

HAWAIIAN HOMES COMMISSION

Minutes of January 29 & 30, 2018

Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, the 695th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono‘i, DHHL Main Office, Kapolei, O‘ahu, beginning at 9:42 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, O‘ahu (arrived 10:15 a.m.)
Wren Wescoatt, Commissioner, O‘ahu

EXCUSED Molokai Seat, Vacant
O‘ahu Seat, Vacant

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Hale Manager
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
Bryan Cheplic, ICRO
Joann Aiwohi, Homestead Housing Specialist IV
Susie Richey, Secretary to Deputy Director
Debra Aliviado, Customer Service Manager
Nancy McPherson, Planner
Gigi Cairel, Grants Writer

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:42 a.m.

Six (6) members were present at roll call. Commissioner Kahikina arrived at 10:15 a.m. Molokai and Oahu Commission seats were vacant.

APPROVAL OF AGENDA

Chair Masagatani noted the minutes for May 2014 will be distributed. The October 2017 Minutes will be deferred to the next meeting. No community meeting this month.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Roseali Puaoi, RE: Item J-6

R. Puaoi testified in support of her niece Ku‘uleilani Petty-Hanawahine in the Commission’s Item D-16. Ku‘uleilani’s mother and R. Puaoi are first cousins. She thanked the Commission for requesting more information when the issue surfaced last year. It gave the family time to figure out what was happening and what they needed to do to save the family home. R. Puaoi shared that the original lessee was her grandfather who passed it on to her uncles who were joint lessees and passed their interest on to different people who then passed without leaving successors. Ku‘uleilani is the only claimant for the Hanawahine interest, so they are trying to figure out what the next step is. They respect the other family involved but they would like to keep the property in the Hanawahine ‘ohana so their legacy can live on.

ITEM A-2 Keanu Petty-Hanawahine, Re: Item J-6

K. Petty-Hanawahine testified that she is the younger sister of Ku‘uleilani Petty-Hanawahine and is a senior in high school. After their mother passed in April of 2017, she and her sister have been taking care of each other and their two dogs. Her sister takes care of her and makes sure she gets to school and picks her up after her job at the Boys and Girls Club. They have family who support them and just want a stable place to stay.

ITEM A-3 Bo Kahui, RE: Item C-2, D-2 and G-2

B. Kahui testified that he supports the water rules as they are being presented. He is concerned that it doesn’t address La‘i ‘Ōpua and its water development plan. He supports the D Items as it relates to beneficiaries living in La‘i ‘Ōpua. Regarding the F Items, he reminded the Commission that La‘i ‘Ōpua submitted a plan for a photo voltaic farm project in Kalaoa. He asked the Commission to defer action on the item.

Regarding legislation, SB2262 which asked for \$12.5 million in CIP for a water well in Kona, did not pass last year but it is still alive. They need water in La‘i ‘Ōpua to complete the commercial center and community center projects.

ITEM A-4 Kekoa Enomoto, RE: Item F-1 and F-2

K. Enomoto offered testimony on several items. She began by thanking the Department for funding and technical assistance to beneficiary initiatives and requests. Regarding Items F-1 and F-2, she asserted that the Department’s sole purpose should be to put Hawaiians on the land. She reminded the Department that Pa‘upena Community Development Corporation and N. Abihai both have requests before the Department for use of beneficiary land. She states staff time should be used to put beneficiaries on the land before it is used toward solar projects. K. Enomoto presented a copy of the criteria requested by the Department. She felt it was a sizable amount of paperwork for an uncodified rule.

K. Enomoto stated beneficiary leaders on Maui arranged a Hawaiian Homes Commission Act orientation for Commissioner Awo on February 11th. She stated that Prince Kūhiō’s purpose was to put Hawaiians back on the ‘āina, not to do renewable energy projects. She spoke with a Kahikinui board member who said they were not informed of the Department’s plan for the Kahikinui parcels. Their meeting is open to the public to educate everyone about their entitlements. She and her daughter spent hours sending out post cards to 800 Maui ag wait list beneficiaries and got 10 responses. Beneficiaries need to be educated.

Commissioner Ka'apu commented that the Kahikinui windfarm moved forward because the lessees agreed to move it forward. The Department would not have done so without their support. Chair Masagatani stated her understanding of the wording of the submittal was meant to cast the widest net, to identify the best proposals to take through the process which is to go to beneficiary consultation early on and so forth. The Commission has time to go through the workshop and edit the submittal.

K. Enomoto stated that it takes the Department time and resources to do renewable energy projects but there are no agenda items that are placing more native Hawaiians on the land. Prince Kūhiō wants people, not windmills, on our land.

Commissioner Ka'apu responded that it is the Commission's goal to put beneficiaries on the land too. If the Department received all the funding it requested from the Legislature, it would be a simple decision because it wouldn't need the additional money to put beneficiaries on the land. It takes funds to develop land, install infrastructure and build homes. It takes the Commission as a body to figure out how to maximize revenue for the trust. The intent is to get Hawaiians on the land, but if the Department doesn't have the revenue, it cannot put beneficiaries on the land. Chair Masagatani stated that for the first time in DHHL history the Department's revenues were put to CIP projects. The lands that are designated for shopping centers or renewable energy are the lands that are not available for homesteading for one reason or other at this time. The lands were identified and then the Department held beneficiary consultations before putting them in to income generating uses. The Department has limited resources and cannot develop all of its land. In the meantime, can those lands that are not homesteaded be used for income generation.

ITEM A-5 Demont Conner, E-1

D. Conner suggested the Department allow beneficiaries from the area an opportunity to take over and malama the project (discussed in the submittal). The community could use kupuna housing and maybe a community group can start doing things for themselves and come up with a vision to take care of their own. He wants to get something done. He admitted that he doesn't have the expertise to fine tune the details but he is willing to work with people on the big picture and vision. He asked for a chance from the Department to see what the community can put together.

ITEM A-6 Calvin C. Bryant, Wait list and Housing

C. Bryant had concerns about housing that might be available to him. He is on the wait list and wanted to see if there are any options for him. Chair Masagatani asked Oahu District Officer Supervisor Juan Garcia about Kupuna housing in Waimānalo.

RECESS 10:48 AM

RECONVENE 11:13 AM

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
To approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda. Commissioner Kaapu asked to move Items D-2 and D-16 to the regular agenda.

- ITEM D-3** Approval of Streamline Refinance of Loans (see exhibit)
- ITEM D-4** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-5** Approval of Homestead Application Transfers / Cancellations (see exhibit)
- ITEM D-6** Commission Designation of Successor to Application Rights of **JOSEPH P. NOA, (Dec'd.)** – Public Notice 2016
- ITEM D-7** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-8** Approval of Assignment to Leasehold Interest (see exhibit)
- ITEM D-9** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-10** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-11** Approval for Payment of Net Proceeds - **DONNA CHRISTINE KAMAHELE from JOHNNY KAMAHELE (Dec'd.)**, Residential Lot Lease No. 12683, Lot No. 25, Panaewa Residence Lots, Waiakea, Hilo, Hawaii
- ITEM D-12** Designation of Successor – **KATHLYN K. IBARA**, Lease No. 10234, Lot No. 11, Waiehu Kou 2, Maui
- ITEM D-13** Commission Designation of Successor – **VALENTINE REDO**, Lease No. 9164, Lot No. 13, Kahikinui, Maui
- ITEM D-14** Designation of Successor – **ALFRED KALEI AKI**, Lease No. 4294, Lot No. 43, Anahola, Kauai
- ITEM D-15** Designation of Successor – **JOHN K. REYES**, Lease No. 6578, Lot No. 9, Anahola, Kauai

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Ishibashi to approve the motions as stated in the submittals. Motion carried unanimously

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

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

RECOMMENDED MOTION/ACTION

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

DISCUSSION

Commissioner Kaapu was concerned at the amounts of some of the loans. He felt the Commission should discuss a limitation to the limit the Department's liability or default maximum the Department will pay if the loans become delinquent. One of the loan amounts in the submittal was for \$527,000, for a home in Kanehili. He doubted the house is worth that much.

MOTION/ACTION

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

ITEM D-16 Informational Update to Commission Designation of Successor – Benjamin K. Keliioholokai, Residential Lease No. 1758, Lot No. 87, Waimanalo, Oahu and Commission Designation of Successor – Jeanette M. Hanawahine, Residential Lease No. 1758, Lot No. 87, Waimanalo, Oahu

RECOMMENDED MOTION/ACTION

None. For information only. Acting Homestead Services Division Administrator Dean Oshiro presented the following:

DISCUSSION

Residential Lease No. 1758, Lot No. 87, Waimānalo, O'ahu (Lease), was awarded to Mary K. Hanawahine on August 30, 1946. Mary designated her sons, William and George Hanawahine as tenants-in-common successors to the lease. When Mary died in 1989, the lease was transferred to George and William, as tenants-in-common.

George designated his wife, Jonette A. Hanawahine (Jonette), as the successor to his tenant-in-common interest. George passed away on May 29, 1997. Jonette transferred her leasehold interest in the lease to her then husband, Benjamin K Keliioholokai.

William designated his daughter Jeanette Hanawahine to his tenant-in-common interest to the lease.

Both Jeanette Hanawahine and Benjamin Keliioholokai passed away without designating a successor. The Department followed Administrative Rules 10-3-63 and published legal ads to notify all interested, eligible and qualified heirs of Benjamin and Jeanette, to submit successorship claims. The Department received successorship claims from Benjamin's sisters, Celelia Kehliioholokai and Lei Makaanani. The Department also received a claim from Jeanette's daughter Kuuleilani K. Petty-Hanawahine.

Essentially, two separate families hold an equal share in the same Lease.

Commissioner Kaapu suggested partitioning the parcel if the land cannot be subdivided, the court can send it to auction where anyone can bid on the parcel. The sale would be split between the parties. Or there could be a special use permit for this situation. Another possibility is to do a condominium type structure so there could be two units and both parties can have a side and common areas like the driveway could be shared.

Commissioner Wescoatt asked if the Commission can do something to prevent tenant in common situations. These have become a big problem for the Department.

Rosalie Puaoi stated she agrees that there is a problem with tenants-in-common situations. There were 30 first cousins on the Hanawahine side that could have claimed successorship, how would the Department choose? This is a problem and the Department needs to fix it.

Chair Masagatani stated setting limits on tenants-in-common is the big policy question for the Commission.

Commissioner Kaapu commented the Department needs to do more to educate beneficiaries about the unintended consequences of leaving a lease to more than one successor. Lessees want to take care of all of their children, but that's not realistic once everyone starts having their own families. Chair Masagatani suggested a third-party vendor to provide the information so Department staff aren't accused of influencing anyone's decisions or actions.

Commissioner Chin asked to recuse into executive session to consult with counsel.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Awo to convene in executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN

12:00 PM

The Commission anticipates convening in executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on these matters.

1. Update on issues related to Sandwich Isles Communications.

EXECUTIVE SESSION OUT

2:40 PM

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Waiohuli Housing Pilot Project with Department of Public Safety and University of Hawai'i Maui College

RECOMMENDED MOTION/ACTION

ICRO Director Paula Aila and Joann Aiwohi presented the following:

The DHHL Kealahou project team members respectfully request approval from the Hawaiian Homes Commission to 1) approve the Kealahou Project budget, and 2) provide authorization to Chair Masagatani to approve the Memorandum of Agreements between the Department of Hawaiian Home Lands and Kealahou program partners, currently under development.

DISCUSSION

On December 19, 2017, the Hawaiian Homes Commission approved a home building pilot project to build one home on the Island of Maui in partnership with the DHHL, State Department of Public Safety (PSD) and the University of Hawaii Maui College (UHMC). The objectives of this pilot project are 1) to fulfill the Hawaii State Constitution Article XII, Section 1; purposes of: 1 (lots), 2 (loans) and 3 (rehabilitation) by providing an affordable home option for a DHHL beneficiary family and 2) to support the rehabilitation (purpose 3) of beneficiaries of the Hawaiian Homes Commission Act, as Amended 1920 (Act) who may be incarcerated in the Maui Community Correctional Center through education, economic and social benefits from the Kealahou Project.

MOTION

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

DISCUSSION

Commissioner Awo said he had gotten calls from Maui beneficiaries who wanted to know more about this project. He recommended that the staff engage with Maui beneficiaries. P. Aila stated she understood there was a group of undivided interest beneficiaries who wanted more information about the program. She relayed that staff is willing to meet with the beneficiaries but had not heard back from them regarding wanting to meet.

Commissioner Wescoatt stated that he was under the impression that other partners in the project were paying for the materials. P. Aila stated the Department provides the upfront costs for the materials and septic system, and the costs will be transferred to the homeowner as a mortgage once the project is completed. There is a \$50,000 fee for administrative costs, meals, transportation and gas that will not be absorbed by the homeowner.

Commissioner Ishibashi asked for better communication with the community.

Chair Masagatani stated once the details are ironed out, the Department will inform the community about the project. It is a pilot project and may not be something the Department will want to continue after the project is completed. There is no line item in the budget, so it needs Commission approval. The opportunity presented itself to provide training for incarcerated beneficiaries and build a home for a family.

Commissioner Wescoatt asked how the costs of this project compare to costs of a home the Department pays a contractor to build. P. Aila replied the Department would save money and would have the added benefit of helping incarcerated beneficiaries see there are options for them once they are released.

Chair Masagatani suggested P. Aila meet with Commissioner Awo to understand the concerns coming from the community.

ACTION

Motion carried unanimously.

WORKSHOPS

PLANNING OFFICE

ITEM G-3 DHHL Water Systems: Cost of Service

RECOMMENDED MOTION/ACTION

None. For information only. Program Planning Manager Kaleo Manual and Grants Manager Gigi Cairel presented the following:

The Department of Hawaiian Home Lands (DHHL) owns and operates 4 water systems statewide: Ho'olehua on Moloka'i; Anahola Farm Lots on Kaua'i; Kawaihae and Pu'ukapu in West Hawai'i. Three are regulated public (drinking) water systems and one - Pu'ukapu - is a non-potable water system that is not regulated.

At the June 2017 regularly scheduled Hawaiian Homes Commission (HHC) meeting, a workshop was conducted by a federal 501(c) (3) nonprofit organization on the Technical, Managerial,

Financial or "TMF" capacities for water system owners. (See Exhibit A). The workshop will expand on the Financial Capacity area, particularly the following.

- DHHL costs to provide water service
- Trust subsidy to break even
- Water rate analysis
- Organizational structure to effectively manage the water systems

As the owner of water systems, HHC and DHHL are responsible for providing safe, clean water and protecting community health and safety, while maintaining compliance with federal and state laws. These include the following.

- Federal Safe Drinking Water Act (SDWA) of 1974, as amended
- Federal Clean Water Act (CWA)
- State of Hawaii, Department of Health Hawaii Administrative Rules (HAR)

DHHL WATER SYSTEMS AT A GLANCE				
	Ho'olehua PWS 230	Anahola PWS 432	Kawaihae PWS 164	Pu'ukapu PWS n/a
Age of system	85 years est.	30 years est.	20 years est.	3 years
Service area	Ho'olehua, Kalama'ula, Naiwa, Pālā'au & Comm. Fac.	Anahola Farm Lots & Bay View residents	Kailapa residential	Pu'ukapu pastoral lots
Avg. # service connections	600	77	151	43
Water source	DHHL-owned Groundwater well	DHH-owned Groundwater well	Kohala Ranch	County of Hawaii
Dept. of Health regulated?	Yes - Certified Level 2	Yes - Certified Level 1	Yes - Certified Level 1	No
Operations handled by:	DHHL personnel	Contracted operator	Contracted operator	Contracted operator

DISCUSSION

G. Cairel went through the cost of service and rate schedule for each of the four water systems owned by the Department using a power point presentation.

Commissioner Kaapu noted the operational costs of the Hoolehua water system was mostly personnel costs. He asked if it may be cheaper to use an outside vendor to run the system. Chair Masagatani replied the positions are union affiliated and not easily undone. H. Ayau stated the Hoolehua water system is larger than the three other water systems combined. Commissioner Wescoatt added a private contractor would generally cost more.

G. Cairel stated the Department is a natural training ground for water system operators. The County is paying a premium to bring operators from the mainland. DHHL has the opportunity to grow its own pool of beneficiary operators.

Commissioner Ishibashi asked why the Department pays Kohala Ranch for water and whether the water wells they draw from are leased from DHHL. G. Cairel answered that the water is Kohala Ranch's water system. Chair Masagatani stated at the time when the agreement was made with Kohala Ranch, the plan was that the County would be bringing water in to allow homesteads to

open. The Kohala Ranch water was meant to be a short-term measure. The County’s water never materialized and now the Department is looking for its own water source.

K. Manuel stated the Department has two water wells on property, mauka of the homestead area, but both were tested and have high salinity. The Department’s goal is to have its own source and have Kohala Ranch as a back-up. Another concern is that Kohala Ranch, with two-years notice, can cancel the agreement and kick us off. The Department continues to work with the County who has Lalamilo wells that may open. The issue will be putting in the infrastructure to get the water across Honokoa Gulch.

Commissioner Ishibashi asked how the Department plans to collect on the delinquencies. H. Lindsey stated the Department is working on rules as a first step.

G. Cairel added the Department’s goal is to just break even and set aside a reserve. Commissioner Wescoatt asked how long it should take to build up a reserve. G. Cairel believed it was over a ten-year period.

Next Steps: Water Rates	
Schedule subject to change	
January	<ul style="list-style-type: none"> ➤ HHC approval to conduct public hearings on Water Admin Rules ➤ Water Rate Study expect to be completed
February	<ul style="list-style-type: none"> ➤ HHC - Water rate options workshop ➤ Seek HHC approval BC consultation
March	<ul style="list-style-type: none"> ➤ Conduct BC Molokai
April	<ul style="list-style-type: none"> ➤ Seek HHC approval for new Ho’olehua rates ➤ Conduct BC West Hawaii
May	<ul style="list-style-type: none"> ➤ Seek HHC approval for new Kawaihae & Pu’ukapu rates ➤ Seek HHC approval for Anahola rate extension
July	<ul style="list-style-type: none"> ➤ Conduct BC Anahola
August	<ul style="list-style-type: none"> ➤ Seek HHC approval for new Anahola rates

Commissioner Ishibashi stated the question should be if the Department wants to continue water management. K. Manuel stated having advocated for water before the CWRM (Commission on Water and Resource Management), BLNR, (Board of Land and Natural Resources) and DWS (Department of Water Supply), until there is a shift in the way DHHL beneficiaries are treated, it is an uphill battle in every conversation. From an advocacy point of view, having control and management over the resource is more than half the battle. The Department is not perfect at it, but the alternative is to be subjected to someone else’s decision making.

ITEM C-2 Approval of Recommended Changes to the Draft Administrative Rules for the Water Systems and to Proceed to 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 Water Systems and to proceed to rulemaking under Chapter 91, Hawai'i Revised Statutes.

MOTION

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

DISCUSSION

At the December 2017 meeting of the Hawaiian Homes Commission, the HHC deferred Item C-1, which requested approval of the recommended changes to the draft rules for the Hawaiian Home Lands water systems and requested approval to proceed to Chapter 91, HRS. The HHC requested further consideration of several items. The draft rule text is attached as Exhibit A. Staff continues to work with counsel on §10-4.1-31 water service rates and §10-4.1-42 fees for Puukapu; recommendations for those items will be provided to the HHC on Monday morning, 1/29/18.

Accordingly, staff recommends the following changes:

- a. §10-4.1-9(b) Payment of bills and delinquency. Delete language about "alternative payment methods" from this subsection and instead address the details of "alternative payment methods" in Department procedure.

New 10-4.1-9(c): Add a new subsection to provide the framework for the procedure relating to alternative payment methods: "The Department may enter into a payment agreement with a consumer to facilitate the payment of delinquent water charges. The terms of a payment agreement between the Department and a lessee-consumer may include alternative payment methods and shall not exceed the term of five years. Current charges shall continue to be paid when due. The agreement shall be signed by the Department and the consumer, and breach of such an agreement by the consumer shall result in further collection efforts including disconnection.

(1) Alternative payment methods are goods that are grown, caught, or produced by the consumer and donated to the homestead community on island or services provided by the consumer free of charge to the Department. Goods shall be dropped off at the district office at a time determined by the district office supervisor for distribution among beneficiaries. Services shall be provided to the Department as determined by the district office supervisor.

(2) The value of the alternative payment methods rendered shall not exceed five per cent of the delinquent amount. All terms regarding alternative payment methods, including the goods or services or both to be donated, valuation, and dates and times of service or drop off shall be included in the payment agreement."

- b. §10-4.1-10(c) (2) Discontinuation of service. Language was changed to resolve any appeal over discontinuation of service through Departmental process only, vesting the chairman with final decision-making authority: If the consumer is dissatisfied with the decision from the billing conference, the consumer shall have the right within five business days of receipt of the written decision to appeal the matter to the chairman. The decision of the chairman shall be final. The amount due shall be paid into an escrow trust account after the billing conference with the district office supervisor and shall not be postponed pending the appeal."

H. Lindsey stated staff is proposing that the language for water service rates to read that the Commission shall set rates at the cost of service and effective July 1, 2019, once each fiscal year

the Commission may adjust the base rates charges of no more than ten percent per thousand gallons delivered.

Chair Masagatani stated one way to cushion rate shock would be to budget for the gap between the cost to provide water and the what the Commission wants to charge beneficiaries.

Commissioner Kaapu stated he had concerns with the standard used in the appeal process. The standard is not explicitly defined in the rules and may become arbitrary. What is the definition of fair? He suspects 90% of the reasons for not paying a water bill is because the lessee cannot afford to pay.

H. Lindsey understood the concern and offered that the language used is almost verbatim from Board of Water Supply.

Chair Masagatani suggested deferring the item to the Tuesday agenda to allow Commissioner Kaapu time to work with staff on amendments.

ACTION

Deferred to Tuesday

RECESS **4:30 p.m.**

RECONVENED **4:35 p.m.**

ITEM G-5 Update on Kahikinui Fence Project

RECOMMENDED MOTION/ACTION

None; For information only.

DISCUSSION

Acting Planning Manager Kaleo Manuel, Planner Julie Cachola, Ka 'Ohana o Kahikinui President Ainoa Kaiaokamalie, and Leeward Haleakala Watershed Restoration Partnership (LHWRP) Director Andrea Buckman, provided an update on the fence project.

The moku of Kahikinui is comprised of 8 ahupua'a, encompassing 22,860 acres, from the summit of Haleakala, down the southern slope to the ocean; it is the second largest parcel of land in the Hawaiian Home Lands inventory. Roughly a third of the moku, just over 7,000 acres, contains the realm of the forest. Unfortunately, cattle ranching practices, occurring since the early 1800's, which were continued by the Department under a general lease nearly destroyed the native forest that once encompassed the moku all the way down to the shoreline. In 1994, nearing the expiration of the ranching general lease, beneficiaries organized as Ka 'Ohana o Kahikinui. They presented a Conceptual Master Plan to the HHC as an alternative development model where beneficiaries would be given immediate access to the lands for homesteading purposes while also assuming community management responsibilities for Kahikinui's natural and cultural resources. From 1994 to the present, Ka 'Ohana o Kahikinui has been engaged in community-based planning to manage the moku and restore the forest.

In the area of natural resource management, the 'Ohana worked with the Department and other partners to develop the Kahikinui Forest Reserve Community Management Conceptual Plan, which recognized that healthy native ecosystems were integral to the successful resettlement of Kahikinui and conveyed a vision for multi-generational restoration and perpetuation of natural and cultural resources. The Plan, approved by the HHC in 1995, specified actions including: creation of an on-site propagation facility; aerial and ground hunts to displace feral ungulates; fire

suppression and prevention planning; and invasive species control. However, the first order of business was to erect a fence around the reforestation area to keep the feral animals out of the forest.

The LHWRP has taken on the kuleana of the Kahikinui Fence Project. The LHWRP has been conducting resource management activities in the mauka forest for many years. Since its inception, LHWRP secured nearly \$2 million in grants and have contributed thousands of hours of staff time to construct forest protection fences, control invasive species, protect rare native species, complete fire planning and firebreaks, and conduct restoration planning for the mauka site. They have worked in collaboration with Ka 'Ohana o Kahikinui toward their shared long-range goals to increase biodiversity, improve forest resilience, improve watershed function, and enhance opportunities for economic and cultural resource utilization.

It is through their efforts, that the Kahikinui Fence Project is nearly complete. At completion, the fenceline will be 9.1 miles long, encompassing 4,500 acres in order to protect the remaining native forest on the slopes of leeward Haleakala. To date, 5.6 miles of the fence is constructed. Construction for the final phase of the fence (3.5 miles) will begin in February and should be completed in 3-6 months. The completion of the fence will mark the completion of a major benchmark in the restoration plan. In anticipation of the closing of the fence and before restoration can be initiated, feral ungulates must be removed to allow for natural regeneration and survival of outplanted native species. While customary practices of removal involve 100% eradication through aerial shooting by DLNR resource managers, the 'Ohana expressed concern over the waste of life and the waste of a resource. In search for a solution, the LHWRP and the 'Ohana found KIA Hawai'i.

KIA Hawai'i is a full-service ungulate management company that specializes in the planning, detection, assessment, capture, removal and certification of ungulate or small mammal populations utilizing Forward Looking Infrared (FLIR) technology. Recognizing that the feral animals are a valuable resource, over the past year, KIA Hawai'i has been working with LHWRP and the 'Ohana to develop an innovative process to remove the ungulates from within the fenced area and salvage the meat. KIA produced the first map and count of the ungulate population in the forest¹ and conducted a pilot project to ensure that his method of capture was viable at Kahikinui. The pilot project was completed and the group now has a viable method to capture and utilize cattle at Kahikinui. Over the next 18 months, the animals will be killed humanely and in accordance with all DHHL, State, and Federal regulations and the meat will be distributed to the DHHL homesteaders at Kahikinui and to other homestead communities as resources allow.

The 'Ohana (homesteaders) at Kahikinui, the LHWRP and KIA Hawai'i seeks the support of the Commission to protect and restore the forests and community resources at Kahikinui. Specifically, HHC support is requested for a 1-year Right-of-Entry permit to KIA Hawai'i so they may begin implementing the ungulate management and meat delivery program. This program is planned to be implemented outside of the fenced forest protection area into the future as part of a sustainable food production program to manage and utilize the feral animals to provide consistent sources of protein to the local community as a complement to a community pasture and other food production endeavors identified by the 'Ohana. KIA expects that it will require 3-years for the removal of the ungulates from within the resource management fence.

Commission support will also be needed as ungulate management is underway. The 'Ohana and LHWRP will be seeking funds for internal fencing so that community-based restoration can begin in priority areas. In addition, funds would be needed for longer-term restoration efforts of out planting, invasive species management, fire protection, and community outreach.

The Planning Office supports these efforts as they represent a new paradigm in conservation that aligns cultural and conservation goals with goals to improve sustainable food production and secure freshwater resources.

Commissioner Awo thanked A. Buckman and A. Kaiakamalie for their work. A. Kaiakamalie asked to be notified about anything the Department plans that relates to their community. They want to be involved in the process. The community wants to know what the Department is considering, particularly as it relates to alternative energy development projects near to or within Kahikinui.

FOR INFORMATION ONLY

GENERAL AGENDA - Requests to Address the Commission

ITEM J-1 Princeslehanani Kumaewakainakaleomomona – Waitlist

Deferred to Tuesday.

ITEM J-2 Sherilyn Wahinekapu – Akiona Contested Case Decision

S. Wahinekapu thanked the Commission for their consideration relating to her father's successorship. She asked the Commission to acknowledge her presence and continued involvement in the case. She looked forward to a decision by Commission.

ITEM J-3 Joel Alverio – Lot Safety and Vacant Lot Query

J. Alviero obtained his property in Nānākuli in November 2017. The previous owners told him that they took care of a parcel adjacent to his lot for the last 40 years. There is no access to the parcel, yet he is seriously concerned about the fire hazard and encroachment by homeless people living nearby. He asked if it were possible to amend the lot boundary for his lot to include the parcel, or if he could apply for a permit to maintain the area. Either option would allow him to fence the property in, and keep it clear of debris.

Chair Masagatani stated if it is inaccessible except through Mr. Alviero's parcel, a right of entry or revocable permit may resolve the matter. She asked Mr. Alviero to submit a request in writing, and asked Deputy Aila to follow-up.

ITEM J-4 Kekoa Enomoto – Pa'upena Community Development Corporation (CDC)

K. Enomoto did a presentation on Pa'upena CDC's request for 4000 acres of land currently leased to a non-beneficiary. The presentation included a conceptual illustration of livestock paddocks based on the 2014 Maui Island Plan's need for 1100 pasture units. They also used the 2010 Keokea-Waiohuli Regional Plan as a basis to include a road that runs from Kihei to Kula. Their vision includes building the road and charging non-beneficiaries a toll fee to support other projects. Their plan includes 1100 acres of cooperative farm fields to address the 5,247 beneficiaries on the Maui pastoral ag waitlist. Pa'upena CDC supports the formation of a Maui Homestead Contractors Advisory Group to help ag waitlisters plan, design and develop their own community.

Pau'pena CDC met with Peter Hanohano of Lei Hoolaha CDFI to explore funding opportunities to help implement their vision. Pa'upena CDC met with representatives from the Carpenters union to talk about housing on beneficiary lands. They also met with

four Maui based energy groups to discuss initiatives and support for private-public micro grids on beneficiary land.

Lehua Enomoto, K. Enomoto's daughter, stated she is a supporter of Pa'upena CDC's right of entry application to the Department. The title "actualizing visions" characterizes the leaders and their motive to realize the highest potential. The main motivation is about the larger lahui and how to get our Hawaiian people to realize their potential. She is an educator and struggles with trying to be more culture based in the classroom. She shared some strategies they use to implement their vision: 1) empowering homesteaders and providing access, 2) funding enthusiasts who are working hard for the community; and 3) change agent mentality - making sure the lahui is at the heart of everything. The perspectives of fostering economic development when the emphasis is on people and Hawaiian needs. The pono perspective of empowering gems who are willing to work hard. She asked that the Commission grant Pa'upena CDC access through their right of entry application.

ITEM J-5 Michelle Kauhane –Updates on CNHA Programs and Loan Fund

Deferred to Tuesday.

ITEM J-6 Kuuleilani Petty-Hanawahine – Waimānalo Ohana Parcel

K. Petty-Hanawahine testified during the Homestead Service's presentation of the submittal earlier in the day.

ITEM J-7 Bo Kahui – Villages of La'i'opua and La'i'opua 2020

B. Kahui asked DHHL to support OHAs Public Land Trust funding bill, HB 1747. Villages of La'iopua Association (VOLA) is submitting testimony supporting the \$35 million allocation and asks that \$10 million go toward beneficiary associations.

B. Kahui spoke about delinquent dues related to lease transfers. He requested DHHL pay association dues for empty lots in Laiohua. He noted that a contested case hearing was scheduled for Derek Kakalia but the association was not notified about it.

The VOLA continues to ask for a Kona office and would like to see it as an item in the next fiscal budget. They continue to advocate for a rent to own program in Village 4. They are looking for assistance with getting a regional plan update as the last plan was done in 2009.

Regarding La'i'Opua 2020 he requested a water development plan update and hoped the RFP process continues moving forward to an environmental assessment. He noted their USDA eligibility is still viable. The La'i'Opua Community Center Phase I is set for completion by the end of February. The Phase II funding of \$500,000 is scheduled to start as soon as the money is released. They have applied for grants in aid from the state in the amount of \$1.277 million to finish Phase III.

PLANNING OFFICE

ITEM G-1 Acceptance of Beneficiary Consultation Report, Land Use Designation Alternatives for Malama Cultural Park, TMK's (2)5-3-001:002, -097 and -100, Kaunakakai, Kona, Molokai

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following:

That the Hawaiian Home Commission accept this Beneficiary Consultation Report as the public record of beneficiary input and feedback relative to DHHL land use designation alternatives for Malama Cultural Park, Kaunakakai, Kona, Molokai.

MOTION

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

DISCUSSION

K. Manuel stated the land use analysis revealed that the site is not usable for homesteading because of its proximity to the shoreline and historical sites. Response to DHHL's efforts to start the planning process for Malama Park have been positive, with one or two exceptions. There is concern that the efforts of the past will not be honored to the extent that they should be, and a strong interest by beneficiaries in stewardship, community empowerment and collaborative planning, and a process best led by beneficiaries. An applicant was unclear about how this park effort would benefit beneficiaries on the waiting list for lots on Molokai. One commenter emphasized that the use of the shoreline by the canoe clubs must be preserved and supported as a cultural right.

Reviving the Malama Cultural Park Plan and restoring the park site is a matter of civic and cultural pride to the beneficiaries, and with the right kind of guidance and technical assistance, the vision the Molokai beneficiaries once had, and for the most part still have, for the site as a culturally based community economic development project, educational center, and recreational site could still be realized. The comments strongly emphasize that due to the sensitivity and significance of the cultural and natural resources there, as well as other factors, the special district designation, necessitating additional master planning involving beneficiary stakeholders, would be the appropriate land use designation for the three parcels. The Planning Office anticipates providing the HHC with a submittal for action on a recommended land use designation in January 2018.

Commissioner Wescoatt asked for clarification on the land use designation and what special district zoning entails.

K. Manuel explained that special districts are so unique that it needs its own priorities, parameters, and standards. It calls for a special area plan that delineates the programs allowed in the space, and offers restrictions like setbacks. The county has something called project districts where they create their own standards and every project that uses the parcel must meet that standard. This land use designation is very similar.

ACTION

Motion carried unanimously.

OFFICE OF THE CHAIRMAN

ITEM C-3 Approval to Proceed to Beneficiary Consultation for Draft Administrative Rules Related to Supplemental Dwelling Units on Hawaiian Home Lands

RECOMMENDED MOTION/ACTION

DHHL Rules Officer Hokulei Lindsey presented the following:

That the Hawaiian Homes Commission approve proceeding to beneficiary consultation for draft administrative rules related to supplemental dwelling units on Hawaiian Home Lands.

MOTION

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

DISCUSSION

In March 2017, staff presented a workshop to the Hawaiian Homes Commission about supplemental dwelling units and some of the unique challenges that would be faced by lessees interested in building a second dwelling unit on their lots. Since that time, staff have endeavored to create a supplemental dwelling unit process that is as simple as possible for residential lessees. Although the draft rules rely on the counties' building codes and permitting processes, the Department must conduct a review of the lot, lessee compliance, and the proposed occupant or renter because the Hawaiian Homes Commission Act contains specific requirements that must be followed, authorities that cannot be compromised, and processes whose implementation carries consequences for which the Department must plan and anticipate.

In summary, the draft rules structure the program as follows:

§10-3-40.03 Pilot Program. The program would commence as a five-year pilot program on the islands of Oahu and Hawaii. These counties were chosen because the Department has a working relationship with their permitting and planning offices that can facilitate the process for lessees and help ensure the success of the program. There is a mandatory evaluation for the program after three years. If found to be successful, the Department can expand the program by the end of year five or the program will terminate.

§10-3-40.04 SDU application and review. A completed application would be submitted by the lessee, reviewed by the Department, and approved by the Commission. The structure and related improvements must be permitted by the county and meet all county building requirements but the language allows the Commission to provide otherwise.

§10-3-40.05 Lot requirements. DHHL, review of the lot ensures a supplemental dwelling is compatible with the specific lot, the Island Plan, and the Area Plan. Although also requiring the lot meet county regulations for additional dwellings, the language ensures the Department has final control over land use decisions by providing that the Department may waive certain county requirements based upon the area or site itself.

§10-3-40.06 Lessee obligations, generally. The lessee must be in good standing at all times.

§10-3-40.07 Supplemental dwelling units. In addition to setting size limitations, the supplemental dwelling can be categorized as an "ohana SDU" or a "rental SDU." For ohana use, the occupant must be a qualified relative of the lessee under HHCA section 209. For rental use, the HHCA section 208 requires the renter be native Hawaiian. The Department would verify the status of the occupant or the renter. Ohana use is intended to help lessee families who live in crowded conditions such that different generations could reside in different units but still contribute to the household as a single unit. Rental use, however, is intended as an income producing option for lessees and as providing additional housing options for native Hawaiian families.

H. Lindsey stated this is follow-up to the workshop several months earlier on DCCRs. She reviewed the summary above.

Commissioner Kaapu expressed concern over possible pushback from islands not included in the pilot program.

Chair Masagatani asked if a lessee wanted to start renting, whether it would require a lease amendment. H. Lindsey stated in its current form, the proposed rules require a lease amendment. Additionally, even if the program is not expanded, the lessee is still subject to whatever was amended in their lease. The lessee would fill out the application and go to the county to get all the permits and submit building specifications. Homestead Services Division would check the renter for blood quantum qualification and lessee indebtedness. If the lessee is in good standing, the lease amendment would occur through the division.

Commissioner Wescoatt asked if the county of Hawai'i is aware of the pilot project and whether they have any comments. Many lessees have said the county tells them they don't need permits for Hawaiian home lands.

Chair Masagatani asked if Commissioners wanted to make changes to the proposed rules or allow it to go out for beneficiary consultation as is. Commissioner Kaapu stated he looks forward to the results of the beneficiary consultation.

ACTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-2 Legislative Update 2018

RECOMMENDED MOTION/ACTION

None; For information only.

Acting Planning Program Manager Kaleo Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

DHHL Bill in the Governor's Package

At its regular meeting of September 18, 2017, the Hawaiian Homes Commission approved two legislative proposals to be recommended for inclusion in the Governor's Package for the 2018 Regular Session. Following this approval, these legislative proposals were reviewed by the Department of the Attorney General, the Governor's Policy Office, and the Governor. One (1) proposal was accepted in the final package and the final draft that was submitted.

RELATING TO PERSONAL PRIVACY.

Specifies certain records of the Department of Hawaiian Home Lands are not required to be publicly disclosed or made open to inspection pursuant to public records requests and may be discussed during an executive meeting of the Hawaiian Homes Commission.

The State Budget

The State Budget as proposed by the Governor is reflected in HB1900. A chart highlighting DHHL's sufficient funds request as compared to the Governor's request for Purpose 4 - Operating & Admin expenses and Purposes 1-3 - Lots, Loans & Rehabilitation Projects was reviewed.

Budget Briefings

The Senate Committees on Ways and Means and Hawaiian Affairs held an informational briefing on DHHL's 2019 Supplemental Budget Request on Wednesday, January 10. The briefing materials can be reviewed at [https://www.capitol.hawaii.gov/session2018/testimony/INFO TESTIMONY WAM-HWN 01-10-18 HHL.pdf](https://www.capitol.hawaii.gov/session2018/testimony/INFO%20TESTIMONY%20WAM-HWN%2001-10-18%20HHL.pdf). The House Committee on Finance held an informational briefing on DHHL's 2019 Supplemental Budget Request on Tuesday, January 16, 2018.

LAND MANAGEMENT DIVISION

ITEM F-1 For Information Only – Solicitation for Developers for Renewable Energy Projects – Statewide.

RECOMMENDED MOTION/ACTION

None; For information only.

Acting Land Management Division Administrator Peter Albinio and Property Development Agent Allen Yanos presented the following:

DISCUSSION

K. Albinio noted a correction to the submittal. The agenda was filed with an error; two of the tax map keys (TMK) were correct, but the correlating area description was not. Deputy AG Iha stated it would be best to remove the affected TMKs from the workshop, submittal item.

K. Albinio stated the purpose of the informational briefing is to provide background for the Land Management Division's ("LMD") plan to solicit letters of interest ("proposals") for the development of renewable energy projects on Department of Hawaiian Home Lands ("DHHL") lands statewide.

On October 23, 2017, the Hawaiian Electric Companies, comprised of the Hawaiian Electric Company, Inc, Maui Electric Company, Limited, and Hawaii Electric Company, Inc., ("HECO") filed draft Request for Proposals ("RFPs") for various renewable energy generation projects on Oahu, Maui, and Hawaii Island with the state Public Utilities Commission ("PUC") in Docket No. 2017-0352. In anticipation that the review process will be completed soon and the PUC approves issuance of the final RFPs sometime in early 2018, LMD plans to solicit proposals, as soon as practical, for the development of renewable energy projects on parcels located throughout the state. These are parcels that were also included in the list provided to HECO by DHHL as available for renewable energy projects pursuant to HECO's request for land information from major landowners in December 2016. LMD formulated the list in consultation with the Planning Office and the Land Development Division.

NEXT STEPS

- Seek approval from the HHC to authorize the leasing of these parcels and to grant the HHC Chairman the authorization to approve and prioritize, with DHHL staff and renewable energy consultants' recommendations, which renewable energy projects shall proceed for general leasing.
- Issue solicitations for proposals for the development of renewable energy projects.
- Upon the selection of the developers for renewable energy projects, immediately initiate the process for issuance of a right-of-entry for due diligence purposes and a general lease pursuant to Section 171-95.3, HRS, if appropriate, for the projects selected; otherwise, other statutory processes may be utilized.

Commissioner Ishibashi asked if geothermal projects would be considered. A. Yanos stated it would be up to the developers to provide research on why a particular parcel would be suitable. There is a potential for geothermal on lands in Mauna Kea. A. Yanos stated geothermal parcels could be added in the next submittal.

Chair Masagatani clarified that the Department has the authority to issue a letter of intent. The project is still subject to beneficiary consultation and a public hearing process.

MOTION/ACTION

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

EXECUTIVE SESSION IN	6:53 PM
EXECUTIVE SESSION OUT	7:40 PM
RECESS	7:41 PM

HAWAIIAN HOMES COMMISSION

Minutes of January 30, 2018

Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i

PRESENT

Jobie M. K. Masagatani, Chairman
Randy K. Awo, Commissioner, Maui
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Ka‘apu, Commissioner, West Hawaii
Wren Wescoatt, Commissioner, O‘ahu

EXCUSED

Michael P. Kahikina, Commissioner, O‘ahu
Molokai Seat, Vacant
Kaua‘i Seat, Vacant
O‘ahu Seat, Vacant

COUNSEL

Craig Iha, Deputy Attorney General

STAFF

William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Hale Manager
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
Bryan Cheplic, ICRO
Joann Aiwohi, Homestead Housing Specialist IV
Nancy McPherson, Planner
Debra Aliviado, Customer Service Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:22 a.m.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

None.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND DEVELOPMENT DIVISION

ITEM E-1 For Information Only - General Lease No. 283, Ulu Ke Kukui Transitional Housing Waianae, Oahu (TMK (1) 8-7-010: 030 por.)

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION

Acting Land Development Division Administrator Norman Sakamoto and Real Estate Development Specialist Darryl Ing reviewed the submittal.

General Lease No. 283 was issued to the Hawaii Public Housing Authority (HPHA) for a transitional and affordable housing project in Waianae, Oahu, on six acres of an 89-acre parcel sometimes referred to as the former Voice of America site. The lease will expire on November 24, 2018, but provides for an extension of the lease period by mutual written agreement.

The existing facilities, called Ulu Ke Kukui, consist of five residential buildings, each with eight two-bedroom units and eight studio units; and an administration building which includes offices, storage, classrooms, a daycare, and cafeteria. The project was constructed in 2008. HPHA has contracted with Alternative Structures International (ASI), dba Kahumana, to operate the facilities. Services include transitioning homeless families into permanent housing, day care of children, and subsidized meals at the facility and other locations throughout Leeward Oahu. In late 2017, DHHL hired Group 70 International to conduct an assessment of the facilities. Their findings were:

General Condition: Acceptable

Level of Maintenance: Fair

All buildings appeared structurally stable and designed and constructed appropriately. The interior of units that were observed are in generally good condition with no indication of wall, ceiling or flooring failures, or damages. The exterior of the facility requires cleaning of bird droppings on the roof solar panels, gutters and downspout pipes. There are areas in the site parking lot and access road that will need to be rebuilt as deterioration is significant. The observed building MEP (Mechanical, Electrical, and Plumbing) systems appear functional and do not require repairing at this time. Overall, the existing facility will need minor restoration for the buildings and repaving in the asphalt areas that have failed.

Estimated cost of repairs, remediation: \$92,642

In preparation for the reversion of the premises to DHHL at lease expiration in November, staff has begun exploring the following options:

- Extend lease on a year by year basis
- Extend for five years with transition to beneficiary occupancy (as renters or lessees)
- Convert to DHHL Rental Housing (transitional, kupuna, etc.)
- Convert to DHHL Homestead Leases
- Demolish structures, redevelop as single-family lots

Assuming the general lease is not extended, DHHL would need to solicit for a new lessee and/or facility operator. To ensure the new agreement is effective prior to the current lease expiration, various actions would need to occur:

- May 2018 -Issue solicitation
- June 2018 -Proposals due
- August 2018 -Recommendation to Chairman October 2018 -Execute lease/contract
- November 24, 2018 -GL 283 expiration

Commissioner Wescoatt stated he like the idea of bringing something like this project into the Department's inventory.

Chair Masagatani asked if there were any subsidies for the current occupants. N. Sakamoto stated the Department of Human Services subsidizes the operating costs for the vendor as a transitional housing program. Chair Masagatani asked if the subsidy would continue if the Department were to continue the project as a transitional housing program. N. Sakamoto stated they will check how something like that could work.

Commissioner Ishibashi asked how many units are occupied by Native Hawaiians. N. Sakamoto stated the vendor felt more than half of the occupants are Hawaiian but it is unclear if they are 50% Hawaiian.

N. Sakamoto stated that staff has asked for confirmation in writing from the Hawai'i Public Housing Authority whether they want to continue the project or not. He felt it prudent to find out from the Commission how to move forward if the answer is that HPHA does not renew the lease. Regardless of the outcome, it will help the Department to understand what the Commission envisions for the site. Kupuna housing is possible for the ground floors and rental or homesteader housing can be an option for the upper floors.

Commissioner Ishibashi agreed that the Department would do well to have kupuna housing options.

Commissioner Kaapu asked if rental housing is in the scope of the HHCA's mission. Chair Masagatani stated in terms of the State Constitutional purposes for DHHL, purpose, this would fall under rehabilitation in its broadest sense. If DHHL takes this project over it should be for beneficiaries and there would need to be rules.

Commissioner Kaapu asked for more information on the demographics of the people living there. N. Sakamoto added that if the decision is to cease operations as a transitional housing program, the current operator will stop filling units as families transition out of the program.

Chair Masagatani thanked N. Sakamoto and staff for the update.

ITEM G-4 Draft Environmental Assessment for the DHHL South Point Resources Management Plan, Kau, Hawaii Island and Anticipated Finding of No Significant Impact (AFONSI) TMK (3) 9-3-001:003

RECOMMENDED ACTION

None; for information only.

DISCUSSION

Acting Planning Program Manager Kaleo Manuel and Planner Andrew Choy provided an overview of the DHHL South Point Resources Management Plan:

1. Natural & Cultural Resources Management: Restore, preserve, and protect cultural and natural resources.
2. Native Hawaiian Culture, Knowledge, & Traditional Practices: Perpetuate native Hawaiian culture, values, history and language for future generations.
3. Health & Safety: Provide a safe, clean, and friendly environment.
4. Economic Self-Sufficiency: Generate revenue in order to sustainably fund cultural and natural resources management activities and provide economic opportunities for DHHL beneficiaries and their families.

Commissioner Ishibashi asked if there will be only one road in and one out. A. Choy stated the service road is for maintenance vehicles only. The plan is to encourage pedestrian access by foot and to control vehicular access. Vehicles are the biggest threat to cultural and natural resources in the area.

Commissioner Ishibashi asked if the scope of the EA includes the mauka pastures. A. Choy stated the EA only includes the special area district which is the makai portion.

Commissioner Wescoatt remembered approving money in the budget to immediately install a gate and signage. He asked for an update on the gate and its effectiveness. A. Choy responded that the State Historic Preservation Division (SHPD) had fundamental issues with the plan to install a gate so close to the burial mound. Land Management Division is working on more toilets, trash receptacles and signage. Internally they've had discussions about enforcement but there haven't been any decisions about how to establish presence in the area. K. Albinio stated signs have been ordered but the gate cannot be installed until the EA is completed.

Commissioner Wescoatt is concerned that not enough is being done in a timely manner. Most things take a long time to get done, but it seemed like there was an urgency to protect the site.

Commissioner Awo agreed that protecting the cultural resources should have more urgency. He liked the plan but felt that enforcement is a key factor. K. Manuel stated there has been some pushback from the fishing community for night access. Most of the comments toward the management plan has been positive.

Commissioner Kaapu noted that the special district area ends at Mahana Bay and was concerned that while a gate might prevent vehicular access from the South Point side, folks will start to enter through the other side. He believed the special district should include the coastal area. K. Manuel responded to the access concern by stating that Bishop Estate owns the Ka'alu'alu access point and are waiting to see what the Department is doing before committing resources to the area. He agreed that there may be secondary or cumulative impacts to other areas outside of the special district. The goal is to reestablish better habits for those who use the area.

Commissioner Kaapu asked if the access road were to be used for ecotourism or shuttles does it change the EA to an EIS. K. Manuel stated the community wanted to focus on the cultural resources and made protecting them the goal for the management plan. Allowing shuttles goes against the plan and what the community wanted. The impact of running 10 shuttles per day is not addressed in the current EA.

Commissioner Ishibashi is concerned that the Department isn't doing enough to protect the cultural sites.

Commissioner Wescoatt stated the current state of use is something like 500 people per day. He believes that the Department should find a way to manage the resource so there is less of an impact to the area. K. Manuel stated no carrying capacity study has been done.

Chair Masagatani stated the goal is to have the item for action in May.

RECESS **10:48 AM**

RECONVENE **11:00 AM**

GENERAL AGENDA – REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 PrincessLehuanani Kamaewakainakaleomomona

P. Kamaewakainakaleomomona shared that she has been on the waitlist for over 20 years and wants to work with the Department to get her on the land. She shared information about her lineage past and future and expressed an urgent need to get her on the land.

ITEM J-5 Michelle Kauhane – President, Council for Native Hawaiian Advancement (CNHA)

M. Kauhane asked regarding Ulu Ke Kukui that the Commission consider partnering with homestead community development corporations like Kamaki Kanahele’s organization who already has experience with a similar project. She applauded the Department for the variance report distributed in the meeting, it is something beneficiaries have been asking for.

M. Kauhane reported that CNHA as a Native CDFI (Community Development Financial Institution) has a total of 119 loans in its portfolio, for \$2.2 million. Their current delinquency rate is around 7%, representing 8 loans. They do loans for residential solar. The most growth in their portfolio has come through micro loans on Hawaiian home lands. She provided handouts reporting their awards and deployment ratios. Last year they earned approximately \$92,000 in loan fees and interest. They have a modest loan portfolio but look forward to growing.

She shared that their capital pool for tiny homes has begun. The goal is to build the capital to \$15 million. They would like to explore with DHHL its ability as a leverage lender to help beneficiaries access the capital. She is happy to see that the Department is starting the rules process on the accessory dwelling units.

ITEMS FOR DECISION MAKING

OFFICE OF THE CHAIRMAN

ITEM C-2 Approval of Recommended Changes to the Draft Administrative Rules for the Water Systems and to Proceed to Rulemaking Under Chapter 91, Hawaii Revised Statutes

RECOMMENDED MOTION/ACTION

DHHL Rules Officer Hokulei Lindsey noted the following sections were changed from Monday’s submittal:

§10-4.1-5 Water pressure conditions and elevation agreement
(3) Shall execute a written release in favor of the Department for all claims due to any inadequacy in the Department’s system or inadequacy of water supply to the premise including but not limited to lack of fire Department services in the event of a fire.

§10-4.1-6 Application for water service
(a) ...The Department shall assign an account number when the application is complete. The person, entity, or organization executing the application form shall be liable for the payment of all charges for water service at the designated location including a meter charge with each billing cycle as provided in section 10-4.1-31 and 10-4.1-42.

§10-4.1-7 Installation of water service.
(b) ... The Department may provide backflow prevention devices to lessees as a means to protect the public water system, however the cost of installation shall be paid by the consumer within thirty days of installation.

§10-4.1-10 Discontinuance of service
(3) Unauthorized use of water. Without notice, the Department may refuse or discontinue water service to any premises or consumer to protect itself against fraud, abuse or unauthorized use of water. For unauthorized use of water, a surcharge may be assessed as provided in section 10-4.1-31 and 10-4.1-42.
(5)(b) Where discontinuation of water service for any of the above reasons is proposed, the Department shall, prior to the proposed shut off, give the consumer written notice at least five business days before shut off. The notice shall specify the reasons for the proposed shut off as well as inform the consumer of the right to dispute the shut off by making appropriate request to the Department at the address or phone number provided on the notice. The notice shall further inform the consumer that once water service has been discontinued, a service fee, as provided in section 10-4.1-31 and 10-4.1-42, shall be charged and must be paid in full prior to the reinstatement of water service.
(c) ... The district office supervisor conducting the billing conference shall not have previously been involved in the case, ~~shall not be swayed or affected in any manner by other Department personnel~~ objectively review the basis for water shut off, shall be subject to all state ethics rules on conflicts of interest, and shall exercise impartial judgment in deciding the merits of the consumer's ease request for reinstatement of water service.
(1) At the billing conference, the consumer shall have the right to submit evidence, present and cross examine witnesses, and bring ~~an interpreter or a~~ representative to aid in presenting the case. The consumer shall have the right to see the Department's records concerning the account and shall have the right to reasonable explanation for any matter concerning the proposed discontinuance of service. The district office supervisor conducting the billing conference shall be empowered to correct any errors in billing and to take whatever remedial action is necessary ~~including a stay to make a just and fair resolution of the matter if the~~ consumer presents evidence that would demonstrate by a preponderance of the evidence that the consumer is not responsible for conditions leading to the Department's decision to shut off service other than non-payment of the water bill. The district office supervisor conducting the billing conference shall make a written decision within three working days of the conference.
(2) If the consumer is dissatisfied with the decision from the billing conference, the consumer shall have the right within five business days of receipt of the written decision to appeal the matter to the chairman or the chairman's designee. The amount due shall be paid into an escrow trust account after the billing conference with the district office supervisor and shall not be postponed pending the appeal. The chairman or the chairman's designee shall review the consumer's written appeal and the billing conference record and decision for compelling factual, or legal, or procedural errors, or any combination thereof, and render a final written decision affirming the district office supervisor's written decision or remanding the matter to the district office supervisor for further handling pursuant to the chairman's or the chairman's designee's written decision and direction on appeal. The decision of the chairman shall be final. ~~The~~

~~amount due shall be paid into an escrow trust account after the billing conference with the district office supervisor and shall not be postponed pending the appeal.~~

§10-4.1-31

Water service rates

(b) Water service rates for each Department owned public water system shall be established by the Commission and attached to this chapter. Effective July 1, 2019, once each fiscal year the Commission may adjust base water service charges by no more than ten per cent per thousand gallons of water delivered. Effective upon approval by the Commission, water service rates are set as follows:

(1) The table entitled, "Hoolehua Water System Service Rates Approved on March 30, 2004", dated March 30, 2004, attached as Exhibit "A" at the end of this chapter and made part of this chapter.

(2) The table entitled, "Kawaihae Water System Service Rates Approved on May 25, 1999", dated May 25, 1999, attached as Exhibit "B" at the end of this chapter and made part of this chapter.

(3) The table entitled, "Anahola Water System Service Rates Approved on May 25, 2004", dated May 25, 2004, attached as Exhibit "C" at the end of this chapter and made part of this chapter.

§10-4.1-42

Monthly maintenance fee

a) The lease shall provide service conditions and for the assessment of the monthly maintenance fee set as follows: the table entitled, "Puukapu Maintenance Fee" Approved on May 19, 2014", dated May 19, 2014, attached as Exhibit "D" at the end of this chapter and made part of this chapter.

DISCUSSION

At the table, they made amendments to 10-4. 1-10 (c) (2), adding "or the chairman's designee."

Commissioner Kaapu asked if the current rates should be included as a placeholder.

H. Ayau stated the 10% increase language was inserted to prevent rate shock. Commissioner Kaapu stated the Commission has an obligation to collect fees at the cost of providing the water. Chair Masagatani stated that since it is the Commission's intention to come back and fix the rate issue, what is the risk of sending it out as is. DAG Iha stated the way staff has the language is enforceable.

MOTION TO AMEND

Moved by Commissioner Kaapu, seconded by Commissioner Wescoatt to approve the recommended changes to the draft Administrative Rules for the Water Systems and to proceed to rulemaking under Chapter 91, Hawaii Revised Statutes as provided in the revised Item C-2, exhibit A, additionally to amend:

§10-4.1-10(c)(2)

Adding "or the chairman's designee" after every use of chairman in this section. (made at the table)

Moving "The amount due shall be paid into an escrow trust account after the billing conference with the district office supervisor and shall not be postponed pending the appeal" from the last sentence to the second sentence.

Adding "The chairman (or the chairman's designee) shall review the consumer's written appeal and the billing conference record and decision for compelling factual, legal, or procedural errors, (or any combination thereof,) and render a final written decision affirming the district office

supervisor's written decision or remanding the matter to the district office supervisor for further handling pursuant to the chairman's or the chairman's designee's written decision (and direction) on appeal."

§10-4.1-31

Adding language for the setting of water service rates and attaching the rate schedules for each public water system owned by the Department as an exhibit to the rules.

§10-4.1-4

Adding language for the maintenance fee for Puukapu and attaching the maintenance fee schedule as an exhibit to the rules, and to make technical corrections to reflect the new rate tables to approve the motion as stated in the submittal.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ACTION ON MAIN MOTION, AS AMENDED

Motion carried unanimously.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular meeting will be held at the main office in Kapolei, O'ahu, on February 20 & 21, 2018.

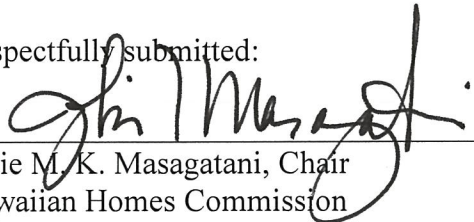
MOTION/ACTION

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

ADJOURNMENT

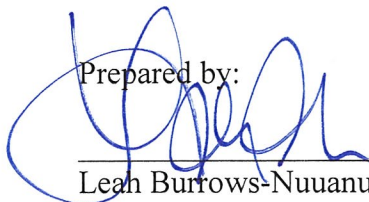
2:13 PM

Respectfully submitted:



Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

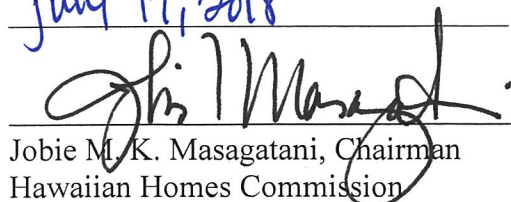


Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

July 17, 2018



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission