

HAWAIIAN HOMES COMMISSION

Minutes of September 15, 2021 via Interactive Conferencing Technology (ICT)

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held via Zoom, moderated by Chairman William Ailā Jr., from Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i, beginning at 9:30 a.m.

PRESENT William J. Ailā Jr., Chairman
Randy K. Awo, Maui Commissioner (via ICT)
Zachary Z. Helm, Moloka‘i Commissioner (via ICT)
David B. Ka‘apu, West Hawai‘i Commissioner (via ICT) (9:30 a.m.)
Michael L. Kaleikini, East Hawai‘i Commissioner (via ICT)
Russell K. Ka‘upu, O‘ahu Commissioner (via ICT)
Pauline N. Namu‘o, O‘ahu Commissioner (via ICT)
Dennis L. Neves, Kauai Commissioner (via ICT)
Patricia A. Teruya, O‘ahu Commissioner (via ICT)

COUNSEL Katie Lambert, Deputy AG (via ICT)

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

ORDER OF BUSINESS

CALL TO ORDER

Chair Ailā called the meeting to order at 9:35 a.m. eight (8) members were present via ICT at roll call.

Pursuant to the Governor’s emergency proclamation, related to COVID-19 Emergency, Hawai‘i Revised Statutes (“HRS”) Chapter 92 regarding public agency meetings and records are currently suspended through October 6, 2021, 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 effectively and efficiently provide emergency relief and engage in emergency management functions.

Chair Aila stated the Commission will convene into executive session on Agenda Items 1 through 3. The Commission will take a short recess before convening into Public Testimony. He stated there were 3 and possibly 4 people who signed up to testify.

Chair Aila reminded Commissioners that although Act 220 does not take effect until January 2022, meetings via interactive conference technology have specific rules. Commissioners must say who else is present for open meetings if anyone is in the room with you. Cameras must be

kept “on” unless you are excusing yourself from the meeting. A quorum of Commissioners must be visible during the meeting. In the executive session, no one can be in the room with you or hear the conversation. You will need to confirm this with the Chairman. You don’t need to be visible during the executive session, and cameras can be turned off.

Commissioner Neves stated that his wife is in the room with him for open session. Chair Aila stated when the Commission goes into executive session Commissioner Neves will have to ask everyone to leave because the contents are privileged.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the agenda. Motion carried. Commissioner Teruya abstained from voting on the agenda.

MOTION/ACTION

Moved by Commissioner Helm, 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.

Commissioner Teruya asked if there would be Minutes for this special meeting on Items 3 & 4 only.

DAG Kanaka`ole stated all the matters in the executive session are privileged, considering that they are related to ongoing litigation. Notes and Minutes are required under the law to be taken; however, they are not disclosable unless the Commission, as a body, orders them to be disclosed. Commission Secretary Leah Burrows-Nuuanu will be preparing notes during the executive session of the discussion, and they will be kept. However, at this moment or after the executive session, they will still be covered under the Attorney-Client Privilege, so they will not be disclosed.

EXECUTIVE SESSION IN

9:45 AM

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

1. Update on issues related to Telecommunications and Broadband services on Hawaiian Home Lands;
2. Discussion on *In re Paniolo Cable Company, LLC*, Case No. 18-01319 (RJF) before the U.S. Bankruptcy Court, District of Hawai`i; and
3. Discussion on *United States of America vs. Sandwich Isles Communications, Inc., et al*, Case No. 18-00145 (JMS-RT) before the U.S. District Court for the District of Hawai`i**

EXECUTIVE SESSION OUT

10:15 AM

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Homelani Schadael - Telecommunications

H. Schadael asked that the Commission allow for public testimony before it goes into the executive session. She considers it a personal courtesy and assurance that the public's mana`o is included in the Commission's discussions and deliberation.

If Sandwich Isles has a license, why is it not listed on the License List of DHHL's website as of June 30, 2020, and is that license held in perpetuity? While perusing the list, she found it interesting that Hawaiian Telcom shares all licenses with HECO and HELCO. She strongly urged the Commission to have Department staff do beneficiary consultation before issuing a Hawaiian Telcom license.

She stated homestead leaders are very concerned that Sandwich Isles sent a letter to its beneficiary subscribers. Beneficiaries need to hear the other side of this debacle. Whether through beneficiary consultation or letter from the Department, she stated the beneficiaries are all in the dark and want to know where this is headed. The Department should ensure that all Telecommunications equipment on Hawaiian home lands transfer to a service provider, such as Hawaiian Telcom through bankruptcy or any other process, is used solely and exclusively for the benefit of beneficiaries residing on Hawaiian home lands. The same requirements that Sandwich Isles had to follow should be the same for any other service provider should not be allowed to service non-beneficiaries.

Commissioner Awo stated he understands that the beneficiaries are left in the dark about the increasingly contentious issue and supports the request that beneficiaries be updated as best can without jeopardizing any of the litigations.

Chair Aila stated the staff and Commission indicated that there would be beneficiary consultations before any future Telecommunications licenses are issued. Regarding H. Schadael's statement of only beneficiaries, Chair Aila stated the Department only has Charter Schools on Hawaiian Home Land property that may not only have beneficiary children in them. There are also shopping centers, commercial and industrial operations; thus, he assumed that she does not have an issue with the Department providing a future licensee or licensees providing service to those types of entities? H. Schadael stated she does not because it is their land, and that is her concern. She stated that she perhaps needs to consider the statement she made.

PT-2 Bo Kahui – Executive Session Items 1, 2 and 3

B. Kahui stated Harold Johnson used to be a Sandwich Isles Engineer and is helping the people in Alaska build their infrastructure and network. On October 28, he received an email from Deputy Tyler Gomes, which noted that the petition to deny their license was approved by the FCC. Based upon T. Gomes representation, the Department was the best entity to pursue this. B. Kahui stated he disagreed because he thinks if, given the opportunity, he thinks they could have delivered that service.

Regarding the Paniolo Cable and Hawaiian Telcom agreement, he requested that the Department rescind their Right of Entry and look further into the relationship and agreement between the Department and Hawaiian Telcom.

Chair Aila stated his understanding is Kuhio 5-G put in an application, and the Department put in an application. As part of the FCC's deliberations on whose application the FCC would choose, that was the response to Kuhio F-G.

H. Johnson was having technical difficulties. Chair Aila stated his written testimony is in dropbox.

B. Kahui again requested that the Right of Entry for Hawaiian Telcom be revoked or rescinded until more information can be shared with beneficiaries during the beneficiary consultation process to understand what benefits the beneficiaries will yield. He stated a September 11, 2021 memo from Sandwich Isles Communications noted a non-committal term used by B. Kahui on Hawaiian Telcom's part to participate, given the Right of Entry. He stated they seek beneficiary consultation.

Chair Aila stated there were other testimonies from Aaron Steen and Ray Ann Hyatt.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on September 20 & 21, 2021, (ICT) Zoom

MOTION/ACTION


Moved by Commissioner Awo, seconded by Commissioner Teruya, to adjourn the meeting.

Motion carried unanimously.

ADJOURNMENT

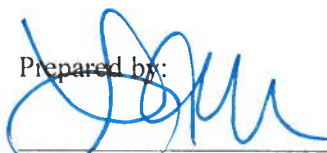
12:30 pm

Respectfully submitted:



William A. Ailā Jr., Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

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