

HAWAIIAN HOMES COMMISSION

Minutes of March 20, 2017

Meeting held at Hale Pono`i, Kapolei

Pursuant to proper call, the 685th 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 Jobie M.K. Masagatani, Chairman
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua`i Commissioner
Wallace A. Ishibashi, East Hawai`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
Michael P. Kahikina, O`ahu Commissioner
Wren Wescoatt, O`ahu Commissioner

EXCUSED Gene Ross K. Davis, Moloka`i Commissioner
William K. Richardson, O`ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman
Paula Aila, ICRO Manager
Rodney Lau, Admin. Services Office
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Kaleo Manuel, Acting Planning Office Manager
Norman Sakamoto, Acting Land Development Division Administrator
Niniau Simmons, NAHASDA Manager,
Stewart Matsunaga, Master Planning Community Development Manager
Robert Freitas, Planner
Leah Burrows-Nuuanu Secretary to the Commission
Gigi Cairel, Grant Specialist
Nancy McPherson, Planner
Juan Garcia, Homestead District Supervisor

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:42 a.m. Seven (7) members were present at roll call. Commissioners Davis and Richardson were excused.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Wescoatt, to approve the agenda. Motion carried unanimously.

APPROVAL OF MINUTES

Approval of Minutes deferred to next month.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Kaui Maukele Re: Waimanalo

K. Maukele stated that she received the lease in September and was notified in February that she is the successor. The writ was served, and she is waiting for the sheriffs to evict the tenants from the property. K. Maukele asked the Commission if there was a better way or easier way for successors to get onto their land instead of going through civil action.

ITEM A-2 Kawai Warren Re: Item C-1

K. Warren stated that he is the Chairman of the Pu'u 'Opae Project. Regarding water mediation, the State was dumping millions of gallons of water. He is glad DHHL had its 2014 Water Policy and got involved in helping manage the water. He asked for the Department's support to approve the Water Management Plan.

ITEM A-3 Roberta Banks Re: Item D-21

R. Banks testified that it took a year to move from Maku'u and the smoke. Her granddaughter has asthma, and R. Banks stated she suffers from COPD.

ITEM A-4 Isette Smythe Re: Reconsideration

I. Smythe wanted to know what the status was for her contested case hearing reconsideration. Chair Masagatani stated that the investigation done by the Deputy had been completed, and there is a recommendation for the Commission's consideration.

ITEM A-5 Bo Kahui Re: Item D-2

B. Kahui testified that the Department should check the assignments of leases and transfer of leases to see that the beneficiaries are not delinquent in down-payments or fees to the association. He added that the association does not know the names of the new lease assignments and mortgage approvals. The letters to the lessees with delinquencies were not sent.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda. Items D-11, D-18, and D-20 were moved to the Regular Agenda under 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 to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-5** Approval of Homestead Application Transfers / Cancellations (see exhibit)
- ITEM D-6** Commission Designation of Successors to Application Rights- Public Notice 2015 -**JOSHUA W.K. KIHE**
- ITEM D-7** Cancellation of Deceased Applicants from Waiting List- Public Notice 2015 (see exhibit)
- ITEM D-8** Cancellation of Deceased Applicant with No Eligible Successors From Waiting List-**RACHEL V. VALDEZ**
- ITEM D-9** Request to Schedule Contested Case Hearing to Contest Native Hawaiian Quantum Qualification- **PRINCEARCHIKINS B.C. AIAIKEKAPAHALALUPAUOLE**
- ITEM D-10** Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- ITEM D-13** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-14** Commission Designation of Successor-**HILDA P. BUNGO**, Lease No. 3506, Lot No. 51, Nanakuli, Oahu
- ITEM D-15** Commission Designation of a successor-**LISA P. WELCH**, Lease No. 11838, Lot No. UNDV295, Kapolei, Oahu
- ITEM D-16** Commission Designation of Successor-**LOUIS NAEHU, SR.**, Lease No. 11430, Lot No. 17148, Kaupea, Oahu
- ITEM D-19** Request for Workers Quarters-**RON KA-IPO**, Agricultural Lease No. 6987, Lot No. 43, Makuu, Hawai'i
- ITEM D-21** Request for Relocation: **ROBERT L. BANKS**, Lease No. 6947, Lot No. 45, TMK (3) 1-5-119:045, Maku`u

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina, to approve the Consent Agenda with the removal Items D-11, D-18, and D-20. Motion carried unanimously.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

- ITEM C-1** Approval of mediation agreement in the matter concerning water allocation in the Waimea Watershed Area on Kaua'i

Chair Masagatani stated that Item C-1 would be deferred to next month.

HOMESTEAD SERVICES DIVISION

- ITEM D-11** Approval of Assignment of Leasehold Interest (see exhibit) **D-12** Approval of Amendment of Leasehold Interest (see exhibit)

Commissioner Ka`apu recused himself from Item D-11, No. 9.

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented Item D-11, Motion that the Hawaiian Homes Commission approves the assignment of the leasehold interest. D. Oshiro stated that there were 27 assignments for leasehold approval.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto, to approve the motion as stated in the submittal.

AMENDED MOTION/ACTION

Motion to amend Item D-11 to take up all matters, except Item No. 9. Moved by Commissioner Canto, seconded by Commissioner Kahikina, to approve the amended motion. Motion carried unanimously

DISCUSSION ON ITEM D-11 EXCEPT FOR NO. 9

In response to Commissioner Kahikina's motion, Chair Masagatani suggested the following: Approval of Assignment of Leasehold Interest subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan, and confirmation that any dues to any DCCR communities are current.

Counsel Iha asked that Item D-11 be deferred to the executive session. Chair Masagatani deferred action until after the executive session.

ITEM D-17 Set Aside Commission Action on February 21, 2017, Regarding Designation of Successorship to Lease No. 3805, Lot No. 63, Nanakuli, Oahu- **CORALENE N. KAAI**

RECOMMENDED MOTION/ACTION

Homestead Services Division O`ahu District Office Supervisor Juan Garcia, presented the following: Motion that the Hawaiian Homes Commission set aside the Commission's approval regarding the designation of Coralene N. Kaai as a co-successor to residential lease No. 3805, Lot No. 63, Nanakuli, O`ahu, subject to Coralene executing the successorship of the lease document on or before March 31, 2017.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto, to approve the motion as stated in the submittal.

DISCUSSION

J. Garcia stated that there were two successors to the lease and there was an attempt to have Coralene Kaai execute the documents, but due to the difficulty of contacting her, to move forward, the Department approached the Commission last month to remove Coralene as a successor to the lease. On February 21, 2017, Coralene contacted the Department and indicated that she was ready to execute. Unfortunately, the Commission was asked to remove her as a

successor to the lease. The Department asked the Commission to set aside the previous approval so that Coralene can retain her successorship.

ACTION

Motion carried unanimously.

ITEM D-18 Request to Approve Third-Party Agreement- **WILLIAM C.K. MILLS**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion that the Hawaiian Homes Commission approves the third party agreement for William C.K. Mills to Stanton I. Loo, a current pastoral lessee.

Chair Masagatani recused herself from the discussion and vote of this item.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina, to approve the motion as stated in the submittal.

DISCUSSION

D. Oshiro stated that W. Mills is allowing S. Loo to graze cattle on his property, which is known as a third party agreement allowed by the Department of Hawaiian Home Lands if the third party is a native Hawaiian. S. Loo is a native Hawaiian. The Commission's approval is needed for the action to take place. A third party agreement is allowed for pastoral and agricultural land.

Commissioner Wescoatt called for the vote because Chair Masagatani recused herself.

ACTION

Motion carried unanimously.

ITEM D-20 Request to Schedule Contested Case Hearing to Contest Withdrawal of Portion of Homestead Lot – **YVETTE S. PEREZ**, Residential Lease No. 9970, Lot No. 6, Kurtistown, Hawai'i

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion that the Hawaiian Homes Commission schedule a contested case hearing to contest the withdrawal of a portion of a homestead lot for Yvette S. Perez, Lease No. 9970, Lot No. 6, Kurtistown, Hawai'i.

MOTION/ACTION

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

DISCUSSION

D. Oshiro stated that there are two flag lots in Kurtistown, Hawai'i for lessees Perez and Freitas. A submittal was approved by the Commission for the Department to withdraw certain portions from each homesteaders lot to go back into the Department's inventory. The withdrawn portions would be maintained by the Department. The Department also has to replace some of the property improvements upon removal of the withdrawn portions.

Chair Masगतani deferred the item to the executive session.

RECESS 11:10 A.M.

RECONVENED 11: 20 A.M.

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue Right of Entry to Kohala Watershed Partnership for Fence Project, Kawaihae, Hawai'i, TMK (3)61001016

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the issuance of the right of entry to Kohala Watershed Partnership for a fence project, Kawaihae, Hawai'i, TMK (3) 61001016

MOTION/ACTION

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

PLANNING OFFICE

ITEM G-1 Acceptance of Beneficiary Consultation Report for the Kekaha Hawaiian Homestead Association's Pu'u 'Opae Farm and Irrigation Project, Kekaha, Kaua'i, TMK (4) 1-2-002:023

RECOMMENDED MOTION/ACTION

Acting Planning Office Manager Kaleo Manuel presented the following: Motion that the Hawaiian Homes Commission accept the beneficiary consultation report for the Kekaha Hawaiian Homestead Association's Pu'u 'Opae Farm and Irrigation Project, Kekaha, Kaua'i, TMK (4) 1-2-002:023

MOTION

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

DISCUSSION

Planner and Kaua'i Liaison Bob Freitas stated the consultation is a follow up on the Commission's policy that consultation is conducted with the homesteaders that will be impacted by the action. The Association worked on the project for years and kept the Commission informed of its intentions. The Association complied with all the rules regarding its right to entry. The community has supported this project 100% and the Association has kept the community fully informed of the plans for Pu'u 'Opae. B. Freitas stated that the consultation focused on the 231 acres that were part of phase one of the project. He stated that the Association is also considering a 25-year license to the Kekaha Homestead Community.

ACTION

Motion carried unanimously.

ITEM G-2 Approval of Recommendations for Agriculture Peer-to-Peer Grant Awards

RECOMMENDED MOTION/ACTION

Acting Manager for Planning Office Kaleo Manuel presented the following:

Motion that the Hawaiian Homes Commission approve \$200,000 allocation from the Native Hawaiian Rehabilitation Fund for the following organizations for agriculture peer-to-peer grants:

- \$75,700 to Keokea Homestead Farm Lots Association
- \$69,300 to Sons of Ho`olehua Cooperative
- \$40,000 to Kaala Farm Inc.
- \$15,000 to Kekaha Hawaiian Homestead Association

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to approve the motion as stated in the submittal. Motion carried unanimously, but with reservations for Commissioner Kahikina on Kaala Farm Inc.

LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Lease Awards (see exhibit)

RECOMMENDED MOTION/ACTION

Master Planning Community Development Manager Stewart Matsunaga, presented the following: Motion that the Hawaiian Homes Commission approve awards for the Department of Hawaiian Home Lands' residence lot leases to the applicants listed for the 99 years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

Chair Masagatani stated that there were circumstances that needed discussion in the executive session for Louisa Miguel. Chair Masagatani asked that Louisa Miguel be removed and taken up separately.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto, to approve the amended motion to remove Louisa K. Miguel. Motion carried unanimously.

AMENDED MOTION/ACTION

The amended motion addresses all the other individuals on Item E-1. To approve the awards of the Department of Hawaiian Home Lands resident lot leases to the applicants listed.

MAIN MOTION AS AMENDED/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Kahikina, to approve the main motion as amended. Motion carried unanimously.

ITEM E-2 Rescission of Homestead Lease Award, Reinstatement of Application, and Request to Succeed to the Reinstated Application – East Kapolei I, Undivided Interest-Ephraim M. Kama.

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:

Motion that the Hawaiian Homes Commission rescinds the homestead lease award and reinstate the application and request to succeed in the reinstated application of an East Kapolei I, undivided interest for Ephraim M. Kama.

1. To approve the rescission of Residential Lease No. 11587, East Kapolei I Undivided Interest Program, which commenced on December 2, 2006, to Leonard L. Kama, as requested by the named successor, Ephraim M. Kama.
2. To reinstate the residential lease application of Leonard L. Kama to the Nanakuli Area and Oahu Islandwide Residential Lease Waiting list according to his original date of application, November 11, 1975.
3. To approve the request of Ephraim M. Kama to succeed in the residential application of his father, Leonard L. Kama, so he may fulfill his father's intention to purchase the Hoolimalima home they have been residing in since 2001.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto, to approve the motion as stated in the submittal.

DISCUSSION

N. Sakamoto stated that Leonard L. Kama passed away on January 16, 2007, before submitting his request to rescind the undivided interest lease and executing his Ho'olimalima contract with Mark Development. Leonard Kama named his son, Ephraim and his wife May as joint successors to the lease. May Kama passed away on July 7, 2011, leaving Ephraim Kama as the sole successor.

ACTION

Motion carried unanimously.

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Third Quarter, FY 2017.

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
Motion that the Hawaiian Homes Commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of March 31, 2017, to the Hawaiian Home General Loan Fund.

MOTION/ACTION

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

MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo to convene in 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

12:19 P.M.

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

1. Update on Nelson Case- Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
2. Approval of mediation agreement in the matter concerning water allocation in the Waimea Watershed Area on Kauai

EXECUTIVE SESSION OUT

2:25 P.M.

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-11/No. 9 Approval of Assignment of Leasehold Interest

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the assignment of the leasehold interest pursuant to Section 208 and subject to the inclusion of the applicable term of the assignment including but not limited to the approval of the loan.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto, to approve the motion as stated in the submittal.

DISCUSSION

Chair Masagatani stated in light of the testimony provided by Bo Kahui; she will have the staff look at a process to provide the due diligence for the lessee that is receiving the transfer, to be aware of any outstanding amounts owed. The Department cannot enforce it, but it can look at a process.

ACTION

Motion carried unanimously.

ITEM D-11 Approval of Assignment of Leasehold Interest

RECOMMENDED AMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the assignment of Leasehold Interest subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan, and confirmation that any dues to any DCCR communities are current.

MOTION/ACTION

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

ITEM D-20 Request to Schedule Contested Case Hearing to Contest Withdrawal of Portion of Homestead Lot – **Yvette S. Perez**, Residential Lease No. 9970, Lot No. 6, Kurtistown, Hawai'i

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve lessee Yvette S. Perez's request for a contested case hearing in regards to two action items approved by the Hawaiian Homes Commission to withdraw a portion of her homestead lot.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Ka'apu, to approve the motion as stated in the submittal. Motion carried unanimously.

LAND DEVELOPMENT DIVISION

ITEM E-1 Approval of Lease Awards (see exhibit)

RECOMMENDED AMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: Motion that the Hawaiian Homes Commission approve awards for the Department of Hawaiian Home Lands' residence lot leases to the applicant Louisa Miguel listed below for the 99 years.

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAXMAPKEY</u>	<u>LEASE NO</u>
Miguel, Louisa K.	10/15/15	13781	1-9-1-119:133	12809

MOTION/ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-2 Kawai Warren- KHHA Puu Opae Project

K. Warren provided a slide show presentation he did at the consultations for the Pu'u 'Opae project. He showed the Commissioners how they used the old ways with the modern ways for their test lo'i. He noted how the water that came out of the lo'i was diverted to Kawaloa valley. The Pu'u 'Opae Farm Irrigation plan is to return the water and life to the land. There are economic, cultural, social, educational, and health benefits. It all starts with the water. KHHA is requesting that the Hawaiian Homes Commission approve a land license for the Pu'u 'Opae Farm and Irrigation Plan.

ITEM J-3 Mahana Gomes- Puu Kapu Hybrid Water System, Community Health and Safety

M. Gomes testified they have lived with non-potable water in Puu Kapu for more than 2-years with no other running water. She stated that the water system they have runs out of the water at least twice a month. Everyone connected to the system was required to purchase a reduced pressure principle assembly, a back-flow assembly, along with there meter for \$700. None of the assemblies have a tag of inspection and there is no known cross-connection control program. It is the health risk the community must live with as long as the Department continues to forget and overlook Puu Kapu.

Chair Masagatani stated that the water system was not built to maintain the standard of drinking water. The water system was not built to a potable standard because the cost to do so would have been to the point that the Department would not have had it built. The lease there only requires the beneficiaries to utilize the homestead, and it does not require occupancy as a resident.

ITEM J-7 Robert Milne- Aloha Beach Hotel Partners, LLC

R. Milne stated that they had received an unsolicited offer for the purchase of the Hilton Garden Inn Hotel, Wailua Bay, Kaua`i. Due to the buyer's time constraints, and to effectuate the sale of the Hotel, the Commission's final consent and approval must be made by April 30, 2017.

WORKSHOPS

LAND MANAGEMENT DIVISION

ITEM F-3 Issuance of a Preliminary Approval to pursue Condominium Property Regime (CPR), Kapolei Community Development Corporation (KCDC), General Lease No. 290, Kapolei, Island O'ahu, TMK No. (1)91151002

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio presented the following:

DISCUSSION

Kuhio Lewis President of KCDC requested that the Hawaiian Homes Commission grant preliminary approval to pursue a Condominium Property Regime (CPR) under the General Lease No. 290 for TMK (1) 9-1-151:002. He stated that KCDC is asking for some condominiums to be created because they have been working with a developer who is interested in sub-leasing some of the parcels, and KCDC does not want to enter into multiple sub-leases but do one sub-lease with one developer. He wanted to get consent from the Commission before engaging with the residents about the CPR and where the revenues will go. In reviewing the master lease provided by the Department and the lease with the commercial developer, some areas must be amended. One is the condominium and the timelines in the lease.

M. Thurman stated the main purpose of the CPR is to allow for the separation of taxes, insurance, etc. It can be kept as one parcel and do actual shopping center leases. It's about a 5-acre site, approximately 50,000 square foot total, community-oriented type shopping center. It is not to compete with KMA. The structure is similar to the Nanakuli structure. The CPR is used to create conditions, covenants and restrictions, etc., that will be placed on the property and managed. Commissioner Ka`apu asked how many units. M. Thurman stated that they don't have a final count, but it's around 4-5 units total. There will be 2-acres that will be a conventionally designed center with two out-parcels in front. It also has an eleemosynary requirement provision. K. Lewis stated that within the plan development, the developer could provide the eleemosynary concept for homesteaders to expand their economic opportunities.

K. Lewis stated once KCDC gets a preliminary consent from the Commission, a sub-lease can be finalized between KCDC and KZ. The Department's Land Management staff can review the sub-lease to check if it is in conformance and for whatever changes must be made to the master lease. K. Lewis stated there was a question if KCDC received preliminary consent today from the Commission, would the consent be adequate for KCDC to work with the Chair's office or will

KCDC have to present itself to the Commission again. Chair Masagatani stated this is a preliminary approval and subject to the additional, it is advised that final approval is by the Hawaiian Homes Commission. As it is currently drafted, it would have to go back to the Commission.

M. Thurman stated that the amendment KZ seeks the potential to have the Chair oversee an amendment to the lease for the progress evaluation dates. The dates need updating to be consistent with the current condition. The other amendment is to have the right to enter into a CPR subject to bringing the CPR in the map in the formal documents, and the budgets and any other questions back to the Commission.

Chair Masagatani stated assuming the Commission approves, it would be a preliminary consent that it is acceptable. The other amendments cannot be taken up tomorrow as they have not been agendaized.

ITEM F-2 Approval to Issue Right of Entry to Office of Hawaiian Affairs, Ha'iku, Oahu, TMK (1)46015014

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio presented the following:

DISCUSSION

Project Coordinator for the Halawa/Luluku Interpretive Development (HLID) project Mahi LaPierre, stated that the right of entry they had expired in January 2017. He stated HLID's responsibility is to find out the property boundaries along the right of way. He stated the request is to have access across DHHL property to discern the boundaries.

Chair Masagatani clarified that it's the same right of entry that was sought out last year for another 12-months to cross the land to gain access to the two heiau. M. LaPierre replied, yes. Chair Masagatani asked that any information gathered on the property and the location of the site be shared with the Department. M. LaPierre stated they were able to do an ethnographic study with the people of the area and get their mana'o of how they used the area in the past, how they use it in the present and how they hope to use it in the future. A cultural preservation plan has been drafted and is being reviewed by the Department of Transportation.

RECESS

5:39 P.M.

HAWAIIAN HOMES COMMISSION

Minutes of March 21, 2017

Meeting held at Hale Pono`i, Kapolei

Pursuant to proper call, the 685th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i, beginning at 9:00 a.m.

PRESENT Jobie M.K. Masagatani, Chairman
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua`i Commissioner
Wallace A. Ishibashi, East Hawai`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
Michael P. Kahikina, O`ahu Commissioner
William K. Richardson, O`ahu Commissioner
Wren Wescoatt, O`ahu Commissioner

EXCUSED Gene Ross K. Davis, Moloka`i Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman
Paula Aila, ICRO Manager
Rodney Lau, Admin. Services Office
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Kaleo Manuel, Acting Planning Office Manager
Norman Sakamoto, Acting Land Development Division Administrator
Niniau Simmons, NAHASDA Manager,
Stewart Matsunaga, Master Planning Community Development Manager
Robert Freitas, Planner
Leah Burrows-Nuuanu Secretary to the Commission
Gigi Cairel, Grant Specialist
Nancy McPherson, Planner
Juan Garcia, Homestead District Supervisor
Andrew Choy, Planner

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:14 a.m. Eight (8) members were present at roll call.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-5 Approval to Issue Right of Entry to Office of Hawaiian Affairs, Ha'iku, Oahu, TMK (1) 46015014

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
That the Hawaiian Homes Commission approve the issuance of the right of entry to the Office of Hawaiian Affairs, Ha`iku, O`ahu, TMK (1) 46015014

MOTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina, to approve the motion as stated in the submittal.

DISCUSSION

Chair Masagatani stated in the event that M. LaPierre might need more time, give the discretion to the Chair to extend for an additional year if the work is not completed. M. LaPierre stated that HLID would appreciate the extension. Chair Masagatani asked the Commission for their consideration of an amendment that would allow an extension for an additional year by the Chair for good cause.

Chair Masagatani inquired about the possibility of identifying the cultural sites for stewardship by community-based entities that have ties there in Ha`iku. She asked if that is something OHA could support because the Ko`olau Foundation might not have the financial capacity. M. LaPierre stated that a Cultural Preservation Plan was developed which looked at 20-years of archaeological studies and the communities' impression of where the sites are verses archaeology. Chair Masagatani stated she talked with Ka Pouhana Kamana`o Crabbe and some of the OHA Trustees if there is a strong cultural presence in that valley, swap DHHL out. It makes more sense from a cultural standpoint that OHA be the stewards of those lands and swap DHHL out.

MOTION TO AMEND/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Canto, to approve the terms of the right of entry shall be for one (1) year and may be extended for good cause up to an additional two (2) years by the Chair. Motion carried unanimously.

ACTION ON MAIN MOTION AS AMENDED

Motion carried unanimously.

ITEM F-6 Issuance of PRELIMINARY Approval to pursue Condominium Property Regime (CPR), Kapolei Community Development Corporation (KCDC), General Lease No. 290, Kapolei, Island O`ahu, TMK No. (1) 91151002

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission authorize the issuance of a Preliminary approval to pursue Condominium Property Regime (CPR), Kapolei Community Development Corporation (KCDC), General Lease No. 290, Kapolei, Island O`ahu, TMK No. (1) 91151002

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Davis, to approve the motion as stated in the submittal.

DISCUSSION

Chair Masagatani asked the Vice-President of KCDC Scott Abrigo if they were returning to the Commission with some amendments to the lease and the final condominium CPR for approval. S. Abrigo stated KCDC plans to return to the Commission in June with the final CPR that will require a lease amendment because it is not in the general lease, and KCDC would seek a lease amendment to allow the CPR to be part of the lease. Chair Masagatani stated that whatever other amendments, there are do them all.

Chair Masagatani clarified that it is eleemosynary-based. It provides for the economic growth and economic funding for the project for KCDC. KZ will have commercial sub-tenants to help pay for some of the costs. General lease 290 is to provide the revenue that supports the Heritage Center.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING OFFICE

ITEM G-5 Legislative Updates 2017

RECOMMENDED MOTION/ACTION

None. For information only. Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano stated that the Department got an update on the State Budget reflected in HB100, which did pass in the House. For the Biennium Budget for FY2018/Purpose #4, the A&O cost was \$59,045,280. The Governor included \$30 million of that in his budget. For HD1, the House passed \$32.8 million in FY2018 for A&O.

For the FY2019 A&O, the request by the Commission was \$53.4 million; the Governor included \$30 million in his budget request, and the House authorized \$ 25.1 million.

In terms of Purposes 1-3, Lots, Loans & Rehab Projects, the ask was for \$196 million for FY2018, the Governor included \$20 million and the HD1 has \$8.6 million for FY2018 and for FY2019 \$209 million was the ask, \$20 million was included in the Governor's budget and \$28.9 million is included in HD1.

Of the \$25 million, \$6.8 million automatically goes to B&F to cover fringe benefit costs. This is still an ongoing conversation with the Legislature to do one of two things; to cover that cost out of a separate line item or to give the Department some flexibility. Of the three administration bills that the Governor included in his packet, the successorship bill to lower the blood quantum is moving in both the House and Senate, but there is a deadline coming up and House Bill 451 may be the only vehicle that the Department will have. The privacy bill did not make it through the Judiciary Committee in the House and Senate.

ITEM G-4 Kaumana-Pi 'ihonua Regional Plan

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Program Manager Kaleo Manuel presented the following:

DISCUSSION

K. Manuel introduced Lead Planner Andrew Choy to brief the Commission on the drafted Regional Plan.

A. Choy stated that the Kaumana-Pi`ihonua is in East Hawai`i off the Saddle Road. There are three major focus areas of the regional plan: lower Pi`ihonua, the existing Pi`ihonua homesteads with 20 existing lots, and the Kaumana homesteads with 50 existing lots. The total acreage in the regional plan is 2,000-acres. This area has an abundance of water with rainfall ranging from 150-200 inches a year. There are surface water streams that flow perennially in the area that abut existing Hawaiian homestead lots.

The Island Plan land use designations for Kaumana and Pi`ihonua are residential homestead developments. The larger tracks of undeveloped land designations are conservation, general agriculture, subsistence agriculture, and there is a small portion for future residential homestead development.

Priority projects identified were a community center, a community pasture, a pest control program, and a community toolshed program and work base. There are limited lands near the existing homestead areas suitable for a community center so the community must identify a location that is suitable for the community center.

OFFICE OF THE CHAIRMAN

ITEM C-2 Rules Addressing Supplemental Dwelling Units on Homestead Lots

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the following:

DISCUSSION

H. Lindsey provided the Commission with a PowerPoint for the Rules Addressing Supplemental Dwelling Units on Homestead Lots. She stated she has some draft language and wanted to see if the Commission had thoughts or input on how to proceed to get a solid draft.

There are two branches with the programmatic options. One option is a scope which is the type of land and the types of leases that the options are opened up to. The other branch is used if it is ohana use, rental use or both types of uses. There are also key features of the Rules which also have two branches. One is what would be required for the lots and what would be required of the lessees. The other is enforcement and how to deal with the issues.

Relating to purpose and needs, information gathered from beneficiary surveys, US Census and HUD reports, show that beneficiary households are larger than other households in Hawai`i. There is an issue of crowding, not enough rooms in the house and too many people per room. There are multi-generational families living under one roof. The survey showed if people had the option they would add more space to their house.

The parody with the County is each has an ADU option for folks that live within those counties in the fee simple world. The key is to give HHL beneficiaries the same or similar opportunity.

The programmatic scope option for the types of land leases are as follows:

- Subsistence ag lots – the rules allow for more than one dwelling and this is pending for the Governor’s signature. It can be built to county code or get the engineer’s stamp.
- Residential lots – the lots are smaller and the buildings are closer and there are possibilities of health and safety issues.
- Global expansion – open the lots to all types of leases
- Pilot program – draft the rules so this happens on one island for a period of time, evaluate at half time and again at the end. If the decision is not to move forward, those who participated get grandfathered in. O’ahu and Hawai’i Island are the islands being considered for success with the particular program.

The programmatic scope option for uses are as follows:

- Ohana style with just the family
- Attached or detached, depending on the lot size
- Rental which is incoming generating for the family
- Attached or detached rental unit

Key features to move forward is the development of the unit would have to be compatible with DHHL’s area and island plan. There must be infrastructure capacity. The Department could do minimum lot size; the current average lot size is about 5,000 square feet, it could be dropped to 3,500 square feet minimum if there is an SDU. It cannot be prohibited by DCC&Rs, and there must be no existing supplemental dwelling unit. If the lessee has a supplemental dwelling unit, the Department will have a process and allow the beneficiary to become compliant with his/her lease. The lessee must be in good standing and compliance and reside in the main house or the SDU.

Commissioner Wescoatt stated that the priority is getting more Hawaiians into homes. The SDUs open up a lot of options. He also stated that the lessees should be given as much freedom as can because it is their lease, but make sure to protect the Trust and identify what things would be at risk to the Trust. It should be freedom for the lessee and not another administrative burden for DHHL to monitor. The options were laid out and it’s up to the Commission to give staff the direction to move forward. It’s a good start.

H. Lindsey stated under the Act the Commission has land-use authority. The question is how much muscle does the Commission want to flex. If DHHL is going to do things their way, it may mean DHHL has its building codes and permitting process; people go straight to DHHL and not deal with the County. Or, does the Department go to each County and work out an MOU. The only County that DHHL has an MOU with is Hawai’i County.

Chair Masagatani asked when the County is looking at granting an additional dwelling unit, what are the issues that they look at. H. Lindsey stated the lot requirements in terms of infrastructure capacity, lot size, the spacing and what the structure looks like and its relationship to the other structures are issues the County considers.

LAND MANAGEMENT DIVISION

ITEM F-4 Discussion Related to Potential Preferences for Wait List Beneficiaries Under Revised Revocable Permit Program.

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio and Acting Manager Planning Office Kaleo Manuel did a joint PowerPoint presentation.

DISCUSSION

The presentation outline covered four points:

- Review the revocable permit program, its purpose authority
 - Hawaiian homelands that are unencumbered and managed by LMD
 - Four different agreements and dispositions
- Where is the program at now
 - As of June 30, 2016, there are 148 right of entry permits statewide
 - Most of the revenue comes from the commercial/industrial RPs
- Where is the program going
 - K. Manuel stated RPs are tools to manage and steward and maintain Hawaiian homelands for the short term
 - Looking at any of the lands identified in the Island Plans under residential, subsistence ag, supplemental ag, and pastoral use designations would qualify for short term use. The idea is to develop these into homesteads.
- Discussion

Chair Masagatani's concern is the big tracts of land that the Department will not be used for 20-years like the Sakugawa parcel, Nanakuli Ranch and the Kahua Ranch. If the inclination is to look at long-term dispositions, the Department will not be able to look at all the areas. Maybe the Department could systematically provide for some RP structure anticipating that in 4-5 years, the goal is to have an approach that will put the lands into long-term disposition. Sakugawa managed the large parcel of land for 20 plus years and he stated they are delicate lands.

MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo to convene in 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 11:25 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 issues related to Sandwich Isles Communications.

EXECUTIVE SESSION OUT 12:30 AM

PLANNING OFFICE

ITEM G-6 Quarterly Grants Status Report (deferred)

ITEM G-3 Waimanalo Regional Update (deferred)

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION (deferred)

ITEM D-1 HSD Status Reports

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

C - DHHL Guarantee for FHA Construction Loans

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on April 17 & 18, 2017, at Kulana `Oiwī, Moloka`i, Hawai`i

MOTION/ACTION

Moved by Commissioner Wescoatt, seconded by Commissioner Canto, to adjourn the meeting.

Motion carried unanimously

ADJOURNMENT

12:45 P.M.

Respectfully submitted:

Jobie M. K. Masagatani, 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:

Jobie M. K. Masagatani, Chairman