

HAWAIIAN HOMES COMMISSION
Minutes of October 27 and 28, 2014
Meetings held at Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi

Pursuant to proper call, the 656th Regular Meeting of the Hawaiian Homes Commission was held at the Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi beginning at 10:00 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaʻapu, Commissioner, West Hawaiʻi (arrived 10:18 am)
Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oʻahu
Vacant, Commissioner Kauaʻi

EXCUSED Gene Ross K. Davis, Commissioner, Molokaʻi
William Richardson, Commissioner, Oʻahu

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Sandy Pfund, Administrator, Land Development Division
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ah Yat, Enforcement Office
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Stewart Matsunaga, Community Development Manager, Land Development
Elaine Searle Secretary to the Commission
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:10 a.m.

ROLL CALL

Commissioner Kaʻapu was on his way. Commissioners Davis and Richardson were excused. The Kauaʻi Commissioner seat was vacant. Five (5) members were present at roll call.

APPROVAL OF AGENDA

Commissioner Tassill asked for a status of a motion at the last Commission meeting to approve a moratorium on lease cancellations. He thought the item would be listed on this month's agenda.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN

10:06 a.m.

EXECUTIVE SESSION OUT

10:18 a.m.

MOTION/ACTION

Commissioner Canto moved, seconded by Commissioner Ishibashi, to approve the agenda.

Moved by Commissioner Canto to approve the agenda. Seconded by Commissioner Ishibashi						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto	X		X			
Commissioner Davis						X
Commissioner Ishibashi		X	X			
Commissioner Ka'apu			X			
Commissioner Kahikina			X			
Commissioner Richardson						X
Commissioner Tassill				X		
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		2
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with five (5) Yes, one (1) No vote. Two excused.						

ITEMS FOR DECISION MAKING

OFFICE OF THE CHAIRMAN

ITEM C-1 Resolution of Appreciation No. 279 – Patricia Wilcox Sheehan

RECOMMENDED MOTION

Deputy to the Chair Darryl Young presented the following:

Motion to approve Resolution of Appreciation No. 279 – Patricia Wilcox Sheehan.

Deputy Darryl Young read resolution 279 and Commissioners thanked former Commissioner Sheehan for her service to the Hawaiian Homes Commission and the beneficiaries of the trust.

Chair Masagatani thanked Commissioner Sheehan for her compassion and service.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui, Executive Director of La'i 'Ōpua 2020 Re: Item B-1, D-5

B. Kahui asked that any discussion and or decision related to the Keauhou aquifer be made when the Commission travels to Kona. La'i 'Opua 2020 and the Villages of La'i 'Opua oppose the

petition to designate the Keauhou aquifer as a water management area because it directly impacts the community and commercial enterprises. It will restrict their water use and is an additional layer of oversight by the state. They understand reservation rights, but it does not necessarily give you water. The department can exercise its reservation rights outside of the designation process. In order for the department to get water for its projects, it will need to seek assistance from neighboring landowners who have water. These neighboring landowners are who you should be aligning yourselves with.

ITEM A-2 Dexter Kaiama, Re: Executive Session

D. Kaiama stated his testimony relates to the authority of the DHHL. He has been before the Commission twice before and has distributed a number of documents relating to the authority of DHHL. He also distributed copies of a letter from Williamson Chang, senior professor at the Richardson School of Law, which raises the issue of war crimes and federal law violations in the unlawful use of money derived from land belonging to the Kingdom of Hawai'i. He asked Commissioners to issue a moratorium on evictions and lease cancellations until the questions raised by Williamson Chang are answered by the US Department of Justice.

He stated the United States does not hold valid title to the Hawaiian Islands and has no lawful claim to these islands. As such, the DHHL is without authority to execute cancellations. He added that he has filed eight other complaints on behalf of other beneficiaries. The international court is beginning to conduct their investigation as to whether the courts provided his clients with a fair and regular trial. The failure to do so is a violation of international law as well as a felony under U.S. law. The basic tenement is that the United States never lawfully acquired title to this territory and that the Hawaiian Kingdom continues to exist as a subject of international law. The state of Hawai'i and DHHL do not have the authority to execute the approval or cancellation of leases.

He asked that the Commission seek the answer of whether or not it has the authority over these lands.

ITEM A-3 Andrew Cabebe Re: Executive Session

A. Cabebe stated he is a citizen of the Polynesian Kingdom of Atooi. He warned Commissioners that they would be charged for not doing their fiduciary duty for the Hawaiian people.

ITEM A-4 Kipukai Kualii, Anahola Homestead Association (AHA) Re: C-1

K. Kualii stated AHA appreciates Commissioner Sheehan for her service and oluolu manner. They thank her for being a part of the process to help beneficiaries especially on Kaua'i.

He supports Commissioner Tassill's motion moratorium on lease cancellations.

ITEM A-5 Kahau Mahoe-Theone, Hawaiian Community Assets (HCA) Re: F-6

K. Mahoe-Theone thanked the Commission for allowing HCA to be housed at the department's Paukūkalo office these past years. HCA decided to close the Maui office, but will continue to service Maui beneficiaries out of its O'ahu office. They would still like to use the department's office for one-on-one servicing with Maui clients if needed.

WORKSHOP PRESENTATIONS

ITEM B-1 DHHL- CWRM Joint Workshop on Water Management Area Process and Keauhou Aquifer Petition Update

DISCUSSION:

Acting Planning Program Manager Kaleo Manuel and CWRM (Commission on Water Resource Management) Groundwater Program Manager Roy Harley provided an oral workshop on the Keauhou Aquifer Petition.

K. Manuel stated DHHL acquired 1,500 acres of land in the Keauhou Aquifer System Area. Most of the land is slated for residential development. If DHHL were to build on all of its land it would need 3.3 Million gallons per day (mgds) of potable water. As part of the agreement to convey the land, HHFDC also conveyed 392 water credits for the land in Kealahou. After the development of Lai 'Opua Village 4, the department will have exhausted all of its water credits in the area.

Chair Masagatani stated in the areas that are designated as water management areas, the ground water permit process calls for identifying any impact to DHHL. She asked R. Harley if there is a process in non-designated areas where the department can similarly ensure its public trust rights are reviewed before a permit is issued?

R. Harley stated that for all the other permits that are issued one of the standard conditions is that there is no guarantee to the permit holder and it is subject to other legal rights and it explicitly points out the DHHL rights as well. They do look at well permits to see if there may be any impacts to DHHL rights. There are opportunities to weigh in on any permit application.

Commissioner Ka'apu asked for the timeframe of the residential developments in La'i Opua and Keahuolu. K. Manuel stated Village 4 was approved and is underway, within the next 20 years the Island Plan calls for developments on all of the parcels. Some of the areas require more investment in infrastructure.

Commissioner Ka'apu asked R. Harley it would be easier for DHHL to put in a well if the area was designated as opposed to not being designated. R. Harley stated he doesn't think designation would make a difference in terms of putting in a well. DHHL is not subject to the County's zoning criteria so that's one hurdle done. In that sense it should be easier for DHHL than others in the area.

Chair Masagatani stated it is clear that in a designated area there is a mechanism for DHHL to ensure that DHHL's water needs are being considered, but in a non-designated area, it is unclear what that mechanism would be. R. Harley stated if DHHL has its reservation and the aquifer is not in danger of reaching the sustainable yield, then there should be no problem.

K. Manuel stated on Moloka'i DHHL owns a well in the Kualapuu aquifer as well as the County of Maui and Moloka'i Ranch. We have a 1.6 mgd reservation by rule and have an existing water use permit application for 167,000 gpd. The department needs 450,000 gallons per day for beneficiary use and has asked for increases which are well within our allocation, but have not been granted it. As DHHL pumps water and the County pumps water, the chloride levels rise. DHHL has said the County should be the one to move. Those are real situations where DHHL has reservations but still struggles to get water.

Commissioner Ka'apu asked if those struggles exist in West Hawai'i that would require the department to take a more proactive stance. Sandra Pfund stated the County of Hawai'i is not difficult to work with, however, there is just not enough source. Water development is costly so partnerships are key to share costs.

ITEMS FOR DECISION MAKING

ITEM E-1 Phase I and Phase II Environmental Assessment Report on Kekaha Residential Lots, Unit 4 Subdivision, and Recommendations for Remediation

RECOMMENDED MOTION/ACTION

Land Development Division Administrator Sandra Pfund presented the following:
That the Hawaiian Homes Commission approve the preparation of an Environmental Hazard Management Plan (EHMP) for the Kekaha Residential Lots, Unit 4 Subdivision, based upon findings contained in the Phase I and Phase II Environmental Assessment Reports prepared by AECOM Technical Services, Inc.

MOTION

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

S. Pfund introduced special legal counsel on this matter, Ian Sandison, Esq. and Steve McKnight who is a geologist and consultant with AECOM.

S. McKnight summarized the testing results that analyzed the surface soil, subsurface soil, and shallow groundwater. The surface soil and groundwater are of minimal concern and the Department of Health (DOH) highlighted that in their letter.

The samples on subsurface soil did contain some chemicals above the screening criteria they use to measure chemicals. These chemicals were lead, petroleum, mercury and arsenic. They reviewed the results with the DOH who recommended additional core sampling to evaluate further. The information from the second sampling will be incorporated into the Environmental Hazard Management Plan. Overall their investigation indicate that the surface soil was for the most part clean and doesn't represent a health hazard to the current residents.

I. Sandison stated he, too, participated in the meetings with the DOH. The fundamental question is, are the people safe and does the soil pose a risk to the people living on those parcels. The evaluation from the DOH was that the surface soil does not pose a risk to their health partially because there is a surface layer of clean sand. The EPA standard is a foot and a half to 2 feet of clean soil on top of the contaminated soil is considered to be protective. Many communities throughout the state have somewhat similar issues.

Commissioner Ishibashi asked how the soil would affect gardens and trees. I Sandison stated the toxicologist at the Department of Health stated that the 2-foot layer was a comfortable buffer and that there would not be too great a risk of uptake.

Commissioner Canto asked if the reports were based on samples taken from only four lots. S. McKnight stated the surface soil results are from throughout the whole 20-acre site. The four borings are where they installed the ground water monitoring wells. It was from the four borings that they pulled soil for the deeper subsurface tests.

Chair Masagatani asked if there is any indication that the contamination is concentrated in any specific area. S. McKnight stated that only two of the four borings sites had the dark-colored soil

that contained the chemicals above the screening criteria. Part of the plan with the Department of Health is trying to identify which areas have the most dark-colored soil.

S. Pfund added that there are two things going on at the site, one is the debris like metals and glass being found in the surface soil and the other is subsurface chemicals. A plan may include keeping topsoil on the lots so erosion doesn't unearth the debris. The area was a fugitive dumpsite in the past, which means we cannot determine what types of things were dumped, and where. The lots nearest the cane haul road have more of a slope which lends to quicker erosion. They recommended those lots have retaining walls built and backfill added to keep everything in.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-6 Kawai Warren, Kekaha Resident of Lot 4. Re: E-1

K. Warren commented that many of the chemicals found in the soil can also be found at the Kekaha plantation holding tanks. This area is a sand dune yet there is soil being found. When he dug the footings for his house he went below the subsurface levels and it is all sand. Where did the dirt come from? He thinks it probably came from the Kekaha sugar plantation.

I. Sandison said based on what they observed, the dark soil may have been moved around during the grading and construction of the site. There is no indication that off-site soil was brought in, but there is indication that soil was moved around within the site. S. Pfund added that in construction standards, any soil that is brought in to a site is tested for environmental constituents concerns as well as structural stability. Her guess is that the soil was there prior to the current construction.

K. Warren stated he is concerned about what he is growing despite the evaluation that says the topsoil is safe. Kekaha was designated as a Super Fund cleanup, which means the contamination was found to be significant. He thanked the Commission for all of the testing.

Chair Masagatani asked what the next steps would be. S. Pfund stated they will do additional testing and then go out to the community to let them know what was found and what the plan is moving forward.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN

12:06 p.m.

EXECUTIVE SESSION OUT

1:50 p.m.

Chair Masagatani thanked everyone for their patience while the Commission convened in executive session. She asked Commissioners if there were any further questions or concerns about the action. Hearing none, she called for the question.

ACTION

Motion carried unanimously.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-4 Approval to Issue Right-of-Entry Permit, Nelson Hiraga and John Kaahui, Honokawai, Maui

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission authorize the issuance of a Right-of-Entry permit to Nelson Hiraga and John Kaahui for a 26,475 square foot parcel of Hawaiian home lands for use as a steel fabrication and construction baseyard at Honokowai, island of Maui, TMK: (2) 4-4-02:003 (por) (Exhibit "A"). The issuance of the Right-of-Entry document is subject to the following:

1. The term shall be month to month, up to twelve (12) months, effective retroactive from July 1, 2013, with the twelve (12) month period ending on June; 30, 2015, subject to Hawaiian Homes Commission action
2. The fee for the term shall be \$275.00 per month, \$3,300.00 per year;
3. Permittee shall pay the fee for the premises retroactive from July 1, 2013 to October 31, 2014 in the amount of \$5,225.00 to bring the account current to November 1, 2014;
4. Permittee shall comply with the insurance requirements as provided in the Right-of-Entry permit, naming the Department of Hawaiian Home Lands as additional insured;
5. Permittee shall comply with all standard provisions of the Right-of-Entry permit;
6. Approval of the Right-of-Entry document by the deputy Attorney General; and
7. Any further extension of the term of the Right-of-Entry shall be subject to approval by the Hawaiian Homes Commission.

MOTION

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

Chair Masagatani stated there is a perception of entitlement to the land with some permit holders. She made it clear that the department's main goal is to either homestead the parcels or move them to a higher income producing level. N. Hiraga stated he is clear about the permit and only asked for adequate time to clear out when the time comes.

ACTION

Motion carried unanimously.

HOMESTEAD SERVICES DIVISION

ITEM D-2 Ratification of Loan Approvals

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To ratify the approval of the loans listed in the submittal, previously approved by the Chairman, pursuant to section 10-2-17, Ratification of chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-3 Approval of Consent to Mortgage

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (BUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-4 Approval of Streamline Refinance of Loans

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-5 Approval to Schedule Loan Delinquency Contested Case Hearings

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To authorize the scheduling of the following loan delinquency contested case hearings as shown in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-6 Approval of Homestead Application Transfers / Cancellations (see exhibit)

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described:

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-7 Commission Designation of Successors to Application Rights - Public Notice 2012 and 2013

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To ratify the approval of the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-8 Approval of Assignment of Leasehold Interest

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the assignment of the leasehold interest, pursuant to section 208, Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-9 Approval of Amendment of Leasehold Interest

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the amendment of the leasehold interest in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-10 Commission Designation of Successor - Erennamae K. Cheseboro, Lease No. 4238, Lot No. 260, Keaukaha, Hawaii

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

1. To dispense with the public notice as required by HAR §10-3-63 as John Kaleimaiole Chesebro, Jr., widower of Erennamae K. Chesebro, being the highest priority qualified successor, has come forward with a request to succeed to the lease;
2. To approve the designation of John Kaleimaiole Chesebro, Jr. (John), as successor to Residential Lease No. 4238, Lot No. 260, Keaukaha, Hawaii, for the remaining term of the lease, subject to the Department of Hawaiian Home Lands Contract No. 16674 being paid in full within ninety (90) days of the execution of the Transfer Through Successorship instrument.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEMS FOR INFORMATION

PLANNING DIVISION

ITEM G-1 Native Hawaiian Development Program Plan (NHDPP): Kulia i ka Nu'u - Strive for Excellence (For Information Only)

RECOMMENDATION

None. For Information Only.

SUMMARY

Grants Specialist Gigi Cairel presented the following:

The submittal provided a summary of the accomplishments, lessons learned, and recommendations for next steps resulting from the Kulia i ka Nu'u- Strive for Excellence program (Kulia). The Kulia program was authorized by the Hawaiian Homes Commission as part of the 2009 - 2011 Native Hawaiian Development Program Plan (NHDPP). The Kulia program was intended to be a comprehensive and graduated approach to community development. The program purposes were to build homestead organizational capacity to successfully plan and implement beneficiary community-driven projects based on homestead community visions and long-term plans.

Recommendations

- Strengthen support infrastructure within DHHL such as staffing (2.5 FTEs), internal database, systems and procedures
- Customize assistance to project type; community context; and organizational life cycle
- Provide comprehensive and coordinated services
- Include assistance that is peer connected
- Continue organizational assessments and training
- Leverage resources for DHHL and for beneficiary organizations
- For new associations, provide consistent technical assistance in their initial years of operations
- DHHL grants program - pull back on providing grant funding over the next year. Instead, assess outstanding grants and focus training and support on those associations
- Community Economic Development (CED)
 - o Agriculture development and farming training
 - o Funding and technical support for a range of CED efforts (real estate and non-real estate-based)
 - o Strengthen capacity around feasibility analysis, business planning and operational planning
- Land awards/dispositions
 - o Build off of each other's strengths - DHHL & community
 - o Prior to land awards/dispositions, DHHL to perform due diligence regarding Association capacity, experience, qualifications, broad community support
 - o DHHL consider creating "Resource Teams" to undertake development on behalf of associations with its support and input

Acting Planning Program Manager Kaleo Manuel stated there is a need for capacity building and training in our community associations.

Moving forward and given limited resources, DHHL will implement the following:

- Agriculture peer-to-peer pilot grant program

- Leadership development training using the curriculum from the Ford Institute Leadership Program
- Train-the-trainer
- Technical assistance and training support for DCCR homestead associations in their startup phase and those out of compliance with the State of Hawaii Department of Commerce and Consumer Affairs
- Technical assistance for current DHHL grantees and for beneficiary organizations with outstanding grants, deliverables, and reports
- Training in nonprofit topics - starting a new nonprofit, maintaining nonprofit compliance, board training, strategic planning, nonprofit budgeting & financial management, grant writing

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Right-of-Entry Permit, County of Hawaii, Makuu, Puna, Hawaii

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right-of-Entry permit (ROE) to the COUNTY OF HAWAII as PERMITTEE to enter portions of Hawaiian home lands at Makuu, Puna, Island of Hawaii, identified by TMK Nos. (3) 1-5-010: portions of 005 and 006, as shown on Exhibit "A." The ROE will allow County of Hawai'i to improve and expand the existing Government Beach Road as necessary to provide emergency access for the lower Puna district. This approval is subject, but not limited to the conditions listed in the submittal.

MOTION

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

DISCUSSION/HISTORY

Based on the information from the Hawaiian Volcano Observatory, United States Geological Survey, on June 27, 2014, new vents opened on the Northeast flank of Pu'u O'o vent that has fed, and continues to feed, a narrow lava flow from the East-Northeast. The information indicates that the current lava flow will continue to advance thereby endangering communities in the path of the advancing lava flow, and if unimpeded, will cross Highway 130 at an unknown time and location.

Governor Abercrombie issued a Proclamation dated September 5, 2014 to support immediate relief in response to the emergency. The Governor also suspended any law, which impedes or tends to impede or is detrimental to the emergency functions. Mayor Keno'i also issued a Proclamation dated September 4, 2014 declaring that a state of emergency exists due to threat of disaster on Hawaii Island in Puna, continuing thereon for 60 days or until further act by his office.

CHAPTER 343 COMPLIANCE

Exempt Class of Action (5) states that "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource" is exempted from requirements of Chapter 343, HRS, as amended.

ACTION

Motion carried unanimously.

**ITEM F-2 Approval to Issue Right-of-Entry Permit, Hawaii Electric Light Company, Inc.
Makuu, Puna, Hawaii**

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right-of-Entry permit (ROE) to the HELCO as PERMITTEE to enter portions of Hawaiian home lands at Maku'u, Puna, Island of Hawaii, identified by TMK Nos. (3) 1-5-010: portions of 005 and 006, as shown on Exhibit "A." The ROE will allow HELCO to install, repair, maintain, and operate poles, pole lines, anchors, and related equipment abutting the Government Beach Road as necessary for the lower Puna district to ensure no interruption of electrical utility service. This approval is subject to, but not limited to the conditions listed in the submittal.

MOTION

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

Commissioner Ka'apu asked if the ROE was meant to be gratis. L. Chinn stated it was an emergency situation so fees were not discussed, but when they come back for the long-term license agreement the compensation will be added. Commissioner Ka'apu stated he did not see an indemnification clause. L. Chinn stated it is part of the agreement.

Chair Masagatani suggested an amendment to add a twelfth condition: "12. The ROE include appropriate language indemnifying DHHL."

MOTION TO AMEND/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Kahikina to add "12. The ROE include appropriate language indemnifying DHHL." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

**ITEM F-3 Approval to Issue Right-of-Entry Permit, Kalaeloa Solar Energy, LLC, Kalaeloa,
Oahu Approval to Issue Right-of-Entry Permit, County of Kauai, Kapaa, Kauai**

Note: Item F-3 was withdrawn.

ITEM F-4 Issuance of Right-of-Entry Permit, County of Kaua'i, Kapaa, Kaua'i

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission approve the issuance of a Right-of-Entry (ROE) permit to the County of Kaua'i, to enter onto Hawaiian home lands at Kapa'a, Island of Kaua'i, identified as Tax Map Key No. (4) 4-5-015:034(Por) for the construction of a temporary overflow parking area. This approval is subject to the conditions listed in the submittal.

Chair Masagatani stated she would prefer to defer this item given that there are questions regarding use of the parcel. It appears that the parcel was already being leased. L. Chinn stated it is a 15-acre parcel and the department uses a portion of it for storage.

County Director of Parks and Recreation Lenny Rapozo explained the use and need for the request. He stated the main purpose is to alleviate parking congestion during events and maximize the facility capacity. He stated that he will be at the next Commission meeting for another item and is okay with deferring this item until then.

Chair Masagatani asked that staff clarify the land use issues associated with this item before it is listed on the next Commission agenda scheduled for Hilo.

ITEM F-6 Approval to Cancel License No. 519, Hawaiian Community Assets, Inc., Paukūkalo, Maui

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission (HHC) grant its approval to cancel License No. 519 to Hawaiian Community Assets, Inc., a Hawai'i non-profit corporation (hereinafter "HCA"), for approximately 375 square feet (more or less) of office space situated within Department of Hawaiian Home Lands Maui District Office in Paukūkalo, identified by Tax Map Key No. (2) 3-03-005:086 & 087 (por) used for the purpose of maintaining office and conference room for financial counseling and training.

Approval to cancel this license is subject to the following conditions:

1. The term of the license shall terminate effective November 6, 2014; 2. LICENSEE shall vacate and surrender the premises no later than November 6, 2014;
2. LICENSEE shall continue to pay fees of \$1.00 per square foot for a total of \$380.00 per month plus, common area maintenance fees of \$420.00 per month, for a total of \$800.00 per month through the month of October 2014; and
3. LICENSEE agrees to cure October 2014 fees in the amount of \$800.00, including delinquent fees incurred in the amount of \$4,500.00, for total balance owing of \$5,300.00, to be paid in full no later than October 31, 2014; and
4. With the exception of the current request action, all of the terms conditions, covenants, and provisions of License No. 519 shall continue and remain in full force and effect.

MOTION

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

Chair Masagatani suggested an amendment to condition #3, to add: "such amounts may be paid with "in-kind services" to be completed within 12 months including a report to the Hawaiian Homes Commission." Commissioner Ka'apu stated the in-kind services should be services that wouldn't already have been provided.

MOTION TO AMEND/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to add to condition #3, "such amounts may be paid with "in-kind services" to be completed within 12 months including a report to the Hawaiian Homes Commission." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

HAWAIIAN HOMES COMMISSION
Minutes of October 27 and 28, 2014
Meetings held at Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi

Pursuant to proper call, the 656th Regular Meeting of the Hawaiian Homes Commission was held at the Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi beginning at 10:00 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaʻapu, Commissioner, West Hawaiʻi (arrived 10:18 am)
Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oʻahu
Vacant, Commissioner Kauaʻi

EXCUSED Gene Ross K. Davis, Commissioner, Molokaʻi
William Richardson, Commissioner, Oʻahu

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Sandy Pfund, Administrator, Land Development Division
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ah Yat, Enforcement Office
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Stewart Matsunaga, Community Development Manager, Land Development
Elaine Searle Secretary to the Commission
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:10 a.m.

ROLL CALL

Commissioner Kaʻapu was on his way. Commissioners Davis and Richardson were excused. The Kauaʻi Commissioner seat was vacant. Five (5) members were present at roll call.

APPROVAL OF AGENDA

Commissioner Tassill asked for a status of a motion at the last Commission meeting to approve a moratorium on lease cancellations. He thought the item would be listed on this month's agenda.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN

10:06 a.m.

EXECUTIVE SESSION OUT

10:18 a.m.

MOTION/ACTION

Commissioner Canto moved, seconded by Commissioner Ishibashi, to approve the agenda.

Moved by Commissioner Canto to approve the agenda. Seconded by Commissioner Ishibashi						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto	X		X			
Commissioner Davis						X
Commissioner Ishibashi		X	X			
Commissioner Ka'apu			X			
Commissioner Kahikina			X			
Commissioner Richardson						X
Commissioner Tassill				X		
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		2
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with five (5) Yes, one (1) No vote. Two excused.						

ITEMS FOR DECISION MAKING

OFFICE OF THE CHAIRMAN

ITEM C-1 Resolution of Appreciation No. 279 – Patricia Wilcox Sheehan

RECOMMENDED MOTION

Deputy to the Chair Darryl Young presented the following:

Motion to approve Resolution of Appreciation No. 279 – Patricia Wilcox Sheehan.

Deputy Darryl Young read resolution 279 and Commissioners thanked former Commissioner Sheehan for her service to the Hawaiian Homes Commission and the beneficiaries of the trust.

Chair Masagatani thanked Commissioner Sheehan for her compassion and service.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui, Executive Director of La'i 'Ōpua 2020 Re: Item B-1, D-5

B. Kahui asked that any discussion and or decision related to the Keauhou aquifer be made when the Commission travels to Kona. La'i 'Opua 2020 and the Villages of La'i 'Opua oppose the

petition to designate the Keauhou aquifer as a water management area because it directly impacts the community and commercial enterprises. It will restrict their water use and is an additional layer of oversight by the state. They understand reservation rights, but it does not necessarily give you water. The department can exercise its reservation rights outside of the designation process. In order for the department to get water for its projects, it will need to seek assistance from neighboring landowners who have water. These neighboring landowners are who you should be aligning yourselves with.

ITEM A-2 Dexter Kaiama, Re: Executive Session

D. Kaiama stated his testimony relates to the authority of the DHHL. He has been before the Commission twice before and has distributed a number of documents relating to the authority of DHHL. He also distributed copies of a letter from Williamson Chang, senior professor at the Richardson School of Law, which raises the issue of war crimes and federal law violations in the unlawful use of money derived from land belonging to the Kingdom of Hawai'i. He asked Commissioners to issue a moratorium on evictions and lease cancellations until the questions raised by Williamson Chang are answered by the US Department of Justice.

He stated the United States does not hold valid title to the Hawaiian Islands and has no lawful claim to these islands. As such, the DHHL is without authority to execute cancellations. He added that he has filed eight other complaints on behalf of other beneficiaries. The international court is beginning to conduct their investigation as to whether the courts provided his clients with a fair and regular trial. The failure to do so is a violation of international law as well as a felony under U.S. law. The basic tenement is that the United States never lawfully acquired title to this territory and that the Hawaiian Kingdom continues to exist as a subject of international law. The state of Hawai'i and DHHL do not have the authority to execute the approval or cancellation of leases.

He asked that the Commission seek the answer of whether or not it has the authority over these lands.

ITEM A-3 Andrew Cabebe Re: Executive Session

A. Cabebe stated he is a citizen of the Polynesian Kingdom of Atooi. He warned Commissioners that they would be charged for not doing their fiduciary duty for the Hawaiian people.

ITEM A-4 Kipukai Kualii, Anahola Homestead Association (AHA) Re: C-1

K. Kualii stated AHA appreciates Commissioner Sheehan for her service and oluolu manner. They thank her for being a part of the process to help beneficiaries especially on Kaua'i.

He supports Commissioner Tassill's motion moratorium on lease cancellations.

ITEM A-5 Kahau Mahoe-Theone, Hawaiian Community Assets (HCA) Re: F-6

K. Mahoe-Theone thanked the Commission for allowing HCA to be housed at the department's Paukūkalo office these past years. HCA decided to close the Maui office, but will continue to service Maui beneficiaries out of its O'ahu office. They would still like to use the department's office for one-on-one servicing with Maui clients if needed.

WORKSHOP PRESENTATIONS

ITEM B-1 DHHL- CWRM Joint Workshop on Water Management Area Process and Keauhou Aquifer Petition Update

DISCUSSION:

Acting Planning Program Manager Kaleo Manuel and CWRM (Commission on Water Resource Management) Groundwater Program Manager Roy Harley provided an oral workshop on the Keauhou Aquifer Petition.

K. Manuel stated DHHL acquired 1,500 acres of land in the Keauhou Aquifer System Area. Most of the land is slated for residential development. If DHHL were to build on all of its land it would need 3.3 Million gallons per day (mgds) of potable water. As part of the agreement to convey the land, HHFDC also conveyed 392 water credits for the land in Kealahou. After the development of Lai 'Opua Village 4, the department will have exhausted all of its water credits in the area.

Chair Masagatani stated in the areas that are designated as water management areas, the ground water permit process calls for identifying any impact to DHHL. She asked R. Harley if there is a process in non-designated areas where the department can similarly ensure its public trust rights are reviewed before a permit is issued?

R. Harley stated that for all the other permits that are issued one of the standard conditions is that there is no guarantee to the permit holder and it is subject to other legal rights and it explicitly points out the DHHL rights as well. They do look at well permits to see if there may be any impacts to DHHL rights. There are opportunities to weigh in on any permit application.

Commissioner Ka'apu asked for the timeframe of the residential developments in La'i Opua and Keahuolu. K. Manuel stated Village 4 was approved and is underway, within the next 20 years the Island Plan calls for developments on all of the parcels. Some of the areas require more investment in infrastructure.

Commissioner Ka'apu asked R. Harley it would be easier for DHHL to put in a well if the area was designated as opposed to not being designated. R. Harley stated he doesn't think designation would make a difference in terms of putting in a well. DHHL is not subject to the County's zoning criteria so that's one hurdle done. In that sense it should be easier for DHHL than others in the area.

Chair Masagatani stated it is clear that in a designated area there is a mechanism for DHHL to ensure that DHHL's water needs are being considered, but in a non-designated area, it is unclear what that mechanism would be. R. Harley stated if DHHL has its reservation and the aquifer is not in danger of reaching the sustainable yield, then there should be no problem.

K. Manuel stated on Moloka'i DHHL owns a well in the Kualapuu aquifer as well as the County of Maui and Moloka'i Ranch. We have a 1.6 mgd reservation by rule and have an existing water use permit application for 167,000 gpd. The department needs 450,000 gallons per day for beneficiary use and has asked for increases which are well within our allocation, but have not been granted it. As DHHL pumps water and the County pumps water, the chloride levels rise. DHHL has said the County should be the one to move. Those are real situations where DHHL has reservations but still struggles to get water.

Commissioner Ka'apu asked if those struggles exist in West Hawai'i that would require the department to take a more proactive stance. Sandra Pfund stated the County of Hawai'i is not difficult to work with, however, there is just not enough source. Water development is costly so partnerships are key to share costs.

ITEMS FOR DECISION MAKING

ITEM E-1 Phase I and Phase II Environmental Assessment Report on Kekaha Residential Lots, Unit 4 Subdivision, and Recommendations for Remediation

RECOMMENDED MOTION/ACTION

Land Development Division Administrator Sandra Pfund presented the following:
That the Hawaiian Homes Commission approve the preparation of an Environmental Hazard Management Plan (EHMP) for the Kekaha Residential Lots, Unit 4 Subdivision, based upon findings contained in the Phase I and Phase II Environmental Assessment Reports prepared by AECOM Technical Services, Inc.

MOTION

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

S. Pfund introduced special legal counsel on this matter, Ian Sandison, Esq. and Steve McKnight who is a geologist and consultant with AECOM.

S. McKnight summarized the testing results that analyzed the surface soil, subsurface soil, and shallow groundwater. The surface soil and groundwater are of minimal concern and the Department of Health (DOH) highlighted that in their letter.

The samples on subsurface soil did contain some chemicals above the screening criteria they use to measure chemicals. These chemicals were lead, petroleum, mercury and arsenic. They reviewed the results with the DOH who recommended additional core sampling to evaluate further. The information from the second sampling will be incorporated into the Environmental Hazard Management Plan. Overall their investigation indicate that the surface soil was for the most part clean and doesn't represent a health hazard to the current residents.

I. Sandison stated he, too, participated in the meetings with the DOH. The fundamental question is, are the people safe and does the soil pose a risk to the people living on those parcels. The evaluation from the DOH was that the surface soil does not pose a risk to their health partially because there is a surface layer of clean sand. The EPA standard is a foot and a half to 2 feet of clean soil on top of the contaminated soil is considered to be protective. Many communities throughout the state have somewhat similar issues.

Commissioner Ishibashi asked how the soil would affect gardens and trees. I Sandison stated the toxicologist at the Department of Health stated that the 2-foot layer was a comfortable buffer and that there would not be too great a risk of uptake.

Commissioner Canto asked if the reports were based on samples taken from only four lots. S. McKnight stated the surface soil results are from throughout the whole 20-acre site. The four borings are where they installed the ground water monitoring wells. It was from the four borings that they pulled soil for the deeper subsurface tests.

Chair Masagatani asked if there is any indication that the contamination is concentrated in any specific area. S. McKnight stated that only two of the four borings sites had the dark-colored soil

that contained the chemicals above the screening criteria. Part of the plan with the Department of Health is trying to identify which areas have the most dark-colored soil.

S. Pfund added that there are two things going on at the site, one is the debris like metals and glass being found in the surface soil and the other is subsurface chemicals. A plan may include keeping topsoil on the lots so erosion doesn't unearth the debris. The area was a fugitive dumpsite in the past, which means we cannot determine what types of things were dumped, and where. The lots nearest the cane haul road have more of a slope which lends to quicker erosion. They recommended those lots have retaining walls built and backfill added to keep everything in.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-6 Kawai Warren, Kekaha Resident of Lot 4. Re: E-1

K. Warren commented that many of the chemicals found in the soil can also be found at the Kekaha plantation holding tanks. This area is a sand dune yet there is soil being found. When he dug the footings for his house he went below the subsurface levels and it is all sand. Where did the dirt come from? He thinks it probably came from the Kekaha sugar plantation.

I. Sandison said based on what they observed, the dark soil may have been moved around during the grading and construction of the site. There is no indication that off-site soil was brought in, but there is indication that soil was moved around within the site. S. Pfund added that in construction standards, any soil that is brought in to a site is tested for environmental constituents concerns as well as structural stability. Her guess is that the soil was there prior to the current construction.

K. Warren stated he is concerned about what he is growing despite the evaluation that says the topsoil is safe. Kekaha was designated as a Super Fund cleanup, which means the contamination was found to be significant. He thanked the Commission for all of the testing.

Chair Masagatani asked what the next steps would be. S. Pfund stated they will do additional testing and then go out to the community to let them know what was found and what the plan is moving forward.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN

12:06 p.m.

EXECUTIVE SESSION OUT

1:50 p.m.

Chair Masagatani thanked everyone for their patience while the Commission convened in executive session. She asked Commissioners if there were any further questions or concerns about the action. Hearing none, she called for the question.

ACTION

Motion carried unanimously.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-4 Approval to Issue Right-of-Entry Permit, Nelson Hiraga and John Kaahui, Honokawai, Maui

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission authorize the issuance of a Right-of-Entry permit to Nelson Hiraga and John Kaahui for a 26,475 square foot parcel of Hawaiian home lands for use as a steel fabrication and construction baseyard at Honokowai, island of Maui, TMK: (2) 4-4-02:003 (por) (Exhibit "A"). The issuance of the Right-of-Entry document is subject to the following:

1. The term shall be month to month, up to twelve (12) months, effective retroactive from July 1, 2013, with the twelve (12) month period ending on June; 30, 2015, subject to Hawaiian Homes Commission action
2. The fee for the term shall be \$275.00 per month, \$3,300.00 per year;
3. Permittee shall pay the fee for the premises retroactive from July 1, 2013 to October 31, 2014 in the amount of \$5,225.00 to bring the account current to November 1, 2014;
4. Permittee shall comply with the insurance requirements as provided in the Right-of-Entry permit, naming the Department of Hawaiian Home Lands as additional insured;
5. Permittee shall comply with all standard provisions of the Right-of-Entry permit;
6. Approval of the Right-of-Entry document by the deputy Attorney General; and
7. Any further extension of the term of the Right-of-Entry shall be subject to approval by the Hawaiian Homes Commission.

MOTION

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

Chair Masagatani stated there is a perception of entitlement to the land with some permit holders. She made it clear that the department's main goal is to either homestead the parcels or move them to a higher income producing level. N. Hiraga stated he is clear about the permit and only asked for adequate time to clear out when the time comes.

ACTION

Motion carried unanimously.

HOMESTEAD SERVICES DIVISION

ITEM D-2 Ratification of Loan Approvals

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To ratify the approval of the loans listed in the submittal, previously approved by the Chairman, pursuant to section 10-2-17, Ratification of chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-3 Approval of Consent to Mortgage

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (BUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-4 Approval of Streamline Refinance of Loans

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-5 Approval to Schedule Loan Delinquency Contested Case Hearings

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To authorize the scheduling of the following loan delinquency contested case hearings as shown in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-6 Approval of Homestead Application Transfers / Cancellations (see exhibit)

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described:

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-7 Commission Designation of Successors to Application Rights - Public Notice 2012 and 2013

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To ratify the approval of the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-8 Approval of Assignment of Leasehold Interest

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the assignment of the leasehold interest, pursuant to section 208, Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-9 Approval of Amendment of Leasehold Interest

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the amendment of the leasehold interest in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-10 Commission Designation of Successor - Erennamae K. Cheseboro, Lease No. 4238, Lot No. 260, Keaukaha, Hawaii

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

1. To dispense with the public notice as required by HAR §10-3-63 as John Kaleimaiole Chesebro, Jr., widower of Erennamae K. Chesebro, being the highest priority qualified successor, has come forward with a request to succeed to the lease;
2. To approve the designation of John Kaleimaiole Chesebro, Jr. (John), as successor to Residential Lease No. 4238, Lot No. 260, Keaukaha, Hawaii, for the remaining term of the lease, subject to the Department of Hawaiian Home Lands Contract No. 16674 being paid in full within ninety (90) days of the execution of the Transfer Through Successorship instrument.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEMS FOR INFORMATION

PLANNING DIVISION

ITEM G-1 Native Hawaiian Development Program Plan (NHDPP): Kulia i ka Nu'u - Strive for Excellence (For Information Only)

RECOMMENDATION

None. For Information Only.

SUMMARY

Grants Specialist Gigi Cairel presented the following:

The submittal provided a summary of the accomplishments, lessons learned, and recommendations for next steps resulting from the Kulia i ka Nu'u- Strive for Excellence program (Kulia). The Kulia program was authorized by the Hawaiian Homes Commission as part of the 2009 - 2011 Native Hawaiian Development Program Plan (NHDPP). The Kulia program was intended to be a comprehensive and graduated approach to community development. The program purposes were to build homestead organizational capacity to successfully plan and implement beneficiary community-driven projects based on homestead community visions and long-term plans.

Recommendations

- Strengthen support infrastructure within DHHL such as staffing (2.5 FTEs), internal database, systems and procedures
- Customize assistance to project type; community context; and organizational life cycle
- Provide comprehensive and coordinated services
- Include assistance that is peer connected
- Continue organizational assessments and training
- Leverage resources for DHHL and for beneficiary organizations
- For new associations, provide consistent technical assistance in their initial years of operations
- DHHL grants program - pull back on providing grant funding over the next year. Instead, assess outstanding grants and focus training and support on those associations
- Community Economic Development (CED)
 - o Agriculture development and farming training
 - o Funding and technical support for a range of CED efforts (real estate and non-real estate-based)
 - o Strengthen capacity around feasibility analysis, business planning and operational planning
- Land awards/dispositions
 - o Build off of each other's strengths - DHHL & community
 - o Prior to land awards/dispositions, DHHL to perform due diligence regarding Association capacity, experience, qualifications, broad community support
 - o DHHL consider creating "Resource Teams" to undertake development on behalf of associations with its support and input

Acting Planning Program Manager Kaleo Manuel stated there is a need for capacity building and training in our community associations.

Moving forward and given limited resources, DHHL will implement the following:

- Agriculture peer-to-peer pilot grant program

- Leadership development training using the curriculum from the Ford Institute Leadership Program
- Train-the-trainer
- Technical assistance and training support for DCCR homestead associations in their startup phase and those out of compliance with the State of Hawaii Department of Commerce and Consumer Affairs
- Technical assistance for current DHHL grantees and for beneficiary organizations with outstanding grants, deliverables, and reports
- Training in nonprofit topics - starting a new nonprofit, maintaining nonprofit compliance, board training, strategic planning, nonprofit budgeting & financial management, grant writing

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Right-of-Entry Permit, County of Hawaii, Makuu, Puna, Hawaii

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right-of-Entry permit (ROE) to the COUNTY OF HAWAII as PERMITTEE to enter portions of Hawaiian home lands at Makuu, Puna, Island of Hawaii, identified by TMK Nos. (3) 1-5-010: portions of 005 and 006, as shown on Exhibit "A." The ROE will allow County of Hawai'i to improve and expand the existing Government Beach Road as necessary to provide emergency access for the lower Puna district. This approval is subject, but not limited to the conditions listed in the submittal.

MOTION

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

DISCUSSION/HISTORY

Based on the information from the Hawaiian Volcano Observatory, United States Geological Survey, on June 27, 2014, new vents opened on the Northeast flank of Pu'u O'o vent that has fed, and continues to feed, a narrow lava flow from the East-Northeast. The information indicates that the current lava flow will continue to advance thereby endangering communities in the path of the advancing lava flow, and if unimpeded, will cross Highway 130 at an unknown time and location.

Governor Abercrombie issued a Proclamation dated September 5, 2014 to support immediate relief in response to the emergency. The Governor also suspended any law, which impedes or tends to impede or is detrimental to the emergency functions. Mayor Kenoi also issued a Proclamation dated September 4, 2014 declaring that a state of emergency exists due to threat of disaster on Hawaii Island in Puna, continuing thereon for 60 days or until further act by his office.

CHAPTER 343 COMPLIANCE

Exempt Class of Action (5) states that "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource" is exempted from requirements of Chapter 343, HRS, as amended.

ACTION

Motion carried unanimously.

**ITEM F-2 Approval to Issue Right-of-Entry Permit, Hawaii Electric Light Company, Inc.
Makuu, Puna, Hawaii**

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right-of-Entry permit (ROE) to the HELCO as PERMITTEE to enter portions of Hawaiian home lands at Maku'u, Puna, Island of Hawaii, identified by TMK Nos. (3) 1-5-010: portions of 005 and 006, as shown on Exhibit "A." The ROE will allow HELCO to install, repair, maintain, and operate poles, pole lines, anchors, and related equipment abutting the Government Beach Road as necessary for the lower Puna district to ensure no interruption of electrical utility service. This approval is subject to, but not limited to the conditions listed in the submittal.

MOTION

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

Commissioner Ka'apu asked if the ROE was meant to be gratis. L. Chinn stated it was an emergency situation so fees were not discussed, but when they come back for the long-term license agreement the compensation will be added. Commissioner Ka'apu stated he did not see an indemnification clause. L. Chinn stated it is part of the agreement.

Chair Masagatani suggested an amendment to add a twelfth condition: "12. The ROE include appropriate language indemnifying DHHL."

MOTION TO AMEND/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Kahikina to add "12. The ROE include appropriate language indemnifying DHHL." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

**ITEM F-3 Approval to Issue Right-of-Entry Permit, Kalaeloa Solar Energy, LLC, Kalaeloa,
Oahu Approval to Issue Right-of-Entry Permit, County of Kauai, Kapaa, Kauai**

Note: Item F-3 was withdrawn.

ITEM F-4 Issuance of Right-of-Entry Permit, County of Kaua'i, Kapaa, Kaua'i

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission approve the issuance of a Right-of-Entry (ROE) permit to the County of Kaua'i, to enter onto Hawaiian home lands at Kapa'a, Island of Kaua'i, identified as Tax Map Key No. (4) 4-5-015:034(Por) for the construction of a temporary overflow parking area. This approval is subject to the conditions listed in the submittal.

Chair Masagatani stated she would prefer to defer this item given that there are questions regarding use of the parcel. It appears that the parcel was already being leased. L. Chinn stated it is a 15-acre parcel and the department uses a portion of it for storage.

County Director of Parks and Recreation Lenny Rapozo explained the use and need for the request. He stated the main purpose is to alleviate parking congestion during events and maximize the facility capacity. He stated that he will be at the next Commission meeting for another item and is okay with deferring this item until then.

Chair Masagatani asked that staff clarify the land use issues associated with this item before it is listed on the next Commission agenda scheduled for Hilo.

ITEM F-6 Approval to Cancel License No. 519, Hawaiian Community Assets, Inc., Paukūkalo, Maui

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission (HHC) grant its approval to cancel License No. 519 to Hawaiian Community Assets, Inc., a Hawai'i non-profit corporation (hereinafter "HCA"), for approximately 375 square feet (more or less) of office space situated within Department of Hawaiian Home Lands Maui District Office in Paukūkalo, identified by Tax Map Key No. (2) 3-03-005:086 & 087 (por) used for the purpose of maintaining office and conference room for financial counseling and training.

Approval to cancel this license is subject to the following conditions:

1. The term of the license shall terminate effective November 6, 2014; 2. LICENSEE shall vacate and surrender the premises no later than November 6, 2014;
2. LICENSEE shall continue to pay fees of \$1.00 per square foot for a total of \$380.00 per month plus, common area maintenance fees of \$420.00 per month, for a total of \$800.00 per month through the month of October 2014; and
3. LICENSEE agrees to cure October 2014 fees in the amount of \$800.00, including delinquent fees incurred in the amount of \$4,500.00, for total balance owing of \$5,300.00, to be paid in full no later than October 31, 2014; and
4. With the exception of the current request action, all of the terms conditions, covenants, and provisions of License No. 519 shall continue and remain in full force and effect.

MOTION

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

Chair Masagatani suggested an amendment to condition #3, to add: "such amounts may be paid with "in-kind services" to be completed within 12 months including a report to the Hawaiian Homes Commission." Commissioner Ka'apu stated the in-kind services should be services that wouldn't already have been provided.

MOTION TO AMEND/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to add to condition #3, "such amounts may be paid with "in-kind services" to be completed within 12 months including a report to the Hawaiian Homes Commission." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

HAWAIIAN HOMES COMMISSION
Minutes of October 27 and 28, 2014
Meetings held at Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi

Pursuant to proper call, the 656th Regular Meeting of the Hawaiian Homes Commission was held at the Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi beginning at 10:32 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaapu, Commissioner, West Hawaii
Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oʻahu
Vacant, Commissioner Kauaʻi

EXCUSED Gene Ross K. Davis, Commissioner, Molokaʻi
William Richardson, Commissioner, Oʻahu

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Sandy Pfund, Administrator, Land Development Division
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ah Yat, Enforcement Office
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Stewart Matsunaga, Community Development Manager, Land Development
Elaine Searle Secretary to the Commission
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:45 a.m.

ROLL CALL

Commissioner Davis and Richardson were excused. The Kauaʻi Commissioner seat was vacant. Six (6) members were present at roll call.

APPROVAL OF MINUTES

Chair Masagatani asked for a motion to approve the minutes of August 2013.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina, to approve the minutes of August 2013. Motion carried unanimously.

HAWAIIAN HOMES COMMISSION
Minutes of October 27 and 28, 2014
Meetings held at Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi

Pursuant to proper call, the 656th Regular Meeting of the Hawaiian Homes Commission was held at the Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi beginning at 10:00 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaʻapu, Commissioner, West Hawaiʻi (arrived 10:18 am)
Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oʻahu
Vacant, Commissioner Kauaʻi

EXCUSED Gene Ross K. Davis, Commissioner, Molokaʻi
William Richardson, Commissioner, Oʻahu

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Sandy Pfund, Administrator, Land Development Division
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ah Yat, Enforcement Office
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Stewart Matsunaga, Community Development Manager, Land Development
Elaine Searle Secretary to the Commission
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:10 a.m.

ROLL CALL

Commissioner Kaʻapu was on his way. Commissioners Davis and Richardson were excused. The Kauaʻi Commissioner seat was vacant. Five (5) members were present at roll call.

APPROVAL OF AGENDA

Commissioner Tassill asked for a status of a motion at the last Commission meeting to approve a moratorium on lease cancellations. He thought the item would be listed on this month's agenda.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN

10:06 a.m.

EXECUTIVE SESSION OUT

10:18 a.m.

MOTION/ACTION

Commissioner Canto moved, seconded by Commissioner Ishibashi, to approve the agenda.

Moved by Commissioner Canto to approve the agenda. Seconded by Commissioner Ishibashi						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto	X		X			
Commissioner Davis						X
Commissioner Ishibashi		X	X			
Commissioner Ka'apu			X			
Commissioner Kahikina			X			
Commissioner Richardson						X
Commissioner Tassill				X		
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		2
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with five (5) Yes, one (1) No vote. Two excused.						

ITEMS FOR DECISION MAKING

OFFICE OF THE CHAIRMAN

ITEM C-1 Resolution of Appreciation No. 279 – Patricia Wilcox Sheehan

RECOMMENDED MOTION

Deputy to the Chair Darryl Young presented the following:

Motion to approve Resolution of Appreciation No. 279 – Patricia Wilcox Sheehan.

Deputy Darryl Young read resolution 279 and Commissioners thanked former Commissioner Sheehan for her service to the Hawaiian Homes Commission and the beneficiaries of the trust.

Chair Masagatani thanked Commissioner Sheehan for her compassion and service.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui, Executive Director of La'i 'Ōpua 2020 Re: Item B-1, D-5

B. Kahui asked that any discussion and or decision related to the Keauhou aquifer be made when the Commission travels to Kona. La'i 'Opua 2020 and the Villages of La'i 'Opua oppose the

petition to designate the Keauhou aquifer as a water management area because it directly impacts the community and commercial enterprises. It will restrict their water use and is an additional layer of oversight by the state. They understand reservation rights, but it does not necessarily give you water. The department can exercise its reservation rights outside of the designation process. In order for the department to get water for its projects, it will need to seek assistance from neighboring landowners who have water. These neighboring landowners are who you should be aligning yourselves with.

ITEM A-2 Dexter Kaiama, Re: Executive Session

D. Kaiama stated his testimony relates to the authority of the DHHL. He has been before the Commission twice before and has distributed a number of documents relating to the authority of DHHL. He also distributed copies of a letter from Williamson Chang, senior professor at the Richardson School of Law, which raises the issue of war crimes and federal law violations in the unlawful use of money derived from land belonging to the Kingdom of Hawai'i. He asked Commissioners to issue a moratorium on evictions and lease cancellations until the questions raised by Williamson Chang are answered by the US Department of Justice.

He stated the United States does not hold valid title to the Hawaiian Islands and has no lawful claim to these islands. As such, the DHHL is without authority to execute cancellations. He added that he has filed eight other complaints on behalf of other beneficiaries. The international court is beginning to conduct their investigation as to whether the courts provided his clients with a fair and regular trial. The failure to do so is a violation of international law as well as a felony under U.S. law. The basic tenement is that the United States never lawfully acquired title to this territory and that the Hawaiian Kingdom continues to exist as a subject of international law. The state of Hawai'i and DHHL do not have the authority to execute the approval or cancellation of leases.

He asked that the Commission seek the answer of whether or not it has the authority over these lands.

ITEM A-3 Andrew Cabebe Re: Executive Session

A. Cabebe stated he is a citizen of the Polynesian Kingdom of Atooi. He warned Commissioners that they would be charged for not doing their fiduciary duty for the Hawaiian people.

ITEM A-4 Kipukai Kualii, Anahola Homestead Association (AHA) Re: C-1

K. Kualii stated AHA appreciates Commissioner Sheehan for her service and oluolu manner. They thank her for being a part of the process to help beneficiaries especially on Kaua'i.

He supports Commissioner Tassill's motion moratorium on lease cancellations.

ITEM A-5 Kahau Mahoe-Theone, Hawaiian Community Assets (HCA) Re: F-6

K. Mahoe-Theone thanked the Commission for allowing HCA to be housed at the department's Paukukalo office these past years. HCA decided to close the Maui office, but will continue to service Maui beneficiaries out of its O'ahu office. They would still like to use the department's office for one-on-one servicing with Maui clients if needed.

WORKSHOP PRESENTATIONS

ITEM B-1 DHHL- CWRM Joint Workshop on Water Management Area Process and Keauhou Aquifer Petition Update

DISCUSSION:

Acting Planning Program Manager Kaleo Manuel and CWRM (Commission on Water Resource Management) Groundwater Program Manager Roy Harley provided an oral workshop on the Keauhou Aquifer Petition.

K. Manuel stated DHHL acquired 1,500 acres of land in the Keauhou Aquifer System Area. Most of the land is slated for residential development. If DHHL were to build on all of its land it would need 3.3 Million gallons per day (mgds) of potable water. As part of the agreement to convey the land, HHFDC also conveyed 392 water credits for the land in Kealahou. After the development of Lai 'Opuia Village 4, the department will have exhausted all of its water credits in the area.

Chair Masagatani stated in the areas that are designated as water management areas, the ground water permit process calls for identifying any impact to DHHL. She asked R. Harley if there is a process in non-designated areas where the department can similarly ensure its public trust rights are reviewed before a permit is issued?

R. Harley stated that for all the other permits that are issued one of the standard conditions is that there is no guarantee to the permit holder and it is subject to other legal rights and it explicitly points out the DHHL rights as well. They do look at well permits to see if there may be any impacts to DHHL rights. There are opportunities to weigh in on any permit application.

Commissioner Ka'apu asked for the timeframe of the residential developments in La'i Opuia and Keahuolu. K. Manuel stated Village 4 was approved and is underway, within the next 20 years the Island Plan calls for developments on all of the parcels. Some of the areas require more investment in infrastructure.

Commissioner Ka'apu asked R. Harley it would be easier for DHHL to put in a well if the area was designated as opposed to not being designated. R. Harley stated he doesn't think designation would make a difference in terms of putting in a well. DHHL is not subject to the County's zoning criteria so that's one hurdle done. In that sense it should be easier for DHHL than others in the area.

Chair Masagatani stated it is clear that in a designated area there is a mechanism for DHHL to ensure that DHHL's water needs are being considered, but in a non-designated area, it is unclear what that mechanism would be. R. Harley stated if DHHL has its reservation and the aquifer is not in danger of reaching the sustainable yield, then there should be no problem.

K. Manuel stated on Moloka'i DHHL owns a well in the Kualapuu aquifer as well as the County of Maui and Moloka'i Ranch. We have a 1.6 mgd reservation by rule and have an existing water use permit application for 167,000 gpd. The department needs 450,000 gallons per day for beneficiary use and has asked for increases which are well within our allocation, but have not been granted it. As DHHL pumps water and the County pumps water, the chloride levels rise. DHHL has said the County should be the one to move. Those are real situations where DHHL has reservations but still struggles to get water.

Commissioner Ka'apu asked if those struggles exist in West Hawai'i that would require the department to take a more proactive stance. Sandra Pfund stated the County of Hawai'i is not difficult to work with, however, there is just not enough source. Water development is costly so partnerships are key to share costs.

ITEMS FOR DECISION MAKING

ITEM E-1 Phase I and Phase II Environmental Assessment Report on Kekaha Residential Lots, Unit 4 Subdivision, and Recommendations for Remediation

RECOMMENDED MOTION/ACTION

Land Development Division Administrator Sandra Pfund presented the following:
That the Hawaiian Homes Commission approve the preparation of an Environmental Hazard Management Plan (EHMP) for the Kekaha Residential Lots, Unit 4 Subdivision, based upon findings contained in the Phase I and Phase II Environmental Assessment Reports prepared by AECOM Technical Services, Inc.

MOTION

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

S. Pfund introduced special legal counsel on this matter, Ian Sandison, Esq. and Steve McKnight who is a geologist and consultant with AECOM.

S. McKnight summarized the testing results that analyzed the surface soil, subsurface soil, and shallow groundwater. The surface soil and groundwater are of minimal concern and the Department of Health (DOH) highlighted that in their letter.

The samples on subsurface soil did contain some chemicals above the screening criteria they use to measure chemicals. These chemicals were lead, petroleum, mercury and arsenic. They reviewed the results with the DOH who recommended additional core sampling to evaluate further. The information from the second sampling will be incorporated into the Environmental Hazard Management Plan. Overall their investigation indicate that the surface soil was for the most part clean and doesn't represent a health hazard to the current residents.

I. Sandison stated he, too, participated in the meetings with the DOH. The fundamental question is, are the people safe and does the soil pose a risk to the people living on those parcels. The evaluation from the DOH was that the surface soil does not pose a risk to their health partially because there is a surface layer of clean sand. The EPA standard is a foot and a half to 2 feet of clean soil on top of the contaminated soil is considered to be protective. Many communities throughout the state have somewhat similar issues.

Commissioner Ishibashi asked how the soil would affect gardens and trees. I Sandison stated the toxicologist at the Department of Health stated that the 2-foot layer was a comfortable buffer and that there would not be too great a risk of uptake.

Commissioner Canto asked if the reports were based on samples taken from only four lots. S. McKnight stated the surface soil results are from throughout the whole 20-acre site. The four borings are where they installed the ground water monitoring wells. It was from the four borings that they pulled soil for the deeper subsurface tests.

Chair Masagatani asked if there is any indication that the contamination is concentrated in any specific area. S. McKnight stated that only two of the four borings sites had the dark-colored soil

that contained the chemicals above the screening criteria. Part of the plan with the Department of Health is trying to identify which areas have the most dark-colored soil.

S. Pfund added that there are two things going on at the site, one is the debris like metals and glass being found in the surface soil and the other is subsurface chemicals. A plan may include keeping topsoil on the lots so erosion doesn't unearth the debris. The area was a fugitive dumpsite in the past, which means we cannot determine what types of things were dumped, and where. The lots nearest the cane haul road have more of a slope which lends to quicker erosion. They recommended those lots have retaining walls built and backfill added to keep everything in.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-6 Kawai Warren, Kekaha Resident of Lot 4. Re: E-1

K. Warren commented that many of the chemicals found in the soil can also be found at the Kekaha plantation holding tanks. This area is a sand dune yet there is soil being found. When he dug the footings for his house he went below the subsurface levels and it is all sand. Where did the dirt come from? He thinks it probably came from the Kekaha sugar plantation.

I. Sandison said based on what they observed, the dark soil may have been moved around during the grading and construction of the site. There is no indication that off-site soil was brought in, but there is indication that soil was moved around within the site. S. Pfund added that in construction standards, any soil that is brought in to a site is tested for environmental constituents concerns as well as structural stability. Her guess is that the soil was there prior to the current construction.

K. Warren stated he is concerned about what he is growing despite the evaluation that says the topsoil is safe. Kekaha was designated as a Super Fund cleanup, which means the contamination was found to be significant. He thanked the Commission for all of the testing.

Chair Masagatani asked what the next steps would be. S. Pfund stated they will do additional testing and then go out to the community to let them know what was found and what the plan is moving forward.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN

12:06 p.m.

EXECUTIVE SESSION OUT

1:50 p.m.

Chair Masagatani thanked everyone for their patience while the Commission convened in executive session. She asked Commissioners if there were any further questions or concerns about the action. Hearing none, she called for the question.

ACTION

Motion carried unanimously.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-4 Approval to Issue Right-of-Entry Permit, Nelson Hiraga and John Kaahui, Honokawai, Maui

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission authorize the issuance of a Right-of-Entry permit to Nelson Hiraga and John Kaahui for a 26,475 square foot parcel of Hawaiian home lands for use as a steel fabrication and construction baseyard at Honokowai, island of Maui, TMK: (2) 4-4-02:003 (por) (Exhibit "A"). The issuance of the Right-of-Entry document is subject to the following:

1. The term shall be month to month, up to twelve (12) months, effective retroactive from July 1, 2013, with the twelve (12) month period ending on June; 30, 2015, subject to Hawaiian Homes Commission action
2. The fee for the term shall be \$275.00 per month, \$3,300.00 per year;
3. Permittee shall pay the fee for the premises retroactive from July 1, 2013 to October 31, 2014 in the amount of \$5,225.00 to bring the account current to November 1, 2014;
4. Permittee shall comply with the insurance requirements as provided in the Right-of-Entry permit, naming the Department of Hawaiian Home Lands as additional insured;
5. Permittee shall comply with all standard provisions of the Right-of-Entry permit;
6. Approval of the Right-of-Entry document by the deputy Attorney General; and
7. Any further extension of the term of the Right-of-Entry shall be subject to approval by the Hawaiian Homes Commission.

MOTION

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

Chair Masagatani stated there is a perception of entitlement to the land with some permit holders. She made it clear that the department's main goal is to either homestead the parcels or move them to a higher income producing level. N. Hiraga stated he is clear about the permit and only asked for adequate time to clear out when the time comes.

ACTION

Motion carried unanimously.

HOMESTEAD SERVICES DIVISION

ITEM D-2 Ratification of Loan Approvals

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To ratify the approval of the loans listed in the submittal, previously approved by the Chairman, pursuant to section 10-2-17, Ratification of chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-3 Approval of Consent to Mortgage

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (BUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-4 Approval of Streamline Refinance of Loans

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-5 Approval to Schedule Loan Delinquency Contested Case Hearings

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To authorize the scheduling of the following loan delinquency contested case hearings as shown in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-6 Approval of Homestead Application Transfers / Cancellations (see exhibit)

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:
To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described:

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-7 Commission Designation of Successors to Application Rights - Public Notice 2012 and 2013

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To ratify the approval of the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-8 Approval of Assignment of Leasehold Interest

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the assignment of the leasehold interest, pursuant to section 208, Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-9 Approval of Amendment of Leasehold Interest

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

To approve the amendment of the leasehold interest in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEM D-10 Commission Designation of Successor - Erennamae K. Cheseboro, Lease No. 4238, Lot No. 260, Keaukaha, Hawaii

RECOMMENDATION

Acting HSD Administrator Dean Oshiro recommended the following:

1. To dispense with the public notice as required by HAR §10-3-63 as John Kaleimaiole Chesebro, Jr., widower of Erennamae K. Chesebro, being the highest priority qualified successor, has come forward with a request to succeed to the lease;
2. To approve the designation of John Kaleimaiole Chesebro, Jr. (John), as successor to Residential Lease No. 4238, Lot No. 260, Keaukaha, Hawaii, for the remaining term of the lease, subject to the Department of Hawaiian Home Lands Contract No. 16674 being paid in full within ninety (90) days of the execution of the Transfer Through Successorship instrument.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi. Motion carried unanimously.

ITEMS FOR INFORMATION

PLANNING DIVISION

ITEM G-1 Native Hawaiian Development Program Plan (NHDPP): Kulia i ka Nu'u - Strive for Excellence (For Information Only)

RECOMMENDATION

None. For Information Only.

SUMMARY

Grants Specialist Gigi Cairel presented the following:

The submittal provided a summary of the accomplishments, lessons learned, and recommendations for next steps resulting from the Kulia i ka Nu'u- Strive for Excellence program (Kulia). The Kulia program was authorized by the Hawaiian Homes Commission as part of the 2009 - 2011 Native Hawaiian Development Program Plan (NHDPP). The Kulia program was intended to be a comprehensive and graduated approach to community development. The program purposes were to build homestead organizational capacity to successfully plan and implement beneficiary community-driven projects based on homestead community visions and long-term plans.

Recommendations

- Strengthen support infrastructure within DHHL such as staffing (2.5 FTEs), internal database, systems and procedures
- Customize assistance to project type; community context; and organizational life cycle
- Provide comprehensive and coordinated services
- Include assistance that is peer connected
- Continue organizational assessments and training
- Leverage resources for DHHL and for beneficiary organizations
- For new associations, provide consistent technical assistance in their initial years of operations
- DHHL grants program - pull back on providing grant funding over the next year. Instead, assess outstanding grants and focus training and support on those associations
- Community Economic Development (CED)
 - o Agriculture development and farming training
 - o Funding and technical support for a range of CED efforts (real estate and non-real estate-based)
 - o Strengthen capacity around feasibility analysis, business planning and operational planning
- Land awards/dispositions
 - o Build off of each other's strengths - DHHL & community
 - o Prior to land awards/dispositions, DHHL to perform due diligence regarding Association capacity, experience, qualifications, broad community support
 - o DHHL consider creating "Resource Teams" to undertake development on behalf of associations with its support and input

Acting Planning Program Manager Kaleo Manuel stated there is a need for capacity building and training in our community associations.

Moving forward and given limited resources, DHHL will implement the following:

- Agriculture peer-to-peer pilot grant program

- Leadership development training using the curriculum from the Ford Institute Leadership Program
- Train-the-trainer
- Technical assistance and training support for DCCR homestead associations in their startup phase and those out of compliance with the State of Hawaii Department of Commerce and Consumer Affairs
- Technical assistance for current DHHL grantees and for beneficiary organizations with outstanding grants, deliverables, and reports
- Training in nonprofit topics - starting a new nonprofit, maintaining nonprofit compliance, board training, strategic planning, nonprofit budgeting & financial management, grant writing

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Right-of-Entry Permit, County of Hawaii, Makuu, Puna, Hawaii

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right-of-Entry permit (ROE) to the COUNTY OF HAWAII as PERMITTEE to enter portions of Hawaiian home lands at Makuu, Puna, Island of Hawaii, identified by TMK Nos. (3) 1-5-010: portions of 005 and 006, as shown on Exhibit "A." The ROE will allow County of Hawai'i to improve and expand the existing Government Beach Road as necessary to provide emergency access for the lower Puna district. This approval is subject, but not limited to the conditions listed in the submittal.

MOTION

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

DISCUSSION/HISTORY

Based on the information from the Hawaiian Volcano Observatory, United States Geological Survey, on June 27, 2014, new vents opened on the Northeast flank of Pu'u O'o vent that has fed, and continues to feed, a narrow lava flow from the East-Northeast. The information indicates that the current lava flow will continue to advance thereby endangering communities in the path of the advancing lava flow, and if unimpeded, will cross Highway 130 at an unknown time and location.

Governor Abercrombie issued a Proclamation dated September 5, 2014 to support immediate relief in response to the emergency. The Governor also suspended any law, which impedes or tends to impede or is detrimental to the emergency functions. Mayor Kenoi also issued a Proclamation dated September 4, 2014 declaring that a state of emergency exists due to threat of disaster on Hawaii Island in Puna, continuing thereon for 60 days or until further act by his office.

CHAPTER 343 COMPLIANCE

Exempt Class of Action (5) states that "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource" is exempted from requirements of Chapter 343, HRS, as amended.

ACTION

Motion carried unanimously.

**ITEM F-2 Approval to Issue Right-of-Entry Permit, Hawaii Electric Light Company, Inc.
Makuu, Puna, Hawaii**

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right-of-Entry permit (ROE) to the HELCO as PERMITTEE to enter portions of Hawaiian home lands at Maku'u, Puna, Island of Hawaii, identified by TMK Nos. (3) 1-5-010: portions of 005 and 006, as shown on Exhibit "A." The ROE will allow HELCO to install, repair, maintain, and operate poles, pole lines, anchors, and related equipment abutting the Government Beach Road as necessary for the lower Puna district to ensure no interruption of electrical utility service. This approval is subject to, but not limited to the conditions listed in the submittal.

MOTION

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

Commissioner Ka'apu asked if the ROE was meant to be gratis. L. Chinn stated it was an emergency situation so fees were not discussed, but when they come back for the long-term license agreement the compensation will be added. Commissioner Ka'apu stated he did not see an indemnification clause. L. Chinn stated it is part of the agreement.

Chair Masagatani suggested an amendment to add a twelfth condition: "12. The ROE include appropriate language indemnifying DHHL."

MOTION TO AMEND/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Kahikina to add "12. The ROE include appropriate language indemnifying DHHL." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

**ITEM F-3 Approval to Issue Right-of-Entry Permit, Kalaeloa Solar Energy, LLC, Kalaeloa,
Oahu Approval to Issue Right-of-Entry Permit, County of Kauai, Kapaa, Kauai**

Note: Item F-3 was withdrawn.

ITEM F-4 Issuance of Right-of-Entry Permit, County of Kaua'i, Kapaa, Kaua'i

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission approve the issuance of a Right-of-Entry (ROE) permit to the County of Kaua'i, to enter onto Hawaiian home lands at Kapa'a, Island of Kaua'i, identified as Tax Map Key No. (4) 4-5-015:034(Por) for the construction of a temporary overflow parking area. This approval is subject to the conditions listed in the submittal.

Chair Masagatani stated she would prefer to defer this item given that there are questions regarding use of the parcel. It appears that the parcel was already being leased. L. Chinn stated it is a 15-acre parcel and the department uses a portion of it for storage.

County Director of Parks and Recreation Lenny Rapozo explained the use and need for the request. He stated the main purpose is to alleviate parking congestion during events and maximize the facility capacity. He stated that he will be at the next Commission meeting for another item and is okay with deferring this item until then.

Chair Masagatani asked that staff clarify the land use issues associated with this item before it is listed on the next Commission agenda scheduled for Hilo.

ITEM F-6 Approval to Cancel License No. 519, Hawaiian Community Assets, Inc., Paukūkalo, Maui

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda presented the following:

That the Hawaiian Homes Commission (HHC) grant its approval to cancel License No. 519 to Hawaiian Community Assets, Inc., a Hawai'i non-profit corporation (hereinafter "HCA"), for approximately 375 square feet (more or less) of office space situated within Department of Hawaiian Home Lands Maui District Office in Paukūkalo, identified by Tax Map Key No. (2) 3-03-005:086 & 087 (por) used for the purpose of maintaining office and conference room for financial counseling and training.

Approval to cancel this license is subject to the following conditions:

1. The term of the license shall terminate effective November 6, 2014; 2. LICENSEE shall vacate and surrender the premises no later than November 6, 2014;
2. LICENSEE shall continue to pay fees of \$1.00 per square foot for a total of \$380.00 per month plus, common area maintenance fees of \$420.00 per month, for a total of \$800.00 per month through the month of October 2014; and
3. LICENSEE agrees to cure October 2014 fees in the amount of \$800.00, including delinquent fees incurred in the amount of \$4,500.00, for total balance owing of \$5,300.00, to be paid in full no later than October 31, 2014; and
4. With the exception of the current request action, all of the terms conditions, covenants, and provisions of License No. 519 shall continue and remain in full force and effect.

MOTION

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

Chair Masagatani suggested an amendment to condition #3, to add: "such amounts may be paid with "in-kind services" to be completed within 12 months including a report to the Hawaiian Homes Commission." Commissioner Ka'apu stated the in-kind services should be services that wouldn't already have been provided.

MOTION TO AMEND/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to add to condition #3, "such amounts may be paid with "in-kind services" to be completed within 12 months including a report to the Hawaiian Homes Commission." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

HAWAIIAN HOMES COMMISSION
Minutes of October 27 and 28, 2014
Meetings held at Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi

Pursuant to proper call, the 656th Regular Meeting of the Hawaiian Homes Commission was held at the Aston Aloha Beach Hotel, 3-9520 Kūhiō Hwy, Kapaa, Kauaʻi beginning at 10:32 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaapu, Commissioner, West Hawaii
Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oʻahu
Vacant, Commissioner Kauaʻi

EXCUSED Gene Ross K. Davis, Commissioner, Molokaʻi
William Richardson, Commissioner, Oʻahu

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Sandy Pfund, Administrator, Land Development Division
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ah Yat, Enforcement Office
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Stewart Matsunaga, Community Development Manager, Land Development
Elaine Searle Secretary to the Commission
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:45 a.m.

ROLL CALL

Commissioner Davis and Richardson were excused. The Kauaʻi Commissioner seat was vacant. Six (6) members were present at roll call.

APPROVAL OF MINUTES

Chair Masagatani asked for a motion to approve the minutes of August 2013.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina, to approve the minutes of August 2013. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 John Aana, Re: Item J-1 KHHA Ag Program

J. Aana is the co-founder of Makaweli Poi Factory and member of the Taro Purity and Security Task Force. He is in strong support of the Kekaha Hawaiian Homes Agriculture Program. He is willing to support the program by hosting field trips and outreach programs to his taro farm. He believes it is important for the next generation of farmers to understand how to farm using traditional practices and sustainable soil management. Beneficiaries would gain first-hand experience in farming techniques. He is grateful for the opportunities he has had to learn how to take care of the land from the Hawaiian perspective. He feels that this program will start to connect Hawaiians back to the 'āina with a strong sense of kuleana and malama honua. He supports Mr. Warren's proposal in hopes that the Commission will do the same. This program is the type of thing Hawaiians need to get the young people excited about farming.

ITEM A-2 Kipukai Kualii, President Anahola Hawaiian Homestead Association (AHHA) Re: Item J-5

K. Kualii testified that the Anahola Hawaiian Homestead Association is the largest and oldest association on the island, and they advocate for their members and families. They are a democratic organization, and they have been very successful over the years. With regard to Kumu Camp and noticing processes, they are trying their best considering how much requirements have changed over the years with different administrations. He is concerned about upcoming testimony from Mrs. Pat Hunter Williams and invites her to attend AHHA's quarterly meetings. She may have concerns similar to those of the department, and AHHA is willing to address those concerns. K. Kualii asked that the department remember its obligation to beneficiaries first. He thanked Ms. Hunter Williams for helping to spread their meeting information around in the community.

ITEM A-3 Sherry Cummings, AHHA Homestead Community Development Corporation (HCDC) Re: Item J-5

S. Cummings provided an update on Anahola Hawaiian Homes Association projects. She explained the HCDC is the fiscal arm of AHHA that owns and operates all of its projects. The structure was recommended by the DHHL consultants for its homestead associations.

Kumu Camp is geared toward youth and cultural activities like hula and canoe paddling. The camp was devised by kumu hula who wanted somewhere to halawai on each island. Before Kumu Camp started, the area was a mess. They removed tons of opala and drug paraphernalia. It was very sad. Now they have church functions, volleyball tournaments, and a number of other community events. Fifty different families used the camp grounds over the summer.

They have a thrift shop, which is scheduled to open on November 15. The solar farm employs 75 people of which 60 are Hawaiian. Every Anahola applicant who passed the drug test was offered a job. They work from Monday to Friday 7 AM to 3 PM. The economic impact from payroll at the solar farm is \$55,000 per week.

Commissioner Kahikina asked about the types of problems Kumu Camp has faced. K. Kualii stated they have encountered delays and they have had to "jump through hoops" that seem unnecessary. The department doesn't have clear, transparent and consistent policies that outline how a beneficiary controlled organization moves forward with an economic development project

within the community. How do beneficiary organizations move forward with the department's support rather than facing roadblocks along the way. Over the years as administrations have changed, the roadblocks have moved and it seems as if the rules keep changing.

ITEM A-4 Debra Kekaulua, Anahola Resident Re: Item J-5

D. Kekaulua stated the entire community is at risk because the AHHA group presents itself as if they speak for everyone, but they do not. Passions are high when someone speaks for everyone. There is nothing wrong with the projects they have, but that group does not go outside of their group. Some people have a different perspective about what the future of Anahola looks like.

ITEM A-5 Amber Rivera, Anahola Resident Re: Item J-5

A. Rivera stated there isn't just one group in Anahola, there are many and they're all doing good things. She has been to those meetings where people are put down for their ideas and things are shoved down your throat. It doesn't feel like working together, it feels like a small group of people trying to impose their will on the rest of the community.

ITEMS FOR INFORMATION

ITEM J-1 Kawai Warren, President, Kekaha Hawaiian Homestead Association (KHHA)

K. Warren asked for the Commission's support on a 10-year renewable license for the Puu Opae Farm and Irrigation Project. The project encompasses 1440 acres. It is former plantation land with irrigation already in place. They held many community meetings to make sure that what they do is what the community wanted. Many folks like John Aana have come forward to offer help. Phase 1 is for the first 230 acres and involves rehabilitation to roads and irrigation ditches.

Chair Masagatani asked if the Association received any land dispositions for community economic projects from the department. K. Warren stated this will be KHHA's first ask of the department.

Chair Masagatani asked what government or community organizations are they working with. K. Warren said they've worked with the Hawai'i Organic Farm Association, CTAHR, Ma'o Farms, NRCS, KIUC, and DLNR to name a few. They have been well received by the farming community on Kaua'i and across the state. Everyone is just waiting for the land license.

Commissioner Kahikina asked if they have submitted the land use application. K. Warren stated they just submitted the application to Linda Chinn and Kaleo Manuel.

Chair Masagatani stated it has become the department's practice that when any long-term land disposition is requested, even if it's a community-based organization, to do a department initiated beneficiary informational meeting in the affected community. K. Warren agreed and said if this is not what the beneficiaries want with their land then it should not be done.

ITEM J-2 Treston "Hena" Caberto-Raco, Waiwai O Waiawa

H. Caberto-Raco introduced their farm project called Waiwai O Waiawa. It is a 20-acre farm and cultural learning center located in Waiawa Valley. They promote a culturally based educational model to empower the westside community and work toward a sustainable Kaua'i. Their core focus includes building a sustainable food system, ecological and cultural restoration,

community education and economic development. In ancient times the 'ahupuaa was a wahi kapu and an pu'u honua.

They have several concerns about their revocable permit. The first is the fear that all of their hard work could be taken away within a month. They have opened up a lot of lo'i and hundreds of people have participated in making the farm what it is today. They asked if they could somehow make it so that the land use could be for longer-term.

Their biggest concern is that the valley could be contaminated from prior use by the sugar plantations. People who have lived on Kaua'i their whole lives don't know where Waiawa Valley is but if you mention Poison Valley, then they know where it is.. They even have a place called the Poison House. They have recently cleared an acre of what appears to be a former dumpsite for tractors and farming equipment. They have concerns regarding the crop they've been growing since 2009, if it is safe to eat. They have even had farming experts come to the farm and tell them that they should not eat the kalo. They don't want to poison anyone. They have come across workers spraying the signs and the ditch to keep the waterways open.

Commissioner Kaapu asked if they have had their taro or mango tested. H. Caberto-Raco stated that they didn't have the funding to test for everything the experts were recommending. They applied for the Kekaha Dumping Grant to help fund the testing. The grant board asked if they were given the grant if it could be matched by another state agency because the tests were very expensive. Commissioner Kaapu stated the concern he had for DHHL is that there would be some liability for giving out a RP that produces poisonous kalo. Chair Masagatani suggested since it is DHHL land, the department could help to take their products for testing. The department is having experts working in Kekaha and could add this testing to the contract.

Chair Masagatani asked them to send her a letter documenting the spraying of the ditch as it feeds other farmers down the line. RPs and general leases require compliance with county requirements.

ITEM J-3 Harry Johnson, Beneficiary

H. Johnson resides in 631 Kalakaua Street in Paukukalo, Maui. He asked the Commission to exercise its power to grant him and his family the lease to the home they live in. On his way to Kaua'i, the family suffered the loss of his granddaughter on O'ahu. They stopped there before coming to Kaua'i.

Terry Miller, his wife's cousin asked them to stay with her in her home at 631 Kalakaua Street because her Auntie Imogene Maio was being sent to a care home. She didn't want the home to be occupied by complete strangers as she had experienced in the past. They made a small investment to upgrade the home and make the best of its condition.

Imogene Maio passed away and was not able to transfer the lease to Terry Miller. He is here to ask for the Commission's consideration to allow him to lease the property so that the home can remain within the family. Their plans are to remodel the home, and they have already been in contact with a construction company. They are working to secure a loan with the assistance of their 'ohana and will be seeking assistance through the Habitat for Humanity program.

Kahala Johnson echoed his father's request and asked the Commission to allow his 'ohana to stay in the home that has become the gathering place of their entire family. He thanked the Commission for their consideration and hoped they can do something to help their family.

ITEM J-4 Bo Kahui, Laiopua 2020 and Dora Aio, Villages of Laiopua

B. Kahui offered testimony on the following:

1. Villages of Laiopua Homestead Association
 - o Status of Contested Case Hearing(s)
 - o Outstanding Dues
 - o Pipi Initiative
 - o Village IV Construction protocols
2. Laiopua 2020 Community Development Status
 - o Medical & Dental Clinic Construction Status
 - o Laiopua Community Center Status
 - o \$950K GIA Allocation
3. Laiopua 2020 Commercial Development Status
 - o Current LOI Agreement
 - o Projected

The Villages of La'i'opua Master Association, formerly known as Kaniohale Community Association, requested contested case hearings for homesteaders who are in serious arrears in their membership dues and are in violation of their lease agreement.

Chair Masagatani thanked Mr. Kahui for the information and noted the department will be reaching out to impacted homestead associations starting next month regarding the outcome of the Kalawahine litigation.

With regard to the Habitat for Humanity, the department needs to expedite the process for approval of the project. It takes too long. It takes 30 days to build the homes, but it can take months to get the approvals. The program is good and it gets Hawaiians into homes.

La'i'Opua signed a Letter of Intent with a development company to come up with a plan for the commercial center.

With regard to the National Parks Keauhou Water petition, La'i'Opua 2020 is adamantly opposed to it. DHHL should stay silent.

ITEM J-5 Pat Hunter-Williams, Resident of Anahola

P. Hunter- Williams stated she has lived in Anahola since she was 17 years old. Her husband is a native Hawaiian and they have a DHHL farm lease but also live in their original family home in what is called the "Village" on Anahola Road. As a 17-year old she participated in hukilau where the opio were tasked with taking the fish out of the nets. She is a strong supporter of all things Hawaiian. She apologized ahead of time if her testimony offends anyone, it was not her intent.

She believes that the physical altercations occurring recently in Anahola is a result of the lack of information sharing and community involvement. She does not doubt that there were meetings, the problem is that no one knew about them. She also stated that there are no minutes for those meetings and no record of the community in attendance.

She is not against any of the programs occurring at Kumu Camp she is simply suggesting a better permitting process. She offered an excerpt from the County Planning department about requirements for permits. Usually when someone is applying for a permit and there will be a proposed development, the project is required to let people know, within a certain radius, what is

requirements for permits. Usually when someone is applying for a permit and there will be a proposed development, the project is required to let people know, within a certain radius, what is happening. If that had been done with Kumu Camp she doesn't think there would be all of this pilikia.

She takes her mo'opuna to Anahola almost every day during the summer. Facebook comments about the situation was shocking and disappointing and not reflective of the people of Anahola.

Her goal is to try to restore harmony to Anahola and asked DHHL to consider more communication with the community surrounding its permitting process. Documentation of the notification would be great. More information and more communication can't hurt. The only thing she is concerned about with Kumu Camp is the sewage issue because it is right there on the beach.

Chair Masagatani stated the department is trying to improve and be consistent in making sure beneficiaries have a voice in the decisions affecting their community. Kumu Camp is an unusual circumstance because the project was started before an environmental review was completed.

Chair Masagatani thanked P. Hunter-Williams for her testimony.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular monthly meeting will be held on November 17, 2014, in Hilo.

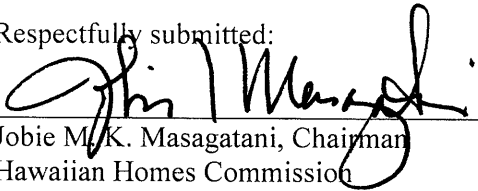
MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto to adjourn the meeting.
Motion carried unanimously.

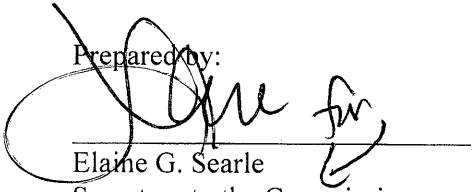
ADJOURNMENT

4:02 p.m.

Respectfully submitted:

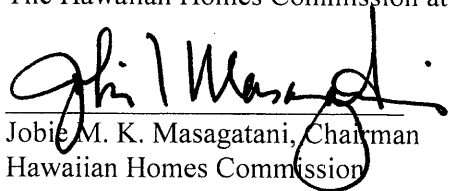

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:


Elaine G. Searle
Secretary to the Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on November 20, 2017.


Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

ITEMS FOR INFORMATION

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

A- Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

Chair Masagatani announced the end of the business agenda for day 1. The Commission will move into executive session and then recess for the day.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ka'apu, to convene executive session pursuant to Section 92 5(a)(4), HRS, Motion carried unanimously.

EXECUTIVE SESSION IN

3:46 p.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. DHHL vs Nowlin Correa and Weston Correa, Civil No. 1RC 13-1-7813

EXECUTIVE SESSION OUT

4:50 p.m

RECESS

5:04 p.m.