

HAWAIIAN HOMES COMMISSION

Minutes of December 19, 2016

Hale Pono`i, Kapolei, O`ahu, Hawai`i

Pursuant to proper call, the 682nd regular meeting of the Hawaiian Homes Commission was held at Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, Hawai`i, beginning at 9:00 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
Wren Wescoatt, O`ahu Commissioner

EXCUSED David B. Ka`apu, West Hawai`i Commissioner
Michael P. Kahikina, O`ahu 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
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, Secretary
Andrew Choy, Planner
Stewart Matsunaga, Master Plan Community Dev. Manager
Julie Cachola, Planner
Nancy McPherson, Planner
Bryan Cheplic, ICRO

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:35 a.m. Six (6) members were present at roll call. Commissioners Kaapu, Kahikina, and Richardson were excused.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

Approval of Minutes for September 2015 was deferred to Tuesday.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

None.

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.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval of Streamline Refinance of Loans (see exhibit)
- ITEM D-4** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-5** Approval of Homestead Application Transfers/ Cancellations (see exhibit)
- ITEM D-6** Reinstatement of Deferred Application - **CHARLES HAILI**
- 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** Approval of Assignment of Residence Leasehold Interest - **PAULA K. IOANE**, Lease No. 11725, Lot No. UNDV, East Kapolei, Oahu
- ITEM D-13** Request to Schedule Contested Case Hearing- Lease Violation Non-Occupancy, **KYLE MEDEIROS**, Lease No. 9219, Lot No. 6, Kaniohale, Kailua-Kona, Hawaii
- ITEM D-14** Request to Approve Third-Party Agreement-**LUCRETIA L. LINDSEY**, Pastoral Lease No. 2686-A, Lot No. 2, Nienie, Kamuela, Hawaii
- ITEM D-15** Request to Schedule Contested Case Hearing-Lease Violation, **KEEFE M. GASPAS**, Lease No. 2361, Lot No. 5, Kapaakea, Molokai
- ITEM D-16** Request for Relocation-**PATRICK K. KAWAI**, Lease No. 10198, Lot No. 12, Kaumana, Hawai'i

MOTION/ACTION

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

REGULAR AGENDA

HOMESTEAD DIVISION

- ITEM D-12** Approval of Assignment of Leasehold Interest- **BERNICE LEWI**, Lease Nos. 8048 and 8049, Lot Nos. 73 and 74, Puukapu, Waimea, Hawaii

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
 Motion that the Hawaiian Homes Commission approve the transfer Lease Nos. 8048 and 8049, Lot Nos. 73 and 74, from Bernice Lewi to Penny Uetake for the remaining term of the lease.

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to approve the Consent Agenda.

ACTION

Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto		X	X			
Commissioner Chin			X			
Commissioner Davis	X		X			
Commissioner Ishibashi				X		
Commissioner Ka'apu						X
Commissioner Kahikina						X
Commissioner Richardson						X
Commissioner Wescoatt			X			
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		3
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with five (5) YES, one (1) NO, and three (3) EXCUSED.						

LAND DEVELOPMENT DIVISION

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

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:
 Motion that the Hawaiian Homes Commission approves the 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 by way of loan or cash.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

ITEM F-1 Consent to Assignment, Partial Cancellation, Amendment, and Restatement of Sublease and Mortgages in connection with the New Markets Tax Credit financing, La'i'Opua 2020, Kailua-Kona, General Lease No. 286, La'i'Opua 2020, Kealakehe, Island of Hawaii, TMK Nos. (3)7.4.021:002(por) & :003

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
 Motion that the Hawaiian Homes Commission:

- A. Grant consent to assignment, partial cancellation, amendment, and restatement of sublease to La'i`Opua Holdings, Inc. in relation to General Lease No. 186 between State of Hawai'i and La'i`Opua 2020 covering Hawaiian Home Lands situated at

Village of La`i `Opua Phase I, lot B-1, a portion of TMK (3)7.4.021:002(por) & :003 in the Island of Hawai`i, Hawai`i to Pono Resource Management, Inc. whose purpose is to perform activities for the benefit of, and which are an integral and essential part of the charitable activities of La`i `Opua 2020 including to receive assignments and to plan, design, and implement construction of a multi-purpose community center, recreation complex and health service within the Kealakehe Ahuapuaa, and once the community center is developed to hold title to real property, collect income therefrom, and turn over the entire amount, less expenses, to La`i `Opua 2020, an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code.

- B. Grant consent to the proposed mortgage of the assigned leasehold interest for the New Markets Tax Credit financing (“NMTC financing”) and authorize the Chairman of the Hawaiian Homes Commission to review and approve the final terms of the mortgage and execute the Consent to Mortgage and related documents for the NMTC financing.

MOTION

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

ACTION

Deferred to later to January.

ITEM F-2 Amendment to General Lease No. 281, Nanakuli Hawaiian Homestead Community Association (NHHCA), Nanakuli, Island of Oahu, TMK No. (1)8.9.002:001

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve a Third Amendment to General Lease No. 281, issued to Nanakuli Hawaiian Homestead Community Association (NHHCA), to use a parcel of Hawaiian home lands at Nanakuli, identified by Tax Map Key No. (1) 8-9-002:001 (See Exhibit “A”), for its mixed-use development project subject to the following conditions: (conditions are listed in the submittal)

MOTION

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

ACTION

Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto		X	X			
Commissioner Chin				X		
Commissioner Davis	X		X			
Commissioner Ishibashi			X			
Commissioner Ka’apu						X
Commissioner Kahikina						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, and three (3) EXCUSED.						

PLANNING OFFICE

- ITEM G-1 Declare Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Proposed DHHL Kapa'akea Flood Mitigation Improvements, Kapa'akea, Moloka'i, Hawai'i, TMK's (2) 5-4-007:009, 010, 011, 024, 025**

RECOMMENDED MOTION/ACTION

Acting Planning Office Manager Kaleo Manuel presented the following:
Motion that the Hawaiian Homes Commission declares a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the Kapaakea Flood Mitigation Improvements project.

MOTION/ACTION

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

ADMINISTRATIVE SERVICES OFFICE

- ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2017**

RECOMMENDED MOTION/ACTION

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

MOTION

Moved by Commissioner Wescoatt, seconded by Commissioner Davis, to approve the Consent Agenda. No. discussion. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND DEVELOPMENT DIVISION

- ITEM E-2 Offer to Transfer Lands from Castle & Cooke, Whitmore Village, Wahiawa, Oahu, TMK (I) 7-1-02: 31 and 33**

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:
That the Hawaiian Homes Commission:

- Approve acceptance of the offer from Castle & Cooke Hawai'i (CCH) to donate approximately 53 acres of land adjacent to Whitmore Village, Wahiawa, O`ahu (Exhibit A).
- Authorize the Chairman to negotiate terms of the donation agreement and execute the necessary conveyance documents.

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

- ITEM J-1 Isette Smythe – Commission Update on eviction situation**
ITEM J-2 Tracy Akana – Successorship of Waianae Lease
ITEM J-6 Michelle Kauhane – Update on CNHA

MOTION

Moved by Commissioner Davis, seconded by Commissioner Wescoatt 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

11:55 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 issues related to Sandwich Isles Communications.
2. Briefing on Memorandum of Understanding with American Savings Bank regarding lessee residential loans and ASB loan portfolio.

EXECUTIVE SESSION OUT

1:45 PM

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

- ITEM J-3 Andrea Poepoe – DHHL Waitlist**
ITEM J-4 Arviella Keli – DHHL Waitlist (not present)
ITEM J-5 Kamaki Kanahale – Nanakuli Housing (not present)
ITEM J-7 Iwalani McBrayer – Update on Kaupea (not present)
ITEM J-8 Korey Medeiros – Hoilina Ranch (not present)

WORKSHOPS

LAND MANAGEMENT DIVISION

- ITEM F-3 For Information Only- Status of DHHL's Proposed Revocable Permit Program**

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land management Division Administrator Kahana Albinio presented the following:

DISCUSSION

K. Albinio stated the purpose of the briefing was to provide the Commission with an update on the status of DHHL's Proposed Revocable Permit Program as presented by LMD as revised and approved by the Hawaiian Home Commission at its meeting held on December 16, 2014 (See Exhibit A)

PLANNING OFFICE

ITEM G-2 For Information Only- Wai'anae Moku Water Plans and Issues

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel presented the following:

The informational briefing provided an overview of water plans and issues of significance to beneficiaries and the Department of Hawaiian Home Lands in the Waianae District, which includes tracts in Waianae, Lualualei, and Nanakuli 'ahupuaa on the island of O`ahu.

REGULAR AGENDA

PLANNING OFFICE

ITEM G-3 For Information Only – Waianae – Nanakuli Regional Plan Priority Projects Update

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo presented the following:

The status report is on prior policies and/or plans that affect lands and homestead communities where the HHC conducts its monthly community meeting. The update is on the regional plans for Waianae-Lualualei and Nanakuli.

ITEM G-4 For Information Only – Quarterly Grants Status Report

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel and Grants Specialist Gigi Cairel presented the following:

Quarterly grants status report. (submittal HHC Item G-4)

RECESS

4:00 PM

HAWAIIAN HOMES COMMISSION

Minutes of December 20, 2016
Hale Pono`i, Kapolei, O`ahu, Hawai`i

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 (Arrived 9:18 a.m.)
Wren Wescoatt, O`ahu Commissioner (Arrived 10:29 a.m.)

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, Development Officer,
P. Kahana Albinio, Acting Land Management Division Administrator
Kaleo Manuel, Acting Planning Division Administrator
Dean Oshiro, Acting Homestead Services Administrator
Ku`uwehi Hiraishi, Info. Specialist,
Susie Richey, Office of the Chair
Andrew Choy, Planner
Stewart Matsunaga, LMD Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:10 a.m. Six (6) members were present at roll call. Commissioners Richardson and Wescoatt arrived late. Commissioner Kahikina was excused.

APPROVAL OF MINUTES

Approval of Minutes for September 2015. Commissioner Chin had an amendment to the Minutes.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Chin, to approve the Minutes of September 2015, as amended.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Homelani Schaedel Re: Item E-3

MOTION/ACTION

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 9:29 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., v HHC, Civil No. 07-1-1663

EXECUTIVE SESSION OUT 10:36 .M

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Authorize the Chair to Enter into a Memorandum of Understanding between the Hawai`i Housing Finance and Development Corporation and the Department of Hawaiian Home Lands relating to Potable Water Infrastructure for the Villages of Leialii in Lahaina, Maui

RECOMMENDED MOTION/ACTION

Deputy William Aila presented the following:

Motion that the Hawaiian Homes Commission authorize the Chair to enter into a Memorandum of Understanding between the Hawai`i Housing Finance and Development Corporation and the Department of Hawaiian Home Lands relating to potable water infrastructure for the Villages of Leialii in Lahaina, Maui

MOTION/ACTION

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

LAND DEVELOPMENT DIVISION

ITEM E-3 Offer to Transfer Lands from Castle & Cooke, Whitmore Village, Wahiawa, O`ahu TMK (1) 7-1-02: 31 and 33

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:

Motion that the Hawaiian Homes Commission:

- Approve acceptance of the offer from Castle & Cooke Hawai`i to donate approximately 57 acres of land adjacent to Whitmore Village, Wahiawa, O`ahu
- Authorize the Chairman to negotiate terms of the donation agreement and execute the necessary conveyance documents.

MOTION

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

Chair Masagatani suggested a sub-committee of Commissioners Richardson, Wescoatt, and Ka`apu.

Amendment: Approving acceptance of the offer from Castle & Cooke to ~~donate~~ transfer approximately 57 acres of land adjacent to Whitmore Village, and;

Authorize the establishment of an investigatory subcommittee including Commissioners Ka`apu, Wescoatt, Richardson and authorize the Chairman to negotiate terms of an agreement, taking into consideration the findings of the subcommittee, and execute necessary conveyance documents.

MOTION TO AMEND/ACTION

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

MAIN MOTION AS AMENDED/ACTION

Motion carried unanimously.

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
- C. DHHL Guarantees for USDA-RD Mortgage Loans
- D. DHHL Guarantees for FHA Construction Loans

No discussion or questions.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on January 23 & 24, 2017 at Hale Pono`i, DHHL Kapolei, O`ahu, Hawai`i

MOTION/ACTION

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

ADJOURNMENT

12:37 PM

Respectfully submitted:

Jobie M. K. Masagatani, Chair
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission