

HAWAIIAN HOMES COMMISSION

Minutes of January 23, 2017
Meeting held at Hale Pono`i, Kapolei

Pursuant to proper call, the 683rd 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 Gene Ross K. Davis, Moloka`i Commissioner (Acting Chair)
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua`i Commissioner
Wallace A. Ishibashi, East Hawai`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner

EXCUSED Jobie M.K. Masagatani, Chairman (State of State Address)
Michael P. Kahikina, O`ahu Commissioner
William K. Richardson, O`ahu Commissioner
Wren Wescoatt, O`ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, ICRO Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Kaleo Manuel, Acting Planning Office Manager
Norman Sakamoto, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
James Du Pont, West Hawai`i District Office Supervisor
Halealoha Ayau, Water Specialist
Bryan Cheplic, ICRO
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Susie Richey, Secretary

ORDER OF BUSINESS

CALL TO ORDER

Acting Chair Davis called the meeting to order at 10:34 a.m.
Five (5) members were present at roll call.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

Approval of Minutes for November and December 2015 deferred to Tuesday.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Dora Ai`o Re: Letters of Liens

D. Ai`o stated she is following up for the letters of liens that Chair Masagatani would write, so D. Ai`o can move forward. At the last meeting, she stated Chair Masagatani said she would issue the letters.

ITEM A-2 Alika Akana Re: Item G-1

Alika Akana testified as a 32 year veteran of the Honolulu Fire Department and resided in Keokea, Maui. There are advantages to the Regional Plan that he is in favor of. He testified the Keokea Farm lot Association (KFA) presented a 10-year vision plan outlining plans to develop mercantile, cultural, multi-purpose community center with a certified kitchen adjacent to an amphitheater and a kupuna and keiki daycare center. The plan was submitted to Shelly Carreira. KFA is asking the Commission for quick approval for the 65-year license application.

ITEM A-3 Kanani Kapuniai Re: Items C-1, 2 and 3

K. Kapuniai testified that she is disappointed Items C-1, 2, and 3 are still not available. At the Hawaiian Civic Club Convention, a resolution to support the Successorship Bill from 25% to 1/32. She stated the HCC also supports transfers, addressing Section 209 of the HHC Act. Families need to be able to transfer and not wait until a lessee dies. It is discriminatory to allow a benefit to one group and not to another.

ITEM A-4 Kekoa Enomoto Re: Item G-2

K. Enomoto testified of the three beneficiary Maui groups vying for the Hawaiian Home Lands Trust Capacity Building Grant, the Commission approved 2010 Keokea Regional Plan Priority Projects. The three groups were Pa`upena Community Development Inc., Maui Beneficiary Farmers and Ranchers and Hui Kako`o O Pihana.

ITEM A-5 Porter DeFries Re: Item F-2

P. DeFries testified as a business and real estate attorney in Kailua, Kona, and a member of the Board of Directors for La`i `Opua 2020. He was testifying on behalf of La`i `Opua 2020 in support of the community center development project that was proposed and that La`i `Opua 2020 would seek certain approvals.

ITEM A-6 Avery Cramer Re: Item F-2

Avery Cramer testified in favor of the new market tax credits. He was also on the La`i `Opua Board of Directors.

ITEM A-7 Diane Kaneali`i Re: Item J-6, F-1, and F-2

D. Kaneali`i testified in support of La`i `Opua 2020's plan and in support of the new market tax credits. Regarding the Kohala Watershed Partnership on Hawai`i Island received a large grant to put in ungulate proof fencing from Honokoa Gulch across to Kohala Ranch. The fence is to keep the goats from going into the communities and damaging the lands. She heard the Department was not interested in doing the fencing. She thinks that is crazy because the fence is a huge benefit to the community as well as the Department.

ITEM A-8 Homelani Schaedel Re: Item G-3

H. Schaedel asked for clarification on Item G-3. What confuses her is No. 2, “any consent to release personal information permitting the DHHL to access birth, marriage, death certificates and other documents in the application or lessee file to assist the family.” Currently, if a lessee provides written authorization for a family member, they can request the documents to apply. K. Manuel stated he does not think it precludes allowing related family members to utilize existing documents within the application to apply.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

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

DISCUSSION

Acting Chair Davis deferred Item D-13 to next month, at which time District Manager James DuPont would be present to explain more details and answer questions.

- ITEM D-3** Approval of Consent to Mortgage (see exhibit)
- ITEM D-4** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-5** Approval of Homestead Application Transfers / Cancellations (see exhibit)
- ITEM D-6** Commission Designation of Successors to Application Rights – Public Notice 2015 – (see exhibit)
- ITEM D-7** Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- ITEM D-8** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-9** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-10** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see .”)
- ITEM D-11** Commission Designation of Successor – **BARBARA JEAN L. SMITH**, Lease No. 499, Lot No. 33 F1 & 2, Ho`olehua, Molokai
- ITEM D-12** Approval for Payment of Net Proceeds – **DAYNA L. KAIA-KAAIHUE**, Residential Lot Lease No. 9505, Lot No. 67, Waiehu Kou Phase II Subdivision, Wailuku, Maui
- ITEM D-14** Conditional Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 6973, Lot 29, Maku`u, Hawai`i – **JOHN I. KEKAHUNA**

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Chin, to approve the Consent Agenda as stated in the submittal with the exception of Item D-13. Motion carried unanimously.

REGULAR AGENDA

LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Various Lease Awards (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: Motion that the Hawaiian Homes Commission approves the awards of the Department of Hawaiian Home Lands resident lease lots to the applicants listed in the submittal for 99-years subject to the purchase of the existing improvements on the lot by way of loan or cash.

MOTION/ACTION

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

ITEM E-2 Rescission of Homestead Lease Award and Reinstatement of Application - Kauai Undivided Interest - Rhonda L. Thompson

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: Motion that the Hawaiian Homes Commission approve the rescission of one residential lease, Kaua'i Undivided Interest program, which commenced on May 13, 2006, and reinstate one residential lease application to the appropriate residential lease waitlist according to the original date of application.

MOTION/ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND MANAGEMENT DIVISION

ITEM F-1 New Markets Tax Credit (GL No. 286, La'i `Opua 2020) Pacific Growth Associates, LLC

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio presented the following: Tamar DeFries of Pacific Growth Associates and Bob Freitas presented the new markets tax credits.

MOTION

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

EXECUTIVE SESSION IN

1:11 PM

The Commission anticipates convening in an 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. Update on Nelson Case - Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
2. Approval of settlement in the matter concerning DHHL guarantees of loans made by American Savings Bank.
3. Update on issues related to Sandwich Isles Communications. (Tuesday)

EXECUTIVE SESSION OUT

2:04 PM

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Juliana & Clarence Montalvo – Waiehu Kou 3 Lease

C. Montalvo and J. Montalvo are from Maui. They asked the Commission to reconsider their family home lease. Due to family losses, they were unable to keep up with paying their mortgage and other bills. C. Montalvo was involved in a fatal accident in which he could not stop his cement truck in time, which he was later charged with negligent homicide. The attorney fees piled up which made it harder for them to keep up with payments. Again, he asked for the Commission to reconsider and give his family another chance.

Chair Masagatani explained the process and period that the family could seek reconsideration. AG Iha stated once the lease was canceled and reconsideration was not granted, the Commission has no jurisdiction, but there is an opportunity to appeal to the court, and that has a time limit also. Once all of it expires, the Commission no longer has jurisdiction over the matter. AG Iha suggested that they talk to their attorney.

ITEM J-2 James Gay – Various Homestead Issues

J. Gay resides in the Kaupea Homestead in Kapolei, close to the Kapolei High School. He resides on Kamaaha Avenue, close to the school. He works with the community precinct, and they have problems with kids that loiter. There is a gate, and after checking with the Bureau of Conveyance, he found that the gate is not a legal gate for ingress and egress. He is concerned about liability and the Trust as he is a beneficiary. He stated if it is not a gate, it should be closed or apply for an MOU.

ITEM J-3 Kanani Won – Pueo on DHHL Land

K. Won stated she is concerned about the endangered pueo. She is asking the Commission's support to protect the pueo and its habitat on Hawaiian homelands in the Ewa plains. The Division of Forrest and Wildlife has a goal that a conservation, habitat, and management plan be created to protect the remaining O`ahu pueo and its habitat. They want to work directly with the Department and other landholders to gather and share information for protecting the pueo and its habitat.

ITEM J-4 Princess Lehuanani Aquino – Waitlist (Deferred)

ITEM J-5 Kapono Kahui – Waimanalo Kaikana Project

B. Kahui spoke on behalf of his son Kapono Kahui who recently received a lease at Kakaina Subdivision in Waimanalo. He read through his son's lease with him and was concerned about the deadlines in the lease. B. Kahui stated there is no language in the document that allows the lessees for certain waivers or conditions if the deadlines aren't met. By January of 2017, he was supposed to have a contractor's license signed to do the project, but the project was a year away. B. Kahui stated there were problems with the timeline, no one knew what the cost was, and the construction did not start.

ITEM J-6 Bo Kahui – La`i`Opua 2020 and La`i`Opua Community Association

B. Kahui stated their office space was smaller than the men's bathroom, and this spurred La`i`Opua 2020's community development. The new market credit is an opportunity to bring capital to the community development project. Thirteen years later, La`i`Opua has a medical center, a community center, and the population at the homestead is growing. The new market credit is an opportunity and initiative to help support the community's program and services and for sustainability. B. Kahui asked the Commission on behalf of him and his community to approve the new market credit.

B. Kahui gave the Commission his update of La`i`Opua 2020 and La`i`Opua Community Association.

ITEM J-7 Porter Devries & Avery Kramer – La`i`Opua 2020 (Deferred)

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING OFFICE

ITEM G-3 Legislative Updates 2017

RECOMMENDED MOTION/ACTION

None. For information only. Legislative Analyst Lehua Kinilau-Cano presented the following Legislative Updates.

L. Kinilau-Cano stated there were three proposals accepted in the Governor's final package:

- Relating to the Qualification of Successors to lessees under the HHC Act, 1920, as amended.
- Relating to personal privacy
- Relating to the Hawaiian Homes Commission

OFFICE OF THE CHAIRMAN

ITEM C-1 Update of Amendments to Title 10, Hawai`i Administrative Rules

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the update of the amendments to Title 10, Hawai`i Administrative Rules.

DISCUSSION

Two topics surfaced to the top. The first was a genetic testing proposal and the second was regarding the notice and public hearing process.

ITEM C-2 Potential Topics for Administrative Rule Making 2017

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the potential topics for Administrative Rule Making 2017.

DISCUSSION

The following topics surfaced DCC&Rs, communities 2nd dwellings on residential lots, rules for the water system's planning system rules, housekeeping and administrative rules such as the Native Hawaiian Development Program Plan, and efficiencies to help the Department run efficiently and the Committee meetings run efficiently.

ITEM C-3 Update of DHHL Work Plan (Deferred to next month)

RECESS

5:39 P.M.

DRAFT

HAWAIIAN HOMES COMMISSION

Minutes of January 24, 2017

Meeting held at Hale Pono`i, Kapolei

Pursuant to proper call, the 683rd 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 Jobie M.K. Masagatani, Chairman
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua`i Commissioner
Gene Ross K. Davis, Moloka`i Commissioner
Wallace A. Ishibashi, East Hawai`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
Wren Wescoatt, O`ahu Commissioner

EXCUSED Michael P. Kahikina, O`ahu Commissioner
William K. Richardson, O`ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, ICRO Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Kaleo Manuel, Acting Planning Office Manager
Norman Sakamoto, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
James Du Pont, West Hawai`i District Office Supervisor
Halealoha Ayau, Water Specialist
Bryan Cheplic, ICRO
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Susie Richey, Secretary

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:42 a.m.
Seven (7) members were present at roll call.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Former Governor Neil Abercrombie Re: Item F-2

Former Governor Abercrombie stated the first committee he was assigned to in 1974 was called Water, Land, and Hawaiian Homes under Chairman Kawakami. The responsibilities of the Commissioners, staff and native Hawaiians involved with the objective and direction intended by the Prince, with the original act, it all takes place in the political dynamics of the day. One of the political elements involved is the new market tax credit. He stated there are tremendous

opportunities to utilize to the advantage of the Hawaiian Home Lands. The report that is before the Commission is excellent. Anyone who had no knowledge of new market tax credit could not be better informed than the Land Management Report that was provided to the Commission. Former Governor Abercrombie stated he strongly supports the new market tax credit.

ITEM A-2 Bo Kahui Re: Item F-2, Item G-2

B. Kahui was in support of the new market tax credit. B. Kahui gave a brief history and update of La`i `Opua. For Item G-2, the Association would be honored to participate in the process.

ITEM A-3 Homelani Schaedel Re:

H. Schaedel presented herself as co-founder of the Kapolei Community Development Corporation (KCDC). She stated KCDC has 22,000 sq. ft. to work with that will serve the four homesteads in the Kapolei region. She spoke of the La`i `Opua vision, and she went to visit and saw B. Kahui's 1st phase project, the Health Center. She was overwhelmed with the beauty and location of La`i `Opua. She stated KCDC knows what its vision is, and they are working towards that vision.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-2 Consent to Assignment, Partial Cancellation, Amendment, and Restatement of Sublease and Mortgages in connection with the New Markets Tax Credit financing, General Lease No. 286, La`i `Opua 2020, Kealakehe, Island of Hawai`i TMK Nos. 374021002 (por.) & 003.

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion requesting consent to assignment a partial cancellation, amendment, and restatement of sublease and mortgages in connection with the New Markets Tax Credit financing, General Lease No. 286, La`i `Opua 2020, Kealakehe, Island of Hawai`i TMK Nos. 374021002 (por.) & 003.

MOTION/ACTION

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

PLANNING OFFICE

ITEM G-1 Adoption of the Pana`ewa Regional Plan Update (2017), Hilo, Hawai`i

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel introduced Planning Specialist Andrew Choy to present the following:

Motion that the Hawaiian Homes Commission adopt the Pana`ewa Regional Plan Update and authorize dissemination of the Pana`ewa Regional Plan Update.

MOTION/ACTION

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

C – DHHL Guarantees for FHA Construction Loans

No discussion.

ITEM D-2 Loan Interest Rate Policy

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION

Acting Homestead Services Division Administrator Dean Oshiro stated that DHHL relied on a 6% interest rate based on a Commission action dating back to 1995. In 2012 the Commission approved to lower the rate to 4-1/2%. In today's market, the rate is around 3.625% to 4.125% for 30-year fixed rates. The Department does not assess points and fees. D. Oshiro stated that there is no change needed to be made for the interest rates.

D. Oshiro stated the Chairman tasked him and his loan section to try and come up with some type of product to be able to service the "gap group". The "gap group" are those that make too much not to be NAHASDA qualified, but yet not quite enough to get outside financing.

Commissioner Wescoatt suggested looking at the overall portfolio and look at it from the risks side. It seems like the loan portfolio generates \$3-\$4 million per year, but then there's the outstanding delinquency balance of about \$11 million.

PLANNING OFFICE

ITEM G-2 Overview of the Native Hawaiian Rehabilitation Fund (NHRF) and Preliminary Work Plan for Strategic Review of NHRF Revenues

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION

Acting Planning Manager Kaleo Manuel stated that DHHL uses NHRF funds solely for the rehabilitation of native Hawaiians. The NHRF funds educational, economic, political, social, and cultural programs to improve the general welfare and condition of native Hawaiians.

DHHL's NHRF entitlement interest derives from two categories of lands as well as all State-issued water licenses. NHRF revenues are supplied from protected lands, other sugarcane lands, and water licenses.

MOTION

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

EXECUTIVE SESSION IN 12:00 PM

The Commission anticipates convening in an 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. Update on issues related to Sandwich Isles Communications. (Tuesday)

EXECUTIVE SESSION OUT 1:29 PM

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be on February 21 & 22, 2017, at Hale Pono'i, Kapolei, O`ahu, Hawai'i

MOTION/ACTION

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

ADJOURNMENT 11:59 A.M.

Respectfully submitted:

Jobie M. K. Masagatani, 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:

Jobie M. K. Masagatani, Chairman