

# HAWAIIAN HOMES COMMISSION MEETING

Minutes of June 18 and 19 2018

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

Pursuant to proper call, the 700th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, Hawai'i, beginning at 9:30 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

**EXCUSED** 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 Pont, West Hawai'i 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 9:40 a.m.

Seven (6) members were present at roll call. Commissioner Wescoatt was excused. The Kaua'i and Oahu Commission seats were vacant.

### **APPROVAL OF AGENDA**

#### **MOTION/ACTION**

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

### **APPROVAL OF MINUTES**

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

## ITEMS FOR DECISION MAKING

### CONSENT AGENDA

#### HOMESTEAD SERVICES DIVISION

##### RECOMMENDED MOTION/ACTION

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

##### DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda. No Items were moved to the Regular Agenda.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM 3-4** Approval of Homestead Application / Cancellations (see exhibit)
- ITEM D-5** Commission Designation of Successor to Application Rights of **SAMUEL KALIKO, III (Deceased)** – Public Notice 2016
- 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-10** Request for Relocation – **ODETTA K. SAMSON**, Agricultural Lease No. 6956, Lot No. 11, Maku`u, Hawai`i
- ITEM D-11** Commission Designation of Successor – **JON HALL**, Agricultural Lease No. 4180A, Lot No. 76B, Pana`ewa, Hawaii
- ITEM D-12** Request to Schedule a Contested Case Hearing – **ALVIN K. POAI**, Residential Lease No. 1445, Lot No. 35, Waiakea, Hawaii
- ITEM D-13** Request to Schedule Contested Case Hearing – Lease Violations– **James Key, Jr., Henry Key, and Beau Jack Key**, Residential Lease No. 4892, Lot No. 21B, Kuhio Village & Agricultural Lease No. 6197, Lot No. 33-D, Pu`ukapu, Hawai`i

##### MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina to approve the Consent Agenda. Motion carried unanimously.

## ITEMS FOR DECISION MAKING

### REGULAR AGENDA

#### LAND DEVELOPMENT DIVISION

- ITEM E-1** Approval of Lease Award – **KUMUKOA-POMAIKAI YASSO**, Keaukaha Residence, Lease Number 12825, Lot Number 151-C, Keaukaha, Hawai`i

##### RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:  
Motion to approve the award of DHHL resident lot lease to the applicant listed for 99 years subject to the purchasing of existing improvements by way of loan or cash.

MOTION

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

DISCUSSION

N. Sakamoto noted this is the 51<sup>st</sup> Hawai`i Community College home.

ACTION

Motion carried unanimously.

**LAND MANAGEMENT DIVISION**

- ITEM F-2      Approval to Issuance of a Non-Exclusive License as Easement to the Hawaii Electric Light Company (HELCO) for Maintenance and Utility Purposes, Pi`ihonua Agricultural Conservation Lots, Hawaii Island, TMK: (3)-6-2-009:005 (por.)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: motion to approve the issuance of a non-exclusive easement to the HELCO for maintenance and utility purposes in Pi`ihonua Agricultural Conservation lot on Hawai`i Island.

MOTION

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

DISCUSSION

Property is in Pi`ihonua near the Waiala hydro plant in an access road that HELCO has been using for a while. HELCO has made improvements to the road to allow for passage of its equipment vehicles.

ACTION

Motion carried unanimously.

- ITEM F-3      Approval on Second Amendment to Extend the Term of Right of Entry No. 666 to State of Hawaii, Department of Land and Natural Resources, Kahikinui, Maui, TMK: (2)1-9-001:003 (por.), 007(por.) and 011(por.)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion to approve a second amendment to extend an existing right of entry, No. 666 to the State of Hawai`i, Department of Land and Natural Resources in Kahikinui.

MOTION

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

DISCUSSION

DLNR has not finished its fencing project and is asking for a 12-month extension.

ACTION

Motion carried unanimously.

## PLANNING OFFICE

### **ITEM G-1 Acceptance of Water Policy Plan Implementation Program FY2018 and Approval of Water Policy Plan Implementation Program FY2019**

#### RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following: motion to accept the water policy plan implementation program for FY2018 and approve the water policy plan implementation program for FY2019.

#### MOTION

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

#### DISCUSSION

K. Manuel directed the Commissioners to page 2, a summary of what the Planning Office highlighted as major accomplishments for FY2018. In the latter part of FY2017 and into FY2018 a water reservation was secured for 6.903 mgd of surface water from the Koke'e Ditch and Waimea Tributaries. A (right of entry) ROE was issued, with an option to convert to general lease for a hydro project on Hawaiian home lands leading to infrastructure to open up DHHL lands. DHHL will get 30% of the revenue for the water generated from the hydro plant.

Chair Masagatani's biggest concern is having enough water for the upcoming residential developments. She also wanted K. Manuel to update the Commission on the Supreme Court arguments on the Kukui Moloka'i legal case.

K. Manuel stated the focus of the appeal was whether or not the dismissal of the contested case by the Commission on Water Resource Management (CWRM) was justified. The Supreme Court cited six different reasons why they dismissed the case.

Given the current permit, DHHL does not have the water capacity to develop additional lots on Moloka'i. 367,000 gallons per day is allowed under DHHL's current permit. DHHL is over pumping that allocation with its current use on an average of 450,000 to 475,000 gallons per day. With the new water use permit request of 637,000 gallons per day, DHHL will have the opportunity to provide water to the new scattered subsistence ag lots as well as Na'iwa. Na'iwa is an existing ag subdivision which does not currently have sufficient water

#### ACTION

Motion carried unanimously.

### **ITEM G-2 Extend the Implementation Period of the Native Hawaiian Development Program Plan (NHDPP)**

#### RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following: that the HHC extend the implementation period of the Native Hawaiian Development Plan for two years through June 30, 2020.

#### MOTION

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

#### DISCUSSION

The NHDPP is a strategic plan which consist of DHHL's grants program, and training and capacity building assistance for the Associations. The CTAHR (College of Tropical Agriculture & Human Resources) program is which helps farmers and ranchers. The plan is supposed to be updated every two years. We do this to provide grants for the beneficiaries.

Commissioner Ka'apu stated the Department is not seeing results from the beneficiaries, given the work the Planning Office has been doing with limited staff.

Chair Masagatani stated that the Native Hawaiian Development Program Plan is the one way we can connect with our beneficiaries who have not received a homestead.

ACTION

Motion carried unanimously.

**ITEMS FOR INFORMATION/DISCUSSION**

**GENERAL AGENDA**

**REQUESTS TO ADDRESS THE COMMISSION**

**ITEM J-2 Patrick Kahawaiolaa – Keaukaha Community Association 'Āina Mauna**

Patrick Kahawaiolaa requested that the Keaukaha Community Association's proposal for a right of entry permit to the Humu'ula Sheep Station be approved by the Commission. The proposal was submitted several years ago and involves security, eco-tourism, and cultural access.

**ITEM J-3 Joseph Kepa Kaolulo – 'Āina Mauna**

Joseph Kaolulo requested access to the Āina Mauna lands. There are homesteaders who are ready and qualified to do eco-tourism on the Mauna. They just need the Commission to give them access and a chance to prove themselves. Even though some folks don't have their awards yet, they still want to take care of the resource.

**ITEM A-1 Patty Kahanamoku Teruya on G-7**

Patty Kahanamoku Teruya of the Nānākuli Homestead Association commended DHHL and HACBED (Hawai'i Alliance for Community-Based Economic Development) for their time and effort to hold the Waianae, Nānākuli and Lualualei regional plan meetings. She supports what was submitted to the Commission as a good draft of the regional plan update.

**ITEM A-2 DeMont Connor & Iwalani McBrayer**

DeMont Connor and Iwalani McBrayer expressed their appreciation of DHHL and HACBED's role in the regional plan meetings. Their voices are a part of what is coming before the Commission for approval. They asked the Commission to let the community do what they need to do.

MOTION/ACTION

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

**EXECUTIVE SESSION IN**

**12:20 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
2. Discussion regarding DHHL vs. Char et al., DC Civil No. 1RC15-1-11007.

## **EXECUTIVE SESSION OUT**

**2:15 PM**

## **ITEMS FOR INFORMATION/DISCUSSION**

### **GENERAL AGENDA**

### **REQUESTS TO ADDRESS THE COMMISSION**

#### **ITEM J-1      John Hopkins Jr. – Contested Case Hearing Loan Delinquency**

J. Hopkins asked the Commission to waive the late fees that have accrued over the life of the loan. His son is not able to qualify for a loan with the solar buyout and the late fees. Commissioner Kahikina requested the case be reopened to help the family keep their home.

#### **ITEM J-4      Princeslehuani Kumaewakainakaleomomona – Waitlist**

P. Kumaewakainakaleomomona stated she has been on the waitlist for more than 30 years. None of her siblings have been awarded. She wants to know why DHHL has not awarded her land on Maui. All she wants is one acre.

## **WORKSHOPS**

### **ADMINISTRATIVE SERVICES OFFICE**

#### **ITEM H-1      Fiscal Year 2019 DHHL Budget (related to H-2)**

Administrative Services Officer Rodney Lau briefed the Commissioners on the budget handout for FY2019 and explained the different funds individually. (*please refer to submittal H-items, Administrative Services Office*).

### **PLANNING OFFICE**

#### **ITEM G-7      Nānākuli & Waianae and Lualualei Regional Plan Updates**

#### **RECOMMENDED MOTION/ACTION**

None. For information only.

Legislative Analyst Lehua Kinilau-Cano and Planner Julie Cachola presented the following:

#### **DISCUSSION**

L. Kinilau-Cano acknowledged the work of all those who helped make the meetings successful. The Nānākuli & Waianae Vision Statement lists five projects of importance: Disaster Preparedness, Economic Development, Education Programs, Waianae Access Road and Access to Homestead Lands that are Not Utilized. The community also felt that Lualualei should have a separate Regional Plan since Princess Kahanu is lumped in with Nānākuli's Regional Plan. This is something that needs to be addressed.

Deputy Aila voiced caution with pointing out that only 8% of the people have a Bachelor's Degree because there are many people who are journeymen, carpenters, and other skilled workers that don't have a Bachelor's Degree and make well over \$100,000 a year. On the West side, it's the more hands on type of education rather than the academics.

## LAND MANAGEMENT DIVISION

### ITEM F-4 For Information Only – Status on Revocable Permit Programmatic Reforms.

#### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Land Management Division Administrator Kahana Albinio reported on the following priorities:

#### DISCUSSION

- (1) Where are we now?  
DHHL is initiating a contract negotiation process with a commercial real estate consultant to help with a methodology for establishing rents, and identifying lands that are not suitable for homesteading.
- (2) Where are we going?  
DHHL aims to provide greater transparency, improve safe and appropriate use of the land, and increase the income stream generated from the new program.
- (3) What lands are available for revocable permit programs?  
Lands are identified by the Island Plan residential, subsistence agricultural, pastoral land use designations.
- (4) What lands are available for general renewable licenses?  
Commercial/industrial, general agricultural and community land use designations. LMD is still looking at the creation of a pastoral task force. K. Albinio stated it would be best to look at the commercial/industrial lands before the ag/pastoral lands which covers larger land areas.
- (5) What are the revocable permit requirements?  
It is a month to month disposition of no more than a year, the use is temporary and has to be exempt from preparing an EA. The fees/fair market rents are still being worked out with the consultant.

Chair Masagatani mentioned two issues that were brought up by Commissioners: (1) one is allowing beneficiaries to participate in the process of accessing short-term dispositions and, (2) if DHHL is unlikely to do it within 20 years, could the Department look at five years/10 years verses a 65-year general lease. Has the Department ever looked at shorter term dispositions?

K. Manuel stated that the Kalaniana'ole Hall is a 10-year license with a 10-year option renewal.

Chair Masagatani asked why the Department hasn't done longer term, income producing dispositions in the past for Kalaeloa? K. Albinio stated that most of the infrastructure is old and still belongs to the Navy. There are only five or six parcels and the smallest is 24 acres.

Commissioner Ka'apu asked if the lands can be subdivided. He also asked if DHHL has looked at the possibility of having the general lessee bear some of that development or infrastructure cost? There must be a demand on O'ahu for industrial land use. Staff responded, yes, that the land could be subdivided.

Chair Masagatani stated that DHHL has not done general leasing with the industrial parcels in Kalaeloa, where most of the revocable permits are, because of the infrastructure issue and the properties have not been subdivided.

Chair Masagatani asked if DHHL has the ability to add ag remnant land to existing homestead leases? K. Albinio stated DHHL has done it in Waimanalo.

Chair Masagatani asked if any assessment has been done with the lands in Kalaeloa. She suggested an analysis be completed to see if the lands are economically viable or not.

Commissioner Helm suggested businesses in Mapunapuna are eventually going to need to relocate due to king tides.

## PLANNING OFFICE

### **ITEM G-3 Draft Environmental Assessment for the Ho‘olehua Veterans and Homestead Residents’ Community Center, Ho‘olehua, Kona, Molokai, TMK (2)5-2-015:053 (portion)**

#### RECOMMENDED MOTION/ACTION

None. For information only.

Planner Nancy McPherson presented the following:

#### DISCUSSION

The Draft Environmental Assessment was provided to the Commissioners before being submitted to the Office of Environmental Quality Control’s (OEQC) Environmental Notice, pending additions, edits or changes. N. McPherson presented an overview of the report. Pre-consultation comments and responses to the DEA can be found in the appendixes. Feedback from beneficiaries was also received during a beneficiary informational meeting.

Commissioner Helm would like to see the veterans involved with this project.

Chair Masagatani asked to make sure that the island of Moloka‘i is aware when the DEA is available. N. McPherson stated publications will be included in the local papers and the notices will be send to the Homestead Associations.

### **ITEM G-4 Update on DHHL Efforts in the Areas of Climate Change and Sea Level Rise Adaptation, Community Resilience and Hazard Mitigation on Hawaiian Home Lands, Statewide**

#### RECOMMENDED MOTION/ACTION

None. For information only.

Planner Nancy McPherson presented the following:

#### DISCUSSION

N. McPherson stated significant rises in the sea level has created a sense of urgency for the Ige Administration. The idea is to try to address as many issues as possible with whatever resources there are in a systemic integrated manner.

Dr. Chip Fletcher of the University of Hawaii has been collecting data which indicate that sea level will have a major impact and that we should pay attention to relocating or moving highways, and other infrastructure. His study is suggesting that indigenous communities are disproportionately impacted by climate change.

DHHL made a submission for Molokai to be a part of the Resilient Hawaiian Communities Initiative. DHHL is believed to be the outlet for the money to get to those homestead communities. The State is part of the Paris Climate Accord and implementing parts of the Accord. The Hawaii Climate Change Mitigation & Adaptation Commission adopted a report titled Sea Level Rise



Vulnerability & Adaptation Report. It contains lots of data and recommendations, some of which specifically apply to Hawaiian home lands.

## **ITEM G-5            Presentation of Water Credit Allocation Criteria**

### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Program Manager Kaleo Manuel, Legislative Analyst Lehua Kinilau-Cano and Water Consultant Dr. Jonathan Scheuer presented the following:

### DISCUSSION

The Water Policy Plan that was adopted by the Hawaiian Homes Commission in 2014, having four main goals. There are 30 goals in the plan identified by beneficiaries as key goals, however, four were marked by the Commission as priorities. One of the goals was the idea that the Trust should methodically manage the water credits it receives from the county and make the management explicit.

The two big questions on the policy level are, who gets the credit when they are available, and do they pay? The existing homestead lots should be fully satisfied first.

K. Manuel reviewed information and criteria of how credits are allocated and started a discussion to determine how to deal with the allocation of water credits. Chair Masagatani stated the articulation of the priorities defining how water credits are allocated could be a policy decision for the Commission.

J. Scheuer stated that this set of procedures, in draft, focused on the allocation of credits already held by DHHL. It is not focused on the acquisition of credits, which could be added in when the Department enters into source development or other kinds of agreement that result in additional credits. If there is a partnership involved in the acquisition of credits, how are the credits distributed among the parties?

If the Department holds enough credits that it can build out its subdivisions but nothing beyond that, and somebody comes and wants to purchase water credits for a commercial use, the answer would be, no. But, if the Department had sufficient credits to build out all of its land uses-residential, commercial, etc. and somebody wants to purchase credits for a private commercial use, then yes, credits could be sold but at a full market rate. One of the things discussed at the staff level was if you are subdividing a lot, you've already gotten a free water credit for that lot prior to subdivision. So if you are subdividing it you can get a water credit but you have to pay the full cost of that additional credit needed for the additional meter.

K. Manuel added that it is specifically tied to the rule which states subdivision and the expense of subdivision is at the expense of the beneficiary.

Commissioner Ka`apu asked if Ka Makana Ali`i, (who provides X million dollars of income) needed 40 water credits, that would take lower priority than somebody subdividing their lot.

J. Scheuer stated if there were insufficient credits available to the Department, Section 220 of the Hawaiian Homes Commission Act reads in relationship to other laws that the greatest priority for water given to DHHL is for homesteading purposes. On O`ahu, the Department has more than sufficient water credits for all its planned developments at this point and time.

K. Manuel stated that this is the first step and asked the Commission to provide feedback for the water credit allocation policy criteria. Non-profits do not get charged for the credit, however, this can be changed.

RECESS

6:00 PM

## HAWAIIAN HOMES COMMISSION MEETING

Minutes of June 18 and 19 2018

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

**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

**EXCUSED** 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  
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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  
Gigi Cairel, Grant Specialist

### ORDER OF BUSINESS

#### CALL TO ORDER

Chair Masagatani called the meeting to order at 10:06 a.m.

#### ROLL CALL

Six (6) members were present at roll call. Commissioner Wescoatt was excused. The Kaua'i and Oahu Commission seats were vacant

#### APPROVAL OF MINUTES

Approval of December 2014 Minutes

#### MOTION/ACTION

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

### ITEMS FOR DECISION MAKING

#### OFFICE OF THE CHAIRMAN

**ITEM C-1 Adoption of Resolution 296 Honoring George Kamahaku Kulani Kaeo Jr. for his Service to the Department of Hawaiian Home Lands**

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented Resolution 296 Honoring George Kamahaku Kulani Kaeo Jr. for his Service to the Department of Hawaiian Home Lands.

MOTION

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

DISCUSSION

Chair Masagatani, Kali Watson and Kumu Vasconcellos gave testimonies of tribute and appreciation for the contributions of the late George Kaeo.

ACTION

Motion carried unanimously.

**ADMINISTRATIVE SERVICES OFFICE**

**ITEM H-2 Approval of Fiscal Year 2019 DHHL Budget**

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau made amendments to the FY2019 DHHL Budget submittal to read as follows:

1. Approval of the Fiscal Year 2019 Department of Hawaiian Home Lands Budget and authorize the Chairman to shift funding of expenditures between cost elements and funds as warranted but not to exceed the total budget and any shift in funding between cost elements by the chair shall not exceed \$500,000.
2. For the Development budget items, allow the Chair's authority to shift funding between cost elements if not to exceed \$1,000,000.
3. Approval to transfer \$23,200,000 from the Hawaiian Home Administration Account to the Hawaiian Home Operating Fund.

MOTION

Moved by Commissioner Awo, seconded by Commissioner Helm, to approve the motion as amended by R. Lau.

DISCUSSION

Commissioner Kahikina asked if there were limitations for spending between object codes. Chair Masagatani stated as long as there's money in the budget.

Commissioner Kaapu requested that if there are any shifts between cost elements, that the Commission is advised. Chair Masagatani agreed to notify the Commission if funds are moved.

ACTION

Motion carried unanimously.

**ITEM H-3 Approval of Transfer of Hawaiian Home Receipts Money at the End of the Fourth Quarter, FY 2018**

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:  
Motion to approve the Transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of June 30, 2018, to the Hawaiian Homes General Loan Fund.

### MOTION

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

### DISCUSSION

Chair Masagatani asked does the water bill payments received for the use of water go into the Receipts Fund or does it automatically go into the Operating Fund.

R. Lau answered that the water bill payments are deposited into the Operating Fund. The Receipts Fund is for loan interest. Certain funds require that the investment income gets returned back to the same fund.

### ACTION

Motion carried unanimously.

## **PLANNING OFFICE**

### **ITEM G-6 Approval to Extend Existing Water Rates for the DHHL Anahola Water System to June 30, 2019 or Until Water Rates are Proposed for Increase**

#### RECOMMENDED MOTION/ACTION

Planner Gigi Cairel presented the following:

Motion to extend the existing water rates for the DHHL Anahola Water System to June 2019 or until rates are proposed for increase.

#### MOTION

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

#### DISCUSSION

G. Cairel stated that it is taking more time to prepare the lessees at Anahola. A beneficiary consultation was done earlier in the month. Unfortunately, out of all the water meetings, the Anahola meetings have been low in attendance. The Department wants to take more time to educate the beneficiaries of the area. The current rates expire the end of June. Planning is hopeful that the proposed new rates will be in place before the August HHC meeting, which is on the island of Kaua`i.

Chair Masagatani asked if the Anahola Water System will ever break even, or does it need more users.

G. Cairel stated the biggest factor is that Anahola has the lowest income per capita for the Department, at about \$36,000 per year. Raising the rates to the breakeven point is going to be unaffordable for this community. Even if the Department cut back on the costs for the contracted operator and made the system efficient, the fixed costs to operate and maintain this system is not going to be affordable for the Anahola community.

Commissioner Ka`apu asked what issue do we have with connecting this system with the county water system?

G. Cairel stated the Hawaiian Homes Commission Act states that the Department must retain exclusive control of its water systems. Even if DHHL wanted to merge with the County or give the system away, it cannot.

Commissioner Ka`apu asked why the beneficiaries aren't on the E(stet) System? DHHL is losing \$150,000 dollars a year and it makes no sense. G. Cairel replied there is no County infrastructure to serve the lots. The older part of Anahola has access to County water but these farm and residential lots do not.

G. Cairel was concerned that USDA has already obligated \$4 million dollars for system improvements to Anahola. If DHHL is going to switch directions mid-stream, it will be considered another project.

Land Development Division Administrator Norman Sakamoto stated improvements to the water system are still needed. DHHL should move forward with improvements to the system, retain ownership, and to the extent Kaua`i County will agree, approach Kaua`i County on taking over operation or partnering with DHHL on the operation of the system.

ACTION

Motion carried unanimously.

**ITEMS FOR INFORMATION/DISCUSSION**

**HOMESTEAD SERVICES DIVISION**

**ITEM D-1 HSD Status Reports**

- A - Homestead Lease and Application Totals and Monthly Activity Reports
- B - Delinquency Report
- C - DHHL Guarantees for FHA Construction Loans

**ITEM D-14 HUD (US Department of Housing and Urban Development) 184A and FHA (US Federal Housing Administration) 247 Loan Programs Workshop**

Acting Homestead Services Division Administrator Dean Oshiro provided the following workshop:



The Hawaiian Homes Commission Act Section 208 states that any lessee that wants to put a lien on their homestead must be federally guaranteed and federally insured. This is why DHHL uses federal programs, beneficiaries cannot just go and do their own loans without Hawaiian Homes provisions.  
**Lending on DHHL Lands**

**Hawaiian Homes Commission Act, 1920, as amended §208. Conditions of Lease (6)**

Notwithstanding the provisions of paragraph (5) the lessee, with the consent and approval of the commission, may mortgage or pledge the lessee's interest in the tract or improvements thereon to a recognized lending institution authorized to do business as a lending institution in either the State or

elsewhere in the United States; provided the loan secured by a mortgage on the lessee's leasehold interest is insured or guaranteed by the Federal Housing Administration, Department of Veteran's Affairs, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee such loans, or any acceptable private mortgage insurance as approved by the commission. The mortgagee's interest in any such mortgage shall be freely assignable. Such mortgages, to be effective, must be consented to and approved by the commission and recorded with the department.

**DHHL has a variety of different lending programs**

- DHHL Direct loans and advances
- DHHL Guaranteed loans
  - *US Dept. of Agriculture - Rural Development*
  - *US Veterans Affairs*
  - *Office of Hawaiian Affairs*
  - *City & County of Honolulu*
  - *Hawaii Habitat for Humanity*
  - *US Small Business Administration (disaster loans)*
  - *Others (FCUs, other non-profits, & local government)*
- Conventional Loans (American Savings Bank, Bank of Hawaii, Hawai'i National Bank, & Central Pacific Bank)
- HUD's 184A guaranteed and FHA 247 insured loans

**Total Portfolio:** 4,800+ loans totaling ≈ \$611 million

**Loans Outstanding (as of 4/30/18):**

- Homestreet Bank: 259 loans ~ \$57.6 million
- Bank of Hawaii: 131 loans ~ \$29.2 million
- Bank2: 70 loans ~ \$15.9 million

**TOTAL: 460 loans ~ \$102.7 million**

**HUD 184A Buyback Loans**

- DHHL has one (1) year from assignment of mortgage date to cancel lease.
  - If lease is cancelled, DHHL to repay HUD lesser of balance or appraised value
  - If lease is not cancelled, DHHL to repay HUD the entire amount paid to lender and additional accrued interest and fees
- Currently 5 of these loans are in DHHL's portfolio totaling some \$1.3 million
- 4 accounts approximating to \$1 million is in the seriously delinquent category
- These loans tax assessed values equate to \$1.1 million

**FHA 247 Insured Loans (created in July of 1987)**

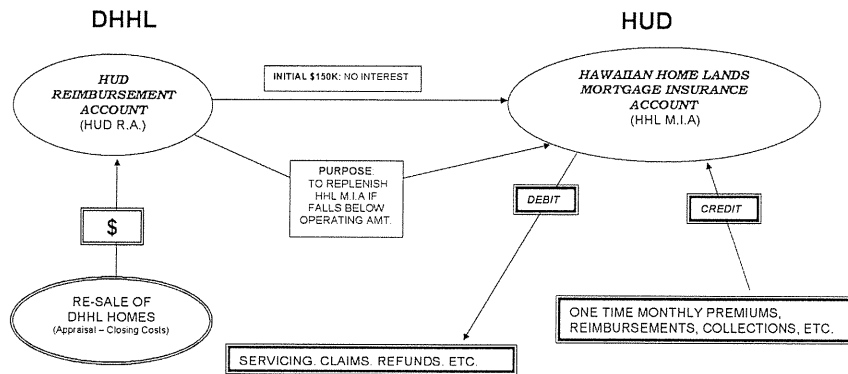
- Loans insured by HUD-FHA (Federal Housing Administration)
- Lessees pay 3.8% upfront insurance premium
  - No monthly insurance premium
- Loans approved and serviced by participating lenders
  - Any FHA approved lender
- If a loan is defaulted upon, servicing lender files an insurance claim with HUD
- HUD then reassigns mortgage to DHHL for servicing

**HUD report as of 4/30/18:**

- Total Portfolio – 2,800 loans (32 loan servicers) for \$430.1 million
- Largest Servicers:
  - Homestreet Bank – 1,085 loans; \$191.4 million
  - Wells Fargo Bank – 289 loans; \$27.9 million
  - Guild Mortgage – 241 loans; \$47.8 million
  - Nationstar Mortgage LLC – 205 loans; \$21.9 million

- LoanCare LLC – 182 loans; \$34.8 million
- Delinquency
  - 210 loans ~ \$25.7 million delinquent (7.5%)
  - Homestreet Bank: 36 loans ~ \$5.6 million
  - Wells Fargo Bank: 30 loans ~ \$3.2 million
  - Pennymac Loan Services, LLC: 28 loans ~ \$3.2 million
  - Nationstar Mortgage: 31 loans ~ \$3.1 million
  - 21 accounts - 8 years or more past due

HAWAIIAN HOME LANDS MORTGAGE INSURANCE ACCOUNT (HHL MIA)



**FHA 247 Buyback Loans**

- As of 5/31/18
- DHHL servicing 143 loans
  - 118 loans ~ \$16.8 million are 180 days or more delinquent
  - Tax Assessed Values = \$24.2 Million
  - 44 loans “upside down”
- Purchases - 46 loans
  - 96.5% LTV
  - 4 loans Transferred Through Successorship
- Refinanced Loans – 72 loans
  - 31 loans are Transferred Through Successorship
    - No qualifications for:
    - Income
    - Credit
    - Employment
- As of 5/31/18
- 111 accounts in various stages of the Contested Case Hearing process
  - 12 accounts in cancellation process
  - 46 accounts in compliance with Decision & Order
  - 8 accounts not complying with Decision & Order/Return to HHC
  - 45 accounts need HHC approval for CCH/need CCH to be conducted by Hearings Officer/HHC to issue Decision & Order

Chair Masagatani asked if the VA (Veterans’ Affairs) loan product, is that a specific program similar to the product Indians have for their veterans? D. Oshiro replied that DHHL has its own memorandum of agreement (MOU) with the VA. The lessees go directly to the VA’s office.



D. Oshiro stated HomeStreet does not wait years to file a claim. They file a claim once a loan hits a 6 - month delinquency. HomeStreet knows how to file a claim and their delinquency numbers are high because they have the most loans.

DHHL works through a National Servicing Center who contacts the lenders. The mainland companies are large, and they don't really understand DHHL and its beneficiaries.

When a lender makes a loan to a lessee, they were qualified for income, credit, and employment. When the lessee passes away and the successor takes over, the successor does not need to go through the same qualifications. They get the loan by default through transfer through successorship. Many times, they are not qualified and sometimes cannot afford the home.

As of 5/31/18, 111 of the 118 loans are in various stages of our contested case process. Of those, twelve are in cancellation, 46 are complying with the decision, 8 are not complying, 45 others need approval for a hearing, or need a hearing conducted by the hearing officer, or the Commission had the hearing and the Department is waiting for a decision and order to be finalized.

## **EXECUTIVE SESSION IN**

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. Direct Settlement Agreement with HomeStreet Bank

## **EXECUTIVE SESSION OUT**

### **HOMESTEAD SERVICES DIVISION**

#### **ITEM D-15 Approval of Direct Settlement Agreement with HomeStreet Bank**

##### RECOMMENDED MOTION/ACTION

Motion to approve the settlement agreement as discussed in executive session.

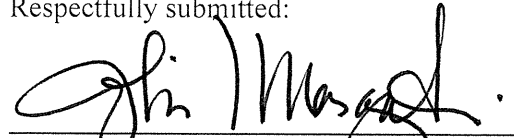
##### MOTION/ACTION

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

## **ANNOUNCEMENTS AND ADJOURNMENT**

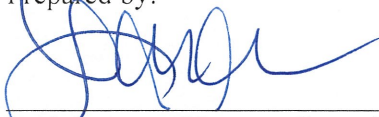
- A. Next Meeting – July 16 & 17, 2018, Kapolei, O'ahu, Hawaii
- B. Adjournment

Respectfully submitted:



Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

Prepared by:

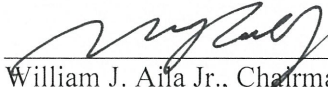


Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

~~JUN 18 2019~~



William J. Aifa Jr., Chairman  
Hawaiian Homes Commission