

HAWAIIAN HOMES COMMISSION

Hale Pono`i, Kapolei, HI, O`ahu
Minutes of July 16, 2018, at 9:30 a.m.

Pursuant to proper call, the 701st Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, O`ahu, 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
David B. Ka`apu, Commissioner, West Hawai`i
Michael P. Kahikina, Commissioner, O`ahu
Wren Wescoatt, Commissioner, O`ahu

EXCUSED Wallace A. Ishibashi, Commissioner East Hawai`i
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
Bryan Esmeralda, Planner

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:02 a.m.

Six (6) members were present at roll call. Commissioner Ishibashi was excused and the Kaua`i and Oahu Commission seats were vacant.

APPROVAL OF AGENDA

Chair Masagatani noted approval of the minutes for January 2018 will be deferred to the Tuesday agenda.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Kuhio Lewis, Council for Native Hawaiian Advancement (CNHA) Re: Items F-3 and F-1

Kuhio Lewis introduced himself as the new Chief Executive Officer for CNHA. He is in support of extending the lease for the Kekama Pono Program. K Lewis is the former President of the Kapolei Community Development Corporation (KCDC) and supported approval of the final CPR (condominium property regime) for KCDC.

ITEM A-2 Blossom Francisco, Re: Papakōlea erosion/stabilization

Blossom Francisco stated that the foundation of her mother's home is cracking from the erosion and possible sewage seepage from the sewers in front and back of the home. She asked the Commission for help. Chair Masagatani asked B. Francisco to speak with Deputy to the Chairman William Aila Jr. for follow-up.

ITEM A-3 Kekoa Enomoto, Re: Item F-3

Kekoa Enomoto is a Waiohuli lessee and member of Pa'upena Community Development Corporation on Maui. She objects to extending the term license for License No. 705, State of Hawaii, Department of Human Services, Wailuku, Maui.

ITEM A-4 Homelani Schaedel, Re: F agenda and Item E-1

Homelani Schaedel testified in her capacity as President of the Malu'ōhai Homeowners Association. They supported the Items on the F Agenda with a few amendments. They do not support the gratis rent for two years, in F-2. If F-3 pays, then F-2 should pay also.

Regarding Item F-4, the market value has gone up on the lands transferred to DHHL because the County re-designated the property class from residential to commercial. KCDC requested a report of the Kalaeloa lease permit terms, previous and current rent amounts, and how many payments are more than 30-days past due in the past 12 months.

ITEM A-5 Jo Jordan, Re: Item F-2

Jo Jordan, a former Legislator and Waianae resident has followed the Ulu Ke Kukui project going back to when Governor Lingle was in office. The expectation when Ulu Ke Kukui was developed was that the expenses, water, sewer, and buildings would return back to DHHL at the end of the term. That is why the initial ask was for no more than 10-years for the use of the property by the State of Hawai'i, to address the homeless situation. The Ulu Ke Kukui property needs to be DHHL, however, DHHL is not ready because it does not have rental rules. The Department of Human Services Homeless Program has not maintained Ulu Ke Kukui. She is not in support of the extension.

ITEM A-6 Kanani Kapuniai, Re: F-2 and Administrative Rules

Kanani Kapuniai stated beneficiaries should have the opportunity to participate in the development of the rules that they have to live by. The proposed DCCR rules lack the relationship to the beneficiaries. Beneficiaries should appoint the board members, and then create their association.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND DEVELOPMENT DIVISION

ITEM E-1 Kauluokahai Transit Oriented Development (TOD) Presentation Workshop

RECOMMENDED MOTION/ACTION

None. For information only. Real Estate Development Specialist Darrell Ing presented the following:

DISCUSSION

Darrell Ing explained that the Department is looking at Transit Oriented Development and how it could be beneficial to the Trust. Darin Smith of Economic Planning Systems explained that Transit Oriented Development (TOD) is designed to promote non-automobile trips, inclusive of public transit, biking, and pedestrian, through design. TOD saves on travel time, and takes advantage of resources using less land per person, reducing the cost per person and increasing ridership on public transit investments.

Development cost can be higher due to higher buildings and parking structures compared to single family homes. One of the major constraints in developing in this area is sewer capacity which is something that will need to be worked through. The goal is not to have additional monies from DHHL going to the projects. D. Ing added the Department is looking into outside sources such as low income housing tax credits, section 8, or Weinberg to come in with additional outside monies.

Commissioner Kahikina asked how the consultants were chosen. D. Ing stated Economic Planning Systems was hired after going through the procurement process. The Department wanted expertise to develop the RFP, assistance with evaluating the proposals, and help with negotiating the contract.

Chair Masagatani stated that an environmental assessment or environmental impact statement and beneficiary consultation should be done before the RFP is completed.

K. Manuel stated planning is geared toward implementing the O`ahu Island Plan. One of the talks with the community in Kapolei was to find ways to increase density and to take advantage of TOD. The Department is going to reach out to beneficiaries again and double check if it is meeting all of their requests, needs, and preferences. In order to take an advantage of TOD, the Department needs to plan and make changes now.

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.

Commissioners asked to moving Items D-3, D-8, and D-9 to the Regular Agenda.

- ITEM D-2** Approval of Consent to Mortgage (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** Reinstatement of Deferred Application – **AUGUSTINE A. PONCE**
- ITEM D-7** Approval of Designation of successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-10** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-11** Approval of Subdivision, Transfer of a Portion of Lease, Lease No. 280, Lot No. 48, Nanakuli, Oahu – **THEODORE A. AUWAE**
- ITEM D-12** Request to Schedule Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor(s) (see exhibit)
- ITEM D-13** Commission Designation of Successor – **DONALD S.K.L. CHUNG, III**, Residential Lease No. 5647, Lot No. 102, Lualualei, Oahu
- ITEM D-14** Request to Schedule Contested Case Hearing – Lease Violation – **ALFRED BERDON, JR.**, Agricultural Lease No. 2981, Lot No. 20, Pu'ukapu, Kamuela, Hawaii
- ITEM D-15** Request to Schedule a Contested Case Hearing – **LAWRENCE S. KAMAKA**, Residential Lease No. 2590, Lot No. 215A, Keaukaha, Hawaii

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Kahikina, to approve the Consent Agenda, removing Items D-3, D-8 and D-9. Motion carried unanimously.

NOTE: Items D-3, D-8, and D-9 was addressed later in the agenda.

REGULAR AGENDA

LAND MANAGEMENT DIVISION

- ITEM F-1** **FINAL Approval to pursue Condominium Property Regime (CPR), Kapolei Community Development Corporation (KCDC), General Lease No. 290, Kapolei, O'ahu, TMK No. (1)91151002**

RECOMMENDED MOTION/ACTION

Land Management Division Acting Administrator Kahana Albinio presented the following: Motion to approve Issuance of FINAL approval to pursue Condominium Property Regime (CPR), Kapolei Community Development Corporation (KCDC), General Lease No. 290, Kapolei, Island O'ahu, TMK No. (1)91151002

MOTION

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

DISCUSSION

KCDC President Scott Abrigo briefed the Commission on the CPR. He expressed that with the coming of Kauluokahai, KCDC will be serving almost 9,000 homesteaders. KCDC plans to serve the homesteaders through the Kapolei Heritage Center. KCDC's next project requires the approval of the CPR by the Commission to move forward. The By-laws, declarations, rules, design

guidelines and the CPR map have been diligently worked on and provided to the Commission for consideration. KCDC' attorneys from Dillon Jones Imanaka Asato was present to answer questions on the CPR.

Chair Masagatani asked if it is the intention for KCDC to use the revenues generated from this Kapolei/Kualakai Parkway site for its non-profit purposes.

S. Abrigo stated the revenues from the site would go to support the continued construction of the Kapolei Heritage Center (KHC) and its operation and maintenance. The intended audience is the beneficiaries of Kapolei.

Chair Masagatani asked if the project is dependent on access to the site from Kualakai Parkway, (North/South Rd.). Mark Zimmerman of KZ Companies, LLC stated that discussions with the State Department of Transportation are ongoing regarding the access point from Kualakai Parkway. Wilson Okamoto is the engineer working with KZ/KCDC, so there is a strong possibility that access will occur, but this is not a current requirement.

Chair Masagatani asked if there are other options if the right turn is denied. M. Zimmerman stated, if the right turn is denied, then further analysis has to be done.

Commissioner Kahikina asked if there are any foreseen obstacles that would prevent the approval of the access. M. Zimmerman he has worked with the DOT local engineers on other occasions and has been successful in getting approval for things of this type. It's about traffic flow and traffic safety, not so much about the project.

Commissioner Ka`apu was concerned about the rent report depending on whether or not there is construction. Anybody can terminate and if the Commission approves the condominiums, how does this get corrected.

M. Zimmerman stated there are other things that have to be completed before the project can move forward. One thing that will come back to the Commission is the approval of the construction loan. He stated that the draft document is being presented to the Commission now, however he does not want the document recorded until they are at the right stage in the project. If that right turn from Kualakai does not happen and they have to go back to the drawing board, they will be looking at a dedicated right turn off of Kapolei Parkway and that will mean a change to the project.

ACTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-1 Acceptance of Beneficiary Consultation Report for License Extension to State of Hawaii, Department of Human Services for its Ke Kama Pono Program in Wailuku, Maui TMK (2)34011032 and Kalaeloa, O`ahu TMK (1)91013024 (por.)

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel and Planner Bryan Esmeralda presented the following: That the Hawaiian Homes Commission accepts the Beneficiary Consultation Report as an official record of beneficiaries' issues, questions, concerns, and comments regarding the Department of Human Services' request for an extension of License No. 705 for the continued operation of Youth Social Services programs on the subject parcels of Kalaeloa, O`ahu, and Wailuku, Maui.

MOTION

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

DISCUSSION

Brian Esmeralda highlighted the submittal and mentioned that two meetings were held, one in Kapolei and one in Wailuku. The consensus was in support of the proposed license extensions, no opposing comments were made.

ACTION

Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-2 Approval to Lease Extension, General Lease No. 283, Hawaii Public Housing Authority – Ulu Ke Kukui Transitional Housing Program, Waianae, O`ahu, TMK no. (1)87010030

Note: This item was deferred to a later meeting.

ITEM F-3 Approval to Extend License Term, License No. 705, State of Hawaii, Department of Human Services, Wailuku, Maui, TMK No. (2)34011032 and Kalaeloa O`ahu, TMK No. (1)91013024 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Approval to extend the License No. 705 to the State Department of Human Services at Kalaeloa, O`ahu, and two sites on Wailuku, Maui; subject to the conditions as stated on #1 A-D.

MOTION

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

DISCUSSION

Program Manager Mike Kahue explained recidivism and the tendency of a convicted criminal to reoffend. Most of the teenage boys in the program at Kalaeloa come from the Waianae Coast. Out of the 193 residents who entered the program, 89 are of Native Hawaiian descent and 57 have successfully completed the program and returned home to continue schooling or have gained local employment. The Safe House was Partners in Development Foundation's (PIDF) alternative answer to the Hawai'i Youth Facility/Koolau Boys Home. Instead of incarceration, their goal is rehabilitation.

Chair Masagatani asked what is the relationship between Partners in Development and the Department of Human Services (DHS). M. Kahue stated that DHS holds the contract, PIDF is the vendor and Kekama Pono is one of the many programs of PIDF.

Chair Masagatani if the contract is co-terminus with the license. M. Kahue stated that the contract was for 5-years and another 5-years was given which expires September 30, 2018. He stated Kekama Pono will need to apply again with DHS and there is no guarantee that Kekama Pono will be selected as the vendor to provide the services..

Chair Masagatani stated that the license is with DHS and not Kekama Pono. The Commission may be ok with this vendor but may not be ok with another vendor that has a different priority.

Chair Masagatani stated that there needs to be some overnight tweaking to the submittal so the matter will be deferred to Tuesday.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Awo, to convene into 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

2:05 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. Contested Case Hearing Reconsideration Review
2. Hawaiian Homes Commission Investigative Committee on Investment and Spending Policies relating to DHHL Trust Funds

EXECUTIVE SESSION OUT

3:15 PM

ITEMS FOR DECISION MAKING

HOMESTEAD SERVICES DIVISION

ITEM D-3 Approval of Streamline Refinance of Loans

Note: This Item was deferred.

ITEM D-8 Approval of Assignment to Leasehold Interest (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the Assignment of Leasehold Interest, removing Item #16.

MOTION/ACTION

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

RECOMMENDED MOTION

Chair Masagatani asked for a Motion to re-open Item D-8, excluding Item #16, noting the recusal of Commissioner Helm.

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Ka'apu. Motion carried, Commissioner Helm recused.

ITEM D-9 Approval of Amendment of Leasehold Interest (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the Amendment of Leasehold Interest excluding Item #1.

EXECUTIVE SESSION IN

3:46 PM

EXECUTIVE SESSION OUT

4:31 PM

LAND MANAGEMENT DIVISION

ITEM F-4 Renewal of Right of Entry Permits on an interim basis, O`ahu Island (See Exhibit)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion to approve the renewal of right of entry permits for O`ahu Island, subject to the conditions as noted in the submittal.

MOTION

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

DISCUSSION

Chair Masagatani asked for an update on the status of the consultant to review the rental rates charged by DHHL. K. Albinio stated LMD has procured the consultant, and is hoping to get the appropriate valuations in the second quarter which is September, October, November of FY 2019.

Chair Masagatani stated, because the right of entries are month to month for up to a year, once the updated valuations are made the rents may need to be adjusted within the year period. She asked on the status regarding communicating to beneficiary-based businesses about the availability of lands on a short-term basis, and what they can do to participate. K. Albinio stated progress to date is slow.

Commissioner Wescoatt suggested a post on the DHHL website notifying beneficiaries who are interested in applying for a right of entry, to send their information in by March 31, 2019. The website could let beneficiaries know what land is available, who has the land now, and the rent amount. This public notice allows the Department to have more contact with beneficiaries and other interested organizations, and it allows the Department to potentially get better lease rents. Chair Masagatani thought the suggestion was a good idea.

MOTION/ACTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-2 Approval of the Nānākuli Regional Plan Update July 2018

RECOMMENDED MOTION/ACTION

Legislative Analyst Lehua Kinilau-Cano presented the following: Motion to adopt the Nānākuli Regional Plan update and to authorize dissemination of the Nānākuli Regional Plan update.

MOTION

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

DISCUSSION

L. Kinilau-Cano reiterated the five priorities that were detailed in the plan at the June HHC meeting. Planning Division and HACBED (Hawai'i Alliance for Community Based Economic Development) met with Highways Division Deputy Director E. Sniffen, These comments are included in the current report.

The Regional Plan also reflects a change from per capita income, which was used in the original draft Regional Plan, to median household income to better reflect the incomes of those in the area. Other areas of importance referenced by the community was the Nanakuli Cemetery, Butler Building, and the use of DHHL lands by Nānākuli and Lyman Ranch.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-4 Daniel Perreira Jr. – Wai'anae Lease

Daniel Perreira Jr. received a letter dated June 4th for a meeting that was held on May 14th cancelling his lease. There was no notice given to them of the meeting, therefore, Mr. Perreira wants to contest the ruling. Mr. Perreira stated that he is the successor. His Dad passed away six years ago, and he just received the letter.

Homestead District Supervisor Juan Garcia stated that Daniel Perreira is the successor to the lease, however, he does not meet the 25% blood quantum to succeed to his late father's lease. HSD went through the public notice process, and no claim was submitted for successorship. HSD went before the Commission on May 14th requesting the cancellation of the lease because there was no qualified successor. The request was approved by the Commission at the May 14th meeting.

J. Garcia added that the family was advised, with respect to the Department's action. They can request a contested case hearing to look into the matter further and provide any additional evidence. The Department is awaiting Mr. Perreira's decision to file a request for a contested case hearing.

The Perreira's still wanted to know why they were not notified of the meeting. J. Garcia stated that Mr. Perreira was aware that he did not qualify.

J. Garcia stated with the permission of the Commission, the Department will ignore the eviction notice vacate date for now, knowing that Daniel will be submitting a request for a contested case hearing. Mrs. Perreira was told that the Department is in no position to require her to pay the mortgage. However, she is a co-borrower, and it's an obligation to the lender. It becomes their decision to pay or not.

ITEM J-1 Scott Abrigo Kapolei Community Development Corporation (Deferred)

ITEM J-2 Ruth Ako – Lease No. 250 Request for Contested Case Hearing (Item D-16)

ITEM J-3 Christine Kakalia – Position on Waitlist (Staff spoke with Ms. Kakalia)

ITEMS FOR INFORMATION/DISCUSSION

LAND MANAGEMENT DIVISION

ITEM F-5 Non-Exclusive License as Easement for Driveway and Utility (Water/Sewer) Connections to Gentry KGC (GKGC), LLC, Kapolei, Oahu Island, TMK No. (1)91151055(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: That the Hawaiian Homes Commission (HHC) authorize the issuance of a non-exclusive license as easement to GKGC, as LICENSEE, to install, repair, operate and maintain driveway and utility (water & sewer) connection improvements traversing over, under, and across portions of Hawaiian home lands identified by TMK No.: (1) 9-1-151:055, as proposed.

DISCUSSION

K. Albinio stated the request is for a non-exclusive license as easement for a water driveway, and utility easement in Kapolei. Condition #5 needed to be restated as Condition #1. DHHL is getting a \$96,000 one-time payment upfront instead of getting fees over a 10-year period of \$800 a month. The caveat to the issuing of the easement, is that the Department is asking Gentry's support in getting the easement dedicated to the City & County of Honolulu. If within the 10-year period of the license, the dedication is made to the County, whatever balance remains of the \$96,000 would be refunded back to Gentry.

Chair Masagatani asked for a summary of the valuation analysis by CBRE, Inc.

K. Albinio stated that the consultant's report concluded that the proposed compensation is reasonable and supported by both quantitative and qualitative analysis. The license agreement provides current and meaningful economic benefit to DHHL without causing meaningful disutility or liability to DHHL.

Commissioner Ka'apu commented that he would like to talk to the consultant as he sees the Department as giving away more and getting less.

Chair Masagatani stated that the matter can be taken up in the morning as a part of Tuesday's meeting.

PLANNING OFFICE

ITEM G-5 Papakōlea Regional Plan Priority Project Updates/Papakōlea Sewer and Slope Stabilization

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

Acting Planning Manager Kaleo Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following: The Papakōlea Regional Plan was approved in 2010. The Department received \$13.7 million from the State Legislature, for slope stabilization and sewage pipe replacements. Seventeen manholes were replaced. The goal is to get the sewer system up to County standard, so it can be dedicated to the County and maintained by the County. There are several encroachments and illegal structures in the proposed easements making the work move slower than expected.

ITEM G-6 Legislative Proposals for 2019

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

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

L. Kinilau-Cano stated the Commission has the opportunity to include legislative proposals for the Department to look at to include in the Governor's Administration Package for the next legislative session. A comment form was provided to the Commission, staff, and anyone who testified on different measures over the past two legislative sessions. Homestead Associations and community organizations will also be provided the comment form to get as much information and input as possible, for potential proposals the Department can look at for the next legislative session. The deadline to respond is by August 10th, 2018.

ITEM G-7 Presentation by Kamehameha Schools (KS) on Cope Learning Center Project, Nānākuli, O'ahu

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

Acting Planning Manager Kaleo Manuel introduced Scott Abrigo, Senior Planning and Project Manager of Kamehameha Schools, who presented the Agnes Cope Community Learning Center Project in Nānākuli. The Cope Learning Center (CLC) will be part of the Nānākuli Village Center (NVC) and is a community driven development lead by Nānākuli Hawaiian Homestead Community Association. Kamehameha Schools is taking the Learning Center component, which is part of a larger development project that includes a 48-unit affordable housing rental project, Waianae Coast Comprehensive Health Center Clinic, a dialysis clinic, and a commercial center with Longs Drugs Store as an anchor tenant. KS's vision for the Cope Center is to provide life-long learning opportunities integrating health; education; and land knowledge, skills and practices in its programs and operations. KS is focused on the 16-24 age group because there is a drop off for this age group in terms of educational opportunities. There are several elementary and charter schools in the area but not as much for the higher grades from middle school up. The facility will be KS owned and KS staffed.

RECESSED

6:11 PM

HAWAIIAN HOMES COMMISSION
Minutes of July 17, 2018, at 9:00 a.m.
Meeting held at Hale Pono`i, Kapolei, HI, O`ahu

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

EXCUSED Wallace A. Ishibashi, Commissioner, East Hawai`i
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 9:17 a.m.

Six (6) members were present at roll call. Commissioner Ishibashi was excused and the Kaua`i and Oahu Commission seats were vacant.

APPROVAL OF MINUTES

Chair Masagatani asked if there were any amendments to the January 2018 Minutes. There were none.

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Kahikina, to approve the January 2018 Minutes. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

LAND MANAGEMENT DIVISION

ITEM F-5 Approval to Issuance of Non-Exclusive License as Easement for Driveway and Utility (Water/Sewer) Connections to Gentry KGC, LLC, Kapolei, Oahu Island, TMK No. (1)91151055(por.)

DISCUSSION

Land Management Division Acting Administrator Kahana Albinio introduced CBRE Consultant J. Cutler who prepared the report on Item F-5.

J. Cutler explained that DHHL asked CBRE to analyze the reasonableness of the proposed offer for the license for the Gentry/DHHL easement.

Commissioner Ka`apu questioned the scope of CBRE's analysis, and the reasonableness of the proposed offer. He read the report and asked for the value of the project to Gentry and the avoided costs, both of which was not covered in the report. He said the statement made in the report was that the value to Gentry was more than what the Department was getting. How is reasonableness determined from CBRE's perspective? Easements can be very valuable. People have the idea that the Department can give up things to developers without obtaining the fair market value just because it serves a wide beneficiary range.

J. Cutler stated they did not do an appraisal or value the easement in and of itself. The scope of work was to evaluate reasonableness of the proposed offer. That is what CBRE articulated in the report. As to the question of what would be the benefit potentially to Gentry, that was outside of the scope of work. For this particular situation, because this license for the easement is on a roadway, it is intended to be dedicated to the City & County of Honolulu. But, there is no defined timeline. The position from DHHL is there is no opportunity to monetize it because no one knows if this is going to happen in a year or ten years.

Commissioner Ka`apu asked if the County must accept the roads. Chair Masagatani stated the Hawaiian Homes Commission Act requires that the County maintain the roads but getting the County to accept the roads is not that easy. The Department's intention is that the City and County accept the road because the maintenance and repair is a huge burden on the Trust. DHHL builds to the County's standard intending to dedicate the road to the City and County.

Commissioner Ka`apu said there is no guarantee that the County will accept the roadways. He reiterated his concern that the Trust is giving up more than it is getting.

J. Cutler replied that the scope of work done was to give meaningful information to the Commission, given the unknowns present today. To the point of monetary returns to the Trust, it would be a cost sharing of utilities. If it gets dedicated soon, the burden is shifted to the County and the Department would be maximizing its benefit.

Chair Masagatani addressed J. Cutler of her recollection of the exploratory conversation held in the last meeting this matter was discussed. The question brought forward was what is your independent evaluation of what Gentry had offered in this particular case? What she thought she heard was that this particular situation of an easement, that is intended to be dedicated as a public roadway, is not a typical situation. A typical situation would be it becomes an access to a public roadway, like what Commissioner Ka`apu described it as being more like a courtesy to provide access. The intent was to get an independent evaluation. She questioned if an appraisal would have made more sense.

J. Cutler expressed they defined the scope of work and thought about the assignment. They did not feel the data would be available or the traditional methods would be applicable in this case. Potentially, an analysis could have been done as to what would be the benefit to Gentry based

upon what they could do now with the site, the added value potential. It would have been a different type of assignment.

N. Sakamoto stated that the current impediment to the City maintaining more of the Department's roads is the sewers. Currently LDD is working with DMV Sewer Division. By statute, if the Department improves sewers up to the point identified in statute, DMV will accept them with a bill of sale. The City and County will maintain and support the infrastructure with their dollars. Once that is done, the land the Department owns is not given to the City and County as Gentry would do if it owned the land in fee.

Commissioner Ka`apu asked for the status of the discussion with the City and County on the Department sewers in DHHL lands.

N. Sakamoto said the sewers in Kapolei tie in with the sewers that HHFDC has completed. The City and County is having HHFDC camera inspect their sewer lines and fix any of the deficiencies before they can turn over the Parkway. Since we are connected, shortly thereafter, we will hopefully have a process in place for us to follow. It's been a number of years, however, hopefully it can move forward in three years; but it's not a guarantee. Currently, with the City's process, when a subdivision is finished and it is built to the City's standard, it is inspected. Three years past and we don't know if it's good. We hire a vendor to put a camera in the lines and if it needs fixing, it gets fixed. The video is shown to the City, then they can accept it. Since 2009, the City & County of Honolulu, since Princess Kahanu, has not accepted the Department's sewers or roads.

Chair Masagatani asked as the subdivisions are completed, hasn't the Department been expediting the contracts to get them transferred over to the City and County, East Kapolei II, for instance? N. Sakamoto stated the main road through East Kapolei II, is what DLNR is in land court trying to turn over to the City and County. Once that is done we can do the Department's roads.

The Deputy AG added it is not a situation unique to DHHL or its projects. The roads and sewers issues go back decades. The Legislative Reference Bureau did a study in the early 1990's which showed the issues were the same as they are now.

N. Sakamoto said there are a lot of roads in limbo. There are laws and regulations, but if the government feels it is a liability, they're not going to touch it. This is the concern he has with the valuation study.

J. Cutler answered CBRE did not evaluate the license or easement. The scope was only to provide a conclusion on the reasonableness of the proposed offer.

Chair Masagatani noted based on what was said earlier, the circumstances of this particular transaction would make a standard evaluation more difficult because there is nothing comparable to look at. N. Sakamoto stated it doesn't look like the transfer of the road is going to happen any time soon, and he feels it is a reasonable assumption to make.

Commissioner Ka`apu suggested that a value is calculated per year and if it doesn't get accepted by the County, then there is a value to the maintenance, assuming the cost of inflation. It's open-ended. He does not want the Trust to bear the cost for the unknown. Commissioner Wescoatt stated DHHL is safer to assume that the dedication to the City is not going to happen.

Commissioner Ka`apu stated he is assuming that the 66 homes are going to tie in to DHHL's sewer line, or they're going to be on their own? J. Cutler stated unique situations like this one, end up being negotiated settlements.

Chair Masagatani stated that although the action is subject to the Commission's approval, when Gentry inquired, the Department said access to its lands would be a possibility. If the access is not granted and it impacts their development, it is unclear if there is a risk of litigation.

Commissioner Wescoatt asked regarding the scope, what is meant by "reasonableness"? J. Cutler said it would be two parties coming together and it would be fair for both sides.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Deann Ennis Re: Applicants placement on the wait list when transferring from island to island.

D. Ennis testified about changing the rules for those who transfer from O`ahu to another island, then back again to O`ahu. Kupuna are dying waiting on the list. She asked that the Commission consider allowing kupuna who have been on the list for 25 years and are at least 75 years old, to be allowed to retain their place on the list when they move back to O`ahu from another island.

ITEM A-2 Patty Kahanamoku Teruya Re: F-2

P. Teruya testified against the extension of Ulu Ke Kukui. She felt the property should be returned to the beneficiaries for Hawaiian housing or for kupuna housing. At a Nānākuli Neighborhood Board meeting she said they could not get an answer about what DHHL was going to do with Ulu Ke Kukui.

ITEM A-3 Germaine Toguchi Re: F-2, F-3 and E-1

G. Toguchi testified against the lease extension of Lease 283. She felt it should go back to the Department. For F-3, she said she is not familiar with the rental cost, but there should be an overall uniform format, with the set formula used across commercial rental leases. Regarding the Ka`uluokahai Transit Oriented Development, the old plan showed building of 200 homes, but now it is 500 homes. She asked if the parcel of land increased or if the homes and lots got smaller? She said all future lease awards should have minimum owner occupancy of at least 10 years before selling, and the lessee should not go back on the waiting list. She said there might need to be changes to the Administrative Rules and she is confident DHHL will figure it out.

ITEM A-4 Kali Watson and Patricia Barbie Re: F-2

K. Watson and P. Barbie of Hawaiian Community Board (HCB), a non-profit developer, appeared at the request of Commissioner Kahikina. K. Watson said they looked at Ulu Ke Kukui and suggested converting this transitional housing to a long-term rental or homeownership project. He estimated the budget to be 9.8 million dollars for repairs and renovations. He felt DHHL should be looking into doing rentals, and noted the Hawaii Housing Finance and Development Corporation's (HHFDC) funding round takes place in February 2019. DHHL has time to do preliminary studies, put together an application, talk with the beneficiaries and those on the waiting list as to what they want, and put together a package. He understands that the Department is in the process of promulgating the rules regarding rentals. K. Watson stated that it will take some time for a non-profit developer to get the funding and do the repairs, maybe a year or two. The Department has time to figure out how to implement the back end, however, it's important to get in on the front end and access the funding sources before others go in and access the funds.

ITEM A-5 Homelani Schaedel Re: F-5

H. Schaedel testified that Section 10-4-21(e)(3) of the Hawai'i Administrative Rules requires an appraisal if it does not benefit native Hawaiians. She approached three appraisers and gave them

the scenario. Two of them said they can't do it because its only an easement that is 2' x 6' x 6' x 100'. Having gone through the exercise, a different methodology needs to be looked at. The benefits to native Hawaiian in this project is two lots will be returned to DHHL and DHHL will not have to spend the funds for the infrastructure. Gentry offers \$208,000 for the improvements on the two lots, thus serving native Hawaiians. For the community, KCDC and Kanehili, \$8,000 for the AC and \$40,000 for Kanehili which also serves native Hawaiians. In terms of the shared cost regarding the estimated \$2,000 month for maintenance of Kanehili's infrastructure, \$800 month is to Gentry and \$1200 a month is to HHL. Over the 10-year period, if Gentry was not in the picture, the calculated cost would be \$240,000, verses \$144,000. She mentioned listening to the conversation regarding turning over to the City. She stated that any developer who develops on DHHL land must, even with an exception, must follow City permitting requirements so that it will be easier to turn over infrastructure. Kapolei has been in existence over 30 years and none of the sewers have been turned over to the City. If 10 years go by and still it hasn't been turned over, Gentry cannot just walk away but can renegotiate.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-3 Approval to Extend License Term, License No. 705, State of Hawai`i, Department of Human Services (DHS), Wailuku, Maui, TMK No. (2)34011032 and Kalaeloa O`ahu, TMK No. (1)91013024 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator K. Albinio distributed a proposed amendment to Item F-3 that revised condition for No. 1 a & b. as follows: Replace 1.a. with

1.a. revision, the Hawaiian Homes Commission grants its approval to amend License No. 705 to the State of Hawai`i Department of Human Services that will extend its term for an interim period of 11 months commencing retroactively from April 22, 2018, and expiring March 31, 2019.

This will allow the Licensee to use the facilities located on a portion of Hawaiian Home Lands situated at Kalaeloa, O`ahu, TMK (1)91013024 (por.) and in Wailuku, Maui TMK (2)34011032, to continue respective youth social services program with its current program vendors. The interim period, as proposed, allows the Licensee to satisfy its current contract expiring effective as of March 31, with existing vendors, Partners in Development and Salvation Army, and concurrently conduct its procurement process to secure a program vendor. Prior to the interim period expiring, the Licensee's completion of its procurement process, Licensee, shall submit a request to extend the License term for an additional 5-year period commencing as of April 1, 2019, and expiring March 31, 2024.

b. The monthly license fee for the interim period shall remain at its existing rate of \$895. The respective charges are applied as follows: \$875 for the Kalaeloa, Oahu site and \$20 for the Wailuku site.

K. Albinio introduced Martin Chin Director of the Office of Youth Services to provide information about their procurement process and securing another vendor the for next 5-year period commencing April 1, 2019.

M. Chin clarified that the Office of Youth Services (OYS) is an agency attached to the Department of Human Services. He stated that OYS will be re-issuing a RFP for the safehouse Ke Kama Pono

program for both sites. The RFP is anticipated to be completed by October or November. They follow State Procurement Office guidelines and regulations so there is no guarantee as to who the successful applicant will be. He noted that they do embrace the Native Hawaiian framework. M. Chin also stated they include Native Hawaiian Education Council recommendations to assure services are provided in a culturally appropriate way. They have made improvements to the land over the last 9-years with the erection of two facilities. The one on Maui is about 2,000 sq. ft. with a facility that houses 8 boys, and the one in Kalaeloa is a 2,400 sq. ft facility. Both facilities are in decent condition and were constructed using federal funds, 10 years ago.

Chair Masagatani asked for clarification about which agency provided funding to build the facilities. M. Chin said that the facilities were funded by the Department of Justice.

MOTION TO AMEND/ACTION

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

MAIN MOTION AS AMENDED/ACTION

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

ITEM F-5 Approval to Issuance of Non-Exclusive License as Easement for Driveway and Utility (Water/Sewer) Connections to Gentry KGC, LLC, Kapolei, O`ahu Island, TMK No. (1)+2262066 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator K. Albinio recommended the following: That the Hawaiian Homes Commission authorize the issuance of a non-exclusive license as easement to Gentry, KGC, LLC as Licensee to install, repair, operate and maintain driveway and utility (water and sewer) connection improvements traversing over, under and across portions of Hawaiian home lands identified by TMK (1)91151055, as proposed. Approval and issuance of this non-exclusive license as easement shall be subject to the conditions as stated in Exhibit "A." For clarification purposes, Condition No. 5 specifically is RE-STATED and additional assurances provided in the submittal.

MOTION

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

DISCUSSION

Chair Masagatani expressed that the valuation of the easement to Gentry is the issue of concern. If in the event an agreement cannot be reached, what alternatives exist for Gentry.

Quentin Machida, President of Gentry Homes, introduced Chief Engineer Brian Maja. Q. Machida clarified that Gentry will re-determine the amount of the maintenance fee charged monthly based on a formula, whatever it is. He said Gentry's intent is to develop the property and sell it to individual homeowners who will have their own Association. They thought it would be best to be clear upfront because the Homeowners' Association probably won't want to agree in the future, absent of Gentry, to what is discussed now. They want to solidify an agreement, get it in the condominium documents, and budget for it appropriately. That is as clean as they can make it.

K. Albinio clarified #5, first paragraph, last sentence, "Should the anticipated road dedication fail to materialize, the license fee shall then be re-determined accordingly. A correction was made on today's F-5 version. It reads re-negotiated, but it should read re-determined.

Chair Masagatani noted that what was being suggested is that the re-determined amount would be based on the formula that follows on page 2, which would be the actual utility maintenance cost times 20%.

Q. Machida stated that the appraiser had a hard time trying to figure out what that value would be. Likewise, Gentry would have a hard time determining the value to the company. When they purchased the property, they approached the Department to see if connection would be available because the City was requiring a connection.

If an agreement cannot be reached, Gentry would go to the City and request just one entrance off of Kapolei Parkway. They prefer not to go that route because they think the City is correct that it is better for everyone to have the connectivity, and the utilities looped to provide more stability for both sides. The secondary access was a condition of the City's complete streets requirement to allow for better circulation in and out of the subdivision. They prefer more than one access

Commissioner Wescoatt asked for some sort of provision in the agreement for continued sharing of the cost in the future and if it could be adjusted for inflation after the 10-year mark.

Q. Machida stated the way it is structured right now is that the cost would inflate over time and they would share in the same percentage of that inflated cost. Gentry agreed to contract the dust fence along the whole property line and also agreed to be responsible neighbors. In case Gentry damaged anything, they would repair it.

Chair Masagatani asked if Gentry's intention is to dedicate the roadway that Gentry homes are lining up to or are they planning to keep that a private road? Q. Machida stated, on the Gentry development side all the roads will remain private and the Association will be responsible for the maintenance. This is based upon the City's request.

Chair Masagatani stated, the City requires Gentry to keep the road open as a public access but are not willing to take the dedication of the road. Q. Machida expressed, yes.

Chair Masagatani stated, if it's in the easement the homeowners will repair it. It will be clearly delineated in the documents. Twenty years from now, DHHL will be dealing with the 60 homeowners to make any repairs. She asked if there is a break in the sewer line, will the owners know if it's Gentry's easement, where the join is. Q. Machida said he would imagine that 20 years from now there will have been enough maintenance fees that Gentry, or its successor, pays into the fund that those funds will be enough to pay for the repairs. Sewer lines, in general, they're not under pressure and they don't have shifting grounds like they have in the mountainsides. It's rare that you would have something like that happen, but it can generally be determined where the break was. The water is owned by Board of Water and the electrical is owned by HECO.

Chair Masagatani stated, since it is a private road, the Association will have to develop a sinking fund of some kind in case there is damage to the common areas; the homeowners will own the roads within the property. Her concern is if there is a break in the easement areas, is there a mechanism for a proportionate cost sharing similar to what the Department has with Gentry in this agreement. Would that be something Gentry would be willing to consider? Q. Machida stated he thinks it is reasonable.

Chair Masagatani asked the Commission for its indulgence and willingness to grant some latitude to the Chair to refine the additional provision about the cost sharing and clarification of the re-negotiated rent, and to move the item forward. K. Albinio stated the authorization to the Chairman is in the submittal.

Chair Masagatani confirmed she will work with Gentry to get the language that captures the spirit of the discussion regarding unanticipated impact to the infrastructure in the future.

ACTION

Motion carried unanimously.

OFFICE OF THE CHAIRMAN

ITEM C-1 Report and Recommendation of the Hawaiian Homes Commission Investigative Committee on Investment and Spending Policies relating to DHHL Trust Funds.

RECOMMENDED MOTION/ACTION

Administrative Services Officer R. Lau stated that Item C-1 is deferred to August for Commission action. What is being submitted today is the Committee Report regarding the proposed Investment and Spending Policy for the Commission's review and comment. R. Lau noted that they condensed the Risk Management section.

DISCUSSION

Chair Masagatani thanked the Ad Hoc Committee made up of Commissioners Wescoatt, Ka'apu, and Ishibashi, for their time and energy in putting together a proposed Investment and Spending Policy. This will be the submittal that the Commission will consider next month for action.

Deputy AG Craig Iha stated once the Committee submits its report, the Committee's work is done. The action has to occur at a future meeting of the Commission. There is no action today, just the presentation of the report.

R. Lau talked about a meeting with M. Takabuki back before HHL had authority to invest outside of the State Treasury. M. Takabuki's recommendation to the Department was to save its money.

Commissioner Wescoatt stated the list of the asset allocations and the list of the funds should probably be separate schedules. The funds should be on its own page and the allocations should be on its own page.

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**

RECOMMENDATION

None. For information only.

Chair Masagatani stated that HSD is working on reviewing how the appraisal method for FHA loans are being completed to prevent inflated values for properties that have proposed loans attached to them.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular meeting will be held at Lihu'e , Kaua'i, Hawai'i on August 20 & 21, 2018.

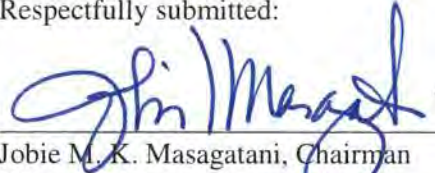
MOTION/ACTION

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

ADJOURNMENT

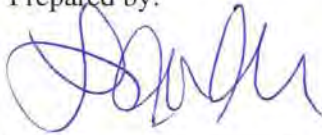
12:34 P.M.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

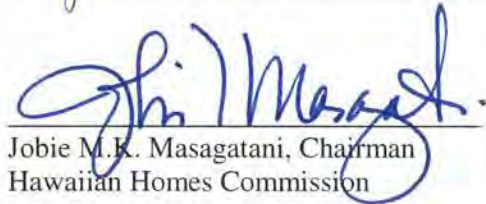


Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

August 19, 2019



Jobie M.K. Masagatani, Chairman
Hawaiian Homes Commission