

HAWAIIAN HOMES COMMISSION
Minutes of May 23 and 24, 2016
Meeting held in Kailua-Kona, Hawaii

Pursuant to proper call, the 675th Regular Meeting of the Hawaiian Homes Commission was held at Courtyard King Kamehameha's Kona Beach Hotel Ballroom #4, 75-5660 Palani Road, Kailua-Kona, Hawai'i, beginning at 9:30 a.m.

PRESENT Jobie M. K. Masagatani, Chair
Doreen N. Canto, Maui Commissioner
Gene Ross K. Davis, Moloka'i Commissioner
Wallace A. Ishibashi, East Hawai'i Commissioner
David B. Ka'apu, West Hawai'i Commissioner
Michael P. Kahikina, O'ahu Commissioner (Arrived 10:45 am)
William K. Richardson, O'ahu Commissioner
Kathleen P. Chin, Kaua'i Commissioner

EXCUSED 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, Acting Land Development Administrator
P. Kahana Albinio, Acting Land Management Administrator
Kaleo Manuel, Acting Planning Office Manager
Kamana'o Mills, Special Assistant to the Chair
Stewart Matsunaga, Master Plan Community Dev Mgr.
Juan Garcia, Homestead District Supervisor
Rodney Lau, Administration Services Officer
Ku'uwehi Hiraishi, Information Specialist
Gigi Cairel, Planner
Andrew Choy, Planner

ORDER OF BUSINESS

CALL TO ORDER/ROLL CALL

Chair Masagatani called the meeting to order at 9:30 a.m Eight (8) members present at roll call. Commissioner Wescoatt was excused.

Chair Masagatani noted Item C-2 and H-1 would be deferred. Item C-3 will be taken right before the J Agenda. The minutes for the August 2015 HHC meeting were distributed for review and approval on the Tuesday agenda.

APPROVAL OF AGENDA

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

MOTION

Moved by Commissioner Canto, seconded by Commissioner Richardson, to recuse the Commission into Executive Session. Motion carried unanimously.

EXECUTIVE SESSION IN 9:46 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.

1. Update on Nelson Case - Richard Nelson, III et al., v HHC, Civil No. 07-1-1663

EXECUTIVE SESSION OUT 11:28 PM

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Heather Lindsey,

H. Lindsey greeted Commissioners and inquired about applying for a permit to place a plaque near the Humu'ula Sheep Station. Chair Masagatani asked them to speak directly with Acting Land Management Administrator Kahana Albinio.

ITEM A-2 Kalaniakea Wilson, Re: J-7

K. Wilson testified briefly regarding issues relating to the waitlist and how kupuna are dying without being awarded a homestead or Ag lease. He also spoke in support of the Koa Kia'i Pilot Project and asked the Commission to support the project and the opio involved in it.

ITEM A-3 Warren Matsumoto, Re: J-7

W. Matsumoto testified about the cattle on Mauna Kea, protecting the watershed and controlling the Gorse in the area. He suggested the Department lease the land so everyone can run a few heads of cattle and help take care of the land. Many beneficiaries know how to run cattle and can do good for the land if the Department will just help them get on the land. He mentioned some folks might have difficulty with money for fencing but if everyone worked together, it could benefit everyone.

ITEM A-4 Joe Pacheco, Re: Successorship.

J. Pacheco stated he had asked the Department for answers as to how his mother went from the Hawai'i Island waitlist to the O'ahu waitlist. He stated he was the successor to his mother's place on the list, and when he checked for her name, it was no longer listed and he was told that she is on the O'ahu waitlist. Chair Masagatani asked J. Pacheco to speak with Deputy W. Aila Jr. for help with his situation.

ITEMS FOR DECISION MAKING

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
ITEM D-6 Approval of Homestead Application Transfers / Cancellations (see exhibit)
ITEM D-7 Commission Designations of Successor to Application Rights – Public Notices 2012 and 2014 – SAMUEL WAHILANI, DARLENE K. KAMAE
ITEM D-8 Reinstatement of Deferred Application – LORRAINE K. LINCOLN
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 Request to Schedule Contested Case Hearing – Lease Violations – PEGGY ANN TOLENTINO, Lease No. 7114, Lot No. 61, Kawaihae, Hawaii & HERBERT KEALOHA, JR., Lease No. 7038, Lot No. 11, Pu’u Pulehu, Hawaii

RECOMMENDED MOTION/ACTION

Homestead District Supervisor Juan Garcia recommended the following:
Motion to approve items listed on the Homestead Services Division Consent Agenda.

MOTION/ACTION

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

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-9** **Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)**

RECOMMENDED MOTION/ACTION

Homestead District Supervisor Juan Garcia 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.

Chair Masagatani invited Patreena Santos and Genesis Tai to the table to offer testimony on Item D-9.

P. Santos stated they are contesting the designation of Felicia Harrison’s successor to her homestead in Waimānalo. Felicia Harrison is their aunt and lessee of the homestead in Waimānalo, recently passed away without designating a successor. The home was promised to her sister Genesis and herself. They were raised by her Felicia Harrison in the Waimānalo home. The named successor, who is Felicia’s sister, had nothing to do with the home, the homestead or their Aunty. They want more time to see what can be done. She added that F. Harrison paid off

the home and her sister Genesis has the deed. Recently, the successor turned off the electricity to the home and served everyone in the home with an eviction notice.

Commissioner Kahikina asked to remove item #3 from the D-9 submittal. Commissioner Chin asked to remove items #10 & #11.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Kahikina to remove Items #3, #10 & #11 from the D-9 submittal. Motion carried unanimously.

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

RECOMMENDED MOTION/ACTION

Homestead District Supervisor Juan Garcia recommended the following:
Motion to approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan. There were 33 assignments.

Commissioner Ka'apu asked for details regarding Nos. 30 & 31. West Hawai'i District Manager James Dupont explained that Mr. Levi was awarded a lot in 1990 and purchased the lot next to him. When he passed, the only successor to the lots was his sister, who lives on the Mainland and has no intention of moving back to Hawai'i.

Chair Masagatani asked for a motion to convene in executive session.

MOTION/ACTION

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

EXECUTIVE SESSION IN 12:25 PM

EXECUTIVE SESSION OUT 1:45 PM

Chair Masagatani asked for a motion to approve Item D-10 except for Nos. 28-31.

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto to approve the motion as stated in the submittal, except for Nos. 28-31. Motion carried unanimously.

ITEM D-14 Set Aside of Prior Designation of Successor to Lease No. 7248, Lot No. 49, Kawaihae, Hawaii, and Designation of SHELBY HO'OKAHI as Successor to Lease No. 7248, Lot No. 49, Kawaihae, Hawai'i

RECOMMENDED MOTION/ACTION

Homestead District Supervisor Juan Garcia recommended the following:

Motion that the Hawaiian Homes Commission approved a motion to:

1. Set aside the designation of Denise Freitas as the primary successor to Larry Ho'okahi's residential lease.
2. Approve the designation of the alternate successor to Lease No. 7248, Lot No. 49, Shelby Ho'okahi, granddaughter of Larry Ho'okahi, situated at Kawaihae, Hawaii for the

remaining term of the lease, subject to her acceptance of the terms and conditions of the Lease.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Issuance of Right of Entry Permit to Kamakana Senior LLC and Kamakana Family Phase I, LLC, Keahuolu, North Kona, Island of Hawai'i, TMK No.(3)-7-4-021:023(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following: Motion that the Hawaiian Homes Commission (HHC) authorizes the issuance of a Right of Entry Permit, covering the subject area as identified and described below for construction purposes, such as staging and to support the grading work that will be done on non-DHHL Lots 11-A and I 1-8. Approval and issuance of this Right of Entry Permit "ROE" shall be subject to the conditions listed in the submittal.

MOTION/ACTION

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

ITEM F-2 Approval to Extension of License Term, Church License No. 503, St. Rita's Church, Nanakuli, Island of O'ahu, TMK Nos. (1)8-9-005:001, (1)9-007:002(por.) & (1)9-007:004(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following: Motion that the Hawaiian Homes Commission (HHC):

1. Authorize an amendment of License No. 503, which extends the current termination date 65-years beyond the current license termination date of December 31, 2028, so that the new termination will be on December 31, 2093, which are by this reference incorporated herein and further subject to conditions listed in the submittal.

MOTION/ACTION

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

ITEM F-3 Issuance of Right of Entry Permit, Edward K. Taniguchi, Anahola Mauka, Anahola, Island of Kaua'i, TMK No. (4)4-7-002:004(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following: Motion that the Hawaiian Homes Commission (HHC) authorizes the issuance of the Right of Entry (ROE) Permit to Edward K Taniguchi, covering the subject area as identified and described below for pastoral and agricultural purposes. Approval and issuance of this ROE shall be subject to the conditions in the submittal.

MOTION/ACTION

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

ITEM F-4 Issuance of Right of Entry Permit, Kalalea/Anahola Farmers Hui, Anahola Farm Lots, Anahola, Island of Kaua'i, TMK No. (4)4-8-005:026(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following: Motion that the Hawaiian Homes Commission (HHC) authorizes the issuance of a Right of Entry (ROE) Permit to Kalalea/Anahola Farmers Hui (KAF Hui), covering the subject area as identified and described below to use as a Farmers Market. Approval and issuance of this ROE shall be subject to the conditions listed in the submittal.

MOTION/ACTION

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

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Recommendations for Proposed Amendments to Title 10, Hawaii Administrative Rules, and to Proceed with Rulemaking under Chapter 91, Hawaii Revised Statutes.

RECOMMENDED MOTION/ACTION

Administrative Rules Officer Hokulei Lindsey recommended the following: Motion that the Hawaiian Homes Commission approves recommendations for proposed amendments to Title 10, Hawaii Administrative Rules and proceeding with rulemaking under Chapter 91, Hawaii Revised Statutes.

MOTION

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

DISCUSSION

H. Lindsey presented recommendations for the second draft of the proposed rule changes.

Genetic Testing

1. Expand to allow testing of an alleged aunt/uncle if the alleged parent is deceased or unavailable (incarceration, homelessness, location unknown, no contact) and require the participation of the known parent, if living.
2. Add "ohana testing" to the definition of "genetic testing."
3. Add language that the DHHL shall treat the test results as medical information with a significant privacy interest protected under section 92F-14(b), HRS, and that the Department shall not disclose test results without the prior written consent of those tested.
4. Make the same process available for successorship to application rights and successorship to a lease.

Subsistence Agriculture

1. Increase the lot size to "not more than three acres" and include criteria to guide the determination of lot sizes.

2. Remove the residency requirement and instead provide an option to reside and subsistence farm on the lot or use the lot for subsistence farming.
3. Broaden housing options to allow the lessee to build to county code or be exempted provided that the plans and specifications-along with documentation and certification for non-conforming structures or portions of structures are submitted to the Department and lessee releases Department from any liability arising from non-conformance.
4. Allow additional dwelling units on subsistence agriculture lots subject to Department approval and infrastructure capacity.
5. Allow subdivision of lots larger than one acre subject to the same conditions as a subdivision of larger agriculture lots.

Transfer of Homestead

1. Add priority processing for transfers to beneficiaries already on a waiting list.

Housekeeping

1. Increase scale fees and fees for the use of Department facilities. Homestead associations conducting association business still pay a fee of \$50 per twenty-four hours for the use of Department facilities.
2. Establish a process for determining entrance/user fees for resource management areas.

Chair Masagatani asked to continue the discussion on the Tuesday agenda to give Commissioners more time to review the submittal.

ACTION

Deferred to the Tuesday agenda.

ITEM C-2 Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 9504, Lot A, Waimea, Hawai‘i – Flora Beamer Solomon (Lot A-3), Huali Solomon Covington (Lot A-1), Alice Leiomalama Solomon (Lot A-2).

Note: This item was deferred.

ITEM D-16 Requests for Relocation - Kenneth Akim Seu, Lease #06410, Lot #102, TMK (3)-1-5-118:022 Makuu; Emily Kahai, Lease #06398, Lot #117, TMK (3)-1-5-118:037 Makuu; Karla Keliioomalua Lease #06934, Lot #U1-26, TMK (3)-1-5-118:039 Makuu; and, Roy Santos Lease# 09014, Lot# 140 TMK (3)-6-4-035:080 Puukapu

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons recommended the following:

Motion to approve the relocation for Kenneth Akim Seu; Emily Kahai; Karla Keliioomalua; and Roy Santos to any comparable lot in DHHL inventory statewide.

MOTION

Moved by Commissioner Chin, seconded by Commissioner Kahikina, to approve the motion as stated.

Chair Masagatani asked for an amendment to the motion to change the word “suitable” to “comparable.” The change clarifies that there are different types of leases held by the beneficiaries listed in the submittal. Two beneficiaries hold ag leases so they would be relocated to available ag leases in the inventory.

AMENDED MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina, to amend the motion to change the word “suitable” to “comparable.” Motion carried unanimously.

ACTION ON MAIN MOTION AS AMENDED

Motion carried unanimously.

LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Lease Award – Elton K.K. Suganuma

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto recommended the following:

Motion that the Hawaiian Homes Commission approved the award of the Department of Hawaiian Home Lands Residence Lot Lease to the applicant listed below for 99 years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
Suganuma, Elton K.K.	03/18/93	108-B-2	3-2-1-020:107	12316

MOTION/ACTION

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

RECESS

3:03 PM

RECONVENE

3:10 PM

ITEMS FOR INFORMATION/DISCUSSION

OFFICE OF THE CHAIRMAN

ITEM C-3 Inquiry into the Feral Cattle Removal Project, Humu’ula, Hawai’i

RECOMMENDED MOTION/ACTION

None. For Information Only. Special Assistant to the Chairman Kamana’o Mills reviewed the submittal provided to Commissioners.

Commissioner Ishibashi asked how many cattle were deemed unmarketable, who made the determination and what happened to those cattle. K. Mills stated the determination was made by the licensee. The licensee had to provide the digital imagery of the cattle removal report within 36-hours. Commissioner Ishibashi stated the lessee determined that 80% of the cattle they removed was unmarketable, but there were rumors that the cattle were being sold anyway.

Chair Masagatani asked if the Department has questions about the percentage of marketable and unmarketable cows, it has the digital imaging to use to have a third-party review. Deputy Director William Aila Jr. confirmed that a third-party opinion about whether it was marketable or not marketable, can be sought. He reminded Commissioners that the marketability of the cattle was not the primary objective in the of the project; it was secondary to eradication.

Chair Masagatani asked how long is the term of the license. K. Mills stated in December; the license expires unless renewed. Deputy Aila stated the Department could go out for another RFP in December because there are community associations interested.

Commissioner Davis asked what happened to the unmarketable cattle. K. Mills stated he did not have the numbers for unmarketable cattle.

Commissioner Ka'apu asked if the Department knows how much money the licensee made off unmarketable cattle. K. Mills stated the contract was silent regarding unmarketable cattle. The primary focus of the project was to eradicate the gorse so the Department can award the parcels to beneficiaries.

Commissioner Ishibashi stated substandard contracts like the one with this licensee is shortchanging the beneficiaries. All the cattle that came off the mountain was sold. Deputy Aila stated if anyone has proof of the cattle being sold, it would be grounds for opening an investigation.

Chair Masagatani asked that staff and testifiers offer specific recommendations for making the process better in the future. She thanked K. Mills for his report.

GENERAL AGENDA- Requests to Address the Commission

ITEM J-1 Kanoe Peck and Megan Amaral – Request for Mechantile Lease

M. Amaral is the great-granddaughter of Edward Laau. She introduced her mother, Kanoe Pack, and together they run a fish market in Kawaihae. In 1983, her grandfather was awarded a revocable permit from the Department. Thirty years later, the family wholesale and retail fish market need upgrades and improvements. They are before the Commission to ask for consideration for a longer lease to secure a loan to make improvements. M. Amaral stated they are embarking on the third generation of beneficiary business owners. She inquired about applying for a mercantile lease. The most pressing issue is the septic system but they have also outgrown their space and expand.

ITEM J-2 Roy Jensen III – Lessee Concerns in Kailapa

R. Jensen is a lessee in Kailapa. He and his family are victims of neighbors who have not complied with building codes and association rules. In 2006, a neighbor's roof blew off its foundation and caused \$30,000 worth of damage to his home. The structure where the roof came from was unpermitted and illegal. R. Jensen stated his insurance covered the damage, but their premiums went up because of the incident.

R. Jensen added the neighbor also has feral pigs that caused damage to his outdoor furniture and gardens. In Kailapa, the winds are very strong and the neighbor's porta-potty blew over into their property causing health and safety concerns. A separate neighbor has an outdoor shower with no wastewater treatment system in place. These are all examples of the Department's lack of enforcement relating to lease violations.

Finally, he has dealt with two separate water main leaks, one occurring as he left to attend this meeting. His property's water meter is located above his neighbor's driveway. He doesn't understand why it was built that way but asked to move the water meter to his driveway. The neighbor is entering and exiting their property running over their water main, likely causing the recurring leaks. He asked that the Department look into the situation and help provide solutions.

ITEM J-3 Luana Keakealani – James Akiona Jr.

Chair Masagatani stated Ms. Keakealani asked to defer her testimony and will allow Neddie DeJesus and TJ Akiona to testify. She asked the staff to provide an update to the Commission on the status of the Akiona file.

Homestead District Supervisor Juan Garcia stated the Department sent a letter to the parties, letting them know that an investigation to reconsider the successorship of the lease will be conducted. The investigation will be done by Department staff and has not been initiated yet.

TJ Akiona, grandson of James Akiona Sr., asked why the power of attorney document his grandfather signed not legal. His grandfather appointed a power of attorney before he fell ill.

Nettie DeJesus, daughter of James Sr., asked for an extension of time to submit additional letters. The letters are from her sister who said she wanted nothing to do with the land. Her daughter wants it now. She added that James Jr. has been on the land no more than three times since the family was awarded. None of them can ranch which is why he wanted TJ to have it.

ITEM J-4 Jon Anuenue – Rent to Own Program -

Deferred.

ITEM J-5 Marion Kapuniai – Sunshine Law

M. Kapuniai stated her issue is that the agendas are not available to the public until the Saturday before the meeting. It is unacceptable that the full agenda is not available to beneficiaries. The DHHL office is closed on Saturdays, so even if she wanted to have it printed, she wouldn't be able to. Chair Masagatani stated the full agenda is available to the public six-days prior to the meeting as required by law. It is also up on the website, mailed and emailed to beneficiaries as soon as it is filed at the Lieutenant Governor's office.

ITEM J-6 Hans Wedemeyer – CEO of Hokuloa, Inc.

H. Wedemeyer stated it had been six years since his request for an extension of the lease on his current property. He needs the extension to get the bank to give him a loan. It's a similar situation to the fish market in Kawaihae. The banks don't want to lend money to businesses that have these short-term leases.

Additionally, the property across from him is so dilapidated that it would take a developer \$200,000 just to bring up to code. The area looks depressed and broken down. He still had 25 years left on his lease, and he has already invested \$6 million into the property. He asked the Department to consider a request to acquire the property next to his to make the entire area more valuable. He is willing to bring it up to code and increase property values for the area.

ITEM J-7 Lakea Trask – Koa Kia'i Pilot Program – Humu'ula Sheep Station

L. Trask stated the Koa Kia'i Project and the Beneficiary Trust Council are both aiming toward the goal of a community-based stewardship program at the Humu'ula Sheep Station. The Council has members from all six (6) districts of Hawai'i Island. They have had consultations in all the districts. Two years ago, they submitted the Koa Kia'i Program proposal to the Department for consideration. They are very passionate about the issues facing Mauna and

management. The group submitted their proposal at the Commission's October meeting and are back to advocate for the issuance of a non-homestead land use license. The

The main project's goal is to provide stewardship which includes security and presence on Mauna Kea. The second goal is to restore the area by starting a nursery and clearing invasive species. They want to get boots on the ground as quickly as possible to get everyone back on the land to re-establish the connection to the sacred mountain.

Chair Masagatani asked for a motion to convene in executive session.

MOTION/ACTION

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

EXECUTIVE SESSION IN 5:17 PM

EXECUTIVE SESSION OUT 5:27 PM

ITEM J-8 Pat Kahawaiolaa – Keaukaha Community Association (KCA) - Access to Humu'ula via RP or ROE

P. Kahawaiolaa stated it had been several months since the KCA submitted a proposal to the Department for access and management of the Humu'ula Sheep Station. A lot of entities are starting to come forward to ask for dispositions to the Humu'ula area. The Commission heard over and over that the main priority for the cattle removal license was gorse control. The gorse continues to spread, and it may take a lifetime to remove the gorse. The record shows that the land only came back to the Department in 2002. Parker Ranch had the land prior and the Department cannot go after them to restore the land to the way it was when they first got it. They were removed from responsibility when the Nobriga case was rendered. KCA asked access to 'Aina Mauna as a Native Hawaiian entity.

ITEM J-9 William Brown – President, PHHLCA – Pana'ewa, Kamoleao, Hilo Hanakahi

W. Brown echoed the sentiment of the previous speakers regarding Humuula and seeking access for East Hawai'i beneficiaries and their families. He asked for help with dilapidated homes in East Hawai'i. He asked for NAHASDA funding to help rebuild homes where rain comes in through the ceiling.

As the President of the Panaewa Hawaiian Homestead Association, they are looking forward to working with the Commission on cultural education and cultural gain. Projects like Kamoleao and Hilo Hanakahi consortium continue to need DHHL involvement and action. The current board will make it six terms that they've been trying to complete the project. They seek financial help from DHHL to connect to the county sewer line.

ITEM J-10 John McBride - Humuula/Mauna Kea

J. McBride testified that they are working with the University to resolve the overcrowding situation on Mauna Kea. They wait anxiously for the Commission to make decisions about the projects affecting the Mauna.

Regarding the MOU with the Mauna Kea Watershed Alliance, states in the indemnification section that the only organization exempt from liability is DLNR. Why would DHHL take on something that makes it liable? Why would DHHL not ask for the exemption as well?

ITEM J-11 Cheyenne Hiapo Perry – Mauna Kea Watershed Alliance

Deferred

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

PLANNING OFFICE

ITEM G-1 Delegation of Authority to Chair to Sign and Approve US Department of Agriculture Rural Development Grant Awards

RECOMMENDED MOTION/ACTION

Grant Specialist Gigi Cairel recommended the following:

Motion that the Hawaiian Homes Commission (HHC) delegate authority to the Chair enter into and sign grant agreements and related contract documents with the US Department of Agriculture Rural Development (USDA RD) for federal grant funds from the USDA RD SEARCH/PPG program and Water and Environmental Program.

MOTION/ACTION

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

Chair Masagatani thanked beneficiaries for coming. J Agenda Items 13, 14 & 15 will be taken up on the Tuesday agenda as well as Items G-2 and G-3.

RECESS

6:21 PM

HAWAIIAN HOMES COMMISSION
Minutes of May 24, 2016
Meeting held in Kailua-Kona, Hawaii

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

EXCUSED None

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
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Juan Garcia, Homestead District Supervisor
Rodney Lau, Administration Services Officer
Ku'uwehi Hiraishi, Information Specialist
Gigi Cairel, Planner
Andrew Choy, Planner
Mona Kapaku, Maui District Manager
Luis Ha'o, East Hawai'i District Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani reconvened the meeting at 9:10 a.m.

APPROVAL OF MINUTES

Chair Masagatani asked for a motion to approve the minutes of August 2015.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui, D Items, and Regional Plan Updates

B. Kahui thanked Commissioners for holding its meeting in Kona. He asked the Homestead Services Division to make sure that if mortgages are approved, that the lessees are not delinquent with their homestead association fees. B. Kahui asked the Commission to instruct DHHL to seek input from La‘iopua when making changes to the regional plans.

ITEM A-2, Cindy Freitas, C-1 Blood Quantum for Successorship

C. Freitas asked the Commission to consider reducing the blood quantum for successors. The blood quantum for future generations doesn’t look good. What happens when there are no more qualified native Hawaiians? The land will be given to the state. She feels DHHL should let beneficiaries sell the land Kūhiō offers. Rehabilitation means different things to different people. Times have changed, and the Department should consider different alternatives.

ITEM A-3, Kanani Kapuniai, C-1 Administrative Rules, G-4, D-15

M. Kapuniai testified that Item C-1 is not ready for approval. She thanked rules officer Hokulei Lindsey for providing beneficiary friendly options. She recommended several changes to the rules, specifically to sections 10.3-24 (c). 10.3-36. Regarding water rates, M. Kapuniai distributed a letter vehemently opposing the water fee rates. She is opposed to paying a flat rate fee for 600 gallons of water when she only uses between 300-350 gallons a day.

Item A-4, John McBride, C-3

J. McBride spoke to C-3 about the cattle situation and the Commissions inaction. The presentation yesterday was nice but it did not say what is really happening to the cattle. He doesn’t understand why the Commission doesn’t do something about the contract. He suggested millions of dollars are being lost because no one is doing anything about the unmarketable cattle. He suggested the Commission ask its staff what is going on and what vouchers are being issued.

ITEMS FOR INFORMATION AND DISCUSSION

PLANNING OFFICE

ITEM G-3 Update on West Hawaii water Projects and Issues

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Planning Manager Kaleo Manuel and DHHL Water Consultant Dr. Jonathan Scheuer offered a slide presentation to highlight the written submittal.

DISCUSSION

- I. Where are DHHL water systems?
West Hawai‘i Planning Regions
 - A. Humu‘ula-Piihonua
 - B. Waimea Nui
 - C. Kawaihae
 - D. Kealakehe-La‘i‘Opua

- II. What are our future water demands?
 - We determine future water demands by:
 - Reviewing HHC land use designations
 - In the Island and Regional Plans
 - In other actions (e.g., subdivision)
 - Applying water demand rates
 - County and state demand figures
 - DHHL data for our own systems
 - Recently calculated in the State Water Projects Plan update

Hawai'i island Water Demands (mgd)

	2016	2021	2026	2031
Potable	2.617	4.164	5.209	10.174
Nonpotable	1.367	5.266	5.266	39.221
Total	3.984	9.430	10.475	49.395

- III. How Can We Meet Existing & Future Needs?
 - A. Extending existing systems.
 - Pu`ukapu hybrid system
 - B. Partnerships with other water deliverers
 - HDWS in North Kona, Lalamilo, etc.
 - HDOA irrigation system for Pu`ukapu
 - C. Additional source and distribution
 - Kawaihae water assessment
 - D. Secure legal entitlements and means of enforcing them.
 - Keauhou water reservation & Keopu well

ITEMS FOR DECISION MAKING

PLANNING OFFICE

ITEM G-4 Extension of Interim Pu`ukapu Hybrid Water System Equipment and Installation Fees and Water Rates, Pu`ukapu, Waimea Nui, Hawaii.

RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel and Land Development Division Administrator Norman Sakamoto presented the following:

Motion that the Hawaiian Homes Commission (HHC) extends the interim water Fees and Rates for all consumers on the Department of Hawaiian Home Lands' (DHHL) Pu'ukapu Hybrid Water System until June 30, 2018, pending preparation of a water rates assessment to be presented to the HHC for action.

MOTION

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

K. Manuel stated the project was started many years back by Sandra Pfund and Jeffrey Fujimoto. The sentiment from the community was that they just wanted something done. Now that the system is in place, a water system analysis is being completed to get the true costs of operating a water system. Once the analysis is completed, the true water rate structure can be recommended.

Operation and management of DHHL owned water systems have been a challenge, both in high operation and management costs and insufficient derived revenue. Primarily because of rising energy costs, coupled with deferred system and infrastructure maintenance and replacement, the water systems operate with extreme costs to DHHL. The low revenues received long-standing subsidies, high payment delinquencies, pending expenditures for system improvements, and lack of enforcement results in minimal revenue generation to DHHL. These challenges have led to DHHL operating its water systems at a deficit. The WRA will comprehensively address these issues. Other efforts, such as improvements to system efficiencies and upgrades are currently being analyzed and (in the case of Molokai and Anahola) pursued.

Commission Kaapu asked why the need for a two-year extension. K. Manuel stated the Department needs the time to go into the communities to do consultations for what will likely be an increase to the water rates. To mitigate “rate-shock” staff needs to do more outreach to educate beneficiaries about why it is needed and why everyone needs to contribute to the solution.

ACTION

Motion carried unanimously.

RECESS **11:34 PM**

RECONVENE **11:40 PM**

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Recommendations for Proposed Amendments to Title 10, Hawaii Administrative Rules, and to Proceed with Rulemaking under Chapter 91, Hawaii Revised Statutes.

RECOMMENDED MOTION/ACTION

Administrative Rules Officer Hokulei Lindsey recommended the following:
Motion that the Hawaiian Homes Commission approves recommendations for proposed amendments to Title 10, Hawaii Administrative Rules and proceeding with rulemaking under Chapter 91, Hawaii Revised Statutes.

MOTION (motion made on Monday)

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

DISCUSSION

H. Lindsey presented recommendations for the second draft of the proposed rule changes.

Commissioner Canto asked to convene in executive session.

MOTION/ACTION

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

EXECUTIVE SESSION IN **1:12 PM**

EXECUTIVE SESSION OUT **1:47 PM**

AMENDED MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Chin to remove §10-3-26 from the list of recommendations for proposed amendments to Title 10, HRS, to be taken up at the June 2016 HHC Meeting. Motion carried unanimously.

2ND AMENDED MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Kahikina, that the Hawaiian Homes Commission approve recommendations for proposed amendments to Title 10, HRS, with the following amendments;

- §10-3-36 Provided that leases for vacant or undeveloped lots and undivided interests, or any interest therein, shall not be sold but may be transferred for a gift no consideration or by succession.
(2) (a) Lease transfers to qualified relatives or to beneficiaries on a waitlist shall have priority for processing over those to beneficiaries not on a waitlist.

(Expansion to definition) Undeveloped Lot -means a lot that is raw land for which there have not been substantial improvements suitable for the type of award.

- §10-3-76(a) “The Department shall assess fees for scaling services commensurate with local industry standard except that lessees may pay a reduced fee.”

And to allow the director authority to make clarifying, non-substantive changes for clarity and ease of reading. Motion carried unanimously.

ACTION ON MAIN MOTION AS AMENDED

Motion carried unanimously.

ITEMS FOR INFORMATION

GENERAL AGENDA- Requests to Address the Commission

ITEM J-13 Hercules Freitas – Removal of Steel Pipes, Fending and Electrical Pole

H. Freitas asked Commissioners to remove the steel pipes, fending, and electrical poles from his neighbor’s property emphasizing the health and safety of his family. He has been coming to the Commission for twelve years asking for the poles to be removed. In May, the family endured a medical emergency with his wife and he is afraid something else will happen before the poles are removed.

ITEM J-14 Bo Kahui – La‘i‘Opua 2020, Villages of La‘i‘Opua

Bo. Kahui read the testimony of Mr. Sam Walker which requested funding for a water source development project for La‘i‘Opua 2020. The request is matched by the US Department of Agriculture Rural Services (USDA RUS) development grant of up to 45%, or \$5.5 million. The project is expected to cost \$10.5 million dollars. The letter reviewed La‘i‘Opua 2020 commercial, medical and educational accomplishments. La‘i‘Opua lacks water credits and needs the project to move forward with the water exploration project. He asked the Commission to adopt the water source initiative at its next meeting to provide water for all DHHL beneficiaries in Kona. He hopes the Department will work with them by providing funding for the project. Phase I will cost \$1.6 million.

Chair Masagatani asked if the project has written authorization to use the USDA RUS money for source projects. She was told my staff many times that USDA RUS funds cannot be used for source. B. Kahui stated he has authorization by email and is forwarded to the Commission.

ITEM J-15 Pomai Freitas and Scott Peterson – One Water J 4 F Conglomerate

P. Freitas and S. Peterson offered a presentation of a project to convert waste into fuel with zero carbon footprint. Hawai'i Island has opportunities for processing waste like gorse into three different types of carbon, liquid fuel, and gaseous fuel. The system will keep waste out of the landfills and by using gasification. He asked for support from DHHL by way of support and land.

ITEM J-16 George Noguchi – Green Builders Hawai'i

G. Noguchi provided Commissioners with a booklet containing his license to build sustainable homes for homesteaders using GFR (Glass Fiber Reinforced) concrete. The GFR concrete is resistant to termites, rust and mold. The completion time for each home is 21 days with only three workers. The standard homes can cost around \$150,000. The homes are maintenance-free, fire-resistant, mold-resistant, hurricane resistant and termite resistant.

ITEM G-2 For Information Only – West Hawai'i Regional Plans Update to the Hawaiian Homes Commission

RECOMMENDED MOTION/ACTION

None. For Information Only. Planner Andrew Choy reviewed the information contained in the submittal.

DISCUSSION

A..Choy provided an outline of the priority projects for each of the major regional plans and reviewed some of the implementation statuses.

Kealakehe-La'i'Opua Regional Plan

- (1) North Kona Water Source Development and Storage
- (2) Continued Support of La'i'Opua 2020 Community Sustainable Projects
- (3) Renewable Energy Initiative
- (4) Kona Regional Park
- (5) Burial Treatment Plan for Inadvertent Discovery of Iwi Kupuna

Kawaihae Regional Plan

- (1) Kailapa Resource Center
- (2) Kawaihae Water and Energy Research and Development
- (3) Kawaihae Bypass Highway
- (4) Improve the Marine Water at Pelekane Bay
- (5) Management and Maintenance of Kawaihae Reinternment Site

Waimea Nui Regional Plan

- (1) Waimea Hawaiian Homestead Community Complex - Planning
- (2) Evaluate and Revise Agriculture/Pastoral Program Waimea Nui
- (3) Support/Plan Development of Affordable Homestead Alternatives in Waimea Nui
- (4) Assess the Implications of Eliminating Requirement to Pay Property Taxes
- (5) Assess the Implications of a Non-Standard Building Code

A. Choy introduced Pelika Andrade of the Kailapa Community, who spoke about the Kailapa Wellness Park and requested that it be added to the Kailapa Regional Plan.

P. Andrade presented the executive summary of the Kailapa Community “Wellness Park,” comprised of 72 acres bordering the Kawaihae shoreline, which will be a place where community members can improve the quality of life; physically, mentally, spiritually, and culturally. The park will also be a place where community members of Kailapa and other island residences/visitors can access to improve upon the traditional relationship they have with place.

The park will address and support:

- Social relationships (inclusive and comprehensive of how we relate to one another, the land and non-physical aspects of a place. Aina.)
- Shoreline Habitats (Space for plants and animals to thrive)
- Cultural sites and trails (All historical trails and archaeological sites: Poho pa‘akai, tools, implements, artifacts)
- Coastal Ocean Habitats (Homes for marine life from high water mark to 20 fathoms)
- Coastal Fisheries (Reef, nearshore, an opihi resource base for harvest and utilization including commercial, subsistence, sharing and learning. High watermark to the ledge (~20 fathoms))

ANNOUNCEMENTS AND ADJOURNMENT

Chair Masagatani announced that several items were deferred and will be taken on the next agenda. Due to the length of the meeting, contested case hearings were all deferred till the Commission’s next visit to Hawai‘i Island in September. Hearing Continuance Notices will be sent to the affected parties.

NEXT MEETING

The next regular meeting will be held at Hale Pono‘i at the DHHL main office in Kapolei on June 20 & 21, 2016.

MOTION/ACTION

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

ADJOURNMENT

2:47 p.m.

Respectfully submitted:

Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission