

HAWAIIAN HOMES COMMISSION
Minutes of August 20-21, 2012
Meeting Held in Lanai City, Hawaii

Pursuant to proper call, the 630th Regular Meeting of the Hawaiian Homes Commission was held at Hale Kupuna O Lanai, 1144 Ilima Avenue, Lanai City, Hawaii, at 10:40 a.m.

PRESENT Jobie M. K. Masagatani, Chairman Designate
 Imaikalani P. Aiu, Commissioner, Kauai
 Leimana DaMate, Commissioner, West Hawaii
 Gene Ross K. Davis, Commissioner, Molokai
 J. Kama Hopkins, Commissioner, Oahu
 Michael P. Kahikina, Commissioner, Oahu
 Ian B. Lee Loy, Commissioner, East Hawaii
 Renwick V. I. Tassill, Commissioner, Oahu

EXCUSED Perry O. Artates, Commissioner, Maui

COUNSEL S. Kalani Bush, Deputy Attorney General

STAFF Michelle Kauhane, Deputy to the Chairman
 Linda Chinn, Administrator, Land Management Division
 Francis Apoliona, Compliance Officer
 Darrell Yagodich, Administrator, Planning Office
 Dre Kalili, Policy Program Analyst
 Ray Kala Enos, Special Assistant, Office of the Chairman
 Juan Garcia, Administrator, District Homestead Operations Branch
 Kaleo Manuel, Planner, Planning Office
 John Peiper, Enforcement Officer
 Mike Robinson, Land Agent, Land Management Division
 Kuuwehi Hiraishi, Information Specialist, Information and Community Relations
 Elaine Searle, Secretary to the Commission

PULE Commissioner Hopkins

AGENDA Commissioner Hopkins moved, seconded by Commissioner DaMate, to approve the agenda. Motion carried unanimously.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA
August 20, 2012, 10:00 a.m., Hale Kūpuna O Lana`i, 1144 Ilima Avenue
Lana`i City, Hawai`i

ORDER OF BUSINESS

Roll Call

Approval of Agenda

Approval of Minutes of June 18-19, 2012 & July 23-24, 2012

A - WORKSHOP PRESENTATIONS

A-1 Lana`i Regional Plan

A-2 Aina Mauna Legacy Program Status Update

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS (for Monday agenda Items)

C - OFFICE OF THE CHAIRMAN

C-1 Approval of Management and Accounting Guidelines for the Water Systems
Owned and Operated by the Department of Hawaiian Home Lands to Submit
With USDA-RD Application

C-2 NAHASDA - 2012 Annual Performance Report

D - HOMESTEAD SERVICES DIVISION

D-1 HSD Status Reports

Exhibits:

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

C - DHHL Guarantees for USDA-RD Mortgage Loans

D - DHHL Guarantees for FHA Construction Loans

E - DHHL Guarantees for Habitat for Humanity Loans

D-2 Approval of Various Lease Awards

D-3 Rescission of Homestead Lease Award and Reinstatement of Application -
East Kapolei II B&C, Undivided Interest

D-4 Ratification of Loan Approvals

D-5 Approval of Consent to Mortgage

D-6 Schedule of Loan Delinquency Contested Case Hearings

- D-7 Homestead Application Transfers / Cancellations
- D-8 Commission Designation of Successors to Application Rights - Public Notice 2011
- D-9 Reinstatement of Deferred Applications
- D-10 Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds
- D-11 Approval of Assignment of Leasehold Interest
- D-12 Approval of Amendment of Leasehold Interest
- D-13 Cancellation of Lease -**Mary Lou De Aguiar**
- D-14 Designation of Successor - **Adeline K. Spencer**
- D-15 Request to Schedule Contested Case Hearing - Lease Violation
- D-16 Approval of Amendment of Leasehold Interest - **Lenora U. Vierra**, Lease No. 7634, Waiohuli
- D-17 Approval of Assignment of Leasehold Interest - **Jamie L.K. Akiona**, Lease No. 7474, Waiohuli; **Elizabeth H.K. Kahae-Luuloo**, Lease No. 9507, Waiehu Kou 2; **Martin Kahae**, Lease No. 5005, Ho'olehua

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
(continuation)
HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA
August 21, 9:30 a.m., Lana'i Youth Center, 717 Fraser Avenue
Lana'i City, Hawai'i

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS (for Tuesday agenda Items)

F- LAND MANAGEMENT DIVISION

- F-1 Finding of No Significant Impact (FONSI), General Lease No. 294, Kalaeloa Home Lands Solar, Kalaeloa, O'ahu
- F-2 Notices of Default and Revocations, Statewide
- F-3 For Information Only - Overview of Trust Land Request Review Process
- F-4 Authorization to Issue License to Waimea Hawaiian Homestead Association and Homestead Community Development Corporation, Waimea, Hawai'i
- F-5 Authorization to Initiate Direct Negotiation with Green Energy Hawaii for Alternative Energy Project, Anahola, Kaua'i
- F-6 For Information Only - Land Request for Land Formerly Known as "Camp Faith", Anahola, Kaua'i

J - GENERAL AGENDA

- J-1 Request to Address Commission - Hawaiian Community Assets
- J-2 Request to Address Commission - Homestead Community Development Corp.
- J-3 Request to Address Commission - Update Sandwich Isles Communications

EXECUTIVE SESSION

The Commission anticipates convening in executive meeting Pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities on this matter.

1. Honokaia 'Ohana et al. v DHHL et al., Civil No. 09-101615-07
2. Duties and Responsibilities of Commissioners
3. Claim for Replacement of Septic System, Leonard Low-Lalamilo, Waimea, HI

ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting – Tuesday, September 18, 2012, Naalehu, Hawai'i
2. Other Announcements
3. Adjournment


Jobie M.K. Masagatani, Chair Designate
Hawaiian Homes Commission

COMMISSION MEMBERS

Imaikalani P. Aiu, Kaua'i
Perry O. Artates, Maui
Leimana DaMate, West Hawai'i
Gene Ross K. Davis, Moloka'i

J. Kama Hopkins, O'ahu
Michael P. Kahikina, O'ahu
Ian B. Lee Loy, East Hawai'i
Renwick V.I. Tassill, O'ahu

Next community meeting to be held on Monday, September 17, 2012 at
Pahala Community Center, Pahala, Hawai'i at 6:00 p.m.

Special Accommodations (such as Sign Language interpreter, large print, taped materials) can be provided, if requested at least five (5) working days before the scheduled meeting on the respective island by calling (808) 620-9590.

A - WORKSHOP PRESENTATIONS

A-1 Lanai Regional Plan - Presenter, Kaleo Manuel, Planner

Land was acquired in 1999 from Department of Land and Natural Resources (DLNR) to include residential, agricultural, and commercial uses on Lanai. There are 29 lessees, currently living on Lanai, with 16 vacant lots, and 73 on the waitlist. Cost and financing are factors in developing these homestead lots, each averaging 10,000 sq. ft. In addition to 50 acres of residential lands, there are two (2) parcels of land: one a 10-acre parcel at a main crossroad leading to Manele Bay, and a 15-acre parcel near the Lanai airport being considered for the Trust as commercial and industrial uses, respectively. Water source comes from a private water purveyor.

Six priority projects are being considered: 1) an alternative energy plan; 2) awarding of the remaining 16 lots; 3) establishing a Hawaiian homestead community association; 4) using and managing vacant and underdeveloped lands; 5) installing speed bumps along Kamoku and Fifth Streets; and, 6) exploring land acquisitions. Current deed restrictions are for residential use only, and any further development would require new infrastructure improvements.

Beneficiary resident Sol Kahoolalahala provided information on the island's only water source from Maunalei Valley. With the introduction of pineapple, land exchanges were made with residents. James Dole came to Lanai in 1921; between 1926 to 1929, and with the introduction of pineapple, land exchanges were made with residents. Dole acquired 98% of Lanai through a land court quiet title proceeding. Lands awarded prior to this were removed or lined out and new awardee, Hawaiian Pineapple Company (Parcel 862), then appeared, noted Mr. Kahoolalahala.

Lanai Island is suffering due to the inundation of sheep and deer causing overgrazing. Drilling for water source has become difficult as the water levels have dropped hundreds of feet. Commissioner DaMate requested to have the commission be apprised of the water issues on Lanai. The Lanai Regional Plan was submitted to be made part of these minutes as Exhibit "A" of Item A-1.

Item No. A-2: Aina Mauna Legacy Program Status Update - Presenter - Mike Robinson, Agent, Land Management Division

Mike Robinson presented a power point of the Aina Mauna Legacy Program with its mission to manage and partner with others in developing and restoring a self-sufficient, healthy and conservative community on a 56,000-acre parcel located on the eastern slope of Mauna Kea, Island of Hawaii. The land was leased by Parker Ranch for over 100 years and DHHL is seeking to restore the lands to pre-contact days. Some of the ongoing activities have been to restore a koa forest, remove existing feral cattle, control infestation of gorse, and seek restoration grants. The potential income resources may come from Christmas trees, hiking and horse back tours, a convenience store, and a sheep station lodge. Jobs could potentially be available for a future homestead community. Restorative efforts are in progress for a bird sanctuary in the Kanakeleonui bird corridor. A koa seed orchard project to reforest 22,000 acres of koa trees was

initiated. An outreach program involving middle school students from Hilo provided experiences critical to the restorative efforts by planting koa seedlings.

Controlling gorse is a major effort as infestation has spread over 23,000 acres. Efforts to contain the gorse through various techniques still continue and costs expended to maintain gorse removal average eighty-five cents per acre. Commissioner Lee Loy wants accountability of monies expended for gorse control. He says utilizing helicopters to spray herbicide is not cost effective. Mike Robinson concedes it is expensive, and there are other tools to control gorse. He contends that 1,200 acres can be sprayed in a half day. Other countries have struggled to control gorse which is an ongoing challenge, and he welcomes other available solutions.

Commissioner DaMate requested to have Waimea students participate in these projects. She recommends partnering with the U.S. Army in Pohakuloa as they prepare to dig four water wells, one of which is on Hawaiian home lands in Humuula. Commissioner Aiu welcomes an immediate return from these investments such as providing current homesteading. There are five homesteaders currently using an area near Mauna Kea Access Road for pasture lands. Commissioner Hopkins suggests information be shared in the DHHL's "Ka Nuhou" newsletter. Members of the commission thanked Mike Robinson for his informative presentation.

ITEM NO. C-1

SUBJECT: Approval of Management and Accounting Guidelines for the Water Systems Owned and Operated by the Department of Hawaiian Home Lands to Submit with USDA-RD Application

MOTION

Moved by Commissioner Aiu, seconded by Commissioner Lee Loy.

DISCUSSION

Policy Program Analyst Dre Kalili updated commissioners on how the department is in the process of applying for its first grant through the USDA RUS (U.S. Department of Agriculture – Rural Utilities Service) as a direct grantee. To entertain this idea, one of the criteria is to put in writing the department's current practices and guidelines. Recommendation is to pursue these grants for the systems currently operated by the department. One grant specifically addresses critical repairs to the Molokai Water System, which services 500 homesteads in the Hoolehua and Kalamaula areas. To secure funding, an application needs to be submitted by September 1, 2012. Chair stated that the department plans to pursue any and all USDA RUS projects, if deemed eligible. Commissioner DaMate solicited for the ad hoc committee, on water, to be kept abreast of all water issues.

ACTION

Motion carried unanimously.

ITEM C-2

SUBJECT: NAHASDA – 2012 Annual Performance Report

MOTION/ACTION

None, For information only.

DISCUSSION

Appropriations for 2007 were fully expended. In addition, the department expended 33% of the 2008 funding, 2% of the 2009 funding, and none of the 2010 and 2011 funding, reported Deputy Kauhane. She articulated that a recent audit was completed and recommends for some funds to be placed in an interest-bearing account.

ITEM NO: D-1

SUBJECT: HSD Status Reports

MOTION/ACTION

None, For information only.

ITEM NO: D-2

SUBJECT: Approval of Various Lease Awards

MOTION/ACTION

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

ITEM NO: D-3

**SUBJECT: Rescission of Homestead Lease Award and Reinstatement of Application –
East Kapolei II B&C, Undivided Interest**

MOTION/ACTION

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

ITEM NO: D-4

SUBJECT: Ratification of Loan Approvals

MOTION/ACTION

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

ITEM NO: D-5

SUBJECT: Approval of Consent to Mortgage

MOTION/ACTION

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

DISCUSSION

A memorandum of Understanding (MOU) may be implemented, to determine a specified timeline for an assignment of the lease when the loan defaults. Workshops are being considered to address how the various loan programs in DHHL's loan portfolio works.

ITEM NO: D-6

SUBJECT: Schedule of Loan Delinquency Contested Case Hearings

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina.

DISCUSSION

Prior to approving a hearing, Commissioner Hopkins suggested that information be made available to the commission prior to appearing before the commission for approval. Today's request is merely to seek authorization by this commission to approve the hearing, stated Homestead Services Supervisor Juan Garcia. He clarified the contested case hearing process may not even come to fruition before this body, as the department usually attempts a work-out with the lessee beforehand.

ACTION

Motion carried unanimously.

ITEM NO: D-7

SUBJECT: Homestead Application Transfers/Cancellations

MOTION/ACTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-8

SUBJECT: Commission Designation of Successors to Application Rights – Public Notice 2011

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried. Chair recused from voting.

ITEM NO: D-9

SUBJECT: Reinstatement of Deferred Applications

MOTION/ACTION

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

ITEM NO: D-10

SUBJECT: Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds

MOTION/ACTION

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

ITEM NO: D-11

SUBJECT: Approval of Assignment of Leasehold Interest

MOTION/ACTION

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

ITEM NO: D-12

SUBJECT: Approval of Amendment of Leasehold Interest

MOTION/ACTION

Moved by Commissioner Aiu, seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-13

SUBJECT: Cancellation of Lease – Mary Lou De Aguiar

MOTION/ACTION

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

ITEM NO: D-14

SUBJECT: Designation of Successor – Adeline K. Spencer

MOTION/ACTION

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

ITEM NO: D-15

SUBJECT: Request to Schedule Contested Case Hearing – Lease Violation

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner DaMate. Motion carried unanimously.

ITEM NO: D-16

**SUBJECT: Approval of Amendment of Leasehold Interest – Lenora U. Vierra,
Lease No. 7634, Waiohuli**

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina.

DISCUSSION

A hearings officer determined that a granddaughter initiated the research of this property in anticipation of her succeeding to the lease; it was later determined that her grandmother designated the lease interest to her aunt, Ms. Vierra, noted Acting Administrator Dean Oshiro, Homestead Services Division. After acquiring the lot, Ms. Vierra then initiated plans to sell the lease to another beneficiary. Commissioner Lee Loy challenged the commission to craft a decision "for" or "against" this type of transfer of unimproved lots. The crux of the matter is that the department has spent over \$100,000 to \$150,000 on improved infrastructure and, it appears no monies were expended for any improvements by the lessee; yet, the lessee gains by selling the lot. The intent is not to punish the beneficiary receiving the land, but to protect the subsequent beneficiary on the waitlist, affirmed Commissioner Lee Loy.

Nothing in the Hawaiian Homes Commission Act mandates a lessee to disclose information on the sale of leases. A discussion on the sale of leases will need to be taken up at a later time, noted Chair. She requested a roll call vote. Commissioner Hopkins recused himself from voting.

ACTION

<u>AE (5)</u>		<u>AOLE (2)</u>	<u>EXCUSED (1)</u>	<u>RECUSED (1)</u>
AIU	TASSILL	DAMATE	ARTATES	HOPKINS
DAVIS	MASAGATANI *	LEE LOY		
KAHIKINA*				

* with reservation

ITEM NO: D-17

SUBJECT: Approval of Assignment of Leasehold Interest – Jamie L.K. Akiona, Lease No. 7474, Waiohuli; Elizabeth H.K. Kahae-Luulua, Lease No. 9507, Waiehu Kou 2; Martin Kahae, Lease No. 5005, Hoolehua

MOTION

Moved by Commissioner Lee Loy, seconded by Commissioner DaMate.

DISCUSSION

Two 25% lessees are requesting to exchange leases using a 50% native Hawaiian to circumvent their inability to transfer outright to each other. A request was made to adjourn in executive session to discuss this matter further.

MOTION/ACTION

Moved by Commissioner Aiu, seconded by Commissioner Tassill to adjourn in executive session. Motion carried unanimously.

RECESS 2:35 p.m.

EXECUTIVE SESSION

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

RECONVENE 2:45 p.m.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to reconvene in regular session. Motion carried unanimously

ITEM NO: D-17 (cont)

SUBJECT: Approval of Assignment of Leasehold Interest – Jamie L.K. Akiona, Lease No. 7474, Waiohuli; Elizabeth H.K. Kahae-Luulua, Lease No. 9507, Waiehu Kou 2; Martin Kahae, Lease No. 5005, Hoolehua

MOTION TO WITHDRAW

Moved by Commissioner Lee Loy to withdraw his original motion, seconded by Commissioner DaMate.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to defer this matter, subject to further review of commission's action of last year. Motion carried unanimously.

RECESS 2:50 p.m.

HAWAIIAN HOMES COMMISSION
Minutes of August 21, 2012
Meeting Held in Lanai City, Hawaii

PULE Commissioner Mike Kahikina

RECONVENE 9:30 a.m.

Regular Meeting of the Hawaiian Homes Commission was reconvened at the Lanai Youth Center, 717 Fraser Avenue, Lanai City, Hawaii, beginning 9:30 a.m.

PRESENT: Jobie M. K. Masagatani, Chairman Designate
Perry O. Artates, Commissioner, Maui
Imaikalani Aiu, Commissioner, Kauai
Leimana DaMate, Commissioner, West Hawaii
Gene Ross K. Davis, Commissioner, Molokai
J. Kama Hopkins, Commissioner, Oahu
Michael P. Kahikina, Commissioner, Oahu
Ian B. Lee Loy, Commissioner, East Hawaii
Renwick V. I. Tassill, Commissioner, Oahu

COUNSEL: Deputy Attorney General S. Kalani Bush

MINUTES: Commissioner Hopkins moved, seconded by Commissioner Aiu, to approve the minutes of June 18-19, 2012 as circulated. Motion carried unanimously.

AMENDED AGENDA

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to convene with Public Testimony No. 1 - Duties and Responsibilities of Commissioners, in executive session; reconvene with Public Testimony; then, address Items F-5 and J-3 as recommended by Chair. Commission will then convene with the regular session. Motion carried unanimously.

B – PUBLIC TESTIMONY

1. Blake Oshiro – Deputy Chief of Staff, Governor's Office

Deputy Chief of Staff Blake Oshiro, representing Governor Neil Abercrombie, reminded the commission of its duty and commitment to the purposes for which the Department of Hawaiian Home Lands was created; to ensure decisions are made in the best interest of all beneficiaries,

and to achieve these goals by making sound and prudent decisions, not acting hastily. It is important to weigh heavily its fiduciary responsibility by considering all options, said Deputy Oshiro adding that "Governor requests that this commission act with due diligence and with focused purpose in achieving these goals." There is a long road ahead for beneficiaries, current and future, and for the State to live up to its obligations. A decision by the court and significant funding is likely to end soon, and current legislation points to a period of uncertainty. Governor Abercrombie is committed to working with the department through imminent changes and to survive the course, said Deputy Oshiro. It is a first of many discussions on this journey and the Governor anticipates working and supporting this commission. Deputy Oshiro extended his support to this commission. His testimony submitted as part of these minutes, as Exhibit "A" of Mr. Oshiro's Public Testimony.

MOTION/ACTON

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to adjourn in executive session. Motion carried unanimously.

RECESS 10:05 a.m.

EXECUTIVE SESSION

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

1. Duties and Responsibilities of Commissioners

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Hopkins, to reconvene in regular session. Motion carried unanimously.

RECONVENE 10:40 a.m.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Tassill, to address Item No. F-5 in executive session - Authorization to Initiate Direct Negotiations with Green Energy Hawaii for Alternative Energy Project, Anahola, Kauai. Motion carried unanimously.

RECESS 11:20 a.m.

EXECUTIVE SESSION

Pursuant to section 92-5 (a), HRS, the commission convened in executive session to consult with its attorney on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities on Item No. F-5.

RECONVENE 11:45 a.m.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates, to convene in regular session and commence with "F" agenda items. Testimony for Item No. 5 will be taken at the time of presentation. Motion carried unanimously.

ITEM NO: F-1

SUBJECT: Finding of No Significant Impact (FONSI), General Lease No. 294, Kalaeloa Home Lands Solar, Kalaeloa, Oahu

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates.

DISCUSSION

Jody Allione, Kalaeloa Home Lands Solar, stated the terms and conditions of the contract, which is to solicit work locally in the community, to include both skilled and non-skilled workers. A community benefits packet plan was vetted with three Kapolei communities and met approval to receive a 1% commitment for educational funding for a charter school (to be determined) and a job fair at DHHL for westside beneficiaries. Both Commissioners Kahikina and Lee Loy recommended that beneficiaries receive a community benefits agreement. Comparatively, Anahola's homestead association intends to create a non-profit fund of 2% gross to be placed in wherever Anahola leadership deems appropriate, noted Robin Danner, Homestead Community Development Corporation (HCDC) CEO.

ACTION

Motion carried unanimously.

ITEM NO: F-2

SUBJECT: Notices of Default and Revocations, Statewide

MOTION

Moved by Commissioner DaMate, seconded by Commissioner Kahikina.

DISCUSSION

Land Agent Kahana Albinio noted that the department continues to work effortlessly to maintain all general leases and to keep the commission informed of these delinquencies.

ACTION

Motion carried unanimously.

ITEM NO: F-3

SUBJECT: For Information Only – Overview of Trust Land Request Review Process

MOTION/ACTION

None, For Information Only.

DISCUSSION

Planning Administrator Darrell Yagodich provided information on how Trust responsibility of the commission connects to the due diligence of the work done by the staff. Duties are to:

- 1) administer the Trust solely in the interest of the beneficiaries;
- 2) use reasonable care to make Trust property productive;
- 3) deal impartially when there are more than one beneficiary; and
- 4) act prudently when entering into leases.

Measure is to take fiduciary duties and provide different criteria to evaluate the best use of Trust asset. The criteria include:

- 1) use of assets in highest and best use;
- 2) have an undivided loyalty to beneficiaries;
- 3) assure experiences with type of project; and
- 4) maximum benefits to the Trust;
 - a) monetary, b) community, c) social, d) cultural;
- 5) level of risk not to expose the Trust to financial and legal risks;
- 6) ascertain financial fiscal soundness;
- 7) compatibility of existing use - to support future land use for the area;
- 8) consider all beneficiaries in discussions - lessees, applicants and future generations.

The process of decision making and timeline consider:

Plans and Land Use Compatibility

- 1) examine water road, utility and wastewater;
- 2) review of proposals whether existing plans or infrastructure can take place;
- 3) flora and fauna and archaeological sites, endangered species, shoreline, coastal;
- 4) topography, slope, rainfall and climate;

- 5) determine if it fits in with the character of the homestead community;
- 6) consistent with plans for the surrounding lands;
- 7) impact on the surrounding homesteads and communities.

Project Proposal Assessment

- 1) financing;
- 2) upset rent requirements;
- 3) development budget for project;
- 4) earnest finance requirements;
- 5) statement of experience and capacity to develop projects of similar scope, with documentation;
- 6) development plan being proposed - conceptual drawings;;
- 7) survey reports and funding approval by partners.

Beneficiary Input and Feedback

- 1) beneficiary consultation policy;
- 2) acceptability in homestead;
- 3) fair treatment of all;
- 4) identifying beneficiary preferences.

Planner Kaleo Manuel provided a flow chart of the Trust land review request process, which demonstrated a step-by-step process involving two (2) land use examples. He noted that the proposal may take 6 to 8 months to be presented to allow due diligence on the part of the department. Some projects may take up to 24 months to prepare and include:

- 1) land use request submitted to begin the process;
- 2) consistency with land use;
- 3) plan and land use compatibility - highest and best use of land;
- 4) market assessment to determine need;
- 5) due diligence findings presented to commission on disposition;
- 6) HHC approval and land disposition;
- 7) General Lease, HRS §171.59, §171.95, §171.43, HHC 220.5;
- 8) negotiations;
- 9) execute instrument.

The commission's ability to zone its own lands is a tremendous authority. Comparatively, it would take five to six years to go through state and county land use processes. In preparation of the island plans, communication with state and counties is crucial as plans are continuously being updated. Commissioner Artates applauded the Planning Office's work in navigating upcoming projects on Maui, such as Pulehunui, an industrial commercial project, which plans to sustain beneficiaries with revenue. The commission has the authority to build what it deems necessary on its lands; however, anticipating infrastructure growth also prepares the counties with its budgets.

The department's Planning Office maintains its due diligence in offering the best information possible. Some projects have taken longer than two (2) years, added Planner K. Manuel. Some of the frustration in working with beneficiaries is in not knowing a positive point on when an item can be brought before the commission, expressed Commissioner Aiu.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to adjourn to executive session to discuss further on this subject matter. Motion carried unanimously.

RECESS 12:55 p.m.

EXECUTIVE SESSION

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

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to reconvene in regular session. Motion carried unanimously

RECONVENE 1:10 p.m.

NOTE

Chair clarified that the form included within the submittal was intended to be illustrative of the process, or an example, which staff goes through in both simple and complex cases. It is not necessarily a form.

ITEM NO: F-4

SUBJECT: Authorization to Issue License to Waimea Hawaiian Homestead Association and Homestead Community Development Corporation, Waimea, Hawaii

Land Management Administrator Linda Chinn provided clarification to the submittal for the following items:

RECOMMENDATION

- a) Issuance of a 2-year license, gratis, to HCDC, to enter Hawaiian home lands in Puukapu to conduct due diligence for a proposed community facility;

- b) Authorize DHHL to initiate negotiations of the terms and conditions of a long-term general lease;
- c) HCDC to consult with WHHA and DHHL for a Homestead Benefit Agreement;
- d) Beneficiary consultation to be conducted by DHHL;
- e) Withdrawn.

MOTION

Moved by Commissioner DaMate, seconded by Commissioner Hopkins.

DISCUSSION

Waimea Hawaiian Homestead Association (WHHA) President, Michael Hodson, stated HCDC (Homestead Community Development Corporation) is the entity WHHA has chosen for its economic development. He wants assurance that more beneficiaries are being urged to attend beneficiary consultation meetings. Commissioner DaMate supports this motion and envisions this project to be an economic advantage for the Waimea community.

There are several components to the first phase with an anaerobic digester being considered primarily for electricity to pump a methane generator, equivalent to lighting up 36 homes. A cemetery is another priority. Farming and marketing of products is intended to bear the initial funds of its first project.

AMENDED MOTION/ACTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins, to amend Item D: **"The beneficiary consultation process to be conducted by DHHL, and involve HCDC/WHHA in the planning of the beneficiary consultation process, on this specific project, and must be completed prior to the issuance of the general lease."** Motion carried unanimously.

ACTION

Motion, as amended, carried unanimously.

ITEM NO: F-5

SUBJECT: Authorization to Initiate Direct Negotiation with Green Energy Hawaii for Alternative Energy Project, Anahola, Kauai

RECOMMENDATION

That HHC authorizes DHHL to initiate a direct negotiation with Green Energy Hawaii LLC pursuant to Chapter 171.95, HRS, as amended, subject to all requirements of this statutory provision for the use of approximately 1,176 acres of arable and usable Hawaiian home lands in

Anahola, Kauai, to harvest, grow, and produce biomass crops, excluding the planting of any invasive plants that may be cultivated on the lands for conversion to electricity.

Correction: Exhibit "B," Center column, Land Use Request Evaluation should be listed as Green Energy.

MOTION

Moved by Commissioner Aiu, seconded by Commissioner Hopkins.

DISCUSSION

On September 10, 2012, DHHL received a letter of proposal from Eric Knutzen, Green Energy Hawaii LLC (Green Energy) regarding the harvesting of Albizia trees on Hawaiian home lands in Anahola - Kamalomaloo for sustainable economic energy production. Green Energy is a renewable energy development business on Kauai, in the business of converting feedstock to energy at a biomass facility on the island.

Introduction of Homestead Community Development Corporation (HCDC) board members: Robin Danner, Lorraine Rapoza, Mike Hodson, Blossom Feiteira, Sherry Cummins-Yokotake.

Blossom Feiteira - noted similarities of this submittal and the decision of Ahuna v. DHHL in which HHC was sued because they made a decision, giving weight to State verses beneficiaries. She questioned whether the department is attempting to breach its Trust fiduciary duty.

Mike Hodson - pointed out some of the principle purposes of HHCA -- to preserve the values, traditions, and cultures of native Hawaiians, by placing native Hawaiians on the land in a prompt and efficient manner. He viewed DHHL as a competitor to beneficiaries, by giving undue emphasis in the interest of the State. He understands DHHL's need to administer the Trust for all beneficiaries through self-determination and self-sufficiency. He decried the competitiveness against beneficiaries, which is the sole purpose of why DHHL was created -- to aid beneficiaries. "Let's not have another lawsuit," stated Mike Hodson.

Lorraine Rapoza - Everything has been a battle in working with DHHL's Land Management Division over the past 30 years. She agrees with the previously stated comments, and recommended to the commission to do what is important to this Trust. "If we can't figure out what the Trust is, we need training."

Robin Danner - thanked the Governor's Deputy Chief of Staff Blake Oshiro for offering his assistance to this commission and its beneficiaries. She recommended that he seek out the Director of Budget and Finance, and review DHHL's \$52,000,000 budget request. She recommended that the governor appropriate \$15,000,000 of the DHHL employee budget to be included in the State's budget.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu, to adjourn in executive session to discuss Item No. F-5 with its attorney. Motion carried unanimously.

RECESS 2:20 p.m.

EXECUTIVE SESSION

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

RECONVENE 3:05 p.m.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner DaMate, to reconvene in regular session and continue with Item F-5.

ITEM NO: F-5 (cont)

SUBJECT: Authorization to Initiate Direct Negotiation with Green Energy Hawaii for Alternative Energy Project, Anahola, Kauai

AMENDED MOTION

Moved by Commissioner Aiu to have Hawaiian Homes Commission authorize Department of Hawaiian Home Lands, working with HCDC (Homestead Community Development Corporation), to initiate a direct negotiation with Green Energy Hawaii LLC, seconded by Commissioner Hopkins.

DISCUSSION

Commissioner Kahikina supported the discussion and deferred to Commissioner Aiu, to add his support. Commissioner DaMate said she would normally defer with this decision but declined to support the motion. Commissioner Lee Loy is in favor of the amended motion, and noted that no one comes out a clear winner. The commission is determined to empower the community; yet, at the same time, there should be some concerns raised by this commission such as how it got to this point. He believes this issue will still empower the Anahola community; and, with time constraints, is the best way to proceed. Commissioner Hopkins said he will hold this department accountable for making it work. Commissioner Tassill said he will use this as a stepping stone, and will agree to the amendment. Commissioner Aiu said some issues will take time to resolve,

but he did not want to delay and have it fall through for Anahola. Staff presented what they felt was right, and he cannot fault them for it. Having beneficiaries be placed on the land is far more critical. Commissioner Aiu extended a mahalo to everyone for their contribution. Commissioner Kahikina expressed a change of heart, and decided not to support the amendment. Chair requested a roll call vote.

AMENDED ACTION

<u>AE (6)</u>		<u>AOLE (3)</u>
AIU	LEE LOY *	DAMATE
ARTATES *	TASSILL *	HOPKINS
DAVIS	MASAGATANI	KAHIKINA

* with reservation

Motion carried.

ACTION AS AMENDED

<u>AE (5)</u>		<u>AOLE (4)</u>
AIU	LEE LOY *	DAMATE
ARTATES	MASAGATANI	HOPKINS
DAVIS		KAHIKINA
		TASSILL

* with reservation

Motion carried.

DISCUSSION

Chair announced that due to time constraints, the unfinished business will be taken up at the next general meeting.

MOTION/ACTION

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

ADJOURNMENT: 3:20 p.m.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

September 17-18, 2012, Hilo and Kau

ANNOUNCEMENTS

Next community meeting will be held on September 17, 2012,
Pahala, Hawaii.

ADJOURNMENT

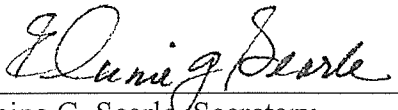
3:20 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman Designate
Hawaiian Homes Commission

Prepared by:



Elaine G. Searle, Secretary
Hawaiian Homes Commission

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

September 17-18, 2012, Hilo and Kau

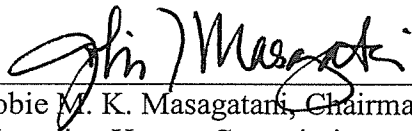
ANNOUNCEMENTS

Next community meeting will be held on September 17, 2012, Pahala, Hawaii.

ADJOURNMENT

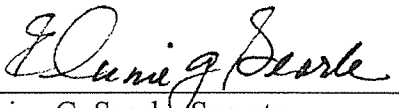
3:20 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman Designate
Hawaiian Homes Commission

Prepared by:



Elaine G. Searle, Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Meeting Of
June 17, 2013



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission