

HAWAIIAN HOMES COMMISSION

Minutes of April 16 and 17, 2018

Meeting held at Kūlana 'Ōiwi DHHL/OHA Conference Room

Pursuant to proper call, the 698th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands Moloka'i District Office Conference room, 600 Maunaloa Highway, Kalama'ula, Moloka'i, Hawai'i, beginning at 8:30 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Commissioner, Maui
David B. Ka'apu, Commissioner, West Hawai'i
Michael P. Kahikina, Commissioner, O'ahu
Zachary Z. Helm, Commissioner, Moloka'i

EXCUSED Wallace A. Ishibashi, Commissioner, East Hawaii
Wren Wescoatt, Commissioner, O'ahu
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, ICRO Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Administrator, Homestead Services Division
Kaleo Manuel, Acting Manager, Planning Office
Norman Sakamoto, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
James Du Point, West Hawaii District Office Supervisor
Halealoha Ayau, Water Specialist
Bryan Cheplic, ICRO
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Susie Richey, Secretary

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 8:30 a.m.

Five (5) members were present at roll call. Newly appointed Moloka'i Commissioner Zachary Helm was sworn in to office before the convening of the meeting. Commissioners Ishibashi and Wescoatt were excused, and the Kaua'i and Oahu Commission seats were vacant.

APPROVAL OF AGENDA

Chair Masagatani noted approval of the minutes for November 2014 will be deferred to the Tuesday agenda.

MOTION/ACTION

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

APPROVAL OF MINUTES

Chair Masagatani asked if there were any amendments to the November 2017 Minutes. There were none.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Lisa N. Willing Re: Item F-2

L. Willing testified in support of the reissuance of a general license to Ierusalemā Pōmaika'i Church in Kalama'ula, Moloka'i. She and her 'ohana have been and continue to be blessed by their affiliation with the members of Ierusalemā Pōmaika'i. She and her husband were married in the church 26-years ago and she knows many families of the Moloka'i Community have been equally blessed.

ITEM A-2 Debra Spencer Re: Item F-2

D. Spencer testified in support of reissuance of a license to Ierusalemā Pōmaika'i Church in Kalama'ula, Moloka'i. She and her family have been with Ierusalemā Pōmaika'i for more than 50 years. Many of her kupuna have been ordained officials in the church and the legacy continues. She asked for the Commission's support by renewing the license to Ierusalemā Pōmaika'i.

ITEM A-3 Noel Keliikoa Re: Item F-2

N. Keliikoa testified that he is a member of Ierusalemā Pōmaika'i and is thankful for the license they have had and prays the Commission will allow the church to continue its mission in serving the community by spreading God's love and salvation through Christ.

ITEM A-4 Kuulei Arce Re: Item F-2

K. Arce testified that she grew up in the church, her grandmother loved God and did her service in Ierusalemā Pōmaika'i. Her heart stopped when she read the word "terminate" next to her church. Even though she doesn't attend church every Sunday, the church is very important to her and the community. She knows that she always has a place to go to worship but having the church is precious. She asked Commissioners to extend the license to continue the legacy of Ierusalemā Pōmaika'i.

ITEM A-5 Naomi Duvauchelle Re: Item F-2

N. Duvauchelle testified that she is thankful for the opportunity to speak to Commissioners and asked for the extension of the lease to continue the work they do in the community. Ierusalemā Pōmaika'i is part of a denomination that includes five other churches across Hawai'i. Their mother church is Ka Makua Mau Loa located on O'ahu.

Chair Masagatani noted the church is requesting to make improvements. N. Duvauchelle stated they are in the process of raising funds to install a septic tank, costing thousands of dollars.

ITEM A-6 Leilani Wallace Re: Kapa'akea Homestead

L. Wallace testified that she is the former president of the Kapa'akea Homestead Association and since her departure from office, there have been no meetings held. One of the concerns from her homestead is the effects of global warming on the shoreline. Recent king tides have reeked havoc on the shorefront homes.

Another concern is the streams that run through the Kapa'akea homestead. When it rains several parcels are inundated with water and one home loses its yard every time it rains. She asked that a staff member is assigned to communicate with the homesteaders about what the Department plans to do about their concerns.

ITEM A-7 James Duvauchelle Sr. Re: Item F-2

J. Duvauchelle testified that he had a speech prepared for the Commission, but after hearing Chair Masagatani explain that the Commission doesn't intend to terminate the lease, he is content. He is a third-generation member of the congregation and has served God his entire life. He is an assistant pastor and looks forward to continuing their work in the Community.

ITEM A-8 Leolani Lee Re: Item F-2

L. Lee testified in support of Ierusalem Pōmaika'i Church and thanked the Commission for extending the Ierusalem Pōmaika'i Church lease. The Church has been a part of the community for generations and it is important to know that to understand Moloka'i and its residents. It is important to continue the work of spreading the word of God to anyone who will hear it.

ITEM A-9 Noelani Joy Re: Item G-3

N. Joy testified that she is Ho'olehua Homesteader and a user of the DHHL water system. She requests an increase of water rates by no more than \$.02/1000 gals or \$2.80/1000 gals of residential water per month. She requests a monthly billing schedule rather than the bi-monthly billing cycle residents have. Monthly billing will give homesteaders a smaller bill to pay each month. She asked to revisit the issue in five years. She also asked the Commission to support her testimony before the County of Maui where she will support the minimum property tax staying at \$150.00.

ITEM A-10 Maggie Duvauchelle Re: Item F-2

M. Duvauchelle testified that she is a member of Ierusalem Pōmaika'i and serves as an evangelist. She asked the Commission to extend the license, so they can continue to spread the word of God and have a place to worship each week.

ITEM A-11 Cora Snackenber Re: Item G-5 and G-4

C. Snackenber testified that she supports housing projects on Moloka'i, but there isn't enough water to support more homes. She cited the State Water Projects Plan Update, Final Report, dated May 2017, and summarized that the Department is pumping more water than it is allowed and that daily demand is 0.635 MGD (million gallons per day) yet the system facility capacity is 0.576 MGD per day. She is also concerned that DHHL and the Maui Department of Water Supply (MDWS) have increased chloride concentrations as pumping from the wells have negatively influenced each other due to the proximity.

She is also concerned about the Moloka'i Irrigation System (MIS) sucking up fresh water that could be used as potable water. The Department of Agriculture cannot commit that the AWUDP will establish increased irrigation for ag lots.

Regarding the sewer system, the County of Maui is paying \$10 million to refurbish the current sewer plant. She suggested the sewer plant should be moved further inland to prevent sea level rise to overrun the plant.

ITEM A-12 Gayla Ann Haliniak Re: Item Kalaniana'ole Hall

G. Haliniak represented the Kalama'ula Homestead Association and their concern regarding the closure Kalaniana'ole Hall. It is difficult to see the hall sitting there, unused and dilapidated. The issue about who owns the structure is at the heart of the problem. The Kalama'ula Homestead Association applied for the lease but hasn't heard anything from the Department since.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Adoption of Resolution No. 293 Honoring and Recognizing the Original Petitioners For a Water Management Area on Moloka'i

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following:

That the Hawaiian Homes Commission (HHC) adopts Resolution No. 293, as attached, honoring and recognizing the original petitioners for a water management area on Moloka'i.

MOTION

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

DISCUSSION

K. Manuel read aloud Resolution No. 293 honoring the thirty-nine petitioners: Wilburt Kaimikaua, Sarah Sykes, Wayne Meyer, Chris Scott, Joseph Wampler, Jeanette Levi, Mr. and Mrs. William Viernes, Harriet Fukuoka, Henry Ayau, Jr., Harry Purdy III, Harvey Crivello, Josephine Aricayos, Kaimi Lindo, Loreen Manuel, Steven L. Arce, Thomas Arce, Kahalenani L. Kama, Georgina M. Kuahuia, Clara K. Gallagher, Phillip Gallagher, Davadeen Hoopai, Davalynn Hoopai, Joseph Kuahuia, Kathleen Larsen, Thomas Matayoshi, Nancy Lucido, Frank Lucido, Lorraine N. Meyer, Edwin L.P. Miranda, and Judy Caparida; for their petitions to designate the Island of Moloka'i as a water management area on February 8, 1990 and March 28, 1990, respectively.

K. Manuel expressed the importance of recognizing the community initiative and actions that led to the protection water resources for Moloka'i beneficiaries and the larger community. Commissioner Awo commented that the resolution reminds him of how fortunate we all are for those who came before us and did things that are benefitting the community now and in the future.

ACTION

Motion carried unanimously

PLANNING OFFICE

ITEM G-2 Acceptance of Beneficiary Consultation Report for Various Moloka'i Licenses

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel and Planner Nancy McPherson presented the following:

That the Hawaiian Homes Commission (HHC) accepts this Beneficiary Consultation Report as the public record of beneficiary input and feedback relative to DHHL long term licenses and amendments for Ierusalem Pōmaika'i Church, License No. 261 (Church); Moloka'i Congregation of Jehovah's Witnesses, License No. 269 (Church); and Ka Hale Pōmaika'i, License No. 667 (Public Service); Kalama'ula and Ualapu'e, Kona, Moloka'i.

MOTION

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

DISCUSSION

N. McPherson stated the beneficiary consultation was done for three long-term licenses, however Ka Hale Pōmaika'i license will go before the Commission at a later date. The licenses for the two churches mentioned in the beneficiary consultation are on this agenda for approval.

The comments received during the beneficiary consultation were overwhelmingly in support of the issuance of new licenses for the two churches in Kalama'ula and expansion of land for the substance abuse recovery program in Ualapu'e. Beneficiaries recognized that these institutions provide important functions that benefit Molokai families, particularly those who live on homestead. The consultation meeting offered a safe environment for sharing and aloha between beneficiaries who may not usually be able to comfortably discuss what they do with each other. Several of the participants stated that they thought the dialogue that took place during the meeting would be of benefit to the participants moving forward into the future. Such sentiments served to reinforce the level of caring for their community that the three organizations share, which was a blessing to all who were present.

ACTION

Motion carried unanimously

LAND MANAGEMENT DIVISION

ITEM F-2 Approval to Terminate Church License No. 261 and Issuance of a New Church License to Ierusalem Pōmaika'i Church, Kalama'ula, Molokai, TMK No. (2)5-2-009:017,026,027

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Peter Albinio and Land Agent Shelly Carreira presented the following:

That the Hawaiian Homes Commission (HHC) grant its approval to terminate Church License No. 261 and issuance of a new Church License to Ierusalem Pōmaika'i Church, for the purpose of conducting religious activities on the subject parcel.

Approval of the Church License is subject, but not limited to the conditions in the submittal.

MOTION

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

Chair Masagatani questioned the termination verbiage in the title of the submittal. K. Albinio stated two-years are remaining in the license, so the first action is to terminate the original license.

Commissioner Kaapu asked Deputy Attorney General (DAG) Craig Iha if the Commission can extend the term of the lease beyond 30 years. DAG Iha replied the Commission can issue licenses to churches with longer terms.

Commissioner Kaapu proposed an amendment to the motion:

AMENDED MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Helm to amend condition B., to change the term of the license from thirty (30) years, to sixty (60) years.

Commissioner Kahikina commented that he wishes the members the best of luck and to keep spreading the Word.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ITEM F-1 Approval to Terminate Church License No. 269 and Issuance of a New Church License to Molokai Congregation of Jehovah's Witnesses, Kalama'ula, Molokai, TMK No. (2)5-2-009:020

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Peter Albinio and Land Agent Shelly Carreira presented the following:

That the Hawaiian Homes Commission (HHC) grant its approval to terminate Church License No. 269 and issuance of a new Church License to the Moloka'i Congregation of Jehovah's Witnesses, for the purpose of conducting religious activities on the subject parcel.

Approval of the Church License is subject, but not limited to the conditions in the submittal.

MOTION

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

Chair Masagatani called members of the Jehovah's Witness Congregation forward. She asked if there were any planned improvements to the church. Jim Foster explained they have a major renovation planned for the Hall. It was built in 1992, and they want to add air conditioning to the Hall which is expected to cost more than \$250,000. They have been in the same location since 1955, and this would be their third license.

Chair Masagatani stated in light of the improvements planned, the Commission would be favorable to an extended license.

Commissioner Kaapu proposed an amendment to the motion:

AMENDED MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Helm to amend condition B., to change the term of the license from thirty (30) years, to sixty (60) years.

ACTION ON AMENDED MOTION

Motion carried unanimously.

RECESS 9:40 AM

RECONVENE 9:58 AM

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 Item D-3 Approval of Consent to Mortgage, to the regular agenda.

- ITEM D-2** Ratification of Loan Approvals (see exhibit)
- ITEM D-4** Approval of Streamline Refinance of Loans (see exhibit)
- ITEM D-5** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-6** Approval of Homestead Application / Cancellations (see exhibit)
- 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)

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to approve the Consent Agenda, except for Item D-3. Motion carried unanimously

ITEMS FOR INFORMATION

OFFICE OF THE CHAIRMAN

- ITEM C-1** 2018-2019 Draft Native Hawaiian Housing Block Grant Annual Housing Plan

RECOMMENDATION

None. For information only. NAHASDA Manager Niniau Simmons offered an update of the Department's compliance with 24 CFR Part 1006, Title VIII of the Native American Housing and Self Determination Act (NAHASDA).

Each year the DHHL must file and approved annual housing plan (AHP) with the U.S. Department of Housing and Urban Development (HUD). As part of that process, the Department releases the draft housing plan for public comment and review.

Since the proposed draft went to the Commission in March 2018, there have been notable updates.

Notable changes to the AHP since the March 2018 update:

- Significant reduction in CIP activities due to substantial completion of lot development in Kakaina; Waiohuli; and La‘i‘Opua;
- Remaining balances are encumbered in existing contracts and projected homeowner financing; and,
- New FY 18 appropriation in last month’s Omnibus was \$2 million, drastically lower than in prior years. The appropriation language for this amount allows the DHHL to utilize Title VIII funds for rental vouchers both on and off Trust Lands.

Commissioner Kaapu asked if the new appropriation language would allow the department to issue rental vouchers directly to beneficiaries. N. Simmons stated if the Department wanted to issue vouchers directly, it would need to develop policies and procedures for it. She identified non-profits who offer first month’s rent and emergency funds for homeless mitigation. The Department could issue a RFP to open funding to non-profits who are already doing the work, applicants need to be eligible HHCA beneficiaries.

Chair Masagatani asked if the Department were to establish a program to assist families with true foreclosure prevention, could it be used off the home lands? N. Simmons replied that the language in the Omnibus Bill was very specific to rental vouchers on and off the home land. It doesn’t extend to any other project off the home land.

Chair Masagatani stated the \$2M allocation is disbursed between July and September of 2018. N. Simmons stated HUD will provide the funds by September 30, 2018, and it will be in the Department’s budget for the fiscal year 2019, which ends on June 30, 2019.

Commissioner Kahikina asked if rental vouchers are subject to the low-income guidelines set by HUD. N. Simmons confirmed the vouchers are subject to Title VIII guidelines the income not exceed 80% of the median income for the area. HUD has already issued specific guidelines for each county in the state. Vouchers are one time payments and not ongoing support like the Section 8 program. The vouchers are meant to provide rent deposits for families who need help or emergency funding for those at risk of losing their rentals. N. Simmons estimated the \$2M funding could help 100 families if divided by \$2,000/voucher. The average monthly rent in Hawai‘i is \$2,000.

Chair Masagatani asked if the Commission can structure the program to service beneficiaries who are 50% below area median income. N. Simmons stated the Commission could structure the request for proposals along those lines. She added if more stable funding is allocated in the future, then the Department would either establish rules for rentals and add in rules for rental vouchers.

Chair Masagatani noted the \$2M allocation is for the entire year. All of the other activities identified in the Housing Plan have existing contracts and are already encumbered. Funding is year to year. The Commission will take action on the Tuesday agenda to give everyone time to review the document.

ITEMS FOR DECISION MAKING

HOMESTEAD SERVICES DIVISION

ITEM D-11 Request to Hold a Contested Case Hearing – YOLANDA N. KALEIOHI, Related to Residential Lease No. 4313, Lot No. 62, Anahola, Kauai, Hawaii

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To deny the request to schedule a contested case hearing for Yolanda N. Kaleiohi regarding Lease No. 4313, Lot No. 62, situated at Anahola, Kauai, Hawai'i, previously held by Ellsworth Abraham Kaleiohi, Deceased.

DISCUSSION

D. Oshiro reminded Commissioners that they deferred the item from the March HHC meeting agenda and asked to see Mr. Kaleiohi's designation of successorship file. Staff also provided Mrs. Kaleiohi's kumu ohana information. The documents are not for public disclosure and will be collected after the Commission's decision.

Chair Masagatani noted the Commission will convene in executive session to discuss the designation of successorship documents. She asked E. Kamibayashi to provide a summary of the submittal for Commissioner Helm.

Kaua'i District Manager Erna Kamibayashi summarized that the lessee requested she so to his home to do a successorship change. He passed away five days later, and the family is now challenging the mental capacity of the lessee at the time of the successorship change. Packets include successorship forms from 1977 to the one in question.

Moved by Commissioner Awo, seconded by Commissioner Kahikina 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

10:25 AM

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.

EXECUTIVE SESSION OUT

10:59 AM

MOTION

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

Chair Masagatani stated her recommendation after hearing the testimony and reviewing all the documents in this matter, is that the Commission deny Mrs. Yolanda Kaleiohi's request for a contested case hearing on the grounds that such a hearing is not required by agency rule, statute, or constitutional due process. Additionally, the Commission has determined that Mrs. Kaleiohi does not have a sufficient property interest to warrant a contested case hearing.

ACTION

Motion carried unanimously.

ITEM D-3 Approval of Consent to Mortgage (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended 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.

MOTION

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

DISCUSSION

Commissioner Kaapu stated his concern about mortgages above the \$500K mark and the Department's responsibility to cover these loans in the event of a default. He asked if there has been any movement on the Commission's previous discussion about a limit to what the Department would be responsible for. D. Oshiro clarified that FHA consents are covered by the insurance fund. In some of the other instances, the Department could be held liable depending on the memorandum of agreement's which each entity. D. Oshiro stated staff is still looking into whether there are legal issues related to limiting parameters.

Commissioner Kaapu asked if there would be a proposal from the Department, so as a policy, the Commission knows where it can draw the line. The lenders should bear some of the responsibility for those products where the amounts get higher, rather than the Department and the trust. D. Oshiro stated the discussion with the federal agencies is ongoing. There are many different lending programs, and each has different rules. Commissioner Kaapu also asked that loans be listed according to the type of program it was generated from.

Chair Masagatani stated her concern is that the appraisals are aggressive even though the instructions are to appraise for cost-replacement. For the Kaupe'a property listed in the submittal at \$550K, unless there has been some major improvement, the homes were sold for under \$300K, 15 years ago. The cost-replacement value should be in the low \$300K. If the Department covers that particular mortgage and it comes back for some reason, if the appraisal turns out to be \$400K, it becomes a loss to the trust. The Commission could have a more extended discussion in June where there is no community meeting scheduled.

ACTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-1 Approval to Request Statewide Reservations of Water for DHHL's Lands

RECOMMENDED MOTION

Acting Planning Program Manager Kaleo Manuel and Grant Specialist Gigi Cairel presented the following:

That the Hawaiian Homes Commission (HHC) approves a \$484,300 allocation from the Native Hawaiian Rehabilitation Fund (NHRF) to fund the organizations listed in the submittal for regional plan priority project and agriculture peer-to-peer grants:

MOTION

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

DISCUSSION

Commissioner Kaapu asked for the term of grants and if there is a provision that requires associations to come to the Commission to report on what they've accomplished. K. Manuel stated staff can add the requirement to the provisions. There are 33 grants still open. Getting associations to close their grants is extremely difficult. Final payments are on the smaller side, so some associations just don't do the final report and forfeit the last payment.

Commissioner Awo stated he is concerned with the amount of outstanding final reports. He adds that if an association doesn't fulfill its kuleana, they shouldn't be allowed to apply again until the all obligations are met.

ACTION

Motion carried unanimously.

ITEM G-3 Acceptance of Beneficiary Consultation Report for Proposed Water Rate Increase for the DHHL Ho'olehua Water System

RECOMMENDED MOTION

None. For information only.

Acting Planning Program Manager Kaleo Manuel, Grants Specialist Gigi Cairel and Water Specialist Halealoha Ayau presented the following:

That the Hawaiian Homes Commission (HHC) accepts this Beneficiary Consultation Report as the public record of beneficiary input and feedback relative to the proposed water rate increase for the Department of Hawaiian Home Lands (DHHL) Ho'olehua Water System. Acceptance of the report does not indicate concurrence or approval of any staff recommendations that may appear herein.

MOTION

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

G. Cairel stated the Department started informational meetings about the water systems, and then recently went out to do beneficiary consultations. One of the main concerns was that the Department not subsidize commercial users. Commercial users include the schools, airport and community projects and some commercial businesses. The rate structure reflects commercial users increases which are more than beneficiary increases.

H. Ayau added another concern is that the community wants the Department to be clear about the history of water issues on the island and the history of mistreatment of beneficiaries in general through this program and the impact it has on the way some of the beneficiaries are viewing the increases.

Chair Masagatani asked based on the structured rate increases, will system ever break even. G. Cairel responded that the Department has to be better disciplined at doing the cost of service and

cost of rate study every couple of years to make sure the data is accurate. The studies were very difficult to do because the water systems are not centralized. Once improvements are in the Department will start to see efficiencies and eventually meet our goal of a breakeven point.

Chair Masagatani stated one of the recommendations was to create a water division and develop expertise internally. She asked staff if bringing the systems together is a doable task with the resources the Department has. H. Ayau stated a major advantage to a water division is to capture economies of scale by syncing the systems to take advantage of technological management tools. If all the systems were using the same types of water meters and the same gauges it would save on needing a certain type of expert for one system and another expert for another.

Commissioner Kaapu asked if the Department became an authority, would it be able to manage other systems. There are companies making tremendous amounts of money from managing water systems. Additional income could help subsidize water costs for beneficiaries. Chair Masagatani stated the Department might need statutory authority. K. Manuel stated something to consider is that as a state entity DHHL is not governed by the Public Utilities Commission (PUC). If the Department did seek an authority, would it continue to be exempt from PUC regulations.

Chair Masagatani asked how ag users in Kalama‘ula are handled in the rate structure. Beneficiaries can request ag rates. One of the challenges is if we are going to support agriculture in areas where there is no access to ag water and they are using very expensive potable water that the Department subsidizes. Is that the best use of the Department’s subsidy? Another option to look at is the Moloka‘i Irrigation System (MIS) and trying to encourage extensions to provide non-potable water to these areas. Does agriculture remain a part of the lease when agriculture water is not readily available to those lots.

ACTION

Motion carried unanimously.

Moved by Commissioner Awo, seconded by Commissioner Kahikina 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.

EXECUTIVE SESSION OUT

1:30 PM

LAND MANAGEMENT DIVISION

ITEM F-3 REQUEST TO APPROVE RIGHT-OF-ENTRY PERMITS FOR RENEWABLE ENERGY PROJECTS, Kalaelo, Island of Oahu, TMK No. (1) 9-1-013:038, 040, 117 & 118; Kahikinui, Island of Maui, TMK No.: (2) 1-9-001:003 (portion); and Kalaoa, Island of Hawaii, TMK No.: (3) 7-3-010:007(portion) (see exhibit)

RECOMMENDED MOTION

Acting Land Management Division Administrator Peter Albinio presented the following:

That the Hawaiian Homes Commission ("HHC") approves the issuance of Right-of-Entry ("ROE") permits to the qualified applicants selected through the Department of Hawaiian Home Lands ("DHHL") renewable energy projects solicitation to enter Hawaiian home lands for due diligence activities and other preparatory tasks to assess the potential for their respective proposed projects.

MOTION

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

DISCUSSION

An Evaluation Committee comprised of DHHL staff with some background in energy matters, each from the Land Management Division, Land Development Division, and the Planning Office, along with two non-governmental members from DHHL's renewable energy consulting firm, SPS Energy & Financial, LLC, reviewed the applications and made recommendations for the HHC Chairman's approval. Ultimately, DHHL reserved the right, in its sole discretion, to determine the best qualified applicants for each site or select more than one qualified applicant for each site to proceed with the leasing process. A major consideration by the Evaluation Committee was to determine which applicants would have the best chance of satisfying HECO's rigorous RFP requirements and succeed in being selected to the Final Award Group to develop their proposed

Hawaiian Electric Company's applications for proposed solar projects in Kalaeloa will be handled via the process for public utilities under Section 171-95, HRS. This process would be subject, however, to the receipt of additional specific information and confirmation that the PUC will allow HECO to directly negotiate with DHHL for its land in support of a self-build option despite its exemption from participation in Stage 1 of HECO's RFP for Oahu.

Chair Masagatani summarized that request is to provide the selected applicants listed on page 4, ROE permits to do further due diligence with the conditions listed in the submittal. She asked that the term of the ROE permits be explicit and terminated if the project does not move forward in the selection process.

K. Albinio added there are many steps before a general lease is developed and presented to the Commission for approval.

Chair Masagatani asked to defer approval to the Tuesday agenda to allow staff to work on the motion to include the additional information discussed at the table.

ITEM F-5 Annual Renewal of Right of Entry Permit(s), Moloka'i Island

RECOMMENDED MOTION

Acting Land Management Division Administrator Peter Albinio presented the following:
That the Hawaiian Homes Commission (HHC) approves the following actions while developing a process to making short-term agriculture and pastoral land dispositions available to beneficiaries:

- A) Renew all Moloka'i Island Right of Entry Permit(s) as listed on Exhibit "A" and identified by approximate location on the Moloka'i Island Map Exhibit "A-1" that are in compliance and issued temporary approvals, as of May 1, 2018.
- B) The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than April 30, 2019 or at the next scheduled HHC meeting on Moloka'i 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.

MOTION

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

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Moloka‘i Hawaiian Home Lands Kupuna Committee

Irene Kaahanui, Judy Caparida, and Rosie Davis provided information and concerns about the following:

- Information on the Kupuna Empowering Kupuna Workshop
- DHHL and OHA combining to become one organization
- DHHL should provide informational meetings on erosion of ocean front homesteads in Kapaakea
- Kapaakea Homesteaders use the County Water System at a higher rate than homesteaders in other areas.
- Proposed the start of a Native Hawaiian sperm bank for Native Hawaiian women who choose not to marry.
- Advocated for the release \$4 million in CIP funds to Ho‘olehua Veterans Center

ITEM J-2 Faith Tuipulotu – Lease Concern

Faith Tuipulotu and Iolani Kuoha are homesteaders in Ho‘olehua. They asked for help with a sub-division issue relating to their homestead lot. Chair Masagatani asked Deputy Aila to work with the family.

ITEM J-3 Rosie Davis – Lanikeha Community Center

Rosie Davis provided an update on the renovations at Lanikeha Community Center. The center is booked through to May 2018. Students helped with the website which shows the calendar for bookings and events. They anticipate a grand opening in August 2018.

ITEM J-4 Debbie Kelly – Moloka‘i Lanai SWSD Board

Debbie Kelly provided information on and concern for the following:

- Deer management plan for the entire island of Molokai.
- Homesteaders have applied for funding to pasture and herd some of the deer into a single area for economic harvest.
- 2005 Moloka‘i Fire Task Force – All levels of government and private land owners. Inventory of on island resources to address fires within the onset of a fire.
- Junk car removal program; half of the cars removed come from homesteaders.
- Communication System funding for first responder communication.
- Coconut Grove (Kapuaiwa) – Cut down the hazardous trees and replant trees so the community can use it again.

ITEM J-5 Liko Wallace – Lease Concern

Liko Wallace and her daughter Keani Rawlins lessee Lot 151B discussed problems with their lot. Some lots have access to the Moloka'i Irrigation System (MIS), some don't. Potable water should be used for drinking and irrigation water for agriculture. She added that 82.4% of MIS water goes to non-homesteaders.

There is a big ravine running through the front of their lot, so they had to build further back. Connecting to the main road would cost between 30K-40K. She asked DHHL to run it to the back, so they can access electricity more feasibly. She is the only lessee in the area unable to get electric from the main lines like the rest of the lessees. There are other undeveloped lots behind them, that could benefit from the same lines.

Norman Sakamoto stated the Legislature appropriated CIP funds for Na'iwa lots. The funds become available in July for planning and construction. K. Manuel stated formalizing the Na'iwa subdivision is part of the Moloka'i Island Plan. Part of the funding from the Legislature needs to include subdivision.

RECESS 2:38 PM

RECONVENE 2:45 PM

ITEM J-6 Linda Dudoit – Erosion in Kamiloloa

Linda Dudoit asked for assistance with talking to the Department of Land and Natural Resources (DLNR) about slacking the rules for putting up barriers to protect from ocean erosion in Kamiloloa. Homeowners want to protect their property, but need to be educated about what is acceptable.

She asked DHHL to help homesteaders get loans to fix their dilapidated homes. In order for her to get a loan she was told she needed flood insurance. Her insurance provider quoted her \$2,500 a year because her home is in a flood zone.

ITEM J-7 Kapua Lauifi – Blood Quantum Legislation Mahalo

Kapua Lauifi thanked the Hawaiian Homes Commission for supporting the legislative effort to lower the blood quantum for Native Hawaiians to succeed to homestead leases. She offered to help DHHL's legislative analyst to get the measure approved by Congress.

ITEM J-8 Kilia Purdy – Ahupua'a o Moloka'i

Kilia Purdy-Avelino and Sybil Lopez represented Ahupua'a o Moloka'i. They thanked the Hawaiian Homes Commission for the capacity grant which allowed them to reorganize, coordinate membership drives, and hold Prince Kūhiō Day Celebration.

ITEM J-9 Sybil Lopez – Malama Park and Kalamaula Lot 12

Sybil Lopez invited Penny Martin vice president of the Waa Ka Pae Mua Canoe Club to speak toward the Malama Park special use designation in Kaunakakai. P. Martin thanked DHHL for working with the community to have Malama Park designated as a special use area. There is an issue with the water; who is in charge of it and who will pay the bill.

S. Lopez was authorized to speak about her mother's homestead lease. They received a letter from the Department about their failure to build within the allotted time. The environmental assessment recognized their lot as having cultural sites within its boundary. They request to be involved in the lot development plan with the architect to preserve the area and still build their home there.

Asked if there are any programs that assist families who have too much income to qualify for the federal package home program, but not enough to qualify for conventional loans with financial institutions. Chair Masagatani asked S. Lopez to speak with Dean Oshiro about whether any programs could fit their situation.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING DIVISION

ITEM G-4 Update on Moloka'i Regional Plan Priority Projects

RECOMMENDED MOTION

None. For information only. Acting Planning Program Manager Kaleo Manuel and Planner Nancy McPherson presented the following:

DISCUSSION

The Planning Office is providing the Hawaiian Homes Commission (HHC) with regular updates for the respective DHHL geographic region within which the HHC conducts its monthly community meeting. The purpose of the monthly update is to provide the HHC with information related to DHHL plans, programs, and projects previously adopted by the HHC that are specific to that particular geographic region.

Chair Masagatani asked for background about the area being considered for the Community Based Subsistence Fishing Area (CBSFA).

K. Manuel stated in 2009 there was a discussion about First Wind using the area for wind energy. The community said they were not against wind energy, they just didn't want it there. The community said there were a lot of cultural resources in the area and it was the only access to the north shore traditionally used. As a result, the Department went through a beneficiary consultation process and redesignated the area to special district to preserve the cultural and natural resources in the area to honor the subsistence lifestyle of Moloka'i families. The area proposed for the CBSFA is just off shore and runs from Ilio Point all the way to Nihoa Flats. It is a from the shoreline and extends a mile out. The front portion of DHHL's property is included in the CBSFA proposed rules.

After updating the Commission on the Molokai Island Plan Implementation Status, time was allotted to audience members concerning the CBSFA.

Kahikina Akaka stated he is a homesteader in Ho'olehua. He and many of those in the audience are against the CBSFA. He asked them to stand to show themselves. He stated no one knows how the land in question was designated to be a CBSFA, and no one asked the community if they wanted the CBSFA.

Chair Masagatani clarified that the CBSFA involves the ocean and is actually under the jurisdiction of the Department of Land and Natural Resources (DLNR), not DHHL. The special area designation on DHHL's land goes right up against the CBSFA.

K. Akaka stated the CBSFA process is unfair and they have tried to speak up about the impacts it will have on the homestead subsistence gatherers. They asked DHHL to support them in their opposition of the CBSFA. In all of the meetings they've had with DLNR, they've been ignored. He clarified that Hui Malama O Mo'omomi does not represent the community. They do not represent the Ho'olehua Homestead community who are impacted the most. He suggested DHHL not allow DLNR to go through its land to manage the CBSFA because they do not care that the homesteaders oppose it.

Chair Masagatani asked the group to address the concerns they have regarding the proposal via access through Hawaiian home lands.

Yama Kaholoaa suggested DHHL allow access to beneficiaries and homesteaders only. Access to Mo'omomi for The Nature Conservancy (TNC) and Moloka'i Ranch should be through the Mahana access point. This way, no single group of people will have the key and no one else except emergency services.

When TNC purchased Moloka'i Ranch land they agreed to work with the homesteaders and allow access to the shoreline in that area. TNC has stopped granting homesteaders access even though they go through DHHL land to access their land at Mo'omomi. It is not pono that Mac Poepoe and his followers have access, but no one else has access. He asked DHHL to support the homesteaders with their concerns. He attended the meeting where they approved the CBSFA and there were six Moloka'i residents who supported it and thirteen Moloka'i Residents who didn't. But the Board still approved it even though more people were against it.

Commissioner Awo commented that the intent of the CBSFA was to empower communities to manage their own resources in a way acceptable to them. It was not to empower DLNR. It would become part of the rules according to DLNR. He believes it was the Mo'omomi pilot project was the model used to create the legislation. It never officially became recognized as a CBSFA. To his knowledge, Ha'ena is the only place to meet the requirements to be fully recognized and have full power of law. The intent of the legislation is to empower the community, but in this case it sounds like those who are driving the proposal are not being inclusive of everyone.

K. Akaka stated they are not being inclusive of those who oppose it. Moloka'i has managed its own natural resources for centuries and it doesn't need the State to come in and tell it how to manage it. DLNR needs to step back and be a neutral party so the community can really work on something agreeable to everyone.

Y. Kaholoaa stated he is trying to meet with Mac Poepoe to try to bring everyone together to hooponopono and work together so that everyone can be a part of the solution.

Commissioner Awo asked if the group wants DHHL to block the road so that no one has access, or as a means to get all the parties to the table. K. Akaka said they need to make a statement to get them to listen to the beneficiaries.

Commissioner Kahikina stated it sounds like someone is practicing tyranny and he might be in favor of locking the gate so the beneficiaries would be heard.

Commissioner Kaapu stated his concern is that the Commission is being asked to pick between beneficiaries, but the Commission serves all beneficiaries. He supports getting together but he

would not support being used to punish a group because folks don't agree. He is looking for the common ground. He would be more in favor of having a conversation with TNC than to lock the gates.

Y. Kaholoaa stated he too wants to find common ground to work together for everyone. He thanked the Commission for the time to testify and hopes DHHL will support that effort.

Chair Masagatani reminded the testifiers that when the rules go out for public comment it is important to testify on the record, and not just show up in numbers.

OFFICE OF THE CHAIRMAN

ITEM C-4 For Information Only – Update of Proposed Administrative Rules for the Planning System

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the following:

DISCUSSION

On April 7, 2018, the Department of Hawaiian Home Lands conducted a public hearing pursuant to section 91-3, Hawaii Revised Statutes. Kaleo Manuel was designated to preside over the public hearing. The hearing, and the April 9 deadline for written comments, were the public's opportunity to provide support, opposition, or otherwise offer input on the DHHL's proposed changes to Title 10, Hawaii Administrative Rules, related to the planning system.

The hearing was held at Hale Pono at the DHHL main office in Kapolei, Hawaii. An informational session was held at 10:30 a.m., immediately before the public hearing. Attendees were provided a copy of the informational presentation, and copies of the proposed rules, a timeline summary of the process to date, and related Hawaiian Homes Commission submittals to date were available for review. Comment sheets were also available for those who wanted to submit written comments. During the public hearing, two attendees stood to provide testimony and staff took notes to maintain a record of the oral testimony. Five written comments were submitted; four from individuals and one signed by nine of the attendees.

Since the hearing, staff has reviewed and responded to the comments received during the public comment period. Most of the comments submitted can be classified as clarification. One comment requested the specific addition to section 10-4-60 beneficiary consultation of language related to community-based governance from section 201.6 of the Hawaiian Homes Commission Act. However, the rules cannot include the community-based governance language from section 201.6 of the HHCA because that section is required to be but has not been adopted by the U.S. Congress and, therefore, is not considered part of the Act.

Item C-5 on the Tuesday agenda has the actual proposed language for approval. There was no substantive changes to the language other than typographical errors and formatting.

RECESS

5:30 PM

HAWAIIAN HOMES COMMISSION

Minutes of April 17, 2018

Meeting held at Kūlana 'Ōiwi DHHL/OHA Conference Room

Pursuant to proper call, the 698th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands Moloka'i District Office Conference room, 600 Maunaloa Highway, Kalama'ula, Moloka'i, Hawai'i, beginning at 8:30 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Commissioner, Maui
David B. Ka'apu, Commissioner, West Hawai'i
Michael P. Kahikina, Commissioner, O'ahu
Zachary Z. Helm, Commissioner, Moloka'i

EXCUSED Wallace A. Ishibashi, Commissioner, East Hawaii
Wren Wescoatt, Commissioner, O'ahu
Kaua'i Seat, Vacant
O'ahu Seat, Vacant

COUNSEL Matthew Dvonch, 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
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
Nancy McPherson, Planner
Debra Aliviado, Customer Service Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 8:34 a.m.

Five (5) members were present at roll call. Commissioners Ishibashi and Wescoatt were excused, and Kaua'i, and Oahu Commission seats were vacant.

APPROVAL OF MINUTES

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Awo, to approve the minutes of the November 2014 HHC meeting. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Kunani and Ipo Nihipali – G-5 and G-4

Kunani and Ipo Nihipali are homesteaders in Ho'olehua, near the airport. They lived in Pupukeya for 30 years before moving to Moloka'i. K. Nihipali and his brothers share interest in an agriculture homestead lot in Ho'olehua. He is off grid and has no mortgage but asked the Commission to bring ag water to his lot. He uses domestic water to farm and it costs him more than \$200.00 per month. He should have access the ag water because he is on an ag lot. To rehabilitate himself, he needs to be able to farm. Ipo Nihipali is an artist and shared a poem with Commissioners.

ITEM A-2 Walter Ritte – G-5 and G-4

Walter Ritte testified that he liked the DHHL Water Policy Plan and how the word "aggressive" is used in terms of advocating for water rights for homesteaders. Homestead rights to water is protected by the State Constitution. How far do we push it to benefit Hawaiians? The most valuable water system is the Moloka'i Irrigation System (MIS) which was made for homesteaders but was turned over to the State. There are horror stories about the mismanagement of the system and the attitude toward beneficiaries. W. Ritte advocated for DHHL management of the MIS in light of the recent audit. The MIS would be a huge benefit to the homesteaders on Moloka'i. Homesteaders are using potable water to do farming activities.

W. Ritte also stated Moloka'i's ground water system needs protection. Moloka'i Ranch is going before the Supreme Court regarding Well No.17. Well No. 17 is one of the three straws that pulls water from the Kualapuu Aquifer and Moloka'i Ranch draws more water than anyone else. USGS studies showed the three wells are too close to each other. The study showed that the sustainable yield is 3 million gallons per day. Moloka'i is very close to messing up the most important resource it has. Moloka'i Ranch's 1-million-gallon withdrawal permit was based on golf courses, tourist related projects, and Laau Point development. Those things are gone so they shouldn't be allowed to withdraw that amount. Moloka'i Ranch does not have a permit to draw from Well No. 17, and the fines for not having a permit amounted to \$20 million dollars. If the Water Commission went after those fines, it could help maintain the water system.

W. Ritte concluded by saying that the more beneficiaries that are allowed to use the land, the bigger the army to help the department instead of sitting back and grumbling.

Chair Masagatani thanked W. Ritte for his advocacy and asked that he continue to testify at the Water Commission meetings. She noted Kaleo Manuel and his staff are credited for the Water Plan and water reservations.

ITEM A-3 Keani Rawlins – G-5 and G-4

Keani Rawlins spoke on the Community Based Subsistence Fishing Area (CBSFA) and asked that the Commission consider both sides before taking a position on the issue. She noted there was a lot of testimony opposing the CBSFA but wanted to remind Commissioners that there is another side and that the item was not properly listed on the agenda. Chair Masagatani stated that she allowed the testimony on CBSFA because it related to Mo'omomi. The Commission comes to Moloka'i once a year, so latitude is given to people who testify about items related to the agenda. There was an agendized meeting last year where both sides participated. The way the department engages with its beneficiaries is through the planning process. The discussion about Mo'omomi

going forward will be what is the vision and how to implement it for the community. Access is a critical piece.

K. Rawlins also reported back to the Commission that Moloka'i Ranch is using approximately 550,000 gallons of water per day. It is potable water that is transmitted to the West End. The expansion of the MIS would reduce the need for potable water. When she asked if the department, Moloka'i Ranch and the county took turns at drawing water, the answer was no. They could be pumping at the same time which is when there is a higher risk of up coning.

ITEM A-4 Liko Wallace – G-5 and G-4

Liko Wallace stated she participated in the Ka Huli Ao Water Law Training offered by the UH Law students and recommended Commissioners take the class. The training gave her a better understanding of why conservation is so important. She believed it would give Commissioners a better understanding of Hawai'i's water laws to make informed decisions for the beneficiaries. She concluded by mentioning how disappointed she was to learn that Moloka'i Ranch was using potable water for their projects. It is important that drinking water isn't wasted on agriculture related projects.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING DIVISION

ITEM G-5 Update on Moloka'i Water Projects and Issues

RECOMMENDATION

None. For information only.

Acting Planning Program Manager Kaleo Manuel presented the following:

DISCUSSION

Updates since April 2017 include:

- (I) Developments in proceedings re Contested Case Hearing on Water Use Permit Application by Kukui (Molokai), Inc., 116 Hawai'i 481, 174 P.3d 320 (2007) ("Kukui");
- (II) Proposed Ho'olehua Water System Improvements; and,
- (III) Inspections of existing wells on DHHL property on Moloka'i.

K. Manuel stated before going into the update he wanted to respond to some of the community concerns from the Monday meeting regarding water. Cora Snackenber talked about the State Water Projects Plan and some of the ways water demands were projected or determined. It is not perfect, but it was an update and they chose a method and practice to use existing systems of water rates and assignments. He provided an example that each County applied a water systems standard to a meter. A residence on Moloka'i is provided 600 gallons per day as an average. For planning purposes, the state and county use that number to project how much water is needed. Since it is a statewide plan that is managed by another entity, instead of trying to debunk or rebut the number, the department went with it as a first round. The counties haven't homed in on whether or not the number is accurate in reflecting the needs of beneficiaries. In her testimony C. Snackenber used the number of beneficiaries on the waitlist, multiplied by 600 gallons per day to determine the projected need. Unfortunately, the methodology has never been used before. One caution in basing the number of yield on people and not the sustainability of the resource is that the health of the resource is at risk.

K. Manuel talked about the Ka Huli Ao training sessions and the effort to empower beneficiaries to be maka'ala about advocating for their communities. Water cases like Na Wai Eha will be going before the Water Commission and it is important that beneficiaries speak from their naau, but also with actual knowledge about Native Hawaiian water rights to hold decision makers accountable.

K. Manuel reviewed the updates listed in the submittal.

Chair Masagatani asked what liabilities are associated with homestead lots with wells on them. K. Manuel stated as easy as it is to withdraw clean water out of a well, it is just as easy to contaminate an entire aquifer if contaminants like oil or pesticides get into the well. Proper management and understanding the risks are very important for the health and safety of beneficiaries and the larger community. There may be an action before the Commission next month in Kona, for a lessee request to dig a well. The rules include an addendum to the lease stating the lessee has to comply with reporting and any misuse could call for immediate capping of the well.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

Note: Deferred from the Monday agenda.

ITEM F-3 REQUEST TO APPROVE RIGHT-OF-ENTRY PERMITS FOR RENEWABLE ENERGY PROJECTS, Kalaeloa, Island of Oahu, TMK No. (1) 9-1-013:038, 040, 117 & 118; Kahikinui, Island of Maui, TMK No.: (2) 1-9-001:003 (portion); and Kalaoa, Island of Hawaii, TMK No.: (3) 7-3-010:007(portion) (see exhibit)

RECOMMENDED MOTION

Chair Masagatani noted a motion was made during the prior discussion, but she asked that the motion be withdrawn by the maker and seconder to start anew.

Commissioner Kahikina withdrew his motion, Commissioner Awo withdrew the second.

Acting Land Management Division Administrator Peter Albinio presented the revised motion as follows:

Approve the issuance of right of entry permits to conduct due-diligence and other preparatory activities, and subject to the conditions as stated in the staff submittal, for terms of two (2) years with the option to extend for up to three (3), one-year (1) terms at the discretion of the Commission. Such ROE shall terminate if the permittee no longer has a viable proposal in the HECO RFP process.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Awo to approve the motion stated above. Motion carried unanimously.

ITEM F-4 Approval to the Issuance of a Non-Exclusive License Easement to the County of Kaua'i-Engineering Division; Aliomanu Road Erosion Repair, Anahola, Kaua'i, TMK: (4) 4-8-018:032 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Peter Albinio presented the revised motion as follows:

That the Hawaiian Homes Commission (HHC) approve a perpetual Non-Exclusive License Easement to the County of Kauai for the use of approximately 2,028 square feet of Department of Hawaiian Home Lands (DHHL) off Aliomanu Road in Anahola, Kauai, subject to the conditions in the submittal.

DISCUSSION

Kaua'i County Project Manager Donald Fujimoto request approval to continue to use Aliomanu Road as a primary roadway. Historically surveying wasn't accurate, and a small sliver is actually DHHL land. There is an area of encroachment that the County of Kaua'i needs approval to make road repairs.

Chair Masagatani asked how long the road has been encroaching on DHHL land. D. Fujimoto replied it has been this way since the road was built, 70 or so years.

K. Albinio added that DHHL assisted the County with two (2) public information meetings involving the DHHL homestead community. There were four (4) development alternatives discussed with the community which involved increasing the amounts of Hawaiian Home Lands used to reroute the road from its current location. The homestead community voted against allowing more Hawaiian Home Lands be used to reroute the road as was required by the other three (3) options. They voted for and supported the current road repair plan because of its minimal impact of 2,028 square feet of DHHL lands.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Kahikina to approve the motion stated in the submittal. Motion carried unanimously.

OFFICE OF THE CHAIRMAN

ITEM C-5 Adoption of Proposed Amendments to Title 10, Hawaii Administrative Rules, Related to the Planning System

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission adopt proposed amendments to Title 10, Hawaii Administrative Rules, related to the planning system, and approve proceeding with promulgation.

MOTION/ACTION

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

Chair Masagatani thanked Rules Officer Hokulei Lindsey and Planning Manager Kaleo Manuel for their work to get the rules completed.

ITEM C-3 2018-2019 Draft Native Hawaiian Housing Block Grant Annual Housing Plan

Note: Discussion held on Monday, action deferred to the Tuesday agenda.

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons presented the following:

To accept the 2018-2019 Draft Native Hawaiian Housing Block Grant Annual Housing Plan.

MOTION/ACTION

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

RECESS **10:15 AM**

RECONVENE **10:47 AM**

PLANNING DIVISION

ITEM G-8 Approval of Water Rate Increase for DHHL Ho‘olehua Water System

RECOMMENDATION

Acting Planning and Program Manager Kaleo Manuel, Grants Specialist Gigi Cairel, and Water Resources Specialist Halealoha Ayau presented the following:

That the Hawaiian Homes Commission (HHC) approve the water rate increase for the Department of Hawaiian Home Lands (DHHL) Ho‘olehua water system. Rates shall take effect July 1, 2018.

Commissioner Kaapu asked what impact there would be on DHHL homestead potable water rates if the Department took over the MIS. Should the Department pursue an action to take over the MIS. K. Manuel stated the answer is yes and no. From a water policy stand point having rights to water is power and allows you to dictate your own future. From a fiscal standpoint, every so often a bill will make its way through the legislature attempting to turn the MIS over to DHHL. The answer is “no” unless the legislature includes funding required to fix all of the improvements identified in the 2008 Audit and allocate operational expense funding.

N. Sakamoto added the initial costs to repair the system along with operational funding is a key factor in the decision to manage the MIS.

Chair Masagatani added that it could be more efficient to look at private-public management. From an operation standpoint it may be worthwhile to explore a public-private model to manage the system. She knows the Department does not have the capacity to operate the MIS system right now, but the constant fight for personnel positions at the legislature makes it very difficult. K. Manuel mentioned the quasi-governmental agency Agri-business Development Corporation which was created at the close of the sugar industry when the state knew the irrigation water systems would revert back to it for management. The state created these co-ops to manage the water, but sometimes they have no rules and are not always transparent. They are not held to the same standards in ensuring the protection of the public trust. The public-private model works for management but pursuing DHHL rights to water has been very complicated. The Department of Agriculture manages the Waimea Irrigation System and the Moloka‘i Irrigation System. The rest are managed by the ADC. The Moloka‘i water system is the only one that is made for and run by beneficiaries. It is very empowering.

AMENDED MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Kaapu, that the Hawaiian Homes Commission (HHC) approve the water rate increase for the Department of Hawaiian Home Lands (DHHL) Ho‘olehua water system. Rates shall take effect July 1, 2018. The Department shall reevaluate these rates no later than July 1, 2024 and recommend the adjustments to the Hawaiian Homes Commission. Motion carried unanimously.

MAIN MOTION AS AMENDED/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Kaapu to approve the main motion as amended. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

PLANNING DIVISION

ITEM G-6 Legislative Updates 2018

RECOMMENDATION

None. For information only. Acting Planning Program Manager Kaleo Manuel presented the following:

DISCUSSION

The State Budget

The Senate voted to amend the State Budget reflected in HB1900, HDI, SD2. The Senate didn't make any changes to the Governor's Operating Funds request for DHHL of \$25,120,730 in general funds for fiscal year 2019. The Senate also incorporated the Governor's revised proviso requiring \$6,865,887 or so much thereof as may be necessary for fiscal year 2019 be transferred to B&F for fringe benefit costs. With regard to the Governor's CIP request of \$15 million in fiscal year 2019 for lot development, the Senate amended the request by appropriating \$11.603 million. The Governor also proposed \$10 million in CIP for R&M for existing infrastructure and the Senate amended the request by appropriating \$3.001 million in fiscal year 2019. A chart highlighting the budget request for fiscal year 2019 for Purpose 4 - Operating & Admin expenses and Purposes 1-3 - Lots, Loans & Rehabilitation Projects in HB1900, HDI, SDI.

Staff has prepared a measure tracking spreadsheet listing all measures that impact the department that are still moving in the Legislature. The current spreadsheet with the status of each measure as of 04-10-18.

Of the DHHL bills in the Governor's Package, the bill protecting the privacy of beneficiary information has been inserted into HB2318, SDI. A measure (HB2464, SD2) that would require DHHL to conduct a study and report on the issue of Hawaiian home lands lessees selling or transferring their leases for a fee or other personal gain and then applying for a subsequent lease would be required to be submitted prior to the convening of next session. DHHL has also submitted comments on a measure (SB2424, HDI) that authorizes the construction and use of micro housing units on Hawaiian home lands approved by DHHL and noted that the measure is unnecessary because section 214 of the HHCA includes broad authority so specifically defining a micro housing unit is unnecessary.

In addition to the bills and resolutions that specifically reference DHHL, staff monitors and prepares testimony as appropriate on measures that would impact Hawaiian Home lands or the department as a state agency.

In the Senate draft, they added the proviso for fringe benefits of positions which are vacant to be retained as general funds. It was a friendly amendment provided by the legislature.

PLANNING DIVISION

ITEM G-7 Quarterly Grants Status Report-End of 3rd Quarter 2018

RECOMMENDATION

None. For information only. Acting Planning Program Manager Kaleo Manuel presented the following:

DISCUSSION

Summary of changes since the previous Grants Status Report:

Currently managing 33 grantees

Old Grants (3)

- 2 Project Implementation Grants
- 1 Community Economic Develop Grant

Grant in Aid (GIA) - (9)

- Memo submitted to Governor to release 2017 GIA
- Grant extensions for old GIAs awaiting AG approval

Capacity Building Grants - (14)

- Four grantees still have not executed grant contracts
- Remaining 10 grantees started grant implementation

Ag Peer-to-Peer Grants - (7)

- One of three Ag Peer-to-Peer Grants in 2016 is completed. The other two are still in implementation
- All four Ag Peer-to-Peer Grants in 2017 contracted and implementation underway

HOMESTEAD SERVICES DIVISION

D-1 HSD Status Reports

A - Homestead Lease and Application Totals and Monthly Activity Reports

B – Delinquency Report

RECOMMENDATION

None. For information only.

Acting Homestead Services Division Administrator Dean Oshiro highlighted status reports.

Commissioners had no questions.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular meeting will be held at the Hapuna Prince Hotel, on May 14 & 15, 2018.

MOTION/ACTION

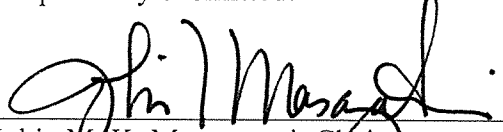
Moved by Commissioner Kaapu, seconded by Commissioner Kahikina, to adjourn the meeting.

Motion carried unanimously.

ADJOURNMENT

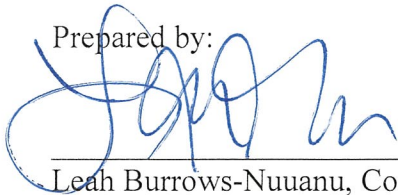
12:24 PM

Respectfully submitted:



Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

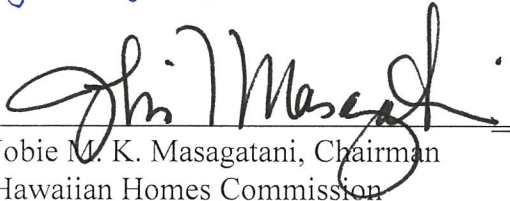


Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

January 29, 2019



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission