

HAWAIIAN HOMES COMMISSION
Minutes of January 19 and 20, 2016
Meeting held in Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the 671st Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawai'i, beginning at 9:39 a.m.

PRESENT Jobie M. K. Masagatani, Chair
Gene Ross K. Davis, Moloka'i Commissioner (Arrived 10:15 am)
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua'i Commissioner
Wallace A. Ishibashi, East Hawai'i Commissioner (Arrived 10:15 am)
David B. Ka'apu, West Hawai'i Commissioner
William K. Richardson, O'ahu Commissioner

EXCUSED Michael P. Kahikina, O'ahu Commissioner
Wren Wescoatt III, O'ahu Commissioner

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
Niniau Simmons, NAHASDA Manager
Paula Aila, Hale Manager
Hokulei Lindsey, Administrative Rules Officer
Leah Burrows-Nuuanu, Secretary to the Commission
Francis Apoliona, Compliance Officer
Norman Sakamoto, Development Officer
P. Kahana Albinio, Acting Property Dev. Mgr.
Kaleo Manuel, Acting Planning Office Administrator,
Dean Oshiro, Acting Homestead Services Administrator
Ku'uwehi Hiraishi, Info. Specialist,
Susie Richey, Office of the Chair
Andrew Choy, Planner
Gil Fernandes, Mortgage Loan Specialist
John Pieper, Enforcement Officer
Lehua Kinilau-Canto, Legislative Analyst

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:39 a.m. She welcomed the newly appointed Deputy to Chairman William Aila and his secretary Susan Richey. She introduced new Hale Manager Paula Aila to the DHHL 'ohana.

ROLL CALL

Commissioners Ishibashi and Davis' flights were delayed. Five (5) members were present at roll call. Commissioners Kahikina and Wescoatt were excused.

APPROVAL OF AGENDA

Chair Masagatani stated the minutes for February 2014 were distributed and will be approved on the Tuesday agenda. Item J-3 will be taken before the Workshops.

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Marion Kanani Kapuniai, Re: G-1.

M. Kapuniai said she was unable to prepare comments for this meeting because the meeting packets are not available in a timely manner. She disagrees with the information provided about rainfall in Honokāia. The hundred-year-old study has no bearing on the facility and services. The water catchment has proved to be a hardship. Some of her neighbors have been hauling water for miles because the water catchment system is insufficient. They had to file a complaint in order to get to this point.

ITEM A-2 Michelle Kauhane, O'ahu Mokupuni President SCHHA & Kaupuni President. Re: Agenda Item F-1.

M. Kauhane thanked the Department for posting the agenda and packets online for beneficiaries to download. While she is not against an easement to HPU, she is concerned about the expediency at which the land disposition was handled. Other land dispositions to beneficiaries like M. Kapuniai and Kumu Camp have been waiting for a land disposition since 2012. HPU is a non-beneficiary organization that applied with a signed document on December 31, and today, January 19, it is here for your approval. She wishes that we could get beneficiary land dispositions approved with such expediency. With regard to item H-1, the SCHHA advocated again that commissioners should be looking at the budget it approved, against the actual expenditures on a quarterly basis.

ITEM A-3 Charla Manly, NHLC Attorney for Ag Applicant L. Costa Sr. Re: C-1.

C. Manly stated she is testifying to provide the commission with background about her client and to give them his story. Mr. Lawrence Cost Sr. is 81-years old and has been on the waitlist for a pastoral lot since 1996. While they were waiting for an award, they leased private land to start ranching. Over the last 20-years, they built a substantial ranching operation with over 450 head of cattle. They were evicted from their leased land and are at a point where they need help and a plan for the future.

GENERAL AGENDA

ITEM J-3 KIPUKAI KUALI'I – President, Anahola Hawaiian Homestead Association (AHHA). RE: Items G-2 Kumu Camp EA and J-3

K. Kualii provided testimony for the Kumu Camp EA and urged the commission to approve the FONSI. He is confident that AHHA has sufficiently addressed all of the issues raised and hopes for approval of the submission as recommended by the Department's Planning Division. At every step in developing Kumu Camp, they have worked closely with the Department to comply with everything that was asked of them and in a timely manner.

K. Kualii provided a complete list of projects in a document titled *Quarterly HCDC General Project Report, December 2015*. He highlighted several of the projects, including:

- Youth Center Facility at the Anahola Clubhouse
- Anahola Resource Office Buildings
- Anahola Marketplace
- Anahola Café & Certified Kitchen

ITEMS FOR INFORMATION

WORKSHOP PRESENTATIONS

ITEM B-1 Implementing Second Homes on Residential Homestead Lots on O‘ahu

RECOMMENDED ACTION

None. For information only. Deputy Director William Aila Jr. and Planner Nancy McPherson present the following:

DISCUSSION

Identifying the Need

- O‘ahu has a severe affordable housing shortage
- Need a way to provide affordable housing to more beneficiaries, e.g.
 - Extended family w/housing , economic challenges
 - Kupuna & students
- Generate additional income to pay the mortgage, stay in the home

Lessee Responsibilities

- Be in good standing with lease terms
- Have adequate infrastructure
- Comply with State Landlord/Tenant Code
- Submit a signed rental agreement with the qualified tenant (50% blood quantum)
- No short-term rentals (less than 6 mos.)
- Pay GET or other applicable taxes on rental income

Unintended Consequences

- Declaring zoning for existing non-conforming subdivisions, e.g., Nānākuli could create new problems
- May be difficult to enforce the requirement that tenant be qualified (50% BQ)
- If denied a rental, non-native Hawaiian could sue
- Potential impacts to existing neighborhoods, esp. traffic/parking
- If the value of improvements gets too high & returns to DHHL, could be unable to resell

Moving Forward - Strategies

- Initially, limit Pilot Project to O‘ahu
- Analyze O‘ahu homestead areas – not all will be eligible
- Model process DHHL already using to handle ag subdivision requests
- Require renters to be pre-qualified (already on applicant waitlist)

Moving Forward - Options

- When to conduct Beneficiary Consultation – now, for a pilot project, or later, for full implementation?
- When to amend Rules - now, for a pilot project, or later, for full implementation?
- Combine BC and Rules Consultations?
- Mirror City & County’s ADU development standards, or develop our own?

RECESS

11:00 AM

RECONVENED

11:12 AM

Chair Masagatani stated Kali Watson and Allen Murakami asked to provide testimony on Item B-1.

K. Watson stated there are existing rules, zoning laws, and other ordinances already in place to assist the Department with implementation. He suggested the Department avoid rule-making for this issue. There are attorney general opinions that specifically say that the Department is not subject to zoning laws. He suggested a separation between Ohana Units and Accessory Dwelling Units for rent. He agreed that concerns with the rental units are valid but that the Department can address it in the lease terms.

A. Murakami stated homelessness is a critical problem here in Hawai'i. The key is to recognize the political desire to do something about it. The Department has the land, and it seems like an opportunity to make serious strides to address the issue with urgency. The Ohana Units seem to be a good place to start to show the Department is trying to address the problem.

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue License as Easement to Hawaii Pacific University, Waimanalo, Island of O'ahu, TMK No. (1)-4-1-014:005(por.) & 011(por.)

RECOMMENDED ACTION

For Information Only. Acting Land Management Division Administrator Peter "Kahana" Albinio presented the following:

That the Hawaiian Homes Commission (HHC) approve the issuance of a license easement to Hawai'i Pacific University, as Licensee, to construct, use, maintain, repair, replace and remove existing pumps and pipelines traversing over, under and across portions of Hawaiian home lands identified by TMK Nos.: (1) 4-1-014:00 5 (por.) & :011(por.), situated in Waimanalo, Island of O'ahu and more specifically delineated and described in Exhibits "A" and "A-1", "B" and "B-1" attached hereto and which are essential for supplying saltwater to its marine life scientific research facility located on a portion of TMK No. (1) 4-1-014:004 owned by the State of Hawai'i, DLNR but held under GL No. 3709 by the Hawaii Pacific University.

K. Albinio introduced Sam Moku from Hawai'i Pacific University. His team included President Dr. Jeffrey Bannister, Executive Vice President of Administration and General Counsel Janet Cloenhammer, Executive Director of Oceanic Institute (OI) Sean Moss, Deputy Legal Counsel Kate Lloyd, and Facility Engineer Randy Honky. Also joining them was Dr. Michael Chun, who served as a member of their Board.

Chair Masagatani thanked everyone involved in the information provided. The item will be discussed again later on the agenda. The Commission has a scheduled executive session next. She asked for a motion to convene in executive session.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Canto to convene in executive session pursuant to section 92-5 (a) (4), HRS. Motion carried unanimously.

EXECUTIVE SESSION IN

12:00 PM

The Commission convened in executive session pursuant to section 92-5 (a) (4), HRS, to consult with its legal counsel on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

1. Update on Nelson Case- Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
2. Authority to Use Management Discretion to Settle Rent Disputes in Negotiating and/or Mediating General Lease Rent Reopening's

EXECUTIVE SESSION OUT 2:47 PM

ITEMS FOR DECISION MAKING

Chair Masagatani announced Item F-1 is deferred until the Department is able to hold an informational beneficiary meeting in the Waimānalo area, consistent with what the Department has been doing with long term land disposition licenses.

OFFICE OF THE CHAIRMAN

ITEM C-1 Authorization to Conduct Contested Case Hearing Before the Commission on Pastoral Application of Lawrence Costa, Sr.

RECOMMENDED MOTION/ACTION

Deputy Director William Aila Jr. present the motion.
Motion to approve the request for contested case hearing submitted by Lawrence Costa, Sr. dated July 21, 2015. The Department requests that the contested case be heard by a hearings officer prior to being presented to the Hawaiian Homes Commission.

DISCUSSION

Mr. Costa is an applicant for a pastoral homestead lease on Hawai'i Island. He is currently ranked 800 on the Hawai'i Island Pastoral waiting list. Mr. Costa's son owns and operates a ranch that was recently evicted from private lands. The ranch has since relocated to another privately-leased parcel. Mr. Costa's stated desire is to get a pastoral homestead lease to pass on to his son so he can continue his ranching operations.

MOTION

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

Chair Masagatani suggested an amendment to the motion to delegate authority to the Chairperson to select a hearings officer.

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to amend the motion to read, "To approve the request for contested case hearing submitted by Lawrence Costa, Sr. dated July 21, 2015. The Department requests that the contested case be heard by a hearings officer prior to being presented to the Hawaiian Homes Commission, and delegates to the Chair such authority to select a hearings officer." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-3 For Information Only -- Draft Environmental Assessment for the Ho‘olehua Water System (PWS 230), Pālā‘au, Ho‘olehua, Nā‘iwa, Kahanui, Kalama‘ula, Island of Moloka‘i, Multiple TMK’s (portions)

RECOMMENDED ACTION

None. For Information Only. Acting Planning Program Manager Kaleo Manuel and Grants Specialist Gigi Cairel presented the following:

- The DEA for the DHHL improvements project for the Ho'olehua Water system has been completed;
- Based on the findings of the DEA, the staff anticipates a finding of no significant impact (FONSI) for the proposed project;
- The 30-day mandatory public review and comment period will begin February 8, 2015, and will end on March 7, 2016;
- Staff will present the FEA to the HHC in March or April 2016 and will seek HHC approval for a FONSI declaration.

G. Cairel noted a correction to the “background” section of the submittal on page 2; there are 587 connections to the water system, which includes schools, the airport, and the post office.

There are portions of the water system that are more than 80 years old and need to be totally replaced or repaired. There aren't any problems with water quality, it is mostly about the water service, the distribution, and some areas have very low pressure. There are also issues with accessing storage tanks, and some of the roadways need to be repaired. The cost of this project is a little over \$25 million and the Department hopes to access federal grant funds from both the US Department of Agriculture and from Housing and Urban Development through the NAHASDA program.

Moloka‘i District Manager Halealoha Ayau stated the water system is 80 years old, and there have been no major upgrades or major maintenance to the system. The durable, useful life of some of the integral parts is ready to breakdown. Last Sunday evening the Kalama‘ula storage tank pump malfunctioned after days of work with the consultants, a bypass valve is being used to continue to provide service to the homesteads until the intake flow valves can be replaced. Overall the system is close to its breaking point and we are already starting to see it happen.

Chair Masagatani asked how much water is provided by the system to the users. H. Ayau stated the daily allocation is 360,000 gpd (gallons per day). The actual use is in the range of 450,000 gpd. Chair Masagatani stated DHHL has the reservation and the priority right to the water, but the allocation doesn't match the actual use. She asked how many users are non-beneficiaries. H. Ayau stated they do not know what the breakdown looks like.

Commissioner Davis asked for an explanation of funds the Department is trying to access. G. Cairel stated after the EA is posted and approved and the preliminary engineering piece is submitted and reviewed, USDA has committed to providing \$13M or 45%. This is one of several applications that are due by June 30th. We should be notified by September 30th.

G. Cairel stated staff had had extensive conversations with the beneficiaries who have been very helpful in identifying problem areas and suggestions on how to mitigate them.

Chair Masagatani announced Item D-1 would be first if Commissioners have questions for Acting Homestead Services Division Administrator Dean Oshiro. Hearing none, she moved on to the rest of the D Items.

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 USDA-RD Mortgage Loans
- D – DHHL Guarantees for FHA Construction Loans

ITEM D-2 Ratification of Loan Approvals

RECOMMENDED MOTION/ACTION

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

Chair Masagatani asked for a brief executive session to confer with counsel.

MOTION/ACTION

Moved by Commissioner Chin, Seconded by Commissioner Ishibashi to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried with Commissioner Chin opposed.

EXECUTIVE SESSION IN 2:30 PM

EXECUTIVE SESSION OUT 2:47 PM

MOTION/ACTION

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

ITEM D-3 Approval of Consents to Mortgage

RECOMMENDED MOTION/ACTION

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

MOTION/ACTION

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

ITEM D-4 Approval of Streamline Refinance of Loans

RECOMMENDED MOTION/ACTION

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

MOTION/ACTION

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

ITEM D-5 Approval to Schedule Loan Delinquency Contested Case Hearings

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Dean Oshiro recommended the following:
Motion to authorize the scheduling of the following loan delinquency contested case hearings, as shown.

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Ka'apu. Motion carried unanimously.

ITEM D-6 Approval of Homestead Application Transfers/Cancellations

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Dean Oshiro recommended the following:
Motion to approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described in the submittal.

MOTION/ACTION

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

ITEM D-7 Commission Designation of Successors to Application Rights – Public Notice 2014

RECOMMENDED MOTION/ACTION

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

MOTION/ACTION

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

ITEM D-8 Cancellation of Deceased Applicants from Waiting List – Public Notice 2014

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Dean Oshiro recommended the following:
Motion to cancel the list of applications of deceased applicants pursuant to Sections 10-3-8(c) and (d) of the Hawai'i Administrative Rules (HAR).

MOTION/ACTION

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

ITEM D-9 Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds.

RECOMMENDED MOTION/ACTION

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

MOTION/ACTION

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

ITEM D-10 Approval of Assignment of Leasehold Interest.

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Dean Oshiro recommended the following: Motion to approve the assignment of the leasehold interest, pursuant to section 208, 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 Davis, seconded by Commissioner Canto.

Commissioner Ka'apu stated for #5, he visited the parcel, and there are no valuable improvements. He will ask that the item have further due diligence.

Chair Masagatani suggested an amendment to the motion to remove items #5 and #24 for further due diligence by staff.

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Canto, to amend the motion remove items #5 and #24 for further due diligence by staff. Motion carried as stated.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ITEM D-11 Approval of Amendment of Leasehold Interest

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Dean Oshiro recommended the following: Motion to approve the amendment of the leasehold interest listed.

MOTION/ACTION

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

ITEM D-12 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees.

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Dean Oshiro recommended the following:

Motion to approve the issuance of a non-exclusive license to allow the Permittee to provide adequate service related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees. The non-exclusive license is necessary as the Lessee cannot issue his/her own licenses.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue License as Easement to Hawaii Pacific University, Waimanalo, Island of O'ahu, TMK No.(1)4-1-014:005(por.) & 011(por.)

Note: Item F-1 was deferred from action on this agenda.

ADMINISTRATIVE SERVICES DIVISION

ITEM H-1 Approval of Inter-Fund Transfer for FY 2016 Development Budget

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
Motion that the Commission approves the transfer of \$13,500,000 from the Hawaiian Home Administration Account to the Hawaiian Home Operating Fund.

DISCUSSION

On July 21, 2015, the Hawaiian Homes Commission approved the Fiscal Year 2016 Development Budget in the amount of \$110,488,000. The approved Development Budget provided the Hawaiian Home Lands Trust Fund and the Hawaiian Home Operating Fund as sources of financing for the projects. With the end of the annual settlement payments in June 2015, DHHL proposes to fund some of the projects solely from the Hawaiian Homes Operating Fund to finance the project costs. Pursuant to Section 213 (f) (3) of the HHCA, monies in excess of the amount approved by the Legislature or made available for the fiscal period may be transferred to the Hawaiian Home Operating Fund. It is recommended that \$13,000,000 be transferred from the Hawaiian Home Administration Account to the Hawaiian Home Operating Fund to finance the projects identified in the submittal.

MOTION/ACTION

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

PLANNING OFFICE

ITEM G-1 Declaration of a Finding of No Significant Impact for Honokāia Non-Potable Water System, Hāmākua, Hawai'i, TMK (3) 4-6-001:001-046; (3) 4-7-007:005

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel, Planner Andrew Choy, and Engineer Jeffrey Fujimoto presented the submittal.

Motion that the Hawaiian Homes Commission (HHC) declares a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the proposed DHHL Honokāia Water System.

DISCUSSION

The Honokāia Water System project is tied to a settlement agreement as a result of litigation against DHHL. The water system is a gravity-fed non-potable water system that will be connected to the County of Hawai'i, Department of Water Supply (DWS) system. The Honokāia Water System consists of metal storage tank reservoir(s), approximately 40,000 linear feet of transmission lines and laterals, individual sub-meters and pressure reduction valves, air release valves, and appurtenant infrastructure. The benefitted properties are 46 lots within a DHHL pastoral subdivision in Honokāia, on Old Mamalahoa Highway near Honokaa. These lots are owned by the Department of Hawaiian Home Lands (DHHL) and leased by various lessees. All improvements would be located on portions of some of these lots or on the private DHHL roads that provide access to the lots, except for the DWS connection, which would occur on an adjacent DHHL lot.

J. Fujimoto stated they are at the pre-final stage of the design. The main point is that the project has four water units, so the system has been designed accordingly. The design allows for an increase in the future as well. Chair Masagatani asked how much water is in one unit of water. J. Fujimoto responded that four units are equivalent to 400-600 gallons of water per day.

K. Manuel added that the project is on a parcel that was previously four TMKs, which is why there are four units of water. These were subdivided and are only supplemental pastoral lots. Lessees are not permitted to build on these lots. The design of the system is dictated by the court settlement, which was a result of the litigation.

A. Choy reviewed the criteria for Environmental Assessments. He also highlighted comments received during the comment period. Marion Kapuniaia provided comments that there was not enough beneficiary consultation. A. Choy stated the Department sent out pre-consultation letters, and through the draft EA public consultation period, the Department was inclusive. Commissioner Kaapu stated there was an expectation that there would be a meeting with the beneficiaries to discuss the system. It would be better to be as inclusive as possible.

K. Manuel agreed that it is always better to be move inclusive than not, but because the project was dictated by a settlement agreement, the staff was directed to work directly with the plaintiffs representative. N. Sakamoto agreed that it is a unique situation, and if the FONSI is approved, staff will engage with the beneficiaries of the other lots.

Chair Masagatani asked for a brief executive session to confer with counsel.

MOTION/ACTION

Moved by Commissioner Chin, Seconded by Commissioner Ishibashi to resolve into executive session pursuant to HRS 92-5 (a) (4). Motion carried. Commissioner Chin opposed.

EXECUTIVE SESSION IN 3:34 PM

EXECUTIVE SESSION OUT 3:51 PM

MOTION/ACTION

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

ITEM G-2 Additional DHHL Due Diligence for Kumu Camp Project and Second Request for Declaration of a Finding of No Significant Impact, Anahola, Kaua'i, TMK (4) 4-8-007:001 (portion)

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel and Planner Nancy McPherson presented the following submittal.

That the Hawaiian Homes Commission (HHC) declares a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the Kumu Camp Project, as verified by additional due diligence exerted by DHHL staff in December 2015.

DISCUSSION

The Kumu Youth Academy ("Kumu Camp"), located on five (5) acres of an eight (8) acre Department of Hawaiian Home Lands (DHHL) property located immediately adjacent to Anahola Beach Park on TMK No. (4)4-8-007:001, has been in continuous operation since 2012 but has not yet been able to secure an executed disposition from DHHL. The Anahola Hawaiian Homestead Association (AHHA), through its nonprofit arm, the Homestead Community Development Corporation (HCDC), has requested a 35-year general lease, gratis, for the Kumu Camp project and hired Planning Solutions, Inc. to prepare an Environmental Assessment as required by Hawaii Revised Statutes (HRS) Chapter 343.

The Final Environmental Assessment (FEA) and request for a Finding of No Significant Impact (FONSI) for the Kumu Camp Project was submitted for informational purposes to the Hawaiian Homes Commission (HHC) at the October 19-20, 2015 Commission meeting held at Lihue, Kaua'i, Planning Office staff having previously anticipated a FONSI (AFNSI). Based in part on testimony received from community members at the October 19-20, 2015 meeting regarding the Kumu Camp project, the HHC requested at their November 16, 2015 meeting in Paukukalo, Maui, that DHHL staff perform additional due diligence regarding the project's potential impacts prior to issuing a FONSI as recommended.

At its December 2015 meeting, the HHC expressed concerns regarding the adequacy of discussion and/or disclosure in the FEA in the following areas:

- Study of alternatives,
- Shoreline access for traditional and customary use of shoreline resources,
- Wastewater impacts,
- Cultural impacts, and
- Impacts to the economic and/or social welfare of the Anahola Community.

A Beneficiary Consultation would be held on February 27, 2016, at the Anahola Clubhouse in Anahola, Kaua'i in order to gather information and mana'o from Anahola Homestead area residents for the Hawaiian Homes Commission to consider regarding the Kumu Camp Project's operations and HCDC's request for a long term disposition. Results from the consultation will be submitted to the Hawaiian Homes Commission at its April meeting.

Deputy Director William Aila Jr. added that the present location of the camp is actually one of the few places along the coastline where the elevation is higher than the new FEMA flood maps. The Department of Health (DOH) is willing to review individual wastewater systems regardless of the status of the EA. The current wastewater application has expired, which provided AHHA an opportunity to move a better application forward to the DOH including the additional facilities. The parks director expressed a positive experience of the camp within the community.

Commissioner Kaapu asked why the staff is recommending approval of the FONSI now instead of waiting until after the scheduled beneficiary consultation. Waiting until after the consultation would provide additional comfort that the community is being served appropriately. The report showed that staff visited with just one side of the community, and the comments are a snap-shot of the single day. One of his other concerns is the movable food truck with oil and food disposal waste. He also has concerns with the wastewater for large groups of people and the impact it will have on the environment. The Department's job is substantive rather than procedural; the approving agency needs to make sure the environment is being protected. The Kapaakai case said that the cultural and social impacts need to be taken into account as well. The Commission should wait until after the beneficiary consultation is completed before approving the FONSI.

Commissioner Chin stated her concern is that this particular FONSI is being scrutinized more than any other project. This project is different because the EA was requested after the fact, but the FONSI in her mind is a procedural issue. She is unwilling to set the precedent that every FONSI that comes before the Commission requires a beneficiary consultation.

Chair Masagatani stated this project had been a learning process for everyone involved. She thanked Commissioner Kaapu for his thoroughness and stated the long term disposition is yet to be determined regardless of the FONSI. She asked what the difference is between and EA and EIS for this project. M. White stated the difference between the two documents is that an environmental assessment is usually a brief report that is intended to determine whether or not there are impacts on the natural or human environment. If you find that there are, based on the terms of the assessment, then you would move to the EIS process.

K. Manuel added the disposition would highlight the recommendations for mitigation measures agreed to as part of the project be incorporated into the final disposition. It would be a lease term that the lessee agrees to, which is actually enforceable. The environmental assessment is not an enforceable document; it is only a disclosure document. The Department has to tie the mitigation measures to some type of enforceable documents like a lease or a license.

Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto		X	X			
Commissioner Chin	X		X			
Commissioner Davis			X			
Commissioner Ishibashi			X			
Commissioner Ka'apu				X		
Commissioner Kahikina						X
Commissioner Richardson			X			
Commissioner Wescoatt						X
Chair Masagatani			WR			
TOTAL VOTE COUNT			6	1		2
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with six (6) YES, (1) NO. two (2) Excused.						

GENERAL AGENDA -Requests to Address the Commission

ITEM J-1 Patrick Kahawaiolaa – President, Keaukaha Community Association

P. Kahawaiolaa stated the first issue he had was to support the transfer of a lease in Item D-6. The second issue is the *Comprehensive Proposal for the use of the Āina Mauna Legacy Lands*

KCA became acquainted with the Āina Mauna lands in 2008 when seven Kupuna from Keaukaha Community, Panaewa Hawaiian Homes Lands Community Association, Maku‘u Farmers Association, and Keaukaha-Panaewa Farmers Association went on a huaka‘i to view the devastation that the Gorse was causing in Humu‘ula/Pi‘ihonua. Feral cattle were the cause of spreading the gorse and removing the same from the mountain was a paramount concern for the Department to control the gorse. After visiting and seeing the Koa forest, Pu‘uo‘o ranch and the surrounding areas, we all came away from that we as native Hawaiian community leaders in East Hawaii had an obligation to empower our respective communities to do the following:

1. REMOVAL OF FERAL CATTLE
2. GAME MANAGEMENT (SHEEP AND GOATS)
3. COMMUNITY PASTURE
4. GORSE CONTROL
5. ECOTOURISM

J. McBride stated he has tour business and would like to partner with the associations to provide economic tourism opportunities for homesteaders. He submitted a proposal to the Commission in December.

W. Matsumoto stated there are thousands of heads of cattle on Humu‘ula. The only way to control the gorse is to control the cattle.

Motion

Moved by Commissioner Davis, seconded by Commissioner Chin to amend the agenda to allow Mr. Hans Wedemeyer, identified as Item J-7, scheduled for tomorrow’s agenda, to testify today instead. Motion carried unanimously.

ITEM J-7 Hans Wedemeyer – CEO, Hokuloa Inc.

H. Wedemeyer stated he is checking for a status update on the project with DHHL that started six years ago. He asked why it is taking so long, and if there is anything he can do to help move the project along. He has invested \$6.5 million dollars in the lease extension. He also asked for an update on the solar farm and water well projects. There is an economic opportunity just waiting for the Department and its beneficiaries.

ITEM J-2 Bo Kahui – Executive Director, La‘iopua 2020, Villages of La‘iopua Association

B. Kahui testified first as a member of the Villages of La‘i‘opua. He presented a Resolution adopted by the Board of Directors on January 13, 2016, and a Delinquency Summary report showing a total of \$122,202.64. He highlighted some of the larger delinquencies on the list, with the largest being more than \$6,000. He asked the Commission to order contested case hearings for the most egregious offenders, or at least a letter from the Department.

RECESS

6:29 PM

HAWAIIAN HOMES COMMISSION
Minutes of January 20, 2016
Meeting Held in Kapolei, O‘ahu, Hawai‘i

PRESENT Gene Ross K. Davis, Moloka‘i Commissioner
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua‘i Commissioner
Wallace A. Ishibashi, East Hawai‘i Commissioner
Michael P. Kahikina, O‘ahu Commissioner
William K. Richardson, O‘ahu Commissioner

EXCUSED Jobie M. K. Masagatani, Chair
David B. Ka‘apu, West Hawai‘i Commissioner
Wren Wescoatt III, O‘ahu Commissioner

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
Niniau Simmons, NAHASDA Manager
Paula Aila, Hale Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Francis Apoliona, Compliance Officer

ORDER OF BUSINESS

CALL TO ORDER

Vice-Chair Davis called the meeting to order at 11:09 AM

ROLL CALL

Chair Masagatani was excused in order to attend the opening day of the 2016 Hawai‘i State Legislature. Commissioners Kaapu and Wescoatt were excused. Six (6) members were present at roll call.

APPROVAL OF MINUTES

Approval of Minutes for February 2014.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Richardson to approve the HHC meeting minutes of February 2014.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

None.

GENERAL AGENDA

Note: Item J 7– Hans Wedemeyer testified on the Tuesday agenda, and J-6 Princeslehuanani Kamaewakainakaleomomona, asked to be deferred to February.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular meeting will be held at the main office in Kapolei, O‘ahu, on February 22 & 23, 2016.

MOTION/ACTION

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

ADJOURNMENT

11:13 AM

Respectfully submitted:

Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission