

HAWAIIAN HOMES COMMISSION
Minutes of January 20 and 21, 2015
Meeting held at Hale Pono'i, Kapolei, Oahu

Pursuant to proper call, the 659th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:30 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
David B. Kaapu, Commissioner, West Hawai'i
Michael P. Kahikina, Commissioner, Oahu
William Richardson, Commissioner, O'ahu
Renwick V. I. Tassill, Commissioner, O'ahu
Kathleen Pua Chin, Commissioner Kaua'i

EXCUSED NONE

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
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
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:46 a.m. She welcomed Deputy to the Chairman William Aila and his secretary Susan Richey. She also introduced new Hale Manager Paula Aila to the DHHL 'ohana.

ROLL CALL

Nine (9) members were present at roll call.

APPROVAL OF AGENDA

Chair Masagatani announced there are no minutes to approve on this agenda. Items J-6 & J-7 will be addressed on the Monday agenda instead of the Tuesday agenda. The Commission will hear the workshop presentation for F-6 before it comes up for a vote.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

None.

ITEMS FOR INFORMATION

LAND MANAGEMENT DIVISION

ITEM F-6 For Information Only – Nānākuli Cemetery, Nānākuli, O‘ahu

RECOMMENDED MOTION/ACTION

None. For Information Only.

Land Management Administrator Linda Chinn presented Item F-6.

At the December 2014 regular monthly meeting, the Hawaiian Homes Commission directed staff to research and report back on any information relating to the Nānākuli Cemetery located on Hawaiian home lands in Nānākuli.

Nānākuli Cemetery is located on Haleakala Avenue with a land area of approximately 2.899 acres, and is further identified by Tax Map Key No. (1) 8-9-003:005. There is no legal disposition to any organization or association to manage and operate the cemetery that staff can find. However, staff did find memorandums dating back to 1973 relating to this issue.

Homestead Services Division has in its files, a standard request form and memo request for the Chairman to approve. The process appeared to have stopped in 2008 with the last request noted in file was dated January 29, 2008.

Chair Masagatani stated staff's presentation was meant to provide the Commission with information and offer a platform for discussions about how to move forward.

Commissioner Kaapu asked besides Ho'olehua and Nānākuli, were there any other cemeteries on DHHL land. L. Chinn stated there are no other, and that the Ho'olehua cemetery falls under the management of the Moloka'i District Office.

Commissioner Kahikina stated the Nānākuli community just wants to make it work. The Moloka'i cemetery seems to have a good system.

PUBLIC TESTIMONY ON ITEM F-6

ITEM A-1, A-2, A-3 Germaine Meyers, Clarita Mahoe and Allen Mahoe

G. Meyers is a former employee of DHHL and worked in the Land Development Division. She testified that she became the person who took families to the cemetery to designate the location of the plot when a beneficiary passed and wanted to be buried in the cemetery. Before DHHL's Land Development Division, the clergymen of the different denominations of Nānākuli churches took care of the burial records. At that time, the cemetery was organized by religious affiliation. There were Catholic, Mormon, and Protestant sections. Back then, there were delineated plots on a piece of paper in a manila folder. Sometimes when they dug down and hit coral, they moved over a little to one side or the other. The cemetery is kapakahi, the burials are wherever there was a space.

G. Meyers stated her grandparents and grandchild are buried there. She may be buried there one day. She wants to make sure there are policies and procedures for caretaking and use of the cemetery. She has concerns with the current caretaker and would like to offer suggestions about the duties of the caretaker. She also has another question: who is liable if someone gets hurt while at the cemetery?

C. Mahoe stated there are approximately 400 grave sites in the Nānākuli Cemetery and about half are unmarked. She and her children personally walked through the cemetery and documented all the gravestones and locations to come up with a directory. They have held many community clean up and beautification days. She and her family have spent countless hours cleaning the cemetery despite a lack of resources and attention. When she first started taking care of the cemetery there was no transfer of maps or paperwork.

When someone calls to request a burial, all they need to do is fill out the form indicating they are a lessee or have a picture ID showing residence on the homestead. The form came from Auntie Keala Enos who got it from the Department a long time ago. It has been tweaked a little, but not in any significant way. There is no process for receiving notifications. Sometimes it comes from the Department, sometimes from the family and sometimes the mortuary. Whenever a burial is performed, someone from their family is there from start to finish. Despite the lack of official procedures, they haven't had too many issues. They ask for a photo ID, death certificate, and funeral program. They've asked the Department to come out to look at the process many times, but no one has come out.

A. Mahoe stated they are doing their best to help the community, but people are still complaining. The associations are fighting over control of the cemetery. They try to be fair to everyone but still there is fighting. They don't do it for recognition but because they love Nānākuli and the families that are buried there. He heard that Mr. Kelii testified at the last meeting. Instead of complaining, everyone should come together to fix the problem and work together.

Commissioner Kahikina appreciated the work the family put in. He recognized that the Department should be more involved to help the community with policies and procedures to run the cemetery efficiently.

Commissioner Canto stated she is concerned about the liability the caretakers undertake as individuals. They are not experts and there were no procedures provided to them.

Commissioner Davis stated he applauds what they are doing in Nānākuli. The kuleana the Mahoe 'ohana described as caretakers, is provided by Department employees on Moloka'i. When a homesteader dies, the Department handles the entire process. The Department cleans and maintains the cemetery as part of the regular staff duties.

Commissioner Kaapu asked for an executive session to consult with counsel.

MOTION/ACTION

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

EXECUTIVE SESSION IN 11:07 AM

EXECUTIVE SESSION OUT 11:38 AM

Commissioner Chin asked Deputy Aila for his thoughts on how to address the situation at Nānākuli Cemetery. Deputy Aila stated the Department should get the community together for a discussion that should occur at the cemetery. The Department should enter into an official disposition with the community group for a maintenance agreement while working on policies and procedures in alignment with the Department of Health (DOH) on legal issues relating to operating a cemetery.

Chair Masagatani thanked everyone for their comments and concerns and noted the Department will continue to work on the situation.

WORKSHOPS

ITEM C-1 Fomerly Used Defense Sites on Hawaiian Home Lands in the Waikoloa Maneuver Area and Popoki Target Area

RECOMMENDED MOTION/ACTION

None. For Information Only.

NAHASDA Manager Niniau Simmons presented the workshop on Item C-1.

Waikoloa Maneuver Area

The Pu'ukapu, Kūhiō Village, Lālāmilo, and Kawaihae Residence Lots homesteads are within the boundary of the 100,000-acre, formerly used defense site (FUDS), known as the Waikoloa Maneuver Area (WMA). The WMA encompasses the vast majority of the district of South Kohala. The area was used by the U.S. military during World War II as a practice/target site. As of September 30, 2014, the U.S. Army Corps of Engineers (USACE) cleared unexploded ordnance (UXO) from approximately 27,200 acres within the WMA.

On October 14, 2014, the Chairman was notified of possible UXO in the affected homesteads named above. During the next two months, DHHL met with officials from the USACE, U.S. Office of Housing and Urban Development (HUD), and the County of Hawaii. On December 3, 2014, letters were mailed to all 500+ lessees of the affected areas informing them of the UXO and inviting them to a community meeting on December 16, 2014. At said meeting, USACE shared important safety information and reviewed the historical context of the WMA. DHHL plans to return to Waimea for another community meeting with its lessees on January 28, 2015, at 6:30 p.m., to provide updates on the Pu'ukapu Hybrid Water System and appropriate UXO mitigation for disturbing ground activities.

Commissioner Kahikina asked who is responsible for cleaning up the UXO. N. Simmons stated the federal government is responsible for clean-up. DHHL staff is working with the Hawai'i congressional delegation to secure the money needed to do the cleanup.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-3 Shirley Pedro. Makuu Homestead Farmers Association

S. Pedro stated many people in their community were concerned because they don't want to relocate. If they must, they will, but they don't want to. She is here because they saw the item on the agenda and felt someone should come to represent the community. There are a lot of misunderstandings and misinformation on social media.

Commissioner Richardson asked, of the 46 lessees, how many want to stay. S. Pedro stated a majority of the 46 are outside of the buffer zone and don't want to leave.

ITEMS FOR DECISION MAKING

OFFICE OF THE CHAIRMAN

Item C- 2 Delegated Authority to the Chairman to Relocate Lessees Related to the June 27, 2014 Lava Flow

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons presented the following:

To approve delegated authority to the Chairman of the Hawaiian Homes Commission to relocate lessees affected by the June 27, 2014 lava flow in Pahoā, Hawaiʻi.

MOTION

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

Commissioner Kaʻapu stated he didn't want to set a precedence regarding brush fires where other lessees might ask for a relocation if there is a brush fire in their area. N. Simmons stated the trigger for a relocation for health and safety in this case would start with a civil defense evacuation notice.

Chair Masagatani suggested an amendment to the motion as follows: To approve delegated authority to the Chairman of the Hawaiian Homes Commission to relocate lessees currently residing in Makuʻu affected by the June 27, 2014 lava flow in Pahoā, Hawaiʻi.

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Canto to amend the motion to read: "To approve delegated authority to the Chairman of the Hawaiian Homes Commission to relocate lessees currently residing in Makuʻu affected by the June 27, 2014 lava flow in Pahoā, Hawaiʻi." Motion carried, unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-4 Homelani Schaedel, President of Maluʻohai Residents Association

H. Schaedel stated for the past nine years she has been trying to get the Department to assist her community with enclosing utility boxes. The utility boxes at Maluʻohai are behind the home of one of their kupuna. There is a space of 3-feet between the fence and the utility box and she has found used condoms, underwear, ice pipes and other illegal items. The boxes were found open many times and they've called HECO to come and close them. Item F-4 is the perfect opportunity to help future homestead sites from having to deal with the same problem. She knows this is a small thing compared to lava flows and cemeteries, but it is important to their residents.

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 (BUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

MOTION

Moved by Commissioner Davis, 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 Davis, 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 Davis, 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 Kahikina, seconded by Commissioner Davis. 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 listed in the submittal as successors to the application rights of deceased applicants who failed to designate a successor.

MOTION/ACTION

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

ITEM D-8 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

Commissioner Kaapu asked to defer this item until after the scheduled executive session. Chair Masagatani agreed and deferred the item until later in the agenda.

ITEM D-9 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 Davis, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-10 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the issuance of a non-exclusive 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 in the submittal. The non-exclusive license is necessary as the Lessee cannot issue his/her licenses.

Commissioner Chin asked if the photovoltaic companies are putting liens on the homes. Does granting the license mean if the lessee defaults on the PV lease that DHHL is liable for payment. J. Garcia stated the PV company does not have a lien on the home but can remove the system from the home if the lessee defaults on the agreement.

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina. Motion carried. Commissioners Canto and Tassill abstained.

ITEM D-11 Request to Authorize a Contested Case Hearing Before the Commission to Cancel Lease No. 3442, Skylla Villanueva, Lessee, Ho'olehua, Molokai

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

Authorize a contested case hearing before the Commission at its next meeting on the island of Molokai, to determine whether to cancel Lease No. 3442, Lessee Skylla Villanueva, for failure to pay the amounts due under Contract of Loan No. 15527.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina.

DISCUSSION

Commissioner Davis asked for more information on why the matter is being sent to a contested case hearing. D. Oshiro stated despite the efforts of the Moloka'i District Office Manager, the Department and the lessee have hit an impasse and cannot agree on a path forward. The Department believes the only recourse remaining is to bring the issue to the Commission by way of a contested case hearing.

ACTION

Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue License, County of Kaua'i, Anahola Clubhouse Park, Anahola, Kauai

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission (HHC) approve the issuance of a benefit license agreement to the County of Kauai (LICENSEE) for the operation, management and maintenance of a public park, known as the Anahola Clubhouse Park, on Hawaiian home lands located at Anahola, Kauai, identified by Tax Map Key No. (4)4-8-020:067, containing an area of approximately 4.945 acres and shown as the diagonally lined area on the map attached hereto as Exhibit "A" and "B", hereinafter referred to as the "Premises", subject to the conditions listed in the submittal:

MOTION

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

The services rendered by the County of Kauai in constructing, maintaining, and providing recreational facilities are not exclusive to any individual or group. It is also assumed that, because of its location, a significant number of park users are DHHL homestead lessees. Therefore, LMD recommends the waiver of all fees and rent for the term of this License.

L. Chinn stated there was a beneficiary consultation meeting where the County explained how they intend to manage the park and there were no objections from the community.

ACTION

Motion carried unanimously.

ITEM F-2 Approval to Issue License, Pana'ewa Community Alliance, Pana'ewa, Hawaii

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission ("HHC") grants its approval to the following:

- A. RESCIND its approval as granted on November 18-19, 2013 under Agenda Item No. F-1 (See Exhibit "A") to issue a benefit license to Pana'ewa Hawaiian Home Lands Community Association (PHHLCA), a domestic non-profit corporation, for the purposes of developing, managing, using, maintaining, and protecting that portion of Hawaiian home lands located in Pana'ewa, further identified by TMK: (3) 2-2-047:075, Lot 3-B-2, containing an area of 12.774 acres.
- B. ISSUANCE of the benefit license and all its rights and privileges as stated above to the PANAewa COMMUNITY ALLIANCE (PCA), financial sponsor of the Pana'ewa Hawaiian Home Lands Community Association.

Approval and issuance of the benefit license is subject to the same basic terms and conditions as described more specifically under Exhibit "A" attached herewith.

MOTION

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

DISCUSSION

L. Chinn stated due to matters out of its control PHHLCA in its partnership with the University of Hawaii - Hawaii Campus failed in securing grant funds from the U.S. Department of Housing and Urban Development necessary for the development of its proposed Kamoleao Laulima Community Resource Center (KLCRC) project.

Therefore, in its desire to obtain funds for developing the KLCRC project and to maintain its rights and privileges to the license tenure for the subject premises PHHLCA formed the Pana'ewa Community Alliance to act specifically as a financial sponsor on its behalf.

ACTION

Motion carried unanimously

ITEM F-3 Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide

RECOMMENDED MOTION/ACTION

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

MOTION

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

DISCUSSION

Commissioner Chin asked for clarification on the term "mesne" used in the submittal under General Lease No. 146. L. Chinn stated it means that WKL sold its interest to J.W. Hanley.

Commissioner Chin asked to remove the ratifications associated with General Lease No. 146.

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina to amend the motion to remove the ratifications associated with General Lease No. 146. Motion carried, unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ITEM F-4 Ratification of Defaults and Revocation, 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 parties highlighted in gray 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.

ITEM F-5 Approval to Issue Master Benefit License to Hawaiian Electric Company, Inc. for Homestead Developments on the Island of Oahu

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:

That the Hawaiian Homes Commission approve the following:

1. The issuance of a Master Benefit License to Hawaiian Electric Company, Inc., for the right and privilege to build, construct, reconstruct, rebuild, repair, maintain, operate or remove poles, anchors, guy wires, pull boxes, handholes, transformer vaults, switchgears, and overhead and/or underground lines, appliances and/or equipment over, across, under and through portions of Hawaiian home lands parcels under homestead development on the island of Oahu for the sole purpose of providing electric service to the homestead parcels, and
2. Authorize to the Chairman to approve addendums to the Master License to add additional homestead lots in the future.

DISCUSSION

The Department of Hawaiian Home Lands (DHHL) staff and Hawaiian Electric Company, Inc. (HECO) staff, along with our deputy attorney general and HECO attorney, have been working on drafting a Master License with HECO to streamline the license process for the electric companies that service our homestead lessees. This Master License will grant HECO the right to enter Hawaiian home lands to facilitate the distribution of electrical service for the homestead lessees and subdivisions. A copy of the Master License is attached to the submittal.

Commissioner Kaapu stated he wanted to add some changes to the agreement. He asked if the item can be deferred to next month so Commissioners can weigh in and provide edits. L. Chinn stated staff will take any recommendations and bring the item back once the AG's office and HECO attorney's review the changes.

Chair Masagatani deferred the item to a future agenda.

LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Various Lease Awards

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: Approve the awards of Department of Hawaiian Home Lands Residence Lot Leases to the applicants listed below 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 Davis, seconded by Commissioner Kahikina to approve the motion as stated in the submittal. Motion carried unanimously.

ITEM E-2 Rescission of Homestead Lease Award and Reinstatement of Application - Deldrine K. K. Manera

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:

1. To approve the rescission of Residence Lot Lease No. 12294 to Lot No. 42, consisting of 22,913 square feet, identified as Tax Map Key 2-2-2-031:042, Waiohuli Hikina Subdivision, situated at Waiohuli, Makawao, Maui, Hawaii, which commenced on June 7, 2010, to Deldrine K. K. Manera.
2. To reinstate the residential lease application of Deldrine K. K. Manera to the Maui Island Wide Residential Lease Waiting List according to her original date of application: August 5, 1986.

On September 22, 2007, Deldrine K. K. Manera selected Lot No. 42, Waiohuli Hikina Subdivision, situated at Waiohuli, Makawao, Maui, Hawaii. The lessee submitted a construction contract, plans, and evidence of cash to finance the construction of a dwelling. The lease award was approved on May 26, 2010. Since then the lessee has not been able to construct a home on her lot.

On December 18, 2014, Deldrine K. K. Manera submitted her written request to rescind her lease and return to the Maui island wide residential lease waiting list, according to her original date of application, August 5, 1986.

MOTION/ACTION

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

ITEMS FOR INFORMATION

GENERAL AGENDA - Requests to Address the Commission

ITEM J-1 Hans Wedemeyer, Vice President Xent, Inc. dba Hokuloa, Inc.

H. Wedemeyer stated he is testifying regarding the passing into law of the 20-year extension of DHHL leases (Act 189 (H.B. 1015)). The 20-year extension would provide for DHHL leaseholders to borrow at all time low interest rates, expand their businesses and hire new employees. Just what our State needs to provide a boost to the economy. His bank offered him an expansion loan at very competitive interest rates, but the loan is dependent upon DHHL adopting and putting the

law into practice. This law was passed four years ago. Despite the delay, and at considerable personal expense, he completed the building of a 5000-sq. Ft. Building and prepared the 1.5-acre site for further buildings to be erected now that the extension law is being attended to by DHHL. He provided documents and correspondence that cover the 4- year period.

L. Chinn updated the Commission that after Act 189 was passed the Department was notified that it needed to go through the rule-making process to implement the new law. The Department went through the process, the Commission approved it, the governor signed the law and now it is in the hands of the U.S. Department of the Interior for final approval and notice that consent from Congress is not required.

Mr. Wedemeyer stated his bank will be happy to release the funds if DHHL could provide a letter saying that implementation is pending.

ITEM J-2 Michelle Kauhane, Kaupe‘a Homestead Association

M. Kauhane stated more than five years ago when lessees first selected homes at Kaupe‘a, the vacant lot was identified as a park. It was also shared with lessees that the parcel would be the future site of a community center. As such, many families selected their lots based on proximity to the park as articulated. Later, it became clear to beneficiaries that the lot was owned by the State Housing Finance Agency (HHFDC) and back then, Chairman Micah Kane had attempted to negotiate a potential land exchange. After Chairman Kane's administration, Chairman Nahale-a also attempted to work on a potential exchange and development partnership to balance beneficiary needs with future development plans. Over the years, although several attempts were made, there has been little to no activity on the parcel.

An RFP is out for bid for affordable housing development (residential3.5). The bid is set to close at the end of January. DHHL signed an MOU with HHFDC granting access to the parcel through Hawaiian home lands. Neither DHHL nor HHFDC had the courtesy to consult with or even contact residents of Kaupe' a regarding the agreement/plans. They ask the Department for the following:

1. Set up a meeting with HHFDC for us to be at the table with them discussing the development plans.
2. Work with us to request HHFDC withdraw the RFP or at the very least, amend it so it must include the development of a park.
3. The Chair and Deputy at DHHL meet with the Kaupe‘a community to explain why DHHL signed an agreement without notifying or even talking to Kaupe‘a first.

ITEM J-3 Jeff Gilbreath, Hawaiian Community Assets

J. Gilbreath stated his testimony is to follow up on his November and December testimonies to the Hawaiian Homes Commission where he called into question the ability of State Department of Hawaiian Home Lands' staff to objectively analyze the information submitted by service providers for the HALE program and render a decision based on merit. This questioning was based on Hawaiian Community Assets (HCA) assessment of the capacity, work history, and experience of the 2 HALE contract awardees as compared to HCA. He provided an assessment of the scoring sheets for Commissioners.

This questioning was also based on a series of historic instances in which institutional discrimination has been present. These historic instances are included below for your re-examination and do not include every instance of institutional discrimination that beneficiaries

and beneficiary-controlled organizations have experienced since the creation of the Hawaiian Home Lands trust in 1921:

J. Gilbreath highlighted instances from his testimony.

- 2014. HCA was never informed by the State Department of Hawaiian Home Lands of the awarding of HALE contracts to service providers.
- 2014. Without this information, HCA was unable to challenge the awarding of \$1.1 million in HALE service provider contracts
- 2014. HCA did not receive its Request to Access a Government Record submitted November 18, 2014 for review, scoring, and ranking of contract proposals within the ten business days
- 2014. HCA received the HALE contract review, scoring, and ranking sheets we had previously requested. The review, scoring, and ranking sheets have been provided for your information. It is interesting to note the lack of guidance the scoring and ranking sheets provide reviewers, especially those without expertise in the field of HUD-certified housing counseling.

HCA Program Coordinators Kahau Mahoe-Theone and Lahela Williams helped introduce resolutions for the Commission's consideration.

1. Direct the State Department of Hawaiian Home Lands to Contract Additional HUD-Certified Service Providers for the HALE Program; and
2. Direct the State Department of Hawaiian Home Lands to Reinstitute a Community Review Process for Grant and Contract Awards.

J. Gilbreath asked that the Commission consider the resolutions and place them on the February agenda for approval.

Chair Masagatani stated that two of the allegations highlighted by HCA needed to be clarified. She asked Special Assistant Kamana'o Mills to provide information about the award notification process and Administrative Services Officer Rodney Lau to provide information about the UIPA timeline. K. Mills stated in 2008, the State of Hawai'i Procurement Office created the online award notification system to be fair to all bidders so that no one person or company was notified before another. This online notification system is the principal method used to notify vendors of procurement results. R. Lau stated that an email was sent to HCA within the ten-day period notifying them that the information was ready. He provided the email for Commissioners.

Commissioner Kahikina stated he appreciates everything HCA does for the beneficiaries. He supports the resolutions. Commissioner Tassill asked for an executive session to confer with counsel.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Richardson to recuse into executive session pursuant to HRS Section 92-5 (a)(4). Motion carried unanimously.

EXECUTIVE SESSION IN

4:41 PM

EXECUTIVE SESSION OUT

5:14 PM

J. Gilbreath noted his testimony also included a request to be placed on the J Agenda for February and a request for information.

ITEM J-6 Kawai Warren, Kekaha Hawaiian Homestead Association

K. Warren wanted to thank the Commission for its support of the Kekaha Hawaiian Homestead Association and welcomed aboard Deputy William Aila Jr. and Kaua'i Commissioner Pua Chin. His community is happy with the current administration and applauds Chair Masagatani for the increased transparency in the Department. He asked that the Commission continue to encourage communication between the homestead associations and the Department. Sometimes information can be misconstrued or mistranslated and rumors spread like wildfire in the community. Its best if the Department communicate with the beneficiaries regularly.

ITEM J-7 Bo Kahui, Executive Director La'i'opua 2020

- B. Kahui updated the Commission on the following:
- La'i'opua 2020 2014 GIA \$950K release
 - La'i'opua 2020 2015-17 GIA Grant Proposal/New Market Tax Credit
 - National Parks Service Petition to Designate the Keauhou Aquifer
 - Status of US Fish & Wildlife MOA/MOU Agreement
 - NAHASDA Funding Allocation
 - La'i'opua 2020 Commercial Status

Chair Masagatani stated the US Fish & Wildlife MOA was approved and will be signed soon.

ITEM J-8 Chad Soares, Owner Soares Truck Rental

C. Soares requested help with keeping his lease. He is currently retired and donates his time and effort in helping the community by working with schools, non-profit organizations, the state GoGreen recycling program, the HPD Drive Alive program, and the Hawaii Police Activity League. He has also volunteered his time to help clean up with the Lions Club, and most of all has helped to rehabilitate Hawaiian ex-prison inmates. His sister Tracey Aiwohi is a deacon at Ka Makua Mauhoa Church and a motivational speaker. She was also Vice President of the Hawaii Children's Cancer Foundation in 2014.

C. Soares has been improving the look of Kalaeloa long before he was a tenant there. Former DHHL land manager Ms. Leolani Kini asked him to help DHHL clean up a rubbish dump left by a tenant who had passed away. DHHL did not have the funds for the cleanup. Ms. Kini offered the space to Soares Truck Rental after the cleanup was completed. The cleanup was extensive. Ms. Kini had drafted a contract for the lot and two office spaces in building 1756, unit 203 and 209.

C. Soares stated he met with the Hawaiian Homes Commission twice. The first problem was that there was no documentation of Soares Truck Rental being a tenant. The second problem was accusations of sub-leasing and illegal activities. Two police officers that work with Soares Truck Rental could verify the accusations made against the company were false. There is no sub-leasing nor any illegal activities. He proved that the accusations were not true but still no decision was made at that meeting.

Chair Masagatani thanked C. Soares for this testimony.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Richardson to recuse into executive session to confer with counsel on the Commissions rights, responsibilities and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN**5:34 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. Sale/Transfer of Leases

EXECUTIVE SESSION OUT**6:15 PM****RECESS****6:16 PM**

HAWAIIAN HOMES COMMISSION
Minutes of January 20 & 21, 2015
Meeting held at Hale Pono'i, Kapolei, Oahu

PRESENT Doreen N. Canto, Commissioner, Maui
Gene Ross K. Davis, Commissioner, Moloka'i
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaapu, Commissioner, West Hawai'i
Michael P. Kahikina, Commissioner, Oahu
William Richardson, Commissioner, O'ahu
Renwick V. I. Tassill, Commissioner, O'ahu
Kathleen Pua Chin, Commissioner Kaua'i

EXCUSED Jobie M. K. Masagatani, Chairman

COUNSEL Craig Iha, Deputy Attorney General

STAFF Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
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
Dreana Kalili, Policy Analyst
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Vice Chair Davis called the meeting to order at 12:05 PM

ROLL CALL

Chair Masagatani is excused and is attending the Opening Ceremonies of the State Legislature.
Eight (8) members were present at roll call.

ITEMS FOR INFORMATION

ITEM D-1 HSD Status Reports

Exhibits:

- A - Homestead Lease and Application Totals and Monthly Activity Reports
- B - Delinquency Report

Commissioners had no questions about the submittal.

GENERAL AGENDA - Requests to Address the Commission

ITEM J-4 Tercia Ku, President Princess Kahanu Estates Association

T. Ku stated that Princess Kahanu Estates is celebrating its 20th Anniversary this year. They love their community and for the most part have a peaceful community. They presented the following issues for guidance from the Commission.

- DCCR Association Fees- One resident sought legal counsel who sent the Association a letter stating that because of the ruling at Kalawahine, no fees could be collected. The Association sought its legal counsel who said Princess Kahanu is different than Kalawahine and that we can collect fees. Approximately 30% of the residents are in arrears. The most egregious balance is at \$6,200. The fees are \$20 per month. T. Ku asked if DHHL enforcement officers could be used to knock on doors to remind residents about outstanding payments. The Association is willing to help with costs for the enforcement officers to assist.
- The Bus Route –The City and County of Honolulu asked the community to run a temporary route through Princess Kahanu. After six months, it became permanent without the communities input and approval. The community met and agreed that it wants the bus route removed.
- Large Trucks using Princess Kahanu as a Speedway. The Association asked for guidance on solutions to curb the types of vehicles using Princess Kahanu to get to Hakimo Road.

Commissioner Kahikina asked if the community discussed adding speed bumps. T. Ku stated they were told the Commission would never give their approval. She asked how to go about getting something listed on the agenda for action. Acting Chair Davis stated he will inform Chair Masagatani of the request.

ITEM J-5 Cynthia Spencer, President Waimea Homestead Farmers Market, Inc.

C. Spencer introduced Corrine Weller and Roen Hufford as other officers of the Waimea Homestead Farmers Market. R. Hufford provided background on the market starting with its five founding families 22 years ago. In the early years, they worked with CTAHR Agent Andrew Kawakami to set up the market and encourage other ag lessees to make use of their leases. After ten years they expanded to include any Native Hawaiian who wanted to sell something. The market became a regular Saturday morning destination.

Eventually, in 2002 they opened it up to anyone who wanted to participate. They found that the market thrived with a larger variety of vendors. Customers benefitted by having more products. In 2008, they incorporated and started with Market Rules. Common sense rules that provided for the safety of the customers and vendors. As the Market grew it became necessary to enforce things like food permits. General liability insurance and general excise tax licenses were added when the market reached 40 vendors. Over the years they have determined that the maximum number of vendors is 50, regarding parking and traffic flow.

For 22-years there have only been three suspensions, for one Saturday only. Mr. Hodson and Wow Farms was one of them. They had to be repeatedly reminded to park in the vendor section and they didn't have food permits. Commissioner Kaapu stated the parking area is not part of the permit, so it is difficult to defend. His concern is that after a while people start to go beyond their license and start making rules that go beyond their purviews.

C. Spencer asked if all issues need to come before the Commission or is the district manager empowered to make decisions about day-to-day issues. She stated they didn't do anything without

first running it by Jim DuPont. L. Chinn stated it is better to run things by her at the O‘ahu Office.

C. Weller stated that she is a third-generation beneficiary and farmer and part of one of the founding families. They started the Market 22 years ago and they are here to defend it and answer any questions the Commission has about the market and its operations.

Commissioner Kaapu asked if the corporation was for profit and if so, how much money does the Market bring in and where does the money go. C. Spencer stated they are a for profit corporation and the money goes to paying their board. They are not volunteers. Commissioner Kaapu stated he heard that the Market makes about \$60K a year. R. Hufford stated they make nowhere near \$60K and wondered where the figure came from. Commissioner Kaapu stated that one complaint was that a beneficiary was turned away from selling their products because someone else was already selling that product. He is concerned about the Commission’s role for the beneficiary in such a situation. C. Weller stated that they have never turned down a homesteader who wanted to sell their produce. They did deny a homesteader who wanted to sell leather goods and another who wanted to sell chicken coops.

Commissioner Davis thanked everyone for the discussion and hopes they can work out their differences with respect and aloha.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-3 Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide

Note: This item was continued from the Monday agenda.

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn reminded Commissioners that the motion was amended to remove approval of General Lease No. 146 – WKL Enterprises, LLC. She will review the lease in detail. She also distributed the Department’s Sub-Lease Policy outlining formulas used to calculate fees for sub-lessees.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina that the Hawaiian Homes Commission ratify the approval for the construction plan and consent to sublease for General Lease No. 146-WKL Enterprises, LLC as outlined in the submittal and granted by the Chairman, Hawaiian Homes Commission. Motion carried unanimously.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular monthly meeting will be held on February 17 & 18, 2015, in Kapolei, Oahu.

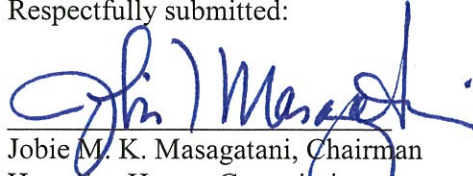
MOTION/ACTION

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

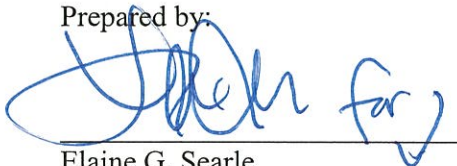
ADJOURNMENT

4:47 p.m.

Respectfully submitted:


Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

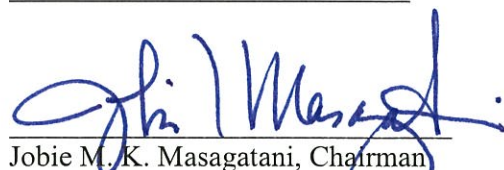
Prepared by:


Elaine G. Searle
Secretary to the Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On

AUG 20 2018


Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission