

HAWAIIAN HOMES COMMISSION
Minutes of October 19 and 20, 2015
Meeting Held at Lihu'e State Building, Lihu'e, Kaua'i, Rooms A-C

Pursuant to proper call, the 668th Regular Meeting of the Hawaiian Homes Commission was held at the Lihu'e State Building, 3060 Eiwa Street, Lihu'e, Kaua'i, Rooms A-C, beginning at 12:30 p.m.

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

EXCUSED Kathleen P. Chin, Commissioner, Kaua'i
 William K. Richardson, Commissioner, O'ahu

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
 Niniau Simmons, NAHASDA Manager, Office of the Chair
 Paula Aila, Hale Manager, Office of the Chair
 Hokulei Lindsey, Administrative Rules Officer, Office of the Chair
 Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chair
 Kip Akana, Compliance Officer, Office of the Chair
 Dean Oshiro, Acting Homestead Services Division Manager
 Norman Sakamoto, Development Officer, Land Development
 P. Kahana Albinio, Acting Property Dev. Mgr., Income Property Branch
 Kaleo Manuel, Acting Planning Mgr., Planning Division
 Andrew Choy, Planner, Planning Division
 Nancy McPherson, Planner, Planning Division
 John Peiper, Land Agent/Enforcement Officer, Office of the Chair
 Ku'uwehi Hiraishi, Info. Specialist, Information and Community Relations
 Mona Kapaku, District Supervisor Maui

AGENDA

Chair Masagatani sought approval of the agenda. The agenda was amended to withdraw Item F-1, move J-8 to today, defer the Minutes of July 20 & 21 to the next regular meeting of the HHC.

MOTION

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

Chair Masagatani stated the Commission will convene in executive session for item E-1. She invited anyone testifying on Item E-1 to do so right after the presentation by staff, all other testimony will be taken after the executive session.

WORKSHOP PRESENTATIONS

ITEM E-1 Status of Phase II Environmental Assessment Report for Kekaha Residential Lots, Unit 4 Subdivision

RECOMMENDED MOTION/ACTION:

None. For information only.

BACKGROUND:

Deputy to the Chairman William Aila Jr. presented the following:

1. On October 27, 2014, the Hawaiian Homes Commission (HHC) approved the preparation of an Environmental Hazard Management Plan (EHMP) for the Kekaha Residential Lots, Unit 4 subdivision, based on findings contained in the Phase I and II Environmental Site Assessment (ESA) Reports prepared by AECOM Technical Services Inc. (AECOM). This HHC submittal containing the historical chronology is attached as "Exhibit A".
2. Also in October 2014, the State Department of Health (DOH), after reviewing the initial Phase II report informed DHHL of its recommendation to conduct additional soil sampling to confirm depth of the clean layer of soil present at the site, and to analyze samples from soil cores where visible debris impacts are found.
3. After review of AECOM's cost proposal to provide supplemental testing, AECOM was authorized to conduct supplemental testing of the subsurface soils between May 11 and 13, 2015. The Kekaha homestead organizations were informed of the testing period and specific lessees were informed if samples were to be taken from within their homestead lot, based on AECOM's sampling model.
4. The Phase II ESA Report including the supplemental testing was recently completed by AECOM in September 2015 and was transmitted to DOH for review. The recommendations to 1) mitigate surface tar-like materials and 2) prepare an EHMP provided by AECOM mirror the comments provided by DOH Hazard Evaluation and Emergency Response (HEER) office.
5. In the Phase II ESA Report, AECOM has provided construction drawings for Lots 1, 2 and 3 to mitigate the surface discovery of the tar-like finds. These construction drawings are being submitted to the County of Kauai for approval. Land Development Division (LDD) is preparing bid documents for an Invitation for Bid (IFB) to remove surface soil and tarlike finds, replace and cover with clean fill, and construct a retaining wall to embank the new slope. LDD anticipates posting the IFB in early November, with construction work to start in the Spring of 2016. LDD plans to meet with the lessees to share the specific construction plan details prior to posting the IF B.
6. AECOM is preparing the specific management recommendations requirements in the EHMP, and is expected to complete the recommended actions by the end of November 2015, subject to various reviews by DOH and Carlsmith Ball LLP.

PUBLIC TESTIMONY ON ITEM E-1

Item A-1, Kawai Warren,

K. Warren stated he received the report from DHHL and has comments to share with the Commission. The findings of contaminants are consistent with what one would find in a site that Kekaha Plantation used as a dump site for transformers. They found PCBs in the groundwater which is highly unusual because it is said to bind to soil. But they found it in the groundwater. The soil and the water is contaminated with PCBs. The report says the contamination is site wide and they found lead, mercury and arsenic. The contamination is one-point shy of being

classified as an environmental action level. The recommendation is only for 3 lots but he thinks the whole subdivision should be served.

The report stated the dark brown silty soil is found at the 3 feet below surface level. He covered his foundation with concrete to keep the black soil from his family. The depth of that dark soil varies on his property. He was constantly exposed to it while building his fence. He read a portion of the report concerning human health and exposure to the contaminants. He stated everyone who worked on the site was exposed and should check on their health.

For K. Warren and his lot, he would like the dark silty soil taken out. They sent the tar out to be tested and to find out where it came from. He showed a picture of a bucket full of glass, barbed wire and other items he unearthed while building his rock wall. The report doesn't say anything about it, but there is a lot of stuff coming out of the ground.

Commissioner Kahikina asked if K. Warren has sought a medical analysis. K. Warren stated he has been to the doctor and there is something going on with his respiratory system. He has been there for only 8 years and thinks maybe it hasn't been long enough to show signs of something. He was digging in that ground for years. His dog has skin problems and the vets have been treating him. No one has identified where the dark soil came from. This area is a sand dune, if you dig now to the five-foot level you'll find white sand. The question is who brought in all this brown contaminated stuff. Now that we know the compounds in the soil, more specific tests can be done.

Item A-2, Harold Vidinha Re: Agenda Item E-1.

H. Vidinha stated he is the lessee on Lot 3, identified in the report. To answer Commissioner Kahikina's question about sickness, he spent that last month in the hospital on O'ahu. He has a paralyzed diaphragm. He is only breathing through one of his lungs. His doctors don't know why. He has been active all of his life and this respiratory issue started after moving to Kekaha. The Hawaiians that live in the area are not just anybody, they're Hawaiians from Niihau. They are so content with a little box, they will never complain. To pinpoint how many people are sick, you'll have to pry it out of them.

Chair Masagatani stated Commissioners would move into executive session to discuss Item E-1.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi, to recuse the Commission into Executive Session pursuant to section 92-5 (a) (4), HRS. Motion carried unanimously.

EXECUTIVE SESSION IN 1:01 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.

1. Phase II Environmental Assessment Report for Kekaha Residential Lots, Unit 4 Subdivision

EXECUTIVE SESSION OUT 2:05 PM

Chair Masagatani thanked everyone for their patience while the Commission deliberated in executive session. There were many questions for counsel regarding the rights and responsibilities for DHHL and the lessee.

PUBLIC TESTIMONY ON REMAINING AGENDIZED ITEMS

Item A-2, Lorraine Rapozo Re: Agenda Item E-1.

L. Rapozo stated she has been at Anahola Homestead for the past 35 years. She is very passionate with what she does. She is here today because she cares about the Anahola community. In Anahola they have 10-acres where the Café is and it has been a battle to do anything. It seems they cannot do anything right in Anahola because of the department.

The agenda shows nothing about the albizia. DHHL has caused what has happened in Anahola. They weren't able to get 120 people on farm lots because the department didn't just tell Green Energy to take all the albizia. There was no truth, and they went through horrible meetings with people fighting, people who were not even on the waitlist came and screamed at them. Then DHHL came and cancelled the project because there were more nays. DHHL gave right of entry permits to people who are not even on the waitlist or in the top 100 on the list. She and Robin Danner were solicited to do the project. The AVC land in Kalepa who Green Energy ended up working with, is well taken care of. The roads are better and the albizia trees are being removed. Commissioners should go take a look. All of that could have been given to the Hawaiian people but there are so many small minded people who don't trust R. Danner.

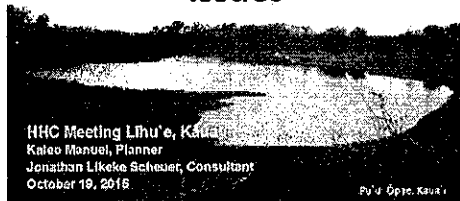
She and R. Danner were solicited to do the photo voltaic project in Anahola. Then DHHL took the project over and tried to crucify them and she blames the Commissioners for allowing it to happen.

WORKSHOP PRESENTATION

ITEM G-1 For Information Only- Update on Kaua'i Water Projects

Acting Planning Manager Kaleo Manuel and consultant Dr. Jonathan Likeke Scheuer present the following Informational Briefing on Kaua'i Water Projects and Issues:

Update on Kaua'i Water Projects and Issues



Water Projects and Issues

1. Wailua Wells

Wailua in the Kaua'i Island & Regional Plan

- 526 acres
- 200 homesteads
- Agricultural lots
- Resort / Timeshare
- Commercial

2009: Akinaka Water Plan

- 141,000 gpd potable demand
- 2009: Wailua Well #1 drilled & tested
- 2014/5: Ream and Case well
 - FY 2014 HHC appropriation
 - In process

2. Kālepa Ridge

- Beneficiary interest in agricultural lots
- Hanamā`ulu Field 21 Reservoir was potential non-potable source
- High risk dam
- Dam removed in 2013 under DLNR

3. Anahola Irrigation System

- Strong beneficiary interest in irrigated ag
- Potential re-purposing former system
- Barriers include water availability and distribution, dams
- 2010: USGS stream study of Anahola Stream
- Dam Assessment (Lyon Associates)
- 2014 CIP (\$3 Million) for removal /deregulation

4. Anahola Water System

- Serves 79 users
- Immediate improvements
 - Tank refurbishment
- Long term improvements
 - Distribution, Backup, Source
 - Oceanit Study
- Rates being reviewed

5. Moloa'a Well

- Moloa'a in the Kaua'i Island & Regional Plan
 - 316 acres undeveloped
 - 47 three-acre homestead
 - 86 acres general ag
- Potable & non potable needs
- Kaua'i DWS planning tank and a well
 - Ongoing efforts to obtain Legislative funding

6. Waimea River Issues and Disputes

- Fundamental issue – future of state controlled land and water
- Key events:
 - January 2013: HHC authorization
 - July 2013: Po'ai Wai Ola Petition & Complaint
- Kekaha Hawaiian Homestead Association
- Commission on Water Resource Management
- Kaua'i Island Utilities Cooperative
- Agribusiness Development Corp.
- Kekaha Agricultural Association
- Po'ai Wai Ola / Earth justice
- Crosscutting Issues
- Po'ai Wai Ola Petition & Complaint
- Pumped storage proposals
- Possible hydropower improvements
- Agricultural water needs

- DHHL Lands
- Mānā Plan
- Status
- September 2015: “pre-mediation” under CWRM
- Informational requests to parties

ITEMS FOR DECISION MAKING

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

Exhibits:

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

ITEM D-2 Ratification of Loan Approval (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To ratify the approval of the following loan previously approved by the Chairman, pursuant to section 10-2-17, ratification of chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

MOTION/ACTION

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

ITEM D-3 Approval of Consent to Mortgage (see exhibit)

RECOMMENDATION

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

MOTION/ACTION

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

ITEM D-4 Approval of Streamline Refinance of Loans (see exhibit)

RECOMMENDATION

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

MOTION/ACTION

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

ITEM D-5 Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)

RECOMMENDATION

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

MOTION/ACTION

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

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

RECOMMENDATION

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:

MOTION/ACTION

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

ITEM D-7 Commission Designation of Successors to Application Rights – Public Notice 2014 (see exhibit)

RECOMMENDATION

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

MOTION/ACTION

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

ITEM D-8 Reinstatement of Deferred Applications – MARY ANN BARDO, CARLETON L.K. KAHAE

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To reinstate application that were deferred due to the applicants not responding to two successive contacts as required by the department's rules.

MOTION/ACTION

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

ITEM D-9 Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To ratify the approval of the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to Section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

MOTION/ACTION

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

ITEM D-10 Approval of Assignment of Leasehold Interest (see exhibit)

RECOMMENDATION

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.

MOTION/ACTION

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

ITEM D-11 Approval of Amendment of Leasehold Interest (see exhibit)

RECOMMENDATION

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

MOTION/ACTION

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

ITEM D-12 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)

RECOMMENDATION

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.

MOTION/ACTION

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

ITEM D-13 Commission Designation of Successor – WYNETTE K. DILLINER, Lease No. 9975, Lot No. 1, Waimānalo, Oahu

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the designation of Sharon Kanahale, successor to her late mother's Residential Lease No. 9975, Lot No. 1, for the remaining term of the lease.

MOTION/ACTION

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

ITEM D-14 Commission Designation of Successor – GARRY L. YAMADA., Lease No. 3571, Lot No. 184, Panaewa, Hawai‘i.

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To approve the designation of Brett B.K. Yamada (Brett), successor to his late father’s Agricultural Lease No. 3571, Lot No. 184, for the remaining term of the lease.

MOTION/ACTION

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

ITEM D-15 Request to Surrender Lease – MICHELLE I. BARNHART, Residential Lease No. 11058, Lot No. UNDV057, Anahola Subdivision, Kaua‘i District, Hawai‘i.

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

1. Approve the surrender of Department of Hawaiian Home Lands (DHHL) Residential Lot Lease No. 11058, Lot No. UNDV057, Anahola Subdivision, Kauai District, further identified as Tax Map Key: 4-4-8-003:003.
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.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Master Benefit License to Maui Electric Company, Ltd for Homestead Developments, County of Maui (Various TMKs)

Note: This item was withdrawn.

ITEMS FOR INFORMATION

LAND MANAGEMENT DIVISION

ITEM F-2 Status of Renovation Update – General Lease Nos. S-3831, S-3840, and S-4647, Aloha Beach Partners, LLC, Wailua, Kaua‘i TMK (4)3-9-006:020 and (4)3-9-006:016

RECOMMENDATION

Acting Land Management Division Administrator Peter “Kahana” Albinio presented the following:

The Aston Aloha Beach Resort Hotel (Aloha Resort) lies on approximately 10 acres of hawaiian home lands in Wailua, Kauai. In 2013 the land, was transferred to DHHL from the Department of Land and Natural Resources (DLNR) as part of settlement between DHHL and the State of Hawaii.

The new owner, Dinapoli Capital partners, based out of Northern California, purchased the leasehold Aloha Resort in early 2014 and began an extensive plan to fully renovate the aging hotel.

Renovations commenced in August 2015 and *is* progressing steadily (See Exhibit A). The owners have budgeted up to \$25 million for restoration of the entire dilapidated property. Once renovations are complete the hotel’s name will change from the Aston Aloha Beach Resort Hotel to the Hilton Garden Inn Kauai at Wailua Bay, making it the only Hilton hotel property on Kaua’i.

DISCUSSION

The Aloha Resort General Manager (GM), Ray Blouin, shared the status of the ongoing renovations and gave a brief history of his eight (8) years as the hotels GM. Mr. Blouin indicated that while he has been the GM their monthly rental payments to the State of Hawaii have never been late, even though nearly 1/3 of the property’s hotel rooms have been out of order and the property has never been profitable during his time there.

R. Blouin thanked the Commission for the opportunity to speak. He corrected the record saying that the new owner is actually Aloha Beach Partners, LLC. He provided an update on the construction sequence. The Maile wing has been completely vacated and is ready for construction. They’ve liquidated most of the furniture. The section is completely closed off and hotel administration has moved to a temporary location. The front desk and all offices have been demolished. The 13 cottages have also been vacated. The Pikake wing will be the last wing to be renovated.

PLANNING OFFICE

ITEM G-2 Accept the Beneficiary Consultation Report for the NEXTERA Kahikinui Wind Project, Kahikinui, Maui, TMK (2) 1-9-001: 003

RECOMMENDATION

Acting Planning Program Manager Kaleo Manuel introduced Julie Cachola who presented the following: That the Hawaiian Homes Commission (HHC) accept this Beneficiary Consultation Report as the official public record of beneficiary issues, questions, concerns, and comments relative to NextEra’s Proposed Wind Energy Project at Kahikinui, Maui.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Canto.

DISCUSSION

Boulevard Associates, a Delaware LLC, an affiliate of NextEra Energy, Inc. (“NextEra”), proposes to construct, own, operate, and eventually decommission a wind energy generation facility (“wind farm”) in the southeastern portion of the moku of Kahikinui (see Figure 1). The project will consist of twenty (20) wind turbines, each with a rated output of 3 megawatt (MW),

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for a total generating capacity of up to 60MW. The project will require 500 acres during construction. Once constructed, only thirty (30) acres would be required for access roads and the twenty (20) turbine pads. The exact location and arrangement of the turbines will be determined upon the completion of due diligence studies. The energy would be sold to MECO under a power purchase agreement (PPA) in order to service on-island Maui energy needs.

In order to develop the wind farm, NextEra is seeking Commission approval for two (2) consecutive land dispositions:

1. An initial Right-of-Entry (ROE) permit to complete due diligence studies, secure necessary permits, secure the PPA, and other pre-construction work. Effective upon approval, the ROE would be for a term of three (3) years with two (2) options to extend for one (1) year.
2. When the project is able to transmit power to the grid, the 20-year General Lease would begin, with an option to extend the lease for five (5) years at the same rent.

NextEra is offering a compensation package that includes:

1. The Right-of-Entry Fee: \$175,000 per year for three (3) years, with two (2) options to extend for 1-year at the rate of \$200,000 per year.
2. General Lease Rent which is contingent upon the PPA and will remain confidential until the PPA is finalized.
3. A Community Benefit Package that would begin at the same time of the General Lease. The actual amount is also contingent upon the PPA. NextEra estimates that it would be about \$300,000 per year.

Commissioner Kahikina stated that people are tired of waiting for their leases. They don't want to work with someone to get a benefits package, they want to be on the land and get back to being Hawaiian and living the culture. He asked why those comments were not included in the consultation report. DHHL gives non-Hawaiians right of entry permits, but Hawaiians are waiting for their leases.

K. Manuel stated additional comments can be included and staff will provide adjusted versions for the Commission to review tomorrow.

Commissioner Ka'apu inquired as to what role the 'Aha Moku plays? What the 'Aha Moku's role is. It seemed like they want the Commission to check with them before doing anything on DHHL land. Deputy Aila stated that the Legislature created 'Aha Moku Council in 2013. The governor appointed 8 members to represent each island. The Legislature was silent as to how each ahupua'a was created. There are now multiple groups claiming to represent their island. The purpose of the 'Aha Moku was to provide advice to the DLNR and Land Board in decision making. They are an advisory organization. They are not a beneficiary organization.

Chair Masagatani stated she will defer action on the matter to allow staff time to make the changes requested by Commissioners. The matter will be addressed in the morning. K. Manuel stated the changes will be made overnight and distributed in the morning.

ITEM G-3 Approval of Procedures for Approving Water Wells on Homestead Lots, Statewide

RECOMMENDATION

Acting Planning Program Manager Kaleo Manuel introduced Julie Cachola who presented the following: That the Hawaiian Homes Commission (HHC) authorizes the Chairman to proceed to:

1. Implement procedures and lease addenda, generally as described herein, to allow for the drilling of wells by homesteaders on their own lots for their own homesteading (domestic, agricultural, aqua cultural, and pastoral) uses; and
2. Take other actions as necessary to effectuate this action.

MOTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina.

DISCUSSION

At the September 21, 2015 HHC meeting, the Planning Office presented an informational briefing describing how the HHC might direct the Chairman to adopt procedures and lease addenda to allow for the drilling of wells by homesteaders on their own lots for their own homesteading (domestic, agricultural, aqua cultural, and pastoral) uses. The briefing was presented in order to receive feedback and open discussion by the HHC on the issue. Based upon the discussion and subsequent review by assigned counsel of the Department of the Attorney General, the Chairman has directed the Planning Office to bring forward this formal motion for approval.

Following the presentation on September 21, Commissioners asked a number of clarifying questions about the issue and procedures. Three specific questions were asked regarding a) the general costs to develop such a well; b) who would bear all the associated costs (including drilling, pump installation, operating, reporting, and abandonment); and c) the relationship between these proposed procedures and any future lease cancellation on a lot where the proposed lease addendum was implemented.

Staff respectfully requests that the Hawaiian Homes Commission approve the recommended motion/action for the following reasons:

1. Implementing procedures and lease addenda to allow for the drilling of wells by homesteaders on their own lots for their own homesteading (domestic, agricultural, aquacultural, and pastoral) uses will help to implement Additional Goal 14 of the HHC Water Policy Plan (WPP); and
2. While there may be few circumstances where the development of wells by homesteaders, as described herein, is feasible, in those cases it will help fulfill the purposes of the HHCA for that beneficiary and their family.

Commissioner Ka'apu stated before finalizing lease adendums the department needs to look at what happens when a lessee cannot perform. If a lessee puts in a million dollar well but doesn't finish it, then DHHL has no recourse for being repaid if it costs the department money to cap it or to pay for other liabilities are incurred. Dr. J. Scheuer stated a waiver of rights to be paid for improvements is one way to address this particular problem.

Commissioner Davis asked what will happen to the existing wells, whether or not they will be grandfathered in. K. Manuel stated a water well inventory needs to be done.

Commissioner Ishibashi stated he is thankful for this action because the farmers in Panaewa have been asking for it to help with the cost of water.

Chair Masagatani suggested the department focus on one applicant and walk through the process with them from start to completion. See what works and what doesn't with the process and the lease adendum and other concerns that were raised. Staff can come back and report to the Commission what refinements were made. Instead of speculating, we can actually learn from the experience of working a real case.

ACTION

Motion carried unanimously.

FOR INFORMATION ONLY

PLANNING OFFICE

ITEM G-4 For Information Only – Saint Rita Church Draft Environmental Assessment (DEA), Nānākuli, O‘ahu, TMK (1) 8-9-005:001, (1) 8-9-007:002 (por.), and (1) 8-9-007:002: 004 (por.)

RECOMMENDATION

None. For Information only.

PURPOSE

Acting Planning Program Manager Kaleo Manuel introduced Julie Cachola who presented the following:

The purpose of this informational briefing is to present the draft Environmental Assessment for the St. Rita Catholic Church Master Plan and to explain why we anticipate a Finding of No Significant Impact.

BACKGROUND

J. Cachola then proceeded to provide information on the history of St. Rita Catholic Church in Nanakuli. She also presented information regarding the Church's plan to demolish the existing structures and rebuild a new church community/meeting hall, and office building. In 1930, the first batch of 79 awards for homestead lots in Nānākuli were issued and newly awarded homesteaders were constructing their homes and moving into their new community. The new homesteaders petitioned the Hawaiian Homes Commission to provide lots for various churches, including a Catholic Church. St. Rita Catholic Church in Nānākuli is one of only two Roman Catholic churches that were originally founded to serve native Hawaiians settling in new homestead areas. In 1934, the Commission issued the original License to St. Rita Catholic Church for the use of a 1.696-acre lot located at 89-138 Farrington Highway.

St. Rita Catholic Church was originally located at Wheeler Army Air field, but in 1934, upon the issuance of the original license, the church was moved to its present location to serve as the Parish Church. The church is over 100 years old; the accessory structures have remained unchanged since their construction in the 1930s.

In the past 81 years, the Church has expanded the campus incrementally to accommodate a growing population base and to ensure safe facilities. They have utilized trailers and portables that were meant to be temporary, but have been in use for the past two decades. In 2002 the Church expanded the parking lot. In 2011 an architect was hired to complete the Church Master Plan. Restrooms were renovated and a septic tank system was installed to accommodate campus growth. There is a clear and ever-increasing demand for renovation and expansion of the Church facilities.

PROJECT DESCRIPTION

The Church plans to demolish and remove all of the existing facilities (church, rectory, Quonset hut, four portables and the restrooms). The site will be completely renovated with a new Church building, a new community/meeting hall and a new office building (see Figures 1, 2, and 3).

- The NEW CHURCH will be 5,650 square feet in size, able to accommodate 400 people. The facade of the existing church and bell tower will be designed into the construction of the new church.
- The NEW COMMUNITY/MEETING HALL will be 6,400 square feet in size and will include a large meeting area, classrooms, warm-up kitchen, storage, and men's and women's restrooms.
- The NEW OFFICE BUILDING will be 1,000 square feet and will include: Three (3) offices, a reception area waiting room, and men's and women's restrooms.

The projected cost for the environmental assessment, permitting, demolition of existing buildings, and the construction of the new buildings is estimated at \$8.1 million. Upon the completion of the Environmental Assessment, the development timeframe is 4 years (2016-2020).

The Environmental Assessment will be used in the application and processing of required permits and approvals. Table 1 identifies the regulatory agency and the approvals and permits required for the Master Plan.

K. Manuel stated the actual approval of the FONSI will not be requested until December. In the meantime, the Commission has time to review the Draft EA and forward any questions or concerns to staff. Commissioner Kahikina stated he supports the project and wanted to let everyone know that the community is also in support of the project.

GENERAL AGENDA

ITEM J-8 – KAWAI WARREN, Kekaha Homestead Association

K. Warren thanked the Commission for amending the agenda and allowing him to speak. He is here on behalf of the Pu'u Opae Farm and Irrigation Project, asking if there are any updates on the project's path toward approval. Another year has gone by without a decision and he is here to answer any questions that may be keeping the project from being approved.

The project has been in motion for five years and he acknowledged those who have supported the project throughout the process. There are many homestead associations who have been supportive. He has a taro report from one of their consultants who found a lihilihi moeilina strain of taro from Hanapepe. It's a white taro favored by Queen Emma. It is best served in a pa'iai consistency. He thanked the Commission for its time and hope a that they can approve their project soon.

EXECUTIVE SESSION IN 4:25 PM

The Commission convened 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. Notice of Proposed Rule Making for Procedures for Reestablishing a Government-to-Government Relationship with the Native Hawaiian Community

EXECUTIVE SESSION OUT 5:31 PM

RECESS 5:32 PM

HAWAIIAN HOMES COMMISSION
Minutes of October 19 and 20, 2015
Meeting Held at Lihu'e State Building, Lihu'e, Kaua'i, Rooms A-C

The regular Meeting of the Hawaiian Homes Commission was reconvened at the Lihu'e State Building, 3060 Eiwa Street, Lihu'e, Kaua'i, Rooms A-C, beginning at 10:53 a.m.

PRESENT Jobie M. K. Masagatani, Chair
 Doreen N. Canto, Commissioner, Maui
 Gene Ross K. Davis, Commissioner, Moloka'i
 Wallace A. Ishibashi, Commissioner, 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

EXCUSED Kathleen P. Chin, Commissioner, Kaua'i

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
 Niniau Simmons, NAHASDA Manager, Office of the Chair
 Paula Aila, Hale Manager, Office of the Chair
 Hokulei Lindsey, Administrative Rules Officer, Office of the Chair
 Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chair
 Kip Akana, Compliance Officer, Office of the Chair
 Dean Oshiro, Acting Homestead Services Division Manager
 Norman Sakamoto, Development Officer, Land Development
 P. Kahana Albinio, Acting Property Dev. Mgr., Income Property Branch
 Kaleo Manuel, Acting Planning Mgr., Planning Division
 Andrew Choy, Planner, Planning Division
 Nancy McPherson, Planner, Planning Division
 John Peiper, Land Agent/Enforcement Officer, Office of the Chair
 Ku'uwehi Hiraishi, Info. Specialist, Information and Community Relations
 Mona Kapaku, District Supervisor Maui

Chair Masagatani noted there are three decision making items carried over from the prior day's meeting that need to be decided upon before moving forward with the current agenda. The first item is the approval of the minutes, followed by Item G-2.

APPROVAL OF MINUTES

Chair Masagatani asked if there were any amendments or corrections to the HHC Meeting Minutes of January 20, 2014. Hearing none, she asked for a motion to approve the minutes.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi to approve the HHC Meeting Minutes for January 20, 2014. Motion carried, Commissioner Ka'apu abstained.

Chair Masagatani asked if there were any amendments or corrections to the HHC Meeting Minutes of June 2015. Hearing none, she asked for a motion to approve the minutes.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ishibashi to approve the HHC Meeting Minutes for June 2015. Motion carried, Commissioner Ka'apu abstained.

Chair Masagatani noted the other item carried forward is G-2. Staff made changes to the submittal per yesterday's discussion.

G - PLANNING OFFICE

ITEM G-2 Accept the Beneficiary Consultation Report for the NEXTERA Kahikinui Wind Project, Kahikinui, Maui, TMK (2) 1-9-001: 003

RECOMMENDATION

Acting Planning Program Manager Kaleo Manuel introduced Julie Cachola who presented the following: That the Hawaiian Homes Commission (HHC) accept this Beneficiary Consultation Report as revised, as the official public record of beneficiary issues, questions, concerns, and comments relative to NextEra's Proposed Wind Energy Project at Kahikinui, Maui.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Davis.

DISCUSSION

K. Manuel highlighted the changes made based on the Commissioners input.

On page 4, the last paragraph was added to talk about the history of the project and the kuleana taken on by the community when they agreed to live there.

Regarding Kahikinui, it was a pilot project initiated by beneficiaries in the early 1990's to replace over 100 years of ranching activities with beneficiaries returning to the land, as is, for their use and stewardship. Each 'ohana took on the responsibilities of taking care of their area, working on community infrastructure, and being a part of the community association. Based on the 2013 public hearings, there was indicated support for alternative energy as long as the proposed development provides direct benefits for Kahikinui lessees. Therefore, the Department decided to continue efforts to develop Kahikinui's renewable energy potential.

On page 8, the table was amended to include:

- Staff's recommendation that renderings be provided to show visual impacts and scale of the project.
- **WIND TURBINES DESTROY PRISTINE VIEWS** - A majority of participants oppose the project due to the construction of the wind turbines which will destroy the pristine views that inspire and connect us to our kūpuna and 'āina.
- **CULTURAL** - KOOK should be informed about anything related to archaeological sites at Kahikinui. NextEra is communicating with the archaeologist that conducted the inventory of sites at Kahikinui. There are over 3,000 sites at Kahikinui. The proposed project will need to be compliant with all Federal and State historic preservation laws.
- **OPPONENTS** - A majority of those in attendance opposed were project because they saw that outsiders were getting approvals before their entitlements were being addressed (i.e. homesteading, infrastructure, etc.)

Chair Masagatani asked if there were any further questions or comments about the report or the revisions. Hearing none, she called for the vote.

ACTION

Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item A-1, Lorraine Rapozo, Re: Agenda Item G-2, Kumu Camp.

L. Rapozo stated she lives 250 feet away from Kumu Camp and says there was a lot of alcohol related incidents and fighting in that area. It is the same with Camp Faith, so she went to the department to say that it needed to be taken back because the church wasn't taking care of it. Camp Faith was in disrepair with no one taking care of the property. The church wasn't paying their rent. There is still drug activity there and nobody is doing anything about it.

L. Rapozo stated she was the former AHHA (Anahola Hawaiian Homestead Association) president and the Mokupuni President which is why they wanted to clean out the place. They got \$60,000 in grant money to do it. She heard that there are four people that want to do something with Camp Faith but they haven't come up with a plan. She asked the commission to get its act together. It is not about Robin Danner, it's about Lorraine Rapozo who has been here with our native beneficiaries who wanted to participate in what happens to their island.

Chair Masagatani thanked L. Rapozo for her testimony.

GENERAL AGENDA

ITEM J-1 Request to Address the Commission – HAROLD VIDINHA, Contamination and Residence Issues.

H. Vidinha stated his wife Wendy has pictures of their lot and a letter he wrote in 2013, asking the department of comply with what the State of Hawai'i suggested. He is happy with what the Commission proposed in its meeting yesterday but feels it does not go far enough. The letter from the state suggested the department take off and redo his yard because of all the tar seen in the pictures. The tar is still there today; it's just overgrown by weeds now. The retaining wall is 2 feet high but he believes it should at least 8 feet high otherwise his backyard is unusable. When the consultants prepare the new plan, he would like his yard to be included because it was never done. When it rains all of the glass and metal debris from the ground is unearthed. His lot used to be a tar pit. He does not know how deep or how wide but it was used for the road on the plantations. The plan is to go in and dig it up, but what happens to the foundation of his house. He has humbled himself for the past five years but he urged the Commission to do something soon. He knows the department has a lot on its plate, but time passes and things need to get done.

W. Vidinha stated the pictures she passed out shows tar that looks to be fresh which is what happens during the summer when it gets hot. The tar oozes out from the ground.

H. Vidinha stated there is a section of the road the department owns outside of his boundaries; he is willing to take care of the section if it is added to his lease. He added there is an adjacent piece of land where the former owners buried more than 100 construction truck tires. The tires are buried 3 levels high.

Commissioner Tassill stated his understanding is that tar is asbestos which is associated with respiratory health issues. He thinks the department should seek federal funds to clean it up. H. Vidinha stated the State Department of Health told the federal government that they would clean it up, but nothing has been done. He stated the department needs to look at something called the superfund which cleans up messes like this one and then goes after the perpetrator.

Commissioner Ishibashi asked if H. Vidinha would consider relocating if it was an option. Commissioner Ka'apu stated that the main concern of the Commission is that the beneficiaries are safe. The Commission is being told that it is safe enough to live on yet beneficiaries are saying they are sick. The department may not be able to afford to dig everything up to clean it up, so relocation may be the only option. H. Vidinha believed the people would be willing to get out of there. Commissioner Tassill stated relocation does not address the cause or rectify the damage.

H. Vidinha stated how long will it take to decide if the department will move the people or clean it up. Until the decision is made, he will stay in the tar pit. He asked the department to look at the issue now and find the culprit later.

Commissioner Ishibashi stated everyone knows the culprit was Amfac Inc. but they are no longer in existence, so the critical thing is the cumulative health of the people.

Chair Masagatani thanked Mr. Vidinha for his comments on the issue.

ITEMS FOR INFORMATION

ITEM F-3 For Information Only-Land Use Request for Land known as the "Anahola Farmers Market", Anahola, Kaua'i, TMK No: (4) 4-8-005:026

RECOMMENDED MOTION/ACTION

None; For Information Only

DISCUSSION

Acting Planning Program Manager Kaleo Manuel introduced Bob Freitas and Kaipo Duncan who presented the following:

Ms. Agnes Marti-Kini, President of Kalalea/Anahola Farmer's Hui submitted a land use request form on May 28, 2015 for the former Anahola Farmers Market located near the Anahola Farm Lots, Anahola, Kaua'i(TMK:(4)4-8-005:026).

The Anahola Farmers Market was previously encumbered by a General Lease to the recently defunct Anahola Farmers Association, which was terminated in February 2015.

DHHL staff have been working to develop processing criteria, procedures, and a list of required documentation that is necessary to conduct a thorough due diligence review of all land use requests that are received by DHHL. The list is based on the Hawaiian Home Commission's discussion and approval of the Waimea Homestead Association's Waimea Nui Pilot Project. The due diligence review by staff will be dependent on the applicant providing the following documentation which includes but is not limited to: 1) Organizational Documents, 2) Proposed Project and Business Plans, and 3) Evidence of Community Support.

Below is an example of a LURF review for discussion purposes.

DHHL staff will send an acknowledgement letter to Kalalea/Anahola Farmer's Hui regarding their land use request and notify them that additional documentation is required as discussed in this submittal.

Agnes Marti-Kini, President of the Kalalea-Anahola Farmers Hui, stated one thing she learned from this process is how overwhelming it can be. Someone would need a degree to understand the requirements for the process, it is no wonder the former farmers market closed. Chair Masagatani stated the goal is to support the capacity of the associations so that when there is a long term disposition given by the department, the organizations are successful. A. Marti-Kini stated her issue is that she was not given this list until last week on October 16th. If she had received it back in May, it would have been finished and the marketplace would have been up and running already. College of Tropical Agriculture and Human Resources (CTAHR) did soil testing and determined that the soil is sterile and full of plastic lining from the plantations. Other organizations should be aware of the process and how daunting it is and that it could take a year to get all the paperwork done.

There are three things KAF requests for the acquisition of the property:

- 1) Gratis status which was afforded to the former farmer's market be continued.
- 2) Ground maintenance of the property be continued by DHHL on a monthly basis.
- 3) The KIUC million-dollar community improvement fund be used to pay for an upgraded septic system that is approved by the Department of Health, minor repairs to the existing building, and a small lanai or pavilion for framers' meetings and for kūpuna to gather.

A. Marti-Kini asked how long it will take after her documents are submitted to be approved and awarded.

Chair Masagatani asked for clarification on the disposition KAF is seeking. The Waimea Farmer's Market is for an afternoon once a week while the Maku'u Farmer's Market is a long-term lease which means they have site control. To be clear, long term disposition requests require one informational beneficiary consultation discussion in the community to allow any beneficiary to comment.

Commissioner Ishibashi stated farmers need to make money, they need a market to sell their products. Commissioner Davis thanked A. Marti-Kini for starting the process for her community. Farming is an important component to every community.

A. Marti-Kini stated she also signed-up on the J-Agenda to talk about the water tank. It is lead based and needs to be sand blasted. The community wants to use the water well or if a new water tank is built, it should be near the old one.

Chair Masagatani thanked A. Marti-Kini for her time and testimony.

ITEM G-5 For Information Only – Draft Final Environmental Assessment for Kumu Camp Project, Anahola, Kaua'i, TMK (4) 4-8-007:001

RECOMMENDED MOTION/ACTION

None; For Information Only

DISCUSSION

Acting Planning Program Manager Kaleo Manuel introduced Bob Freitas who presented the following:

Purpose

To provide the Final Environmental Assessment (FEA) for the Kumu Camp Project in Anahola to the Hawaiian Homes Commission for review prior to declaring a finding of no significant impact at *its* next meeting and to share the project background and history.

Project Background and History

Kumu Youth Academy henceforth (Kumu Camp) is located on 5 acres of an 8-acre Department of Hawaiian Home Lands (DHHL) property located immediately adjacent to Anahola Beach Park on TMK No. (4) 4-8-007: 001.

- A. The Kumu Camp project was started - On March 31, 2011 when DHHL approved a revocable Permit for Community Based Recreational Use. On December 1, 2011 the Homestead Community Development Corporation (HCDC) submitted an Economic Development Grant Application for \$250,000.00 that proposed the design, finance, construction and operation of a kumu and youth academy at Anahola Bay along with several other Anahola development projects.
- B. On May 28, 2012 the HCDC submitted a land use request for the property.
- C. On December 2013 HCDC provided a grant progress report covering the Community Economic Development Grant and confirmed the camping operations.
- D. December 4, 2013 letter to HCDC regarding compliance with the terms of the grant agreement and other compliance issues. Note the project was expedited by not complying with rules and regulations and relying on verbal non written agreements which have been subject to interpretation and has led to miscommunication between the parties.
- E. April 4, 2014 memo from Disability and Communications Access Board Kumu Camp at Anahola Bay did not comply with HRS 103-50 regarding plan review for people with disabilities.
- F. Note October 10, 2013 informal notice from Department of Health regarding wastewater system. Note DHHL letter on January 18, 2013 letter requesting compliance with county ordinances because the facility is open to the public and potential liability issues.
- G. On August 29, 2013 DHHL sent a letter to the County informing them that HCDC is required to comply with county ordinances and rules.
- H. May 10, 2013 certified letter to cease and desist all construction and rental activities until the project is in compliance with terms and conditions outlined in letter.
- I. November 29, 2013 final cease and desist letter requesting compliance with terms and conditions that HCDC had agreed to but failed to comply with.
- J. March 19, 2014 letter to HCDC to comply with HRS Chapter 343 and prepare an Environmental Assessment within one year. Note after the fact assessment since development occurred without securing the necessary approvals. The objective was for HCDC to comply with all of the necessary reviews and approvals for the Kumu Camp Project.
- K. December 17, 2014 the Chairman held an informational meeting at Kapaa Elementary School, Kauai to address community issues and included an update on the Kumu Camp Environmental Assessment.
- L. Delays in completing the Cultural Impact Study resulted in a request for an extension of time and on February 27, 2015 the Chairman approved a 90-day extension of time to complete the Environmental Assessment.

Final Environmental Assessment

The FEA for the Kumu Camp Project which complies with HRS Chapter 343 was prepared for HCDC by Planning Solutions, Inc. and is included in your materials along with this submittal for your review.

Per Hawaii Administrative Rules (HAR) 11-200-11, the Draft Environmental Assessment (DEA) and Anticipated Finding of No Significant Impact (FONSI) are required to be

published in the state Office of Environmental Quality Control "The Environmental Notice" bulletin (EN) for a 30-day public review and comment period. The DEA was published in the July 8, 2015 EN. Comments were received and responded to and are incorporated into the FEA.

Next Steps

- 1) The Final Environmental Assessment for the Kumu Camp Project will be submitted to the Hawaiian Homes Commission at its next meeting in November 2015 for a declaration of FONSI.
- 2) A Beneficiary Consultation will be held in Anahola prior to the issuance of a long term disposition.

Kipukai Kualii read into the record the following letter:

AHHAI/HCDC responses to the DHHL letters have not been included in your informational packet for our Draft Final Environmental Assessment for Kumu Camp.

For the first four years in 2009, 2010, 2011 and 2012, it has been a great working relationship with our homestead members and DHHL. In 2013 and 2014, it became really confusing and almost hostile from DHHL toward our homestead association, which we could never understand. But this last year, with the help from Planning and Kaleo, as an association, the communication levels have greatly improved.

Essentially, we have worked on and completed Kumu Camp through 4 different DHHL Directors. First Micah Kane in 2009 that encouraged us to do something about the terrible drug use on the DHHL lands where Kumu Camp is.

Then in 2010, with Kaulana Park, who authorized a RoE, and asked us to develop a land use, step by step plan, that would elevate land instruments as we achieved milestones.

In 2011, Alapaki Nahalea took our RoE to an RP given the milestones we accomplished, and told us to raise our portion of funds, to host community meetings, to develop the campsite to operational status, and to return for a License. We requested, and received a letter in writing indicating that we were authorized by DHHL to develop the campground, as long as we did not install permanent structures, with permanent footings. Easily done for a campground plan.

In 2012, as one of 20 regions, where homestead associations that were assessed by DHHL under its capacity program, AHHA and our nonprofit arm. HCDC became eligible for a regional economic development grant. We were assessed at one of the highest capacity levels by DHHL. As a result, our regional grant was awarded to us by DHHL, and we dedicated a third of it to Kumu Camp, and the remainder to our marketplace which now has a sustainable cafe, thrift shop, nonprofit offices and a salon.

In June and July 2012, our homestead association held well attended consultation sessions, with participation from fee simple home owners in the village, and mostly, our fellow homestead lessees on Hawaiian home lands. We were very organized, and provided a summary report to DHHL on all of the manao shared on the project survey we used at the sessions including the design prints of our campsites.

We accomplished the milestones recommended by Director Park and Director Nahalea, and as planned, we submitted our paperwork to DHHL to transition our RP to a License in 2012. It's

been 3 years, and we have received no communication about this request from our fourth DHHL Director, Jobie Masagatani.

The trouble and confusion between our homestead association and DHHL began in 2013 under this Director, that all of sudden stopped issuing reimbursements submitted under our grant agreement, citing non-compliance. It took a while to realize that DHHL had changed its internal policy of not requiring an EA on RPs and Licenses, to requiring them, and that internal policy change was being used to punish our project.

I want to be clear, we were fully authorized by DHHL, in writing way back in 2011, to develop Kumu Camp without an EA. When DHHL changed its policy in 2013, we regrouped and have been fully cooperative to meet the new policy, which would require an after the fact EA.

It was a very painful year with Jobie in 2013, receiving cease and desist letters, and even letters claiming false accusations and such.

But in 2014, we were assigned to Deputy Young, and to Planning Manager, Kaleo, where we were able to sit down and figure out the EA process. We raised an additional \$50,000 to complete the process, starting in 2014, and now completing it for your review in 2015.

Although it was inconvenient and expensive, AHHA is glad to have worked with DHHL on its new policy to complete EAs on any land use instrument. We think it's the correct policy, and have worked the last year to complete an after the fact EA on Kumu Camp. Through the extensive public and homestead comment period, most of the concerns shared, were actually on Camp Faith, a DHHL property adjacent to Kumu Camp.

In closing, Kumu Camp has been sustainably operating for 3 years. We serve over 400 kids, halau, cultural and water activities every year. It has eliminated the drug corner and the dozens of drug users from living on the property in the naupaka, and, Kumu Camp represents the first and only campground operated by beneficiaries for beneficiaries and the larger community. While there are some that are sour about our project, there are so many more, particularly the old time residents in the area, that consistently compliment the transformation.

Mahalo for the opportunity to share the nearly 6-year project that is Kumu Camp. Entirely developed by volunteer homestead families.

Commissioner Kahikina asked to see the metrics for the policies and procedures. He wants to give beneficiaries all the tools they need to access their entitlements. R. Freitas stated the requirement for an EA is triggered by granted development of a facility of some sort. K. Manuel clarified that exemptions cannot be in highly sensitive areas like shorelines and beaches where there's inundation or tsunami zones. In the review process and looking at our exemption authorities, DHHL encouraged and required an EA be completed for this project because of its sensitive location and the activities that are being proposed with youth. The department wanted to make sure for health and safety purposes that this project went through the necessary process. The more consistent the department can be with these procedures, the better it will be for our beneficiaries. Staff is working toward streamlining a transparent and clear process.

Sherry Cummings stated the form that distinguished between native Hawaiian controlled homestead associations or not. Now there is no distinguishing between who is who and what is what. There was a shoreline certification study done to set the record straight. Finally, they never tried to skirt by with exemptions on anything. They wanted to do things the right way.

Chair Masagatani stated she hears their frustration and the department is working toward consistency with its processes. The department wants to make sure that down the road no one can question the process or whether things were not done properly.

GENERAL AGENDA

ITEM J-3 Request to Address the Commission JOHN KAOHELAULI‘I, Kaua‘i Agricultural Homestead Program

J. Kaohelauli‘i read from testimony he provided.

He is a lessee of a residential lot in the Anahola homesteads. He thanks Commissioners for the opportunity to speak. His main topic is restarting the agricultural program in the Anahola region.

In 1991, he received his residential lease when he was 32 years old and had his farm plan all ready to go. He understood the challenges facing the Commission and the department in trying to fulfill Prince Kūhiō’s vision. He also understands the main focus is the development of residential land.

Over the years, he has participated the best he could in planning projects like the Kealia Water Study, Anahola Town Center and some of the regional planning sessions. For the past four years he has been jumping on Bob Freitas about the agriculture program. When you stroll through Pi‘ilani Mai Ke Kai, you see a lot of empty lots. Something is wrong with that. He knows the department is trying to find options and products to put more beneficiaries on those lots. The Anahola area has lots of potential for economic opportunities in agriculture and the potential spin off businesses that could be created from that investment could create new beneficiary cash flow and could help get more families with the financing they need to afford a mortgage that comes with these lots.

He was happy to hear of the general plan presentation at last night’s community meeting which talked about a refocus on the agriculture program. Last night he also saw other areas of economic opportunities on Kaua‘i with the agriculture lands in the Hanapepe and Waimea areas. There is a lot of future opportunity for inter-homestead commerce on the island which could spill over to other homesteads throughout the state.

Becoming self-sufficient may be the buzz word in our world today, but for our people, it has been a way of life for hundreds of years. If homestead communities can become self-sufficient in both food production and community based economics, then we will have a better chance to fill those lots in Pi‘ilani Mai Ke Kai.

He believes in Anahola, they have most of the major components needed to create a community based foundation for economic development.

- The Anahola, Kamalomalo‘o and Moloa‘a Development Plan 1987
- The Kealia Water Study
- The regional plans have been updated
- The Anahola Town Center Plan

They have what they need to build a foundation, what they need now is a strong commitment to invest in this part of the mission that has been quiet for much too long. He reminds the Commission to not forget the common people. They are the biggest recourse the department has. Include them in planning and implementing programs.

Chair Masagatani asked J. Ka'ohelaui'i to invite as many people as he can to the beneficiary consultation meetings on the proposed rules.

ITEM J-4 Request to Address the Commission – SHANE COBB-ADAMS, Anahola Water System, Kumu Camp EIS, Anahola Master Plan

S. Cobb-Adams stated he is a resident of Anahola, although he lived on O'ahu for 20 years teaching at the University. His background is in education and he is a psychologist by trade. As he listened to the previous speakers talk about the process it would seem like everything is fine in Anahola, when it is anything but. He moved home last year because his dad has alzheimer's. His family has a royal patent, fee simple land so he and his brother never got onto the (wait) list. His father's grandparents were original Ho'olehua farmers who were awarded 40 acres in the 1920's. His great grandfather was a commissioner in the 1930's and so his family has a long history of working with the Hawaiian Homes Commission.

He stated Kumu Camp has been a disaster and the cease-and-desist order was issued because of the community outcry over the process. People who live in the village were not consulted nor part of this process. HCDC (Hawaiian Community Development Corporation) and AHHA (Anahola Hawaiian Homestead Association) has all of four members. They are the oldest association in Anahola and the most dysfunctional so everybody walked away from it years ago. When Robin Danner moved back from Alaska she used AHHA to be the pass through for HCDC. This idea that the HCDC can be the development arm to get land and control it because the land has passed from DHHL through AHHA to HCDC. It might be legal but is not good for the community and HCDC hasn't been good for the Anahola community. Robin Danner got knocked out on the beach by a young community member. That's the level of violence the Kumu Camp has brought to my community. Auntie Lorraine [Rapozo] talked about the drug problem 200 yards from her house.

The community is offended that some project like Kumu Camp can push through with an environmental assessment that is a very low bar. The environmental assessment is supposed to assess the impact of the project from baseline zero to development, not after everything was done without permits. That is a special management zone in there (where Kumu camp is located.) His cousin Bronson lives there and took photos of heavy equipment grubbing and grading without approval. They sent it to the chair's office and that's when the cease-and-desist was ordered

The Hawaiian community has worked very hard over the last few years to create pono development and if we cannot hold our own development corporations and Hawaiians accountable to the same level that we will hold everybody else to, how can we say, "They should do what is pono?" We are undermining our own work over the last 20/30 years. Kumu Camp blocked access for people who live in the village because they cut big ironwood trees and blocked the road. That's when people started getting upset and the community got together and went down there. The police got called and told Kumu Camp to move the logs because they can't block public access.

They only speak for our AHHA and HCDC but when they speak in other places they speak like they are the community. They are just a small portion of Anahola. Just a couple of people in Anahola that are going to try to do what they're going to do.

There was supposed to be a community kitchen but community members can't use it because it's been leased out to a company to have a saimin place. Money that came in under this pretense to do community development has gone to other things. He knows people who want to use the community kitchen, but it has to be arranged because six days a week there is a saimin stand there, and no one can use it.

The majority of the Hawaiian community is not behind Kumu Camp. AHHA and HCDC do not represent Anahola. They are just a small handful of people that you can count on your two hands?.

He also wanted to talk about the Anahola water tank. He asked if there is an option to build a smaller accessory tank next to it. The pressure in the well is enough to drive that second tank so that you can have a switching valve to the secondary tank while maintenance and repairs are made to the larger one, with uninterrupted flow to the system.

The third issue is the Anahola Master Plan, and the role that AHHA, HCDC, and the Council for Native Hawaiian Advancement has played in it. They handpicked people to attend these conferences abroad. It is a slap in the face to him, and a slap in the face to all of the kanaka in Anahola.

Chair Masagatani stated it is a difficult situation. Kumu Camp doesn't have a land disposition on it right now. There were some violations and HCDC has been trying to address these to come into compliance. These compliance issues must be addressed first. Before any long term land disposition are issued, we require at least one beneficiary consultation meeting in the community that is impacted. It is an opportunity for beneficiaries to come forward and express whatever issues or concerns they have.

S. Cobb-Adams stated that when the majority of the community is against something then it won't work. There needs to be community buy-in. HCDC and AHHA do not have community buy-in in Anahola. The marketplace is a series of failures because it is not community-wide economic development.

Commissioner Davis stated his concern is about access for beneficiaries. S. Cobb-Adams stated there is another access on the other side of the bridge, but other than that, it's the Kumu Camp road.

Commissioner Canto stated they visited Kumu Camp and her concern is with emergency access to the area. It was difficult to turn around.

ITEM J-5 Request to Address the Commission – JEFF GILBREATH, Executive Director, Hawaiian Community Assets. Accessory Dwelling Units.

ITEM J-6 Request to Address the Commission – KAHAUNANI MAHOE-THEONE, Accessory Dwelling Units.

Chair Masagatani allowed Mr. Gilbreath and Ms. Mahoe-Theone to present their items jointly.

K. Watson stated Governor Ige issued an emergency proclamation about homelessness in Hawai'i, citing over 7,620 homeless individuals across the state. A significant number of the homeless are Native Hawaiian. The statistic doesn't include those living in overcrowded households, in the dilapidated houses, or those who have abandoned their homesteads and are living in the streets. It is a crisis and one solution is to provide accessory dwelling units (ADU) on homesteads.

The passage of City Council Bill 20 on Oahu has created an opportunity to double the resources for our beneficiaries in a way that includes the community with opportunities to be a landlord and receive revenue. ADUs are independent of the main house and creates an independent living unit that homesteaders can rent out. He presented a packet proposal for an ADU Pilot Project.

This project involves the construction of five accessory dwelling units on Hawaiian homestead lots, with the goal of providing affordable housing and generating rental income for native Hawaiians. The first unit has been designed for the Mahoe family in Waimanalo, who wish to house their elderly father in an ADU on their lot. He is currently living in a trailer with no kitchen or bathroom. This project will provide him with a fully functional, energy efficient home that will allow him to live independently and affordably, while his daughter Kahaunani will receive some rental income to help with her family's household expenses. The ADU will create a mutually beneficial housing situation that we plan to replicate across the Hawaiian home land communities. Project partners include Hawaii Appleseed, Hawaiian Community Assets, Hawaiian Community Development Board, Architects Hawaii, and Hunt Moss Construction.

Progress to date on Mahoe ADU:

- Family/site selected
- Designs and construction plans completed
- Construction financing secured
- Permitting process begun

Remaining tasks:

- Secure DHHL approval
- Finish building permitting process
- Construct unit (7 weeks)

K. Watson highlighted statutory authority that would allow such a project and stated the project and future ADU developments are in compliance with DHHL rules and policies.

K. Mahoe-Theone stated she is a fourth generation lessee in Waimānalo. She currently has 11 family members in her home; three households. Her father is 75 years old and chooses to live in a trailer because he wants his own space. The ability to build an ADU on their property in Waimānalo, which has adequate space, makes sense. Her dad applied for kūpuna housing and was denied because of his income and age. ADUs could help kūpuna age in place at home with their extended 'ohana. She is happy to be the "guinea pig" for homesteaders who might be able to benefit from this new rule. She is thankful for Bill 20 which will afford all homesteaders looking for additional income to sustain their home.

J. Gilbreath of Hawaiian Community Assets stated additional information in the packets include a support letter from Architects Hawai'i, who donated a significant amount of time in the design of the accessory dwelling unit, seen on the first page, and two other design concepts.

One of the designs allows the ADU to be completely off the grid, which helps when utility infrastructure is extremely high or prohibitive on any parcel. Packets include a support letter from Architects Hawai'i and a memorandum of understanding for a partnership with Waimanalo Job Corps. These are young Hawaiians who want to enter the construction field and have committed themselves to actually building the ADUs. K. Mahoe-Theone's ADU is part of their construction training. Hunt Moss Construction has agreed to stand in as the general contractor and malama these kids as they learn the trade.

ADUs have gotten a huge amount of support in the homestead communities. They collected 118 support cards from beneficiary families supporting the development of ADUs on Hawaiian home lands.

He facilitated a caucus during the last CNHA (Council for Native Hawaiian Advancement) convention with 54 stakeholders to talk about recommendations to address the homeless crisis.

The number one recommendation was to be bold with accessory dwelling units. The recommendation was to look for an investment of \$10 million through NAHASDA to build 400 accessory dwelling units across the state. They are seeking approval from the Commission to allow them to develop 5 ADUs as a pilot project with K. Mahoe-Theone being the first. The first step is to get the ADU building plan on the agenda for action.

He understands the limitations of the department in reviewing these building permits. It would be better to have the County do it. They started the process with K. Mahoe-Theone's application by going to the different departments like the Department of Health for the septic system. They have been working with the different government organizations to streamline the process and make sure that it's done in a way that these departments feel comfortable with what is going to be built and that it is something that is not going to hurt anybody or be a danger in the community.

Commissioner Ka'apu stated he is concerned that the department is already facing high delinquency rates from beneficiaries with their mortgages. He is concerned this may compound the problem. His other concern is enforcement. The department has limited resources and it will be hard to make sure that renters are native Hawaiian. The department is struggling to police what it has now. He has no problems with ADUs for family members. But the enforcement of rentals adds a whole new layer of compliance issues that the department is not ready to deal with.

J. Gilbreath stated not every family situation would benefit from this but there are families that will benefit.

Commissioner Ka'apu stated in Waimea it's very difficult to find rentals. If someone has an ADU, they can charge a thousand dollars for a small place. The question is whether or not the native Hawaiian small "n" beneficiary would be the one that would be able to afford that. It'll come down to renting it to the native Hawaiian who can afford \$200, or a \$1000 from someone else, nobody is going to check.

K. Watson stated that's why we are suggesting that there is an amount of subsidy involved. The \$10 million that they are asking for is to build 400 units at about \$25,000 per unit. The Mahoe unit will cost about \$43,000 and they are using two sources for the financing. On the construction they are doing a CNHA loan which is a seven year-8% to be replaced within 12 months with a permanently loan replaced with 25,000 NAHASDA loan which if she keeps the unit as a rental unit, in five years it converts to a grant which is what we did with our Kauhale replacement loan program. At the end of the day they should have a pretty good cash flow to not only help pay for the ADU but also help pay for their existing mortgage. It is an opportunity to use NAHASDA money to build 400 units out there for Hawaiian people.

Commissioner Ka'apu stated the point is that there is no way to make sure the homesteader is renting to another beneficiary.

Commissioner Kahikina stated the first pilot project request states that it is for K. Mahoe's father so the department would know the intent when the request was made. The county processes would substantiate the lease agreement for at least a minimum of six months.

K. Watson stated they will prepare leases and legal documents for the process and they have an ADU manual that the homesteaders and public can access. Appleseed Hawai'i was tasked with doing it.

Commissioner Kahikina stated he worked with J. Gilbreath on landlord training. He asked J. Gilbreath to explain how they plan to help beneficiaries be more successful. J. Gilbreath stated along with homebuyer education programs, they also do education and counseling for families

getting out of shelters or off the beach. They also connect with landlords and help to educate them about what it means to have somebody renting a room.

Commissioner Richardson stated he likes the idea but is concerned about enforcement as well.

Commissioner Ishibashi stated he likes the idea as well but agrees that there needs to be a way to assure that beneficiaries are the ones getting the rentals. If he were a landlord, economics would win every time.

Commissioner Kahikina stated he wanted to be the pilot family because his children and grandchildren live with him and he likes the idea of living together but not in the same home. He proposed that the Commission put the item on the agenda for the next Commission meeting.

Chair Masagatani stated she supports ADUs as well. She believes it is an important tool in the tool kit. Lessons have been learned from past projects where the department has rushed on big changes like this, and suffered for it. Currently there is no ADU program, even if it were to come on the agenda, the department has no program internally to review or enforce ADUs. She thanked K. Watson for the presentation and invites him to be a part of the discussion.

If the department relies on the county to do the inspections, will they actually do the inspections and enforce? Last year the department had a consultant start to look at this ADU issue and what needed to be changed in the rules to implement the program.

J. Gilbreath stated the beauty of a five family pilot project is that the department learns from the process and at the same time shows the beneficiaries that you are making a good faith effort to try to get this going. He urges the Commission to put the ADU item on its agenda for action at its next meeting.

K. Watson reiterated the statute is clear and if they need to go to court to get injunctive relief to force the department to recognize that there are sufficient rules to take action so this beneficiary can take care of her father who is living in a dilapidated house, that's what they need to do. If action isn't taken because the department needs more rules, it's not acceptable. It's not a threat, but there are too many homeless out there to use the excuse that there aren't enough rules.

Commissioner Ka'apu stated the problem is that no one can point to the rules that address what can be done when there are violations. K. Watson asked if it was more important than providing housing in emergency situations.

Chair Masagatani stated if K. Watson feels that he needs to go to court to move an action that the department is supportive of, it is his prerogative. There have been a number of situations in which the lack of rules has put the department in a situation where it cannot enforce violations. Meanwhile, beneficiaries who have tried to comply with the rules want the department to do something about those violations. ADUs are a new issue and it will take patience while the department figures out how to address the different layers of issues it brings. K. Watson stated the emergency proclamation allows DHHL to circumvent the rulemaking and proceed because it is an emergency situation. Chair Masagatani thanked everyone for the discussion.

ITEM J-7 Request to Address the Commission – PAT HUNTER-WILLIAMS, Kumu Camp

P. Hunter- Williams stated she has lived in Anahola since she was 17 years old. Her husband is a native Hawaiian and they have a farm lease but also live in their original family home in what is called the "Village" on Anahola Road. They are four doors down from Kumu Camp. She

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testified last year and appreciated Chair Masagatani offering to hold a community meeting to address issues relating to Kumu Camp. She thanks the department for changes it made to the website but suggested adding a directory with links to emails on the website so that people could email the divisions directly.

Her problem with the DEA (Draft Environmental Assessment) is that it was done after the fact. This is problematic because things could have been disturbed during the construction and we will never know about it. She finds it hard to believe that an EA was not ordered from the very beginning as part of the application process as required by state law.

There are three significant sites but only one was addressed in the EA. The Island Burial Council and SHPD (State Historic Preservation Division) should have been involved in the EA process. If there is going to be a decision to approve the FONSI, she strongly recommended archaeological monitoring by a qualified archaeologist because of it being the Anahola burial dune.

She is anticipating a finding of no significant impact but wonders about the impact the Camp has had on the community. There is a website advertising that feels like it's a vacation rental with commercial activity on the beach like surfing lessons, kayaking, rentals and a boat was purchased for tours down Anahola River. Mr. Cobb-Adams spoke very clearly about Anahola being rural and people don't want that kind of activity going on. She would like the record to show that she has never called the Department of Health to complain. She feels she has been vilified by some of the developers in public and social media about having obsession with Porta potties and things to that nature.

She sits on the advisory board for the Farmers Association and transparency is key, that's how you get buy-in from the community. The Kumu Camp folks have done a lot of work, which is commendable. But if you don't have buy-in from the community, it doesn't really matter how much work is done, if the community is not supportive.

She asked for documentation of the public meetings that were supposedly held because they never received notification. They are homeowners in the village, yet she and her husband have never received notification of a meeting. Mrs. Fernandez can speak to the lack of notification as well and she lives right across from Kumu Camp.

She submitted comments for the EA and asked for documentation referenced in the EA, but she still has not received anything. Now she heard testimony that there was a meeting with some of the fee simple homeowners in the village, she didn't get invited. Previously she might have been supportive if the project had been somewhat scaled-back, but she no longer feels like she can support it at all. She supports 100% of what Dr. Cobb-Adams said and thinks Kumu Camp should be shut down primarily because of the Anahola burial dunes and its impact on the community which I believe would have been addressed in an environmental impact statement.

Haulani Fernandez stated she lives in Anahola village, right across the street from Kumu Camp. They attended the first meeting because someone went around and said there was going to be a meeting. Majority of those at the meeting were against the project because they hadn't heard about it and it was a surprise for those in the Village. Her mom and dad lived there all their lives. She is a third-generation resident, most of the children of the old families are still there. Teddy, P. Hunter-Williams' husband is her cousin and their families have lived in Anahola all their lives.

Poha Road where Kumu Camp is, has always been the road to access to the beach. When they heard they were going to put up a gate to block the road, she was shocked. Just the other day she

went down Poha Road to get her dog and was shocked by the looks of it. Things were unkempt and not welcoming. The beach is not the same so they don't really use the beach like they used to. They don't feel comfortable in their own place, which hurts. She tells her grandchildren that they have every right to go down there. When they have some kind of function going on at Kumu Camp the kids come to the park to use the bathroom.

Chair Masagatani stated the department is trying to improve and be consistent in making sure beneficiaries have a voice in the decisions affecting their community. Chair Masagatani inquired if Kumu camp was located elsewhere, would they be more supportive?

P. Hunter-Williams and H. Fernandez agreed they might support it if it were elsewhere.

Chair Masagatani thanked P. Hunter-Williams and H. Fernandez for their testimony.

ITEM J-9 Request to Address the Commission – MANULELE CLARKE, Kukulu Kumuhana O Anahola (KKOA).

M. Clark thanked the Commission for allowing them to speak today to introduce everyone to their nonprofit organization called Kukulu Kumuhana O Anahola. She and Ku'ulei Johnson are the founders, and their purpose today is to impress upon the Commission the validity of their nonprofit organization as a significant contributor to the Anahola community.

K. Johnson explained over the past 7 years KKOAA has maintained a consistent presence in the Anahola community. They are passionate about their work and have the financial stability and capacity to complete their goals. They submitted an application for the Camp Faith property in 2014. Their project is aimed at building a healthy and strong community and to prevent teen suicide on Kaua'i. Their application included all of their activities including the Anahola Ohana Movie Night which started with 50 people and has grown to more than 200 people. They've been doing it for four months out of the year through partnerships with organizations like QLCC and Ka Hale Pono.

They attended the September 28 meeting on Kaua'i but felt a little bit out of place because it seemed like you have to be an association to be recognized by the department.

The pair met in 2009, after several teen suicides devastated the community. They felt like children needed a safe place to grow up. They asked for kūpuna blessings and drafted a letter and a survey and walked the community to let people know what they were trying to do. Since then, they've had a lot of good feedback and a lot of people coming on board to help organize and take part.

One community project to highlight is the Anahola Ahupua'a moving mural. It was a community effort. They made a deal with the county that they would be responsible for maintaining the mural for two years, and it's been five years. It has minimized vandalism at the clubhouse and has brought a lot of good energy into the community.

They've also participated in the Anahola Prince Kuhio Day, Anahola beach cleanup, Boys and Girls Club and many different things over these last years. They've partnered with DHHL and QLCC, Anahola Canoe Club and the Hokualele Canoe Club.

They drafted and submitted a proposal in 2010 which outlined their vision and broke it down into different phases. They've submitted the proposal several times since 2010, asking for Camp Faith or for any land that could help assist and support what they're doing for the children. K. Johnson stated that she really felt the need to convey the importance of their project and the need for

DHHL's support. They have surveys with signatures to prove that they represent a very strong portion of Anahola and have the backing of the community.

M. Clarke stated they are grassroots mothers who wanted to do something to help their traumatized community by building these families up. They want to bring families together so parents can build closer relationships with their children. They wanted to provide places that are safe for everyone so that their keiki can build good memories with their families. A healthy environment brings joy and that brings peace. Their movie nights bring together parents and grandparents to share in the lives of their children. They serve nutritious food like brown rice, salad and watermelon.

They need to lease land for the children in Anahola. They have a plan to grow organic fruit orchards and require a place to raise chickens and pigs. They have beautiful drawings from a board member who is an architect. If they can teach these kids animal husbandry and how to grow food and make products to feed their family, the children feel pride and have good self-esteem. They have a plan to get the families involved with their keiki by having them work for one day a week on the farm. They love their community and are only there to help the children choose life.

Chair Masagatani thanked M. Clarke and K. Johnson for their hard work in Anahola. She stated that the department works with a number of nonprofit organizations including a number of Homestead associations. The homestead associations are supposed to represent the voice of that community. Some organizations are more formal and others are less formal, and then we have a body of nonprofits that work very diligently like yourselves, who may not be member based but provide critical services in homestead communities. There are also organizations that are entities of the Homestead Associations like community development corporations.

K. Johnson stated they did a survey and sent it out to 518 lessee families in Anahola. The top three most important issues to the community was education, cultural activities and skill building.

Chair Masagatani thanks K. Johnson and M. Clarke for their time and patience and for sharing the information with the Commission.

ITEM J-10 Request to Address the Commission – KIPUKAI KUALII & SHERRI CUMMINGS, Anahola Hawaiian Homestead Association, FRANK CUMMINGS, Kaua'i Agricultural and Pastoral Alliance.

Kipukai Kualii, Sherry Cummings and Frank Cummings addressed the Commission. K. Kualii stated there was a lot of misinformation shared earlier.

He and his team are not just talking, they're doing the work. They show up and put in the time and not for ourselves, but for the community. These people make claims about rich investors but that's silly. They are just a community group following the rules, trying to educate themselves and build their capacity.

They have a lunch wagon that is a certified kitchen next to the pavilion that the youth groups, who use the property, can use. There's no commercial activity out of the lunch wagon. The kitchen is more than serving the community. All of the vendors are homesteaders from the community.

It is maddening to hear somebody come up here and testify that they're the true community and that we're not. People have different views and different ideas of how to do projects but there's

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plenty enough land, resources and grants for everyone to do more. The community needs all of us. There is no need to compete with each other, we can do different things. They support the farmers and the ladies who do things for the youth.

They want to do what is right and they have open meetings and have invited Ms. Williams several times but she has not come to a single meeting. They are all open-minded, volunteers doing the best they can for everyone.

F. Cummings stated they went to the big Island and are working on partnership with the Waimea Homestead Association to bring ten hot houses to Anahola. They had the opportunity to harvest some tomatoes and help erect a hot house for a retired Hawaiian and his family.

Chair Masagatani stated Hodson's model was focused on trying to show people that work full-time a way to farm to subsidize their income.

S. Cummings stated her genealogy for Commissioners. Hawaiian style they did what needed to be done and did not go around and tell all of the things they did with their money. They shouldn't have to prove or defend all the things they've done they just did it. They wanted to help the ladies with their youth programs, but the ladies returned their check. They wanted ho'oponopono, but everyone was too offended.

She paid for Hokualele Canoe Club out of her own pocketbook for two years, she did it for the kids, but now she has to defend all the things they've done for the community.

K. Kualii stated that Commissioner Davis had a concern about access. Poha Road is still there, anyone can go from Anahola Road which is paved, on the road to the bay. At the point where the road meets the beach they cleared an area for a parking lot for people who come to the beach. Their hope is to encourage people to stop driving on the beach. It is also a good place for turning around for emergency vehicles.

Nobody lives directly across the street from Kumu Camp except for some vacation rentals. The neighbors who spoke earlier live relatively close, but no one lives right across from Kumu Camp.

With regards to burials, prior to the Environmental Assessment being required, they paid for an archaeological survey to confirm for them whether some of the kupuna stories about it being a burial ground was true. TS Dye and colleagues, archaeologists, found that prior to the planting of the ironwood trees the lands were barren dunes constantly shifting from the trade winds and that the hukilau was prominent. The entire study was provided in 2013. All the comments about the EA being done after the fact is simply because they were not told they needed to have the EA until much later.

F. Cummings added that before any activity happened on the project, they as kanaka wanted to know if there was iwi in the area. To the best of the consultant's knowledge, there was no living layer in that area and it is unlikely that iwi was there. He wouldn't clear the opala and hau bushes just because. It concerns them more than anyone else. They wanted to do it the right way.

Chair Masagatani asked the same question she asked of Ms. Williams and Fernandez, if there was an option to move the camp to another location in Anahola, is that something that could work.

K. Kualii stated based on what they already know and how they are utilizing the property, it's extremely ideal for a campground and for everything they are doing. They've honored the integrity of the landscape and only removed a few dead ironwood trees. They can't see anything

better in that spot as being less invasive or obtrusive. The structures are not permanent so if they had to move, they could but to give up on the access to the ocean and to the river. Camp activities occur in the campgrounds, so to say that they are preventing anyone from using that area because of commercial activities is not true.

Chair Masagatani states it seems you all have strong feelings about the place and maybe it needs to remain a conservation area with access. Moving the camp might be something to think about in exploring options.

S. Cummings stated everyone has different ideas about how they take care of their things. they welcome others in and want to have programs like Manulele and Ku'ulei. In her former role with Hokualele, she did all the things they were talking about. If they need space, they are more than welcome to use the building. They want to ho'oponopono and reach out.

Commissioner Kahikina stated he supports AHHA and what they are trying to do. He reiterated the need for policies and procedures to make sure beneficiaries can access entitlements.

Commissioner Tassill stated the Anahola community is known for hukilau and the community needs to go back to the cultural practice of brining the whole village together to huki together instead of huki huki.

K. Kualii announced the next AHHA Board Meeting will be held on Monday, November 16th at 7pm. The next Protecting Homesteader Rights Briefing will be held next Monday October 26, 5:30 pm. Both meetings will be held at the Anahola Café.

Chair Masagatani thanks K. Kualii, S. Cummings and F. Cummings for their testimony.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item A-2, Edward Taniguchi, Re: Pastoral Leases

Erica Taniguchi stated her grandfather is a beneficiary who has been on the DHHL pasture waitlist for 54 ½ years, he applied for a lease in 1961. She is 35 years old, and can't imagine waiting ¾ of her life for a lease the way her grandfather has. He has been trying to engage in the process and coming to the DHHL office to talk to Erna, all her life. Her grandfather has been paying to have his cattle on another pasture while he waits and waits for his lease. He asked her to help him figure out how to get things going. She has been trying to educate herself about the process and admits it is very complicated and there is a lot of paperwork. He turned 80 years old and something has to happen. What more can they do to expedite the process. He is willing to take a kuleana lease, there is a pasture that was returned to the department in 1960 and has sat empty and unused for 54 years. He wants to raise his cattle on the land and raise the livestock that he already has. She wanted to introduce her grandfather to the Commission, because he is 80 years old and he may not be here much longer.

Chair Masagatani asked questions about the location of the pasture they looked at. E. Taniguchi stated DHHL offered him a pasture in Puu Opae, but it's too dry up there and 2 hours from where he lives.

Chair Masagatani asked if a E. Taniguchi would be willing to use the pasture if he were given a right of entry permit. E. Taniguchi stated he would take it. He is number 2 on the waitlist behind Eleanor Mehau who is 92 years old.

Chair Masagatani asked E. Tanighuchi to talk to Bob Freitas and Kaleo Manuel to identify some options.

ANNOUNCEMENTS

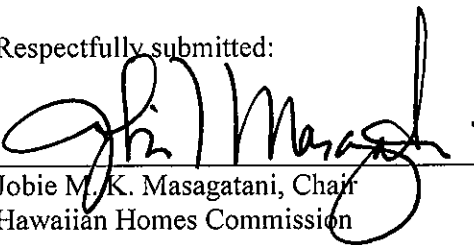
Chair Masagatani thanked everyone for coming out to the meeting. The next meeting is being held on November 16 & 17, on Maui.

The next community meeting will be held on November 16th on Maui.

ADJOURNMENT 4:45PM

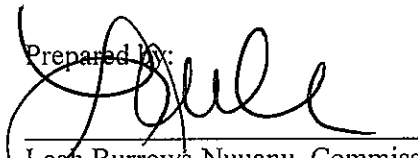
Moved by Commissioner Kahikina, seconded by Commissioner Richardson, to adjourn the meeting. Motion carried unanimously.

Respectfully submitted:



Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission


Prepared by:



Lean Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On
Tuesday, May 23 2017



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission