

**HAWAIIAN HOMES COMMISSION**  
**Minutes of November 17 and 18, 2014**  
**Meeting held at DHHL East Hawai'i District Office, Hilo, Hawai'i,**

Pursuant to proper call, the 657th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, East Hawai'i District Office, Hilo, Hawai'i, beginning at 10:30 a.m.

**PRESENT**      Jobie M. K. Masagatani, Chairman  
Doreen N. Canto, Commissioner, Maui  
Gene Ross K. Davis, Commissioner, Moloka'i  
Wallace A. Ishibashi, Commissioner, East Hawaii  
Michael P. Kahikina, Commissioner, Oahu  
William Richardson, Commissioner, O'ahu  
Renwick V. I. Tassill, Commissioner, O'ahu  
Vacant, Commissioner Kaua'i

**EXCUSED**      David B. Kaapu, Commissioner, West Hawai'i

**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 10:40 a.m.

**ROLL CALL**

Commissioner Kaapu was excused. The Kaua'i Commissioner seat was vacant. Seven members were present at roll call.

**APPROVAL OF AGENDA**

Chair Masagatani announced Item F-8 and Item F-7 will be addressed after public testimony. Item C-2 may be deferred. Item D-21 will be moved to the top of the D agenda.

Commissioner Kahikina asked to defer Items F-3 and F-4 until the Commission meets on Oahu next month. Chair Masagatani stated Items F-3 and F4 will be deferred to next month's agenda. She asked if anyone in the audience is present to testify on Items F-3 and F4. There were none.

MOTION/ACTION

Commissioner Davis moved, seconded by Commissioner Ishibashi, to approve the agenda. Motion carried unanimously.

**PUBLIC TESTIMONY ON AGENDIZED ITEMS**

**Item A-1, Mele Spencer, Member Keaukaha-Panaewa Farmers Association Re: Item F-1.**

M. Spencer testified that when she saw Item F-1 on the agenda she didn't know what it was about. She asked the district office for a copy of the submittal but it was not provided to her ahead of time. In order for beneficiaries to weigh-in on actions taken by the Commission, the submittals need to be provided ahead of time. Beneficiaries want to make informed recommendations to the Commission.

With regard to Item F-1, she is a member of the Keaukaha-Panaewa Farmers Association (KPFA). The submittal before the Commission is asking the community to change its name from KPFA to Keaukaha-Panaewa Community Alliance (KPCA). KPCA is not a member organization. KPCA is a non-profit arm set up for the purpose of receiving grants. Community organizations should not be forced to become non-profits.

Chair Masagatani thanked M. Spencer for her testimony.

**Item A-2, Steve Gates, Neighborhood Power Corporation Re: Item D-19**

S. Gates testified that Neighborhood Power Corporation is a solar micro utility. They have a program called "Solar Solutions for Everyone." It was brought to their attention that Hawaiian families were not able to establish solar rates, so they created a financing product to give everyone a chance to have solar energy. They are testifying to address complaints filed against them. They want to solve any problems the Department might have.

Commissioner Canto asked for an Executive Session to confer with counsel.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to convene in Executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

**EXECUTIVE SESSION IN 10:52 a.m.**

**EXECUTIVE SESSION OUT 10:59 a.m.**

**Item A-3, Scott Sullivan, VP of Sales and Marketing, Neighborhood Power Corporation Re: Item D-19**

S. Sullivan of Neighborhood Power Corporation testified that he is present to protect the company's reputation and good name. They have a product that does not require any funds from the lessee and they are selling power to them at a reduced rate. It is a contractual obligation to purchase power and not leasing equipment to lessees. There has been some confusion about that. All they are asking is that lessees buy the power the solar array produces at a lower rate. The agreement is with the homeowner rather than the landowner. The power purchase agreement is for 20 to 25 years at a lower rate than they could buy power from the local utility company. The homeowner can remove the system if the home is transferred or if the home does not go to a

beneficiary. Neighborhood Power is the owner of the system and they maintain it in good working order to produce power for 25 years.

Chair Masagatani asked what legal authority they had to obtain access to the property. S Sullivan stated the homeowner gives their permission via a site license, which is tied to the actual structure.

**Item A-4, Bo Kahui, La‘i ‘Ōpua 2020 Re: Item G-1**

Bo Kahui provided written and oral testimony that La‘i ‘Ōpua 2020 and Villages of La‘i ‘Ōpua Homestead Association is opposed to the National Park Service (NPS) petition to designate the Keauhou aquifer and respectfully requested the Commission take no action to extend its authority to the chairman of DHHL except in the following instances.

- To create a mechanism to establish water reservations between the Department, counties, and the Commission on Water Resource Management (CWRM).
- To secure water reservations for homesteads across the state.
- To create or establish a water division to assist with the Department’s development of water resources.

B. Kahui was concerned that delegating the Commission’s authority to the chairman of DHHL will have unintended consequences. It would give the Chair authority to make concessions the Commission might not necessarily support.

He argued extending the Commission’s authority to the DHHL chairman is ambiguous, vague, unclear, abstruse, and uncertain.

La‘i ‘Ōpua 2020 and Villages of La‘i ‘Ōpua Homestead Association oppose the NPS petition to designate the Keauhou aquifer system area. In addition, lineal descendants like Reggie Lee are opposed to the area designation. The Chairman’s extended authority does not compel the chairman to consult with beneficiaries and lineal descendants, and community concerns may not be addressed.

**Item A-5, Sue Lee Loy, Re: Agenda Items G-1**

S. Lee Loy stated she has 20 years of planning experience and understands the process well. She sits on the County Water Board and had comments about Item G-1. She checked with the staff at the Water Commission and the numbers in the submittal have not been confirmed with them. It would have been nice to have DHHL staff collaborate with the Department of Water Supply to make sure the numbers accurately reflect what they have set aside for the development in the area. The methodology used for measuring residential water credits should be the same so that DHHL is comparing apples with apples. The Water Department has worked very hard to determine what the sustainable yield is, not just for now, but for the future. Other stakeholders like QLCC and Kamehameha Schools operate in the area and their long-range plans should be factored into the equation.

She agreed with Mr. Kahui that giving the Chairman authority at this point is premature until DHHL knows for sure what the reservation numbers are. She wanted to help promote a consistent message to all stakeholders in that area.

## ITEMS FOR DECISION MAKING

### **LAND MANAGEMENT DIVISION**

- ITEM F-8      Approval for Amendment of Lease with Kapolei Hawaii Property Company, LLC, regarding financing condition, (Ka Makana Alii center); Approval for Chairman to Issue two Sublicenses to Department of Transportation and Kapolei Hawaii Property Company, LLC, East Kapolei, Oahu.**

#### RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the recommended motion, that the Hawaiian Homes Commission approve the following:

1. Amendment of the General Lease to allow additional time for Kapolei Hawaii Property Company, LLC ("KHPC") to complete its financing, subject to the following conditions:
  - a. The additional time to secure financing shall be limited to six (6) months to May 31, 2015; from December 1, 2014.
  - b. Closing of the financing shall be evidenced by recordation of the construction lender's mortgage and related documents with Office of the Assistant Registrar of the Land Court, State of Hawaii;
  - c. KHPC's ability to apply the \$468,000 option deposit as a credit against base rent shall be deferred and not be utilized until the base rent due and payable for the months of February and March (balance of deposit) of 2015;
  - d. KHPC's ability to offset against base rent the \$600,000 extension credit under section 2.3.1.4 of the Lease shall be deferred until the base rent due for March of 2015. If KHPC closes on its financing on or before March 1, 2015, the \$600,000 credit shall be offset against base rent for March 2015 and subsequent months at the rate specified in section 2.3.1.4 of the Lease. If, however, the financing has not closed by March 1, 2015, the \$600,000 credit shall be reduced (i.e. forfeited) by \$100,000 per month commencing with the month of March 2015 and continuing until the financing is secured and closes, with the \$100,000 per month reduction in credit prorated for partial months;
  - e. Posting on the letter of credit to ensure payment of the lease surrender equal to six (6) months base rent (approximately \$1.7 million) in the event that KHPC is unable to timely secure finance; and
  - f. All project work product shall be turned over to DHHL should KHPC elect to surrender the lease due to failure to obtain financing.
2. Authorize the chairman to issue sublicenses to the Department of transportation and KHPC, providing access to the shopping center, subject to the following conditions:
  - a. Standard terms and conditions of sublicense agreement MI: and
  - b. Review and approval of the sublicense agreement by the Deputy Attorney General.

#### MOTION

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

#### DISCUSSION

The Hawaiian Homes Commission (HHC) at its meeting on July 21, 2014, approved the assignment of the Option Agreement from Hawai'i DeBartolo LLC to Kapolei Hawaii Property

Company, LLC (KHPC). KHPC is a joint venture between Hawaii DeBartolo, LLC (HD) and OPTrust KMA, Inc. in the development and operation of Ka Makana Alii Shopping Center (KMA). HD is responsible for the development and management of the KMA project on behalf of KHPC. The development cost of the Mall Phase of KMA is estimated at \$285 million.

KHPC has informed the Department of Hawaiian Homes Lands (DHHL) of its intention to take down the lease on November 28, 2014 (to be effective as of December 1, 2014) and commence payment of the monthly ground lease rent as agreed to in the general lease at the rate of approximately \$292,400 per month (assuming the Phase 1 (Mall Phase) area is 50 acres).

L. Chinn stated they have a lender and will close on the lease in the next month or so.

ACTION

Motion carried unanimously.

**ITEM F-7      Approval for an Assignment and Amendment of general Lease No. 275 to Millennium HI Carbon, LLC Kawaiahae, Hawaii.**

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission ("HHC") grants its approval to the following:

- 1) Assignment of General Lease No. 275, to Millennium HI Carbon, LLC, as ASSIGNEE, subject to the approval by the HHC and the United States Bankruptcy Court for the District of Delaware, for the premises located in the Kaei Hana II Industrial Subdivision in Kawaihae, Hawaii, further identified by TMK No. (3) 6-1-006:007; and
- 2) Amendment to the following terms and conditions of General Lease No. 275:
  - a. The annual ground lease rent for the ten-year period commencing from the date of the closing on the acquisition of the assets of Big Island Carbon by ASSIGNEE, which is anticipated to be approximately December 1, 2014, shall be \$168,000.00.
  - b. The annual ground lease rent for the next ensuing ten-year period shall be \$201,000.00.
  - c. The annual ground lease rent shall be reopened and redetermined on December 1, 2034 and 2044 for the ensuing ten-year periods, and on December 1, 2054 for the period ending February 29, 2064.
  - d. The annual ground lease rent for the two years from the date of the closing on the acquisition of the assets of the Big Island Carbon by ASSIGNEE, in the total amount of \$336,000.00 shall be deferred to allow ASSIGNEE time to upgrade and improve the plant facility on the leased premises to production standard so that operation can commence. ASSIGNEE agreed that the deferred ground lease rent of \$336,000.00 shall be paid no later than March 1, 2024.
  - e. ASSIGNEE shall pay a percentage rent, beginning on March 1, 2024, calculated at the going rate of comparable leases OR the annual ground lease rent then established for that period, whichever is higher.
  - f. ASSIGNEE shall commit to expend no less than \$7.5 Million as an additional capital investment and/or working capital within 24 months of the lease assignment to upgrade and improve the plant facility on the leased premises to production standard, so that commercial operation can commence.
  - g. LESSOR acknowledges that the leased premises is cleaned based on the "No Further Action" letter issued by the Department of Health. ASSIGNEE may conduct a Phase 1 update and LESSOR agrees to credit ASSIGNEE for the expenses against the ground lease rent, provided that the scope of service and cost received prior approval by LESSOR.

- h. The assignment is subject to the approval of the United States Bankruptcy Court for the District of Delaware and shall be of no force and effect unless signed by the Parties and approved by a final, non-appealable order of the Court.
- i. With respect to the Sublease Rent Participation Policy, LESSOR acknowledges that the initial Investment Improvement Amount is \$40 Million and any future investment by ASSIGNEE will be added to this amount.
- j. All documents related to this request shall be subject to the review and approval by the Department of the Attorney General.
- k. Except as changed or modified in the amendment document, all other terms and conditions of General Lease No .275 shall continue and remain in full force and effect.

#### MOTION

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

#### DISCUSSION

Millennium HI Carbon, as well as another group, put in an offer with the Bankruptcy Trustee to purchase the assets, subject to certain amendment to the terms of the general lease.

At the June 2014 special meeting, the Hawaiian Homes Commission set forth certain terms and conditions that are acceptable to the Commission. The Department updated the appraisal for the current fair market ground lease rent for the subject property, and the newly established annual ground lease rent was provided to the two groups. Both were given time to work out their respective issues relating to the lease terms. One group gave notice on the 18th of September that they will not move forward because their two major issues were not resolved.

#### ACTION

Motion carried unanimously.

### **ITEM D-21 Request for Relocation - YVETTE S. PEREZ, Lease No. 9970, Lot No.6, Kurtistown, Hawaii**

#### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division (HSD) Administrator Dean Oshiro recommended that the Hawaiian Homes Commission authorize the Department to relocate Kurtistown residential lessee, Yvette S. Perez, from Lot No. 6 on the island of Hawaii, to another residential lot on Hawaii, subject to financial qualification.

#### MOTION

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

#### DISCUSSION

Residential Lot Lease No. 9970, Lot No. 6, Kurtistown, Hawaii, commenced on September 15, 2003 and, was awarded to Yvette S Perez. Ms. Perez is now requesting that she be allowed to relocate to another residential homestead lot.

D. Oshiro stated once the Commission approves the relocation, HSD will look at available homes in the DHHL inventory.

#### ACTION

Motion carried unanimously.

#### **ITEM D-18 Conditional Approval of Subdivision, Transfer of a Portion and Lease and Amendment to Lease No. 9054, Lot No. A, Waimea, Hawaii - FLORA BEAMER SOLOMON**

#### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the request of Flora Beamer Solomon to subdivide Department of Hawaiian Home Lands Pastoral Lease No. 9054, Lot A, Waimea, Hawaii, consisting of 125 acres, and further identified as TMK : 3-6-5-001-010 into Lots A-1, A-2, and A-3, subject to the conditions listed in the submittal.

#### MOTION

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

#### DISCUSSION

On January 15, 2013, the Hawaiian Homes Commission (HHC), approved Item G-1 to remove the moratorium on subdivisions of agricultural and pastoral leases as authorized under section 10-3-26 of the Department of Hawaiian Home Lands (DHHL) Administrative Rules (HAR). On May 20, 2012, The HHC approved the Implementation Plan to allow subdivisions and transfer of agriculture and pastoral leases. On January 13, 2014, a "for information only" submittal was presented to the HHC by DHHL's Planning Office. The submittal outlined the procedure for processing agricultural and pastoral subdivision requests.

Department Lease No. 9054, Lot A, located in Waimea, Hawai'i (Lease), was awarded to Flora Beamer Solomon (Solomon), commencing on October 26, 1973. Ms. Solomon is requesting approval to subdivide the pastoral homestead lot and transfer a portion of the lot to each of her two (2) daughters, Hulali Solomon Covington and Alice Leiomalama Solomon. Both daughters are deemed to have at least 25% Hawaiian ancestry and are therefore qualified to receive their subdivided portion of the lot.

A plot plan of the lot illustrating the lessee's desire to subdivide the lot into 3 lots of various sizes is attached. Each lot will consist of a dwelling with a request for a worker's quarters to be allowed on Lot A-2.

#### ACTION

Motion carried unanimously.

#### **LAND MANAGEMENT DIVISION**

#### **ITEM F-1 Amendment to Memorandum of Agreement with East Hawai'i Community Associations, Hawai'i.**

#### RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following: That that the Hawaiian Homes Commission grant its approval to amend the Memorandum of Agreement between East Hawaii Island Hawaiian Homes Community Associations specifically the secondary recipient list.

### MOTION

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

Chair Masagatani said she has concerns about disbursing money to a nonmember entity. She understands that the 501(c) 3 is being used to receive grant funds, but what would prevent that entity from using the funds for other things. She asks L. Chinn to work with the beneficiary leaders to revise the submittal to alleviate the concern. The item is deferred to allow staff to work on the language.

### **ITEM C-2 Resolution No. 280 in Honor of 90th year of Keaukaha Homestead.**

#### RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons presented the following:

Motion to approve Hawaiian Homes Commission Resolution No. 280 Recognizing the 90<sup>th</sup> Anniversary of the Establishment of Kūhiō Settlement in Keaukaha, Hawai‘i.

Patrick Kahawaiolaa offered words of celebration for the 90<sup>th</sup> Anniversary of the Keaukaha Hawaiian Homestead community. He invited the larger community to join the Keaukaha Community for a celebratory meal before the community meeting later in the evening. He commented that he received a text from a kupuna who wanted to note her ohana’s name was misspelled on the resolution. N. Simmons stated the name will be edited before Commissioners sign the parchment.

#### MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Canto to approve Hawaiian Homes Commission Resolution No. 280. Motion carried unanimously.

**RECESS**

**12:41 PM**

**RECONVENE**

**1:10 PM**

### **WORKSHOP PRESENTATIONS**

#### **ITEM B-1 Rights-of-Entry to Commercial Tour Operators to use Humu‘ula Sheep Station as a Rest and Picnic Area, ‘Āina Mauna, Humu‘ula, Hawaii.**

#### RECOMMENDED MOTION/ACTION

None. For Information Only.

Land Management Division Administrator Linda Chinn, Land Agent Paul Ching, Property Development Agent Mike Robinson and Office of Mauna Kea Management Executive Director Stephanie Nagata presented the following:



## Issuance of Right of Entry Humu'ula Sheep Station

Aina Mauna Legacy Program  
Humu'ula, Mauna Kea, North  
Hilo, County of Hawai'i

### **‘Āina Mauna Legacy Program**

- 2009 DHHL Commissioners unanimously approved the following purpose
- Goal:
  - Develop economically self-sustaining improvement and preservation program for the natural and cultural resources (invasive species eradication and native ecosystem restoration) and implementation strategy
- Focus of the ‘Āina Mauna Legacy program:
  - Restoration and enhancement of DHHL trust resources;
  - Develop revenue generation; to fund resource management and restoration activities;
  - Identify immediate and future opportunities for DHHL beneficiaries;
  - Identify and secure partners to sustain activities;
  - Provide educational and cultural opportunity;
  - Be a lead and/or model for others to engage in ecosystem restoration in a culturally sensitive manner based on partnerships to develop a self-sustaining model.

### **Proposed Action**

Grant the Right of Entry to the University of Hawaii permitted commercial tour operators to rest and picnic at the Humu'ula Sheep Station before ascending onto University lands to see the sunset on the summit and star gaze at HalePohaku

Focus: Identify and secure partners to sustain activities

Partner: University of Hawaii, Office of Mauna Kea Management (OMKM)

Partnering will help DHHL address ‘Āina Mauna Legacy Program goals and foci:

- Enhancement of DHHL trust resources
- Generation of revenues
- Ecosystem restoration
- Help “kick-start” the ‘Āina Mauna Legacy ecotourism program
- Why OMKM?
  - Neighbors with shared goals:
  - Conserve natural and cultural resources
  - Education and outreach programs about Mauna Kea
  - Self-sustaining, well-managed commercial activities

UH Through OMKM and Mauna Kea Observatory Support Services is willing to assist both financially and through services with DHHL startup activity

- OMKM will provide administrative and statistical services

Focus:

- Generate revenue and reinvest in the land to sustain activities:
- Restore and enhance DHHL trust resources
- Identify opportunities for beneficiaries

- As a pilot program; use of the Humu‘ula Sheep Station by commercial tours and future expansion of the area
- Generated revenues can be used to enhance and maintain the area as well as applied to developing and maintaining other aspects of the ‘Āina Mauna Legacy Program, including job and business opportunities for beneficiaries
- Learning experiences for developing and managing future commercial activities, e.g. ecotourism

#### Land Use

- ‘Āina Mauna Legacy Program identifies eco-tourism use for the Sheep Station.
- Commercial activities – Restored Sheep Station. Restoration in collaboration with the Paniolo Preservation Society.
- Small footprint, low impact on the land.

#### Reasons for Issuance

- Neighbors, adjoining lands, neighbors help each other when in need. DHHL maintains a good neighbor practice.
- ‘Āina Mauna Legacy Program, proposed use agrees with the Program’s eco-tourism development scheme.
- Office of Mauna Kea Management offering DHHL an income opportunity along with operational and management tools and assistance.
- Expands and improves the Mauna Kea experience. Alleviates an over-crowded situation.
- Income earned from venture will fund and expand ‘Āina Mauna Legacy Program towards self-sufficiency, and will help to restore ‘Āina Mauna.

#### Diverse Array of Regional Assets and Activities

- Hakalau Forest National Wildlife Refuge – Bird watching
- Camping – Mauna Kea State Recreation Area/ Girl Scout Camp Kilohana
- Hiking, horseback riding, biking

Commissioner Kahikina stated he wants to see more beneficiary organizations making the same revenue as the commercial tour operations. L. Chinn stated when the Department gets better at running the program it can start expanding it. Opportunities for beneficiary businesses will increase.

Commissioner Richardson asked for an estimate of annual revenues. L Chinn stated current revenue is estimated at about \$280,000 per year.

Chair Masagatani asked if the annual Revocable Permits to the eight tour operators can be negotiated to reserve a portion for beneficiary businesses. Is there a way to help prepare native Hawaiian vendors to prepare for the licenses and to be competitive in the solicitation process.

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

#### **Item A-5, John McBride, Lessee and Tour Operator**

J. McBride stated he is a tour operator and wants to be able to take tours to Mauna Kea. He stated, last year tour operators made \$72 million in tour revenue. DHHL should manage operations carefully. If DHHL only makes \$280,000 from the tour operators, something is wrong. He echoed Commissioner Kahikina’s concern that beneficiaries have a chance to earn a living from Mauna Kea.

## **ITEMS FOR DECISION MAKING**

### **LAND MANAGEMENT DIVISION**

#### **ITEM F-1      Amendment to Memorandum of Agreement with East Hawai'i Community Associations, Hawai'i.**

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

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission grant its approval to amend the Memorandum of Agreement between East Hawaii Island Hawaiian Homes Community Associations specifically the secondary recipient list, as follows:

1) The Secondary Recipient List shall be revised and read in its entirety as follows:

	<b>Hawaiian Home Community Association</b>	<b>Fund Allocation by%</b>	<b>Fund Allocation by \$Dollars</b>
1	Panaewa Community Alliance on behalf of Panaewa Hawaiian Home Lands Community Association (PHHLCA)	30%	\$30,000
2	Keaukaha/Panaewa Community Alliance on behalf of Keaukaha Panaewa Farmers Association (KPFA)	29%	\$29,000
3	Keaukaha Community Association, Inc.	15%	\$15,000
4	Piihonua Hawaiian Homestead Community Association	8%	\$8000
5	Kaumana Hawaiian Homes Community Association	8%	\$8000
6	Maku'u farmers Association	5%	\$5000
7	Ka'u Hawaiian Home Lands Association	5%	\$5000
		100%	\$100,000

2) All other terms and conditions of the Memorandum of Agreement shall remain in full effect and force

##### **MOTION**

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

##### **DISCUSSION**

The proposed motion reflects the Piihonua Community Association name change to Piihonua Hawaiian Homestead Community Association. This change was based on a request to correct a typographical error made during the Memorandum of Agreement drafting process. Therefore, the proposed amendments reflects the correct association name.

##### **ACTION**

Motion carried unanimously.

## **WORKSHOP PRESENTATIONS**

#### **ITEM B-2      Non-Exclusive Licenses for Rooftop Photovoltaic Systems Program for Lessees.**

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

None. For Information Only.

Acting Homestead Services Division Administrator Dean Oshiro and Homestead District Supervisor Juan Garcia presented a workshop on non-exclusive licenses for rooftop photovoltaic systems.

#### **Leasing a Photovoltaic System on DHHL Homestead Lot**

The average energy price on the island of Oahu is approximately 35 cents per kilowatt/hour and is even higher on the neighbor islands. The table below shows the 2013 average cents per kilowatt-hour (kWh).

The Department currently has 41 requests for licenses to be issued, with the oldest request dating back to February of this year.

Chair Masagatani asked to have a simple but explicit explanation for lessee who do this as to what their obligations are and what the Department's obligations are. The fear is that a solar company will go out of business and some beneficiaries will say it is the Department's responsibility to remove the system from their roof. Most lessees will recognize that it is their responsibility, but there will be some that will believe that it is DHHL's responsibility to remove the system.

On the flip side, the gentleman from Neighborhood Power believes that they have a license that is enforceable. DHHL is unclear about the license issue and will consult with legal counsel to clarify.

### **ITEMS FOR DECISION MAKING**

#### **OFFICE OF THE CHAIRMAN**

##### **ITEM C-3      Approval of Proposed Amendments to Title 10, Chapter 4, Hawaii Administrative Rules, to Implement Hawaiian Homes Commission Act Section 228.**

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

Policy and Program Analyst Dreana Kalili presented the following:

That the Hawaiian Homes Commission approves the final proposed amendments to Title 10, Chapter 4, Hawaii Administrative Rules, and authorize transmittal of these final proposed amendments to the Governor for final approval.

#### **MOTION**

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

#### **ACTION**

Motion carried, unanimously

##### **ITEM C-1      Approval of Hawaiian Homes Commission Meeting Calendar for 2015.**

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

Deputy to the Chair Darrell Young presented the following:

That the Hawaiian Homes Commission approve the proposed Meeting Schedule for 2015 as set forth in the submittal attachment.

### MOTION

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

### DISCUSSION

Meetings with homestead communities are scheduled for Monday evenings from 6:00p.m.-8:00p.m., unless otherwise noted.

### ACTION

Motion carried unanimously

## **PLANNING OFFICE**

### **ITEM G-1 Authorize the Chairman to Request and Pursue a Water Reservation in Keauhou, Kona, Hawaii.**

Note: This item was deferred to Tuesday.

## **ITEMS FOR DECISION MAKING**

### **HOMESTEAD SERVICES DIVISION**

#### **ITEM D-1 HSD Status Reports**

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

#### **ITEM D-2 Ratification of Loan Approval**

##### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To ratify the approval of the loans 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 Kahikina. Motion carried unanimously.

#### **ITEM D-3 Approval of Consent to Mortgage**

##### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the consents listed in the submittal 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 (HUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

##### MOTION/ACTION

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

**ITEM D-4      Approval of Streamline Refinance of Loans**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve the refinancing of loans from the Hawaiian Home General Loan Fund as listed in the submittal.

MOTION/ACTION

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

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

RECOMMENDED MOTION/ACTION

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

MOTION/ACTION

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

**ITEM D-6      Approval of Homestead Application Transfers/Cancellations**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described in the submittal.

MOTION/ACTION

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

**ITEM D-7      Commission Designation of Successors to Application Rights – Public Notice 2013**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To designate the individuals as stated in the submittal as successors to the application rights of deceased applicants who did not name qualified successors.

MOTION/ACTION

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

**ITEM D-8      Cancellation of Deceased Applicants from Waiting List - Public Notice 2013**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To cancel the list of applications in the submittal, of deceased applicants pursuant to section 10–3–8 (c) and (d) of the Department’s Administrative Rules.

MOTION/ACTION

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

**ITEM D-9      Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division 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 Kahikina. Motion carried unanimously.

**ITEM D-10      Approval of Assignment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the assignment of the leasehold interest, pursuant to section 208, Hawaiian Homes 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.

DISCUSSION

D. Oshiro noted the removal of item #20 Arnold K. R. Quartero Lease No. 2290. Mr. Quartero passed and was unable to complete the transfer.

MOTION/ACTION

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

**ITEM D-11      Approval of Amendment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the amendment of the leasehold interest as listed in the submittal.

MOTION/ACTION

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

**ITEM D-12      Commission Designation of Successor ~ GREGORIO GEORGE ESPIRITO, Lease No. 12670, Lot No. 18293, Kanehili, Oahu**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the designation of MARCILINA KATO (Marcilina), successor to her brother, Gregorio George Espirito's Residence Lease No. 12670, Lot No. 18293, Kanehili, Oahu, for the remaining term of the lease, subject to Marcilina obtaining funds to pay the \$244,000 appraisal

value of the improvements within ninety (90) days of the execution of the Transfer Through Successorship instrument.

MOTION/ACTION

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

**ITEM D-13 Commission Designation of Successor - MATTHEW K. ADOLPHO, Jr., Lease No. 206, Lot No. 130, Hoolehua, Molokai**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve the designation of KAE O M.K. ADOLPHO, as successor to his late father, Matthew K. Adolpho Jr.'s (Decedent), Agriculture Lease No. 206, Lot No. 130, Hoolehua, Molokai, for the remaining term of the lease.

MOTION/ACTION

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

**ITEM D-14 Commission Designation of Successor - JOHN K. KADOWAKI, Jr., Lease No. 6095, Lot No. 71, Kalamaula, Molokai**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

1. To dispense with the public notice required by HAR section 10-3- 63 as Iwalani V. Kadowaki (Iwalani), widow of John K Kadowaki Jr. (Decedent), being the highest priority qualified successor, has come forward with the request to succeed to the lease;
2. To approve the designation of Iwalani V. Kadowaki, as successor, to Residential Lease No. 6095, Lot No. 71, Kalamaula, Molokai (Lease), for the remaining term of the lease

MOTION/ACTION

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

**ITEM D-15 Commission Designation of Successor- HERMAN E. K. PUAOI, Lease No.2970, Lot No. 99 A&B, Hoolehua, Molokai**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve the designation of GREGORY-CHAD K. PUAOI (Gregory-Chad), as successor to his late brother, Herman E.K Puaoi's (Decedent), Agriculture Lease No. 2970, Lot No. 99 A&B, Hoolehua, Molokai, for the remaining term of the lease.

MOTION/ACTION

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



**ITEM D-16 Request to Approve Third Party Agreement- GEORGE K. MOKUAU Lease No. 0214, Lot No. 117, Hoolehua, Molokai**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve a request for Third Party Agreement for Agricultural Lot No. 116, Lease No. 0204 situate at Hoolehua, Moloka'i for Lessee George K Mokuau with the company L & R Farms Ent LLC, owned by Lynn and Russell DeCoite.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried. Chair Masagatani recused herself from the action.

**ITEM D-17 Request to Approve Third Party Agreement - ROBERT P. MOKUAU, Lease No. 0214, Lot No. 117, Hoolehua, Molokai**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve a request for Third Party Agreement for Agricultural Lot No. 117, Lease No. 0214 situated at Hoolehua, Moloka'i for Lessee Robert P. Mokuau with the company L & R Farms Ent LLC, owned by Lynn and Russell DeCoite.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried. Chair Masagatani recused herself from the action.

**ITEMS FOR INFORMATION**

**PLANNING OFFICE**

**ITEM G-2 Information Only - Agricultural Pilot Project in Makuu, Puna, Hawai'i**

RECOMMENDED MOTION/ACTION

None. For Information Only.

Acting Planning and Program Manager Kaleo Manuel and Planner Julie-Ann Cachola presented information related to the Agricultural Pilot Project.

DISCUSSION

The last time the Department issued agricultural lease awards was 11 years ago (2003) when five agricultural leases were awarded in Waianae and Lualualei Valley. Since that time, every Chairman coming in to lead the Department made a decision to focus exclusively on addressing the need for more residential homesteads. The last major initiative to address agricultural issues occurred 16 years ago (1998) when the Department convened a Task Force comprised of successful homestead farmers, Commissioners, DHHL staff and other technical experts to discuss issues and develop recommendations to help agricultural lessees to be more productive and therefore, more successful in farming

Chair Masagatani stated that this is just a pilot program and one of the reasons why Maku'u was chosen is that they have an established farmers market and a supportive homestead association.

The underlying goal is to get more agricultural lessees to farm their agricultural awards. The waitlist is growing, yet many of the awarded agricultural parcels remain unused. Some

homesteaders are too old to farm and just want to supplement their tables. Others really want to farm for a living. The project aims to try to help both types of farmers.

Commissioner Ishibashi thanked staff for coming up with this project. It is a very good start, and the Department has to start somewhere. His concern is that farmers are supplied with the equipment and training they need to be farmers.

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

#### **Item A-1, A-2, A-3 S. Pedro, P. Kahawaiolaa, M. Spencer provided testimony on Item G-1.**

S. Pedro stated while they appreciate being the first in the project, each homestead association has very different needs. Maku'u Farmers Market has been under the microscope lately, and perhaps the Department can start with another homestead area.

P. Kahawaiolaa shared concerns regarding commercial versus subsistence farming. The Homestead Act of 1920 says nothing about commercial farming. He agrees that the project is a very good start and encourages the Department to do whatever it can to support farmers.

M. Spencer agreed that the project is a good start and that the Department should move forward with it. She is thankful that this administration is putting effort into helping the agricultural aspect of homesteading.

K. Manuel stated the proposed pilot project is something that the Department hopes to learn from. The project will help everyone learn how ag should function in the Department. The goal is to find out what works and what does not as it relates to farming; and what challenges farmers face and how the Department can help.

#### **ITEM D-19 Approval of a Program to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems and Approval to Delegate to the Chair the Authority to Enter into a Non-Exclusive License for Rooftop Photovoltaic Systems with Certain Lessees and Solar Companies for the Purpose of Leasing a Photovoltaic System.**

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

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

- 1) Approve a program to issue a nonexclusive license for rooftop photovoltaic systems on homestead lots.
- 2) Delegate to the Chairman the authority to enter into a nonexclusive license for rooftop photovoltaic systems with certain lessees and solar companies for the purpose of allowing homestead lessees to lease a photovoltaic system.

##### **MOTION**

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

Commissioner Richardson suggested the following amendment be added to the end of No. 2. "The delegation of authority to the Chairman will be revisited in November 2016."

##### **MOTION ON AMENDMENT/ACTION**

Moved by Commissioner Richardson, seconded by Commissioner Kahikina to amend the motion to add "The delegation of authority to the Chairman will be revisited in November 2016." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

**ITEM D-20 Approval to Issue a Non-Exclusive License**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:  
To approve the issuance of a nonexclusive license to allow the permittee to provide adequate services related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective lessees.

MOTION/ACTION

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

**LAND DEVELOPMENT DIVISION**

**ITEM E-1 Approval of Various Lease Awards**

RECOMMENDED MOTION/ACTION

Acting Branch Chief Housing Project Branch Isaac Takahashi recommended the following:  
Approve the award of Department of Hawaiian Home Lands Residence Lot Leases to the applicants listed in the submittal for 99 years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

MOTION/ACTION

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

**LAND MANAGEMENT DIVISION**

**ITEM F-2 Approval to Issue License to County of Hawaii Board of Water Supply, Kalaoa, North Kona, Hawaii.**

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:  
That the Hawaiian Homes Commission (HHC) grant its approval to the motion as originally recommended by the Land Management Division under the submittal dated October 27-28, 2014, specifically item No. F-8 (attached to the submittal)

- 1) The one-time consideration fee condition under Condition No. 4 (on page 2) shall be revised and be in its entirety as follows:  
In lieu of the LICENSEE obtaining a certified fair market summary appraisal report that determines the fair market proposed value and consideration fee for this utility waterline easement, a one-time consideration fee of SIXTEEN THOUSAND TWO HUNDRED AND NO/DOLLARS (\$16,200.00) is recommended. If acceptable, the consideration fee as established shall become due and payable in full upon execution of the license document;
- 2) The Department of Hawaiian Home Lands is entitled to two (2) stub-outs to tie into the improved waterline as agreed; and
- 3) All other conditions as proposed for issuance under the non-exclusive license easement shall remain unchanged.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Davis.

Chair Masagatani suggested an amendment to the October 27-28, 2014 motion, specifically condition #3. "The license term shall be perpetual until the waterline is no longer in use."

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Richardson, seconded by Commissioner Kahikina to amend the motion as stated by Chair Masagatani. Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

**ITEM F-3      Approval to Issue License, Honolulu Community Action Program, Inc., Nanakuli, Oahu.**

**ITEM F-4      Approval to Issue License, House of Salvation Church, Nanakuli, Oahu.**

Note: F-3 & F-4 deferred per Commissioner Kahikina's request.

**ITEM F-5      Ratification of Actions Taken by the Chairman, Hawaiian Homes Commission.**

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:  
That the Hawaiian Homes Commission ratify the consents and approvals, as stated in the submittal, granted by the Chairman, Hawaiian Homes Commission.

MOTION/ACTION

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

**ITEM F-6      Notices of Defaults and Revocations, Statewide.**

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:  
That the Hawaiian Homes Commission ratify the Notices of Default/Revocation issued to the party(ies) listed in the submittal.

MOTION/ACTION

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

**EXECUTIVE SESSION IN**

**5:10 PM**

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. Application of HRS Chapter 103D to selection of service providers for the HALE Program.
2. Amendments of Lease with Kapolei Hawaii Property Company, LLC regarding financing conditions (Ka Makana Alii Center); Issuance of two Sublicenses to Department of Transportation and Kapolei Hawaii Property Company, LLC, East Kapolei, Oahu.

**EXECUTIVE SESSION OUT**

**5:50 PM**

**RECESS**

**5:50 PM**

**HAWAIIAN HOMES COMMISSION**  
**Minutes of November 17 and 18, 2014**  
**Meeting held at DHHL East Hawai'i District Office, Hilo, Hawai'i,**

**PRESENT**

Jobie M. K. Masagatani, Chairman  
Doreen N. Canto, Commissioner, Maui  
Gene Ross K. Davis, Commissioner, Moloka'i  
Wallace A. Ishibashi, Commissioner, East Hawaii  
Michael P. Kahikina, Commissioner, Oahu  
Renwick V. I. Tassill, Commissioner, O'ahu  
Vacant, Commissioner Kaua'i

**EXCUSED**

David B. Kaapu, Commissioner, West Hawai'i  
William Richardson, Commissioner, O'ahu

**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**

Commissioners Ka'apu and Richardson were excused. The Kaua'i Commissioner position was vacant. Six (6) members were present at roll call.

**APPROVAL OF MINUTES**

**MOTION/ACTION**

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

**PUBLIC TESTIMONY ON AGENDIZED ITEMS**

**ITEM A-1: Kanani Kapuniai, Re: E-2**

K. Kapuniai stated she received a copy of the Pu'ukapu hybrid water system application packet and had concerns. She asked why is it necessary to get a building permit in order to get the water? Item #7 of the lease addendum talks about disposing of the system, beneficiaries should not be left hanging. Beneficiaries need notification at least a year prior to a system shut down of any sort. Item #6, the Department is hiring someone to manage the system, and she would like to know what measures of accountability there are in place.

Finally, beneficiaries will be charged \$765 to install a water meter and backflow preventer. One of the lessees in their homestead is a certified installer but the Department said they couldn't use him to do installations. She later found out the person installing the backflow preventers is not a licensed plumber but one of the Department's laborers. She recommended a refund of \$300 to those who already have their preventers installed.

She asked that notice be sent to all Waimea beneficiaries letting them know that the water system is ready and they can participate.

The communities who participated in the Kulia I Ka Nu'u project that did not get an allocation of the funds that were set aside, should still have an opportunity to finish their community-based projects. Many of the leaders spent countless hours putting their projects together.

## **ITEMS FOR DECISION MAKING**

### **PLANNING DIVISION**

#### **ITEM G-1 Authorize the Chairman to Request and Pursue a Water Reservation in Keauhou, Kona, Hawaii.**

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

Acting Planning Program Manager Kaleo Manuel presented the following:

That the Hawaiian Homes Commission (HHC) authorizes the Chairman to:

1. Formally request a Water Reservation of 3.398 MGD in the Keauhou Aquifer System Area (ASA) from the Commission on Water Resource Management (CWRM) to adequately reserve water for current and foreseeable development and use of Hawaiian home lands in the Keauhou ASA, Kona, Hawaii (State Water Code §174C- 101(a));
2. Testify and participate in the water management area designation process on behalf of the Hawaiian Homes Commission specific to item 1 above; and
3. Take other actions as necessary to effectuate these requests.

##### **MOTION**

Moved by Commissioner Canto, Seconded by Commissioner Davis to approve the motion as stated in the submittal.

##### **DISCUSSION**

###### **WEST HAWAII ISLAND PLAN UPDATE- PLANNED LAND USES**

The Department of Hawaiian Home Lands (DHHL) currently holds in trust approximately 1,500 acres of lands in the Keauhou ASA, which comprise approximately one percent of its lands holdings on the island of Hawaii. These lands were not part of the original trust inventory and were acquired from the Department of Land and Natural Resources (DLNR), Hawaii Housing and Finance Development Corporation (HHFDC) and Queen Liliuokalani Trust (QLT). Per the Hawai'i Island Plan (HIP) approved by the HHC in 2002 and the West Hawaii Island Plan Update (WHIP) approved by the HHC in 2009, these lands have the following land use designations

based on a thorough land use analysis as well as intensive community engagement with beneficiaries. (see submittal)

Commissioner Ishibashi stated he wants to protect the Department's water rights but does not agree with the designation of Keauhou.

Commissioner Kahikina stated he also wants to protect the Department's water right without taking a side on the Keauhou designation.

ACTION

Motion, carried unanimously.

**ITEMS FOR INFORMATION**

**LAND DEVELOPMENT DIVISION**

**ITEM E-2 For Information Only - Status report on Current Water System Improvement projects, Island of Hawaii**

RECOMMENDED MOTION/ACTION

Land Development Division Officer Norman Sakamoto presented information on the Current Water System Improvement projects for Hawai'i Island.

I. Puukapu Hybrid Water System, Waimea

The project consists of installation of a non-potable water system to service 184 pastoral lots in the 4,600-acre Puukapu Pastoral Subdivision. The project includes storage and fire fighting tank reservoirs, booster pumps, and transmission mains. The construction cost was \$3.2 million and the project was completed in October 2013.

II. Makuu Water System, Halona, Puna

The project involves the conversion of an existing exploratory well to a production well with a deep well pump, a 1.0 million gallon concrete reservoir, construction of an asphalt-paved access road, 12-inch diameter water main, installation of a new booster pump system at the Keonepoko Nui Reservoir site, chlorination facilities, and other ancillary improvements.

III. Kawaihae, South Kohala - Source, Storage and Transmission

The DHHL owns 10,153 acres of land in Kawaihae and has long-term development plans for approximately 1,185 acres that would require potable water service. The development potential of the property is severely limited by the lack of potable water resources in the area.

IV. Ka'u, South Point, Storage and Transmission

DHHL engaged the engineering services of Group 70 International to identify opportunities and constraints for regional groundwater development for its landholdings in Ka'u in order to better serve pastoral and agricultural homestead leases previously awarded by DHHL.

**ITEM G-3 For Information Only - Community-Based Economic Development Project Updates Statewide**

Note: This Item was deferred.



## **GENERAL AGENDA**

### **Requests to Address the Commission**

#### **ITEM J-4 John Replogle, Field Coordinator The Nature Conservancy Kau Field Office**

J. Replogle grew up in Ka'u and graduated from Ka'u High School. He loves South Point and feels a connection to it. He is part of the Hawai'i Wildlife Fund and takes young people on excursions to South Point regularly. He did a presentation showing the effects of DHHL's mismanagement of South Point.

Concerns for coastal degradation from Ka Lae to Pai'aha'a.

- No delineation of roadways or trails
- Uncontrolled all-terrain vehicle use along the coastline
- Over extraction of coastal resources
- Vending issues
- Massive silt run-off on to the reef due to the above activities

He provided pictures of vehicular traffic going through the area including right up to Palahemo. The trash and desecration around the wahi pana at South Point is upsetting. He put together a stakeholder's group to discuss what can be done to take better care of the area. He invited DHHL to participate in the group.

Simple solutions like fencing Palahemo or educational signs about the significance of the site might help keep area users from being as disrespectful. He doesn't think anything should be done without informing the public to explain what is happening and why.

Commissioner Ishibashi thanked J. Replogle for his efforts and looked forward to working together to do a better job of caring for South Point.

#### **ITEM J-5 Jeff Gilbreath, Executive Director Hawaiian Community Assets**

J. Gilbreath is the Executive Director of Hawaiian Community Assets (HCA), a native Hawaiian beneficiary-established and controlled housing counseling agency that is certified by the Department of Housing and Urban Development. Their mission is to build the capacity of low- and moderate-income communities to achieve and sustain economic self-sufficiency with a particular focus on Native Hawaiians. Since 2000, they have delivered financial education, housing counseling, and financial products to help native Hawaiian beneficiary families secure and sustain homeownership.

He gave notice to the Hawaiian Homes Commission of HCA's intention to call for an investigation into the State Department of Hawaiian Home Lands award of HALE program service contracts.

According to the State procurement website, on July 24, 2014 the State Department of Hawaiian Home Lands had awarded \$622,263 to the Hawaii Home Ownership Center and \$498,000 to Helen Wai, LLC for the delivery of financial education and housing counseling services to native Hawaiian beneficiaries. \$0 was awarded to Hawaiian Community Assets.

They requested information on the HALE contract scoring and ranking sheets. The selection committee then scored and ranked all Statements of Qualification on the list of service providers.

**ITEM J-8      Olani Lilly, Executive Director Kamaaha Education Initiative**

O. Lilly stated Kamaaha School has a preliminary license for DHHL land in Kings Landing. The School did a preliminary environmental assessment as part of their due diligence process. They found the site to be too cost-prohibitive to use. They were offered a parcel owned by Kamehameha Schools that will be easier and cheaper to develop. She asked for instructions on how to return the license to DHHL, so other beneficiaries can use it.

The second issue they have is the need to access the Kamehameha Schools parcel through DHHL roads including Andrews Avenue and potentially Todd, King, Krause and/or Evaliko Avenues. One of the Kamehameha sites they are considering has an issue with access as it is abutting DHHL lands. O. Lilly asked for assistance with the DHHL process for gaining easier access to the site. The information will help them to determine which site would better fit their timeline.

Chair Masagatani asked O. Lilly to submit a letter to her about returning the license. With regard to the access issue, she asked the Planning Division to help Ms. Lilly determine what is required.

**ITEM J-10      Michelle Kauhane, President & CEO Council for Native Hawaiian Advancement**

M. Kauhane provided extensive testimony concerning the disregard, and disrespect of qualified Native Hawaiian organizations by the State Department of Hawaiian Home Lands. She said that CNHA applies for many grants and contracts throughout the year. At DHHL they are continuously met with roadblock after roadblock. She has witnessed and experienced first hand, on more than one occasion, multiple instances of her assertion. In one instance CNHA was awarded a significant contract as a Native CDFI to bring access to capital for HHCA beneficiaries. She stated that DHHL managed to manipulate the contract, created roadblocks, held back \$1 million in loan funds that were approved to service homesteaders and then let the contract expire. Other times CNHA has been awarded contracts and was faced with the problem of getting paid by DHHL. She cited another situation where an anonymous complaint was filed that turned out to be false. The complaint was unsubstantiated and instead of verifying the fact, DHHL wrote a letter to Hawaiian Community Assets (HCA) which included a copy to the U.S. Department of Housing and Urban Development (HUD).

M. Kauhane added they have concerns over DHHL issuing contracts to Hawaii Home Ownership Center and Helen Wai LLC. There was no formal notice announcing a decision on awardees. HCA is tired of standing on the outside, looking in through the windows of its own trust. She encourages the Commission to start by acknowledging that there is a problem. Own the problem, acknowledge it, and figure out a way to move forward; rather than pretend it does not exist.

- ITEM J-1      Jeffrey Kekoa, President Kau Hawaiian Home Lands Association**  
**ITEM J-2      Terri Napeahi, On Behalf of Robert K. Napeahi, Lessee, Keaukaha, Hawai'i**  
**ITEM J-3      Thomas Kaniho, Lessee Kamaoa, Hawai'i**  
**ITEM J-9      Richard Kaniho, Lessee Humuula, Hawai'i**

Note: Items J1-J3 and J9 were deferred.

**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

The next regular monthly meeting will be held on December 15 & 16, 2014, in Kapolei, Oahu.

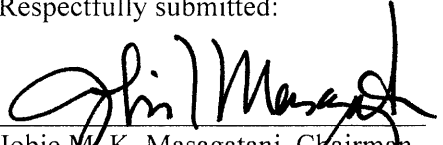
MOTION/ACTION

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

**ADJOURNMENT**

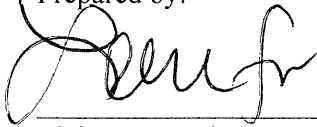
4:32 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

Prepared by:

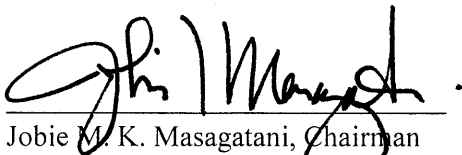


Elaine G. Searle  
Secretary to the Commission

**APPROVED BY:**

The Hawaiian Homes Commission  
At Its Regular Monthly Meeting On

April 17, 2018



Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission