

HAWAIIAN HOMES COMMISSION

Minutes of December 18, & 19, 2017

Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the 694th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono'i, DHHL Main Office, Kapolei, O'ahu, beginning at 9:38 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Commissioner, Maui
Kathleen P. Chin, Commissioner Kaua'i
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Ka'apu, Commissioner, West Hawaii
Michael P. Kahikina, Commissioner, O'ahu (arrived 10:22 a.m.)
Wren Wescoatt, Commissioner, O'ahu

EXCUSED Molokai Seat, Vacant
O'ahu Seat, Vacant

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Hale Manager
Kahana Albinio, Acting Administrator, Land Management Division
Kaleo Manuel, Acting Manager, Planning Office
Francis Apoliona, Compliance Officer
David Hoke, Enforcement Officer
Akoni Shannon, Enforcement Office
Dean Oshiro, Acting Administrator, Homestead Services Division
Stewart Matsunaga, Community Development Manager, Land Development
Leah Burrows-Nuuanu Secretary to the Commission
Bryan Cheplic, ICRO
Joann Aiwohi, Homestead Housing Specialist IV
Susie Richey, Secretary to Deputy Director
Debra Aliviado, Customer Service Manager
Nancy McPherson, Planner Gigi Cairel, Grants Writer

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:38 a.m.

Six (6) members were present at roll call. Commissioner Kahikina arrived late. Molokai and Oahu Commission seats were vacant.

APPROVAL OF AGENDA

Chair Masagatani noted Item F-1 and C-5 moved to the Tuesday agenda.

MOTION/ACTION

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

APPROVAL OF MINUTES

Chair Masagatani asked if there were any comments or edits to the September 2017 minutes.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Wescoatt, to approve the HHC Minutes for September 2017. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Kekoa Enomoto, Pa‘upena Community Development Corporation. Re: C-7

K. Enomoto testified on agenda Items C-7 and D-1. She supports first right of refusal for undivided interest lessees. Regarding agenda Item D-1A, she stated the reports say that there are 5,057 Ag and Pastoral applicants for Maui. She wants the Department to award beneficiaries right of entry permits to get on the land before they die.

K. Enomoto provided copies of a power point presentation titled Waiohuli-Keokea Actualizing Visions. She provided video testimonies of Sarah Nakihei, Carol Lee Kamekona, Bobby Pahia and Mattie Kukahiki Kaeo. She added that Bobby Pahia applied for a permit or general lease from the Department but was denied. He now leases land from the state to farm his taro.

K. Enomoto concluded Pa‘upena CDC is against holding off, and asked to move forward with getting Hawaiians back to the soil.

ITEM A-2 Homelani Schaedel, Maluohai Lessee Re: F-1, F-2

H. Schaedel stated her testimony is as an individual. She asked for clarification of Item F-1, regarding the ten-year term of the agreement. She has been a resident of Maluohai since October 2001, and after 16 years, their streets have still not been transferred to the County. What happens if the transfer is not done within the ten years? Who becomes responsible for maintaining the utilities? Area residents are already having problems with their water lines. The law says that the fees calculated should be based on an appraisal, the fees listed in the submittal are insufficient.

She knows that Gentry is a responsible developer and that they are willing to work with the community, but she wants the Department and Commission to look at the true benefits and deficits to beneficiaries' long term. If those utilities fail it will affect all three homesteads and the larger community.

With regard to Item F-2, she is disappointed that the project did not succeed as she supported it for the potential community benefits package and felt it was a good thing for the region.

Chair Masagatani thanked H. Schaedel for her testimony and noted that this agenda lists the last of the Hoolimalima conversions. She noted H. Schaedel's persistence and follow-through to get the rental units converted to leases. After the approval of the submittal all 70 have been converted from rentals to leases.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

RECOMMENDED MOTION/ACTION

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

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda they want moved to the Regular Agenda. Commissioner Kaapu asked to move Items D-9 and D-10 to the regular agenda.

HOMESTEAD SERVICES DIVISION

- 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 Refinance of Loans (see exhibit)
- ITEM D-5** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-6** Approval of Homestead Application Transfers / Cancellations (see exhibit)
- ITEM D-7** Commission Designation of Successor to Application Rights of **FRANCIS T. MILLER**, Deceased – Public Notice 2016
- ITEM D-8** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-11** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-12** Approval of Subdivision, Transfer of a Portion of Lease, Amendment of Lease No. 1638, Lot No. 8, Nanakuli, Oahu – **ALTHEA G. PAIK**
- ITEM D-13** Commission Designation of Successor – **JAMES K. CABEBE**, Lease No. 11670, Lot No. UNDV, Kapolei, Oahu
- ITEM D-14** Request to Schedule Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor(s) (see exhibit)

LAND DEVELOPMENT DIVISION

- ITEM E-1** Approval of Lease Award – James C.T. Repercio
- ITEM E-2** Rescission of Homestead Lease Award and Reinstatement of Application - Hanalei M. Terlep, Kaumana, South Hilo, Hawaii

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Ishibashi to approve items listed in the consent agenda, except for Items D-9, D-10. Motion carried unanimously.

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-9** Approval of Assignment to Leasehold Interest (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:

To approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

MOTION

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

DISCUSSION

Commissioner Ka'apu stated his questions are with Items #12 and #17. Item #12 is an undivided interest transfer to Helen Wai and his understanding is that she is already a lessee. D. Oshiro stated Ms. Wai can transfer her existing lease and accept the undivided interest lease.

Commissioner Ka'apu asked with regard to Item #17, if the Department has the affidavit that the property is not being sold. D. Oshiro stated the affidavit is a part of the process for all such transactions.

Chair Masagatani stated she has a question for counsel regarding Item D-9, so she will defer the approval until after the scheduled executive session.

ACTION

Deferred until after the lunchtime executive session.

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

RECOMMENDED MOTION/ACTION

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

MOTION

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

Commissioner Ka'apu asked if the amendment in #3 "to release a reservation of life interest" is normal. D. Oshiro stated it is not normal and the Department no longer uses the term in leases. Commissioner Ka'apu asked if the Department takes the opportunity in lease amendments to fix provisions to the DCCRs to make them enforceable.

Deputy AG Iha stated the Department needed to have promulgated administrative rules before it subjected the leases to those conditions. Commissioner Kaapu asked if the Department can correct the defects contractually. Deputy AG Iha stated the Department cannot contractually, but the appellate opinion stated the associations can enforce the provisions themselves. The question is, when can the Department enforce the DCCR provisions as a lease violation?

ACTION

Motion carried unanimously.

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Recommended Changes to the Draft Administrative Rules for the Water Systems and to Proceed to Rulemaking Under Chapter 91, Hawaii Revised Statutes

RECOMMENDED MOTION/ACTION

DHHL Rules Officer Hokulei Lindsey, Planner Gigi Cairel, Water Specialist Halealoha Ayau presented the following:

That the Hawaiian Homes Commission approve the recommended changes to the draft administrative rules for the Water Systems and to proceed to rulemaking under Chapter 91, Hawaii Revised Statutes.

MOTION

Moved by Commissioner Ishibashi, seconded by Commissioner Kahikina to approve the motion as stated in the submittal.

DISCUSSION

H. Lindsey reviewed the substantial changes to the draft administrative that were made as a result of beneficiary consultations. The most significant changes are listed in the submittal.

Commissioner Wescoatt asked if sustainability of the water system is defined in the rules. He suggested inserting the words “water system” before sustainability, to be clear.

Commissioner Kahikina asked about water rights and rehabilitation. Where do beneficiaries go to get rehabilitated? H. Ayau stated that it begins by understanding respective responsibilities. The Department’s role is to increase its ability to efficiently provide water to beneficiaries.

Chair Masagatani discussed the Water Policy implementation plans as the mechanism to pursue water rights. Chair Masagatani inquired, why are the rules needed? H. Ayau indicated that the rules provide an administrative framework financially to make sure the water systems are sustainable.

Commissioner Kaapu expressed concern about having to continue footing the bill for those who don’t pay. He also stated it might not be equitable to shift obligation from non-payers to payers.

Commissioner Chin also expressed concerns about shifting liability and creating inequity. G. Cairel commented that the Department is already subsidizing water for both beneficiaries and non-beneficiaries. Staff have engaged in rate setting options and ran through various scenarios with the consultant. The current rate schedule expires in June, 2018. Rules are a required condition of the USDA federal funding of \$20 million. DHHL must have to have procedures in place for billing, delinquency, and water shut off.

Commissioner Wescoatt asked what alternative payment methods are being considered. H. Lindsey stated it can be structured in many ways, like providing yard maintenance or other types of community service. Commissioner Wescoatt stated this could be difficult for the Department to administer and account for in a way that’s fair. H. Lindsey stated as difficult as it would be to implement, it could be a powerful tool for community building and could assist in making them responsible to their community and each other.

H. Ayau noted that DHHL may never collect from some beneficiaries. How can we approach the issue from outside the box? Commissioner Wescoatt suggested engaging the community associations to help with the “transfer of value” part. At least it will keep water users responsible and engaged with their community. He also asked if turning off the water is something the Department can do, or does it need to go before the Commission via a contested case. H. Lindsey stated it is written into the rules as an administrative matter.

Commissioner Chin asked how often the Commission set the water rates. K. Manuel stated that the Commission should be the body to set the rates. Staff will provide the write up based on best practices. The goal is to strive for water system sustainability.

Commissioner Ka'apu commented that water service and how the community deals with delinquencies should be kept separate. Community associations could step up to help a beneficiary turn his in-kind offering into cash to pay the water bill, but it shouldn't be the Department. The Department needs to focus on providing the water efficiently. He also agreed that when water needs to be shut off, it should be an administrative function. It takes too much staff and Commission time to deal with why someone isn't paying their bill. He concluded that he does not feel good about subsidizing water for any beneficiaries. It makes the Department vulnerable to claims from beneficiaries in other areas without subsidies, who are struggling to pay their water bills.

Commissioner Ishibashi asked how serious the delinquency is. G. Cairel stated the only area with non-beneficiaries on the Department's water system is on Moloka'i. They pay their bills but rates are so low that in the end, the Department still subsidizes their water. Beneficiary delinquencies are approximately 30% on Moloka'i, and 50% in Anahola, Kawaihae and Pu'ukapu. The dollar amounts not being collected in Anahola is approximately 90%. The goal is to have non-beneficiaries pay for the actual cost for them to use water. These are users like the Department of Education, and Department of Transportation-Airports. The Department want them to pay for water at cost, once the rate study comes in. Commissioner Ishibashi stated the Department needs to address surface water like in Honouliuli.

Chair Masagatani asked if the Commission can immediately set higher rates for non-beneficiaries. K. Manuel stated the Department has been trying to set rates based on system costs. The focus has been on trying to find out how much it costs to run the different systems. The Department didn't want to make arbitrary increases until the study was completed and not increased the rates because there are risks involved with increasing water rates without justification. G. Cairel reminded Commissioners that the Department is coming back in April 2018 with rate schedule recommendations after the rate study is completed. The current schedule expires in June.

Commissioner Wescoatt stated the rate of non-payment is significant. The Department must be ready to shut off water and do it often or it will not improve. Enforcement must be a part of the rules. Commissioner Chin agreed. She also indicated that implementation will be tough and requested that there be a clear process. H. Ayau stated the first step was to review the systems for efficiency to make sure costs are as low as possible. Public education is another component, education in communities. The goal is to have the systems break even.

Commissioner Kahikina asked about public water spigots. How did it come about? Is it for ag or residential? H. Lindsey expressed that the original concept was if the Department must shut off the water, there should be a community spigot. This came from Hawai'i County where they have public spigots in rural areas. At the beneficiary consultation meetings, there was a consensus against it. The sentiment was that if someone doesn't pay their bill, they shouldn't be able to get free water.

Commissioner Kahikina stated he liked the idea about strengthening the community, but he felt you cannot strengthen the community without strengthening the family first. He struggled with how to coordinate all the different policies with rehabilitation. If an unsuccessful agriculture beneficiary is delinquent for ten years, how do you coordinate that with folks who don't do anything on their land for years or those who sell their lots.

Commissioner Ka'apu stated he had difficulty squaring this policy with the Department' policy on mortgages that are funded in house. He doesn't understand why this is different. It is not clear in the rules. If beneficiaries are using the water that the Department is paying for, how is it different from in house mortgages. It needs to be crystal clear in the rules.

Chair Masagatani stated the study may come back showing that it costs so much to run the water system that the Department may end up subsidizing even the paying customers.

Commissioner Ka'apu asked if the proposed water accounting system has been implemented. G. Cairel stated it is not yet implemented, but it is in the works. The Department is a little stuck on not having enough dedicated staff. Commissioner Ka'apu asked if the rules would change if the Department was fully staffed. G. Cairel stated it would not. There are fixed costs no matter how big or small the system is. The Department has a small system compared to the others in the state. There are less than 1000 connections. If there is a way to expand the customer base, operating costs could be spread over more customers. H. Ayau stated improvements in efficiency is the main way to reduce operational costs. On Moloka'i, the tank would overflow when it was full and someone had to manually turn off the spigot. The tank now has a sensor that automatically turns it off when the tank is full. They are also implementing a leak detection system to reduce waste along the lines.

Commissioner Kahikina asked if the customer base can be expanded. K. Manuel replied that there are limitations like geography and how the systems were designed. Anahola is challenging because it was built on one side of the valley and the county has its system there too. On Molokai, it would cost a lot to add more lateral lines and with the ongoing Kukui lawsuit, no one will do any major improvements until the case is finished. One of the strategies is to keep a look out for opportunities to add more customers. He noted the Department cannot add more customers without adding more staff. They are at the point where adding more duties to the skeleton crew will be detrimental.

Commissioner Chin asked if procedures are created when administrative rules are created. The rules are broad but the procedures lay out all the steps. H. Lindsey stated that a lot of the editing that went into the draft dealt with removing large sections of the original draft that read more like procedures. In that regard, staff is fortunate to already have the procedures drafted. A lot of the nitty gritty details are ready. Commissioner Chin asked if the procedures are available to beneficiaries if they need the details to understand the rules.

Chair Masagatani stated the procedures are available and are public documents if anyone requested them.

Commissioner Wescoatt asked if the Commission is being asked to recommend changes. Chair Masagatani stated the rules can be deferred to next month to allow Commissioners time to submit changes to H. Lindsey between now and the first several weeks in January.

Chair Masagatani deferred action to January.

RECESS

11:30 AM

RECONVENE

11:59 AM

ITEM C-2 Approval to Proceed to Beneficiary Consultation for Administrative Rules Related to Declaration of Covenants, Conditions, and Restrictions (DCCR) Communities, Multi-Family Housing, and Rentals

RECOMMENDED MOTION/ACTION

DHHL Rules Officer Hokulei Lindsey presented the following:

That the Hawaiian Homes Commission approve proceeding to beneficiary consultation for draft administrative rules related to Declaration of Covenants, Conditions, and Restrictions (DCCR) Communities, Multi-Family Housing, and Rentals.

MOTION

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

DISCUSSION

H. Lindsey stated this is a follow-up to the workshop she provided several months earlier. The Department has been working on draft administrative rules that would address section 207.5 of the Hawaiian Homes Commission Act, including DCCR homestead communities as well as multi-family housing and rentals. At the September 2017 Hawaiian Homes Commission meeting, staff presented a workshop about the relationship between DCCR homestead communities and the Department of Hawaiian Home Lands. Later that month, the Department convened a meeting with the DCCR associations' leadership to discuss the same topic and to get input on administrative rules that would govern the relationship between DCCR communities and the Department. At the November 2017 HHC meeting, staff provided the HHC with an update following the meeting held with the DCCR communities' leadership.

The draft rules that would be presented for beneficiary consultation include provisions specific to the DCCR communities and include provisions for multi-family housing and rental housing. The draft attempts to address challenges identified by the DCCR leadership and create a process inclusive of lessons learned should the Department use the DCCR model for future homestead communities. Staff believes the language is drafted to allow various combinations of development and housing types providing greater flexibility in future homestead development. The draft rules are attached as an exhibit.

Chair Masagatani asked if these rules cover accessory dwelling units (ADU). H. Lindsey stated these rules only cover rentals by the Department.

Commissioner Kahikina asked for a status of allowing ADUs. H. Lindsey stated the draft should come before the Commission in January or February.

Commissioner Ka'apu asked for clarification of the kupuna housing process. H. Lindsey stated to take advantage of the kupuna housing program a beneficiary would surrender their homestead lease and become a previous lessee and go to the bottom of the list. Theoretically, they would have the option to relinquish their lease by transfer or surrender.

Commissioner Ka'apu asked if there is an eligibility requirement. H. Lindsey stated the only criteria in the draft is the beneficiary needs to be 55-years old or older. It is written to accommodate any income.

Commissioner Wescoatt suggested adding a 12-month timeline for filling unoccupied units under section 10-7-21. He feels there should always be a target or a timeframe to turn units over. Former HSD Lease Coordinator Mark Yim stated it depends on the state of the unit. Some units

come back to the Department dilapidated and unsafe. Sometimes the procurement system to get contractors to do the work can take months.

D. Oshiro added that reaward of a unit is often delayed by the current occupant's refusal to leave whereby legal steps need to be taken to evict the party and their possessions.

Commissioner Kahikina asked for a legal opinion of exposure to the Department if the suggested verbiage is included. He asked what the difference is between multi-family housing and ADU. H. Lindsey stated the difference is referring to multi-family housing that the Department holds like condos or kupuna housing, as opposed to multiple families living on a single homestead.

The last discussion about ADUs was dealing with all the steps a lessee would need to go through to build the unit. The sense from the Commission was to be as broad as possible so the Department micro-manage beneficiaries and how they manage their own ADU.

ACTION

Motion carried unanimously

ITEM C-4 Amendment to the 2018 Hawaiian Homes Commission Meeting Schedule

RECOMMENDED MOTION/ACTION

Deputy Director William Aila Jr. presented the following:

To amend the 2018 Hawaiian Homes Commission Meeting Schedule to change January meeting to January 29 & 30, 2018.

DISCUSSION

Chair Masagatani stated the change was prompted by the original date conflicting with the 2018 Legislative Opening Day.

MOTION/ACTION

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

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Awo, to convene in executive session pursuant to Section 92-5 (a)(4), HRS. Motion carried unanimously.

EXECUTIVE SESSION IN

12:26 PM

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. Update on issues related to Sandwich Isles Communications.

EXECUTIVE SESSION OUT

2:32 PM

FOR INFORMATION ONLY

OFFICE OF THE CHAIRMAN

ITEM C-5 Waiohuli Housing Pilot Project with Department of Public Safety and University of Hawai'i Maui College

RECOMMENDED MOTION/ACTION

None. For information only.

Information and Community Relations Officer Paula Aila and Joann Aiwohi presented an overview of the submittal:

DISCUSSION

The Department of Hawaiian Home Lands actively seeks all opportunities to form partnerships to provide affordable housing options and alternatives for the Department of Hawaiian Home Lands beneficiaries. Over time, the Department has developed affordable housing relationships with many partners who assist the DHHL in providing housing options from turn key (Gentry Kapolei, LLC, Armstrong Builders) vacant lot/owner builder (Honsador, HPM, Ace Hardware Hawaii), rent with option to purchase (Mark Development), Kupuna rental housing (Pacific Housing Corporation), self-help (Habitat, Mustard Seed) and the University of Hawaii – Hilo campus to name a few.

DHHL proposes a pilot building project in the Keokea-Waiohuli subdivision on Maui with a new interagency partnership utilizing the services of the Department of Public Safety (PSD) which includes services from their Hawaii Correctional Industries, Maui Community Correctional Center and Work Force Development, and the University of Hawaii Maui College (MCC). Both State agencies have agreed to engage in this potential partnership due to the innovation of this project and the benefits (listed in the submittal below) the project will provide to all partners and their constituents. State agency Director(s) and UHMC Chancellor have provided their approval for this team to proceed pending approval from the Hawaiian Homes Commission.

Commissioner Awo recommended that staff engage with the Maui beneficiaries beforehand. The Maui beneficiaries are good partners and should be engaged as soon as possible. P. Aila stated she is willing to meet with the undivided interest beneficiaries.

Commissioner Chin asked how many homes will be built. Chair Masagatani stated it is just one home for now, and staff is still working on some of the details before bringing it back to the Commission for approval of the budget. The final programmatic costs are still not met.

Commissioner Kahikina stated he likes the model and agreed that beneficiaries need to be involved and considers them an important partner. It is good to help prisoners to rehabilitate themselves and provide them with a trade.

Commissioner Ishibashi supported the project and stated they have a similar program on Hawai'i Island. It is a good program and will provide valuable skills for the paahao (prisoners).

Commissioner Wescoatt asked who is providing the materials? Will the price of materials be discounted? P. Aila stated it will likely be a package home provider like Honsador where a four-bedroom house package cost \$55,000.00.

Robert Mahaffey, Administrator of Hawaii Correctional Industries stated this partnership gives the prisoners an opportunity to give back to the community. Hawaii Public Safety Correctional Industries does not receive funding and employs inmates.

Commissioner Kahikina asked what role does the Department of Labor Workforce Development program play. J. Aiwohi stated they get involved when the inmates are released. The prisoners have options: Hawaii Carpenters Union apprentice program, continue their education with the credits they've earned, or go to workforce development to find jobs. One outcome of the partnership is to reduce recidivism and give inmates pride and skills to return to society.

Chair Masagatani asked if the action item to approve the budget will be ready next month. P. Aila confirmed an action item should be ready in January. Following HHC approval next steps include:

- Finalize Memoranda of Agreements between the state partners;
- Submit procurement to hire General Contractor (MCC);
- Submit procurement for Public Safety work force (PSD).

Commissioner Awo said he is very excited about the project and is confident that the risk is minimal and the participants are highly motivated to return to society.

GENERAL AGENDA - Requests to Address the Commission

ITEM J-2 Skippy Ioane– Kings Landing Parcel Issue

S. Ioane stated the Department granted their association Malama Ka Aina Hana Ka Aina (MAHA) a right of entry permit for parcels in Kings Landing. He asked who has the authority to set the lot boundaries for each family. Originally, there were two families, the Pakani family and the Ioane family. He and Mr. William Pakani (deceased) agreed to certain boundaries. Mr. Pakani passed and S. Ioane left Kings Landing and now other families have moved in. S. Ioane wants to go back to Kings Landing, but there are others living there now and a dispute about boundary lines has ensued. He asked if the court case William Pakani vs. DHHL is relevant to the situation at hand and who has the authority to set the boundaries.

Chair Masagatani asked how many families are living in the village now. S. Ioane stated he was unsure, but felt many are not beneficiaries of the trust. He has a plan to do a contract with each family that must be renewed every year. As time goes by, people forget how they are supposed to behave. There are no clear lines of authority.

Chair Masagatani asked if MAHA is still a functioning organization registered with the State Department of Commerce and Consumer Affairs. S. Ioane stated his brother is still the chief and they have papers.

Chair Masagatani asked for time to allow staff time to look at all of the paperwork. The Department will try to get information to S. Ioane by the end of January or early February. S. Ioane stated he wants to know if William Pakani won by default, and how long the ruling lasts.

Commissioner Ka'apu asked if it is the Department's intent to homestead that land. S. Ioane stated the locals call the area Mawae, because it is in the middle. He believed it wouldn't be good homesteading land because it is in the tidal wave zone, the airport is situated on the left, and the rubbish dump is on the right side. There are no paved roads, electricity, or water.

Commissioner Ishibashi asked if MAHA set the boundaries in the past. S. Ioane stated they did, but not with boundary pins. This time they will set boundary pins to clarify everything.

ITEM J-3 Bo Kahui – Villages of La‘i‘opua and La‘i‘opua 2020

- I. VOLA
 - A. Kekoa Ahuna Transfer to Corrina Nakea Francisco and Delinquent Dues
 - B. Item C-2; Beneficiary Consultation re: DCCR's
 - C. Item D-3: Lessee Consent to Mortgage
 - D. Action for DHHL Kona Office Status
 - E. VOLA 2009 Regional Plan Update Request
 - F. DHHL Village 4 Housing Plan Status
 - a. Community Benefit Package: Community Center Contribution
 - b. Community Park
 - G. County's Proposed Homeless Shelter adjacent to Village 9: VOLA opposes Temporary Encampment: See VOLA 12062017 Resolution
- II. La'i Opuu 2020
 - A. L2020 Water Development Plan- Update:
 - a. Jim Gianualus- Reconfirm Commitment to L2020 and DHHL
 - b. USDA RUS Application pending EA & PER Report: ROE & PH- I Exploratory Docs
 - c. DHHL: Commission Review of Water needs; Approves \$IM for EA & PER Report
 - B. Community Center Development:
 - a. Community Center Update PH I
 - b. Community Center PH2
 - C. Grants Programs
 - a. Design GIA Grant- Modification approved. L2020 \$80K released
 - b. State GIA-CIP: Gov. Approved & Released \$SOOK; L2020 Submitted Deliverables/ Contract?
 - c. DHHL: Operation & Administrative Grant
 - d. First Hawaiian Bank: Foundation Application: Kitchen Equipment- Pending
 - e. BOH; Foundation Application: Kitchen Equipment- Pending
 - D. L2020 Educational Program:
 - a. CNA Program, CDF, Haleo, Aquaponics, HCA Financial Literacy/ IDA Program:
 - E. Fund Development Priority: Capital Campaign Committee
 - F. Habitat for Humanity Builds Wong Home

ITEM J-1 Stephanie Lauifi – Blood Quantum Bill – (deferred)

ITEM J-4 Lahela Williams –Hawaiian Community Assets (HCA)

L. Williams reminded Commissioners that Hawaiian Community Assets was founded in 2000 on the island of Maui and its mission is to support homesteaders in preparing to secure their homes. In the 17-years of their existence they've expanded services to help renters, to help families save their homes from foreclosure, and to provide financial literacy classes to beneficiaries. Brandeis University did a case study that highlights the work HCA does and summarized it in a booklet provided to Commissioners.

L. Williams provided testimony in support of D. Benevedes who succeeded his grandmother's lease in Waimānalo. He has worked tremendously hard over the past year to build credit, increase his income and start a savings account. She asked the Commission's support of the opportunity D. Benevedes is being provided to secure a NAHASDA mortgage loan to save his family home.

ITEM J-5 Paulette Kahana, Robert Kahana, Michael Yeltin – Right of Entry Termination

P. Kahana introduced her husband Robert Kahana and business partner Michael Yeltin of Hawai'i Extreme Paintball. Their parcel is located in Kalaeloa between the two solar farms. Their right of entry permit was non-renewed via letter, on August 30, 2017. The reason noted in the letter was because of a stockpiling violation for soil that was donated to them after a fire. They removed the donated soil, but was not cleared of the violation because of a berm put in by the solar farm. They are good lessees and pay their rent on time.

R. Kahana asked if the Department could update the contact information listed on the permit to change the address from his former partners to himself. The notices are sent certified mail to the former partners who are no longer on the permit, so by the time they received the notice, valuable time passed.

Land Manager Kalei Young clarified that the only remaining violation is the berm. The city will not clear the violation until the berm is removed. R. Kahana stated the berm is not on their parcel and they did not put it there. The berm keeps the water out of the solar company's parcel and causes the water to pool on the paintball side. They would not have put it there, they too want it removed.

M. Yeltin clarified that the berm was not there in the beginning, but when the solar company moved in next door the berm was being built. It is not in their property and they didn't put it in. The paintball company functions on the weekends, so during the week no one is on the property. The berm protects the solar farm's electrical box from water. It damages the paintball property.

Commissioner Wescoatt asked why the paintball company is being hit with the violation if the berm is not in their boundary. K. Young stated the berm is on the border of the paintball property.

Commissioner Kahikina asked for clarification about the invoices relating to the removal of cars. R. Kahana stated the cars were part of the props but a fire burned the cars and they took it upon themselves to remove the burnt cars because they were a liability.

Chair Masagatani asked LMD Acting Administrator Kahana Ablinio and Deputy William Aila to follow up on the violation and assess the situation.

ITEM J-6 Nānākuli Housing Corporation (deferred)

ITEM J-7 Kanoe Eiselin – Real Estate Specialist Crown Castle

K. Eiselin provided Commissioners with a packet of information regarding lease No. 518609. Two years ago, T-Mobile West Tower LLC, through its Attorney in Fact, CCTMO LLC, sent a notification of renewal letter to DHHL, notifying DHHL that T-Mobile was exercising its option to extend the term of the License for an additional (5) year term from 12/1/2016 through 11/30/2021. The license has been on a month to month status and they have been unable to upgrade the services provided at the site for over two years. They have been unable to bring in additional carriers to the site which would provide increased choices and improved services for DHHL's constituents. K. Eiselin asked DHHL for consideration of their request so DHHL beneficiaries may receive improved telecommunication services from a greater variety of carriers.

Chair Masagatani thanked K. Eiselin for her testimony and will have staff provide her with an update. Commissioners had no questions.

4:37 AM

4:45 AM

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue a Non-Exclusive License as Easement for Driveway and Utility (Water/Sewer) Connections to Gentry KGC, LLC (GKGC), a Hawaii limited liability corporation Kapolei, Island of O‘ahu, TMK Nos.(1)9-1-151:055(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
That the Hawaiian Homes Commission (HHC) authorize the issuance of a non-exclusive license as easement to GKGC, as LICENSEE, to install, repair, operate and maintain driveway and utility (water & sewer) connection improvements 151 traversing :055 as over, proposed. under and across portions of Hawaiian home lands identified by TMK No.: (1)9-1-151:055 as proposed.

DISCUSSION

K. Albinio stated the original LMD Agenda Item No. F-1 as presented to the HHC at its regularly scheduled monthly meeting held on June 20-21, 2016, was deferred for purposes of providing Gentry KGC, LLC (GKGC) the opportunity to address the impact its proposed single-family residential cluster development would bring to the Kanehili Hawaiian Homestead Community subdivision. Approval and issuance of this non-exclusive license as easement shall be subject to the revised conditions in the submittal.

K. Albinio introduced Quentin Machida of GKGC. Q. Machida stated he understood there were concerns about costs incurred prior to dedicating the roadways and costs related to dedicating the roadways. They are often tasked by the City to put in infrastructure meant for public use. The City grants connections to the infrastructure and GKGC doesn't have much to say about it. The City doesn't give them a choice. If they oversized infrastructure for a Department project, they would ask the Department to contribute. If it was existing infrastructure, they probably wouldn't care too much if the Department were to hook up.

Chair Masagatani asked for the overall timeline of the project and if there is a cutoff date where if there is no agreement with DHHL, they will redesign the project. Q. Machida stated before GKGC purchased the parcel they asked DHHL for access and got a letter confirming it. They spent the last 2 years designing the roadways and infrastructure of the project. They are invested in the project and didn't expect it to be as big of an issue as they are beginning to understand, it is for DHHL. They are open to what the Department has to say about it. City will force the road connection. He asked for consideration of the additional access to the subdivision for beneficiaries. From their view, it makes the most sense.

Chair Masagatani noted that given the lateness in the day, she doesn't think the Commission is comfortable enough to render a decision either way. Before deferring the item, she asked if Commissioners had any questions or comments for Q. Machida.

Commissioner Ka'apu suggested staff and GKGC explore the scenario that the County doesn't take over roadway.

H. Schaedel stated her concern and that of homestead leaders has been to ensure everything is done in the best interest of the beneficiaries. In Malu'ohai the infrastructure costs for each lot were \$69K. Eight years later, it was \$100K for Kaupē'a and then \$125K for Kanehili lots. Since it is not a community improvement, should there be cost sharing of infrastructure because the infrastructure is in already. Should there be some reimbursement to the trust?

Chair Masagatani asked if the infrastructure that was laid in Kanehili has the capacity to take the additional sewage and water. Q. Machida stated he doesn't think it was upsized, but in order to get the approval the wastewater connection had to be approved first.

Chair Masagatani asked for another analysis on cost sharing based on if the Kanehili infrastructure couldn't take on the additional connection. There is capacity that DHHL is arguably never going to recover because this subdivision is going in.

Commissioner Chin stated that Gentry estimated that it would have cost \$330,000 to come in off Kapolei Parkway, and that Gentry discounted the development of the lots based on that estimate. They estimated a cost savings of \$135K. Q. Machida stated the real cost for the 2 lots was somewhere around \$330K and Community Planning estimated a cost savings of around \$135,000 by connecting through Kanehili instead of from Kapolei Parkway.

H. Schaedel asked if the request is not approved, how much would it cost to put in the utility from Kapolei Parkway to service the 66 homes? Q. Machida confirmed the sewer line will be cheaper through Kanehili and added that HECO wants to make sure there is a loop to make the grid stable in that area.

Chair Masagatani thanked Q. Machida and the Gentry team for their patience but noted some outstanding issues that need to be further analyzed. She anticipated bringing the item back to the Commission in January 2018.

RECESS

5:24 PM

HAWAIIAN HOMES COMMISSION

Minutes of December 18, & 19, 2017

Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i

PRESENT

Jobie M. K. Masagatani, Chairman
Randy K. Awo, Commissioner, Maui
Kathleen P. Chin, Commissioner Kaua'i
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Ka'apu, Commissioner, West Hawaii
Michael P. Kahikina, Commissioner, O'ahu
Wren Wescoatt, Commissioner, O'ahu

EXCUSED

Molokai Seat, Vacant
O'ahu Seat, Vacant

COUNSEL

Craig Iha, Deputy Attorney General

STAFF

William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Hale Manager
Kahana Albinio, Acting Administrator, Land Management Division
Kaleo Manuel, Acting Manager, Planning Office
Francis Apoliona, Compliance Officer
David Hoke, Enforcement Officer
Akoni Shannon, Enforcement Office
Dean Oshiro, Acting Administrator, Homestead Services Division
Stewart Matsunaga, Community Development Manager, Land Development
Leah Burrows-Nuuanu Secretary to the Commission
Bryan Cheplic, ICRO
Joann Aiwohi, Homestead Housing Specialist IV
Susie Richey, Secretary to Deputy Director
Debra Aliviado, Customer Service Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:16 a.m.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Michelle Kauhane - President and CEO of the Council for Native Hawaiian Advancement: Item D-17 and Item C-7

M. Kauhane testified on Item D-17, reminding Commissioners that it started as a revocable permit and that they remember beneficiaries being passed over on the waitlist.

Regarding Item C-7, M. Kauhane understands why the Commission is looking into unimproved transfers as it relates to the waitlist, but it happens only around 50 times a year. They do this because they're afraid their 50% loved one will pass away and leave the entire line without a homestead legacy. She urged the Commission to look at more affordable options so that when the first person on the list is offered a lease, they might have a chance at something they can afford. Every time a home is built, if wait lister No. 1 cannot afford that home, it goes to the next person

and so on. The Commission should focus on the 27,000 people on the list instead of the 50 that do these transfers.

ITEM A-2 DeMont Conner –Ho‘omana Pono, LLC RE: Item D-15

D. Conner testified about Item D-15 and the community’s concern about what is fair and equitable for beneficiaries. Many who attended the Hilo Commission meeting wondered why Malama Solomon could have the DHHL Deputy Director sit with her before the Commission, presenting the matter for approval. Many who attended misunderstood what the Commission was approving because the Solomon’s already built the three homes on the lot. They felt the Solomon’s should have to answer for the violations, but Malama Solomon flipped the script and made like she was doing the Department a favor. It looked like the Solomon’s were receiving preferential treatment because she is a Senator. The bottom line was that they violated the rules and didn’t have to answer for it.

D. Conner urged the Department to be fair and to make a decision instead of continuing to defer the item.

Commissioner Kahikina commented that he continues to struggle with where to go to be rehabilitated. He is frustrated with colonization and democracy and doesn’t think the Hawaiian Homes Commission Act was made just to build houses. He applauded D. Conner for his testimony.

Chair Masagatani asked D. Conner what would he suggest should happen when lessees are out of compliance, should they be able to have the opportunity to come back into compliance. D. Conner responded that we have to give people the chance to make things right. Perhaps provide an amnesty period. People are just trying to take care of their ‘ohana. If people break the rules, what are the consequences for it. There needs to be consistency in the application of the rules. everyone who is in violation like the Solomon ‘ohana, should get the same opportunity to come into compliance.

Commissioner Kahikina stated he will vote against the motion because it is not fair because two people who were not on the waitlist are getting a lease before those on the waitlist.

Commissioner Awo agreed that all beneficiaries should be allowed the same opportunity as the Solomons. The Department needs more enforcement capacity so that people can be reminded and protected from becoming non-compliant. His struggle with this situation is that if he denies this first subdivision, how many others could also have benefitted from the subdivision process?

Commissioner Wescoatt stated even if the rule is for everyone, the process is not cheap. It costs a lot of money to do what the Solomons did. He also commented that Commissioners are ultimately servants of the trust, not the governor or even the Department.

Chair Masagatani thanked D. Conner for his testimony.

RECESS

9:55 AM

RECONVENE

10:03 AM

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

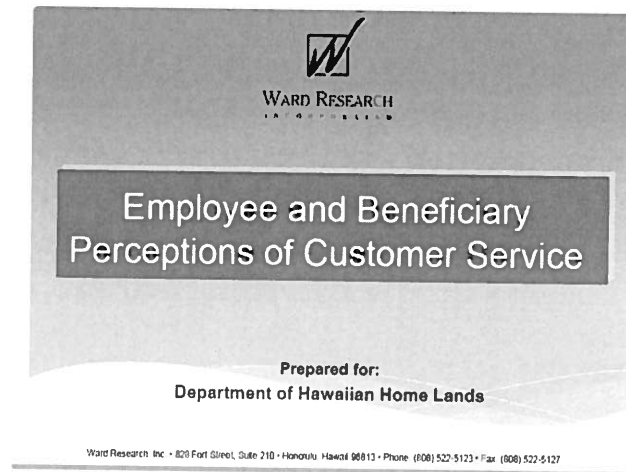
OFFICE OF THE CHAIRMAN

ITEM C-6 Employee and Beneficiary Perceptions of Customer Service – Presentation by Ward Research Incorporated

RECOMMENDED MOTION/ACTION

None. For information Only.

Information & Community Relations Officer Paula Aila, Customer Service Manager Debra Aliviado introduced Ms. Becky Ward of Ward Research, Inc., who presented the following:



Objectives

Assist DHHL in assessing customer service by:

- 1) Exploring customer expectations & staff motivations/barriers (qualitative phase).
- 2) Establishing baseline metrics & tracking change over time (quantitative phase).

Beneficiary Survey (July 2017)

Survey packets distributed to n=2,000 DHHL beneficiaries (July 3, 2017)

- ✓ n=1,000 to random sample of current lessees
- ✓ n=1,000 to a random sample of recent applicants.

Reminder postcards

n=404 DHHL beneficiaries completed & returned the survey by July 31, 2017 cut-off date (response rate of 20%).

Key Findings: Employee Research

- Findings reaffirmed upgrading staff resources, namely APEX & outdated record keeping system.
- Other areas considered most important for DHHL to address — increasing staffing levels & improving communication across Departments.
- Definite interest in orientations/training sessions for all employees & regular all-staff meetings.
- Need to update website.

Key Findings: Beneficiary Research

- Appears DHHL doing fairly good job with customer service, although there is room for improvement.
- Beneficiary ratings suggest employees are doing best in terms of interacting with beneficiaries on a personal level. Attributes related to employee knowledge ranked on second tier.
- Beneficiaries gave relatively lower ratings when it came to timeliness; *up to date and easy to use website*; and *keeping beneficiaries informed of their status during the process*.

Overview and Solutions

- Beneficiaries expressed appreciation & gratitude toward DHHL, understand difficulties in managing the Trust.
- Employees doing best they can --- love of their job & strong belief in cause.
- Many suggested upgrades already being addressed: Updating record keeping & filing system; updating APEX; increasing staffing levels; improving internal communications.
- Retraining staff/orientations to help address inconsistent service experiences.
- Call center to help with better response time.

Commissioner Ka'apu commented that the Department should consider sending the survey out to all beneficiaries rather than those who have recently contacted the Department. He commented that overall it looked like the Department's best grade was a B-, so there is room for improvement. He looks forward to seeing the methodologies used to raise the scores.

Commissioner Awo asked what the administration's thoughts are regarding decentralizing the filing system and workforce. As a neighbor island Commissioner, he is interested in improving the beneficiary experience on the neighbor islands.

Chair Masagatani stated the Department is already experimenting with locating staff on the neighbor islands, especially if the projects are located on the neighbor island. Beneficiaries appreciate being able to communicate with staff face-to-face.

Commissioner Ishibashi stated the information is not surprising and is more of a confirmation of what everyone already knows. Everyone knows the Department moves too slow, it needs more staff and the staff we have do too many things. P. Aila stated the exercise gave the Department real data to work from.

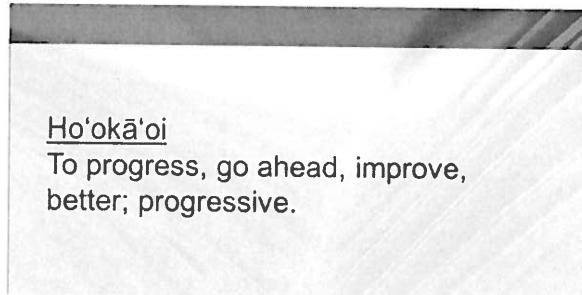
Commissioner Chin was interested in a poll of those who have not been in contact with the Department within the last five years, whether the results will be completely opposite. Many beneficiaries have decided to no longer work with the Department for whatever reason, maybe past experiences. Chair Masagatani clarified that the purpose of the work was not to evaluate the Department's reputation or perception in the beneficiary community. It was intended to focus specifically on the customer service beneficiaries receive and the Department was trying to work with the most recent experience because those are the staff who are here. The intent was to lay a baseline as objectively as possible. The questions that were asked, were focused on the customer service the beneficiary experienced. This was intended to improve a very specific part of the Department. A lot of it is resource driven, but there are areas the Department can improve now.

Commissioner Awo found it interesting that the beneficiaries rated their service better than the employees rated themselves. Where the Department can improve, it should strive to improve. P. Aila added that the focus groups were very open and beneficiaries expressed themselves openly. They were not shy about the issues that upset them but they were also appreciative of the effort the Department was taking to make improvements.

B. Ward stated she was the only facilitator in the room with the focus groups. DHHL staff observed from a remote room. In the first five minutes of the focus groups, she acknowledged that there were observers.

Commissioner Kahikina stated technological upgrades would help improve the Department's functioning exponentially. Beneficiaries still cannot pay their mortgages or update their information online.

P. Aila presented the next segment of the presentation as follows:



Ho'okā'oi

To progress, go ahead, improve, better; progressive.

DHHL Goals

- Assess Customer Experience with the DHHL via focus groups and surveys
- Determine baseline of customer experience findings from research
- Identify solutions to address customer experience baseline findings

Beneficiary Findings and Proposed Solution

- Finding #1 – Department resolving issues in a timely manner and keeping beneficiary informed of their status.
Solution: Contact Center & Software Enhancements
- Finding #2 – Up to date website
Solution: Redesign to be more customer friendly/ease of use
- Finding #3 – Answering and returning calls in a timely manner with knowledgeable information.
Solution: Contact Center

DHHL Staff Findings & Proposed Solutions

- Finding #1 – Update current record keeping (APPX) & filing system (Viatron)
Solution: Viatron and other platform enhancements
- Findings #2 – Understaffed
Solution: Increase hiring
- Findings #3 – Improve communication within the Department
Solution(s):
Develop training modules (onboard training, ongoing training)
Hold all staff meetings more frequently, brown bags, employee newsletter, etc.

CONTACT CENTER

- 1 number call support system for beneficiaries & the general public to call into for inquiries and or assistance.

DHHL Document Imaging System

- Provides staff the access to view the beneficiary file documents that have been scanned into the system via Viatron.

SYSTEM ENHANCEMENTS

- Provides both beneficiaries & staff with information & assistance in the Department's work flow processes.

Incoming Calls to DHHL

Total Average number of call per month	13556
Divided by total number of Customer Service Representatives:	3

Total Inbound calls per Customer Service Representative per month:	4518
Divided by number of working days per month	22 days

Total number of calls per day per Customer Service Representative:	205
Divided by hours worked in a day	8 days

Total number of inbound calls per CSR per hour:	25 calls per hr/per CSR
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Commissioner Chin suggested creating an organizational intranet, like a dashboard for employees. Sometimes all staff meetings can add extra strain to the already heavy workload. She also cautions cyber-security upgrades when the Department updates its technology. The amount of calls coming into the Department is a result of the Department's technological failures. She cautions staffing too many employees in the call center.

Commissioner Ishibashi liked the suggested solutions. He is encouraged by the work being undertaken by staff.

RECESS **11:20**

RECONVENE **11:30**

ITEMS FOR DECISION MAKING

REGULAR AGENDA

ITEM C-3 **Approval of Memorandum of Agreement with the Department of Agriculture Agribusiness Development Corporation Regarding Property in Whitmore, Oahu, TMKs: (1)7-1-002-031 and (1)7-1-002-033**

RECOMMENDED MOTION/ACTION

Deputy Director William Aila Jr. and Legislative Analyst Lehua Kinilau-Cano presented the following:

Authorize the Chairman to finalize the Memorandum of Agreement with the Department of Agriculture, Agribusiness Development Corporation regarding property in Whitmore, Oahu, TMKs: (1)7-1-002-031 and (1)7-1-002-033.

MOTION

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

DISCUSSION

The State Budget as provided in Act 49, SLH 2017, identified the Department of Agriculture as the expending agency for \$6.9 million in general obligation bond appropriation financing to DHHL (HHL 602) for lot development on Oahu - See Exhibit A. The Legislative intent of the appropriation is for the transfer of tax map key numbers (1)7-1-002-031 and (1)7-1-002-033 to the Agribusiness Development Corporation - See Exhibit B. This appropriation for DHHL is to acquire real property for the purposes of the Hawaiian Homes Commission Act, 1920 as amended. Through DHHL's cooperation, the fee title on the two parcels of land located in Wahiawa, Oahu, will be transferred to the Agribusiness Development Corporation prior to DHHL expending these funds.

The HHC approved the acceptance of the donation of approximately 53 acres of real property from Castle & Cooke Hawaii in December 2016 and this donation of real property is not considered available lands as defined in section 203 of the Hawaiian Home Commission Act.

The conveyance documents based on a prior bulk appraisal indicate the value of the parcels at \$1,344,265 - See Exhibit C. Castle & Cooke sold 205 adjacent acres of agriculture land to the Agribusiness Development Corporation (ADC) and an appraisal of those lands indicated a value of \$37,000 per acre. If a similar value of \$37,000 per acre is used for TMKs: (1) 7-1-002-031 and (1)7-1-002-033, then the valuation would be up to \$1.952 million. The amount appropriated by the Legislature is more than three times the value of the property.

Commissioner Ka'apu asked if the Department has looked at doing subsistence agriculture with these lands and what is the value to the Department in having 52 acres in subsistence agriculture as opposed to having \$7 million dollars. He asked how many ag wait listers are there for O'ahu.

Acting Land Development Administrator Norman Sakamoto stated the Department could do 40- 1 acre lots with infrastructure or 80- half-acre lots. The Department could do residences here but Senator Dela Cruz supports agriculture and was excited about keeping the land for ADC and allowing the Department to develop other lands. N. Sakamoto added that if the Commission wanted to do subsistence ag on O'ahu, it could use the money to get more than 50 acres of land somewhere else.

Commissioner Kahikina asked why the Department would give up this parcel when there are beneficiaries who want to farm on O'ahu. Chair Masagatani stated it is up to the Commission whether it wants to keep this land or not, but the opportunity presented might allow the Department to purchase more land elsewhere on Oahu.

Commissioner Wescoatt stated he thinks the offer is a good deal. The land was donated and now the Department can get three times its value. It will allow the Department to buy more land for homesteading or subsistence farm, or land that already has infrastructure.

Commissioner Kahikina asked what the land was used for in the past. N. Sakamoto stated it was sugar cane fields, but noted if the Department were to use that land it would need to work with the Department of water supply to construct transmission lines. Previously, there was an active radio tower which required a buffer radius, but the radio tower is no longer active so the Department elected to receive the donation of land. During the same time, ADC started acquiring the agriculture land surrounding it.

Deputy AG Craig Iha highlighted the timeline and further actions needed to consummate the agreement. The Commission will be tasked to approve the final MOA unless it authorizes the Chairman to implement the transfer after signing the MOA.

Commissioner Chin stated her concern with the multiple agency approval process and whether the Department will have enough time to spend the money before it lapses. She asked if receiving the land will require approval from the U.S. Department of the Interior. Deputy AG Iha stated the land donation will not require approval.

AMENDED MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Wescoatt to amend the motion to add (underlined): Authorize the Chairman to finalize the Memorandum of Agreement and authorize the Chairman to implement the transfer after the Memorandum of Agreement with the Department of Agriculture, Agribusiness Development Corporation regarding property in Whitmore, Oahu, TMKs: (1)7-1-002-031 and (1)7-1-002-033.

Motion carried. Commissioner Kahikina voted Aye with Reservations.

Commissioner Chin asked that the Commission be provided a status update in the coming months. Chair Masagatani committed to providing a status update on a future agenda.

ACTION

Motion carried. Commissioner Kahikina voted Aye with Reservations.

ITEM F-2 Approval to Terminate General Lease No. 293, Kalaeloa Solar One, LLC, Kalaeloa, Island of Oahu, TMK No. (1)9-1-013:118 & 119, and to Authorize Chairman to Initiate Redisposition of the Property for a Renewable Energy Project

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio, Property Development Agent Allen Yanos and Deputy Attorney General Ryan Kanaka'ole presented the following:

That the Hawaiian Homes Commission ("HHC") authorize the following:

1. Termination of General Lease No. 293 ("GL 293"), issued to Kalaeloa Solar One, LLC ("KSI"), for failure to pay the base lease rent, and interest and service charges in the total amount of \$1,190,534.54 for the period from March 2, 2015 to October 31, 2017 as required under the general lease, as amended; and
2. Authorization for the Chairman to initiate the re- disposition of the property for a renewable energy project.

MOTION

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

DISCUSSION

A. Yanos briefly summarized the submittal and important unmet deadlines that eventually led to the request to terminate the lease.

Commissioner Ka'apu confirmed that the parcel rendered no revenue for five years. He asked if there were any assets on the property. A. Yanos stated nothing was constructed and added that the company did pay \$50,000.00 for the time extension. Commissioner Ka'apu stated his concern from a fiduciary standpoint is that the Department didn't do well on this lease. Going forward the Department has a responsibility to the trust to make sure it is collecting money upfront when companies want to do these projects. It puts the burden on the company and not the Department. Going forward the Department needs to make sure it is collecting revenue. General lessees should pledge something so that the Department has some recourse should things turn out differently than expected. We need to make sure we're getting some return for this otherwise the Department is

taking on the risk of the commercial venture with the company. The Department shouldn't be in that position. The Department should be a landlord.

Commissioner Chin agreed that there needs to be a way to de-couple the Department from the project's success. She also agreed that collecting something upfront is a good idea.

Chair Masagatani asked if the company still exists. A Yanos stated the company is defunct, but the lease has attached to it a sublease which has been generating revenue since January 2013.

Commissioner Ka'apu asked if personal guarantees are attached to these leases. A. Yanos stated that not to his knowledge, but staff has learned a lot from these energy company leases and will do things differently going forward. Commissioner Ka'apu suggested implementing a personal guarantee which happens in the private arena especially when dealing with things that are speculative. Anyone who leases land from DHHL will really need to put their money where their mouth is.

Commissioner Wescoatt stated renewable energy projects are generally high risk and usually payment is made to buy more time until construction starts. Once construction starts, the risk is decreased and financing is secured so a higher fee is implemented. Another way is to issue a flat fee or minimum floor rent and if the project does better on the upside the Department gets a percentage.

Commissioner Chin asked what happens to the sublease when the Commission terminates general lease 293. Deputy AG Kanaka'ole stated the sublessee is treated as the general lessee.

ACTION

Motion carried unanimously

ITEM F-3 Approval to Issue a Non-Exclusive License as Easement to the County of Hawaii for Public Roadway Access, Maintenance, and Utility Purposes, Pu'ukapu Pasture Lots, Hawaii Island, TMK No. (3)6-4-004:057 (por.), Lot 16-D

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio, Land Agent Mark Yim, East Hawai'i District Office Manager Jim DuPont presented the following:

That the Hawaiian Homes Commission approve the issuance of a non-exclusive, perpetual License as a Public Roadway and Utility Easements delineated in Exhibit "B", and further described in Exhibits "B-1", "B-2", "B-3", and "B-4" to the County of Hawaii, for a 0.032-Acre (13,954 Sq./Ft.) portion of that certain parcel of Hawaiian home lands identified by TMK 364004057 (por.), traversing over Department of Hawaiian Home Lands ("DHHL") Pastoral Lot 16-0, situated at Pu'ukapu Pasture Lots, and further described in the attached metes and bounds description of said easements as prepared by the civil & structural engineering-land surveying firm of Inaba Engineering, Inc., for access, maintenance, and utilities purposes only, subject to the following conditions:

MOTION/ACTION

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

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2018

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:

That the Commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of December 31, 2017 to the Hawaiian Home General Loan Fund.

DISCUSSION

As of December 31, 2017, the estimated balance in the Hawaiian Home Receipts Fund will be approximately \$1,000,000. Based on the on-going loan requirements for fiscal year 2018, it is recommended that receipts in the Hawaiian Home Receipts Fund for the quarter ending December 31, 2017 be transferred to the Hawaiian Home General Loan Fund.

MOTION/ACTION

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

RECESS

12:24 PM

RECONVENE

12:36 PM

HOMESTEAD SERVICES DIVISION

ITEM D-15 Conditional Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 9054, Lot A, Keoniki-Kauniho, Waimea, Hawaii – FLORA BEAMER SOLOMON

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro and East Hawai'i District Manager James DuPont recommended the following:

To approve the request of Flora Beamer Solomon, to subdivide Department of Hawaiian Home Lands Pastoral Lease No. 9054, Lot A, Keoniki, Waimea, Hawaii, consisting of 125 acres, and further identified as TMK: 3-6-5-001:010 into Lots A-1, A-2 and A-3 (see attached subdivision 3-6-5-001:010 map labeled Exhibit A), subject to the conditions listed in the submittal.

MOTION

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

DISCUSSION

J. Dupont updated the Commission on the submittal's exhibits as requested at the last Commission meeting on Maui.

Chair Masagatani asked if the lease started off as a revocable permit and if so, how did it become a lease? J. DuPont stated Lot A is a homestead lease and was never a revocable permit.

Chair Masagatani stated there have been violations with this lease. J. DuPont confirmed that the situation is not a unique one, there are many homesteaders in violation of the terms and conditions of their lease. There is a policy and process for improvements which provides the Department with the chance to review any proposed improvements to a lease and ask the beneficiary to secure

any necessary permits. As part of the subdivision process, of the violations for this lease were addressed and corrected.

Chair Masagatani asked if there are other homesteads in Waimea that have similar violations that can be cured with the same process. J. DuPont stated there are five beneficiaries in Waimea who are facing the same situation and were given one year to address the violations. He reminded the Commission that this action is three years in the making. He noted there are approximately 150 on his contested case hearing list for violations of building without permission and permits. This is the first step in helping to get people back into compliance. All five beneficiaries he spoke of earlier have received between 3-5 letters from the Department explaining the process for making improvements to their homesteads. It is a symptom of not enough enforcement.

Commissioner Ka'apu asked if the Department has a sense of what the value is for each of the three structures in this situation. If for some reason the lots came back to the Department, it would have to pay for improvements after the fact. J. DuPont stated the Department would get its money back when another beneficiary takes the lease.

Commissioner Chin confirmed that each subdivided parcel is 40 acres and still qualifies as a pastoral lease. J. DuPont answered that the smallest pastoral lease is 5-acres.

Commissioner Wescoatt asked about enforcement and what happens if a beneficiary doesn't come into compliance after being given a workout agreement. D. Oshiro stated the 5 beneficiaries noted earlier were taken before a hearings officer and provided a workout plan. If they don't comply, the Commission is asked to cancel the lease, or extend the workout period.

Commissioner Wescoatt asked if there is equity in enforcement like there is in allowing beneficiaries to come into compliance. J. DuPont stated it is an issue of priority for the Department and its funding. He has asked for funding for a hearings officer to start addressing the 150 violations he has, but it comes down to whether it is a priority for the Department.

Chair Masagatani stated it is a conversation the Department needs to have with its district managers. Commissioner Wescoatt stated the Commission needs to decide where it wants to spend the Department's energy and resources.

Chair Masagatani asked if Flora Solomon has met all the conditions that were required for the subdivision. J. Dupont confirmed that the lessee has met all requirements which can be found in Exhibit M in the submittal.

Commissioner Kahikina asked if after the subdivision each lease will have its own lease covenants. J. DuPont stated each lease will be separate.

Commissioner Ishibashi stated he agrees with Commissioner Awo about enforcement and is disappointed that Hawai'i Island didn't have a line item for security or enforcement. There isn't enough staff to check on everything. He will support this action to move forward and start doing things the right way. Under Chair Masagatani the Commission has made improvements in the Department. He has beneficiaries in Pana'ewa that want to subdivide their lot but it was too expensive.

Commissioner Awo stated this action has different parts there is a public perception piece and a lack of enforcement piece. It is time to move forward and start making things right. By saying yes to this situation, it allows other beneficiaries the same resolution. He also expressed that both putting beneficiaries on the land and enforcing rules are important.

Commissioner Ka'apu stated if the submittal was as thorough at the Hilo meeting it would have been finished already. The submittal as it reads now, reflects that there is a lease violation which was missing from the first submittal. It leads to the perception that the Solomon's were being treated differently. The bottom line is there was a violation and this is how it is being fixed.

Chair Masagatani asked J. Dupont how unusual is it to see a lessee subdivide a lot for the benefit of their family members. J. Dupont stated most subdivisions are to benefit the lessee's family and most of the family members are their eligible children with 25% or more Hawaiian.

Commissioner Kahikina asked if each parcel will need to put in its own water mains. J. DuPont stated during the process the county granted a variance to address the water situation. There is a single master meter that feeds the other two parcels. The county Department of water supply has an elevation agreement that customers must sign before a variance is issued.

Commissioner Ishibashi commented at the Hilo meeting folks were upset because they got misinformation. A lessee can subdivide and give to their children who are 25%. This is the type of information that should be on the website or in the newsletter. People forget sometimes and have to be reminded. J. DuPont stated it comes down to education.

Chair Masagatani asked Malama Solomon if she had any final comments.

Malama Solomon thanked the Commission for allowing them to move forward. There was a lot of miscommunication but the subdivision process is not easy. If the Commission is going to encourage beneficiaries to do it, they'll need help to work through the process.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Awo, to convene in executive session pursuant to Section 92-5 (a)(4), HRS. Motion carried unanimously.

EXECUTIVE SESSION IN 1:34 PM

EXECUTIVE SESSION OUT 2:55 PM

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

Chair Masagatani asked if Commissioners had question about the HSD Monthly Reports. Hearing none, she moved on to the item deferred from the Monday agenda.

ITEM D-9 Approval of Assignment to Leasehold Interest (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

MOTION (Made on Monday, December 18, 2017)

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

DISCUSSION

Chair Masagatani stated after advice from counsel regarding Item D-9, the Commission will allow staff time to do appropriate due diligence since the lessee is the principal owner of a DHHL contracted vendor, Helen Wai, LLC. to insure no impropriety, favoritism or inappropriate actions by the Department or the parties involved.

Chair Masagatani asked for an amended motion to remove Nos. 11 and 12, from the D-9 submittal which will be deferred to a future agenda.

AMENDED MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Kahikina to remove transaction Nos. 11 & 12, from the list of Assignment to Leasehold Interest. Motion carried unanimously.

ACTION

Motion on amended motion carried unanimously.

ANNOUNCEMENTS AND ADJOURNMENT

ITEMS DEFERRED

- ITEM C-1 Approval of Recommended Changes to the Draft Administrative Rules for the Water Systems and to Proceed to Rulemaking Under Chapter 91, Hawaii Revised Statutes
- ITEM C-7 Right of First Refusal to Applicants on the Waitlist for Homestead Lease Transfers
- ITEM F-1 Approval to Issue a Non-Exclusive License as Easement for Driveway and Utility (Water/Sewer) Connections to Gentry KGC, LLC, a Hawaii limited liability corporation Kapolei, Island of O'ahu, TMK Nos.(1)9-1-151:055(por.)
- ITEM G-1 Acceptance of Beneficiary Consultation Report, Land Use Designation Alternatives for Malama Cultural Park, TMK's (2)5-3-001:002, -097 and -100, Kaunakakai, Molokai
- ITEM G-2 Wai'anae and Nānākuli Regional Plan Update

NEXT MEETING

The next regular monthly meeting will be held on January 29 & 30, 2018, Kapolei, O'ahu.

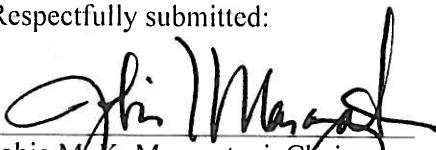
MOTION/ACTION

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

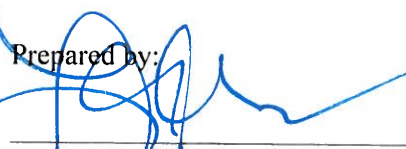
ADJOURNMENT

2:58 p.m.

Respectfully submitted:

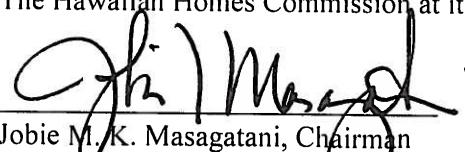

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:


Leah Burrows-Nuuanu
Secretary to the Commission

APPROVED BY:

The Hawaiian Homes Commission at its Regular Monthly Meeting on May 15, 2018.


Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission