

**HAWAIIAN HOMES COMMISSION**  
Minutes of August 21, 2017  
Meeting held at the Lihū'e State Building

Pursuant to proper call, the 690th Regular Meeting of the Hawaiian Homes Commission was held at the Lihū'e State Building, 3060 Eiwa Street, Lihū'e, Kaua'i, Rooms A-C, beginning at 9:30 a.m.

**PRESENT** Jobie M. K. Masagatani, Chairman  
Kathleen P. Chin, Kaua'i Commissioner  
Gene Ross K. Davis, Moloka'i Commissioner (Arrived 10:56 a.m.)  
David B. Kaapu, West Hawai'i Commissioner  
Wren Wescoatt, O'ahu Commissioner  
Michael P. Kahikina, O'ahu Commissioner (Left 3:54 p.m.)

**EXCUSED** Wallace A. Ishibashi, East Hawai'i Commissioner  
William Richardson, O'ahu Commissioner  
Vacant, Maui Commissioner

**COUNSEL** Craig Iha, Deputy Attorney General  
Ryan Kanaka'ole, Deputy Attorney General

**STAFF** William Aila Jr., Deputy to the Chairman  
Paula Aila, Hale Manager  
Niniau Simmons, NAHASDA Manager  
Norman Sakamoto, Acting Land Development Division Administrator  
Rodney Lau, Administrative Services Officer  
Kahana Albinio, Acting Land Management Division Administrator  
Kaleo Manuel, Acting Planning Office Manager  
Francis Apoliona, Compliance Officer  
David Hoke, Enforcement Officer  
Akoni Shannon, Enforcement Office  
Dean Oshiro, Acting Homestead Services Division Administrator,  
Stewart Matsunaga, Community Development Manager  
Leah Burrows-Nuuanu Secretary to the Commission  
Lehua Kinilau-Cano, Legislative Analyst  
Mona Kapaku, Maui District Office Manager  
Shelly Carreira, Land Manager  
Kalei Young, Land Agent Supervisor  
Halealoha Ayau, Water Resource Specialist  
Susie Richey, Secretary to Deputy Director  
Debra Aliviado, Customer Service Manager

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 9:36 a.m. Five (5) members were present at roll call. Commissioners Ishibashi and Richardson were excused. The Maui Commission seat was vacant.

## **APPROVAL OF MINUTES**

Chair Masagatani noted the minutes for July 2014 would be distributed at the Tuesday meeting and the vote deferred to next month.

## **APPROVAL OF AGENDA**

### MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Kahikina, to approve the agenda. Motion carried unanimously.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **ITEM A-1 Bo Kahui Re: Item D-2 and D-10**

B. Kahui stated regarding D-2, the Association supports Lease #9234 Consent to Mortgage. Lease #9434, the Association supports the mortgage transfer. Regarding Item D-10, the Association supports the non-exclusive licenses for the rooftop PV.

## **ITEMS FOR DECISION MAKING**

### **CONSENT AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:  
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** To Approve Setting Aside the HHC Cancellation of a Lease Application – **SIMEON L. NAEOLE, JR.**, Deceased
- ITEM D-7** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-8** Approval of Assignment to 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** Request to Schedule Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHC, Due to Nonresponsive Designated Successor(s) (see exhibit)
- ITEM D-12** Request to Surrender Lease – **DOROTHY PATRICIA WAIAMAU**, Residential Lot Lease No. 87842, Lot No. 106-B, Nanakuli Residence Lots (First Series), Nanakuli, Waianae, Hawai‘i

MOTION

Moved by Commissioner Chin, seconded by Commissioner Ka‘apu, to approve the Consent Agenda.

DISCUSSION

Commissioner Wescoatt had a question regarding Item D-8, having beneficiary consultation on transferring leases to non-family members.

Deputy Attorney Iha stated that the Hawaiian Homes Commission Act allows a beneficiary to transfer a lease to a non-family member as long as they have 50% Hawaiian.

ACTION

Motion carried unanimously.

**REGULAR AGENDA**

**LAND MANAGEMENT DIVISION**

**ITEM F-1      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 to approve the Annual Renewal of Right of Entry Permits, Kaua’i Island.

MOTION

Moved by Commissioner Chin, seconded by Commissioner Ka‘apu, to approve the motion as stated in the submittal.

DISCUSSION

Chair Masagatani called for a recess to give the Commissioners time to review the submittal.

**RECESS**

**9:55 A.M.**

**RECONVENED**

**10:03 A.M.**

Chair Masagatani stated, there are two separate issues, one being how does the Department approach the 5,000-acre land bases that are under RPs. The staff has been focusing on the options for those five or six parcels across the state that the Department is probably not going to touch for the next 20-years. The focus can be switched if the Commission prefers the Department to deal with the methodology of the smaller RPs. The discussions and analyses have been focused on those with the intention to circle back to the smaller RPs.

K. Albinio stated the standard requirements are insurance, no outstanding obligations with other State Agencies, and no other obligations within the DHHL. The new RP was last year for Mr. Taniguchi and that was consistent with the Commission’s directive and Kalalea Farmers Hui consistent with the Regional Plan. Otherwise, there were no new RPs.

Chair Masagatani stated that the due diligence on the rental rates would require expertise from the outside to help set up and review the evaluations. A good appraiser firm could assist the Department.

Commissioner Wescoatt suggested a market assessment because an appraisal of each parcel would be costly. A market assessment of ag in one area should be worth so much per acre, and industrial in another area should be worth so much per acre.

K. Albinio stated that the typical practice for commercial or industrial use is calculated by the land's market value, the tax assessed value, using 8% off the tax assessed value. The month to month terms are discounted, and if there is infrastructure, the lessee pays for the electricity and improvements. The lessee has that risk knowing that the lease can be canceled in 30-days.

Commissioner Wescoatt stated, for the lessees and the Department, the preference is a longer disposition. Let's move to a 5-year or 10-year disposition. The lessees can be provided with a better land agreement, and the Department could make more.

Chair Masagatani stated that the Department could get an appraiser to look at the areas that are heavily concentrated with ROEs. The appraiser can start with a tax assessment and provide an educated estimate based on what's going on in that market. Chair Masagatani believes that the large disparity may be due to the ROEs having to come in at different points in time, and maybe there were no adjustments made upward of the older ROEs. It's something good for the Department to have an outside look at the valuations.

ACTION

Motion carried unanimously.

**ITEM F-2      Renewal of Right of Entry Permits, O'ahu Island (see exhibit)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approves the action, as presented at its July 2017 meeting by LMD, under Item F-1, attachment Exhibit A.

MOTION

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

DISCUSSION

Chair Masagatani stated that Kalaeloa is where the Department has a lot of its Revocable Permits in Industrial and Commercial use. The rents should be higher if the property is better-developed verses as is.

Commissioner Kahikina stated that he would be voting yes for the beneficiaries and no for the non-beneficiaries. Chair Masagatani noted that she would be deferring the item to later-on the agenda.

**RECESS**

**10:40 A.M.**

**RECONVENED**

**10:50 A.M.**

## **ADMINISTRATIVE SERVICES OFFICE**

### **ITEM H-2      Amendment No. 1 to the Fiscal Year 2018 Department of Hawaiian Home Lands Budget – Increase to Hawaiian Home General Loan Fund Budget**

#### RECOMMENDED MOTION/ACTION

Administrative Services Officer, Rodney Lau, presented the following:  
Motion that the Commission approves Amendment No. 1 to the Fiscal Year 2018 Department of Hawaiian Home Lands Budget – Increase to Hawaiian Home General Loan Fund Budget.

#### MOTION

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

#### DISCUSSION

R. Lau stated the general loan fund gets replenished with the monies spent from the HHL Trust funds, as assignments are recorded. The allotment lapsed on June 30, so the Department was not able to transfer the monies from the general loan fund to the HHL Trust fund.

#### ACTION

Motion carried unanimously.

## **ITEMS FOR INFORMATION/DISCUSSION**

### **GENERAL AGENDA**

### **REQUESTS TO ADDRESS THE COMMISSION**

#### **ITEM J-2      Kawai Warren - Kekaha Hawaiian Homestead Association Pu'u Opae License**

K. Warren thanked the Commission for the License, which is still being processed. He suggested the Department increase staffing.

#### **ITEM J-4      Bo Kahui – La‘iOpua 2020**

B. Kahui spoke of the delinquencies in the summary report that was distributed to the Commissioners. There is a total of 65 on the list totaling \$149,633.00. There are 50 of the 65 that are over \$500 in arrears. The Association feels that anyone \$500 and over should be sought after for a Contested Case Hearing or some action.

B. Kahui gave a La‘i ‘Opu 2020 Development update. The Board decided that the Medical Center will pay a lease rent, which is being negotiated. The MOU for facility use payments will be due shortly, and the Board will demand an amount of lease rent. A CIP grant was approved by the Legislature, \$500,000. OHA denied two grants totaling \$750,000. A proposal was made for funding to DHHL, and L2020 would like to have a formal letter of denial or acceptance of the proposal.

**ITEM J-1 Kilipaki Vaughan – Anahola Fire Incidents and Solution**

K. Vaughan, Deputy Fire Chief, Kaua‘i Fire Department. Brush fires have increased, and it takes longer for the fire resources to get to the area. Kaua‘i has about 143 firefighters, and staff that manages the Ocean Safety personnel.

K. Vaughan replied, on the highway would be a better opportunity to go left or right and be visible to the public. Possibly across the street from the solar farm. The Fire Department also does medical calls, 327 calls in the previous fiscal year. Kaiakea is the nearest Fire Station to Anahola. K. Vaughan stated that the Fire Department works with County, Public Works, and Planning, and the Fire Department actively pursues grant monies.

**RECESS 11:35 AM**

**RECONVENED 11:42 AM**

**ITEMS FOR DECISION MAKING**

**REGULAR AGENDA**

**PLANNING OFFICE**

Chair Masagatani noted that this would be a combined presentation of Items G-1 and F-3.

**ITEM G-1 Accept Beneficiary Consultation Report for the Kaua‘i Island Utility Cooperative’s (KIUC) proposed Waimea Hydroelectric project, Waimea, Kaua‘i, TMK (4)1-2-002:023**

**RECOMMENDED MOTION/ACTION**

None. For information only. Deputy to the Chairman William Aila presented the following:

**DISCUSSION**

The purpose of the briefing is to provide background for the HHC for the proposed Waimea Hydroelectric project at Waimea, Kaua‘i, to be developed by Kaua‘i Island Utility. The hydroelectric project will be integrated to generate power for Kaua‘i and may include the following components: the Koke‘e Ditch System’s repairs and upgrades, rehabilitation of Pu‘ulua Reservoir, Pu‘u ‘Opae and Mana Reservoirs, and new sections of buried pipeline to transmit water from the Pu‘u Moi Divide to the Pu‘u ‘Opae and Mana Reservoirs. There are power generating sites located at Pu‘u ‘Opae, a flow-thru, another flow thru to Mana and the pump storage component from Mana all the way back up to Pu‘u ‘Opae.

The benefits to the Department are new infrastructure to deliver the water to support agricultural and food sustainability in Waimea, the rehabilitation and maintenance of the Department’s Pu‘u ‘Opae Reservoir, repairs, upgrades and the maintenance of the Koke‘e Ditch System to transmit water effectively for the hydroelectric project and for the surrounding lands, and will also return enough water to the Waimea River to meet the instream flow standards as agreed to by the Mediation Settlement Agreement. Benefits to the Department also include improvements and maintenance to the roads on DHHL property in Waimea, the generating of electrical power for DHHL use, aide in stabilizing the island’s electric grid system for stability and reliability, more so during peak hours, and it will add jobs to the construction phase of the hydroelectric project.

Additional benefits include the availability of the reservoirs for fire suppression, and inclusive of rents and other payments, which will be discussed in executive session.

#### RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following:

Item F-1 the recommended action is that the Hawaiian Homes Commission accept the Beneficiary Consultation Report as official record of beneficiary issues, questions, concerns and comments raised at the Beneficiary Consultation meetings and public hearings conducted by DHHL regarding KIUC's land disposition request do develop components of the proposed Waimea Hydroelectric Project on DHHL lands in the Waimea District on the island of Kaua'i.

#### MOTION

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

#### DISCUSSION

Planner Julie Cachola stated the long-term disposition triggered beneficiary consultation, and because it was a renewable energy project, it triggered two public hearings. 2,886 notifications were mailed out to all the Kaua'i island lessees and applicants. FAQs were a part of the letter along with a map of the location of the project.

The public hearings were conducted on July 12, 2017, one in the morning and one in the evening. A total of 23 people showed up for the public hearing, and 2 were identified as beneficiaries and 8 provided oral and written testimony. With all the consultations that were done on Kaua'i, the indication is in support of the project. The number one reason for the support of the project is water. The restoration and repair and maintenance of Pu'u 'Opae, which provide access to water to DHHL lands. With the availability of water, the beneficiaries can use the area and work towards sustainability.

J. Cachola stated the proposal is the water that is flowing from the Pu'u Moi Divide to Pu'u 'Opae, which now flows onto DHHL lands, goes underground to pressurized pipes which generate energy and the water goes to Pu'u 'Opae. Another pipe goes down through Pu'u 'Opae, down to the Mana Reservoir. The pump storage component is a unique part of the proposal. Solar Panels that are at the Mana Reservoir pumps the water back up to Pu'u 'Opae and stores the water till the evening. This allows the transfer of solar energy for night use. Then at night, the water is released, creating energy, back to the Mana Reservoir. The schematic identifies the components involved on DHHL land. That is how the project works.

Commissioner Ka'apu stated that there is DHHL gravity-fed irrigation to pastoral lots, so of that water coming out of the new pipe, how much water are the farm lots allocated

Deputy Aila stated the allocation for the pastoral lots is half a million gallons per day for the existing lots. In the mediated settlement agreement, the Department reserves the right to increase its reservation if it proves that the additional water is needed. The Department requested 33 million gallons, but during the negotiations, the Department went to the Water Commission and issued a new reservation for 6.9 million gallons of water-based upon the Department's foreseeable needs for projects on DHHL lands over the next 20-years.

Deputy Aila added that the Department is liable for the existing reservoir because it is not compliant with the dam safety rules. This is a high risk. If this agreement is agreed to by the

Commission, KIUC will take responsibility for bringing it back up to dam safety standards and maintaining it for the proposed 65-years.

Deputy Aila started with the water, explaining the insulation of a buried pipeline from the Pu‘u Moi Divide to the Pu‘u ‘Opae Reservoir, which KIUC will be responsible for the installation and the maintenance. This provides a source of water not susceptible to evaporation. KIUC will bring up the safety standards to the Pu‘u ‘Opae Reservoir and maintain that for a 65-year period. From Pu‘u ‘Opae to the Mana Reservoir is an underground pipeline. The repairs to the upper road from the DLNR property being used by DHHL licensees and lessees as farm roads. The bottom roads will be maintained by KIUC for 65-years. Near the Pu‘u ‘Opae outlet, a pickup system will provide water to the Kekaha Homestead, and projects that are associated will have gravity flow.

Deputy Aila said there is additional compensation, and because we are still negotiating, that will be discussed in the executive session. The general lease is 65-years, and that is after the right of entry period which is 3-5 years if necessary. The total acreage that will be used is about 25-acres.

Acting Planning Program Manager Kaleo Manuel stated since 2004, the Kaua‘i Island Plan for pastoral and agricultural homesteads were not priorities. Based on beneficiary demands and land availability, the focus for Kaua‘i is residential. In 2010-2011, the West Kaua‘i Regional Plan, a request was made by a Bio-fuel energy producer who got the community thinking. West Kaua‘i said do not forget about agriculture and water. The Kekaha Hawaiian Homestead Association worked on a plan, and the Commission approved the license. On the plan, some lands are marked “special district,” and makai of Pu‘u ‘Opae are lands that were for historical use that can be used for homesteading. Group 70 has been contracted to help develop a special area plan for the lands makai of Pu‘u ‘Opae. With the special area plan, the vision is to develop kuleana homesteads, low infrastructure, minimum infrastructure development, and getting people on to the land once the water flows. This vision works well with KIUC planning.

Chair Masagatani clarified with J. Cachola that the notification process for this Beneficiary Consultation was no different than any others done on the island. J. Cachola said they gave out the notification to all zip codes on Kaua‘i, so the distribution was more extensive.

#### ACTION

Motion carried unanimously.

Chair Masagatani noted the recusal of Commissioner Chin.

KIUC Consultant Jason Hines stated the hydro component is about 25,000 megawatt-hours per year. It will vary, plus or minus, 20% depending on if it’s a wet or dry year. The overall project output is in the 65,000 plus range, which is a little bit less than two-thirds of the power and comes from stored solar. A little more than a third comes from pure run-of-ditch hydro.

Commissioner Wescoatt asked for the total capital cost of the whole project. J. Hines said about \$90 million dollars, excluding the solar field.

Chair Masagatani asked will the project has the capacity for Hawaiian Home Lands to pull electricity directly from the hydro project to feed the electricity needs of the homesteads around Pu‘u ‘Opae?

J. Hines stated power could not be pulled directly from the hydro project. There will be a new buried power line constructed from Mana up to Pu'u 'Opae, where the powerhouse is. One of the things that the project brings to the Pu'u 'Opae lands is a distribution line up the hill to the lands. It'll be like a normal KIUC member relationship. The thing is getting the power up the hill which is not in existence now.

Chair Masagatani asked the Commissioners for a motion to go into executive session.

#### MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Wescoatt to convene in 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.

Chair Masagatani noted the recusal of Commissioner Chin.

#### **EXECUTIVE SESSION IN 1:12 P.M.**

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

1. Legal Issues Related to Item F-3.

#### **EXECUTIVE SESSION OUT 2:27 P.M.**

#### **ITEMS FOR INFORMATION/DISCUSSION**

#### **WORKSHOPS**

#### **LAND MANAGEMENT DIVISION**

**ITEM F-3 For Information Only. Request for Approval to Issue Right-of-Entry Permit and Conditional Approval of General Lease to Kaua'i Island Utility Cooperative, Subject to Compliance with, and Completion of, the Environmental Review Does Not Reveal Significant Adverse Impacts that Cannot Be Reasonably Mitigated. Delegate to the HHC Chairman the Authority to Negotiate the Final Terms and Conditions of the Right-of-Entry and General Lease, Waimea, Island of Kaua'i, Tax Map Key No. (4) 1-2-002:023 (por).**

#### **RECOMMENDED MOTION/ACTION**

None. For information only.

#### **DISCUSSION**

Chair Masagatani stated because much of the compensation is related to the infrastructure, the Department wants to make sure that the benefit to the Trust, from this infrastructure, is a direct benefit. What was shared with the Commissioners is there is 5 million for Reservoirs, the water conveyance of 18.5 million, 4.25 million in civil, 1.5 million in mechanical, 1.45 million in

electrical, and 5.2 million of soft cost. What is included in the 18.5 million for water conveyance?

J. Hines stated that the pipe is steel pipe epoxy coated, large diameter, because of the pressure involved the pipe is thick-walled, high specs, the welding is high specs, and it is buried. The life of the pipe will outlast the lease. The pipe is in about 18,000-feet of the open ditch from Pu'ulua to the Pu'u Moi Divide. The road improvements are listed under civil which includes the powerhouse structure, the concrete foundation and the walls of the powerhouse at Pu'u 'Opa'e. A big part of that amount is road improvements.

Chair Masagatani asked about the cost items of the ditch and reservoir maintenance of \$350,000 operator labor, the power for the pumps and direction to the grid, and the roadwork, those are just maintenance or operating expenses on an annual basis? J. Hines stated the ditch and reservoir maintenance also includes upstream things from DHHL lands involving the delivery of the water.

Chair noted that the item is on the agenda tomorrow should the Commissioners have additional questions.

## **ITEMS FOR DECISION MAKING**

### **REGULAR AGENDA**

#### **LAND MANAGEMENT DIVISION**

##### **ITEM F-2 Renewal of Right of Entry Permits, O'ahu Island (see exhibit)**

###### **DISCUSSION**

Chair Masagatani noted that Commissioner Kahikina had requested consideration of an amendment to take out the right of entries that are to beneficiaries. Commissioner Kahikina stated that he wanted to vote yes for the beneficiaries' renewal and, vote no for the non-beneficiaries.

Chair Masagatani stated the motion would be amended to consider all the right of entries that are issued to beneficiaries, ROEs 608, 529, 511, 528, 522, and any other right of entries issued to beneficiaries on the island of O'ahu.

###### **AMENDED MOTION/ACTION**

Moved by Commissioner Chin, seconded by Commissioner Wescoatt, to amend the motion to consider all the right of entries that are issued to beneficiaries, ROEs, 608, 529, 511, 528, 522, and any other right of entries issued to beneficiaries on the island of O'ahu. Motion carried unanimously.

###### **MOTION/ACTION**

Moved by Commissioner Davis, seconded by Commissioner Wescoatt, to approve the remaining right of entries. Motion carried. Commissioner Kahikina voting in opposition.

###### **DISCUSSION**

Chair Masagatani noted that the earlier discussion relating to Kaua'i's right-of-entries would apply as well in terms of a methodology to benchmark the valuations of due diligence on what

should be long term and, a process by which the Department can go to beneficiaries on the waiting list.

## **ITEMS FOR INFORMATION/DISCUSSION**

### **WORKSHOPS**

#### **LAND MANAGEMENT DIVISION**

##### **ITEM F-4 Proposed Assignment and Amendment of General Lease No. 294 to Arion Energy, LLC, Kalaeloa, O'ahu, TMK (1)9-1-013:029**

Noting the recusal of Commissioner Wescoatt.

##### **RECOMMENDED MOTION**

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

##### **DISCUSSION**

K. Albinio stated that the presentation is a proposed request for assignment of lease, and amendment for Kalaeloa General Lease No. 294, in the Kalaeloa area island of O'ahu, TMK (1)9-1-013:029

Property Development Agent Allen Yanos introduced Arion Energy's President and CEO, Dr. Nick Azari, and Project Development Consultant Jody Alion.

J. Alion briefly talked about the history of the Solar Lease. Arion Energy is in a crunch to get the approval for the lease from DHHL. HECO is looking for small scale projects for CBRE, which is the Community Solar Project. J. Alion The lease is for 20-years. During Arion's Interconnection study, they put in a request to HECO to put a sub-station next to the existing solar-1 substation. Arion received the power sales agreement with Sun Edison and the rights to the EA. An interconnection study with HECO, which took 4-years, is completed but needs to be updated. The FAA approval for the 10-ft. height limit must be renewed

N. Azari stated that he completed the solar panels on the top of the 5 Big Save Super Markets on Kaua'i which are 200-300 kilowatt projects; Times Super Market in Kukui Grove about 300-kilo watts, Kekaha Shopping Plaza on Kaua'i; and on O'ahu and Maui, Arion Energy is doing the Times Super Market. Don Quixote is interested in Arion Energy doing their solar panels.

Chair Masagatani clarified that the community benefits agreement sets aside 1% for the benefit of the Kapolei Region for Educational purposes.

J. Alion stated, that was the original proposal, but this a different kind of income stream. We thought to just turn it into a discount for the homesteaders. If the Commission decides that it does not work, then she proposed they look at what the numbers would be and come to an agreement on how to use that 1% of the sales.

Chair Masagatani said that complicates the discussion because the community benefits agreement is something that was negotiated with the community's participation. An assignment with the lease intact, and you are looking to have a reduction in lease rent; it makes it more

complex. The community benefits refer to the impact to a community or region, and in this case, Kapolei was the region most directly impacted.

J. Alion continued to brief the Commissioners on their proposal of the schedule of payment: 30 days to get the lease executed, the down payment within 30 days of the lease being executed, then deploy development and move towards construction around the 3<sup>rd</sup> qtr. of 2018. Milestone payment of 18-months or the beginning of construction, whichever is first, then the 20-year lease term starts at the commercial operation date.

J. Alion stated they are asking for a reduced lease price because when it first started, the price was 19-21 cents wholesale rates and as high as 23-cents. Looking at the tax credits over a length of time, the rate of return was high, and Arion was willing to share on the lease price, but when the waiver contracts came in at 14-1/2 cents, that killed the economics of the project due to the substantial reduction. Now they are looking at 13-1/2 to 15 cents kilowatt-hour, which is what this project is based on. The State tax credits are reduced and will expire; thus, the ask for the lower lease rates. We are looking for approval to assign at the reduced long-term lease rent, milestone payments proposed, and to amend the lease start date to accommodate the PPA term and easement license.

Chair Masagatani asked if the PSA (Purchase & Sales Agreement) is that something that can be shared with the Commissioners. A. Yanos said that the Department has a copy of which the energy consultants have reviewed. The Department also has the terms and conditions which Arion has agreed to, and it will be shared at the submission for September approval with the proposed assignment and the amendments to the lease.

Chair Masagatani asked if HECO does not come up with an RFP for CBRE, does the project die. N. Azari stated Arion could enter into the RFP, it just doesn't know how competitive it will be, but if HECO decides to purchase 200 or 300 megawatts on O'ahu, they will end up buying more than the big guys can offer.

Chair Masagatani asked what the discount will be on beneficiaries' electric bill. J. Alion said that's what we are waiting to get confirmed. It has been proposed somewhere between \$.15 and \$.17 cents per kilowatt-hour on your bill. O'ahu is running about \$.27 to \$.30 cents, so that's 50% of the cost of the kilowatt-hour.

Chair Masagatani stated, so what is being suggested is instead of the community benefits agreement is 1% of the revenue, you would equate it to a per panel discount for homesteaders. J. Alion agreed. Chair Masagatani stated the existing lease has a community benefits agreement that allotted 1% focused on Kapolei Region. What is being suggested is taking that to a per panel discount to homesteaders. It is a different conversation because that benefit may be for people living all over the island verses a community that is impacted by the project.

Commissioner Chin asked, what is the difference between subscription and purchasing a panel. J. Alion stated it was the same thing. If you buy a panel, you are a subscriber to the output of that project. They are not looking for investors; they are looking for people to buy the output of power. Commissioner Chin stated, for the homesteaders, it might be more cost-effective to buy in as a subscriber for the output rather than outright buying a panel.

**ITEM F-5 For Information Only, County of Kauai, Engineering Division, Aliomanu Road Erosion Repair, Anahola, Kaua'i**

RECOMMENDED MOTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio and Land Agent Kaipo Duncan presented the following:

DISCUSSION

K. Duncan introduced Kaua'i County Engineer Donald Fujimoto and Consultant Mike Fowley.

D. Fujimoto said there is severe erosion on Aliomanu Road, one mile in from Kuhio Highway. The County is trying to restore the existing road; however, the County has found that the road is encroaching on DHHL land. The County wants to put it on record that DHHL is granting permission to continue to use the existing road. It is right where the road meets the ocean. The road is limited currently to one lane.

Chair Masagatani asked what are the next steps that are anticipated.

K. Duncan stated the County is projecting to spend between \$2-3 million dollars. When the road was built in 1940 when there were no land surveying techniques, approximately 2,000 sq. ft. of DHHL lands were used. The County wants to protect its investment by DHHL granting them approval to go ahead and continue to use the 2,000 sq. ft. of DHHL land.

Chair Masagatani clarified that the County is looking for a perpetual license easement. D. Fujimoto stated that he believes the County submitted a legal easement description applying for the 2,000 sq. ft. piece.

Chair Masagatani noted that if an action should be presented to the Commissioners, there is a chance it won't happen on Kaua'i because the Commissioners only meet on Kaua'i one time per year.

**PLANNING OFFICE**

**ITEM G-2 DHHL Kaua'i Water Projects and Issues**

RECOMMENDED MOTION

None. For information only. Acting Planning Program Manager Kaleo Manuel introduced Jonathan Scheuer, Consultant, and Halealoha Ayau, HHL Water Resource Specialists who presented the following:

DISCUSSION

J. Scheuer briefed the Commissioners on the Water Policy Plan that was approved by the Commissioners in 2014, in which one of the four priority goals was towards the continuous and aggressive communication about water issues, internally and to the beneficiaries. J. Scheuer stated there are six items that he will update the Commissioners on (1) Waialua Well status (2) Progress on addressing issues relating to the Anahola Dams, (3) the Anahola Drinking Water System, improvements, (4) drafting procedures for managing water credits as it is an important

Trust asset, (5) issues in Moloa‘a, and (6) the issues regarding the Waimea River and West Kaua‘i. (Exhibit Item G-2)

Regarding J. Scheuer’s brief on the status of the recommendations for the dam, K. Manuel said the project is currently with Land Division. There were amendments to the design that was requested by DLNR as part of the Dam Safety Act (DSA), so LDD and Planning are working with the DSA Engineers to finalize things before construction or decommissioning begins on any of the dams.

J. Scheuer continued his briefing on Moloa‘a stating that the Department holds 316-acres of undeveloped lands slotted for 47-3 acres homestead lots and 86-acres of general agricultural use. There are potable and non-potable needs for these lands, and there are development constraints. It hasn’t been discussed, but there is a well that the Plantation developed on State land, and then the well reverted to the State with the closure of the Plantation. The well has been under revocable permit to a third party; other licenses became revocable permits. Now the DLNR has 2-years to convert the revocable permits to long-term leases or licenses. There is a provision of the law that has not been fully implemented since the law was amended in 1990, provision 171, 58G, requires that DLNR and DHHL, together, consult with beneficiaries and get a reservation of water. The first attempt to implement the provision during a beneficiary consultation was held in Hilo last week for a proposed water lease for hydroelectric purposes for water on the Wailuku River. The beneficiary consultation was for the amount of water that would be reserved.

Four years ago, the Commission gave the authorization to the Chairperson to file for reservations, take legal actions as necessary to assert the Department’s interest and rights to the water. In 2015 the Department filed its first reservation petition seeking 33-million gallons per day, nearly the entirety of the flow, for HHL lands. In 2017 the Commission agreed to the proposed mediation agreement related to the Department’s reservation request in the Po‘ai Wai Ola petition, and on April 18, 2017, it was approved by CWRM. A requirement was for the Department to file a modified petition, which was filed on April 25, 2017, and on June 20, 2017, the Commission approved its first surface water reservation for DHHL for 6.9 million gallons per day. Since the water code was passed in 1987 that surface water has never been reserved for any entity.

### **ITEM G-3      Kaua‘i Regional Update**

#### RECOMMENDED MOTION

None. For information only. Acting Planning Program Manager Kaleo Manuel and Planner Bob Freitas presented the following:

#### DISCUSSION

B. Freitas noted that all the plans are available online. He gave a brief overview of the different plans the Commission has adopted. The Kaua‘i Island Plan was adopted in 2004 with the primary objective of developing residential homestead lots. The focus continues to be the Anahola Pi‘ilani Mai Ke Kai Subdivision.

The Regional Plan is the Waialua region, and the major issue is the water resources for Waialua. There aren’t many activities going on in the Waialua regional area other than the water projects. The next is the Anahola region, which is the largest homestead community. The Regional Plan update is that the Kalalea Anahola Farmers Hui is in the process of working through a long-term disposition by using the site to develop their project plans to serve the 47 farmers that farm in

Anahola. Planning is expecting the Kalalea Anahola Farmers Hui to have a beneficiary consultation for long term disposition once they are prepared.

**ITEM G-4 Summary of Response to Proposed Legislative Action Request for 2018 & Draft Legislative Proposal**

RECOMMENDED MOTION

None. For information only. Acting Planning Program Manager Kaleo Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following: Item G-4 is a summary of the response to the proposed Legislative Action Request for 2018 and the Draft Legislative Proposal for the coming Legislative Session.

DISCUSSION

L. Kinilau-Cano briefed the Commissioners on the submitted report noting that the report identifies all the outreach done with beneficiaries and those who testified in 2016 and 2017. A request was made from staff for an expedited review at the Department of Health for the application process. A request came in to construct a parameter safety wall for the community park in Kapolei. Regarding the Hawaiian Homes Commission Act, a request for implementation of certain points.

There were two requests for Administrative Rule Changes, which were forwarded to the Rules Officer for review. Based on all the input, there is one proposal for the Commission's review; to allow the Commission to adopt interim rules. The State Procurement Policy Board can promulgate interim rules; however, the rules are only good for 18-months. If the Commission chooses to promulgate interim rules, no need to go through rulemaking, the interim rules would be adopted after beneficiary consultation. The normal process is the Commission goes through beneficiary consultation, then through the whole Chapter 91. This would shorten the time in getting rules implemented that need to move forward, i.e., DCCR.

A minor tweak may be made to the privacy bill regarding documents related to successorship for applicants and lessees, not required to disclose information. Under State Law, you don't need to disclose this kind of information, so for public meetings, this kind of information can be held in the executive session.

**ADMINISTRATIVE SERVICES OFFICE**

**ITEM H-1 Workshop on Bond and Certificates of Participation (COP) Refunding – Final Pricing**

RECOMMENDED MOTION

None. For information only. Administrative Services Officer Rodney Lau, presented the following: Workshop on Bond and COPs Refunding – Final Pricing

DISCUSSION

R. Lau directed the Commissioners to the outstanding debt that was refunded and the new debt that replaced the old debt. Only July 25, 2017, the Department of Hawaiian Home Lands issued two series of bonds to refinance outstanding debts. For the COPs, \$15.1 million of Certificates of Participation 2017 Series A, refunded \$18.5 million of Certificates of Participation 2006 Series A. For the Revenue Bonds \$30.9 million of Revenue Bonds Series 2017, refunded \$36.6 million of Revenue Bonds Series 2009. The refunding highlights were: 1. Moody's rating upgrade of Aa2 on the 2017A COPs, one step below the State Geo bonds. 2. Moody's rating affirmation of

Aa3 on the 2017 Bonds. The Department captured significant debt service savings and achieved strong interest from local Hawaiian and national investors.

DHHL started the process in May at the HHC meeting, refunding the Bonds; in June, the Commission approved refunding the bonds, on July 25, the bonds were sold. The total savings to the COPs were \$4.7 million, and total savings for the Revenue Bonds were \$21.6 million. The existing annual payments of \$1.75 million and the annual payments after the refunding was \$1.4 million. An annual savings of \$315,000, from 2018 to 2032 which is equivalent to \$4.7 million.

Chair Masagatani asked when did Budget and Finance (B&F) start paying the COPs payment. R. Lau replied that they started in 2015, the expense is absorbed by General Funding, and B&F recognized the payments as an Operating and Administrative Expense. It used to be an expense DHHL absorbed in its Special Funds paid for out of the Earnings from Available Lands. This savings is more significant for B&F because it is coming off the General Fund.

R. Lau said the Department would purchase Hale Kalaniana'ole for \$1 because it is a Certificate of Participation Financing in 2032.

The Revenue Bonds Series 2017, payment, and duration of \$3 million annually were maintained. Annual payments after the refunding will remain the same through FY2031. The final term of the Refunding Bonds, shortened by 7-years 2039 to FY2032, total savings of 21.6 million dollars over the life of the Bonds.

The Bonds were supposed to expire or be fully paid in 2039. A portion of 2032 will be paid with the debt service of \$2.5 million instead of \$3 million. From 2033 to 2039, the Department saves \$3 million per year, and that is where the \$21.6 million came from.

The last page is a side-by-side comparison between the old and the new bonds and the savings for the refunding, the exact savings the Department is getting, to the penny. Up till 2032, the Department will be paying \$43.644 million, and the actual savings are \$21.588 million.

**RECESS**

**5: 30 PM**

**HAWAIIAN HOMES COMMISSION**  
Minutes of August 22, 2017  
Meeting held at the Lihū'e State Building

Pursuant to proper call, the 690th Regular Meeting of the Hawaiian Homes Commission was held at the Lihū'e State Building, 3060 Eiwa Street, Lihū'e, Kaua'i, Rooms A-C, beginning at 9:00 a.m.

**PRESENT** Jobie M. K. Masagatani, Chairman  
Kathleen P. Chin, Kaua'i Commissioner  
Gene Ross K. Davis, Moloka'i Commissioner  
David B. Kaapu, West Hawai'i Commissioner  
Wren Wescoatt, O'ahu Commissioner  
Michael P. Kahikina, O'ahu Commissioner  
William Richardson, O'ahu Commissioner

**EXCUSED** Wallace A. Ishibashi, East Hawai'i Commissioner  
Vacant, Maui Commissioner

**COUNSEL** Matthew Dvonch, Deputy Attorney General

**STAFF** William Aila Jr., Deputy to the Chairman  
Paula Aila, Hale Manager  
Niniau Simmons, NAHASDA Manager  
Norman Sakamoto, Acting Land Development Division Administrator  
Rodney Lau, Administrative Services Officer  
Kahana Albinio, Acting Land Management Division Administrator  
Kaleo Manuel, Acting Planning Office Manager  
Francis Apoliona, Compliance Officer  
Akoni Shannon, Enforcement Office  
Dean Oshiro, Acting Homestead Services Division Administrator,  
Stewart Matsunaga, Community Development Manager  
Leah Burrows-Nuuanu Secretary to the Commission  
Lehua Kinilau-Cano, Legislative Analyst  
Mona Kapaku, Maui District Office Manager  
Shelly Carreira, Land Manager  
Kalei Young, Land Agent Supervisor  
Halealoha Ayau, Water Resource Specialist  
Susie Richey, Secretary to Deputy Director  
Debra Aliviado, Customer Service Manager

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 9:08 a.m. Seven (7) members were present at roll call. Commissioner Ishibashi was excused. The Maui Commission seat was vacant.

**APPROVAL OF MINUTES**

Chair Masagatani noted approval of the minutes for July 2014 would be deferred to next month.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

### **ITEM A-1 Wilma Holi Re: Pu‘u Opae and Koke‘e**

W. Holi testified that Pu‘u Opae and Koke‘e are lands that belong to her Tutu Man, Lord Kapuaiwa, aka Kamehameha V. She stated that she is the lineal descendant of Lord Kapuaiwa, and she is making that claim. She also stated that last week she met with the KICU Board members regarding the claim to the title, and they are concerned.

### **ITEM A-2 Noa K. Mau Espirtu Re: Item G-5**

N. Espirtu spoke as a representative for the families of the Royal Patent of Wailua. He said that they are not against the project, but the Department needs to consult with the families who have an interest in the ahapua‘a by way of bloodline, before moving forward. N. Espirtu also stated that there is a cloud on the Title. The Wailua Ahapua‘a are crown lands, and they have the King’s Royal Will showing it to be so; reserved for the families and subject right to native tenants. He stated that he has the genealogy of the families with interest to the crown lands.

## **ITEMS FOR DECISION MAKING**

### **REGULAR AGENDA**

#### **LAND MANAGEMENT DIVISION**

**ITEM F-6 Request for Approval to Issue Right-of-Entry Permit and Conditional Approval of General Lease to Kaua‘i Island Utility Cooperative, Subject to Compliance with, and Completion of, the Environmental Disclosure Requirements Under HRS Chapter 343, and Provided that Such Environmental Review Does Not Reveal Significant Adverse Impacts that Cannot Be Reasonably Mitigated. Delegate to the HHC Chairman the Authority to Negotiate the Final Terms and Conditions of the Right-of-Entry and General Lease, Waimea, Island of Kaua‘i, Tax Map Key No. (4) 1-2-002:023 (por).**

#### **RECOMMENDED MOTION/ACTION**

Deputy Aila presented the following:

Motion to issue Right-of-Entry and conditional approval of General Lease to Kaua‘i Electric Cooperative subject to compliance with and completion of an Environmental Disclosure Requirements under Chapter 343, and provided that in such review does not reveal the significant impact that cannot be reasonably mitigated. Delegate to the Chairman, the authority to negotiate final terms and conditions of Right-of-Entry and General Lease for Waimea, Island of Kaua‘i, Tax Map Key No. (4) 1-2-002:023 (por).

#### **MOTION**

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

## DISCUSSION

The recommended action before the Commission is the Issuance of the Right-of-Entry Permit to KIUC within the Project Location; the ROE shall be for due diligence activities for the purpose of developing a hydroelectric project on Hawaiian Home Lands in the Waimea District.

A General Lease to KIUC for the development, construction, operations, management, and maintenance of a hydroelectric project on the land within the projected project location area to be fully described in future metes and bound survey, and necessary non-exclusive licenses for access, maintenance, and other project purposes.

The issuance of the ROE and General Lease shall be upon the terms and conditions as reflected in the draft ROE and General Lease attached; exhibits B1 and B2 are not in the submittal because there are negotiations continuing to be underway for a water delivery schedule, a road standard definition, and discussion on the continued desire by KIUC for exclusive use of the bottom road.

The delegation of the authority to the Hawaiian Homes Commission Chairman to negotiate final terms and conditions of the ROE and General Lease, and other terms and conditions deemed prudent and necessary to the Hawaiian Homes Commission.

Chair Masagatani noted the draft ROE and General Lease attached, B1 and B2 are still under negotiation. Deputy Aila agreed that there are still a couple of points that still need to be agreed upon.

Commissioner Ka'apu stated there is also an issue to the waivers of liability and indemnity agreement, the language still in discussion. Deputy Aila agreed and included it in the roads' standard discussion, specifically.

Commissioner Richardson asked what assurances can the Department impose on the Electric Company on diversion of any other waters? Are they required to return the water in the exact same volume that was taken out for power?

Deputy Aila went back to the mediated settlement agreement; the minimum stream flow standard must be met before any water can be taken out of the watershed. Once that minimum is met, then KIUC can divert water from the five streams up in Koke'e and place it in the Pu'ulua Reservoir, which then can be delivered downstream for the hydro project, the Department's agricultural projects, and ADCs agricultural projects.

The amount of water that can be diverted is regulated in terms of complying with the instream flow standards. As the Department builds its agricultural infrastructure and starts to homestead the area, the use of water will ramp up. KIUC recognized this and has agreed to deliver up to 6.9 million gallons per day.

Commissioner Richardson asked ADC has no direct right to any of the water. Deputy Aila stated via the mediated settlement agreement; they have a right to some of the water just as the Department and KIUC.

Chair Masagatani confirmed the licensing of the water is a separate issue from this General Lease. Deputy Aila stated the mediated settlement agreement, and the ROE and General Lease are separate. It does not deal with the Water Commission's oversight over this project or the

instream flow standards. The water license is something that can only be issued by the Board of Land and Natural Resources. It's a different process.

Chair Masagatani noted for the record, Commissioner Chin's recusal.

Commissioner Wescoatt stated renewable energy projects are developed; the landowner could expect compensation between 8% to 10% of the overall revenue of the project. The amount that the Department and the Trust are going to benefit is definitely fair and more than what would typically be expected in the market.

Chair Masagatani noted five outstanding issues that remain to be finalized:

- (1) The agreement on the road standards, (2) The exclusive use of the lower roads, (3) The water delivery schedule with KIUC, (4) The water data sharing, and (5) The waiver release of liability.

Chair Masagatani stated it is important that the five outstanding issues are managed in a prudent way. If the motion is passed, resolving those five remaining issues is where she will focus.

Commissioner Ka'apu stated he wants to make sure that the Commission would have input on the final documents before it's signed. Chair Masagatani stated she would work with Commissioner Ka'apu in terms of reviewing the final documentations.

ACTION

Moved by Commissioner Davis, to issue Right-of-Entry and conditional approval of General Lease to Kaua'i Electric Cooperative subject to compliance with and completion of an Environmental Disclosure Requirements under Chapter 343, and provided that in such review does not reveal the significant impact that cannot be reasonably mitigated. Delegate to the Chairman, the authority to negotiate final terms and conditions of Right-of-Entry and General Lease for Waimea, Island of Kaua'i, Tax Map Key No. (4) 1-2-002:023 (por).						
Seconded by Commissioner Richardson						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto			X			
Commissioner Chin			Recused – did not participate in discussion or vote			
Commissioner Davis	X		X			
Commissioner Ishibashi						X
Commissioner Ka'apu			X			
Commissioner Kahikina			X			
Commissioner Richardson		X	X			
Commissioner Wescoatt			X			
Chair Masagatani			X			
TOTAL VOTE COUNT			6			2
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with six (6) Yes - one with reservations (1) Excused (1) Recused. (1) Vacant						

## **ITEMS FOR INFORMATION/DISCUSSION**

### **WORKSHOPS**

#### **OFFICE OF THE CHAIRMAN**

##### **ITEM C-1 Draft 2017 Annual Performance Report NAHASDA**

###### **RECOMMENDED MOTION/ACTION**

None. For information only. NAHASDA Manager Niniau Simmons presented the following:  
The draft 2017 Annual Performance Report.

###### **DISCUSSION**

N. Simmons stated the 30-day public comment period is just passed. \$19 million was spent in the past fiscal year. Adding the \$880,000 in program income received annually from loans, the Department spent over \$20 million. This information is available on the website.

ICRO has put it up for public comment and review, and Trisha has sent it to the Section 106 Native Hawaiian Organizations on the Department of Interiors list of NHOs. Commissioners were asked to send feedback or comment to N. Simmons.

There are \$12 million in encumbered contracts and \$17 million free to encumber or use for NAHASDA projects. LDD is working hard to secure a \$10 million interim construction contract in the next couple of weeks, which will draw down the balance to \$7 million and provide more leverage for Hawai'i's Delegation to ask for more monies in the waning weeks of the federal fiscal year.

Commissioner Ka'apu commented on the Hilo NAHASDA house, which is next to a Community College built house. He noticed the distinct difference in the quality and size of both houses. He understands that Davis-Bacon is what created the NAHASDA house, and he wanted to know who paid for the Community College house. N. Simmons said that the Community College house is secured by an outside lender and is custom-designed by college students.

Commissioner Kahikina asked how many homes were built with all the NAHASDA money that was spent in the past fiscal year. N. Simmons stated there were ten in La'i 'Opua, twenty-nine for Ho'olimalima, eight for Moloka'i Package Homes.

Chair Masagatani added the lot development to get the lots ready. N. Simmons stated the \$8.2 million on capital improvement projects were for the Waiohuli lots.

Commissioner Wescoatt said it is important to get out to the Governor and the Legislators what has been achieved over the past year. The Department has a good story to tell, and he thinks, too; often, it isn't told, and the Department ends up getting criticized. He appreciates the spend down in the highlights, but it would be nice to see the other outputs of the program. He asked to see the pipeline, the number of lots engineered, the number of lots prepared, etc.

### **RECESS**

**10:05 AM**

**RECONVENED  
REGULAR AGENDA**

**10:21 AM**

**LAND DEVELOPMENT DIVISION**

**ITEM E-1 For Information Only – Soil Testing at Kekaha Residential Lots, Unit 4**

RECOMMENDED MOTION/ACTION

None. For information only. Deputy Aila, Master-Plan Community Development Manager Stewart Matsunaga, and Kaua‘i’s Homestead District Supervisor Erna Kamibayashi presented the following.

DISCUSSION

S. Matsunaga mentioned the Department took a new course for the testing, and to the credit of the community, the Department was able to take a lot more samples on 50-lots in Kekaha Unit 4. Subsurface testing was done on Lots 3 and 39, which had a couple of samples for lead and arsenic that exceeded the State’s environmental action level. The Department went back to take more samples to verify what was there and allay the fears of the community.

In addition to the soil samples, fruit and vegetable samples were taken and analyzed. None of the samples exceeded the State’s EAL for the subsurface, surface as well as the fruit and vegetable samples. The Consultant, Element Environmental, will be preparing a Final Best Management Practices Document, which is being coordinated with the State Department of Health and will be distributed to the community. About a week ago, the 50 residents were invited, and only 5 residents showed up.

Deputy Aila stated each beneficiary would be presented with a lot-by-lot surveying sample and the results for each lot. Picture a 5,000 ft. sq. lot with 50 flags on the lot that is the level of testing that occurred. Element Environmental did the extra sampling of sites that beneficiaries had concerns about, including going under the house if needed.

**ITEMS FOR DECISION MAKING**

**WORKSHOPS**

**PLANNING OFFICE**

**ITEM G-5 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Proposed DHHL Wailua Well Project, Wailua, Kauai, TMK: (4)3-9-002:12 Portion**

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Kaleo Manuel presented the following:  
Motion that the Hawaiian Homes Commission declares a finding of no significant impact based on information provided in the Final Environment Assessment for the Wailua Well No. 1 Project.

MOTION/ACTION

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

**ITEMS FOR INFORMATION/DISCUSSION**

**GENERAL AGENDA**

**REQUEST TO ADDRESS THE COMMISSION**

**ITEM J-3 Ipo Torio – Kanuikapono Public Charter School**

I. Torio is a Ho‘okumu of Kanuikapono Public Charter School. She expressed gratitude for the Commission. She spoke of Anahola how dry the land is and that the toxins are in the land, like car batteries, car doors, windows, and all kinds of stuff left in the land over generations and decades of abuse. She spoke about the future for the young ones now and that in 10-years Anahola, Kaua‘i can be a beautiful place for them and they can be better skilled. She stated that Anahola has an abundant forest and a community rich with activities for the young and the kupuna.

Kamahalo Kauhane was a founding board member of Kanuikapono PCS. He was Executive Director for self-help homes, and they built 14 homes in Anahola and got creative in the building of it. He stated that it was the people of Anahola who helped make the building of the homes a success. He now helps with the Ola Kino program at KPCS.

**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

The next meeting will be held at the Lahaina Civic Center, Lahaina, Maui. on September 18 & 19, 2017.

**MOTION/ACTION**

Moved by Commissioner Ka‘apu, seconded by Commissioner Ishibashi, to adjourn the meeting. Motion carried unanimously.

**ADJOURNMENT**

**11:18 A.M.**

Respectfully submitted:

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Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

Prepared by:

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Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission

