

HAWAIIAN HOMES COMMISSION

Minutes of March 16, 2020

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

Pursuant to proper call, the 720th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i, beginning at 9:30 a.m.

PRESENT William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
Michael L. Kaleikini, East Hawai`i Commissioner
Russell K. Kaupu, O`ahu Commissioner
Dennis L. Neves, Kauai Commissioner
Patricia A. Teruya, O`ahu Commissioner

EXCUSED Pauline N. Namu`o, O`ahu Commissioner

COUNSEL Ryan Kanaka`ole, Deputy Attorney General

STAFF Tyler I. Gomes, Deputy to the Chairman
Paula Aila, Finance and Development Specialist
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Administrator, Homestead Services Division
Andrew Choy, Acting Manager, Planning Office
Leah Burrows-Nuuanu Secretary to the Commission
Cedric Duarte, ICRO Officer Information & Community Relations Office
Gigi Cairel, Grant Specialist Planning Office
Lehua Kinilau-Cano, NAHASDA Manager
Niniau Simmons, Special Assistant to the Deputy
Juan Garcia, O`ahu District Supervisor
Nancy McPherson, Planner
Darryl Ing, Real Estate Development Specialist
Jane Pascual, ICRO Specialist
Michael Lowe, ICRO Specialist
Marjorie Adkins, ICRO Office Assistant
Oriana Leao, Secretary to Deputy Director

ORDER OF BUSINESS

CALL TO ORDER

Chair Aila called the meeting to order at 9:33 a.m. Eight (8) members were present at roll call. Commissioner Namu`o was excused.

APPROVAL OF AGENDA

Chair Aila noted the Waimanalo Community meeting scheduled for Monday evening was canceled in an abundance of caution.

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Helm, to approve the agenda. Motion carried unanimously.

APPROVAL OF MINUTES

Chair Aila asked if there were any comments or edits to the February 2020 Minutes. There were none.

MOTION/ACTION

Moved by Commissioner Teruya, seconded by Commissioner Helm, to approve the agenda. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui Re: Paniolo Cable

B. Kahui testified about the Paniolo Cable executive session item. He expressed concern over not being able to choose other providers. Lessees, in his community, want the option to use other broadband communication providers. He also commented about the Department seeking the 2.5 GHz Rural Tribal Window.

Written testimony attached as Exhibit A-1

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-2 Darryll Kalua'u – South Point Water and Fire Hazard 9:40 – 10:07

D. Kalu'au testified that he is seeking a right of entry permit for additional acres to help with fire prevention at South Point. He has 450 acres with 600 head of cattle in the area and hauls 72,000 gallons of water down each month. Right next to his pasture is 1000 acres of unmanaged, dry brush. He is very concerned about the fire hazard it poses. Native Hawaiian General Services is supposed to have cattle in their paddock to help keep the grass down, but there are none.

Commissioner Kaapu asked for a report from the Land Management Division on what is happening with the Native Hawaiian General Services ROE and the other ROE holders before entertaining Mr. Kalua'u's request.

Written testimony attached as Exhibit J-2.

ITEM J-4 Bo Kahui – Villages of La'i 'Opua 10:07 – 10:20

B. Kahui testified about the opportunity before DHHL to apply for the 2.5 GHz Rural Tribal Window. He also testified about the NAHASDA program and the effort to increase funding and allowing homestead associations the ability to apply for the funds through the US Housing and

Urban Development. He also asked DHHL to set aside money for water development in Kona for housing and economic development projects.
Written testimony attached as Exhibit J-4.

ITEM J-5 Homelani Schaedel – President, Maluohai Resident Association

H. Schaedel testified about Maluohai’s Safety and Maintenance Projects, which were submitted to the department on May 20, 2015. She provided a summary of different projects and their progress.

Written testimony attached as Exhibit J-5.

Note: The following J Agenda Requests were deferred.

ITEM J-7 Kalani Kaman’o – Home Equity Line of Credit Loans for Homesteads

ITEM J-8 Princeslehuanani Kamaewakainakaleomomona – Waitlist

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 Aila asked Commissioners if there were any Items from the Consent Agenda they want to be moved to the Regular Agenda.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval of Homestead Application / Cancellations (see exhibit)
- ITEM D-4** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-5** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-6** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-7** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-8** Approval for Payment of Net Proceeds – **CHRYSTE ANN DOMINGO**, Residential Lot Lease No. 7069, Lot No. 8, Kawaihae Residence Lot, Kawaihae, Hawaii
- ITEM D-9** Approval of Consolidation and Subdivision, Lease No. 5985, Lot No. 104-A, Waimanalo, Oahu – **LIBERTY A.K. HOSE**

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the Consent Agenda. Motion carried unanimously.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-2 Approval of Lease Award Leinaala K. Mano, Lanai, Hawai'i.

RECOMMENDED MOTION/ACTION

Acting Contact and Awards Division Administrator Paula Aila presented the following:
Motion to approve the Lease Award to Leinaala K. Mano, Lanai, Hawai'i.

MOTION/ACTION

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

LAND DEVELOPMENT DIVISION

ITEM E-1 Declare a Finding of No Significant Impact (FONSI) for the DHHL Waikupanaha Agricultural Lots Final Environmental Assessment, TMK (1) 4-1-008: 002 (por.), 093, 094, 095 and 096

RECOMMENDED MOTION/ACTION

Real Estate Development Specialist Darryl Ing presented the following:
Motion to declare a Finding of No Significant Impact (FONSI) for the DHHL Waikupanaha Agricultural Lots Final Environmental Assessment, TMK (1) 4-1-008: 002 (por.), 093, 094, 095 and 096.

MOTION

Moved by Commissioner Kaupu, seconded by Commissioner Kaleikini, to approve the motion as stated in the submittal.

DISCUSSION

D. Ing provided an overview of the submittal and introduced Limtiaco Consulting Groups's Trevor Vagay and Claire Oshiro to review the slide presentation.

Slide presentation attached.

ACTION

Motion carried unanimously.

ADMINISTRATION SERVICES OFFICE

ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End Of the Third Quarter, FY 2020

RECOMMENDED MOTION/ACTION

Administrative Officer Rodney Lau presented the following:
Motion to approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of March 31, 2020, to the Hawaiian home General Loan Fund.

MOTION/ACTION

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

RECESS 10:55 AM

RECONVENE 11:10 AM

OFFICE OF THE CHAIRMAN

ITEM C-1 Resolution No. 303 Recognizing The Centennial Celebration of the Hawaiian Homes Commission Act of 1920, As Amended.

RECOMMENDED MOTION/ACTION

Special Assistant to the Deputy Niniau Simmons presented the following:
Motion to approve Resolution No. 303 Recognizing The Centennial Celebration of the Hawaiian Homes Commission Act of 1920, As Amended.

DISCUSSION

N. Simmons provided a history of Prince Johah Kūhiōkalanianaʻole and the events that led to the establishment of the Hawaiian Homes Commission Act.

In preparation for the centennial celebration, she asked Commissioners for their input regarding the list of potential activities and events highlighted in the submittal. One idea is to use the information shared in the resolution in a pamphlet or other mass-produced communication to send to everyone. The chronological timeline of events is unknown to most.

Other ideas include a memorial service at Maunaʻala to commemorate the passing of Prince Kūhiō and the Kūhiō Day Parade.

Chair Aila asked that details about Prince Kūhiō's stance on holding Hawaiians accountable be included. He was an advocate of Hawaiians having the ability to pull themselves up. He told beneficiaries at the time what was expected of them.

Commissioners asked to include their middle initials to their signature lines.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Neves, 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 Benjamin Rodrigues - Ka Ohana O Kahikinui (KOOK)

B. Rodrigues testified about the 2.5 GHz Rural Tribal Window and how to secure the technology for the homesteads. Chair Aila asked Deputy Director Tyler Gomes to explain what the department has done related to the FCC application.

Deputy Gomes stated that the 2.5 GHz Rural Tribal Window has been on the department's radar since October of 2019. The FCC is giving us what used to be a band for education and health-related agencies and now allowing tribes a priority to apply for control over this frequency spectrum. It is for wireless internet service and falls within a certain range, and not everything in that range is available.

The priority window identifies specific lands, and it identifies parties who are eligible to apply for the frequency. Hawaiian home lands are included in those lands, and only recognized tribes are included in the priority window. Since native Hawaiians are not federally recognized, the department filed a request for a waiver of the rule and allowed the department to file an application for all the spectrums across Hawaiian homelands. The waiver is pending, and the department will submit applications for the 51 parcels concerning the census tract. It will require the department over the next five years to plan and seek community input. Other tribal governments have been successful in claiming and maintaining these ISPs.

On O'ahu all the wireless spectrums have been claimed, so the department's applications are for the neighbor islands only. Another point of clarification is that this is not the opportunity for the department to sell to the highest bidder or leverage for the most cash against existing telecoms. The FCC is making this opportunity available to rural tribal areas that have access to the internet. To them, wireless access is like a human right, and that all areas should have access. This is not an opportunity for the department to sell to the highest bidder or make the most case by leveraging it against existing telecoms. If there is no successful application, then it will go out for public auction, and all telecoms will be able to bid for it.

Commissioner Kaleikini is asked if the department could ask Hawai'i's Congressional Delegation for assistance with getting a response on the waiver from the FCC.

Commissioner Kaapu asked if there is no response on the waiver, whether the department could partner with a tribal group so that they could put in the application. Deputy Gomes stated one of the requirements is that an applicant needs to have a physical presence on the identified parcel, so another tribe could not assist the department as the primary applicant.

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Neves to convene in an executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN

11:58 AM

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

1. *Kanahele et al. v. State of Hawai'i et al.*, Civ. No. 1CCV-20-000235 before the First Circuit Court, State of Hawai'i;
2. Collections process for home loan deficiency balances following lease cancellation;
3. Discussion on *In re: Paniolo Cable Company, LLC*, Case No. 18-01319 (RJF) before the U.S. Bankruptcy Court, District of Hawai'i; and
4. Pana'ewa Hawaiian Homelands Community Association leadership dispute

EXECUTIVE SESSION OUT

2:45 PM

Chair Aila thanked everyone for their patience. In light of the Governor's press conference and ongoing reports regarding the Coronavirus pandemic, the meeting was adjourned, and the rest of the agenda canceled.

ANNOUNCEMENTS AND ADJOURNMENT

ANNOUNCEMENTS

Chair Aila announced that the Tuesday agenda had been canceled. Contested Case Hearings will be postponed to June or until further notice. The Moloka'i Commission meeting in April is postponed, and the department will post updates to its website regarding future meetings and events.

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Helm, to adjourn the meeting. Motion carried unanimously.

ADJOURNMENT

2:58 P.M.

Respectfully submitted:



William J. Aila Jr., Chairman
Hawaiian Homes Commission

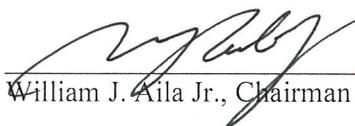
Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:



William J. Aila Jr., Chairman