

HAWAIIAN HOMES COMMISSION
Minutes of March 21 and 22, 2016
Meeting Held in Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, the 673rd 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 9:36 a.m.

PRESENT Jobie M. K. Masagatani, Chair
Gene Ross K. Davis, Moloka‘i Commissioner
Doreen N. Canto, Maui Commissioner
Wallace A. Ishibashi, East Hawai‘i Commissioner
Michael P. Kahikina, O‘ahu Commissioner (Arrived 9:59 am)
David B. Ka‘apu, West Hawai‘i Commissioner
Wren Wescoatt III, O‘ahu Commissioner

EXCUSED Kathleen P. Chin, Kaua‘i Commissioner
William K. Richardson, O‘ahu 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
Rodney Lau, Administrative Services Officer
Hokulei Lindsey, Administrative Rules Officer
Leah Burrows-Nuuanu, Secretary to the Commission
Francis Apoliona, Compliance Officer
Norman Sakamoto, Acting Land Development Division Administrator
P. Kahana Albinio, Acting Land Management Division Administrator
Kaleo Manuel, Acting Planning Office Manager
Dean Oshiro, Acting Homestead Services Administrator
Ku‘uwehi Hiraishi, Info. Specialist
Susie Richey, Office of the Chair
Andrew Choy, Planner
Mike Robinson, Property Development Agent
John Pieper, Enforcement Officer
Julie Ann Cachola, Planner
Isaac Takahashi, Acting Housing Chief

ORDER OF BUSINESS

CALL TO ORDER/ROLL CALL

Chair Masagatani called the meeting to order at 9:36 a.m. Six (6) members present at roll call. Commissioners Chin and Richardson were excused. Commissioner M. Kahikina arrived at 9:59 a.m.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Chair Masagatani stated the minutes for July 2015 were distributed at the last meeting. Commission Secretary Leah Burrows-Nuuanu noted Commissioner Chin emailed with a few minor typographical errors. The minutes were updated and redistributed in the packets.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve the minutes for July 2015. Motion carried unanimously.

ITEMS FOR DECISION MAKING

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Lu Ann Mahiki Lankford-Taborito, Re: D-1.

L. Lankford thanked the Commission for approving her USDA loan. She was fortunate enough to attend the 90th anniversary of the Kalama‘ula Homesteads and is proud that what was her grandparent’s homestead is now hers. She had specific questions about her loan and asked to speak with someone from the Department. Chair Masagatani asked Acting Homestead Services Administrator Dean Oshiro to assist L. Lankford and thanked her for her time and testimony.

ITEM A-2 Solomon L. Chock and Carolanne Chock, Re: Agenda Item D-1.

C. Chock asked if there are any future projects planned for beneficiaries on the waitlist. Her husband has been on the O‘ahu waitlist for many years and will turn 79 in a few months. They have been renting a home in Kahalu‘u and would rather be investing in a homestead.

Chair Masagatani stated the Department plans to develop more land in Kapolei in the next several years. She asked Hale Manager Paula Aila to update the couple on projects that may be available in the next several years.

WORKSHOP PRESENTATIONS

PLANNING DIVISION

ITEM G-1 Workshop on Beneficiary Consultation Report – ‘Āina Mauna Legacy Plan – DLNR License Request

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel, Planner Julie Cachola, and Land Agent Mike Robinson presented the submittal:

Motion that the Hawaiian Homes Commission accepts this Beneficiary Consultation Report as the official public record of beneficiary input and feedback relative to the proposed license renewal with the Department of Land and Natural Resources (DLNR) at TMK (3)-3-8-001 : 003, 004, 008 Humu‘ula, Hawai‘i Island.

DISCUSSION

The purpose of this DHHL beneficiary consultation was to collect beneficiary feedback and input on a proposed renewal of a non-exclusive license agreement with the Department of Land and Natural Resources (DLNR) for TMK (3)-3-8-001: 003, 004, 008 Humu'ula, Hawai'i Island, an area of 14,945.80 acres of Hawaiian Home Lands.

In September of 1992, the HHC approved the issuance of a 20-year license agreement to DLNR, as the licensee, for the nonexclusive right to operate, maintain, and manage the premises for wildlife management, forest reserve, and public hunting purposes for the above parcels. The 20 - year license agreement has since lapsed and DHHL is in the process of considering the renewal of the agreement with DLNR. As part of the decision-making process, DHHL has sought beneficiary feedback on the proposed license renewal.

Beneficiary Consultation Process

The Department's Beneficiary Consultation Policy, approved in January 2009, recognizes that meaningful, timely, and effective beneficiary consultation is essential to the successful implementation of Commission policies, programs, and projects.

A. Choy summarized that based on the comments received, beneficiaries opposed the renewal of the license agreement with the DLNR. The comments at both meetings opposed the license agreement for four primary reasons:

1. Beneficiary oppose DHHL's overall practice of issuing dispositions to non-beneficiaries for activities inconsistent with the purposes of the HHC Act.
2. No clear and direct benefit from the license agreement to beneficiaries.
3. Beneficiaries would like to be more involved in the management of these areas. DLNR has not actively involved beneficiaries.
4. DLNR has enough of its own land on Mauna Kea to carry out its programmatic mission.

Commissioner Kahikina asked how the Department plans to assist beneficiaries who want to manage their own areas. A. Choy replied the Department is trying to find ways to provide technical training to beneficiaries to help them successfully manage these remote areas. K. Manuel added the Department is looking at systematically addressing resource management throughout the state. Deputy Aila added they've met with DLNR Chair Case and DLNR Deputy Kuluhiwa to look at ways to manage the land we have, more effectively with the limited resources and to empower beneficiaries to take part in that management. They are still in the discussion stage because implementing beneficiary management on these lands is a new paradigm.

Commissioner Wescoatt asked what the next step after approval of the report is. He also asked what the rent would be for the three parcels. K. Manuel stated staff would provide a recommendation on whether to issue the license or not. Based on the beneficiary consultation, it will likely be an alternative management plan that includes beneficiaries. K. Albinio stated the lease agreement was \$35,000 per year for the three parcels.

Commissioner Wescoatt stated his main objective as a Commissioner is to put beneficiaries on the land. 1) Put beneficiaries on the land. 2) Find ways to earn revenue from the land that cannot be used for residences. 3) For the category of land that cannot be used for either, he would rather pay \$35,000 for technical assistance to teach beneficiaries to manage it, than get \$35,000 for the amount of pilikia it causes with beneficiaries.

Commissioner Kaapu stated the benefit from consultations is only as good as the process put forward. Engaging the beneficiaries in a facilitated manner gets a more usable outcome. There is a problem with the process. The problem in Waimea was that a lot of the people at the meeting were not beneficiaries and had their own agenda. The process became worthless by the end of the

meeting because it became a gripe session. Going forward, he wants the process to have more value, so the product is something the Commission can work with.

DLNR Deputy K. Kahuhiwa thanked the Commission for its time. He stated that DLNR is more than willing to work with DHHL beneficiaries in a way that works for everyone. With regard to hunting, DLNR is the only state Department with the statutory ability to manage mammals, but it is also a matter of natural resource management. DLNR has technical staff like biologists who can assist beneficiaries with resource management, and create programs that benefit DLNR, DHHL and its beneficiaries.

Chair Masagatani stated given the DHHL's limited resources and lack of enforcement capabilities in this area; there is an opportunity to consider new paradigms and new ways of managing natural resources. She thanked Deputy Kaluhiwa for attending the meeting and offering his comments.

CONSENT 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** Cancellation of Deceased Applicant from Waiting List, Public Notice 2014 – EDWIN K. MORTENSEN
- ITEM D-8** Reinstatement of Deferred Application – CHARLOTTE M. KEALA
- ITEM D-9** Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- ITEM D-10** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-11** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-12** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-13** Commission Designation of Successor – BENJAMIN O. MILIKAA, Lease No. 7254, Lot No. 2, Nanakuli, Oahu
- ITEM D-14** Approval for Partial Advancement of Net Proceeds – JOSEPH W.O. YUNG, SR. from LEONA M. ATCHERLEY (Dec'd.) – Waianae Residential Lot Lease No. 5080, Lot No. 11, Waianae, Oahu
- ITEM D-15** Approval for Payment of Net Proceeds – CINDY A. KAULIA, Kaniohale Residential Lot Lease No. 9233, Lot No. 20, North Kona, Hawaii
- ITEM D-16** Commission Designation of Successor – ALAN MILLER, Lease No. 9396, Lot No. 83, Kaniohale, Laiopua, Kailua-Kona, Hawaii
- ITEM D-18** Request to Schedule Contested Case Hearing – Lease Violation, HOLLIDAY PELEKAI, Lease No. 4809, Lot No. 86F, Hoolehua, Moloka'i

RECOMMENDED 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.

RECESS **10:26 AM**

RECONVENED **10:33 AM**

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 **Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), DHHL Pana‘ewa Agricultural Lots Subdivision-Mahi‘ai Lot (Lot 185), Waiākea, Hawai‘i, TMK (3rd) 2-2-061:002**

RECOMMENDED ACTION

NAHASDA Manager Niniau Simmons, Acting Housing Chief Isaac Takahashi, and PBR Hawai‘i Consultant Roy Takemoto presented the following:

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 Pana‘ewa Agricultural Lots Subdivision-Mahi‘ai Lot (Lot 185).

Commissioner Wescoatt asked for a status on the remaining commercial lots. N. Simmons stated the Planning Office would go out to the Pana‘ewa community to update the Pana‘ewa Regional Plan.

Commissioner Ishibashi stated the two issues generated by the community at the meeting were 1) the size of the lots, and 2) the title of the project to residential instead of subsistence lots.

Chair Masagatani stated the current 10-acre site divided into ½-acre lots meant there were 16 lots available. Increasing the size of the lots decreases the amount of lot available. If the lots are changed to the residential designation, it changes the lease requirements and zoning infrastructure requirements. The FONSI is required for this one parcel in order to use NAHASDA funds. N. Simmons added that the housing plan discussions would generate the CIP planning for the Pana‘ewa subdivision.

Commissioner Kahikina asked if calling the lots subsistence lots, is changing the intent of the [HHC] Act. Chair Masagatani answered that the terminology came about from the recommendations of the Ag Task Force. AG Iha stated the Hawaiian Homes Commission Act identifies Ag awards and anything more specific is governed by rules. The delineation between a subsistence Ag program and general Ag lots would be done through rulemaking. N. Simmons stated the term “subsistence Ag” describes the lot size of 1-acre or less. The subsistence Ag does not have the 2/3rds cultivation requirement.

MOTION/ACTION

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

HOMESTEAD SERVICES DIVISION

ITEM D-17 Approval of Assignment of Leasehold Interest – ROCKYLIN LOO, Lease No. 7052, Lot No. 25, Puu Pulehu, Hawaii

RECOMMENDED ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the transfer of Lease No. 7052, Lot No. 25, Pu'u Pulehu from Rockylin M. Loo to Jack Manini for the remaining term of the lease.

Mr. Loo submitted a statement dated February 28, 2016, that explains why he was unable to construct his home. He also provided an itemized list of expenses that were incurred as a result of purchasing the lease and preparing to build on the lot.

Commissioner Kaapu stated most of the improvements listed could not be counted as improvements. Beneficiaries have overwhelmingly stated that residential leases should not be sold. It would be difficult for the Commission to allow this case and not others.

Chair Masagatani asked for an executive session.

MOTION/ACTION

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 11:06 AM

EXECUTIVE SESSION OUT 11:47 AM

Note: Item D-17 was deferred to later on the agenda, to allow staff time to check the file for when the transfer application was received by the Department.

LAND MANAGEMENT DIVISION

Note: Item F-1 was deferred to later on the agenda. Staff waited for Moloka'i Homestead Farmers Alliance representatives to arrive at the meeting.

ITEM F-2 Approval to Issue Waipahoehoe Management Unit Fencing and Long Term Restoration License to Big Island Resource Conservation and Development Council, 'Āina Mauna R-3, Pi'ihonua Mauka, Island of Hawai'i

RECOMMENDED ACTION

Acting Land Management Division Administrator Peter "Kahana" Albinio presented the following:

Motion to approve a ten (10) year license, with an option to renew an additional five (5) years, to the Big Island Resource Conservation & Development Council, Inc. (BI RC&D) . BI RC&D is the fiscal agent of the Mauna Kea Watershed Alliance (MKWA). MKWA will fence the Waipahoehoe Management Unit and assist DHHL in the restoration of the Unit's native forest, 'Āina Mauna, R-3, Humu'ula, Island of Hawaii.

Commissioner Ishibashi was concerned about the 10-year term of the license. He asked if there were any other conditions to the license besides constructing the fence. M. Robinson stated the fence would be erected before the gorse and ungulates are removed. The ability to apply for NCRS grants requires a 10-year capability on the land. The grants add significant dollars to long-term land management. It is one way of involving the beneficiaries in the management of the land. Cheyenne Perry of MKWA came before the Commission several times in the past year.

Commissioner Ishibashi asked who would remove the cattle from the area. M. Robinson stated MKWA would manage the removal as part of the license agreement, which would be developed if the action is approved. Deputy AG Iha stated Commissioners could specify conditions like cattle removal, in the language of the license.

Commissioner Ishibashi commented that without the conditions of the cattle removal spelled out in the license, he is against the action. Chair Masagatani asked that the item be deferred to provide a deeper analysis. M. Robinson stated that MKWA has funding requests from US FWS that are about to lapse, the deferral will likely jeopardize \$400,000 in fence funding.

Commissioner Kaapu asked if DHHL can become a member of the BIRC&D and what is the minimum license term that will allow the fencing funding to move forward.

Chair Masagatani deferred the matter to a future meeting.

ITEM F-1 Approval to Issue License Agreement, Moloka'i Homestead Farmers Alliance, Ho'olehua, Island of Moloka'i, TMK (2)5-2-015:053(por.)

RECOMMENDED ACTION

Acting Land Management Division Administrator Peter "Kahana" Albinio presented the following:

Motion that the Hawaiian Homes Commission (HHC) grant its approval to the issuance of a license agreement to Molokai Homestead Farmers Alliance, a Hawaii non-profit organization, hereinafter referred to as LICENSEE, for the purpose of management and maintenance of Lanikeha Ho'olehua Community Center, comprised of meeting and office spaces and a community-based commercial kitchen as identified by TMK: (2) 5-2-015:053 (por.)

DISCUSSION

The Molokai Homestead Farmers Alliance has requested a license agreement for the management of the Lanikeha Community Center. The area encompasses meeting spaces within the hall, a community based commercial kitchen, separate office space within the hall and kitchen and the office space formerly occupied by the Molokai Habitat for Humanity.

The license agreement will allow the Molokai Homestead Farmers Alliance to provide agricultural, socioeconomic, and entrepreneurial opportunities that will benefit native Hawaiians, the homestead community and the community at large, as further described in the Project Description. In addition, the license agreement is a crucial and necessary component for completing the GIA process.

Faith Tuipulotu thanked the Commission for its help through the process and for assisting their organization with achieving its 501 non-profit designations.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina, to approve the motion as stated in the submittal. Motion carried unanimously. Commissioner Davis recused himself from the discussion and subsequent vote.

PLANNING OFFICE

ITEM G-1 Accept Beneficiary Consultation Report – ‘Āina Mauna Legacy Plan – DLNR License Request

RECOMMENDED

Acting Planning Manager Kaleo Manuel, Planner Julie Cachola, and Land Agent Mike Robinson presented the following:

Motion that the Hawaiian Homes Commission accepts this Beneficiary Consultation Report as the official public record of beneficiary input and feedback relative to the proposed license renewal with the Department of Land and Natural Resources (DLNR) at TMK (3)-3-8-001 : 003, 004, 008 Humu‘ula, Hawai‘i Island.

DISCUSSION

The purpose of this DHHL beneficiary consultation was to collect beneficiary feedback and input on a proposed renewal of a non-exclusive license agreement with the Department of Land and Natural Resources (DLNR) for TMK (3)-3-8-001: 003, 004, 008 Humu'ula, Hawai'i Island, an area of 14,945.80 acres of Hawaiian Home Lands.

MOTION/ACTION

Moved by Commissioner Canto, 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 Third Quarter, FY 2016

RECOMMENDED ACTION

Administrative Services Officer Rodney Lau presented the following:
Motion that the Commission approves the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of March 31, 2016, to the Hawaiian Home General Loan Fund.

DISCUSSION

Section 213 (g) of the Hawaiian Homes Commission Act, 1920, as amended, reads in part as follows:

"(3) Hawaiian home receipts fund . All interest money from loans or investments received by the Department from any fund except as provided for in each respective fund shall be deposited into this fund. At the end of each quarter, all money in this fund may be transferred to the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home trust fund, and any loan fund in accordance with rules adopted by the Department."

Section 10-3-52(b) of Title 10, DHHL Administrative rules, provides that:

"If the Commission fails to approve a plan for transfer, all money in the Hawaiian home receipts fund shall be transferred at the end of that respective quarter as follows:

- (1) Nine percent to the operating fund; and
- (2) Ninety-one percent to the general loan fund."

The projected March 31, 2016 cash balance in the Hawaiian Home Receipts Fund is estimated to be \$850,000. The increased demands

MOTION/ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

PLANNING OFFICE

ITEM G-2 Waimānalo, O‘ahu Regional Update to the Hawaiian Homes Commission

RECOMMENDED ACTION

None. For information only. Acting Planning Program Manager Kaleo Manuel and Planner Andrew Choy, presented the following:

DISCUSSION

Planning Office will be providing the Hawaiian Homes Commission (HHC) with updates of the respective DHHL geographic region in which the HHC conduct s its monthly community meeting. The purpose of the monthly update is to provide the HHC with information related to DHHL plans, programs, and projects previously adopted by the HHC that are specific to that particular geographic region. A status report of DHHL's progress in implementing these initiatives is also included for the HHC's consideration.

Commissioner Wescoatt asked for the status of the Wong Farm acquisition. A. Choy stated the Wong Farm acquisition was part of the Act 14 settlement with DLNR. K. Manuel stated the Wong Farm is part of a larger parcel and the Department’s application to subdivide the parcel was held in the Department of Planning and Permitting because they required infrastructure and a fire hydrant. Once the application is resubmitted and the subdivision is granted, the title will be recorded and become a part of DHHLs inventory.

HOMESTEAD SERVICES DIVISION

ITEM D-17 Approval of Assignment of Leasehold Interest – ROCKYLIN LOO, Lease No. 7052, Lot No. 25, Puu Pulehu, Hawaii

Note: This item was continued from the morning agenda.

RECOMMENDED ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the transfer of Lease No. 7052, Lot No. 25, Pu'u Pulehu from Rockylin M. Loo to Jack Manini for the remaining term of the lease.

DISCUSSION

The Interim Policy on Transfers was approved by the Commission in July 2015, to be effective in October. Mr. Loo’s documents were signed in September but the staff did not receive it until October. Mr. Loo and Mr. Manini both complied with the terms of the Interim Policy. Mr. Manini is a contractor and does not need a loan and is ready to build if the Commission approves the transfer.

Commissioner Kaapu asked to confer with counsel in light of the new information from staff.

MOTION/ACTION

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

EXECUTIVE SESSION IN 1:30 PM

EXECUTIVE SESSION OUT 2:03 PM

Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto	X		X			
Commissioner Chin						X
Commissioner Davis			X			
Commissioner Ishibashi			X			
Commissioner Ka’apu				X		
Commissioner Kahikina		X	X			
Commissioner Richardson						X
Commissioner Wescoatt			X			
Chair Masagatani						X
TOTAL VOTE COUNT			5	1		3
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with five (5) YES, one (1) NO. three (3) Excused.						

GENERAL AGENDA - Requests to Address the Commission

ITEM J-2 David Benevedes – Waimānalo Lease

D. Benevedes provided written testimony explaining the circumstances of a series of unfortunate incidents leading to the acquisition of his grandparent’s homestead in Waimānalo. The Department sent him a letter stating he had 90 days from the day he signed the lease, to secure a loan. He asked the Commission for more time to secure a loan to save his family’s home. Mahealani Meheula of Hawaiian Community Assets assisted M. Benevedes with his testimony and stated HCA is willing to assist D. Benevedes in building his credit to secure a loan.

Acting Homestead Services Division Administrator Dean Oshiro stated D. Benevedes is the lessee, and the Department cannot cancel his lease without due process. In order for the Department to cancel the lease, it would need to go through the contested case hearing process, which Commissioners know can take up to a year or more.

Commissioner Davis thanked D. Benevedes for attending and hopes he has enough time to get his finances in order to save his family’s home.

ITEM J-7 Bo Kahui – Executive Director, La‘i Opua 2020

B. Kahui testified first as the Executive Director of La‘i‘opua 2020 and Villages of La‘i‘opua. He is requesting an amendment to commercial lease license 289 because article 1 says if the project did not reach certain benchmarks within 5 years, the lease could be revoked. La‘i‘opua 2020 had a development agreement with Native Hawaiian Enterprises but they were uncomfortable that the lease could be lost if the commercial center wasn't up and running within a year.

Turning to La‘i‘opua 2020, B. Kahui speaks toward a funding request for \$225,000 from DHHL to help sustain La‘i‘opua 2020. Over the last ten years, they have successfully erected a medical center and dental center, but the commercial center has not gotten off the ground yet. Workforce development and business incubation center for beneficiaries to become entrepreneurs. If the Department provides La‘i‘opua the funding it requests, he will dedicate a majority of his time to water resource development they intend to submit an application for a \$10 million water well.

Note: The following J Agenda Items were deferred.

- ITEM J-1 Princeslehanani Kamaewakainakaleomomona - Kahikinui**
- ITEM J-3 Marion K. Kapuniai – Lease Issue**
- ITEM J-4 Homelani Schaedel – President, Maluōhai Homestead Association**
- ITEM J-5 Sandralynn Naea, Successorship for Clement Kaniaupio.**
- ITEM J-6 Herbert Kaniaupi‘o III, Lease Transfer**
- ITEM J-8 Michelle Ka‘uhane – CEO, Council for Native Hawaiian Advancement.**
- ITEM J-9 Robin Danner – Chairman, State Council of Hawaiian Homestead Associations**
- ITEM J-10 David Penn – Renewal of Kipuka Aina Hou License.**

RECESS

6:29 PM

HAWAIIAN HOMES COMMISSION
Minutes of March 22, 2016
Meeting held in Kapolei, O‘ahu, Hawai‘i

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

EXCUSED Kathleen P. Chin, Commissioner, Kaua‘i
Michael P. Kahikina, Commissioner, O‘ahu

COUNSEL Craig Y. Iha, Deputy Attorney General

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

ORDER OF BUSINESS

CALL TO ORDER/ROLL CALL

Chair Masagatani called the meeting to order at 9:12 AM. Seven (7) members were present. Commissioners K. Chin and M. Kahikina were excused.

EXECUTIVE SESSION 9:16 AM

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 on the above-stated matter.

1. Update on Nelson Case – Richard Nelson
2. Presentation by the Commissions
3. Discussion Regarding Kalawahine Streamside Construction

EXECUTIVE SESSION OUT 10:54 PM

ITEMS FOR INFORMATION/DISCUSSION

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Herring Kalua, Warren Matsumoto, Levi Riata, C-33

H. Kalua stated he is a fourth-generation homesteader in Keaukaha. His great-grandmother received her lease on December 16, 1924. He asked for a status on the proposal the Keaukaha Homestead Association submitted in January. He also asked for an update on the request for an

audit of the cattle contract for Mauna Kea. He specifically wanted to know if DHHL gave anyone a right of entry permit to DHHL land on Mauna Kea after the last contract ended.

W. Matsumoto stated DHHL should be very concerned with the thousands of sheep that cross the roads up at Humu'ula. It is a major problem and the Department needs to start managing the area better before someone gets hurt. L. Riata stated that their other concern is that the cattle contract should have resulted in at least two heads of cattle for the homestead associations every time they ship cattle. Thousands of cattle were removed and they are bragging about it in news articles, yet the homestead associations are not getting their share.

Commissioner Ishibashi wants to know who is keeping track of the cattle coming off of the mountain. Someone should be taking pictures of every load coming off the mountain. M. Robinson stated he has everything documented and will provide it to Chair Masagatani's office for the audit.

Chair Masagatani offered that Commission is on Hawai'i Island in May, and staff will be there to do a comprehensive presentation on that status of the license and concerns regarding the cattle and sheep on 'Aina Mauna.

WORKSHOPS

OFFICE OF THE CHAIRMAN

ITEM C-3 Beneficiary Consultation Report on Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules

RECOMMENDED ACTION

None. For information only. Administrative Rules Officers Hokulei Lindsey presented the following:

DISCUSSION

At its September 2015 meeting, the HHC approved the DHHL's request to proceed with beneficiary consultation regarding proposed amendments to Title 10, Hawaii Administrative Rules. The proposed rule changes cover three main topic areas: Genetic Testing, Subsistence Agriculture, and the Transfer of Homestead Leases, as well as some "Housekeeping" amendments that deal primarily with administrative efficiencies and updates. From October 27, 2015, to December 10, 2015, the DHHL conducted statewide beneficiary consultation meetings to discuss with and get feedback from beneficiaries about the proposed rule amendments.

The format used at the consultation meetings was designed to solicit beneficiary input through facilitated conversation, focusing on how the proposed amendments could be made better. The Department posed three questions per topic area to help initiate conversation and highlight issues from the Department's perspective. Three questions are reproduced in the section that follows below exactly as they were posed at the meetings.

ITEM C-4 Recommendations Following Beneficiary Consultation for Proposed Amendments to Title 10, Hawaii Administrative Rules

RECOMMENDED ACTION

None. For information only.

Administrative Rules Officers Hokulei Lindsey presented the following:

Genetic Testing

Should the proposal be revised to expand the relationships tested? What impact would such an expansion have on the certainty expressed by the results of the existence of the relationship test?

No, staff recommends revising the proposal to add "Ohana testing" to the definition of "genetic testing" for clarification that testing is to establish family relationships, not ethnicity.

How can DHHL protect the applicant's and alleged parent's privacy in the test results?

Staff recommends revising the proposal to include language that specifically prohibits DHHL from disclosing the information without the prior consent of the tested parties.

Subsistence Agriculture

Should the proposal be revised to specify larger acreage for subsistence agriculture?

No, staff recommends keeping the proposal as drafted so that subsistence agriculture lots would be one acre or less. That the lot size should be larger seems to be linked to beneficiaries wanting to subdivide so that family can live on the same award. One-acre lots can support subsistence gardening activities as well as more than one dwelling.³ Staff, therefore, recommends adding language to the proposal that would allow no more than two separate dwelling units on the subsistence agriculture lot.

Transfer of Homestead Leases

Should further restrictions like "one chance" or the status of "the previous lessee" be addressed as related to the sale of leases?

Staff recommends keeping the proposal as drafted to address only the sale of vacant or undeveloped lots and undivided interests. One chance and/or previous lessee status would be better addressed in future proposals to allow for a full discussion and vetting through the Beneficiary Consultation process.

"Housekeeping"

§10-3-76 Fees and Charges. The draft proposal would amend this section by deleting subsections (a) thru (h) and adding a new subsection (a) to allow the DHHL to establish rental fees and service charges for the use of DHHL facilities. Staff recommends revising this section by deleting current subsections (a) thru (e), (g), and (h); and revising current subsection (f) to read as follows: "The Department shall assess the following fees for scaling services: (1) Lessees: (A) \$10.00-pick-up towed trailers; and (B) \$0.25-per head truck loads. (2) Non-lessees: (A) \$15.00-pick-up towed trailers, and (B) \$0.50-per head truck loads." This represents an increase in fees for (1) (A) from \$2.00 to \$10.00 and (2) (A) from \$4.00 to \$15.00. According to staff involved with weighing trucks and trailers, the \$15.00 charge for the public matches the amount charged by West Hawaii Concrete.

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

ADJOURNMENT

12:19 PM

Respectfully submitted:

Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

DRAFT