

HAWAIIAN HOMES COMMISSION

Minutes of November 19, 2018

Meeting held at Kapolei Parkway, Kapolei, O`ahu, Hawai`i

Pursuant to proper call, the 705th Regular Meeting of the Hawaiian Homes Commission was held at Kapolei Parkway, 91-5420 Kapolei Parkway, Kapolei, Hawai`i 96707, beginning at 9:30 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka`i Commissioner (arrived 10:05 a.m.)
Wallace A. Ishibashi, East Hawai`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
Pauline N. Namu`o, O`ahu Commissioner
Wren Wescoatt, O`ahu Commissioner (arrived 10:12 a.m.)

EXCUSED Michael P. Kahikina, O`ahu Commissioner
Vacant, Kaua`i 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
Stewart Matsunaga, Acting Land Development Division Administrator
Kaleo Manuel, Acting Planning Program Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Andrew Choy, Planner
Julie Cachola, Planner
Nancy McPherson, Planner
Mark Yim, Land Agent

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:34 a.m.
Five (5) members were present at roll call. Commissioners Helm and Wescoatt were delayed.
The Kaua`i seat was vacant.

APPROVAL OF MINUTES

Chair Masagatani noted approval of the minutes for March 2018, would be deferred till later in the agenda.

APPROVAL OF AGENDA

Chair Masagatani asked for approval of the agenda.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Irene Plunkett Re: Item F-2

I. Plunkett testified on Item F-2. She is a beneficiary from Waiohuli on a half-acre lot and 1 of 4,668 beneficiaries on the waitlist for Maui agricultural lot. She supported the Pa‘upena Community Development Corporation in its efforts to repatriate 4,000 plus acres of Hawaiian Home Trust Lands for training and use by homesteaders. Pa‘upena has waited two-years for its land-use application to be acted upon for its 4,000-acres of Waiohuli Kēōkea Homelands and for holding its Beneficiary Consultation on the ROE requests.

ITEM A-2 Kekoa Enomoto Re: Items C-2, F-6, H-1, and H-2

K. Enomoto suggested the Commission consider interisland-interactive live streaming to the neighbor islands to facilitate and enhance transparency, and that the background information is in the packet, if possible. Regarding H-1 and H-2, approval to accept USDA rural development loan and grant financing for the DHHL owned, Anahola, and Ho`olehua water systems on Kaua`i and Moloka`i, respectively, she congratulates the Department for acquiring federal funding for the water systems. In an update for the Pa‘upena \$47,000 grant. The first drawdown of \$24,000 was received, and six water catchment systems were ordered and will be delivered on Thanksgiving Day.

ITEM A-3 Kapua Keliikoa Kamai Re: Item G-1

K. Kamai asked for a current DHHL Annual Report. K. Kamai said she is mostly interested in who has the Hawaiian lands and how they are using it, regarding the ROE and Revocable Permits. She says it doesn't help to have it by Lease number. The reading must be more user-friendly and easier to understand. Do it by community.

K. Kamai noticed that in the last five years, although it is called the Commissioners Community meeting, the Commissioners have not attended. She asked Commissioners to return to attending the community meetings because those are the meetings the working people would be able to attend.

ITEM A-4 Bo Kahui La‘i‘ōpua 2020/Villages of La‘i ‘Ōpua Re: Items C-2, H-1 and

B. Kahui requested a copy of the Workshop for C-2, to help educate their community as to whether they want the ADU/SDU in their community.

Regarding Sandwich Isles Communications (SIC) issues, the homesteaders are faced with inefficiencies, breakdowns, and internet service breakdowns. The obligation is to go with SIC, but since the situation of SIC with the FCC, it has been affecting business services as well as personal services.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

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

DISCUSSION

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

Commissioner Ka`apu asked that Item D-20 be added to the Regular Agenda.

- ITEM D-2** Approval of Direct Settlement with Homestreet Bank and Approval to Schedule Loan Delinquency Contested Case Hearing - KOLOMONA KAPANUI, Residential Lease No. 7541, Lot No. 127, Waiohuli, Maui and HANNAH K. MIYASHIRO, Residential Lease No. 9856, Lot No. 13839, Malu`ohai, Oahu
- ITEM D-3** Approval of Consent to Mortgage (see exhibit)
- ITEM D-4** Approval of Streamline Refinance of Loans (see exhibit)
- ITEM D-5** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-6** Approval of Homestead Application/Cancellations (see exhibit)
- ITEM D-7** Commission Designations of Successor to Application Rights - Public Notices 2012, 2015, 2017 (see exhibit)
- ITEM D-8** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-9** Approval of Assignment to Leasehold Interest (see exhibit)
- ITEM D-10** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-11** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-12** Approval of Amendment of Leasehold Interest- CHARLA LEIALIIPUANANI REGO NAONE, Lease No. 2514-Z, Lot No. 226-B, Nanakuli, Oahu
- 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-14** Commission Designation of Successor - PETER K. KAWAA, JR., Residential Lease No. 9569, Lot No. 73, Kalawahine, Oahu
- ITEM D-15** Commission Designation of Successor - GREGORY P. KAPUNI, Residential Lease No. 5990, Lot No. 31, Waimanalo, Oahu
- ITEM D-16** Cancellation of Tenant-In-Common Leasehold Interest - DAVID K. HOAPILI, III, Residential Lease No. 4594, Lot No. 22, Waianae, Oahu
- ITEM D-17** Commission Designation of Successor - ADELINE K. MAKUAKANE, Residential Lease No. 3507, Lot No. 240, Keaukaha, Hawaii
- ITEM D-18** Commission Designation of Successor - RUTH L. BROOKS, Residential Lease No. 6832, Lot No. 19, Waiakea, Hawai`i
- ITEM D-19** Approval for Payment of Net Proceeds -DENISE A. KAMAKA, Residential Lease No. 2590, Lot No. 215-A, Keaukaha, Hawai`i

MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Awo, to approve the Consent Agenda, removing Item D-20, which was moved to the Regular Agenda. Motion carried unanimously.

RECESS 10:40 a.m.

RECONVENED 10:57 a.m.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND MANAGEMENT DIVISION

ITEM F-5 Presentation by Department of Interior DHHL Land Inventory Survey

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio presented the following: Presentation by the Department of Interior, DHHL Land Inventory Survey.

DISCUSSION

K. Albinio introduced Policy Analyst Lisa Oshiro-Suganuma of the Department of the Interior, Office of Native Hawaiian Relations.

L. Oshiro Suganuma stated the Workshop is being presented to provide the Commission with the information about the federal survey of Hawaiian Home Lands and to be on the December Decision Making Agenda with a Request for a Right of Entry Permit.

The Bureau of Land Management (BLM) sent a letter to Chair Masagatani requesting DHHL's assistance. The survey is a requirement of the Secretary of the Interior in the 1995 Hawaiian Home Lands Recovery Act. One of the recommendations from the 1983 Federal-State Task Force Report noted there wasn't accurate identification of the lands that are part of the Hawaiian Home Lands Trust. BLM was asked by the HHC Chairman to do a study of the Hawaiian Home Lands regarding the survey record, adequacy of both the records, as well as the monumentation on the ground. BLM issued a report in 1991 with its recommendations, but it was not until FY2017 that DOI received project funding from Congress to move forward with the survey.

The survey provides history of the lands prior to 1920 compiling the legal authority that supports all of the lands that were put into the Trust, identifying the lands that were taken out and added to the Trust at different points of time, land exchanges and land recoveries that had taken place under the Hawaiian Home Lands Recovery Act.

L. Oshiro Suganuma stated that they would not be doing a complete inventory, but the survey project will address some inventory issues. Monumentation that existed according to the 1991 report will be put in place where monumentation currently exists but maybe in the wrong location or are deteriorating. Those monumentations will be replaced using modern instrumentations, which will have greater accuracies on the boundary lines. All the information from the survey goes into a federal record database. The process starts with research going back to the source which is DHHL documents, recorded documents publicly with the Land Survey Division at DAGS, the Title Company is compiling a Chain of Title Report, and the Bureau of Conveyances to look further back or look at additional parcels, enabling DOI to pull Title and Conveyance documents. First American Title is the Title Company running the report.

LAND DEVELOPMENT DIVISION

ITEM E-4 For Information Only. Slope Maintenance/Protection at 444 Kauhane Street

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Land Development Division Administrator Norman Sakamoto and Project Manager Mitchell Kawamura presented the following:

DISCUSSION

M. Kawamura briefed the Commissioners on the chronology of the concerns about the wall and the email from Norman Sakamoto to Albert Rowland, Jr. Staff went out to investigate the situation, and it is the Department's position that it is an obligation of the lessee. As a courtesy, DHHL asked the contractor to look to see what it would cost, and \$57,000 is what Prometheus Construction estimated the cost would be.

M. Kawamura stated several things contributed to the slope issue: the age, the existing wall was just a stacked, loose rock wall, the overgrowth growing between the rocks loosened everything. He added that every lease state, "at his own expense, at all times during the term of this Lease, keep and maintain all buildings and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition, and repair, wear and tear expected."

Chair Masagatani allowed and introduced Mr. Robert Rowland to address the Commission.

R. Rowland stated they assumed that DHHL put in the wall; if they did build it, there would have to be some reinforcement to reinforce the wall. He stated it had to have been part of the development of the Papakōlea homestead. He asked who is responsible for maintaining and repairing the wall and what are the policies in place that govern the maintenance of the wall.

Chair Masagatani stated a conversation with Counsel is needed because it is a determination as to who is responsible, and it is unsure if it is clear cut one way or another.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Ishibashi to convene into 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 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. Progress of land exchanges pursuant to Act 14, Special Session Laws of Hawai'i 1995

EXECUTIVE SESSION OUT 2:14 p.m.

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-2 Lillian Puaoi – Lot 99 Ho`olehua, Moloka'i

L. Puaoi stated she got her homestead in December of 1955, but only sees her husband's name on the lease, Ernest Puaoi, Sr. She wants to know what happened to her name. She said she married Ernest Puaoi, Sr. in 1949, and she wants to see the Lease document.

Moloka'i District Supervisor Gene Ross Davis provided a history of the lease. Unfortunately, certain information in the file is considered private information.

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

D. Aio and B. Kahui asked for an update on the Department's memorandum regarding contested case hearings. The Association is requesting another letter be issued to those on the top of the delinquency list.

D. Aio talked about SIC not being able to replace her phone provider but was told they are being blocked by DHHL

B. Kahui briefed the Commissioner on La'i 'Ōpua 2020. Phase 1 is completed, Phase II received \$900k encumbered \$450k and waiting for the contract. Phase II is about 60% through construction. The cost for all of Phase II is \$950k. Artistic Builders Corp. is the builder from Maui. NHEA gave La'i 'Ōpua 2020 \$2.4 million for education, and LO/2020 sought an additional \$100k from OHA.

RECESS 3:30 p.m.

RECONVENED 3:35 p.m.

REGULAR AGENDA

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Approve to Accept US Department of Agriculture Rural Development Loan/Grant Financing for the DHHL-owned Anahola Water System on the Island of Kaua'i

RECOMMENDED MOTION/ACTION

None. For information only.

Administrative Services Officer Rodney Lau presented the following:

DISCUSSION

The recommended action is in two parts. First is to approve to accept the USDA subsequent \$4.1 million loans and \$2 million grant for the DHHL owned Anahola farm lots water system. The second part is HHC Delegates Authority to the Chairman to negotiate final loan terms and conditions including execution of related documents.

The benefits to the financial arrangement are it leverages DHHL resources and allows DHHL to implement needed improvements and creates a template to use the USDA RD program for future DHHL water infrastructure for new homestead lots.

S. Matsunaga stated the water system covers 45 farm lots and 31 residential lots in the Bayview Subdivision. Phase I is to address the water distribution system improvements along Mokualele Road, where there are differences in water pressure. In one area, the water pressure is too high, and in the other area, it is too low. A half a million-gallon water tank will be replaced with a concrete tank that will improve the reliability and the functionality of the system.

Phase II involves constructing the new concrete storage tank on the same pad; the existing tank is located so that a temporary tank will be erected. Improvements will be made to the pumping

emergency generator fluorination system, and installing the Supervisory Control and Data Acquisition (SCADA) system, a remote operational communication device, so the Department will not need a person actually at the pump station. The estimated cost is about \$5.2 million; however, adding in all other costs like engineering, construction management, the current estimate is \$12.9 million.

R. Lau spoke on the USDA loan terms and conditions. The loan is \$4.1 million for 35-years; the first two years are interest-only payments, and the 33-years is the P&I payments. Interest is 3.125% and amortization of \$49 to \$1000. DHHL did an amortization schedule so it could analyze the entire 35-years. (HHC Item H-1 Exhibit A) The estimated annual payment is \$200,900.

S. Matsunaga said there are decision options:

- Accept the 2016 USDA grant and not accept the 2018 USDA RD loan and grant package. This means DHHL will proceed with the original 2016 grant of \$3.1 million and the DHHL contribution of \$3.8 million. Note that over \$4.8 million has been encumbered for design and construction for Phase I.
- Minimize time delays to project
- DHHL continues to use State bid and procurement contract documents
- DHHL need to find new funds for the estimated \$4.8 million project shortfall to complete the entire scope
- DHHL will need to find funding for additional work items beyond the scope of work; paving around the Well site and close the pumps (currently exposed)

ITEM H-2 Approve to Accept US Department of Agriculture Rural Development Loan/Grant Financing for the DHHL-owned Ho'olehua Water System on the Island of Moloka'i

RECOMMENDED MOTION/ACTION

None. For information only.

Administrative Services Officer Rodney Lau presented the following:

DISCUSSION

R. Lau stated that the recommendation comes in two parts. One that the Commission approves to accept the USDA \$7.4 million loan and the \$1.6 million grant for the DHHL owned Ho'olehua Water System. Second is the Commission delegates authority to the Chairman to negotiate final loan terms and conditions, including the execution of related documents.

The benefits leverage DHHL resources and allows DHHL to implement needed improvements, and it creates templates to use USDA program for future DHHL water infrastructure for new homestead lots.

Project Coordinator for the Ho'olehua Water System Improvement Projects, Jim Mercheton, presented the project description/scope. At the inception of the project, conditions were given, and one was to complete the project within five years. The project was broken down into four packages. J. Mercheton stated the need was to improve the aging infrastructure, reduce energy cost, achieve 24/7 access to all systems, address water pressure issues and improve water system safety and security.

J. Mercheton briefed the Commission on the four bid packages, which can be found in the submittal. (HHC Item H-2, pages 3 to 4). Bid Package 1 includes sites 1-7 excluding site 2. Bid Package 2 is site 2, the Kalama'ula portion of the Ho'olehua Water System. Bid Package 3 is the

photovoltaic (PV) system and solar field. Bid Package 4 is the equipment and supply needs for the entire Ho`olehua Water System.

HOMESTEAD SERVICES DIVISION

ITEM D-20 Request to Approve Third-Party Agreement - **RHONDA K. SANBORN**,
Pastoral Lease No. 02677, Lot No. 1, Nienie, Hawai`i

RECOMMENDED MOTION/ACTION

None. For Information Only.

O`ahu Homestead District Supervisor Juan Garcia presented the following:

Motion to approve the request for a Third-Party Agreement for pastoral Lease No.2677, Lot No. 1 situated at Nienie, Hawai`i. Lessee is Rhonda Sanborn.

MOTION/ACTION

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

WORKSHOPS

PLANNING OFFICE

ITEM G-1 **Update on Waianae Regional Plan**

RECOMMENDED MOTION/ACTION

None. For information only. HHL Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano stated the meetings held with staff and the Waianae Valley homestead leadership resulted in revisions to the draft regional plan:

- The projects are no longer listed in order of priority, but in order of geographic focus with place-specific projects listed first.
- Revised the implementation action to support subsistence agriculture on existing lots and see how the Department could support subsistence ag on residential lots in Waianae and Lualualei
- Expanded the implementation action to reduce cost burden associated with sewage systems in homestead communities
- Added reference to the Waianae Coast Disaster Readiness Team and the WaianaeReady.com website
- Added the DOT's current work based on information provided by Edwin Sniffen, Deputy Director of Highways Division.
- Replaced per capita income with median household income to reflect economic characteristics

The intention is to get the plan approved at next month's Commission meeting.

RECESS

5:13 p.m.

HAWAIIAN HOMES COMMISSION

Minutes of November 20, 2018

Meeting held at Kapolei Parkway, Kapolei, O`ahu, Hawai`i

Pursuant to proper call, the 705th Regular Meeting of the Hawaiian Homes Commission was held at Kapolei Parkway, 91-5420 Kapolei Parkway, Kapolei, Hawai`i, beginning at 9:00 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka`i Commissioner
Wallace A. Ishibashi, East Hawai`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
Wren Wescoatt, O`ahu Commissioner

EXCUSED Michael P. Kahikina, O`ahu Commissioner
Pauline N. Namu`o, O`ahu Commissioner
Vacant, Kaua`i 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
Stewart Matsunaga, Acting Land Development Division Administrator
Kaleo Manuel, Acting Planning Program Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Andrew Choy, Planner
Julie Cachola, Planner
Nancy McPherson, Planner
Mark Yim, Land Agent

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:06 a.m.

Six (6) members were present at roll call. Commissioners Kahikina and Namu`o were excused. The Kaua`i seat was vacant.

APPROVAL OF MINUTES

Chair Masagatani asked if there were any amendments to the Minutes of March 19 & 20, 2018. There were none.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Ishibashi, to approve the Minutes. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Homelani Schaedel Re: Sandwich Isles Communication (SIC)

J. Schaedel testified as an individual regarding the matter of SIC being a part of the lease. She stated she does not recall SIC being in the lease, and it could maybe be in the lease addendum. However, at this point, she does not think it important as the reliability of SIC for the kupuna that still has SIC and rely on their landlines. It is important that the Department address this matter and maybe have the DHHL ICRO division put out a statement or communication of what can or cannot be done in the event the SIC service goes down.

ITEM A-2 Bo Kahui - La'i 'Ōpua 2020/Villages of La'i 'Ōpua Re: Items D-3 and D-9

B. Kahui requested the Commission to rescind or reserve Item-D-3 until the Association gets more information on who Brian Kelson. He has requested an updated list of lessees from the DHHL. Regarding Item D-9, 4-bedroom home on Nuhi Place has been sitting vacant for about 6-7 years. The Association wanted status on the property and is requesting a letter from the Department.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Approve to Accept US Department of Agriculture Rural Development Loan/Grant Financing for the DHHL-owned Anahola Water System on the Island of Kaua'i

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
Motion that the Hawaiian Homes Commission approve to accept the subsequent \$4,100,000 loan and subsequent \$1,999,946 grant as part of the financing package awarded to the Department of Hawaiian Home Lands by the US Department of Agricultural Rural Development, to fund capital improvements to the DHHL owned Anahola farm lots Water System on the island of Kaua'i. That the Hawaiian Homes Commission delegate authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents.

Before asking for a Motion, Chair Masagatani asked to make one small amendment: Approve to accept the \$4.1 loan package and \$1.99 grant subject to receiving confirmation from USDA, that additional items can be funded.

DISCUSSION

Grant Specialist Gigi Cairel stated she is not sure how much of a confirmation DHHL will get. A justification and cost estimate must be prepared before they give a confirmation. Proactively, the Department has notified USDA, should there be remaining funds, the Department has a list of additional scope. USDA has allowed remaining funds to purchase equipment and supplies, which is standard.

Chair Masagatani stated it is going to be amended to, "Subject to confirmation from USDA, should there be funds remaining, those funds can be spent on additional items within the original scope."

MOTION TO AMEND

Moved by Commissioner Ishibashi, seconded by Commissioner Helm, to approve the amendment to the submittal.

ACTION

<p>Moved by Commissioner Ishibashi: Motion that the Hawaiian Homes Commission approve to accept the subsequent \$4,100,000 loan and subsequent \$1,999,946 grant as part of the financing package awarded to the Department of Hawaiian Home Lands by the US Department of Agricultural Rural Development, to fund capital improvements to the DHHL owned Anahola farm lots Water System on the island of Kaua`i. That the Hawaiian Homes Commission delegate authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents, and that the Hawaiian Homes Commission approves the issue of the right of entry permit, not to exceed December 31, 2019, to Isemoto Contracting Ltd., Kealakehe, Hawai`i TMK No. (3) 7-4-020:003 (por.); subject to confirmation from USDA, should there be funds remaining, those funds can be spent on additional items within the original scope.</p>						
<p>Seconded by Commissioner Helm</p>						
Commissioner	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ishibashi	X		X			
Commissioner Ka’apu			X			
Commissioner Kahikina						X
Commissioner Namuo						X
Commissioner Wescoatt			X			
Chair Masagatani			X			
TOTAL VOTE COUNT			6			1
<p>MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED</p>						
<p>Motion passes unanimously. six (6) ‘Ae, two (2) Excused. Vacant: Kauai</p>						

ITEM H-2 Approve to Accept US Department of Agriculture Rural Development Loan/Grant Financing for the DHHL-owned Ho'olehua Water System on the Island of Moloka'i

RECOMMENDED MOTION/ACTION

Administrative Services Officer, Rodney Lau, presented the following:
Motion that the Hawaiian Homes Commission approve to accept the subsequent \$7,455,000 loan and subsequent \$1,592,333 grant as part of a financing package awarded in September 2018 to the Department of Hawaiian Home Lands by the USDA RD to fund major capital improvements to the DHHL owned Ho`olehua Water System on the island of Moloka`i. The Hawaiian Homes Commission delegates authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents.

MOTION/ACTION

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

RECESS

9:45 a.m.

RECONVENE

9:50 a.m.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Right of Entry Permit to State of Hawaii, Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW), Hawaii Island, Access to mauka boundary of TMK (s): (3)3-8-001:009, :002, :007 for fence inspection. Access to makai boundary road of TMK: (3)2-6-018:002 for fence inspection and access to remote parts of Hilo and Mauna Kea Forest Reserves for Natural Resource Management

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio and Legislative Analyst Lehua Kinilau-Cano presented the ROE/RP Program Reform update.

DISCUSSION

L. Kinilau-Cano stated DHHL manages 116 ROEs statewide, and the primary purpose for the ROE permits is to help to have a presence on the land. The ROE is intended to be short term. DHHL is not able to get the most in terms of rent from these areas for short term purposes. For agricultural, there are 11 ROEs that are spread throughout the state. The largest ROEs are for industrial purposes 42, and then there are 30 for pastoral.

Currently, there is no application process, and 116 ROEs come up for annual renewal, so the desired outcome is to have an open application process. There are no clear beneficiary access and no process for selecting better tenants, so the forward move is to have a consistent selection methodology that reflects the Commission's priorities including beneficiary participation.

The breakdown of the application process is; identify the property with details of current use and application due dates; have an application that is available for prospective and existing tenants, to have transparency, and explaining scoring criteria, meeting registration requirements with the DCCA, proof of compliance, insurance and all uses exempt from preparing an EA.

The issue of the existing ROEs is assessing whether what properties are positioned to enter a long-term disposition. The next is the methodology of getting them into a long-term disposition. There are parcels ready to go to an open bid or the process of getting them into a general lease. Chair Masagatani said she was able to have a conversation with Hi'ilei, the LLC, under OHA, which specializes in this kind of work, and they are open to working with us.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Right of Entry Permit to State of Hawaii, Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW), Hawaii Island, Access to mauka boundary of TMK (s): (3)3-8-001:009, :002, :007 for fence inspection. Access to makai boundary road of TMK: (3)2-6-018:002 for fence inspection and access to remote parts of Hilo and Mauna Kea Forest Reserves for Natural Resource Management

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Land Agent Kualii Camara presented the following:

Motion to issue a Right of Entry Permit to the State Department of Land and Natural Resources, Division of Forestry and Wildlife on Hawai'i Island for access to the mauka boundary of TMKs listed in the submittal for fence inspection, and access to the makai boundary road of the subject TMK as listed fence inspection and access to remote parts of Hilo and Mauna Kea, a forest reserve for natural resource management.

MOTION

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

DISCUSSION

K. Camara stated a basic right of entry does not convey property rights or lease rights, and it is access to do specific functions to help implement the Aina Mauna Legacy Plans. Item F-1 is for DLNR- Hawai'i island Division of Forestry and Wildlife, to access the mauka and makai boundaries. On the mauka side the access borders the Mauna Kea Forest Reserve, and on the makai side, the access borders the Hilo Forest Reserve. The 21-miles of boundary fencing installed by DOWFA, at no cost to DHHL, helps to manage the ungulates in the area. The mauka side fencing helps to protect the 80-thousand-acre summit of Mauna Kea. The \$2.8 million of infrastructure must be maintained to continue being functional. DOWFA needs access to maintain the fencing and today is applying for a ROE, for the same purpose. In return, DOWFA is giving DHHL access through Pu'u O`o Road to access the remote areas of Pi'ihonua; otherwise the only access is by ATV or helicopter.

ACTION

Moved by Commissioner Wescoatt: Motion to issue a Right of Entry Permit to the State Department of Land and Natural Resources, Division of Forestry and Wildlife on Hawai'i Island for access to the mauka boundary of TMKs listed in the submittal for fence inspection, and access to the makai boundary road of the subject TMK as listed fence inspection and access to remote parts of Hilo and Mauna Kea, a forest reserve for natural resource management.						
Seconded by Commissioner Ka'apu						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ishibashi				X		
Commissioner Ka'apu		X	X			
Commissioner Kahikina						X
Commissioner Namuo						X
Commissioner Wescoatt	X		X			
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		2
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with five (5) 'Ae, one (1) A'ole, two (2) Excused. Vacant: Kauai						

ITEM F-2 Approval of Right of Entry Permit to Hawaiian Reforestation Program Foundation (HRPF) for assistance in the Āina Mauna Legacy Program Implementation. Mamane Reforestation and Sandalwood Enrichment, TMK (3)3-8-001: 003, 44-acre portion of TMK (3)3-8-001: 007

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Land Agent Kuali'i Camara presented the following:

Motion that the Hawaiian Homes Commission authorize the issuance of a right of entry permit covering the subject area identified and described for HRFP personnel and volunteers to assist DHHL in the Aina Mauna Legacy Program Implementation by reforesting the subject area with sandalwood and other diverse native plant species. Since July 2017 HRFP has planted, monitored and maintained nearly 3,000 sandalwoods and 5,000 total native plant species in the subject area with no cost to DHHL. Approval and issuance of the right of entry permits shall be subject to the conditions listed in the submittal.

MOTION

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

DISCUSSION

K. Camara stated the request is strictly for the right of entry (ROE), no lease rights, or property rights to the HRPF. The ROE is so the HRPF can assist in the Aina Mauna Legacy Implementation for the subject area for the reforestation of sandalwood and mamane. HRPF's mission statement is to reforest Mauna Kea. They aren't expecting anything from DHHL, they don't plan to harvest the trees that they plant, and there is a no-cost implementation for the DHHL objectives. HRPF is able to take volunteers and provide access to the areas. They are insured and have been working with Alu Like to hire native Hawaiian youths to work with them.

ACTION

Moved by Commissioner Awo: Motion that the Hawaiian Homes Commission authorize the issuance of a right of entry permit covering the subject area identified and described for HRFP personnel and volunteers to assist DHHL in the Aina Mauna Legacy Program Implementation by reforesting the subject area with sandalwood and other diverse native plant species. Since July 2017 HRFP has planted, monitored and maintained nearly 3,000 sandalwoods and 5,000 total native plant species in the subject area with no cost to DHHL. Approval and issuance of the right of entry permits shall be subject to the conditions listed in the submittal						
Seconded by Commissioner Wescoatt						
Commissioner	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm			X			
Commissioner Ishibashi				X		
Commissioner Ka’apu			X			
Commissioner Kahikina						X
Commissioner Namuo						X
Commissioner Wescoatt		X	X			
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		2
MOTION: [] UNANIMOUS [] PASSED [] DEFERRED [X] FAILED						
Motion passes with five (5) ‘Ae, one (1) A‘ole, two (2) Excused. Vacant: Kauai						

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

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approved the following action while developing the process of making a short term agricultural and pastoral land disposition available to beneficiaries. This is just basically the approval of annual renewal of right of entry permits on Lanai island. There is one permittee who is a homesteader.

MOTION/ACTION

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

ITEM F-4 Approval to Issuance of a Non-Exclusive License as Easement to the County of Hawaii for Public Roadway Access, Maintenance, and Water Utility Purposes, Waiakea, Hawaii Island, TMK: (3)-2-1-012:029, Parcel A (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Approval of the issuance of a non-exclusive license as easement to the County of Hawai`i for public roadway access, maintenance, and water utility purposes in Waiakea, island of Hawai`i, TMK as listed, parcel A. Recommended action is that the Hawaiian Homes Commission approve the issuance of this non-exclusive perpetual license as a public roadway and utility easements specifically W-1 to the County of Hawai`i for 1.2-acre portion of the land identified by the subject TMK as listed, traversing over the Department of Hawaiian Home Lands situated in Waiakea, known as Ho`olaulima Road, and further described in the attached metes and bounds description

of said easements as prepared by the civil and structural engineering-land surveying firm of Inaba Engineering, Inc., for access, maintenance, and water utility purposes only, subject to the following conditions as listed.

MOTION

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

DISCUSSION

Chair Masagatani asked K. Albinio, what does he mean by public roadway access. K. Albinio showed the Commissioners an aerial view with Google Map, which highlighted the area. Chair Masagatani said she had a question for Counsel and deferred the action item. She told K. Albinio that the item might be deferred to next month.

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of 2019 Hawaiian Homes Commission Meeting Schedule

RECOMMENDED MOTION/ACTION

Chair Masagatani presented the following:

Approval of the proposed 2019 Hawaiian Homes Commission Meeting Schedule. She stated that the 28th and 29th of January meeting are scheduled later to accommodate the Legislative Opening and the State of the State, which means the February meeting will be close to the January meeting.

MOTION/ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

OFFICE OF THE CHAIRMAN

ITEM C-2 Workshop on Proposed Rules for Supplemental Dwelling Units Pilot Project

RECOMMENDED MOTION/ACTION

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

DISCUSSION

The pilot program was proposed on O`ahu and Hawai`i Island for residential lots only, the pilot program would run for five years, and the Department would evaluate the program after three years. At the Beneficiary Consultation, beneficiaries were asked what they thought about the pilot program. Overwhelmingly, they liked the program because there was an evaluation component to it and would know how things are going and what would happen next. The beneficiaries also thought that the pilot program should be on all islands and all lot types. The Department staff re-looked at the rules and the staff recommended keeping the pilot program as proposed. The complexity of the pilot program is why staff recommended sticking to the proposed pilot program. Coordinating with the Counties, LDD has their review of the building plans, the Planning Office has their review of the Island Plans and any zoning issues that may arise with the Counties, HSD would have to execute lease amendments and if the unit is going to be rented out for money, then HSD would have to deal with the native Hawaiian qualifications because, under the Hawaiian Homes Commission Act, a lessee can rent a portion of their house or another unit to a native Hawaiian of 50%. Enforcement issues would undoubtedly arise. For the lessees, they would have

to qualify for financing, go through the County permitting process, including any upgrades that the County would require, for the older lots, most likely sewer upgrades. O`ahu and Hawai`i are recommended because the Department has an MOU with Hawai`i County Planning, and one is in process with the City and County of Honolulu. Although every County has their housing issues and demands, O`ahu has the greatest demand for housing and Hawaiian homelands. Residential lots were recommended. Ag and pastoral lessees can already have an additional unit, and ag and pastoral lots have the option of subdividing, which allows family to be nearby and additional units close to each other. Residential lots don't have those options.

LAND DEVELOPMENT DIVISION

ITEM E-2 Lot Inventory Status

RECOMMENDED MOTION/ACTION

None. For information only.

Acting LDD Administrator Norman Sakamoto and Homestead Housing Specialist Atina Soh presented the following:

DISCUSSION

A. Soh said the task was to do a comprehensive report on the Department's inventory. They took the current information from the APEX System, real property tax information, and created a spreadsheet compiled with the information from both databases. Fields were added for tracking about type of award if it was from housing branch, turnkey, habitat, vacant, or pre-owned home. The status indicates where the lot is located. The subdivisions are almost complete; about eighty-six are done, and there are about twenty-something more areas. The Department needs to create a system so staff can have access to the information, as of now the information is on Excel Spread Sheets. A procedure needs to be developed to report the discrepancies to HSD for corrective action as needed. There is no centralized place for these bureaus recorded documents; a system needs to be developed to keep it, whether it be LMD, LDD or HSD. When lessees do subdivisions, County gives the approval, and it is subject to the recording at the bureau. Some of the old ones were not sent to the bureau for recording.

MOTION/ACTION

Moved by Commissioner Wescoatt, 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

12:05 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. Update on issues related to Sandwich Isles Communications.

EXECUTIVE SESSION OUT

12:55 p.m.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held at Kapolei Parkway, Kapolei, O`ahu, Hawai`i, on December 17 & 18, 2018.

ADJOURNMENT

12:56 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