

HAWAIIAN HOMES COMMISSION

Minutes of May 20, 2019

Kuhio Hale, Kamuela, Hawai'i

Pursuant to proper call, the 711th Regular Meeting of the Hawaiian Homes Commission was held at Kuhio Hale, 64-756 Māmalahoa Highway, Kamuela, Hawai'i 96743 beginning at 10:00 a.m.

PRESENT William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka'i Commissioner (11:35 AM)
David B. Ka'apu, West Hawai'i Commissioner
Michael P. Kahikina, O'ahu Commissioner
Pauline N. Namu'o, O'ahu Commissioner
Wren Wescoatt, O'ahu Commissioner

EXCUSED Dennis L. Neves, Kaua'i Commissioner
Vacant, East Hawai'i Commissioner

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Andrew Choy, Acting Planning Office Manager
Stewart Matsunaga, Acting Land Development Division Administrator
Leah Burrows-Nuuanu, Commission Secretary
James Du Pont, West Hawai'i District Office Supervisor
Halealoha Ayau, Water Specialist
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Aila called the meeting to order at 10:16 a.m.

Six (6) members were present at roll call. Commissioner Helm was on his way. The East Hawai'i seat was vacant.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Namu'o, to approve the agenda. Motion carried unanimously.

APPROVAL OF MINUTES

Chair Aila noted the Minutes for June 2018 was deferred.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Wallace Ishibashi Re: East Hawai'i

W. Ishibashi addressed the last legislative session in which there was dissatisfaction from East Hawai'i beneficiaries. He felt the Department failed to implement plans to manage Ka'u. Management issues identified as far back as 1983 have still not been addressed. He challenged the leadership of the Department to make right choices and focus on issues in East Hawai'i. He highlighted issues like cattle removal contract, water issues in Ka'u, access to ag lots, and legislators that know nothing of the Hawaiian Homes Commission Act.

Chairman Aila asked NAHASDA Manager Niniau Simmons to read the Hawaiian Homes Commission Resolution No. 299 honoring Wallace A. Ishibashi Jr. for his service to the Hawaiian Homes Commission.

ITEM A-2 Richard Kaniho Re: Item F-7, J-12

R. Kaniho testified as a Humu'ula homesteader concerned about the lack of communication from the Department and the lack of consideration for their issues. One example is not being notified about controlled burns and the spraying of gorse from helicopters. He and his cousins, who are also lessees on the Mauna, want to be involved in decision-making for the Mauna. The 'Aina Mauna Plan states immediate interim leases, but it has been seven years since he first requested additional acreage. The lease he was awarded was for 116-acres of which the majority is pahoehoe lava.

R. Kaniho asked the Department to address a non-homesteader claiming to own all the lands on the mountain. He did everything he was told to do but no one has called him back on this issue. He received threats from a non-Hawaiian saying that he is occupying his land. Chair Aila stated the Department is moving forward to address the situation. R. Kaniho stated he supports J-12. Regarding the group who was awarded the contract for cattle removal, he can attest to having worked with them on the mountain for three years. They know what they are doing and will do the job.

ITEM A-3 Mahana Gomes Re: Waimea Nui Community Initiative

M. Gomes testified as a lessee of the Waimea-Pu'ukapu pastoral community. She testified against the proposed Hawaiian homestead regional government and any participation in the 43 CFR (Code of Federal Regulations) Part 50 procedures for re-establishing a formal government-to-government relationship with the native Hawaiian community. She asked the Commission to oppose the proposed government and process by the Hawaiian homestead association, Waimea Nui Community Initiative. She stated the Commission should take action to protect the assets and integrity of the Hawaiian people. She submitted a petition generated by kanaka in opposition of the proposal.

ITEM A-4 Sergio Mamaou Re: Pana'ewa Park and Cattle Removal Contract

S. Mamaou testified as a beneficiary of Waiakea-Pana'ewa and an employee for the County of Hawai'i. The community park is on homestead land and the dispute between community leaders is causing it to fall apart. He asked if the Department would step in to help because the facilities are used for community meetings. As a county employee, he cannot discriminate against a non-

Hawaiian that wants to use the facility. The park is for everyone even though some people feel it is for Pana'ewa homesteaders only.

S. Mamaou supports the cattle contract at Humu'ula. Whenever he needed meat for a community event, like kupuna breakfasts or football team meals, meat was available. It wasn't like that with the previous contractor. He has always done things for the community, but nowadays he holds back because it seems to always be a problem for someone. When people like him stop helping others, nothing will get done. If the cattle contract is supported by the Pana'ewa community, he will be there to help process the cattle and distribute it to the people who need it.

ITEM A-5 Floyd Eaglin Re: Keaukaha Speed Bumps and Lights

F. Eaglin testified about the speed bumps that lead to Keaukaha Elementary School. He is not Hawaiian, but his late wife and his children are. He is testifying to benefit his children, the legacy of his wife and his grandchild. He asked why DHHL needed a Memorandum of Understanding (MOU) with the County of Hawai'i for services such as installation of speed bumps or street lights in Keaukaha. The rest of Hawai'i Island receives these services through revenue received from the field tax or property tax. Why does DHHL have to make these agreements to pay for these services when the Legislature will only fund DHHL with \$9 million dollars? DHHL was created to place native Hawaiians back on the land as residential homeowners and farmers. The Commission must insure these injustices stop. Hawaiians should not have to live under these conditions of systematic and institutional racism. Hawaiians have to come together as a group, quit fighting, and work together.

ITEM A-6 Keoki Iliana Re: Lālānilo Phase I Road

K. Iliana testified about the long-awaited road connecting Lālānilo Phase I to Kawaihae road. The residents have been waiting 15-years for the road. Residents pass through an old subdivision, then through another subdivision, then back down to Hawaiian homes.

K. Iliana stated they were recently told that their septic tanks need to be fixed. Chair Aila stated that the road is being designed and is moving along. UXO (unexploded ordinance) issues needed to be addressed before the project could proceed. The community should be seeing some progress on the road within a year or two. With regards to the individual waste water systems, the Department is moving on the inspection ports and the retrogrades of the individual waste water systems.

ITEM A-7 Kepa Kao Re: Item F-1 Renewal of Rights of Entry

K. Kao testified on Item F-1 relating to the renewal of Right of Entry permits for East, Central, and South Hawai'i Island. They have been cleaning and monitoring the parcel identified for the community. Their group has stopped people from stealing and roaming around with horses. If beneficiaries don't have access to the Mauna, then nobody should have access. Two years ago, the 'Āina Mauna Legacy group prioritized the need for homesteads, gorse control, and security. Their group provided security for free and estimated over \$6 million dollars in possible revenues from one year of watching cars and saying "aloha."

K. Kao added the cattle removal contractor should be a native Hawaiian and should be from Moku o Keawe; there is no bargaining on that.

K. Kao stated there isn't a sufficient inventory of crown lands. Pi'ihonua was part of former sugar cane land that should have been returned to DHHL's inventory.

Chair Aila stated that for the record that the TMK he is referencing is fee simple land. Not all former sugar cane lands revert to the Department. Some lands were privately held and were leased by sugar cane companies. They were never part of DHHL lands.

ITEM A-8 Harry K. Kalua Re: Item F-7 South Point

H. Kalua testified regarding the South Point Management Plan implementation process. He asked that everything from 1990 to present, be audited. He also stated that beneficiaries used to get beautiful yearly reports and audits, but there have been none in recent years. The community is starting to solve the problems at South Point, but he asked the Commission to remember the Act because it will tell them exactly what to do.

ITEM A-9 T.J. Forsythe Re: Item F-7 & F-1

T.J. Forsythe testified on the Humu‘ula cattle removal contract. He does not agree with the results of the environmental assessment. He quoted a portion of the 2002 Island Plan mission statement and felt it should be used when rating the applicants. The Department should involve the beneficiaries in all stages of the plans. He also quoted from the ‘Āina Mauna Legacy Plan regarding opportunities for beneficiaries and community involvement. It talked about management and not just eradication. To him, it meant generating income from the sale of ungulates or permits to hunt ungulates. His solution was to involve beneficiaries.

ITEM A-10 Levi Rita Re: Item F-7

L. Rita testified as the owner of the Lazy R Ranch. He is 28 years old, was raised on the North Shore of O‘ahu, and is a graduate of Kahuku High School. He and his partner J. Rapozo were qualified to receive the cattle removal contract. They have respect for the land and for what they do. His partner J. Rapozo is an ex-Parker Ranch cowboy for 26 years. They will give back to the people whatever they can.

ITEM A-11 Michael Kamohoalii Re: Use of Kuhio Hale

M. Kamohoalii testified as a member of the Waimea Homestead Association board’s cultural advisor and runs the cultural division (Hālau). The Association requested use of Kuhio Hale and was approved by the Commission about five years ago. It has been a challenge staying at the Hale because the district manager changed the locks and cited the Hālau for things they did not do. Their key to the Hale was taken away without explanation. Commissioner Ka‘apu asked if they had a contract with the Department to use the Hale? M Kamohoalii stated that he is not sure.

ITEM A-12 John McBryde Re: Item F-1

J. McBryde testified as a Keaukaha homesteader. He had difficulty adapting to western ways that labeled Hawaiians by their blood quantum, that if someone is not 50% they are not native Hawaiian but are just Hawaiian.

Regarding Item F-1, he submitted a proposal in 2015, related to tourism on the ‘Āina Mauna. He does not understand why there are non-Hawaiians running tours while Hawaiians are hitting a stonewall. Chair Aila stated that the permit he is referring to is managed by the University of Hawai‘i. J. McBryde stated that they are still working on Hawaiian lands. He reminded the Commission that their priority is to native Hawaiians.

ITEM A-13 Bo Kahui Villages of La‘i ‘Ōpua Re: Item D-3

B. Kahui and D. Osorio of Ikaika Ohana testified about a contract to build 163 single-family homes as a “rent with option to purchase,” project. They hope to get funding from Hawai‘i Housing Finance & Development Corporation (HHFDC) either at their June meeting, but no later than July, 2019. No timeline on the development can be given until they receive the funding from HHFDC.

B. Kahui stated that the Villages of La‘i ‘Ōpua (VLOP) requested contested case for association fee delinquencies. He offered to send a representative to the contested case hearings to lend a hand.

VLOP agreed with the license approval in Item D-11. Items F-1 and F-2, ROE numbers 471, 484, 485 and 500, are ROEs to non-beneficiaries totaling 10,000 – acres. VLOP requested the Commission remember those waiting on the pastoral waitlist before extending general leases to non-beneficiaries.

ITEM A-14 Joe Pacheco Re: ‘Āina Mauna Legacy Plan

J. Pacheco stated it was the Commission’s responsibility to take the land back from the Parker Ranch in pristine condition. Parker Ranch had the funds to clean up the gorse back then. The Commission is setting beneficiaries up for failure because they need deep pockets to deal with the mess.

Regarding the cattle, the ranchers have been up there all their lives, and they know where to get the cattle, and they know where they hide. The Hawaiians can profit if given the opportunity, whether it be getting revenue or feeding their families. He also mentioned that the blood quantum was originally put in as 1/32. He said the charge for water in La‘i ‘Ōpua is outrageous.

ITEM A-15 M.K. Kapuniai Re: Item C-2

M. Kapuniai testified that she agrees with the public hearing notice being publicized in the newspaper and sent to the homestead association. The Department staff has a responsibility to notify the beneficiaries directly like they do for consultations where a note is sent to every lessee and applicant. All lessees and applicants should be contacted especially for public hearings. She testified that the water rate increase needs to be looked at again.

RECESS

12:35 PM

RECONVENE

12:48 PM

ITEM A-16 Haunani Lehano Re: Speeding in Kuhio Village

H. Lehano testified about speeding in Kuhio Village saying that it has been going on for years since Kanu O Ka ‘Āina came into the Village. The parents don’t understand that they should go slow; they are going 40-50 mph. They suggested speed bumps to cut down the speeding, but they cannot do anything until the UXO is cleared.

Chair Aila said that the Commission will look into it. H. Lehano wants to know when the UXO will be cleared because they cannot dig to run the water lines. Chair Aila asked is it possible to

run the water lines above ground for now? It might be an option. He asked that they talk with NAHASDA Manager Niniau Simmons to look at other options.

ITEM A-17 Leonard Tanaka Re: Item F-1 Cattle Removal Contract

L. Tanaka testified as the owner of Āina Pono Hawai'i LLC, one of the vendors that submitted a proposal for the cattle removal contract. He received a letter indicating that his entity came in second. He disagrees with the outcome and hopes it is a pre-selection. His understanding is that the selection is done by the Commission and not the selection committee. L. Tanaka requested that the final selection be done in open session rather than in executive session. He would like to see the scoring sheets. He would like to see more beneficiary participation in the cattle removal process which he included in his proposal.

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Ka'apu 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

1:02 P.M.

The Commission convened in an 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. Cattle Removal License Request for Proposals
2. Update on Honokaia Non-Potable Water System Settlement

EXECUTIVE SESSION OUT

2:30 P.M.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

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

DISCUSSION

Chair Aila asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda. There were none.

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|-----------------|---|
| ITEM D-2 | Approval of Consent to Mortgage (see exhibit) |
| ITEM D-3 | Approval of Refinance of Loans (see exhibit) |
| ITEM D-4 | Approval of Streamline Refinance of Loans (see exhibit) |
| ITEM D-5 | Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit) |

- ITEM D-6** Approval of Homestead Application I Cancellations (see exhibit)
- ITEM D-7** Commission Designation of Successors to Application Rights- Public Notice 2016 & 2017 (see exhibit)
- ITEM D-8** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-9** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-10** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-11** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-12** Cancellation of Leasehold Interest- DAISY K.T. SIMEONA, Residential Lease No.12522, Lot No. UNDV203, Kapolei, Oahu
- ITEM D-13** Commission Designation of Successor- JAMES D.H. WONG, Residential Lease No. 11848, Lot No. UNDV305, Kapolei, Oahu
- ITEM D-14** Cancellation of Tenant-In-Common Leasehold Interest- JOY K. PALAKIKO, Residential Lease No. 4478, Lot No. 86, Waianae, Oahu
- ITEM D-15** Request to Surrender Lease- CARMELA K. GOMEZ, Agricultural Lot Lease No. 6139, Lot No. 158, Kalama‘ula, Molokai, Hawaii
- ITEM D-16** Approval of Subdivision and Transfer of a Portion of Lease and Amendment to Lease- OSAIASI TUAKALAU, SESILILI TUAKALAU, CARRILYN K. MAIMA, JOHN M. TUAKALAU, Residential Lease No. 2397, Lot No. 43A, Keaukaha, Hilo, Hawaii
- ITEM D-17** Cancellation of Tenant-In-Common Leasehold Interest- NEWTON K. LESLIE, Residential Lease No. 2943, Lot No. 206-A, Keaukaha, Hawaii
- ITEM D-18** Cancellation of Lease- KELBY K. PUNG, Agricultural Lease No. 7016, Lot No. 74, Maku‘u, Hawaii

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Awo to approve the Consent Agenda. Motion carried unanimously.

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-19 Request to Schedule Contested Case Hearing- DENISE ROSEHILL-MAHI, Residential Lease No. 01891, Lot No. 63, Waiakea, Hawai‘i**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to request that the Hawaiian Homes Commission schedule a contested case hearing for Denise Rosehill-Mahi, by Ms. Paula Anuheha Victorino. The Department’s recommendation is to deny the request.

MOTION

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

DISCUSSION

D. Oshiro stated that the case was brought before the Commission in 2013 and was deferred. The Commission issued an action on April 15. The denial is based on the fact that Ms. Rosehill-Mahi was the lessee on record, and submitted a request to surrender the lease, which was approved by the Commission. Ms. Victorino is the individual that requested the contested case hearing.

Paula Victorino stated that Denise Rosehill-Mahi received the lease from her sister Elizabeth Rosehill-Mahi. DHHL sent the real property tax noting that she would be the new lessee. She asked how DHHL could send the notice to the tax office with her name on it, and then take away the lease.

Chair Aila stated that the recommendation from the Department is based on the fact that Denise Rosehill-Mahi is the lessee and she has decided to return the lease to the Department. Legally, the lessee has the final decision. The lessee has the right to do what they want with the lease.

ACTION

Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-6 Authorize Consent to Assignment of Lease & Consent to Mortgage, General Lease No.265, The Agency Inc., Waiakea, South Hilo, Island of Hawaii, TMK No. (3) 2-2-060:026

RECOMMENDED MOTION/ACTION

Acting Land Management Division (LMD) Administrator Kahana Albinio presented the following:

Motion that the Hawaiian Homes Commission authorize consent to the assignment of lease and consent to mortgage general lease no. 265, the Agency Inc., Hawai'i Corporation in Kaehana industrial subdivision, South Hilo, Hawai'i.

MOTION

Moved by Commissioner Awo, seconded by Commissioner Namu'o, to approve the motion as stated in the submittal.

DISCUSSION

K. Albinio stated the general lease was originally awarded to Ivan S. Mochida for a 55-year term which commenced on January 31, 2005, and then assigned to The Agency Inc. in May 11, 2005, and is recorded in the State of Hawai'i's Bureau of Conveyances.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND MANAGEMENT DIVISION

ITEM F-7 For Information Only - Authorization for Issuance of Land Licenses to highest ranked applicants for the 'Āina Mauna Feral Cattle Removal Project, Humu'ula and Pi'ihonua Sections, Island of Hawai'i

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio turned the PowerPoint presentation over to Property Development Agent Kuali'i Camara. K. Camara stated that the Division is seeking authorization for the issuance of land licenses to the highest ranked applicants for the 'Āina Mauna Feral Cattle Removal Project, Humu'ula and Pi'ihonua Sections, Island of Hawai'i.

DISCUSSION

K. Camara identified for the Commissioners the areas that are included in the 'Āina Mauna feral cattle removal project in Humu'ula and Pi'ihonua. LMD issued two publicized solicitations on October 10, 2018, seeking qualified applicants to apply for land licenses to remove feral cattle on the 'Āina Mauna land of Humu'ula and upper Pi'ihonua. Two separate licenses are recommended for the two areas. The licenses are subject to:

- Non-exclusive land license for the removal of feral cattle and related activities
- Standard terms and conditions for DHHL non-exclusive land license
- Additional terms and conditions incorporating contents of land license application request for proposals
- Terms and conditions as offered by applicants in submitted proposals
- Other terms and conditions prescribed by the Hawaiian Homes Commission to best serve the interests of the Hawaiian Homes trust

The project will have a positive impact on the environment and is consistent with DHHL plans, policies, and programs. Further, The project will:

- Restore and enhance of DHHL trust resources
- Conserve natural and cultural resources and endangered species
- Address reforestation and restoration of the ecosystem
- Initiate un-managed ungulate control over the entire property
- Investigate and implement additional areas for sustainable koa forestry opportunities, and
- Initiate a set aside for portions of the property for restoration and enhancement purposes

Necessary information can be found on the DHHL website. LMD is requesting authorization to issue land licenses to the highest ranked applicants.

Commissioner Awo asked if there will be any consideration to issue a license for gorse removal in the future. K. Camara said LMD is currently contracting for gorse removal. This is done via the State Procurement Office. Chair Aila stated that the removal of seeds is a concern.

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Terri Napeahi- Alaska Aerospace Rocket Launching

T. Napeahi testified as a resident of Keaukaha-Pana‘ewa on the Alaska Aerospace Rocket Launching proposal located 3-miles away from their homestead. In January, there was a meeting by Alaska Aerospace presenting their initiative for an environmental assessment (EA) that was funded with public monies through legislation 3-years ago. She asked the Commission if DHHL was privy to this proposal 3-years ago.

T. Napeahi said there were several agencies that supported the initiative. The project is not on Hawaiian Home Lands, but on Shipman land. She asked if DHHL had a memorandum of agreement with Shipman or Alaska Aerospace for access through Keaukaha.

Chair Aila stated that there were no right of entries given to Shipman. DHHL learned of the EA at the same time as the Keaukaha community. She asked DHHL for a formal letter to oppose the Alaska Aerospace project because it is only 3-miles away from the homestead. Chair Aila said it is something to discuss with staff and the Commission.

ITEM J-2 Kaui Almeida- Pana‘ewa Hawaiian Home Lands Community Association

K. Almeida stated that on January 1, 2019, she sent an email to Kahana regarding the 2013 MOA in response to the 2011 \$100k from Waiakea Center Inc. to the Pana‘ewa community. The new owners of Waiakea Center is Hilo Partners LLC, so they had control of the \$100k as developers to assume the responsibility with the community. Hilo Partners amended the lease agreement and made DHHL the recipient to the \$100k, that is intended for a second recipient, East Hawai‘i Homestead Associations. In 1995, Pana‘ewa Hawaiian Home Lands Community Association asked for that \$100k for a 14-acre site to provide for a health and wellness center. She stated that distributing the money to everybody has caused dissention in the community. She stated that their association was the sole recipient of the money. She wants the money to stop going to the communities. Chair Aila stated that it was the vision of the leaders back then to revise the MOA. Commissioners need to be briefed about why the community leaders did things the way they did.

ITEM J-3 Maxine Kahaulelio- Pu‘ukapu Lease

M. Kahaulelio is a resident of Waimea, Kamuela. To her, her Pu‘ukapu lease only means years of harassment. In 2013 she flew to Kapolei and presented her pilikia regarding the water tanks that Isemoto built. Isemoto did not clean up the roads and the animals got sick from the soot and mud on their feeding grounds. One of the animals was her horse and he wasn’t doing well.

ITEM J-6 Kalaniakea Wilson- Beneficiary Trust Council

K. Wilson testified as a member of the Beneficiary Trust Council. They, along with community members, collected data on C1P1 at the Mauna Kea access road. The Council decided to move forward with Phase II, which is how the Council sees rehabilitation taking place. One is to put a

toll booth on the access road to generate funds to help complete projects that have been sitting idle for 30 years, like putting more beneficiaries on the land. Chair Aila stated that the toll booth idea would have to go through the State Department of Transportation as the road is in their jurisdiction.

ITEM J-7 Paula Kekahuna-Maku'u Farmers Market Grant Presentation

Lawae Kekahuna spoke on behalf of Paula Kekahuna and provided the Commission with a report on the grant Maku'u Farmers Market received from the DHHL. The scope of service was to serve 150 participants and conduct twelve agricultural training classes. They were happy to report serving almost 200 beneficiaries. The last class is scheduled for May 25, 2019. They set aside 5-acres for the project. The group started with 1-acre and completed the last 2-acres two weeks ago. They are now completing the last part of the contract, which is to present their progress report to the Commission.

ITEM J-8 Jordan Hollister-Kailapa Community Association

J. Hollister represented the Kailapa Community Association. His intent was to follow up on the Kailapa Community Resiliency Plan and get some feedback from the Commissioners.

Chair Aila stated that it is a very ambitious plan. The Association asked the Commission for a ROE to do due diligence on a very large parcel, but more specific information is needed like: what kind of cultural sites are there? Where is the ravine located? What is the goal once the fence is completed? What is the due diligence for? Who is going to analyze the information? The Commission can review the request once the information is provided.

ITEM J-9 Pat Kahawaiolaa-Keaukaha Community Association

P. Kahawaiolaa testified as the President of the Keaukaha Community Association. He commented on the use of geographical classifications like Central, North, South when the Department only recognizes Commissioner Ka'apu from the West, and eventually a Commissioner from the East. In many discussions, Hawai'i Island is divided using terms like central and south, but there are only two sides; East and West. East Hawai'i generates the most income for the trust.

P. Kahawaiolaa talked about the Department's enforcement of illegal activities on the homestead. The Department has a zero-tolerance policy for illegal activities but has done little to address the situation. Chair Aila stated a presentation is being given on the Tuesday agenda by Hawai'i Island Prosecutor Mitch Roth, about addressing illegal activities on the homestead.

ITEM J-10 Carol Lopez – Kaua'i Lease

Milton Ching testified for Carol Lopez. He lives on Kaua'i and has been on the waitlist since 1987. In 2006, he was awarded an Undivided Interest lease for Piilani Mai Kekai in Anahola. He didn't want to wait for an award and is purchasing a home from a lessee. He has been having issues with the easement. He stated that he wants to use the existing road, but DHHL does not want to give him the road. He stated all it takes is a right of entry from DHHL. He is asking that the lease be transferred to him, and that he be able to use the road.

Chair Aila stated staff from the Kaua'i District Office would have details about what the issues are and can make a recommendation to the Commission.

ITEM J-11 Claren Kealoha-Beaudet- Kipuka O Ke Ola Proposal

Sonny Shimooka testified as the Board President of Kipuka O Ke Ola native Hawaiian clinic in Waimea town. They asked for funding to hire a nurse practitioner to serve their community in the area of women's health. S. Shimooka introduced their Executive Director Dr. Claren Kealoha-Beaudet to explain the mission of the clinic. Kipuka O Ke Ola serves about 500 beneficiary patients who are DHHL lessees. They asked for funds to support the on-boarding costs of a nurse practitioner.

ITEM J-12 Randolph Pomai Freitas – MHC Board of Hawaiian Affairs and Initiatives Proposal

R. Freitas testified about gorse control and submitted a plan to acquire a one-year right of entry permit to demonstrate what can be done with the gorse. The plan is to turn gorse into bio-carbon for soil amendment. With further studies, gorse could be used for water filtration, blood cleansing, and other medicinal purposes.

The secondary part of the project is turning gorse into feed for animals. Processing is done on-site. Oregon State University told MHC that every step of the process results in zero germination; nothing will regrow. For MHC to do feed trials, they need the right of entry to harvest as much gorse as they can.

Commissioner Ka'apu asked who the principles of this company are. R. Freitas stated that they are a 501(c) 3 non-profit and they work at Millennium Carbon who will be the subcontractor. Commissioner Ka'apu asked if MHC will be buying the product from R. Freitas and his team? R. Freitas said they would be selling it themselves and partnering with HPU for the feed pellets.

Commission Ka'apu asked what role would DHHL play and if they would remove the gorse for free. R. Freitas stated that they would discuss it with DHHL, as they don't want to lose money. In one month, they could demonstrate what they can do, and the Commission could determine a value.

ITEM J-13 Skippy Ioane-Kings Landing 99-Year Leases

S. Ioane testified about the Kings Landing 99-year right of entry permit. Right of entry permits is only good for people who will live forever and cannot be passed on to future generations. DHHL has failed to create a program for the poor kanaka. He asked what percentage homeless people are on the waitlist. The homeless can put up a tent, but the land is the problem, there is no land. In Kings Landing there is no water and no electric. The right of entry is good only if you will live forever.

ITEM J-14 Vanessa Iopa-Pana'ewa Lease

V. Iopa stated that she is Milton Iopa's legal sister and wanted to take over his lease in Pana'ewa. M. Iopa was the lessee, but he passed away 2-years ago. She asked for the lease to his homestead.

Chair Aila there is a process in place for successorships and a decision cannot be made without all of the facts.

ITEM J-15 Leila Kealoha-Lease Transfer

L. Kealoha testified she is from Puna and has been waiting on the list for 24 years. She stated that her 66-year old Dad has been receiving letters throughout the years to pre-qualify for a homestead loan. Her father is on disability and would not qualify. She has an Aunt who is willing to sign over her lease in Maku'u. Mary Jane Kamoku is the current lessee of the property in Maku'u.

L. Kealoha said she doesn't understand why it takes nine months, and why she had to come up with an ag plan. She did all of it and wrote a letter to DHHL but never received a response.

RECESS

6:30 P.M.

HAWAIIAN HOMES COMMISSION

Minutes of May 21, 2019
Kuhio Hale, Kamuela, Hawai'i

Pursuant to proper call, the 711th Regular Meeting of the Hawaiian Homes Commission was continued at Kuhio Hale, 64-756 Māmalahoa Highway, Kamuela, Hawai'i 96743 beginning at 8:36 a.m.

PRESENT William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka'i Commissioner
David B. Ka'apu, West Hawai'i Commissioner
Michael P. Kahikina, O'ahu Commissioner
Pauline N. Namu'o, O'ahu Commissioner
Wren Wescoatt, O'ahu Commissioner

EXCUSED Dennis L. Neves, Kaua'i Commissioner
Vacant, East Hawai'i Commissioner

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Andrew Choy, Acting Planning Office Manager
Stewart Matsunaga, Acting Land Development Division Administrator
Leah Burrows-Nuuanu, Commission Secretary
James Du Pont, West Hawai'i District Office Supervisor
Halealoha Ayau, Water Specialist
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Aila called the meeting to order at 8:26 a.m.
Seven (7) members were present at roll call. The East Hawai'i Commission seat was vacant.

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Ka'apu 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

8:38 AM

1. Civil Nuisance Abatement on Hawaiian Home Lands

EXECUTIVE SESSION OUT

8:38 AM

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui – President Villages of La‘i ‘Ōpua (VLOP) Re: Item C-3

B. Kahui spoke of the mix-use property that VLOP is hoping to receive from the Commission. He stated he will present information on the project in the near future. VLOP continued its work on its photovoltaic project and hopes to become self-sufficient and independent in terms of energy needs. He stated VLOP needs land that the Department is not using.

ITEM A-2 M. Kapuniai Re: Item G-3

M. Kapuniai testified that there are three pages to the submittal regarding the Pu‘ukapu Hybrid Water System; the application for a water meter backflow preventer and, an application to be able to be a user for the non-potable, unsafe for human consumption, water system used only for livestock. She asked why it is necessary to have a plumbing contractor, general contractor and a building permit to get water for livestock? These requirements were not in the 2014 submittal. She talked about the lease addendum and the internal elevation agreement and referring to the release and indemnity of the Department. She felt the enforcement of non-potable water usage infringed on her constitutional rights.

ITEM A-3 Kepa Kaeo Re: Cemetery for Beneficiaries

K. Kaeo stated that his Aunt passed away and asked the Commission where he could bury her. The Commission should not award non-beneficiary contracts if his Aunt cannot have access to a burial plot. Nobody should be working on DHHL property but a native Hawaiian. He talked about the audit, the cattle removal contract, and beneficiaries dying on the waitlist.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Lease Award- Earl Kaina, Keaukaha Residence, Lease No. 12873, Lot Number 131 A-2, Keaukaha, Hawai‘i

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Stewart Matsunaga presented the following: Motion that the Hawaiian Homes Commission approve the lease award for Earl Kaina, Keaukaha residence, lease no. 12873, lot no. 131, A-2, Keaukaha, Hawai‘i, for 99 years subject to the purchase of the existing improvements of the lot by way of a loan and or cash. S. Matsunaga stated that it is the Hawai‘i Community College’s 51st home, and the total amount of the purchase is \$217,000.

MOTION/ ACTION

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

**ITEM E-2 Approval of Lease Award- Maude P.W.A. Tanaka, Kauluokaha'i
Residence, Lease No. 12857, Lot Number 117, Ewa Beach, Hawai'i Land
Management Division**

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Stewart Matsunaga presented the following: Motion that the Hawaiian Homes Commission approve the lease award for Maude P.W.A. Tanaka, Kauluokahai residence lease no. 12857, lot no. 117, Ewa Beach, Hawai'i, for 99 years subject to the purchase of the existing improvements on the lot by way of a loan and or cash. This is the 2nd of 65 turn-key residences in Kauluokahai subdivision. The total amount was \$285,000.

MOTION/ ACTION

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

LAND MANAGEMENT DIVISION

**ITEM F-7 Authorization for Issuance of Land Licenses to highest ranked applicants
for the Āina Mauna Feral Cattle Removal Project, Humu'ula and
Pi'ihonua Sections, Island of Hawai'i**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission authorize the issuance of land licenses to the highest ranked applicants for the 'Āina Mauna Feral Cattle Removal project in the Humu'ula and Pi'ihonua sections, island of Hawai'i.

MOTION

Moved by Commissioner Helm, seconded by Commissioner Namu'o, to approve the motion as stated in the submittal.

DISCUSSION

K. Camara stated the information briefing was presented to the Commission yesterday to get the Commission's authorization for the issuance of separate land licenses as evaluated by the DHHL's solicitation process and the terms listed in the submittal. Commission Wescoatt stated that the briefing yesterday was detailed.

ACTION

Motion carried unanimously.

**ITEM F-5 Authorize Termination of General Lease No. 144, Balberde &
Balberde, Waiakea, South Hilo, Island of Hawaii, TMK No. (3) 2-2-
060:049**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission authorize the termination of general lease no. 144, issued to Balberde & Balberde, in Kaehana Industrial subdivision, South Hilo, Island of Hawai'i.

MOTION

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

DISCUSSION

DHHL Land Agent Mark Yim stated that general lease no. 144 was issued to Lawrence Balberde, who failed to pay his general lease rent for \$242,240 through April 30, 2019. He is entering into an illegal 3rd party sublease agreement with Connect Point Church, who is currently occupying the property without consent. The County real property taxes with penalty and interest that is due totals \$470,531. 82 for the period through May 31, 2019.

The general lease was originally awarded to Impacts Hawai'i on June 15, 1969 and assigned to Lawrence J. Balberde on January 16, 1981. Mr. Balberde has been notified on numerous occasions of various violations of the lease and has failed to cure these violations.

Commissioner Ka'apu asked how long the rent was in arrears. M. Yim's stated it was over 10-years. Commissioner Ka'apu asked why the Department did not move on the collection sooner.

M. Yim stated that he started working on this delinquency in 2016 when he tried to rectify the situation with Mr. Balberde. Commissioner Ka'apu asked if Mr. Balberde has any assets that the Department can pursue or if a personal guarantee was signed. M. Yim stated that he does not find anything like that in Mr. Balberde's file.

Commissioner Wescoatt asked if the Department will do anything more to pursue the money. K. Albinio said that LMD will be working with the AG's office. Chair Aila stated that the Department is setting up procedures to go through a collection agency for similar cases. K. Albinio said the lease would be cancelled and they will talk with the Church people.

ACTION

Motion carried unanimously.

ITEM F-4 Authorize Termination of General Lease No. 270, Takahashi LLC, Waiakea, South Hilo, Island of Hawaii, TMK No. (3) 2-2-060:019

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission authorize the termination of general lease no. 270 for Takahashi LLC, in Waiakea, South Hilo, Island of Hawai'i.

MOTION

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

DISCUSSION

M. Yim stated that Takahashi LLC failed to pay general lease rent for \$72,363.34, through the period of April 30, 2019. They failed to construct the required building improvements within the prescribed period, and failed to pay County real property taxes with penalty and interest in the amount of \$50,711.25 through the period of April 30, 2019. The lease was originally awarded to Takahashi LLC on August 1, 2005 for a 55-year term. Since then, the lessee has failed to do any due diligence, construction or do anything with the parcel. Attempts over the last 3-years have

been unsuccessful, including sending certified mail, personal visits, and telephone calls. The lot is vacant and secured.

Commissioner Ka'apu asked if there are any others in this category of over a 180-days. M. Yim responded that there were a few. Commissioner Ka'apu asked if those would be presented to the Commission. K. Albinio stated that there are a few that have requested a payment plan and LMD will bring them to the Commission. LMD wanted to make sure a terms and conditions letter was prepared before presenting it to the Commission.

ACTION

Motion carried unanimously.

ITEM F-3 Approval to Extend and Amend Right of Entry Permit No. 683 to Kohala Watershed Partnership for Fence Project, Phase II, Kawaihae, Hawai'i, TMK No. (3)61001003 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to extend and amend the right of entry permit no. 683 to Kohala Watershed Partnership for the Fence Project, Phase I and Phase II, Kawaihae, Hawai'i.

MOTION

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

DISCUSSION

Kohala Watershed Partnership has a right of entry (ROE) permit for the parcel above the Kailapa community and the Kohala mountain road. The permit is to replace the old fence line with hog wire fencing. Seven miles out of the total twelve miles were completed at no cost to the Department. The seven miles of fencing was valued at \$550,000, in labor and materials. They asked to extend the ROE for another year to complete the project. Kohala Watershed Partnership has received funding from the Dorrance Family Foundation and National Oceanic and Atmospheric Administration (NOAA). The Honokoa and the Pelekane Watersheds have erosion issues that affect the nearshore reefs and other resources. The protection of the watersheds would help to protect the reefs from further erosion. The current ROE would be amended to include planting of native forest species, assisting in the management and removal of feral goats, installation of sediment check dams, and other erosion control efforts.

ACTION

Motion carried unanimously.

ITEM F-2 Annual Renewal of Right of Entry Permits, North & West Hawaii Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the annual renewal of the right of entry permits in the submittal.

MOTION

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

DISCUSSION

Commissioner Ka'apu compared the ROE for Kaua'i Spirits and Guy Startzman and noted the property sizes were about the same but the rent collected is different. Kawaihae Spirits is a parking lot in Kawaihae and a valuable space. He wondered if the Department could use it for homesteading or put out for a longer-term lease to recognize significantly more income.

K. Albinio stated that a task force would be formed to work on the larger pastoral leases. Chair Aila stated that the Department would get the task force started this year. The challenge with the pastoral lands is whether the Department issues ten leases at 1,000 acres, and everybody else on the list waits or does the Department issue licenses for commercial ranching. There are those who want to part-time ranch and others who want to subsistence ranch.

Commissioner Kahikina stated that he would be voting no on the non-beneficiaries and yes for all the beneficiaries as noted on the highlights of the submittal.

ACTION

Motion carried; Commissioner Kahikina voted against the motion.

ITEM F-1 Annual Renewal of Right of Entry Permits, East, Central, and South Hawaii Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve the annual renewal of the right of entry permits for East, Central, and South Hawai'i Island.

MOTION

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

DISCUSSION

Item F-1 was deferred by the Commission at its September 2018, regular meeting. Right of entry #597 issued to Hawai'i Forest and Trails was canceled. LMD is working with this permittee to regain the premises by the end of March 2019.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

PLANNING OFFICE

ITEM G-1 For Information Only- Water Policy Plan Implementation Program Report for FY 2019 and Draft Water Policy Plan Implementation Program for FY 2020

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy presented an update on the Water Policy Plan Implementation Program Report for FY 2019 and the Draft Water Policy Plan Implementation Program for FY 2020.

DISCUSSION

Consultant Dr. Jonathan Scheuer helped DHHL's Planning Office develop and implement the Water Policy Plan. J. Scheuer and former Planning Manager Kaleo Manuel began researching departmental records, water commission records, and other records to compile specific water rights to the Department and its beneficiaries. They held meetings across the archipelago, collected testimonies, developed conversation maps, produced emails and letters, and identified what was most important to beneficiaries.

The policy was drafted and approved by the Hawaiian Homes Commission on July 22, 2014. The four priority goals in the plan are:

- The Hawaiian Homes Commission should communicate about the water policy decisions it will make before and after making the decisions.
- There is a commitment by the Hawaiian Homes Commission to aggressively and continuously advocate for the rights of the beneficiary trust, for water.
- Staff and consultants have been working on developing a water assets inventory of the physical infrastructure and the cultural practice related to water.
- If the Department issues 99-year leases that can be renewed for 99-years, it has to make sure that our great, great-grandchildren have water, so watershed protection is a core operational goal.

In terms of outreach and education, the Department has partnered with Ka Huli Ao Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law. Kapua Sproat and her students have held beneficiary training sessions on water rights around Hawai'i. The last one will be in Ka'u next month.

J. Scheuer stated they were hoping to make more progress with a cost of service study for the Moloka'i Irrigation System. They wanted to get a handle on the deferred maintenance issue because there has been a long-standing desire by beneficiaries on that island to manage the system. If there is a lot of deferred maintenance, it would be a massive financial burden on the Department.

They were also hoping to make more progress in implementing findings from the Native Hawaiian Rehabilitation Fund Study.

J. Scheuer stated that the Department won a legal decision at the Hawai'i Supreme Court. Moloka'i Ranch's water use permit application was dismissed by the Hawai'i Supreme Court on December 2018.

Commissioner Ka'apu asked if things have been easier with former Planning Manager Kaleo Manuel at the Water Commission. J. Scheuer stated that when they start a conversation, they don't have to explain the Department's interest in water, unlike previous leaders and staff leaders at the Water Commission.

WORKSHOPS

PLANNING OFFICE

ITEM G-5 Update on the DHHL Final Environmental Impact Statement (FEIS) for the Pulehunui Regional Infrastructure Master Plan, Pulehunui, Maui; TMK (2) 3-8-008, 035, 036 (Pulehunui North) and (2) 3-8-008:034 (Pulehunui South)

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy presented the following:

DISCUSSION

A. Choy briefed the Commission on the proposed draft Final Environmental Impact Statement. Based on the Commission's comments, the FEIS will be finalized and presented at the Hawaiian Homes Commission meeting on May 30, 2019, for a recommendation of transmission to the Governor of the State of Hawai'i.

DHHL has determined that Pulehunui Regional Infrastructure Master Plan would likely have a significant effect on the environment upfront because of the magnitude of the actions. The project was determined to have an impact on four significant criteria in accordance to the HAR Section 11-200-12:

- Substantially affect the economic welfare, social welfare, and cultural practices of the community of State
- Involves secondary impacts such as population changes or effects on public facilities
- Is individually limited but cumulatively has a considerable effect upon the environment or involves commitment for larger actions, cumulative impacts to landscape and view plans, positive cumulative economic impacts and temporary cumulative impacts related to construction.
- Requires substantial energy consumption, and will require additional energy consumption related to buildout and ongoing operations

The Hawaiian Homes Commission and the Office of Environmental Quality Control (OEQC) must complete the following before the Governor's office will accept the FEIS:

- HHC – determine the acceptability of the FEIS
- HHC – approve the transmission of the FEIS to the Governor's office for acceptance
 - OEQC – review the FEIS to determine if it is complete in form, an information instrument that fulfills the definition of EIS, able to adequately disclose and describe all identifiable environmental impacts, and able to satisfactorily respond to review comments, and

- OEQC – provide the Governor with a recommendation of the acceptability of the FEIS.

Commissioner Kahikina asked if the Planning Office was amending the Regional Plan. A. Choy stated that the current land use designations in the Maui Island Plan designate most of the area for general agriculture. Planning would have to return to the Commission at a later date to amend the Plan to reflect subsistence agriculture homesteads. Results of beneficiary consultations and charrettes showed beneficiaries want to see the land used for farming.

REGULAR AGENDA

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 USDA-RD Mortgage Loan
- D – DHHL Guarantees for FHA Construction Loans

DISCUSSION

None.

OFFICE OF THE CHAIRMAN

ITEM C-2 For Information Only -Report of Chapter 91, Hawai'i Revised Statutes, Public Hearings for Administrative Rules Related to Planned Communities, Multi-Family Housing, and Rentals

RECOMMENDED MOTION/ACTION

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

DISCUSSION

H. Lindsey stated there were four public hearings on O`ahu, Hawai`i Island, Maui, and Kaua`i. There were informational briefings to discuss the proposed rules. After the briefings, the public hearings were opened to receive formal testimonies. The attachments include the public hearing notice, the letter that was sent to the Associations regarding the public hearings, the presentation that was given at the informational briefings as well as all the comments and staff responses to the comments recieved.

WORKSHOPS

OFFICE OF THE CHAIRMAN

ITEM C-1 Hawaiian Home Lands Unexploded Ordnance (UXO) Update, former Waikoloa Maneuver Area (WMA)

RECOMMENDED MOTION/ACTION

None. For information only. NAHASDA Manager Niniau Simmons presented the following:

DISCUSSION

The WMA area was formally a defense site in the late 1980s and early 1990s. In 2002, the late Senator Daniel K. Inouye secured \$40 million in funding for the US Army Corp of Engineers (ACOE) to begin cleanup in the 100,000-acres of Waikoloa. The Hawaiian Home Lands communities within the WMA boundaries include Kuhio Village in Pu‘ukapu, Lālāmilo Phase 1 and Phase II in Kawaihae, parts of the Kawaihae ocean residential lots and the Kawaihae industrial lessees. The scanning and removal of UXO in the former WMA are expected to cost \$720,000,000 and take 72-years to complete. The residual risk that remains impacts DHHL’s ability to develop affordable housing and engage in capital improvement projects by not being able to utilize federal funds from Title VIII of the Native American Housing Assistance and Self Determination Act (NAHASDA) and the 184-A homeowner financing.

For Pre-1986 defense sites scattered throughout the State of Hawai‘i clean-up responsibility is with the US ACOE. Anything after 1986 is the responsibility of the military branch that contaminated the site. For example the Coast Guard is responsible for the Voice of America site in Maili. The Coast Guard and the U.S. Navy is responsible for Haiku Valley. For Waimea, Pu‘ukapu, Kuhio Village, Lālāmilo in Phase I & II, and parts of Kawaihae are the US military’s activities post Pearl Harbor bombing of 1941. In early 1942, the Commission, with Harriet Amoi as the Chairman of the Hawaiian Homes Commission, passed a resolution authorizing the US military full access to any and all Hawaiian Homes Commission Act trust lands. At the time, Pu‘ukapu and Kūhiō Village were under lease to the Parker Ranch who allowed the US military use of its lease lands in the Waimea area. Lālāmilo Phase I & II came into the Department’s inventory the 1994 Hawaiian Homes Land Recovery Act as a land transfer from DLNR. A hardcopy of the PowerPoint was provided.

WORKSHOPS

LAND DEVELOPMENT DIVISION

ITEM E-3 For Information Only- West Hawaii Project Updates

RECOMMENDED MOTION/ACTION

None. For information only. Land Development Division Administrator, Stewart Matsunaga presented the following:

DISCUSSION

S. Matsunaga stated that the submittal includes all West Hawai‘i projects. LDD is proceeding with construction support to remediate the seepage pits within Lālāmilo Phase I. In Lālāmilo Phase II, with the US ACOE support, the work can continue. Intersection improvements are being made in Lālāmilo Phase I & II.

LDD needed an agreement with Hawaiian Telcom for license easements to relocate the telecommunication poles. A lot of work is being done with the water systems within the West Hawai‘i area.

La‘i‘Ōpua IV & V “rent with option to purchase” project is moving forward. Ikaika ‘Ohana is applying for low-income housing tax credits, and LDD is working closely with them on the application for funding. The Department has committed \$5 million in NAHASDA funds. There are tax law implications as well as questions regarding using for NAHASDA rentals. As soon as the developer gets the approval on the tax credits, LDD will go back into the community and provide more information as well as provide the schedules for the rental project.

The project is modeled after the Ho‘olimalima project to get rentals to beneficiaries on the waiting list and the undivided interest list. To qualify they have to make no more than 60% of the area median income. The project has a 15-year compliance period which means the beneficiaries will be renting for 15-years after which they have the first option to purchase the house, and at that time the 99-year homestead lease will be granted. The presentation was posted on the DHHL website.

REGULAR AGENDA

PLANNING OFFICE

ITEM G-2 For Information Only- West Hawai‘i Water Projects Update

RECOMMENDED MOTION/ACTION

None. For information only. Water Resource Management Specialist, Halealoha Ayau presented the following:

DISCUSSION

H. Ayau stated that the most significant developments since May 2018 have been a reservation for ground water for DHHL and exploring options for the water resource for Kealakehe-La‘i ‘Opua from the Ota Well and private landowners in North Kona. The existing DHHL water reservations for Hawai‘i Island lack the enforcement mechanisms under the State Water Code. The Department updated its estimates of planned water needs in the areas of Humu‘ula-Pi‘ihonua, Waimea Nui, Kawaihae, Kealakehe, Keahuolu, Honokohau and Kalaoa. The numbers are listed in the submittal.

ITEM G-3 For Information Only- Pu‘ukapu Water System Water Rates

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy turned the presentation over to Grant Specialist Gigi Cairel.

DISCUSSION

G. Cairel stated that the Commission has been briefed on the expenses and the water rates for the Pu‘ukapu Water System before. The Department is the owner of the Pu‘ukapu Water System, and is responsible for the protection of public health and safety and has a fiduciary responsibility to fiscally manage this water system and the other three that it owns. Waimea Nui Community Development Corporation is the Department’s contracted operator which started in October. It is the first time a beneficiary-based organization has successfully procured a contract with the Department for this type of service. Pu‘ukapu is the smallest

DHHL water system and the largest is the Moloka'i Water System. There is a 600 gallons per day limit per lot.

The Department has a lease addendum and elevation agreement primarily because this is non-potable water system which is not regulated by the Department of Health and cannot be used for human consumption, cooking, bathing, and drinking. The water source comes directly from the County of Hawai'i Department of Water. So and so the water source is potable water. However, because the Department's system is not built to the County's drinking water standards, when the water enters the DHHL system, it is considered no longer potable. The Department provided a public water spigot at the Pu'ukapu subdivision which comes directly from the County Water Department. The shortfall for this water system is \$372,000.

Beneficiary consultation was done on the proposed water rules, and the understanding is the rules will help the Department with the proper procedures and the legal authority to address any delinquencies. Commissioner Helm asked if people who don't pay their water bills could be taken through the contested case hearing process. Chair Aila said they could.

ANNOUNCEMENTS AND ADJOURNMENT

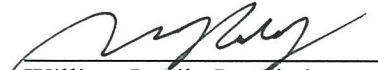
NEXT MEETING

The next meeting will be held on June 17 & 18, 2019, in Kapolei, O'ahu, Hawai'i

ADJOURNMENT

12:56 P.M.

Respectfully submitted:



William J. Aila Jr., Chairman
Hawaiian Homes Commission

Prepared by:

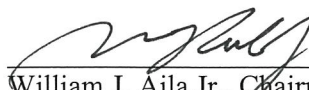


Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

September 17, 2019



William J. Aila Jr., Chairman