

HAWAIIAN HOMES COMMISSION
Minutes of September 18 and 19, 2017
Meetings held at Lahaina Civic Center, Lahaina, Hawai'i

Pursuant to proper call, the 691st Regular Meeting of the Hawaiian Homes Commission was held at the Lahaina Civic Center, Lahaina, Maui, Hawai'i, beginning at 10:19 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
 Randy K. Awo, Commissioner, Maui
 Kathleen P. Chin, Commissioner Kaua'i
 David B. Kaapu, Commissioner, West Hawaii
 Wren Wescoatt, Commissioner, O'ahu

EXCUSED Wallace A. Ishibashi, Commissioner, East Hawaii
 Michael P. Kahikina, Commissioner, Oahu
 William Richardson, Commissioner, O'ahu

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
 Paula Aila, Hale Manager
 Niniau Simmons, NAHASDA Manager, Office of the Chair
 Norman Sakamoto, Development Officer, Office of the Chair
 Rodney Lau, Administrative Services Officer
 Kahana Albinio, Acting Administrator, Land Management Division
 Kaleo Manuel, Acting Manager, Planning Office
 Francis Apoliona, Compliance Officer
 David Hoke, Enforcement Officer
 Akoni Shannon, Enforcement Office
 Dean Oshiro, Acting Administrator, Homestead Services Division
 Stewart Matsunaga, Community Development Manager, Land Development
 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
 Bryan Cheplic, ICRO
 Joann Aiwohi, Homestead Housing Specialist IV
 Susie Richey, Secretary to Deputy Director
 Debra Aliviado, Customer Service Manager

ORDER OF BUSINESS

Note: Prior to convening, Chair Masagatani administered the Oath of Office to newly appointed Maui Commissioner Randy Kalei Awo.

CALL TO ORDER

Chair Masagatani called the meeting to order at 10:17 a.m.

Commissioners Ishibashi, Kahinkina, and Richardson were excused. The Moloka'i Commissioner seat was vacant. There were five (5) members were present at roll call.

APPROVAL OF AGENDA

Chair Masagatani noted Items F-4 and E-3 will be moved to the front of the agenda. Approval of Minutes was deferred to the Tuesday agenda.

MOTION/ACTION

Commissioner Chin moved, seconded by Commissioner Kaapu, to approve the agenda. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Yolanda Puanani Aquino

Y. Aquino thanked the Commission for coming to Maui and stated she was able to have her questions answered by the DHHL Staff at the reception table. Chair Masagatani thanked Y. Aquino for attending and reviewed the process to address the Commission via the General/J Agenda.

ITEM A-2 Andrew Hatchi, Item F-1 Annual Renewal of Right of Entry Permits, Maui Island

A. Hatchi read from written testimony advocating for the approval of a 2-year due-diligence right of entry permit application to Pa'upena Community Development Corporation (CDC) for 4,005 acres of Waiohuli-Keokea land. The land is currently leased to the Sakugawa family who held the permit for 21-years. The Pa'upena CDC is a beneficiary organization and filed a land use application for the 4,005 acres in December 2016. It has not been approved. He cited the Hawaiian Homes Commission Act Title 1 A and its subsections.

A. Hatchi stated that of the current Maui ROEs, DHHL seeks to permit 4,401 acres, or 98.24 percent of its lands to nonbeneficiary individuals and entities, while permitting only 79 acres, or 1.76 percent, to beneficiary individuals and/or organizations. He urged DHHL and the Commission to affirm their fiduciary duty and approve a 2-year due-diligence ROE for 4,005 pastoral acres to beneficiary land-use applicant Pa'upena CDC.

Chair Masagatani thanked A. Hatchi for his testimony. She noted only beneficiary ROE permits will be approved at this meeting and any remaining actions will be brought back to the November HHC meeting when the Commission returns to Maui.

Commissioner Wescoatt thanked A. Hatchi for attending and stated that Commissioners have taken his testimony from last year, to heart, and are working toward getting more land to beneficiaries.

ITEM A-3 Norman Abihai, Item F-1 Annual Renewal of Right of Entry Permits, Maui Island

N. Abihai stated he is a Waiohuli lessee and founder and President of the Pa'upena CDC. Pa'upena CDC is prepared to have 100 head of cattle on the 4,005 acres filed for in the land use application. Waikapu Rancher Rodney Akau signed a letter of commitment to have 100 of his cattle on the acres in question. The group is working with USDA staff member B. Nichols who indicated Pa'upena CDC could apply for a USDA loan for more cattle if necessary. The

livestock would serve as loan collateral. They developed a plan to truck in adequate water for the cattle and have gathered eight FDA approved 350 gallon steel cage water pots for transporting water. They have the support of member ranchers to help with mentor ranching. They plan to offer training and technical assistance for farming agriculture lots.

After attending the 2016 Commission meeting and hearing that Sakugawa Ranch was put on notice to start moving their cattle, they started organizing the Pa‘upena CDC. Beneficiaries are dying on the pastoral waitlist while DHHL allows non-beneficiaries ROEs for 21 years.

Commissioner Chin asked how many waitlisters will be serviced by the Pa‘upena CDC plan. N. Abihai stated there are only three beneficiaries involved at this time. A. Hatchi stated their immediate plan is to manage the 4,005 acres as a successful ranch while building long-term sustainable renewable energy sources like windmills and solar. Once they are able to create the infrastructure to get power and water, they can subdivide the agriculture lots to eventually become subsistence Ag lots.

N. Abihai stated there is a water well at the site and can be used to provide free water to everyone.

ITEM A-4 Kekoa Enomoto, Item F-1 Annual Renewal of Right of Entry Permits, Maui Island

K. Enomoto is a lessee of Waiohuli stated at last year’s commission meeting the Pau‘pena CDC provided Commissioners with their plan. The 5,200 people on the waitlist have been busy setting up a board and electing officers.

Chair Masagatani stated 4000 acres is a substantial amount of land and asked what the first step would look like. K. Enomoto stated the first thing is an upcoming puwalu to bond as a community and with the land. When homes are just given to a community, like Waiehu, the community is not as coalesced as communities like Keokea who have had to struggle and work together for every little thing. They’re trying to not only get people on the land, but get the community to have relationships with one another.

**ITEM A-5 Blossom Feiteira, President Association for Hawaiians on Homestead Lands
Testifying on H Items**

B. Feiteira thanked DHHL for the 45 homestead lots awarded to Maui undivided interest lessees in the last year. AHHL attended the beneficiary consultation meetings for subsistence ag lots which resulted in their request for 100 acres in Honokowai to do a demonstration project. The idea is to work with families on the waitlist to get them educated on what it takes to farm successfully. They will use current beneficiary farmers as mentors to these waitlist farmers-to-be. They have two beneficiary families on the ag waitlist who have agreed to participate and work with the mentors on the demonstration project. Within the 100 acre request is a 5 acre cut out near the road for a farmers market to sell the produce they grow. This is the opportunity to learn the business side of farming.

B. Feiteira also mentioned an issue with iwi kupuna unearthed at the Honokowai wastewater facility. The general rule is to keep the iwi in the same ahupua‘a but the nearest available spot is in Makila, located five miles away. Beneficiaries with lineal descendants to the area want the iwi to be kept where they are. The iwi was uncovered in the facility in contaminated water, so they need to be moved. She asked the Commission to consider setting aside an acre or two of

land in the area for the iwi. There were five full remains uncovered and they anticipate more iwi to be uncovered in the area.

B. Feteira added AHHL supports the department's supplemental budget as it relates to CIP projects for Maui. They are prepared to support the budget when needed.

Also, prior to June 30, 2017, the County of Maui was managing Kūhiō Park in Paukukalo. The park is now closed. The community would like to secure the license to manage the park. They secured general liability insurance for the park and scheduled maintenance among community volunteers. The park is 4.5 acres and is used by local baseball teams. The submittal and land use application have been submitted for the Commission's November meeting.

Finally, she had concerns with the license to the County of Maui Department of Water Supply. She would like to reserve time on tomorrow's agenda to address her concerns.

Chair Masagatani thanked B. Feiteira for her testimony and support of DHHL.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD DIVISION

- ITEM D-2 Approval of Consent to Mortgage**
- ITEM D-3 Approval of Streamline Refinance of Loan**
- ITEM D-4 Approval to Schedule Loan Delinquency Contested Case Hearings**
- ITEM D-5 Approval of Homestead Application Transfers / Cancellations**
- ITEM D-6 Commission Designation of Successors to Application Rights – Public Notice 2016**
- ITEM D-7 Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds**
- ITEM D-8 Approval of Assignment to Leasehold Interest**
- ITEM D-9 Approval of Amendment of Leasehold Interest**
- ITEM D-10 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees**
- 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)**
- ITEM D-12 Request to Schedule Contested Case Hearing – ALICE L. KALA, Lease No. 7537, Lot No. 130, Waiohuli, Maui**
- ITEM D-13 Request to Schedule Contested Case Hearing – PIKAKE C.J. FERNANDEZ RUIZ, Lease No. 9486, Lot No. 48, Waiehu Kou II, Maui**

RECOMMENDATION

Homestead Services Division Administrator Dean Oshiro recommended the following:
To approve the 13 Items listed on the Consent Agenda.

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Wescoatt. Motion carried unanimously.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Native Hawaiian Housing Block Grant 2017 Annual Performance Report

RECOMMENDED ACTION

NAHASDA Manager Niniau Simmons presented the following:

To approve the 2017 Annual Performance Report (APR) of the Native Hawaiian Housing Block Grant (NHHBG)

MOTION

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

DISCUSSION

N. Simmons stated the draft was provided to Commissioners at last month's Commission meeting and the public comment period is open until September 21, 2017. The U.S. Department of Housing and Urban Development (HUD) granted the department permission to turn in the APR prior to September 30, 2017. If any additional comments are received, they will be forwarded to the Commission.

ACTION

Motion carried unanimously.

ITEM C-2 Resolution No. 291 – Resolution of Appreciation – Doreen Napua Canto

Note: This item was deferred to the November agenda.

LAND DEVELOPMENT DIVISION

ITEM E-1 Acceptance of Agreement Between Lessees- Mrs. Pat M. Kaialau, Lease No. 6670, and Mrs. Melva N. Aila, Lease No. 6669, and Approval for Amendment to Lease No. 6670 Lualualei Homestead Subdivision, Lualualei, Waianae, Oahu Tax Map Key: (1) 8-6-003: Portions of 01 & 52

RECOMMENDED ACTION

Land Development Division Administrator Norman Sakamoto and Master Planned Community Branch Chief Stewart Mastunaga presented the following motion:

That the Hawaiian Homes Commission accept an Agreement between Lessees Mrs. Pat M. Kaialau and Mrs. Melva Aila, dated October 25, 2016, concerning their shared lease boundary, and approval to amend the leasehold interest of Lease No. 6670 to Mrs. Pat M. Kaialau for a reduction of lease area accordance with said Agreement.

MOTION

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

DISCUSSION

S. Matsunaga explained the department is formally subdividing the Lualualei subdivision into eight (8) separate lots- seven (7) DHHL agricultural leases, and one (1) vacant lot reserved for access and drainage into an adjacent reservoir lot.

The lease areas were established as part of a relocation effort for lessees situated within a U.S. military blast zone on Paheehee Ridge. The formal subdivision was to follow. This action is to allow the subdivision application to move forward. DHHL is processing a license agreement to the City to provide clarification on portions of Lualualei Homestead Road encroaching on all seven (7) lots that range in size from 174 to 2,919 square feet, more or less.

DHHL believes that removing the road encroachments from each lease and issuing a license agreement to the City for roadway purposes will help protect the DHHL Trust and its lessees from potential liabilities related to the public use of the road.

To lessen the impact on the lessees, DHHL has offered to adjust lot boundaries in order to maintain the current size of each lot. This would be accomplished by shifting boundaries on the east side of each lot further Mauka, proportionate to the encroachment area (s) directly affecting that lot and from any preceding lot (s), with the burden of the encroachments being shifted to lot no. 8, which has remained vacant and unencumbered.

Mrs. Kaialau, lessee, lot no. 6, has declined DHHL's proposal to adjust her lot boundary with Lot No. 7, leased to Mrs. Melva Aila, and has submitted to the department a hand-written agreement, signed and acknowledged by both parties, regarding this matter.

Staff has verified this agreement with both parties with the knowledge and understanding that lot no. 6 will be subject to a reduction of approximately 6,159 square feet (0.141 acres), based on the lot boundary adjustments for lot nos. 1 through 5, and the road encroachment fronting Mrs. Kaialau's lot. Whereby, lease no. 6670 to Mrs. Pat Kaialau will be reduced in size from 2.981 acres to 2.84 acres, more or less. They wanted to bring this matter to the Commission's attention so there is full disclosure.

ACTION

Motion carried unanimously.

RECESS 11:27 a.m.

RECONVENE 11:36 a.m.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING DIVISION

ITEM G-3 West and Central Maui Water Issues and Projects

RECOMMENDED MOTION/ACTION

None, for Information Only.

Acting Planning Program Manager Kalco Manuel and Water Specialist Halealoha Ayau presented the following:

This submittal to the Hawaiian Homes Commission ("HHC") provides an overview of water issues and projects of significance to beneficiaries and the Department of Hawaiian Home Lands ("DHHL") in west and central Maui. Significant water projects and issues include water resources management and development issues relating to:

1. Honokōwai - Leiali'i
2. Pūlehunui
3. Wai'ehu Kou and Paukūkalo.

DISCUSSION

K. Manuel highlighted the County of Maui Department of Water Supply (DWS) request for a license for easements request. He reviewed that in 1995, the Honokōwai tract was conveyed to DHHL from the Department of Land and Natural Resources (DLNR) and it included the area containing the Mahinahina water treatment facility operated by DWS. Through submitted letter and land use request form, Mr. David Taylor, Director, County of Maui, DWS is requesting a license for easements on Hawaiian Home Lands in Honokōwai, Maui to address access, land use, and operation of this facility that was constructed prior to conveyance of lands to DHHL.

The proposed license for easements consists of approximately 16.516 acres and will support the a number of access and utility easements, the water treatment facility, a raw water reservoir, well development and a 2 million gallon water tank. The funding for one of the wells is being proposed from the Department of Health but final funding approval is dependent upon written verification that DWS has the right to use the property on which the infrastructure is to be built.

K. Manuel stated basically DHHL needs water for our projects in West Maui and it is difficult to explain why we cannot get water from a water system that is on our land but licensed to the County. Water from our land is not servicing our beneficiaries, yet we need water. It doesn't make sense to our beneficiaries. The easiest thing is to get water for our beneficiaries from the water system that sits on DHHL lands, instead of monetary compensation. This has been expressed to DWS but they stated that the County Council is the only body with the authority to issue water credits.

DHHL Planning Office is planning a beneficiary consultation meeting in October with a final recommendation on the license request by DWS expected at the November 2017 HHC meeting on Maui.

Commissioner Chin summarized that DWS needs to make improvements to the water system but they need site control through a license first. DHHL wants payment in the form of water credits for west Maui projects including farming. She asked if DWS is willing to go to the Council to get the water credits to make the relationship work. K. Manuel stated whenever DHHL has asked to move forward with water credits as the goal, the conversation ends. It's not something DWS usually does. He adds that DWS is listed on the J Agenda and Commissioners could make the request directly to DWS.

Commissioner Chin stated there is room for negotiation. DWS needs the license and DHHL needs water.

K. Manuel provided an overview of the remaining water updates in the submittal:

- Pūlehunui water needs and development
 - Constraints on Pūlehunui land utilization

- Water resources challenges for Pūlehunui lands.
- Water planning and projects for Pūlehunui
- Paukūkalo and Wai‘ehu water needs and development

K. Manuel concluded that Maui island faces significant water issues that must be addressed in order for the goals of the Maui Island Plan to be fulfilled. In a few cases, such as in parts of east Maui, the primary obstacles to achieve these goals are securing sufficient funding to provide infrastructure. Across most of the remainder of the island, however, securing water for DHHL lands will not only require sufficient funding but also assertion of the rights of the department and beneficiaries to this water, as water is subject to significant competing demands and long-running controversy and litigation on Maui.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

ITEM F-3 Approval to Assignment of Lease and Amendments, and Issuance of Easement License, Kalaeloa Home Lands Solar, LLC / General Lease No. 294, Kalaeloa, Island of Oahu, Tax Map Key No. (1) 9-1-013:029

Note: Chair Masagatani announced that the Commission will not take action on Item F-3 until Tuesday’s meeting, and that Commissioner Wescoatt recused himself from discussion and action on this item.

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following: That the Hawaiian Homes Commission (HHC): 1) consent to the assignment of General Lease No. 294 ("Lease") from Kalaeloa Home Lands Solar, LLC ("KHLS") to Arion Energy, LLC ("Arion") to develop a solar project on land identified by Tax Map Key No. (1) 9-1-013:029; 2) approve various amendments to the Lease; and 3) approve a license to Arion for an easement from the Premises to an interconnection point on adjacent DHHL land identified by Tax Map Key No. (1)9-1-0 13: 119.

Consent to the assignment and approval of the amendments of lease and the license easement shall be subject to the following conditions. Details of other financial terms and conditions concerning the amendment of the Lease will be disclosed and discussed in executive session.

Chair Masagatani reviewed that the action is an assignment of lease of General lease No. 294, but there are amendments to the lease that need to be discussed in executive session. She asked if this request is in anticipation of Hawaiian Electric issuing a RFP, or if there is already a power purchase agreement. K. Albinio stated there is no power purchase agreement.

Commissioner Kaapu asked if community solar will be available for beneficiaries. What is the current use of the property. K. Albinio stated there are no guarantees, but the Public Utilities Commission wants implementation of a community solar program as soon as possible. He added that the property is not being used at the moment.

Chair Masagatani asked if the parcel’s proximity to the runway restricts its use in any way. DHHL Renewable Energy Consultant Carl Stalkoff stated that FAA regulations do not allow any structures higher than ten-feet in that area. The parcel is really only conducive to solar projects

below the height restriction. K. Albinio stated they already have an FAA permit to build in the easement. The permit needs to be updated yearly.

Action deferred to Tuesday.

RECESS 12:50 p.m.

RECONVENE 1:03 p.m.

MOTION/ACTION

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

EXECUTIVE SESSION IN 1:03 p.m.

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. Legal Issues Associated with County license request for Mahinahina and other related water issues in west Maui.

EXECUTIVE SESSION OUT 2:33 p.m.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

ITEM J-4 Dave Taylor – Director of the County of Maui Department of Water Supply- Mahinahina

D. Taylor introduced his staff members: Engineering Division Head Wendy Tauamoto, Engineer Tom Hoswive and Engineer Jason Yabuchi. As a whole the County of Maui is committed to working with DHHL. They recognize that DHHL has a unique circumstance and DWS has enjoyed the partnership where DHHL develops water and wastewater systems and DWS manages it. They recognize that they cannot take ownership of the land but also that DHHL doesn't necessarily want to manage water systems. They see the relationship as vital.

The project before the Commission today is DWS' effort to develop general water source for the west Maui area. That means DWS needs access to DHHL land. DHHL has future projects, which will need this backbone infrastructure to exist in for these projects come to fruition. They view this project as just one piece of a decades long partnership.

Chair Masagatani stated when it comes down to it, DHHL's beneficiaries are also the county's residents, therefore DHHL is willing to work collaboratively with DWS. For DHHL, Commissioners have a unique perspective unique to DHHL and its beneficiaries. As it relates to Mahinahina, the first thing to consider is the timeframe for Department of Health (DOH) resources.

W. Tauamoto stated DOH is gearing toward fiscal year 2019, which starts on July 1, 2018.

Chair Masagatani stated as it relates to Honokowai, the well site and water treatment facility site are located above one of the areas DHHL is working to developing for the beneficiaries. DHHL does not currently have the infrastructure to bring water to this area. The Commission would like to explore the currency of water rather than dollars, in a way that makes sense. How does DHHL go about pursuing this option, knowing that DWS may not have the authority to make this offer.

D. Taylor appreciated that Commissioners were thoroughly briefed by DHHL staff. He added that the only two mechanisms to grant water credits. The first is when money is exchanged and a water meter is reserved for up to 3-years. The second way is via special contract that only the County Council can approve, on a case-by-case basis. The Council has approved only one contract like this in the last 10-years.

Commissioner Kaapu asked if DWS uses surface water and what is the basis for getting surface water. D. Taylor stated Maui Land and Pine has either a tunnel license or a diversion permit with the Commission for Water Resource Management (CWRM) and DWS has a contract with them for delivery of the water. Commissioner Kaapu asked if DHHL were to get a reservation for that surface water, would it help. D. Taylor stated the treatment plant is running at maximum capacity, so any more water would require an investment in another treatment plant. At this point the only designated surface water system is Na Wai Eha.

Chair Masagatani asked if moving the location of the reservoir higher could potentially open up use of DHHL lands in Honokowai. D. Taylor stated tanks need to be placed at certain elevations so users don't get too much pressure, or not enough. There are several tanks servicing Wailuku Heights because of this. As development occurs over a wide area of land, it generally requires more tanks to get the right amount of pressure. DWS is open to helping with anything at the early stages, but it is difficult to commit without knowing what the final plans look like.

Chair Masagatani stated as it relates to Leialii, DHHL is limited in its future phases because of the lack of available water and sewer credits. The scenario the Commission is looking at is what we are willing to accept as payment for the license. It could be negotiated between DWS and DHHL and presented to the County Council for approval. Would DWS be open to discussing the possibility of water credits for Leialii as part of the compensation for the license fee? D. Taylor stated they are open to it, but what is challenging for them is reserving capacity for long periods of time when there are fixed costs just to operate and there are no customers paying in. DWS understands that DHHL is looking to develop its own well. The system DWS is trying to develop now will build the backbone to accept that water. The DHHL well really cannot work alone. It will need something to back it up and can be used as part of the bigger system. It's difficult to make a grand bargain on one little piece without knowing what the other pieces are. But they are open to it. Without the core system in place there won't be any system that DHHL can tie into.

Chair Masagatani stated that while DHHL is not in the business of managing water systems, at the end of the day, 20 years from now, when our beneficiaries look at this, the Commission wants to be able to say that it did everything we could to make this water, that's sitting on DHHL land, available to them. The Commission appreciated the conversation and the nuances that DWS is dealing with and hopefully that parties can explore some of these other options instead of just monetary compensation. A monetary fee is the least desirable option at this point, given the dynamics that DHHL is dealing with. The hope is that we can find a solution that works for both departments, which may be the strongest path forward to get to servicing the people of West Maui.

D. Taylor clarified that at the end of the day they can only promise what they have, and right now they don't have a lot of capacity on the west side. He wanted to clarify that it isn't a bureaucratic problem, but rather a physical problem. They are already struggling to serve the existing customers. Without the new well or some physical source improvements to make more water available, there won't be anything to reserve. The water is not on the land, it's at sea level. What beneficiaries are getting as a tradeoff is the ability to get the water DHHL is going to develop to the location of your parcels. DWS connects them all. All the pieces are necessary to serve any one customer.

Commissioner Wescoatt thanked D. Taylor for coming and appreciated the context. He asked if the appraisal value of the land was in the area of \$300,000, is there something DWS could do for that value that would help DHHL get water to its Honokowai parcels. What could DWS do for the value to help DHHL provide water to that area.

W. Tauamoto stated there will be a control tank built with the well development project, and DWS is willing to upsize the control tank and move forward with the design and construction with the license, without asking DHHL to pay for the \$800,000 upsizing costs. The control tank started out at 200,000 gallons but for DHHL's future connection they will increase it to a 500,000-gallon tank.

Commissioner Wescoatt asked if water can be taken from the control tank for DHHL's land in that area in the future. W. Tauamoto stated that they can review the option while they initiate the design of the control tank. From what they gathered from staff is that DHHL doesn't have a master plan for the Honokowai tract. They need to know what area they will be serving from the control tank.

Chair Masagatani stated the island plans do have land use designations so there are gross numbers to use for planning and design without compromising the engineering of the system. W. Tauamoto stated the control tank needs to be where it is at this point, but they could consider it once they get the development plans for Honokowai.

Commissioner Kaapu stated his concern is that when DHHL is ready to do its projects in Honokowai, that the County won't say there's no water for DHHL's projects. D. Taylor replied that with the well DHHL is proposing to develop in Honokowai it will guarantee water for your projects. The water will be absorbed by DWS but DHHL would get up to 80% of the reliable capacity yield.

Commissioner Chin stated if the control tank could be used for storage and the immediate areas, it would really help.

Commissioner Kaapu asked for a timeframe to get a decision from the Commission. W. Tauamoto stated they are hoping for a decision in November. They also need the County Council's budget authorization in addition to the DOH's budget authorization.

Chair Masagatani stated that the November time-frame is very tight because the department takes all long-term land disposition requests to the community for input in the form of a beneficiary consultation/informational meeting. The best option is to work collaboratively to a mutual resolution. She thanked D. Taylor and his team for allowing the Commission time to discuss the complexities of the issue.

RECESS

3:39 p.m.

RECONVENE

3:51 p.m.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-2 Approval to Issuance of Right of Entry Permit to La'i'Opua 2020, Kalaoa, N. Kona, Island of Hawai'i, TMK No. (3)7-3-010:007(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following:

That the Hawaiian Homes Commission (HHC) authorize the issuance of a Right of Entry Permit, covering the subject area as identified and described below for solar radiation study to determine if the site has the potential for a photo-voltaic farm.

1. Authorize the issuance of a Right-of-Entry permit to La'i'Opua 2020 covering the subject area under the terms and conditions cited below, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Hawaiian Homes Commission to best serve the interests of the Hawaiian Home Lands Trust;
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

MOTION/ACTION

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

ITEM F-4 Approval for Authorization to General Lease, Kalaeloa, Island of O'ahu, TMK No. (1)9-1-013:038

Note: Commissioner Wescoatt recused himself from discussion and action of this item.

Action deferred to Tuesday.

ITEM F-5 Approval to Extend Right of Entry Permit No. 676, to American Renaissance Academy, Kalaeloa, Island of O'ahu, TMK No. (1) 9-1-013:024(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Kahana Albinio recommended the following:

That the Hawaiian Homes Commission (HHC) grants its approval of a three (3) month extension to Right-of-Entry (ROE) Permit No. 676 to the American Renaissance Academy (ARA) to use a portion of Hawaiian home lands located at Kalaeloa, Oahu, identified as TMK No. (1) 9-1-013:024 (par.) as a school campus. The said ROE expires September 30, 2017; however, ARA secured a new campus location and requests this extension to allow more time to fully buildout their new premises, as well as clean/repair the DHHL premises to the required landlord standard.

LMD recommends that the Terms and Conditions of ROE No. 676 remain the same except for those Terms & Conditions referred to in the submittal.

MOTION

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

Damon Hudson representing American Renaissance Academy stated, while the school secured a new location, they wanted to do a staged move over fall break, Thanksgiving, and winter break. During Christmas break they plan to do the final clean-up of the building. He thanked DHHL for the past nine-years of allowing the school to be at the location. They appreciated everything DHHL has done for the school.

Commissioner Kaapu asked what the department intends to do with the building once the school moves out in December. Chair Masagatani stated that as positions are being filled at DHHL, there will be a need for more office space.

ACTION

Motion carried unanimously.

PLANNING DIVISION

ITEM G-1 Approval of 2018 Legislative Proposals

RECOMMENDED MOTION/ACTION

Acting Planning Division Manager Kaleo Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following:

That the Hawaiian Homes Commission approves the legislative proposals to be recommended for inclusion in the Administration's legislative package for the 2018 Regular Session.

MOTION

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

L. Kinilau-Cano reviewed the two legislative proposals as included in the submittals.

- Proposal HHL-01 (18) Relating to Personal Privacy
- Proposal HHL-02 (18) Relating to Interim Rules

L. Kinilau-Cano stated the proposed legislation HHL-02 creates a new section of the Hawai'i Revised Statutes (HRS) that allows DHHL after consultation with beneficiaries and organizations representing beneficiaries and upon approval by the Hawaiian Homes Commission to issue interim rules, which shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of Chapter 91 as long as the interim rules are effective for not more than eighteen months.

She added, DHHL still needs to complete the Chapter 91 process for final rules, however this bill will allow the department to move quickly in issuing interim rules after consultation with beneficiaries and approval from the Commission. The eighteen-month limitation of life further ensures that the department has adequate time to adopt permanent rules through the Chapter 91 process.

Chair Masagatani stated the procurement office already has this ability. This bill allows the department to pilot a program with rules to see how the program will really work and iron out any bugs or close any unexpected loopholes in the permanent rules.

Commissioner Wescoatt asked what the strategy is for building support for the bill at the legislature. L. Kinilau-Cano stated accessory dwelling units are a big thing at the legislature this session so the strategy is to highlight that this bill will help DHHL do it quicker.

Commissioner Kaapu asked what happened to the Kuhio lease legislation from the last workshop. L. Kinilau-Cano stated there are things in the proposed legislation that need to be flushed out further. Commissioner Kaapu commented that given the aging population of the beneficiaries, it would be better to get it going sooner rather than later.

Chair Masagatani stated DHHL Rules Officer Hokulei Lindsey will attend Tuesday's meeting and can elaborate on the status of the Kuhio lease program and the issues associated with this proposed idea.

L. Kinilau-Cano added that DHHL's bill regarding representation on the Council for Water and Resource Management is still alive. It was not included in the Governor's package, but it is alive. The bill adding a Lana'i Commissioner is also alive and actually needs only one more committee approval to move to conference.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

ITEM G-2 Maui Regional Plan Update

RECOMMENDED MOTION/ACTION

None. For information only.

Acting Planning Division Manager Kaleo Manuel and Planner Julie Cachola provided an update on the West and Central Maui Projects.

EXISTING PLANS & IMPLEMENTATION STATUS

Maui Island Plan

The Maui Island Plan was adopted by the Commission in September 2004. The purpose of each DHHL Island Plan is to:

- 1) identify island-wide needs, opportunities, and priorities;
- 2) implement land use goals and objectives of the General Plan in appropriate areas on each island;
- 3) assess land suitability and capacity against demand/needs to assign land use designations for all land holdings; and
- 4) identify priority areas for homestead development.

Priority Tracts for Homestead Development

The Maui Island Plan identified Kēōkea-Waiohuli, Honokōwai, and Wākiu as high priority tracts for homestead development. Of the 3 priority tracts, the department focused on the Kēōkea-Waiohuli tract. The department ensured consistent funding for the planning, design and construction of necessary roads, drainage systems, wastewater lines, a potable water system (new

wells, 2 new booster pumps, storage facilities, transmission lines, and bypass lines), and the development of residential and agricultural lots. The targeted resources added 457 new homestead lessees to the 248 lessees that held leases in Kēōkea-Waiohuli before the Island Plan was adopted. As a result, the Kēōkea-Waiohuli region is now host to the largest homestead community (608 homestead lessees) on the island of Maui.

Commissioner Kaapu asked after looking at the list of applicants, if DHHL had all the money in the world, would it have enough land to give everyone on the waitlist a lease. K. Manuel stated the framing and context in planning the Island Plans have a 20-year horizon and does not aim to eliminate the waitlist. That type of analysis was not part of the frame work when the Island Plans were completed. Commissioner Kaapu stated that kind of analysis puts things into perspective for beneficiaries. It's likely that people on the bottom of the list are not going to ever have a lease, that's the reality. He would hate to keep going where the beneficiaries keep coming and talking about beneficiaries dying on the list. The reality is that the department cannot do that much.

Chair Masagatani stated that people don't finish the sentence, to say they are on the list and were offered a lease five times. Or, that when the department made an offer, they did not respond. Only 15% of those offered ever respond. The island of O'ahu will max out at approximately 1,000 lots.

Commissioner Kaapu stated in the 20-year plan the department may have to switch the paradigm and look at going vertical. There is a potential for everyone to get a place, not necessarily a parcel of land, but something.

Commissioner Wescoatt disagreed and stated that the department could not do enough vertical builds to satisfy the need. DHHL has the Kūhiō Lease on one hand where everyone gets a coupon that says someday you can turn this into a lease, and on the other hand there is the successorship bill which says no land is ever coming back to the inventory. Those two are opposites and contradictory. Commissioner Kaapu stated maybe the department needs to set its sights on acquiring more land, but the idea is to give beneficiaries a realistic view of what's at hand.

Chair Masagatani added another option is that instead of investing \$100,000 per lot in building a home, use the same amount of money to help the beneficiary buy a home in exchange for coming off the list. Something like that could be an alternative. People who don't want to live where DHHL has land, could still benefit from the trust.

J. Cachola continued with the presentation and reviewed the project, description and status of each of the items in the submittal.

LAND MANAGEMENT DIVISION

ITEM F-6 Update on reforms to DHHL Right of Entry/Revocable Permit Program

RECOMMENDATION

None. For Information Only.

Acting Land Management Administrator Kahana Albinio recommended the following:

DISCUSSION

As a means to reaching a fair and transparent process for DHHL's right of entry/revocable permit program LMD seeks to accomplish the following tasks:

1. Procure professional commercial real estate consulting firm to:
 - a) Re-assess the standard practice in our rental methodology for revocable permits and apply an updated method that will determine appropriate rents to better reflect current values for industrial, commercial, and ag/pastoral land use designations.
 - b) Assist DHHL in determining whether revenues are being maximized.
2. Continue assessment of formulating a system not founded on a "first come, first served" basis, but rather a system that allows for beneficiaries to participate in when opportunities are made available.

Commissioner Wescoatt stated there are two major complaints about the ROE program. The first is giving beneficiaries the opportunity to get on the land. The second is the term of the ROE permits. The annual renewal process is dis-advantageous to both the department and the lessee. The department has the administrative burden of having to do these renewals every year and the lessee cannot get financing or invest in the property. He wants the department to move from short-term dispositions to something longer.

He has repeatedly requested that the ROEs be put up on the website 90-days prior to the end of the term so that others can look at what's available and maybe offer a plan of their own. Any land owner would want to look for the best tenant with the best plan or the best management, to get the best use of the property or the most revenue in some cases. He also recommended an online application process that everyone can access. The application should be accompanied by a scoring system with certain criteria that will help the department find the best applicant.

K. Albinio stated they are still trying to develop a process similar to the general lease process.

Commissioner Kaapu asked if the ROEs can be divided up. Some of them are better suited for long-term leases like the industrial types while others are more short term. It doesn't make sense to do annual ROEs for commercial areas like Kalaeloa. K. Albinio stated in Kalaeloa there are multiple tenants on huge parcels. DHHL could subdivide the lots but infrastructure to each lot would need to be provided.

Chair Masagatani stated the department knows that Kalaeloa is a prime area for redevelopment and any investment will yield a favorable rate of return. It could take a while to get to that decision and in the meantime there's a need to have presence on the land. The two themes that keep coming up is are we getting the fair market value for the ROEs and even if the permits are short term, is there a way to afford beneficiaries an opportunity to get in the game. The solutions for commercial and industrial lands won't be the same for farmers or ranchers. She adds the department will likely procure for services to do a comprehensive analysis.

Commissioner Kaapu asked that part of the end result include mercantile licenses or doing administrative rules that address mercantile licenses so beneficiaries don't have to go through the same process as the general public.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Annual Renewal of Right of Entry Permits, Maui Island

RECOMMENDATION

Acting Land Management Administrator Kahana Albinio recommended the following:
That the Hawaiian Homes Commission (HHC) approve the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A. Renew all Maui Island Right of Entry Permits issued to Beneficiary Homestead Organizations as listed in the submittal that are in compliance and issued temporary approvals, as of October 1, 2016, granted by the Hawaiian Homes Commission at its September 2016 meeting under Agenda Item No. F-1.
- B. The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than September 30, 2018.
- C. Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

MOTION

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

Commissioner Chin noted three revenue producing ROE permits were not being renewed. She asked what RP 491 and 492 were used for under the previous permit, and whether or not there is access to water. K. Manuel stated the parcels are both related to Item G-3 and there is infrastructure in place but the issue is related to the source of the water. As part of the Pulehunui Master Plan the department is looking at short-term use of the water. One of the issues is that the ditch is owned by East Maui Irrigation or HC&S. The source of the water flowing through the ditch is currently being contested. DHHL would need to get access to use the water from CWRM, and then contract with the owners of the ditch.

Commissioner Wescoatt asked if there is any interest in the parcel. K. Manuel stated the department put out the lense piece in 2009 and there was one bid. The biggest issue is water and wastewater. DLNR is also pushing their light industrial land use project across the street. One of the recommendations from the consultants is to do an EA that was not done on the 40 acre parcel not included in RP 491 and 492. DHHL could also rely on the EA from the larger parcels and assume the same for the adjacent 40 acres.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 FY 2018 DHHL Budget Amendment no. 2 (relative to H-3)

RECOMMENDATION

None. For Information Only

Administrative Services Officer Rodney Lau provided the following workshop presentation:

On June 20, 2017, the Hawaiian Homes Commission (HHC) approved the Fiscal Year 2018

Operating Budget for the Administrative and Operating costs of the Department of Hawaiian

Home Lands. Amendment no. 2 proposes budget adjustments to the following cost centers.

Planning Office

DHHL proposes reallocating budget items within the Planning Office general fund budget. The reallocation of costs is a trade-off and does not increase the general fund budget.

The Planning Office includes budget request increases to the Hawaiian Home Operating Fund and Native Hawaiian Rehabilitation Fund, (DHHL trust funds) for the following purposes:

1. \$15,000 H.H. Operating Fund - Development Portion - Purchase of a map plotter/scanner
 2. \$100,000 NHRF - Puwalu related costs
 3. \$200,000 H.H. Operating Fund - Development Portion - HHL Claims
 4. \$500,000 H.H. Operating Fund- Operating Portion: Rehabilitation, Water and Agricultural projects
-
- \$850,000 Total

Land Management Division

DHHL proposes shifting general fund turnover savings (\$300,000) in the "Personnel costs" category down to the "Other Current Costs" category to finance "Repairs and Maintenance of Unencumbered Lands". The reallocation of costs is a trade-off and does not increase the general fund budget.

The Land Management Division request budget increases to the Hawaiian Home Operating Fund, a DHHL Trust fund, for the following purposes:

1. \$50,000 H.H. Operating Fund- Operating Portion: Property surveys/Subdivisions
 2. \$100,000 H.H. Operating Fund- Operating Portion: Chapter 343 Compliance
-
- \$150,000 Total

The Hawaiian Home Operating Fund - Development Portion budget adjustments are required to go through further review with the Department of Budget and Finance. Attachment "A" presents the approved FY 2018 DHHL Budget, Amendment no. 2 adjustments, and cumulative adjusted budget amounts.

Commissioner Wescoatt asked for more information on the HHL Claims line item. K. Manuel stated there are a number of outstanding claims that used to be handled by a staff member who retired. The department wants to make sure the claims are not forgotten.

Commissioner Wescoatt asked if any of it will result in additional land. K. Manuel confirmed that it should result in additional land.

Commissioner Kaapu asked if the department does evaluations of what was accomplished in that year as it related to the actual budget, like a scorecard. Chair Masagatani stated the department hasn't but that it is something the department hopes to implement.

Commissioner Wescoatt asked when Commissioners can expect a budget to actuals report. Chair Masagatani stated by February 2018, Commissioners should be able to get the numbers from the December 2017 closing.

Commissioner Wescoatt stated, even the 2016 numbers would be valuable to make decisions. In order for Commissioners to say that they are exercising fiscal responsibility, at a minimum, budget to actuals should be provided every six (6) months. Chair Masagatani stated it's a lot

more complicated because there are a number of accounts, but she will work toward the end of year actuals.

ITEM H-2 DHHL Supplemental Budget Requests for Fiscal Year 2019 (Sufficient Sums Budget) (relative to H-4)

RECOMMENDATION

None. For Information Only

Administrative Services Officer Rodney Lau provided the following workshop presentation:

Summarized below is the department's supplemental operating budget request:

Hawaiian Homes Commission Budget Request: Purpose no. 4- State Constitution, Article XII, Section 1 FY 2019 (260.00 positions)

Administrative and Operating Budget Request	\$31,831,519 (A)
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Operating Budget: Repairs and Maintenance of Existing Infrastructure	\$3,613,000 (A)
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CIP Budget: Repairs and Maintenance of Existing Infrastructure	\$35,315,000 (C)
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Total HHC Administrative and Operating Budget Request	\$70,759,519
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Means of Financing: (A) = General Fund; (C) = General Obligation Bond

Summarized below is the department's supplemental CIP budget request:

Hawaiian Homes Commission Budget Request: Purposes no. 1, 2, 3, State Constitution, Article XII, Section 1 FY 2019

Purpose 1: Lot Development	\$146,625,000 (C)
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Purpose 2: Loans	\$73,100,000 (C)
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Purpose 3: Rehabilitation Projects	\$29,050,000 (C)
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Rehabilitation Projects	\$13,109,100 (A)
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Total	\$262,384,100
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Means of Financing: (A) = General Fund; (C) = General Obligation Bond

Land Development Administrator Norman Sakamoto asked if an amendment can be made to the Lot Development section of the supplemental CIP budget request to reflect the inclusion of the Anahola Fire Station.

Chair Masagatani added that she asked staff to include planning and environmental studies for the Anahola Fire Station for \$500,000 as it would be the appropriate place to put it before the Governor. She asked Commissioners to add the item and asked staff to provide an amended submittal for Tuesday's approval.

GENERAL AGENDA

ITEM J-1 Rod Paahana – President, Leialii 1A Association

R. Paahana stated he is the president of the Villages of Leialii, which is right next door. One of the issues he mentioned to DHHL staff is that the residents do not want the roads turned over to the County. The community also requested speed bumps to slow people down as they come down the hill.

R. Paahana asked when construction will start on Leialii 1B. Chair Masagatani stated the project start date is contingent on the improvement of the main intersection, the provision of water, and sewer credits. The department had sewer credits but they expired. The department has reapplied for the sewer credits but the County has not issued them as of this month. In terms of water,

HHFDC has agreed to spend \$10 million of their dollars to help DHHL develop a well and fund transmission of the water to Leialii. In terms of the intersection, DHHL has to work with the Legislature to provide funding since the intersection would benefit everyone on the main highway.

R. Paahana suggested bigger lots for Leialii 1B. They have 5,000 square feet lots and folks cannot even park their cars, so folks park on the sidewalks. They suggest going back to 7,000-10,000 square feet lots. There are too many people in such a small area.

R. Paahana expressed frustration about being on the ag waitlist for 20 years. He does not want the department giving him an ag lease when he's 70-years old. DHHL needs to make the land more accessible to beneficiaries. His view is that it is more important to give beneficiaries land before making money from the land. Chair Masagatani stated the land needs water and the department is working with the DWS to make water available to Honokowai parcels. Chair Masagatani asked for R. Paahana's assistance to encourage the County in making water available, as a way to channel his frustration and help in making land available to beneficiaries.

RECESS

6:38 p.m.

HAWAIIAN HOMES COMMISSION
Minutes of September 19, 2017
Meetings held at Lahaina Civic Center, Lahaina, Hawai'i

PRESENT

Jobie M. K. Masagatani, Chairman
Randy K. Awo, Commissioner, Maui
Kathleen P. Chin, Commissioner Kaua'i
David B. Kaapu, Commissioner, West Hawaii
Wren Wescoatt, Commissioner, O'ahu
William Richardson, Commissioner, O'ahu

EXCUSED

Wallace A. Ishibashi, Commissioner, East Hawaii
Michael P. Wescoatt, Commissioner, Oahu

COUNSEL

Matthew Dvonch, Deputy Attorney General

STAFF

William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, Hale Manager
Niniau Simmons, NAHASDA Manager, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Rodney Lau, Administrative Services Officer
Kahana Albinio, Acting Administrator, Land Management Division
Kaleo Manuel, Acting Manager, Planning Office
Francis Apoliona, Compliance Officer
David Hoke, Enforcement Officer
Akoni Shannon, Enforcement Office
Dean Oshiro, Acting Administrator, Homestead Services Division
Stewart Matsunaga, Community Development Manager, Land Development
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
Bryan Cheplic, ICRO
Joann Aiwohi, Homestead Housing Specialist IV
Susie Richey, Secretary to Deputy Director
Debra Aliviado, Customer Service Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani reconvened the meeting at 9:17 a.m

APPROVAL OF MINUTES

Chair Masagatani asked for a motion to approve the minutes of August 2014.

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Chin, to approve the minutes of August 2014. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Blossom Feiteira, President Association for Hawaiians on Homestead Lands Testifying on H Items

B. Feiteira stated she was able to discuss her concerns with Chair Masagatani and asked her questions of DHHL staff, and can support the department's budget request. She added that once the Commission approves the budget she and her association will help defend the budget at the legislature to help DHHL get the money it needs to do its Maui projects.

Commissioner Kaapu and Chair Masagatani thanked B. Feiteira for assisting with the explanations of the complex issues facing the department to the attendees of the prior night's community meeting. Her explanations were accurate, concise and presented very well.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

ADMINISTRATIVE SERVICES OFFICE

ITEM H-3 FY 2018 DHHL Budget Amendment no. 2

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following motion:
That the Commission approve Amendment no. 2 to Fiscal Year 2018 Department of Hawaiian Home Lands Budget.

MOTION/ACTION

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

ITEM H-4 Approval of DHHL Supplemental Budget Requests for Fiscal Year 2019 (Sufficient Sums Budget)

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:

1. That the Commission approve the FY 2018-2019 Operating and Capital Improvement Program (CIP) budget request (Sufficient Sums Budget) presented below to the Governor for consideration in the Administration's Executive Budget requests to the 2018 Legislature.
2. That the Commission approve the FY 2018-2019 Operating and Capital Improvement Program (CIP) budget request (Sufficient Sums Budget) be presented to the 2018 Legislature.
3. That the Commission authorize the Chairman to adjust the Operating and CIP budget request to make technical adjustments due to minor errors before it is incorporated into the Administration's Executive Budget.

MOTION

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

DISCUSSION

Commissioner Richardson stated the budget seemed like a “pie in the sky” kind of request, and asked what chance does it have at the Legislature. Chair Masagatani stated last years was an example of “you never know until you ask.” The Governor’s allocation was \$20 million but the department ended up with \$34 million.

Commissioner Richardson asked if this budget request fulfills the departments fiduciary duty to request sufficient sums. Chair Masagatani confirmed that it does.

ACTION

Motion approved unanimously

ITEM H-5 Transfer of Hawaiian Home Receipts Fund Money at the End of the First Quarter, FY 2018

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
That the Commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of September 30, 2017, to the Hawaiian Home General Loan Fund.

MOTION

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

DISCUSSION

Commissioner Chin asked if the amount is really \$750,000. R. Lau stated there are issues at the Department of Budget and Finance and the Department of Accounting and General Services. They have a shortage of employees which is causing delays. Normally this fund collects \$1 million dollars quarterly so the staffing problem causes issues for DHHL’s loan funds. Until DAGS posts the deposits, we cannot spend it and there is a cash flow issue.

ACTION

Motion approved unanimously

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-2 For information only: Beneficiary Consultation Report on Proposed Administrative Rules for Water Systems and Planning System

RECOMMENDED MOTION/ACTION

None. For information, only. Rules Officer Hokulei Lindsey presented the following:
H. Lindsey stated the document talks about the process the department undertook in order to do consultation. In April 2017, the department received permission from the Commission to

proceed with beneficiary consultation. From June 22 – August 24, 2017, department staff travelled statewide and conducted consultation meetings on every island. The bulk of the submittal is the transcribed notes from the consultation meetings.

Commissioner Kaapu asked how much the consultation meetings cost and is it something associations can help with. H. Lindsey stated the costs are significant with travel and mailing, but staff learned that attendance depends on the topic. When the department did consultations for genetic testing there were 200 people at several meetings. This time around, there weren't as many people.

K. Manuel added that the department has a beneficiary consultation policy and the budget for one statewide consultation is about \$20,000.00. The costs include venue rentals, mailings, AV rentals, staff airfare, hotel and car rentals. It does not include staff time. Commissioner Kaapu stated when you include staff time the costs are higher.

Chair Masagatani stated she is a supporter of the associations being more involved but some of the rules are controversial. Commissioner Kaapu replied that instead of ten staff members attending, two or three staff can do the important parts. Certain consultations require more staff effort, but others can be a training situation for association leaders to be facilitators.

Commissioner Richardson asked if the consultations can be combined so that each meeting has a slate of 5 to 10 rules. H. Lindsey stated even some of the less attractive rules like water systems and planning are actually very complex. The comments will show that more time needs to be allocated to explaining the topics.

K. Manuel added that the department did 50 community meetings last year, so the consultations sometimes are an over saturation of meetings especially when you include Commission meetings. The two major issues are logistics and the carrying capacity of the community. The other issue is that not all the associations represent the entire community. By allowing one association to run a meeting, others are put off, and will not attend. As an agency, DHHL's obligation is to the whole – all beneficiaries- and trying to get the sentiment of the whole is the goal. The policy is due for an update and there is room for improvement. Staff also has recommendations to improve the process.

Commissioner Awo asked how far the department goes to reach beneficiaries who are difficult to reach. K. Manuel stated the most important part of the process is the mailers. Every beneficiary knows that the department is seeking input and each person has the opportunity to engage in the process or not. Chair Masagatani added that the department is working to improve communication with beneficiaries by improving the website. There was a comment form on the website for the consultation process along with the all the information related to the consultation.

Commissioner Chin stated it is important that department conduct the consultation as the neutral party to get the best sentiment from the beneficiaries. Most of those that show up are either adverse to the rule or need a lot of education on the topic, and having the proper staff in attendance is important. She believed the outreach is important and is appreciative of the work the staff is doing to keep the community engaged.

Chair Masagatani asked H. Lindsey to update the Commission on the status of Kuhio Leases and rulemaking. H. Lindsey summarized that the idea of the Kuhio Lease is that the original award of a homestead lease must be to a native Hawaiian who is at least 18 years old. Once you have a lease you can name a successor who is 25% Hawaiian. The Kuhio lease will relieve the inequity

between those who have leases and those on the waitlist who cannot lease their space on the waitlist to a 25% Hawaiian family member . The average age of beneficiaries on the waitlist is 55 years old and most are not interested in taking on a 30-year mortgage but rather more interested in passing their lease on to their children. The most obvious issue is the operational capacity of the department to take on 20,000 lessees.

Commissioner Kaapu asked how many people are on the waitlist. H. Lindsey stated she didn't know the exact number because of the residential, ag and pastoral waitlists. The residential waitlist is around 20,000.

Commissioner Richardson stated he is against something like the Kuhio Lease until the waitlist of fifty-percenters is cleared. He views it as a backhanded way of increasing the waitlist with twenty-five-percenters.

Commissioner Kaapu stated that there is a potential to give waitlisters interest in a timeshare type of lease where each person would utilize the property for a week a year. There could be 52 people attached to one property and would solve the possessory interest issue. It would be voluntary and more for those who want something to pass on to a successor. There is a lot of details to work out but its something to think about. The biggest complaint is that the fifty percenters are dying while waiting on the list leaving their family with nothing. So this product may eliminate this concern.

Commissioner Wescoatt commented that he views it as creating another list. There will still be people on the waitlist who won't have a Kuhio Lease. H. Lindsey commented that the waitlist probably will never go away. There are things for the department to strive for, and there are different ways to look at it. Commissioner Wescoatt further stated his concern is that the rate at which the department is providing properties and the rate at which folks are getting on the list will never match up.

H. Lindsey added that when you look at rehabilitation and what rehabilitation means and what homesteading means, is it a residential lot or could there also be opportunity to access land and be among community and rehabilitate that way. There is a big focus on residential lots but DHHL has different types of land awards like ag, pastoral and aquaculture. There are other ways to facilitate those types of activities other than residences. Commissioner Wescoatt agreed and felt the department needs to look other solutions instead of giving waitlisters twenty-five more years. The department needs to look at new solutions and talk about what the department can achieve for its beneficiaries so we don't have perpetually unmet expectations.

Commissioner Chin felt the intention of The Kuhio Lease is good but she agreed that it would just create another list. It would solve the problem for kupuna who just want something to pass on. How do you pull those people out if they're not at the top of the list. The solution may be addressing different islands in different ways. Urban Oahu waitlisters would be more open to apartments.

Commissioner Kaapu stated folks on the waitlist who passed on offerings in the past because they couldn't qualify financially, are probably not going to be able to afford it now either. In Keaukaha the department could find only two families who qualified to participate in the NAHASDA offering. Chair Masagatani stated anecdotally, the reason most waitlisters passed on an offering is because of location. People from the east side of the island don't want to live in Nanakuli.

Commissioner Richardson stated he is more concerned with those on the waitlist who have never received an offering. He wants to focus on affordable housing like rentals or apartments to the fifty-percenters rather than expanding the waitlist.

Chair Masagatani stated in Waimanalo there were 45 lots and 44 families offered but still some families were not responsive. The department offered financial counseling, self-help, owner-builder and vacant lots but still some families were unresponsive.

Hale Manager Paula Aila offered that location was the number one reason for passing on offerings. The workshops gave the department the ability to educate beneficiaries on the realities of where the department is offering lots. The same thing is happening in Anahola and La'iopua.

Commissioner Wescoatt asked if the data about waitlisters who have passed on offerings is available. Chair Masagatani stated the data is available in hard copy but has not been summarized.

Commissioner Wescoatt asked if with every offering, the department starts at No. 1. Acting Homestead Services Division Manager Dean Oshiro stated in the case of reawards they do start with No. 1. If there is a second reaward, they again start with No.1.

P. Aila added that of the 27,000 on the waitlist nearly 15,000 are 49 years or older. Those between 29 and 49 are more apt to take on a mortgage. The rest are likely kupuna who want to pass the lease on to their families.

Commissioner Wescoatt stated he is surprised that someone on the waitlist could have passed on multiple offers while others on the list have never been offered anything. The inequity is huge, someone at 1200 may have never received an offer. He asked how far down the list has an offering gone.

Commissioner Richardson asked for confirmation that there are no beneficiaries of the 27,000 on the waitlist who have not received an offer. Chair Masagatani stated it depends on the island. Commissioner Richardson stated he would advocate for the beneficiary on the residential waitlist that has never received an offer. Chair Masagatani added that some offers were tied to being able to qualify for turnkey homes.

Chair Masagatani thanked H. Lindsey for the update and commissioners for the discussion.

RECESS 10:45 a.m.

RECONVENE 11:10 a.m.

MOTION/ACTION

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

EXECUTIVE SESSION IN 11:15 a.m.

EXECUTIVE SESSION OUT 12:00 p.m.

ITEM C-3 For information only: Update on Declaration of Conditions, Covenants and Restrictions/Planned Communities

RECOMMENDED MOTION/ACTION

None. For information, only.

Rules Officer Hokulei Lindsey provided a workshop on the Department of Hawaiian Home Lands and DCCR Communities.

Presentation Overview

- Background
- Kalawahine vs. DHHL
- What the Department does for DCCR communities
- Moving forward

DCCR Communities

Community	Lessees on Lot	Lots (Projected)
Laiopua*	61	(1,340)
Lalamilo*	30	448
Leialii	104	(357)
Waiehu Kou 2	109	109
Waiehu Kou 3	114	114
Waiehu Kou 4	98	98
Lanai	29	45
Princess Kahanu Estates	271	271
Maluohai	222 (+1 in process)	226
Kaupea	326	326
Kanehili*	358	403
Kaupuni	19	19
Kumuhau-Kakaina*	52	97
Kalawahine Streamside	92	92
Piilani Mai Ke Kai*	58 (+22 in process)	177

Total Lessees on Lot: 1,943 *Development on going

Lot Status

Community	Lots	Lessees Total	Construction	Inventory
Laiopua*	(1,340)	286	118 (underway) 101 (pending)	HSD: 1

			Est. 778 (future)	
Lalamilo*	448	30	81 (hold) 330 (design hold)	LDD: 2
Leialii	(357)	104	Est. 253 (future)	--
Waiehu Kou 2	108	108	--	--
Waiehu Kou 3	115	115	--	HSD: 1
Waiehu Kou 4	98	98	--	HSD: 1
Lanai	45	29	--	--
Princess Kahanu	271	271	--	--
Maluohai	226	225	--	--
Kaupea	326	326	--	HSD: 1
Kanehili*	403	336	67 (underway)	--
Kaupuni	19	19	--	--
Kumuhau-Kakaina*	97	65	15 (underway)	LDD: 17
Kalawahine	92	92	--	HSD:1
Piilani Mai Ke Kai*	177	58	46 (pending)	LDD: 51

Total Lots: (4,122) * Development on going

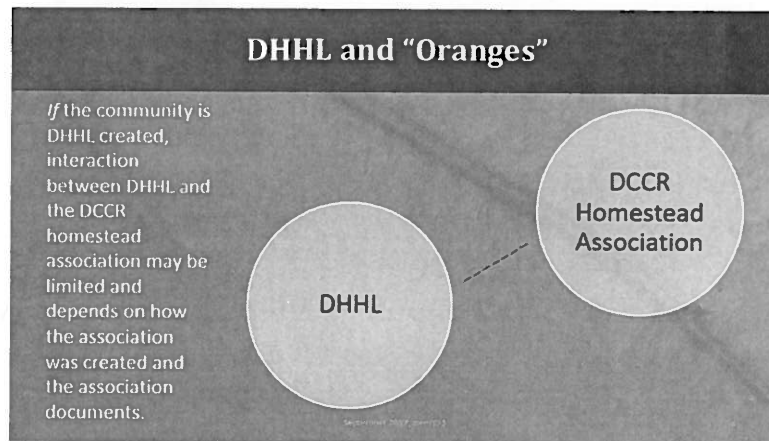
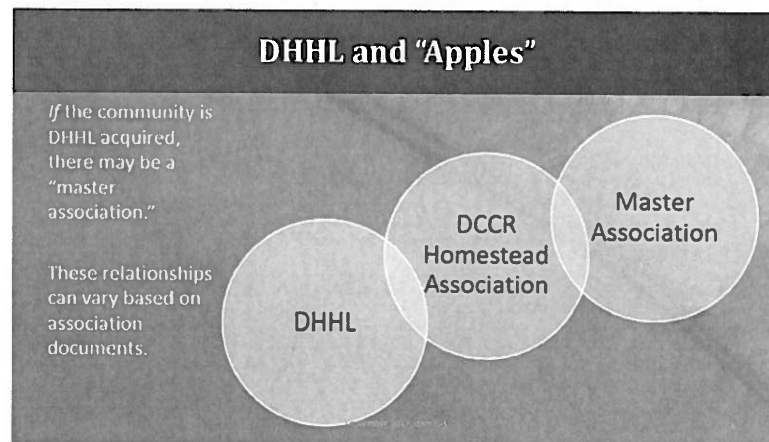
H. Lindsey explained that the LDD inventory are lots that have never been awarded. The HSD inventory are lots that were awarded and have come back to the department for one reason or another.

- **Two types of DCCR communities exist on Hawaiian home lands:**
 - DHHL *created* (11), and
 - DHHL *acquired*
 - Leialii, Maluohai, Kaupea, Laiopua
- **HHCA section 207.5**

“DHHL should have promulgated administrative rules before incorporating the DCCRs into the homestead leases issued to Kalawahine Project residents.” Kalawahine v. DHHL (2015)

“[I]ndependent of the homestead lease, the Kalawahine Project residents are bound by the DCCRs pursuant to their sales contract with [the developer] . . . the DCCRs . . . remain subject to enforcement by the Association.” Kalawahine v. DHHL (2015)
- **Generally...**
 - DHHL *acquired* communities are subject to enforcement of the DCCRs by the Department.
 - DHHL *created* communities are subject to enforcement of the DCCRs by their respective Associations.

- Ultimately, how DHHL relates to each association will depend upon the (1) particularities of the development, and (2) association documents.



DHHL, “Apples,” and “Oranges”

- Enforcement issues
 - Delinquent assessments
 - Kanawai procedures
- Loans and transfer requests
- New lessee contact information
- Inactive/Not organized associations
- Vacant lot awards

H. Lindsey added some communities do not have active associations to enforce the rules and others don't have common areas, so residents don't want to pay fees when they perceive no benefits. On the other hand, some associations have management companies that handle the fees for them. Circumstances range from having no oversight to having a hired management company.

Moving Forward

- Administrative Rules
 - “Method of disposition”
 - “Terms, conditions, covenants, and restrictions as to use and occupancy”
 - Enforcement

H. Lindsey stated the department is meeting with association leaders on Saturday to discuss the rules and talk about the enforcement process the communities want, the importance and gravity of the contested case process, and cancelling leases.

Chair Masagatani asked if the department has the ability to issue fines or a graduated type of enforcement. Deputy AG Dvonch stated he will look into it.

Commissioner Awo commented that philosophically, it would be difficult to see someone lose their lease over something like an abandoned car on the street.

H. Lindsey stated once the department meets with the leaders and has the discussion the next step would be to re-evaluate the draft rules and go out to the community for consultation. This process is early in its development.

Commissioner Kaapu stated he is anxious to get the results of the discussion with the association leaders. H. Lindsey stated the department is hoping for a good turn out to get valuable feedback on how the community views the issue.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-3 Approval to Assignment of Lease and Amendments, and Issuance of Easement License, Kalaeloa Home Lands Solar, LLC / General Lease No. 294, Kalaeloa, Island of Oahu, Tax Map Key No. (1) 9-1-013:029

Note: Commissioner Wescoatt is recused from the discussion and vote on the following items.

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: That the Hawaiian Homes Commission (HHC): 1) consent to the assignment of General Lease No. 294 ("Lease") from Kalaeloa Home Lands Solar, LLC ("KHLS") to Arion Energy, LLC ("Arion") to develop a solar project on land identified by Tax Map Key No. (1) 9-1-013:029; 2) approve various amendments to the Lease; and 3) approve a license to Arion for an easement from the Premises to an interconnection point on adjacent DHHL land identified by Tax Map Key No. (1)9-1-0 13: 119.

Chair Masagatani asked to add an item #13. To Authorize the Chair to negotiate non-substantive amendments that may be necessary to complete the transaction.

MOTION

Moved by Commissioner Richardson, seconded by Commissioner Awo to approve the motion as stated in the submittal and to add condition #13. As stated by Chair Masagatani.

Chair Masagatani confirmed that Arion agreed to the amendment that for every 1¢ increase or fraction thereof, there would be half-percent of gross revenue payment in rent to DHHL over 15¢ per kilowatt hour in the power purchase agreement. N. _____ confirmed Arion agrees to the terms.

DHHL Energy Consultant Carl Stalkoff reviewed the financial terms which will allow both partners to make a fair return on the investment. Chair Masagatani asked if the department will be able to get the same returns in the current market. C. Stalkoff stated the price index for solar energy in 2017 are around 11¢ per kilowatt hour. Given the 2017 market conditions, the agreement is a sound investment.

ACTION

Motion carried. Commissioner Wescoatt recused.

ITEM F-4 Approval for Authorization to General Lease, Kalaeloa, Island of O’ahu, TMK No. (1) 9-1-013:038

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
That the Hawaiian Homes Commission authorizes the following:

1. To advertise and conduct a land disposition for a renewable energy project on Hawaiian home lands at East Kalaeloa, Island of Oahu, Tax Map Key No. (1) 9-1-013:038 pursuant to Section 171-9 5.3, HRS;
2. To set all appropriate terms and conditions, to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, Hawaii Revised Statutes, as amended;
3. To expend budgeted funds to conduct an appraisal report on the aforementioned parcels which are designated for non-residential commercial development, if necessary; and
4. To retain outside legal counsel, if necessary, in the lease negotiations of the final terms and conditions of the lease agreements.

MOTION

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

Commissioner Chin asked if any of the land is suitable for homesteading. K. Albinio stated the land is not suitable for homesteading and several structures are eligible for the National Register of Historic Places.

ACTION

Motion carried. Commissioner Wescoatt recused.

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 FHA Construction Loans

Chair Masagatani announced that she spoke with the consultant who many years ago looked at DHHL's FHA 247 portfolio and he is willing to assist the department in establishing a framework to manage the portfolio's risk at no cost except for his expenses. She will need to check if his services can be offered on a volunteer basis.

LAND DEVELOPMENT DIVISION

ITEM E-2 For Information Only – Background Information on Lualualei Homestead Subdivision, Lualualei, Waianae, Oahu; Tax Map Key Nos.: (1) 8-6-003: 01, 02 & 52

RECOMMENDED MOTION/ACTION

None. For information only.

Acting LDD Administrator Norman Sakamoto provided a brief overview of the nine sections in the submittal and noted that based on the action taken by the Commission yesterday, staff will instruct its consultant and the surveyor to provide the final map. Once the survey is finished DHHL will submit the map to the City and County of Honolulu Department of Planning and Permitting.

Commissioner Chin asked if both processes can be completed within the next six-months. N. Sakamoto agreed.

ITEM E-3 DHHL Lot Development Pipeline

RECOMMENDED MOTION/ACTION

None. For information only.

Acting LDD Administrator Norman Sakamoto and Real Estate Development Specialist Darrell Ing provided a workshop on the lot developments across the state. He provided a 25-slide presentation of all development projects. Projects were planned based on Island Plans and Legislative funding. D. Ing reviewed projects island by island using the maps in the presentation.

Commissioner Richardson asked if the budget were doubled how much would it reduce the 7-9 year period it takes to get project from planning to award. D. Ing stated increasing the budget would not necessarily shorten the timeframe. A lot of the timeline is based on approvals, design, planning, procuring consultants, bidding for contractors and then another 2-years for the buildout.

	COMPLETED LOTS			ANTICIPATED COMPLETION (SUBJECT TO FUNDING)						TOTAL NEW LOTS	
	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	RES	ACQUIS
Kauai											
* Pilihi Kai Ph 2	51										
* Pilihi Kai Ph 3								40		40	
* Hanalei Residential, Ph 2								80		80	
Oahu											
* East Kapolei IIB		160								160	
* East Kapolei IIC						130				130	
* East Kapolei IIA (TOD)								157		157	
* Waimanalo (Freitas)				8						8	
* Maui - Ulu Ke Kuku					80						
* Maui - VOA Ph 1								72		72	
* Waimanalo Res (Kakaha)			45								
* Waimanalo Ag (Wakapohia)						15					15
* Waimanalo Res & Ag (Wong)								175		175	
										125	50
Maui											
* Keokea Waiohuli Ph 1-A			45								
* Keokea Waiohuli Ph 1-B					49					49	
* Keokea Waiohuli Ph 2								78		78	
* Leialua - Ph 1B								253		253	
* Honokowai Subs Ag Ph 1									50		50
Molokai											
Hoolahua-Pala'u						12					12
Nahala							58				58
Hawaii Island											
* Lipoa Village 4 Ph 1 (Akau)		118								118	
* Lipoa Village 4 Ph 2 (Ikeia)						101				101	
* Pahoa Lot 185 Subdivision				18							18
* Honouliuli					100						100
* Kaunohiwi Lot 185						3				3	
* Kilauea Water / Kilauea Lots							50				50
TOTALS	51	278	90	24	180	310	108	839	50	1,080	351
GRAND TOTALS			419								

Leg FY18 \$1,000,000

Designs encumbered
Developer financing
Subdivide only
Re-hab existing Structures
Leg FY18 \$990,000

Leg FY18 \$1,300,000

Leg FY18 \$1,200,000
Leg FY18 \$1,000,000
Leg FY18 \$1,400,000

Leg FY18 \$1,500,000
Leg FY19 \$1,500,000

Designs encumbered
Designs encumbered
Leg FY18 \$500,000
Leg FY18 \$1,500,000

* Island Plan priority projects: regions
Lots Developed - considered done when the sewer contract is completed (minor punchlist to be completed)

* Island Plan priority projects/regions
 Lots Developed - considered done when the sewerwork contract is completed (minor punchlists to be completed)

Chair Masagatani thanked D. Ing and N. Sakamoto for their hard work to put together the workshop information.

Commissioner Wescoatt stated it is a very important part of DHHL's story and shows what the department is going and where the Legislature's funding is going. He appreciated the comprehensive presentation.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular monthly meeting will be held on October 16 & 17, 2017 at the DHHL East Hawai'i District Office.

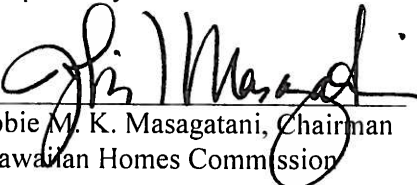
MOTION/ACTION

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

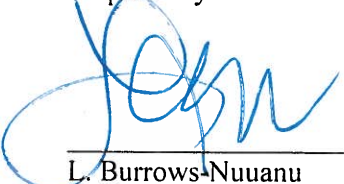
ADJOURNMENT

2:05 p.m.

Respectfully submitted:

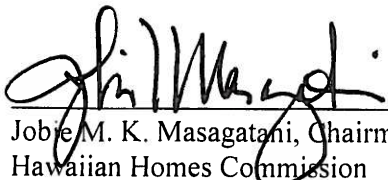

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:


L. Burrows-Nuuanu
Secretary to the Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On


Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission