Management Division  
Kaleo Manuel, Acting Manager, Planning Office  
Francis Apoliona, Compliance Officer  
David Hoke, Enforcement Officer  
Akoni Shannon, Enforcement Office  
Dean Oshiro, Acting Administrator, Homestead Services Division  
Stewart Matsunaga, Community Development Manager, Land Development  
Leah Burrows-Nuuanu Secretary to the Commission  
Mona Kapaku, Maui District Office Manager  
Shelly Carreira, Land Manager  
Nina Fisher, Acting East Hawai'i District Manager  
Halealoha Ayau, Water Resource Specialist  
Bryan Cheplic, ICRO  
Joann Aiwohi, Homestead Housing Specialist IV  
Susie Richey, Secretary to Deputy Director  
Debra Aliviado, Customer Service Manager  
James Dupont, West Hawaii District Office  
Andrew Choy, Planner  
Kuali'i Camara, Property Development Agent

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 9:31 a.m.

Eight (8) members were present at roll call. Molokai Commission seat is vacant.

## **APPROVAL OF AGENDA**

Chair Masagatani noted Items D-8, D-14 and D-16 will be moved to the front of the agenda. Approval of Minutes was deferred to Tuesday's Agenda.

## **MOTION/ACTION**

Moved by Commissioner Chin, seconded by Commissioner Kahikina, to approve the agenda. Motion carried unanimously.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **ITEM A-1 Richard Kaniho – F-1 Annual Renewal of ROEs**

R. Kaniho expressed his frustration about the lack of communication between DHHL and its beneficiaries. He applied for additional acreage two years ago and has emailed and called the department many times since. He has not received a single response from the department. He resubmitted the application this year and called many times to ask for a status update. He is before the Commission again to ask for a term lease of additional acreage. He has been homesteading his Humu'ula lease since 1999 and successfully completed two USDA Natural Resources Conservation Service programs, the Wildlife Habitat Incentive Program (WHIP) and Erosion Quality Incentive Program (EQIP).

R. Kaniho stated Pu'uhuluhulu Ranch and Farm has a current cow count of 130 head. The current acreage he has now is not sufficient to be a viable operation. Their lease on fee simple land in North Kohala has ended making his request even more urgent.

He asked that the department communicate with him regarding his request and asked for a seat on the 'Āina Mauna Advisory Council. He believed himself to be a model homesteader, rancher and good Hawaiian who carries out the mission Prince Kūhiō intended. He requested a timely decision be made for an additional term lease of the approximate 946 acres adjacent to his current lease at Humu'ula.

Commissioner Ishibashi expressed frustration over the time it has taken to get the ROE Program going. He doesn't understand why it has taken the department 2-years to put a process together.

Chair Masagatani clarified that R. Kaniho is looking for a term lease to access federal funds.

Commissioner Wescoatt stated he is embarrassed that it has taken so long to get basic communication from the department. The department should adopt an internal policy that it provides a written response within 90-days to all beneficiary inquiries. As far as the draft ROE Program he asked for a draft for Commission review by December 2017.

Commissioner Kahikina added that he has been asking for policies and procedures since he became a Commissioner.

R. Kaniho stated when he mentioned a lack of communication, he meant with regard to everything. There are only three people on the mountain and yet they are the last to know about controlled burns, aerial spraying, and the 'Āina Mauna Advisory Council. They just want to help and be involved in the department's mission.

Chair Masagatani asked DHHL Land Agent Kuali'i Camara and Acting LMD Administrator Kahana Albinio to follow-up with R. Kaniho on communication and his request.

**ITEM A-2     Dean Kaniho – Kamaoa Pueo/South Point Management.**

D. Kaniho stated he came before the Commission a year ago with concerns about the lack of management by the department at Kamaoa Pueo/South Point. The concerns he raised last year are the same concerns facing the area today. The negligence of the department is sad. The illegal activity continues, desecration of sacred sites continues, and the department is not doing anything about it.

It has been 2 ½ years since they were told to ho'omanawanui, and the land is suffering. There is a plan and it needs to be implemented. The Commission needs to do more to protect and manage the area. The community needs DHHL to back them up with action. He asked that someone respond to their request for signage, to let visitors know that they are entering DHHL.

**ITEM A-3     James Levi Makailo**

J. Makailo stated his concern is regarding the drug problem. Hilo ranks as one of the worst locations for meth distribution in Hawai'i. He attributed part of the blame to biker gangs like Koa Puna, Hell's Angels and Sons of the Apostles. He has complained to the police officers and other politicians, but they claim have better things to do with their time.

**ITEM A-4     Bo Kahui Re: Agenda Items D-3, D-4, D-8, C-1, H-1**

B. Kahui requested that staff double check the D Agenda lists to make sure the lessees are up-to-date on their association dues. They are in support of the contested case hearing requests as two lessees from his association are on the list. With regard to Item C-1, he asked that the report be issued to association leadership after the beneficiary consultation recommendations are incorporated so they can see what changes were made. With regard to Item H-1, they support the department's budget especially as it relates to CIP projects and reminded the department that La'i Opuia has a \$12.5 million-dollar water well project that would benefit the department's beneficiaries and Villages of La'i Opuia.

**ITEM A-5     Patrick Kahawaiolaa – President of Keaukaha Community Association**

P. Kahawaiolaa stated is not in support of the same non-beneficiary entities being allowed to renew the current right of entry permits. It hurts that a shortage of staff is the excuse for not returning calls, emails and letters to beneficiaries. He questioned why the East Hawai'i District Office is only staffed with 89-day hires. The community has been really patient with the department, but there is an unmet obligation by the department to its beneficiaries.

He thanked Kahana Albinio for sending the signage he requested. He will get the signs up with hopes that it will help people remember the rules of the community for the safety and enjoyment of all.

**ITEM A-6     Joseph Kepa Kaoluloa, Interim Chair Koa Kia'i Pilot Project**

K. Kaoluloa stated the Koa Kia'i Project has been in existence for two years and has been observing and monitoring the activity on Hawaiian home lands from Mauna Kea to Ka'u. He is concerned that pipi (cow) are being removed from the mountain illegally and by non-

beneficiaries. They believe that if anyone is allowed to take food from the land, it should be beneficiaries. The department needs to come up with a program to get pipi to beneficiaries.

Another concern is the water at the hydro-electric plant. The Beneficiary Trust Council and the Koa Kia'i Program is against renewing the lease to the hydro-electric plant project. There are too many beneficiaries on the waitlist and the water is being used to charge beneficiaries large sums of money for using beneficiary water.

He asked the Commission to work with the community to get basic necessities of water, electric, and food to beneficiaries. He asked that no new leases be issued to non-beneficiaries until all beneficiaries on the list are served.

**RECESS** 10:55

**RECONVENE** 11:09

**ITEM A-7 Lakea Trask, Beneficiary Trust Council and Koa Kia'i**

L. Trask provided background on the Beneficiary Trust Council and its effort to be involved with the 'Āina Mauna Legacy Lands. The Council has members from all six (6) districts of Hawai'i Island. They have had consultations in all the districts. Two years ago, they submitted the Koa Kia'i Program proposal to the department for consideration. They are very passionate about the issues facing the mauna and management. They are very happy to see that their chairman is listed on the 'Āina Mauna Legacy Program Plan Implementation Advisory Council Members.

He asked that one of the Natural and Cultural Resource Management seats be allotted to the Beneficiary Trust Council. He concluded with a statement that no one at the beneficiary consultation for the hydro-electric plant agreed with the 60-year term for the lease. It was mentioned in the comments but thought it should be included in the report as well.

**ITEM A-8 Emily Naeole Maku'u Farmers Association**

E. Naeole asked for assistance from the department with enforcement of rules in her community. She heard the testimony earlier about the drug problem in Hilo and added that the drug problem is in Maku'u as well. Her house is situated at the entrance to the subdivision so anyone entering and leaving the subdivision passes her house. Cars come through her neighborhood at all hours to sell or do drugs. She stated that she approaches unfamiliar cars in the neighborhood to inquire about their intentions to dissuade people from using their neighborhood as a distribution center. She has engaged the police department and the DHHL enforcement team for assistance. She is getting old and the bad guys are getting bigger.

**ITEM A-9 Terri Napeahi Keaukaha Action Network**

T. Napeahi updated the department on the environmental work underway by the Keaukaha Action Network. They have identified seven industrial facilities that have not complied with EPA standards. This meant that Keaukaha families have been exposed to different toxins for many years. They are working to identify the specific issues and how to mitigate them to make their neighborhood safe for the Hawaiian community that lives there. They have the support of the Mayor and are moving forward in dealing with the issue. As they move to propose legislation at the state legislature, they may ask for support from the department.

#### **ITEM A-10     Sue Lee Loy - Council Representative District 3**

S. Lee Loy offered information about DHHL's regional plans and how they may or may not conflict with the County of Hawai'i's General Plans. She offered to leave legal opinions from their counsel with the Deputy AG for review and consideration when working on the department's regional plans.

S. Lee Loy provided information relating to the prohibition of overnight use of County facilities. Halau are no longer allowed to sleep overnight at Kawananako Gym. In preliminary discussions with the new County Parks Director, there may be an effort to reconsider overnight use of Kawananako Gym only.

In September 2017, the Hawaii County Council authorized a resolution for a reimbursement of \$400,000 for the replacement of LED lights on Hawaiian home lands. S. Lee Loy mentioned it because the Fuel Tax Fund was recently raised to take care of upgrades like lights, beneficiaries could be paying twice for the same service.

#### **ITEM A-11     Darrel Kaluau – Native Hawaiian General Services**

D. Kaluau provided extensive background information of his role in starting the Native Hawaiian General Services. He had help from former Commissioners Herring Kalua and Henry Cho. He used his construction equipment to build the roads, install water infrastructure and water tanks to South Point. Former Land Management Administrator Linda Chinn gave him 1-year to complete the project, and he did. While working on the Native Hawaiian General Services Plan, he also submitted an Eco Tourism Plan for South Point. At the time, L. Chinn said he could only do one of them, he chose the Eco-Tourism plan and turned over the Native Hawaiian Generals Services to Jack Kaluau.

His Eco-Tourism Plan included security, transportation, and community benefits like a church or community center. They even started a community association called the Kamaoa-Pueo Association so the homesteaders could have a say in what happened at South Point. He purchased two (2) 40-ft. containers, a 60-ft. office container, and two (2) ice cream trucks to transport tourists. He still has these items but no permit for eco-tourism at South Point. A further slap in the face is that now consultants have been paid to do a plan that looks just like the plan he submitted in 2004. Even worse, people are running illegal eco-tourism businesses.

Native Hawaiian General Services has 5,000 acres which brings in \$750,000 from the farm bureau to maintain the land. He took a tour with Deputy William Aila to the lower portion of the acreage and the fence line is rotten and there are still no cattle on the land. He wondered where the money is going?

He is before the Commission asking for more land for his cattle. The cattlemen are facing drought and he has been hauling 12,000 gallons of water every week to keep them growing. Yet, the project outside of Mahana has been without cattle for ten-years now. He hoped the department will seriously consider his request to help him with his cattle and to manage the area. He also asked the department for a permit to drill a well on his homestead. He has a drilling machine in Kohala and will ask to move forward with the project next.

## **ITEMS FOR DECISION MAKING**

### **CONSENT AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

- ITEM D-2      Ratification of Loan Approvals**
- ITEM D-3      Approval of Consent to Mortgage**
- ITEM D-4      Approval to Schedule Loan Delinquency Contested Case Hearings**
- ITEM D-5      Approval of Homestead Application Transfers / Cancellations**
- ITEM D-6      Commission Designation of Successors to Application Rights – Public Notice 2016**
- ITEM D-7      Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds**
- ITEM D-8      Approval of Assignment to Leasehold Interest**
- ITEM D-9      Approval of Amendment of Leasehold Interest**
- ITEM D-10     Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees**
- ITEM D-11     Approval of Subdivision, Transfer of a Portion of Lease, Amendment of Lease No. 05057, Lot No. 207-A, Keaukaha, Hawaii – LAWRENCE K. KALOI, JR.**
- ITEM D-12     Approval of Subdivision, Transfer of a Portion of Lease, Amendment of Lease No. 01067, Lot No. 124-A, Keaukaha, Hawaii – HAUOLI FREEMAN and SHERRY ANN K. IONA**
- ITEM D-13     Commission Designation of Successor – LARRY KAMAKA, Lease No. 02590, Lot No. 215-A, Keaukaha, Hawaii**
- ITEM D-15     Request to Schedule Contested Case Hearings - Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor(s)**

#### **RECOMMENDED ACTION**

Acting Homestead Services Division Administrator presented the following:  
To approve the consent agenda as listed on the agenda.

#### **DISCUSSION**

Chair Masagatani stated Items D-14 will be moved out of the consent agenda and addressed separately. The lessee is in attendance and would like to address the Commission.

Commissioner Wescoatt asked if there is a mechanism in place to make sure that the lease transactions under this section of the agenda have been cross checked with the respective associations to make sure accounts are clear before these transactions are approved. D. Oshiro stated that it is the responsibility of the escrow company to ensure that all obligations are clear. It is already a requirement within the process to check, so folks like Mr. Kahui don't need to ask the Commission to check.

Chair Masagatani asked if there is a mechanism when there is no outside lender or escrow company involved. She asked for those transactions that involve DCCRs to include an additional notation that the association was contacted. That way everyone is assured that the check has occurred.

Commissioner Ka'apu asked to remove transactions from Item D-8: #33, #39, #40.

Chair Masagatani stated Nos. 33, 39 & 40 from Item D-8 are also removed from the consent agenda.

### MOTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina to approve the consent agenda, noting the removal of item D-14 and items 33, 39 & 40 from D-8. Motion carried unanimously.

### **REGULAR AGENDA**

#### **ITEM D-16 Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 9054, Lot A, Keoniki-Kauniho, Waimea, Hawaii – FLORA BEAMER SOLOMON**

### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

1. To approve the request of Flora Beamer Solomon to subdivide Department of Hawaiian Home Lands Pastoral Lease No. 9054, Lot A, Keoniki, Waimea, Hawaii, consisting of 125 acres, and further identified as TMK: 3-6-5-001:010 into Lots A-1, A-2 and A-3 (see attached subdivision map labeled Exhibit A), subject to the following conditions:
  - A. The Lessee is responsible for all cost incurred in the processing and obtaining of the subdivision, including but not limited to surveying fees, fees imposed by the County of Hawaii (County), fees for utilities (electric, water, etc.).
  - B. Lessee to obtain approval from the Hawaiian Homes Commission (HHC) for a “workers quarters” pursuant to Hawaii Administrative Rules (HAR) 10-3-26 (b).
  - C. An updated ranch plan for each of the three subdivided lots must be submitted within ninety (90) days pursuant to HAR 10-3-26 (f) and 10-3-24.
  - D. Transfer of lots shall only be to lessee’s daughters, Hulali Solomon Covington (Lot A-1) and Alice Leiomalama Solomon (Lot A-3). Lessee to retain Lot A-2.
  - E. Amend Lease No. 9054, to reflect the subdivision of Lot A into Lot Nos. A-1, A-2 and A-3, to incorporate the currently used terms, covenants and conditions in the lease.
  - F. Survey work to be conducted by a licensed surveyor, including but not limited to the surveying and staking of boundary corners of the lots, submitting to the County of Hawaii, preparing and submitting the legal description of the lots to the Department of Hawaiian Home Lands, applying to the County of Hawaii for subdivision approval, obtain the tax map keys for the Lots and final subdivision approval by the County of Hawaii.
  - G. Applicant must comply with Chapter 343, of the Hawaii Revised Statutes (HRS), prior to obtaining final subdivision approval by the HHC. Chapter 343 requires that an Environmental Assessment (EA) be conducted for a complex subdivision. A complex subdivision is defined as one lot being subdivided into three or more lots.
  - H. Detailed plot plans for each of the three (3) subdivided lots along with the respective “Request for Improvements” form to be submitted for review and approval by DHHL. The plot plans shall include; location of all improvements, any easements granted or to be granted for utilities. In addition, a building permit for each structure with proper identification shall be submitted.

## MOTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina to approve the motion as listed in the submittal.

Deputy Aila presented the details of the action and stated a section was added to include an exemption for an environmental assessment. Acting Planning Manager Kaleo Manuel stated the exemption can be handled administratively.

Chair Masagatani asked if the action is seeking final approval or is it a preliminary approval. Deputy Aila stated staff is seeking a final approval subject to completion of the conditions in the submittal.

Commissioner Chin asked for clarification of rules for dwellings on agriculture lots. D. Oshiro stated one residence is allowed along with work-man's quarters.

Commissioner Wescoatt asked if the department has approved subdivisions like this one in the past and whether this is something the department can repeat for other lessees. He asked if the subdivision is being done to bring the lessee into compliance with the one-dwelling rule. D. Oshiro stated since the moratorium on agricultural lot subdivisions was lifted, this is the first request to complete the process. He stated that each lot will be allowed to have a dwelling. Deputy Aila added that each subdivided lot will have its own access point.

Commissioner Wescoatt clarified that this approval is the first but not a special situation. He asked to make sure this is something that can be used across the board and available to other homesteaders. D. Oshiro confirmed there are many other requests going through the process that are at different stages. Deputy Aila added that any lessee with the appropriate acreage to do so, can subdivide.

M. Solomon testified that she is the daughter of Flora Beamer and has power of attorney over her mother's affairs. She stated her mother is 91-years old and was one of the claimants in the Aged Hawaiians lawsuit. She added that the homes on the parcel are clustered to reduce the cost of infrastructure and to maximize the area for ranching. She added that she and her sister also agreed to come off the waitlist for pastoral lands.

Commissioner Kahikina asked if there are policies and procedures available to other beneficiaries. D. Oshiro stated the Commission approved the action to allow subdivisions in 2014. The process has requirements and minimum qualifications, like the new lessee must be a member of the family and meet blood quantum requirements etc. West Hawai'i District Manager James DuPont stated one of the qualifications is that the minimum lot size must be 40 acres. This lot was one of the few lots that could be subdivided. Pu'ukapu lots would not meet the county minimum lot size to be subdivided.

Commissioner Richardson asked if each of the subdivided lots will be economically viable separately. M. Solomon responded that although the lot will be divided the ranch will operate, over all of the lots including the additional acreage provided to them via the right of entry permit.

Commissioner Ka'apu stated the Commission consistently hears that beneficiary ranchers do not have enough acres to be viable.



Commissioner Kahikina stated that he heard M. Solomon say that she and her sister would come off the waitlist as part of the action, but she also said she and her sister were only 25% Hawaiian. They are not on the waitlist, but a successor. He questioned whether this action is setting a precedence.

M. Solomon offered background information about the parcel being part of the Aged Hawaiians settlement and already being zoned Ag 40. Her mom felt the parcel was perfect for subdividing in the future. It has been 65 years since the award.

Chair Masagatani summarized that the action is to subdivide the existing homestead into three lots and transfer two of the lots to her eligible children. She confirmed with staff that the action has met all due diligence requirements and can proceed. D. Oshiro stated the action is ready for approval.

Commissioner Ka'apu had a question for counsel and asked to convene in executive session.

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo, to convene in executive session pursuant to Section 92-5 (a)(4), HRS. Motion carried unanimously.

**EXECUTIVE SESSION IN** 12:43 pm

**EXECUTIVE SESSION OUT** 1:55 pm

Chair Masagatani thanked everyone for their patience as the Commission sought advice from counsel. She stated that since this is the first action of this type, the Commission preferred to wait until all conditions are met before giving final approval. The item was deferred to a future agenda.

**ITEM D-8 Approval of Assignment to Leasehold Interest – Items #33, #39 & #40**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator presented the following:

To approve the assignment of the leasehold interest for #33, #39 and #40, pursuant to Section 208, Hawaiian Homes 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 Ka'apu stated the issue he had with #33 is no longer an issue because he understands now that it is the transfer of the undivided interest. The issue with #39 and #40 is that it is a transfer of property with no improvements and not to a relative.

D. Oshiro stated that these transfers have no monetary transactions, which are allowed under the new rules. Part of the process includes an affidavit that states there is no money being exchanged. Submitting a false affidavit constitutes fraud.

Commissioner Ka'apu was fine if the affidavits are being filed.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Richardson to approve the motion as stated. Motion carried unanimously.

**ITEM D-14 Request to Schedule Contested Case hearing – Lease Violation (Failure to allow inspection of homestead) – MARVA LEE AH LOY – Pastoral Lot Lease No. 2674-A Lot No. 9, Pu‘ukapu, Waimea, Hawai‘i**

Note: This item was deferred to the Tuesday agenda.

**WORKSHOPS (BACKGROUND INFORMATION FOR DECISION MAKING ITEMS)**

**Planning Division**

**ITEM G-3 For Information Only - Actions to Secure the Control and Use of Water for Hawaiian Homes Lands in Wai‘ōhinu, Kamā‘oa, and Pu‘u‘eo, Ka‘ū**

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Program Manager Kaleo Manuel presented a summary and overview of the item for action on the Tuesday agenda.

Commissioner Richardson asked if the water is turned into hydro-electric power, who owns the power? K. Manuel stated that under HRS Chapter 171-58, the state has the right to license water to users. There are no water licenses in this area yet. The County nor any of the current users have a license. The goal for DHHL is that some formal relationship is established with the users of the water and the systems to clarify who has rights to the water. If someone generated electricity off the water, 30% of the revenue from sugar cane leases and water licenses should come back to DHHL. DHHL has advocated for water licenses to ensure fair-market value is being assessed for the use of the water. There is profit being derived from that water via agriculture, ranching, hydro-electric power, etc. Even if profits are minimal, it is still 30% of something. It shouldn't be zero. The revenue derived from this fund goes straight to the Native Hawaiian Rehabilitation Fund which goes straight to beneficiary programs and projects. This includes grants, technical assistance, and capacity building.

Chair Masagatani clarified that the area outlined in the submittal is not a Water Management Area and asked if the action before the Commission reserved water for all proposed projects in the area. K. Manuel stated staff is still working on the final number, but in the consultations, beneficiaries felt it should be more of a range rather than a point. The water reservation will be for the parcels highlighted in the submittal, both existing and future land uses based on water system standards.

Commissioner Richardson asked if the water system posed health risks because it is so old. K. Manuel stated there is a moratorium on further pull-offs from the system due to concerns about the age of the system and asbestos. The system is fine if it is not exposed to open air. DHHL as talked about using USDA funding to improve the portions of the system going through DHHL land for its beneficiaries. This is not a priority for DWS in its 20-year CIP plan so it is hard to get them motivated to invest in the improvements.

K. Manuel stated staff has recommended adding a 100,000-gallon storage tank to capture the overflow from the system currently being dumped into a drywell. Commissioner Ka‘apu asked if the water being dumped into the drywell would have otherwise been water in a stream. K. Manuel stated they don't know because the water comes from a pipe that was basically stuck into the mountain. There is no valve to regulate it and they have no way of knowing which streams the water would otherwise flow through.

## ITEM G-4      East Hawai‘i Regional Plans Update

### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Program Manager Kaleo Manuela and Planner Andrew Choy reviewed a summary and overview of the existing plans and implementation status.

Chair Masagatani asked Commissioners if they had any questions about the update. Hearing none, she called for a brief recess.

**RECESS** 3:15 pm

**RECONVENE** 3:25 pm

## ITEM G-5 East Hawai‘i Water Issues and Projects

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Program Manager Kaleo Manuel and DHHL Water Resource Specialist Halealoha Ayau presented a summary and overview of East and South Hawai‘i Water Issues and Projects.

H. Ayau provided an overview of East and South Hawai'i water projects, water resources management and development issues. The overview included planning tracts: (1) Honomū-Kuhua; (2) Pana'ewa-Keaukaha; (3) Lower Pi'ihonua; (4) Maku'u-Keonepoko; (5) 'Ōla'a; and (6) Ka'ū.

East and South Hawai‘i continue to face significant water issues that must be addressed in order for the goals of the Hawai‘i Island Plan to be fulfilled. The Lower Pi‘ihonua tract in East Hawai‘i merits attention both because it is a HHC priority tract and because it is the site of current precedent-setting negotiations over the nature of DHHL rights in water licenses and methods for enforcing those rights. The Ka‘ū planning region is also an important site due to discussions with DLNR over proposed transfers of leases and administrative authority to the Agricultural Development Corporation (ADC).

Chair Masagatani asked Commissioners if they had any questions about the update. Hearing none, she called for a brief recess.

## REGULAR AGENDA

## OFFICE OF THE CHAIRMAN

**ITEM C-1      Acceptance of Beneficiary Consultation Report for Proposed Administrative Rules  
for the Water Systems and Planning System**

## RECOMMENDED ACTION

DHHL Rules Officer Hokulei Lindsey presented the following:

That the Hawaiian Homes Commission accept the Beneficiary Consultation Report for proposed administrative rules for the Water Systems and Planning System.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Awo to approve the motion as stated in the submittal. Motion carried unanimously

**ITEM C-2      Approval of Recommendations for Proposed Administrative Rules for the Planning System and to Proceed with Rulemaking Under Chapter 91, Hawaii Revised Statutes**

RECOMMENDED MOTION/ACTION

DHHL Rules Officer Hokulei Lindsey presented the following:

That the Hawaiian Homes Commission approve the recommended changes to the draft administrative rules for the Planning System and to proceed with rulemaking under chapter 91, Hawai'i Revised Statutes.

MOTION

Moved by Commissioner Awo, seconded by Commissioner Ishibashi to approve the motion as stated in the submittal.

DISCUSSION

H. Lindsey stated that within the submittal was a list of all proposed changes which were separated into those that came from beneficiary consultation meetings and those that were staff generated. Proposed changes: A, B, C, E, H, I and the first part of L were from beneficiary consultations.

Chair Masagatani stated that since Commissioners received the submittal earlier in the day, she would bring the item back on the Tuesday agenda to allow time for review.

Note: The Item was deferred to the Tuesday agenda.

**LAND MANAGEMENT DIVISION**

**ITEM F-1      Annual Renewal of Right of Entry Permits, East, Central & South Hawaii Island**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:

That the Hawaiian Homes Commission (HHC) approves the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A) Renew all East, Central and South Hawaii Island Right of Entry Permits as listed on Exhibit "A" and identified by approximate location on the Hawaii Island Map Exhibit "A-1" that are in compliance and issued temporary approvals, as of November 1, 2016, granted by the Hawaiian Homes Commission at its October 2016 meeting under Agenda Item No. F-1.
- B) The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than October 30, 2018 or at the next scheduled HHC meeting on East Hawaii island whichever occurs sooner.
- C) Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

### DISCUSSION

Commissioner Ka'apu asked if staff would follow up on the testimony by D. Kaluau from earlier in the day. Chair Masagatani stated staff will look into the situation and report back.

Chair Masagatani asked for a motion to go into executive session to seek advice of counsel.

### MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Ishibashi, to convene in executive session pursuant to Section 92-5 (a)(4), HRS. Motion carried unanimously.

**EXECUTIVE SESSION IN** 4:10 pm

**EXECUTIVE SESSION OUT** 5:03 pm

Chair Masagatani thanked everyone for their patience as the Commission convened in executive session. She suggested the following amendments for Item F-1:

- A) Renew all the East, Central and South Hawaii Island Right of Entry Permits as listed on Exhibit "A", excluding ROE 471 and identified by approximate location ....

### MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Chin to approve the motion as stated.

Chair Masagatani added that an outline of the changes to the revocable permit/right-of-entry process will be brought before the Commission at the November meeting for review with the intention of final approval in December.

### ACTION

Motion carried unanimously.

## **ITEM F-2 Approval to Issuance of Right of Entry Permit to State of Hawaii, Department of Transportation (DOT), Hawaii Island, TMK No. (3)9-5-019:016**

### RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: That the Hawaiian Homes Commission (HHC) approve issuance of a license to County of Hawai'i Department of Parks and Recreation (COHDPR), covering the subject area as identified and described below for use, operation and maintenance of Hawaiian home lands as a park facility subject to the conditions in the submittal.

### MOTION

Moved by Commissioner Wescoatt, seconded by Commissioner Chin to approve the motion as stated in the submittal

### DISCUSSION

Commissioner Chin asked that a timeframe be included in future ROEs. K. Albinio mentioned the Department of Transportation is requesting use of a parcel that is already leased to a beneficiary but confirmed that there will be no disruptions to the current tenant's operations.

ACTION

Motion carried unanimously.

**ITEM F-3      Approval to Issuance of Right of Entry Permit to Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW), Hawaii Island, TMK Nos (3)3-8-001:009; 004, 002 and 007)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Property Development Agent Kualii Camara presented the following:

That the Hawaiian Homes Commission (HHC) authorize the issuance of a Right of Entry Permit, covering the subject area as identified and described below for Hawaii Island DOFAW personnel to do regular fence inspection and maintenance and to do resource management in Hi lo and Mauna Kea Forest Reserves. Approval and issuance of this Right of Entry Permit (ROE) shall be subject to the conditions in the submittal.

MOTION

Moved by Commissioner Chin, seconded by Commissioner Awo to approve the motion as stated in the submittal

DISCUSSION

K. Camara stated the ROE is more of a dual access agreement between DHHL and DLNR. DLNR installed fence lines along the boundaries and needs access to provide maintenance to those fence lines. In return, DLNR will give access to DHHL for the lower portion of its land that would otherwise be inaccessible. He introduced DLNR Agent Joey Miller who explained that DLNR hopes to enter a long-term Memorandum of Agreement (MOA) with DHHL for dual access. DLNR invested \$3 million dollars' worth of fencing into their project and access will allow them to maintain the investment for the duration of its useful life. They will maintain roads and gorse control wherever they traverse.

ACTION

Motion carried unanimously.

**PLANNING DIVISION**

**ITEM G-1      Confirmation of Āina Mauna Legacy Program Plan Implementation Advisory Council Members**

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel and Property Development Agent Kualii Camara presented the following:

That the Hawaiian Homes Commission confirm the recommended members of the 'Āina Mauna Legacy Program Plan Implementation Advisory Council which will consist of two groups:

- (1) A Policy Group to consist of two representatives from each Hawai'i Island Homestead Association and four beneficiaries currently on the Hawai'i Island waiting list and, existing Humu'ula pastoral homestead lessees; and
- (2) Natural and Cultural Resource Management Group to consist of technical experts and specialists.

Honokoa (Kailapa) Community Association  
Ka'u Hawaiian Home Lands Association

Diane Kaneali'i  
Janice Javar

OPEN  
Jeffrey Kekoa

Kaumana Hawaiian Homes Association	Skylark Rosetti	Kaohu Seto
Kawaihae Puaka'ilima Community Association	OPEN	OPEN
Keaukaha Community Association:	Patrick Kahawaiolaa	Mapuana Waipa
Keaukaha-Pana 'ewa Farmers Association	Maile Lu'uwai	Elizabeth Masaoka
Maku'u Farmers Association	OPEN	OPEN
Pana'ewa Hawaiian Home Lands Association:	William Brown	Hercules Freitas
Pi'ihonua Hawaiian Homestead Association	Ron Kodani	Maile Miyasato
Villages of La'i'Opua Association	Craig Kahui	OPEN
Waimea Hawaiian Homestead Association	OPEN	OPEN
Hawai 'i Island Waitlist Sharon Vannatta, Joseph Kaolulo, Leonard Tanaka, Corey Medeiros		

Natural and Cultural Resource Management Group Members:

1. Kekuhi Kealiikanakaole Ohaililani
2. Kealoha Kinney
3. Kala Lindsey AhSing
4. Christian Giardina
5. Luana Busby Neff
6. Clarence "KU" Ching
7. Nicholas Agorastos

MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo to approve the motion as stated in the submittal

DISCUSSION

Commissioner Wescoatt asked if the members listed under the Natural and Cultural Resource Management Group have qualifications. K. Camara stated the submittal includes a biography of each of the members.

Commissioner Chin asked how long are the terms and what are the advisory group's goals. K. Camara stated the Āina Mauna Legacy Program is meant to be a living document and has its own set of goals. There are no specific terms for group members and the members will provide input into the implementation of the program.

Chair Masagatani added under the scope of Āina Mauna Program the advisory group can help form policy and resource management recommendations. She asked staff to provide an update to the Commission after the advisory group's first couple of meetings.

Commissioner Wescoatt asked if changes are made to the group whether approval will be needed by the Commission.

ACTION

Motion carried unanimously.

**ITEM G-2      Acceptance of Beneficiary Consultation Report for Hawaiian Electric Light Company's Request for Water Lease from Wailuku River and Authorize the Chairman to Formally Request a Water Reservation from the Commission on Water Resource Management for Hawaiian Home Lands in Lower Pi'ihonua, Hawai'i**

### RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following:

That the Hawaiian Homes Commission:

1. Accept this Beneficiary Consultation Report as the official record of beneficiary issues, questions, concerns, and comments regarding the Hawaiian Electric Light Company's (HELCO) request for a new sixty-five year lease of water from Wailuku River to continue operation of two (2) hydroelectric plants and DHHL's proposed water reservation; and
2. Authorize the Chairman to formally request a water reservation from the Commission on Water Resource Management for Hawaiian Home Lands in lower Pi'ihonua, Hawai'i
3. Take other actions as necessary to effectuate these requests.

### MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo to approve the motion as stated in the submittal.

### DISCUSSION

Chair Masagatani asked if the Commission needed to give approval for independent counsel. K. Manuel stated staff previously acquired Commission approval for independent counsel requests for all water related issues. The timing for contested case hearing filings rarely coincide with Commission meetings, so a blanket approval was given in 2012.

Commissioner Ka'apu commented that Commission members change so frequently that blanket requests should be revisited more frequently. K. Manuel understood.

Commissioner Chin clarified that the Commission is only approving the beneficiary consultation report and not the actual water lease. K. Manuel confirmed the Commission is just accepting the report compiling what beneficiaries said about the project. Chair Masagatani stated the Commission is also authorizing the Chairman to request a water reservation for lands in lower Pi'ihonua, and to aggressively pursue a fair market return on the water lease to ensure that the 30% proceeds for Native Hawaiian Rehabilitation Fund (NHRF) is at a market rate if in fact there is sufficient water to allow for a lease to be issued.

Commissioner Chin asked who determines the sufficiency of the water. K. Manuel answered that whether there is enough water to be diverted is determined by the Commission for Water Resource Management (CWRM) when they set instream flow standards or sustainable water yields. There was an interim instream flow when the water code was passed. In the process of issuing the water license, the applicant must do an EIS and in that process, they would vet whether there is sufficient water or not for the project to divert the water. Technically the way the water code was written, all public trust uses need to be satisfied first and if there is extra water, then the state can lease this water.

Chair Masagatani asked if the other public trust uses are being advocated for. K. Manuel stated CWRM is supposed to advocate for all trust purposes. Their analysis is very cursory and superficial, which has caused many contested cases. The other three should be analyzed in the EA/EIS process. OHA has been the lead on advocating for traditional and customary uses.

Commissioner Wescoatt stated theoretically, hydro-electric plants don't take the water away, how is the fee determined. K. Manuel stated it's an existing facility but they're asking for a longer-term commitment. They had a lease previously, but it expired and they've been on a



month-to-month permit. Now they want to do some rehabilitation of the facility, but they want a long-term disposition before they invest.

Commissioner Chin asked if the department will have a voice in how HELCO modifies its hydro project. K. Manuel stated DHHL is focusing on water reservations, revenue generated on the water lease that comes back to the NHRF, and advocating for best use and practices. HELCO was at the meetings and heard from beneficiaries. DHHL can advocate if there is something specific Commissioners request.

Commissioner Richardson asked if there have been efforts to recover fees owed in the past. K. Manuel responded that staff is working on a NHRF strategy plan to calculate if it is worthwhile to pursue past actions or better to work on leases going forward. Strategically focusing on bigger energy companies with bigger returns, rather than chasing after smaller ranchers or farmers may make more sense. DHHL wants to support agriculture and local farms, so advocating for higher returns on those revenues might not be worthwhile.

K. Manuel added that monitoring is strictly tied to CWRM and the lease. DHHL is hearing from community that the leases need specific and explicit monitoring to enforce overages.

Chair Masagatani stated that the decision-making body is BLNR and CWRM, so beneficiaries need to take active roles in advocating. K. Manuel stated that outreach to beneficiaries is important. The process is external and DHHL is participating in an outside process. Beneficiaries and the public can participate and have their voices heard.

#### ACTION

Motion carried unanimously

### **ITEM G-3      Authorize the Chairman to Take Actions to Secure the Control and Use of Water for Hawaiian Homes Lands in Wai'ōhinu, Kamā'oa, and Pu'u'eo, Ka'ū**

Note: This Item G-3 was deferred to the Tuesday agenda.

## **ADMINISTRATIVE SERVICES OFFICE**

### **ITEM H-1      Amendment to DHHL Supplemental Budget Requests for Fiscal Year 2018-2019 (Sufficient Sums Budget)**

#### RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:

That the Commission approve Amendment No. 1 to DHHL's Supplemental Budget Requests for Fiscal Year 2019 (Sufficient Sums Budget).

#### MOTION

Moved by Commissioner Chin, seconded by Commissioner Ishibashi to approve the motion as stated in the submittal.

R. Lau summarized that Amendment no. 1 proposes a trade-off between adding a new project titled "Molokai Exploratory Well" (\$1,000,000) and a reduction (\$1,000,000) of a project approved in Item no. H-4 in September 2017 titled, "Voice of America", Nānākuli, Oahu. The two (2) projects are included as DHHL's Article XII, Section I, Purpose 1 (Lot Development) "sufficient sums" request to the Legislature.

The substitution of the projects is a trade-off and does not increase the total amount in the Purpose 1, Lot Development, "sufficient sums" budget request. DHHL will be asking for the Purpose 1, Lot Development financing as a lump-sum request titled "Lump Sum Lot Development, HHL, Statewide.

ACTION

Motion carried unanimously

**ITEMS FOR INFORMATION/DISCUSSION**

**WORKSHOPS**

Note: Due to the lateness at this point of the meeting (5:40 pm), the workshops listed in this section were deferred to the Tuesday agenda.

Items F-4, F-5, G-6, G-7 deferred to the Tuesday agenda.

**GENERAL AGENDA**

**ITEM J-1 Linda and Jerry Schweitzer- Maku‘u Farm Lots**

J. Schweitzer stated his concern is with the flea market and how they can be allowed to do things without permits. He felt he was put through all kinds of hoops and it took him almost a year to get his commercial entity running. On August 31<sup>st</sup>, he was accused of abandoning his lot when in fact he went to the bank and then to lunch. His property was vandalized and someone cut his underground utilities. Two days later, the same business popped up at the flea market without a permit. He asked the Commission to revoke the flea market's permit. A phone call was made to DHHL's Mark Yim, that they abandoned their property.

Chair Masagatani confirmed that the flea market J. Schweitzer referred to is the Maku‘u Farmers Market. J. Schweitzer confirmed.

**ITEM J-2 Maile Lu‘uwai – President Keaukaha Pana‘ewa Farmers Association**

M. Luuwai had to leave, but left a note with P. Kahawaiolaa. He read the following:  
"It is unacceptable and insulting that beneficiary associations are at the bottom of the agenda. We should not have to sit and wait through all your business, workshops and executive sessions to speak. If you have questions regarding my slide presentation, contact her via email."

**ITEM J-3 Patrick Kahawaiolaa – President Keaukaha Community Association**

P. Kahawaiolaa started his testimony with comments about the beneficiary consultation put on by HELCO for the hydro-electric lease. He felt it was a convoluted process for native Hawaiians, in that they do not have a say in whether the lease is granted or not. He added that it was a legislative move to issue 65-year leases instead of month-to-month permits. The fact that DHHL should ask for water reservations is a no-brainer. What got his attention is that the HELCO attorney stated that they may want to take more water in the future. How would the beneficiaries know? How would DHHL know if more water was being drawn?

With regard to beneficiary consultations and other workshops, the department needed to be more selective about what is brought to the community. He also stressed that Moloka'i issues should be heard on Moloka'i and not in Keaukaha etc.

Regarding Ms. Lee Loy's comment about the DHHL Island Plans and the County's General Plan, DHHL has jurisdiction over its land, not the County.

P. Kahawaiolaa reminded the Commission that the Hawaiian Homes Commission Act says beneficiaries are Hawaiians with 50% blood. He is not sure how the Commission can allow the subdivision of a 125-acre parcel so that two 25% successors can get parcels before those on the waitlist.

He commented on the drug problem in the Keaukaha community and the department's policy on zero tolerance regarding drug sales. He asked how many times does a homestead need to be raided before the department will take away the lease? The message beneficiaries get is that one can manufacture and distribute drugs on the homestead as long as you don't get convicted. If the kupuna is the lessee, the buck has to stop somewhere.

Other issues raised by P. Kahawaiolaa included the following:

- Late release of the agenda items for Commission meetings. Associations need to review and comment.
- Use of trust land by non-Hawaiians for their businesses without DHHL permission
- Continued use of trust land via ROEs by non-Hawaiians.
- Request by Hawai'i County for reimbursement of street lights on trust land.
- License agreement between the County of Hawai'i and DHHL for Kawanānākoa Hall and restricting sleepovers based on a violation of the County building codes.
- NAHASDA Program to build homes in the older communities, still on track?
- East Hawai'i District Office staffing. East Hawai'i contains the bulk of trust lands.
- Creation of the Āina Mauna Lands Advisory Board and its makeup.

#### **ITEM J-4 Paula Kekahuna Lauae Kekahuna – President Maku'u Farmers Association**

L. Kekahuna has been the secretary/treasurer of the Maku'u Farmers Association for the last 12 years. She provided the Commission with an update of the overall plan of the Maku'u Farms Subdivision. In total, there are 127 5-acre lots, 50 2-acre lots and 1 mercantile license.

L. Kekahuna provided a map showing all parcels in the subdivision and their updated disposition.

- 30 Active Leases
- 51 Unawarded Lots
- 78 Non-Active Leases (30+ years of inactivity)
- 5 Returned parcels or roadways
- 13 Occupied, but not by the Lessee

The map highlighted the portion of the subdivision that currently has no water service. Questions were posed to the department regarding award timelines, reaward timelines, safety concerns for the current residents, and the lack of police intervention citing no jurisdiction on DHHL land.

Other problems include parcels being used as junk yards, loitering, drug use, car racing on streets, hunting, and dogs. One lessee passed away but his wife continues to feed the 12 dogs

running loose on the property. The dogs have been roaming the subdivision and attacking resident chickens. Another lessee is harboring a fugitive.

L. Kekahuna stated when the lessee's signed their leases in 1985, they agreed to farm at least 2/3rds of their parcel or face revocation. She asked why the department, after 30-years, hasn't already revoked the leases and reawarded them to folks who really want to farm.

L. Kekahuna stated that after the recent hurricane they discovered that the water well built for Maku'u is serving half of Puna even though homesteaders are suffering because the water pressure is impacted by of the public use of the water. Chair Masagatani stated that with the recent lava flow the well site, this had ramifications on building the well.

**ITEM J-5      Emily Naeole – Pilot Plan Project of Unawarded Lots in Maku'u**

E. Naeole is a Maku'u lessee who received her award 32 years ago. Many of her family have passed and there are only five siblings left. She is the only one out of eight, to receive a homestead. She cited L. Kekahuna's presentation and reiterated that 100 lots have not been utilized for 32 years. Hawaiians need to be on their land and the community needs the land to be occupied by its people. She asked what is taking the department so long. The Maku'u Community, Maku'u Farmers Association and Commissioner Ishibashi all support her pilot project to get the lots awarded. She wants to work together with the department to get the job done. They've been trying their best to keep their community safe, but they need DHHL to move a little faster. She hopes the Commission will do something this year and get the people on the land. She came before the Commission one year ago and still nothing has happened. Someone must do something or else nothing will ever get done. Why are you holding back the land from the people?

Commissioner Awo assured E. Naeole that her concerns are not falling on deaf ears. He is not sure how what the effort will look like, but he cannot imagine lots not being awarded when there is a waitlist.

**ITEM J-6      Bo Kahui – La'i Opua 2020 & Villages of La'i Opua**

Note: This item was deferred to the Tuesday agenda.

**RECESS**

**6:38 p.m.**

**HAWAIIAN HOMES COMMISSION**  
**Minutes of October 17, 2017**  
**Meetings held at East Hawai'i District Office, Keaukaha, Hilo, Hawaii**

**PRESENT**      Jobie M. K. Masagatani, Chairman  
Randy K. Awo, Commissioner, Maui  
Kathleen P. Chin, Commissioner Kaua'i  
Wallace A. Ishibashi, Commissioner, East Hawaii  
David B. Ka'apu, Commissioner, West Hawaii (Arr 10:15 am)  
Michael P. Kahikina, Commissioner, Oahu  
William Richardson, Commissioner, O'ahu (arr: 10:15 am)  
Wren Wescoatt, Commissioner, O'ahu

**EXCUSED**      Molokai Seat, Vacant

**COUNSEL**      Craig Iha, Deputy Attorney General

**STAFF**      William Aila Jr., Deputy to the Chairman, Office of the Chair  
Paula Aila, Hale Manager  
Rodney Lau, Administrative Services Officer  
Kahana Albinio, Acting Administrator, Land Management Division  
Kaleo Manuel, Acting Manager, Planning Office  
Francis Apoliona, Compliance Officer  
David Hoke, Enforcement Officer  
Akoni Shannon, Enforcement Office  
Dean Oshiro, Acting Administrator, Homestead Services Division  
Stewart Matsunaga, Community Development Manager, Land Development  
Leah Burrows-Nuuanu Secretary to the Commission  
Mona Kapaku, Maui District Office Manager  
Shelly Carreira, Land Manager  
Nina Fisher, Acting East Hawai'i District Manager  
Halealoha Ayau, Water Resource Specialist  
Bryan Cheplic, ICRO  
Joann Aiwohi, Homestead Housing Specialist IV  
Susie Richey, Secretary to Deputy Director  
Debra Aliviado, Customer Service Manager  
James Dupont, West Hawaii District Office  
Andrew Choy, Planner  
Kuali'i Camara, Property Development Agent

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani reconvened the meeting at 9:08 a.m.

**APPROVAL OF MINUTES**

Chair Masagatani asked for a motion to approve the minutes of July 2014.

### MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Kahikina, to approve the minutes of July 2014. Motion carried unanimously.

Commissioner Wescoatt stated that it is embarrassing to be approving minutes that are 3-years old. He asked if there is anything Commission members can do to help with the backlog.

### PUBLIC TESTIMONY ON AGENDIZED ITEMS

#### **ITEM A-1: James P. Akiona Jr. & Sherrilyn Wahinekapu**

J. Akiona Jr. and S. Wahinekapu asked for an update on the status of their contested case hearing. S. Wahinekapu stated they want everyone to understand that they still love their siblings and they will share in a pono way. Chair Masagatani stated that since the July hearings, two of the five Commissioners who attended the hearing have since left. The Commission needs two of the remaining Commissioners to be read into the record so a vote can be taken.

#### **ITEM A-2: James Kimo Makaio – Drug Problem on Homesteads**

J. Makai‘o returned to offer Commissioners his solution to the drug problem he highlighted in his previous testimony. He noted the old airport is a drug haven and the easy solution is to have DLNR remove all the brush hiding the area. In Pana‘ewa, the homeless and drug abusers have invaded the area known as Ginger Patch. The department needs to clean up the area and open it up to the light.

J. Makai‘o asked the Commission to set up a senior home for kupuna in Kings Landing. Hawaiian kupuna need a place to age somewhere in Keaukaha.

### ITEMS FOR DECISION MAKING

#### **REGULAR AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

#### **ITEM D-14 Request to Schedule Contested Case hearing – Lease Violation (Failure to allow inspection of homestead) – MARVA LEE AH LOY – Pastoral Lot Lease No. 2674-A Lot No. 9, Pu‘ukapu, Waimea, Hawaii**

### RECOMMENDED ACTION

Acting Homestead Services Administrator Dean Oshiro presented the following:  
To approve the scheduling of contested case hearings for Marva Lee Ah Loy for a lease violation.

### MOTION

Moved by Commissioner Chin, seconded by Commissioner Ishibashi to approve the motion as stated in the submittal.

Note: This item was deferred to a future agenda.

## OFFICE OF THE CHAIRMAN

### **ITEM C-2      Approval of Recommendations for Proposed Administrative Rules for the Planning System and to Proceed with Rulemaking Under Chapter 91, Hawaii Revised Statutes**

#### RECOMMENDED ACTION

DHHL Rules Officer Hokulei Lindsey presented the following:

That the Hawaiian Homes Commission approve the recommended changes to the draft administrative rules for the Planning System and to proceed with rulemaking under chapter 91, Hawai'i Revised Statutes.

#### MOTION (Motion made on Monday)

Moved by Commissioner Awo, seconded by Commissioner Ishibashi to approve the motion as stated in the submittal.

#### DISCUSSION

Commissioner Kahikina thanked H. Lindsey for her work on incorporating the beneficiary comments into the submittal. Commissioner Awo added that the comments were informative and he looked forward to receiving a non-shaded draft.

#### ACTION

Motion carried unanimously.

## PLANNING DIVISION

### **ITEM G-3      Authorize the Chairman to Take Actions to Secure the Control and Use of Water for Hawaiian Homes Lands in Wai'ōhinu, Kamā'oa, and Pu'u'eo, Ka'ū**

#### RECOMMENDED ACTION

Acting Planning Program Manager Kaleo Manuel presented the following:

That the Hawaiian Homes Commission (HHC) authorizes the Chairman to:

1. Formally request use, free of all charge, government owned water in Wai'ōhinu, Kamā'oa, and Pu'u'eo, Ka'u, Hawai'i (HHCA §221(c) and §221(d));
2. Formally request a Water Reservation from the Commission on Water Resource Management (CWRM) to adequately reserve water for current and foreseeable development and use of Hawaiian home lands in Wai'ōhinu, Kamā'oa, and Pu'u'eo, Ka'u, Hawai'i (State Water Code §174C-101(a));
3. If applicable, formally request a Water License from the Board of Land and Natural Resources (BLNR) for control of water and facilities in Wai'ōhinu, Kamā'oa, and Pu'u'eo, Ka'u, Hawai'i (HHCA §221(c) and §221(d)); and
4. Take other actions as necessary to effectuate these requests.

#### MOTION

Moved by Commissioner Chin, seconded by Commissioner Kahikina to approve the motion as stated in the submittal.

#### DISCUSSION

Commissioner Wescoatt asked if this item was related to the HELCO issue. K. Manuel stated the issues are separate.

Chair Masagatani summarized that once the Commission passes this action and the department makes the request of the water Commission, it makes clear what DHHL's water needs are in this district. It then gives the department the ability to aggressively advocate for the reservations.

K. Manuel stated the action aligns the Commission with the department in these efforts. Staff have tried to work with the Department of Water Supply and not elevating it to what could be called a "rights" issue. The action puts the Department of Water Supply on notice that they have an obligation to make sure that water gets to DHHL. It gives the State clear guidance on how to articulate to the Counties, their responsibility to protect DHHL's rights to water.

ACTION

Motion carried unanimously.

**PLANNING DIVISION**

**ITEM G-6      Project Kamoleao Master Plan & Environmental Assessment Update; Hilo, Hawaii  
(TMK 3-2-2-047:075)**

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Program Manager Kaleo Manuel, Planner Andrew Choy and Panaewa Hawaiian Home Lands Community Association (PHHLCA) President Bill Brown presented the following:

A. Choy highlighted the informational submittal with a history on the project. The name "Kamoleao" means the young shoots of a kalo plant nurtured by the bright sun (ao), symbolizing "growing from the foundation of the elders." Conceptualization of community programs and uses for the Kamoleao parcel began as early as 1986. Since that time several iterations of master plan concepts have been developed. The last HHC action taken on the Kamoleao parcel was in September 2015, as the HHC approved the issuance of a benefit license to PHHLCA and the Pana'ewa Community Alliance (PCA) as co-licensee for the parcel. PCA is the financial sponsor (for purposes of the Waiakea MOA w/DHHL dated July 19, 2013 for \$30k annually) for all exclusive programs with PHHLCA.

However, none of the previous efforts resulted in the development of an HRS Chapter 343 environmental assessment (EA) for the entire 12.77-acre parcel nor were any conceptual business plans developed to identify potential revenue sources to address initial development costs and long-term operation and maintenance costs. The completion of an HRS Chapter 343 EA for the entire parcel and incorporating a conceptual business plan as a component of the master plan are a part of this current effort and should increase the probability of this project's success.

In September, PHHLCA held its regular general membership meeting and the preferred alternative was presented at the general membership meeting and unanimously accepted by association members in attendance. The preferred alternative plan consists of three development phases and the following major components:

- Community Center & Certified Kitchen (Phase 1A)
- Commercial Retail (Phase 1B)
- Light Industrial (Phase 1B)
- Health & Wellness Complex (Phase 2)
- Future Community Uses and/or Commercial Uses (Phase 3)
- Forested Open-Space/Pu'uhonua Concept (Phase 1A)



### Next Steps

The following is a list of next-steps for the completion of the master-plan and EA contract as well as estimated timeline for master plan Phase 1 completion.

- October 2017: Finalize master plan report
- Q2 2018: Draft EA & Final EA
- 2018-2019: General Lease Discussions with DHHL
- 2018-2019: Pursue Funding/Grants
- 2019: Developer Contracting, Financial Analysis
- 2020: Secure Funding & Permits
- 2021-2022: Construction & Opening

Former PHHLC President Kau‘i Almeida added her understanding of the history about the agreement the community had with developers of DHHL lands and the community benefits which resulted.

Chair Masagatani thanked B. Brown and K. Almeida for their time and updates.

### **LAND MANAGEMENT DIVISION 10:34 – 11:15 46:00**

#### **ITEM F-4 Issuance of License to County of Hawaii, Department of Parks & Recreation, for use, operation and maintenance purposes of Hawaiian home lands as a park facility, Keaukaha, Hawaii Island, TMK No. (3)2-1-023:120**

#### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Land Management Division Administrator Kahana Albinio presented the following:

Hualani Park has been under a license disposition to the County of Hawaii Parks and Recreation since 1976. The disposition expired effective as of August 2, 2017. The County of Hawaii Parks and Recreation (COHDPR) through its former Director (Ms. Charmaine Kamaka) and current Deputy Director (Mr. Ryan Chong) indicated informally of its desire to renew the disposition for continued operation and maintenance of the park facility. However, prior to considering the issuance of a new license to the County of Hawaii Parks and Recreation, DHHL beneficiaries informed DHHL staff of an August 9, 2017 letter issued by County of Hawaii, Mayor Harry Kim (See Exhibit "B"), advising communities of overnight stays at parks and recreation facilities. The letter provided that pursuant to the Department of Parks and Recreation administrative rules, overnight stayed at the facilities as named in the letter are prohibited.

The letter further references none of the named facilities as school facilities, with the exception of perhaps Kawanakoa Gym, which is also governed by rules included in expired License No. 44? However, the terms and conditions of the expired license amendment no. 2 disqualifies Kawanakoa Gym because it specifically states as follows, "It is agreed upon that for the health and safety of those using the facilities, and to address potential damages to the gymnasium, NO FOOD OR DRINK AND OVERNIGHT STAY at the facilities are allowed."

DHHL beneficiaries voiced concerns about the letter, specifically the condition as noted in the expired license. Beneficiaries expressed its desire to work with the County of Parks & Recreation to address this specific condition by exploring possible alternatives that would meet the necessary Fire Code requirement(s) and mitigate the concerns for overnight stay opportunities.

DHHL staff did express to concerned beneficiaries that COHDPR has no obligation to DHHL to

retain a new license for Hualani Park should they deem it as not being in the best interest for the County. If this were the case, the estimated cost to DHHL (per estimates from COHDPR for recreation, maintenance, and utilities) would be approximately \$14,000/mo. or \$168,000/annum.

It is DHHL's intent to work towards a mutual understanding and agreement between the parties to maintain this unique relationship that provides recreational opportunities for not only beneficiaries directly but the larger East Hawaii community at large.

P. Kahawaiolaa provided some history on the original Gymnasium and subsequent iterations. When they built the new building in 2003, former DHHL Land Manager Linda Chinn talked about how the County was going to take over. The County of Hawaii, OHA, and DHHL all provided funding for the project. The Keaukaha community wants to continue working with the County of Hawai'i to help maintain the playground and facility. It was difficult for the community that food was not allowed in the Gym, but would be allowed in the parking lot. The community convinced the school that shared parking is necessary. This meant that the parking lot was dedicated to the school during normal school hours.

The Keaukaha community is committed to doing what needs to be done for the good of everyone in the community. The community has always been blessed to have Park Directors that lived in Keaukaha. The goal is to add the provision to allow for sleepovers at the Gym.

Chair Masagatani asked if the underlying reason for prohibiting sleepovers in the gym was related to the County Fire Code. P. Kahawaiolaa stated he spoke with the Fire Chief who said the restriction was related to a fire watch. No one can sleep at the Gym because there needs to be a fire watch and a specific amount of fire extinguishers per person. The community is prepared to abide with everything that the Fire Department requires to mitigate the health and safety issue.

Chair Masagatani asked what are the next steps. K. Albinio stated staff is working on the language of the lease and will set up a meeting with everyone including the Fire Chief. Chair Masagatani stated there should also be a beneficiary informational meeting. The practice has been to do a informational when the disposition is more than five-years, and then bring the results back to the Commission.

**ITEM G-7      Kawaihae Fence Project by Honokoa (Kailapa) Community Association and the Kohala Mountain Watershed Partnership, Kawaihae, Hawaii (TMK 3-6-1-001:003)**

RECOMMENDED MOTION/ACTION

None. For information only. Planner Andrew Choy presented the following:

A. Choy introduced Kohala Watershed Partnership Program Coordinator Cody Dwight to provide an oral presentation and slide show. The Kohala Watershed Partnership (KWP) was formed by Memorandum of Understanding in 2003 with the nine land-owning parties in the Kohala Mountain Watershed area encompassing a total area of more than 65,000 acres. DHHL was one of the nine land owners and DHHL currently participates as one of three members on the partnership's executive committee. DHHL's Kawaihae tract is within the Kohala Mountain Watershed area and consists of about 10,000 acres. The mission of KWP is to address threats to the health of the Kohala Mountain watershed while preserving its biological, cultural, and economic resources.

In January/February 2017, KWP received a grant from the Dorrance Family Foundation for the construction and installation of an ungulate-proof fence-line around the immediate Honokoa

(Kailapa) Homestead area to reduce the number of feral goats that enter the homestead community, and for the installation of sedimentation check dams in certain locations to reduce the amount of run-off entering near shore waters.

At its March 2017 meeting, the HHC authorized the issuance of a Right-of-Entry (ROE) permit to KWP for these purposes. Subsequently, the KWP has received an additional federal grant from the National Oceanic Atmospheric Administration (NOAA) for similar activities that include the entire DHHL's property makai of Kohala Mountain Road

The project would consist of fence line approximately nine miles in length around DHHL's Kawaihae lands and encompass an approximate area of 7,800 acres.

KWP also completed a similar type of fencing project on Queen Emma lands that neighbor DHHL's Kawaihae lands. Since the completion of the Queen Emma fence, the goat population has migrated to DHHL Kawaihae lands as DHHL lands are currently unfenced. This fence project would reduce the number of feral goats from entering onto DHHL lands.

With the NOAA grant The KWP will also continue to provide training and technical assistance to the homestead community on; (1) building and operating ungulate traps; (2) conducting goat drives to trap goats; (3) working with mobile slaughter units to process trapped goats; (4) accessing markets for live goats; (5) utilizing goats to mitigate fire risk along the perimeter fence through targeted grazing; (6) revegetating the land with native plants; and (7) creating water catchment and irrigation systems to support revegetation.

## **ITEMS FOR INFORMATION/DISCUSSION**

### **GENERAL AGENDA**

#### **ITEM J-6 Bo Kahui – Executive Director La'i Opua 2020 and Villages of La'i 'Opua**

B. Kahui asked for updates from the Commission on various projects and requested status updates on projects pending or requested of the DHHL.

##### **Villages of Lai 'Opua**

- Item D-3: Lessee Consent to Mortgage
  - Namahoe, Renee #9338
  - Olival, George #10819
- Item D-4: Approval to Schedule Loan Delinquency Contested Case Hearings
  - Kakalia, Derek #9388
  - Kamoku, Paul #9379
- Item D-9 Approval of Assignment of Leasehold Interest
  - Eckart, Tennile M #9312
- Kona Office Initiative – Request to open a Kona DHHL Office
- DHHL Village 4 Housing Plan Status – They are anxious to get moving.
- Abandoned Homes – Asked to allow VOLA to use the homes to house homeless
- DCCR Violations/ Contested Case Hearing requests
- DCCR Admin Rules
- County Homeless Shelter – VOLA opposed to the project.

#### La‘i ‘Opua 2020

- Fund Development Priority: Capital Campaign Committee
- L2020 Water Development Plan – Update
  - Jim Gianualus – Reconfirm Commitment to L2020 and DHHL
  - USDA RUS Application pending EA & PER Report
  - DHHL: Commission Review of Water needs;
- Grants Programs
- L2020 Educational Program
- Habitat for Humanity Build completed 10 homes in 10 days

Chair Masagatani thanked B. Kahui for his updates. She announced the next portion of the agenda will be taken in executive session which will last approximately 90 minutes.

#### MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Ka’apu, to convene in executive session pursuant to Section 92-5 (a)(4), HRS. Motion carried unanimously.

**EXECUTIVE SESSION IN 12:28 a.m.**

**EXECUTIVE SESSION OUT 1:46 p.m.**

#### **REGULAR AGENDA**

**ITEM F-5 Issuance of a Non-Exclusive License Easement to the County of Hawaii for Roadway Access, Maintenance, and Utility Purposes (“License Easement”), Pu‘ukapu Pasture Lots, Hawaii Island, TMK No. (3)-6-4-004:057 (por.), Lot 16-D**

#### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Land Management Division Administrator Kahana Albinio presented the item outlined in the submittal:

Commissioner Ka’apu stated the subdivision was created in the 1800’s and are Land Commission awards. These types of awards cannot be land-locked so the recommendation would be to issue easements at the proper point.

#### **HOMESTEAD SERVICES DIVISION**

**ITEM D-1 HSD Status Reports**

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

Chair Masagatani noted Commissioners had no questions or comments relating to the D-1 reports.

#### **ITEMS FOR DECISION MAKING**

#### **REGULAR AGENDA**

#### **OFFICE OF THE CHAIRMAN**

**ITEM F-6      Approval of settlement in Arbitration of Lease Rent for General Lease No. 136  
Between Department of Hawaiian Home Lands and Hamakua Macadamia Nut Co.,  
DPR #16-0566-A.**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:  
That the Hawaiian Homes Commission approve the settlement in Arbitration of Lease Rent  
for General Lease No. 136 Between Department of Hawaiian Home Lands and Hamakua  
Macadamia Nut Co., DPR #16-0566-A.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Wescoatt to approve the motion  
as stated. Motion carried unanimously.

**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

The next regular monthly meeting will be held on November 20 & 21, 2017 at Paukūkalo Community  
Center, 657 Kaumuali'i St., Wailuku, Maui.

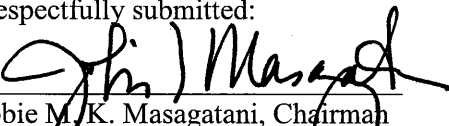
MOTION/ACTION

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

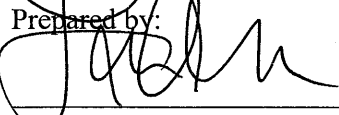
**ADJOURNMENT**

1:02 p.m.

Respectfully submitted:

  
Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

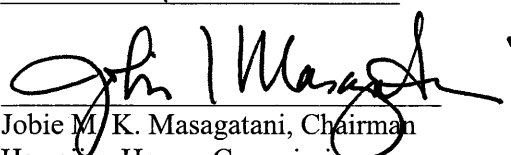
Prepared by:

  
Dean Burrows-Nuuanu  
Secretary to the Commission

**APPROVED BY:**

The Hawaiian Homes Commission At Its Regular Monthly Meeting On

February 21, 2018

  
Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission