HAWAIIAN HOMES COMMISSION

Minutes of October 15, 2018 Meeting held at the Paukūkalo Community Center, Maui, Hawaiʻi

Pursuant to proper call, the 704th Regular Meeting of the Hawaiian Homes Commission was held at the Paukūkalo Community Center, 657 Kaumuali'i Street, Wailuku, HI 96793, beginning at 9:30 a.m.

PRESENTJobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka'i Commissioner
Michael P. Kahikina, O'ahu Commissioner
Pauline N. Namu'o, O'ahu Commissioner
Wren Wescoatt, O'ahu Commissioner

- **EXCUSED** Wallace A. Ishibashi, East Hawai`i Commissioner David B. Ka'apu, West Hawai'i Commissioner Vacant, Kaua'i Commissioner
- **<u>COUNSEL</u>** Craig Iha, Deputy Attorney General
- STAFFWilliam Aila Jr., Deputy to the Chairman
Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Niniau Simmons, NAHASDA Manager
Norman Sakamoto, Acting Land Development Division Administrator
Stewart Matsunaga, Land Agent
Kaleo Manuel, Acting Planning Program Manager
Andrew Choy, Planner
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Julie Cachola, Planner
Nancy McPherson, Planner

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:01 a.m. Five (5) members were present at roll call. Commissioners Ka'apu and Ishibashi were excused. Commissioner Helm's flight was delayed. The Kaua'i Commission seat was vacant.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

Chair Masagatani noted approval of the minutes for February 2015 would be deferred to the Tuesday agenda.

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Kahikina, to approve the Minutes of February 2018. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Blossom Feiteira Re: Item D-15, F-1, F-3, G-3, and G-6

B. Feiteira testified on behalf of the Association of Hawaiians for Homestead Lands, Maui Mokupuni Council of Hawaiian Homes Association, and Ka 'Ohana Kahikinui. For item D-15 -Of 77 leases issued, only 15 families are on the land. There are 37 available lots, and DHHL should be initiating letters and awards quickly. The Maui Mokupuni Council supports the Memorandum of Agreement in for Item F-3. DHHL should work towards giving long-term ROE licenses to Lei Ali'i, Waiehu Kou III, and Kēōkea. The Associations have submitted their support for the concept of establishing a K-12 Hawaiian Language Immersion School. As part of the Master Plan, the Associations dedicated 33-acres for educational purposes. The Associations are willing to work with Kula Kaiapuni to resolve questions and concerns that the community may have. The Association is in support of the Honokowai Water System Improvements.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

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-3	Ratification of Loan Approvals (see exhibit)
ITEM D-4	Approval of Consent to Mortgage (see exhibit)
ITEM D-5	Approval of Refinance of Loans (see exhibit)
ITEM D-6	Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
ITEM D-7	Approval of Streamline Refinance of Loans (see exhibit)
ITEM D-8	Approval of Homestead Application / Cancellations (see exhibit)
ITEM D-9	Approval of Designation of Successors to Leasehold Interest and Designation of
	Persons to Receive the Net Proceeds (see exhibit)
ITEM D-10	Approval of Assignment to Leasehold Interest (see exhibit)
ITEM D-12	Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for
	Certain Lessees (see exhibit)
ITEM D-13	Request to Schedule Contested Case Hearing – Authorization to Proceed to
	Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated
	Successor(s) (see exhibit)

ITEM D-15	Request to Schedule a Contested Case Hearing – Failure to Build and Occupy,
	JANA P. WAIALAE, Lease No. 6816, Lot No. 3, Waiakea, Hawai'i
ITEM D-16	Cancellation of Lease – ROBERT M. HA , Residential Lease No. 5110, Lot No.
	9A & 9B, Pana'ewa, Hawaii
ITEM D-17	Commission Designation of Successor – MYRNA M. KAUPU, Agricultural
	Lease No. 3677, Lot No. 44A, Ho'olehua, Molokai
ITEM D-18	Approval of Assignment to Leasehold Interest - STACY JEAN
	ANELAONALANI JOHNSON, Lease No 2073, Lot Nos. 33H1 & 33H2,
	Ho'olehua, Molokai
ITEM D-20	Request to Schedule Contested Case Hearing – Lease Violation – GEORGE F.
	RAPOZO, Residential Lease No. 4342, Lot No. 4, Anahola, Kauai, Hawai`i

MOTION

Moved by Commissioner Awo, seconded by Commissioner Namu`o, to approve the motions as stated in the submittals.

DISCUSSION

Commissioner Wescoatt stated that the Commission has very few contested case hearings for failure to build and occupy. It is important that if people are not occupying, the Department should decide is it important and worth enforcing to move these lots to folks on the waitlist.

Chair Masagatani stated that the Land Division has been working on cataloging where all the standing inventory is, the vacant lots, so we can begin to assess. In some cases, the land is leased, requiring a contested case, and in some cases, the land is vacant. Norman's staff has been working on this.

ACTION

Motion carried unanimously.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Acceptance of the 2018 Native Hawaiian Housing Block Grant Annual Performance Report

RECOMMENDED MOTION/ACTION

NAHASDA Manager N. Simmons presented the following: Motion to accept the 2018 Native Hawaiian Housing Block Grant Annual Performance Report.

MOTION

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

DISCUSSION

The draft was submitted last month in Hilo, and the changes that occurred since then is the completion of the self-monitoring report which is found towards the end on page 50. For public availability, we are still in public comment. To date, we have not received any public comment, and that will close on October 20, 2018.

Chair Masagatani noted that the item would be deferred for decision making on the Tuesday agenda.

ITEM C-2 Acceptance of Amended Beneficiary Consultation Report on Department of Hawaiian Homelands Proposed Amendments to Title 10, Hawaii Administrative Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing; and Supplemental Dwelling Units

RECOMMENDED MOTION/ACTION

Administrative Rules Officer H. Lindsey presented the following: Motion to Accept the Amended Beneficiary Consultation Report on proposed amendments to Title 10 of Hawai`i Administrative Rules for DCCRs Multi-Family Rentals and Kupuna Housing and Supplemental Dwelling Units.

The beneficiary consultation report was presented last month and accepted last month at the regular Commission meeting in Hilo. However, it was discovered that a portion of the recorded comments relating to multi-family housing and kupuna housing was not accurately printed in the report that was presented.

H. Lindsey asked for an amendment, and the amendment is to the multi-family rentals and kupuna housing section of Exhibit F, starting on page 17, beginning on line 405 to the end 457. All those comments were not accurately printed in the report presented last month. The complete amended beneficiary consultation report was attached to the current submittal.

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Namu`o, to approve the motion as stated in the submittal. Motion carried unanimously.

ITEMS FOR INFORMATION

WORKSHOPS

PLANNING OFFICE

ITEM G-4 Maui Regional Plan Priority Project Updates

RECOMMENDATION

None. For information only. Acting Planning Program Manager, K. Manuel, and Planner B. Esmeralda presented the following:

DISCUSSION

K. Manuel noted that the presentation is an updated provided monthly related to the Maui Regional Plans the projects in those plans as well as updated to the Maui Island Plan and its implementation.

B. Esmeralda reported on the Maui Island Plan and pointed out the number of land use designations by acres. Priorities for homesteading tracts focus first on Kēōkea, Waiohuli, and the 688 awards, making this homesteading area the largest on Maui. The Maui Island Plan (MIP) for West Maui's priority was the Honokowai tract for residential opportunities, but Lei Ali'i was

built, making that the residential focus for West Maui. Master Planning must start in 2018 on the Honokowai tract, and the vision is focused on it being a subsistence agricultural community. We are working on acquiring water and other infrastructure improvements for Lei Ali'i I-B and Honokowai. The Regional Plan on the Lei Ali'i Parkway and the Honoapi'ilani Highway intersection improvements, there is a Legislative Appropriation to complete the realignment and improvements. A DEA is being prepared for a proposed water system improvement in Honokowai to bring the well online so water can be provided to Lei Ali'i and Honokowai. There is a proposed intra-governmental agreement with the County Department of Water Supply to provide HHL with 200 thousand gallons per day of potable water for West Maui. For Kēōkea Waiohuli, the priority is to develop water sources and infrastructure for ag and residential lots. For the Paukūkalo Waiehu Kou Regional Plan, focus is to address congestion and transportation needs. Resource Management, Kia Hawai`i is assisting with ungulate removal and has reached out to the homestead communities to host Harvest Days.

ITEM G-5 Maui Water Projects and Issues

RECOMMENDATION

None. For information only.

Acting Planning Program Manager K. Manuel and Water Resource Specialist H. Ayau presented the following:

DISCUSSION

K. Manuel stated the presentation is related to Maui water projects and issues such as what are the current water issues and their projects and the status of those projects.

H. Ayau briefed the Commissioners on the submittal report on the Kēōkea Waiohuli, potable water demand. The potable water is provided through a water credits agreement with the Maui County Department of Water Supply for 500,00 gallons per day for homestead use, in exchange for DHHLs improvement to the water system. Two existing developments apportion these water credits leaving a balance of 2.81 mgd for future use. However, the total future demand is .8097 mgd. A supplemental water source and a new water delivery system will be needed for future development. For non-potable use, the future demand is .578 mgd. Kēōkea Waiōhuli developments receive water from the East Maui Irrigation (EMI) diversions via water credit agreements with Maui County DWS. However, EMI diversions also affect the Ha`i Puena, Waikamoi, and Honomanu Streams, and the streams are subject to a CWRM contested case proceedings concerning the EMI system diversions concluded recently. CWRM did not fully restore the streams but partially restored the stream water flow.

RECESS

11:30 a.m.

RECONVENED

11:40 a.m.

ITEMS FOR DECISION MAKING

HOMESTEAD SERVICES DIVISION

ITEM D-14 Approval of Assignment and Amendment to Leasehold Interest to the Pastoral Portion of Lease No. 2905 - ETHEL K.C. ANDRADE, Lot No. 11, Pu'ukapu, Hawai`i

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator D. Oshiro presented the following: Motion to approve the Assignment and amendment to leasehold interest to the pastoral portion of Lease No. 2905 – Ethel K.C. Andrade, Lot No. 11, Pu'ukapu, Hawai`i

DISCUSSION

D. Oshiro stated the Department would not submit a recommendation of the assignment of a lease until the blood quantum portion of all individuals has been cleared. Knowing the situation of this lessee, the Department asked for an exception in bringing in this submittal.

Chair Masagatani asked Commission counsel if the Commission were to approve and all the documentation were to be executed, except for the native Hawaiian qualification, and if the lessee should pass away, would the Department have enough authorization to proceed with the intent of the lessee or her Power of Attorney with this action?

DAG Iha stated the motion approves the transfer, but because the staff has not verified blood quantum yet, it's kind of like a pre-approval, so once they do clear the blood quantum, they don't have to bring it back. It will save time because the Commission meets only once a month. Commissioner Wescoatt said, if for some reason they cannot determine blood quantum, then the Commission's approval is just null. DAG Iha agreed.

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Namu`o, to approve the motion as stated in the submittal._Motion carried unanimously.

ITEM D-19 Approval of Assignment and Amendment to Leasehold Interest to the Residential Portion of Lease No. 2905 - ETHEL K.C. ANDRADE, Lot No. 38, Kuhio Village, Waimea, Hawai`i

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator D. Oshiro presented the following: Motion that the Commission approves the transfer of the lease of the residence under the condition that the transferee meets the blood quantum requirement pursuant to the Act.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Approval of Memorandum of Agreement Regarding Licenses and Issuance of License as Easement to County of Maui, Department of Water Supply, Honokowai, Maui, TMK (2)4-4-002:015(por.) &: 018(por)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator K. Albinio presented the following: Motion to approve the Memorandum of Agreement regarding licenses and issuance of license and easement to the County of Maui, Department of Water Supply, Honokowai, Maui TMK (2)4-4-002:015(por.) &: 018(por), subject to the conditions listed in the submittal. K. Albinio continued, there is a two-part motion. Part A is the memorandum of agreement for licenses to be executed by and between the Department of Hawaiian Home Lands and the County of Maui, Department of Water Supply, there some conditions there; and Part B is that the Hawaiian Homes Commission approve the issuance of a perpetual exclusive and non-exclusive license for easement to County of Maui, Department of Water Supply for purposes of roadway access maintaining and operating existing Mahinahina Water Treatment Facility and improvements related to system development for land area consisting of parcels mentioned earlier.

MOTION

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

DISCUSSION

S. Matsunaga introduced Gladys Baisa, Director of Department of Water Supply (DOWS), and her staff. Presented to the Commission is the bottom line of 200,000 gallons of wet water per day in exchange for the licenses. There are two parts to that license, an exclusive license, and a non-exclusive license. We will continue to work with DOWS on the details. The bottom line is 200,000 gallons of wet water per day to be able to further the homestead developments in Lei Ali'i and Honokowai.

Director of Department of Water Supply, Gladys Baisa, introduced her team. Deputy Corporation Counsel Jen Awana, Chief Program Engineering Manager Wendy Tomoto, and Engineer Tom Aquat. She articulated that they have the same goal to get the people in their homes. She expressed her gratitude.

S. Matsunaga stated the current Lei Ali'i 1A, and the 104 homes there get their water from the County system which starts at Honokowai.

Deputy Corporation Counsel, J. Awana, stated, she reviewed the recommended motion and action and the materials and wanted to make slight changes before the vote is taken.

MOTION TO AMEND/ACTION

Chair Masagatani asked for the following amendments: Item A-1, the recommended amendment is to eliminate the word "for cash payment."

Moved by Commissioner Awo, seconded by Commissioner Wescoatt, to approve the recommended amendment. Motion carried unanimously.

<u>ACTION ON AMENDED MOTION</u> Motion carried unanimously.

PLANNING OFFICE

ITEM G-2 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Proposed Ho'olehua Veterans and Homestead Residents' Community Center, Ho'olehua, Kona, Molokai, TMK (2)5-2-015:053

RECOMMENDED MOTION/ACTION

Planner Nancy McPherson, Engineer James Richardson, and Acting Planning Program Manager Kaleo Manuel presented the following:

Motion that the Hawaiian Homes Commission declares a Finding of No Significant Impact based on the information provided in the FEA for the Ho`olehua Veterans and Homestead Residents Community Center Project.

MOTION

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

DISCUSSION

N. McPherson stated that 1.07 acres of land within a 5.6-acre parcel in Ho`olehua is for a facility that will house the veterans. There were CIP funds to finish the existing facility in Kaunakakai; however, those funds could not be used because additional monies were found to specifically build a new center located geographically in Ho`olehua. The funding will expire unless it is encumbered for construction by June 30, 2020. Comments were received by the State Waste Water Branch, DOH, OIP, and MCPD all of which are documented in the table. N. McPherson asked to make an amendment to #8, due to one of the sentences being truncated. The language should read: the project is intended to complement the existing Lanikeha Center by providing additional community facilities and programs. As such, the project does not anticipate a significant adverse cumulative impact and does not involve a commitment to larger actions.

<u>ACTION</u>

Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-2 Approval of a 1-year Lease Extension, General Lease No. 283, Hawaii Public Housing Authority - Ulu Ke Kukui Transitional Housing Program, Waianae, Oahu, TMK (1)8-7-010:030 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator K. Albinio presented the following: Motion to approve a 1-year Lease Extension to General Lease No. 283, Hawai`i Public Housing Authority – Ulu Ke Kukui Transitional Housing Program located in Waianae, O`ahu, TMK (1)8-7-010:030 (por.)

MOTION

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

DISCUSSION

K. Albinio stated the approval will allow the Department to promulgate administrative rules related to multifamily housing and solicit for a developer or a new operator subject to the conditions listed on the submittal.

N. Sakamoto stated the term of the existing lease ends November 24, 2018, and this proposal extends it for 1-year, subject to 6-months extension subsequently. Over the past year, there were interactions with the community with ideas of what to do; at this point there are two things that must be done to allow DHHL to successfully implement a project. One is completing the rules on multifamily rentals. Two, DHHL has not issued an RFP for proposals; there have been some in

the community with suggestions to modify the project. We are asking for the year; however, Department of Human Service has not given an extension or a formal clear out. There is a transitional period to transition their clients out. He stated the RFP could be written to continue to rent or convert to homestead. This conversation has been going on in the community and internally. At this moment, the decision has not been made. Fix them up, continue to rent, or fix them up, prepare them for homestead.

There are 80 units. One proposal was to convert the studios and 2-bedrooms into 3-bedrooms, ending up with 40, 3-bedrooms.

The question remains whether the Department was going to homestead or rent. Instead of guessing, is there a demand for ownership in Maili. What is the price point if it's rentals and what would the people pay for it if it was a condo? If the Department was able to move expeditiously find a developer that can take site control in 8 months, to allow the property to transition sooner than 1-year. Chair stated that she would ask for the Commission's discretion to allow the Chair to be able to negotiate that, and in the event the Department is able to get everything in place sooner, that we allow for that transition to happen sooner; to have that as one of the clauses in the lease extension.

ACTION

Chair asked for a roll call vote on the motion.

Moved by Commissioner Namu'o to approve a 1-year Lease Extension to General Lease
No. 283, Hawai`i Public Housing Authority – Ulu Ke Kukui Transitional Housing Program
located in Waianae, O`ahu, TMK (1)8-7-010:030 (por.)

Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA	EXCUSED
Commissioner Awo		Х	Х			
Commissioner Helm						X
Commissioner Ishibashi						Х
Commissioner Ka'apu						Х
Commissioner Kahikina			X w/Res			
Commissioner Namuo	Х		Х			
Commissioner Wescoatt			Х			
Chair Masagatani			Х			
TOTAL VOTE COUNT			5			3
MOTION: [] UNANIMOUS [X]	PASS	SED	[] DEFER	RED []FAII	LED	

PLANNING OFFICE

ITEM G-1 Approval of 2019 Legislative Proposal

RECOMMENDED MOTION/ACTION

Legislative Analyst Lehua Kinilau-Cano presented the following: Motion that the Hawaiian Homes Commission approve the Legislative Proposal to be recommended for inclusion in the Administrations Legislative Package for the 2019 Regular Session.

MOTION

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

DISCUSSION

L. Kinilau-Cano stated that the draft proposal was reviewed back in August, and the Affordable Housing Credits are set to expire July 1, 2019. DHHL will ask to repeal that sunset and to have those Affordable Housing Credits in place. The Department submitted similar Legislation in 2015 and got a 4-year extension that brought the Department to 2019. It has already been submitted to the Governor, the Attorney General and the Department of Budget and Finance. There were some technical amendments back from the Department of the Attorney General, and staff is making the changes and continuing to work with the Governor and his Administration.

ACTION

Motion carried unanimously.

MOTION/ACTION

Chair Masagatani asked for a motion to go into executive session. 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

12:35 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. Contested case hearing procedures
- 2. Request for proposals for land acquisition and development on Maui

EXECUTIVE SESSION OUT

2:00 p.m.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Chair Masagatani recalled the Consent Agenda. Noting the recusal of Commissioner Kahikina, Chair Masagatani asked for a motion to approve the consent agenda.

- **ITEM D-3** Ratification of Loan Approvals (see exhibit)
- **ITEM D-4** Approval of Consent to Mortgage (see exhibit)
- **ITEM D-5** Approval of Refinance of Loans (see exhibit)
- **ITEM D-6** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- **ITEM D-7** Approval of Streamline Refinance of Loans (see exhibit)

ITEM D-8	Approval of Homestead Application / Cancellations (see exhibit)
ITEM D-9	Approval of Designation of Successors to Leasehold Interest and Designation of
	Persons to Receive the Net Proceeds (see exhibit)
ITEM D-10	Approval of Assignment to Leasehold Interest (see exhibit)
ITEM D-12	Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for
	Certain Lessees (see exhibit)
ITEM D-13	Request to Schedule Contested Case Hearing – Authorization to Proceed to
	Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated
	Successor(s) (see exhibit)
ITEM D-15	Request to Schedule a Contested Case Hearing – Failure to Build and Occupy,
	JANA P. WAIALAE, Lease No. 6816, Lot No. 3, Waiakea, Hawai'i
ITEM D-16	Cancellation of Lease – ROBERT M. HA , Residential Lease No. 5110, Lot No.
	9A & 9B, Pana'ewa, Hawaii
ITEM D-17	Commission Designation of Successor – MYRNA M. KAUPU, Agricultural
	Lease No. 3677, Lot No. 44A, Ho'olehua, Molokai
ITEM D-18	Approval of Assignment to Leasehold Interest - STACY JEAN
	ANELAONALANI JOHNSON, Lease No 2073, Lot Nos. 33H1 & 33H2,
	Hoʻolehua, Molokai
ITEM D-20	Request to Schedule Contested Case Hearing – Lease Violation – GEORGE F.
	RAPOZO, Residential Lease No. 4342, Lot No. 4, Anahola, Kauai, Hawai`i

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-3 Approval of Annual Renewal of Right of Entry Permits, Maui Island (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator K. Albinio presented the following: Motion to approve the annual renewal of the right of entry permits on the island of Maui.

MOTION

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

DISCUSSION

K. Albinio stated, the three right of entries permits on the list are homestead organizations. There are applications for long-term dispositions, and those applications are with the Planning Office for review. There are criteria that must be fulfilled before being considered for a longerterm license or general lease.

<u>ACTION</u>

Motion carried unanimously.

ITEMS FOR INFORMATION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Daphne Lee/Stephen Cramer – Paukūkalo Hawaiian Homestead Association

S. Cramer asked for assistance to get their park back. The Association wants to be responsible for the park, but they don't have the money. They also want the armory and the hall they are in. There are non-homesteaders that use the park, and the Association wants to know who regulates users.

Chair Masagatani stated one option is the license; the land disposition is granted to the homestead association; however, all the kuleana comes with it, and the Association is responsible. The other option is, it stays in DHHL's inventory, but the decisions regarding the use, the hours, the who can use it is done with an Advisory Group, which is an Advisory Council that helps the Department in setting the management discussions and the rules. At this time, the Paukūkalo Association does not have any rules in place, and it has expressed decisions about management without taking on the liability and the management costs.

ITEM J-2 Chad Newman - Ka 'Ohana o Kahikinui

A. Kaiaokamalie, President of Ka 'Ohana O Kahikinui testified that the Hawai'i Community Foundation gave them the grant to start the Community Harvest Program, which allows the group to remove animals for reforestation. They want to secure funding for as many events as possible.

A Kaiaokamalie stated that they are trying for the long-term success of the project by determining how much of those animals are for food and how much of those animals are used to fund the removal of those animals. Removing all the animals when there are lots of them is the easy part, it's when there are fewer animals in the end, it gets more expensive per animal to do so. More animals are used for food than used for sale to cover the cost of the project.

ITEM J-3 Collette Thomas and Gustavo Gonzalez – Kula

G. Gonzalez represented C. Thomas and her family, who is involved with the transfer of a lease that was cancelled under fraudulent pretenses. His client took out a \$10,000 loan to pay off more than 50% of the delinquent taxes, which were never paid by L. Lopes. L. Lopez canceled the lease transfer a week and a half before approval of the transfer. Lopes has taken advantage of C. Thomas defrauding them of more than \$10,000 and now seeks them removed from the home they have lived in for almost half a year. G. Gonzalez seeks the Commission's guidance as to the next step to be taken.

Chair Masagatani stated that this is a matter between two private parties. The Department will only get involved in the Courts to decide it.

ITEM J-4 Kili Namau'u – Na Leo Kako'o O Maui

K. Namau'u, Director of Pūnana Leo o Maui, requested the establishment of a dedicated immersion school at the Pulehunui site.

Chair Masagatani stated there are no homesteads there now, and it is a heavy industrial and business area. K. Namau'u said the beneficiaries testified that they would like to see an educational center on Pulehunui property. They have 33 acres devoted to education in their plan for Pulehunui. They are here today to address the idea of having an educational campus on the 33 acres.

RECESS 3:42 p.m.

RECONVENE 3:58 p.m.

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ITEM J-5 Blossom Feiteira - Association of Hawaiians for Homestead Lands

B. Feiteira spoke about the vacant lands in Kahikinui and encouraged the Commission to award the lots quickly. She encouraged the Commission to continue the ROEs for the renewable energy companies. There are a lot of data available to the companies to do due diligence if they can continue the ROE. The Association supports the companies to ensure that revenues will be available for future beneficiaries. Iwi kupuna was uncovered in Honokowai and determined to be predated. The only places available for re-internment are the County graveyard or Hawaiian homeland. A request was made to the Commission for applicants on the Westside to set aside 3-acres of land adjacent to the wastewater facilities for the iwi kupuna.

ITEM J-6 Kekoa Enomoto – Pa'upena Community Development Corporation (PCDC)

K. Enomoto and Norman Abihai testified about Pa'upena's land use request for a 2-year ROE to 4,006-acres of Waiohuli, Kēōkea homelands in Upcountry Maui. She stated that N. Abihai has waited since 2016, for DHHL to approve his land-use request that he submitted. PCDC was urged to prove capacity for the ROE, and in January of 2018 submitted 57-page criteria. PCDC also agreed to do the beneficiary consultation because of the size of the land request. PCDC offered to bulldoze a road for Sakugawa to move out.

ITEM J-8 Irene Plunkett – Hawai'i Farmers Union Convention

I. Plunkett-Mina testified in support of Pa'upena Community Development Corporation's ROE. I. Plunkett invited the Commission to the Hawai'i Farmers Union United (HFUU) Annual Convention starting October 26-28, 2018, on Maui. HFUU is recognized by the National Farmers Union.

WORKSHOPS

OFFICE OF THE CHAIRMAN

ITEM C-3 For Information Only – Recommended Changes to Proposed Amendments to Title 10, Hawaii Administrative Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing

RECOMMENDED MOTION/ACTION

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

DISCUSSION

H. Lindsey stated that Item C-3 builds from the amended beneficiary consultation report. H. Lindsey noted a typo on page 7 of Exhibit B, Sec. 10-7-10, a *document developed under subsection 10-7-5b* should read 10-7-4b.

Chair Masagatani asked H. Lindsey if these are the critical rules that the Department would need for the Ulu Ke Kukui project if the Department wanted to keep the project as rentals and hire a vendor.

H. Lindsey stated that the rules would apply to Ulu Ke Kukui or any other multi-family rental projects that the Department wants to do. Section 207.5 of the Hawaiian Homes Commission Act requires rules for the Department to issue dispositions for multi-family rentals and DCCR communities. The rule provides the authority for the Department to issue such disposition. This is different from the Department contracts with a developer who is going to act as the developer and the managing company.

PLANNING OFFICE

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

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Program Manager Kaleo Manuel, Planner Bryan Esmeralda, Land Development Agent Steward Matsunaga, and Contracted Consultant, PBR Hawai`i, Selena Pang, presented the following:

DISCUSSION

Update on the Pulehunui Master Plan and Environmental Impact Statement for Regional Infrastructure Master Plan at Pulehunui, Maui; TMK (2) 3-8-008:008, 035, 036 (Pūlehunui North) and (2) 3-8-008:034 (Pūlehunui South)

B. Esmeralda gave the Commission an update, via PowerPoint and handouts, on the status of the master plan and the preparation of the EIS for the regional infrastructure master plan on Pulehunui. The outline covers property and project background, master planning efforts, DEIS status, and the next steps.

ITEM G-6 Update on Honokōwai Water System Improvements Project and Draft Environmental Assessment; Honokōwai, Lahaina, Maui; TMK (2) 4-4-002:008, 009, 018 (pors.), (2) 4-4-003:013 (por.), (2) 4-4-004:002 (por.), and (2) 4-5-021:003, 017, 020, and 022 (pors.)

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Program Manager Kaleo Manuel, Planner Bryan Esmeralda, and Land Development Agent Steward Matsunaga presented the following:

DISCUSSION

B. Esmeralda stated in the 2009 Sessions Laws, and the Legislature appropriated funding for the construction of an exploratory well that would support DHHL and other State Affordable Housing Projects in West Maui. In 2010, DHHL planned, designed, drilled and cased the exploratory well on SOH land in Honokowai. The well is expected to yield one million gallons of water per day. DHHL plans to install a pump in the well, construct a control building to house the electrical components, build a disinfection system, build fencing, and put in a MECO transformer and generator at the site. DHHL will put up transmission lines and a new 100,000-gallon head breaker tank that will take the water and convey it to the DWS Mahinahina Water System. A storage tank and transmission lines will also be constructed in the Wahikuli, and water will be conveyed to the future development of Lei Ali'i 1-B.

The MOU with Hawaii Housing Finance and Development Corporation (HHFDC) states that they will provide the first \$10 million towards the construction of the water system improvements. In exchange, HHFDC and DHHL will split 50/50 on the available capacity of the well. HHFDC's half to supply their multi-family Lei Ali'i development.

RECESS

5:44 p.m.

HAWAIIAN HOMES COMMISSION

Minutes of October 16, 2018 Meeting held at the Paukūkalo Community Center, Maui, Hawaiʻi

Pursuant to proper call, the 704th Regular Meeting of the Hawaiian Homes Commission was held at the Paukūkalo Community Center, 657 Kaumuali'i Street, Wailuku, HI 96793, beginning at 9:00 a.m.

- PRESENTJobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka'i Commissioner
Michael P. Kahikina, O'ahu Commissioner
Pauline N. Namu'o, O'ahu Commissioner
Wren Wescoatt, O'ahu Commissioner
- **EXCUSED** Wallace A. Ishibashi, East Hawai`i Commissioner David B. Ka'apu, West Hawai'i Commissioner Vacant, Kaua'i Commissioner
- **<u>COUNSEL</u>** Craig Iha, Deputy Attorney General
- STAFFWilliam Aila Jr., Deputy to the Chairman
Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Niniau Simmons, NAHASDA Manager
Norman Sakamoto, Acting Land Development Division Administrator
Stewart Matsunaga, Land Agent
Kaleo Manuel, Acting Planning Program Manager
Andrew Choy, Planner
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Julie Cachola, Planner
Nancy McPherson, Planner

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:15 a.m. Six (6) members were present at roll call. Commissioners Kaapu and Ishibashi were excused. The Kaua'i Commission seat was vacant.

APPROVAL OF MINUTES

MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Awo, to approve the minutes of the February 2015 HHC meetings. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Blossom Feiteira Re: Items C-4, H-1, F-5

B. Feiteira testified in support of Item C-4 for ADU type homes for beneficiaries. Regarding Item H-1, she asked if \$7 million from the Trust Fund is going to subsidize and supplement what the beneficiaries are already getting from the Legislature?

Regarding Item H-1, Chair Masagatani responded no and explained that it is providing for interim construction financing. The money is to finance the building of homes with no interest cost to the beneficiaries.

B. Feiteira testified in support of Item H-1. Regarding Item F-5, she understands there is a proviso stating if solicitors did not win the PPA from the utility companies, the Department would discuss canceling the ROEs that were issued in April 2018. She is asking that the Commission reconsider the clause and continue to execute the ROEs so Semper Energy and Auahi Wind can do proper due diligence.

Chair Masagatani stated, we have an update on HECO's RFP later in the meeting.

ITEM A-2 Princesslehuanani Kamaewakainakaleomomona Re: F-1 Honokowai

P. Kamaewakainakaleomomona asked the Commission if the land is going to be for pastoral, residential, or for agricultural. She asked about Kahikinui, stating that she is on the list for Kahikinui since 1993. She stated that when she signed up, the lessee had 5-years to build a fence if you did not have the fence, you had to give up the lease to another family that can work the land. She asked if the rules changed since 1993.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Acceptance of the 2018 Native Hawaiian Housing Block Grant Annual Performance Report

RECOMMENDED MOTION/ACTION

NAHASDA Manager, Office of the Chairman, N. Simmons, presented the following: Recommend the acceptance of the 2018 Native Hawaiian Housing Block Grant Annual Performance Report.

DISCUSSION

Commissioner Kahikina said he would support; however, he wanted it to be on the record that he had reservations and will be expecting the report N. Simmons shared with him. He noted that when a contract is signed there are milestones that must be achieved which helps with knowing the status of what has been achieved thus far.

MOTION

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

ACTION

Motion passed. Commissioner Kahikina voted with reservations.

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Approval of Amendment No. 1 to the Fiscal Year 2019 Development Budget to the Hawaiian Home Lands Trust Fund and NAHASDA Fund

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following: Recommended that the Hawaiian Homes Commission grants it approval to Amendment No. 1 to the Fiscal Year 2019 Development Budget to the Hawaiian Home Lands Trust Fund and NAHASDA Fund

MOTION

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

DISCUSSION

R. Lau explained that the measure increases the Hawaiian Home Trust Fund by \$7 million to reimburse the NAHASDA Fund for those costs that are not eligible to be paid by NAHASDA. The Department is reimbursing the Federal Government. The money is being put into a category called Program Income. This money can be used for eligible housing activities under the NAHASDA program. It benefits the beneficiaries who are 80% and below the area median income.

Chair Masagatani stated the \$7 million goes back into the NAHASDA program. In the past, DHHL could not use NAHASDA monies for rental of the homelands. However, the Federal Government changed the statutory authorizations, so DHHL can now use NAHASDA monies to support beneficiaries to rent off the homelands. NAHASDA Manager, Niniau Simmons has been working with providers to figure out how can programs be developed and not have the families become reliant on the NAHASDA funds. The reimbursement helps to fund that program, needs for the vacant lots, down payment assistance. Chair Masagatani asked R. Lau for clarification stating, and the \$7 million will reimburse NAHASDA, correct? The Trust Fund will provide the 0% interim construction financing, but once the construction is done the \$7 million will revolve back to the Trust Fund, correct?

N Sakamoto stated, at the end, when the 100 homes are built, escrow closes on each of those homes. Upon closing of escrow, interim financing is paid off one house at a time. That money goes back to the pool, and when the 100 houses are done, the \$3 million remaining NAHASDA goes back to the NAHASDA fund. The \$7 million goes back to the Trust. In the end, the homeowners don't pay the estimated \$3000 and the developer did not have to go out and borrow and get expensed for the \$3000.

ACTION

Chair asked for a roll call vote on the motion.

Moved by Commissioner Namu'o to approve a 1-year Lease Extension to General Lease No. 283, Hawai'i Public Housing Authority – Ulu Ke Kukui Transitional Housing Program located in Waianae, O'ahu, TMK (1)8-7-010:030 (por.)

Seconded by Commissioner Awo

Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA	EXCUSED
Commissioner Awo		Х	Х			
Commissioner Helm			Х			
Commissioner Ishibashi						Х
Commissioner Ka'apu						Х
Commissioner Kahikina			X w/Res			
Commissioner Namuo	Х		X			
Commissioner Wescoatt			X			
Chair Masagatani			X			
TOTAL VOTE COUNT			6			2
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with six (6) 'Ae, or	ne (1) wit	h Res	servations, tw	o (2) Excused	. Vacant: Kau	ai

ITEM C-4 Approval of Recommended Changes to Proposed Amendments to Title 10, Hawaii Administrative Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing; and to proceed with Rulemaking under Hawai'i Revised Statutes Chapter 91

RECOMMENDED MOTION/ACTION

Administrative Rules Officer H. Lindsey presented the following:

Motion for Approval of recommendations for the Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing; and to proceed with Rulemaking under Hawai'i Revised Statutes Chapter 91

MOTION

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

DISCUSSION

H. Lindsey stated that Item C-4 is a follow up of yesterday's Item C-3. The proposed changes following beneficiary consultation are listed in Item C-3.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-5 For Information Only - Status of DHHL Solicitation for Renewable Energy Projects in Response to the Hawaiian Electric Companies' Request for Proposals; Kalaeloa, Island of Oahu, TMK No. (1) 9-1-013:038, 040, 117 & 118; Kahikinui, Island of Maui, TMK No.: (2) 1-9-001:003 (portion); and Kalaoa, Island of Hawaii, TMK No.: (3) 7-3-010:007(portion)

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Land Management Division Administrator Kahana Albinio, Property Development Agent Alan Yanos, and Planner Julie Cachola presented the following:

DISCUSSION

A. Yanos stated in March of 2018, and there were 12 applicants. One was disqualified because he did not meet the application deadline. Two applicants for lands in Kalaeloa were conditionally selected and pending classification of status. Five applicants were selected by the Department to wait for the next step of HECO's process which is the shortlist selection made in May. An application fee of \$1000 was required, if the applicant made it to the ROE, the applicant had to pay a \$10,000 upfront, non-refundable, towards the annual ROE fee. The applicants were selected by staff as well as renewable energy consultants. Out of the five, two withdrew their applications leaving three applicants. Only two of the applicants were selected by HECO's shortlist. They needed to make the shortlist in order to proceed to the leasing process. Ultimately, none of the two made it to HECO's final award process. Therefore, there is no one to go through the leasing process.

For the O`ahu applicants, none of the projects made it to HECO's final list. Semper Renewables made the shortlist for Maui but did not make the final awards. Virginia Peak Power was not selected. On Hawai`i Island, Cypress Creek Renewables was selected but withdrew its application shortly after being selected. O`oma Homestead Alliance was selected, but they did not make the shortlist.

Some of the lessons learned are if we do another solicitation to run parallel with HECO's RFP, it would be difficult because HECO's RFP was tight in terms of deadline and timelines. We also learned that it was a burden with developers to deal with DHHL on the one hand and deal with HECO's RFP on the other hand. HECO's phase-1 was conducive to projects on private lands rather than public lands, due to the statutory rules that govern the Department for leasing land. Developers prefer to secure lease for site control purposes ahead of an RFP so they can concentrate on meeting the HECO requirements. One of the problems developers encountered was technical background work required for the proposals which took time away from dealing with DHHL. To DHHL staff, more important is there is more risk to a developer to submit a proposal under a HECO RFP then go through the leasing process for DHHL land; than await the issuance of an RFP to sell their energy. They'd rather have control of the land and wait for an RFP past the HECO phase-2. Hawai`i has up to the year 2045 to meet the mandate of 100% clean energy.

Favorable to DHHL is that it would be able to impose restrictions or conditions in cases where they want control of the land sooner, such as penalties for early termination or payments during the waiting period for an RFP.

RECESS

11:00 A.M.

RECONVENE

11:18 A.M.

ITEM F-4 Update on Revocable Permit/Right of Entry Program Reforms

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Land Management Division Administrator, Kahana Albinio presented the following: Update on the Revocable Permit/Right of Entry Program Reforms

DISCUSSION

K. Albinio stated that LMD looked for an appraiser to look at the current Revocable Permit rental method and help LMD to establish a method that is fair in determining appropriate rents for the right of entry parcels. LMD has procured the help of Medusky & Co., Inc. LMD anticipates receiving a written report from Medusky by October 19, 2018.

In formulating a new system that allows beneficiaries to participate when opportunities are made available, the work is still in progress. LMD is suggesting HHC form a working group to engage and collaborate with staff to formulate that desired new system and provide clarity of what the HHC envisions, how staff can help navigate that vision all within the parameters of the HHCA, HRS, and HAR rules.

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

RECOMMENDED MOTION/ACTION

None. For information only. Commissioners had no questions.

ITEM D-2 For Information Only – Status Report for Seriously (180 days or greater) Delinquent Accounts in the Direct Loan Portfolio

RECOMMENDED MOTION/ACTION

None. For information only. Acting Homestead Services Division Administrator, Dean Oshiro presented the following:

DISCUSSION

The Status Report for the Seriously Delinquent Direct Loan Portfolio. These accounts are 180days or greater. Accounts are listed numerically. As of September 2018, there were 138 accounts that were 180-days delinquent. Ten accounts are still being handled by the loan officers, 49 accounts have been approved for a Contested Case Hearing, 12 accounts are pending decisions from the Commission, 29 accounts are complying of their decision orders, 22 accounts are noncompliant, and 16 accounts are in the stages of cancellation or eviction process.

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-7 Princesslehuanani Kamaewakainakaleomomona

P. Kamaewakainakaleomomona asked that her sister Puanani stand with her. When she was transferred to the Kahikinui list, she was No. 380, and she is still 380 on the list. She has been on the list for 26 years. She wants her application transferred now, to her oldest daughter. Puanani asked what age one must be to qualify for kupuna housing.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Namu'o 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

11:54 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. Direct Settlement Agreement with Homestreet Bank
- 2. The loan with the United States Department of Agriculture-Rural Development (USDA-RD) for DHHL owned water systems in Ho'olehua, Molokai & Anahola, Kaua'i.

EXECUTIVE SESSION OUT 12:53 p.m.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular meeting will be held at the main office in Kapolei, Oahu, on November 19 & 20, 2018.

ADJOURNMENT

1:14 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