

**HAWAIIAN HOMES COMMISSION**  
**Minutes of May 18 and 19, 2015**  
**Meeting Held in Waimea, Hawai'i**

Pursuant to proper call, the 663rd Regular Meeting of the Hawaiian Homes Commission was held at the Hapuna Beach Prince Hotel, 61-200 Kauna'oa Drive, Waimea, Hawai'i, beginning at 10:24 a.m.

**PRESENT**     Jobie M. K. Masagatani, Chair  
                  Gene Ross K. Davis, Commissioner, Moloka'i  
                  Doreen N. Canto, Commissioner, Maui  
                  Wallace A. Ishibashi, East Hawai'i  
                  David B. Ka'apu, Commissioner, West Hawai'i  
                  Michael P. Kahikina, Commissioner, O'ahu  
                  William K. Richardson, Commissioner, O'ahu  
                  Renwick V. I. Tassill, Commissioner, O'ahu  
                  Kathleen P. Chin, Commissioner, Kaua'i

**COUNSEL**     Craig Y. Iha, Deputy Attorney General  
                  Sean M. Smith, Deputy Attorney General

**STAFF**        William J. Aila Jr., Deputy to the Chairman  
                  Linda Chinn, Administrator, Land Management Division  
                  Francis Apoliona, Compliance Officer, Office of the Chairman  
                  Norman Sakamoto, Development Officer, Office of the Chairman  
                  Kana'i Kapeliela, Application Officer, Applications  
                  Niniau Simmons, NAHASDA Manager, Office of the Chair  
                  Kaleo Manuel, Acting Administrator, Planning Division  
                  John Peiper, Enforcement Officer, Office of the Chairman  
                  Kip Akana, Compliance Officer, Office of the Chairman  
                  Mike Robinson, Land Agent, Land Management Division, East Hawaii Office  
                  Paula Aila, Hale Manager, Office of the Chairman  
                  Bob Freitas, Planner, Planning Office  
                  Gilbert Fernandes, Mortgage Loan Specialist, Loan Services Branch  
                  Hokulei Lindsey, Administrative Rules Officer, Office of the Chair  
                  Jim DuPont, District Superintendent, West Hawaii District Office  
                  Ku'uwehi Hiraishi, Info. Specialist, Information and Community Relations Office  
                  Puni Chee, Manager, Information and Community Relations Office  
                  Kahana Albinio, Acting Property Dev. Manager, Income Property Branch  
                  Michelle Brown, Secretary to the Commission, Office of the Chairman  
                  Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chairman

**AGENDA**     Chair Masagatani sought approval of an amendment to the order of the agenda. The agenda items shall be taken in the following order: A, C-2, F-2, F-4, D-8, F-11 and D-2. She will return to the top of the agenda after these items have been discussed. Chair Masagatani noted for the record, although many beneficiaries are here for item D-8, no decision will be made at today's meeting. The Commission

will hear testimony and take all items into consideration for its meeting in September 2015, when the Commission is scheduled to return to Hawaii Island.

Commissioner Davis moved, seconded by Commissioner Canto, to approve the agenda, as amended, by Chair Masagatani. Motion carried unanimously.

**MINUTES** Commissioner Davis moved, seconded by Commissioner Canto, to approve the minutes of November 2013 and December 2013, as circulated. Commissioner Ka'apu stated he will abstain from voting; he was not present at the meeting for which the minutes are being approved. Motion carried unanimously.

## **A – PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **Item A-1, Denise Kaaa, Kalawahine Lessee, Re: Executive Session Item No. 1**

*Denise Kaaa submits written testimony* Ms. Kaaa is seeking the Commission's assistance for an expeditious resolution to her family's 14-year problem. She is very hurt and frustrated and stated the family has actively engaged in mediation for the past 2 ½ years and wants to move forward. They have agreed to move forward with relocation to Waimanalo and hopes the Commission will do what is pono (right).

### **Item A-2, Diane Kaneali'i, Kailapa Homestead Association, Re: Items C-2, F-1, F-5,**

Diane Kaneali'i stated she is unable to find the meeting minutes for any of the Commission's meetings for 2014. She requests they be made available as soon as possible. It is difficult for beneficiaries to know what decisions have or haven't been made by the Commission without the minutes being available. Regarding Item F-1, D. Kaneali'i is concerned about the fees being imposed and how the project benefits beneficiaries. Regarding Item F-5, she is in support of businesses coming into the area but wonders about the community benefit package and how much is being given back to the associations.

### **Item A-3, Michelle Kauhane, President & CEO Council for Native Hawaiian Advancement, Re: Item No. C-1, F-8, F-11,**

Michelle Kauhane provides Commissioners with the Council for Native Hawaiian Advancement's (CNHA) *Native Hawaiian Policy Center 2014-2015 Policy Priorities* handout. She highlights item #6 titled, *DHHL – Foreclosure Prevention on Hawaiian Homes (2013)*: Protect beneficiaries through a moratorium on lease cancellations until the State adopts written collection policies that include the priorities of Act 48, mandates 3<sup>rd</sup> party mediators that are HUD certified and includes access to foreclosure prevention best practices available to all other citizens. Regarding Item F-8, the Council is supportive. Regarding item F-11, the Council is interested in seeing the terms of the agreement.

M. Kauhane adds the Council is holding its monthly policy call at 2:00 p.m. and would like to note that the Council will be sharing information regarding agenda item C-1 related to the United States Department of Interior Proposed Rules 43 C.F.R. parts 47 & 48. In general, proposed rules could help clarify certain areas of the Hawaiian Homes Commission Act.

**Item A-4, Kahiliwa Kipapa and Malia Kipapa, Re: Co-Lessee Removal Process**

*Ms. Kahiliwa Kipapa submits written testimony* Accompanying Ms. Kipapa is her niece Malia Kipapa. Her situation involves understanding the process for removing a co-lessee from a lease. Three years ago, she added her grand-nephew as a co-lessee to her Kula, Maui homestead. At the time she had a verbal agreement with her grand-nephew to care for the property and its financial obligations. Unfortunately her grand-nephew has not lived up to his commitment and she now wishes to remove his name from the lease.

*Note: This item was assigned to Deputy Aila and Homestead Services Division for follow up.*

**Item A-5, Agnes Marti-Kini, Mokupuni O Anahola, Re: Item No. F-4,**

Agnes Marti-Kini stated she is in support of agenda Item F-4 Approval to Terminate General Lease No. 244, Anahola Hawaiian Farmers Association. She is the founder of the Land Farmers Association. The membership voted to approve making a formal application for the lease upon the termination of lease No. 244. They want to carry on the original intent of the lease. She requests an informal meeting with the Commission to introduce the Hui. She requests that the lease be awarded to the Hui for free, noting they are a non-profit organization.

**Item A-6, Bo Kahui, Executive Director, La'i'opua 2020, Re: Item No. C-1,**

Mr. Kahui stated he is surprised that the Department of Interior would move for a rule making process given their recent experience with the Native Hawaiian Community. He believes the State did a poor job in terms of its management and transfer of land. He requests that the Department of Hawaiian Home Lands release its comments to the beneficiaries when it is finished. The beneficiaries would like to know what the Department has to say about the proposed rule-making attempt. What are DHHL's priorities? He cautions the Commission that Proposed Rules could have unintended consequences that can negatively impact the beneficiaries of the Trust.

*Note: The order of the agenda was amended to address items with beneficiary presence first, allowing testimony to be given in a timely manner. Items were taken in the following order: A, C-2, F-2, F-4, D-8, F-11 and D-2.*

**C - OFFICE OF THE CHAIRMAN**

**ITEM C-2 To Approve the Department of Hawaiian Home Lands' Housing and Land Use Munition and Explosives of Concern (MEC) Policy.**

**RECOMMENDATION**

NAHASDA Manager Niniau Simmons recommended approval of the Department of Hawaiian Home Lands' Housing and Land Use Munition and Explosives of Concern (MEC) Policy.

**MOTION**

Moved by Commissioner Davis, and seconded by Commissioner Canto.

## DISCUSSION

NAHASDA Manager Niniau Simmons presented the following policy:

For Department of Hawaiian Home Lands (DHHL) properties known or suspected to be affected by previous military use of explosive devices, DHHL shall observe all applicable laws in developing plans and taking steps to clear the land for use, as soon as a practicable. These laws include, but may not be limited to:

- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 U.S.C. 103)
- The Department of Defense 1916 Military Standards Preferred Methods of Acceptance (MIL-STD) 1916)
- The U.S. Office of Housing & Urban Development (HUD) Environmental Responsibilities (24 C.F.R. Part 58).
- The State of Hawai'i Environmental Response Law (Hawaii Revised Statutes Chapter 128D) and supporting regulations (Hawaii Administrative Rules, Title 11, Chapter 451)

Priority in planning and remediation will be given to sites with known contamination. DHHL shall determine the degree and extent of contamination, assessment of potential for migration of contamination, and implementation of steps to halt such migration.

DHHL shall develop procedures, guidelines, and/or rules to implement this policy.

N. Simmons provides Commissioners with an overview of why DHHL is in need of a Housing and Land Use Munition and Explosives of Concern Policy. DHHL became aware of potential contamination sites on Hawai'i Island in October 2014. The contaminations were confirmed a month later in November. DHHL staff conducted community meetings in areas where there was a potential for contamination. The community meetings included the draft plan which is a foundation for guidelines to provide a framework. Several charts are displayed on easels which show affected areas.

Commissioner Ka'apu is concerned that beneficiaries in the area might be waiting for self-help projects and wonders if the policy will delay or inhibit construction for those types of homes. N. Simmons stated the Policy will only affect the areas identified as being a part of the FUDS (Formerly Used Defense Site) areas. The Policy is meant to be a help and support to lessees with construction guidelines to assure the health and safety of the beneficiary as a priority.

Commissioner Kahikina asked if staff has been able to determine a cost for clean-up and or improvements to any of the exposed lots. N. Simmons explained that the Department is in the early stages of assessment and do not have a cost estimate at this time.

Chair Masagatani asked what the next steps are after the policy is approved. N. Simmons stated the next steps are to continue meeting with beneficiaries who are affected by unexploded ordinances and explain the mitigation process and the help them to understand the risks involved with a contaminated site.

### ACTION

Chair Masagatani noted a unanimous consensus and the motion to approve the Department of Hawaiian Home Lands' Housing and Land Use Munition and Explosives of Concern (MEC) Policy, carried.

## **F – LAND MANAGEMENT DIVISION**

### **ITEM F-2      Approval to Amend License No. 754, Kalama‘ula Homesteaders Association, Kalama‘ula, Island of Moloka‘i.**

#### RECOMMENDATION

That the Hawaiian Homes Commission (HHC) grant its approval to an amendment to License No. 754 (LI 754), issued to the Kalama‘ula Homesteaders Association (KHA), a Hawai‘i non-profit association, for the purpose of stewardship and management of Kiowea Park, identified by TMK: (2) 5-2-009:018 (por.), and further shown in Exhibit “A”. The purpose of the amendment is to reduce the amount of land issued to KHA under License No. 754.

Approval of this license amendment is subject to the following conditions:

1. The land area shall decrease from existing 5.15 acres, to exclude approximately 1.18 acres, for a total land area of 3.970 acres, more or less, as described in Exhibit “B”;
2. Documentation and processing fee of \$175.00 shall be waived;
3. The license amendment shall be subject to the standards terms and conditions and any other such conditions deemed prudent and necessary by the Hawaiian Homes Commission; and
4. With the exception of the current requested action, all of the terms, conditions, covenants, and provisions of License No. 754 shall continue and remain in full force and effect.

#### MOTION

Commissioner Davis moved, Commissioner Kahikina seconded, that motion be approved as recommended.

#### DISCUSSION

Linda Chinn, Administrator of DHHL’s Land Management Division stated at its meeting of November 16, 2010, the Hawaiian Homes Commission (HHC) granted its approval to the issuance of License No. 754 to KHA, for the purpose of management and stewardship of Kiowea Park. The licensed premises encompassed the entire 5.15 acres parcel under TMK: (2) 5-2-009:018. A review of LI 754 revealed a discrepancy with the licensed premises under TMK: (2) 5-2-009:018. Prior to the issuance of LI 754, License No. 712 was executed between DHHL and Ke Aupuni Lokahi, Inc. for the restoration, preservation and operation of Kalaniana‘ole Hall, containing approximately 1.18 acres under TMK: (2) 5-2-009:018. Therefore, 1.18 acres of Hawaiian home lands under and surrounding Kalaniana‘ole Hall should have been excluded from LI754. The requested amendment correct the land area licensed to KHA.

Commissioner Ka'apu summarized that the action is being recommended to correct an error by the Department in issuing a license for land that was already licensed to another organization. L. Chinn agrees with Commissioner Ka'apu's summation.

Ms. Gayla Ann Haliniak, President of KHA is in attendance from Moloka'i to advocate for uninterrupted services for the users of Kalaniana'ole Hall. Ke Aupuni Lokahi (KAL) had the lease, but it is expired. KAL is no longer an entity. She talked to Stacy Crivello and confirms that KAL doesn't want the lease. KHA, who is a non-profit, wants to include Kalaniana'ole Hall in its management plan for Kiowea Park. KHA has already covered Kalaniana'ole Hall in its insurance coverage. Her main issue is that the Hawaiian community on Moloka'i uses Kalaniana'ole Hall for funerals, meetings and other gatherings and KHA is afraid services will be interrupted while DHHL is sorting this issue out.

Commissioner Chin asked for clarity about the problem if the KAL lease was expired and they no longer wanted the license anyway. Chair Masagatani asked for a motion to move the discussion into executive session for details on the lease.

Commissioner Canto moves, and Commissioner Ka'apu seconds, to recuse the Commission into Executive Session. Motion carried unanimously.

**EXECUTIVE SESSION IN** 11:55 AM

The Commission convened in executive session pursuant to section 92-5 (a) (4), HRS, to consult with its legal counsel on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-stated matter.

**EXECUTIVE SESSION OUT** 12:34 PM

**ACTION**

DHHL Land Management Division Administrator Linda Chinn withdraws staff's recommendation. Commissioner Davis and Commissioner Kahikina withdraw their motion and second, respectively. G. Haliniak is notified that the motion has been withdrawn.

**RECESS** 12:37 PM

**RECONVENED** 1:09 PM

**F – LAND MANAGEMENT DIVISION**

**ITEM F-4 Approval to Terminate General Lease No. 244, Anahola Hawaiian Land Farmers Association, Anahola, Kaua'i.**

**RECOMMENDATION**

That the Hawaiian Homes Commission (HHC) approve the termination of General Lease No. 244 (GL 244) to Anahola Hawaiian Land Farmers Association (AHLFA) for its Marketplace site located on approximately one (1) acre of Hawaiian home lands located

in Anahola, island of Kaua'i, further identified by Tax Map Key No. (4) 4-8-005:026 and as shown on exhibit "A."

The termination of this general lease is for failure to keep the non-profit corporation in good standing and there is no official board of directors to direct the lease as intended by the Hawaiian Homes Commission, and is subject to the following conditions:

1. The general lease shall terminate effective Monday May 18, 2015; and
2. Review and approval of the Termination of General Lease No. 244 document by the Deputy Attorney General.

#### MOTION

Commissioner Canto moved, and Commissioner Davis seconded, that the recommendation be approved as submitted.

#### DISCUSSION

At its regular monthly meeting on February 26, 1991, the HHC granted approval to issue a 30-year general lease to the Anahola Hawaiian Land Farmers Association (AHLFA) with set terms and conditions. The original approval was for lease rent in the sum of \$100 per month plus 8% of gross revenue. A portion of this lot was intended as the future site of the department's proposed booster-pump facility. At the September 27, 1994 regular monthly meeting, the HHC revised the conditions regarding the rental terms for the general lease, reducing it to \$240.00 per annum for the initial five years and to \$480.00 per annum for the ensuing five years. AHLFA discontinued active use of the general lease premises due to lack of community interest in mid 2000s. DHHL recently discovered that in July 2005 the State of Hawai'i Department of Commerce and Consumer Affairs (DCCA) dissolved AHLFA due to its failure to keep its business registration in compliance for three consecutive years. DCCA issued a Certification of Administrative Dissolution and therefore AHLFA is no longer a legal business non-profit corporation and recognized by the State of Hawai'i.

#### ACTION

Motion was unanimously approved as submitted.

### **D – HOMESTEAD SERVICES DIVISION**

**ITEM D-8     Ratification of Designations of Successors to Leasehold Interest, JAMES P. AKIONA, SR., Lease No. 9043, lot No. 1 to 5, Honokaia, Hawaii and Lease No. 10155, lot No. 1, Honokaia, Hawai'i.**

#### RECOMMENDATION

To ratify the Chairman's decision to approve the designation of JAMES P. AKIONA, JR. (Jr.) as successor to Pastoral Lease No. 9043, Lot Nos. 1 to 5, and Lease No. 10155, Lot No. 1, both situated at Honokaia, Hawai'i, for the remaining term of the leases.

#### MOTION

Moved by Commissioner Tassill, seconded by Commissioner Davis to approve the recommendation as submitted.

## DISCUSSION

Deputy Attorney General Sean Smith summarizes that James P. Akiona, Sr., (decedent) was awarded Pastoral Lease No. 9043, Lot No. 16-A, Pu'ukapu, Waimea, commencing on February 1, 1991, consisting of 100 acres. In 2006, pursuant to a settlement agreement in the Aged Hawaiians case, the Decedent surrendered this Pu'ukapu lot in exchange for an undivided interest in a lot in Honokaia. In 2007, Lease No. 9043 was amended to reflect the demise of five (5) subdivided 20-acre lots. Decedent was also awarded an additional 200 acres under Pastoral Lease No. 10155. In 2007, the Decedent and members of his family signed an agreement to distribute Lease No. 9043 and Lease No. 10155, and the respective lots to certain individuals.

Thereafter, the Decedent submitted multiple transfer requests and Designation of Successor (DS) forms. On January 28, 2009, the Decedent rescinded all prior transfer requests and DS forms. On the same date the Decedent submitted new DS forms designating his eldest son, James Akiona Jr., as successor to all of his lots. Later, the Decedent's son, Harold Akiona, signed a DS for, as the Decedent's agent, naming himself as successor. Harold Akiona relied on a Durable Power of attorney (DPA), executed in 2008. The Department responded that this DS raised a potential conflict of interest and requested that the Decedent sign a new DS himself. However, the Department was informed that the Decedent was no longer of sound mind and never received another DS form signed by the Decedent. Later, Harold Akiona filed several transfer requests to the Department which were denied for various reasons. On February 17, 2012, Harold Akiona signed new DS forms designating his sister, Neddie R. K. Akiona DeJesus, as successor to all of the lots. Two days later, on February 19, 2012, the Decedent died. The 2012 DS forms signed by Harold Akiona, as the Decedent's agent, are invalid because 1) the DPA did not expressly grant him the authority to designate successors, and 2) even if it did, such authority is not something that can be legally delegated to an agent. Further, the 2007 agreement does not appear to designate successors to the Leases, and even if it did, the law is clear that a private agreement such as this cannot preclude a DHHL lessee from changing his or her successor designation. The last DS forms that appear to be validly executed by the deceased lessee are the ones dated January 28, 2009, designating James Akiona Jr. as successor.

Chair Masagatani asked Deputy AG Smith to confirm that there are five (5) subdivided 20-acre lots which total 100-acres in Honokaia, with an additional 200-acres under another Lease. Deputy AG Smith confirms Chair's assessment.

Jaymie Akiona, fourth child of James Akiona Sr., provides testimony on family agreements and disagreements regarding the selection of the subdivided 20-acre lots and other events leading to the current situation. She stated her brother Harold only did what he was manipulated to do. She washed her hands of the situation and only wants to do what is right and pono for her dad. She would like her children to get what should be passed down to them.

Harold Akiona, seventh child of James Akiona Sr., provides testimony of the events leading to him becoming his father's agent. He understood his role as his father's agent to include all decisions from medical to financial. He is a peacemaker and has tried to



make everyone happy including his dad. He describes a meeting with his siblings where his dad stated his successor for the Ranch would be his grandson TJ. He did paperwork to transfer the lease to his sister Neddie, TJ's mom. He was not manipulated, he did what his father asked.

TJ Alau, grandson of James Akiona Sr., provides testimony on his grandfather's wishes for the land. The original intent was commercial ranching but 20-acres cannot sustain more than 4 (four) head of cattle. His grandfather went through litigation against DHHL for the land and it would be pohō (wasteful) to let it go unused. It would be a bigger disgrace to his grandfather's legacy if the family let the land go. The Department said the paperwork went through so he purchased equipment, fencing supplies and other things needed to sustain the cattle. He even purchased more head of cattle. Within the year, another letter arrived saying his uncle was successor. Whatever happens he had done his best to fulfill his grandfather's dreams.

Neddie Akiona DeJesus, daughter of James Akiona Sr., stated for weeks she called to check on the status of the lease. Finally, in September DHHL sent a letter stating the POA (Power of Attorney) does not authorize transfer to her. The trouble all of this has caused her family is frustrating. Three years have gone by since she was originally told that she was the successor. Thousands of dollars have been spent on the ranch and they have nothing to show for it. She didn't manipulate anyone, her dad wanted son, T. Alau to take over. She asked the Commission to help her dad's wishes come true.

Chair Masagatani invited Alan Murakami to testify and asked him to clarify his role since there are so many parties involved in this matter.

Alan Murakami, former Counsel to James Akiona Sr., in the Aged Hawaiians Case stated he felt like he is still representing Uncle Jimmy (James Akiona Sr.). The Native Hawaiian Legal Corporation represented Uncle Jimmy since 1987, when he filed the first contested case hearing to question the continual leases to Parker Ranch which he was denied for what amounted to 38-years, from when he applied in 1952. In the Aged Hawaiians Case, the Supreme Court ruled that every applicant has a due process right to ask for a commercial size ranch. It is a revolutionary ruling which led to thousands of acres being opened up in Pu'ukapu and Honoka'ia. It's compelling to talk about it because it was a big change to how the Department was awarding pastoral leases. He urges the Commission to respect the legacy of Uncle Jimmy about the need to have land for people to become self-sufficient as ranchers. To see what he went through for years to finally achieve what he got in 2007, and to see the situation potentially deteriorate to a point where all of it might be lost, is difficult. He doesn't care who gets the ranch but the result to be that it is a ranch that is commercially that can achieve greater self-sufficiency for this 'ohana, whoever wants to participate in it. He questions legally, some of the things that were done like the conclusion that the durable power of attorney that they drafted was not sufficient to create a power in Harold Akiona to sign a DS (Designation of Successorship) to Neddie Akiona. A. Murakami asked why the transfer request was not honored because the durable power of attorney explicitly allows for the transfer of property interests. NHLHC could have resolved the issue of competency much earlier if the process hadn't taken so long. He supports a deferral so those legal questions can be answered. There should be an orderly process to resolve the various issues, legal and

factual if they apply. He requests the formal AG Opinion that led to the current agenda item. He needs the Commission to agree to release the Opinion so he has a basis from which to proceed.

Commissioner Ka'apu asked if ranching is profitable for the family. T. Alau responded that it could be, but he's afraid to make the necessary improvements without have legal rights to the land.

Commissioner Canto asked A. Murakami to clarify who he represents in this issue. A. Murakami stated NHLHC is here to make sure the principle of the original case is at the forefront. He also stated NHLHC is on record as representing Sheryl Akiona in the Nelson Case and TJ Akiona in the Honoka'ia Case.

Commissioner Ka'apu asked if the family has tried to resolve the issue among themselves. T. Alau stated they have tried every way they can think of. His grandfather wanted to have 300 acres for a commercial ranch but the family has different ideas for the land that don't match up with ranching.

Commissioner Chin asked how much of the 300-acres is used for ranching. T. Alau answered that all 300-acres are being used for ranching. Commissioner Chin asked how many of the siblings are actively ranching and if they are named in the document before the Commission. H. Akiona answered that none of the siblings are actively involved in the ranching.

Chair Masagatani commented that the issue is complicated and some issues need to be reviewed. She is going to recommend that the Commission defer this item until it returns in September. The Department has its recommendation and in light of the information being provided today, a deferral will be sought.

Commissioners Tassill, Davis and Ishibashi comment about the Commission's resolve to get beneficiaries on the land and fix successorship roadblocks. Chair Masagatani thanks all parties for attending. She asked for a motion to defer the item.

#### MOTION

Moved by Commissioner Chin, seconded by Commissioner Davis to defer the matter to no sooner than the September 2015 Commission Meeting to be held on Hawai'i Island.

#### ACTION

Motion to defer was unanimously approved.

### **F – LAND MANAGEMENT DIVISION**

#### **ITEM F-11 FOR INFORMATION ONLY – Request from Kekaha Hawaiian Homestead Association for Long Term License for Pu'u Opae Area, Kekaha/Waimea, Kaua'i.**

## RECOMMENDATION/ACTION

None; for information only.

## DISCUSSION

On January 14, 2013, the HHC approved the issuance of a month to month Right of Entry Permit (ROE 460) to the Kekaha Hawaiian Homestead Association (KHHA). ROE 460 allowed KHHA to conduct research on the Pu'u Opae Farm and Irrigation Project (Project). Due diligence included agricultural studies, water irrigation and transfer as well as water availability on approximately 12,500 acres of Hawaiian home lands situated at Pu'u Opae in Kekaha, Kaua'i. KHHA has completed the majority of their due diligence and is requesting a long term license to effectuate their plans. A long term license will allow KHHA to apply for much needed grant funding to continue with the Environmental Assessment (EA). Kaua'i Island Utility Cooperative (KIUC), the Kaua'i Electric Company, also has a Right of Entry Permit (ROE 455) for the same Pu'u Opae site. ROE 455 allowed KIUC to conduct its due diligence on their proposed hydroelectric project. ROE 455 was issued for two (2) years and expires on May 31, 2016. Both KHHA and KIUC have coexisted peacefully at the site for the last two (2) years.

## DISCUSSION

Chair Masagatani appreciated the update and Mr. Warren attending but noted things have changed in the Waimea area in the last couple of years with the opportunity for hydro power and legal claims for use of the Waimea River, KIUC's involvement and ADC's involvement. It will be really important to look at not only the plans Kekaha has identified for this property but also the opportunities for the beneficiaries of the Trust as a whole. Deputy Aila has been asked to be the point for Kaua'i because there are a lot of things going on on this island.

Mr. Kawai Warren explained that the project can operate with or without the hydro component.

Commissioner Kahikina asked L. Chinn what policy is being used to allow beneficiaries ROE Permits when more than one organization is interested in a parcel. L. Chinn responded that in most cases staff review proposals and tries to accommodate as many requests as possible or the request that benefits the community and beneficiaries more.

Commissioner Chin reviewed the Kaua'i regional plan and thanked K. Warren for moving the vision of the plan forward for the pu'u honua using a cooperative model. She commented that regarding the section of the plan that talks about farmers becoming eligible for 1/4 acre parcels, the purview of assigning leases is the Commission's.

Commissioner Ka'apu stated his concern with making the training a condition of receiving a lot under the plan.

Chair Masagatani stated it is good that they have the Master Plan to know what the vision is for the Kekaha Homestead Community. The property as a whole is evolving and it will be important to keep in touch with the Department because some land may be set apart for homesteading. Those are the kinds of clarifications that will get vetted through constant discussion with all parties.

K. Warren stated that while the Commission is figuring out how to handle the homesteading issue, the farming components can move forward. Irrigation and organization can move forward. Commissioner Ishibashi asked for more information on the training component. K. Warren stated they have volunteers and professional support people ready to go.

Commissioners Canto and Davis asked about the available water in the area for the type of farming described in the Plan. Mr. Warren stated at this point they have the water they need to implement the project. It will depend on the type of crops they decide to grow. Kalo needs more water than corn.

K. Warren asked the Commission to expedite the process. He read his written testimony into the record. The project started five years ago when a bio-mass plant was being proposed with a 65-year lease. The community asked to keep the land available for farming and the Commission supported the idea and allowed the community to come up with the plan they see now. He thanked the members for their support and asked for an expedited license approval.

Chair Masagatani thanked K. Warren for his testimony and commented that moving forward the Department is trying to be disciplined and consistent in following its policies and procedures. A community designation may require going through a land use amendment process, which will be important because the Department's primary purpose is homesteading. If a parcel of land can be homesteaded or is likely to be homesteaded, it becomes a challenge to change the designation to community use. The good thing is that the plan is very specific and the Department can work with the community to meet everyone's needs. She appreciated Mr. Warren's hard work and patience in working with the Department. She encouraged him to sit down with Deputy Aila to get an update on what DHHL has planned in terms of the Kaua'i homestead areas.

## **D – HOMESTEAD SERVICES DIVISION**

### **ITEM D-2 Approval of Consent to Mortgage (see exhibit)**

#### **RECOMMENDATION**

Acting Applications Manager Kana'i Kapeliela recommended the following: To approve the following consents to mortgage 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 Davis, seconded by Commissioner Kahikina. Motion carried unanimously.

### **ITEM D-3 Approval of Streamline Refinance of Loans (see exhibit)**

### RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following: To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

### MOTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina.

### DISCUSSION

Commissioner Chin noted three (3) of the names listed on page 2, were contested cases. She highlighted these items because these are success stories for the Commission. She applauded staff for working with these families to help get their loans refinanced to a more manageable level. Commissioner Ka'apu asked how much is budgeted for lending each year. Chair Masagatani couldn't recall exactly, but believed 14 million is set aside for lending. The new budget will be reviewed next month; Chair Masagatani will highlight the amount for Commissioners at the next meeting.

### ACTION

Motion carried unanimously as submitted.

## **ITEM D-4 Approval to Schedule Loan Delinquency Contested Case Hearings (see Exhibit)**

### RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following: To authorize the scheduling of the following loan delinquency contested case hearings as shown below.

### MOTION/ACTION

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

## **ITEM D-5 Approval of Homestead Application Transfers/Cancellations (see Exhibit)**

### RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following: To approve the transfers and cancellation of application from the Applications Waiting Lists for reasons described.

### MOTION/ACTION

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

## **ITEM D-6 Reinstatement of Deferred Application – Maggie Gonsalves (see Exhibit)**

### RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following: To reinstate an application that was deferred due to the applicant not responding to two successive contacts as required by the department's Administrative Rules.

MOTION/ACTION

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

**ITEM D-7     Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to receive Net Proceeds. (see Exhibit)**

RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela 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

Moved by Commissioner Kahikina, seconded by Commissioner Davis.

DISCUSSION

Commissioner Chin asked if any progress was made on how many successors a lessee is allowed to have. Chair Masagatani stated something like this would be included in the amendments to administrative rules which are being addressed by the Department's new Rules Officer Hokulei Lindsey.

ACTION

Motion carried unanimously as submitted.

*Note: Item D-8 was taken out of order for beneficiary testimony.*

**ITEM D-9     Approval of Assignment of Leasehold Interest**

RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela 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.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina.

Chair Masagatani stated that she asked Hokulei Lindsey, DHHL's new Administrative Rules Officer to look at options the Commission might have prior to rule making. H. Lindsey is tasked with helping the Department redo its administrative rules.

Deputy AG Iha advised that the discussion should be held in executive session.

Chair Masagatani agreed and stated that for the purposes of moving the unaffected items forward, she asked for an amendment to bifurcate the motion to remove items 17-28 from the list being approved until after the executive session discussion.

MOTION TO AMEND/ACTION

Moved by Commissioner Chin, seconded by Commissioner Davis, to amend the motion to remove Items 17-28 from the list being approved. Motion approved unanimously.

MAIN MOTION AS AMENDED/ACTION

Chair Masagatani recapped that the amended motion is to approve the assignment of Items 1-16, 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. The main motion, as amended, carried unanimously.

**ITEM D-10 Approval of Amendment of Leasehold Interest. (see exhibit)**

RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following: To approve the amendment of the leasehold interest listed below.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Kahikina. Motion carried unanimously, as submitted.

**ITEM D-11 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees. (see exhibit)**

RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following: To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate service related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees. The non-exclusive license is necessary as the Lessee cannot issue his/her own licenses.

MOTION/ACTION

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

**ITEM D-12 Request to Surrender Lease – Joanna K. Agard, Residential Lease No. 11835, Lot No. UNDV 292, East Kapolei I Subdivision, West O'ahu District, Island of O'ahu.**

RECOMMENDATION

Acting Applications Manager Kana'i Kapeliela recommended the following:

1. To approve the surrender of Department of Hawaiian Home Lands (DHHL) Residential Lot Lease No. 11835, Lot No. UNDV292 , East Kapolei 1 Subdivision, West Oahu District, further identified as Tax Map Key: 1-9-1-016:108;
2. To refund any prepaid lease rent due to the lessee as a result of this voluntary surrender, and accept that there are no appraisable improvements or value, as this is an undivided award yet to be built; and

3. To authorize the Department to award Lot No. UNDVD292, East Kapolei 1 Subdivision, Oahu to another qualified applicant on the waitlist.

MOTION/ACTION

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

**ITEM D-13 Request to Surrender Lease – Rudolph Nelson, Jr., Residential Lease No. 11596, Lot No. UNDV053, East Kapolei I Subdivision, West O‘ahu District, Island of O‘ahu.**

RECOMMENDATION

Acting Applications Manager Kana‘i Kapeliela recommended the following:

1. To approve the surrender of Department of Hawaiian Home Lands (DHHL) Residential Lot Lease No. 11596, Lot No. UNDV053, East Kapolei 1 Subdivision, West Oahu District, further identified as Tax Map Key: 1-9-1-016:108;
2. To refund any prepaid lease rent due to the lessee as a result of this voluntary surrender, and accept that there are no appraisable improvements or value, as this is an undivided award yet to be built; and
3. To authorize the Department to award Lot No. UNDVD053, East Kapolei 1 Subdivision, Oahu to another qualified applicant on the waitlist.

MOTION/ACTION

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

**ITEM D-14 Request to Surrender Lease – Lyle C. P. Case, Residential Lease No. 7217, Lot No. 118, Kawaihae, West Hawai‘i District, Island of Hawai‘i.**

RECOMMENDATION

Acting Applications Manager Kana‘i Kapeliela recommended the following:

1. To approve the surrender of Department of Hawaiian Home Lands (DHHL) Residential Lot Lease No. 7217, Lot No. 118, Kawaihae, West Hawai‘i District, further identified as Tax Map Key: 3-6-1-009:035;
2. To accept the appraisal of the improvements, and to pay net proceeds or to collect on deficiency if the value of the improvements are deemed to be less than the amount of the outstanding debt; and
3. To authorize the Department to award Lot No. 118, Kawaihae, West Hawai‘i to another qualified applicant on the waitlist.

MOTION/ACTION

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

**F - LAND MANAGEMENT DIVISION**

**ITEM F-1 Approval to Issue License to Hawaiian Electric Light Company, Kalaoa, North Kona, Hawai‘i.**



### RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:

That the Hawaiian Homes Commission (HHC) approve the issuance of a perpetual, non-exclusive License easement to Hawaii Electric Light Company, Inc. "HELCO" as LICENSEE for purposes to access, install, repair, operate and maintain an eighty (80) - foot wide corridor easement for overhead distribution lines, poles, guy wires, anchors and other equipment used to transmit electricity over, under and across portions of the southern boundary of that certain Hawaiian home lands parcel situated in the Kalaoa, North Kona, Island of Hawai'i, identified more specifically by Tax Map Key Nos. (3)7-2 - 010:039(por.), 040(por.), and: 045(por.) as delineated by gray shade on Exhibit "A".

### MOTION

Moved by Commissioner Canto, seconded by Commissioner Davis.

### DISCUSSION

Commissioner Kahikina asked besides the \$21,000 fee, how does the Department benefit from providing the easement? Ms. Leila Beals, Land Agent for HELCO, stated 1) the new power line will benefit the Hawai'i Community College at Palamanui which could directly benefit DHHL Beneficiaries that would attend there, and 2) Ease of access to electrical power from the new power line could lead to potential DHHL development.

Commissioner Richardson asked what the cost difference is between underground and overhead lines in the area. Mr. Mather stated underground lines may triple the cost. Commissioner Richardson asked what percentage of the lines are distribution lines. Mr. Mather stated ninety percent of the lines going through the easement are distribution lines. Chair Masagatani asked what the difference is between transmission and distribution lines is. Ms. Beale stated it is the size of the poles that are the main difference.

Commissioner Ka'apu asked if the lines are meant to service both the Palamanui development and the college. Ms. Beals answered in the affirmative. Commissioner Ka'apu is concerned that the neighboring high-end development will have underground lines while those running through the Department's property will be overhead.

L. Chinn stated the 7 poles are already in and the college is accepting applications for the coming fall semester. The lines run through a very small portion of the Department's land which is set aside for commercial purposes. The fee calculation is \$5,400 per acre based on the value of the land. It's the same alignment and calculation used for the Board of Water Supply's alignment.

Chair Masagatani summarized that the Commissioners appear concerned about the overhead power lines.

Commissioner Richardson asked if the Commission restricted the easement to underground lines only, how much additional time would be added to the project. He also asked if the poles on the DHHL property can be underground since the La'i'opua Health Center is already underground.

Chair Masagatani asked to defer action to June, citing the need for clarification on several aspects including the fee schedule.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Davis, to defer action till the June 2015, Commission Meeting on O‘ahu. Motion carried unanimously.

**ITEM F-3     Approval to Issue Right of Entry to State of Hawai‘i, Department of Land and Natural Resources, Waimānalo, O‘ahu**

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:

That the Hawaiian Homes Commission approve the issuance of a one (1) year right of entry permit to State of Hawai‘i Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) for its sheep and goat control activities on Hawaiian home lands within the watershed area in Waimānalo, further identified as a portion of the Tax Map Key No. (1) 4-4-014:007, subject to the following conditions:

1. Term of the right of entry shall be one (1) year, effective from June 1, 2015;
2. The fee for this right of entry shall be gratis;
3. The activities shall be conducted only during daylight hours;
4. This Permit is only for entry by Permittee, its employees, agents, contractors, sub-contractors and is NON-TRANSFERRABLE.
5. The Permittee shall assume the risk for any injuries that may be sustained in the pursuit of the activity while on the premises and does hereby remise, release, and forever discharge the State of Hawai‘i, its Department of Hawaiian Home Lands, its agents, officers, and employees, from any and all actions, suits, damages, claims or judgments, that may result from any personal injury the Permittee may sustain while on the premises of the Department of Hawaiian Home Lands while engaged in the activities specified above;
6. Permittee shall release, defend, indemnify and hold harmless Permitter, its officers, employees, and agents from and against all liability, loss, damage cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of Permittee and/or Permittee's officers, employees, agents, or contractors occurring during or in connection with the exercise of this permit. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Permit;
7. Permittee and its designated team shall be permitted to traverse Hawaiian home lands identified above and the permissions granted limited the right-of-entry to Permittee and the participants for the purpose as stated and for no other purpose;
8. Permittee acknowledges that they know and are informed of the potential risks and hazards present on the Premises while engaged in the activities specified above. The risks and hazards include, but are not limited to injury and/or death;
9. Permittee shall keep the premises neat and clean and shall remove all equipment and litter brought onto the premises;
10. Permittee must take all precautions to prevent fire; and

11. The Right of Entry document shall be subject to the review and approval of the Department of the Attorney General.

MOTION/ACTION

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

**ITEM F-5      Approval of Payment Plan, General Lease No. 177, Oasis Enterprises, Inc., Kawaihae, Island of Hawai'i**

RECOMMENDATION

Land Management Administrator Linda Chinn recommended the following:  
That the Hawaiian Homes Commission grant its approval for the payment plan on deficient rent affecting General Lease No. 177, issued to OASIS ENTERPRISES LLC, a Hawai'i limited liability company, as presented at its regular monthly meeting held on April 20-21, 2015, under Item No. F-3

MOTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina.

*Note: Commissioner Kahikina leaves the room at 4:22 pm to take a phone call.  
Commissioner Canto leaves the room at 4:25.*

DISCUSSION

Pursuant to the terms of GL 177, the scheduled lease rent re-opening process for the final fifteen years of the lease (7/23/2011- 7/22/2026) was delayed due to State budget constraints and new procurement procedures at that time. The lessee continued to remit base monthly lease rental payment on a timely basis.

In April 2012, an independent appraiser contracted by and through DHHL re-determined and established the annual rental at \$26,100 per annum for the final fifteen (15)-year period, an increase of \$15,186 per annum. Lessee acknowledged and accepted the increase. Lessee continued to make the monthly lease rent under the old schedule. In January 2015, the proposed payment plan to cure the deficient rent was agreed to in writing.

The Lessee has kept and maintained the premises under said lease in fairly good condition. Other than the deficient rent, the base monthly lease rental payments have been remitted on a timely basis.

Commissioner Ka'apu stated his discomfort with the lessee using the Department as a bank to finance his shortfall. L. Chinn stated the tenant has been very good all of these years and just couldn't come up with the total lump sum amount when the re-opening occurred. The arbitration and negotiation process can take a long time and during that time, the rents owed continue to add up. Commissioner Richardson asked if there is a mechanism to prevent such large sums from accumulating. L. Chinn stated there is none.

Commissioner Tassill asked if the tenant is a beneficiary. L. Chinn stated the tenant is not a beneficiary. Commissioner Tassill stated the Hawaiian Homes Commission Act is meant for beneficiaries, this opportunity should not be given to a non-beneficiary.

*Note: Chair Masagatani noted the absence of Commissioners Kahikina and Canto and asked to hold off on the voting for this item until they return. She moved on to the next Item F-6.*

Commissioner Davis Moved that the Hawaiian Homes Commission grant its approval for the payment plan on deficient rent affecting General Lease No. 177, issued to OASIS ENTERPRISES LLC, a Hawai'i limited liability company, as presented at its regular monthly meeting held on April 20-21, 2015, under Item No. F-3						
Commissioner Kahikina Seconded the motion.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto			X			
Commissioner Chin				X		
Commissioner Davis			X			
Commissioner Ishibashi				X		
Commissioner Ka'apu				X		
Commissioner Kahikina				X		
Commissioner Richardson			X			
Commissioner Tassill				X		
Chair Masagatani			X			
TOTAL VOTE COUNT			4	5		
MOTION: <input type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input checked="" type="checkbox"/> FAILED						
Motion fails with five (5) NO votes and four (4) YES votes.						

#### **ITEM F-6      Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide**

##### RECOMMENDATION

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

##### CONSENT TO SUBLEASE(S)

General Lease No. 276

Kapolei Hawai'i Property Company, LLC

Consent to Sublease was granted for the following tenant at the  
Ka Makana Ali'i:

1. The Art Source, Inc. - Bldg. J-122

##### MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Chin. Motion unanimously carried, as stated.

**ITEM F-7     Approval to Issue Master Benefit License to Hawaiian Electric Company, Inc. for Homestead Developments on the Island of O‘ahu.**

**RECOMMENDATION**

Land Management Administrator Linda Chinn recommended the following:  
That the Hawaiian Homes Commission approve the recommendation as presented under Item No. F-5, January 20, 2015 (See Exhibit “A”) with the following restated motions:

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, hand holes, 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. The inclusion of a new provision, titled "Enclosure of Utility Sites and shall read "HECO requires 24/7 access to all existing or new utility sites located on homestead lands to maintain and operate its equipment for services to the surrounding DHHL homesteaders. In times of emergencies, the enclosing of a utility site may compromise HECO's ability to provide reliable and timely services to those homesteaders, but HECO is willing to consider any request to enclose a HECO utility site on the condition the requester submits an enclosure plans for review and comments. HECO will not unreasonably withhold approval provided the costs for such enclosure is borne by the requester and should HECO take more than thirty (30) days to review and respond, the request would automatically be approved with no condition being imposed by HECO.
3. Authorize to the Chairman to approve addendums to the Master License to add additional homestead lots in the future.

**MOTION**

Moved by Commissioner Chin, seconded by Commissioner Canto.

Commissioner Chin suggested changes to item #3 to allow the Chairman to remove lots, as well as, add lots.

**MOTION TO AMEND/ACTION**

Moved by Commissioner Kahikina, seconded by Commissioner Davis to amend #3 to include “and/or remove lots in the future, with reports to be provided to the HHC on any connections or disconnections.” Motion Carried as stated.

**MAIN MOTION AS AMENDED**

Previously Moved by Commissioner Chin, seconded by Commissioner Canto. Amended item #3 now reads, “Authorize the Chairman to approve addendums to the Master License to add additional homestead lots and/or remove lots in the future, with reports to

be provided to the HHC on any connections or disconnections.” Motion carried as amended.

## **ITEMS FOR INFORMATION**

### **C – OFFICE OF THE CHAIRMAN**

#### **ITEM C-1 FOR INFORMATION ONLY – United States Department of the Interior Proposed Rules 43. C.F.R. parts 47 & 48**

##### **RECOMMENDATION**

Deputy Chairman William Aila Jr. and Rules Officer Hokulei Lindsey presented the submittal for discussion.

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

None, for information only.

Chair Masagatani stated that her goal is to get a sense of direction for staff as to where the Commission members are regarding the rulemaking.

Deputy Aila stated H. Lindsey did a very good job of summarizing some of the impacts and implications to DHHL’s existing policies and procedures.

H. Lindsey stated the rules have a lot going on within it and a lot of ambiguity. But in trying to describe what is happening, she pulled out key issues like how much authority is vested in the Secretary. DHHL is going to provide paperwork but it will be the Secretary’s job to analyze that work and some of it goes beyond what is outlined in the Hawaiian Homes Recovery Act and the Admission Act. The more authority that goes to the Secretary means the authority is being taken out of the DHHL’s hands and the Commission’s hands. This is important to consider because the Secretary is in Washington D.C., and not here in Hawai‘i.

The term “Special Trust Funds” doesn’t exist in the Admission Act or in the Hawai‘i Revised Statutes. It illustrates that there is disconnect, and they don’t really know what’s going on here in Hawai‘i. Commissioner Richardson asked if the term is used or pre-defined in other federal jurisdictions. H. Lindsey stated she would have to research whether the term is used in Indian Law. If Hawai‘i Revised Statutes does not define the term, then it doesn’t exist for DHHL because our money is categorized State law. Commissioner Richardson suggested looking for the mechanism outside of the state purview, it might help correct some of the issues that have come up because of the lack of the Legislature’s support in the Nelson case.

H. Lindsey reported that the section of the rules that uses the language “Special Trust Funds” is referring to when Congress has to consent to amendments to the Hawaiian Homes Commission Act. Whenever the State of Hawai‘i passes legislation that amends the Hawaiian Homes Commission Act, that amendment has to go to the Department of the Interior and they determine if the amendment becomes a part of the Act, or if it needs to get approval by Congress. The idea of Congressional consent comes from the

Admission Act. Where they use that language “Special Trust Funds” they’re talking about funds and accounts and the Admissions Act identified three specific accounts which require that if the State of Hawai‘i passes any amendments which is going to impair or reduce those accounts, Congress has to consent. That’s where they are sticking in this term and from a legal standpoint there is no correlation to where the funds were in 1959 and where they are today. It is difficult to determine what they are talking about in using that term.

Commissioner Ka‘apu asked if there was any discussion between the Department of Interior (DOI) and the DHHL about the rulemaking before all of this occurred. Chair Masagatani stated there was none and DHHL received no draft rules beforehand. In the past, DHHL has worked with the DOI on these issues through a memorandum of understanding. The discussion about federal rules has been going on since before her tenure as Chair. Commissioner Ka‘apu stated it just seems more productive if they got our input from the beginning. Chair Masagatani stated she has a conference call scheduled at the end of the week and will pose the question to Chris Saari who has taken over for Rhea Suh as assistant secretary for policy, management and budget at the Department of Interior. The confidentiality of the proposed rules could also be a reason for the reluctance to issue a draft to DHHL.

Chair Masagatani noted the analysis shows concern about the Secretary being vested with a lot of authority to oversee certain things. She asked, what recourse does DHHL have if the Secretary’s decision-making is different than what the majority of the beneficiaries may want? H. Lindsey stated the rules are silent in terms of recourse for the DHHL or its beneficiaries.

Deputy Aila provided an example of federal oversight that may be negative for DHHL. One issue deals with land exchange appraisals where the Secretary may require the Office of Native Hawaiian Relations oversight of appraisals.

Commissioner Kahikina stated this is an opportunity to tell the DOI what language Commissioners want to see amended. H. Lindsey stated the process allows DHHL to offer amendments it would like to see implemented as well. DHHL can offer its own amendments, not just comment on the rule amendments DOI is proposing.

Commissioner Tassill asked if the Commission will be giving its beneficiaries the opportunity to comment on the proposed rules. Chair Masagatani stated all beneficiaries have the opportunity and will be encouraged to provide testimony. The Commission will have its own testimony and beneficiaries will likely have their own perspective. DHHL will determine the level of outreach and discussion forums to offer beneficiaries for the proposed rules. Many organizations are asking for DHHL’s position which is why staff is seeking guidance from Commissioners on how to move forward. DHHL has had the proposed rules for about a week.

Chair Masagatani stated she hopes to finalize the official position of the Commission next month. This is not DHHL’s process, but the DOI’s process. Commissioner Tassill stated the issue is so important that the DOI should give the Commission and beneficiaries more time. Chair Masagatani stated she will address the timing issue on the

conference call and make an official request. She cautioned the Commission to be prepared should the answer be “no”, to the request for more time.

## **G – OFFICE OF THE CHAIRMAN**

### **ITEM G-4 FOR INFORMATION ONLY – Water Policy Plan (WPP) Implementation Report for FY2015 and Proposed Implementation Program and Budget for FY2016**

#### **MOTION/ACTION**

None; for Information only.

#### **DISCUSSION**

Acting Planning Program Manager Kaleo Manuel and Consultant Jonathan Scheuer presented the submittal.

Based on the information presented, HHC comments on the material presented is sought to include in a final proposed implementation plan to be incorporated with the Planning Office FY 2016 Budget which will be included in the FY 2016 DHHL Budget to be presented at the June 2015 HHC meeting.

Commissioner Chin stated the implementation chart does not include budget amounts. K. Manuel stated budget amounts are located in column 3, wherever there are costs associated with the project. Those that do not have funds specifically requested are part of in-house staff time, either assigned to him or Consultant Jonathan Scheuer. One of the major priorities is to hire a Water Resource Position to take on the duties outlined in the implementation plan. Items were estimated in the attachment but will be formalized in next month’s budget request. Commissioner Chin added that the kind of work specified in the plan includes technology that she hoped is included in the budget. K. Manuel stated the technology like GIS (Geographical Information System) is already being implemented and is an overall cost for the Planning Office.

Commissioner Ka’apu asked when the water policy will be implemented so that it actually means water for our beneficiaries. K. Manuel stated DHHL asserting its rights to water does not necessary equate to wet water. Staff has been working with the Commission on Water and Resource Management (CWRM) to expedite DHHL’s reservation requests specific to all of our demands throughout the state via our State Water Projects Plan. Staff will advocate that the CWRM actually reserves water in those quantities for all of DHHL land throughout the state. As it relates to the communities and different association projects, it is a case by case situation. The Kawaihae water assessment is one of the projects staff is working on with a contractor. A water study was done on the feasibility of a water well in Kawaihae and preliminary findings have come back with various recommendations. Staff is still analyzing the options and will bring a report to the Commission on its feasibility.

K. Manuel hopes to bring something more tangible to the Commission regarding all of DHHL’s water issues. Commissioner Ka’apu stated he is interested in seeing the methodology being used. K. Manuel stated staff will do a water workshop for



Commissioners at the next meeting in June. They hope to explain the methodology and how water demands throughout the state were calculated. They planned to include more data on the water assessments that were recently received.

Chair Masagatani announced the Commission will recess and move into executive session for the remainder of the day. The agenda items not covered will be taken up tomorrow morning.

#### MOTION TO AMEND/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Davis to convene into executive session. Motion Carried as stated.

#### EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5 (a) (4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the following matters.

1. Kalawahine Streamside Construction Defects Mediation
2. Status of Lindsey v. Hawaiian Homes Commission, Civ. No. 07-01-0159

Recess 5:49 p.m.

**HAWAIIAN HOMES COMMISSION**  
**Minutes of May 19, 2015**  
**Meeting Held in Waimea, Hawai'i**

The regular monthly meeting was reconvened at the Hapuna Beach Prince Hotel, 61-200 Kauna'oa Drive, Waimea, Hawai'i, at 9:30 a.m.

**PRESENT**     Jobie M. K. Masagatani, Chairman  
                  Gene Ross K. Davis, Commissioner, Molokai  
                  Doreen N. Canto, Commissioner, Maui  
                  Wallace A. Ishibashi, East Hawaii  
                  David B. Ka'apu, Commissioner, West Hawaii  
                  Michael P. Kahikina, Commissioner, Oahu  
                  William K. Richardson, Commissioner, Oahu  
                  Renwick V. I. Tassill, Commissioner, Oahu  
                  Kathleen P. Chin, Commissioner, Kaua'i

**COUNSEL**     Craig Y. Iha, Deputy Attorney General

**STAFF**        William J. Aila Jr., Deputy to the Chairman  
                  Linda Chinn, Administrator, Land Management Division  
                  Francis Apoliona, Compliance Officer, Office of the Chairman  
                  Norman Sakamoto, Development Officer, Office of the Chairman  
                  Kana'i Kapeliela, Application Officer, Applications  
                  Niniau Simmons, NAHASDA Manager, Office of the Chair  
                  Kaleo Manuel, Acting Administrator, Planning Division  
                  John Peiper, Enforcement Officer, Office of the Chairman  
                  Kip Akana, Compliance Officer, Office of the Chairman  
                  Mike Robinson, Land Agent, Land Management Division, East Hawaii Office  
                  Paula Aila, Hale Manager, Office of the Chairman  
                  Bob Freitas, Planner, Planning Office  
                  Gilbert Fernandes, Mortgage Loan Specialist, Loan Services Branch  
                  Hokulei Lindsey, Administrative Rules Officer, Office of the Chair  
                  Jim DuPont, District Superintendent, West Hawaii District Office  
                  Ku'uwehi Hiraishi, Info. Specialist, Information and Community Relations Office  
                  Puni Chee, Manager, Information and Community Relations Office  
                  Kahana Albinio, Acting Property Dev. Manager, Income Property Branch  
                  Michelle Brown, Secretary to the Commission, Office of the Chairman  
                  Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chairman

**NOTE:**        The Commission was unable to complete all of the items listed on the agenda for Monday, May 18<sup>th</sup>. The remaining items, starting with Item J-1, were addressed when the Commission reconvened. The Commission will recess from 10:00 a.m. to 12:00 p.m., to hear contested cases.

## **A – PUBLIC TESTIMONY ON AGENDIZED ITEMS**

Chair Masagatani noted beneficiaries signed up to speak will do so when the agenda item they are speaking to, is called.

### **ITEMS FOR INFORMATION**

#### **WORKSHOPS**

**ITEM J-1     Jeff Gilbreath of Hawaiian Community Assets (HCA) to present understanding of mortgage loan process as it relates to addressing mortgage delinquencies.**

#### **MOTION/ACTION**

None; for Information only.

#### **DISCUSSION**

Ms. Mahealani Meheula, HCA Community Service Specialist presented the following workshop. Ms. Mahealani Mehe‘ula replaced Mr. Jeff Gilbreath who was unable to make the trip.

*M. Meheula provided Commissioners with two packets:*

*1) Delinquent Loan Assessment 2) HAMP Overview*

M. Meheula reviewed the 22-page presentation which explained how beneficiaries go through HCA’s delinquent loans assessment program. She also explained the HAMP Overview is additional information about how conventional loans are worked out in financial institutions.

HCA tries to service beneficiaries before their loan is 6-months in arrears. They help beneficiaries save their loans. They also help beneficiaries who still have their loans with a conventional institution to reduce their interest rate and to do whatever else is necessary to keep the loans from returning to DHHL.

Commissioner Ka‘apu stated his frustration with beneficiaries who sometimes have the means to pay, but just don’t. He wondered what can be done to prevent delinquencies that don’t involve job loss or family hardship. M. Meheula stated HCA has a workshop series geared toward homeownership finances. The workshop has been held on each island and was well attended. On Moloka‘i, they filled the room they used because people were reaching out for help.

M. Mehe‘ula stated a lot of people have fallen into the ‘ea (sovereignty) movement. She reminded beneficiaries that it is an honor to hold a lease, not an entitlement. There are so many Hawaiians waiting on the list while others take their leases for granted. Sometimes getting beneficiaries to look through different lenses can make all the difference.

Chair Masagatani asked for a breakdown, percentage wise, of how many of their clients are beneficiaries with fee-simple conventional loans, versus those with direct loans, and those with loans that have been returned to DHHL after default in conventional institutions. M. Meheula stated approximately 30% are fee-simple, 40% are homesteaders with conventional loans and 30% with direct loans that have been returned to the Department. The need is great for homesteaders using conventional loans and returned loans.

M. Meheula stated the most difficult loans to work with are the 184A (Native Hawaiian Housing Loan Guarantee Program) because it is a guaranteed loan. Lenders would rather send the loan back to DHHL, than work with the homeowner to modify the loan. The smaller lenders tend to want to work more with the homeowner than the bigger institutions.

Commissioner Chin asked if HCA charges a fee for their services to the beneficiaries. M. Meheula replied that the services are free.

Commissioner Kahikina stated he has heard similar complaints and asked what can be done to remedy the problem. Chair Masagatani stated the Office of Native American Programs (ONAP) is in charge of the program and has a staff person in Hawai'i. She mentioned it is probably a matter of communicating with the staff to make modifications to the agreement. Some of the loss mitigation tools may not be available to ONAP. If DHHL brought the matter to the attention of the congressional delegation, they may be able to help.

Chair Masagatani thanked M. Meheula for her presentation and called a recess to hold contested case hearings. She will reconvene at 12:00 p.m.

**RECESS** 10:02 a.m.

**RECONVENE** 12:01 p.m.

Chair Masagatani reconvened the meeting and noted the afternoon session will start with agenda Items F-9 and F-10, followed by G-1 and G-2.

## **ITEMS FOR INFORMATION**

### **F – LAND MANAGEMENT DIVISION**

**ITEM F-10 FOR INFORMATION ONLY – Request from State of Hawai'i Department of Land and Natural Resources to Continue Management of the Aina Hou Wildlife Sanctuary Area, Humu'ula, Hawai'i.**

#### **MOTION/ACTION**

None; for Information only.

#### **DISCUSSION**

Linda Chinn, Administrator of the Land Management Division presented the submittal.

L. Chinn stated the request is basically for a new license to continue the management of the wild life management reserve and public area. They currently manage more than 14,000 acres of land. She stated DHHL's Land Management staff will be conducting beneficiary informational meetings on this item in the community prior to coming before the Commission for approval.

Commissioner Ka'apu asked for a progress report on DLNR's management of licensing of hunters, while DHHL maintains the right to say who can hunt. L. Chinn stated DHHL doesn't have the capacity to manage the program. Staff prefers to leave the management with DNLR.

Property Development Agent Mike Robinson stated the area has been a public hunting area, and area hunters consider it one of the last places available for sheep hunting. He supports the interim management by DLNR because DHHL has its hands full with the 42,000 other acres of land up there. It is also a good way to collaborate with other agencies while we get our house in order.

Commissioner Ishibashi asked what the difference is between DLNR allowing hunting and DHHL allowing hunting. Deputy AG Iha stated he will provide an overview in executive session, but noted it has to do with the authority granted to each agency.

Chair Masagatani asked how long it will take to get things in order to where the Department can manage the parcel again. M. Robinson stated approximately five-years. Chair Masagatani stated so if something were to be worked out, the Commission should revisit the license in 5-years. M. Robinson agreed with the term.

**ITEM F-9 FOR INFORMATION ONLY – Waipahoe Management Unit Fence Installation and Habitat Restoration, Humuula, Hawai'i**

MOTION/ACTION

None; for Information only. :

DISCUSSION

Mike Robinson, Property Development Agent, Land Management Division presented the submittal.

Commissioner Ishibashi moves, Commissioner Davis seconds, to recuse the Commission into Executive Session. Motion carried unanimously.

**EXECUTIVE SESSION IN 12:29 PM**

The Commission convened in executive session pursuant to section 92-5 (a) (4), HRS, to consult with its legal counsel on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-stated matter.

**EXECUTIVE SESSION OUT 12:50 PM**

**ITEM G-1     Approve Proposed Amendment to the DHHL Hawai'i Island Plan Land Use Designation for TMK (3)-6-4-038-011 Waimea, Hawai'i Island**

RECOMMENDATION

That the Hawaiian Homes Commission (HHC) approve the proposed amendment to the DHHL Hawai'i Island Plan Land Use Designation for TMK (3)-6-4-038-011 Waimea, Hawai'i Island, from "General Agriculture" to "Community Use."

MOTION/ACTION

Moved by Commissioner Kahikina, Second by Commissioner Ishibashi to approve the recommended motion, as stated.

DISCUSSION

Andrew Choy, Planner in the Planning Office presented the submittal.

ACTION

Motion carried unanimously, as stated.

**ITEM G-2     Declare a Finding of No Significant Impact for Final Environmental Assessment (FEA) Waimea Nui Regional Community Development Initiative TMK (3) 6-4-038:0211 Waimea Hawai'i Island.**

RECOMMENDATION

That the Hawaiian Homes Commission declare a FONSI based on the FEA for the Waimea Nui Regional Community Development Initiative.

MOTION

Moved by Commissioner Davis, Second by Commissioner Kahikina to approve the recommended motion, as stated.

DISCUSSION

Andrew Choy, Planner in the Planning Department, presented the submittal.

*Note: Mr. Mike Hodson, President Waimea Hawaiian Homestead Association answered questions from Commissioners from his seat in the audience. Comments are indiscernible.*

Chair Masagatani asked if there were any significant changes from the Draft EA to the Final EA. A. Choy stated the only adjustment was regarding the waste water and ponding on the runway.

Commissioner Richardson stated he supports the project and hopes the long-term leadership is established to carry the project through. M. Hodson introduced a young couple who have been chosen to serve on the Board to help carry it through to the next generation.

ACTION

Motion carried unanimously, as stated.

## **A – PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **Item A-12, Robert Shook Re: Agenda Item F-9.**

Mr. Shook stated he is representing the animals on the mauna (mountain) and different ways of managing them besides wiping them out. He also addressed invasive species like segoia pine trees. The Commission spent millions of dollars on controlling gorse but there is no discussion about the pine trees. He suggested growing koa to control the pine trees. He and his partner, Steven Mahelona, are proposing a catch and release program using 110 acres of land for 10 years to protect the animals. He noted his frustration over waivers provided to people who were allowed to gather up the wild cattle. The amount of money the Department could have gotten per head of cattle could have put a lot of money in programs for the kids.

*Note: Commissioners Richardson and Davis depart for their flights at 1:27 PM. Commissioners remaining are: Chair Masagatani, Commissioners Ka'apu, Tassill, Ishibashi, Chin, Canto and Kahikina.*

### **ITEM F-8 FOR INFORMATION ONLY- Waimea Homestead Farmers Market, Inc., Waimea, Hawaii.**

#### **RECOMMENDATION**

None; for information only.

#### **DISCUSSION**

Linda Chinn, Administrator, Land Management Division presented the submittal.

Chair Masagatani noted in light of the fact that there is more than one group interested in the lease, the Commission will take testimony from both sides and consider the options carefully.

### **Item A-13, Cynthia Spencer, President, Waimea Hawaiian Homestead Farmers Market Re: Agenda Item F-8.**

Ms. Cynthia Spencer, President of the Waimea Hawaiian Homestead Farmers Market, Inc., stated she hopes to continue the ongoing relationship with DHHL. There are 29 vendors of which 10 are lessees. Four of the six members of the Board of Directors are lessees.

Chair Masagatani asked if there are vendor fees, and if so, what they amount to. C. Spencer stated there are vendor fees and they make approximately \$30,000.00 per year. Chair Masagatani asked what the money is used for. C. Spencer stated the Board members do get paid, and donations are made to the Waimea Middle School and Kohala School garden. Chair Masagatani asked if there was any consideration toward giving some of the money back to DHHL. C. Spencer stated there was no consideration, but the Board will definitely consider it.

**Item A-14, Sonny Shimaoka, Waimea Hawaiian Homestead Association Re: Agenda Item F-8.**

Mr. Sonny Shimaoka of the Waimea Hawaiian Homestead Association was also present. He is the Director of the Association's Agriculture Board. He submitted a business plan for the proposed farmers' market. Their program called "Farming for the Working Class" has been very successful. They started out with 14 farmers and now have a total of 42 farmers. They will need an outlet to sell their products which is currently the Hale Ku'ai on the Lanai. He believed priority needs to be given to the Waimea homesteaders, then the Hawaiian community and finally the community in general. Revenue derived from the farmers' market will be used to improve Kuhio Hale. They do have a Board with the capacity to provide an intentional design for the next generation.

Commissioner Ka'apu asked C. Spencer how much each vendor is currently charged. C. Spencer stated each vendor pays \$20 per week. Commissioner Ka'apu asked if C. Spencer is willing to share the financial information of the organization. C. Spencer asked specifically what information is being requested. Commissioner Ka'apu stated tax returns, income and distributions for the last two years. Chair Masagatani asked District Supervisor Jim Dupont to work with C. Spencer to get the information.

Chair Masagatani asked if there is a way to accommodate both parties. S. Shimaoka stated that there wouldn't be a way if the Commission operated in the "spirit" of the [Hawaiian Homes Commission] Act, which says priority should be given first to the Waimea Homesteaders' Association. All Board members and vendors are homesteaders. They don't want to send anyone away, they will grandfather in all vendors who are currently participating.

Commissioner Kahikina reminded everyone that RPs (Revocable Permits) are not the purpose of the Act. Commissioner Chin confirmed the difference between RPs and ROEs (Right of Entry). L. Chinn stated the Department is no longer issuing RPs. One of the reforms in the new proposed RP program is to go out for bid on RPs. This particular site is the lawn area of the district office.

Commissioner Chin asked if there is another piece of land available to the other group. L. Chinn stated there is another portion of the same parcel, but it is not fronting the road. Chair Masagatani stated the parcel is 10 acres with two pre-schools, Kuhio Hale and the district office.

Chair Masagatani thanked everyone for attending. She says with surety that it will not be an automatic renewal and a lot of consideration will be put toward the decision.

**ITEMS FOR INFORMATION**

**J – GENERAL AGENDA**

**Item J-2, Request to Address the Commission – SAMUEL K. NAHOOPII, Applicant HELEN NAHOOPII, Daughter, Hawai'i Island Agricultural/Pastoral, Residential Maui.**



Ms. Helen Nahoopi'i, daughter of Samuel Kiaha Nahoopi'i, spoke on his behalf. He planned to attend but had a medical emergency and is now in the hospital. She presented photographs of her father and read the following testimony into the record:

I am here on behalf of my father: Samuel Kiahi Nahoopii, born on April 1<sup>st</sup>, 1939 in the fishing village of Hau'ula, Hawai'i. He is 7/8 Hawaiian descent.

In 1965, he legally adopted me as his own: his Hanai child with my three other siblings.

I am considered malihini. He taught me how to be by his actions: love, sharing, cooperation, and stewardship. These are values inherent in the Hawaiian Way. His gentle smile, quiet strength, firm handshake, sense of humor, and his gentle approach to those he met are qualities I continue to aspire too: knowing that I have my limitations because the true Hawaiian is born, not made. But an honorable person makes choices to reflect those values of a culture. My choice is to perpetuate the same integrity and honor distinguished in my native Hawaiian father.

I preface my request with this history because: there is nothing that I want from you on my behalf. The plan was for my father to be here to share his heart's desire, which is to own his Hawaiian land, as is his birth rite as a native Hawaiian, historically a child of commoners.

Today, on this very day he is in the Kaiser Medical Hospital. His medical setback happened early Monday morning at his late mother's homestead in Hau'ula, Hawaii, 3 hours before he was to board a plane to the Big Island.

So these are his questions. I request permission to represent my father during this testimony. At current, his rank is number 5 on the list for pastoral in Waimea. He would be happy with any decision for land on the Big Island. Anywhere and in any physical state: he smiles knowing that it could be in Waimea, but he thought Ka'u would be great. When DHHL Commissioners voted to hold the pasture to recipients, were those recipients waiting for pasture placed on another list?

Chair Masagatani responded that there are two separate lists for each island. One is the Ag Program and the other is the Pasture Program. It is true that the Commission has not awarded any pastoral leases since the 1980s. The reason is that priority has been toward residential leases. There has never been a formal action by this body to cease pastoral leases but the priority has been on residential infrastructure and housing.

H. Nahoopii stated that her father has been on the waiting list since 1967 and given the state of his health, she asked how much longer he will have to wait. Chair Masagatani stated it is not uncommon to hear of situations like this but the State has only provided regular funding to DHHL since 1995. Unfortunately, the resources are limited and funding has gone to the residential lots which have been the priority.

**Item J-3, Request to Address the Commission – Bo Kahui, executive Director  
La'i'opua 2020.**

Mr. Kahui presented testimony on Item D-8. He was awestruck by the conversation held in public. He felt it should have been taken in executive session.

Regarding Item D-1 and D-2, the La'i'opua 2020 and Village of La'i'opua Association supported the Waimea Nui Project. With regard to Item D-14, he stated transfers are taking too long. He asked the Commission to look into the process for expedition.

Regarding Item F-8, B. Kahui supported the Waimea Homestead Association and their application for a ROE.

B. Kahui provided Commissioners with a packet of information including the following discussion points:

#### La'i'opua 2020

- Release of our \$950K GIA CIP
- NAHASDA funding
- Water development in Kona & NPS Petition -Keauhou Aquifer
- Update Medical & Dental center construction: Received COO
- L2020 USDA-RUS Application to Kealakehe Sewer upgrade:
- L2020 Community Programs
  - a) Haleo
  - b) Aquaponic Program: \$18K COH Grant
  - c) Computer Literacy
  - d) Certified Nursing Program
  - e) Hawaii Community Assets Partnership
  - f) Habitat For Humanity

#### Village of La'i'opua Association

- DCCR's & Collections
- Newsletters/Information of Community Association

Chair Masagatani stated the GIA was released in January. B. Kahui stated he asked for the contract template to write the contract a long time ago. Even though it is the Department's duty to write the contract, not the beneficiary. He stated Hawaiian lives are at stake. They are waiting for this contract.

B. Kahui stated the Department's NAHASDA funding is in serious risk. They have a meeting with Colleen Hanabusa to understand exactly how serious the issue is.

La'i'opua remained opposed to the Keauhou Aquifer and will attend the May meeting of the Commission on Water Resource Management.

The Medical and Dental Center will open in July of 2015. He mentioned La'iopua has been determined eligible for (Rural Utility Service) RUS money. The last component is expected to be completed in the coming months.

Commissioner Kahikina asked for an update on New Market Tax Credits the next time Mr. Kahui is before the Commission.

B. Kahui noted his packet of information includes two of La‘iopua‘s most recent newsletters. One of the newsletters features a discussion on medical marijuana cultivation and its potential for economic development.

**ITEM G-3 FOR INFORMATION ONLY- DCC&R Kānāwai Enforcement Procedures.**

**RECOMMENDATION**

None; for information only.

**DISCUSSION**

Bob Freitas, DHHL Planner presented the submittal.

*Note: Commissioners Canto and Chin depart for their flights at 3:00 PM. Commissioners remaining are: Chair Masagatani, Commissioners Ka‘apu, Tassill, Ishibashi and Kahikina.*

Commissioner Ka‘apu moves, Commissioner Ishibashi seconds, to recuse the Commission into Executive Session. Motion carried unanimously.

**EXECUTIVE SESSION IN** 3:45 PM

The Commission convened in executive session pursuant to section 92-5 (a) (4), HRS, to consult with its legal counsel on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities on the above-stated matter.

**EXECUTIVE SESSION OUT** 4:15 PM

**ADJOURNMENT**

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


**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING** The next regular meeting will be held at Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, June 15 & 16, 2015.

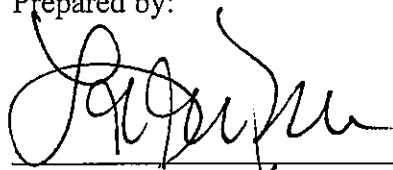
**ANNOUNCEMENT** The next community meeting will be held on July 15, 2015, at Kapolei High School.

**ADJOURNMENT** 4:19 PM

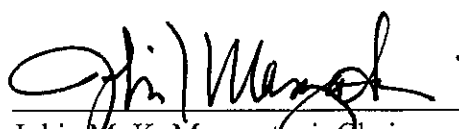
Respectfully submitted:

  
\_\_\_\_\_  
Jobie M. K. Masagatani, Chair  
Hawaiian Homes Commission

Prepared by:

  
\_\_\_\_\_  
Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission

APPROVED BY:  
The Hawaiian Homes Commission  
At Its Regular Monthly Meeting On  
Tuesday, August 18, 2015

  
\_\_\_\_\_  
Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission