

**HAWAIIAN HOMES COMMISSION**  
Minutes of August 20, 2018  
Meeting held at the Līhu`e State Bldg., Lihu`e, Hawai`i

Pursuant to proper call, the 702<sup>nd</sup> Regular Meeting of the Hawaiian Homes Commission was held at the Lihu`e State Building, 3060 Eiwa Street, Rooms A-C, Lihu`e, Kaua`i, beginning at 10:00 a.m.

**PRESENT** Jobie M. K. Masagatani, Chairman  
Zachary Z. Helm, Moloka`i Commissioner (arrived 10:37 a.m.)  
Wallace A. Ishibashi, East Hawai`i Commissioner  
David B. Ka`apu, West Hawai`i Commissioner  
Michael P. Kahikina, O`ahu Commissioner  
Wren Wescoatt, O`ahu Commissioner

**EXCUSED** Randy K. Awo, Maui Commissioner  
Vacant, Kaua`i Commissioner  
Vacant, O`ahu Commissioner

**COUNSEL** Craig Iha, Deputy Attorney General

**STAFF** William 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  
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  
Mark Yim, Land Agent

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 10:04 a.m.  
Five (5) members were present at roll call. Commissioner Helm was on his way. The Kaua`i and Oahu Commission seats were vacant.

**APPROVAL OF AGENDA**

**MOTION/ACTION**

Moved by Commissioner Ishibashi, seconded by Commissioner Ka`apu, to approve the agenda.  
Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION/ACTION**

Moved by Commissioner Ka`apu, seconded by Commissioner Ishibashi, to approve the Minutes of January 2015. Motion carried unanimously.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **ITEM A-1 Alison Lewis Re: Item D-2 thru D-6**

Alison Lewis testified on agenda items D2 thru D-6 commenting on the constitutionality of the administrative rule changes that require mortgages and credits to receive land awards.

## **ITEMS FOR INFORMATION**

### **WORKSHOPS**

### **OFFICE OF THE CHAIRMAN**

#### **ITEM C-1 Mutual Aid and Assistance Agreement with the County of Kaua`i**

##### **RECOMMENDATION**

None. For information only.

Corporate Counsel from the County of Kaua`i, M. Trask, regarding the Mutual Aid and Assistance Agreement stated that Kaua`i County would do the work, comply with the permit, procurement and contract requirements; get the money from the remainder of the \$100 million, the Act 12 money that Legislative appropriates to the Governor. Kaua`i County will follow all the rules, assessments have been done and, Kaua`i will send the invoices to DHHL. DHHL can apply for the reimbursement from FEMA and keep the money, the 75% reimbursement. Kaua`i will need the ROE from DHHL to do the work.

### **GENERAL AGENDA**

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

#### **ITEM J-1 Kilipaki Vaughan – Anahola Fire Station Update**

Deputy Fire Chief for the Kaua`i Fire Department K. Vaughan expressed the need for resources to help cut the time of travel when fires are raging. KFD needs a landing zone for the helicopter, 3 acres for a training center, ocean safety and mechanics resources. An MOU from the Fire Department has been forwarded to the Commission from the Kaua`i District Office. The hope is that the next administration will help to carry the MOU through.

### **WORKSHOPS**

### **PLANNING OFFICE**

#### **ITEM G-4 Update on Kaua`i Regional Plan Priority Projects**

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

None. For information only.

Acting Planning Office Manager K. Manuel and Planner Robert Freitas presented the following:

##### **DISCUSSION**

B. Freitas stated that the two primary residential areas on the Kaua`i Island Plan are Anahola at Pi`ilani Mai Kekai and at Hanapepe which is in the process of being master planned for a second phase. The focus for the Regional Plan is Anahola, West Kaua`i and Hanapepe. For Anahola's Kuleana Homestead Master Plan, the contract is out but the scoping for the project should occur in

the next 2-3 months, which will involve getting the community and applicants input. Update for the West Kaua'i Regional Plan was the renewable pumped hydro project which DHHL is working in partnership with KIUC. This project helps to open up the Pu'upai lands for water and road access. The Hanapepe Master Plan includes a residential and agricultural homestead lot mix and is in the process of being done now.

## **ITEM G-2 DHHL Kaua'i Water Projects and Issues**

### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Office Manager K. Manuel presented the following:

### DISCUSSION

K. Manuel reported that the Waialua Well was cased and capped, and the well is completed. The 52-acres of land is going through master planning regarding what kind of homesteading to do. The Waialua River has two main tributaries flowing into it, the North Fork and the South Fork; North Fork side is State lands and the South Fork side is private ag lands. The Waialua River, which is a connection of the Wai'ale'ale and Waikoko tributaries, the North Fork, has enough water to meet DHHL's water needs. DHHL's Planning submittal to CWRM is to reserve 1.2 million gallons of water per day. CWRM's interpretation is that DHHL should get water from the Hanama'ulu Stream.

## **ITEM G-3 Update on Pu'u 'Ōpae Special Area Master Plan (SAMP), Waimea, Kaua'i, TMK (4) 1-2-002:023**

### RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Office Manager K. Manuel presented the following:

### DISCUSSION

K. McKeague of Group70 stated that they will be coming to the Commission at least three times: (1) for the approval of the Special Area Master Plan (2) for the Settlement Plan and, (3) seeking the FONSI on the Draft EA on the Settlement Plan. The goal is to get all this done by June 2019. The intent of the Special Area Master Plan is to bring the KIUC and the Hydroelectric Projects together; inclusive of the Kikaha Homestead Associations' Kuleana Homes program. Looking at the Planning criteria and keeping within the financial design constraints, G70 takes into consideration slope, less than 15% is best for roadways and structures, however, more than 15% slope can be a financial burden. G70 is aware of the wild fires in the area and looking at the need for water and fire protection. A concern is the limited access into the property from the mauka and makai sides. There are 3 access roads primarily for 4-wheel drive: DLNR road, DHHL road which is rough and the Marine Road which is a rugged terrain road deemed a third alternative access. All the KIUC promises must be kept, reservoir improvements, roadway improvements; if not kept, all becomes cost prohibitive. KIUC makes it happen, G70 can make it happen as well. The EA takes about 6-9 months, however, G70 would like to try and meet the timetable in 6 months. The EA steps include: notification, provision of a draft, 30-day review for the draft, release of the final with the FONSI, and usually a 30-day legal challenge period.

## ITEMS FOR DECISION MAKING

### CONSENT AGENDA

#### HOMESTEAD SERVICES DIVISION

##### RECOMMENDED MOTION/ACTION

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

##### DISCUSSION

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

Commissioner Ka`apu requested that Items D-15 to D-19 be moved 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 Refinance of Loans (see exhibit)
- ITEM D-6** Ratification of Loan Approvals (see exhibit)
- ITEM D-7** Approval of Homestead Application / Cancellations (see exhibit)
- ITEM D-8** Commission Designation of Successors to Application Rights – Public Notice 2015, 2017 (see exhibit)
- ITEM D-9** Approval of Designation of Successors to Leasehold Interest (see exhibit)
- ITEM D-10** Approval of Assignment to Leasehold Interest (see exhibit)
- ITEM D-11** Approval of Amendment of 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** Commission Designation of Successor – **ABRAHAM S. TORRES, JR.**, Residential Lease No. 4556, Lot No. 12, Nanakuli, Oahu
- ITEM D-14** Request to Schedule a Contested Case Hearing – **ADAM KAIWI, JR.**, Residential Lease No. 8187, Lot No. 52, Waimanalo, O`ahu

##### MOTION/ACTION

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

### REGULAR AGENDA

#### OFFICE OF THE CHAIRMAN

- ITEM C-1 Resolution 297 – Honoring Commissioner Kathleen Puamaeole Chin**

##### RECOMMENDED MOTION/ACTION

Deputy William Aila presented the Resolution 297, Honoring Commissioner Kathleen Puamaeole Chin for her service to the Hawaiian Homes Commission

##### MOTION/ACTION

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

MOTION/ACTION

Chair Masagatani noted the Commission will convene into executive session. Moved by Commissioner Awo, seconded by Commissioner Kahikina, 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 11:55 a.m.**

The Commission anticipates convening in executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities on these matters.

- 1. Commission’s Duty in Implementing HAR Section 10-3-36 - Transfer of Homestead Leases

**EXECUTIVE SESSION OUT 1:05 p.m.**

ITEMS FOR INFORMATION

**GENERAL AGENDA**

**REQUEST TO ADDRESS THE COMMISSION**

**ITEM J-4 Bronson Lovell – Anahola Health and Wellness Program**

B. Lovell stated that the Keala Foundation is a 501 3C, non-member, insured organization seeking DHHLs permission to use the building on HHL to provide a free, safe environment for the youth.

ITEMS FOR DECISION MAKING

**REGULAR AGENDA**

**HOMESTEAD SERVICES DIVISION**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator D. Oshiro presented the following:

**ITEM D-15** Request to Schedule a Contested Case Hearing – **DANIEL PERREIRA, JR.**, Residential Lease No. 4637, Lot No. 68, Waianae, Oahu

**ITEM D-16** Request to Schedule Contested Case Hearing – **RAY R. RAPOZO, JR.**, Residential Lease No. 4343, Lot No. 59, Anahola, Kauai, Hawaii

**ITEM D-17** Request to Schedule Contested Case Hearing – Lease Violation, **HARRIDEEN L. AMBROSE**, Residential Lease No. 5410, Lot No. 16, Paukūkalo, Maui, Hawaii

**ITEM D-18** Request to Schedule Contested Case Hearing - Lease Violation, **BENJAMIN R. VICTORINO, JR.**, Residential Lease No. 8204, Lot No. 10, Paukūkalo, Maui, Hawaii

**ITEM D-19** Request to Schedule a Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor – **MYRTLE T. FUJIMOTO (Deceased), DARCY T. FUJIMOTO (Designated Successor)**, Residential Lease No. 1497, Lot No. 4, Waiakea, Hawai`i

MOTION

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

DISCUSSION

Commissioner Ka`apu noticed the items were all requests for contested case hearings and asked if they were all requests originated from the lessees or the Department.

D. Oshiro stated, D-15 and D-16 are lessee originated and D-17, 18 and 19 are staff/Department originated.

- ITEM D-15** Request to Schedule a Contested Case Hearing – **DANIEL PERREIRA, JR.**, Residential Lease No. 4637, Lot No. 68, Waianae, Oahu
- ITEM D-16** Request to Schedule Contested Case Hearing – **RAY R. RAPOZO, JR.**, Residential Lease No. 4343, Lot No. 59, Anahola, Kauai, Hawaii
- ITEM D-17** Request to Schedule Contested Case Hearing – Lease Violation, **HARRIDEEN L. AMBROSE**, Residential Lease No. 5410, Lot No. 16, Paukūkalo, Maui, Hawaii
- ITEM D-18** Request to Schedule Contested Case Hearing - Lease Violation, **BENJAMIN R. VICTORINO, JR.**, Residential Lease No. 8204, Lot No. 10, Paukūkalo, Maui, Hawaii
- ITEM D-19** Request to Schedule a Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor – **MYRTLE T. FUJIMOTO (Deceased)**, **DARCY T. FUJIMOTO (Designated Successor)**, Residential Lease No. 1497, Lot No. 4, Waiakea, Hawai`i

ACTION

Motion carried unanimously.

**LAND MANAGEMENT DIVISION**

- ITEM F-1 Annual Renewal of Right of Entry Permit(s), Kaua`i Island (see exhibit)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator K. Albinio presented the following: Motion that the HHC approve the following actions while developing a process for making short term agriculture and pastoral land distributions available to beneficiaries.

MOTION

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

DISCUSSION

K. Albinio expressed that LMD is still working with the vendor to establish a method and approach to fair market rent when they determine the ROE and apply those across the board. Thirty-one permits being renewed, 19 are beneficiaries, nine permittees have industrial use, and the rents are going to be increased. He explained that LMD must stay within the boundaries of Chapter 171.

The conversation focused on the commercial use of DHHL properties.

ACTION

Motion carried unanimously.

## **PLANNING OFFICE**

### **ITEM G-1 Acceptance of Beneficiary Consultation Report for Proposed Water Rate Increase for the DHHL Anahola Farm Lots Water System**

#### RECOMMENDED MOTION/ACTION

Acting Planning Office Manager K. Manuel presented the following:  
Motion to accept the Beneficiary Consultation Report as a public record of beneficiary input and feedback relative to the proposed water rate increase for the DHHL's Anahola Farm Lots Water System. Acceptance of the report does not indicate concurrence or approval of any staff recommendations that may appear herein.

#### MOTION

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

#### DISCUSSION

K. Manuel stated only three beneficiaries attended the consultation meeting, and no comments were received during the comment period. It is possible to train beneficiaries to become water operators but to get certified to become a Water Operator, and they would need access to a water system to learn on.

#### ACTION

Motion carried unanimously.

## **ITEMS FOR INFORMATION**

### **GENERAL AGENDA**

### **REQUEST TO ADDRESS THE COMMISSION**

#### **ITEM J-2 Agnes Kini-Marti – KA Farmers Hui Request**

A. Kini-Marti is requesting to renew the KA Farmers Hui lease of one acre and looking to renovate for a commercial kitchen.

K. Juggles, Vice-President for Princess Kahanu Homesteads in Lualualei brought forward two issues of concern: (1) Traffic calming. Speeding within the community, need speed bumps, and raised crosswalks, (2) Request is to acquire one of the adjacent lots to Princess Kahanu so a bigger community center can be built.

## **WORKSHOPS**

### **LAND DEVELOPMENT DIVISION**

#### **ITEM E-1 Soil Testing at Kekaha Residential Lots, Unit 4**

S. Matsunaga of LDD reported that the subsurface testing for two lots was negative and did not exceed the State's Environmental Action Levels. Testing for fruit and vegetables was also negative. A new Soil Management Plan will be submitted by the end of year. Tar was found in lot #3; the tar was removed, the ground filled with clean soil and construction done for the grade adjustment.

## **PLANNING OFFICE**

**ITEM G-5 Summary of Response to Proposed Legislative Action Request for 2019 & Draft Legislative Proposal**

RECOMMENDED MOTION/ACTION

Acting Planning Office Manager K. Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano reported on proposals to the Legislature, none of which required new legislation. (1) To pass the bill to lower the blood quantum. The bill passed and is awaiting Congressional consent. (2) allow individuals in Waialua Nui to lease lands (3) cell transfer study (4) funding request from Kanehili for their community center (5) make permanent DHHL's affordable housing credit.

Commissioner Wescoatt proposed that DHHL does not need to comply with the State's competitive rules if it is with a beneficiary owned vendor. Another proposal is to obligate the counties to begin performing maintenance on the infrastructure immediately, even if they haven't accepted it yet; for all DHHL roads, sewers, and lights.

**RECESS**

**4:12 p.m.**



## **HAWAIIAN HOMES COMMISSION**

Minutes of August 21, 2018

Meeting held at the Lihue State Bldg., Lihue, Hawaii

**PRESENT** Jobie M. K. Masagatani, Chairman  
Zachary Z. Helm, Molokai Commissioner  
Wallace A. Ishibashi, East Hawaii Commissioner  
David B. Ka'apu, West Hawaii Commissioner  
Michael P. Kahikina, O'ahu Commissioner  
Wren Wescoatt, O'ahu Commissioner

**EXCUSED** Randy K. Awo, Maui Commissioner  
Vacant, Kauai Commissioner  
Vacant, O'ahu Commissioner

**COUNSEL** Craig Iha, Deputy Attorney General

**STAFF** William 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 Development 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  
Lehua Kinilau-Cano, Legislative Analyst  
Nancy McPherson, Planner  
Halealoha Ayau, Water Specialist

### **ORDER OF BUSINESS**

#### **Roll Call**

Chair Masagatani called the meeting to order at 9:09 a.m.

Six (6) members were present at roll call. The Kauai and Oahu Commission seats were vacant.

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

#### **ITEM A-1 Charles Bronco Re: Palakiko Farm**

C. Bronco and his grandson, Henaku Berturaku, are farmers in Kekaha who don't have enough water for their trees and lo'i. He and his grandson are getting their water from Kekaha Ditch; however, when the hydroelectric pump gets turned off or shut for maintenance, they don't have enough water. They requested that the State entities get together to help them exercise their rights to the water. He and his grandson are looking to a solar pump because when the electricity gets shut down, they don't have water. NRCS and USDA are willing to help them financially; however, they need the rights and DHHL's help.

**ITEM A-2 Keohukui Kauihana Re: Lawful Hawaiian Government**

K. Kauihana stated that the Hawaiian Islands belong to the Hawaiian Kingdom and not the United States because of the illegal military overthrow of the Hawaiian Monarchy.

**ITEMS FOR DECISION MAKING**

**REGULAR AGENDA**

**OFFICE OF THE CHAIRMAN**

**ITEM C-3 Adoption of the HHC Investment and Spending Policies relating to DHHL Trust Funds**

**RECOMMENDED MOTION/ACTION**

Administrative Services Officer Rodney Lau presented the following:

Recommends that the Hawaiian Homes Commission adopt the HHC Investment and Spending Policies relating to DHHL Trust Funds.

**MOTION**

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

**DISCUSSION**

Chair Masagatani thanked the Commissioners who assisted and gave their time to bring this into fruition. The Trust Fund was received in 1995, and now it's 2018. It took 23 years to get here, and DHHL finally has something to work with. Mahalo Rodney Lau and the late Kahele Richardson.

**ACTION**

Motion carried unanimously.

**PLANNING DIVISION**

**ITEM G-6 Approval of Water Rate Increase for DHHL Anahola Farm Lots Water System**

**RECOMMENDED MOTION/ACTION**

Water Specialist Halealoha Ayau presented the following:

Motion to approve the Water Rate Increase for the Anahola Farm Lots Water System, which shall take place effective July 1, 2019.

**MOTION**

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

**DISCUSSION**

The current rates expire June 30, 2019, until new rates are approved by the Hawaiian Homes Commission. In fiscal year 2016, the Anahola Water System operated at a loss of close to \$182,000. The huge losses indicate a deficiency in the current water rates and to some extent, the failure of systems and operational management. The recommendation is to increase the rates incrementally over ten years.

**ACTION**

Motion carried unanimously.

**ITEM C-2 To Authorize the Chairman to enter into and/or participate in a Mutual Aid and Assistance Agreement with the County of Kaua'i**

RECOMMENDED MOTION/ACTION

Deputy William Aila presented the following:

Motion to approve an agreement between the County of Kaua'i and the Department of Hawaiian Home Lands to respond to disaster-related emergencies and provide services that the Department may request of the County of Kaua'i, in addition, request that the Commission delegate to the Chairman the authority to negotiate and approve the final agreement and any extensions that may be necessary.

MOTION

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

DISCUSSION

Chair Masagatani wants it to be part of the record that the agreement includes authorization to enter DHHL lands for doing assessments and any necessary cleanups.

ACTION

Motion carried unanimously.

**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

The next regular meeting Keaukaha, Hawai'i, September 16, 17, & 18, 2018.

MOTION/ACTION

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

**ADJOURNMENT**

**10:00 a.m.**

Respectfully submitted:

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Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

Prepared by:

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Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

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Jobie M.K. Masagatani, Chairman

DRAFT