

HAWAIIAN HOMES COMMISSION

Minutes of December 16, 2019

Hale Pono'i, Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the 718th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i, beginning at 9:30 a.m.

PRESENT

William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka'i Commissioner
David B. Ka'apu, West Hawai'i Commissioner
Michael L. Kaleikini, East Hawai'i Commissioner
Russell K. Kaupu, O'ahu Commissioner
Dennis L. Neves, Kauai Commissioner
Patricia A. Teruya, O'ahu Commissioner

EXCUSED

Pauline N. Namu'o, O'ahu Commissioner

COUNSEL

Ryan Kanaka'ole, Deputy Attorney General

STAFF

Tyler Gomes, Deputy to the Chairman
Paula Aila, Finance and Development Specialist
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Administrator, Homestead Services Division
Andrew Choy, Acting Manager, Planning Office
Stewart Matsunaga, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
Cedric Duarte, ICRO Officer Information & Community Relations Office
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist Planning Office

ORDER OF BUSINESS

CALL TO ORDER

Chair Aila called the meeting to order at 9:53 a.m. Eight (8) members were present at roll call.

APPROVAL OF AGENDA

Chairman Aila made amendments to the agenda as followed:

- Item F-3 has been removed from the Agenda
- Item J-4 is deferred to Tuesday
- Mrs. Lea Kane will be able to address the Commission during Public Testimony

MOTION/ACTION

Moved by Commissioner Kaupu, seconded by Commissioner Helm, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

Approval of Minutes for October 2019 and November 2015.

Commissioner Teruya stated she would not approve the 2015 Minutes as she was not a Commissioner at the time.

Chairman Aila deferred the Minutes for October 2019 and November 2015 to the next meeting.
Hawaiian Homes Commission Meeting December 16 & 17, 2019, Kapolei, O'ahu, Hawai'i Page 1 of 26

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Senator Kurt Fevella Item:

K. Fevella stated he went to different Commission meetings and heard about a lot of issues like Catholic Charities, the Solar Farm in Kapolei, and the taking down of the library on the Mauna. He wondered if Commissioners were approving those actions or if it was just the Chairman. He asked to see the minutes or actions on the extension of the Catholic Charities' lease and the solar farm. Beneficiaries from O'ahu and the neighbor islands are calling him. The people want to know the process because the Chair keeps saying the beneficiaries know, but the beneficiaries say they don't know.

Chairman Aila stated that the Commission would answer him in writing and commit to posting that on the website so everybody can see it.

ITEM A-2 Special Olympics Hawai'i (SOHI) Board Members Todd Apo, Sam Moku and Shirley Swinney Re: Item F-5

T. Apo testified in support of the Special Olympics conversion of the license into a general lease. They want to continue the development of the Special Olympics facility as well for the Kapolei community.

S. Moku testified that he is a Board Member and a long-time SOHI volunteer. He has coached thousands, including native Hawaiians, in SOHI. He stated there is at least \$3.5 million in the property, and the goal is to complete the investment in the 2.45-acre property.

S. Swinney testified that she is a homesteader of Malu'Ohai since 2001. She aspired to give back to her community and founded the Kapolei Community Development Corporation (KCDC), which drives the Kapolei homestead regent projects. Serving on the SOHI board, she realized how it reaches out to the Trust beneficiaries. The SOHI provides services to those with intellectual disabilities, and many attended to testify.

Commissioner Teruya stated as the Commissioner of O'ahu, she is concerned about using prime land for a project when there is such a long waitlist for residential housing.

ITEM A-3 Jonathan Ishimura Re: Item F-5 Special Olympics Hawai'i (SOHI)

J Ishimura is from Waianae. He testified he is in support of the SOHI for its sports and wellness.

ITEM A-4 Yuki Lei Tanaka-Pabo Re: Item F-5

Y. Tanaka-Pabo is a DHHL lessee. She is the parent of a special needs daughter diagnosed with autism since she was six years old and who is a part of the SOHI program. T. Tanaka-Pabo supports the SOHI.

ITEM A-5 Punahale Carnate Re: Item F-5

P. Carnate testified as a volunteer for the Special Olympics. Her son has down syndrome and is a Special Olympian. She supports the SOHI.

ITEM A-6 Adrienne Laurion Re: Item F-5

A. Laurion is the Neighbor Island Regional Director for SOHI and has served in the position for 23-years. She appreciates the passion of DHHL, making sure that the beneficiaries are the ones to use the land and get the most use out of the land. Beneficiaries are not just O‘ahu people but Hawaiians on all the islands. She advocated for the wellness and health for the Special Olympians who don’t know how to articulate their needs and wants. A. Laurion stated that sports, competitions, and learning about health help the SOHI to serve it’s community best. She stated that giving SOHI the lease and allowing them to start building is an opportunity for them to give back to the community. She believes the SOHI helps to build confidence in the Hawaiian children and adults with developmental disabilities.

Commissioner Teruya commented that the Commissioners also continue to serve the beneficiaries that are on the waiting list.

ITEM A-7 Howard Galariada Re: Item F-5

H. Galaraiada testified that he likes to do basketball, bowling and track and field. He would like to get some volunteers to help them at SOHI. He is an athlete with SOHI.

ITEM A-8 Ryan Ho Re: Item F-5

R. Ho testified he attended Kamehameha Schools, where he learned to thrive as a Hawaiian. He has been a volunteer with SOHI since he was a child. He became a unified partner with a SOHI Olympian and competed with him, side-by-side. He supports that the SOHI Olympians can have a place to call home.

Commissioner Awo stated that many of the HHL beneficiaries are also looking for a place to call home. It is not that the Commission does not appreciate what SOHI does for the keiki and community, but the request represents a conflict with the HHL mission.

Commissioner Helm stated O‘ahu has the largest amount of people on the waitlist and the smallest amount of acreage. He stated as a Commissioner, his job is to take care of the people on the waitlist first. It is hard to find prime, decent land to build homes for the native Hawaiian people.

Chairman Aila reminded the Commissioners that SOHI already has a 45-year license for the property.

Commissioner Teruya stated her concern is that Hawaiian businesses are looking for approvals for right of entry permits for 1-year or month-to-month terms. SOHI has a 45-year license.

Chairman Aila stated SOHI is asking to convert from a license to a lease for financial purposes. On a license, you cannot get financing, but on a general lease, you can.

ITEM A-9 Dan Epstein Re: Item F-5

D. Epstein clarified that the most significant difference from a license to a lease is the funding issue but also the donor issue. Foundations have specifically asked SOHI that question, and it makes the difference if they will fund SOHI or not. He is the COO of the SOHI and is appreciative of what HHL has done for them. He stated that SOHI serves over 3500 individuals with intellectual disabilities ranging from ages 2-years old to 89-years old Auntie Vivian, who lives on the Big Island. SOHI serves approximately 36-37% of folks who are Hawaiian or part Hawaiian.

Commissioner Awo stated that compensation is not an adequate investment that benefits the DHHL beneficiaries as a result of them not being able to use the land. For him, that is an issue.

ITEM A-10 Robin Danner Re: Item F-5

R. Danner is the elected Chairman of the SCHHA. She stated that the SCHHA has a standing policy in opposition to any land issued to a non-beneficiary business or organization. The HHC Act states that available lands may only be issued under 204 a general lease. There are over 14,000 native Hawaiians on the waitlist on O'ahu. Hawai'i must support SOHI, maybe the City and County of Honolulu should be giving land. SOHI is not a minor organization. They could buy 2-acres anywhere in the Kapolei region and add that to their capital campaign. They raised \$3.5 million, and they will raise tens of millions of dollars. She would like to see SOHI's financial report. The issue is the purpose of the trust and how to help its beneficiaries. She asked the Commission to table the request and get an opinion from the AG on what the words "not required" means under section 204 when it says you may not use this section to issue land to a non-beneficiary organization unless the lands are "not required" for the waitlist.

ITEM A-11 Michael Kahikina Re: Item F-5

M. Kahikina testified as the Chairman of the Association of Hawaiian Home Lands a waitlist organization of O'ahu. He asked that the previous speaker's words be incorporated into the record as his own.

ITEM A-12 Homelani Schaedel Re: Item F-5

H. Schaedel is the President of the Malu'ohai Residence Association. She stated she is not fond of the word rehabilitate in reference to the HHC Act or native Hawaiians. She prefers the definition of re-establish or restore. For over 50 years, SOHI served the State of Hawai'i including native and part-Hawaiians restoring dignity, respect and confidence. SOHI is not a beneficiary controlled organization and neither is Aha Punana Leo, Ka Wai Hona, Hawaiian Civic Club, Kamehameha Pre-Schools, Alu Like, Queen Lili'uokalani Trust, Keola Mamo, Papa Ola Lokahi and countless other organizations that have small parcels of Trust lands because they provide much needed education, culture, health, language and spiritual services to the Hawaiians that allow the people to thrive. DHHL's kuleana is to place native Hawaiians on HHL lands and it is the kuleana of the HHC who has the final say how the Trust lands are used. She asked the Commission to support SOHI.

ITEM A-13 Jade Fernandez Re: Item F-5

J. Fernandez is a SOHI coach who testified that she would appreciate if the Commission would change the license to a lease so that they can get a training facility for the SOHI athletes on the Westside.

ITEM A-14 Germaine Meyers Re: Item F-1

G. Meyers quoted the Sunshine Law regarding Minutes being posted on the DHHL website within 40 days. She went on to mention the Minutes that were not posted. Regarding Item F-1, she referenced pages 9, 10 and 11. She stated that the mandate of the HHC Act states that the Department is to give residential, agricultural and pastoral leases. She stated the focus has been on residential but agricultural and pastoral are just as important to the beneficiaries. She wanted to know why changes were made to the Nanakuli and Waianae Regional Plan without the feedback of the beneficiaries. Regarding Item F-5, when you have a right of entry or a license, you have no power to get financing. For the SOHI, they need a lease to get financing, but the Hawaiians 50% or over have a month-to-month or a year license and they cannot do financing.

Chairman Aila stated Mrs. Aila is not on a residential lot but an ag lot. The area that Kaynard has an ROE permit is prone to flooding. There are reasons why some lands are not issued. G. Meyers

asked if could go vertical and Chairman Aila state no because when the floods come, everything is flooded.

Commissioner Teruya stated there is a tenant with an industrial ROE permit in the area. Chairman Aila stated they are at a higher elevation.

ITEM A-15 Kuhio Lewis Re: Item F-5

K. Lewis spoke as a Kapolei homesteader although he noted that he is the President and CEO for the Council for Native Hawaiian Advancement (CNHA). He stated since he moved to Kapolei in 2010, SOHI has been a regular conversation within the community. The designation of the parcel is within the Regional Plan and Island Plan for community use. He stated that the community had conversations about how to support SOHI. SOHI has engaged with the beneficiaries in the community. He was not negating the kuleana to the beneficiaries of the trust and the waitlisters but wanted the Commission to know that SOHI has been discussed with the community and he supports SOHI.

ITEM A-16 Leona Sa McDermott Re: Item F-5

L. McDermott testified as a parent/coach of SOHI. She is also a lessee on the Anahola homestead. Her son is an athlete of SOHI and there are many native Hawaiian SOHI athletes. She stated coaches have a direct impact on the lives of the athletes to help them acquire skills to obtain employment, succeed in school and achieve personal goals in life. Prince Jonah Kuhio Kalaniana'ole was committed to supporting the rehabilitation of his people and is memorialized for his leadership, tenacity and his commitment to elevating his people. She supported the granting of the license to lease for SOHI.

ITEM A-17 Kalei'aina Lee Re: Item F-1

K. Lee testified he is not a beneficiary but is a great-grandson and grandson of a beneficiary. He is speaking on behalf of his brother Benson Lee who is the owner of Hawaiian Steam, who is up for reconsideration for an extension of their annual right of entry. For context, Hawaiian Steam was issued a notice of cancellation of their month-to-month right of entry that was effective December 16, 2019. K. Lee's understanding is that an understanding has been made between the Department and Hawaiian Steam to give more time to address additional issues that have been brought to the company's attention, of which workers have taken it upon themselves to expand their right of entry. K. Lee stated that Benson hires native Hawaiians who were incarcerated and returning to society. Benson also trains them in CDL licensing and other licenses to work in craft trades. Hawaiian Steam also donates its workers to help restore a fish pond that belongs to Kamehameha Schools, and Hawaiian Steam pays the workers. Benson is not present because he is working.

ITEM A-18 Rose Molio'o Item F-1

R. Molio'o asked why it takes almost 20-30 years to obtain a residential lease. She stated her parents applied in 1946 but they got called in 1985 for a property. Her father had 10-years of privilege to live on the land. She also asked why do businesses have more priority to lease land versus the Hawaiian people.

Chairman Aila stated it takes lots of resources to provide a lot for someone to occupy. He asked Deputy Gomes to help R. Molio'o with her questions.

ITEM A-19 Robin Danner Re: Item F-1

R. Danner requested the Commission direct DHHL to add to the ROE license and general lease listings, identifying which of the lessees are small “n” beneficiaries and which are “N” beneficiaries and those that are “no n” general public. She also requested the Commission to direct DHHL to establish a beneficiary mercantile waitlist. R. Danner stated on the ROEs that come up every year; there is no beneficiary consultation. She stated there should be standardized policies, and the ROE folks should be in the room during the beneficiary consultations. Finally, there are ROEs on the list that should be tabled for beneficiary consultation, specifically the Honolulu Polo Club. The request is not to approve the 3-acres to the Honolulu Polo Club.

ITEM A-20 Bode Kalua Re: Item J-2

B. Kalua had concerns regarding Waimanalo. He stated it is hard to split one property with ten siblings. He asked that DHHL make way for the lands that DHHL says is not available in Waimanalo. There are about 2,000 acres in Waimanalo and 75% of that Waimanalo land is mountain and watershed. He called the Development Department and was told they had no idea why that is labeled conservation land. He called the State Conservation and was told that every community has a watershed. He does not understand how that responsibility is put onto the beneficiaries because that is 1,410 acres that the mountain occupies. He stated he wants to stay in Waimanalo so the land has to be liveable land not the mountain.

MOTION

Moved by Commissioner Neves, seconded by Commissioner Kaleikini to convene in an executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN

12:19 P.M.

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

1. Discussion on the State Ethics Code, HRS chapter 84, as applied to the Commission.

EXECUTIVE SESSION OUT

2:30 P.M.

ITEM A-21 Napua Hueu Re: Item J-2

N. Hueu testified of the gross negligence of the Kahikinui region by DHHL for the mismanagement in partnership with Ka Ohana O Kahikinui Association. N. Hueu expects the following answers to her concerns to be made public by the Kahikinui Investigative Committee and prepare a fact sheet to clarify her questions and concerns.

ITEM A-22 Mary Ann Pahukoa Re: Item J-2

M. Pahukoa testified of the negligence of the Ka Ohana O Kahikinui Association. The process for requesting access and a key to the main gate is faulty. She stated the Association has retaliated against her ohana for asking questions regarding access. It is the duty of the Commission to support beneficiary rights. She suggests that the Commission conduct a complete investigation on all matters mention of Kahikinui.

ITEM A-23 Shasta Re: Item J-2

Shasta testified the mismanagement of Kahikinui and harvesting practices brought forth by Kia LLC in Kahikinui which are disgusting and offensive to the Hawaiian culture. The Kahikinui project stems from an irresponsible and non-transparent organization, Ka Ohana O Kahikinui (KOOK), who make decisions on behalf of the lessees in Kahikinui and exclude the majority of the community. KOOK brought in Kia LLC which did more harm than good.

ITEM A-24 Faith Chase Re: Item J-2

F. Chase testified that she does not live in Kahikinui but she knows four families that live there. She is with Farmers Voice Hawai'i. She stated that the Department has administratively failed in lots of different ways, not just the leaseholder reach. She stated the Department needs more for Kahikinui because it's a larger base of land.

ITEM A-25 Iokepa Kaeo and Charley Kahele Re: Item J-2

I. Kaeo testified that the Department had failed the Moku O Keawe Beneficiary Trust Council waitlisters. He stated the Department had stolen their property, Hale o Kuhio. He stated the Department runs back door deals upon the waitlisters.

ITEM A-26 Emmett Lee Loy Re: Item J-2

E. Lee Loy testified as an Attorney and a lessee of Kahikinui. He talked of the corruption, character, self-dealing, and practices of many of the Commissioners throughout the years. He stated Ka Ohana O Kahikinui is the fault of DHHL and the three members of the association are engaged in unlawful conduct.

ITEM A-27 Julie Louie Re: ROE Delinquencies

J. Louie represented Aiwohi Brothers Trucking in Kalaeloa and stated it was reported that they were delinquent by thousands of dollars. She objects to that claim. She stated she has been with Aiwohi Brothers for 8-years, and it has been a struggle to get statements or printouts to track their payments to DHHL. They don't know how their money is being applied to their account. In 2015 they were notified they overpaid on their water bill because other businesses around them had no water meter and there was no way to track it, so they were paying everyone's water bill. They were told to hold off until it was figured out. She stated that she had the experience of dropping off a check and the check was not cashed or applied for months at a time. She asked that Mr. Albinio clear matters up as there is about \$18,000 in question.

Chairman Aila asked if it would be simpler to do two billings, one for the basic monthly rate and another for the water bill. The water bill is one meter and many tenants. She stated they tried to separate that since 2013 but it has been a struggle to make sure the funds are applied specifically.

Commissioner Teruya asked what their current delinquency is. Kahana stated he shared the amount with J. Louie which is about \$24,000 minus the \$15,000. Commissioner Teruya asked what the \$8,000 that Kalei is requesting from Aiwohi Brothers is. Kalei Young stated what J. Louie stated is partially correct. He explained the water charged being pro-rata share, the size of the parcel and because of the location, the cost to DHHL to install water meters would be \$70,000-\$80,000. Some have put in their meters. Commissioner Teruya asked if Aiwohi Brothers were paying other people's water bills. Kalei stated they are not paying other people's water bills.

ITEM A-28 Le'o Kane and Elisha Kane Re: Waihole Valley

E. Kane spoke on behalf of his mother, Le'o Kane testifying of their lot being HHFDC being their leaseholder for three generations. E. Kane stated that 20 lots got issued to Hawaiian Homes and within the ahupua'a, Hawaiians are being overcharged. His request is to transfer the lots over to Hawaiian Homes. He stated he spoke with HHFDC and DHHL has to accept first to do the transfer. E. Kane stated that they are trying to transfer the management from HHFDC to DHHL and he is trying to take the right process and the right steps.

Chairman Aila stated that they are not on DHHL lands right now. He addressed E. Kane asking him the HHFDC would be comfortable transferring lands to DHHL. E. Kane stated he was told by HHFDC to speak to DHHL first. Chairman Aila asked AG Kanaka'ole if it is legally possible. AG Kanaka'ole stated he would have to look into it.

ITEM A-29 Robin Danner Re: Item F-2 and H-1

R. Danner testified on Item F-2, stating the SCHHA supports. For Item H-1, the SCHHA testifies to stop transferring interest earnings, roughly about \$4 million per year which are paid by beneficiaries that have direct loans with DHHL. The SCHHA requests that the Commission not transfer the funds. The loan fund generates about \$4-\$5 million per year in interest earnings. If the amount were left in the loan fund for 10-years, it would have \$50 million more capital in the loan fund to provide beneficiaries with farm loans, ranch loans, housing renovation loans, etc.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
To approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Aila asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda.

Commissioner Ka'apu asked about the transfer of leases, whether or not the new lease language had been completed so it can be added to any leases that were going to be amended or renewed. D. Oshiro stated the answer is no; he understands that there will be a submittal to the Commission next month in January with regards to the new terminology to be included in the leases. Commissioner Ka'apu suggested holding those items. He made a motion that the Commission makes the transfer subject to adding the new language. Chairman Aila asked AG Kanaka'ole if the Items could be approved today with the amendment to include the new language.

AG Kanaka'ole asked if the Commission has yet to review and approve the new language. D. Oshiro reiterated that the submittal for the new terminology would be next month.

AG Kanaka'ole recommended the Commission review and approve the amendment language to the leases before tacking on the condition to the leases that they will be approving now.

Commissioner Ka'apu asked that Items D-6, D-7 and D-8 be deferred to January 2020.

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

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

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

ITEM D-5 Approval of Homestead Application/Cancellations (see exhibit)

- ITEM D-9** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)

MOTION/ACTION

Moved by Commissioner Ka‘apu, seconded by Commissioner Neves, to approve the Consent Agenda with Items D-6, D-7 and D-8 being deferred to January 2020. Motion carried unanimously.

REGULAR AGENDA

LAND MANAGEMENT DIVISION

- ITEM F-2 Approval to Issuance of License to Kanehili Community Association, Kapolei, O‘ahu Island, TMK No. (1)9-1-151:001**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the issuance of a license to the Kanehili Community Association, Kapolei, O‘ahu Island, TMK No. (1)9-1-151:001.

MOTION

Moved by Commissioner Helm, seconded by Commissioner Teruya, to approve the motion as stated in the submittal.

DISCUSSION

K. Albinio stated that the recommendation is that the Hawaiian Homes Commission approve LMD’s original Agenda Item No. F-2, which was deferred by the HHC at its regularly scheduled monthly meeting held on July 15-16, 2019. There are conditions listed in the submittal.

The applicant notified DHHL staff that there is flooding between the mailbox parking lot and the community park during heavy rains. The applicant requested that DHHL investigate, and if it is determined that the design of the mailbox parking lot is the cause for the flooding that DHHL mitigate as necessary at its costs. If the results of the investigation determine otherwise, the applicant will mitigate as necessary at its costs.

Commissioner Teruya asked if it is a private or a community park. Kanehili Community Association President Randy Akau stated, according to KCA’s documents, it is a private park. It is defined as a common area. Commissioner Teruya asked if KCA is seeking funds from Legislation or CDBG or GIA. R. Akau stated he realized there are private funds out there as far as the federal government goes. Commissioner Teruya asked how long the license was for. R. Akau stated 30-years.

ACTION

Motion carried unanimously.

- ITEM F-4 Approval of Request to Surrender of General Lease No. S-4294 held by Hawaii Business Associates, Inc. for Shafter Flats, O‘ahu Island, TMK No. (1)1-1-064:031, and to Approve Issuance of Right of Entry Permits to WDI Companies, Inc. and Servdor, Inc.**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the surrender of the general lease held by Hawai‘i Business Associates (HBA) covering property located at 2627 Kili Hau Street in Shafter

Flats Industrial Subdivision, Moanalua, Honolulu, Island of O‘ahu, subject to the conditions noted in the submittal.

MOTION

Moved by Commissioner Ka‘apu, seconded by Commissioner Awo, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Ka‘apu asked if the existing sublease tenants will be staying on the lot. A. Yanos stated yes and they’ve been there close to 30-years. Commissioner Ka‘apu asked the Department will become their landlord as opposed to HBA.

WDI has been HBA’s tenant for 30 years and is willing to remain on the premises for the remaining term of the lease which expires in 2025.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-1 Josiah ‘Ākau – Kinai ‘Eha Program

J. Akau stated the program is located in Kalaeloa and works with youth from ages 14-24. The program helps to keep youth on the right path. Ninety-five percent of the youth in the program are native Hawaiian, with 70% from the Kaneohe, Kailua, Waimanalo, Kahului, and neighbor islands. Ninety-six percent are from low-income families and are receiving government assistance. All participants did not graduate from high school. The program helps the youth to find jobs, house them, help them with social and job skills.

Chairman Aila asked what is Kinai Eha asking from the Commission. J. Akau stated any paid opportunities for the youth to work. They are working with the State for subcontracts for work. Chairman Aila asked if Kinai Eha complies with the State. J. Akau stated the program is compliant with the State and the Federal Government. Chairman Aila asked if they can go online and bid on jobs. J. Akau stated yes.

ITEM J-2 Donna Sterling – Helekunihi Cultural Foundation & Kawika Davidson – Kahikinui Game and Land Management Ohana

D. Sterling is the Land Commissioner and Board holder for their family land called Helekunihi Cultural Foundation, encompassing 119 acres in Kahikinui which is not part of Hawaiian Home Lands. She stated they also have a non-profit for the reforestation of native Hawaiian plants, to preserve and protect archaeological sites and to seek resources in the area. She was awarded a lease in 1999, lot 41 and farms her land.

She stated that the beneficiaries are not allowed to vote under the By-Laws which were written by Blossom Feiteira and Julie Cachola. In 18 years, there are only 11 residents out of 76 awards in Kahikinui.

K. Davidson lives on lot 57. He has been involved with Kahikinui for over 40 years. He and Donna are one of the original “ohana member” occupants of Kahikinui. They created avenues for living

and managing the moku of Kahikinui. In 1990 the Department decided they were no longer leasing large parcels of land to individual Hawaiians, so he helped to create the organization called Ka Ohana O Kahikinui (KOOK).

He stated there are native Hawaiians being pushed out by the Department and by the lessees' Board. The Board has been given the ability to control and manage police actions in the last two years. He stated the KOOK Board would not permit anyone to go up to upper Kahikinui, but an ROE was given to KIA Hawai'i, a foreign entity, to take the ungulates out.

ITEM J-3 Kau'ilani Almeida – Panaewa

K. Almeida stated that she is the President of the Panaewa Hawaiian Home Lands Community Association. She should be listed as such. She spoke of what she accomplished for PHHLCA since she became a member and, as stated, a leader. She stated she flipped the Association from Board control to member control. She stated the DHHL records from 1994 to 1996 should show many of the decisions made by the community by petition. She stated she watched for 24 years and Kamoleau never was built. She stated the monies were in DHHL's hands and around 2010 or 2011, the monies were diverted through an MOA that allowed the Department to disperse the monies between seven East Hawai'i Community Associations.

ITEM J-6 Leilani Garner – Adjacent Lot Maintenance

L. Garner is a lessee of the Kanehili homestead for ten years. Her request to the Commission is to get more information regarding the lot next to her so she can become the caretaker or gain the right of entry to the lot. For the past ten years, there have been negative activities on the lot and it affects her family, her home, the community and to some degree DHHL. For the first two years, homeless people were living on the lot and she made numerous calls to DHHL's Enforcement Team to assist with the issue. There have been multiple abandoned vehicles that needed to be towed. Drugs and drinking continue to happen on the lot.

Chairman Aila stated the lot is currently in dispute between DHHL and Gentry. The Department cannot consider her request for caretaking until the dispute is resolved.

Commissioner Helm asked if the Department could do anything to combat the problems with maintenance. Chairman Aila stated that Enforcement has been working to keep the area clean.

ITEM J-7 Albert Rowland Jr. – Lessee Homestead Concern – Kauhane Street, Papakolea

G. Rowland testified as a lessee of Papakolea homestead. They did a presentation before the Commission regarding the 30-foot drop that divides them and their neighbors and there is an erosion problem. They are waiting for the Departments' response and have not heard anything yet. Albert Rowland will be the next lessee of the lot.

A. Rowland repeated what they spoke of when they did the PowerPoint. He showed the pictures.

Acting Land Development Division Administrator Stewart Matsunaga stated that since the last time the Rowlands were here, the Department hired a professional engineer to assess the side of Rowland's property. In November, the Department received the engineer's report and recommendations. The staff is still going through that assessment and preparing a recommendation to the Chair for next month. He did share that information with the Rowlands.

ITEM J-8 Albert Hee – Sandwich Isle Communications

A. Hee stated if he impedes DHHL from getting federal funds, he will remove himself. It has always been about the funds that the federal government set up for DHHL. He was asked by Hoaliku Drake to find a solution to get telecommunications for Hawaiian Home Lands, and if given the license, he would fund it. The Commission said yes.

He stated he would be very disappointed to see the Commission lose this opportunity because when it is gone, it won't be seen again. The federal government would like nothing better than to treat Hawaiians as terroristic step-children and take only what they want to give, not what the Hawaiians are entitled to. A. Hee stated the entitlement is not because of being Hawaiian but choosing to be American citizens. He stated if the Commission does not take a strong stand and say it is entitled to the funds, the Department will not see the funds and have to pay for all infrastructure communications. If the Commission thinks Hawaiian Tel or Spectrum will do what Sandwich Isle did, the Commission is badly mistaken. Nobody is going to help Hawaiians except Hawaiians.

He is asking the Commission to consider what is being done and when it comes up on the agendas, there will be items he expects to give the license to somebody else.

Chairman Aila asked A. Hee what specific funds he was referring to. A. Hee stated the rural utility services. The money that he borrowed, SIC borrowed to put in the infrastructure, is only available if you have exclusive rights to provide communication services. What the Governor did was give the Department \$150,000 to hire a Washington Attorney to go to the FCC and challenge that exclusivity. When the FCC got "wind" that the Commission was no longer supportive, they stated that the license could not be exclusive. When that was done, the ability to borrow money disappeared and that is why the Department has to pay now. The Commission must now find the money to pay for infrastructure that A. Hee once paid, \$400 million.

Commissioner Teruya asked if SIC is currently making the connections for the new awardees. A. Hee stated yes with the Department's assistance. Commissioner Teruya asked, no cost goes to the beneficiaries. A. Hee stated right now the Department is stepping in. There's enough money generated from the towers to cover the Department's investment that was made. Commissioner Teruya asked A. Hee that SIC is leasing their towers on DHHL land. A. Hee stated yes it does. Commissioner Teruya asked how many towers. A. Hee stated he thinks there are 6 or 7 towers; he has to check. Commissioner Teruya asked if SIC is current in paying the lease to the Department for the rentals of the towers. A. Hee stated yes.

Chairman Aila stated the payment for the towers is payment for installing infrastructure. The payments have been accepted because there are back payments too.

ITEM J-9 Makana Paris and Eddie Werner – PVT Landfill Concerns

M. Paris is speaking on behalf of the Prince Kuhio Hawaiian Civic Club and also with him was E. Werner. E. Werner is a lessee with Hawaiian Homes and lives in Nanakuli. They talked about the public health crisis that exists in Nanakuli and Mai'ili.

M. Paris stated there are PVT landfill sites next to Hawaiian Homelands, and there is a legal right in the State of Hawai'i for a clean and healthy environment. An alternate landfill site study exists and the Hawaiian homelands are not a part of it including Nanakuli and Mai'ili. They are asking the Commission to help stop environmental racism for no more landfills on the leeward coasts and recommendations for the Commission to consider. He presented the Commission with a PowerPoint. The leeward coast takes almost 100% of all waste from the industrial areas, Waimanalo Gulch to the PVT landfill.

The three recommendations they have for the Commission are:

- Oppose the relocation of PVT landfill in Nanakuli and Mai'ili

- Oppose the creation of any landfill within half a mile of Hawaiian home lands that do residential or pastoral leases
- Support Legislation that the community will do at the upcoming Legislative cycle, including the Association of Hawaiian Civic Club's resolution calling for no landfills within half a mile of people.

Commissioner Awo stated the area where the landfill is not under DHHL so the Department has no jurisdiction or authority to intervene effectively. He shares the concerns for those affected by what was presented.

Commissioner Helm asked what kind of cancer did the people have. E. Werner stated lung cancer, breast cancer, Alzheimer's, birth defects, you name it. M. Paris stated the studies indicate particular types of cancer are correlated with landfills, and most of the families named have the correlated diseases.

RECESS

5:13 P.M.

HAWAIIAN HOMES COMMISSION

Minutes of December 17, 2019
Hale Pono'i, Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the 718th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i, beginning at 9:00 a.m.

PRESENT

William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka'i Commissioner
David B. Ka'apu, West Hawai'i Commissioner (arrived 9:36 am)
Michael L. Kaleikini, East Hawai'i Commissioner
Russell K. Kaupu, O'ahu Commissioner
Dennis L. Neves, Kauai Commissioner
Patricia L. Teruya, O'ahu Commissioner

EXCUSED

Pauline N. Namu'o, O'ahu Commissioner

COUNSEL

Ryan Kanaka'ole, Deputy Attorney General

STAFF

Tyler Gomes, Deputy to the Chairman
Paula Aila, Finance and Development Specialist
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Administrator, Homestead Services Division
Andrew Choy, Acting Manager, Planning Office
Stewart Matsunaga, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
Cedric Duarte, ICRO Officer Information & Community Relations Office
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist Planning Office

ORDER OF BUSINESS

CALL TO ORDER

Chair Aila called the meeting to order at 9:05 a.m.
Seven (7) members were present at roll call.

APPROVAL OF AGENDA

Chairman Aila noted the carry-over items from yesterday's meeting:
Item F-1, Item G-1 through G-5, Item H-1, J-Agenda Items and the approval of the October 2019 Minutes.

Chairman Aila noted the next Commission meeting would be held on January 27 & 28, 2020, on O'ahu at Hale Pono'i, Kapolei. There is no community meeting for January 2020.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

Approval of Minutes for October 2019 and November 2015

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Wallace Ishibashi Re: Item F-6

W. Ishibashi testified on the 100 years of tears of the wrongs done, and a solution is what is needed. It all boils down to the State's failure to provide adequate funding to the Department to accomplish its mission to the Hawaiians. Many legislators failed to read the HHC Act and understand it and follow it because we are not a State unless the Legislature follows the HHC Act.

W. Ishibashi talked about the gorse and how a solution is needed to handle the gorse. He stated the gorse could not be taken off the Mauna for fear of it spreading. There is a process that the State agreed on to allow the removal of gorse from the mountain, but it is contingent upon the millennium carbon lease agreement. The gorse seeds can lay dormant 70-90 years but testing cannot be done until they can get to the heavily outcropping area of gorse.

ITEM A-2 Germaine Meyers Re: Item G-2

G. Meyers reiterated that she would be videotaping the HHC meetings every month. She taped December 2019 and will give testimony regarding the taping and the posting on Olelo.

Regarding Item G-2, the Water System she stated you could not carry the water from the mountain down to the farmers if the water system gets choked up by weeds, it'll create a stoppage and won't flow. Regarding Mr. Hicks' land where it floods, she stated the Department charges Mr. Hicks \$240 for 6.4 acres. She wants to know who makes the decisions for who gets what land and how much they get to pay for that land.

ITEM A-3 Rogeitte Bernardino Re: UI

R. Bernardino testified about the recent awards ceremony for lots at Kanehili; she discovered that there's an undivided interest list (UI list), which she understands supersedes her position as an applicant because she did not respond when the UI list was developed. She checked her documents and found it came up in 2006. At the ceremony, she saw many applicants younger than she and she finds it unfair to her that her position will not climb because the UI list consists of several hundreds of applicants younger than she is. She has been on the list since 1987. She stated if it is a fair process that must be continued, she would like to see documentation siting the process. She stated her documents did not state to respond because this (UI) is the list that the Department will go by from now on. She wants in writing siting that the UI list is the current list to award property.

Chairman Aila referred R. Bernardino to work with Deputy Gomes to provide her the information requested. For the Commissioners, Chairman Aila stated the UI was a paper lease given during the Kane Administration. Because beneficiaries have a lease to an area, they have priority in selection.

ITEM A-4 Kekoa Enomoto Re: Items F-1, F-5, and J-5

K. Enomoto is the President of the Maui/Lana‘i Mokupuni Council encompassing 14 homestead associations in Maui County. She is joined by Lehia Apana and Kainoalei McDonald both from Maui.

Regarding Item F-1, K. Enomoto testified that she would like to see which ROE applicants are beneficiaries and which are non-beneficiaries because some have been on the list since 1994. Regarding Item F-5, she stated regardless of what the entity is, if it is not a beneficiary entity, she is opposed to such entities on Hawaiian Homelands. She feels SOHI can go for DLNR lands.

For Item J-5, K. Enomoto stated she accompanied Robin Danner to court on behalf of the Montalvo family, who were being evicted. She stated the AG representing the DHHL indicated the family was served notice of the cancellation several times and did not respond. The family indicated they had never been served notice. K. Enomoto asked for clarity on how the beneficiaries are served; they should be served in person.

For her J-5 Agenda item, K. Enomoto stated she would like to see a division in the Department that empowers beneficiaries to live on, farm, ranch, and conduct mercantile on Hawaiian homelands. The Department’s Land Management Division’s responsibility is to lease Hawaiian Home Lands to beneficiaries and non-beneficiaries and it has leased 60,000 acres of lands to non-beneficiaries while there are 41,000 acres of land with beneficiaries living, farming, ranching and doing mercantile on the lands.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-4 Kekoa Enomoto and Kainoa MacDonald – Pa‘upena Community Development Corporation

K. Enomoto stated the Legislature has appropriated \$ 1 million to Malama Hawaiian cultural reserves upcountry, a 40-acre cultural reserve at Keokea, and an 80-acre cultural reserve at Waiohuli. She heard that the Department is redirecting the funds to malama archaeological sites on individual homestead parcels. She proposed the Commission survey the beneficiaries regarding what they want to see done on the cultural reserves. She proposed 15% of the funds be dedicated to a survey to the 9,100 waitlist beneficiaries and the 1,400 beneficiaries on Hawaiian home lands on Maui asking what they want to be done with the 120-acres. The balance of the funds should be adequate to implement caring for the two parcels and to educate individual upcountry lessees on how they should malama their individual archaeological sites.

K. Enomoto stated the Maui County Council approved \$5 million for Habitat for Humanity to build 25 homes on a parcel of land in Hana. She spoke with Sherry Dodson, the Executive Director of Habitat for Humanity on Maui and told S. Dodson that DHHL has 740-acres of Trust lands in Hana that have been sitting for a quarter-century and no beneficiaries are living, farming or ranching on the land. K. Enomoto said she would like to see some of that \$5 million dedicated to them. She stated the County of Maui is willing to commit \$5 million to people who need homes. She stated S. Dodson would like to see the Department renew its former program where they subsidized a Habitat for Humanity homes. E. Enomoto asked S. Dodson how much she would like to see and S. Dodson said \$60,000.

AG Kanaka'ole stated the Montalvo case is currently being litigated and the appeals windows have not expired before the ejectment, so he cautioned the Commission on engaging in conversation on active litigation.

ITEM J-5 Robin Danner – SCHHA/HCDC Homestead Foreclosure Prevention Program

R. Danner stated for the last six years the SCHHA's homestead leaders have been submitting their CIP funding budget directly to the Governor and the Legislature and for the last four years, DHHL has been awarded \$20 million.

R. Danner stated SCHHA opened the Homestead Foreclosure Prevention and Legal Defense Program (HFPLD) two months ago. The SCHHA is doing next-generation leadership development and Rolina Faagai is leading the Foreclosure Prevention Program. The Department's lending guys are under-resourced and need the governing body's help. The request today is for the Commission to put on the January 2020 agenda of the HHC meeting an action item to deliberate, contemplate and debate the adoption of a 180-days moratorium on evictions, lease cancellations and foreclosures. During the moratorium, the Department's lenders, HFPLD and the homestead leaders together can bring forward an adoptable loan servicing manual so that beneficiaries will know, in writing, what the process is when a loan goes delinquent. There are two types of delinquencies, bad habits and bad events.

Commissioner Ka'apu stated he sits as the Vice-Chair for contested case hearings and commented that everything R. Danner suggested is already being done. Circumstances, events, handling situations on a case-by-case basis is looked at and considered. Commissioner Ka'apu stated the Commission is running 25% / 30% and that is not all bad events. The Department's service providers work well for the beneficiaries. Commissioner Ka'apu stated he is not going to support a 6-month moratorium because the Commission is already doing the work and there have been very few cancellations.

ITEM J-10 Elizabeth Kenui – Nanakuli Homestead Lessee

E. Kenui testified her ohana has 97-years of homestead history, which she spoke of. In 1996 her family moved into their two-story home in Nanakuli on Lot No. 165, Series 7. She is grateful for what she has and serves on the Board of Directors at the Waimanalo Hawaiian Homes Association to show her appreciation. She is employed as a Human Resource Manager at the PVT Land Company in charge of the Safety Program and the Employees Health and Wellness Program.

E. Kenui testified that the Commissioners most likely saw signs of opposition to the PVT Land Company on their way to the community meeting in Waianae. She mentioned an opposition sign that states; PVT wants a 30-year dump sight accepting asbestos and toxic wastes. She stated the sign misrepresents her employer with inaccurate messages to the public. She stated PVT is not a dumpsite as most people view a dumpsite with mounds of trash, unpleasant odor, with liquid, hazardous, solid, and organic wastes and recyclable trash. PVT is a landfill that only accepts material that originates from construction and demolition sites. Household trash, medical waste, automobile parts, appliances and other items are not accepted. PVT does not accept asbestos which is prohibited on the site; however asbestos-containing materials are accepted, provided they meet strict restrictions for disposal. Asbestos contained materials will not be accepted at the new site. PVT does not accept toxic or hazardous wastes.

She is satisfied with the Department's response to the opposing party that it has no jurisdiction on the matter.

ITEM J-11 Aldalene Rodrigues – Nanakuli Hawaiian Homestead Community Concerns (not present)

ITEM J-12 Charity Kaawa – Nanakuli Hawaiian Homestead Community Concerns (not present)

ITEM J-13 Germaine Meyers – Lessee Homestead Community Concern

G. Meyers testified of concern in her homestead in Nanakuli. There 1,015 homestead lots and one Association. The Nanakuli Homestead Community Association started in 1986. In 2012 the homesteaders were angry at what the Association was doing. The vision in 2012 was affordable rentals, 48-units at Hale Makana on 2nd row. She stated they were told native Hawaiians from the Nanakuli ahupua'a would be afforded the first opportunity to the rentals. Hale Makana broke ground in 2013. There were no minutes or treasurer's reports for meetings from 2012 through 2013, and it stated there was no money to buy equipment. She mentioned there are discrepancies with the tax documents filed by the Association.

Chairman Aila addressed G. Meyers regarding her non-compliant issues of the Department, and he stated that he would ask K. Albinio to seek compliance and provide Commissioners with a copy of the lease for the Nanakuli Commercial Center.

Chairman Aila asked DAG Kanakaole if there is a requirement to ask the community what they feel about the contract. DAG Kanaka'ole stated no, but there was a myriad of legal issues that G. Meyers brought up, and if he has to review any legal matters, they will be brought before the Commission in executive session. He stated his opinion would remain so until the Commission decides, as a body, to release that information to the public.

Commissioner Teruya stated she did talk to the Commissioners and DAG in the executive session. She stated she would take it upon herself to find out why she is on the IRS Form 990 for tax purposes.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

AG Kanaka'ole stated the motion that Commissioner Ka'apu is making is to add back into the Consent Agenda two individual lease for approval. The remaining deferred Consent Agenda is going to be on the next month's agenda. He stated there's a requirement of a two-thirds vote of the entire body to amend the agenda.

MOTION TO AMEND THE AGENDA

Moved by Commissioner Teruya, seconded by Commissioner Neves, to approve the agenda as amended.

ACTION

Motion carried unanimously.

REGULAR AGENDA

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2020

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:

Motion that the Hawaiian Homes Commission approves the transfer of the entire receipts deposited in the Hawaiian Homes Receipts Fund as of December 31, 2019, to the Hawaiian Homes General Loan Funds.

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Kaleikini, to approve the agenda as stated on the submittal. No discussion. Motion carried unanimously.

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Lease Awards (see exhibit)

RECOMMENDED MOTION/ACTION

Finance and Development Specialist Paula Aila introduced Hale Manager Michelle Hitzeman, who presented the following:

Motion that the Hawaiian Homes Commission approves the awards of the Department of Hawaiian Home Lands resident lot Leases to the applicants listed in the submittal for 99-years subject to the purchase of existing improvements on the lot by way of loan or cash.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal. No discussion. Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-5 Approval to Convert License Agreement No. 740 to a General Lease (pursuant to Section 171.43.1, Hawaii Revised Statutes), Special Olympics Hawaii, Inc., East Kapolei, O'ahu Island, TMK No. (1)9-1-017:110 (por.)

Chairman Aila deferred the decision making to the January 2020 meeting.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOP

LAND MANAGEMENT DIVISION

ITEM F-6 For information only. Consent to Assignment of General Lease No. 275 from Millennium HI Carbon, LLC ("Assignor") to Millennium HI Carbon

Board of Hawaiian Affairs and Initiatives (“Assignee”), Kawaihae, Island of Hawaii, TMK No. (3) 6-1-006:007

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio introduced Pomai Freitas and Deputy Tyler Gomes to present the proposal and the request.

DISCUSSION

P. Freitas stated MHC can do the lease part but does not have the money to pay back the arrearages. He stated Kahana and Deputy Gomes stated that MHC could pay it back with the new market tax credit that MCH is undertaking for next year.

P. Freitas stated the Kawaihae Community Association located next to MHC pays the highest water bill in the state because they get their water from a private source. P. Freitas feels MHC can help them because they have a water well, a water system, and everything to make perfect drinkable water. The company wants to supply Kailapa with water and it would be direct from the plant to Kailapa’s main water tank. The company has all the necessary pumps, everything except the pipes. P. Freitas stated the infrastructure could be done through their labor. He stated they could offset about 40% of their water usage.

P. Freitas talked about turning gorse into a viable product as a way to get it off the mountain. He hopes to work with the Department to get to the gorse.

Deputy Gomes briefed the Commission on the history of General Lease No. 275 starting with the original awardee Kona Carbon LLC, which Lease by mesne assignments was assigned to Big Island Carbon, LLC; then it was assigned to Millennium Hawai‘i Carbon, LLC, the current lessee. As a term of the transfer, there was \$336,000 debt that MHC agreed to take on pay it off by the year 2024. That amount is still sitting and that needs to be paid off. Additionally, MHC is also in arrears of \$395,750 in rent since 2017. MHC is currently in arrears of \$742,000. The Department’s recommendation is not on the merits of the two creative subprojects, the problem for the Department is the lease for the current property does not extend to a land disposition that would allow MHC to obtain a separate license or contract to do either gorse removal or water production. Those would require separate lines of position (indiscernible).

Deputy Gomes stated Millennium HI Carbon Board of Hawaiian Affairs and Initiatives (MHCB) which would be the new assignee name, proposed that the Department pay them \$6.42 per 1,000 acres, for the removal of the gorse, of which 50% would go to their operating costs and the other 50% to be applied to their debt. As a policy matter, the Department cannot currently recommend the Department pay itself to forgive a portion of MHC’s debt. The same applies to the issue with the water in Kailapa.

Deputy Gomes stated the Department is not opposed to considering the projects by (indiscernible) through a separate application. Essentially it is a contract for services and would be different from a license that will require the Department to put the contracts out to bid because it’s in excess of \$15,000 and the required compliance in state procurement. It also does not guarantee the MHCB will be an awardee.

Commissioner Ka‘apu stated that the presentation Pomai made was that he could not put any of the tax credit towards the debt and that is the problem. Commissioner Ka‘apu’s understanding when they met prior was there was a repayment that would be taking place and some of it would be with the water and gorse. P. Freitas stated the water project is more of a pilot project

and that is why they asked for 30-days to prove they can do what they say. Commissioner Ka'apu stated it adds a lot of many moving parts; it's not clean. We have a contract and the Commission wants it to be clean so it is known what MHCB will do, what the Department is going to get, when the gorse is tied in, it's another moving part and it makes it difficult. It is not clean, but it depends on how you do with that and what you do with that.

MOTION

Moved by Commissioner Neves, seconded by Commissioner Ka'apu to convene in an executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN

11:52 A.M.

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

EXECUTIVE SESSION OUT

1:57 P.M.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-5 Kapua Kamai Re: Items F-1, F-5, F-4

K. Kamai stated that G. Toguchi, who attended the Community Meeting in Waianae, might have seemed like she was not satisfied with the performance or lack of performance from the Department. K. Kamai felt that the Commission disservice her and that G. Toguchi did not have the attention of the Commission that she patiently waited for.

K. Kamai stated for Item F-1, there's not enough information as to when the lease was canceled or termed out; how does the public know of the opportunity for a parcel. She does not know what parcels of land are available. Not limited to the ROEs but to leases, general lease. How does the Department benefit lessees and applicants?

Regarding Item F-5, regarding \$1,000 per month for prime land does not benefit the Trust or the beneficiaries. She disagrees.

Regarding Item F-4, for the trust, it equates to over \$300,000 of lost revenue. That amount could have been beneficial to the Trust and the beneficiaries.

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

Commissioner Ka'apu stated he wants to amend the Agenda for Item D-7, the Approval of Assignment of Leasehold Interest. It was brought to his attention that more lease transfers are dependent on closing. Dean Oshiro can identify which of those are at risk.

MOTION TO AMEND AGENDA ITEMS D-7 & D-8

Moved by Commissioner Ka‘apu, seconded by Commissioner Neves, to amend Agenda Item D-7 as stated.

DISCUSSION

Acting Administrator Homestead Services Division Dean Oshiro stated the issue with regards to Action Items D-7 and D-8 has to do with lease transfers and amendments to leases.

Under Item D-7, the assignments of a lease, the items identified are those leases being sold. Under Item D-8, the two amendments that require the Commission’s approval due to time constraints are transaction No. 7 and transaction No. 16.

Commissioner Ka‘apu asked that those transfers be included in his motion, the names, subject to adding the additional lease language once the Commission approves that. It is better to amend the agenda based on what Commissioner Ka‘apu’s motion was first. Chairman Aila stated there’s a motion to amend the agenda.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Neves to approve Items D-7 and D-8 as discussed. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

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

DISCUSSION

Acting Administrator, Homestead Services Division Dean Oshiro stated there are no actions.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-6 Consent to Assignment of General Lease No. 275 from Millennium HI Carbon, LLC (“Assignor”), to Millennium HI Carbon Board of Hawaiian Affairs and Initiatives (“Assignee”), Kawaihae, Island of Hawai‘i, TMK No. (3) 6-1-006:007

RECOMMENDED MOTION/ACTION

Deputy Tyler Gomes spoke on behalf of Acting Land Management Division Administrator Kahana Albinio and presented the following:

Deputy Gomes spoke of new information he received after the executive session stating the Millennium HI Carbon Board was in contact with Mr. Lesser, and there are two problems. The first is that bankruptcy is a consideration of Mr. Lesser if the project is unable to move forward. The second is if given the opportunity, the Department would recommend time to show that Mr. Lesser is engaged in the process and has the means to see the assignment through, the Department would recommend adopting the assignment. However, if the Commission is not convinced that Mr. Lesser is willing and able to assist the Department in concluding, then the Department needs to amend the recommendation and say that it does not recommend moving forward on the assignment.

Deputy Gomes stated that the appropriate action is to ask the Commission defer decision making on this item until the January meeting on two conditions:

1. Mr. Lesser can demonstrate that he is sufficiently engaged in the process
2. For the Board to provide sufficient information to the Commission about the financials, expenditures, and the use of the tax credit and how those funds would guarantee that the project would be (indiscernible).

The conditions are the basis for asking for the deferral rather than amending the terms and conditions of the recommended action.

Commissioner Ka'apu asked if that information would be provided to the Department then to the Commission. The Department would be conducting some due diligence on the aspects that were mentioned and making a recommendation in January 2020. Commissioner Ka'apu moved that the matter be deferred to January for decision making.

Commissioner Helm asked will what Mr. Lesser said to be put in writing. Deputy Gomes stated that he could work with Mr. Lesser to get that in writing.

MOTION

Moved by Commissioner Awo, seconded by Commissioner Neves, to defer the Item.

DISCUSSION

Commissioner Kaupu stated before going into executive session; the assignment would effectively have taken Mr. Lesser out of the picture. But now he is saying he would stay involved if the Commission goes forward with the assignment?

Deputy Gomes explained that Mr. Lesser could provide operational funds to the Board for them to continue operations if, in his few, there is a path forward between the Department and the Board.

Chairman Aila stated for clarity the recommendation is a deferral to next month.

ACTION

Motion carried unanimously to defer the matter of Item F-6 to next month, January 2020.

ITEM F-1 Annual Renewal of Right of Entry Permits, O'ahu Island (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve LMD's original agenda Item F-1 (Exhibit A) which was deferred by the Commission at its July 15 & 16, 2019 HHC meeting.

MOTION

Moved by Commissioner Awo, seconded by Commissioner Neves, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Teruya asked if there is a policy on the ROEs for the TMKs, addresses, rental start dates, and rental status. K. Albinio stated it is included in Exhibit B and is on the website.

K. Albinio stated that information also shows what revocable permits converted to the right of entries back in 2014 were, and the gray highlights indicate native Hawaiians.

Commissioner Teruya asked how the Department is working out the ROE for Aiwohi regarding the delinquency that shows on the spreadsheet. K. Albinio stated on the printout before delinquent there is the column of current fee, all rights of entry permits, the \$78,206 is the annual rent. He told Julie of Aiwohi Brothers that their delinquency is \$24,988.14. Commissioner Teruya stated when there is delinquency, she would appreciate that the tenants know.

Commissioner Ka'apu asked if LMD could put the amount of the delinquency and also include the last letter that was sent to the tenant so the Commission can see how long they've been delinquent. The report is being presented to the Commission for renewal, so if a tenant has been delinquent for three years, the Commission would not be inclined to renew the ROE, whether LMD is working with them or not. If for some reason, the last contact the Department had with the tenant is three years past, it would not be the fault of the tenant.

Commissioner Teruya asked if the ROE tenants at Kalaeloa know how much water they pay for or do they receive a lump sum bill that notes how much electric or how much water. K. Albinio stated Kalaeloa Water Company bills the Department, and there are five different meters. The tenants are prorated on whatever meter they are closest to and charged appropriately. Commissioner Teruya asked if a company wants to put in their water meter, can they do so at their cost. K. Albinio stated the tenant would have to seek consent from the Department to put in their own water meter. If they can get KWC to put in the water, the tenant has to pay their fees for the appropriate lines and whatever they need for the water to be installed. K. Young stated the Department would have to finish a line to the road first.

Chairman Aila asked K. Young it is required by KWC to finish a line to a certain point before anyone can apply for their water meter. K. Young stated that it is correct. Commissioner Teruya asked if anyone has their water meter now. K. Young stated the people who applied when the Navy allowed tenants to put in their own meters do have meters.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

PLANNING OFFICE

ITEM G-1 For Information Only – Report to the 2020 Legislature Relating to Act 179 (2018)

RECOMMENDED MOTION/ACTION

Acting Manager Planning Office Andrew Choy introduced Legislative Analyst Lehua Kinilau-Cano to brief the Commission on the report to the 2020 Legislature relating to Act 179 (2018)

DISCUSSION

Passed in 2018, Act 179 required DHHL to conduct a study on the issue of Hawaiian Home Lands lessee selling or transferring their Hawaiian Home Lands lease to another native Hawaiian for a fee or other personal gain and then applying for a subsequent Hawaiian Home Lands lease. With the assistance of staff, the Department identified all the applicants, pastoral or residential, who had previously received an award and then subsequently applied. The staff looked at residential lessees who applied, sold it and had subsequently applied for that same type of lease. Breaking it down by types, pastoral, ag and residential, it is a small number of native Hawaiians who are selling or transferring for a fee or other personal gain and then subsequently applying. The submittal shows the numbers. Based on the numbers, the Department recommends the following:

1. Legislative action is not needed to address the issue of applicants transferring their lease for a fee or other personal gain and then applying for a subsequent Hawaiian homeland's lease.
2. DHHL's existing administrative rules already provide a priority and preference for award of leases.
3. DHHL's administrative rules were amended on March 31, 2017, to stipulate that "leases for vacant or undeveloped lots and undivided interest, or any interest therein, shall not be sold but may be transferred for no consideration or by succession. The rules further provide that "lease transfers to a qualified relative of a lessee or beneficiaries on a waitlist shall have priority for processing over transfers to beneficiaries not on a waitlist.

ORDER OF BUSINESS

APPROVAL OF MINUTES

Chairman Aila asked for a motion to approve the Minutes for October 2019.

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo, to approve the October 2019 Minutes. Motion carried unanimously.

Chairman Aila deferred the following Agenda Items to next month.

- ITEM G-2 For Information Only – Water System 101: Technical, Managerial and Financial Capacity**
- ITEM G-3 For Information Only – Community Benefits Lessons Learned**
- ITEM G-4 For Information Only – Grant Status Report -- End of Second Quarter 2019**
- ITEM G-5 Nanakuli and Waianae Regional Update**

ITEM E-1 For Information Only – West O‘ahu Project Updates

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on January 27 & 28, 2020, in Kapolei, O‘ahu, Hawai‘i.

MOTION/ACTION

Moved by Commissioner Teruya, seconded by Commissioner Neves, to adjourn the meeting.

Motion carried unanimously.

ADJOURNMENT

12:15 P.M.

Respectfully submitted:

William J. Aila Jr., Chairman
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

William J. Aila Jr., Chairman