

HAWAIIAN HOMES COMMISSION
Minutes of May 14 and 15, 2018
Meeting held at Hapuna Beach Prince Hotel

Pursuant to proper call, the 699th Regular Meeting of the Hawaiian Homes Commission was held at the Hapuna Beach Prince Hotel, 62-100 Kauna'oa Drive, Puako, Hawai'i, beginning at 10:00 a.m.

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

EXCUSED 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 Pont, West Hawai'i District Office Supervisor
Halealoha Ayau, Water Specialist
Bryan Cheplic, ICRO
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Andrew Choy, Planner
Gigi Cairel, Grant Specialist
Susie Richey, Secretary

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:00 a.m.

ROLL CALL

Seven (7) members were present at roll call. The Kaua'i and Oahu Commission seats were vacant.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

Chair Masagatani noted approval of the minutes for December 2017 will be deferred to the Tuesday agenda.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 TJ Forsythe, Re: Item F-2 Aina Mauna

TJ Forsythe referred to the Aina Mauna Legacy Implementation Advisory Council and the management and eradication of ungulates and cattle and, how to remove the animals by using hunters and contracted shooters. T. Forsythe is the owner of Restly Boar and is saddened that when he wants to go hunting he cannot enter because of the no trespassing signs. He would like DHHL to reach out to the successors, too.

Chair Masagatani stated that the Advisory Council was intended to be a place to vet everyone's ideas and acknowledge the input of beneficiaries. One of the major conversations was how to provide access to the Aina Mauna lands by beneficiaries.

ITEM A-2 Kapa Kaolulo, Re: Item F-2 'Āina Mauna Legacy

Kapa Kaolulo expressed that help for the victims of the Pahoia lava flow needs to be accelerated and families in Puna need homes. He also said that the issue of successorship needs to be pushed up because kupuna are dying on the waiting list. He stated, the Aina Mauna Legacy Plan would be in better hands with the beneficiaries. He and his ohana would like to meet to share strategic plans with the Moku o Keawe ohana to help the Department to move forward.

ITEM A-3 John Keohohina, Re: Item F-2 'Āina Mauna Legacy

Asked that the record reflect that he agreed with everything K. Kaolulo stated.

ITEM A-4 Scott Spencer, Re: Item F-2 'Āina Mauna Legacy

Scott Spencer asked DHHL to allow access to the mountain. He wants to show his keiki everything he knows about his land, but he needs access. S. Spencer confirmed the growth of gorse and the disappearance of the sheep and the pipi. He is willing to help in keeping everything and wants to be a part of the solution.

ITEM A-5 Robert Sanborn, Re: F-2 'Āina Mauna Legacy

Robert Sanborn stated that he is a displaced rancher due to the recent lava flow. Civil Defense notified him he had to evacuate his cows because the lava was coming. With the help of his family, friends and the community, 300 head of cattle were safely moved. He has been leasing land from private land owners and wants to know if it is possible to lease land from DHHL.

ITEM A-6 Warren Matsumoto, Re: F-2 'Āina Mauna Legacy

Warren Matsumoto was concerned with the rapid growth of gorse and suggested that it could be used as fuel or for consumption. He mentioned the Pepe'ekeo Power Plant, if they accept gorse, it could be used as a fuel. Mr. Matsumoto sees that gorse can be useful.

ITEM A-7 Kanani Kapuniai, Re: D-10, G-12, G-3

Kanani Kapuniai asked that D-10 be taken out of the Consent Agenda for further review because the Native Hawaiian Qualification (NHQ) is determined by the blood quantum of the biological parent, not the adoptive parent. K. Kapuniai agreed with the approval to extend the current water rates for the DHHL Pu'ukapu Water System and no increase to the rates.

Regarding the 'Āina Mauna Legacy Program, K. Kapuniai felt the invitation should have been provided to all interested people. She asked that the public be told what was provided to the Department of the Interior (DOI) for the reduction of the blood quantum for successors.

Legislative Analyst Lehua Kinilau-Cano stated information submitted to the DOI included; different drafts of the bill, all testimonies, committee reports, all the presentations, the legal analysis and the Attorney General (AG's) analysis. Additional information that was requested included: how many lessees are only 25% with successors who would be less than 25%. DHHL does not have this information in electronically searchable files; every file would have to be looked at. The DOI is looking at the amendment that approved reducing the blood quantum for successors to 25% and the questions that Congress asked back then, in anticipation of what could come up for this new amendment.

Commissioner Ka'apu asked for an executive summary of the report so the Commission can be aware of the efforts being made.

ITEM A-8 Dora Aio, Re: Contested Case top 10 list for La'i 'Ōpua

Dora Aio presented a list of the top 10 lessees who are not paying for their association fees. La'i 'Ōpua is twenty years old and some of the lessees have not paid for years. The total delinquent amount is up to \$147,000. The Commission needs to help the associations figure out how to get lessees to pay their association fees.

ITEM A-9 Faye Hanohano, Re: J-9 Hercules Freitas

Faye Hanohano testified (in olelo Hawai'i) that she was asked to support Mr. Hercules Freitas with his issue. She hopes the Commission can find a peaceful solution and bring the longstanding issue to a close.

ITEM A-10 Bo Kahui, Re: D-2, D-4, C-2

Bo Kahui stated support for the Approval of Consent to Mortgage for Kealoha Charles, and the approval to schedule the contested case hearing for Crystal Shintani.

DHHL needs to find a way to help the beneficiaries affected by the recent Kilauea eruption get on homestead land to assist with recovery.

ITEM A-11 Pat Kahawaiolaa, Re: Delineated boundaries, Access, Gorse and Eco-Tourism

Pat Kahawaiolaa was concerned about delineated boundaries for North and East Hawai'i. He would like to see more participation for the 'Āina Mauna Legacy Land Program. Seven homestead associations in East Hawai'i support a request for access to the Humu'ula Sheep Station for eco-tourism projects. Their proposal was submitted to DHHL almost two years ago and they have yet to receive a response or status of the proposal.

RECESS 11:34 AM

RECONVENE 11:47 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.

Commissioner Kaapu asked to move Item D-10 Cancellation of Lease – **SOLOMON K. KAHALEWAI**, Residential Lease No. 11617, Lot No. 18664, Kanehili, O‘ahu, to the regular agenda. Chair Masagatani noted, D-10 removed from the consent agenda to be taken up separately.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval of 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/Cancellations (see exhibit)
- ITEM D-6** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-7** Approval of Assignment to Leasehold Interest (see exhibit)
- ITEM D-8** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-9** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-11** Cancellation of Lease – **DANIEL N. PERREIRA**, Residential Lease No. 4637, Lot No. 68, Waianae, Oahu
- ITEM D-12** Commission Designation of Successor – **MELVIN N. POOUAHI**, Residential Lease No. 4126, Lot No. 23, Waimanalo, Oahu
- ITEM D-13** Cancellation of Tenant-In-Common Leasehold Interest – **HERMAN K. MOKE**, Residential Lease No. 1348, Lot No. 316, Keaukaha, Hawaii
- ITEM D-14** Commission Designation of Successor – **THOMAS K. KAILIAWA, III**, Residential Lease No. 6352, Lot No. 395, Keaukaha, Hawai‘i

MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Ishibashi to approve the consent agenda, except Item D-10. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND MANAGEMENT DIVISION

- ITEM F-2** For Information Only - ‘Āina Mauna Legacy Program Updates

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION

Acting Land Management Administrator Kahana Albinio introduced Land Manager Kualii Camara to present the update.

K. Camara reviewed the submittal provided to Commissioners and fielded questions about different parts of the update. Commissioner Ka`apu asked if there are opportunities for beneficiaries to work with the Department on the eradication of cattle and ungulates. K. Camara said they do have a list of interested individuals, however since there are liabilities involved, a process is needed to be put in place first to address these concerns.

One goal of the 'Aina Mauna Plan is to reduce the population of feral ungulates and cattle. There are no goats but there is a large population of sheep and cattle. Commissioner Wescoatt suggested a co-op to share insurance expenses among folks who want to assist with eradication efforts.

A limited right of entry is a land disposition given to a person or an organization to allow permitted access on a short-term basis. The right-of-entry requires a \$1M insurance policy along with specific conditions that must be followed. Approval of a right of entry permit for 1-30 days are at the Department level, anything more than 30 days requires Commission approval.

Chair Masagatani asked if there was a methodology to allow hula hālau and charter schools access to gather. K. Camara stated it is a case by case approval process, keeping in mind the wild cattle and wild dogs in certain areas. DHHL needs to create safer areas for beneficiaries to experience the forest.

RECESS **1:30 PM**

RECONVENE **1:48 PM**

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-4 Beneficiary Trust Council, Kalaniakea Wilson – Aina Mauna

Kalaniakea Wilson expressed his desire to see that the Aina Mauna Legacy Program and the Hawaiian Homes Commission Act are fulfilled before he dies on the waiting list. Beneficiary priorities should be first in all opportunities. The Beneficiary Trust Council, with representation from all six districts, can be the communication hub for Moku o Keawe beneficiaries. K. Wilson added that in the last fifty days more than 200 beneficiaries have indicated interest.

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 **2:20 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 3:20 PM

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Amending the Home Assistance Program (HAP) Policies & Procedures to Include Temporary Relocation Assistance

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons presented the following:

The recommended motion and action is to amend the Home Assistance Program (HAP) policies & procedures to provide for temporary relocation assistance for those families whose homes are eligible for demolition/new build.

MOTION

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

DISCUSSION

N. Simmons stated loan drafting, execution, and subsequent appraisal can take between four to five months. Families that build with a home package and a licensed contractor can expect move in within six months after construction is started.

Chair asked whose responsibility is it to make sure the units meet quality standards. N. Simmons stated that the Department will decide the size of the rental unit based on federal housing quality standards, family size, and income.

ACTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-1 Declare a Finding of No Significant Impact (FONSI) for the DHHL South Point Resources Management Plan Final Environmental Assessment (FEA), TMK (3) -9-3-001:003, Kau, Hawaii Island

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel and Planner Andrew Choy presented the following: That the Hawaiian Homes Commission issue a FONSI based on the FEA for the DHHL South Point Resource Management Plan.

MOTION

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

DISCUSSION

A. Choy briefed the Commission on the criteria that should be reviewed before issuing a FONSI and the Department's position on recommending approval.

Chair Masagatani asked if the report included the discussion about potentially placing a gate or other means of controlling vehicular access. K. Manuel stated one of the goals of the management plan is to manage vehicular access because it is the highest threat to natural and cultural resources. One option was a gate or booth to educate users and control parking. K. Manuel discussed other projects like: signage, restroom facilities, protecting archaeological sensitive sites, need to be completed before a recommendation is made.

Commissioner Ka`apu asked if something in the future were to trigger an EIS, would the Department do it at that time. K. Manuel stated higher density management or improvements would trigger a HRS Chapter 343 review again. Higher density means higher demands and potentially greater impact.

ACTION

Motion carried unanimously.

ITEM G-2 Acceptance of Beneficiary Consultation Report for Proposed Water Rate Increase for the DHHL Kawaihae Water System

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel presented the following:
That the Hawaiian Homes Commission accept the Beneficiary Consultation Report as a public record of beneficiary input and feedback relative to the proposed water rate increase for the DHHL Kawaihae Water System. Acceptance of this report does not indicate concurrence or approval of any staff recommendations that may appear herein.

MOTION

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

DISCUSSION

K. Manuel reviewed the submittal and noted DHHL subsidizes all connections in Kawaihae. There is a recommendation to increase the water rates for Kawaihae, but non-payment is as common a theme in Kawaihae, as it is on Molokai and Pu`ukapu.

ACTION

Motion carried unanimously.

ITEM G-3 Acceptance of Beneficiary Consultation Report for Proposed Water Rate Increase for the DHHL Pu`ukapu Water System

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel presented the following:

That the Hawaiian Homes Commission accept the Beneficiary Consultation Report as a public record of beneficiary input and feedback relative to the proposed water rate increase for the DHHL Pu'ukapu Water System. Acceptance of the report does not indicate concurrence or approval of any staff recommendations that may appear herein.

MOTION

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

DISCUSSION

K. Manuel stated Pu'ukapu is a non-regulated potable water system that DHHL currently operates to serve the pastoral homesteaders. The homesteaders pay a flat rate of \$121 per month. The recommendation coming up is that the rates are not increased for Pu'ukapu because the recommended proposal for a rate increase will only net a \$10,000 return. DHHL needs to work on improving the efficiency of the system.

Chair Masagatani referred to page 3 of the submittal, which identified 43 connections in the Pu'ukapu DHHL water system. There are 184 lots in this area and because they're pastoral, there is no requirement to reside. The choice to hook up to the water system is up to the lessee, whether they want access to the additional non-potable water for the purposes of utilizing their pastoral lot. So, is part of the revenue/expense imbalance due to the small number of people connecting?

K. Manuel stated it is one of the issues staff is analyzing.

ACTION

Motion carried unanimously.

GENERAL AGENDA - Requests to Address the Commission

ITEM J-1 Maluhia O'Donnell - Pūnana Leo o Waimea

Maluhia O'Donnell is the site coordinator for Pūnana Leo o Waimea in Kohala. They asked to put their trailer on the DHHL West Hawai'i Office parcel. They also requested use of the adjacent lot, which is currently used for animal grazing, for a portable classroom and a trailer for more classrooms. Long-term they would like 10 acres in Waimea for their program. They also requested to extend their license beyond 2021. Pūnana Leo has a working relationship with Kanu o ka `Āina but, would like to keep their students on an all olelo Hawai'i campus. Kamehameha Schools has no room for them; the classes are maxed-out. It is unknown how many of the students are homesteaders or beneficiaries of the Hawaiian Homes Commission Act.

Chair Masagatani explained that whenever there is a request for land that is not for homesteading, DHHL does an informational briefing for the beneficiaries of the community so they have a chance to weigh in and provide input. M. O'Donnell was directed her to Kahana regarding use of the adjacent lot.

ITEM J-2 Georgette Yaindl – Petition for reconsideration L. Avilla

Georgette Yaindl is the attorney for Lionel A. Avilla resident of La‘i ‘Ōpua. G. Yaindl stated her Notice of Intent to Bring a Chapter 673 Action, in the event that her client is not granted a contested case hearing within 60 days. She also advised that they are prepared to go to circuit court on June 12, 2018.

Chair Masagatani asked if there was any additional information or facts that have occurred since the Commission heard the previous testimony. G. Yaindl stated that the decision they are contesting through their petition is for a reconsideration, of DHHL’s decision, to not hold a contested case hearing. Mr. Avilla hired a forensic document specialist due to having concerns that the person who was approved by DHHL as the successor had engaged in some fraudulent activity on Mr. Avilla’s retirement documents. Some of the findings are relevant to the Commissions’ decision.

ITEM J-3 Bo Kahui – La‘i ‘Ōpua 2020 – Villages of La‘i ‘Ōpua

Bo Kahui understood that if he responds to the Department’s RFP, he is required to respond to HECO’s RFP. He is here to report that O`oma LLC, which was created for the purpose of beneficiaries taking over projects to benefit beneficiaries, had submitted its RFP. Chair Masagatani thanked Mr. Kahui and reminded him that the Department was in the middle of a competitive selection process.

B. Kahui continued with his concerns about the following:

- requested a contested case hearing for lessees with association fee delinquencies.
- Establishment of a Kona office.
- Housing: when will rent-to-own project in Kona start.
- Holualoa Water Source Development: the land owners confirmed that they are still committed to the water project.
- Phase 2 of La‘i ‘Ōpua 2020 will be executed as soon as the monies are received.
- Phase 3 will be going into design in the next several months, and L-2020 is applying for a federal Economic Development Assistance grant for 4.5 - 5 million dollars.
- La‘i ‘Ōpua received a \$400,000 Grant in Aid from the Legislature this year for their kitchen construction.

RECESS: 5:00 PM

RECONVENE: 5:05 PM

ITEM J-5 Hercules Freitas – Execution of Decision and Order

Hercules Freitas asked for a status update on the removal of the poles from his property. It has been 13 years and 6 months.

Chair Masagatani stated the lot has to be subdivided. The April 23, 2018 letter indicated where the County is as it relates to the sub-division process. DHHL works with the County so there are no problems with the lot boundaries.

Deputy Aila added that for the purposes of the Department of Planning and Permitting that this area is subject to a reconsolidation and sub-division. The County will then process the paperwork.

ITEMS FOR DECISION MAKING

HOMESTEAD SERVICES DIVISION

ITEM D-10 Cancellation of Lease – **SOLOMON K. KAHALEWAI**, Residential Lease No. 11617, Lot No. 18664, Kanehili, O‘ahu

RECOMMENDED MOTION/ACTION

Acting Homestead Services Administrator Dean Oshiro recommended the following:
To approve the cancellation of lease #11617 for Mr. Kahalewai, also to approve the payment in the amount of the approved value of the improvements less any outstanding debts attached to the lease. To also approve the refund of the lease rent in the amount of \$88 dollars to the estate of the late Solomon K. Kahalewai.

MOTION

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

DISCUSSION

Mr. Kahalewai was a lessee in Kanehili, Kapolei. He named his daughter as a successor. He and his wife divorced and his now ex-wife remarried. The man she married adopted Mr. Kahalewai's daughter. She is the biological daughter of Mr. Kahalewai but not his legal daughter because her legal father is now the man who adopted her, her mother's current husband. The daughter does not meet the familial relationship as required by Hawaiian Homes Commission Act to be the successor. It has nothing to do with her blood quantum. She no longer meets the requirements because she is no longer his legal daughter. She is legally someone else's daughter by adoption. The Department went through public notice, there was no claimant that came forward. Mr. Kahalewai's sister came and inquired and found it was not worth it, so she declined to succeed to the lease. Since there is no successor, the only other option is to cancel the lease and award it to someone on the waitlist.

Chair Masagatani asked Counsel if a person can only have one legal father.

Counsel replied yes. The adoption severs the legal relationship with her biological father. In this case, you have to be a legal child as well as have the appropriate blood quantum.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

PLANNING OFFICE

ITEM G-4 Update on West Hawai'i Regional Plans

RECOMMENDED MOTION/ACTION

None. For information only. Planner Andrew Choy provided the update on the West Hawai'i's Island Plan and Regional Plans.

DISCUSSION

The process to update the Kealakehe/La'i 'Ōpua Regional Plan will start in the late summer or early fall. The Health Center is in operation and part of the Community Center has been constructed and a certificate of occupancy is in process. The lack of water, watershed management, and the sediment run-off are issues in the Kawaihae Regional Plan. The Department of Transportation is no longer pursuing the Kawaihae Bypass project. In Waimea, construction has begun for the Waimea Hawaiian Homestead Community Complex.

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

RECOMMENDED MOTION/ACTION

None. For information only. Acting Program Planning Manager Kaleo Manuel summarized the four planning regions on Hawai'i island, Humu'ula – Pi'ihonua, Waimea Nui, Kawaihae and Kealakehe – La'i 'Ōpua.

DISCUSSION

Since 2017, DHHL staff has been working with the Commission on Water Resource Management (CWRM) staff to pursue water reservations on Hawai'i Island. The use of water is based on land use designations, e.g. agricultural, residential, and pastoral; then water use rates are applied. For potable and non-potable water demands, DHHL needs about 50 million gallons per day which includes every tract of land that DHHL has on Hawai'i island.

The Planning Division is talking with the Department of Land and Natural Resources (DLNR) and the Commission on Water Resource Management (CWRM) about the Kehena ditch and the diversions. They are also looking at an opportunity to partner with Kahua Ranch and the other ranches to cost share on infrastructure. Fresh water was discovered below the salt water in Keopu, North Kona. Planning is working with the Honoka`ia ohana relating to a supplemental stock water system that was negotiated and agreed to by the Commission. Planning is also looking at two potential sites, the Geanalis site and a partnership with Kamehameha who has an existing well that they are not currently using.

In response to Commissioner Kahikina asking if DHHL has lands in Upolu, K. Manuel confirmed that DHHL has a small amount of acreage acquired during the Hawaiian Homes Recovery Act. It was federal surplus land from the old Army/Coast Guard. There are some easement issues with water and road access. Its land use designation is special district in DHHL's Island Plan. The parcel is projected to demand minimal water based on the barracks that were historically used.

RECESS

6:00 PM

HAWAIIAN HOMES COMMISSION
Minutes of May 15, 2018
Meeting held at Hapuna Beach Prince Hotel

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

EXCUSED 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
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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 9:12 a.m.

ROLL CALL

Seven (7) members were present at roll call. The Kaua'i and Oahu Commission seats were vacant.

APPROVAL OF MINUTES

Approval of December 2017 Minutes.

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Ishibashi, to approve the Minutes. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

OFFICE OF THE CHAIRMAN

ITEM C-2 Update on Storm Damage O‘ahu, Kaua‘i and status of impact to DHHL lands from volcanic activity on Hawai‘i Island

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION

Deputy Director William Aila Jr. provided an oral overview of the ongoing storm and volcanic activity situations:

- Anahola- There is debris going up the Anahola River for a half mile up to the County Park.
In the 2009 storm cleanup effort the Department hired a vendor to clean it up and FEMA reimbursed the Department 75% of the cost.
- Nānākuli - Failure of some of the concrete slabs is occurring. The estimated cost of replacing the concrete slabs is \$150,000, which includes doing geo-technical anchoring and cleaning the debris in the canal. Some lessees' properties have experienced erosion during the storm event.
- Waimānalo - Damages to some of the homes were minor and the hope is to get FEMA to pay for the damages. The estimate on cleaning the concrete swales behind the homesteads of Waimanalo is roughly half a million dollars and cleaning the dirt swales could go as high as a million dollars.
- Maku`u – The distance between the lava flow is approximately 3.5 miles due to two fissures that opened towards the east. The good news was the homesteaders were not given notice to evacuate.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Annual Renewal of Right of Entry Permit(s), North & West Hawai‘i Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: That the Hawaiian Homes Commission approve the following actions while developing a process to make short term agricultural and pastoral land dispositions available to beneficiaries, subject to the conditions as noted in the submittal.

MOTION

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

DISCUSSION

Commissioner Ka`apu stated the Commission asked that non-beneficiaries were to be given notice that the department would be taking the land back. K. Albinio stated the revised right of entry (ROE) process is not in place yet and the analysis for the appraisals are yet to be done.

Chair Masagatani stated the appraiser documentation just got signed so the process is moving forward. The first issue was about setting the commercial and industrial rent at an appropriate level. The second issue was a process to afford beneficiaries on the waiting list with an opportunity to apply for ROEs.

Commissioner Wescoatt stated if there are beneficiaries who can pay and have a good plan, they should have a shot at the land.

Chair Masagatani stated that right of entry permits were intended for short term land management. An option is to consider a general lease 15 or 20-year lease, with one of the conditions being to prepare the lands to be used by homesteaders at the end of the lease, e.g. put in the roads and fencing.

Commissioner Ishibashi stated he will not support the renewal of leases to non-beneficiaries. Commissioner Kahikina disagreed that the purpose of the Act is to make money for the Department.

Commissioner Wescoatt suggested that a system and process be put in place to give beneficiaries an opportunity for the lands. A system is still not in place for them to apply for these lands and currently, Commissioners are voting against the non-beneficiaries.

The pastoral properties are the most difficult to manage. When DHHL tried to cut the lots into to 10-acre parcels, DHHL was sued. Ranchers say that at least a couple hundred acres are needed to ranch. The pastoral list has not moved because there is no clear path to move forward with pastoral lands. If there are cowboys on the waitlist, they are going to want two thousand acres. If DHHL gives out 1000-acre leases, only a few folks are going to get leases.

Commissioner Ka`apu talked about putting together a pastoral committee so the Commission could evaluate if doing pastoral is feasible or not. DHHL has not made the progress it thought it would accomplish.

Chair asked if there was any concern regarding moving forward with the beneficiary-based ROE permits. She suggested an amendment to renew ROE 461, 464 and 466.

AMENDED MOTION/ACTION

Moved by Commissioner Kaapu seconded by Commissioner Helm to approve the renewal of ROE 461, 464, and 466. Motion carried unanimously.

Commissioner Wescoatt suggested that the motion be amended further to approve the non-beneficiary permits with the understanding that a system will be in place within the next four months to approve future ROEs, to the extent provided by law.

AMENDED MOTION

Moved by Commissioner Wescoatt, seconded by Commissioner Ka`apu to approve the non-beneficiary permits with the understanding that a system will be in place within the next four months to approve future ROEs, to the extent provided by law.

DISCUSSION

Commissioner Ishibashi stated that he will not support the motion. Commissioner Kahikina asked for a roll call vote.

Moved by Commissioner Wescoatt, seconded by Commissioner Ka`apu to approve the non-beneficiary permits with the understanding that a system will be in place within the next four months to approve future ROEs, to the extent provided by law.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ishibashi				X		
Commissioner Ka`apu		X	X			
Commissioner Kahikina				X		
Commissioner Wescoatt	X		X			
Chair Masagatani			X			
TOTAL VOTE COUNT			5	2		
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with five (5) Yes, two (2) No votes.						

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui, Item F-1

B. Kahui supported the Commission’s discussion and suggested a beneficiary consultation with cowboys and community leaders regarding pasture leases. He suggested scheduling time at the Maui puwalu to discuss Aina Mauna.

RECESS 10:35

RECONVENE 10:45

ITEMS FOR INFORMATION/DISCUSSION

PLANNING DIVISION

ITEM G-8 Kailapa Community Association Resilient Hawaiian Communities (RHC) Grant

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Planning Program Manager Kaleo Manuel presented the following:

DISCUSSION

Jordan Hollister, resident of Kawaihae and Board Member of the Kailapa Community Association, stated the RHC initiative is designed to support community resilience planning through a collaborative process informed by an expert group of organizations and individuals who are leaders in natural and cultural resource management.

The focus is climate change with three objectives:

- (1) Build capacity for Native Hawaiian communities & organizations to engage in resiliency planning;
- (2) Develop two community resilience plans to serve as models for other Hawaiian communities; and,
- (3) To develop greater efficiency between federal, state, local government, and Native Hawaiian partners in understanding and responding to changing environment conditions.

RHC is in the stage of gathering information like threats to the environment. They want to create a perennial stream to divert the water towards the residential area. Kahua Ranch uses three stream diversions on DHHL lands. Tim Richards presented an idea to create an aqueduct that wraps around the Kohala mountains. If Kahua Ranch could do it on a big scale, Kawaihae could have water.

Another option is exploring the sub-surface aquifer in that area. They are drilling holes to test results using the audio-magneto telluric method.

K. Manuel stated he will be meeting with some key stake holders relating to Kawaihae to look at proposed solutions. They need to look at the nexus between water, energy, and agriculture perhaps to provide a pump storage hydro project to Kekaha.

J. Hollister stated a resiliency plan is to plan for future stressors, acute as well as chronic. If something catastrophic were to happen, how resilient are we to bounce back.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Justin P. Ahsing

Mr. Ahsing's concern is the blood quantum and the decline of the koko. He supported expediting the wait list to get more people on the land. His wife is still on the waiting list for pastoral land and he is upset that non-beneficiaries are ranching on DHHL lands. He stated that he and his wife have been waiting on the list for 30 years. He asked that DHHL do the best it can.

ITEMS FOR DECISION MAKING

PLANNING DIVISION

ITEM G-10 Authorize Application for a Well Construction and Pump Installation Permit by Lessee Roger Kaneali'i, Jr., to the Commission on Water Resource Management, Kawaihae, Hawai'i, Lot 20, TMK (3) 6-1-007:020

RECOMMENDED MOTION/ACTION

Kaleo Manuel, Acting Manager, Planning Office presented the following:

That the HHC as the land owner of Lot 20, authorize Roger Kanealii Jr. to submit an application for a well construction and pump installation permit to the Commission on Water Resource Management for the domestic use of water on his homestead lot, and that the HHC authorize the Chairman to take other actions addressing DHHL's administrative requirements necessary to complete that application for submission to Commission on Water Resource Management (CWRM).

MOTION

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

DISCUSSION

K. Manuel stated the well is for personal domestic and irrigation use. It is the first well moving through the application process. The Kaneali`i's cannot distribute water; the permit limits the use to their lot. Planning is working with the driller and the applicant to determine how much it will cost. The well is small and at a lower elevation, so the estimated cost can be anywhere between \$10,000-\$50,000. The maintenance and the operation of the well will be monitored monthly and reported to CWRM. The water that is held is also limited by the size of the well and the size and horsepower of the pump. CWRM's approval could be as fast as 3 months.

Chair Masagatani asked if the water that is produced for one household, if that will count against DHHL's reservation. K. Manuel stated reservations in ground water management areas are codified via rules. The Department has never drawn its full reservations, and the rule has not changed. In non-designated areas, an action or policy by the CWRM provides flexibility to adjust the numbers.

ACTION

Motion carried unanimously.

ITEM G-11 Approval of Water Rate Increase for the DHHL Kawaihae Water System

RECOMMENDED MOTION/ACTION

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

Recommended motion is that the HHC approve the water rates increase as listed in exhibit A for the DHHL Kawaihae Water System. Rate shall take effect July 1, 2018.

MOTION

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

DISCUSSION

Gigi Cairel reviewed the submittal and highlighted that 50% of the beneficiaries on the system have delinquent water bills which makes DHHL's shortfall around \$165,000 per year. The biggest cost factor for the system is the purchase of water from Kohala Ranch. The issue discussed at the beneficiary consultation was how to find a new source of water.

K. Manuel stated Kohala Ranch's rates are approved by the Public Utilities Commission (PUC) and he is not sure if the Department can find a source that is cheaper than the \$7 per gallon paid now. The Planning Office is still actively looking. Desalination was looked at, but those who did the study could not confirm if desalination would be a long-term viable source for the Department, and the study could not confirm that the cost would be equal to or less than what DHHL is paying now.

K. Manuel stated that the County Department of Water Supply considers DHHL as a developer; even if DHHL put an extension on the pipe, they will require DHHL to add more water source. The County is digging another well in Lalamilo, and DHHL asked to cost share and pay for the transmission across the gulch. There has not been a willingness on the County's part.

In Waimea, there is a well out towards Honoka‘ia, Aualoa. A well in Pu`ukapu is yet to be discovered. K. Manuel added that Kawaihae has the largest rain gradient from mauka to makai in the world. The top of the ahupua‘a gets hundreds of inches of rain per year. DHHL could potentially catch water up mauka and store it in a reservoir. The stream diversion is another option.

ACTION

Motion carried unanimously.

ITEM G-12 Approval to Extend Current Water Rates and Fees for the DHHL Pu‘ukapu Water System

RECOMMENDED MOTION/ACTION

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

That the HHC extend the current water rates and fees for the DHHL Pu`ukapu Water System, and that the HHC direct DHHL to evaluate the current rates no later than July 1, 2020 and make recommendations for any rate adjustments to the HHC.

MOTION

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

DISCUSSION

G. Cairel stated a beneficiary consultation was held which revealed that the reduction to the subsidy provided by DHHL was not significant enough to warrant the recommended increase. Beneficiaries were opposed to any kind of increase, stating the need for more information about the cost of the system and other inconsistencies. There is a need for more research on the current expenses and the projected expenses for what the system is going to cost in the future.

The water system is non-potable and serves 40 beneficiaries. The water system serves a pastoral subdivision, so beneficiaries are not required to reside on the lot or to build a structure. The system is not a system regulated by the Department of Health and was not built to meet county nor state standards.

There was confusion and frustration by the community because some of the earlier communication referred to the system as a “hybrid” system. This name implied that it would provide both potable and non-potable water. Since then, the Department built a non-standard system which is the smallest and newest; with a limitation of 600 gallons per day, per lot, which is monitored. There is a lease addendum attached to all leases notifying them this is a non-potable system that is not safe for drinking water. There are low pressure zones in the system, and the Department did require that the lessees put in back-flow preventers. The Department did put up one spigot at the beginning of the system where beneficiaries could drive up for potable water.

The source for this system is the County, so drinking water is coming in to the subdivision, however, on the DHHL side, the water is not treated. There are three fire-fighting tank reservoirs located throughout the system. The operating shortfall for this system is \$176,000 per year. This system has a high cost contracted operator at about \$10,000 per month compared to the other water systems DHHL owns and operates. There are two lots that show extremely high levels of use, so we need to increase DHHL oversight. The common mistake when setting rates is looking

at the direct cost; there's also indirect costs like DHHL personnel costs, future increase of the county's water rates, the cost of filling the water reserves for the system which were not factored in.

J. Dupont stated the lease requirements are you have to reside on the island, you have to have livestock and you have to contain the livestock, which means you have to build a fence. The minimum livestock capacity for Pu`ukapu is 1 cow to 3 acres; in practicality it's 1 to 10 acres; and these are not irrigated pastures.

K. Manuel stated a land use amendment needs to happen in Pu`ukapu. It is not favorable for ranching anymore. If DHHL were to revise the land use, lands would be subdivided into residential and subsistence ag lots. From there the Department could create a potable water system to serve that specific purpose. Extend the county's water system so they get more users and it's focused on residential use.

Planning is looking at retrofitting in existing homestead communities. For example, Panaewa lots have 10 acres, people use less than an acre. If we cut them up, we can do more subsistence ag lots. In Waimea, lots of people aren't using their 5 acre lot; we could cut them in half and give 2 acres each and get someone off the waitlist. There are 140 acres that need to be subdivided out to existing lessees. If there is no requirement to reside, should DHHL be required to provide potable water. If the purpose of the lease is ag, then DHHL should provide ag water. Is it the responsibility of DHHL to provide anything above the purpose of the lease?

K. Manuel stated a survey showed that 85% of the people asking for ag lands don't really want to do farming, they just want a house. One option is to screen the applicants, and if they cannot prove they will be farming or raising cattle, don't give them the land or take it back from those who have the land and are not utilizing it for its intended purpose.

Chair Masagatani asked the Commission if the rates should be increased. Commissioner Ka`apu asked if there was a possibility to look at it before 2019 or 2020?

K. Manuel requested that the Planning Office budget include resources to do a cost of service study this fiscal year to re-evaluate the rate. DHHL can recommend the increase based on solid numbers and analysis. The language inserted is no later than July 2020.

K. Manuel suggested since DHHL is in the rule making process, inserting the irrigation system rules into the water system rules would make sense.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

PLANNING DIVISION

ITEM G-7 Draft Environmental Assessment (DEA) and Anticipated Finding of No Significant Impact (AFONSI) for Project Kamoleao, Pana`ewa, Hilo, Hawai`i, (TMK 3-2-2-047:075)

Planner Andrew Choy informed the Commission the DEA, for Project Kamoleao, will be published by the Office of Environmental Quality Control (OEQC) in June. Planning wants to give the Commission an opportunity to review the document before publishing with OEQC. A. Choy provided a briefing of the Pana`ewa, Kamoleao Project. He expressed that it is a community project, and DHHL is just assisting with the EA compliance.

ANNOUNCEMENTS AND ADJOURNMENT

Next Meeting – June 18 & 19, 2018, Kapolei, O`ahu, Hawai`i

MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Ishibashi, to adjourn the meeting. Motion carried unanimously.

ADJOURNMENT

1:10 PM

Respectfully submitted:

Jobie M. K. Masagatani, Chairman
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:

Jobie M.K. Masagatani, Chairman
Hawaiian Homes Commission

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ANNOUNCEMENTS AND ADJOURNMENT

Next Meeting – June 18 & 19, 2018, Kapolei, O`ahu, Hawai`i

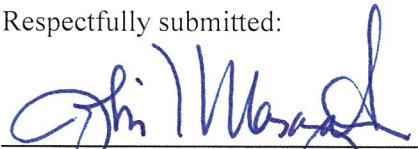
MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Ishibashi, to adjourn the meeting. Motion carried unanimously.

ADJOURNMENT

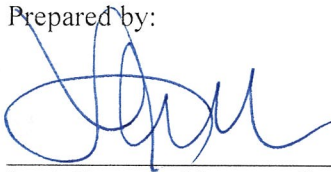
1:10 PM

Respectfully submitted:



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

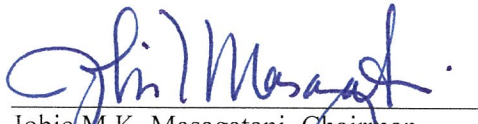


Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

March 18, 2019



Jobie M.K. Masagatani, Chairman
Hawaiian Homes Commission