

HAWAIIAN HOMES COMMISSION

Minutes of January 18, 2022 via Interactive Conferencing Technology (ICT)

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held via teleconference, 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)
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) (excused till 12 pm)
Patricia A. Teruya, O‘ahu Commissioner (via ICT)

COUNSEL Katie Lambert, Deputy AG

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 9:32 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 February 28, 2022 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 noted that Agenda Items C-2 and G-2 were uploaded to the drop box. There are 10 people signed up for Public Testimony. The Commission will recess around noon for 30-minutes for lunch and convene into executive session for an additional 30-minutes.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES FOR DECEMBER 20 & 21, 2021

Chair Aila asked if there were any changes to the Minutes.

Commissioner Teruya stated that the Water Resource Management Designation for the Waianae Moku be taken up again. She asked if it would be on the February agenda. Chair Aila stated more information needed to be gathered, so it will be on the February agenda for approval. The Board of Water Supply's application is not scheduled to be submitted for many months, so the Department does have time.

Chair Aila noted that Counsel Katie Lambert was present in person at the January HHC meeting and it would be reflected in the amended Minutes.

MOTION/ACTION

Moved by Commissioner Namu`o, seconded by Commissioner Awo, to approve the December 20 & 21, 2021 Minutes as amended. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

P-1 Ainaaloha Ioane Item C-2

A. Ioane thanked the Permitted Interaction Group for moving toward a resolution to the King's Landing 42-year-old story. She stated the language in the recommendation is disturbing and does not reflect Mālama ka 'Āina Hana ka 'Āina's (MAHA) discussion with Chair Aila and Land Management Administrator Kahana Albinio that took place on December 28, 2021. The discussion supported beneficiary's use, but now she sees that the general public's use is being considered. Three items were discussed at that meeting:

1. The designation for Keaukaha Tract 2 for kuleana homesteading
2. Undivided interest leases
3. A Right-of-Entry permit for caretaker responsibilities

A. Ioane stated Chair Aila and K. Albinio committed that once the ROE was executed, the Department would initiate the removal of trespassers and address the other illegal activities in King's Landing. There was no mention of the type of land use designation. The designation of a park or conservation area needs to be discussed with the beneficiaries, practitioners and kupa of the 'āina. To recommend the designations without the consultation is premature. The beneficiaries at King's Landing are not prepared for the possibility of no leases. The language of the proposal lacks the support that was assured and discussed with MAHA board during the beneficiary consultation visit.

A. Ioane asked that the recommendation in the submittal reflect the conversation of December 28, 2021, and that any additions or recommendations be considered by all the beneficiaries before it is presented before the Commissioners.

A. Ioane introduced members from the King's Landing Kupuna Council: Skippy Ioane, Wayson Ioane, Hana Veletua, Harmon Costa, Mana Francis and Rose Chepro. These kupuna support having a kuleana lease so they have land to leave for their family.

Commissioner Awo commented that the recommendation is a framework and not a final decision. It helps to know what the community is seeking.

Commissioner Ka'apu stated that they are planning to meet with the stakeholders to go over the thoughts of the group and the community.

P-2 Alan Murakami Item C-2

A. Murakami stated one of his first cases was dealing with Skippy Ioane and MAHA. He pointed out the passage of Act 302, the Self-determination Act of 2001, which established a policy to promote self-governance amongst Native Hawaiian beneficiaries. He feels it pertinent to the circumstances involving MAHA. For almost 40-years MAHA has established a track record and has managed the conflicts of King's Landing with its raw land, and people who could not build and take on mortgages like other homesteaders. Under Skippy's leadership, MAHA has managed and faced the challenges and conflicts for all those years under the purist form of homesteading. It is a testament to those homesteaders of King's Landing who accepted the challenge, pursued it and persevered.

P-3 Moses Haia Item D-6

M. Haia reiterated that DHHL staff recommended that his lease application be cancelled due to his inability to qualify for the blood quantum. He received a letter from Chair Aila on January 7, 2022 stating that the Commission would be reviewing his request for a contested case hearing, and that the Department would be making a recommendation on whether or not if he is entitled to this case. He believes that the DHHL staff is attempting to rely upon an undocumented statement. He is concerned that the beneficiaries being identified as not qualified are not receiving prior notice of the staff's recommendation to the Commission. These people should be provided an opportunity, prior to going to the Commission, to speak with staff to ho'oponopono the issue.

Chair Aila stated the applicants are being notified in writing and notified that should the Commission's decision be adverse to them; they can request a contested case. The due process has been implemented.

P-4 Asulu Labon Item D-11

A. Labon stated she is testifying on behalf of herself and her sister Charene Dumlao, regarding the designation of successors to the residential lease of Marian Kahale. A. Labon stated that they believe that the statements in the recommended motion, action and discussions are true and accurate; and confirmed evidence and facts clearly show that their Aunt's intent is that Lisa Faleafini, the mother of A. Labon and S. Dumlao, would be the successor. A. Labon stated they lived in the home with their Aunty and mom for 30-years until their passing. Their hope is that the Commission approve the designation of her and her sister as successors.

P-5 Katherine Kahale-Taylor Item D-11

K. Kahale-Taylor stated that she and Kirk Kahale are direct heirs to their mother Marian Kahale. K. Kahale-Taylor stated she has not been aware and is getting the last-minute information. She

stated that she and her brother are the rightful heirs. In looking at the documents she received from the Department, she stated they are asking for a reconsideration of the successorship.

P-6 Blossom Feiteira Various items

B. Feiteira stated for the following items:

- Item G-1, that the Commission support the FONSI recommendations
- Item G-2, that the Commission support the Amended Maui Island Plan
- Item C-2, the King’s Landing beneficiaries did an awesome job; and commended the Commission for taking care the long-time issue
- Item G-5, the need to concentrate on a resolution to the shoreline because the impact is happening now, not 20-years from now
- Item D-6, in the past staff to notified the people on the list of their status and what may happen. She talked with applicants on the list requested that the Department conduct an information workshop on application process. She stated that the Department is seeing it fit to seek out other types of information in order to render an applicant disqualified.

Commissioner Awo stated Item D-6 does warrant a workshop, and would be helpful to the Commissioners and those on the waitlist. Regarding Item G-5 and the climate change, sea level rise and the impacts; Moloka`i is most affected. King’s Landing is another area that is affected. He believes the Department should begin speaking of possible mitigation now, rather than later.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

Chair Aila asked if there were any items Commissioners want pulled from the consent agenda, aside from Item D-6 and D-11

Commissioner Ka`apu asked if there were any competing successors for the leases for Items D-12, 13 and 14. J. Garcia stated there are no competing successors, those are the names that came forward.

HOMESTEAD SERVICES DIVISION

- ITEM D-2 Approval of Consent to Mortgage (see exhibit)**
- ITEM D-3 Ratification of Loan Approvals (see exhibit)**
- ITEM D-4 Approval of Homestead Application Transfers / Cancellations (see exhibit)**
- ITEM D-5 Approval to Certify Applications of Qualified Applicants for the Month of December 2021 (see exhibit)**
- ITEM D-7 Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)**
- ITEM D-8 Approval of Assignment of Leasehold Interest (see exhibit)**
- ITEM D-9 Approval of Amendment of Leasehold Interest (see exhibit)**
- ITEM D-10 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)**
- ITEM D-12 Commission Designation of Successor - JOHN NOA LIMAHAI, Residential Lease No. 12675, Lot No. 35, Anahola, Kauai**
- ITEM D-13 Commission Designation of Successor – SHAUNA-ANN EVALANI PEREIRA, Residential Lease No. 5091, Lot No. 264A, Keaukaha, Hawai`i**

- ITEM D-14 Commission Designation of Successor – RAYMOND KAMA BUMATAY, Residential Lease No. 4218, Lot No. 140, Pana`ewa, Hawai`i**
- ITEM D-15 Cancellation of Lease – MICHAEL M. JOHN, JR., Residential Lease No. 1880, Lot No. 34B1, Keaukaha, Hawai`i**
- ITEM D-16 Cancellation of Lease – NAOMI N. MUNEKATA, Agricultural Lease No. 6952, Lot No. 1, Maku`u, Hawai`i**

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
Motion to approve the Consent Agenda items listed for the Commission’s consideration.

MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Helm, to approve the Consent Agenda. Motion unanimously passed.

Moved by Commissioner Ka`apu, seconded by Commissioner Helm, to approve the Consent Agenda.						
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			9			
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

HOMESTEAD SERVICES DIVISION

- ITEM D-6 Approval to Cancel Applications for Non-Qualified Applicants (see exhibit)**

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
Motion that the Hawaiian Homes Commission approve the cancellations from the applications waiting list due to native Hawaiian qualification; the Department has been unable to verify the applicants listed in the submittal for their native Hawaiian blood quantum requirement, per the Hawaiian Homes Commission Act, 1920 as Amended.

MOTION

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

Chair Aila asked if there were any discussions that would require the Commission to go into executive session. Commissioner Awo asked to go into executive session.

MOTION

Moved by Commissioner Awo, seconded by Commissioner Kaleikini to convene in an executive session pursuant to Section 92-J-1, HRS, related to government records maintained by the Department of Hawaiian Home Lands that are not required to be publicly disclosed.

EXECUTIVE SESSION IN 10:34 AM

ITEM D-6 Approval to Cancel Applications for Non-Qualified Applicants (see exhibit)

EXECUTIVE SESSION OUT 11:08 AM

Chair Aila stated Item D-6 is deferred to tomorrow for further discussion.

ITEM D-11 Commission Designation of Successor – MARIAN I. KAHALE, Residential Lease No. 4051, Lot No. 64, Waimanalo, O`ahu

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
Motion that the Hawaiian Homes Commission

1. Approve the designation of Asulu Laybon and Charene Dumlao as successors to Residential Lease No. 4051, Lot No. 64, Waimanalo, O`ahu.
2. To approve and accept that Asulu and Charene are of no less than 25% Hawaiian.
3. To stipulate that Asulu and Charene's rights and interest in the lease do not vest until Asulu and Charene have signed the necessary documentation; the deadline in the submittal is March 31, 2022
4. To authorize the Department to extend the deadline up to 60-days for good cause; and
5. To declare that if Asulu and Charene's successorship is revoked, that under Section 209 of the Hawaiian Homes Commission Act, the lease shall resume its status as unleased Hawaiian home lands.

MOTION

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

DISCUSSION

Commissioner Ka`upu stated he supports the assignment being sought, but how did the request go to these folks rather than to the sister and the brother?

Chair Aila asked for a motion to go into executive session for this discussion.

MOTION

Moved by Commissioner Ka`upu, seconded by Commissioner Teruya to convene in an executive session pursuant to Section 92-J-1, HRS, related to government records maintained by the Department of Hawaiian Home Lands that are not required to be publicly disclosed.

EXECUTIVE SESSION IN

11:10 AM

ITEM D-11 Commission Designation of Successor – MARIAN I. KAHALE, Residential Lease No. 4051, Lot No. 64, Waimanalo, O`ahu

EXECUTIVE SESSION OUT

12:00 PM

Chair Aila responded that there are wider policy issues that need to be discussed and vetted, so Item D-11 will be deferred.

DAG Lambert stated there is a motion on the floor. Chair Aila stated the motion on the floor has to be withdrawn in order to defer the item.

Commissioner Teruya withdrew her for Item D-11, Commissioner Awo withdrew his second.

Chair Aila stated Item D-11 is deferred.

Commissioner Neves joined the meeting at 12:01 pm.

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Lease Waiakea Pre-Owned Residential Home, Hilo, Hawai`i, Approval of Lease Kaumana Pre-Owned Residential Home, Hilo, Hawai`i (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Contact and Awards Division Administrator Paula Aila presented the following: Motion that the Hawaiian Homes Commission approve the awards for two leases; one in Waiakea and one in Kaumana.

MOTION/ACTION

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

Moved by Commissioner Ka`apu, seconded by Commissioner Teruya, to approve the motion as stated in the submittal.						
Commissioner	1	2	`AE (YES)	A`OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	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			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- Nine (9) Yes votes.						

PLANNING OFFICE

ITEM G-1 Declare a Finding of No Significant Impact (FONSI) for the Honokowai Master Plan Final Environmental Assessment, Honokowai, Ka`anapali Moku, Maui, TMKs (2) 4-4-001:015, (2) 4-4-002:003, 008, 009, 011, 015, 018 and 038

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:
 Motion that the Hawaiian Homes Commission Declare a Finding of No Significant Impact (FONSI) for the Honokowai Master Plan Final Environmental Assessment, Honokowai, Ka`anapali Moku, Maui, TMKs (2) 4-4-001:015, (2) 4-4-002:003, 008, 009, 011, 015, 018 and 038

MOTION

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

DISCUSSION

A. Choy stated the Draft Environmental Assessment was presented to the Commission in June 2021. The table for the comments received are listed in the submittal. The comment from the Department of Transportation (DOT) indicated that they were no longer pursuing a bypass intersecting DHHL lands. Staff has reallocated those lands to other uses.

ACTION

Moved by Commissioner Awo, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
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			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- Nine (9) Yes votes.						

ITEM G-2 Amend the Maui Island Plan to Apply Subsistence Agriculture, Supplemental Agriculture, Residential, Community Use, Conservation, and Industrial Land Use Designations to Honokowai, Ka`anapali Moku, Maui TMKs (2) 4-4-001:015, (2) 4-4-002:003, 008, 009, 011, 015, 018 and 038

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission Amend the Maui Island Plan to Apply Subsistence Agriculture, Supplemental Agriculture, Residential, Community Use, Conservation, and Industrial Land Use Designations to Honokowai, Ka'anapali Moku, Maui TMKs (2) 4-4-001:015, (2) 4-4-002:003, 008, 009, 011, 015, 018 and 038

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
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			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- Nine (9) Yes votes.						

RECESS

12:07 PM

RECONVENED

12:24 PM

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-2 For Information Only - Report of the Investigative Committee on King's Landing to the Hawaiian Homes Commission (King's Landing Permitted Interaction Group)

RECOMMENDED MOTION/ACTION

None. For information only. Executive Assistant Jobie Masagatani and Acting Land Management Division Administrator Kahana Albinio presented the following:

J. Masagatani stated the report with its recommendations and activities is being brought before the Commission as required by the Hawai'i Revised Statutes. If there is any action to be taken, the Committee looks forward to doing so next month.

J. Masagatani stated listening to the testimonies, she wanted to clarify, as it was articulated by Commissioner Awo, that it is a framework and a process. The recommendations start with the due diligence that is necessary to determine the viability of homesteading long-term, and for the timeframes expected for homesteading as there are specific rules required in determining if King's Landing is appropriate or a good candidate for kuleana as a long-term disposition

(identified in submittal A). If there are efforts needed to be taken to mitigate risk associated with the location of the current village, or potential alternatives to relocate where the kuleana homestead community can be in the future it would be part of the due diligence. She stated this is to articulate the direction when talking about long-term.

The possibility of an alternative type of land use raised some concern from the testifiers. Residential use is not a viable long-term disposition for this location. As a state agency, the Department does not have the flexibility of a private landowner in terms of the rules and requirements it must abide by. If the due diligence indicates that long-term residential occupancy is not viable and there are no steps that can be taken, or to mitigate the sea level rise over time, the Commission may have to make a decision to an alternative land use, long-term which might be 20-years, 50-years or 100-years. The recommendation has a new disposition to the existing users, which is MAHA, to work with the Department. She stated the other issues are intended to be addressed as part of the new disposition.

The last recommendation is that a new investigative committee be established and be made up of the existing members, and be specifically focused on the issues that need to be considered as part of this very unique transition process.

DISCUSSION

Commissioner Ka`apu stated that the committee discussed an undivided type of lease in order to preserve the positions of anyone that has been there. J. Masagatani stated it is included under the fourth recommendation.

Commissioner Teruya commended the PIG for putting together the submittal. She asked who takes the risk and liability regarding the general use. MAHA do not want anyone else to come onto the property and brought up trespassing and illegal activities.

Chair Aila stated in terms of risk and liability, any properties under DHHL that is not leased is the Department's responsibility. Regarding not having any access to anyone other than the present folks at King's Landing, cultural access for fishing, picking opihi and limu has always been allowed. There are currently people there that do not have the same standing as the King's Landing folks, and that is what they want identified.

Commissioner Teruya asked if general liability also compliant to MAHA's non-profit status. Chair Aila stated, in the past MAHA has provided the Department with copies of their liability insurance. Once a disposition is considered and approved by the Commission, insurance is one of the requirements. Commissioner Teruya asked if the people there are beneficiaries and on the wait list? Chair Aila stated the requirement to be there and part of MAHA is that one has to be on the waitlist.

Commissioner Awo stated two things at the top for him, based on the testifiers' mana'o, the creation of the kuleana lease awards and to establish undivided lessee awards. Regarding what Skippy has done for the lāhui, as pointed out by Alan Murakami, Commissioner Awo thinks it would be prudent for the Department to honor Skippy's legacy.

Commissioner Neves stated he is concerned about wastewater treatment in the future because the area is subject to sea level rise. For a long-term project, the Department may be looking at a sewer plant to handle the wastewater. He also mentioned the noise and environmental issues due to the airport's approach pattern.

Commissioner Helm asked if they were planning to go to King's Landing. Commissioner Ka'apu stated they already had one conversation with the group in Keaukaha and are planning to have another conversation. It all depends on the pandemic, but if it can be virtual at least the group can have that meeting. He will wait until the Chair appoints the next PIG because the current committee's role ends today.

Commissioner Teruya supported that the PIG stays together. Commissioner Neves agreed that the PIG should stay together and stay as the same group.

J. Masagatani stated the group will be seeking acceptance of the recommendations that were outlined in the submittal at the February Hawaiian Homes Commission meeting.

HOMESTEAD SERVICES DIVISION

Chair Aila asked if any of the Commissioners had questions regarding the HSD status report. There were none.

ITEM D-1 HSD Status Reports

- A. Homestead Lease and Application Totals and Monthly Activity Reports
- B. Delinquency Reports
- C. DHHL Guarantees for Council for Native Hawaiian Advancement
Construction Loans

LAND DEVELOPMENT DIVISION

ITEM E-1 For Information Only – Kapolei Projects Update

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Development Division Administrator Stewart Matsunaga presented the following:

S. Matsunaga presented the slides on the East Kapolei Project Updates for Kanehili

- 404 single family homes
 - DHHL Offices
 - Community facilities
 - Fire Station
 - Commercial parcels
- Phase 9 has 37 turnkey houses by Gentry all completed and occupied as of October 2020
 - The pedestrian access was completed March 2021 – 3 access points

Darrell Ing continued the presentation on Ka'uluokaha'i – East Kapolei 2

- Increment 2B is turnkey houses by Gentry
- Increment 2C is will go out to bid in late January or early February 2022; awards will probably be made in late 2023
- Increment 2E is 158 lots which is going to the consultant selection process; looking at a 2 to 3-year of design and approval process; construction will be around 2025/2026
- Increment 2A, the RFP is still being worked on and will be out by the end of the year

DISCUSSION

Commissioner Neves asked what the life was on the area that is environmentally sensitive? Is there a 40-year increment on the cap? D. Ing stated there was a no further action decision by the Department of Health and by the Engineer controls. The Department would have to monitor that the cap isn't broken or penetrated. If those controls are in place there will be no contamination.

Commissioner Ka`upu asked the status of the process of the Special Olympics. D. Ing stated there is a license and they have completed construction of their first phase. K. Albinio stated the Special Olympics license is for 45-years.

Commissioner Teruya stated the DHHL annual shows the Special Olympics as a 65-years license, so is it 45-years or 65-years. Chair Aila stated they will confirm.

Note: Slide presentation attached

WORKSHOPS

PLANNING OFFICE

ITEM G-3 For Information Only – USDA Application and Na Kupa`a o Kuhio Update

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy and Grant Specialist Gigi Cairel presented the following:

G. Cairel gave the update on the USDA Application and Na Kupa`a o Kuhio. The following was covered in the presentation:

- DHHL and Na Kupa`a o Kuhio partnership (2006)
 - 501 (c)3 non-profit created by DHHL to serve as the applicant for the USDA funds for its water and sewer projects
 - To assist DHHL in accessing the USDA Rural Development Water & Environmental Programs loan and grant funds
 - 2005 Congress set aside \$5 million for water, a per year commitment and funds placed in USDA
- Accomplishments and Challenges
 - Secured \$19 million and identified seven projects
 - \$8 million utilized resulting in 256 new lots in Waimanalo, Anahola and Kapolei
 - Challenges were funder fit, project readiness and partner organizational capacity
 - \$11 million was returned to the federal because DHHL's projects were not ready and the \$5 million was reduced to \$1 million per year
 - Following federal rules and spending down the funds was challenging
- Last project with Na Kupa`a o Kuhio
 - Ka`uluokaha`i – 160 homestead lots were completed in 2015
- Change to DHHL as direct applicant to USDA WEP
 - Funds are transferable directly to the Department
 - Total USDA WEP funds obligated directly to DHHL, \$19 million grant funds and \$11.6 million loan funds
- Next steps – Release of federal funds for last project with Na Kupa`a o Kuhio
 - DHHL has to submit the application to USDA RD in February 2022
 - Negotiate the final conditions for the \$3.7 million

- Re-visit the DHHL Interim Financing Agreement with Na Kupa‘a o Kuhio – funding goes directly to DHHL

Note: Slide presentation attached

DISCUSSION

Commissioner Ka`upu asked who the driving force behind Na Kupa‘a was. G. Cairel stated it was created by the Department. USDA, the Attorneys, and the Department agreed to try a non-profit to serve as the applicant. That was why the Department created Na Kupa‘a o Kuhio.

J. Masagatani stated the speed up of the spend down is due to (1) Gigi coming back, (2) clearer guidance and DHHL is able to be an applicant for the resources, and (3) projects that are better matched to the loan program intended for existing waters systems and upgrades. The Department can utilize the funds for the particular program which is a loan grant program in which the loan resources have to be used first before the grant resources can be used.

Commissioner Ka`upu asked if there are similar federal programs that the Department will have to find its way through the political situations, as it relates to telecommunications infrastructure. J. Masagatani stated the only commonality in any federal set aside is it is implemented through an agency. DHHL has to work with that agency and its rules. The Department will be working with the federal agency NTIA (National Telecommunications and Information Administration), out of the US Department of Commerce. The language may set aside the money for the Department, but it is being implemented through a federal agency and its programmatic elements. This differs depending on the funding source. G. Cairel stated good projects will get the funding.

Commissioner Ka`upu asked about Na Kupa‘a and thought it best to convene in an executive session. Chair Aila stated DAGs Craig Iha is most familiar with the project.

MOTION

Moved by Commissioner Ka`upu, seconded by Commissioner Ka`upu 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 1:35 PM

ITEM G-3 For Information Only – USDA Application and Na Kupa‘a o Kuhio Update

EXECUTIVE SESSION OUT 2:03 PM

ITEM G-4 For Information Only – DHHL South Moloka`i Shoreline Erosion Management Plan (SM-SEMP)

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy and Lead Planner Nancy McPherson presented the following:

Lead Planner on Climate Change N. McPherson offered a slide presentation on the DHHL South Moloka`i Shoreline Erosion Management Plan Update. She introduced Thorn Abbot of Coastal Planners and John Summers of Planning Consultants Hawai`i.

Project Purpose:

- Enable DHHL to proactively plan for and manage shoreline erosion
- Investigate underlying causes of shoreline erosion and likely future progression
- Identify effective and sustainable shoreline erosion management strategies that maintain natural process and consider community needs
- Educate the community as to causes of shoreline erosion and appropriate management response

Sea Level Rise Impacts on Moloka`i:

- Increasing storms and flooding combined with inundation
- Silt runoff and bleaching impacts on reefs
- Salt intrusion to wetlands
- Coastal erosion leading to seawalls which leads to beach loss
- Wave overtopping leading to closed roads
- Vulnerable infrastructure; Kamehameha Hwy., Police Station, fuel storage tanks, and wastewater treatment plant

DISCUSSION

Commissioner Helm stated that the roads are eroding on the east side of the island to the point where they cannot pave the road because the erosion is under the road. The talk is to condemn the road and move it mauka. He stated the reefs are about a mile out from shore, so the currents and the waves are not as bad. They discussed bringing vegetation along the shoreline instead of boulders.

N. McPherson stated she has talked with Brandon Hee of the State Department of Highways and he is working on some solutions for the unstable areas going past Kawela. The UH School of Engineering is also involved along with other experts. They are identifying areas that have the inner fishpond walls along the highway. They would like to put in stabilizations along the walls and restore the fishponds. The State Department of Highways are working on some ideas to rebuild the highways and protect it without damaging the fishponds.

Commissioner Awo stated the data shows that there will be more severe erosion and inundation of wetlands and infrastructure. He stated he is interested in the short-term solution to move the homes further back, and how much time would that buy the Department. T. Abbott stated there are things that can be done like building a beach berm, vegetation, and things native to the area. Commissioner Awo stated he is interested in shoreline mitigation.

Commissioner Ka`apu asked if anyone looked at the possibility of additional fishponds as a mitigation method. N. McPherson stated they have studied the fishponds as they are now, and the remnants. A couple of homesteaders placed rocks out in a curvilinear fashion that resembles a fishpond wall which deflected wave action. Commissioner Ka`apu stated that shoreline originally had many fishponds and many of them do not exist anymore.

Note: Slide presentation attached

ITEM G-5 For Information Only – In-Depth Update on Climate Change and Resilience Planning Affecting Hawaiian Home Lands, Statewide

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy and Lead Planner Nancy McPherson presented the following:

Lead Planner on Climate Change N. McPherson offered a slide presentation In-Depth Update on Climate Change and Resilience Issues Affecting Hawaiian Home Lands Statewide. She also introduced Dr. Chip Fletcher, Interim Dean of the School of Ocean and Earth Science and Technology, University of Hawai'i Manoa. Dr. Fletcher spoke on Carbon dioxide emissions and climate change. An update of the State of Hawai'i climate change-related land use initiatives were presented by Leah Laramée, Natural Resource Planner for the Department of Land and Natural Resources, Division of Forestry and Wildlife.

DISCUSSION

Commissioner Awo stated it was an informative but depressing presentation with additional details of how dire the situation is. He asked if the focus should be more on the long-term rather than the short-term solutions, and where does the Department focus its efforts?

Dr. Fletcher stated the focus should be on all of the above. There are site specific problems like sections of roads falling into the ocean and the long-term sustainability of the Hawaiian Islands. Global trade and the Island's daily lifeline from outside are at risk. For Moloka'i, things can be done like vegetating the shoreline and temporary erosion buffers, but if anything is put in to stop the shoreline from moving, a beach will be lost.

Dr. Fletcher stated if the glaciers in Antarctica hold on for a couple more decades, then there will be time for the long-term solutions, but there is only a decade or two, there will not be a whole century.

Commissioner Awo stated it would take entire nations and governments along with global corporations to participate in this mitigation. What they commit to and what is occurring is different. Dr. Fletcher commented to plan for the worst, hope for the best.

Commissioner Kaleikini asked what initiatives there are in trying to capture CO₂. Dr. Fletcher stated the largest potential carbon storage entity is agricultural lands. He stated we have to get away from plowing and leaving the soil open to the air because it oxidizes the carbon that is in the soil. If we took all the ag crops in the world and converted them into regenerative agriculture without plowing, but using cover crops, by mid-century we would pull almost all the carbon out of the air that we have put into it. Ag land is the single largest entity on the planet that can be converted. He talked of the world's first carbon direct air capture plant, then it injects it into the ground and stores it. The CO₂ mixing with the salt will form a mineral and the CO₂ can be stored as a mineral. The company is called Climb Works and they capture 4,000 tons of CO₂ per year and we only need 10-million more of them around the planet to capture what we release in one year.

Commissioner Awo asked Dr. Fletcher what his thoughts were on Governor Ige's 2045 renewable energy initiative? Dr. Fletcher thinks its critical for two reasons; it is an ethical step to decarbonizing, and he believes Hawai'i will become increasingly isolated. Hawai'i needs to provide its own power of all types.

Commissioner Helm stated there is a lack of rainfall on Moloka`i, and asked how can they combat that? Dr. Fletcher stated recognizing it is the first step, beat out invasive species from the watersheds, do a fog drip, restore the ecosystem, slow down the flow of water across the land, revegetating the land.

L. Laramee presented the slide on Nature Based Solutions which provide:

- Clean air
- Carbon sequestration
- Water capture and filtration
- Soil stabilization/erosion control
- Reef protection
- Cooling effect
- Food
- Medicine

Hawai`i State Pledge, Currently DOD, DOT, & DLNR

- 106,816 acres protected by conservation fences
- 50,000 trees planted annually
- 150,000 trees put under conservation annually
- 100,000,000 trees to be conserved, restored, or grown by 2030

Commissioner Awo stated they have a project to remove ungulates and restore the forest. He asked if DLNR has funding for fencing if needed. L. Laramee stated they currently have no program but, are looking at getting more funding. Commissioner Awo asked DHHL would not qualify for the corporate funding poured into this effort. L. Laramee stated DHHL has not put in a pledge, but she does not think it means they would not direct funding to facilitate that. Commissioner Awo asked L. Laramee for grassroot advice to participate in the initiatives, and how to get funding? L. Laramee stated Heather McMillian works more closely with the community. She stated they can apply for funding through Arbor Day to plant more trees. L. Laramee stated she would share Heather's information as Heather would have great contacts and resources.

Chair Aila asked Dr. Fletcher if the Department had to prioritize, what would it be the top three things to prioritize? Dr. Fletcher stated

1. Water, you can grow food without it. Invest in our watersheds. Figure out how can we maximize our water reservoir system.
2. Food. Grow food that remains here for us to eat.
3. Energy. Tourism is an important form of revenue. He spoke again of a refinery system that uses CO2 and green hydrogen for fuel and energy.

Dr. Fletcher stated to thrive we have got to fall back in love with the land and love each other.

RECESS

3:53 PM

HAWAIIAN HOMES COMMISSION
Minutes of January 19, 2022 via ICT
DHHL Main Office, Hale Pono`i, Kapolei, O`ahu, Hawai`i

PRESENT

William J. Ailā Jr., Chairman
Randy K. Awo, Maui Commissioner (Appeared via ICT 9:46 a.m.)
Zachary Z. Helm, Moloka`i Commissioner (via ICT)
David B. Ka`apu, West Hawai`i Commissioner (Appeared via ICT 10:43 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 (Appeared via ICT 11:47 a.m.)
Patricia A. Teruya, O`ahu Commissioner (via ICT)

COUNSEL

Katie Lambert, Deputy AG

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. six (6) 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 February 28, 2022, 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 yesterday’s agenda Items D-6 was deferred to today’s meeting. The Commission will convene into executive session around noon for about 1-hour.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Chair Aila stated there was no one signed up for public testimony on agendized items.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-2 Allen Cardines – Nanakuli Neighborhood Security Watch

Pastor A. Cardines testified on behalf of the beneficiaries of Keaulana Avenue. He stated the community the Commission to help with Keaulana Avenue. He thanked the Commission for their guidance and support.

Commissioner Teruya asked for the status of the Keaulana Avenue investigation and if there would be a contested case. Chair Aila stated the contested case hearing request will be presented to the Commission, and that it not be discussed any further.

ITEM J-1 Kauai Almeida – Pana‘ewa Hawaiian Home Lands Community Association (PHHLCA)

K. Almeida stated on December 16, 2021, she was elected to serve on the Pana‘ewa Hawaiian Home Lands Community Association for the next 3-years. She read a chronology of the PHHLCA. It is their hope to work with DHHL on Phase 1 of the Kamoleao Plan. She understands the community asked for a lease instead of a license and asked for an update. She asked DHHL to work with PHHLCA to answer their questions. She stated they need to have a certified kitchen to help with the pipi that is brought in to feed the kupuna so they need help with Phase 1 of Kamoleao. She requested to meeting with A. Choy.

Chair Aila stated that he will look at the request to meet with staff and get back to her.

ITEM J-3 Maxine Kahalelio – Pu‘ukapu Concern

M. Kahalelio testified her horse died due to negligence from the dust and soot from construction. Other homesteaders on Poliahu Road were affected too. She has been staying on lot 45 for 7-years which belonged first to Sam Kealanahele, then to George Hall before it was returned to DHHL. She has been on the waitlist since 1960 and is asking the Department to give her the lease to lot 45. Her horse died due to the negligence of the Department.

Commissioner Teruya asked if M. Kahalelio was on the property now and how long has she been living on the lot? M. Kahalelio stated she does not live there, but her horses and donkeys are there.

Commissioner Helm asked if the lot an ag lot or pastoral and how many acres? M. Kahalelio stated she is on the list for an ag lot and the lot is 5.8 acres. M. Kahalelio stated DHHL lost her papers couple times, and she has been on the list since 1960 for residential, then she applied for ag lot.

Chair Aila stated they will talk with staff.

ITEM J-4 Blossom Feiteira – Various Concerns

B. Feiteira testified about the undivided interest lease awards programs. The King's Landing kupuna deserve some assurance that their ohana on the waitlist be able to preserve their legacy through an award of a lease. They have testified for the undivided interest leases be made available for Honokowai project on Maui. She encouraged the Commission and the Chair to make this a priority for 2022. Another kupuna on the list has passed and the second generation cannot continue. She advocated to award empty lots that remain vacant and unused. There are empty lots in Kahikinui and Kēōkea. There are lots that were awarded twenty years ago that remain vacant. She asked the Chair to initiate an investigation as to why the lots are not being utilized.

Regarding Item D-6, applicants on the disqualified list, she asked how to get into the process to help the families do the research and collect the necessary documentation. The burden of proof for quantum verification lies upon the beneficiaries' ability to secure the necessary documents. She and Mr. Haia were told that the Department is seeking out additional documentation in the re-verification process without notifying the beneficiaries. The process needs to be transparent in terms of how the Department is contacting the applicants in letting them know about re-verifying, what was found and the source, and give them the opportunity to dispute, challenge or accept.

Regarding the progress of the Department in developing homestead lots, she is exceptionally gratified with the Department's aggressive move. Beneficiaries are seeking lots in the communities they were born and raised in. She spoke of the Department returning to the area waitlist.

Commissioner Awo requested to work with the Department to begin the process to cancel and re-award Kahikinui lots because it is a long time not to have those lots utilized. He also mentioned the vacant Kēōkea lots.

Commissioner Helm asked about the non-qualified applicants. B. Feiteira stated there have been those that received a letter of denial and those that do not do their homework. She stated there are those that have submitted an application and do not respond to the Department, and they should receive a letter from the Department stating that failure to so will result in a denial to be placed on the waitlist. There are others diligent but struggle because they do not get assistance to locate the documents. The process can be lengthy and expensive. B. Feiteira stated what the Department has in place is a clean process. The challenge is when the Department allows beneficiaries to stay there until they are up for a possible award, thinking that everything is good and get a letter stating they are missing documentation. The application process needs to be tighter and definitive. If they have not verified their quantum by a certain amount of time, they need to be notified right away and not be allowed to sit on the list. If beneficiaries need help for documentation, the Department should be able to share sources where they can be helped. Some have been told by the Department that they found other documentation that determined their disqualification. The Department will not divulge the source of the documentation. A workshop that gives a definitive timeline, the process, and the documentation necessary to determine quantum is much needed for the beneficiaries. There are applicants that have a lease. If the Department disqualifies them as an applicant, what happens to the lease?

ITEM J-5 Kekoa Enomoto – Kēōkea/Waiohuli Cultural Management Plan

K. Enomoto testified about undivided interest, available lots on Maui, and invited the Commissioners to their Maui/Lanai Moku-puni Council meetings. The Moku-puni Council would

like DHHL to issue undivided leases for all leases available in Honokowai. They want the 350 single family home lots and the 250 ag lots to be undivided interests. Regarding the available lots, there are 51 lots there is no reason not to enforce the rule that if you do not build or cultivate you have to relinquish your award.

Commissioner Awo stated the undivided lease awards is a paper lease award and even though you don't have the land, you can have a successor that qualifies at 25%, that is before the undivided lease awardee passes away. He would like to work with the Department to pursue opportunities to create a pathway for the issuance of undivided lease awards. He learned that the Maui County Council submitted a resolution supporting the issuance of undivided lease awards for Honokowai.

Commissioner Kaleikini stated he is willing to partner with Commissioner Awo on the undivided interest leases.

ITEM J-6 Jojo Tanimoto – Kawaihae Lease Boundary Issue

J. Tanimoto asked the Commission for help because the portion of the property she is talking about was originally a stream which the Department took for an electrical easement. She needs the Department's help in returning the space that Hawaiian Homes took.

Chair Aila summarized that the property was transferred to her daughter. There is an easement on the property she would like removed and added to the description of the property. He stated someone with the expertise will have to look if whether or not the easement for drainage and the easement for utilities is proper.

J. Tanimoto testified about climate change with the Kawaihae bypass road. She has not heard back about the renewable energy as they are try to work to get the bypass and the waterline.

Chair Aila stated the Department is still waiting on whether or not the applicant is successful in obtaining a PPA from Hawai'i Island Electric. It is also looking if the negotiations are favorable to the beneficiaries in Kawaihae and the Department.

ITEM J-7 Ainaaloha Ioane – King's Landing Village

A. Ioane stated the question of viability, the ability to survive or to live successfully, as beneficiaries of the Trust, should have the persuasive decision-making power during that assessment. The people of King's Landing are the evidence of viability. For over 40-years the people of King's Landing have flourished under the conditions they live in. They will be cautious with the due diligence process, but not be hampered by its liability concerns. The East Hawai'i Regional Plan supports the King's Landing area for educational, cultural and community purposes. Prohibition only stems from the concern of liability when it comes to the unforgiving ocean. Regarding wastewater treatment in the future and the closeness to the airport, they take their toilet seriously, and her father is happy to share his contemplations with his wastewater process. Regarding the airport noise, she was born and raised in King's Landing with the airport noises. It is something the people of King's Landing understand. Regarding the discussion on climate change, she stated her father could feel that the waters were getting warmer from his experience being there. It provides a foundation to think about sustainability of the homesteads and communities. She agreed with B. Feiteira's testimony of beneficiaries wanting to stay on their one hānau (birth place) land and having an area waitlist opportunity. She asked for access to her one hānau for the thought of losing it is unimaginable to her spirit.

NEW MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Awo, to accept Item D-6 with the exception and removal of No. 10, Anita Louise Stith.						
Commissioner	1	2	`AE (YES)	A`OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Helm			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			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- Nine (9) Yes votes.						

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-3 Update on issues related to Telecommunications and Broadband services on Hawaiian Home Lands

RECOMMENDED MOTION/ACTION

None. For information only. Executive Assistant Jobie Masagatani presented the following:

J. Masagatani stated the Department wanted to be open to the Commission’s request to discuss as much as possible in open session. She believes a letter regarding the telecommunications and broadband services was sent to the homestead lessees, the general lessees, the permit holders, and license holders indicating the FCC’s ruling, the provision of the exclusivity of License 372 was no longer applicable and is not going to be enforced. Other service providers could provide services on the homelands. Spectrum is providing broadband services as well as video and TV services on the homelands. Hawaiian Telcom is providing services to those sections of the homelands where there are infrastructures, and they can gain access to. J. Masagatani stated she wants this as part of the record for the beneficiaries and the public as it relates to telecommunications.

DISCUSSION

Commissioner Awo asked if A. Hee is correct in what he said that they have to come through him in order to open up service by other providers? J. Masagatani stated the question of the infrastructure that Waimana paid for when it had access to federal resources, that infrastructure may still be owned by SIC, however, there has been a foreclosure action by the federal government on those assets. Who owns those assets is in dispute through the court process, although the Department is not party to that foreclosure it is impacted? The dispute is who owns those conduits within the homelands. There were assets on the homelands, including the

communication operating centers, and some of the major conduits that connected the undersea cables to those operating centers; those assets were formally owned by SIC and were sold to Hawaiian Telcom as part of the bankruptcy proceedings related to the Paniolo Cable transaction. There is an ongoing dispute between Sandwich Isles Communications and Hawaiian Telcom regarding access to those buildings. The Department has provided a new Right-of-Entry to the owner of those assets, which is Hawaiian Telcom, stating they have permission and a responsibility to secure and maintain the vertical assets that they now own. In some cases, the vertical assets have SIC switches in them, and so there is the ongoing dispute between SIC and Waimana regarding access to those assets.

J. Masagatani stated if there were more specific legal questions, she would defer it to DHHL's Counsel Kevin Herring in executive session. The bankruptcy proceedings did not sell all of the SIC assets, and SIC still retains what is referred to as the last mile of conduit that are within the homelands. Ownership of that is in dispute as a result of the foreclosure proceedings with Rural Utility Services (RUS).

Commissioner Awo stated when he hears the term dispute and last mile assets still being owned by SIC, he does not see a clear path in bringing in other carriers. He sees an unresolved dispute that may result in other providers not wanting to come in.

J. Masagatani stated that Spectrum has chosen to negotiate and has reached an agreement with SIC regarding utilization of the conduits, and there is a fee for that service. SIC will not prevent Spectrum from utilization of the conduits in order to provide service that includes broadband internet as well as video to the customer base that they are already in the homelands. Hawaiian Telcom is working with the Department to find out what communities they can provide service to. She stated that the Department is getting feedback from beneficiaries that they were able to get Spectrum.

Commissioner Awo stated it is still confusing for some beneficiaries. What the Department is saying is the clearest path for bringing in a carrier right now would be with Spectrum. Hawaiian Telcom is still negotiating. Spectrum is the first cut, correct? It's confusing. J. Masagatani stated the Department has to be careful that it does not encourage one provider over another. The Department needs to open as much access as it can to each provider to provide service on the homelands.

J. Masagatani stated she will work with Cedric to see if they can work something out so the beneficiaries can know what service provider is available to them in their area.

Commissioner Neves question if there are any other unknown issues besides the last mile?

Commissioner Helm asked why SIC cannot get people out to do repair and maintenance in the areas like Ho'olehua? Is it because they are under litigation that they cannot? J. Masagatani stated she cannot speak for SIC, but it is important for the people to document the lack of service because it is the condition of the license that the service be at or better than what can be provided.

J. Masagatani stated that the Department is looking at, what is in the Department's control and separate and apart of the litigation, to bring options to the communities like Moloka'i and Lanai.

Commissioner Awo asked about the SIC free service? J. Masagatani stated that is the first she heard of it. Chair Aila stated he does not think the Department can speak for SIC.

MOTION

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.

EXECUTIVE SESSION IN

12:47 PM

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

3:15 PM

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next HHC meeting will be held on February 22 & 23, 2022, (ICT) Zoom

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Namu'o, to adjourn the meeting.
Motion carried unanimously.

ADJOURNMENT

3:15 PM

Respectfully submitted:



William J. Ailā Jr., Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

Attachments:

- 1) Public Testimony
- 2) Slide Presentation
- 3) Slide Presentation
- 4) J Agenda Testimony