

HAWAIIAN HOMES COMMISSION
Minutes of January 28, 2019
Meeting held at Hale Pono‘i, Kapolei, O‘ahu

Pursuant to proper call, the 707th Regular Meeting of the Hawaiian Homes Commission was held at the 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, Maui Commissioner
Zachary Z. Helm, Moloka‘i Commissioner
Wallace A. Ishibashi, East Hawai‘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 Vacant, Kaua‘i Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Stewart Matsunaga, Acting Land Development Division Administrator
Andrew Choy, Acting Planning Program Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Kuali‘i Camara, Land Agent
Hokulei Lindsey, Administrative Rules Officer

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:50 a.m.
Eight (8) members were present at roll call. The Kaua‘i seat was vacant.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

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

ITEM A-2 Richard Kaniho Re: Item F-1, F-2

R. Kaniho testified that two years ago, Mr. Costa called him and told him of his royal patent ownership to the 'āina. Recently Mr. Costa called him and claimed ownership of the lands now going up R. Kaniho's way, basically threatening that he won't let DHHL, R. Kaniho, or anyone else get in his way to do whatever he needs to do to secure his lands and protect it. If the Department's position of Mr. Costa's claim to the Mauna Kea lands is false, then it would be in the best interest of the Commission to immediately take action of the 'Āina Mauna Legacy Plan.

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.

- ITEM D-2** Ratification of Loan Approvals (see exhibit)
- ITEM D-3** Approval of Consent to Mortgage (see exhibit)
- ITEM D-4** Approval of Streamline Refinance of Loans (see exhibit)
- ITEM D-5** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-6** Approval of Homestead Application / Cancellations (see exhibit)
- ITEM D-7** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-8** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-9** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-10** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-11** Approval of Subdivision Transfer of a Portion of Lease and Amendment-
ERNEST A. MATSU, Lease No. 1211, Lot No. 68, Keaukaha, Hawai'i

MOTION/ACTION

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

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

- ITEM C-1 Approval of Recommendations for Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules for Supplemental Dwelling Units; and to Proceed with Rulemaking under Hawaii Revised Statutes Chapter 91**

reforestation and restoration of the ecosystem. The immediate actions to achieve the three goals are 1- To initiate un-managed ungulate control over the entire property, 2- Investigate additional areas for sustainable koa forestry opportunities, and 3- To initiate a set aside for portions of the property for restoration and enhancement purposes. K. Albinio noted that the EA was accepted with a Finding of no significant impact (FONSI).

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-1 Esther Christian- Sewer Easement Violation

Chair Masagatani stated J-1 is going to be deferred till next month

ITEM J-2 Albert Rowland Jr.- Papakōlea Homestead Concerns

A. Rowland, Jr. stated that he did a presentation before the Commission regarding the eroding hillside on the Pauoa side of his mother's homestead in Papakōlea. The family asked for help to shore up the eroding hillside. A. Rowland was told it is the lessee's responsibility. They got an estimate of \$130k to shore up the area. Norman Sakamoto got a contractor that did the Awaiolimu project, and that contractor estimated the job at \$50k.

MOTION/ACTION

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

EXECUTIVE SESSION IN 12:49 P.M.

The Commission anticipates convening 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. Authorization for Issuance of Land Licenses to selected Licensees for the 'Āina Mauna Feral Cattle Removal Project, Humu'ula and Pi'ihonua Sections, Island of Hawai'i
2. Update on issues related to Sandwich Isles Communications.
3. Enforcement and Lease Compliance on Hawaiian Home Lands

EXECUTIVE SESSION OUT 3:30 P.M.

REQUEST TO ADDRESS THE COMMISSION

ITEM J-3 Bo Kahui- La'i 'Ōpua 2020 and Villages of La'i 'Ōpua

B. Kahui spoke on Item G-2 regarding Kaleo Manuel; wished him well for the good works he has done for the Department. Item D-2 Lease 9270, the Association is requesting to hold off on the

consent to mortgage; and will contact their management company to make sure that Mr. Ruddle is up with his due before they consent to mortgage. Item D-1 Loan Guarantees USDA RD, LOP started the North Kona Water Development (NKWD) almost five years ago project. LOP did receive certification for qualifying for USDA RD assistance, 45% of the project cost subject to the RD approval.

B. Kahui resubmitted L2020's request for a letter of compliance to the top ten for non-compliance and the possibility for a contested case hearing L2020 has two Legislative priorities; CIP request to set aside \$2 million for the North Kona Water Exploratory Well, and second is the CIP/GIA request of \$1.2 million to support the GIA request grant in need. B. Kahui has had discussions with Stewart of DHHL and in contact with Ikaika Ohana with regards to Village IV. Regional Plan update has tentatively been set for February 27, and the beneficiary consultation will specifically be related to the priorities in Kona. L2020 is interested in DHHL and the Commission's position and the policy draft related to the ADU/SDUs.

REGULAR AGENDA

PLANNING OFFICE

ITEM G-1 For Information Only-Act 14 Land Claims Settlement Update

RECOMMENDED MOTION/ACTION

None. For information only. Planner for Planning Office, Andrew Choy, presented the following for Act 14 land Claims Settlement Update.

DISCUSSION

A. Choy stated during his address at the CNHA Conference Governor Ige committed to seeking resolution on all outstanding claims. A. Choy introduced Ryan Kanaka'ole, DHHL's Deputy Attorney General, working on Act 14 Land Claim matters.

R. Kanaka'ole did a brief summary on Act 14, stating it was considered to be a settlement of claims that the Department had against the State for uses of Hawaiian Home Lands between the start of Statehood in 1959 through the late 1980s. Several phases occurred before Act 14 that culminated in the Act itself. Former Governor John Waihe'e created a task force comprised of the Office of State Planning, Department of Hawaiian Home Lands, Department of Land and Natural Resources, and the Department of the Attorney General. The objective was to investigate and resolve DHHL's land use claims against the State with regards to alienating Trust lands, executive orders, or using the lands for other public uses and things like building schools on Hawaiian Home Lands. Prior to Act 14, there was an administrative effort to transfer 16,518 acres of land to the Trust. In Act 14, there were two components, the money, and the land. The money totaled \$606,277,558 in monetary compensation.

RECESS

5:58 p.m.

HAWAIIAN HOMES COMMISSION

Minutes of January 29, 2019

Meeting held at Hale Pono`i Kapolei

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka`i Commissioner
Wallace A. Ishibashi, East Hawai`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 (Arrived 9:45 a.m.)

EXCUSED Vacant, Kaua`i Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Stewart Matsunaga, Acting Land Development Division Administrator
Andrew Choy, Acting Planning Program Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Kuali`i Camara, Land Agent
Hokulei Lindsey, Administrative Rules Officer

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:15 a.m.

Eight (8) members were present at roll call. The Kaua`i seat was vacant.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui Re: Item F-1

B. Kahui testified on the licenses and approval for licenses for the removal of feral cattle on the Big Island. B. Kahui received emails from other homesteaders, which were forwarded to Chair Masagatani, requesting that the decision making for this item be held on the Big Island.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMEN DIVISION

ITEM F-1 Authorization to Issuance of Feral Cattle Removal License to selected Licensees, Humu‘ula & Pi‘ihonua Sections, Island of Hawai‘i

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following amended motion:

That the Hawaiian Homes Commission (HHC) authorize the following:

1. Award selected applicants from DHHL’s publicized solicitation process for the sole purpose of its Feral Cattle Removal Project on DHHL ‘Āina Mauna Lands; and
2. Enter into negotiations with selected applicants for two (2) separate Land Licenses for two (2) land areas, more specifically identified by the Pi‘ihonua and Humu‘ula Sections as described and defined below respectively. The land licenses would continue to provide DHHL the necessary means to address the GOALS AND PRORITY ACTIONS consistent with its ‘Āina Mauna Legacy Program Plan.

An Item E. was added to the conditions of the license as follows:

- Periodic reports no less than quarterly on the performance of the licensee in meeting the conditions of the licenses.

MOTION AS AMENDED

Moved by Commissioner Awo, seconded by Commissioner Ishibashi, to approve the motion as amended.

DISCUSSION

DHHL LMD issued two (2) publicized solicitations (See Exhibit “B”) seeking applications for land licenses to be issued to the most qualified applicant(s) to remove Feral Cattle on the ‘Āina Mauna Lands of Humu‘ula and Upper Pi‘ihonua. Feral cattle degrade native forests causing loss of habitat, economic timber potential and watershed function. Feral Cattle inhibit the natural regeneration of native forests and prevent reforestation efforts across both License areas covering over 20,000 acres. Feral cattle are dangerous and limit safe access to the ‘Āina Mauna lands and cause damage to roadways, fence lines, and other infrastructure. For these reasons, Ungulate removal (of which cattle are by far the most detrimental) is a priority immediate action of the ‘Āina Mauna Legacy Program, the management plan for the ‘Āina Mauna Lands.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

D-1 HSD Status Reports

- A- Homestead Lease and Application Totals and Monthly Activity Reports**
- B- Delinquency Reports**
- C- DHHL Guarantees for USDA RD Mortgage Loans**

Chair Masagatani asked if there were any questions for Dean. There were none.

WORKSHOP

HOMESTEAD SERVICES DIVISION

ITEM D-12 For Information Only- Appraisal Methodology on DHHL Homesteads

RECOMMENDED MOTION/ACTION

None. For information only. Acting Homestead Services Division Administrator Dean Oshiro presented the workshop for appraisal methodology on DHHL Homesteads.

DISCUSSION

D. Oshiro provided information regarding valuations on homestead properties because in some markets they seem to be higher than what the Department provides in its methodology.

D. Oshiro stated loans are governed by the Hawaiian Homes Commission Act with regards to the conditions of the lease, and primarily with all of the loans, DHHL must be federally insured or guaranteed, or be private mortgage insurance. However, there is no more private mortgage insurance for DHHL, but there is the FHA, the 184A, VA which are federal government that guarantee or insure DHHL loans.

Anytime a lessee wants to place a lien, it requires the Commission's approval to consent to that mortgage. The Act states, DHHL cannot lend more than 50% of the single residence loan amount allowed in Hawai'i by the United States Department of Housing and Urban Development's Federal Housing Administration (FHA). FHA sets their limits for the general public and DHHL. The Commission Homes Act Section limits DHHL to half of what FHA can lend for the Department. This is just Department loans and Department guarantees.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular meeting will be held at Kapolei, O`ahu, Hawai`i on February 19 & 20, 2019, (Tuesday & Wednesday).

ADJOURNMENT 10:23 A.M.

MEETING CALLED BACK TO ORDER 12:20 P.M.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

Note: Chair Masagatani reopened the meeting to hear Item J-4, Terry Miller and Laura Johnson, Paukūkalo Lease. The individuals traveled from Maui and the Commission reopened the meeting to hear what they have to share.

ITEM J-4 Terry Miller, Laura Johnson – Paukūkalo Lease

Lala Johnson and Terry Miller testified regarding a family lease. T. Miller is the beneficiary and L. Johnson is speaking in support of T. Miller. L. Johnson also used to live at the home. Emogene Maio’s lease was cancelled and the family still lives in the home and are faced with eviction. L. Johnson is pleading to the Commission to give the family back the home, which is paid off, and allow T. Miller to be the successor to the lease of Emogene Maio. She is asking the Commission to reconsider.

ADJOURNMENT

12:29 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:

Jobie M.K. Masagatani, Chairman
Hawaiian Homes Commission