

## **HAWAIIAN HOMES COMMISSION**

Minutes of July 15, 2019

Hale Pono'i, Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the 713th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i, July 15, 2019, beginning at 9:30 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  
Pauline N. Namu'o, O'ahu Commissioner  
Dennis L. Neves, Kauai Commissioner  
Patricia L. Teruya, O'ahu Commissioner

**EXCUSED** Vacant, O'ahu Commissioner  
Vacant, East Hawai'i Commissioner

**COUNSEL** Ryan Kanaka'ole, Deputy Attorney General

**STAFF** Paula Aila, Director of Communications, Contract & Awards Division  
Michelle Hitzeman, HALE Manager  
Kahana Albinio, Acting Land Management Division Administrator  
Dean Oshiro, Acting Homestead Services Division Administrator  
Juan Garcia, Homestead District Supervisor  
Andrew Choy, Acting Planning Program Manager  
Stewart Matsunaga, Acting Land Development Division Administrator  
Leah Burrows-Nuuanu, Hawaiian Homes Commission Secretary  
James Du Pont, West Hawai'i District Office Supervisor  
Halealoha Ayau, Water Analyst  
Cedric Duarte, Information & Community Relations Officer  
Jamillia Epping, Information Specialist IV  
Marjorie Adkins, Office Assistant IV  
Debra Aliviado, Customer Service Manager  
Allen Yanos, Property Development Agent  
Gigi Cairel, Grant Specialist

### **ORDER OF BUSINESS**

#### **CALL TO ORDER**

Chairman Aila called the meeting to order at 9:38 a.m.

Seven (7) members were present at roll call. The East Hawai'i and O'ahu seats were vacant.

#### **APPROVAL OF AGENDA**

#### **MOTION/ACTION**

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the agenda, minus deferred Items F-1 and F-3. Motion carried unanimously.

## **APPROVAL OF MINUTES**

Approval of Minutes for July 2018.

## **MOTION/ACTION**

Commissioner Teruya asked to defer the Minutes for July 2018 as she does not have a copy of the Minutes for July 2018. Chairman Aila noted the Minutes for July 2018 will be deferred until all the Commissioners have a copy.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **ITEM A-1      Kekoa Enomoto Re: Item G-1, Pa‘upena Community Development Corporation**

K. Enomoto testified as the Chairman of PCDC, and she is joined by Andrew Hatchie and Bobby Pahia, and a letter from Agnes Kiesling. The capacity of PCDC is reflected in its community connections and achievements in its 2-years of operation. In less than 3-years PCDC has succeeded in the following:

- Implementing a \$100,000 dollars USDA socially disadvantaged and veteran farmers and ranchers grant project to provide farming, entrepreneurial and cultural training and education
- Is currently executing a \$47,000 dollars DHHL priority projects to install water catchments systems and a water intake monitoring program at six upcountry homestead farms
- Established the Pa‘upena Scholarship Program
- Repatriated more than 5500-acres away from non-beneficiaries, catalyzed DHHL to update and standardize its land use application process and founded the Maui Homestead Farmers and Ranchers Association that serves and advocates for Maui ag and pastoral wait listers.

### **ITEM A-2      Kahili‘iwa Re: Item G-1**

Kahiliwa said her mom comes from a family of 27, pure Hawaiian, and the only one that has Hawaiian Homes. Kahiliwa was raised the old way and wants her children to do the same. She waited 43-years to finally get her home.

### **ITEM A-3      Shauna Kana‘e Re: Item G-1**

S. Kana‘e supported the right of entry to Kēōkea and that 5041-acres is a small portion to start with. She speaks to her children saying that they will not be kept by the State; they need to work to eat and support themselves. She has opened her home to foster care because there are many children that suffer at the hands of drugs and alcoholism.

### **ITEM A-4      Lei Makanani Re: Item D-12**

L. Makanani stated that she was to provide the finances, to extend her home to be like a duplex. Chairman Aila stated that the item is up for approval in the business agenda. The ‘‘ohana doesn’t have the finances. Chairman Aila stated that the decision before the Commission today is the designation of successorship. What occurs after the decision between the ‘ohana is separate.

**ITEM A-5      Robert Figuerora Re: Kalaeloa**

R. Figuerora wants to teach Hawaiian youth the trade of equipment repair. He applied for a ROE in Kalaeloa over two years ago but never received a response. He asked if his request is going to be accepted or denied. And if denied, why are there non-Hawaiians in Kalaeloa running businesses. Chairman Aila stated that there are several people that have land disposition requests for Kalaeloa. The Commission has been working on a procedure to consider these requests, and the process is not finished yet. Some of the Kalaeloa lands are designated for commercial/industrial use. There may be other lands more suitable for the type of project being proposed.

**ITEM A-6      Bo Kahui Re: Item D-8**

B. Kahui testified regarding Item D-8. The Association lists Alan Miller as the lessee who passed away years ago, and it is believed his nephew is residing in the home. The Association would like to contact the proper party to insure they pay the dues that are due to the Association. Chairman Aila stated the contractor hired by the Homeowners' Association will be notified and the information is supposed to be sent to the Association as escrow is done. Chairman Aila recommended B. Kahui to check with the Homeowners' Association.

**ITEM A-7      Kuulei Mitchell Re: Item G-5**

K. Mitchell testified that she opposes the lease to non-Hawaiians for revenue monies, and the 1% that goes to the beneficiaries. The current pace that the DHHL is taking, it would take 440-years to fulfill its obligations and duties to move the Hawaiian Homestead waiting list. She stated that every Hawaiian should have at least one or two acres. There are at least 25-30 homes on one acre. If her neighbor flatulates, she can smell it; that is how close the homes are. She testified of her family's genealogy. She stated that the door should open to the native Hawaiians. The revenues coming off the lands should go to the seniors first.

**ITEM A-8      Homelani Schaedel Re: Item F-1**

H. Schaedel testified that decision-makings for Item F-1 be made on Oahu, and that the Department would provide an estimate of when the process will be completed. It has been going on for two years. She recommended statewide that the Department to identify homestead lands considered non-suitable for residential, pastoral or agricultural, that for the right of entry process, includes beneficiary consultation for disposition.

**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**

Chairman Aila asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda.

Commissioner Teruya asked Dean to explain Item D-11, request for relocation. Dean said if there is an issue, we can take it out of Consent. Chairman Aila removed Item D-11 from the Consent Agenda and moved it to the Regular Agenda.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval of Streamline Refinance of Loans (see exhibit)
- ITEM D-4** Approval to schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-5** Approval of Homestead Application / Cancellation (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-14** Request to Schedule Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor(s) (see exhibit)

#### MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Neves, to approve the Consent Agenda. Motion carried unanimously.

#### ACTION

Motion carried unanimously with the removal of Item D-11.

### **REGULAR AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

- ITEM D-6** Request to Schedule Contested Case Hearing for Reconsideration of Native Hawaiian Quantum Determination - **CURTIS WILMINGTON**

#### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to schedule a contested case hearing for reconsideration of Native Hawaiian Quantum Determination for Curtis Wilmington. The Department is recommending that the Hawaiian Homes Commission deny the contested case hearing. The Department has not made a decision on Mr. Wilmington's quantum yet, so the Department believes is premature to hold a contested case hearing.

#### MOTION

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

#### DISCUSSION

Curtis Wilmington stated that 40-years ago he was awarded a lease in Waianae, but he declined. In 2011, he was trying to get a Homestead, but there was an issue with his blood quantum. His

sister, Claire Pruet, did their genealogy, both his mother and father were Hawaiian. There are questions to the validity of DHHL arriving at zero quantum four generations ago. The zeros that were married to the 100% were meant to relay "no information." DHHL used that as a quantum four generations ago, and they arrived at both his mother and father being 43.75% Hawaiian, thus making his quantum short 6.25%. C. Wilmington stated that the zeros could be 50% or 25%, there are several lineages that have the zero in there. There was no substance to the DHHL's findings.

Chairman Aila asked C. Wilmington if he understands that the Department's recommendation is to deny the contested case request because they have not finished making a decision.

Commissioner Ka'apu stated staff is saying they can only show 43.75%, so he would be entitled to a contested case because it seems like the staff has taken action already.

HSD Application's Manager Kana'i Kapeliela stated that the Department's submittal points out that the petitioner's bloodline is exhausted on all lines of descent but one. It is believed that there may be something to push him to 50%, but they haven't received that document yet.

Section 10-3-2 puts the onus of providing documented proof that an applicant is 50% Hawaiian, on that applicant. It states that they shall provide documented proof that they are 18-years of age and native Hawaiian. The Department is waiting for the family to produce that last remaining documentation.

Commissioner Ka'apu stated that the testimony he heard from C. Wilmington was that he was awarded a lease 40-years ago. So, if it was awarded and he declined it, it would appear that the Department made a determination, at that point, and now has changed its position. He thinks he should be entitled to a contested case hearing where he can prove that he is or the Commission will determine that he is not.

K. Kapeliela stated that in looking at the records, C. Wilmington has never been awarded a lease, but he was put on the waitlist, but not awarded a lease. C. Wilmington stated that back in 1977 he got accepted for Hawaiian Homes and was eligible to receive Hawaiian Homes.

#### RECOMMENDED AMENDED MOTION

Motion to grant the Request to Schedule Contested Case Hearing for Reconsideration of Native Hawaiian Quantum Determination for **CURTIS WILMINGTON**.

#### MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Namu'o, to approve the amended motion to grant the request to schedule a contested case hearing.

#### ACTION

Motion carried unanimously.

**ITEM D-11** Request for Relocation- **BRENNEN E. ROBERTS**, Lease No.7339, Lot No. 109, Nanakuli, O'ahu

#### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:

Motion that the Hawaiian Homes Commission approves the request for relocation to Brennen E. Roberts, Lease No. 7339, Lot No 109, Nanakuli, O`ahu.

MOTION

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

DISCUSSION

Homestead District Supervisor J. Garcia stated that Lease No. 7339, Lot 109, was awarded to Charlotte Roberts during the Department's acceleration program in 1986. In 1994, it was discovered that Lot No. 109 was eliminated; it never existed after the subdivision was completed. The Department contacted Charlotte Roberts to notify her, and she was given the opportunity to relocate to another lot.

C. Roberts was given the opportunity to select lots in Nanakuli and Kapolei; however, she could not make a decision. She later requested that the Department transfer her interest to her son Brennen Roberts. The Department decided to proceed with the transfer and handle the request for relocation later. The Department is requesting the Commission to approve the request for relocation.

Commissioner Neves asked where are the beneficiaries relocating to? J. Garcia stated that the current lessee, Brennen Roberts is looking at the Kapolei area and that the Department will work with the lessee as soon as the Commission approves the relocation. The Department will provide Mr. Roberts with an inventory of lots that may be available in Kapolei.

ACTION

Motion carried unanimously.

**ITEM D-12** Commission Designation of Successor- BENJAMIN K. KELIIHOLOKAI, Residential Lease No.1758, Lot No. 87, Waimanalo, O`ahu

**ITEM D-13** Commission Designation of Successor- JEANETTE M. HANAWAHINE, Residential Lease No. 1758, Lot No. 87, Waimanalo, O`ahu

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the designation of Leiluluhipolanikeakakahaumaliookalani Keliiholokai Makanani (Lei) and Cecelia Wahineaukai Keliiholokai (Cecelia), as successors to Benjamin Keliiholokai's 50% tenant-in-common interest to Residential Lease No. 1758, Waimanalo, Oahu for the remaining term of the lease; and Motion to approve the designation of Kuuleilani K. Petty-Hanawahine (Kuulei), as successor to Jeanette Hanawahine's 50% tenant-in-common interest to Residential Lease No. 1758, Waimanalo, Oahu for the remaining term of the lease

MOTION

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

DISCUSSION

D. Oshiro stated that this particular designation of successors has been challenging for the Department. Staff tried its best to facilitate a resolution between the families, but so far have been unsuccessful. Ms. Makanani testified earlier on her position.

O'ahu District Supervisor Juan Garcia briefly summarized that Benjamin K. Keli'iholokai and Jeanette M. Hanawahine were tenants-in-common, each having 50% interest in the lease. Both lessees passed without naming successors. The Department published legal ads to notify all interested, eligible, and qualified heirs of the decedents, to submit their lease successorship claims. The Department received successorship claims from two of Mr. Keli'iholokai's sisters, and a successorship claim from Ms. Hanawahine's daughter. All are qualified.

Chair Aila explained that if the Commission approves both motions and the documents are signed, Lei Makaanani and her sister will have jurisdiction over half of the lease, and Kuulei Hanawahine will have jurisdiction over the other half.

#### ACTION

Motion carried unanimously.

#### **ITEM D-15      Assignment of Lease- JOSE SALINAS, Lease No. 08071, Lot No. 97, Pu'ukapu, Waimea, Hawai'i**

#### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the transfer of Pastoral Lease No. 8071, Lot No. 97, Pu'ukapu from Jose L. Salinas to Darlene M. K. Matsumoto for the remaining term of the lease.

#### MOTION

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

#### DISCUSSION

Commissioner Ka'apu recused himself.

Chair Aila confirmed that DHHL staff is comfortable with the transfer and that improvements have been made to the parcel. West Hawai'i District Supervisor Jim DuPont stated that he is satisfied with the improvements and has personally seen the sheep in the enclosure.

#### ACTION

Motion carried unanimously. Noting the recusal of Commissioner Kaapu.

#### **ITEM D-16      For Information Only- Discussion on the Waiahole Agricultural Park Subdivision**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Homestead Services Division Administrator Dean Oshiro introduced the item and Deputy Attorney General Alana Rask who presented the following:

#### DISCUSSION

DAG A. Rask stated that the matter involved financing at the Waiahole Agricultural Park (WAP) subdivision. Homestreet Bank has declined to refinance at least one DHHL property in the WAP subdivision because of an agricultural covenant that is attached to each of the parcels. The covenant requires one-third of the lessee's income to be derived from agricultural activity on the property.

O'ahu District Supervisor Juan Garcia looked into the covenant and found that although these are agricultural leases, the majority of them are classified and zoned as residential in the DCCRs. This means that only the residential covenants would apply, and Homestreet Bank should be able to finance these properties; there's just a bit of confusion. The agent stated that they have reached out to Homestreet Bank and will provide them with a joint letter from DHHL and the Hawai'i Housing Finance Development Corporation (HHFDC) stating that the agricultural covenants do not apply to the pertinent properties. The letter should clear up any confusion for those properties in particular, and those are 11 out of 17.

For lots that are classified as agricultural and are zoned agricultural, they will need to reach out to HHFDC to see if they are willing to work something out.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS (continued)**

### **ITEM A-10 Robin Danner Re: Item F-1**

R. Danner asked that Item F-1 be deferred because the listing was frightening in highlighting the number of parcels being issued to non-beneficiaries for commercial purposes. Section 207 of the Hawaiian Homes Commission Act states that besides giving native beneficiaries land for homes, farms, or ranches, native beneficiaries can also be provided land for mercantile and commercial purposes. R. Danner stated there are none.

She also stated that there are no dollar amounts attached to the long list of right-of-entries (ROE). ROEs and revocable permits are supposed to be temporary, but the dates appear that they are being operated more like licenses. She is asking that descriptions are added to the names on the list that indicate the dollar amount, total acreage, and whether beneficiaries are small "n" Hawaiian, big "N" Hawaiian, or non-Hawaiian.

## **ITEMS FOR DECISION MAKING**

### **REGULAR AGENDA**

#### **LAND MANAGEMENT DIVISION**

### **ITEM F-2 Approval to Issuance of License to Kanehili Community Association, Kapolei, O'ahu, Hawaii, TMK No. (1) 9-1-151:001**

#### **RECOMMENDED MOTION**

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion to approve the issuance of a benefit license to the Kanehili Community Association, a domestic non-profit corporation, hereinafter referred to as KCA, for the right and privilege to enter and use at certain Hawaiian Home Lands parcel, TMK No. (1) 9-1-151:001, for the continued construction development of a community park.

#### **MOTION**

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

### DISCUSSION

K. Albinio stated that KCA is a homestead community association that has taken responsibility for a park. The parcel has been designated by the Regional Plan and the Island Plan as a community use area. It needs to be clarified with Randy Akau, KCA's President if the park is to be used only for Kanehili or not.

Chair Aila stated that Randy Akau mentioned in past testimony that Kanehili is paying for maintaining the park, but it will be available for all the other homestead associations, including Kauluokahai.

Homelani Schaedel stated that Kanehili intends to enclose the park with fencing and that the residents will be able to access the park with some type of card key. The use of the park will be for Kanehili and their guests, based on the conversation that Randy Akau had with the halawai. In the Region, the understanding is Kanehili Park will be developed and maintained by the Kanehili Community Association, and it is for their residents and their guests.

Chair Aila asked if the Commission wanted to hear from Randy Akau before the motion is taken. Commissioner Teruya confirmed she would like Mr. Akau to be present at the next meeting. Chair Aila deferred the item to the December agenda, and Mr. Akau will be asked to attend.

DHHL Planner Gigi Cairel stated that a private park would limit the association's eligibility to apply for government federal or state funding sources. The shopping center gave a one time \$500,000 to build the park, but maintaining the facilities is costly.

Chair Aila asked to defer action pending confirmation of the disposition of the park by Kanehili Community Association President Randy Akau.

### MOTION/ACTION

Moved by Commissioner Namu'o, seconded by Commissioner Ka'apu, to defer Item F-2. Motion carried unanimously.

### 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**

**12:34 P.M.**

The Commission convened 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. Waiahole Agricultural Park Subdivision Leases
2. Royal Construction Settlement Update

### **EXECUTIVE SESSION OUT**

**1:35 P.M.**

## **ITEMS FOR INFORMATION/DISCUSSION**

### **REGULAR AGENDA**

#### **PLANNING OFFICE**

##### **ITEM G-4 For information Only- Draft Kealakehe- La'i 'Opua Regional Plan Update**

##### **RECOMMENDED MOTION**

None. For information only.

##### **DISCUSSION**

Acting Planning Program Manager Andrew Choy provided a status update of the Kealakehe-La'i 'Opua Regional Plan, which was adopted by the Hawaiian Homes Commission in 2009. In 2018, DHHL initiated the process to update the regional plan. A draft plan will be completed by August 2019. The area is located in North Kona with about 1200-acres in the region, and about 500 existing homestead lessees located in Village III and Village V of La'i 'Opua. The Department is currently in the process of building Village IV, Phase I, a rent to own project. The planning activities completed to date are:

- In October 2018, DHHL met with the Villages of La'i 'Opua's Association leaders to feedback and input on the planning process and schedules
- In January 2019, DHHL held its Beneficiary Consultation #1
- In February 2019, DHHL held its Beneficiary Consultation #2
- On August 7, 2019, DHHL will hold its Beneficiary Consultation #3

The vision statement that was drafted based on the community's input notes that education self-sufficiency and providing homestead opportunities are important for the region. Based on the community's vision and guiding principles, the five priority projects that were identified are:

1. The North Kona Water Source Development
2. Initiate commercial development of DHHL lands near Honokohau Harbor
3. Establish a DHHL Kona District Office
4. Develop a photovoltaic farm in O'oma
5. Provide homesteading opportunities for "gap group" beneficiaries

Commissioner Ka'apu stated that he has not seen the details on how Honokohau Harbor and O'oma will be utilized for generating funds for the community.

### **GENERAL AGENDA**

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

##### **ITEM J-1 Robin Danner- Chairman Sovereign Council of Hawaiian Homestead Associations**

R. Danner she stated that the work of the SCHHA is to support the implementation of the Hawaiian Homes Commission Act by the State of Hawai'i with oversight by the federal government for the benefit of beneficiaries and homestead associations. In 2017, the members of

the SCHHA called for the establishment of an SCHHA Ombudsman program to compile the interactive experiences of beneficiaries with DHHL and its staff. She stated it would be beneficial to know what questions are being asked, and the experiences they have in achieving their trust services and assets.

The report would be provided first to the Hawaiian Homes Commission, then the Director of DHHL, the Governor, and Legislature. The report will also be submitted to the U.S. Department of the Interior and the US Department of Justice to improve oversight of the State of Hawaii. The most important comment received during a trial run of the program was the non-responsiveness of DHHL staff for not returning phone calls, emails, and not responding to beneficiary letters. R. Danner stated that the SCHHA is formally requesting a repeal of the decision made last week on the issuance of 147-acres of Trust lands to a non-beneficiary company.

**ITEM J-2      Bo Kahui-La'i 'Opua 2020 and Villages of La'i 'Opua Homesteaders Association**

B. Kahui stated he has not received information regarding his request for letters to lessees who are delinquent on their association dues. He requested an updated list of lessees of La'i 'Opua and that the Department waive fees for the research of information.

B. Kahui reiterated previous requests for assistance with the North Kona Water Storage Development Program, a DHHL North Kona Office, and La'i 'Opua Village IV.

B. Kahui provided an update on their commercial kitchen and La'i 'Opua Phase II. Both grant obligations were fulfilled. He thanked Andrew Choy for the Planning Office's Draft Regional Plan. He stated that La'i 'Opua 2020 will be submitting an application for an ROE for 50-acres in Honokohau.

**ITEM J-3      Princeslehuani Kumaewakainakaleomomona – Waitlist**

Princeslehuani provided a brief overview of her lineage and reiterated that she has been waiting for more than 30 years for her homestead parcel. She asked Commissioners to make available more lots on Maui.

**ITEMS FOR DECISION MAKING**

**REGULAR AGENDA**

**PLANNING OFFICE**

**ITEM G-1      Acceptance of Beneficiary Consultation Report for four separate requests to utilize Hawaiian Home Lands on the island of Maui from the (1) Waiohuli Hawaiian Homesteaders Association TMK 2-2-2-028:152 (17 acres) and TMK 2-2-2-028:181 (por.) (183.28 acres); (2) Paupena Community Development Inc. TMK 2-2-2-034:026 (208.268 acres) and 2-2-2-002:014 (por.) (4,832.913 acres); (3) Keokea Homestead Farm Lots Association TMK 2-2-2-032:067 (47.857 acres) and 2-2-2-032:068 (23.865 acres); (4) Ka Ohana O Kahikinui TMK 2-1-9-001:007 (por.) (7,049.92 acres) and TMK 2-1-9-001:003 (por.) (15,620 acres);**

### RECOMMENDED MOTION/ACTION

Acting Planning Office Manager Andrew Choy presented the following:

Motion to accept the beneficiary consultation report as the official public record of beneficiary comments relative to the four separate requests for use of Hawaiian Home Lands by the Waiohuli Hawaiian Homesteaders Association, Pa'upena Community Development Inc., Keokea Homestead Farm Lots Association and Ka Ohana O Kahikinui.

### MOTION

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

### DISCUSSION

J. Cachola stated that Waiohuli Hawaiian Homesteaders Association's (WHHA) request is for 180-acres of Hawaiian Home lands to develop for different uses, which is called the Waiohuli Economic Development Opportunity Project (WEDO) project. The idea is to create employment opportunities and career development in the field, and services involved in land development. WHHA is requesting a 2-year exclusive right of entry for due diligence purposes.

The Pa'upena Community Development (PCD) Inc. is requesting a total of 4,125-acres of Hawaiian Home lands to do due diligence. PCD's idea is to train beneficiaries in ranching and farming techniques, housing development and economic development. PCD is requesting a 2-year right of entry to do due diligence. Their request is for 4,000-acres non-exclusive right of entry, and 123-acres of exclusive right of entry.

The Keokea Homestead Farm Lots Association's (KHFLA) request is for 70-acres of Hawaiian Home lands for a 60-year general lease. Their idea is for the long-term development of agriculture, commercial, educational and health care opportunities to benefit the upcountry beneficiaries. The and deposition would allow KHFLA to secure loans and grant funding from federal, state, private and public organizations.

Ka Ohana O Kahikinui's (KOOK) request for a 2-year right of entry to a total of 200-acres of Hawaiian Home lands for due diligence purposes. Their idea is to develop a community center for economic opportunities for the beneficiaries of Kahikinui. KOOK is involved in forest and ungulate management, and their idea is to utilize the Kahua cabin and its area to help as a resource in removing invasive species, do herd assessments, and monitoring of the ungulate population, and develop a cultural educational curriculum which includes identifying native species.

Commissioner Helm asked why KHFLA is asking for a 60-year lease. A. Choy stated that KHFLA has an existing right of entry permit from the Department and is seeking to convert it to a longer-term disposition so they can secure financing for their projects. It is difficult to secure financing on a month-to-month short-term disposition.

The other three requests are for right of entry permits to do due diligence. After the due diligence process is complete, they hope to go before the Commission with an affirmed proposal for a longer-term disposition.

Commissioner Helm asked if the PCD request could be monitored to see how they are progressing. A. Choy stated that if the Commission approves the disposition, reports regarding

their progress can be part of the terms of their lease. Commissioner Helm stated that he supports it, but it is a really big task and wants status updates on their progress.

Commissioner Namu`o confirmed that the motion is to approve and accept the beneficiary consultation report. A. Choy stated the motion is to accept the report as the official record of comments that were received.

AG C. Iha asked if there are rules that require beneficiary consultation. A. Choy stated his understanding is that beneficiary consultation is required when: (1) the plans are formulated, i.e. island plans, regional plans; (2) any long-term use of Hawaiian home lands for non-homesteading purposes; and (3) any significant policy that the Commission is going to consider in the future. The intent of a beneficiary consultation is to give the Commission a feel for what the beneficiaries are thinking related to a particular subject matter.

#### MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Ka`apu, to defer Item G-1 to consult with the AG. Motion carried unanimously.

### **ITEMS FOR INFORMATION/DISCUSSION**

#### **REGULAR AGENDA**

#### **PLANNING OFFICE**

##### **ITEM G-2 For information Only- Papakolea Regional Update**

#### RECOMMENDED MOTION/ACTION

None. For information only.

#### DISCUSSION

Planner Nancy McPherson is the Department's liaison to the Papakolea Community. She provided an update of the Papakolea Regional Plan. She stated that tonight's meeting is being held in the Kona moku of Papakolea. The land use for the Kona moku includes Moanalua, Kapalama, Moiliili, Papakolea, Kewalo, and Kalawahine Streamside. There is a total of 199-acres, which is 23% of the land on O`ahu. Since the adoption of the Island Plan, there has been no major land use amendments or updates to the region. Much of the lands for homestead development on O`ahu are undevelopable. Steep slopes, unstable soils, aging infrastructure, drainage and flooding issues, lack of on-street parking and accessibility issues are what plagues the Papakolea area. As the lessee population ages, it becomes more problematic.

Although a challenge, about 5-acres of land has been identified for development in the old Moreira Dairy site. Community homestead leaders stated that no additional lots should be created in that area because it is eroding down into Pauoa Valley.

Approximately 20-acres are used for revenue generation, and one of them is the former Bowl-O-Drome on Isenberg Street. Kapalama and Moanalua are being examined for transit-oriented development and redevelopment opportunities. The rising sea levels presents a challenge in Moanalua. Investments should not be going into the sea level rise exposure areas.

**ITEM G-3 For information Only -Native Hawaiian Development Program Plan  
Status Update, Including Grants**

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION

Grants Specialist Gigi Cairel stated that the Department of Hawaiian Home Lands (DHHL) is required to present an update of the Native Hawaiian Development Program Plan (NHDPP) to the Hawaiian Homes Commission every 2-years. DHHL implements the NHDPP in the through individual development and community development.

In 2019, over 100 individual beneficiaries were provided services via homebuyer education classes and lease cancellation and foreclosure prevention help. There are 41 active grants to 25 non-profit organizations. In 2019, the plan is to sponsor ag lessees to attend the Hawai'i Agriculture Leadership Conference, administer technical assistance to the existing 25 grantees, administer two new State Grants-In-Aid, and budget at least \$500,000 for new Trust grants. Out of the 41 grants, eight are completed, 18 are active, and 15 are pending. The current grants are:

- The State Grant-In-Aid
- Capacity Building Grants
- Agriculture Peer-to-Peer Grants
- Regional Plan Priority Project Grants
- Hawai'i Compliance Express

The NHDPP is funded directly by the Native Hawaiian Rehabilitation Fund (NHRF), which was created by the 1978 Constitutional Convention to finance various activities intended to exclusively benefit native Hawaiians. This includes, but is not limited to, educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are improved and perpetuated. The source of revenue for this fund is primarily derived from 30% of state receipts, derived from lands previously cultivated and cultivated as sugarcane lands and from water licenses.

The Hawaiian Homes Commission approved a budget of \$1,000,000 for the implementation of the NHDPP at its June 17-18, 2019 meeting.

**ITEM G-5 For information Only - Legislative Proposals for 2020**

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION

Legislative Analyst Lehua Kinilau-Cano stated staff reached out to beneficiaries and associations for legislative proposals for 2020.

Commissioner Teruya asked if DHHL reaches out to neighborhood boards for support for DHHL's legislative package. L. Kinilau-Cano said that staff does not go out to the communities, but DHHL did get the Nanakuli Board to support its budget in the past. Chair Aila stated that if Commissioners were interested in any legislative proposals they can let staff know.

## **WORKSHOP**

### **LAND DEVELOPMENT DIVISION**

#### **ITEM E-1 For Information Only- Papakolea Sewer Improvements Update**

##### RECOMMENDED MOTION/ACTION

None. For information only.

##### DISCUSSION

Acting Land Development Division Administrator (LDD) Stewart Matsunaga introduced Engineer Jeff Fujimoto and Project Manager Mitchell Kawamura to present the Papakolea Sewer Improvements project.

S. Matsunaga stated that the Papakolea area is about 200-acres, with 58-acres of homestead land. Legislative CIP funds are being used to repair and replace damaged and undersized pipes that are over 40 years old. He also said they want to upgrade the sewer improvements to meet the City and County's standard to be able turn over the sewer improvements to the City and County for them to maintain it. DHHL is currently responsible for the maintenance.

The Papakolea improvements are split into two phases, with the total cost of Phase I being \$13 million dollars, but with the design and construction management costs, it tops \$14 million dollars. The estimated cost for Phase II is \$45 million dollars. LDD intends to include it as part of the Legislative CIP package for the upcoming session. S. Matsunaga provided slides of the work done.

Commissioner Ka'apu asked at what point does DHHL turn the sewer over to the City and County, and what discussions have taken place with the City and County to ensure that they are going to take it over.

S. Matsunaga stated that in March 2019, the Commission was briefed on Act 227, which the law that allows DHHL to sell the sewer infrastructure to the City and County subject to the sewer line meeting the City and County's standards.

#### **ITEM E-2 For Information Only - Papakolea Unencumbered Lot Inventory**

##### RECOMMENDED MOTION/ACTION

None. For information only.

##### DISCUSSION

Acting Land Development Division Administrator Stewart Matsunaga stated that one of the things that came up at the inquisition at the Legislature was the DHHL inventory and all the lots that people seem to see. LDD did PowerPoint titled the Papakolea-Kewalo-Kalawahine Unencumbered Lot Inventory. LDD intends to show the communities what is actually out there in

terms of lots that are available, lots in transition, and lots that have environmental or development issues.

There are a total of 404 lots in which nine lots are unencumbered. There are four lots being assessed, four that are being prepped for award, and one lot being offered. The Papakolea Community Association requested DHHL investigate 30 lots. The E-Team verified that two lots were occupied, two lots are in the cancellation process, four lots in the successorship process, six lots are unencumbered, and 16 lots are in a lease violation process. Chair Aila stated that Dean Oshiro confirmed that the most common reason for lease violation is non-occupancy. The Department is trying to determine where these lessees are, why they are not occupying their lots, and then go through the contested case process.

**RECESS**

**5:13 P.M.**

## **HAWAIIAN HOMES COMMISSION**

Minutes of July 16, 2019  
Hale Pono'i, Kapolei, O'ahu, Hawai'i

**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  
Pauline N. Namu'o, O'ahu Commissioner  
Dennis L. Neves, Kauai Commissioner  
Patricia L. Teruya, O'ahu Commissioner

**EXCUSED** Vacant, O'ahu Commissioner  
Vacant, East Hawai'i Commissioner

**COUNSEL** Craig Iha, Deputy Attorney General

**STAFF** Paula Aila, ICRO Manager  
Kahana Albinio, Acting Land Management Division Administrator  
Dean Oshiro, Acting Administrator, Homestead Services Division  
Andrew Choy, Acting Manager, Planning Office  
Stewart Matsunaga, 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  
Cedric Duarte, ICRO  
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 9:05 a.m.  
Seven (7) members were present at roll call. The East Hawai'i and O'ahu seats were vacant.

#### **APPROVAL OF AGENDA**

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

Moved by Commissioner Ka'apu, seconded by Commissioner Awo, to approve the Agenda.  
Motion carried unanimously.

#### **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

##### **ITEM A-1 Bobby Hall Re: Item G-1**

B. Hall testified in support of Item G-1. He is a Consultant and Project Manager for the Waiohuli Hawaiian Homesteaders Association (WHHA). He provided an overview of WHHA accomplishments, including a certified commercial kitchen, Hawaiian Halau, and an outdoor

amphitheater. These improvements were made with requests to the State Legislature and from Waiohuli's relationships. He emphasized the community strength of working together.

Commissioner Awo stated that Item G-1 was deferred. He asked Chair Aila if Item G-1 can be bifurcated. Chair Aila stated it is possible.

#### **ITEM A-2      Bo Kahui Re: Item G-4**

B. Kahui stated that he would submit a proposed legislative action request by L2020 for the water development funding which is around \$12-\$14 million. He asked that the Department seek a bill or put in its budget a request for CIP funding. He stated that the Department does not have water, but La'i `Opua can provide water with well development.

Chair Aila stated in the last two legislative sessions the Department received was \$20 million for capital improvement projects. B. Kahui then said that the Commission has an alternative to go and take this action to the water committee at the State level. Chair Aila stated it is the same pot whether the Department asks for it or La'i `Opua asks for it. It is the Ways and Means in the Senate and the House Finance Committee. Each community is asking for something similar to L2020's ask.

Commissioner Ka`apu asked how many water credits would be generated from the \$14 million. B. Kahui said 2400 units total. Commissioner Ka`apu asked where the remaining 1600 units would go. B. Kahui stated that the City and County of Hawai'i have a requirement in the policy that they take 800 units (1/3) to manage the property and manage and operate the system after it is built. The other 800 units are for La'i `Opua 2020 and the owner.

Commissioner Ka`apu stated if the Department puts the entire amount of \$14 million, why wouldn't the Department get all of the water credits. B. Kahui stated La'i `Opua brought this initiative to the Department. Commissioner Ka`apu stated if the Department puts in the money, it should get all of the water credits.

#### **ITEM A-3      Sharon Freitas Re: Kalaeloa Solar Project**

S. Freitas is on the DHHL waitlist. She stated that she disagreed with the 147-acres. The Canadian company was awarded more than they should have.

### **ITEMS FOR INFORMATION/DISCUSSION**

#### **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 FHA Construction Loans

##### **DISCUSSION**

None.

## **ITEMS FOR DECISION MAKING (continued)**

### **REGULAR AGENDA**

#### **PLANNING OFFICE**

- ITEM G-1**      **Acceptance of Beneficiary Consultation Report for four separate requests to utilize Hawaiian Home Lands on the island of Maui from the (1) Waiohuli Hawaiian Homesteaders Association TMK 2-2-2-028:152 (17 acres) and TMK 2-2-2-028:181 (por.) (183.28 acres); (2) Paupena Community Development Inc. TMK 2-2-2-034:026 (208.268 acres) and 2-2-2-002:014 (por.) (4,832.913 acres); (3) Keokea Homestead Farm Lots Association TMK 2-2-2-032:067 (47.857 acres) and 2-2-2-032:068 (23.865 acres); (4) Ka Ohana O Kahikinui TMK 2-1-9-001:007 (por.) (7,049.92 acres) and TMK 2-1-9-001:003 (por.) (15,620 acres);**

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

Acting Planning Program Manager Andrew Choy and Planner Julie Cachola presented the following:

Motion to accept the beneficiary consultation report as the official public record of beneficiary comments relative to the four separate requests for use of Hawaiian Home Lands by the Waiohuli Hawaiian Homesteaders Association, Pa'upena Community Development Inc., Keokea Homestead Farm Lots Association and Ka Ohana O Kahikinui.

#### **DISCUSSION**

Commissioner Ka'apu asked what happens if the Commission does not accept the Beneficiary Consultation Report. DAG Kanakaole asked if any of the dispositions would trigger Chapter 343 review. A. Choy said all of the projects would trigger a Chapter 343 review because all are on State lands. How DHHL complies with Chapter 343 is dependent upon the intensity and type of use.

DAG Kanakaole stated that under the Planning Rules, the Beneficiary Consultation would be required because of Chapter 343.

Commissioner Awo asked A. Choy and J. Cachola if they believed Pa'upena's ROE request was attainable. His questioning was based on Pa'upena's plan to build 1200 homes at \$225,000.00 each, construct a world-class sports center, kupuna housing, golf course, toll road, etc., all within five years. A. Choy and J. Cachola concurred that it was probably unachievable.

Commissioner Awo recommended that Pa'upena start with a smaller, more manageable parcel to ensure a successful project and reduce the possibility of failure.

Commissioner Ka'apu said the motion is that the Commission accepts the Beneficiary Consultation Report concerning at least one organization whose request looks like it may not be achievable. If the Commission does not accept the reports do they go back to the drawing board? What happens if this is perma process and the report is step number one of many steps.

DAG Kanakaole said acceptance of the report is a required step in the planning rules. If the Commission does not accept the report, it would not be added to the record.

Commissioner Ka`apu asked what can be done to make sure that the requests being presented to the Commission are reasonable and achievable. As it is now, anyone can fill out an application. He asked if the Commission can provide input before projects go to beneficiary consultation.

DAG Kanakaole stated the non-acceptance of the proposal is not a denial of whatever idea is being presented in the proposal. It would communicate to the Department and the beneficiary group that the Commission has concerns.

Commissioner Awo asked to separate the motion. DAG Kanakaole stated that there could be a motion to divide the question, and the question can be divided into two parts.

Chair Aila stated that acceptance of the Beneficiary Consultation does not imply that the Commission is going to take any action; it just means that the Commission has considered the input of beneficiaries. The Commission could express concerns about one or two of the projects and direct staff to get clarification, or to raise issues with the community that is supporting that project, and still go forward on the land disposition for the others.

The first step is the right of entry for due diligence. The Commission could decide that it would like Pa`upena Community Development, Inc. (Pa`upena) to focus on something less complex.

A. Choy clarified that this as the idea stage. Once the beneficiaries have access to the land, they will have a better idea of what can and cannot be accomplished. Chair Aila stated that from the Commission's standpoint there is always liability and risk to the trust.

#### MOTION TO AMEND/ACTION

Moved by Commissioner Helm, seconded by Commissioner Ka`apu, to amend the motion to separate it into two (2) parts.

(1) to accept the Beneficiary Consultation Reports for three requests to utilize Hawaiian Home Lands on the island of Maui from the (1) Waiohuli Hawaiian Homesteaders Association TMK 2-2-2-028:152 (17 acres) and TMK 2-2-2-028:181 (por.) (183.28 acres); (3) Keokea Homestead Farm Lots Association TMK 2-2-2-032:067 (47.857 acres) and 2-2-2-032:068 (23.865 acres); (4) Ka Ohana O Kahikinui TMK 2-1-9-001:007 (por.) (7,049.92 acres) and TMK 2-1-9-001:003 (por.) (15,620 acres);

(2) to not accept the Beneficiary Consultation Report to utilize Hawaiian Home Lands on the island of Maui from the Paupena Community Development Inc. TMK 2-2-2-034:026 (208.268 acres) and 2-2-2-002:014 (por.) (4,832.913 acres)

Motion carried unanimously.

#### MAIN MOTION AS AMENDED #1 /ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Neves, to accept the Beneficiary Consultation Reports for three requests to utilize Hawaiian Home Lands on the island of Maui from the (1) Waiohuli Hawaiian Homesteaders Association TMK 2-2-2-028:152 (17 acres) and TMK 2-2-2-028:181 (por.) (183.28 acres); (3) Keokea Homestead Farm Lots Association TMK 2-2-2-032:067 (47.857 acres) and 2-2-2-032:068 (23.865 acres); (4) Ka Ohana O Kahikinui TMK 2-1-9-001:007 (por.) (7,049.92 acres) and TMK 2-1-9-001:003 (por.) (15,620 acres).

Motion carried unanimously.

#### MAIN MOTION AS AMENDED #2/ACTION

Moved by Commissioner Helm, seconded by Commissioner Ka'apu, to not accept the Beneficiary Consultation Report to utilize Hawaiian Home Lands on the island of Maui from the Paupena Community Development Inc. TMK 2-2-2-034:026 (208.268 acres) and 2-2-2-002:014 (por.) (4,832.913 acres)  
Motion carried unanimously.

## **ANNOUNCEMENTS AND ADJOURNMENT**

### **NEXT MEETING**

The next meeting will be held on August 19 & 20, 2019, in Lahaina, Maui, Hawai'i.

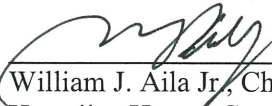
### **MOTION/ACTION**

Moved by Commissioner Ka'apu, seconded by Commissioner Helm, to adjourn the meeting.  
Motion carried unanimously

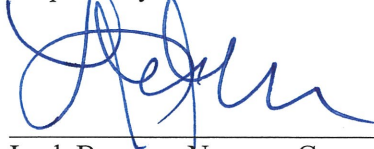
### **ADJOURNMENT**

**10:45 A.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:

October 22, 2019

  
\_\_\_\_\_  
William J. Aila Jr., Chairman