

HAWAIIAN HOMES COMMISSION
Minutes of May 19, 2020, via Teleconference
DHHL Main Office, Hale Pono‘i, Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held via teleconference, moderated by Chairman William Aila Jr. and Commission Secretary Leah Burrows-Nuuanu, from 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 (via teleconference)
Zachary Z. Helm, Moloka‘i Commissioner (via teleconference)
David B. Ka‘apu, West Hawai‘i Commissioner (via teleconference)
Michael L. Kaleikini, East Hawai‘i Commissioner (via teleconference)
Russell K. Kaupu, O‘ahu Commissioner (via teleconference)
Pauline N. Namu‘o, O‘ahu Commissioner (via teleconference)
Dennis L. Neves, Kauai Commissioner (via teleconference)

COUNSEL Ryan Kanaka‘ole, Deputy Attorney General (via teleconference)

EXCUSED Patricia A. Teruya, O‘ahu Commissioner

STAFF Tyler I. Gomes, Deputy to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Andrew Choy, Action Planning Manager
Kahana Albinio, Acting Land Management Division Administrator
Juan Garcia, Acting Homestead Services Division Administrator
Cedric Duarte, Information & Community Relations Officer
Stewart Matsunaga, Acting Land Development Division Administrator
Paula Aila, Finance and Development Specialist
Jamilia Epping, Information Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Aila called the meeting to order at 9:40 a.m. Commissioner Teruya asked to be excused. Eight (8) members were present via teleconference at roll call.

Pursuant to the Governor’s March 16, 2020, and May 5, 2020, Supplementary Proclamations in response to the COVID-19 pandemic, Hawai‘i Revised Statutes (“HRS”) Chapter 92 regarding public agency meetings and records are currently suspended through May 31, 2020, to the extent necessary to enable boards to conduct business without holding meetings open to the public and to allow state agencies the ability to more effectively provide emergency relief and engage in emergency management functions. At this time, we do not have the capability to create an audience live listening feature. A recording of the meeting will be posted to the DHHL website as soon as possible.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF APRIL 21, 2020 MEETING MINUTES

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Awo, to approve the Commission's April 21, 2020 Minutes. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS (via weblink only)

Testimony on agendized items was submitted in writing via the Department of Hawaiian Home Lands website at www.dhhl.hawaii.gov/hhc/hhc-contact. Testimonies received by yesterday's 4:30 p.m. deadline were forwarded to Commissioners. Testimonies received after the deadline will be stamped "Late" and submitted to the Commissioners after the meeting is adjourned.

ITEM A-1 Cora Schnackenberg
ITEM A-2 Shawndelle Kamalani

Note: Testimonies are attached.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-2 Approval of Consent to Mortgage (see exhibit)
ITEM D-3 Approval of Streamline Refinance of Loans (see exhibit)
ITEM D-4 Approval of Homestead Application Transfers / Cancellations (see exhibit)
ITEM D-5 Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
ITEM D-6 Approval of Assignment of Leasehold Interest (see exhibit)
ITEM D-7 Approval of Amendment of Leasehold Interest (see exhibit)
ITEM D-8 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
ITEM D-9 Cancellation of Lease – WILLIAM G. AKI, Agriculture Lease No. 2375, Lot No. 8, Hoolehua, Molokai and Lot No. 11a, Kalamaula, Molokai
ITEM D-10 Cancellation of Lease – ARTHUR M. LEE, Agriculture Lease No. 7910, Lot No. 14, Hoolehua, Molokai

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Juan Garcia presented the following: Motion to approve the Consent Agenda D-2 through D-10, as listed in the submittal.

MOTION/ACTION

Moved by Commissioner Awo to approve the Consent Agenda stated in the submittal. Seconded by Commissioner Helm						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm		X	X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Commissioner Teruya						X
Chairman Aila			X			
TOTAL VOTE COUNT			8			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously- eight (8) Yes votes						

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Lease Award Donna M. Moffett, Hawai'i, Hawaii

RECOMMENDED MOTION/ACTION

Finance and Development Specialist Paula Aila presented the following:
Motion to approve the award of Department of Hawaiian Home Lands Residence Lot Lease to Donna M. Moffett for ninety-nine (99) years.

MOTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the award of Department of Hawaiian Home Lands Residence Lot Lease to Donna M. Moffett for ninety-nine (99) years.

DISCUSSION

Commissioner Kaleikini asked P. Aila to elaborate on the project and how beneficiaries can participate.

P. Aila stated DHHL has a memorandum of understanding with the University of Hawaii Hilo College's carpentry program to build one (1) home per year. The students do a semester at a time, learning different carpentry skills so that when they graduate, they are prepared to enter the construction workforce. The partnership has been in place for fifty-three years. After completion of the home, the DHHL Awards Division works with the Hawai'i Island residential waitlist to identify qualified beneficiaries.

Commissioner Kaleikini asked how many beneficiaries were interested in the HHC program. P. Aila stated the list of eligible waitlisters was approximately 3,000. Those who respond with

interest went through a financial pre-qualifying process. Of those that qualified, the person with the earliest application date is awarded.

Commissioner Neves asked about income qualification and whether the project was meant for low-income beneficiaries. P. Aila stated the labor was provided by the students, so the cost of the homes generally run between \$200,000 and \$250,000.

Commissioner Kaleikini asked if the Department has similar projects on other islands. P. Aila replied that DHHL has a new project on Maui called the Ke Ala Hou program. It's similar in concept except that instead of college students, the labor is provided by the Department of Public Safety as a skill-building program for incarcerated men gain construction skills to assist with employment after they are released.

Commissioner Awo asked for an update on the status of the Maui project. P. Aila stated the lot is in Waiohuli, and the building plans have been submitted.

MOTION/ACTION

Moved by Commissioner Neves to approve the award of Department of Hawaiian Home Lands Residence Lot Lease to Donna M. Moffett for ninety-nine (99) years. Seconded by Commissioner Awo						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya						X
Chairman Aila			X			
TOTAL VOTE COUNT			8			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously- eight (8) Yes votes						

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to extend Right of Entry Permit 683 to The Kohala Center for Fence Project and Watershed Management, Kawaihae, Hawai'i, TMK No. (3)-6-1-001:003: 016

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Property Development Agent Kualii Camara presented the following:
Motion that the Hawaiian Homes Commission extends Right of Entry Permit 683 to The Kohala Center for Fence Project and Watershed Management, Kawaihae, Hawai'i, TMK No. (3)-6-1-001:003: 016.

MOTION

Moved by Commissioner Kaapu, seconded by Commissioner Helm, to extend Right of Entry Permit 683 to The Kohala Center for Fence Project and Watershed Management, Kawaihae, Hawai'i, TMK No. (3)-6-1-001:003: 016.

DISCUSSION

K. Camara read from the submittal, highlighting that the priority of the project is to protect the Honokoa Watershed from erosion, and in turn protecting the reefs from sediment.

Commissioner Helm asked if there was input from the community. K. Camara stated he met with the Kailapa Community, and their resilience plan aligns with the goals of the project.

Commissioner Kaapu stated he also met with the Kailapa Community in February 2020, and they were in support of the fencing. He asked if Phase II will completely enclose the parcel. K. Camara stated there is a small section along the highway that is still open, but the rest is contained.

Commissioner Kaapu added that the Kailapa Homestead Association has asked for a right-of-entry permit for this area. At some point, DHHL will want to do ag lots or homesteading. The more DHHL is actively involved with Kailapa, the better.

MOTION/ACTION

Moved by Commissioner Kaapu to extend Right of Entry Permit 683 to The Kohala Center for Fence Project and Watershed Management, Kawaihae, Hawai'i, TMK No. (3)-6-1-001:003:016.						
Seconded by Commissioner Helm						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu	X		X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Commissioner Teruya						X
Chairman Aila			X			
TOTAL VOTE COUNT			8			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with eight (8) Yes votes						

ITEM F-2 Annual Renewal of Right of Entry Permit(s), No 1th & West Hawai' i Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:

Motion that the Hawaiian Homes Commission approve the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A. Renew all North & West Hawaii Island Right of Entry Permit(s) as listed on Exhibit "A" and identified by approximate location on the North & West Hawai'i Island Map Exhibit "A-1" that are in compliance and issued temporary approvals, as of June 1, 2020.
- B. The annual renewal period shall be on a month-to-month basis for up to twelve (12) months, but no longer than May 30, 2021, or at the next scheduled HHC meeting in North or West Hawai'i island whichever occurs sooner.
- 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 Helm, seconded by Commissioner Awo, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Kaapu stated that he is starting his eighth year as a Commissioner, and he doesn't think that any of the properties listed have moved the entire time. There have been changes to the process, and how Commissioners get the information, there just isn't any progress in terms of moving beneficiaries on to the properties.

The 105 acres that Malama Solomon has can be leased out, and the pastoral leases for Kahua and Parker Ranches should be addressed. The Kailapa Community Association has expressed interest in having a community grazing area, and he thinks the Department can at least accomplish that. He thought Palekoki Ranch was done, and he isn't sure how to bring the two groups together or how to start working with the associations to provide stewardship over at least parts of the parcel.

Commissioner Awo stated he understands the challenges facing the Department and what will happen when there is no one on the land. He stated he has a legal question for counsel and wanted to add the item to the Executive Session agenda.

Chair Aila deferred action until after the Executive Session at the end of the meeting.

PLANNING OFFICE

ITEM G-1 Adoption of the Kealakehe- La'i 'Ōpua Regional Plan Update (2020), Kealakehe, North Kona, Hawaii

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission:

1. Adopt the Kealakehe- La'i 'Opua Regional Plan Update (2020) (Exhibit A); and
2. Authorize dissemination of the Kealakehe- La'i 'Opua Regional Plan Update (2020).

MOTION

Moved by Commissioner Namu'o, seconded by Commissioner Awo, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Kaapu stated the associations spend a lot of time coming up with priority projects. Still, it is more of a wish list because the attention, time, and money that the Department and Commission put into it don't always match. In the case of the Honokohau project, La'i Opuia 2020 wanted to be the driver in negotiating the contract with the developer. When an association advances a priority project, what is the interplay with the Commission so that it can be more of a win-win situation, as opposed to something that causes tension between the association and the Department.

A. Choy stated it would depend on the project. In the Honokohau situation, the department could issue a competitive solicitation to any developer based on the highest and best use for the parcel, returning value to the Department. In that process, the Department would negotiate a community benefits package with the developer so that some revenue could go back to the association. The other option could be a direct lease or license to an association for the development of the property under the eleemosynary process. It is a policy decision whether to seek the highest and best use for the parcel or in lieu of market rents that would be received from the property, decide the community services and programs are a priority. He added that any future development for that area is dependent on priority project number one, which is water development in North Kona. There are priority projects that are in line with what the Department needs and what the community wants.

Commissioner Kaapu stated his understanding is that the Department does not get involved with negotiating community benefits packages. Chair Aila confirmed current practice is the Department does not have a role in that process. If the Commission is inclined, a workshop can be added to a future agenda. Commissioner Kaapu requested a workshop if the Department is recommending a change in the process.

Commissioner Namu'o agreed with looking at the policy of the community benefits process.

ACTION

Moved by Commissioner Namuo to approve the motion, as stated in the submittal. Seconded by Commissioner Awo						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o	X		X			
Commissioner Neves			X			
Commissioner Teruya						X
Chairman Aila			X			
TOTAL VOTE COUNT			8			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously -eight (8) Yes votes.						

ITEMS FOR INFORMATION AND DISCUSSION

GENERAL AGENDA

- ITEM J-1 Bo Kahui – Villages of La'i'Opua**
- ITEM J-2 Kekoa Enomoto – Pa'upena Community Development Corporation**
- ITEM J-3 Alohalani Smith – Waikiu Community Development Corporation**

Chair Aila stated the J Agenda listees submitted written testimony, which was provided to Commissioners. He asked if there were any questions regarding the testimonies. There were none.

Note: Testimonies are attached.

WORKSHOPS

PLANNING OFFICE

- ITEM G-1 For Information Only – Water Policy Plan Implementation Program Report for FY 2020 and Draft Water Policy Plan Implementation Program for FY 2021**

RECOMMENDED MOTION/ACTION

None. For Information Only.

Acting Planning Manager Andrew Choy introduced DHHL Water Consultant Dr. Jonathan Scheuer who presented the following:

DISCUSSION

This submittal provides (1) a report on progress made towards the Commission's water policy objectives under the FY 2020 Water Policy Plan ("WPP") Implementation Program ("IP"), and (2) a Proposed WPP-IP for FY 2021.

I. Purpose

The Hawaiian Homes Commission (HHC) Water Policy Plan was passed as a comprehensive water policy by and for the HHC in 2014. Based on our research, it was the first water policy of the Trust since the passage of the Hawaiian Homes Commission Act (HHCA) in 1921. It was adopted by the HHC after three years of research and two rounds of beneficiary meetings across Hawai'i. The Policy Plan, as adopted, is available with working links on the DHHL website.

Commissioner Helm asked for a status of the Moloka'i water expansion request. J. Scheuer stated the completion of the U.S. Geological Survey study; there is strong evidence for why water should be awarded to the Department. The staff has been working on the completion of a complex water use permit application for submission to the Commission on Water Resource Management.

Commissioner Helm asked about the status of the Moloka'i Irrigation System (MIS). A. Choy stated staff will engage the Department of Agriculture to get information needed for a feasibility study to determine the true cost of maintaining and operating the MIS.

Commissioner Kaleikini asked what the process is for associations to be involved in the budget requests. A. Choy said this particular funding request is to deal with associated environmental assessments and environmental compliance issues required for water sources that have already been identified.

Commissioner Neves asked if the KIUC (Kaua'i Island Utility Cooperative) contested case hearing results were issued. J. Scheuer stated the case is still pending, and the Department isn't a party in the case.

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-1 HSD Status Reports**
A - Homestead Lease and Application Totals and Monthly Activity Reports
B – Delinquency Report
C – DHHL Guarantees for USDA-RD Mortgage Loans

RECOMMENDED MOTION/ACTION

None. For Information Only.

Acting Homestead Services Division Administrator Juan Garcia presented a report on the number of borrowers with direct loans. There were 967 total direct borrowers, and 277 of them took advantage of postponing their April loan installments. Assigned loans from the U.S. Department of Housing and Urban Development are 156 total borrowers, and 70 of them took advantage of postponing their April loan installment.

Commissioner Neves asked for the same type of report for the rental provided to income generating leases.

MOTION/ACTION

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

EXECUTIVE SESSION IN 11:27 AM

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

1. Update on Honokaia Non-Potable Water System Settlement

EXECUTIVE SESSION OUT 11:47 AM

ITEM F-2 Annual Renewal of Right of Entry Permit(s), North & West Hawai'i Island (Continued)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

MOTION

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

ACTION

Moved by Commissioner Helm to approve the motion, as stated in the submittal. Seconded by Commissioner Awo						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Helm	X		X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Commissioner Teruya						X
Chairman Aila			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passed eight (8) Yes votes. Comm. Kaapu with Reservations.						

ANNOUNCEMENTS AND ADJOURNMENT

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to adjourn the meeting.
Motion carried unanimously.

ADJOURNMENT

11:52 A.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:

Attachments

1. Public Testimony – Cora Schnackenberg – Item F-1
2. Public Testimony – Shawndelle Kamalani – Puunani Hawaiian Homes Association
3. Item G-2 – Ola I Ka Wai Slide Presentation
4. Item D-1 – COVID-19 Loan Deferral Report