

HAWAIIAN HOMES COMMISSION
Minutes of February 23, 2016
Meeting held in Kapolei, Oahu

Pursuant to proper call, the 672nd Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:20 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
David B. Ka‘apu, West Hawai‘i Commissioner
Gene Ross K. Davis, Moloka‘i Commissioner
Doreen N. Canto, Maui Commissioner
William Richardson, O‘ahu Commissioner
Wallace A. Ishibashi, East Hawaii Commissioner
Michael P. Kahikina, O‘ahu Commissioner
Wren Wescoatt, O‘ahu Commissioner

EXCUSED Kathleen P. Chin, Kaua‘i Commissioner

COUNSEL Craig Y. Iha, 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
W. Kamana‘o Mills, Special Assistant
Leah Burrows-Nuuanu, Secretary to the Commission
Francis Apoliona, Compliance Officer
Dean Oshiro, Acting Homestead Services Division Administrator
Norman Sakamoto, Development Officer
P. Kahana Albinio, Acting Property Dev. Mgr., Income Property Branch
Kaleo Manuel, Acting Planning Office Administrator
Shelly Carreira, Land Agent, Land Management Division
Karen Lucero, Homestead Assistant
Stewart Matsunaga, Master Plan Community Dev Mgr.
Nancy McPherson, Planner
Juan Garcia, Homestead District Supervisor
Rodney Lau, Admin. Services Office
Ku‘uwehi Hiraishi, Info. Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:20 a.m. Eight (8) members were present at roll call. Commissioner Chin was excused.

APPROVAL OF AGENDA

The minutes for the meeting of November 2013 were distributed for Commissioner’s review and approval at the next Commissioner meeting.

MOTION/ACTION

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

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval of Streamline Refinance of Loans (see exhibit)F
- ITEM D-4** Approval of Homestead Application Transfers / Cancellations (see exhibit)
- ITEM D-5** Commission Designation of Successors to Application Rights – Public Notice 2013 and 2014 (see exhibit)
- ITEM D-6** Reinstatement of Deferred Application – WILLIAM W. GRACE
- ITEM D-7** Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- ITEM D-8** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-9** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-10** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-11** Commission Designation of Successor – NELLANETTE Y. ARAKI, Lease No. 11975, Lot No. 17116, Kaupē‘a, O‘ahu
- ITEM D-12** Cancellation of Lease – JOHNNY KAMAHELE, Lease No.12683, Lot No. 25, Pana‘ewa, Hawai‘i.
- ITEM D-13** Commission Designation of Successor – LYNNETTE L.H. HAVILI, Lease No. 9486, Lot No. 48, Wai‘ehu Kou II, Maui
- ITEM D-14** Commission Designation of Successor to HERBERT ANAKALEA, Residence Lease No. 9234, Lot No. 21, Kani‘ohale, La‘i ‘Ōpua, Kailua-Kona, Hawai‘i
- ITEM D-15** For Information Only – Request for Relocation – JAMES M. DUVAUCHELLE, SR., Pastoral Lease No. 7876, Lot No. 8, Ho‘olehua, Moloka‘i

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve agenda items listed on the Homestead Services Division Consent Agenda.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve agenda items listed on the Homestead Services Division Consent Agenda. Motion carried unanimously.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-4 Amendment to HHC 2016 Calendar- April 2016

RECOMMENDED MOTION/ACTION

Deputy Director William Aila Jr. presented the following:

Motion to approve the Amended 2016 HHC Calendar.

DISCUSSION

The Department proposed a change to the Hawaiian Homes Commission meeting schedule, specifically the April Meeting. The proposed new meeting date is April 11 & 12, which will allow the Commission to meet before the legislature's 2nd crossover scheduled for April 14th.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Issuance of License to Kapolei Hawaii Property Company, LLC, Kapolei, Island of O'ahu, of access rights granted by State Department of Transportation, TMK No.(1) 9-1-017:108 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Peter "Kahana" Albinio presented the submittal. Motion that the Hawaiian Homes Commission (HHC) approve the issuance of a license to Kapolei Hawai'i Property Company, LLC, ("KHPC") as Licensee, for limited vehicle access rights for egress and ingress to its shopping center complex pursuant to the GRANT OF LIMITED VEHICLE ACCESS RIGHTS (NON-EXCLUSIVE) (KUALAKAI PARKWAY) fully executed on December 30, 2015, by and between the State of Hawaii- Department of Transportation as "GRANTOR" and the Department of Hawaiian Home Lands, by its Hawaiian Homes Commission as "GRANTEE" ("DOT Grant of Access")

MOTION/ACTION

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

PLANNING OFFICE

ITEM G-1 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Kailapa Community Association Community and Resource Center / Emergency Relief Shelter, Kawaihae, South Kohala, Hawai'i, TMK (3) 6-1-010: 008

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel and Planner Andrew Choy 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 Kailapa Community Association Community and Resource Center/Emergency Relief Shelter.

MOTION

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

DISCUSSION

On December 14, 2010, the Hawaiian Homes Commission approved the issuance of a 50-year license (License 751) to the Kailapa Community Association (KCA) for a 14.33-acre parcel, TMK

(3) 6-1-010:008, at Kawaihae, Island of Hawaii, for the purposes of constructing and operating a community resource center for Hawaiian homestead communities in Kawaihae and the West Hawaii Region. Unfortunately, the Kailapa Community Association was one of the homestead communities that did not receive a \$250,000 grant for planning and pre-development work under the DHHL Kulia I Ka Nuu Program as the program was discontinued in January 2012. Despite DHHL's lack of financial assistance, the KCA successfully obtained grant funding.

Various government agencies at the federal, state and county levels were asked to comment on the DEA. Revisions to the DEA were made based on the comments received during the public comment period. Changes based on responses to substantive comments received are reflected in the FEA. A. Choy introduced project consultant Bobby Hall who helped with planning and implementation of the Kailapa Community Center Project

Commissioner Kaapu asked if the Department looked at the cost of connecting to the County water system or the possibility of digging a well on the property.

K. Manuel stated in 2012; the Commission set aside \$100,000 to do a Kawaihae water assessment. R.M. Towill recently finalized the assessment. The assessment was an investigation of the two existing wells that the Department has, mauka of the homestead community. It also looked at other options to get water to our homestead community. One of them was to extend the existing county water line from the Kawaihae industrial subdivision, across Honokoa Gulch, to our homestead community. The problem is that the Department of Water Supply's response to DHHL every time the recommendation is made is that we need to provide an additional source. We have to add more water into it, even if we extended it across the gulch.

The assessment says that based on the existing wells and the salinity of the wells, DHHL could put them into production to service our existing Homestead community, but it would require minimal or some osmosis to desalinate the water.

The County is trying to develop a Lalamilo well next to their existing tank in Waimea, which will hopefully add capacity and source. DHHL's comment on the draft EA and asked to be included because we need water in Kawaihae. If the Department can cost-share in the development of that well, maybe we can get credits that we could use on the system if we do extend it. Those are things that we're looking at now

Commissioner Kaapu asked if staff looked at Kahua Ranch as an option. The lease from DHHL and operate using surface water. K. Manuel replied that Kahua Ranch has a month-to-month revocable permit with the Department and pulls water from the Kohala mountain watershed through the Kehena ditch system. The Department has done preliminary research on a ditch system but it is still a conceptual discussion. Such a system would involve using water from reservoirs from the three puu located mauka and allowing gravity to feeding the system downhill. The Kailapa Association has asked to have it included in the Kawaihae Water Assessment.

K. Manuel stated that the ditch system was identified as a potential long-term solution but in the short-term, they decided to focus on the two wells for redundancy on the Kohala Ranch system and/or independence from the Kohala Ranch system. DHHL pays almost \$8 per 1,000 gallons on the system now. Based on the presentation, the Department would be paying about the same amount to desalinate the water from within the existing wells. The staff intends to look at both options. Kohala Ranch is always looking at redundancy too because they only have their well. If something happens to the well, we all would be in trouble.

The well on the property could be a long-term solution for water for the project but it is very near to the shore so salinity will become an issue eventually. It probably cannot be used for consumption but may be used for irrigation. The water demands based on the project buildout is minimal, at 5000 to 6000 gallons per day. It is probably not worth putting in the money for the well, but in the long-term, it could be something they might want to consider.

ACTION

Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-2 Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Peter “Kahana” Albinio presented the submittal. Motion that the Hawaiian Homes Commission ratifies the consents and approvals granted by The Chairman, Hawaiian Homes Commission.

Commissioner Kaapu asked that in the future, percentages in the submittal be quantified in dollar amounts. He stated concern over the Department’s position relative to what the Department is supposed to be able to collect. Deputy AG Iha stated he could provide a summary after reviewing the documents more carefully.

Commissioner Kahikina asked if the Department is liable in the same way it is when a beneficiary defaults on a HUD loan. Deputy AG Iha stated on a general lease the lender could foreclose and sell the lease. Whoever buys the lease is going to have to attorn to the Department as the new tenant for any outstanding lease rents that are due.

MOTION/ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

OFFICE OF THE CHAIRMAN

ITEM C-1 For Information Only – Master Plan and Environmental Review Record for Redevelopment of the Bowl-O-Drome Site, Mō‘ili‘ili, O‘ahu, 820 Isenberg Street, Honolulu, Hawai‘i, TMK (1)2-7-008: 18 & 20

RECOMMENDED ACTION

None. For information only. NAHASDA Manager Niniau Simmons presented the following:

DISCUSSION

The Department is in the preliminary stages of planning and has brought on the consultants PBR to do the environmental review process and wanted to provide a status update should the planning process make it into the newspapers. The state EA and the federal environmental record are being used to determine eligible activities.

Kamo‘o‘ili‘ili

Project & Objective

Objective: Work toward developing new housing alternatives in urban Honolulu for Trust beneficiaries

- Master Plan a broad program of mixed-use concepts
- Advance environmental review to minimize redevelopment

Uncertainties

- Integrate developer selection with environmental review

Opportunities

- Proximate to services needed by kupuna
- Easy access to employment centers of Waikiki and Honolulu
- The University of Hawai'i at Mānoa campus neighborhood
- Transit-Oriented Development-% mile from planned rail extension
- Potentials for partnerships in neighborhood revitalization
- Next door to Stadium Park

Commissioner Richardson asked the Department to make sure that it looks into the design-build system that the state started to use for new buildings. Developers find it to be the most reasonable and expeditious way to build on sites like this. There are elderly law and medical schools that would love to be part of a development like this. The elderly programs would mesh very well with kupuna housing.

Chair Masagatani asked if the project will trigger an EIS. N. Simmons stated because of the location of the project; an EIS will likely be needed.

ITEMC-2 For Information Only - Draft Environmental Assessment for Keaukaha Residential Lots Rehabilitation and Infill New Construction, Keaukaha, Hawai‘i, TMK (3)2-1-20, -21, -22-, -23, and -24, various parcels

RECOMMENDED ACTION

None. For information only. NAHASDA Manager Niniau Simmons presented the following:

DISCUSSION

Draft Environmental Assessment for Keaukaha Residential Lots Rehabilitation and Infill New Construction, Keaukaha, Hawai‘i, TMK (3)2-1-20, -21, -22, 23, and -24, various parcels.

- parcels, to enable leasing to additional beneficiaries on the waitlist; additionally, density created by subdivision would be limited to lots within DHHL’s inventory with minimum resulting lot size and 10,000 sq. ft.;
- Older existing homes: to rehabilitate older homes for qualified leasing; rehabilitation would include interior and exterior modifications, as necessary. For those older homes that do not meet HUD’s requirements for safe /decent housing, the project would involve demolition and replacement with new construction approximately in the same footprint.

There are approximately 420 existing residential lots within site totaling approximately 285 acres, knots ranging in size from .36922 1.214 acres. The potential vacant lots for new construction total of 49 lots. Other existing homes in work conditions where the household income is less than 80% of the median household income could be eligible for rehabilitation grants.

Next steps for overall project implementation

In addition to the completion of the FEA and HHC declaration of FONSI for the project in accordance with Hawaii Revised Statutes Chapter 343, the following actions will need to be completed for the implementation of the project:

- A federal EA meeting the U.S. Department of Housing and Urban Development (HUD) and National Environmental Policy Act (NEPA) requirements is being prepared concurrently with the 343 EA;
- Upon HHC's approval of a FONSI for this project, the Department will publish a FONSI in the Star-Advertiser, Hawaii Tribune-Herald, and West Hawaii Today;
- As the projects are readied, publish notices to request release of funds and submit requests for release of funds to HUD;
- For lots currently in DHHLs inventory, the lots will be available for an award when the vacant lot improvements or turnkey new homes have been completed.

Conclusion

- The DEA for Keaukaha Residential Lots Rehabilitation and Infill New Construction has been completed;
- The 30-day mandatory public review and comment period will begin March 8, 2016, and end April 8, 2016;
- Based on the findings of the DEA, staff anticipated a finding of no significant impact for the various NAHASDA rehabilitation and infill affordable housing projects within the Keaukaha project area;
- Staff will present the FEA to the HHC in May 2016 and will ask for the HHC for a FONSI declaration.
- Notify the community of what is being proposed

Herring Kalua testified that the Keaukaha community celebrated its 90th-anniversary last year and the sewer issue has been around since he was a little boy. The community drives the projects in the community. The Hawaiian Homes Commission Act spells out exactly what gets done. Problems occur when folks want to do what they want to do instead of what the Commission outlines.

ITEM C-3 For Information Only – Environmental Review Record for Keaukaha Village, Keaukaha, Hawai'i, TMK (3)2-1-011: 005

RECOMMENDED ACTION

None; For information only. NAHASDA Manager Niniau Simmons presented the following:

DISCUSSION

The purpose of this informational briefing is to update the Hawaiian homes Commission on the initiation of this project.

The project objective is to reestablish a gathering area Keaukaha Beach Park, consisting of a pavilion surrounded by traditional food gardens. Other components of the project include a renovated restroom, emu, and possibly a certified kitchen. A few other smaller pavilions may also be added to accommodate several smaller gatherings; this project is listed as a priority project in the Keaukaha regional plan (2010).

Next steps

The anticipated immediate next steps are as follows:

1. A community meeting was held on February 17, 2016, with the Keaukaha community Association to praise them of the project.
2. Engage the technical subcontractors to begin the baseline studies.
3. Initiate consultations under section 106 and FEMA 8 – step.
4. Prepare environmental documents and process.
5. Submit draft EA to HHC for information and final EA for FONSI determination.
6. Request release of funds.
7. Initiate the design phase.
8. Bid, award, construct.

Conclusion

- The Keaukaha Village project is the highest priority of the Keaukaha regional plan.
- The location within the special flood hazard zone require special design considerations
- The federal and state environmental requirements will run concurrently and include HRS chapter 343, HRS chapter 6 E., NEPA, Section 106, and FEMA.

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

Exhibits:

- A – Homestead Lease and Application Totals and Monthly Activity Reports
- B – Delinquency Report
- C – DHHL Guarantees for USDA-RD Mortgage Loans
- D – DHHL Guarantees for FHA Construction Loans

Chair Masagatani asked if Commissioners had any questions regarding the information provided in submittal Item D-1.

PLANNING OFFICE

ITEM G-2 For Information Only – South Point Management Plan Update, Ka‘ū, Hawai‘i

RECOMMENDED ACTION

None. For information only. Acting Planning Manager Kaleo Manuel and Planner Andrew Choy presented the update. South Point Management Plan Update, Ka‘ū, Hawai‘i

DISCUSSED

A. Choy provided an informational briefing is to update the Commission (HHC) on the status of the South Point Management Plan and receive feedback and direction from the HHC.

NEXT STEPS FOR SOUTH POINT RESOURCE MANAGEMENT PLAN COMPLETION

- Incorporate feedback and guidance from the HHC received today into the plan document;
- Complete a public review draft – March 2016;
- Conduct one or two more beneficiary consultation events on the Public Review Draft Management Plan – March or April or 2016;
- Submit beneficiary consultation report to the HHC on the Public Review Draft Management Plan – April or May 2016;
- HHC approval of final management plan – May or June 2016;

Commissioner Kaapu stated dealing with the people who run the illegal shuttles will be a challenge to make sure they abide by the rules. K. Manuel agreed the Department might as well conduct an EIS. Getting control of management is a short-term goal. Going forward, there is a lot of opportunity for guided tours but is not sure how Mahana Bay should be handled. The staff wanted to bring the item back to Hawai'i Island several more times before bringing the final plan to the Commission. The boat ramp at Kalalea Bay is another major concern. Area fishermen make their livelihoods from being able to launch from the boat ramp. K. Manuel stated it is a point of contention because it is the only boat ramp between Hilo and Miloli'i. The fishermen haven't come out to the meetings thus far.

K. Manuel stated there is an urgency from the community, that DHHL stops talking and do something. There are some short-term recommendations that can give beneficiaries some assurance that the Department is doing something.

Commissioner Ishibashi asked for an update on the unmanned glider project proposed for the area. A. Choy stated the project is the University of Alaska Unmanned Vehicle at South Point. The project is going through the 106 processes because an FAA permit is required, which triggered the federal process. They hope to have it completed in the next several months.

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Patrick Kahawaiolaa – Pu'u O'o/Humu'ula Projects

P. Kahawaiolaa introduced a proposal for the use of the Āina Mauna Legacy Lands. The Keaukaha Community Association first became acquainted with the Āina Mauna lands in 2008. Seventeen kupuna from Keaukaha and other East Hawai'i Communities went with DHHL employees Kahana Albinio and Mike Robinson on a huaka'i to view the devastation Gorse was causing in Humu'ula and Pi'ihonua. They learned that the feral cattle were the main cause of the spreading of the Gorse and removing them was paramount to the Department. The kupuna gathered other East Hawaii leaders who felt it was an obligation and duty to empower their respective communities to find ways to create the opportunity for economic development and self-sufficiency on these trust lands. He is before the Commission to request a right of entry and or permit to use the parcel known as the Humu'ula Sheep Station and surrounding acreages as a staging area and security point for ingress and egress into trust property. They already provided a comprehensive proposal and are ready to move forward if the Department is prepared.

When the Department decides how it wants to proceed on Āina Mauna Legacy Lands, the Keaukaha Community Association is ready to step up to the plate. They support beneficiary consultations and appreciate five-hour meetings to get everything on the table. He felt that sometimes the general community's input overshadows the input of the beneficiaries.

Commissioner Ishibashi asked for an update on the audit of the existing contract vendor for feral cattle removal from Humu'ula. M. Robinson stated they stopped requesting payment for cattle at the end of 2014. The cattle started getting into the lower inaccessible areas and it became unfeasible for the licensees to keep booking slaughterhouse times for less desirable cattle. The decision was made to remove the fees on the animals being removed. There was concern that the licensees were getting meat and the beneficiaries were not, so a clause was added to the license that at least two animals per month could be distributed to the communities. Keaukaha Community was able to step up and accept the animals and butcher them when a crew can be put

together. There are other proposals and has no problem putting another licensee on the job to get the cattle removed.

Commissioner Ishibashi stated the licensees made money off the cattle they removed from the mountain, and they made lots of money. They got the fees removed and then they profited from the cattle. If there are others willing to pay \$100 per head, why are we giving it away for free?

RECESS **12:20 PM**

RECESS **12:40 PM**

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-3 Approval to Issue Right of Entry, State of Hawai‘i, Department of Land and Natural Resources, Kahikinui, Maui, TMK: (2) 1-9-001:003 (por.), 007 (por.) & 011 (por.)

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel, Acting Land Management Administrator Peter “Kahana” Albinio, Planner Julie Cachola, and Land Agent Shelly Carreira presented the submittal.

Motion that the Hawaiian Homes Commission (HHC) grants its approval to issue a Right of Entry (ROE) permit to the State of Hawaii, Department of Land and Natural Resources, herein referred to as PERMITTEE, for the purpose of constructing approximately 3.6 miles of 7 feet high ungulate-proof fence and to conduct feral ungulate control activities for the protection and restoration of watershed forest at Kahikinui, Maui, identified by TMK (2) 1-9-001:003 (por.), 007 (por.) & 011 (por.)

DISCUSSION

Approval of the ROE is subject, but not limited to the 19 conditions outlined in the submittal. Kahikinui was part of the original Hawaiian Home Lands Trust, which was set aside in 1921, for the rehabilitation of native Hawaiians, by the Hawaiian Homes Commission Act. The Kahikinui tract is 25,000 acres, the second-largest tract of land in the Trust. It is the only moku in the Trust, comprised of eight (8) ahupua‘a, and is significant for the island of Maui since it includes 75% of the Trust lands on Maui. Unfortunately, the integrated resources of the Kahikinui forest have been degraded and deforested through over a century of cattle ranching and a thriving feral ungulate population. Today the forest occupies only 5% of its former extent. Most of these remaining fragments are located on Hawaiian Home Lands. Despite the degradation of forest resources, Kahikinui remains an ideal candidate for forest restoration due to the absence of shade-adapted forest weeds and the continued resilience of koa trees, one of the more robust and quick-growing of native tree species, capable of spontaneous recruitment from seeds long stored in soil seed banks.

Andrea Buckman from the Leeward Haleakalā Watershed Restoration Partnership thanked the Commission for the opportunity to work to protect the watershed.

Commissioner Davis asked that the beneficiaries be included as a resource. On Moloka‘i, the beneficiaries are informed of every step in any kind of eradication project. It is important to get the community involved and allow subsistence hunters to gather what they need. A. Buckman stated salvage efforts for the meat had been worked out with the associations wherever possible.

MOTION/ACTION

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

MOTION/ACTION

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

EXECUTIVE SESSION

1:04 PM

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

1. Update on Nelson Case- Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
2. Kūhiō Award Concept, questions, and issues.

EXECUTIVE SESSION OUT

3:00 PM

GENERAL AGENDA (continued)

ITEM J-5 Eric S. Knight – Transfer Lease Request

E. Knight read a letter he wrote to request an audience before the Commission members to request an exception for transfer of lease, which he is denied because it was discovered that he is not 50% Hawaiian. His application for a homestead was filed in "in good faith and he provided all the requested documents available at that time. He has been on the list of applicants for a homestead for many years and was extremely excited about becoming a beneficiary. He has lived in Kaupe'a for nearly 9 years. He submitted a request for transfer of lease; he was told it was denied because his blood quantum was being questioned. It has been nearly 2 years since the revelation, and it has created a financial hardship and he is worried about securing his retirement and the well-being of his wife who is not Hawaiian. He wants to transfer the lease to his mother who is 50% percent Hawaiian. He feels it was an oversight on the Department's part and he shouldn't be penalized. He wants to make it right by transferring the lease to his mother who is qualified.

Commissioner Richardson asked if his mother is a lessee. E. Knight stated his mother is not a lessee, but she is an applicant.

Commissioner Kahikina asked why Mr. Knight isn't allowed to transfer the lease to his mother if she is 50% Hawaiian? Deputy AG stated the Commission should recuse itself into an executive session to continue the discussion.

Chair Masagatani stated Mr. Knight previously requested a contested case hearing but has since changed his mind. She asked staff and Deputy AG Iha to follow up with Mr. Knight to look for a remedy to the situation that is allowable under the circumstances. E. Knight thanked the Commission for hearing his testimony.

ITEM J-10 George Matthews – Waitlist Priority Transfer

Sweets Matthews, mother of George Matthews, attended on his behalf. S. Matthews explained that her daughter Lynn Suber, from Big Island, was notified she was in-line to receive an award. Her daughter couldn't afford it at the time, so she gave the award to her brother, George Matthews. Her daughter was never told that she would go to the bottom of the list. She thought they were trading places on the list. They called Kana'i to explain the situation and asked Kana'i to email him the discussion that took place between them. There were things in the email that were not discussed.

Chair Masagatani explained that the waitlist is made up of people who are awaiting an award. Her daughter already received an award of a lease so she was able to take his place in line and has his spot. However, the way the rules are the Department wants to make sure that before a lease is given to someone who has already gotten a lease, that it be offered first to people who have not had a lease. The Administrative Rules require that we go first to everybody that has not ever been a lessee on Hawaiian home lands so they have a chance first. Then we go to the people that have been lessees.

Chair Masagatani reconfirmed that L. Suber is on the list in her father's spot, but as a previous lessee, she has to wait until after offerings are made to folks who have never been awarded, then if there are still offerings available, she would get an offer. D. Oshiro offered to take S. Matthews to the office to view the waitlist.

ITEM J-11 Aaron Mahi – Ko'olau Foundation License Request

A. Mahi is the President of the Ko'olau Foundation seeking a long-term license disposition for the Ha'iku Valley Cultural Preserve. They had several meetings with the community to develop thoughts of what they would like to see. Those thoughts were wrapped into what was presented to OHA as part of the Halawa/Luluku Interpretive Development Plan to create this cultural preserve in response to the H3 being built through the valley. They felt that the funding from that plant would help establish the preserve. But they didn't have the rights to the land which is why they keep coming back to DHHL. They have been asking DHHL to transfer the land to OHA so they can do the preserve. There was some support for a license during previous administrations but OHA felt a conceptual plan was needed. OHA funded the plan which is now being submitted to DHHL.

The vision is to return the valley to the native forest and remove all of the invasive species. They want to restore the Omega Station and turn it into a cultural center and assist in managing the valley and allow educational and community groups to come in to use the valley. These met with all the major stakeholders including the Department of water supply, the Department of transportation, Kamehameha Schools and Papahana Kuaola. The neighborhood boards of Kaneohe and Kahalu'u have supported the plan as well. They understand DHHL's priority is housing and the valley is not developable because it is zoned conservation and is full of wahi kapu. The foundation wants to help the Department manage the valley through its cultural preserve plan. They provided pictures of vandalism at the Omega Station. They ask for the opportunity to malama their Kuleana.

Chair Masagatani stated she did reach out to OHA and Kamehameha Schools to swap land that is more suitable to housing development. Unfortunately, options haven't been forthcoming. A. Mahi thanked the Commission for the opportunity and hopes DHHL will allow the Foundation to save the heiau and other wahi kapu in the valley.

ITEM J-12 Kika Bukoski – Right of Entry 645 A. Silva

K. Bukoski spoke on behalf of A. Silva who holds DHHL Right of Entry permit 645. He is receiving no compensation for his involvement and offers to help the family. In 2013, the Commission granted ROE 645 to A. Silva and he has complied with all aspects of the agreement. K. Bukoski is here to update the Commission on activities of the parties who occupy adjacent properties. Mr. Silva is in the middle of other occupants who do not hold ROEs or Revocable Permits with the Department. There have been incidents of criminal property damage and harassment, which were reported to the police.

MOTION/ACTION

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

EXECUTIVE SESSION IN 4:19 PM

EXECUTIVE SESSION OUT 4:25 PM

ITEM J-14 Janeen-Ann Olds – President/CEO Sandwich Isle Communications

J. Olds asked for an update on several outstanding issues SIC has with the Department.

1. Educational Fund – Waiting to hear how DHHL wanted to proceed. They have \$137,000 on hold.
2. Request for financials – Articulated the need for confidentiality and how to best work out those concerns. They want to be cooperative but have
3. Request for certification by DHHL as an Eligible Telecommunications Company (ETC). SIC requested a certification letter in January but have not heard anything from DHHL.

She added that SIC finally received a written report from USAC (Universal Service Administration Company) and is finishing up its response, which is due on Friday. With that, the FCC will be in a position to make a decision to release funds they are holding. If SIC certified as an ETC, the FCC will be able to fund SIC for the current year. Certification will not cost the Department any money; in fact, the Commission benefits in that the funding is used on infrastructure for telecommunications solely on Hawaiian home lands. No money will be released until the FCC has made a decision with respect to the audit. They believe that either the PUC or the Hawaiian homes Commission can issue that ETC. Every day that is delayed is one more day that they lose funding. SIC will ask the FCC not only to restore the funding that has been suspended but also that upon certification, it be retroactive back to the beginning of the year. Waivers are rarely granted but SIC believes it has the right to ask because the FCC has never withheld funding while conducting an audit.

J. Olds stated SIC is disappointed and frustrated that they have not heard back from DHHL. They have contractual obligations through the license agreement to the Department and more importantly, with the beneficiaries. To date, they have continued to observe their contractual obligations and aggressively protect their rights under that license agreement, especially with respect to exclusivity. They also believe that the Commission has its fiduciary obligation, similar to the beneficiaries. What they're doing is for the beneficiaries and all of their money is spent on the home lands. If the Commission or SIC doesn't don't do it, with respect to the infrastructure for telecommunications, no one else is going to take care of the beneficiaries.

SIC was trying to work cooperatively with DHHL and asked for assistance with the outstanding matters.

Chair Masagatani stated with regard to the Educational Fund; the Department is near to going out for a process on its Native Hawaiian Development Plan which has to do with how we benefit our beneficiaries as a whole. If the terms and conditions of the license are broadly stated instead of utilizing that beneficiary input to help determine how those resources should be utilized. The Department needs to communicate that to SIC. For the Commission's information, there was correspondence prepared on the ETC, but it was misplaced. Subsequent to the correspondence, there was communication between the PUC and DHHL, where the PUC questioned DHHL's ability to issue an ETC to SIC.

Commissioner Richardson stated his personal view is that the PUC should issue the ETC instead of DHHL. J. Olds stated to the extent that the Commission believes SIC has not fulfilled the terms of its license agreement, there is no issue, especially when the Commission is arguing on behalf of and supporting the beneficiaries who are the direct recipients of the services SIC provides. She would rather the SEC be the arbitrator and say they will not accept the ETC.

Commissioner Richardson added the viability of this is important to the Commission and to beneficiaries, but he is concerned about the economic viability of the company. He hasn't seen much cooperation between SIC and DHHL. He has made numerous requests since being on the Commission for finances. The Department was not given full cooperation and he's uncomfortable with that. J. Olds states they have been prepared to provide financial information with proper assurances that financial information would remain confidential. SIC has been willing to work at it, but no one responded on how to resolve that issue. It has not been an unwillingness on SIC's part. Even with USAC and the FCC, everything is confidential. Commissioner Richardson asked if the Department can find a solution to the confidentiality issue, would SIC provide access to the NOC and performance criteria of all of the networks. J. Olds responded she is not sure why the Department would need access to the NOC but it is something that they would certainly look at and what the request is. As far as the performance metrics, they are a part of the ETC filings.

Commissioner Richardson requested an executive session.

MOTION/ACTION

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

EXECUTIVE SESSION IN 4:43 PM

EXECUTIVE SESSION OUT 5:06 PM

ITEM J-13 Bo Kahui – Executive Director, La'i 'Ōpua 2020

B. Kahui requested an update on the concerns he brought to the Commission last month regarding assistance with recovering association fees from lessees who refuse to pay their share. He provided the Commission with a spreadsheet identifying the most egregious offenders and is asking that they are issued contested case hearings to try to resolve the delinquencies.

ITEM J-1 John McBride – Pu'u O'o/Humu'ula Projects

J. McBride asked for an update on the proposal he submitted in December. He has not received any communication from the Department about the status of the proposal. He asked for information on the policy or process beneficiaries use to submit proposals like his to the Commission. If there is no consistent procedure for beneficiaries to follow, so beneficiaries know what is happening with each project. If there is no process, there is no accountability.

ITEM J-7 Annie Aea – Vinyl Fence Kama’aha Avenue

Iwalani Laybon-McBrayer and Jody Akau speak on behalf of A. Aea, who was unable to attend. I. McBrayer presented the Commission with a packet of information related to their request for a Perimeter CMU Wall. I. McBrayer read through her *Chronology of Request for Perimeter CMU Wall* and a letter she drafted to *Governor Ige on February 22, 2016*.

J. Akau stated she is from Kanehili and would like to get an update on DHHL’s progress of their wall because they noticed that it stops at a certain point. They are asking for another 585 feet of wall to continue to the park to keep their area safe.

I. McBrayer asked for a contact person at DHHL to work with. Chair Masagatani indicated that Deputy William Aila Jr. will be the initial contact. She thanks I. McBrayer for her time.

Note: The following J Agenda items were deferred to a future agenda.

- J-2 Marion K. Kapuniai – Lease Issue**
- J-3 Rockylin Loo – Lease No. 7052, Lot No. 25 Pu’u Pulehu**
- J-4 Princeslehuani Kamaewakainakaleomomona - Kahikinui**
- J-6 Homelani Schaedel – President, Maluōhai Homestead Association**
- J-8 Robin Danner – Chairman, State Council of Hawaiian Homestead Associations**
- J-9 Michelle Ka’uhane – CEO, Council for Native Hawaiian Advancement.**

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

Next community meeting to be held March 22, 2016, Ka Ho’oilina Na Kūhiō Community Center, Waimānalo, O’ahu

ANNOUNCEMENT

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Richardson to adjourn. Motion carried unanimously.

ADJOURNMENT

6:11 PM

Respectfully submitted:

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Secretary
Hawaiian Homes Commission

DRAFT