

HAWAIIAN HOMES COMMISSION

Minutes of August 22, 2016

Lihu'e State Building, Lihu'e, Kauai

Pursuant to proper call, the 678th Regular Meeting of the Hawaiian Homes Commission was held at Lihu'e State Building, 3060 Eiwa Street, Lihu'e, Kaua'i, Rooms A-C, beginning at 9:30 a.m.

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

EXCUSED Michael P. Kahikina, 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
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
Stewart Matsunaga, Master Plan Community Dev. Manager

ORDER OF BUSINESS

CALL TO ORDER

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

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

Approval of Minutes for March 2014 deferred to Tuesday.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-1 Nalani Brun & Office of the Mayor – Hokualele Heiau

Mayor Bernard Carvalho stated on Kaua`i they have their Kaua`i Nui Kupapa Program to provide stewardship agreements and have one in each moku. The focus is on the Hokualele Heiau in the moku of Koolau, which came from talking with the community who represent that moku. The Mayor asked for the Commission's support for the stewardship agreement.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Speakers are on the J-Agenda and taken there.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
Motion to approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda. Dean Oshiro requested that Item D-17 be removed from the Consent Agenda as the non-responsive designated successor became responsive.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-4** Approval of Homestead Application Transfers/Cancellations (see exhibit)
- ITEM D-5** Commission Designation of Successors to Application Rights Public Notice 2015 (see exhibit)
- ITEM D-6** Reinstatement of Deferred Application – **MARINO TOMAS, JR.**
- 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 – **ROY DANIEL DE CAMBRA.**, Lease No. 4512, Lot No. 63, Nanakuli, O`ahu
- ITEM D-12** Commission Designation of Successor – **ULULANI K. AIANA**, Lease No. 5190, Lot No. 53, Nanakuli, O`ahu
- ITEM D-13** Commission Designation of Successor – **ALBERTA L. KAI**, Lease No. 1906, Lot No. 310A, Nanakuli, O`ahu
- ITEM D-14** Commission Designation of Successor – **VICTORIA N. NOA**, Lease No. 250, Lot No. 10, Nanakuli, O`ahu
- ITEM D-16** Commission Designation of Successor – **PAMELA LEIMOMI DOW**, Lease No. 6010, Lot No.22, Kekaha, Kaua`i

- ITEM D-18** Commission Designation of Successor – **ELAINE A. L. NEEDHAM**, Lease No. 12279, Lot No. 5, Waiehu Kou IV, Maui
- ITEM D-19** Commission Designation of Successor to Leasehold Rights – **JOHN N. CAMPBELL**, Residence Lot Lease No. 9317, Lot No. 4, Kaniohale, Laiopua, Kailua-Kona, Hawai`i

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve all the items in the Consent Agenda except Item D-17, which has been removed. There was no discussion. Motion carried unanimously.

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-20** Conditional Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 4004, Lot 95, Panaewa, Hawai`i – **MAUREEN LEE LOY RAWLINS**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion that the Hawaiian Homes Commission authorize the conditional approval of subdivision for the transfer of a portion of a lease and amendment to Lease No. 4004, Lot 95, Panaewa, Hawai`i for Maureen Lee Loy Rawlins.

MOTION

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

DISCUSSION

M. Rawlins requested a subdivision of her agricultural lot for which the moratorium was lifted by the Commission several years ago. If approved, the lessee will start fulfilling other conditions as stated. Uncle Louie stated the request is to subdivide the 10-acres into two 5-acres.

ACTION

Motion carried unanimously.

LAND DEVELOPMENT DIVISION

- ITEM E-1 Approval of Lease Awards (see exhibit)**

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: Motion that the Hawaiian Homes Commission approve the lease awards of the Department of Hawaiian Home Lands resident lot leases to the applicants listed for 99-years subject to the purchase of the existing improvements on the lot by way of a loan or cash.

MOTION

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

DISCUSSION

N. Sakamoto stated the list contains 7 names, 5 of which are on the Ho`olimalima Kapolei, one is a Hawai`i scattered lot, and the other is Kawaihae.

ACTION

Motion carried unanimously.

ITEM E-2 Rescission of Homestead Lease Award and Reinstatement of Application – East Kapolei I, Undivided Interest – Nicole K. Kotrys

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: Recommended that the Hawaiian Homes Commission approve the rescission of one residential lease, East Kapolei I, Undivided Interest program which commenced on December 2, 2006, to reinstate one residential lease application to the appropriate residential lease waiting list according to the original date of application.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Annual Renewal of Right of Entry Permits, Kaua`i Island (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the annual renewal of right of entry permits for Kaua`i Island.

MOTION

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

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis to convene in an executive session 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. Motion carried unanimously.

EXECUTIVE SESSION IN 12:59 P.M.

EXECUTIVE SESSION OUT 1:55 P.M.

ROE 455 was removed because, under the original Board submittal, the Chair has been delegated the authority to extend it for 1-year. The Department will approach the Commission after the meeting to request the extension for 1-year.

Commissioner Wescoatt proposed a list of ROEs that are posted that are up for renewals at least 90-days ahead of time, so it will give other folks and beneficiaries a chance to apply.

ACTION

Motion carried unanimously.

PLANNING OFFICE

ITEM G-1 Accept Beneficiary Consultation Report for the Kumu Camp Project at Anahola, Kaua`i TMK (4) 4-8-007:001

RECOMMENDED MOTION/ACTION

Acting Planning Office Manager Kaleo Manuel presented the following:

Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report as the official record of beneficiary issues, questions, concerns and comments regarding the Anahola Hawaiian Homestead Association and the Hawaiian Homestead Community Development Corporation request for long-term use under license or lease for the Kumu Camp Project located at 4261 Poha Road, Anahola, Kaua`i.

MOTION /ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING OFFICE

ITEM G-2 For information only – Summary of Response to Proposed Legislative Action Request for 2017 & Draft Legislative Proposals

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

A summary of the response to the proposed Legislative Action request for 2017 and Draft Legislative Proposals. Refer to submittal Item G-2

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-2 Christy Wong – Kauai Animal Education Center (KAEC)

C. Wong stated KAEC is requesting land to operate KAEC.

ITEM J-3 Malia Chun for Kawai Warren – Kekaha Hawaiian Homestead Association

M. Chun spoke on behalf of 30 beneficiaries for her community regarding the environmental site assessment that was taken of their subdivision and the result, which revealed mercury, lead, and arsenic contamination. She is appalled that the information was not disclosed to the community. How is the Department going to address this?

ITEM J-4 Harold Vidinha – Kekaha Homestead Concern

H. Vidinha continued testimony on the environmental assessment in Kekaha. He asked the people at an Association meeting if they were willing to relocate; some said yes. H. Vidinha asked the Commission for answers to the questions that were provided to the Commission.

Commissioner Ka`apu asked why the Commission did not get a report or some discussion of the findings if the assessment came out in September 2015. The report was given to three people in the community in November 2015.

M. Chun asked the Commission what is the next step and will there a meeting. Commissioner Ka`apu stated that the Commission should have the Consultant tell the Commission or make recommendations of what the residents should or should not do.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Canto to convene in an executive session 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. Motion carried unanimously.

EXECUTIVE SESSION IN 3:30 PM

EXECUTIVE SESSION OUT 4:00 PM

ITEM J-5 Pat Hunter-Williams – Anahola Projects and Concerns

P. Hunter-Williams stated she is a non-beneficiary, but her husband is a leaseholder, and her children are successors. She spoke of the Anahola Sand Dune Burial Grounds and three sites attached to it.

ITEM J-6 Bo Kahui – Executive Director, La`i`Opua 2020, Villages of La`i`Opua
(Cancelled)

ITEM J-7 Korey Medeiros – Ho`ilina Ranch LLC – Lease Request
(Cancelled)

REGULAR AGENDA

PLANNING OFFICE

ITEM G-3 For information only – Kaua`i Regional Update
Refer to submittal Item G-3

ITEM G-4 For information only – Update on Kaua`i Water Projects and Issues
Refer to submittal Item G4

ITEM G-5 For information only – Pana`ewa Regional Plan Update
Refer to submittal Item G-5

RECESS 4:57 PM

HAWAIIAN HOMES COMMISSION

Minutes of August 23, 2016

Lihū`e State Building, Lihū`e, Kauai

PRESENT Jobie M. K. Masagatani, Chair
Doreen N. Canto, Maui Commissioner
Cathleen P. Chin, Kauai 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 10:53 a.m.)
Wren Wescoatt, O`ahu Commissioner

EXCUSED 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
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
Stewart Matsunaga, Master Plan Community Dev Mgr.

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:04 a.m. Seven (7) members were present at roll call. Commissioner Kahikina arrived at 10:53 am. Commissioner Richardson was excused.

APPROVAL OF MINUTES

Approval of Minutes for March 2014.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve the Minutes of March 2014. No discussion. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Canto to convene in an executive session 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. Motion carried unanimously.

EXECUTIVE SESSION IN

9:06 AM

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

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

EXECUTIVE SESSION OUT

10:08 AM

ITEMS FOR INFORMATION/DISCUSSION

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Mike Hudson Re: Waimea Hawaiian Homestead Association (WHHA)

M. Hudson is the WHHA President and is testifying in regards to Beneficiary Consultations. He was talking about the Kumu Academy. He feels that beneficiaries are of 50% or more of native Hawaiian blood, and he is not 50%, so he does not testify at a beneficiary consultation.

ITEM A-2 Agnes Marti-Kini Re: ROE Kalalea-Anahola Farmers Hui

A. Marti-Kini testified in support of the ROE.

ITEM A-3 Sherry Cummings Re: Items J-5 and Kumu Camp

S. Cummings testified as the Vice President of the Anahola Hawaiian Homestead Association. She testified in support of Kumu Camp and stated she believes in the project.

ITEM A-4 Kipukai Kualii Re: Item G-1

K. Kualii testified he is an Anahola lessee and a waitlist beneficiary. He is the President of the Anahola Hawaiian Homes Association. The Planning Office's report for Kumu Camp includes inaccuracies and appears to be written with a bias against the beneficiary Association. He stated DHHL was asked to take more care in distinguishing between beneficiaries and non-beneficiaries in the consultation process. The report is wrong.

ITEM A-6 Robin Danner Re: Item G-1

R. Danner is the Chairman of the Statewide Sovereign Council of Hawaiian Homestead Associations. She stated if the report did not differentiate beneficiaries from non-beneficiaries, that's a total bummer.

ITEM A-5 Christy & Kuulei Ornellas Re: Item AHHA

K. Ornellas testified she is the Vice President of the Anahola Farmers and Ranchers Association (AFRA). She wanted to clarify something said by a member of AFRA stating that

AFRA does its due diligence in working with other organizations within the community. AFRA takes a neutral stance on Kumu Camp.

C. Ornellas stated AFRA does not support Kumu Camp.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

PLANNING OFFICE

ITEM G-6 Approve Interim Native Hawaiian Development Program Plan – July 1, 2016 – June 30, 2017

RECOMMENDED MOTION/ACTION

Acting Planning Office Manager Kaleo Manuel presented the following:
Motion that the Hawaiian Homes Commission approve the Interim Native Hawaiian Development Program Plan (NHDPP), and \$825,000 budget for the period of July 1, 2016 – June 30, 2017.

DISCUSSION

K. Manuel stated the new Native Hawaiian Development Program Plan would be proposed for the next two fiscal years from July 1, 2017 – June 30, 2019.

MOTION /ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Davis, to approve the motion as stated in the submittal. Motion carried unanimously. Refer to submittal Item G-6

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

- A – Homestead Lease and Application Totals and Monthly Activity Reports
- B – Delinquency Report

ITEM D-15 For information only – Update on Approved Interim Policy on the Sale of Homestead Leases to Vacant or Undeveloped Lots or Undivided Interests

RECOMMENDED MOTION/ACTION

For information only. Acting Homestead Services Division Administrator Dean Oshiro presented the following:
Update on approved interim policy on the sale of homestead leases to vacant or undeveloped lots of undivided interests.

DISCUSSION

The update is to get feedback and guidance from the Commission as the Department keeps getting requests. Dean turned the presentation to Juan Garcia, who walked the Commission through the submittal.

In 2015 the HHC approved the “Interim Policy on the Sale of Homestead Leases to Vacant or Undeveloped Lots or Undivided Interests.”

Refer to submittal Item D-15.

OFFICE OF THE CHAIRMAN

ITEM C-1 For information only – Native Hawaiian Housing Block Grant Annual Performance Report

(Deferred)

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on September 19 & 20, 2016, Paukukalo Community Center, Wailuku, Maui.

MOTION/ACTION

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

ADJOURNMENT

1:38 PM

Respectfully submitted:

Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission